

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County
Honorable Thomas A. Russo, Circuit Court Judge
Appellate Case No. 2012-208407

THE STATE,

Respondent,

vs.

ELIZABETH M. DINKINS,

Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
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ATTORNEYS FOR RESPONDENT

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SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

I.

The Court of General Sessions had subject matter jurisdiction over Appellant's forgery charge because the charge involved a value of less than \$10,000.

STATEMENT OF THE CASE

On November 17, 2011, a Colleton County Grand Jury indicted Appellant for “forgery, value less than \$5,000.” On January 31, 2012, Appellant proceeded to trial. Dave Matthews represented Appellant at trial, and Steven Knight represented the State. The Honorable Thomas A. Russo presided over the trial. On February 1, 2012, the jury found Appellant guilty of forgery. Judge Russo sentenced Appellant to two years of imprisonment. Appellant filed a timely notice of intent to appeal.

This appeal follows.

STATEMENT OF FACTS

At trial, Laurie Minus testified for the State. (Tr. p. 30.) Minus testified that she worked at the Walterboro Department of Motor Vehicles (“DMV”). (Tr. p. 31.) On October 26, 2011, Minus observed Appellant present a Form 450, which is a document showing satisfaction of a lien, to a customer service representative at the DMV. (Tr. pp. 31-32.) As the manager of the DMV, Minus had the responsibility of confirming the authenticity of the lien release. (Tr. p. 37.) Minus testified that the lien release form had been signed by someone, but she did not know who signed the form. (Tr. p. 37.) Minus testified that she contacted the lien holder, Title Max, to verify that it was a true lien release. (Tr. p. 33.) Upon learning from Title Max that the lien release form was not authentic, Minus contacted the DMV’s fraud unit. (Tr. p. 33.) Thereafter, the Walterboro Police Department arrived at the DMV. (Tr. p. 33.)

The State also called Tamika White to the stand. (Tr. p. 42.) White was the store manager of the Title Max of Hampton. (Tr. pp. 42-43.) White stated that on October 26, 2011, Appellant owed Title Max a little over four thousand dollars on a loan secured by a lien on Appellant’s 2008 Ford Edge. (Tr. p. 44.) In addition, White testified that the Title Max of Hampton had three employees at the time of the crime, and the signature on the lien release form did not belong to any of those three employees. (Tr. pp. 45-46.)

The State also called Sergeant Jason Chapman of the Walterboro Police Department to testify. (Tr. pp.52-53.) Sergeant Chapman testified that Appellant told him she drove a 2008 Ford Edge to the DMV, which was parked outside of the DMV. (Tr. p. 54.) Sergeant Chapman also testified that at the time he arrived at the DMV, Appellant was the only customer inside. (Tr. p. 54.) Further, Officer Elbert Sweat testified that

Appellant drove a 2008 Ford Edge to the DMV, she had the keys to the car, and there was not anyone in the vehicle waiting for her. (Tr. p. 56.)

ARGUMENT

I.

The Court of General Sessions had subject matter jurisdiction over Appellant's forgery charge because the charge involved a value of less than \$10,000.

Contrary to Appellant's assertion, the Court of General Sessions had subject matter jurisdiction over Appellant's forgery charge. The State indicted Appellant under S.C. Code Ann. §16-13-10 (B)(2), which pertains to forgeries in an amount less than \$10,000.¹ At trial, the State presented evidence that Appellant forged a document, which had a value of approximately \$4,000. Thus, Appellant's contention that her forgery charge did not involve a dollar amount is without merit.

Subject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong. Pierce v. State, 338 S.C. 139, 150, 526 S.E.2d 222, 227 (2000). "The jurisdiction of a court over the subject matter of a proceeding is determined by the Constitution, the laws of the state, and is fundamental." Anderson v. Anderson, 299 S.C. 110, 115, 382 S.E.2d 897, 900 (1989). Under the South Carolina Constitution, circuit courts in South Carolina have subject matter jurisdiction to try criminal matters. State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005); see S.C. Const. art. V, § 11 ("The Circuit Court shall be a general trial court with original jurisdiction in civil and **criminal cases**, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law." (emphasis added)). "Generally, the requirements of

¹ Although S.C. Code Ann. §16-13-10 (B)(2) pertains to forgeries involving a value less than \$10,000, the State indicted Appellant for "forgery, value less than \$5,000[.]" which was the appropriate value in Appellant's case before the 2010 amendment to the statute. (*Indictment*) However, value less than \$5,000 is necessarily encompassed in S.C. Code Ann. § 16-13-10 (B)(2) under the amended statute because an amount of \$5,000 or less constitutes an amount less than \$10,000.

subject matter jurisdiction are satisfied when appropriate charges are filed in a competent court.” State v. Crocker, 366 S.C. 394, 402, 621 S.E.2d 890, 894 (Ct. App. 2005).

Section 16-13-10 of the South Carolina Code provides the following:

(A) It is unlawful for a person to:

(1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;

(2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing;

(3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or

(4) willingly act or assist in any of the premises, with an intention to defraud any person.

S.C. Code Ann. §16-13-10 (A).

Further, subsection B of section 16-13-10 of the South Carolina outlines the penalties a trial judge may impose if a defendant is convicted of forgery:

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ten thousand dollars.

S.C. Code Ann. §16-13-10 (B).

Unquestionably, the Court of General Sessions has jurisdiction in forgery cases involving the value of \$10,000 or less. In this case, the State indicted Appellant under section 16-13-10 (B)(2) of the South Carolina Code. As a result, Appellant's case was properly tried in the Court of General Sessions.

In arguing to the contrary, Appellant claims her forgery charge involved no dollar amount. Although Appellant did not actually receive any value as the result of her forgery because she got caught, one does not have to actually receive money in order for a forgery to involve a dollar amount. The State presented evidence that Appellant forged a document in order to be clear of the lien on her vehicle. The amount of the lien on Appellant's vehicle was approximately \$4,000. The amount of the forgery in this case was not speculative. See State v. Brandt, 393 S.C. 526, 548, 713 S.E.2d 591, 602 (2011) (holding that in order for a forgery to involve a dollar amount the amount cannot be speculative). Rather, if Appellant had not gotten caught, she would have received an approximate value of \$4,000. Thus, Appellant's reliance on the fact that the indictment stated Appellant "did receive the value of none" is misplaced.²

Accordingly, Appellant's forgery conviction, which involved a value less than \$10,000, was properly tried in the Court of General Sessions.

² Notably, the trial judge sentenced Appellant pursuant to section 16-13-10 (B)(2), which pertains to forgeries in an amount less than \$10,000. (*Sentencing Sheet*).

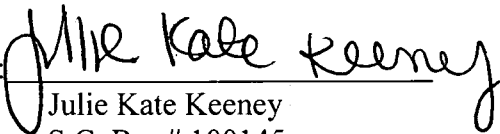
CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JULIE KATE KEENEY
Assistant Attorney General

BY: 
Julie Kate Keeney
S.C. Bar # 100145

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ATTORNEYS FOR RESPONDENT

January 13, 2014

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**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

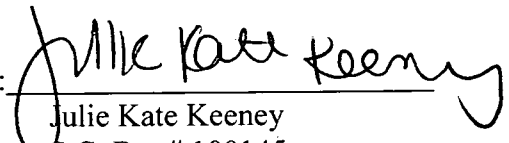
To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

JULIE KATE KEENEY
Assistant Attorney General

BY:


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PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Carmen V. Ganjehsani, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 13th day of January, 2014.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

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ALAN WILSON
ATTORNEY GENERAL

January 13, 2014

Carmen V. Ganjehsani, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
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Columbia, SC 29211

RE: State v. Elizabeth M. Dinkins Appellate Case No. 2012-208407

Dear Ms. Ganjehsani:

I am enclosing two (2) copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

Julie Kate Keeney
Assistant Attorney General
S.C. Bar # 100145

JKK/erd
Enclosures

cc: Honorable Jenny A. Kitchings (original and one enclosed)
Victim Services

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JAN 13 2014

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