COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II
2014 MAY 22 PM 12:59
STATE OF WASHINGTON
BY DEPUTY

STATE OF WASHINGTON Respondent, v. Daniel D. Anderson (your name) Appellant.	)))))))))))	No. #45008-9-II STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Daniel D. Anderson have received and reviewed the opening brief prepared by my attorney. Summarized below 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.

Additional Ground 1

"Ineffective Assistance of Counsel Amended"

Trial counsel was ineffective for not addressing the initial hand written statement from the alleged victim Ms. V. Montes Boles which would have demonstrated the elements for First Degree Robbery did not exist against counsels client Mr. Anderson. -SEE Attached-

Additional Ground 2

"Prosecutorial Misconduct"

The "defendant" Mr. Daniel D. Anderson herein argues: The "prosecutor" committed flagrant, prejudicial misconduct and constitutionally misconduct which compels reversal.

-SEE Attached-

If there are additional grounds, a brief summary is attached to this statement.

Date: May 19TH, 2014 Signature: Daniel D. Anderson

Form 23

Ineffective Assistance Amended through Statement of Additional Grounds

May 19TH, 2014

Trial counsel Mr. Craig J. Kibbi should have questioned that the Declaration for Probable cause Report was different than what the alleged victims initial written statement indicated at time of incident. See pg. 230 of verbatim LINES 2-4

Trial counsel disregarded assigning an investigator to this court case upon my request to conduct an investigation which would have produced inadequate, and unsupportive evidence to support a conviction.

Trial counsel "withheld potential material" evidence that could have been deemed admissible, and used on defendant Anderson behalf, as requested through Mr. Anderson.

(a.) An Inmate Inventory property sheet that's provided to individuals booked into the County jail which shows what the individual had on his/or her person. As listed, I had my own cell phone, a show of money, jewelry, and a black & red Chicago Bulls jacket which differs from the description of clothing provided to authorities by the alleged victim Ms. Montes Boles. See pg. 200 of verbatim Lines 21-25 Officer O'Rourke confirms what clothing defendant Anderson wore.

(b.) A letter written to me by a friend dated November 5, 2012 two days after this alleged incident inwhich the party whom wrote the letter "Michelle Petit" whos a shift supervisor at the McDonalds which is mentioned within the reports, describes in the letter what she last saw me wearing November 3rd, 2012 which was black and red. Bulls jacket which is reversible, and becomes all "red."

Trial counsel Mr. Craig L. Kibbi requested of defendant Mr. Anderson to allow him to take the letter that was written by Ms. Petit indicating it would be used at trial since the letter confirmed through a requested witness what I wore the day this alleged crime was said to have taken place.

Appellant Daniel D. Anderson contends that a manifest injustice has occurred in this court case matter and case should be remanded back to court for dismissal with conviction reversed. As trial counsel without question deprived defendant Mr. Anderson his right to a fair and just trial do to his ineffective assistance of counsel through prejudice not only through what was submitted within defendants opening brief,

but also for failing to subpoena requested witnesses upon defendants request.

(C.)

Requested Witnesses, that trial counsel failed to subpoena at my request for trial.

(1.) Michelle Petr — Manager at McDonalds
(2.) Earnest Bledsoe — Friend
(3.) Alphonso Roacha — Mentioned within transcripts
(4.) "Mello" — nickname
(5.) D'juan J. Allen — co-defendant

Attorney-Client-Relationship

(D.)

Attorney client priveledge broken ELC 5.4 Trial Counsel spoke with a Nicole Weaver on November 30, 2012 at an Omnibus hearing without my permission, disregarding my mother Gloria Greene attempt to inquire about my court case.

(E.) Trial counsel made know attempt to safeguard, and argue on defendant Mr. Anderson behalf that my Fast & Speedy rights have been violated as I never signed any continuances, with the case being over 200 days old as I indicated in open court February, 2013 as counsel failed to exert any effort in defending my complaint in violation of the Sixth Amendment.

ARGUMENT

US v. SIMEONOV, 252 F3d 238 (2nd Cir.)
Where a defendant voices a seemingly substantial complaint about trial counsel, the court should inquire into the reasons for dissatisfaction. In this case, the court disregarded defendant Anderson complaint through letter written. See pgs. 45-47 of Verbatim.

LOCKHART v. TERHUNE, 250 F3d 1223 (9th Cir.)
Defendant's Sixth Amendment right to counsel includes the right to be represented by an attorney with undivided loyalty.

MITCHELL v. MASON, 325 F3d 732 (6th Cir.)
The pre-trial period constitutes a "critical period" in criminal proceedings because it encompasses counsel's constitutional ly imposed duty to investigate the case.

"ACTUAL INNOCENCE EXCEPTION"
State v. ANJ. 168 Wn. 2.91 11, 15 Head Notes
It's Ineffective assistance of counsel when trial attorney failed to conduct reasonable investigation by not assigning an investigator to the instant case and failure to explore the possibility defendant Mr. Anderson had been misidentified as one

of the reported perpetrators when in fact the alleged victim Montes Boles clearly indicates within the reports, and probable cause report when asked to identify, she states she was not sure about defendant Anderson.

US V. HOLMAN, 314 F3d 837 (7th Cir.)
Conflict of interest between defendant and his trial counsel would be violation of the Sixth Amendment.

In this case, there was very much conflict between defendant Anderson and trial counsel Mr. Craig D. Kibbi whereas the Washington State Bar Association held a Disciplinary Committee board meeting July 26, 2013 against trial counsel for my grievance complaint regarding conflict and ineffective Assistance of counsel I was experiencing.

U.S. V. MORRISON, 449 US 361, 66 LEd 2d 564, 101 SCt 665
Reversal mandated if prejudice is proven on attorney-client relationship.

It should also be noted that defendant Anderson did write letter to DAC supervisors* Mr. Richard Whitehead, and *Mr. Michael Kawamara complaining about the conflict I was experiencing with

trial counsel do to his poor performance with handling the case, disregarding his responsibility towards representing to the best of his ability upholding his ethical obligations.

ISSUES PERTAINING TO PROSECUTOR MISCONDUCT

ARGUMENT

The defendant Mr. Anderson herein argues the prosecutor Mr. James S. Schacht committed flagrant, prejudicial misconduct and constitutionally misconduct which truly compels reversal.

US v. ALDRICH, 169 F3d 526 (8th Cir.)

Evidence of a prior crime is always prejudicial to a defendant because it diverts the attention of the jury from the question of the defendant's responsibility for the crime charged to the improper issue of his bad character.

In this case, the prosecutor spoke of the defendant Mr. Anderson selling Ms. Boles drugs which was irrelevant to the case charged.

GOMillion v. LiGHtFOOt, 364 US 339, 5 LEd 2d 110, 81 SCt 125

One must be ever aware that the Constitution forbids sophisticated as well as simple minded modes of discrimination.

US v. NICKENS, 955 F2d 112
US v. IGLESIAS, 915 F2d 1524

It is improper for prosecutor to inject personal beliefs about the evidence into closing argument or to call the defendant a liar. Here within this case, the trial prosecutor did indicate during closing argument that the defendants may have disposed of Ms. Montes Boles cell phone before they were apprehended by authorities. Which is a personal belief, and improper injection to the jury seeing as how there was never an phone confiscated to be used at trial to support the accusation.

(1960); State v. Suarez-Bravo, 72 Wn. App. 359, 367, 864 P. 2d 426 (1994)

Further, a prosecutor must refrain from engaging in tactics the purpose of which is to "win" a conviction at all cost. See pg. 256 of the Verbatim Lines 14-22. There was withheld portions of the 911 tape. Ms. Montes Boles was not initially on the phone that made the call. Which violates the Hearsay Rule.

See State v. Rivers, 96 Wn. App 672, 675, 981 P. 2d 16 (1999).
Instead, it is the prosecutors duty to seek justice which requires seeking convictions based solely on the evidence, rather than emotion or other improper grounds which may prejudice the defendant.

See State v. Monday, 171 Wn. 2d 667, 677, 257 P. 3d 551 (2011)

As "quasi-judicial" officers, prosecutors ("repeat") prosecutors enjoy special status but also have special duties, including the duty to ensure that the defendant receives a fair trial.
Berger v. United States, 295 U.S. 78, 88, 55 S. Ct. 629, 79 L. Ed. 2d 1314 (1935), overruled in part and on other grounds by Stirone v. United States, 361 U.S. 212, 80 S. Ct. 270, 4 L. Ed. 2d 252

In this case, the prosecutor failed in those duties and committed serious constitutionally offensive misconduct by addressing to the jury defendant Anderson sold "crack cocaine" to the alleged victim Ms. Montes Boles which was irrelevant, and inadmissible testimony to the case. also urging co-defendant Mr. Djuan Allen to write a statement against defendant Anderson stating he must implicate

defendant Anderson in some type of way to the charged crime of Robbery 1st Degree In order for the state to fully grant Mr. Allen's plea deal when it was apparent to all attorneys during the first day of jury selection that co-defendant Mr. Allen had planned intentions of writing an statement for defendant Anderson indicating that I never told him or anyone for that matter to take an alleged cell phone from Ms. Montes Boles.

Further more, the prosecutor willfully prejudiced defendant Anderson by disregarding calling potential key witnesses to testify whom were listed as witnesses that apparently witnessed the alleged incident and would have testified truthfully as to confirming the fact that defendant Anderson never had contact with Ms. Montes Boles the night this incident was said to have transpired on November 3, 2012 as I was never on the scene when it was said to have taken place which explains the many deficient statements provided to authorities by Ms. Montes Boles who holds a personal vendetta towards defendant Anderson, and would provide false testimony in a retaliatory effort to seek revenge.

"Witnesses"

MESAREOSH v. US, 352 US 1 LEd 2d 1, 77 Sct 1

Truthfulness of testimony... The dignity of the United States Government will not permit the conviction of any person on tainted testimony.

US v. MILLER, 263 F3d 1 (2nd Cir.)

Due process requires that a convicted person not be sentenced on materially untrue assumptions or misinformation clearly define the conduct that it prohibits.

CONCLUSION:

It saddens me to not only see but witness through first hand experience the misconduct that the prosecution, and trial counsel demonstrated through out the trial court proceeding "to win at all cost" even if it meant breaking the rules governed through the code of law to convict. So many defendants fall victim to poor representation through misrepresentation with court appointed counsels who demonstrate unprofessional, unethical,

inappropriate, and inadequate behavior which often times such as within the current case, prejudice the defendant Mr. Anderson from having a fair trial, and for the very reasons listed in totality within the defendants Statement of Additional Grounds supported by the defendants Appelant Attorneys opening Brief, the defendant respectfully ask of this court to grant in his favor to remand this court case back to court and reverse his conviction of First Degree Robbery.

Dated this 19TH day of May, 2014

Case No. # 45008-9-II

Sincerely

Daniel D. Anderson