

62067-3

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STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

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FILED
CLERK OF SUPERIOR COURT
JULIA M. HARRIS

STATE OF WASHINGTON)

Respondent,)

v.)

CRAIG, CARLIS
(your name))

Appellant.)

No. 62067-3-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, CRAIG CARLIS, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

See attach brief in support of the statement of:
ADDITIONAL GROUNDS FOR REVIEW

Additional Ground 2

See attach brief in support of the statement of:
ADDITIONAL GROUNDS FOR REVIEW

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

Date: 8/31/09

Signature: Craig Carlis

COURT OF APPEALS
DIVISION I
OF THE STATE OF WASHINGTON

CO ~~A~~ No. 62067-3-I

STATE OF WASHINGTON
RESPONDENT
V.
CRAIG CARLIS
APPELLANT

ATTACH BRIEF TO
STATEMENT OF
ADDITIONAL GROUNDS

Craig Carlis, pro se In forma pauperis, file this brief
in support of RAP 10.10 , 10.1 .
The legal question and brief argument exceeded the space
provided within the legal form .

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Procedural Facts

On May 22, 2008, the Whatcom county prosecutor charged appellant Craig Carlis with one count of burglary in the first degree and one count of robbery in the first degree. CP 64-66. The state alleges Carlis had been armed with a deadly weapon in both counts.

On July 2008, the court proceeded to a jury trial in Whatcom County Superior Court before judge Steven Mura. The jury returned a guilty verdict on both counts, as well as a special verdict concluding that Carlis alleged displayed a firearm during the comission of both crimes. CP 25-27. Because, Carlis had no prior criminal record, the trial court issued a middle range sentence of 108 months. CP 16.

QUESTION OF LAW

I

FOR THE PURPOSE OF RCW 9A.04.100
DID THE STATE PROVE THE ELEMENT

OF;

ENTER OR REMAIN UNLAWFULLY
OF THE BURGLARY STATUTE RCW
9A.52.020. BEYOND A REASONABLE
DOUBT BY COMPETENT
EVIDENCE TO SUBSTAIN A LEGAL
CONVICTION UNDER RCW 10.01.050.

II

FOR THE PURPOSE OF RCW9A.52.01

AND RCW9A.52.020.

BASED ON THE FACTS OF THIS CASE IS

THE IMPLIED LIMITATION ON AN

INVITATION OR LICENSE CAN BE

RECOGNIZED IN CONNECTION WITH

THE 'ENTER OR REMAINS UNLAWFULLY'

LANGUAGE OF THE BURGLARY STATUTE,

APPLICABLE HERE. AND

WHETHER SUCH AN IMPLIED LIMITATION

IS PRESENTS IN THIS CASE.

WHEN THE SOLE PURPOSE OF THE INVITATION

INTO THE DWELLING WAS TO CONDUCT

AN ACT OUTSIDE THE LAW. 4RP..

III

FOR THE PURPOSE OF RCW 9A.04.100
AN RCW 10.01.060.

DID THE TRIAL COURT VIOLATE THE
DEFENDANTS ART I§ 22; STATE AND
FEDERAL DUE PROCESS RIGHT WHEN
THE SUPERIOR COURT ERROR IN APPLYING
THE COLLINS STANDARD TO THIS CASE,
BECAUSE THE FACTS OF THOSE CASE'
ON INVITATION WAS NOT BASED ON THE
OWNER BEING A PARTICIPANT IN AN
ILLEGAL ACT WHICH WAS THE SOLE
PURPOSE OF THE INVITATION INTO THE
DWELLING.

AUTHORITY AND ARGUMENT

We hold that, in some case's , depending on the actual facts of the case, a limitation on or revocation of the privilege to be on the premises maybe inferred from the circumstances of the case . That neither render part of the statute superfluous. Not all such cases will support the inference we find justified here . State Vs. Collins, 110 Wn.2d 253, 262, 751 P.2d 837 (1988) . On May 19th 2008,

The allege victim Dowdle invited Carlis and another person into his dwelling to conduct an illegal act, i.e. **The selling and buying** of a legend drug. "**Marijuana**".4RP15-16.

The state failed to show that the allege victim Dowdle was license to sale this legendary drug out of his dwelling, under Washington State control substance att .

If Dowdle had such a permit then under the Collins Standard, when the illegal act (i.e. "The Robbery".) occurred Carlis lawful enter would have became unlawful, and therefore, the state would have establish the enter or remain unlawful element of burglary in the first degree .

Under Collins 110 Wn.2d 260-262, the allege victim had no constitutional right to invite anyone into his dwelling to commit an act for which is illegal under state and federal statutory provision to invoke an protective issue,...

Because Carlis and the other person under Collins according, to the facts of this case would have committed Burglary 1, upon entering the dwelling to commit an illegal act . It would be irrational for the state to continue the argument 2, that the allege victim invited two other individual's into his dwelling to commit an illegal act and when they committed an additional illegal act, that automatically cancel Carlis and the other person lawful invitation to enter or and remain in the allege victim dwelling

In reviewing the sufficiency of the evidence to support a guilty verdict in a criminal case, the Appellate court view the evidence most favorable to the state and determines whether any rational trier of fact could have found guilt beyond a reasonable doubt .

State V. Green, 94 Wn.2d 216, 616 P.2d 628 (1980).

The State have the burden of proven every element of Burglary in the first degree beyond a reasonable doubt .

The jury was not aware of the Collins standard to render a lawful verdict under RCW 10.01.050 and when this division of the court of appeals review the facts of this case, this court should find it very easy to reverse the first degree Burglary conviction .. And dismiss this case under the Double Jeopardy Clause .

State V. Hickman, 135, Wn. 2d 97, 102, 954, P.2d 900 (1998)

QUESTION OF LAW

I

REFERRING TO THE RCW9A.04.100
DID THE STATE PROVE THE ELEMENT'S
OF;
UNLAWFULLY TOOK PERSONAL PROPERTY
AND INTENDED TO COMMIT THEFT OF
THE PROPERTY BEYOND A REASONABLE
DOUBT BY A LEGAL CONVICTION
UNDER RCW10.01.050

II

FOR THE PURPOSE OF RCW10.01.050
CAN THE STATE CHARGE AND CONVICT A
PERSON OF ROBBERY IN THE FIRST DEGREE.
BY TAKING SOME PROPERTY FROM SOMEONE
WHEN THAT PERSON HAD NO LEGAL OR
CONSTITUTIONAL RIGHT TO POSSESS THOSE ITEMS.

B. AUTHORITY AND ARGUMENT

On May 19th 2008, the alleged victim Robert "Bobby" Dowdle stated during trial Carlis and another man robbed him during a alleged drug deal.4RP37. Dowdle claimed that Carlis refused to pay for the drugs and demanded that Dowdle turn over any additional drug stash.4RP37. Robert Dowdle, also stated the alleged man accompanying Carlis searched Dowdle's pockets and took his cell phone and his alleged paycheck. 4RP38-46. Dowdle later told the officers that the alleged robbery was over marijuana 4RP80-81. Dowdle was asked by counsel if he produced any document to verify his alleged pay check on May 12th the previous week from the alleged robbery. 'Dowdle said he wasn't asked'.4RP98. Dowdle could not produce any proof that he ever own such items. 4RP98. Dowdle also claimed that marijuana was taking without the proper license or constitutional right to possess marijuana, reffering to the property term found in the (Black Law Dic.)and(Wash. State Control Substance Act). Which makes it unlawful and doesnt apply to personal property,element. The conviction should not stand because the evidence was not sufficient to show the required elements. Citing, Washington v. Handburgh,119 wash. 2d 284,830 p.2d 641 (1992).

And I want to ask you this. Why, wouldn't the prosecutor prove in court, that Dowdle's property was taking? Which is the main source of the case according to the elements set by the court. Dowdle knew he couldn't call the police over a alleged drug deal, because by law Dowdle could have been convicted. But, Dowdle could claim that a cell phone and cash was taking which makes it legal.

By, the facts of this case you can find that the prosecutor instructed the jury, to convict Carlis of robbery in the first degree, the evidence must prove all elements. NO. 13. That Carlis 'unlawfully took personal property' and 'intended to commit theft of the property' from the alleged victim. The state did not take exception to that instruction, in fact, it proposed the language. The state assumed the burden of proving that Carlis 'unlawfully took personal property. It's axiomatic that the state must prove all elements of the crime beyond a reasonable doubt. Citing, State v. Adams, 76 Wash. 2d 650, 458 P.2d 558 (1969). Also in State v. Green, 94 Wn. 2d 216, 616 P.2d 628 (1980). Respectfully request that this honorable court reverse and remand for new trial.

EXHIBIT

EXHIBIT

INSTRUCTION NO. 8

To convict the defendant, CRAIG ANTHONY CARLIS, of the crime of Burglary in the First Degree, Count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 19th day of May, 2008, the defendant, Craig Anthony Carlis entered or remained unlawfully in a building;
- (2) That the entering or remaining was with intent to commit a crime against a person or property therein;
- (3) That in so entering or while in the building or in immediate flight from the building the defendant or an accomplice in the crime charged was armed with a deadly weapon; and
- (4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 13

To convict the defendant, CRAIG ANTHONY CARLIS, of the crime of Robbery in the First Degree, Count II, each of the following six elements of the crime must be proved beyond a reasonable doubt:

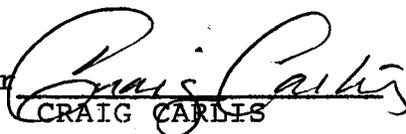
- (1) That on or about the 19th day of May, 2008, the defendant unlawfully took personal property from the person of Robert Dowdle;
- (2) That the defendant intended to commit theft of the property;
- (3) That the taking was against the person's will by the defendant's use or threatened use of immediate force, violence, or fear of injury to that person;
- (4) That the force or fear was used by the defendant to obtain or retain possession of the property or to prevent or overcome resistance to the taking;
- (5) That in the commission of these acts or in the immediate flight therefrom, the defendant displayed what appeared to be a firearm or other deadly weapon; and
- (6) That any of these acts occurred in the State of Washington.

If you find from the evidence that elements (1), (2), (3), (4), (5) and (6), have been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of elements (1), (2), (3), (4), (5), or (6), then it will be your duty to return a verdict of not guilty.

Respectfully Submitted on 31 day of August
2009.

Signed by a Pro Se Prisoner


~~CRAIG CARDIS~~

Clallam Bay
Correction Center
1830 Eagle Crest Way
Clallam Bay, Wa. 98326

End Page

CERTIFICATE OF SERVICE BY MAIL

This is to certify and state under the penalty of perjury under the laws of the State of Washington that I have mailed a true and correct copy of the following documents(s):

Statement of Additional Grounds

Motion in Support Of RAp 10.1-10.10

Note for Motion Docket and Notice of Hearing

Attach Brief to Statement for Additional Grounds

By depositing in the United States mail, marked *Legal Mail*, postage prepaid, on this ___ day of August, 2009 to the following:

McDuffie Setter

Whatcom Co. Pros. Att. Ofc.

311 Grand Ave.

Bellingham, Wa. 98225-4048

Respectfully Submitted,

Craig Carlis
Signature

Craig Carlis
Print Name

D.O.C.# 321529 Unit # B Cell # I-5

2009 SEP 2 PM 12:13
STATE OF WASHINGTON
CLALLAM COUNTY

Clallam Bay Corrections Center
1830 Eagle Crest Way
Clallam Bay, WA 98326