

FILED
COURT OF APPEALS
DIVISION II

NO. 39221-6-II

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COURT OF APPEALS, DIVISION II

STATE OF WASHINGTON

BY
DEPUTY

STATE OF WASHINGTON,
Respondant

VS.

STEVEN A. RALEIGH.
aka JOSEPH F. LAW
APPELLANT.

STATEMENT OF ADDITIONAL GROUNDS

STEVEN A. RALEIGH
WASHINGTON STATE PENITENTIARY
1313 N. 13th Avenue
Walla Walla, Washington 99362

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON,)	NO. 39221-6-II
Respondant)	
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VS.)	
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STEVEN A. RALEIGH.)	
aka JOSEPH F. LAW)	
APPELLANT.)	

I. IDENTITY OF APPELLANT

I, STEVEN A RALEIGH, Appellant pro-se, and at all times reside at WSP, 1313 N. 13th Avenue, Walla Walla, and seeks the relief designated in Part II.

I have reviewed the opening brief prepared by my attorney. Summarize as follows are the additional grounds for review that are not addressed in that brief. I understand the court will review this STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW when my appeal is considered on the merits.

II. STATEMENT OF RELIEF SOUGHT

Appellant pro-se, requests that this Court grant a New Trial and or additional briefing by appellate counsel; also respectfully asks this court's full panal of Honorable Justices hear his case.

III. FACTS

STEVEN A. RALEIGH aka JOSEPH F. LAW(Raleigh) was charged by third imended information filed in Mason County Superior Courty with one count of residential burglary (Count I.) and one count of unlawful possession of a firearm in the first degree (Count II.)[CP 59-60). Raleigh stipulated to having a prior conviction involving a "serious offense". [Cp 56; Vol. X RP 314-315].

IV. ARGUEMENT

THE TRIAL JUDGE ERRED IN FLILING TO APPLY THE RYAN GUIDLINES FOR RELIABILITY AS TO MISS JAY'S CONFLICTING STATEMENTS AND TESTIMONY DURING TRIAL.

STATE V. CRUSE, 88 Wa. App. 905,946 P.2d 1229 (1997). Under CrR 3.6 the court is required to resolve factual dispuets.

Miss Jay was a witness and accomplice and was defending her status with the defense of duress. Miss Jay was also allowed to testify to facts excluded in pre-trial motions concerning abuse and assaults. Motions in limline presented in the verbatim report of the proceedings support my issue:

(page 72-73. & page 74-77, the Court granted defendants motion to limit Miss Jay's testimony. & page 280, Line #4).

During trial Miss Jay was questioned by the state as to the reason she lied in her first statement at the time of arrest,

testifying that it was a fear of beatings and abuse in the past. (Page # 296-304, defense objected, the court sustained. & page 296-304, side bar conference relating to pre-trial motions allready ruled on in favor of defense.).

Washington Superior Court Room Rules And Procedurs:

EXCLUSIONARY MOTIONS; once a pre-trial motion for suppression has been granted and the evidence has been ordered excluded, the defense objective has been obtained. Evidence cannot be introduced at trial.

MOTION PRACTIVE IN GENERAL; For defense pre-trial motions can be improtant part of criminal proceedings, and may obtain rulings which will improve his chances of acquittal by assuring him a fair trial.

STATE V. CRUSE, 88 Wa. App. 905,946 P.2d 1229 (1997). Under **CR 3.6** the court is required to resolve factual dispuets.

under Washington law, it is mandatory that before introducing evidence of any custodial statement, prosecution must offer to prove in absence of jury that statment was freely given and is untainted by coreive influence.

State V. Woods, 3 Wash. App. 691, 477 P.2d 182 (1970):
Criminal Law Kea 414,

In **Davis b. Alaska,** the broad discretion of a trial judge to preclude repetitive and unduly harrassing interrogation...the cross-examiner has traditionally been allowed to impeach ie, discredit the witness, and the exposure of a witness motivation

in testifying.

Page #305: The Court erred and prejudiced Mr. Raleigh's trial in reversing it's first ruling by allowing miss Jay's testimony on the subject of assaults of which were only allegations on her part.

ADDITIONAL GROUND 2

THE TRIAL COUR ERRED IN ALLOWING THE STATE TO ARGUE
THE DEFINITION OF ELEMENTS OF UNLAWFUL POSSESSION OF
A FIREARM RCW 9.94A.120 (16).

A public prosecutor is a quasi-judicial officer representing the state whose conduct when prosecuting a case must be worthy of his office. he can be zealous, but must seek a verdict free of prejudice, based on reason, and not deprive a defendant of a fair trial.

State v. Hudson, 73 wn.2d 660, 440 P.2d 192 (1968).

Verbatim Report of Proceedings (Page #352-355)

During defense closing arguments the state interrupts for a side bar conference, the state then quotes the definition of RCW 9.9A.120(16). This is a completely different statute other than which Mr. Raleigh was charged, or being on trial for. The court ruled it is a part of the defenation.

(Page #353-355) The state uses the **Theory and Defenation** that the gun could be made operational with a little effort in their

closing argument.

The Definition of RCW 9.94A.120(16) was not the statute from which Mr. Raleigh was charged, in the information. As well as deceiving on the part of the state, it was prejudice to the trial and jury.

A violation of his Sixth Amendment Constitutional Rights. "And informed of the nature and cause of the accusation".

The statute of which I was charged RCW 9.41.010(12)(a) would allow the state to argue the relevance that the firearm was operational to clarify the definition of the charge.

On (Page #208-210) Sergeant Bruce Bennet a jailer at the Mason County Jail and was allowed by the Court at the states request to testify as a gun expert, self proclaimed gun nut. It is my position he is not a gun expert, gunsmith, technical, ect. his only claim of credit worthyness being a firearm safety instructor for the jail. This does not equate to "Expert" gunsmith.

On Page # 213-219 the state had Sergeant Bennet dismantled the gun, and make it operational the day of the trial. We still don't know if that gun is to this day operational. Nowhere in the record was it tested. Thus there is prejudice.

We do know by his testimony it was not on October 10, 2009, or the jailer wouldnt of had to fix it. This should be tampered inadmissable evidence or fraud in proving the elements of the crime.

Sergeant Bennet does not have the expert training to testify

about dismantling and repairing a piece of evidence in Mr. Calleigh's trial, even before being elected by the court as a firearm expert.

Sergeant testified the gun needed a new firing pin. The gun was never test-fired and the evidence inadmissible. The gun was at the state crime lab when he altered the gun and it could have been testified.

The gun did not work and the state covered up the fact and the alternative theory was error in light of the facts.

ADDITIONAL GROUND 3

THE TRIAL COURT WAS ERRONEOUS BECAUSE IT RELIEVED THE STATE OF ITS BURDEN TO PROVE EVERY ELEMENT OF THE CRIME OF UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE RCW 9.41.040(1)(2), and being a manifest error effecting his Constitutional Rights.

A issue of manifest Error Affecting a Constitutional Error can be raised for the first time on appeal RAP 2.5(a)(3). State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980); State v. Kronich, 160 Wn.2d 873, 899, 161 P.3d 982 (2007).

"A error is manifest when it has practical and identifiable consequence in the trial of the case". State v. Stein, 144 Wn.2d 236, 240, 27 P.3d 184 (2001).

ADDITIONAL GROUND 4

THE STRUCTURAL CLAIM OF ALTERNATIVE THEORY WAS ERROR
IN LIGHT OF THE CHARGING INFORMATION DID NOT GIVE
NOTICE BEFORE INTRODUCING NEW THEORY WITHOUT THE
OPPORTUNITY TO DEFEND WAS CONTRARY TO CLEARLY
ESTABLISHED LAW.

In light of CR 2.1(1) the charging information did not give notice that Mr. Raleigh could defend against, because it was not precise. This error violated his Sixth Amendment Right to have the jury pass on all the elements of the offense.

It was difficult for the defense to determine which set of facts the state intended to rely.

Moreover, the structural claim of alternative theory was not in the information. (In light of the state informing him of the charges against Mr. Raleigh and the factual basis of the charges against him.

There was no good faith effort to inform Mr. Raleigh of the charges he could defend against. In Mr. Raleigh's case the charging information states "Firearm is a weapon or device from which a projectile may be fired by an explosive such as gunpowder."

This happened during defense phase of the closing argument verbatim report of the proceedings (Page #353).

The state introduced a element and definition completely

different, of RCW 9.94A. 120(16), giving a different meaning to which the crime he was charged in the information, and a alternative new theory, Thus, denied Mr. Raleigh a chance to defend.

This shifted the burden of proof at a critical stage. The defense could not defend against by calling witness's or present evidence of the newly injected theory. United States V. Perlaza, 439 F.3d 1149, 1171 (9th Cir. 2006).

The state's misconduct is apparant when it is applied to the Mens Rea and the standards set out in CR 2.1(1). Because the information charged does not show the gun as being a disassembled firearm that can be rendered operational with reasonable effort and within a reasonable time period there is prejudice.

The allowance to introduce elements and the definition of another RCW and lack ability to defend against, it is eror that predjudiced and contributed to the verdict obtained.

A pleading is insufficient when it does not give the opposing party fair notice of what the calim is and the ground upon which it rests. State v. Jones, 142 Wn.2d 17 (2001).

The state shifted the burden of proof United States v. Perlaza, 439 F.3d 1149, 1171 (9th Cir 2006).

The response in closing that the jury could find Mr. Raleigh guilty based on the gun being made operabletable was error.

V. CONCLUSION

Mr. Raleigh's defense had controverted general liability and vigorously contoverted proncipal liability and the state's

attorney resorted to misleading facts not in the charging information and not the evidence in general. The jury verdict would not have been the same without the erroneous misconduct and reversal is warranted.

Dated this 16th day of November, 2009.

STEVEN A. RALEIGH

Steven A. Raleigh

Certificate of Service

Steven A. Raleigh hereby certifies under penalty of perjury under the laws of the State of Washington that on the 16TH day of November 2009, I delivered a true copy and correct copy of the Statement of Additional Grounds for review to which this certificate is attached by United States mail to the following:

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