

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION 1

STATE OF WASHINGTON

Respondent

NO. 70762-1-I

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THOMAS AFEWORKI

Appellant

APPELLANT'S REPLY TO:
"STATE'S RESPONSE TO
DEFENDANT'S STATEMENT
OF ADDITIONAL GROUNDS
FOR REVIEW" RAP 10.2 (C)

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A. IDENTITY OF PARTY

Comes Now Thomas Afeorki, Appellant Reply To "STATE'S RESPONSE TO DEFENDANT'S STATEMENT OF ADDITIONAL GROUND FOR REVIEW" filed in this Court 03-24-15. Receive By Appellant 03-27-15 via prison legal mail.

B. RELEVANT FACTS AND ARGUMENT

THE Facts Arguments and Authority's are set out in S.A.G. Brief (Amended Brief) filed via prison legal mail 11-12-14. Additional facts will be referenced for a clear depiction of issues presented.

In states Response Deborah A. Dwyer WSBA # 13887 Senior Deputy Prosecuting Attorney makes misrepresentations, intentionally does not address the issue and exposes a sinister plot to cover up the "altering" of video by Prosecutor Donald Laz. In Response STATE cherry-picks segments to confuse the COURT as to the acts of the real issues.

C. VIOLATION OF THE APPEARANCE OF FAIRNESS DOCTRINE

"Racism - Racial Discrimination - Judicial Bias"

In response to this issue state argues Mr. Afeworki relies on his own perceptions of tone of voice or facial expression that the court cannot consider the issue because it's not part of the record.

But the record screams different. First, an Affidavit was Filed 4-18-13 in open court. An Affidavit signed under penalty of perjury depicting exactly what took place in the 4-15-13 & 4-17-13 hearings see 4-18-13 RP 12-15

On 4-22-13 the trial court attempts to hide this "affidavit" depicting her action, showing in the record "attempted concealment of court record. Her act is to not remember what's on clock. Blames Mr. Afeworki for not leaving court room quick enough to justify her remarks in front of college students. 4-22-13 RP 12-14 S. A.G. Brief pages 1-2 -

So here the state wants the court to disregard what the record shows:

Even though The Affidavit is filed on the record 4-18-13, The Judge attempt to hide it 4-22-13 now The Affidavit is nowhere in clerks papers. Searching through court papers. The court clerk even hides the filing of affidavit in clerk minutes. ~~The clerk minutes for 4-18-13 do not reflect what took place on 4-18-13 but something else from another hearing see: Appendix A.~~ So here it's clear even the court clerk is hiding true and accurate court minutes. Judge and close associates are hiding records.

The recent Judge's apology was tailored for the record 4-22-13 RP 12-14. It was not sincere it was an "oops I got caught Apology."

As far as states referral to prosecutor's recollections of incidents, the prosecutor only spoke worrying about the record and Appeal nothing else see: 4-18-13 RP 13-14

But even with this Prosecutor never claims judge did not point at Mr. Afeworki when making the racist remark, nor does prosecutor deny smirking looking at Mr. Afeworki's reaction.

Prosecutor in fact exposes Judge's tailored "I didn't know" what was on the clock comment (in 4-22-13 RP 13) after she had time to think, because prosecutor attempts to lie and say her remarks were about the monkey clock.

4-18-13 RP 13 - Judge's "only contrived a speech to talk away from the shock.

The judge made passionate remarks about Anthony Savage intentionally at the end of court hearing on 4-23-13. This was witnessed by Court Clerk, Bakiff, Prosecutor James Bible, Anna G. Mr. Afeworki, and court reporter.

The Judge nor Prosecutor never denied she made the Anthony Savage comments when Mr. Afeworki addressed the bias nature and comments of the judge including sneaky behavior of waiting towards the end of hearing to make bias remarks like Anthony Savage Comment 7-18-13 RP 198

none of this is conspiracy theories it's all facts plain to see on the record and this court should consider Mr. Afewerki was asking for video & Audio since 4-18-13 RP 15 line 11-14 till now.

The rest of the Monumental evidence Mr. Afewerki Presented in his S.A.C. Brief Page 1-14. The state attempts to condense and confuse the issues while neglecting to answer to them.

(i) The trial Court Judge impedes on Mr. Afewerki's right to access of the Court by Concealing and Attempting to conceal issues from reaching the higher courts. S.A.C. Page 3-5

James Bible asks for picture of Monkey clock, The Judge gets rid of it claiming to provide picture of Paul Frank's store website instead James Bible wants Actual Picture of Monkey clock. Judge says it's "not actual clock picture" because the clock in court was older one. 7-16-13 RP 9-10.

The Monkey clock was intentionally ridd of, there is no way to know if it was a Paul Frank's clock. Nor how it actually looked. One thing is a fact it was offensive improper should not have been in a court setting any disinterested person would be offended. To highlight this fact James Bible even informed the court of a time his mother was offended about some monkey people depiction on tv. so it's understandable where Mr. Afewerki would feel offended. 6-18-13 RP 74
The issue is not if it was offensive because it was. The judge should have recused her self but she refused. see S.A.C. 1-3.

The state Confuses the fact that The Judge said she forwarded "remaining" motion for Discretionary review, when there shouldn't be remaining motion it was all supposed to be forwarded see 7-23-13 RP 2, CP 152

Then contradicts her self in finding of Facts saying she doesn't know if it was forwarded or in proper format see CP 540-541. This contradiction shows that this Judge is abusing her power and tampering with filing and forwarding of documents. The judge shockingly states a court of competent Jurisdiction is not suppose to forward a motion to the proper court see 7-18-13 RP 140. So this Judge already had it in her mind not to follow any request.

The state in its response misrepresents the issue with the video & Audio. The issue is there were numerous of requests for video & Audio 4-18-13 RP 15 7-16-13 RP 20
The judge even state "we don't provide you with transcripts or video & Audio recording of proceedings" 7-22-13 RP 262.

Mr. Afewerki's family was being denied transcripts & video & Audio. 7-16-13 RP 21
9-20-13 RP 217-220. Mr. Afewerki even put in order of indignancy requesting video & audio. He also crossed out his court 9-20-13 RP 217-220 "order of indignancy"

was kept out of clerk papers Mr. Afeworki provided a copy for court in S.A.C. Brief Exhibit A1-3.

The court's are always digitally recorded as judge recalls 4-11-13 RP 64 but when Mr. Afeworki requests for video & audio to show what took place in court the court says they don't work 9-20-13 RP 217-220. Another contradiction. The court rooms in Superior Court are always recorded video & audio for security reasons and if a person is assaulted in the court room it is a fact they would have footage of that.

Further Prosecutor produced a 2006 video & audio with court reporter in back round of Defense witness Thomas Sander allegedly committing perjury after taking oath. But here in 2013 trial after so many requests mysteriously video and audio is missing?!!

(ii) S.A.C. Brief Page 5.

The issue here is Mr. Afeworki was not allowed to call or call back witness even after catching discrepancies in Det. Kanner's handling of evidence judge tell Mr. Afeworki to raise it with witness 7-30-13 RP 29. She allows prosecutor to call back witness but once Mr. Afeworki wants to call back witness that judge tells him to raise the issue at chain of custody discrepancy. Judge tell Mr. Afeworki to show proof Mr. Afeworki points out the prosecutor never had to show proof 8-1-13 RP 168. The record shows there was a discrepancy → that was proof enough. The state does not respond to the fact judge allowed and argued for the altered transcripts. 7-25-13 RP 50-56 see S.A.C. Page 5

(iii) S.A.C. Brief Pages 5-7

The issue here is judge was interrupting without objection 7-30-13 RP 117. Helps prosecutor by advising objection 8-1-13 RP 135. Judge stops Mr. Afeworki from asking about blood splatter & gun residue 7-24-13 RP 103-1. But allows prosecutor to call back witness to talk about blood splatter & gun residue 8-1-13 RP 151-153. Judge rudely dismissed witness in the middle of Mr. Afeworki's questioning without objections from prosecutor 8-5-13 RP 58. but allowed prosecutor to ask the witness repeated question 8-5-13 RP 57-59. Judge rudely states "may this witness step down" 8-5-13 RP 99. This has nothing to do lack of understanding of evidence as state try's to say in its response (pages state response). It's about bias nature, Jury being influenced by the judge's constant show of favoritism and remarks, stop of defense questions, advising of objection, all caused prejudice toward case.

The state doesn't even touch the issue where jury pool showed it did not want to deal with the case because of the Assumption of Self Representation 7-23-13 RP 32-35 Voir dice - Prosecutor misrepresents information to Jury 7-23-13 RP 10.

But when Mr. Afeworki corrects the misrepresentation Judge suggests to jury Mr. Afeworki has threatened several attorney's 7-23-13 RP 6-7. Voir dice, causing - Jury to be and "feel prejudice against him" 7-23-13 RP 31-32 voir dice followed by intentional caused delays and delays described in S.A.G. Brief Page 6-7 that caused prejudice to build up against Mr. Afeworki.

The State does not respond to the fact a nearly two hour delay caused by the Judge followed by a heated loud exchange of word between Judge & Nancy Balin with in hearing distance of Jury who were behind a door in jury room an argument that reveals Judge was using that same mocking sarcastic tone she used with Mr. Afeworki on Nancy Balin. "And it sounds like you meant that sarcastically" 7-31-13 RP 125 line 13-23.

This evidence clearly proves this Judge was out of control highly disrespectful, unprofessional not only to Mr. Afeworki but also to other's. Instead the state in it's response attempts to divert attention to "I am not going to get shackled behind you" that Mr. Afeworki said to the Judge while the transcripts reads "I am not going to get behind you" 7-31-13 RP 114 This is an error it should read "I am not going to get shackled behind you" because that's what Mr. Afeworki said referring to the shack belt bulging from his leg as explained in S.A.G. Page 5-6.

Just like clerk paper is missing 4-18-13 true minutes Affidavit "order of Idengeng" there exists errors gaps, and missing portions in transcripts. Once state produces video & Audio all this will be shown S.A.G. is signed under penalty of perjury it's sworn too.

Allowing Detective Steiger to tamper with witness 7-29-13 RP 158, stops Mr. Afeworki from revealing prosecutor's shackled comment 7-29-13 RP 159

Allowing tainted evidence to be brought in screen objects of Mr. Afeworki 7-31-13 RP 61 then directs Mr. Afeworki to impeach witness after tainted evidence is admitted 7-1-13 RP 114 - The state does not respond to this simple & sophisticated form of discrimination done by The judge to prejudice Mr. Afeworki and influence Jury. see S.A.G. Brief Page 7 for details.

IV S.A.G. Brief page 7

The state in response shockingly calls the judge "Patient" (see state response page 6) Justify the Judge's Threats.

The court should be shocked - The Judge threatened Mr. Afeworki because he used the Bathroom. 7-30-13 RP 122 see details of threats S.A.G. pag 7. All the threats and constant badgering effected Mr. Afeworki's physical making it impossible to focus on defense, coupled with the shack belt bulging out his pants clearly visible. Mr. Afeworki was prejudiced against.

V. S.A.G. Brief page 8-9. see S.A.G. Brief pages 8-9 for details - Here also the state does not address the facts.

Judge tell Mr. Afeworki a motion he filed is nowhere in E.C.R. 8-27-13 RP 121-12 - even acts like she is looking at E.C.R. at court.

Barb Miner lets Mr. Afeworki know motion was filed 8-26-13 and is docket #191 A & 191 B. see Appendix B Attached.

Exposing and the lie Judge told Mr. Afeworki 8-27-13: This is evidence judge was again trying to hide documents legal motion and lying about what's on E.C.R.

The state in response does not deny that the judge signed order permitting Prosecutor to enter exhibit room to take pictures of exhibit #19 even though there were prior picture already of exhibit #19.

The Judge never authorized an expert to observe as the state claims.

Originally the Prosecutor & Det Kanner wanted to take exhibit #19.

but when Mr. Afeworki caught the motion on 9-20-13 the court cut Mr. Afeworki off see: 9-20-13 RP 223-225. Later Prosecutor files it

see exhibit E of S.A.G. a hearing was held 10-8-13. Prosecutor sites no law

Mr. Afeworki files incourt a response site RAP Rules and law besides the obvious. Judge allows Prosecutor & S.P.D with order to enter exhibit room

Judge refuses attorney signs order denying attorney stating Mr. Afeworki represents his self for post trial issues and reshibition 10-8-13 RP 227-229, RP. 235-240.

Next hearing Prosecutor claims to not need to enter exhibit room because crime lab ran tests determining it's not the same with prior tests 10-17-13 RP 247-248: So here the question is why didn't Prosecutor have crime lab do this before getting order to go inside exhibit room??

Mr. Afeworki addresses this suspicious behavior, Judge hurriedly cuts him off. Mr. Afeworki request exhibit room log to see if anyone altered tampered with evidence requesting evidentiary hearing. the judge tells Mr. Afeworki to he needs to "figure that out" and hurriedly signs order preventing law library access at jail. 10-17-13. RP. 247-259.

Thank the judge attempt to push Tina Hicks in order to cheat Mr. Afeworki

but even John Hicks exposes the judicial bias when Mr. Afeworki shows Mr. Hicks the order from 10-8-13 hearing and states what the order said to for the record 10-17-13 RP 252-253.

The Judge could of had Prosecutor check testing with prior test conducted by crime lab as Mr. Afeworki suggested to have done in the 10-8-13 RP 227-229, RP 235-237 hearing. But instead she acted in concert with Prosecutor Donald Ray and Detective Kanner whom perjured his self under oath and in documents.

The state in response claims Cistak Response page 83 there was no motion pending, "this is not true" there was a motion pending it was an oral motion for exhibit room log and evidentiary hearing see 10-17-13 RP 258-259.

Clear its clear there was a joint effort to enter exhibit room done in a disgusting sinister manner that any one could agree is suspicious.

Please no one gave Mr. Afeworki information on the alleged other crimes since Mr. Afeworki was forced to represent his self this should have been forwarded to him. Here Mr. Afeworki though forced was not afforded the same rights and privileges as an Attorney.

(vii) vs. A.G. Brief page 8-9

The state does not respond to the fact Judge instructs defense expert not to give Mr. Afeworki needed information about corrupt videos see 8-16-13 RP 22. To impede in Mr. Afeworki's defense see s.A.G. Brief page 9 for details.

The state does not respond to how the Judge interferes in Mr. Afeworki's attempt to get chain of custody information that is withheld from Mr. Afeworki by helping Prosecutor avoid question, saying in a hostile voice "Prosecutor is not going to be answering any questions" 7-30-13 RP 28 - see s.A.G. Brief page 9. => so the state concedes to these facts of discrimination.

Instead the state focuses on the fact court depriving Mr. Afeworki to speak at sentencing. The state claims the Judge just reminds Mr. Afeworki the purpose of Allocation "not to re-litigate guilt or innocence but to give the court any information to impart relevant to sentencing." see state response page 8. This was stated by the state to confuse the issue.

The issue is The Judge allowed the prosecutor to put ex-prosecutors on the stand to give there own interpretations of past cases 8-20-13 RP 170-181. What did heaviest misrepresentation of fact of past cases have to do with this case?

The Judge allowed the prosecutor to make a speech tailored for the media

a Juvenile" "In 2005 twice in a period of three days he burst into peoples homes with guns and assaulted or threatened their lives or held them hostage" "Violence is this man's way of life". "If you disagree with him you are a racist or liar or subjected of threats of violence" 9.20.13 RP 193-194
These are all false. 2001 case the person Mr. Afeworki was accused of assaulting was 22 years old Mr. Afeworki was a juvenile.

Mr. Afeworki in 2005 did not burst into peoples homes with guns nor took anyone hostage or threaten them.

Now what did Prosecutor remarks have to do with sentencing? Nothing Court is not suppose to listen to false fact or even facts about other cases. When Mr. Afeworki attempt to correct the misrepresentation of fact of past case, and address the fact the racist remark of Judge and exposing the fact the Prosecutor is putting a charade for the News media. The Judge consistently hurriedly cuts him off every step of the way 9.20.13 RP 194-199.

It's clear from the record what happened, it happens to innocent black men all the time the Judge and Prosecutor acted in concert to put a show for the media and news people. This was a calculated legal lynching in the court room, tailored for the camera of the media present at court.

This is the reason this court cannot deny the discrimination, the persecution suffered by Mr. Afeworki in the hand of this Judge and Prosecutor.
See S.A.C. Brief page 8-9 for details:

v.11) S.A.C. Brief page 10-11

The state does not argue the facts here. Instead it claims Mr. Afeworki did not assign specific errors to court factual findings. CP 543-49, 359-63.
(See page 7 state's response).

But if the state would of read this issue it would have been clear Mr. Afeworki was challenging all the factual findings. they were bias and the issues were looked at in a discriminative. Hence why Mr. Afeworki Explains 1, 2, 3, 4 and presents facts that contradicts Judge's one sided imaginary facts and conclusion. See S.A.C. page 10-11. Mr. Afeworki was never informed of any aspects of the case by Anthony Savage. Instead Anthony Savage writes email saying Mr. Afeworki will not be hiring expert. CP 345. Mr. Afeworki was never told about expert or need to hire one. Anthony Savage stole Mr. Afeworki's money and let V.M.A. that could have been used against officers or other suspects be consumed. No one agrees Anthony Savage could do that for defense tactic reason as the judge writes in her finding of facts.

(2) Prosecutor Misconduct, Improper Argument see S.A.C. Brief Page 14-25

The Prosecutor's argument is likely to have significant persuasive force with the Jury, Accordingly the scope of Argument must be consistent with evidence and marked by the fairness that should characterize all of the prosecutor's conduct. Prosecutor's conduct in argument is a matter of special concern because of the special weight to the prosecutor's arguments not only because of the prestige associated with prosecutor's office but also because of the fact-finding presumably available to the office in re pres. Glasman, 175 Wash. 2d at 706, 286 P.3d 673 (2012)

- Prosecutor cannot use his or her position of power and prestige to sway the jury" standard for Criminal Justice: std 3-5.8.

This Court should look at the combined effect of all these impropria arguments:

(A) S.A.C. Brief #15-17

There were complaints of process being taken from the beginning by Jury 7-23-13 RP 32-35 Verdict associated to Mr. Afeworki's forced self representation.

There were complaints "It not home" 7-30-13 RP 29. grunts when judge tells

"tell jury" "step down" angrily looking at Mr. Afeworki, 8-6-13 RP 115

caused by the many delays 7-25-13 RP 50-6, 7-30-13 RP 72-73, 7-31-13 RP 118-126

especially a delay that was nearly a 2 hour's imprisoning Jury to the Jury

room, followed by a loud argument between Judge and Nancy Balin

heard by jury that was quit by a door that Mr. Afeworki pointed out

7-31-13 RP 125-127

This fact was used by Prosecutor to inflame jury's passion drawing their mind to "delays" and being cooped up in Jury room for hours - 8-7-13 RP 5

And then tell's them it's their "obligation" to find Mr. Afeworki guilty or they

would be going against their "obligation" they "Assume as a juror" 8/1/13 RP 5

delays had nothing to do with evidence, nor does less than micco brewed coffee

in jury room it had everything to do with what the jury suffered because

to them Mr. Afeworki represented himself. there is no denying this opening

statement of prosecutor to his closing argument was calculated to inflame

the jury's passion about issues outside of evidence.

(B) S.A.C. Brief #17

Here prosecutor state "true killer" "Amongst us" has been addressing us

he is sitting over there" 8-7-13 RP 75. Prosecutor is asserting his personal opinion

and draws to Mr. Afeworki privilege to address the court, again highlighting

the fact Mr. Afeworki is representing his self stoking the fire of Jury.

This is more than enough for new trial under: R.C.W. 5.60.060 (1)

(c) Prosecutor Misrepresents witness testimony: S.A.C Brief page #17-

Though prosecutor has wide latitude to argue. Prosecutor cannot make up false facts of evidence and say that's what witnesses testified to, just to incorporate his own personal beliefs of defendant's guilt or innocence or credibility of witness.

State v. Emery, 161 Wn. App. 172, 253 P.3d 413 (2011). Prosecutor cannot argue false evidence.
Miller v. Plate, 386 U.S. 1, 87 S.Ct. 785, 18 L.Ed.2d 690 (1969)

(i) Natalia's testimony: S.A.C Brief page 17-18

Here, prosecutor testifies Natalia described Mr. Afeworkhi's clothes and skin tone and wants Jury to assume Natalia did not see ~~full~~ gun because a towel was covering it. See 8-7-13 RP 7 & S.A.C page 17-18 for details.

But Natalia testified she seen arm holding something metallic and not once said anything about white towel. Even with prosecutor leading her to say something covering gun she does not. 7-30-13 RP 135, RP 140

(ii) Jean Marie Hayes Testimony: S.A.C Brief page #18:

Here, prosecutor argues Ms. Hayes "identified coat worn by Mr. Afeworkhi" is the coat of man "Immediately left the scene of shooting" 8-7-13 RP 8 and argues a "distinctive" Plaid Jacket is what sticks in Mr. Hayes mind" 8-7-13 RP 29.

But Prosecutor knows Ms. Hayes was not even sure the Jacket is the same she seen. 4-15-13 RP 117

And Ms. Hayes never said Plaid Jacket not once. Prosecutor here knowingly changed Ms. Hayes's testimonial evidence to reflect his own observation of a "distinctive Plaid Jacket" and same coat misrepresentation.

(iii) Mohammed Dima testimony: S.A.C Brief page 18:

Here, Prosecutor argues Mr. Dima watched man go mid-block turn into store front and Mr. Dima identified based on distinctive clothing. 8-7-13 RP 8.

But Mr. Dima contradicts this - Mr. Dima testified the person went to Apartments not (Gatewood Apts) not store front, and pants were blue with fade. 7-30-13 RP 147. Prosecutor knows this and the fact Mr. Afeworkhi's pants were not blue with fade. So Prosecutor testified his own personal belief of "store front" and "distinctive" clothing to confuse Jury of the facts.

(iv) Eligah Knight's testimony: S.A.C Brief page 19

Here again injects "distinctive cloth" testimony that has nothing to do with Mr. Knight's testimony about pants. 8-7-13 RP 7.

Eligah knew would have picked every pants "Brown and blue" pants. 4-16-13 RP 93.
See S.A.C Brief page 19 for details.

so here prosecutor knows the truth but ignores the rules

(iv) Prejudice suffered from misrepresentation of eye witness testimony S.A.G. Brief page 19

Prosecutor knew eye witness accounts did not ID Mr. Afework, and that he could not do in court identification so instead he misrepresented the facts twisting them to the point to make it appear to jury an in court I.D. took place.

(vii) Prosecutor misrepresents Detective Karner's testimony see: S.A.G. Brief page 19

Here: state response page 11 state attempt to brush this as a misstatement.

Prosecutor's did not make a misstatement, he did what he did with eye witness testimony and when viewed in whole this misrepresentation was done to boost credibility of Detective Karner.

State in its response acknowledges it's a misrepresentation because it's says it a misstatement.

(D) S.A.G. Brief page 19-20

Prosecutor violated Rules of Professional Conduct and title 19 U.S.C.A section 1001

Prosecutor argued his own manufactured lies to confuse jury of the facts and that's a fact

(E) S.A.G. Brief page 20

~~state response page 17~~ state forced the "top killer" comment. That's just one of many assertions of truth Prosecutor used to influence and effect jury's decision.

"The shooter Mr. Afework" 3-7-13 RP 23 line 9 "was Mr. Afework; the shooter here of course he was" 3-7-13 RP 20 and others detailed in S.A.G. Brief page 20. created a

"substantial likely hood" of effecting jury's decision. State v. Reed, 102 Wash.2d 140, 147-48 684 P.2d 699 (1984). And when viewed in whole there is no denying this fact.

State in its response is cherry picking what it wants to respond to and it does not respond to the issues or facts in S.A.G. Brief.

(F) S.A.G. Brief page 20-21:

i) Prosecutor insinuates officer's "May have took picture"

Here: the state attempts to gloss his an important see state response page 12. as to

The issue is not what Dieder and Eastman may have testified to. It is Prosecutor boosting credibility of officers as if they did a proper job "May have "photographed" 3-7-13 RP 66

Leaving Jury to insinuate the officer could have took pictures, they did their job properly. preserving the condition of crime scene.

(i) Prosecutor insinuates fingerprint on gun and consistent DNA = 3-7-13 RP 67:

state in response calls this proper but does not address the issue. state response page 13

The issue is what was presented at trial; Prosecutor's improper argument of directing Jury to what is significant or not and insinuate "fingerprint on gun" and a consistent DNA match see: 3-7-13 RP 69 lin 2-4.

(i) Prosecutor insinuates what missing evidence may possess and makes excuse for detective's failure to investigate the case: S.A.G. Brief 21-22

• In state's response page 13 state confuses the issues: It's not what witnesses testified to it's Prosecutor claiming towel that could have blow back was thrown away by owners and that detectives don't "necessarily know about a case." 8-7-13 RP 67-68.

New owner testified to this, and Prosecutor is making excuses for the negligence of two Detectives covering for them by testifying to jury it's "difficult" nearly "impossible" "to know everything." "not unusual" 8-7-13 RP 67-68

Prosecutor covered for Detectives using the prestige of his office.

Detectives have a duty to preserve evidence under definition of State v. Hall, 27 was App. 362, 586-67, 593 P.2d 544, 587 (1979).

The state makes the argument for Mr. Afewerki everyone sees and reports of a white object 4/15/13 RP 152, CP 3. 8/1/13 RP 97

Detective Steiger not learning about white towel just shows his negligence. To cover this obvious perception of Detective Steiger Prosecutor covers for him using the prestige of his office, to cover for Detective Steiger.

1) Prosecutor makes excuses for officer's boasting turn. Credibility S.A.C. page 22. state does not respond to this fact. Here again uses the prestige of his office to cover for officer's

2) S.A.C. page # 22

State response page 14 just gloss over what this argument suggests

Prosecutor not only tell jury they have to believe state witness are liar but also face criminal charges if they are liar 8-7-13 RP 73-74

this is improper, to tell jury that officer's might face criminal charges

1) Prosecutor Confuses Jury as to their Duty and Burden of the State S.A.C. # 22-23

In state's response page 14 state does not delve into the issue here instead state focuses on CP 436. The issue is not Prosecutor proving element. It's prosecutor

using the Prestige of his office to tell jury. From his experience jurors "In virtually every case" leave with unanswered questions, and that Mr. Afewerki leaves live road in toilet, to not worry about camera on video, and then goes to mocking "we don't have to prove why Mr. Afewerki wasn't a smarter killer or had a better get away plan 8-7-13 RP 17-18.

Prosecutor here confuses the jury to his duty to prove elements of the crime and their job to weigh the evidence, while mocking Mr. Afewerki on a personal level of "wasn't" "smarter" to inject his own belief of guilt.

3) Insults Mr. Afewerki's a liar & injects Personal belief of guilt

Here prosecutor asserts Mr. Afewerki went to get rid of evidence, see S.A.C. Brief page 23 for details. 8-7-13 RP 11. This was an opinion and belief

J) Prosecutor Draws to his personal choice of homo sexuality & family life to inflame Jury's Passion and prejudice S.A.G. Brief page

The state in response page 144 state claims prosecutor was speaking from "common experience not his own personal experience".

The state must have not read what prosecutor stated "I Have seen things with my husband or my children or my parents we go back and we talk about it"

8-7-13 RP 69. This "I" "my" statement is personal and invite's jury to connect with his person choice and draws to how close his family is, and taps into Seattle's majority approval of homo sexuality. - Prosecutor inflamed the Jury's passion and prejudice.

K) Misrepresentation of facts and testimony: S.A.G. page 24

Here it clearly prosecutor vouchs says "But no one tampered with gun until it's handed over to C.S.I and C.S.I collects it" 8-7-13 RP 73 Line 3-9

This was a testimonial lie. Prosecutor know "and approximately 2 hours later C.S.I came in search and found gun and were never informed

that the gun had been found 4-11-13 RP 66 Line 20-21. This statement was made by Attorney James Bible prosecutor did not object to this fact.

But upon seeing Mr. Afeworki was forced to represent his self prosecutor lied about facts he know to be a lie. This is not reasonable inference. Prosecutor made an intentional false statement knowing different. Prosecutor has a duty to correct false testimony and not argue false fact.

This was a misconduct in the most outrageous aspect.

i) Misrepresents Mr. Afeworki's Testimony S.A.G. page 24

There is no reasonable inference here. Prosecutor just used his own opinion of guilt, and again used a witnesses name. So Prosecutor could testify for "Stillframes" & video

(L) Vouchs for Mystery skills and Boasts Credibility of Detective: S.A.G. 24-25

There is no reasonable inference here: Prosecutor vouchs for stills and claims it's Mr. Afeworki in picture: 8/7/13 RP 10.

Prosecutor here knew the picture did not exist in any of the video that detective Steiger claims to get them from because he wrote an email stating he doesn't know what footage they were from in the original set of video's given to him for 5 months. Mr. Afeworki Addressed this fact see 7-25-13 RP 70 see trial defense exhibit. The stills were manufactured by detective cut and pasted, video had problems. The reasonable inference is the video was adulterate but instead prosecutor vouchs for what he knows is fishy video skills.

Mr. Afeworki's Object to everything 7-22-13 RP 235 line 4-10, meaning everything unconstitutional improper and against the rules - This objection should be excepted. This is the fair administration of Justice not some cat and mouse game of catch me violate a constitutional right, or misconduct by objecting. If that is the system then it's childish. Prosecutor is a quasi-judicial officer of the court. State v. Torres, 16 Wash. App. 254, 256, 554 P.2d 1069, 1071 (1976) And he has a duty to protect Mr. Afeworki's rights.

Based on the foregoing Mr. Afeworki has shown more than enough evidence to show cumulative, repetitive prejudicial prosecutorial misconduct was calculated, illintentioned and caused a "substantial likely hood" of effecting Jury's decision. no instruction or series of instructions can cure the cumulatively caused prejudice that denied Mr. Afeworki a fair trial - when view as a whole with all the other issues this demands a new trial see: Berger v. US, 295 US at 89, 55 S. Ct 629, 79 L. Ed 1314 (1935) - United States v. Federico, 78 F.3d 1370, 1381 (9th Cir 1996)

This court should dismiss or grant a new trial with said suppression's requested in S.A.C. The Authority cited in S.A.C. page 14-25, should be more than enough to rule in Mr. Afeworki's favor.

3) Governmental Misconduct Brady Violation: Mr. Afeworki was prejudiced by the unwarranted withholding of material and destruction of evidence needed for defense.

S.A.C. Brief pages 25-38

The state does not address these shocking facts that prejudiced Mr. Afeworki and impeded upon his defense. Instead state attempts to blame Mr. Afeworki for the Courts and Prosecutor's discriminatory acts.

The State in response does not address the fact:

That Prosecutor and Attorney did not provide contact info of defense witnesses 7-22-13 RP 248-249; ... That portion of video were cut out prosecution claims to burn another video to put in laptop. 7-22-13 RP 265

That Megan inslee file was missing info prosecutor claims that's all he has 7-22-13 RP 266

That Prosecutor admit document were probably never seen by Mr. Afeworki

That Mr. Afeworki attempts to show the court portions that are missing from discovery Court refuses to see the discovery violation 7-22-13 RP 267

Mr. Afeworki requests pictures to be provided to him from Prosecutor The court refuses discovery request 7-22-13 RP 268-270

That C.S.I pictures were INTENTIONALLY blacked out. Mr. Afeworki demands better quality pictures to see what is depicted. 7-22-13 RP 285

Prosecutor claims his C.S.I pictures are of the same quality. 7-22-13 RP 95

That prosecutor lied about not having better quality C.S.I pictures and was forced to give better quality pictures of C.S.I because of Mr. Afeworki's complaint 7-23-13 RP 75.

~~The state does not address the fact:~~

That Mr. Afeworki requested to bring laptop that contains discovery provided by Prosecutor, from jail to court to show discovery violation and put on record what it is missing. But the court refused his request 7-23-13 RP 76-78.

That Mr. Afeworki was given late mound of discovery at court in the middle of trial 7-24-13 RP 69-70

That The judge refused time to prepare even with the late discovery 7-24-13 RP 73-74.

That Prosecutor was with holding snippets of interrogation room video 7-24-13 RP 9. Interrogation video was also Adulterated & Altered.

~~The state does not address nor deny the fact:~~

That Prosecutor was providing transcripts with missing portions causing pages to be off intentionally 7-25-13 RP 50-56. (There is no real way to know what those missing portions contain)

That Prosecutor was with holding chain of custody information despite the fact Mr. Afeworki was asking for it after catching a falsified testimony of Detective Kaurin about chain of custody of Coat 7-30-13 RP 28.

That Prosecutor with held Kathy Giel notes despite Mr. Afeworki request for all notes. Prosecutor waited till in the middle of Kathy Giel's testimony to introduce notes to exhibit Mr. Afeworki objects because he was not provided this information nor had time to review them for defense. The judge still admits them without providing Mr. Afeworki a copy of notes 8-1-13 RP 40-41.

All these facts were not addressed by the state because they show a total disregard to discovery rule, Brady rule, and ABA standards et al and deprived Mr. Afeworki material to prepare for defense. Prosecutor & Judge Impeded upon Mr. Afeworki's right to material and deprived him of defense of his choosing, denying him a fair trial.

Instead state in its response page #17 attempts to confuse this court by misrepresenting an issue quoting a select line 15 RP 23-24.

Mr. Afeworki's "I don't got time for that shit" comment 7-29-13 RP 24.

Mr. Afeworki was referring to pictures 5880, 5882, 5885. That Mr. Abumal

asked Prosecutor to pull them up on the T.V. in the same fashion that Prosecutor does for prosecution exhibits. Prosecutor controlled the images coming on the screen and Mr. Afeworki is not allowed C.O.'s nor control of images. But prosecutor again intentionally does not have C.O. containing C.S.I. picture "I don't have that C.O. with me" 7-29-13 RP 24 causing Mr. Afeworki to dig through the Mountain of discovery that he was given in the middle of trial. 7-24-13 RP 69-70. that Mr. Afeworki carried in a big box to and forth from Jail to court in chains and shackles. Mr. Afeworki seeing prosecutor's constant tactics of empedement stated "I don't have time for this shit" digs out the pictures needed and they became exhibit 102, 103, 104 at trial see 7-29-13 RP 25.

This court should also know prosecutor was intentionally not bringing C.O. of footage's needed for Defense. threw out the whole trial causing delays. 7-29-13 RP 25-32 7-30-13 RP 72-73. Prosecutor controlled the C.O.'s and discovering Mr. Afeworki could not have C.O.'s. every thing Prosecutor provided was given to Mrs. Timmon whom loaded it to laptop and Mr. Afeworki was subjected to using laptop at jail during certain times. Mr. Afeworki could not bring laptop to court nor control his own discovery see 7-22-13 RP 224-225, RP 267-270. 7-23-13 RP 76-78.

So here The state initi's response attempts to confuse the fact by misrepresentations but the above evidence - exposes the truth Prosecutor & Judge were impeding in Mr. Afeworki's access to material and denying him a fair trial.

ii) The destruction of evidence violated Mr. Afeworki right to fair trial prejudicing his defense indefinitely.

The issue is there overwhelming report's of white object 4-15-13 RP 152 7-30-13 RP 157 CP3, ... But as the store Clerk testified he did not see Mr. Afeworki with a white object of any kind. 7-29-13 RP 49-50. But officer Abud George was put on the stand after other officer's testimony claiming he seen white bag 8/1/13 RP 97. contradicted by officer Eastman who testified he seen both hands of Mr. Afeworki nothing was in hands. 8-1-13 RP 84.

Prosecutor then uses testimonial interferences to present to jury what towel could contain 8-1-13 RP 152-153. Then uses testimony at closing argument to paint picture of something lost "Blow-Back" 8-7-13 RP 67. Police were in possession if indeed there was a white object state v. Hall, 22 Wash App. 862, 866-67, 593 P.2d 544, 552 (1979) some tests could have been ran to see who it belong to or where it came from. if there was even a white towel, ran it was lost do to police malfeasance.

The State in response page 18, misrepresents what store employee testified to. Claiming store employee just said there were cameras. The store employee testified there were cameras and that they carry footage's 7-29-13 RP 52

Detective Moss claims to go around area to get footage's from cameras around on Oct. 27-10, per detective Steiger's order, but there is no report written about this form. Detective Moss shockingly Det Moss does not know who Earl Hart is (Earl Hart is the custodian of the cameras around the area of restaurant) 8-1-13 RP 131-133, RP 137.

The fact that Det Moss did not write a report is suspicious enough, and shows if he did go to restaurant and altered, destroyed anything it would not be reported, and no one would know. Mr. Afeworki has checked every report provided to him there exists no report that Det Moss went to restaurant to check for footage. Detective Steiger also never reports he directed Det Moss, to retrieve footage!!

~~Restaurant video can show what truly took place, what officer yekel bathroom checked and cleared, where the objects laying around came from, who was planting evidence what officers were doing inside, what Mr. Afeworki looked like entering restaurant. See S.A.C. Brief page for details~~

~~The car where detective Steiger mugged racial slurs and threatens to frame Mr. Afeworki 8/6/13 RP 84, is missing. Detective Steiger would of course claim the car does not have video & audio capabilities. Detective Steiger ordered all the video to be brought to him 4-15-13 RP 73, 7-23-13 RP 132, & 7-25-13 RP 66-67. Prosecutor did not provide this car #. Mr. Afeworki can not produce this video nor any video. Prosecutor and S.P.D control all the video's and information. This car video was destroyed because of what it contained. This has been common practice in S.P.D or Tracy Veddor for Komo 4 news reveals. see Appendix D.~~

The Newly discovered evidence now in exhibit room sub # 243, this is a pending 3 motion currently in Superior Court. Here the state in response page 19, is asking a court to essentially compare sub # 243 to exhibit 114. This is a classic lay for cover up to ensure Prosecutor gets away with altering evidence. exhibit 114 was not offered at trial, please exhibit 114 is officer Cross video see Appendix E, and during trial The laptop containing discovery Prosecution juve, exhibit 114 officer cross's video did not containing nothing else but officer cross's video. So the question honestly asked here who altered Cross's video contain more than cross's video?!!

Mr. Afeworki during trial requested to begin in lab to in chamber.

Brady and Discovery rule violation, the court refused him to bring lab top from jail. Mr. Afeworki explained to the court that he seen the full version while he had Attorney but since he is without counsel prosecutor has intentionally cut altered the video (Dieder's car video). Mr. Afeworki explained he need it for his defense. 7-29-13 RP 6-7

The next day Prosecutor states "It's true that half way through the miranda warning the video cuts off". "I checked what I had been sent from the Seattle Police Department. I checked my back up file it does stop in mid sentence". 7-30-13 RP 25. Detective Steiger also agrees that's all there is, then prosecutor go's to say "it's not unusual to get in car video that are not complete for what ever reason." 7-30-13 RP 25-26. see S.A.C. page 32 for details

if court can't deny Prosecutor's words, sub #243 should be compared to Prosecutor's words above. The video found by Mr. Afeworki's family does not stop in mid sentence of Miranda warning, elaborate Mr. Afeworki's testimony and refuts officer's see S.A.C. 32-33 for details.

for the state Deborah A. Brewer, to now say exhibit 114 officer cross video is identical to video found by Mr. Afeworki's family is shocking and exposes a sinister plot to cover up what happened at trial. As the prosecutor states he checked there's nothing else Mr. Afeworki searched in lab top nothing. Now 2 years after trial only after Mr. Afeworki family finds video and a 78 motion is filed state is attempting to claim a video exhibit 114 officer cross's car video that only contained officer cross's video during trial contains identical video as Newly-discovered evidence sub #243. This go's to show how out of control the systemic problem has become.

If it was there then the video prosecutor provided in lab top of officer cross's in car video must have been equally altered.

This Alteration of video go's to Mr. Afeworki's Theory that indeed video was being altered by Detective Steiger & Prosecutor & S.P.D. bleeding into all the other audio and missing video's see S.A.C. Brief 32-35 for details

this is not just a Brady violation it's a criminal act. From his own admission Detective Steiger ordered video to be brought to him 4-15-13 RP 73. 7-24-13 RP 139 7-25-13 RP 66-67. If this court connects the dots it's clear Detective Steiger is a criminal.

Mr. Afeworki made specific Reques S.A.C. Brief page 35. No denying this fact we state neglects the fact Mr. Afeworki detailed all prejudice suffered and explained how evidence undermined Prosecutor's case, causing Prosecutor to hide evidence see S.A.C. Brief 25-38. The Authorities cited in S.A.C. Brief page 25-38, are enough for this court to dismiss for this Brady violation's and criminal act. Mr. Afeworki as shown how outcome of trial was effected, and that there is no curing the

the prejudicial effect because the missing evidence needed would equally be unavailable this court should dismiss or at the very least grant a new trial suppressing said evidence in S.A.G. Brief page 25-38. There is no exhibit room logs signatures of check in or check out.

1) Detective Steiger Tamper's witness S.A.G. Brief page 38-41

Yes the same Detective Steiger who was discussed Above in Brady issue!! The state in response page 21 claims Mr. Afeworki did not point to specific show of change in Gebra's testimony after Steiger Tamper's with his testimony state must at not read S.A.G. Brief page 39. Mr. Afeworki pointed out how Gebra's starts avoiding questions and starts babbling about "mix deceased friend" "night mare" 7-29-13 RP 160. after Detective Steiger Tamper's and coaches him.

But the shocking part is detective Steiger is a witness he was not suppose to be Craving any where with another witness. The Detective lied to the court claiming prosecutor asked him to escort Gebra. Prosecutor stated something to the effect "what are you doing man that's not right". though both is in transcript this was completly by the Judge and Mr. Afeworki to which Mr. Afeworki directs his question to prosecutor: "You know could we have Ros. we are not talking something about paralyzing and him outside" to which Judge hurriedly cuts Mr. Afeworki off "no sir" 7-29-13 RP 159. while prosecutor does not say anything nor does he vouch for Detective Steiger. There is nowhere on the record where Detective was instructed to do anything. But it is on the record Detective Steiger stating he did not talk to Mr. Gebra just walked him out. 7-29-13 RP 158-159.

But the next day Mr. Gebra recalls detective Steiger was talking to him. 7-30-13 RP 30. now connect that with the fact Gebra changes his testimony after detective Tamper's coaches his testimony "deceased friend" "night mare" "mix" 7-29-13 RP 160. It's easy to see what happened here this court should be offended what this detetive has done is criminal R.C.W 9A 72.150, Title 18 U.S.C.A sect 1512. All the facts, argument and Authorities in S.A.G. Brief page 38-41 should be more than enough for this court to dismiss or at the very least suppress said evidence and barr Detective Steiger and Helium Gebra from testifying.

i. Prosecutor Endorses falsified Certification for determination of Probable Cause: S.A.G. Brief Page 41-43.

The state in it's response page's 21-22. Does not deny the merit of this issue but rather wants this court to overlook the fact prosecutor and Detective Kasper committed a Federal crime see title 18 U.S.C.A section 1001 and state crime see.

R. CW 2.48.180 and R. CW 2.1.20.40... The state is asking this court to consider this under the guise of Gesteira v. Pugh, 420 U.S. 103, 119, 95 S. Ct. 354, 43 L. Ed. 2d 54 (1975)... But issue is not information. It's the fact Mr. Afeworki was illegally put in jail by this falsified document that was presented as truth hood when Prosecutor knew it was falsified - Hervey v. Estes 65 F3d 394-399 (9th Cir 1995)

This is a unique issue because there is no grand Jury in Washington state. Detective's Words in Certification for Determination of Probable Cause signed under penalty of perjury substitutes a grand jury. Here Certification is falsified. The Detective who committed perjury his self in Certification. perjured his self on the stand, see 4.16.13 RP 78. 7-24.13 RP 34. as to chain of custody information. Mr. Afeworki was illegally detained under states argument there would be a green light for Detective's to commit a federal and state crime, illegally instate citizen's and get away with it. The detective whom falsified this very important document, collected evidence, committed perjury on the stand with the prosecutor's help. see S.A.G Brief 41-43. for details the evidence this Detective handled falls under the fruits of poisonous tree doctrine State v. Cairn 154 Wash 2d 711 716-17 141 P.3d 993 (2005).

Here the state doesn't even attempt to contest the facts certification written by detective Kasin is contradicted by officer's report's and eye witness account see S.A.G Brief 41-43. Prosecutor has a duty to protect the citizenary. Prosecutor has a duty to correct false facts and statements. Mr. Afeworki's 1st 5th 14 us constitutional amendment right are violated. this court should dismiss to send a clear message or at the very least grant a new trial with the suppression of all evidence handled by this Detective. The Authorities cited in S.A.G Brief 41-43 should be more than enough to justify this court's decision. see fact's and arguments also S.A.G Brief 41-43

(b) Prosecutorial Misconduct Use of false testimony S.A.G Brief 43-47

(A) Prosecutor uses Nielom Gebro's false testimony knowingly and misrepresents the facts facts to jury to deprive Mr. Afeworki of a fair trial S.A.G Brief 43-45

In states response page 22-23. State misrepresents what the issue is and attempts to confuse this court by pointing to testimony of Megan arguing Prosecutor can pull reasonable inference from the evidence.

The truth of the facts and Authorities show that prosecutor cannot use lies known lies, or use false evidence to get a conviction. see Miller v. Pate, 386 U.S. 17 (1967), Napue v. Illinois, 360 U.S. 264, 269 79 S. Ct. 1173, 31 Ed. 2d 1217 (1959) U.S. v. Ca page 231 F.3d 483, 491 (9th Cir 2000)

Prosecutor Donald Naz knew Mr. Dima's testimony was false because prosecutor accused the M.D. Dima is the M.D. Gebro gave information too

and even states "he is the M.I.D." 4-16-13 RP 47.

It does not matter if Detective Magan testified other M.I.D. were around. Prosecutor stated in pretrial that Mr. Dima is who Mr. Gebra provided information to. But at trial Mr. Dima reveals he was not provided any information on whom to follow. 7-30-13 RP 156.

and Mr. Gebra claimed he did provide information to M.I.D. 7-29-13 RP 139 & 7-29-13 RP 161.

Mr. Afeworki rightly pointed out this lie based on Prosecutor's assertion Mr. Gebra provided information on who to follow, to Mr. Dima (M.I.D.) 4-16-13 RP 47.

But prosecutor instead of correcting Mr. Gebra's covers for Mr. Gebra and argues to hide the facts from the jury knowingly.

This is the issue. This deprived Mr. Afeworki of a fair trial. This violated Mr. Afeworki's 5th, 14th US constitutional amendment rights.

Nagel applies when even a prosecutor knows or should have known that testimony was false. Haney v. Brown, 399 F.3d 972, 974 (9th Cir 2005).

Here prosecutor knew it was false, and argued to jury confusing facts with lies. Prosecutor violated title 18 U.S.C. Section 1001, R.F.C. 3.3(c)(1) & 3.4(c).

The fact presented on S.A.G. Brief page 43-49 should be more than enough to dismiss or at the very least grant a new trial with the suppression of Mr. Gebra's testimony.

(B) State acts in concert to produce falsified testimony with detective Steiger. S.A.G. Brief page 45-47.

The state again does not address the issue, it walks around the fact cherry picking what to argue about.

The issue presented is, James Bible argued to the court that this is a unique case due to "remarkable inconsistencies" & "C.S.T." "were never informed the gun had previously been found" and that lead detectives another state witness

would listen to testimony and get up to clean up with explanations. James Bible asked the court essentially for the detective sitting with prosecutor to go first see 4-11-13 RP 59-62 and S.A.G. Brief page 45 for details.

Prosecutor switch which lead detective he wanted with him 7-16-13 RP.

Prosecutor puts this detective Steiger (same detective whom tampered with witness, whom agreed order video cut's off in middle of Miranda, whom ordered all video to be brought to him, whom threatened to frame Mr. Afeworki, and used racial slur towards Mr. Afeworki.)

Detective Steiger takes the stand to explain about issue presented with Detective

Kasner, explains about gunshells and possibility's of why they are missing
7-24-13 RP 136-137, 7-25-13 RP 36. see S.A.C Brief page 45 for details.

(Note Detective Steiger retook the stand after another state witness on 7-25-13.)

(After hearing)

Mr. Afeworki points out for court record prosecutor and detective conspire
and whispering. 7-25-13 RP 38.

Mr. Afeworki raises issues and raises hair raising questions about evidence
and missing evidence through testimony of witnesses. 8-1-13 RP 100-101

8-1-13 RP 131, RP 136-137, § 140. see S.A.C Brief page 46 for details.

Prosecutor does exactly what James Bible warned the court would happen
on 4-11-13 59-62.

Prosecutor calls back detective Steiger. Detective Steiger after hearing
all the testimony of others. Now has a different explanation of how
gun shells, Explains about "Blow back" blood splatter gun residue.

(Note: Mr. Afeworki was stopped by court from raising issues of blood
splatter and gun residue. 7-24-13 RP 107-111. because of prosecutory objection
now prosecutor is putting a witness whom listen to inconsistencies and
flaws of the case to clean up.)

has explanation of missing evidence, and claims he compared time of video

with dash cam. see 8-1-13 RP 151-155. (Note: there exists no record of any
reports that says Detective Steiger compared the time of video 1 to dash cam.)

See S.A.C Brief page 45-46 for details.

The facts are clear prosecutor conspired with detective Steiger to produced desired
false evidence only to clean up flaws in states case, detective Steiger should of
never been allowed to testify, listen to other witnesses and clean up.

Mr. Afeworki points this fact to the court 8-1-13 RP 166-167. Mr. Afeworki also renewed
all previous motions and objections. 8-7-13 RP 96. Court could have cured the issues's

Prosecutor here build its case by calling and recalling a witness. *Nannet v. United States*

373 U.S. 174 186. 83 S.Ct. 1151. 10 L.Ed. 2d 278 (1963) used Detective Steiger to get desired
testimony. *Locken v. United States*, 383 F.2d 340 (9th Cir. 1967)

Here the facts are clear, this court can't deny what the evidence from the record
show prosecutor presented falsified testimony, conspired to produce desired testimony.

The facts show Mr. Afeworki's 5th § 14th is constitutional amendment rights.

The facts and Authorities presented in S.A.C Brief pages 43-47 is more than enough

for this court to dismiss or grant a new trial Bar Detective Steiger from testifying

(assign a different prosecutor and Judge that will not impede upon Mr. Afeworki
due-process right, commit criminal crime, and that will provide a fair trial as

the constitution of U.S. demands them to.

Combined effect:

Facts, arguments & Authorities in S.A.G. brief 1-50 make overwhelmingly clear the not only when viewed as single issues does Mr. Afeworki suffer constitutional deprivation and prejudice, but also when viewed as a whole the combined effect denied a fair trial, caused prejudice and Mr. Afeworki was discriminated against. This court should dismiss or grant a new trial with the suppression of said evidence in S.A.G. brief page 1-50:

1) Ineffective Assistance of Counsel. S.A.G. Brief page 46-50

Again to this issue the state attempts to confuse this court to the issue and quotes what judge says, and misrepresents what doctor letter reveals see state response 25-28.

First This court should be well aware that state's assertion in response that command "choppiness" is, do to command being motion activated and stops recording when nothing is happening (see page 23 of state's response) Is not the truth. There were fast forwardings, pauses, skips, erratic, that even prosecutor admits to see 8-7-13 RP 9, RP 13. ~~Even when people are moving - even when there is visible motion~~ Something ~~was~~ someone created the problems with camera!!

The issue here is Anthony Savage was hired by Mr. Afeworki in mid February 2011. Anthony Savage knew he was diagnosed with an illness that prevented advice of litigation. In fact a doctor's letter that was kept away from Mr. Afeworki by Anthony Savage, prosecutor and Judge Kessler, revealed at March 29, 2011 a doctor wrote a letter saying "it's unrealistic for him to think he will be able to conduct litigation at any major trial between now and at least June 2011" see CP 342. The other letter reveals he knew since February 2011 see CP 341 and should stop for the good of his clients see CP 341.

But none of this information was provided to Mr. Afeworki. Anthony Savage did not discuss any aspect of the case with Mr. Afeworki, nor inform Mr. Afeworki of any developments in the case. Anthony Savage did not even investigate the case, nor hire investigator. Instead Anthony Savage was in secret emails with prosecutor. Email telling prosecutor that Anthony Savage will discuss with Mr. Afeworki about prolixity N.A.A. (Email even reveals that both prosecutor lied to court about reason for continuance - This email was exhibit 2 of declaration September 30, 2011 8:15 Am. from Donald Raj to Anthony Savage; see 343. The email was supposed to be right after exhibit cover like Mr. Afeworki provided for doctor letter's and other exhibits. see CP 340 - 345 all have cover exhibit sheet. Some one went through and extracted exhibit 2 Sept 30th 2011 8:15 Am email.) Anthony Savage write "Mr. Afeworki will not be hiring" CP 345. Not "Defense" as state claims in response. Mr. Afeworki was not informed nor

know any thing that was happening. Anthony Savage took Mr. Afeworki money did not work on the case, did not investigate the case

Anthony Savage acts violated R.P.C. 1.4(c)(1)(2)(3)(4) & (b)

His performance was below deficient, his performance did not exist. He did not perform any task.

Because Anthony Savage did not do any investigating, nor discuss any aspects of the case with Mr. Afeworki, and lied about "Mr. Afeworki will not be hiring expert CP 345" in secret emails; and withdrew pocketing Mr. Afeworki's family's hard earned money (October 4th 2011 hearing transcripts are missing Mr. Afeworki currently has a pending motion for video & audio to retrieve October 4th 2011 hearing.)

Prejudice suffered:

1) Due to Anthony Savage's not conducting a reasonable investigation he allowed potentially exculpatory evidence to vanish.

A) Hard drive's that show true and accurate depiction of what transpired with out skips, fastforwarding, pause & gaps in footages could have been secured.

B) If Anthony Savage would have discussed with Mr. Afeworki aspects of case, and learned information that caused prosecutor to recall gun could have been rubbed on Kiplom Gebra's coat 8/2/13 RP 74 and facts of officer's whom had contact with Mr. Afeworki also had some sort of contact with gun but failed to mention it in their reports 4-11-13 RP 59-61 CP 97-99

But Anthony Savage did not inform Mr. Afeworki nor investigate causing D.N.A to be consumed. D.N.A that could reveal a full match to others if tested against others in light of all the information later discovered through investigation of case, after Anthony Savage withdrew. This is not about "trial strategy" there was no trial strategy. There was no investigation as to foundation for trial strategy. Denied. Based on the facts, arguments and Authorities stated here in and S.A.G Brief page's 46-50. This court should dismiss or suppress said evidence in S.A.G and remand.

Conclusion:

For all of the foregoing Reason and for the reasons set forth in S.A.G Brief page 1-50 Mr. Afeworki respectfully requests this court to dismiss all charges or suppress all said evidence and grant a new trial, also grant Evendentary hearing requested 10-17-13 RP 257-25

Submitted this 10th day of April 2015


Thomas Afeworki

APPENDIX :

A

**State of Washington v Tomas Afeworki
King County Cause No. 10-1-09267-2**

Date: 4-18-2013

Judge: Laura Gene Middaugh
Bailiff: Gabrielle Jacobsen
Court Clerk: Dawn Tubbs
Reporter: Dolores Rawlins

Continued from: 4-17-2013

MINUTE ENTRY

Defendant and Respective Counsel Present;

Court hears further argument and inquires of counsel

Court inquires of counsel Bible as to stand-by status in the event the defendant becomes so disruptive that he must be removed from the Courtroom. Counsel does not believe he can remain in that position and the State would oppose such

Court inquires of the defendant and the defendant responds that he understands he may be removed from the courtroom if disruptive and the Court will not grant any further request for appointment of counsel

Court finds the defendant has knowingly, voluntarily waived his right to counsel and the motion to proceed Pro Se is granted

Counsel Bible will ensure the defendant receives any remaining discovery and notes re potential witness questions etc.

State provides the defendant with complete discovery

At the direction of the Court, the State will provide an unredacted list of phone numbers taken from the defendant's phone

Copy of the pretrial exhibit list is provided to State and defendant

Order allowing withdrawal of counsel is signed, filed

DPA Balin addresses the Court re jail process, resources and supplies for pro se inmates,

**State of Washington v Tomas Afeworki
King County Cause No. 10-1-09267-2**

DPA Balin and Sgt Ingersoll address courtroom security, restraints

Court recognizes the security concerns represented by DAJD and will require the use of the "band-it" restraint system

Discussion re use of E942 for jury selection

Court reviews order on courtroom conduct with defendant and counsel

Cause continued to 7-22-13 at 9:00 a.m. in E 942

APPENDIX:

B

Electronic Court Records

Case Selection Report Problems Security Login Help

Dept. of Judicial Administration, Office of the Superior Court Clerk's Office

Select Another Case

07-1-01975-4 # 10-1-09267-2

Case Number: 10-1-09267-2 SEA

Case Title: STATE OF WASHINGTON VS AFEWORKI, TOMAS SOLOMON AKA

Save Preferences

Activity Log

All

Clear All

<input type="checkbox"/>	1	10-28-2010	INFORMATION	6
<input type="checkbox"/>	2	10-28-2010	ORDER FOR WARRANT \$2,500,000	3
<input type="checkbox"/>	3	10-29-2010	NOT OF APPEAR AND REQ FOR DISCOVERY	1
<input type="checkbox"/>	4	11-09-2010	SHERIFF'S RETURN ON WARRANT OF ARREST	3
<input type="checkbox"/>	5	11-10-2010	NOTICE OF SCHEDULING	1
<input type="checkbox"/>	6	11-10-2010	INITIAL ARRAIGNMENT	1
<input type="checkbox"/>	7	11-10-2010	NOTICE /VIENNA CONVENTION	2
<input type="checkbox"/>	7A	11-22-2010	DISPOSITION REPORT RCV'D	1
<input type="checkbox"/>	8	11-29-2010	ORDER SETTING STATUS CONFERENCE	2
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<input type="checkbox"/>	21	03-07-2011	AGRD ORD AUTH DEF POSSESS REDACTED PORTIONS OF DISCOVERY 2	
<input type="checkbox"/>	22	03-14-2011	OMNIBUS APPLICATION OF PROS ATTY	2
<input type="checkbox"/>	23	03-16-2011	RETURN OF SERVICE	33
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<input type="checkbox"/>	41	11-02-2011	DECLARATION OF NICHOLAS MARCHI	6
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<input type="checkbox"/>	120	04-11-2013	RESPONSE /STATE	28
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<input type="checkbox"/>	121	04-15-2013	ORDER AUTHORIZING CLOTHES/HAIRCUT	1
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<input type="checkbox"/>	123	04-15-2013	LETTER /DEF	2
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APPENDIX:

C

See Docket: February 24th 2015
ruling - under 70762-11 - denying motion to
modify

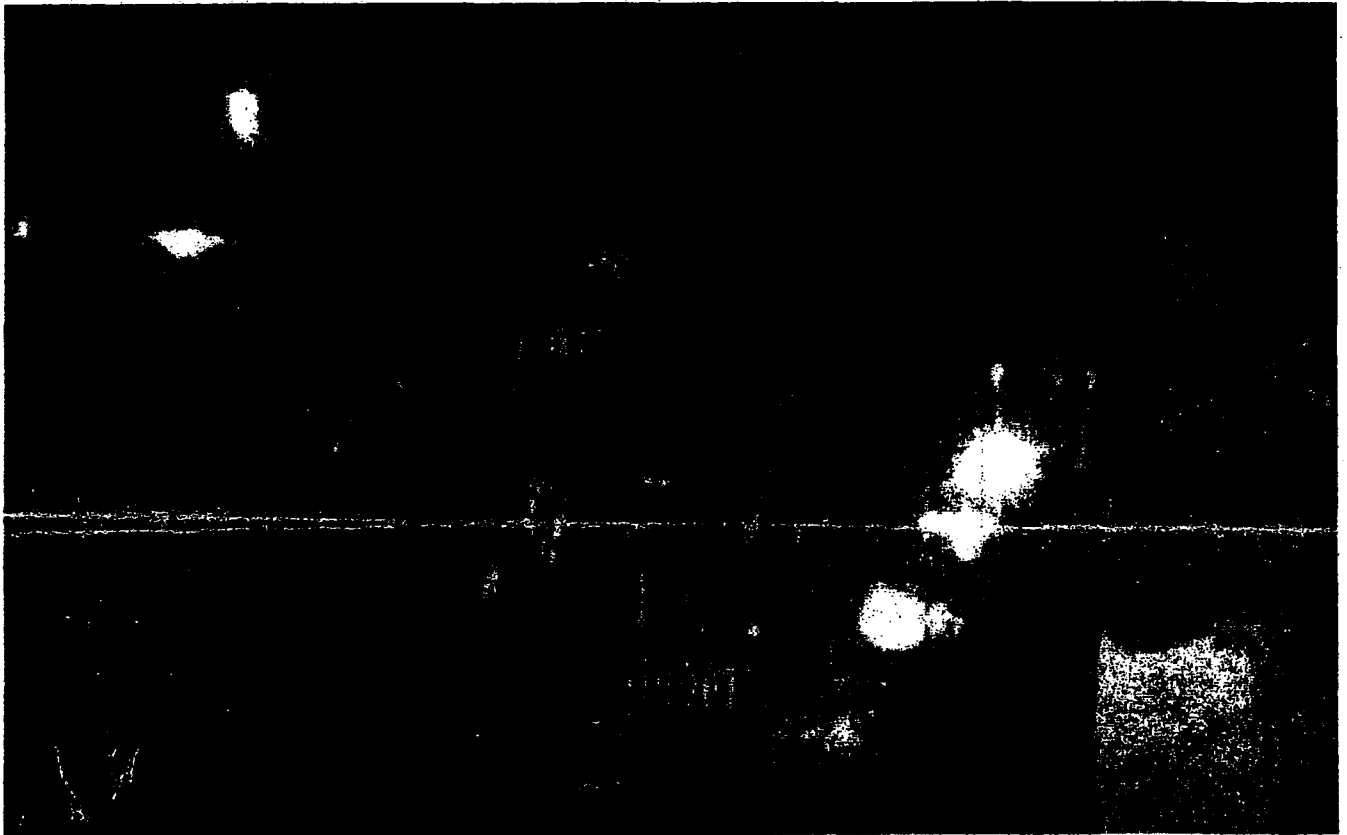
APPENDIX:

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<http://www.komonews.com/news/local/Officer-threatens-to-make-up-evidence-after-arrest-of-innocent-men-139266773.html>

By Tracy VedderPublished: Feb 14, 2012 at 12:18 AM PDT Last Updated: Feb 14, 2012 at 2:39 PM PDT

Officer threatens to make up evidence after arrest of innocent men



Play Video

Related Content

SEATTLE -- A Seattle police officer has been caught on tape talking about "making up" evidence while two wrongly arrested men sit in jail. It's the latest shocker uncovered by a KOMO 4 Problem Solver investigation into the Seattle Police Department's vanishing dashcam videos.

Josh Lawson and Christopher Franklin filed a claim against the city Monday for excessive force and wrongful arrest.

The two were arrested at gunpoint on November 16, 2010 and said the incident changed their lives forever.

"I thought I was gonna die," Lawson said about that night.

Franklin said it was "the most terrifying thing I've ever experienced."

into the pavement while being arrested. But then listen to what an officer says on an audio recording after he takes the two to holding cells: "Well, you're going to jail for robbery that's all."

You then hear Franklin ask, "for robbery?" And the officer responds, "Yeah, I'm gonna make stuff up."

Franklin believed him.

"He showed me that he has the power to do whatever he wanted that night," he said. "He has a badge, and all we can do is nothing."

We watched the partial video of their arrest together with Lawson and Franklin. Neither man has a criminal record and they were not charged with anything after the arrest. They both work full-time and go to school. But the night of their arrest they were in the neighborhood near Seattle Center, several blocks away from where an assault was reported.

In a 911 call, a witness described those assailants: "It was two tall, skinny African Americans."

Lawson is six feet tall, and Franklin is just five feet nine inches tall.

The person who called 911 to report the attack told a dispatcher the assailants "were both wearing jeans."

But in police booking photos Lawson is wearing white sweat pants.

A booking photo shows that Franklin's jeans are allowed to fall to his knees after his shoes are taken away, and at the scene an officer pulls Franklin's hood up over his head.

"I felt like he was making me look like the part," Franklin said.

"These guys are guilty of being black in Seattle," said attorney Lizanne Padula, who represents Lawson and Franklin. She believes if they'd been white "I think the most that would have happened with those kids police officer would have rolled down his window and said, 'hey, were you guys over in this area?'"

But Officer Brad Richardson, the arresting officer, never questions the two about an assault. Instead, Richardson makes what's called a felony stop, taking cover behind his car door with his gun drawn.

In a "Use of Force" report filled out after the arrest, Richardson wrote, "both males ignored his commands to stop and continued walking right toward him."

Franklin and Lawson say that's crazy – that there's no way they'd keep walking toward a cop who had a drawn gun.

"We got on the ground and we froze," Franklin said.

Lawson said he was terrified. "I thought I was gonna be murdered in cold blood."

We showed Seattle Police Sergeant Sean Whitcomb the arrest video, and he admits the 'make stuff up' comment was inappropriate. But he says the department's Office of Professional Accountability investigated the complaint and exonerated the officer.

"I can tell you we take (complaints) seriously but people have to believe that and they have to trust the system they have to trust the process," Whitcomb said.

Another problem: none of the arrest is caught on tape – only the aftermath, once the two are on the ground in handcuffs, with Lawson's angry questions of why Officer Richardson kicked him in the face, which Richardson disputes saying he only "kicked him in the chest."

For more than a year the KOMO 4 Problem Solvers fought to get access to the Seattle Police Department's video database, knowing that dash cam videos could play a critical role in citizen oversight of the troubled department. We are now suing SPD for what we believe is a violation of the Public Records Act. Our investigation uncovered, among other things, that the department had lost tens of thousands of dash cam videos.

Attorney Padula contacted us, wondering if her clients were among that group.

"It wasn't really until I was able to communicate with you and your knowledge of what's out there and what the videos mean and your investigation that it was like 'oh, wait, there's not just one video that we don't get - there's more.'"

We discovered at least three other dash cam videos exist of the Lawson/Franklin arrest. But none show Officer Richardson during the critical time period, when he had Lawson and Franklin at gunpoint and later kicked Lawson.

We asked Whitcomb if the department was going to hold officers accountable when dashboard cameras aren't turned on.

"We do, we actually do, look at our OPA reports," Whitcomb said. But when we reminded him it didn't happen in this case, he said, "well maybe not in that case, but there's other cases."

Attorney Padula's take on the lack of dash cam video? "I think it's reprehensible, to me there's no excuse for that."

We've learned that the arrest video could have been salvaged from the hard drive in Officer Richardson's dash cam system, but wasn't.

Tuesday afternoon, the Seattle Police Department released a statement in response to our story.

Meanwhile, we continue our investigation into SPD's "Vanishing Videos" Tuesday with another distressing case where police had a potentially dangerous suspect holed up, but decided to walk away.

APPENDIX:

E

Page 8 of 8 exhibit 114 cross cardash
direct video: List of trial exhibits

4

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CASE NUMBER: 10-1-09267-2 SEA

TRIAL
LIST OF EXHIBITS
(EXLST)

CAUSE NO. 10-1-09267-2 sea

CAPTION:

State of Washington

Plaintiff

vs.

Tomas Solomon Afeworki

Defendant

LEGEND:

Π= Plaintiff/Petitioner
Δ= Defendant/Respondent
A = Admitted
AN = Admitted but not to go to jury
R = Refused
Re-O&A = Re-offered and Admitted
ID = For Identification Only
Ret = Returned

CODES:

all exhibits were pre-marked. those shown as returned where not introduced at trial.

TRIAL

Exhibit List, Page 2 of 8

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	Π	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
1	X		(pretrial # 6) street diagram	A	7-24-13			
2	X		zaina restaurant diagram	A	7-25-13			
3	X		binder of photos/first responders	A	7-24-13			
4	X		powerpoint cd 2d and pike	AN	7-24-13			
5	X		binder of photos/zaina restaurant	A	7-25-13			
6	X		power point cd, zaina photos	AN	7-25-13			
7	X		binder of photos/ crime scene investigation unit	A	7-25-13			
8	X		powerpoint cd csi	AN	7-25-13			
9	X		(pretrial # 14) in-life photos of michael yohannes	A	7-29-13			
10	X		dvd 2 nd and pike	A	8-1-13			
11	X		(pretrial # 18) dvd surveillance camera 1	A	8-1-13			
12	X		evidence envelope containing DNA swabs	A	7-24-13			
13	X		(pretrial # 11) spd brown paper bag w/pants, shirt, belt	A	7-24-13			
14	X		(pretrial # 12) spd brown paper bag w/brown/green plaid jacket	A	7-24-13			
15	X		spd brown paper bag w/gray fila shoes	A	7-24-13			
16	X		driver's license of michael yohannes	R	7-24-13			
17	X		brown paper envelope w/black ski mask	A	7-29-13			
18	X		box w/helwan ARE handgun with magazine, cartridges and manilla envelope	A	7-29-13			

TRIAL

Exhibit List, Page 3 of 8

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	II	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
19	X		spd evidence envelope w/3 9mm cartridges	A	7-29-13			
20	X		spd evidence envelope w/bullet from yohannes' head	A	7-25-13			
21	X		binder of photos of michael yohannes autopsy	A	7-25-13			
22	X		cd autopsy powerpoint	AN	7-25-13			
23	X		photo	A	8-1-13			
24	X		photo	A	8-1-13			
25	X		photo	A	8-1-13			
26	X		photo	A	8-1-13			
27	X		photo	A	8-1-13			
28	X		cad log 10-26-10					X
29	X		csi report kasner/steiger				X	
30	X		transcript of interview of det kasner					X
31	X		transcript of kasner's pretrial testimony					X
32	X		transcript of interview of det steiger					X
33	X		transcript of steiger's pretrial testimony				X	
34	X		spd hardcopy/snapshot det suguro offered by deft	R	7-29-13			X
35	X		transcript of interview of paul suguro					X
36	X		statement of det duty					X

TRIAL

Exhibit List, Page 4 of 8

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	Π	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
37	X		transcript of det duty interview					X
38	X		spd CSI report				X	
39	X		transcript of interview of sgt stampfl					X
40	X		transcript of interview of det haakenstad					X
41	X		statement det moss offered by deft	R	7-25-13			
42	X		transcript of interview of moss					X
43	X		transcript of moss pretrial testimony					X
44	X		transcript of interview of hidalgo-landeros				X	
45	X		transcript of interview of tina miller					X
46	X		statement of alan erhart, plymouth housing group					X
47	X		transcript of interview of erhart					X
48	X		autopsy report					X
49	X		transcript of interview of micheline lubin, kcme					X
50	X		statement sgt magan					X
51	X		transcript of interview of magan					X
52	X		spd statement off eastman				X	
53	X		transcript of interview of eastman					X
54	X		statement off didier					X

TRIAL

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	Π	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
55	X		transcript of interview of didier					X
56	X		narrative report off collier				X	
57	X		transcript of interview of off collier				X	
58	X		follow up report oshikawa-clay				X	
59	X		transcript of interview of oshikawa-clay				X	
60	X		transcript of oshikawa-clay pretrial testimony					X
61	X		report snapshot off girtch				X	
62	X		transcript of interview of girtch				X	
63	X		transcript of girtch pretrial testimony					X
64	X		statement off hoffman					X
65	X		transcript of interview of hoffman				X	
66	X		statement off abed					X
67	X		transcript of abed interview					X
68	X		statement off leavitt					X
69	X		transcript of interview of leavitt					X
70	X		transcript of 911 call					X
71	X		transcript of interview of natalia espaillat				X	
72	X		transcript of 911 call					X

TRIAL

Exhibit List, Page 6 of 8

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	Π	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
73	X		transcript of interview of elijah knight					X
74	X		transcript of knight pretrial testimony					X
75	X		transcript of spd interview of jeanmarie hayes					X
76	X		transcript of interview of hayes					X
77	X		transcript of pretrial testimony of hayes					X
78	X		statement form of mohammed dima				X	
79	X		transcript of interview of dima					X
80	X		statement form alvaro sotelo					X
81	X		transcript of interview of sotelo offered by deft	R	7-29-13			
82	X		statement form haylom gebra				X	
83	X		transcript of interview of gebra				X	
84	X		WSP crime lab report				X	
85	X		transcript of interview of geil					X
86	X		WSP crime lab report				X	
87	X		transcript of interview of insley					X
88	X		report of noedel 3-30-13					X
89	X		transcript of interview of noedel					X
90	X		CV geoffrey loftus					X

TRIAL

Exhibit List, Page 7 of 8

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	Π	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
91	X		transcript of interview of loftus				X	
92	X		evaluation report of sandor				X	
93	X		transcript of interview of sandor					X
94	X		transcript of examination of sandor					X
95	X		declaration of sandor				X	
96	X		(pretrial # 5) dvd of holding cell (offered by def)	A	7-24-13			
97		X	certificate of probable cause				X	
98		X	email	R	7-24-13			
99		X	news article	R	7-25-13			
100		X	komo report	R	7-25-13			
101	X		statement form of hewes					X
102		X	photo	A	7-29-13			
103		X	photo	A	7-29-13			
104		X	photo	A	7-29-13			
105		X	deft booking photo	A	7-29-13			
106	X		(pretrial # 9) dvd in car girtch	A	7-30-13			
107	X		dvd offered by defendant	R	7-30-13			
108		X	page 1 of State's response to motion to dismiss	R	7-30-13			

TRIAL

Exhibit List, Page 8 of 8

Cause No. 10-1-09267-2 sea

Caption: State of Washington Tomas Solomon Afeworki

No.	Π	Δ	Description	A AN R	Date	Re-O & A	I D	R e t
109		X	page two of suguro's report				X	
110		X	easel sheet	AN	7-31-13			
111	X		case notes (geil)				X	
112		X	email	R	8-1-13			
113		X	four pages emails				X	
114	X		dvd dash cam (cross)				X	
115		X	statement of probable cause/superform				X	
116		X	sandor notes				X	

DECLARATION

I, Tomas Afeworki, declare that on 4-19-15, I deposited the foregoing document(s),

1) APPELLANT'S REPLY TO STATE'S Response to "Defendants STATEMENT of Additional Grounds for Review" & Affidavit and Appendix A-E.
See: Docket for Appendix C.


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

• Prosecutor's office 516 Third Ave. Seattle Washington 98104

• The Court of Appeals Div 1 One Union Square, 600 University Street
Seattle, WASHINGTON 98101.

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 4-19-15

 #826367

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STATE OF WASHINGTON
2015 APR 23 AM 10:57

AFFIDAVIT

STATE OF WASHINGTON)

COUNTY OF

SS:

I Tomas Afewerki declare under penalty of perjury that the following statements within this Affidavit are true and correct to the best of my knowledge and has been executed on this 11th day of April 2015 at Walla Walla Washington, in the County of Walla Walla Washington.

During trial in King County Superior Court, Seattle Washington under Cause # 10-1-09267-2 SEA My Case's discorany was down loaded into lab top this discorany came from Prosecutor Donald Raz.

I notified the Court that portions of video's are missing. That video was altered intentionally by Prosecutor Donald Raz.

- Interrogation Room Video had missing portions.
- Car dash video where Miranda warning was being read, cut in the middle of miranda warning. This was Dieder car dash video. Prosecutor Donald Raz and Detective Steiger both claimed Dieder Car-dash video cuts mid sentence of miranda warning. That files were checked that's all there is.

- In the lab top there was officer Cross car dash video also. Officer Cross car dash video only contained officer Cross's car dash video only, nothing else.

This was exhibit 114 at trial see Appendix E, page 8 of 8 Attached. even in the exhibit list it states 114 "d x d dash cam (cross) see Appendix E, page 8 of 8

A fuller version of Dieder Car-dash video was found. Motion was filed in King County Superior Court. On 9-9-14 my sister Selamawit Afewerki hand delivered my CrR 7.8 motion with declaration and exhibits. Officer Dieder car dash video is exhibit 8. It was transferred to King County Superior Court exhibit Room Sub # 243.

On 9-19-14 King County Prosecutor's Office was also hand delivered the CrR 7.8 motion, declaration and exhibits.

This CrR 7.8 motion was in relation to Prosecutor Donald Raz and Detective cloyd Steiger committing fraud and tampering with needed evidence in order to deprive me a defense and a fair trial. The CrR 7.8 motion exposes the

fact that both Prosecutor Donald Ray and Detective Steiger were altering the evidence committing federal and state crimes.

On 3-24-15 state filed "STATE response to Defendants statement of Additional Grounds for Review" In page 19 of this response Prosecutor Deborah A. Dwyer WBA #18887 requests the Court of Appeals to compare Newly found Deeder car-dash sub #243 with exhibit 114 claiming they are identical.

This is shocking to me because as stated above exhibit 114 is cross dash cam video and during trial exhibit 114 cross's cardash video only contained officer Cross's video nothing more.

If it was suppose to contain more then Prosecutor Donald Ray and Chayd Steiger also altered the "OFFICER CROSS car-dash video" to deprive me of a fair trial.

On 3-30-15 I called Gregory C. Link from Appellat Project and told him that The states claim is false. That he (Gregory C. Link) should bring to the Court of Appeals Attention during the 4-13-15 oral arguments; that during trial I (Tomas S. Afewerki) was provided exhibited 114 officer Cross video in lab top and it only contained officer Cross's video nothing more. That the court of Appeals should not compare video provided by state because it is questionable.

That The Court of Appeals should compare Prosecutor Donald Ray and Detective Steiger's words spoken 7-30-13 RP 25-26 with sub #243 Newly found Deeder Video.

Gregory C. Link refused to bring this fact and correct the nefarious acts taking place.

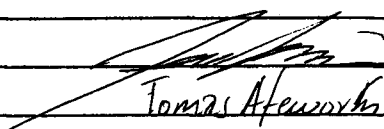
Gregory C. Link made it clear he will not do anything else nor argue the constitutional violation, nor prevent misrepresentation, nor ask for evidentiary hearing, nor correct false facts, and will not Argue Brady Violation, despite the fact a Brady Violation was committed intentionally.

Having no other choice I decided to reply to states response with this reply and Affidavit under R.A.P 10.2 (D). To inform the Courts of the fact.

Affidavit pursuant to 28 U.S.C 1746

Dickerson v. Wainwright, 626 F.2d 1180 (1980)

Affidavit sworn as true and correct under penalty of perjury and has full force of law does not have to be verified by Notary Public.



Tomas Afewerki