

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

STATE OF WASHINGTON  
Respondent,

v.  
CHARLES LONGSHORE  
Appellant.

FILED  
COURT OF APPEALS  
DIVISION II  
2013 AUG -9 PM 1:17  
STATE OF WASHINGTON  
BY DEPUTY *[Signature]*

On appeal from the Superior Court of Mason County  
The Honorable Amber Finlay

Appellant's prose, Statement of Additional Grounds

Charles S. Longshore #332121  
Stafford Creek Correction Center  
191 Constantine way  
Aberdeen WA 98520  
Appellant.

**CERTIFICATE OF SERVICE**

I certify that I mailed  
1 copies of SAG  
to App. Counsel  
& Dist. Office  
8/14/13 l.e.  
Date Signed

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### History on rulings that create question

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### TABLE OF Authorities

- U.S. CONST Amend 4
- U.S. CONST Amend 5
- U.S. CONST Amend 14

United States Supreme Court cases

Gerstein v. Pugh CS.ct. 1975

County of Riverside v. McLaughlin, (S. Ct 1991)

Washington State cases

State v. Gregory, 158 wn.2d 759, 809, 147 P.3d 1201 (2006)

State v. Blair, 117 wn.2d at 485-92

## Statement of Additional Grounds

### Question? And Argument

- 1.) Does the Defendant have a Right to a probable cause determination to support a criminal charge before being tried in a trial court? After he has been arrested, placed in Jail, and No Probable cause found after his Arrest by a Neutral and Detached Judge or Magistrate? After Being brought into Custody, on Multiple counts, And Probable cause found to support the other charges? But ultimately the state still charges the Defendant with the charge that was ruled that no probable cause existed? Should the Court Reverse or Dismiss?

### History on rulings that create Question and Argument

- a.) Relying on our Fourth Amendment protection against unreasonable searches and seizures, the Supreme Court held that the Constitution "requires a Judicial Determination of Probable Cause as a prerequisite to Extended restraint of Liberty," *Gerstein v. Pugh* (S.Ct. 1975)
- b.) A probable cause determination following arrest is also required if pretrial release is "accompanied by burdensome conditions that effect a significant restraint on Liberty." AGAIN ~~Gerstein~~ *Gerstein v. Pugh* (S.Ct. 1975)
- c.) The requirement does not apply, however, to suspects who have been arrested after having been indicted by a grand jury or on the basis of an arrest warrant is because a neutral decision maker will have already found probable cause as to those defendants. Again *Gerstein v. Pugh* (S.Ct. 1975)
- d.) The standard for probable cause is the same standard for Arrest - "facts and circumstances 'sufficient to warrant a prudent man in believing the suspect had committed or was committing an offense,'" AGAIN *Gerstein v. Pugh* (S.Ct. 1975)



- e) Later the Supreme Court clarified the time frame within which a Judicial Determination of probable cause must be made in *County of Riverside v. McLaughlin* (S.Ct. 1991). The Court stated that a Jurisdiction that provides Judicial determinations of probable cause within 48 hrs of arrest, will as a general matter, comply with the promptness requirement established in *Gerstein*. *County of Riverside v. McLaughlin*, (S.Ct. 1991)
- f) The 48 hr rule is not, however, an inflexible standard. A determination may be untimely even if made within 48 hrs if it was delayed unreasonably. *County of Riverside v. McLaughlin*, (S.Ct. 1991)
- g) Examples of unreasonable delay include delays for the purpose of gathering additional evidence to justify arrest, a delay motivated by ill will against the suspect, or delay for delay's sake. *County of Riverside v. McLaughlin* (S.Ct. 1991)
- h) On the other hand, if the determination is made more than 48 hrs after arrest, the burden shifts to the Government to demonstrate the existence of a bona fide emergency or other extraordinary circumstances. *County of Riverside v. McLaughlin* (S.Ct. 1991)

### Statement of fact's on issue

In this case, I was ID'd by Judge Tomi A. Sheldon on March 26<sup>th</sup> 2012, after being arrested for 1) Eluding a Pursuing police officer 2) ~~Possession~~ Felony Harassment 3) driving while license suspended. See PG 2-10 of the "transcripts"

Although on that date of March 26<sup>th</sup> 2012 after Judge Sheldon found missing Elements to support probable cause of the charge for Elude the state never removed the charges.

At Arraignment Attorney James Gazarri Requested the charge

to be dismissed. PG 9 Line 14-19 "conversation of court and Attorney," "Transcripts"

It was however reserved to be heard at a later time, and after Attorney filed motion, PG 9-10 "continued conversation between Counsel and Court," "Transcripts"

All still while in ~~custody~~ custody, even though only under conditions for Felony Harassment. But still kept the felony Elude charge under the same cause number after no probable cause was found to support the charge, and conditions were set and supported for a secret charge under the same cause number.

Ultimately, the motion to dismiss, Knappstad are any remedy discussed was never filed, see all "Transcripts", by defense counsel.


None did the prosecutions ever provide any new supplemental as represented to court and counsel. See all Transcripts,

Ultimately, the issue went on detected by defence counsel, and the court, and ended up in trial and later convicted of. All Not with first establishing probable cause to support the charge before trial, and after arrest. Violated my 5<sup>th</sup> and 14<sup>th</sup> Amendment right to due process,

~~Conclusion to Ground (1)~~ Conclusion to Ground (1)

Because probable cause was never established, after arrest, and proceeded to trial with a charge not supported by probable cause, and probable cause determination violated the 48hr rule after arrest because defendant never received a finding of probable cause to support the charge after arrest. One would think this court should either dismiss the charge all together, or reverse the conviction. As such I ask the court to either dismiss the charge or reverse the conviction. For violating my 4<sup>th</sup>, 5<sup>th</sup> and 14<sup>th</sup> Amendments.

Dated this 3<sup>rd</sup> day of August 2013



Charles Longshore #332121

Stafford Creek Correction Center

191 Constantine Way  
Aberdeen WA 98521

## Statement of Additional Ground (2)

### Statement of fact's

2.) Prosecutors comments during his closing Argument, on defenses failure to question witness "Patricia Pena" regarding The Felony Harassment charge, was improper and prejudicial, because it shifted the burden of proof.

### Argument

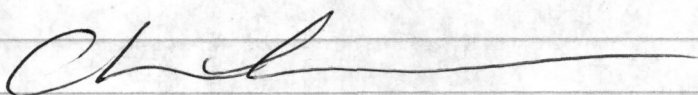
To prove Prosecutor Misconduct, I must show that the Prosecutors conduct was improper and prejudicial, State v. Gregory, 158 Wn.2d 759, 809, 147 P.3d 1201 (2006)

Here I've done that, the Prosecutors comment on defenses failure to question witness about The harassment charge, was improper and prejudicial, because it shifted the burden of proof. Blair, 117 Wn.2d at 485-92

### Conclusion

Due to the Prosecutors prejudicial comments, the charges of harassment should be reversed or dismissed with ever the court thinks is reasonable and just.

Dated this 7<sup>th</sup> day of August 2013

  
Charles Longshore #332121 FNC10  
Stafford Creek Correction Center  
191 Constantine Way  
Aberdeen WA 98520



Clerk of the Court of Appeals,

8-3-13

Enclosed, please find my statement of additional grounds. Please let me know if its ok and your able to reproduce it for the court. Also that its understandable and clear.

RECEIVED  
AUG - 9 2013

Respectfully Submitted,

CLERK OF COURT OF APPEALS DIV II  
STATE OF WASHINGTON

Charles Longshore  
Charles S. Longshore #332121  
Stafford Creek Correction Center  
191 Constantine Way  
Aberdeen, Wa 98520

I certify I have filed a copy of Addition Grounds in the Stafford Creek corr center legal mail system. Addressed to the clerk of the court of Appeals.

Dated this 7<sup>th</sup> day of August 2013

Charles Longshore