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COURT OF APPEALS

NO. 46919-7-II

No. 74136-5

IN THE SUPREME COURT  
OF WASHINGTON

Received  
Washington State Supreme Court

MAR 14 2016

Ronald R. Carpenter  
Clerk

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STATE OF WASHINGTON

Respondent,

v.

AKEEM HENDERSON

Appellant,

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E FILED

MAR 22 2016

WASHINGTON STATE  
SUPREME COURT

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ON APPEAL FROM SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR PIERCE COUNTY

Cause No. 14-1-00930-7

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REQUEST FOR STATEMENT OF ADDITIONAL GROUNDS

PURSUANT TO RAP 10.10

ON PETITION OF REVIEW

PURSUANT TO RAP 13.4

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Akeem Henderson

DOC 854980, GA-22

Coyote Ridge Corrections Center

P.O BOX 769

Connell, WA 99326-0769

1 TO: SUPREME COURT WESTERN DISTRICT  
2 FROM: APPELLANT, AKEEM HENDERSON  
3

4 COMES NOW the appellant, Akeem N. Henderson, requesting that the  
5 Supreme Court allow the appellant to submit a Statement of Additional  
6 Grounds pursuant to RAP 10.10.

7 The appellant has critical issues that must be addressed and heard  
8 in this court that was raised on the record at trial, and in the  
9 appellant's Statement of Additional Grounds during his direct appeal.

10 Up to this point the appeals attorney representing the appellant has  
11 refused to raise critical preserved issues from the appellant's trial  
12 that would prove the appellant's innocence. See Exhibit 1  
13  
14  
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16 The appellant is not knowledgeable in law and cannot submit a  
17 Petition for Review on his own, but needs these issues important to his  
18 case raised to exhaust all his state remedies so that these issues can be  
19 preserved for the Federal Courts.  
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1 Washington Statutes

2 RAP 1.2 INTERPRETATION AND WAIVER OF RULES BY COURT

3  
4 (a) Interpretation. These rules will be liberally interpreted to  
5 promote justice and facilitate the decision of cases on the merits.  
6 Cases and issues will not be determined on the basis of compliance or  
7 noncompliance with these rules except in compelling circumstances  
8 where justice demands, subject to the restrictions in rule 18.8(b).

9 (c) Waiver. The appellate court may waive or alter the provisions  
10 of any of these rules in order to serve the ends of justice, subject to the  
11 restrictions in rule 18.8(b) and (c).

12 RAP 9.11 ADDITIONAL EVIDENCE ON REVIEW

13  
14 (a) Remedy Limited. The appellate court may direct that additional  
15 evidence on the merits of the case be taken before the decision of a case  
16 on review if: (1) additional proof of facts is needed to fairly resolve  
17 the issues on review, (2) the additional evidence would probably change  
18 the decision being reviewed, (3) it is equitable to excuse a party's  
19 failure to present the evidence to the trial court, (4) the remedy  
20 available to a party though postjudgment motions in the trial court is  
21 inadequate or unnecessarily expensive, (5) the appellate court remedy of  
22 granting a new trial is inadequate or unnecessarily expensive, and (6) it  
23 would be inequitable to decide the case solely on the evidence already taken  
24 in the trial court.

25 RAP 10.10 STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

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

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RAP 18.8 WAIVER OF RULES AND EXTENSION AND REDUCTION OF TIME

(a) Generally. The appellate court may, on its own initiative or on motion of a party, waive or alter the provisions of any of these rules and enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice, subject to the restrictions in sections (b) and (c).

(  
RAP 10.10 Statement of Additional Grounds For Review

(d) Time for Filing. The appellant asks that his statement of additional grounds for review be filed within 30 days after service upon thee appellant of the brief prepared by appellant's counsel and the mailing of a notice from the clerk of the appellate court advising the appellant of the substance of this rule.

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ISSUES NEEDING TO BE RAISED

(1) The appellant challenges to the constitutionality of the search warrant due to the states lack of probable cause to support the search warrant in violation of U.S Const. amendment 4, Art I Section 7 Wash. Const. U.S. Const. amendment 14, Art I, Section 3 Wash. Const.

(2) The constitutionality of the search warrant due to the warrants failure to particularly describe the person and the gun that is required by the U.S Const. amendment 4, and Art I, Section 7 Wash. Const., and U.S Const. admendment 14, and Art I Section 3 Wash. Const.

(3) The violation of the appellant's due process rights, due to trial courts error in not holding an evidentiary hearing or a suppression hearing after the appellant filed these motions before the start of trial. U.S Const. amendment 14

(4) The outrageous governmental misconduct exhibited by the State when the appellant proved that the search warrant filed in the Superior Court Clerk's office was forged and that the search warrant used to search the appellant's friend's house was likely forged also, and how the state withheld this information from the appellant and maliciously prosecuted him. Violating U.S Const. amendment 14, Art I, Section 3 Wash. Const., U.S Const. amendment 6, Art I, Section 22 Wash. Const.

1 Further the defendant requests that the Supreme Court please allow  
2 the appellant to raise additional evidence on Review Pursuant to RAP 9.11(a)

3  
4 The defendant requests that he be allowed to submit the Affidavit for  
5 the search warrant on the Statement of Additional Grounds because

6 (1) The affidavit is needed to show the lack of probable cause given  
7 to the issuing Judge in violation of U.S Const. amendment 4.

8  
9 (2) The affidavit also shows the misconduct exhibited by the affiant  
10 when giving perjured facts in it.

11 (3) The affidavit goes to show that the affiant could have forged the  
12 affidavit and search warrant in this case.

13  
14 (4) The evidence will probably change the courts decision, due to newly  
15 discovered evidence retrieved by the appellant.

16 (5) It is equitable to excuse the appellant's failure to present the  
17 the evidence to the trial court due to the fact that the appellant was forced  
18 to go pro se in order to receive his discovery that he never seen, and the  
19 appellant is a layman who is not well versed in the law. See Exhibit 2

20  
21 (6) The appellant is indigent and does not have the money to pay for  
22 parts of the record, public disclosures, or copies in order to file motions  
23 such as a CrR 7.8(b) Relief from Judgment or Order.

24 (7) From the newly discovered evidence it would be inadequate and  
25 unnecessarily expensive for the appellate court to grant a new trial.  
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1 (8) It would be inequitable to decide the case solely on the evidence  
2 already taken in the trial court when the newly discovered evidence clearly  
3 establishes the appellant's claim of innocence.

4 State V. Zieler, 144, WN.2d 533, 541, 789 P.2d 79 (1990)

5 An appellate court will accept additional evidence on appeal only if  
6 all six criteria established by RAP 9.11(a) are satisfied.

7  
8 Sears V. Grange Ins. Ass'n WN.2d 111, 636, 640, 762 P.2d 1141 (1988)

9 Despite the language in RAP 9.11, we may waive its provisions to serve  
10 the ends of justice, pursuant to RAP 1.2 and 18.8, and consider  
11 appellant's motion. See Washington Fed'n of State Employees, at 884-  
12 85.

13 Maynard V. Sisters of Providence, 72 WN.App. 878,866 P.2d 1272 (1994)

14 "appellate procedural rules are to be interpreted liberally".

15 "(RAP 18.8) The requirements of paragraph (a) may be waived in the  
16 interests of justice to allow the State to supplement the record to assist  
17 the court's consideration of significant constitutional questions."

18 In re Brooks, 94 WN.App.716, 973 P.2d 486 (1999) (AFFD on another point of  
19 law, 145 WN.2d 275, 36 P.3d 1034 (2001)

20 "In the interest of justice, the Supreme Court was willing to consider  
21 an order of Remand by Appellate Court as it affected an insurer whose motions  
22 to intervene at the appellate level was denied but whose rights were first  
23 affected when the appellate court issued its decision". Sutton V. Hirvonen,  
24 , 113 WN.2d 1, 775 P.2d 448 (1989)

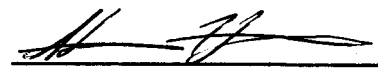
25 "Court exercised its discretion under RAP 1.2(a) to address an  
26 employee's challenges to the findings of fact because the nature of his  
27 challenge was clear and because he discussed his contentions with specific  
28 findings of fact in the argument portion of his brief".

Smith V. Employment Sec. Dep't, 155 WN.App. 24, 236 P.3d 263(2010).

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3/10/16

Date



Signature

Akeem N. Henderson



SUPREME COURT OF WASHINGTON  
WESTERN DISTRICT

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3 State of Washington, ; No. 14-1-00930-7  
4 Plaintiff, ; No. 74136-5-I  
5 ; Certificate of Authenticity  
6 VS. ; of Documents  
7 ;  
8 Akeem N. Henderson, ; (CLERK'S ACTION REQUIRED)  
9 Appellant, ;  
;

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10  
11 State of Washington ) SS.  
12 Western District )

13 I, Akeem N. Henderson, the affiant herein, certify that the records  
14 contained in the Exhibits (1-2) attached herein, are true and correct copies  
15 of the originals from the clerk's papers and appeals attorney.

16 I, Akeem N. Henderson, certify under penalty of perjury under the laws  
17 of the State of Washington that the foregoing is true and correct to the  
18 best of my knowledge.

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24 Dated this 10 day of March 2016 at Connell, WA.

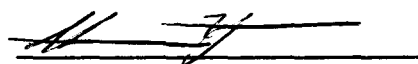
25  
26   
27 Akeem N. Henderson 854980  
28 Affiant  
Coyote Ridge Correction Center  
P.O Box 769 GA-22  
Connell, WA 99326-0769

Exhibit 1

Letter To Appeals Attorney

Letters from Appeals Attorney

3/3/16

TO: Backlund and Mistry  
Attorneys at Law  
P.O Box 6490  
Olympia, WA 98507

Dear Jodi,

I am writing to request that the issues I raised in my statement of additional grounds ( RAP 10.10) be raised in your Petition for Review in the Supreme Courts in order that my issues do not get thrown out. In order for me to preserve my issues they will have to be brought up so that I can exhaust all my remedies at the state level.

Issues from my (SAG) (RAP 10.10)

1. The challenging of the fake search warrant in violation of U.S Constitution amendment 4.
2. The challenging of the lack of probable cause of the search warrant from the information given by the officers at trial in Violation of U.S Constitution amendment 4.
3. The Constructive Possession argument, that Henderson never had constructive possession of the firearm between March 8-12, 2014. And the fact that the police found another man's identification card in the same room that they allegedly found the gun.
4. The lack of Particularity of the Search Warrant in violation of the 4th amendment of the U.S Constitution.

5. Henderson's right to an evidentiary hearing and a suppression of the fruits of the search warrant due to Henderson filing an Evidentiary Hearing motion and a CrR 2.3(e) motion of Return of Property and suppression from 10/22/14, prior to the start of trial.

6. Henderson's claims of Government misconduct in violation of Henderson's 14th and 4th amendment rights where Henderson alleges that the police department forged the search warrant used March 12, 2014 to raid Tera Hill's apartment and then forged another search warrant and affidavit and filed it into the Court Clerk's Office March 13, 2014. And to the fact that the Prosecutor's Office knew about these facts and still prosecuted the defendant and hid this information from the defendant.

Jodi if you will not raise these issues I am requesting that you write me back a letter letting me know that you won't be raising my issues that I have stated in this letter. I ask that you let me know what issues you are raising on the brief.

Thank you,

Dated this 3 day of March 2016 at Connell, WA



Akeem N. Henderson

DECLARATION OF MAILING

GR 3.1

I, Akeem N. Henderson on the below date, placed in the U.S. Mail, postage prepaid, 1 envelope(s) addressed to the below listed individual(s):

P.O. Box 6490 Olympia,  
WA 98507

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

- 1. Letter to Judi Backlund
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_

I hereby invoke the "Mail Box Rule" set forth in General Rule ("GR") 3.1, and hereby declare under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED this 3 day of March, 2016, at Connell WA.

Signature 

# Backlund & Mistry

## Attorneys at Law

---

Jodi R. Backlund  
Manek R. Mistry

Skylar T. Brett, Staff Attorney  
Valerie Greenup, Legal Assistant  
Quinn Raves, Legal Assistant

August 11, 2015

Akeem Henderson, DOC #854980  
Coyote Ridge Corrections Center  
PO Box 769  
Connell, WA 99326

Re: *State v. Henderson*  
County Cause No: 14-1-00930-7  
Court of Appeals No: 46919-7-II

Dear Akeem:

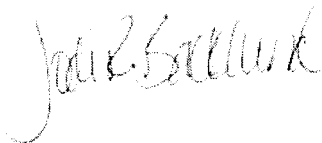
Thank you for your letter. We are working on a reply to the state's brief right now.

We can only argue based on things that are preserved in the record, so we can't add the issues mentioned in your SAG. It looks like you have already filed your SAG, so I'm not sure what you want done with the one you enclosed to me. It is unsigned, so I cannot file it for you. If you wish for it to be considered by the court, you will need to mail it to them with a motion.

Please call or write with any questions.

Respectfully,

**BACKLUND & MISTRY**



Jodi R. Backlund  
Attorney at Law

# Backlund & Mistry

## Attorneys at Law

---

Jodi R. Backlund  
Manek R. Mistry

Skylar T. Brett, Staff Attorney  
Valerie Greenup, Legal Assistant  
Quinn Raves, Legal Assistant

January 27, 2015

Akeem Henderson, DOC #854980  
Washington Corrections Center  
PO Box 900  
Shelton, WA 98584

Re: *State v. Henderson*  
County Cause No: 14-1-00930-7  
Court of Appeals No: 46919-7-II

Dear Akeem:

Thank you for your letter.

I have taken notes on the issues you have mentioned and will look at them when the record is filed.

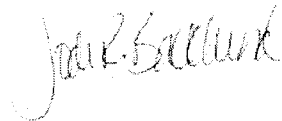
I will not start my research on your case until I have the transcripts, which are due March 9, 2015. I will mail you a copy of the transcripts once they are filed. I don't have recordings or the discovery from your case, as those can't be used in the direct appeal.

I will send you a copy of the transcript when it is filed, but I won't be able to send the clerk's file. I only have electronic access to the court's file. Is there something specific you have a question about?

Please write or call if you have any questions.

Respectfully,

**BACKLUND & MISTRY**



Jodi R. Backlund  
Attorney at Law

Exhibit 2

Trial VRP pg. 37, 38 11/3/14



## State vs. Henderson - November 3, 2014

1           October 6th.

2                       MR. HENDERSON:   October 6th.  Didn't receive  
3 my -- all of my evidence until October 24th.

4                       THE COURT:   Well, if that's true, that's an  
5 issue between you and defense counsel, because I don't  
6 hear you saying that that's when Mr. Lane turned it  
7 over.  Mr. Lane --

8                       MR. HENDERSON:   October 17th, I believe he  
9 turned it over.

10                      THE COURT:   You're saying that the case was  
11 filed in March and it took Mr. Lane until the middle of  
12 October to turn over any evidence?

13                      MR. HENDERSON:   Yes, Your Honor.  I had to go  
14 pro se to receive that evidence.

15                      THE COURT:   Mr. Lane.

16                      MR. LANE:   Your Honor, I provided defense  
17 counsel, John Austin, with all the discovery that we  
18 have in this case prior to the date the defendant chose  
19 to go pro se.  There was supplemental discovery that  
20 when the investigator and I went -- when the defense  
21 investigator, who was working for the defendant pro se,  
22 we went down to the property room, I believe maybe  
23 early last week or maybe the week before.  They took  
24 photographs.  That's new discovery that was provided to  
25 the defendant.  Additionally, there were documents that

## State vs. Henderson - November 3, 2014

1 we found in the property room that I made photocopies  
2 of. That was provided to the defendant at that time.  
3 That is the only new discovery that was provided to the  
4 defendant since he has decided to go pro se.

5 THE COURT: Okay.

6 MR. HENDERSON: Your Honor, I haven't seen  
7 anything. I've been here for seven months and I  
8 haven't seen anything. Honestly, I haven't seen  
9 nothing. I was forced to go pro se just to see these  
10 things. I haven't seen anything. I don't know  
11 anything. I just come to find all this out in less  
12 than a month to put my case together. I haven't seen  
13 none of this, ever. I put in ineffective counsel, and  
14 I didn't receive any -- nothing. Pretty much, the  
15 attorney told me -- Judge Cuthbertson said I'm just  
16 shopping for an attorney.

17 THE COURT: Okay. And as I mentioned a few  
18 minutes ago --

19 MR. HENDERSON: Yes.

20 THE COURT: -- we don't do lateral reviews of  
21 our decisions.

22 MR. HENDERSON: I understand.

23 THE COURT: So I am bound by or -- that's  
24 perhaps overstating it. I respect Judge Cuthbertson's  
25 decision to grant your motion to represent yourself in

DECLARATION OF MAILING

GR 3.1

I, Akeem N. Henderson on the below date, placed in the U.S. Mail, postage prepaid, 1 envelope(s) addressed to the below listed individual(s):

Supreme Court  
415 12 Ave Southwest  
Olympia, WA 98501

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

- 1. Letter To The Supreme Courts
- 2. Affidavit with Exhibits 1, 2
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_

I hereby invoke the "Mail Box Rule" set forth in General Rule ("GR") 3.1, and hereby declare under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED this 10 day of march, 2016, at Connell WA.

Signature 