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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

FINAL BRIEF OF APPELLANT

CARMEN V. GANJEHSANI
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Appellant's conviction for forgery not involving any dollar amount in the Court of General Sessions should be vacated for lack of subject matter jurisdiction where the Legislature placed this offense within the exclusive jurisdiction of the magistrates and municipal court.

STATEMENT OF THE CASE

On November 17, 2011, Appellant Elizabeth M. Dinkins was indicted by the Colleton County Grand Jury for one count of forgery in violation of S.C. CODE ANN. § 16-13-10. The indictment alleged that Appellant “did forge the name of the manager of Title Max of Hampton on a Satisfaction of Title Lien to [the] Department of Motor Vehicles and did receive the sum of *none*.” R.99 (emphasis added).

Appellant was tried before the Honorable Thomas A. Russo and a jury on January 31 – February 1, 2012. R. 1. Appellant was represented by David S. Mathews, and the State was represented by Assistant Solicitor Steven Knight. Id.

The jury found Appellant guilty of forgery. R. 93, ll. 18-21. Judge Russo sentenced Appellant to two years imprisonment. R. 97, ll. 17-20.

This appeal follows.

ARGUMENT

Appellant's conviction for forgery not involving any dollar amount in the Court of General Sessions should be vacated for lack of subject matter jurisdiction where the Legislature placed this offense within the exclusive jurisdiction of the magistrates and municipal court.

Appellant was charged with forgery not involving any dollar amount in violation of S.C. CODE ANN. § 16-13-10(C). R.82. She was tried and convicted in the Court of General Sessions for Colleton County. South Carolina Code section 16-13-10(C) provides:

If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, ***notwithstanding*** the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

§ 16-13-10(C) (emphasis added).

The plain language of this statute confers exclusive jurisdiction to the magistrates and municipal court for cases of forgery not involving any dollar amount. Therefore, the Court of General Sessions lacked subject matter jurisdiction to hear the case against Appellant.

The South Carolina Constitution provides that “[t]he judicial power shall be vested in a unified judicial system, which shall include a Supreme Court, a Court of Appeals, a Circuit Court, and such other courts of uniform jurisdiction as may be provided for by general law.” S.C. CONST. ART. V, § 1. Article V, Section 11 of the South Carolina Constitution establishes the Circuit Court as the court of original jurisdiction in most cases except those in which exclusive jurisdiction is given to inferior courts such as the magistrates or municipal court:

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.

S.C. CONST. ART. V, § 11 (emphasis added).

The South Carolina Constitution further provides that the Legislature has the power to establish the jurisdiction of the magistrates:

The Governor, by and with the advice and consent of the Senate, shall appoint a number of magistrates for each county as provided by law. The General Assembly shall provide for their terms of office and their civil and criminal jurisdiction. . . .

S.C. CONST. ART. V, § 26.

In 2010, the Legislature amended the forgery statute to add Section C of the statute, specifically providing that in cases of forgery not involving a dollar amount, “the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, *notwithstanding* the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65 .

.” § 16-13-10(C) (emphasis added). The Legislature’s use of the word “notwithstanding” signals the Legislature’s intent to confer exclusive jurisdiction in the magistrates or municipal court despite the provisions of other statutes defining the jurisdiction of these inferior courts.

“When interpreting a statute, this Court’s primary function is to ascertain the intention of the Legislature. . . . When a statute is clear and unambiguous, the terms of the statute must be given their literal meaning.” Mosteller v. County of Lexington, 336 S.C. 360, 363-64, 520 S.E.2d 620, 622 (1999). In addition, when the Legislature uses the phrase “*notwithstanding* any other provision of the law” in a particular statute, the Legislature clearly intends that the statute to be “exclusive of other provisions of the law.” Id. at 364, 520 S.E.2d at 622 (emphasis added).

Moreover, Code Section 22-3-540, which grants magistrates “exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days . . .” further provides that its provisions “shall not be construed to limit the jurisdiction of any magistrate whose jurisdiction has been extended beyond that stated above.” S.C. CODE ANN. § 22-3-540.

By enacting § 16-13-10(C), the Legislature extended, in accordance with the last sentence of § 22-3-540, the exclusive jurisdiction of the magistrates’ court with respect to forgery cases not involving any dollar amount. The Legislature extended the exclusive jurisdiction of the magistrates’ court to forgery case not involving any dollar amount even though the punishment could involve a fine in any amount within the court’s discretion and imprisonment for up to three (3) years.

It is therefore clear in this case that only the magistrates or municipal court had jurisdiction to hear the forgery charge not involving any dollar amount against Appellant. In State v. Castleman, 219 S.C. 136, 64 S.E.2d 250 (1951), this State’s Supreme Court held it was reversible error for the Court of General Sessions to try a defendant for the first offense of unlawful possession of intoxicating liquor where the Court of General Sessions did not have jurisdiction. The Supreme Court found that the General Assembly had statutorily conferred exclusive jurisdiction to the magistrates’ court for the offense for which defendant was charged and therefore, the Court of General Sessions lacked jurisdiction over the case. Id. at 138, 64 S.E. at 251.

Here, the Legislature has expressly placed crimes of forgery not involving any dollar amount within the exclusive jurisdiction of the magistrates and municipal court. Accordingly, it was error for the Court of General Sessions to hear the case against

Appellant. Appellant's conviction for forgery not involving any dollar amount should be vacated for lack of subject matter jurisdiction.

CONCLUSION

Based upon the foregoing reasons, 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 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



Carmen V. Ganjehsani
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

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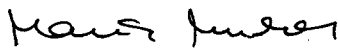
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Julie Kate Keeney, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 7th day of March, 2014.



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

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



(L.S.)

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