COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

2013 SEP 12 PM 1:20

STATE OF WASHINGTON
BY _____
DEPUTY

STATE OF WASHINGTON

Respondent,

v.

MICHAEL GONZALES
(your name)

Appellant.

COA. No. 44433-0-II

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Michael Gonzales, 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

THE TRIAL COURT VIOLATED MY STATE AND FEDERAL CONSTITUTIONAL RIGHTS TO DUE PROCESS OF LAW BY ADOPTING THE STATE'S FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF DENYING 3.5 AND 3.6 MOTIONS TO SUPPRESS STATEMENTS AND EVIDENCE
SEE Argument At PAGE

Additional Ground 2

Also evidence should have been supresed of violin case as well Wong Sun v. United states, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963).

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

Date: 8-28-13

Signature: Michael Gonzales

Form 23

ADDITIONAL GROUND ONE ARGUMENT

a. RELEVANT FACTS

In a bench trial, before the Honorable Judge Anna M. Laurie, Mr. Gonzales moved to suppress alleged statements and evidence against him. After oral arguments the trial court ruled that:

> I am finding under the position of the State and the reasons elucidated by Mr. Anderson that it is admissible. And I will direct the State to prepare 3.5 findings.

See 10-8-2012 RP 19.

After hearing evidence and arguments the trial court stated:

> "I need to sign some findings."

11-6-2012 RP 5.

Appellate counsel assigned error to the trial court's findings and conclusions.

Mr. Gonzales assigns error to the trial court's boiler plate adoption of findings prepared by the State.

Generally, All persons of this country shall not be deprived of life, liberty or property without due process of law. U.S. CONST. amends. 5 and 14; WASH. CONST. Art. 1, Sec. 3.

The United States Supreme Court has criticized courts for verbatim adoption of findings of fact prepared by prevailing parties, particularly when those findings have taken the form of conclusory statements unsupported by citation to the record. See e.g., United States v. El Paso Natural Gas Co., 376 U.S. 651 (1964); United States v. Marine Bancorporation, 418 U.S. 602 (1974). "We are also aware of the potential for overreaching and exaggeration on the part of attorneys preparing findings of fact when they have already been informed that the judge has already decided in their favor." See J. Wright, The Non-jury Trial - Preparing findings of fact,

conclusions of LAW And opinions, Seminars for Newly Appointed Judges, 159, 166 (1962).

In the case at bar, the trial judge merely signed the state's findings of fact And did not prepare her own. Mr. Gonzales submits this type of judicial practice, violates due process because the judge's act of discretion is not used in the states findings And conclusions. This effectively leaves Mr. Gonzales in a trial by state And not by A unbiased judge, As required through state And federal constitutional provisions.

Therefore, this court of Appeals should strike the states findings of fact And conclusions of LAW And conduct An independant review of the record to find in fact Mr. Gonzales rights under the 4th, 5th, And 14th Amendments were violated.