



action of government authorizing dismissal pursuant to CrR 8.3 (b) and whether an evidentiary hearing is required on this issue.

ADDITIONAL GROUND TWO

The Appellant's Opening Brief argues the prosecution failed to present sufficient evidence to support seven of the convictions and the trial court err'ed in allowing that evidence to be presented in rebuttal . . . thus sanctioning the prosecutor's misconduct. See, Appellant's Opening Brief, pg. 9. In addition to this argument, the underlying facts of which are set-forth in the Appellant's Opening Brief prepared by counsel, Clark would like the Court to consider whether the trial court "abused it's discretion" in allowing the State to present the calendar evidence into evidence during rebuttal closing argument

ADDITIONAL GROUND THREE

The Appellant's Opening Brief argues the prosecution committed misconduct in shifting a burden of proof at trial, and that the Defendant's trial counsel was ineffective in allowing this misconduct without objection. In addition to this argument, the underlying facts of which are set-forth in the Appellant's Opening Brief prepared by counsel, Clark would like the Court to consider whether the prosecution's conduct constitutes an arbitrary action of government within the meaning of CrR 8.3 (b) and whether Clark is entitled to an evidentiary hearing on this issue.

ADDITIONAL GROUND THREE

In addition to the arguments presented by counsel, along side them Clark would like the Court to review and apply the decisions of the United States Supreme Court as they pertain to Clark's underlying federal constitutional rights at issue in this case as argued by counsel in Appellant's Opening Brief, and implicated herein. Those cases, specifically, are: In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), and; Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)

CONCLUSION

WHEREFORE, premises considered, the Appellant's Opening Brief should be GRANTED.

It Should Be So Ordered.

DATED this 06<sup>th</sup> day of December, 2010.

Respectfully submitted,  
BY THE APPELLANT PRO SE:



GARY BERNARD CLARK  
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COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

STATE OF WASHINGTON,	)	
	)	No.
Respondent,	)	
	)	DECLARATION OF MAILING
v.	)	
	)	
GARY BERNARD CLARK,	)	
	)	
Appellant.	)	

I hereby declare under penalty of perjury under the laws of the State of Washington that Deposited a true and correct copy of the attached Statement of Additional Grounds to the following sources:

TO: Kathryn Russell Selk, WSBA No. 23879  
1037 Northeast 65<sup>th</sup> Street, Box 135,  
Seattle, Wa. 98388

TO: Kathleen Proctor, Deputy Prosecutor,  
930 Tacoma Avenue South,  
Tacoma, Wa. 98402

DATED this 6<sup>th</sup> day of December, 2010.

  
 \_\_\_\_\_  
 GARY BERNARD CLARK  
 Doc 979649  
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