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COURT OF APPEALS
DIVISION II

2013 APR 23 AM 11:39

STATE OF WASHINGTON

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COURT OF APPEALS
DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)

Respondent,)

No.: ~~44~~ 077-6-II

STATEMENT ON ADDITIONAL
GROUNDS FOR REVIEW

TYSON MAXWELL,)

Appellant,)

I, **TYSON MAXWELL, herein after**, appellant, 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 the Statement of Additional Grounds for Review when my appeal is considered on the merits.

I. INEFFECTIVE ASSISTANCE OF COUNSEL

In addition to my attorney's assignments of error, I am respectfully adding as 1 additional ground that my trial counsel was ineffective and based upon the following reasons:

Appellant requested his trial counsel have the weapon that was recovered under his co-defendants bed fingerprinted as a way to support his claim that he had neither handled the weapon nor was he aware of it's presence in the motel room.

The appellant also requested a handwriting analysis be performed in defense of the ledger found within the motel room. Appellant was linked to the drugs sales based largely on the presence of this ledger and his alleged handwriting depicting monies owed to him. A handwriting exemplary would have supplied exculpatory evidence.

The prosecutor presented a slide show to the jury depicting the appellant in handcuffs and showing his tattoo. His trial counsel only objected to the visual of the tattoo, not the appellant in

handcuffs. The defendant believes that the visual of him in handcuffs prejudiced the jury and had no probative value as they were already aware that the appellant had been arrested at the scene. The appellant believes his trial counsel was ineffective because even though he objected to the photograph being introduced to the jury as prejudicial it was based upon the visual of the appellant's tattoo only and did not cover his presence in handcuffs.

The very lack of record indicating that the weapon was fingerprinted or the handwriting exemplary performed shows his trial counsels infectiveness as this was a possible source of exculpatory evidence.

The appellant's attorney also failed to object to the complete jail recordings of the conversations between the appellant and his girlfriend wherein the state was able to present only portions of the recorded conversations in effect taking the statement where the appellant claimed "all of my shit is in that room" out of context, letting the jury assume he was referring to the drugs and weapon other than his complete statement where he was actually referring to his personal belongings.

To show ineffective assistance of counsel the appellant has the burden of proving two things: (1) that his attorney acted deficiently and (2) that the deficiency prejudiced his trial. The appellant believes that his trial counsels refusal to object to the photo of him in handcuffs, fingerprinting of the weapon and non-request of the handwriting exemplary cannot be construed as trial strategy and sufficiently prejudiced the jury in such a way that they were forced to bring back a finding of guilty.

Dated this 19 day of April 2013



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