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FILED
COURT OF APPEALS
DIVISION II

2015 APR 27 AM 9:12

STATE OF WASHINGTON

STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

STATE OF WASHINGTON,
Respondent,

v. Lawrence Rousset
Appellant.

No. 46657-1 BY [Signature]
STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

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

Additional Ground 1

3 pages, consists of evidence withheld by the state prosecutor,
exhibit 1 letter from office of public defense
exhibit #2 letter from Cowiite County, prosecuting attorney
exhibits #2 A, 2 A-1, 2 B - Transcribed 911 info prosecutor withheld.

Additional Ground 2

2 pages, Collusion between state and mr Rousset's Attorney, Ryan Survakainen, (Proof).
exhibit #3 Email from Bentson to Survakainen dated day before Trial.
exhibits 3-A, 3-b proof State had prior knowledge of information

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

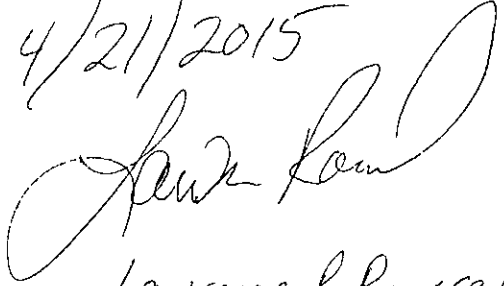
Date: 4/21/2015

Signature: [Signature: Lawrence Rousset]

AFFIDAVIT

I, Lawrence Roussel, 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 21 day of April, 2015, at Coyote Ridge Corrections Center P.O. Box 769 Connell WA-99326 in the County of Franklin, Washington:

I certify under penalty of Perjury under the laws of the state of Washington that the foregoing is True and Correct.

4/21/2015

Lawrence R Roussel
(Print Name)

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v Wainwright, 626 F.2d 1184; affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.



Exhibit #2

**COWLITZ COUNTY PROSECUTING ATTORNEY
RYAN JURVAKAINEN**

**CHIEF CRIMINAL DEPUTY
THOMAS A. LADOUCEUR
CHIEF CIVIL DEPUTY
DOUGLAS E. JENSEN**

January 23, 2015

Lawrence Roussel,
DOC 967756
Coyote Ridge Corrections Center
PO Box 769
Connell, WA 99326

RE: Public Records Request (undated)

Dear Mr. Roussel:

The Cowlitz County Sheriff's Office forwarded a portion of your recent Public Records Request to me (the Public Records attorney in the Prosecutor's Office) for response to you. This is a response to your request under RCW 42.56. I know that you have recently made a number PRA Requests to various Cowlitz County departments. In this one you requested from CCSO any and all information that was gathered in preparation to prosecute you in A14-1619 and you specifically mentioned emails. CCSO forwarded those emails and attachments to me as they are largely to and from prosecutors, not deputy sheriffs.

There are 429 pages of responsive emails on a digital search using your name and/or the above referenced CCSO case number. As you are likely aware, as authorized by Cowlitz County Records Policy and state law, we require payment in full, in advance, for Records before we begin to copy and analyze those records and preparation of our exemption/redaction log.

The charges for PRA requests are as follows:

- No charge for copies consisting of seven pages or less;
- 15 cents per hard-copy page;
- 10 cents per scanned page;
- \$5 per CD or DVD; and
- Shipping costs as determined by USPS.
- Other document formats charged in accord with county policy and state law.



In addition to the 429 pages of email copies, there is one copy of the audio CD from the 911 center. The total cost, without postage, is \$64.35 for the emails and \$5 for the CD, a total of \$69.35. Once we receive your advance payment for these requested records, we will process them for exemptions and redactions, provide necessary notice to any involved third parties, and copy them for transfer to you. We will, as per your requests and per state law, provide you with an accurate and comprehensive redaction/exemption log (should one be necessary). This process, which

Page 1 of 2

Exhibit 2.

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commences upon your payment, will take approximately 30 working days. In that estimate, I include time to provide notice to any involved third parties whose privacy or other rights may be impacted by transfer of the records to you. That may or may not be necessary in your case. In the event we have the records prepped for transfer to you in advance of the estimated 30 working days, we will, of course, get them right out to you. In any event, when the redaction and review is completed, we will then cause the records to be mailed to your address.

As stated, we require payment for the costs of the copies and their mailing in advance of release under RCW 42.56.120 and WAC 44-14-07006(1) and(2). We require cash or Money Orders in the exact amount. Please send your payment to:

Cowlitz County Prosecuting Attorney's Office. CSD
1338 Commerce Avenue, Suite 305
Longview, WA 98632

If you do not send pre-payment within 30 days of the mailing of this letter, we will consider your requests abandoned and close all your pending requests without further action.

We look forward to working together with you to provide the records you seek. Do not hesitate to let us know if there are questions or concerns we can address. Please contact me at 360-577-3074 if you have any questions or if I may be of further assistance.

Sincerely,
RYAN JURVAKAINEN



by: Ann C. Mottet
Deputy Prosecuting Attorney

Exhibit
#1

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Cowlitz County Office Of Public Defense

1801 1st Avenue, Suite 1A
Longview, WA 98632
Phone (360) 578-7430
Fax (360) 578-7431

Staff Attorneys

Joshua Baldwin
John Eaton
Patricia Anderson
Ted DeBray

Director

Terry Mulligan

Staff Attorneys

Richard Suryan
Patricia VanRollins
Ian Maher
Thad Scudder

To: Lawrence Roussel
DOC # 967756
Coyote Ridge Corrections Center
PO Box 769
Connell, WA 99326

March 2, 2015

From: Terry Mulligan
Director
Cowlitz County Office of Public Defense
1801 1st Ave., Ste. 1A
Longview, WA 98632

Re: 911 Call

Dear Mr. Roussel:

We do not have a CD or any other copy of a 911 call related to your case. If there is or was one, you should be able to get it from the police department or prosecutor's office. As I have previously informed you, we have provided you with everything we have.

Sincerely,


Terry Mulligan

exhibit # 2A-1

April 9, 2015

I, Rebecca Roussel transcribed the
Cowlitz County 911 CD from May 27, 2014
at 10:52pm.

I attest under penalty of perjury of
the law the foregoing is true.

Thank you,

Rebecca Roussel

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exhibit # 2 A.

Cowlitz County 911 Recording from
May 27, 2014 at 18:52 PM

Laura Fadden: Hello?

911 operator: Hi, this is the 911 center,
your phone just dialed into 911.

Laura Fadden: Oh I don't think so!

911 operator: Oh it did. It dialed into 911...
I need to know what the
problem is.

Laura Fadden: There's no problem! I swear
there's no problem, sorry!

911 operator: So how did your phone dial
into 911?

Laura Fadden: I don't know! I was in an
argument, I got in the heat
of the moment, I dialed it, I
didn't mean to, I'm sorry ok?!

911 operator: So what exactly is going on?

Laura Fadden: I had a fight with my
daughter, ok?!

911 operator: ok, and how old is your
daughter?

Laura Fadden: She's a 43

911 operator: ok

Laura Fadden: She's gone, everything's
cool, it all gone it's done.

911 operator: She's gone?

Laura Fadden: She's gone

Continued →

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exhibit #2 B

page 2 continued 911 Recording:

911 operator: OK, so where did she go?

Laura Fadden: I don't know, I didn't ask her!

911 operator: What is your name?

Laura Fadden: Laura

911 operator: Your last name?

Laura Fadden: Fadden

911 operator: What's your daughter's name?

Laura Fadden: I don't need to tell you that do I?

911 operator: That's fine, I will send an officer out to get the information then.

Laura Fadden: Her name is Rebecca Fadden

911 operator: And what did the argument start over?

Laura Fadden: It starts over, just, I just had her phone and it was stupid ok?!

911 operator: OK, we'll let the deputies know, Thank you!

Laura Fadden: Thank you

S a G.

Grand 1 3 Pages

After a Jury Trial the defendant Mr Roussel with due diligence to prove his innocence Requested any and all information, including (discovery) from his public defense Counsel which they provided. He then requested through Public records request to the prosecuting attorney any and all information including (discovery) the prosecuting attorney in response to his request made him aware of a (911 audio Cd) that they would sell to him for \$5.00 plus Postage See exhibit #2. Mr Roussel then sent a letter to the office of public defense asking why they did not include a copy of the (911 audio Cd related to his case). Mr Mulligan, Director of the office of public defense then replied to Mr. Roussel that they gave Mr Roussel all of the information they have, and that if there is or was one he could obtain it from either the police or Prosecuting attorney. See exhibit #1. With these letters it proves that the prosecuting attorney withheld exculpatory evidence that should of been included in Discovery, therefore creating a Brady violation by withholding information that is not considered work product *Soter v. Cowles Publishing Co.* 162 Wash 2d 716, 731, 174 P.3d 60 (2007); *Lionstream v. Ladenburg*, 136 Wash 2d 595, 611 963 P.2d 869 (1998). The information denied/suppressed is relevant to Mr Roussel's case and the state prosecutor may not withhold such information due to the fact it will violate Due process and discovery Rights Pursuant to CR 4.7 it also enacts a Brady Violation.

The underlying notion behind the United States Supreme Court's decision in *Brady* is that Society wins not only when the guilty are convicted but when Criminal trials are fair. *Brady v Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d. 215 (1963). It is clear that the state prosecutor has impeded Justice by suppressing/withholding evidence favorable to the accused therefore violating his discovery and due process rights. Where evidence is material either to guilt or to punishment irrespective of the good faith or bad faith of the prosecution, *United States v Agurs*, 427 U.S. 97, 107, 96 S.Ct. 2392, 49 L.Ed. 342 (1976). These acts show that the state has caused an error that was not sufficient to deny the defendant Mr Roussel a constitutionally fair trial. *State v. Coe*, 101 Wash. 2d. 772, 789, 684 P.2d. 668 (1984), ER 402. CrR 4.7(a)(1) states: the prosecuting attorney shall disclose to the defendant (1) the names and addresses of persons whom the prosecution is using at trial along with statements (written or recorded) the prosecutor has hidden/suppressed this evidence but has admitted to its existence, and knows the defendant Mr Roussel is indigent and has tried to extort him for money by offering him information that should of been provided to him in discovery, and the Supreme Court has established that a indigent person must be allowed discovery at states expense without payment. *State v. Greening*, 169 Wash 2d. 47, 54 234 P 3d. 169 (2010) *State v. Boyd* 160 Wash 2d. 424, 433, 435, 158 P 3d. 54 (2007)

An indigent defendant is "not compelled" to advance money or fees, and these fees should of been waived. Young v Clark 149 Wash. 2d 130, 133 65 P3d. 1192 (2003). Quoting; City of Tacoma v. Taxpayers of City of Tacoma 108 Wash 2d. 679, 706, 743 P 2d. 793 (1987). Since the state of Washington withheld evidence, and failed to comply with CrR 4.7(i)(i) allowance of Discovery. It gives Mr. Roussel the right for argument for dismissal as sanction for withholding statements, and or evidence CrR 4.7(7)(1). Citing State v Sherman 59. Wn. App 763, 801 P. 2d 274 (1990); State v Brooks 149 Wn. App. 373 203 P 3d. 397 (2009); State v Rivers 145 Wash. 2d. at 677, 41 P 3d. 1175; Ma-mortenson 93 Wash. App 826, 970 P 2d 803; Lune 81. Wash. App 105-06, 912 P. 2d 1040; Barr v. MacGugan 119 Wash App 43, 46; 47, 78 P 3d. 660. (2003). Ground 1 is being presented to the Court of Appeals as a Constitutional violation of Due Process of the Law, and Laws governed by the State of Washington. CrR 4.7 under Rap 2.5(3) will the Court of Appeals please consider the facts presented at face value as a Constitutional violation and grant Sanction requested.

exhibits # 2 A, # 2 A-1, # 2 B, are Transcribed Statements made to 911 from Laura Ladden, the alleged victim no time whatsoever did she say anything about Mr Roussel. These statements she made were in the safety of her own home free from any influence. and could of been presented to the Jury changing the outcome of the opinion of the jury therefore changing the outcome of the trial. Violating Mr. Roussel's Due process Rights.

S.A.G. Ground 2

RP-page 16. The State "Mr Bentson" made a statement that "Defense has made him aware of a situation that the states witness Sergeant Cory Huffine was involved in a prior incident with "Mr Roussel" "Defendant" and that he had just gained knowledge of this "morning" RP-17. Ryan Jurva Kainen Mr Roussel's Attorney, then went on in a collusive manner with Mr. Bentson furnish the Court with false information that backs up Mr. Bentson's position on this topic. "Mr Jurva Kainen" and I did just provide this to Mr. Bentson about 9:10 so "RP-19 Mr. Bentson went on to elaborate on this collusion "yes I guess its something that I'm sort of processing here this-morning" RP-19. Again with due diligence to prove his innocents Mr. Roussel through discovery request and public record request uncovered collusive acts and facts, that "Mr Bentson" and "Ryan Jurva Kainen" Both presented false or misleading statements to the court, putting them Both in a situation of perjury which had a prejudicial affect on the outcome of the trial.

Proof of Collusion, Mr. Bentson stated that Ryan Jurva Kainen provided information on the 29th of July RP-17, but a email from Eric Bentson to Ryan Jurva Kainen on the 28th of July clearly states that Mr. Bentson provided information the day before see exhibit # 3, and that the states witness and subject of Collusion Sgt. Cory Huffine sent information to Mr. Bentson via E-mail on July 28th see exhibits # 3A, and #3 b, providing false or misleading statements knowingly to the Court is both prosecutorial misconduct and ineffective assistance of counsel and their collusion, and

Sarg Ground 2.

and deicetful tactics created conspiracy and collusion which violated my 5th amendment right to due process, 13th amendment right to be duly convicted free from lies and or deceit, 6th amendment right to effective assistance of counsel, 14th amendment right equal protection of the law and due process rights. With these actions I did not recieve a fair trial these actions violated my constitutional rights both state and federal.

Jurvakainen, Ryan

From: Bentson, Eric
Sent: Monday, July 28, 2014 11:00 AM
To: Jurvakainen, Ryan
Subject: RE: RE: roussel
Attachments: 080716 Roussel injury memo.doc

I might as well take a look.

Here is Sgt Huffine's memo regarding his transportation of Roussel in 2008, which I just received.

From: Jurvakainen, Ryan
Sent: Monday, July 28, 2014 10:26 AM
To: Bentson, Eric
Subject: RE: roussel

Bentson:
I was able to obtain Rebecca Roussel's phone, which when turned on, is blacked out, and has a cracked screen. She states that it was damaged when her father knocked it out of her hand with the walking stick, during the initial confrontation with him. I can bring it over at 3 for you to take a look at.

Ryan

exhibit # 3-A

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00319

Gilchrist, Marc

From: Huffine, Corey <HuffineC@co.cowlitz.wa.us>
Sent: Monday, July 28, 2014 10:57 AM
To: Bentson, Eric
Subject: 080716 Roussel injury memo
Attachments: 080716 Roussel injury memo.doc

Here is the memo I wrote regarding Roussel.

Corey

exhibit # 3-B



Sheriff

00318

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Cowlitz County

Memorandum

Date: 7-16-08
To: Captain Mark Nelson
From: Sgt. Corey Huffine
Re: Lawrence Roussel 08-8399

On 7-9-08 I arrested Mr. Lawrence Roussel at his home located at 1311 Riverview Drive in Kelso for violation of Protection Order. He was handcuffed behind his back and I placed him in the back of my patrol vehicle. I did not seat belt him. I began transport to the jail. I was northbound in the 800 block of S. Pacific traveling at approximately 25 mph and observed a small child standing on the west side of the road playing with a cardboard box. The child suddenly ran across the street in front of me forcing me to slam on the brakes. I heard Mr. Roussel slide off the seat and strike the screen behind my seat. I heard him say "OW!" and that he hurt his knee. I apologized explaining the child had run out in front of me. I asked him if he was all right. He again said that his knee hurt. I finished transporting him to the jail where he was booked. He did not limp or mention the injury again during the booking process.

SAG 3

Under the advice of Mr Roussel's counsel Ryan-Jurvakainen before the trial began he advised Mr Roussel to waive 3.5 see exhibit #6 again with due diligence to prove his innocence through discovery request from office of public defense and public records request to the prosecuting attorney. Mr. Roussel discovered that Ryan Jurvakainen pre planned to waive 3.5 with the state prosecuting attorney Bentson 5 days before trial see exhibit #4. Mr Roussel requested that Scott W Fleck be subpoenaed to testify at his trial see exhibit #5 and that Mr Jurvakainen provide evidence to the ^{state} court that Mr Roussel did in fact go to the hospital and was seen by a doctor. See discharge paperwork exhibit #5A. Ryan Jurvakainen Mr. Roussel's public defense counsel withheld key evidence and failed to subpoena key witnesses for his defense. The state bolsters on the fact that Mr Jurvakainen did not enter evidence on behalf of Mr Roussel to support his claims of being seen by doctors RP-374 "they claim they went to the doctor" the prosecution had proof so did the defense attorney but both left that out on purpose. it's prosecutorial misconduct and ineffective assistance of counsel Both. you must take emails at face value and consider them plain errors. Reverse and Remand with instructions to allow doctors be subpoenaed, and allow Mr Roussel to have a constitutionally fair trial. or dismiss and vacate as "Cumulative Errors"

Jurvakainen, Ryan

From: Bentson, Eric
Sent: Thursday, July 24, 2014 2:52 PM
To: Jurvakainen, Ryan
Subject: RE: RE: roussef

Thank you.

From: Jurvakainen, Ryan
Sent: Thursday, July 24, 2014 2:52 PM
To: Bentson, Eric
Subject: RE: roussef

Waive 3.5

exhibit# 5

00379

19
19

Gilchrist, Marc

From: Jurvakainen, Ryan <JurvakainenR@co.cowlitz.wa.us>
Sent: Monday, July 14, 2014 5:09 PM
To: Bentson, Eric
Subject: lawrence roussel medical records from incident
Attachments: 20140714170741720.pdf

Would potentially expect PA Fleck as a witness

-----Original Message-----

From: dao.copier@co.cowlitz.wa.us [<mailto:dao.copier@co.cowlitz.wa.us>]
Sent: Monday, July 14, 2014 5:08 PM
To: Jurvakainen, Ryan
Subject: Message from "RNP002673848FE2"

This E-mail was sent from "RNP002673848FE2" (MP C4503).

Scan Date: 07.14.2014 17:07:41 (-0700)
Queries to: dao.copier@co.cowlitz.wa.us



LEGACY EMANUEL EMERGENCY DEPARTMENT
2801 N Gantenbein Ave
Portland OR 97227-1623
503-413-4121

Lawrence R Roussel
DOB: 4/4/1971 DOS: 5/28/2014
MRN 7000260324
CSN: 429543523

You were seen by Fleck, Scott W, PA-C.

ED Diagnosis(es)

Diagnosis	Description	Comment
Wrist pain, acute, left	Wrist pain, acute, left	
Contusion of face, initial encounter	Contusion of face, initial encounter	
Contusion of chest wall, left, initial encounter	Contusion of chest wall, left, initial encounter	
Back contusion, left, initial encounter	Back contusion, left, initial encounter	
Lumbar strain, initial encounter	Lumbar strain, initial encounter	

Follow-up Information

Follow up with Hoptowitz, Sophie, MD.

Contact information:
1055 9TH AVE #A BOX 2429
Longview WA 98632
360-575-8275

Discharge References/Attachments

- FACIAL CONTUSION, NO WAKEUP (ENGLISH)
- CHEST WALL CONTUSION (ENGLISH)
- BACK PAIN (ACUTE OR CHRONIC) (ENGLISH)

*****We are providing you with information on new and changed medications only. If you have questions about what medications to continue at home, contact the physician who prescribed them. Notify your physicians of all new and changed medications. Carry medication information with you at all times in the event of an emergency.*****

ED Current Prescriptions

Medication	Dispense	Auth. Provider
HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet	10 tablet	Fleck, Scott W, PA-C

Your Medications

Start Taking

HYDROCODONE-ACETAMINOPHEN (NORCO) 5-325 MG PER TABLET Take 1-2 tablets by mouth Every 6 Hours As Needed for Pain

These Medications Have Changed

No Medications Reported

Stop Taking

No Medications Reported

Patient Signature: _____
Date: _____

Affidavit

I attest under penalty of perjury that the following statement is true and correct to the best of my knowledge also under the laws of the State of Washington;

I Lawrence Roussel declare that Ryan Jurvakainen explained to me that a 3.5 was a hearing to exclude my witnesses and this was the day of the trial just as we were walking down the hallway to the court-room. on July, 29, 2014 and that if I did not waive my 3.5 then there was a chance that the prosecution could move to exclude any and all of my witnesses. I wanted my wife to testify as well as my dr that seen me for my injuries Scott, Fleck PA, and Rebecca Roussel, my wife.

Lawrence Roussel
DOC # 967756
Coyote Ridge Corrections center
P.O. Box 769
Connell, wa 99326

Lawrence Roussel
4-21-2015

I Lawrence Roussel Attest under penalty of perjury of the laws of the state of Washington that all information provided is information provided with said original sources. free from any influence and deviation. if there is any need for corrections within my S.A.G. please afford me the chance to correct.

22 pages Total,

Respectfully,
Lawrence Roussel
4/21/2015

Lawrence R Roussel # 967756 EA-8
Cogote Ridge Corrections center
P.O. Box 769
Connell, wa 99326