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COURT OF APPEALS
STATE OF WASHINGTON
FILED
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

In re Personal Restraint)	No. 62682-5-I
Petition,)	
)	PETITIONER'S SUPPLEMENTAL
)	REPLY TO STATE'S
)	SUPPLEMENTAL RESPONSE
)	
)	
)	
REYNALDO DELGADO,)	
Petitioner.)	
)	
)	

A. SUPPLEMENTAL ISSUE PRESENTED

Whether prosecutor's acts of nefarious obtained false conviction using false evidence, providing fabricated evidence, and presenting inadmissible hearsay evidence depriving Petitioner of a fair and meaningful trial.

The evidence was insufficient for a reasonable jury to conclude that Mr. Delgado had sexual contact with ZD.

B. SUPPLEMENTAL STATEMENT OF THE CASE

Reynaldo Delgado was found guilty by jury trial of two counts of rape of a child in the third degree and one count of child molestation in the first degree. Mr. Delgado received an indeterminate sentence of 216 months to life of total confinement by means of prosecutor knowingly using false evidence, concealing irrefutable exculpatory evidence to impeach State's primary witness,

submittal of inadmissible hearsay evidence from unqualified "expert" witnesses.

The jury reached a guilty verdict not by the evidence presented but by the prosecutor's fabricated themes and further bolstered by what the jury could have found to be a tall tale. ZD on eight different occasions during trial told the court that Mr. Delgado did not abuse her.

In child rape cases, because of the horrid depiction it places on the jury to focus on a child and not the evidence at large, prosecutors can take a mundane approach for a conviction with little and some times no reasonable doubt to the act(s) as in the case at bar.

c. **ARGUMENT**

PETITIONER HAS FULLY ESTABLISHED
CONSTITUTIONAL ERROR(S) THAT RESULTED
IN ACTUAL AND SUBSTANTIAL PREJUDICE.

An appellate court will grant review of a personal restraint petition when the petitioner makes a showing of constitutional error(s) from which he has suffered actual prejudice or non-constitutional error(s) that constitutes a fundamental defect that inherently resulted in a complete miscarriage of justice. In re Personal Restraint of Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990).

The court will reverse a fraudulent conviction when prosecutor had a constitutional duty to correct evidence he knew was false. Hayes v. Woodford, 301 F.3d 1054 (9th Cir. 2002). When denial of due process occurs where

State allows false evidence to go uncorrected. Hall v. Directory of Corrections, 343 F.3d 976 (9th Cir. 2003). When prosecutor obtained conviction by false evidence. Thompson v. Calderon, 109 F.3d 1358 (9th Cir. 1996). When prosecutor solicits false evidence or allow it to go uncorrected. United States v. Goodson, 165 F.3d 610 (8th Cir. 1999). When deliberate deception of a court and jurors in a criminal case by the presentation of known false evidence is incompatible with the rudimentary demands of justice. Giglio v. United States, 405 U.S 150, 92 S.Ct. 763, 31 L.Ed 2d 104. A conviction secured by the use of false evidence must fall under due process clause where the State allows false evidence to go uncorrected when it appears. Giglio v. United States, 405 U.S 150, 92 S.Ct. 763, 31 L.Ed 2d 104.

From the examination of ZD by Dr. O'Brian of High-line Hospital on August 28, 2004 which showed no abuse, ZD's statements that she was not abused by Mr. Delgado, affidavits from household members that should have testified, to prosecutors misconduct to procure a frivolous conviction, and Mr. Delgado's trial counsel's lack of preparation, inadequate investigation, and failure to present witnesses that can corroborate Mr. Delgado's version of events misrepresented by ZD. Mr. Delgado's case has been a total miscarriage of justice.

D. CONCLUSION

Mr. Delgado was deprived his constitutional right to a fair and meaningful trial where he was stripped of his due process. Mr. Delgado asks this Court to reverse his conviction and if nothing less remand for a new trial.

RESPECTFULLY SUBMITTED this 12th day of March, 2010.

A handwritten signature in cursive script that reads "Delgado Reynaldo".

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