Form 7. Statement of Additional Grounds for Review
[Rule 10.10(a)]

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON

Respondent,

v.

AYODEJI Johnson

Appellant.

Court of Appeals Cause No. 72359-6-I

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I Johnson AYODEJI, 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 I

Judge abusive of discretion admitting evidence.
Ineffective Assistance of Counsel.

Additional Ground II

Rule 4.7 Discovery; Prosecutor Obligation. State failed to comply with it's obligation to disclose evidence intended to use against defendant at trial.

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

Date: Sept 23, 2015

Signature:

NO. 72359-6-

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION ONE

STATE OF WASHINGTON
Respondent
V
JOHNSON AYODEJI
Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR SNOHOMISH COUNTY

THE HONORABLE ERIC Z LUCAS, Judge.

STATEMENT OF ADDITIONAL GROUNDS

JOHNSON O. AYODEJI
Appellant
Clallam Bay Correction Center
1830 Eagle Crest Way
Clallam Bay, WA 98326.

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A ASSIGNMENTS OF ERROR

1. The Conviction was based on insufficient evidence under the Law of the Case: doctrine.

2. The trial Judge, Honorable Lucas abused his discretion by failed to properly apply the rule ER 404(b)

3 The trial Court failed to inquire into possibility of Conflict of interest on part of defendant trial Counse

4 The trial Court violated defenda due process right by failing to disclos evidence impeaching on victims Credibil

5 The trial Court failed to disclose the evidence they intended t use against the defendant at trial.

PLEASE NOTE: MY STATEMENT OF ADDITIONAL GROUNDS REFERS TO VERBATIM REPORT OF PROCEEDING AS FOLLOWS:

1RP- September 20, 2013; 2RP- May 27, 2014; 3RP- July 21, 2014; 4RP- July 22, 2014; 5RP- July 23 2014; 6RP- July 24, 2014; 7RP- July 25, 2014; 8RP- July 28, 2014; 9RP- July 29, 2014; 10RP- July 2014; 11RP- July 31, 2014; 12RP- August 21, 2014.

B

STATEMENT OF ADDITIONAL GROUNDS

The Mother of the alleged victim knows the processes of the System well enough to know that without evidence, her allegations have no merit, She previously alleged this same type of accusation twice in 2008-2010.

"-----Why did Ruth do what she did-----" 4RP 9-10. The prosecutor asked himself this very question.

If Ruth truly loves and cares for those children and is so concerned for their safety and well being and afraid of me.

Why would she allow me normal, unconstained access to the house, other than to implement and Complete her unfinished Vindictive mission.

Ruth started to indoctrinate the scenario of touching, rape and sexual abuse in my kids heads at the same age Ruth herse

Was raped - 6 and 7 year old.

When Ruth was at that age, she was raped by her own Uncle, She never told anybody, even her own Mother and she never went through any Sexual assualt Counseling, She grew up dealing with that Mentality, wounded, bitter and emotionally hurt, Combine with abortion at her early age of 17 year old, Sh been deeply hurt, before we met in 1996.

In every Criminal prosecution, due proce requires the State to prove beyond reasonal doubt. And tecnology has really played a vita role in Criminal Justice System.

Similarly, in State v Jerrels, Jerrels was Convicted of rape of a child, child Molestatio and assault, The physician from the child Sexua assalatt clinic abuse testified 83 Wn App 503, 50

There no definitive medical evidence link Jerrels to this abuse. And no medical finding of abuse exist.

In re: State v Jensen, 125 Wn App 319, 32 Hayes 81 Wn App 438, 914 P. 2d 788 Evidence was insufficient to support two Counts of Child molestatio

In my case three physicians testifie the State trusted and relied on these physici testimony and their efforts in examining this alleged victim, which is why they were called to testify.

Lori Moore, analyzed the medical examination which she did on both girls On May 17 2013. 8RP 37, 41-42, 48 and 51-52.

Caryn Young also testified about her 201 examination of both girls 5 RP 47-58. They both testified accordingly.

These are physicians from the child Sexual assualt Clinic. They testified that Esther and Faith show no Medical evidence o Sexual abuse since 2008-2013.

Upon Cross examination the defense Counsel asked Ms Yoshida the following questi that analyzed her DNA result.

8RP 89, 114

Q The swab, however, that was something th you infer based just on the way these thing are done, came from the actual person of another human being right?

A Yes, that's how it reported to me coming from the peri vulval area.

Q And on that one, you really couldn't generate a profile that you could attribute t my client, correct?

A That's correct, I couldn't make any meaningful Comparison related to that profil

The alleged victim testimony was not Corroborated by forensic medical evidenc

Conclusively, none of these allegation ar
coming directly from my children, at trial, I
watched the girls domineer. I honestly kn
that they were being coaxed.

Their Mother has played instrumental
role in all theyve been saying and more
importantly, in what they did not say.

Whenever Ruth took the girls to hospit
she always speak on their behalf, the girls ho
never confide in anybody on their own, even
in those physicians 8RP51-52

This is high standard case, due to
the nature and complexity of the charges, I
not type of case done behind the cotton.

If the state really have legitimate
evidence to prove all the charges in this cas
it's really worthless for the mother of the allege
victims to testify, because the prosecutor
was asking Ruth many irrelevant and speculator
questions with no prove to support it, just with
mindset to mislead the jury 6RP 104[22]-105, the
entire case was all about Ruth.

The prosecutors conduct was unprofes
ional, Constitutionally, attorneys have no right
to mislead jury in summation of evidence
during voir dire and final argument, and thi
especially true of a prosecutor who is a
quasi-judicial officer whose duty it is to se
that the defendant in a criminal prosecutio

is given a fair trial.

Pretrial Rulings.

Before trial, the State was very reluc tant to admit to the Origin of the video evidence that was acquired from the fa- bricator, the Mother of the alleged victim who is also the KEY witness for the stat while the investigation was still in progre 9RP 27, 45-46.

Defense Counsel appeared confus- and seemed to represent both sides. Especially as pertain to the origin and how the alleged video evidence was acquir 4RP 27-30, eventually introduced his pro formal objection 4RP 48-49.

The State's admission of this alleg video evidence was desireable because played on sympathies and had the abilit to mislead the jury by distorting the facts.

Without the admission of this frau lent video evidence, the State had no case the State had no legitimate evidence to support the admission of that video other than to attribute it to the defendant-p speculation. 4RP 28-33.

Paradoxically, at this proceeding, I did not have defense Counsel that had my best interest at heart, in fact, Mr Oneal was persuading the State to distort what let o how detective Van Beek got involved or g the information that prompted her to seek for search warrant.

Defense Counsel argued that "---- detective Van Beek got a voice mail ----" 4RP 35-39.

Rule 8.4 Misconduct: It is profession misconduct for a lawyer to (c) engage i Conduct involving dishonesty, fraud, decei or misrepresentation.

Clearly, it wasn't detective Sally Va Beek that received voice mail from Faith Ms Hughes received voice mail message through Faith, after the girls had been interviewed by her and the prosecutor 4RP 36

When the girls got back home their mother was hovering over their shoulder wh they were on the phone imploring Faith to call, and when Faith called she left a voice message, and at the end of her message she said, "My mom made me Ca 7RP 128 ex 82.

In re: State v Johnso, 152 Wn App 92 out of court statements attributed to

defendant's wife that indicated her belief in trial for second degree child molestation ER 403.

In my case, this out of Court statement or Conversation led detective Sally Va Beek to seek for search warrant. Before she ever searched my property, Ruth had already given her some SD Card that contained the alleged video evidence which she claimed she found in my Car 6RP 147, 148, 149-8.

I had no knowledge of this, nor did it occur to me that my phone had been us to set me up, in the most literal sense.

In re: State v Goble, 88 Wn App 503 probable cause for issuance of Search Warr requires information created from a reasonable belief that items to be seized will probably be found in place to be Searched at time Conducted. Evidence was insufficie to establish any probable cause for issua of search warrant.

In my case, it wasn't even the alleged victim of the video that called or spo to the authorities. When the interrogation was conducted, it was done together wi the Mother 9RP 42-43 as Coach.

Ruth's Opinion Testimony to hypothetical Questi

On direct examination, the prosecutor introduced the State exhibit Marked 7, 8 an 9, the prosecutor asked Ruth, the Mother this alleged victim the following hypothetical questions:

6RP 149[25] - 151

Que. Finally Ruth, I want to ask you a few questions------And I'm Sorry to ask you these questions, but I feel I need to. I'm going to show you what has been marked State ex 7, and ask you if looking at th picture you can see anything that you can identify as Johnson as the defendant

Ans. That's Johnson's brief.

Que. His brief, is that what you say?

Ans. Yes.

Que What do you mean when you say that, what are you talking about?

Ans. That's one of his briefs that he wears around the house.

Que. When you say brief?

Ans. The shorts that he wears, that has th holes in the front

Que. So this is the same thing you were describing before the shorts with the hole in the front that he wears around the house?

Ans Yes, Yes.

Que And how do you know that's Johnson?

Ans. I knew my husband, even if he wearin nothing.

Que In that picture, you can't see anybody's face, correct?

Ans. Yes.

Que But you said from the briefs, from th shorts, you think that's Johnson. Anything else about what you can see in that pictur

Ans I know that is Johnson, I would recognize that any time anywhere.

Que Okay. And I do not mean to make th more difficult than it is, or to embarrass you, but what else about the picture that makes you say this is your husband.

Ans. Because his private part is there.

Evidently, the only person who could reall identify those pictures easily would be the fabricator. That is why she was able to answer those hypothetical questions without hesitation, Meaningles testimony.

In re: State v Kirkman, 126 Wn App 97 (2005), State v Sutherby, 138 Wn App 609, 611, RCW 9 68A 070. Trial Court erred in allowing victims mother to give impermissibl opinion testimony was harmful. The mother imperm

Commented on methods she used to determin her daughter's credibility and trained jury to look for particular mannerism during victim testimony.

Improper opinion testimony of victims mother deprived defendant of his right to hav jury determine victims credibility in prosecu for child rape and child molestation at trial.

Remember, Ruth is not the alleged victim in this case. She is a fabricator, and her improper opinion testimony patro nized the girls, especially faith when she respond to similar irrelevant question 7RP8

Detective Van Beek Testimony

On cross examination, the defense counsel introduced how detective Sally Va Beek got involved in this case, and what Ru gave to detective Van Beek 9RP41-42

Detective Van Beek testified that wh she met Ruth On May 23, 2013, Ruth gave h the very underwear faith slept with at the time of the alleged assault Ruth claims sh witnessed 9RR42-43.

The detective also testified regardi how the investigation pertaining the alleged video tape was conducted when she spoke

with the girls and their Mother On June 5, 2013

That, the interrogation was a group Conversation, EA, FA and their Mother all Together 9RP 43-45.

When Ruth gave detective Van Bee the phone and SD card, which she claime she found in my car, Ruth also told Van Be the pass word to Unlock those phone 9RP 2 45-46

One important element that was left out in detective Van Beek's investigati and report was the fact that when she Searched my belongings at the Army Reserve Center, she did not find that boxer part the man behind the camera was wearing, nor did Ruth find that in my car!

On May 19, 2013, after the alleged incident, I called Ruth that I will be Comi over to her house to collect all my belongings, and after my drill weekend that night, I went to her house, before got there, she had already packed my Stuff and put them Outside by her garg

From there, I took all my belongings (The One's she released) back to the Army Reserve Center in Marysville, becau I had already discussed my situation wi

my unit Commander and my unit allowed me to keep my belongings in one of the open indoor cages.

That was how my belongings got to the Army Reserve Center, I don't work there, neither was it my place of business 4 RP 27, 29.

The notion that I was hoarding "Technological equipment" or that I possessed some "technological prowess or a "practive of removing memory Cards is a complete distortion.

I was a student. The Army paid for my tutorial to better my life, so I can take care of my six beautiful children.

When I was in California, Was the period I stepped away from Ruth. I attended University of Phoenix, and while I was in California I took my class on Campus, I used my SD Card for my class project and presentation, and when I came back to Washington state I had to take my classes online. I never used my SD card to Commit Crim Not ever

My computer and those SD cards were taken and examined, and nothing inflammatory or explosive was found on

them. 4RP29. Sexual abuse, pornograph rape and molestation by the grace o God are not in my DNA. I have neve been sexually abused.

So, what am I going to achieve by molesting or raping my own beloved children and video taping them for two minute clip. Ethically, I consider such behavior abomination.

Before my trial Commenced I had already been found guilty, because during the jury selection, I felt the indignation, even state officials witness the Commotion.

When one of the jury vigorously spoke out negatively on behalf of oth jury due to the nature of the charges, th heart was poisoned and impartiality became impossible.

It doesn't surprise me, that the jury's verdict did not favor me. Evidentl whenever it comes to sexuall allegatio the accused person is automatically presumed to be guilty before ever prove guilty.

Because this is one of the most hideous allegation the community frowns at and its always treated as "GOSPEL" This entire case is a Contrivance.

C ARGUMENT

1. THE TRIAL JUDGE, HONORABLE ERIC Z. LUCAS FAILED TO PROPERLY APPLY THE RULE ER 404(b) GOVERNING ADMISSION OF EVIDENCE BY ALLOWING THE VIDEO INTO EVIDENCE. FURTHER HE MIS-REPRESENTED THE CONTEXT OF DEFENCE COUNSEL'S ARGUMENT CONCERNING EVIDENCE IN THE CASE.

The Judge's questions and statements indicate clearly that he was conscious of the fact that the Simm Card that Contain. the video evidence was not acquired via Search warrant.

Judge Lucas, misrepresented Counsel when he asked "So it's my understanding--- Correct me if I'm wrong---- but from the argument I heard, it's my understanding that this evidence of additional Simm Cards at his work and that locker were acquired via Search warrant----" 4RP30.

With all due respect, first and foremost, I don't works at the Military Base. The Army Reservecenter is where I go one wee end a month (To fulfill my loyalty to this great Country) for monthly drill.

Second of all, the Simm Card that Contained the video at issue was not acquired in that Case via Search warra

Judge Lucas' statement does not support his decision to admit the fraudulent video evidence. The Simm Card was acquired and obtained from the mother of the alleged victim.

She is the KEY witness for the state, and the fabricator of the evidence, she gave the Simm card to detective Van Beek, while the detective was still investigating the alleged Crime. and Ruth alleged that she found the Simm Card in my Car 9RP 27, 45.

It was the Judge that first used the phrase "Technological prowess" prior to that none of the Counsel arguments suggest that. The Judge Concurred with this derogatory phrase in justifying his admission of the evidence.

Rule of evidence governing admission of evidence of other Crimes wrong or acts in not designed to deprive state to relevant evidence neccessary to establish an essential element of its case, but rather to prevent state from suggesting that a defendant is guilty because he or she is a Criminal type person who would be likely to commit the crime charge ER 404 (b)

Still cannot believe what was allowe to happen. listening to these Court offic endeavoring to mislead and distorting the facts to the jury.

The prosecutor argued, I quote, "------In order for it to be accepted by the jury and to be---- to have it weight, the State needs to be able to demonstrate to ATTRIBUTE this evidenc to the defendant------" ARP 28-29.

Before admitting ER 404(b) evidenc a trial court must Conduct the requisite four-part balancing test

In this case, the State failed abide by these Constitutional rules. Th trial court violated my Constitutional rig to a public fair trial, I am asking for my conviction to be reverse.

I am not merely "NOT GUILTY" I a actually, factually, and Materially innocent of the charges.

Because the State embraced fraudulent video evidence, because the State had no evidence, and because the is no evidence.

The alleged victim's testimony Cann be corroborated with the medical evidenc and their inconsistent conduct was erra and coached.

2. THE TRIAL COURT FAILED TO INVESTIGATE AND INQUIRE AS TO A CONFLICT OF INTEREST ON THE PART OF THE DEFENDANT'S ASSIGNED COUNSEL WHEN THE MOTION FOR REPLACEMENT COUNSEL WAS RECEIVED AND FILED.

The trial court completely failed to conduct sufficient inquiry to the factus basis of my motion requesting Counsel replacement, my motion was not formally addressed by the trial Court at all.

I'm not just now all of a sudden claimi ineffective assistance of Counsel, and Conflict of interest. It existed betwee the defense Counsel and I, from the begining and I have been objecting to this state appointed Counsel since the ver first day I met him.

When he introduced himself, he sai "my name is Robert O'neal, by the wa your prosecutor has been my friend sinc I was a baby lawyer, and he was a bab persecutor" I knew in my spirit and my intuition told me that Mr O'neal most certainly did not have my best interest at heart.

The outcome was predetermined prior t trial between those friends. After that first meeting he let me know that

there is an alleged video pertaining to my case, that he needed to go and watch.

Almost three weeks later, Mr O'nea came back to discuss what he had see in the video, when we sat down, the fir proceeding word was, "That video is not good for you case" then he went on t explain.

He reiterated his skepticism/pessi- mism, he promptly conceded eminent defeat and pulling out his sentencing range table, immediately started telling me what I would be facing if I'm found guilty.

Mr O'neal has not investigated the merits of my case, at the second meetin he was preaching doom with no evidenc already.

We talked at length that day. I told him with honest heart that I never have anything to do with what you just explain Just because the man behind the video was black doesn't mean is me, I am no the only black man in Washington state. Just because is wearing a boxer pant doesn't mean is me, boxers are not made for me alone. More importantly, ju because my phone was used doesn't mean I did it. I have never seen that vid

Despite all the facts I honestly gave to Mr O'neal, he said loudly "I DON'T BELIEVE YOU" then I told him, that if yo don't believe me, why do you take my case? and from that moment, because Mr O'neal could not talk me into Concedi defeat, he distance himself physically and emotionally, and most importantly, he was resigned to defeat, whenever he chose to come and update me ~~any~~ my case, whatever I told him or said never took hold, he always jump to my accuser side by his words and actions, it was really disheartening and disillusioning.

Then I decided to send my petition to Mr Bill Jaquette at the Snohomish County Public Defender Association, He is the director. But all three of my petition letter was repudiated by Mr. B Jaquette, he denied me any help.

On Sept. 20, 2013 the defense counse and his friend Mr Baldock brough me before Honorable Downes, while we were standing in front of the Judge, Mr O'neal started confession, he said, I quote "I noted this. You know we've been struggling together in our Commu nication" 1RP2.

The Judge wisely and quickly inter
rupted the Counsel, subsequently, the
Judge said "Frankly I don't even have
a motion" 1RP2 and the Judge also
made it clear that, "unless I have a
motion in front of me, then it would
become the Court's business to try t
sort it out" 1RP4.

Both Counsel are the officers of
the Court they knew that no Judge woul
address any issue without motion in
place, but they decided to play games
anyway.

After that proceeding, I thought thi
would change, but I was wrong. Mr On
already have a mindset to give me u
to his friend.

Then I decided to send my motio
to Superior Court, because I got to Kno
that if I dont do it, the defense couns
will not.

On July 17, 2014, a day prior to
trial commencing, both Counsel again
brought me before Honorable Wilson,
the Judge looked surprised, his carica
ture indicates that he was not formal
informed nor ready to addressed my
motion, Obviously, I was not on his
Calender, and the following day my tri

was to begin, Judge Wilson said "I don have a motion on my desk" just like Honorable Downes back in 2013.

Then both Counselor told Judge Wilson about the motion on record, h turned to his computer to view it, he made some comments but nothing was done.

The State representative Mr Bad dock implored Judge Wilson to strik my motion. He explained his concern and why he wanted the Judge to dismiss my motion, but Judge Wilso declined to do that.

Surprisingly, the State purposefull refused to include that proceeding i the court transcript document they sent to the appeals court. State is now withholding evidence from trial proceeding.

On July 28, 2014, In the middle of my trial, I was compelled to get u to address the court, asking the tria Judge to replace my trial Counsel, I also made a motion for a mistrial due to Mr O'neal uninspired and defici ents performance of my defense 10RP 3-28.

When I was talking to Mr Oneal about his ineffective assistance in the middle of my trial, I was pointing out precisely what he was not doing to help my case, when the prosecutor was redirecting.

Mr Oneal put his mouth in my ear and said "Stop it, Stop it" 8 RP 521-6. The jury was watching us arguing, and after-

ward when the jury was asked to take a brake. Mr Oneal's supervisor called him Outsi to talk to him, I did not even know the supervisor was right behind us.

3. INEFFECTIVE ASSISTANCE OF COUNSEL - ASSIGNED COUNSEL FAILED TO CROSS EXAMINE ALLEGED VICTIM NUMEROUS INCONSISTENT STATEMENT, FAILED TO DEAL WITH THE SUBSTANTIVE ISSUE OF NO EVIDENCE, FAILED TO OBJECT TO PROSECUTOR'S LEADING STATEMENTS / QUESTIONS. THE DEFENCE FAILED TO MOVE TO SUPPRESS THE FALSE VIDEO EVIDENCE.

In all Criminal prosecution the accused person shall have the assistance of Counsel for his defense.

Sixth amendment right to Counsel Comma not only that a trial be fair, but that a particular guarantee of fairness be provide to wit, that accused be defended by the Counsel.

Mr Oneal, the appointed Counsel overt trampled my right to a fair and public trial by an impartial jury. He proffered no defense.

The defense Counsel failed to move to suppress this alleged video evidence despite his vivid knowledge of how the SIMM card that contained this video evidence was acquired. he argued it 4RP30.

Mr O'neal purposefully refused to move to suppress that evidence because of his mindset and his comment to me after he has watched the video, when I explained to him that I dont know anything about that video, he said "I DON'T BELIEVE YOU" It was that derogatory language that ushered in the Conflict of Interest between us. I have not been presumed innocent, I was presumed guilty for CONVENIENCE.

Similarly, in State v Tarica (1980) defense Counsel was deficient for not bringing a pretrial motion to suppress evidence seized from defendant's wallet. There was question as to validity of the seizure, and failure to ever bring the motion could not be characterized as legitimate trial tactics. U.S.C.A. Const. Amend 6. 59 Wn App 368. State v Cecar, 95 Wn 2d 43, 162 Wn App 823. State v Sutherby, 165 Wn 2d 870 Counsel failure to move to sever

Mr O'neal failed to Cross examined both alleged victims inconsistent Conduct, despite the fact that the defense counsel and his investigators interviewed the girls and they Completely retracted from all they've been telling interview specialist and police.

Defense Counsel failed to object to many highly objectionable, leading question by the prosecutor 7RP 172, 174-186. When I was compelled to address the court in the middle of my trial, I point it out to the trial Judge 8RP 21-22.

Eighty five percent of the alleged victim replies were "I don't know" and "I don't remember" until the prosecutor begings to lead her, and my defense Counsel was just looking into Space with no any objections 7RP 172-186.

4 THE STATE FAILED TO COMPLY WITH IT'S OBLIGATION TO DISCLOSE EVIDENCE INTENDED TO BE USED AGAINST THE DEFENDANT AT TRIAL AND THE PROSECUTOR ABUSED HIS DISCRETION AND VIOLATED DEFENDANT'S DUE PROCESS RIGHT BY FAILING TO DISCLOSE EVIDENCE IMPEACHING ALLEGED VICTIM CREDIBILITY.

In Washington the accused has the constitutional right to see and know the alleged evidence to be use against him

The state failed to Comply with it's obligation to disclose the alleged evidence intended to used against me at trial

Rule 4.7 discovery: The prosecuting attorney shall disclose to the defendant section (i) any written or recorded statement and the substance.

Three weeks, after my initial meeting with Mr Oneal, he came back to discuss the alleged video evidence the state intended to use against me at trial.

The defense explained what he saw in the video, how everything was enunciated and contrived and his skepticism/pessism was obviously and expressed, Nevertheless he promptly

Conceded failure and defeat he pulled out his sentencing range table immediate and started telling me what I could b facing if am found guilty, he was not an advocate for me in the slightest.

He did not even investigate the cas nor did he get familiar with my case. I was skeptical about what he told me, and for good reason.

I reiterated to Counsel numerous times the fact that, I had nothing to d with that alleged video, in any form o fashion, I had never even seen it.

Mr. O'neal said "I don't believe yo then I pleaded to see the video myse because at that moment. I couldn't trus him anymore, I felt he was trying mak me accept a plea. I'm not sure if anythin he was telling me was true.

On August 8, 2013, when detective Sally Van Beek came to jail with the defense counsel to swab my mouth fo DNA sample, I implored the detective that I would please love to see the alleged video evidence, she promise, that she wi bring her computer to the jail to show me the video.

I never saw that video for all my fift [illegible] jail, until that

day the video was displace to the jury alo
during CrR3.5 proceeding, Mr O'neal open
his own Mouth and said, "My Client has
NEVER seen the video, by the way, to dat
----." 4RP47.

That alone demonstrates Mr O'neal's
deception toward me and deficiency and
ineffective assistance of Counsel at it's Wors

The prosecutor abuse his discretion
when he failed to disclose evidence that
impeached the very credibility of the allege
victim.

On Jan 29, 2010, Ms Harpell Franz
interviewed both Esther and Faith and that
interview was both on video and audio reco
ding 5RP109 exhibit 75.

At trial the prosecutor displayed a
faith video interview, when CPS investigat
Ms Harpell Franz was on the Stand testify
6RP4-6 ex 72.

The state failed to display Esther's
video interview in violation of my due
process right to fair trial, and my right t
present exculpatory evidence. Here is
another area Mr O'neal was ineffective.

Defense Counsel has vivid knowledg
why that video was not displayed, because
Mr O'neal on his cross examination, h

asked Ms Harpell Franz the very questio that was in that video, but when the jury were not in the court room. 3RP 90-92.

In that interview Esther told Ms Harpe that "_____that she had not been touched in an ~~in~~appropriate way-----, she also said _____ she had never told anyone about being touch that way-----" 3RP 91-92.

The girls also told Ms Harpell how theyve been watching pornography on the mothers computer 6RP 16-17.

The due process duty of the prosecut under BRADY to disclose evidence favour to defendant is applicable even though there has been no request by defendant, and encompasses impeachment evidence as well as exculpatory evidence. U.S.C.A. Const. ~~Am~~ Amend 5.

In re: State v Agurs, 427 us 97, 47 L Ed 2d 342, State v Norris, 157 Wn App 50 (201 State v MacDonald, state violated defendant due process right by failing to disclose evide impeaching on victims credibility 122 Wn App 8

5. DURING THE CLOSING ARGUMENT THE PROSECUTOR WAS PURPOSEFULLY MISLEADING AND APPEALING TO THE PREJUDICES AND EMOTION/SYMPATHIES OF THE JURY AND ASSUMED FACTS NOT IN EVIDENCE MY CONVICTION WAS BASE SOLELY UPON TESTIM THAT WAS STEERED AND UNSUPPORTED BY ANY EVIDENCE.

During closing argument the prosecutor made this contemptuous remarks without an legitimate evidence to prove and support his derogatory remark.

Mr Baldock said "-----Johnson, the one who videotaped his 12 year old daughter performing oral sex on him---Johnson the one who was having sex with his 11 year old daughter---" 10RP61

Prosecutor's remarks directly placing integrity of prosecutor on side of witness' credibility were prejudicial as to deprive me of fair trial

In re State v Boliz, 104 Wn App 206, 15 p. 3d. 683.

Similarly, in State v Case, prosecutor's remark held that the prosecutor remarks which in effect indicate his personal belief in defendant guilt 49 Wn 2d. 66

The State representative made this hypocritical Statement in his closing argument, I quote "_____. The State ha the burden of proof. That's the other Component of instruction_____ It is incumbe upon me as a representative of the stat to proof these allegations based on the evidence beyond a reasonable doubt_____ 10 RP 63-64. And to the exclusion of any

Mr Baldock spent quality time, fourt six pages of his first half closing argume putting the jury in the Box of the eleme misleading and appealing to the prejudice and passion of the jury, and assumed fact not in evidence.

The prosecutor, NEVER! mention the vital truth of the evidence that the girls were being examined by three professi nal physicians 8 RP 37, 41-42, 48 and 51-52 8RP 89, 114 and 5 RP 47-58.

The prosecutor told the jury, he said "_____ Youve heard testimony fro a number of witness. There is a lot of evidence ~~to~~ digest_____" 10 RP 62

Unfortunately, beside the incon sistent and impugner testimony of the alleged victim and their mother, no othe none of the testimonies in this trial fa

the state case.

Similarly, in State v Macan (1996) When defendants conviction is base soled upon testimony of recanting witness.... 128 Wn 2d 784, 911 P. 2d. 1004.

Mr Baldock continued to mislead the jury, he said "-----We can't have (7) Seven of you saying we are using her description of what happened in the room for this Count and the other (5) five of yo saying, we are talking about what happene in the upstairs. That doesn't work. You HAVE to all 12 be on the same page-----has the state proved each of these four **elements** beyond a reasonable doubt---" 10 RP 67-68.

If testimony, Instructions and elements are proven to be sufficient evidence to make judgment in this typ of case, why would the state have the professional physicians and Nurses examine the alleged victim and all the investigation are all valueless, where is justice? and exculpatory

The prosecutor argued relentlessly that, at trial when I testified, he said I, "refused to accept responsibility that I was trashing and berating my wife and children, and calling them liars---"...that Conduct, that attitude, that response demands an extraordinary sentence---." IIRP 25.

This is all persecutorial tactics not any sort of legitimate evidence or argument.

I took the bar during the most devastating moment of my life, my intention and motive in testifying was to reveal the chicanery and perjury that allured all these problems, even though I couldn't even begin to enumerate them all.

It is imperative to let the people in the corridor of authority know that the genesis of the problems within this tragedy did not originate here in America, but from Africa long before I finally decided to marry Ruth. Far before our children were born and became an instrument of vindictive plans.

I whole heartedly accept and

take full responsibility for all that happened between Ruth and I. which has nothing whatsoever to do with our children. And Certainly nothing to do with any abuse of my kids.

I Can never pretend or ignore the fact that Ruth had been deeply hurt, bitter and emotionally wounded, la before I met her, but instead of helping to make it better and healed, I greatly contributed to the wounds i her heart, and she conceived this nightmare to get back at me.

I deeply regret my failure to fulfill my obligation to pay back the money I borrowed from the Bank i Nigeria and obviously, that let to Ruth father's only home to be foreclose by the Bank and Ruth is not the onl child.

I failed to file Ruth's immigratio papers when I was in Nigeria and when I came to the United states, I Couldn't do it right and that also led her coming to Canada illegally and instead of allowing her remain in Canad to enable her to claim refugee statu like her other colleagues that came with her. I went to Canada and drov

her into the United State. Not allowing her to do what she needed to do was my worst nightmare, because immediate she started to receive news from those that remained in Canada, Ruth ~~has~~ never happy again.

Coming to America illegally made it more complicated, all these problems brought contention among all our extended family up till today.

As to the issue of Navy, the transitional benefit that landed her in federal prison, when she was charged for fraud (even though the case was dismissed) that really added up to her hurt and bitterness because when she decided to receive that benefit ($11,000) I knew we are not surposed to like together.

I knew it, but my excuse was I have no where to go. I was discharg because of all the family problem that kept arising.

I thought Ruth would let go of all this bitterness and hurt after she had already claims domestic violence, manipulating police report to obtained her green card and citizenship, despit that, she never still happy.

D

CONCLUSION

I understant the fact that, investigation is not neccessary again in this case. The damage is really obvious through preponderance of errors by the trial court.

In the Criminal Justice System, the only solution and hope of the wron ly convicted and incarcerated via aby of trial court errors, is this appeal Court process. Where real justice is purported be done recurring evidencia beyond reasonable doubt.

In this case, there are many, innuendos, insinuations and reasons for skepticism with no evidence. I am humbly imploring this Court to reverse and dismiss my convictions, it's obviou that my convictions were based solel on these inconsistent testimonies, n on any evidence.

Constitutionally, the erroneous admission of evidence alone is ground for a new trial because the evidence at issue in the case was specifically objected to at trial. ER 404(b)

Nevertheless, I humbly implore thi

Court to reverse and dismiss my convictions on all counts because retrial would violate double jeopardy.

DATED this 23rd day of Sept 2015

Respectfully submitted

Johnson O. AYODEJI

Appellant.

NIELSEN, BROMAN & KOCH, PLLC

September 30, 2015 - 1:44 PM

Transmittal Letter

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Court of Appeals Case Number: 72359-6

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- ◯ Affidavit of Attorney Fees
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