IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON RESPONDENT V. SCOTT EMERSON EVATT APPELLANT	CAUSE NO. 15-1-02622-6 COURT OF APPEAL NO. 48452-8-II STATEMENT OF Additional Grounds for REVIEW RAP 10.10

I. INTRODUCTION

I, SCOTT EMERSON EVATT, the appellant in the above captioned cause have received and review the appellant opening appellant Brief prepared by my appellant Lawyer, DANA M. NELSON. I Received this brief on AUGUST 10th 2016. summarized below are to grounds for review that are not addressed in the mr. Nelson's brief. I understand the court will review this Additional Grounds For Review when my appeal is considered on the merits.

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II. Additional Grounds for Review

The following Legal arguments support Mr. EVATT's issue that his DUE PROCESS was violated because he didn't receive a full and fair hearing/trial which necessitates reversal of his third degree assault convictions.

ERRORS

1. EVATT's investigator was incompetent and sold him out by not taking the questions EVATT gave him and deposing the three major witnesses against him. This prevented EVATT from properly impeaching each officer and from preparing his defense.

2. EVATT'S investigator was further incompetent and sold him out by not obtaining from either the prosecutor's office, Pierce county sheriff Department and/or Court clerk's office, Evatt's complete arrest history which listed all crimes he was arrested for along with the names of each applicable arresting officer. This prevented EVATT from preparing his defense, which was the two officers who arrested EVATT for the third degree assaults, had arrested him in the past, and had motive and bias against him to fabricate false assault charge against him. The trial court also Abused its discretion by denying EVATT this relevant information. The Court Abused its discretion finding EVATT guilty of assault when there was insufficient evidence, and because of the two contradictory testimonies of both officers, show they fabricated this false charge.

3. The prosecutor committed prosecutorial misconduct and violated (CRR 4.7) by not timely providing EVATT with medical records, X-RAY reports, the actual X-Rays of his SKULL, and Booking photo prior to trial, on December 15th 2015. EVATT needed the evidence timely, so he could prepare an adequate defense. In fact, the prosecution provided the medical records, the X-RAY report, and an inadequate Booking photo (which the prosecutor purposely overexposed in Red to hide the cuts and bruises on his face, which officer Waubanascum caused in his assault of EVATT) on December 11th 2015, which was only four days before his trial. The prosecution never provided the actual X-RAY, and the trial court Abused its discretion, refusing to require the prosecution to provide it. ALL this violated EVATT's DUE Process Right to A fair trial/hearing. (see Apendix A Pg. 1-2).

4. The two arresting officers (Spangler and Waubanascum) viciously assaulted EVATT, while he was defenseless in handcuffs, then jointly had concocted a false third degree assault change against EVATT, who feared for his Life, because officer Spangler verbally stated, (so that Evatt could hear, Spangler talking to Waubanascum) that they could make EVATT disappear, and noone would miss him, because EVATT was homeless, infering they would kidnap, and kill him, as these officers had the power and authority to get away with it. (Reference B, Pg. 1-18

5. The trial court violated EVATT's Due Process Right by not granting him a necessary continuance to delay the trial, until he had the necessary evidence to prepare an adequate defense. The court abused its discretion, and violated EVATT's Right to a fair and full hearing/trial for several Reasons: (1) First, EVATT's investigator had not obtained his arrest history, also with the names of all officers who made each arrest, and so EVATT could prove officers spangler and waubanascum had arrested him in the past, and had motive and personal bias against him, to physically assault him, and then concoct a false third degree assault charge on EVATT, with many perjured statements that didn't match. Second, EVATT didn't get the witness List prior to trial, minimum two weeks notice at least, but received it on December, 11th, 2015, just 4 days before trial. Third, She provided discovery Late, on three separate occasions, in August, 2015, each time, within fifteen hours before the court date. Fourth, EVATT's investigator had not questioned the three main state witnesses against EVATT, with the Listed questions EVATT gave to him, as already stated. Medical records were provided Late, just four days prior to trial, on December, 11th, 2015. The court should have scolded the prosecutor, and investigator, for their actions and inactions, but chose to violate EVATT's Due

process Rights, by not granting him adequate time to prepare his defense, after he received all necessary discovery, and his witnesses deposed prior to trial, in order to find impeachable inconsistencies.

6. The pierce county superior court, both abused its discretion on December 10th, 2015, ruled, denying EVATT's Knapstad motion based on insufficient evidence that a third degree assault occured, and went against the weight of the evidence, (actual Lack of evidence thereof) that Evatt assaulted officer spangler, in finding him guilty (without Looking at Evatt's defense evidence, that EVATT asked the Judge to review) at closing arguments on December 21st, 2015, of third degree assault.

7. The higher court should reverse and dismiss, EVATT's third degree assault charge, because of the individual cumulative ERRORS, cited, in #1 through #6 above. The individual errors separately, denied EVATT his DUE Process Right to a fair trial, under USCA 5, 6, and 14, AMENDMENT WAshington ARticle 1 §§ 3 and 7, however, if arguably, individually, they aren't material enough, -- collectively, they severely Prejudiced EVATT'S DUE Process Right to a fair trial/hearing, and necessitates Reversal of his third degree assault conviction. (Reference Appendix C - Pg. 1 of 3)

III. Argument

1
2 **issue #1** EVATT's investigator was incompetent,
3 and sold him out because he failed to depose three
4 material witnesses from the pierce county sheriff's
5 department (e.g. officer spangler, officer waubanascum,
6 and sengeant verone), before trial, to verify
7 inconsistancies they wrote in their separate police
8 reports, and in the 911 CAD report. This denied
9 Both to EVATT, to his Due Process Right to a fair
10 trial, and his right of confrontation, UNDER:
11 USCA 5, 6, and 14 AMENDMENT of WASHington
12 CONSTITUTION ARTICLE 1, §§ 3 and 22. In essence,
13 EVATT had no defense at all when he went to trial
14 on December 15th, 2015. (See DECEMBER 10th 2015
15 transcript pages 10,-16, 19, 32, 33, 37, 38, 43, 47
16 49, 61, 62). Evatt also didn't get the **Witness**
17 **List** from his investigator (December 10th 2015
18 transcript pg. 19, 32-33, 37-38, 43, 47-49, 61-62) EVATT tried
19 to explain to the court on DECEMBER 15th, 2015,
20 (First day of trial) that it wasn't right to
21 proceed to trial, before he had a chance to
22 depose these three witnesses prior to trial,
23 but the Judge violated his Due process, and
24 Right to confrontation, by denying his
25 request for more time before trial.
26 (DECEMBER 15th 2015 Transcript page 73,
27 Lines 1-25).
28
29
30

1 Issue #2. EVATT's investigator was incompetent,
2 and sold him out because he failed to obtain
3 from the police Department/sheriff Department,
4 clerks office, and/or the pierce county prosecutor's
5 office, EVATT's complete arrest history,
6 which includes the names of all arresting officers.
7 EVATT needed this information, to argue the
8 two arresting officers had motive and bias to
9 falsely charge him with third degree assault.
10 (see DECEMBER 10th, 2015 transcript pages 10,
11 Lines 18-25, pg. 11, Lines 1-25, pg. 12, Lines 1-18,
12 pg. 13, Lines 1-25, pg. 14, Lines 1-13, pg. 19, Lines 1-13,
13 pg. 25, Lines 21-25, pg. 32, Lines 1-25, pg. 33, Lines 11-25,
14 pg. 34, Lines 12-19, pg. 35, Lines 1-21, and 19-22, pg. 38,
15 Lines 11-25, pg. 43, Lines 1-19, pg. 47, Lines 7-21, pg. 48,
16 Lines 21-25, pg. 49, Lines 1-7, and 21-25, pg. 61, Lines
17 1-13. See also DECEMBER 15th, 2015, Page. 77, #1-25,
18 pg. 89, Lines 1-24). EVATT needed the arrest
19 history, to include those he was convicted of,
20 that were either dropped, dismissed, or that he was
21 aquitted of) to show these two officers had
22 arrested EVATT in the past, and had harassed him.
23 (eg. charging him with felonies he got dropped, by
24 proving his innocence, or later were dropped).
25 EVATT's investigator, mr. Lautterette, was totally
26 incompetent, in that he didn't provide this
27 complete arrest history (with arresting officers'
28 names to EVATT, that is, he never obtained it, from
29 either the prosecutor, the clerk, or the pierce
30

County sheriff Department, or pierce county
police Department. (see DECEMBER 10th, 2015
transcript pages 11-16, 19, 28, 33, 37-39, 43, 47, 49, 61).
This investigator had between August 5th, 2015,
(when he was appointed) to the trial, (DECEMBER
15th, 2015) to provide these to EVATT, so EVATT could
prepare his defense. This investigator, took three
vacations between these two dates, and told
EVATT SEVERAL times, it could take months, to
get this information, which is not true. Had
EVATT been A Lawyer, this investigator, could
have gotten it in a day or two. It's not
complicated. EVATT tried to explain this to
Judge NEVIN, ON OCTOBER 28th, 2015, (DECEMBER 10th,
transcripts pages 15, 33, 39, 43). EVATT
explained this on August 28th, 2015, he needed
this information for A fair trial, and without it,
he would have no defense, as NEVIN denied it.
ON DECEMBER 10th, 2015, EVATT explained all this,
to Judge Doorhinck and asked her assistance
with obtaining it, and Judge VAN Doorhinck
denied this motion for this critical information,
abusing her discretion, stating only the
JULY 6th, 2015, date was relevant. It
prevented EVATT from proving the two officers,
who assaulted EVATT, had motive and bias to assault
him, and for EVATT to be falsely accused
of assaulting officer Spangler.

The prosecutor provided to EVATT on August 28th, 2015, only those crimes he was convicted of, but did not List the arresting officers names. Thus, this information was useless to Evatt. ALL these actions and inactions by the prosecutor was prosecutorial misconduct, and Evatt's investigator, with the denial rulings by Judge Nevin, and Judge VAN Doornick, denying his motions, for this evidence, was an abuse of discretion, Which violated Evatt's USCA 5, 6, and 14 Right to due process for a fair trial. The prosecutor also gave discovery Late to EVATT, on three separate occasions, around fifteen hours before each hearing, to cause EVATT to be unprepared for each court date the following day, which gave him no time to prepare for the hearing and do motions, (see December 10th 2015 transcript pages 16, 28, 37, 61-62) to prepare for trial. The prosecution did this to EVATT, on or About August 6th, August 11th and August 27th 2015, which gave him no time to prepare for his defense, to do motions on the hearings, as this gave him no time, which violated his due process right to a fair trial, per USCA 5, 6, and 14 and WA. CONST. art 1, §§ 3 and 22 (see December 10th 2015 transcript p.g. 16, 28, 37, 61-62).

There was motive and bias by officers spanglen and waubanascum to assault EVATT, based on the arrest history. This information was denied by both Judges, which was abuse of discretion. The The Following case Law is relevant to the officers against EVATT, and their motive to Lie and to assault him,

The case of U.S. v. Abel, 480 US. 45, 51, 1055 Sct 465, 83 LEd. 2d 450 (1984) states ("Bias may be indicated by witnesses Like, dislikes, or fear of a party, or by the witnesses self-interest. The bias of a witness no matter how Large or small, is not a collateral issue. Proof of bias is almost always relevant because the Jury as the finder of fact and weighter of credibility, has been historically entrusted with assessing all evidence which might be on the accuracy and truth of a witness. Thus, because bias is never collateral, it's permissible to prove bias with even extrinsic and with inadmissible evidence.

It further states in State v. Jones, 506, 512, 408, P.2d 247 (1963) (one can impeach a witness's credibility showing they had bias against you.) See also State v. KNAPP, 140 Wn. App. 1011, 540 P.2d 898 (1975) (Same).

U.S. v. Fleming, 19 F3d 1325 (10th cir 1995) (ER 608(b)'s prohibition agaist extrinsic evidence applies only when the sole reason for proffering that evidence is to attack or to support the witness's character for truthfulnes, however, it does not bar extrinsic for bias, competency, or contradiction impeachment. This rule doesn't apply when extrinsic evidence is used to show that a statement made by a defendant on cross-examination is false even if the statement is about a "collateral issue," that is, this "specific contradiction, Doctrine, "allows for the impeachment" even if the evidence elicited... ordinarily collateral" and inadmissible.

ALL this case law is shown here to illustrate EVATT can impeach officer spangler and waubanascum to show they had motive and bias against him to fabricate a false assault change to cover up their assaults on him. It also provides support that even if his evidence, for the sake of argument, is collateral it is still admissible because of these officer's bias against EVATT (because they disliked him because they arrested him in the past as did several of their colleagues.) If EVATT had been provided his arrest history with the names of all arresting officers, he could of proved this bias motive against EVATT).

Lastly, factoring in all the fore-mentioned, the two officers versions of this ficticious assault against officer spangler didn't match with his partner that was present during this alleged assault, which shows they both, perjured themselves on the witness stand, and that they had a "bias motive" to make up this this false charge to cover-up their assaults on EVATT.

EVATT's Version

EVATT stated at trial and pretrial that he was in handcuffs leaning against the squad car on July 6th 2015, when

officer spangler made that threat against him to permanently disappear, that is, to kill him. That's why Evatt simply refused to be escorted into the backseat. He feared for his life. Seconds later, after he stiffened up, and wouldn't let officer waubanascum place him into the car, within the first 30 seconds of sargent verone leaving him alone, waubanascum took EVATT to the ground, only attempting to place EVATT into their car, for a couple seconds, and then throwing EVATT to the ground. He smashed EVATT's face repeatedly, over and over, pushing his face in the gravel, bouncing his face, with his hand on EVATT's ear, with brutal force. Then spangler joined in on top of EVATT, as waubanascum was also on top of EVATT, as Evatt could barely breathe, because officers were over 220 pounds each, and Evatt was handcuffed behind his back. This was about five minutes of torture, by these officers, until sargent verone returned to witness both officers on top of EVATT. This is what really happened. EVATT never kicked officer spangler, as EVATT wasn't in car seat.

1 officer Waubanascum's version:
2 waubanascum said he tried to put EVATT
3 into the passenger's side door but EVATT
4 resisted going in with just one foot
5 inside the car, and that EVATT stated,
6 "Hold on, I'm trying" to get in. Waubanascum
7 said, He waited about ten to fifteen
8 seconds, and EVATT did not comply, so
9 he started pushing EVATT into their
10 car, as (S) was helping also, by pushing
11 EVATT IN CAR. Spangler decides to
12 run to the driver's side door, and open
13 the door, in order to pull EVATT into
14 the car, by grabbing EVATT's legs, but
15 it didn't work because Evatt tried to
16 run. Waubanascum had ahold of EVATT's
17 arm, and Spangler came back to the
18 passenger side door to assist his
19 partner. They finally push Evatt in car.
20 Waubanascum states EVATT notices
21 the door open, that Spangler left open,
22 and EVATT scoots towards the driven's
23 side door, and Spangler ran back to
24 driven's door to stop EVATT, and his
25 partner followed a couple steps behind.
26 Spangler got to the door first, and
27 waubanascum said, he saw Evatt's legs
28

were hanging out the car, when Spangler got to the door. Waubanascum states, he could see Evatt's right leg kick Spangler, through the back windshield, and struck him in his torso. Waubanascum then grabbed EVATT'S Left Leg, and Spangler had ahold of Evatt's right Leg, and they both pulled EVATT from the inside of the car, and pushed EVATT to the ground. Waubanascum states he hurt his elbow, and got a 1 inch Long cut, with three scratches, and was bleeding, pulling Evatt out of car, as the corner seat caused this, while Evatt resisted, and both officers stayed on top of EVATT, until Verone arrived, and they placed EVATT in a Hobble, Leg restraint device.

Spangler's version: Spangler basically said the same thing, as Waubanascum, except for this. Spangler and his partner, pushed Evatt in car, and Spangler ran to driver's side rear door to stop EVATT from fleeing, and Spangler stated he saw EVATT'S Legs overhead, rolling to the other door, as Waubanascum stated

1 EVATT scooted to open door, as it is
2 quite different from spangler's version.
3 spangLer stated, when he arrived to
4 the driver's side rear door, Evatt's
5 Legs were pulled to his chest, and
6 Evatt was Laying on his back, and
7 then struck spangLer in the stomach.
8 EvAtt's Legs were not outside the car
9 when spangLer ran toward Evatt, as
10 waubanascum stated, as spangLer
11 stated Evatt's Legs were in the car,
12 as this is completely opposite versions
13 of Evatt's Legs, exactly before spangLer
14 allegedLy got kicked by EVATT.
15 then Evatt kicked spangLer in the stomach,
16 and spangler stumbLed Backwards, and
17 EVATT got outside of car, and tried to
18 run, but spangler recovered, and
19 grabbed Evatt's LeFt arm, and swept
20 Both of EVATT's Legs out from under-
21 neath Evatt, and Evatt fell backwards
22 and struck his Face on the backseat
23 FLoorboard, as waubanascum stated Evatt
24 did not get out of car after EVATT
25 kicked spangLer, as only Evatt's Legs were
26 hanging out of car, and spangLer pulled Evatt
27 out of car alone as waubanascum did not help.
28

Both of these officers Lied because they couldn't get their ficticious stories straight. It further proves a bias motive. They Lied against EVATT to assault him and to make a False charge against him.

The court abused its discretion by finding EVATT guilty of assault because there was insufficient evidence to convict him, and because these officers perjured themselves very divergent different versions of the ficticous assault.

<u>issue #3.</u> The prosecutor failed to provide EVATT relevant medical records timely prior to trial (dispit his discovery request) to support his contention/defense their that he was seriously injured in the head by officers spangler and waubanascum on JULY 6th 2015. He needed this information, to prove he was assaulted by the officers who in turn Lied saying he kicked spangler to cover-up the excessive use of force. (DECEMber 10th 2015, transcript pages 8-15, 54-58, 40-42). The court in turn abused its discretion by not forcing the prosecution to provide the medical records, X-ray results, and

1 head x-rays, permitting the defense an
2 inspection of the x-rays prior to trial
3 on December 15th, 2015. This didn't give EVATT
4 time to prepare his defense violating his
5 Due process Right to a fair trial UNDER
6 USCA, 5, 6, and 14 AMENDMENT WASHINGTON
7 constitution Article 1 §§ 3 and 22. IN
8 Fact, EVATT finally got the medical records
9 and X-ray results, on December 12th, 2015,
10 just four days before trial, but the
11 prosecuton wouldn't give him the actual
12 x-rays, to permit the defense inspection,
13 and the court further abused its discretion
14 denying his motion to compel the prosecuton
15 to provide it, and by denying his requests
16 for continuance for more time to develop
17 his defense, and to get needed medical
18 records, along with the arrest history
19 he never obtained from his investigator, or
20 the prosecution. (see December 10th, 2015
21 transcript pages 10, 28, 32-33, 37-38, 40, 42, 47,
22 49, 61-62). EVATT finally got his booking
23 photograph, (DECEMBER 10th, 2015 transcript
24 page 61-64, ON DECEMBER 12th, 2015, Just
25 Four days before trial which would have
26 shown cuts/gashes on his face from
27

1 the assault, the two officers did to EVATT, THUS
2 was untimely, and the photo was purposely
3 over-exposed in red so it hid the injuries,
4 Thus, was more prosecutorial misconduct.
5 (see DECEMBER 10th, 2015 transcript (pages 8,
6 Lines 13-25), (pg. 9, Lines 1-25), (pg. 10, Lines 1-18), (pg. 15,
7 Lines 6-20), (pg. 34, Line 1-16), (pg. 35, Lines 23-25), (pg. 36,
8 Lines 1-25), (pg. 37, Lines 1-25), (pg. 38, Lines 1-9), (pg 40
9 Lines 1-25), (pg. 41, Lines 1-25), (pg. 42, Line 1-20)
10 (pg. 55 1-25).
11
12
13 ISSUE #4. - The two arresting officers,
14 officer spangler and waubanascum viciously
15 assaulted EVATT on July 6th, 2015, injuring his head
16 by repeatedly pounding it into the gravel.
17 To cover-up this excessive use of force,
18 they falsely accused EVATT of kicking
19 spangler in the stomach, while he was
20 handcuffed behind his back, as EVATT gave up,
21 dropped an arrestable paraphernalia charge to
22 to ground, and was compliant. Sargent Verone
23 Left Evatt alone with officer spangler and
24 waubanascum, at 9:43 pm, and for some
25 reason, EVATT did not want to go into the
26 cop car. EVATT kicking spangler, while calmly
27 detained, isn't very plausible, or believable.
28

1 As a result EVATT was falsely arrested, charged,
2 and convicted of third degree assault. There
3 was no evidence of this assault, for it wasn't on
4 video camera, or on A body-CAM, NOR dash cam, or
5 wired cameras, nor was officer spangler (who accused
6 EVATT of kicking him in the stomach, wasn't
7 attended to by a doctor, and no pictures were
8 taken of spangler's alleged stomach injury.
9 EVATT had bad headaches for almost two months,
10 because of their assaults on him. (waubanascum
11 was the one who pounded his skull into the
12 gravel/ground). EVATT's face was severely bruised
13 and scabbed cuts also which his booking photo
14 showed. An ambulance was called to take
15 EVATT to Tacoma GENERAL Hospital, while an
16 officer was sitting behind EVATT, while
17 EVATT was strapped to a stretcher, as this
18 was waubanascum threatening EVATT, verbally,
19 stating EVATT wasn't going to make it to
20 the hospital, as EVATT heard repeated clicks,
21 of a possible handgun behind him, all
22 the way to the hospital. EVATT was
23 injected with a needle, by the ambulance staff,
24 into his lower back, and it caused many
25 abcesses, as officer planned this, to make
26 EVATT suffer for eight days in the jail
27 hole, suffering by being ignored for medical
28

1 care. while he was in booking, in a jail cell,
2 A deathly Looking inmate in street clothes,
3 walked by his jail cell, to imply, that he was
4 injected with a deadly disease, and then the
5 jail officers put him in the hole, to torture
6 him. officer waubanascum threatened EVAtt,
7 night outside EVAtt's room, at the hospital,
8 and stated he would cave EVAtt's face in.
9 EVAtt just got out of jail on July 3rd 2015, and
10 was in good health when he Left jail. It takes
11 weeks for abcesses to grow, and it cannot happen
12 in three and a half days. officer saw his
13 jail medical file, and months prior to July 6th
14 2015, EVAtt had abcess in the exact area,
15 as officers told ambulance staff, someone
16 they knew, do this injecting EVAtt with needle,
17 adding to EVAtt's assaults by officers. EVAtt
18 was ignored for his injuries, at hospital
19 and Jail, as waubanascum and spangler don't
20 get any proof of their alleged injuries.
21 officers Lied about EVAtt assaulting spangler.
22 officer spangler and waubanascum created
23 this mess, as spangler stated to his partner
24 within ten feet of EVAtt, Listening to
25 spangler talk about Losing EVAtt's ID, and
26 give EVAtt's Quest food stamp card to
27 someone, to make it appear EVAtt was
28 using his food card, and they could make
29

1 Evatt disappear, as they knew EVATT was
2 homeless, and EVATT knew, as officers were
3 capable of following through with their threat.
4 This was a direct threat to kill Evatt.
5 EVATT was frightened by officer spangler's
6 threat considerably, as these officer's left
7 the passenger side rear door open, while
8 EVATT was leaning on car, by open door,
9 listening to spangler. officer Waubanascum
10 grabbed Evatt, and Evatt froze, and within
11 fifteen seconds, waubanascum threw
12 EVATT to the ground head first, handcuffed.
13 into the gravel/ground. EVATT never kicked
14 spangler, as it was a lie, that officers made
15 up. (see December 10th 2015 transcript pages,
16 (Page 9, Lines 1-25), (pg. 10, Lines 1-17), (pg. 11, Line 1-25),
17 (pg. 12, Lines 1-25), (pg. 13, Lines 1-25) (pg. 14, Lines 1-25),
18 (pg. 18-Lines 5-25), (pg. 30, Lines 13-20) (page 31,
19 Lines 1-25), and (page 47, Lines -1-25)
20 The following from transcript pages 9, and 10,
21 STATE (: pg. 9, Line 1-25, and page 10, Lines 1-16):
22 "DEFENDANT: It's explained in my motion.
23 I ended up having damage to my skull and
24 everything like that, along with permitting (sic)
25 of my dental teeth, also.
26 Court: When?
27 Defendant: When the officers beat me up.
28

1 court: Give me a date.
2 DEFendant: the date that it happened July 6th
3 COURT: okay. DiD you go to the hospital then?
4 DEFENDANT: yes.
5 court: okay. what happened at the hospital?
6 DEFENDANT: They didn't give me x-Rays Like that. I
7 had to get it while I was in Jail.
8 court: And why do you need the x-rays?
9 Defendant: Because I want to inspect them for
10 trial and to show that--
11 court: so this is a criminal trial.
12 Defendant: yes.
13 court: you may have some other things going on.
14 How do the x-rays relate to the criminal--
15 DEFendant: Because my officers kicked my face
16 in the ground and my skull - my face is totally-
17 I haven't even got facial--my booking pictures.
18 to show the damage they did. I need
19 that also, along with the x-Rays.
20 COURT: How does that relate to the criminal
21 case? ARE you saying its-
22 DEFendant: At that time I got beat up, I got
23 assaulted and I didn't assault them, is
24 what it comes down to.
25 court: sort of Like a self-Defense thing?
26 DEFENDANT: I didn't kick the officer.
27 court: so nothing happened.
28 DEFENDANT: nothing happened.
29 court: you didn't do any thing to them?
30 DEFENDANT: Right.
31 COURT: That's your defense?
32

DEFENDANT: I was handcuffed the whole time.
Court: okay.
DEFENDANT: That's when they say I assaulted them, after I gave up and they are saying that I assaulted him with my foot while I was handcuffed."

The transcript Quote clearly states EVATT was handcuffed, didn't kick spangler, and was brutally assaulted by both officers, and it never was a case of self-defense. This was his defense and version of events.

Judge van Doorninck refused to rule on EVATT's motion (entitled motion to court to show officers are making false statements according to the CAD RECORDS). To dismiss the assault charge due to perjury by both officers spangler, and waubanascum, and sargent Verone, because there was no physical medical evidence that spangler was kicked. (e.g. spangler didn't see A doctor, nor were pictures taken of his stomach where he was allegedly kicked). The Judge abused her discretion stating: "I don't have A Forum to deal with this issue." (Transcript (pg. 30 - Lines 13-20)) This perjury, and the Judges abuse of discretion violated Evatt's Due Process Right to a full and fair hearing/trial,

1 pen USCA 5, 6, and 14, and Washington
2 Constitution Article 1, §§ 3 and 22.
3
4 Issue #5. The trial court abused its
5 discretion by denying several of EVATT's requests
6 for continuances. This denied him a fair trial
7 because he could not prepare his defense adequ-
8 ately and sufficiently for many reasons.
9 (ultimately, this violated his to due process
10 under USCA 5, 6, and 14, and Washington Const-
11 itution Article 1, § 3 and 22). First, Judge
12 NEVIN threw him out of his court, not ruling
13 on any of his motions, on October 28th, 2015.
14 (December 10th 2015 transcript (pg. 14 #1-25) (pg. 15,
15 #1-5) (pg. 33 #1-25) (pg. 39, Lines 9-25). (And pg. 43 #1-25)
16 second, his investigator was practically worth-
17 less, taking three vacations prior to EVATT's
18 trial (transcript (page 32, #1-25). His inves-
19 tigator did not get him the arrest history,
20 which shows who the arresting officers
21 were, so he could prove officer Spangler,
22 and officer Waubanascum, had arrested him
23 in the past and had motive to harass/assault
24 him, and to trump up false assault charge.
25 (Dec 10, 2015 transcript (pg. 10 #18-25) (pg. 11, #1-25),
26 (pg. 12 #1-18), (pg. 13, #1-25), (pg. 14 #17-23)
27 (pg. 19, #3-25) (pg. 25 #21-25), (pg. 32, and 33,
28 and pg. 37, 1-25) (pg. 38 #11-25), (pg. 43 #1-25)
29 (pg. 44, #7-21), (pg. 49 #1-7 and 21-25) (pg 61 #1-13)
30 Third, prosecutor wasn't helpful either, giving EVATT
31
32

discovery Late on three separate occasions, August 6th 2015, August 11th 2015, and August 27th 2015, and December 10th 2015. (December 10th 2015 transcript page 16 #11-25) (pg. 28 #10-25) (pg. 37 #1-25) Fourth, Evatt did not get the witness List from the prosecutor timely which was given to him on December 10th 2015, Just 4 days prior to trial, so he didn't know for sure who was would be testifying against him. the court shall ("I can understand you're upset that you got the witness List today. (December 10th 2015, transcipts (page 19, 1-25) (page 42, 1-25). Evatt states, "I can't end up questioning these officers if I don't have my full discovery. (page 37, #1-25). (page 23, #18-22). (page 49 #1-7, and #21-25), (pg. 50, #21-25) Fifth, Evatt's investigator did not question and depose three critical witness (e.g. officer spangler, officer waubanascum, and sengeant verone), as he was instructed, which prevented Evatt from developing his defense by finding impeachable inconsistencies (December 10th 2015, transcripts (pg. 10-16) (page 19-20) (page 25), (page 32-33) (page 37-39) (pg. 43-44) (pg. 47) (pg 49-50) and (pg. 61-62). Sixth, The prosecutor and the court did not get all his medical records and the skull X-Ray, booking photo to show

his injuries until Dec 12th 2015, which was four days before trial. EVATT was denied the x-ray by the court which was a gross abuse of discretion (December 10th 2015, transcript (14, # 1-25) (pg. 15 # 1-5). (pg. 35 # 1-23) (Page 36, # 1-25) (pg. 40 # 1-25) (pg. 41 # 1-25) (pg. 42 # 1-25). SEVEN, The court denied EVATT the right to call, and to question, Pierce county Jail (MENTAL Health professional) Eileen Anderson, regarding in depth knowledge of officers motives and bias against me, from twenty years of officers prior falsely imprisoning him, on past arresting officers, as she has first hand knowledge of officers harassment of him for years, on over fifteen dropped felonies, in fourteen years. (December 10th 2015, transcript (page 18 # 1-5) (pg. 35 # 1-25) and EVATT never got to depose Doctor Balderama before trial because his investigator didn't do it, and the court refused to permit the deposing. (December 10th 2015 transcript (Page 36 # 1-23) (pg. 41 # 1-25)

All seven of these errors prejudiced EVATT. The court should should have granted him a continuance in the interest of justice but abused its discretion proceeding to trial where he was not prepared with all necessary discovery, on provided, and not questioning the witnesses pretrial, which violated his USCA VI. Right to confrontation He was unfainly denied his due process Right to a full and fair hearing.

The following discussion between EVATT and the court (December 10, 2015 transcript (pages 32-33) sums up the constitutional violation by the trial court.

ISSUE #6 - The pierce county Superior court Judge VAN Doorninck abused its discretion by denying EVATT's Knapstad motion to dismiss his case on December 10th, 2015 (see Dec 10th 2015 Transcript (pg-3-6) (pg. 15-20), and (pg. 23-34) THE COURT STATED:

"So ms LUND (prosecuton) characterized this because you referred to the Knapstad case and that basically says the state has nothing to show to move forward and so I'm going to deny your motion to dismiss based on this because there's clearly a question for the jury. You've got a version, and the police have a version, the prosecution has a version, so I'm going to deny this motion to dismissed based on that one (pg. 26)

Mr. EVATT stated clearly in his Knapstad motion that once you take away the perjured testimony of officer Spangler and Waubanascum regarding their third degree assault that EVATT never did, There was insufficient (basically no evidence) to bring a prosecution the trial court should have granted this motion which would have avoided an unnecessary trial and prosecution (Mr. EVATT covered this in further detail with issue #1 #2 #3 #4 #5) There was no physical evidence on an assault on officer Spangler. No Doctor

Looked at spangler. There were no pictures pictures taken of his stomach, and he missed no work. The court should have dropped changes due to insufficient evidence. There weren't even any photo or camera shots of the alleged assault. Just perjury police testimonies. The trial court abused its discretion with going against the "weight of the evidence" (Actual Lack thereof) in finding him guilty of third degree assault of officer spangler on December 21st, 2015.

Issue #7 - cumulative ERROR,

Each of the Due Process errors cited above in #1 through #6 individually denied EVATT his due process right to a fair trial by themselves, however, even if individually these weren't reversable error, collectively they severely prejudiced EVATT's due process right to a fair trial

necessitates reversal of his assault third degree conviction as it states with Payton v. Cullen, 658 F 3d 890, 896 (9 all 2011 (city) Chamkey v. Mississippi, 410 US. 284, 298, 302-03 93 S. Ct. 1038, 35 L Ed. 2d 297 (1973) (While no single error may amount to a constitutional violation, the combined effect of multiple errors violated due process infectively a trial with unfairness requires reversal ") see also Henderson v Kibbe, 431 US 145, 153, 97 S. ct. 1730, 52 LEd. 2d (1977) ("The error infected the trial resulting in a conviction that violates Due Process") also Hilvala v Wood, 195 F.3d 1098, 1103 (9th cir 1999).

This court must reverse EVATT's conviction due to individual, and cumulative error that violated due process.

IV. PRAYER for Relief

EVATT motions this court to reverse the third degree assault conviction against him, not only because individually each of the 6 ERRORS WARRANT this, cumulatively they violated his due process right to a full and fair trial.

Declaration

I, SCOTT EMERSON EVATT, state under oath per RCW 9A.72.055 that the foregoing facts are true to the best of my knowledge, based on personal observations, facts, evidence, experience, and conclusions, and that the transcripts and other evidence herein are true and correct and are what the cue represented to be Dickenson v. Wainwright, 626 F.2d 1184 (1980) Affidavits sworn as true and correct under penalty of perjury have full force of law and don't have to be verified by a Notary Public

I, declare under penalty of perjury that the fore-going is true and correct executed on September 6, 2016. Scott E. Watt

SCOTT E. WATT, DOC 706544
Stafford Creek Correction Ctr
H3A24L
191 Constantine Way
Aberdeen, WA 98520

_____ (Signature for Order)
JUDGE

Below are case law, of the prosecutor K. Lund, who did commit prosecutorial misconduct, against mr. Evatt, before trial, so mr. Evatt could present a defense.

: (1) (A) U.S. V. O'HARA, 301 F.3d 563 (7th cir.) A defendant seeking to prove prosecutorial vindictiveness for a decision to indict, must present genuine vindictiveness.

U.S. V. DEERING, 179 F.3d 592 (8th cir.) Government's interference with defendant's right to present a defense, including calling defense witnesses, violates the constitution.

US. V. BLAIS, 98, F.3d 647 (1st cir.) (1) Brady error occurs when government suppresses "material" information that is favorable to defense; information is "material," if there is a reasonable probability that had the evidence been disclosed to defense, result of proceeding would have been different, (2) Brady rule, prohibits government

from suppressing evidence favorable to defense applies to impeachment evidence as to exculpatory evidence.

GOMILLION V. LIGHTFOOT, 364 US 339, LEd 2d 110, 81 Sct. 125 "One must ever be aware that the constitution forbids sophisticated as well as simple minded of descriminination.

1 #1. - All three officer's deception, and
2 contradictions in their testimonies.
3
4 #1. Sargent verone is telling the
5 prosecutor what officers spangler and
6 waubanascum are doing with EVAtt, on
7 scene, before he left to question the
8 witnesses who called 911 on EVAtt, two
9 blocks away. (see December 15, 2015 transcript
10 pg. 102 #2-7).
11 Sargent verone loses his memory
12 as to the content of the same
13 above question, when Evatt asks
14 verone, on the stand, within an hour,
15 from the prosecutor questioning
16 verone. (see December 15, 2015 transcript
17 pg. 145-#3-11).
18 #2. Sargent verone used his police
19 radio, in his car spotting EVAtt at
20 9:41:01pm, and arriving on scene with
21 EVAtt, and officers spangler and waubana-
22 scum, at 9:41:11pm. (see transcript pages
23 522#1-25, and pg. 523#24-25, and 525#6-14).
24 (waubanascum testified to EVAtt, as to
25 verone arriving to EVAtt's arrest site)
26 Sargent verone is stating, that 911
27
28

dispatch CAD, makes mistakes, on entering his arrival time, which is not true, as 911 dispatch cannot enter officer's time, as only officers, using their radios in their car, on their radio on their person, can record officer's times, to the hour, minute, and second. (see Dec 15th 2015, transcript pg. 126 #2-22). Sargent Verone calls 911 dispatch on his radio, telling 911 that he is going Back and Forth to EVATT'S arrest site, and 911 CAD is pretty accurate, as he states to EVATT. (see December 15, 2015, transcript pages 126 #23-25, and pg. 127 #1-6).

#3. Evatt is handcuffed and cooperative, before the sargent Left EVATT alone with spangler and waubanascum, when Verone Left to question the witness two blocks away, who called 911 on Evatt. Verone states this to EVATT. Transcript pages 120, #9-25, and pg. 121-#1-9, and pg. 148-#18-20).

#4. Sargent Verone is trying to change his arrival time, to arrive before officer spangler and waubanascum arrived to EVATT'S arrest site, (see transcript pages 126 #23-25, and page 127 #1-11), as he stated to EVATT.

Officer waubanascum, stated, to Evatt, that he and his partner waited at a Red Light, for over a minute, in order to match their arrival time, at 9:40:16pm to Verone's

arrival time, at 9:41:11pm, to EVATT's arrest site. Waubanascum, also stated, that they left to EVATT's arrest site, once they responded to 911 dispatch, and they left right away, at 9:39:45pm, as this is ridiculously, contradictory to his partner. (see transcript page 517 #2-21, and pg. 518-#1-12, and pg. 519 #10-25, and pg. 520 #1-25), pages 521 #1-22, and page 522 #4-5, and pg. 523 #24-25).

Officer spangler states to the prosecutor, he arrived within thirty seconds, to Evatt's arrest site, once they got the 911 description of Evatt. (see transcript (page 166 #18-21.) spangler was on East 40th an K street, once they responded to dispatch, at 9:39:45pm, to state they were on their way to EVATT's arrest site, as spangler stated to Evatt, they arrived in 21 seconds, and on scene at 9:40:16 pm. (see transcript pg. 230 #10-25, and pg. 231 #1-13, and pg. 234 #14-17).

Sargent verone states to the prosecutor, that it took within a minute, or two minutes to travel to EVATT's arrest site, as it is contradictory to the 911 CAD, of officer's using their radio, which is verone's deception to changing his arrival time. (transcript pg. 95 #8-12).

I. spangler was driving, and walbanascum used their radio to respond to 911 dispatch, once he responded to state they were on their way to Evatt's arrest site. (see transcript pg. 229 #20-25).

#5. Sargent Verone was not on scene, at Evatt's arrest site until 9:41:11pm, as Verone used his radio to state he was on scene with spangler, and Evatt, and walbanascum, as Verone did not see Evatt being detained, at 9:40:16 pm, within 15 seconds, as walbanascum states to Evatt. (see transcript pages 371 #17-23, and pg. 372 #8-12, and pg. 378-#14-25, and pg. 379 #1-24, and pg. 380, 4-5, and pg. 382 #12-18, and pg. 383, #16-18, and pg. 385, #11-12.)

Officer spangler states to Evatt, that it took one and a half minutes, to put Evatt in handcuffs, which is contradictory to walbanascum's testimony, to detain Evatt in under 15 seconds, as spangler waited to call 911 dispatch, until Verone was on scene for a minute, until 9:42:20pm, so Verone could help write fabricating police reports, on Evatt's behavior. spangler states, he could not see Evatt's hand, under his coat, and it is against officer protocol, to

not search Evatt, immediately, to avoid any injury against any officer, as all officers know this is #1 priority, For officer safety. (See transcript pages, (239, #1-25), Pg. 243 #1-9, and 244 #14-22, and Pg. 245 #16-23, and pg. 246 #1-10, and pg. 247 #1-3, Pg. 252, #17-25, Pg. 254 #8-12, and Pg. 255 #9-13, and Pg. 256, #9-14, and pg. 283 #17-19, and pg. 284 #18-21, and pg. 286, #3-15, and Pg. 287, #1-10, and Pg. 288 #1-25, and pg. 289 #1-3, and pg. 290 #20-25, 291, #1-6, and pg. 293 #3-24, AND page and pg. 294, #1-5, and pg. 221 #4-6, and pg. 224 #11-16, and pg. 225, #1-3). Spangler states obstructed officers, and resisted arrest, but stated to Evatt, he didn't know why EVAtt was not charged with these charges, as Spangler was on of the arresting officers, as Evatt was compliant, being escorted to the patrol car. See transcript pages 226, #23-25, and pg. 227 #1-16, and pg. 238, #19-24, and pg 295 #7-10, and pg 301 #8-15).

#6. Officer Spangler, changed his testimony, almost immediately, as the prosecutor apologized twice, as to Spangler stating Evatt was being placed into their car, night away, after Verone Left, to question witnesses. (See transcript page 190 #19-25, and pg. 195 #6-19, and pg. 196 #8-13).

Sargent Verone implied, Evatt was

1 by the near door of officer spangler's patrol
2 car, by stating to the prosecutor, he didn't
3 know if Evatt was inside the patrol car yet
4 which means EVAtt was by the near door, and
5 not the front of the car, as spangler
6 changed his story to the prosecutor, where
7 EVAtt was, after verone left. (see trans-
8 cript page 102, #16-21). spangler also couldn't
9 recall who searched EVAtt, by patrol car,
10 which shows EVAtt was already searched,
11 while verone was there, before he arrived,
12 and after. (see transcript page 196-#14-17).
13 Waubanascum states to the prosecutor,
14 that EVAtt was compliant, when he was
15 escorted to their car, after he picked up
16 EVAtt's pipe. (paraphernalia). (see transcript
17 pages 340-#20-25, and pg. 342-#13-16, and pg. 344 #1-2).
18 Waubanascum states to Evatt, that EVAtt was
19 searched for three minutes, by spangler,
20 but then states he has no idea, how long
21 the search lasted. This three minutes,
22 was a tactic, by officer Waubanascum, to
23 make it look like officers were having
24 trouble placing EVAtt into their car,
25 for about two minutes, instead of five
26 minutes, by two armed trained officer,
27 seven, and nine years on the force. (see
28 transcript pages 488-#19-25, and pg. 530-#7-14,
29

and pg. 196 #14-17, and pg. 546, #13-25, and pg. 547-
#7-24.) Waubanascum states to EVAtt, that
EVAtt dropped to his knees, and gave up to
officers, with no resistance, as a fact. (see
transcript pages 382-#12-18, and pg. 383-#16-18,
and pg. 385 #11-12.).

#7. Officer spangLen's Version to the prosecutor,
that spangLen and waubanascum, finally pushed
Evatt into the vehicle, and Evatt rolled to the
open near drivers' side door, (spangLen LeFt
that near drivers' side door open) and Evatt
rolled on his shoulder, flipping his Legs over
his head to escape. spangLen observed this,
from the near window, as spangLen was
running to stop EVAtt alLegedLy FLeeing.
(see transcript page 199, #3-16).

spangLen's version of Evatt rolling, and
FLipping in backseat FLeeing. (see transcript
pages 312-#2-25, and page 313-#1-5, and pg 313, Line
#23-25, and pg. 314, #1-20).

officer waubanascum's version, of
Evatt scooting to other open near drivers'
side door, as spangLen ran to stop Evatt
is completely different from spangLen's
version of events, right before spangLen
allegedLy got kicked by Evatt, as waub-
anascum told the prosecutor. (see transc-
ript pages 347 #20-25, and pg. 348 #1-25).

#8. officer spangler stated to the prosecutor, that EVAtt kicked him, and got injured. (see transcript page 203 #1-11).

spangler stated to EVAtt, of spangler's alleged injury, by Evatt's foot kicking spangler. (see transcript pages 265 #8-15, and pg. 313 #20-22, and pg. 316 #1-3, and pg. 318 #25, and pg. 319 #1).

officer waubanascum stated, to the EVAtt, that spangler got kicked by EVAtt, and then both spangler and waubanascum pulled Evatt from the vehicle, and was injured pulling EVAtt from car, and did not get proof, or tell the Hospital staff. (see transcript pages 499 #4-7, and pg. 500 #5-6, and pg. 502 #1-3, and pg. 553 #1-3, and pg. 564 #14-21, and pg. 565, #1-25, and pg 566 #1-5, and pg. 567 #12-18, and page 568 #3-5).

#9. officer waubanascum stated to the prosecutor, that he was trying to grab ahold of EVAtt, on the drivers' side door, after spangler got allegedly kicked by Evatt, as waubanascum stated, he and spangler pulled Evatt from the drivers side door together. (see transcript pages 349 #19-23, and pg. 350 #1-23, and page 351 #13-16).

officer spangler stated to the prose-
cutor, that spangler pulled Evatt to
the ground alone, from the car, after
spangler got allegedly kicked by Evatt,
and then waubanascum annived to
help, as spangler's version, and officer
waubanascum's version, of EVATT
getting pulled from the vehicle,
after Evatt allegedly kicked spangler,
is not true. (see transcript pages
204 # 22-25, and pg. 205 # 1-8).

#10. officer spangler stated to EVATT,
that EVATT kicked spangler, and then
got out of the vehicle, and the
grabbed EVATT's arm, and kicked
EVATT's legs out from under him, and
EVATT fell backwards, and hit his face
on the backseat floorboard, of the
patrol vehicle. (see transcript pages,
206 # 18-25, and pg. 260 # 15-17, and pg. 261,
1-14, and pg. 265 # 8-10, and pg. 317 # 1-25,
and pg. 318, # 1-15).

spangler stated to the prosecutor,
that Evatt did get out of the
patrol vehicle, after spangler was
allegedly kicked by EVATT, and spangler
swept Evatt's legs. (see transcript pages

203; #16-25, and pg. 204, #1-25, and pg. 205 1-3).

officer Waubanascum stated, Evatt did kick spangler, but EVATT did not get out of the vehicle, as spangler stated above, waubanascum stated this to EVATT. (see transcript pages 551 #10-25, and pg. 552 #1-25, and pg. 553, #1-17).

#11. officer spangler states to the prosecutor, that EVATT's Legs were pulled back to his chest, Just before spangler got kicked by Evatt, as Evatt was Laying on his back, allegedly. (see transcript pages 201 - #19-25, and pg. 202 - #4-25, and pg. 203 - #1-14).

officer waubanascum to EVATT, he followed spangler, a few feet behind him, when Evatt was trying to flee towards the drivers side door, and saw Evatt's Legs hanging outside the door, before spangler got to door, and then saw EVATT's right Leg kick spangler, as waubanascum saw this from the rear window of car, as this is a contradiction to spangler's version of

events, of Evatt's Legs positioned, night before spangler got allegedly kicked by Evatt. (See transcript pages 348 #15-25, and pg. 349 #1-8).

#12. Officer Spangler states to the prosecutor, that waubanascum called out to 911 dispatch, to EVATT fighting with us, detained, but refusing to get into vehicle, as Spangler emphatically denies calling out on the radio, as it is the opposite testimony of his partner states. (See transcript pages 206 #7-25, and pg. 207 #1-25, and pg. 208 #1-6).

Officer Spangler stated to Evatt, that waubanascum called 911 dispatch, that EVATT was fighting with us. (See transcript pages 235 #23-25, and pg. 236 #1-3, and pg. 323 #5-25, and page 324, #1-3).

NOW, officer waubanascum stated, to the prosecutor, that Spangler called 911 dispatch, about EVATT fighting, while EVATT was on the ground, while both officers were on Evatt after Spangler allegedly got kicked by EVATT. (See transcript pg. 352 #12-23, and

pages 353 #9-25, and pg. 354 #1-7).
Waubanascum said to EVAtt, that he
had no idea, where Spangler called 911
dispatch, in regards to EVAtt fighting,
with them. (See transcript pages
483 #19-25), in regards to Evatt
on the ground, when waubanascum
told the prosecutor, Spangler called 911
dispatch, but emphatically denies
this to Evatt, around the time
verone returned to EVAtts arrest
site, to witness both officens on
top of EVAtt, while Evatt was
handcuffed Behind his back. (see
transcript pages, 103 #2-8, and pg. 480 #
6-25, and pg. 481 #1-25, and pg. 483 #19-25
pg. 484 #1-25, and pg. 485 #1-25, and
page 486 #1-8).
Verone stated what he heard, called
over the radio, about Evatt fighting,
to the prosecutor in regards to
officens spangler, and waubanascum. (see
transcript pages, 103 #2-8, and pg. 105,
#4-25, and pg. 106, #5-7, pg. 126 #25, and
pg. 127 #1-11).
Verone stated to EVAtt, what

1 verone did, when he heard officers
2 spangler on waubanascum (verone
3 states he could not tell who called
4 911 dispatch, about EVAtt, fighting),
5 call 911 dispatch, in regards to EVAtt
6 fighting with officers, and how long
7 verone was gone from EVAtt's site,
8 and returned to Evatt, witnessing
9 him being assaulted by officers.
10 (see transcripts pg. 105 #1-3, and pg. 126
11 #12-16, and pg. 144 #12-17, and pg. 145 #12-15).
12 **#13.** All three officers, are
13 changing their arrival times, to
14 EVAtt's arrest site, to fabricate their
15 police reports, in order to fabricate
16 EVAtt's behavior, by using a 20 year
17 veteran sargent verone, to help these
18 two officers cover-up their assaults
19 to EVAtt, as a sophisticated police
20 tactics, writing their police reports
21 together, at the same time to do it.
22 Sargent verone stated to Evatt,
23 that he submitted his police report
24 on 7-07-15, on Evatt, at approximately
25 0341 hours, at the exact minute
26 waubanascum submitted his report.
27

(see transcripts pg. 135 #12-21).
OFFicer waubanascum stated to
the prosecutor, He started FiLLing out
his police report at 03:41 Am and started
writing his police report, which is
the same time verone started
writing his police report. ALso,
Both verone turned in their police
report, 13 seconds apart, at 5:00:13 Am,
on 7-07-15, is when verone turned in,
on printed his police report. At
5:00:26 Am, on 7-07-15, waubanascum
turned in his police report. Both were
printed at the same police station,
and by the same officer spiers. This
is not a coincidence, it is fabric-
ating police reports together, to
falsely invent Evatt's behavior,
as threatening, drug induced, non-
cooperative, and not obeying orders,
and possible reaching for a weapon.
Sargent Verone, and waubanascum
did do this, As Spangler's report
did not say, I was threatening.
(see transcript pages, 503 #14-25,
and pg. 504 - #1-5). ALso Spangler's
police report was turned in at
4:01:59 Am, on 7-07-15, 1 hour Before.

Below are officers spangler and waubanascum, who assaulted EVATT brutally for 5 minutes and removed Evatt from the hospital before he could get skull x-rays to prove damage, concussion, by officers on July 6th, 2015. officers did conspire to assault EVATT, and falsely charge him, to cover-up the police brutality complaint on officers, as Evatt was at the officer's mercy, as Evatt was handcuffed behind his back. Also, these officers waubanascum, and verone, wrote their police reports together, to fabricate Evatt's false behavior, and all three officer conspired to imprison him for a false assault 3° degree on officer spangler, as described below are the case law to state officers actions against EVATT. (eg. U.S. v. Lavallee, 439 F.3d 670, (10th cir. 2006). Affirming convictions who beat prisoners, and fabricated reports, and self-inflicted injuries to cover-up. Hudson v. McMillian, 503 U.S. 1, 5, 112 S.Ct. 995 (1992).

U.S. v. Clayton, 172 F.3d 886.

(10th cir. 1999). Affirming convictions for for kicking an arrestee in the head as she lay unresisting in handcuffs.

U.S. v. Donnelly, 340 F.3d (1st cir. 2004). Affirming sentence of officers for conspiracy and violation of civil rights for unwritten agreement to use excessive force on prisoner who disrespected staff to teach him a lesson.

Bee v. Dekalb county, 679 F. supp. 1107, 1109, 1113 (N.D. Ga. 1988). allegation of unprovoked blow to the face created factual issue of excessive force.

Graham v. Conner, 490 U.S. 386, 395, 1095. ct. (1865) (1989). Evidence that officers acted out of malice, may, however, prove that their actions were not reasoning.

Williams v. Bramer, 180 F.3d 699, 704 (5th cir.) clarified 186 F.3d 633 (5th cir. 1999) the court held, that that the plaintiff must show (1) an injury, (2) which resulted directly, and only from the use of force, that was clearly excessive to the need, an (3) and the force was used objectively, unreasonable. 180 F.3d At 703.

uni v. city of chicago, 186 F. Supp. 2d 844, 848-49 (N.D. Ill. 2012). police officer who brutally beat a prisoner and observed the consequences, could be found deliberately indifferent, normally screaming in pain will do to register the complaint.

CUCCO v. moritsugu, 222 F.3d 99-106-107 (2nd cir.) holding that pre-trial detainees medical care claims invoke the 8th AMENDMENT deliberate indifference standard.

Hodge v. Uperto, 739 F. Supp. 873, 879 (S.D.N.Y. 1990). police officers could be held liable for removing arrestee from the hospital before his x-rays could be examined and his injuries tested.

FRATERNAL ORDER OF POLICE v. U.S., 152 F.3d 988 (D.C. Cir.) Equal protection analysis is substantially identical under the 5th and 14th AMENDMENT.

ESTELLE v. GAMBLE, 429 U.S. 97, 50 LEd2d 251, 97 Sct. 285. Elementary principals of the cruel and unusual punishment clause of the 8th AMENDMENT establish the government's obligation to provide medical care for those whom it is punishing by incarceration.

ALL these officers knew me for years, and had obvious biased hatred of EVAtt, as EVAtt has been set-up by officers on trumped up felonies for years, which is malicious harassment. Two armed, trained officers, for over 7 years, and 9 years on the police force, cannot put a defenseless, handcuffed arrestee in their car, for 5 minutes, is torture, as all of the inconsistent, contradictory, opposite officers' trial testimonies proves EVAtt was the victim of officers' brutal force, on EVAtt, as to cover up their assaults on EVAtt, to stop an inquiry into a police brutality complaint. EVAtt has had over 12 dropped felonies, from officers harassment of him, and his over 100 arrests shows, officers, imprison him when they see him, as they did in this case, with the help of the sargent, on the force for 20 years, using words on paper, with warrants, to make false statements, and change their arrival times to match.

Judge Kitty-ann VAN Doorninck, did not take a break, to Judge EVAtt's weeks worth of officers contradicting opposite testimonies, (mutiple contradictions), as she found him guilty within a couple of seconds, after his closing arguments. EVAtt asked the judge, to review officers testimonies, (as EVAtt stated to the judge, exactly where to look), and denied the defense evidence, to be judged, as the judge did not review, and take a break, as the defense was denied his fair trial. Why even have a trial, unless the defense gets a chance to prove his innocence, with defense's side of evidence from 3 officers dishonest testimonies? This was not A trial, it was sentencing, of EVAtt, to 51 months, by not taking a break, to rule on the defense's evidence, as the judge would have to release EVAtt, as she refused to follow the law, and denied EVAtt out of bias. This went on before trial, during trial, and after closing arguments, and at sentencing denying EVAtt's Appeal.

1 Below are the judges comments on
2 Evatt's chance to present his evidence
3 to the judge, as the judge tells Evatt,
4 this, but does not judge Evatt's
5 Evidence after his closing arguments,
6 but finds him guilty, negand less of
7 the defendant pleading to the judge
8 to review his evidence. transcript,
9 pages 90, # 2-16, and pg. 226, # 8-21, and pg. 233
10 # 16-24, and pg. 241, # 3-16 and pg. 250 # 10-16, and
11 pg. 253 19-25, and pg. 254, # 1-7, and pg. 291, # 1-13, and
12 pg. 300 # 13-25, and pg. 302 # 9-16, and pg. 370, # 1-7,
13 and pg. 379, # 19-25, and pg. 380, # 1-5, and pg. 382, # 1-5,
14 and pg. 396, 10-25, and pg. 398 # 1-7, and pg. 404, # 8-16,
15 and pg. 453, # 10-15, and pg. 460, # 5-25, and pg. 461,
16 # 1-5, and pg. 463, # 3-7, and pg. 475 20-25, and pg. 476
17 # 1-15, and pg. 502 # 13-19, and pg. 521, # 3-6, and
18 pg. 523 # 12-25, and pg. 524 # 1-15, and pg. 529, # 1-8,
19 pg. 545, # 19-25, and pg. 549, # 13-15, and pg. 552, 16
20 # 16-25, and pg. 553, # 1-9, and pg. 558, # 1-7,
21 pg. 569, # 4-9, and pg. 575, # 11-14, and page 581 # 8-13,
22 and pg. 604, # 15-16, and pg. 606, # 14-15.
23 Above, are Judge's comments, answering
24 for officers on Evatt's questions, and commen-
25 ting on officers' distance from Evatt, of
26 25 feet is not far, comparing it to a football
27 field. the Judge rushes Evatt continually,
28 keeping Evatt frustrated and under pressure.
29

The Judge also stopped Evatt from asking officers on their partners contradicting testimonies, in the above statements, as Evatt had a right to question officers, on their opposite testimonies, of their partner, as Evatt was obstructed, by the Judge, to present his defense. The Judge put Evatt under oath, during opening statements, as an unfair tactic, which prejudiced Evatt, as opening statements, are not testimonies, as the Judge made this an exception. (see closing arguments transcript pages, 581, 1-25, and pages 582 through pg. 619.

This was not a trial, if the Judge refused to review Evatt's Evidence, as it was against the constitution rights of Evatt, as a citizen, as the Judge denied Evatt his proof for the Judge, to Judge the defense's evidence, as to be fair, without bias, as Evatt was denied a fair trial, by ignoring facts, Evatt asked the Judge to review, but the Judge did not.

DECLARATION OF SERVICE BY MAIL
GR 3.1

FILED
COURT OF APPEALS
DIVISION II
2016 SEP 12 AM 9:06
STATE OF WASHINGTON
BY DEPUTY

I, Scott Evatt, declare and say:

That on the 6th day of September, 2016, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. 48452-8-II:
Enclosed is 32 page Statement of Additional Grounds for Review and Dec 10, 2015 verbatim Report of Proceedings pg 1-66, and Dec 15, 2015 verbatim Report of Proceedings pg 67-92.;

addressed to the following:

(1.) Court of Appeals-Div II
950 Broadway, Ste 300
Tacoma, WA 98402
Attn: Clerk

(2.) Nielsen, Broman & Koch, PLLC
1908 E. Madison St, Attn: Danny Nelson
Seattle, WA 98122

(3.) Pierce County Prosecuting Attorneys Office, 930 Tacoma ave South, County-City Bldg.
Tacoma, WA 98402

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED THIS 6th day of September, 2016 in the City of Aberdeen, County of Grays Harbor, State of Washington.

Scott E. Evatt
Signature

Scott Emerson Evatt
Print Name

DOC 706544 UNIT H-3-A #24L
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
ABERDEEN WA 98520