

STATE OF WASHINGTON
respondent,

v.

ANTHONY S. AQUININGOC
appellant.

71539-9

No. COA ~~XXXXXX~~

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

2014 NOV 17 AM 9:15
COURT OF APPEALS DIV 1
STATE OF WASHINGTON

I, Anthony s. Aquiningoc, 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

The Appellant/Petitioner's Constitutional right to Due Process was violated on numerous occasions. The Appellant/Petitioner has addressed this issue previously in his initial Statement of Additional Grounds for Review, filed in 2013. This Court denied the Appellant/Petitioner the opportunity to have his issues presented, to be properly addressed, therefore denied the Appellant/Petitioner his Constitutional right to Due Process.

ADDITIONAL GROUND 2

The Appellant/Petitioner's Constitutional right to effective assistance of Counsel was violated, when the Superior Court Judge denied the Defendant an opportunity to retain competent Counsel to represent him, therefore leaving the Defendant to the mercy of the Prosecution, and the Courts abuse of discretion.

ADDITIONAL GROUND 3

The Appellant/Petitioner's Constitutional right to Confront his accusers, was violated, when the Prosecution held back pertinent testimony, and documentation, that would have changed the outcome of the trial.

ADDITIONAL GROUNDS 4

The Superior Court, denied the Defendant the opportunity to be involved in the selection of the jury, therefore leaving the defendant to the mercy of the prosecution and the Court.

ADDITIONAL GROUNDS 5

It was ineffective assistance of counsel, when the Defendant, was not consulted, nor was included in the decision to proceed to trial, without consulting with him the consequences of losing the trial, if he had lost. The Defense Counsel failed to present the guilty plea offer presented by the prosecution.

ADDITIONAL GROUNDS 6

The Defendant/Appellant, presented to the Superior Court, during his Mandated Court of Appeals re-sentence, numerous exhibits to be added to the record. These exhibits include, witness testimony, police reports, and pertinent evidence that was not obtained with due diligence by his Court appointed attorney. There is contradicting testimony from the prosecution about the police statements that were not presented to the Court.

ADDITIONAL GROUNDS 7

During the Defendant/Appellants Mandated re-sentencing hearing, the Defendant asks about the reasoning behind the judges decision to exclude the Original Police testimony and reports. The Court replies, that he did not want the Jury to make a decision based on the charges previously anticipated. This was an abuse of discretion of the Court, and a violation of the Defendants Constitutional right to due process of the law.

I the Appellant/Petitioner, hereafter referred to as Aquiningoc, filed a Statement of Additional Grounds, during his initial Direct Appeal filed in this Court. This states in their Mandate that:

Aquiningoc raises numerous issues in a 21-page statement of additional grounds. They generally fall into the categories of due process violations, double jeopardy violations, prosecutorial misconduct, and ineffective assistance of counsel. We find no basis that warrants additional review.

Aquiningoc asks this court for a reconsideration on these issues, and was denied further review. Aquiningoc proceeds to take these issues to the Supreme Court, where he submitted a "Petitioner's Motion for an Order Allowing Petitioner to file A Pro-Se Supplemental Petition for Review".see Attachment A (Petitioners Motion for Review)

The Supreme Court of Washington granted Aquiningoc's Motion on August 5th 2013. see Attachment B (Supreme Courts Order granting supplement).

Aquiningoc did not enter the supplemental Petition due to his transfer to minimum security Work Camp, and inability to file in the allotted time allowed, therefore he was never given the opportunity to be properly heard.

Aquiningoc is transported back to Superior Court for the Mandated issues found by this Court. Aquiningoc files for an Appeal based on his re-imposed exceptional sentence, and issues to be addressed before this Court.

Aquiningoc would like this Court to revisit his issues from his initial Statement of Additional Grounds, and individually describe each of the findings for his Statement of Additional Grounds.

Aquiningoc contends with this Court that he was not provided his Constitutional Rights to Due Process, and Access to the Courts, therefore leaving his issues in his initial Supplement of Additional Grounds unanswered and not addressed properly. This Court should afford Aquiningoc the right to have these issues addressed properly, with elaborate descriptions of how This Court came to their findings for no further review.

Aquiningoc asks this Court to review the Courts comment on why the Prosecution was granted her Motion in Limine instruction no# 4, during his Court of Appeals Mandate back to Superior Court for reconsiderations.

Aquiningoc during his Mandated reconsideration, brings up the prosecutions Motion in Limine instruction no#4 **see Exhibit States Motion in Limine**. Aquiningoc asks the Court for an explanation for the granting of this Motion. During this conversation, Aquiningoc describes his interpretation of the event, and describes how the prosecution refers Police reports that were not submitted into evidence, and convinces the Court without actual reports being offered into trial. The Prosecution states "If you look in their reports, the reports that the Court does not have". These reports were not contested by Aquiningoc's defense attorney, therefore leaving Aquiningoc unprotected from the misinformation that the prosecution elaborates to the Court, which ultimately denied Aquiningoc the opportunity to confront his accusers, and address the "Police Reports they did not have". Had these reports been submitted to the Court, the outcome of the Trial would have been different.

The prosecution errored in misinforming the Court that Aquiningoc was never charged with 4th degree assault in Municipal Court.

During pre-trial motions, the prosecution testifies that Aquiningoc had not been charged with assault in the fourth degree in Municipal Court, and reassures the Court that the charge of fourth degree assault was never filed. **see pretrial verbatim of proceedings** page 37 lines 14-25 page 38 lines 1-9.

during this conversation the prosecution misinforms the Court that the police officers that arrested Aquiningoc charged him with two charges, assault in the 4th degree, and assault in the second degree. The prosecution said to the Court: "If you look at the police reports, which the Court doesn't have , the reports that officer Moyer and Woodward wrote indicate two charge Assault in the Second degree, Assault in the Fourth degree".

see Pretrial verbatim report of proceedings page 39 lines 20-23

During Aquiningoc's Mandate from the Court of Appeals, he Motions the Court to supplement the Trial record with new discovery **see Attachment C** Aquiningoc's motion to supplement Trial with new discovery.

In this new discovery Aquiningoc files the alleged Police reports that Officer Moyey and Woodward wrote. In these reports there is no indication of the prosecutions alleged charge of second degree assault. There is two reports made by these officers, and they both only charge Aquiningoc with fourth degree assault.

Because of the prosecutions misinformation to the Court, Aquiningoc was prejudiced, his Constitutional right to confront his accusers was violated, and abuse of discretion by the Court for allowing this hearsay testimony to be allowed by the Court without further investigations into the allegations.

During Aquiningoc's Court Of Appeals Mandate, Aquiningoc addresses this issue with the Court **see Mandate Verbatim report of proceedings** page 37 lines 12-25 Page

Aquiningoc asks the Court to explain why the States Motion in Limine instruction #4 was allowed, and why the "Police reports that the Court did not have", nor did the prosecution present as evidence to support her allegations of Aquiningoc never being charged in Municipal Court, therefore the reasoning for the Motion in Limine instruction #4, were never allowed into the trial **see Mandate Verbatim report of Proceedings** page 58 lines 11-25

The Court explains to Aquiningoc that the reason he allowed the instrruction to stand was because he was protecting Aquiningoc from prejudice from the jury., and he did not want the jury to hear the police reports because he thought the jury would use that information in an inappropriate way, and I might be convicted by the evidence in thoes reports, and that might impact the juries ability or **willingness** to convict me, and "they should'nt be able to consider that".

Aquiningoc argues that it was an abuse of discretion of the Court for allowing the pertinent evidence that the police reports contained to not be allowed for the jury to hear in Aquiningoc's trial, and it was a violation of his Constitutional right to due process of the law, as well as his Constitutional right to confront his accusers.

During Aquiningoc's Mandate back to Superior Court, Aquiningoc files a Motion in open Court to **Supplement Trial Record with new Discovery**, within this Motion there are numerous exhibits attached, that pertain to all of Aquiningoc's issues contained in this Statement of Additional Grounds. **see Attachment C** Aquiningoc's Motion to Supplement Trial Record with new Discovery filed in open Court on 1-14-2014.

Aquiningoc argues that the Prosecution misinformed the Court that Aquiningoc was arrested and charged with both Assault in the Fourth Degree and Assault in the Second Degree, and that both of the arresting officers had wrote these two charges in thier reports, **see Pretrial Verbatim Report of Proceedings** page 39 lines 20-23, prosecution testifies in Court " If you look at their reports, **which the Court does'nt have**, the reports that Officer Moyer and Woodward wrote indicate two charges, assault in the Second degree, and assault in the Fourth degree".

Aquiningoc argues that the prosecution misinformed the Court with incorrect information, and misguided the Court into granting the suppression of this pertinent evidence, with false allegations with malicious intent to persuade the Court into granting her Motion in Limine instruction #4 "Preclude defense from offering evidence regarding initial Assault in the Fourth degree filed against the defendant",see Exhibit State's Motion in Limine.

Aquiningoc obtained these police reports filed by the arresting officers Moyer and Woodward, through a Public Records Request, recently, and submitted in his Motion to Supplement Trial Record with new Discovery. In these reports that the prosecution refers to during her pretrial argument to allow her Motion in limine instruction #4, where she testifies that the Police Reports that the Court does'nt have contained two charges assault in the Second degree and assault in the fourth degree, and that both officer Moyer and Woodward charged these two charges, and the information is in "thier reports". These arresting officer reports that were recently submitted in Aquiningoc's Motion to Supplement Trial with New Discovery, do not contain two charges. Both officer reports only contain assault in the Fourth Degree, and not the alleged Assault in the Second degree assault, that the prosecution misinformed the Court during pretrial motions. **see Motion to supplement Trial Record with New Discovery**

Exhibit A pages 1-7

Aquiningoc argues that these reports should have been submitted into evidence by the prosecutor, especially if she is testifying to the Court about the "alleged contents", that in which are not at all accurate, and are without truth, for malicious intent.

Based on the Prosecutorial Misconduct, Aquiningoc should be allowed a New Trial, based on the Evidence that was suppressed by the Prosecution and the Abuse of Discretion of the Court.

Aquiningoc asks this Court to also revisit his "Original Appeal", and his Statement of Additional Grounds, and give him the due process of explanation to the findings from this Court for each of his arguments. Aquiningoc also asks this Court to review his first Statement of Additional Grounds, in conjunction with the New Discovery, and to give Aquiningoc a complete explanation to this Courts individual findings from that Appeal.

There are several issues that pertain to the Original Charge Filed Against Aquiningoc, and thoes issues are argued further in this Statement of Additional Grounds for Review.

It was also Ineffective Assistance of Counsel, to allow thew prosecution to misinform the Court about the police reports that the Coyurt did not have, and to not challenge these alleged reports. Aquiningoc was not Constitutionally protected by effective assistance of counsel, and was prejudiced by the ineffectiveness. Had the Defense Counsel asked to review these police reports, there would have been a different outcome in the proceedings, which would have ultimately led to a different verdict from the jury.

Aquiningoc respectfully asks this Court to review this issue closely, and more stringent, and grant Aquiningoc a new trial.

During Jury deliberations, the jury provides the Court with a written question "Can we see the original victims summary-written on 4-11-11" **see Attachment D (a)** Question from deliberating jury.

The Court's response to this question was " The jury will need to rely upon the exhibits and evidence admitted at trial" **see Courts Answer** on the Question from deliberating jury.

Aquiningoc argues that it was a violation of his Constitutional right to due process, as well as a violation of his right to confront his accusers, and right to obtain witness testimony against him, or in his favor. This was an abuse of discretion of the Court, as well as a Brady Violation, and requires this issue to be reviewed by this Court. The documentation was not provided to the jury when there was a receipt filed in open Court requesting these documents. The documents were available to the Court, and should have been provided to the jury upon request.

Aquiningoc recently filed a public records request for these documents, and recieved them without any hesitation from the County Courthouse. **see Attachment D (b)-(c)** Bellingham Police Department Statement Form, aka Original Victims summary written on 4-11-11.

Aquiningoc argues that due to the jury not being provided the necessary evidence available at the time, and a tell tale Brady violation, as well as a grounds for a new trial as stated in the Washington State Court Rules CrR 7.5 (a)(1), this Court should recognize the Constitutional Violation, and grant Aquiningoc a new trial.

Aquiningoc argues that is was a violation of his Constitutioal right to effective assistance of Counsel, and due process of the law, when he was not told nor provided the opportunity to accept or reject the states 30 day jail offer for the "Original fourth degree assault filed against him".

Aquiningoc was arrested and booked into jail on 4-11-11 for fourth degree assault by officers Moyer and Woodward **see Exhibit C #1** Original charging document filed 4-11-11.

Aquiningoc was arraigned and plead not guilty, and was appointed a Court appointed attorney **see Exhibit C # 2** Bellingham Municipal Court docket slip dated 4-12-11.

Aquiningoc signs his acknowledgment of his Constitutional rights **see Exhibit C # 3** Document labeled "what are my Constitutional Rights".

Aquiningoc is given a Bail in Municipal Court for \$1000.00 cash see Exhibit C # 4 Order on pre-trial release dated 4-12-11

Aquiningoc's Court appointed attorney Lisa Apsay #38515, files a Notice Of Appearance, Entry of Plea(s), Demand for Discovery, Demand for Trial by Jury on April 13, 2011 see Exhibit C # 5

Assistant City Attorney Richard K. Peterson #37458 files a motion and order to dismiss criminal charges to allow for referral to the Whatcom County Prosecutor and filing in Superior Court. see Exhibit C # 6 Motion and Order to Dismiss Criminal Charges filed on 4-13-11.

The Bellingham Municipal Court files the charge of fourth degree assault against Aquiningoc on 4-12-11 see Exhibits C # 7 (a), (b), (c), (d) copies of original Charge of fourth degree assault filed against the Defendant Aquiningoc on the Municipal Court for April 12, 2011. Aquiningoc obtained this Case Docket Inquiry through a public disclosure request back in late 2012

Court Appointed Attorney Lisa Apsay #38515 files a Notice to Withdraw from further representation for Aquiningoc see Notice Of Intent To Withdraw, filed by Aquiningoc's Attorney on April 15, 2011 and received by the Clerk on April 18, 2011. see Exhibit D # 1

Aquiningoc requests a Public Disclosure Request to the Bellingham Prosecutors Office in 2013, Aquiningoc receives a Plea/Offer Recommendation Form that was filed with their office, but was never revealed to Aquiningoc until receiving the Public Records Request 3 years after the offer. see Plea Offer/Recommendation Exhibit E # 1 this offer is dated 4-12-11

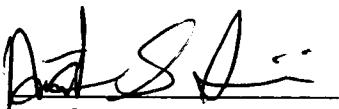
Aquiningoc has tried to explain to this Court how he was charged with Fourth degree assault in Municipal Court Cause No# CB74508, his attorney never makes contact with him, but files for a demand for a trial by jury, without ever meeting or consulting with him, and asking if that was something he was prepared to do. Aquiningoc's attorney totally disregards the Prosecutions 30 plea offer, never informs Aquiningoc of the offer, and files the Demand for Jury Trial. The very next day the Prosecution pulls the plea offer after seeing Aquiningoc's attorney filed a Demand for Trial, and dismisses the charge so that Aquiningoc can be re-charged in Superior Court. Aquiningoc's Attorney 2 days later files a notice to withdraw, without ever meeting him informing him nor contacting him.

Aquiningoc argues that his Due process was violated, that he had ineffective assistance of counsel, and there was retaliation, and prosecutorial misconduct by the city, due to Aquiningoc's Attorney's ill actions, and failure to convey the cities offer.

REMEDY

Aquiningoc respectfully requests this Court to review the "New Discovery", remand Aquiningoc back to Superior Court for a New Trial based on the new evidence submitted on the record. Grant Aquiningoc a New Trial, with a conflict free attorney, and to allow Aquiningoc his Constitutional Due Process to confront his accusers, and to obtain witnesses in his defense.

Respectfully submitted this 13 day of November 2014



Anthony S. Aquiningoc #979919

Coyote Ridge Correction Center
1301 N. Ephrata Ave. P.O Box 769
Connell Washington 99326-0769

DECLARATION OF ANTHONY S. AQUININGOC

I, Anthony S. Aquiningoc, declare under the laws of the state of Washington, and by penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Anthony S. Aquiningoc #979919

DATED THIS 13 day of november 2014

ATTACHMENT 1

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	NO. 88637-7
Respondent,)	
vs.	)	PETITIONER'S MOTION FOR AN
	)	ORDER ALLOWING PETITIONER
Anthony Aquiningoc,	)	TO FILE A PRO SE SUPPLEMEN-
Petitioner.	)	TAL PETITION FOR REVIEW

1. Identity of Moving Party

Anthony Aquiningoc, the petitioner, In Propria Persona, asks for the relief designated in Part 2.

2. Statement of Relief Sought

Petitioner asks for permission to file and serve a supplemental petition for review, to raise the issues presented in his Statement of Additional Grounds, to complete the requirement to exhaust the State remedies before proceeding to a Federal Court.

3. Facts Relevant to Motion

- A. Petitioner's Constitutional right to access the courts.
- B. Petitioner's burden of proof in a Federal Court concerning the exhaustion of the State remedies.
- C. Petitioner's counsel did not present petitioner's pro se grounds to this court on the petition for review.
- D. Appellate court did not describe the grounds for denying petitioner's relief on his grounds in direct review.
- E. Petitioner will be prejudiced.
- F. Respondent will not be prejudiced.
- G. Justice will be served.

4. Grounds for Relief and Argument

Before a petitioner takes the federal vehicle with a habeas corpus, s/he must have exhausted his State remedies. (citations omitted)

Under the First Amendment of the United States Constitution a petitioner has a right to "completely" access the courts. (citations omitted)

Therefore, in the direct review phase, the petitioner, called as appellant, pursuant to RAP 10.10 have the right to file a pro se statement of additional grounds for review "to identify and discuss those matters which the appellant believes have NOT been adequately addressed by the brief filed by appellant's counsel." And pursuant to RAP 10.10(f) the appellate court may, in the exercise of its discretion, "request additional briefing from counsel to address issues raised in the appellant's pro se statement." And pursuant to RAP 10.10(c) the appellant must "inform the court of the nature and occurrence of alleged errors." State v. Skuza, 156 Wn.App 886 (2010); State v. Huff, 119 Wn.App 367 (2003); State v. O'Connor, 155 Wn.App 282 (2010)

In the present case, the petitioner, on his Statement of Additional Grounds "identified and discussed" matters that were NOT addressed by petitioner's counsel. See Statement of Additional Grounds

Under the first issue, the petitioner attempted to argue that charging him in the District Court with an Assault in the 4th Degree, and later dismissed to charge petitioner with

a felony "violeted" the Double Jeopardy Clause.

Under the second issue, the petitioner attempted to argue that the trial court ERRED in granting the State's motion in limine, precluding the defense from presenting evidence regarding the "original" Assault in the 4th Degree, especially as the State misinformed the trial court that the 4th degree assault was never filed against the petitioner.

Under the third issue, the petitioner attempted to argue that the prosecutor committed prosecutorial misconduct when informed the court that the arresting officer had charged the petitioner with Second and Fourth Degree Assaults, when it is well established that the prosecutor is the one who makes the final decision on the 'appropriate' charges to be filed. RCW 9.94A.

The Court of Appeals, Division I, on its Unpublished opinion filed on January 28, 2013, held that petitioner's numerous issues in a 21-page statement of additional grounds: "generally fall into the categories of due process violations, double jeopardy violations, prosecutorial misconduct, and ineffective assistance of counsel." Holding that: "We find no basis that warrants additional review." See unpublished opinion

Therefore, it is crystal clear that petitioner's right to access the court has been already violated by the appellate court, on the so-called appellate court's belief that petitioner's issues do not grant the court's time to even make

a determination on each of petitioner's issues, separately.

Pursuant to RAP 13.3(a)(1), a party may seek discretionary review by the Supreme Court of any decision of the Court of Appeals. And pursuant to RAP 13.4, a party seeking discretionary review by the Supreme Court of a Court of Appeals decision terminating review must serve on all parties and file a petition for review. And pursuant to RAP 13.4(b), a petition for review will be accepted by the Supreme Court only (1) if the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) if the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or (3) if a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) if the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

In the present case, although the opinion of the Court of Appeals, Division I, does NOT individually describes each of petitioner's issues in order to argue RAP 13.4(b)(1), (2), and (3), the petitioner may be able to argue that the Court of Appeals opinion on failing to individually rule on each of petitioner's issues "involves an issue of substantial public interest that should be determined by this Court." Especially, when the petitioner is being prejudiced tremendously by being handicapped by the opinion, and the inability to file a petition for review on his issues, to comply with his burden

of proof, in order to be able to use the Federal Habeas Corpus vehicle.

And in the event this Honorable Court does not allow the petitioner to file and serve a pro se supplemental petition for review, asking the Court to accept review of his pro se issues IGNORED by the Court of Appeals, the petitioner will proceed to the Federal Court and argue that his right to access the courts and due process were violated, twice, and request a dismissal, based on the tremendous prejudice he is suffering by the INJUSTICE on the lack of a rule allowing him to file a pro se supplemental petition for review, as allowed in the Court of Appeals, via an Statement of Additional Grounds.

Petitioner's counsel timely filed her petition for review raising the issues she presented to the Court of Appeals, and did not mentioned any of petitioner's issues, therefore, the "public doors" of this Court are being closed on petitioner's face, and therefore, he is trying to knock on the door, and/or climb through a "secured" window, in his attempt to obtain a fair review of his pro se issues, and possibly JUSTICE, the main principles of our precious criminal system. Therefore, this Court should grant petitioner's motion and allow him to file and serve a pro se supplemental petition for review, in the interest of justice and fairness, to glorify our precious State and United States Constitutions, as well as God's word: "Ask and it shall be given."

The client has the "ultimate authority" to determine the purposes to be served by the legal representation, within the limits imposed by the law and the lawyer's professional obligations. State v. Stenson, 132 Wn.2d 668 (1997) Therefore, it is the lawyer who has the "ultimate authority," according to his/her professional opinion applying the rules of professional conduct.

In the present case despite petitioner's numerous requests from counsel to add his issues in her appellant's opening brief, based on the grounds that petitioner would be prejudiced if his case were to go to the Supreme Court, as he was well aware that he was not going to be able to present his pro se issues to this court. And therefore, petitioner is being prejudiced tremendously.

Counsel must be willing to advocate fearlessly and effectively on behalf of the client. Smith v. Lockhart, 923 F.2d 1314 (8th Cir. 1991); United States v. Hurt, 543 F.2d 162, 167-68 (1976) But petitioner's counsel in the instant case, is NOT advocating fearlessly and effectively any of petitioner's pro se issues presented to the Court of Appeals, therefore, in the interest of justice and fairness, this Honorable Court should grant petitioner's motion and issue an order allowing petitioner to ask this court to accept review of his pro se issues under RAP 13.4(b).

The consequences of counsel's failure to raise pro se issues

to this court and the denial to accept review will be borne by the petitioner, however, it is not inconceivable that in some rare instances, the defendant might in fact present his case more effectively by his own, the petitioner, pursuant to the 1st, 6th, and 14th amendment of the United States Constitution should be allowed to ask this court to accept review, at least, concerning the pro se issues presented and ignored by the Court of Appeals. And if this court denies review, the petitioner can fell free to gas up the federal vehicle and file a Habeas Corpus.

DATED THIS 12th day of May, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony Aquiningoc', written over a horizontal line.

Anthony Aquiningoc, petitioner

SUPERIOR COURT OF WASHINGTON
FOR WHATCOM COUNTY

STATE OF WASHINGTON,
Respondent,

NO.11-1-00439-5

vs.

DECLARATION OF MAILING

ANTHONY S. AQUININGOC,
Defendant, Pro-Se.

I, Anthony S. Aquiningoc, hereby declare:

1. I am over the age of 18 and I am competent to
testify herein;

2. On the below date, I caused to be placed in
the U.S. Mail, first class postage prepaid, 3
envelope(s) addressed to the below-listed
individual(s):

Richard D. Johnson, Clerk/Court Administrator
WASHINGTON COURT OF APPEALS
One Union Square
600 University Street
Seattle, WA 98101-4170

WHATCOM COUNTY SUPERIOR COURT
311 Grand Avenue
Bellingham, WA 98225

WHATCOM COUNTY PROSECUTOR'S OFFICE
311 Grand Avenue
Bellingham, WA 98225


3. I am a prisoner confined in the Washington Department of Corrections ("DOC"), housed at the Coyote Ridge Correctional Complex ("CRCC"), 1301 N. Ephrata Avenue, Post Office Box 769, Connell, WA 99326-0769, where I mailed said envelope(s) in accordance with DOC and CRCC Policy 450.100 and 590.500. The said mailing was witnessed by one or more correctional staff. The envelope contained a true and correct copy of the below-listed documents:

- A. DECLARATION OF MAILING;
- B. COVER LETTER; AND
- C. MOTION, DECLARATION AND ORDER FOR INIDGENCY

4. I invoke the "Mail Box Rule" set forth in GR 3.1—the above listed documents are considered filed on the date that I deposited them into DOC's legal mail system;

5. I hereby declare under pain and penalty of perjury, under the laws of the state of Washington, that the foregoing declaration is true and accurate to the best of my ability.

Dated this 14TH day of FEBRUARY, 2013 in Connell, WA.



ANTHONY S. AQUININGOC
Defendant, Pro se.

DOC#: 979919, Unit: CB - 41
COYOTE RIDGE CORRECTIONAL COMPLEX
1301 N. Ephrata Avenue
Post Office Box 769
Connell, WA 99326-0769

ATTACHMENT 2

THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON,	)	NO. 88637-7
)	
Respondent,	)	ORDER
)	
v.	)	C/A NO. 67604-1-I
)	
ANTHONY AQUININGOC,)	
)	
Petitioner.)	
)	
)	
)	

A Special Department of the Court, composed of Chief Justice Madsen and Justices C. Johnson, Owens, Fairhurst and Gordon McCloud, considered at its August 5, 2013, Motion Calendar, whether review should be granted pursuant to RAP 13.4(b), and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the motion to supplement the Petition for Review is granted and the Petition for Review to include the supplement thereto is denied.

DATED at Olympia, Washington this 5th day of August, 2013.

For the Court


CHIEF JUSTICE

ATTACHMENT 3

FILED
COUNTY CLERK

2014 JAN 21 - PM 4:03

WHATCOM COUNTY
WASHINGTON

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR WHATCOM COUNTY

ANTHONY S. AGUININGOC,
DEFENDANT;

(CLERKS ACTION REQUIRED) *D*
NO. 11-1-00439-5

DEFENDANTS
MOTION TO SUPPLEMENT
TRIAL RECORD, WITH
NEW DISCOVERY.

VS.

STATE OF WASHINGTON,
PLAINTIFF

JUDGE
(CHARLES B. SNYDER)

TO: THE CLERK OF THE ABOVE ENTITLED COURT

TO: THE SUPERIOR COURT JUDGE

FILED
COUNTY CLERK
JAN 27 PM 2:10

Comes Now, the Defendant, Anthony S. Aguinigoc, IN PROPRIA
PERSONA, with ~~MOTION TO SUPPLEMENT TRIAL RECORD~~, based
on the following documents submitted and attached to
MOTION herein:

EXHIBIT "A" pages 1-7

EXHIBIT "B" pages 1&2

EXHIBIT "C" pages 1-6 & 7, a, b, c, d

EXHIBIT "D" page 1

EXHIBIT "E" page 1

EXHIBIT "F" pages 1&2

EXHIBIT "G" pages 1&2

— 25 PAGES TOTAL —

85

ATTACHMENT 4

51

SCANNED

FILED IN OPEN COURT

7/21/2011
WHATCOM COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR WHATCOM COUNTY

State of Washington
Plaintiff,

vs.

Anthony S. Aquiningoc
Defendant.

No. 11-1-00439-5

QUESTION FROM
DELIBERATING JURY

Jurors: If, after carefully reviewing the evidence and instructions, you need to ask the court a procedural or legal question that you have been unable to answer, then write down your question on this form. Please print legibly. Do not state how the jury has voted.

JURY'S QUESTION:

Can we see the original victim's
summary written on 7/11/11

A.A.
WHY WAS THE
POLICE STATEMENT
PRESENTED AS
EVIDENCE AT
TRIAL?

DATE AND TIME:

3:35 7/21/11

K. F. Smith
PRESIDING JUROR'S SIGNATURE

COURT'S ANSWER:

The jury will need to rely upon the exhibits
and evidence admitted at trial.

DATE AND TIME:

July 21, 2011, 4:26 PM

[Signature]
JUDGE'S SIGNATURE

41C



Bellingham Police Department

Statement Form

Event 11B-12285

I Asuncy R. Aguinogoe, certify or declare, under penalty of perjury
(PRINT NAME OF PERSON MAKING STATEMENT)

under the laws of the State of Washington, that the following 1 (s) statement voluntarily given by me is true and correct. I have read the statement or it has been read to me and I know and understand the contents of the statement.

OFFICER J. Woodward 216 SIGNED Asuncy R. Aguinogoe
(Person making statement)

LOCATION Bellingham WA DATE 04-11-11 TIME 2015
(CITY WHERE STATEMENT GIVEN) (DATE AND TIME OF STATEMENT)

I invited my husband Anthony S. Aguinogoe over ~~over~~ after I got off work to spend some time as a family and get things figured out. We started fighting over old myspace profiles that have not been accessed by myself in years. After that I stated I had enough of fighting and we were done. Things then got escalated and he started verbally abusing me and poured a container of milk over me. Things moved into the bedroom where they continued to escalate. I started to defend myself and barley pushed back missing and touching his

Page 1 of 2

SIGNED Asuncy R. Aguinogoe
(PERSON MAKING STATEMENT)

Bellingham

POLICE

Washington State Accredited Agency

Bellingham Police Department

Statement Form

Supplemental Only

Case 11B-12285

face. He then stated "You wanna hit me bitch" and grabbed my shirt ripping it and choked me. His thumbs and index finger were pushed into the middle of my throat causing me to then feel the blood rushing me. He let me up after I was hitting his arms. I asked him to leave multiple times and he refused. We were in the bedroom still and I was sitting on the floor in the opening of the bathroom, we were then talking, he came up to me and slapped me on the left side of my face causing me to fall back and hit my head on the toilet behind me. Reason was because I lie that's why he gets mad and hits me. The lie that he says I told was I told him that I was not a whore and did not cheat on him. Also dumped a container of milk on me.

Page 2 of 2

WITNESS J. Woodman

SIGNED

Bruce P. Higgins
(PERSON MAKING STATEMENT)

EXHIBIT

FILED
COUNTY CLERK
2011 JUL 18 AM 9:23
WASHINGTON
BY [Signature]

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 11-1-00439-5
)	
vs.)	
	)	STATE'S MOTIONS IN LIMINE
ANTHONY AQUININGOC,)	
Defendant.)	
)	
)	
)	

COMES NOW, DONA BRACKE, Deputy Prosecuting Attorney in and for Whatcom County, State of Washington, and moves the Court for an Order in Limine prohibiting the introduction into evidence the following items:

1. Preclude defense from offering the defendant's statements. ER 801(d)(2).
2. Preciude defense from offering personal opinion regarding any witnesses credibility.
3. Preclude the defense from expressing personal opinion regarding whether charges are proven beyond a reasonable doubt.
4. Preclude defense from offering evidence regarding initial Assault in the Fourth Degree filed against the defendant. ER 402.

ORIGINAL

MOTION IN LIMINE

Whatcom County Prosecuting Attorney
311 Grand Avenue Suite 201
Bellingham, WA 98225
(360) 676-6784
(360) 738-2532 (FAX)

34



DONA BRACKE,
WSBA #29753
Deputy Prosecuting Attorney

MOTION IN LIMINE

Whatcom County Prosecuting Attorney
311 Grand Avenue Suite 201
Bellingham, WA 98225
(360) 676-6784
(360) 738-2532 (FAX)

EXHIBIT 1

Bellingham Police Department

CASE SUMMARY/PROBABLE CAUSE

OFFENSE/EVENT DESCRIPTION: RCW 9A.36.041 Assault 4 th Degree DV		DATE: 04-11-11	EVENT NUMBER: 11B-12287
COURT:			
SUSPECT ADMITTED OFFENSE:		ACCOMPLICE ADMITTED OFFENSE:	ACCOMPLICE ADMITTED AND NAMED SUSPECT AS PARTICIPANT:
MEDICAL ATTENTION REQUIRED: None	AT SCENE:	HOSPITAL:	DATE AND TIME OF ARREST: 04-11-11 20xx
INJURIES RECEIVED BY VICTIM: Minor. Red marks on skin.			

NARRATIVE

A-1: AQUININGOC, Anthony S. 04-23-1971. 5-7. 208lbs. 531-92-1946.
621 Paloma Ln #204. Bellingham WA# 98226.

V-1: AQUININGOC, Ashley R. 04-22-09.
621 Paloma Ln #204. Bellingham WA# 98226. 360-223-7120.

BPD Officers responded to a domestic dispute at 621 Paloma Ln #204. The caller stated that the dispute was between A-1 AQUININGOC, Anthony and V-1 AQUININGOC, Ashley. Officers made contact with these two subjects, and placed A-1 AQUININGOC, Anthony under arrest for unrelated warrants. He refused to answer any questions regarding the dispute and requested an attorney. He was booked into jail on the warrants, and Assault 4th Degree DV.

V-1 AQUININGOC, Ashley stated that she and A-1 AQUININGOC, Anthony have been married for three years. They have a child in common who is three years old. The child was present during the assault. Anthony came to the apartment today to visit and have family time. He and Ashley got into a verbal argument. The argument escalated, and Anthony poured a container of milk on Ashley. She eventually pushed him away from her after he was yelling in her face. Anthony grabbed Ashley by the shirt to pull her down, and ripped her shirt. Anthony then grabbed her by the throat, pushing his fingers into her throat which caused her pain. She hit his arms to make him let go, which he eventually complied. Ashley told him to leave, but Anthony refused. Anthony then slapped her in the face with an open hand, which caused her to fall back and strike her head on the toilet. Officers arrived moments later and placed Anthony under arrest. Officers observed red skin abrasions to Ashley's neck and throat area. Officers also observed that her shirt was ripped, and wet from where Anthony dumped milk on her.

Ashley provided officers with the following DV Risk Factor statements:

1. Anthony does not own or have access to a weapon.
2. It is possible that he would use a weapon against others.
3. No threats of suicide or to kill others.
4. The escalation and violence has been getting worse and more frequent.
5. Ashley believes that Anthony is capable of injuring her.
6. Anthony is not employed.
7. No divorce plan in effect, but planning now after this incident.
8. Ashley has a local support network of family and friends.
9. It is possible that Anthony would seriously injure Ashley, due to recent escalation of violence.
10. The intimidation/threats started about two months ago, happens about every other time he is present.
11. Today's incident has been the most frightening.

Do you wish to be contacted upon service of the PC statement? ☐ Yes ☐ No

CC: Detective Sergeant and Arrest Desk

REPORTING OFFICER: J Woodward <i>[Signature]</i> 216	REVIEWING OFFICER'S SIGNATURE: <i>[Signature]</i> #175
--	--

Bellingham Police Department

CASE SUMMARY/PROBABLE CAUSE

CSI responded to the scene and took photographs of the injuries to Ashley. She provided a written statement for this incident. There is probable cause to arrest A-1 AQUININGOC, Anthony for Assault 4th Degree DV, where he physically assaulted V-1 AQUININGOC, Ashley, by grabbing her throat, slapping her in the face, and dumping milk on her body. This is a crime of domestic violence, due to them being married.

All of the above occurred in the city of Bellingham, Whatcom County, Washington.

REPORTING OFFICER:

J Woodward

JW 2/16

REVIEWING OFFICER'S SIGNATURE:

[Signature]

#175

Case Date
Apr 11 2011 7:44PM

Bellingham Police Department
Longarm Case Report

January 21, 2013

A-3

Page 1 of 2

11B-12287 ASSAULT - Felony

ASSOCIATES

Follow-Up

Author: MOYER, STEVEN

Rpt date: Apr 11, 2011 7:50PM

Appvd: 189

A1 AQUININGOC, ANTHONY STEPHEN

Age: Sex: M Race: A Ht: 507 Wt: 205 DOB: Apr 23, 1971

SSN: *****

Drivers: *****

Lic. St: WA

Eyes: BRO

Hair: Brown

Res Address: 1301 N EPHRATA AV / COYOTE RIDGE

City: CONNELL

State: WA

Zip: 99326

Bus Address:

City:

State: WA

Zip:

Res Phone:

Bus Phone:

Cell Phone:

AKA's: MARTINIZ, ROY S; T-BONE; AQUININGOC, ANTHONY STEVEN; MARTNIZ, ROY S; AQUININGOC,

Features: TONY MARTINEZ ROY; AQUININGOC, T BONE
; TAT L ARM, RAZA Arm, TAT R HAND, HEART Hand, Right; TAT R SHLD, T BONE - Shoulder,; TAT
UR ARM - Arm, Right Upper; SC LF ARM - Forearm, Left; SC RF ARM - Forearm, Right

V1 AQUININGOC, ASHLEY RAE

Age: 24 Sex: F Race: W Ht: 500 Wt: 160 DOB: May 02, 1988

SSN: *****

Drivers: *****

Lic. St: WA

Eyes: GRN

Hair:

Res Address: 2702 W MAPLEWOOD AV 306

City: Bellingham

State: WA

Zip: 98225

Bus Address: 1315 W BAKERVIEW RD

City: Bellingham

State: WA

Zip: 98226

Res Phone: (360) 223-7120 Bus Phone:

Cell Phone:

AKA's:

Features: ; PRCD LIP - Lip, Lower; PRCD EARS - Ear

Case Date
Apr 11 2011 7:44PM

Bellingham Police Department
Longarm Case Report

January 21, 2013
A-4
Page 2 of 2

11B-12287 ASSAULT - Felony

NARRATIVE

Follow-Up

Author: **MOYER, STEVEN**

Rpt date: **Apr 11, 2011 7:50PM**

Appvd: **189**

K9 Woodward and I responded to the above address for a domestic dispute. Warrants were confirmed for ANTHONY AQUININGOC (A1). I arrested him for the warrants, he was booked into the Whatcom County Jail.

K9 Woodward asked me to ask ANTHONY AQUININGOC (A1) his side of the domestic dispute. I read ANTHONY AQUININGOC (A1) his rights, he said he understood those rights, he did not wish to make any statements.

I filled out Citation # CB 74508 for Assault 4 th Degree for ANTHONY AQUININGOC (A1, his copy was given to the jailer.

Nothing further at this time.

Case Date
Apr 11 2011 7:44PM

Bellingham Police Department
Longarm Case Report

January 21, 2013

A-5
Page 1 of 4

11B-12287 ASSAULT - Felony

HEADER

Primary

Author: **WOODWARD, JEREM**

Appvd: **189**

Location: 621 PALOMA LN

Date Reported: Apr 11 2011 7:56PM

Discovered:

Last Secured:

Press Summary:

Officers responded to the 600 block of Paloma Ln for a domestic dispute. Officers arrested (A1) for Assault 4th Degree DV. He was booked into Whatcom County Jail.

11B-12287 ASSAULT - Felony

NARRATIVE

Primary

Author: WOODWARD, JEREM

Rpt date: Apr 11, 2011 7:56PM

Appvd: 189

On 04-11-11 at approximately 1944 hours, I responded to 621 Paloma Ln #204 for a domestic dispute. Ofc Moyer responded as well. CONNIE BANEATON (R2) called 911 to report the incident. She was not present to witness the dispute, and was at work. She had received a text message from her daughter, ASHLEY AQUINIINGOC (V1).

ASHLEY AQUINIINGOC (V1)'S message stated that ANTHONY AQUININGOC (A1) was at the apartment present and threatening her, and not allowing her to make any phone calls.

While enroute to the call, dispatch advised us that ANTHONY AQUININGOC (A1) had warrants for his arrest. Ofc Moyer and I made contact with ANTHONY AQUININGOC (A1) at the front door. We placed him into custody for the warrants. Ofc Moyer questioned him about the domestic dispute, but Anthony chose not to answer any questions, and requested a lawyer. Ofc Moyer transported ANTHONY AQUININGOC (A1) to the jail where he was booked. I remained on scene and spoke with ASHLEY AQUINIINGOC (V1).

ASHLEY AQUINIINGOC (V1) stated that ANTHONY AQUININGOC (A1) came to the apartment to have some family time with her and their daughter in common, ANGELA AQUININGOC (R1). She is 3 years old. They got into a verbal argument over relationship problems, where ANTHONY AQUININGOC (A1) accused her of cheating on him with another man. ANTHONY AQUININGOC (A1) became upset and dumped a container of milk on ASHLEY AQUINIINGOC (V1) while they were in the living room. They moved to the bedroom away from the child, where ANTHONY AQUININGOC (A1) started yelling in ASHLEY AQUINIINGOC (V1)'S face. She stated that she pushed him back because he was so close to her and in her face. ANTHONY AQUININGOC (A1) then commented, "You wanna hit me bitch!" ANTHONY AQUININGOC (A1) then grabbed ASHLEY AQUINIINGOC (V1) by the shirt and tried to pull her down onto the bed. ANTHONY AQUININGOC (A1) then grabbed her by the neck/throat, using his fingers and thumbs pressed into the middle of her throat, which caused her pain. She stated she felt the "blood rushing". ASHLEY AQUINIINGOC (V1) began hitting his arms to make him let go, which he complied.

At this point, ASHLEY AQUINIINGOC (V1) was sitting on the on the floor near the bathroom. ANTHONY AQUININGOC (A1) then walked up and slapped her across the left side of her face, causing her to fall back and hit her head on the toilet. The assault ended at this time, and we arrived on scene shortly afterwards.

CSI QUEEN responded to the scene and took photos of the injuries to ASHLEY AQUINIINGOC (V1). I observed that ASHLEY AQUINIINGOC (V1) had red abrasion marks on the front of her throat, and back of her neck. The back of her shirt was completely wet from the milk that ANTHONY AQUININGOC (A1) dumped on her. I also observed that her shirt was stretched and ripped where ANTHONY AQUININGOC (A1) pulled on it.

ASHLEY AQUINIINGOC (V1) did not require or request medical attention. She provided me with the following DV Risk Factor Statements from this incident:

1. Anthony does not own or have access to a weapon.
2. It is possible that he would use a weapon against others.
3. No threats of suicide or to kill others.
4. The escalation and violence has been getting worse and more frequent.
5. Ashley believes that Anthony is capable of injuring her.
6. Anthony is not employed.
7. No divorce plan in effect, but planning now after this incident.
8. Ashley has a local support network of family and friends.
9. It is possible that Anthony would seriously injure Ashley, due to recent escalation of violence.
10. The intimidation/threats started about two months ago, happens about every other time he is present.
11. Today's incident has been the most violent.

Case Date
Apr 11 2011 7:44PM

Bellingham Police Department

January 21, 2013

Longarm Case Report

A-7

Page 4 of 4

ASHLEY AQUINIINGOC (V1) provided me with a written statement, which has been submitted to BPD Records. I provided ASHLEY AQUINIINGOC (V1) with a DV Rights Pamphlet, and explained her rights as a victim of domestic violence. I provided her with this case number.

Ofc Moyer issued ANTHONY AQUININGOC (A1) citation CB-74508 for Assault 4th Degree DV. I completed a Probable Cause statement, and a copy has been submitted to BPD Records.

See additional reports for further details.

#1

CRIMINAL ☐ TRAFFIC ☒ NON-TRAFFIC ☒

CB 74508

IN THE ☐ DISTRICT ☒ MUNICIPAL COURT OF BELLINGHAM
☐ STATE OF WASHINGTON, PLAINTIFF VS. NAMED DEFENDANT
☐ COUNTY OF WHATCOM
☒ CITY/TOWN OF BELLINGHAM

WASHINGTON

11B-12287

L.E.A. ORI #: WA 0370100

COURT ORI #: ☐ WA 037013J ☒ WA 037011J

THE UNDERSIGNED CERTIFIES AND SAYS THAT: IN THE STATE OF WASHINGTON

DRIVER'S LICENSE		EXPIRES	PHOTO MATCHED
NAME: LAST <u>Quiningoc, Anthony Stephen</u>		<u>WA</u>	<input type="checkbox"/> YES <input type="checkbox"/> NO
FIRST <u>Anthony</u>		MIDDLE <u>Stephen</u>	CDL <input type="checkbox"/> YES <input type="checkbox"/> NO
ADDRESS <u>621 Paloma LN #204</u>		<input type="checkbox"/> IF NEW ADDRESS	
CITY <u>Bellingham, Wa.</u>	STATE <u>WA</u>	ZIP CODE <u>98226</u>	EMPLOYER
DATE OF BIRTH <u>5-7-205</u>	SEX <u>M</u>	HEIGHT <u>5-7</u>	WEIGHT <u>205</u>
EYES <u>Brn</u>	HAIR <u>Brn</u>		
RESIDENTIAL PHONE NO.	CELL/FAXER NO.	WORK PHONE NO.	
VIOLATION DATE MONTH <u>4</u> DAY <u>11</u> YEAR <u>11</u>	TIME <u>1944</u>	<input type="checkbox"/> INTERPRETER NEEDED	
ON OR ABOUT	AT LOCATION <u>621 Paloma #204</u>	CITY/COUNTY OF <u>BELLINGHAM / WHATCOM</u>	

DID OPERATE THE FOLLOWING VEHICLE/MOTOR VEHICLE ON A PUBLIC HIGHWAY AND

VEHICLE LICENSE NO.	STATE	EXPIRES	VEH. YR.	MAKE	MODEL	STYLE	COLOR
TRAILER #1 LICENSE NO.	STATE	EXPIRES	TR. YR.	TRAILER #2 LICENSE NO.	STATE	EXPIRES	TR. YR.
OWNER/COMPANY IF OTHER THAN DRIVER							
ADDRESS							
CITY							
STATE							
ZIP CODE							
ACCIDENT	BAC	CMV	<input type="checkbox"/> YES <input type="checkbox"/> NO	16+	<input type="checkbox"/> YES <input type="checkbox"/> NO	HAZMAT	<input type="checkbox"/> YES <input type="checkbox"/> NO
NO NR R I F	READING	PASS	<input type="checkbox"/> NO	VEHICLE	<input type="checkbox"/> FARM <input type="checkbox"/> FIRE	<input type="checkbox"/> R.V.	<input type="checkbox"/> OTHER

DID THEN AND THERE COMMIT EACH OF THE FOLLOWING OFFENSES

#1 VIOLATION/STATUTE CODE	<u>9A-36.041</u>	<input checked="" type="checkbox"/> DV	<u>Assault 4th</u>
<u>(Gm)</u>			

#2 VIOLATION/STATUTE CODE	<input type="checkbox"/> DV
---------------------------	-----------------------------

RECEIVED
APR 12 2011

☐ MANDATORY COURT APPEARANCE OR ☐ BAIL FORFEITURE IN U.S. \$

APPEARANCE DATE	MO.	DY.	YR.	TIME	A.M.	P.M.	RELATER	DATE ISSUED
							<u>11B-12287</u>	<u>4-11-11</u>

- ☒ Served on Violator
☐ Sent to Court for Mailing
☐ Referred to Prosecutor

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT I HAVE ISSUED THIS ON THE DATE AND AT THE LOCATION ABOVE, THAT I HAVE PROBABLE CAUSE TO BELIEVE THE ABOVE NAMED PERSON COMMITTED THE ABOVE OFFENSE(S).

OFFICER Moyer 082
OFFICER J. Woodward 216

COMPLAINT / CITATION

CRG	PLEA	CNG	FINDINGS	FINE	SUSPENDED	SUB-TOTAL	FIND/JUDG DATE
1	G NG		G NG D BF	\$	\$	\$	ABS. MLD TO OLY
2	G NG		G NG D BF	\$	\$	\$	TO SERVE
OTHER COSTS \$							WITH
RECOMMENDED NONEXTENSION OF SUSPENSION <input type="checkbox"/>							DAYS SUP.
LICENSE SUR-RENDER DATE							CREDIT / TIME SVD
TOTAL COSTS \$							

CB 74508

EXHIBIT

EXHIBIT 2

BELLINGHAM MUNICIPAL COURT

2014 C Street • Bellingham, WA 98225

(360) 778-8150

Defendant Anthony Aquiniga				Citation# CB 74508	
Charge 1. Assault 4 DV				Violation Date 4-11-11	
2.				Defendant's Atty	Pros Atty
3.				<input type="checkbox"/> Waived <input checked="" type="checkbox"/> Court Appointed	<input type="checkbox"/> Review <input type="checkbox"/> Private
CRG	Plea	Finding	Penalty/Fine		Suspended
1	G NG	G NG D DF			
2	G NG	G NG D DF			
3	G NG	G NG D DF			
Judgment Date			Warrant \$		<input type="checkbox"/> See J&S
To Serve 1 2 3 Days in Jail			Atty Fees \$		<input type="checkbox"/> Lev
With			Conviction Fee \$ 43		<input type="checkbox"/> Smiley
DOB / /			Traffic Conv. Fee \$		<input type="checkbox"/>
<input type="checkbox"/> With Jail Approval			Book/Jail/Tour \$		<input checked="" type="checkbox"/> CFTS
<input type="checkbox"/> Restitution			Total \$		
<input type="checkbox"/> Active Probation			Fees \$ / month		
<input type="checkbox"/> 1 Yr. <input type="checkbox"/> 2 Yrs.			<input type="checkbox"/> Time Pay \$ /mo.		
<p>The Defendant is required to report to the Probation Department immediately after sentencing or, if in custody, immediately upon release from jail, and as requested. The Probation Department is responsible for setting specific conditions of probation. The Defendant may request a hearing to review these conditions. The Defendant is responsible for any evaluation, education and treatment fees. These fees are not included in the court costs.</p>			<input checked="" type="checkbox"/> Sentence Conditional on Record Check		
			<input checked="" type="checkbox"/> Future Good Behavior		
			<input type="checkbox"/> Alcohol/Drug Evaluation w/ Compliance		
			<input type="checkbox"/> AIDS/WWU ADCAS Within 60 Days		
			<input type="checkbox"/> Mental Health Evaluation w/ Compliance		
			<input type="checkbox"/> Domestic/Anger Evaluation w/ Compliance		
			<input type="checkbox"/> Jail Tour at Defendant's Expense		
			<input type="checkbox"/> Deferred Sentence-Dismissal <input type="checkbox"/> 1 Yr. <input type="checkbox"/> 2 Yrs.		
			<input type="checkbox"/> Comm Service _____ Hours w/in 60/90 Days		
			<input type="checkbox"/> Probable Cause		Readiness Date _____ @ 1:30 PM		☐ JTR ☐ NJT
<input type="checkbox"/> Yes <input type="checkbox"/> No		Trial Date _____ @ : AM PM		<input checked="" type="checkbox"/> Rights Advised <input type="checkbox"/> Jury Waived	
Compliance Review Ordered: _____		_____ @ : AM PM			
Date 4-12-11		in Ct; Cont 1 week for jail hrg - 4/19/11 @ 8:30 MB			

EXHIBIT 3

WHAT ARE MY CONSTITUTIONAL RIGHTS?

All persons accused of any crime or traffic offense that might result in a jail sentence have the following rights:

- 1) To remain silent. Anything you say can be used against you in a court of law.
- 2) To have a lawyer present with you at all hearings, including arraignments;
- 3) To have a lawyer appointed at public expense if you cannot afford to hire one to represent you;
- 4) To represent yourself without a lawyer;
- 5) To a public and speedy trial;
- 6) To cross examine any witness who testifies against you;
- 7) To call witnesses to testify on your behalf and have the Court compel their attendance;
- 8) To testify or not testify yourself. If you choose not to, no one can make you testify; and
- 9) To appeal to Superior Court if you are convicted after a "not guilty" plea.

If you are not a United States citizen: Conviction of a crime in this Court may affect your immigration status, and therefore the Court advises you to plead "not guilty" and speak with an attorney regarding your case.

After informing you of all of these matters you will be asked by the Judge to plead guilty or not guilty to the charge.

I have read this form and understand all of my rights.

Signature



Date

4-12-11

EXHIBIT 4

COPY SE

BELLINGHAM MUNICIPAL COURT
WHATCOM COUNTY, WASHINGTON

CITY OF BELLINGHAM,

Cause No. CB 14508

Plaintiff

v.

ORDER ON PRE-TRIAL RELEASE

ANTHONY AGUININGOC

Defendant

IT IS ORDERED THAT the above-named defendant be released from custody on the following conditions:

☐ Bail \$

☒ Cash Bail to Ensure Performance \$ 1000.00

☐ Personal Recognizance

PERFORMANCE BONDS MUST BE POSTED IN DEFENDANT'S NAME. WILL BE FORFEITED IF ANY VIOLATION OF THIS PRE-TRIAL ORDER.

☐ To reside at: _____ Phone #: _____

☐ Not to leave Whatcom County overnight without prior court permission.

☐ Not to leave the State of Washington without prior court permission.

☒ Defendant shall conduct himself/herself as a decent, upright and law-abiding citizen.

☒ Not consume intoxicants of any kind at any time.

☒ Not to frequent places whose primary business is the sale and/or consumption of alcoholic beverages.

☒ Submit to urinalysis or breath test as requested by Probation or the court.

☐ Not to operate a motor vehicle.

☐ Drive only a vehicle equipped with an ignition interlock device.

☒ Defendant shall not approach or communicate directly or indirectly through any third person or by any means, except through legal counsel with:

☒ Victim(s), victim's family(ies), victim's residence(s), victim's place(s) of employment: per NCO

☐ Witness(es): _____

☒ Not possess any firearms, ammunition, or component thereof, or any deadly weapon.

☒ Surrender any deadly weapon in, or subject to, your immediate possession or control to: _____

☐ Surrender license plates for the following vehicle(s) to Probation: _____

☐ Probation to install car club on vehicle(s).

☐ Electronic Home Monitoring (EHM) required starting _____ ☐ EHM with breath testing equipment required.
(Defendant responsible for EHM cost)

☒ Report to Whatcom County District Court Probation (311 Grand Avenue, 4th Floor, Bellingham, WA 98225, phone: (360) 676-6708) directly from court or if incarcerated, immediately upon release, and if released after Probation's business hours, by noon the next business day.

☐ Defendant shall immediately report to the Whatcom County Jail for booking and release.

Additional conditions: _____

PROMISE TO APPEAR: I will appear in court as directed. I will appear for my next scheduled court appearance in Bellingham Municipal Court on May 12, 2011 at 1:30 a.m. / p.m.

I HAVE RECEIVED A COPY OF THIS ORDER. I understand that a violation of its conditions may result in my arrest.

April 12, 2011
Date

[Signature]
Defendant

Prosecuting Attorney

[Signature]
Attorney for Defendant

Michael Bobbitt
Judge/Commissioner

EXHIBIT 5

ORIGINAL

RECEIVED

APR 13 2011

Bellingham Municipal Court

IN THE MUNICIPAL COURT FOR THE CITY OF BELLINGHAM,
WHATCOM COUNTY, STATE OF WASHINGTON

CITY OF BELLINGHAM,
Plaintiff,

v.

ANTHONY S. AQUININGOC,
Defendant.

No. CB-74508

NOTICE OF APPEARANCE,
ENTRY OF PLEA(S), DEMAND
FOR DISCOVERY, DEMAND
FOR TRIAL BY JURY

TO: The Clerk of the Above-Entitled Court; and
TO: The Bellingham City Attorney

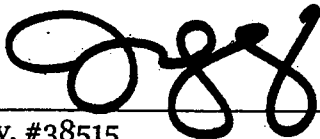
Please Take Notice that the undersigned attorney, of Bellingham Assigned Counsel, P.S., hereby enters his appearance in the above entitled action on behalf of the above-named defendant, and requests all future pleadings or papers, except process, be served upon said attorney, at the address given below.

Jury Trial Request: The defendant hereby requests a jury of 6 at trial.

Request For Discovery: The defendant hereby requests all discovery pursuant to CrRLJ 4-7; including but not limited to:

- (1) Citation(s), Police Reports, including witness statements and any evidence reports;
- (2) Driving Records, including Washington State Department of Licensing file record.
- (3) Case History Report, Records Check - Any record of prior criminal convictions of the defendant;
- (4) Simulator Solution Certificates;
- (5) Maintenance Records, DUI Discovery Log;
- (6) Witness List, List of Expert Witnesses in conformance with CrRLJ 6.13(b)(3)(iii);
- (7) Photographs.

DATED: April 12, 2011



Lisa Apsay, #38515
Attorney for Defendant

BELLINGHAM ASSIGNED COUNSEL, P.S.

2003 D Street
Bellingham, Washington 98225

EXHIBIT 6

#1
RECEIVED

APR 13 2011

Bellingham Municipal Court

IN THE MUNICIPAL COURT OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON

THE CITY OF BELLINGHAM,

Plaintiff,

v.

Anthony Aguinigoc

Defendant.

No. CB 74508

**MOTION AND ORDER
TO DISMISS CRIMINAL CHARGES**

This matter having come regularly for hearing upon motion of the plaintiff for dismissal of the charges of Assault IV (DV) for the following reason(s):

- ☐ Failure of the victim or a material witness to appear for trial.
- ☐ Insufficient evidence to prove charge beyond a reasonable doubt.
- ☐ Part of plea agreement involving other charges.
- ☐ Case management decision on part of plaintiff.
- ☐ Dismissal is required in the interest of justice.
- ☐ Upon the request of the alleged victim.
- ☐ Court lacks jurisdiction over defendant or subject matter.
- ☒ To allow for referral to the Whatcom County Prosecutor and filing in the Superior Court.
- ☐ The Defendant is deceased or has been adjudged incompetent.
- ☐ Other: _____

IT IS HEREBY ORDERED that the plaintiff's motion to dismiss the above-entitled matter be granted and that this case is dismissed: ☐ With prejudice ☒ Without prejudice.

Date: 4-13-11

[Signature]
JUDGE/COMMISSIONER
Bellingham Municipal Court

Presented by:

[Signature]
Richard K. Petersen, WSBA # 37458
Assistant City Attorney

Date: 4/13/11

MOTION AND ORDER TO DISMISS
PAGE 1 OF 1

THE BELLINGHAM CITY ATTORNEY
CRIMINAL DIVISION
2014 "C" Street
Bellingham, WA 98225
Telephone (360) 778-8290
Fax (360) 778-8291

EXHIBIT

D0030I Beginning of Docket

DD1000PI

11/15/12 11:04:04

#7c

DD1001MI Case Docket Inquiry (CDK)

BELLINGHAM MUNICIPAL PUB

Case: CB0074508 BLP CN

StID: - - - - -

Name: - - - - -

NmCd: IN

Name/Title: AQUININGOC, ANTHONY STEPHEN
ASSAULT 4TH DEGREE

Case: CB0074508 BLP CN Criminal Non-Traffic Closed

S 04 12 2011 Case Filed on 04/12/2011

LKR

S Charge 1 is DV-related

LKR

D0071I More records available.

DD1000PI

11/15/12 11:04:06

#706

DD1001MI Case Docket Inquiry (CDK)

BELLINGHAM MUNICIPAL PUB

Case: CB0074508 BLP CN

StID: -

Name: -

NmCd: IN

Name/Title: AQUININGOC, ANTHONY STEPHEN
ASSAULT 4TH DEGREE

Case: CB0074508 BLP CN Criminal Non-Traffic Closed

S	04 12 2011	DEF 1 AQUININGOC, ANTHONY STEPHEN Added as Participant	LKR
S		ARR MAND Set For 04/12/2011 08:30 AM In Room 3	LKR
S		ARR MAND: Held	MKH
S		Defendant Arraigned on Charge 1	MKH
S		Plea/Response of Not Guilty Entered on Charge 1	MKH
S		PTR HEARN Set For 04/19/2011 08:30 AM In Room 3	MKH
S		Order created on 04/12/2011 NO CONTACT entered by	MKH
S		BOBBINK, MICHAEL B expires on 04/12/2099	MKH
		DEF HEARD IN CUSTODY BY JUDGE PROTEM BOBBINK/ATY PETERSEN	MKH
		PRESENT/ATY APPOINTED BY BENCH/BAC NOTIFIED BY EMAIL/CONTINUE	MKH
		BAIL SET \$1000 CASH PERFORMANCE	MKH
		DEF TO CONDUCT HIMSELF AS LAW-ABIDING CITIZEN	MKH
		DEF NOT TO CONSUME INTOXICANTS OF ANY KIND	MKH
		DEF NOT TO FREQUENT BUSINESS THAT SELL/SERVE ALCOHOL	MKH

D0071I More records available.

DD1000PI

11/15/12 11:04:08

#7c

DD1001MI Case Docket Inquiry (CDK)

BELLINGHAM MUNICIPAL PUB

Case: CB0074508 BLP CN

StID: -

Name:

NmCd: IN

Name/Title: AQUININGOC, ANTHONY STEPHEN
ASSAULT 4TH DEGREE

Case: CB0074508 BLP CN Criminal Non-Traffic Closed

04 12 2011	DEF TO SUBMIT TO UA/PBT'S AS DIRECTED BY COURT/PROBATION	MKH
	DEF NOT TO APPROACH/COMMUNICATE WITH VICTIM PER NCO	MKH
	DEF NOT TO POSSESS ANY WEAPONS, FIREARMS OR AMMO-SURRENDER	MKH
	ANY SUCH TO BELLINGHAM POLICE DEPT	MKH
	DEF TO REPORT TO WDCD PROBATION IF POSTS/SET FOR MAY 12 AT	MKH
	1:30 PM IF POSTS	MKH
	DEF SIGNED WRITTEN RIGHTS FORM	MKH
S 04 13 2011	Charge 1 Dismissed W/O Prejudice : City's Mtn-Other	KAC
S	Case Heard Before Judge LEV, DEBRA A	KAC
S	DEF 1 AQUININGOC, ANTHONY STEPHEN Represented by:	KAC
S	ATY 1 APSAY, MARIE LISA M	KAC
	ORDER TO DISMISS TO ALLOW FOR FILING IN SUPERIOR CT SIGNED BY	KAC
	R PETERSEN/DAL	KAC
04 14 2011	ORDER FOR RESCISSION OF PRIOR NCO SIGNED BY R PETERSEN/DAL	KAC

D0031I End of Docket

DD1000PI

#7

11/15/12 11:04:09

DD1001MI Case Docket Inquiry (CDK)

BELLINGHAM MUNICIPAL PUB

Case: CB0074508 BLP CN

StID: _____

Name: _____

NmCd: IN

Name/Title: AQUININGOC, ANTHONY STEPHEN
ASSAULT 4TH DEGREE

Case: CB0074508 BLP CN Criminal Non-Traffic Closed

S	04 15 2011	Order modified On 04/15/2011 NO CONTACT modified	KAC
S		termination date from blank to 04/14/2011	KAC
S		Order modified On 04/15/2011 NO CONTACT modified	KAC
S		judge from MBB to DAL	KAC
S		NCO : Imposed on 04/12/2011 canceled	KAC
S		Review set for NCO on 04/12/2099 canceled	KAC
S		PTR HEARN on 04/19/2011 08:30 AM in Room 3 Canceled	KAC
S		Case Disposition of CL Entered	KAC
S	04 19 2011	Case Disposition Changed to Open	KAC
S		ATY 1 APSAY, MARIE LISA M Wthdrw as Atty for:	KAC
S		DEF 1 AQUININGOC, ANTHONY STEPHEN	KAC
S		Case Disposition of CL Entered	KAC
S	04 20 2011	PCN added to case	JAO
S		PCN changed	JAO

EXHIBIT

#1

ORIGINAL

RECEIVED

APR 18 2011

Bellingham Municipal Court

IN THE MUNICIPAL COURT FOR THE CITY OF BELLINGHAM,
WHATCOM COUNTY, STATE OF WASHINGTON

CITY OF BELLINGHAM,

Plaintiff,

v.

ANTHONY S. AQUININGOC,

Defendant.

No. CB-74508

NOTICE OF INTENT
TO WITHDRAW

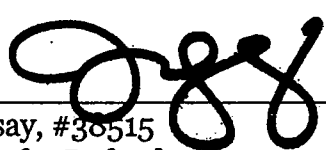
TO: The Clerk of the Above-Entitled Court; and
TO: The Bellingham City Attorney

PLEASE TAKE NOTICE that the undersigned attorney hereby intends to withdraw as counsel of record for the above-mentioned Defendant, in the above-entitled action pursuant to CR 71, with such withdrawal to be effective on April 29, 2011.

Withdrawal shall be effective without court order unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth above.

Please serve future papers on the above Defendant at his/her last known address:

DATED: April 15, 2011



Lisa Apsay, #38515
Attorney for Defendant

EXHIBIT

BELLINGHAM CITY PROSECUTOR'S OFFICE

2014 "C" Street, Bellingham, WA 98225

(360) 778-8290, FAX- (360) 778-8291

PLEA OFFER / RECOMMENDATION FORM

Defendant: Aguinog, Anthony Case Number(s): CR 74508

Caution—This Plea Offer is contingent upon the defendant agreeing to plea as indicated below. This plea offer is withdrawn if (1) a defense motion date or trial date is scheduled or (2) a pre-trial hearing is continued over the Prosecution's objection or (3) the Defendant fails to appear for any court hearing or (4) the Defendant violates any condition of release or (5) the Defendant is charged with another offense or (6) additional criminal history is discovered, whichever occurs first. All prior offers, whether oral or written, are hereby withdrawn. Note—This Plea Offer may be withdrawn at any time prior to the Court's acceptance of the Defendant's guilty plea(s). *State v. Bogart*, 57 Wn.App. 353 (Div. 3 1990).

Charge:	Disposition:	Jail ^{1,2} :	Fine ³ :
<u>N4(BV)</u>	<input checked="" type="checkbox"/> Plea <input type="checkbox"/> Dismiss <input type="checkbox"/> Amend:	<u>365/335</u> days,	<u>\$5000/4600</u>
	<input type="checkbox"/> Plea <input type="checkbox"/> Dismiss <input type="checkbox"/> Amend:	____/____ days,	\$____/____
	<input type="checkbox"/> Plea <input type="checkbox"/> Dismiss <input type="checkbox"/> Amend:	____/____ days,	\$____/____
	<input type="checkbox"/> Plea <input type="checkbox"/> Dismiss <input type="checkbox"/> Amend:	____/____ days,	\$____/____

THE FOLLOWING CONDITIONS APPLY:

- ☐ ADIS – OR – WWU ADCAS
- ☐ Complete _____ hrs Community Service
- ☐ Pay Restitution to Victim: \$ _____
- ☐ Complete a Jail Tour
- ☐ Ineligible to Possess Firearms
- ☒ Have No Contact w/Victim per Court Order
- ☐ _____ year Deferred Sentence

OTHER PENALTIES / REQUIREMENTS:

- ☐ Driver's License Suspension _____ days/years
- ☐ Ignition Interlock Device _____ years (IID)
- ☐ Ignition Interlock License
- ☐ Electronic Home Monitoring _____ days (EHM)

TERMS OF PROBATION:

- ☐ One Year ☒ Two Years ☐ Five Years
- ☒ No Future Criminal Law Violations
- ☐ Victim Impact Panel (VIP)
- ☐ Alcohol/Drug Eval & Treatment (AD E+T)
- ☐ Mental Health Eval & Trmt. (MH E+T)
- ☒ ~~Anger Mgt Eval & Trmt. (AME+T)~~
- ☒ Domestic Violence Eval & Trmt. (DVE+T)
- ☐ With Alcohol Component
- ☐ Psycho Sexual Eval & Trmt (PS E+T)
- ☐ Other: _____

Absent a guilty plea, the City intends to add the following charge(s) prior to trial: _____

With proof of License Reinstatement, the City will: _____

Other Comments: 3 prior Assaults - Other hx

Prosecutor Assigned: ☒ Richard Petersen] ☐ Kailin James] ☐ Ryan R. Anderson] Date: 4/12/11

¹ The City has no objection to Jail Alternatives (if Defendant is eligible). DUI: Defendant may serve 15 days EHM in lieu of mandatory 24 or 48 hours.

² Credit Against Jail Time Recommended for Completed In-Patient Treatment

³ DUI: The Financial Penalty includes a mandatory fine (RCW 46.61.5055), a mandatory 60% of the fine as a Public Safety and Education Assessment (RCW 3.62.090(1)), a mandatory \$125 State Toxicologist Lab fee (RCW 46.61.5054), a mandatory \$50 Title 46 penalty (RCW 46.64.055), a mandatory 70% of the Title 46 penalty as a Public Safety and Education Assessment (RCW 3.62.090(1)) and a mandatory 50% of the mandatory 70% of the Title 46 penalty as a Public Safety and Education Assessment (RCW 3.62.090(1)).

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THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON)	COA# 71539-I
respondent,)	
V.	)	CERTIFICATE OF SERVICE BY
	)	MAIL
ANTHONY S. AQUININGOC	)	(CLERKS ACTION REQUIRED)
<u>appellant,</u>)	

I Anthony S. Aquiningoc, swear on oath , by the laws of the State of Washington, that I am a citizen of the United State and over the age of 18, that on the 13 day of November, 2014, I served the following papers:

STATEMENT OF ADDITIONAL GROUNDS

DECLARATION OF ANTHONY S. AQUININGOC

CERTIFICATE OF SERVICE BY MAIL

These papers were served in the Legal Mail System at Coyote Ridge Correction Center 1301 N. Ephrata Ave. Connell WA. 99326.

DATED THIS 13 DAY OF NOVEMBER 2014



Anthony S. Aquiningoc #979919
Coyote Ridge Correction Center
1301 N. Ephrata Ave. P.O Box 769
Connell Washington 99326

2014 NOV 17 AM 9:15
COURT OF APPEALS DIV 1
STATE OF WASHINGTON

Certificate of Service by Mail