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No. 94116-5

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Petitioner

v.

STANLEY GUIDROZ, Respondent

ANSWER TO PETITION FOR REVIEW

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253-445-7920

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I. ISSUE PRESENTED

Whether the Court of Appeals correctly applied the *corpus delicti* rule when it viewed the evidence in a light most favorable to the State and concluded the State's evidence was insufficient to reasonably infer there was a death.

II. STATEMENT OF THE CASE

Pierce County prosecutors charged Stanley Guidroz with manslaughter first degree. Supp. CP 1. Mr. Guidroz is currently serving a life sentence in the Angola Prison, Louisiana on an unrelated matter. Supp. CP 4-5; 6/4/15 RP 44.

Following a suppression hearing, the trial court entered findings of fact and conclusions of law. CP 1-5. On appeal, the State did not assign error to the findings of fact enter by the trial court after the suppression hearing.

On the afternoon of January 10, 1983, Mr. Guidroz called the Tacoma police department to report that his three-year-old son had gone missing from Point Defiance Park. CP 1. Mr. Guidroz told officers that he, his son, and a friend had gone fishing. Exh. 1 p.2; CP 1. His son tired and took a nap in the car while they fished. Exh.1 p.2; CP 1. At some point in the afternoon, Mr. Guidroz

returned to the car and took his son for a walk to the duck pond.

Exh.1 p.3; CP 1.

On the walk, they met up with a man and a woman with a girl about his son's age. Exh.1 p.3; CP 1. While the children played, Mr. Guidroz and the male walked off, leaving the woman with the children. Exh.1 p.3; CP 2. The men separated at the waterfall and Mr. Guidroz returned for his son about 10 minutes later. CP 2.

When he returned, his son was gone, along with the male, female and child. CP 2. A woman later told police that a man and a woman had tried to abduct her children from the same location.

CP 2.

Mr. Guidroz reported this was before dusk, and he tried to find his son, looking in several areas of the park. His efforts were unsuccessful, so he called the police. Exh.1 p.4. Officers searched the area for the boy, using two shepherd dogs, a bloodhound, and the search and rescue team. Ex.1 p.5. They were unable to locate the child. CP 2.

Other officers also spoke with Mr. Guidroz that day and he provided a slightly different sequence of events. Exh. 2 p.2. CP 2. He said he and the other male returned from the waterfall to the area where the woman, child and Mr. Guidroz's son had been

earlier. When they saw the woman and children were gone, they separated to search for them. CP2. Mr. Guidroz reported he spoke to a bus driver about his missing son. CP 2. Police later learned there may have been 8 bus drivers traveling through the area, but none of them recalled being asked about a missing boy. CP2.

Mr. Guidroz described the man at the park and police made a composite sketch. CP2. Police later received numerous calls from people recognizing the man in the drawing. One man told police he had seen Mr. Guidroz and his son and he saw a man, who matched the sketch, staring at Mr. Guidroz's son. CP 2.

Mr. Guidroz took two polygraph tests questioning whether he played a role in his son's disappearance. One test was found to be inconclusive and the other test he passed. CP 3.

The FBI later filed an affidavit that they had information that the boyfriend of Mr. Guidroz's son's mother had traveled to Tacoma, abducted the child, and taken him to Texas to be with his mother and her boyfriend. CP 2. The investigation was eventually suspended with no further leads and the child was never located. CP 2. The case was filed as a "missing person" case. Exh. 3 p.1-2.

In 2011, Detective Miller reopened the case. Exh. 3 p.1; CP 2. As a part of the investigation, he obtained a 1982 CPS report about a head injury the child had suffered from pulling an iron off the ironing board. CP 2. The CPS worker confirmed the case was cleared, with no action taken. Exh. 5 p.4-5; CP 2.

Detective Miller also spoke with Valerie Davis¹ and Henry McBride, who had cared for Mr. Guidroz's son on numerous occasions approximately 28 years earlier. In 2011, they claimed that the child often had bruises and black eyes, and at one point was in some type of a body cast. CP 2; Exh.6 p.4-5². Mr. McBride said he saw Mr. Guidroz shake the child one time. CP 2.

Detective Miller traveled to Louisiana to interview Mr. Guidroz. The statement from 1983 was not exactly the same as the statement in 2011, 28 years later. CP 2. With continued questioning, Mr. Guidroz then said he had accidentally killed his son. He claimed that he got frustrated with the child, who was seated in his high chair. He struck him, the child's head hit the floor, and he died. CP 2. He claimed he drove to the Tacoma waterfront and gave specific information about where he had buried

¹ Valerie Davis was previously married to Henry McBride.

² No medical records or hospital visit records were produced as evidence to substantiate the allegations.

the child. Exh. 3 p.5. He said he then called the police. Supp. CP 74. With that information Washington officers searched the area Mr. Guidroz identified. With the assistance of Georada and cadaver dogs no body or other related evidence was recovered from the area. Supp. CP 5. Based on the confession, the medical examiner issued a death certificate. 6/4/2015 RP 29.

Two years later Detective Miller returned to Louisiana to question Mr. Guidroz. Mr. Guidroz told the detective that he had not killed his son and admitted his prior confession was false. After continued questioning, Mr. Guidroz said the confession was genuine. 2nd Supp. CP 74³.

After reading the briefs and hearing argument at the suppression hearing, the trial court concluded the evidence presented by the State in its exhibits and arguments did not establish a prima facie case of the corpus delicti of the charge. CP 4. The court specifically concluded that the State's evidence, independent of the inculpatory statements by Mr. Guidroz, did not establish prima facie that the child was deceased or if he was, that he died as a result of someone's criminal actions. CP 4.

³ The facts are found in the Declaration for Determination of Probable Cause filed by the State September 16, 2014, pp.2-3.

The court also concluded that RCW 10.58.035 pertained “only to admissibility and does not change Washington’s corpus delicti rule. The State must still produce prima facie evidence of the charge independent of the defendant’s inculpatory statements.” CP 4. The court granted the motion to suppress and entered an order of dismissal with prejudice, expressly finding that the practical effect of the suppression was to terminate the case. The state filed a motion for reconsideration, which was denied after further argument and briefing. (6/12/2015 RP 1-31). The State appealed. CP 62-70.

The Court of Appeals unpublished opinion affirmed the trial court’s suppression order, finding the evidence was insufficient to reasonably infer the child’s death. *State v. Guidroz*, 196 Wn.App. 1039 (2016).

III. ARGUMENT WHY REVIEW SHOULD BE DENIED

The Court Of Appeals Properly Applied The *Corpus Delicti* Rule And Its Holding Does Not Conflict With Any Decision By This Court Or Other Appellate Courts.

This Court should deny review of the decision by the Court of Appeals as it does not fall within the considerations governing acceptance of review. RAP 13.4(b). The Court’s decision is not in

conflict with any decision by this Court or any published decision of the Court of Appeals.

An admission or confession, standing alone, is insufficient to establish the *corpus delicti* of a crime. *State v. Vangerpen*, 125 Wn.2d 782, 796, 888 P.2d 1177 (1997). Rather, the State must produce evidence, independent of a defendant's statements, that provides prima facie corroboration of the crime or a reasonable and logical inference he committed the specific crime with which he is charged. *State v. Brockob*, 159 Wn.2d 311, 329, 150 P.3d 59 (2006); *State v. Aten*, 130 Wn.2d 640, 656, 927 P.2d 210 (1996). If no such evidence exists, the defendant's statements cannot be used to establish the *corpus delicti* and prove the defendant's guilt at trial. *Aten*, 130 Wn.2d 656.

To establish the *corpus delicti*, the State was required to establish two elements: (1) the fact of death and (2) a causal connection between the death and a criminal act. *Aten*, 130 Wn.2d at 655. In reviewing whether there is sufficient evidence to make a reasonable inferential leap of the fact of a death, this Court has held that the circumstances surrounding the disappearance "must be such as to convince the mind to a moral certainty of death, and to the exclusion of every other reasonable hypothesis." *State v.*

Lung, 70 Wn.2d 365, 371, 423 P.2d 72 (1967). The “circumstantial evidence must be consistent with guilt and inconsistent with an hypothesis of innocence.” *Id.* at 372.

The Court of Appeals in this case properly applied the law in its analysis and conclusion. The Court relied on *State v. Hummel*, 165 Wn.App. 749, 761, 266 P.3d 269 (2012), for guidance in considering what independent evidence was sufficient to satisfy the fact of death in a *corpus delicti* challenge where no body was found. The Court considered each piece of evidence presented by the State. *Guidroz*, 196 Wn.App. at *2-3. It concluded the independent evidence, and all reasonable inferences from it, was insufficient to reasonably infer the child’s death. *Guidroz*, 196 Wn.App. at *4-5.

Contrary to the State’s argument, the Court did consider the independent evidence in its totality. (Pet. Rev. p. 8). The Court stated:

Finally, even when all the evidence the State presented is considered together, it does not reasonably lead to the inference that Wallace is dead. Taken together, in the light most favorable to the State, the evidence the State relies upon would reasonably lead one to infer that Wallace is missing and that Guidroz is not a good parent. From this evidence, we hold that one could not reasonably infer Wallace’s death.

Guidroz, 196 Wn.App. at *6.

The decision of the Court of Appeals is not in conflict with any published decision by this Court or any other Court of Appeals. The Court properly applied the rule and rightly determined the evidence was insufficient to establish the *corpus delicti* of the charged crime.

IV. CONCLUSION

Based on the foregoing facts and authorities, Mr. Guidroz respectfully asks this Court to deny review of the State's petition.

Dated this 3rd day of March 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Marie Trombley, certify under penalty of perjury of the laws of the State of Washington and the United States, that on March 3, 2017, I sent an electronic copy, by prior agreement between the parties, or sent by USPS mail, first class, postage prepaid, a true and correct copy of the Answer to the Petition for Review to the following:

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