

No. 67219-3-1

**IN THE COURT OF APPEALS
STATE OF WASHINGTON**

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

TREVOR COLLIN SNOW,

Appellant.

**ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY**

The Honorable Ira J. Uhrig, Judge

OPENING BRIEF OF APPELLANT

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COURT OF APPEALS DIV I
STATE OF WASHINGTON

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A. INTRODUCTION

In early February 2010, Nicole Baldwin and her boyfriend walked in on her 10-year old with his face down by their dog's genitals. She found the behavior inappropriate and questioned T.B., a minor, where it came from. After some discussion, and T.B. giving stories involving his dad, then grandma, he told his mom, a friend of his dad's told him that if he wanted to try something once it would not be wrong. Over the next day or two Nicole asked him more about it and then T.B. gave Nicole the name of his dad's friend, Trevor.

Nicole spoke to her ex-husband, John Baldwin, who gave Nicole contact information for Trevor Snow. Nicole contacted Trevor and she met with him along with her boyfriend in the parking lot of Fred Meyer. They discussed the allegations made by T.B., and advised him if they found out it was him they would be contacting law enforcement. Trevor denied any inappropriate contact with the child and told Nicole he understood her wanting to call law enforcement, as he would do the same, having children of his own.

Nicole contacted law enforcement. Nicole and T.B. met with a detective named Steve Harris. T.B. told the detective Trevor had rubbed lotion on his penis and had T.B. rub Trevor's penis. This happened sometime during his Christmas break visit at his dad's house the month

prior. After being interviewed briefly for 10-15 minutes, the detective attempted to contact Trevor on a cell number given to him by Nicole.

Detective Harris left a message on the voicemail of the number provided. Shortly thereafter, a person claiming to be Trevor returned the call leaving a message for the Detective stating he was on a Greyhound bus on his way to Texas for drug rehab and he wouldn't be back for six months to a year. Detective Harris called back and after some discussion found he wasn't on his way to Texas but instead in Hermiston, Oregon, near his father's home. They discussed the allegations and possibility of an interview with Hermiston police department to include a polygraph. When they hung up, the understanding was that Trevor would be contacted by somebody from the Hermiston police department for an interview. The next day, Trevor left a message for Detective Harris that he hadn't been contacted by police yet and that he made arrangements with the Salvation Army rehab center in Seattle and needed to leave. The detective returned the call stressing the seriousness of the allegations and that in his interview with the T.B., the child was able to articulate in detail what happened to him. Trevor allegedly responded that he was very high at the time and that it wasn't like him to do something like that but if it occurred he did not recall it. After the conversation, Trevor got on a Greyhound bus to Seattle to attend treatment at the Salvation Army.

The Detective later interviewed the child's dad, John, in person. And shortly thereafter, charges were filed by the prosecutor's office for Child Molestation in the First Degree against Trevor Snow.

B. ASSIGNMENTS OF ERROR

1. The defense attorney engaged in ineffective assistance of counsel by failing to voice objection for lack of proper foundation and relevance to the prosecutor moving to admit the declaration of Michelle Mortiz regarding a cell phone number not in evidence.
2. The defense attorney engaged in ineffective assistance of counsel by failing to inform the trial court the declaration of Michelle Mortiz was a discovery violation under CrR4.7 by the prosecutor, as the defense attorney was made aware of its existence after the jury had been selected and had no contact information for the declarant on it.
3. The defense attorney engaged in ineffective assistance of counsel by failing to argue to the trial court that **Passovoy v. Nordstrom** requires a separate inquiry to see if statements qualify as admissions by a party opponent under ER 801(d)(2).

4. The defense attorney engaged in ineffective assistance of counsel by failing to cross-examine Detective Harris during the trial on his ability to identify the person on the phone claiming to be Trevor Snow.

5. The defense attorney engaged in ineffective assistance of counsel by failing to review the First Amended Information first filed in May 3, 2011, and after the trial court read it to the jury.

6. The defense attorney engaged in ineffective assistance of counsel by pursuing defense theories based on inadmissible evidence and when asked for authority by the trial court the defense counsel had not researched the matters.

7. The defense attorney engaged in ineffective assistance of counsel by failing to inquire of Kathleen Baldwin regarding inconsistencies in her testimony and demeanor during a previous defense interview and her willingness to testify at trial.

8. The defense attorney engaged in ineffective assistance of counsel by bringing a Motion for a New Trial without providing the trial court the necessary evidence to have it grant.

9. The prosecutor committed misconduct by repeatedly vouching for the credibility of the victim, T.B., in his closing argument, despite sustained objections by the trial court and instructions to the jury to disregard the comments.

10. The trial judge committed error by failing to do a full analysis under **Passovoy v. Nordstrom** allowing a phone conversation into evidence overturning its earlier ruling that it lacked proper authentication.

11. The trial judge committed error by failing to require the prosecutor to bring Michelle Mortiz to testify to the facts of her declaration violating the Confrontation Clause of the Sixth Amendment of the United States Constitution.

C. STATEMENT OF THE CASE

1. Overview

On May 3, 2010, the Whatcom County Prosecutor's Office charged Trevor Colin Snow with one count of Child Molestation in the First Degree as committed against T.B., a minor, on or about December

2009-January 2010. (See Clerk's Paper's, hereinafter referred to as CP, No. 4).

The matter went to jury trial before the Honorable Ira J. Uhrig in Whatcom County Superior Court. The trial commenced on January 18, 2011 and went through January 25, 2011. (See Verbatim Report of Proceedings herein after referred to as RP, pages 3-450). There was a two-day delay (1/19/11 & 1/20/11) after selecting the jury on January 18, 2011 due to defense counsel, Lance Hendrix, being ill. (RP, pages 154-182). The trial resumed on January 24, 2011. (RP, page 183). The jury returned its verdict on January 26, 2011, convicting Mr. Snow as charged. (RP, page 454).

On May 9, 2011, Mr. Hendrix brought a Motion for a New Trial. (Verbatim Report of Proceedings: May 9, 2011 Motion, page 3). The Court denied Mr. Hendrix's motion ruling that what had been presented didn't rise to the level of sufficient cause to grant a new trial. (5/9/11 RP, page 14). Subsequently, Trevor Collin Snow was sentenced on May 31, 2011, to the middle of the standard sentence range, 65 months. (RP, page 472).

2. State's Case

Mr. Sawyer began his case in motions the morning of trial by moving to admit a phone conversation between Detective Harris and Mr.

Snow, arguing it contained admissions. (RP, pages 18-22) Mr. Sawyer argued the conversation did to not fall under CrR 3.5 due Mr. Snow not being in custody when the statements were made. (RP, page 18). The trial court immediately inquired how Mr. Sawyer was going to authenticate whom the officer was speaking to. (RP, page 20).

Detective Harris testified in the CrR 3.5 hearing that he could not identify the voice as Mr. Snow's. (RP, page 32). The trial court denied Mr. Sawyer's motion by stating absent voice recognition there was not adequate foundation for the admission of the phone conversation into evidence. The court cited Evidence Rule 901, stating authentication could be met by evidence a call was made to a number assigned at the time by a telephone company to a particular person. (RP, page 49-50). However, the trial court allowed Mr. Sawyer to present case law to support his motion prior to the start of opening statements the following day. (RP, page 50).

The following day, Mr. Sawyer presented a declaration of Michelle Mortiz, stating she gave Mr. Snow her cell number to use. Along with the declaration, Mr. Sawyer included Ms. Mortiz's phone records of the cell number in question. (Pretrial Exhibit #1, CP, No. 30). However, because Mr. Hendrix was out ill for two days the matter wasn't addressed at that time. (RP, page 180).

On January 24, 2011, Mr. Sawyer argued to the court he didn't feel it was necessary to bring in Ms. Mortiz to testify to corroborate her declaration. (RP, page 186). Citing **Passovoy v. Nordstrom**, Mr. Sawyer maintained the phone conversation should be admitted. (RP, page 186). Without addressing whether the statements qualified as admission under ER 801(d)(1) the trial court overturned its earlier decision ruling the state met foundational requirements. (RP, page 193).

Mr. Sawyer presented Nicole Baldwin, the child's mother, as the state's first witness. (RP, page 218). She testified to the events that lead to discovering the allegations against Mr. Snow, followed by T.B. explaining the details of the allegations. (RP, page 248).

John Baldwin, the child's father, who was present the evening in question, testified not witnessing any improper behavior between Mr. Snow and T.B., but did state there was a time he left them alone. (RP, pages 270, 276).

Mr. Sawyer closed his case with the testimony of Detective Harris. (RP, page 294). The detective testified regarding his investigation, interview of T.B., and that T.B.'s testimony was consistent with his initial interview. (RP, pages 300-302). Detective Harris then recounted his phone conversation with Mr. Snow met by Hearsay objection from Mr. Hendrix overruled by the trial judge. (RP, page 305).

3. Defense's Case

Mr. Hendrix presented a defense primarily based on information that T.B. had previously made allegations of molestation and that the child's own father didn't believe the incident occurred. (RP, page 202, 280, 291, 326-332).

The Defense's first witness was Kathleen Baldwin, T.B.'s parental grandmother, who lived on the same property as his dad in a trailer. (RP, page 376). Kathleen testified John came to her trailer to ask her to stay with T.B. and Mr. Snow so he could leave for the evening. (RP, page 377). Kathleen explained to the jury a prior incident of T.B. alleging molestation involving three boys. (RP, page 379).

Mr. Snow took the stand in his own defense. (RP, page 389). Mr. Snow testified how he assisted with the investigation by voluntarily meeting with Nicole initially and responding to all of Detective Harris' calls. (RP, pages 395, 399). Mr. Snow reiterated the defense theory Mr. Hendrix put forth by testifying he believed something happened to T.B., just not by him. (RP, page 392).

D. ARGUMENT

1. DEFENSE COUNSEL REGRETTABLY ENGAGED IN MULTIPLE INSTANCES OF INEFFECTIVE ASSISTANCE OF COUNSEL WHICH CUMULATIVELY RESULTED IN THE DEFENDANT NOT RECEIVING A FAIR TRIAL OR DUE PROCESS OF LAW

It is well established that for a defendant to show ineffective assistance of counsel, and thereby have a conviction set aside or overturned for this reason, it must be demonstrated that counsel's performance was defective and that the deficient performance prejudiced him or deprived him of a fair trial and a verdict based only on legally proper and admissible evidence. *State v. MacFarland*, 127 Wn.2d 322, 899 P.2d 1251 (1995). Stated somewhat differently, deficient performance occurs when counsel's performance falls below an objective standard of reasonableness, with the reasonableness viewed in light of all the circumstances and the facts of the particular case. *State v. Stenson*, 132 Wn.2d 668, 940 P.2d 1239 (1997); *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052 (1984). Furthermore, prejudice occurs when but for the deficient performance the outcome would have been different. In *re Personal Restraint Petition of Pirtle*, 136 Wn.2d 467, 965 P.2d 593 (1998).

The defendant concedes that judicial deference is generally given to counsel's performance and therefore any analysis begins with a presumption that counsel provided proper and effective representation. *State v. MacFarland*, supra. Further, if defense counsel's conduct can be characterized as legitimate trial strategy or tactics, then it cannot serve as a basis for a claim of ineffective assistance of counsel, and ineffective assistance of counsel does not occur when counsel refuses to pursue strategies that reasonably appear unlikely to succeed. *State v. Adams*, 91 Wn.2d 86, 586 P2d 1168 (1978); also *State v. MacFarland*.

There is no question that in its totality, defense counsel's conduct fell below the standard of reasonableness necessary in this particular case and for this defendant to receive a fair trial, that prejudice to this defendant most certainly occurred, and but for defense counsel's inappropriate conduct the results would have been different.

The large portion of the defense's deficient performance and consequential prejudice to Mr. Snow centered on the phone conversation with Detective Harris admitted into evidence.

First, defense counsel failed to voice any objection to the declaration of Michelle Mortiz based on the cell phone number not being in evidence. When Mr. Sawyer presented the declaration, day after selection of the jury, Detective Sawyer had already testified to his phone

conversation with Mr. Snow. However, never in his pre-trial testimony did he disclose what specific number he had been calling or from what number the detective originated his calls. Defense counsel could have objected on the grounds the declaration was not relevant. ER 401. Ms. Mortiz's declaration and cell phone records had no connection to the case based on the record at the time.

Accordingly, when presented with a declaration of the witness whose testimony is being introduced the morning of trial, not previously disclosed, defense counsel had the duty to Mr. Snow's defense to inform the trial court the declaration of Michelle Mortiz violated CrR4.7. "In order to provide adequate information for informed pleas, expedite trials, minimize surprise, afford opportunity for effective cross-examination, and meet the requirements of due process, discovery prior to trial should be as full and free as possible consistent with protections of persons, effective law enforcement, the adversary system, and national security." *State v. Yates*, 111 Wash.2d 793, 797, 765 P.2d 291 (1988), quoting Criminal Rules Task Force, Washington Proposed Rules of Criminal Procedure 77 (West Pub'g Co. ed 1971). CrR 4.7 carefully sets out both prosecutor's and defendant's obligations, each being separately listed, and with other subsections of the rule encompassing additional and discretionary

disclosures and matters not subject to disclosure also carefully set out.

Yates, 111 Wash.2d at 797, 765 P.2d 291.

The declaration of Ms. Mortiz was material under CrR 4.7, as it was the basis for the trial court allowing otherwise, inadmissible evidence into the trial. Her written declaration was submitted without any previous investigation or knowledge of the information by defense counsel.

Without noting the discovery violation defense counsel denied Mr. Snow a prepared defense, as he should have requested a recess or continuance to at least confirm the contents of the declaration before moving forward.

Defense counsel may have even been able to be prove actual prejudice, and moved for a mistrial, at that time if the State's belated interjection of new facts into a case forced the defendant to choose between the right to a speedy trial and the right to prepare an adequate defense. State v.

Sherman, 59 Wash.App. 763, 770-71, 801 P.2d 274 (1990); State v.

Michielli, 132 Wash.2d 229, 239, 937 P.2d 587 (1997); State v. Price, 94

Wash.2d 810, 814, 620 P.2d 994 (1980). But failing to voice the

violation, the defense counsels' performance denied Mr. Snow those protections.

Defense counsel also failed to argue to the trial court that Passovoy v. Nordstrom, 52 Wn. App. 166 (1988), requires a separate inquiry on whether the statements qualify as admissions by a party opponent under

ER 801(d)(2). The prosecutor in his presentation of the case, in support of his motion to admit the phone conversation where Detective could not identify the voice as Mr. Snow's, only argued the authentication portion of the case. The Court in *Passovoy* indication a separate inquiry had to be done to qualify as a hearsay exception. Defense counsel did not argue that, leading to the evidence being admitted. If defense counsel was not familiar with the case, as it was brought before the court the morning of trial, after the phone conversation being previously excluded from trial by the trial judge, he should have requested a recess to adequately prepare a counter argument.

In his initial cross-examination of Detective Harris, defense counsel failed to question him regarding his ability to identify the person on the phone as Trevor Snow. His line of questioning presumed Mr. Snow was on the other end of the phone conversation with the detective. Based on the testimony given by the officer riddled with Mr. Snow's drug issues and possible admissions, the defense counsel's failure to effectively cross-examine the issue of identity undoubtedly impacted the jury.

During jury selection, after the First Amended Information had been read by the trial judge to the potential jurors, defense counsel requested in open court, for a copy stating "I have not seen that Amended Information." (RP, pages 63, 71). The First Amended Information was

first filed in May 3, 2010. (CP, No. 4). This was almost a year later, when he made the request for a copy of what his client, Mr. Snow, was officially charged with and facing at trial.

While it is been clearly established that ineffective assistance of counsel does not occur when counsel refuses to pursue strategies that reasonably appear unlikely to succeed, (State v. Adams, also State v. MacFarland), logically it follows that ineffective assistance of counsel does occurs when defense pursues strategies not likely to succeed. Defense counsel in this case pursued defense theories based on inadmissible evidence.

In pre-trial motions, defense counsel indicated he planned on presenting reputation evidence of the child for not being truthful. (RP, page 10). Defense counsel wasn't certain which witness from either the state's witness list or defense's witness list he intended to lay the proper foundation for such evidence. (RP, 9-10). Defense counsel, again in pre-trial motions, stated he planned on presenting evidence during trial from the parents that they didn't believe the allegation in questioned happened. (RP, page 16). Met with strong object from the prosecutor citing ER 608 (RP, page 17), the trial judge nonetheless allowed defense counsel to brief the matter and provided adequate case law. (RP, page 18). On the same issue, defense counsel later advised the court he wanted to attempt to have

the father in the case declared as an expert on his son so he can give an opinion as to the credibility of the son. (RP, page 199). The trial court stated he didn't see a legal basis for having a parent declared an expert on a child. (RP, page 200). Then before presenting his case after the close of the state's case, defense counsel advised the court he wanted the defendant to testify to never being charged with anything like this before. The trial court again requested supporting authority before allowing such questioning. All of the defense counsel's theories from pre-trial to moments before presenting his case in chief, were based on inadmissible evidence or eliciting testimony not supported by evidence rules or case law. All the theories undoubtedly had to have a prejudicial impact on Mr. Snow's ability to have a fair trial, as if the defense counsel focused on legitimate theories that would be successful the outcome would have been different.

Defense counsel also presented evidence he believed his witness, Kathleen Baldwin had been tampered with prior to her testimony at trial. However, defense counsel failed to inquire of Kathleen Baldwin regarding inconsistencies in her testimony and demeanor during a defense interview and her willingness to testify at trial. (5/9/11 RP, page 12). Defense counsel failed to leave an adequate record for the trial judge to consider

when the Motion for a New Trial was brought forth on the basis his witness had been tampered with.

When defense counsel later went back and obtained a declaration from Kathleen to bring in support of his motion defense counsel failed to have the witness document how the phone call affected her testimony. (RP, page 5). As a direct result of the failure, the trial court denied the defense motion for new trial for lack of sufficient evidence her testimony was effected by the uncontroverted fact someone called her to impact her testimony at trial. (RP, page 14). Had defense counsel performed effectively, providing the evidence necessary the trial court would have granted his Motion for a New Trial.

2. THE PROSECUTOR ENGAGED IN MISCONDUCT WHICH DEPRIVED THE DEFENDANT OF A FAIR TRIAL AND DUE PROCESS OF LAW

The prosecuting attorney represents the people and is expected and presumed to act with impartiality in the interest of justice. *State v. Fisher*; *State v. Reed*, 102 Wn.2d 140, 684 P.2d 699 (1984) (quoting *State v. Case*, 49 Wn.2d 66, 299 P.2d 500 (1986)). In fact, prosecuting attorneys are quasi-judicial officers who have a duty to subdue their courtroom zeal for the sake of fairness to a criminal defendant. *State v. Davenport*, 100 Wn.2d 757, 675 P.2d 1213 (1984).

When a claim of prosecution misconduct is made, the burden rests on the defendant to show that the prosecuting attorney's conduct was both improper and prejudicial. *State v. Gregory*, 158 Wn.2d 759, 147 P.3d 1201 (2006). Once established, prosecutorial misconduct is grounds for reversal where there is a substantial likelihood that the improper conduct affected the jury. (*State v. Gregory*; *State v. Belgarde*, 110 Wn.2d 504, 755 P.2d 174 (1988)).

Here, the prosecutorial misconduct consisted of impermissible behavior in his closing arguments, and there is no question that the improper conduct affected the outcome of the case. The prosecutor repeatedly vouched for the credibility of the victim, T.B., in his closing argument violating ER 608. (RP, page 437). Each time he told the jury T.B. is credible, he was met with an objection by defense counsel and the trial judge's instructions to the jury to disregard the comments. (RP, 426-437). The prosecutor in pre-trial motions, himself, argued "under Evidence Rule 608, an opinion or not any other witness is telling the truth or not is flat out barred and that's just, that's the law." (RP, page 17).

Having said that, it is acknowledged that in the context of closing argument, prosecutors are given wide latitude in making arguments and they are allowed to draw reasonable inferences from the evidence. *State Fisher*; *State v. Gregory*; (citing *State v. Gentry*, 125 Wn.2d 570, 888 P.2d

1105 (1995). However, in *State v. Boehning*, 127 Wn.App. 511, 111 P.3d 899 (2005), the Court of Appeals prosecutor's questions to the defendant whether the child made up the allegations "for no reason at all" were labeled "flagrant misconduct" because the question impermissibly asked the defendant to express an opinion on the child's credibility.

And where there is a substantial likelihood that the prosecutor's conduct affected the jury's verdict the defendant is deprived of the fair trial guaranteed by the Fourteenth Amendment. *State v. Belgarde*, 110 Wn.2d 504, 755 P.2d 174 (1988); *State v. Manthie*, 39 Wn.App 815, 696 P.2d 33 (1985). For a prosecutor to impermissibly tell a jury who is credible, repeatedly, moments before they begin deliberations, is highly prejudicial.

3. THE TRIAL COURT COMMITTED ERROR WHICH DEPRIVED THE DEFENDANT OF A FAIR TRIAL AND DUE PROCESS OF LAW

Without question that judges have both the authority and responsibility to control the conduct of trial proceedings, and to make rulings as issues of law are presented in order to insure that the defendant receives a fair trial and due process of law. Difficulties arise, and an accused is entitled to a new trial, however, when the judge's rulings are improper and/or they otherwise result in the defendant not receiving a

constitutionally guaranteed fair trial. Respectfully, that is what occurred herein and therefore the defendant must receive a new trial.

Trial judge failed to do a full analysis under *Passovoy v. Nordstrom* allowing a phone conversation into evidence overturning its earlier ruling that it lacked proper authentication under the rules of evidence. As discussed earlier, although *Passovoy* may have assisted the state's argument for authentication of voice recognition, there was no separate inquiry as whether the statements qualified as admissions by a party opponent under ER 801(d)(2). The lack of full analysis became evident later during trial when Detective Harris began testifying to inadmissible hearsay from that phone conversation. (RP, page 305). Defense counsel adequately objected and the trial judge improperly overruled defense counsel's objection allowing the testimony to go forward.

The improper admission of the phone conversation prejudiced Mr. Snow's case in that rules of evidence were not followed as well violating the Confrontation Clause of the Sixth Amendment of the United States Constitution. On January 24, 2011, when the prosecutor requested the matter of the admissibility of the phone conversation be revisited (previously excluded), the trial court stated before the declaration of Ms. Mortiz could be considered as circumstantial evidence in support of self-

authentication “I think she should have to be before the court, maybe before the jury.” (RP, page 184). Defense counsel noted that the declaration stated it was written by Detective Harris, just signed by Ms. Mortiz. The prosecutor argued he didn’t believe they needed testimony from Ms. Mortiz. (RP, page 186). Defense counsel raised the issue of being allowed to cross examine Ms. Mortiz. (RP, page 191). The trial court directed the prosecutor to provide defense counsel with Ms. Mortiz’s contact information as it was not provided on the declaration. (VP, 193), (CP, No. 30). The trial court never allowed the cross-examination Ms. Mortiz in court in front of Mr. Snow, and proceeded to overturn his previous ruling allowing the phone conversation into evidence on the sole basis of the contents of Ms. Mortiz’s declaration.

4. CUMULATIVE ERROR DENIED MR. SNOW A FAIR TRIAL

It is well settled that the combined effects of error may require a new trial even when those errors individually may not require reversal. *State v. Coe*, 101 Wn.2d 772, 789, 884 P.2d 668 (1984); *United States v. Preciado-Cordobas*, 981 F.2d 1206, 1215 n.8 (11th Cir. 1993) (recognizing that cumulative error can deny a defendant due process even where the individual errors are harmless). Reversal is required where the cumulative effect of several errors is so prejudicial as to deny the defendant a fair

trial. *Mak v. Blodgett*, 970 F.2d 614 (9th Cir. 1992); *United States v. Pearson*, 746 F.2d 789, 796 (11th Cir. 1984).

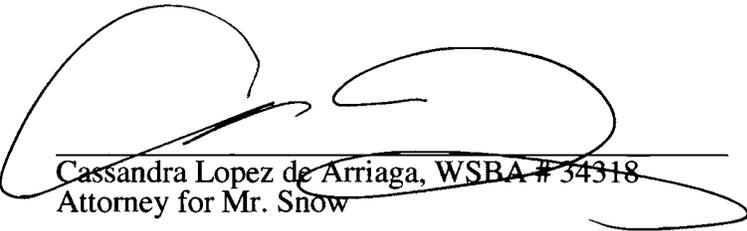
In this case, the many errors, either individually or cumulatively, denied Mr. Snow a fair trial. In fact, the case was replete with error from the beginning with defense counsel not engaging in effective assistance, with the prosecutor's conduct at trial, and with the court committing error with overturning its previous ruling. In light of the same, Mr. Snow is entitled to a new fair trial because the errors were not harmless and that within a reasonable probability the outcome of the trial would have been different had the errors not occurred. *State v. Jackson*, 102 Wn.2d 689, 689 P.2d 76 (1984).

D. CONCLUSION

Appellant respectfully submits that his conviction should be reversed and remanded for retrial.

DATED this 14th day of February, 2012.

Respectfully submitted,


Cassandra Lopez de Arriaga, WSBA # 34318
Attorney for Mr. Snow

1
2 IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

3 DIVISION I

4 TREVOR COLLIN SNOW,

5 Defendant/Appellant,

6 vs.

7 STATE OF WASHINGTON,

8 Plaintiff/Respondent.

NO. 67219-3

PROOF OF SERVICE

9
10 **CERTIFICATE OF SERVICE**

11 I certify that I sent a copy of the foregoing **Opening Brief of Appellant** via method
12 indicated below, on the 15th day of February, 2012:

13 **Counsel for Plaintiff**

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15 Whatcom County Prosecuting Attorney
16 311 Grand Avenue, 2nd Floor
17 Bellingham, WA 98225

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 Hand Delivery
() via ABC Legal messenger

17 **Clerk of Court of Appeals**

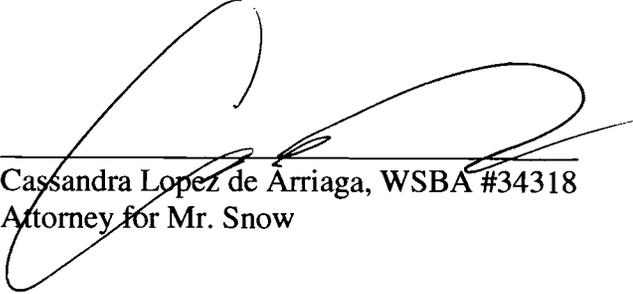
18 Richard D. Johnson, Clerk
19 Court of Appeals, Division I
20 On Union Square, 600 University Street
21 Seattle, WA 98101

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() Via ABC Legal messenger

22 *********

23 Trevor Snow
24 #347221
25 Stafford Creek Corrections Center
1919 Constantine Way
Aberdeen, WA 98520

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Cassandra Lopez de Arriaga, WSBA #34318
Attorney for Mr. Snow