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DIVISION II  
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COURT OF WASHINGTON  
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COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, )  
Respondent, )  
Vs. )  
Henry A. Sadowski, )  
Appellant. )

No.# 54424 - 5 - 11

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW.

I. INTERDUCTION.

I, Henry A. Sedowski, have received & 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 its merit's.

II. ADDITIONAL GROUND'S.

Claim #1: Defendant attest & claims "Affirmative Defense" to 'Bail Jumping'.

I do not believe I should have found guilty of 'Bail Jumping' and been sentenced accordenly for these reason's I bringforth & mention here within this brief.

I had been arrested & jailed in Jan. of 2019 for missing my Court hearing date of Aug. 16th, 2018. And when I appeared in Court to address this outstanding war-rant issue for 'Bail Jumping' the Judge 'Ruled' that he would 'Honor' the existing bail of \$2.500.00 and, raise the bail amount an additional \$500.00 to a \$3.000.00. Were I then posted bond (of \$75.00) and was released out of County jail custody.

Prior to my arrest, for missing the Aug. 16th, 18 Court hearing, I had appeared in the trial Court for (13) of the (14) hearing pretainning to charge for which this 'Bail Jumping' allegations are associated with, clearly indicating my desire to abide to the Courts orders with every intention to be there for my Court hearings.

Prior to trial the State dropped the charge associated with this 'Bail Jumping' charge (for reason's unknown) and set their sites on persuing this 'Bail Jumping'.

During the trial (For 'Bail Jumping') Defendant testified that he had 'no excuess' for missing his Aug. 16th hearing [other then] the explanation he offered, here he offered, "that I had contacted 'Pretrial/Services' (as Court Ordered) contacted them the Court day to this Aug. 16th hearing' and, "told them that I could not make it in to the Court for such hearing because I felt sick & had no transportation to Court". Though, yes Defendant had testified, 'that he had no-excuses for missing the hearing' "other then" the explanation offered, a justifiable claim under RCW 9A.76.170(2)... "Affirmative Defense of Uncontrollable Circumstances" - (See Defense Sentencing Memorandum). It was the State for whom insist that I be in contact with 'Pretrial/Services' in order any unexpected circumstance arise, such as my inability to make in for a Court dateing. Thus, the State should have 'called' in 'Pretrial/Services' to give testimony to such. (See exhibit # 3 ; Last Page of Defense Sentencing Memorandum Pretrial/Services Date). As stated: 'I attended (13) out of (14) hearings', amounting as to evidence indicating that I had every intention to abide by the Court order's and make it in for hearing's. Thus, the decision should be reversed & remanded for further proceedings. That which, there should be given a 'New Trial' where evidence from 'Pretrial/Services' be admitted. Claim #2: Defendant attest & claims "Ineffective Assistance of Counsel" (at trial). Here Defendants counsel had not contested that of the States argument (as stated)... "At trial, the defense did not contest that Mr.Sadowski had knowledge of requirement to appear on Aug. 16,18. Nor did the defense contest that he failed to appear for it". (See 'Defense Sentencing Memorandum' Page 1, Line 9). Here counsel states, "Defendant testified & admitted he had no excuse for the length of time he was in warrant status". Though counsel stated, "Defendant explained that he was sick that day he missed Court, and that he contacted 'Pretrial/Services' told them he was sick that day & couldn't make it in to Court for lack of transportation". During closing argument counsel outlined the (3) elements required to support 'uncontrollable circumstances' to RCW 9A.76.170(2)'. (Defense Memorandum Pg. 2, Ln. 5 -15), Stating: "Defendant failed to establish the (3rd) element, "did not appear or surrendered as soon as such circumstances ceased to exist".

Defendants Claim #2: "Ineffective Assistance of Counsel" is asserted over the fact that 'Defense Counsel' should have pursued the fact that once the Defendant had made the call to 'Pretrial/Services' to report himself ill & his lack of transportation to the Court, that Defendants responsibility's (to be in contact with the Court) been full-filled, for there was no-other (Court Order) imposed upon Mr.Sedowski to honor. The whole point of imposing (by Court Order) Defendant 'Pretrial/Services' is to see such service benefits the State & Court, that their time is not wasted for lack of party. For the 'Defense Counsel' to not have contested the States argument, "that Defendant had not appeared or surrendered as soon as any circumstances which might justify the failure to appear ceased to exist" clearly indicates, 'Counsels Ineffective Assistance'. Defendant/Mr.Sedowski reponsibility's had been fullfilled (he had contacted 'Pretrial-Services') there was no-other Court date for him to appear for, there was not anybody else Defendant was to surrender to. The Prosecutor never stated that the Defendant was to appear for anyother hearing or to surrender to any authority's what-so-ever. Defense Counsels own words (Pg. 1, Ln. 9 - 'Defense Sentencing Memorandum') had stated: "defense did not contest the Mr.Sedowski had knowledge of the requirement to appear on Aug.16th,2018. Nor did the defense contest that Mr.Sedowski failed to appear". These statements by 'Defense Counsel' clearly indicates his "Ineffective Assistance". For his willingness to accept the States version of the facts & failed to file motions to dismiss because he relied on the States version on the facts, and not based on his own reasonable investigation, calls counsels representation in serious question of his inadequary & is objectively unreasonable. U.S. v. Matos, 905 F.2d 30 (2nd Cir. 1990). Had the 'Defense Counsel' to have disputed the States argument by simply showing that the State had not broughtforth evidence of fact to substantite their argument that the Defendant had not meet to a justifiable claim under RCW 9A.76.170(2) "The (3rd) Element" ("that he 'Had to Appear or Surrender' as soon as such circumstances ceased to exist"). By showing that the Defendant had meet to the (3rd) element when called in to 'Pretrial Services' that amounts to [appearing & surrendering] before circumstance ceased to exist.

Claim #3: "Prosecutorial Misconduct For Prosecutors Abuse of Discretion To Charge".

Mr. Sedowski has been "Selectively Prosecuted" in violation of his Due Process Rights. For The State has brought forth a charge of 'Bail Jumping' only ["after"] the State dropped the 2nd degree burglary charge which was associated with the 'Bail Jumping'.

As Respondents Brief (Pg. 1, Ln. 18) Stated: "The State elected to [proceed] on only the 'Bail Jumping' charge and had dismissed the 2nd degree burglary charge. RP 5. 56." Its an 'Abuse of Discretion To Charge' (a 'Bad Faith Prosecution!') violating Defendants Due Process Rights, to bring forth a charge of 'Bail Jumping' when there is no other charge associated to it. The State dropped the 'Burg Charge' associated to charge of 'Bail Jumping' thus, there's no concerns to the citizens whether he had jumped bail. Making the bail jumping charge to "Prosecutorial Misconduct of Selective Prosecution".

Notably, "The availability of such a claim has never been limited only to those groups accorded heightened scrutiny under equal protection jurisprudence".

Citing to Stemler v. City of Florence, 126 F.3d 856, 874 (6th Cir.1997) "Instead the petitioner makes-out a 'Selective Enforcement' claim if he shows that the State based its enforcement decision on an ["arbitrary classification"] that gives rise to an inference that the State 'intended to accomplish some forbidden aim' against that group through selective application of the laws".

Quoting to Oyler v. Boles, 368 U.S. 448, 456, 82 S.Ct. 501, 7 L.Ed.2d 446 (1962); and Futernick v. Sumpter Twp., 78 F.3d 1051, 1056 (6th Cir. 1996).

Mr. Sedowski's Equal Protection Right's have been violated, for he'd been singled-out for prosecution for (1) "The State has not prosecuted every accused (out-on-bail) for missing a Court appearance for 'Bail Jumping'". (2) "Not every accused that has been prosecuted has had a sentence of (44) months imposed on them for bail jumping as he. (3). The State proceeded forward into (14) separate pre-trial hearings pertaining to the burglary charge before the State elected to drop such charge (for lack of evidence) and pursue only the 'Bail Jumping' charge. Clearly the State knew (from experience) that it was only a matter of time before the Defendant would miss one of those (14) Court hearings. Its as if the State was conducting a game of 'Russian Roulette' with Defendant hoping he would miss a hearing thus, an automatic 'Bail Jumping' conviction.

III. Conclusion.

Defendant, Mr.Sedowski, respectfully asks the Court of Appeals Jurist to find that these 'Issue's & Argument' presented here within his brief to be of the fact's. And found clear to these Jurist that Mr.Sedowski had not received to a fair trial. Thus, the decision should be reversed and remanded back for further proceeding's.

IV. Declaration of Service.

I, Henry A. Sedowski, Defendant of said case, certify that on the date indicted below, I sent these Court documents by U.S. Mail Service to the 'Clerk of the Court' of 'The Washington State Court of Appeals' which will provide service of these Court documents to the attorney's of record.

Signed; Henry Sedowski... Date; August 12, 2020

I, Henry A. Sedowski, certify (or declare) under penalty of perjury under the laws of the State of Washington that the forgoing in said brief is true & correct.

Respectfully submitted this 12 day of August, 2020.

Signed; Henry Sedowski

Address of Defendant:

Airway Heights Correction Center  
Po Box 2049  
Airway Heights, Wa 99001



Subscribed and sworn to before me this month of Augurst 12, 2020.

signed: Mary Lou Nelson

Notary Public and for State of Washington... \_\_\_\_\_

Commission expires... April 30, 2024

August 12, 2020

Here enclosed is the original copy  
statement of additional grounds.  
Thank you for your time.

Respectfully,

*Henry Sadowski*  
Henry Sadowski

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AUG 17 2020

CLERK OF COURT OF APPEALS DIV II  
STATE OF WASHINGTON