

Brief of Appellant
The State of South Carolina
In the Court of Appeals
Appeal from Florence County

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NOV 25 2019
SC Court of Appeals

Case No: 2018-01663

Appellant, Leslie Michael Martin, filing pro se, would show this court that this case should be vacated due to ineffective counsel as he has been convicted of firing a firearm into a dwelling, when in reality- as Appellant repeatedly told the lower court- it was a pellet gun and not a firearm as defined under SC Code Ann. 16-23-440 (A) and 16-23-405(A) because a pellet gun does not propel a projectile "through the energy of an explosive". Counsel failed to withdraw 'guilty' plea when Appellant insisted throughout that it was a pellet gun. Appellant only admitted using a pellet gun and not a firearm. Counsel's services in this criminal case fell so short of what a reasonable attorney would do that it violated the Sixth Amendment of the Constitution. Counsel was so ineffective that the counsel could hardly be considered an attorney, thus negating the "right to an attorney: as promised by the Constitution.

Plea court erred when it accepted Appellant's 'guilty' plea, as Appellant only pled 'guilty' to using a pellet gun. A pellet gun is an air gun and uses only air to propel a projectile, not combustion. There was no firearm used on April 4, 2017. A requirement of discharging a firearm into a dwelling is that the defendant use a "firearm", therefore, Appellant's plea should not have been accepted.

Respectfully submitted and sworn under penalty of perjury this 14
Day of November, 2019.

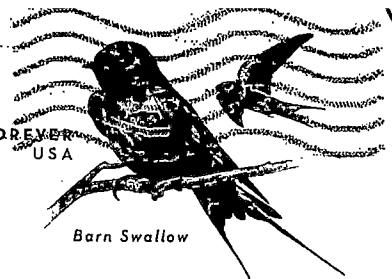


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SC Court of Appeals

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