

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II
2019 MAY -7 PM 1:57
STATE OF WASHINGTON
BY MS DEPUTY

STATE OF WASHINGTON)
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Respondent,)
)
)

v.)
)
)

Gary L Brown Jr
(your name))
)
)

Appellant.)
)
)

No. 48214-2-II
STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Gary L Brown Jr 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

see Attached

Additional Ground 2

see Attached

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

Date: 5-3-19

Signature: Gary L Brown Jr

Ground 1

Ineffective trial Attorney:

- a) Nothing pursuant to RCW 10.79.035 prior to the Motion And Affidavit/Declaration Order For Arrest, in this case showing authority of law prior to the arrest of the defendant Mr. Brown. The defendant was in County Jail for months, and nothing was filed for the issuance of a arrest warrant. (see the court docket)
- b) Nothing pursuant to RCW 9a.72.085, (sworn testimony) from a victim, prior to the arrest of Mr. Brown the defendant, see the record)
- c) Trial court defense Attorney Mr. Nagel, was deficient in his performance when he didn't file or object to the Flawed Jury Instructions denying the defendant a fair trial and the right to have counsel at a critical stage of a proceeding, (see sub# 43). Mr. Nagel in closing argued ;about the deadly weapon, but this should have been brought up in a suppression hearing, and let the trial Judge decide if it was competent evidence, outside the Jury's ears.
- d) Trial counsel didn't file the necessary paperwork for a proper notice of appeal causing Unnecessary Delay, this again proves deficient performance and prejudice's the defendant simply because memory and evidence fade with time. This is forcing the defendant with his limited recourses to research and develop an opportunity to be heard.
- e) Defense Attorney Mr. Nagel doesn't examine the Juror when the court offered. This is after the Juror sees Mr. Brown in handcuffs being escorted to the court room, (see sub# 43). The court determined there wasn't any undue prejudice, But Mr. Negal refused to question the Juror. I believe any reasonable Attorney would have questioned if not filed for a mistrial.

Ground 2

Ineffective Appellate counsel:

Attached p-1 of 2

a) I have written numerous letters asking my counsel to keep me informed and send me the clerks records so I can start looking at issues of my case. I had asked Mr. Weaver to keep me informed and allow me to review any action before he files in the court. I have very limited resources including knowledge in matters of the law. The books such as WPIC book 11 jury instructions, are not in this institution, as well as criminal law keys. This is just a few issues that proves I need an Attorney that answers my questions and research into my case. Mr. Weaver waited until he filed a brief, before he sent me part of my files for this case, (that is over 5 years old for a direct appeal). Because Mr. Weaver refuses his obligations set forth in the Rules of Professional Conduct, I would ask this court to appoint new counsel for this case, and restart the clock to file a direct appeal, or dismiss this case with prejudice in the Interest of Justice. I believe any reasonable Attorney would keep the line of communication open and allow me to research and explain to me the advantages and disadvantages of taking certain actions in a appeal. Because of my Attorney's misconduct, this is Denying my Fundamental Rights to have counsel, (see exhibit 1). Not only is this deficient performance from Mr. Nagel, but it leaves the Indigent defendant's right to an appeal entombed. For there is no record for a probable cause determination by neutral magistrate, and no record to challenge. With no evidence preserved, this is shifting the heavy burden onto the defendant, a (Structural Error). This is denying the defendant's Due Process Rights, 5th and 14th Amendments, and including the 6th, the right to confront evidence, and accuser. And Washington's Constitution Art. 1 § 3,7,10, and 22.

Please have an Appellate Attorney research and brief this issue.

(Exhibit 1)

August 13th, 2018

To the Law office of Thomas E Weaver

RE: State of Washington vs. Gary Lee Brown, Jr.
Grays Harbor County Superior Court Cause No. 14-1-00284-2
Court of Appeals No. 48214-2-II

Mr. Weaver,

Thank you for the letter dated Aug 7th 2017.

Due to the lack of communication between myself and Trial Attorney, in this case, I would like to began with, I'm not an attorney. I would appreciate if you would inform me of any decisions and/or pitfalls in those decisions you make on my behalf. Could you please inform and explain to me in a letter before you take action? As you pointed out in your letter on the duration this appeal can take, would you please send me a copy of any actions taken on my appeal in a timely matter? I would like to be updated if any extentions are being filed and a copy of the motions for those extensions if any.

In order to have an intelligent conversation with you as well as prepare for a S.A.G, if necessary, I need the following:

- 1) certified copies of the clerks papers (so I can reference sub#'s)
- 2) certified copies of All Affidavit's with Search Warrant's & Arrest Warrant
- 3) Certified copies of police reports entered in this case
- 4) certified copies of Forensic reports of experts with bench notes (should be in my case file)
- 5) certified copies of all pre-trial & post-trial motions, with certified copies of Facts & Conclusions of Law, and the order of the ruling
- 6) Verbatim transcripts of trial, pre-trial, and post-trial hearings
- 7) certified copies of Jury instructions, purposed by state, Defense, and finally to the Jury.

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Thank you for your time and effort,
Gary Brown

Gary Lee Brown, Jr., Doc# 922871
Stafford Creek Correctional Center
H6/B 37
191 Constantine Way
Aberdeen, WA 98520

February 22nd 2019

To the Law office of Thomas E Weaver

RE: State of Washington vs. Gary Lee Brown, Jr.
Grays Harbor County Superior Court Cause No. 14-1-00284-2
Court of Appeals No. 48214-2-II

Mr. Weaver,

It has been 6 months since I sent you a letter asking you to keep me informed of any actions taken in my case. I have not received anything since your extension for more time for Ms. Prante extending the date until Nov. 7th 2018. The majority of the record that I have requested, is with the court clerk. I see no reason why I can't at least have a copy of the pre- and post trial motions, search and arrest warrants, jury instructions, the items that are easily accessed from the court clerk, in order to prepare any and all questions that I may have for you. Could you please send me a copy of the court docket, so I can see what actions have been taken so far. I would like all this information, in order to help with my case. Please contact me within 30 days of this letter, and with the above mentioned and with the bulk of the info from the first letter sent on 8-13-2018.

Thank you for your time and effort,
Gary Brown

Gary Lee Brown, Jr., DOC# 922871
Stafford Creek Correctional Center
H6/B-37
191 Constantine Way
Aberdeen, WA 98520

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March 24th 2019

To: The Law Office of Thomas E. Weaver

RE: State of Washington vs. Gary Lee Brown, Jr.
Grays Harbor County Superior Court Cause No. 14-1-00284-2
Court of Appeals No. 48214-2-II
Letters sent 8-3-18 & 2-22-19

Mr. Weaver,

I received your motion for extension of time, and I was just reminding you that under RPC I have a right to be informed before you take action in my case. I wanted to point out that I had made this request in my letter sent 8-13-18. I also noticed you had partial records/transcripts sent to you and the Appellate court. The problem so far, is I have not received anything as of yet. The letter I sent you dated 8-13-18, has some requests that is not part of your designation of clerk's papers. The problem this creates, without a full record, and the obvious lack of communication between us, could ultimately deny me a fair appeal. I was there, you were not. I may have information that you don't have. Without the records that I am asking for, will make it difficult to communicate to you without citing the record.

I have the motion for the extension of time to file transcripts, that was from 10-29-18 to 11-7-18. As I mentioned before, the records with the court clerk are easily obtained. I could start reviewing those documents, while I await for you to request the rest of the files that need to be transcribed. Please send me a copy of the superior court docket A.S.A.P., so I can site to sub#'s. Your letter dated 8-22-18 states "If any of the documents you requested are not part of that record, you will need to contact your trial attorney to request copies of those documents."

That's the problem, I don't know, and I only want what's part of the record. So please send the superior court docket, so I can reference the record of what I need to review.

Your letter dated 8-7-2017, (I'm sure 2017 is a type-o), you only have 45 days to file a brief once you receive the court file. Obviously this must

be why you have asked for the extension of time to file the brief without my consent or even communicating with me. I will need time to review and decide if I am to file a S.A.G. in my case, or have an intelligent conversation with you about my appeal, so I need adequate time to review my records. Please send me what I have requested, and what you have already received, as soon as possible. Again please send me a current superior court docket.

Thank you for your time and effort,
Gary Brown

signed on this ___ day of March 2019

Gary Lee Brown, Jr., DOC# 922871
Stafford Creek Corr. Center
H6/B-37
191 Constantine Way
Aberdeen, WA 98520