

State of South Carolina
In The Court of Appeals

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Appellate Case Nos 2015-2298

AUG 24 2016

SC Court of Appeals

State of South Carolina,

Appellee,

vs

Timothy Dale Crockett,

Appellant.

On Appeal From Spartanburg
County General Sessions Court
Hon. MARK HAYES, II
Circuit Court Judge

PRISONER'S PRO SE ANDERS BRIEFING

Timothy Dale Crockett
SCDC #200598
Lee CORR. Inst. F-5-124
990 Wisacky Highway
Bishopville, SC 29010
Appellant, Pro Se

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Attachments

Warrant Car # 993107
Warrant Car # 993106
Sentence Sheet 99-GS-42-2408
Sentence Sheet 99-GS-42-2409

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STATUTES

S.C. Code Ann. § 16-1-57
S.C. Code Ann. § 16-13-30(A)

STATEMENT OF ISSUE ON APPEAL

Whether the Spartanburg County General Sessions Court had proper jurisdiction to adjudicate and sentence Appellant to (3) three years imprisonment for an otherwise Magistrate Court petty larceny offense carrying a (30) thirty day maximum sentence?

STATEMENT OF THE CASE

Appellant would agree with and hereby adopt the "Statement of the Case" as set forth in Appellate Counsel's Anders Brief at page 2.

APPELLANT'S PRO SE ARGUMENT

As an initial matter, Appellant would note that there was no objection(s) made in the lower court related to the instant issue on appeal. However, as the Courts are aware, issues involving the trial/sentencing court's subject matter jurisdiction can be raised (and considered) for the first time on direct appeal. See: Edwards v. STATE, 642 S.E.2d. 738, 740-41 (SC 2007); STATE v. GENTRY, 610 S.E.2d. 494, 495-96 (SC 2005) ("lack of subject matter jurisdiction may be raised for the first time on appeal.") *

On February 13, 2014, Appellant was arrested for allegedly stealing a used car battery from Cottman's Transmission in Sptbg, S.C. The prosecution enhanced the petty larceny magistrate court theft case to a General Sessions felony case pursuant to the state's misdemeanor "Three-Strikes" Law under S.C. Code of Law Ann. §16-1-57.

As predicate convictions (priors) the prosecution used (2) two 1999 grand theft convictions on Appellant's criminal record. (See Attached warrants & sentence sheets).

* And the Appellant is not before this Court squandering judicial resources with nonsensical arguments about being a "sovereign citizen" or the likes. Rather, Appellant submits a meritorious argument succinctly presented in a couple pages supported by precedent and facts.

And here is where the rubber of Appellant's argument hits the road of adjudicatory review. Appellant contends that these two (2) 1999 cases are actually a "single conviction" stemming from the theft of (2) two used cars. On September 19, 1998, the Appellant (and accomplice) stole (2) two used cars from J's Auto Sales in Spbg, S.C. (See Attached documents).

Appellant further argues that (2) two used cars stolen at same time from same victim and the same day, and then adjudicated on the same day before the same judge legally amount to a "single" prior conviction for purposes of repeat offender (recidivism) laws. Put another way, Appellant argues that he did not have the (2) two requisite prior theft convictions necessary to authorize an indictment by General Sessions Court and thus removing case from Magistrate Court; where petty larceny charges are legally vested pursuant to S.C. Code Ann. §16-13-30(A). According to the law (S.C. Code Ann §16-1-57) the two (2) prior theft convictions are a jurisdictional prerequisite for allowing petty larceny case to be removed from Magistrate Court and have the sentencing exposure dramatically increased from (30) thirty days to (10) ten years.

The South Carolina Supreme Court has held that (2) two prior convictions that stem from a single criminal incident constitute

one (1) prior offense for purposes of state recidivism laws. See: BRYANT v. State, 683 S.E.2d 280, 281-83 (SC 2009); State v. Woody, 596 S.E.2d 907, 908 (SC 2014). The Federal Courts, and virtually all other state courts, have ruled the same. (Numerous citations omitted). Moreover, Bryant, Woody and its line of cases did not address the added element presented by this case: subject matter jurisdiction. In absence of the proper jurisdictional process, the Appellant's petty larceny case cannot be transferred from county magistrate court to General Sessions, and the (2) two prior theft convictions are a jurisdictional prerequisite - which Appellant asseverates do not exist. Consequently, the lower court did not have vested subject matter jurisdiction to adjudicate and sentence Appellant to (10) ten years imprisonment suspended to (3) three years and (5) year probation.

In conclusion, Appellant urges this court to review the official record documents and rule that the General Sessions Court lacked proper subject matter jurisdiction in this case.

Respectfully submitted this 18 day of August, 2016.

/s/ Timothy Dale Crockett
Timothy Dale Crockett
Appellant, Pro Se

CONCLUSION

WHEREFORE, Appellant prays this Court will grant Appellate Counsel's Motion to Withdraw and vacate Appellant's felony petty theft (enhanced) conviction and attending (3) year prison sentence accordingly. Remand case back to lower court for appropriate action consistent with the law.

Respectfully submitted this 18th day of Aug 2016.

15/ Timothy Dale Crockett
Timothy Dale Crockett
Appellant, pro se

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CERTIFICATE OF SERVICE/MAILING

I, Timothy D. Crockett, do hereby certify that I have this same day served, filed and mailed this "Pro Se Prisoner's Briefing" by depositing such in the prison's legal mail system addressed as follows:

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

SC Appellate Defense
P.O. Box 11589
Columbia, SC 29211-1589

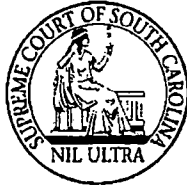
(CONT'D)

Office of Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Andrew J. Johnston
Attorney At Law
P.O. Box
Spartanburg, SC 29306

DONE this 18 day of AUG. 2016.

/s/ Timothy Dale Crockett
Timothy Dale Crockett
SCOC # 200528
Re Correctional Institution
F-5-124
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Bishopville, SC 29010



The Supreme Court of South Carolina

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August 02, 2016

Timothy Crockett, 200598
Lee Correctional Inst.
990 Wisacky Highway
Bishopville SC 29010

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Appellate Case No. 2015-002298

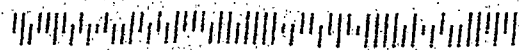
Dear Appellant:

Your counsel has filed a brief indicating that this appeal is without merit and moves to be relieved as your counsel. *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L.E.2d 493 (1967). The records in this office reflect counsel has served you with a copy of the brief and record on appeal.

You may, within forty-five (45) days of the date of this letter, file with this Court a *pro se* brief addressing any issues you believe the Court should consider in this appeal. Upon receipt of your *pro se* brief or the expiration of forty-five (45) days, this appeal will be submitted to the Court for its consideration.

August 18, 2016 —

DEAR CLERK: Enclosed please find for the Court's review (2) originally signed pro se Anders briefs that I hope the Judges will read. Thank you very much for your service.
Respectfully, Timothy Dale Crockett



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 Bishopville, SC 29010



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APPEAL No.
 # 2015-002298