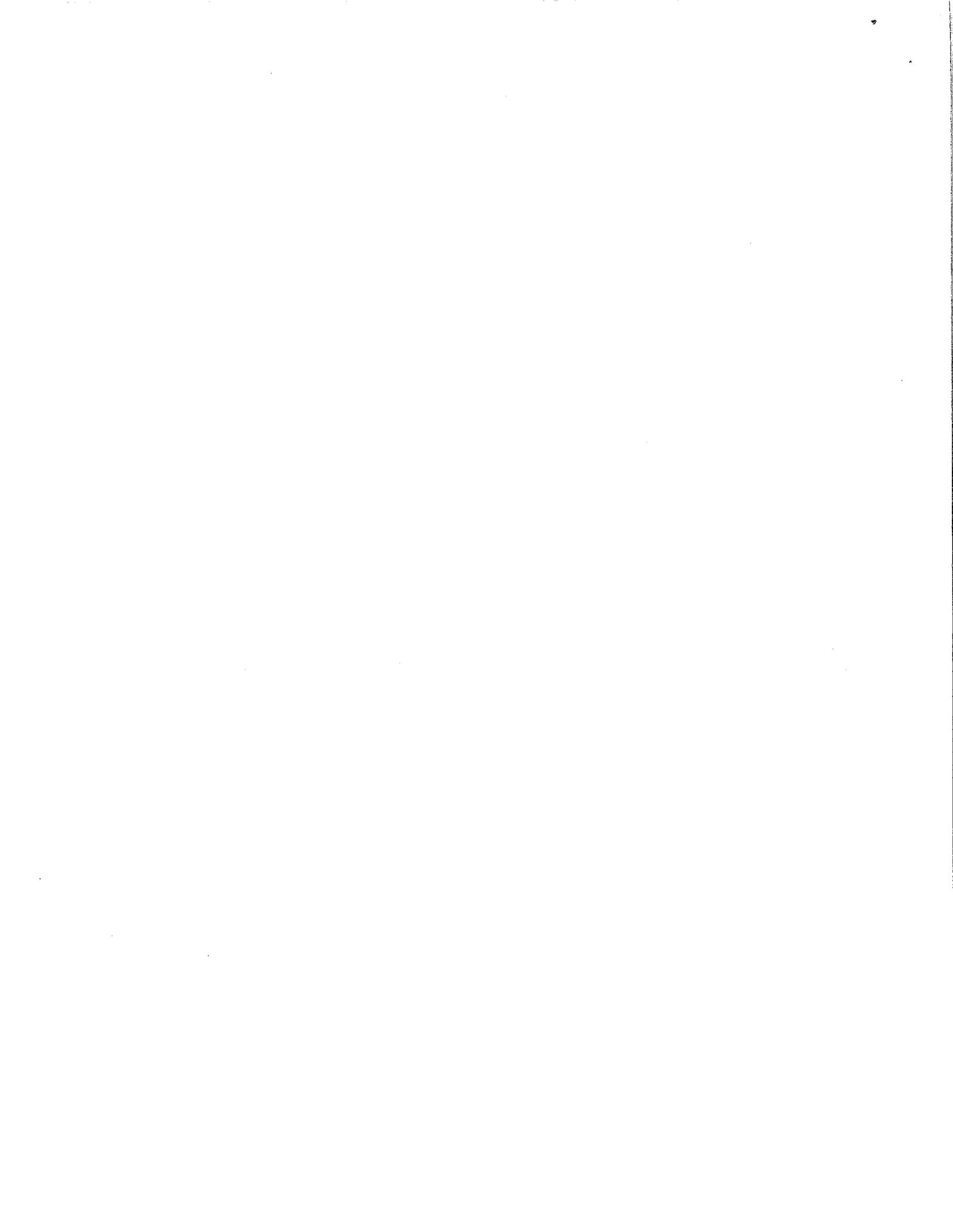


Case # 312445

**Statement of Additional Grounds
for Review**

**State of Washington
v.
David Wayne Halls**



COURT OF APPEALS
DIVISION THREE
OF THE STATE OF WASHINGTON

FILED

JUL 08 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

STATE OF WASHINGTON)

Respondent,)

v.)

David Wayne HALLS)
(your name))

Appellant.)

No. # 312445

STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

I, NO-I-Have not, 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

Never received Landrus Hailey Louise # 39432
or Gittins allen David # 7796
or Gasch susan marie # 16485
got no brief of any 6-10-2013

Additional Ground 2

The one enclosed is my personal Briefs
also enclosed is a letter
from appeal court.
superior court + PROSECUTOR
Kennwick wa 99936 Kennwick-WA 99936

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

Date: 6-28-2013
Form 23

Signature: David Halls

THE COURT OF APPEALS
OF THE
STATE OF WASHINGTON
DIVISION III

FILED

JUL 03 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

LAWYER

DAVID WAYNE HALLS #973846-c-a=28-1
coyote ridge correction center
p.o. box 769
1301 n. ephrata avenue
connell, washington, 99326-0769

SUSAN MARIE GASCH
GASCH LAW OFFICE
p.o. box 30339
SPOKAN, WASHINGTON-99223-3005

CASE 312445

WESTS WASHINGTON DIGEST 2d 1854 to date 11a criminal law key 549 to 660. key 625.10 (2.1) 11a wash d2d.328. 625.10(3) doubt as to competency reasonable cause or grounds. c.a.9 (wash.) 1978. In determining whether a hearing is necessary to determine defendants competency to stand trial, a defendants bizarre actions or statements or counsels statement that the defendant is incapable of cooperating in his own defense or even psychiatric testimony is not necessarily enough to raise doubt". to require a competency hearing. U.S v. Ives, 574 F.2d 1002, appeal after remand 609 F.2d 930, certiorari denied. 100 s.c.t 1283,445 U.S.919,63 L.Ed.2d 606, dismissal of post-conviction relief affirmed 67 F.3d 309, Certiorari denied 116 S.Ct.963,316 U.S. 1136.133 L.Ed.2d 884.

In the context of a seconded motion for a judicial determination of a defendants Competency to stand trial, counsel belief that the defendant is incapable of cooperating in his own deffnse, as demonstrated by the motion itself, and the offer of competent proof therof are factors that the trial judge must evaluate in determining whether there is "sufficient doubt" to require a hearing. 18 U.S.C.A. §4244. U.S. v. Ives, 574 F.2d 1002, appeal after remand 609F.2d 930, certiorari denied 100 s.ct. 1283,445 U.S.919,63 L.Ed.2d 605, dismissal of post-conviction relief affirmed 67 F.3d 309, certiorari denied 116 S.Ct.963,516 U.S.1136,133 L.Ed. 2d 884.

WESTS WASHINGTON DIGEST 2d.
KEY 627,5(3)11A awsh D2d-342 wash, App.div.1 1992.trial COURT did not abuse discretion in compelling discovery of report and conclusions of psychiatrist retained by defense in assault case and in permitting state to call psychiatrist as its expert witness to rebat defendants defense of diminished Capacity, such compelled discovery and use of psychiatrist by state did not violate attorney-client privilege or right to counsel. U.S.C.A Const.Amend.6, CrR.4.7. state v. Hamlet, 921 p.2d 560,83 wash.app. 350, review granted 932 p.2d 644,131 wash.2d 1005, affirmed 944 p.2d 1026, 133

BRIEF OF APPEALS

(1)

STATE v. Jamison, 604 P. 2d. 1017, 25, WASH. 2d 663. WASH. 2d 1020, affirmed. 619 P2d 352, 94 WASH. 2d 663. WASH.App.Div. 1979 Trial court did not ABUSE ITS DISCRETION in failing to give one defendant, s proposed insanity instruction and in withdrawing its own insanity instruction, since its was undisputed that said defendants knew. right from wrong, and since defendants medical expert qualified and rather speculatives testimony concerning defendants limited ability to appreciate the nature and quality of his acts appeared to be a scintilla rather than substantial evidence, further more, even if defendants evidence of insanity were substantial, its did not logically and reasonably connect defendants ALLEGED mental condition with his asserted inability to form the required specific intent to commit the crimes charged.

(1)

WASH.1983. As general rule, no definition of "wrong" should accompany. Insanity defense Instruction. West RCA 9A.12.010 State V. Grenshaw, 1659 p.2d. 488, 98 WASH. 2d 789.

(2)

WASH. 1972 Trial COURT properly refused to give defendants proposed instruction that person is not responsible for criminal conduct if at the time, as result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct or conform his conduct to requirement of law.

STATE v. Boggs, 495 P.2d 321, 80 WASH. 2d 427.

(2)

WASH. 1993. generalized Instructions on criminal intent are not sufficient to apprise a jury of mental disorders which may diminish a defendants, Capacity to commit a crime. WEST R.c.w. A 9a.08.010. STATE v Griffin, 670 P.2d. 265, 100 WASH: 2d.417.

(3)

WASH. 1993. if claim of diminished capacity is premised totally or partly on defendants voluntary consumption of drug or alcohol, STATE v. FURMAN, 858 p.2d.1092, 122 WASH.2d 440, denial of habeas corpus affirmed furman v. Wood, 169 F. 3d 1230, opinion withdrawn and superseded or rehearing 190 F.3d 1002, denial of habeas corpus affirmed 190 F.3d.1002.

(3)

WASH.App.div. 1 1986 claim of diminished capacity presents no issue in addition to or beyond Issue of required mental state set forth in the "to convict" Instruction, and only Issue raised by Claim is whether defendant had capacity to form requisite intent. STATE v. sam, 711. p2d.1114, 42 WASH.App.586.

(3)

Instructions Stating that Had burden of proving element of intent beyond reasonable doubt and that intoxication evidence could be taken into consideration in determining required mental STATE fully and. unambiguously advised jury on subject of defense of diminished capacity, and trial Court was not required to further advise Jury that STATE had burden of proving absence of diminished Capacity, since presence of required mental STATE and lack of capacity to reach required mental STATE would be mutually exclusive. STATE v.Sam, 711.P.2d 1114, 42 WASH.App5 586.

WASHINGTON COURT RULES 2011 SUPERIOR COURT RULES
volume III Local. page 55 LCR.41. (B) Disclosure of Rebuttal
witnesses.

(C) scope of disclosure. disclosure of witnesses under this
rule shall include the following information 1 all witnesses
name, address and phone number. 2

2 Lay witnesses a brief description of the anticipated subject
matter of witness testimony.

3 experts. A summary of the experts qualifications. (D) Exclusion
of testimony. any person not disclosed in compliance with this
rule may not be called to testify at trial, unless court
orders otherwise for good cause and subject to such conditions
as Justice requires, including the payment of terms.

(E) Discovery not Limited. this rule does not modify a party's
responsibility under court rules to seasonably supplement
responses to discovery or otherwise to comply with discovery
before the deadlines set by this rule.

(2) If the court finds that an attorney or party has failed
to comply with the case schedule, failed to provide all of
the information required in witness disclosures or disclosed
witnesses that are not reasonably likely to be called at trial
and has no reasonable excuse, the court may order the attorney
or party to pay monetary sanctions to the COURT, or terms to
any other party who incurred expense as a result of the failure
to comply, both, in addition, the court may impose such other
sanctions as justice requires.

(3) As used with respect to the case schedule, "terms" means
costs, attorney fees, and other expenses incurred or to be
incurred as a result of the failure to comply, the terms
"Monetary sanctions" means a financial penalty payable to the
COURT, the term "other sanction" includes but is not limited
to the exclusion of evidence.

RESPECTFULLY

DAVID WAYNE HALLS



david wayne halls # 973846 -C_a-28-1
coyote ridge corrections center
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connell-washington-99326-0769

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
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*The Court of Appeals
of the
State of Washington
Division III*

500 N Cedar ST
Spokane, WA 99201-1905

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June 20, 2013

David Wayne Halls
#973846
P. O. Box 769
Connell, WA 99326

CASE # 312445
State of Washington v. David Wayne Halls
BENTON COUNTY SUPERIOR COURT No. 121001565

Dear Mr. Halls:

Your attorney has filed a proof of service indicating that you were mailed a copy of the opening brief in your appeal. If, after reviewing that brief, you believe there are additional grounds for review that were not included in your lawyer's brief, you may list those grounds in a Statement of Additional Grounds for Review. RAP 10.10.

Because the Statement of Additional Grounds for Review is not a brief, there is no required format and you may prepare it by hand. No citations to the record or legal authority are required, but you should sufficiently identify any alleged error so that the appellate court may consider your argument. A copy of the rule is enclosed for your reference.

Your Statement of Additional Grounds for Review must be sent to the Court within 30 days. It will be reviewed by the Court when your appeal is considered on the merits.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:sh

C: Susan Marie Gasch
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SUPREME COURT OR COURTS OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

Case # 312445 - Superior - 12-1-001565.

DAVID WAYNE HALLS,
#973846-c-28-1

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lawyer
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Spokane, wa. 99223-3005

PETITION FOR REVIEW OR TITLE OF BRIEF, FOR APPELLANT

SUSAN GASCH

AS LAWYER FOR DIVISION III
509-443-9149

WASHINGTON STATE COURT OF APPEALS, DIVISION III SPOKANE.

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*-BRIEF-OF-APPEALS-=====

1

STATE v. Jamison, 604 P.2d. 1017, 25 Wash. APP.68, review granted
93 Wash.2d 1020, affirmed. 619 P.2d 352, 94 Wash. 2d 663.
WASH.App.Div. 1979 Trial Court did not abuse its discretion
in failing to give one defendant, s proposed insanity instruction
and In withdrawing its own insanity Instructing and Inwithdrawing
its own insanity Instructing, since it was undisputed that said
defendant knew. right from wrong, and since defendant's medical
expert qualified and rather speculatives testimony concerning
defendants limited ability to appreciate the nature and quality
of his acts appeared to be a scintilla rather than substantial
evidence, further more, even if defendants evidence of insanity
were substantial, it did not logically and reasonably connect
defendants alleged mental condition with his asserted inability
to form the required specific intent to commit the crimes charged

2

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instruction that person is not responsible for criminal conduct
if at the time, as result of mental disease or defect, he lacks
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1

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State v . Furman, 858 p. 2d. 1092, 122 Wash. 2d 440, denial of
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Instructions Stating that Had burden of proving element of Intent beyond reasonable doubt and that intoxication evidence could be taken into consideration in determining required mental State fully and unambiguously advised jury on subject of defense of diminished capacity, and trial Court was not required to further advise Jury that State had burden of proving absence of diminished Capacity, since presence of required mental State and lack of capacity to reach required mental State would be mutually exclusive. State v. Sam, 711 P.2d 1114, 42 Wash. App 5 586.

Wash. App. div. 1 1986 claim of diminished capacity presents no issue in addition to or beyond Issue of required mental State set forth in the "to convict" Instruction, and only Issue raised by Claim is whether defendant had capacity to form requisite intent. State v. sam, 711 P.2d. 1114, 42 Wash.App.586.

WASHINGTON COURT RULES 2011

superior court rules volume III Local. page. 55 LCR.41.

(B) Disclosure of Rebuttal witnesses.

(C) scope of disclosure. Disclosure of witnesses under this rule shall include the following information

I all witnesses Name, address and phone number.

II Lay Witnesses A brief description of the anticipated subject matter of witness testimony.

III Experts .A summary of the experts opinions and the basis therefor and a brief description of experts qualifications.

(D) Exclusion of testimony. Any person not disclosed in compliance with this rule MAY NOT BE CALLED TO TESTIFY At trial, unless the court orders otherwise for good cause and subject to such conditions as Justice requires, including the payment of terms.

(E) Discovery not Limited. This rule does not modify a party's responsibility under court rules to seasonably supplement responses to discovery or otherwise to comply with discovery before the deadlines set by this rule.

(2) If the court finds that an attorney or party has failed to comply with the case Schedule, failed to provide all of the information required in witness disclosures or disclosed witnesses that are not reasonably likely to be called at trial and has no reasonable excuse, the court may order the attorney or party to pay monetary sanctions to the Court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the Court may impose such other sanctions as justice requires.

(3) As used with respect to the Case schedule, "terms" means costs, attorney fees, and other expenses incurred or to be incurred as a result of the failure to comply; the terms "monetary sanctions" means a financial penalty payable to the Court; the term "other sanctions" includes but is not limited to the exclusion of evidence.

WESTS washington digest 2d 1854 to date 11a criminal law key 5409 to 660. key 625.10 (2.1) 11a washd2d.328.

625.10(3) doubt as to competency reasonable cause or grounds C.A.9(wash.)1978. In determining whether a hearing is necessary

To determine defendants competency to stand trial, a defendants bizarre action or statements or counsels statement that the defendants is incapable of cooperating in his own defense or even psychiatric testimony is not necessarily enough to raise "sufficient doubt" to require a competency hearing. u.s. v. Ives, 574 F.2d 1002, appeal after remand 609 F.2d 930, certiorari denied 100 s.ct. 1283, 445 u.s. 919, 63 L.Ed. 605, dismissal of post-conviction relief affirmed 67 F.3d 309 certiorari denied 116 s.ct. 963, 516 u.s. 1136, 133 L.Ed. 2d 884. In the context of a second motion for a judicial determination of a defendants competency to stand trial, counsel belief that the defendant is incapable of cooperating in his own defense, as demonstrated by the motion itself, and the offer of competent proof thereof are factors that the trial judge must evaluate in determining whether there is "sufficient doubt" to require a hearing. 18 u.s.c.a. 4244. u.s. v. Ives, 574 F.2d 1002, appeal after remand 609 F.2d 930, certiorari denied 100 s.ct. 1283, 445 u.s. 919, 63 L.Ed. 2d. 605, dismissal of post-conviction relief affirmed 67 F.3d 309, certiorari denied 116 s.ct. 963, 516 u.s. 1136, 133 L.Ed. 2d 884.

Key 627.5(3)11a wash d 2d-342 wash.app.div.1 1992. trial court did not abuse discretion in compelling discovery of reports and conclusions of psychiatrist retained by defense in assault case and in permitting state to call psychiatrist as its expert witness to rebut defendants defense of diminished capacity, such compelled discovery and use of psychiatrist by state did not violate attorney-client privilege or right to counsel. u.s. c.a Const. Amend. 6; CrR. 4.7. state v. Hamlet, 921 p.2d 560, 83 wash. app. 350, review granted 932 p.2d 644, 131 wash.2d 314. when defendant raises defense of diminished capacity, trial court may compel discovery of a defense-retained psychiatrists findings and conclusions and may permit state to call that psychiatrist as witness, just as when defendant raises insanity defense. crR. 4.7. STATE v. Hamlet, 921 p.2d 560, 83 wash.app. 350 review granted 932 p.2d 644, 131 wash.2d 1005, affirmed 944 p.2d 1026, 133 wash. 2d 314.

Key 1166.10(2).13B wash D2d-227 wash-2001. unjustified denial of a defendants federal and state constitutional right to waive assistance of counsel and represent himself or herself requires reversal. U.S.C.A Const. Amend 6, WESTs RCWA CONST. art. 1, §22. STATE v. Woods, 23 p.3d 1046, 143 wash.2d 561, certiorari denied 122 s.ct. 374, 534 U.S. 964, 151 L.Ed. 2d 285, post conviction relief denied in re Woods, 114 p.3d 607, 154 wash.2d 400, reconsideration denied WASH. 1997. defendants have a constitutional right to waive assistance of counsel and represent themselves, and unjustified denial of this right requires reversal U.S.C.A. CONST. AMEND 6. state v. Stenson, 940 p.2d 1239, 132 wash. 2d 668. certiorari denied 118 s.ct. 1193, 523 U.S. 1008, 140 L.Ed. 2d 323. HABEAS Corpus dismissed by 102 p.3d. 151, 153 wash.2d. 137, denial of habeas corpus affirmed Stenson v. Lambert 504 F.3d 873.

+++++

west washington digest 2d 1854 to date 19A Habeas Corpus 521 to Homestead 19a washD2d-99 habeas Corpus 798 Key 797-mentally disordered and chemically defendent persons.E.D. wash.1966. Violation of providing him with hearing on issue of competency to stand trial entitled him to new trial or discharge In view of the great difficulty,if not Impossibility,of holding a separate competency hearing so me seven years later. white v. RHAY, 266 F. Supp.270. affirmed 385 F.2d 883.

wests washington digest 2d 1854 to date 11a criminal law key549 to 660.key 641.9 11.a.wash D2d-493. wash 1986.whether there has been Intelligent waiver of counsel is ad hoc determination within discretion of trial court and is dependent upon particular facts and circumstances of case, Including background,experience,and conduct of accused, and defandant has burden of proving the that right to counsel was not competently and Intelligently waived. U.S.C.A Const amends 6,14 state v. hahu,726p.2d.25,106 wash.2d 885.

wash.1983 where demand of right of criminal defandant to represent himself is made during trial, even wher demand is unequivocal, granting of demand rests largely within§ informed discretion of trial Court matter of Richardson,675p.2d 209,100 wash.2d 669

WASH 1975 where defandant appeared pro-se throughout prosecution for reasons personal to himself rather than for indigency, trial court did not err in failing to hold a hearing to Inquire into the circumstances of his pro-se representation.state v.Sodorff, 529 p.2d 1066,84 wash 2d 888.

wash.1965 the waiver of right to counsel must be determined by facts and circumstances of each case. Snyder v. Maxwell,401 p.2d 349,66 wash.2d 115.

wash.app Div.1 2001. whether the waiver of counsel is valid lies within the sound discretion of the trial court, who should indulge every presumption against a valid waiver,U.S.C.A.CONST. Amend.6. STATE v. Silva,31 p.3d 729, 108 wash.app.536. there is no formula for determining a waiver of counsels validity, butr the preferred method is a courts colloquy with the accused on the record detailing at a minimum-penalty the seriousness of the charge, the possible maximum penalty Involved, and the existence of technical,procedural rules governing the presentation of the accueds defense. U.S.C.A CONST.Amend.6. STATE V. Silva,31 p.3d 729,108 wash.app.536.

arugment

11a wash d 2d-493 641.9 wash.app div 1 1985 Evidence was inadequate to establish the defandant made a knowing and intelligent waiver of counsel, where questions that were asked of defandant primarily required "yes" or "no" responses and did not establish defandants understanding of importance of waiving counsel,threr were no inquiries about defandants education, literacy,back ground or prior courtroom experience,and there were no inquiries about defandants psychiatric treatment either befor or after the offense.

wash app. div 1 1988. Colloquy on record is preferred means of ensuring that defendants understand risk of self-representation. wests rcwa Const. Art 1, §22; Amend. 10; U.S.C.H. Const. Amend. 6. state v smith, 749 p.2d 202, 50 wash.app.524, review denied 110 wash.2d. 1025.

wash.app.div. 1 1986. whether valid waiver of right to counsel has been made is within sound discretion of trial court. state v. Sinclair, 730 p.2d 742, 46 wash.app.433, review denied 108 wash.2d.1006.

wests rcwa 10.77.020. state v. Hahn, 707 p.2d 699, 41 wash.app.876.

reconsideration denied, review granted 105 wash.2d 1001, reversed 726 p.2d 25, 106 wash.2d 885.

wash app. div. 3 1992. determination that defendant was intelligently waived counsel is within discretion of trial court. state v. Vermillion, 832 p.2d 95, 66 wash. App.332, review denied. 847 p.2d 481, 120 wash 2d 1030

wash app div 3 1982 prior to accepting waiver of counsel, court must inform defendant of dangers and disadvantages of self-representation so that record will establish that he knows what he is doing and his choice is made with eyes open. STATE v. Dougherty, 655 p 2d 1187, 33 wash app 466, review denied 99 wash.2d 1023. prior to accepting waiver of counsel, defendant must be subjected to penetrating and comprehensive examination by court to determine subjective reasons behind refusal to accept counsel state v. Dougherty 655 p.2d 1187, 33 wash.app.466, review denied 99 wash.2d 1023..

m.s susan

on case # 312445 like to have a seconded evaluation done by eastern state hospital by doctor i was on pills , achool, weed, spice, was not in the right mind need seconded appion and transported tom eastern state hospital to and evaluation feb-6-2012 i was arrested .to see a psychiatrist at state hospital for competence, ("diminished capacity") go back to trial.

on case#314430 like to go back to trial for case or if you can beat the assault 2 owo what is your opion on this stuff/ please reply .

respectfully

david wayne halls #973846 c-a-28-1
coyote ridge correction center
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1301 n. epharata avenue
connell, washington, 99326 0769

thanks

david wayne halls

David Wayne Halls

