COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

Respondent,

No. 44945-5-11

V.

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

Timothy O'Haver
Appellant

I, Timothy O'Haver, 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

Due to multiple abuses of discretion by the trial court approving prosecutorial misconduct, for prosecutorial misconduct described in the attached documents and for the cumulative errors detailed in Opening Brief of Appellant all violating my constitutional rights to a fair trial and for insufficiency of evidence, the defendant submits convictions be reversed and charges dismissed. Please see accompanying supportive argument, pages

Additional Ground 2

Due to the violation of defendant's Constitutional Rights to a speedy trial, in addition to the aforementioned violations of his Constitutional rights to a fair trial, the defendant respectfully submits that his convictions should be reversed and all charges against him be dismissed. Please see accompanying supportive argument. Pages

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

Date:_____

Signature:_____

Timothy O'Haver, Appellant
D.O.C.#366552
Coyote Ridge Corrections Center
Unit BB14-1
P.O. Box 769
Connell, WA 99326

Additional Grounds For Review 1

The State failed to prove beyond a reasonable doubt the element of intent in prosecuting the defendant for the alleged crimes of assault. The State had insufficient evidence to do so. It was only through prosecutoral misconduct in knowingly relying wholly on perjured testimony, inadmissible and inflammatory "hearsay" and the trial court's complicity through multiple abuses of discretion that the jury was prejudiced to the degree they convicted the defendant in spite of doubt of his guilt. Therefore, the defendant's convictions should be reversed and all charges dismissed, due to insufficient evidence, the violation by the prosecutor and the trial court of the defendant's Constitutional Sixth and Fourteenth amendment rights to a fair trial, a speedy trial, and Due Process. The speedy trial violation will be addressed separately as "Additional Grounds For Review 2"

Argument

As my counsel for defense, Rita J. Griffith, has thoroughly and accurately demonstrated, I, Timothy O'Haver, was not given a fair trail. If anything, she has professionally and tactfully understated the fact. The entirety of the State's evidence was false and inflammatory testimony, contrary to the testimonies of a doctor, an EMT, and contrary to physical and circumstantial evidence (or the lack, thereof). Not only did the prosecutor in this case, Mr. Marcus Miller, knowingly present false testimony as fact, he and the trail court were complicit in distorting and manipulating the facts to suit their agenda, thereby invading the province of the jury and creating undue prejudice in the minds of the jurors, resulting in my conviction.

As my Attorney for Appellant pointed out, Officer Jimmy Welsh's police report containing statements he alleged my wife, Wendy O'Haver, made to him on the night of the incident failed to meet the criteria to be admitted as recorded recollection, and should not have been admitted. Particularly disturbing is the way in which Mr. Miller tries to introduce this report containing Welsh's inflammatory remarks and opinions, as well as false allegations, as evidence; he misquotes my wife saying, "she said I don't recall many of those things..." RP 317. Again, later Miller states, "it wasn't impeachment because she clearly says, I do not recall, so we're trying to refresh her recollection." RP 318. My trial attorney, Stephen Johnson objects, saying he thinks it's being entered to impeach Mrs. O'Haver, proposing a limiting instruction to the jury. And then, to make the deception complete, the trial court states, "Well, my recollection is fairly clear, that she clearly said she could not recall what she said to this officer." RP318, and "The Court finds that this is exactly what has occurred with this witness in that she doesn't deny that she ever said these things. She simply could not remember or recollect." The truth is, Wendy O'Haver never once said "I don't recall" or "I don't remember" or anything to that effect. The exchange can be found here: RP 210-216. Mr. Miller begins each question with "do you recall" or "do you remember" to which my wife replies, "yes" or "no" or "barely". To say that my wife said that she doesn't recall is a fundamental distortion of the truth. It is equivalent to "putting words in her mouth." It is a lie. It assumes that Welsh's report is true because if, indeed, she never gave those statements to Welsh and these events never occurred, the answers to the same questions are still "No", and that impeaches Welsh, not Wendy. Miller even states, "..that she gave and the answers she gave with the officers." RP211. The trial court imposes its opinion as to Welsh's credibility in the statement, "I think her exact words she could not recall or remember. And I think the officer does attempt to quote her in paragraph, the last paragraph..." RP334. The deception is so pervasive and subtle that my own trial attorney accepts it as fact, though I tried to correct him. Whether Wendy doesn't recall giving a statement, or she actually did not give the statement, the answer to the same question is still, "No" and the fact that she answered "Yes" to some of the questions indicates the latter scenario to be the case.

Furthermore, I am not in the least persuaded that this was accidental error, nor was it the last time Mr. Miller misquoted or changed the account of a witness, including myself, to suit his agenda. It is arbitrary, reprehensible misconduct unbecoming of an officer of the court, let alone the court, itself.

As regards officer Jimmy Welsh, he declared his intention to me on the night of my arrest, to invade the province of the jury in facilitating my conviction by whatever means were within his power, despite the fact that he admittedly did not know what transpired (in his testimony) RP 321. Once I was detained and in the back seat of the police cruiser, Welsh approached me with my shotgun and asked, "Is this your Mossberg 500?" Not sure if this was a trick question, I said, "Well, yeah," to which he replied, "This is the last time you're ever going to see it." Ironically, that firearm is a piece of strong circumstantial, physical evidence in this case corroborating my account of events and discrediting the others' (RP 227, 683-687). Not only does it prove my account of the critical sequence of events as I testified, but demonstrates that my intent was to leave Mark Dettling's house with my wife, while leaving Mark, himself alive, intact, and able to pursue me. The point is, simply, that Welsh intended to "fry me," he told me as much in that remark, and was apparently willing to falsify his report and perjure himself to do so. He is guilty of obstruction of justice and should be criminally prosecuted accordingly. Although, I chose to exercise my Miranda rights, for the most part even prior to my arrest, there were two other occasions during which Welsh and I spoke to each other. The first was just after he cuffed me; I informed him I had two children in the house, out of genuine concern for their well being, which Welsh denied in his testimony, saying he's not sure who indicated there were children in the house. In the second instance, Welsh asked me if I kicked in Mark's door because he "had my wife?: I said simply, "Yes". He changed the question in his report to read along the lines of, "Did you believe your wife was being held against her will?" In both cases, he lied, first by omission and then by commission. Interestingly, Welsh's reason for not writing his report till sometime later, away from the scene was "...often times because we're so few officers in a large city with a lot of things going on,

we may not have time to sit down and write a report directly after and incident." RP 324. Compare that to his response to Mr. Johnson's question, "...During the process of securing Mr. O'Haver, he told you that his children were inside the residence upstairs, isn't that correct?" RP173. Welsh replied, I can't be certain how we got the information about the kids being in the residence. I do remember at that point we had 15 officers on scene. I know that at some point, either Mr. or Mrs. O'Haver made indication there were children in the residence prior to us clearing the residence." With so few officers in a large city with a lot going on there were 15 officers on scene. I am drawing such close attention to Welsh's tainted testimony because I know for a fact it was actually his testimony that resulted in my wrongful conviction, as I'll show later, and because his crimes are especially heinous as an officer sworn to enforce the law. Officer Welsh crossed boundaries other than his sector's physical boundaries; he invaded the province of the jury by falsifying his report and testifying falsely in court.

Now, with regards to State's witness Marcus (Mark) Dettling, it was known to deputy prosecutor Miller that he was lying, as he had made bold, ludicrous claims that I had committed atrocities of physical abuse toward not only himself, but on two separate occasions toward my wife with absolutely no physical or medical evidence to substantiate those claims. In fact, all of the physical evidence and medical testimony in this case corroborate only my account. Paramedic, Brian Mace testified (contrary to Dettling's own testimony) that Dettling said he was drinking, he was alert and showed no signs of a head injury, he smelled of intoxicants, and he never lost consciousness while in Mace's presence. RP536-538. Dettling's attending physician at St. Claire's Hospital, Dr. Mary Meyer testified that Dettling had "no evidence of trauma" to his head or face, no bruising to his head, neck, arms or chest. RP551-553. Mr. Miller objected to "relevance." The Court overruled. Dr. Meyer administered a CT Scan and a Glascow-Coma test, each with perfectly normal results. Again, Miller objected to relevance stating, "It's not charged as a substantial bodily harm case." RP555. The fact is, Mark Dettling had been trying all along to blame his pre-existing visual deficit in his left eye, as well as some alleged

brain trauma on the beating he alleged I inflicted upon him. His claims from the very beginning were completely without merit, which is obviously why Miller objected; he knew all along his entire case was founded on false testimony. What is worse, is that Dettling implicated and conspired with his bandmates in falsely alleging my wife was a victim in order that he might emerge as a heroic intervener, thereby, justifying and/or concealing his criminal trespass into our home, coercion of my wife, and assault with a deadly weapon.

Mr. Miller, in his opening statement, essentially reiterated the probable cause based on Dettling's claims of physical assault and Welsh's police report, but he now says the case isn't being charged as a "substantial bodily harm case." First of all, it doesn't matter which definition of assault he chooses to go with, he's still relying on the same inflammatory, false testimony. Whether to attempt to prove bodily harm, or merely intent, he's still relying on the lies of a compulsive liar. In his closing arguments. (RP 651-644, 689-692), Miller suggests that I acted "with unlawful force, done with intent to inflict bodily injury upon another tending but failing to accomplish it..." RP 657, yet he says I "beat," suffocated," "drug," "choked," "jabbed," or "hurt," at least 29 times in relation to my actions toward my wife and Dettling, apparently just to establish intent to do bodily harm. Mind you, the trial court, with Miller's nodding approval, has already robbed me of my affirmative defense. Also in closing, Miller attempts in vain to reconcile all the various contradictory versions of his witnesses and in the process, misquotes and changes their, "alleged" testimonies. Worse still, he changes my account. RP 690: "According to his own story, he (the defendant) goes over to the Dettling house. He can't get in. He goes at the door with a bat, goes home, gets his guns." During my own testimony, the actual one on record, I made a point of explicitly correcting him on that sequence of events, RP 517-519. I returned to my house after Mark threatened to shoot me for simply knocking on his door. I hadn't picked up a bat till after my return. It's kinda important. Miller tries to explain away his witness' conspiracy to destroy me with false testimony while in Leavenworth the next day, claiming there were some

"variations" to a "core story." RP 691-692. In truth, all of the accounts-Mark Dettling's, Patti Dettling's , John Humen's and John Hoover's-were incongruous and outright contradictory on any details that should have matched had they been based on real events, such as sequence and location of and actual events, themselves. None of their accounts were remotely similar to my wife's before she entered the Dettling residence. Granted, her memory was fuzzy and selective as she plainly admitted, but she doesn't corroborate any events that the others alleged occurred outside the residences, nor even much of what the Dettling's say occurred at their house. The disparity underscores the fact that these tales are complete fabrications. At some point, the jury realized this fact, but Miller carries on, with the Court's blessing.

It was actually Miller whose redirect exam of his prime "victim" and problem witness, Mark Dettling, got the full admission of conspiracy from him, RP 408. Rather than concede that the state's witnesses have perjured themselves, he seeks to justify them and explain their "variations" away due to so much confusion and chaos. It's a disgrace. Truth and justice are of no concern to Mr. Miller, nor apparently to the trial court; in the end, they seem determined only to win a conviction to justify violating my right to a speedy trial and wrongful incarceration of eight months, and perhaps to satisfy their political agenda.

I must cite a few examples of these inconsistencies, just to demonstrate the scope of the malicious prosecution and abuse of the system that Mark Dettling was willing to commit, and the trial court willing to oblige. Mark Dettling said he called for the "old lady" (the term for his gun) en-route from the defendant's house to his own. RP 382: "I was between the two-as I rounded the corner past our house is when I yelled, 'I need my old lady'." That's the way we agreed I would say it." When Mark says, "That's the way we agreed I would say it," he's referring to how he and his wife agreed to testify regarding this detail. He's thinking out loud, hoping he's got his story right. Note the disparity in

Patti's account. RP 301-302. According to Patti, Mark was already in the house, had already told her to go into the bedroom and shut the door, and then Mark called for the weapon. She states again that she had already moved to the bedroom and Mark was already inside. RP305. I maintain that the door was locked and closed at that time, blinds drawn, and I was yet unarmed, knocking on his door.

The Dettlings then fabricate this tale of me going around the house, "tapping or hitting" windows and doors, allegedly trying to break in. Patti states, "I think it might have been also before I went into the bedroom, but I'm not positive about that." RP 307. Contrast this with Mark's account, RP 359: "Well, I could hear him doing it. And when he was trying the bedroom window, I could hear Patti screaming, Mark, He's trying the window," and then, "there was really nothing I could do about it because I couldn't get my door to close." So, Patti couldn't remember whether she was in the bedroom or not, but Mark says she screamed that defendant was at the bedroom window? These two are married, live together, and had eight months to get their story straight. Patti's testimony was high in emotional content, and embellishment, including "hearsay" that the defendant never said, and no doubt several jury members and likely the trial court were affected, prejudiced by it, but the inconsistencies in their testimonies belie each other.

The Johns (John Humen and John Hoover) didn't "witness" anything. RP 691:4-10. They left the scene. They gave no statements to police on the night of the incident. They both provided "supplemental" statements to the prosecutor, as did Mark provide his new version, after their Leavenworth meeting the following day. RP 400, 408-10, 415. Neither Wendy O'Haver nor the defendant ever saw either of the Johns on the night of the incident. Mark Dettling's account (RP 380-81, 400) of running to his house impeaches Hoover. Every time Mark Dettling is confronted with perjury or changing his statements (RP 396-99, 408-10) he offers no credible explanation, just says it's not a conscious decision, but that is also a lie. He constantly adjusts his entire testimony to

accommodate a previous lie he forgot about and every version is different than the previous one. The question isn't, "were the witnesses lying?" The question, "why are the witnesses lying?" Would have been the one for the deputy prosecutors to ask long before my "trial" while I was incarcerated in Pierce County Jail, unable to post bail, languishing for eight months, having my sixth amendment right to a speedy trial violated. It was then that the prosecutor should have dismissed the charges due to insufficient evidence.

Mark Dettling violated our right afforded by the Constitution of the State of Washington, Article 1, section 7: "Invasion of Private Affairs or Home Prohibited. No person shall be disturbed in his private affairs, or his home invaded, without authority of law." Mark Dettling had been warned against this, prior to this incident both by myself and my wife, Wendy O'Haver. Mark was the primary aggressor both in criminal trespass and in assault with a deadly weapon. In fact, he was the only person whoever made a verbal threat to shoot anyone (he threatened to shoot me). RP 389. My wife was too inebriated even to remember Mark coercing her out of her house, which only added to my concern for her safety. Every lie from the state's conspirators after the incident was a smokescreen to keep Mr. Dettling out of jail and out of the defendant's seat. The only question that remains is: What kind of system, under the guise of "justice" allows a prosecutor to not only allow, but to encourage liars to perjure themselves on the stand, and himself knowingly repeat false testimony, inflammatory remarks, inadmissible hearsay, and do all this while depriving the defendant of his very defense? And for the trial court to comply by abuse of discretion is cause for dismissal.

Jury Instructions Pertaining to Reasonable Doubt and Self-Defense

The prejudice of the trial court and prosecutor extended to matters of jury instructions pertaining to reasonable doubt and self-defense. As regards jury instruction No. 1, my counsel for defense, Mr. Johnson objected to the state's proposed No. 1, proposing and alternative defendant's proposed

instruction No. 1 removing the "abiding belief" language at the end of the instruction, and an alternative proposed Instruction No. 2, providing the definition of "abiding". RP 577-580. Johnson's alternate Instruction No. 2 requests that the jury be instructed that to have an "abiding belief" in the truth of the charge is to have a belief that is "continuing without change, enduring and steadfast." The trial court overrules his objection, favoring the State's proposed Instruction No. 2. I looked up the word, "abide" and other (and more commonly used) definitions include, "dwell," "remain" and "acquiesce," as in "abide by the law." By any one of these definitions, "abiding belief" could mean a nagging compulsion to acquiesce to the passions of the prosecutor and trial court. Obviously, it's a discussion of semantics, but equally obvious is that the court's ruling, as is consistent with its previous rulings, favors the prosecution in that it may impermissibly (and imperceptibly) ease the prosecution's burden of proof.

As to the matter of self defense, there is debate over some language in the "no duty to retreat" clause, where counsel for defense cites, State vs. Allary, arguing that the instruction, "retreat should not be considered by you as a reasonable effective alternative," be given the jury. RP 599-603. Here again, the trial court invades the province of the jury, attempting to determine whether I had a right to be where I was at, and to determine whether I acted in self-defense, in deciding not to allow the specific instruction. This, too, is being reviewed as another abuse of discretion, consistent with the trial court's ruling that I not present my defense testimony to the jury. Furthermore, at the particular location in question, I had every right to be there, knocking on Dettling's door, demanding he release my drunk wife; I could have camped all night at his doorstep, legally. Then he decided to threaten to shoot me through his door, after he'd already trespassed into my house and put his hands on my wife. The trial court has made clear its opinion, thankfully, as to credibility of witnesses, fault and guilt, intent and every other aspect and element of crimes allegedly committed. It has imposed upon, substituted on behalf of the jury its prejudice, resulting in my conviction, as we'll see, against the jury's better judgment.

From Washington Practice Series, TM Volume 13A Criminal Law with Sentencing Forms.

Part II Substantive Offenses, Chapter 3. Assault:

"By definition, an assault requires the use of unlawful force. Since the use of force in self-defense is lawful, self-defense negates an element of assault. Consequently, where there is any evidence of self-defense, the State bears the burden of proving beyond a reasonable doubt that the defendant did not act in self-defense."

The jury instructions were engineered to further ease the State's burden of proving intent on my behalf, beyond a reasonable doubt, the trial court having already withheld my affirmative defense testimony from the jury. These are the very issues that require a jury to decide.

While I am loathe to refer to these criminal proceedings (as they were criminal) as a "trial," I am nonetheless, grateful to have had present a panel of spectators of this miscarriage of justice, to weigh in with their belief that the State's witnesses were liars and wholly unreliable. Had they followed that train of thought to it's logical conclusion, they would have fully acquitted me of all charges. They simply were directed not to, through the devices detailed in this document and the Opening Brief of Appellant. The jury was interviewed post-verdict by my trial attorney Stephen Johnson. They insisted the defendant offered the only credible account of events in this case. When asked why they convicted defendant, their response was, "he said, 'I'm going to kill you'." My attorney could only question their discernment with the reply, "Did he, actually?" The alleged threat was based on Officer Jimmy Welsh's testimony, RP 164. "I could hear someone saying, I was going to kill you or I'm going to kill you." Mr. Miller was sure to work this exception to hearsay into closing arguments RP 662, as with so many other inflammatory and perjured statements and instruments of prejudice. The jury had a question regarding

this alleged remark prior to rendering their verdict, RP 702. "Where does verbal threat lie?" "Is verbal threat considered assault II?" My attorney expressed his concern: "My concern, however, is that they're looking at something beyond the scope of the instructions, however." Obviously. If they're asking whether convicting me on mere speculation or conjecture by assuming that (1) the testimony from Welsh was even truthful and (2) that "someone" must definitely refer to the defendant in that testimony, constitutes an "abiding belief in the truth of the charge," then they clearly still have a reasonable doubt of guilt of said defendant. They are convicting on some vague uncertainty of my innocence, and it's no wonder. In fact, I never assaulted anyone nor threatened anyone on August 21, 2012. I've never put my hands on my wife with intent to do her harm- not on that night, nor on any other night. The only person who made a verbal threat to shoot or kill was Mark Dettling, the State's alleged "victim."

As if this all weren't enough, what may at present be considered legal behavior for the prosecution is by far more evil at it's core than all of its reprehensible activity mentioned up to now; that is, the intimidation and coercion of my wife to testify, and not just to testify but to do so unfavorably to her own husband and playing on the fears of a single mother of two young children with the threat of arrest and jail time if she would not comply. It invades the sanctity of our marriage, an institution of our Christian faith, and is thus a violation of our First Amendment Rights of the Constitution of the United States: "Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof..." That is precisely what the "no contact order" imposed upon us by the State did for the nine months of my incarceration, besides presuming my guilt, rather than my innocence. It does not seek to protect an alleged victim,, but to tip the scales in favor to the prosecution's victory by coercing the defendant's wife into "becoming" their "victim." It is witness tampering under the guise of "justice." It is reprehensible, unconstitutional, and it is evil.

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For the cumulative errors detailed in the Opening Brief of Appellant, for multiple abuses of discretion by the trial court approving prosecutorial misconduct, for the prosecutorial misconduct, itself, outlined in this document, and due to the insufficiency of evidence in this case, I, the defendant respectfully submit that my convictions should be reversed an all charges dismissed, that to remand them for retrial would violate my Fifth Amendment right of the U.S. Constitution: "...nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb..."

Respectfully submitted,

Signature:_____

Timothy O'Haver
Appellant

ADDITIONAL GROUNDS FOR REVIEW 2

As the defendant in this case, I, Timothy O'Haver submit that due to the violation of my rights afforded me by the Sixth Amendment of the U.S. Constitution and by Article 1, Section 22 of the Washington State Constitution to have a speedy public trial by an impartial jury, that my convictions should be reversed and all charges against me dismissed.

I never waived my right to a speedy trial. After 36 days of incarceration, my attorney assigned to represent me by the Department of Assigned Council informed me that the DAC had a conflict of interest in my case and that I had been assigned a new counsel for defense, Stephen G. Johnson, I informed him that I did not wish to continue the trial to a later date. He informed me he had already scheduled and paid for a vacation, which I certainly did not expect him to cancel. His response to my concern was "Well, you do want your lawyer to be prepared, don't you?" I replied, "Of course I do." So, as a matter of necessity I signed the very first continuance, though I was vehemently opposed to any further continuances, thereafter, and I explicitly communicated to Mr. Johnson that I would not sign them, as a matter of principle. At one point, the presiding judge, the Honorable Brian Chuschoff accused my behavior as being "frivolous" by not signing any continuance. I asked him, respectfully if I "may address the court?" to which he replied, "Yes, please," while my attorney simultaneously said, "Please don't." I respectfully withdrew, but I was simply going to say that I thought the quantity of and the reasons for these continuances were, themselves, frivolous. I lost count after 14 continuances over a nine month period of incarceration during which I was being held with a bail set well above my means to pay. That, in itself, violated my Article I, Section 14 right afforded me by the Washington State Constitution: "Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted." I would also argue that being forced apart from my family and out of a job on

the presumption of guilt based on false allegations, preposterous testimony without merit, as my family faced eviction and homelessness, and prevented even from speaking with my wife, is cruel and unusual punishment.

As justification for more than one continuance, Mr. Miller stated he was awaiting more "medical records," allegedly attributing Mark Dettling's brain trauma and visual deficit to the alleged beating he got from me-medical records that never materialized. All the medical evidence and testimony at trial was testimony for defense. At my attorney's deposition of Mr. Dettling, at which Mr. Miller was present, Mr. Dettling even referred to a doctor with the name of "Sherwin Williams," as in the paint store. Nevertheless, despite the facts in evidence and the blatant fictitious nature of the allegations against me, rather than dismiss the charges, the prosecutor frivolously postponed and procrastinated the trial knowing I wasn't going to make bail. The resulting damage to my family is immeasurable.

Reasons for continuances varied between attorney illness, Mr. Miller's personal family issues and other circumstances out of my control, but in each case, I objected. Here, I must mention some procedural history. Initially, I was charged with two assaults in the second degree based on erroneous testimony. At one point, the prosecution added two more assaults in the second degree based on the new (post-Leavenworth) testimony from Mark Dettling, John Humen and John Hoover. I suppose Mr. Miller thought that more perjured testimony could give him a stronger case, but my counsel and I made it clear this new "testimony" was irrelevant and we were still ready to proceed to trial. I was re-arraigned on the two new false charges and the delays continued.

I am submitting my grounds for appeal out of chronological order because I wanted to first demonstrate the prejudice of the prosecutor and the trial court by their respective conduct during the trial, which I believe I've done sufficiently. I was presumed guilty until I could prove my innocence, which I would

have, had I been given a fair trial. In December of 2012, both the prosecutor and counsel for defense somehow arranged for a mistrial on a legal technical glitch, to get around the Holidays. Of course, this would restart any "speedy trial" clock.

In an irony of ironies, when my trial finally did arrive, I had the opportunity to replace Judge Hickman due to a possible conflict of interest. RP 6-8. I did not, based on my counsel's insistence that Judge Hickman was a "good" and "objective" Judge. I accepted another three week delay of my trial based on that information. I told my attorney I was relying on truth and objectivity. The trial court thanked me for my trust. RP8. I gave the court and prosecutor the benefit of the doubt, relying on them to be fair and reasonable, but they in turn presumed my guilt, prejudiced the jury, and maliciously prosecuted me in spite of all the facts to the contrary. I received neither a fair trial, nor a speedy trial.

I respectfully submit that on the merit that my Constitutional rights to a speedy trial were violated, and on that merit alone, that my convictions should be reversed and all charged against me dismissed. To remand my convictions for retrial would violate my Fifth Amendment right afforded me by the U.S. Constitution. "...nor shall any person be subject for the same offense to be twice put in jeopardy of life of limb...".

Respectfully submitted,

Timothy O'Haver
Appellant

December 9, 2013

WASHINGTON STATE COURT OF APPEALS DIVISION II
Case Number: 44945-5-11

Dear Mr. Ponzoha,

The Defendant's Statement of Additional Grounds originally submitted in this case was found to have several clerical errors. Would you please update your file by replacing that version with this corrected one?

Thank you, on behalf of the appellant.