

No. 42904-7-11

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

MAURICIO TERRENCE PAIGE-COLTER,

Appellant,

Vs.

STATE OF WASHINGTON,

Respondent.

FILED
COURT OF APPEALS
DIVISION II
2012 SEP 27 PM 1:10
STATE OF WASHINGTON
BY _____
DEPUTY

STATEMENT OF ADDITIONAL GROUNDS
Pursuant to RAP 10.10

Mauricio Paige-Colter
Coyote Ridge Corr. Ctr.
PO Box 769
Connell, WA 99326

STATUS OF APPELLANT

Mauricio Paige-Colter is currently incarcerated at the Coyote Ridge Corrections Center for One Count of Assault in the First Degree and First Degree Unlawful Possession of a Firearm. Mr. Paige-Colter was sentenced to 300 months plus 60 months for a FASE.

A. ADDITIONAL ASSIGNMENT (S) OF ERROR

1. WITH THE ALLEGED VICTIM REDACTING HER STATEMENT TO THE PROSECUTOR AND STATING "I WOULD LIKE TO SUBMIT MY THIRD OFFICIAL LETTER TO THIS CASE CONCERNING MAURICIO TERRENCE PAIGE-COLTER. THERE HAS BEEN A FALSE RULING TO THIS MAN. I BRANDY WALLACE DID NOT GET SHOT BY THIS MAN MAURICIO PAIGE-COLTER. I AM THE WITNESS AND I LIKE TO FREE THIS MAN, HE IS NOT GUILTY OF SHOOTING ME BRANDY WALLACE. PLEASE CONTACT ME ASAP FOR THE TRUTH. PLEASE CALL BRANDY WALLACE AT (253) XXX-XXX. THE STATE PUSHED AND MADE ME CHANGE MY FIRST STATEMENT WITH SHAWN WICKENS I WOULD LIKE TO TALK TO YOU." DID THE STATE ERR AND ABUSE ITS DISCRETION WHEN IT FOUND THE APPELLANT GUILTY OF THE CHARGE OF ASSAULT IN THE FIRST DEGREE IN VIOLATION OF HIS SIXTH AND FOURTEENTH AMENDMENT RIGHTS TO THE UNITED STATES CONSTITUTION AND WASH. CONST. ART. 1 SEC. (S) 3 AND 22? (SEE DECLARATION OF BRANDY WALLACE)(Phone Number redacted for security).

B. STATEMENT OF THE CASE

On August 9, 2011, the Pierce County Prosecutors Office charged the appellant, Mauricio Paige-Colter with First Degree Assault and First Degree Unlawful Possession of a Firearm. The Prosecution forced the victim into changing her statement that Mr. Paige-Colter shot her, after she had previously stated that she did not know who shot her that it was some sort of drive by; she didn't remember because everything happened so fast.

Mr. Paige-Colter was convicted by a jury as charged and sentenced to 300 months plus 60 months for the Firearm Sentencing Enhancement (FASE).

C. ARGUMENT

1. WITH THE ALLEGED VICTIM RECANTING HER STATEMENT TO THE PROSECUTOR AND STATING "I WOULD LIKE TO SUBMIT MY THIRD OFFICIAL LETTER TO THIS CASE CONCERNING MAURICIO TERRENCE PAIGE-COLTER. THERE HAS BEEN A FALSE RULING TO THIS MAN. I BRANDY WALLACE DID NOT GET SHOT BY THIS MAN MAURICIO PAIGE-COLTER. I AM THE WITNESS AND I LIKE TO FREE THIS MAN, HE IS NOT GUILTY OF SHOOTING ME BRANDY WALLACE. PLEASE CONTACT ME ASAP FOR THE TRUTH. PLEASE CALL BRANDY WALLACE AT (253) XXX-XXX. THE STATE PUSHED AND MADE ME CHANGE MY FIRST STATEMENT WITH SHAWN WICKENS I WOULD LIKE TO TALK TO YOU." THE STATE ERRED AND ABUSED ITS DISCRETION WHEN IT FOUND THE APPELLANT GUILTY OF THE CHARGE OF ASSAULT IN THE FIRST DEGREE IN VIOLATION OF HIS SIXTH AND FOURTEENTH AMENDMENT RIGHTS TO THE UNITED STATES CONSTITUTION AND WASH. CONST. ART. 1 SEC. (S) 3 AND 22. (SEE DECLARATION OF BRANDY WALLACE)(Phone Number redacted for security).

The Appellant Mauricio Paige-Colter's right to a fair trial and due process were violated when the alleged victim recanted her statement saying that he was not the one who shot her. The Due Process Clause of the Fourteenth Amendment requires that the state prove every essential element of the crime charged beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970). To determine whether the evidence is sufficient to sustain a conviction, we view the evidence in the light most favorable to the prosecution and determine whether any rational fact finder could have found the essential elements of the crime beyond a reasonable doubt. *State v. Engel*, 166 Wn.2d 572, 576, 210 P.3d 1007 (2009) (citing *State v. Wentz*, 149 Wn.2d 342,

347, 68 P.3d 282 (2003)). "It is mandatory that a conviction be made only under the offense charged." *State v. Thompson*, 68 Wn.2d 536, 541, 413 P.2d 951 (1966).

In the present case, this did not happen. The State did not prove beyond a reasonable doubt that Mauricio Paige-Colter shot the alleged victim Brandy Wallace. The alleged victim Brandy Wallace recanted her statement that she made to the State, and was asked previous times did Mauricio Paige-Colter shoot you, and she stated no, she did not know who shot her. See gave the same statement to the detectives that came and saw her and still said that she did not know who shot her. She stated that she wrote three official letters concerning the ruling and the shooting that happened. It seems that the State in this case forced her to change her statement to coincide with their theory of their case other than what actually happened concerning said shooting.

Recantations are inherently questionable. *State v. Macon*, 128 Wn.2d 784, 801, 911 P.2d 1004 (1996). But a recantation may, in some circumstances, be grounds for a finding of manifest injustice. Much depends upon whether the recanted evidence was the sole basis for conviction. If so, it is an abuse of discretion to deny a new trial. *See State v. Rolax*, 84 Wn.2d 836, 838, 529 P.2d 1078 (1974). Discussions of recantation evidence often merge the issues of reliability and credibility. Reliability is the overriding concern and encompasses all relevant circumstances surrounding the recantation, including possible undue influence, coercion, and any other improper motive or influence. *See Macon*, 128 Wn.2d at 802; *State v. Landon*, 69 Wn. App. 83, 93, 848 P.2d 724 (1993). Credibility amounts to a threshold determination of plausibility that involves more than the demeanor of witnesses. A credibility determination includes an assessment of evidence in light of its rationality, internal consistency, consistency with other

evidence, and common experience. *See Carbo v. United States*, 314 F.2d 718, 749 (9th Cir. 1963). In this context, credibility is a component of reliability.). Mr. Paige-Colter's conviction was based solely on the statement made by Brandy Wallace.

D. CONCLUSION

For the reasons set forth herein, the appellant Mauricio Paige-Colter should be remanded for a new trial, the charges should be dismissed or in the alternative he should be given an evidentiary hearing on the merits of the declaration provided by the alleged victim Brandy Wallace.

DATED this 24 day of September, 2012.

Respectfully submitted,

Mauricio Paige-Colter
Mauricio Paige-Colter
Coyote Ridge Corr. Ctr
PO Box 769
Connell, WA 99326

Dave Shaw.

I Brandy Wallace would like to now submit my third official letter to this case concerning ~~Mauricio-Terrence-paige-colter~~. There has been a false ruling to this man. I brandy Wallace did not get shot by this man Mauricio paige-colter. I am the witness and I would like to free this man, he is not guilty of shooting me brandy Wallace. please contact me asap for the truth of this case. Please call brandy Wallace at 253 208 3735 . The state pushed and made me change my first statement with shawn wickens I would like to talk to you.

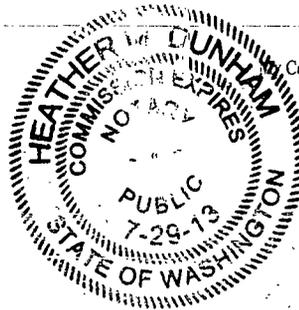
BW
Brandy Wallace
12/1/11

JURAT

State of Washington
County of Pierce

Subscribed and sworn/affirmed to before me this 1 day of Dec
20 11, by Brandy M. Wallace

Heather M. Dunham
Notary Public



Commission Expires: July 29, 2013