

COA No. 48056-5-II

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

STATE OF WASHINGTON, Respondent

v.

SANDRA WELLER, Appellant

FILED
COURT OF APPEALS
DIVISION II
2016 APR 21 AM 11:53
STATE OF WASHINGTON
BY CA
DEPUTY

ON APPEAL FROM THE SUPERIOR COURT OF CLARK COUNTY

APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS

CERTIFICATE OF SERVICE
I certify that I mailed
1 copies of SAC
to App Counsel
& Proz
4/21/16 C
Date Signed

Affidavit: I, Sandy Weller declare in the city of Gig Harbor that the following is true and correct in the State of Washington, April 19, 2016.

I want to add to two of the points my attorney made in his brief.

(A) My attorney's #2 point on discovery –

My old defense attorney Suzan Clark, became a judge immediately after my conviction in 2013 so I required a new defense attorney for the re-sentencing. My re-sentencing attorney, Jeff Baraar told me, just as I had entered the court room for the re-sentencing, that he had motioned the court on two separate occasions for total discovery in my case so he could properly represent me. He said each time he was totally denied without reason from the court. He said he was given only the old sentencing papers from 2013 and he knew nothing about my case at all, except plenty of malicious gossip he had heard and been a part of since 2011; from the entire Vancouver legal field and internet hate mongers.

Was I prejudiced by the court refusing discovery to my new defense attorney so he could properly represent me?

Not only did the court come out of retirement and fail to provide me with a copy of the materials furnished to my original defense attorney as part of my legal and constitutional rights for my PRP, but the court and the prosecutor stated that my case was over, we were there on re-sentencing so there was no need for discovery for an appeal or new trial or for my new attorney to represent me. *Was that a true and correct statement?* The old prosecutor was still on my case until I was transported down to county and then was suddenly replaced with a new prosecutor Colin Hayes, who has the famed reputation of a hanging prosecutor out to get a name for himself. Mr. Hayes stated "lets get this over

with and sentence them the same and get them out of here, their presence is disturbing Vancouver.” *Was this statement and attitude prejudicial?*

I have been requesting discovery for my PRP with public disclosure, which was the statement of the court at re-sentencing, but I am still thwarted in this. (Enclosed a recent copy from the Vancouver Sherriff’s Office, of yet another attempt to gain discovery of specific things I asked for which I know exist. And DOC refusals.) *Discovery is fundamental to a PRP.*

One of the errors I am addressing in my PRP are the judicial fact findings, as example: #12 states “*Photographs taken by law enforcement and the defendants themselves admitted at trial showed the twins to be extremely underweight...*” My photographs did *not* show that. No one testified that the photographs I submitted and testified to showed them “extremely underweight,” in fact my defense attorney Suzan Clark stated in closing “that Mr. Richardson (prosecutor) was testifying.” The court orally stating, in the only facts and conclusions there are in my case, made the statement that my photographs showed them “extremely underweight.” *Is that judicial opinion?*

During re-sentencing the judge stated on record ‘that the children were still very young and not able to care for themselves, so when they get older and are able to care for themselves, they can cancel the no contact order.’ My attorney, Baraar stated that the “children” were adults now, living on their own. She ignored him.

The no contact order with Christa Weller and Christopher Weller, twins about to turn 21 yrs old, both with several children of their own, says “coming near and from having any contact whatsoever in person or through others by phone, mail or any means directly or indirectly except for mailing or service of process of court documents by a 3rd party or

contact by defendant's lawyers with the protected person." DOC is refusing me old photographs that I took, so that I can prove that especially #12 of the judicial fact finding is a gross erroneous error, and that all of the judicial fact findings are gross erroneous errors. The twins were not "extremely underweight."

Some of the photos I submitted under my testimony were to show other things besides their appearance. The one that keeps coming up in court documents and when my husband's ex-wife went on the Dr. Phil show filmed in September 2015 was to show the date when the twins and Nathaniel's last names were legally changed to Weller, which was January 2006 when the twins were 10 yrs old and Nathaniel was just turned 4 yrs old. Of course they look young and small for 16 yrs old, because they weren't 16 yrs old, they were 10 yrs old. I would like to submit photographs of the twins from the October 2010-October 2011 trial timeline. I have a close-up photograph of Christopher taken days before October 7, 2011 which shows him completely different from the state's elongated manipulated photograph they submitted. I need these old photographs of them to submit for my PRP to prove the states manipulation and erroneous errors. (1) The no-contact order states that I can not contact the twins by mail directly or indirectly, I am not trying to contact them in any way, I am trying to submit photographs to prove my point. (2) It says I can have mailing or service of process of court documents by a 3rd party. I want to submit the photographs as exhibits in court documents for my PRP. There was state witness testimony during cross-examination from at least both Officer Aldridge and CPS Kim Karu, that the photos they were being shown were in their opinion "photo shopped or altered." They were asked to turn the photos around to see the sticker on the back and they were all state submitted photos taken by either Officer Aldridge or Kim Karu.

(B) My attorney's #3 point on no contact orders -

(p. 1563 of sentencing on March 20, 2013, line 5) The judge: *"as to Mrs. Weller...I also impose no-contact orders with the children who are victims of the crimes (Christopher and Christa)."*

(p. 1563, line 14) The judge: *"...With respect to Mr. Weller... (p. 1564, line 5) "I also impose no-contact orders with each of the victims. That includes, as stated earlier, Nathan and Eli, as well as Christopher and Christa."*

(p. 1572, line 16) Mr. Kurtz: *Expirations date on these are--*

Mr. Richardson: *I believe the court's statutory max of the crime.*

Mr. Kurtz: *So ten years?*

Ms. Clark: *Ten years.*

Mr. Kurtz: *Okay so ten years.*

Mr. Richardson: *Except on the one that is a five-year.*

(p. 1573, line 23) Mr. Richardson: *Actually I apologize. Eli would be 2 years because that was the gross misdemeanor.*

(p. 1573, line 23) Mr. Richardson: *Nathan would be five years.*

Mr. Kurtz: *Yes. Okay.*

Mr. Richardson: *Correct.*

Record shows I received no-contact order to Christopher and Christa for 10 yrs each starting March 2013 until March 2023.

Record shows that my husband Jeff Weller received the same no-contact order to Christopher and Christa for 10 yrs each starting March 2013 until March 2023, and one

The judge line 25 on pg 28 "Until enters the no contact orders for the maximum length of time that they have available." But Hayes took it to consecutive for me "stacked". It was not stacked before.

Line 1 on pg 28 of resentencing Mr. Hayes stated "the conditions of no contact in the judgment and sentence were also stacked." No it was not.

no-contact order for Nathaniel for 5 yrs starting March 2013 until March 2018, and one no-contact order for Eli for 2 yrs starting March 2013 until March 2015. By the time we were re-sentenced September 2015, Eli's no-contact order was expired, so terminated. During re-sentencing as per record, Kurtz stated to the court that they were the only original members left in our case and that his memory was clear that the original no-contact orders were for the max on each crime convicted to each victim. The judge said she did not remember anything like that. I have just given you the verbatim discussion of the no-contact order lengths, Kurtz was correct. We won part of our appeal and one of the two aggravators was found inapplicable invalidating the exceptional sentence. I was found to have been convicted of accomplice liability which was not clear because of the judicial fact finding, and the Court of Appeals prior decision showed confusion with the court's judicial fact finding. I will be addressing each of the erroneous fact findings in my PRP with additional documents in my PRP. During re-sentencing Mr. Hayes told my new attorney in front of me that he had not read or reviewed anything in my case except the 2013 sentencing and the judicial fact finding besides what he knew from around Vancouver and on the internet. I answered, "yeah, witch trial by media." Mr. Hayes continued, so therefore he wants the max consecutive on the 4 second degree assault charges and 1 unlawful imprisonment charge. He said they equal 45 yrs together so that's what he wants for the no-contact order. I answered, no it's the max 10 yrs like before, why are you changing it, even with 10 yrs starting now that gives them really 12 yrs, because 2013-2015 would have been a freebee. He said he didn't care. I said but that makes me 98 yrs old before this is off my head if I don't win my appeal. He sneered, you already lost your appeal. I said, "45 yrs for an accomplice? 30 yrs for my husband?"

My no contact went from starting 2013 - 10 yrs to 45 years starting 2015, so it's really 47 yrs as to the twins, even though max is 10 years.

My husband's no contact went from starting 2013 - 10 yrs to 30 yrs starting 2015 so it's really 32 yrs as to the twins, even though max is 10 years. No contact starting 2013 - 5 yrs to 30 yrs starting 2015 as to Nathaniel. No contact starting 2013 - 2 yrs to 30 yrs starting 2015 as to Eli even though his no contact was already expired, terminated.

Me:

Christa	2013	10 yrs	now	2015	45 yrs plus 2 yrs
Christopher	2013	10 yrs	now	2015	45 yrs plus 2 yrs

My husband:

Christa	2013	10 yrs	now	2015	30 yrs plus 2 yrs
Christopher	2013	10 yrs	now	2015	30 yrs plus 2 yrs
Nathaniel	2013	5 yrs	now	2015	30 yrs plus 2 yrs
Eli	2013	2 yrs-terminated	now	2015	30 yrs plus 2 yrs

I will be 98 yrs old in 45 yrs and Jeff will be 92 yrs old, the twins will be 65 yrs old.

I will be 83 yrs old in 30 yrs and Jeff will be 77 yrs old, the twins will be 50 yrs old,

Nathaniel will be 44 yrs old and Eli will be 46 yrs old. The average age of life expectancy is below these ages for me and my husband. That is a lifetime no contact order.

I have a fundamental right to parent my son Nathaniel and be around him, this no contact order is also interfering with my constitutional rights and fundamental rights as a parent *In re personal restraint of Rainey, 168 Wn 2d 367 (2009) and State v Ancira, 107 Wn App 650 27 P3d 1246 (2001)*. I would have to wait until I am 83 yrs old before I could have my son and my husband at the same family function or over for holidays or dinner together.

EXHIBITS



**Clark County Sheriff's Office
Chuck E. Atkins, Sheriff**

April 14, 2016

Sandy Weller
DOC# 365337 / Unit MA
Washington Corrections Center for Women
9601 Bujacich Road NW
Gig Harbor, WA 98332-8300

Notification of Receipt of Public Records Request

Per your request received: Per your request received on 4/13/2016 for police reports that are about your kids listed.

Dear Ms. Weller:

The Clark County Sheriff is in receipt of your Public Records Request. This information and estimate of response time is required by law.

We are writing to inform you that if we discover the records you have requested, we will review them for applicable exemptions from disclosure and make them available to you. If we do not discover any records responsive to your request, we will inform you. If necessary, we may also inform you that we have notified third persons or agencies of their right to seek a protective order before releasing any documents responsive to your request. We may also ask you for additional clarifications if your request is unclear after a review of the documents we have or don't have.

Based upon other pending requests and availability of personnel, at this writing we are able to reasonably estimate that a response to your request will be available on or about:

6/13/2016

If possible, we will provide you with your requested material before that time.

For additional explanation of public disclosure regulations, please visit the Washington State Attorney General's public records page at <http://www.atg.wa.gov/records.aspx>

Sincerely,

Public Records Unit
Clark County Sheriff's Office
bc 4738
cc: File



RTS
3.15.16
S45

REJECTION NOTICE

File Number: M02121
Unit: MA
Date: 2/10/16

Offender Name: Weller, S	DOC Number: 365337	Facility: WCCW
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For rejected incoming mail/eMessages, the offender or the sender may appeal the rejection to the Superintendent/designee by submitting a written appeal request to the mailroom sergeant within 10 working days of receiving this notice.

You do not need to submit an appeal request for rejected outgoing mail/eMessages or publications. Rejections are automatically reviewed by the Superintendent/designee or Publication Review Committee. Rejections of outgoing mail/eMessages upheld upon that review are then automatically reviewed by Headquarters. You will receive written notice of the review decision(s).

<input checked="" type="checkbox"/> MAIL <input checked="" type="checkbox"/> Incoming <input type="checkbox"/> Outgoing From/To: GERDA REINHARDT 642 E PIONEER LOOP LA CENTER, WA. 98629	<input type="checkbox"/> PUBLICATION Publication & Author's Name: Issue or Copyright Date: Volume: Page Number(s):
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MAILROOM DECISION	
Reason (Specify Number(s) as listed on back of form): # 1	<input type="checkbox"/> Publication currently on statewide rejection list
Comments/Other Reasons (required): CONTENTS OF 2 ENVELOPES, PHOTOS OF NO CONTACT ORDER CHILD. 16 PHOTOS RESTRICTED.	
Mailroom Employee Name: C/O ODDEN	Date: 2/10/16

SUPERINTENDENT DECISION (REJECTED OUTGOING MAIL / APPEAL OF REJECTED INCOMING MAIL)	PUBLICATION COMMITTEE DECISION (REJECTED PUBLICATIONS)
<input checked="" type="checkbox"/> Upheld <input type="checkbox"/> Overturned Comments: you have a no contact as you with the children in the photo. All photo sent through legal channels have the children faces redacted you are not allowed photo of these children	<input type="checkbox"/> upheld <input type="checkbox"/> Overturned Comments:
Superintendent/designee Signature: <i>[Signature]</i> Date: 2/22/16	Publication Committee Signature: Date:

HEADQUARTERS CORRECTIONAL MANAGER DECISION (REJECTED OUTGOING MAIL / REJECTED INCOMING MAIL OR PUBLICATIONS UPHOLD ON APPEAL)	
<input type="checkbox"/> Upheld <input type="checkbox"/> Overturned Comments:	
Headquarter Correctional Manager Signature	Date

View Condition

No Contact-Victim(s)

Imposing Authority	Imposing Staff Member	Condition Category	Status	Effective Date
Court Ordered	Thompson, Fay	Prohibitions	Active	04/05/2013

Narrative

~~The defendant shall have no contact with CHRISTA L. WELLES, AKA CHRISTA L. GRAF and Christopher J. Welles, AKA CHRISTOPHER J. GRAF including, but not limited to personal, verbal, telephonic, written or contact through a third party for 45 years.~~
~~The defendant is excluded or prohibited from coming within 1000 feet of Christa L. Welles and Christopher J. Welles's home/residence, work place or school for~~

Amount	Unit	End Date	<input type="checkbox"/> Effective Immediately	<input type="checkbox"/> Lifetime
45.0000	Years	03/03/2060		

45 years

Victim Names				
First Name	Middle Name	Last Name	Suffix Name	Date of Birth

Close

REJECTION NS

1. Not specifically authorized by DOC 450.100 Mail for Prison Offenders or any other policy or applicable Operational Memorandum
2. Attempts to establish contact with a person or his/her guardian who has requested not to be contacted by the offender, when the offender is aware or should be aware of the request
3. Violates sentencing conditions and/or court order or otherwise attempts to establish prohibited contact between the sender and recipient
4. Contains an unknown substance(s) or contraband, or relates to sending contraband into or out of the facility
5. Contains items written or drawn in crayon or gel pen, contains excessive marker ink, or contains or has been treated with perfume, glitter, and/or other items that could be easily misidentified
6. Contains escape plans and/or other information related to escape
7. Provides technical/detailed information on security systems, equipment, and practices used in the correctional field
8. Contains plans for activity that violates state/federal law, the Washington Administrative Code, Department policy, and/or local facility rules
9. Contains instructional and/or "how to" material for committing illegal activities
10. Depicts or describes the procedures for constructing or using weapons, ammunition, bombs, and/or other destructive devices, or includes life sized photograph(s)/graphic illustration(s) of these items
11. Provides instructions on martial arts, fighting/self-defense techniques, and/or how to disable/disarm others
12. Appears to be in code
13. Contains written/graphic information on security equipment/operations or facility blueprints/diagrams
14. Contains detailed maps/charts of Washington, Oregon, Idaho, and/or British Columbia, except those received by the facility libraries
15. Contains information that could create a risk of physical harm to the offender or another person if the communication were allowed
16. Contains sexually explicit material as defined in WAC 137-48-020 and/or references sexually explicit behavior. May include altered images, strategically placed graphics, or airbrushing. Sexually explicit behavior must be the predominant theme when rejecting written and/or audio based publications, letters, or eMessages.
17. The publication(s) is not in English, and the Publication Review Committee cannot confirm that it complies with Department policy and facility specific procedures.
18. Contains publications or documents, other than legal mail sent from a legal entity/ agency, that have been altered (e.g., pages torn/removed, extraneous markings, etc.)
19. Advocates violence against others and/or the overthrow of authority
20. Advocates that a protected class or group of individuals is inferior and/or makes such class/group the object of ridicule and/or scorn, and may reasonably be thought to precipitate a violent confrontation between the recipient and a member(s) of the target group
21. Purports to be legal/special mail, but upon inspection is determined to be general correspondence
22. Contains cash or personal check(s)
23. Contains markings of gang symbols or symbols of other unauthorized groups that may reasonably be thought to precipitate violence
24. Contains multiple or similar copies/photocopies of the same photograph, document, and/or publication/subscription, in whole or part
25. Contains pre-franked envelopes and/or non-cancelled postage stamps, with the exception of eStamps, without prior approval from the Superintendent/designee
26. Contains correspondence, information, or other items relating to another incarcerated offender(s) without prior approval from the Superintendent/designee, or attempts or conveys unauthorized offender to offender correspondence
27. Contains a blank greeting card or postcard, or contains any stickers/labels
28. Contains a photograph, card, poster, and/or calendar that is padded, laminated/ layered, musical, and/or exceeds the storage dimensions noted in DOC 440.000 Personal Property for Offenders
29. Contains an unauthorized cassette tape(s) and/or CD(s), including public disclosure CDs
30. Contains clipping(s)/copies of copyrighted material, including books. Single clippings or copies from public domain publications (e.g., newspapers, magazines) are allowed.
31. Contains or attempts to obtain an item(s) not approved and paid for in advance through facility designated channels
32. Solicits and/or contains money or anything of value, except as allowed per DOC 200.000 Trust Accounts for Offenders, from anyone other than the offender's immediate family member without prior approval from the Superintendent/designee. This does not preclude authorized purchases through approved vendors.
33. Requests/directs another person to provide money or anything of value to a third party without prior approval from the Superintendent/designee
34. Contains printed material other than correspondence for an offender currently assigned to a Reception Diagnostic Center
35. Contains a metal and/or inflexible binder
36. The eMessage videogram (i.e., pre-recorded video attached to an eMessage) does not comply with DOC 450.100 Mail for Prison Offenders or otherwise contains any display of nudity, behavior or actions that are sexual in nature, drugs/alcohol or related paraphernalia, weapons, graphics or paraphernalia associated with any Security Threat Group, or unlawful activity
37. Contains copies that are being sent to a Reception Diagnostic Center
38. Contains sweepstakes, contests, lottery tickets, or other mailings soliciting or offering games of chance. Publications that contain a sweepstakes or contest entry will not be restricted. However, offenders are not authorized to enter sweepstakes or contests of any kind.

Sexually Explicit Materials (per WAC 137-48-020)

"Sexually explicit materials" consist of any item displaying, portraying, depicting, or describing:

- (a) Nudity, which includes exposed/visible (in whole or part, including under or through translucent/thin materials providing intimate physical detail) genitals/genitalia, anus, and/or female/transgender breast nipple(s);
- (b) A sex act(s) which includes, but is not limited to, genital-genital, oral-genital, anal-genital, or oral-anal contact/penetration, genital or anal contact/penetration with an inanimate object, masturbation, sadistic/masochistic abuse, bondage, bestiality, and/or bodily excretory behavior which appears to be sexual in nature;
- (c) A participant(s) who appears to be non-consenting, dominated, degraded, humiliated, or in a submissive role, and/or acting in a forceful, threatening, dominating, or violent manner which appears to be sexual in nature; and/or
- (d) Minor(s), or models depicting minors, in a sexually suggestive setting/pose/attire.