

Case # 329259

**Statement of Additional Grounds
for Review**

**State of Washington
v.
Don Arthur Moore**

OCT 22 2015

10F6

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON

4 OCT 15

APPEAL # 32925-9-111; ^{By} OKANOGAN CO. NO. 13-1-00126-6

STATEMENT OF ADDITIONAL GROUNDS

GROUND # 1

PROSECUTION'S CONTINUED USE THROUGHOUT TRIAL OF THE TERMS MURDER AND VICTIM. "MURDER" IS REFERENCED 24 TIMES IN COURT TRANSCRIPT OF TRIAL PAGES NUMBER 283, 295, 295, 295, 296, 306, 307, 312, 313, 313, 314, 315, 325, 399, 492, 494, 558, 703, 803, 862, 881, 920, 970 AND 988

"VICTIM" IS STATED 25 TIMES IN TRIAL TRANSCRIPT ON PAGES 923, 923, 923, 924, 925, 925, 925, 925, 932, 934, 934, 934, 934, 938, 939, ~~94, 94, 94, 94~~, 968, 973, 974, 975, 987, AND 987

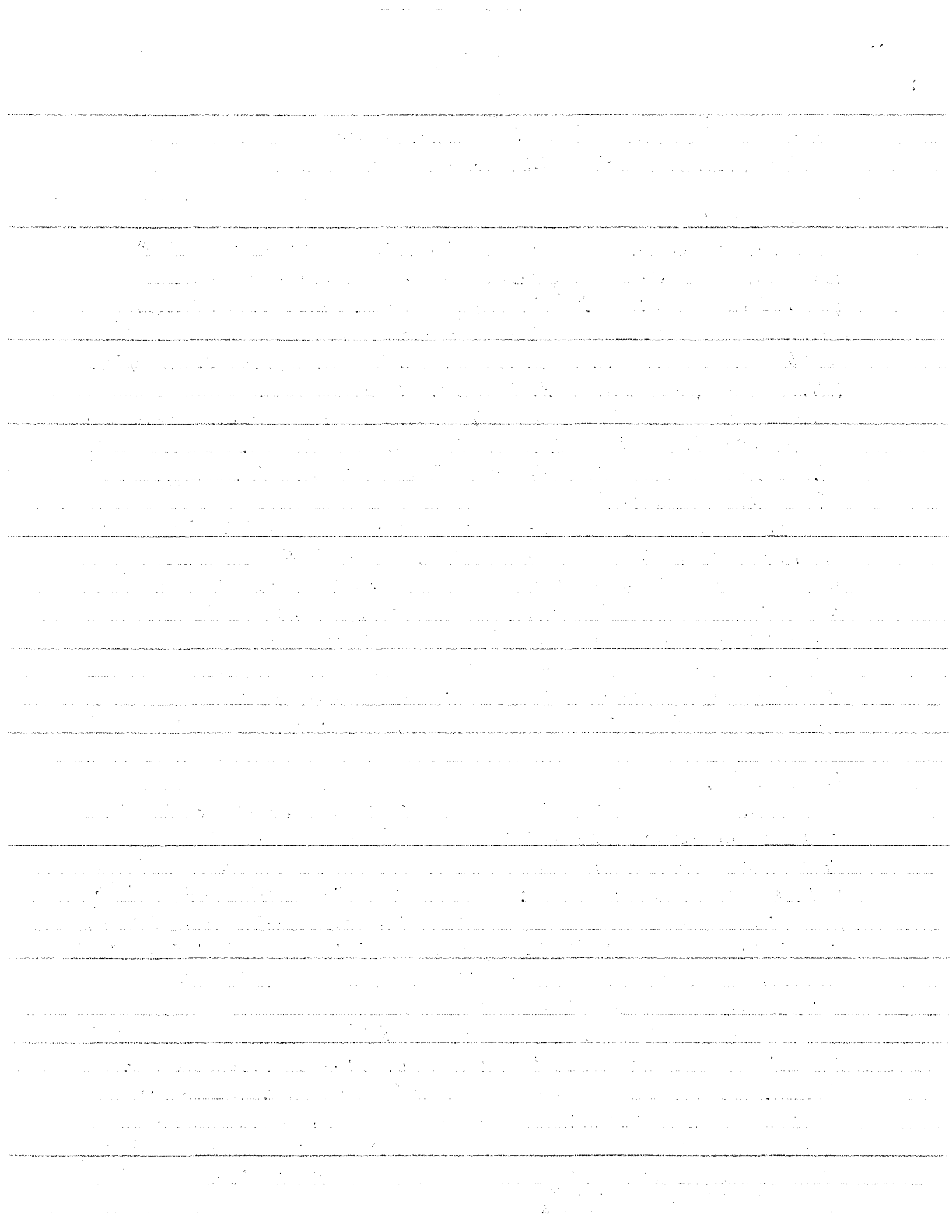
PROSECUTION IS VOUCHING TO THE JURY THAT A MURDER HAD BEEN COMMITTED CONFUSING THEIR DUTY TO DECIDE WHETHER A MURDER HAD OCCURRED, OR WHETHER THERE WAS A VICTIM. DEFENDANT IS SUPPOSED TO HAVE THE PRESUMPTION OF INNOCENCE.

PROSECUTION'S CONTINUOUS USE OF THESE TERMS SERVES ONLY TO PREJUDICE AND CONFUSE THE JURY. THESE TERMS CLAIM FACTS NOT IN EVIDENCE.

GROUND # 2

IMPROPER ENTERING OF EVIDENCE. PAGE 673 & 674 TRIAL TRANSCRIPT. ADMISSION OF BOWIE KNIFE AND BB. CON FOUND IN DEFENDANTS CAR - THESE ITEMS WERE NOT INVOLVED IN ANY ELEMENT OF THE ALLEGED INCIDENT. PROSECUTION WITNESS PAVED BACK AND FORTH ON FRONT OF THE JURY WITH THESE ITEMS HELD OVER HIS HEAD. DEFENSE COUNSEL DID NOT OBJECT DESPITE DEFENDANT ASKING HIM TO DO SO.

LINES 6 AND 7 OF PAGE 896 STATE IT IS THE JUDGES DUTY TO RULE ON ADMISSION. THE ACT OF PARADING THESE ITEMS AS EVIDENCE AND ALLOWING THEM TO BE ADMITTED SERVES TO PREJUDICE AND CONFUSE THE JURY. JUDGE SHOULD NOT HAVE ALLOWED THIS CHARADE. DEFENSE COUNSEL SHOULD HAVE OBJECTED. EVIDENCE OF WHAT?



GROUND # 3

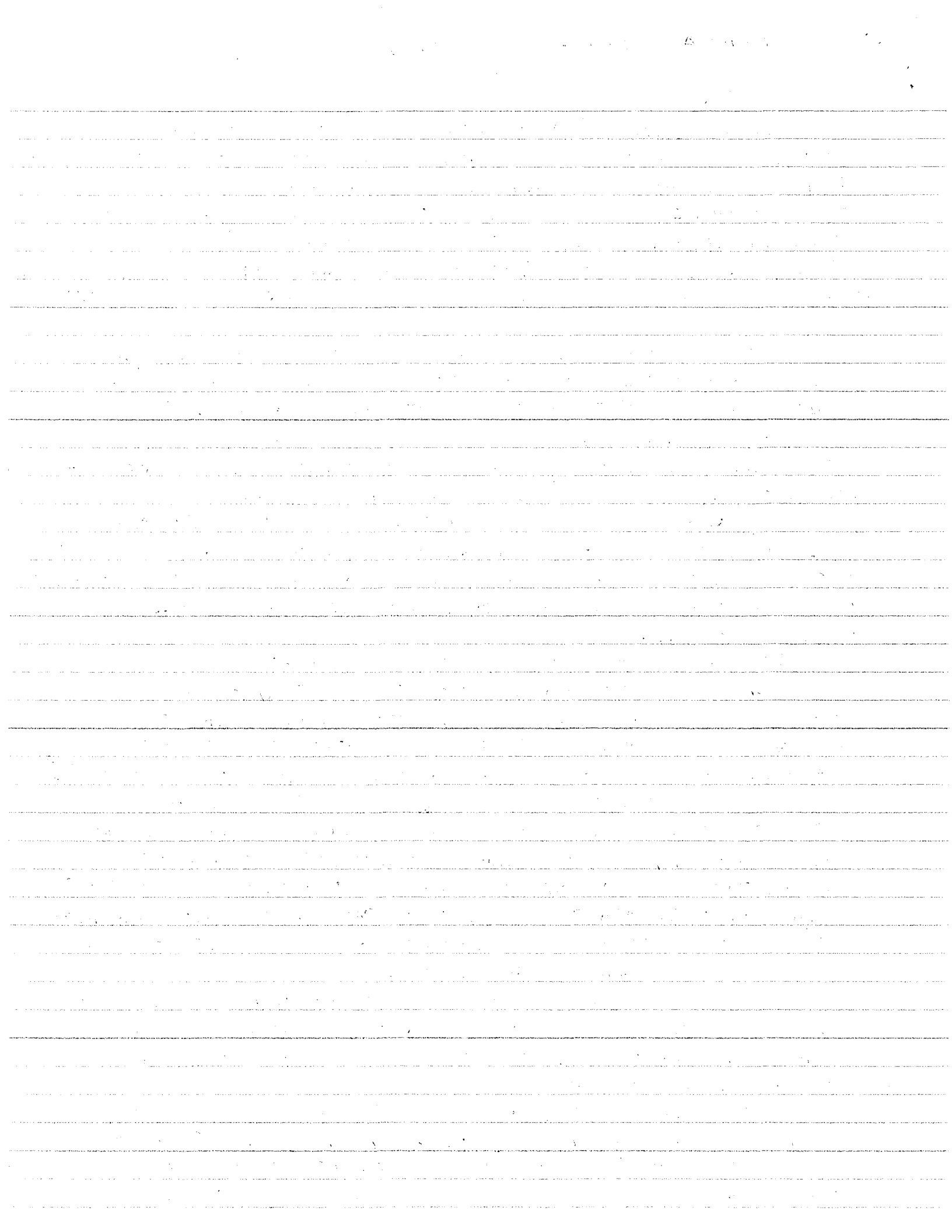
DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN DEFENSE ATTORNEY FAILED TO ASK FOR A 3.5 HEARING. A 3.5 HEARING INCLUDING MR. MOORE'S MEDICAL HISTORY MAY PROVE GROUNDS FOR DIMINISHED CAPACITY DEFENSE OR MAY PROVE HIS STATEMENT TO POLICE TOO PREJUDICED TO USE AGAINST HIM.

DEFENSE ATTORNEY DENIED DEFENDANT'S SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN HE FAILED TO INVESTIGATE OR RESEARCH ANY DEFENSE BY NOT ASKING FOR EXPERT WITNESS TO BRING IN DEFENDANT'S MEDICAL HISTORY INCLUDING 100% DISABILITY RATING FOR PTSD AND ONGOING OCCURRENCE OF MINI STROKES - VERIFIABLE BY EXISTING V.A. RECORDS AND MEDICAL HISTORY PRIOR TO ARREST. COURT DOCKET INCLUDES NO EX PARTE REQUEST FOR FUNDS FOR EXPERT WITNESS FOR PTSD OR ONGOING MEDICAL HISTORY WITH THE V.A.

DEFENSE ATTORNEY FURTHER VIOLATED SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN HE FAILED TO INVESTIGATE REPORT OF SOCIAL AND HEALTH SERVICES FROM EASTERN STATE HOSPITAL - COPY OF WHICH IS ENCLOSED.^A THIS REPORT STATES ON PAGE 5 PARA 4 "IT IS MY OPINION THAT MR. MOORE MAY WARRANT AN EVALUATION BY A DMHP, UNDER CHAPTER 71.05 RCW BECAUSE HE HAS A HISTORY OF BEHAVIOR THAT IS DANGEROUS TO HIMSELF AND OTHERS. ADDITIONALLY, IT IS POSSIBLE THAT MR. MOORE MAY INCUR COGNITIVE IMPAIRMENT SUCH THAT IT MIGHT RENDER HIM GRAVELY DISABLED.

THE DOCUMENTED FACT THAT DEFENDANT HAD BEEN SERIOUSLY ILL FOR SEVERAL MONTHS INCLUDING MINI STROKES, AMNESIA, AND SEVERE WEIGHT LOSS WAS NOT RESEARCHED OR PRESENTED

DEFENDANT'S HISTORY OF PREVIOUS MRI WITH POSSIBLE MENTAL DISABILITY IMPLICATIONS WAS NOT RESEARCHED EVEN THOUGH DEFENDANT CONTINUED TO HAVE MRI STROKES IN CUSTODY AND



WAS NOT TAKEN FOR FOLLOW UP MRI ORDERED BY V.A. AND SCHEDULED FOR 10 DAYS AFTER APRIL 21, 15 ARREST OF DEFENDANT.

SINCE ARREST DEFENDANT HAS HAD SEVERAL HOSPITALIZATIONS FOR MINI STROKES. PREVIOUSLY SCHEDULED MRI WAS FINALLY DONE ON 17 SEP 15 AFTER HOSPITALIZATION IN CUSTODY. RESULTS NOT MADE AVAILABLE TO DEFENDANT AS OF THIS WRITING.

PROSECUTION DENIED DEFENDANTS REQUESTS FOR MEDICAL CARE. ACCUSING DEFENDANT OF FAKING THESE INCIDENTS IN SPITE OF EXISTING MEDICAL HISTORY VERIFYING DEFENDANT'S MEDICAL AND MENTAL STATUS. DEFENDANT WAS DIAGNOSED AS "OVER MEDICATED" IN EARLY 2013. DEFENDANTS NARCOTIC MEDICATIONS WERE CUT BY 50% TWO DAYS PRIOR TO HIS APRIL 21, 13 ARREST. MEDICATION WERE FURTHER WITHHELD LEADING TO NARCOTIC WITHDRAWAL AND ASSOCIATED LACK OF MOTOR SKILLS AND MENTAL STABILITY.

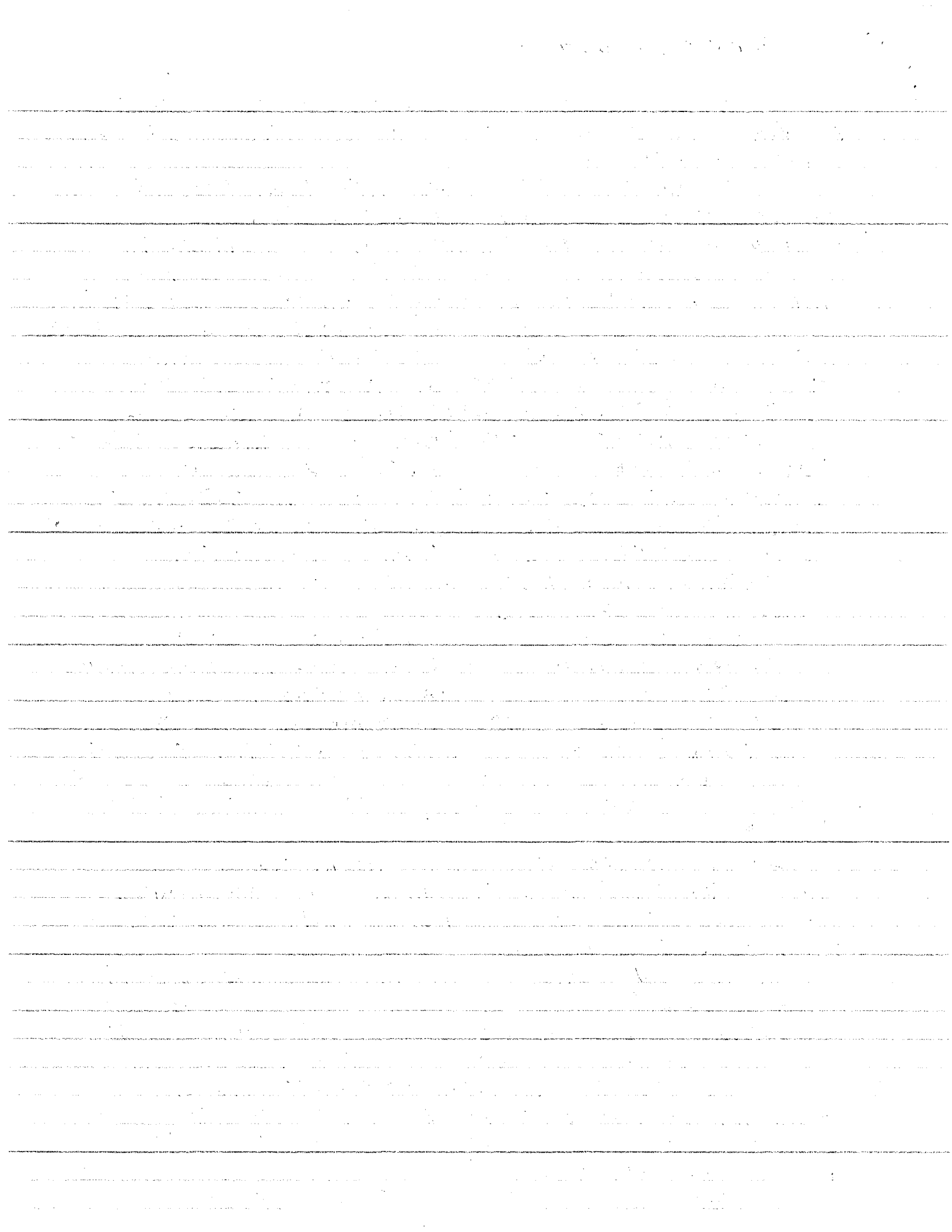
DEFENSE COUNSEL WAS NEGLIGENT TO NOT DEMAND DEFENDANTS MEDICAL AND MENTAL ISSUES BE RESOLVED BEFORE TRIAL. POSSIBLY EVEN BEFORE CHARGES. MORE INFORMATION MAY BE AVAILABLE UPON RECEIPT OF RESULTS OF BRAIN MRI DONE SEP 17, 2015, - DUE TO COUNSEL'S FAILURE TO RESEARCH THERE IS NO BASELINE FOR COMPARISON. DEFENDANT'S CONDITION AT TIME CANNOT BE DUPLICATED.

GROUND # 4

COURT VIOLATED DEFENDANTS RIGHT TO SPEEDY TRIAL WHEN IT FAILED TO RULE ON DEFENDANTS MOTION TO DISMISS FILED AUG 22 2014 - COPY INCLUDED A WITH THIS STATEMENT.

HEARING ON MOTION TO DISMISS HELD AUG 28, 2014. COPY INCLUDED. B DURING THIS HEARING THERE WAS NO DISCUSSION OF DISMISSAL - ONLY THE PROSECUTION ASKING FOR EXTENSION SO THE DEFENSE COULD INTERVIEW WITNESSES. DEFENSE HAD NOT RESEARCHED ANY WITNESSES TO THIS POINT AND SEEMINGLY HAD NO INTENTION OF DOING SO. IT IS NOT PROSECUTIONS PLACE TO PLEAD FOR DEFENSE ATTORNEY.

THERE IS NO RULING ON THIS MOTION TO



DISMISS EVEN THOUGH THE TRANSCRIPT AND COURT DOCKET (ENCLOSED) CLEARLY STATE THAT THE AUG 28 HEARING WAS TO BE HEARING ON MOTION TO DISMISS. NO RULING IS INCLUDED IN CLERKS PAPERS.

AS PER MOTION DEFENDANTS RIGHT TO SPEEDY TRIAL WAS VIOLATED AS OF 10AUG14. AS PER REQUEST OF MOTION CHARGES SHOULD HAVE BEEN DISMISSED AS OF THAT VIOLATION DATE.

GROUND #5

PROSECUTIONS CLOSING STATEMENTS ARE NOT IN ACCORD WITH TESTIMONY OF TRIAL OR FORENSIC EVIDENCE. PROSECUTION REPEATEDLY TOLD THE JURY THAT DEFENDANTS ASSERTIONS WERE NOT BACKED BY EVIDENCE WHEN IN FACT THE EVIDENCE SUPPORTED STATEMENTS MADE BY THE DEFENDANT. PROSECUTION PROCLAIMED THAT DEFENDANT "EXECUTED MR MALONEY, PLAIN AND SIMPLE" ALSO CLAIMED MALONEY FELL BACK "EXACTLY WHERE HE GOT UP FROM, IF HE WAS EVEN ALLOWED TO GET UP". EVIDENCE DID NOT SHOW THAT MR MALONEY DID NOT FALL WHERE HE GOT UP FROM. THESE STATEMENTS BY PROSECUTION ARE INVENDO, CONJECTURE AND OPINION - NOT BACKED BY EVIDENCE AT ALL. THERE IS NO EVIDENCE TO REFUTE THE DEFENDANTS ACCOUNT OF THE INCIDENT. DEFENDANT IS THE ONLY WITNESS - PROSECUTOR IS A MARGINALLY QUALIFIED, POLITICALLY MOTIVATED ATTORNEY FOLLOWING A PERSONAL AGENDA. DEFENDANT IS NOT SUPPOSED TO BEING DOING LIFE IN PRISON BECAUSE OF A POLITICIANS OPINION. PROSECUTIONS STATEMENTS ARE COMPARABLE TO THE BRAYING OF A BARNYARD JACKASS. THEY ARE LOUD AND HEARD BY ALL BUT INCOMPREHENDABLE AND CONFUSING. THIS PROSECUTOR'S STATEMENTS TO THE JURY ARE HIS OPINION AND ARE PREJUDICIAL AND CONFUSING. HIS CONJECTURE SHOULD NOT OVERRIDE EYE WITNESS ACCOUNT WITH NO EVIDENCE CONTRARY TO THAT EYEWITNESS.

IN READING THE TRANSCRIPT OF PROSECUTIONS CLOSING STATEMENT AND REBUTIAL THE PROSECUTION IS CONTINUOUSLY GUILTY OF TESTIFYING

The first part of the document discusses the general situation of the country and the progress of the revolution. It mentions the importance of the people's support and the role of the revolutionary forces. The text is written in a formal, official style, typical of government documents from that period.

The second part of the document details the specific measures and policies being implemented. It covers various aspects of the revolution, including economic reforms, social changes, and the organization of the revolutionary forces. The text is dense and contains many specific details and references.

The third part of the document discusses the future prospects and the challenges ahead. It emphasizes the need for continued struggle and the importance of maintaining the revolutionary spirit. The text concludes with a call to action and a statement of confidence in the success of the revolution.

AND ASSERT AS FACT HIS OWN OPINIONS AND CONJECTURE. ^A HE IS NOT REFERRING ACCURATELY TO DIRECT TESTIMONY AND IS INTENTIONALLY MISLEADING, INFLAMING AND CONFUSING THE JURY WITH INVENTS, OPINION, AND CONJECTURE.

DEFENSE ATTORNEY VIOLATE DEFENDANTS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN HE FAILED TO OBJECT TO THIS OBVIOUS TESTIMONY BY THE PROSECUTION

JUDGE VIOLATED DEFENDANTS RIGHT TO A FAIR AND IMPARTIAL TRIAL WHEN HE IGNORED THIS OBVIOUS PROSECUTORIAL MISCONDUCT.

GROUND # 6

NO OMNIBUS HEARING WAS HELD. DEFENSE WAS PROVIDED A GUIDELINE FOR OMNIBUS WHICH STATED WHAT DEFENSE AND PROSECUTION WERE OBLIGATED TO PROVIDE AT OMNIBUS. THOUGH OMNIBUS IS SCHEDULED ^A MULTIPLE TIMES ON THE COURT DOCKET NO INFORMATION WAS EXCHANGED BY EITHER PARTY - THERE IS NO VERBATUM TRANSCRIPT OF AN OMNIBUS HEARING. DEFENSE WAS NOT AFFORDED AMPLE TIME TO COUNTER PROSECUTION WITNESSES

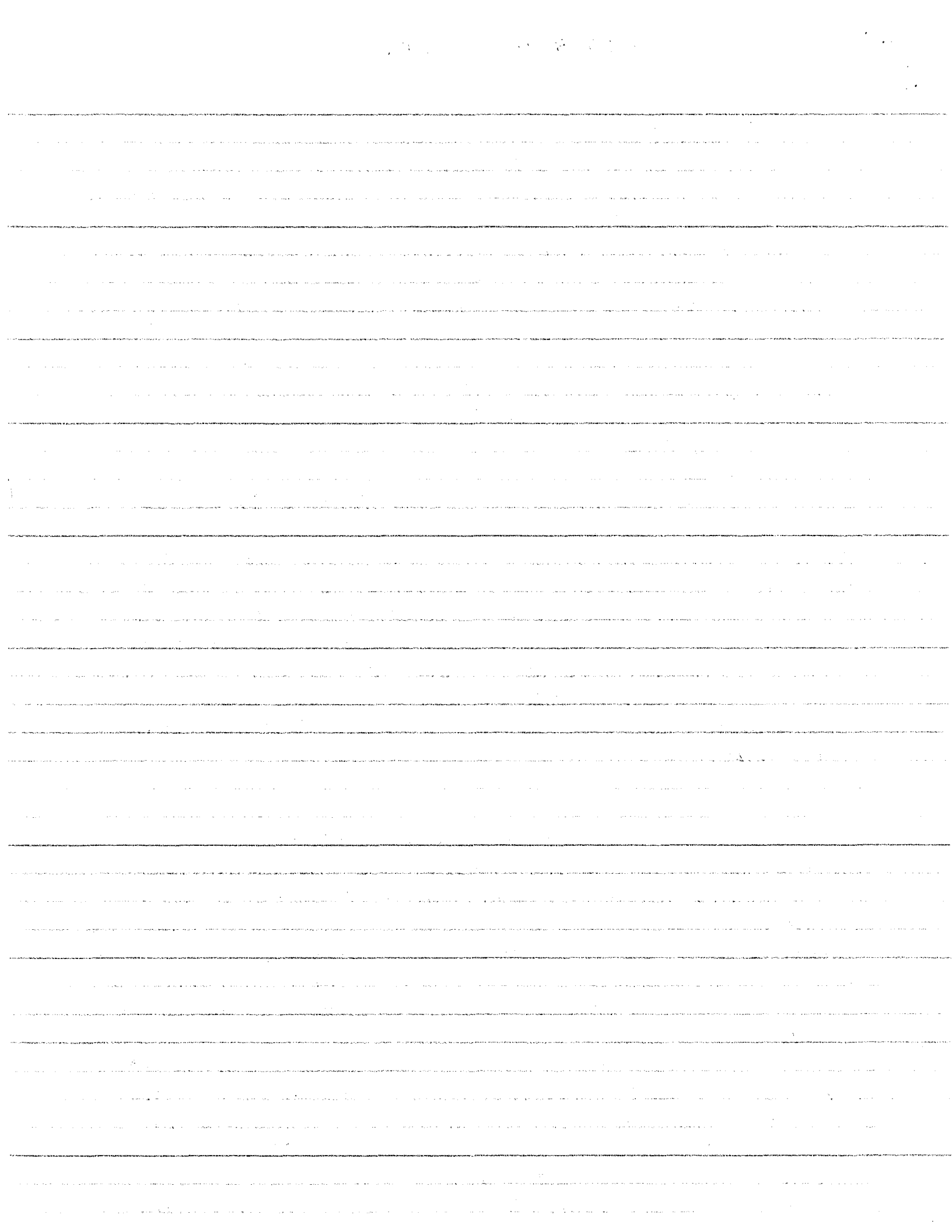
GROUND # 7

PROSECUTION WITHHELD EXCULPATORY EVIDENCE. PROSECUTION HAD IN ITS POSSESSION INFORMATION OF THREATS MADE BY MR. MALONEY AGAINST MR. MOORE.

1ST DISCOVERY PAGE 41 OF 65A 2ND DISCOVERY ³¹⁸ PG 29 OF 83B

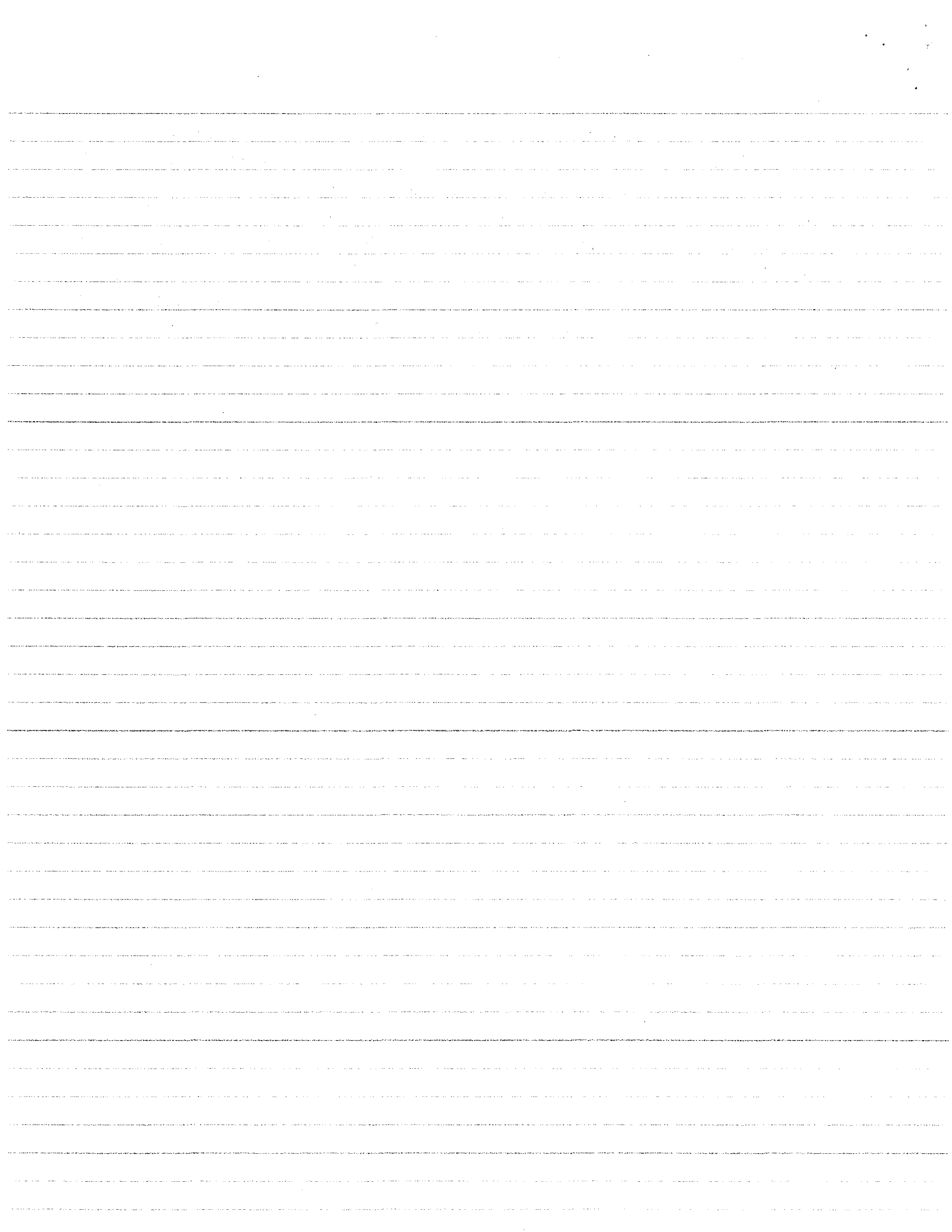
PROSECUTIONS FAILURE TO INVESTIGATE THESE STATEMENTS VIOLATED THEIR DUTY TO PROVIDE A FAIR AND IMPARTIAL TRIAL

PROSECUTION KNOWINGLY SUBJOURNED PERJURY WHEN THEY ALLOWED MR SKOGSTAD TO TESTIFY AT PAGE 315 OF TRIAL TRANSCRIPT THAT MR. MOORE TOLD HIM " I'M GONNA MURDER THAT MOTHERFUCKER. IN ^{1ST} DISCOVERY ON PAGE 38 OF 65, ~~MR~~ MR SKOGSTAD STATED THAT MR. MOORE SAID " I FEEL LIKE SHOOTIN THAT



FUCKER" - SEVENTEEN MONTHS LATER AT TRIAL
AND AFTER COACHING BY THE D.A. HIS STATEMENT
HAD CHANGED TO "GONNA MURDER THAT MOTHERFUCKER!"

DEFENSE COUNSEL DENIED 6TH AMENDMENT
RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN
HE FAILED TO POINT OUT THIS DISCREPANCY BETWEEN
INVESTIGATION STATEMENT AND TRIAL TESTIMONY. MR.
SKOGBAD MADE THIS ERRANT STATEMENT AT LEAST THREE
TIMES DURING TESTIMONY - Pg 313 & 314 OF RP



GROUND^A 5. ADDENDUM A

PAGE 910 OF RP PROSECUTION STATES "EXECUTED MR MALONEY, PLAIN AND SIMPLE" - OPINION OF D.A. NOT SUPPORTED BY DIRECT TESTIMONY.

D.A. IS TESTIFYING.

PAGE 911 OF RP D.A. STATES "GOT HIS CAR STUCK AND THEN NEEDED TO FIGURE SOMETHING OUT. HE NEEDED TO MAKE IT LOOK LIKE HE WAS ATTACKED. STATING AS FACT ITEMS NOT IN EVIDENCE. CONJECTURE AND OPINION. D.A. IS TESTIFYING.

PAGE 911 - "HIS STORY ABOUT HIM BEING ATTACKED DOESN'T MATCH THE EVIDENCE". AGAIN THIS IS CONJECTURE AND OPINION DISGUISED AS FACT NOT IN EVIDENCE - D.A. IS TESTIFYING.

PAGE 912 OF RP "IN THIS CASE THE EVIDENCE SHOWED CLEARLY THERE WAS PREMEDITATION. AGAIN CONJECTURE AND OPINION. D.A. IS TESTIFYING. EVIDENCE, INCLUDING NOTE ~~IN FACT~~ AND DIRECT TESTIMONY IN FACT SHOWS THE DEFENDANT'S INTENT WAS TO ARREST.

Pg. 914 OF RP "THE DEFENDANT WAS THE PRIMARY ACCROSSOR" ASSUMES FACTS NOT IN EVIDENCE.

EVIDENCE SHOWS MR. MALONEY ATTACKED MAKING HIM THE FIRST ACCROSSOR.

Pg. 922 "SHOT TO THE CHEST FROM THE FRONT AT A DOWNWARD ANGLE"

Pg. 923 "WITH THAT FIRST SHOT HE WAS PROBABLY NOT EVEN LIKELY TO HAVE GOT TO STAND" CONJECTURE - DOWNWARD ANGLE COULD ALSO

PROVE THAT MR. MALONEY WAS ~~THE~~ BENT FORWARD IN ATTACK MODE AS TESTIFIED BY DEFENDANT.

Pg. 923 ENTIRE PAGE REFERS TO DOWNWARD ANGLE OF SHOTS

Pg. 925 D.A. AGAIN STATES "THE EVIDENCE WOULD SHOW MR. MALONEY LIKELY DIDN'T GET UP" THIS IS OPINION AND TESTIMONY BY THE D.A. EVIDENCE SHOWS MALONEY DID GET UP AND ATTACK IN A BENT FORWARD MOTION - THUS THE DOWNWARD ANGLE OF SHOTS AND VERIFICATION OF DEFENDANT TESTIMONY.

Pg. 929 D.A. REFERS TO DEFENDANT'S HEAD WOUND

"THOSE ARE LITTLE SCRATCHES TREATED WITH NEOSPORIN. SO THAT REALLY DOESN'T FIT WITH BEING HIT BY A ROCK". OPINION - D.A. IS

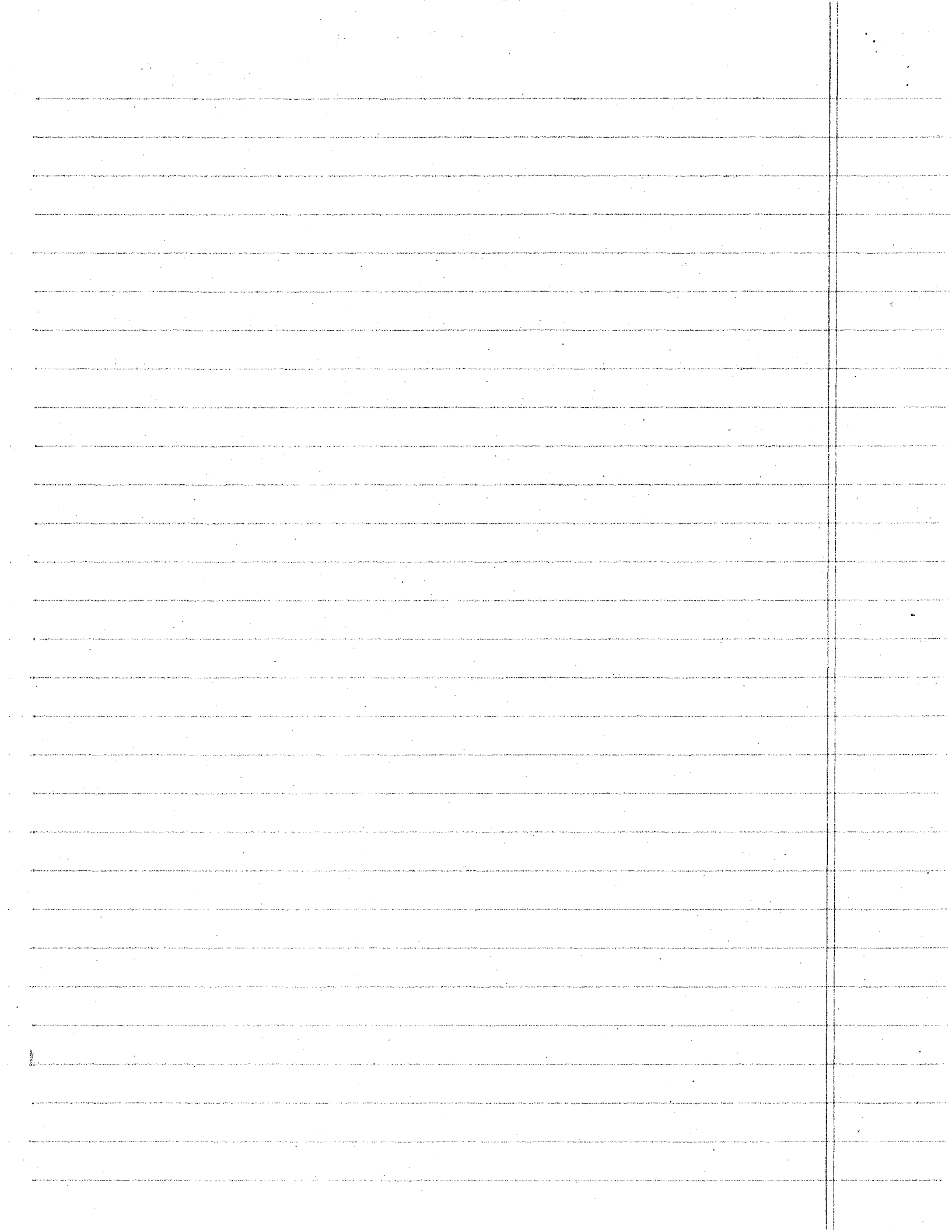
TESTIFYING ATTEMPTING TO SWAY/CONFUSE THE JURY

Pg. 940 D.A. "DEFENDANT CAME UP WITH A STORY AFTER 35 PLUS MINUTES THAT HE WAS ATTACKED THOUGH THE EVIDENCE DOESN'T SUPPORT THAT" OPINION AND TESTIMONY. EVIDENCE TESTIMONY IN 911 CALL IS 10 MINUTES. 35 MINUTES IS A FABRICATION BY THE D.A.

Pg. 973 FIRST HALF OF PAGE IS ALL D.A. TESTIFYING THAT MALONEY "FELL STRAIGHT BACK TO THE EXACT SAME SPOT HE GOT UP FROM". INDICATED SPOT IS NOT WHERE HE GOT UP FROM OR WHERE HE FELL BACK TO. THIS CONTRADICTS D.A.'S PREVIOUS STATEMENT THAT MALONEY DIDN'T GET UP. THIS IS ALL TESTIMONY BY THE D.A. DISGUISED HIS

OPINION AS FACT. ALL IS TESTIMONY BY THE D.A. NOT BACKED UP BY DIRECT TESTIMONY OR FORENSIC EVIDENCE. CLEARLY THIS IS CONJECTURE MEANT TO CONFUSE THE JURY. THIS IS TESTIMONY AND PROSECUTORIAL MISCONDUCT.

THROUGHOUT CLOSING STATEMENT AND REBUTAL THE D.A. IS CLEARLY TESTIFYING. HE IS PRESENTING HIS CONJECTURE AND OPINION AS FACT WHEN NO DIRECT TESTIMONY OR FORENSIC EVIDENCE SUPPORTS HIS INTENDO. PROSECUTORIAL MISCONDUCT - PLAIN AND SIMPLE MEANT TO CONFUSE JURORS.



I called Dalton and identified myself. I told Dalton that I was investigating the murder of Bruce Molony and that his name had come up as being a friend or acquaintance of Molony's. Dalton corrected me stating that he was not Molony's friend and more of an acquaintance of his. Dalton with some reluctance clarified his being Molony's acquaintance. Dalton told me that he is in AA with Molony and that is the extent of his knowing him. Dalton told me that morning of the murder. Saturday he was at the AA meeting in Riverside at the church.

Dalton explained that Bruce Molony was sitting several people away down the table when he shared about something going on in his life at that time. Dalton told me that Molony didn't use any specifics or names when he told the group that he was having troubles with a man and that he wasn't the man he used to be who would fight at the drop of a hat. Dalton said that Molony went on to tell the group that if this continued with the man that someone would get hurt. Dalton said he doesn't know anything more than that and seemed a bit confused as to how his name was mentioned in the investigation.

I thanked Dalton for his cooperation and told him to call me if he has any other information in the case.

End of report.

I certify or declare that the foregoing statement is true and correct under the penalty of perjury under the laws of the state of Washington.

Date, Time, Reporting Officer
05/28/2013
Detective Rob Heyen 015

GROUND #7
ADDENDUM A 8/10/11

Vehicles

Vehicle Number:
28670
License Plate: 420VSJ **License Type:** PC Regular Passenger Automobile
State: WA **Expires:** 11/13/13
Vehicle Year: 2000 **VIN:** 1GHDT13W2Y2178839
Make: OLDS Oldsmobile **Model:** BRAVA
Color: SIL / **Doors:** 0
Vehicle Type: SUV Sport Utility **Value:** \$0.00
Vehicle

Owner:
Last: KEIPER **First:** PATTY **Mid:** JO
DOB: 11/22/62 **Dr Lic:** KEIPEPJ383Q2 **Address:** 1688 TUNK CREEK RD
Race: W **Sex:** F **Phone:** (360)224-3345 **City:** RIVERSIDE, WA 98849

Agency: OCSO OKANOGAN COUNTY **Date Recov/Rcvd:** **/**/**
Officer: IRWIN D **Area:**
UCR Status: **Wrecker Service:**
Local Status: **Storage Location:**
Status Date: **/**/** **Release Date:** **/**/**
Comments:

Vehicle Number:
28663
License Plate: 986YSL **License Type:** PC Regular Passenger Automobile
State: WA **Expires:** 01/14/14
Vehicle Year: 1991 **VIN:** 1FAPP64R4MH148798
Make: FORD Ford **Model:** THUCP
Color: SIL / **Doors:** 2
Vehicle Type: PCAR Passenger Car **Value:** \$0.00

Owner:
Last: **First:** **Mid:**
DOB: **/**/** **Dr Lic:** **Address:**
Race: **Sex:** **Phone:** **City:**

Agency: OCSO OKANOGAN COUNTY **Date Recov/Rcvd:** **/**/**
Officer: IRWIN D **Area:**
UCR Status: **Wrecker Service:**
Local Status: **Storage Location:**
Status Date: 04/20/13 **Release Date:** **/**/**
Comments:
Vehicle Sold 04/15/2013

sheath in his hip pocket prior to being rolled over, his body weight should have pressed the pocket closed.

Bullet wounds to Bruce Molony's face, head and elbow:

Molony was shot in the face 3 times, the upper lip, right and left cheeks and there was 1 shot to the right ear. During the autopsy I saw that the left elbow had a bullet lodged in it. (S13-02272-trh-autopsy (72 & 73). These circumstances and evidence leads me to believe that Bruce Molony may well have tried using his left arm in a defensive move while being shot in the face.

End of report.

I certify or declare that the foregoing statement is true and correct under the penalty of perjury under the laws of the state of Washington.

Date, Time, Reporting Officer
05/22/2013
Detective Rob Heyen U15

GROUND #7
ADDENDUM C pg. 1 of 1

Supplement

Supplemental Report:

Witness statements:

Ronald Skogstad
Brandon Valentine

Narrative:

Interview with Ronald Skogstad
Interview with Brandon Valentine
Interview John P Dalton

On Monday May 13 2013 at about 1311 hours, I contacted Ronald "Ronnie" Skogstad at his residence, 206 Main Street in Riverside. Skogstad had been identified by Deputy Irwin as a possible witness in the case who may have had contact with Don Moore prior to the murder of Bruce Molony. Skogstad resides with Edward "Pappy" McIntyre and we had contacted McIntyre on Thursday May 9 but Skogstad wasn't at home.

Ronald Skogstad invited me inside the residence to talk about Don Moore and Bruce Molony. Skogstad told me about Don Moore coming over to his house on Saturday that very same day Bruce Molony was killed at between the hours of 1100, 1200 or 1300 "before he committed that act of insanity". Skogstad sort of under his breath said that he was dreading this. Skogstad said that Don Moore stopped by to just "say hey" and that he stayed only for a short while maybe 10 minutes and never even sat down. Skogstad stated that Don Moore comes by as a ritual once a week to drop off the party line print and other times to show him a car he had found like he did when he got the Thunder bird. We talked about what a nice car that the Thunderbird is.

Skogstad said he knew that Don had some of his stuff and car parts stolen from his place while he was out of town but he didn't know that Don thought it was Bruce until that Saturday. Skogstad stated that he knew Bruce too and thought of him as a nice and decent guy. Skogstad told me that Don talked about being pissed at Bruce and that Don made a threat to him directed towards Bruce. Skogstad looked away in thought and said he wanted to remember the exact words that Don used. Skogstad began telling me about the visit from Don Moore again and then stated Don told him "I feel like shootin that fucker." Skogstad took the threat seriously enough to where he told me he started talking to Don about letting the law take care of it since he had made the report and to not throw his life away.

I inquired about Don Moore carrying firearms and if Skogstad had seen Moore with any handguns that he carried on his person. Skogstad told me that he has seen Don carrying a handgun and the way he put it was that it was in conjunction with his plastic Sheriff star on his hat making him wonder if it was even a real gun. Skogstad described the handgun he was referring to as a small revolver. Skogstad went on to talk about Don Moore coming over 5 days prior to the murder, wanting to trade him a hand gun that he had for his 9mm hand gun. Skogstad described the handgun Moore wanted to trade for his 9mm as being a Ruger semi auto 22 and that it was a "William B Ruger" commemorative edition with white grips. Skogstad said that he declined the trade Moore had offered. I asked Skogstad about seeing any firearms carried by Moore during his visit on the day of the Molony murder. Skogstad told me that he didn't notice Moore carrying a firearm that day and included that Moore didn't stay very long or even sit down.

12
2

GROUND 7
ADDENDUM B Pg. 1 of 2

Moore and Bruce McIny that occurred in front of the Riverside Store sometime before the shooting, possibly on Friday (April 19, 2013), because Jerry Nietrick told Sharma that he had been present during that incident. Sharma said that Jerry told her that after the confrontation Bruce had told Jerry that if Don confronted him again that it "wouldn't be pretty"

Sharma also told me that she had heard from several other men who said that about 3 weeks before the incident that Don Moore had been at Ed McIntyre's house in Riverside with Jake Hamilton, Ronnie Skogstad and Ed McIntyre and that Don Moore had told Ed, Ronnie and Jake that if he found out that Bruce was the person responsible for the thefts from his property that he would shoot him in the head.

Sharma then told me that there was another man who had told her that he had been with Bruce McIny until about 1500 hrs on the day of the incident and that he had told Sharma that Bruce had spoken to him about Don Moore before the incident.

Sharma told me that she only knows that the man has the first name of "Jake" (not Jake Hamilton) and that he is in his 50's and has been a building inspector for Onak for about 2 years.

I thanked Sharma for her help and told her that if the Sheriff Office needed further information or needed to speak with her again that we would contact her.

I was clear of my contact with Sharma Dickinson at about 1046 hrs.

At about 1320 hrs I made telephone contact with Detective Heyen to check if he had information regarding "Jake" and to advise him of the information Sharma had provided regarding Moore's statement to Jake Hamilton, Ronnie Skogstad and Ed McIntyre by Don Moore.

I requested Detective Heyen to handle the follow-up contacts with Hamilton, Skogstad and McIntyre.

On Thursday, May 9, 2013 I returned to service and had contact with Detective Heyen. Det. Heyen told me that he had discovered that the firearm used by Don Moore had been originally purchased by a former Okanogan County Corrections Officer, Jim Harrison and that Harrison had traded the pistol to Daniel Ray Oliver in exchange for a boat motor. Det. Heyen requested that I accompany him to contact Oliver regarding the firearm.

I rendezvoused with Det. Hayer in the Riverside area at about 1315 hrs.

At about 1332 hrs we arrived at Daniel Oliver's residence which is located at 113 Lower Tower Street, Riverside, where we contacted Daniel Oliver.

During our contact with Oliver he confirmed receiving the pistol from Jim Harrison in exchange for a 20 horsepower boat motor. Oliver also explained that he traded the pistol to Don Moore in exchange for \$200.00 less than a month before the shooting.

See Detective Heyen's report for further information regarding the contact with Daniel Oliver.

We were clear of our contact with Oliver at about 1402 hrs.

CROWD #7

ADDENDUM B pg 2 of 2

Det. Heyen and I cleared our contact with McIntyre.

Det. Heyen later advised me that he made contact with Ronnie Skogstad, see Detective Heyen's report for information on that interview. Detective Heyen also later made contact with the person whom Sharma Dickinsen had identified as the Omak building inspector "Jake",

Detective Heyen told me that "Jake" was actually John Patrick Dalton, date of birth 10/03/1951. Det. Heyen told me that Dalton attended Alcohol Anonymous meetings with Bruce Molony and knew him only from the AA meetings.

Dalton stated that Molony had shared with the AA group that he had been having a problem with a man and that ever though his days as a drinker and the type of guy who would fight at the drop of a hat were behind him, that if he continued to have problems with the man that someone would get hurt.

On Thursday, June 6, 2013 at about 1600 hrs I attempted to contact Peter Kendall, the last member of the poker group that it had been recommended that I contact.

I attempted to contact Peter via his cellular phone number of 322-3062, there was no answer. I left a message requesting a return call to the Sheriff Office.

On Friday, June 7, 2013 at about 1647 hrs I checked my voicemail at the Sheriff Office and found a message from Peter that had been left at about 1405 hrs. He stated that he would be available by phone for a return call.

At about 1715 hrs I placed a return call to Peter. I identified myself and explained why I was calling him and asked for his full name and date of birth.

It turned out that the name that I had thought to be "Peter Kendall" was in fact Petr Kindl date of birth 10/02/1966. Petr told me that he lives at 215 Omak River Road.

I asked Petr if he recalled any conversations with Don Moore prior to the incident wherein Moore had spoken about what was going on.

Petr told me that he had spoken with Don during one of the poker group sessions, but that it had been a normal conversation where Don talked about staying over on the coast and having had surgery while he was on the coast.

Petr told me that Don did mention that he had been the victim of a theft with items being stolen from his property while he was on the coast and that he was mad about it and wanted his stuff back, however Don never mentioned any names or specifics about what was stolen.

I thanked Petr for taking the time to speak with me and was clear of the call at about 1745 hrs.

End of Report.

Deputy D. Irwin, U30 June 7, 2013 1752 hrs.

Dennis Duma, U 30

14

ROUND #4
ADDENDUM C
Pg 1 of 4

ROUND #6
ADDENDUM A
Pg 1 of 2

Trial Court Docket

OKANOGAN COUNTY SUPERIOR COURT Case#: 131001266

STATE OF WASHINGTON VS MOORE, DON ARTHUR

Sub#	Date	Description/Name	Docket Code	Secondary
1	04/22/2013	PRELIMINARY APPEARANCE	PLMHRG	
2	04/22/2013	ORD DETERMIN PROBABLE CAUSE	ORDPCA	04-29-2013IA
		ARRAIGNMENT	ACTION	
		JUDGE HENRY A. RAWSON	JDG02	
3	04/22/2013	ORDER APPOINTING ATTORNEY	OAPAT	
		JUDGE HENRY A. RAWSON	JDG02	
4	04/23/2013	NOTICE OF APPEARANCE	NTAPR	
		PAULSEN-THEW, EMMA J	ATD01	
5	04/23/2013	NOTICE OF APPEARANCE	NTAPR	
		GWINN, BRIAN DANIEL	ATD02	
6	04/23/2013	AFFIDAVIT OF PREJUDICE	AFPRJ	
7	04/24/2013	INFORMATION	INFO	
8	04/24/2013	AFFIDAVIT/DECLARATION PROB CAUSE	ADPC	
9	04/29/2013	MOTION HEARING	MTHRG	05-06-2013IA
		ARRAIGNMENT	ACTION	
10	05/06/2013	INITIAL ARRAIGNMENT	ARRAIGN	06-18-2013IO
		OMNIBUS/3.5 HEARING W/CEC	ACTION	
-	05/06/2013	NOTICE OF HEARING *STRICKEN*	NTHG	
		STATUS CONFERENCE W/CEC 06-24-13		
-	05/06/2013	NOTICE OF TRIAL DATE *STRICKEN*	NTTD	
		*JURY TRIAL 07-02-2013 @ 8:30AM		
		W/JUDGE CEC*		
11	05/06/2013	ACKNWLDGMT OF ADVICE OF RIGHTS	AKAR	
		JUDGE CHRISTOPHER E. CULP	JDG01	
12	05/06/2013	AFFIDAVIT OF INDIGENCY CONFIDENTIAL	AFIND	
		JUDGE CHRISTOPHER E. CULP	JDG01	
13	05/06/2013	ORDER SETTING DATES & PROCEDURES	ORST	
		JUDGE CHRISTOPHER E. CULP	JDG01	
14	06/10/2013	SUBPOENA 3.5 - DPT DENNIS IRWIN	SB	
15	06/14/2013	RETURN ON SUBPOENA - D IRWIN	RTSB	

ROUND 6
ADDENDUM A →

15

GROUND #4
ADDENDUM C
Pg 2 of 4

GROUND #6
ADDENDUM A
Pg 2 of 2

GROUND 6
ADDENDUM A

GROUND #6
ADDENDUM A

16	06/18/2013	MOTION HEARING	MTHRG	07-29-2013IO
		OMNIBUS	ACTION	
-	06/18/2013	NOTICE OF HEARING	NTHG	08-13-2013IM
		3.5 HEARING	ACTION	
-	06/18/2013	NOTICE OF HEARING	NTHG	09-30-2013IS
		STATUS CONFERENCE	ACTION	
-	06/18/2013	NOTICE OF TRIAL DATE *STRICKEN*	NTTD	
		JURY TRIAL 10-01-2013 @ 8:30AM		
17	06/18/2013	AMENDED ORDER SETTING DATES	ORST	
		JUDGE CHRISTOPHER E. CULP	JDG01	
18	06/25/2013	MOTION TO ALLOW DEF TO OBJECT TO	MT	
		DATES SET FOR TRIAL		
19	07/29/2013	OMNIBUS HEARING	OMNHRG	
20	07/29/2013	OMNIBUS APPLICATION OF PROS ATTY &	OMAPA	
		COMPLIANCE STATEMENT		
		JUDGE CHRISTOPHER E. CULP	JDG01	
21	07/29/2013	OMNIBUS APPLICATION BY DEFENDANT	OMAD	
		JUDGE CHRISTOPHER E. CULP	JDG01	
22	08/08/2013	SUBPOENA 3.5 HRG - DPT DENNIS IRWIN	SB	
23	08/08/2013	SUBPOENA 3.5 HRG - DPT ROB HEYEN	SB	
24	08/12/2013	RETURN ON SUBPOENA - D IRWIN	RTSB	
25	08/13/2013	RETURN ON SUBPOENA - R HEYEN	RTSB	
26	08/13/2013	MOTION HEARING	MTHRG	09-17-2013IM
		3.5 HEARING	ACTION	
27	08/26/2013	MOTION FOR FORMAL EXAMINATION OF DEFENDANTS MENTAL CONDITION	MT	
28	08/26/2013	ORDER FOR MENTAL HEALTH EVALUATION	OR	
		JUDGE CHRISTOPHER E. CULP	JDG01	
29	09/17/2013	MOTION HEARING	MTHRG	10-14-2013IR
		REVIEW HEARING	ACTION	
30	09/17/2013	AMENDED ORDER SETTING DATES	ORST	
		JUDGE HENRY A. RAWSON	JDG02	
31	09/30/2013	REVIEW HEARING	RVWHRG	

26

GROUND #4
 APPENDUM C
 Pg. 3 of 4

101	08/19/2014	SUBPOENA - GALE WALL	SB	
102	08/19/2014	SUBPOENA - MICHAEL WHITLEY	SB	
103	08/19/2014	SUBPOENA - JUSTIN L KNOY	SB	
104	08/19/2014	SUBPOENA - BRANDON RAY VALENTINE	SB	
105	08/19/2014	SUBPOENA - JAMES HARRISON	SB	
106	08/22/2014	MOTION TO DISMISS	MTDSM	
107	08/25/2014	STATUS CONFERENCE / HEARING	STAHRG	
108	08/25/2014	DEFENDANT'S LIST OF WITNESSES	DFLW	
109	08/25/2014	RETURN ON SUBPOENA - J HARRISON	RTSB	
110	08/25/2014	RETURN ON SUBPOENA - G WALL	RTSB	
111	08/25/2014	RETURN ON SUBPOENA - D IRWIN	RTSB	
112	08/25/2014	RETURN ON SUBPOENA - W CHANDLER	RTSB	
113	08/25/2014	RETURN ON SUBPOENA - D BEHYMER	RTSB	
114	08/25/2014	RETURN ON SUBPOENA - S YUSI	RTSB	
115	08/25/2014	RETURN ON SUBPOENA - R HEYEN	RTSB	
115.1	08/27/2014	RETURN ON SUBPOENA - R SKOGSTAD	RTSB	
115.2	08/27/2014	RETURN ON SUBPOENA - G VANBRUNT	RTSB	
115.3	08/27/2014	RETURN ON SUBPOENA - B VALENTINE	RTSB	
115.4	08/27/2014	RETURN ON SUBPOENA - K ANDERSON	RTSB	
115.5	08/27/2014	RETURN ON SUBPOENA - M WHITLEY	RTSB	
115.6	08/27/2014	RETURN ON SUBPOENA - T HARRISON	RTSB	
116	08/28/2014	MOTION HEARING	MTHRG	
117	08/28/2014	AMENDED ORDER SETTING DATES	ORST	09-08-2014IS
		READINESS	ACTION	
		JUDGE CHRISTOPHER E. CULP	JDG01	
-	08/28/2014	NOTICE OF TRIAL DATE	NTTD	
		JURY TRIAL 09-09-2014		
		OUTSIDE DATE 09-22-2014		
118	08/29/2014	RETURN ON SUBPOENA UNSERVED - G GONZALEZ	RTSB	
119	08/29/2014	RETURN ON SUBPOENA - D RODRIGUEZ	RTSB	
120	08/29/2014	STATE'S LIST OF WITNESSES AMENDED	STLW	
121	08/29/2014	SUBPOENA - JAMES C BLUE	SB	
122	08/29/2014	SUBPOENA - LARK STEBBINS	SB	
123	08/29/2014	SUBPOENA - EDWARD MCINTYRE	SB	
124	09/02/2014	RETURN ON SUBPOENA - N STEWART	RTSB	
124.1	09/05/2014	SUBPOENA - KEVIN JENKINS	SB	
125	09/08/2014	STATE'S LIST OF WITNESSES 2ND AMEND	STLW	

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GROUND #4

ADDENDUM C

Pg. 4 of 4

126	09/08/2014	SUBPOENA - JOHN DALTON	SB	
127	09/08/2014	RETURN ON SUBPOENA - J BLUE	RTSB	
128	09/08/2014	RETURN ON SUBPOENA - E MCINTYRE	RTSB	
129	09/08/2014	STATUS CONFERENCE / HEARING	STHRG	
130	09/08/2014	PLAINTIFF'S PROPOSED INSTRUCTIONS CITED	PLPIN	
131	09/08/2014	PLAINTIFF'S PROPOSED INSTRUCTIONS UNCITED	PLPIN	
132	09/09/2014	MOTION AND AFFIDAVIT/DECLARATION TO AMEND INFORMATION	MTAF	
133	09/09/2014	MOTION IN LIMINE RESPONSE TO DEFENDANTS MOTIONS	MTL	
134	09/09/2014	PLAINTIFF'S PROPOSED INSTRUCTIONS AMENDED CITED	PLPIN	
135	09/09/2014	PLAINTIFF'S PROPOSED INSTRUCTIONS AMENDED UNCITED	PLPIN	
136	09/09/2014	AMENDED INFORMATION FIRST	AMINF	
137	09/09/2014	MOTION IN LIMINE DEFENDANT'S	MTL	
138	09/09/2014	MOTION HEARING	MTHRG	
139	09/09/2014	RETURN ON SUBPOENA UNSERVED - L STEBBINS	RTSB	
140	09/09/2014	VOIR DIRE ONLY HEARING	VOIR	
141	09/10/2014	JURY TRIAL	JTRIAL	
142	09/10/2014	STIPULATION TO WAIVE 3.5 HEARING	STP	
143	09/10/2014	RETURN ON SUBPOENA UNSERVED - J DALTON	RTSB	
144	09/11/2014	TRIAL MINUTES	TRMIN	
145	09/12/2014	TRIAL MINUTES	TRMIN	
146	09/15/2014	TRIAL MINUTES SENTENCING @ 11 AM	TRMIN	09-25- 2014IT
147	09/15/2014	COURT'S INSTRUCTIONS TO JURY JUDGE CHRISTOPHER E. CULP	CTINJY	
148	09/15/2014	EXHIBIT LIST STATE ADMIT #1-12, 14-132,134-171 - MARKED #13,133,172	EXLST	
149	09/15/2014	WITNESS LIST	WL	
150	09/15/2014	VERDICT FORM A - GUILTY	VRD	
151	09/15/2014	SPECIAL VERDICT FORM DEADLY WEAPON	VRD	
152	09/15/2014	VERDICT FORM B - LESSER (BLANK)	VRD	

18.

GROUND #4
ADDENDUM B
Pg 9 of 10

1 yeah, we're going to sign an actual order to move it,
2 is that right?

3 MR. PRINCE: That's correct.

4 MR. SLOAN: We'll still have the same expira-
5 tion date written down and the trial date.

6 THE COURT: Yeah. And that's what's im-
7 portant to you Mr. Moore is that your -- your time-
8 for-trial, your speedy trial, that does not change.

9 MR. MOORE: Okay.

10 THE COURT: Okay. And so this is your signa-
11 ture then agreeing to that?

12 MR. MOORE: Yes Sir.

13 THE COURT: Do you have any questions about
14 what we're doing?

15 MR. MOORE: No Sir.

16 THE COURT: Alright.

17 MR. MOORE: You can assure the jurors I'll be
18 here anyway so I could pitch in.

19 THE COURT: Alright. Now, counsel, and the
20 other thing too, Joy, for the -- and Talia is aware
21 of this, for purposes of the juror message we wanted
22 them to show up -- I think we said at 9:30 --

23 MR. SLOAN: 9:30.

24 THE COURT: -- instead of 8:30 because we --
25 we'll need some extra time to deal with pre-trial

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matters. So 9:30 on September 9. And counsel, I'm also going to put in here on the amended order setting dates we'd have readiness -- I've just put RC for the readiness calendar on September 8, 2014 and we know that'll be at 1:30.

Okay. I've signed the amended order setting dates this afternoon, the 28th of August. Mr. Sloan, anything else?

MR. SLOAN: No Your Honor.

THE COURT: Mr. Prince, anything else?

MR. PRINCE: No Your Honor. Thank you.

THE COURT: Okay. I've got a copy of this then for Mr. Moore. Okay. Thank you. So Ms. Beaker, no criminal trials next week.

(End of proceeding - 3:11 p.m.)

1 to testify about if it's not clear for the State.

2 THE COURT: Okay.

3 MR. PRINCE: For sure.

4 THE COURT: Is that fair?

5 MR. PRINCE: That is indeed.

6 THE COURT: And not later than 5:00 p.m. then
7 next Wednesday, September 3rd. And I guess then, Mr.
8 Sloan, if you feel that that's not been complied with
9 we have scheduled the morning of trial some extra
10 time for motions in limine.

11 MR. SLOAN: Correct.

12 THE COURT: Okay. So the Clerk's office has
13 gone to great lengths to, in fact, call potential ju-
14 rors to increase the size of our panel for next Tues-
15 day. I think there were originally seventy-one sum-
16 monsed and based on an expected fifty percent return,
17 and I talked with the jury clerk and said I thought
18 that we'd need more than thirty to thirty-five --

19 MR. SLOAN: Absolutely.

20 MR. PRINCE: For sure.

21 THE COURT: -- given the nature of the charge
22 or charges and the length of the trial and so forth.
23 And, in fact, I told her that I thought we probably
24 needed seventy plus. So I think -- I know she's go-
25 ing to be upset but this might actually be good news.

21

GROUND #4
ADDENDUM B
Pg 8 of 10

1 What I'm going to suggest is that -- we don't have
2 any other criminal trials set then for next week?

3 MR. SLOAN: We do not.

4 THE COURT: I'm -- I'm going to suggest that
5 the message for the jury panel on -- right now
6 they'll be calling us on Monday night --

7 CLERK: Right.

8 THE COURT: -- that we change that message
9 and instruct them and ask all of those people to call
10 on Monday the 8th of September so that we have that,
11 you know, seventy or eighty in addition to the sixty
12 or seventy that she's got subp -- or summonsed for
13 the 9th so that we'd have, you know, maybe a hundred
14 and fifty and hope for like seventy-five. Does that
15 make sense? So tell her it's bad news but maybe good
16 news in terms of -- of the matter being not continued
17 but moved.

18 Okay. Alright. So with the agreement of the
19 parties then -- Mr. Moore, we're moving your case.
20 And I'm hearing that you and Mr. Prince have talked
21 about this and -- and that you agree?

22 MR. MOORE: Yes Sir.

23 THE COURT: And frankly, even if you didn't
24 agree, it would still be within your speedy trial
25 right which runs on September the 22nd; but -- so

22

GRANDS #4
ADDENDUM B
Pg 5 of 10

1 County or are they elsewhere?

2 MR. PRINCE: One -- at least one is not but
3 the rest yes.

4 THE COURT: Okay. And so what I hear then is
5 that the defense is actually in agreement for the
6 purpose of allowing your investigator this additional
7 time in which to try and find these people.

8 MR. PRINCE: That's correct.

9 THE COURT: Is it conceivable counsel that --
10 that there'll be a motion to -- to continue because
11 of this?

12 MR. PRINCE: I -- I doubt it Your Honor. The
13 nature of what they may or -- may be able to testify
14 to -- it just -- it's somewhat ancillary to -- to the
15 issues here.

16 THE COURT: Okay.

17 MR. PRINCE: And I -- I just don't think it's
18 going to hold things up.

19 THE COURT: So in other words if Mr. Baker
20 doesn't find them in time for interviews and prepara-
21 tion it's the defense's intention to go ahead without
22 them?

23 MR. PRINCE: Absolutely.

24 THE COURT: Is that what I'm hearing?

25 MR. PRINCE: Yes Your Honor.

23

GRAND # 4
ADDENDUM B
Pg. 6 of 10

1 THE COURT: Okay. So -- Mr. Sloan, what --
2 today is the 28th, I assume you would want at least
3 to know by say a week from today who those -- who
4 those people are and -- and then have four or five
5 days within which to try and reach them?

6 MR. SLOAN: Correct. Yeah. Today is Thurs-
7 day. Yes.

8 THE COURT: Okay.

9 MR. SLOAN: If we could get it by say next
10 Wednesday that would be ideal.

11 THE COURT: Okay.

12 MR. SLOAN: I know that's -- that includes
13 the holiday in there too but --

14 THE COURT: Yeah. Okay. So -- so Mr. Prince
15 can -- can we -- can -- can we say that it's fair
16 that -- that these people -- if Mr. Baker tracks them
17 down that you would provide names, addresses or con-
18 tact information for the State not later than 5:00
19 p.m. next Wednesday, September the 3rd?

20 MR. PRINCE: Absolutely.

21 THE COURT: Is that fair?

22 MR. PRINCE: That is fair.

23 MR. SLOAN: And also we'd like to -- to have
24 any statements that they have given or oral, written
25 or otherwise and -- and what they would be expected

24

GROUND #4
ADDENDUM B
Pg 3 of 10

1 THE COURT: So the request is to move it
2 within speedy trial to September 9?

3 MR. SLOAN: Correct.

4 THE COURT: And remind me, when does Mr.
5 Moore's time-for-trial expire?

6 MR. SLOAN: September 22nd.

7 THE COURT: 22. Okay. So what I'm hearing
8 is not a motion to continue; but to move it within
9 the current trial docket, just to the second week?

10 MR. SLOAN: That is correct.

11 THE COURT: And are you at least aware of the
12 names of the witnesses --

13 MR. SLOAN: Yes.

14 THE COURT: -- that have been --

15 MR. SLOAN: On Mon -- Monday we received a
16 list that -- that listed out I think five or more
17 witnesses. Some of them are our witnesses, obviously
18 we would expect that we would know what they would
19 say. Some others we don't have information on and --
20 and e-mails back and forth with counsel, I think
21 they're having some difficulty with their investiga-
22 tor reaching some of them as well. So we would just
23 want the information about what they would testify to
24 in any statements they have given prior to trial.

25 THE COURT: Okay. So Mr. Prince, I suppose

- 13 -

25

GROUND #4
APPENDIX B
Pg 4 of 10

1 the starting place for this discussion, at least from
2 the defendant's standpoint is do you expect to still
3 call these other potential defense witnesses?

4 MR. PRINCE: Your Honor I -- I'd say the best
5 answer is -- is maybe unfortunately.

6 THE COURT: Maybe.

7 MR. PRINCE: There are a couple I'd say more
8 likely than not and yes, the rest my investigator has
9 had difficulty in getting in touch with them but we
10 just decided to put them on a witness list just to
11 get them out there and -- so I -- I am speaking with
12 Mr. Baker, my investigator, and he is going to be
13 talking with them here shortly. So -- I did --
14 talked with Mr. Sloan about this earlier and we actu-
15 ally agree with the request.

16 THE COURT: Okay.

17 MR. PRINCE: And as does Mr. Moore.

18 THE COURT: So in your opinion -- well, not
19 in your opinion, is this case, Mr. Baker the investi-
20 gator's pretty much number one priority?

21 MR. PRINCE: That is the case.

22 THE COURT: Is that fair to say?

23 MR. PRINCE: Yes.

24 THE COURT: And do we -- do -- do you have
25 reason to believe that the witnesses are in Okanogan

26

GROUND #4
ADDENDUM B
Pg 1 of 10

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR OKANOGAN COUNTY

STATE OF WASHINGTON,)	
Plaintiff,)	No. 13 1 00126 6
)	(COA No. 32925-9-III)
)	
vs.)	
)	
DON ARTHUR MOORE,)	
Respondent.)	

TRANSCRIPT OF PROCEEDINGS

August 28, 2014 - Hearing on Motion to Dismiss

BEFORE the HONORABLE JUDGE CHRISTOPHER CULP, Superior Court Judge, on the above date, at the Okanogan County Superior Court, Okanogan, Washington;

WHEREUPON, the following proceedings were had, to-wit:

A P P E A R A N C E S:

FOR THE PLAINTIFF:	MR. SLOAN, DPA
FOR THE RESPONDENT:	MR. PRINCE, Attorney at Law
TRANSCRIPTIONIST:	Tina M. Steinmetz PO Box 1806 Moses Lake, WA 98837

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GROUND #4
ADDENDUM B
Pg 2 of 10

AUGUST 28, 2014 - HEARING ON MOTION TO DISMISS

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THE COURT: So again, good afternoon. In the State versus Don Moore matter, we're in court this afternoon. Today's date the 28th of August, 2014. And Mr. Sloan is here, Mr. Prince is here representing the defendant who is present. I am Judge Culp. Mr. Sloan, the matter special set requested by the State. What's going on?

MR. SLOAN: Your Honor, previous hearings we've indicated that there is a chance this could get moved to the -- we may request it be moved to the second week -- obviously it's the Court's discretion. In talking with counsel we had received some witnesses that I don't think counsel has even had a chance to -- to fully get a hold of that are potential defense witnesses. Obviously we need some information from defense regarding those witnesses as it may pertain to motions and obviously defense needs to have contact with them as well.

So we are asking the Court to move the start date of this trial within the current speedy trial to September 9th to allow some more time to try to get that information to us so that we -- if we need to contact them we have time to do that over the next week.

28.

CROWN #4
ADDENDUM A
Pg. 1 of 4

FILED
14 AUG 22 AM 8:53
SUPERIOR COURT
CHARLEEN GROOMES, CO. CLERK

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF OKANOGAN

STATE OF WASHINGTON

NO. 13-1-00126-6

Plaintiff,

DEFENDANT'S MOTION TO
DISMISS FOR VIOLATION OF
RIGHT TO SPEEDY TRIAL


vs.

DON A. MOORE,

Defendant.

COMES NOW the Defendant, DON A. MOORE, and moves the Court to dismiss for violation of his right to a speedy trial. This motion is based upon CrR 3.3, cited case law and the attached declaration of Don Moore.

DATED this 19th day of August, 2014.


MICHAEL S. PRINCE, WSBA #34021
Attorney for Defendant

DEFENDANT'S MOTION TO DISMISS FOR VIOLATION
OF RIGHT TO SPEEDY TRIAL

MACDOUGALL PRINCE, PLLC
P.O. BOX 511
OKANOGAN, WA 98840
(509) 422-9701

106

ANALYSIS

1
2 CrR 3.3 provides that a defendant who is detained in jail shall be brought to trial within 60
3 days of his arraignment. The purpose of this rule is to protect the defendant's constitutional right
4 to a speedy trial and to prevent undue and oppressive incarceration before trial. *State v. Kingen*,
5 39 Wn.App. 124, 127, 692 P.2d 215 (1984). Nevertheless, the constitutional right to a speedy
6 trial does not mandate trial within 60 days. *State v. Torres*, 111 Wn.App. 323, 330, 44 P.3d 903
7 (2002). CrR 3.3(f)(2) permits the trial court to continue the trial past 60 days when necessary in
8 the "administration of justice and the defendant will not be prejudiced in the presentation of his
9 or her defense." The rule adds that "[t]he bringing of such motion by or on behalf of any party
10 waives that party's objection to the requested delay." CrR 3.3(f)(2). The decision to grant a
11 continuance under CrR 3.3 rests in the sound discretion of the trial court and will not be
12 disturbed unless the trial court grants the continuance for untenable reasons. *State v. Nguyen*, 131
13 Wn.App. 815, 819, 129 P.3d 821 (2006).

14
15
16 Continuances are excluded from speedy trial calculations, as are periods of incarceration on
17 unrelated charges. CrR 3.3(e)(2), (3); *State v. Bobenhouse*, 143 Wn.App. 315, 329, 177 P.3d 209
18 (2008), *affirmed on other grounds*, 166 Wn.2d 881, 214 P.3d 907 (2009). If a period is excluded,
19 the allowable time for trial shall not expire earlier than 30 days after the end of that excluded
20 period. CrR 3.3(b)(5).

21
22 Failure to strictly comply with the time for trial rule requires dismissal, whether or not the
23 defendant can show prejudice. *State v. Tolles* (2013) 174 Wash.App. 819, 301 P.3d 60.

30

GRAND #4
ADDENDUM A
Pg. 3 of 4

DECLARATION OF DON MOORE

DON MOORE declares under penalty of perjury that the following statements are true
and correct:

AS EVIDENCED IN THE ATTACHED COPY OF
COURT RECORD ALL PARTIES TO MY CASE
WERE PRESENT IN THIS COURT ROOM ON JUNE
9, 2014. ON THAT DATE WE PRESENTED AS
READY FOR TRIAL AND WERE GIVEN THE
INDICATED DATE OF 22 JULY 14

I HEREBY ASSERT THAT MY CONSTITUTIONAL
RIGHT TO FAIR AND SPEEDY TRIAL IS TO BE
CALCULATED FROM THE DATE TRIAL WAS
REQUESTED.

INSTEAD OF THAT JUDGE RAWSON
SET A TRIAL DATE 43 DAY LATER AND ADDED
60 DAYS TO THAT FOR AN OUTSIDE DATE.
BY THAT INANE METHOD OF CALCULATION
I COULD HAVE BEEN GIVEN A TRIAL DATE
LITERALLY YEARS HENCE AND THEN SIXTY
DAYS MORE FOR TRIAL TO ACTUALLY TAKE
PLACE. AM I MISSING SOMETHING?

IT IS MY AVERSION THAT THIS COURT
IS, AND HAS BEEN, IN VIOLATION OF MY
CONSTITUTIONAL RIGHT TO SPEEDY TRIAL
SINCE 10 AUG 14 - DISMISSAL IS MY RIGHT AT
THIS TIME.

DEFENDANT'S MOTION TO DISMISS FOR VIOLATION
OF RIGHT TO SPEEDY TRIAL

MACDOUGALL PRINCE, PLLC
P.O. BOX 511
OKANOGAN, WA 98840
(509) 422-9701

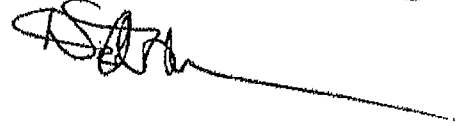
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I ASK THE COURT TO GRANT THIS CONSTITUTIONALLY
GUARANTEED RIGHT

DATED THIS 21ST DAY OF AUGUST
2014

DON A. MOORE



6

CONFIDENTIAL



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Aging and Disability Services
Behavioral Health and Service Integration Administration
Eastern State Hospital

B32-23 • P.O. Box 800, 800 W. Maple Street • Medical Lake, WA 99022-0800 • (509) 565-4000

13 NOV 26 PM 1:23

CLERK OF SUPERIOR COURT
CHARLEEN GROOMES, CO. CLERK

November 20, 2013

The Honorable Christopher E. Culp
Judge Okanogan County Superior Court
149 N. 3rd
Okanogan WA 98840

RE: MOORE, DON A.
DOB: 9/16/47
ESH NO: 549646
CAUSE NO: 13-1-00126-6

Dear Judge Culp:

Mr. Don Moore is a 66-year-old, Caucasian, married, male who was admitted to Eastern State Hospital for a forensic evaluation. Mr. Moore has pending legal charges of Murder in the First Degree.

The following are my opinions based on my evaluation:

- Diagnosis:** Mr. Moore might have a mental disease or defect.
- Competency:** Mr. Moore has the capacity to understand court proceedings and productively participate in his own defense.
- DMHP Eval:** An evaluation by a DMHP is warranted prior to release.

SEALED/CONFIDENTIAL DOCUMENT

CASE#: 13-1-00126-6

DATE: 11-26-13

TITLE: Confidential Report

The Honorable Christopher E. Culp
November 20, 2013
Page 2 of 6

RE: MOORE, DON A.
ESH NO: 549646
CAUSE NO: 13-1-00126-6

Sanity Commission Report

Mr. Don Moore is a 66-year-old, Caucasian, married male who was admitted to Eastern State Hospital (ESH) for the first time on November 4, 2013, under RCW 10.77.060, on a 15-Day Observation status for evaluation of competency and whether he needs to be evaluated by a DMHP from Okanogan County. Mr. Moore has pending legal charges of Murder in the First Degree.

In response to your court order of August 23, 2013, I offer the following facts, opinions, and recommendations.

1) *A description of the nature of the examination;*

Beginning November 4, 2013, Mr. Moore was detained, observed, and evaluated as part of the Competency Evaluation and Treatment Program (CETP) at Eastern State Hospital.

Mr. Moore received a clinical profile (psychiatric evaluation, physical assessment, nursing assessment, recreation therapy assessment, and psychosocial assessment), routine laboratory testing, a treatment planning session, and a forensic interview on November 19, 2013. Corollary resources used included police reports, criminal history, and information from his ESH chart.

2) *A diagnosis of the defendant's mental condition;*

DIAGNOSES:

1. Posttraumatic Stress Disorder, per history
2. Cannabis Dependence
3. Transient Ischemic Attacks (mini-strokes), per history

The following background data was gathered from information Mr. Moore provided to this Sanity Commission evaluator, information from his ESH chart, and other available collateral sources.

Background

Mr. Moore has no prior felony convictions. He has no history of being found not competent. His developmental history is unremarkable. After high school, Mr. Moore joined the armed forces and served for two years. He was discharged after suffering a gunshot wound to the chest and given 40% disability. Mr. Moore has worked in a variety of capacities, including construction. He was last employed in approximately 1992 as a real estate agent. He has been employed as a real estate agent and broker, in construction and auto sales, in oil field drilling and development, and in real estate development. Mr. Moore said that he no longer works because of symptoms related to Posttraumatic Stress Disorder (PTSD).

34

The Honorable Christopher E. Culp
November 20, 2013
Page 3 of 6

RE: MOORE, DON A.
ESH NO: 549646
CAUSE NO: 13-1-00126-6

Drug and Alcohol Use History

Mr. Moore describes himself as a "recovering alcoholic." Mr. Moore said that for many years he consumed significant amounts of alcohol on a daily basis. He said that, prior to his arrest, he smoked marijuana on a daily basis for medical reasons. He consumes narcotic medications because of physical pain.

Mental Health History

In 1992, Mr. Moore sought services at the Veteran's Administration Medical Center and was diagnosed with PTSD. He participates in monthly appointments with a VAMC psychiatrist and has been prescribed medications for his symptoms. Mr. Moore reported that, currently, symptoms of PTSD that he experienced were under control.

Of concern to Mr. Moore is that he believes he is experiencing cognitive difficulties and does not know why. He said that this began approximately two years ago. He described the first episode as follows: He was driving on the highway and suddenly realized that he did not know what was going on and found himself one hour (approximately 45 miles) from his home. He pulled into a mini-mart to find out where he was.

He said his second incident involved driving to Wenatchee, getting lost and not knowing where he was. Mr. Moore said that he continues to experience these episodes and that most of them are brief. He described them in a variety of ways including: feeling dizzy, getting a headache, hearing people talk to him but not being able to respond, disorientation, confusion, and loss of time. Mr. Moore said that he has discussed these episodes with his VA psychiatrist and has had an MRI. Mr. Moore recalled that the results of the MRI showed "white spots on my brain, similar to Alzheimer's." Mr. Moore said he does not think he has Alzheimer's because he has friends who have it and they are unaware of their impairment. Mr. Moore said that, in contrast, he is aware of his cognitive difficulties. I consulted with the individuals responsible for his physical treatment at ESH. I was told that the symptoms Mr. Moore is reporting are odd in that, most individuals who have seizure disorders do not remain conscious during the episodes and, after the episodes, require time to recover. These two things are not present with Mr. Moore's episodes. It is suspected by medical staff that Mr. Moore might be malingering.

Course of Stay

Upon admission, Mr. Moore was assessed to be fully oriented and alert. He was able to converse in a productive manner. His attitude was friendly and cooperative. His thoughts were organized and goal directed. His memory, concentration abilities and abstract thinking abilities were intact. He did not endorse or demonstrate any symptoms of a mental disease or defect.

The Honorable Christopher E. Culp
 November 20, 2013
 Page 4 of 6

RE: MOORE, DON A.
 ESH NO: 549646
 CAUSE NO: 13-1-00126-6

Over the course of his admission, Mr. Moore was observed to have good hygiene, appetite and sleep. He was able to socialize appropriately with others. On November 16, 2013, he was observed to have bright affect and was laughing and joking with peers. He frequently completed complex crossword puzzles with relative ease. He won the ping pong tournament against some talented players. His mood was generally calm. His thoughts were logical and he did not manifest any signs or symptoms of having a mental illness.

Mr. Moore had several episodes when he did report feeling dizzy and would become unstable. On November 14, 2013, Mr. Moore reported feeling dizzy and was observed to be in the fetal position on the floor. Staff called for a "code orange," which means that medical staff should immediately attend. Mr. Moore was observed to "jump up" after that and told staff, "I'm fine," but continued to report feeling dizzy. He was observed to walk back with steady gait and proceeded to make his bed and straighten up his room.

Explanation of Diagnosis:

At this point, it is unclear regarding the verity or etiology of the symptoms Mr. Moore reports experiencing. Mr. Moore does not meet the criteria for Dementia. His long term and short term memory were excellent. He was able to offer details from the distant past. He was able to offer detailed information, including quotes, from recent conversations he had with medical staff at ESH as well as the medical staff at the jail. It is my opinion that, if he is experiencing TIA's that, aside from brief moments of distress, there do not appear to be long term effects that would preclude competency.

- 3) **COMPETENCY:** *If the defendant suffers from mental disease or defect, or is developmentally disabled, an opinion as to defendant's competency to understand the proceedings and to assist in defendant's own defense. If the report concludes the defendant is incompetent to proceed, an opinion whether psychotropic medications are necessary and appropriate to restore the defendant's competency;*

It is my opinion that Mr. Moore might have a mental disease and/or defect and currently has the capacity to understand the proceedings against him and to productively assist in his own defense.

On November 19, 2013, I interviewed Mr. Moore. At the outset of the forensic interview, Mr. Moore was informed of his rights concerning his participation. He was informed of the limited confidentiality involved in the court-ordered evaluation process and that he had the right to request an attorney be present, the right to consult with an attorney, and the right to refuse to answer any question he did not want to answer. He was informed that all information gathered during this process could be shared with the judge, defense attorney, prosecuting attorney, his regional mental health treatment provider, and, if pertinent, his jail's medical unit. Mr. Moore stated he understood the above and his subsequent discussions of the topics with the examiner suggested that he understood his rights and the overall evaluation process.

36

The Honorable Christopher E. Culp
November 20, 2013
Page 5 of 6

RE: MOORE, DON A.
ESH NO: 549646
CAUSE NO: 13-1-00126-6

Over the course of the interview, Mr. Moore demonstrated that he has sufficient knowledge of court proceedings and the roles of the participants involved with these proceedings. He was able to explain the roles and responsibilities of the judge, defense attorney, prosecuting attorney, witness, and jury.

He is able to identify his attorneys and how he may contact them. Mr. Moore stated that he is unsatisfied with the amount of work that his attorneys have done on his case so far. Mr. Moore said, "So far, I'm six months into this thing and they haven't done a damn thing." Mr. Moore recalled that there was an incident when he was being advised to sign away his right to a speedy trial and he refused, despite his attorney stating that he would need more time to prepare. Mr. Moore said he refused because he was angry. As he described it, I did not recognize any psychotic or mood-related symptoms that were involved when Mr. Moore was refusing to cooperate. It appeared to be in his volitional control.

Mr. Moore knows and can explain the concept of a plea bargain. He is aware of his plea options regarding these charges. He knows that sentencing typically follows a guilty plea and a trial typically follows a not guilty plea.

He was able to correctly identify the crimes for which he has been charged (Murder in the First Degree) as well as explain in his own words the meaning of those charges. Mr. Moore said that he does not understand why he has been charged as such and feels he should not face any charges. Mr. Moore stated, "I don't think there should be a charge. The son-of-a-bitch stabbed me, so I shot him." Mr. Moore said that he wants to take this to trial and will not consider a plea bargain because, "Any sentence is a life sentence. I'm 66 years old and I didn't murder any goddamn body. I called the police from there when I was there. This is total bullshit. If they [sheriff's department] had done their jobs [arresting the victim after he filed a report of the victim stealing items from him] it wouldn't have happened."

4) ***MHP EVALUATION: An opinion as to whether the defendant should be evaluated by a county designated mental health professional under RCW 71.05;***

It is my opinion that Mr. Moore may warrant an evaluation by a DMHP, under chapter 71.05 RCW because he has a history of behavior that is dangerous to himself and others. Additionally, it is possible that Mr. Moore may incur cognitive impairment such that it might render him gravely disabled.

There are additional records available to you upon specific request. These include Clinical Profile and Laboratory Data, which are normally not circulated for the protection of the patient. If they are desired for court, please address a specific request to ESH's Medical Records Department (565-4266). The judge, defense attorney, or prosecuting attorney can do this.

GROUND # 3
ADDENDUM A

The Honorable Christopher E. Culp
November 20, 2013
Page 6 of 6

RE: MOORE, DON A.
ESH NO: 549646
CAUSE NO: 13-1-00126-6

I trust this information will be helpful in further adjudication of this case. If you have any questions, please call me at 565-4000.

Sincerely,



Randall Strandquist, PsyD
Licensed Psychologist

RS/(bmb)

pc: Karl Sloan, Deputy Prosecuting Attorney
Emma Paulsen, Attorney for Defendant
Okanogan County Mental Healthcare
Okanogan County Jail Medical

Filed

AUG 26 2013

Okanogan County Clerk

Superior Court of Washington
County of Okanogan

State of Washington,

v.

Don A Moore

No. 13-1-00126-6

ORDER FOR MENTAL HEALTH
EVALUATION BY EASTERN STATE
HOSPITAL

THIS MATTER coming on in open court upon the motion to the Superior Court, and there being reason to doubt the defendant's fitness to proceed and/or there being entered a mental defense, and the court being in all things duly advised; the plaintiff being represented by the undersigned Deputy Prosecuting Attorney; the defendant is not present and being represented by attorney Emma Paulsen; now, therefore,

THE COURT FINDS the defendant is in need of forensic mental health evaluation for the items listed below; and

IT IS HEREBY ORDERED, under the authority of RCW 10.77.060, that the defendant, Don A Moore, who is charged with the crime(s) of:

Count 1: Murder 1

be evaluated by an expert(s) of the staff of Eastern State Hospital, who are designated by the Secretary of the Department of Social and Health Services, including both a psychiatrist and a psychologist, if necessary. The examination may include psychological and medical tests and voluntary treatment if inpatient at Eastern State Hospital, and shall be completed as specified below:

ORDER FOR MENTAL HEALTH EVALUATION BY EASTERN
STATE HOSPITAL ~ Moore: 13-1-00126-6
Page 1 of

146

28