

- (1. Dear Court of Appeals :
- (2. Dear Defense Counsel :
- (3. Dear Prosecution :

Please find enclosed the statement of additional grounds form that you had sent to me, listing a Table of Contents all information, documents, exhibits, etc, regarding my statement of additional grounds.

Please note, in regards to Speedy Trial issues, I had to remove exhibit, d p 1-3 letter to bar association and exhibit E, response letter from bar association so that I did not exceed the rule of the 50 page limit. I felt that all other documents were of more importance.

If there is a way, please let the reviewers of my statement of additional grounds know this information and that I regret having to do so but there is such a large volume of evidence and I am limited to 50 pages so I must edit to some degree.

Thank you.
Respectfully
Christopher Saunders

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

00 NOV 24 PM 12:11

STATE OF WASHINGTON
BY _____

No. 07-1-04109-7 DEPUTY

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
Christopher Saunders)
(your name))
)
Appellant.)

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Christopher Saunders 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

(Violation of Speedy trial rites). Please see all attached Documents, ie of Supporting Case law for attached Statement of Facts, pg 1-4 - Statement of facts, pages 1-6 and, all supporting Exhibits
Supporting Case law pages 1-4
Statement of facts pages 1-6
All supporting Exhibits.

Additional Ground 2

(Errors at Trial) Please see Statement of facts pages, 1-5 and all Supporting Exhibits, ie of Court transcripts, etc.

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

Date: 11-19-08

Signature: Christopher Saunders

Supporting Case law for attached, Statement of Facts.

P 1 of 4

C.R 3.3, C.R 8.3 (b)

The U.S Supreme Court determines that deprivation of the Constitutional right to a speedy trial, to be measured by four factors, the length of the delay the prejudice to the defendant the reason for the delay and has defendant demanded Speedy trial.

By comparison individual states are left free to prescribe a reasonable period consistent with constitutional standards to which an accused must be afforded his or her right to a speedy trial. This is what Washington has done in C.R 3.3

The guaranty of speedy trial applies to all defendants.

I have shown the length of delay by Exhibits: A-G attached
Under the Constitutional provisions the right to speedy trial is secured by the Sixth Amendment.

Pg 2 of 4

Also under Fifth Amendment United States Constitution also has application to the right to a speedy trial.

The Constitutional right to have a speedy trial is guaranteed by article 1, section 22 of the WASHINGTON STATE Constitution which provides in part, the accused shall have the right to have a speedy public trial.

In addition, article 1, section 10, which declares that justice shall be administered openly also prescribes that it shall be done without unnecessary delay.

(Exhibits A-G show delay of over six months)

As for the reason for the delay the balancing test, as to where the conduct of both the prosecution and the defendant are weighed, the prosecution is clearly outweighed as (transcript Exhibit H-S p. 14-15 § 16 in Statement of Facts, the Honorable Judge Cullpeper on - 3-18-08 says

Pg 3 of 4

IN part to the prosecution that, Not only did the prosecution Not have a reasonable excuse for the delay on 2-20-08 but prosecution in fact had no reason or excuse for a further delay on 3-18-08 to which they again ask for a delay of two more weeks which because of their UNANSWERING to the Judge as to the why of the delay, prosecution was reprimanded and only given a one week CON-VIVANCE. (please see transcript Exhibit H-5 p-16)

As for my assertion to my right to Speedy it is a matter of record as My motion to dismiss hearing was held on 2-20-08 by the Honorable Judge Cullpeper who denied my Motion to dismiss.

My prior Motion to dismiss/copy of is listed in table of contents and is attached as (Exhibit C-3 p.1-5)

The prejudice in my case is that the Honorable Judge Cullpeper himself Stated as a matter of record (see transcript

Pg. 4 of 4

Correct that this case by no measure is of a Complex Nature thus making accessibility to prepare for, go to trial a non-difficult task.

Further, being a Non-Complex case even worsens my prejudice as, not only has the time to trial been in excess of six months clearly showing unnecessary delay but, by the Honorable Judge Cullpeper's own admission, in reprimanding the prosecution for not even having an answer to the delay of trial on 3-18-08 or a justifiable reason on 2-20-08 this more than shows my lengthy unnecessary delay in fact is coupled with not only unexplained reasons for the delay but unacceptable ones.

In conclusion, not only have I met all of the Barber VS Wingo criteria, but have shown that all Sixth, Fifth, State CrB 3.3 and all due process rights have been violated and that dismissal of the charges is the only remedy for deprivation of the Constitutional right to a speedy trial

Statement of Facts

Pg 1 of 6

(ALL EXHIBITS marked at bottom right of page)

I was brought to Pierce County Jail on Sept-17-07.

My first trial date was 11-6-07 (please see exhibit A) as marked bottom right of page, with a case age of 43 days to which I refused to sign because the Continuance was until 12-5-07 thus violating my Speedy trial.

Further more the State, marked the defendant box saying I brought on and or agreed to the Continuance.

I again went to Court for trial on 12-5-07 to which I again refused to sign (see exhibit B) giving a case age of 70 days, being the second continuance and once again, marking defendant box indicating I brought on and or agreed to Continuance.

At that time I ask my Attorney M.S Mansfield, to please file a Motion to Dismiss based on, not only the Violation of Speedy trial but, also because, I was aware that, if I did NOT raise the Speedy trial as an issue

Pg 2 of 6

prior to or at the time of trial, it would be considered a Legal Waiver of my Speedy.

Ms Mansfield stated (as a matter of record by way of Court date of 1-8-08, please see Court transcripts marked Exhibit, A-1 pg 4. that, she would not file the Motion as she felt it was Frivolous.

On that same date, 1-8-08, I ask the Honorable Judge Culpeper to please give me some type of documentation if in fact my Speedy trial rights had not been violated. I further expressed my desire to not allow another Continuance as,

Continuance was at the request of my Attorney, stating she needed further time for negotiations.

I stated to the Honorable Culpeper that not only did my attorney tell me that there would be no further continuances at my last trial date of 12-5-07, but that, there was no negotiation your Honor, as, my range was 43- to 57 months, the State offered the low end, and that I had in fact already declined. I am amna to trial →

(Please see transcripts Exhibit A-1 pg 4, I raise once again refused to sign my

continuance on 1-8-08. (please see

Exhibit C) to which, once again,

State marked defendant for indicating

I brought on and or agreed to the continuance

After that court date I first filed

a letter to the Washington State Bar Association

in regards to MS Mansfield's unwillingness

to file my Motion to Dismiss to which

a copy of that letter is attached,

please see Exhibit B pg 1-3, with the

response letter from Bar Association

attached behind, Exhibit E

I again went to another trial

date on 2-20-08 to which was

in fact my fourth trial date and

once again refused to sign. (please

see Exhibit E)

At that Court date, I stated as a

matter of record to the Honorable Judge

Culliper, all of the things I had said

at my last Court date of 1-8-08

as well as, once again, requesting

some type of local modification that

Pg 4 of 6

My Speedy trial had not been violated as well as, declining the Continuance which was again being requested on 2-20-08 (please see transcripts marked exhibit B-2 pg. 8)

On that same date 2-20-08 My Motion to Dismiss that I filed Pro-SE, (please see Exhibit C-3p. 1-5)
I orally argued the Merits of my Motion stating, as a matter of record (please see transcripts marked Exhibit D-4 p. 11

that all of my 6th amendment, 5th amendment and all my Due process rights have in fact been violated, that the State has not acted diligently, nor in good faith and that the dismissal of the charges was the only legal remedy.

At that time 2-20-08 Judge Cullpeper as a matter of record not only granted the Continuance but denied my Motion to dismiss (please see transcripts marked Exhibit D-4 p. 12 and D-4 - P - 13)

I again went to my fifth trial

pg 5 of 6

date of 3-18-08, to which gives the
case age of 182 days and To which
I once again, refused to Sign, (please
see Exhibit, G)

Lastly, on that date, 3-18-08,
as a matter of record, the Honorable
Judge Cullpeper reprimanded the
prosecution saying that he clearly
recalls making a statement agreeing
with me that, the case age was in fact
old and further stated that not only
did he address the prosecution for not
having a reasonable justification for
continuing my last trial date 1-8-08 but
could not find a reasonable justification
for the request of a Nother continuance
requested again on 3-18-08 for a
period of 2 weeks. (please see transcripts
Exhibit H-S pg-14-15 & 16

However, once again the prosecution
was granted another continuance.

Eventhough the continuance was only
for 1 week, never the less it was
continued.

P.S Please note that
Judg Cullpeper stated that the prosecution

Pg 6 of 6.

did not have a good reason for the continuance
as a matter of Record please see
Court transcript Exhibit, D-4 p. 13 and
D-4 p. 14.

Judge Cullpepper also stated as a
matter of Record that the last
continuance was without explanation
See Court transcript Exhibit H-5 p. 16

IC

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)
vs.)
Christopher Gaudin)
Defendant)

Cause No. 07-1-04109-7

ORDER CONTINUING TRIAL

Case Age 43 Prior Continuances 0

IC

This motion for continuance is brought by state defendant court.
 upon agreement of the parties pursuant to CrR 3.3(f)(1) or
 is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his
or her defense or
 for administrative necessity.
Reasons: More time to prepare for trial.
STATE v. CAMPBELL

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons
for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input checked="" type="checkbox"/> OMNIBUS HEARING	11/20/07	830	55U	1769132
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				

THE CURRENT TRIAL DATE OF: 11/16/07 IS CONTINUED TO: 12/5/07 @ 8:30 am Room 214A

Expiration date is: 1-7-08 (Defendant's presence not required) TFT days remaining: 30

IC

DONE IN OPEN COURT this 31 day of OCT, 2007

Refused- Present in court-
Defendant Christopher Gaudin Judge Kenneth Platt
Shirley H. Mansfield Prosecuting Attorney/Bar # 12290
Attorney for Defendant/Bar # 28601

I am fluent in the _____ language, and I have translated this entire document for the defendant
from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Pierce County, Washington
Interpreter/Certified/Qualified Court Reporter

Exhibit A

did not have in good reason for the

of 5

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff
vs.

G Cause No. 07-1-04109-7

Christopher Saunders
Defendant

ORDER CONTINUING TRIAL *11C*

Case Age 70 Prior Continuances 1

This motion for continuance is brought by state defendant court.

Upon agreement of the parties pursuant to CrR 3.3(f)(1) or is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

for administrative necessity.

Reasons: ongoing invest./negotiations, defense attorney in trial

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input checked="" type="checkbox"/> OMNIBUS HEARING <i>Bar Hrg</i>	<u>12/17/07</u>	<u>8:30</u>	<u>002</u>	<u>17813tb</u>
<input type="checkbox"/> STATUS CONFERENCE HEARING		<u>1:30</u>	<u>550</u>	
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				

THE CURRENT TRIAL DATE OF: 12/5/07 IS CONTINUED TO: 1/8/08 @ 8:30 am Room 211

Expiration date is: 2/7/08 (Defendant's presence not required) TFI days remaining: 30

DONE IN OPEN COURT this 27 day of Nov, 2007.

Present in absence of Sign off
Defendant
Lisa H. Mansfield
Attorney for Defendant/Bar # 78601

Althea M. Smith
Judge
Bonlat 169v1
Prosecuting Attorney/Bar #

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified Pierce County, Washington _____
Court Reporter

Note that Exhibit B

SF

1 continuances, that have been many, as I've been here
2 going on approximately 150 days --

3 MS. MANSFIELD: I think there have been two
4 prior continuances.

5 THE DEFENDANT: If, in fact, that most of the
6 continuances have been within the law, I'm just simply
7 asking, one, that I could see something tangible that I
8 could see, seeing for myself, that it is, in fact, been
9 lawfully continued, to not be a violation of my speedy
10 trial rights.

11 Secondly, Your Honor, this is a victimless
12 offense, so there isn't anyone that needs to be
13 subpoenaed. It's been postponed twice. My attorney,
14 Ms. Mansfield, has said that the last time it got
15 continued that there will be no further continuances.
16 She's asking for another month for negotiations. I
17 don't agree with that, Your Honor, especially since
18 I've been here for the amount of time that I have been.
19 If the prosecutor isn't willing to negotiate, I'm ready
20 to go to trial.

21 Also, I would like to state for the record that I
22 have asked Ms. Mansfield if she would file a motion for
23 a dismissal based on the violations of my speedy trial
24 rights. She has said that she will not file it as it's
25 frivolous. I have made it aware to her that I'm aware

A-1 P 4

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
 Plaintiff)
 vs.)
Christopher Sawdey)
 Defendant)

Cause No. 07-104109-7
ORDER CONTINUING TRIAL I/c
 Case Age 112 Prior Continuances 2

- This motion for continuance is brought by state defendant court.
 upon agreement of the parties pursuant to CrR 3.3(f)(1) or
 is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
 for administrative necessity.

Reasons: Further Negotiations

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>1/8/08</u>	IS CONTINUED TO: <u>2/20/08 @ 8:30 am Room 211</u>			

Expiration date is: 3/28/08 (Defendant's presence not required) TFT days remaining: 38 **SF**

DONE IN OPEN COURT this 8 day of Jan, 2008

PLEASE TO SIGN
 Defendant
Lisa H. Mansfield
 Attorney for Defendant/Bar # 28601

Judge
[Signature]
 Prosecuting Attorney/Bar # 36724

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

 Interpreter/Certified/Qualified Pierce County, Washington Court Reporter

Exhibit C

Log 100
work 500
or prior

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)

Cause No. 07-1-04109-7

vs.)

Christopher Samberg)
Defendant)

ORDER CONTINUING TRIAL

Case Age 155 Prior Continuances 3

(IC)

- This motion for continuance is brought by state defendant court.
 upon agreement of the parties pursuant to CrR 3.3(f)(1) or
 is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or:
 for administrative necessity.

Reasons: Prosecutor in trial

(*) Defendant objects to continuance

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>2/12/08</u>	IS CONTINUED TO: <u>3/18/08 @ 8:30 am Room 211A</u>			

(AC)

Expiration date is: 4-25-08 (Defendant's presence not required) TPT days remaining: 38

DONE IN OPEN COURT this 20 day of Feb, 2008

DECLINES TO SIGN
PRESENT IN COURT
Defendant
Shia H. Mansfield
Attorney for Defendant/Bar # 28601

Judge
[Signature]
Prosecuting Attorney/Bar # 16901

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Pierce County, Washington
Interpreter/Certified/Qualified

Court Reporter

Exhibit E

1 record, Ms. Mansfield, had stated at that time that, A,
2 because it isn't a complex case that there would be no
3 further continuances, however there was a continuance
4 at that point in time, and then again at my last trial
5 date there was a request for a further continuance by
6 Ms. Mansfield stating that she needed further time for
7 negotiations.

8 I also declined to have that continuance, as I
9 stated to the Court, that, Your Honor, there is no
10 negotiations. My time is 43 to 57 months. I fully
11 intend and have been trying to go to trial on the
12 matter.

13 I also had stated to the Court that my
14 understanding of my speedy trial versus what my
15 attorney was saying on my speedy trial were obviously
16 two separate things and that if, in fact, all my
17 continuances have been done lawfully that I could
18 please get something from the Court by way of legal
19 documentation showing that fact. Basically I was told
20 that the continuances would be granted.

21 I would also let the Court know that Ms. Mansfield
22 had made me aware, as I was already aware, that even if
23 regardless of my belief of my violation of speedy trial
24 that in order for me to be able to raise the issue of
25 violation of speedy trial on appeal that I would have

B-2 P 8

FILED
IN COUNTY CLERK'S OFFICE

A.M. FEB 13 2008 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, COUNTY CLERK
BY SSW DEPUTY



07-1-04109-7 29179908 MTDSM 02-13-08

Form 12.5 Motion to Dismiss
Superior Court of Washington
For Pierce County

Pg 1 of 1

State of Washington
Plaintiff

VS

Christopher Saunders

No. 07-1-04109-7

Motion to Dismiss

Defendant

Comes now the defendant, Christopher Saunders by and through the undersigned attorney of record and moves the Court to dismiss the information in the above captioned cause pursuant to CrR 3.3, CrR 8-3(b), and the speedy trial Clauses of the State and Federal Constitutions on grounds that the defendant has not been afforded his right to speedy trial

This motion is based on the files and records herein and the attached Memorandum of Authorities in support of defendant's motion to dismiss

Dated this _____ day of _____

Christopher Saunders

Lisa Mansfield

Attorney for Defendant

C-3 p 1 of 4

Pg 1 of 3)

I Christopher Israel Saunders, respectfully request dismissal of charges as follows

(Barker vs Wingo) 407 US 514, 92 S. Ct 2182 33 L Ed 2d US Supreme Court says, deprivation of Constitutional rights to be measured by four factors, length of delay, the prejudice, the reason, and did defendant demand speedy trial. The length of the delay has been from Sept-17-07 until (next trial date) 2-20-08 with 3 continuances to which not only did I refuse to sign but CrR 3.3 states in part that continuances or delays must be in written agreement's of the parties and must be signed by the defendant.

The prejudice, and the reason to wit in this case not only have there been no written agreement, nor did I sign, but all of the speedy trial rights as well as my due-process rights have been violated by the Courts continuing trial dates, violating speedy trial without lawful, legal means which then reduces defendant's burden as the Courts are now left with unexplained and unexorable reasons for the delay.

Furthermore, I the defendant by way of this Motion has in fact demanded speedy trial.

By comparison individual states are left free to prescribe a reasonable period consistent with Constitutional standards during which an accused must be afforded his right to a speedy trial.

This is what Washington State has done in CrR 3.3 and to which in my case they have not, thus violating all speed trial.

Pg 2 of 3)

The guarantee of a speedy trial applies to all defendants without reference to the nature or seriousness of the offence.

The Constitutional right to a speedy trial is guaranteed by article 1, section, 22 of the Washington State Constitution in addition article 1, section 10 declares that justice shall be administered openly, also prescribes that it shall be done without unnecessary delay.

The Constitutional right to a speedy trial secured by the Sixth amendment of the United States Constitution is as stated by the United State Supreme Court, just as fundamental as any right

Cr.R. 3.3(g) provides that the Court may continue beyond the 60- and 90 day periods on motion of a party. However, such continuance may be granted only once and the period of delay will be no more than 14 days for defendant in custody.

(State Vs Malone) 72 Wn. App. 429 864 P.2d 990 (1994)

Defence Counsel is an officer of the Court and has a duty to protect their clients speedy trial rights to which not only has my defence Counsel failed to due but stated that she infact will not due as she will not file Motion to dismiss as she states, she feels that it is frivolous.

This further demonstrates that no one in this matter, Courts, prosecution, nor defence counsel has acted dilligently nor in good faith and has clearly violated all guaranteed Sixth Amendment, Fith Amendment, 3.3 CrR and due process rites.

Pg 3 of 3) Conclusion

(Strunk V. S. United States)
S. Ct. 2260 37 L. Ed. 2d

If a trial is timely delayed the pending charge shall be dismissed if the Constitutional right to a speedy trial is violated and that Dismissal of the Charges is the only reasonable remedy for a deprivation of the Constitutional right to speedy trial.

(State V. S. White) 94 W. 2A 498, 617 P. 2d CrR 33h

Fifth Amendment guarantee's, NO ONE shall be deprived of life, liberty or property without due process of law

Respectfully
Submitted

Christopher Saunders

Lisa Mansfield
Attorney for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

date to hear it --

THE DEFENDANT: I could briefly just comment on it at this time now.

THE COURT: Go ahead, quickly.

THE DEFENDANT: Just quickly, Your Honor. I'm pretty sure you read the contents of it. When I got to the law library and received a copy of what the speedy trial rights were and reviewed the Fifth and Sixth Amendments, I understand that there's State v. Campbell, in the interest of justice; however, my layman understanding from everything that I read top to bottom, and I went over it two to three times to make sure I was getting everything correctly, and as I stated in my documents, in fact, the due process rights have been violated.

The Sixth Amendment and Fifth represent to the constitution, and the speedy trial right has been violated. The State hasn't acted diligently, and by what the speedy trial right says under the Sixth and Fifth Amendments is that the courtroom rules -- everything regarding the speedy trial has not been done within the standards of the law. And that's why I filed my motion.

THE COURT: Any response, Mr. Horibe? Has the State acted diligently?

D-4 P. 11

1 MR. HORIBE: Your Honor, I don't have any
2 personal knowledge, but I can tell you that each time
3 the Court signed those documents the Court found that
4 there was cause to continue the case. The State is --
5 I don't have any specific knowledge of due diligence,
6 but presumably there is a prosecutor that was handling
7 it and handling it correctly.

8 THE DEFENDANT: Your Honor, inside my motion
9 it says that certain criteria must be met in order to
10 continue, and clearly it shows that there's unexplained
11 and unacceptable reasons for the delay.

12 THE COURT: Well, the explanation isn't as
13 detailed as it might be, but there appears to be some
14 explanation, although if the State is acting
15 diligently, one might wonder better why someone in the
16 negotiating unit has a case that's 155 days old. That
17 may not be the State's fault. Two were at
18 Ms. Mansfield's request. Further negotiations, I don't
19 know what that means. Apparently they've been
20 fruitless.

21 Some of the cases you cite here, Mr. Saunders, are
22 really no longer good law. State v. White was
23 specifically overruled by the changes in the speedy
24 trial rule back in 2001. That was a case that looked
25 at that people didn't like. I'm going to deny the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

motion to dismiss. I'm going to grant one more
continuance, last continuance without good explanation,
which I haven't actually heard. I think this is a
fairly simple case to try. I'm going to continue this
to March 18th.

THE DEFENDANT: Your Honor, I would request
that my last court date that I believe was January 8th
and then this court date, is it possible that for
appeal purposes you could order that I be given the
verbatim of my January 8th court date as well as the
verbatim that took place today in court?

THE COURT: We can do that if there's an
appeal. You're presumed not guilty. Maybe there won't
be a conviction and no reason to appeal. You can get
that when it comes to your appeal when and if it gets
to that.

(The matter was continued to
Tuesday, March 18, 2008, at 8:30
a.m.)

D-4 p-13

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
 Plaintiff)

Cause No. 07-1-04109-7

vs.)

Christopher Israel Sanders)
 Defendant)

ORDER CONTINUING TRIAL 11C

Case Age 182 Prior Continuances 4

This motion for continuance is brought by state defendant court.
 upon agreement of the parties pursuant to CrR 3.3(f)(1) or
 is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
 for administrative necessity.

Reasons: Case to be reassigned to trial DPA

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>3/18/08</u>	IS CONTINUED TO: <u>4/2/08</u> @ 8:30 am Room			

Expiration date is: 5/2/08 (Defendant's presence not required) TFT days remaining: 30

DONE IN OPEN COURT this 18 day of March, 2008

Refused
 Defendant
Lisa H. Mansfield
 Attorney for Defendant/Bar # 28601

[Signature]
 Judge
[Signature]
 Prosecuting Attorney/Bar # 33142

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Pierce County, Washington

 Interpreter/Certified/Qualified

 Court Reporter

Exhibit G

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TUESDAY, MARCH 18, 2008; MORNING SESSION

(All parties present.)

--ooOoo--

THE COURT: You're Christopher Israel
Saunders?

THE DEFENDANT: Yes, Judge.

THE COURT: Mr. Saunders is here on Case
07-1-04109-7, failing to register as a sex offender.
Today is the day set for trial and there's a request to
continue this. Case to be reassigned.

MR. HYER: That's correct, Your Honor. Bret
Hyer on behalf of the State. This case is currently
assigned to Eben Gorbaty, who was negotiating these
cases. He thought it was going to be an agreed
continuance.

THE COURT: Last time when we were here the
prosecutor was in trial. Who was the prosecutor at
that time?

MR. HYER: I have no idea what that was
about, Your Honor. I see it. I just don't know what
it's about.

THE COURT: And I made a comment, too, that
the last continuance was without a good explanation.

~~XXXXXXXXXX~~ - ~~XXXXXXXXXX~~ H-S Pg 14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The good explanation was what?

MR. HYER: Mr. Gorbaty indicated that this matter had not been assigned to Mr. Nelson for trial, so therefore we're asking for a continuance so it can be assigned to Mr. Nelson and he can get it prepared for trial. Right now it's still in the negotiating phase.

MS. MANSFIELD: Your Honor, I thought we were going to trial today.

THE COURT: Well, Ms. Mansfield, anything else?

MS. MANSFIELD: My client did not wish to sign.

THE COURT: Well, prosecutor in trial, you're talking about Mr. Nelson?

MR. HYER: I would assume that that's what that's about.

THE COURT: Then why wasn't it reassigned to him a month ago?

MR. HYER: I can't answer that.

MS. MANSFIELD: And I definitely don't have the answer to that.

THE COURT: Well, my inclination is to set this over to Monday, a very short continuance.

THE DEFENDANT: Thank you, Your Honor.

~~17~~ ~~18~~ H-5 Pg 15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. MANSFIELD: That's fine, Your Honor.

THE COURT: Mr. Nelson just got out of a seven-week-long trial. It appears to me this should have been reassigned a month ago. The last continuance without explanation, that's an explanation. So, Monday is March 24th, and Mr. Nelson will have to get up to speed quickly. It's a relatively simple case, I assume, at least factually.

MR. HYER: I think it will be like the last case, as long as he can get the certified court documents. Usually if it's still negotiating there's no point expending the resources if it's going to be a plea.

THE COURT: So see you Monday, Mr. Saunders.

THE DEFENDANT: Thank you, Your Honor.

(The matter was continued to Monday, March 24, 2008, at 8:30 a.m.)

~~DET~~ P 16 H-5-P.16

Trial Errors :

Statement of Facts :

Pg 1 of 5

The State, within my probable Cause which was typed by, Mary Robbnett whoes signature says that she declares under the penalty of the laws of Forgery of the State of Washington is, true, and correct, Charges me with the crime of Failing to Register on April 13th 2007, based on the information given to her by Detective Dumais.

Within that same probable cause, next to last paragraph Detective Dumais states that I did in fact register on, April 13 - 2007, please see Exhibit - (A - probable cause - page 2)

My Attorney questioned Andrea Shaw asking are you aware Detective Dumais states Mr. Saunders Did register on April 13 - 2007, and the prosecution objected saying mistates the facts and the Court Sustained, (please see Exhibit - B)

On pages 78 & 79 of (Court transcripts Exhibit - C) the prosecution states, he believes that Mary Robnett's in her probable Cause declaration is a Mistake.

On page (80 Exhibit D) the prosecution says he believes the discrepancy in the

Pg 205 Probable cause is simply a scrivener's error. Also on page (80 Exhibit D) my Attorney informs the Court that the probable cause information discrepancy cannot be written of as a scrivener's error and reminds the Court that that the Probable Cause Statement is Under the Penalty of Perjury of the laws of Washington.

On page (85 Exhibit E) my attorney elaborates to the Court that we, no one has or can say what detective Dumais will or will not testify to and that if he can not be contacted there should be a mistrial. Also on (Exhibit E) in regards to Marny Robbnett and any testimony she may or may not give or may or may not be able to give the prosecution assumes and states to the Court that he does not believe Marny Robbnett wants to address that issue.

On page (86 Exhibit F) the prosecution states that it sounds like my attorney is saying if Detective Dumais was to testify he would essentially say, the last time I registered was April 6 - 2007, which is completely in error as, my Attorney clearly has stated on record that she does not know what detective dumais will or wont testify too but the Probable Cause

Pg 3 of 5

does say that Detective Dumais says that, I did register on April 13th 2007 being in contrast to which I am being charged by the State

ON page (87 Exhibit G) the prosecution first makes an error by talking to MS. Robbnett a potential witness. The prosecution tells the Court that MS Robbnett states she has no particular memory of this case and further taints the trial as the prosecution states MS Robbnett says to him outside of trial that, after reviewing her Probable Cause and the original report, what she would probably testify to is that she just mixed up the dates.

ON page (88 Exhibit H) the Court states upon review that Manny Robbnetts Declaration of Probable Cause, (which is Declared under Penalty of Perjury to be true and correct) is, Not Correct.

ON page (89 Exhibit I) the judge clearly violated all Court room rules, Constitutional rites and due process rites as she denied motion for mistrial and denied the request to delay the trial to Subpoena Detective Dumais.

ON page (90 Exhibit J) the Court again

Page 5

is in error as the Judge assumes as to what Detective Dumais will or will not testify to and completely disregards his statement in my probable cause saying that I did register on April 13-2007

ON pages (92-93 and 94 Exhibit - K) I repeatedly ask the Judge was she not allowing the probable cause information to be heard because Detective Dumais supposedly couldn't be contacted to be subpoenaed to Court to testify and the judge repeatedly told me, that she didn't understand the question.

On page (96 Exhibit - L) the judge even though she won't postpone my case to subpoena Detective Dumais, says that if he were here and present he would be allowed to testify.

The Court also makes the statement directly after saying he could testify, says that he could not testify to the probable cause because, the probable cause was a statement by Marry Robnett, and that if he had signed his name to the probable cause that he could be cross examined, yet Marry Robnett is the one whose signature is on the probable cause yet the Court ordered that she could not testify to the contents of the probable cause as it is her name.

Pg 5 of 5

On page (101, Exhibit M) my attorney attempts to question me about my probable cause and if it has a date of my last registration, the prosecutor objected saying, hearsay, however the judge overruled and said, I may answer the question, however if you examine the transcript exhibit - M carefully, as I began to answer the question that the judge allowed me to answer, the prosecutor objected a second time on the same thing but this time the judge sustained his objection.

On page (127, Exhibit N) Ms Wilkie testified that she alone at the time of my incident handled approx 2,795 homeless persons who come in weekly to register (please go back to pg 119 also Exhibit N for exact number of homeless people who register) and that I very well could of slipped through the cracks, i.e. of her possibly misplacing my paperwork.

On page (129, Exhibit O) the prosecution falsified testimony to the jury telling them that I said, I never came back after April 13-2007 with transcripts show I did not say but in essence says that, I then must of registered on April-13-2007

August 07 2007 8:30 AM

KEVIN STOCK
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 07-1-04109-7

vs.

CHRISTOPHER ISRAEL SAUNDERS,

DECLARATION FOR DETERMINATION OF
PROBABLE CAUSE

Defendant.

MARY E. ROBNETT, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the PIERCE COUNTY SHERIFF, incident number 071450686;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 13th day of April, 2007, the defendant, CHRISTOPHER ISRAEL SAUNDERS, did commit the crime of **Failure to Register as a Sex Offender**.

Pierce County Sheriff's Detective Dumais reports that the defendant, Christopher Israel Saunders, was held in custody between May 25, 2007 until July 3, 2007 on a probation violation related to his most recent Failure to Register as a Sex Offender conviction.

Detective Dumais reports that the defendant was convicted in 1993 of Rape of a Child in the Second Degree and Communicating with a Child for Immoral Purposes and he has been convicted of Failure to Register as a Sex Offender five times. Detective Dumais reports that the defendant most recently registered on April 13, 2007 as a transient. Gaylynn Wilke of the Pierce County Sheriff's Department reports that as of July 19, 2007, the defendant has not updated his registration status.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: August 7, 2007
PLACE: TACOMA, WA

/s/ MARY E. ROBNETT
MARY E. ROBNETT, WSB# 21129

F v. I + A O - 2

1 Your Honor. Thank you.

2 THE COURT: Ms. Mansfield.

3 MS. MANSFIELD: One moment, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. MANSFIELD:

6 Q Do you work closely with the detectives?

7 A Which detectives? In the sex offender unit?

8 Q Yes.

9 A Yes. If we need to have them talk to a sex offender,
10 we'll call them up to the desk.

11 Q Are you familiar with Detective Dumais?

12 A Yes.

13 Q And were you aware that according to Detective Dumais,
14 the defendant most recently registered on April 13th?

15 MR. NELSON: Objection, Your Honor; misstates
16 the facts.

17 THE COURT: Sustained.

18 Q (By Ms. Mansfield) Are you aware that -- of any other
19 registration after April 6?

20 A I don't have access to the file right now, so I don't
21 know.

22 Q What do you mean you don't have access to the file right
23 now?

24 A As far as Christopher Saunders?

25 Q Yes.

E. L. L. - R

1 MS. MANSFIELD: If that's blacked out, just as
2 long as, you know ...

3 THE COURT: This one also I can see his aliases
4 through the pages.

5 MR. NELSON: Your Honor, I can try to black it
6 all out and make copies. Then you won't be able to see
7 anything. I'll substitute the blacked out copies.

8 THE COURT: Or you could try cutting it out and
9 make photocopies with the cutouts.

10 MR. NELSON: That's fine. If I could have maybe
11 15, 20 minutes, I can go get that done, Your Honor.

12 THE COURT: That's fine.

13 Are you calling witnesses?

14 MS. MANSFIELD: Your Honor, the prosecution has
15 documents that go up to the date of April 6, 2007. I
16 knew they were going to bring in documents showing his
17 registration. And according to the probable cause
18 statement that we have, Detective Dumais reported that he
19 most recently registered on April 13th. We do not have
20 any records of registration for April 13th. So at this
21 point, I'm going to move the court to allow defense to
22 subpoena Detective Dumais to talk about that.

23 MR. NELSON: Your Honor if I could, I could
24 actually read Detective Dumais's report to the court in
25 its entirety. It's about two paragraphs. That's

F v. h. t. - 0

1 he last registered on April 13. There is nothing in the
2 discovery to show that. I think it was just a
3 scrivener's area. The incident date is April 13, because
4 that's the date that he failed to return and therefore
5 committed the crime of failing to register as a sex
6 offender. There is nothing in the detective's report
7 that indicates he returned on April 13, and there is
8 nothing that -- in the defendant's file that indicates he
9 returned on April 13. Ms. Wilke testified to that.
10 Ms. Mansfield had the opportunity to cross Ms. Wilke on
11 that issue.

12 That's about all I have to say, Your Honor.

13 MS. MANSFIELD: Well, Your Honor, I don't think
14 we can just write it off as a scrivener's error. I have
15 got a defendant here whose future kind of hangs in the
16 balance on dates and times. As my client will tell you,
17 the probable cause statement is under penalty of perjury.
18 It says in the probable cause statement, Detective Dumais
19 reports the defendant most recently registered on April
20 13, 2007, as a transient.

21 THE COURT: So who do you wish to call as
22 witnesses?

23 MS. MANSFIELD: If I could call Detective Dumais
24 and -- one second -- and Mary Robnett.

25 THE COURT: Why don't we take a further recess

1 actually incorrect that he registered on April 13th, and
2 Detective Dumais's report doesn't indicate that. I think
3 it's a mistake by Ms. Robnett in the probable cause
4 declaration.

5 May I read the report to the court just so the court
6 knows what it says?

7 THE COURT: Are you familiar with this?

8 MS. MANSFIELD: Well, I'm familiar with the
9 discrepancy, but I think my client has a right to
10 cross-examine the detective and/or Mary Robnett, who
11 wrote that. This is all about when he registered, what
12 time he registered, how long has it been since he
13 registered, and we have a discrepancy. So I think the
14 jury needs to know about that.

15 THE COURT: So you agree that in the detective's
16 report it says he last registered on April 6th. Is that
17 what you were going to read?

18 MR. NELSON: Yes, Your Honor.

19 Essentially, the detective's report says the
20 defendant last registered on April 6. He was registered
21 as transient, but he failed to update his registration as
22 a transient since April 6 of 2007. It says that he last
23 updated on April 6, '07, and he was due to check in to
24 return a week later on April 13th to update again.

25 Ms. Robnett's probable cause declaration says that

Exhibit A

1 seems like he is necessary to our case.

2 I don't know exactly what he would testify to, but
3 he may testify that the defendant did register on April
4 13th. I don't know. That's a question that should go
5 before the jury. If that question cannot be presented --
6 and it is the crucial question of this trial -- I think
7 there should be a mistrial.

8 In the alternative, we could recess until Detective
9 Dumais arrives back in Washington.

10 THE COURT: Thank you.

11 Mr. Nelson.

12 MR. NELSON: Your Honor, Ms. Mansfield didn't
13 say anything about Ms. Robnett. I don't think she wants
14 to address that issue.

15 MS. MANSFIELD: Well, Ms. Robnett cannot testify
16 as to what Detective Dumais did or did not do. I can't
17 get around that hearsay rule.

18 MR. NELSON: Okay. Your Honor.

19 When she: With respect to Detective Dumais,
20 Ms. Mansfield -- defense counsel essentially admits that
21 there is nothing to present to this court that he would
22 have any material evidence to testify to in this case, in
23 particular with respect to the April 13th date.

24 As I indicated to the court, Detective Dumais's
25 report, which has been provided to defense in discovery

Exhibit - F

1 for quite some time, indicates that the defendant failed
2 to update his registration as a transient since April 6,
3 2007. The only reference to April 13th in his report is
4 that the defendant was due to return on April 13th and
5 didn't show up. It also indicates that he was not in
6 custody between April 13th and May 24th of 2007. So
7 potentially there is two references in his report to the
8 date of April 13th, neither of which says the defendant
9 showed up on April 13th.

10 It sounds to me like Ms. Mansfield is saying that
11 Detective Dumais, if he testified, would come in and say
12 the last time the defendant showed up is April 6. I'm at
13 a loss to see how that's material, given the testimony
14 that's already been proffered in this case, which is the
15 last time the defendant showed up was April 6. If there
16 is an issue with respect to this April 13th date, recall
17 Ms. Wilke. She has got the file. She can testify as to
18 whether the defendant showed up or didn't show up on
19 April 13th. There hasn't been a showing of materiality
20 with respect to Detective Dumais. I would ask that we
21 just proceed.

22 MS. MANSFIELD: Your Honor, I can't say what
23 Detective Dumais's recollection would or would not be.
24 He is not here. And I can't get around the hearsay rule.
25 So unless and until Dumais arrives, the issue of

1 discrepancies in dates can't go before the jury, and
2 that's the crucial issue here.

3 MR. NELSON: Your Honor, if I may, the only
4 discrepancy in dates is in Ms. Robnett's probable cause
5 declaration. Just by way of offer of proof to the court,
6 I talked to Ms. Robnett. She didn't necessarily have any
7 particular memory of this individual case. She does all
8 the charging for the special assault units, so she
9 charges a number of different cases, as the court is
10 probably aware.

11 When she took a look at the report and took a look
12 at her probable cause declaration, she indicated that
13 what she would probably testify to is that she just mixed
14 up the dates in the reports. The incident date in the
15 information is April 13th. So she would essentially
16 testify that the incident date was April 13th, and if she
17 could, which she couldn't because it's hearsay, she would
18 say Detective Dumais's report says the last time the
19 defendant showed up was April 6th.

20 MS. MANSFIELD: Your Honor, she can't, because
21 it's hearsay, and all we have is Detective Dumais.

22 THE COURT: Thank you, Counsel.

23 May I see a copy of Detective Dumais's report?

24 MR. NELSON: Sure.

25 MS. MANSFIELD: Does Your Honor also have the

Exhibit A

1 probable cause statement?

2 THE COURT: Yes. I have that in the court file,
3 the declaration.

4 I have reviewed Detective Dumais's report, three
5 pages, dated July 3, 2007. This report was previously
6 submitted as part of a discovery package; is that
7 correct?

8 MR. NELSON: It was, Your Honor.

9 THE COURT: From the prosecutor to the defense.

10 On the last page of his report, it is clear that --
11 and I'm quoting this -- "Chris was last in this office to
12 update his registration on 4/06/07 when he registered as
13 a transient and was due to return on 4/13/07." So that
14 information has always been provided by the prosecutor
15 from the detective's report.

16 The probable cause declaration submitted by Deputy
17 Prosecuting Attorney Mary Robnett in the last paragraph
18 states that, quote, "Detective Dumais reports the
19 defendant most recently registered on April 13, 2007, as
20 a transient." So it appears that her declaration is not
21 correct and that the detective's report is consistent
22 with the testimony provided by the state in this case in
23 this trial.

24 Since the detective apparently is no longer a member
25 of the Pierce County Sheriff's Office, resides out of

Exhibit 4. H

1 state, and at this point in time is not here or able to
2 testify, I would deny the motion for a mistrial and deny
3 the request to delay the trial to subpoena him since it
4 appears that his report is consistent with the state's
5 testimony presented so far in this matter.

6 MS. MANSFIELD: Your Honor, if I might have a
7 moment to speak with my client.

8 THE COURT: Yes.

9 MR. NELSON: Your Honor, that's actually my only
10 copy of the police report. I'll make another copy and
11 just have it marked for purposes of the record.

12 THE COURT: That's fine.

13 MS. MANSFIELD: Your Honor, my client would like
14 to ask the court a question.

15 THE COURT: Go ahead, Mr. Saunders.

16 THE DEFENDANT: Yes, Your Honor.

17 I'm not trying to get technical here to too much of
18 a degree, however, I just would like to know. My
19 understanding is that the probable cause information is
20 declared under the penalty of the perjury law that the
21 foregoing is true and correct. That also is the very
22 information that was the cause of my arrest. I
23 understand that Detective Dumais may be out of state.
24 However, I do believe that it would be quite easy to make
25 contact with him, to have him subpoenaed for court.

1 What I don't understand, Your Honor, is, if the
2 foregoing is supposed to be true and correct under the
3 penalty of perjury law and that very information is the
4 information which was the cause of my arrest, why the
5 jury should not be allowed to hear that information, that
6 Detective Dumais did report that as of April 13, 2007,
7 that I registered as a transient. Not only is there that
8 discrepancy, but they say in the probable cause that the
9 supposed time of my failing to update my registration is
10 all the way into July, if you read the very last part of
11 the probable cause.

12 I think that that would be very pertinent
13 information. I mean, it is the whole, you know, basis of
14 this case, Your Honor. I would just ask that, especially
15 when I'm looking at 43 to 57 months, that the jury has a
16 right to hear that. That is the probable cause. That is
17 the cause of my arrest.

18 THE COURT: Thank you, Mr. Saunders.

19 I have explained my decision and why the error was
20 on Ms. Robnett's part and Detective Dumais would not
21 testify that April 13th was the date, according to his
22 report, but April 6th was the date.

23 THE DEFENDANT: Your Honor, even the supposed
24 date of my failing to update my registration requirement
25 is also a discrepancy. They say that after April 6 I

1 that Gay Lynn Wilke reports that as of July 19, 2007, the
2 defendant had not updated his registration status.

3 MR. NELSON: Right. Essentially, Your Honor,
4 that means that he hasn't checked back in as of July 19,
5 '07. He stopped showing up April 6 of '07. As of July
6 19th, he had not updated his registration status, which
7 means that he had not come back to the sheriff's
8 department like he was required to do as a transient and
9 updated his status by checking in, which I think is
10 consistent with her testimony that he essentially never
11 came back after April 6.

12 THE COURT: Do you understand that,
13 Mr. Saunders, that that last reference in the probable
14 cause is with respect to not coming back by July 19th to
15 update registration? So that would not be a discrepancy
16 then.

17 Is there something else you want to ask about?

18 THE DEFENDANT: Just so I have a full
19 understanding. After speaking with counsel, my
20 understanding was that when Mrs. Mansfield had made it
21 clear to the record and asked that since the probable
22 cause was under the penalty of perjury law and that the
23 foregoing is true and correct, my understanding is that
24 after she had explained how important that piece of
25 crucial information was -- my understanding was you, Your

Γ .1 .1 .4 - K

1 Honor, had agreed with that and that is why you had
2 stipulated that they needed to find an address for
3 Detective Dumais to be able to come in and testify.

4 What I'm gathering from my counsel is that even
5 though that was the case, that now, because he is out of
6 state and is supposedly uncontactable, that what you
7 originally ruled on saying that yes, the detective needs
8 to come and testify as to what is said in the probable
9 cause, is that it no longer is going to be admissible
10 solely based on the fact that he is not able to be
11 contacted.

12 THE COURT: I'm sorry, Mr. Saunders. I don't
13 understand what you just said, so I can't be giving you
14 clarification or legal advice.

15 THE DEFENDANT: Originally, Mrs. Mansfield said
16 that she would ask that Detective Dumais's statement
17 within the probable cause stating that I did register on
18 April 13th of 2007 be admissible as it's crucial
19 information. At that time you had said something to the
20 effect of, Okay, well, I will allow it, and you guys can
21 find an address or some way to contact Detective Dumais,
22 because you agreed with my counsel that yes, it is in the
23 probable cause, it is under the penalty of perjury law,
24 and that the jury should be privileged to that
25 information of what Detective Dumais said.

1 My question is this: Is it now not being allowed
2 simply due to the fact that Detective Dumais cannot be
3 contacted and is in another state? Because that's how my
4 counsel is making it appear to me.

5 MS. MANSFIELD: And for the record, I said the
6 court has ruled on this. I didn't go into the reasons
7 why the court ruled.

8 THE COURT: I'm still sorry, Mr. Saunders. I
9 don't understand your question. The reason we took a
10 recess, and I have it in my notes, was to see if we could
11 get Dumais's address and deal with the law on your
12 attorney's objection to Mary Robnett's declaration of
13 probable cause.

14 Are you going to be doing opening statement then?

15 MS. MANSFIELD: Just one more second, Your
16 Honor.

17 THE COURT: We need to proceed in this case,
18 Ms. Mansfield.

19 MS. MANSFIELD: I understand that, Your Honor.
20 I understand. Just one more second.

21 THE DEFENDANT: Your Honor.

22 THE COURT: Mr. Saunders.

23 THE DEFENDANT: Just so we can proceed with this
24 matter, because I know we are all waiting to get it done,
25 I would just like to know simply yes or no, when

1 number one, or mistried. I have made a record for the
2 appeal.

3 Am I missing anything, Your Honor?

4 THE COURT: The basis for it is that he is not
5 available to testify, so that's why. He is out of state.
6 So for those reasons, we need to continue with the trial
7 at this point in time. Certainly if he was here and
8 present, then he would be allowed to testify.

9 MS. MANSFIELD: And Your Honor also made a
10 ruling that the case would not be recessed in order to
11 locate him, correct?

12 THE COURT: Correct.

13 THE DEFENDANT: Your Honor, if Detective Dumais
14 was able to be contacted and brought into court, then
15 would his testimony with regard to probable cause be able
16 to be heard before the jury?

17 THE COURT: No, because the probable cause was a
18 statement by Mary Robnett, not by him. He didn't make
19 that statement. If he had made that statement in the
20 probable cause and if he had signed the probable cause,
21 then it could be used to cross-examine him, but it was
22 not a statement made by him. That's why we don't allow
23 prosecutors to proceed on probable cause statements to
24 try people, instead of having witnesses brought into
25 court.

1 what you received?

2 A That is exactly what I received.

3 Q Does it state that you last registered on April 6th?

4 MR. NELSON: Objection, Your Honor; hearsay.

5 THE COURT: Sustained.

6 Q (By Ms. Mansfield) Does it have a date of your last
7 registration?

8 MR. NELSON: Objection, Your Honor; hearsay.

9 THE COURT: Overruled.

10 You may answer that.

11 A Yes, it does. That date is --

12 MR. NELSON: Objection, Your Honor; hearsay.

13 THE COURT: Sustained.

14 Q (By Ms. Mansfield) So it does have a date?

15 A Yes, it does.

16 Q Was that date before or after April 6th?

17 MR. NELSON: Objection, Your Honor; hearsay.

18 THE COURT: Sustained.

19 Q (By Ms. Mansfield) Have you tried to comply with the
20 requirements?

21 A Yes, I have.

22 MS. MANSFIELD: No further questions.

23 THE COURT: Mr. Nelson.

24 MR. NELSON: Your Honor, I need to address
25 something outside the presence of the jury.

F-16-14-11

1 it is, if you have questions in your mind, questions lead
2 to doubt. And after this case, you should have some
3 questions in your mind.

4 My client testified. He didn't testify as much as
5 he wanted to. He testified that he did report as a sex
6 offender, but he was not allowed to talk about --

7 MR. NELSON: Objection, Your Honor.

8 THE COURT: Sustained.

9 MS. MANSFIELD: And Ms. Wilke said that she
10 worked with Detective Dumais. He is not here. Does that
11 raise any questions for you?

12 MR. NELSON: Objection, Your Honor.

13 THE COURT: Overruled.

14 MS. MANSFIELD: Ms. Wilke testified that she was
15 one person working in an office where there are transient
16 sex offenders whose files, as you saw, are six to eight
17 inches thick. She also testified that there were over --
18 I can't remember the exact number, but over a thousand
19 files that she was in charge of. And at that time in
20 April of 2007, she didn't have any help.

21 So I think it's fair to say that Ms. Wilke was
22 overburdened. She also testified that, like us, she is
23 human and she does make mistakes. Sometimes things do
24 slip through the cracks. Is it possible that
25 Mr. Saunders's case slipped through the cracks?

1 witnesses in this case had a motivation to minimize their
2 own conduct? Was it Ms. Wilke, or was it the defendant?

3 Now, Ms. Wilke came in and testified that the
4 defendant had registered. He had registered
5 consistently. He complied with the law for a month and a
6 half, and then he stopped. Now, if she was trying to
7 hide something or she missed something, would she come in
8 and tell you that the defendant had consistently come in
9 and complied with the law, that he had done what he was
10 supposed to do for an extended period of time?

11 Look at the defendant's testimony. The defendant, a
12 guy with multiple convictions for crimes of dishonesty,
13 and ask yourselves whether he has a motivation to
14 minimize his own conduct. And then ask yourselves
15 whether his testimony was credible. He told you he never
16 came back after April 13th. He told you himself.

17 The evidence in this case shows to you, proves to
18 you beyond a reasonable doubt, that the defendant
19 committed the crime of failure to register as a sex
20 offender.

21 Also ask yourselves: What's a reasonable doubt?
22 Could, hypothetically, something have been lost? Sure.
23 Is that a reasonable doubt? Is that reasonable in your
24 mind? No, it's not. Because the evidence tells you that
25 the information Ms. Wilke had, the information the

F v. h. + O