

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON)
)
 Respondent,)
)
 v.)
FRANK Borders)
 (your name))
)
 Appellant.)

No. 66214-7-1
 STATEMENT OF ADDITIONAL
 GROUNDS FOR REVIEW

2011 JUN -2 AM 10:42
 COURT OF APPEALS
 STATE OF WASHINGTON
 FILED

I, FRANK Borders, 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

The COURT errored IN ALLOWING THE TESTIMONY OF S. G. Defence ATTORNEY GAISTORD FILED A MOTION OBJECTING TO THE TESTIMONY OF SG DUE TO VIOLATION OF PLEA/DOUBLE JEOPARDY/INEFFECTIVE ASSISTANCE OF COUNSEL. THE STATE MISLEAD THE COURT INTO BELIEVING THAT THE DEFENCE WAS PROCEDURALLY BARRED FROM RAISING THESE CLAIMS WHICH RESULTED IN THE COURT REJECTING THE DEFENCE MOTION.
 (see ATTACHED pages)

Additional Ground 2

The COURT errored IN ALLOWING THE IN COURT IDENTIFICATION OF J.P. ATTORNEY GAISTORD FILED A MOTION OBJECTING TO THE IN COURT IDENTIFICATION DUE TO THE NUMEROUS VIOLATION'S THAT WAS COMMITTED AGAINST ME BY THE STATE OF WASHINGTON THAT TAINTED THE IDENTIFICATION.
 (see ATTACHED pages)

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

Date: 5/20/11

Signature: Frank Borders

Frank Borders

May 24, 2011

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW #1

I, Frank Borders, was found guilty of Rape 2. In 1981 I was sentenced to one (1) year in jail and five (5) years of probation. While on probation I was arrested and charged with Assault 2 and Rape 2. My attorney was Joyce K. Smucker, who informed me that the STATE was willing to drop the Rape 2 charge if I plead guilty to Assault 2 against Susain, G. This happened in 1983. In accordance with Santebello vs. New York, I was required by law to go before Judge Richard M. Ishikawa and confess to the facts of my Plea. I confessed in a court of law, under oath, that I slapped and choked Susain, G, while in Seattle, WA. In exchange, in 1983, the STATE dismissed the charge of Rape 2.

While waiting to be sentenced, I was informed by my attorney, that due to the fact that I was convicted for rape in 1981, I was eligible to participate in the Sexual Psychopathy Program at Western State Hospital. I was unaware that my attorney Joyce K. Smucker, Prosecuting Attorney Linda Jackie, along with the Director of Washington State Hospital, had entered into a conspiracy to have me illegally committed to Washington State Hospital. I was

taken to the basement of King County Jail, where I was evaluated by a Dr. Allen Traywick. Upon completion of the evaluation, I was sentenced to WESTERN STATE HOSPITAL for ten (10) years. On August 25, 1983, Judge Richard M. Ishikawa signed a Probation Revocation Order, Sentencing me to ten (10) years on my 1981 Rape 2 conviction to run concurrent with my 1983 Assault 2 conviction.

I entered Western State Hospital in 1984 to begin treatment. After 90 days, a report was sent to Judge Ishikawa stating, "Due to the Legalities of RCW 71.06, we are unable to admit Mr. Borders. Also, the fact is that Washington State Commitment Laws are too time consuming and was creating a financial burden on Western State Hospital. We have developed a procedure that would allow us to admit Mr. Borders directly into the program. Dr. VonCleave.

The New Procedure developed by the directors of Western State Hospital was specifically developed in order to circumvent RCW 71.06, which required the STATE to file a Sexual Psychopath Petition (State of Washington vs. Theodore Rinaldo 98 Wash 2d pg. 420). This new procedure was designed to circumvent Washington State Commitment Laws. This new procedure was designed to circumvent my Constitutional Right, my Civil Rights, my Human Rights! The bottom line is it was a Scam, created to defraud the government out of millions of dollars due to the fact that

Western State Hospital was on the verge of being shut down, due to financial difficulties.

In 1987, I was returned to court as no longer amenable to treatment. In order to cover up their illegal activities Western State Hospital submitted a false report to the court which stated, "Mr. Borders continues to meet the legal definition of a Sexual Psychopath in accordance with RCW 71.06. Also Mr. Borders sexually assaulted men, women, boys, girls, and is not safe to be at large. Therefore we recommend that he be sent to prison for the longest time allowed by law." see In Re Borders 114 Wash 2d 171, 786 p2d 789.

The Deputy Prosecuting Attorney Rebecca Roe, completely unaware of the Judicial Corruption that had taken place in my case, recommended to the court that due to the report from Western State Hospital, along with the fact that I did not simply assault Susain, G, but in actuality this was a sexual assault, that therefore the STATE is recommending that Mr. Borders receive an exceptional sentence on his 1983 conviction to run consecutive with his 1981 Rape 2 conviction. My attorney Allan Mador was confused and unable to explain to the court that I was never charged with being a Sexual Psychopath as required by Law, and that the Plea Agreement with the STATE was being violated. Also, the court was about to make a big mistake by sentencing me

twice, (DOUBLE JEOPARDY). Judge Ishikawa said that he was confused and granted my attorney's request to file a brief in support of his Motion for Reconsideration of my Sentence. In the mean time the court agreed with the prosecution and Re-sentenced me to 20 years in prison as a Sexual Psychopath, who sexually assaulted Susain, G, in 1983.

Soon after, my sentence attorney Alan Mador was diagnosed with cancer, my case was transferred my case to Kenneth Comstock who transferred my case to Berry Gaye, who then refused to file my brief in support of my Motion for Reconsideration. While at Twin Rivers Correctional Center, I filed a 1983. I submitted a brief and numerous exhibits supporting the claim of Plea Agreement Violation, Double Jeopardy, and Ineffective Assistance of Counsel. The STATE argued that I was Procedurally Barred. The Appellate Court rejected their argument and ordered the STATE to respond to my claim.

The STATE changed their position after I submitted evidence given to me by the Assistant Attorney General of the State of Washington. Evidence that proved beyond a doubt that I was a victim of Judicial Corruption. The STATE claimed that I failed to exhaust my STATE REMEDIES. This argument was accepted by the Appellate Court in Frank Borders vs. Allen Mador and Allen Traywick. My case was dismissed on the

grounds that I did not Exhaust my STATE REMEDIES. This dismissal was upheld by the 9th Circuit.

I would like to take this opportunity to provide the court with some insight, on how Judicial Corruption has affected my family and myself. My brother, Odie Borders, died of cancer in 2008. I was unable to attend his funeral, because I was incarcerated. I was on probation for Possession of Cocaine, and my Community Corrections Officer Jamie Nyblood violated me for not maintaining a Masturbation Log. She testified, under oath at my hearing, that the reason she required me to maintain a Masturbation Log was because I was a Level #3 Sex Offender. Also, that she had received a report from the Seattle Police Department that said I had assaulted men, women, boys, and girls sexually, and she needed to Protect the Community. I was on probation by Judge Kenneth Comstock, who was one of the lawyers who represented me on my Motion for Reconsideration, which I found out at my last trial (CONFLICT??). The information received by Jamie Nyblood came from Western State Hospital. see In Re Borders 114 W2d P.171

When the STATE informed the Court that my claims, that were raised in front of the Judge, by Attorney Julie A. Gaisford, were Procedurally Barred, she deceived the Court in order to have the jury hear Susain, G's testimony, knowing this would persuade the jury to find me guilty, rather than

deliberating on whether the charges were true or false. My Attorney Ms. Gaisford was able to obtain a copy of Frank Borders vs. Allan M, along with numerous Exhibits. I request the Court to allow my attorney to submit a copy for the court to review the decision.

Signed Frank Borders

Date 5/24/11

CC KING COUNTY

PROSECUTING ATTORNEY

CC Jennifer Winkler

Attorney Jennifer Winkler

Frank Borders

May 25, 2011

Walla Walla, WA

Statement of Additional
Grounds for Review #2

The In-Court Identification of Frank Borders by J.P. was tainted as a result of numerous violations committed against me by the State of Washington.

Des Moines Washington Police Department posted flyers in the Des Moines community, which said, "Frank Borders in 1983 raped a woman in a wheelchair, and while raping her he choked her." This information was also broadcast on KOMO 4 NEWS.

While waiting for my trial to begin on the charge of Rape 2 against Sheila, C. Seattle Washington Police Department posted flyers in the Central District of Seattle saying, "Has this man Frank Borders assaulted you? If so, please contact the Seattle Police Department."

After seeing the flyer posted at Angelines Women's Shelter Julie, P. contacted the police and reported being assaulted by a man who fit my description. Arrangements were made for

her to meet with Prosecuting Attorney Keaton for what is referred to as a meet and greet. During the meeting Julie P. (hereafter JP) shared that the person who assaulted her had long sideburns, something I've never had. Ms. Keaton decided to persuade JP to testify against me by showing her additional pictures of me, and sharing with JP my criminal background. At no time was Ms. Keaton willing to show JP pictures of other suspects or have me appear for a line-up. Instead, it appears, that she continued to pressure JP to identify me alone. I have been informed that after JP agreed to testify, she was relocated from the Women's Shelter to her own Low-Income Apartment. This was highly unusual. Partly due JP's criminal record, plus the fact that she was Evicted from her last apartment.

During my trial JP testified: "That I approached her, while she was walking on Dearborn Avenue, and asked her if she would like to smoke some crack." (This supposedly took place in 2007, during the summer.)

"We agreed to walk up a hill to an isolated area off Dearborn Ave, known as 'The Jungle'. Once there I put my hands around her throat and demanded she take her clothes off." (She testified in the first trial that, "She got down on her knees and gave him a blow job! Due to the fact that he was unable to achieve an erection.") "We left, walked back down the hill together and then went our separate ways."

During the second trial, JP's story changed. Instead of giving me a blow job, I demanded a blow job. JP also tried to say I had short side burns after this issue had been brought to light as an issue.

Prosecutor Keaton testified (told the court) that JP was able to view extra photos of me because she looked over her shoulder at what was in the file. JP testified that she was able to view the photos from the prosecutor's file while she was sitting down during the interview. Ms. Keaton misrepresented the situation and facts to the Court. Ms. Keaton committed perjury.

During the first trial JP looked directly at me and mouthed the words, "I am sorry." This was observed by my attorney and a female jurist sitting on the first row. JP denied the incident ever took place. JP's testimony that I raped her in "The Jungle" during the summer of 2007 is a "LIE".

The fact is that it would have been physically impossible for me to have raped anyone in the summer of 2007. During the summer of 2007, I was in Harbor View Hospital. Where I was undergoing my second surgery on my right leg. Which had been broken severely in 3 (three) places in 2006. Due to the irresponsible lifestyle I was living, my leg was not healing. The Doctor told me that due to the damage that had been done, along with slow healing, that I would be risking possible amputation if I did not have a second surgery. Before that second surgery, I walked

with a severe limp. I had lost 80% of my mobility, making walking, let alone up a hill, difficult and painful. There is a rod, now, in my leg that will be there for the rest of my life. All this can be verified by Medical Records which interestingly enough the Prosecutor's Office had at their disposal!

I pray for JP every night. I truly believe she felt pressured to bear false witness in order to get off the streets of Seattle, WA. It is really difficult for a female to survive Seattle's streets. Even if she was addicted to crack cocaine, I would still find it very difficult to believe that someone with JP's criminal background (Armed Robbery, Prostitution, Lying to a Police Officer) would allow herself to be raped by a man with the limited use of one leg, who walked with a severe limp and only then with pain. And, yet, not note in her identification that the man who raped her, had walked with a limp.

signed Edward Borders
date 5/26/11
cc King County
Prosecuting Attorney
cc Jennifer Winkler
Attorney Jennifer Winkler