

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
DATE 11/27/07
BY JN
CLERK

STATE OF WASHINGTON)
)
 Respondent,)
)
 v.)
)
 Demond Roberts)
 (your name))
)
 Appellant.)

No. 36233-3-II

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Demond Roberts, 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

"The Trial Court Abused Its Discretion In Admitting
Unsecured Evidence Because The Chain Of Custody Being Broken
Made Unreliable" See Attached Statement.

Additional Ground 2

"The Counsel Was Ineffective Because He Failed To Object
To Tainted Evidence Caused From Broken Chain Of Custody"

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

Date: 11/27/07

Signature: Demond Roberts

"The Trial Court Abused Its Discretion In Admitting Unsecured Evidence Because The Chain Of Custody Being Broken Made Unreliable"

"Before a physical object connected with the commission of a crime may properly be admitted into evidence it must be satisfactorily identified and shown to be in substantially the same condition as when the crime was committed. Brown v. General Motors Corp., 67 Wn. 2d 278, 285, 407 P.2d F.2d 914 (1965); Gallego v. United States, 276 F.2d 914, 917 (9th Cir. 1960). Factors to be considered "include the nature of the articles the circumstances surrounding the preservation and custody of it." Gallego, at 917. State v. Cambell, 103 Wn. 2d 1, 21, 691 P.2d 929 (1984).

In this present case, the circumstances surrounding preservation and custody of the firearms prove the evidence presented to be unreliable as to the condition of the firearms at the date of alleged crime.

On December 11, 2006 Deputy Reed sealed, and with tape secured the two firearms. [RP 59-60]. It was sometime after the 22 Cal. was secured, before trial that the "gun was returned to its rightful owner" [RP 65:21]. This gun was retrieved and brought into trial for evidence on April 06, 2007. RP 65:22.

The evidence for most part, for almost four months remained in the possession of a non-official, nor authorized to hold onto evidence.

The second firearm Deputy Reed took to his residence and "and shot one round" [RP 72:13]. Deputy Reed also shot a round through the 22 cal. [RP 72:13]. Both these firearms can only be labeled as tainted, and unreliable and could not be entered into evidence as proof that the firearms presented were in the same condition as when they were taken from the Southmayds Residence on December 11, 2006. The evidence is tampered and is unreliable.

"The Counsel Was Ineffective Because He Failed To Object To Tainted Evidence Caused From Broken Chain Custody"

The issue here further attributes to ineffective of counsel that is already brought up in the Appellant/Counsel's brief and will consider argued there.

Respectfully submitted on this 27th day of November 2007.

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