FILED
COURT OF APPEALS
DIVISION II

2017 JUL 31 AM 9:06

STATE OF WASHINGTON
BY
DEPUTY

NO. 49444-2 II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISON TWO

STATE OF WASHINGTON
Respondent

V.

MICHAEL ROWLAND
Appellant

ON APPEAL FROM THE SUPERIOR COURT OF
THE STATE OF WASHINGTON FOR PIERCE COUNTY

STATEMENT OF ADDITIONAL GROUNDS

MICHAEL EUGENE ROWLAND
Pro se statements

Walla walla State Penitentiary
1313 N. 13th Avenue
Walla Walla WA 99362-1065
FE 108 393734

Table of Contents

A) Uniform Criminal Extradition Act Pg. 1 - Pg. 2 The Uniform Extradition and Rendition Act Uniform Rendition of Accused Persons Act Pg. 3 - 4 Constitutional Amendments Pg. 5-7 Case Law Regarding Extradition

1. Extradition Arguement

3) Accomplice Case Law Pg. 1-2

1. Accomplice Argument

:) Prosecutorial Misconduct Pg 1-5 Case Law

1. Witness Tampering
2. Jury Instruction / Case Law
3. closing Arguments

D) Additional Issues / closing Remarks

Uniform Criminal Extradiation Act
RCW - 10.88.290

o person arrested upon such warrents shall be delivered over to the Agent whom e executive Authority demanding him shall have appointed to recieve him/her unless he nall first be taken forthwith before a Judge of Court of Record in this State who shall nform of the demand made for his surrender and the crime with which he is charged and hat he has the Right to demand legal cancel: And if the prisinor shall State that he desires to e legality of his arrest. The Judge of such Court of Record fix a Reasonable time to be allowe m within which to apply for a writ of Habeas Corpus. When such writ is applied for notices reof and the time of place of hearing thereon shall be given to the prosecuting office of the unty in which the arrest is made and which the accused is in custody and to the said agent f the demanding state; PROVIDED that the Hearing Provided for in this section shall not e avaiable except as may Contitutionally required if a hearing on the legality of Arrest as been Held pursuant to RCW 10 88 320 or 330

RCW 10. 88. 430 - Waiver of Extradiction

ny Person arrested in this state charged with having committed any crime in another state or llledged to escape from confinement or Broken terms of his Bail probation or parole may aive the inssurance and service of the warrent provided for in RCW 10. 88. 260 d 270 and all other Procedure incidental to extradiation Proceedings by executing or bscribing by such person it shall be duty of the Judge to inform such person of his ights to inssurance and service of a warrent of Extradiation and to obtain a writ f Habeas Corpus as provided RCW 10. 88. 290

f and when such consent has been duly executed It shall be fowarded to the office of e governer of the state filed therein The Judge shall direct the office having ch person in custody to deliver forthworth such person to the duly accridet ent of the demanding state and shall deliver to such agent/agentes A copy of consen OVIDED HOWEVER that nothing in this section shall be deemed to limite the Rights f the accused to Return voluntarily and without formality to the demanding state or shall this waiver Procedure be deemed to be an exclusive procedure or to limit e Power, Rights, or Duties of the demanding state

Uniform Criminal Extradiation Act 11 ULA § 25-A

efore the waiver is executed or subscribed to the court must inform the fugitive of the surance and service of a Rendition warrent as well as the Right to Habeas Corpus e court should also advise the Fugitive of the Right to assistance of Council either assign or Retained once the Waiver is executed it is Fowarded to the fice of the government of the Asylum State.

RCW 10.88.290 - Delivery of Person in violation

The Uniform Extradition and Rendition Act

In 1980 the National Conference of commissioners on Uniform State Laws Approved the Uniform Extradition and Rendition Act 11 U.L.A. §§ 146-168. This Act would have superseded both the U.C.E.A. and the Uniform Rendition of Accused person ct. However to date. It has only been adopted by North Dakota. The intent of the Act was to provide for a more expeditious and less cumbersome xtradition process

I.D. Cert. Code §§ 29-30.3-01 to 29-30.3-26 see France v Judd 932 so. 2d 1263 Fla dist. ct App. 2006) (citing North Dakota as the only state to adopt this Act.

Uniform Rendition of Accused persons Act

is Act does Not conflict with the Uniform Criminal Extradition Act. However n these limited circumstances. It provides means to by pass the UCEA's rocedural requirements and is thus less cumbersome. Pursuant to the niform Rendition of Accused person Act The Accused individual is brought irectly to court where appropriate measures are taken to protect the ccused's Rights. Thus by passing the requirements that the state governor gencies, or department get involved. But not many Jurisdiction have dopted this Act.

RTicle 4 claus 2 United States Constitution
A person charged in any state with treason felony or the crime who shall flee om Justice and be found in another state shall on demand of eecutive Authori f state from which he fled be delivered up to be Removed to the State aving Juridicition of the crime

RTicle 1 Section 3 Declaration of Rights WAshington State Constitutio No Person shall be deprived of Life Liberty or property without due proces f the Law

Rticle 1 Section 2 WAshinton state Constitution
The Constitution of the United States is supreme Law of the Land

RTicle 4 section 1 Full Faith and credit United States Constituti Full Faith and credit shall be given in each State to the Public Acts, Records nd Judicial Proceedings of every other state and the congress may be general aw prescribe in the manner in which such acts Records and proceedings shall be oved and effect there of

RTicle 1 Section 22 Washington State Constitution
Those charged with a crime have a constitutional Right to Know the ature and cause of the accusations made agaist them and Constitutional ight of Notice of every fact that increases penality they face

Rticle 4 Section 2 united States Constitution
k cittizein of each state shall be entitled to all Privilidges and Immunities of tizens in the severel States

4th Admendment Constitution United States
No person born or naturalized in the U.S and subject to the Jurisdiction ere of are citizens of the U.S and of the States wherein the reside No state shall ake or enforce any Law which shall abridge the privledge or immunities of itizen of the U.S. Nor shall any state deprive any person of life, liberty or property thout due process of Law nor deny to any Person within Jurisdicution the equal rotection of Law

A

Sixth Admendment of united State Constitution

In all criminal procusecutions the accused shall enjoy the Right to a speedy nd public trial by impartial Jury of the state and district where in the rimes shall have been committed which district shall have been previously scertained by Law and be imformed of the Nature and cause of the ccusations; to be Confronted with the witness sgaist him to have compulsor rocess for obtaining witness in his favor and have the assistance of counsel or his defense

onstitution b claus 2 - Supreme Law

The constitution and law of the U.S which shall be made in pursuance ere of and all treaties made or which shall be made under the Authority F the U.S. shall be the Supreme Law of the Land and the Judges in very State shall be bound there by anything in the constitution f Law of any state to the contary not withstanding

A

Case Law

rumley v Snead 620 F.2d 481 483 (5th Cir 1980)
The court Reversed the district court's summary Judgement and Noted hat the Right to an Extradiation Hearing was secured by the constitution ny denial of this Right gave Rise to Cause of Action therefore summary udgement was apporiate

uyler v Adams 449 US. 433, 101 S. Ct. 703 66 L. Ed 2d 641 (1981)
he right to Pretransfer hearing - Before transfered to another jurisdiction Pursuant to rt. IV of the detainer agreement. The court of Appeals for third circut held as matter of statutory construction that a prisoner is entilted to such protections
592 F 2d 720 (1979)

- (D.D.C. 2012
ight to Counsel - U.C.E.A. 11 U.L.A. § 10 - US. v Zaitar 858 F. Supp. 2d 103 -

Regon State has adopted U.C.E.A. - OR Rev stat §§ 133.743 to 133.857
(minn Ct. App Jan 30 200
niform Criminal Extradiation Act 11 ULA § 23,111 - State v Carmona 2001 minn App LEXIS 130 -

tate v Liakas (1957) 165 Neb 503, 86 NW 2d 373
If At time requisition is made, Fugitive is in custody of court of Asylum state under arge of offence agaist it's Law, govener thereof is not required and cannot be mpelled to surrender fugitive until Laws of that state are satified

Massey v Wilson (1980) 199 Colo 121, 605 P2d 469
Nothing in law of Extradition prevents State from making unilateral ecision Performace to terminate, extradition Procedures

x Parte Riccard, (1949) 68 Ariz 180 203 P2d 627
Federal Law and Not State Law is Supreme and governs Extradiation

piak v Seay (1946) 185 Va 710 40 SE 2d 250
Provisions of constitution on interstate extradiation together with acts f congress on subject are Part of supreme law of the land and part of each tate

ixon v State
Federal constitution is Supreme Law of Land and upon state courts equally ith union courts rest obligation to gaurd and enforce every right secured y the constitution

A

Young v Stoutamire (1937) 129 Fla 805 176 So 759
Governer of demanding State is only proper Judge of Authenticity of ffdavit or indicitment and when requisition certifies that is duly uthenticated according to Law that is sufficient to authorize governer f Asylum State to issue extradiation waiver

-Oper v Dees (1951) 210 Miss 402 49 So 2d 718
Judgement of conviction properly authenticated should be a part of papers orwarded to asylum state by demanding state and should be attached o extradiation warrent

-(Wash Ct App 2009
ian Liu 150 Wn App 484 208 P 3d 1207 2009 WASH app LEXIS 1276 -
Due Process and Rights to counsel under the Uniform Criminal Extradiation ct 10.88.290 Demand that a detainee be sufficiently competent to ssist counsel with the limited defense avaiable in extradiation roceedings therefore a trial court erred in denying a detainee motion for competence in Re Pers

Massiah v U.S. 377 U.S. 201 12 L Ed. 2d 246 84 S ct. 1199 (1964)
U.S. v Gouveria 467 U.S. 180 81 L. Ed. 2d 146 104 S. ct. 2292-2296 - (1984)
Sixth Amendment attaches when Right to counsel formal Judicial roceedings are initieded against a individual by way of indictiment nformation arraignment or prelimary hearing

U.S. v Blauner (1971 SD NY) 337 F. Supp 1383 CCH Fed Secur L Rep ¶ 93146
ase was dismissed No Bill of Particulars - Documations was Loss

Good v Allian 823 F 2d 64 67 (5th cir (1987)
nconstitutional departures from the appropiate extradiation process under 2 U.S.C.S 81983 - Good was found guilty for Murder - In Prison Filed r Habeas Corpus Pro Se Case was dismissed - (No Hearing)

- P2d 991
eople v Superior Court (Smolin) (1986) 41 cal 3d 758 225 Cal Rptr 438 716 -
Word demand means in Constitutional provision denotes "Absolute Right" to obtain extradiati ere by implying correlative obligation to deliver without any Reference to haracter of crime charged of to policy or Law of State to which fugitive as fled

S v Johnson 968 F2d 768 (8th cir) - is requires
e single misstep on Part of the Government

A

Hughes v Johnson 191 F3d 607 (5th cir)
Defendants right to Due Process is violated when upon request for expulpatory vidence the goverment Conceals evidence that is both favorable to the defendant nd materals to defendant's guilt or punishment

Whelan v Noelle 966 F Supp 992-996 (D. Or 1997)
Schank v Gerace 231 A.D. 2d 380 385 661 N.Y.S 2d 403 406(1997)
Federal law governs extradition

N. D. Cert. Code §§ 29-30.3-01 to 29-30.3-26 see France v Judd 132 So. 2d. 1263 Flg. dist ct App (2006)
Vorth Dakota is the only state to adopt the Uniform Extradition and Rendition Act

Brady v Maryland 373 U.S. 83 88 S. Ct 1194 10
eminal case for disclosure of expulpatory material that points to defendants evidence

28 U.S.C § 2254 (A)
In Custody in violation of the constitution or Laws or treaties of U.S.

28 U.S.C. §§ 2241 (C) (3)
le is in custody in violation of the constitution or Laws of the U.S.

Extradition Arguments

As far as Extradition, Mr. Rowland does not mount a defense to goverments prosecution. At this time, Rather, The Defendant Collaterally attacks his conviction in an earlier State. There is an accumulation of error regarding not only the way The State of Oregon uses The Rendition Act to supersed. the Uniform Criminal Extradition Act as well as, The Uniform Rendition of Accused Persons Act. (North Dakota is the Only state to Adopt The Rendition Act of 1980) Theres many errors with regards To the Extradition of Michael Rowland. The Question is what would be the Remedy if there is A violation. The first objective is to find that the higher courts agrees that there was a violation. There are questions on which Law applies. The Demanding state, the Arresting state, or Federal Law. The court decided to go with the Arresting state. If The Appeal Judges decide That Washington Law Applies the rest of my arguements are invalid. It is very clear that there was a violation of constitutional magnitude. If Federal Law applies, Oregon State is not properly fullFilling Federal Statue. Oregon State has Adopted The Uniform Criminal Extradition Act (OR. Rev Stat §§ 133.743 to 133.857) However, they have Not Adopted the Uniform Extridation and Rendition Act, which would allow them to employ other provisions that does not require the Judicial review before a written waiver. I could be wrong as far as their waiver Standards generally applicable of constitutional rights in criminal proceedings. Be applicable to waivers of their right to require a judicial hearing. (The waiver must be voluntarily, Knowingly and Intelligently) which leads to Another error, the mental competence of signing this legal document Knowling and Intelligently and voluntarily defense quoted (Jian Liu 150 Wn App 484 208 P3d 1207 2009 WASH app EXIS 1276 WASH. ct App 2008) This case was dismissed due to not being compent to sign said waiver. A determination of prisoner's competency and of the Voluntaryness of the waiver or legal Remedies Kernelly require the court to Ascertain by way of preliminary hearing. In the current case mr. Rowland has attended Jr. college. But was Not competent to understand legal terminology, Such as Habeas Corpus, Extradition and other language drafted in said waiver. That is why the right to counsel is Important to Intelligently and Knowling signig way Constitution! Rights secured by the United state Goverment. Opposed to a peice of paper slid to a person during the booking process. How many people can possible be in the right state of mind after a dramatic Arrest and rushed booking. The defendant signed said waiver under decress it was Not Intelligently or Knowlingly even the Voluntarily is At question when a correctional officer is persistant. mr. Rowland was unaware of any Right attached to A waiver his defense is He thought it was just part of the process.

The Waiver States I have been informed of my Rights. The question is from whom. There is No Counsel present and there is NO signiture from the Correctional officer if he is Able to give legal advice in the first place. There should at the least be a Judge's signiture on the waiver or governers to release a person to another state. IF Oregon State is correct under the Rendition Act what laws apply as far as those that apply to RCW 10.88 430 waiver of Extradition in this current case. Paper work was not fowarded to the office of the governer or the entire process described in the U.C.E.A (Also adopted by oregon State) There was a in-dept discussion of A missing page of said waiver. (another error) I would refer The Appeal Judges to the Motion from Counsel to dismiss on extradition irregularities, starting with Rowlands certified statements in support of motion to dismiss. And Volume I of the Verbatim Reports of proceedings. RP 2-28 (the courts ruling on page 66-67) The State failed to provide the full waiver and the court danced around the idea to have a evidentiary hearing to produce said waiver. Instead Due process was violate when the court decided to ruled on a motion without even having sufficient paper work in order (Jones v mckenize 367 S.E 2d 769 (W. VA 1988) Enfussicieney of Paper work (Puerto Rico v Barnstad 483 U.S. 219, 227, 107 S. ct 2802, 2808 97 L. Ed .2d 187 195 (1987)) The prosecution said they would produce The second page of the waiver But failed to comply pg. 20 (Brady v marland 373 us. 83, 88 S. Ct. 1194 10) How could the State Prove that the waiver is in compliance with regulations if it's not available to impeach or confront the Issues present. Without a valid waiver How does the state have the Power to even hold michael Rowland or transport from state to state legally? This now Becomes a Habeas Corpus Issue and false Imprisonment. So the Remedy in this case is very different. The defendant was charge as an accomplice to Felony murder in the First degree. and was convicted without First Verifying statutory provisions. Gaurded by the constitution There is a Jurrsdiction Issue at hand. The only Remedy possible is a dismissal. we also have the issue of an unRecorded statement during transportation. That should be supressed Due to Fruits of A poisoness tree. which has been argued. So the challenge to the appeal Judges is to first recognize the violation then apply a Remedy based on this complex case. To not adopt a Remedy would be moot. The question is can you undue a wrong. Can you unkidnap someone from another State violate numerous law and constitutional rights without due process And deprive A person of life out thereby within it's Jurisdiction

Recording to Frisbie v Collins, Ker v People and Davis v Rhay. There is no Remedy assuming a violation of Rights. I would still like the Appellant ourt to Review This case for future possible civil suits, And take into consideration the accumulation of errors and all the Issues that Surround Michael Rowland Extradition including Prosecutorial misconduct, Abuse of Discovery Abuse of Discretion, Insufficient document's All Right secured (UCSA) by the constitution of the United States, Competency and Voluntariness of the signed Waiver. Unofficial unrecorded and undated Reports that were Prejudicial and Not probative, That prevented Mr. Rowland from having a Fair trial, Due to Police office misconduct, and presenting these issues to the Jury to Attach Accomplice liability, Thru, Fruits of A Poisoness tree During transportation. There are so many complex Issues in this unique ase. That there has to be a Remedy There is habeas Corpus Issues s well as Jurisidiction Issues. Mr Rowland Recived a 20 year flat sentance or Murder in the first degree and did not kill anyone or even come within 20 eet of the victim did't Attempt to Robb Anyone had No Gun mask glove ect. He also recieved a five year Flat gun enhancement And did not have a gun 300 months flat he was not 100% Aware of the others Intention. Mr. Rowland was not given a fair trial and Pierce County initated and maintained a malicious Prosecution to gain a Conviction. I ask that the Appeal Judges take into consideration the Counties onviction Rate As well as the Appeal Rate in Pierce County. And Apply Justice in this current case. With regards to the legal issues Presented in this Statement of Addition grounds.

B

Accomplice Case-Law

State v Gunwall 106 Wn.2d 54 720 P2d 808 (1986)
Gunwall Analysis is appropiate where the contours of Washington Constitution re not fully developed. No Washington court has examined Article I Section 1 under Gunwall to determine whether or not an accused person has a constitutional right to jury unanimity as to the mode of participation in a felony accomplice.

U.S. v Guerrero 114 F3d 332 (1st cir)
istiblish the defendant participated and sought by Actors to make succeed

U.S. v Linwood 142 F3d 418 (6th cir)
Proof that Actor engaged in a type of overAct

U.S. v Downs Moss 320 F3d 253 (1st cir)
here presents at Scene or even knowledge that a crime is being ommitted is insfuficient to estiblish aiding

State v Evans 154 Wn.2d 438 114 P.3d 627 (2005)
Must find defendant Personally attempted or committed Robbery

itate v White N.J 1984 484 A.2d 691 98 NJ 122 mode penal code § 2.06 nn ot (1997)
person knowling voluntary and intentionally unites with principal offender committing a crime and there-by becoming punishable for it. By Definition n accomplice must be a person who acts with the purpose of prometing or acilitating the commission of the substantive offender for which he is charged s an accomplice

State v mcdonald 138 Wn 2d 686 981 P2d 443 (1999 138 wn 2d at 697-98
cdonald clearly requires the state to prove that the defendant was a ulpable "participant" [sic] in crime while having knowledge of the rime the State bore the burden of proof

S. v Leos-Ouijad 107 F3d 786 (10th cir)
vidence of defendant proximity to illegal activity and other supicious factors re insufficisnt to prove guilt beyond Reasonable dought

Accomplice case Law

State v W.R. wn 2d — 336 P 3d 134 2114
Due process clauses requires the state to prove All elements charge of crime as defined by applicable State Statve Beyond Reasonable dought

State v Barnes, 153 Wn. 2d 378 382 103 P. 3d 1219 (2005)
Jury instructions are not legally sufficient if they relieve the state of it's Burden to prove every essential element of crime charged.

State v Haack 88 Wn App 423 958 P2d 1001 (1997) Wiker 179 WA. App at 486 court of Appeals - Haack 88 wn app 9t 429

ourt actually held a jury cannot convict a defendent charged with group acts unless the state proves that a specific defendent is a participant" that, that specific defendant took actions to Futher he crime (Acted as lookout) and that, that defendent took those ctions to faciliate that crime (alert remaing participatents if Police should arrive) Id the elements instructions here contain none of the prerequisites to convict

State v Williams 136 Wn. App 486 150 P3d 111 (2007)
Relieved the States burden by not proving all elements of the crime charged and not being pacific on which crime charged

State v Freemen 153 Wn. 2d 765-770 (2005)
Court entered multiple charges for same offense violates fuble jeopardy

Accomplice

The States theory to Apply accomplice liability. Knowledge, William Alvereze ask mr. Rowland to Partipate in a Robbery or Burgurly. There WAS No time or DAte and thru trial testimony mr. Alverez Spoke of Crazy Ideas All the time. The State witness Jeffery Mendez Say Rowland Knew because vennie told him (his Roomate) But could only speculate Then he Says he personlly told Rowland on the Ride. But Rowland never agreeded to Partipate. And if he was told on the way he had No choice not to be there. They was already in transit.
There was a meeting at the Garage of willian Calo-Alvrerez
This State witnesses During this Planning was to murder Burgurlize Robb and tie people up. There was supposly two locations. All these Plan were made with out Michael Rowlands Knowledge or presents. The State theory is Rowland arrived at the Garage and agreed to Partipate in the crimes Any Crime Drive two Co-conspires to the location and I quote "his actions are the crime" He see's guns but does't leave so he is guilty as an accomplice. The State has not Proven Knowledge or Intent.
[US. v Downs-Moss 320 F.3d 253 (1st cir)]
The State could not prove Knowledge of the crime. But more than mere Knowledge and Presents still isn't enough to apply the accomplice
[State v White N.J 1984 484 A 2d 691 98 NJ, 122 model Penal code § 2.06 ANACD]
Michael Rowland Did not Knowling voluntary and intentionally unite with the principal offender in committing any crime. A person who acts with the purpose of promoting or facilitating the commission of the substantive offender for which he is charged as a accomplice. MR Rowland testifies that he never met the alleged principal or anyone in the second car. Mr. Rowland never even acknowledes The prinicpal Present At the crime. let alone agreed to commit crimes with People he does not Know
[State v McDonald 138 wn 2d 686 981 P2d 443 (1999 138 wn2d At 687-88)]

The first Element of WPIC 10.51 - Accomplice
Solicits, commands, encourages or Request another person to commit the crime
[State v W.R. wn2d - 336 P3d 134 2114]
Due process clauses requires the State to prove all elements Charge of crime as defined by applicable State statue Beyond Resonable Dought. — The state could not prove this element what so ever not even close. So how can Rowland Be a accomplice the Law Requires the State to prove all elements
[State v Barnes 153 wn 2d 378 [illegible]]

Accomplice

The State says Rowland fleed WA state to avoid Bem arrested And that Also makes him guilty - mr Rowland left WA. Two years ifter the crimes 7/4/16 the crime took place 11/12/12 - Another Attempt to try and Appeal to the Jury. Rowland talked wit detectives in 2013 and was not A Suspect.

State v Haack 88 WN App 423 958 P.2d 1001 (1997) Waker 178 WA tpp At 486 court of Appeals]

'rosecutors continue to repeat prejudicial misstatements in closing irguements to plant thoughts in the Jury mind by continuing to iay Rowland was a hang back or a lookout to help attach iccomplice liability There is no question Thru state witness that no one was A look out or made any plans for Anyone To take that position. The State Played to the testimony that Rowland Stoped At the corner of the apartment because he was not Aware of what was going down. So the procusators said he was A lookout

State v Evans 154 wn 2d 438 114 P.3d 627 (2005)]

Defendand made absoulty no Attempt to personally committ Robbery

US v Guerrero 114 F 3d 332 (1st cir)]

The State could not prove mens Rea The mental component of criminal liability. There must be criminal Intent such a recklessness or malice. Ie. of Intent. Rowland did not act with the objective or purpose to accomplish a Result that consitutes A crime. The state was not proven specific Intent. General Intent malice, criminal reliqence or strict liability These mental states are a necessary Part of criminal Responsibility. The state must prove That the Defendant intentionally Aided in the commission of The crime.

[State v Williams 136 wn. App 486 150 P.3d 111 (2007 wn ct APP 2007)]

The state entered multiple charges for same offense to Relieved the states burden by not proving all Elements of the crime charged and not being pacific on which Charge. which is also Double JecPardy

State v Freemen 153 wn.2d 765-77 (2005)]

Rowland must be at the scene and willing to assist for all these reason listed This case should be dismissed there is just Not Enough information to Apply The Accomplice libility The State engaged in deceitful conduct to maliciously prosecute Michael Rowland This case Should be overturned and dismissed

(P)

C

Case Law Prosecutorial misconduct

US. v Hitt 981 F2d 422 (9th cir 1992)
ere evidence is of very slight if any probative value. It is abuse of discretion to dmit it. IF there is even modest likelihood of unfair prejudice or small pick of isleading

IS v Blakey 14 F.3d 1557 (11th cir 1994)
osector may not make suggestions, insinuations

IS v Necoechea 986 F.2d 1273 (9th cir 1993)
IS v Agurs 427 US. 97 49 LED 2d. 342 96 S. ct 2392 1976
When the prosector is or should be aware it is presenting Prejured testimony strict standard of materiality will be applied and/or conviction set aside any Reasonable likelihood that the False testimony could be affected the idgement of the Jury

Mesa Revsh v US. 164 F.3d 556 (10th cir 1999)
ruthfulness of testimony The dignity of the United States Goverment will not permit he conviction of any person on tainted evidence

S v leos-Quisada 107 F3d 786 (10th cir 1997)
Evidence of defendant proximity to Illegal activity and other supicious actors are insufficient to prove guilt beyond Reasonable dought

eathard v Johnson 177 F.3d 340 (5th cir 1999)
overment may not attend to prove A defendant guilt by showing that he ssociates with unsavory characters

- (1979) 2d 431 483
onnelly v De Christopher 416 US. 637. 646-647 94 S. ct 1868 1973 40 LED 439
tates that prosecutor should not use arguements calculated to appeal to prejudices the Jury or divert the Jury from its duty to describe the case on evidence

ates v Bell 402 F.3d 635 (6th cir 2005)
rgvements that conveys personal opion of the Prosecutors

tate v Allen 178 Wn. App 893 317 P.3d 494 2014 Wash. App LEXIS 54 (2014)
rejudicial misstatements in closing arguements (should have Known ed)

tate v Williams 136 Wn. App 486 150 P3d 111 (2007)
elieved the states burden by not proving all elements of the crime charged and not ing specific as which crime charged on

C

(9)

US v Johnson 968 F2d 768 (8th cir)
ne mis-step on part of the Goverment or prosecutor may be so destructive to the efendant's Right to a fair trial that dismissal is required

US v Watson 118 F3d 1315 (9th cir)
Illegally obtained evidence inamissable in Governments direct case or otherwise s substantive evidence of guilt

US v Cazares 121 F3d 1241 (9th Cir)
urden was on the Goverment to show that the defendant was aware of is miranda Rights and waived them

atiolais v Whitley 93 F3d 205 (5th cir 1996)
In Contex of criminal trial accumulation of errors can be grounds for New rial

US v Tory 52 F3d 207 (9th cir 1995)
umulative effect or the errors relating to Armed Robbery count deprived efendent of a fair trial

tate v Freemen 153 Wn.2d 765-770 (2005)
ourt enter multiple charges for same offense violates double Jeoperdy

Brady v Maryland 373 U.S 83, 88 S ct 1194 10
Seminal case for disclosure of expulpatory material that points to lefendants evidence

tate v W.R Wn2d — 336 P3d 134 2114
ve Process clauses requires the state to prove all elements charge of rime as defined by applicable State statue Beyond Reasonable Dought

tate v Gunwall 106 Wn 2d 54 720 P.2o 808 (1986)
Gunwall analysis is apperiated Were the contours of WA constitution re not fully developed. No WA Court has eximane Article 1 Section 21. nder gunwall to determine weather not an accused person has a onstitution Right to Jury unanimity as to the mode of Partipation in elony accomplice

layes v Woodford 301 F3d 1054 (9th cir)
Prosection has the Duty to correct evidense, helshe knows is false

D

State v Bennett 161 Wn 2d 303, 315 165 P3d 1241 (2007)
very defendant is entilted to a presumpton of innocents which is over
ome only when state proves guilt beyond Reasonable Dought as determine
y a impartial Jury based on evidence present at a Fair trial

tate v Barnes 153 Wn2d 378 382 103 P.3d 1219 (2005)
ury instructions are not legally sufficient if they Relieve the state of it's
urden to prove every essential Element of Crime charged

JS v Torrez-Ortega 184 F3d 1128 (10th Cir)
rosecutorial Misconduct may arise when the Goverment calls witness in a consicious
nd flagrant attempt to build it's case out improper arising from use of testimony
rivilges

chaff v Snyder 190 F3d 513 (7th cir)
rosecutors Knowing use of prejured testimony violates Due Process

hillips v Woodford 267 F3d 1315 (9th cir)
Jilson v Lawrence County 260 F3d 946 (8th cir)
Officers used evidence including false testimony, to secure a conviction
he defendant Due Process Rights are violated

Huges v Johnson 191 F3d 607 (5th cir)
A defendants rights to Due Process is violated when upon request for expulpatory
vidence The Goverment conceals evidence that is both favorable to the
efendant and materal to the defendants guilt or Punishment

S v Hubbell 167 F3d 552 (D.C. Cir 1999)
ifth Amendant Protects agaist 1) Complsion 2) of testimony 3) That incriminates

S v Vaziri 164 F3d 556 (10th Cir 1999)
A Trial is required if Prejured testimony could in any Reasonable likeihood
ave affected the Judgement of the Jury

S. v Young 470 U.S 1, 105 S. Ct 1038 84 L. Ed 2d 1 (1985)
rosecutor's remarks made during closing rubuttal arguments constituted in misconduct and
ere sufficiently egregious to constitue plain error. Appeal court Reversed conviction and
emanded for retrial

(P)

C

14th Admendment Constition of United States

No Person born or naturalized in the US and subject to Jurisdiction
here of are citizen of the US and of States wherein the reside
o State shall make or enforce any Law which shall abridge the priviledge
r inmunities of citezen of US. Nor shall any state deprive any person
f life, liberty or property without due process of Law Nor deny any person
ithin Jursidicution the equal protection of Law

ixth Admendment Constitution of United States

all criminal procusecutions the accused shall enjoy the Rights to a speedy and public trial
a impartial Jury of the State and district where in the crimes shall have been committed
hich district shall have been previously ascertained; by Law and be imformed of the
ature and cause of the accusations to be confronted with the witness agaist him to have
mpulsory process for obtaining witness in his favor and have the assistance of counsel
r his defense

(P)

C

Fifth Amendment

o person shall be held to Answer for a Capital or infamous crime, Unless on A presentment or Endictment a grand dury, except in cases arising in the Land or Naval forces, or in Militia, When in Actual Service time of war or Public danger Nor shall any person be subject for same offence to be twice put in eopardy of life or limb Nor shall be compelled in any criminal Case to be a witness against imself. Nor be deprived of life, liberty or property without due process of Law, Nor shall privite roperty be taken for public use without Just compensation

C1

Prosecutorial misconduct /witnesses

Schaff v Snyder 190 F3d 513 (7th cir)]
rosecution visited Jeff mendez In the middle of his testimony over the weekend. The prosecution knowing used prejured testimony. During this inRecorded visit mendez came up wit testimony that was never mention n all previous statements. RP 1495 - 96
U.S. v Torrez-Ortega 184 F.3d 1128 (10th cir)]
Prosecutors also told smith his phone was on him and not in his van as he testified to.

Phillip v Woodford 267 F3d 1315 (9th cir)]
Officers used false evidence including false testimony to secure a conviction - smith testified that during his proffer. Detective atlett and Bunton Both lied during his proffer statement. They nad paper and pen and still lied. RP 2002 - 06
Wilson v Lawrence County 260 F.3d 946 (8th cir)]
There was a 3.5 hearing in the 1st mistrial and Defense lawer Michael Jordan agreed with prior Ruling. During this Motion MR. Rowland testified that during transportation he was No Read miranda - waived any Rights. The state used catletts unofficial unsigned and undated to prosecute Mr. Rowland.
U.S. v Cazares 121 F3d 1241 (9th cir)]

[Brady v marland 373 U.S. 83, 88 S ct 1194 10]
Defense Attorney Sunni Ho put in motion for prosecutors to find a photo that was not in discovery. The Judge Ruled for prosecution to find this photo. RP 1349 - 1338 prosecution never present Photo or Brought Back the Issue

Decective Catletts Reports and testimony (see closing Attachments & Motions)

US. v Modica 663 F2d 1173, 1178 (2n cir 1981))
Emproper vouching for witnesses veracity or credibility

Jury Instructions

WPIC 60.02 Instruction 25 To convict for the crime of Burglary The first Element states (1) That on or about the 12th day of November co-defendant Rowland entered or remainded unlawfully in a Building. and (2) That the entering or remaining was with Intent to commit a crime against a person or property therein; // The State must prove that Mr. Rowland Entered the Building at the least.// The (3) Element states That in so entering or while in the Building or immediate flight from the building co-defendant Rowland or an accomplice in the crime charged was armed with a deadly weapon. This Reference is to a deadly weapon, Not That IF one co-defendant Enters we are all deemed as so to be considered Entering. It Does Not say No were in any Instruction for Robbery or Burglary or Accomplice liability that if one person Enters a building we all Enter, or if one Person Committs Robbery we all committ Robbery. However for The Special verdict it does say IF one Person in a crime is armed with a firearm, all accomplices to that participant are deem to be so armed. Instruction 41 So without This being said in WPIC 60.02 or WPIC 37.01 All defenitions of Burgarly or Robbery. The State has Not Met the Burden for WPIC 4.22 Murder in The first degree. (1) That on or about the 12th Day of November 2012 co-defendant Rowland committed or Attempted to commit (A) Robbery in the first or second degree OR burglary in the first degree. Instruction 23, 25, 27, 28 for burglary and 29 30 31 32 for Robbery Also 11, and 14 nothing states we are all guilty if one is guilty. Even for Accomplice That is Another subject (See Accomplice Attechments)

[State v W.R. wn 2d - 336 P. 3d 1134 (2014)]
[State v Barnes 153 wn 2d 378 382 103 P.3d 1219 (2005)]
[State v Williams 136 Wn. App 486 150 P. 3d 111 (2007) wn App 2007]
[State v Evans 154 wn 2d 438 114 P.3d 627 (2005)]
[US v Johnson 968 F.2d 768 (8th cir)]
US v Tory 52 F.3d 207 (9th cir 1995)]

Closing Arguments

U.S. v Young 470 U.S 1. 105 S. ct. 1038 84 L. Ed 2d 1 (1985) Prosectors made statements to the jury that was untrue using quotes that was never said by defendend Michael Rowland, During testimony or any other Evidence presented by defense or prosecution.

Donnely v De christopher 416 US. 637, 646-647 94 S. ct. 1868 1973 to LED 439-483 431 2d (1979)
Prosecution made statement to divert the jury from it duty to describe the case on evidence

7/21/16 RP 2504 - He's the one saying I just don't get it. - to were in Mr. Rowland testimony or Evidence does he say He does't get it.

7/21/16 RP 2484-2485 "You have his own words - He was part of that group He drove two people there. He walked all the way from the one apt artment complex parking lot down the road, around the building, down in front and around back. He saw them Huddle up. He saw them looking for a way in He saw guns. He never left until things went wrong. And he said all these things. - His defense is he just did't get it." -

MR. Rowland Testified he could only Remember walking across some grass and a parking lot He did say he saw a gun. He assumed he saw a gun. Prosectors are maliciously adding and misquoting tesitmony that convey personal opinion And fabricating evidence that was not present during trial. RP 2485 - I drove the guys there. I sat on the corner. was he a look out? - Another peronal opinion -
Bates v Bell 402 F.3d 635 (6th cir 2005)]
U.S. v Blakey 14 F.3d 1557 (11th cir 1994)]
RP 2485 - His actions are the crime -

[State v Allen 178 Wn. App 893 317 P.3d 494 2014 Wash. App Lexis 2014 3P 2570 - Some were hanging back, lookouts to make sure nobody's going to come around while the others checking for a way in They acted in concert. and there was a plan - many testified that there Really was No plan None one had a actual Role as far as look out or who would do what

[Haye v Woodford 301 F3d 1054 (9th cir)]
Prosutors used statement from detectives to Attach Accomplice liability There was two different Reports from detectives during transport. The detectives Phrased words differently. Det Sutton used the word "they" Det Catlet sed the word "we" These Report were not Recorded are basically hearsay tetement during a two hour transport From Orgeon to Washington. Prosuctors engaged in decietful condit by not correting evidence they Knew was false. They choose to use Catletts Report That should never been n the discovery. The prosuctors used Abuse of Discovery to continue to repeat A Phrase from the unofficial, unsigned undated edited word document. Buttons Report says they should have went in there and yelled police get down. Catletts says "we should have went in there and yelled police get down and shit would have been easier.
1/21/17 RP 2569 - We should have gone up in there and yelled Police get down and then the shit would have been easier. It's in Quotations he used the words "we" when he told the police that. He did't say they he's not Joking - The Prosecaters Knew there was different Reports with different words. But choose to prejudice the jury with the Flagrent Report. The state did not mention the other Report. This is the only way to try to attach accomplice to mr. Rowland Because they did not have enough to apply accomplice. In the first trial The judge did't allow This phrase in Because it was prejudice over Probativ but allow it in. in the second Trial. The judge condicted his first ruling. There was no new evidence to overrule his previous Ruling The Judge shew abuse of discresion -
US v Hitt 981 F2d 422 9th cir (1992)]
RP 2569 The prosecter once again made misstatements to the jury that was not in Evidence - He also told Police he saw multipul guns when he was in that car - - when he was in the garage before they left - These statement are untrue and are not supported by evidence in this case - She goes futher - Michael Rowland Knew there was a crime they were on their way to commit and it was going to be a burglary at the least a burglary with guns. -
U.S. v Blakey 14 F3d 1557 (11th cir 1994)]
Bates v Bell 402 F3d 635 6th cir (2005)]

The Statement made to the Jury in closing was so flargent that they could not be cured. The prosecutor's misconduct warrents a Reversal because the misstatements was made so Repeatedly in such cirstances and so egregiously that their was a substatiorial likelihood t effected The Jury verdict. The prosicutors misconduct deprived the defendant of A fair trial. Dve to the cummulative effect of several Improper commets. The Right to a fair trial is fundamental liberty secured by the [6th and 14th Amendments] f the U.S. Constitution. [Article I section 22 of the WA. State Constitution.] The state mvst see a conviction based only on probative evidence and sound Reason. It is clear that their is a error and the Lack of a fair trial and the Lack of substantial Justice. Therefore the court should grant A New Trial. Requiring a Reversal Dve to prosecutorial misscondvt, prejudicial misstatement, and Accumulation of Errors.

Additional Issues

There was Two Trials A Jung Jury in the First Trial and A Conviction in the Second. One Issue that is unexcepatable That Falls under Effectiv ssistance of Counsel The 3.5 Hearing in the First Trial The Judge denied my motion to suppress statements during transportation from oregon to Washington I will Later Address That Issue. My Lawyer should had Another 3.5 hearing due to the fact that there was A New Trial. Then the fact that there was New Evidence that we was unaware of in the first trial. These things has to do with extradition Irregularities Police officer miconduct As far as unRecorded, undated unofficial Reports that Seem to Just Pop up in Discovery with out Knowledge how it got there. And Testimony of Dectives Ability to be inconsistant while At a table with notes This Testimony given thru State witness and Codefendant Robert Smith. my Lawyer Michael Jordan was ineffective in Regards to the 3.5 hearing, Another section of this motion that is Also Error Abuse of Discresion and unfair prejudice - [State v BARNSO lo Wn APP 729, 700 P.2d 758 764 (1985)] ER 403 overview Although Relevent vidence may be excluded if its probative Value is Substantially out weigh y danger of unfair Presudice confusion of issues or misleading the Jury considerations of undue delay waste of time needless presentation of cumulative evidence. This prejudicial statement that was not Allow in the rst (Pg. 1183 of the 1st Trial Transcrirp - 8/24/15) Trial Judge states hat we could have done or would have or what we would have done is more 'rejudicial then probative'' (Question Pg 1155) (Mr. Mace Jr was DID Mr Rouland make a statement on what should have been done) The Judge allow this statement n a The second Trial the Judged Allowed this Prejudicial Phrase in as ''fair game for both sides to argue and Im going to allow mr. Dillon to approach hat Issue'' (Pg 2192 Second trial 7/19/2016) The prosecution took and ran with this phrase Presenting Mr. Rowland with an unfair trial This hrase did make a difference in the Juries diliberations The difference between hung Jury and a conviction. Then in my Counsels motion for A New rial (See motion for New Trial) Mr. Jordan argueded during Sentencing ompound Errors (2609 - 2614) (see sentencing) The Judge asked About other rgument. The Judge never acknowledged The prejudicial statement llowed in - The Judge denied the motion for A New Trial and gave eason as far as Another argument That has to due with Jury Instructions nd moved on to Recommendations for sentencing (Pg. 2619) The Judge lid't acknowledge my Argument That has to be error some how.

There is a Issue that has to do with police officer misconduct I mention this throughout my Pro Se statement on (Pg 2424 - 2437) The State called catlett as a Rebuttle witness on cross Defense mr. Jordan asks questions about his miscoundvct and catlet Agrees that he was doing things That was not procudure. As far as the Inteview while driving, Questioning techiques, and miranda Catletts testimony is not creditable or statements As far A michael Rowland. Detectives Also showed Robert Smith a photo of michael Rowland He could Not ID mr Rowland But during Mr. smith unrecorded Proffer Interview Smith Some how Remember who mr. Rowland was and signed by his name (Pg 1991) Smith also admitte Dective Catlet and Button lied During his Proffer Interview (Pg. 2002. 06). Defense Sunni Ko made a motion for The state to produce a picture the Judge Told The State to Produce A Photo The State Never Produced it (Pg. 1349). Sunni Ko Also made A motion for A New Trial Because Defense mr Jordan Mention Previous Trial during questioning. There was A motion to Not mention A previous Trial that the parties should say previous hearing. (Pg. 2028 - 32) defense mentions that he will leave it up to the Appellate attorney (2029) There was a discussion of the wording As far as Richie (2459 - 2468) Lack of Element 2138 - 2146 2450) The state Added richie language to The Instruction for Robbery. But still failed to Add the Element to the To convict element. There was also Accumulated police Presence and testimony. That was Not Probative to the case This was unfaily used to give veracity and weight to his third party hearsay testimony. The Combined effect of accumulation of errors must certainly requires a New Trial. cumulative error deprived Michael Rowland of a fair Trial. with all the Reasons listed in this Pro se statement and pointing out The Extradition process Justice was Not Served in this case and it up to the appeal Judges To Correct a wrong.

The question is Did the State Properly include the Richie element into the Jury Instructions? Richie states on Page 928: The trial court's to convict instruction For First degree robbery, track the language OF WPIC 77.02 Paragraph 31 Page 928. As discussed above, whether the victim of a Robbery has an ownership, representative, or possessory intrest in the property taken is an essential element of First degree robbery. This essential element is absent from the trial court's instruction. Therefore, the trial court's to convict instruction relieved the state of it's burden to prove every element of the crime. Consequently, the Law in Washington right now is that, that is a Element that must be proven. Futhermore There is a Note That this instructio should be used with Caution.

The trial Court's incorperated the Richie language into the Robbery definition in Instruction 32 requiring that the person has an ownership representative or Possessory intrest in the property. Richie clearly states that the element in the To Convict instruction is absent NOT The definition. There-by Relieving the state of it Burden to prove all elements. According to Division II in Richie absence of the element is Error.

There is still a question of The actual Ownership representative or Possessory interest of The victim Jamiz-Diaz-Solis.

The noted caution at the End of the Richie Case should also be reevaulated. It is clear That the Trial court and Defense was confused by the Richie language. Triscript pg. 2461-2469 shows the Discussion on how confused everyone is by this conflict The APPeal court should Review this Issue and Determine IF Richie was in fact Correctly and properly satisfied in this Trial

Pon Review, the Appeal Courts can concur That Richie, and The Due process