

FILED

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SEP 30 2009

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

#278298
No. 2005-1-00056-7

40063-4-II

IN THE COURT OF APPEALS, DIVISION III,
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON

Respondent

v.

PAULETTE MARGARET MELVILLE

Appellant

PERSONAL RESTRAINT PETITION RESPONSE

Mr. Tim Rasmussen
Prosecuting Attorney
Stevens County

Shadan Kapri
Deputy Prosecuting Attorney
Attorneys for Respondent

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I.

APPELLANT'S ASSIGNMENTS OF ERROR

1. The trial court erred in denying the Appellant's motion for a new trial based upon jury coercion.
2. The trial court erred in failing to abide by spousal communication laws.
3. The trial court erred in failing to grant the Appellant a post-trial motion for recusal based upon a conflict of interest since the trial judge sentenced her daughter for a related crime.
4. The Appellant received ineffective assistance of counsel on the trial court level.
5. The trial court erred in denying the Appellant's suppression motion based upon the reliability of the informant's tip on the search warrant affidavit.

II.

ISSUES PRESENTED

- A. Whether the trial court erred in denying the Appellant's motion for a new trial based upon alleged jury coercion.

- B. Whether the trial court erred in failing to abide by spousal communication laws.
- C. Whether the trial court erred in failing to grant the Appellant a post-trial motion for recusal based on an alleged conflict of interest since the trial judge sentenced her daughter for a related crime.
- D. Whether the Appellant received ineffective assistance of counsel on the trial court level.
- E. Whether the trial court erred in denying the Appellant's suppression motion based on the reliability of the informant's tip on the search warrant affidavit.

III.

STATEMENT OF THE CASE

For the purposes of this appeal the State accepts the Appellant's Statement of the Case.

IV.

ARGUMENT

- A. THE TRIAL COURT DID NOT ERR IN DENYING THE APPELLANT'S MOTION FOR A NEW TRIAL BASED UPON AN ALLEGED JURY COERCION.

This specific issue that the Appellant raised in her Personal Restraint Petition was already discussed, resolved, and determined by this Court under the Additional Grounds portion of the Unpublished Opinion dated June 19, 2007. The opinion is *State of Washington v. Paulette Melville* cited as 2007 WL 1748713 (Wash. App. Div 3)).

B. THE TRIAL COURT DID NOT ERR IN ALLEGEDLY FAILING TO ABIDE BY SPOUSAL COMMUNICATION LAWS.

This specific issue that the Appellant raised in her Personal Restraint Petition was already discussed, resolved, and determined by this Court under the Additional Grounds portion of the Unpublished Opinion dated June 19, 2007. The opinion is *State of Washington v. Paulette Melville* cited as 2007 WL 1748713 (Wash. App. Div 3)).

C. THE TRIAL COURT DID NOT ERR IN FAILING TO GRANT THE APPELLANT A POST-TRIAL MOTION FOR RECUSAL BASED ON AN ALLEGED CONFLICT OF INTEREST SINCE THE TRIAL JUDGE SENTENCED HER DAUGHTER FOR A RELATED CRIME.

This specific issue that the Appellant raised in her Personal Restraint Petition was already discussed, resolved, and determined by this Court under the Additional Grounds portion of the Unpublished Opinion dated

June 19, 2007. The opinion is *State of Washington v. Paulette Melville* cited as 2007 WL 1748713 (Wash. App. Div 3)).

D. THE APPELLANT DID NOT RECEIVE
INEFFECTIVE ASSISTANCE OF COUNSEL ON THE
TRIAL COURT LEVEL.

This specific issue was discussed and analysis by the State's
Response Brief already filed before this court (Case Number 27829-8-III).

E. THE TRIAL COURT DID NOT ERR IN DENYING
THE APPELLANT'S SUPPRESSION MOTION
BASED UPON THE RELIABILITY OF THE
INFORMANT'S TIP ON THE SEARCH WARRANT
AFFIDAVIT.

This specific issue that the Appellant raised in her Personal Restraint
Petition was already discussed, resolved, and determined by this Court
under the Additional Grounds portion of the Unpublished Opinion dated
June 19, 2007. The opinion is *State of Washington v. Paulette Melville*
cited as 2007 WL 1748713 (Wash. App. Div 3)).

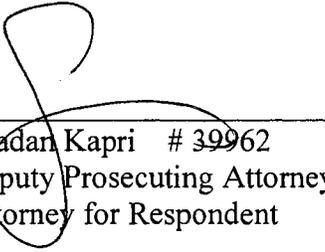
V.

CONCLUSION

For the reasons stated, the conviction of the defendant should be
affirmed.

Dated this 25th day of September, 2009.

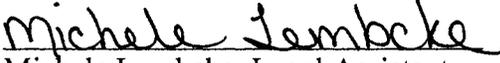
Tim Rasmussen
Prosecuting Attorney



Shadan Kapri # 39962
Deputy Prosecuting Attorney
Attorney for Respondent

Affidavit of Certification

I certify under penalty of perjury under the laws of the State of Washington, that I mailed a true and correct copy of the foregoing Personal Restraint Petition Response to the Court of Appeals, Division III, 500 N. Cedar St., Spokane, WA 99201-1905, and to Nancy P. Collins, Washington Appellate Project, 1511 3rd Ave., Ste., 701, Seattle WA 98101-3635 and to Paulette M. Melville, #749695, P.O. Box 300, Medical Lake, WA 99022 on September 29, 2009.


Michele Lembcke, Legal Assistant
for Shadan Kapri