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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ELIZABETH M. DINKINS,

APPELLANT.

APPELLATE CASE NO. 2012-208407

FINAL REPLY BRIEF OF APPELLANT

CARMEN V. GANJEHSANI
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ARGUMENT IN REPLY

In its Respondent's Brief, the State does not contest Appellant's assertion that S.C. CODE ANN. § 16-13-10(C) confers exclusive jurisdiction to the magistrates and municipal court for cases of forgery not involving any dollar amount and that the Court of General Sessions lacks subject matter jurisdiction over this offense.

Instead, the State contends that it indicted Appellant under S.C. CODE ANN. § 16-13-10(B)(2) which pertains to forgeries in an amount less than \$10,000.00 and over which the Court of General Sessions does have subject matter jurisdiction. Contrary to the State's contention, the State did not indict Appellant under § 16-13-10(B)(2) and specifically alleged in the indictment that the amount involved in the forgery was *none*, thus triggering the provisions of § 16-13-10(C):

That in Colleton County, South Carolina, on or about October 26, 2011, the Defendant, Elizabeth Dinkins, with intent to defraud, falsely did make, forge, counterfeit or cause or procure to be falsely made, forged, or counterfeited a writing, or knowingly did utter and publish as true a forged, false or counterfeited writing, or did act or assist in any of the foregoing, to wit: the Defendant did forge the name of the manager of Title Max of Hampton on a Satisfaction of Title Lien to Department of Motor Vehicles and did receive the sum of *none*, all in violation of Section 16-13-10, Code of Laws of South Carolina, (1976, as amended).

R.100 [Indictment] (emphasis added).

Clearly, Appellant was indicted under § 16-13-10(C) for a case of forgery not involving any dollar amount which only the magistrates and municipal court have jurisdiction to hear.

The State next argues that the alleged forgery did involve an approximate value of \$4,000.00 where Appellant allegedly presented a forged document to clear the lien on her vehicle. A lien, however, "is not the debt but merely a charge upon the property for

payment of the debt” and “dissolution of the lien does not eradicate the debt.” Shelley v. South Carolina Dep’t of Mental Health, 283 S.C. 344, 346, 322 S.E.2d 687, 689 (Ct. App. 1984). Even if Appellant had cleared the lien on her vehicle, the underlying debt of approximately \$4,000.00 owed to Title Max would have remained. Appellant would have still owed this amount. Appellant would have not received any dollar amount had she completed the alleged forgery.

The State’s two arguments that Appellant was properly tried in the Court of General Sessions are therefore invalid. Appellant was indicted under § 16-13-10(C) for forgeries not involving any dollar amount, and Appellant did not receive any dollar amount where even if she had cleared the lien, the underlying debt would have remained. Accordingly, it was error for the Court of General Sessions to hear the case against Appellant where the Legislature expressly placed crimes of forgery not involving any dollar amount within the exclusive jurisdiction of the magistrates and municipal court. Appellant’s conviction for forgery not involving any dollar amount should be vacated for lack of subject matter jurisdiction.

CONCLUSION

For the reasons set forth herein and in the Appellant's Brief, Appellant Elizabeth M. Dinkins respectfully requests this Court to vacate her conviction for lack of subject matter jurisdiction.

Respectfully submitted,



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of March, 2014.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Reply Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 7th, 2014



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CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of the Final Reply Brief of Appellant in the above referenced case has been served upon Julie Kate Keeney, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 7th day of March, 2014.



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of March, 2014.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.