

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE, RESPONDANT
V.

THOMAS L. BLOODSAW, APPELLANT

APPELLATE CASE # 2013-000643

THE HONORABLE R. KNOX McMAHON

RICHLAND COUNTY

TRIAL CASE # 5-2012-GS-40-01158, 159

PRO-SE ANDERS BRIEF

By: Thomas Bloodsaw
Lieber, C.I.
P.O. Box 205
RIDGEVILLE S.C. 294

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STATEMENT OF ISSUE ON APPEAL

TRIAL COURT ERRED IN FAILING TO ENTER A DIRECTED VERDICT ON FIRST DEGREE BURGLARY AS THERE WAS NO PROBATIVE EVIDENCE IN RECORD TO SHOW APPELLANT ARMED HIMSELF DURING THE BURGLAR OR IN FLIGHT THEREFROM, . . .

FACTS

WITHOUT RECOUNTING ALL OF DETAILS OF THE OFFENSE THAT IS FOURTH IN ANDERS BRIEF AND INCORPORATED HEREIN THE APPELLANT IS CHARGED WITH FIRST DEGREE BURGLARY FOR ILLEGAL ENTRY OF THE DWELLING OF LEROY KELLY WITH THE INTENT TO COMMIT A THEREIN, AND WHEN, IN EFFECTIVE ENTRY OR WHILE IN THE DWELLING OR IMMEDIATE FLIGHT THE DEFENDANT WAS ARMED WITH A DEADLY WEAPON (R.O.A 465)

THERE WAS NO DISPUTE THAT APPELLANT DID NOT ENTER DWELLING WITHOUT CONSENT WITH THE INTENT TO COMMIT A CRIME THEREIN WHICH ARE ELEMENTS OF 16-11-0312 (A) SECOND DEGREE BURGLARY. IN FACT APPELLANT ADMITTED TO THIS ON THE STAND DURING HIS TEST (@ R.O.A 364 L.ii-368 L.5 BUT HIS DEFENSE, AND NO EVIDENCE W

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BY THE STATE TO CONTRADICT THIS, THAT "HIS HOMEBY MOSES HAD
BROKEN INTO THE HOUSE EARLIER AND SUBSEQUENTLY INFORMED APPELLANT
THAT HE SHOULD GO CHECK IT OUT CAUSE THERE WERE STILL SOME
VALUABLE ITEMS LEFT THAT COULD BE STOLEN FOR PROFIT (@ R.O.A 362
L. 11-363 L. 22). AND APPELLANT WENT TO THE HOUSE "AFTER MOSES HAD ALREADY
PREVIOUSLY BROKE INTO THE HOUSE AND STOLE THE GUNS" AND APPELLATE STOLE
A COMPUTER AND OTHER ITEMS BUT NO GUNS WERE STOLEN BY HIM, AS
THEY HAD ALREDY BEEN STOLEN BY MOSES (@ R.O.A 371 L. 25)

ARGUMENT

THAT MOSES PRIOR TO CALLING APPELLANT AND WITHOUT ANY KNOWLEDGE
OF MOSES ACTIONS, MOSES BROKE INTO THIS HOUSE AND STOLE SEVERAL
GUNS AND OTHER ITEMS.

AFTER MOSES HAD TAKEN THE GUNS AND OTHER ITEMS HE CALLED APPELLATE
WHO THEN WENT AFTER THE FACT, AFTER GUNS HAD BEEN TAKEN WITHOUT
HIS KNOWLEDGE OR PARTICIPATION, AND BASICALLY WENT TO SEE WHAT
WAS LEFT TO STEAL. IN OTHER WORDS SOME COULD SAY HE WENT
TO GET THE LEFTOVERS. NO EVIDENCE WAS SUBMITTED BY THE STATE
TO SHOW APPELLATE "ARMED HIMSELF DURING THE CRIME" NONE. AND THE
STATE COULD NOT DISPUTE FACT THAT BURGLARY OCCURED AS APPELLATE
TESTIFIED TO BUT ASKED JURY TO "SPECULATE" THAT APPELLANT TOOK
THE GUNS AND MADE UP MOSES. NO PROOF WAS PROVIDED TO SUPPORT
THIS SPECULATION. TRIAL COUNSAL MADE MOTION FOR A DIRECTED VERDICT
PG. 350 L. 25-351 L. 7 AND RENEWED MOTION 381 L. 10

LAW

THIS COURT IS WELL VERSED IN DIRECT VERDICT CASE LAW BUT THE APPALLATE
WOULD POINT OUT STATE V. MITCHELL 535, S.E. 2d 126, 127. (2000)

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THE LOWER COURTS SHOULD NOT REFUSE TO GRANT MOTION FOR A DIRECT VERDICT WHERE EVIDENCE MERELY RAISES A SUSPICION OF GUILT.

APPELLANT ALSO RELIES ON STATE V. MULDRON 559 S.E.2d, 847 (SC 2002) IN BURGLARY CASE APPEALS COURT CAN GRANT A DIRECT VERDICT TO THE GREATER OFFENSE AND ENTER JUDGEMENT ON LESSER INCLUDED AND REMAND FOR RESENTENCING

CONCLUSION

BASED UPON FACT "NO EVIDENCE" WAS PRESENTED TO SHOW THAT APPELLANT "ARMED HIMSELF DURING THE OFFENSE" AS REQUIRED BY 16-11-311(A) AND STATE OFFERED "NO EVIDENCE" TO DISPUTE APPELLANT TESTIMONY THAT MOSES HAD WENT IN PREVIOUSLY WITHOUT APPELLANTS KNOWLEDGE OF HIM STEALING GUNS AND APPELLANT MERELY TO SEE WHAT WAS LEFT TO STEAL REQUIRED A DIRECT VERDICT AND PUR. TO STATE V. MULDRON THIS COURT SHOULD ENTER A JUDGEMENT OF ACQUITTAL ON BURGLARY FIRST PUR. TO STATE V. MITCHELL AND ENTER A VERDICT FOR BURGLARY SECOND. 16-11-312(A)

RELIEF


BURGLARY FIRST DEGREE CONVICTION BE VACATED AND ENTRY OF JUDGE ON BURGLARY SECOND DEGREE

RESPECTFULLY, THOMAS BLOODSAW

PROOF OF SERVICE

A TRUE COPY HAS BEEN SENT TO SALLEY ELLIOT P.O. BOX 11549
COLUMBIA S.C. 29211 THIS 9TH DAY OF MAY 2014 BY MAIL

UNDER OATH



THOMAS BLOODSAW # 354735

L.C.I

P.O. Box 205

Ridgeville, S.C. 29472

South Carolina

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UEBER C.I.

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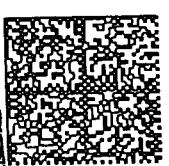
Court of Appeals

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