November 14th

FILED
COURT OF APPEALS
DIVISION II
2017 NOV 17 AM 11:38
STATE OF WASHINGTON
BY
DEPUTY

To the appeals Court,

I am writing to address the court of appeals regarding some expansion on the assignment of errors presented by my appeal counsel, as well as assignment of errors I myself ~~contributed~~ feel are relevant to the case.

First, my appeal counsel assigned error to the prosecutors flagrant, prejudicial, and ill-intentioned misconduct during trial. I agree with everything presented by my appeal counsel, but want to add that it was always the intent of my defense to ensure I was given a fair trial, and the presentation of my physical manifestations during the trial, which was clearly present in front of the jury, required that my diagnosed disability be presented.

RP 864-13, during the jury instructions, "The manner of the witness while testifying" is given to the jury on judging credibility of a witness. My physical manifestations could easily be interpreted negatively towards my credibility - appearing to look guilty from the twitching, constant movement, and nervous glances around the room. It was imperative to my defense and ability to be present at my trial that this be explained, and verified.

My disability and physical, as well as mental, manifestations have been made known and aknowledged by the trial court since the beginning. At the ~~following court proceedings~~ May 28th, 2015 proceedings 32-15 through 25 my trial attorney shares an explanation for my movement. The court aknowledging "You're exhibiting some odd symptoms." The proceedings with Judge Stahnke on October 26th, 2015

addresses the same, 36-16 (Mr. Thayer): "he has physcological symptoms of his PTSD and and anxiety disorder. As the court can see, he's just - he can't stop moving."

At the February 17th, 2016 proceedings I was absent, as I had been hospitalized as a result of my disability. Page 43-1 through the rest of the proceedings is regarding my disorder, and how it physically manifest. 43-5 "he would literally shake like this (demonstrates) constantly, constantly." The following two hearings addressing my hospitalization as well, with the Courts being provided numerous details regarding my disability.

If I had not presented my specific disability in trial I would have been open toward extreme prejudice in regards to my manner at trial, which could be used against me, in addition to my mannerisms of constantly moving on the day in question - and how I awoke from my night-terror when police arrived.

The jury was told in their instructions not to let emotions overcome your rational thought process, and the prosecution could have discussed that specifically. Yet as my appeal counsel has pointed out, leading the jury to believe I presented truths regarding my disability to mislead them was blatantly prejudice, and attacked my right to even be present at trial.

Next I would like to expand upon my appeal counsels argument regarding areas of misconduct by the prosecutor in which my defense counsel repeatedly failed to object. Specifically "(Prosecution) did not have to prove why he did this."

In addition to the numerous arguments my appeal counsel has presented, I also add that in addition to the accused second-degree child molestation charge, which requires proof of intent of sexual gratification, the attempted second-degree rape of a child conviction I was found guilty of used the allegations of second-degree child molestation as the "substantial step" needed to prove an attempt. Those two counts go hand-in-hand, and make it essential that intent of sexual gratification be proven. As my appeal attorney put it, it is simply not true that they didnt "have to prove why he did this". RP 909

This brings up the crucial error presented by my appeal attorney regarding allowing the trial court to increase the charges against me mid-trial. In addition to what has already been presented regarding the assigned error, I add that the trial court itself acknowledged the possibility of Jurors seeing more than one count of second-degree child molestation. After initial closing arguments by the state, the court at 911-5 identify the concerns of needing a Petrich instruction for more than one alleged touching, going so far for the courts to perfectly outline the issue at 911-16 "The court: Because the concern, counsel, would be that two jurors believe the poll-up bar.". Immediately following with the State: "Oh, no, I agree your Honor, that we could." This perfectly outlines how the state, and even the trial court, was not truly looking at "one-incident", and that adding the two new charges truly did prejudice me in an un-reversible manner. The additional charges were objected,

in that they clearly violated my right to due process. I add that in addition to the prejudice already presented - it completely negated the jury selection questioning. Basic inquiry with the jury in asking what they would consider an "attempt" or a substantial step taken toward something would have been a rudimentary question. However when there was no notice as to me facing the additional charges, the prosecution stripped me of those ~~essential~~ essential components; and the Court wrongfully allowed it.

Now I would like to address areas with the questioning with the Forensic specialist in which I also recieved substantial prejudice. The court wrongfully prevented clarifying questioning with Kashiwabara. It is already very clear that the circumstantial evidence presented by the prosecution had little to no weight on the trial, with even the jury's question later during deliberations "Can we convict the defendant on a civilians testimony alone", showing no interest in it.

However even if a negative to my defense component from the testimony was ~~taken~~ taken, the cross examinating testimony was prejudiced by the court when specific and direct questioning regarding DNA transfer and may case specifically was prevented. During the entirety of the cross-examination of Kashiwabara ~~specific~~ general science based questioning regarding DNA transfer non-specific to me and the case was asked. That lead up to case specific questioning at 576-1. My case and the transfer in question was presented, "hypothetically, two people, as in this case, were handling the same objects all day long, you can't rule out the possibility

that HL's DNA could have been identified on Paul Teters left hand as a result of harmless interaction either with her directly or with objects indirectly that they both handled throughout the day?" The Prosecution objected and the state allowed the questioning. Kashiwabara at 576-13 stated that she can't tell the difference between direct and indirect DNA transfer. When my counsel attempted to sum up the explanation, of both direct contact and indirect contact, regarding DNA transfer and how it specifically applied to my case, the prosecution objected and it was sustained, even after my counsel pointed out that Kashiwabara did not get to answer the question. (577-1 through 577-13)

This was blatantly prejudicial towards me, and uncorrectible should any member of the jury having found reason to find me guilty from the circumstantial evidence presented. The line of questioning regarding how DNA transfer works, specifically through direct and indirect means, was toward the question at 577-1 to sum it all up. The Court erroed in not allowing Kashiwabara to answer, in that my counsel was correct, "She didn't get a chance to answer that question, and that the answer at 576-13 was merely her conceding that she is limited in detecting a DNA source, not that she specifically could not determine source in my case. The fact that the prosecution objected during the line of questioning at 576-8, it was essential to ask the question without interuption or confusion about what is being asked. Critically because of how much weight the prosecution was putting on this circumstantial evidence to convict.

Now I want to point out how pictures that showed me in Police

custody, essentially "mug shots", were allowed to be used in trial, specifically showing me in a negative light to the jury and ~~prejudicing~~ put me in an unfair and prejudiced light. In this case, as my appeal attorney has already pointed out, when credibility is the center of my wrongful conviction, there was no reason to show profile pictures of me (496-14) in police custody, my hands bagged, at 2:00 am in the morning after a panic attack. There was zero reason to show the jury those pictures (Exhibit 9 and 10), as my defense counsel stated at 496-16 "we're stipulating that he had his hands bagged."

Those pictures showed me in a prejudiced tone. I argue that it is common sense that anybody at 2:00 am, hands bagged, in police custody, and accused of a glotesque sexual crime is going to looked at in a negative tone. During the questioning of Kashiwabara the DNA expert, as she described how samples were processed in her lab, photos are not needed. Just as the Exhibits 9 and 10 were not needed of me, and instead presented to show me in "mug shot" type conditions, prejudicing my credibility. My defense counsel objected at 496-16, and The Court errored in allowing them.

For these reasons, and the reasons presented by my appeal counsel, The court should grant relief, and reverse the convictions I wrongfully recieved. Any of the errors shown have a significant weight to the ultimate verdict recieved, as credibility has been the heart of the case - and the states own impeached and conflicting witnesses should highlight just that. Thank you for hearing me out.

Very Respectfully, Paul Teters

Paul Teters

Dear Mr. Byrne - Court Clerk,

The following pages are my pro se statement of additional grounds for review in the appeal case #49357-8: State of Washington (Respondent) v. Paul Luke Teters (Appellant)

I apoligize that it is be presented hand written. I did not recieve the verbatim report of proceedings until 10/30/17, and wanted to ensure this was recieved on time.

Very Respectfully,

Paul Teters

Paul L Teters 11/14/17

RECEIVED
NOV 17 2017
CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON