

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
JOHN LONERGAN)
(your name))
)
Appellant.)

No. 43645-1-II
STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

FILED
COURT OF APPEALS
DIVISION II
2013 FEB 21 AM 11:58
STATE OF WASHINGTON
BY DEPUTY

I, JOHN LONERGAN, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

I DO NOT FEEL THE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM ADEQUATELY EXPLAINED THE ENTIRE SCOPE OF NEGLIGENCE DISPLAYED BY MY TRIAL COUNSEL, IN THAT SHE DID NOT PURSUE OR PRESENT MY ALIBI DEFENSE CORRECTLY.

Additional Ground 2

If there are additional grounds, a brief summary is attached to this statement.

Date: 2/19/13

Signature: John Lonergan

Additional Ground 1

The United States Supreme Court held, in pertinent part, that it was objectively unreasonable for the Florida Supreme Court to conclude there was no reasonable probability the sentence would have been different if the sentencing judge and jury had heard the significant mitigation evidence that Porters counsel neither uncovered nor presented. Porter v. McCollum, No. 08-10537 (November 30, 2009).

In the case at hand Susan Clark, John Lonergans trial counsel, had direct knowledge of Mr. Lonergans arrest in Portland, Oregon. Ms. Clark, however, presented this information incorrectly stating that the arrest occurred the day after the alleged assault took place. She then filed a motion to suppress this information claiming it was irrelevant to the case at hand. RP. at 29. Ms. Clarks actions denied Mr. Lonergan the right to present the court his alibi defense.

Had Ms. Clark researched the information provided by Mr. Lonergan about his alibi for November 17, 2011, the date of the alleged assault, she would have discovered Mr. Lonergan was in another state. She, in fact, would have found that Mr. Lonergan was pulled over, arrested and incarcerated in Multnomah County, Oregon for unrelated charges in the early morning hours of November 17th. Additionally, her search would have yielded multiple witnesses, arrest documents, release papers and even impound documents that corroborate his claim.

Ms. Clarks failure to research and present the information that Mr. Lonergan provided denied him the right to present his alibi that placed him in custody in another state. This violated Mr. Lonergans due process rights to effective assistance of counsel, protected by the sixth amendment.

Mr. Lonergan respectfully requests the court reverse the ruling and grants a new trial based on ineffective assistance of counsel.