

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA,

Plaintiff/Appellee,

v. Supreme Court No. 20170321

JOSHUA TAYLOR,

Richland Co. No. 2017-CR-00064

Defendant/Appellant.

BRIEF OF APPELLANT

Appeal from a Criminal Judgment dated and filed July 27, 2017 and the adverse determination within the April 24, 2017, order denying the Defendant's Motion to Dismiss and denying defendant's purposed jury instructions.

Richland County District Court

South East Judicial District

The Honorable Bradley A. Cruff

Joshua Taylor

Pro se litigant

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[¶1] TABLE OF AUTHORITIES

United States Supreme Court Cases

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Williams v. United States, 500 F.2d 105 (9th Cir.1974)

United States v. Chisum, 436 F.2d 645 (9th Cir.1971)

Giglio v. United States, 405 U.S. 150 (1972)

Napue v. Illinois, 360 U.S. 264 (1959)

[¶2] STATEMENT OF THE ISSUES

1. The district court erred in denying defense's requested New Trial Motion. In review of the transcripts of the lower courts hearing and based on the above mentioned supreme court cases' opinions... defense argues the lower courts holding is not in parallel to the nation's highest courts majority opinion in cases involving conflict of testimony and/or new trial motions. The lower court erred in its holding that the defendant should've or could've deposed the deputy at hand, and thus failed the second prong of the test for new trial.
2. Defense alleges the district court erred in denying defense's motion for new trial when it alleges that the defense failed prong 4 of the test for new trial. The lower court never specifically names how the defense did not show a *likelihood* the newly discovered evidence would *likely* result in acquittal. Defense argues, it satisfied that *likelihood* and more specifically that the court did not give specific evidence or reason why the defense's newly discovered evidence would NOT have had a likelihood to affect accuital.

[¶3] STATEMENT OF FACTS & LEGAL ARGUMENT

[¶4] Defense's prodoment legal argument is set out in defense's affidavit in support of Motion for New Trial (Index #59). Due to time constraints on this brief defense rest primary argument there.

Defense argue, that the lower court correctly found that defense correctly argues prongs 1 or a and 3 or c of the 4 prong test for motion's for new trial. However, Defense argues that it incorrectly find's basis to deny defense's argument's for 2 or b as well as 4 or d of the 4 prong test. Referring back to *United States v. Reed*... prong

c of the opinion quoted in defendant's affidavit in support of motion for new trial "(c) The party seeking the new

trial was taken by surprise when the false testimony was given and was

unable to meet it or did not know of its falsity until after the trial,

(quoting United States v. Mazzanti, 925 F.2d 1026, 1029 (7 th Cir.1991))." in contrast of the lower courts opinion of prong 2 or b.

"The court refused to require the defense to assume the

prosecution had lied, noting that it would have "involved enormous tactical

danger". The defense is not require to impugn the prosecutions credibility in front

of the jury." Is defense's argument against the lower courts assertion in the last prong of the 4 prong test for new trial.

Respectfully submitted

this 22nd day of December, 2017

/s/ Joshua Taylor

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