

**CERTIFICATE OF SERVICE**  
 I certify that I mailed  
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 & Pro's office  
11/11/15  
 Date Signed

FILED  
 COURT OF APPEALS  
 DIVISION II  
 2015 NOV -9 AM 9:12  
 STATE OF WASHINGTON  
 BY [Signature]  
 DEPUTY

No. 47183-3-11

**COURT OF APPEALS OF THE STATE OF WASHINGTON**  
**DIVISION II**

STATE OF WASHINGTON,  
 Respondent,  
 v.  
LEOLAVERN RUBEDEN,  
 Appellant.

**STATEMENT OF ADDITIONAL  
 GROUNDS (RAP 10.10)**

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

ADDITIONAL GROUND ONE

PROSECUTORIAL MISCONDUCT AND VINDICTIVE PROSECUTION.

1. VINDICTIVE PROSECUTION: ON MAY 8, 2013 THE STATE CHARGED MR. RUBEDEN WITH ASSAULT IN THE SECOND DEGREE AND FELONY HARASSMENT. OFFERED MR. RUBEDEN A PLEA BARGAIN <sup>DEAL</sup> OF 2 MONTHS FOR THE P.V.#2 CHARGE AND 36 MONTHS FOR FELONY HARASSMENT WEAPON ENHANCED. MR. RUBEDEN MAINTAINED HIS INNOCENCE ON ANY AND ALL CHARGES AND WITH ASSISTANCE OF LEGAL REPRESENTATION <sup>BEGAN TO</sup> PREPARED HIS DEFENSE. MR. RUBEDEN AT A LATER DATE WAS CHARGED BY THE STATE'S PROSECUTOR WITH ONE COUNT EACH OF PREMEDITATED FIRST DEGREE ATTEMPTED MURDER AND ASSAULT IN THE FIRST DEGREE WITHOUT ANY ADDITIONAL OR NEW EVIDENCE FROM THE ORIGINAL CHARGE TO WARRANT GRIEVANCE AMENDED CHARGES.

2. PROSECUTORIAL MISCONDUCT: THERE WERE THREE (3) TRIALS TOTAL (HISTORY IN BRIEFS). IN TRIALS ONE (1) AND TWO (2) THE PROSECUTION CALLED TO

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(2)

ONE  
ADDITIONAL GROUND ~~TWO~~ - cont'd -

THE WITNESS STAND ~~OFFER~~ STEVEN MELL, A CIVILIAN  
FORENSIC INVESTIGATOR, <sup>AS</sup> AN EXPERT WITNESS (TRIAL #  
PAGES 283-300 AND TRIAL #2 PAGES 141-153) EMPLOYED BY  
THE PERCE COUNTY SHERIFFS' DEPARTMENT, WHO TESTIFIED  
(IN SUMMARY) DESPITE ~~NUMEROUS~~ <sup>NUMEROUS</sup> TESTS COULD NOT  
AND DID NOT ACTIVATE <sup>IN ANY WAY FOR THE</sup> ~~THE~~ FIREARM TO MAKE A 'CLICK'  
SOUND AS IF THE TRIGGER WERE PULLED AS THE  
PROSECUTION CLAIMED. MR. MELL REPEATED HIS STATEMENT  
SEVERAL TIMES ON BOTH DIRECT AND CROSS-EXAMINATION.  
EVEN THOUGH TRIAL #1 WAS A MIS-TRIAL IT IS MENTIONED  
TO SHOW MR MELL'S CONSISTENCY IN TESTIMONY IN BOTH  
TRIAL #1 AND TRIAL #2 IN WHICH MR RUBEDEN WAS  
ULTIMATELY FOUND NOT GUILTY ON THE ATTEMPTED MURDER  
CHARGE AND UNABLE TO REACH A VERDICT ON THE  
ASSAULT-ONE CHARGE BY THE JURY.

IN TRIAL #3, THE PROSECUTION AGAIN HAS STEVEN  
MELL LISTED ON THEIR WITNESS LIST, ON PAGE 211, LINES  
THERE <sup>ARE</sup> STATEMENTS BEFORE THE COURT, THAT PROSECUTION  
WILL NOT BE CALLING MR. MELL, FOR REASONS UNEXPLAINED  
TO THE COURTS.

ADDITIONAL GROUND ONE

Obligation AND Duties of the Prosecuting Attorney  
AS STATED IN STATE V. KRAUSSE (519 P.2D. 266  
10 WN. APP. 574). "PROSECUTING ATTORNEY IS AN  
OFFICER OF THE COURT, WHO'S DUTIES TO SEEK JUSTICE,  
EXTENDS NOT ONLY TO THE COURT AND TO THE PUBLIC,  
BUT TO THE DEFENDANT AS WELL." (110K1980-81).  
TRIAL JURY #1 AND MORE <sup>TO THE</sup> POINT, TRIAL JURY #2 HEARD  
MR. MELL'S TESTIMONY (WITH <sup>FIRE-</sup>MENTIONED RESULTS). BY THE STATE  
CHOOSING TO NOT ALLOWING TRIAL JURY #3 THE SAME OPPORTUNITY  
TO HEAR AND CONSIDER MR. MELL'S TESTIMONY, SHOWS  
EXTREME PREJUDICE BY THE PROSECUTION, RESULTING  
IN IMPROPER CONDUCT; UNFAIRNESS OR MISCARRIAGE  
JUSTICE TOWARDS MR. RUBECKEL.

IN CLOSING ARGUMENTS THE PROSECUTOR TELLS  
THE JURY ABOUT THE 9-1-1 CALL. THAT IS ABOUT  
"8 MINUTES 15 SECONDS LONG" AND THAT "SHE'S ONLY  
IN THE HOUSE FOR ABOUT 3 MINUTES 45 SECONDS." THERE  
IS NO TESTIMONY OR <sup>SCIENTIFIC</sup>EVIDENCE PRESENTED TO THE COURT  
OR JURY AS TO THE 911 CALLS LENGTH OR TIME LINES  
AS TO SPECIFIC INCIDENTS DURING THE 911 CALL.

ADDITIONAL GROUND TWO

~~ALPHA~~ INEFFECTIVE COUNSEL.

THROUGH OUT ALL 3 TRIALS THE PROSECUTION USED THE TERM 'CLICK', WITH OUT OBJECTION OF DEFENDANTS COUNSEL, AS TO FOUNDATION WITH REGARDS TO THE ACTUAL SOUND THE 'CLICK' MADE, AT WHAT DISTANCE COULD THE SOUND REASONABLY <sup>BE</sup> HEARD ~~HEARD~~ IF AT ALL UNDER THE CIRCUMSTANCES ~~ON~~ <sup>AT</sup> MAY 7, 2013. DID THE 'CLICK' SOUND LIKE A PIN HITTING THE FLOOR OR A STICK OF DYNAMITE EXPLODING.

PRE-TRIAL MR. RUBEDOW REPEATEDLY ASKED COUNSEL AND DEFENCE COUNSEL'S INVESTIGATOR TO HAVE MS BRAMLETT'S HEARING PROFESSIONALLY TESTED BY AN ~~THE~~ INDEPENDENT EAR, NOISE AND ~~THE~~ THROAT MEDICAL SPECIALIST BY ORDER OF THE COURT. MR. RUBEDOW WITH HIS 30 PLUS YEAR RELATION WITH MS BRAMLETT WAS WELL AWARE OF HER MODERATE TO SEVERE HEARING DISABILITY AND MADE COUNSEL AND INVESTIGATOR AWARE OF THIS SITUATION. NOTHING WAS DONE TO MAKE THE COURT AWARE OR ALLOW THE JURY HEAR THIS CRITICAL INFORMATION.  
||| / NOTHING ON THIS LINE / |||

ADDITIONAL GROUND TWO

FURTHER, MR. PUBEDEW ASKED COUNSEL AND THE INVESTIGATOR TO HAVE GUN BARREL IN QUESTION TO BE TESTED FOR SALIVA OR OTHER BODY FLUIDS TO DISPROVE MS. BRANKETT'S TESTIMONY IN ALL OR IN PART AS TO THE ACTUAL EVENTS DESCRIBED IN THAT TESTIMONY (9A.72.040)

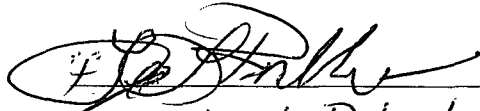
THROUGHOUT <sup>THE</sup> PROSECUTOR'S CASE IN CHIEF DEFENSE COUNSEL ALLOWED THE PROSECUTOR TO ASK LEADING QUESTION WITHOUT OBJECTION. CASE IN POINT, TRIAL 3 PAGE 233 LINE 9 THROUGH 15.

9. Q. (MR YU) LAST QUESTION. IN MOMENTS WHEN HE  
10. POINTED THE GUN AT YOU AND AFTER HOW DID YOU FEEL?  
11. A. (MS BRANKETT - BETRAYED.  
12. Q. ANYTHING ELSE?  
13. A. HURT  
14. Q. OHAY. WERE YOU SCARED?  
15. A. Oh, definitely. FRIGHTENED.

WITHOUT LEADING QUESTION ON LINE 14 IT IS REASONABLE BELIEVE THAT ANSWER ON LINE 15 WAS NOT FORTH COMING WITHOUT SUGGESTION.

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

DATED this 4<sup>th</sup> day of NOVEMBER, 20 15.

  
(Print) LEO L. RYBEDENS

Appellant, *Pro se*.

DOC# 380256, Unit WSRU-B-328

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General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4.

October 27, 2015

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CASE #: 47183-3-II  
State of Washington, Respondent v. Leo L. Rubedew, Appellant

Mr. Rubedew & Counsel:

On the above date, this court entered the following notation ruling:

**A RULING BY THE CLERK:**

Appellant is granted an extension of time to and including 11/10/15 to file the Statement of Additional Grounds for Review (SAG). The court will not grant appellant any further continuance requests for filing the SAG. Appellant need only identify and discuss the issues not adequately addressed in the opening brief. RAP 10.10(a). For that reason, if appellant files the SAG after the aforementioned date, it will be placed in the case file without action.

Very truly yours,

David C. Ponzoha  
Court Clerk