No. 93668-4

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON Respondent, v. Charles Bluford (your name) Appellant.	))))))))))	No. 73047-9 STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Charles Bluford, 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

Violation of State Identification Lineup.
See State v. Tanner Pg. 3
See State v. Ryan Pg. 3
See Lilly v. Virginia Pg 3
See Remis v. Edward U.S. Pg. 4
See Federal Rule of Evidence Pg. 1

Additional Ground 2

Violation of State and Constitutional Rights of Search and Seizure.
See Mapp v. Ohio Pg. 6
See Wolf v. People Pg. 8
See Federal Rule of Evidence Pg. 8

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

Date: _____ Signature: _____

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COURT OF APPEALS
STATE OF WASHINGTON
2016 JAN 11 PM 12:03

No. 73047-9

1. Did The Superior Court of King County For The State of Washington Violate Appellant Bluford State Identification - Uses of Lineup Evidence Rights?

Grounds

The Revised Code of Washington Annotated, Part 1 Rules of General Application
Washington Rules of Evidence (ER)
Title VIII. Hearsay
Rule 801. Definitions (a) (b) (c) & (d)

The Federal Rules of Evidence Rule 801, 28 U.S.C.A.
Federal Court Rules
Federal Rules of Evidence
Article VIII. Hearsay
Rule 801 (c) (1) & (2).

The Washington State Superior Court Criminal Rules (CrR)
CrR 4.7 (b) (2)
CrR 4.7 (g)

U.S.C.A Const. Amend. IV
Amendment IV Search and Seizure
West's RCWA Const. Art 1, § 7 Wa. State Const.
Invasion of Private Affairs or Home Prohibited

Arguments

A witness who Identifies the defendant at a properly held pre-trial lineup may testify to that effect at trial. The witness may also identify the defendant in court before the jury based upon observations of the suspect(s) at the scene of the crime or at the lineup.

Evidence of a witness' identification of a defendant at lineup is offered by the prosecution primarily to strengthen the witness' in-court identification. where the witness is unsure in court, or is unable to point the defendant, the prosecutor will offer evidence that on a prior occasion the witness had selected the defendant from a lineup. Washington Criminal Practice And Procedure Vol .13 §3224

In Appellant Bluford's Trial, at Direct Examination of one MaryLisa Priebe-Olson concerning a Photo Montage that was presented to Ms. Reant Unida, the supposely rape victim, didnot Identify Appellant Bluford as the perpetrator of this crime. DNA From Rings and Rape Kit, clearly Exempt Appellant Bluford From the Charged Crime. Verbatim Report of Proceedings Pg. 64

This Objection alone with countless others, such as CP and Vebatim Report of Proceedings 15, 34, 54, 63, 66, 71, 79, 80, 81, 82, 84, 107, were preserved, and also put impartiality upon Identification.

Evidence as to an accused being identified in a preindictment lineup conducted after the occurrence of the crime with which defendant was later charged, was inadmissible notwithstanding that the accused was not represented by counsel at the time of the lineup. State v. Brewer, 73 Wn. 2d 58. 436 P. 2d 473, (1968).

In State v. Smith, First, the appellant contends the court erred in permitting the grandmother to testify about statements Tony made to her, relating what L had said to him, because the testimony contained double hearsay. ER 801 (c). See State v. Stubsjoen, 48 Wn. App. 139, 147, 738 P. 2d 306, (1987) State v Smith 56 Wn. App. 909, 786 P. 2d 320 (1990) Wash. App. No. 9440-5-III

While State v. Tanner, Araues that his right to due process was violated by the admission of unreliable hearsay evidence. Specifically, he claims that the trial court abused its discretion when it determined that M. A.'s statement to Cate and Dellinger - Frye, satisfied the nine factors. State v. Ryan, 103 Wn. 2d 165, 175-76, 691 P. 2d 197 (1984). State v. Tanner Court of Appeal of Washington, Division One 2015 Wash. App. No. 72523-8-1

Federal Hearsay Case Law

In Lilly v. Virginia, The confrontation clause ensures the reliability of evidence against a defendant by subjecting it to rigorous testing in an adversary proceedin Maryland v. Craia, 497 U.S. 836, 845, 111 L. Ed. 2d 666, cross-examination of a declarant, See California v. Green 399 U.S. 149, 158, 26 L. Ed. 2d 489, 90 S. ct. 1930.

Hearsay statements are sufficiently dependable to allow their untested admission against an accused only whe (1) the statements fall "within a firmly rooted hearsay exception" or (2) they contain "particularized guarantees of trustworthiness" such that adversarial testing would be expected to add little, if anything, to their reliability. Roberts, 448 U.S. at 66, 65 L. Ed. 2d 597, 100 S. ct. 2531. Lilly v. Virginia 527 U.S. 116, 144 L. Ed. 2d 117, 119 S. ct. 1887

U.S. COA 9th Circuit Hearsay Case Law

In Remis v. Edward U.S. The city and certain police officer, in the civil rights action filed by appellant injured party. The court held that the district court properly excluded the statements on the 911 tape as hearsay because neither declarant had first hand knowledge of the events he described.

Bemis v. Edward U.S. Court of Appeals 9th Circuit 45 F. 3d 1369, 1995 U.S. App. Lexis 1358, Fed. R. Evid. Serv. (Callaghan) 383, 95 Cal.

The testimony of witnesses concerning extra judicial identification of the defendant is inadmissible as evidence and does deny the defendant the right to confrontation since such witnesses were present in court and subject to cross examination.
State v. Simmons, 63 Wn. 2d 17, 385 P.2d 389 (1963).

Washington Rules of Evidence (E R)
Title VIII. Hearsay
won't stay far behind, Rule 801 States:
(c) Hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

2. Did The King County Sheriff Department Violate Appellant Bluford Constitutional Rights Amendment IV Search and Seizure And RCWA Const. Article 1. § 7 Wa. State Constitution Invasion of Private Affairs or Home Prohibited?

Arguments

§ 2401 Exclusionary Rule

The exclusionary rule is a judicially created remedy which results in the suppression, at a criminal trial of evidence obtained directly or indirectly through a violation of a defendant's constitutional rights. Not only must the illegally obtained evidence be suppressed, but all evidence obtained by exploitation of the primary illegality must also be excluded.

The exclusionary rule of criminal procedure is based on the principle that the state should not profit by its own wrong in using, in criminal proceedings, evidence obtained by unconstitutional methods. Furthermore, the exclusionary rule has a deterrent effect by denying any reward to police officers who may be tempted to use illegal meth to obtain incriminating evidence. In other word the exclusionary rule is designed to deter unlawful police conduct and thereby protect the integrity of the judicial process from the effects of such conduct.

Mapp v. Ohio 367 U.S. 643, 81 S.ct. 1684, 6 L.Ed. 2d 1081 (19

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The King County Sheriff Department used inappropriate action, when seizing items from Appellant Bluford's Residence. The Police were in this residence with a valid search warrant and they in this residence able to search for any number of things. things as small as movie ticket. Some of these officers were searching this House very thorsughly, searching for any number of things. And the police were also searching for evidence of the second male suspect at Reant Unida rape and robbery as well as a female suspect or potential suspect at Reant Unida's rape. and robbery Verbatim Report of Proceedings of State v. Bluford Pg. 31

Once the court has ruled the police action illegal the primary evidence is automatically subject to suppression. However, the exclusionary rule applies not only to items initially obtained through illegal conduct, but also to any derivative evidence which is discovered through the illegal activity, Known as Fruits of the poisonous tree, must be excluded.

The purpose of exclusionary rule is to protect the integrity of the judicial process from the effects of unlawful government conduct.

In which this rule also applies to Appellant Bluford instant case.

The exclusionary rule is applicable in Federal proceeding.

<u>Constitutional Law, Due Process</u>

Protections Provided and deprivations prohibited in General Rights, Intests, Benefits, or Privileges Involved in General Liberties and Liberty Interest

The Due Process of Law Clause of The Fourteenth Amendment exacts From the States For the lowliest and most outcast, all that is implicit in the concept of ordered liberty, embracing all those rights which courts must enforce because they are basic to a Free society. U.S.C.A. Const. Amend. 14

What constitutes due process of Law within meaning of The Fourteenth Amendment must be determined by the court and not by the gradual and empiric process of inclusion and exclusion. U.S.C.A. Const. Amend

Wolf v. People of the state of Colo, 69 S.Ct. 1359, 338 U.S. 25 /194

The Fourth Amendment to The United States Constitution guarantees " the right of the people to be secure in their persons, houses, papers, an effects, against unreasonable searches and seizures... There is a distinction between a "Seizure" and a "Search". A seizure affects an individual's possessory interests, whereas a search affects an individual's privacy interest.

The Federal Rule of Evidence Rule 103, 28 U.S.C.A.

Federal Court Rules

Federal Rules of Evidence

Article I. General Provisions

Rule 103. Rule on Evidence

(2.) (d) Preventing the Jury From Hearing Inadmissibl Evidence. To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by and mear

Conclusion

Appellant Bluford seeks redress to each one of His Violations, under state and Federal Constitution. Violations of Appellant Bluford's Identification Lineup and Spoilation of Exclusionary Evidence, Requires Dismissal of all charges and remand Appellant Bluford back to a State Court of Competent judgment The Seperation of the Powers of The State of Washington From the judicial System violated a Substantial Right of Appellant Bluford and Require a Reversible Error and Re-sentencing.

Respectfully Submitted this 1 day of January, 2016

Charles Bluford

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