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SUPREME COURT
STATE OF WASHINGTON
2008 MAY 13 A 9:41

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CLERK
May 13, 2008

Clerk of the Court
Washington Supreme Court
via email

79384-1

RE: STATE OF WASHINGTON V. WILLIAM F. JENSEN ~ NO. 79367-1
STATEMENT OF ADDITIONAL AUTHORITIES

Clerk of the Court:

Pursuant to RAP 10.8, Petitioner submits the following additional authorities in support of his "unit of prosecution" argument:

United States v. Montgomery, 150 F.3d 983 (9th Cir. 1998) (Cited with approval in *Varnell*. To determine whether two conspiracy counts charge the same offense placing the defendant in double jeopardy, the Court considers five factors: (1) the differences in the periods of time covered by the alleged conspiracies; (2) the places where the conspiracies were alleged to occur; (3) the persons charged as co-conspirators; (4) the overt acts alleged to have been committed; and (5) the statutes alleged to have been violated);

United States v. Smith, 82 F.3d 1261 (3rd Cir 1996) (Court examines four factors when determining whether there was one or more agreements: (1) the "locus criminis" of the alleged conspiracies; (2) the degree of temporal overlap; (3) the overlap of personnel; and (d) the similarity in the role played by the defendant in each charge. In applying a totality of the circumstances analysis, the ultimate inquiry presented is whether there are two agreements or only one. To that end, court does not apply factors in a rigid manner, as different situations may warrant emphasizing different factors);

United States v. Bernstein, 533 F.2d 775, 792 (2d Cir. 1976) (“This is not the first time we have been presented with a single conspiracy in the furtherance of which different crimes were committed, or, indeed, in which one co-conspirator joined in one of the illegal objects of the conspiracy but not in others.”);

United States v. Agueci, 310 F.2d 817, 827 (2d Cir. 1962) (Discussion of a so-called singular “chain” conspiracy where no one member of the group can by himself insure the success of the venture; he must know that combined efforts are required. “Merely because the Government in this case did not show that each defendant knew each and every conspirator and every step taken by them did not place the complaining appellants outside the scope of the single conspiracy.”).

Sincerely,

/s/Jeffrey E. Ellis
Jeffrey E. Ellis
Attorney for Mr. Jensen

**FILED AS ATTACHMENT
TO E-MAIL**

cc: Julie A. Kays
King County Prosecuting Attorney