No. 46514-1-II

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

JOEL P. REESMAN,
Defendant.

STATEMENT OF ADDITIONAL GROUNDS
RAP 10.10

Joel P. Reesman # 316821
Clallam Bay Corrections Center
1830 Eagle Crest Way
Clallam Bay, Wa. 98326

TABLE OF AUTHORITY

FEDERAL CASES

STATE CASES

CONSTITUTIONAL PROVISIONS

STATUTES, and RULES

I. IDENTITY OF MOVING PARTY

The appellant Joel P. Reesman, moves this court for relief designated in Part II of his STATEMENT OF ADDITIONAL GROUNDS. (SAG)

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 10.10, Mr. Reesman requests that this Court grant his motion to withdraw his guilty plea and remand for jury trial. Specifically, based on U.S. v. Couto, 311 F.3d 179 (2n Cir. 2002); and McQuiggan v. Perkins U.S. 133 S.Ct. 1924 185 L.Ed. 2d 1019 (2013)

III. STATEMENT OF THE CASE

FACTS

This case is a two act play, one play two acts, 3 actors. Actors, Act 1 and 2 Trial Counsel David S. Kurtz, Judge John P. Wulle, Prosecutor Scott Ikata.

Act 1. March 9, 12, 17, 18, and 19 2008. December 11 2007 Cause No. 07-1-00090-9

Act 2. March 19, 20, 2008. Cause No. 07-1-01092-9

Mr. Reesman as diagnosed in 1984 and 2013 has been mentally ill suffering from Chronic Post Traumatic Stress Discorder and Major Depressive Bulimia Nervosa for over 30 years. See Mental Health Exhibits ____. See declaration to Court RP 24-25 Mr. Reesman in 1994 was shot 5 times, twice in the head causing serve head trauma (See declaration of Marilyn Reesman and 2003 DOC. Mental Health Appraisal.) See Exhibits A, C D, F. Mr. Reesmans son in 2005 was murdered by gunshot to the head. (See Death Cert. Jesse Reesman, "Murder" Shot in Head.) Ex. F. Mr Reesman in an affidavit will swear under oath that on March 9, 2008 in a private meeting David Kurtz threatens to kill Mr. Reesman if he choose a jury ~~trail~~ trial and further Kurtz tells Reesman to lie about his "Miranda" rights

because "he has ~~noting~~ nothing to lose". See Affidavit of Joel Reesman. On March 12, 2008 during a trial waiver hearing, Mr. Kurtz announces to Judge Wulle and Scott Ikata that there is no way Mr. Reesman is going to change his mind about a jury trial on Monday because if he does "Im going to shoot him". RP 65 Lines 8-12. Mr. Reesman has already been shot five times, twice in the head and Mr. Reesman son 18 Months earlier was Murdered shot in the head. RP 24-25. See Mental Health Exhibits, ~~Declaration~~ Affidavit of Joel Paul Reesman Ex. Ex. H (2015) G (2012). Ex. H (2015)

On March 12, 2008 the State, and the trial court ignored Mr. Kurtz's threat to shoot Mr. Reesman if he changes his mind and chooses a jury trial. RP 65. The trial court accepts Mr. Reesmans jury waiver on March 12, 2008 and again on March 20, 2008 the trial court finds that Mr. Reesmans waiver and guilty plea were knowing, intelligent and voluntary. RP 127, lines 1-5. Mr. Reesman on March 12, 2008 is threatened by Mr. Kurtz to be shot if he changes his mind and chooses a jury. On March 20, 2008 case at ~~bar~~ bar, Judge Wulle asks Mr. Reesman "are you ~~making~~ making this plea voluntarily?" RP 126 line 6. Mr. Reesman answers "I am your honor." The Court: "Has anyone made any threats to you or made you any promises to get you to change your plea?" Mr. Reesman: No your honor." On March 12, 2008, eight days earlier David S. Kurtz threatens to shoot Mr. Reesman if he changes his mind and chooses a jury trial. RP 65, lines 8 thur 12, (line 12,) "Im going to shoot him"). "Has anyone made any threats to you?" (Trial; Court March 20, 2008) (RP 126 line 8)

On video March 17, 2008, Mr. Kurtz hands Mr. Reesman a piece of yellow legal paper to write down a planned Miranda lie. Mr. Reesman on camera takes the yellow paper up on the stand, where Kurtz directly asks

questions pertaining to that lie. See Video, and transcript pages 41-50. 3.5 hearing. March 17 2008

On March 18, 2008 after 13 State witnesses testify against him, with no rebuttal witnesses Mr. Reesman takes the stand as the sole witness in his defense. Sitting up on the bench with Judge Wulle is a teenage kid. None of the above actors object to a teenager on the bench only during Mr. Reesmans 3-18-08 testimony and the teenager is back on the bench to witness the trial Court finding Mr. Reesman guilty of a life sentence bench trial. See CD-R Video March 18, 19 2008. On March 19, 2008 seconds after the trial court finds him guilty of 3 strikes Mr. Reesman utteres an ambigous request to waive jury and plead guilty to the case at bar. RP 421, 422, 423.

On March 20, 2008, inspite of a lengthy colloguy about his rights and statements by Mr. Kurtz that he see's a problem with the search warrant affidavit and that he would be pleading guilty not having had the drug tested by the crime lab or anyone else for that matter. Kurtz: "So he knows these two issues --- these two potential issues and he's advised me that he still wants to plead guilty". RP 127 line 17-25; RP 128 lines 1-7.

On March 5 2014, the Supreme Court sent Mr. Reesmans motion to withdraw guilty plea to the trial court for determination. The Trial Court ignored the motion the Supreme Court ordered a response. Ex. I. On June 12th, 2014, the trial court appoints Christopher Ramsay as Mr. Reesmans defense counsel Ex. J, K. On June 18, 2014 Mr. Ramsay, sends an email to the trial court, telling the court that he feels Mr. Reesman is confusing 2 cases 07-1-00090-9 and 07-1-01092-1, and further Mr. Reesmans

forced jury waiver does not pertain to the case at bar 07-1-01092-1. On June 25 2014 the trial court based exclusively on Mr. Ramsays E-mail dismisses Mr. Reesmans petition. Ex. L, M

On October 1st, 2014, Appellate Counsel Peter Teller receives an E-mail from trial court stating that Judge Wulle needed to be changed to Judge Bennett. Ex. N, O

Statement of Arrangements on September 25, 2014 were amended so that Judge Wulle had been completely removed from all hearings. See Amended Arrangements October 1, 2014.

The trial court on October 1, 2014 altered a document to purposely remove Judge Wulle as the presiding Judge Ex. O highlighted. See Index of Proceedings Ex. P See record of presiding Judges Ex. Q

ASSIGNMENT OF ERROR

1. Trial attorney David S. Kurtz threat to shoot Mr. Reesman on March 12, 2008, in open court if he changes his mind and chooses a jury trial effected every jury waiver on March 12, 2008, March 20, 2008. The threat to shoot Mr. Reesman is a crime of assault and obstruction of justice. Mr. Reesmans guilty plea and jury waiver on March 20, 2008 was not knowing, intelligent or voluntary. Any conviction after the March 12, 2008 threat to shoot Mr. Reesman if he changes his mind and chooses a jury trial is unconstitutional, a manifest injustice, miscarriage of justice and Mr. Kurtz threat denied Mr. Reesman due process of law and a fair trial.

2. March 12, 2008 the trial court erred, obstructed justice and is an "actor" in an assault of Mr. Reesman when it allowed David S. Kurtz to threaten to shoot Mr. Reesman if he changes his mind and chooses a jury

trial. The March 12, 2008 threat directly affected 2 jury waivers and guilty plea March 12, 2008, March 20,2008. The threat coerced Mr. Reesman into a jury waiver and guilty plea on March 20, 2008. The trial courts conduct denied Mr. Reesman due process of law and a fair trial, and any jury waiver after the March 12, 2008 threat is unconstitutional and a manifest injustice and a miscarriage of justice.

3. On March 12, 2008 Prosecutor Scott Ikata denied Mr. Reesman due process of law and a fair trail when he allowed Mr. Kurtz in open court to threaten to shoot Mr. Reesman if he changes his mind and chooses a jury trial. Any jury waiver or guilty plea after the March 12, 2008 is unconstitutional including March 20, 2008 guilty plea. Mr. Ikata is an "actor" in the assault on Mr. Reesman in open court and did obstruct justice and Mr. Reesman jury waivers and guilty plea were coerced, a manifest injustice and miscarriage of justice. Mr. Ikata violated Mr. Reesman fifth and Fourteenth Amend. Rights.

4. On June 18, 2014 Mr. Reesmans attorney Christopher Ramsay did in an Email to the trial court unconstitutionally collaborate with the trial; court to dismiss Mr. Reesmans petition. Mr. Ramsays conduct is a per se violation of Mr. Reesman right to effective counsel and a conflict of interest under the sixth Amendment and is a manifest Constitutional error, and due process violation of Mr. Reesman Fifth and Fourteenth Amend. rights.

5. On June 25, 2014 the trial court erred when it collaborated with Mr. Reesmans defense attorney. The trial court obstructed justice in an attempt to block Mr. Reesman from filing criminal charges against a judge in that very court. The trial courts conduct is manifest constitutional

error and violated Mr. Reesmans due process rights under Washington Art. 1 and 3 U.S. Const. Fourteenth Amendment.

ISSUES PERTAINING TO ASSIGNMENT OF ERROR

1. Does Mr. Kurtzs threat to shoot Mr. Reesman if he changes his mind and chooses a jury trial affect Mr. Reesmans March 20, 2008 Jury waiver and guilty plea. Is the threat a crime, obstruction of justice, a manifest injustice and miscarriage of justice, and did the threat deny Mr. Reesman due process of law and a fair trial? Is any conviction after March 12, 2008, constitutional?

2. On March 12, 2008 does the trial court, error, obstruct justice and become in actor in the assault on Mr. Reesman when it allowed Mr. Kurts to threaten to shoot Mr. Reesman if he changes his mind and chooses a jury trial? Does the March 12, 2008 threat affect Mr. Reesman jury waiver and guilty plea on March 20, 2008? Does the courts conduct deny Mr. Reesman due process of law and a fair trial? Are any of the court's rulings, judgements, convictions after March 12, 2008 Constitutional?

3. On March 12, 2008 does the prosecutor deny Mr. Reesman due process of law and a fair trial when he allowed Mr. Kurtz to threaten Mr. Reesman in open court to shoot him if he changes his mind and chooses a jury trial and does the threat affect Mr. Reesmans jury waiver and guilty plea on March 20, 2008? Is Mr. Ikata an "actor" in an assault on Mr. Reesman and did Mr. Ikata obstruct justice resulting in a coerced jury waiver and guilty plea on March 20, 2008. did Mr. Ikata conduct violate Mr. Reesmans Fifth and Fourteenth Amendment rights resalting in a manifest injustice and miscarriage of justice. Is any conviction after March 12, 2008 constitutional?

4. Is 2014 trial counsel Christopher Ramsay's Email to the trial court a per se violation of Mr. Reesmans right to effective counsel and a conflict of interest under the Sixth Amendment and a manifest constitutional error and a due process violation of Mr. Reesmans Fifth and Fourteenth Amendment rights? Is Mr. Ramsay's collaboration with the trial court constitutional?

5. Does the trial court on June 25, 2014 error when it unconstitutionally collaborates with defense counsel to dismiss Mr. Reesmans petition? Did the trial court obstruct justice to block Mr. Reesman from filing criminal charges against a Judge in that very court, and is the trial courts conduct a manifest constitutional error and a violation of Mr. Reesmans due process rights under Wash. Constitutional Art. 1 and 3, U.S. Const. Fourteenth Amendment?

IV. GROUNDS FOR RELIEF

GROUND ONE

Trial Attorney David S. Kurtz did on March 12, 2008 while representing Mr. Reesman, threaten to shoot Mr. Reesman if he changes his mind and chooses a jury trial. Resulting in two coerced jury trial waivers on March 12, 2008 and March 20, 2008 and Mr. Reesman's request to waive jury trial and plead guilty to the case at bar (Act 1) on March 19, 2008 was not knowing, intelligent or voluntary and a Manifest Injustice. The threat to shoot Mr. Reesman in open court on March 12, 2008 is by statute Assault Two, obstruction of justice and a per se violation of Mr. Reesmans Washington Art. 1§21, U.S. Const. Sixth Amendment right to a jury trial and any jury waive after the threat on March 12, 2008 is unconstitutional. Mr. Kurtz's threat denied Mr. Reesman due process of

law and a fair trial and the March 20, 2008 conviction is unconstitutional, in violation of the U.S. Const. Fifth, Sixth and Fourteenth Amend. and is a complete Miscarriage of Justice.

On December 11, 2007 a motion hearing was held in Judge John P. Wulles court. The trial court announces that "This is the State of Washington v. Joel Reesman 07-1-00090-9 and 07-1-01092-1. RP 22 Lines 15-16. Mr. Reesman on page 24 declares to the court that he is mentally ill suffering from "ADD, Bipolar, P.T.S.D. and Manic Depression" RP 24. Mr. Reesman goes on to declare, "My confession at the time of arrest was due to a combination of mental illness, sleep deprivation and drug addiction, and the ongoing struggle to accepting my son's murder". RP 24 lines 1 thru 21. Mr. Reesman goes on to say that "I was clean and sober from 1995 to 2006" "In 2005 my precious 22 year old son was taken out in the forest of Alsie Oregon and executed, shot in the head and set on fire". RP. 25 lines 7-10. Next Mr. Reesman declares that the CEO of the company he has working for six years Vancouver Based Alpha Pest Control, Scott Sneer was "not only my supervisor but my pastor presided over my son's funeral" "As my supervisor Mr. Sneer wrote a letter to my then attorney Jeff Barrar and I quote "Joel Reesman worked for Alpha Pest Control for six years. Mr. Reesmans integrity was impeccable. I witnessed as Joel's pastor and employer the complete devastation and toll it took on Joel right from the moment we buried Jesse Reesman". RP 25 lines 11-19. Mr. Reesman next declares that "within 24 months after burial, I lost my new wife, child, my home, my car, my job, and my freedom. I relapsed into addition in September of 06." "Your Honor, I am asking for the court for mercy. RP 25 lines 20-23.

Mr. Reesman on December 11, 2007 case # 07-1-~~0090-9~~ 00090-9 and case # 07-1-01092-1 put the trial court on notice that he was suffering from mental illness, Post Traumatic Stress Disorder and that the 2005 murder of his son Jesse Reesman contributed to complete mental break down as witnessed by his supervisor/pastor who buried his son and that his arrests in the above connected causes were due to mental illness, drug addition and the horrendous murder of his son. In the context of Mr. Reesmans P.T.S.D., mental illnesses, and the murder of his son there is no separation between Case # 07-1-00090-9, March 12, 17, 18, 19 (Act 1) and the case at bar 07-1-01092-1 March 19, 20 2008 (Act 2). One play two acts (above) three actors. Mr. Reesman now has proof that in fact he was telling the truth about his 30 year struggle with mental illness, secondly Mr. Reesmans ex wife testify that in 1994 Mr. Reesman was shot five times, twice in the head causing serve head trauma requiring surgery and "Joel Reesman has never been the same after the shooting and the murder of his son was the coup de grace and his family witnessed a complete mental break down." Mr. Reesman asks this court to read mental illness documents Ex. A-H 2013 DOC. Mental Health Appraisal diggnosis, Post Traumatic Stress Disorder (Chronic) Major Depressive Disorder, Bulimia Nervosa. Ex. A. Certificate of death, Jesse Dale Reesman, Homicide, gunshot wound of the head May 23, 2005. Ex. F Affidavit of Joel Reesman dated may 10, 2012 Ex. G. Declaration of Marilyn D. Reesman dated March 6, 2012 Ex. D. Declaration of Marilyn D. Reesman dated December 16, 2013. Ex. E. Affidavit of Joel Paul Reesman, letter to DOC. Kevin Bowen from Dodi and Bryn Reesman dated November 23, 2010. Ex. C; Letter from Ceder Hills Hospital dated February 2, 2012.

Ex. B .

Mr. Reesman proves with the above evidence that he has been mentally ill for at least 30 yrs. and that he suffered critical gunshot wounds to the head in 1994 and the final blow the ~~Ceap~~ Coup de grau, Mr. Reesmans son is executed by gunshot wound to head and lit on fire (2005) (See Above evidence). Mr. Reesman was mentally ill during both acts 1 and 2. Act 1 started when in private Mr. Kurtz, threatens to kill Mr. Reesman if he chooses a jury trial and tells Mr. Reesman to lie about his Miranda rights (See Affidavit of Joel P. Reesman.) Ex. H

On March 12, 2008 the curtain opens on Act 1 when David S. Kurtz counsel for Mr. Reesman announces to the court that "there is no way Mr. Reesman will change his mind (about a jury trial) on Monday because if he does "Im going to shoot him." RP 65 The fact is Mr. Reesman was mentally ill when Kurtz threatened to kill him twice. (See Above) Mr. Reesman has already been shot 5 times twice in the head and his son was murdered, shot in the head. More over Mr. Reesmans relationship with Kurtzs from the beginning was confrontational, threatening and Mr. Kurtz was using intimidation to force Mr. Reesman to waive 2 jury trials. Mr. Kurtz told Mr. Reesman that he did not have a "chance in hell" of winning this case (See Affidavit of Joel P. Reesman). Mr. Kurtz made it clear that there was no way he was going to argue this case in front of a jury. No rebuttal witnesses, No professional witnesses, no family, friends or co-workers. Mr. Reesman was the sole witness in his own defense against 14 State witnesses and it could easily be inferred that Mr. Reesman ambigous request on the last day of Act 1 March 19, 2008 to waive jury trial and plead guilty to the case at bar was under threat to be shot,

intimidation, coercion. The sum total of Mr. Kurtz's conduct above, presented to a jury, would have this entire case thrown out of court and all charges dismissed. The threat to shoot Mr. Reesman in open court was a "true threat" taken very seriously but the real impact of that threat can only be completely evaluated by listening to the bold, loud, show stopping threat caught on video and Mr. Reesman is motioning this court for audio visual of the March 12, 2008 threat. Mr. Reesman with all above evidence proves to this court beyond a reasonable doubt, that the threat to shoot Mr. Reesman [redacted] directly affected every decision Mr. Reesman made about a jury trial after the threat including the March 19th and 20th 2008 request to waive trial and plead guilty (case at bar). R.P. 421, 422, 423

In 2008 Mr. Reesman was convinced Mr. Kurtz was going to kill him. He just didn't know when and still today Mr. Reesman is paranoid and hyper vigilant and inspite of mental health treatment and medication, Mr. Reesman is convinced people are going to kill him. (See all mental heath Exhibits.) A-H

Mr. Reesman is not a defendant in the case at bar he is a victim. This court need only look at the evidence of misconduct and crime against Mr. Reesman by the above "actors" during Act 1, to conclude that Mr. Reesmans request to waive trial and plead guilty to the case at bar on March 19, 2008 during Act 1 was actually a plea for help and the threats were "true threats" meant to intimidate and scare Mr. Reesman.

The threat to shoot Mr. Reesman by David S Kurtz on March 12, 2008 in open court is "a "true threat" as a catogory of unprotected speech under the First Amendment," is determined from a position of an objective

reasonable person, unless a particular offense involves intimidation. U.S.C.A. Const. Amend. 1. Both "fighting words" and "true threats" are non protected speech. See; Watts v. United States, 394 U.S. 705, 707, 899 S.Ct. 1399, 22 L.Ed. 2d 664 (1969); State v. Knowles, 91 Wash. App. 367, 373, 957 P.2d 797 (1998). "True Threats" are statements made under such circumstances that a reasonable person would interpret the statement as a serious expression of intention to inflict bodily harm, State v. Knowles, 91 Wash. App. at 373, 957 P.2d 797; See U.S. v. Gilbert, 884 F.2d 454, 457 (9th Cir. 1989.)

"Fighting Words" by their very utterance inflict injury or tend to incite an immediate breach of the peace. U.S.C.A. Const. Amend. 1, 14, Chaplinsky v. State of New Hampshire, 315 U.S. 568, 86 L.Ed. 1031 (1942) 62 S.Ct. 766, "There are certain well defined and narrow classes of speech [315 U.S. 572] and punishment of which has never been thought to raise any constitutional problem. These include the lewd and obscene, the pro fane, the libelous, and the insulting "fighting words" those by which there very utterance inflict injury or tend to incite an immediate breach of peace. It has been well observed that such utterances are no essential part of an exposition of ideas, and are of such slight social value as a step to truth, that any benefit that may be derived from them is clearly out weighed in social interest in order and morality. Resort to epithets or personal abuse is not in any proper sense communication of information or opinion ~~state~~ safe guarded by the constitution and its punishment as a criminal act would raise no question under that instrument." Cantwell v. Connecticat, 310 U.S. 296, 309, 310, 60 S.Ct. 900, 906 84 L.Ed. 1213, 128 A.L.R. 1352 (1940).

David Kurtz's threat to shoot Mr. Reesman [redacted] is by statute Assault Two and obstruction of justice (Intimidating a Witness) Under Title 9A Chapter 94.72.110. (1) a person is guilty of intimidating a witness if a person, by use of a threat against a current or prospective witness attempts to: (a) influence the testimony of that person.

Witness intimidation statute prohibits only "true threats" not constitutionally protected speech. State v. King (2006) 135 Wash. App. 662 145, P.3d 1224, review denied, 161 Wash. 2d 1017, 171 P.3d 1056. ("Im going to shoot him" is not constitutionally protected speech.)

Under Revised Code of Washington Annotated Title 9A "Limitations of Actions", Washington Criminal Code 9.A.04.080(b) except provided in (c) of this subsection the following offenses shall not be prosecuted more than 10 years after their commission (I) any felony committed by a public officer if the commission is in connection with the duties of his or her office constitutes a breach of his or her public duty or a violation of oath of office. Mr. Kurtz March 12, 2008 threat to shoot Mr. Reesman [redacted] is "Common Law Assault," and a violation of Mr. Kurtz's oath to obey all laws. Under Rule 1.4 Rules for Enforcement of Lawyer Conduct (ELC) No statute of limitations or other time limitations restricts filing of a grievance or bringing a proceeding under these rules. In State v. Cook "statute did not require nexus between officers official duties and the crime in order for the 10 year statute of limitation to apply, but simply required the officer to violate his oath of office which prohibited him from violating law". State v. Cook, 106 P.3d 251 Wash. App. 709 (2005)

The March 12, 2008 threat by Mr. Kurtz to "shoot" Mr. Reesman [redacted], is by Washington Statute and Case Law Assault Two, referred to in Washington as "Common Law Assault".

ASSAULT TWO

"An assault also an act with unlawful force, done with the intent to create in another a reasonable apprehension and imminent fear of bodily injury, even though the "actor" did not actually intend to inflict bodily injury." State of Washington v. Sarah Jane Smith, No. 76433-6 (2007); also see, State v. Taylor, "Second degree assault, an assault with a deadly weapon can be committed three ways (1) An attempt with unlawful force to inflict bodily injury upon another (Attempt Battery) (2) an unlawful touching with criminal intent (Actual Battery) (3) putting another in apprehension of harm whether of not the "actor" intends to inflict or is capable of inflicting that harm (Common Law Assault) West's RCWA. 9.A.36.021(1)(c) State v. Taylor, 90 App. 312 950 P.2d (1998)

It is reasonable to infer that if Mr. Kurtz threatens to shoot Mr. Reesman in open court if he changes his mind and chooses a jury trial on March 12, 2008, then a reasonable juror would find that Mr. Reesmans March 20, 2008 jury waiver and guilty plea were a direct result of the March 12, 2008 threat and that a manifest injustice occured and Mr. Reesmn did not knowingly, intelligently or voluntarily waive his right to jury trial on March 20, 2008. Further, any reasonable juror hearing evidence that Mr. Reesman was suffering from mental illness (P.T.S.D.) during all proceedings, March 12, 17, 18, 19, 20, 2008 would find that none of Mr. Reesmans jury waivers are constitutional. (December 11 2007)

Four criteria exist for determining whether a manifest injustice occures (1) denial of effective counsel (2) plea was involuntary (3) plea not ratified be defendant (4) plea agreement was not kept by prosecutor. State v. Taylor, 83 Wn. 2d 594, 596 521 P.2d 699 1974. CrR 4.2(f).

Without any other discussion Mr. Reesmans ambigous request to plead guilty and waive trial on March 19, 2008 (RP 421) was coerced by threat and misconduct occuring in open court on March 12, 17, 18 2008 Act 1. Most telling is a trial court colloquy on March 20, 2008 (eight days after the trial court allows Mr. Kurtz on March 12, 2008 to threaten to shoot Mr. Reesman if he changes his mind and chooses a jury trial) Trial Court: "Has anyone made any threats to you or made any promises to get you to change your plea?" (RP 126, line 8, March 20, 2008) Mr. Reesman March 20, 2008 jury waiver and guilty plea was not knowing or intelligent. Mr. Reesman was mentally ill and none of his jury waivers were intelligent. Due to threats and misconduct by the State, the Trial Court, and Counsel during the previous 11 days Mr. Reesmans March 20, 2008 jury waiver were coerced and anything but voluntary (RP 24, 25) Ex A-H

"Due process requires that a guilty plea be knowing intelligent and voluntary. State v. Easterlin, 159 Wn. 2d 203, 212-13, 149 P.3d 366, 2006: Quoting, In Re. Per. Restraint of Hews, 108 Wn.2d 579, 590 (1987) The March 20, 2008 conviction and sentence is invalid on its face because Mr. Reesman clearly was not making sound decisions and did not understand the nature of the charge against him, and further Mr. Reesman was threatened to be shot if he chooses a jury trial on March 12, 2008. A guilty plea by rule of law must be competent and voluntary. In Re. Hews, 108 Wn. 2d 579, 589 741 P.2d 983 (1987): Boykin v. Alabama, 395 U.S. 238

23 L.Ed.2d 274, 89 S.Ct. 1709 (1969). The Court in State v. Ammons, 105 Wn.2d 175, 713 P.2d 719 (1986) said that a conviction that is constitutionally invalid on its face means a conviction which without any further elaboration evidence infirmities of a constitutional magnitude. In addition to above constitutional requirements criminal guilty pleas are also governed by rules of the court CrR 4.2(d) It states that, the court shall not accept a plea of guilty, without first determining that it is made voluntarily, competently and with the understanding of the nature of the charge and the consequences of the plea. Wood v. Morris, 87 Wn.2d 501, 508, 554 P.2d 1031 (1976) The establishment of a factual basis for a plea is constitutionally significant as it relates to the understanding of the plea. State v. Rigsby, 49 Wn.App. 912, 915, 747 P.2d 472 (1987)

Mr. Kurtz's March 12, 2008 threat to shoot Mr. Reesman in open court [redacted] denied Mr. Reesman due process of law and a fair trial. The threat to shoot Mr. Reesman is a crime, a Manifest Error and a complete Miscarriage of Justice and a Manifest Injustice. Recently, U.S. Supreme Court Justice Ginsberg in Mc Quiggan v. Perkins U.S., 133 S.Ct. 1924 185 L.Ed. 2d 1019 (2013) ruled "actual innocence if proved serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar or expiration of A.E.D.P.A. statute of limitations. "A petitioner invoking the Miscarriage of Justice Exception must show that it is more likely than not that no reasonable juror would have convicted him in light of new evidence." This rule or fundamental miscarriage of justice exception is grounded in the equitable discretion of habeus courts to see that

federal constitutional errors do not result in the incarceration of innocent persons." Herrera, 506 U.S. at 404, 113 S.Ct. 853 (1993). Clearly Mr. Reesmans federal constitutional rights were violated by Mr. Kurtz and no reasonable juror would convict him of any proceeding after March 12, 2008.

GROUND TWO

On March 12 and 20th 2008 the trial court erred, obstructed justice and is an actor in an assault on Mr. Reesman when it allowed David S. Kurtz on March 12, 2008 in open court to threaten to "shoot" Mr. Reesman if he changes his mind and chooses a jury trial. The trial courts rulings on March 12, and 20th 2008 that Mr. Reesmans jury waivers and guilty plea, after the threat to be shot over a jury waiver were knowing, intelligent and voluntary are unconstitutional, a manifest injustice and miscarriage of justice. The trial courts conduct denied Mr. Reesman due process of law and a fair trial and any jury waiver after March 12, 2008 (including case at bar March 20 2008) is unconstitutional. (See ground one).

The trial court by accepting jury waiver and guilty plea on March 12, and 20th 2008 after the March 12 2008 threat to be shot (RP 65) became an "actor" in the assault on Mr. Reesman (a "true threat") and the trial court obstructed justice starting on March 12, 2008 and any trial court conviction after March 12, 2008 is invalid on its face and unconstitutional.

On March 12th and 20th 2008 the trial court did obstruct justice under the "witness intimidation statute" 9A.72.110(1)(a) (See ground one) The state of limitations for prosecution under RCW 9A.04.080(b)(I) for a

felony committed by a public officer in connection with the duties of his office shall not be prosecuted more than 10 years after the commission of the crime. (See ground one above) The march 12 2008 threat to shoot Mr. Reesman was a true threat for purposes of the witness intimidation statute. See Above ground one). Judge Wulle is an actor in the assault on Mr. Reesman in open court on March 12, 2008, and Mr. Reesman argues above with case law and statutes Judge Wulle committed a most serious crime when he allowed David S. Kurtz to threaten to shoot Mr. Reesman in his courtroom [redacted]. (See ground one argument and case law) RCW 9A.72.110(1)(a) The threat to shoot Mr. Reesman is a true threat not protected by the 1st Amendment. Witness Intimidation Statute Prohibits only "true threats" not constitutionally protected speech. State v. King (See above) the statute of limitations to prosecute Judge Wulle is 10 years for a public officer that committed any felony in connection with the duties of his office. RCW 9A.04.080(b)(I) (See above ground one) Judge Wulle is an actor in the crime of assault two "Common Law Assault" State of Washington v. Sarah Jane Smith; State v. Taylor (see above ground one.) "common Law Assault" is a most serious offense R.C.W.A. 9A.36.021(1)(c) (See above ground one)

Judge Wulle on March 12, 2008, March 20, 2008 obstructed justice, and is an actor in an assault on Mr. Reesman. Limitations to prosecute Judge Wulle is 10 years after commission of crime. The assault on Mr. Reesman was a "true threat" which coerced and scared Mr. Reesman into waiving two jury trials on March 12 and 20, 2008. see Above Ground One. (Act 1)

Mr. Reesman asserts that the trial court by allowing his counsel to threaten to shoot Mr. Reesman [redacted]

[redacted] committed an error of constitutional magnitude. Any conviction after the trial courts March 12, 2008 structural error is unconstitutional (March 20, 2008.)

"According to the United States Supreme Court "Structural errors deprive defendants of basic protections without which a criminal trial cannot reliably serve its function as a vehicle for determination of guilty or innocence.... and no criminal punishment may be regarded as fundamentally fair." Neder v. United States, 527, U.S. 1, 8-9, 119 S.Ct. 1827 144 L.Ed.2d 35 (1999) Quoting, Rose v. Clark, 478 U.S. 570, 577-78, 106 S.Ct. 3101 92 L.Ed. 460 (1986) The trial court by allowing David S. Kurtz to threaten to shoot Mr. Reesman if he chooses to change his mind about a jury trial on March 12, 2008, renders all court findings of facts, convictions and sentences after March 12, 2008 unconstitutional and invalid on their face and "automatically" affected Mr. Reesmans substantial rights for purposes of plain error review. Puckett v. United States 556 U.S. 129 S.Ct. 1423, 173 L.Ed. 2d 266 (2009).

Mr. Reesman asserts that the trial court prejudice started long before March 12, 2008, and it could be inferred that the cummulative prejudice directed towards Mr. Reesman throughout all proceeding before Judge Wulle had a direct affect on Mr. Reesmans request to waive trial and plead guilty to the case at bar during act 1 on March 19, 2008 and the next day on March 20, 2008. [redacted] 2.RP 24,25, 421,422,423 See Video, March 17,18,19 2008

As set out above in ground one, A motion hearing was held on December 11, 2007 before Judge Wulle. Mr. Ressman declared in open court that he was mentally ill, and his son was recently murdered. Judge Wulle ignored the declaration even Mr. Reesmans plea for mercy. (See ground one RP 22,

23, 24, 25), A competent reasonable judge would have suggested to counsel to inquire about Mr. Reesmans mental competency. Mr. Reesman now shows this court evidence supporting Mr. Reesman December 11, 2007 declaration to the trial court that he is mentally ill. (See ground one "Mental Illness" evidence EX A-H.)Under "Liteky", a judges misconduct at trial may be characterized as biased or prejudice "only, if it is so extreme as to display clear inability to render fair judgement" (Liteky, 510 U.S. at 551, 114 S.Ct. 1147 (1994)) "So extreme in other words that it displays a deep - seated favoritism or antagonism that would make a fair judgement impossible." id. at 555, 114 S.Ct. 1147.

When Judge Wulle allowed Kurtz to threaten to "shoot" Mr. Reesman [redacted] on March 12, 2008, Wulle became complicit in a most serious offense "Assault Two" and did along with Prosecutor Scott Ikata starting on March 12, 2008 obstructed justice under the intimidating a witness statute 9.A.72.110(1)(a). Judge Wulle committed two felonies which can be prosecuted 10 years after the commission of those crimes by a public officer RCW 9A.04.080(b)(I) (See ground one above). "The threat to be shot is a "true threat" not constitutionally protected speech." (see ground one above.) For cause purposes, Mr. Reesman with evidence, shows this court that he was mentally ill when Judge Wulle allowed Kurts to threaten to shoot him and because Mr. Reesman has already been shot 5 times, twice in the head the threat was serious enough to waive two jury trials and his request to waive trial and plead guilty to the case at bar on March 19, 2008, (Act 1) was anything but knowing, intelligent or voluntary. See ground one above. In a declaration in open court in front of Judge Wulle, Mr.

Reesman asks Judge Wulle for mercy because he is mentally ill (P.T.S.D.) and his son was recently murdered, Wulle ignores Mr. Reesmans plea for help. RP. 22, 23, 24, 25, (see ground One) above. On March 19 2008 Mr. Reesman in the case at bar again makes a plea for help. RP. 421, 422, 423. On March 19, 2008, at the end of act 1, and after the trial court, counsel and state "beat down", Mr. Reesmans request to waive trial and plead guilty to the case at bar was in fact a plea for help.

The trial courts conduct during all proceedings starting on December 11th, 2007 and March 12, 17, 19, 20, 2008, is a miscarriage of justice under "Perkins", (see above ground one.)

On December 11, 2007 a hearing was held in which Mr. Reesman declares to the court that he is mentally ill and his son was just murdered and Mr. Reesman asks the court for "mercy". RP 24, 25 the trial court on March 12, 2008 allowed Mr. Kurtz to threaten to shoot Mr. Reesman if he changes his mind and chooses a jury trial. (RP 65) On March 18, 2008 the trial court allowes a teenager up on the bench only during Mr. Reesmans testimony on 3-18-2008 and the teenager on planned visits is up on the bench again to watch the trial court find Mr. Reesman guilty of 3 strikes on 3-19-2008. (See Video) On March 20, 2008, after the trial court is aware that Mr. Reesman might not be competent due to P.T.S.D. (RP 24, 25) accept's a jury waiver and guilty plea as knowing, intelligent and voluntary even though 8 days earlier Mr. kurtz on March 12, 2008 threatens to shoot Mr. Reesman [redacted] in front of Judge Wulle and scott Ikata, No one objected to the threat. (RP 65) On March 20, 2008 eight day after the above threat in open court there is a colloquy with Mr. Reesman, Trial Court: "Has anyone made

threats to you or made any promises to you to get you to change your plea"? (RP 126 line 8). See pg 65 lines 8-12. (Lines 12 Pg 65 "Im going to shoot him.") March 20, 2008 trial court: "Has anyone made any threats to you?" (RP 126 line 8). Mr. Reesmans March 20, 2008 jury waiver and guilty plea were coerced and the coercion was ignored by the trial court. See Above. The jury waiver and guilty plea on March 20, 2008 was not knowing, intelligent and specifically not voluntary. (See Above Ground One).

No neutral court observer or juror after hearing Mr. Reesmans colloquy on March 20, 2008 would find that Mr. Reesmans jury waiver and guilty plea was competent and knowing. Inspite of the following colloquy, Mr. Reesman still decides that he wants to plead guilty. Kurtz: "I ve advised Mr. Reesman that its my opinion that there's an issue with the search warrant affidavit." Likewise "I've advised him at least that I do not have a copy of the drug test from the Washington State Crime Lab so that he would be pleading guilty not having had the drug tested by a Washington State Patrol Crime Lab or anybody else for that matter." "So he knows these two issues -- these two potential issues, and he's advised me that he still wants to plead guilty and waive those potential issues" RP. 127 lines 17-25, RP 128 lines 1-7. Mr. Reesman asserts that (a jury, hearing and seeing,) all trial court, prosecutor and defense attorney misconduct starting on December 11, 2007 through transcripts and video of the threat made in open court on March 12, 2008, and further misconduct, caught on video March 17, 18, 19 2008, would have no problem finding that Mr. Reesmans March 20, 2008 jury waiver and guilty plea was anything but knowing, intelligent, competent or voluntary, See Above, "True Threats."

Watts v. United State, Ground One.

GROUND THREE

On March 12, 2008, Prosecutor Scott Ikata denied Mr. Reesman due process of law and a fair trial when he allowed Mr. Kurtz to threaten to shoot Mr. Reesman in open court if he changes his mind and chooses a jury trial. Mr. Ikata is an "actor" in an assault on Mr. Reesman and did obstruct justice and violated Mr. Reesmans due process rights under the Fifth and Fourteenth Amendments resulting in two coerced jury waivers on March 12, 2008, and March 20, 2008. Mr. Reesmans March 20, 2008 jury waiver and guilty plea were a direct result of the March 12, 2008 threat and were not knowing, intelligent, or voluntary. Manifest Injustice and Miscarriage of Justice.

On March 12, 2008 Mr. Ikata did obstruct justice under the witness intimidation Statute RCW 9A.72.110(1)(a)(See Above Ground ONe, Two.) The threat to be shot in front of Mr. Ikata is a "true threat".

Intimidation Statute prohibits only true threats not constitutionally protected speech. State v. King, (see Above Ground One). The threat to shoot Mr. Reesman is a true threat and a felony most serious Assault Two, "Common Law Assault", see above Ground One State of Washington v. Sarah Jane Smith; State v. Taylor; RCWA 9A.36.021(1)(c).

Also see above "true threat" and "fighting words" Watts v. United States, State v. Knowles; U.S. v. Gilbert (See Ground One) Under RCW 9.04.080(b)(I) the following offenses shall not be prosecuted more than (ten) years after their commission (I) Any felony committed by a public officer if the commission is in connectin with the duties of his office and is a violation of oath of office. (See Above Ground One.) (See Above

State v. Cook).

"Recently our supreme Court reiterated that prosecutors have a duty to fairness. The prosecutor owes a duty to defendant to see that their rights to a constitutionally fair trial are not violated. State v. Monday, 171 Wash. 2d 667, 676, 257 P.3d 551 (2011) See, State of Washington v. Jennifer Sarah Holmes, 171 Wash. App. 808, 288 P.3d 641, (2014).

By allowing David S. Kurtz on March 12, 2008 to threaten to shoot Mr. Reesman in open court [redacted] Mr. Ikata was not only "actor" in the assault of Mr. Reesman but his misconduct is a violation of State and Federal law that denied Mr. Reesman due process of law guaranteed under the Fourteenth Amendment. Duncan v. Henry, 513 U.S. 364, 366, 115 S.Ct. 887, 130 L.Ed. 2d 865 (1995).

Mr. Ikatas misconduct violates Mr. Reesmans Fifth and Fourteenth Amendment rights. Donnelly v. Dechristoforo, 416 U.S. 637, 94 S.Ct. 1868, 40 L.Ed. 2d 431 (1974); Berger v. United States, 295 U.S. 78, 55 S.Ct. 629, 79 L.Ed. 1314 (1935); United States v. Valentine, 820 F.2d 565 (C.A. 2 1987); United States v. Burse, 531 F.2d 1151 (C.A. 2 1976) The prosecutors misconduct on March 12, 2008 resulted in a Miscarriage of justice under "Perkins" above and all convictions after March 12, 2008 are invalid on their face and the sentences on March 19, 20, 2008 are unconstitutional. The prosecutor errors are structual.

GROUND FOUR

On June 18, 2014, Mr. Reesmans newly appointed counsel Christopher Ramsay did in an E-mail to the trial court illegally collaborate with the

trial court to dismiss Mr. Reesmans petition. Mr. Ramsays conduct is a per se violation of Mr.Reesmans right to effective counsel and a conflict of interest under the sixth Amendment and is a Manifest Constitutional error and a due process violation of Mr. Reesmans Fifth and Fourteenth Amend. rights resulting in a Miscarriage of Justice.

On June 18, 2014, Mr. Ramsay sends an E-mail to the trial court (See Exhibit ___) The E-mail proves clearly that Mr. Ramsay is collaborating with the trial court. "Rhonda," Here is the problem:" then Mr. Ramsay on space 3,4,5, tells the court that Mr. Reesman motion to withdraw guilty does not exist in cause #07-1-01092-1 because the (threat to shoot Mr. Reesman)" "forced jury waiver" happened during case # 07-1-00090-9. (5) "It appears that Reesman is confusing the two cases." "How would the judge like to proceed?"

Clearly Mr. Ramsay was hired by the trial court to argue that Mr. Reesmans motion is without merit and further "Mr. Reesman is confusing the two cases."

Mr. Reesman is not confused at all about the direct connection between case # 07-1-00090-9 and Case at-bar # 07-1-01092-1. see above 4 arguments.

In the trial courts dismissal of his (PRP) (June 25, 2014) The court throws Mr. Reesmans defense attorney under the bus using Mr.Ramsays E-mail "specifically" to dismiss his petition. See Ex. M

In a letter to the Washington Supreme Court prosecuting attorney Ms. Cruser advises the court that Mr. Ramsay has been appointed by the trial court to represent Mr. Reesman and "I assume, Mr. Ramsay will prepare a motion and briefing and cite matter in the Superior Court" See Ex. J

The fact is Mr. Ramsay did the exact opposite. Mr. Reesman asserts that Mr. Ramsay impeaches Mr. Reesman, "It appears Mr. Reesman is confusing the to cases. Mr. Ramsay's failure to defend Mr. Reesman is complete.

"Cronic" established that certain failings of counsel justify a per se presumption of ineffectiveness, see 466 u.S. at 658, 659, 104 S.Ct. 2039, not withstanding the general rule that to demonstrate ineffectiveness a defendant must show that his counsels performance was both deficient and prejudicial, see Strickland v. Washington, 466, 668, 687, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984) "When we spoke in Cronic of the possibility of presuming prejudice based on an attorneys failure must by complete. We said "if counsel entirely fails to subject the prosecutions case to meaningfull adversarial testing". Cronic, supra, at 659 [104 S.Ct. 2039] United States v. Cronic, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed. 2d 657 (1984).

Mr. Ramsays conduct violates Mr. Reesmans Sixth amend. right to effective counsel based on "Conflict of Interest".

Defendants must show (1) that his counsel represented conflicted interests and (2) that this adversly affected counsels performance. U.S.C.A. Const. 6. Mr. Ramsays performance was so utterly inadequate as to be per se violation of right to counsel (Cronic), and was prejudiced enough to violate the Strickland standard. The error is clear, obvious and structual. Ex. ___ resulting in a Miscarriage of Justice under "Perkins" (Above).

GROUND FIVE

The trial court, starting on March 12, 2008 did obstruct justice to

prevent Mr. Peesman from a jury trial and the trial court since March 12, 2008 has obstructed justice to prevent Mr. Peesman from filing criminal complaint against a judge in that very court. The trial court conduct is manifest constitutional error and a violation of Mr. Peesmans due process right under Washington constitution Article 1 and 3, U.S. Constitution Fourteenth Amendment.

Mr. Peesman asks this court how is it possible that the 2014 trial court is able to make any rulings, on his motion to withdraw guilty plea when that motion clearly puts the trial court on notice that he intends to file criminal charges against a judge in that very court? Without any other discussion, that is a conflict of interest and due process violation. The trial court has clearly proved that it will do whatever it takes to prevent Mr. Peesman from appearing again in their court and the trial court is now caught obstructing justice in 2008 and 2014. From the moment the trial court allows Mr. Kurtz to threaten in 2008 to shoot Mr. Peesman if he changes his mind and chooses a jury trial the court obstructed justice and since has tried every tactic to cover up the crime and protect one of their own judges. Judge John P. Nulle.

On March 12, 2008 the trial court looks the other way when Kurtz threatens to shoot Mr. Peesman in open court. On November 3, 2013 Mr. Peesman files a criminal complaint against Kurtz, Nulle and Ikata, to the Sheriff and prosecutor's office. No Response. On March 5, 2014 Mr. Peesmans motion to withdraw guilty plea based on a threat in open court on March 12, 2008 which is a crime of assault and obstruction is sent to the trial court for determination. The trial court ignores the Washington State Supreme Court order until Mr. Peesman complains of the trial courts

inaction. See Ex. I. The Supreme Court on June 9 instructs the prosecutor to check on the State of Mr. Reesmans motion. On June 12th 2014 the trial court appoints Christopher Ramsay as Mr. Reesmans trial attorney.

In a letter to the Supreme Court, prosecutor Ms. Cruser, on June 24 2014 states: "Mr. Ramsay will, I assume, prepare a motion, and brief and cite the matter into Superior Court for determination." See Ex. J. On June 18, Mr. Reesmans counsel Christopher Ramsay sends an E-mail to ~~trail~~ trial court that literally got Mr. Reesmans motion dismissed, See Ex. L. On June 25, 2014 the trial court based exclusively on Mr. Ramsays E-mail dismisses Mr. Reesmans petitioner on its merit. Ex. M.

On September 25, Appellate Counsel orders the transcribed documents with the name of the court reporter and presiding judge See Ex. N. On OCtober 1 2014 the trial court ~~informs~~ directs appellate counsel Mr. Teller, to remove Judge Wulle from the record as the presiding judge in all hearings transcribed. Ex. O. This exhibit is proof of the on going effort of the entire Superior Court to protect Judge John P. Wulle and further Mr. Reesmans asserts that the claim of errors on page "two" Amended Statement of Arrangement removes Judge Wulle from ~~the~~ his claims of error. Page 2, Amended Statement of Arrangement has been altered by the trial court and page 2 is not based on fact or the truth. See Ex. O.

Lastly, the transcriber Bonnie Reed's records reflect which judge presided over which hearing. See Ex. P, Q. The two documents from Bonnie Reed are the true factual report of presiding judge. Why would the trial court commit a crime and alter court documents? Its clear and obvious the trial is above the law and obstructing justice to protect Judge John P.

Mulle. Its clear and obvious and is a crime in its self and violates Mr. Reesmans due process rights. The trial courts conduct is ~~cammaltive~~ Cumulative (above) and the errors are structual. Starting on December 11, 2007 ending on October 1 2014.

According to the United states supreme Court "Structual Errors" deprive defendants of basic protections without which for determination of guilty or innocence.... and no criminal punishment may be regarded as fundamentally fair." Neder v. United States, 527 U.S. 1, 8-9, 119 S.Ct. 1827 144 L.Ed. 2d 35 (1999); Quoting Rose v. Clark, 478 U.S. 570. 577, 78, 106 S.Ct. 3101 92 L.Ed. 460 (1986).

From the very start December 2007, March 12, 17, 18, 19, 20, 2008 to the present October 1st 2014 the trial court has obstructed justice and there is no reason to believe that further proceedings in the trial court pertaining to Mr. Reesmans petition will be any different and Mr. Reesman will never receive due process from the Clark County Superior Court (See Above).

CONCLUSION

The trial court June 25, 2014 denial of Mr. Reesmans petition was not based on the facts or rule of law set out above. The 2014 trial court uses Mr. Reesmans defense attorneys opinion that there is no legal connection, no nexus between crimes and misconduct by the trial court, the State, and defense attorney in case 07-1-00090-9 Act 1, and the jury waiver and guilty plea in case No. 07-1-01092-1 Act 2.

Mr. Reesman disagrees. Mr. Reesman has clearly shown above by way of verbatim transcripts, video, state and federal law and Washington Statute that he is the victim of a crime and misconduct by the above three "actors" occurring during 07-1-00090-9 Act 1, which directly coerced a

jury waiver and guilty plea in case at bar 07-1-01092-1 Act 2, Mr. Reesman asserts that no neutral observer of all proceedings before Judge John P. Wulle (December 11, 2007, March 12, 2008, March 17, 18, 19, 20, 2008) could come to any other conclusion than Mr. Reesman March 20, 2008 jury waiver and guilty plea was not knowing, intelligent, competent or voluntary. A reasonable jury hearing and seeing all above new evidence, would easily find that any conviction after the March 12, 2008 threat to be shot in open court violates Mr. Reesman State and federal due process rights including 07-[redacted]1-00090-9, 07-101092-1. Act 1, 2.

Therefore Mr. Reesman asks this court to grant his motion to withdraw his guilty plea and remand for jury trial.

Dated this 8th day of February, 2015.

Joel P. Reesman

Joel P. Reesman # 316821
Clallam Bay Corrections Center
1830 Eagle Crest Way
Clallam Bay, WA. 98326

ADDITIONAL GROUND SIX

A. ASSIGNMENT OF ERROR

1. INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL.

B. ISSUE PERTAINING TO ASSIGNMENT OF ERROR

1. Is the Appellate Counsel's failure to argue issues that are obvious from the trial record and which would result in reversal, a violation of Mr. Reesmans Sixth Amendment right to effective counsel?

C. STATEMENT OF THE CASE

On August 29, 2014 Mr. Reesman sent his appellate attorney Peter B. Tiller a request that he argue the above grounds 1-5. Mr. Reesman also attached 25 pages of evidence supporting each claim. Lastly Mr. Reesman asked Mr. Tiller to amend arrangements to include video of proceedings March 12, 17, 18, 19, 20 (2008) and verbatim transcripts of 3.5 hearing March 17, 2008, and verbatim transcripts Pg. 421, 422, 423, Judge Wulle presiding. Mr. Tiller responded to the above request in a letter dated September 17, 2014. Ex. R. Basically, Mr. Tiller told Mr. Reesman that he would brief the case the way he wanted and if Mr. Reesman believes there are issues not addressed in the brief then he can file a Statement of Additional Grounds. Mr. Tillers 4 page "brief" did not include any of Mr. Reesmans assigned errors and further Mr. Tiller found no errors in his ordered transcriptions.

C. ARGUMENT

Mr. Tiller was ineffective because he omitted and neglected to raise significant and obvious issues while pursing substantially weaker ones. U.S.C.A. Const. Amend. 6, Bloomer v. U.S, 162 F.3d 187 (2nd Cir. 1998) (See Above Grounds 1-5).

Mr. Tiller was in possession of Mr. Reesmans assignment of errors and corraborating evidence 2 months before he filed brief of Appeallant. Ex. R. Mr. Reesmans S.A.C. came directly from the trial record. Mr. Tiller ignored the trial record in his 4 page (1) error brief. Mr. Tiller omits 2007, 2008, tiral court, prosecutor and defense counsel's crimes, misconduct and 5 reversible, manifest constitutional errors. Mr. Tiller omits crucial arguments of the legal and factual "nexus" that connects 07-1-00090-9 and 07-1-01092-1. Lastly, Mr. Tiller failed to claim Ineffective Assistance of the 2014 trial counsel, Christopher Ramsay. (See Ground 4). Mr. Tiller purposely refused to argue Mr. Reesmans controversial issues to avoid conflict with the entire trial court and prosecutors office. It is obvious that the only reason Mr. Tiller found one error is because this court ordered him to file Brief of Appealant or face "sanctions".

Mr. Tiller's performance fails below the Constitutional minimum and his performance is so utterly inadequate as to be per se violation of Mr. Reesmans right to counsel under Cronic. See United States, v. Cronic, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed. 2d 657 (1987). Mr. Tillers performance was clearly defectient and prejudicial; see Strickland v. Washington, 466 U.S. 668, 687, 690, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984).

An appellate advocate may deliver deficient performance and prejudice a defendant by omitting dead-bang winner, even though counsel may have presented strong but unsuccessful claims on appeal; "a dead-bang winner" is an issue which was obvious from the trial record, and which would have resulted in reversal on appeal. U.S. v. Magallanes, 10 Fed. Appx. (7th Cir. 2001).

A criminal defendants right to effective assistance of counsel continues through a direct appeal. See Evitt v. Lucey, 469, U.S. 387, 105 S.Ct. 830, 83 L.Ed. 2d 821 (1985). Ineffective assistance of appellate counsel may be shown if petitioner can prove that counsel; omitted obvious and strong issues while pursuing significantly weaker ones. Mayo v. Henderson, 13 F.3d 538 (2nd Cir. 1994).

E. CONCLUSION

Mr. Tillers performance is Ineffective Assistance of Appellate Counsel. Mr. Reesman strongly disagrees with Mr. Tillers "remedy" to reverse and remand for "factual hearing".

Mr. Tillers "remedy" gives the trial court and prosecutors office another opportunity to collaborate, and continue to obstruct justice as set out in Mr. Reesmans S.A.G. Mr. Reesman asks this court to reverse and remand for jury trial and Mr. Reesman asserts that any thing other than jury trial violates due process and is a conflict of interest.

DECLARATION OF SERVICE BY MAIL
GR 3.1(c)

I, Joel P. Reesman, declare that, on this 8th day of February, 2015 I deposited the forgoing documents:

Statement of Additional Grounds (6)

or a copy thereof, in the internal legal mail system of

Clallam Bay Corrections Center
1835 Eagle Crest Way
Clallam Bay. Wa. 98326

And made arrangements for postage, addressed to: (name & address of court or other party.)

The Tiller Law Firm
Corner of Rock & Pine
P.O. Box 58
Centralia Wa. 98531-0058

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COURT OF APPEALS
DIVISION II
2015 FEB 10 PM 1:28
STATE OF WASHINGTON
BY _____ DEPUTY

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated at Clallam Bay Wa. (City & State.) on 2-8-15 (Date)

Joel Paul R
Signature

Joel Paul Reesman
Type / Print Name