

COURT OF APPEALS
DIVISION II

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION II

STATE OF WASHINGTON
OF _____
DEPUTY

43146-7

NO.41707-3-II

PERSONAL RESTRAINT PETITION

JASON ANTHONY DELACRUZ

A.STATUS OF PETITIONER

I, JASON ANTHONY DELACRUZ

MCC-319869 P.O.BOX 7002 MONROE WA 98272

Apply for relief from confinement, I am now in custody serving a sentence upon conviction of a crime. I am now in custody because of the following type of court order :

following a jury trial The Honorable Fredrick Fleming imposed a sentenced of 300 months.

1. The court in which I was sentenced is :

PIERCE COUNTY SUPERIOR COURT

2. I was convicted of the crime of : first degree burglary, 2 residential burglaries, 2 first degree thefts, possession of stolen property first degree, second degree theft, first degree trafficking stolen property and that possession of stolen firearm, theft of firearm, first degree unlawful possession of firearm to run consecutive for 300 months. All others were to be ran concurrent.

3. I was sentenced after trial March 18, 2011

4. The Judge who imposed sentence was

THE HONORABLE FREDERICK FLEMING.

5. My lawyer at trial court was

WILLIAM FERRELL

404 Legion way se suite.100 Olympia WA 98501-1495.

6. I have appealed from the decision of the trial court. I appealed to : Court Of Appeals Division Two State of Washington.

7. My lawyer for my appeals was :

Jennifer J. Sweigert

1908. east Madison street

Seattle Washington 98122

The decision of the Appellate Court is unknown.

8. Since my conviction I have asked a court for some relief from my sentence other than what I have already written above. I asked the court of appeals to drop my burglary first degree conviction to residential burglary. Also that a new trial be granted because a detective mentioned in front of the jury that he had obtained a photograph of me the day before in the Pierce County Jail. The name of my lawyer in the proceedings mentioned in my answer to number seven was Jennifer J. Sweigert

First Ground

B. Grounds For Relief :

1. I Should be given a new trial because the use of the word victim being used in front of the jury before the crime had been proven. On October 4th,2010 Mr.Shoenberger asked the court to refrain from the use of the word victim and use homeowner or alleged victim.

The Honorable Judge Fleming agreed saying "yeah, that would be good.Why dont you use the name of the homeowners".

2. The following facts are important when considering my case.

Sgt.Gildehous when describing Joseph Krout's Greenbay jacket refered to him as a victim.Again he uses the word victim when describing Krout's social security card.

Mrs.Swettenam uses the word victims residence when refering to the house in graham. Mr.Anderson when refering to house and his investigation into the graham residence says, "I believe the victims parents responded.The victim was out of town". The following facts are recorded in the court transcripts.

3. The following reported court decisions in cases similar to mine show the error I believe happened in my case.

US.V Hitt, 981 F2d 422 (9TH cir.1992) Where evidence is of very slight if any probative value, it is abuse of discretion to admit it if there is even modest likelihood of unfair prejudice or small risk of misleading jury.

4. I have no current knowledge of any statutes and constitutional provisions that should be considered by the court in this case.

Second Ground

1. I Should be given a new trial because on March 18, 2011 I was sentenced to a total of 300 months, to the Department of Corrections. I began trial with three prior custody points and was sentenced under 20 points.

2. The following facts are important when considering my case. between Defense Attorney William Ferrell and Deputy Prosecuting Attorney Dione Hauger, it was established and calculated that most of the crimes I was convicted of had encompassed one another, and were part of the same criminal conduct.

3. The following reported court decision in cases similar to mine show the error I believe happend in my case.

In general, all current and prior convictions count toward the offender score for each conviction. An exception exists for current offense if the sentencing court expressly finds that the offenses "encompass the same criminal conduct". Such convictions are counted as one crime.

4. I have no current knowledge of any statues and constitutional provisions that should be considered by the court in this case.

Third Ground

1. I should be given a new trial because at trial Deputy Prosecuting Attorney Dione Haugers closing arguments were both bias and prejudicial to my case. During trial she also goes on to say my story had no credibility.

2. The following facts are important when considering my case on October 26, 2010, when giving her closing arguments Dione Hauger shows bias when referring to co-defendants testimony by saying " there is a key reason to doubt the credibility of much of his testimony". She also goes on to say," Now there's a lot of reason to also doubt the credibility of of Mr.DeLaCruz's testimony". Again when referring to me she says," the rest of his story about not being involved simply doesnt have any credibility to it whatsoever". Then she goes on to talk about co-defendants who testified at trial and starts vouching and burden shifting saying , " where is the greater weight, the greater credibility, the greater corroboration? Its in the testimony of Mr.Marin Andres and Mr. Smith Escalante".

3. The following reported court decisions in cases similar to mine show the error I believed happened in my case.

US v. Rude, 88 F3d 1470 (9th Cir. 1995)

US v. Eyster, 948 F2d 1196 (11th Cir. 1991)

1. Prosecutors improperly vouching for credibility of prosecution witness tainted trial and required reversal of convictions.

2. "Vouching" occurs where prosecutor personally assures jury concerning witness's credibility or expresses personal opinion regarding defendant's guilt.

Bell v. Evatt, 72 F3d 421 (4th Cir. 1995)

Prosecutors closing argument may be grounds for reversing conviction.

US v. Blakey, 14 F3d 1557 (11th Cir. 1994)

Prosecutor may not make suggestions, insinuations, and assertions calculated to mislead jury.

4. I have no current knowledge of any statutes and constitutional provisions that should be considered by the court in this case.

C. STATEMENT OF FINANCES :

1. I ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.

2. I have \$ 4 in my prison or institution account.

3. I ask the court to appoint a lawyer for me because I am so poor and cannot afford to pay a lawyer.

4. I am currently unemployed.

5. During the past 12 months I did not receive any money from a business, profession or other form of self-employment.

6. During the past 12 months I :

Did not receive any rent payments.

Did not receive any interest.

Did not receive any dividends.

Did not receive any other money.

Do not have any cash except as said in question 2 of statement of finances.

Do not have any savings or checking accounts.

Do not own stocks, bonds, or notes.

7. I have no real estate or any other property of value.

8. I am not married.

9. below is a list of persons who need me to support them.

name	relationship	age
Destiny DeLaCruz	daughter	7
Deziray DeLaCruz	daughter	5

4815 115th st c.t. sw apt o lakewood wa 98499

10. All the bills I owe are listed here :

\$30,357 restitution

\$500.00 crime victim assessment

\$100.00 DNA Database Fee

\$1,500 Court Appointed Attorney Fees

\$200.00 Criminal Filing Fees

TOTAL : \$32,657

D. Request for relief : I ask this court to vacate my conviction and grant a new trial.

OATH OF PETITIONER

STATE OF WASHINGTON

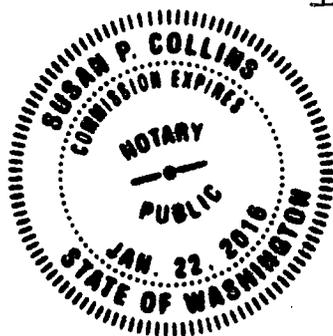
SS

COUNTY OF PIERCE

Ater being first Duly Sworn,On Oath,I depose and say : that I Am The
Petitioner, That I have read the petition, know its contents, and believe the petition
is true.

signature here
Jason DeLaCruz

Subscribed and sworn to before me this 1 day of March 2012



Susan P. Collins
notary in and for the state of
WASHINGTON