

State of South Carolina
In The Court of Appeals

RECEIVED

Appellate Case No: 2015-2298

APR 24 2016

SC Court of Appeals

State of South Carolina,

Appellee,

VS.

Timothy Dale Crockett,

Appellant.

On Appeal From Spartanburg
County General Sessions Court

RECEIVED

APR 06 2017

SC Court of Appeals

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

TABLE OF CONTENTS

	<u>PAGE</u>
Table of Contents	iii
Table of Authorities	ii
Statement of Issues On Appeal	i
Statement of Case	i
Pro Se Arguments	1-3
Conclusion	4
Certificate of Service/mailling	5,6

Attachments

Warrant case # 993107

Warrant case # 993106

Sentence Sheet 99-GS-42-2408

Sentence Sheet 99-GS-42-2409

TABLE OF AUTHORITIES

	<u>PAGE</u>
Bryant v State, 683 S.E.2d 280 (SC 2014)	3
Edwards v State, 642 S.E.2d 738 (SC 2007)	1
State v. Gentry, 610 S.E.2d 494 (SC 2005)	1
State v. Woody, 596 c 596 S.E.2d 907 (SC 2014)	3

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 Spdy, 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.

/s/ Timothy Dale Crockett

Timothy Dale Crockett

Appellant, pro se

RECEIVED

AUG 24 2016

SC Court of Appeals

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
SCDC # 200548
Re Correctional Institution
F-5-124
990 Wiscacky Highway
Bismarck, SC 29010

4-1-17

Re: Appeal No. 2015-2298

State v. Trickett

RECEIVED

APR 06 2017

SC Court of Appeals

Dear Clerk:

"Please help me understand why it is taking almost (2) yrs. for my appeal to get decided. I will have completed my prison time in a few wks, and I guess that don't make any difference? Shouldn't the court hear cases before the appellate does (2) years of a (3) year sentence?"

The Appellate Defense lawyer they assigned to me is worthless. She

won't answer letter or accept my phone calls despite all the forms she completes so I could call. I'd relieve Appellate because if I could.

Hopedfully the court will see that my pro se Anders brief is legitimate argument. The court gave me 3 yrs for stealing an old \$20 battery based on (2) cars I stole on same day from same lot @ same place. They shouldn't move my 30 day charge from magistrate court for two (2) prior thefts that were actually one crime. This isn't rocket science jurisprudence and there's a mountain of case law on this relates/continuous crime argument.

I'm 53 yrs. old, legally blind and handicapped. They have me @ the most dangerous prison in SC. For heaven's sake "PLEASE" speak with the judges, roster clerk or something? I'm sorry I couldn't get job and resorted to taking old battery from old junk car. They're murdering people here, and if you're a white man your chances of getting stabbed, beat or murdered are VERY high.

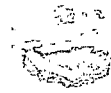
In closing let me say "thank you" for your service @ Court. I know its a thankless job but some of us do appreciate your work. Send me any letters/decisions cuz that appellate lady is not helping me.

RECEIVED

APR 06 2017
SC Court of Appeals

With Kindest Regards,

Jonathan Askeett



200598

Timothy Craker

Lee Corr, Inst F5-124

990 Wsacky Way

Bishopville, SC 29010

RECEIVED

APR 06 2017

SC Court of Appeals

S.C. Court of Appeals
Office of the Clerk
P.O. Box 11629
Columbia, SC 29211

Case # 2015-2298