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In The Court of Appeals
For Division I

Curtis Tanzi, Appellant vs. State of Washington, Respondent.	Motion For Statement of Additional Grounds R.A.P. 10.10 Case # 70324-2-I

I. Facts.

The Appellant now comes forth to State that the following additional issues should also now be considered in this appeal:

(1). The prosecutor committed numerous acts of misconduct from beginning of trial to closing arguments;

(2). The Judge committed misconduct by showing bias, prejudice and favortisim by allowing the State to allow testimony and denying defense;

(3). officer Southworth had committed Police misconduct during investigation; and

(4). The State failed to prove Assault 2° and Accomplice Liability.

II. Argument

Did The Judge Commit Misconduct During the Trial To Require Reversal?

There are instances that the Judge had shown bias towards the defense and gave the leverage to assist the State into this conviction. Due to these issues that will be now brought forth will show that this court must now review this conduct for an abuse of discretion. McMillian v. Castro, 405 F.3d 405, 409 (6th cir. 2005).

There were numerous issues that were raised in the suppression hearing and the one that affected the outcome of this trial the most is that the Judge denied the defense to submit into evidence of the co-defendants conviction of Assault in the Second degree. (2/26 RP at 50).

Where competing documentary evidence must be weighed and issues of credibility resolved, the Substantial evidence standard is approprlate Dolan v. King County, 172 wash. 2d. 299, 310, 258 P.3d. 20 (2011).

This and the Petridge ruling are compelling factors that should be reviewed in this record of the suppression hearing de novo. Progressive Animal Welfare Soc'y v. Univ. of Wash, 125 wash. 2d. 243, 252, 884 P.2d. 592 (1994) (quoting Smith v. Skagit County, 75 wash. 2d. 715, 718, 453 P.2d. 832 1969)), Dolan, 172 wash. 2d. at 310, 258 P.3d. 20.

The prosecutor had asked a leading question on whether Steve Carter had gotten up. and the Judge failed to sustain the objection.

(see) 3/28 RP at 92-93.

The defense wanted to question the victim of whether he was conscious or not after being punched by looking at the video after the state had already allowed the victim to answer similar questions and the Judge denied this request. 3/28 RP at 147.

The defense counsel had objected to the witness Freeman to state what this defendant might have said during confrontation was hearsay but the Judge allowed it and this objection should of been sustained. 3/28 RP at 168.

The prosecutor asked a leading question that needed opinion based testimony to what the defendants actions meant when the witness Freeman (Homeless Street musician) seen this defendant two weeks later after the incident the defense objected and the Judge overruled and allowed this testimony. 3/28 RP, at 172.

The Judge allowed opinion based-evidence be introduced by the witness Mullenberg on whether two seperate groups were actually one big group at the pizza restaurant

when there was really no proof because none of these patrons were questioned or brought to trial to testify. 4/1 RP. at 56.

During the closing arguments the Judge was also bias by allowing the State to comment on the defenses evidence leaning towards the State showing the Jury that he was more persuaded in the States Theory. 4/2 RP at 140.

Any testimony regarding verbal and non-verbal impressions of deceptiveness by a defendant constitutes an impermissible opinion as to the defendants guilt that is not a harmless error. State v. Bar, 123 Wn. App. 373 (2004).

The Judges errors of allowing the States admission of opinion testimony was error of constitutional magnitude and that error was "not-harmless" given the lack of evidence of this defendants guilt of accomplice liability. An allegation in general, alone cannot be harmless without "hard evidence" introduced or submitted. State v. Kirkman, 126 Wn. App. 97 (2005).

It has been established that it is reversible

error for the trial court to belittle counsel, demonstrate outright bias, or so infect the trial with the appearance of partiality that the trial courts conduct inevitably improperly influenced the Jury. McMillian V. Castro, 405 F.3d. at 409-10.

The "threshold inquiry" is whether the Courts conduct falls outside the realm of acceptance. Id at 410.

The factors include the nature of the issues at trial, the conduct of counsel and witnesses, the tone of the Judicial interruptions, the extent to which they were directed at one side more than the other, and the presence of any curative instructions at the close of the proceedings. Id. If so, it is reversible error. Id at 410.

These actions are no different than the State hiding favorable evidence from the defense and consists with a violation of his constitutional Due Process Rights. Brady 373 U.S. at 87.

Under the Supreme Courts current Jurisprudence, to establish a Brady Violation, the defen-

must demonstrate as he has here the existence of each of the three necessary elements:
(1) The evidence at issue must be favorable to the accused either because it is exculpatory, or because it's impeaching;
(2) that this evidence must have been suppressed by the State, either willfully or inadvertently, and
(3) Prejudice must have ensued.

All of this has reflected in these issues raised that occurred in the Suppression hearing and then during trial. Strickler v. Greene, 527 U.S. 263, 281-82, 119 S.Ct. 1936, 144 L.Ed.2d. 286 (1999).

The animating purpose of Brady is to preserve the fairness of criminal trials. Morris v. Ylst, 447 F.3d. 735, 742 (9th Cir. 2006)

This court must review alleged Due Process Violations de novo. State v. Cantu, 156 Wn. 2d. 819, 831, 132 P.3d. 725 (2006).

Did The State Elect Testimony By Witnesses that was Perjured? And was Misconduct Conducted?

As testimony was heard in this trial it is obvious that not only was opinion based testimony used but the State had leaded their witnesses testimony at times and vouched for the credibility of their witnesses which all had amounted to prosecutorial misconduct.

3/26 RP at 8, 9-10, 10, 3/27 RP at 75, 3/28 RP at 92-93, 109, 117, 168, 172, 4/1 RP at 52, 56, 4/2 RP at 101, 105, 114, 137-38, 140.

Prosecutorial misconduct requires a showing that the prosecutors conduct was both improper and prejudicial in the context of the entire record and circumstances at trial. State v. Hughes, 118 Wn. App. 713, 727, 77 P.3d. 681 (2003) (citing Stenson, 132 Wn. 2d. at 718), review denied, 151 Wn. 2d. 1039 (2004).

First we must raise the issues of the credibility of a witness factor in this case.

Since atleast 1935, it has been established law of the United States that a conviction obtained through testimony the prosecutor knows to be false is repugnant to the constitution. Mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct. 340, 79 L.Ed. 791 (1935)

This is so because, in order to reduce the danger of false convictions, the courts rely on the prosecutor not to be simply a party in litigation whose sole object is the conviction of the defendant before him. The Prosecutor is an officer of the court whose duty is to present a forceful and truthful case to the Jury, not to win at any cost. See, e.g., Jenkins v. Artuz, 294 F.3d. 284, 296, n. 2 (2d. Cir. 2002).

The prosecutor had Started off by asking a leading question in the direct which is not allowed about whether the victim got up or not. 3/28 RP. at 92-93.

Then the prosecutor Started to testify and lead-ed the witness Engler into testimony needed. 3/28 RP at 117.

The prosecutor had requested the witness, Freeman to make opinion based testimony and hearsay testimony on what occurred during the confrontation. 3/28 RP at 168.

It went further when the prosecutor asked not only opinion based testimony but also came

a form of expert testimony on what the possible actions of this defendants reactions meant when they seen eachother two weeks later. 3/28 RP at 172.

When the Prosecuter had confronted witness Mullenberg the prosecuter stated to the witness and Jury things that this witness never had testified to about what Freeman said when he came in to the pizza Restaurant and stating that Freeman said to call 911. 4/1 RP at 52.

During closing arguments the prosecuter had stated to the Jury a comment of "Fill in the Blanks comment that is reversible error when they elect the Jury to add evidence that it not available in the case. 4/2 RP at 138.

Finally the prosecutor had commented on the evidence that the defense had brought forth as if it was no good. 4/2 RP at 140.

Again, opinion based testimony is never harmless error at trial. Kirkman, 126 Wn. App. at 97, Bar, 123 Wn. App. 373.

The State also "may not" vouch for a gov-

ernment witnesses credibility as what the State has done. State v. Coleman, 155 wash. App. 951, 957, 231 P.3d. 212 (2010), review denied, 170 wash. 2d. 1016, 245 P. 3d. 772 (2011).

Vouching occurs when the State places the prestige of the government behind the witness or indicates that information not presented to the Jury supports the witnesses testimony. State v. Smith, 162 wash. App. 833, 849, 262 P.3d 72 (2011), review denied, 173 wash. 2d. 1007, 271 P.3d. 248 (2012).

when this court reviews the testimony of the two main witnesses about their facts of what occurred when they reviewed themselves it was obvious that both were inconsistent to what could be seen in the video (i.e. cigarettes being passed, what and when the witness see the victim get hit, ect), which makes their now testimony knowingly perjured, which violates Due Process, even if the witnesses perjured testimony goes only to his credibility as a witness and not to the defendants guilt. Mooney, 294 U.S. at 112, 55 S.Ct. 340, Napue, 360 U.S. at 269, 79 S.Ct. 1173.

To prevail, this defendant has shown that (1) the testimony was actually false, (2) the prosecution knew or should have known that the testimony was actually false, and (3) that the false testimony was material. United States v. Zuno-Arce, 339 F.3d. 886, 889 (9th Cir. 2003); Hayes v. Brown, 399 F.3d. at 978 (reversal Automatic).

The Statements that were brought forth by the States witnesses in this case were and are highly prejudicial. State v. Bourgeois, 133 Wn. 2d. 389, 403, 945 P.2d. 1120 (1997)

The prosecutorial misconduct here is now grounds for reversal since there is substantial likelihood that this misconduct affected the verdict. State v. Neal, 144 Wn. 2d. 600, 611, 30 P.3d. 1255 (2001); as amended (July 19, 2002) (internal quotations marks omitted) (quoting State v. Smith, 106 Wn. 2d. 727, 780, 725 P.2d. 951 (1986)). State v. Russell, 125 Wn. 2d. 24, 86, 882 P.2d. 747 (1994); cert. denied, 514 U.S. 1129 (1995).

There were a few instances where the defense Counsel failed to object, 4/1 RP at 52 (Prosecutor testifying to facts witness never stated),

4/2 RP at 101 (prosecutor lies about Freeman Seeing the punch hit the victim); and when the Prosecutor stated "Fill in the Blanks." 4/2 RP at 138.

Even though there was no objection there the misconduct was "so flagrant and ill intentioned" that not even a curative instruction could have prevented this resulting prejudice. State v. Ziegler, 114 wn.2d. 533, 540, 789 P.2d. 79 (1990), (see also) State v. Thorgerson, 172 Wash. 2d. 442-43, 258 P.3d. 43 (2011).

This court will review any allegedly improper Statements within the context of the prosecutors entire arguments here, the issues in this case, the evidence that was discussed in these arguments and the jury instructions. State v. Dhaliwal, 150 wn. 2d. 559, 577, 79 P.3d. 432 (2003).

Even if this court had not wanted to accept that any one was not enough for reversal it must rule that all of them together do apply to the Cumulative error doctrine. State v. Greiff, 141 wn.2d. 910, 10 P.3d. 390 (2000). (see also) United States v.

LaPage, 231 F.3d. 488, 491, 271 F.3d. 909 (9th cir. 2000).

Did the State Actually Prove Assault 2 with all the Facts?

When this court reviews what the element of Assault 2 is along with Accomplice Liability it will see that the State is now confusing this crime with same criminal conduct where if they (a) involve the same criminal intent; (b) were committed at the same time, and (c) were committed at the same place. State v. Tili, 139 wn.2d. 107, 123, 985 P.2d. 365 (1999), Aff'd 148 wn.2d. 350 (2003); State v. Grantham, 84 wn. App. 854, 857-58, 932 P.2d. 657 (1997).

This issue is not one person committing multiple acts, but another committing a crime and this defendant now being blamed for their actions which is a misapplication of the Law. State v. Larry, 108 wn. App. 894, 915, 34 P.3d. 241 (2001); review denied, 146 wn.2d. 1022 (2002).

This is a case of accomplice liability where the evidence must show that this defendant aided in the planning or commission of the crime "and" that he had knowledge of the crime. State v. Trout, 125 wash. App. 403, 410, 105 P.3d. 69 (2005).

It is clear that this defendant had left the scene and when the other co-defendant came up what should be apparent how they did not plan this together is because when he came up he tried to kick the victim in the head and then secondary after the fact had taken the skateboard to hit the victim, and that was stated by the witnesses and can be seen in the video that is also present in this appeal. United States v. Briscoe, 574 F.2d. 406, 408 (8th cir. 1978), United States v. Bad Cob, 560 F.2d. 877, 880 (8th cir. 1977), (see also) State v. Clark, 78 wn. App. 471, 477, 898 P.2d. 854 (1995).

There were numerous statements made where even the police had an issue of even seeing it more than just an Assault 4, if it was even

this defendant that committed the crime due to witnesses stated there was only a punch to the victim, 3/28 RP at 107; 164, 165; and the police did not seem concerned about this defendant 3/28 RP at 108, 4/1 RP at 34, 51.

These statements were in evidence and subject to comment just as any other bit of evidence, United States v. Chaney, 446 F.2d. 571, 575-76, cert. denied, 404 U.S. 993, and these issues are not relevant. Barnard v. United States, 342 F.2d. 309, 317 (9th cir. 1965); Davis v. Alaska, 415 U.S. 308, 316-17, 94 S.ct 1105, 39 L.Ed.2d. 347 (1974), Johnson v. Brewer, 521 F.2d. 556, 561 (8th cir. 1975).

There was insufficient evidence here to prove four of the jury instructions to convict (1) Jury instruction 7 of substantial injury 4/2 RP at 84-85; (2) Jury instruction 10 of Recklessness or acts reckless; (3) Jury instruction 12 §(2) substantial Bodily injury and (4) accomplice Liability was not proven here because of Lack on knowledge, 4/2 RP at 86, due to then any parent could be blamed for their childs actions if they talked to them before school and they go and commit a crime.

The real facts doctrine requires that a sentence be based upon the defendants current conviction, his criminal history, and the circumstances of the crime. State v. Coats, 84 wash. App. 623, 626, 929 P.2d. 507 (1997) (citing State v. Tierney, 74 wash. App. 346, 350, 872 P.2d. 1145 (1994).

This court cannot continue to allow the Trial court base this sentence on an unproved crime, State v. Quiros, 78 wash. App. 134, 138-39, 896 P.2d. 91 (1995), or impose a sentence based on the elements of a more serious crime that this state did not prove. Wakefield, 130 wash. 2d. at 475-76, 925 P.2d. 183; State v. Barnes, 117 wash. 2d. 701, 708, 818 P.2d. 1088 (1991).

The reliance on such facts that were shown in this case does not amount to assault two and violates the real facts doctrine "in all circumstances". State v. Taitt, 93 wash. App. 783, 791, 970 P.2d. 785 (1999).

Being convicted to this crime is no different then being sentenced to an exceptional sentence. State v. Kolesnik, 146 wn. App. 805, 192 P.3d. 937 (2008), review denied, 165 wn. 2d. 1050 (2009) (quoting State v. Ritchie, 126 wn. 2d. 388, 393, 894 P.2d. 1308 (1995))

The investigation also added to the convict-
ion of this case due to they failed to do a
prover investigation.

There were two instances that occurred
that never should have: (1) officer Southworth
was investigating the crime and known that
Sarah Fox was with one of the suspects and she
could have proven whether this defendant was
actually the defendant at the scene or not but
failed. 4/2 RP at 30.

Then allowed the owner to hand over what-
ever video footage he felt was relevant to the
case which there could have been more footage
that was favorable to the defendant. 4/2 RP at 37.

It was Judge Schultheis of the court
of Appeals (Div 3), that had characterized that
such behavior as this as outrageous police
misconduct and in possible violation of the
Due Process Clause of the Fourteenth Amendment
so as to shock the Judicial conscience. State
v. Valentine, 75 Wash. App. 611, 625, 879 P.2d. 313 (1994),
review granted, 128 Wash. 2d. 1001, 907 P.2d. 298 (1995),
(see also) State v. Lively, 130 Wash. 2d. 1, 921 P.2d. 1035,
1044-49, 65 U.S.L.W. 2180 (1996).

The mere presence of this defendant without aiding the principle dispite knowledge of the ongoing criminal activity is not sufficient to establish accomplice liability. State v. Parker, 60 wash. App. 719, 724-25, 806 P.2d. 1241 (1991).

Rather, the State must prove beyond a reasonable doubt, which it did not, that this defendant was ready to assist in this crime "and" that he shared in the criminal intent of the principal act of the co-defendant, thus demonstrating a community of unlawful purpose at the time the act was committed. State v. Castro, 32 wash. App. 559, 564, 648 P.2d. 485 (1982), State v. Collins, 76 wash. App. 496, 501-02, 886 P.2d. 243 (1995).

Did The Defendant Ever Receive Ineffective Assistance of Counsel?

As this court will see this defendant did have very good proper representation throughout this case except at a few points in the case. But as this court knows it only takes one mistake to change the outcome of a trial, not a

numerous amount.

The Federal and State Constitutions guarantee a criminal defendant the right to effective assistance of counsel. U.S. Const. Amend VI, Wa. Const. Art. 1 §22.

This defendant does have to claim that there was ineffective assistance and he will show deficient performance and resulting prejudice. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d. 674 (1984).

Generally, an issue cannot be raised for the first time on appeal unless it is a manifest error affecting a constitutional right. R.A.P. 2.5(a)(3).

There is a two-part analysis to show to the Strickland test. State v. Tilton, 149 Wash. 2d. 775, 783-84, 72 P.3d. 735 (2003).

First, the defendant must show that counsel's performance was deficient based on the entire record. Tilton, 149 Wash. 2d. at 784, 72 P.3d. 735; State v. McFarland, 127 Wash. 2d. 322, 334-35, 899 P.2d. 1251 (1995).

Second, the defendant must show that the deficient performance prejudiced him. Tilton, 149 Wash. 2d. at 784, 72 P.3d. 735.

The prosecutor had asked a witness to point out the defendant when the only view she had of the defendant was his back. 3/28 RP at 109.

The prosecutor lead the witness Engler into what he wanted to be said. 3/28 RP at 117.

The prosecuter made statements to the witness Mullenberg to what the other witness was suppose to have said to him when he came into the restaurant and they were never said. 4/1 RP at 52.

The prosecuter lies by stating that Freeman was playing the Bongo Drums and that he seen the punch because none of that was never stated. 4/2 RP at 101

The prosecuter made statements of Fill in the Blanks comment in closing arguments. 4/2 RP at 138.

The U.S. Supreme Court held that the constitution protects a defendant against a conviction based on evidence of questionable reliability, not by prohibiting introduction of the evidence, but by affording the defendant means

to persuade the Jury that the evidence should be discounted as unworthy of credit. Perry v. New Hampshire, — U.S. —, 132 S.Ct. 716, 723, 181 L.Ed.2d. 694 (2012).

When evidence is so extremely unfair that its admission violates fundamental conceptions of Justice have the courts imposed a constraint tied to the Due Process Clause. Id (quoting Dowling v. United States, 493 U.S. 342, 352, 110 S.Ct. 668, 107 L.Ed.2d. 708 (1990)).

Mistaken eyewitness identification is a leading cause of wrongful conviction, as recognized by washington courts. State v. Riofta, 166 wash.2d. 358, 371, 209 P.3d. 467 (2009). (citing Brandon L. Garrett, Judging Innocence, 108 Colum. L. Rev. 55, 60 (2008).

To protect defendants such as this against unreliable eyewitness testimony, the washington State Supreme Court held in, State v. Cheatam, that when eyewitness identification is a key element of the States case, the trial court has the discretion to admit expert testimony on the subject to assist the Jury in assesing its reliability which should have been done here. 150 wash.2d. 626, 649, 81 P.3d. 830 (2003).

The courts must employ a two-part analysis to determine whether the challenged identification is admissible. State v. Vickers, 148 Wash. 2d. 91, 118, 59 P.3d. 58 (2002).

First, the defendant must establish that the identification procedure was impermissibly suggestive. Id.

And if so, the court then must consider, based upon the totality of the circumstances, whether the procedure created a substantial likelihood of irreparable misidentification. Id.

Second, this court must consider the reliability factors set forth in Neil v. Riggers, which states: (1). The witnesses opportunity to view the criminal at the time of the crime; (2) the witnesses degree of Attention, (3) the accuracy of the witnesses prior description of the criminal; (4) the Level of certainty demonstrated at the confrontation and (5) the time between the crime and the confrontation. 409 U.S. 188, 199-200, 93 S.Ct. 375, 34 L. Ed. 2d. 401 (1972), State v. Linares, 98 Wash. App. 397, 401, 989 P.2d. 591 (1999), State v. Vaughn, 101 Wash. 2d. 604, 608, 682 P.2d. 878 (1984).

This court must review this identification issue de novo. State v. Taylor, 50 Wn. App. 481, 485, 749 P.2d. 181 (1988).

Had these issues not occur the outcome of these proceeding would obviously have differed, but for this counsels deficient performance by not objecting. State v. Grier, 171 Wash. 2d. 17, 33, 246 P.3d. 1260 (2011); 168 Wash. App. 635, 278 P.3d. 225 (2012).

Did The State Violate The Defendants Right To A Fair Trial By NOT Telling Him That Some Witnesses Would Testify At The Trial on the Day of The Trial?

It is clear by the record that the prosecutor obviously tried to hide their strategy to the defense by not disclosing what witnesses would be testifying at trial so they would not have a ~~chang~~ chance to interview the witness and allowing the attorney to exercise reasonable Due Diligence. State v. Macon, 128 Wn. 2d. 784, 799-800, 911 P.2d. 1004 (1996).

But in washington, Full disclosure of the States evidence which includes the witness list has been long been a rule. The State "must" disclose any books, papers, documents, Photographs, or tangible objects which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the defendant that it has in its possession by the date of the omnibus hearing. CrR. 4.7(a)(1)(v).

This disclosure is a continuing obligation on the state CrR. 4.7(h)(2).

This trial court failed to regulate this issue by not allowing the state to use these witnesses since there was not sufficient time to make a proper investigation and use of the time. CrR. 4.7(h)(4).(see): Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d. 215 (1963)

The court must now apply the Brecht harmless error test in which an error is not harmless if it has a substantial and injurious effect or influence in determining the Jury's verdict. Brecht v. Abrahamson 507 U.S. at 637, 113 S.Ct. 1710 (quoting Kotteakos v. United States, 328 U.S. 750, 776, 66 S.Ct. 1239, 90 L.Ed 1557 (1946)).

The State, rather than the defendant, bears the "risk of doubt" in the harmless-error analysis. O'Neal v. McAninch, 513 U.S. 432, 439, 115 S.Ct. 992, 130 L.Ed.2d. 947 (1995).

Thus, the State must now provide this court with a "fair assurance" that there was no substantial and injurious effect on the verdict. Gray v. Klauser, 282 F.3d. 633, 651 (9th Cir. 2002); United States v. Hitt, 981 F.2d. 422, 425 (9th Cir. 1992). O'Neal, 513 U.S. at 443, 115 S.Ct. 992; Payton v. Woodford, 299 F.3d. 815, 828 (9th Cir. 2002).

Just reviewing the actions of the State and the way they brought forth there witness list was a violation of the defendants rights. 3/26 RP at 8, 9-10, 3/27 RP at 75.

This court can now decide to whether they want to dismiss the charges in this case for the actions of the State for a manifest abuse of discretion. State v. Woods, 143 Wn.2d. 561, 582, 23 P.3d. 1046 (2001)

The trial court could have dismissed and it would not be seen as unreasonable. State v. McCormick, 166 Wn.2d. 689, 706, 213 P.3d. 32 (2009) (quoting State ex rel Carroll v. Junker, 79 Wn.2d. 12, 26, 482 P.2d. 775 (1971)).

The court of Appeals must review conclusions of Law de novo. McKee v. AT&T Corp. 164 wn.2d. 372, 387, 191 P.3d 845(2008); State v. Ford, 125 wn. 2d. 919, 923, 891 P.2d. 712(1995), Smith, 154 wn. App. at 699.

The Appellant raised numerous issues in this Statement of additional grounds that are now factors for this court to realize that the elements of this crime of Assault 2° as a principle or Accomplice was not proven by any rational trier of fact beyond a reasonable doubt. Jackson v. Virginia, 443 u.s. at 319, 99 S.ct. 2781.

This court must review this Statement of additional grounds. State v. Williamson, 120 wash. App. 1001 (2004), State v. Gragg, NO. 32776-7-II(2005), Smith v. Dixon, 14 F.3d. 956 (4th cir. 1994) (citing Coleman v. Thompson, 111 S.ct. 2546, 115 L.Ed.2d. 640 (1991); Nickerson, 971 F.2d. at 1129.

III Conclusion

The Appellant now asks that this conviction be reversed, or Amended to Assault in the 4th.

I swear under the penalty of perjury that all Statements are true to the best of my Knowledge.

Dated this 5 day of May, 2014.

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Curtis [signature]
Appellant

The Court of Appeals
STATE OF WASHINGTON
Division I

Curtis Tanzy ~~Petitioner~~ Appellant v. State of Washington ~~Defendant~~ Respondent	Case No. 70324-2-I DECLARATION OF MAILING

I, Curtis Tanzy [name], declare that, on 5/5/2014 [date], I deposited the foregoing [list document/s]:

Statement of Additional Grounds (RAP 10.10),

or a copy thereof, in the internal mail system of

Coyote Ridge Corrections Center [name of institution]

and made arrangements for postage, addressed to each of the following:

The Court of Appeals	Prosecuting Atty office	Wash. App. Project
600 University St.	King County Court House King Co. Pros. Atty.	WA. App Project
One Union Square	C/O Appellate unit	C/O Kathleen Shea
Seattle, WA 98101-1176	516 Third Ave. W-554 Seattle, WA. 98104	1511 Third Ave (Suite 701) Seattle, WA. 98101

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

DATED at Connell, Washington [city, STATE]
on this 5th day of May, 2014.

Curtis Tanzy
[signature]

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