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END!!

STATEMENT OF THE CASE

ON FEB 24-2006. THE DEFENDANT WAS ARRESTED IN OYLIMPIA WASHINGTON, FOR ELLEGED VIOLATION OF A NO CONTACT ORDER. AFTER MS.PRAHL WAS PULLED OVER ON A TRAFFIC STOP. THE DEFENDANT WAS THE PASSENGER IN THE VEHICLE. AFTER OFFICER HINRICH DID A DRIVERS LICENCE CHECK ON THE DRIVER. THE CHECK SHOWED THAT MS.PRAHL WAS A PROTECTIVE PARTY IN A NO CONTACT ORDER. MR.JEFFERS WAS ARRESTED FOR ELLEGED VIOLATION OF A NO CONTACT ORDER. THE DEFENDANT WAS FOUND GUILTY IN A JURY TRIAL. THE DEFENDANT APPEALS.

ADDITIONAL GROUNDS ON APPEAL

- 1) VIOLATION OF DEFENDANTS FOURTH AMENDMENT "PROBABLE CAUSE".
- 2) INEFFICIENT EVIDENCE TO CONVICT.
- 3) VIOLATION OF DEFENDANTS SIXTH AMENDMENT RIGHT TO CONFRONT WITNESSES, AND FAILING TO INSTRUCT JURY.
- 4) PROSECUTIONAL MISCONDUCT.
- 5) INEFFECTIVE COUNSEL AT TRIAL.

ADDITIONAL GROUND-1

VIOLATION OF FOURTH " POBABLE CAUSE ". THE ARRESTING OFFICER HINRICH LACKED PROBABLE CAUSE TO ARREST DEFENDANT OF VIOLATION OF THE NO CONTACT ORDER. THERE IS NOTHING IN THE OFFICERS STATEMENT OR TESTIMONY GIVING PROBABLE CAUSE TO ARREST DEFENDANT FOR THE CRIME OF ALLEGED VIOLATION OF A NO CONTACT ORDER.

THE ARRESTING OFFICERS HINRICH'S STATEMENT AND TESTIMONY CLEARLY SHOWS THAT OFFICER HINRICH DID NOT AT ANY TIME DO ANY KIND OF INVESTIGATION AT ALL. AS YOU WILL READ IN OFFICER HINRICH TESTIMONY, YOU WILL READ HE ONLY RELIED ON THE DISPATCH THAT A NO-CONTACT ORDER WAS STILL IN EFFECT. CROSS-EXAMINATION BY MR. HACK, OFFICERS HINRICH'S TESTIMONY [5-17-2006 RP 26-27]

"Q" NOW, DID YOU ASK THAT EVENING IF DISPATCH HAD ANY SUCH INFORMATION ALLOWING LIMITED CONTACT?

"A" I AM SURE I DID.

"Q" WOULD DISPATCH NORMALLY HAVE THE INFORMATION?

"A" YES. MOST OF THE TIME THEY CAN TELL ME WHAT THE RESTRICTIONS ARE ON THE ORDER.

"Q" YOU TOLD MR. GRAHAM THAT AFTER YOU CONFIRMED MR. JEFFERS IDENTIFICATION AND THAT THIS WAS A NO-CONTACT ORDER, YOU ARRESTED HIM AND ASKED NO-FURTHER QUESTION?

"A" THAT IS CORRECT.

REVISED CODE OF WASHINGTON ANNOTATED TITLE 10, 10.61 TO END RCW 10.99.050(4) PAGE 493. IF AN ORDER PROHIBITING CONTACT ISSUED PURSUANT TO THIS SECTION IS MODIFIED OR TERMINATED THE CLERK OF THE COURT SHALL NOTIFY THE LAW ENFORCEMENT AGENCY SPECIFIED IN THE ORDER ON OR BEFORE THE NEXT JUDICIAL DAY. [5-17-2006 RP 26]

"Q" NOW, DID YOU ASK THAT EVENING IF DISPATCH HAD ANY SUCH INFORMATION ALLOWING LIMITED CONTACT?

"A" I'M SURE I DID.

"Q" WOULD DISPATCH NORMALLY HAVE THAT INFORMATION?

"A" YES. MOST OF THE TIME THEY CAN TELL ME WHAT THE RESTRICTIONS ARE ON THE ORDER.

"Q" 24 HOURS A DAY?

"A" YES.THEY ARE IN CONTACT WITH WHATSOEVER AGENCY ISSUED IT.

"Q" DO YOU REMEMBER EXPLICITLY WHETHER YOU CHECKED INTO THIS ISSUE WITH MR.JEFFERS AND MS.PRAHL THAT EVENING?

"A" I REMEMBER THAT I ALWAYS ASK.

WITH THAT INFORMATION GIVEN BY OFFICER HINRICHS OWN TESTIMONY THAT HE WOULD HAVE RECEIVED THE INFORMATION BY DISPATCH, WHY WOULD HE FAIL TO DO AN INVESTIGATION TO ESTABLISH PROBABLE CAUSE TO ARREST THE DEFENDANT. OFFICER HINRICHS OWN TESTIMONY[5-17-2006 RP 27-29]

"Q" YOU TOLD MR.GRAHAM THAT AFTER YOU CONFIRMED MR. JEFFERS IDENTIFICATION AND THAT THIS WAS A NO-CONTACT ORDER, YOU ARRESTED HIM AND ASKED NO FURTHER QUESTIONS?

"A" THAT IS CORRECT.

"Q" DID YOU ASK HIM WHY DID YOU TELL ME.. WHY DID YOU GIVE ME A DIFFERENT NAME?DID YOU ASK HIM?

"A" NO.JUST IT WAS KIND OF OBVIOUS.

"Q" WHAT WAS OBVIOUS?

"A" HE LIED ABOUT WHO HE WAS, AND THERE WAS A NO-CONTACT ORDER.

"Q" YOU SIMPLY DON'T HAVE ANY INTEREST IN KNOWING WHY THEY GIVE FALSE INFORMATION?

"A" NO.

"Q" YOU DO NOT REMEMBER CAPITOLA TELLING YOU WHY THEY WERE TOGETHER OR ANYTHING LIKE THAT?

"A" NO.

"Q" YOU DID NOT ASK?

"A" NO.

RCW 10.31.100(2)ARREST WITH OUT WARRANT. A POLICE OFFICER SHALL ARREST AND TAKE INTO CUSTODY PENDING RELEASE ON BAIL,PERSONAL RECOGNZANCE,OR COURT ORDER. A PERSON WITHOUT A WARRANT WHEN THE OFFICERS HAS PROBABLE CAUSE TO BELIEVE THAT" (A) AN ORDER HAS BEEN ISSUED OF WHICH THE PERSON HAS KNOWLEGE UNDER RCW 26.44.063 OR CHAPTER 10.99,26.09,26.10,26.26, 26.50,OR74.34 RCW RESTRIANING THE PERSON AND THE PERSON HAS VIOLATED THE TERMS OF THE ORDER RESTRIAINING THE PERSON FROM GOING ONTO THE GROUND OF OR ENTERING A RESIDENCE, WORKPLACE,SCHOOL.OR DAYCARE,OR PROHIBITING THE PERSON FRON KNOWINGLY COMING WITHIN , KNOWINGLY REMAINING WITHIN, A SPECIFIED DISTANCE OF A LOCATION OR,IN CASE OF AN ORDER ISSUED UNDER RCW 26.44.063, IMPOING ANY OTHER RESTRICTIONS OR CONDITIONS UPON THE PERSON.

IN OFFICER HINRICH TESTIMONY THE OFFFICER TESTIFIED THAT HE DID NO INVESTIGATION AT ALL,NOT ONLY DID THE OFFICER LACK PROBABLE CAUSE TO ARREST THE DEFENDANT, FOR THE CRIME OF VIOLATION A NO CONTACT ORDER. HIS ONLY REASON FOR ARRESTING THE DEFENDANT WAS THE FACT THE DEFENDANT LIED ABOUT HIS NAME. WHICH DOES NOT AMOUNT TO PROBABLE CAUSE TO ARREST DEFENDANT FOR THE CRIME OF ALLEGED VIOLATION OF A NO CONTACT ORDER.

[5-17-2006 RP 27]

"Q" SO YOU DO NOT RELY ON THE PEOPLE YOU ARE DEALING WITH, YOU RELY ON DISPATCH?

"A" YES.

"Q" IS IT POSSIBLE DISPATCH DID NOT HAVE THIS INFORMATION?

"A" THEY SHOULD HAVE ALL THE INFORMATION, IF THEY ARE READING IT TO ME,WHAT IS ENTERED IN THE LAW SUIT.

OFFICER HINRICH HAD INFORMATION BY DISPATCH BUT FAILED TO DO ANY KIND OF INVESTIGATION TO DETERMINE IF THE CONTACT WAS ALLOWED OR NOT,NO IN HIS OWN TESTIMONY HE CLEARLY STATES HE HAD NO INSTREST, AND DID NOT EVEN TRY TO FIND OUT WHY THE CONTACT BETWEEN MR. JEFFERS AND MS. PRAHL WAS TAKEN PLACE. HE ONLY RELIED ON THE FACT THAT MR.JEFFERS LIED ABOUT HIS NAME SO HE MUST BE GUILTY OF SOMETHING. LIEING ABOUT YOUR NAME IS NOT A ELEMENT OF THE CRIME OF VIOLATION OF A NO CONTACT ORDER. THERE FOR LACKING PROBABLE CAUSE TO ARREST. BLACK LAWS DICTIONARY PAGE 1239 PROBABLE CAUSE."PROBABLE CAUSE MAY NOT BE ESTABLISHED SIMPLY BY SHOWING THAT THE OFFICER WHO MADE THE CHALLENGE ARREST OR SEARCH SUBJECTIVELY BELIEVED HE HAD GROUNDS FOR HIS ACTION. AS EMPHASIZED IN BECK V.OHIO 379 U.S. 89,85.Ct.223,1964): IF SUBJECTIVE GOODFAITH ALONE WERE THE TEST. THE PROTECTION OF THE FORTH AMENDMENT WOULD EVAPARATE,AND THE PEOPLE WOULD BE "SECURE IN THEIR PERSON,HOUSE,PAPERS,AND EFFECTS" ONLY IN THE DISCRETION OF THE POLICE. THE PROBABLE CAUSE TEST THEN IS AN OBJECTIVE ONE:FOR THERE TO BE PROBABLE CAUSE,THE FACTS MUST BE SUCH AS WOULD WARRANT A BELIEF BY A REASONABLE MAN.

THE FACT IS THE OFFICER HAD INFORMATION PROVIDED BY DISPATCH AND FAILED TO DO ANY KIND OF INVESTIGATION TO DETERMINE WHETHER OR NOT MR.JEFFERS AND MS.PRAHL WERE INFACT VIOLATING THE TERMS OF THE ORDER.

THE OFFICER OWN TESTIMONY SHOWS THAT OFFICER HINRICH DID NOT EVEN TRY TO EFFECT A INVESTIGATION AT ALL. RELIEING ON THE FACT IF THE DEFENDANT LIED ABOUT HIS NAME, HE MUST BE GUILTY OF A CRIME. THE OFFICER DID NOT ARREST MR.JEFFERS FOR LIEING ABOUT HIS NAME, OFFICER HINRICH ARRESTED MR.JEFFERS FOR VIOLATING THE NO CONTACT ORDER. THERE FOR LACKING PROBABLE CAUSE TO ARREST THE DEFENDANT FOR THE CRIME OF VIOLATING A NO CONTACT ORDER. **VIOLATING THE DEFENDANTS FOURTH AMENDMENT.**

END OF GROUND-1

ADDITIONAL GROUND-2

INEFFICIENT EVIDENCE TO CONVICT. IN ORDER FOR THE STATE TO CONVICT THE DEFENDANT OF A CRIME OF VIOLATION OF A ORDER FOR PROTECTION. FIRST THE STATE MUST PROVE THE DEFENDANT VIOLATED THE TERMS OF THE ORDER. IN ORDER TO PROVE THAT THE DEFENDANT VIOLATED THE TERMS OF THE NO CONTACT ORDER, THE STATE MUST PROVE THAT MS.PRAHL AND THE DEFENDANT WERE NOT TOGETHER FOR THE PURPOSE OF THEIR CHILDS CUSTODY AND CARE ISSUES. IN ORDER TO CONVICT DEFENDANT FOR VIOLATING THE NO CONTACT ORDER. THE STATE MUST SHOW EVIDENCE THAT A CRIME WAS COMMITTED FIRST. NOW WE MUST REFLECT BACK TO THE NO CONTACT ORDER ITS SELF "EXHIBIT-1 " THE AMENDED SECTION."STATES" THE DEFENDANT MAY HAVE LIMITED CONTACT WITH MS.MOYER/PRAHL SOLELY FOR THE PURPOSE OF THEIR CHILDS CUSTODY AND CARE ISSUES.

THE AMENDED SECTION STATES WITH MS.MOYER/PRAHL.

THE AMENDED SECTION DOES NOT STATE A THIRD PARTY,
A SET TIME,DATE,OR A PLACE WERE THIS MUST TAKE PLACE.

IT WAS LEFT IN MS.MOYER/PRAHLS AND MR.JEFFERS-

"DICRETION". THE STATE IS LEFT WITH THE BURDEN TO
PROVE THAT MS.PRAHL AND THE DEFENDANT WERE NOT FOLLOW-
ING THE TERMS OF THE ORDER. MS.PRAHL NEVER REPORTED
THAT A CRIME WAS TAKEN PLACE, GIVEN NO REASON TO
BELIEVE THAT A CRIME EXCISTED.

THE ONLY WITNESS CALLED TO TESTIFIE FOR THE STATE WAS
OFFFICER HINRICH, THE ARRESTING OFFICER. IN THE OFFICE
OWN TESTIMONY, OFFICER HINRICH TESTIFIED HE DID NOT
HEAR ANY CONVERSATION BETWEEN THE DEFENDANT AND MS.
PRAHL.CROSS-EXAMINATION BY MR.HACK[5-17-2006 RP 24]

"Q" DID IT APPEAR TO YOU THAT SHE AND MR.JEFFERS WERE
IN ANY WAY UNWILLINGLY TOGETHER IN THAT CAR THAT EVEN-
ING?

"A" NO.

"Q" DID YOU OBSERVE THEM TALKING TO EACH OTHER OR
ANYTHING?

"A" I DO NOT RECALL A CONVERSATION.I AM SURE THEY WERE
TALKING IN THE VEHICLE.

"Q" BUT ONCE YOU STOPPED THEM, YOU DID NOT HEAR ANY
CONVERSATION BETWEEN THEM?

"A" NO.

IN THE OFFICERS OWN TESTIMONY THE OFFICER TESTIFIED HE DID NOT HEAR ANY CONVERSATION BETWEEN THEM. BUT ME STATES IN[5-17-2006 RP 24]

"A" I DO NOT RECALL A CONVERSATION, IM SURE THEY WERE TALKING IN THE VEHICLE.

HIS OWN TESTIMONY STATES HE HEARD NO CONVERSATION, BUT HE ASUMES THEY WERE TALKING IN THE VEHICLE. HE NEVER HEARD ANY CONVERSATION TO BACK HIS ASUMED REMARK CARRING NO WEIGHT. IN FACT THE ONLY REASON THE OFFICER USED TO JUSTIFIE THE ARREST WAS[5-17-2006 RP 29]

"Q" DID YOU ASK HIM, WHY DID YOU TELL ME WHY YOU GIVE ME A DIFFERENT NAME? DID YOU ASK HIM?

"A" NO. JUST IT WAS KIND OF OBVIOUS.

"Q" WHAT WAS OBVIOUS?

"A" HE LIED ABOUT WHO HE WAS, AND THERE WAS A NO CONTACT ORDER.

THE DEFENDANT WAS NOT ARRESTED FOR LIEING ABOUT HIS NAME. THE DEFENDANT WAS ARRESTED AND BOOKED IN TO JAIL FOR VIOLATING THE NO CONTACT ORDER. THERE WAS NO EVIDENCE TO SUPPORT A CONVICTION FOR VIOLATING A NO CONTACT ORDER IN OFFICERS HINRICHS TESTIMONY. IN FACT THE OFFICERS OWN STATMENT AND TESTIMONY SUPPORTED THE DEFENDANTS ARDUEMENT. BY STATING WHAT MS.PRAHL TOLD HIM.[5-17-2006 RP 31-32]

"Q" DID SHE GIVE YOU ANY INFORMATION AS TO WHY THEY WERE TOGETHER?

"A" AT THE BOTTOM OF MY REPORT I NOTED THAT I ASKED HER IF SHE WAS THEIR VOLANTARILY IN THE VEHICLE. SHE SAID THAT SHE WAS. THEY WERE TRING TO WORK OUT ISSUES, AND EVERYTHING WAS FINE.

NOTHING IN THE OFFICERS TESTIMONY GIVES THE STATE ANY EVIDENCE TO WHAT MS.PRAHL AND MR.JEFFERS WERE YALKING ABOUT. THE FACT IS WHEN PARENTS GET TOGETHER TO WORK OUT A NUMBER OF ISSUES INVOLVING THERE CHILD, IT IS THE PARENTS ISSUES. POEPLER DO NOT SAY WERE WORKING OUT OR CHILDS ISSUES. BECOUSE YOUR CHILDRENS ISSUES ARE YOUR ISSUES. IN FACT THE STATES OWN CONMENT IN THE STATES CLOSING ARGUMENTS BY MR.GRAHAM STATES. [RP 94] HOW MINY TIMES DID YOU HEAR THE DEFENDANT USE THE WORD "SOLE". SHE CAME OVER FOR THE SOLE PURPOSE. COME ON. PEOPLE DO NOT TALK LIKE THAT UNLESS THEY HAVE A REASON TO". THE FACT THE STATES OWN WORDS, PEOPLE DO NOT TALK LIKE THAT.

THERE ARE NO WITNESSES OR EVIDENCE, ELEMENTS AND NO FACTS TO SUPPORT THE STATES OPION THAT A CRIME EVER HAPPENED, OR THAT MS.PRAHL AND THE DEFENDANT WERE DOING ANYTHING OTHER THEM FALLOWING THE TERMS OF THE ORDER. AND JUST BECOUSE MS.PRAHL AND THE DEFENDANT DID NOT MAKE KNOW TO THE OFFICER IS NOT A ELEMENT OF A CRIME OF VIOLATION OF A NO CONTACT ORDER,NORE IS LIEING ABOUT YOUR NAME A ELEMENT OF VIOLATION OF A NO CONTACT ORDER. IN FACT NO WERE IN THE ORDER THAT IT STATES WE HAVE TO MAKE IT KNOW TO THE POLICE OFFICER THAT THERE IS A NO CONTACT ORDR IN PLACE. IN FACT ITS THE CLERKS RESPONSABLITY TO NOTIFY THE LAW ENFORSMENT AGENCY SPECIFIED IN THE ORDER.UNDER RCW 10.99.050(4).

AND AFTER THE OFFICER RECEIVED THE INFORMATION FROM DISPATCH, THE OFFICER SHOULD HAVE QUESTION THE PARTYS ABOUT THE TERMS OF THE ORDER. OFFICER HINRICH STATED IN HIS TESTIMONY THAT HE WOULD OF RECEIVED THAT FROM DISPATCH, AND WOULD OF ASKED IF THERE WAS ANYTHING ALLOWING CONTACT. BUT NO THE OFFFICER CHOSE NOT TO ASK THE PARTYS ABOUT THE TERMS OF THE ORDER OR INVESTIGATE WHAT WAS STATED IN THE ORDER TO SEE IF IN FACT OR NOT IF THE PARTY WAS FALLOWING THE TERMS OF THE ORDER. HE CHOSE TO ARREST THE DEFENDANT BE- COUSE IT WAS OBVIOUS, HE LIED ABOUT HIS NAME, HE MUST BE GUILTY OF A CRIME. THE OFFICER PLACED THE DEFENDANT UNDER ARREST FOR VIOLATING THE NO CONTACT ORDER, NOT FOR LIEING ABOUT HIS NAME. THE FACT IS THE STATES WHOLE CASE WEIGHTED ON THE DEFENANTS CREDITBILITY AS A WITNESS, AND DEFENDANTS TESTIMONY. **CLOSING ARGUMENT BY STATE [RP 89] THEY ABMITE TO EVERY ELEMENT OF THE CRIME.**

YOU ARE THE SOLE JUDGES OF THE CREDIBILTY OF THE WITNESSES"THATS WHAT IT COMES DOWN TO".

NOW WE GOTO THE CLOSING ARGUEMENT BY THE STATE AND THE STATE REFLECTS BACK TO THE OFFICERS TESTIMONY TRYING TO DISCREDIT THE DEFENDANTS CREDIBILITY. **BY THE STATE CLOSING ARGUEMENT[RP 91] IF YOU REMEMBER THE OFFICERS TESTIMONY, THE CAR WENT UNDER THE UNDER PASS. IT WAS NOT GETTING ON THE FREEWAY. HE DID NOT SAY HE WAS GETTING ON THE FREEWAY. HE WENT UNDER THE UNDERPASS OF I-5 AND WAS CONTINUEING ON PACIFIC WHEN I INITRATED THE STOP.**

NOT ONLY DID THE PROSECUTOR MR.GRAHAM LIE TO THE JURY, HE MISS LEAD THEM BY GIVING THE JURY FALSE INFORMATION ABOUT HIS OWN WITNESS, BY CLAIMING THE OFFICER GAVE A TOTALLY DIFFERENT TESTIMONY THEN HE GAVE.OFFICERS HINRICHS TESTIMONY ON DIRECT EXAM BY MR.GRAHAM HIM SELF[5-17-2006 RP 11]

"Q" HOW DID IT START?

"A" TRAFFIC STOP.I STOPPED THE VEHICLE THAT WAS GETTING DOWN TO GOING WEST GETTING ON I-5 SOUTH-BOUND.

BUT NO MR.GRAHAM TELLS THE JURY THAT OFFICER HINRICH TESTIFIED THAT HE WENT UNDER THE UNDERPASS OF I-5 AND WAS CONTINUEING ON PACIFIC, WHEN THE OFFICER MADE THE STOP. AND TELLS THE JURY."HE DID NOT SAY HE WAS GETTING ON THE FREEWAY". HE TELLS THE JURY THIS TO DISCREDIT THE DEFENDANTS STORY. MISS LEADING THE JURY BY LIEING ABOUT THE OFFICERS TESTIMONY. NOT ONLY WAS THIS OFFICER TESTIMONY GIVEN ON DIRECT EXAM BY MR.GRAHAM, MR.GRAHAM WAS THE PERSON ASKING OFFICER HINRICH THESE QUESTIONS IN [5-17-2006RP 11] MR.GRAHAM NOT ONLY TELLS THE JURY ITS ABOUT THE CREDIBILITY OF THE WITNESSES. HE FABERCATES HIS OWN WITNESSES TESTIMONY, BY TELLING THE JURY FALSE INFORMATION ABOUT OFFICER HINRICHS TESTIMONY. KNOWING GOOD IN WELL OFFICER HINRICH TESTIMONY DID NOT STATE THAT. ITS CLEAR THIS WAS ATTEMPTED TO DISCREDIT THE DEFENDANT. BY LIEING TO THE JURY AND GIVING FALSE STATMENTS ABOUT A WITNESS, HIS OWN WITNESS.

MR.GRAHAM DOES NOT STOP THERE,HE CONTINUED TO TRY AND DISCREDIT THE DEFENDANTS STORY. IN THE CLOSING ARGUE-MENTS BY THE STATE,MR.GRAHAM ATTACKS THE DEFENDANTS CREDIBILITY BY TELLING THE JURY FALSE INFORMATION. CLOSING ARGUEMENTS BY MR.GRAHAM[RP 93] NOW,WHAT WAS INTERESTING IS WHEN SOMEONE DOES TAKE THE STAND ,EVERYTHING THEY SAY IS SUBJECT TO EVALUATION.HE WAS ARRESTED ON FEB 10th FOR VIOLATING THE NO CONTACT ORDER, AND HE SAYS THAT WELL I TOLD THE POLICE ALL THAT. AND AGAIN I ASKED HIM,AND YOU'LL RECALL ,IS THAT IN THE POLICE REPORT? NO.NOPE.ITS NOT. SO NOT ONLY DO OLYMPIA OFFICERS APPARENTLY CAN NOT BE TRUSTED BUT APPARENTLY CENTRALIA MUNICIPAL OFFICERS CAN NOT BE TRUSTED AS WELL.AND WE TALKED ABOUT IT. A WHOLE BUNCH OF METHAMPHETAMINES FOUND IN THE CAR. HE SAYS IM CLEAN, YOU KNOW,THE OFFICER SAY THAT YOU ADMITTED TO IT. YEAH,BUT I NEVER SAID ANY OF THAT EITHER,SO NOT ONLY DO THE OFFICERS LEAVE THINGS OUT THEY NOW PUT THINGS IN THAT ARE NOT TRUE.COME ON".

MR.GRAHAM IS TRYING TO DISCREDIT THE DEFENDANTS CREDIBILITY AGAIN BY MANAFESTING HIS OWN WITNESSES TESTIMONY, BY STATING THE DEFENDANTS STORY DOES NOT HOLD WATER. THAT THE DEFENDANTS TESTIMONY THAT THE OFFICER LEFT THINGS OUT. MR.GRAHAM TELLS THE JURY THIS TO DISCREDIT THE DEFENDANTS STORY THAT THE OFFICER LEFT THINGS OUT,BY TELL THE JURY THAT DOES NOT HAPPEN OR HOLD WATER.

NOW WE GO BACK TO THE CROSS EXAM BY MR.HACK OF OFFICER
HINRICH [5-17-2006 RP 26-27]

"Q" NOW, DID YOU ASK THAT EVENING IF DISPATCH HAD ANY
SUCH INFORMATION ALLOWING LIMITED CONTACT?

"A" IM SURE I DID.

"Q" DID YOU PUT IT IN YOUR REPORT?

"A" NO.

"Q" DO YOU REMEMBER EXPLICITLY WHETHER YOU CHECKED INTO
THIS ISSUE WITH MR.JEFFERS AND MS.PRAHL THAT EVENING?

"A" I REMEMBER THAT I ALWAYS ASK.

"Q" BUT YOU DID NOT PUT IT IN YOUR REPORT?

"A" NO.

MR.GRAHAM CLAIMS THAT MY STORY DOES NOT HOLD WATER,
BECAUSE HE TELL THE JURY ITS DOES NOT MAKE SENCE THE
OFFICERS WOULD LEAVE THINGS OUT. BUT HIS OWN WITNESS
OFFICER HINRICH TESTIFIED THAT HE LEFT THINGS OUT.
AGAIN ITS CLEAR HE IS MISS LEADING THE JURY BY
FABERCATING HIS OWN ANSWERS TO HIS OWN WITNESSES
TESTIMONY. NOT ONLY DOES MR.GRAHAM LIE TO DISCREDIT
THE DEFENDANT BY TELLING THE JURY OFFICER HINRCH
TESTIMONY WAS SOMETHING OTHER THEN THE TRUE TESTIMONY
OF OFFICER HINRICH. THIS IS TWICE HE LIED AND MESS
LEAD THE JURY BY TELLING THE JURY HIS OWN MANAFESTED
CLOSING ARGUEMENT NOT BASED ON THE TESTIMONYS OF THE
WITNESSES. OR THE EVIDENCE. NOT ONLY DID MR.GRAHAM
GIVE FALSE INFORMATION ABOUT HIS OWN WITNESSES TESTI-
MONY TO THE JURY TO DISCREDIT THE DEFENDANTS CREDIB-
ILITY.

ITS CLEAR WHAT THE REASON WAS THAT MR.GRAHAM LIED ABOUT HIS OWN WITNESSES TESTIMONY TO THE JURY TO DISCREDIT THE DEFENDANTS STORY. ITS NOT BY MISTAKE THAT MR.GRAHAM LIED TO THE JURY ABOUT HIS WITNESSES TESTIMONY. AS YOU SEE MR.GRAHAM FABERCATED THE TESTIMONY OF OFFICER HINRICHS TESTIMONY IN THE AREAS THAT BACKED THE DEFENDANTS TESTIMONY. TRYING TO SHOW THE JURY THAT AT NO TIME DOES THE DEFENDANTS STORY HOLD WATER. THE DEFENDANT TESTIFIES THAT MS.PRAHL AND HE WAS GETTING ON THE FREEWAY WHEN PULLED OVER. SO MR.GRAHAM TELLS THE JURY NO THE OFFICER NEVER SAID THAT AT ALL. STATING THE OFFICER NEVER SAID THAT. MR.GRAHAM KNEW THAT PART OF THE OFFICERS TESTIMONY MATCHED THE DEFENDANTS STORY AND WOULD GIVE THE DEFENDANTS STORY CREDIBILITY. NOW WE GO TO OFFICER HINRICHS TESTIMONY[5-17-2006 RP 11]

"Q" HOW DID IT START?

"A" TRAFFIC STOP.I STOPPED THE VEHICLE THAT WAS GETTING ON DOWN ON TO GOING DOWN WEST GETTING ON I-5 SOUTHBOUND.

BUT IN MR.GRAHAMS CLOSING ARGUEMENT MR.GRAHAM TELLS THE JURY A TOTALLY DIFERENT FALSE TESTIMONY OF THE OFFICERS HINRICHS TRUE TESTIMONY. CALLING IT TO THE JURYS ATTENTION [RP 91] IF YOU REMEMBER THE OFFICERS TESTIMONY THE CAR WENT UNDER THE UNDERPASS. IT WAS NOT GETTING ON THE FREEWAY. HE DID NOT SAY HE WAS GETTING ON THE FREEWAY. HE WENT UNDER THE UNDERPASS OF I-5 AND WAS CONTINUEING ON PACICIC WHERE I INITIATED THE STOP.

AND AGAIN MR.GRAHAM LIES IN HIS CLOSING ARGUEMENT IN THE OTHER AREA THAT WOULD GIVE THE DEFENDANTS STORY CREDIBILITY. BY STATING IN CLOSING ARGUEMENTS TO THE JURY.[RP 93] AND HE SAYS THAT,WELL,I TOLD THE POLICE ALL. AND AGAIN I ASKED HIM AND YOULL RECALL,IS THAT IN THE POLICE REPORT?NO.NOPE.ITS NOT. SO NOT ONLY DO OLYMPIA OFFICERS APPARENTLY CAN NOT BE TRUSTED,BUT CENTRALIA MUNICIPAL OFFICERS CAN NOT BE TRUSTED AS WELL AND WE TALKED ABOUT A WHOLE BUNCH OF METHAMPHETAMINE FOUND IN THE CAR. HE SATS IM CLEAN.YOU KNOW,THE OFFICER SAY THAT YOU ADMITTED TO IT.YEAH,BUT I NEVER SAID ANY OF THAT EITHER. SO NOT ONLY DO THE OFFICERS LEAVE THINGS OUT,THEY NOW PUT THINGS IN THAT ARE NOT TRUE.COME ON. THATS AT SOME POINT ITS DOES NOT HOLD WATER.

BUT MR.GRAHAMS OWN WITNESS TESTIFIED THAT HE LEFT THINGS OUT OF HIS REPORT.[5-17-2006 RP 26-27]

"Q" NOW,DID YOU ASK THAT EVENING IF DISPATCH HAD ANY SUCH INFORMATION ALLOWING CONTACT?

"A"IM SURE I DID.

"Q" DID YOU PUT IT IN YOUR REPORT?

"A" NO.

"Q" DO YOU REMEMBER EXPLICITLY WHETHER YOU CHECKED IN TO THIS ISSUE WITH MR.JEFFERS AND MS.PRAHL THAT EVENING?

"A" I REMEMBER THAT I ALWAYS ASK.

"Q" BUT YOU DID NOT PUT IT IN YOUR REPORT?

"A" NO.

ITS CLEAR THAT MR.GRAHAM KNEW WHAT HE WAS DOING, THE TWO PARTS OF OFFICER HINRICHS TESTIMONY THAT WOULD HELP THE DEFENDANTS CREDIBILITY, MR. GRAHAM TOLD THE JURY IN CLOSING ARGUEMENTS THAT THE OFFICER TESTIFIED TO SOMETHING OTHER THEN THERE REAL TESTIMONY TO MISS LEAD THE JURY. THE STATES WHOLE CLOSING ARGUEMENTS WAS TO DISCREDIT THE DEFENDANTS CREDIBILITY.

MR.GRAHAM EVEN GOES AS FARE AS TO TELL THE JURY THE DEFENDANT ABMITTED TO ALL ELEMENTS OF THE CRIME. BY STATING IN CLOSING ARGUEMENTS[RP 92]AND, IN FACT ,THE DEFENDANT EVEN TESTIFIED NO, WE TALKED ABOUT OTHER THINGS. THEY TALKED ABOUT LOT OF THINGS HE ABMITS TO. [RP 95] HE ABMITTED, LADIES AND GENTLMEN, THAT THEY TALKED ABOUT OTHER THINGS, THATS NOT ALLOWED, THATS NOT ALLOWED.

THATS NOT TRUE AND MR.GRAHAM MANAFESTED SOMETHING THAT NOT THERE. NO WERE IN THE DEFENDANTS TESTIMONY DOES MR. JEFFERS ABMITE HE TALKED ABOUT ANYTHING OTHER THEN HIS CHILDS NEEDS, CARE AND CUSTODY. MR.JEFFERS DIRECT EXAM. [RP 32-33]

"Q" WAS THAT THE ONLY THING THAT YOU DISCUSSED WITH HER THAT NIGHT?

"A" SHE WAS PRETTY NERVOUS ABOUT GOING TO TREATMENT AND IT WAS KIND OF MIXED, BUT IT WAS ALL BASED ON OUR DAUGHTERS AND HOW SHE COULD NOT HANDLE OUR DAUGHTER. IT WAS ALL ABOUT OUR DAUGHTERS CARE ISSUES. MAIN THING WAS BASED ON OUR DAUGHTER.

AGAIN [RP 54]

"Q" RIGHT AND SO YOU WOULD HAVE THE JURY BELIEVE THAT DURING THIS ENTIRE , LEAST BY YOUR OWN ABMISSIONS ON HOUR AND 15minits ,YOU DO NOT TALK ABOUT ANYTHING EXCEPT YOUR DAUGHTERS CUSTODY AND CARE ISSUES. IS THAT WHAT YOURE TRYING TO SAY?

"A" NO.IM NOT TRYING TO SAY THAT.

"Q" YOUR NOT?

"A" THAT WAS THE REASON WHY WE WERE TOGETHER.

"Q" RIGHT, BUT IT WAS NOT ALL YOU TALKED ABOUT.WAS IT? IN FACT, YOU TESTIFIED THERE WAS A MIXTURE OF THINGS WE TALKED ABOUT,THATS YOUR OWN WORDS,CORRECT?

"A" YES, THERE WAS OTHER THINGS.

"Q" OKAY.

"A" THAT CONCERNED OUR DAUGHTER.

"Q" JUST YES OR NO MR.JEFFERS. YOU USED THE WORDS, WE TALKED ABOUT A MIXTURE OF THINGS,CORRECT?

"A" YES, ALL HUMANS KNOW THAT YOU JUST CAN NOT TALK ABOUT ONE CERAIN THING.

MR.GRAHAM USED THESE QUESTIONS AND ANSWERS TO CONFUSE THE JURY. THE DEFENDANT DID TESTIFE THEY TALKED ABOUT A MIXTURE OF THINGS, BUT ALSO CLEARIFIED THAT IT ALL CONCERNED THERE DAUGHTER[RP 54]

"A" THAT CONCERNED OUR DAUGHTER.

MR.GRAHAM WENT FROM TALKING ABOUT WHAT MS.PRAHL AND THE DEFENDANT WERE TALKING ABOUT TO ASKING DEFENDANT QUESTIONS THAT THE DEFENDANT DID NOT TESTIFIE TO. TO FURTHER TRY TO MAKE THE JURY BELIEVE MS.PRAHL AND THE DEFENDANT TALKED ABOUT OTHER THINGS THEN THERE DAUGHTER CARE ISSUES.

[RP 55]

"Q" SO ON FEBRAURY 10TH, YOU GOT TOGETHER AND ACTUALLY, CAPITOLA SAID THAT SHE DID NOT WANT TO STAY TOGETHER, IS WHAT YOU TESTIFIED TO?

"A" STAY TO GETHER?

"Q" DID NOT WANT TO STAY WITH YOU.

"A" WHO?

"Q" CAPITOLA THJAT EVENING, THATS WHY YOU GUYS GOT IN AN ARGUEMENT THAT NIGHT, YOU TESTIFIED TO.

"A" WHEN?

"Q" ON THE 10th.

"A" WE DID NOT GET IN AN ARGUEMENT. I NEVER SAID WE GOT INTO AN ARGUEMENT.

AT NO TIME DID THE DEFENDANT TESTIFIE TO THAT, AND ITS NO WERE IN THE DEFENDANTS TESTIMONY. MR. GRAHAM KNEW GOOD AND WELL THE DEFENDANT NEVER TESTIFIED TO THAT OR WAS IT ANY WHERE IN THIS CASE OR ANY OTHER CASE.

MR. GRAHAM ASKED THOSE QUESTIONS REFURING TO DEFENDANTS TESTIMONY SO THE JURY WOULD BE LIEVE THE DEFENDANT AND MS. PRAHL TALKED ABOUT MORE THEN THERE DAUGHTERS CARE ISSUES. KNOWING THAT ASKING THOSE QUESTION IN THAT WAY WOULD MAKE THE JURY BELIEVE THAT THE DEFENDANT EARLYER TESTIFIED TO THAT, THINGS OTHER THEN THERE CHILDS CARE ISSUES. NOT ONLY DID THE PROSECUTOR USE MISCONDUCT BY ASKING QUESTIONS ABOUT TESTIMONY THAT NEVER TOOK PLACE IN ORDER TO DRAW A PICTURE TO THE JURY THAT THE DEFENDANT VIOLATED THE COURT ORDER.

THE FACT IS THERE IS NO EVIDENCE THAT THE DEFENDANT AND MS.PRAHL TALKED ABOUT ANYTHING OTHER THEN WHAT WAS ALLOWED IN THE ORDER,JUST BECOUSE THE DEFENDANT TESTIFIES HE AND MS.PRAHL TALKED ABOUT A MIXTURE OF THINGS, IS NOT EVIDENCE. THERES NOTHING TO BACK THAT, AND THE MISCONDUCT OF PROSECUTION,BY ASKING QUESTION THAT DID NOT HAPPEN,**TAINTING** THE JURY. MR.GRAHAM KNEW DEFENDANT DID NOT TESTIFIE TO THE QUESTIONS ABOUT CAPITOLA DID NOT WANT TO STAY TOGETHER OR THAT DEFENDANT TESTIFIED THAT CAPITOLA AND HE GOT IN TO A ARGUEMENT, KNOWING GOOD AND WELL THE DEFENDANT NEVER TESTIFIED TO ANYTHING CLOSE TO THAT OR IS IT ANY WERE IN ANY REPORT, MISS LEADING THE JURY. BECOUSE THERES NO WERE FOR THE PROSECUTOR TO GET THAT MEST UP FROM. IT WAS CLEAR AN ATTEMP TO MISLEAD THE JURY. THE STATES WHOLE CASE WAS BASED ON CREDIBILTY OF THE DEFENDANT AND USEING TRICKERY IN HIS CROSS EXAM OF THE DEFENDANT BY ADDING FALSE QUESTIONS ABOUT TESTIMONY THAT NEVER TOOK PLACE. THE STATE LIED TO THE JURY ABOUT HIS OWN WITNESSES TESTIMONY TWICE IN CLOSING ARGUEMENTS TO DISCREDIT THE DEFENDANTS STORY. IN THE TWO AREAS THAT WOULD GIVE THE DEFENDANT CREDIBILITY.

THERE IS INEFFICIENT EVIDENCE TO CONVICT. AND STATE TO USE THE DEFENDANTS TESTIMONY THAT MS.PRAHL AND HE TALKE D ABOUT A MIXTURE OF THINGS,KEEP IN MIND THE DEFENDANT TESTIFIED IN HIS DIRECT EXAM THAT IT WAS ALL BASED ON OUR DAUGHTERS.

[RP 32]

"Q" WAS THAT THE ONLY THING YOU DISCUSSED WITH HER THAT NIGHT?

"A" SHE WAS PRETTY NERVOUS ABOUT GOING TO TREATMENT AND IT WAS KIND OF MIXED BUT IT WAS ALL BASED ON OUR DAUGHTER.

AND AGAIN IN DEFENDANTS CROSS-EXAM [RP 54]

"Q" RIGHT, BUT IT WAS NOT ALL YOU TALKED ABOUT, WAS IT? IN FACT YOU TESTIFIED THERE WAS A MIXTURE OF THINGS WE TALKED ABOUT, THAT YOUR OWN WORDS, CORRECT?

"A" YES, THERE WAS OTHER THINGS.

"A" THAT CONCERNED OUR DAUGHTER.

THE DEFENDANT CLEARLY TESTIFIED THAT THE MIXTURE OF THINGS ALL CONCERNED THEIR DAUGHTER. BUT THE STATE DOES NOT TELL THE JURY IN CLOSING ARGUMENTS THE WHOLE ANSWERS TO THOSE QUESTIONS. THERE NO STATEMENT IN THE DEFENDANTS TESTIMONY GIVING THE STATE EVIDENCE OF MS. PRAHL AND THE DEFENDANT TALKED ABOUT. REFERRING TO "MIXTURE". IT WAS CLEAR IN THE STATES CROSS-EXAM AND CLOSING ARGUMENTS THAT THE PROSECUTION HAD NO EVIDENCE AND EVEN WENT AS FAR AS TO FABRICATE THE TESTIMONY OF THE DEFENDANT, MAKING THE JURY BELIEVE THEY HEARD THE DEFENDANT TESTIFY IN HIS TESTIMONY OF THE OTHER THINGS MS. PRAHL AND DEFENDANT TALKED ABOUT, BUT ADDING TO THE END OF HIS QUESTIONS "YOU TESTIFIED TO". KNOWING GOOD IN WELL THE DEFENDANT NEVER TESTIFIED TO THOSE QUESTIONS.

AND ITS CLEAR THE STATE KNEW WHAT HE WAS DOING. BECOUSE THE STATE ASKED MINY QUESTIONS BUT NEVER ADDED AT THE END OF THE QUESTIONS " YOU TESTIFIED TO " TO THOSE TWO QUESTIONS TO MAKE THE JURY DELIEVE THE DEFENDANT DID TESTIFIE TO THIOSE QUESTIONS ASKED. REFURING TO AND THE PLACE WERE HE CHOSE TO ASK THOSE MISLEADING QUESTIONS. [RP 55]

"Q" SO ON FEDRUARY 10TH. YOU GOT TOGETHER AND ACTUALLY CAPITOLA SAID THAT SHE DID NOT WANT TO STAY TOGETHER, "IS WHAT YOU TESTIFIED TO"?

"Q" CAPITOLA , THAT EVENING , THATS WHY YOU GUYS GOT IN AN ARGUEMENT THAT NIGHT "YOU TESTIFIED TO"?

"A" WE DID NOT GET IN AN ARGUEMENT. I NEVER SAID WE GOT INTO AN ARGUEMENT.

"Q" OKAY.

ITS NOWHERE IN THE DEFENDANTS TESTIMONY OR IN ANY STATEMENT AT ALL THAT STATE THOSE QUESTIONS. THE STATE KNEW THE DEFENDANT NEVER TESTIFIED TO THAT. THE STATE HAD ME TESTIFIE MS. PRAHL AND THE DEFENDANT TALKED ABOUT A MIXTURE OF THINGS. BUT AT NO TIME DID THE DEFENDANT GIVE ANY STATEMENT TO ANYTHING OTHER THEN TALKING ABOUT THERE CHILDS CUSTODY AND CARE ISSUES. SO THE STATE FABERCATED THERE OWN ANSWERS TO MIXTURE OF THINGS BUY ASKING THE DEFENDANT QUESTIONS AND REFURING TO THEM AS IF THE DEFENDANT EARLIER TESTIFIED TO THEM AS HIS OWN TESTIMONY, BY ADDING " YOU TESTIFED TO " AT THE END OF THOSE FABERCATED QUESTIONS.

IN DOING SO THE STATE TAINTED THE JURY. AND REFURING TO A MIXTURE OF THINGS, LOOK IN THE BLACKS LAW DICTIONARY SIXTH EDITION.

PAGE 213 CARE, WATCHFUL ATTENTION: CONCERN: CUSTODY:, DILIGENCE: DISCRETION: CAUTION: OPPOSITE OF NEGLIGENCE OR CARELESSNESS PRUDENCE: REGARD: PRESERVATION:, SECURITY: SUPPORT: VIGILANCE. TO BE CONCERNED WITH, AND TO ATTEND TO, TO NEED ONESELF OR ANOTHER.....

PAGE 384 CUSTODY, THE CARE AND CONTROL OF A THING OR PERSON. THE KEEPING, GUARDING, CARE WATCH, INSPECT, PERSERVATION OR SECURITY OF A THING OR PERSON, CARRING WITH IT THE IDEA OF THE THING BEING WITHIN THE IMMEDIATE PERSONAL CARE AND CONTROL OF THE PERSON TO WHOSE CUSTODY IT IS SUBJECTED. IMMEDIATE CHARGE AND CONTROL, AND NOT THE FINAL, ABSOLUTE CONTROL OF OWNERSHIP, IMPLYING RESPONSIBILITY FOR THE PROTECTION AND PERSERVATION OF THING , PERSON IN CUSTODY.

AS YOU CAN SEE CARE AND CUSTODY HAVE A MIXTURE OF THINGS.

FOR EXAMPLE, IF MR. JEFFERS TALKED TO MS. PRAHL ABOUT HER DRUG USE OR WHAT KIND OF PEOPLE SHE WAS HANGING AROUND. "THE STATE WOULD SAY THAT WAS NOT ALLOWED". AND THERE FOR THE DEFENDANT VIOLATED THE TERMS OF THE ORDER..

THE STATE FAILS TO SEE THAT IT IS ALLOWED IN THE ORDER.
THE STATE FAILS TO SEE THE BIG PICTURE, CARE AND
CUSTODY "STATES" CONCERN:CAUTION:REGARD:SECURITY, TO
BE CONCERNED WITH, GUARDING,CARE WATCH,INSPECT,THE
PRETECTION. AND MINY MORE THINGS.

IF MS.PRAHL IS USING DRUGS, HANGING AROUND DANGROUS
PEOPLE.IT IS THE PARENTS RESPONSABILITY TO MAKE SURE
YOUR CHILDREN IS IN A SAFE PLACE. AS DEFINED IN THE
BLACKS LAW DICTIONARY SIXTH EDICTION.

THAT WAS JUST AN"EXAMPLY".

BUT ITS CORRECT, IF MS.PRAHL WAS GOING ON A ROAD
TRIP WITH OUR CHILD, ITS PART OF CARE TO MAKE SURE
THERE SAFE, IF I WAS TO CALL OR STOP BE TO ASK IF
HER CAR WAS RUNNING OK FOR THE TRIP, IT WOULD BE
A PURFECTLY GENERN CONCERN FOR THE SAFETY OF THERE
CHILD. BECOUSE IF THEY BROKE DOWN, THEY COULD GET
STRANDED AND POSSIBLY DIE OR GET ILL. IT IS A PARENTS
JOB , IF THEY CARE FOR THERE CHILD TO MAKE SURE THERE
SAFE AT ALL TIMES. SO WHEN YOU TALK ABOUT THE DEFENDANT
TESTIMONY OF MIXTURE OF THINGS, ITS NOT EVIDENCE THAT
THE DEFENDANT TALKED ABOUT ANYTHING OTHER THEM THE
TERMS OF THE ORDER. BECOUSE THE STATE NEVER GAVE
EVIDENCE OF ANY OTHER CONVERSATION TAKEN PLACE.
THERE FOR THERE IS INEFFICIENT EVIDENCE TO SUPPORT
THE CONVICTION. THAT THE DEFENDANT VIOLATED THE TERMS
OF THE ORDER.

STATE V. LUOMA 14 WASH. APP 705, 544 P.2d 770 (WA. APP= 01-06-1977). 88 WASH.2d, 28,558 P.2d 756 (WA.01-06-1977)

IN ORDER TO EVALUATE THE SUFFICIENCY OF THE EVIDENCE, THE EVIDENCE MUST BE VIEWED IN LIGHT MOST FAVORABLE TO THE STATE, ALLOWING THE STATE ALL REASONABLE INFERENCE IN ORDER TO DETERMINE WHETHER SUBSTANTIAL EVIDENCE SUPPORTS EVERY ELEMENT OF THE STATES CASE.

88 WAS.2d. THE DEFENDANT CONTENTS THAT THE EVIDENCE IN THIS CASE IS INSUFFICIENT TO SUPPORT THE JURYS FINDING.

STATE V. RANDECKER 1 WASH. APP 834, 464 P.2d 447, 79 WASH 2d 512, 487 P.2d 1295 (1971). THE FUNCTION OF THE TRIAL OR APPELLATE COURT IN REVIEW A SUFFICIENCY QUESTION IS DETERMINE WHETHER THERE IS "SUBSTANTIAL EVIDENCE " TO SUPPORT EITHER THE STATES CASE OR THE PARTICULAR ELEMENT INVOLVED.

"FACT" THERE IS NO EVIDENCE OF A CRIME OCCURING". THE ESSENTIAL ELEMENTS OF DOMESTIC VIOLENCE VIOLATION OF A NO CONTACT ORDER ARE (1) WILLFUL CONTACT WITH ANOTHER, (2) PROHIBITION OF SUCH CONTACT BY A VALID COURT ORDER, AND (3) THE DEFENDANTS KNOWLEDGE OF THE NO CONTACT ORDER.

BLACKS LAW DICTIONARY SIXTH EDIDION, PAGE 559, ELEMENT, (1) A CONSTITUTIONAL PART OF A CLAIM THAT MUST BE PROVED FOR THE CLAIM TO SUCCEED. "INPART!"

ELEMENTS OF A CRIME "WASHINGTON STATUTES" TITLE 9A. WASHINGTON CRIMINAL CODE. RCW 9A.04.100, PROOF BEYOND A REASONABLE DOUBT. (1) EVERY PERSON CHARGED WITH THE COMMISSION OF A CRIME IS PRESUMED INNOCENT UNLESS PROVED GUILTY. NO PERSON MAY BE CONVICTED OF A CRIME UNLESS EACH ELEMENT OF SUCH CRIME IS PROVED BY COMPETENT EVIDENCE BEYOND A REASONABLE DOUBT.

THERE IS INSUFFICIENT EVIDENCE TO CONVICT AND THE COURT OF APPEALS SHOULD DISMISS THE CONVICTION.

ADDITIONAL GROUNDS-3

VIOLATION OF DEFENDANT SIXTH AMENDMENT RIGHTS TO CONFRONT WITNESS.

THE TRIAL COURT ERRORED BY ALLOWING INADMISSIBLE HEARSAY STATEMENTS INTO TRIAL. "EXHIBIT- ", VIOLATING DEFENDANT'S SIXTH AMENDMENT RIGHT TO CONFRONT WITNESS. THE TRIAL COURT ALLOWED THE STATEMENT OF A CENTRALIA POLICE OFFICER IN AN EARLIER ARREST FOR ALLEGED VIOLATION OF A NO CONTACT ORDER, ON 02-10-2006. IN VIOLATION OF DEFENDANT'S SIXTH AMENDMENT RIGHTS TO CONFRONT WITNESS. THE HEARSAY STATEMENT IS INADMISSIBLE UNDER THE RULES OF EVIDENCE AND THAT ADMITTING THE STATEMENT VIOLATED DEFENDANT'S CONSTITUTIONAL RIGHT TO CONFRONT THE WITNESS AGAINST HIM.

WASHINGTON COURT RULES "STATE" 2006, RULES OF EVIDENCE ER 801, TITLE VIII HEARSAY. RULE 801. DEFINITION, THE FOLLOWING DEFINITIONS APPLY UNDER THIS ARTICLE:

A. STATEMENT, A "STATEMENT" IS (1) AN ORAL OR WRITTEN ASSERTION OR (2) NONVERBAL CONDUCT OF A PERSON IF IT IS INTENDED BY THE PERSON AS AN ASSERTION.....

B. DECLARANT. A "DECLARANT" IS A PERSON WHO MAKES A STATEMENT.....

C. HEARSAY. "HEARSAY" IS A STATEMENT OTHER THAN ONE MADE BY THE DECLARANT WHILE TESTIFYING AT THE TRIAL OR HEARING, OFFERED IN EVIDENCE TO PROVE THE TRUTH OF THE MATTER ASSERTED.....

D. STATEMENT WHICH ARE NOT HEARSAY. A STATEMENT IS NOT HEARSAY IF (1) PRIOR STATEMENT BY WITNESS, THE TESTIFIES AT THE TRIAL OR HEARING AND IS SUBJECT TO CROSS EXAMINATION CONCERNING THE STATEMENT, AND THE STATEMENT IS (i) INCONSISTANT WITH THE DECLARANTS TESTIMONY, AND WAS GIVEN UNDER OATH SUBJECT TO THE PENELTY OF PERJURY AT A TRIAL, HEARING OR OTHER PROCEEDING, OR INA DEPOSITION, OR (ii) CONSISTENT WITH THE DECLARANTS TESTIMONY AND IS OFFERED TO REBUT AN EXPRESS OR IMPLIED CHARGE AGAINST THE DECLARANT OR RECENT FABRICATION OR IMPROPER INFLUENCE OR MOTION, OR (iii) ONE OF IDENTIFICATION OF A PERSON MADE AFTER PERCIEVING THE PERSON OR (2) ADMISSION BY PARTY- OPPONENT. THE STATEMENT IS OFFERED AGAINST A PARTY AND IS (i) THE PARTYS OWN STATEMENT, IN EITHER AN INDIVIDUAL OR A REPRESENTATIVE CAPACITY OR (ii) A STATEMENT OF WHICH THE PARTY HAS MANIFESTED AN ADOPTION OR BELIEF IN ITS TRUTH A (iii) A STATEMENT BY A PERSON OUTHORIZED BY THE PARTY, TO MAKE A STATEMENT CONCERNING THE SUBJECT, OR (iv) A STATEMENT BY THE PARTYS AGENT OR SERVENT ACTING WITH THE SCOPE OF THE AUTHORITY TO MAKE STATEMENTS FOR THE PARTY, OR

(v) A STATEMENT BY A COCONSPIRATER OF A PARTY
DURING THE COURSE AND INFURTHERANCE OF THE
CONSPIRACY.....

THE FACT IS THE DECLARANT OF EXHIBIT- , IS THE
CENTRALIA POLICE OFFICER IN A ALLEGED CRIME, WHICH
HAS NOT BEEN TRIED IN COURT, THERE FOR THERE IS NO
TRUTH TO IT. AND WAS NOT SUBJECT TO PERJURY IN A
TRIAL OR ANY HEARING AT ALL. AND NEVER OF BEEN
ALLOWED IN THE TRIAL.

SEE, WASHINGTON V. HIED 39 WASH. APP 273, 693 P.2d 145
1984. IN HIED, THE PRINCIPAL ISSUE ON APPEAL CONCERN
THE EVIDENTIARY AND CONSTITUTIONAL PROPRIETY OF
ADMITTING HEARSAY STATEMENTS OF A PERSON NOT CALLED
AS WITNESS AT TRIAL. THE APPEALS COURT CONCLUDED
THAT SOME OF THE HEARSAY STATEMENTS WERE INADMISSIBLE
UNDER THE RULES OF EVIDENCE AND THAT ADMITTING THE
STATEMENTS VIOLATED HIEDS CONSTITUTIONAL RIGHT TO
CONFRONT WITNESS AGAINST HIM, ACCORDINGLY THE APPEALS
COURT REVERSED AND REMANDED.

ALSO SEE STATE V. FRANCE NO. 29239-4-11 (WASH. APP-
DIV-2, 04-27-2004). APPEALS COURT AGREED THAT FRANCES
STATEMENT WER THE PERDUCTION OF A CUSTODIAL INTER-
ROGATION AND SHOULD HAVE BEEN EXCLUDED, THE APPEALS
COURT REVERSE HIS CONVICTION FOR VIOLATING A NO
CONTACT ORDER.

THE COURT ERRORED WHEN IT ALLOWED THE STATE TO USE THE STATEMENT OF A CENTRALIA POLICE OFFICER, IN A ELLEGED CRIME "NOT A CONVICTION",AND TO QUESTION THE DEFENDANT ON THE STAND , IN VIOLATION OF THE DEFENDANTS SIXTH AMENDMENT RIGHT TO CONFRONT THE WITNESS. EVEN IF THE COURT ALLOWED IN UNDER THE OPENING THE DOOR RULE,BECAUSE THE DEFENDANT STATED HE HAS BEEN CLEAN AND SOBER FOR SIX MONTHS.[RP 64,67]

"Q" ARE YOU DONE WITH THAT?

"A" YES,I HAVE BEEN CLEAN FOR OVER SIX MONTHS.

"Q" REALLY?

"A" YEAH.

MR.GRAHAM ASKED FOR A SIDE BAR THEN MR.GRAHAM CAME BACK FROM THE SIDE BAR AND READ FROM THE CENTRALIAS POLICE OFFICERS STATEMENT AND ASKED THE DEFENDANT QUESTION ABOUT WHAT WAS IN IT REFURING TO THE OFFICERS STATEMENT . REFURING TO [RP 64 thru 67].

OPENING THE DOOR RULES

"WASHINGTON PRACTICE"COURT ROOM HANDBOOK ON WASHINGTON EVIDENCE 2006, "KARL B.TEGLAND"

PAGE 179,RULE 103,RULINGS ON EVIDENCE. (II)(B) UNDER THE OPEN-DOOR RULE,EVIDENCE OF PRIOR MISCONDUCT MAY BECOME ADMISSIBLE TO REBUT A DEFENDANTS STATEMENTS ON DIRECT EXAMINATION.

THE KEY WORD IS PRIOR MISCONDUCT!!

EVIDENCE OF RULE 906,FIRST MUST BE CONVICTED TO BE USED AS A CRIME OF DISHONESTY TO IMPEACH DEFENDANT.

THE TRIAL COURT ALLOWED THE STATEMENT OF A CENTRALIA POLICE OFFICER IN AN EARLY ARREST FOR ALLEGED VIOLATION OF A NO CONTACT ORDER ON 02-10-2006, IF THE TRIAL COURT ALLOWED IT TO BE HEARD BECAUSE THE DEFENDANT OPENED THE DOOR, BY STATING HE HAS BEEN CLEAN AND SOBER FOR SIX MONTHS. IF THE TRIAL COURT ALLOWED THE STATEMENT OF THE CENTRALIA POLICE OFFICER BECAUSE THE OFFICER STATEMENT SAID THE DEFENDANT TOLD HIM THE ALLEGED PIPE FOUND WHILE BEING ARRESTED WAS HIS AND HE THE DEFENDANT USED THE PIPE TO SMOKE METH. IF THE TRIAL COURT ALLOWED THE STATE TO USE THE OPENING THE DOOR RULE TO REBUT THE CLAIM THE DEFENDANT'S TESTIMONY THAT HE HAS BEEN CLEAN FOR SIX MONTHS. THE TRIAL COURT ERRORED, BECAUSE THE RULES COULD ONLY BE USED IF THE DEFENDANT MADE THAT STATEMENT, THE FACT IS THE DECLARANT IS THE PERSON WHO MAKES A STATEMENT, AND THE DECLARANT OF EXHIBIT- , IS THE CENTRALIA POLICE OFFICER, NOT THE DEFENDANT. AND THE OFFICER DID NOT BE CALLED AS A WITNESS NOR DID THIS STATEMENT BE USED IN A TRIAL OR HEARING MAKING IT SUBJECT TO PERJURY.. THE OPENING THE DOOR RULE DOES NOT APPLY, BECAUSE THE STATEMENT IS NOT THE DEFENDANT'S AND CAN NOT BE USED TO REBUT THE DEFENDANT'S TESTIMONY AT TRIAL. TO IMPEACH THE DEFENDANT. BECAUSE THE DEFENDANT IS NOT THE DECLARANT OF THAT STATEMENT. EXHIBIT- , AND THE FACT THAT THE ALLEGED CRIME HAS NOT BEEN TRIED IN COURT, AND THEREFORE HAS NOT BEEN PROVED TO BE TRUE OR FALSE. AND IS NOT A CONVICTION.

IF THE TRIAL COURT ALLOWED THE STATEMENT OF THE CENTRALIA POLICE OFFICER IN TO COURT UNDER THE OPEN DOOR RULE TO IMPEACH THE DEFENDANTS TESTIMONY. THE TRIAL COURT FAILED TO INSTRUCT THE JURY OF THE RULING AND FAILED TO INSTRUCT THE JURY THAT THE CENTRALIA POLICE OFFICERS STATEMENT COULD NOT BE USED AS EVIDENCE TO CONVICT DEFENDANT, THAT IT COULD ONLY BE USED TO IMPEACH THE DEFENDANT.

IN WASHINGTON V. CRAWFORD, NO. 02-9410 (U.S. 03-08-2004), 147 WASH. 2d. 424, 54 P. 3d 656." THE STATES USE OF SYLVIA'S STATEMENT VIOLATED THE CONFRONTATION CLAUSE, BECAUSE WHERE TESTIMONIAL STATEMENTS ARE AT ISSUE, THE ONLY INDICIUM OF RELIABILITY SUFFICIENT TO SATISFY CONSTITUTIONAL DEMANDS IS CONFRONTATION.

CONCLUSION

THE TRIAL COURT ERRORED BY ALLOWING EXHIBIT- , THE HEARSAY STATEMENT BY THE CENTRALIA POLICE OFFICER, TO BE HEARD BY THE JURY. VIOLATING THE DEFENDANTS SIXTH AMENDMENT RIGHTS TO CONFRONT WITNESS AGAINST HIM, WHEN THE DECLARANT OF EXHIBIT- , DID NOT TESTIFY AT THE TRIAL. VIOLATING THE DEFENDANTS CONSTITUTIONAL RIGHTS.

ADDITIONAL GROUNDS-4

VIOLATION OF DEFENDANTS FIFTH ADMENTMENT TO THE US CONSTITUTION.

DEFENDANTS APPEAL COUNSEL HAS COVERED MOST OF THIS IN DEFENDANTS BRIEF. DEFENDANT WOULD LIKE TO ADD TO THIS ARGUMENT. IN ORDER FOR THE DEFENDANT TO DO THIS HE MUST COVER SOME OF THE SAME AREAS. REFURING TO.

[5-17-2006 RP 21-22] OFFICER HINRICHS TESTIMONY.

"Q" DID YOU EVER HAVE ANY..DID YOU AT ANY POINT READ MR.JEFFERS WHATS COMMONLY KNOWN AS HIS MIRANDA WARNING?

"A" NOT FULL MIRANDA,JUST ADVISED HIM HE HAD RIGHT TO AN ATTORNEY.

"Q" DID HE UNDERSTAND THAT?

"A" YES.

"Q" DID HE SAY ANYTHING ELSE TO YOU AFTER THAT?

"A" NO.

"Q" DID YOU TELL MR.JEFFERS HE WAS BEING PLACED UNDER ARREST?

"A" YES.

"Q" DID HE OBJECT TO THAT?

"A" NO.

"Q" DID HE GIVE YOU ANY REASON AS TO WHY YOU SHOULD NOT ARREST HIM?

"A" NO.

"Q" DID HE GIVE ANY JUSTIFICATION FOR WHY HE WAS WITH WHO HE WAS?

"A" NO.

THE STATE CLEARLY VIOLATED THE DEFENDANTS FIFTH AMENDMENT RIGHTS .PROHIBITION AGAINST COMPELLED SELF-INCRIMINATION. THE STATE IN REBUTTAL CLOSING ARGUEMENTS POINT OUT TO THE JURY THAT THE DEFENDANT HAD A GET OUT OF JAIL FREE CARD,BUT DID NOT USE IT TELL THE TRIAL. REFURING TO [RP 110-111] ON THE 24th OF FEDRUARY, 2006, HERE IN THURSTON COUNTY MR.JEFFERS WAS IN VIOLATION OF THAT NO CONTACT ORDER AND IS TRYING TO USE A GET OUT OF JAIL FREE CARD TODAY.AND I WOULD SUBMIT THAT ITS TOO LATE.ITS TO LATE. YOU CANNOT

FABRICATE IT LATER. THE STATE WAS REFURING TO WHY I DID NOT TELL THE OFFICER ABOUT THE TERMS. BECOUSE I CHOSE TO REMAIN SILENT. AS THE OFFICER TESTIFIED TO. AFTER I WAS READ PART OF MY MARNDA WARNINGS. ITS CLEAR THE STATE WAS REFURING TO THE AMENDED SECTION AND POINTED OUT THAT THE DEFENDANT DID NOT USE IT AT THE TIME OF ARREST. BECOUSE THE OFFICER TESTIMONY STATES THE DEFENDANT DID NOT GIVE ANY REASON TO WAY HE SHOULD NOT BE ARRESTED. THERE FOR USEING THE DEFENDANTS RIGHTS TO REMAIN SILENT AS EVIDENCE OF GUILT. VIOLATING THE DEFENDANTS CONSTITUTIONAL RIGHTS.

ADDITIONAL GROUNG-24

PROSECUTION MISCONDUCT. THE STATE USED MISCONDUCT WHEN THE PROSECUTOR LIED TO THE JURY AND FABERCATED THE QUESTING OF THE DEFENDANT BY REFURING TO THE STATES QUESTION AS TO " YOU TESTIFIED TO " AT THE END OF HIS QUESTIONS TO MAKE IT APPEAR THE DEFENDANT EARLIER TESTIFIED THE THOSE QUESTIONS. GIVEN THOSE ANSWERS. FIRST THE DEFENDANT WILL SHOW THE COURT WERE THE PROSECTOR USED MISCONDUCT IN HIS QUESTIONS OF THE DEFENDANT. AND HOW HE FABERCATED THE QUESTIONS.

[RP 55]

"Q" SO ON FEBRUARY 10th ,YOU GOT TOGETHER AND ACTUALY,CAPITOLA SAID THAT SHE DID NOT WANT TO STAY TOGETHER!IS THAT WHAT YOU TESTIFIED TO"?

**"Q" CAPITOLA, THAT EVENING. THATS WHY YOU GUYS
GOT IN AN ARGUEMENT THAT NIGHT"YOU TESTIFIED TO"?**
ITS CLEAR WHAT THE PROSECUTOR WAS UP TO BECOUSE THE
DEFENDANT DID NOT TESTIFIE TO THOSE QUESTIONS OR IS
IT IN ANY REPORT OR EXHIBIT. AND THE PROSECUTOR KNEW
THAT. NORE IS IN THE OFFICERS TESTIMONY. THE
PROSECUTOR ASKED THOSE QUESTIONS KNOWING GOOD AND
WELL THE DEFENDANT DID NOT TESTIFIE TO THOSE QUESTION,
AND ITS CLEAR TO WHY HE ADDED TO THE END OF THOSE
QUESTIONS " YOU TESTIFIED TO ", IN DOING SO TAINTED
THE JURY. BY FABERCATING THE QUESTIONS TO MAKE IT
APPEAR THE DEFENDANT TESTIFIED EARLIER TO THAT.
MAKING THE APPEARENCE THAT THE PROSECUTOR SHOWED
WHAT THE DEFENDANT WAS TALKING ABOUT, AS TO THE
MIXTURE. WHEN IN FACT HE DID NOT. THE PROSECUTOR
AGAIN USED MISCONDUCT IN CLOSING ARGUEMENTS WHEN
THE PROSECUTOR FABERCATED HIS OWN WITNESSES
OFFICER HINRICHS TESTIMONY.WHEN HE REFURED TO
OFFICERS HINRICHS TESTIMONY [RP 91] IF YOU
REMEMBER THE OFFICERS TESTIMONY, THE CAR WENT
UNDER THE UNDER PASS. IT WAS NOT GETTING ON THE
FREEWAY. HE WENT UNDER THE UNDERPASS OF I-5 AND
WAS CONTINUING ON PACIFIC WHEN I INITIATED THE
STOP. HE NEVER SAID ANYTHING ABOUT THEM GETTING
ON THE FREEWAY. NOW WE GO BACK TO THE TESTIMONY
OF OFFICER HINRICH.[5-17-2006 RP 11]
"Q" HOW DID IT START?

"A" TRAFFIC STOP. I STOPPED THE VEHICLE THAT WAS GETTING DOWN ON TO GOING DOWN WEST, GETTING ON TO I-5 SOUTHBOUND.

THE OFFICER TESTIFIED THAT HE PULLED THE CAR OVER THAT WAS GETTING ON THE I-5 SOUTHBOUND. BUT NOT THE PROSECUTOR FABRICATES HIS OWN WITNESSES TESTIMONY TO DISCREDIT THE DEFENDANTS TESTIMONY. AND THE COURT CAN SEE IT WAS THE PROSECUTORS PLAN TO DISCREDIT THE DEFENDANT. BECAUSE THE PROSECUTOR FABRICATED THE TWO SPOTS IN OFFICER HINRICHS TESTIMONY THAT WOULD SUPPORT IN PART DEFENDANTS STORY. THAT WOULD GIVE THE DEFENDANT CREDIBILITY. ITS CLEAR IT WAS THE PROSECUTORS PLAN WHEN HE FABRICATED HIS OWN WITNESSES TESTIMONY. IN DOING SO LIEING TO THE JURY ABOUT TESTIMONY AND TAINTING THE JURY. THERES CLEAR PROSECUTIONAL MISCONDUCT HERE.

ADDITIONAL GROUND -5

INEFFECTIVE ASSISTENCE OF COUNSEL.

THE DEFENDANTS APPEAL COUNSEL COVERED THIS. NOT ONLY DID DEFENDANTS TRIAL COUNSEL FAIL TO OBJECT TO QUESTION OF OFFICER HINRICH ABOUT DEFENDANTS RIGHTS TO REMAIN SILENCE. HE ALSO FAILED TO OBJECT TO THE CLOSING ARGUMENTS BY MR. GRAHAM AND THE FACT HE BROUGHT IT TO THE JURYS ATTENTION THAT THE DEFENDANT EXERSIZE HIS RIGHTS TO REMAIN SILENT. IN FACT THE TRIAL COUNSEL DID NOT OBJECT TO ANYTHING AT TRIAL.

AND DEFENDANTS TRIAL COUNSEL DID NOT EVEN OBJECT TO THE QUESTION OF DEFENDANT BY THE STATE MR.GRAHAM, WHEN MR.GRAHAM ASKED THE FOLLOWING QUESTIONS,

[RP 55]

"Q" SO ON FEBRUARY 10th, YOU GOT TOGETHER AND ACTUALLY, CAPITOLA SAID THAT SHE DID NOT WANT TO STAY TOGETHER, " IS THAT WHAT YOU TESTIFIED TO"?

"Q" THAT EVENING, THATS WHY YOU GUYS GOT IN AN ARGUEMENT THAT NIGHT " YOU TESTIFIED TO "?

THE TRIAL COUNSEL DID NOT EVEN OBJECT TO THOSE QUESTIONS OR EVEN TRY TO CLEAR IT UP. LEAVING THE JURY TO BE LIEVE DEFENDANT DID TESTIFIE TO THAT. EVEN KNOW THESE QUESTIONS WERE MADE UP AND DOCTORED BY ADDING "YOU TESTIFIED TO" AT THE END OF THOSE QUESTIONS. THERE FOR VIOLATED THE DEFENDANTS RIGHTS TO ADDIQUIT COUNSEL.

CONCLUSION

ITS CLEAR THERE IS INEFFICIENT EVIDENCE TO CONVICT. AND THE FACT THE STATE FABERCATED HIS OWN WITNESSES TESTIMONY TO DISCREDIT THE DEFENDANTS STORY AND THE FACT THAT THE STATE ASKED INAPPROPREATE QUESTIONS IN CROSS EXAMINATING THE DEFENDANT, BY TRYING TO GIVE THE JURY THE ELUSTION THAT THE DEFENDANT TESTIFIED TO THAT, BY ADDING "YOU TESTIFIED TO" AT THE END OF HIS QUESTIONS, KNOWING GOOD IN WELL THE DEFENDANT DID NOT TESTIFIE TO THAT. THERES NOTHING IN THE STATES WITNESSES OR THE DEFENDANTS TESTIMONY THAT GIVES THE STATE EVIDENCE OF VIOLATING THE NO CONTACT ORDER.

JUST BECOUSE THE DEFENDANT TESTIFIED THEY TALKED ABOUT A MIXTURE OF THINGS , BUT REMEMBER THE DEFENDANT ALSO TESTIFIED IT WAS ALL CONCERNING HIS DAUGHTER. JUST BY THE PROSECUTORS STATEMENT THAT THE DEFENDANT STATED MIXTURE IS NOT PROOF ENOUGHT. NORE IS IT EVIDENCE.WHAT OTHER THINGS DID THE DEFENDANT AND MS.PRAHL TALK ABOUT. AT NO TIME DID THE STATE GIVE EVIDENCE OF OTHER THINGS TALKED ABOUT. SO THE PROSECUTOR FABERCATED HIS OWN QUESTIONS WHILE QUESTING THE DEFENDANT BY ADDING "YOU TESTIFIED TO" KNOWING IT WAS A LIE AND IT WOULD TAIN'T THE JURY.

RELIEF SOUGHT

THE DEFENDANT ASKS THE COURT OF APPEALS TO DISMISS THE CONVICTION FOR INEFFICIENT EVIDENCE.

I SWEAR THE FOLLOWING IS TRUE AND CORRECT AS TO THE BEST OF MY KNOWLEGE!!
PRO SE FASHION, ON THE 7 day of february,2007,

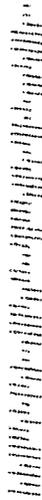
SINCERLY


_____,
RICK LORING JEFFERS

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