

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2012

SHAUN TERIAL ISOM,

Appellant,

v.

Case No. 5D10-3793

STATE OF FLORIDA,

Appellee.

Decision filed March 9, 2012

Appeal from the Circuit Court
for Lake County,
G. Richard Singeltary, Judge.

James S. Purdy, Public Defender, and
Susan A. Fagan, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Allison Leigh Morris,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED.

ORFINGER, C.J., and MONACO, J., concur.
COHEN, J., concurs and concurs specially, with opinion.

COHEN, J., concurring specially.

I agree that the prosecutor's closing argument, offered without objection, did not pervade the trial, thereby impairing the jury's dispassionate consideration of the evidence. The evidence presented against Mr. Isom was convincing. It included a videotape of the robbery, both an out-of- and in-court identification of Mr. Isom by the victim, and testimony by the co-defendant. However, I feel compelled to express my disapproval of certain statements made by the prosecutor during her closing argument.

Her closing argument was replete with error. She overstepped the permissible boundaries of argument by stating:

The State has no agenda against Mr. Isom. We want the person who committed the crime to be held responsible for the crime. And we didn't just single out Mr. Isom because one day in January up in the State's Attorney's Office I thought, hmmm, you know what, I think I'll pick the man right there, and I'll make him a target of the offense and we'll say he did it.

A prosecutor may not argue that the State has no interest in convicting anyone other than the guilty, or make comments to that effect. *Ruiz v. State*, 743 So. 2d 1, 5 (Fla. 1999). Additionally, the prosecutor improperly bolstered the testimony of the lead detective and the co-defendant, see *Servis v. State*, 855 So. 2d 1190, 1194-95 (Fla. 5th DCA 2003), informed the jury that Mr. Isom had been in jail for over six months before trial, see *Cantero v. State*, 612 So. 2d 634, 635 (Fla. 2d DCA 1993), and simply made up evidence as to how exposure to sunlight affects the complexion of African Americans. See *Ford v. State*, 702 So. 2d 279, 280 (Fla. 4th DCA 1997).

"A criminal trial is a neutral arena wherein both sides place evidence for the jury's consideration; the role of counsel in closing argument is to assist the jury in analyzing that evidence, not to obscure the jury's view with personal opinion, emotion, and non-record evidence" *Ruiz*, 743 So. 2d at 4. These goals were undermined in the present case due to the prosecutor's improper argument.