

JUN 15 2020

OFFICE OF THE CLERK

20-5328
No.IN THE
SUPREME COURT OF THE UNITED STATESJEFFREY PAUL GIBLIN — PETITIONER
(Your Name)

vs.

State of Washington — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals of the State of Washington
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JEFFREY PAUL GIBLIN
(Your Name) #405744191 Constantine Way
(Address)Aberdeen, WA 98520
(City, State, Zip Code)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- (1) Are the Fourteenth Amendment, Constitutional guarantees of "Due Process of Law" and "equal protection of the laws" duly satisfied for a Defendant accused of a crime involving "intent" when:
 - (a) the exculpatory testimony of an eye-witness regarding absence of intent is suppressed, and
 - (b) disparaging & inculpatory lay opinion testimony about the Defendant's alleged intent is admitted, while
 - (c) exonerating first-hand eye-witness testimony from an observing party of the incident is suppressed?
- (2) Was the Court of Appeals' decision contrary to the rules of evidence established by numerous decisions of the Court of Appeals and the Supreme Court?
 - (a) the trial court abused its discretion and erred when it overruled the objection to Brian Lovedo's lay opinion testimony.
 - (b) the decision of the Court of Appeals erred in affirming the trial court and is contrary to Evidence Rules 602, 701, 704 and at least five precedented cases cited within this petition.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
• <i>State v. Demery</i> , 144 Wash. 2d 753, 759, 30 P.3d 1278 (2001) /	p. 5
• <i>State v. Collins</i> , 152 Wash. App. 429, 216 P.3d 463 (2009) /	APP. D, p. 5
• <i>City of Seattle v. Heatley</i> , 70 Wash. App. 573, 854 P.2d 658 (1993) /	Amicus Brief
• <i>State v. Kuntz</i> , 97 Wn. App. 832, 988 P.2d 977 (1999) /	APP. D, p. 5
• <i>State v. Montgomery</i> , 163 Wn. 2d 577, 183 P.3d 267 (2008) /	Amicus Brief

STATUTES AND RULES

- United States Constitution, Amendment ~~XIV~~ (7.9.1868) / p. 5
- Evidence Rule (ER) 602 / Amicus Brief, APP. D, p. 6
- Evidence Rule (ER) 701, 704 / p. 5

OTHER

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APPENDIX A — State of Washington Court of Appeals
No. 36645-6-III, Unpublished Opinion (11.7.19)

APPENDIX B — Petition for Discretionary Review
filed by JEFFREY PAUL Giblin (12.2.19)

APPENDIX C — Supreme Court of Washington
Order denying Review (4.1.20)

APPENDIX D — Amicus Brief of Robie G. Russell (2.5.20)
(in re: CoA #36645-6-III of WA Super. Ct. # 16-1-01427-7)

APPENDIX E X [Cogent & Relevant but NOT ruled on merits yet.]

APPENDIX F X

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished. 11.7.19 in #36645-6-III

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was 4.1.20.
A copy of that decision appears at Appendix C. - Order denying
Review by Washington State Supreme Court.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- United States Constitution, Amendment XIV : breaches of security of "Due Process" and "equal protection" of Law;
- Evidence Rule (ER) 602 : breaches of est. statutes re: mandates that, "A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.;"
- Evidence Rules (ER) 701 AND 704 : breaches of established statutes regarding the management of Opinion testimony by lay witnesses, especially as compared/contrasted to first-hand eyewitness testimony.

STATEMENT OF THE CASE

In September 10, 2016, Giblin was involved in a "road rage" incident which ended tragically with Abel Loredo's leg being crushed when Giblin accidentally reversed his car into Abel's brothers (Brian Loredo) car, when Giblin was attempting to extract himself and his fifteen year old son from a hostile and volatile event in which Giblin was assaulted when punched in the face by Brian Loredo, and Giblin's son (Jonah), a passenger in Giblin's car, believed he had seen the Loredo's wield a gun.

(a) Passing motorist, Kome Eteuati, saw the incident and bore witness to the event after Giblin had been punched. Mr. Eteuati was prepared, and attempted, to testify that Giblin did not intend to injure Abel Loredo, but State objected and trial court ruled to exclude Eteuati's exculpatory eyewitness testimony, holding that it "... would be an improper comment on the defendant's guilt and it invades the province of the jury." (RP @ 135).

(b) However, after excluding Eteuati's testimony, trial court then allowed Brian Loredo's opinion statement as to the ultimate issue at trial — Giblin's "intent" to reverse his car into Abel Loredo. (RP @ 246-267). Trial Court allowed this testimony to come in over the timely objection of defense counsel.

(c) Furthermore, trial court refused to allow testimony from Giblin's son Jonah, whose first-hand EXPERIENCE affirmed Giblin's testimony that the Loredo's pursued, threatened, and raged against the Giblin's, without CAUSE, and that Defendant Giblin was rightfully distraught, panicked, and acting under extreme duress for the safety and welfare of himself and his son, and NOT "intent" on inflicting injury to anyone. The conviction of Giblin for assault in the first degree is legally untenable.

Criminal trials. Among these are opinions, particularly expressions of personal belief, as to the guilt of the defendant, the intent of the accused, or the veracity of witnesses,¹¹ State v. Montgomery, 163 Wn.2d 577, 591, 183 P.3d 267 (2008).

- Brian Loredo stalked, threatened, and assaulted Giblin on September 10, 2016, then falsely, maliciously and inappropriately claimed that "... there was no question as to intent" (RP@266) regarding the unfortunate injury to Abel Loredo. Two witnesses (a neutral observer and his own passenger, Jonah) both offered exculpatory testimony that should have been allowed and NOT suppressed.
- The decision of the Court of Appeals affirming the trial court is contrary to ER 602, ER 701, ER 704, Montgomery, Demery, Heatley, Collins, and Kunze, at a minimum.

CONCLUSION

This court should accept review of Mr. Giblin's case to correct the trial court's and the Court of Appeals' incorrect rulings on the admissibility of lay opinion testimony.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jeffrey Paul Giblin

Date: June 11, 2020