

COURT OF APPEALS 06 FEB 16 PM 4:09
DIVISION II STATE OF WASHINGTON
OF THE STATE OF WASHINGTON BY DM
DEPUTY

STATE OF WASHINGTON,)
)
Respondent,)
)
v.)
)
JOE A. GALLEGOS,)
)
)
Appellant.)

No. 33435-4-II

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, JOE GALLEGOS, 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

Rape of a child in the third degree is a class C felony.
Class C felonies are punishable by a maximum of 60 months.
I was given 60 months and three years community custody
for a total of 96 months. This exceeds the legal maximum
for a class C felony.

Additional Ground 2

My attorney failed to call Bremerton Police Officer Clayton
Shultz. Officer Shultz took a report on March 26th 2004.
In this report the alleged victim paints a different picture
of the relationship between her and I. In this report there
is no mention of rape or of her being in fear of me. "we
are just good friends." REPORT NUMBER BO4-02985. This report
was taken three months after the alleged rape. (SEE exhibit)

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

Date: 1-26-06

Signature: Joe Gallegos

Incident / Investigation Report

OCA: B04-002955

Bremerton Police Dept

Case Supplements

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Officer (447) SHULTZ, CLAYTON A

Supplement Type: Followup

Date / Time 3/31/2004 15:51

Race: W Sex: F DOB: [REDACTED] Age: 15

Employer: BREMERTON JUNIOR HIGH SCHOOL
(360) 478-5025

Home Phone: [REDACTED]

On 03-30-2004 at Approximately 1535hrs. I contacted [REDACTED] and her mother at their residence. This was regarding a follow up requested by detectives. The original complaint was that Gallegos Jr. Was harassing the Woods family because he thought [REDACTED]

Upon contact I identified myself and explained why I was there. Sandra Woods invited me in and agreed to speak with me. I asked her if I could also speak with [REDACTED] I asked [REDACTED] if there was any truth to what Gallegos jr. was saying. she said no. I asked her to tell me what has been going on. she stated she and Gallegos were one time boyfriend and girlfriend, but Gallegos has a new girlfriend. She said she had spent alot of time at their house and became friends with [REDACTED] She said he is just a good friend. [REDACTED]

[REDACTED] I asked her how long ago this happened and she said about two months ago. I asked her how long he had been [REDACTED] and she said about a month ago. [REDACTED] I asked her what she thought he meant by that. She said she just thought he was paying her a complement. Sandra told me she didn't know that [REDACTED] and she does not approve of [REDACTED] going over there under the circumstances. She said she plans on getting a restraining order [REDACTED]

No further information end of report
Copy to Detective S.Shultz for info

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

(Signature, Date)

(447) SHULTZ, CLAYTON A

I N C I D E N T D A T A	Agency Name Bremerton Police Dept	INCIDENT / INVESTIGATION REPORT	OCA: B04-002955
	ORI WA0180100		Date / Time Reported SU Mar 28, 2004 22:16
	#1 Crime Incident HARASSMENT		CJA: 02210 Local Statute: 9A.46.020 <input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
#2 Crime Incident	UCR: Local Statute:	<input type="checkbox"/> Att <input type="checkbox"/> Com	Dispatched 03/28/2004 01:08
#3 Crime Incident	UCR: Local Statute:	<input type="checkbox"/> Att <input type="checkbox"/> Com	Arrived 01:08 Cleared 01:38
Location of Incident 70 Mcneal Av, Bremerton, WA 98312		Premise Type Residence	Offense Tract BW

MO	How Attacked or Committed
	Weapon / Tools
	Forcible Entry <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

V I C T I M	# Victims 1 Type Individual Injury None Residency Status Resident					
	Victim/Business Name (Last, First, Middle) Woods, Sandra L					
	Victim of Crime # 1 Age / DOB 53 Race W Sex F					
	Relationship to Offenders					
	Home Address					
Employer Name/Address Unemployed	Business Phone					
VYR	Make	Model	Style	Color	Lic/Lis	VIN

O F F E N D E R	Offender(s) Suspected of Using <input type="checkbox"/> Drugs <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Alcohol <input type="checkbox"/> Computer	Offender 1 OF1 Age: 15 Race: W Sex: M	Offender 2 Age: Race: Sex:	Offender 3 Age: Race: Sex:	Primary Offender Resident Status <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-Resident <input type="checkbox"/> Unknown
	Offender 4 Age: Race: Sex:	Offender 5 Age: Race: Sex:	Offender 6 Age: Race: Sex:		

S U S P E C T	Name (Last, First, Middle) Gallegos, Jose Miguel Andres	Home Address 209 S Constitution, Bremerton, WA 98312	
	Also Known As OF1	Home Phone (360) 479-9049	
	Occupation Student 10th	Business Address Bremerton High School / 1500 13TH STREET	Business Phone (360) 478-6033
	DOB. / Age 9/26/1988 15	Race W	Sex M
	Hgt 5'04	Wgt 125	Build
	Hair Color Brown	Hair Length	Eye Color Hazel
	Glasses		
	Scars, Marks, Tattoos, or other distinguishing features (i.e. limp, foreign accent, voice characteristics)		
	Hat	Shirt/Blouse	Coat/Suit
	Jacket	Tie/Scarf	Pants/Dress/Skirt
Was Suspect Armed?	Type of Weapon	Direction of Travel	
Mode of Travel	VYR	Make	
Model	Style/Doors	Color	
Lic/Lis	VIN	Suspect Hate / Bias Motivated: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type:			

W I T N E S S	Name (Last, First, Middle)	D.O.B.	Age	Race	Sex
	Home Address	Home Phone	Employer	Phone	
		(360)			

Officer: (429) FATT, DANIEL	SUPERVISOR:	INFO. ONLY:	F/UP. DET.	F/UP. LINE	PROSECUTOR:		
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Incident / Investigation Report

** Contains Restricted Names **

Bremerton Police Dept

OCA: B04-002955

O T H E R S I N V O L V E D	CODES: DE-Deceased, DR-Driver, MN-Mentioned, MP-Missing Person, OT-Other, OW-Owner, PA-Passenger, PT-Parent/Guardian, RA-Runaway, RO-Registered Owner, RP-Reporting Party, VI-Victim					
	Code	Name (Last, First, Middle)	Victim of Crime #	Age / DOB	Race	Sex
	Home Address				Home Phone	
	Employer Name/Address				Business Phone	
N A R R A T I V E	Code	Name (Last, First, Middle)	Victim of Crime #	Age / DOB	Race	Sex
	Home Address				Home Phone	
	Employer Name/Address				Business Phone	

ASSIGN/ARRIVAL: On 3-29-04 at 0108 hours I made contact at 70 McNeal Avenue on a Harassment detail.

REPORTING STATEMENT: Sandra WOODS stated that he daughter, [REDACTED] used to date GALLEGOS and since they are no longer dating they have been harassed by GALLEGOS. Sandra stated that [REDACTED] received a threatening telephone call from GALLEGOS on 3-28-04 at about 1600 hours and later at about 2030 hours GALLEGOS showed up at Sandra's front door where he pounded and kicked on the front door while yelling obscenities at the residence.

HARASSMENT: Sandra felt that the telephone call that [REDACTED] received was harassing eventhough [REDACTED] does not want to prosecute for it. She felt that the telephone call combined with GALLEGOS showing up at her front door with two other people was uncalled for. Sandra stated that she was inside her residence on 3-28-04 at about 2030 hours when she heard the pounding and kicking on her front door that she refused to answer. While inside she heard GALLEGOS say things like, 'Fuck You. You better get out here because I'm going to kick your ass. I know you're in there. Fuck you. If you want to play games, WE'LL PLAY GAMES. I know she's in there but she's scared to come out.'

WITNESS STATEMENT: [REDACTED] stated that GALLEGOS is her former boyfriend and that on 3-28-04 at about 1600 hours she received a telephone call from him. GALLEGOS accused [REDACTED] of [REDACTED] 'I'm going to burn your house down and shoot whoever runs out of it.' [REDACTED] stated that she did not feel threatened by this statement nor did she feel that GALLEGOS would make good on his threat. She also stated that she did not want to prosecute.

DISPOSITION: Refer to Juvenile Prosecutor's Office to review for charges. Forward copy of report to West Park Officer C. SHULTZ.

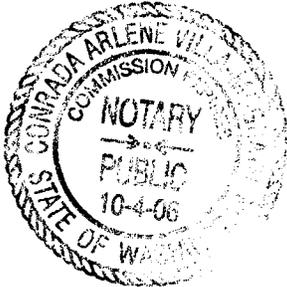
THE STATE OF WASHINGTON)
) SS
COUNTY OF _____)

After being first duly sworn, on oath, I dispose and say, That I am the petitioner, that I have read the petition. I know it's contents, and believe that the petition is true.

1-26-06
DATE

[Signature]
Signature of petitioner

SUBSCRIBED AND SWORN to me this 26 day of January, 2006.



[Signature]
NOTARY PUBLIC in and for the State of Washington
Residing at [Address]

My commission expires 10/04/06

If a Notary is not available, explain why none is available and indicate who can be contacted to help you find a Notary:

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

Date at _____ on this _____ day of _____,
(City and State)

Signature of Petitioner

Print/Type Name