

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

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COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
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STATE OF WASHINGTON)
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 Respondent,)
)
 v.) No. 34892-6-II
)
 JAMES CUNNINGHAM) STATEMENT OF ADDITIONAL
) GROUNDS FOR REVIEW
)
 Appellant.)

I James Cunningham, have received and reviewed the opening brief prepared by my attorney, Lisa E. Tabbut. 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

There is additional information that I, James Cunningham, requested my attorney, David Kurtz, to address during my superior court case trial, which Mr. Kurtz did not do. This information is directed solely at the school bus stop enhancement, where I was found guilty.

First and most importantly, there was no intent to sell marijuana. I was not hanging out in the area of this alleged school bus stop zone, distributing marijuana and then surprised by law enforcement, then arrested. The fact and truth, which was not disputed at trial, is that I was driving my vehicle home. A police car pulled behind me and turned on his lights to stop me for having a license plate light burned out, which is a traffic violation.

Second, I had no choice of where to pull my vehicle over. I was taught that if a police officer is behind you and turns on his lights, you are required to slow your vehicle, turn on your right turn signal, and stop your vehicle at a safe spot on the shoulder. What I described, is exactly what I did. The police officer turned on his lights and I pulled my vehicle over. It was after he pulled me over that he then discovered I had marijuana in my vehicle. This traffic stop occurred at 32nd and Daniels.

The prosecutor charged me with a school bus stop enhancement based on the assumption there was a school bus stop somewhere in the vicinity of where I pulled over for this traffic stop. I ask this court to please keep in mind that I had no choice but to pull my vehicle over when the police officer turned on his lights behind me nor was I aware I was allegedly in a school bus stop zone.

Finally, while I strongly feel I should not have received a school bus stop enhancement for pulling my vehicle over during a traffic stop, we are still not even positive where I was pulled over and stopped, that there is even a school bus stop at that location.

During the trial the prosecutor called Mr. McCarley who is a coordinator with the geographic information system for Clark County Assessor's Office. Mr. McCarley stated in his testimony, the prosecutor tells him where the school bus stop is, rather than asking Mr. McCarley where it is. Instead of asking Mr. McCarley questions, the prosecutor gives Mr. McCarley the information and as Mr. McCarley states in his testimony, he doesn't ask questions, he just agrees.

Please see VRP McCarley pg. 190 line 8-25, pg. 191 line 1-25, and pg. 192 line 1-3.

The prosecutor then has Ms. Bullard with the clark county school district testify. Ms. Bullard states in trial that she is positive there is a school bus stop at 30th and Franklin, yet I was pulled over in the area of 32nd and Daniels. Ms. Bullard then testifies she made a mistake and the school bus stop is at 30th and Daniels.

With all this confusing testimony, it makes me believe that a person can be pulled over on any residential street and the prosecutor can state, that location is a school bus stop zone.

Based on the information in the brief my appellant attorney provided, Lisa Tabbut, and the additional information I have provided above, I respectfully request this court to reverse the school bus stop enhancement conviction.

Thank you for your time and considerations.

Date: March 15, 2007

Signature: 