

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Spartanburg County
Court of General Sessions

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Hon. J. Mark Hayes, Judge

JAN 25 2016

SC Court of Appeals

Case No. 2015-002298

STATE OF SOUTH CAROLINA ————— Respondent.

VS.

TIMOTHY DALE CROCKETT ————— Appellant

MOTION TO RELIEVE COUNSEL AND
CONSIDER SINGLE PRO SE QUESTION

COMES NOW, Timothy Dale Crockett, the Appellant pro se in the above-styled appeal, and Respectfully moves before this Court to relieve counsel and consider Appellant's single pro se issue/question:

" Did the Circuit Court Have Proper Jurisdiction to Sentence Appellant to (3) years for Petty Larceny Under

S.C. Code §16-1-57 when the Appellant's two-PRIOR theft convictions were committed on same day, had same victims, and Appellant was sentenced on both at same hearing to concurrent terms? "

All of the facts are in the record of lower court. Appellant pled guilty on September 17, 2015, before Judge Hayes. Appellant was charged with petty larceny of a used car battery. The State used two (2) Grand Larceny cases from 1998 to enhance Appellant's petty larceny case under SC Code §16-1-57.

Appellant went to trial on petty larceny charge in June, 2015, before Hon. Judge Couch.* The State, pursuant to discovery, produced the (2) grand larcenies from 1998, ... these were predicates to subject Crockett to ten (10) years in prison for a \$20.00 car battery.

* END IN MISTRIAL.

In November 2015, Crockett request and received his criminal files from attorney Andrew J. Johnston. Upon review Crockett realized that the (2) priors actually involved Crockett's theft of (2) cars from a carlot on the same day in 1998. Crockett later pled guilty to both charges and received (17) months incarceration. (Concurrent)

Appellant argues that these (2) theft charges are lawfully considered a "single criminal conviction" of. Koon v. State, 372 SC 531, 643 SE2d 680 (2007); State v. Gordon, 588 SE2d 105 (2003); SC Code of Laws §17-25-50,

Although Crockett did not object this Court can consider lack of subject matter jurisdiction for first time on appeal. State v. Guthrie, 572 SE2d 309, 311 (2002). If Appellant did not have the requisite (2) prior theft convictions then the Circuit

Court lacked subject matter jurisdiction which properly resided with the Magistrate Court with a maximum statutory sentence of (30) days for petty larceny of a battery.

CONCLUSION

WHEREFORE, in light of the very simple question before the Court, and the record being sufficient to answer this legal question (without assistance of lawyers and unnecessary briefing), the Appellant prays this Court will grant Crockett's request to relieve counsel and vacate his conviction and attending (3) year sentence for larceny enhanced. Crockett cannot think of any legal basis to appeal the Assault and Battery Conviction in absence of any objection by counsel or jurisdictional argument and therefore does not challenge that conviction

on appeal before this Court. Any valid
attack of Assault & Battery conviction must
be waged in a post-conviction remedy
alleging ineffective assistance of counsel.

Respectfully prayed for this ^{21st} day of ~~Jan~~^{Jan} 2016.

B) ~~Timothy Dale Crockett~~
Timothy Dale Crockett
Appellant, Pro Se

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SC Court of Appeals

"Certificate of Service/Mailing"

I, Timothy Dale Crockett, hereby certify that I
have this day served the opposing parties to
this appeal with copies of the Oregon
"Manual to Release Counsel and Consider
Single Pro Se Question" by depositing same
in the U.S. Mail Service w/first class postage

address addressed to:

Mary Sheehy
Public Defender
366 N. Church St.
Spky, SE 29306

Megan Moricle,
Assistant Solicitor
180 Magnolia St.
Spky, SE 29306

Done this 21, st day of Jan, 2016

-5- ~~Timothy Crockett~~

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JAN 25 2016 January 21, 2016

SC Court of Appeals Timothy D. Crockett

SCA 201598

SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Broad River CI
4460 Broad River Rd
Columbia, SC 29210

Re: State v. Timothy D. Crockett
Appellate Case No. 2015-2298

Dear Hon. Clerk of Court:

I'm advised that I can only file one kind of motion if I have an attorney and that is a "motion to rehear counsel" which is the motion I've enclosed for the court's consideration.

I pled guilty, no objections were made and appointed counsel is going to file a "no merit" brief she says.

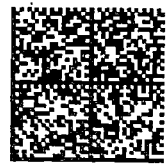
However, I'm doing (3) years for petty larceny and the state used (2) priors that are actually (1) prior theft. This means the Circuit Court lacked subject matter jurisdiction. And all the records are in the record. This case can be resolved quickly without briefing.

Thank you! Timothy D. Crockett

Attachments
CC: Retained

#200598
Timothy Dale Crockett
Broad River Corr. Inst.
4460 Broad River Rd
Columbia, SC 29210

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SC Court of Appeals

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