

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

CERTIFICATE OF SERVICE

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12/5/08

STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II
08 DEC -5 PM 12:03
STATE OF WASHINGTON
BY em
DEPUTY

Respondent,

No. 37323-8-11

v.

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

MAURICE McDANIEL,

(your name)

ORIGINAL

Appellant.

MAURICE McDANIEL

I, _____, 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 DEFENDANT NEVER SIGNED FOR, NEVER CONSENTED TO, NEVER APPROVED THE JTS.
THE JUDGMENT + SENTENCE OMMITS DEFENDANT'S FINGERPRINTS, DOES NOT HAVE THE SEAL OF THE COURT, AND THE CERTIFICATE OF THE CLERK (PAGE # 9 ON THE JTS) IS NOT SIGNED, OR DATED.

Additional Ground 2

THE 2-1-08 WARRANT OF COMMITMENT IS NOT SIGNED, OR ATTESTED TO BY THE CLERK OF THE COURT.
THE 2-1-08 ORDER FOR BIOLOGICAL SAMPLE DRAW WAS NOT SIGNED OFF ON BY THE DEFENDANT.
DEFENDANT McDANIEL WAS DENIED THE RIGHT TO BAIL.

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

Date: 12/2/08

Signature: Maurice McDaniel

Additional Grounds For Review

Count #1.

THE TRIAL JUDGE did NOT HAVE JURISDICTION OVER THE PROCEEDINGS, AS THE DEFENDANT MAURICE McDaniel WAS ARRESTED (10) MONTHS "AFTER" THE CRIME, BASED ON INCONSISTENT, "CONTRADICTION" TESTIMONY OF THE VICTIM.

THERE WAS NO EVIDENCE LINKING, OR CONNECTING THE DEFENDANT TO THE CRIME, AS THE NAME "TONY GUNS" COULD APPLY TO, OR REFER TO ALMOST ANYONE. FURTHER MORE "TONY GUNS" SOUNDS MORE LIKE A NICKNAME, THAN A NAME.

WHENEVER A JUDGE ACTS WHERE HE DOES NOT HAVE JURISDICTION TO ACT, THE JUDGE IS ENGAGED IN AN ACT OF "TREASON", (U.S. VS WILL, U.S. SUPREME COURT) THE COURT OF APPEALS IS TO TAKE NOTICE THAT, ANY JUDGE OR ATTORNEY, WHO DOES NOT REPORT AN ACT OF TREASON WHEN IT IS MADE KNOWN AS REQUIRED BY LAW, MAY BE VIEWED AS GUILTY OF MISPRISON OF TREASON. 18 USC A 2382,

Additional Grounds For Review

Count #2:

Defendant was prosecuted by information, rather than by grand jury indictment, "in violation of" the 5th Amendment. The right to indictment is grounded in the precept of due process to ensure that the arrest is predicated on probable cause, that the charges are founded upon reason, and not dictated by an intimidating power, or by malicious and personal ill will, and acts as a barrier against hasty, unfounded, abusive, and oppressive criminal prosecutions. *W. vs G.* 370 U.S. 375, *U.S. vs P.* 823 F.2d 996,

The prosecutor's charging document was also constitutionally defective, as it was not submitted true to "form & procedure"; *369 U.S. 541*, *110 U.S. 516*,

Additional Grounds For Review

Count #3:

Defendant was subjected to Ineffective Assistance of Counsel, and a Attorney Conflict of Interest.
How so? Trial Attorney failed to confer, consult, or interview his client on an adequate basis so as to be sufficiently informed of the chain of events that transpired from the defendant's point of view.
The trial attorney failed to adequately apprise, and inform himself of the case.
The trial attorney failed to object in a timely manner to the improper acts of the court, prosecutor, jury, police, and witnesses for the state.
An attorney occupies a dual position, which imposes a dual obligation, his duty is to the courts, and to the public [the state that is], and not to the client, and whenever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter. G. vs B. 33 F. 3d 1193, P. vs U.S. 298 F. 2d 461, H. vs A. 435 U.S. 475, S. vs W. 80 Wn. 2d 406, S. vs W. 466 U.S. 688, G. vs U.S. 315 U.S. 60, denial of counsel requires the reversal of the conviction, G. vs W. 322 U.S. 335, P. vs A. 287 U.S. 45,

Additional Grounds For Review

COUNT: # 4

THE STATUTE UNDER WHICH THE DEFENDANT WAS CONVICTED, IS UNCONSTITUTIONAL. HOW SO? THE PROSECUTOR MAY NOT SEEK "DIFFERENT" PUNISHMENTS FOR THE SAME CRIME, AS THAT VIOLATES EQUAL PROTECTION, 78 W.N. 2d 9, ALL PERSONS MUST BE SUBJECT TO THE SAME DEGREE OF PUNISHMENT FOR THE SAME CRIMES, 77 W.N. 2d 535, 97 W.N. 2d 47, THE FINDING OF GUILT CANNOT BE BASED ON AN "ATTEMPT" TO COMMIT A CRIME, 48 W.N. 2d 126, YOU CANNOT BE PUNISHED FOR THOUGHTS, ONLY FOR ACTIONS, 508 U.S. 476, THE TERM "ASSAULT" IS NOT DEFINED IN THE CRIMINAL CODE, 93 W.N. 2d 751, 17 STAT. 198, WHEN ONLY (1) OFFENSE HAS BEEN COMMITTED, CONSECUTIVE PUNISHMENTS FOR VIOLATIONS OF "SEPERATE" STATUTES SHOULD NOT BE IMPOSED, 284 U.S. 299, THE MURDER STATUTE DEFENDANT WAS SENTENCED UNDER ALLOWS FOR "THE COMMISSION" OF A CRIME WITH A DEADLY WEAPON, AND FOR "ASSAULTING" A PERSON WITH A DEADLY WEAPON, THIS IS CLEAR "DOUBLE JEOPARDY", 490 U.S. 794, 153 W.N. 2d 770, 71, 395 U.S. 784, 127 W.N. 2d 95,

Additional Grounds For Review

Count #5:

DEFENDANT WAS DENIED THE RIGHT TO A "speedy"
TRIAL, 149 Wn.2d 230,

PER THE U.S. CONSTITUTION, PETITIONER IS ENTITLED
TO A SPEEDY TRIAL, TO AVOID THE POSSIBILITY
OF AN UNLAWFUL RESTRAINT IN THE EVENT THAT
THE EVIDENCE TITIS TOWARD INNOCENCE, RATHER
THAN TOWARD GUILT.

ADDITIONAL GROUNDS FOR REVIEW

COUNT: #6:

THE (3) COUNTS THAT DEFENDANT WAS CHARGED WITH ALL "MERGED," AS ALL (3) CHARGES, COUNTS, ENCOMPASSED THE SAME VICTIM, SAME TIME, SAME PLACE, SAME CRIME, 112 WN. APP. 390, 135 WN. APP. 54, THUS, DEFENDANT SHOULD HAVE ONLY BEEN CONVICTED OF, AND CHARGED UNDER (1) COUNT, 100 WN. APP. 776, THE STATES EVIDENCE AGAINST THE DEFENDANT, WAS PRESENTED (3) DAYS INTO THE TRIAL, THIS TARDINESS IN PRESENTING EVIDENCE, WAS HIGHLY PREJUDICIAL, SUSPECT, AND UNCONSTITUTIONAL, AND VIOLATED DEFENDANT'S RIGHT TO BE ABLE TO ADEQUATELY PROVIDED NOTICE OF THE EVIDENCE IN A TIMELY MANNER, SO THAT ONE CAN PRESENT A TIMELY DEFENSE, AND MARSHAL A PROPER REFUTATION TO ANY CORRUPTED, AND COMPROMISED EVIDENCE, 136 WN. 2d 467, 117 WN. APP. 309, 67 F. 3d 203, 331 U.S. 256,

Additional Grounds For Review

COUNT # 7:

IT WAS NEVER ADEQUATELY, PROPERLY, OR CONSTITUTIONALLY PROVEN AT TRIAL THAT THE DEFENDANT HAD THE "MEANS, MOTIVE, OPPORTUNITY, OR ABILITY" TO COMMIT THE CRIME AS IS NOW LAID UPON THE YOUNG SHOULDERS OF THE DEFENDANT. PLAINTIFF FURTHER ALLEGES THAT HE WAS GIVEN AN ERRONEOUS CONSECUTIVE SENTENCE AND THAT THE JURY FOUND NO AGGRAVATING FACTORS, THUS THE SENTENCE HANDED DOWN BY THE TRIAL COURT MAY NOT BE EXCEPTIONAL, AND OUTSIDE THE STANDARD SENTENCING RANGE, B. VS W. 542 U.S. 296, THE PROSECUTOR AT TRIAL, BROUGHT UP DEFENDANT'S POSSIBLE "GANG" AFFILIATION, IN FRONT OF THE JURY. THERE WAS NO HARD & FAST PROOF THAT THE DEFENDANT WAS IN FACT A "GANG MEMBER," 134 W.N. APP. 907, THE PROSECUTOR CHARGED THE DEFENDANT UNDER THE WEAPON ENHANCEMENT STATUTE, AND THE FIREARM ENHANCEMENT STATUTE, 138 W.N. APP. 86, PROSECUTOR MUST "ELECT" AS TO WHICH CHARGE TO BRING. "CUMULATIVE ERRORS ARE GROUNDS FOR REVERSAL, 90 W.N. APP. 54,

Additional Grounds For Review

Count: #8

THE "Cumulative" EFFECT OF THE TRIAL ERRORS WAS HIGHLY PREJUDICIAL, 981 F.2d 1206 AND CREATED AN "Atypical & Significant Hardship" UPON THE DEFENDANT, 515 U.S. 472,

THERE IS NO PROOF THAT THE DEFENDANT WAS PRESENT AT HIS SENTENCING, AS THE PETITIONER'S J & S IS NOT SIGNED BY PETITIONER, 490 U.S. 794,

CONSTITUTIONAL PROVISIONS MUST BE COMPLIED WITH, 384 U.S. 719,

PETITIONER'S ARGUMENT IS NOT FRIVOLOUS, OR ADVANCED WITHOUT REASONABLE CAUSE, 88 F.3d 774,

PETITIONER SUBMITS THIS STATEMENT OF ADDITIONAL GROUNDS IN GOOD FAITH, 468 U.S. 897,

APPELLANT/PETITIONER AVERS THAT HE IS "INNOCENT" UNTIL "PROVEN" GUILTY, AND THAT THE STATE HAS NOT OVERCOME IT'S BURDEN OF PROOF, 156 U.S. 453,