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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

BY [Signature]
DEPUTY

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON,
Respondent,

v. DANIEL WILSON
Appellant.

No. 42989-6-II
STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, DANIEL WILSON, 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.

Additional Ground 1

DURING VOIR DIRE PROCEEDINGS AND JURY SELECTION APPELLANT WORE PRISON GARB WHICH WAS IN SIGHT OF JURORS! "A DEFENDANT IS ENTITLED TO THE PHYSICAL INDICIA OF INNOCENCE WHICH INCLUDES THE RIGHT OF THE DEFENDANT TO BE BOUGHT BEFORE THE COURT WITH THE APPEARANCE, DIGNITY AND SELF RESPECT OF A FREE AND INNOCENT MAN, TO ENSURE THAT THE DEFENDANT RECEIVES A FAIR AND IMPARTIAL TRIAL AS GAURANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION AND WASHINGTON STATE CONSTITUTION.

U.S.C.A CONST. AMENDS 6, >14;
WEST'S RCWA CONST. ART 1, SECTION 3 >22 AS AMENDED BY
AMEND 10.

If there are any additional grounds, a brief summary is attached to this statement.

Date: 3-13-13 Signature: Daniel Wilson

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ADDITIONAL GROUND 2

TRIAL COUNSEL FAILED TO CONSULT WITH APPELLANT ABOUT APPEAL AND APPELLANT'S REQUEST FOR AN APPEAL BOND! ACCORDING TO WASHINGTON STATE CONST. ART. I SECTION 3 "PERSONAL RIGHTS"... NO PERSON SHALL BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF THE LAW... TRIAL COUNSEL FAIL TO FILE AND PROCESS NOTICE OF APPEAL AT APPELLANT'S SENTENCING AND THEREFORE APPELLANT STANDS BEFORE THE COURTS

WITHOUT AN APPEAL BOND, IN WHICH HE IS ENTITLED TO! COUNSEL VIOLATED APPELLANT'S CONSTITUTIONAL RIGHTS BY FAILING TO DO SO, THEREFORE THIS IS COMPLETE INDIFFERENCE TO HER LEGAL AND ETHICAL DUTIES... APPELLANT HAS A PROCEDURAL RIGHT TO A APPEAL BOND UNDER RCW 10.73.040

If there are any additional grounds, a brief summary is attached to this statement.

Date: 3-13-13

Signature: Daniel Wilson

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WASHINGTON STATE COURT OF APPEALS

DIVISION TWO

In re Personal Restraint

Case No. 42989-6-11

Petition of:

DANIEL C. WILSON

SUPPLEMENTAL ARGUMENT
TO PERSONAL RESTRAINT PET-
ITION PURSUANT TO RAP 10.10

COMES NOW, Daniel C. Wilson does file in this court his motion of Supplemental Argument to his personal restraint petition in the above case number and pursuant to RAP 10.10.

I. HISTORY

Mr. Wilson filed a Personal Restraint Petition that was accepted by this Honorable Court and filed under case # 43352-4-11, and was consolidated with case # 42989-6-11, his direct appeal.

Mr. Wilson was charged in count of Possession of A Stolen Vehicle August 23, 2011.

Mr. Wilson was represented by Jeniece Lacrosse Attorney at Law in Bremerton Washington.

II. SUPPLEMENTAL ARGUMENT

From the record in petitioner's personal restraint petition. Petitioner claims (a) Counsel failed to adequately perform various investigative duties or other preparatory responsibilities. (b) Failed to call, interview, or subpoena material witnesses.

Pursuant to Title 1. Client-Lawyer-Relationship Counsel Lacrosse shall abide by the decision concerning the objectives of representation and, as required by rule 1.4, shall consult with the client as to the means by which they are to be pursued.

From the very start, the petitioner asked her to get Mr. Marcus Fletcher and that he would be a key witness, as well as Ms. Tomika Bates.

These witnesses would have been able to rebut the state witness testimony that petitioner had not been on Affordable Auto Car Lot prior to

August 20, 2011.

Review of Superior Court Rule (CR) 4.5 (CR) (a) When a plea of not guilty is entered, the Court shall set a time for an omnibus hearing.

(b) The time set for omnibus hearing shall allow sufficient time for counsel to (i) initiate and complete discovery; (ii) conduct further investigations of the case, as needed; and (iii) continue plea discussions

RAP 1.2 (a) (b) the word shall is used when referring to an act that is to be done by an entity other than the appellate court, a party, or counsel for a party, and is well established in the directives of Title 1.

Client-Lawyer-Relationship and CR 4.5 (b)

III. INEFFECTIVE ASSISTANCE OF COUNSEL STRICKLAND vs. WASHINGTON

The sixth amendment of the United State Constitution guarantees criminal defendants with an effective attorney to assist his defence.

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052.

The benchmarks for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.

To prevail on a claim of ineffective assistance of counsel, the defendant must show both deficient performance on the part of his attorney, and resulting prejudice. State v. Klinger, 96 Wash. App. 619, 622, 980 P.2d 282 (1999)

1. Deficient Performance

The proper standard for judging attorney performance is that of reasonably effective assistance, considering all the circumstances. When a defendant complains of the ineffective assistance of counsel, the defendant must show that the counsel's representation fell below an objective standard of reasonableness.

Strickland 466 U.S. at 669.

Strickland specifically holds that part of this objective standard of reasonableness is providing a reasonable investigation:

In other words, counsel had a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary. In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to Counsel's judgement.

Here Counselor Lacrosse performance was objectively unreasonable. Mr. Wilson told his counsel exactly what Mr. Fletcher and Ms. Bates would testify to and that testimony would rebut the state's witness testimony

2. Prejudice

In ineffective claim, if the defendant can

demonstrate his attorney's deficient performance, the court then looks at whether that deficient performance prejudiced the defendant. Prejudice occurs when:

There is a reasonable probability that, but for counsel's unprofessional errors, the results of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.

Strickland at 694

Without Mr. Wilson being afforded the advocacy of his counsel's representation and achieve the witnesses after having (1) phone numbers (2) location by city and state, is ineffective assistance of counselor Lacrosse, and is a violation of the sixth amendment of the United State Constitution.

Counsel was constitutionally ineffective, where inter alia failed to conduct proper investigation (interview witnesses) citing State v. Butler 951, S.W. 2d 600 MD(1997).

There is no reasonable professional judgement that would support the trial counsel's failure to investigate, or interview "key" witnesses.
Butler at 951 S.W. 2d at 609

A proper investigation of this case would have brought out substantial weakness in prosecution case that defense counsel never attempted to investigate or pursue Butler at 609-10.

Not only was such a failure to investigate unreasonable under the circumstances, but defendant was prejudiced thereby had the jury been presented with all the evidence that would have been discovered if defense counsel would have conducted a proper investigation. Butler at 16.

IV. CLOSING ARGUMENT

Assuming the performance was deficient, this court cannot determine, without a evidentiary hearing whether the performance had any probable effect on the outcome.

Remanding for a evidentiary hearing, the court can determine whether the trial counsel's failure to investigate and produce witnesses prejudice the petitioner's defense.

The testimony by defense counsel and petitioner's witnesses will enable the court to assess the adequacy of defense counsel's representation afforded the petitioner, and to determine whether that representation was prejudicial. Hendricks v. Vasquez, 974 F.2d 1099, 1110 Lawrence v. Armontrout 900 F.2d 127, 131,

V. CONCLUSION

Mr. Wilson, petitioner believes that he can make a prima facis showing of actual prejudice, but the merits of his contentions can not be determined solely on the record.

The Appeals Court should remand the petition for a fair hearing on the merits for a reference hearing and/or evidentiary hearing pursuant to RAP 16.11 (a) and 16.12.

Respectfully Submitted

This date 13TH OF MARCH, 2013

Daniel Wilson

signature

DANIEL WILSON

Print

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