

68815-4

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TO: Court of appeals (division I)
 One Union Square
 600 University St.
 Seattle, wa.
 98101

From: Peter James Carr
 Doc. # 357101
 Stafford Creek Corrections Center
 191 Constantine way
 Aberdeen, wa.
 98520

2013 JUL -8 PM 1:59
 COURT OF APPEALS
 STATE OF WASHINGTON
 DIVISION I

RE: Statement of additional grounds
 under Washington Courts
 R.A.P. 10.10

State of Washington v. Peter Carr
 Court of appeals no. 68815-4
 King County Superior Court No. 11-2-06549-1 KNT

My name is Peter James Carr. My D.O.C. # is 357101. I am an inmate being housed at Stafford Creek Correctional Center located in Aberdeen, WA.

On April 4th 2012, I was wrongfully convicted in the superior court of King County, Washington for the crimes of child molestation in the first degree and communication with a minor for immoral purposes.

On May 11th 2012 I was sentenced to a term of 68 months to life in prison for crimes that I did not commit. I was also sentenced to a lifetime of sex offender registry, sexual deviancy treatment, and a long list of conditions that must be maintained if I ever want to live life outside of a prison environment again. Needless to say, due to these wrongful convictions, my life is now in ruins.

The problem is that I am not a child molester! I am also not a pedophile! Last, but not least, I

have absolutely no sexually based attraction to children whatsoever!

I am 42 years of age and have no prior criminal record other than minor driving offenses. I have resided in the geographical area where these alleged crimes supposedly took place my whole life. I have frequented the two retail establishments where these alleged crimes supposedly took place a countless number of times over the years without incident.

I seem to be the victim of what can only be described as a "witch hunt" by police, the prosecutor, and a jury thirsting for blood in the wake of a very public case with the same ugly overtones as mine that occurred that same year at Penn State University.

I say I was the victim of a "witch hunt" because I was never considered innocent until proven guilty. I maintained my innocence from the beginning of this ordeal.

I continue to maintain my innocence to this day, and will continue to do so for the rest of my days.

I rejected the plea bargain offers made to me by the prosecution in this case preferring, instead, to put my faith in the justice system and be rightly vindicated at trial. This, however, did not happen and the justice system failed horribly in the way it handled this matter.

Absolutely nothing during the investigation leading up to my trial or during the trial itself proves in any way shape or form that I could be found guilty of either child molestation or communication with a minor for immoral purposes.

I have never harmed anyone physically or sexually in any way shape or form in my entire life and never will!

During jury selection when I stood before prospective jurors and falsified charges against

me were being read aloud, I could see at that point that the scales of justice were tipped heavily against me. I felt convicted already!

Elaine winters, an Appellate attorney working for the Washington Appellate project located in Seattle, wa., has filed a brief with this court on my behalf detailing what we believe to be the five most glaring errors the trial court made during the proceedings in my case.

I would like to take this opportunity to file this statement of additional grounds under the Washington Courts R.A.P 10.10. I have ~~two~~ more issues that I would like this court to address if it would.

I beg of this court to please read this case thoroughly and diligently. I am an innocent man in search of much needed Justice. Thank you!

Andrew Carr
 October 1, 2007 #257107

"Briefly Speaking" for Peter James Carr (appeal # 6681541)

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COURT OF APPEALS
 STATE OF WASHINGTON
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Please call me at (360) 909-7230 if you have any questions, my brother, has filled out a form that is on file giving you permission to communicate to me about his case/appeal. Please leave a message if I don't answer and I will get back to you ASAP.

Thanks you!

Mary Kahler (Peter Carr's sister)

Argument #1

Police Investigation (insufficient evidence):

A Manual of Standards was requested from the Federal Way Police Department, so I could check on the procedure that investigating officers are required to follow in criminal cases. In Chapter 42, titled Criminal Investigation, in section 42.1.4 of this manual under Investigative Responsibility: Preliminary and Follow-up Investigation it states that The preliminary investigation will include the following minimum investigative steps: inspect the scene and surrounding area for evidence and collect and/or photograph when applicable.

Officer B. Bassage (#0112) was dispatched to Deseret Industries on June 17, 2011. It was reported that a male customer had touched a 10 year old inappropriately with his hand across the chest (we find out later that the alleged victim in this case was actually 7 years old at the time). As Officer Bassage discovered by talking to the child's mother, the actual touching had supposedly occurred about two weeks prior but the family was unable to give an exact date at this time, they just alleged it had happened within the last two weeks.

In Officer Bassage's report he mentions that he looked at video footage of what happened that day, June 17, 2011. In the report it was also noted that surveillance Video of suspect was obtained from Deseret Industries of June 17, 2011.

What the investigating officer failed to do was secure the two weeks of video surveillance that was stored in Deseret Industries computers, CCTV or recording device. If you read the report it says that Alma Lopez, the mother of the young girl, states that not only did a man touch her daughter but she had seen this man on at least 3 or 4 other occasions looking at her daughter or following her daughter.

In this case the police did not have any evidence of anything other than a 7 year old girl telling her mother who two weeks later tells a store employee who then tells the store manager who eventually calls the police. The Police say that they talked to Mari but there is no record of an interview with her. Jerry Hatfield, store employee ID'd Mr. Carr from video. Mari says she did not see video. If in fact Mr. Carr was the person and Alma Lopez was leading the police to believe Mr. Carr was stalking her daughter, that video footage would have proved that or disproved it, so it was vital evidence that the police mishandled.

We did not know about the video footage until it was recorded over. This store only saves between 14 to 16 days then it begins to get recorded over. So if Officer Bassage had secured this video, then he would have had Video Surveillance from June 3, 2011 to June 17, 2011. But he did not! He secured video footage of Mr. Carr innocently walking by himself in the store. Mr. Carr's due process rights were violated in this instance because the investigators decided not to secure evidence that would have been hard evidence rather than speculation to the facts.

** Acc. My R
Robert Parsons
testifies on
the record
to this*

In an interview on October 26, 2011; Deseret Industries Assistant Manager, Robert Parsons, the man in charge of store security was interviewed by Newton Law Offices through Talk to Type Transcription

Services, Inc. Robert Parsons was asked if he selected or picked the video/pictures he turned over to police and he said "Those two shots, or those two camera scenes were the ones. Then Parsons said: I asked (officer Bassage), "Did you want me to hunt for more, you know, of him coming in or doing other stuff?" and they said (police) "That was fine."

On or around the same day, Jerry Hatfield (store manager from Deseret Industries) was also interviewed by Newton Law Offices through Talk to Type Transcription Services, Inc. Jerry Hatfield was also asked about the video. Jerry Hatfield was asked, "Were you able to go back before that and find any videotape from the previous incident?" Jerry Hatfield responded, "I was not—we did not do that and were not asked (by police) to do that."

Key evidence was lost due to Officer Bassage not collecting it in this case. I talked with Lt. Robinson about this video footage on July 31, 2012. He was not happy that I had inquired about the video but he did state that amount of video would take too long to collect and required too many megabits. He said, "They simply didn't have the manpower to do it." I do not have evidence that he said this but I would take a polygraph test stating that he did. I told him that I thought it was vital that this evidence had been collected because it would have proved or disproved their actual case. He seemed unconcerned at this point because Mr. Carr had already been convicted.

It is apparent that Lt. Robinson was unaware that Officer Bassage had been asked by Robert Parsons if he wanted him to review other recorded video for other evidence and Officer Bassage had stated that it was not necessary.

Since the Manual of Standards for Minimal Investigation was not followed by key evidence not being collected we request the relief of dismissal of the CM1 case due to mishandling of key evidence that could have been used to prove the innocence of Mr. Carr.

Note: Robert Parsons and Jerry Hatfield's testimonies are all reflected on the record as they are examined and cross examined on the stand.

Argument #2**Probable Cause:**

In Alma Lopez's handwritten statement, she described the event as a man having touched her daughter Mari with his hand across her chest. Officer Bassage wrote in his report that a male customer had touched Mari with his hand across the chest. But in the Report by Detective K.C. Krusey called Certification for Determination of Probable Cause, Krusey changed the words from the Alma Lopez, Mari, and Officer Bassage wording to be more deviant and menacing. He called it rubbing her breast. In Officer Bassage's reports he asked Mari, "If the suspect used an open hand like she had showed him and she stated yes." He then asked her "If the suspect grabbed or held his hand there?" She stated "He just moved it across without stopping." He then asked "What the man said?" Mari replied "He did not say anything before, during or after he touched her."

So Detective K.C. Krusey was being misleading and dishonest about the reported incident when filing for Probable Cause. The word rubbing indicates an action of back and forth many times for an extended period of time. No one reported the incident in this way. The accounts taken by police on 6/17/11 differ drastically from what Detective Krusey led a Judge to believe when determining probable cause for an arrest in this matter.

We believe that probable cause should have never been granted due to Detective Krusey's manipulation of facts from witnesses and even the manipulation of the words reported by fellow officer, Officer Bassage.

FEDERAL WAY POLICE DEPARTMENT

STATEMENT

CASE NUMBER 11 - 7789

Victim Suspect Witness

Date: 06-17-11 Time Taken: 16:20 Officer: B. Bessage/6112

Location Taken: Desert Industries

Statement Of: Lopez, Alma L Date of Birth: 3-13-76

Residence address/phone: _____

92L

About 2 weeks ago I, Alma Lopez was shopping at Desert Industries when my daughter [redacted] came running up to me she looked scared and was crying. [redacted] then told me that a man touched her across her chest. [redacted] was very upset & it took several minutes for me to calm her down. I asked [redacted] where the man was and she said she did not know. The man was then seen looking at young girls clothes even though he did not have any kids with him. I then moved to another part of the store & when I looked again the man was gone. I have seen this man in the store 3-4 more times and every time he is pretending to look at ~~the~~ [redacted] stuff but I catch him looking at [redacted] We try and walk away and the man then pretends to walk another direction, but then he comes back to where we are. The man is a white male, 40-45 years old 5-6 to 6-00, skinny, light brown hair, green/white striped shirt, khaki ~~base~~ base ball hat with black pants with white stripe down sides. all

This statement was prepared by Ofc. B. Bessage in my presence. It contains 1 pages in its entirety. I have reviewed the entire statement and find it to be true and accurate to the best of my knowledge. I am willing to testify in court regarding the facts contained in this statement. I declare, under penalty of perjury under the laws of the state of Washington, that the entire statement is true and correct. Signed in

Federal Way, Washington, on 06-17-11
 [City] [Date]

Signature: Alma Lopez Date: 6-17-11

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23:18

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SUPPLEMENTAL NARRATIVES

=====

INCIDENT NUMBER: P11007789 NATURE: Sex Offense INCIDENT DATE: 06/18/11

Supplemental Narrative: Seq: 1
11-7789/B. Bassage/Sex Offense

- 1. REPORTING OFFICER: Bassage, B. #0112
- 2. CASE NUMBER: 11-7789
- 3. ADDITIONAL OFFICERS INVOLVED: None

4. CHRONOLOGICAL INVESTIGATION: On 06-17-11 I was dispatched to Deseret Industries; 2200 S. 320 ST A1 Federal Way, WA 98003 reference the store manager Hatfield, Jerry calling to report that a male customer had touched a 10 year old inappropriately with his hand across the chest. The male was then seen leaving on foot in an unknown direction. Officers arrived in the area and were unable to locate the male.

I then contacted Hatfield in the stores office where he was with the victim, her older sister and their mother. They were identified as the following; victim, [redacted]; older sister, [redacted] and mother, Lopez, Alma L (03-13-76)

As I walked into the room, [redacted] began to cry and clung to Alma. After a few minutes of building a rapport with [redacted] I tried to have her explain to me what had happened and [redacted] appeared scared, afraid and reluctant to talk. I then spoke with Alma and [redacted] and they reported to me the following. (Alma speaks limited English so most of the information was obtained by [redacted] or her translating for Alma.)

Investigation determined the following. The family was in Deseret Industries about two weeks ago when [redacted] came running up to Alma scared and crying. [redacted] then told Alma the suspect (description below) touched her across her chest. Alma stated [redacted] was very upset and it took her several minutes to calm [redacted] down before she could say what had happened.

I then turned to [redacted] and asked her where the suspect had touched her. She again appeared afraid and would not say anything. I asked her if he touched where her swim suit would cover and she shook her head yes. I then asked if she would show me and she then rubbed her hand right across her breast line from one side to the other. I asked if the suspect used an open hand like she had showed me and she stated yes. I asked if the suspect grabbed or held his hand their and she stated he just moved it across without stopping. I asked what the man said and she said that he did not say anything before, during or after he touched her.

I then continued talking with Alma and she stated that after [redacted] had disclosed to her that the suspect had touched her she asked [redacted] where the suspect was and she did not know.

Alma and [redacted] then stated they saw the suspect looking at young girls clothing. Alma then moved to another part of the store and when she looked back the suspect was gone.

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23:18

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Alma then went on to report that since this incident she has seen the suspect in the store on 3-4 separate occasions and every time, the suspect is pretending to look at stuff in the store, but she kept catching him looking [REDACTED]. Alma would then move to another part of the store to try and get away from the suspect, but he would follow them. I asked why they had not called earlier and they stated they did not know.

I then briefly spoke with Hatfield and he stated that once the family contacted him and told him what had happened he went to go contact the suspect. Hatfield stated he located him in the girls clothing section and once the suspect saw him coming, he immediately left the store.

I was then shown video footage of what happened today which consist of the suspect walking by and looking at [REDACTED]. In the video the suspect description is just how the family describes him and they say that every time they have seen him he was wearing the exact same thing.

Hatfield was asked to call PD immediately of the suspect returns.

In Alma's statement [REDACTED] is referred to as "[REDACTED]" because I was unaware of the correct spelling until afterwards.

5. INJURIES: None

6. SCENE: Deseret Industries; 2200 S. 320 ST A1 Federal Way, WA 98003

7. EVIDENCE/PROPERTY: Surveillance Video of suspect was obtained from Deseret Industries.

8. SUSPECT INFORMATION: White male, 30-40 years old, 5'10" to 6'0" tall, skinny build with short light brown hair. Every time he has been wearing the same clothes which consist of a khaki baseball hat, green and white horizontally striped short sleeve shirt and black sweatpants with two white stripes down the sides. (See video footage for further.)

9. RECOMMENDATIONS: Forward to CIS.

I declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Dated: 06-18-11, in Federal Way, Washington.

B. Bassage
Print Name

Bill Bay
Signature

Argument #3

Joinder:

During proceedings there was a defense motion to sever the two counts that Mr. Carr was being charged with at trial. He had been charged with CM1 and Communicating with a Child for Immoral Purposes. We believe that Mr. Carr's Due Process Right to a Fair Trial was denied. *Adamson v. People of State of California*, 332 U.S. 46, 57, 67 S. Ct. 1672, 91 L. Ed. 2d 1903 (1947); U.S. Const. amends. 5, 14; Const. Art. I & 9.

The Communication with a Minor for Immoral Purposes case had evidence taken from Mr. Carr at arrest that should never have been seen in relationship to the CM1 case. On 6/29/11 the person being accused in the Communication with a Minor for Immoral Purposes case was apparently wearing a pink bikini bottom of some sort. When Mr. Carr was arrested on 7/7/11 he was wearing a pink one piece leotard. With this Pink Leotard being presented during trial at the same time the jury is hearing evidence about the other case (CM1), we believe this confused the jury and led them to unfair conclusions.

"The liberty interests at stake in the CM1 case made it crucial that the jury be allowed to decide the CM1 & misdemeanor counts on their own merits." The CM1 case carries a 68 months to life sentence with a lifetime of Sex Offender registry. This was such a severe penalty that it was unjust that this case was not separated from the misdemeanor cases that allowed the pink leotard evidence to be comingled with the CM1 case.

The two counts were not "of the same or similar character," "based on the same conduct," or "based on a series of acts connected together or constituting parts of a single scheme or plan." Therefore Mr. Carr was also denied his rights because Criminal Rule (CrR) 4.3 was violated. These were two separate offenses and trying them together was unjust and biased the jury.

The court should have severed the two counts under CrR 4.4 (b), "the court determines that severance will promote a fair determination of the defendant's guilt or innocence of each offense." *State v. Bythrow*, 114 Wn. 2d 713 (1990).

In *State v. Smith*, 74 Wash 2d 744, 750 (1968). Washington courts have held that "joinder must not be utilized in such a way as to prejudice a defendant. Mr. Carr's CM1 case was prejudiced because of the Pink Leotard from the misdemeanor count. In *State v. Smith*, "The jury may use the evidence of one of the crimes charged to infer a criminal disposition or guilt on the part of the defendant; or the jury may cumulate the evidence of the various crimes charged and find guilt when, if considered separately, it would not so find." "Prejudice may result if the defendant is embarrassed in the presentation of evidence." Mr. Carr was very embarrassed about the Pink Leotard. He was uncomfortable because he is a very private person. His own family and friends did not know that he liked to wear this kind of undergarment. He was ashamed by the presentation of this evidence in court.

In State v. Kalakosky, 121 Wn. 2d 525, 537 (1993). A defendant seeking to sever offenses must establish that a trial involving both counts would be "so manifestly prejudicial as to outweigh the concern for judicial economy." We believe that Mr. Carr's rights were violated here as well because the Pink Leotard from the misdemeanor case manifestly prejudiced the jury on the CM1 case.

Argument #4**Objectionable Argument to the Jury:**

"Burden Shifting"

In Prosecuting Attorney, Risa Woo's closing statement; she made an objectionable argument to the jury that they could "just convict" Peter Carr on the testimony of the two minor girls' alone. Mr. Carr's attorney did his closing arguments. The court went to recess. After the jury was dismissed, Judge Cayce told Ms. Woo that he was very worried about her statement and that she had misstated the law. My parents and I thought that when the jury came back that either Judge Cayce or Ms. Woo would correct this very serious error, but nobody did. By then Mr. Carr's attorney, Richard Warner, had finished his closing arguments so he couldn't "correct" the situation in the eyes of the jury. Ms. Woo had the opportunity to correct it but did not. Judge Cayce was "worried" enough about it to mention it to the attorneys but didn't correct it in the eyes of the jury. I believe this was prosecutorial misconduct and judicial error. It was a huge factor in my brother's convictions.

If in fact the jury did take Ms. Woo's statement and just convict based on the two minor girl's alone. They convicted Mr. Carr on the testimony of Kristen, who said at least twice that my brother was not the man in the store and Mari whose families stories changed from the beginning police report to the trial at least 2 or 3 times.

This objectionable argument was in no doubt prosecutorial misconduct. The relief we request is either a new trial or a reversal of the conviction.

note: "burden shifting" was the term used by
presiding trial judge cayce on the record.

Argument #5**Ineffective Assistance of Counsel (Richard Warner):**

In argument 6 below you will see that time cards for Mr. Carr's job and attendance records for Mari's school were entered into evidence. In addition, Mr. Carr's former boss came in as a defense witness to testify that Mr. Carr was at work on the days his time card said, the time cards could not be altered without notice on the actual card itself, and that he would not have had enough time on his lunch break to get all the way to Federal Way and back.

We believed with this alibi and many of the dates being excluded as possible dates because Mari was in school that the Jury could not possibly convict Mr. Carr. Mr. Carr did not think Richard Warner (defense attorney) made this point in a jury instruction as he should have. Mr. Carr on several occasions told Mr. Warner that he wanted the jury reminded of his time cards, Mari's school attendance schedule, and the fact that Alma Lopez under oath said the alleged touching most definitely happened on a Saturday between 11 AM-1 PM when Mr. Carr was proven to have been at work. Mr. Warner for whatever reason did not do as Mr. Carr requested.

In the Pre-Trial Interview on pages 24 & 25, Alma Lopez testified that Mari had finally identified Mr. Carr from a TV spot alerting the public that he was wanted. Well this is putting the cart before the horse because it was our understanding that my brother's picture was put on TV because of Mari identifying him in the store. Given this testimony, Mr. Carr asked Richard Warner to get him the dates that his picture was aired on TV and to question Alma about her testimony but Richard never gave the dates to Mr. Carr and when Mr. Carr asked to view the TV broadcast, Mr. Warner refused to show him.

On several occasions, Mr. Carr reported to us that Richard would yell at him and tell him to "shut up and let me do my job." Mr. Carr was caught between a rock and a hard place because he had already been in jail for around 8 months awaiting trial. Mr. Carr's parents had paid over \$22,000 for Newton Law Firm to represent him. Richard was the attorney assigned to Mr. Carr's case. Mr. Carr's mother had many conversations with a man named Angel at Newton Law Firm about suggestions on how to "fix" the relationship between Mr. Carr and Richard. Mr. Carr's mother even asked that a different attorney take over but she was met with dead ends. Mr. Carr's parents did not have another \$22,000 to pay another law firm to start again, so Mr. Carr continued to try to persuade Mr. Warner to defend him using his suggestions. Mr. Warner did not comply.

Mr. Carr's constitutional rights of having effective counsel were violated because Richard Warner did not represent Mr. Carr the way he requested to be represented on these occasion as well as many others.

Argument #6**Insufficient Evidence (Actual Innocence):**

On June 17, 2011, Officer Bassage went to Deseret Industries and took a statement from Alma Lopez (mother). It was this statement that established a "window of time" that the alleged incident took place. Alma Lopez testified in her initial statement that it took place "some time" within the last two weeks. In addition at trial, upon a line of questioning by the defense, Alma Lopez swore under oath that the incident was without a doubt, had taken place on a Saturday from 11:00 AM-1:00 PM.

It was proven in court using Mari Lopez attendance record at school that she was in attendance at her school in Tacoma School District on June, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16. Her school was located in South Tacoma. Her school released at 3:30 PM. So how could Mari be at the store between 11:00-1:00 when Alma said the incident took place on any of these days? The above dates are all of the weekday dates (within the two week window) that Alma Lopez testified to under oath as possible days the incident happened.

In addition, on both Saturdays, June 4 and June 11 (when Alma Lopez testified this must have happened) Mr. Carr's time clock from his work shows him clocked in at around 5 AM and clocking out at around 2 PM. His place of employment is about 20 miles from the store near the SeaTac Airport. If you know SeaTac airport area and Federal Way, you know there is usually very heavy traffic flow any time of day.

Deseret Industries is closed on Sundays.

We believe Mari's school records and Mr. Carr's time card shows actual innocence in this case. Again, there was no jury instruction given by Mr. Carr's defense counsel regarding this evidence.

Washington V. Powell, 62 Wash App.014, 816 P.2.d86 (1991). Washington Court of Appeals Division III. Harry Norman Powell appeals his child molestation conviction, contending the verdict was not supported by sufficient evidence. The finding of the court was..."we agree and reverse."

I'm sure you are familiar with this case or if not that you will look it up, but the just of it is that Sexual Contact is a Statutory Element of First Degree Child Molestation. "Sexual Contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party."

However, in those cases in which the evidence shows touching through clothing, or touching of intimate parts of the body other than the primary erogenous areas, the courts have required some additional evidence of sexual gratification. In the Powell case, the record suggests it was a fleeting touch. In this case it was proven there were no threats, bribes, or requests not to tell. Therefore this evidence is insufficient to support an inference Mr. Powell touched Windy for the purpose of sexual gratification. No rational trier of fact could find this essential element beyond a reasonable doubt. Thus we reverse the lower courts and jury's decision and we dismiss.

The Powell case is very similar to Mr. Carr's case. He denies it ever happened to start with but when you look at the testimony of Mari, she says that the touching happened for 1 second, over her clothing. The man didn't stop, say anything to her, or look at her. When she demonstrated the motion to the officer, he states that she swept across her chest with an open hand one time quickly.

We believe that Appeals court needs to look at this as a possible "accidental" or "fleeting" touch. My brother has no knowledge of this ever taking place. He was shopping in this store for my two girl's birthday presents (both my girls were born in June).

There was no video footage of this event happening, no one saw anything happen, the mother did not report it had happened for two weeks after they say it happened.

We believe due to insufficient evidence and the case law of Washington V. Powell. Mr. Carr's case should be dismissed because there was no additional evidence to support the inference that Peter Carr touched this young girl at all, or for that matter touched her for the purpose of sexual gratification.

We believe that this would have been a clear cut case of not guilty had the two charges been tried separately.

Argument #7**Prosecutorial Misconduct:**

Throughout the trial and during the closing argument, Risa Woo vehemently and repeatedly states Mr. Carr was Fondling and Groping Mari. Alma Lopez (the mother) or Mari (the young girl) never used those words. In fact in one interview Alma Lopez referred to the incident as an accident.

Alma Lopez and Mari both used the words brushed and touched to describe the incident. Detective Krusey used the term rubbing to obtain Probable Cause and Risa Woo used Fondling and Groping to manipulate the jury into convicting Mr. Carr based on facts that never happened.

Vocabulary is a very powerful tool and when it is manipulated like this to paint a picture that is unrecoverable for the defendant it is just wrong!

Looking on the internet, The Free Dictionary by Farlex gives a layman's definitions of these words. They are very prejudicial when used interchangeably.

a. Brushed:

Adj. 1. Brushed-touched lightly in passing; grazed against

b. Touched:

Adj. 1. Touched—having come into contact

c. Fondling:

Noun 1. Fondling—affectionate play

d. Groping:

Verb 2. Slang to handle or fondle for sexual pleasure

We believe that the court and jury were manipulated by Risa Woo and Detective Krusey's malicious choice of words. Therefore the relief we seek is for all charges to be dropped and for Mr. Carr to be set free. If all charges cannot be dropped then we request a new trial with both cases tried separately and the words to describe the incident be only the words used by the alleged victim and her mother as told to police. We also seek that Risa Woo be disciplined for this detrimental infraction to Mr. Carr.

Argument #8**Suppression of Evidence by Prosecution and Defense:**

Mr. Carr believes that suppression of key evidence was done by the prosecutor. The handwritten ~~statement from Alma Lopez and the initial Police Report~~ were used to obtain probable cause, but were not entered into evidence. In addition, Alma Lopez adds to the confusion of the facts in her Pre-Trial interview, which was also not entered into evidence. Her versions of what happened, when it happened, and how it happened vastly differs from statement to statement, yet all of them are conducted under oath. These inconsistencies can only be construed as untruths.

Mr. Carr on several occasions asked his attorney Richard Warner to point out all of these documents to the jury and how inconsistent they all were but Richard Warner would not follow my brother's request for defense. Mr. Warner stated that Ms. Woo and he had an agreement to leave these documents out. My brother did not instruct his attorney to make any such agreements to leave out evidence in his trial.

It is our understanding that a Prosecutor that willingly puts a witness on the stand when he/she knows that person may be unclear on her facts or is lying is Prosecutorial Misconduct. The fact is Alma was not a witness to anything happening. We don't even know if they were in the store because they didn't report anything to anyone for two weeks. The video evidence that could have been obtained by the police was not obtained by the police which was a violation of the Federal Way Police Department Manual of Standards.

The jury was not allowed to see or hear the inconsistencies in Alma's reports and/or testimonies because this evidence was suppressed by a possible conspiracy from the Prosecuting attorney and Defense attorney. I can see no other reason why key evidence (that Mr. Carr requested to be entered) was not presented at trial that would have only aided in the defense of Mr. Carr.

I have attached a copy of the Personal Restraint Petition Brief filled out by Mr. Carr on this matter in July of 2012

* These reports can be viewed in pages 9, 10, and 11 of this packet.

Argument #9

Juror's Comments:

Attached you will find two notarized statements from myself, Mary Kahler and my mom, Margaret Carr. My mom and dad were in attendance for the entire trial. I testified at the trial and remained for the remainder of Mr. Carr's trial.

After the verdict was read, the jury left, and we were dismissed from court. My mother, father, and I waited in the court yard area for my brother's attorney. A juror came up to us and the conversations we had are documented in the statements attached.

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR King COUNTY

State of Washington
Plaintiff
vs.
Peter J. Carr
Defendant

Case No.: 11-1-06599-1 KNT
C.D.A. NO. 68815-4
AFFIDAVIT OF Mary Kahler

I, Mary Kahler, ~~Defendant in this action~~, declare on oath and affirm under penalty of perjury of the laws of the State of Washington that all of the following is true and correct, and is based on my first-hand observations, knowledge, and reasonable conclusions drawn from my first-hand knowledge:

I am over the age of 18, I am of sound mind and discretion, and I am competent to testify. I am a resident of Clark County. I affirm these facts:

At my brother's trial a juror came to talk with us after it was over. She seemed very kind and concerned. She mentioned that the "jury" feared what might happen if my brother didn't get help. I told her that it sounded like the jury convicted my brother of a crime that hasn't

happened, but a crime they wanted to prevent. She stated several times that if the girl "Kristen" hadn't been so mature and vocal who knows what would have happened. I reminded her that this same girl she was calling mature and vocal is the same girl who said twice in court that it "WAS NOT" my brother who had done this to her. After that I reminded her that you CAN NOT convict someone on something that "might" happen. She did not reply to this. She mentioned that there was poor detective work done by Officer Krascy. She also mentioned that she thought my brother held his hands strange, and that might be part of a bigger issue. She didn't clarify but clearly she and other jurors were making personal judgements that had little to do with facts presented at trial. She mentioned the pink leotard ^(misdemeanor case) and how that had an effect in the ^(over all) case, which proves the CME case was tainted by it. ^(pink leotard) It was obvious she did not like my brother because of her feelings that he was strange. She also stated

that my brother was very nervous on the stand and that
made him appear guilty, I told her of course he was
nervous, he didn't do anything and he's on trial.
CONCLUSION

I declare under penalty of perjury of the laws of the State of Washington that all of the above is
true and correct. Done this 4th day of December, 2012 at Vancouver, WA.

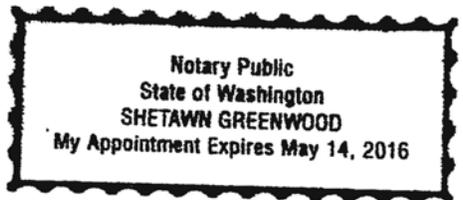
MARY KAHLER
MARY Kahler

Stafford Creek Correction Center, Unit
101 Constantine Way
Aberdeen, Washington 98520

THE STATE OF WASHINGTON)
CLATSOP COUNTY) SS
~~CLATSOP COUNTY~~

I certify that I know or have satisfactory evidence that the above named Plaintiff / Petitioner is
the person who appeared before me, and the said person acknowledged that he signed this
instrument and acknowledged it to be his free and voluntary act for the uses and purposes
mentioned in the instrument.

SUBSCRIBED AND SWORN before me on this 4th day of December, 2012.



[Signature]
Notary Public in and for the State of Washington

My commission expires: 5-14-2016

SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR King COUNTY

State of Washington

Plaintiff

vs.

Peter Carr

Defendant

Case No.: 11-1-06599-1 KNT

C.O.A. NO. 68815-4

AFFIDAVIT OF Margaret Carr

I, Margaret Carr, ~~Petitioner in this action,~~ declare on

oath and affirm under penalty of perjury of the laws of the State of Washington that all of the following is true and correct, and is based on my first-hand observations, knowledge, and reasonable conclusions drawn from my first-hand knowledge:

I am over the age of 18, I am of sound mind and discretion, and I am competent to testify. I am a resident of Clark County. I affirm these facts:

Verdict on both cases (tried together)? Verdict: Guilty on Both.

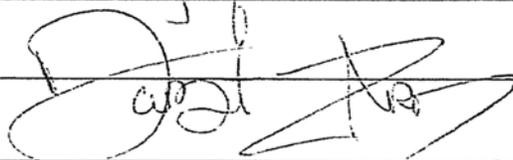
We left the court and went to the rotunda outside the courtroom
We, my husband, daughter & our lawyer were devastated and in
shock as in (one) case: It was 'Proven' that Peter J. Carr was
not at the scene on any of the dates the prosecution stated

the 'crime' happened!

The other case: The girl 'accuser' stated when she was asked to identify Peter - "He is NOT in court" She was asked to look again "That is not him".

We were there trying to make sense of this when the jurors came out, laughing & Joking. All went down in the elevator except me. She came over and started talking to us. She was an older lady, a bit heavy set and she was seated on the Jury front row 2nd or 3rd from the left as we faced her.

She spoke to me and said "I did not think he was guilty, but everyone else did." This if she had stuck to her thoughts, would @ the very least have Required a 'hung jury' and a retrial would have been needed. I was upset with her & told her this, she kind of looked downcast & I walked away from her to speak to our attorney. She stayed about 10 minutes talking to my daughter (Mary Kahler). I do not know if my husband Peter D. Loast was involved in any of this.



Argument #10

Mr. Carr was also charged and convicted with Communicating with a Minor for Immoral purposes.

The young girl, Kristin, did not identify Mr. Carr from surveillance video that she was initially shown by police. Yet Mr. Carr was still charged with this crime. Then, to make matters worse, Kristin took the stand at Mr. Carr's trial and stated two times that Mr. Carr was not the man who exposed himself to her.

There was a Knapstad Motion argued before the court saying that even if what the prosecution alleges to have happened did happen, that a crime was not committed. It is not a crime to say "hi" to someone or to ask them if they like a piece of clothing. It is also not a crime to cross-dress. If a part of an undergarment is showing, that is not a crime either. The judge denied this motion because he wanted a jury to decide it (this Knapstad).

If this had never been a charge, then the pink leotard involved in this case only, would not have been allowed to be used in the CM1 case that is considered much more serious and carries the most amount of penalty. So in essence the CM1 case might have had a different outcome had the two cases not been tried together?

We are seeking relief in the way of this charge be dropped because initially the police did not have any evidence that my brother was the person they were seeking. They didn't have eye witness identification, any video, or witnesses.

If this charge is dropped than the joinder of these two cases should be considered wrong and a re-trial of the CM1 case should be allowed or it should be dropped.

Argument #11

On February 12, 2012, a new rule was added to the Washington Court Rules.

The prosecutor in a criminal case shall:

- a. Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause.

New amendment 2012

When a prosecutor knows of new credible and material evidence creating a reasonable likelihood that a convicted defendant is innocent of the offense of which the defendant was convicted, the prosecutor shall:

1. Promptly disclose that evidence to an appropriate court or authority, and
2. If the conviction was obtained in the prosecutors jurisdiction,
 - a. Promptly disclose the evidence to the defendant unless a court authorizes delay, and
 - b. Make reasonable efforts to inquire into the matter, or make reasonable efforts to cause the appropriate law enforcement agency to undertake an investigation into the matter.

We believe that if you look at the initial handwritten statement by Alma Lopez, the original police report by Officer Bassage, the pre-trial interview from Alma Lopez, and then look at her on the stand testimony, you will see such discrepancies in her versions of what happened that you will see that Alma Lopez is making things up and telling a story.

Mr. Carr believes that Risa Woo and Richard Warner knew about these discrepancies and that is why these documents were not entered into evidence at trial and were hidden from the jury. All of these versions make the State's Lead Witness not credible and if this had been pointed out by Mr. Carr's attorney then the outcome would have been different.

It was the Prosecutors Duty to follow this February 12, 2012 rule. She did not! Instead she somehow got the evidence suppressed from trial that covered up these inconsistencies.

One of two situations happened in this case: The police were either misled in their investigation by the Lopez family or Perjury was committed in open court. Either way, we believe the prosecution was aware of what was happening and chose to do nothing.

If this rule was found to not be followed then the law was broken and we seek the relief of both charges being dropped and disciplinary action to the lawyers involved.

Argument #12**Civil Rights/Due Process Rights Violations:**

1. Essential and available video evidence at the time were not collected by police or detective. According to police Manual of Standards this should have been done (mishandling of evidence).
2. Objectionable argument by Ms. Woo at closing statements. This was noted by the judge but it was not corrected by Prosecutor Woo.
3. Suppression of Evidence that was requested by Mr. Carr to have been used at trial.
4. Knapstad motion was denied by Judge.
5. New Amendment/law/rule from February 12, 2012 was not followed by Ms. Woo.
6. Prosecutorial Misconduct---Manipulation of language/vocabulary to paint a very different picture of what was initially reported on Police Reports.
7. Joinder---these two cases should never have been tried together.
8. Probable cause should have never been given. Detective Krusey manipulated evidence/vocabulary when writing his report.
9. Sixth Amendment violation--Even though Mr. Warner was a paid attorney, he did not represent Mr. Carr in the way that was requested of him.
10. Actual Innocence---School records, time cards, direct testimony from Alma Lopez.
11. Prior Precedence---Case Law: Washington V. Powell, 62 Wash. App. 014, 816 P.2. d86 (1991)

Argument #13

Relief Requested:

The relief we are asking for is dismissal of both counts because of all of the reasons above.

If dismissal is not possible, then what we ask for is that the two cases be retried completely separately. We ask that the pink leotard not be allowed to be entered into evidence for the CM1 case because it had nothing to do with that charge. We also ask that the prosecuting attorney not be allowed to mislead the jury by manipulating the words (vocabulary) from interviews and police statements and turning it into a theatrical show.