

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
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DEPUTY

STATE OF WASHINGTON
COURT OF APPEALS, DIVISION II

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
 KAMARA K. CHOUAP)
 Appellant.)

No: 34761-0-II

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, KAMARA K. CHOUAP, have received and reviewed the opening brief 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

PLEASE SEE ATTACHED FORM.

Additional Ground 2

PLEASE SEE ATTACHED FORM.

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

Dated this 15 day of February, 2007.

Respectfully Submitted,
Kamara Chouap
Appellant

CERTIFICATE OF SERVICE
I certify that I mailed
1 copies of JAG
to M Heget
& S [Signature]
2/21/07
Date Signed

1 Statement Of Additional Grounds For Review No.1

2 Ineffective Assistance of Counsel.

3 Argument

4 Counsel's performance fell below an objective standard
5 of reasonableness due to counsel's failure to motion the
6 court for a Competency Hearing or a Witness Credibility
7 Hearing for an evaluation of the alleged victim's mental
8 competency in order to determine whether her testimony
9 would be admissible. Based on the fact that, the alleged
10 victim was under tremendous duress from the Pierce County
11 Sheriffs Dept., due to being forced to testify by being
12 jailed twice and then threatened to take her daughter
13 away and put her in the permanent custody of the Child
14 Protective Services, by the Pierce County Sheriffs Dept.
15 if she did not comply with what they had directed her to
16 do.

17 See testimony pages; 243 7-11, 252 3-7 10-11, 258 13-19,
18 ~~259 13-17~~, 262 14, 271 1-4, 274 4-25, 277 1-14, 280 25,
19 281 1-5.

20 See also: State V. Walton, State V. Oswalt,
21 U.S. V. Lindstrom, and Carter V. Bowersox.

22 Constitutional Prejudice

23 This crucial error displays counsel's deficient
24 performance. This was not counsel's strategic trial
25 strategy, this was clearly Ineffective Assistance of
26 Counsel. Because had counsel motioned the court for a
27 Competency Hearing or Witness Credibility Hearing, it
28 would have produced reasonable probability of the
29 appellants acquittal. Which is apparent prejudice and is
30 in violation of the appellants constitutional due process
31 rights. The appellant was denied his right to a fair
32 trial. This was not a harmless error. This was an error
33 of a fundamental defect resulting in a complete
34 miscarriage of justice so as to entitle the defendant
35 to relief by reversal and remand.

36 See testimony.

37 Conclusion

38 Based on the foregoing reasons the Appellant respectfully
39 requests and asks this court to reverse and remand his
40 unjust and unlawful conviction.

1 Respectfully submitted this February 15, 2007.
2 Airway Heights, Wa. 99001
3

4 *Kamara Chouap #811874*
5 Kamara Chouap #811874
6 Airway Heights Corr.
7 P.O. Box 1839
8 Airway Heights, Wa.
9 99001-1839
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Statement of additional grounds for review No.2

My United State Constitutional Rights have been violated. My united State Constitutional Rights, Amendment Five, Amendment Six, and Amendment Fourteen, have been violated as follows.

The JUVENILE POINTS that were used to inhance my adult conviction are NOT constitutionally firm. I was not afforded a jury trial in the juvenile adjudications, this violates my due process right under Washington State Constitution, Artical I § 3 and my United States Constitutional protections of due process: United States Constitutional Amendment Five, Right to Trial: United States Constitutional Six, and Equal Protection: United States Constitutional Amendment Fourteen.

These violations are of a Constitutional matter and are proper before this court.

1 Q Ms. Daunis, do you want to be here today?

2 A No, I do not.

3 Q Have you been previously arrested because you didn't
4 want to come here today?

5 A Yes, twice.

6 Q Could you explain to us what happened?

7 A I was arrested February 24th of 2005 for a material
8 witness warrant and then again December 2nd, 2005,
9 for a material witness warrant. The first time I
10 spent a week in jail and the second time I spent the
11 weekend in jail.

12 Q Why don't you want to be here?

13 A Because I don't want to testify against my
14 ex-boyfriend and everything like that because it's
15 taking too much time away from my daughter. I can't
16 get into her new school. I can't do anything. I
17 missed a doctor's appointment this morning because of
18 having to be here.

19 Q You referred to your ex-boyfriend. Who is that?

20 A Kamara Chouap.

21 Q Were you dating Mr. Chouap in September 2004?

22 A Yes, I was.

23 Q I guess specifically on September 3rd, 2004, you were
24 between apartments. You had two of them actually,
25 didn't you?

3.

1 A I take Busparin for anxiety attacks and I get severe
2 migraines from my ex-husband hitting me in the head
3 so many times and stuff and I've got a lot of
4 medications I have to take. I couldn't even go get
5 those refilled today like I was supposed to be
6 because I had to be here or go to jail again so I
7 missed a doctor's appointment.

8 Q Were you on those medications back in September of
9 last year?

10 A Yes, I was. I've been on them for close to 15 years
11 now.

12 Q What other drugs were you on at that time?

13 A I was doing methamphetamine. My second ex-husband
14 got me into doing methamphetamine and rock cocaine.

15 Q And how frequently around the time of this incident
16 were you smoking crack?

17 A I wasn't smoking crack. I was just doing
18 methamphetamine at the time, CR. I called it CR. I
19 was doing it constantly.

20 Q What does CR mean?

21 A That's what I call it. It's crystal meth.

22 Q Then by "constantly," how many times a week?

23 A Three to four if not more all day long to where I'd
24 stay up for -- one time I stayed up for 14 days
25 straight.

1 come over and threaten my family or anybody that was
2 in my home at the time that would kill us because we
3 won't let her talk to her ex-boyfriend? I don't
4 think so. I protect my family with all of my heart,
5 and if it means getting a weapon of any sort, even a
6 baseball bat, I will do that.

7 Q Let me ask you about some of these things that you're
8 taking medications for. You told me that you were
9 diagnosed with some mental illness. What was your
10 diagnosis?

11 A I'm on SSI disability for mainly at the time I
12 weighed 314 pounds back in 2000 because I had
13 problems with my legs. I had been diagnosed with
14 borderline personality disorder, borderline
15 intellectually challenged and chronic depression
16 which I still have all of them. I don't understand
17 the borderline personality disorder or the
18 intellectual thing, but I do have chronic depression.
19 I've had that for years.

20 Q Now, also when we talked the other day you told me
21 that you didn't know if Mr. Chouap actually had the
22 shotgun because you said you didn't think you'd ever
23 told him that you had one?

24 MR. WASANKARI: Your Honor, I
25 object to the form of the question. It would be

1 Q You've heard this telephone call that was played. Do
2 you remember all of the details of the call when you
3 made it that day?

4 A When I made it or when I received it?

5 Q When you received it?

6 A No. I know when I did hear it I didn't realize I was
7 cussing so much. I do know I didn't even want to be
8 here. I didn't want to testify or anything else like
9 that. I didn't even want to press charges against
10 Mr. Chouap because in my eyes he didn't do nothing
11 wrong. Whatever happened that day was an accident
12 because we both had a shocked look on our face when
13 whatever happened happened and I didn't want to press
14 charges against him. I told the officers that. One
15 officer told me -- and I don't remember which one it
16 was. He was standing in front of me while I was
17 sitting on the couch. He told me if I didn't fill
18 out the paperwork they were going to take my daughter
19 and put her into protective custody. I just lost my
20 boyfriend going to jail and risk losing my daughter
21 to CPS? I don't think, so I did what they wanted me
22 to do but I did not want to press charges. I still
23 have never wanted Mr. Chouap to be in jail this long
24 or be in jail for something stupid or a
25 misunderstanding between us.

1 A Because I didn't want to testify against Mr. Chouap.
2 I still don't want to but I'm being forced to with
3 the threat of going to jail a third time and I don't
4 want to lose my daughter to Child Protective Custody.

5 Q So you didn't show up, but it's not because
6 Mr. Chouap or anybody associated with him threatened
7 you?

8 A No, it's just that I didn't want to come because I
9 cared about Mr. Chouap and everything because we had
10 started caring about each other more so after we both
11 came off the drugs and everything and I didn't want
12 to do that. I never wanted to do that in the first
13 place. I never wanted the police there or anything.

14 Q So your relationship with Mr. Chouap improved after
15 he was in jail?

16 A We started talking, like I said, that day. It
17 started getting better and better over the last year
18 or so, yes, but he mainly just wants to be friends
19 and everything and stuff.

20 MR. OLIVER: Thank you, Ms. Daunis.

21 THE COURT: Let's take a short
22 recess. The cautionary instructions are
23 applicable.

24 (Jury excused.)

25 (Pause in proceeding.)

1 A Yes, it is.

2 Q It's your signature on the bottom there?

3 A Yes.

4 Q You indicated that the deputy had threatened you?

5 A Yes.

6 Q Is that correct?

7 A Yes, I did.

8 Q And essentially told you that you would lose your
9 child unless you completed that statement?

10 A Unless I completed all of the paperwork, yes.

11 Q Do you remember the deputy's name?

12 A No, I don't. He was just a taller deputy. He was
13 older than the other gentleman, I believe, but, like
14 I said, I don't really remember because I didn't
15 really focus on him. I just looked at him when he
16 told me if I didn't fill out the paperwork and go to
17 the hospital that he was going to take and -- he
18 asked me at that point if I wanted him to take my
19 daughter and put her in protective custody if I
20 didn't finish the paperwork or anything like that and
21 I said "No."

22 Q And you considered that a threat?

23 A Yes, I do. That's my child, you know. Any sort of
24 comment like that is a threat to me when it comes to
25 my children.

1 Q And you met with George Prudden, the physician
2 assistant, and you told him the same thing, right?

3 A Yes.

4 Q And you also met with a social worker a little bit
5 later and you told that person the same thing too?

6 A Yes, because I was still concerned about losing my
7 daughter regardless of what I said or didn't say to
8 the hospital staff or counselors or the social worker
9 or anything like that because I knew in my mind the
10 police can still get ahold of that report from the
11 hospital and still take my daughter from me, you
12 know.

13 Q So you were still concerned about the threat?

14 A Yeah.

15 Q Ms. Daunis, on the bottom of the statement that you
16 wrote for the officers, and it's been identified as
17 Plaintiff's Exhibit 9, just above your signature
18 there are two sentences that are written there. What
19 are those two sentences?

20 A "My brother and sister-in-law are the ones that
21 called 911, not me."

22 Q I'm sorry. Not the handwritten ones that you wrote,
23 but the typed written statements just above your
24 signature.

25 A "The above is a true and a correct statement to the

1 going to take your child from you?

2 A Yes, I was, because that's exactly what the officer
3 told me, that he was going to take my daughter and
4 put her in protective custody if I didn't fill out
5 the paperwork.

6 MR. OLIVER: Thank you very much,
7 Ms. Daunis.

8 MR. WASANKARI: I would like to ask
9 one more question, Your Honor.

10 THE COURT: All right.

11

12 FURTHER REDIRECT EXAMINATION

13 BY MR. WASANKARI:

14 Q Do you know if the deputy who threatened you, if his
15 name was Helmcke?

16 A No, I don't. I don't remember at all. There was
17 just too many of them there that day.

18 MR. WASANKARI: Thank you. I don't
19 have any further questions.

20 THE COURT: May this witness be
21 excused?

22 MR. WASANKARI: Yes, Your Honor.

23 MR. OLIVER: Yes, Your Honor.

24 THE COURT: You're excused.

25 (Witness excused.)

1 questions at this time. Thank you, ma'am.

2 THE COURT: Anything further,
3 Mr. Oliver?

4 MR. OLIVER: Probably just a
5 couple, Your Honor.

6
7 RECROSS EXAMINATION

8 BY MR. OLIVER:

9 Q Ms. Daunis, before Mr. Chouap was arrested, you had
10 been awake for a little while?

11 A I believe so, yes.

12 Q Do you remember how long you had been awake for?

13 A Three or four days and I had just purchased some more
14 methamphetamine so I could stay up to get the moving
15 done to get my manager off my back and wanting us out
16 of the apartment as bad as she did.

17 Q And you didn't go to sleep at the hospital?

18 A No, I didn't.

19 Q You didn't go to sleep before you went to the
20 hospital?

21 A No.

22 Q So the time you were at the hospital you had been up
23 for three or four days?

24 A If not longer, yes.

25 Q And you were concerned you say that the police were