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STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2014 JUN -5 PM 12:44

STATE OF WASHINGTON)

Respondent,)

v.)

Malcolm Fraser
(your name))

Appellant.)

No. 70702-7-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Malcolm Fraser, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

please see attached.

Additional Ground 2

please see attached.

If there are additional grounds, a brief summary is attached to this statement.

Date: 6-1-14

Signature: M Fraser

RULE OF APPELLAGE PROCEDURE 10.10
STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

(a) Statement Permitted. A defendant/appellant in a review of a criminal case may file a pro se statement of additional grounds for review to identify and discuss those matters which the defendant/appellant believes have not been adequately addressed by the brief filed by the defendant/appellant's counsel.

(b) Length and Legibility. The statement, which shall be limited to no more than 50 pages, may be submitted in handwriting so long as it is legible and can be reproduced by the clerk.

(c) Citations; Identification of Errors. Reference to the record and citation to authorities are not necessary or required, but the appellate court will not consider a defendant/appellant's statement of additional grounds for review if it does not inform the court of the nature and occurrence of alleged errors. Except as required in cases in which counsel files a motion to withdraw as set forth in RAP 18.3(a)(2), the appellate court is not obligated to search the record in support of claims made in a defendant/appellant's statement of additional grounds for review.

(d) Time for Filing. The statement of additional grounds for review should be filed within 30 days after service upon the defendant/appellant of the brief prepared by defendant/appellant's counsel and the mailing of a notice from the clerk of the appellate court advising the defendant/appellant of the substance of this rule. The clerk will advise all parties if the defendant/appellant files a statement of additional grounds for review.

(e) Report of Proceedings. If within 30 days after service of the brief prepared by defendant/appellant's counsel, defendant/appellant requests a copy of the verbatim report of proceedings from defendant/appellant's counsel, counsel should promptly serve a copy of the verbatim report of proceedings on the defendant/appellant and should file in the appellate court proof of such service. The pro se statement of additional grounds for review should then be filed within 30 days after service of the verbatim report of proceedings. The cost for producing and mailing the verbatim report of proceedings for an indigent defendant/appellant will be reimbursed to counsel from the Office of Public Defense in accordance with Title 15 of these rules.

(f) Additional Briefing. The appellate court may, in the exercise of its discretion, request additional briefing from counsel to address issues raised in the defendant/appellant's pro se statement.

Statement of Additional Grounds for Review

Case No. 70702-7-1

State of Washington v. Malcolm Fraser

COURT OF APPEALS
STATE OF WASHINGTON
2014 JUN -5 PHILIP
FILED
ST. JOHN 1

ADDITIONAL GROUND 1

Verdict is contrary to justice. Conviction based on accusation alone is not acceptable according to the United States Constitution, the Constitution of the State of Washington, and the criminal laws and rules of the State of Washington. In this case the State presented an accusation made by the alleged victim without any physical evidence, any corroborating eyewitnesses, any police investigation prior to the arrest of the Defendant, any expert testimony, or, in fact, any hard evidence whatsoever. To even bring the case to trial was a violation of the basic principles of law. A guilty verdict under such circumstances is prima facie evidence that the Trial Court was in error for allowing the State to proceed when it became abundantly clear that the State's case was bogus. The Trial Court also erred by allowing the State to take advantage of the sensitive nature of the charges, combined with introducing controversial and irrelevant religious issues, to manipulate the jury into reaching a verdict based on emotion rather than on the

facts. If the Trial Court can allow a person to be arrested, tried, and convicted based on nothing more than an accusation, then it is condoning the same system of "justice" practiced by Nazi Germany, the Salem witch trials, and the Terror of the French Revolution.

ADDITIONAL GROUND 2

The State failed to meet the burden of proof beyond a reasonable doubt. A person is innocent until proven guilty. The Defendant is under no obligation to prove innocence. Therefore, the entire burden lies with the State to produce evidence that an actual crime took place and that the Defendant committed that crime. In this case, the State proved absolutely nothing. The alleged victim's testimony was intrinsically inconsistent, inaccurate, contradictory, and highly suspicious in terms of timing and motivation. No other State witness testified to any evidence of the alleged crimes - in fact, they admitted they did not see anything, hear anything, notice anything, or even suspect anything. The State presented no physical evidence or expert testimony pertaining to the alleged crime itself. Even if the Defendant had not provided eyewitness and documentary evidence proving the timeframe of the accusations to be

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false; along with photographic, video, and expert medical testimony proving he had a rare medical condition which would have rendered the alleged conduct all but impossible - and which also proved the alleged victim's physical identification to be false; along with evidence and expert opinion which showed the incompetence, bias, and inadequacy of the police interview, including the likelihood that it actually planted ideas/memories in the alleged victim via leading questions; along with documentary and eyewitness evidence of prior hostility towards the Defendant from the alleged victim's family - pre-dating the charges - and disgruntled ex-church members in close association with them; indeed, even without the abundant evidence of actual innocence presented by the Defendant, it would remain true that the State's case consisted solely of an emotional accusation and a smokescreen attack on the Defendant's church and their religious beliefs. It is simply not possible that any objective, rational examination and assessment of the trial record could conclude that guilt was "proven" by the State in any way whatsoever, let alone "beyond a reasonable doubt."

ADDITIONAL GROUND 3

The jury did not follow the Trial Court's instructions.

It is sheer sophistry for the Court to hide behind the idea that it is the jury's job to assess the credibility of an accusation when it is self-evident that the accusation was never credible and is not supported by a shred of corroborating evidence or eyewitness testimony, and that the entire strategy of the State is to distract the jury away from the facts (or lack thereof) in order to induce a verdict based on its hyped emotionality of the charges alone. To maintain otherwise would be to admit the possibility of the State prosecuting a Defendant for kidnapping on the sole basis of the alleged victim's claims that the Defendant is an alien who abducted him/her with an invisible spaceship. While real accusations must obviously be taken more seriously, the Court must draw the line somewhere and take responsibility for allowing the State to proceed with cases - such as this one - which are devoid of evidence, credibility, or merit by even the most basic standards. The Trial Court's failure to do so led to the jury being dragged through an unnecessarily long trial and subjected to extreme emotional manipulation by the State as a substitute for hard evidence or credible testimony. The Trial Court instructed the jury that the State must prove its case "beyond a reasonable doubt." However, by the Trial Court's acceptance and affirmation of the State's unethical strategy and reliance upon non-

evidence, it undermined its own instruction and undermined the basic principle of law. The State's case consisted of nothing but reasonable doubt, at best. The jury deliberated for only a matter of hours after a 20-21 day trial, and returned a verdict which was so inconsistent with the evidence that it is obviously erroneous and incompatible with the Trial Court's instructions.

ADDITIONAL GROUND 4

The State's prosecution of the case was malicious and prejudicial. The State was made aware of overwhelming Defense evidence and fatal flaws in its case at least six months prior to trial. Their response was to add additional charges in an attempt to bully the Defendant into a plea bargain. The State proceeded to trial in the full knowledge that they had no evidence and that the alleged victim's accusations were not credible - and, therefore, with the full intent on bypassing the principle of law and relying on emotional manipulation and religious prejudice to secure any chance of a conviction. The State was unwilling to drop such a politically sensitive case and admit the entire thing had been mis-handled by police and prosecutors. Therefore, the State "passed the hot potato" to a jury, in full knowledge that a gross

miscarriage of justice was possible. The simple truth is that, if this had been any other type of case, or if the Defendant had been anyone other than a pastor of a Christian church, it would never have gone to trial.

ADDITIONAL GROUND 5

The alleged victim was not confronted with the inconsistencies, discrepancies, and falsehoods contained in her testimony. The United States Constitution gives the Defendant the right to confront the accuser. Although the alleged victim was cross-examined by Defense counsel during the trial she was never confronted, made aware of, or asked to explain the significant flaws in her accusations. Defense cross-examination succeeded in drawing further falsehoods and inconsistencies from the alleged victim, and some of these were addressed in closing arguments. However, the jury was not given the opportunity to see and hear the alleged victim's reaction to being confronted directly with the untruths she testified to under oath. Without seeing this reaction first-hand the jury was deprived of a vital element in assessing the witness's credibility. In a regular case this would still be an important lack, but in a "she said / he said" case such as this, where the credibility of the alleged victim

is the lynchpin - and, indeed, the only pin - of the State's case, it is a terminal inadequacy.

ADDITIONAL GROUND 6

The State effectively put Sound Doctrine Church on trial alongside the Defendant. The State called sixteen witnesses, none of whom - other than the alleged victim - could testify to any knowledge of the alleged crimes whatsoever. Seventy five percent of the State's witnesses, however, gave testimony of their personal, highly negative opinions of the Defendant's church. The sole purpose of the State introducing this "evidence" was to vilify and demonize Sound Doctrine Church and, by association, the Defendant. Essentially, the Trial Court allowed the State to present legally-sanctioned slander against a law-abiding group of Christians as "evidence", despite the obvious fact that such "evidence" had no relevance to the guilt or innocence of the Defendant, or the State's attempt to prove that any crime was actually committed. By allowing itself to be used as an arena for a blatant attack on a Christian church, the Trial Court became a party to the hate crime perpetrated by disgruntled ex-church members, including the family of the alleged victim, under the orchestration of Athena Dean - whose goal of destroying Sound

Doctrine Church, and all the families therein, was fully known to the State prior to trial. In addition to this culpability, the Trial Court also allowed significant, prejudicial, negative character evidence against the Defendant to be presented to the jury by the State's use of the "back door" of religious beliefs and circumstances - all of which should have been disallowed in the same way the Trial Court prevented the Defendant from presenting any positive character evidence.

ADDITIONAL GROUND 7

The State acted in bad faith by naming Athena Dean as a witness for the State prior to trial, and then disavowing all interest in actually calling her to the stand after the trial began. The State was well aware of the significance of Athena Dean's personal hate campaign against the Defendant and her machinations to destroy Sound Doctrine Church, and her relationship to the alleged victim and her family. The State led the Defendant to believe they would call Ms. Dean to testify but, instead, waited until Ms. Dean escaped to Texas and then claimed they had no intention of calling her as a witness. The State knew the damage to its case which would result from a cross-examination of Ms. Dean. The State also

knew that Defense questioning would be severely limited under a direct examination should she be called as a Defense witness. The State also knew that, with Ms. Dean moving to Texas shortly before the trial, she was effectively "out of reach" of the Defendant's limited resources. Ms. Dean herself flat-out refused to come back to Washington to testify for the Defense, by telling Defense counsel to "come get me" - despite having already been served with a valid subpoena while she resided in Washington. This flagrant contempt of court by Ms. Dean was not addressed by the Trial Court when made known by the Defense, nor was the disruption caused by the State's bad faith in this matter.

CONCLUSION

Defendant presents these Additional Grounds on the basis of common sense, fairness, and justice. Defendant maintains his innocence and will continue to do so. Any objective, rational analysis of the record by a reasonable person will show that this trial and verdict was a gross miscarriage of justice. The State dodged its responsibility to justice by "punting" to the Trial Court. The Trial Court dodged its responsibility to justice by "punting" to the jury. The jury, at the end of a stage-managed,

emotionally manipulative, lengthy, and fundamentally unfair trial, did not follow their instructions and returned the wrong verdict. All legal technicalities aside, the Appellate Court now has the opportunity to do the right thing and reverse the verdict.

Date: June 1st, 2014

Signature: 