

FILED
 COURT OF APPEALS
 DIVISION II
 2017 NOV 22 AM 11:12
 STATE OF WASHINGTON
 BY [Signature]
 DEPUTY

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

STATE OF WASHINGTON,)	
)	No. 49724-7-II
Respondent.)	
)	STATEMENT OF ADDITIONAL
v.)	GROUND FOR REVIEW
)	
JUSTIN STONE,)	
)	
Appellant.)	
)	
)	

I, Justin Stone, 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.

1. Additional Ground 1: Invalid Search Warrant

The search warrant in my case was not valid.

First, the court that issued it lacked jurisdiction. The warrant described the location of the alleged crime as Lakewood, Washington, and the prosecutor took the warrant to Lakewood Municipal Court for evaluation and issuance. But the alleged crime occurred in Tacoma, Washington, and the search location specified in the warrant was an address in Tacoma, Washington. Thus, neither the crime, nor the search location, nor any evidence, instrumentality, or proceed of any alleged crime had any relationship to Lakewood. Because the location of the alleged crime,

the search, and the items to be searched were all in Tacoma, Washington, the Lakewood Municipal Court lacked jurisdiction. Because the issuing court lacked jurisdiction, the warrant was not valid. Because the warrant was not valid, the search was not valid. Because the search was not valid, all proceeds of the search should have been excluded. Without the proceeds of the search, the case should have been dismissed.

Second, regardless of jurisdiction, the warrant was not valid because it incorrectly specified the location of the alleged crime as Lakewood, Washington. If the State cannot even correctly specify the city of the alleged crime, then the allegations in the warrant lack sufficient indicia of reliability to issue a warrant intended to preserve constitutional protections against unreasonable searches and seizures. To be valid, a warrant should correctly identify the jurisdiction of the alleged crime. Because the warrant was not valid, the search was not valid. Because the search was not valid, all proceeds of the search should have been excluded. Without the proceeds of the search, the case should have been dismissed.

2. Additional Ground 2: Failure to Recuse

The judge (Hon. Michael Schwartz) that handled all pre-trial matters in my case up until the day before trial, including substantive decisions on a CrR 3.6 motion to suppress and CrR 7.8 motion to dismiss met with me as an attorney. We had a consultation about this specific criminal case that lasted two and a half hours. During this consultation I discussed attorney-client privileged information that was material to my case, including

my version of the events. This created an unwaivable conflict and the judge should have recused himself from any proceedings related to my case. It affected the appearance of fairness and impartiality. Moreover, even if the conflict could have been waived, there was no waiver that met the standard of knowing, voluntary, and intelligent, which is required for waivable issues of constitutional magnitude. The judge's failure to recuse himself after meeting with the defendant about the case for over two hours, as an attorney, implicates the integrity of the criminal justice system.

3. Additional Ground 3: Ineffective Assistance of Counsel

Although my appellate attorney brought an ineffective assistance of counsel challenge in her opening brief, I have three additional bases to support the challenge:

First, my trial lawyer's failure to challenge the validity of the search warrant;

Second, my trial lawyer's failure to insist on judicial recusal and/or move to disqualify the judge;

Third, my trial lawyer's failure to interview and call exculpatory witnesses that would have exonerated me (he failed to even interview the witnesses).

11-19-17
DATED


Justin Stone (729991)

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STATE OF WASHINGTON

BY:
DEPUTY

DECLARATION OF SERVICE BY MAIL
CR 3.1(e)

I, Justin Stone, declare that, on
this 17th day of November, 2017 I deposited the forgoing documents:

1. Statement of ADDitional Grounds
For Review

2. Declaration of Service By Mail

or a copy thereof, in the internal legal mail system of
Stafford Creek correction center
191 Constantine Way
Aberdeen WA 98520

And made arrangements for postage, addressed to: (name & address of court or other party.)
COURT OF Appeals, Division II
950 Broadway, Suit 300
Tacoma WA 98402-4454

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

Dated at Aberdeen WA on 11-19-17
(City & State.) (Date)

Justin Stone
Signature

Justin Stone
Type / Print Name