

ORIGINAL

21

FILED
SUPERIOR COURT Superior Court Of Washington
THURSTON COUNTY WA

In And For The County Of THURSTON

'09 NOV 16 A10:58

State Of Washington
BETTY ~~PLAINTIFF~~ CLERK

19

Cause No. 08-1-02160-6

Motion For: _____

V. BY _____
DEPUTY

CrR 7.5 NEW TRIAL

ANTHONY CLEMONS PRO SE
Defendant,

CrR 7.8 Relief From Judgment

"EVIDENTIARY HEARING"

FACTS

- I. Comes now the Defendant, ANTHONY CLEMONS, acting for now Pro'Se in the above Entitled matter.
- II. Defendant appeared before the Honorable Judge ANNE HIRSCH
- III. State was represented by Prosecutor JACK JONES County, WA.
- IV. Defendants Attorney of record in the matter, JAMES SHACKLETON
- V. Defendants sentence as follows; 73 MONTHS FOR ASSAULT IN THE SECOND DEGREE

Grounds

- 1) UNDER CrR 7.5 (a)(3) NEWLY DISCOVERED EVIDENCE
The Attached Statements of Amanda Goss (Attached) Ashley Triance (Attached).. Both Statements Meet the Newly Discovered Evidence Standard As Defendants Council Failed to Submit them At trial + the could have drastically swayed the (Verdict) outcome of the trial..
- 2) CrR 7.5 (a)(5) Irregularity in the Proceedings --- Abuse of Discretion prevention of Defendant Having A Fair trial
The lack of Witnesses Called on my BEHALF Meets this Standard I was NOT Given A Fair trial As Eyewitness' WERE NOT EVEN Submitted or Considered. Such As testimony

RETITIONER MAY FILE THE
PETITION WITHOUT PAYMENT OF
A FILING FEE

[Signature]

COURT CLERK 2/10/10

RELIEF

walker, Patrick Lamp, As well as several other Witness Considerations
Kellie Lapczynski, Mark Sheffield, Ashley Triance, Cathy Reeves -

3) CrR 7.5 (a) (X~~5~~) VERDICT CONTRARY TO LAW & EVIDENCE
"INSUFFICIENT EVIDENCE TO UPHOLD CONVICTION - SUBSTANTIAL JUSTICE HAS
"NOT" BEEN DONE -

4) CrR 7.8(b) Newly Discovered Evidence. Statements Attached -

5) Ineffective Assistance of Council included Affidavit in Support of
Attached -

I HEREBY MOVE THIS COURT TO SET FORTH AN EVIDENTIARY
HEARING TO MAKE A DETERMINATION ON THE RECORD BASED ON "ALL"
THE FACTS PERTAINING TO THIS MATTER -

CURRENTLY HAVE A DOCKET DATE SET FOR A ~~DO~~ SHOW
CAUSE HEARING / NEW TRIAL ON NOVEMBER 19th 2009 -

I declare under penalty of perjury under the laws of the State of
Washington, that the foregoing is true and correct.

Respectfully Submitted this 3RD day of NOVEMBER, 2009.

Mailing address;

Anthony Clemons # 755828
CBCC - MSL - JA-09
1830 Eagle Crest Way
Clallam Bay WA 98326-9723

A. Clemons

signature

ANTHONY CLEMONS

typed/printed name

PRO SE

11
MC PUBLIC #2

Re: 08-1-02160-6

Anthony Clemons

Vs.

State of Washington Jesse Cohen

FILED
SUPERIOR COURT
WASHINGTON COUNTY, WASH.

09 SEP 25 PM 4:06

DEPUTY J. GOULD, CLERK

DEPUTY

On October 26, 2008 This day I had Anthony Clemons meet me at his father's house for the exchange of mine and Jesse Cohen's son I was picking my son up early so he could attend his cousins birthday party out in Shelton. Since Mr. Cohen lives in the same neighborhood as Mr. Clemons father I thought it would be a safe choice to have him meet me there due to recent verbal attacks to be my Mr. Cohen.

Anthony and his friend Patrick Lamp had been working on a car at their friend Curtis Walker's house about a mile down the road they drove the car they had been working on up to Anthony's dad's house to meet me before I called Mr. Cohen to let him know I was there. Mr. Clemons, Mr. Lamp and Mr. Walker sat in the car in the driveway and I waited outside my Jeep for Mr. Cohen to arrive with our son. When Mr. Cohen arrived he shut his truck off got out of the vehicle threw his keys and his arms in the air then began to yell at me saying "what the fuck Amanda is this the way you got to be" "Fuck you, you fucking bitch" he then began to approach me he smelt like alcohol I was scared and I was trying to get my son away from him and in my Jeep. At this point Mr. Clemons and Mr. Lamp got out of their vehicle and stood in front of Mr. Cohen so that I was able to get my son in the vehicle. Mr. Cohen stopped yelling and backed off and at no time did I see any physical contact between Mr. Clemons, Mr. Lamp or Mr. Cohen.

I drove out of the neighborhood when I looked in my mirror Mr. Cohen was behind me Mr. Clemons, Mr. Walker and Mr. Lamp were behind him and Mr. Cohen turned his vehicle back towards his parent's house and myself and the vehicle with Mr. Clemons, Mr. Lamp and Mr. Walker all left the neighborhood to drop the vehicle they were working on off. Around 1:00pm myself, my son and Mr. Clemons arrived at my Father's house in Shelton for my Nephew's birthday party.

I have also enclosed notarized documentation I used as records I kept of Mr. Cohen's behaviors leading to this event and ultimately the state of Washington awarding me complete custody of our son due to his irrational behavior patterns and history of violence against me.

I certify under penalty of perjury of the laws of the State of Washington that the following statement is true and correct.

Amanda Love SEPT 25, 2009

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State of Washington

County of Thurston

I certify that I know or have satisfactory evidence that

Amanda L. Coss

is the person who appeared before me, and said person acknowledged that he/she signed this instrument freely and voluntarily for the purposes mentioned in the instrument on Feb. 9, 2009



Sean M. McCoy

Notary Public, State of Washington

My appointment expires: 11-01-11

MC PUBLIC #2

RE: GAVIN COHEN

AMANDA COSS PRO SE

VS

JESSE COHEN

TIMELINE OF EVENTS

Prior to May of 2008 I became involved w/ and started dating a man who had recently been released from prison. This individual is to be identified as Anthony C. Clemons. Mr. Clemons happened to be a childhood enemy of my son GAVIN's father Jesse E. Cohen (my ex). Mr. Cohen and Mr. Clemons met at my home in April 2008 so that Mr. Cohen could meet the man I was seeing, being as Mr. Clemons was present in and around my home and child. Mr. Cohen was cordial and polite but made it known his distaste for the fact that I was dating a "convict". Mr. Cohen was cooperative for the most part from that time forward till I moved in with Mr. Clemons to Shelton WA.

In the interim period Mr. Cohen was consistently drunk and would show up at my house unannounced to "check in on me" though we'd been apart for a number of years. There was a constant onslaught of verbal abuse directed at me at that time and minor threats to try and get me to do things for Mr. Cohen such as help him buy drugs or for me to drop the child support so he wouldn't be obligated to pay.

My move to Shelton was brought on by a number of events that put me and my son at risk. I agreed to help a family member and allow her to stay in my home temporarily she happened to be involved in activities that led to her being apprehended at my home. About the same time that this event occurred I was informed by the Department of Corrections that an individual to be identified as Charles C. Byram that assaulted and attempted to kill me was to be released and going to be living in the city of Tumwater where myself and my son also lived.

Mr. Clemons was a solid choice for support and had proved himself independent and reliable, he worked routinely, had a drivers license, his own place and was willing to take in myself and my son the issues I was having due to circumstance weren't an issue as far as Mr. Clemons was concerned.

I willingly admit that I failed to notify Mr. Cohen and the court through the proper channels and procedures. I had reason to believe that at that time my life was in danger as well as my child's safety was increasingly being put in jeopardy if I was to remain in Tumwater. I feel to this day that I made a correct decision and want it known that although I did not send the proper paperwork through appropriate channels that I did make the child's father aware of my decision verbally and kept him aware of my decisions, actions, and never tried to keep Mr. Cohen from seeing his son.

During the summer Mr. Cohen had GAVIN for two weeks and I had GAVIN for two weeks until school started in September. I had less dealing with Mr. Cohen than I had had before with the two week schedule. Sometime in July 2008 Mr. Cohen began working with All West Transportation (360) 943-4990 2640 Willamette Dr NE, Lacey WA. Child support began to come out of his paychecks and sending me

MC PUBLIC #2

the payment. Mr. Cohen owes \$9,213.46 in back child support anytime I have received any type of payment from Mr. Cohen there becomes a harassment issue, he verbally bashes me, harasses me about what I am ending the money on, and ultimately ends up making threats to me in person and over the phone or through my son by sending him home and then my child makes comments to me that pertain to how I should be spending the money his dad has been paying. These are matters that I only discuss with Mr. Cohen and that Gavin should not be privy to.

The relationship in our family and home was wonderful myself and Mr. Clemons were both able to provide for Gavin good things when Anthony took Gavin with his boss and his boss's son to work on tractors and go to the lake to fish. Mr. Clemons and I were growing strong we enjoyed spending time going on camping trips with our friends taking our kids on boat rides and trips. Mr. Clemons and myself were building a family.

Gavin began to tell Mr. Cohen about the trips he had taken and time spent with Mr. Clemons. Me being with Mr. Clemons and his relationship growing strong with Gavin caused Mr. Cohen to make Mr. Clemons a target for his verbal and physiological whirlwind and at this time Gavin had just started to warm up to Mr. Clemons and accepted him into his comfort zone. Gavin interacted positively with Mr. Clemons. At this time Mr. Cohen began to defecate mine and Mr. Clemons character, telling his friends and family that we are "drug addicts" and that they don't want Gavin being around a "convict".

August 2008

Mr. Cohen while drinking asks Gavin for the TV remote when Gavin was noncompliant Mr. Cohen smacked him in his neck knocking him over. Upon Gavin's return to my home he complained of neck pain for 4 days. This was a traumatic experience for Gavin.

September 12, 2008

Mr. Cohen shows up at my home while I was at work and after he picked up Gavin from daycare. Mr. Cohen. Mr. Cohen asks my landlord Heather Sundsten (see attached statement), to let him upstairs for Gavin's bike helmet. Ms. Sundsten allowed Gavin to enter but told Mr. Cohen she did not feel it was appropriate to let him in our home without my permission.

September 14, 2008

Mr. Cohen made an arrangement to bring Gavin to Shelton for me to pick him up early and he did not specify a time. Once he arrived in Shelton he made a phone call to me and belligerently began to harass me about where I was and would not tell me where he was at. I told him I was at my father's home and within 15 minutes of his location, I would be there to meet him. He then stated he was at my residence but he wasn't waiting for me. He then began to verbally assault me stating things like "you're irresponsible" "you're high on drugs" "you're nothing but a fucking bitch" "you need to get your shit together". Our son was in the vehicle the entire time Mr. Cohen was slandering me. Mr. Cohen did not return Gavin to me in Shelton; instead he brought him to my mother's home in Lacey where I went to pick him up.

MC PUBLIC #2

September 28, 2008

Attempted to arrange pick up with Mr. Cohen he became assaultive and uncooperative then immediately he began to verbally bash me stating "you're on drugs" "you aren't anything but a crack whore" "what type of person are you". Again he refused to return our son to me and instead brought him to my mother's where I came to pick him up.

October 12, 2008

Because of Mr. Cohen's recent aggressive and abusive behavior and fear of my safety I had my boyfriend, Mr. Anthony Clemons, as well as myself attempt to contact Mr. Cohen and he would not answer the phone or return the messages. The intent of the call was to determine whether or not Mr. Cohen was at his residence so I would know I could pick up Gavin as according to our parenting plan.

October 25, 2008

Mr. Dennis Cohen, Mr. Jesse Cohen's brother, contacts my boyfriend Mr. Anthony Clemons by phone. Mr. Dennis Cohen does not identify himself and begins to make comments such as "you need to quit hurting my nephew" and then threatens that "we have ways of taking care of this".

October 26, 2008

Upon meeting with Mr. Cohen to pick up Gavin, Mr. Cohen shut off his vehicle jumped out and threw his keys on top of the truck box in the bed of his truck. He then began yelling and said "what the fuck Amanda is this the way you got to be" "fuck you you fucking bitch" at this time he began to approach me while I tried to get Gavin into the vehicle safely, and Gavin and I drove away from Mr. Cohen's unpredictable behavior and aggression. This day I attempted to arrange for a third party, my boyfriend, Mr. Anthony Clemons to pick Gavin up to avoid having to have contact with Mr. Cohen for fear of my personal safety. Mr. Cohen refused to cooperate and when I arrived he became belligerent, assaultive and irrational. When Gavin and I returned home I asked him about his visit to his Uncle Dennis's house and that is when Gavin told me "you know my dad and Dennis never liked Anthony for a long time". This type of defamation in front of Gavin is completely inappropriate to the development and parenting of our son

November 3, 2008

Mr. Cohen called 6 times and left messages saying "I'm coming over to check things out for myself". He then sent a police officer to my residence to do a welfare check on my child. I was at my father's home for fear of my safety. When the officer arrived, my landlord, Heather Sundsten told the officer that I was at my father's with Gavin and she had just seen us Gavin was fine.

November 4, 2008

MC PUBLIC #2

Mr. Cohen contact Gavin repeatedly at my father's home. Gavin was upset at the conversation and repeatedly answered yes and no followed by I don't know. Concerned about what was going on my father asked Gavin what that call was about and Gavin said he couldn't talk about it. Eventually he told my father that he had to see a counselor in the morning.

November 5, 2008

I contact Mr. Wirzbivki the counselor at Bordeaux Elementary School in Shelton WA. I told Mr. Wirzbicki that there was an appointment with him and Gavin this morning and I was concerned and wanted to know the nature of the appointment. Mr. Wirzbicki asked me how I found out about it. I told him that Gavin had told my father after the multiple phone calls from Mr. Cohen the night before. Mr. Wirzbicki called me back and gave me a number to Mr. Brandon Harnisch at Shelton CPS. I contacted Mr. Harnisch at 360.432.2050 later that afternoon. Mr. Harnisch informed me that there had been a report that there was an alleged act of violence committed by Mr. Clemons, my boyfriend, against Mr. Cohen in front of Gavin. Mr. Harnisch completes his work with Mr. Wirzbicki (arranging a safety plan) and tells me that he was not concerned with the safety of Gavin and also that I may file an addendum to Mr. Cohen's statement. I notified Mr. Harnisch that I would provide him a copy of the finalized no contact order, if approved, and also informed him of the behaviors of Mr. Cohen that I experienced that day and in the past that were of concern to me.

November 9, 2008

Mr. Cohen refused to allow me to pick up Gavin at his residence for "fear of his safety and retaliation" I offered to meet him at the local police department or a public place and he refused and contacted the local police. I went to my friend Kellie Lapczynski's residence about a block away from Mr. Cohen's where I had Ms. Lapczynski attempt to contact Mr. Cohen he was verbally abusive to her calling her a "fucking bitch" and numerous other things. Ms. Lapczynski and I contacted law enforcement as well to let them know the complications. At 8:30 pm one hour late Mr. Cohen had his sister Ms. Leslie Lockard meet me at the Lacey Police Department where she got out of the vehicle and began to yell to me "you know how fucked up you are" this event occurred in front of Gavin and Ms. Lapczynski. Gavin would not talk to me at all and all he did was cry until finally he calmed down when I asked if he wanted to get a milkshake.

November 15, 2008 10:29 pm

Text: Can u please let Gavin talk to me this has gotten way out of control unless that's the way u like it but I'm sure u have better things to do like ant? <assholio>

November 15, 2008 11:14 pm

Text: it's kind of bs u cant let Gavin talk to me and I know he wants to or am I just putting stuff in his head retarded <assholio>

November 15, 2008 11:16pm

MC PUBLIC #2

Text: see you next Tuesday. llll <assholio>

November 18, 2008 8:19pm

Text: I want to talk to him now u cant refuse to let me talk to him so let him talk to me <assholio>

November 18, 2008 8:20 pm

Text: was Gavin trying to answer the phone <assholio>

November 18, 2008 8:29 pm

Text: I will take that as a no pretty lame that my son isn't allowed to talk to me

November 19, 2008 12:30 pm

Text: No I want to but I'm working on the truck it wouldn't start this morning but have him call me later and I will see him on fri <assholio>

November 27, 2008 5:10 pm

Text: so ur not going to let me talk to my son on thanksgiving that's kinda fuked <assholio>

December 7, 2008

I requested Ms. Lapczynski ride with me to pick up Gavin. We waited in the car when Gavin came out I got out to put the back seat of my jeep down while Mr. Cohen cursed at Ms. Lapczynski and critized my vehicle. Again Gavin was upset and didn't want to talk to me.

December 17, 2008

Mr. Cohen leaves a phone message for me at 6:00 pm stating that "you refused to talk to me who knows where you are I could have picked up Gavin today". This day was a snow day at school so I told Mr. Cohen could have contacted me while in town at 3:30 and he could have had his visit with Gavin at the regular time school is out 3:30pm as in our parenting plan in section 3.11.

December 24, 2008 7:10 pm

Voice: "it would help if you answered your phone when is Gavin coming back?" parenting plan states a holiday starts at 7:00 am and ends at 9:00pm

December 28, 2008 7:24 pm

Voice: not very smart you driving like that with the kid in the car and not very smart period good luck"

Please see attached statement from Mr. Raymond Sheffield. When I picked Gavin up this evening I brought a friend Mr. Sheffield so that I felt safer while picking up Gavin. Mr. Sheffield waited in the vehicle. I called Mr. Cohen and asked him to send Gavin out. Mr. Cohen stared in the vehicle and had

MC PUBLIC #2

approached his truck as we drove away. I went down the road to Ms. Lapczynski's home about a block away from Mr. Cohen. We visited for a minute and as we left the driveway Mr. Cohen drove in front of her home. He was in front of us while I tried to drive away. I waited for him to turn at the stop sign down the highway and chose to take the route he did not. I turned left and then passed another vehicle so I could ensure our safety from Mr. Cohen.

January 1, 2009 10:04 pm

Text: whatever he's probably not with u <assholio>

January 1, 2009 10:03 pm

Text: whers my boy <assholio>

January 10, 2009 1:10 am

Text: and I hope Anthony didn't have anything to do with it <assholio>

January 10, 2009 12:55 am

Text: Gavin even seen him on the news fuk that <assholio>

January 10, 2009 12:55 am

Text: sorry but this shit is getting fuked up. I'm not going to have my kid around armed robbers. Ive been realy quiet but not any more.

January 10, 2009 12:51am

Text: or should I say Patrick D. Lamp

January 10, 2009 12:49am

Text: I seen ur buddy pockets on the news. Not good I hope that dude has no contact with u guys. Gavin will be staying here until both of them r caught.

January 13, 2009 6:103pm

Text: one down one to go

January 14, 2009 3:46 pm

Text: and I'm coming for my boy so deal with it

January 14, 2009 3:44 pm

Text: I'm coming for Anthony c. Clemens ur next what r u gonna do about it nothing.

January 14, 2009 3:41pm

MC PUBLIC #2

Text: I hpe a doesn't stay there cause they r all over the both of you so go fuck ur selves.

January 14, 2009 3:27 pm

Text: what's the matter don't want to talk

January 14, 2009 3:30 pm

Text: u might want to let me talk to my son cause it might be permanent dumb ass like I said one down one to go maybe two

January 14, 2009 3:38 pm

Text: I got one now Anthony is the next one and I will get him or all the detectives will since he has been implicated with pockets so whatever

January 18, 2009 12:11 pm

Text where is Gavin obviously he want with u last night

January 22, 2009 6:04 am

Text: I need to know if Gavin is ok nobody want to let me know where he is or how he is. And I'm picking him up tomorrow so some one needs to let me know.

I certify (or declare) under penalty of perjury and the laws of the State of Washington that the foregoing is true and correct.

OLYMPIA WA FEB 9 2009 [Signature]

Date and Place

Signature

MC PUBLIC #2

RE: GAVIN COHEN

AMANDA COSS PRO SE

VS

JESSE COHEN

STATEMENT OF AMANDA COSS

I respectfully request that the court honor my request to restrain Mr. Cohen for fear of my child and my own safety. I have been Gavin's primary care taker his entire life a final parenting plan was filed in Thurston County Superior Court on October 10, 2006 No. 06-5-50062-6 designating myself Amanda Lynn Coss custodian of the child section 3.12.

On December 24, 2002 Mr. Cohen physically assaulted me and was charged through Thurston County District Court No. 2DVO1234. Mr. Cohen was at that time issued a Domestic Violence No Contact Order Mr. Cohen was then charged with two violations of that order one No. 4DVO0226 on February 21, 2004 and another No. 2082 on November 7, 2004. On February 4th Mason County Superior Court issued an Order for Protection between myself and Mr. Cohen 09-2-00045-3 due to his behaviors.

Mr. Cohen's recent harassing phone calls messages as well as malicious aggressive behavior is affecting every aspect of my life and is taking a tremendous toll on our son Gavin. I feel it necessary to look out for Mr. Cohen. His behavior patterns are erratic and emotion based and due to his history I want to keep this individual as much away from me as possible and I do not wish for Gavin to witness this behavior as normal nor do I wish to have Mr. Cohen's behaviors make an impression on Gavin.

Gavin has visits with Mr. Cohen every other weekend and due to the way the present parenting plan is written it requires I pick Gavin up at Mr. Cohen's residence. I have requested a third party for each of these visits so I can protect myself from Mr. Cohen. I have included a statement from Kellie Lapczynski highlighting each event. Mr. Cohen has repeatedly slandered Kellie Lapczynski as well as me during these pickups. Gavin cries speak as if he can't catch his breath and tell me his ears are ringing or his vision is blurred. This is clearly affecting our son. Picking up Gavin should be simple and does not require Mr. Cohen to make any contact with me, he could just send Gavin out to the car.

I have great concern for Gavin I believe that his mental and emotional well being is at risk when he spends time with his father Jesse Cohen. After spending a weekend with Mr. Cohen he becomes emotional he cries when I ask him what's wrong he is so overwhelmed he can't talk. It literally takes days usually 3 or 4 for me to feel as if my son is acting normally.

When Mr. Cohen contacts Gavin on the telephone Gavin hides in another room and speaks quietly answering primarily yes and no questions. When I ask Gavin what that was about he sometimes tells me, or whoever else asks him, that he "can't talk about it". Following the conversations or a visit Gavin becomes argumentative with me and complacent as if he is not focused on what a child of 7 should be. I

3

MC PUBLIC #2

AFFIDAVIT

STATE OF WASHINGTON

COUNTY OF

Thurston

SS:
Case #
08-1-02100-6

FILED
SUPERIOR COURT
THURSTON COUNTY, WASH.

09 SEP 25 PM 3:52

DEPT. J. GOULD, CLERK

BY _____
DEPUTY

I, Ashley Triance, declare under penalty of perjury that the following statements within this affidavit are true and correct to the best of my

knowledge and has been executed on this 25 day of September, 2009

At Olympia In the county of Thurston Washington:

I am writing this statement on behalf of my brother Anthony Clemons in hopes of helping his appeal for a new trial. A lot of information was left out on the advisement of his lawyer that I believe will help him get a lesser sentence if not dismiss the entire charge. Jesse Owen had every agenda to get my brother out of his ex's and child's life because they have had problems with each other since childhood. He has a history of stalking my former residence in hopes of finding Anthony or Amanda there. On four separate occasions I recognized his vehicle coming down the street and slowly passing by looking in windows and attempting

to look over our fence into the back-
yard before speeding off around the
corner. I think this information
will be helpful in establishing a
motive for Jesse Cohen lying and/or
exaggerating his story to get my
brother in enough trouble to get
him out of his life for a while. This
all may be irrelevant but it needs
to be said that my brother is
not normally violent without provo-
cation or if one of his family members
is facing danger or a violent situation
which was the occurrence that led up to
the December incident that resulted
in Anthony's conviction.

After the December incident my brother
told me all that occurred on that day
he has no reason to lie to me about it
and the story of a violent beating
that ~~the~~ Jesse Cohen told the courts
is not at all close to that story.

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[Lined area for text entry]

Ashley Trianco - Ashley Trianco

Affiants Name

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Wainwright, 624 F.2d 1184 (1980);
Affidavit sworn as true and correct under penalty of perjury and has full force of the law
and does not have to be verified by Notary Public.

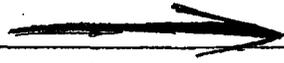
AFFIDAVIT

AFFIDAVIT

(Pursuant to 28 U.S.C. § 1746 No Notary Required)

I ANTHONY CLEMONS HEREBY DECLARE. JAMES SHACKLETON FAILED AS COUNSEL TO PROVIDE THE FOLLOWING ASSISTANCE AS WOULD BE REQUIRED AND EXPECTED OF ANY LAWYER DEFENDING HIS CLIENT AT TRIAL. I DISMISSED SHACKLETON ON 2 OCCASIONS SO THAT I COULD HIRE DANIEL HAVIER. SHACKLETON REFUSED TO DISMISS HIMSELF AS COUNSEL OR BEING THE ISSUE UP BEFORE THE JUDGE... SHACKLETON FAILED TO RAISE CONFLICT OF INTERESTS WITH THE JUDGE AS HE HAD REPRESENTED ME YEARS PRIOR & WE HAD SIGNIFICANT CONFLICT OF INTEREST THEN.. SHACKLETON MADE DEROGATORY COMMENTS ABOUT ME BEING A "NAZI" AND SPoke DOWN ON HOW I REPRESENTED MYSELF w/ MY TATTOOS.. SHACKLETON FAILED TO INVESTIGATE MY CASE.. HE NEVER SENT ANY INVESTIGATORS TO COLLECT STATEMENTS FROM EYEWITNESSES THAT COULD HAVE TESTIFIED ON MY BEHALF TO THE FACT THAT NO ONE PRESENT THAT DAY HAD ANY PHYSICAL CONTACT W/ JESSE COHEN WHATSOEVER.. COUNSEL NEVER CALLED OR ATTEMPTED TO MAKE ANY CONTACT W/ ANY OF THE INDIVIDUALS I GAVE HIM AS WITNESSES THESE INDIVIDUALS WILL TESTIFY TO THIS.. THOSE WITNESSES IN QUESTION ARE PATRICK LAMP, CURTIS WALKER, ASHLEY TRIANCE, KELLY LAPCYNSKI; MARK SHEFFIELD, CATHY REEVES, KENNETH O'BRIEN & THE NEIGHBORS ON EITHER SIDE OF THE RESIDENCE OF KENNETH O'BRIEN.. 7403 FAIROAKS LOOP SE SHACKLETON NEVER ATTEMPTED TO REACH AMANDA COSS.. AMANDA COSS HAD TO CONTACT SHACKLETON HERSELF & PUT FORTH THE EFFORT TO SUBMIT

A statement which Shackleton Refused to Submit As Evidence → told ME WAS NOT Admissible. Shackleton Refused to impeach Jesse Cohen on the Stand Stating HE Did A Background check → there was no Criminal History. This is FALSE. JESSE COHEN is A Felon w/ a History of Felony Abuse, Breaking No Contact orders, Assault 4°, D.V., Etc. Etc. Most of which were Cases Against or involving Amanda Coss who was Present the Day of the ~~Assault~~ Alleged Assault. Shackleton Also Failed to Allow me to Part-icipate in Jury Selection which I am entitled to. Shackleton Sat Side Bar w/ Prosecutor Jack Jones → Selected the Jury w/out Any input from myself. Counsel failed to Submit Documentation → Affidavits Provided to them that would Put in Perspective the Character & Motive of Jesse Cohen. Including Previous Actions And Threats Against myself & Amanda Coss. Attorney Failed to Establish my Alibi As to the whereabouts of myself & All parties concerned. Although I provided Shackleton w/ the Necessary information to Do so.

~~_____~~ Affidavit Continued 

I, Anthony Clemans, am over the age of majority and am also a U.S. citizen competent to testify and herein attest under penalty of perjury that all statements contained herein is the absolute truth. Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON V. WAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of and does not have to be verified by notary public.

Respectfully submitted on this 13th day of October, 2009.

Anthony Clemans
(Signature)

Anthony Clemans PRASE
(Print or Type Name)

Clallam Bay Corrections Center
1830 Eagle Crest Way
Clallam Bay WA 98526-9723

(Address)

AFFIDAVIT CONTINUED

AFFIDAVIT

(Pursuant to 28 U.S.C. § 1746 No Notary Required)

THAT INFORMATION WOULD HAVE PLACED ME IN Shelton AT 100 pm
that Afternoon & FOR the Remainder of that Day when the
Alleged Assault took Place At 300 pm in Olympia. Shackleton
Failed to Object or Cross-Examine the Witnesses in this
Case About this time Discrepancy. Shackleton Also Failed to
Object &/or Cross Examine Jesse Cohen when He testified to
Not Knowing who I was Prior to this Alleged incident when
I have known this witness ~~since~~ since 1986. This could
Have impeached the Credibility of the witness. Counsel Failed
to Address the time Discrepancies when & where Police were
Called & Responded to & where the Ambulance met the
Victim At. Victim Claimed it met him ~~at some~~ some
where that conflicted w/ Police Reports.

Counsel James Shackleton Was Clearly Deficient & Highly
Prejudiced Against me in this Case Aside From his lack
of Professional Conduct Counsel Repeatedly Stuttered & lost
his train of thought while speaking to the Jury During trial
& Selection. Shackleton would Stop speaking w/out finishing
his thoughts or change to something else in the middle
of A Paragraph or Sentence. All this while the Prosecutor
Spoke Clearly & Directly to the Jury. Shackleton Acted

As though HE WAS UNDER THE INFLUENCE OR HAD NOT TAKEN
MUCH NEEDED MEDICATION.

JAMES SHACKLETON FAILED & FIATLY REFUSED TO FILE A
MOTION FOR NEW TRIAL ~~ON~~ ON MY BEHALF THOUGH HE IS
STILL APPOINTED AS MY COUNSEL FORCING ME TO DO SO PRO-SE
TO RAISE THE ISSUES MY COUNSEL WOULD NOT RAISE PRIOR
TO DURING MY TRIAL. SHACKLETON TOLD ME I DIDNT
HAVE A CHANCE OF WINNING MY CASE ANYWAY & THAT HE
HAD NO REASON OR GROUNDS TO FILE ANYTHING LEATHER
ON MY BEHALF

SEVERAL GRIEVANCES HAVE BEEN FILED
AGAINST THIS ATTORNEY IN THIS MATTER MYSELF
INCLUDED.

I, Anthony Lemons, am over the age of majority and am also a U.S.
citizen competent to testify and herein attest under penalty of perjury that all statements
contained herein is the absolute truth. Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON
V. WAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has
full force of and does not have to be verified by notary public.

Respectfully submitted on this 13th day of October, 2009.

Anthony Lemons
(Signature)

Anthony Lemons PRO SE
(Print or Type Name)

Clallam Bay Corrections Center
1830 EAGLE CREST WAY
Clallam Bay WA 98326-9707

(Address)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

WASHINGTON STATE

Defendant,

vs.

ANTHONY CLEMONS

Respondent.

PROOF OF SERVICE

I, ANTHONY CLEMONS, pro se, do declare that on this date, the 12th
day of NOVEMBER, 2009. I have served the enclosed MOTION FOR CONTINUANCE,
DOCKET NOTICE, MOTION (RT.S. NEW TRIAL, MOTION (RT.S. NEWLY DISCOVERED
EVIDENCE, AND REQUEST FOR EVIDENTIARY HEARING.

on every other person required to be served, by presenting an envelope to state prison
officials at the Clallam Bay Corrections Center, containing the above documents for
U.S. mailing properly addressed to each of them and with first-class postage prepaid.

The names and addresses of those served are as follows:

— Judge ANNE HIRSCH
— PROSECUTOR JACK JONES
— THURSTON COUNTY COURT CLERK
2000 LAKE RIDGE DR
Olympia WA 98516

I declare under penalty of perjury under the laws of the State of Washington,
pursuant to RCW 9A.72.085, and the laws of the United States, pursuant to Title 28
U.S.C. § 1746, that the foregoing is true and correct.

Executed on this 12th day of NOVEMBER, 2009.

ANTHONY CLEMONS

Pro Se

Clallam Bay Corrections Center
1830 Eagle Crest Way
Clallam Bay, WA 98326-9723