

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Thomas L. Hughston, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALLEN STONE,

APPELLANT

Appellate Case No. 2012-211944

RECORD ON APPEAL

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State of South Carolina) In the Court of General Sessions
) Ninth Judicial Circuit
 County of Charleston) 2011-GS-10-07494

State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Allen F. Stone,)
)
 Defendant.)
)
 _____)

October 27, 2011
 Charleston, South Carolina

B e f o r e:

The Honorable Thomas L. Hughston, Jr., Judge

A p p e a r a n c e s:

Michael O'Brien Nelson, Esquire
 Attorney for the Plaintiff

Martha Kent Runey, Esquire
 Attorney for the Defendant

Bonnie H. Kelly
 Circuit Court Reporter

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>EVID</u>
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No Exhibits Introduced.

1 THE COURT: Allen Fletcher Stone, is that your name?

2 DEFENDANT: Yes, sir.

3 THE COURT: Mr. Stone, I have here in my hands an
4 indictment. The State claims that you did on or about July
5 3, 2011 -- I don't know exactly what it is they claim that
6 you did -- stole something from the AT&T.

7 DEFENDANT: Yes, sir. Off a light pole.

8 THE COURT: I'm sorry?

9 DEFENDANT: Off of a light pole. Yes, sir.

10 MR. NELSON: Stealing copper, Your Honor.

11 DEFENDANT: Piece of copper, Your Honor.

12 THE COURT: They were reading about you.

13 MS. RUNEY: Not about him specifically.

14 THE COURT: All right.

15 MS. RUNEY: He's worried about that, because he says
16 he -- he ---

17 THE COURT: Yeah. All right. Well, stealing the
18 copper from the AT&T off the pole, because of your prior
19 record, which includes at least two prior property crime
20 convictions, means if you plead guilty or if you're found
21 guilty after trial on this charge, that I could sentence
22 you to up to ten years in the penitentiary. You understand
23 that?

24 DEFENDANT: Yes, sir.

25 THE COURT: But you don't have to plead guilty to

1 anything. You have an absolute right to a jury trial.
2 Would you like to have a jury trial?

3 DEFENDANT: No, sir.

4 THE COURT: How do you wish to plead, guilty or not --

5 -

6 DEFENDANT: I'm guilty ---

7 THE COURT: --- guilty?

8 DEFENDANT: --- Your Honor.

9 THE COURT: Beg your pardon?

10 DEFENDANT: I'm guilty, sir.

11 THE COURT: Are you really guilty?

12 DEFENDANT: Yes, sir.

13 THE COURT: Has anybody promised you anything or
14 threatened you in any way to get you to plead guilty?

15 DEFENDANT: No, sir.

16 THE COURT: Are you pleading guilty, then, on your own
17 free will?

18 DEFENDANT: Yes, sir.

19 THE COURT: Tell me how you went about doing this.

20 DEFENDANT: Well, Your Honor, I wasn't -- really, I
21 wasn't thinking. I -- I'm in mental health, and I'm taking
22 my -- I take medication and stuff. And my neighbor told me
23 -- he said, "Come on. I'll show you where a piece of
24 copper is."

25 And they just put a brand new pole up at the end of my

1 street. I wasn't paying him no attention. It was broad
2 daylight. I went over there. It was excess copper. And I
3 just broke it off.

4 And then the people in the yard out there was
5 hollering and screaming, "Hey, man. Don't mess with that
6 copper."

7 And I said, "It ain't on your -- what about it? It's
8 extra copper. I mean, it -- it's not hurting the pole."

9 And then about that time, a retired lieutenant pulled
10 up. And when he did, I put the copper down and took my
11 bicycle and went home. I went in the front door and out
12 the back door, and I hid under my trailer. They found me
13 under the trailer. I -- I should've stayed there. I
14 probably would've never went to jail. And I apologize.

15 MS. RUNEY: And he ---

16 DEFENDANT: I ---

17 MS. RUNEY: --- he said if he stayed there with that
18 retired police officer, they probably could've worked it
19 out and not ---

20 DEFENDANT: Yeah. He would've never -- yes. And -- -
21 - and -- and then the sergeant -- the North Charleston
22 sergeant police said that she didn't see no sense in me
23 even going to jail. But -- but anyway --

24 THE COURT: And you been there ever since?

25 MS. RUNEY: Yes, Your Honor.

1 DEFENDANT: Yes, sir.

2 THE COURT: And how big a piece of copper was it?

3 DEFENDANT: It was just one piece, approximately a
4 pound and a half, 6 -- 6 feet long if it was stretched out.

5 THE COURT: All right. How about his record?

6 MR. NELSON: I can go through it or I can -- or I can
7 just tell you he's got 35 convictions since '81, over 19
8 property crime convictions. I -- this is just in the
9 state. I can go out of state, if you'd like, too. That
10 would bump him up over ---

11 THE COURT: I ---

12 MR. NELSON: --- over 35 and 19.

13 THE COURT: That's okay.

14 MR. NELSON: Do you want -- do you want the actual
15 crimes or ---

16 THE COURT: No, no. That's okay. You accept that
17 summary?

18 DEFENDANT: Yes, sir.

19 THE COURT: That's not good.

20 DEFENDANT: I know it ain't, Your Honor. I apologize.

21 THE COURT: Yeah.

22 DEFENDANT: But I ---

23 THE COURT: And also, you were in court on May 11.
24 Judge Goodstein saw you up in Dorchester and gave you a
25 sentence up there for two forgeries.

1 DEFENDANT: Yes, sir.

2 THE COURT: And this -- then this is not two months
3 later.

4 MR. NELSON: Oh, Judge, then, with that it'd put it up
5 to 37 convictions, then. I didn't know about the
6 forgeries.

7 THE COURT: All right. What have you learned about
8 Mr. Stone that you would like for me to know?

9 MS. RUNEY: Thank you, Judge. Mr. Stone is an
10 interesting fellow.

11 THE COURT: I can tell that.

12 MS. RUNEY: I've gotten lots of information from him.
13 He's 48 years old. He's been in Charleston for about 15
14 years. He grew up in Florence County in what they call the
15 "Neck area."

16 THE COURT: The what area?

17 MS. RUNEY: The Neck.

18 THE COURT: Neck, N-e ---

19 MS. RUNEY: Yes, sir.

20 THE COURT: --- c-k? Not the Charleston Neck, but the
21 Florence Neck.

22 MS. RUNEY: And the reason it's significant and a lot
23 of people have heard about it is where Pee Wee Gaskins came
24 from.

25 THE COURT: Ah. I wouldn't be bragging about that.

1 MS. RUNEY: No. No. It's not. And what's
2 interesting about it is that Mr. Stone has been diagnosed
3 with PTSD. And I asked him, "Well, what was the event that
4 triggered the PTSD?" And he told me a lot about being a
5 14-year-old back in the Neck; saw a lot of violence.

6 THE COURT: Uh-huh.

7 MS. RUNEY: It's a violent area. He saw Pee Wee
8 Gaskins; saw him dig up a bunch of people ---

9 THE COURT: Oh.

10 MS. RUNEY: --- and is heavily medicated because of
11 that and some other mental health issues, such as bipolar
12 disorder.

13 But it was interesting to hear him tell me about what
14 he experienced growing up.

15 He does take medication. He has been a patient of
16 Charleston Mental Health while living in Charleston. He
17 takes Seroquel and Cymbalta.

18 It was interesting: While he was at the jail here,
19 they gave him the wrong medication.

20 THE COURT: Oh, goodness.

21 MS. RUNEY: And has given -- that has given him some
22 problems.

23 He's also been diagnosed with COPD because of a
24 lifetime of smoking -- also drinking. So he's not in good
25 health. He says that he's probably -- if he -- if and when

1 he does get out of jail, he's going to try to go to MUSC,
2 because he thinks that he's pretty sick.

3 He had an appointment before going into jail with Jeff
4 Yungman at the shelter to work on his disability. He can
5 go to the shelter.

6 He also has some friends that he can live with. But I
7 -- I kind of encouraged him that if and when he does get
8 out, to go to the shelter, because I think that the people
9 that he was living with were probably not good influences
10 on him.

11 Since being in the jail for these 117 days, he's been
12 in DAODAS. He continues to be in that program. I think
13 he's taking full advantage of that program.

14 He was sentenced to the probation in Dorchester County
15 and was to report, I think, May the 25th. He was arrested
16 on May the 21st for a disorderly conduct ticket and got out
17 and didn't get a new report date. It -- it's a case where
18 he owes \$665 restitution.

19 It -- he didn't get ---

20 THE COURT: We're going ---

21 MS. RUNEY: --- to start ---

22 THE COURT: --- to make that into a civil judgment.

23 MS. RUNEY: He did not get started on that, Your
24 Honor. I would ask you to ---

25 THE COURT: Did you hear me?

1 MR. NELSON: I --- I ---

2 MS. RUNEY: I ---

3 MR. NELSON: --- did, Your Honor.

4 THE COURT: Okay.

5 MS. RUNEY: Yes, sir. I -- I would just ask you to
6 consider that he has spent a good deal amount -- a good
7 deal of time on this charge in jail. I know it's nothing
8 in comparison to the 10 years, but I would ask you to take
9 the facts into consideration. So ---

10 THE COURT: I am.

11 MS. RUNEY: --- I would ask you to take his health
12 into consideration.

13 THE COURT: I am.

14 MS. RUNEY: And -- and we would just ask you for a
15 reasonable sentence on this charge, Your Honor.

16 THE COURT: I hope I do that.

17 All right. All right. So I'm going to terminate the
18 old case on getting this new conviction. We're going to
19 make those restitution -- what he owes on that into civil
20 judgments and all, because I don't think there's much hope
21 of getting anything, far as money is concerned.

22 And sentence on the new one, Mr. Stone, is that you be
23 confined to South Carolina Department of Corrections for a
24 period of three years. You get credit for the jail time
25 toward that. Good luck to you.

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DEFENDANT: Thank you.

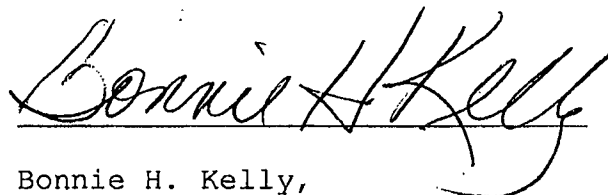
MR. NELSON: Thanks, Judge.

--- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 27th day of October, 2011.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



Bonnie H. Kelly,

Court Reporter

Columbia, South Carolina

May 3, 2012

MHN20110704347

WITNESSES

Louis Bazzle

North Charleston Police Department

AGENCY CASE NUMBER

2011024396

ARREST WARRANT NUMBER

M612308

DATE OF ARREST

July 4, 2011

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1007494 W

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2011

THE STATE

vs.

ALLEN FLETCHER STONE

DOB:

W/M

Indictment for

Property Crime Enhancement

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

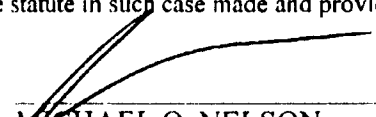
INDICTMENT

At a Court of General Sessions, convened on November 14, 2011 the Grand Jurors of Charleston County present upon their oath:

Property Crime Enhancement

That in Charleston County, South Carolina, on or about July 3, 2011, the Defendant, ALLEN FLETCHER STONE, having previously been convicted of at least two (2) offenses for which the term of imprisonment is contingent upon the value of the property involved, did take and carry away personal property valued at One Thousand Dollars or less belonging to AT&T with the intent to deprive AT&T of its possession and to convert the property to Defendant's own use; in violation of Sections 16-1-57 and 16-13-30 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

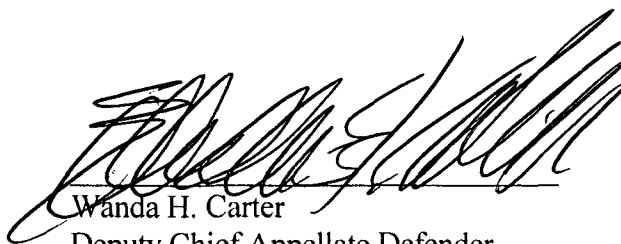


MICHAEL O. NELSON
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 28th,

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line. The signature is stylized and cursive.

Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Charleston County

Thomas L. Hughston, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

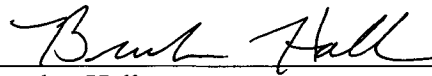
V.

ALLEN STONE,

APPELLANT

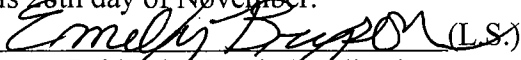
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Allen Stone, #267003, at Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067-8069, this 28th day of November.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 28th day of November.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: November 16, 2022.

RECEIVED

NOV 28 2012

SC Court of Appeals