

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

Respondent,

FILED
COURT OF APPEALS
DIVISION II
2019 AUG -2 AM 11:36
STATE OF WASHINGTON
BY *MS*

No. 53024-4-11
STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

V.

Robert L. Shaw

Appellant.

I, **ROBERT L. SHAW**, 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 that the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

As a disclaimer, I was told by my public defender, Mr. Acuri, that all information on the memory card, State Patrol furnished disc(s), and a complete transcript of court are all part of evidence of which is reviewable for my appeal. I hope I have not mixed too much of evidence fact, what could be considered RAP 10.10 and my pro se statement.

Regarding the video played in court; My ex-wife, whom never testified in trial but is needed under RAP 10.10, and I feel that after reviewing the copy of my State patrol furnished discs, supplied by my public defender, Mr. Acuri, that there is information missing from the memory card. I had requested my public defender to play the incident from the memory card and my request was discarded as a waste of time. I plead greatly to see the incident from the memory card.

Item 1 missing is the approach to the traffic jam created by a blue Subaru brake-checking a semi-truck, who he must have felt was following too closely because he was hitting his brakes more often than the traffic in front of him was. This was documented from the ingress and egress lane we were in while I was behind a yellow Volkswagen, I believe. I know that I had commented to my ex-wife about what the blue Subaru was doing to the semi-truck. These comments were missing from my copy of the memory card, which was requested in open court by my state-appointed attorney, David Acuri, and never received. It appeared to me as I approached, that the semi-truck was being regulated by the blue Subaru. I believe this would show the character and/or intent of the driver of this vehicle towards people just trying to get from point A to point B. This request was ignored by my attorney.

Item 2; I had requested for my attorney to please find the truck and its driver, since I know that is has to be on my memory card, and have a simple check by phone call from prosecutors and my defense lawyer, Mr. Acuri, to hear if he/she has a statement or video pertaining to the incident that took place in front of him/her. In my defense, the information was simply on that memory card to see a good look at the complete truck and flatbed, from both the side and rear view.

Item 3; A simple defense to show the actions of Mr. Gibson driving his blue Subaru would be the following; Me saying to my ex-wife, Diana Shaw, there is a blue Subaru that appeared to be regulating the passing lane by brake-checking a semi-truck behind him, closing the following distance faster than traffic around the blue Subaru.

Item 4; The video should clearly show me falling back and getting in behind the semi-truck and trailer. The video provided on disc then clearly shows me behind the semi-truck and trailer, and it diving out of the lane shown from behind the blue Subaru.

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Item 5; My video shows me approaching the Subaru. Missing from my memory card is me clearly saying, "I'm not even on the gas, just coasting," from me to my ex-wife. I was just blown away that somebody would rather stay on the brake, than travel in the passing lane properly.

Item 6; I wanted my public defender, Mr. Acuri, to document the fact that my truck was a Dodge Dakota Long Box, 5-speed manual transmission pick-up with split differentials, which means no posi-traction, single tire only. That truck, when empty, is way too easy to spin the tires before getting traction, especially from a dead stop forward or reverse. I mention this because in court, as evidence against me and to help convict me, a high emphasis was made about "squealing tires." "My tires squealing in reverse as is accelerated towards Mr. Gibson", as stated by the state/county prosecutor. This is yet another item ignored for my defense.

Item 7; I wanted my public defender to emphasize the last item documented on the state provided disc, of the incident. It shows the camera falling from the dash of the truck, my right foot clearly under the brake, and my left foot was compressing at the floor on the clutch. In my own defense, I was NOT accelerating into the blue Subaru, but just backing up quickly to get out of the way and off the highway. I was coasting at best. I just wanted to exchange information and get about my day; Just do what is typically seen as the right thing to do which is to exchange insurance information and wait for police for an incident report. There were vehicles around us, so I did move quickly to get off the road to allow the rest of the people on the road to continue on with minimal interference from our incident.

Item 8; Prior to the second and third impact on the rear of the blue Subaru from being brake-checked, was his right shoulder moving in an upward motion, which suggests grabbing the level and pulling the emergency brake without using the pedal. This would eliminate his brake lights from showing. I asked Mr. Acuri, "Isn't that worth looking into?" He promised, but nothing was mentioned in court. I believe it clearly shows the blue Subaru instigating or trying to cause impact, not even close to trying to get out of the way, as Mr. Gibson said in court. I firmly believe that Mr. Gibson used his parking/emergency brake. Another request I had asked my public defender, Mr. Acuri, to document in court that was ignored.

Item 9; The fact is also that I know my Dodge Dakota pick-up was idling/coasting in fifth gear going down the highway, not only closing the gap to the blue Subaru, but wound up slowing down as our incident began. I had begged Mr. Acuri to look into and review this off of the memory card for my defense, so please, I beg for a simple memory card review to prove me wrong.

Item 10; After backing up and making contact with the vehicle, I got out of my vehicle in a cool, calm, and collected manner with my camera to document the damage of the blue Subaru and my truck. At the time, the driver of the blue Subaru had gotten out and was talking to me, so he had no apparent injury, which gave me great relief. I later learned that he was Mr. Gibson, a lawyer for the Quinault Tribe with law partner Mr. Nagel, whom have an office in Aberdeen, WA. They also do felony cases in the same courthouse that i was set to be charged in.

Item 11; I did not approach Mr. Gibson and act in any manner of verbal or physical aggression towards him; I was cool and calm. I stayed at my driver's door and might have done a quick glance of the damage at the rear of my truck and the front of the Subaru. I just wanted my public defender to put up a defense for me with my own accord, to at least try to protect me from the charges of Malicious Mischief and Second-Degree Assault.

Item 12; Mr. Gibson DID approach in an intimidating manner, scaring my ex-wife, Diana Shaw, which shows that Mr. Gibson himself was acting in an aggressive or malicious manner, and verbally preserved as possible physical assault. I have a deep belief that the camera recorded longer than what was shared because it has an internal battery that lasts for five minutes. A simple review of the memory card could prove what i'm saying is fact, or if the card, a state patrol depiction, is totally accurate.

Item 13; I had thought in my defense, that Mr. Acuri wouldn't allow a non-human injury, a monetary or a vehicular damage claim. We both have Geico, Mr. Gibson and I. I received a letter from Geico that they are closing the claim due to inaction by any party. (Attached Exhibit 1)

Item 14; I had believed that my 20 years background as a public employee, being a Combination Inspector of Commercial and Residential structures for local counties, cities, and also the government, working in the desert would carry some weight in my regard. I deeply believe that Mr. Acuri just makes up his mind and doesn't care to genuinely defend those in need of defending. My background until this incident was clean, high security clearance, before I was forced to retire because of my heart, which was rated at 20%, lower back problems, and leg issues. I thought this would explain my slow reactions, rather than someone intent on attacking people.

ADDITIONAL GROUND 2
STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW RAP 10.10.
Pro se Statement

I have proof of trying to get information and facts regarding my health conditions and medication lists into the permanent file, but was rebutted by my public defender, Mr. Acuri. He returned the documents to me and his parting remarks were, "NOBODY CARES," as he handed me back the paperwork I thought was pertinent to my defense. Mr. Acuri did this in front of my son, Hunter Shaw. He is a Lieutenant in the Air Force and was home on leave for two court hearings.

I firmly believe and know in my heart that this incident was not done intentionally or even with malice intent to cause harm to Mr. Gibson or his vehicle. I had slow reactions, did not recognize speech, but many things had changed since my heart surgery in 2017.

Mr. Gibson was able to give a statement, then was taken by the State Patrol officer to a car rental facility, so that he could go on about his day as a lawyer for the Quinault Tribe. I was taken to the hospital for feeling sick and light-headed, with neck pain and lower back pain; I have prior back injuries that were aggravated from the impact of this incident. Also, my aortic valve failure in June of 2017 for which I am on Warfarin, and on this a head trauma can cause a stroke or death, so I had a head scan, was checked and cleared for any legal or illegal substances; Anything other than my medications I have been taking for cholesterol, blood pressure, pain, and depression, (which was changed after this incident due to my doctor not getting the results she was expecting) after which I was cleared and sent home.

I do understand my appeal is on the documented facts. I believe I did not proper representation from my court appointed public defender, Mr. Acuri. I was first referred to Mr. Nagel, Mr. Gibson's law partner. He told me he would do enough of his job to show that he did his best to represent me in this matter. It's hard to believe this, as he didn't even try to explain why he would not address any issues mentioned above, instead he made up his mind upon first viewing and went along with what prosecutors wanted to do. I wanted Mr. Acuri to defend me.

All of our conversations were done out in open court or out on the mezzanine, with ears listening and conversations going on so recorded our conversations, in case I could not remember all of what was discussed. This case was important to me and I cared deeply to document each interaction. Mr. Acuri told me, "It would be good for a guy like you to go to jail," so I find it hard to believe he did his best. Some more things I found 'odd' during the court proceedings are that Mr. Acuri apologized to Mr. Gibson for being rough on him on the stand and getting him to admit he brake-checked on the highway for my defense. Also, during the last break-in

court, the Judge, the Prosecutors, Mr. Acuri, Mr. Nagel, and Mr. Gibson were in the back until just before the court reconvened. My mother, Nancy Motichka, was the only one sitting waiting in the courtroom with me. Just somehow on that merit alone, it appeared to my mother and I to meet the definition of a "Kangaroo Court."

I did go to jail and had a very hard time of it because of no available 'heart-smart' diet options for me in the jail. They fed me eggs only for extra protein. The bad side of this was too much cholesterol and I gained weight, which is not good for my health condition. I was punished for my mistake and paid a debt. The defense I got was a "Kangaroo Court"

defense because he was not going to upset the apple cart for himself, or his son, Jason Acuri, whom work together in Grays Harbor District Court Room.

I appeal on the firm belief that there was never any intent on my behalf of causing an incident or involve myself and another, in an accident that took two people. I am totally blown away that a lawyer would drive the way Mr. Gibson was. I am not proud of myself being drug into this situation either, as my anger management assessments show no real directed anger or intent. (See exhibit 2 I ask to be entered into court under RAP 10.10.)

Another issue has come up on Monday 07-29-2019 I received a notice from Aberdeen Towing had received my 2003 Dodge Dakota pickup 07-26-2019 @ 4:20pm into impound from Washington state patrol.

At the end of court while Mr. Acuri was filing my appeal paperwork I had asked when can I get my Truck the prosecutor Mr. Walker I believe spoke up and said typically don't release evidence till appeals are exhausted, While I was retrieving my truck with my mom Nancy Motichka and Howard Stewart I was told while the owner of the impound was their I was informed I should of received a 24 hr notice before put into impound So I could get it with no impound fee. I did not receive any notice other than from the impound yard. I have to take another step by going to court in Gray Harbor County to get back \$366.00 to get my truck this seems to be another item not per the norm?

Thank you in advance for your time and consideration in my appeal.



Robert L. Shaw
17318 State Route 302 NW
Gig Harbor, WA 98329-6602
(253) 884-9876
robert98329@yahoo.com

40000103135903201010430028



GEICO Advantage Insurance Company

Attn: Region IV Claims, PO Box 509119
San Diego, CA 92150-9914

FINANCIAL OBLIGATION
ITEM #5 COURT ORDERED
FOR RON GIBSON COMPLETED
AND OR AVAILABLE

06/21/2018

Mr. Robert Shaw
17318 State Route 302 Kpn
Gig Harbor, WA 98329-6602

Company Name: GEICO Advantage Insurance Company
Claim Number: 031359032 0101 043
Loss Date: Tuesday, March 20, 2018
Policyholder: Robert Shaw



Dear Mr. Shaw,

It is my desire to keep you informed of the progress as well as the outcome of your automobile claim. This claim has closed for lack of interest from the injured party. It has been my pleasure to serve as your claims adjuster. Please be advised that the Statute of Limitations in the State of Washington is 3 years. This means that John Gibson has until 03/20/2021 to settle their claim or file a lawsuit against you. If you should receive legal documents from John Gibson or an attorney, please contact us immediately so that we may take steps towards protecting your interests. Please note that if a lawsuit is filed against you, we will provide defense up to your policy limit of \$300,000 per person/\$500,000 per incident. You also have the right to consult your own attorney at your own expense if you wish to do so. Thank you for your ongoing cooperation and assistance in this matter. Do not hesitate to contact us with any questions or concerns you may have.

Sincerely,

Catherine Kachuck
425-981-1623
Claims Department

RLS
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St. Anthony Hospital
4700 Point Fosdick Drive NW
Gig Harbor WA 98335-1706
Phone: 253-853-2446
Fax: 253-853-2449

Robert Lewis Shaw
4/25/2018 8:15 AM Anti-coag visit

Description: **Male DOB: 5/17/1967**
Provider: **SAH FOSDICK ANTI-COAG**
PHARM 02
Department: **Sah Fosdick Anti-Coag**

Anticoagulation Summary as of 4/25/2018

INR goal 2.5-3.5
Today's INR 3.2
Next INR check 5/1/2018

Indications
S/P aortic valve replacement with metallic valve [Z95.4]
Long term (current) use of anticoagulants [Z79.01] [Z79.01]

You Were Diagnosed With

	Codes	Comments
Long term (current) use of anticoagulants	ICD-10-CM: Z79.01 ICD-9-CM: V58.61	
S/P aortic valve replacement with metallic valve	ICD-10-CM: Z95.4 ICD-9-CM: V43.3	

Your Updated Medication List

This list is accurate as of 4/25/18 8:44 AM. Always use your most recent med list.

acetaminophen 325 MG tablet

Commonly known as: **TYLENOL**
Take 2 tablets (650 mg total) by mouth once every 4 (four) hours as needed.

albuterol 90 mcg/actuation inhaler

Commonly known as: **PROAIR HFA;PROVENTIL HFA;VENTOLIN HFA**
Inhale 2 puffs into the lungs once every 4 (four) hours as needed for wheezing or shortness of breath.

aspirin 81 MG EC tablet

Take 2 tablets (162 mg total) by mouth once daily.

atorvastatin 40 MG tablet

Commonly known as: **LIPITOR**

buPROPion 150 MG 24 hr tablet

Commonly known as: **WELLBUTRIN XL**

carvedilol 12.5 MG tablet

Commonly known as: **COREG**
Take 1 tablet (12.5 mg total) by mouth 2 (two) times a day.

CO Q-10 100 mg capsule

Generic drug: **coenzyme Q10**

cyanocobalamin 1000 MCG tablet

Commonly known as: **VITAMIN B-12**

fish oil-omega-3 fatty acids 300-1,000 mg capsule

furosemide 20 MG tablet

Commonly known as: **LASIX**
Take 1 tablet (20 mg total) by mouth once daily.

lactobacillus rhamnosus (GG) 10 billion cell capsule

Commonly known as: **CULTURELLE**

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Your Updated Medication List (continued)

lisinopril 10 MG tablet

Commonly known as: PRINIVIL,ZESTRIL

Take 1 tablet (10 mg total) by mouth daily every night.

multivitamin with minerals tablet

Commonly known as: CENTRUM

mupirocin 2 % ointment

Commonly known as: BACTROBAN

nitroglycerin 0.4 MG SL tablet

Commonly known as: NITROSTAT

Place 1 tablet (0.4 mg total) under the tongue every 5 (five) minutes as needed for chest pain for up to 3 doses.

PACERONE 400 MG tablet

Generic drug: amiodarone

potassium chloride 10 MEQ CR tablet

Commonly known as: KLOR-CON

Take 1 tablet (10 mEq total) by mouth daily with breakfast.

tiZANidine 4 MG tablet

Commonly known as: ZANAFLEX

traZODone 100 MG tablet

Commonly known as: DESYREL

venlafaxine 150 MG 24 hr capsule

Commonly known as: EFFEXOR-XR

vitamin C 500 MG tablet

Commonly known as: ASCORBIC ACID

*** warfarin 5 MG tablet**

Commonly known as: COUMADIN

*** warfarin 5 MG tablet**

Commonly known as: COUMADIN

*** Notice: This list has 2 medication(s) that are the same as other medications prescribed for you. Read the directions carefully, and ask your doctor or other care provider to review them with you.**

Allergies

Adhesive

Pt does not want tape used with lab draws

Itching, Dermatitis

Future Appointments

	Provider	Department	Center
5/1/2018 8:30 AM	SAH FOSDICK ANTI-COAG PHARM 02	St. Anthony Hospital	SAMBH
5/1/2018 2:00 PM	SAH PRE-ADMIT CLINIC PHONE 01	St. Anthony Hospital	SAHMC
5/22/2018 3:30 PM	Angela Kathryn Baker, PAC	Puget Sound Orthopaedics-Gig Harbor	



A Ω church judges
in the USA

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RLS RECEIVED
03/19/2019 COMPLETED
COURT ORDERED # 21 + 22

Date: 11 March 2019

To: Grays Harbor Superior Court

Ref: Robert Lewis Shaw DOB 5/17/1967 No. 18-1-153-14

All of the information for this Anger Management Assessment was supplied by Robert.

Emotional Environment during his childhood

His father cursed and hit Robert, his mother, and his brother with a rubber hose and kicked them with boots. The father did not strike Robert's sister. He hated his father for hitting mom.

Emotional Environment during his teens

His parents divorced when he was 13. When his father left the house, Robert picked up some of the man's roles and responsibilities. Two years later, mom remarried; and the family moved into the step-father's house. Robert and the step-father kept arguing over the family rules because he did not bother to learn how the family operated. Finally, Robert returned to the family's former house, and his father joined Robert there. They ironed out their differences in a man's way, and the father never hit Robert again. Rather, the father participated in counseling, changed significantly, and talked man-to-man to his son ever after. Mom talked to Robert less and less over the years because he left the family and returned to Dad.

Emotional Maturation

After graduating from high school, he joined the Marines but soon received an honorable, medical discharge. As a civilian, he successfully repaired trucks. In business, he was the problem solver. If someone was an agitator, Robert did not take it personally. Rather, he focused all his attention and energy on solving the problem at hand.