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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. )  
HERMAN R. SATTERWHITE )  
Appellant. )

No: 35585-0-II  
STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I, HERMAN R. SATTERWHITE, 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 enclosed statement pages 1-9  
with Exhibits 2-10

Additional Ground 2

Please see enclosed statement pages 1-9  
with Exhibits 2-10

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

Dated this 2 day of August, 2007.

Respectfully Submitted,  
Herman R. Satterwhite  
Appellant

8m 8/3/07

1  
2  
3  
4 In the Superior Court of the State of  
5 Washington, in and for the County of Pierce.

6  
7 Verbatim Transcript of Proceedings July 6, 2006  
8 before the Honorable Lisa Worswick.

9  
10 Ref. Cause Number 05-1-02305-0

11 State v. Herman R. Satterwhite - Motion Colloquy

12 Page(s) 3 - line 13-14 and 24-25, Page 4 lines  
13 5-15

14 Page 5 - line 25; The Court, "The law is if  
15 the offender score is wrong on his plea form  
16 up or down and he pleads, his plea is invalid.

17 Verbatim Transcript July 6, 2006; page 6 - line 24

18 The State erred when it scored the 1980 Escape  
19 the Burg two and the 85 UDCS all each  
20 separately as three (3) points for purpose of  
21 calculation of score. The three (3) convictions were  
22 modified in the following manner and served  
23 concurrently.

24 Verbatim Transcript Proceedings July 6, 2006

25 Page(s) 7 line(s) 13-15, Mr. Franz, pointed out  
26 to the court that convictions per the 1986 Statute,  
27 because served concurrent merged into one point.

1 Page 11 line(s) 1-5, State agreed that  
2 pre 86 convictions sentencing statute, that  
3 some counts should count as one point because  
4 they're pre 86 convictions. Remission; as in  
5 reduction of sentence.

6  
7 Abatement; As prosecutors remarks to his  
8 believe that convictions of 80, 83 and 85  
9 were "concurrent probation violations that were  
10 entered for 45 days, on June 16th 1989." see exhibit No. 10

11 In contrast to his understanding, Volume VII  
12 Verbatim Report, November 2, 2006, page(s) 416  
13 line(s) 7-13; Page 417 - line(s) 10-18

14 On that position the state, stated clearly the  
15 statute indicates that in the case of multiple  
16 prior convictions for offenses committed before  
17 July 1, 1986, count all adult convictions served  
18 concurrently as one offense.

19 The 1984 Sentencing Guideline Manual;  
20 Wash out rules found in R.C.W. 9.94A.525  
21 formerly 9.94A.360-(12). Adult Criminal History  
22 Chapter 17, Law of 1984: (A) states that "Class B  
23 felony convictions are not included if; 1.) The  
24 offender has spent ten years in the community  
25 and has not been convicted of any felonies  
26 since the most recent of either the last date  
27 of release from confinement pursuant."

1 The language of Sentence Reform Act of 1981  
2 as last amend.

3  
4 It should be noted as reflected in the  
5 judgement and Sentence Document and oral  
6 pleading, That court erred executing wrong  
7 statute essential for determination of accurate  
8 offender score. In sentencing on conviction  
9 under case number 05-1-02305-0; in the  
10 calculation of offender score for purposes of  
11 determining sentence. November 2, 2006 Superior  
12 Court of Pierce County erred in imposing an  
13 excessive sentence under cause number 05-1-02305-0  
14 miscalculating offender score. Erroneously counted  
15 separately three (3) previous convictions served  
16 concurrently.

17 An order modifying the three (3) imposing  
18 concurrent sentences on December 16, 1985, in  
19 the Superior Court of King County. Expressively  
20 ordering that a sentence of one year be served  
21 on the three (3) convictions; (1.) 80-1-03355-3, (2.)  
22 83-1-00685-2 and (3.) 85-1-02795-3 be  
23 served concurrently. see exhibit No. 9 By  
24 separating an established concurrently served  
25 sentence the court improperly raised offender score  
26 of six (6), to a score of eight (8), imposing  
27 incorrect sentence of fifty (50) months, were as

1 if offender score was calculated as provided  
2 for under Sentencing Reform Act Guidelines  
3 would not had exceeded twenty-nine (29) months.  
4 The court held that prior convictions 80-1-03355-3,  
5 85-1-02795-3 be served concurrent with 83-1-00685-2  
6 Court's dicta not considered in pleading under  
7 Cause number 05-1-02305-0

8 In pleading under cause number 05-1-02305-0  
9 dicta elements in calculation of offender score  
10 was not considered. The court held on 12/16/85,  
11 convictions 80-1-03355-3, Case No. 85-1-02795-3  
12 and Case No. 83-1-00685-2, were untenably  
13 calculated into offender score as three (3) points.  
14 Contrary to stare decisis, applying to prior  
15 concurrent sentences. Miscalculation of offender  
16 score. The same and/or a like conduct as  
17 define and indicated in amended information  
18 on cause number 05-1-02305-0. For purposes  
19 of calculating offender score. Pertinent indictment  
20 was omitted in court's culpable miscalculation of  
21 offender score. The contemporaneous inference  
22 said to be innocuous error, without corrective  
23 veracity of this court perpetuates untenable  
24 conditions. In consideration of these pleading  
25 and in conjunction with state statute.

1  
2 I respectfully request that the Court  
3 amend judgment and sentence, entered on  
4 October 11, 2006 under cause number 05-1-02305-0  
5 Granting relief, resentencing on the case and/or  
6 amend sentence. Entering a new sentence  
7 correctly reflecting the true offender score under  
8 the Sentence Reform Act's procedural rules thereof.

9  
10 On February 3, 2006, in Pierce County  
11 Superior Court two (2) hand written motions  
12 were accepted by the Court. (1.) Motion to Suppress  
13 all Evidence and (2.) Motion to Disjoint/Severance,  
14 of amended information jointing counts II and  
15 III pursuant to rule 3.5, a hearing was scheduled  
16 for 2/14/06, docket No. 1483209, see exhibit No. 8  
17 I never received that hearing, the court being  
18 dutifully bound should have entered in writing  
19 its reason determining an evidentiary hearing  
20 wasn't required. On 1/9/06, another hand written  
21 motion requesting that attorney of record on that  
22 date Mr. Depan, be removed as legal representative exhibit 7  
23 on cause No. 05-1-02305-0, before the Superior  
24 Court of Pierce County Washington; hearing  
25 scheduled 1-17-06, docket No. 1470943  
26 see exhibit No. 4 and No. 7

27

1  
2 October 16, 2006, it became necessary that  
3 I submitted to the Pierce County Court, yet  
4 another motion: see exhibit 2

5 Requesting an amendment and correction  
6 of errors on the face of judgement and  
7 sentencing documents, indicating a guilty  
8 plea and stipulation of prior criminal record.

9 My attempt at expunging the erroneous and  
10 derogatory information for court records were  
11 met with dilatory comments. Because the  
12 court delayed judicial correction, the Washington  
13 state Department of corrections, relies on the  
14 information contained in the court records  
15 on case number 05-1-02305-0, is being  
16 relied on in denying, revoking rate of good  
17 time credit and other liberty interest. I  
18 have officially requested that the Department  
19 of correction, correct the matter and they  
20 have refused. There infered exculpate, arguing  
21 it is encumbrance of me to ensure historical  
22 accuracy of Department of correction records.

1  
2 Prosecutorial omission of corpus delicti  
3 identification, in probable cause arrest, under the  
4 14th amendment, says to burden of proof requirement  
5 unfairly. Of the occurrence of a crime or the  
6 establishing the identity of the person committing  
7 the crime. The states case that the court cited  
8 fail to construct the Federal Constitution, the  
9 state did not articulate any independent  
10 grounds with clarity. The search does not  
11 rest upon adequate and independent state law  
12 in reference to the Fourth Amendment of Federal  
13 Constitution. The state claims a loss to privacy  
14 or personal security. Not wanting to afford me  
15 any protection of constitutional law. The police  
16 officers were publicly accessible to me they were  
17 parked in the parking lot actively in surveillance  
18 of me. Generally there was no fence or no  
19 trespassing signs and I had not been cited or  
20 no citation in effect barring me from seeking  
21 directions or the assistance of the Police officers  
22 parked in the lot. Was the fact that state, inequitably  
23 fail to address whether my actions constituted  
24 a crime trespass as cited in charging information  
25 May 12, 2005.

1  
2  
3 On May it's alleged in charging  
4 information on case number 05-1-02305-0  
5 I was arrested and searched at 56th  
6 an Orchard St. Tacoma Wa., for the alleged  
7 Crime of Trespassing see page(s) 4 of 7.  
8 Finding of Fact and conclusions of law  
9 admissibility of statement, CrR 3.5-2  
10 number X1, line(s) 18 and 19.

11 On February 13, 2006 a Motion to  
12 suppress all Evidence on case number 05-1-02305-0  
13 was brought before the Superior Court for Pierce  
14 County Washington. see exhibit No. 6. Was  
15 there a compelling reason for the state to rely  
16 solely on the hearsay testimony. Police officer  
17 Darren Kelly, alleges I was the person the store  
18 clerk had indicated refused to leave the store  
19 parking lot. As required the burden of proving every  
20 essential element beyond a reasonable doubt, the  
21 omission of an element of the crime, produces such  
22 a factual error. Without independent prima facie  
23 proof of the corpus of the crime of trespass  
24 the evidence resulting from search under  
25 unconstitutional standards should be inadmiss-  
26 ible. see Declaration for Determination of  
27 Probable Cause - 1 page 2 - line(s) 7-8

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27

Requiring essential elements of a crime before searching my person in violation of 6th amendment guarantees to evidence of subsequent search to be admissable as evidence. The court erred not providing or considering my right to confront the principal accuser as provided for under United State Constitution's 6th Amendment.

It can not be said that I had a fair trial if the jury left guessing at the essential elements of the crime of trespass as set forth in charging information Original and amended copies. The jury might have assumed that an essential element need not be proven!

# EXHIBIT

Number 2; Motion to Amend Judgement and Sentence  
11/16/06

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON

PLAINT

VS.

HERMAN ROSEVELT SATERWHITE

DEFENDANT

CAUSE No. 05-1-02305-C

MOTION TO AMENDED JUDGMENT

AND SENTENCE COURTS I, II, III

AND IV, STIPULATION ON PRIOR

RECORD AND OFFENDER SCORE

COURTS I, II AND III ONLY

I, HERMAN ROSEVELT SATERWHITE, DEFENDANT IN CAUSE No. 05-1-C-2305-C, OF THE STATE OF WASHINGTON SUPERIOR COURT FOR PIERCE COUNTY AT 900 TASOMA AVE. SE, TASOMA WA DO RESPECTFULLY REQUEST THAT SENTENCING AND JUDGMENT, AS CHARGED AND ENTERED OF COURTS I, II, III AND IV AS DIRECTED ON THE 11<sup>th</sup> DAY OF NOVEMBER, BE AMENDED AS FOLLOWS; THAT HERMAN ROSEVELT SATERWHITE, IN THE ABOVE TITLED COURT ON 2ND DAY OF NOV 2006, SUBSEQUENT TO A FINDING OF GUILTY, "BY JURY" AND NOT A PLEA OF GUILTY AS INDICATED ON THE FILE OF STIPULATION ON PRIOR RECORD AND OFFENDER SCORE DOCUMENT PAGES (1-4) AS TO COURTS I, II AND III ONLY. ACCORDING ONLY WITHIN ABBREVIATED OFFENDER SCORE OF (174) POINTS AS INDICATED BY MY INITIALS ON PAGE 3, OF SAID DOCUMENT.

NOW HEREIN REQUEST ALL ERRONEOUS INFERENCES OF GUILTY PLEA AND STIPULATIONS WAIVING ANY RIGHTS TO SEEK REDRESS, BE STRICKEN FROM THE RECORD, FURTHER THAT THE COURT PROVIDE A WRITTEN EXPLANATION OF ITS RULES RELIED UPON FOR DETERMINING DEFENDANTS CONCURRENTLY SERVED SENTENCES FOR PURPOSES OF CALCULATION OF HIS OFFENDER'S SCORE

DATED: 11/1/2006

*Herman R. Saterwhite*

HERMAN ROSEVELT SATERWHITE

C.C.  
CLK., PROS.  
CLK., DEF.

# EXHIBIT

*Number 3; Judgement and Sentence Documents*

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-L-02505-0

vs.

HERMAN ROOSEVELT SATTERWHITE,

STIPULATION ON PRIOR RECORD  
AND OFFENDER SCORE AS TO  
COUNTS I, II, AND III ONLY  
(Plea of Guilty)

Defendant.

Upon the entry of a plea of guilty in the above cause number, charge UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE; BAIL JUMPING; BAIL JUMPING, the defendant HERMAN ROOSEVELT SATTERWHITE, hereby stipulates that the following prior convictions are his complete criminal history, are correct and that he is the person named in the convictions:

WASHINGTON STATE CONVICTIONS

Crime	Date of Sentence	Jurisdiction	Date of Crime	Adult/Juvenile	Crime Type	Class	Score	Delinquency or Misdemeanor
TMVWOP	11/20/72	King County, WA	07/03/71	A	NV	D	1	FEL.
ROBBERY	08/10/75	King County, WA	07/08/75	A	V	A	1	FEL.
ROBBERY	08/10/76	King County, WA	07/08/75	A	V	A	1	FEL.
ASSAULT 2	08/10/76	King County, WA	07/08/75	A	NV	B	1	FEL.
ASSAULT 2	08/10/76	King County, WA	07/08/75	A	NV	B	1	FEL.
ESCAPE 1	08/20/76	King County, WA	08/25/76	A	NV	E	1	FEL.
BURGL 1	08/20/76	King County, WA	08/25/76	A	NV	E	1	FEL.
UNPC	12/16/82	King County, WA	04/03/82	A	NV	E	1	FEL.
DV COURT RESTRICTIONS	07/21/94	King County, WA	03/25/93	A	NV	C	1	FEL.
ASLT/TC		Seams Div KODC, WA	12/1/84	A				FEL.
MIMS		Seams Div KODC, WA	12/1/84	A				MIS.

STIPULATION ON PRIOR RECORD - 1  
September

Office of Prosecuting Attorney  
930 Tacoma Avenue S. Room 946  
Tacoma, Washington 98402 2171

1									
2									
3	PUBLIC DISTURB	Seattle Div, KCDC, WA	12/18/84	A					
4	MEMACING	Seattle Municipal, WA	01/30/88	A					MIS
5	NVOL	Seattle Municipal, WA	09/03/88	A					MUN
6	FTR	Seattle Div KCDC, WA	05/16/89	A					MIS
7	NVOL/FTR	Seattle Div KCDC, WA	05/20/89	A					MIS
8	MEMACING	Southwest Div KCDC, WA	01/01/90	A					MIS
9	NVOL	Seattle Municipal, WA	03/02/90	A					MIS
10	NVOL	Southwest Div KCDC	10/19/91	A					MIS
11	DV ASLT 4	Seattle Municipal, WA	01/25/93	A					MIS
12	DWLS3	Seattle Div KCDC, WA	01/24/95	A					MIS
13	NCO	Renton Municipal, WA	09/19/97	A					MIS
14	DV VIOL NCO	Federal Way Div KCDC, WA	09/28/97	A					MIS
15	DV ASLT 4	Federal Way Div KCDC, WA	10/17/97	A					MIS
16		Renton Municipal, WA	05/13/01	A					MIS

Concurrent conviction scoring:

**CONVICTIONS FROM OTHER JURISDICTIONS**

The defendant also stipulates that the following convictions are equivalent to Washington State felony convictions of the class indicated, per RCW 9.94A.360(3)/9.94A.525 (Classifications of felony/misdemeanor, Class, and Type made under Washington Law).

Crime	Date of Sentence	Jurisdiction	Date of Crime	Adult/Juvenile	Crime Type	Class	Score	Felony or Misdemeanor
NONE KNOWN OR CLAIMED								

Concurrent conviction scoring: N/A

The defendant stipulates that the above criminal history and scoring are correct, producing an offender score as follows, including current offenses, and stipulates that the offender score is correct.

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	8	I	12+ - 24 MOS	NONE	12+ - 24 MOS	5 Yr. 10K
1	8	III	43 - 57 MOS	NONE	43 - 57 MOS	5 Yr. 10K
1	8	III	43 - 57 MOS	NONE	43 - 57 MOS	5 Yr. 10K

\*(P) Firearm, (D) Other deadly weapons, (V) VUCBA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520 (JP) Juvenile present.

The defendant further stipulates:

- 1) Pursuant to *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004), defendant may have a right to have factors that affect the determination of criminal history and offender score be determined by a jury beyond a reasonable doubt. Defendant waives any such right to a jury determination of these factors and asks this court to sentence according to the stipulated offender score set forth above.
- 2) That if any additional criminal history is discovered, the State of Washington may resentence the defendant using the corrected offender score without affecting the validity of the plea of guilty;
- 3) That if the defendant pled guilty to an information which was amended as a result of plea negotiation, and if the plea of guilty is set aside due to the motion of the defendant, the State of Washington is permitted to refile and prosecute any charge(s) dismissed, reduced or withheld from filing by that negotiation, and speedy trial rules shall not be a bar to such later prosecution;
- 4) That none of the above criminal history convictions have "washed out" under RCW 9.94A.360(3)/9.94A.525 unless specifically so indicated.

If sentenced within the standard range, the defendant further waives any right to appeal or seek redress via any collateral attack based upon the above stated criminal history and/or offender score calculation.

*\* COURT FINDS THE ABOVE TO BE ACCURATE. DEFENDANT DISMISSES THIS OFFENDER SCORE SHOULD BE 1-4 (from 1995 conviction)*

Stipulated to this on the 2<sup>nd</sup> day of NOV, 2006.

Mike Sommerfeld  
MIKE SOMMERFELD  
Deputy Prosecuting Attorney  
WSB # 24009

Not A Stipulation  
HERMAN ROOSEVELT SATTERWHITE

Nicholas R. Franz  
NICHOLAS R. FRANZ  
WSB # 15919

ifp

# EXHIBIT

*Number 4; Scheduling Order 1-9-06*

**IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON**

State of Washington, Plaintiff

vs.

Heranna Satherwhite  
Defendant

NO. 05-1-02305-0

**SCHEDULING ORDER**

**IT IS HEREBY ORDERED that:**

1. The following court dates are set for the defendant:

Approval No	Hearing Type	Date	Time	Courtroom
	<input type="checkbox"/> Pretrial Conference	,20__	AM/PM	
<u>1470942</u>	<input checked="" type="checkbox"/> Omnibus Hearing	<u>1-17, 2006</u>	8:30 AM	<u>550</u>
	<input type="checkbox"/> Status Conference	,20__	8:30 AM	CDPJ
<u>1470943</u>	<input checked="" type="checkbox"/> Motion (Describe): <u>TO REMOVE ATTORNEY</u>	<u>1-17, 2006</u>	<u>9:00</u> AM/PM	<u>CDPJ COZ</u>
<u>Set</u>	<input checked="" type="checkbox"/> TRIAL	<u>1-31, 2006</u>	8:30 AM	CDPJ
	<input type="checkbox"/>	,20__	AM/PM	
	<input type="checkbox"/>	,20__	AM/PM	

2. Moving papers due: \_\_\_\_\_ Responsive brief due: \_\_\_\_\_

3. The defendant shall be present at these hearings and report to the courtroom indicated at **930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402**

**FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.**

4.  DAC; Defendant will be represented by Department of Assigned Counsel.  
 Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated 1-9, 2006

Copy Received:  
Heranna Satherwhite  
 Defendant

Attorney for Defendant/Bar # 2511  
Lisa Contris

[Signature]  
 JUDGE  
Blaine J. Ludlow  
 Prosecuting Attorney/Bar # 25104

# EXHIBIT

Number 5; Scheduling Order 2-14-06

**IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON**

State of Washington,

Plaintiff

vs.

Herman Salcedo

Defendant

NO. 05-1-02305-0

**SCHEDULING ORDER**

**IT IS HEREBY ORDERED that:**

1. The following court dates are set for the defendant:

Approval No	Hearing Type	Date	Time	Courtroom
	<input type="checkbox"/> Pretrial Conference	,20	AM/PM	
	<input type="checkbox"/> Omnibus Hearing	,20	8:30 AM	
	<input type="checkbox"/> Status Conference	,20	8:30 AM	CDPJ
<u>1483209</u>	<input checked="" type="checkbox"/> Motion (Describe): <u>Continuance 2-14</u>	<u>2006</u>	<u>8:30</u>	<u>CDPJ</u>
	<input checked="" type="checkbox"/> TRIAL set	<u>2-15, 2006</u>	8:30 AM	CDPJ
	<input type="checkbox"/>	,20	AM/PM	
<u>1483208</u>	<input checked="" type="checkbox"/> Bail Hrg.	<u>2-14, 2006</u>	<u>8:30</u>	<u>CDPJ</u>

2. Moving papers due: \_\_\_\_\_ Responsive brief due: \_\_\_\_\_
3. The defendant shall be present at these hearings and report to the courtroom indicated at **930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402**

**FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.**

4.  DAC; Defendant will be represented by Department of Assigned Counsel.  
 Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated \_\_\_\_\_, 20\_\_\_\_

Copy Received: \_\_\_\_\_

Defendant \_\_\_\_\_

Attorney for Defendant/Bar # 02199

JUDGE \_\_\_\_\_

Prosecuting Attorney/Bar # \_\_\_\_\_

# EXHIBIT

Number 6; Motion to ~~By~~ suppress all Evidence  
Case No. 05-1-02305-0 2/13/06

In The Superior Court.  
For Pierce County Washington

State of Washington  
Plaintiff

v.

Norman K. Satterwhite  
Defendant

Motion to Suppress  
All Evidence

Cause No. 05-1-02305-0

The defendant Norman K. Satterwhite, now comes before the court to address the following errors of fact to the above case at hand.

At or around the time of 10:45 PM on the date of the 11<sup>th</sup> day of May, 2005, the defendant had his rights violated due to unreasonable police search and seizure where it couldn't be based on the mere act of "Probable Cause" (See) Runaway v. New York, 442 U.S. 200, 208, 60 L. Ed. 2d 824, 99 S. Ct. 2248 (1979) and cases of persons on lesser cause are narrowly drawn and carefully circumscribed. (See): Adams v. Williams, 407 U.S. 143, 32 L. Ed. 2d 612, 92 S. Ct. 1921 (1972), Terry v. Ohio, 392 U.S. 1, 20 L. Ed. 2d 889, 88 S. Ct. 1868 (1968) i State v. Gluck, 83 Wn. 2d 424, 518 P. 2d 703 (1974)

It is also established that the courts are interpreting the Washington Constitution more protective of individual rights than parallel provisions of the United States Constitution, (see): State v. White, 97 Wn. 2d 92, 108, 640 P. 2d 1061 (1982); see also Prune Yard Shopping Center v. Robins, 447 U.S. 74, 81, 641 L. Ed. 2d 741, 100 S. Ct. 2035 (1980) (citing Cooper v. California, 386 U.S. 58, 17 L. Ed. 2d 730, 87 S. Ct. 788 (1967))

To see that a statement made that is resting entirely on a conviction, the state it is very critical to find the person because the unavailability has to be certain in legal terms even if they are informants. (see): State v. Smith, 85 Wn. 2d 840, 851, 540 P. 2d 424 (1975); State v. Ryan, 103 Wn. 2d 165, 171, 691 P. 2d 197 (1984).

By contrast, Constitution Article 1, 22 provides. In criminal prosecutions the accused shall have the right to meet the witness' and informants against the defendant Face to Face which is actually Physical confrontation (see): State v. Simpson, 95 Wn. 2d 170, 172-182, 622 P. 2d 1199 (1980) That is why it has been nearly unanimous in courts by judges in expressions of belief that the right of confrontation and cross examination is an essential and fundamental Requirement

for the showing of a Fair Trial which is  
this country's constitutional goal. Pointer v. Texas,  
380 U.S. 400, 405, 85 S. Ct. 1065 (1965); Douglas v.  
Alabama, 380 S.Ct. 415, 85 S. Ct. 1074 (1965).

This is why we return to where all the actions  
from the beginning to where the defendant was first  
stopped some stop and identify statutes are  
recognized by some commentators as valuable  
tools to police in preventing and detecting crime  
and in giving additional authority to officers in  
sometimes dangerous street encounters. Your Papers -  
Please. Is an Identification Requirement Constitutional  
(? 37 Wash and Lee L. Rev. 253 (1980)).

However, useful as they may be, statutes  
of this type can result in disturbing intrusions  
into an individual's right to privacy and can  
implicate other rights specifically enumerated in  
the Bill of Rights. That is why the stop and identify  
needs to show the actions were appropriate to  
this case which the defendant (see more) State v.  
White 97 Wn. 2d 92; 640 P.2d 1061 (1982)

Due to all argument that have been made the  
defendant asks the court to suppress all evidence at hand  
due to tainted evidence and to fall under the Fruit of the  
Poisonous Tree Doctrine Wong Sun v. United States, 371 -  
U.S. 471, 91 S.Ct. 2d 441, 83 S.Ct. 407 (1963)

The above entitled statements are true to the best of my knowledge by Penalty of Perjury.

I was assisted in this action by: Cullen M. Hankerson Sk. # 2005174007, Pro-se litigant due to the fact that I am layman to the law.

On the 13<sup>th</sup> day  
of February, 2006

Defendant:

Signed x Herman R. Satterwhite

Print x HERMAN R. SATTERWHITE

Date x

# EXHIBIT

Number 7: Motion to remove Counsel

Case No. 05-1-02305-0 1-9-06

IN THE SUPERIOR COURT FOR PIERCE  
COUNTY WASHINGTON;

STATE OF WASHINGTON  
PLAINTIFF

VS.

HERMAN R. SATTERWHITE  
DEFENDANT

NO. 05-1-02305-0

MOTION

INEFFECTIVE

ASSISTANCE OF

COUNSEL

ON THIS 9TH DAY OF JANUARY 2006, IN THE  
ABOVE ENTITLED COURT; I HERMAN R. SATTERWHITE -  
DEFENDANT, MAKE THE FOLLOWING MOTION; ASKING  
THAT MRS. ROBERT DE PAN, AN ATTORNEY OF THE  
DEPARTMENT OF ASSIGNED COUNSEL, BE REMOVED  
AS DEFENDANT'S LEGAL REPRESENTATIVE, ~~IN~~ THE  
ABOVE ENTITLED COURT ON CAUSE NO. 05-1-02305-C  
UPCS;

I REQUEST THAT THIS FORM SERVE AS FORMAL  
NOTICE OF GRIEVANCE: THE DESCRIPTION OF  
THE REASONS THAT I GIVE HERE IN ARE  
HONEST AND TRUE, TO THE BEST OF MY <sup>KNOWLEDGE</sup> ~~KNOWLEDGE~~  
AND ABILITY SWORN HERE ON THIS 9 DAY OF JANUARY -  
2006.

I HAVE <sup>continuously</sup> ~~CONTINUOUSLY~~ HAD PROBLEMS WITH MR. DEPAN, LEGAL REPRESENTATION, I HAVE TRIED WITHOUT <sup>SUCCESS</sup> ~~SUCCESS~~ TO RESOLVE THEM - (SEE APPENDIX A) LETTER TO MR. JOHN HILL, - DAC, DEPT. OF ASSIGNED COUNSEL. I HAVE <sup>ATTEMPTED</sup> ~~ATTEMPTED~~ TO CORRESPOND WITH MR. DEPAN, APPROX. 24 <sup>DIFFERENT</sup> ~~DIFFERENT~~ DAYS VIA TELEPHONE, WITH NO RESULTS. THE FOLLOWING ATTITUDES AND BEHAVIORS ARE WHY I ASK THE COURT TO RESOLVE THESE MATTERS AS REQUESTED:

WHEN DESCRIBING MY VERSION OF MY SITUATION IN MY CASE, MR. DEPAN STATED, YOU DO THE CRIME YOU DO THE TIME (?) CALLING ME A <sup>LIAR</sup> ~~LIAR~~ MR. DEPAN'S UNDERSTANDING OF THE CASE IS QUESTIONABLE; <sup>ABLE</sup> ~~ABLE~~ NEGOTIATING PLEA BARGAINS WITH PROSECUTOR <sup>CITING</sup> ~~CITING~~ A CASE FOR WHICH I HAVE NEVER BEEN ARRIAGED, WITH SAME CAUSE NO. 05-1-02305-0 MR. DEPAN, STATED THAT OFFENDER SCORE WASH LAWS DOESN'T APPLY TO MY CASE! MS. MARY MARTIN, FIRST ATTORNEY OF RECORD ON SAME CAUSE NO. 05-1-02305-0 SAME OFFICE AS MR. DEPAN, "DAC", BEFORE MEDICAL LEAVE; FOUND AN <sup>APPLIED</sup> ~~APPLIED~~ LAWS THAT <sup>AFFECTED</sup> ~~AFFECTED~~ THE SCORE. MR. DEPAN, REFUSE TO <sup>DEFINE</sup> ~~DEFIND~~ AND DISCUSS HOW LAWS APPLYS TO MY CASE. MR. DEPAN'S ATTITUDE AND BEHAVIOR, ARE UNFAIR AND SUBJECTIVE WHICH WON'T AFFORD ME AN OPPORTUNITY FOR PARTICIPATE IN <sup>POSSIBLE</sup> ~~POSSIBLE~~ NEGOTIATIVE OUTCOME OR TRIAL STRATEGIES

Hand Copy Appendix A: (copy)

Date: Dec. 22, 05

To: Mr. John Hill; SUPERVISARY (D.A.C.)

FROM: HERMAN R. SATERWHITE / CLIENT

REF: CAUSE No. 05-1-02305-0

PIERCE COUNTY JAIL; 3D-63

I AM REPRESENTED BY D.A.C, ATTORNEY OF RECORD; MR. ROBERT DEPAN.

SIR,

I AM WRITTING YOU BECAUSE, MY POINT RANG HAS MYSTERIOUSLY ELEVATED FROM 0 TO 9, I FIND MYSELF INVOLVED IN PLEA ARRANGMENTS, FOR CHARGES FOR WHICH, I HAVE NEVER BEEN ARRAIGNED: DONE BY AN ATTORNEY FROM YOUR DEPT. HE NEVER CLEARLY STATES OR SPELLS HIS NAME, BUT I WAS ABLE TO SECURE HIS BAR# 35802.

MR. DEPAN, HAS BEEN NON-RESPONSE TO MY MANY REQUESTS VIA TELEPHONE FOR CLARIFICATION; REF. - FIRST ATTORNEY ON RECORD, MARY MARTIN. I HAVE HAD TWO HEARING TO DATE WITHOUT MR. DEPAN'S BEING PRESENT.

# EXHIBIT

Number 8; Motion of Severance

Case No. 05-1-02305-0 4-6-06

An Superior Court of Washington  
For Pierce County

State of Washington:  
Plaintiff

Cause No. 05-1-02305-0

v.

Herman K. Satterwhite:  
Defendant

Respondeo/Answer

I Herman K. Satterwhite, an inmate in the  
Pierce County Detention and Corrections Center, at  
930 Tacoma Ave. So. Tacoma Wa. 98402-2171,  
On this 6th day of April 2006, before the above  
intituled Court, I do swear that the following is  
true and correct to the best of my knowledge.

Pretrial Proceedings raises an issue of constitut-  
ionality. In that rearraignment on the 9th day of  
January 2006 Amending Accounts II and III, to-wit  
bail jumping, joining them to underlying charges;  
Unlawful Possession of a controlled substance under  
scheduling II a class C felony. Unlawfully amended  
the above information on cause no. 05-1-02305-0  
joining counts II and III.

Contrary to and Against the constitutions of  
the United States and the State of Washington. Also Rules  
of the Washington Stat. Supreme C. 4 (1) (1)

As follows: All criminal prosecutions shall be informed of the nature and cause of accusations and have assistance of counsel, under both amendment of the U.S. constitution and the 14th amendment of the U.S. constitution and Washington State Supreme Court Rules 3.3(d), 3.6(b) affords a Defendants Due-Process and equal protection of the law among other vested right; (See) Washington Supreme Court - Pretrial Proceeding, *H.S. State v. Poulos*, 31 Wn. App. 908, 651 P. 2d 220 (1982), *State v. Tucker*, 32 Wn. App. 908, 651 P. 2d 220 (1982) *State v. Gee*, 52 Wn. App. 357, 760 P. 2d 361 (1988) Delay between an alleged criminal occurrence and the filing of charges does not violate a defendants right to a speedy trial, rather preaccusatorial delay in bringing charges may violate due process, which require a showing that the delay caused prejudice.

Stems directly from underlying delay of (29 days) Arrested December 7, 2005, on bench warrant No. WA 02703/051310031, amended Information on cause No. 05-1-02305-0, being rearraigned on the 9th day of January 2006, Preaccusatorial Delay violated Due Process clause of the Defendants, 14th amendment right and both amendment constitutional to have counsel assistance and to know the nature and cause of accusations.

(See) Rules for Superior Court, Rule 3.3 Time for Trial (d) Trial Setting and Notice - Objections - Loss of Right of Object: (5 days in jail / 14 days out)  
Rule 3.6(b) Objection to arraignment date - loss of right to object. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment. That date shall constitute the arraignment date for purposes of C.R. 3.3. A party who fails to object as required shall lose the right to object, and the arraignment date shall be conclusively established as the date upon which defendant was actually arraigned.

Rearraignment date was not within the time limits prescribed by this rule for jointers under Rule 3.6(b)

On 9th day of January 2006, Rearraignment on cause No. 05-1-02305-0, amended information appointing courts II and III. On that date a motion was brought before the above intitled court requesting Mr. Robert Dejan, attorney of record at that time be removed as defendant's counsel.

On the 31st day of January 2006 Motion to remove Mr. Dixon citing ineffective assistance of counsel was granted. New counsel was assigned at that date.

It was a forgone fact that Defendant was effective by without counsel at the date of arraignment. Because these conditions previously existed and no prior notice was given as to the nature and cause of accusations for arraignment at that date. Clearly prejudicial and not affording the accused opportunity to object under Superior Court Rule 3.3(a) in time limit prescribed by this rule for pointers.

Defendant *Hermon J. Sotherwell*  
Date: ;

# EXHIBIT

Number 9; Order Modifying Probation Cause(A)  
No(A) 83-1-00685-2 ; Case 80-1-03355-3  
and case 85-1-02795-3 Dec. 16, 1985

**CERTIFIED COPY**

FILED

cc to Doc

COMMITMENT ISSUED DEC 24 1985

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY  
STATE OF WASHINGTON,

Plaintiff,

v.

*Herman R. Safford*  
Defendant.

No. 83-1-00685-2  
ORDER MODIFYING PROBATION

THIS MATTER coming on regularly before the judge of the above-entitled court on the special request of the Office of Parole and Probation for an order modifying the terms of probation, and the court being fully advised in the premises; now, therefore,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the order of (deferred) (suspended) sentenced dated 6-16-83

be, and the same is hereby ~~modified~~ <sup>is ordered</sup> in the following manner:

*7.5 one year*  
*to serve concurrently*  
*with 80-1-03355-3 and*  
*85-1-02795-3*

DONE IN OPEN COURT this 16 day of Dec, 19 85

*[Signature]*  
JUDGE

Presented by: *[Signature]*  
Deputy Prosecuting Attorney

*Karen Klein* app. *[Signature]*

Order Modifying Probation

NORM MALENGO  
Prosecuting Attorney  
W554 King County Courthouse  
Seattle, Washington 98104  
683-2200

13  
R

# EXHIBIT

Number 10; Order Modifying Probation  
and Jail Commitment and terminating Probation  
Supervision on June 16, 1989 (15) and (17)

2

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

1 STATE OF WASHINGTON,  
2 Plaintiff,  
3 vs.  
4 Herman R. SAMELOWITZ  
5 Defendant.

NO.

80-1-03355-3  
83-1-00685-2

ORDER MODIFYING PROBATION  
AND JAIL COMMITMENT

JUN 20 1989  
COMMITMENT ISSUED

CERTIFIED

6 THIS MATTER came on regularly before the judge of the above-entitled  
7 court and the defendant admitted violations of the conditions of his probation:  
8  Failure to Report;  Failure to Comply with Financial Obligations;  
9  Other

10 IT IS ORDERED, that the (deferred - R.C.W. 9.95.210) (suspended - R.C.  
11 W. 9.92.060) sentence, dated 9-19-81 and 6-16-83 be, and the same is hereby  
12 modified in the following manner:

13  That the defendant shall serve 45 days in the King County  
14 Jail on (this) (each) cause number to be served concurrent/consecutive with each  
15 other other cause with cause NO 85-1-02795-3

16 this sentence shall be consecutive to any other term of commitment.

17  Credit is given for time served solely on this cause of 10 days.

18  Work Release is authorized if eligible.

19  Probation supervision is terminated upon completion of jail term.

20  Probation supervision is continued and (a) defendant shall report  
21 to C.C.O. within 72 hours of release from custody and (b) all previously imposed  
22 conditions of probation shall remain in effect and (c) probation supervision is  
23 extended to

24 DONE IN OPEN COURT this 16 day of June, 1989.

Charles Johnson  
JUDGE

25 Presented by:

[Signature]  
Deputy Prosecuting Attorney

[Signature]  
Attorney for Defendant

Sentencing Judge STAVAN GERMAN

ORDER MODIFYING PROBATION  
AND JAIL COMMITMENT

NORM MALENG  
Prosecuting Attorney  
W554 King County Courthouse  
Seattle, Washington 98104  
583-2200

LS  
MK

**CERTIFIED COPY**

original 1

COMMITMENT ISSUED JUN 20 1985

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

1 STATE OF WASHINGTON, )  
2 Plaintiff, )  
3 vs. )  
4 Herman R. SAMECHWITE )  
5 Defendant. )

80-1-03355-3  
NO. 83-1-00685-3 ✓

ORDER MODIFYING PROBATION AND JAIL COMMITMENT

6 THIS MATTER came on regularly before the judge of the above-entitled  
7 court and the defendant admitted violations of the conditions of his probation:  
8  Failure to Report;  Failure to Comply with Financial Obligations;  
9  Other \_\_\_\_\_

10 IT IS ORDERED, that the (~~deferred - R.C.W. 9.95.210~~) (suspended - R.C.  
11 W. 9.92.060) sentence dated 9-19-81 AND 6-16-83 be, and the same is hereby  
12 modified in the following manner:

13  That the defendant shall serve 45 days in the King County  
14 Jail on (this) (each) cause number to be served concurrent/~~consecutive~~ with each  
15 other other one with case No 85-1-02795-3

16 this sentence shall be consecutive to any other term of commitment.

17  Credit is given for time served solely on this cause of 10 days.

18  Work Release is authorized if eligible.

19  Probation supervision is terminated upon completion of jail term.

20  Probation supervision is continued and (a) defendant shall report  
21 to C.C.O. within 72 hours of release from custody and (b) all previously imposed  
22 conditions of probation shall remain in effect and (c) probation supervision is  
23 extended to \_\_\_\_\_

24 DONE IN OPEN COURT this 16 day of June, 1985.

25 Charles Johnson  
26 JUDGE

Presented by:

27 [Signature]  
28 Deputy Prosecuting Attorney

29 [Signature]  
30 Attorney for Defendant

Sentencing Judge SARILIA GEBREABEGE

ORDER MODIFYING PROBATION AND JAIL COMMITMENT

NORM MALENG  
Prosecuting Attorney  
5300 King County Courthouse  
Seattle, Washington 98102  
583-2200

POSTAL SERVICE

FILED  
COURT OF APPEALS  
DIVISION II

07 AUG -6 AM 9:07

STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

STATE OF WASHINGTON

COUNTY PIERCE

State of Washington,  
Respondent

vs.

HERMAN R. SATTERWHITE  
Petitioner

No. 35585-0-II

AFFIDAVIT OF SERVICE BY MAIL

State of Washington )  
County of PIERCE ss.

I, HERMAN R. SATTERWHITE, despose and say :  
That I am a citizen of the United States over the age of 18  
and competent to make this affidavit.

That on this 2 day of Aug., 20 07, I deposited in the  
United Sates mail.

Postage prepaid, addressed as follows:

STATE OF WA,  
COURT OF APPEALS  
DIVISION II  
950 BROADWAY #300  
TACOMA WA,  
98402-4454

Copies of the following documents in the above entitled cause:

STATEMENT OF ADDITION GROUNDS  
PAGE 1-9  
WITH EXHIBITS 2-10

I declare under the penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed on AUGUST 2, 2007  
Pursuant to 28 U.S.C..ss.1746.

*Herman R. Satterwhite*  
Signature

HERMAN R. SATTERWHITE, D.O.C #627137

Printed Name/D.O.C. Number

MCNEIL ISLAND CORR. CENIT

P.O. BOX 88-1000

STEILACOOM, WA, 95388-1000

Address