

REC'D

COURT OF APPEALS, DIVISION I
KING COUNTY, STATE OF WASHINGTON

JUL 10 2013

King County Prosecutor
Appellate Unit

STATE OF WASHINGTON
Respondent,

APPEAL No. 69564-9-1

v.

STATEMENT OF
ADDITIONAL GROUNDS
FOR REVIEW

SUDESHKUMAR S. KOTHARI
Appellant

I, SUDESHKUMAR S. KOTHARI, have received and reviewed the opening brief prepared by my attorney, Ms. Jennifer J. SWEIGERT (of NIELSEN, BROMAN and KOCH, PLLC. Seattle, Washington).

Summarized below and on attach pages are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds

Appeal No. 69564-9-1

for Review when my appeal is considered on the merits.

Additional Ground 1.

I can understand why Mrs. Kunjlata Kothari FRAMED me, but I don't understand why my own lawyers (Ms. Leona Thomas, Mr. Gene Piculles and Mr. Dillion Johnson) and the prosecutors FRAMED me.

Examples of facts, case citations applicable to this case, and violations of constitutional rights were filed into court records as follows:

- a. Sub. No. 26: Motion to Proceed Pro-Se, November 1st 2011; and
- b. Motion for New Trial, April 27th 2012. Submitted to Chief Judge, King County Superior Court; and

Appeal No. 69564-9-1

- c. Verbal motion to Proceed Pro-Se, March 5th, 2012 (1st day of trial). See trial transcripts, please; and
- d. New Trial motion, August 2012, submitted by Mr. Dillion Johnson: DCP p115-128.
- e. 7 (seven) separate correspondences from I, the Appellant to the Chief Judge, King County Superior Court. Please see Designation of Clerk's papers (DCP).

Additional Ground 2

April 27th, 2012, motion for New Trial submitted to Chief Judge, summarizes gross intentional misconduct, misrepresentation, negligence, perjury, blackmail and fraud used / committed by my trial attorney, Mr. Gene Picullel: amounting to gross ineffective

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

assistance of counsel, and deliberate cruelty, a violation of the 6th Amendment.

A violation of 5th Amendment, the accused's right to refuse to be witness against himself. I was never advised by Mr. Gene P. Cullet, nor by Ms. Leona Thomas on this subject.

Additional Ground 3.

Defendant's procedural due process rights were violated by defense counsel(s) and court's proportionality review; I, the defendant/Appellant had NO notice of what "similar cases" were, how they were to be selected, factors to be compared, what would happen if NO "similar cases" were found, or of Court's Standard for Review of "similar cases", per U.S. CA. Const. Amendment 14, In. Harris by and through Ramseyer v. Blodgett 853 F. Supp 1239 (W.D. Wash. 1994).

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

Additional Ground 4.

My own lawyers (Ms. Leona Thomas, Mr. Gene Picullet and Mr. Dillon Johnson), all failed to "inter alia", conduct thorough investigation of facts surrounding the charges; to adequately prepare for trial regarding two (2) CLASS A FELONIES, which count as "TWO STRIKES" out of three needed to send a person to prison for life without

parole; and to properly protect my rights when my statements were made and admitted at trial. A MAJOR VIOLATION per 28 U.S.C.A. § 2254, U.S. CA Const. Amend. 6. "Duty to investigate is part of defendant's right to reasonably competent counsel."

Additional Ground 5.

Defense to coincide with necessary

with necessary elements of proof to establish my innocence, including plea of self-defense were deliberately abused and abrogated by my own lawyers, whose duty to investigate was not eliminated by their own conclusions that ONLY independent investigation could uncover. Such as, significance of facts regarding intent (for example it was not the first time Mrs. Kanjlata Kothari accused me of domestic violence and caught committing perjury, under oath. Please see Dissolution Transcript attached as an Exhibit to October, 2012 correspondence to Chief Judge, King County Superior Court), mitigation, analysis of material evidence, or impeachment of witnesses, per U. S. C. A. Const. Amend. 6.

Additional Ground 6

My due process rights were violated when proof and effect of material evidence

were converted and deliberately misrepresented by the Prosecutor and my trial attorney, Mr. Picullet, thereby depriving the Court and the Jury, of benefit of determination of facts, and legal effects on charges of Burglary 1st Degree, Assault 2nd Degree, and Violation of "NO-CONTACT" order (later changed to violation of "~~Restra~~" "Restraining" Order, to DISINGENUOUSLY imply the same thing to the Court and to the Jury, and ONLY because I questioned the legal context viewed by a person of reasonable rational. Please see below definition of "NO-CONTACT" versus "Temporary Restraining Order" within the context of 'Dissolution of Marriage' litigation). For example, without limitations;

- a. My lawyers and the Prosecutor possessed exculpatory information regarding critical material evidence. They knew that the photographs presented at the trial proved beyond reasonable doubt that

SUDESHKUMAR S. KOTHARI

Appeal No. 695 64-9-1

Mrs. Kunjlata Kothari had self-inflicted injuries and that she had lied to the Court and to the Jury. That is why the Prosecutor and my own lawyers NEVER did any independent investigation on the said device, on the said injuries, inter alia.

b. There was no effort of any investigation to prove that the said device caused the said injuries, by either the Prosecutor or my lawyers. Naturally, the Jury and the Court simply took their (Prosecutor's and my lawyers) statement as fact. A CRITICAL ERROR and an example of gross intentional misconduct to mislead the Jury and the Court, deliberately.

c. It was highly disingenuous of the Prosecutor and my trial attorney, Mr. Paniel

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1.

to allow and use Officer Wolff's testimony as expert witness on said device causing said injuries WITHOUT ANY SCIENTIFIC evidence to show that the said device caused said injuries. Naturally, the Jury and the Court accepted Officer's Wolff's testimony as fact. A Critical error that betrays the Prosecutor's and my lawyers to deliberately mislead the Jury with false information, just to incite and force the Jury to conclude in support of Assault in 2nd degree.

Additional Ground 7

Per U. S. C. A. Const. Amend 14, "when individual has constitutionally protected interest at risk of loss, due process requires, first, that he have timely notice of proceedings that is appropriate to the case and provides ability

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

to discover reasons for risk of loss, and second, meaningful opportunity to argue strength of his position and to attack position of party who seeks to deprive individual of his interest. My own lawyers did everything in their power to deny my rights to view color digital photographs or have full access to the discovery prior to the trial. These incidents are documented and part of the court records, please see Additional Ground 1.

I would have presented a viable defense on my behalf to prove beyond reasonable doubt not only, fraud by Mrs. Kunjlata Kothari, but fraud by the Prosecutor and my own lawyers. For instance, it was only on the 3rd day of Trial, during Mrs. Kunjlata Kothari's examination, I learnt the full extent and nature of the injuries and the fact she had changed her clothes PRIOR to leaving the house. A critical material evidence to demonstrate, inter alia,

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

She had framed me. A fact and cause of untold mental rape and mental torture, struggling to prove my innocence, even to this day - 2 years later.

Additional Ground 8

When interpreting a Statute, Courts give effect to plain and unambiguous statutory language as a clear expression of legislative intent. In Thompson, 151 Wash. 2d at 801, 92 P.3d 228.

If an ambiguous term is not statutorily defined, we define it by its discretionary meaning. State v. Fjermestad, 114 Wash. 2d 828, 835, 791 P.2d 897 (1990).

Therefore IF:

a. Black's Law dictionary defines

burglary as "the modern statutory offense of breaking and entering any building..... with intent to commit felony;" and

- b. Black law dictionary defines 'Theft' as "the felonious taking of another's property with intent of depriving the true owner of it. Broadly, any act or instance of stealing, including burglary;"
- c. Black's Law dictionary defines 'Steal' as "to take property illegally with intent to keep it unlawfully."
- d. Black's law dictionary defines 'Own' as "to rightfully have or possess as property; to have legal title to; and
- e. Black's law dictionary defines 'Owner' as "one who has the right to possess, use, and convey something;" and
- f. Black's law dictionary defines 'Ownership'

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

as "the bundle of rights allowing one to use, manage, and enjoy property, including right to convey it to others....., Ownership rights are general, permanent and heritable;"

g. "Ownership is the guarantee of the law; possession is the guarantee of the facts," in John Salmond, Jurisprudence 311 (Glanville L. Williams ed. 10th ed. 1947); and

i. Black's law dictionary defines 'Joint Ownership' as "undivided ownership by two or more persons"; and

Then it follows per :

j. In Masterson v. Ogden, 139 P654, 78 Wash. 644, Am. Ann. Cas. 1914D, 885, "an appeal from a divorce decree under REM. & BAL CODE, § 996, did NOT

vacate or set it aside, but merely "suspended the decree pending appeal"; and

k. In *State v. Seaton*, 27 Wash. 120, 67 P. 572 (1902), "under statute providing that any party aggrieved may appeal from any final order made after judgement which affects a substantial right"

l. In *Lowe v. Lowe* (1909) 53 Wash. 50, 101 P. 704, "order directing execution of deed pursuant to divorce decree distributing property is appealable as final order affecting substantial rights"; and

m. Wash. Practice, Vol. 2A RAP 2.2 (4) P144 states "Washington rule allowing appeal

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

as of right from decision affecting substantial rights which in effect determines action and prevents final judgement and discontinues action. See Herzog v. Foster and Marshall, Inc., 56 Wash App. 437, 783 P.2d 1124 (Div I 1989).

n. IT IS UNDISPUTED FACT, that in our Dissolution of Marriage (March 2011, in King County Superior Court, case no. 09-3-06940-2 SEA), Mrs. Kunjlata S. Kothari filed Cross-Appeal and I, Sudesh S. Kothari filed Appeal (case no. 66927-3, Div. I) in April 2011. Approximately 2 months prior to incident of July 14th 2011, leading to this case in a criminal cause no. 11-1-07116-9 SEA.

o. IT IS UNDISPUTED FACT, as stated in (n) above, that appeal by both parties was taken and challenged the decree

Appeal No. 69564-9-1

of divorce within the statutory period, and therefore the decree of divorce was assailable for any cause. See *Thompson v. Thompson*, 510 P.2d 827, 82 Wash 2d 352; and

p. IT IS UNDISPUTED FACT, I, Sudesh Kothari had filed an appeal in the Dissolution of Marriage to vacate fraudulent divorce judgement, including without limitation, the trial court's abuse of discretion. Under Ballinger's Ann. Code and Statute §5159, Pierce's Code, §1041, providing that the first question for the court on a motion to vacate a decree for fraud, is not whether there is a cause of action, but whether fraud has been practiced upon the court. See *Pringle v Pringle*, (1909) 55 Wash. 93, 104 P135.

Critically in the Dissolution case, the Court's failure to allow suit money and attorney's fees to me, Sudesh Kothari;

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

to stop miscarriage of justice upon grounds of fraud and professional misconduct, to vacate judgement was undisputable abuse of discretion. As stated in State ex rel. Brown v. Superior Court for King County, 69 P.2d 811, 190 Wash. 572, "the failure of the court to allow suit money and attorney's fees to wife who has no funds and is appealing from decree in husband's divorce action is abuse of discretion."

g. Relevant to this case and the charge of Burglary in the 1st degree, is the fact that "Bias of Judge in dividing property in dissolution proceedings violated appearance of fairness doctrine. See In re Marriage of Wallace, 111 Wash App 697, 45 P.3d 1131 (Div. 2 2002).

In summary to 'Additional Ground 8', I, Sudesh Kothari never envisioned I was committing burglary by entering a

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

a community property, our home, containing community assets, for example accessing our tax records, that I prepared to submit to the Court of Appeals in our Dissolution of Marriage appeal (case no. 66927-3 Div 1), to prove Mrs. Kunjlata Kothari did steal over an above one (1) million dollars (between 2002 to 2009), additional one hundred and sixty thousand dollars between 1996 to 2000.

Please note, I am still a co-borrower on the mortgage loan, as of June 2013, and that I NEVER signed a Quit Claim deed, because I had filed an appeal to vacate the divorce judgement.

Please note, I had not expected my children or Kunjlata Kothari to be there on July 14th 2011, date of incident, as pertains to this case.

Please note, I was denied any access to community funds to retain an attorney, as any

19
of 50
SUDESHKUMAR S. KOTHARI

Appeal No. 69594-9-1

reasonable person, under circumstances, believed and expected my filing of Appeal notice automatically 'STAYED' all decree rulings, especially having cited Perjury, abuse of court's discretion, etc.

Therefore, per Black's law dictionary's definitions of Burglary, Theft, Stealing, ownership, etc, I Sudesh Kothari had full Joint Ownership ~~part~~ of the said premises and content there-in, UNTIL FINAL Ruling. I did NOT take "another's" property, I did NOT "break and enter" into "another's" property to deprive them of their belongings.

And MOST CRITICALLY, Black's law dictionary defines "Temporary Restraining Order" as either 'A court order entered to prevent the dissipation or loss of property' or as 'Court order preserving the status quo until litigant's application for a preliminary injunction can be heard'. Since there was NEVER ANY domestic violence on

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

my part, at any time during or after my marriage of seventeen (17⁺) years to Mrs. Kunjlata Kothari. A fact concurred by Commissioner Marilyn Sellers, Judge Helen Halpert, and Judge Michael Fox, of King County Superior court, as well as the fact it took a year and half to prove Mrs. Kunjlata Kothari had committed Perjury. Please correspondence to Chief Judge dated October 2012, exhibit of dissolution trial transcript; and I therefore I took the literal meaning as to preserve community property until all litigation factors were finalized.

Please note, none of my lawyers (Ms. Leona Thomas, Mr. Gene Picullet (paid trial attorney) and Mr. Dillon Johnson) provided any case citations to show a person being charged with Burglary in presence of said Temporary Restraining Order, in a Dissolution of Marriage setting.

The prosecutor and my lawyer Mr. Picullet

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

deliberately 'HOODWINKED' the Jury, an act of gross intentional misconduct, negligence, misrepresentation, amounting to act of fraud upon the court.

Additional Ground 9

Where defects in complaint are of such nature that no presumption will make it good, a statute providing that sufficiency of complaint may be questioned for first time in the Supreme Court must be applied. See Hamilton v. Kiona-Benton Jr. Dist. 45 Wash 2d 544, 276 P.2d 583 (1954).

IT IS UNDISPUTED FACT, the Prosecutor charged me with violation of "NO-CONTACT ORDER," knowingly and deliberately; an act of gross professional misconduct with a cruel and malicious force, given the following facts of law:

- a. Black's Law Dictionary defines "NO CONTACT ORDER" as 'see Stay-Away Order'; and
- b. Black's law dictionary defines "Stay-Away Order" as "In a domestic violence case, an order forbidding the defendant to contact the victim. A Stay-Away order usually prohibits the defendant from coming within a certain number of feet of victim's home, school, work or other specific place, or a Restraining order; and
- c. Black's law dictionary defines 'Restraining Order' as "A court order prohibiting FAMILY violence"; and
- d. Black's law dictionary defines 'Emergency Protective Order' as "victim can obtain Emergency Protective Order only through a law enforcement officer";
- e. Black's law dictionary defines 'FRAME' as "To incriminate an innocent person,"

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

and 'FRAME-UP' is defined as "A plot to make an innocent person appear guilty"; and

- f. Black's law dictionary defines 'Actual FRAUD' as "A concealment or false representation through a statement or conduct that injures another who relies on it in acting.
- g. There was NEVER any domestic violence in our history, see 'Additional Ground 8' above, and there was never any "NO CONTACT ORDER", nor "Stay-Away Order", nor "Protection Order" at any time prior to July 14th, 2011: date of incident in this case. In fact the reverse was true, Mrs. Kunjlata Kothari and her divorce attorney Ms. Sherri Anderson used and abused the domestic violence in a deliberate act of fraud, knowing all judges are emotionally biased in such cases to favor the woman.

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

Therefore it follows, the Prosecutor, the Mercer Island Police (see attached Exhibit A, herewith), and my own lawyers are guilty of fraud, including without limitation, an act to deliberately "frame" me, especially since I have never used any threats of violence, and proved that beyond reasonable doubt - please see Dissolution case trial transcript, attached as an Exhibit in correspondence sent to the Chief Judge of King County Superior court in October 2012, with respect to the charges in this case; Please listen to the deposition of Mrs. Kunjlata Kothari on February 29th 2012 (a fact Mr. Picullel never used at my trial in March 2012); Please see transcript of deposition of Mrs. Kunjlata Kothari in October 2010.

In addition, if the Prosecutor, Lawyers and law enforcement officer cannot agree on a definition of "NO CONTACT ORDER," How is a common man to know what it means? Please note, the Prosecutor,

SUDESHKUMAR S. KOTHARI

Appeal NO. 69564-9-1

my own lawyers and the law enforcement officers failed to verify and validate within 72 hrs of my incarceration, that no such order or 'Protective Order' existed in my life prior to July 14th 2011, and for good reason, because I don't hit or abuse women, no matter what.

The above facts and the law support clear and cogent evidence of nine elements of fraud by the Prosecutor and my own lawyers (who ignored all my pleas) per the Uniform Fraudulent Transfer Act, as follows;

- (i) misrepresentation of an existing fact;
- (ii) materiality of the fact;
- (iii) falsity of the fact;
- (iv) the speaker's knowledge of the falsity of the fact;
- (v) the speaker's intent that the fact should be acted on by the person to whom the fact was represented;
- (vi) ignorance of fact's falsity;
- (vii) reliance on the truth of the factual representation;

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

- (viii) the right of the person to rely on the factual representation; and
- (ix) the person's consequent damage from the false factual representation.

Additional Ground 10

In *Swarz v. Dundap* (1928), 149 Wash. 663, 271 P. 893, states "We have held in an unbroken line of decisions that it is duty of the Court in a law action to make finding of fact. In this case the Court was requested to make a finding of fact on material issue and on conflicting [149 Wash 666] testimony, and failure to do constitutes error".

In my case, the misconduct by the Prosecutor and my own lawyers violated my rights to a fair trial, thus justifying appellate review even in the absence of an objection at trial. See *State v.*

Appeal No. 69564-9-1

Jerrels, 83 Wash App 503, 925 P.2d 209 (Div. 2 1996).

Further, an Appellate Court has the inherent authority to consider issues not raised by parties if necessary to reach a proper decision. See *Shoreline Comm. College District No. 7 v. Employment Sec. Dept.*, 120 Wash 2d 394, 842 P.2d 938, 79 Ed. Law Rep. 647 (1992), to promote justice and decision of case on the merits.

It is a fact each Temporary order operates independently of each other. See Wash. Practice, Vol. 20, 31.22 P 56. Therefore the "Mutual Temporary Restraining Order" in our divorce case had nothing to do with domestic violence nor "NO CONTACT ORDER".

Relief from effects of stipulation by trial court is necessary to prevent an injustice via fraud, coercion, blackmail or flagrant misconduct by

SUDESHKUMAR S. KOTHARI

Appeal No. 96564-9-1

the Prosecutor and my own lawyers that no instruction could cure it. See *State v. Cage* Case, 49 Wash 2d 66, 298 P.2d (1956).

This why I had urged and pleaded my post-trial attorney, Mr. Dillion Johnson to submit a motion for New Trial. Please see Designation of Clerk's Papers (DCP) pages 115-128 and exhibits attached thereto, where my trial counsel, Mr. Gene Piculiel did not even mention matter of court's alleged comment on evidence at any time, and after jury verdict, and after time for New Trial had expired, is guilty of judicial misconduct.

It is not necessary for the aggrieved party to object to an alleged comment by trial Judge upon the evidence in order to reserve the question of any error therein for Appellate Review. See *State v. Davis*, 41 Wash 2d 535, 250 P.2d 548 (1952).

Please note, my post-trial attorney, Mr. Dillion Johnson did resort to blackmail and coercion, and only submitted the Motion for New Trial in August 2012, after I grieved these facts to the Chief Judge of King County Superior Court, in my correspondence dated August 2012.

Additional Ground II

In State v. Brown (1970), 3 Wash App, "plea of self-defense available [when] clear advice in good faith desisting or intending to desist aggression on adversary.

My own lawyers, Ms. Leona Thomas, Mr. Gene Picullet, and Mr. Dillion Johnson never discussed or argue self-defense, despite all my pleas of trying to prove I only used said device to deter Mrs. Kunjlata Kothari from repeatedly striking me. My lawyers had a fiduciary duty to me, to

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

the Court, to the Jury, to my family and especially to my daughter Sumedha Priya Kothari, by conducting a full investigation on the said device, on the said injuries, and obtaining expert opinion, as necessary to challenge any and all 'HEARSAY' assertions by the Prosecutor and Mrs. Kunjlata Kothari. See also RCWA 9A, 36.011 P.12621.

"Perpetrator of coldly calculated criminal design has no inherent right to keep existence of such plan hidden from [the] trier of fact so long as existence of such plan is relevant to any material issue at trial"; See State v. Lough, 853 P.2d 920, 70 Wash. App 302, affirmed 889 P.2d 487, 125 Wash 2d 847, ER (404(b)). Mrs. Kunjlata Kothari self-inflicted injuries, for example to the left breast on July 14th 2011 (date of incident), and again add more injury in the same area before July 18th 2011. Then found it necessary to lie /

commit perjury under oath, in her testimony at trial on March 7th 2012, under cross-examination, as to why she or her primary goal was to go to the Mercer Island Police on July 18th, 2011.

Mrs. Kunjlata Kothari (with help of her divorce attorney) tried to FRAME me (all because I filed for divorce) with assault, etc. and would have got away with it, if I had NOT taken the divorce proceedings to trial (see 'Additional Ground 9g. and 'Additional Ground 8 summary' above).

In determining whether evidence of previous crimes is admissible to show common scheme or plan, it is task of trial court, subject to appellate review, to make threshold determination . . . to lead to logical inference that all acts in issue, including acts being tried, if done, are but separate manifestations of same

Appeal No. 69564-9-1

see

overarching plan, scheme or design. ^{Id.}
 State v. Lough. A fact my attorneys, Mr. Gene Picullel, Mr. Dillion Johnson, and Mr. Leona Thomas knew, as well as the prosecutor, that Mrs. Kunjlata Kothari most certainly self-inflicted, inter alia, injury to the left breast. That is why NO investigation was carried out on the said device and expert review performed on the type of injuries, including to prove I did act in self-defense. A fact Mrs. Kunjlata Kothari could NOT risk, hence her motive to FRAME ME.

NO

Please note, Mrs. Kunjlata Kothari was proven beyond doubt to have committed perjury, with help of Ms Sherri Anderson on several counts including false assertions of domestic violence: A fact they could fool the world, BUT not my own kids. A fact the divorce court wilfully ignored, that is there is ~~no~~ no repercussions against Mrs. Kunjlata Kothari for perjury and fraud.

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

3 of 50

RCW 26.50.110, under revisor's note (in RCW, vol. 30, 26 P.155, 2010) states under "Finding Intent 2007c 173: The legislature finds this act necessary to restore and make clear its intent that a wilful violation of 'NO-CONTACT' provision of a court is a criminal offense and shall be enforced accordingly to preserve the integrity and intent of the domestic violence act. There was never any domestic violence in our lives, and ruled out by the Judges. Hence, there was never any 'NO-CONTACT Order' nor any 'PROTECTIVE ORDER' in our lives. A fact the Prosecutor, the police, and my own lawyers knew, and they also knew by using 'NO-CONTACT ORDER' violation, the Court, the jury and the public MUST accept it as truth.

In *North Coast Enterprises, Inc. v. Factoria Partnerships*, 94 Wash App 855, 974 P.2d 1257 (Div 1 1999), states "Court of Appeal may consider any factual scenario under

Appeal No. 69564 - 9-1

which litigant might have valid claim, including facts asserted for the first time on Appeal." Same applies to my case.

The actions and in-actions of Mrs. Kujlata Kothari, the Prosecutor, and my own lawyers are inherently prejudicial including deliberate malice and recklessness that no showing of constitutional errors, will cure the damage and harm done to me, my children and my family. See *In re Richardson*, 100 Wn 2d 669, 670, 675 P.2d 209 (1983). Their deliberate indifference effected the out of the trial.

The 'statements of additional grounds' here-in, show substantial error related to the 'STANDARD OF REVIEW', for example Ineffective Assistance of Counsel; see *Harris By and Through Ramseyer v. Blodgett* 853 F. Supp 1239 (W.D. Wash 1994).

Appeal No. 69564-9-1

Additional Ground 12

The conversion of evidence, the conversion of the truth, false testimonies by Mrs. Kunjlata Kothari, violations of constitutional statutes and rights, including without limitation, false charges of Burglary in the 1st degree and Assault in the 2nd degree (Both very serious crimes that the legislature deemed it fit to assign each a 'STRIKE' OFFENSE), as discussed in this document, betrays the CONSPIRACY by Mrs. Kunjlata Kothari, the Prosecutor, and my own lawyers (Mr. Gene Picullet, Ms. Leona Thomas and Mr. Dillion Johnson). Because "when the evidence sufficiency is challenged in a criminal case, we draw all reasonable inferences in the State's favor and interpret them most strongly against the defendant." see State v. Salinas, 119 Wash 2d 192, 201, 829 P.2d 1068 (1992).

Furthermore, as stated in State v. Thomas

P36
of 150

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

150 Wash 2d 821, 874-75, 83 P.3d 970 (2004), "we defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence"; rather than factual analysis of the evidence, which in my case would have proven beyond doubt, that Mrs. Kunjlata Kothari had self-inflicted injuries, that she changed clothes, etc.

The above named persons are guilty of conspiracy, per RCW 9A 28 040 (1), If, with intent, by engaging in and causing the performance of their misconduct misrepresentation, recklessness, perjury, coercion and blackmail. Specific examples relevant to case in-hand are provided, please see attached letter from Ms. Nancy Matson (Supervisor of Mr. Dillon Johnson) as proof of blackmail and conspiracy by Mr. Dillon Johnson, and labeled as Exhibit B - where there was never any question about his submitting

the motion for New Trial, including without limitations, 'Ineffective Assistance of Counsel. Then on August 3rd 2012, I am being blackmailed by him, on day of court hearing. These, ^{and} another specific examples are provided in my correspondence letters to Chief Judge, dated April to October 2012 (Please see 'Additional Ground 1'), and the 'Motion to go Pro-Se', admitted November 1st 2011, and March 5th 2012.

The above conspiracy may be proven by declarations, acts and conduct of parties, or by a concert of action. See *State v. Barnes*, 85 Wash App. 638, 664, 932 P.2d 669 (1997). This proof [of conspiracy] may be circumstantial as stated in *State v. Israel*, 113 Wash App. 243, 284, 54 P.3d 1218 (2002).

It is UN-DISPUTED, in my case that evidence or lack there-of, proves premeditated intent, with deliberate indifference, of Mrs. Kunjlata Kothari, the Prosecutor, my

own lawyers to do :

- a. NO investigation of said injuries;
- b. NO investigation of said device;
- c. NO investigation that said device caused said injuries; and
- d. NO investigation to impeach Mrs. Kunjlata Kothari and her history of acts of perjury. A DOUBLE Standard of Review by the Prosecutor, who would certainly have used any and all acts of perjury by me, any and all prior crimes of domestic violence, etc.; and
- e. NO investigation of alleged items found at site; and
- f. NO investigation of why Mrs. Kunjlata Kothari changed clothes, and why the police / detective failed to obtain KEY EVIDENCE;
- g. NO investigation how Mrs. Kunjlata Kothari got NEW injuries on her left breast AFTER JULY 14th 2011, and BEFORE JULY 18th 2011; and

Appeal No. 69564-9-1

- h. NO investigation of whose blood was on Mrs. Kunjlata Kothari, or how it got there, and why the Police/detectives failed to collect KEY EVIDENCE, especially knowing to charge me with 2 "STRIKES" offenses; and
- i. NO investigation of divorce litigation, appealed by both parties on April 2011, requesting 'STAY' of decree rulings. Another DOUBLE 'Standard of Review' by the Prosecutor, who would have used any and all litigations, either prior or pending, against me to suit his/her need to win at all cost; and
- j. NO investigation of why Mrs. Kunjlata Kothari found it necessary to self-inflict injuries, nor why she found it necessary to lie under oath, inter alia, about her NUMBER ONE GOAL to visit Mercer Island Police Station on July 18, 2011, 4 days after incident; and

Appeal No. 69564-9-1

K. NO investigation of case citations to prove that the Temporary Restraining order, specifically worded in our divorce proceedings and within the context of intent of divorce, does NOT constitute Burglary. And NO investigation of case citations, proving the use of said device by women/men leading to Assault in the 2nd degree, or it is a lethal weapon, or it is deliberate cruelty, when used in defense. See *Nestergard v. IEC Corp.*, 5 Wash App. 618 489, P.2d 1142 (Div 1 1971)

Viewing the facts above, and the inferences from the facts as we must, evidence and circumstantial evidence exists in the present case was relevant to prove the extent and nature of the sum deliberate conspiracy / fraud by each party.

Additional Ground 13.

Without supporting evidence [158 Wn. App. 961] to justify giving or implying aggressor instruction,

SUDESHKUMAR S. KOTHARI

Appeal NO. 69564-9-1

the court prevented (and my own attorney deliberately failed to) me, the defendant from fully asserting my self-defense theory. Notably the 'aggressor instruction' implied or otherwise impacts defendant's claim of self-defense, which the State had the burden of disproving beyond a reasonable doubt. See Riley 137 Wash 2d at 910n. 2, 976 P.2d 624.

Because I did NOT provoke the fight (I was standing by the door), because no conflicting evidence is presented regarding my conduct, and because the evidence does not show I made the first move (Mrs. Kunjlata Kothari came up to me and started hitting me), sufficient evidence did not exist to justify or imply an aggressor instruction. Another example of gross intentional misconduct by the Prosecutor and Mr. Gene Piculiel. See Anderson, 144 Wash. App. at 89, 180 P.3d 555.

The above errors are constitutional and cannot be deemed harmless. See State v. Birnel, 89 Wash App. 459, 473, 949 P.2d 433 (1998).
The

242
of 50

SUDESHKUMAR S. KOTHARI

Appeal No. 69564-9-1

In State v. Stark, Wash App Div 3 2010, 244 P.3d 433, 158 Wn. App 952 (2010), states "Trial court erred in granting the aggressor instruction. Having so held we must remand for new trial."

Because, as stated in State v. Smith, 131 Wash 2d 258, 265, 930 P.2d 917 (1997), "we cannot assume that the jury attempted to compensate for the Court's error... therefore we cannot say that the error was harmless."

Additional Ground 14

My appeal attorney, Ms. Jennifer J. Sweigert, submitted the 'Appellant's Brief' (this case) WITHOUT any consultation and WITHOUT my knowledge. I received a copy of the 'Appellant's Brief' on May 8th, over a week later. I was appalled and in-disbelief when she stated that she has been doing this kind of work for a long time and knows what to do, and that

Appeal No. 69564-9-1

Nothing I might say would make a difference. With no other choice, I submitted a letter with 37 questions to her. Please see attached EXHIBIT C, and her response EXHIBIT D. She rules out gross intentional misconduct, misrepresentation, negligence, recklessness, malice, perjury, ineffective assistance of counsel, blackmail, coercion, etc. by my own lawyers, the Prosecutor and Mrs. Kunjlata Kothari, knowing that both the Prosecutor and Mr. Gene Picullet were aware of nature of the evidence, prior, during and after trial, and knowing that "a determination purporting to be a judgement or decree, if subject to de novo review and a later hearing in same cause, is not final judgement as it does not constitute a final determination of the rights of the parties in the action. A fact that applies also to our divorce decree. See *Nestergard v. Investment Exchange Corporation*, 5 Wash App. 618, 489 P.2d 1142 (Div 1 1971).

Furthermore, "where the defendant contested an omitted elements and raised evidence sufficient

Appeal NO. 69564-9-1

to support contrary finding, the review court should not find the error harmless. See *Neder*, 527 U.S. at 19, 119 S.Ct. 1827.

My appeal attorney's advice to me is that I submit my points in a 'Personal Restraint Petition', which I don't understand why my lawyers cannot get it right in the first place? Another act of deliberate indifference to the damages, irreparable harm caused, each day, each month, to my children, to my family and to me.

Additional Ground 15

It is undisputed, that King County Correction Center, wilfully and with deliberate indifference discarded / misplaced all of my legal notes from over a course of ~~17th~~ seventeen months (incarcerated from July 14 2011 to November 30th 2012), including all my trial notes, my law books, several writing pads, stamped envelopes, etc., that were contained in a

Appeal No. 69564-9-1

approved box marked 'LEGAL'. My counselors at Shelton facility and Coyote Ridge Correction center, respectively could not find out happen to that box, which supposedly left with me on November 30th 2012, on route Shelton from King County. Please note I was given no access to law library in King County, nor at Shelton, and very limited access here at Coyote Ridge Correction Center. Please, ^{see} EXHIBIT E. A violation of first Amendment and constitutional right to access to the law library. See Lewis v. Casey.

This and the above fourteen (14) Additional Grounds properly argues substantive facts and accurately reflects "MANIFEST ERRORS AFFECTING CONSTITUTIONAL RIGHTS" and the claimed errors, as stated in this document, are of CONSTITUTIONAL MAGNITUDE, resulting in actual prejudice. See RAP 2.5(a)(3), State v. Scott, 110 Wn.2d 682, 687, 757 P.2d 492 (1988). Actual prejudice is further demonstrated by the acts of conspiracy, fraud, etc. by and

Appeal No. 69584-9-1

between the Prosecutor and my own lawyers, latter who had NO intentions to defend me against the charges. It is UNDISPUTED, there is NO investigation of any kind; why?, one of the MOST IDENTIFIABLE consequence of actual prejudice in my trial. A fact, if I was NOT denied my right to go Pro-Se, I would have objected to "unmistakable," evident or indisputable, as distinct from obscure, hidden or concealed, of manifestly constitutional errors, including violation of my constitutional right to defend myself. The State had NOTHING to fear, if it believed it had undisputable evidence, and NOTHING fear against a defendant, will little or NO legal aid of any kind.

Please note, the sixth amendment provides that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. A fact that I was BLACKMAILED, by my own lawyers, namely Ms. Leona Thomas and Mr. Gene Pucelle. A violation of State constitution under Gunwall factor(s). See State v. Gunwall, 106

Appeal No. 69564-9-1

Wn.2d 54, 720 P.2d 808 (1986); and State v. Brown, 132 Wn.2d 529, 595, 940 P.2d 546 (1997). I had specifically filed or verbalized motions to go Prose to the Court.

Under the principles of stare decisis, a court MUST overturn prior holding, as intended by clear evidence, presented herein, is incorrect and harmful.

Additional Ground 16

The Prosecutor, with deliberate cruelty and indifference, did violate BRADY rules by violating 'due process', which prohibits government from suppressing evidence, knowing the evidence was favorable to the defendant and that the material ~~evidence~~ evidence was of constitutional magnitude resulting in 'ACTUAL PREJUDICE'. See Brady v. Maryland, 373 US 83, 10 LE2d 215, 83 Sct 1194; in Johnson v. Gibson, 169 F3d 1239 (10th Cir.); in US v. Blaiss, 98 F3d 647 (1st Cir.). Furthermore, the Prosecutor failed

Appeal No. 69564-9-1

with intent, to disclose impeachment evidence, exculpatory evidence and favorable evidence to defense, in time for its effective use at trial. See *U.S. v. Gill*, 297 F3d. 93 (2nd Cir.). Please note, a Prosecutor's duty to disclose exculpatory evidence under BRADY extends beyond his or her personal knowledge of such evidence. See BRADY obligations apply to a Prosecutor's conduct even when the defense has not requested the discovery of exculpatory evidence. In my case, it is UNDISPUTED, that the Prosecutor's and my own lawyers (as applicable before, during and after trial, ^{KNEW} about the material evidence, BUT deliberately conspired and committed fraud against the Court and My family, my children and me. See in *McCambridge v. Hall*, 266 F3d12 (1st Cir.). This includes my constitutional right to have State's witnesses and the alleged victim in my case attend pre-trial interview before my trial starts, under *Brady v. The State of Maryland*, id.; Another violation of constitutional magnitude, considering I am charged with two 'STRIKE' offenses. Further example of deliberate MALICE by Prosecutor and my lawyers.

Appeal No. 69564-9-1

Additional Ground 17

The Prosecutor and my own lawyers concealed, covered-up, misrepresented the evidence, and knowingly used perjured testimony of Mrs. Kunjlata Kothari, both serious violations of 'due process'. See *Hughes v. Johnson*, 191 F3d 607 (5th Cir.); and *Schoff v. Snyder*, 190 F3d 513 (7th Cir.).

Their combined misconduct, wilfully, rose to level of outrageous government conduct and civil liberties, which mitigated any chance of a fair trial. See in *US v. Garza-Juarez*, 992 F2d 896 (9th Cir.).

Additional Ground 18

It is counterintuitive, why the Prosecutor (and why my lawyer, Mr. Gene Piculiel failed to ~~objectiv~~ Object) submit motions-in-liminea to DENY(ED) my right to have anyone present in the courtroom during trial, if it had undisputable material evidence.

SUDESH KUMAR S. KOTHARI

Appeal No. 69564-9-1

Additional Ground 19.

The police search warrant was invalid in my case, because the affidavit provided to the magistrate issuing the warrant was misleading and incorrect, since NO 'NO-CONTACT ORDER' existed prior to or at that time. See Frank v. Delaware, 438 U.S. 154, 57 LEd2d 667 98 Sct 2674 (1978).

Conclusion

For the reasons cited herein, and elsewhere, this Court should reverse judgement and remand for New Trial, so that Truth prevails over miscarriage of justice: Vincit Omnia Veritas - a fact no amount of false arguments will suppress the truth from coming out. This Court must remedy the deliberate acts of conspiracy, including without limitation, fraud, perjury, recklessness and manifest actual prejudice, by the Prosecutor, my own lawyers and Mrs. Kuntlata Kothari.

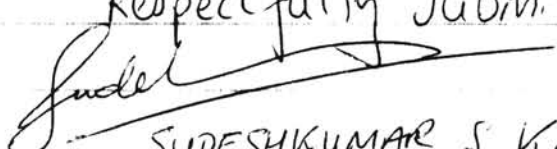
Dated: July 5th 2013Respectfully Submitted,

SUDESHKUMAR S. KOTHARI



EXHIBIT A: see p24 of Statement of Additional Grounds.
Detail Call For Service Report

Login ID: mmunk

Print Date/Time: 07/22/2011 12:34

From CFS: 388 From Date: 07/14/2011 18:45 CFS Type: All
To CFS: 388 To Date: 07/14/2011 18:45 Agency Type:
Layer: All Areas: All

CFS Number: 388 Call Date/Time: 07/14/2011 18:45:08 Primary Incident: 2011-00007198

Narrative, Questionnaire Responses, TDD Text

Create Time	Created By	Narrative
07/14/2011 18:45:08	O'Hara, Alisha	E911 Info - Class of Service: VOIP Special Response Info: 47.588353 -122.226827 PSAP=PD-NORCOM/FD-NORCOM VOIP 911 CALL
07/14/2011 18:45:43	O'Hara, Alisha	[REDACTED]
07/14/2011 18:45:49	O'Hara, Alisha	[REDACTED]
07/14/2011 18:46:00	O'Hara, Alisha	[REDACTED]
07/14/2011 18:46:07	Trimble, Ethan	DV HX AT THIS ADDR
07/14/2011 18:46:19	O'Hara, Alisha	BAD VOIP CONNECTION
07/14/2011 18:46:24	O'Hara, Alisha	HEARING JUST MYSELF NOT HER
07/14/2011 18:46:44	O'Hara, Alisha	CALLING BACK
07/14/2011 18:47:09	O'Hara, Alisha	GETTING ANSWERING MACHINE
07/14/2011 18:47:29	O'Hara, Alisha	Call #: 391 - E911 Info - Class of Service: WPH2 Special Response Info: 47.588439 - 122.227535 8 PSAP=BELLEVUE PD WIRELESS 911 CALL
07/14/2011 18:47:33	Montemayor, Stacy	per hx - poss names: kunlath kothari
07/14/2011 18:47:37	Garcia, Christie	POL 2 CLOSED
07/14/2011 18:47:49	O'Hara, Alisha	NEIGHBOR ON NOW
07/14/2011 18:47:59	O'Hara, Alisha	NEIGHBOR IS WITH DAUGHTER AND MOM
07/14/2011 18:48:05	O'Hara, Alisha	FEMALES NOT INJURED
07/14/2011 18:48:27	O'Hara, Alisha	EX HUSBAND
07/14/2011 18:48:40	Montemayor, Stacy	per hx - male half?? kothari, sudesh 06061961
07/14/2011 18:48:48	O'Hara, Alisha	KOTHARI, SUDESH
07/14/2011 18:48:51	O'Hara, Alisha	PER EX WIFE
07/14/2011 18:49:00	O'Hara, Alisha	[REDACTED]
07/14/2011 18:49:06	O'Hara, Alisha	MALE SUBJ IN HOUSE
07/14/2011 18:49:10	Montemayor, Stacy	per hx - indian male is 500 med build
07/14/2011 18:49:16	O'Hara, Alisha	MOM AND DAUGHTER ARE OUT FRONT
07/14/2011 18:49:24	O'Hara, Alisha	[REDACTED]
07/14/2011 18:49:26	O'Hara, Alisha	STARTING AID
07/14/2011 18:49:56	Lowry, Mark	AID STARTED
07/14/2011 18:50:18	O'Hara, Alisha	FEMALE MADE CONTACT WITH PD
07/14/2011 18:50:20	Garcia, Christie	PER I137 ENTERING BLDG
07/14/2011 18:50:22	Garcia, Christie	S I133
07/14/2011 18:51:59	Paulsen, Barbra	MALE POSS. [REDACTED]
07/14/2011 18:52:20	Paulsen, Barbra	FEMALE POSS KOTHARI, SUDESH 06 06 1961
07/14/2011 18:52:35	Garcia, Christie	PER 33 WITH 36 COMING IN THE FRONT
07/14/2011 18:53:09	Paulsen, Barbra	MALE = SUDESH FEMALE= [REDACTED]
07/14/2011 18:54:15	Garcia, Christie	PER I133 HOLD AIR REMOVE MARKER
07/14/2011 18:54:54	Garcia, Christie	PER 2I CHECK WITH SEATTLE FOR A DOG
07/14/2011 18:55:12	Paulsen, Barbra	RESTRAINING ORDER & PROTECTION ORDER IN SYSTEM
07/14/2011 18:55:19	Garcia, Christie	PER I153 KICKED OUT WINDOW AND CAME OUT 84TH SIDE
07/14/2011 18:55:29	Garcia, Christie	PER 3I START K9
07/14/2011 18:56:16	Garcia, Christie	PER 2I CALL SEATTLE FOR DOG

EXHIBIT B: P36 of 'Statement of Additional
Grounds.

NORTHWEST DEFENDERS ASSOCIATION

1109 First Avenue, Suite 300, Seattle, WA 98101

July 23, 2012

Sudeshkumar Kothari
CCN: 1892125
DOB: 6/6/61
King County Corrections Center
Seattle, WA 98104


Rec'd July 25th
2012

Dear Mr. Kothari:

Pursuant to your request, I am writing to confirm our conversation from earlier today. As I told you, my ability to reach Dillon Johnson during his leave has been sporadic, but I did hear back from him over the weekend. He stated that he does not have a draft of his brief to provide to you and that he will provide you with a copy of the brief he submits. Although you indicated that you are concerned that there will not be sufficient time for the brief to be completed before the August 3rd hearing date, Mr. Johnson did not mention a need for additional time. If he needs additional time, I expect that he will request it of the court. I did advise him that you want him to ask for a continuance whether or not he believes there is a need for it.

If you have further questions or concerns before Mr. Johnson's return, please contact me.

Sincerely,


Nancy Mattson

Appeal No. 69564-9-1

P. of 13

LEGAL MAIL

SUDESH KOTHARI
362420: BA-23
Coyote Ridge Corr. Center
P. O. Box 769
Connell, WA 99326

June 5th, 2013

Ms. Jennifer J. Sweigert
Law offices of Neilsen, Broman & Koch PLLC
1908 E. Madison St.,
Seattle, WA 98122

Re.: Appeal CoA no. 69564-9-1

STATE OF WASHINGTON
JUN 10 11:4:22 AM

Dear Ms. Sweigert,

Thank you for filing the extension - I still do NOT have access to Law Library. The DOC denied my request, dated May 28th, 2013. I have resubmitted another request, which is difficult because my counselor is not here most days or not available.

I need your help and answers to the following:

1. Please can you find and send me at least 5 case citations that show a person

is charged with Burglary for violating a Temporary Restraining Order that VERY SPECIFICALLY states "Person or Owner to Residence" restraint; and

3. Any proof/evidence that there was a "No-contact" order on or prior to July 14, 2011; and

2. Any proof/evidence that there was a Protection Order on or prior to July 14, 2011; and

4. Any proof/evidence that there was a Temporary Restraining Order, that VERY SPECIFICALLY states "Person to Person restraint; and

5. Any case citations where a person is charged with Assault using the said device - a device carried by many women to deter their assailants; and

6. Any case citations where Appeal in divorce

June 5th 2013,

6. conti. case has "STAYED" or "NOT-FINAL" rulings on division of assets and property; and

7. Any case citations why a court issues a "Temporary Restraining Order" very "SPECIFICALLY worded" to restrain person to Residence" restraint.

Please note: In Washington Practice, Volume 20 Chapter 31.22, page 56 it states quote -

"Temporary Restraining Orders operate independently of each other"; and

8. I must submit all 7 letters to the Chief Judge and the 50-pages motion to Judge Ronald Kessler (admitted into records on Nov. 1st, 2011) as exhibits to my 'STATEMENT OF ADDITIONAL GROUNDS'. How do you suggest I do this?; and

9. Please can you submit my motion for New Trial, that was filed on August 26th

2012; ~~and~~ including all attachments (i.e. my affidavit, etc.); and

10. Was it crucial for the jury to know that Kunglata did self-inflict injuries on herself, ^{just} and to falsely accuse me of attempted Murder?; and

11. Was it crucial for the jury to know that the device could NOT have the cause of the "Puncture" injuries, hence the scars, etc.?; and

12. Was it crucial for the jury to know that Kunglata did change clothes, BEFORE running out of the house? - Because her statement was she push me away and ran out of the house?; and

13. Was it crucial for the jury to know the difference between Temporary Restraining Order that specifically states 'Person to Resident restraint, versus a 'No-Contact Order

June 5th 2013

The language
flaw is
very
concise
in each
of these
orders.

versus a 'Protective Order', and versus a
'Temporary Restraining Order' that specifically
states 'Person to Person' Restraint?; and

14. Was it crucial for the jury to know the
difference between 'Residential Burglary',
versus Burglary in 2nd, 3rd or 1st degree,
and versus 'Temporary Restraining Order'
that specifically states 'Person to Resident
Owner' restraint?; and

15. Was it crucial for the jury to know
the difference between superficial, minor
(requiring no medical treatment other than
over the counter ibuprofen), versus a broken jaw
requiring intensive surgery with metal braces,
versus what is 'Grave Bodily Injury',
and what is NOT 'Grave Bodily Injury?; and

16. Was it crucial for the jury to know I

had verbalised my motion on the 1st day of Trial (March 5, 2013) to discharge my trial attorney for gross intentional misconduct, negligence, misrepresentation, etc.?

17 Was it crucial for the jury to know the judge DID dismiss my trial attorney on March 5, 2013, and did APPROVE my request to proceed as Pro-se?; and

18 Was it crucial for the jury to know that the judge FORCED the same lawyer (as not in 17. above) to resume on March 6, 2012, BECAUSE I chose to represent myself, no-matter-what pain/dress I suffered? - The Judge DID deny my CONSTITUTIONAL RIGHT TO represent/defend myself?

19 Was it crucial for the jury to know that Kuyilata willfully committed PERJURY, under oath, in our divorce proceedings and trial, to falsely accuse me of domestic violence, when in fact she attempted suicides as blackmail, etc, PROVING SHE LIED COMPULSIVELY

June 5th 2013

just to hurt me, in any and every way possible, without any regard for the impact on our children?;

20. Was it crucial for the jury to know that the Prosecutor falsely charged me with violation of a 'NO-CONTACT' order - a fact the Judge nor Jury had NO-WAY to know But rely on the Prosecutor telling the TRUTH?; and

21. With respect to point 20, above why none of my lawyers challenge, file, submit anything to refute the false charge? and did the jury have a right to know this fact?;

22. Was it crucial for the jury to know that none of my lawyers carried out ANY investigation on the said device?

23. Was it crucial for the jury to know that none of my lawyers investigated the

the injuries?; and

24. Was it crucial for the jury to know, did that my lawyers NO investigation to refute the police statements regarding the injuries and cause thereof?; and

25. Was it crucial for the jury to know that my lawyers did NO investigation of witnesses' statements, despite all my pleadings? and

26. Was it crucial for the jury to know there was NEVER any Domestic Violence in our marriage of 18+ years, and how Kunjilata abused ^{with} such laws by deliberately setting-me-up and false accusations, that took a TRIP and over \$300,000 to prove SHE LIED / committed Perjury - WITH ABSOLUTELY NO CONSEQUENCES to herself?; and

27. Was it crucial for the jury to know that the police lied in their statements

June 5, 2013

(in July 14th 2011)

that they, confirmed / validated / there was a 'Protection Order / Restraining Order', when neither existed, Because there was NEVER ANY Domestic Violence in our 18⁺ years of marriage (ofcourse, she hit me and our kids each time she lost her temper - BUT MEN ARE NOT SUPPOSE TO CRY!)?; and

28. Was it crucial for the jury to know the Prosecutor deliberately lied and filed false charge of Burglary with 1st degree, especially there is No case citation where a spouse, specifically a co-owner, of community property and assets (e.g. their home and its contents) is restrained from their home in a special circumstance as DIVORCE, Before FINAL division of property. A property and all its contents were Appealed by both parties only a couple of months prior to July 14th 2011?; and

29. Was it crucial for the jury to know

that my lawyers KNEW Kunglata had self-inflicted injuries, and they knew the device could NOT have caused the "Puncture" injuries and many of the others? and

At 30. Was it crucial for the jury to know that the Prosecutor / Police / Detective KNEW Kunglata had self-inflicted injuries, and they knew the device could NOT have caused the 'Puncture' injuries? and

31. Was it crucial for the jury to know that Kunglata, after July 14th 2011 (day of incident) self-inflict further injuries JUST BECAUSE the police did NOT charge me with Attempted Murder - a fact and evidence of photos taken on July 14, 2011 and July 18th 2011. Also, that Kunglata THEN lied in her own testimony about why she specifically went to Mercer Island Police station on July 18th 2011 - four days after the incident? and

June 5th, 2013

32. Was it crucial for the jury to know NO person / owner in a divorce proceeding, pending final division of property / assets, is charged with BURGLARY for entering their own home, even in violation of Temporary ~~&~~ Restraining Order specifying a spouse to restrain from entering their home?; and

33. Was it crucial for the jury to know that it was highly disingenuous of the Prosecutor, an officer of the court, to use Landlord - Tenant Lease as an example of Burglary. Specifically since there is a mutual binding contract that between the two parties that covers the terms of Lease, versus NO such contract between Husband and wife. In addition, There are NO temporary restraining orders in a Landlord - Tenant agreement. In addition, common-sense and law agree Tenant's assets are NOT community property, versus everything in the home is community property, UNTIL FINAL DECISION in divorce settlement - SO HOW

can you steal your own property?
and if you steal your own property
there was no fraudulent intent to file
insurance claim, etc? This was
further example of prosecutor's vindictive
and unjust/unethical tactics - a deliberate
act of misconduct/minrepresentation; and

34. Was it crucial for the jury to know that
prosecutor and my own lawyers used coercion,
BLACKMAIL, fraudulent practices to force me
take a plea or continue case proceeding as
beyond my 60-day Speedy Right Trial, as
documented in my 50-pages motion to Judge
Ronald Kessler, submitted November 1st 2011, and
subsequent 7 letters to the Chief Judge, King
County Superior Court in 2012; and

35. Was it crucial for the jury to know why
Judge Ronald Kessler discharged my first
attorney, on Nov 1st 2011, after over 3 months
of incarceration, mental rape, etc; and

36. Is it duty of Court of Appeals and my appeal

June 5th, 2013

attorney seek relief from Stipulation, whereby the court has authority to relieve a party from effects of stipulation, when it is shown that relief is necessary to prevent an injustice via fraud, coercion, deceit/blackmail, gross intentional misrepresentation of material evidence/facts, gross intentional misconduct and negligence.

37. Please can you provide a list of documents that you submitted to the Court of Appeals. It is important the Court of Appeals see: -

- (a) the New Trial Motion + my Affidavit prepared by Mr. D. Johnson, and submitted on Aug, 2012;
- (b) the 50-pages motion to Judge Ronald Kessler, dated Nov. 1st, 2011;
- (c) the motion dismissing my trial attorney, Mr. Gene Piculiel on March 5, 2012.

Thank you for your help.

Yours sincerely

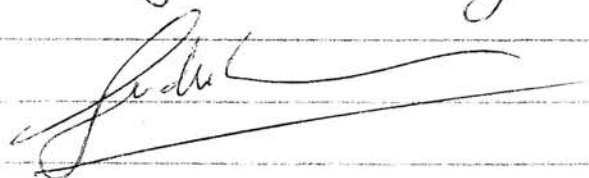


EXHIBIT D: see page 43 of statement of Additional Grounds'

LAW OFFICES OF
NIELSEN, BROMAN & KOCH P.L.L.C.

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OF COUNSEL
K. CAROLYN RAMAMURTI
REBECCA WOLD BOUCHEY

Rec'd 06/17/2013

June 13, 2013

Sudeshkumar Kothari
Coyote Ridge Corrections Center
1301 N Ephrata Ave
PO Box 769
Connell, WA 99326

2013 JUL 10 PM 4:22
COURT OF APPEALS
STATE OF WASHINGTON

Re: State v. Kothari, No. 69564-9-I

Dear Mr. Kothari:

Thank you for your letter dated June 5, 2013 that I received today. I will answer your paragraphs as numbered.

- 1) I regret to inform you I cannot do legal research for you.
- 2-4) The evidence of the restraining order includes paragraph 3.8 of exhibit 2, which you read into the record at trial: "Each party is restrained and enjoined from going onto the grounds of or entering the home or work place of the other party. Each party is restrained and enjoined from disturbing the peace of and/or harassing the other party in person, by telephone, or by email. Violation of a restraining order in paragraph 3.8 w actual knowledge of its term is a criminal offense."
- 5-7) I regret to inform you I cannot do legal research for you.
- 8) You do not need to attach your 7 letters to your Statement of Additional Grounds. They are already part of the record on appeal. You can simply refer to them by the Clerk's Papers page numbers (listed on the index to the clerk's papers)- the court already has copies of them. I am filing a supplemental designation of clerk's papers so that your Nov. 1, 2011 motion to Judge Kessler will also go to the Court of Appeals.
- 9) Your new trial motion, including the attachments, is already at the Court of Appeals.

10-12) You ask whether certain facts were crucial for the jury to know. On appeal, the court will only consider those facts that actually were presented to the jury, not those that should have been presented, even if we consider them crucial. To raise additional evidence, as I've explained in the past, you will need to use a personal restraint petition.

13) For purposes of your case, there is no relevant difference between a restraining order and a no-contact order. You were charged with violating a court order. Both "no-contact orders" and "restraining orders" are court orders.

14) Under the law, the jury is only instructed on the charges the defendant is actually facing. There was no need for the jury to hear the definitions of other types of burglary.

15) The jury was correctly instructed on the legal definition of substantial bodily harm. "Grave bodily injury" is not the standard in Washington for second-degree assault.

16-18) You ask whether it was crucial for the jury to know about the discharge of your attorney. My answer is no. This was not relevant to any question properly before the jury. The jury determines the facts based on the evidence presented and applies the law in the instructions to those facts. It does not reflect on the competence of attorneys.

19) Again you ask whether certain facts were crucial for the jury to know. On appeal, the court will only consider facts that actually were presented to the jury, not those that should have been presented, even if we consider them crucial. To raise additional evidence, as I've explained in the past, you will need to use a personal restraint petition.

20) You ask whether it was crucial for the jury to know that in your opinion, the prosecutor falsely charged you. Questioning the prosecutor's charging decision is not part of the jury's role. The jury's role is to determine whether there is evidence to support that charge. Unfortunately, in your case, the jury found that there was.

21) You can argue your attorneys were ineffective. But this will require showing that there is evidence that the attorneys should have presented. Again, since it was not presented, it is outside the record and must wait for your personal restraint petition.

22-25) No. As mentioned above, reflecting on the competence of attorneys is not part of the jury's role.

26-28) See my answers to number 19 and 21.

29) See my answers to numbers 16-18 and 22-25.

30-31) See my answers to numbers 19, 21.

32) No, it was not crucial for the jury to know your theory about burglary because it is incorrect under Washington law. The dissolution decree gave your wife the right to possess the house, and your entry without her permission is unlawful under the burglary statute.

33) No, it is not crucial for the jury to be informed of disputes over the correct jury instructions. On the contrary, such matters are best kept from the jury to preserve their impartiality.

34) I saw no evidence in the record of coercion, blackmail or fraud. Again, outside evidence is not permitted on appeal.

35) The jury does not need to know why your attorney was discharged.

36) You ask about the duty of an appellate attorney to seek relief from stipulations. The duty of your appellate attorney is to raise all potentially meritorious issues on appeal. There were no stipulations in your case that raise any potentially meritorious issues on appeal.

37) The index to the clerk's papers shows all the documents that have been submitted to the court of appeals along with the transcripts. Specifically, your new trial motion in August 2012 is found at pages 115-128. As mentioned above, I am filing a supplemental designation of clerk's papers so that your motion to Judge Kessler on Nov. 1, 2011 goes to the Court of Appeals. I have no record of any motion by you on March 5, 2012. Several other motions by you that mention Mr. Piculles's representation are already part of what has been sent to the Court of Appeals.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer J. Sweigert". The signature is written in a cursive, flowing style.

Jennifer J. Sweigert
Attorney at Law

EXHIBIT E: see P45 of 'Statement of Additional Grounds'



LAW LIBRARY REQUEST FOR PRIORITY SCHEDULING DEADLINE

Directions: Please use a separate form for each case that you are requesting priority scheduling for. Please fill out this form in its entirety, as failure to do so may result in our inability to process your request.

Offender Name SUDESH KOTHARI Date 5/17/13
Facility KRCC DOC # 362420
Housing Unit BA - 23

Identify the deadline for which you are seeking priority access (if there is a letter, court order, or other document relating to this deadline, you may wish to attach a copy to assist in verifying the deadline). see attached

Date your judgment was entered Oct. 26th 2012

Status of any appeal from that judgment Pending

Court in which you have the deadline Court of Appeals, Div. 1., King County

Case, cause, or docket number No. 69564-9-1

Court/Statutorily imposed deadline for July 17th 2013

Identify which rule or statute imposes this deadline Motion to extend time to file

Comments: Prepare and file "Statement of Additional grounds" for review.

Approved Denied

Reason: Deadline of 7-17-13 exceeds 45 days of the request per DOC 590.500. Please resubmit 45 days prior.

Separates checked (if applicable)

D. Cook
Staff Signature (Optional)

Date

W. Woudens
Law Librarian/designee Signature

5-28-13
Date

Facility CPM/Captain Signature (Optional)

Date

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.