

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON )  
)  
Respondent, )  
)  
v. )  
PATRICK J McAllister )  
(your name) )  
Appellant. )

No. 44031-8-11

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

FILED  
COURT OF APPEALS  
DIVISION II  
2013 SEP 18 PM 1:07  
STATE OF WASHINGTON  
DEPUTY

I, PATRICK J. McAllister, 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

please see attached statement

Additional Ground 2

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

Date: 9-13-13

Signature: Patrick J McAllister



## Statement of Additional Grounds

### A. ineffective Counsel

A. Defense Motions in Limine 9, 10, and 12 and court's rulings. please see motions

Exclude Nurses Testimony on hearsay Grounds: Court's ruling at (37) can readdress at the time of testimony, but Attorney's Next did

Exclude both Nurses titles as Sexual Assault Nurse Examiners: Court's ruling (at 38-39) should have done 403 with the right facts, e.g. only Culbertson was a Sexual Assault Nurse Examiner. Should have had court re-address STD exclusion in accordance with stipulation signed at 6, please see stipulated order

Failure in close to clearly state Culbertson examination was one that Ms Lorega and prosecution was dissatisfied with (671)  
Failure - To object to hearsay by Nurse Culbertson including statement that S.L. said she had been in a physically and sexually abusive relationship (389) despite court ruling that they could re-address this issue (37)

Failure - To cross examine (S.L. Miss Lorega) about when S.L. checked in at the nurse's office. S.L. filled out a form that ask if she had been physically or sexually abused in the last year. S.L. wrote down that she was not abused.

Misconduct during the testimony of Nurses. Prosecutor by leading questions got White to say that bruising she observed was trauma related to sexual abuse, at (373) and ~~on~~ re-direct the bruising she saw consistent with sexual abuse/Trauma (at 378.) S.L. came in on a referral on June 18<sup>th</sup> 2010. There was a written report -

on it (at 370) (Even though The prosecutor knew it was caused by STDs) (stipulation at 6) (My lawyer indicates nurses testimony irrelevant due to stipulation a 12)

It should be noted that I was tested for STD and was cleared from having any, The Doctor report is in The record,

My lawyer Casey Arbenz indicates bruising caused by S.T.D (at 36) S.L. indicates To White (Nurses) that she was dissatisfied with previous (Culbertson's) exam at Harrison (at 379)

Prosecutor had Culbertson list her impressive credentials as a Sexual Assault Nurse Examiner (at 387) and then had her testify as to S.L. acute symptoms (at 389-390) which need urgent treatment (at 391), but she was prevented from saying that the injuries were due to the S.T.D because of the stipulation (at 12) and for obvious reasons The prosecutor did not have her give an opinion.

Note: The order that Nurses White testified and Culbertson testifying a day later was designed to confuse The jury and not let jury know that S.L. because of Law enforcement referral, went shopping for another opinion, see quote from Transcript (at 387). Culbertson's exam of S.L. was on June 16, 2010 (at 388) see also quote and note that followed (at 389-390)

Culbertson Testified as to blood filled lesions (692) Disingenuous because prosecutor knew These injuries were the result of an S.T.D. Lesions (692)



No statements about S.L. living at The dove house  
 Court's ruling (at ~~38-39~~<sup>39-40</sup>); failure by defense  
 to object when Temut Perkins violated order by  
 referencing dove house as "unsayable word" (At 245)  
 After court had sustained two objections where Mr. Perkins  
 referenced Dove House (At 244-245)

Failure to get pre-trial ruling on admissibility of  
 Mr. Geraldo S. police report court never informed of  
 significance of report discussed in sentencing memorandum  
 at pg 3 should of asked court about admissibility  
 of pre-trial report and informed court as to the reason  
 for police report i.e. he was threatened by thugs  
 that had a card he had given to S.L. Failure to  
 attach report as exhibit 3 as was stated in memorandum  
 my discussion of why it's important (at 755-56)

Failure to ask right question to admit police report  
 should of asked Mr. Geraldo S. had you been threatened  
 not to testify (at 452-53) with evidence Ms. S.L. was behind it.

Prosecutor Misconduct Prosecutor was informed right  
 after Mr. Geraldo S. <sup>iniano</sup> was threatened not to testify  
 by relatives of S.L.

Not only did the Prosecutor not inform the court,

but actively prevented Mr. Geraldo S. from  
 testifying about being threatened (At 452-53)

Prosecutor lied when he told the jury that Ms. S.L.  
 would not have to go see a US immigration doctor.  
 When he gave my lawyer S.L. appointment date and time  
 of when she saw the doctor in WA state

## Miscellaneous ineffective

Failure to present an order reflecting judge's ruling on motions in limine (Ruling at 37-40)

Failure to object to leading questions (rebuttal direct SL <sup>601-03</sup>)

Failure to prepare/elicit testimony from Omanas that Mr. McAllister spent weekend of 4-20-21 2010 at Omanas' House  
(Mary Ann testimony at 423-433) (Dennis testimony at 437-440)

Failure to establish the frequencies of phone calls between Mary Ann and SL. Came up in prosecution's cross of Mary Ann that "we call each other most of the time" (at 435)

Failure to call ~~Kari~~ Kari Clark my mom as a rebuttal witness meant that my lawyer missed opportunity to have wedding dress admitted for impeachment purposes.  
Kari Clark direct (at 469) Failure to recall Kari Clark she would have testified about my injuries as well as my doctors.

Failure to object to prosecutor's closing argument that defense should have produced doctors to testify as to my medical condition. (Prosecutor's accusations at 690)

Violated prosecutor's order in limine #11 missing witness doctrine

Failure to admit phone records to show frequencies of S.L. and Mary Ann's conversations (at 435) <sup>ANN</sup> to show that S.L. talked to her sister many times (at 559)

Rose S.L. sister claimed she spoke with S.L. on phone only twice (at 205) phone records would show that Rose called MANY MANY TIMES. The phone records would show that Rose was lying

Failure to object to Temur rebuttal cross that I was scamming L and I (at 584) in violation of prosecutor order 4 and 5 (orders at 27) defense order (5 at 32)

Failure to recall MARY ANN she testified that S.L. told her that sex was consensual

Failure to recall Mr. <sup>Sabiniano</sup> Gerald ~~he~~ testified that S.L. gave him 2 cell phones and that S.L. boyfriend called when she was at embassy. And would testify again that S.L. admitted that she was in love with another man. And that she only need me for financial help for her family and to be able to come to the US.

Misconduct

A. Violation of prosecutor's own order in timeline 4, 5, 11  
4 & 5 No referencing or description of character trait (403)(b) No commenting on credibility of a witness, rulings (at 27) Both of prosecutor's own orders violated by prosecutor in direct of Temur by inviting him to testify that I scammed L and I (at 584) and in close by comment that P at is no Temur (at 648)

Prosecutor states in close that S.L. made journal at Garrett's request (at 653) when it was he who made the request (S.L. cross at 344)



## Misconduct

Prosecutor Missstated and Lied About  
Ms. Lee's testimony concerning what S.L.'s obligations  
were to law enforcement for U visa e.g. "she could  
refuse to cooperate" and she could refuse to testify"  
(both at 697) [REDACTED]

Prosecutor Burden shifting That defense should have  
produced other letters ("who controls that?") (at 691)  
objection at 690 preserved issue  
Prosecutor Lied - We gave him the other letters

IA vott dire prosecutor states legal definition of  
elements of crimes (at 74 776)

Use of leading questions (Rose at 207-209)  
(Nurse White at 373, 378) (rebuttal direct of S.L. 601-03)  
(rebuttal re-direct of S.L. at 612) (rebuttal re-direct  
of temar at 585)

Bone Club analysis (at 108, 162-167) (local media was  
present during vott dire) (and at 175)

Court improperly excluded wedding dress on relevancy  
grounds (at 469) Abuse of discretion

Bad audio especially during close makes it  
impossible for court to conduct proper review

prosecutorial mismanagement  
 prosecutor ask for a continuance against  
 Defense objection. Continuance was granted  
 This was prejudiced to my case because  
 A lot of my witness came from out of state  
 and they could not reschedule the last minute  
 Prosecutor had a year to get his witness  
 in court, prosecutor continuance at the late date  
 was design to negatively affect my trial.  
 I was prejudiced because of late continuance  
 State v Saunderson C.R. 3.3(h) C.R. 3.3(f)(2)  
 C.R. 3.3(f)(1)

### Ineffective counsel

Before trial started Mr Hester told me that you're  
 "not going to get an "A" Defense you're going to get an  
 "B" Defense but for the money you have given us  
 it's adequate"

Mr Hester also told me that he didn't want to come  
 all the way to Pt. Townsend to make prosecutor compel  
 to discovery request. ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
 it ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

### Failure to call S. L. boyfriend in US.

In Taymere Perkins deposition he stated that S. L. had a  
 boyfriend just after leaving me. This is not consistent  
 with someone that allegedly had been sexually assaulted many times

### Miscellaneous ineffective counsel

My Lawer's gave me several Subpoena to give to my witness Just 5 days before They were to Testify, This was ineffective and highly inapptopriate Because of The late date and a few of my witness were from out of state. My Lawer's Knew I wasn't permitted to Leave the state,

### Falute to properly interviwe my witness.

My Lawer only Talked to my witness in the court Hallway at the same time for Just a few minutes

### Prosecutor Misconduct

At trail The prosecutor tryed to missLead The Jury about a photo that the prosecutor Tryed to make The Jury Think That it was Two different pictures when in fact it was The same one with The negative reversed. This was just one of The Cleaver ways The prosecutor Tryed to deceiv The Jury.

At Trail The prosecutor Tryed to deceiv The Jury. By having S.L. Testify to why she changed her story. S. L. said she didn't understand Tagalog. But in The testing order in MAY 2010 S. L. was speaking in Tagalog and The state provided a interpreter for her



Lawyer failed to record shellyn  
when my lawyers had her read a letter  
that she left at are HOME.

Page 342 -14 before we take her testimony  
outside the presence of the jury.

Court: sure any problem with that

Mr. HESTER: I don't need to take testimony  
about it, I just wanted to informally ask  
her about it.

12 - COURT: so you want to ask her about that  
outside the presence of the jury.

14 - Mr. HESTER two or three minutes

18 - COURT: you don't want a record of that

19 - Mr. HESTER: NO

Then Mr. HESTER had shellyn Lotega read  
the letter that she left at are HOME.

Shellyn Lotega deliberately left out the word  
"Husband" trying to deceive the court.

Then Mr. HESTER pointed at the word Husband and said to Sheryllyn can you read it using this word "Husband". Then Sheryllyn knowing she was caught in deception read the letter including the word "Husband" 3 times.

This would have gone a long way to show the jury that she deliberately tried to deceive them.

But the jury never knew that she tried at first to leave the word "Husband" out. if it was recorded it would have gone a long way to impeach her testimony.

Page 361 1-6 Then Mr. HESTER had Sheryllyn read the letter

1-6 okay. How are you my husband? How's your family? I miss you all. You know my husband, it's only here that I have experienced happiness in all the place that we been to. I especially after seeing and knowing you I've been happiest. My husband, I love you so much. Don't forget that I always love you even if I'm far away. You know I always think about you.

Inclusion because of The  
Prosecutor's Flagrant and culminate  
Violation. I am asking for a dismissal  
of all charges with prejudiced.

Sincerely

Patrick J. McAllister

Patrick J. McAllister

Under RCW 9.94A.010 (6) Making  
frugal use of state resources, would be  
To dismiss with prejudice.

CERTIFICATE OF SERVICE  
I certify that I mailed  
1 copies of SAG  
to Backlund Mistry  
& Brotherton  
10/1/13  
Date Signed AW