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Thomas v. State.

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THOMAS v. STATE.

I. CRIMINAL LAW: *Confederates—Standing watch.*

Where one stands watch while his confederate is robbing a house, both are equally guilty.

ERROR to *Baxter* Circuit Court.

Hon. R. H. POWELL, Circuit Judge.

*C. B. Moore, Att'y Gen'l*, for defendant in error.

No exceptions was taken to the instructions of the court, and no instructions were asked by either the State or defendant.

The evidence sustains every material allegation in the indictment, and the verdict is not such as "to shock the sense of justice."

SMITH, J. The plaintiff in error was convicted upon an indictment which contained two counts—one for burglary and the other for larceny. A new trial was awarded and he was again convicted upon the count for larceny and was sentenced to a term of two years in the penitentiary. His motion for a new trial assailed the verdict as being contrary to the evidence.

The proof was that, in the night of December 25th, 1883, the store of R. C. Bennett, in Monticello, was entered and among other things a watch was stolen. About a month afterwards, this watch was found by the Sheriff on the person of the plaintiff in error. In explanation of his possession, he stated that the watch had been given to him by one John Preddy, his confederate in the burglary, for his share of the spoils—that he had watched on the outside while Preddy robbed Bennett's house. If this were so, both were equally guilty. Carr v. State, *ante* 99.

Judgment affirmed.