

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
BY



STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
Kenneth C Stafford)
(your name))
)
Appellant.)

No. 35159-5-II

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Kenneth C Stafford, 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

See attached statement.

Additional Ground 2

See attached statement.

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

Date: Jan. 25, 2007

Signature: Kenneth C Stafford

Information concerning addition ground #1:

My first ground is concerns the poor legal representation that I received from my attorney. One reason for this is that I had asked for my attorney to obtain a copy of the actual police report. This was important because the arresting officers told me that there was a warrant for my arrest and that is why I was arrested, yet I was never served with the warrant. I wanted to find out the names of those officers so that I could have them testify in court in regards to the circumstances of my arrest and also testify that there were no signs of drug use in my residence. My attorney never received that report.

The second reason is because I advised my attorney that I wanted the following witnesses to testify on my behalf. My attorney failed to call any of those witnesses on my behalf. I believe that the failure of my attorney to have any witnesses testify on my behalf made it difficult for me to present my case to the jury and receive a fair trial.

Tracy Cadena. This witness would have testified that she had been an informant for the Cowlitz County Task Force, that while in that position she had been asked to contact me to make a purchase of illegal drugs, that when she did make contact with me, that I became very upset with her for thinking that I did that type of thing and for her never to contact me again concerning drugs. This witness would have also testified that she is a cousin of Det. Ullmann, that during other “controlled buy” situations with Det. Ullmann, that she was either not searched or the search was very limited, and that on one occasion in which the prosecutor wanted to talk with her about one of the controlled buys, Det. Ullman had told her to let the prosecutor believe that she had been searched before and after the buy situation *even* though she had not been searched.

Dean Stafford. This witness is my father. He was a Longview Police officer for 27 years, 8 of which he was a detective. He would have testified that he has made numerous arrests in regards to controlled substances, that he knows that people who sell controlled substances do it to obtain the funds necessary to satisfy their own drug habit, that people who use meth often steal from their relatives to obtain money to satisfy their habit, that they lose a substantial amount of weight due to the use of the meth, and that they have difficulty in maintaining employment due to the changes brought about from the use of meth. This witness would testify that he has known me all my life, that he knew me at the time of the reported incident, that I had not lost any weight, that I had been working full time at Lyle Moving Company, that I had not missed any work even though I had been working a lot of overtime, that I had a key to his residence, and that he had not had anything missing from his residence. This witness could have also testified that proper procedure in controlled buy situations includes several items including the complete search of the informant and the informant’s vehicle before and after the controlled buy situation, and never losing sight of the informant and that the search should not be done in a public place.

This witness would have testified that while he was a detective, that while performing an investigation, he interviewed a woman who advised that she had been contacted by Det. Watson, that Det. Watson was going to use her as an informant for a controlled buy situation, and that Det. Watson and his partner had done something sexually inappropriate to her. This witness would have testified that after receiving the

information, that he wrote a report and presented the case to the Longview Police Department for investigation. This may be the reason that the detectives were attempting to go after me as a revenge type thing.

This witness would have also testified that on the night that I was arrested and in jail, that I had my father's vehicle and that per either the Kelso Police or the Cowlitz Co. sherriff's Department investigated an attempted vehicle prowl on this vehicle. This witness believes that this was significant in that none of Ken's vehicles have ever been prowled at Ken's residence and it wasn't until after Ken was arrested that this vehicle was prowled. This witness believed that in the detectives could have gone back to my residence and attempted to search this vehicle even though I had not been in my vehicle when I was arrested.

Professional witness #1. This witness should have been a professional law enforcement officer with an expertise in illegal drug investigations. This witness could have testified how important it is to do a thorough search of the informant and his vehicle before and after the controlled buy situations. This witness could have also testified that the police work performed by the two detectives was extremely poor, that the search of the informant resulted in the failure of the detective to search the informant's wallet which is an often used location for people to transport their drugs, that the informant could therefore have had meth on him without the detective knowing it and used that meth to perform the controlled buy, that the informant would have done this to save his own self from prosecution or a harsher sentence. This witness would have also testified that correct police procedure would have been to interview the defendant at the time of the arrest and that the purpose of this interview would be to obtain a confession, to gather more information concerning drugs, and to attempt to use this person as an informant to pursue larger drug dealers. He would have testified that by failing to interview the defendant (me) and waiting such a long period of time between the time of the incident and the time of the arrest, that this took all change of the defendant being able to remember anything about the incident away.

This professional witness would have also testified that the police could have obtained a search warrant for my residence to obtain the suspected meth but they failed to do so. By the police doing this, by failing to arrest me at the time of the incident, by failing to interview me, by failing to fingerprint the evidence container, and by failing to perform other investigative items such as taking photographs or using a wire tap, that this took all the chance of me of obtaining any evidence in my behalf which could have been used to prove my innocence.

This witness would have also testified that drug dealers deal drugs to support their drug habits, that people who use meth become addicted to meth extremely easily, that when addicted to meth people lose weight, their sleeping habits change, that they have difficulty in maintaining employment, that they often steal from their relatives and friends in order to obtain the funds necessary to maintain their addiction.

Professional witness #2: This witness would have been an expert in human memory. He would have testified that peoples' memories of evens fade over time, that the longer the period of time, the more that the memory fades, that after several weeks, people will not remember what they did at a specific date or time unless the incident was important to

that person such as a birthday, anniversary, death of a family member, etc. He would have testified that after an event that happened approximately 7 months earlier, that the average person would have no recollection of events of a certain day or time.

Professional witness #3: This witness would have been an expert in dealing with people who use meth. They would have testified about people on meth, how these people change, how their appearances change, etc, and that I do not have any of those traits associated with people using meth.

Sgt. Vic Tiehen: This witness was a Longview Police Officer and had been in the Cowlitz County Task Force for a period of time. He would have testified that the detectives did not perform the controlled buy situation properly, that searching an informant by having the informant in the back seat of a vehicle while the person sitting in the front seat of the same vehicle was doing the search was not a proper search, that a search consisting of more or less a "pat down" of the informant was also not a proper search, that arrested suspects should have been interviewed immediately after the arrest.

John Cook, Stan Norwood, and Matt Burns: John Cook was my boss and Stan Norwood and Matt Burns were employees that I worked with. All three would have testified that I had a good attendance record, that I worked a lot of overtime, and that they did not see any sign of drug use by me. These names were given to my attorney, but my attorney did not contact them or have them testify in court.

Character witnesses: I had presented a list of character witnesses to my attorney. I believe that he only contacted one of these witnesses and none of them testified in my court case. Some of these witnesses are people who have known me all my life and others associated with me at the time of the alleged incident. All would have testified that I do not condone drug use and that I am not associated with illegal drug use.

Grounds #2: I believe that due to my father's investigation concerning Det. Watson, that the detectives had little concern with doing a proper investigation in my situation and therefore all chances of obtaining any evidence on my behalf was destroyed. This deals with the time delay between the date of the incident and the arrest date. If I had been arrested earlier, I may have been able to remember why I was at Market Place at the time of the incident, who I had been with before and after the incident, what the conversation with the informant had been, asked for a lab request to attempt to find latent prints on the drug container to prove that I hadn't touched the container, ect.

Thank you very much for taking the time to review this material.

A handwritten signature in black ink, appearing to read "Kenneth C. Smith". The signature is written in a cursive style with a large, sweeping flourish at the end.