COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

2016 APR 15 AM 11: 14

STATE OF WASHINGTON
BY
DEPUTY

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
NEGLIA NETTLES)
(your name))
)
Appellant.)

No. 48225-8-II

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, NEGLIA NETTLES, 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

Plain ERROR OCCURED PROSECUTOR WAS ORDERED BY COURT NOT TO BRING 9 SKING WITNESSES EXCLUDED EVIDENCE MARKED 403(b) PERTAINING CKS Pg 12 (8-11) HE QUESTIONED WITNESS McKENZIE ABOUT SAME CHECKS PROSECUTOR FAILED TO ASK COURT TO ADMIT EVIDENCE WHILE QUESTING WITNESS Pg 50 (22-24) Pg 32 12-25 Pg 33 (1)

LEE-VS-Illinoise
476 US 530, 546 106 SCT 2056 90 L Ed 2d
514.20 FED R. EVID SERV 513 (1986)

Additional Ground 2

MIRANDA VIOLATION BY OFFICER McKenzie ERRD I WAS ARRESTED THR LATER AN NOT READVISED MIRANDA WHILE QUESTING I WAS ARRESTED AFTER QUESTING AT 2nd ENTERAGATION OFFICER McKENZIE STATED HE DOES NOT HAVE NO IDEA WHAT TIME HE HANDCUFFED Defendant EXHIBIT 7 Evidence WAS not Admissiable, NO Evidence Admitted By COURTS Pg 60 Pg 96 Pg 97 Pg 59 Pg 47 (18-25)

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

Date: 4-14-16

Signature: Neglia Nettles

Form 23

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Criminal Procedure Checklist
FIFTH AMENDment

Double Jeopardy - Trial and Appeal

FILED
COURT OF APPEALS
DIVISION II
2016 APR 21 AM 11:52
STATE OF WASHINGTON
BY
DEPUTY

Transcripts
*Pg 84 Indicates not admissible Statement From Prosecuters Harless; Exibit 10 Was admmited By Trial Court Violated Defendant Nettles Based on insufficient Evidence *Pg 86 Prosecuter Stated He Failed to admit* * Exhibit 11 Evidence*

Chapter 13:7 Reversal based on insufficient evidence: Double jeopardy bars Retrial when a reversal is based on insufficient evidence

The question presented by this case - whether the Double Jeopardy Clause allows retrial when a reviewing court determines that a defendant's conviction must be reversed because evidence was erroneously admitted against him and also concludes that without the inadmissible evidence there was insufficent evidence to support a Conviction was expressey reserv[illegible] in Green v. MASSEY ... We think the BURKS requires that question be answed in th[illegible] LOCKHART v. Nelson 488 U.S 33 40 109 S. Ct 28[illegible] Ed. 2d 265 (1988)

Transcript Pgs 97-100
Error occured while after
Evidence was failed To
be provided By Prosecuter
Harless against Defendant
Hes Statement was Nettles
washed a check by Leanora Strickl-
and. He ask Court to find Nettles
guilty for madmissble evidence
such a Exhibits 1, 7, 10.
He stated He failed to admit
Exhibit 11.

Weather Trial ERROR
Occured Defendant Nettles
Did not get a fair Trial
Prosecuter Prejudicial
Chapter 14:3

Clause (10)

Although a Prosecutor is allowed
to argue reasonable inferences from
the evidence It is thus improper
for a prosecutor during closing
arguments to bring to the
attention of the jury any
purported facts that are not
in evidence and are prejudicial

Macias vs MaKowski 291 F.3d 447, 2002
FED App. 0186P (6th Cir. 2002)

on Chapter 13.7 Clause (8) Double Jeopardy

Transcript Pg 39-41 Indicated Prosecuter Harless Ask Officer McKenzie To Read Exhibit 1 Evidence Which describes (Describe) The Defendant Description Failed to admitted evidence at trial

Transcript Pg 59-60 Prosecuter question Officer McKenzie asking Do you 'you know what time you put Defendant Nettles in Custody? Prosecutor Told Officer McKenzie To Read Exhibit 7 Evidence Trial Court Error in Admitting Evidence against Defendant

Transcripts 96-97
Clause 8 "A finding of insufficient evidence is akin to an aquittal and bars the defendants Retrial under the Double Jeopard Clause.... If improper admission of evidence, on the other hand, is 'trial error,' the double jeopardy bar does not attach, and a retrial may be had on remand. US v Rogers, 387 F.3d 925 (7th Cir 2004)

Clause (13) Fifth amendment Criminal Procedure Chapter 13

The Double Jeopardy Clause bars retrial of a defendant when the defendants conviction is reversed because the governments evidence was insufficient to sustain the jury's Verdict... In contrast, the Double Jeopardy Clause does not bar retrial of a defendant when the defendants conviction is set aside for trial error such as erroneously admitted evidence (U.S. VS Hudspeth, 42 F. 3d 1015. 1025 (7th Cir 1994)

Clause (14) If the Defendants conviction is overturned on the ground that the government adduced insufficient evidence to support the conviction, reprosecution is barred because the defendant was entitled to an acquittal at the first trial. U.S. VS Dalton, 990 F. 2d 1166, 1168 (10th C.R 1993)

Criminal Procedure Checklist Fifth Amendment

Statement and Miranda

Chapter 3:4 Adequacy of Warning: Question first and Warn Later

pg 40-60 Once on the Scene Officer McKenzie Question Defendant Nettles Miranda was read and questions followed Officer McKenzie TOLD Nettles She was not under arrest She waited in Bank while he Perform an investigation a substantial time had past after his second interrogation He did not Readvise Miranda would and later Told Nettles she was under arrest and custody

Clause 6)

It is well established that Miranda warnings must be communicated to a suspect before he is subjected to custodial interrogation... A custodial situation necessitating Miranda Warning arises... where there is a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest

Next Page

Chapter 14

Miranda Waiver after assertion: A suspect may waive his right to remain silent after invoking it if the government agents have scrupulously honored the suspects right to remain silent.

Clause (19) If a person in custody indicates that he wants to remain silent he may not be questioned further unless he initiates communication, or (1) a significant period of time has passed after the initial questioning ceased, (2) the suspect is given a fresh set of Miranda warnings and (3) the second interrogation concerns a crime that was not a subject of the first interrogation

Transcript Pgs 95-97

US v. Bogle, 114 F.3d 1271, 1274 (D.C. Cir. 1997)

Miranda and Statements

Chapter 14
clause (13)

Under Elstad, statements made after knowing and waiver of Miranda rights are admissible unless ther were earlier un warned statements resulting from coercion or a calculated effort to undermine the suspects free will If a Delibrate strategy was used to suspects free well avoided Miranda's requirements Elstad does not apply and post warning statements related to the substance of what was said earlier are inadmissible in absence of curative measures

U.S v. Briones 390 F.3d 610 (8th Cir. 2004)

14:4 5th Amendment

(1) The Prosecution saw but Without PROphylaxis to call to the stand witnesses whom it had clear reason to believe might have conspired to lie under oath The manner in which trial unfolded leaves us with the definite conviction that the process itself lack fundamental fairness and delivered a palpably unreliable results. In this connection, the principles which compel our decision here are not designed to punish Docely for the misdeeds of a prosecutor but to vindicate the accuseds constitutional right to a fair trial a fundamental right for which the prosecution shares responsibility with the Courts

Commonwealth of Northern Mariana Islands v. Bowie 243 F.3d 1109, 1123 (9th Cir. 2001)

Prosecutorial Misconduct

6th Amend
Prejudice Chapter 14.2
This Court has established a two part test
~~We employ the~~ for reversible
Prosecutorial misconduct
② The Such remarks or Conduct
must have Prejudicially
affected the Defendants
Substantial Rights So as to
Deprive the defendants of a fair
(1) Trial We employ the
following three Factors
to determine the
prejudial effect of Prosecutorial
Misconduct:

① The cumulative effect of such Misconduct

② The strength of the properly admitted evidence of the Defendants guilt

③ The curative actions taken by the court US-Vs-Katz 445 F.3d 1023, 70 Fed R. Evid. Serv. 135 (8th Cir. 2006)

over—

State-Vs-Soh (2003) 115 Wash. App 290, 62 P, 3d 900

State-Vs-Hoffman 2003 115 Wash. App 91, 60 P.3d 1261 Reversed 150 Wash 2d 536, 78 P.3d 1289. Criminal Law 1166(1)

11:3

(3) In Sum we are not convinced that there exist Suficient indica of Reliability Flowing from either the circumstances SuRRounding the confession or the interlocking character of confessions to over come the weighty presumption against the admission of such un crossed examined evidence We therefore Hold that on the Record before us there is no occasion to depart from the time honored teaching that confession inculpating the accused is inherently un Reliable and that convictions supported by such evidence violated the CONSTITUTIONAL Right of CONFRONTATION

6th Amendment chapter 11