STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
NO. 46168-4-II
CHARLES SORENSEN

1. Were facts sufficient for a finding that Sorensen met the requirements of the element 'while attempting to elude pursuing police vehicle' as required to violate RCW 46.61.024? and there by allow denial of his suppression motion? (cp250-256)

Facts: — The Trooper twice described Sorensens driving as 'failing to yield' (p.2 report).

- Sorensen informed the Trooper he was on his way to his house (p.2 report).

- The Trooper claimed Sorensen was driving 50mph (in a 45mph) (p.2 report).

- There was not any evidence or testimony provided that Sorensen tried to 'flee' or 'attempt to avoid' the Trooper as the court asserts.(cp 255)

- Sorensen pulled over of his own accord.(p.2 report)

(report p.2) — Exhibit 2 WSP Report of Investigation 10-31-13

Citations: — The defendant must at some point also attempt to elude before stopping. **Tandecki** 84 p.3d 1262, 120wn,App.348 quoting **Stayton** 691 p.2d 596, 39wn. App.46

- 'The legislature criminalized attempting to elude a police vehicle to address the dangers of high speed chases.' **Chouap** 285 p.3d 138, 170wn. App. 114

- 'Police officer did not have sufficient evidence to support custodial arrest of defendant for attempting to elude a pursuing police vehicle, even though two traffic infraction officers viewed defendant commit were sufficient to support stop of defendant; defendant's exceeding speed limit by five miles per hour and straddling both lanes did not constitute crime of attempting to elude a pursuing police vehicle, and officer's belief that defendant was trying to elude them was no more than an inarticuable hunch'. **Tarica** 798 p.2d 296, 59 wn. App. 368

2. Did the court err in denying Sorensens suppression motion when it used the lesser, and not included, standard of 'attempting to avoid' instead of the element 'attempt to elude' as required to violate RCW 46.61.024? (cp255)

(1)

3. Did Sorensen 'refuse' to stop his vehicle as the court contends
   or could the delay in pulling over be attributed to something
   other i.e. medical condition, drowsiness, distracted driving?
   (cp 255)

Facts: - Sorensen traveled approximately 2.7 miles before stopping.

   - He pulled over of his own accord with nothing more than
     lights and siren of the single police vehicle.

   - Sorensen admitted he saw lights and heard the siren, but it
     was not determined at what point when the Trooper was following
     him he became aware of them, the Trooper did not activate
     his siren until Long Lake Rd.

Citations:

   - 'No crime is committed under statute if one being
     pursued by a police vehicle merely fails to immediately
     stop his vehicle'. **Mather** 626 p.2d 44, 28wn. App.700

December 11, 2014

Mr. David Ponzoha
Court of Appeals, Division II
950 Broadway, Suite 300
Tacoma, WA 98402

RE: Case # 46168-4-II
    Charles Sorensen ~ Statement of Additional Grounds

Mr. Ponzoha,

   Enclosed please find my Statement of Additional Grounds. I did not intend to send this so close to the deadline, but the law library here has been closed since Dec. 2 and was closed for a week in November. These have been unexpected closures and I've had to wait each day to find out if they were going to reopen so I could finish this SAG. They still have not opened the building and can't/won't tell me when it will be, so I'm submitting what I have. You were gracious to approve my original request for extension so I did not want to ask for another. My attorney MS. Backlund has been out this past week, but I hope to work with her to address the issues I wasn't able to. Thank you.

Sincerely,

Charles Sorensen

Charles Sorensen

P.S. I've been assured by staff if I send this out today it will be in your office on Monday even with the Holiday mail.
Thank You Again!

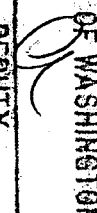Charles Sorensen   No. 46168-4-II

1. Did the end justify the means in the line of reasoning the
   court used in denying Mr. Sorensen's suppression motion?

   - The court ruled Sorensen was illegally seized under a Terry
     stop (cp 252).

   - It then found "the warrantless seizure appropriate pursuant
     to RCW 10.31.100 because probable cause existed that the
     defendant had violated RCW 46.61.024, a class C felony."(cp 256)

   - One of the observations, (almost going over an embankment),
     used by the court in determining Sorensen had violated RCW
     46.61.024, was not made until the latter part of the pursuit
     at Long Lake rd. (cp 256)

The court then used this occurrence to retoactively justify the
the lawful extension of police power beyond the initial warrantless
seizure and thereby enable the Trooper to gather evidence for
support of a crime Sorensen had not committed.

2. Did the end justify the means in determining Mr. Sorensen guilty
   of eluding at his Stipulated Facts trial?

   - The court ruled Sorensen was illegally seized under a Terry
     stop. (cp 252)

   - The court found 'that the distance, both in time and miles,
     is the linchpin for finding of guilt for the crime of elude.
     (p.10- Transcripts Stip. fact)

   - The distance was ± 2.7 miles and time was ± 3min. (cp 258)

The court here used an event that occurred at the end (distance
determination) for the finding of guilt of eluding. In so doing it
gives no absolution to the initial illegal seizure that it ruled
occurred, thus the Trooper had no justifiable lawful exception
to extend his warrantless seizure to thereby gather any subsequent
evidence including that of distance traveled.

December 15, 2014

Mr. David Ponzoha
Court of Appeals, Div. II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

RE: CASE 46168-4-11 Charles Sorensen
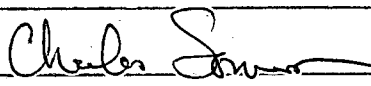   Statement of Additional Grounds

Mr. Ponzoha,-

   Enclosed please find two additional questions for my SAG.
I am asking for your understanding in accepting these tardy
submittals. With the law library closed for 3 wks during the time
extension you granted me it has made things difficult. I am
asking for your mercy in accepting these. Thank you.

   Sincerely,

   Charles Sorensen
   Charles Sorensen