

66726-2

66726-2

No. 66726-2-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

ABDI HILOW,

Appellant.

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

APPELLANT'S OPENING BRIEF

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A. SUMMARY OF ARGUMENT

Police officer James Lee claimed he saw Abdi Hilow exchange a very small item for money when Lee was more than one and one-half blocks away, and Lee concluded the small item was crack cocaine. The State did not tell Hilow before trial that Lee was the subject of a pending criminal investigation. When Hilow learned about the investigation during trial and sought to cross-examine Lee about it, the court ruled it was entirely irrelevant and could not be elicited. In his closing argument, the prosecutor told the jury that Lee was a very experienced police officer who had no personal interest in the case, no bias, and no motive to lie.

Yet a person who faces a criminal investigation has a motive to curry favor with the prosecution. A criminal defendant's right to cross-examine a central witness about his credibility includes the right to explore any relevant fact than may bear upon the jury's assessment of his credibility. The court's refusal to allow Hilow to cross-examine the State's central witness about his motive to aid the prosecution, together with the prosecution's lack of full disclosure about the officer's legal predicament and its argument to the jury that the officer lacked any personal stake in the case, denied Hilow a fair trial.

B. ASSIGNMENTS OF ERROR

1. The court's order barring Hilow from adequately cross-examining the State's central witness violated the Sixth Amendment and article I, section 22.

2. The State improperly urged the jury to convict Hilow based on its primary witness's credibility when it knew that the jury had not been given complete information relevant to assessing the witness's credibility.

3. The State failed to comply with its due process obligation to disclose material impeachment information known to the government.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Cross-examination of the prosecution's witnesses regarding their credibility and potential biases is a core aspect of the constitutional rights of confrontation, to present a complete defense, and to a fair trial. The court refused to allow Hilow to confront the primary police officer about pending allegations that may have given the jury reason to question the officer's bias and personal interest in the outcome of the case. Did the court prohibit Hilow from contesting the allegations against him by restricting his cross-examination?

2. The prosecutor argued to the jury that the primary police officer had no motive to lie, no bias, and no personal interest in the case. In fact, the officer was the subject of a pending criminal and internal police investigation, he had been administratively reassigned to a different duty, and the jury was not allowed to know this information. Did the court's erroneous restrictions on Hilow's cross-examination of the police officer, coupled with the prosecutor's efforts to obtain a conviction based on inaccurate information about the officer's lack of bias or interest in the outcome of the case, deny Hilow a fair trial?

D. STATEMENT OF THE CASE

Seattle police officer James Lee testified at Abhi Hilow's trial on February 14, 2011. He claimed that at 9:15 p.m. on December 4, 2009, he had been standing on the seventh floor of a parking garage at James Street in Pioneer Square. 1RP 75, 78.¹ He was watching people who were one city block away and across the other side of the street. 1RP 76-77. He used binoculars which lacked any special improvements for nighttime vision. 1RP 76.

He said he saw Hilow stand next to another man, Salah, while Salah handed something to three others in exchange for

¹ The verbatim report of proceedings (RP) consists of two volumes of consecutively paginated transcripts.

money. 1RP 68-69, 2RP 160.² Lee also claimed that after the men moved another half-block farther away from him, he saw Hilow and Salah meet with two other people and this time Hilow handed the two people something in exchange for money. 1RP 69-71. Lee could not see the “very small item” exchanged but from its size and packaging he assumed it was crack cocaine. 1RP 71.

As Hilow entered the passenger side of a car, Lee’s partner Officer Jason Diamond grabbed Hilow to arrest him at Lee’s request. 2RP 130. Diamond thought he saw Hilow toss something into the car. 2RP 130. This item was identified as 0.2 grams of crack cocaine. 2RP 132. Although Hilow had only \$20 in his pocket, Salah had \$262 and 1.7 grams crack cocaine in his pockets. 2RP 132, 155-56. The State charged Hilow with possession of a controlled substance with intent to deliver, based on the alternate theories that he possessed and intended to sell the small amount of crack that he threw into the car or he possessed and intended to help Salah sell the cocaine that Salah possessed. 2RP 256-57; CP 1; CP 53.

After jury selection, the prosecutor asked to be notified if “the defense have any 404(b) issues that they intend to use.” 1RP 48.

² Salah’s full name was not introduced at trial.

Hilow's attorney responded that none had been disclosed and he did not know about any bad acts involving the State's witnesses. Id. He asked the prosecution whether it knew of any bad acts. Id.; 2RP 98 (explaining prosecution's failure to provide any information about allegations against officer).

The prosecutor said, "there's no specific bad acts that I'm aware that would be disclosed. However, I know that - - I think one of the officers on here had been in the media but - -." 1RP 49. The prosecutor then said, "there's no conviction or anything like that" and "there's nothing I have here that I can give defense." Id.

Lee completed his direct testimony and partial cross-examination before the court requested the prosecution provide information to the defense relevant to the officer's credibility. 1RP 50. The prosecution did not provide Hilow with further information at that time, but defense counsel located several news reports about Lee. 2RP 98; Supp. CP __, sub. no. 164.

A convenience store videotape had captured Lee repeatedly kicking a young black man who appeared to be surrendering. 2RP 99. The news reports said that Lee had been either administratively reassigned to his home or suspended, and that there was a pending criminal investigation as well as internal

investigation of Lee's conduct. 2RP 98-99. The news report also said that in a prior case, Lee had testified inaccurately about his use of force against a suspect, and when Lee disclosed his error, the court declared a mistrial and Lee was subject to a reprimand of a "supervisory intervention" due to his conduct in that case. 2RP 99-100; CP 60, 65-66.

Defense counsel questioned Lee outside the presence of the jury in an effort to persuade the court that he should be allowed to explore Lee's bias and credibility before the jury. Lee admitted there was a pending investigation against him that may affect his status within the police department. 2RP 106. He was administratively reassigned and was no longer working with his former unit. 2RP 105. He denied being formally suspended and said he was working with a different unit. Id. He conceded there was an internal investigation as well as a probe pending by the State Patrol, but claimed "no one has told me there's a criminal investigation currently." 2RP 106. However, he said the possibility of criminal prosecution would make him assert his Fifth Amendment right to silence if asked about his actions in the convenience store incident. 2RP 107.

He also explained that there was another incident in which he had testified inaccurately. 2RP 108. In that case, he had simply made an error about whether he used force when arresting someone and had informed the trial prosecutor once he realized he testified inaccurately. 2RP 108. It was classified as dishonesty by the police department but the police department also ruled that he was not guilty of committing misconduct. 2RP 110,111. He was suspended for one day but it was overturned. 2RP 112.

The court prohibited Hilow from inquiring into any other incidents involving Lee during cross-examination. 2RP 200, 202. It ruled that neither incident was sufficiently probative of Lee's truthfulness, and the convenience store kicking event was "entirely irrelevant." 2RP 200, 202.

Hilow testified, explaining that he was with his friend Salah, waiting for a ride. 2RP 222. He denied being involved in any exchanges of drugs or knowing that Salah had sold drugs. 2RP 225, 234.

During the State's closing argument to the jury, the prosecutor emphasized Lee's experience as a police officer, stating, "he's done hundreds of these arrests" 2RP 253, 2RP 275. The prosecutor argued that Hilow's testimony repeatedly

“contradicted” Lee, and the jury would need to decide who was more credible. 2RP 259-61.

Focusing the jury on the components of credibility, the prosecutor argued it was “very important” in “this case” to consider “any personal interest a witness might have in the outcome of these issues.” 2RP 262. The prosecutor claimed that unlike Hilow, “[t]he officers don’t have any interest in this.” 2RP 262. The officers were just “doing their job, out on the street, conducting an operation.” Id. Hilow, on the other hand, “obviously has a very personal interest” in the case, the prosecutor insisted. 2RP 262.

Another factor the prosecutor turned the jury’s attention to for it to assess the officer’s credibility was “[a]ny bias or prejudice the witness may have.” 2RP 262. The prosecutor assured the jury they need not worry about this factor because it was “[n]ot really an issue here.” Id.

Hilow was convicted after a jury trial and received a standard range sentence. CP 36, 69-72. He timely appeals. CP 67. Pertinent facts are discussed in further detail in the relevant argument sections below.

E. ARGUMENT

BY PROHIBITING HILOW FROM QUESTIONING THE STATE'S CENTRAL WITNESS ABOUT HIS CREDIBILITY AND MOTIVATION FOR PROVIDING FALSE TESTIMONY, THE COURT DENIED HILOW HIS RIGHTS TO CONFRONT A WITNESS AGAINST HIM AND PRESENT A COMPLETE DEFENSE

1. The Constitution guarantees an accused person the right to confront a witness for any potential bias or motivation for fabrication. The Sixth Amendment guarantees the right of a defendant in a criminal prosecution to confront witnesses against him. Davis v. Alaska, 415 U.S. 308, 315, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974); U.S. Const. amend. 6; Const. art. I, § 22. The purpose of such confrontation is to test the perception, memory and credibility of witnesses. Id. at 316. Confrontation serves an essential role in ensuring an accused person receive a fair trial and therefore, and it must be provided in a way that “guarantees criminal defendants a meaningful opportunity to present a complete defense.” Crane v. Kentucky, 467 U.S. 683, 690, 106 S.Ct. 2142, 90 L.Ed.2d 636 (1986).

Evidentiary rules do not trump the rights to confront witnesses or present a complete defense. They cannot be used to exclude “crucial evidence relevant to the central contention of a valid defense.” State v. Young, 48 Wn.App. 406, 413, 739 P.2d

1170 (1987). The right to present a defense includes the ability to examine witnesses and offer testimony pertinent to the defense. Chambers v. Mississippi, 410 U.S. 284, 294, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973); State v Jones, 168 Wn.2d 713, 720, 230 P.3d 576 (2010).

Cross-examination is an essential right because it “is the principal means by which the believability of a witness and the truth of his testimony are tested.” Davis, 415 U.S. at 316. Adequate cross-examination includes the opportunity to question witnesses to reveal “possible biases, prejudices, or ulterior motives of the witness as they may relate directly to issues or personalities in the case at hand.” Id.

A criminal defendant is given extra latitude on cross-examination to show motive or challenge credibility, especially when the particular prosecution witness is essential to the State’s case. State v. Gregory, 158 Wn.2d 759, 811, 147 P.3d 1201 (2006). “Any fact which goes to the trustworthiness of the witness may be elicited if it is germane to the issue.” State v. York, 28 Wn.App. 33, 36, 621 P.2d 784 (1980); see State v. Robideau, 70 Wn.2d 994, 998, 425 P.2d 880 (1967). Facts tending to discredit a witness are not collateral. State v. Petrich, 101 Wn.2d 566, 574,

683 P.2d 173 (1984). The only limitations on the right of cross-examination regarding matters of credibility are that the information must be relevant and must be balanced against the state's interest in precluding evidence so prejudicial that it will disrupt the fairness of the fact-finding process. State v. McDaniel, 83 Wn.App. 179, 185, 920 P.2d 1218 (1996), rev. denied, 131 Wn.2d 1011, 932 P.2d 1255 (1997).

The denial of a criminal defendant's right to *adequately* cross-examine an essential State witness as to *relevant* matters tending to establish bias or motive will violate the Sixth Amendment's right of confrontation. Davis, 415 U.S. at 320 (emphasis added).

In Davis v. Alaska, a key prosecution witness was on probationary status as a juvenile delinquent. Defense counsel claimed that the witness's testimony was motivated by fear of possible probation revocation if he did not cooperate with the prosecution. The trial court barred any reference to the witness's juvenile record, and the defendant was convicted. The United States Supreme Court held that the defendant's confrontation rights had been violated: "We have recognized that the exposure of a witness' motivation in testifying is a proper and important function of

the constitutionally protected right of cross-examination.” Davis, 415 U.S. at 316-17. The court explained further: “The partiality of a witness is subject to exploration at trial, and is ‘always relevant as discrediting the witness and affecting the weight of his testimony.’” Id. at 316 (quoting 3A J. Wigmore, Evidence sec. 940, p. 775 (Chadbourn rev. 1970)).

2. A witness’s personal stake in a potential prosecution raises issues of his bias and motive relevant to his testimony.

Courts have “long recognized the particular importance of searching cross-examination of witnesses who have substantial incentive to cooperate with the prosecution.” United States v. Lankford, 955 F.2d 1545, 1548-49 (11th Cir. 1992) (quoting Jenkins v. Wainwright, 763 F.2d 1390, 1392 (11th Cir. 1985)). The right to cross-examine a witness about his interest in cooperating with the prosecution “does not depend upon whether or not some deal in fact exists between the witness and the government.” Id. (citing Greene v. Wainwright, 634 F.2d 272, 276 (5th Cir. 1981)). As the court explained in Greene,

What counts is whether the witness may be shading his testimony in an effort to please the prosecution. “A desire to cooperate may be formed beneath the conscious level, in a manner not apparent even to the witness, but such a subtle desire to assist the state nevertheless may cloud perception.”

Id. (quoting Burr v. Sullivan, 618 F.2d 583, 587 (9th Cir. 1980)).

When the witness at issue is a central witness who provides “an essential link in the prosecution's case, the importance of full cross-examination to disclose possible bias is necessarily increased.”

Greene, 634 F.2d at 275; see also State v. Pickens, 27 Wn.App. 97, 100-01, 615 P.3d 537, rev. denied, 94 Wn.2d 1021 (1980)

(refusal to allow cross-examination about possibility that witness subject to prosecution violates confrontation clause); State v.

Roberts, 25 Wn.App. 830, 836, 611 P.2d 1297 (1980) (refusal to allow questions about possibility that parent pressured witness to cooperate with prosecution requires reversal).

Because evidence of partiality is always relevant, and because exposure of a witness's motivation in testifying is a proper and important function of the constitutionally protected right of cross examination, the trial court abuses its discretion in prohibiting inquiry as to an important witness's motive to testify favorably to the State. Davis, 415 U.S. at 316-17.

3. The State has an obligation to provide the defense with information pertinent to a witness's credibility when that information is in the State's control. The prosecution has a duty to disclose all evidence in its possession that might be favorable to the defense.

Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); U.S. Const., amend 14; Const. art. I, § 22. The duty extends to impeachment evidence, whether or not requested by the defense, where the evidence is relevant to guilt or to punishment. Brady, 373 U.S. at 87; Gregory, 158 Wn.2d at 797; see also Strickler v. Greene, 527 U.S. 263, 280, 119 S. Ct. 1936, 144 L. Ed. 2d 286 (1999); United States v. Bagley, 473 U.S. 667, 676, 682, 105 S. Ct. 3375, 87 L. Ed. 2d 481 (1985). The prosecution is obligated to disclose information known to anyone acting on the state's behalf, including the police. Kyles v. Whitley, 514 U.S. 419, 437, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995) (“the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police.”).

Here, the prosecutor claimed no personal knowledge of Lee's prior or current predicaments other than his office had not identified any “Brady” material. 1RP 49; 2RP 102, 121. When Lee told the court that he was not being criminally investigated, the prosecutor stayed silent. 2RP 106. He did not advise Hilow or the court of the pending criminal investigation being undertaken by the prosecution. Shortly after Hilow's trial, criminal charges were filed

against Lee, accusing him of assault.³ Even if this particular prosecutor did not know about the specifics of the on-going investigation of Lee by the police or prosecutors, this information was known to the government and it should have been disclosed to Hilow. See Kyles, 514 U.S. at 437-38.

4. The court barred Hilow from questioning Lee about evidence relevant to his motivations when providing his testimony. The trial court prohibited Hilow from asking Lee about the pending investigation against him that may have given him an interest in cooperating with the prosecution, a motive to curry favor with the prosecution, or a reason to exaggerate his observations so as to ensure no further allegations of improper arrests arose. 2RP 200-01. Jurors would not otherwise know of Lee's precarious professional career and his interest in helping the State secure Hilow's conviction. Indeed, the prosecution assured the jury that Lee had no bias or interest in the outcome of the case. 2RP 262.

Defense counsel provided the court with the information he could obtain by his own internet search. 2PR 98; Supp. CP __. sub.

³ See "Seattle officer charged with assault in kick case," Seattle Times (April 13, 2011), available at: http://seattletimes.nwsourc.com/html/localnews/2014768592_apwapolicekickcharge.html.

no. 164.⁴ Lee was the subject of a pending criminal investigation for using excessive force against an unarmed suspect who was a young African-American man. 2RP 94-95. A video of the incident had been broadcast by several television stations, and the court took “notice” of the “significant amount of publicity” about the incident. 2RP 93. The repercussions extended beyond Lee himself, as it was one of the incident prompting calls for an investigation of the Seattle police by the Justice Department.⁵

The incident occurred while Lee was working as part of an undercover narcotics team, as he was in the case at bar, but in this other incident, the drug deal was unsuccessful. While trying to locate suspects, Lee approached a young black man who was standing inside a convenience store with his arms raised in the air as if surrendering. 2RP 99. Lee struck the man with his feet several times, knocking him to the ground, before another officer pulled Lee off. 2RP 99.

⁴ Defense counsel provided recordings from KOMO-TV and KIRO-TV reports to the trial court, but these attachments were not admitted as exhibits as the court promised. 2RP 93-94. The same information is available on news websites. See e.g., Chris Halsne, KIRO-TV, “Image Shows Teen’s Face Bruised, Swollen After Videotaped Incident,” (Nov. 19, 2010), available at: <http://www.kirotv.com/news/25844744/detail.html>.

⁵ See Steve Militich, et al, Seattle Times, “Seattle officer’s kicking of suspect prompts call for federal civil rights review,” (Nov. 18, 2010), available at: http://seattletimes.nwsourc.com/html/localnews/2013465458_copkick19m.html

Hilow sought to cross-examine Lee about his professional status and his concern about possible prosecution and repercussions in his career. 2RP 96, 201-02. The court agreed to let Hilow question Lee outside of the jury's presence, but it limited the nature of the inquiry. It ruled that Hilow must show the evidence he wanted to elicit was "impeachment as to [Lee's] truthfulness or whether or not he provided false testimony in another proceeding." 2RP 103.

At the hearing, Lee admitted he was the subject of an investigation by the Washington State Patrol, and said he would assert his Fifth Amendment right to silence if asked about his use of force. 2RP 105-06. He claimed that he was "not worried" about being prosecuted. 2RP 105-06.⁶ He said no one told him there was any current criminal investigation about his actions.⁷ 2RP 106.

⁶ After Hilow's trial, the Seattle City Attorney filed criminal assault charges against Lee. "Seattle officer charged with assault in kick case," Seattle Times (April 13, 2011), available at: http://seattletimes.nwsourc.com/html/localnews/2014768592_apwapolicekickcharge.html.

⁷ The State Patrol investigation was criminal in nature, although Lee claimed no one told him there was a pending criminal investigation. 2RP 106; see Steve Militich, Seattle Times, "State Patrol to launch criminal probe of SPD officer who kicked suspect," (Dec. 7, 2010), available at: http://seattletimes.nwsourc.com/html/localnews/2013619553_copkick08m.html.

Lee also claimed that in the prior case that was the subject of an investigation, he had simply forgotten while testifying that he had used a minor amount of force when arresting the defendant. 2RP 108. He claimed he faced no discipline for it. 2RP 108. Hilow informed the court that Lee did not seem to be forthright about what had occurred and requested more information about the prior case. 2RP 113. Once Hilow finally obtained records from the police department, he learned that Lee had received discipline in the form of a “supervisory intervention” in which he was counseled about the importance of testifying accurately at a trial. CP 60, 65-66. The court ruled that there was no finding that Lee had been purposefully dishonest in the prior case and thus, that earlier incident was inadmissible at trial. 2RP 201.

Hilow sought to cross-examine Lee about the convenience store incident, which was pertinent to his general bias and may indicate a willingness to testify favorably to the prosecution. 2RP 201. The court ruled that the convenience store incident was “entirely irrelevant to this particular proceeding.” 2RP 202. It was not “probative of any issue that would be coming before the jury.” Id.

Contrary to court's conclusion, there can be little dispute that the proffered evidence was relevant. Evidence is relevant if it has "any tendency" to prove any fact that is "of consequence" to the case. ER 401. As indicated above, allegations of misconduct leading to a pending criminal investigation and potential prosecution may suggest a motive to curry favor with the prosecution, and is therefore relevant on the issue of a witness's credibility. See Lankford, 955 F.2d at 1548-49; Pickens, 27 Wn.App. at 100-01. The fact of a pending investigation that could lead to criminal charges gave Lee a reason to shade his testimony and cooperate with the prosecution's efforts to convict Hilow.

The court refused to allow Hilow to question Lee about any of the allegations against him, any potential bias he might have or to elicit any facts which may have established the unreliability of him as a witness. In so doing, the court deprived Hilow of his constitutional right to confront the accusing witness. The court's refusal to permit Hilow to ask relevant questions about Lee's past indiscretions and his personal interest in his pending investigation denied Hilow his right to cross-examine the central witness and present a defense.

The court's decision may have been influenced by the prosecution's reluctant and half-hearted effort to discharge its duty to provide Hilow with relevant evidence pertaining to Lee's professional status. The prosecution did not give Hilow advance notice of Lee's pending criminal investigation so that Hilow would have a full and fair opportunity to investigate it. 1RP 48; Supp. CP __, sub. no. 164. The prosecution did not correct any erroneous impressions left by Lee's testimony, such as when Lee insisted he was unaware of any pending criminal investigation and implied none was occurring. 2RP 106. The prosecution did not explain the nature of the pending State Patrol investigation or the possibility of criminal charges being filed against Lee. Instead, the prosecution argued to the jury that Lee's vast experience and his lack of personal interest or bias made his version of events more credible than Hilow's. 2RP 262.

5. The unreasonable restrictions on questioning Lee's credibility require reversal. Where a witness's credibility is a central question, the refusal to permit the defense to explore the witness's credibility requires reversal "if there is a reasonable probability" that the impeachment evidence would have affected the jury's

assessment of the witness's credibility. Gregory, 158 Wn.2d at 800 (citing Benn v. Lambert, 283 F.3d 1040, 1056 (9th Cir. 2002)).

Due to the court's ruling, the jury never heard that Lee was facing serious charges of misconduct committed during the commission of his duties as an undercover narcotics officer. The jury did not learn that the allegations made against Lee involved excessive force used against young, African-American men. The jury did not hear that Lee was the subject of a criminal investigation due to these allegations or that he had been administratively reassigned to other duties. They were unaware of Lee's particular interest in helping the State' secure a conviction, and his unique need to justify Hilow's arrest while his own behavior was under scrutiny.

Instead, the jury heard from the prosecutor that Lee had vast experience and no personal interest in the case. 2RP 262. The prosecutor insisted that none of the officers had "any interest" in the case, and they were just "doing their jobs." 2RP 262. The prosecutor set the case up as one where Hilow's version of events "contradicted" Lee's, and then argued that Lee's superior credibility, his experience, and his lack of interest in the case meant Lee's testimony should be believed rather than Hilow's. Id.

The prosecutor further claimed that Lee had no “bias or prejudice.” 2RP 262. But the prosecutor knew or should have known that Lee in fact had a bias, because he was being criminally investigated for inexplicably beating a young African-American male. The jury never knew about the reasons to discount Lee’s testimony.

By prohibiting Hilow from examining Lee’s bias and the veracity of his testimony, the court denied Hilow his constitutional right to confront and cross-examine the central witness against him, as well as his right to present a complete defense. Lee was the only person to have observed Hilow allegedly distributing drugs, and his testimony was unquestionably central to the jury’s conclusion that Hilow possessed a controlled substance with intent to deliver. 1RP 68-71, 2RP 130. Had the jury learned of the reasons to question Lee’s personal interest in the case and his motive to shade his testimony, it “would have affected the jury’s assessment of the witness’s credibility,” and thus, “the exclusion should be considered prejudicial,” and requires a new trial. Gregory, 158 Wn.2d at 800.

F. CONCLUSION

The trial court violated Abdi Hilow's constitutional right to confront his witness by barring him from questioning a police officer about his credibility as a witness. This error requires reversal and remand for a new trial.

Respectfully submitted this 26th day of August 2011.



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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
 ABDI HILOW,)
)
 Appellant.)

NO. 66726-2-I

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DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 26TH DAY OF AUGUST, 2011, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

<input checked="" type="checkbox"/> KING COUNTY PROSECUTING ATTORNEY APPELLATE UNIT KING COUNTY COURTHOUSE 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	<input checked="" type="checkbox"/> U.S. MAIL <input type="checkbox"/> HAND DELIVERY <input type="checkbox"/> _____
<input checked="" type="checkbox"/> ABDI HILOW 4825 DELRIDGE WAY SW APT A SEATTLE, WA 98106	<input checked="" type="checkbox"/> U.S. MAIL <input type="checkbox"/> HAND DELIVERY <input type="checkbox"/> _____

SIGNED IN SEATTLE, WASHINGTON THIS 26TH DAY OF AUGUST, 2011.

X _____


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Seattle, WA 98101
Phone (206) 587-2711
Fax (206) 587-2710