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STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

No. 426013

IN THE COURT OF APPEALS  
DIVISION II

.....  
STATE OF WASHINGTON

vs.

DUSTIN IVERSON

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APPEAL FROM THE SUPERIOR COURT

FOR LEWIS COUNTY

SUPERIOR COURT NUMBER 11-1-00244-1

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BRIEF OF APPELLANT

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## A. ASSIGNMENTS OF ERROR

1. The court erred in finding that Attorney Daniel Havirco had allowed the defendant to personally read the discovery.
2. The court erred in finding that Daniel Havirco had spent forty to fifty hours reviewing the discovery and preparing for trial.
3. The court erred in finding that Daniel Havirco had advised his client that the plea would encompass an indeterminate sentence, lifetime sex offender registration, lifetime community custody, lifetime sex offender registration, and a sexual deviancy treatment evaluation.
4. The court erred in concluding that the defendant had failed to prove that Mr. Havirco's representation was deficient.
5. The court erred in finding that the verbatim report of proceedings refuted every assertion made by the defendant that he did not understand what was occurring at the time the guilty plea was entered.
6. The court erred in concluding that the defendant had not proven that the withdrawal of the guilty plea was necessary to correct a manifest injustice.

7. The trial court erred when it denied the defendant's motion to withdraw his plea and entered judgment and sentence

B. ISSUES PERTAINING TO THE ASSIGNMENTS OF ERROR

1. Whether there was sufficient evidence that the defendant had been allowed to read the discovery, after numerous requests, when the only way he could have read it was through a window in a jail visitation booth.

2. Whether the evidence supports the finding that the defense attorney spent 40 to 50 hours on a case in which performed no investigation other than a 45-minute interview of one witness, and had nothing in his file except the reports provided by the prosecutor and the court orders.

3. Whether the evidence supported the finding that Daniel Hvirco had advised his client that the the plea would encompass an indeterminate sentence, lifetime sex offender registration, lifetime community custody, lifetime sex offender registration, and a sexual deviancy treatment evaluation.

4. Whether there was evidence that Daniel Hvirco's representation was defective when he did not interview eight of the states witnesses; consulted no experts; subpoenaed no defense witnesses; did not insure that this client understood the consequences of his plea or that his client understood the nature of an "Alford" plea, and misinformed his client about sex offender registration, failed to inform his client about SSOSA, and refused to assist his client in providing a polygraph

5. Whether the verbatim report of the sentencing hearing disproved all of Mr. Iverson assertion when the report shows confusion and ambiguous responses to

the court's colloquy, and when the testimony regarding the sentencing hearing involves non-verbal gestures and actions.

6. Whether the court erred in concluding that the defendant had not proven that the withdrawal of the guilty plea was necessary to correct a manifest injustice when the defendant did not receive effective assistance of counsel, did not understand the charges against him, and did not understand the nature and consequences of his plea.

7. Whether the court erred in denying the defendant's motion, and sentencing him.

### C. STATEMENT OF THE CASE

#### 1. Factual background

Dustin Iverson is a 35-year-old man with a seventh-grade education, whose only employment history was a few years of working as a caregiver. (8-22 -11 RP 19-20) At the time the instant charges were filed, he had been determined to be disabled because of bipolar disorder and was receiving SSA. (8-22-11 RP 20) Although he had had a few other criminal charges in past, they consisted of misdemeanor or gross misdemeanor cases, and one charge that arose from passing forged checks, all of which were resolved by entering a plea of guilty and making an admission of wrongdoing. (EX 1, 2, 3 and 4)

In 2009 CPS conducted an investigation of Mr. Iverson as to an allegation of sexual abuse of his daughter, KSI. (8-22-11 RP 27, 53) After KSI was interviewed, that allegation was determined to be unfounded. (8-22 RP 27)

During the dissolution proceeding between Mr. Iverson and KSI mother, KSI filed a declaration in that matter which, although it contained many things she did not like about her father, made no reference to any sexual abuse. (8-22-11 RP 26, 54)

Because of restraining order entered in the dissolution case, Mr. Iverson had no further contact with KSI. (8-22-11 RP 28) . Nevertheless, CPS reopened the same investigation and made different findings. (8-22-11 RP 124). Mr. Iverson was charged with numerous counts of Rape of a Child 1 DV and Incest. (CP 1-7) He was held in the Lewis County jail pending trial. Attorney Daniel Haverco was appointed to represent him on April 11, 2011 (CP12)

At the time he was representing Mr. Iverson, Daniel Haverco had four public defense contracts: the City of Lacey, the City of Olympia, the City of Tumwater, and the Lewis County felony panel. (8-22-11 RP 110-113) His municipal court contracts required him to appear in court at least three or four days a week. (8-22-11 RP 110) During any given 30 day period, Mr. Haverco had approximately 200 hearings scheduled in Municipal and District courts alone ( EX 5 and 6), in addition to an average of 90 felony cases a year. (8-22-11 RP 26 )

The charges in the case were vague and non-specific. (CP 1-7) When Mr. Haverco interviewed KSI and her mother, he did not ask questions to narrow down the events, which were all identically charged, and alleged as having occurred during the period between ages three and eight. He did not discuss with his client any of the details of the interview. (8-22-11 RP 48.)

When Mr. Haverco initially met with Mr. Iverson, he told his client that his was a “he said, she said” case and that Mr. Iverson had a good chance of

prevailing. ( 8-22-11 RP 22. ) In May 2011, Mr. Hvirco requested funds from the court to hire an investigator. (CP 37-38.) Mr. Hvirco and the investigator spent 30 to 45 minutes interviewing the alleged victim, KSI, and her mother on May 24, 2011. (8-22-11 RP 87.) They did not ask many specific questions, but they found her “credible.” (8-24-11 RP 45.) That constituted the full extent of his investigation: he did not interview any of the other witnesses on the state’s witness list, or conduct any investigation that might challenge the credibility the testimony of KSI. (8-22-11 RP 123.) He did ask the defendant's family to provide any helpful evidence they had. (RP 6-22-11 122) They provided DVD's they prepared from home movies showing Mr. Iverson with his daughter. ( 8-22-11 RP 53 ) They provided statements that when she was three, KSI had made statements that caused them to believe she might have been molested by her grandfather. (8-22-11 RP 53.) They provided statements filed in dissolution by KSI in which she details reasons she hates her father, and makes no mention of sexual assault. (8-22-11 RP 24, 71)

After meeting with KSI, Mr. Hvirco told Mr. Iverson that he could not win the case, and advised him to take the state’s plea offer. (8-22-11 RP 23.) All of his other meetings with Mr. Iverson were spent in an effort to persuade Mr. Iverson to take the plea offer, telling him that if he did not take it, he would lose at trial and spend his life in prison, whereas if he took the deal he would be out in “13 or 15 years.” (8-22-11 RP 25)

Mr. Iverson maintained his innocence throughout and wanted to go to trial. He offered to submit to a polygraph, which Mr. Havarco never arranged. (8-22-11 RP 23, 8-24-11 RP 28.)

Mr. Iverson had authorized Mr. Havarco to discuss the case with several people, including his domestic partner Michael Janke (8-24-11 RP 32.) Mr. Iverson repeatedly requested to view the discovery in the case, and he also had the people he had authorized to discuss his case request discovery for him. (8-22-11 RP 24, 51) This went to the extent of a friend of Mr. Iverson's, Leah Lester, making her own investigation of his rights to view the discovery, calling the prosecutor's office, Legal Aid and contacting Mr. Havarco. (8-24-11 RP 67) Nevertheless, Mr. Iverson was never given that opportunity to view any of it. (8-22-11 RP 23.) He never understood exactly what he was being charged with, nor when the acts had allegedly occurred. (8-24-11 RP 47.)

Mr. Havarco did not discuss SSOSA until the issue was raised by Mr Iverson at the very last meeting they had at the jail. (8-24-11 RP 53.) Mr. Iverson asked Mr. Havarco about the SOCS (sic) program he had heard about in the jail, and Mr. Havarco told him he was not eligible. (8-24-11 RP 52)

Trial was set for June 6, 2011 ( CP) Mr. Havarco strongly urged his client to plead guilty (8-22-11 RP 30) He repeatedly told Mr. Iverson that he would be out of jail in 10-15 years. (8-22-11 RP 30) He told Mr. Iverson that although he would have to register as a sex offender, he would probably only have to register for a year (8-22-11 RP 450) which is not a correct statement of the law. RCW 9A.44.142

On the day before he entered his plea, the Mr. Iverson was still maintaining his innocence and wanting to go to trial. (8-22-11 RP 73. ) On the day that Mr. Iverson entered his plea, he told Mr. Havirco that he wanted to continue that plea for another week to talk it over with his family and friends, but was told by Mr. Havirco that he could not do so. (8-22-11 RP 32)

Mr. Iverson entered pleas of guilty to two counts of Rape of a Child in the First Degree (Domestic Violence.) CP 48-61. Mr. Havirco did not go over the plea form in detail with him. (8-22-11 RP 44. ) Mr. Iverson never signed the sex offender registration index portion of the plea form. (CP 59.) Mr. Iverson did not understand that an Alford plea was the same as a straight plea of guilty. (8-22-11 RP 44. ) He believed that because it was different than a guilty plea, that everybody would be know that he was innocent, but “guilty by the Court or something like that.” (8-22-11 RP 24. ) His mother seemed equally confused about the what it meant, because she testified that her understanding, from her conversations with Dan Havirco, were that an Alford plea would mean that Dustin would be not guilty, but would have to go to prison for a few years. (8-22-11 RP 61.) During the colloquy, Mr. Iverson became increasingly agitated as he listened to the judge because he was hearing things from the judge that seemed very different from what his attorney had told him, or that he had never heard before. (8-22-11 RP 34) He asked his lawyer if he was sure he could not win and his lawyer they could not. (8-22-11 RP 35) He kept turning to his attorney, but his attorney responded by giving him signals to answer "Yes" to the judge's questions. (8-22-11 RP 12; 70) When asked by the judge if he understood the

charges in counts I and II of the second amended information, Mr. Iverson replied “Kind of, yeah.” (6-2-11 RP 5) The judge then asked him “What do you mean, ‘kind of?’ Do you not understand what they are?” and Mr. Iverson responded “Yes.” (6-2-11 RP 5. ) As the judge went through the colloquy, Mr. Iverson did not understand that he was still able to stop change his mind and stop the proceeding. (8-22-11 RP 22.) He thought his lawyer was indicating that he had to proceed, and he simply answered “Yes” or “No” to every question. (6-2-11 RP 5-11) The judge accepted his pleas and set sentencing out until June 30, 2011. (CP11) Mr. Havirco advised the court that Mr. Iverson would not cooperate with the pre-sentence investigation. (6-2-11 RP 3).

As he walked out of the courtroom, the realization hit Mr. Iverson that an Alford plea was no different from a straight plea, a fact he had not really understood. (8-22-11 RP 33. ) As soon as he was returned to the jail, Mr. Iverson called his domestic partner, Michael Janke. (RP 8-22-11 55) Mr. Iverson was extremely upset and he asked Mr. Janke to please get him a lawyer to assist him in vacating his plea. (8-22-11 RP 55) Mr. Mr. IJanke obtained new counsel for him within a few days. (8-24-11 RP 50, EX 9.)

When new counsel appeared for Mr. Iverson, Mr. Havirco was unwilling or unable to give her Mr. Iverson’s file. (8-22-11RP 127-128) He testified that there was nothing in his file except the police reports provided to him by the prosecutor and court orders. (8-22-11 RP 128-131, 8-24-11 RP 1-3)

## 2 Procedural background

The State filed their original information on April 8, 2011. (CP 1-7). The appellant was in custody. (CP11) On April 11, attorney Daniel Havirco was appointed to represent him. (CP12) Mr. Iverson was arraigned on April 14, 2011 and entered pleas of not guilty. The case was set for trial in the week of May 23, 2011. Amended charges were filed on May 5, 2011, to which Mr. Iverson pled not guilty on May 12. (CR 23-34) Trial was reset for June 6, 2012. Mr. Iverson also executed a waiver of speedy trial through August 11, 2011.

On June 2, 2011, Dustin Iverson entered pleas of guilty by way of Alford pleas to the charges after the filing of another amended information. Sentencing was continued to June 30, 2011. On June 30, attorney Christine Langley was substituted for Mr. Havirco on the defendants motion, and sentencing was reset. (CP 70-71) Mr. Iverson filed a motion to withdraw his pleas. An evidentiary hearing took place on August 22 and 24, 2011. The trial court judge then requested a transcript of the change of plea hearing. On September 6, 2011, after reviewing that transcript, the trial judge denied the motion and Mr. Iverson was sentenced. (9-6-11 RP) On 9-16-11, he filed the instant appeal.

## D. ARGUMENT

The defendant relies primarily on the ruling in State v. A.N.J., 168 Wn.2d 91 (2010), a case with many strikingly similar facts. A.N.J. was a juvenile who successfully moved to withdraw his plea to charges of first degree child molestation, primarily alleging that his court appointed attorney, a Mr. Anderson,

did not adequately represent his client. In representing A.N.J., Anderson made only one attempt to contact certain potential defense witnesses. He never spoke to the investigating officer. He made no requests for discovery and filed no motions. At the pretrial conference, Anderson spent 5 to 10 minutes with A.N.J. and his parents. The state offered a plea to one court with a SSODA disposition. Anderson believed the State's offer was a good deal and would have the added benefit to A.N.J. that he would not be charged with molesting T.M.'s younger sister. Evidence suggested that Anderson had met with A.N.J. three times, for periods of 20 to 30 minutes. A.N.J. saw the plea documents for the first time just before the hearing. The box next to "school notification" was not checked. A.N.J. did not make a statement at his plea hearing. The judge reviewed the record and found that there was a factual basis to accept the plea. Before accepting the plea, the judge asked A.N.J. if his attorney had read him the statement, whether he understood it, A.N.J. said that he did and had no questions. Within five weeks A.N.J. moved to withdraw his guilty plea, alleging that Anderson had not contacted any of the witnesses, gave incorrect information about whether the charges could be removed from A.N.J. record. Anderson acknowledged that he probably did not review the mandatory minimum sentence with A.N.J., or the requirement that he inform his school that he was a sex offender. Anderson also acknowledged that he did not talk to the investigating officers himself and had not used an investigator during the contract year. The court allowed A.N.J. to withdraw his plea, giving weight to the fact that he had made his request soon after the entry of the plea, and because it determined that Mr. Anderson's

representation was in fact deficient to the extent that it created a manifest injustice. Id.

As in A.N. J., the defendant herein challenges the sufficiency of the evidence that supported several of the court's findings as to the representation provided by his attorney. The standard of review for that challenge is substantial evidence. The defendant has the burden of showing that there is not sufficient evidence to provide a reasonable trier of fact. Id. at 107.

In the instant case, the trial court accepted as true all of the evidence provided by the state, which consisted primarily of the testimony of Attorney Daniel Havirco and the investigator he used to interview KSI; completely discounted the testimony of Mr. Iverson and his family members; and ignored the inconsistencies in Mr. Havirco's testimony.

The court made specific findings that Daniel Havirco had allowed the defendant to personally read the discovery; that Daniel Havirco had spent forty to fifty hours reviewing the discovery and preparing for trial, and that Daniel Havirco had advised his client that the plea would encompass an indeterminate sentence, lifetime sex offender registration, lifetime community custody, and lifetime sex offender registration. These findings are not supported by the evidence. Mr. Havirco testified at one point that he had allowed Mr. Iverson to read the discovery. However, on cross, he admitted that all of his meetings had taken place in visitor booth at the jail, and that he did not recall being permitted to meet with his client in a face-to-face booth. Instead, he was

separated from his client by a window. The only way that Mr. Iverson could have read the discovery was if it was held up to the window. Given that there were numerous reports in the file, it is very unlikely that Mr. Iverson, with a 7th grade education, could have read the file. Furthermore, the attorney's claim is refuted by the defendant and all three of his witnesses. Michael Janke engaged in email and telephone contact with Mr. Havirco in a sustained effort to get copies of the discovery, which was promised but never provided. His friend Leah called the prosecuting attorney's office and Legal Aid trying to find out if the defendant was entitled to copies of the discovery. The defendant's mother testified that Dan Havirco had promised to let Dustin look at the "discovery book." Eventually Mr. Havirco testified that he generally reads selected portions of the police report to the defendant, and read him the probable cause statement.

The only evidence that Dan Havirco spent forty to fifty hours on the case is his own statement. He did not produce any time records, nor account for how those hours were spent. It seems unlikely given Dan Havirco's work schedule that he could have spent 40 or 50 hours on the case. Mr. Havirco is a sole practitioner with no staff. In addition to his work as a public defender in Lewis County Superior court, Mr. Havirco also had public defense contracts in three municipal courts: City of Lacey, City of Tumwater, and City of Olympia. These contracts required, at a minimum, his appearance in court every Tuesday for Lacey, every Thursday morning for Tumwater, and most Mondays and Fridays for Olympia, in addition to his felony case load in Lewis County. Mr. Havirco's schedule, run on the Washington courts web site, shows that in two different 30-day periods

close to the time he was representing Mr. Iverson, he had over 200 matters set for hearing in the municipal courts and District Court.

Mr. Havarco was appointed on April 11, 2011, and the defendant entered a plea on June 2, 2011. The record shows several visits to the jail (Mr. Havarco estimated three to six hours, ) pretrial hearings, and some conversations with Mr. Iverson's family and friends, and the 45 minute interview with KSI, which, notably, took place on May 24, a week before trial- and after the originally scheduled trial date. By his own admission, Mr. Havarco did not interview any other witnesses, including eight people on the state's witness list; he had no case notes or research in his file; he had not contacted any expert witnesses in a case involving a teenage girl now remembering abuse when she was three; he had filed no motions other than for the investigator's services. Furthermore, although Mr. Havarco testified eloquently about his usual practices, his memory was very vague whenever he was asked about any specifics of the case which he claimed to have spent 40 to 50 hours on very recently. When asked about the role of certain state witnesses, he was unable to recall what their involvement had been. (8-24-11 RP 5.) Although he testified that he was had spent three to six hours meeting with his client in the jail, he said could only guess if the jail record of these visits was accurate. (8-24-11 RP 7). He was unable to recall on cross whether he had initiated a discussion of SSOSA with his client, of if his client had asked him about it. (8-24-11 RP 10-12), although later testified that his client had never asked for one and that he had brought it up, not his client. (RP 31-17) He agreed that his client had requested a polygraph, but he was unable to recall whether he

had discussed a polygraph with the prosecutor. (8-24-11 RP 28.) He initially did not recall what the report of the physical examination of KSI had shown. (8-24-11 RP 28) At one point, when asked a question about the facts of this extremely serious case which had been set for trial only two months earlier, he remarked that he wished he had reviewed the probable cause statement prior to giving his testimony. (8-24-11 RP 24.)

Mr. Iverson's friends and family provided Mr. Havirco with evidence that could have potentially helped Mr. Iverson in trial. These included family movies, showing a the relationship between Mr. Iverson and his daughter KSI; (8-22-11 RP 54-12) documents from the dissolution showing inconsistencies in KSI's statements; and information that there was a different possible suspect. None of these people were subpoenaed to the trial. (8-22-11 RP 23, 60. ) Apparently Mr. Havirco didn't even bother to keep the documents they provided.

Similarly to A.N.J., Dustin Iverson challenges the trial court's factual finding that his plea was knowing, voluntary, and intelligent. And like A.N.J., his primary challenge is to the effectiveness of his counsels representation. He bears the burden of showing that (1) his counsel's performance fell below an objective standard of reasonableness and, if so, (2) that counsel's poor work prejudiced him. Id. Claims of ineffective assistance of counsel present mixed questions of law and fact, are reviewed de novo. Id. Admittedly, Mr. Havirco did more investigation that did A.N.J. counsel, who did none. Less than two weeks before trial, he did spend up to 45 minutes interviewing KSI. However, he admits that he did not ask

her any in depth questions about the events she was alleging, or her ability to remember things that occurred when she was three, or why she had not disclosed before- instead, she spoke in general terms and he assessed her demeanor and body language. He was unable to discuss any details of the charges to his client. He apparently took no notes because there were none in his file. That was the extent of his investigation. He did not interview the other eight witnesses for the state, claiming either that he already knew what they were going to say or that it would be a waste of time. (8-24-8 RP 11.) He made no effort to find a way to challenge KVI's testimony. Mr. Iverson's mother was able to testify that there had been concerns about KVI possibly being molested by a different family member, but she was not subpoenaed to testify at the trial. Nor did he consult any experts about about reasons why KSI memory might not be accurate. He did not attempt to determine exactly why CPS had changed their opinion about the same event. He discounted the fact that KSI had made apparently contradictory statements, and strenuously and repeated urged his client to take the plea offer despite the fact that his client had steadfastly maintained his innocence at all times. Effective assistance of counsel includes assisting the defendant in making an informed decision as to whether to plead guilty or to proceed to trial. But as the court in A.N.J. found, defendant's counsel cannot properly evaluate the merits of a plea offer without evaluating the state's case. Id.

The court in A.N.J. also held that a defendant "must be informed of all the direct consequences of his plea prior to acceptance of a guilty plea." In his case, Mr. Iverson was not fully informed of the direct consequences of this plea. It is

clear from the testimony of every witness that Mr. Havarco urged Mr. Iverson to take the plea because he would spend 10-15 years out in custody instead of being in custody for most of the rest of his life. However, Mr. Iverson testified that he had never heard of indefinite sentencing. Mr. Iverson had reluctantly agreed to the Alford pleas for two reasons only- because he thought he was maintaining his innocence, and because he was going to get out of prison while the people he loved were still alive. It is unlikely that he would have accepted the plea if he were aware that there was a possibility that he was not going to get out anyway. Nothing about his case made him appear like a candidate for release. These allegations against him, that he had molested his own child over a sustained period of time, were extremely serious. The resolution of the case by Alford plea, along with Mr. Havarco telling the court that the defendant would not cooperate in the PSI, and the fact that if innocent he would probably not be amenable to treatment, were factors that could result in him NOT being released. This information was never provided to the defendant, not even when he signed his plea form.

And although the courts have held that sex offender registration is not a direct consequence of a plea, and that therefore failure to advise about it is not ineffective assistance in and of itself. However, Mr. Havarco told his client that he would probably only have to register for a year, advice that is contrary to the law. Although collateral consequences need not be disclosed, a defendant cannot be positively misinformed of the consequences. Id at 114. Both counsel's failure to

explain indeterminate sentencing and his positive misinformation regarding sex offender registration constitute effective not rise to a manifest injustice.

A.N.J. also argues that it was error to deny his motion to withdraw his plea because his plea was not knowing and voluntary because he did not understand the nature of the charges against him. Due process requires that a guilty plea may be accepted only upon a showing the accused understands the nature of the charge and enters the plea intelligently and voluntarily. Id. at 117. In the instant case, it was never made clear that the defendant understood the charges against him. Each count of rape and each count of incest were identical, specifying no information to differentiate the charges, indicating only that that acts alleged occurred between January 1, 1998 and February 3, 2003. Mr. Iverson kept requesting the discovery, which he was never allowed to read. He was given no details of the statements made by KSI. During his sentencing, the judge asked him if he understood the charges against him, and he replied “I guess.” His response of “Yes” to the question “do you not understand” is ambiguous. Throughout the rest of the sentencing, he obeyed his lawyer's gestured instructions, and answered the questions as he believed he was supposed to, thinking that it was too late to stop the process. He also remarked on cross that he had learned more about the charges against him during the prosecutors direct examination of Dan Havirco than he had learned the entire time he was being represented. (8-24-11 Rp 56.)

Mr. Iverson heard many things about the consequences of his plea only when the trial judge discussed them during the colloquy. As soon as he could get to a phone after his plea, he called his partner get him help in withdrawing his plea. Although the only basis for withdrawal of a plea is that is was not knowing, voluntary and intelligent, awever, a claim by a defendant that he did not understand the consequences of his plea may simply be more credible if made before sentencing. The timing of a motion may be considered by the court when it is made promptly after discovery of the previously unknown consequences or the newly discovered information. State v. Robinson, 172 Wn.2d 783, 263 P.3d 1233 (Wash. 2011)

#### E. CONCLUSION

To withdraw his plea, Dustin Iverson must establish "manifest injustice." The court has clearly held that a defendant may withdraw a guilty plea if it was not knowing, voluntary, and intelligent. A guilty plea is not knowingly made when it is based on misinformation of sentencing consequences. Manifest injustice includes instances where the plea was not voluntary or effective counsel was denied. Id.

Mr. Havirco representation of Dustin Iverson fell below the objective standard. He conducted almost no investigation and made not effort to pursue defenses. He did not insure that his client understood the charges against him. He

failed to advise his client of direct consequences of the plea and misinformed him of others. He told his client and his client's mother that an Alford plea was different than a guilty plea and that Dustin would only have to register as a sex offender for a year.

Trial was never a real option for Mr. Iverson because Mr. HMr. Javirco had made not effort to prepare for trial. Mr. Iverson's plea was not made knowingly and voluntarily. He felt frightened and pressured into taking the plea. He did not understand that an Alford plea is no different than a straight plea. He was unclear about the charges against him. The court should also consider the fact that Mr. Iverson wanted withdraw his plea immediately after the change of plea and before sentencing. The court should find that he has met the his burden of proof of manifest injustice, and allow Mr. Iverson to withdraw his plea.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Christine D. Langley', is written over a horizontal line. The signature is stylized and extends to the right, crossing the line.

Christine D. Langley WSBA 19968

Attorney for the Appellant

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COURT OF APPEALS  
DIVISION II

2012 JUL 11 AM 8:08

STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
Respondent

vs.

DUSTIN IVERSON  
Appellant

No. 42601-3-II

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

Christine D. Langley hereby certifies under penalty of perjury under the laws of the State of Washington that on this 10th day of June, 2012, I delivered true and correct copies appellant's brief by US Mail to:

Via electronic transmission (a method of service approved by the recipient) to  
Sara Beigh, Attorney for the Respondent  
Lewis County Prosecutors Office Chehalis, WA 98532

And by US Mail, first class postage prepaid, to the Appellant,  
Dustin Iverson, DOC # 349979  
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Signed at Yelm, Washington this 10th day of June, 2012

by: \_\_\_\_\_

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