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CASE NO: 870180

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THE COURT OF APPEALS  
OF THE  
STATE OF WASHINGTON

THE STATE OF WASHINGTON  
APPELEE V APPELLANTE  
TERRANCE JON IRBY, IN  
THE SUPERIOR COURT CASE NO. 05-1-002769

MOTION

INEFFECTIVE ASSISTANCE

OF COUNSEL

I.

COMES NOW APPELLANTE TERRANCE JON IRBY IN THE  
ABOVE ENTITLED CASE, AND ASSERTS THAT APPELLANTE  
COUNSEL DAVID KOCH OF THE WSB HAS RENDERED  
INEFFECTIVE ASSISTANCE OF COUNSEL ON APPELLANTE REVIEW  
THROUGH THE YEARS 2007 - 2023 IN THE DIV. ONE COURT OF  
APPEALS, IN VIOLATION THE SIXTH AND FOURTEENTH AMEND-  
Fed CONST. SUPPORTED BY STRICKLAND V WASHINGTON,  
466 U.S. 668, 691, 80 L Ed 2d 674 (1984) MANIFEST ERROR  
HAS RESULTED TO THE FUNDAMENTAL RIGHTS OF APPELLANTE.

II.

MOTION OF:

THIS IS A MOTION FOR APPOINTMENT OF COUNSEL.

MOTION

(1)

III.

FACIS IN SUPPORT

1

2 HUNDREDS OF PRISON GRIEVANCES HAVE BEEN FILED PASSING

3 HARASSMENT, DISCRIMINATION ON ACCESS TO THE COURTS, LAW

4 LIBRARY, LEGAL MATERIALS, CASE LAW RESEARCH, ACCESS TO

5 THE COURTS (ST AMEND. DENIALS OF ACCESS TO THE (LAW LIBR-

6 ANYTIME) THE COERCED DESTRUCTION OR REMOVAL OF

7 LEGAL MATERIALS, PERSONAL LAW BOOKS AND LEGAL PROPER-

8 TY. OBSTRUCTIONS TO THE COURTS. INTERFERENCE WITH THE

9 PRIVATE COMMUNICATIONS WITH COUNSEL. CAUSING INAD-

10 EQUATE APPELLANTE REVIEW. TWICE DVC OBSTRUCTED

11 ADEQUATE ACCESS TO THE COURT OF APP. 2013 - 2022 WHERE

12 TWICE 16 BOXES 10X12X18" OF "DEFENSE EVIDENCE" HAD BEEN

13 ORDERED REMOVED OR DESTROYED / IMPROPERLY DOCUMENTS

14 LOST FOREVER 32 BOXES. ACTS OF RETALIATION CONTINUE, RW

15 2022 APPELLANTE WAS PREVENTED FROM APPELLANTE REVIEW

16 RAP 10.10 BY THE PROPERTY C/O BOWLING. THIS C/O REFUSES

17 TO ALLOW APPELLANTE TO MOVE HIS FIVE LAW BOOKS FOR PLACER-

18 MENT IN THIS (IMU) THAT HAVE BEEN IN IMU FOR OVER 16 YEARS.

19 IV.

20 THEREFORE APPELLANTE SEEKS APPOINTMENT OF COUNSEL AT PUBLIC

21 EXPENSE. APPELLANTE HAS SELECTIVE RESTRICTIONS TO COURTS.

22

23 SWORN TRUE AND CORRECT UNDER PENALTY OF PERJURY.

24

25 *Tim Tomally*

26 DATE 11-3-

2023

(2)

MOTION

1 THE COURT OF APPEALS  
2 OF THE  
3 STATE OF WASHINGTON  
4

5 CASE NO: 830180 AFFIDAVIT  
6 THE STATE OF WASHINGTON,  
7 APPELEE.

8 V  
9 APPELLANT.  
10 TERRANCE JON IRBY,

11 I.

12 COMES NOW APPELLANT THE LIMITED MOTION  
13 PRO SE, ON AFFIDAVIT SUPPORTING CAUSE FROM  
14 INEFFECTIVE ASSISTANCE OF COUNSEL THE  
15 IRREPARABLE HARMS IMPEDING PRUDENT  
16 REPRESENTATION: STRICKLAND; 466 U.S. 668,  
17 691, 80 L Ed. 2d 674 (1984)

18  
19 II.

FACTS SUPPORTING MOTION.

20  
21 TRIAL COUNSEL KEITH TYNNE OBTAINED A SWORN AFF-  
22 IDAVIT FROM NORMAN DETREMPY 6-6-2005 IN THE  
23 AFFIDAVIT SUPPORTED BY DISCOVERY NORMAN ASSE-  
24 RTED THAT HE AND ANOTHER FRIEND SAW THE VIC-  
25 TIM MR ROCK (MURDERED) ALIVE ON 3-9-2005 THIS  
26 INFORMATION UNDERCUTS THE PROSECUTIONS...

1 POSITION THAT DEATH OCCURRED ON 3-8-2005.  
2 THIS EXCULPATORY "EYE WITNESS ACCOUNT"  
3 WAS SUPPRESSED BY THE GOVERNMENT, THAT  
4 TRIAL ATTORNEYS KEITH TYNNE, JON OSTLAND,  
5 THE SKAGIT COUNTY PROSECUTOR'S OFFICE SWAPT  
6 THIS EVIDENCE UNDER THE RUG. AT THE 2007  
7 FIRST OF FOUR TRIALS KEITH TYNNE PUT THE JURY,  
8 AND JUDGE JOHN MEYER ON NOTICE THROUGH  
9 OPENING STATEMENT, THEN LEFT THE JURY...  
10 HANGING LEAVING THE JURY WITH A NEGATIVE  
11 INFERENCE ON THEIR MINDS. THIS INEFFECTIVE  
12 ASSISTANCE OF COUNSEL WAS SUPPRESSED BY ATT-  
13 ORNEY DAVID KOCH. THROUGH 2007-2023 DISCOVERY,  
14 WITNESS LISTS AND APPELLANTS PUT MR KOCH  
15 ON NOTICE. THE TWO WITNESSES GAVE TWO DIFFER-  
16 ENT DETECTIVES MATCHING STATEMENTS. CASE  
17 LAW SUPPORTS INEFFECTIVE ASSISTANCE OF COUNSEL.

18

19 II. SUPPORTING CASE LAW:

20 (1) WRIGHT V. GRAMLEY, 125 F3d 1038, 1044 (7th ci-1997)  
21 (IN THE CASE OF AN UNCALLED WITNESS, PETITIONER "MUST  
22 SUBMIT AN AFFIDAVIT FROM THE UNCALLED WITNESS  
23 STATING THE TESTIMONY HE OR SHE WOULD HAVE GIVEN  
24 HAD THEY BEEN CALLED AT TRIAL) ERDY AND TYNNE DID  
25 SUBMIT THE AFFIDAVIT AND IT VANISHED FROM RECORD.

26

AFFIDAVIT

(2)

1 THE HEARING WAS ALSO DERIVED FROM THE TRANSCRIPTS  
2 AND FILING. ILLIGAL SUPPRESSED.

3

4 (2) GOMEZ V BERTO, 462 F.2d 596, 597 (5th Cir 1972) (WHEN  
5 A DEFENSE COUNSEL FAILS TO INVESTIGATE HIS CLIENTS  
6 "ONLY POSSIBLE DEFENSE, ALTHOUGH REQUESTED TO  
7 DO SO BY HIM", AND FAILS TO SUBPOENA WITNESSES  
8 IN SUPPORT OF DEFENSE DEFENDANT HAS INEFFECTIVE  
9 ASSISTANCE OF COUNSEL (3) FISHER V GIBSON, 282 F.3d 1293  
10 (10th Cir 2002) (4) UNITED STATES V MULLIS, 760 F.2d 1116,  
11 1121-22 (11th Cir 1985) (4) COOK V MONTGOMERY, 799 F.2d 1481,  
12 1482-83 (11th Cir 1986) (5) BIGELOW V. HAVILAND, 576 F.3d  
13 284 (6th Cir 2009) (6) RILEY V PAYNE, 352 F.3d 1313 (9th  
14 Cir 2003) FAILURE TO PRODUCE PROMISED TESTIMONY DURING  
15 THE OPENING STATEMENT. ANDERSON V. BUTLER, 858 F.2d  
16 16, 17 (1st Cir 1989) ENGLISH V ROMANOWSKI, 602 F.3d  
17 714, 728-30 (6th Cir 2010) (Cir)

18

19 III. APPELLANT INEFFECTIVENESS

20

21 STALLING V UNITED STATES, 536 F.3d 624, 624, 627 (7th Cir 2008)  
22 HAWKINS V HANNIGAN, 195 F.3d 1146, 1152 (10th Cir 1999)  
23 NEILL V GIBSON, 278 F.3d 1044, 1057 n.5 (10th Cir 2001)  
24 INEFFECTIVE ASSISTANCE OF COUNSEL VIOLATES PROCESS.  
25 DAVID KOCH HAS A DUTY TO RAISE THESE ISSUES ON APPEAL.

26

IV

1 A GENERAL STATEMENT; THESE COURT OFFICERS ACT UNDER  
2 COLOR OF STATE LAW TO DEPRIVE IRBY OF HIS DUE PROCESS,  
3 CIVIL AND CONSTITUTIONAL RIGHTS. THE UNCALLED WIT-  
4 NESSES APPEAR ON TWO WITNESS LISTS. IRBY THOROUGHLY  
5 INFORMED DAVID KOCH, FAILURE TO INVESTIGATE AND PAIR  
6 APPELLANT REVIEW, STRECKIAND, 466 U.S. (1984) (1) DEFEC-  
7 ENT PERFORMANCE AND (2) A REASONABLE PROBABILITY  
8 THAT BUT FOR COUNSEL, WOULD THE RESULTS OF THE PROCE-  
9 DINGS WOULD HAVE BEEN DIFFERENT. IRBY HAS LOST HIS  
10 LIBERTY WITHOUT THE PROCESS OF LAW. IRBY REFUSED TO  
11 ATTEND THREE TRIALS DUE TO THIS MISCONDUCT (THE TWO  
12 WITNESSES PASSED AWAY BEFORE THE SECOND TRIAL) AND  
13 IRBY IS FORBIDDEN FROM BRINGING TESTIMONY FROM  
14 THE GRAVES. THIS IS PREJUDICE. DAVID KOCH PUT HIS GOV-  
15 ENMENT INTERESTS BEFORE APPELLANTS. IT TOOK IRBY YEARS  
16 TO GETHER UP THIS CASE LAW HE HAS BEEN HOUSED IN (SHU) (IMU)  
17 SINCE 2010 HE IS COMPUTER ILLITERATE AND CANNOT ACCESS THE  
18 LAW LIBRARY'S ELECTRONIC SYSTEM. HE IS DENIED SERVICES  
19 UP TO MONTHS FROM THE LAW LIBRARY. IRBY HAS ATTEMPTED  
20 TO RESOLVE ALL ISSUES HEREIN. IRBY SEEKS VENDETTION. IRBY  
21 IS USING THE LAST OF HIS CARBON PAPER AND WILL NOT RECEIVE  
22 ANYMORE. RECEIVING PHOTOCOPYING IS PAIN TAKING.

23

24 TERRANCE JON IRBY

25 SWORN TRUE AND CORRECT UNDER PENALTY OF PERJURY.

26 Terry J. Donnelly

(4)

AFFIDAVIT

DATE

2013

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v. \_\_\_\_\_)  
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NO. \_\_\_\_\_  
**DECLARATION OF MAILING**

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TERRY JOHN ERBY 631789 ZMU 147  
MONROE CORRECTIONS  
PO BOX 7402  
MONROE WA 98272

SEATTLE WA 98104

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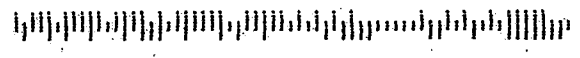
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