

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
RESPONDENT,

Vs.

JERRY LYNN DAVIS,
PETITIONER.

Case No. 91343-9

ADDENDUM TO PETITION FOR REVIEW
QUESTION OF LAW

FILED
JUL 20 2015
CLERK OF THE SUPREME COURT
STATE OF WASHINGTON *CRF*

COMES NOW PETITIONER, Jerry Lynn Davis, in pro se and respectfully seeks permission from the Honorable Washington Supreme Court to file his foregoing ADDENDUM TO PETITION FOR REVIEW/QUESTION OF LAW in this matter for the following reasons and with good cause appearing.

Petitioner has argued pursuant to this Court's ruling in STATE V. ENGEL, 166 Wash. 2nd 572, 210 P.3d 1007 (2009), that the elements never did exist to support a conviction in his attempted burglary in the second degree charge, case no. 12-1-03559-0, and that trial counsels were ineffective for not investigating the relevant facts PRIOR to advising Petitioner to enter into a breached negotiated DOSA plea deal. Petitioner contends his plea was not knowingly, voluntarily, nor intelligently entered.

QUESTION OF LAW

In ENGEL, this Court ruled: "Business private yard that was partially enclosed by a fence and partially bordered by sloping terrain was not a "fenced area", as required to support conviction for second degree burglary of a building of defendant who entered yard and stole items. West's RCWA 9A.52.30; 9A.04.110(5)."

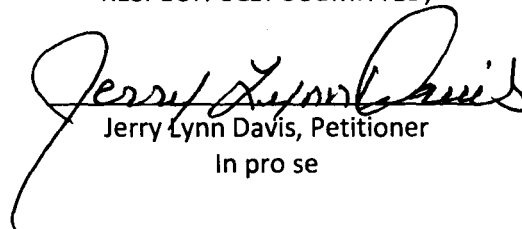
In the present case Petitioner never entered a building, and pursuant to the victims own admission in the declaration for probable cause, states as follows: "Per the victim, his property is fenced where it can be fenced, and there is a steep natural barrier that cannot be fenced. The U-Haul truck was parked within the fenced area."

Petitioner is questioning if the ENGEL case law is ambiguous, and if so, whether the elements issue be most strongly construed in favor of Petitioner? For one, the property was not a completely "fenced in area", as defined by the ENGEL case law. Secondly, Petitioner never entered a building, as a matter of law, to support a conviction of attempted second degree burglary in this matter.

This Court is scheduled to rule on the PETITION FOR REVIEW on August 4, 2015, and Petitioner is requesting a just and fair ruling, especially in light of the entire record regarding ineffective assistance of counsels that effects the constitutional rights of not only Petitioner, but also of many other defendants that are indigent and receive court appointed representation by the Department of Assigned Counsel.

Dated this 10th day of July, 2015.

RESPECTFULLY SUBMITTED,


Jerry Lynn Davis, Petitioner
In pro se

Cc: Pierce County D.A. Office
File.