

MARCH 17, 2016

SC Court of Appeals RECEIVED

P.O. Box 11629

MAR 22 2016

Columbia, SC 29210 SC Court of Appeals

Timothy Dale Crockett

SC02 #200598

Broad River Ct

4460 Broad River Rd

Columbia, SC 29210

Re: Appeal No. 2015-002298

Dear Hon. Clerk:

Could your office "Please" contact Hon. Judge Couch and advise him that I am not appealing my Assault & Battery 2nd conviction or sentence (Case No. 2015-65-42-4027) in this appeal before the Court.

I filed a PCR related to the Assault charge and the AG wants to have it dismissed because the AG thinks I'm appealing that case. Although I may have inadvertently put that case # on my pro se NWA, I later wrote the Court specifically withdrawing NWA and specifically not proffering any arguments related to that sentence or conviction. The only conviction I'm complaining about on appeal is the petty larceny (magistrate court case) I got 3 yrs. on. Enclosed is AG's letter and the Judge's information. Dismissing my PCR will only waste judicial resources because I will refile the PCR.

Thank you. Timothy Dale Crockett

Attachments
cc: Retained

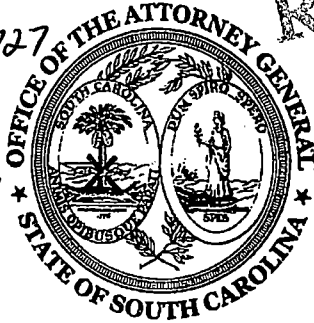
LEGAL MAIL

Petty Larceny Case #

2014-GS-42-3727

Assault 2nd Case #

2015-GS-42-4027



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

March 8, 2016

VIA EMAIL ONLY

The Honorable Roger L. Couch
Seventh Judicial Circuit
Post Office Box 2614
Spartanburg, SC 29304-2614

challenging Assault + Battery
2nd case.
↓

Re: Timothy Dale Crockett v. State, C/A No.: 2016-CP-42-0289

Dear Judge Couch:

Respondent respectfully submits that a hearing is not necessary to clarify any ambiguity in the PCR application because the application is unambiguous. In addition, Respondent has asked the Court to dismiss the application *without* prejudice, which will allow Mr. Crockett the freedom to refile his application for post-conviction relief once his direct appeal has been decided and remanded to the circuit court. I am enclosing a copy of Applicant's Notice of Appeal, which clearly indicates the same indictment number as that listed in his application for post-conviction relief (2015-GS-42-4027). Therefore, Respondent submits a hearing is not necessary because there is no ambiguity as to which conviction Mr. Crockett is challenging in either action.

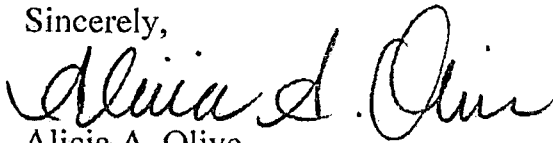
Furthermore, Mr. Crockett is incarcerated on two convictions, and he appealed both. Respondent has reviewed the South Carolina Appellate Case Management System and affirms that Mr. Crockett's direct appeal is still pending before the court of appeals. Rule 71.1 of the South Carolina Rules of Civil Procedure provides, "An application for post-conviction relief cannot be made while an appeal from the conviction or sentence is pending during the time in which an appeal may be perfected." Therefore, regardless of which conviction he is appealing, Mr. Crockett's application for post-conviction relief is procedurally

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barred at this time. Accordingly, Respondent respectfully submits that for the reasons stated in its Return and Motion to Dismiss and in the proposed Order of Dismissal without Prejudice, a hearing is not necessary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alicia A. Olive".

Alicia A. Olive

Assistant Attorney General

cc: Timothy Dale Crockett, 200598

Enclosure

Timothy Crockett
SCDC # 200598
Broad River Court Inn
4460 Broad River Rd.
Columbia, SC 29210

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SC 29201

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