

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

2017 MAR -2 AM 11:20

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
MICHAEL DENTON)
(your name))
)
Appellant.)

STATE OF WASHINGTON
No. 49115-0 BY [Signature]
DEPUTY
STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Michael Denton, 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

14 Amendment Constitutional Rights violation of the
DUE PROCESS clause due to the fact that I was a
PRO SE inmate on this cause no. 2/9/15-0-II which I was
DENIED the right to access the LEGAL computer and
LEGAL books which was done by the PRO SE Seargent
JACKIE CARUSO, which I was denied the right to fair trial
"(SEE VERBATIM TRANSCRIPT OF PROCEEDINGS March 8, 2016
BEFORE Judge Stanley J. Rumbaugh on page 8 - 10)" which
CARUSO testified that I will not have access to legal books or legal computer

Additional Ground 2

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

Date: _____

Signature: _____

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

| | | |
|----------------------|---|------------------|
| STATE OF WASHINGTON, |) | |
| |) | |
| Plaintiff, |) | Superior Court |
| |) | No. 15-1-04577-8 |
| vs. |) | |
| |) | Court of Appeals |
| MICHAEL DENTON, |) | No. 49115-0-II |
| |) | |
| Defendant. |) | |

VERBATIM TRANSCRIPT OF PROCEEDINGS

MARCH 8, 2016
Pierce County Superior Court
Tacoma, Washington
Before the
HONORABLE STANLEY J. RUMBAUGH

Carol Frederick, CCR, 2406
Official Court Reporter
930 Tacoma Avenue
334 County-City Bldg.
Department 18
Tacoma, Washington 98402

A P P E A R A N C E S

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FOR THE PLAINTIFF:

TERRY LANE
Deputy Prosecuting Attorney

FOR THE DEFENDANT:

HELENE CHABOT
Department of Assigned Counsel

1 BE IT REMEMBERED that on the 8th of March, 2016, the
2 following proceedings were held before the HONORABLE
3 STANLEY J. RUMBAUGH, Judge of the Superior Court in and for
4 the County of Pierce, State of Washington, sitting in CDPJ.

5 WHEREUPON the following proceedings were had, to wit:

6
7 * * * * *

8
9 MR. LANE: Your Honor, for the record, Terry Lane with
10 the prosecutor's office. We have three cases for one
11 Defendant before the Court this morning. These are all
12 State of Washington vs. Michael Denton, also known as Sims,
13 Cause Nos. 15-1-04577-8, 15-1-04621-9, and 15-1-03696-5.

14 All three of these matters were before the Court on
15 March 4th of this year. At that time, the Defendant made a
16 motion to be allowed to represent himself pro se. The
17 Court did, in fact, engage in the colloquy and allowed the
18 Defendant to proceed in this case pro se.

19 I am in the process right now of drafting an order to
20 reflect that the Defendant is allowed to represent himself
21 pro se. Also, at that time, the Court proceeded to find
22 the Defendant in contempt and ordered three days of jail.

23 THE COURT: That order has been filed.

24 MR. LANE: Thank you, Your Honor. That order was
25 e-mailed to counsel. I provided defense counsel a copy of

1 that order this morning so that she can provide that to the
2 Defendant. And I would note that Ms. Chabot is
3 representing or is a standby attorney for the Defendant.

4 Certainly we have to present an order allowing the
5 Defendant to proceed pro se, but I believe that there was
6 another matter.

7 MS. CHABOT: Well, when we got the e-mail, one of the
8 things that was mentioned was that the jail had returned
9 and said that they would not allow him to have access to
10 the same materials and resources that other pro se
11 Defendants have.

12 THE COURT: Did Ms. Kingman appear this morning? I
13 asked counsel for the jail to appear.

14 MR. LANE: I have not seen her.

15 MS. CHABOT: Perhaps that should be set for a date
16 when -- I don't know that Mr. Sims had been informed of
17 that yet or not, but I thought that he should be informed
18 that he will not get the same materials or resources or
19 opportunities as other pro se Defendants.

20 THE COURT: We will make some arrangements for him to
21 have access. I'm not sure how that's going to look.

22 MR. DENTON: I have something I would like to state for
23 the record.

24 THE COURT: Just a minute, Mr. Denton. I'll get to
25 you. He will have, because of behavioral issues,

1 restricted access, but, nonetheless, some access to
2 materials necessary for his preparation. Officer?

3 OFFICER CARUSO: Your Honor, I'm Sergeant Caruso. I
4 take care of the pro se inmates here at the jail. Per our
5 policy at the jail, as it stands now, because of
6 Mr. Denton's behavior, because he is on security alert,
7 there is nothing that we can give him at this time.

8 Our library only has hardbound books, which he wouldn't
9 have access to. And due to his security alert and his
10 behavior issues, he is not going to have access to the law
11 computer. It's just something that we have in policy
12 already. That would be something that I have here, the pro
13 se inmate policy, the law computer policy, and the e-mail
14 that we are going by. So I don't know exactly what we
15 could give him. Out of the supply list that he would be
16 allotted would be very limited to maybe a couple of pencils
17 and some paper.

18 So other than that, Your Honor, at this time, due to
19 his behavior and the security alert, there is nothing else
20 that the jail could give him.

21 THE COURT: Mr. Denton has to have access to materials.
22 Otherwise, I have to continue his trial, and you get to
23 keep him indefinitely. So we're going to have to work
24 something out.

25 OFFICER CARUSO: All right, Your Honor,

1 THE COURT: You need to put a plan together, okay?

2 OFFICER CARUSO: Yes, Your Honor.

3 THE COURT: Bring it forward in the next day or so. We
4 will have Mr. Denton come back. There will be at least a
5 limited amount of access to the materials. And if it has
6 to be under supervision -- with the proviso, Mr. Denton,
7 that while you are using these materials, if there are any
8 behavioral problems, then you lose your right to the
9 materials. But I am going to give you access.

10 MR. DENTON: For the record --

11 THE COURT: We're going to get to you. I'm still
12 going. So if you could put something together for me that
13 would be a reasonable plan for the jail and still comply
14 with the due process rights that I'm obliged to give
15 Mr. Denton, we'll work something out. And, again, this is
16 in the nature of a final opportunity.

17 If Mr. Denton can behave and use the materials in the
18 way they are intended, great. If not, then he will lose
19 his access.

20 MR. LANE: Your Honor, I would also ask that the jail
21 officer represent to the Court what behavior led to him
22 being in a restraint chair this morning.

23 OFFICER CARUSO: He has been in a restraint chair since
24 yesterday evening at approximately 7 p.m. because he was
25 smearing feces. He had his door blocked with a blanket, so

1 he could not have access -- they couldn't have access to
2 see in his cell. He was threatening to the officers. He
3 had to be OC sprayed by both sergeants. He basically was
4 uncooperative. He would not be put in hand restraints, and
5 that's why he had to be restrained. He has been in the
6 restraint chair since that time. He was out for a shower
7 to get decontaminated.

8 MR. LANE: Why did he have to be decontaminated?

9 OFFICER CARUSO: Because he was OC sprayed.

10 MR. LANE: Was there -- you mentioned something about
11 feces a couple of minutes ago?

12 OFFICER CARUSO: There was his mattress blocking the
13 door. And I believe there was also feces, but I'm not a
14 hundred percent sure on that. But I believe he was
15 spreading feces. And it was just his uncooperative
16 behavior, threatening the officers.

17 THE COURT: I understand. So here's the deal,
18 Mr. Denton. I'm going to allow you one final shot at
19 having some access to materials. And this is on you. So
20 if you're not cooperative with the officers in every way,
21 then you'll lose your access. But, for now, if you can
22 assure me that you will use the materials in the way they
23 are intended, you won't block your door, you won't act out,
24 then okay.

25 If this behavior continues, I will just simply have to

1 authorize the jail for security purpose to restrict your
2 access, and that will be that. Now, you had something you
3 wanted to say.

4 MR. DENTON: Okay. I don't agree with her, with what
5 she's saying. I would like her to show you the incident
6 report of what they said I did yesterday. Yesterday they
7 came to my room and told me that I would not be able to get
8 a pencil. They said, "While you're in this jail, you will
9 not be allowed to have any paper, a pencil, or anything."

10 For six months I've been on this security alert
11 modification, what they have been using in the form of
12 punishment. They use this security alert as a form of
13 punishment. I'm on a hunger strike, and they have a court
14 order to force feed me if I do not drink the Ensure.

15 I've been to the hospital three times due to this
16 security alert that they use to keep you in the hole to
17 keep you from representing yourself and --

18 THE COURT: Well, actually, it was because you were
19 starving yourself to death. And we're not going to allow
20 that.

21 MR. DENTON: Right. So they put in a court order, so I
22 agree with the court order to drink the Ensure. I've been
23 drinking the Ensure.

24 THE COURT: Okay. So let's go from there. Why don't
25 you agree with me that if they give you a pencil and paper

1 and let you look at the books, that's what you will use it
2 for.

3 MR. DENTON: But that's the --

4 THE COURT: Deal or no deal?

5 MR. DENTON: I'm saying if I say that, then I be
6 required to go by the deal, right, which I have no problem
7 with that. But then with the retaliation that's going on
8 with them -- like yesterday they come to my cell where I
9 didn't cover my window. I didn't do nothing. I was fine.

10 Mental health will come in here and speak. I would
11 like to set a date to speak about this.

12 THE COURT: Well, I would much rather have you get
13 ready for your trial.

14 MR. DENTON: That's what I'm trying to do. But I can't
15 if they keep coming and retaliating and taking things, so I
16 have to be sprayed to keep them from taking my stuff.

17 THE COURT: We're starting over.

18 MR. DENTON: But I'm saying -- you don't understand
19 what I'm saying.

20 THE COURT: I do. I have read some of the incident
21 reports.

22 MR. DENTON: Right. We can say this. But then as soon
23 as we leave out of here, then you're saying like if you
24 don't behave, then you give them the inch that they need to
25 go in there and take my stuff. There's no cameras for them

1 to prove anything. There's no cameras. There's no
2 nothing. So they come in and take it. And they say, "Oh,
3 he did this, Your Honor." And then you take everything away
4 from me.

5 THE COURT: Then don't give them the inch.

6 MR. DENTON: That's what I'm saying. I have no control
7 over it. Just like yesterday they came to my room with
8 eight people with Officer Andy Powell, who's pressing
9 custodial assault. The judge put an order in saying
10 effective immediately. It will go into effect immediately.
11 You're not to have no contact with him, and he's not to
12 have no contact with you at work or at play or by letter or
13 anything. And they keep putting him around.

14 They bring him over there. And then they say, "Cuff
15 him." And I say, "For what?" And they say: "Cuff him.
16 We're coming in there, and we're taking everything out of
17 your room. We taking your paperwork and everything." And
18 then they threw it all away. All my legal papers, they
19 threw it all away. Everything I had they threw it all
20 away.

21 So they spray me, so I had to get gassed and sprayed.
22 That's why I'm sprayed. That's why I had to go in the
23 shower. Because they came in and retaliated. It's not
24 because I did anything.

25 THE COURT: Well, I'm only going to repeat myself one

1 more time. I'm going to allow you to have access to some
2 legal materials, pencil and paper, and you have to comply
3 with the jail rules. You may not like their rules. You
4 may think their rules are unfair. But you have to comply
5 with the jail's rules because you're in jail. And so
6 that's the way it will be.

7 You get one more shot at it. If there are documented
8 and witnessed behavioral problems, then that's on you.

9 MR. DENTON: And you know they going to use that to
10 their advantage because you put that in there.

11 THE COURT: There is nothing to their advantage. They
12 want you to get tried and be done.

13 MR. DENTON: If that was the truth, I wouldn't be in
14 this chair right now, would I? I wouldn't be on a hunger
15 strike either. Some punk head puts a security alert
16 modification on me. Now, would I?

17 THE COURT: Well, I don't know. Those are your
18 choices.

19 MR. DENTON: Exactly.

20 THE COURT: I'm just telling you the way it's going to
21 be.

22 MR. DENTON: Exactly. Their way or no way.

23 THE COURT: That's right.

24 MR. DENTON: Exactly. So I have to stand up. If I
25 don't stand for it, then they keep on retaliating. If I

1 don't do this and I don't do that, they just get away with
2 doing whatever they want.

3 THE COURT: Well, they are obliged to keep order in the
4 jail.

5 MR. DENTON: Exactly. Who's the guard for them,
6 though? Who's going to guard the guard? That's the
7 question that I ask. There's no cameras. They do what
8 they want.

9 THE COURT: All I'm concerned about is that you have an
10 opportunity to look at your legal materials and take your
11 notes. And if you take that opportunity, great. If you
12 don't, you don't.

13 MR. DENTON: Who are you going to put over this to make
14 sure that it goes right? Because when you tell them one
15 thing, when we leave out of here -- it's a whole different
16 ball game when we leave out of here. There's not one
17 camera to record anything they're doing. The only thing
18 you got to go off is their word. And when it's their word
19 against mine, then I lose every time.

20 THE COURT: Well, why don't you take a run at it and be
21 on your best behavior and see how it works out?

22 MR. DENTON: I was on my best behavior yesterday, and
23 now I'm in the chair.

24 THE COURT: You've got to do better then.

25 MR. DENTON: Oh, I got to do better?

1 THE COURT: Well, apparently.

2 MR. DENTON: It's always me. It's never them.

3 MS. CHABOT: Your Honor, there is an order allowing the
4 Defendant to proceed pro se that Mr. Sims needs to sign,
5 Mr. Denton.

6 MR. DENTON: Well, I don't think I'm going to be able
7 to -- this is one thing I do have in process, sir. It's
8 going to be hard for me to represent myself pro se under
9 these conditions.

10 THE COURT: Well, I let you know that the other day.
11 It would be hard under any conditions.

12 MR. DENTON: But, see, I'm not under any condition.
13 I'm on a special condition of the security alert. As long
14 as -- I want to challenge this security alert so I be able
15 to represent myself properly in the court. As long as this
16 security alert is in, it's going to create a problem for me
17 to represent myself, and that's a major problem.

18 I should be able to represent myself. I shouldn't be
19 under some kind of modification where you behave and they
20 do this and give them the opportunity to come back to the
21 judge and say, "Oh, Your Honor, he did this," and then
22 everything is out the window.

23 THE COURT: Well, I've already laid out the way I
24 expect it to go, and that's all that I'm going to do. I do
25 need you to sign that order if you want to represent

1 yourself. That's all it does is it formalizes my ruling
2 that against my advice and against my better judgment you
3 still have decided that you are going to represent
4 yourself.

5 If that's still your plan, then you need to sign the
6 order.

7 MR. DENTON: I can't. I am going to have to have
8 counsel represent me because under these conditions I'm not
9 going to be able to represent myself. I would like to
10 represent myself. But under these conditions of this
11 security alert, which I'm on a hunger strike and
12 protesting, they're not going to allow me to. And I'm not
13 going to set myself up for something that they keep doing.
14 They keep retaliating. They keep doing it. And this would
15 be setting myself up.

16 THE COURT: So what I'm hearing now is that you want to
17 withdraw your motion to represent yourself.

18 MR. DENTON: I have no other choice.

19 THE COURT: Understand that if you withdraw the motion,
20 I'm not going to let you make it again.

21 MR. DENTON: I understand.

22 THE COURT: You're sure?

23 MR. DENTON: Yes, yes, yes.

24 THE COURT: So that means that you are not going to be
25 able to go pro se if I retract the order.

1 MR. DENTON: Exactly.

2 THE COURT: All right, Ms. Chabot. You or somebody
3 from your office is back onboard. The order of pro se
4 action will be withdrawn.

5 MR. DENTON: I'm going to be too busy fighting with
6 these people that trying to, you know, keep me down with
7 their security alert.

8 THE COURT: Okay, Mr. Denton. Just a second. Anything
9 else, Mr. Lane?

10 MR. LANE: Your Honor, since an order was never
11 memorialized, does the Court want me to enter an order that
12 the Defendant is no longer proceeding pro se?

13 THE COURT: It's all on the record. It seems like a
14 paper shuffle that would be unnecessary.

15 MR. DENTON: I'll have to come back on appeal.

16 THE COURT: Anything else from the State?

17 MR. LANE: No. Thank you, Your Honor.

18 THE COURT: Ms. Chabot?

19 MS. CHABOT: Nothing, Your Honor.

20 THE COURT: Thank you. Thank you, Mr. Denton.

21 (Proceeding concluded.)

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