

ORIGINAL

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

The State, Respondent,

v.

Thomas L. Bloodsaw, Appellant.

Appellate Case No. 2013-000643

The Honorable R. Knox McMahon,  
Richland County  
Trial Court Case No. 52012GS4001158, 2012GS4001159

RECEIVED  
FEB 18 2014  
SC Court of Appeals

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**ANDERS BRIEF OF APPELLANT**

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ATTORNEYS FOR APPELLANT

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### **STATEMENT OF ISSUE ON APPEAL**

Whether the court erred in allowing the State to argue “hand of one, hand of all” during their closing argument, with regard to motive and credibility, after already making the determination that “hand of one, hand of all” was not applicable in this case and that he would not be charging the jury with “hand of one, hand of all.”

### **STATEMENT OF THE CASE**

On May 9, 2012, the Grand Jury indicted Thomas L. Bloodsaw ("appellant") for First Degree Burglary, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended; and Petit Larceny (\$2,000 or Less), in violation of Section 16-13-0030(A), Code of Laws of South Carolina, 1976, as amended. (R. pgs. 464-467). The appellant was tried before a jury of his peers on March 11 through March 13, 2013 in Richland County. The jury returned a verdict of guilty on both charges. (R. p. 446, lines 19-25; p. 447, line 1). The court ultimately sentenced him to eighteen years imprisonment, with credit for fifteen months time served, and thirty days for petit larceny. (R. p. 460, lines 19-23). Victor Li represented appellant. The assistant solicitor(s) were Margaret Bodman and Foster Mathews. (R. p. 1, lines 19-23).

This appeal follows.

## ARGUMENT

The court erred in allowing the State to argue "hand of one, hand of all" during their closing argument, with regard to motive and credibility, after already making the determination that "hand of one, hand of all" was not applicable in this case and that he would not be charging the jury with "hand of one, hand of all."

### **Relevant Facts**

The appellant was indicted and convicted on the charge of burglary first degree. The aggravating factor which made it a first degree burglary was being armed with a deadly weapon. When the appellant took the stand, he testified that another individual, "Moses", had broken into the house and subsequently informed the appellant that he should go over to the house because there were still some valuable items to be stolen. (R. p. 362, lines 11-25; R. p. 363, lines 1-22). Prior to the appellant testifying, the State had not introduced any evidence that another individual has involved in the robbery. The appellant's testimony revealed that he had not stolen any guns and by implication, "Moses" had stolen the guns earlier in the day. The judge allowed the State to argue "hand of one, hand of all" in their closing argument. In making his ruling, the judge stated, "Because of the State's theory, I still don't think the "hand of one, hand of all" applies, but as to his motive and his credibility, I can see where a reasonable jury could reach that conclusion to get the gun or guns not only out of his hands, but out of the residence before he's in the residence so that - - unless one of the other aggravating factors, which none of them apply." (R. p. 394, lines 19-25 – p. 395, line 1). When the judge made his ruling to allow argument on "hand of one, hand of all", he had already decided "'hand of one, hand of all' is not the law or facts of this case" and also he had already decided not to charge "hand of one, hand of all" to the jury. (R. p. 390, lines 19-20). Furthermore, the judge commented that the State had introduced no evidence that more than one person perpetrated the crime. He goes on to say, "'hand of one, hand

of all' has never been the State's theory, either at the indictment stage or at the trial." (R. p. 390, lines 2-4; p. 391, lines 23-25).

### **Discussion**

As seen, the judge ruled to allow the solicitor to argue "hand of one, hand of all", after already determining that theory of law did not apply to this case. By allowing the solicitor to argue "hand of one, hand of all", the prosecution was allowed to introduce an entirely new theory that had been absent from the trial up until that point.

A review of a solicitor's closing argument is based upon the standard of whether his comments so infected the trial with unfairness as to make the resulting conviction a denial of due process. State v. Caldwell, 300 S.C. 494, 504, 388 S.E.2d 816, 822 (1990). The appropriateness of a solicitor's closing argument is a matter left to the trial court's discretion. State v. Rudd, 355 S.C. 543, 548, 586 S.E.2d 153, 156 (Ct. App. 2003). To warrant reversal, the appellant must prove both abuse of discretion and resulting prejudice. State v. Sierra, 337 S.C. 368, 373, 523 S.E.2d 187, 189 (Ct. App. 1999).

In this case, it can reasonably be inferred that allowing the solicitor to argue "hand of one, hand of all" resulted in prejudice to the appellant. In her closing argument, the solicitor stated:

"He can't say, oh, well, somebody else grabbed the guns, I just grabbed the computer. Because that is a burglary in the first degree. He's a participant in that crime. So he's got to get out from under the guns because the fingerprint's there. He's in the house. He can't shake the fingerprint. The science is solid. So what am I going to do? I've got to get out, at least, from the guns. I've got to cut my losses." (R. p. 425, lines 12-19).

It was fundamentally unfair for the solicitor to be allowed to make these remarks in closing. The unfairness stems from the fact that the trial court had already determined that "hand of one, hand of all" did not apply to this case. Despite the fact that the trial judge already made that determination, he allowed the highly prejudicial argument, illustrated above, that the

appellant had to concoct his story to avoid being guilty under the theory of "hand of one, hand of all."

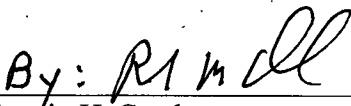
By virtue of the court allowing the solicitor to argue this theory, which had been entirely absent from the prosecution's case in chief, the appellant was prejudiced and it was an abuse of the trial court's discretion.

Appellant's conviction on the first degree burglary should be reversed since the trial judge improperly allowed the State to argue "hand of one, hand of all" in their closing argument.

### CONCLUSION

By reason of the foregoing argument, this appeal should be granted.

Respectfully submitted,

By: 

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ATTORNEYS FOR APPELLANT

This 18th day of February, 2014.

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**PETITION TO BE RELIEVED AS COUNSEL**

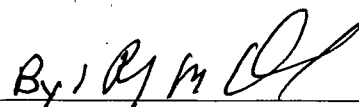
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Counsel for Thomas L. Bloodsaw states:

1. He was appointed to represent appellant.
2. He has reviewed the transcript of the trial before Judge R. Knox McMahon, which was held on March 11 through March 13, 2013, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738-, 87 S.Ct. 1396 (1967), briefed arguable legal issues which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Thomas L. Bloodsaw.

Respectfully submitted,

  
\_\_\_\_\_  
Austin H. Crosby  
Robert M. Dudek

This 18th day of February, 2014.

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

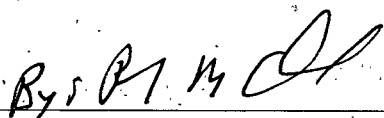
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Appellant proposes the following be included in the Record on Appeal:

- (1) Trial Transcript;
- (2) Indictments.

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

February 18, 2014.

  
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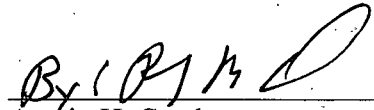
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# **CERTIFICATE OF COUNSEL**

The undersigned certified that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR.

February 18, 2014.

  
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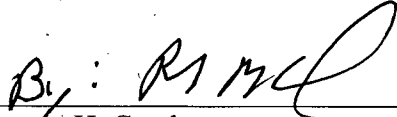
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**CERTIFICATE OF SERVICE**

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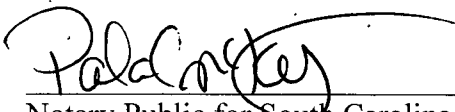
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at 1000 Assembly Street, Room 519, Columbia, South Carolina 29201; and on Thomas L. Bloodsaw, #00354735 at Lieber Correctional Institution, 136 Wilborn Avenue, Ridgeville, South Carolina 29472, this 18<sup>th</sup> day of February, 2014.

Respectfully submitted,

By:   
Austin H. Crosby  
Robert M. Dudek

ATTORNEYS FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 18th day of February, 2014.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 24, 2022