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COURT OF APPEALS  
DIVISION  
OF THE STATE OF WASHINGTON

FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2011 DEC 27 AM 10:44

STATE OF WASHINGTON )

Respondent, )

v. )

Anthony Pines )

(your name) )

Appellant. )

No. 66907-9-1

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I, Anthony Pines, have recieved 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 trial Court Committed reversible error in  
Failing to investigate whether a Juror and a  
witness had any harm full history that could have given  
me a unfair Trial. After Juror #1 stated "I do know  
her". Court then stated "Let's Continue with testimony  
At this Point. 3cp 125-March 1, 2011

Statement of Additional Grounds

Additional Ground 2

The trial Court Committed reversible error in failing to investigate whether a Juror or the Key Witness was telling the truth during trial Court questioning. Due to the fact that they knew each other.

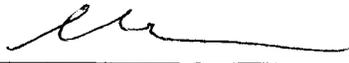
3rp 152-157 March 1, 2011

Additional Ground 3

The trial Court Committed reversible / Dismissible error in Convicting Pines of two Counts of Assault in the 1<sup>o</sup>. Against A Alendra Fallon, and A Oscar Herrera Gonzales. They were not present at trial.

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

Date: 12/23/11

Signature: 

## Argument 1

The Trial Court Committed Reversible error in failing to investigate whether a Juror or the Key witness was telling the truth during trial questioning. Due to the fact that they knew each other.

- A) The Court had a duty to voir dire the Juror.
- B) The Courts failure to conduct appropriate inquiry is reversible error.
- C) Counsel was ineffective in failing to object to the trial Courts failure to questioning the Juror.

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The Courts misconduct deprived appellant of his Constitutional due process right to a fair trial.

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### Statements from Court Records

During the second day of trial Jodi Nelson was called to the stand, and Juror #1 immediately informed the Court that she knew her. By saying "I do know her".

At that time the Court said "Let's continue with the testimony at this point, and Perhaps we will take that issue later" - 3rp 125-march 1, 2011

## Argument 2

The Trial Court Committed reversible error in failing to investigate whether a Juror and a witness had any harmful history that could have giving me a unfair Trial. After Juror stated "I do know her".

The Court had a duty to Voir Dire the Juror.

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When the Court finally addressed the matter Jodi Nelson states that she knows Juror #1 from "The grocery store". Juror #1 also states the same thing. When asked the last time that they seen each other Jodi Nelson states "I would say maybe a year ago. When Juror #1 answers the same question she states "I would say within the last three months". 3p 152-157 March 1, 2011

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The Court failed in not digging further to see what Person was telling the truth. Violating my right to a fair Trial, in which is my right by Law.

To serve, a Juror must take an oath that in substance promises to "Well, and Truly try, the matter in issue . . . . and a true verdict give, according to the law and evidence as given them on trial." RCW 4.44.260.

THE Court HAD A Duty To Voir Dire The Juror

Both the United States and Washington Constitutions Guarantee the right to a fair and impartial Jury Trial. U.S. Const. amend. V, VI; Wash. Const, art. 1, §§ 3, 22. The failure to provide defendant with A fair trial violates minimal standards of Due process.

State V. Jackson, 75 Wn. App. 537, 543, 879

State V. Depaz, 204 P. 3d 217, 165 Wash. 2d 842 (Wash. 04/02/2009)

The Court had should have recognized that any statement made by a Juror was irrelevant to any determination of whether her judgment in the case had been affected by an outside source.

### Conclusion

For the reasons discussed above, this Court should reverse Pines' convictions and remand for a new trial.

The Trial Court Committed Reversible/Dismissible Error IN Convicting Pines of Two Counts of ASSAULT in The 1<sup>o</sup>. Against A Alendra Fallon, and A Oscar Herrera. They were not Present At TRIAL.

There were Four "Injured" Victims in This Case. Mary Clark, Brock McDonald, Alendra Fallon, and Oscar Herrera. Mary Clark, and Brock McDonald Came To Testify During Trial. Alendra Fallon, and Oscar Herrera did not.

Pines was Sentenced to 339 months plus a Consecutive 60 months for using a Firearm on the First assault Count. His Sentence on each remaining assault Count was 168 months plus a Consecutive 60 month Firearm enhancement Sentences were run Consecutive to each other, for a Total Sentence of 840 months. GRP' 30; CP 3-14. Pines' timely Appeals. CP 1-2

Mary Clark, and Brock McDonald got on the stand, and Pines's Lawyer had relevent Questions for them. He Would have had the Same relevent Questions if Ms. Fallon and Mr Herrera Gonzales had taken the stand. The State never showed they weren't Unavailible. They weren't Dead and Weren't in another Country.

Detective Timothy O'HARA Also states During trial his "Attempts" to find the 2 Victims. Ms Fallon, and Mr Gonzales.

The state's Q. What attempts did you make to look for them?

Det O'HARA A. Initially, you follow up with the phone numbers and addresses on the statement. They were incorrect for Mr. Herrera Gonzales. He had since moved from his Casino address. He said he lived on Casino. His phone number was no good, and trying to track down somebody with that common of a name is virtually impossible.  
March, 3 2011 pg 29-30

Det O'HARA AS for Ms Fallon. Appointments were made to meet with her. She never followed through. "She had other issues that she needed to resolve prior to her doing that she never did.

The State's Q. What were those issues?

Det O'HARA A. She had Warrants out for her arrest.

The Court Failed to prove that they were unavailable. They only proved that in fact that they just Didn't want to Come.

Confrontation Clause. The Confrontation Clause was violated when two Police officers testimony, which did not explicitly repeat a non-testifying victims' out-of-court statements, "indisputably conveyed some of the critical substance of "a non-testifying victims' statements to the Jury." Permitting a police officer to summarize or outline an out-of-court statement in no way corrects for the affront to the purpose of the Clause, as it was explained in Crawford."

Ocampo v. Vail, No. 08-35586  
9th Cir. Jun 9, 2011

Facts in the Pines Case.

Detective Timothy O'Hara Testimony

When Detective O'Hara gets on the stand he presents Exhibit No. 57. which is Oscar Herrera Gonzales, and Alendra Fallons clothes from the night of the incident. Stating where a bullet struck in the shirts and where the victims injuries were sustained.  
March 3, 2011 pg 33-35.

Under the federal and state Constitutions, a criminal defendant has the right to present evidence in his or her defense and the right to confront and cross examine adverse witnesses. U.S. Const. amend. VI; Wash. Const. art. 1, § 22 (amend. X); Davis v. Alaska, 415 U.S. 308, 315, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974) (right to confront adverse witnesses); State v. McDaniel, 83 Wn App. 179, 185, 920 P. 2d 1218 (1996). There is no Constitutional right, however, to introduce irrelevant evidence. State v. Hudlow, 99 Wn. 2d 1, 15, 659 P. 2d 514 (1983).

Pines' Dismissal for Mr Gonzales and Ms Fallon were raised halftime during Trial. It was Declined for unknown reasons. Other than the Judge stating "The state or Police made Good faith efforts. Indeed, they were making Considerable efforts to locate these alleged Victims.

March 3, 2011 pg 55

There seemed to be no major efforts in locating these People. Regarding Detective O'HARA's statements during his testimony. When he states "Trying to track down Somebody with that Common of a name is virtually impossible." In Reference to Oscar Herrera Gonzales.

Also it seemed to be no major effort when Detective O'HARA stated in his testimony "She had other issues that she needed to resolve" prior to her coming to testify. "She never did". When asked by the state what those issues were Detective O'HARA stated "She had Warrants out for her arrest".

March, 3 2011 pg 29-30

conclusion

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The state failed to prove the major effort to find these victims. Due to the facts and the Law Pines would ask for a Dismissal on Counts 3, and Count 4. Mr Oscar Herrera Gonzales, and Ms Alendra Fallon.

DECLARATION OF SERVICE BY MAIL

GR 3.1(c)

No. 66907-9-I

I, Anthony L. Pines, declare that, on this 22 day of December, 2011 I deposited the forgoing documents:

A copy (original) of my Additional grounds.

or a copy thereof, in the internal legal mail system of

CLALLAM BAY CORRECTIONS CENTER  
1830 Eagle Crest Way  
CLaLLam Bay, WA 98326

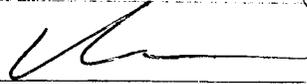
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STATE OF WASHINGTON  
2011 DEC 27 AM 11:07

And made arrangements for postage, addressed to: (name & address of court or other party.)

The Court of Appeals of the State of Washington  
Seattle 98101-4170  
Division 1 one union square  
600 University Street

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated at Clallam Bay Correction Center 12/22/11  
(City & State.) (Date)

  
Signature

Anthony L. Pines  
Type / Print Name

I want to first apologize for having to use a pen to write my Brief. There are no typewriters in Clallam Bay Corrections Center where i am held. So thank you for your patience.

Anthony L. Pines

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