

 ORIGINAL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RECEIVED
JUN 15 2012
SC Court of Appeals
APPELLANT,

V.

ROBERT S. JOLLY,

RESPONDENT

Appeal from Horry County

Benjamin H. Culbertson, Circuit Court Judge

PETITION FOR REHEARING

Respondent Robert S. Jolly requests rehearing pursuant to Rule 221(a), SCACR of the order of the Honorable Jasper Cureton striking all references to the April 15, 2009 Rule to Show Cause hearing for the unauthorized practice of law wherein evidence was offered that respondent obtained property under false pretenses and where respondent was punished for criminal contempt by Judge Baxley. See Exhibit A. That punishment for criminal contempt for the same conduct **was the reason** Judge Culbertson dismissed the two indictments for obtaining property under false pretenses. The dismissal of those two indictments is the reason the state has appealed. The Duty Judge may have overlooked the fact that these two hearings **are inextricably entwined** as shown below, and that striking all references to the April 15, 2009 hearing leaves respondent without a way to justify the ruling of Judge Culbertson so that his ruling can be affirmed and effectively, yet unintentionally, deposes of this appeal in favor of the state in this highly unusual case.

On April 9, 2009 a Rule to Show Cause hearing was held before the Honorable Michael Baxley on why respondent Jolly should not be held in contempt for the unauthorized practice of law regarding his behavior in allegedly helping homeowners avoid foreclosure by having their property deeded over to him and/or having homeowners make their mortgage payments to him rather than the mortgage company.

In addition to the Attorney General's complaint against respondent for allegedly engaging in the unauthorized practice of law, the Attorney General's Office also filed a complaint alleging respondent was in violation of the South Carolina Unfair Trade Practices Act for his actions with handling the mortgages of the homeowners in arrears. Two of them, Ernest Mautk, and Ester Reinhardt testified during the hearing *before Judge Baxley and those cases resulted in or constituted the two indictments for obtaining property under false pretenses at issue in this case.* Tr. 28, ll. 13-16.

After hearing testimony and argument, Judge Baxley then ruled that respondent's actions made him **in criminal contempt of court** because he had abused the legal process and obstructed the administration of justice. The judge also ruled respondent had degraded the system of justice by taking advantage of people and the judge stated: "I don't know how you can go home at night and rest comfortably when there are people all over this county, Georgetown County, losing their houses and paying money to you all along. This Court finds it to be unconscionable. And I sentence you to **six months in the Department of Corrections, sir, for contempt of court** and I'm going to remand you now to the custody of the deputies. And that is the decision of this Court." Tr. 147, l. 23 – 149, l. 1. This was what happened at the April 15, 2009 hearing where respondent was held in criminal contempt. As will be seen immediately below, this finding of contempt of court is what led Judge Culbertson to dismiss two indictments against respondent because he had already been punished and incarcerated for his actions involved in the two indictments.

Almost two years later on April 12, 2011 respondent's case was called to trial before the Honorable Benjamin H. Culbertson. J. Wesley Locklair, III represented respondent. Supp. Tr. 1.

The State then called an indictment against respondent for the unauthorized practice of law and five separate indictments for obtaining property by false pretenses. Supp. Tr. 8, l. 11 – 9, l. 1.

Defense counsel moved to dismiss in part based upon double jeopardy. Counsel noted respondent had been held in contempt essentially for the facts alleged by the prosecution involving two of the alleged victims the “**Maucks¹ and the Reinhardts.**” Defense counsel also argued that Judge Baxley's direct contempt order stated respondent had been involved in a scheme, filed frivolous pleadings and was involved in contempt for which he was sentenced to six months in prison. Supp. Tr. 15, l. 18 – 19, l. 8.

Defense counsel argued that respondent was held in contempt for his actions with homeowners, and the judge ultimately ruled he was going to deny the double jeopardy motion as to everyone **except possibly the indictments involving Mauck and Reinhardt.** He said that those two indictments were his only consideration as to the double jeopardy motion. Supp. Tr. 34, ll. 10-20. The judge then took a break to consider the matter. Supp.Tr. 35, ll. 9-18.

Subsequently, the judge **ruled that the two indictments for obtaining property by false pretenses involving Mauck and the Reinhardts were barred by double jeopardy.** The judge ruled that part of the reason respondent was held in direct and criminal contempt was for the indictments involving the scheme with Mauck and the Reinhardts. Supp. Tr. 51, l. 3 – 54, l. 10.²

This is the ruling the state has appealed. Consequently, the April 15, 2009 hearing before Judge Baxley -- where he held respondent in criminal contempt -- **is inextricably entwined** with

¹ Ernest Mauck's surname is spelled two different ways in the transcripts: Mautk and Mauck. For ease of reference “Mauck” will be used throughout.

² Although the trial judge said he would issue a written order, a written order was never written or filed. Undersigned counsel has spoken to opposing counsel who contacted the trial judge who

Judge Culbertson's ruling at the April 12, 2011 hearing before Judge Culbertson where he **dismissed two indictments against respondent because he had been held in criminal contempt and punished for the same acts.**

The state moved to strike all references to the April 15, 2009 hearing before Judge Baxley even though this case is very fact bound as to the findings of criminal contempt at the April 15, 2009 hearing and Judge Culbertson's subsequent reliance on them in dismissing the two indictments based on Judge Baxley's holding respondent in contempt. Appellant filed this motion to strike a matter designated by respondent to be included in the record on appeal on April 17, 2011. Respondent filed a return to this motion on April 26, 2012 and appellant filed a reply to this return on April 27, 2012. The Honorable Jasper Cureton granted that motion as the duty Judge in his order dated June 4, 2012. See Exhibit A.

Consequently, since striking all references to the April 15, 2009 contempt hearing transcript before Judge Baxley removes all context to Judge Culbertson's ruling dismissing the two indictments the state has appealed, the order granting the motion to strike has left respondent without a case to defend. See State v. McKnight, 287 S.C. 167, 337 S.E.2d 208 (1985).

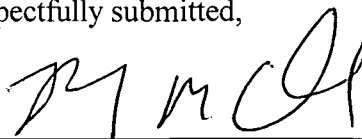
Appellant had filed the initial brief of appellant and designation of matter in the above-captioned case with this Court on September 2, 2011. Respondent filed the initial brief of respondent and designation of matter on April 6, 2012. These briefs are attached as exhibits B & C.

WHEREFORE, respondent moves that this Court grant this petition for rehearing, and vacate the order striking all references to the April 15, 2009 contempt hearing before Judge Baxley which is inextricably entwined with Judge Culbertson's order dismissing the two indictments based

informed the Attorney General's Office that no written order would be forthcoming and that his oral ruling was the only one in this case.

on Judge Baxley previously holding respondent in criminal contempt for the same actions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

This 15th day of June, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

APPELLANT,

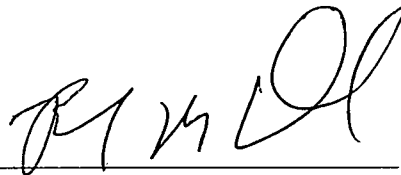
V.

ROBERT S. JOLLY,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Mark R. Farthing, Esquire, this 15th day of June, 2012.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 15th day
of June, 2012.

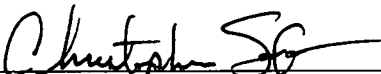
 (L.S.)
Notary Public for South Carolina
My Commission Expires: May 16, 2021.

Exhibit A

The South Carolina Court of Appeals

The State, Appellant,

v.

Robert Steve Jolly, Respondent.

Appellate Case No. 2011-190688

ORDER

Appellant served and filed a motion to strike a matter designated by Respondent to be included in the Record on Appeal. Appellant contends the April 15, 2009 transcript was not presented to the lower court. Respondent filed a return, and Appellant filed a reply. After careful consideration, Appellant's motion to strike is granted. *See* Rule 210(c), SCACR ("The Record on Appeal shall not . . . include matter which was not presented to the lower court or tribunal."). Within twenty days excluding the filing date of this order, Respondent shall serve and file an amended designation of matter and Respondent's Initial Brief omitting any citations to the April 15, 2009 transcript.


FOR THE COURT

Columbia, South Carolina

cc:

Mark Reynolds Farthing
John Wesley Locklair, III
Robert Michael Dudek

FILED

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SC OFFICE OF
APPELLATE DEFENSE

Exhibit B

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

Appellant,

vs.

ROBERT STEVE JOLLY,

Respondent.

INITIAL BRIEF OF APPELLANT

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Attorney General

JOHN W. McINTOSH
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ATTORNEYS FOR APPELLANT

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State v. Cuccia, 353 S.C. 430, 578 S.E.2d 45 (Ct. App. 2003).8

State v. Easler, 327 S.C. 121, 489 S.E.2d 617 (1997).9

State v. Elders, 386 S.C. 474, 688 S.E.2d 857 (Ct. App. 2010).9

State v. Moyd, 321 S.C. 256, 468 S.E.2d 7 (1996).8

State v. Pace, 337 S.C. 407, 523 S.E.2d 466 (Ct. App. 1999).13

United States v. Dixon, 509 U.S. 688 (1993).9, 13

Other Authorities:

U.S. Const. amend V.7

S.C. Const. art. I, § 12.7

S.C. Code Ann. § 16-13-240.11

STATEMENT OF ISSUE ON APPEAL

Did the trial judge commit reversible error by dismissing two indictments for obtaining property by false pretenses based on an alleged double jeopardy violation where the elements of the indicted offense of obtaining property by false pretenses were distinctly different from the elements of Jolly's earlier offense of criminal contempt and each of those offenses required proof of a fact the other did not?

STATEMENT OF THE CASE

On March 12, 2009, the Honorable J. Michael Baxley, circuit court judge, issued an order directing Respondent Robert Steve Jolly to appear for a hearing and show cause as to why he should not be sanctioned, held in contempt, and dismissed from further involvement in a number of pending cases. A hearing was conducted on the motion on April 16, 2009. On May 4, 2009, Judge Baxley issued an order holding Jolly in criminal contempt of court and sentencing him to a term of incarceration of six months. Later that month, the Horry County grand jury indicted Jolly for one count of unauthorized practice of law. In July of 2009, the Horry County grand jury additionally indicted Jolly for five counts of obtaining property by false pretenses. On April 12, 2011, a jury trial was commenced in the Horry County court of general sessions before the Honorable Benjamin H. Culbertson, circuit court judge. Prior to trial, Jolly moved to dismiss the indictments based on an allegation of a double jeopardy violation. At the conclusion of the hearing, the trial judge granted Jolly's motion to dismiss the indictments in respect to two counts of obtaining property by false pretenses and allowed the trial to proceed on the remaining indictments. Thereafter, the State timely appealed the trial judge's ruling dismissing the indictments, filing a notice of appeal on April 22, 2011. This appeal follows.

STATEMENT OF FACTS

Following a hearing in April of 2009, the Honorable J. Michael Baxley, circuit court judge, issued an order detailing his findings of fact regarding Respondent Robert Steve Jolly's involvement in a fraudulent mortgage scheme in which Jolly induced distressed homeowners to transfer their mortgaged property and homes to him through the filing of quitclaim deeds. (St. Ex. # 2, Order, pp. 4-5). Judge Baxley determined Jolly represented to the victims he would pay off the mortgages on their behalf once they transferred their property to him and instructed the victims to submit their future mortgage payments to him as opposed to the original mortgage holders. (St. Ex. # 2, Order, pp. 5-6). He found Jolly's fraudulent scheme resulted in the filing of numerous foreclosure actions against the victims' property, resulting in a risk of the victims being evicted from their homes. (St. Ex. # 2, Order, pp. 7-8). Judge Baxley further noted Jolly repeatedly filed frivolous documents in an effort to impede the orderly disposition of the pending foreclosure actions and elicited testimony evincing a "remarkable lack of candor" from witnesses appearing on his behalf during the April hearing. (St. Ex. # 2, Order, pp. 8-10).

Based on his "consideration of the evidence, the testimony of the witnesses, Defendant Jolly's conduct before the Court[,] and his conduct in the Foreclosure Actions," Judge Baxley concluded Jolly's conduct interfered with the orderly adjudication of numerous foreclosure actions, constituted the perpetration of a fraud upon the court, constituted an affront to the integrity of the judicial process, interfered with judicial proceedings, exhibited disrespect for the Court, hampered the parties and witnesses, and evinced an intention on Jolly's part to obstruct, degrade, and undermine the administration of justice. (St. Ex. # 2, Order, p. 4; pp. 8-9). Accordingly, Judge

Baxley held Jolly's orchestration of the fraudulent mortgage scheme, Jolly's submission of frivolous court filings, and Jolly's conduct during the April hearing constituted direct contempt of court. (St. Ex. # 2, Order, pp. 9-10): As a result, Judge Baxley sanctioned Jolly for criminal contempt, sentenced him to a term of imprisonment of six months, and issued an injunction against Jolly and his company. (St. Ex. # 2, Order, pp. 10-11).

Subsequently, based on his involvement in the fraudulent mortgage scheme, Jolly was indicted for five counts of obtaining property by false pretenses and one count of unauthorized practice of law, and he proceeded to trial. (Tr. p. 3; Indictments). Prior to trial, Jolly moved to dismiss the indictments based on an alleged double jeopardy violation. (Tr. p. 10). In support of the motion, Jolly contended he had previously been held in contempt in May of 2009 in an order outlining the same facts relied upon in the current prosecution. (Tr. p. 10). Jolly claimed the contempt order already punished him for the same actions he was now indicted for, and he asserted he could not be punished for the same conduct twice pursuant to the Double Jeopardy Clause. (Tr. p. 10). For those reasons, Jolly argued the case could not properly go forward. (Tr. pp. 11-12).

In rebuttal, the State argued Judge Baxley's order determined Jolly engaged in a fraud upon the court, evinced an intention to obstruct the administration of justice, and interfered with judicial proceedings. (Tr. p. 13). The State further pointed out Jolly was found in contempt for his actions both prior to and during the hearing before Judge Baxley. (Tr. p. 16). Additionally, the State argued the elements of the offense of criminal contempt were distinctly different from the elements of the offenses of unauthorized practice of law and obtaining property by false pretenses. (Tr. pp. 16-17). Relying on the Blockburger test announced by the United States Supreme Court, the State

argued no double jeopardy violation occurred as the elements of the offenses were different. (Tr. p. 17).

After hearing the arguments from counsel, the trial judge indicated he needed to review Judge Baxley's contempt order. (Tr. p. 22). The trial judge noted Judge Baxley's order referenced the testimony of two of the victims, Ernest Mauck and Esther Reinhardt, and indicated he did not believe they could testify to the same thing they previously testified to without violating the Double Jeopardy Clause. (Tr. pp. 22-23). In response, the State argued the factual findings of Judge Baxley did not constitute the elements of the offenses. (Tr. p. 23). In reply, Jolly argued Judge Baxley's order found him in contempt for multiple reasons, including his orchestration of the fraudulent mortgage scheme, which he contended covered the indicted offenses and required the dismissal of the entire case. (Tr. pp. 25-26). The State again noted the elements of contempt and the other offenses were different and specifically identified the element of monetary value required for a conviction for obtaining property by false pretenses as an element not required for the imposition of contempt sanctions. (Tr. pp. 27-28).

The trial judge then denied Jolly's double jeopardy motion with respect to all of the indictments not involving the victims specifically referenced in Judge Baxley's order. (Tr. p. 29). However, the trial judge took the matter under advisement regarding the two indictments for Jolly's fraudulent conduct towards Mauck and Reinhardt.¹ (Tr. pp. 29-30). Subsequently, after considering Judge Baxley's order, the trial judge granted Jolly's double jeopardy motion regarding those two indictments. (Tr. p. 46). The trial judge ruled:

¹ In the "Factual and Procedural Background" section of his order, Judge Baxley indicated Mauck and Reinhardt, two of the victims affected by the foreclosure actions, testified during the April hearing about their dealings with Jolly in relation to Jolly's fraudulent mortgage scheme. (St. Ex. # 2, Order, pp. 3-4).

So I'm going to rule that Indictments 2009-GS-26-2948 and 2009-GS-26-2947 that deal with the Reinhardts and Ernest and Patricia Mauck and Esther and Larry Reinhardt, those are barred by double jeopardy because I think it's pretty clear that Judge Baxley sentenced Mr. Jolly to six months in prison for criminal contempt for several actions, part of the actions being the exact information that's contained in these indictments with regard to the Maucks and the Reinhardts that he obtained signatures on quit claim deeds, filed quit claim deeds, made promises to them that he was going to pay off mortgages and things of that nature. So since he's already served the six month sentence by Judge Baxley for that I'm going to rule that those two indictments are barred, prosecution of those two indictments are barred by double jeopardy.

(Tr. p. 46).

Thereafter, the State moved for reconsideration of the ruling, arguing Judge Baxley defined the elements of criminal contempt in his order and held Jolly in contempt for committing those elements. (Tr. p. 47). The trial judge denied the motion, noting he was going with the facts referenced in Judge Baxley's order and believed Judge Baxley already dealt with the actions covered by the dismissed indictments. (Tr. pp. 47-48). The State then timely appealed the trial judge's ruling dismissing the two indictments for obtaining property by false pretenses.

ARGUMENT

Did the trial judge commit reversible error by dismissing two indictments for obtaining property by false pretenses based on an alleged double jeopardy violation where the elements of the indicted offense of obtaining property by false pretenses were distinctly different from the elements of Jolly's earlier offense of criminal contempt and each of those offenses required proof of a fact the other did not?

Prior to trial, the trial judge erred in dismissing two indictments for obtaining property by false pretenses on the basis of an alleged double jeopardy violation. The trial judge concluded Jolly's subsequent prosecution for the indicted offenses could not go forward because Jolly was previously held in criminal contempt for the same conduct giving rise to the indicted offense. This ruling was erroneous, particularly in light of the Supreme Court's recent decision in State v. Brandt, Op. No. 27014 (S.C. Sup. Ct. filed July 25, 2011) (Shearouse Adv. Sh. No. 24 at 70). The only appropriate test for determining whether a double jeopardy violation has occurred involves strictly comparing the essential elements of the offenses and not comparing the conduct underlying those offenses. As the essential elements of obtaining property by false pretenses are markedly different from the essential elements of criminal contempt, no double jeopardy violation occurred in this case. Accordingly, the trial judge's ruling dismissing the indictments should be reversed and the previously-dismissed indictments should be reinstated.

Through their Double Jeopardy Clauses, the United States Constitution and the South Carolina Constitution offer protection to citizens from being subjected to double jeopardy for the same offense. See U.S. Const. amend. V ("No person shall be . . . subject from the same offense to be twice put in jeopardy of life or limb . . ."); S.C. Const. art. I, § 12 ("No person shall be subject for the same offense to be twice put in jeopardy of life or liberty . . ."). The guarantee against double jeopardy offers three

separate constitutional protections: (1) protection against a second prosecution for the same offense after acquittal; (2) protection against prosecution for the same offense after conviction; and (3) protection against multiple punishments for the same offense. State v. Cuccia, 353 S.C. 430, 434, 578 S.E.2d 45, 48 (Ct. App. 2003).

However, a single act can constitute multiple distinct offenses without subsequent indictment or punishment running afoul of the Double Jeopardy Clause. See State v. Moyd, 321 S.C. 256, 258, 468 S.E.2d 7, 9 (1996) (“A defendant may be severally indicted and punished for separate offenses without being placed in double jeopardy where a single act consists of two ‘distinct’ offenses.”). Multiple punishments and successive prosecutions are **not** prohibited where a different offense calls for proof of a fact another offense does not. Cuccia, 353 S.C. at 438, 578 S.E.2d at 49.

The traditional test for determining whether successive prosecutions are barred by the Double Jeopardy Clause was explained in Blockburger v. United States, 284 U.S. 299 (1932). In Blockburger, the United States Supreme Court instructed: “The applicable rule is that, where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not.” Id. at 304. Accordingly, the Blockburger test “requires a technical comparison of the elements of the offense for which the defendant was first tried with the elements of the offense in the subsequent prosecution.” Moyd, 321 S.C. at 258, 468 S.E.2d at 9.

Notably, following the decision in Blockburger, the United States Supreme Court temporarily expanded the test for determining whether a double jeopardy violation has occurred with its opinion in Grady v. Corbin, 495 U.S. 508 (1990). Under this expanded approach, the Grady Court instructed the test from Blockburger must still be applied in a

double jeopardy analysis. Id. at 520. However, in addition to applying the traditional Blockburger test, the Grady Court held: “[T]he Double Jeopardy Clause bars any subsequent prosecution in which the government, to establish an essential element of an offense charged in that prosecution, will prove conduct that constitutes an offense for which the defendant has already been prosecuted.” Id. at 521. Critically though, the United States Supreme Court overruled Grady shortly thereafter in United States v. Dixon, 509 U.S. 688, 704 (1993), and abandoned its “same-conduct” test.

Therefore, in light of the United States Supreme Court’s ruling in Dixon, “Blockburger remains as the *only* test of double jeopardy for successive prosecutions as well as for multiple punishments in a single prosecution” in South Carolina. Moyd, 321 S.C. at 259, 468 S.E.2d at 9 (italics in original); see also State v. Easler, 327 S.C. 121, 131, 489 S.E.2d 617, 623 (1997) (“We hereby affirm the Court of Appeals’ abandonment of the Grady v. Corbin same conduct test.”). Thus, if a defendant’s conduct constitutes the elements of two distinct offenses, the defendant can be prosecuted for and convicted of two separate crimes arising from the same conduct without running afoul of the constitutional prohibitions against double jeopardy. State v. Elders, 386 S.C. 474, 482, 688 S.E.2d 857, 861 (Ct. App. 2010).

Recently, in State v. Brandt, the South Carolina Supreme Court addressed the issue of whether the imposition of criminal contempt sanctions precluded a subsequent prosecution of the same defendant for criminal offenses arising from the same conduct upon which the contempt sanctions were based. Id., (Shearouse Adv. Sh. No. 24 at 77-78). In Brandt’s case, Brandt presented a forged letter to his attorney during the discovery phase of a legal malpractice action, and the forged letter was introduced during a legal expert’s deposition. Id., (Shearouse Adv. Sh. No. 24 at 71). Subsequently, the

letter was exposed as fraudulent. Id., (Shearouse Adv. Sh. No. 24 at 72). As a result, Brandt was found to be in criminal contempt for perpetrating a fraud upon the Court and was sentenced to a term of imprisonment of six months. Id. Thereafter, Brandt was indicted for forgery and proceeded to trial. Id., (Shearouse Adv. Sh. No. 24 at 73). During trial, Brandt moved for the dismissal of his forgery indictment based on an alleged double jeopardy violation. Id., (Shearouse Adv. Sh. No. 24 at 76). The motion was denied, and Brandt was convicted of the offense of forgery. Id., (Shearouse Adv. Sh. No. 24 at 76-77).

On appeal, Brandt sought to have his forgery conviction overturned because he alleged the successive prosecution was barred by the Double Jeopardy Clause due to the fact he had earlier been subjected to contempt sanctions for the same conduct that gave rise to the forgery indictment. Id., (Shearouse Adv. Sh. No. 24 at 77-78). However, the Supreme Court rejected Brandt's argument, instructing that: "In order to apply the Blockburger analysis, it is necessary to examine the individual elements of the criminal contempt conviction and the forgery offense." Id., (Shearouse Adv. Sh. No. 24 at 81). After strictly applying the Blockburger test and comparing the general elements of forgery and criminal contempt, the Supreme Court determined each offense required proof of an element the other did not. Id., (Shearouse Adv. Sh. No. 24 at 81-82). For this reason, the Supreme Court ruled Brandt's forgery prosecution was not barred by the Double Jeopardy Clause even though he had been found in criminal contempt based on the same conduct. Id., (Shearouse Adv. Sh. No. 24 at 82-83).

In the case sub judice, the trial judge erred in dismissing the two indictments for obtaining property by false pretenses. Critically, the trial judge failed to apply the Blockburger test, the only appropriate test for evaluating a claim of a double jeopardy

violation, and neglected to strictly compare the elements of criminal contempt with the elements of obtaining property by false pretenses. If the trial judge had done so, a comparison of the elements of the offenses establishes that each offense requires proof of an element the other does not. Therefore, since the elements of the offenses were markedly different from each other, Jolly's subsequent prosecution for obtaining property by false pretenses did not constitute a double jeopardy violation even though he was previously held in criminal contempt for related conduct. See Id., (Shearouse Adv. Sh. No. 24 at 82) ("Accordingly, Brandt's subsequent prosecution for forgery did not violate the Double Jeopardy Clause as the prior criminal contempt conviction involved decidedly different elements."). Accordingly, the trial judge's ruling dismissing the indictments must be reversed and the indictments must be reinstated.

Looking to the elements of the offenses involved in Jolly's case, criminal contempt in an ordinary sense involves the commission of "offenses that are calculated to obstruct, degrade, and undermine the administration of justice."² Brandt v. Gooding, 368 S.C. 618, 628, 630 S.E.2d 259, 264 (2006). "A person may be found guilty of direct contempt if the conduct interferes with judicial proceedings, exhibits disrespect for the court, or hampers the parties or witnesses." Id.

Conversely, the offense of obtaining property by false pretenses occurs when a person by false pretense or representation either obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other real or personal property with the intent to defraud a person of that property. See S.C. Code Ann. § 16-13-240 ("A person who by false pretense or representation obtains

² Judge Baxley applied our Supreme Court's definition of contempt from Brandt v. Gooding in the contempt order. (St. Ex. # 2, Order, pp. 9-10).

the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty [of the offense of obtaining signature or property by false pretenses.]”). Thus, the statutory elements necessary for commission of the offense are: (1) obtaining a person’s signature or property; (2) by false pretense or representation; (3) with the intent to defraud. Id.

Comparing the elements of each of the offenses in Jolly’s case, criminal contempt does not require proof a defendant obtained a signature or any property in order to sustain a contempt conviction. Likewise, criminal contempt does not require proof of an intent to defraud and does not require proof the person used false pretense or a representation. Conversely, obtaining property by false pretenses does not require proof of actions calculated to obstruct, degrade, and undermine the administration of justice. Similarly, the offense does not require proof of conduct interfering with judicial proceedings, exhibiting disrespect for the court, or hampering parties or witnesses. Therefore, the essential elements necessary to sustain a conviction for each offense are separate and distinct from the essential elements required to prove the other. For this reason, Jolly’s subsequent prosecution for obtaining property by false pretenses was not precluded by the earlier imposition of criminal contempt sanctions. Cf. Brandt, (Shearouse Adv. Sh. No. 24 at 82) (“We find each offense requires proof of a fact that the other does not. Specifically, the offense of forgery does not require any interference with judicial proceedings that is ‘calculated to obstruct, degrade, and undermine the administration of justice.’ In comparison, the commission of criminal contempt does not require the ‘uttering or publishing of a fraudulent document.’ Accordingly, Brandt’s subsequent

prosecution for forgery did not violate the Double Jeopardy Clause as the prior criminal contempt conviction involved decidedly different elements.” (citations omitted)).

The trial judge improperly compared the specific facts of Jolly’s conduct referenced in the contempt order and concluded Jolly’s subsequent prosecution for obtaining property by false pretenses was based on the same conduct. However, the proper test for determining whether a double jeopardy violation has occurred involves a comparison of the elements of the offenses as opposed to a comparison of the underlying conduct involved in the offenses. See Dixon, 509 U.S. at 704 (“We have concluded, however, that Grady must be overruled. . . . The ‘same-conduct’ rule it announced is wholly inconsistent with earlier Supreme Court precedent and with the clear common-law understanding of double jeopardy.”). An application of the proper test of comparing the elements of the offenses of criminal contempt and obtaining property by false pretenses establishes each offense has distinctly different essential elements and requires proof of a fact the other does not. Therefore, Jolly could properly be tried for obtaining property by false pretenses even though he had earlier been sanctioned for criminal contempt at least partially for conduct arising out of the same general chain of events. See State v. Pace, 337 S.C. 407, 417, 523 S.E.2d 466, 471 (Ct. App. 1999) (“Because each offense contains at least one element which must be proven by an additional fact that the other does not require, the trial court correctly held that Pace’s conviction on both counts does not violate double jeopardy.” (citations omitted)). Accordingly, the trial judge committed reversible error in dismissing the two obtaining property by false pretenses indictments. The trial judge’s ruling should be reversed and the previously-dismissed indictments should be reinstated.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and ruling of the lower court be reversed and the previously-dismissed indictments be reinstated.

Respectfully submitted,


ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

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BY:


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ATTORNEYS FOR APPELLANT

September 2, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

Appellant,

vs.

ROBERT STEVE JOLLY,

Respondent.

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

Pursuant to Rule 209, SCACR, Appellant proposes the following to be included in the Record on Appeal:

- (1) April 12, 2011, Hearing Transcript, Pages 1, 3, 6-31, and 45-49;**
- (2) State's Exhibit # 1 (Notice of Hearing and Rule to Show Cause);**
- (3) State's Exhibit # 2 (Order for Temporary Injunction and Criminal Contempt);**
- (4) State's Exhibit # 3 (Global Order);**
- (5) Indictments # 2009-GS-26-1786; # 2009-GS-26-2946; # 2009-GS-26-2947; # 2009-GS-26-2948; # 2009-GS-26-2949; and # 2009-GS-26-2950.**

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

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STATE OF SOUTH CAROLINA

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THE STATE,

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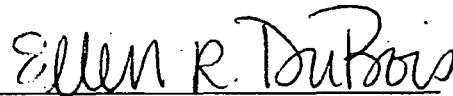
PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Initial Brief of Appellant and Designation of Matter on Respondent by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Dudek, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

John Wesley Locklair, III
Locklair Law Firm
2007 Lincoln Street
Columbia, SC 29201

I further certify that all parties required by Rule to be served have been served.
This 2nd day of September, 2011.



ELLEN R. DuBOIS
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

Exhibit C

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

APPELLANT,

V.

ROBERT S. JOLLY,

RESPONDENT

INITIAL BRIEF OF RESPONDENT

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
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ATTORNEY FOR RESPONDENT.

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STATEMENT OF ISSUES ON APPEAL

Did the trial judge commit reversible error by dismissing two indictments for obtaining property by false pretenses based on an alleged double jeopardy violation where the elements of the indicted offense of obtaining property by false pretenses were distinctly different from the elements of Jolly's earlier offense of criminal contempt and each of those offenses required proof of a fact the other did not?

COUNTER STATEMENT OF ISSUE ON APPEAL

Whether trial judge Culbertson correctly dismissed two indictments for obtaining property by false pretenses where Judge Baxley's prior finding of criminal contempt for respondent's actions with the homeowners merged with his finding of respondent's criminal contempt, in part, for the same actions of obtaining property by false pretenses that he enjoined respondent from participating in before he held the criminal contempt hearing?

STATEMENT OF THE CASE

Respondent agrees with appellant's statement of the case.

ARGUMENT

Trial judge Culbertson correctly dismissed two indictments for obtaining property by false pretenses where Judge Baxley's prior finding of criminal contempt for respondent's actions with the homeowners merged with his finding of respondent's criminal contempt, in part, for the same actions of obtaining property by false pretenses that he enjoined respondent from participating in before he held the criminal contempt hearing.

Relevant Facts

On March 12, 2009, the Honorable J. Michael Baxley issued a notice of hearing and Rule to Show Cause ordering appellant Jolly, Randall Sain and Linda Sain "and any person connected in any way to Robert Jolly and Associates" to be present at a hearing and ordering that they retain counsel. R. *. The hearing was held before Judge Baxley on April 16, 2009.

At this hearing it was noted that the Attorney General's Office had brought an action against respondent alleging he was engaged in the unauthorized practice of law. Tr. 5, ll. 20-23. The judge preliminarily stated that as a result of the Master in Equity recusing himself -- which was blamed on respondent Jolly involvement in the mortgage cases -- forty-five foreclosure cases had to be referred back to the Court of Common Pleas. These foreclosure cases being referred back from the Master in Equity would form one of the later criminal contempt findings against respondent. Tr. 6, l. 3 – 7, l. 19. Respondent proceeded *pro se*, and he told the judge "Your Honor, I can't afford an attorney, Your Honor." Tr. 16, ll. 15-21.

In addition to the Attorney General's complaint against respondent for allegedly engaging in the unauthorized practice of law, the Attorney General's Office also filed a

complaint alleging respondent was in violation of the South Carolina Unfair Trade Practices Act for his actions with handling the mortgages of the Homeowners in arrears. Two of them, Ernest Mautk, and Ester Reinhardt testified during the hearing and those were the two indictments for obtaining property under false pretenses at issue in this case. Tr. 28, ll. 13-16.

Ernest Mautk testified he went to the seventh grade in school. He was behind on his mortgage payment when he said Jolly told him he could help save his house. Tr. 35-38.

Mautk testified that his understanding of the situation was that by signing a quit claim deed that he was giving respondent the deed to his house and, he stated, by signing the deed he would be allowed to keep the house and that respondent "would take care of everything." Tr. 40. He further testified he paid respondent whatever he could each week and that he believed respondent would pay his mortgage payment and Mautk would eventually "pay him [respondent] back." Tr. 40, l. 1 – 41, l. 10.

During respondent's *pro se* cross-examination of Mautk, the judge reprimanded respondent for not standing while making an objection. Tr. 48, ll. 6-25. Appellant apologized to the judge. Tr. 49, l. 1.

During respondent's cross-examination, the Attorney General also objected stating he believed respondent was about to incriminate himself by making statements rather than asking questions. He suggested that the judge should advise respondent of his Fifth Amendment rights. Tr. 52-56.

The judge then told respondent, “Because you are under oath, and because record is being made, what you say here may be used against you in a criminal proceeding.”¹ The judge cautioned respondent to be careful what he said. Tr. 54, l. 19 – 56, l. 9.

The court then heard testimony from Henry Guyton Murrell, an attorney who represented one of the lenders in a foreclosure action involving some of the Homeowners involved with respondent. One of those properties was owned by Mautk. Murrell said he encountered appellant at several foreclosure proceedings, and he stated he was greatly suspicious of whether respondent was involved in the unauthorized practice of law. Tr. 59, l. 5 – 69, l. 25.

While conducting *pro se* cross-examination, respondent seemed confused, and asked questions that did not relate to this litigation, and he did not appear to understand what the proceedings were about that day. Tr. 74, l. 21 – 82, l. 20.

The next witness was Ester Reinhardt. She fell behind on her mortgage for her Myrtle Beach property in February 2008. The mortgage company refused to work with her. Consequently, she contacted Carolina Mortgage. They referred her to respondent to refinance. Reinhardt ultimately signed a quit claim deed deeding her home to respondent. Tr. 83, l. 1 – 86, l. 25.

She paid respondent her mortgage payments every month from February 2008 to March 2009. Tr. 86, l. 1 – 87, l. 15. Reinhardt maintained that respondent told her it was permissible to forge her husband’s signature on legal documents, and the state insinuated the name of the notary also appeared to be an alias. Tr. 87, l. 2 – 89 l. 12.

¹ It would not seem respondent was under oath while cross-examining witnesses.

Respondent was again reprimanded on his cross-examination on Reinhart for referring to the mortgage company as “foul people,” and stating: “All of these lawyers ought to be locked up.” Tr. 100, ll. 7-17. The judge instructed respondent to ask questions and not make statements. Tr. 100, l. 20 – 101, l. 20.

Respondent later objected to an affidavit of a Special Prosecutor being admitted into evidence but his objection was overruled. Tr. 103, l. 24 – 105, l. 18.

After the state rested, respondent called Julia Yura as a witness. Tr. 105, l. 19- 110, l. 10. Yura testified she sought out respondent because her business was not successful and she was in jeopardy of losing her home. Yura said respondent told her he was not giving her legal advice, and she also stated respondent never told her he would pay off her mortgage. She also testified respondent did not tell her he could save her property. Tr. 111, l. 1 119, l. 3.

Lisa Brewer testified that she was unemployed and that she owed respondent money for his advice. She had not filed a complaint against him, and she denied working for respondent. She does not have a notary public office. Tr. 128, l. 8 – 139, l. 21.

The judge later wrote that “Defendant Jolly’s decision to call Brewer and Yura as witnesses and the remarkable lack of candor evident in the testimony he elicited from them was an affront to the dignity of the judicial process and evinced an intention to obstruct, degrade, and undermine the administration of justice.” Order at 9. R. p. *

Arguments

The Attorney General argued in closing that there were innocent Homeowners hurt by respondent’s promises to help them save their property, and that the harm would continue

“unless Mr. Jolly is shut down. He seems willing to suspend his business.” Tr. 140, l. 14 – 141, l. 15.

Respondent argued he thought the Attorney General was “on a fishing trip,” and that “anything pertaining to getting on deeds and anything like that, I’m going to suspend that until we get to court.” Tr. 141, l. 23 – 142, l. 24.

Ruling

The judge then ruled that there was sufficient evidence respondent had prepared deeds, prepared pleadings, overseen the signing of legal documents, filed legal documents, given legal advice, and made false promises of a legal nature to individuals. The judge therefore ruled that an injunction to prevent him from engaging in the unauthorized practice of law and representing or appearing as a party in a foreclosure action was proper. Tr. 144, l. 20 – 145, l. 1. The judge then ruled: “This Court is now going to turn this matter into a contempt proceeding. South Carolina law is very clear. The courts have the inherent authority to punish for offenses that are calculated to obstruct and degrade or undermine the administration of justice.”

THE COURT: What I have here it appears to me:

It would be one thing, sir, if you were like Robin Hood, assisting people who cannot help themselves; but what’s happening here actually is:

You are inserting yourself in mortgage foreclosures.

You are taking funds from people who should be paying that money to the bank or defending themselves as best they can.

In fact, Mrs. Reinhardt testified over \$7000.00 was paid to you.

You have – uh – taken actions which are against their best interest.

In other words, you're hurting those who can least afford to be hurt, is what The Court finds.

And now, as I advised you in the notice that:

You should be prepared to show cause why you should not be held in contempt.

This Court will now give you an opportunity to explain why you should not be held in contempt.

I want to advise you that:

Under South Carolina law, that:

For direct terminal contempt – which is:

Contempt that occurs in the presence of The Court.

That:

Behavior that obstructs, degrades, or undermines the administration of justice.

The Court has authority to sentence you up to 6 months in prison, sir.

And I'm now proceeding in on a contempt hearing.

What do you have to for yourself?

MR. JOLLY: Don't, Your Honor.

I plead not guilty for one thing.

I have no criminal intent involved.

I haven't had – meant no criminal intent; have no knowledge of any criminal intent.

Tr. 145, l. 11 – 147, l. 5

The judge then ruled that respondent's actions made him in criminal contempt of court because he had abused the legal process and obstructed the administration of justice. The judge also ruled respondent had degraded the system of justice by taking advantage of people and the judge stated: "I don't know how you can go home at night and rest comfortably when there are people all over this county, Georgetown County, losing their houses and paying money to you all along. This Court finds it to be unconscionable. And I sentence you to six months in the Department of Corrections, sir, for contempt of court and I'm going to remand you now to the custody of the deputies. And that is the decision of this Court." Tr. 147, l. 23 – 149, l. 1.

Almost two years later on April 12, 2011 respondent's case was called to trial before the Honorable Benjamin H. Culbertson. J. Wesley Locklair, III represented respondent. Supp. Tr. 1.

The State then called an indictment against respondent for the unauthorized practice of law and five separate indictments for obtaining property by false pretenses. Supp. Tr. 8, l. 11 – 9, l. 1.

Defense counsel moved to dismiss in part based upon double jeopardy. Counsel noted respondent had been held in contempt essentially for the facts alleged by the prosecution involving two of the alleged victims the "Maucks² and the Reinhardts." Defense counsel also argued that Judge Baxley's direct contempt order stated respondent had been involved in a scheme, filed frivolous pleadings and was involved in contempt for which he was sentence to six months in prison. Supp. Tr. 15, l. 18 – 19, l. 8.

² Ernest Mauck's surname is spelled two different ways in the transcripts: Mautk and Mauck. For ease of reference "Mauck" will be used throughout.

The Assistant Attorney General noted that respondent tried to frivolously remove the case before Judge Baxley to Federal Court the day before the hearing, and he offered: "I would say it was the entirety of Mr. Jolly's actions that day to Judge Baxley, the events, a contempt for the proceedings and for the court." Supp. Tr. 19, l. 10 – 20, l. 24.

Judge Culbertson ruled he would have to carefully read Judge Baxley's order before he could rule on the reason respondent was held in criminal contempt before he could rule on the double jeopardy issue. Supp. Tr. 27, l. 17 – 30, l. 16.

Defense counsel argued that respondent was held in contempt for his actions with homeowners, and the judge ultimately ruled he was going to deny the double jeopardy motion as to everyone *except possibly the indictments involving Mauck and Reinhardt*. He said that those two indictments were his only consideration as to the double jeopardy motion. Supp. Tr. 34, ll. 10-20. The judge then took a break to consider the matter. Supp. Tr. 35, ll. 9-18.

Subsequently, the judge ruled that the two indictments for obtaining property by false pretenses involving Mauck and the Reinhardts were barred by double jeopardy. The judge ruled that part of the reason respondent was held in direct and criminal contempt was for the indictments involving the scheme with Mauck and the Reinhardts. Supp. Tr. 51, l. 3 – 54, l. 10.³

Discussion

In Judge Baxley's Order for Temporary Injunction and Criminal Contempt filed on July 8, 2010, he found respondent in criminal contempt of court and sentenced him to six

³ Although the trial judge said he would issue a written order, a written order was never written or filed. Undersigned counsel has spoken to opposing counsel who contacted the

months imprisonment following the day in court on April 16, 2009. R. p. *. The judge ruled that respondent's conduct deceived homeowners, and contributed to them having foreclosure actions currently pending and continuing against them. Order at 8. R. p. *. The order also noted that respondent's conduct caused the Master in Equity to return over forty-five cases to the clerk of Common Pleas. R. p. *.

The order also found respondent in contempt for interfering with the orderly adjudication of dozens of foreclosure actions. In addition, the order found respondent's preparation, execution, and improper notarization of quit claim deeds constituted a fraud upon the court. As seen supra, the court also wrote that "Defendant Jolly's decision to call Brewer and Yura as witnesses and remarkable lack of candor in the testimony he elicited from them was an affront to the integrity of the judicial process and evidenced an intention to destruct, degrade, and undermine the administration of justice." Order at 9. R. p. *.

The order further stated that: "Defendant Jolly's orchestration of the aforementioned Scheme, the Foreclosure Actions, and his conduct before the Court at the April 16th hearing has interfered with judicial proceedings, exhibited disrespect for the Court, and hampered parties and witnesses. Further, Defendant Jolly's orchestration of the aforementioned Scheme, the Foreclosure Actions, and his conduct before the Court at the April 16th hearing was calculated to obstruct, degrade, and undermine the administration of justice." Order at 9, R. p. *.

Thus, respondent was held in direct criminal contempt, in part, because he obtained property from Homeowners under false pretenses. At issue here were Homeowners Mauck and the Reinhardts.

trial judge who informed the Attorney General's Office that no written order would be

The State relies on State v. Brandt, 393 S.C. 526, 713 S.E.2d 591 (2011). In Brandt, the Supreme Court noted that because the federal court in Brandt v. Ozmint, 636 F.3d 124 (4th Cir. 2011), effectively vacated the defendant's prior conviction he could not longer assert double jeopardy barred his subsequent forgery conviction after he had been found in direct contempt of court for submitting a false document in a medical malpractice action. The Court also noted the divergent rulings of the United States Supreme Court in United States v. Dixon, 509 U.S. 688 (1993), which overruled Grady v. Corbin, 494 U.S. 508 (1990). See, State v. Brandt, 393 S.C. at 537, n. 5-6, 713 S.E.2d 591, 596, n. 5-6.

The Court in Brandt addressed the double jeopardy issue anyway. It found that because the offenses of direct criminal intent and forgery required proof of the fact the other does not need that Brandt's subsequent prosecution for forgery did not violate the double jeopardy clause because they involved deciding different elements.

Here, Judge Baxley issued an injunction against respondent for the very actions that were the subject of the two indictments. He therefore took the extraordinary step of enjoining respondent from engaging in the same conduct for which he was indicted in indictments 2009-GS-26-2947 and 2948 as they pertain to obtaining property by false pretences from the Reinhardts and Maucks. Supp. Tr. 53, ll. 1-23. There were several other indictments against respondent that were allowed to proceed by Judge Culbertson.

After issuing the injunction enjoining future criminal acts, Judge Baxley then held a contempt hearing at which he found appellant in direct contempt of court for his activities in obtaining property from these two witnesses and victims, Ernest Mautk and Ester Reinhardt. This Court can affirm for any reason appearing the record.

forthcoming and that his oral ruling was the only one in this case.

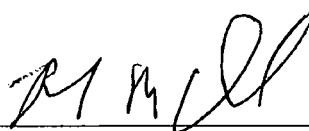
This record straightforwardly reveals that respondent was held in criminal contempt for obtaining property under false pretenses from the two victims who testified in this case. He was indicted for the same offenses. Under state Constitutional law, Article I, §12, this Court can adhere to its decision in State v. Magazine, 302 S.C. 55, 393 S.E.2d 385 (1990), especially since the Supreme Court's latest decision in Brandt only addressed divergent federal Constitutional law double jeopardy law from the United States Supreme Court.

Under the highly unusual facts of this case involving injunctive relief against conduct the court found both criminal and contemptuous, and where respondent was punished for criminal contempt for obtaining the property of the Reinhardts and Maucks under false pretenses, this Court has the authority to affirm the ruling of the trial judge, and should not find reversible error in the legal ruling of the trial judge.

CONCLUSION

The ruling of the trial court should be affirmed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR RESPONDENT.

This 6th day of April, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

APPELLANT,

V.

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RESPONDENT

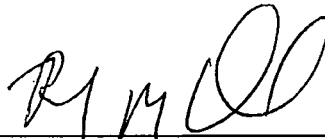
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) April 16, 2009 Tr. pp. 1-149;
- (2) April 12, 2011 Tr. 32-54;
- (3) Indictments in this case
- (4) All matters designated by appellant.

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

April 6th, 2012



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1343

Attorney for Respondent

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

APPELLANT,

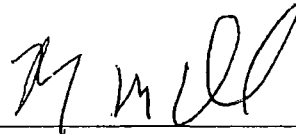
V.

ROBERT S. JOLLY,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Brief of Respondent and Designation of Matter in the above referenced case has been served upon Mark R. Farthing, Esquire, at the Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 6th day of April, 2012.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR RESPONDENT.

SUBSCRIBED AND SWORN TO before me
this 6th day of April, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021 .