

FILED
THOMAS D. HALL
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CLERK, SUPREME COURT

Supreme Court of Florida

Bonnie Rodriguez

Petitioner,

Vs

Case no. SC13-1358

The State of Florida

D.C.A. case no. 3D10-2988

Respondent,

L.T. case no. F10006493B

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Discretionary Review Brief

Copies Now, Per se, Petitioner Bonnie Rodriguez present to Procedure Fla. R. App. 9.120 (d) states in support the following:

Petitioners Petition for Discretionary Review is for this honorable court to show it's Jurisdiction on behalf of the State of Florida.

Statement of the Case and Facts

Petitioner was convicted on September 27, 2010 for Possession of cocaine and Possession of cannabis in the Eleventh Judicial Circuit court in and for Miami-Dade County, Florida. Petitioner appealed his guilty finding from a trial by jury, to the Third District Court of Appeals of Florida. Holding that the evidence was legally insufficient to prove constructive possession. Petitioners case is in regards to an arrest that occurred on March 3, 2010. Where (3) three detectives claimed on Petitioners arresting date and trial, That on March 3, 2010 they were conducting an undercover surveillance of a know drug relate area And observed Petitioner walk up to an (unknown) black male accompanied by a Female Co-defendant. Then thereafter detectives claimed Petitioner not the female Co-Defendant commenced to do a hand to hand drug transaction buy with the (unknown) black man. Petitioner was never found to have the controlled substance in his persons, plain view, or in

a place where he could have exercised his dominion and control over the controlled substance. Petitioner was accused to have walked out of the known drug related area ~~with~~ the female co-defendant to an awaiting vehicle. That was occupied with (3) three other individuals. There Petitioner was assumed to have been followed an additional few blocks from the area that was claimed to be ~~on~~ an undercover surveillance. When Petitioner was ordered out of the vehicle he was in on the date of arrest, No controlled substances where found ~~in~~ Petitioner's view but handed over to detectives ~~By~~ the female co-defendant. There was no arrest in Petitioner's case of the (unknown) black male, that was claimed to be doing hand to hand drug transactions sales in an open street corner. Petitioner was accused of doing a hand to hand drug transaction by in an open street corner that was claimed to be under undercover surveillance by the arresting detectives. Detective's claimed that by seeing Petitioner do a hand to hand transaction with an (unknown) black male gave them Probable cause to follow Petitioner for several minutes and street blocks. There is no arrest of Probable cause that was indicated to arrest the (Unknown) black male as drug dealer. The (Unknown) black male was never arrested with the claim of seeing him do a drug sale to Petitioner.

Standard of Review

The Standards that apply to show the element of Possession whether it is actual or constructive should apply in every individual case of Possession. The element of actual

possession, the knowledge of the presence of the controlled substance, where it is in plain view, ready reach, or in a place where ownership could show dominion and control. Standards of a conviction for possession should eliminate the the question of doubt beyond any reason.

Argument

In Petitioner's case he argues proof, where in his case there was no proof, The mere word of mouth is not considered actual proof. When the accusing detectives in Petitioner's case claimed they seen the Petitioner in an open street corner doing a drug hand to hand transaction (buy) Proof was not established by physical proof but pathological proof. For the detective's in Petitioner's case to use an allegation of seeing Petitioner do a hand to hand transaction. As Probable Case Would be liquidated if that same Probable case was not use to stop, Apprehend, and arrest the primary suspect. In which in Petitioner's case the primary suspect would be assumed to be the narcotics drug dealer. To claim as a detective of law where your sworn duty is to protect, Claim to be doing an undercover surveillance of a known drug related area and uncover whom the individual that controls the drug sales in that known area. And not make a lawful arrest of that individual but yet make an arrest of ~~the~~ one of the buyers in that known drug related area seems highly unusual. Petitioner was ordered out of a vehicle not asked to step out of a vehicle but ordered out of a vehicle, In which he was in. Detectives claimed to have seen the Petitioner with the female co-defendant walk up, To

an (Unknown) black male and Petitioner not the co-defendant commenced to do a drug hand to hand transaction (buy), Where there is no proof of Petitioner's knowledge besides the mere word of mouth, And Where there was no fingerprint to tie the Petitioner to the controlled substance. To, proof he once actually made some kind of contact with the controlled substance.

Invoking Jurisdiction

This honorable court has the Supreme Power to invoke it's Jurisdiction under Fla. R. App. P. 9.120.

Conclusion

Petitioner has clearly showed that the Third District Court of Appeals denial to Petitioner's direct appeal is a strong representation for a Petition of Discretionary Review. This honorable court should move to a full review of petitioner's case file. And see every point of Petitioner's right of relief at hand. The Florida Constitution does not favor an individual but however does favor the Constitutional laws. In Petitioner's case the law demands for proof, physical proof that was not shown in his case. With out the arrest of the primary suspect in Petitioner's case. The word of mouth from the arresting detectives show a strong doubt of reasonable cause. And to conclude that not all but only one detective in Petitioner's case actually holds word of Petitioner actually once possess any controlled substance But did not or could not disclose doubt.

Relief Sought

The relief sought in a Petition for Discretionary Review under Fla. R. App. P. 9.120 is for a new trial, the reversal of conviction and sentence, or any other relief this Honorable Court deems fair and just.

Oath

Under the Penalties of Perjury I hereby swear I have written and read the foregoing brief and believe it to be correct and true.

Petitioner ~~Re Rodriguez~~

Certificate of Service

I Hereby Certify that a true and current copy of the foregoing was handed to institution officials on October 26, 2013 for the Pre-Paid Mailing by the U.S. Postal Service to The Office of the Attorney General addressed at 444 Brickell Ave., Suite 650, Miami, FL 33131.

Respectfully Submitted

By ~~Re Rodriguez~~

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