

MARCH 1, 2016

Timothy Dale Crockett

SCDC No. 200598

S.C. Court of Appeals

Office of the Clerk **RECEIVED** Broad River Corr. Inst

P.O. Box 11629

4460 Broad River Rd.

Columbia, SC 29211

MAR 04 2016

Columbia, SC 29210

SC Court of Appeals

Re: STATE v. CROCKETT, Appeal # 2015-2298

Dear Honorable Court of Appeals =

This is the Appellant's pro se Response to this Court's directive dated February 22, 2016, instructing the Appellant to submit basis for appeal in response to Attorney Andrew Johnston's guilty plea letter under Rule 203(d)(1)(B)(iv), SCRAP.

"BASIS FOR APPEAL"

The General Sessions Court lacked Proper Jurisdiction to Adjudicate and Sentence Appellant to Ten (10) years Imprisonment for A Magistrate Court Petty Larcany Charge.

As an initial matter, the Appellant would Respectfully remind the Honorable Court that matters of jurisdiction of the criminal court may be RAISED at any time notwithstanding the absence of contemporaneous objection.

EDWARDS v. STATE, 642 S.E.2d 738, 740-41 (2007);

STATE v. GENTRY, 610 S.E.2d 494, 495-97 (2005)

3-1-16
T.D.C.

(^o lack of subject matter jurisdiction may be raised for first time on appeal.)

This appeal raises valid arguments related to the lower court's jurisdiction to entertain and sentence Appellant to a felony sentence based on the putative theft of a twenty (\$20.00) used car battery — a magistrate Court offense with maximum (30) thirty day jail sentence pursuant to S.C. Code 16-13-30(A)

Appellant was arrested on February 13, 2014, for larceny of a used car battery from an old Jeep parked at ~~Coltman's~~ TRANSMISSION in Spartanburg County. The sheriff's deputy noticed that Crockett had (2) two prior grand larceny convictions so he charged Appellant with petty theft enhanced under the state's misdemeanor "Three-Strikes" law pursuant to S.C. Code 16-1-57. Apparently the District Attorney agreed and the Appellant was indicted for felony violation.

After going to trial on June 16-17, 2015, before Judge Couch and having a mistrial declared, the Appellant reluctantly agreed to plead guilty on the battery theft charge and was sentenced to (10) ten years in prison suspended to (3) yrs. and (5) five yrs prohibition.

Attorney Andrew Johnston's Rule 203 letter indicated that Appellant Crockett was 3¹-16 T.O.C.
(Page 2 of 5)

"dissatisfied with the results" (see counsel's 2/11/16 letter). That is a gross understatement. Crockett told counsel numerous times that he was innocent of battery theft, and even went to a jury trial two months previously!! Counsel assured Crockett "no prison time" and probation, so the (3) three years active sentence "dissatisfied" Appellant greatly.

Nevertheless, Appellant subsequently learned that the prosecution used (2) two 1999 grand larceny convictions to predicate enhancement of his 2014 petty larceny case. The problem with this is that the two (2) grand larceny cases stemmed from a single theft incident. The Appellant - along with an accomplice - stole two (2) used cars on the same day, at the same time, from the same used car lot (J's used cars, Sptbg. SC). * Appellant Crockett pled guilty to both charges on the same day in 1999 and was sentenced to (5) five years imprisonment concurrent with each other. (See attached documents).

Consequently, Appellant now argues that he does not have the (2) two necessary prior

* Crockett, along with Charles Gregory, stole a 1992 Chevy Corsica and a 1986 Chevy IROC from J's Auto Sales on 9-18-98. See warrants # F-993106, F-993107 attached along with sentencing sheets attached.

3-1-16
T.O.G.

theft convictions authorizing an indictment allowing the Court of General Sessions to remove the case from county magistrate court and impose a term beyond the statutory maximum of (30) days allowed pursuant to S.C. Code of Laws 16-13-30(A) (Petty Larceny).

The S.C. Supreme Court has held that two (2) prior convictions that stem from a single criminal incident constitute one offense for purposes of South Carolina's "Three Strikes" recidivism statutes. See Bryant v. State, 683 S.E.2d, 280, 281-83 (2009); State v. Woody, 596 S.E. 2d, 907, 908 (2014). And the Court's reasoning is consistent with most state and Federal jurisprudence in this area of law. (numerous citations omitted).

The Appellant Respectfully asks this Court to review the record, look at the court records in this case, and see that Crockett's petty larceny charge was in fact improperly enhanced based on (2) two grand larceny convictions from 1999, which should rightfully constitute one offense under the misdemeanor "Three-strikes" law.

WHEREFORE, this Court should VACATE the Appellant's petty larceny (enhanced) conviction and attending felony (3) three year sentence and REMAND the case to the Spartanburg County

(Page 4 of 5)

3-1-16
T.D.C.

Magistrate Court for appropriate disposition.
Alternatively, sanction Crckett's guilty plea
before the General Sessions Court and vacate
felony sentence and order "time served"
disposing of case entirely.

Respectfully prayed for this 1st day of March 2016,

1/s/ Timothy Dale Crckett
Timothy Dale Crckett
Appellant, Pro Se

Certificate of Service

I, Timothy Dale Crckett, hereby certify
that I have served and filed this
letter with the court and interested
parties.

RECEIVED

MAR 04 2016

SC Court of Appeals

Done this 1st day of March 2016.

1/s/ Timothy Dale Crckett
Timothy Dale Crckett
SCDC # 200598
4460 Broad River Rd.
Columbia, SC 29210

STATE OF SOUTH CAROLINA

22 of 23 6/18/2015 IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg

INDICTMENT/CASE# 2408

STATE Timothy Dale Crockett VS.

RECEIVED 99 -GS- 42

2408

AKA: _____
Race: W. Sex: M
DOB: 11/22/63 Age: 36
SSN: 062-58-9325
DL#: _____
SID#: _____

MAR 04 2016

A/W#: F993107
Date of Offense: 9/18/98-9/19/98
S.C. Code §: 16-13-30(B)(1)
CDR Code #: 0141718

SC Court of Appeals

SENTENCE

PLEA TRIAL

CONVICTED OF or PLEADS

1986 Chevy IROC

In disposition of the said indictment comes now the Defendant who was TO: Grand Larceny \$1000 - \$5000

in violation of § 16-13-30(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0141718

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Alpha T. Moss Solicitor Tim Crockett Defendant [Signature] Attorney for Defendant
Concurrent w/ Federal Sentence

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of five (5) days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ _____ plus 20% fee \$ _____

Payment Terms: _____
 set by SCDPPPS _____

Recipient: _____

*Fine:\$
§ 14-1-206 - Assessments 100%.....\$
§ 14-1-211 - Surcharge.....\$
(Exceptions: See § 14-1-211)
§ 56-5-2995 (DUI).....\$
County (3%).....\$
TOTAL.....\$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc Rehab. or Job Corps _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund.
Other: _____

Clerk of Court/Deputy Clerk Mark Hammond

PRESIDING JUDGE W. [Signature]

Judge Code: 0111115

Sentence Date: 26 Jan 00

Court Reporter: Mike Watts

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

STATE

NCOLINA

9 of 23 6/11/2015 IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg

INDICTMENT/CASE#:

STATE vs.

99 -GS- 42 - 2409

Timothy Dale Crckett

A/W#: F993106

AKA: _____

Date of Offense: 9/18/98 - 9/19/98

Race: W Sex: M

S.C. Code § : 16-13-30(B)(1)

DOB: 11/22/163 Age: 36

CDR Code #: 0141718 1992

SSN: 062-58-9325

DL#: _____

SID#: _____

SENTENCE

Chevy Corsica

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Grand Larceny \$1000 - \$5000

in violation of § 16-13-30(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0141718

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] [Signature] [Signature]

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of Five (5) days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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set by SCDPPPS _____

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*Fine:\$

§ 14-1-206 - Assessments 100%.....\$

§ 14-1-211 - Surcharge.....\$

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI).....\$

County (3%).....\$

TOTAL.....\$ Made US

Clerk of Court/Deputy Clerk [Signature]

Court Reporter: Mike Watts

PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc Rehab. or Job Corps _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund.
Other: _____

PRESIDING JUDGE [Signature]

Judge Code: 0111215

Sentence Date: 26 Jan 00

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217 (1/99)

ARREST WARRANT

F# 993106

STATE OF SOUTH CAROLINA

County/ Municipality of SPARTANBURG COUNTY

THE STATE against

Jail

CROCKETT, TIMOTHY DALE

Address: 318 PALMETTO PARK DR WELLFORD, SC 29385

Phone: SSN: - -

Sex: M Race: W Height: " Weight:

DL State: DL #:

DOB: 11/25/69 Agency ORI #:

Prosecuting Agency:

Prosecuting Officer: GARY, WILLIAM

Offense: Larceny/Grand >\$1,000 <\$5,000

Offense Code: 0478

Code/Ordinance Sec. 16-13-0030(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant CROCKETT, TIMOTHY DALE

on 9-25-98

Signature of Constable/Law Enforcement Officer

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

B. BARNETTE

180 MAGNOLIA ST

SPARTANBURG, SC 29306

STATE OF SOUTH CAROLINA

County/ Municipality of SPARTANBURG COUNTY

AFFIDAVIT CASE # F993106

2409 Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

Personally appeared before me the affiant GARY, WILLIAM who being duly sworn deposes and says that defendant CROCKETT, TIMOTHY DALE did within this county and state on 09/18/98-09/19/98 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of SPARTANBURG) in the following particulars:

DESCRIPTION OF OFFENSE: Larceny/Grand >\$1,000 <\$5,000 16-13-0030(B)(1)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: THE DEFENDANT DID INTENTIONALLY TAKE, STEAL AND CARRY AWAY A 1992 CHEVROLET CORSCA VALUED AT MORE THAN \$1000.00 BELONGING TO J'S AUTO SALES AND WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER OF THE PROPERTY.

WARRANT BASED ON POLICE INVESTIGATION.

Sworn to and subscribed before me on SEPTEMBER 23, 1998

Signature of Issuing Judge (L.S.)

Signature of Affiant

Affiant's Address SHERIFF'S DEPT

SPARTANBURG, SC 29304

Affiant's Telephone 864 596-2616

STATE OF SOUTH CAROLINA

County/ Municipality of SPARTANBURG

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 09/18/98-09/19/98 defendant CROCKETT, TIMOTHY DALE did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: Larceny/Grand >\$1,000 <\$5,000 16-13-0030(B)(1)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Judge Code: 894

B. BARNETTE

Judge's Address 180 MAGNOLIA ST

SPARTANBURG, SC 29306

Judge's Telephone 864 596-2564

Issuing Court: X Magistrate Municipal Circuit

ORIGINAL

FILED CLERK OF COURT SPARTANBURG COUNTY 99 OCT 2 11 PM 2:33

Exhibit C

ARREST WARRANT FUGITIVE FILE

05 2408

Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

F= 993107 STATE OF SOUTH CAROLINA [X] County/ [] Municipality of SPARTANBURG COUNTY

AFFIDAVITCASE # F993107

THE STATE against Jail

STATE OF SOUTH CAROLINA [X] County/ [] Municipality of SPARTANBURG COUNTY

Personally appeared before me the affiant GARY, WILLIAM who being duly sworn, deposes and says that defendant CROCKETT, TIMOTHY DALE did within this county and state on 09/18/98-09/19/98 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [] Municipality of SPARTANBURG) in the following particulars:

DESCRIPTION OF OFFENSE: Larceny/Grand >\$1,000 <\$5,000 16-13-0030(B)(1)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: THE DEFENDANT DID INTENTIONALLY TAKE, STEAL AND CARRY AWAY A 1986 IROC-Z VALUED AT MORE THAN \$1000.00 BELONGING TO J'S AUTO SALES AND WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER OF THE PROPERTY.

CROCKETT, TIMOTHY DALE Address: 318 PALMETTO PARK DR WELLFORD, SC 29385 Phone: SSN: Sex: M Race: W Height: Weight: DL State: DL #: DOB: 11/22/63 Agency ORI #: Prosecuting Agency: Prosecuting Officer: GARY, WILLIAM Offense: Larceny/Grand >\$1,000 <\$5,000 Offense Code: 0478 Code/Ordinance Sec. 16-13-0030(B)(1)

WARRANT BASED ON POLICE INVESTIGATION.

This warrant is CERTIFIED FOR SERVICE in the [] County/ [] Municipality of . The accused is to be arrested and brought before me to be dealt with according to law. Signature of Judge (L.S.) Date:

Sworn to and subscribed before me on SEPTEMBER 23, 1998 Signature of Issuing Judge (L.S.)

Signature of Affiant WILLIAM R. GARY Affiant's Address SHERIFF'S DEPT SPARTANBURG, SC 29304 Affiant's Telephone 864 596-2616

14 of 23 6/18/2015 FILED CLERK OF COURT SPARTANBURG COUNTY 98 OCT 12 PM 2:33

STATE OF SOUTH CAROLINA [X] County/ [] Municipality of SPARTANBURG

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY: It appearing from the above affidavit that there are reasonable grounds to believe that on 09/18/98-09/19/98 defendant CROCKETT, TIMOTHY DALE did violate the criminal laws of the State of South Carolina (or ordinance of

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Signature of Issuing Judge (L.S.) B. BARNETTE Judge Code: 894

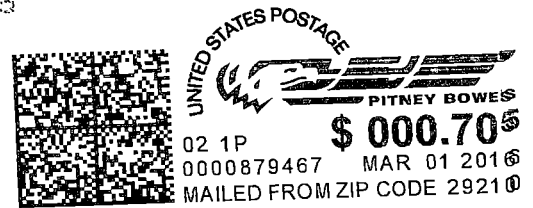
Judge's Address 180 MAGNOLIA ST SPARTANBURG, SC 29306 Judge's Telephone 864 596-2564 Issuing Court: [X] Magistrate [] Municipal [] Circuit

RETURN A copy of this arrest warrant was delivered to defendant CROCKETT, TIMOTHY DALE on 9-25-98 P.K. Adams Signature of Constable/Law Enforcement Officer M. HAMMOND CLERK OF COURT 180 MAGNOLIA ST SPARTANBURG, SC 29306 BY: D.C. DATED 10/5/98

ORIGINAL

TINDY DANE CROCKETT
200598 Broad River Cor. Inst
4460 BROAD RIVER RD.
COLUMBIA, SC 29210

COLUMBIA
SC 290
02 MAR '06
PM 1 L



RECEIVED

MAR 04 2016
SC COURT OF APPEALS

SOUTH CAROLINA COURT OF APPEALS
OFFICE OF THE CLERK

P.O. BOX 11629

COLUMBIA, S.C.

29211162929 2921

CASE No. APPEAL
2015-2298

LEGAL MAIL