

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

FILED
Apr 01, 2016
Court of Appeals
Division I
State of Washington

STATE OF WASHINGTON)

Respondent,)

v.)

Nicholas Springfield
(your name))

Appellant.)

No. 74000-8-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Nicholas Springfield, 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

Judicial bias - Judge Erick did not fully or fairly consider all evidence in this case. He overlooked overwhelming reasonable doubt and exculpatory evidence including Police in car video containing conclusive proof of mis identification, complete impeachment of alleged victim.

Additional Ground 2

Prosecutorial misconduct - Leila Curtis introduced false testimony knowingly and tried to explain "Lying" in her final arguments. False testimony was previewed during joint witness interview with defense and prosecution and still introduced. I believe joint interview was tape recorded.

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

Date: 3/28/16

Signature: Nicholas Springfield

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A reasonable doubt is one for which a reason exists and may arise from evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence. In this case there is overwhelming reasonable doubt which was ignored by Judge John Erlick which indicates the evidence presented was not fully, fairly, or carefully considered. Exhibit 2, the police in car video is a perfect record of some of the events which occurred Jan. 9 2015, which conclusively proves the alleged victims testimony in court is false, beyond any doubt, and also that his videotaped statement is false. In addition Judge John Erlick's findings of facts and conclusions are not consistent with the evidence on the record in this case and reveal a bias in favor of the prosecution. There is also an absence of the presumption of innocence revealed by the shifting of the burden of proof to show motivation for Matthew Schultz to fabricate a story, and earlier the assignment of a probation officer six months before the trial begins.

At the outset of this trial Judge Erlick is completely aware of the history of this case from the first appearance, as well as case # 15-8-00172-0 State of Washington v. Nicholas James Springfield, which is referred to in exhibit 2 police in car video as a robbery having occurred 3 days prior to Jan. 9 2015. Judge Erlick is aware that I have been incarcerated for over six months in part for a charge in which at time of trial the victim testified I was not present at time of theft, nor touched him or his property, nor fled the scene with the person who did commit the offence. Furthermore the guilty person had already plead guilty and so I was found not guilty. It is my position that Judge Erlick was motivated by a desire to avoid being in a situation where a fifteen year old was incarcerated for over six months for no good cause.

A bias against me and in favor of the prosecution is highlighted in the portion of transcripts where Judge Erlick declares "I did not find Mr. Wynter credible", reasoning he was not close enough to the arrest to hear me say "I don't want to talk with you." This despite the fact that the in car video records it, the Judge himself hears it, as well as the person who prepared the transcripts. If Mr. Wynter says he hears it and the in car video records it then Mr. Wynter's testimony is credible.

Judge Erlick continues "I didn't find it credible for a number of reasons, it was basically inconsistent with all other evidence." Again the in car video proves Mr. Wynter is credible. Two officers and Craig Plummer said they couldn't hear the statement, but Mr. Wynter, the Judge himself, the transcriber, and most importantly the in car video verify the statement. Mr. Wynter has no motivation to lie and no access to the in car video to practice his testimony. No reasonable person would find Mr. Wynter not credible because his testimony is inconsistent with three other witnesses, knowing that the in car video corroborates his testimony.

This is very important because the in car video corroborates all of Mr. Wynter's testimony, and at the same time conclusively impeaches all other testimony concerning the time period from detention to arrest. Most importantly Matthew Schultz and Craig Plummer. Mr. Wynter testified he stayed on scene of arrest from detention to arrest. The in car video conclusively proves just that. At one point officer Nguyen asks Mr. Wynter to stay there with me at police car when he leaves to go down towards the corner of 65th n.w. and n.w. 15th to meet Craig Plummer and Matthew Schultz. The in car video conclusively proves that. Mr. Plummer testified he also stayed at the scene of arrest from detention to arrest. Mr. Plummer also testified he didn't have any conversation with

me before I was arrested because he didn't want to interfere. The in car video conclusively proves this isn't true. Shortly after the in car video shows Mr. Plummer saying to me " I want to take you, and beat the hell out of you, and i really want to do it badly , " [exhibit 2 track 3 10:00 min. elapsed time] it shows him heading south towards the corner where Matthew Schultz showed up and talked with a security officer who he claimed was Mr. Wynter but could not have been. Approximately two minutes later the video shows officer Nguyen heading same way after telling Mr.Wynter to stay with me and the other officer. Mr. Wynter was never with Matthew Schultz. This is clear and obvious with any full, fair, and careful consideration by a reasonable person. Although Mr. Wynters' testimony is inconsistent with other peoples testimony, it is perfectly consistent with the inerrant in car video evidence. Mr. Wynter also stated that Mr. Plummer asked him to assist, which is consistent with the alleged victims mother who testified "the first person I talked to was Craig Plummer ." So the characterization of Mr. Wynter as not being credible is not supported by the evidence, and vice versa the characterization of matthew Schultz as being credible is not supported by the evidence. Although Judge Erlick says Matthews' testimony is corroborated it is absolutely not anywhere on the record in this case.

Among the inconsistencies between the evidence and the testimony on the record in this case are as follows;

" The respondent was identified as wearing a grey sweatshirt with black print ." * The in car video clearly shows I am wearing a solid black coat with no print. Also during the videotaped victim statement the alleged victim says to officer Nguyen, "you said is that him and I said yeah "Afterwards officer Nguyen changes the wording to court approved wording and asks the alleged victim "would that be a fair representation ."

There was a finding that a gun was allegedly that came from my pants.

* The testimony of officer Nguyen was that my pants were "so loose " and further testimony about the size of the pockets making this likely impossible.

There is a finding that the alleged victim looked back and saw respondents hand that had the gun in it moving back towards his friends.

* The testimony of the alleged victim is that he did not see the gun and does not know what happened to it. Further more he testified the gun was in the respondents right hand several times but I am lefthanded as testified to by my father and witnessed by the court. Why is Judge John Erlick imagining what happened to an alleged gun if the only person there doesn't know.

There is a finding that Matthews' mother called the school and talked to security, the security on the phone was Mr. Wynter who matthew knew well and talked to everyday.

*M other testified the first person she talked to was Craig Plummer and then gave phone to Matthew.

There is a finding that alleged victim upon returning to school on corner of 65thn.w. and n.w. 15th he saw the respondent with two police officers along with security officer Craig Plummer. Mr. Wynter asked him to tell him more about the incident, then a couple minutes later a police officer described as asian ,officer Nguyen approached.

*The in car video [exhibit 2 track1 and track 3] show conclusively and with no doubt that Mr. Wynter never left the area where the

respondent was and met the alleged victim at the corner, nor had any conversation with him for two minutes. Also after the alleged identification the video shows officer Nguyen walk up to where Mr. Wynter is and places me under arrest. Mr. Wynter is african american, Craig Plummer is caucasian. It's black and white, no mistake, conclusive proof that alleged victims' testimony is not true and Judge Erlick is not fairly or carefully considering all of the evidence.

testimony of the alleged victim is credible.

victims' statement, detaining and arrest, whereabouts of Mr. Wynter is conclusive proof that Matthew Schultz' testimony is not credible.

inconsistencies between the evidence testimony and Judge Erlick's finding of facts, there is the minimizing and ignoring of the respondents arguments which indicate bias against me. Judge John Erlick mentions there is inconsistent testimony as to whether Matthew Schultz was with his friend at the time he saw three males in the alleyway behind ballard highschool or whether he had previously told his friend to return to class. "the court finds these inconsistencies are not material and explicable with passage of time." The in car video videotaped statement made by Matthew Schultz shows Matthew on the north side of the building describing coming out one door, walking on the sidewalk, seeing people in the alley coming, sending his friend in the other door on the north side of building because he sees three people in alley, [indicating fear] continuing through the alley himself heading west towards 15th n.w. where he says an attempted robbery occurs. Then he goes in building to check on his friend to make sure he is ok. He tells his friend what happened. In response his friend says don't tell anyone, they might come back afterschool and shoot you because you snitched.

This is totally different than the testimony given in court which was he came out of building on west side of building [on 15th n.w.] walked up 15th n.w. alone, turned right and headed east through alley towards where his mother was parked and videotaped statement was given where he was allegedly robbed, and then went straight to his mothers' car and didn't mention being robbed. His answer to cross examination was mostly I don't remember saying that and I don't want to watch the video. However when it came to going back in the school and telling his friend he declared, "I never went back in to the school." The minimization of the number and nature of inconsistencies and the finding that this is explicable with passage of time is a clear showing of bias in favor of the prosecution, and a clear showing of not fully and carefully considering all of the evidence. There is no way you can forget if you are alone or where you are going when you are allegedly robbed. Furthermore the statement "don't tell or they might come back afterschool and shoot you because you snitched" has been used against me in this case by Ms. Curtis since the first appearance. How can this be found to be not material that the alleged victim says the conversation never took place and he never went back in the building and told his friend, let alone traveling through the alley in the exact opposite direction. Is Judge Erlick even aware of these discrepancies in the video he said he would be watching? Full and careful consideration?

Matthew Schultz has no motivation to fabricate the story and he had ample time to observe the perpetrator. The shift of the burden to show motivation to fabricate undermines the presumption of innocence. Furthermore Matthew Schultz identified me as wearing a grey sweatshirt with black print which in car video conclusively proves I am wearing a solid black coat. In car video also reveals that matthew said to the police "you

said is that him and I said yeah " which is in consistent with police testimony on record which was "Matthew interrupted me and blurted out thats him. The audio portion of the in car video during the identification process has static ,but you can clearly hear officer Nguyen say to Matthew but is that him,indicating I was not wearing what the person who allegedly robbed him.

PROSECUTORIAL MISCONDUCT

When a conviction is obtained by the presentation of testimony known to the prosecuting authorities to have been perjured, due process has been violated. Ms. Curtis presented testimony known to have been perjured. Ms. Curtis was perfectly aware that Mr. Wynter never left the immediate area where I was being detained and therefore could not have met Matthew Schultz at the corner and talked with him for two minutes before an asian officer approached and made an identification. She was aware of the in car video, and she was aware of what Matthews' testimony would be after having a joint taped interview with Mr. Eppler Matthew and his mother. Nevertheless she presented his testimony and tried to disguise it with testimony about how well Matthew knows Mr. Wynyers' voice and sees him everyday , in order to make his testimony about meeting him ay corner and talking with him for two minutes before making identification with officer Nguyen. The goal being to hide the fact it was Craig Plummer he talked with right after Craig plummer had just told me he wants to beat the hell out of me ,and wants to do it really badly, and indeed Craig Plummer told him to say I robbed him. That is why Matthew can't tell a consistent story except that he says he was robbed. It worked so well that Judge Erlick found Mr. Wynter not to be credible as she argued in her closing argument, despite the in car video conclusively proving all of his testimony. Was Judge Erlick fully and carefully considering all of the evidence ? Ms. Curtis also argued that Matthew Schultz was credible, and then explained why Matthew would be lying about a conversation with a friend telling him about an attempted robbery. No reasonable person would find matthew Schultz credible, or his testimony a surprise to Ms. Curtis.

Judge John Erlick also failed to find facts or make conclusions concerning the issues we raised about why were the police holding me at the scene to be identified when no description was given of suspects. Once again the in car video answers that question if it had only been fully and carefully considered. Matthews' mother called the school and talked to Craig Plummer. Mr. Plummer called Mr. Wynter for assistance. Officer Nguyen was dispatched to a possible robbery and his in car video is triggered by his light bar. Officer Nguyen pulls a U turn and recognizes Craig Plummer . Craig Plummer says "thats the one " pointing at me. Craig Plummer identifies me as the suspect without any description from the alleged victim. Officer Nguyen asks Mr. Wynter what about these two ?, referring to people walking near me. Mr. Wynter answers "I don't Know, we have to wait for the mom to show up ." Officer Nguyen then asks Mr. Plummer what about those two? Mr. Plummer responds " no they're gone they're good ,they are not suspects." Mr. Plummer decided I was the suspect and that two others were not even though he admits he did not witness an incident. Mr. Plummer was asked if he had a chance to speak to me before I was put in the car and he said no he didn't want to interfere. The primary officer, officer Nguyen , stated that Mr. Plummer was the main person he talked to. The in car video shows Mr. Plummer Leaving the scene towards where he met Matthew shortly after he said he wanted to beat the hell out of me really badly, a couple minutes before Matthew identifies me but can not tell the same story twice and according to the video

can't tell the truth. Judge Erlick did not carefully consider all of the evidence.

POLICE MISCONDUCT

When Mr. Plummer said to me directly in front of two police officers " I want to take you, and beat the hell out of you, and I want to do it really badly " while I was detained in their custody,they witnessed an act of verbal and emotional abuse by an adult against a child. By law they are legally obligated to report the abuse but they did not. Not to the proper authorities,not to my parents, not to seattle school district, they didn't even mention it in their report. To this day that man still works around children. This act is also a crime, harassment bullying using violent threats to intimidate me. They made no report , no charge, and they allowed him to do this while I was in their custody. Furthermore my constitutional rights were violated by all five officers involved with this case. The alleged statements were "suppressed " however due to the close relationship between Judge Erlick and detective Bach and given the bias against me in this case I believe Judge Erlick considered these alleged statements which I maintain I never made but were misconstrued from an acknowledgement that I had been expelled from school. Although we were notified of the close relationship I was never personally given an option to have a different judge who didn't have a close relationship with the lead detective.

In closing I am asking you to throw out this conviction due to the overwhelming reasonable doubt,the lack of the presumption of innocence, the burden of proof shifted to me to show motivation for Matthew Schultz to fabricate a story,the absence of the option to have a judge that does not have a close relationship with the lead detective, prosecutorial misconduct,police misconduct,the ignoring of exculpatory evidence on the in car video, and errors of facts and findings not supported by the evidence in this case.Judge John Erlick did not fully, fairly, and carefully consider all of the evidence presented in this case.