

**IN THE COURT OF APPEALS FOR THE STATE OF  
WASHINGTON  
DIVISION TWO**

STATE OF WASHINGTON,

Respondent,

v.

CHRISTOPHER JOHN  
REINHOLD,

Appellant.

C.O.A. No. 47401-8-II

(Pierce County Sup.Ct. Case # 14-1-  
01026-7)

**APPELLANT'S STATEMENT  
OF ADDITIONAL GROUNDS  
FOR REVIEW**

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STATE OF WASHINGTON  
DEPOY

I, CHRISTOPHER J. REINHOLD, 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.

The additional grounds submitted for review are as follows:

*Legal Mail 4/25/16*

**ADDITIONAL GROUNDS:**

**I. THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT MR. REINHOLD'S CONVICTION FOR UNLAWFUL POSSESSION OF A MOTOR VEHICLE BECAUSE THE STATE FAILED TO ESTABLISH WHO THE LEGAL/REGISTERED "OWNER" OF THE VEHICLE WAS.**

RCW 9A.56.068 provides that a person is guilty of possessing a stolen motor vehicle when he or she "possesses... a stolen motor vehicle. RCW 9A.56.140(1) establishes a more generalized statute for possession of stolen property, holding that a person is guilty of possessing stolen property when they "knowingly... receive, retain, possess, conceal or dispose of stolen property knowing that it had been stolen and to withhold or appropriate the same to the use of any person other than the *true owner* or person entitled thereto." (Emphasis added). As required in this case, in order to convict Mr. Reinhold of the crime of possessing a stolen vehicle, the burden lies upon the State to establish - as an essential element - that he withheld or appropriated the motor vehicle to the use of someone other than the *true owner or person entitled thereto*.

RCW 9A.56.010(11), which is to be read in conjunction with RCW 9A.56.140(1) listed above, defines the term "Owner" to mean a "person other than the actor who has possession of or any other interest in

the property... involved and *without whose consent the actor has no authority to exert control over the property.*” (Emphasis and underscore added). While the crime of unlawful possession of a stolen motor vehicle requires that the stolen vehicle is the “property... of another,”<sup>1</sup> the meaning of “property of another” is derived from the definition of “Owner”. *State v. Pike*, 118 Wn.2d 585, 590, 826 P.2d 152 (1992).

In *Pike*, the court there held that in order “to constitute the property of another, the item [or *car* in this instance] must be one in which another person has an interest.” *Id.* at 590. In this case, Mr. Reinhold posits that the State failed to establish beyond a reasonable doubt that he “withheld or appropriated” the motor vehicle for the use of someone other than the “true owner” or “person entitled thereto.” Indeed, the State entirely failed to establish who the actual “owner” of the vehicle was.

In this case, the record clearly indicates the State’s failure to ascertain that the State’s key witness – Lee Jackson – had any interest whatsoever in the vehicle or the authority to prohibit the possession of said vehicle. Here, the State did not produce any vehicle registration documentation, any bill of sale, nor any other corroborative evidence suggesting that Mr. Jackson had any interest, or for that matter ownership in the Nissan Maxima for which Mr. Reinhold was convicted of

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<sup>1</sup> See RCW 9A.56.020(1).

possessing unlawfully. To the contrary, during Mr. Jackson's testimony, Mr. Jackson himself testified that at the time the vehicle was reported "stolen", the vehicle was *not* legally registered to either himself nor his "wife". RP 445:21-25, and RP 446:1-2.

Moreover, while Mr. Jackson claimed that he had purchased the car from a car dealership and salesman that he couldn't remember (RP 444-45), he testified that the car dealership ensured him that they would take care of all the necessary paperwork, to include title transfer, registration, bill of sale, etc., and that he would receive all of the appropriate documentation establishing proof of purchase in the mail shortly thereafter. RP 445. Yet, at the time of Mr. Jackson's testimony in this matter, an entire year had passed, and according to his own testimony, he did not have any bill of sale, title, or insurance documentation purporting him to be the legal/registered owner of the vehicle. Similarly, the State also did not offer any documentation establishing who the actual registered/legal owner of the vehicle was. Rather, the State would simply have this Court accept as gospel Mr. Jackson's testimony despite all of the obvious discrepancies (i.e., unknown dealership purchase, unknown

salesperson, etc.)<sup>2</sup> and absence of documentation supporting his assertion as the owner.

Here, other than Mr. Jackson's deficient testimony, the State did not produce any other evidence suggesting that either Mr. Jackson or his "wife" (who was never named) was the legal or registered owner of the Nissan Maxima. Because the State failed to establish the "true owner" of the vehicle, the State cannot meet their threshold burden of establishing that Mr. Reinhold's possession of the Nissan Maxima was "*without*" consent. See RCW 9A.56.010(11). Indeed, the State must be required to establish the legal owner of a vehicle before consent or non-consent can be established under statute. Here, when looking to the testimony and evidence presented during trial, there is no certainty as to who the "true owner" of the vehicle is.

Therefore, because the State has not established who the true owner of the vehicle is, when taken in light most favorable to the State, it is clear that the State failed to establish this necessary element. Accordingly, this Court should reverse and dismiss Mr. Reinhold's conviction.

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<sup>2</sup> At one point during Mr. Jackson's testimony, he actually retracted his claim to ownership, instead testifying that it was actually his wife who purchased the Nissan Maxima and was the registered owner of the vehicle. See RP 445.

**II. MR. REINHOLD'S ATTORNEY WAS INEFFECTIVE DUE TO HIS FAILURE TO CONDUCT ANY SORT OF MEANINGFUL INVESTIGATION IN PREPARATION FOR TRIAL.**

Under both State and Federal Constitutions, one of the most fundamental rights afforded to an accused is the right to effective assistance of counsel. See *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052 (1984). This right includes the requirement that, in preparing a defense, an attorney conduct a meaningful and reasonable investigation into the facts surrounding the allegations, so as to effectively and competently represent and defend his or her client. Failure to conduct adequate research, or to reasonably investigate matters constitute ineffective assistance of counsel. See *State v. Visitacion*, 55 Wn.App. 166, 776 P.2d 986 (1989); *Washington v. Smith*, 48 F.Supp.2d 1144 (E.D. Wis. 1999).

Here, Mr. Reinhold's attorney – Edward Nelson – fell significantly below the recognized standard for what constitutes effective representation. Specifically, Mr. Nelson failed to interview witnesses, and more importantly, made no attempts to discover who the registered and/or legal owner of the Nissan Maxima was.

Based upon Mr. Reinhold's insistence that he had purchased the vehicle from an individual named "Ashley" Johnson (someone other than Mr. Jackson), any competent attorney would attempt to locate the purported seller of the vehicle – in this case "Ashley" - and interview her for the purpose of producing testimonial evidence at trial. Notably, Ashley Johnson was visiting another offender incarcerated in the Pierce County Jail during the time Appellant Reinhold was also incarcerated in the Pierce County Jail.<sup>3</sup> Yet, despite the relatively easy ability to locate Ashley Johnson, Mr. Nelson failed to make any contact with her in regards to this matter.

Next, given the allegations against Mr. Reinhold, it would be incumbent upon any attorney to investigate who the legal and registered owner of the Nissan Maxima was. Indeed, Mr. Nelson failed to perform even a cursory investigation into the Nissan's ownership – especially when considering that Mr. Reinhold, from a jail cell with limited resources, was able to ascertain and discover Mr. Jackson's lack of ownership of the Nissan through Department of Motor Vehicle and

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<sup>3</sup> Jail visitation logs during this time period support this fact.

CARFAX records. See Exhibits 1, 2, & 3 attached hereto. In light of the facts of this case, lack of such investigation and inquiry into the vehicle's ownership is clearly substandard performance even under even the most liberal of circumstances. Moreover, no rationale or reasonable trial strategy would support the failure to investigate the Nissan's owner given the nature of the charges against Mr. Reinhold.

Accordingly, this Court should reverse Mr. Reinhold's convictions and remand for further proceedings holding that Mr. Reinhold's attorney failed to render effective representation.

**III. THE TRIAL COURT ABUSED ITS DISCRETION BY REFUSING TO GRANT MR. REINHOLD'S REQUEST FOR A CONTINUANCE UPON DISCOVERING THAT THE STATE'S KEY WITNESS LIKELY COMMITTED PERJURY RESULTING IN MR. REINHOLD'S CONVICTION.**

CrR 3.3(f) grants a trial court considerable discretion in allowing the continuance of matters before it. A trial court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds or reasons. *Mayer v. Sto Industries, Inc.*, 156, Wn.2d 677, 684, 132 P.3d 115



(2006). A trial court's decision is manifestly unreasonable if the court, despite applying the correct legal standard to the supported facts, adopts a view that no reasonable person would take. *Id.*

In this instance, after Mr. Reinhold was convicted by jury trial, but prior to being sentenced, he discovered, through the utilization of a private investigator, that the State's key witness and purported owner of the Nissan Lee Jackson was not, in fact, the legal or registered owner of the Nissan Maxima for which he was convicted of possessing unlawfully. In fact, contrary to Lee Jackson's testimony that he had purchased the Nissan from a car dealership "off of South Tacoma Way" (RP 442), Mr. Reinhold's private investigator discovered evidence that Mr. Jackson had *never* been identified as the purchaser, legal owner, or registered owner of that Nissan Maxima since the car first came off of the production line at Nissan. Attached hereto as Exhibits 1, 2 & 3 are copies of the documents discovered by Mr. Reinhold's private investigator demonstrating Mr. Jackson's lack of ownership or any legal interest in the Nissan Maxima. Moreover, the documents attached hereto further demonstrate a concern that Mr. Jackson committed perjury during his testimony. It were these attached documents that Mr. Reinhold's attorney requested a continuance for in order to investigate further.

However, despite being informed that there existed potential

evidence, which if authenticated, would establish not only that Mr. Jackson was not the owner of the Nissan, but also that Mr. Jackson perjured himself, the trial court refused to allow Mr. Reinhold's request for a brief continuance in order to investigate the newly discovered information. RP 549-56. This information was (and still is) highly significant given that the State did not produce any testimonial evidence from anyone else regarding the ownership of the Nissan. Therefore, if proven that Mr. Jackson perjured himself, it would indicate that the jury convicted Mr. Reinhold based upon perjured testimony. Given the potential nature and implications of the newly discovered information, the Court's refusal to grant a brief continuance before sentencing Mr. Reinhold flies in the face of the ideal that a court's core functionality is to ensure that the accused receive a fair trial and that justice is served – these are both central tenets of both the Washington and U.S. Constitutions.

Adding insult to injury, it is inconceivable to discern any prejudice or harm the State would have suffered as a result of allowing a brief continuance. On the contrary, the proposed continuance would have allowed Mr. Reinhold to present the court with exculpatory evidence – unbeknownst to both parties during trial – which, if confirmed, would've

allow the trial court to exercise its considerable discretion in addressing and correcting a grave injustice upon Mr. Reinhold.

Therefore, because of the grounds presented to the trial court in requesting a continuance, and given the nature of the information at issue, the trial court's decision constitutes an abuse of discretion as ignoring such potentially significant evidence is a view that no reasonable person would take. Accordingly, this Court should hold that the trial court abused its discretion in denying Mr. Reinhold's request for a continuance, and remand for further proceedings.

**IV. CONCLUSION**

For the reasons stated herein, and those stated in Mr. Reinhold's Opening Brief submitted by his appellate attorney, Mr. Reinhold requests that this Court vacate his convictions. In the alternative, Mr. Reinhold requests that this Court remand this matter back to the trial court for further proceedings.

**RESPECTFULLY SUBMITTED** this 25<sup>th</sup> day of April, 2016.



Christopher J. Reinhold, DOC #770024  
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**CERTIFICATE OF SERVICE**

I certify that I mailed

1 copies of ASAC  
to Self  
& Prison Co DPA  
4/28/16 AW  
Date Signed