

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON )

Respondent, )

v. )

Allen Proshold )

(your name) )

Appellant. )

County - 13-1-01004-3  
Appeal No. 45736-9

STATEMENT OF ADDITIONAL  
GROUND FOR REVIEW

FILED  
COURT OF APPEALS  
DIVISION TWO  
JUN 23 PM 1:21  
STATE OF WASHINGTON

I, Allen Proshold, 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

see attached statement

Additional Ground 2

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

Date: 6-20-14

Signature: Allen Proshold

Form 23

**CERTIFICATE OF SERVICE**  
I certify that I mailed  
1 copies of SAG  
to Appellate  
& Pro. Off. 20  
6/24/14  
Date Signed

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## Statement of Additional Grounds

I There was an important key piece of physical evidence that was logged in at the crime scene, that failed to show up at trial. When the officer who logged it in was asked "where are the pants" his response was "ask the prosecutor" no further inquiry was made as to where the evidence ended up.

The item in question is a pair of pants the alleged victim was wearing, the significance of the pants is that there was nothing wrong or damaged with them at all, the pants fit her very tightly and would have been impossible to forcibly remove without damaging them. As there was no damage to the pants this strongly suggests she took them off voluntarily.

When questioned under oath the officer did say "she was wearing them earlier in the day". If the jury had been allowed to see the undamaged pants it's very reasonable to think they may have come back with a different verdict, as close as the case was already; where in the jury deliberated approx 14 hrs, a key piece of evidence like this would make a huge difference. Also as my trial lawyer pointed out the pants and the torn pants were both found in the front seat together.

RP-247-  
RP-248

RP-389

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There should not be any doubt in any reasonable person's mind that the fact that the parties were torn but the pants were not raises questions in any reasonable person's mind and if the jury had been allowed to see this physical evidence there would have been questions in their's as well, It is unfair and unjust for the prosecutor to withhold any evidence in any case as well as this one.

II

The motion to suppress evidence seriously inhibited my defense, and was unfair, unjust, biased, and prejudicial. My intention in bringing forth this evidence was to show a pattern of her behaviour and to show her willingness to go to the hospital in many other ~~times~~ instances, where in this case her unwillingness would have shown, she wasn't really hurt and if the evidence the hospital would have found would NOT have supported her story, the jury not being able to hear this testimony and determine for themselves what her true motives for her actions that day were, seriously undermined my case, and in that I wasn't even allowed to ask her about it is unfair and unjust and I believe shows the prosecutor was more interested in a conviction than the truth.

AP-40-41

42-43-44

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III

The Jury in my case was pressured into a verdict, there was a jury member who made it clear to the court that she had a train to catch on Monday 11-25-13, she stated to the court that she needed to leave by 1:30 PM on that day, that juror should have been excused at that time, but she was put into service anyway.

RP-38

The jury began deliberation on Friday 11-22-13 at approx 11:30 AM. At 5:28 PM that evening the jury reconvened and had intentions of telling the

RP459

Judge they were at an impasse, but after a brief discussion with Judge Evans they agreed to continue deliberating, which they did until approx 9:00 PM that evening at which time Judge Haan excused them for the weekend also at that time the juror in question once again reminded the court that she had

RP 465

a train to catch and Judge Haan then instructed the jury to "talk to the bailiff" on Monday 11-25-13 at 9:00 AM the jury continued deliberations at 10:28 AM the

RP468

Jury reconvened because they had sent word that they were once again at an impasse after polling the jury they were once again sent back to continue to deliberate, and at that time it was brought to the court's attention that the juror in question had taken a taxi to the court house as well as her packed luggage. At that time Judge Haan stated she would reconvene the jury at 12:30 PM

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and see where they were at, and let them break for the holiday as not to cause any pressure on the Jury to come up with a verdict at that time, also the Judge was reminded by the bailiff at that time that they had said they were at an impasse on Friday. At 12:40 the Court recessed without the Jury, at which time Judge Haan decided to let the Jury keep deliberating at the advice of the Prosecutor. At 2:19pm the Jury came back with a verdict just 40 min before the Juror's train train was scheduled to leave. No attempt was ever made to let that Juror know she would not have to miss her train, the fact she came to the Court house with her bags packed, its very clear that her mind was not on the case. The Judge knew that there was undue pressure being applied and had intended to reconvene the Jury at 12:30 as to relieve that pressure, but instead ignored her own better judgment and followed the Prosecutor's advice, and let the Jury keep deliberating and causing undue pressure to reach a verdict or miss her train. It is not clear how much influence this Juror had over other jurors or maybe she was holding on to a not guilty verdict and as her deadline approached she changed her mind, in any case it is far from reasonable to assume that this was a fair and unbiased Jury and that this deadline did not play a factor.

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IV

A mistake was made when my credit for time served in county was added up, I was in custody from 8-1-13 to 12-20-13 this is a total of 142 days, 30 of those days were for D.O.C. and I understand I don't get credit for those days this left a total of 111 days which is correct. On 3-3-14 my judgement and sentence was amended to take away an additional 39 days thereby twice taking away the 30 days of D.O.C. time and any good time acquired with it. My judgement and sentence was amended without my presence or approval, I was not questioned or consulted in this matter at all, I have written my current attorney and my trial lawyer in this matter with no response from either of them.

In conclusion

Independent of each other my additional grounds may not be enough for a new trial but as a whole it is more than clear that I was not given a fair trial. This was a very close case in that the jury took a long time to deliberate, approx 14 hrs., even with all the efforts of the prosecutors to suppress, withhold, and pressure, it was still a close case if any one of these factors had not been present it is not unreasonable to think a different verdict would have come. My case must be remanded for a new trial on these grounds.