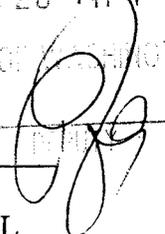


COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

FILED  
COURT OF APPEALS  
DIVISION TWO

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STATE OF WASHINGTON

BY 

STATE OF WASHINGTON )  
 )  
 Respondent, )  
 )  
 v. )  
 )  
 STAVIS J. DAIGNAULT )  
 (your name) )  
 )  
 Appellant. )

No. 33810-6-II

STATEMENT OF ADDITIONAL  
GROUND FOR REVIEW

I, Stavis J. Daignault, 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.

STATEMENT OF ADDITIONAL GROUNDS

GROUND #1 The court erred by consolidating counts I & II with count III.

GROUND #2 Mr. Daignaults trial counsel was ineffective by not objecting to the consolidation of all counts.

GROUND #3 Mr. Daignaults speedy trial rights were violationed.

GROUND #4 The court erred by allowing a continuance for count I & II, when the reason for continuance pertained only to count III.

GROUND #5 The court erred when denying the defense objection regarding continuance filed on 8-02-05.

CERTIFICATE OF SERVICE

1 JAG  
to Eric Fong  
C. Randy Sutton  
4-21-06 P. True  
Date Signed

GROUND #6 The prosecutor committed misconduct by deceiving the court and the defense as to reason for continuance.

GROUND #7 It was procedural error for the court to allow a continuance for count I & II because the arresting officer for count III was not available when count III was not yet filed.

GROUND #8 It was abuse of the courts discretion to continue count I & II past the defendants speedy trial time period, over defense objection, to accommodate an officers attendance for a charge filed over a month later.

ISSUES PERTAINING TO ADDITIONAL GROUNDS

IS IT PROPER TO CONSOLIDATE TWO CRIMES THAT DID NOT ACCRUE AT THE SAME TIME OR PLACE, TWO CRIMES THAT THE COURT CONSIDERED SEPARATE IN REGARDS TO SENTENCING?

DID IT CAUSE PREJUDICE TO MR. DAIGNAULT BY HAVING A POSSESSION OF METH. CHARGE CONSOLIDATED WITH TWO COUNTS OF DELIVERY OF METH?

WAS MR. DAIGNAULTS ATTORNEY EFFECTIVE WHEN HE DID NOT EVEN OBJECT TO THIS UNREASONABLE DECISION?

WAS MR. DAIGNAULTS SPEEDY TRIAL RIGHTS VIOLATED FOR GOOD CAUSE?

DID OFFICER JON MEADOR HAVE ANY RELEVANCE TO MR. DAIGNAULT CHARGES OF DELIVERY OF METH? DID OFFICER JON MEADORS VACATION HAVE ANY RELEVANCE TO COUNT I & II?

WAS THEIR ANY LOGICAL REASON FOR THE COURT TO ALLOW A CONTINUANCE OVER DEFENSE OBJECTION TO ACCOMMODATE A WITNESSES ATTENDANCE THAT HAS ABSOLUTELY NO RELEVANCY TO THE CHARGE?

CASE HISTORY PERTAINING TO ISSUES

1  
2 Count I & II stem from two alleged deliveries of meth., that took  
3 place on two relatively close dates.

4  
5 The information indicates count I occurred on 2-22-05 and count  
6 II on 3-1-05.

7  
8 Nearly four months passes and Mr. Daignault was arrested on  
9 6-12-05 for an outstanding warrant. CP 257-258. An additional  
10 charge of possession of meth. was filed as a result of a  
11 searching a closed container found in the vehicle.

12  
13 A trial date was set for count I & II for 8-8-05. The defense was  
14 ready for trial.

15  
16 The prosecution filed for a continuance. The motion for  
17 continuance is dated and sworn by Tornabene on 7-25-05.

18  
19 The reason given was Officer Jon Meador was unavailable. Officer  
20 Meador was the arresting officer in regards to count III only.

21  
22 The prosecution did not file this motion until 8-02-05. The  
23 defense objected to this continuance and the court ruled in the  
24 favor of the state.

25  
26 The court set count I & II over the speedy trial period.

1 After the court allowed a continuance for count I & II, did the  
2 State actually file count III. The amended information charged  
3 Mr. Daignault on 9-01-05 with possession of meth.

4  
5 SUMMERY

6 Page 15 of Appellants opening brief Mr. Fong Makes good argument  
7 as to the prejudice that was caused by the jury hearing argument  
8 in regards to the possession. This prejudice would of never  
9 accord if trial council would of objected to the consolidation of  
10 the charges. Trial counsel was ineffective for failing to see  
11 such potential prejudice and not even objecting to consolidation.  
12 A defendant has a State and Federal Constitutional right to  
13 effective counsel. Powell v. Alabama, 287 U.S. 45 (1932). State  
14 v. Ermert, 94 Wn.2d 839 (1980)

15  
16  
17 It is professional misconduct for a lawyer to: engage in conduct  
18 involving dishonesty, fraud, DECEIT or MISREPRESENTATION RPC 8.4  
19 (c). The prosecutor is not exempt from the Rules of Professional  
20 Conduct. In this case it is clear that the prosecution deceived  
21 the court and the defence as to the real reason for the  
22 continuance motion. Surely the reason was not due to officer  
23 Meadors vacation, officer Meador was an arresting officer of a  
24 charge that was not yet filed. "Prosecuting attorney is an  
25 officer of the court whose duties extend not only to the court  
26 and to the public, but to the defendant as well" State v. Krausse  
, 519 P.2d 747.

1 The granting or denying of a motion for continuance of the trial  
2 of a case, whether criminal or civil, rests within the sound  
3 discretion of the trial court, and this court will not disturb the  
4 courts ruling absent a showing that the trial court in ruling  
5 upon the motion either failed to exercise its discretion or  
6 manifestly abused its discretion. State v. Bailey, 426 P.2d 988  
7 (1967). In this case before the court no logical discretion was  
8 applied to the decision when granting a continuance over  
9 objection, for a witness that is not involved with the  
10 deliveries.

11 The defense was ready to go to trial. There was no reason given  
12 by the State in regards to the delivery charges that would give  
13 cause to continue. The reason given had to do with count III.  
14 Count III was well within the speedy trial time limits. The  
15 continuance for count III may of been reasonable, but to continue  
16 count I & II was without any reasoning at all.

17  
18 The Washington Constitution article 1, section 22 provides in  
19 part: "In criminal prosecutions the accused shall have the  
20 right...to have a speedy public trial." State v. Madera, 24  
21 Wn.App 354 (1979) (prosecutorial delay).  
22  
23  
24  
25  
26

1 In addition article 1, section 10, which declares that justice  
2 shall be administered openly, also prescribes that it shall be  
3 done without unnecessary delay.

4 It is not logical that the delay was necessary.  
5

6 For all the reasons set forth in this Appellants opening brief  
7 and additional grounds the following relief has legal  
8 justification.

9 Dismissal of all charges.

10 Reverse the conviction and give instruction to sever charges.  
11

12 I, swear under penalty of perjury under the laws of the State of  
13 Washington that the foregoing is true and correct to the best of  
14 my knowledge.  
15

16 Dated this 18th day of April, 2006  
17  
18  
19

20 Stavis J. Daignault  
21   
22  
23  
24  
25  
26

Stavis J Deignault 876347 I-B19L  
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