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1. FAILURE TO PRESENT A DEFENSE

2. DEFENSE COUNSEL'S LACK OF TRIAL STRATEGY
3. FAILURE TO IMPEACH
4. FAILURE TO INVESTIGATE POTENTIAL DEFENSE WITNESSES
5. FAILURE TO CALL DEFENSE WITNESSES AT TRIAL
6. IMPROPER INTRODUCTION OF STATE EVIDENCE
7. FAILURE TO OBJECT
8. PROSECUTORIAL MISCONDUCT
9. LACK OF EVIDENCE
10. INEFFECTIVE ASSISTANCE OF COUNSEL
11. JUROR MISCONDUCT

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----- U.S. v FOSHER, 568 F.2d 207 213 (1st Cir. 1978) -----page 7

These cases all reversed on similar grounds pertinent to the grounds presented in this Statement Of Additional Grounds....

-----Evidence Rule 404 (b) -----page 6

Trial counsel, James Shackelton's strategy is questionable when so many inconsistencies can be found in his performance or lack thereof. These grounds are established in the following for This Respectable court.

TESTIMONY OF DEPUTY KIMBALL

--ON DIRECT EXAMINATION--

Deputy Kimball testified he was dispatched to 7403 Fair Oaks LOOP. He stated when he arrived Jesse Cohen Was there in the ambulance.

--ON CROSS EXAMINATION--

Deputy Kimball admits that the alleged victim left the scene (7403 Fair Oaks LOOP) and drove to 7511 fair Oaks ROAD. Which is a different address than what Deputy Kimball was dispatched to.

--ON REDIRECT--

Prosecuter said Jesse Cohen drove "a few houses away". Deputy Kimball agreed.

JAMES SHACKLETON OBJECTED

Prosecution continued and alluded to the jury that Deputy Kimball stopped where the ambulance was, as if it were "on the way" to the address he was dispatched to, when in fact it is not. Prosecution then states that 7403 and 7511 "fair Oaks" are very close to one another.

NO OBJECTION FROM DEFENSE COUNSEL

This dialog is prejudicial and constitutionally vague in that, without clarification by objection of counsel and stipulation of actual facts, the jury is allowed to believe the alleged

victim never really left the scene and returned at a later time to call 911 and have police dispatched to a location where there is no witnesses of a crime. (This is extremely odd being as this is a residential area in the middle of a Sunday afternoon.) But the jury is further lead to believe that the alleged victim was just a couple houses away from the scene when police arrived. This was not the case.. I requested my defense counsel, James Shackleton, to object to this and to clear it up for the jury, he did not. This failure to object constitutes ineffective assistance of counsel. These addresses are not on the same street and are in fact in completely separate areas of a large neighborhood. Any lay person can look at a map and clearly see that 7511 Fair Oaks ROAD, where Jesse Cohen went to, is not "on the way" to 7403 Fair Oaks LOOP as the prosecution was allowed to let the jury believe.

Attorney James Shackleton could have impeached Jesse Cohen with prior inconsistent statements he made to authorities during the investigation of this case. He also failed to impeach the credibility of the state's witness at trial when Mr. Cohen testified.

Jesse Cohen testified (on direct examination) that he attempted to get in his truck but the door was kicked closed preventing him from entering his vehicle. He stated that when the altercation took place. Then Mr. Cohen went on to say, he was out of his truck at this time and then contradicted himself and said some one punched him in the eye through the truck window.

Jesse Cohen then testifies that he couldn't say how many times he was struck. However medical reports show this witness stated specifically he was struck twice. Police reports state the victim was clear about being struck several times. So how is it this witness can't say how many times he was struck when he was clear before.. With due diligence and proper pre-trial investigations of the documents available to Mr. Shackleton prior to trial Mr. Shackleton would have known this.

The most prejudicial testimony from Jesse Cohen, (on DIRECT EXAMINATION) he stated he was able to "get away" from the alleged beating at 7403 Fair Oaks LOOP, by driving his truck away from the scene. However, he then states that after "getting away" he drove to where "these guys" (Patrick Lamp and Myself), were parked!

Not only is that inconsistent with his statements to police, but it is also inconsistent with his previous testimony that he drove to his house. It is not consistent with his testimony of myself and Mr. Lamp being at 7403 Fair Oaks loop and assaulting Mr. Cohen at this location.

Jesse Cohen is clearly lying. Being as this witness is key to the state's case, defense attorneys failure to impeach this witness on this obscure contradiction alone, not to mention all the others, not only further establishes ineffective assistance of counsel, but it also prejudices me in such an unconstitutional way that a jury could not make an unbiased decision and **I** was never given the benefit of reasonable doubt.

If my-self and Patrick Lamp were actually assaulting Jesse Cohen at 7403 Fair Oaks LOOP it is not reasonable that in the

event of him escaping his assailants he would then drive to a location where they are parked. First myself and Mr. Lamp can not be at two separate places at once. Second if you escape from an assault it is not plausible that said victim would locate himself within any proximity of his assailants if there was indeed a need to get away from them in the first place.

Only two conclusions can be drawn from this testimony. Either States witness, Mr. Jesse Cohen is lying, or the alleged assault never took place at the hands of either Mr. Lamp or myself. Establishing either of these facts based on the testimony of the states only witness, that can identify me or place me at the scene, would create sufficient enough doubt in the eyes of a jury and would have been viewed more favorably for the defense. This clearly would have changed the outcome of the trial.

Any competent defense attorney could have painted such inconsistent testimony to be viewed more favorably to the defense. Instead James Shackleton, against his clients wishes, rested on this witness. This also establishes lack of a defense and ineffective assistance of counsel.

Trial counsel failed in his duty to conduct a reasonable pretrial investigation. By not locating and talking to; Curtis Walker, Patrick Lamp, and Amanda Coss. As well as a number of various character witnesses that could've testified to prior behaviors of the alleged victim that would've established a clear motive for Jesse Cohen to make false claims of being assaulted by the individual who was dating his ex-girlfriend, Amanda Coss, and

providing for his son whom he was losing custody of and having to pay child support for. These events were catalysts for Jesse Cohens Erratic behaviors and own "criminal history" which have been documented up to 8 years prior to this event. This documentation was provided to James Shackleton prior to trial. None of it was considered or investigated.

The testimony of any one of the 3 eyewitnesses could have greatly swayed the verdict in this case, and the testimony of all three combined against the states single eyewitness, Jesse Cohen, would have left significant enough doubt to dismiss these charges. Trial councl's failure to investigate these witnesses and failure to call defense witnesses at trial to refute what is already inconsistent testimony, was in fact prejudicial and ineffective assistance of counsel.

THE FOLLOWING CASES (REVERSED ON SIMILAR GROUNDS)
SUPPORT THESE GROUNDS PREVIOUSLY SET FORTH

- RICHTER V HICKMAN, NO.06-15614 (9th Cir. 2009)
- ADAMS V BERTRAND, NO.05-1573 (7th Cir. 2006)
- COMMONWEALTH V BAXTER, 537 Pa41 640 A.2d 1271 (1994)
- STATE V VISITACION, 55 Wn.App. 166 776 P.2d 986 (1989)
- JONES V WOOD, 114 F.3d 1002 97 Cal daily op serv 4459 (9th cir. 1997)

The improper introduction of a booking photo as states evidence, EXHIBIT #2, Provided to the jury at trial and supported by the prosecutor prejudicially eliciting erroneous testimony from Det. Haller, clearly establishes grounds for a new trial.

EVIDENCE RULE 404 (b), PROHIBITS the admission of prior bad acts to prove the character of a person in order to show action in conformity therewith.

I was denied effective assistance of counsel when James Shackleton failed to object to the introduction of a booking photo as evidence. Photo Provided by Detective Haller, Submitted during the Direct Examination of Jesse Cohen as states evidence, EXHIBIT #2. Allowing the jury to view a photo of myself taken in an institutional setting, (wearing coveralls with a 'brick' background), improperly conveys to the jury that I have a criminal history, especially when a number of the jurors in this case were known by the defense to have some sort of background and or familiarity with either law enforcement or the department of corrections. This is as damaging to my trial, if not more so, as walking me into court wearing handcuffs, and a county uniform. It is clearly prejudicial.

Not only does this establish another claim of ineffective assistance but it also supports a claim of prosecutorial misconduct. When Prosecutor Jack Jones stipulated they would not use my criminal history against me for impeachment purposes if I did not testify. Yet Jack Jones Submitted this booking Photo and then improperly elicited testimony of the booking photo in the Direct Examination of Det. Haller. Haller Testifies that he contacted a detective in the Mason County area to see if they had any 'history' on Anthony Clemons. This is clearly prejudicial and should have been objected to by defense counsel, it was not.

Mr. Haller established for the jury that the photo submitted as states evidence, EXHIBIT #2, was in fact obtained from law enforcement and being as this photo is an actual booking photo obtained while I was incarcerated, this is grounds for reversal.

In STATE V SANFORD, NO. 31458-4-II (Wash App Div. II 2005) The courts have previously recognized that referring to booking photos may raise a prejudicial inference of criminal propensity.

STATE V HENDERSON, 100 wn.app. 794 803 998 P.2d 907 (2000), Mugshots from a police departments 'Rogue Gallery' are generally indicative of past criminal conduct and will likely create in the minds of the jurors an inference of such behavior. (Quoting U.S. v FOSHER, 568 F.2d 207 213 (1st Cir. 1978)

Existance of Sanfords booking photo in the police system created a similar improper inference of his past criminal conduct. That the trial court attempted to minimize prejudice to Sanford by prohibiting questions and answers identifying 'any crime associated with those booking photographs' does not erase the prejudice created by the fact that Sanfords booking photo was in the police system, which clearly implied that he had previously been arrested for some other crime. (See Henderson, 100wn.app. at 803)

Such is the case at hand here, except that the trial court never attempted to limit the prejudice in my trial but in fact compounded the issue of prejudice by eliciting testimony from a Detective about where the photo was acquired from and that it was acquired during Det. Haller's quest to dig up "HISTORY" on me This is reversable error of a constitutional magnitude.

Finally Prejudice can be established prior to trial by an improper comment made by a prospective juror who was excused because he alleged to know me from a previous case. The mere mention of this in front of the other jurors sheds light on the possibility of the defendant, (myself), having a criminal history. New jurors should have been selected prior to trial. This improper comment prejudices the trial unfairly before the trial begins. A new trial is requested as this too is reversable error.

In light of the facts set for in this brief, the defendant ANTHONY C. CLEMONS (pro-se), Respectfully requests this Honorable Court vacate this conviction and dismiss these charges.

Dated March 30, 2010

ANTHONY CLEMONS pro-se
1830 EagleCrest Way
Clallam Bay, WA. 98326-9723

DECLARATION OF SERVICE BY MAIL
GR 3.1(c)

I, ANTHONY CLEMONS, declare that, on
this 30th day of MARCH, 2000. I deposited the forgoing documents:

STATEMENT OF ADDITIONAL GROUNDS

or a copy thereof, in the internal legal mail system of

CLALLAM BAY CORRECTIONS CENTER
1870 EAGLE CREST WAY
CLALLAM BAY, WA. 98326-9723

And made arrangements for postage, addressed to: (name & address of court or other party.)

COA. Div II EDWARD G HOLM
950 BROADWAY Suite 300 THURSTAR COUNTY PROS. ATTY.
TALOMA WA 98402 2000 LAKE RIDGE DRIVE
Olympia, WA. 98502

Thomas E. Doyle ✓
Attorney At Law
P.O. Box 510
Hansville, WA 98340

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STATE OF WASHINGTON
BY DM
DEPUTY

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

Dated at CLALLAM BAY WASHINGTON on 3-30-10
(City & State) (Date)

Anthony Clemons
Signature

Anthony Clemons
Type / Print Name