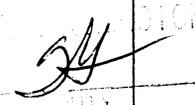


FILED  
COURT OF APPEALS  
JUL 25 PM 12:34  
BY 

1 IN THE COURT OF APPEALS DIVISION TWO

2 In RE Personal Restraint Petition of  
3 Armondo T. Shelby  
4 Petitioner.

5 On Review from Superior Court of  
6 The State of Washington for Pierce County

7 Supplementary Pro SE  
8 Addendum Reply.

9 1. Petitioner Shelby agrees with Judge Worswick's findings entered regarding  
10 questionnaire four that it was not objectively reasonable for counsel to  
11 fail to impeach state witness Daniel Griffith with criminal history.

12 Petitioner Shelby does not agree with the judges finding claiming this  
13 failure would have materially affected the outcome of his trial.

14 2. Petitioner Shelby disagree with the judges finding regarding questionnaire  
15 number six the eye witness Jennifer Bohlen had not been prosecuted for a  
16 crime involving dishonesty. Petitioner Shelby claims the outcome of trial  
17 would have differed from the harmful error.

18 **The DAC policy hindered Shelby's lawyer from confronting**  
19 **these witnesses with crimes of dishonesty denying Shelby a**  
20 **Right to counsel free of conflict.**

21 In regard to state witness Daniel Griffith who provided testimony of an  
22 alleged threat. And notably DAC of record who represented Griffith in  
23 criminal proceeding is not known to Shelby nor this court. The damning  
24 testimony of Griffith helped bolster states theory throughout trial that  
25 Shelby threatened to shoot Butler in advance. State v. Ray 116 Wn.2d 531, 806  
P.2d 1220. The Supreme court in our state properly concluded theft  
convictions involve active deceptions and are readily admissible which falls  
under Washington State evidence rule 609 (A) (2). Despite the fact Griffith  
not personally witnessing a crime being commissioned. The State were  
desperately pursuing his story to propound home their of repeated theory that

1 Shelby threatened to shoot Butler. And Griffith likely had been under  
2 improper influences which include felony probation and also some troubles of  
3 his own. Shelby's trial counsel failed to marshal facts that were critical  
4 showing Griffith had motive to conceal and concoct his story. Thus, Griffith  
5 had previously been convicted for crimes of dishonesty. Thus, Griffith  
6 indicated in his trial testimony he had not personally known Shelby. See RP  
7 500. And notably Shelby's reference hearing testimony can shed light. See  
8 reference 12/1/06 Pg. 163.

9 Though Griffith had been held on a material warrant. The state  
10 constructed his testimony to appear truthful. Nor were there contrary  
11 evidence showing the jurors Griffith had opportunity to put the worst  
12 construction of his story by telling a lie. Shelby unable to pinpoint the  
13 substance of his testimony since trial counsel chose not to beseech  
14 credibility of witnesses. See Daniel Griffith criminal record lawyers P.R.P.  
15 Appendix 107, 108, 109.

16 And notably this court should find that trial counsel was burdened by  
17 conflict of interest which failed to recognize the hearsay interference.  
18 However, Danielle Griffith who knew Shelby seemed very surprised by the  
19 allegations her younger brother made against Shelby. See Danielle Griffith  
20 interview layers P.R.P. Appendix 127.

21 **The DAC policy hindered Shelby's trial lawyer from**  
22 **confronting these witnesses with crimes of dishonesty**  
23 **Denying Shelby a right to counsel free of conflict.**

24 In regard to key witness Jennifer Bohlen for the prosecution. The  
25 attorney of record Bob Dupan testified at the reference hearing. And Shelby  
notably ask this court to find a conflict of interest existed with DAC  
representation. Bob Dupan testimony was tailored not incriminating his client  
Bohlen who has history of being dishonest. Instead, Dupan used analogy and  
metaphors to discuss shoplifting crimes in general. (See Dupans reference  
hearing statements 259 - 260). See Appendix 1. State v. Brown 111 Wn.2d 124,

1 148, 761, P.2d 588 (1988) The Supreme Justice in our state established a  
2 sound reasoning for crimes involving dishonesty and justice Brachtenbach in  
3 Brown decision held here, "We return to basics. We begin with the principle  
4 that while as the author of the rule we are in position to interpret the  
5 meaning sought to be conveyed by the rule we approach our rule as though they  
6 have been drafted by legislature and give the words their ordinary meaning.  
7 The term dishonest implies the act or practice of telling a lie, or of  
8 cheating, deceiving and stealing. Crimes of theft involve stealing are  
9 clearly encompassed within term dishonest. Moreover, we agree with justice  
10 Burger's statement....that in common human experience acts of deceit, fraud,  
11 cheating or stealing are universally regarded as conduct which reflects  
12 adversely on a mans honesty and integrity."

#### 13 Element of Falsehood

14 "The term involves the element and includes everything which has a  
15 tendency to injuriously affect the administration of justice by introduction  
16 of falsehood and fraud. A crime less than felony and by its nature tends to  
17 cast doubt on the veracity of one who commits it." Blacks law dictionary 4<sup>th</sup>  
18 Ed. (1968). See State v. Page 449 So 2d 813 Fla 1984 (theft, robbery and  
19 related crimes are per se admissible as crimes involving dishonesty) State v.  
20 Malendrez 91 NM 259 App 1977 (shoplifting involves dishonesty or false  
21 statement) State v. Tolliver, 33 Ohio App 3d 110 514 NE 2d 922 1986 (theft  
22 offense involves dishonesty of false statement) People v. Spates 77 Ill 2d  
23 193 3d Dec 333, 395 NE 2d 563 1979 (misdemeanor theft involves dishonesty of  
24 false statement) State v. Eugene 340 NW 2d 18 1983 (possession of stolen  
25 property and burglary). Furthermore, Shelby's trial lawyer did not litigate a  
plausible defense strategy to attack Bohlen's veracity which played a key  
role in the verdict. Bohlen's testimony professing no knowledge of physical  
contact between Shelby and Butler which contradicts state witness Jeremy  
Clevend's testimony who said, "they appeared to be grappling over an object."

1 See Clevend's trial testimony RP 432. And Shelby's trial attorney of record  
2 unable to provide vigorous defense and profoundly burdened from a conflict of  
3 interest and Bohlen's credibility went unchecked. Had there been an equal  
4 standard applied here by the court Bohlen's crimes of dishonesty and  
5 substance abuse influences would have aided the jurors to ascertain the truth  
6 in her story since she rendered several accounts to the police. Instead, the  
7 evidence here was overlooked whereas the defense trial counsel was  
8 overburdened to discover the errors which attributed to state witness sworn  
9 statements.

10 Conclusions

11 Based on the undisputed facts that Shelby has put forth in his  
12 supplementary reply. He humbly ask the court in a prayer of relief.  
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*Armando T. Shelby*  
Armando T. Shelby

**Evidence of rule 609 (d) Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow in a finding of guilt in juvenile offense proceeding of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that the admission in evidence is necessary fair a determination.**

**Evidence rule 609 (A) The purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime shall be admitted if elicited from him or established by public record during cross examination but on if the crime**

- (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted and the court determines that the probative value of admitting the evidence outweighs its prejudicial effect to the defendant.**
- (2) involved dishonesty or false statement, regardless of the punishment.**

**609 (A) (1) grants discretionary authority to admit prior felony conviction.**

**609 (A) (2) requires admission of all prior convictions felony or misdemeanor which involve crime of dishonesty or false statement.**

STATE OF TEXAS  
I certify that I am  
Attorney at Law  
for the  
of *Reply brief from Petitioner*  
*Aliecia Marie Burton*  
& *Suzanne Lee Elliott*  
Date *6/20/00* Signed *[Signature]*

COURT OF APPEALS

06 JUL 29 PM 12:34

STATE OF WASHINGTON  
BY AS  
CITY

Washington State Court of Appeals  
Division Two

Armondo T. Shelby  
Petitioner

Addendum Motion  
Supplementary brief  
Case NO. 29358-7-11

v.

John Hillman  
Alicia Burton  
Pierce County Proc Attys.

Memorandum

In respect of the courts authority to decide these merits. Shelby declares these issues are known to be true. And the state has not met the burden showing the issues addressed are harmless errors. The attorney's of record Suzanne Elliot and Michael Sennott has oral arguments that are scheduled 9-06-06. And Shelby has humbly request this court not to abandon their authority herewith.

Sincerely,  
Armondo Shelby;