

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Spartanburg County

Honorable J. Mark Hayes, II, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

V.

TIMOTHY DALE CROCKETT,

APPELLANT

APPELLATE CASE NO 2015-002298  
\_\_\_\_\_

ANDERS BRIEF OF APPELLANT  
\_\_\_\_\_

Wanda H. Carter  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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(803) 734-1343

ATTORNEY FOR APPELLANT

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**TABLE OF AUTHORITIES**

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**STATEMENT OF ISSUE ON APPEAL**

Appellant's pleas were given involuntarily because he was unaware of the sentencing consequences attached to his guilty pleas.

## STATEMENT OF THE CASE

Appellant Timothy Dale Crockett pled guilty to second degree assault and battery and petit larceny (3<sup>rd</sup> or subsequent offense) during the September 2015 term of the Spartanburg County General Sessions Court before Judge J. Mark Hayes II. Attorneys Andrew Johnston and James Cheek represented appellant at the plea proceeding, and Assistant Solicitor Meghan Gilmer appeared on behalf of the state. Judge Hayes sentenced appellant to ten years, suspended upon the service of three years and five years probation on the larceny conviction, and three years on the assault conviction.

Appellant appealed his convictions and sentences. This brief follows.

## ARGUMENT

Appellant's pleas were given involuntarily because he was unaware of the sentencing consequences attached to his guilty pleas.

During the plea proceeding, the trial judge explained sentencing consequences as follows:

Plea Judge: Sir, do you understand that, on the petty larceny charge, since that's a third or subsequent offense, that I could sentence you to ten years?

Appellant: Yes sir, Your Honor

Plea Judge: You understand that I could sentence you up to three years on [the assault and battery in the second degree] charge?

Appellant: Yes sir, Your Honor.

Plea Judge: Understanding the possible sentences I could impose you still wish to enter these pleas?

Appellant: Yes sir.

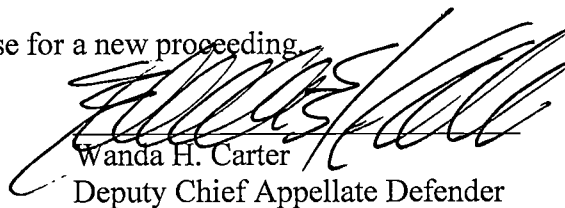
Tr. 16, lines 2 – 5; Tr. 16, lines 9 – 14.

At no point during the colloquy regarding sentencing did the trial judge advise petitioner that he could order the sentences to run concurrently or consecutively. Therefore, petitioner certainly believed his maximum sentencing exposure was ten years when actually, he faced a possible thirteen-year maximum sentence in his case. Clearly, he was unaware of the sentencing consequences of his guilty pleas.

In order for a defendant's pleas to be valid, he must have a full understanding of the sentencing consequences of his plea. Simpson v. State, 317 S.C. 506, 455 S.E.2d 17 (1995); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999); Hinson v. State, 247 S.C. 456, 377 S.E.2d 338 (1989); State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980).

**CONCLUSION**

Based on the foregoing argument, appellant requests that this Court reverse his convictions and sentences and remand his case for a new proceeding.



Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of August, 2016.

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PETITION TO BE RELIEVED AS COUNSEL

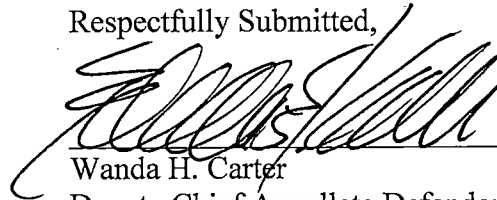
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Counsel for Timothy D. Crockett states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge J. Mark Hayes, which was held on September 17, 2015 (Guilty Plea), and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, She asks the Court to relieve her as counsel for Timothy D. Crockett.

Respectfully Submitted,



Wanda H. Carter  
Deputy Chief Appellate Defender  
ATTORNEY FOR APPELLANT

This 1st day of August, 2016.

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

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Appellant proposes the following be included in the Record on Appeal:

- (1) Entire Transcript
- (2) True-billed indictment(s):

I certify that this designation contains no matter which is irrelevant to this appeal.

August 1, 2016

  
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Wanda H. Carter  
Deputy Chief Appellate Defender

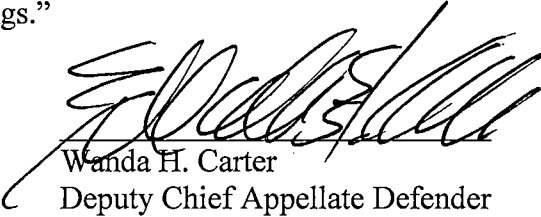
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ATTORNEY FOR APPELLANT

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 1, 2016.



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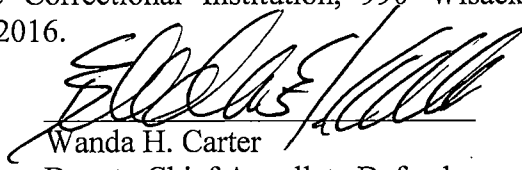
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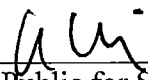
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on Timothy Dale Crockett, 200598, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 1st day of August, 2016.



Wanda H. Carter  
Deputy Chief Appellate Defender  
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 1st day of August, 2016.

 (L.S)  
Notary Public for South Carolina  
My Commission Expires: 5/12/2025

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