

STATEMENT OF ADDITIONAL  
GROUND FOR REVIEW

STATE OF WASHINGTON )  
) Respondent, )  
) v. )  
) RICHARD ALLEN BRANDICH, J.R. )  
) Appellant, )

No. 68604-6/ WAP

STATEMENT OF ADDITIONAL  
GROUND FOR REVIEW

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I, RICHARD ALLEN BRANDICH, J.R., have received 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

As I do not have a copy of the transcripts I will be unable to provide the exact dates and times of the following issues.

Around the 5<sup>th</sup> or 6<sup>th</sup> day of my trial, after the jury had been selected, I was walked in front of two of the jurors while in handcuffs first thing that morning. As myself and the escorting deputy

approached the courtroom two jurors were seated on a bench in front holding a conversation. As we approached the two the deputy asked who they were and what courtroom they were from. They replied they were jurors from my courtroom and the deputy then responded “now we have a problem.” The deputy and the two jurors then engaged in a brief conversation where he first asked what they were doing outside of the jury room. They responded by saying they did not know they had to stay in the room. The deputy told them that is why the room existed as to avoid “situations like this.” At no point in time did the deputy state to the jurors as to why something was wrong. Throughout the duration of this conversation I remained by the deputies right hand side in between himself and the two jurors. One could clearly see the jurors felt very uncomfortable as no clear reason was stated to the issue or problem at hand. The deputy proceeded to open the courtroom doors for the jurors to walk through, followed by myself in restraints. My lawyer observed this and after seeing the jurors almost directly in front of me he placed his hands in the air in obvious frustration at the unfolding situation. The deputy then announced to the courtroom again “we have a problem.” As the jurors had not quite reached the jury room this conversation by courtroom personal was probably easily overheard. The judge was then informed of the unfolding events and soon entered to inquire into the situation. After brief discussion it was decided to question the two jurors separately as to what they had seen. The male stated he had seen me in handcuffs and the female denied seeing anything out of the ordinary. The male was then excused.

The argument and issue I wish to address is the two jurors seeing me in handcuffs, the failure of the Court to poll the jury as to if they knew of my in custody status and the woman juror denying she'd seen me restrained. The time between this incident and the first juror being questioned was around 15-30 minutes. I do not believe the other jurors were polled as to what, if anything, they had seen or been told that morning. Should they have been polled I believe it would have been discovered that more than two of them were aware I was in custody. In the rather dramatic handling of the situation by

the deputy the intimidation the jurors felt was apparent.

In light of the two jurors being aware I was in custody, and more than likely informing others of that fact, I don't believe a fair trial was to be had. I believe this was not the only reference to my being in custody throughout my trial.

**Estelle v. Williams**, 425 U.S. 501, 96 S.Ct. 1691, U.S. Tex., 1976

The following statement is the only addition I would like to bring to the attention of the Court.

Date: 11/27/2012

Richard Allen Brandich, J.R.