

Case # 322327

**Statement of Additional Grounds
for Review**

**State of Washington
v.
David Emory Manlove**



FILED

AUG 20 2014

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

Statement for Additional Grounds
Case # 322327
Stevens County Superior Court No. 131001262

My name is David Manlove, I am 45 years old.

In June 2011 I plead guilty to:
1st degree trespassing
3rd degree malicious mischief

I was given credit for time served (74), 2 sentence conditions (Drug and Alcohol evaluation, Mental evaluation) and a two year probation.

On July 8, 2013 I was arrested at my home (for resisting arrest, as I was told by my defense attorney) and eventually charged with;

(1)

- 1 Residential Burglary with aggravator
- 2 Malicious Mischief 1st degree
- 3 Possession Stolen Property 3rd degree
- 4 Unlawful possession of a fire arm 2nd degree
- 5 Over 40 grams marijuana

which I plead not guilty to. The 2011 charges were reinstated because of probation violation adding two misdemean-
or charges of;

- 6 1st degree trespassing
- 7 3rd degree malicious mischief

After 6 months in jail I went to trial on Jan. 22, 2014 and was found guilty on all counts, and with 0 felony points was given a 10 year exceptional sentence, and 8 months for the 2011 misdemeanors.

Apart from the aggravator on the residential burglary, (which my appellate

attorney, Dennis Morgan has already covered in his brief), I have what I understand to be 4 points of error I would like to bring to your attention.

1. Stolen property does not prove burglary.

2. The unlawful possession of a fire arm was unfounded.

3. The 8 months from 2011 was unfounded.

4. Being tried in a jail jump suit was highly prejudicial.

All Transcript references (copies included) will be referring to [Transcript of Proceeding No. 131001262 (COA No. 32232-7-III)]

1.) Mere proof of possession of

recently stolen property cannot in itself establish Prima facie evidence of larceny or burglary. State v. Mevia 53 Wash 2d 377, 333 P.2d 1095.

I now refer to exhibit A (Transcript pg. 352 Line 7-10) Mr. Wasson (the public defense attorney) in his closing argument.

"There has been no proof that Mr. Manlove was the person who entered, or remained unlawfully on any occasion in Mrs. Parkers house, no proof whatsoever."

Whats more I was arrested on July 8th, and the stolen property was found on July 9th in my absence, 24 hours after my arrest.

Exhibit B (Transcript pg. 240 Line 12-14) Sergeant Brad Manke referring to the arrest report.

"I believe it was on July 8th that I wrote the report."

Mr. Radzimski speaking (the prosecuting attorney).

"And do you have a copy of that report with you today?"

Sergeant Brad Manke,
"I do."

Exhibit C (Transcript pg. 180 Line 4-5) Deputy Michael Swim referring to the execution of the search warrant.

Mr. Radzimski, "On what date did you execute this warrant?"

Deputy Michael Swim, "That would have been on July 9th."

Stolen property does not prove burglary.

2.) The unlawful possession of a fire arm was unfounded.

The mention of a fire arm in the search warrant, and the Unlawfull possession of a fire arm 2nd degree, are based on a 2004 commitment for evaluation, of which there is no mention durning trial.

Exhibit D (Transcript pg. 31 Line 18-20)

Mr. Radzimski speaking, "In 2004 there was the civil commit, the basis for the unlawfull possession of a firearm charge in two-- 13-1-126-2 is that civil commit."

During trial a 2011 commitment for evaluation is brought up by way of exhibit 46-47.

Exhibit E (Transcript pg. 232 Line 9-12) Mr. Wasson questioning Mr. Berg (Chief deputy of the County Clerks office in Spokane) about the two documents.

"Mr. Berg, do you see my clients signature, Mr. Manlove, David Manlove, anywhere on the document?"

Mr. Berg, "No."

Exhibit F (Transcript pg. 233 Line 18-23) Mr. Wasson speaking in regards to exhibit 46-47,

"I object Your Honor. The-- as to relevance, There's no indication that this form was ever signed by or given to Mr. Manlove or that he was even present when the stipulation was entered and so I object to it on relevancy."

Fourteen days after the commitment for evaluation is a dismissing petition.

Exhibit G (Transcript pg. 236 Line 19-23) Mr. Wasson questioning Mr. Berg,

Mr. Wasson, "I-- well following

the entry of the court commissioner's order of 13th of April (2011) are you aware of whether or not the order dismissing the petition was entered subsequently on April 27th?"

Mr. Berg, "Yes that's in our file."

I now refer to the Jury instructions 13 and 14, the loss of gun rights is based on treatment, and not evaluation.

Exhibit H (Transcript pg. 315
Line 19-25)

Instruction No. 13: A person commits the crime of unlawful possession of a firearm in the second degree when he or she knowingly has a firearm in his or her possession or control and he or she has previously been involuntarily committed by court order for mental health treatment,

unless his rights have been re-
stored.

Instruction No. 14: To convict the
defendent of the crime of unlaw-
fully possessing a firearm in the
second degree each of the following
elements of the crime must be proved
beyond reasonable doubt!

1. That on or about June 19, 2013,
to July 9, 2013 the defendent
knowingly had a firearm in his pos-
session or under his control!

2. That the defendent had pre-
viously been involuntarily commit-
ed by court order for mental health
treatment.

Because I was not committed for
treatment, (or released with treatment or
medication recomended), but only for 14
day evaluation, and because I did not
recieve notification of firearm restriction
nor sign any documentation as required,

the charge of unlawful possession of a firearm 2nd degree has no basis.

3.) The 8 months from 2011 was unfounded, (Case # 11-1-00090-1).

In June 2011 I plead guilty to a 1st degree trespassing and a 3rd degree malicious mischief, and given credit for time served (74 days).

Two conditions of the sentence were that I complete a Drug and Alcohol Evaluation, and a Mental Evaluation, (which found me competent and did not have any medication or treatment recommendations).

On Aug 23, 2011 I presented the documentation proving compliance and completion with the sentence to the court.

This means that on July 8, 2013 when I was arrested for the current offenses (Case No 13-1-000126-2) the two year probation was finished for a month, and with credit for time served it had been finished for 3½ months.

Now if you find I was sentenced when the Judgement and Sentence was entered in the record (and not when I was actually sentenced in June),

Exhibit I (Transcript pg. 9 Line 19-21)

The court: "Okay. And -- and just to confirm that, now the Judgement and Sentence in that old file was entered Aug. 23, 2011."

I argue that the 8 months I recieved for the 2011 probation violation violates RCW 9.95.210.

Double jeopardy prohibition against multiple punishments requires that partial punishment exacted as a condition of probation be credited against any ultimate punishment actually imposed.
State v. Phelan (1983) 100 Wash 2d 508, 671, P.2d 1212.

Either way I understand the 8 months to be unfounded.

4.) Being tried in a jail jumpsuit was highly prejudicial.

Exhibit J (Transcript pg. 124 Line 7-12)

Mr. Radzimski questioning the victim Paula Parker,

Mr. Radzimski, "And can you please describe for the jury what he's wearing?"

Paula, "A gray and white jumpsuit."

Thank you for your time and attention.

I swear this statement to be true and correct to the best of my knowledge,

David Manlove

David Manlove
Doc # 371952

COURT OF APPEALS
DIVISION THREE
OF THE STATE OF WASHINGTON

FILED

AUG 20 2014

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

STATE OF WASHINGTON)
)
 Respondent,)
)
 v.)
)
 David Manlove)
 (your name))
)
 Appellant.)

No. 322327

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW
MOTION FOR ACCELERATED
REVIEW RAP 18.15

I, David Manlove, 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

See attachments

Additional Ground 2

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

Date: Aug 14, 2014
Form 23

Signature: David Manlove

Exhibit A

DEFENSE CLOSING ARGUMENT

1 The -- the prosecutor is right, we do not con-
2 test that these acts occurred in the State of Wash-
3 ington when you get down to the individual elements
4 of the individual counts; but we certainly contest
5 items number one and number two that on or about June
6 19th to July 9th the defendant entered or remained un-
7 lawfully. There has been no proof that Mr. Manlove
8 was the person who entered or remained unlawfully on
9 any occasion in Ms. Parker's house, no proof whatso-
10 ever.

11 There has been no proof that the entering or re-
12 maining was with the intent to commit a crime against
13 some person or property therein. And there is that
14 mental element again, there's the intent. The other
15 crimes mention -- well, particularly the malicious
16 mischief. It's obvious what the element is when
17 you're talking about malicious mischief. It's not
18 just a simple knowledge or intent, it's malicious.

19 And -- and coming back to the big why that hangs
20 over this case, why would -- and the reasonable doubt
21 that arises out of that, is you have to ask yourself
22 on these three counts relating, just exclusively to
23 Ms. Parker, the residential burglary, the malicious
24 mischief and the possession of stolen property. You
25 have to ask yourself is it reasonable that this per-

DEFENSE CLOSING ARGUMENT

1 son that she's testified to for the six or eight
2 years that she was up there by herself on the moun-
3 tain, this same Mr. Manlove who has been her friend,
4 helped her out, repaired her car, had dinner with
5 her, had dinner over at her house, had her friends
6 over, smoked marijuana with her and otherwise has a
7 good relationship right up until July 2013 and then
8 suddenly lays these accusations at his door?

9 And it does not make sense, it is not reasona-
10 ble, it does not lead to that conclusion that it --
11 it's this same person who suddenly turns and with the
12 ~~evil intent and malice ascribed by the State is the~~
13 person who commits these three counts against her by
14 her testimony and suppositions yesterday. So that is
15 the big why that's going to cloud this case.

16 That is the reason why there is reasonable doubt
17 and that is the reason why when you drive by, as the
18 prosecutor says, you have to have an abiding belief
19 in the truth in the days and weeks hence from here,
20 and unless and until you can answer that question,
21 why the change? From her own description, from her
22 own testimony, from her own background why the
23 change? And why would Mr. Manlove suddenly change
24 from the person that she has described during the
25 years following her divorce up there?

Exhibit B

DIRECT EXAMINATION OF SERGEANT BRAD MANKE

1 glary that occurred at a residence belonging to Paula
2 Parker?

3 A. Yes I was.

4 Q. And what was your role in this particular investiga-
5 tion?

6 A. After the burglary reports had been taken and par-
7 tially investigated I went up to help question the
8 suspect.

9 Q. And did you generate a report from that contact?

10 A. I did.

11 Q. And on what date was your report written?

12 A. I believe it was on July 8th that I wrote the report.

13 Q. And do you have a copy of that with you today?

14 A. I do.

15 Q. And would it help you to refresh your recollection
16 from it if there's things that you can't remember?

17 A. Yes it would.

18 Q. What was the purpose of -- or where did you go to in-
19 terview the suspect?

20 A. We went to, I believe it's a Bridgeman Rettinger ad-
21 dress but we accessed it off of Northport Flat Creek
22 Road above Snake Cove and it was a David Manlove ad-
23 dress.

24 Q. Okay. Is the gentleman that you went to contact pre-
25 sent in the courtroom today?

DIRECT EXAMINATION OF SERGEANT BRAD MANKE

- 1 A. Yes. He's sitting at the defense table.
- 2 Q. Where was the defendant when you arrived at his home?
- 3 A. He was in the house.
- 4 Q. Okay. And was there anybody else present with you
- 5 when you went out there?
- 6 A. Sergeant Blackman and Deputy Bitton.
- 7 Q. Okay. Did the defendant come outside when you ar-
- 8 rived on scene?
- 9 A. We knocked on the door and he came out the door.
- 10 Q. And did he say anything to you when you first -- when
- 11 he first came out of the home?
- 12 A. Not initially.

- 13 Q. And did you tell him why you were at his house?
- 14 A. Right. I -- I introduced who I was and that I wanted
- 15 to talk to him about what happened at his neighbor's
- 16 house.
- 17 Q. Okay. Did he -- say anything in response?
- 18 A. He immediately said I don't know anything.
- 19 Q. Did you find that statement a little odd?
- 20 A. It was odd because --

21 MR. WASSON: Objection to what he found odd

22 Your Honor.

23 THE COURT: Sustained.

24 MR. RADZIMSKI CONTINUES

- 25 Q. After Mr. Manlove made that statement what did you do

Exhibit C

DIRECT EXAMINATION OF DEPUTY MICHAEL SWIM

1 case it was approved.

2 Q. Okay. When you -- was the warrant executed?

3 A. It was.

4 Q. On what date did you execute this warrant?

5 A. That would have been on July 9th.

6 Q. Where did you execute the warrant?

7 A. At David Manlove's property at 2584 M, there's letter
8 designators attached to the -- that particular ad-
9 dress, Bridgeman Rettinger Road.

10 Q. And what county and state is this particular piece of
11 property located?

12 A. Stevens County, Washington.

13 THE COURT: Okay. I'm told the other jury
14 has a verdict and -- now let me see here Mr.
15 Radzinski, of course Deputy Swim would -- would have
16 some more questions for him and then cross-
17 examination but if we recess now or -- or adjourn I
18 guess is what I'm asking, you have seven or eight
19 witnesses tomorrow but look to be, some of them,
20 short witnesses?

21 MR. RADZIMSKI: That's correct Judge.

22 THE COURT: And so the schedule that I've ex-
23 plained to the jury here I think we're still able to
24 keep up with that.

25 MR. RADZIMSKI: Judge, I would anticipate to have

MATTERS DISCUSSED OUTSIDE JURY'S PRESENCE

1 -- hopefully everything presented before lunch and
2 then I don't know if Mr. Wasson has any witnesses to
3 call as rebuttal.

4 THE COURT: Well, and we'll with that at that
5 time Mr. Wasson --

6 MR. WASSON: Yes Your Honor.

7 THE COURT: -- based on your --

8 MR. WASSON: I think you're still -- you're
9 still on schedule as we told them.

10 THE COURT: Yes. Okay. Well, that's what
11 I'm going to do folks. We have a verdict in the oth-
12 er trial and we're going to adjourn then here today.

13 Come back tomorrow morning a little before 9:00 and
14 we'll start in probably right where we leave off here
15 with Deputy Swim and hear the rest of his testimony.

16 So if you would then go with the bailiff here
17 and we'll see you in the morning.

18 CLERK: All rise.

19 **JURY EXITS COURTROOM**

MATTERS DISCUSSED OUTSIDE JURY'S PRESENCE

21 THE COURT: Let's see, have we got every-
22 thing?

23 MR. RADZIMSKI: Yes.

24 THE COURT: Here let me -- let me see here.

Exhibit D

1 THE COURT: You know, that -- that's -- well,
2 there are some other cases set at that same time.

3 MR. WASSON: Exactly. And I tried to explain
4 to him that it may not be the first one of those spe-
5 cial settings but that it would be handled in January
6 during that term. So I just didn't know if our date
7 was a first setting, second setting or -- or so on
8 down the line Your Honor.

9 THE COURT: Right. There was -- it looks
10 like Darin Ford, Mr. Simone's client, is also set
11 there on January 13th. So the two of them. And now
12 was there then a motion to access the civil commit-
13 ment file?

14 MR. RADZIMSKI: Yes Your Honor and that was the
15 State's motion. I served that on Mr. Manlove through
16 the jail and I also gave Mr. Wasson notice so he
17 would know what's going on.

18 In 2004 there was the civil commit, the basis
19 for the unlawful possession of a firearm charge in
20 two -- 13-1-126-2 is that civil commit. I think both
21 parties need access to those documents in order to
22 prepare for trial and for that reason I would ask
23 that the Court unseal that so we can have limited ac-
24 cess to those orders for the purposes of this case.

25 THE COURT: Alright. And I don't remember

1 this coming up before but it -- I guess it has one
2 time or another. But Mr. Wasson?

3 MR. WASSON: I -- I don't remember it coming
4 up and of course, because those are sealed records,
5 Your Honor, for the record we -- have to object.
6 They were sealed for a reason. They were a civil
7 commitment and I would wonder how the State would
8 even have probable cause information to charge the
9 possession of the weapon based on a civil commitment
10 that they don't have access to the files before they
11 charge. But that's just my wonderment.

12 But I do, for the record Your Honor, object to
13 that. I -- I'm not sure, too, about the posture of
14 that file number, along with this file number but I
15 can't anticipate that we would go forward on both of
16 those at the same time.

17 THE COURT: Alright. And I've -- picking
18 this up now. The -- the -- there's no predicate con-
19 viction but there's a civil commitment that makes
20 possession of a firearm unlawful.

21 MR. RADZIMSKI: That's correct Judge.

22 THE COURT: Okay. And then now would the
23 State be able to proceed with just -- and -- and by
24 the way, the version of the file that I have, which
25 is just one the Clerk made up -- or not -- didn't

Exhibit E

DIRECT EXAMINATION OF GARY BERG

1 MR. WASSON: Could I have the exhibits for a
2 moment Your Honor?

3 THE COURT: Yes.

4 MR. WASSON: I just have a couple of questions
5 to ask.

6 THE COURT: Okay.

7 MR. WASSON: Well, maybe I can answer the
8 questions without -- with him still having -- Mr.
9 Berg having -- those up there. Gary -- or Mr. Berg,
10 do you see my client's signature, Mr. Manlove, David
11 Manlove, anywhere on -- on the document?

12 MR. BERG: No.

13 MR. WASSON: Do you see a signature of a Rich-
14 ard Mathiason on the document?

15 MR. BERG: Yes.

16 MR. WASSON: And is there, in fact, any space
17 for Mr. Manlove or any other hypothetical respondent
18 to sign on that document?

19 MR. BERG: There's a line for either the attorney
20 or the defendant to sign.

21 MR. WASSON: Or the defendant?

22 MR. BERG: Yes.

23 MR. WASSON: Alright. Thank you. You weren't
24 present when this document would have been served on
25 anybody?

Exhibit F

DIRECT EXAMINATION OF GARY BERG

1 MR. BERG: No.

2 MR. WASSON: Okay. And so you have no person-
3 al knowledge of whether or not the particular docu-
4 ment that you're proposing was ever served on
5 anybody?

6 MR. BERG: Well, these -- these are signed in the
7 court -- up in the court hearing if they have a hear-
8 ing or in the commissioner's area at the hospital.
9 So --

10 MR. WASSON: And if they don't have a hearing,
11 if they stipulated, as you said is one of the options

12 --
13 MR. BERG: Yes. And that's what happened in this
14 case.

15 MR. WASSON: It was -- it shows it's stipulat-
16 ed on the certified?

17 MR. BERG: Yeah. With assistance of counsel box
18 is marked and his attorney has signed.

19 MR. WASSON: I object Your Honor. The -- as
20 to relevance. There's no indication that this form
21 was ever signed by or given to Mr. Manlove or that he
22 was even present when the stipulation was entered and
23 so I object to it on relevancy.

24 THE COURT: Okay. And I'll overrule the ob-
25 jection and there's an alternative way that it may

Exhibit G

CROSS-EXAMINATION OF GARY BERG

1 A. -- that's this document that we're required to -- by
2 law to -- to provide.

3 Q. And so is there a -- and so there is a second docu-
4 ment that is generated by the Court that addresses
5 specifically firearm --

6 A. Right. Right. And that's also -- the original is
7 also kept in our records.

8 Q. Okay.

9 MR. RADZIMSKI: Judge I have no further questions
10 for Mr. Berg.

11 THE COURT: Okay.

12 CROSS-EXAMINATION OF GARY BERG

13 BY MR. WASSON

14 Q. In preparing these documents in your official capaci-
15 ty, Mr. Berg, did you look to the next document down
16 under the same cause number that you have there in
17 front of you, 11-6-00538-0?

18 A. Which document is that?

19 Q. I -- well, following the entry of the court commis-
20 sioner's order of 13th of April, are you aware of
21 whether or not the order dismissing the petition was
22 entered subsequently on April 27th?

23 A. Yes. That's in our file.

24 Q. And that's in your file. Do you also have an obliga-

1 tion to transmit an order dismissing a petition of
2 any sort of involuntary commitment to the Department
3 of Licensing pursuant to -- to the other document
4 that you've identified?

5 **A.** No.

6 **Q.** Okay. So it's just the initial order without any re-
7 spondent's signature on it that gets transmitted?

8 **A.** The -- the order of dismissal, that's a procedural
9 requirement be -- after a four-day -- after they've
10 then had their -- their time.

11 **Q.** Alright. Thank you.

12 MR. WASSON: I have no other questions of the
13 witness.

14 THE COURT: Okay Mr. Wasson. Mr. Radzinski?

15 **REDIRECT EXAMINATION OF GARY BERG**

16 **BY MR. RADZIMSKI**

17 **Q.** Mr. Berg does the dismissal order reinstate the per-
18 son's gun rights?

19 **A.** No.

20 MR. RADZIMSKI: No further questions Your Honor.

21 THE COURT: And anything [inaudible on tape -
22 - muffled] by that?

23 MR. WASSON: No Your Honor.

24 THE COURT: Okay. Alright. Mr. Berg, thank

Exhibit H

INSTRUCTIONS READ TO THE JURY

1 verdict of not guilty.

2 **Instruction No. 11:** A dwelling means any build-
3 ing or structure that is used or ordinarily used by a
4 person for lodging.

5 **Instruction No. 12:** A person enters or remains
6 unlawfully in or upon premises when he or she has not
7 been licensed, invited or otherwise privileged to so
8 enter or remain.

9 **Instruction No. 13:** A person commits the crime
10 of unlawful possession of a firearm in the second de-
11 gree when he or she knowingly has a firearm in his or
12 her possession or control and he or she has previous-
13 ly been involuntarily committed by court order for
14 mental health treatment, unless his rights have been
15 restored.

16 **Instruction No. 14:** To convict the defendant of
17 the crime of unlawfully possessing a firearm in the
18 second degree each of the following elements of the
19 crime must be proved beyond a reasonable doubt:

20 1.) That on or about June 19, 2013 to July 9,
21 2013 the defendant knowingly had a firearm
22 in his possession or under his control;

23 2.) That the defendant had previously been in-
24 voluntarily committed by court order for
25 mental health treatment; and

INSTRUCTIONS READ TO THE JURY

1 testimony of any other witness.

2 **Instruction No. 9:** A person commits the crime
3 of residential burglary -- burglary when he or she en-
4 ters or remains unlawfully in a dwelling with intent
5 to commit a crime against a person or property there-
6 in.

7 **Instruction No. 10:** To convict the defendant of
8 the crime of residential burglary, each of the fol-
9 lowing elements of the crime must be proved beyond a
10 reasonable doubt:

11 1.) That on or about June 19, 2013 to July 9,
12 ~~2013, the defendant entered or remained un-~~

13 ~~lawfully in a dwelling;~~

14 2.) That the entering or remaining was with in-
15 tent to commit a crime against a person or
16 property therein; and

17 3.) That this act occurred in the State of
18 Washington.

19 If you find from the evidence that each of these
20 elements has been proved beyond a reasonable doubt
21 then it will be your duty to return a verdict of
22 guilty.

23 On the other hand, if, after weighing all of the
24 evidence you have a reasonable doubt as to any one of
25 these elements, then it will be your duty to return a

Exhibit I

1 guilty pleas on his behalf but I will also waive a
2 complete reading.

3 He apparently was on, and -- and I don't know
4 this yet; but I have word from the State that there
5 is also a motion and affidavit for an order directing
6 the issuance of a bench warrant for 11-1-0090 -- the
7 prior representation that I did of Mr. Manlove two
8 years ago.

9 I felt, because I don't have that good of memory
10 at this stage, Your Honor, I felt that we might have
11 gone past the probationary period of the two years
12 but I am informed that -- because of the date that it
13 was filed and the date that we ended up pleading it
14 we're about a month and a half short. Sometime in
15 August, that prior probation would have more than
16 likely expired. And so the prosecutor has also pro-
17 vided me with [inaudible on tape -- muffled] dated
18 July 12th, with a copy of the bench warrant request.

19 THE COURT: Okay. And -- and just to confirm
20 that, now the Judgment and Sentence in that old file
21 was entered August 23rd, 2011 but -- but I'm trying
22 to find here, that was a two year gross misdemeanor
23 probation?

24 MR. RADZIMSKI: Yes Your Honor.

25 MR. WASSON: Yes Your Honor.

1 THE COURT: Okay. And so we're okay -- based
2 on that then we'd be okay up until August 23rd or
3 thereabouts?

4 MR. WASSON: Yes.

5 THE COURT: So it would appear to be a -- a
6 lawful warrant that was issued. But to stick with
7 the arraignment on this new matter then -- now Mr.
8 Wasson you were then able to meet with Mr. Manlove
9 here in the jail earlier?

10 MR. WASSON: I was Your Honor. And I had al-
11 ready been given copies by the prosecution office, of
12 the four count Information and plus some preliminary
13 discussions [sic] which obviously I have not had a
14 chance to go through the seventy plus pages there.
15 But that wasn't necessary for today's hearing and --
16 we need to have the thing set.

17 Obviously with the August jury term just a cou-
18 ple of weeks off in the future, and the other cases
19 that I have set for August, in addition to being out
20 of state for the second week of the term, I'm going
21 to ask the Court, and I don't know whether or not Mr.
22 Manlove would orally consent to go to the October ju-
23 ry term; but I -- I am going to ask the Court to rec-
24 ognize an inability to get prepared with all of the
25 other things we have going in the August term and to

Exhibit J

DIRECT EXAMINATION OF PAULA PARKER

1 Q. Okay. At -- during any of your visits in his home
2 did you smoke any marijuana with him?

3 A. Yes.

4 Q. Okay. How often would that occur?

5 A. Once a week maybe, once every two weeks. I don't
6 know, about --

7 Q. Is the gentleman that we're talking about present in
8 the courtroom today?

9 A. Yes.

10 Q. And can you please describe for the jury what he's
11 wearing?

12 A. A gray and white jumpsuit.

13 MR. RADZIMSKI: Judge, if the record could re-
14 flect that she's identified the defendant?

15 THE COURT: And the record will so show.

16 MR. RADZIMSKI CONTINUES

17 Q. While you were speaking with the deputy on July 3rd
18 did anybody come by the property?

19 A. Yes.

20 Q. Who came by?

21 A. Dave did. Dave went by on his motorcycle.

22 Q. Okay. And did you see him drive by?

23 A. Yes I did.

24 Q. And did you make eye contact with him?

25 A. Well, it's quite a distance but yes.

1 Q. Okay. Did he stop?

2 A. No.

3 Q. Was the patrol car parked in your driveway?

4 A. Yes, behind my car.

5 Q. Okay. Would have that been visible to Mr. Manlove
6 from where he was riding?

7 A. Yes.

8 Q. Now after you finished with -- speaking with Dave,
9 the deputy on the 3rd did you stay home that night?

10 A. No. He advised that I change the locks on my doors
11 and beef up my windows and do a few things before I
12 stayed back in the home and I was obviously shaken.

13 ~~I went down the hill to tell my neighbors that some-~~
14 body had broke into my home since we are kind of re-
15 mote on a hill and -- while I was at the neighbor's
16 house I heard the motorcycle go back by and it scared
17 me. I decided not to go back home. I thought about
18 it but I didn't.

19 Q. Where did you stay that night?

20 A. I stayed with Shawn and Brenda McNeeley on Sand Creek
21 Road.

22 Q. Okay. Did you go back to your home at any point af-
23 ter July 3rd?

24 A. I did. I went back on the 7th.

25 MR. RADZIMSKI: Okay. Judge, if I could approach

