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Washington State Supreme Court

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Ronald R. Carpenter  
Clerk

SUPREME COURT  
OF THE STATE OF WASHINGTON

TOMAS AFZWORKI, Petitioner

v

THE STATE OF WASHINGTON, Respondent

SUPREME COURT NO. 92209-5

Court of Appeals NO. 70762-11

Appeal from The Superior Court of the  
State of Washington for King County

NO. 12-1-09267-2 SEA

AMENDED Petition for Review

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## A IDENTITY OF PETITIONER

Defendant Tomas Afeworki? Petitioner asks this court to accept Review of Decision designated in Part B of this Motion.

## B DECISION

The Petitioner seeks review of The Court of APPEALS Division one ("COA DIV 1") opinion in this case State v Afeworki COA DIV 1 # 70762-1-1.

The decision was filed August 10<sup>th</sup> 2015. Appendix 2  
The decision conflicts with long standing case law and statutes. The decision was reached from a distorted lens of facts not of record. The COA DIV 1 did not look at nor view the overwhelming evidence referred to in the record to support issues raised by Mr Afeworki in S.A.G Brief Appendix 2.

## C ISSUES PRESENTED ON REVIEW

1) "Mr Afeworki's 5<sup>th</sup>, 6<sup>th</sup> & 14<sup>th</sup> Amendments under The U.S. constitution were violated, when Judge Laura Middaugh brandished a monkey clock called Mr Afeworki a Monkey, Proceeded to Impede on his defense, Hide documents, not forward motion, Hide evidence from use on APPEAL and manipulate hearings to allow S.A.G and Prosecutor to TAMPER with evidence?" ("Issue 1")

2) "Mr Afeworki was denied his 6<sup>th</sup> and 14<sup>th</sup> Amendment rights under U.S. constitution when Prosecutor used Improper argument to inflame Juries Passion & Prejudice, Misrepresented Eye witness testimony and injected Personal belief of Guilt, denying a fair trial?" ("Issue 2")

3) "Mr. Afeworki was denied his 5<sup>th</sup>, 6<sup>th</sup>, 14<sup>th</sup> Amendment rights under U.S. Constitution when Prosecutor withheld discovery. Produced late discovery in the middle of trial. Altered video evidence. Lost/destroyed needed evidence denying a fair trial?" ("Issue 3")

4) "Mr. Afeworki was denied his 6<sup>th</sup> and 14<sup>th</sup> Amendment rights under U.S. Constitution when Det. Steiger left the court room in middle of trial, talked to state witness Mr. Gebra, lied about talking to Mr. Gebra. Resulting in Mr. Gebra changing in the way he answered questions, denying a fair trial?" ("Issue 4")

5) "Mr. Afeworki was denied his 4<sup>th</sup> and 14<sup>th</sup> Amendment right under U.S. Constitution. When Det. Kasner falsified Certification "for Determination of Probable Cause" ("Cert"). Committed Perjury in relation to altered evidence on the stand. Prosecutor endorsed "Cert" and covered for perjury denying a fair trial?" ("Issue 5")

6) "Mr. Afeworki was denied his 14<sup>th</sup> Amendment right under U.S. Constitution when Prosecutor presented falsified testimony knowingly and covered for the falsified testimony, denying a fair trial?" ("Issue 6")

7) "Mr. Afeworki was denied 6<sup>th</sup> and 14<sup>th</sup> Amendment rights under U.S. Constitution when his Attorney performed deficiently, did not investigate nor hire expert and allowed crucial evidence to disappear denying fair trial?" ("Issue 7")

8) Issues raised by Gregory Link Brief of Appellant appen

disk 4 P# 1-2, 5-28 ("ISSUE 8")

7) "Mr. Afewerki attempted to cure the critique gaps of gestures and other, by requesting video & Audio of court hearings." ("ISSUE 9")

#### D. STATEMENT OF CASE:

Michael Mohammed was shot in the head. Died as result  
Police were directed to gate woods Apts by a witness MID  
AMBASSADOR MR. DUMA who said he seen and followed some  
one with blue, with brown fade pants go into CP 63, 66, 69,  
7/30/13 RP 147, 157, 162. Did not see shooting ID ATRP 156.

Mr. Afewerki is arrested in a restaurant about a block away  
from gate woods Apts. Using bathroom he came out in the  
middle of officers setting up. No officer ordered him out of  
bath room. 4/15/13 RP 48-49, 8/1/13 RP 70-71...

Mr. Afewerki suprised raised his hands, nothing in hands  
an officer checked and cleared the bathroom finding nothing  
Officer Eastman hears this officer gos to check his self searches  
left and right side finds nothing 8/1/13 RP 84-85; 90  
Officer Didier comes from alley after, alledges to find a gun in  
the bathroom 7/31/13 RP 171, 175. Alledges no one else entered  
but him and east man and did not see bollets in toilet.  
7/31/13 RP 179-180, 184-185... Original officer to search is lost as  
a witness!!

Three witnesses were packed in a police car with radio  
broad cast of different discription, media swarming them,  
discussing. Shown a person in hand cuffs. Officer Girtch said  
the show Id. was problemic and increased suggestibility  
4/15/13 RP 145, 149-151... Witness Ms. Hayes never seen shooting or  
shooter and was not even sure the jacket she picked was even the  
jacket s he seen fleeing 4/15/13 RP 115-117

Witness Mr. Knight agreed brown blue pants are not unusual  
followed a suspect wearing Jacket & Pants. Could not Pick

Jacket. If anyone wore pants would of just picked them pants  
4/16/13 RP 83-85.

Witness Amy could be heard saying not the guy in in car-  
dash cam of Girtch. trial exhibit 106... This witness is lost!!!

During motion to suppress prosecutor agreed in court I.d  
would be improper and he will not do one 4/16/13 RP 71.

Prosecutor said this in order to keep witnesses as witnesses.

Det Kasner drafted "cert" under penalty of perjury CP 3-5  
This was endorsed by Prosecutor Donald Raz as truthful CP 23  
presenting as material to hold Mr. Afeworki to Judge Palmer  
see S.A.G. Brief exhibit 001... Det Kasner "cert" is  
contradicted by all the above facts. See S.A.G. Brief p# 41 for  
details... Prosecutor represented to the court Mr. Gebra  
gave direction of suspect to MTD Mr. Dima to follow suspect  
4/16/13 RP 47... At trial Mr. Gebra testified he pointed  
MTD (~~MTD~~) towards suspect. 7/29/13 RP 139, 161... MTD Dima  
Testifies no one directed him anywhere 7/30/13 RP 156.

Mr. Afeworki argued to jury this contradiction 8/7/13 RP 51-53

Prosecutor contradicts his earlier representation to the  
court and argues Mr. Gebra could have gave directions  
to any MTD 8/7/13 RP 71-72...

Judge Produces monkey clock points at Mr. Afeworki remarks  
to the effect, he was a monkey talking up the courts time  
James Bible stumbles on his words when the court addressed  
him after her remark. 4/15/13 RP 178-179... Judge makes a  
remark get him out of here <sup>x2</sup> "no need to dress him tomorrow"  
in front of college law students... Mr. Afeworki files an affidavit  
depicting judges actions and requests for judge to recuse her self.  
Judge refuses and denies the motion for new Judge. Mr. Afeworki  
requests video & Audio 4/18/13 RP 10-15... Judge attempts to hide  
Affidavit filed 4/18/13; blames Mr. Afeworki for not leaving  
court room quick enough to justify her remarks in front of  
college students and claims she did not know what was on  
clock 4/22/13 RP 13-15. James Bible relives an outrage of his  
mothers during child hood where black people were depicted as

Monkeys in a tv. program connects it to judges behavior to the effect he can understand why people would be offended 6/18/13 RP 74. James Bible attempts to retrieve monkey clock for both Appeal and suit; Judge gets rid of clock and she cannot produce actual picture of clock 7/16/13 RP 9-10.

Mr. Afeworki states if there is any suit he will sue James Bible Also. James Bible withdraws Judge refuses attorney refuses stand by, denies legal supplies, and forces Mr. Afeworki to represent his self with in days of trial. Judge advises Mr. Afeworki this is a three strike case, forces him to wear a shock device that could be seen bulging through his pants all because he is no longer represented by Counsel. 7/17/13 RP 58-60, 70-78 7/18/13 RP 114-116, 147-152, 198; 7/22/13 RP 234, 237-238, 260.

Judge informs jury insinuating Mr. Afeworki threatened several attorney's as reason for his self representation causing jury to "feel prejudice" against him and feel "It will slow the process down" 7/23/13 RP 6-10, 31-35 wor-dice. Delays were constant during trial. One delay lasted nearly 2 hours followed by a heated argument between Judge and Jail attorney Nancy Balin, where Judge used the same mocking sarcastic tone on Nancy Balin (same tone she was using on Mr. Afeworki through out whole trial) Nancy Balin comments on the sarcastic tone. 7/31/13 RP 125 see RP 119-125. This took place within jury's ear shot.

Discovery was requested under CrR 4.7 Brady, Bagley Kyles including emails notes Jencks material. 7/25/12 RP 37, 4/15/13 RP 14-15, 20-21 7/22/13 RP 237, CP 135 (#16)

Despite requests prosecutor was withholding material giving discovery with missing portions. 7/22/13 RP 265-267, 7/25/13 RP 50-56. Prosecutor provides late discovery in the middle of trial and testimony 7/24/13 RP 11, 69, 71-74. Judge refuses continues trial RP 72. Mr. Afeworki is not allowed to handle any cd's or disks. Ms. Timmons is provided discovery to down load into a lab top, when Mr. Afeworki finds discovery and Brady violations, he is denied to be able to bring lab top to document the violation into record clearly. 7/22/13 RP 224-225, 265-270; 7/23/13 RP

74, 78; 7/29/13 RPS.

Mr. Afeworki catches perjury committed by Det Kasner in the 7-24-13 late discovery requests to see the altered coat asks prosecutor "who signed" for coat prosecutor refuses to give the chain of custody information; Judge interrupts, instructs Mr. Afeworki to raise the issue with the perjured witness 7/30/13 RP 28-29.; Then Judge refuses said witness when Mr. Afeworki requests to call him back 8/1/13 RP 166-167. (Det Kasner said it's his "Initials" on packaging of coat 4/16/13 RP 7-8. But at trial claims it's Duty's "Initials" on packaging of coat 7/24/13 RP 37.)

There existed transcripts with missing portions in late discovery provided by prosecutor. Judge argues with Mr. Afeworki as if it was his fault 7/25/13 RP 50-53, 56. This caused delay; Undisclosed notes of Kathy Giel was introduced at trial over Mr. Afeworki's objection 8/1/13 RP 40-41.

Mr. Afeworki finds in lab-top video of car-dash has been altered by prosecutor, notifies the court. Prosecutor has took portion out of video. Evidence needed for defense. 7/29/13 RPS-7. Next day Det Steiger and Prosecutor claim dash-cam of Didier stop in mid-sentence of miranda-warning, that's all there is. 7/30/13 RP 25-26.; Shortly after trial Mr. Afeworki's family finds the fuller version of Didier car-dash it does not stop in mid-sentence of miranda warning; It continues, corroborates Mr. Afeworki's version of events while rebutting officer's it's favorable to defense see S.A.G. p# 32-38. for detail.

CrR 7.8 motion was filed timely, Trial Judge refuses to rule on motion forwards it to COA Div 1 Appendix 5. Mr. Afeworki files writ of Mandamus but was denied Appendix 6.

Det. Steiger ordered all videos to be brought to him. 4/15/13 RP 73, 7/24/13 RP 138, 7/25/13 RP 66-67. Det Steiger produces video "skills" 5 months later. Prosecutor's email reveals images on "skills" were not in original video's see trial exhibit #112 7/25/13 RP 70-71. Det moss called video's unusual don't make

sense & don't capture everything. 4/16/13 RP 154, 162-163.

Det. Steiger illegally steps out the court room with Mr. Gebro. Claims not to speak to Mr. Gebro. Claims he was asked to escort; Prosecutor makes an excited utterance contradicting Det Steiger. Mr. Afeworki requests for prosecutor to repeat the comment; Judge impedes to prevent the comment from being part of the record. 7/29/13 RP 158-159. Mr. Gebro returns to the stand instead of answering questions. States "deceased friend" "nightmare" 7/29/13 RP 160. Next day Mr. Gebro reveals Det Steiger did talk to him, contradicting Det Steiger assertion to the court 7/30/13 RP 30.

James Bible warns of prejudice of Det. listening then cleaning up flaws with information that he would hear from other witnesses. 4/16/13 RP 50-63. During trial Det Steiger was listening to other witnesses, talking the stand. Sits next to prosecutor and listens some more and takes the stand cleaning up flaws of the case. 7/24/13 RP 108-111, 113-114, 119, 140-141, 7/25/13 RP 36-38, 7/29/13 RP 29-30, 8/1/13 RP 100-101, 131, 136-137, 151-153. see S.A.G p# 45-47 for details.

During trial delays wore on Jory "It's not home" 7/30/13 RP 29. openly showing contempt.

Picking up on all the delays. Prosecutor injects "delays" and "less than Mirco brewed coffee" in jury room 8/7/13 RP S. TO inflame juries passion and prejudice. From here Prosecutor injects personal beliefs and misrepresents eye witness testimony with "distinctive", "Plaid" to influence jury. see S.A.G p# 17-19 for details. 8/7/13 RP 7-8, 29, 68, 75 & S.A.G p# 15-24.

Post trial Judge and Prosecutor produced false facts of past cases and false redrics to crucify Mr. Afeworki in front of media present in the court room. Judge impedes on Mr. Afeworki's attempted to mitigate the false facts. while also crossing out request for video & Audio and monkey clock in "Order of Ind~~e~~gency, claiming she did not know cameras were needed and that they don't work. 9/20/13 RP 170-181, 194, 198-204. Judge allows Prosecutor to enter exhibit

room with order to take pictures of exhibit #19; despite the fact there already existed prior tests and pictures of exhibit #19. Judge denies attorney for this substantial hearing signs an order directing Mr. Afeworki is to conduct his own restitution and posttrial motion. 10/8/13 RP 227-240. . . Next hearing Judge attempts to claim this is restitution and John Hicks is attorney. John Hicks reads order exposes judge's manipulation Mr. Afeworki requests evidentiary hearing to insure evidence is not tampered with. Judge hurriedly signs order terminating Pro-se status to prevent Pro-se Law computer access at Jail. 10/17/13 RP 247-248, 252-257.

### COURT OF APPEALS

On Appeal Mr. Afeworki filed S.A.C. brief with 7 issues citing several constitutional violations S.A.C. p# 1-50. Attorney Gregory Link filed Brief of Appellant raising 4 issues. 1. Trial court denied right to counsel. 2. The trial court deprived a fair trial by electric restraints. 3. In absence of evidence to support. . . court erred in entering finding of fact #10. . . 4. Court punished Mr. Afeworki for exercise of right violation of 6<sup>th</sup> & 14<sup>th</sup> Amendment see Brief of Appellant p# 1-28 Appendix 4. . . Mr. Afeworki also filed several motions for video & Audio to show gestures, tones and other missing portions of the record. . . . COA Div 1 rejected all these claims and motions opinion p# 1-35. Judge Trickey agreed to reversal dissent p# 1-4.

Attorney Gregory Link filed motion to Reconsideration Aug 27<sup>th</sup> 2015. Asserting trial court failed to meet criteria in State v. Damon. And that COA Div 1 opinion detailed facts was in violation of this court's ruling in Bale v. Allison

Now SEEK REVIEW:

### E. ARGUMENT:

Pro-se party Pleadings are to be construed liberally  
U.S. V. SEESING; U.S. V. PALMER; HAINES V. KERNER



The COA DIV 1 opinion facts is not only not mentioned by neither party in violation of Bale v. Allison (except fact in p# ) But COA DIV 1 opinion facts in p# 3 are completely contradicted by the facts of the record as mentioned in this Petition Part D. p#1.

### "ISSUE 1" "ISSUE 8"

U.S. supreme in Chapman v. State of California: noted trying a defendant in front of bias Judge cannot be categorized as harmless error Tumey v. Ohio...

The judge here displayed her prejudice when she exhibited a monkey clock pointed at Mr. Afeworki and said "No wonder I am always late when I am out on the bench. I am following the monkey" 4/15/13 RP 178-179; to Mr. Afeworki's attempts to bring issues to the court's attention that took up the court's time... from here it was a spiral of bias, prejudicial actions that deprived Mr. Afeworki a fair trial.

This court ruled that there has to be evidence of the trial court's actual or potential bias. State v. Gamble

The reference was made to Mr. Afeworki's attempt to bring issues to the court's attention... It was a deliberate injection of racial bias... Turning to "Appearance of Fairness Doctrine" ("Doctrine")... Reversal is required on "Doctrine" and CJ (3)(X1): see Amend Appendix 1

The Doctrine is directed at the evil of biased or potentially interested judge or quasi-judicial decision maker Swenson in re

Here trial court first provided evidence of prejudice that lead to deny Mr. Afeworki substantial constitutional rights. By claiming to file motion forward the motion 7/23/13 RP 2. Then state no to know if it was forwarded CP 540-541... Manipulate hearings Hiding documents, & Affidavits violated access to the courts under John Doe v. Puget Sound blood center: Due process Muscy v. Giarratano equal protection Pennsylvania v. Finley... Denying to call witness back despite find of perjury in late discovery violates Confrontation

rights under U.S. v. Deering, Washington v. Texas; Pointer v. Texas  
By using forms of discrimination in hearings violates Constitution  
under Go million v. Lightfoot; Lane v. Wilson...

By not giving as much latitude as counsel in conducting defense  
violated 6<sup>th</sup> & 14<sup>th</sup> amendments under State v. Silva; In re Little  
In re McConnell (BY DENYING witness legal supplies. Time to prepare  
despite late discovery.)

All above could have been avoided when Mr. Afeworki  
called for this judge to step down; recuse herself she denied  
motion... Here there exists actual or potential bias as required  
in State v. Gamble... even a mere suspicion of irregularity or  
appearance of bias or prejudice should be avoided by judiciary  
is the critical concern in determining whether proceeding satisfies  
the appearance of fairness... Is how it would appear to a reason-  
able, prudent disinterested person Pac. R.R. Co.

This was not factored by COA D111, even James Bible  
explained how a reasonably prudent disinterested person would  
be offended.. Mr. Bible even attempted to secure the Morley clock  
as proof for Appeal or lawsuit...

The judge erred when she refused to disqualify herself  
under CJC 3(D)(1) when she violated CJC canon 2, 3 see Amend App.

Showing her mocking sarcastic tone to Nancy Balin  
"It sounds like you meant that sarcastically" 7/31/13 RP 125

After a delay caused by her action a near 2 hour delay this  
argument had an overwhelming impact on the case.. It was  
played out in front a court room full of people with Jury in  
the back. Jury room over hearing.. A Jury who already felt

"It would slow the process down".."Prejudice against him"  
do to there preception of Mr. Afeworki's self representation

from the record it's clear that this judge was out of control  
unprofessional and plain evil to any whom she perceives as  
lesser than herself..

In State v. Madry this court held fairness of course requires  
absence of actual bias in trial of case, but our system of law  
has always endeavored to prevent even probability of unfair

ness (equating) re-murchisen.

Here Judge committed federal crimes by not forwarding motions, manipulating hearings, hiding evidence from being used in future litigation, and impeding on Mr. Afeworki's access to the fair Administration of Justice, in violation of Title 18 U.S.C.A section 1001 & section 1503 as described in Richmark Corp v. Timber falling Consultant Inc; U.S. v. Andreas see Amend App

High lighting this Judges rulings as bias/prejudicial this judge even goes against long standing established law violating 6<sup>th</sup> and 14<sup>th</sup> Amendment rights of Mr. Afeworki under foretta v. California, City of Bellvue v. Acree. Here there was no "known gly voluntarily and intelligently" waiver of right foretta nor was it "unequivocal" state v. Modica..

Because the record demonstrates Judges bias forcing pro-se status over objection, denying access to necessary legal supplies necessary to his defense, no way reaching investigator just days prior to trial, and then denying continues despite discovery and Brady violations. "Your representing your self and I did not grant you continues so I told you... were going to move forward with trial" 7/24/13 RP 72 Line 19-23.

The preferred method for determining the validity of a waiver of right to counsel is described in state v. Silva.

Here the judge forced and miss advised Mr. Afeworki he was facing his third strike.

Additionally the judge did not adhere to this Court's criteria identified in state v. Damon, when placing Mr. Afeworki in restraining device. Judge just excepted jail attorney's representation that Mr. Afeworki should wear restraints because he is no longer with a lawyer 7/18/13 RP 147-152. over Mr. Afeworki's objections...

The restraints caused stress mental anguish; Bulging out his pants embarrassment; Mr. Afeworki even showed how the device was effecting his psychi: "on top of that I have an animale Zapper" 7/18/13 RP 151. The device Impaired Mr. Afeworki's ability to reason and caused him fear effecting his ability to

present a defense.. This is discussed in United States v. Durham

Mr. Afeworki was prejudiced.. The state cannot prove that the constant mental anguish from precieved third strike & shock device did not effect Mr. Afeworki's preparation, presentation of defense and interactions with others. Gonzalez v. Piller more can the state prove it did not contribute to verdict Chapman v. California..

This court should except review reverse conviction and assign to different Judge to preserve "Doctrine" and Mr. Afeworki's constitutional rights not to be discriminated against, insure he is given a fair trial... What this Judge eats should not make the fair Administration of Justice shitty..

### "ISSUE 2" & "ISSUE 6"

Right to fair trial is secured by 6<sup>th</sup> & 14<sup>th</sup> Amendment and Article 1 section 22. Estelle v. Williams, State v. Finch..

It implies a trial where attorney for state does not throw prestige of office and expression of his own belief of guilt into scales against the Accused. State v. Monday, alteration, State v. Case.. Cumulative effect maybe so flagrant that no instruction... can erase combined prejudicial effect. State v. Walker..

Standard: 1- No curative instruction would obviate Prejudicial effect on Jury.

2- The misconduct resulted in prejudice, had substantial likely hood of effecting the Jury's verdict. State v. Thorgeson:

► Prosecutor here refered to endering "delays" and "less than misco brewed" coffee back in jury room 8/7/13 RPS. This had nothing to do with evidence but everything to do with the delays experienced by Jury through out trial. This fact was not even considered by COA P111 as it was not even mentioned.. Here Prosecutor was Appealing to Jury's passion and prejudice to matter's out side of evidence which

mounts to misconduct as instructed in state v. Belgrade...  
Likely affecting the jury's decision.

This called on memories of delays and being cooped in back jury room. Memories of discomfort. Discomfort the jury associated with Mr. Afeworki and his self representation. No curative instruction could be given here because the issue of delays was intimately woven between the judge and Mr. Afeworki.

This comment essentially asked the jury to get revenge for the discomfort they endured throughout trial. Discomforts that were Mr. Afeworki's fault, because their eyes Mr. Afeworki, caused the delays and arguments they overheard with Judge & Trial Attorney causing them to be cooped up in a room away from the beautiful July-August summer. Prosecutor's comment was ill-intentioned... This was irrelevant inflammatory matter to prejudice jury against accused denying fair trial; state v. Mile.

Then Prosecutor talks about his homosexual preference and his family bond of going out together. To inflame more of jury's passion and prejudice 8/7/13 RP 69.

Further prosecutor goes to inject personal beliefs of guilt by calling Mr. Afeworki killer; Misrepresenting witness testimony and confuses obligation of jury shifting burden. Even arguing for credibility of police officers and witnesses in violation of this court's ruling in state v. Emery

Here the standard of Thorngeson is met and the combined cumulative effect cannot be erased demanding a new trial under walker... The persistent misconduct caused cumulative prejudice and denied a fair trial demanding a new trial Bergerv. U.S., U.S. v. Fedrick... This court should except review

It's established that a conviction obtained through use of false evidence known to be such by representative of the state must fall under fourteenth Amendment. Same result obtains when the state although not soliciting false evidence allows it to

go uncorrected, when it appears. The principle that state may not knowingly use false evidence including false testimony to obtain a tainted conviction is implicit in any concept of ordered liberty. Napue v. Illinois.

Prosecutor has a duty not to argue false or inadmissible evidence to jury. Miller v. Pate

"A prosecutor's presentation of false evidence is viewed seriously and its effects are exceedingly carefully scrutinized." United States v. Polizzi

A new trial is required if there is any reasonable likelihood that false evidence could have effected the judgement of jury. Polizzi

#### False Testimony of Mr. Gebra:

Here despite prosecutor representing to the court Mr. Gebra gave directions to MSP Mr. DUMA 4/16/13 RP 47. Once this was proven to be a lie... Prosecutor lies to jury to cover for his star witness credibility... Prosecutor has a duty not to mislead jury but here he presented false testimony in such a way to suggest the opposite of what he knew to be true. This perverts the Adversarial system.

#### Intentional Misrepresentation of eyes witness Testimony

Here Prosecutor injects "distinctive" and even goes to inject "Plaid" in such a way to make it appear Ms. Hayes said "plaid" 8/7/13 RP 29. Prosecutor knew he could not do in court identification as no witness even picked Mr. Afeworki nor described his clothing. Mr. Afeworki's pants are not blue with brown fade, nor did any one pick Mr. Afeworki's unique bronx plaid jacket with red lines... so Prosecutor, instead used his own observation of "Plaid" to testify and inject his testimonial observation in such a way to make it appear an in court identification took place... Ms Hayes never said "Plaid" Natalia never described Mr. Afeworki; and "Distinctive" was never mentioned. All the misrepresentation most likely effected

Jury's judgement.

### Use of Detective Steiger fill in false Testimony

Prosecutor used Det Steiger to build his case by cleaning up flaws. Calling and recalling him to build his case violating constitution Namet v. United States... so he could get his desired testimony that will seal all the flaws as described in S.A.G. #45-46. This is a constitutional violation under Locken v. United States... This deprived Mr. Afeworki a fair trial.

► This circuit finds that knowingly presenting falsified testimony, Perjury to jury and use of known lies to get conviction deprives a defendant of his constitutional right to due-process of law U.S. v. Lapage even if prosecutor knew or should have known Hayes v. Brown.

Here Mr. Afeworki argues there is a likely hood of effecting The judgement of Jury Polizzi... The supreme put's test of sufficient to create reasonable doubt United State v. Agurs:

Prosecutor concedes D.N.A evidence was not enough 8/7/13 RP 70 do to it not being discriminative low imbalanced 8/5/13 RP 52 Eye witness testimony favored Mr. Afeworki, and actually pointed more at states Starr witness Mr. Gebra whom escaped headed north and could not described Mr. Afeworki... Mr. Gebra's credibility was main issue at trial; full of inconsistencies

<sup>1</sup> Claimed to not watch trial; Then watched T.V. about case; <sup>2</sup> claimed not to receive favor; but was given a favor to stay in U.S. because he was going to get deported do to his two rape conviction, <sup>3</sup>

<sup>3</sup> Claimed Mr. Afeworki had a strange beard, but was ~~contradicted~~ with booking picture that shows Mr. Afeworki does not have a beard. <sup>4</sup> Then Mr. Gebra slips and says the jail uniform in picture is what Mr. Afeworki had "on". 7/29/13 RP 167, 170, 7/29/13 RP 139-140, 174, 180... Another problem with problem with prosecutors case

is he could not show motive.. Lack of motive is not only relevant on Issue of Identification but also to the issue of premeditation and

and deliberation State v. Pirtle, State v. Brooks...

Absent the misrepresentation's of eye witness testimony, and misconduct of covering for Mr. Gebra's perjury, Jury could have concluded Mr. Afeworki did not commit the crime. Without Det. Steiger clean up testimony; Negligence would of been a factor examined by jury. Leaving jury to scrutinize testimony more carefully. One way to test credibility is to see how testimony fits with known facts. Two eye witness said shooter was standing next to victim; & behind victim. 7/30/13 RP 139, 7/30/13 RP 55-56.

Mr. Gebra admits to standing next to victim and behind victim 7/29/13 RP 137-138, 150... Headed north with a person in green coat says he went home; then to friends house. 7/29/13 RP 153, 178.

Jury could draw questions as to why didn't Mr. Gebra stay around? why did he wait to watch T.V and make a deal?

If Mr. Afeworki's clothing was tested for blood splatter, none was found; but Mr. Gebra's clothing had blood splatter isn't that evidence? By committing the misconducts Prosecutor influenced Jury and it most likely effected the judgement of Jury. Polizzi. Supreme Court has found due process violations in several cases where prosecutors knowingly have introduced and argued from false testimony Miller v. Pate; Mooney v. Holohan; It's found that "the force of prosecutor's argument can enhance immeasurably the impact of false or inadmissible evidence e.g. Miller v. Pate... 9<sup>th</sup> circuit's description of effect of prosecutor's argument in United States v. Brown Applies equally to Mr. Afeworki's case. CoA DIV 1 Did not review the issue according to circuit or U.S. supreme directions. Also this court should look at the combined prejudicial affect. Prosecutor violated R.P.C 3.3(a)(1)-(4) 8.4(c) & Title 18 usca section 1001, & ABA standard 3-5.8(c)(2) (ed 1990). This court should exempt review; reverse with said suppression in S.A.G.

### "ISSUE 3"

Due-process clause and 14<sup>th</sup> Amendment prevent unfair trial, it's established destruction or withholding evidence violates due-



process. evidence is favorable to defendant and material to his case irrespective to good or bad faith. Prosecutor have Affirmative duty to disclose evidence Brady v. Maryland, Kyle v Whitley Prejudice is refered. in "reasonable Probability" state v Thomas United States v. Bagley, Kyle... In assesing materiality court must consider Adverse effect such as Preparation/Presentation and reconstruction for post trial Proceedings as defined in Bagley:

This court recognizes three prongs in state v. Mullen, while keeping in mind the fair trial purpose of Brady. Morris v. 41st COA Div 1 misconstrued Mr. Afeworki's points in S.A.C and did not look at newly discovered video evidence that contradicted Detective Steiger and Prosecutor's representation to the court.

### Withhold evidence / material - Late Discovery

Purpose of CrR 4.7 is to protect against surprise which might prejudice defense state v. Bradfield; Here Prosecutor dumped hundreds of pages of material evidence in the middle of trial on a day a witness was testifying 7/24/13 RP 11, 71-73, Judge refused continues Id at RP 72, and refused to reserve the witness Id at RP 120.

In late discovery Mr. Afeworki finds perjury; requests the chain of custody information. Prosecutor does not provide this. Judge tells Mr. Afeworki to raise it with witness 7/30/13 RP 28-29. Then denies said witness. 8/1/13 RP 166-167. This was impeaching evidence. It was suppressed. The chain of custody is still suppressed till this day.

Prosecutor surprised Mr. Afeworki, impeded on Mr. Afeworki's ability to attack credibility of Det Kasner. expose perjury, by intentionally giving/with holding evidence till day off testimony... Prejudice was continues, transcripts contained missing portions, mystery notes and Judge telling expert not to provide needed info about Adulterated videos. 7/25/13 RP 56, 8/1/13 RP 40-41, 8/6/13 RP 22... With all these factors Mr. Afeworki was never allowed to prepare, prejudicing his defense violating his 6<sup>th</sup> amendment right to speedy trial as defined in State v. Price and 6<sup>th</sup> Amendment under re little; In re McConnell since he was not given the same latitude as an attorney in preparing for his defense and read digest material for his defense.

### Altered Video: Didier Car-dash

Prosecutor nor Police may decide for defense what is favorable or material evidence. Barbee v. Warden, Griffin v. United States. Prosecutor has duty to learn favorable evidence... known to other acting on behalf of government... Including police. In re the pers restraint of Brennan, citing Kyle v. Whitley (committed). This is so prosecutor won't keep evidence out the hands of defense claiming he doesn't have it. Brennan quoting (committed) State v. Zuno Arce.. without this rule Prosecutor could instruct those acting in Police and other investigating agencies acting as the final arbiters of justice. Brennan..

In Seattle v. Fetting: It was held evidence that rebuts officer and collaborates defendant's version of events is material evidence. Here both Det Steiger and Prosecutor represented to the court Didier car-dash cuts off in mid-sentence of miranda warning; after Mr. Afeworki instructed the court he seen the fuller version the video has been Altered, it's needed for defense. Like Fetting testimony was presented that the car-dash would support and it rebuts officer. see S.A.G. p#33 for detail. After trial the video was found by Mr. Afeworki's family Cr.R. 7.8 motion was filed timely RCW 10.73.090. Judge denies to rule on motion essentially denying extraordinary hearing. The fuller version is in Superior Court exhibit room sub#243.. It rebuts officer's testimony gives credibility to Mr. Afeworki's version of event. And it impeachs Det Steiger since he handled video, claiming it cuts off: in mid-sentence of miranda warning.. This also breaths life into Mr. Afeworki's theory of corruption, negligence, & Altering of videos; transferring to other missing key evidence. see S.A.G. p#34-35.. Jury can weigh evidence favorable to Mr. Afeworki's credibility while discrediting officers, showing sloppiness, corruption in handling evidence this is favorable as noted in Kyles. This violates due-process as in Fetting except the video is found; and others are still missing. all handled by Det Steiger... Prongs of Brady are satisfied here. Mr. Afeworki's due process rights are violated, he is denied fair trial... Altering video violates RCW 9A.72.150. This is a question of material fact, an evidentiary hearing should be granted.. Review; with: evidentiary hearing; reversal.

"ISSUE 4" & "ISSUE 9"

8<sup>th</sup> & 14<sup>th</sup> Amendments protect the right to Confrontation. Right to confront adverse witness Washington v. Texas, Pointer v. Texas. Here from the record, Det Steiger was not asked to escort Mr. Gebro nor did Prosecutor vouch for Det Steiger. But the record does reveal Mr. Afeworki requested for Prosecutor to repeat his excited utterance that contradicted Det Steiger, but the judge impeded to prevent the remark from being part of the record 7/29/13 RP 158-159. COA DJU 2 called this naked cashing opinion p# 35- but this is a grave error. The facts show Det Steiger claimed not to talk to Mr. Gebro but Mr. Gebro revealed Det Steiger did talk to him 7/30/13 RP 30. Det Steiger lied. And After Det Steiger's hidden inducing & coaching; Mr. Gebro did not answer questions, instead stated "Deceased friend", "Night mare" to influence Jury. 7/29/13 RP 160 Right to confront should be enjoyed without inducing by Detectives. Det Steiger committed a crime under RCW 9A.72.120 and Title 18 U.S.C.A section 1512. Det Steiger & Judge denied a fair trial and Impeded on Mr. Afeworki's defense. Reversal with said suppression in S.A.C. with camera footage from hallway of the court room, & video and audio of court room brought, evidentiary hearing should be granted to preserve Mr. Afeworki's rights. The excited utterance mentioned above and other gestures and missing portions in transcripts critical to Mr. Afeworki's Appeal, evidence are in video & audio that Mr. Afeworki requested through motions under Draper v. Washington In re Marriage of Ochier, but was denied. This court should Review.

### "ISSUES"

4<sup>th</sup> & 14<sup>th</sup> Amendment and Article 1 section 3 of Washington constitution. Protect the liberty of citizen. 4<sup>th</sup> Amendment requires that arrest warrant be based on probable cause supported by oath or Affirmation as requirement that may be satisfied by an indictment returned by grand jury. But not mere filing of criminal charges in unsworn information, signed by Prosecutor Gerstein v. Pugh, Coolidge v. Hampshire. Accordingly since most prosecution in Washington are commenced by information. Washington Law requires in compliance with "constitutional command" that an arrest warrant be supported by either an affidavit or sworn testimony establishing the grounds.

For issuing the warrant CR 2.2 CA, Malina v. Fletcher.  
The certification for Determination of Probable Cause drafted by Det. Kasner endorsed by prosecutor as material facts to Judge Palmer, was designed to satisfy those requirements. But here "The Certification" is falsified contradicted by police officer's reports and eye witness account see: S.A.G. p#41 and Part D of this petition p 3-4, and CP-3-5. The "Constitutional Command" not been met here. By falsifying this document Det Kasner committed a crime under RCW 2.48.180, RCW 21.20.40 & Title 18 U.S.C.A section 1001. Knowingly / Recklessly providing false information to a judge violates Constitution Hervey v. Estes. Especially since this document was copied to get a warrant for D.N.A months later. The point of 4<sup>th</sup> Amendment is explained in Terry v. OHIO U.S. supreme cautioned relaxation in Brinegar v. United States Grodenello v. United States. Justice Brandt, discussed about the importance of separation of functions in McNabb v. United States. Applying measurement of Brinegar; Det Kasner committed perjury in relation to altered coat. Violating 14<sup>th</sup> Amendment to due-process Miller v. Pate

The falsified certification impedes in the separation of function McNABB. Additionally Det Kasner took D.N.A and swabbed for gun powder residue but never documented it 8/6/13 RP 84. Because of the criminal acts of Det Kasner everything he handled falls under the fruits of poisonous tree doctrine and should be suppressed State v. Gains, Wongson v. U.S.. Because there is no grand jury system in Seattle Washington this should be considered seriously. Evidentiary hearing production of Chain of custody with suppression. Review should be granted. "ISSUE 7" & ISSUE 5 Raised by Gregory link in brief p#1-2, 5-28 should also be reviewed, as they pose a significant question of constitutional law. Because Mr. Afeworki's family found a video that contradicts Prosecutor & Det; these issue involves significant question of law and Constitutional law, Review is Appropriate  
RAP 13.4(b)(1)(2)(3)(4)

#### FINAL CONCLUSION

Mr. Afeworki Respectfully Asks This Court to Exempt Review.

Dated 9/27/15

  
Tomas Afeworki

Shackles or restraining devices should be used only when necessary to prevent injury to those in the court room, to prevent disorderly conduct at trial, or to prevent escape. Finally, the trial court should allow the use of restraints only after conducting a hearing and entering findings into the record that are sufficient to justify the use of restraints. State v. Damon, 144 Wn.2d 686, 691-92, 25 P.3d 418 (2001), cite omitted.

The function of the appellate court is to review the action of the trial courts. Appellate courts do not hear or weigh evidence, find facts, or substitute their opinions for those triers of facts. Instead they must defer to the factual findings made by the trier of fact."

Bule v. Wilson, 173 Wn. App. 435, 458, 244 P.3d 789 (2013)

CJC Canon 3(D)(1): Judge should disqualify themselves in proceeding in which their impartiality might reasonably be questioned including but not limited to instances in which:

(a) The judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.

CJC Canon 2.3: (A) A judge shall perform the duties of judicial office, including administrative duties with out bias or prejudice.

(B) A Judge shall not in performance of judicial duties by word or conduct manifest bias or prejudice or engage in harassment and shall not permit court staff, court officials or others subject to the judge direction and control to do so.

Title 18 section 1503: which makes it a crime to corruptly obstruct the due process of Administration of Justice this included in it acts that distort evidence to be presented or otherwise impede the Administration of Justice the act of altering or fabricating evidence used in judicial falls within meaning:

Reichmark Corp v. Timpenfalling Consultant Inc 730 sup 1525 (D.O.R 1990)

It is construed broadly to include a variety of methods to which impede or thwarted a variety limited only by imagination criminally incline US v. Andreas 39 F. sup 2d 104 85 fed. n. evid. ser 1364 (N.D. Ill 1998)

title 18 section 1512: A person is in violation of tampering with witness

- if b) who even knowingly uses intimidation threatens or corruptly persuades another person or Attempts with intent
  - 1) influence delay or prevent the testimony of any person in a official proceeding.
  - 2) cause or induce any person to withhold testimony or withhold a record document or other object from an official proceeding.

Title 18 section 1001: (a) except as otherwise provided: in any matter within the jurisdiction of the executive, legislative or judicial branch of the Government of the United States knowingly and willfully:

- (1) falsifies, conceals, or covers up by trick, scheme or device a material fact
- (2) makes any materially false, fictitious or fraudulent statement or representation or (3) makes or uses any false writing or document known to be same to contain any materially false, fictitious or fraudulent statement or entry

- "A courts colloquy with accused on the record detailing at minimum the seriousness of the charge, the possible maximum penalty involved and existence of technical procedural rules governing the presentation of the accused's defense state v. silver 107 Wn App 556, 559 31 P.3d 724 (2001)

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## Gonzalez v. Piller

"Given the the nature of device and it's effect upon wearer when activated requiring an unwilling defendant to wear stun belt during trial may have significant psychological consequence."

341 F.3d 897, 899-900 (9<sup>th</sup> cir 2003)

Stun belt is far more likely to have an impact on a defendant's trial strategy than are shackles as a belt may interfere with the defendant's ability to direct his own defense.

United States v. Durham, 287 F.3d 1297, 1306 (11<sup>th</sup> cir 2002)

## State v. Price:

Held that the state in excusably failed to act with due diligence and material facts are there by not disclosed to defendant until shortly before a crucial stage in litigation process. It is possible either a defendant's right to speedy trial or his right to be represented by counsel who had sufficient opportunity to adequately prepare a material part of his defense maybe impermissibly prejudice: 94 Wash. 2d 810, 620 P.2d 994 (1980)

Kyle: U.S. Supreme noted that had favorable evidence been disclosed to jury then jury would have counted "The sloppiness of the investigation against the probative force of state evidence [I]ndications of conscientious police work will enhance probative force and slovenly work will diminish it: 514 U.S. at 446 n.15, 115 S.Ct. 1555.

## ABA Criminal Justice Standard 3-5.8(c) (2d ed 1980)

"A prosecutor should not use argument calculated to inflame the passion or prejudice of jury."

Mr. Justice Frankfort: MCKNAB V. UNITED STATES:

"A democratic society in which respect for the dignity of all men is central naturally guards against the misuse of law enforcement process. Zeal in tracking down crime is not in itself an assurance of soberness of judgement. Disinterestedness in law enforcement does not alone prevent disregard of cherished liberties. Experience has therefore counseled that safe guards must be provided against the dangers of the over zealous as well as the despotic. The awful instruments of the criminal law cannot be trusted to a single functionary. The complicated process of criminal justice is therefore divided into different parts, responsibility for which is separately vested in various participants upon whom the criminal law relies for its vindication"

318 U.S. 332, 343, 63 S.Ct. 603, 614, 87 L.Ed. 819 (1943)

Terry v. Ohio:

The point of the fourth Amendment which often is not grasped by zealous officers is not that it denies law enforcement the support of usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. 392 U.S. 1, 20-22, 8 S.Ct. 1868, 1879-1880, 20 L.Ed. 2d 889 (1968)

" must be measured by the facts of the particular case. The history of the use and infrequent abuse of power to arrest cautions that a relaxation of fundamental requirement of probable cause would leave law-abiding citizens at the mercy of officers whim or caprice. Brinegar v. United States, 338 U.S. 160, 176, 69 S.Ct. 1302, 1311, 93 L.Ed. 1879. see also: Gordonello v. United States, 357 U.S. 480, 485-487, 78 S.Ct. 1245, 1249-1250, L.Ed. 2d 1503.

Cr.R. 2.2(a)

"A warrant of Arrest must be supported by an affidavit or sworn testimony establishing the grounds for issuing the warrant. The Court must determine there is Probable Cause. before issuing the warrant"



# AFFIDAVIT

STATE OF WASHINGTON )

) ss:

COUNTY OF

I Tomas Afewerki declare under Penalty of perjury that the following statement within this Affidavit are true and correct to the best of my knowledge and has been executed on this 30<sup>th</sup> day of September 2015 at Washington State Penitentiary; in the County of, Walla Walla, Walla Walla Washington:

- 1) On 07-29-13 I found a car-dash video had missing portions and requested too court to bring lab-top containing discovery to the court room in order to show the Brady violation and Altering of video by Prosecutor Donald Raz. That the video was needed for defense. 7/24/13 RP 5-7.
- 2) On 07-30-13 Prosecutor Donald Raz and Detective Cloyd Steiger claimed on court record that the video in question officer Didier's car-dash camera video cuts off in mid-sentence of miranda warning; That all they have 7/30/13 RP 25-27. Steiger orders all videos to be brought to him 4/15/13 RP 73 7/24/13 RP 138, 7/25/13 RP 66-67.
- 3) The video, Didier car-dash video was found by my family. It does not stop in mid-sentence of miranda warning. I drafted a motion under CrR 7.8 (b) time with in the 1 year limitation of RCW 10.73.090. This motion alleging Brady violation with exhibits, including Newly found fuller version of Didier car-dash video with declaration was hand delivered by my sister to King County Court, and Prosecutor's office...
- 4) The fuller version of Didier car-dash video contradicts several officers, impeachs Detective Steiger, and sheds light to my theory at trial that video's and other evidence were being altered.

5) After waiting well over 90 days I filed a writ of mandamus to supreme court. The supreme court clerk Susan L. Carlson wrote me on Feb 27, 2015 in relation to my writ, asking me to submit a "Statement of finances" for proof of indigent. for filing with out the \$250 filing fee. In addition the clerk attached a E.C.R read out that did not show the motion filed. But it did show #243 09.09.14 declaration converted to file exhibit. #243 is the motion and declaration. The convert to file exhibit was the C.D. containing Car-dash video put into Exhibit Room.

6) I redrafted with proper Appendix's showing it was hand delivered and a King County clerk letter notifying it was CD put in Exhibit Room. This writ became Supreme # 915 82-2. A hearing was set to be heard for consideration for expenditure of public funds. 6.2.2015

7) During this time Judge Laura Middaugh wrote some type of order dated Feb 24, 2015, claiming not to get motion. But upon looking closer claims there was a motion. Judge Laura Middaugh refused to rule on the motion, opting to forwarding it to Court of Appeals.

8) On 06.2.15 Justice madsen, Owens, Stephens and Justice Johnson sat for Justice Yu. Yu was recused... All denied motion for expenditure. Effectively denying writ because I don't have \$250 for filing and my statement of finances showed I did not have enough to pay.

9) During this time period Deborah A. Dwyer Attorney for Prosecutor's office of King County Appellate division wrote a letter April 28<sup>th</sup> 2015 claim: trial Exhibit #114 is identical to newly found evidence sub #243. This is a complete utter false; misrepresentation of fact. Trial Exhibit #114 is officer Cross dash Cam and is discussed as such on the record see 8/5/13 RP 6-8, 59-69. Additionally Prosecutor Donald Raz handled all C.O.'s as I was not allowed to handle any C.O.'s, and the lab-top provided by the jail that contained my discovery, down loaded into a file provided by Prosecutor Donald Raz showed officer Cross video by itself and officer Didier's video cut off in mid-sentence of Miranda warning.

10) I filed a response to above letter asking the Court to test Newly discovered evidence full version of Didier car-dash video too Prosecutor's words spoken on the record. The video does not stop in mid sentence of Miranda warning it continues and is favorable to my, to my defense. The question is who altered the version given to me during trial?

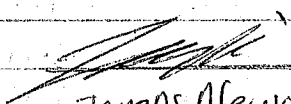
11) On appeal Court of Appeals Judge Steven Dwyer who has the same last name as Deborah A. Dwyer put out an opinion. In it Judge Dwyer discussed portions of the record not mentioned by any party in this case. In opinion Judge Dwyer misrepresents facts to bolster the denial, page #3 of opinion Dwyer states "The police ordered that person to come out. After a few minutes Afeworki emerged from the bath room with hands above his head say: "I don't have a gun"... But several officer's stated at trial I came out, no one ordered me out and didn't say anything 4/15/13 RP 48-49 8/1/13 RP 70-71  
<sup>2</sup> Judge Dwyer again on page #3 of opinion states "two of the witnesses, Elijah Knight and Jean Marie Hayes, identified Afeworki as the shooter by his clothing"... But Jean Marie Hayes stated she's not

Even sure the jacket she picked is the jacket she seen, nor did she see the shooting 4/15/13 RP 115-117  
Macknight a green Brown blue pants, and despite clearly seeing jacket did not pick Jacket 4/16/13 RP 83-85  
Additionally Judge Dwyer neglected to mention how the officer, Gritch was troubled by the suggestibility of the show up procedure 4/15/13 RP 145, 149-151.

12) Despite The video found by my family that contradicts Prosecutor Donald Raz and Detective Steiger's claims to the court. In opinion pag# 33 Judge Dwyer claims I did not establish that the state withheld any Brady material.

13) facts in Amend Petition is true and correct to the best of my knowledge.

Subscribed and sworn to this 30<sup>th</sup> day of September 2015

  
Thomas Afeworkii

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Manwright 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by notary public.

# THE SUPREME COURT

STATE OF WASHINGTON

RONALD R. CARPENTER  
SUPREME COURT CLERK

SUSAN L. CARLSON  
DEPUTY CLERK / CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE

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OLYMPIA, WA 98504-0929

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e-mail: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)  
[www.courts.wa.gov](http://www.courts.wa.gov)

September 10, 2015

## LETTER SENT BY E-MAIL ONLY

Tomas Solomon Afeworki (**sent by U.S. mail**) #826367  
Washington State Penitentiary  
1313 North 13th Avenue  
Walla Walla, WA 99362

Gregory Charles Link  
Washington Appellate Project  
1511 3rd Avenue Suite 701  
Seattle, WA 98101-3647

Deborah A. Dwyer  
King County Prosecutor's Office Appellate Unit  
516 3rd Avenue Suite W554  
Seattle, WA 98104-2362

Hon. Richard Johnson, Clerk  
Division I, Court of Appeals  
One Union Square  
600 University Street  
Seattle, WA 98101

Re: Supreme Court No. 92205-5 - State of Washington v. Tomas Solomon Afeworki  
Court of Appeals No. 70762-1-I

Clerk, Counsel and Mr. Afeworki:

On September 4, 2015, this office received Petitioner's "MOTION FOR DISCRETIONARY REVIEW" which is being treated as a petition for review<sup>1</sup> in the referenced matter. The matter has been assigned the Supreme Court cause number indicated above.

A review of the petition finds there are several issues: 1) it appears to have been prepared in pencil and then copied and therefore is too light to read clearly and would not reproduce well for review by the Court; 2) the margins, page length and font size are not consistent with the Rules of Appellate Procedure; see RAP 13.4(e), and if prepared following this rule would exceed the 20 page limit; see RAP 13.4(f). Therefore, the petition for review has been rejected for filing.

The Petitioner may serve and file an amended petition for review that does not exceed 20 pages in length, excluding appendices, by not later than October 12, 2015. If an amended petition for review that complies with the Rules of Appellate Procedure is not served and filed by October 12, 2015, it is likely that this case will be dismissed.

<sup>1</sup> See RAP 13.4(a) and RAP 12.3(a).



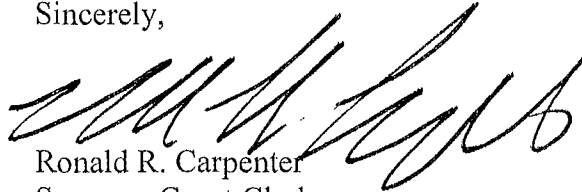
Upon receipt of an amended petition for review a due date will be established for the filing of any answer to the amended petition for review.

The parties are referred to the provisions of General Rule 31(e) in regards to the requirement to omit certain personal identifiers from all documents filed in this court. This rule provides that parties "shall not include, and if present shall redact" social security numbers, financial account numbers and driver's license numbers. As indicated in the rule, the responsibility for redacting the personal identifiers rests solely with counsel and the parties. The Clerk's Office does not review documents for compliance with the rule. Because briefs and other documents in cases that are not sealed may be made available to the public on the court's internet website, or viewed in our office, it is imperative that such personal identifiers not be included in filed documents.

**It is noted that for attorneys, this office uses the e-mail address that appears on the Washington State Bar Association lawyer directory. Counsel are responsible for maintaining a current business-related e-mail address in that directory.**

The Clerk of the Court of Appeals previously forwarded their files and briefs in Court of Appeals cause number 70762-1-I.

Sincerely,



Ronald R. Carpenter  
Supreme Court Clerk

RRC:jd

DECLARATION

I, Tomas Afeworki, declare that, on 10.5.15, I

deposited the foregoing document(s),

Amend Petition: with 4 amend appendix's. Affidavit 4 pages  
letter to clerk & letter of clerk september 10<sup>th</sup> 2015

or a copy thereof, in the internal mail system of Washington State Penitentiary and made arrangements for postage, addressed to:

Washington state supreme court temple of Justice P.O. Box 40929  
olympia WA. 98504


King County Prosecutor's office 516 3rd Ave  
Seattle WA. 98104

Cornell William Brook NTL N.A.A.C.P. 1156 15<sup>th</sup> str. NW  
suite 915 Washington DC 20005

Sherrilyn Ifill N.Y. university school of law 40 Rector St 5<sup>th</sup> floor  
New York, N.Y. 10005

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated at Walla Walla, Washington on Oct. 5<sup>th</sup> 2015,

Signature and number:  #826367  
Tomas Afeworki