

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

FILED  
June 30, 2015  
Court of Appeals  
Division I  
State of Washington

STATE OF WASHINGTON )  
)  
Respondent, )  
)  
v. )  
)  
Steven Lee Cook )  
(your name) )  
)  
Appellant. )

No. 72619-6-1

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

RECEIVED  
JUN 26 2015

Nielsen, Broman & Koch, P.L.L

I, Steven Lee Cook, 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

1. To Whom It may concern
2. Steven Cook (overview)
3. Steven Cook (RESUME)
4. Statement of Case
5. Section One: Reed, argument and substantive facts.
6. Section Two: Arnett, argument and substantive facts.
7. Section Three: Closing arguments, arguments and substantive facts
8. Section Four: arguments and substantive facts

Additional Ground 2

1. Statement of additional Grounds for Review # 2
2. Conclusion
3. Section 1: Cook, arguments and substantive facts.
4. Section 2: Robinson, arguments and substantive facts.
5. Section 3: Arnett, arguments and substantive facts.

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

Date: 6-21-15

Signature: Steven Lee Cook

Additional Ground 3

1. Statement of Case
2. Substantive facts A.
3. Substantive facts B.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

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STATE OF WASHINGTON

Respondent

v.

STEVEN COOK

Appellant

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

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BRIEF OF APPELLANT  
(Statement of Additional Grounds for Review)

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Appellant/Defendant

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To Whom it May Concern:

Hello! I hope you doing well! My name is Steve Cook. I am not ~~an~~ attorney and, quite frankly, I really know nothing about the law. I know that if you break one, somehow you pay!

Recently, I found out that all you have to do is be accused of a crime and, somehow, you will pay. Your life, career, and your family, will not only pay, but will be destroyed as well.

I am a 65 year old man with no criminal record other than a skinny dipping ticket I got when I 42 years ago for swimming in a farmer's irrigation ditch.

Rather than bore you by going on and on about how wonderful I am, I have included a resume with this report.

I have also included a quick brief of who I am and what I have been doing since 1980.

Please! I am fighting for my life! Read my personal information. I say to you that it is the only evidence in this terrible conundrum I have been caught up in.

I have found that when a man looks honorable, talks honorably and his deeds and accomplishments are honorable, most of the time, generally, he is honorable.

I have also found that when a man looks deviant, talks as a deviant, and his deeds and accomplishments are deviant, most of the time he is deviant. I am an honorable man! I have been falsely accused of being a deviant.

Please! I am asking you again to read my personal information before digging into the report I have prepared.

As I said before, I am not an attorney. I am sure that it will be amateurish and redundant. However, because of my surroundings in this prison, my lack of resources, and the incredible depression and feeling of loss I am going through, I feel I have done the best I can possibly do.

Although there are things throughout the events that landed me here that I would like to dispute, I feel the task would be overwhelming.

That said. I am letting you know that I have focused on the only area where any evidence could have been produced to prove my innocence, or guilt, for that matter. There was no other evidence other than an accusation by someone who would gain financially in the event of my conviction.

I will try to show incompetent evidence gathering, twisting of facts and other Prosecutorial Mischief, and how it absolutely denied me a fair trial.

Please, while reviewing my case, I would ask that you consider motive and who had one. I had absolutely no motive to commit such a crime, and a ton of reasons not to.

The alleged victim, on the other hand, was going through a divorce, has three children with disabilities and would stand to get a large monetary gain, by way of a civil suit, if I was convicted of sexually assaulting her.

To accuse another person of such a crime would take a lot of nerve. Could it be that is the reason it took her 2 days to get up the nerve to do so?

I was stupid, green and naive. I had just graduated from therapy school and had started my new career as a healthcare provider, just 3 months before the alleged assault.

I was set up by a patient that booked a therapy session when there was no one at the clinic to witness what happened that evening.

I was totally oblivious to the fact that people accuse healthcare providers of terrible things for monetary gain. It Could never happen to ME! I was the GOOD guy! I HELP people! People like what I do FOR them. Yeah, RIGHT! Welcome to healthcare.

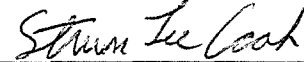
If the DNA examination had been done properly, thoroughly, and promptly, and if DNA and oil evidence would have been made aware of and analyzed as it should have been, I would have been found not guilty of the charges against me.

Again, I beg those who are about to judge me either an honorable man or a deviant one, to look closely at the only true evidence of who I am. The life deeds and accomplishments of a 65 year old man; My resume.

No matter what a prosecutor tries to make you believe, with deception, lies, and lack of evidence, if it looks like a duck, walks like a duck, and quacks like a duck, most of the time, it's a duck.

Thank you for your time.  
God Bless you.

Steven Lee Cook

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Steven Lee Cook  
Overview

1. Born May 30, 1950 to Deputy Sheriff Lawrence Cook (killed in the line of duty) and Jerne Louise Lindholm.
2. Lived and attended grade school in England as stepfather, air force police officer Louis Franz, was stationed there. 1955-1958
3. Lived and attended school (grades 4-8) in Cammarrillo, California while step-father was stationed at Oxnard air force base. 1959-1964
4. Lived and attended high school and started music career in Germany while step-father was stationed there. 1964-1968
5. Served in the military during the Vietnam war 1968
6. Lived in California after discharge and continued music career. Toured the U.S., Canada, and Japan as an entertainer, and got married 1972-77
7. Moved with wife to Washington to care for mother after step-dad died of cancer. Changed careers, learned how to drive truck 1977-80
8. Purchased a truck, started a trucking company and moved to Alaska. Became an Ice Road Trucker and construction trucker. 1980-90
9. Changed careers again. Sold trucking equipment. Bought busses and vans. I started a succssful Alaska tour and transportation company. 1990-95. (had the best years of my life) got a divorce.
10. Closed my company to return to Washington to care for my mother who was suffering from altzhiemer's and dementia. 1995
11. Ran long haul 48 states until my mother's illness got to the point that I needed to be close. 1995-97
12. Attended and worked as a graphic designer at Edmond's Community College. 1997-2001. Buried my mother (worst time of my life) 7.5 gpa at Edmond's.
13. Started t-shirt design company. 2001
14. Attended Bryman College. Graduated as a Homeland Security Specialist with a 4.0 grade average 2006
15. Worked for Washington Mutual, BNSF Railroad, City of Lynnwood and private companies as security officer. 2006-2008
16. Obtained Coast Guard captain's license (limited masters) for inland waters 2010
17. Attended Evergreen College and graduated as a manicurist and received state license to practice. 95.53grade average 2012

18. Attended Everest College and graduated as a massage practitioner and received a state license to practice 7.5 grade average 2013
19. Worked as a massage therapist at 3 Urgent Care Chiropractic Centers as an independent contractor. 2014
20. Changed careers. Started a 6 year to life sentence at Monroe prison for a crime I did not commit. 2014

Profile: Experienced success minded individual with ambition to succeed. Has strong management and business ownership experience, organizational skills and team leadership abilities. Has training and experience in the fields of security, trucking, tourism, graphic design teaching manicure and nail technician, massage therapy.

**Skills and Abilities:**

- Excellent communication skills (verbal and written)
- Motivated self starter, dependable, performance and detail-oriented.
- Proven team leadership and interpersonal skills.
- Proven organizational and operational abilities.
- Able and willing to think outside of the box.
- Proficient computer skills.

**Accomplishments:**

- Established and operated a tour and transportation company in Alaska.
- Established and operated a construction trucking company.
- Awarded contract to provide transportation for all China Airline pilots and crews to and from Anchorage International Airport.
- Organized and supervised eighteen vehicle motorcade for President Lee Tung-Hui of Taiwan.
- Arranged and supplied transportation and tours for Miss California and Miss Teen California while in Alaska.
- Earned certificate to train truck driving instructors.
- Was a teacher for Western Pacific Truck School for three years and a CDL instructor for South Seattle Community College.
- Maintained honor roll status in college.
- Elected Who's Who Among Students in American Junior Colleges in recognition of outstanding merit and accomplishment as a student at Edmonds Community College.
- Earned a Homeland Security Specialist diploma from Bryman College.
- Awarded letters for high school football and wrestling.
- Certified Water Safety Instructor, conducted children's swimming classes and worked as a life guard.
- Awarded certificates for shooting proficiency and medals for team rifle competition.
- Served in the United States Navy during Vietnam War.
- Awarded certificates for vocal talent and song writing competition in national and international competition.
- Toured nationally and internationally as a professional entertainer.

**Security Background:**

Dedicated Homeland Security Specialist with security diploma from Bryman College Has a military background. Strong management and business ownership experience. Organizational skills and proven team leadership abilities. Solid background in hazardous materials handling and safety. Has weapons training, qualifications and shooting awards. Has training in Civil and Criminal Justice. Emergency Planning and Security Measures, Security Principals Planning and Procedures, Tactical Communications, Domestic and International Terrorism, Emergency Medical



Services and Fire Operations, Business Ethics for Security Specialists. Worked at Washington Mutual Center in Seattle as a security Officer providing security patrol, escort services lobby officer duties and customer relations. Worked as security dispatcher at King Street Station for BNSF Railway. Responsibilities included dispatching all security officers on duty for BNSF Railway, monitoring CCTV at all Railroad stations from Everett to Tacoma, recording hourly officer call in and shift changes, reporting to local police crimes and potential problems observed on CCTV or reported to me by phone. Writing reports for all events that occurred during my shift. Maintained constant contact with roving vehicle patrols cruising all train and bus stations from Everett to Tacoma. Worked as security officer on the Sounder Train between Seattle and Everett. Also provided roving patrol for all stations from Everett to Federal Way. Worked as a security guard for private companies and provided security and customer service for the Cities of Seattle, Everett, and Lynnwood.

#### Employment History:

1995-2008 (Washington)

Worked for trucking company in Puget Sound area on construction projects (KLB, Fruling Inc., Gaston Bros., AAA Tree Tech and JVI). Ran long haul two years for TWX and Andrus Trucking. Driver trainer for Western Pacific Truck School for three years and a CDL instructor for South Seattle Community College for 2 years and Bryman College for 1 year. Was a security officer for Securitas and Watcom Security.

1990-1995 (Alaska)

Established a tour and transportation company in Anchorage Alaska that employed up to five employees. Operated winter and summer, maintained five vehicles including two forty passenger busses and created sales and promotional materials. Contracted to national and international travel agencies to supply private personalized tours and transportation as well as airport arrivals and departures for guests visiting Alaska. Contracted by all major hotels in Anchorage to provide summer and winter activities for guests and airline crews staying in Anchorage and was the in-house winter tour operator and concierge for the Anchorage Sheraton Hotel. Was asked to sit on an advisory board for the Anchorage Economic and Development Corporation to help plan new tourist attractive winter activities and hosted for the city a group of Russian travel students visiting Anchorage to learn how to start and operate a small tour company. Contracted to China Airlines to supply timely transportation to and from the air port terminal, provided a motorcade for the President of Taiwan, escorted the Minister of Transportation from Taiwan on a fishing trip and hosted Miss California and Miss Teen California on winter tours. Snowball transportation and armed guiding services for wild life photographers.

1980-1990 (Alaska)

Established a construction Company in Anchorage Alaska that hauled heavy equipment and road building materials for major construction companies (Wilder Construction, Baugh, MB Construction, East Wind) and for the City of Anchorage as a sub-contractor. Hauled pipe and supplies for the Alaska Pipeline and environmental clean up gear to the Valdez Oil spill, moved a drilling rig from the Kenai Peninsula to Anchorage and helped build roads in Alaska. Awarded a contract from the state of Alaska to haul road salt from the port of Anchorage to all state road maintenance camps in Alaska. Worked for the military building a practice aircraft carrier landing strip at Elmendorff Air Force Base and other classified facilities at Fort Richardson Army Base. Other projects include remote fueling sites and runways at Anchorage International Airport, 747 parking pads for Fedral Express and UPS facilities, improvements to Port of Anchorage and hauling explosives for the Red Dog Mine in Kotzebue ALaska.

Statement of Case

The Validity of a crucial investigation that would have proven that an accused man was not guilty of a crime he was falsely accused was compromised.

Just 48 hours of an alleged sexual assault, the officer assigned to take the initial report incompetently failed to request or even suggest that a sexual assault examination be done. Even a hint of oil would be present in the event of an assault.

The officer made the incorrect assumption that, "due to the time delay, it would not have been beneficial to recover any evidence." There was accusation of finger penetration only.

This incorrect assumption is proven absolutely wrong by the forensic examiner that did perform an examination, finally, 4 days later.

The examiner testified that her office policy was to do DNA tests within 7 days of an assault and that they do them farther out than that.

Prompt collection of critical DNA evidence would have proven definitively if in fact a sexual assault did or did not happen and that Cook was innocent of committing one.

Further bungling and corruption of this investigation came when, as stated earlier in this report, a sexual assault examination was started when 4 days had lapsed between the alleged assault and the initial report of the alleged incident.

Curiously, after DNA swabs were collected, someone on the prosecution team decided that the swabs not be sent to the laboratory for analysis. This was an intentional and flagrant act of investigation tampering and reeks of prosecutorial mischief. The swabs were the only physical evidence in this case and would have proven Cook innocent.

The detective was totally deceptive when she incompetently told the jury that the reason for stopping a critical criminal investigation mid-stream was "the likelihood of locating touch DNA was incredibly unlikely." Pg. 2 #20

Testimony provided by the forensic investigator proves that the detective wrong. The investigator stated that DNA evidence collecting is done if an assault is within 7 days and sometimes even more. When asked, she answered if DNA could be located from the swabs, she answered:

1. Likely Pg 2 #22
2. "it's possible" Pg 3 #32
3. If I got the swab in the right place Pg 3 #32
4. Potentially Pg 3 #38
5. It's possible Pg 4 #44
6. Possibly Pg 4 #46
7. A slim possibility Pg 5 #56

These answers provided by the forensic investigator sheds light on the fact that, if the detectives statement was not an outright lie, then at the minimum it was an incompetent blundering presumption that reveals her to be totally illiterate of DNA investigation protocol.

To further demonstrate the dishonest, deceitful demeanor

of the investigating detective in this case, consider this fact: the detective stated the reason for not sending the swabs in for analysis was that it was incredibly unlikely that the touch DNA could be collected. Section 2 Pg 2 #20

Well, what about the mixture of pure sesame and orange oils that was, according to testimony from the detective, known to have been on Cook's hands at the time of the alleged assault?

The alleged victim in this case testified when asked:

1. "Did he use any lotion, cream, or oil?", she answered, "he used oil." Pg 1.

2. "where did he put the oil on?", She answered, "throughout the massage he used it for everything he was massaging." "He used oil."

3. "Did he pour it on you or on his hands?", She answered, "Typically in his hands, I don't remember him ever pouring it on me."

4. "Did he use a lot of oil?", She answered, "He used a fair amount of oil." Transcripts: day 1 page 53-54-63

Finding DNA that might be very small, or even microscopic, could be, understandably a little difficult even though a forensic investigator says it would be likely.

Knowing the consistency of oil, it's likely that if a finger was covered with oil and inserted into a vagina, not once but three times, that oil would cover the entire surface of the tissue of that vagina, inside and out.

The concept of not finding evidence of oil, especially if there were 4 swabs used, is ludicrous.

Statement of Additional Grounds for Review

Argument against a faulty DNA evidence investigation

Section 1: Argument: Reed

On July 8th, 2014 at 6:20 PM. officer Andrew Reed of the Lynnwood police took a statement from Nancy Robinson. Mrs. Robsinson alleged that on July 6th, at approximately 7:00 PM, she was sexually assaulted while she was receiving massage therapy.

Officer Reed failed to request or even suggest that Mrs. Robinson have an examination to verify if in fact a sexual assault did or did not happen. Even though the alleged assault, according to Mrs. Robinson, had happened just 48 hours prior and was well within the acceptable time frame for DNA evidence to be successfully collected. Reed never suggested that an examination be done.

His decision not to mention an examination, according to his own testimony in court, was based on an incorrect assumption that too much time had elapsed between the alleged assault and his interview with Mrs. Robinson, also, that because the alleged assault was only a digital penetration there would be no evidence to collect.

Officer Reed's incompetent investigation and illiterate assumptions were absolutely wrong. If Officer Reed had initialized a DNA test as he should have, valuable proof that there was no evidence of sexual assault would have shown that Mr. Cook was being accused of a crime he did not committ.

The unbelievably incompetent investigation mentioned in this report was in fact used to convict cook of the crime of which he was falsely accused. Officer Reed's failure to collect valuable evidence promptly to prove or disprove a crime that a man was being accused of, knowing that the accusation could ruin the man's life is unacceptable.

In the name of decency, fairness and honorable justice, Mr. Cook's conviction should be reversed and he should be released from prison immediately.

Statement of Additional Grounds for Review

1. Section 1) Argument against faulty DNA evidence investigation
2. Taken from) Verbatim report of proceedings (day 1)

Pg 26-27, 31-32 Sept 22, 2013 Snohomish county Superior Court  
Cause No. 14-1-01562-8 COA #72619-6-1

3. Prosecutor: Hendrix

Defense: Silbovitz

Witness: Reed

Defendant: Cook

This section of my grounds review statement is from the testimony given by Andrew Reed, a police officer for the city of Lynnwood with prior service for the city of Kent for just over a year. At the same time he was hired as a reserve officer for the contract city of Maple Valley for the King county Sheriff's office. He attended both the Corrections Academy and the Reserve Police Police Academy at that time. He was hired by the city of Lynwood in July of 2013. He attended the 720 hour basic Law Enforcement Academy at the criminal justice training commission in BUrien. He served for 9½ years and reached the rank of Sergeant in the Marines.  
Pg 25-26 #1-10

A. Prosecution: Hendrix

1. Q: Were you on duty July 8, 2014? Pg 26 #18
2. A: "I was." Pg 26 #19
3. Q: What happened around 6:20 PM? Pg 26 #24
4. A: "I was dispatched to take a report at the police station."  
Pg 26 #25
5. Q: I approached then asked which one was initiating a report?  
Pg 27 #10-11
6. A: Ms. Robinson said "I am." Pg 27 #12
7. Q: Did you refer her for a sexual assault examination?  
Pg 31 #24

8. A: I did not Pg 31 #25

9. Q: Why? Pg 32 #1

10. A: Based on my experience and training, due to the time delay that was disclosed by Ms. Robinson, it would not have been beneficial to recover any evidence. Pg 32 #2-4

11. Q: Would it have been different if it wasn't a digital penetration? Pg 32 #5

12. A: Yes sir, it would have been different Pg 32 #7

13. Q: How so? Pg 32 #8

14. A: If there was some other type of contact there may have been more present physical evidence, even with the same time delay. Pg 32 #9-11

15. Q: For example, semen? Pg 32 #12

16. A: Exactly sir. There would be more things to recover that would have been evidentiary. Pg 32 #13-14

B. End of section † (From verbatim report of proceedings  
Day 1 Pg 26-32)

## Statement of Additional Grounds for Review

### 1. Argument: Faulty DNA Evidence Investigation

#### Section 2: Arnett

On Sept. 20, 2014, detective Arnett of the Lynnwood police investigating an alleged sexual assault, collected and place into evidence swabs from the sexual assault examination relevant to her case, without having them analyzed for DNA evidence. She stated for the record, "We did not send them in for laboratory analysis." Pg 2 #15-18. Her reason for not having them analyzed was an incorrect presumption that "The likelihood of finding touch DNA was incredibly unlikely." Pg 2 #20. The reason for her presumption was a time passage of 4 days from the alleged assault.

She was proven wrong when the forensic examiner stated, "Our policy is generally if it is less than 7 days, we will take swabs just in case." Section 4 Pg 2 #20. "We have taken it farther out." Section 4 Pg 2 #24.

The statements from the forensic examiner proves that the examination was done well within the time frame for successful DNA collection. The premature collection of the swabs without analysis based on an incorrect presumption was incompetent investigation.

Detective Arnett further violated investigation ethics when she failed to inform the forensic examiner about valuable evidence; Massage oil that was being used by the defendant while performing a massage therapy session. When asked if she was aware that massage oil was used, the forensic examiner stated, "No, I wasn't aware."

Detective Arnett, in her own testimony, state she knew about the oil. Pg 3 #31-34. However in her courtroom testimony, she stated in front of the jury, that, "There was no other quantity of DNA that we may have been able to locate or identify." Pg 2 #22

The alleged victim testified in court when asked by the prosecution, "How do you know his finger was in your vagina?". She answered that "I could feel it along the wall of my vagina..." (Pg 3 #35-36) and that "... it went in more than once." She stated three times to be exact and that, "He didn't have to force it, there was a lot of lotion and it went in easily." Pg 3 #37-41

Massage oils used in the massage session would have been located by the swabs used for testing in the examination. When asked if oil would have been recovered, the examiner stated, "Potentially." Section 4 Pg 3 #37-38. "It's possible." Section 4: Pg 4 #44

Further suppression was evident when the test swabs collected by Arnett from the examination were not divided equally by her, between the prosecution and the defense. The forensic examiner stated that, "If a case goes to trial, then the swabs are divided between the prosecution and the defense." Failure to do so violated fair and ethical evidence handling procedures as described by a forensic professional.

Statement for Additional Grounds for Review

1. Section 2) Argument against faulty DNA evidence Investigation
2. Taken from) Verbatim report of proceedings (day 2) Pg 152-192  
Sept 23, 2013. Snohomish county Superior Court  
cause No. 14-1-01562-8 COA #72619-6-1
3. Prosecutor: Hendrix  
Defense: Silbovitz  
Witness: Arnett  
Defendant: Cook

This section of my grounds for review statement is from the testimony given by Jacqueline Arnett, a detective with the Lynnwood police department. Arnett has 720 hours basic academy, 3 years patrol experience and 4 years experience as a detective, primarily assaults, robberies and things of that nature. She primarily gets several assault cases.  
Pg 152 #25, Pg 153 #3-12

A. Prosecution: Hendrix

1. Q: Were you assigned a case for investigation July 9, 2014?  
Pg 153 #14
2. A: I was Pg 153 #16
3. Q: Who did the case involve? Pg 153 #23
4. A: It involved Nancy Robinson and Mr. Cook Pg 153 #24
5. Q: Did you have her get a sexual assault examination?  
Pg 177 #9-10
6. A: We discussed it. Pg 177 #11
7. Q: What did you discuss with her? Pg 177 #12
8. A: Swabs taken from the inside and outside of the vagina.  
Pg 177 #15-16 What we would be looking for is touch DNA.  
Pg 177 #18-19



9. Q: What is touch DNA? Pg 175 #4
10. A: Touch DNA is little skin cells that everybody sloughs off. It's little bits of DNA. Pg 178 #5-6
11. Q: So this would leave a trace? Pg 178 #9
12. A: It could. Pg 178 #10
13. Q: Did Nancy end up getting a sexual assault examination?  
Pg 179 #2
14. A: She did. Pg 179 #3
15. Q: Did you receive any swabs from the exam? Pg 179 #11
16. A: I did. Pg 179 #12
17. Q: Did you send them in for a laboratory analysis? Pg 179 #13
18. A: I put them into evidence. We didn't send them in.  
Pg 179 #14
19. Q: Why not? Pg 179 #15
20. A: Again, the likelihood of locating touch DNA was incredibly unlikely. Pg 179 #16-17
21. Q: Did the fact that the defendant told you he touched and later may have touched her vagina have anything to do with that as well? Pg 179 #18-20
22. A: Yes. Affirmation. Again we were just looking for touch DNA. There was no other quantity of DNA that we may have been able to locate or identify. Pg 179 #21-23
23. Q: So if you found it, it would have been consistent with what he told you and then may have said maybe?  
Pg 179 #24-25
24. A: Yes. Pg 180 #1

B. Defense: Silbovitz

25. Q: The swabs that were recovered from the examination that Mrs. Robinson did, you indicated that you placed into evidence, is that right?

Pg 191 #14-16

26. A: Correct. Pg 191 #17

27. Q: They were not tested for anything? Pg 191 #18

28. A: Correct. Pg 191 #19

29. Q: Are you aware if they were tested for anything other than DNA?

Pg 191 #20-21

30. A: It depends maybe what you are looking for. We don't typically test for anything other than the presence of DNA Pg 191 #22-24

31. Q: Are you aware oils were used during the massage? Pg 192 #1

32. A: Yes Pg 192 #2

33. Q: Those swabs weren't tested to see if there were any oils on them?

Pg 192 #3-4

34. A: No. Pg 192 #5

35. Q: How do you know his finger was in your vagina?

36. A: I could feel it along the wall of my vagina. Day 1 Pg 66 #24-25

37. Q: Did it go in once or more than once?

38. A: more than once.

39. Q: How many times?

A: At least three

40. Q: Was it hard or forced?

41. A: He didn't have to force it. There was a lot of lotion and it went in easily. Day 1 Pg 67 #1-6

## Statement of Additional Grounds for Review

### Argument against faulty DNA evidence investigation

#### 1. Section 3: Closing Arguments

On September 24, 2014, the prosecutor gave his closing arguments in the sexual assault case involving Steven Cook.

In his presentation, he stated that the alleged victim's testimony at the trial was "consistent with what she told initially officer Reed on that first night, detective Arnett three-- two or three days later; Nurse Fukura after that." Pg 2-A

That is not true! The alleged victim did not tell Officer Reed, who took the initial statement from her 48 hours after the alleged assault, that there was massage oil evidence.

She did tell detective Arnett about the oil. She did not tell the forensic investigator about the oil. Neither did detective Arnett!

Section 4: Pg 4 #39-42

The prosecutor then told an outright lie when he told the jury that the forensic investigator said that "The swab testing with the defendants DNA four days later would be unlikely. That statement is nowhere in the transcripts of the trial. Pg 2 #2-H

What the forensic examiner DID say is that she takes DNA within 7 days and sometimes longer (section 4 Pg 2 #23-26) and would have potentially recovered not only DNA but oil as well. Section 4: Pg 3 # 37-38

The prosecutor then asked the jury to remember that Cook had "told the detective Arnett he touched her vagina." That statement is also not in the transcripts.

2. Then, the prosecutor has one of his finer moments when he states to the jury that Cook said "Yeah, I touched it." Incredible! I can guarantee you will not find that in the transcripts.

Just when it was looking as if the prosecutor had gone off the deep end, he rose to the surface and blurted out the following masterpiece of courtroom cleverness:

"Gee I guess there was a small chance that the DNA could have been recovered on the swab that was also used to test whether she had any sexually transmitted diseases. It's not a doubt to an element of the offense. It's not a reasonable doubt.

1. GEE. A childish reflection to minimize and make light of the fact that the forensic examination was not really that important.

2. A SMALL CHANCE that DNA could have been recovered means that there was a chance no DNA would have been recovered, proving no assault and a man's innocence.

3. "The swab was also used to test" whether she had any sexually transmitted disease. The prosecutor states that a swab was used to test sexually transmitted disease. Where are the other 3 swabs?

3. Detective Arnett testified that the swabs were not tested for anything. section 2: Pg 3 #27-28

The prosecutor then misstates reality when he says,

4. "IT'S NOT A DOUBT OF AN ELEMENT OF THE OFFENSE, IT'S NOT A REASONABLE DOUBT." I say PoppyCock.

A detective says something, a prosecutor says something else. A Forensic

examiner makes a statement, the prosecutor lies about what the examiner stated. Swabs were not analysed for anything, according to the detective. According to the prosecutor one of the swabs was tested. Oil evidence was known to exist but that information was not given to the forensic examiner by the alleged victim, or the detective.

The sexual assault examination was halted mid-stream on the false assumption that too much time had lapsed to collect evidence and swabs were removed from the examiner and put into evidence without analysis. Or were they?

The prosecutor lied about what the forensic examiner said and he lied about what Mr. Cook said.

The prosecution misled the jury, misstated the facts, minimized the importance, exaggerated the facts and outright lied to convince the jury that there was a sexual assault. AND that Cook did it.

THERE IS ABSOLUTELY MORE THAN A REASON TO DOUBT.

4. There was no sexual assault, nor was a shred of evidence that an assault occurred.

In the name of justice, fair representation, and the truth, Mr. Cook's conviction must be overturned and he be set free from prison to return home to care for an old blind man and walk his dog!

Statement of Additional Grounds for Review

1. Section 3) Argument against faulty DNA evidence Investigation
2. taken from) Verbatim report of proceedings (closing arguments)  
Sept.24, 2014 Snohomish county Superior Court  
Cause No. 14-1-0562-8 COA #72619-6-1
3. Prosecution: Hendrix  
Defense: Silbovitz  
Defendant: Cook
4. This section of my grounds review statement is from closing arguments (Verbatim Report of Proceedings)

A. Prosecution: Hendrix

- 2-A. What she testified to was consistent with what she told initially Officer Rud and that first night Detective Arnett three -- two or three days later; Nurse Fukura after that  
Pg 13 #7-10
- 2-B. Nancy did submit another reason why a person may not want to submit a sexual assault exam. I'm not female but putting a Q-Tip in an orifice can't be pleasant no matter what  
Pg 27 #13-16
- 2-C But you heard nurse Fukura testify that that part of female anatomy, the vagina, is meant to have penetration Pg 27 #17-19
- 2-D. I asked her about the analysis of the swabs because detective Arnett had said "Well it's highly unlikely that we would get

DNA from that." Pg 27 #24, Pg 28 #1

2-E I asked her a question and she said "Oh, I think it would be highly likely that there would be transfer DNA." Pg 28 #2-4

2-F And then I looked over and detective Arnett wrote down "What about the results of the swab?" Pg 28 #5-6

2-G And so I asked her that. She said "it would be unlikely. The difference being that some DNA might go in there." Pg 28 #7-8

2-H The swab testing with the defendant's DNA four days later would be unlikely Pg 28 #9-10

2-I And that's consistent with what detective Arnett testified about. Pg 28 #10-11

2-J But there is one other thing. It wouldn't make a difference because, remember, the defendant already told detective Arnett he touched her vagina accidentally. Pg 28 #12-14

2-K So if there was DNA, if that had been run, "Yeah, I touched it," That's the reason. Pg 28 #15-016

B.Defense: Silbovitz

2-L And it's important to note that she didn't report it right away because consequences of her not reporting it right away make it so there isn't any additional evidence. Pg 33 #23-25

2-M Ms. Fukura had said the DNA, if swabs were taken and my listening of the testimony was that was possible that there was DNA on those swabs if it had been tested. Pg 35 #9-12

2-N And there isn't -- Mr. Hendrix made an argument. Well, it doesn't matter because he admitted to touching her vagina. so if the swabs had DNA on it, it would have been inconsequential. Pg 35 #13-16

2-O But Mrs. Robinson is asserting that he penetrated her with finger in her vagina. So the swabs that were taken from inside of her vagina showed his DNA. Pg 35 #19-22

2-P That would have been evidence the state has-- Did not get tested and did not put before you Pg 35 #22-24

2-Q That's their burden, their duty to do that. That's lacking-- that's evidence that's not here. Pg 35 #24-25 Pg 36 #1

C. Prosecution: Hendrix

2-R So it's not a reason to doubt. Gee, I guess there was a small chance that the DNA could have been recovered on the swab that was also used to test whether she had any sexually transmitted diseases. Pg 45 #11-14

2-S It's not a doubt to an element of the offense It's not a reasonable doubt. Pg 45 #14-16

D. End of section 3 (From verbatim report of proceedings-closing argument)

Statement of Additional Grounds for Review

1. Argument: Against ineffective assistance of counsel for defense.

Section 4: Fukura

On July 10, 2014, Forensic Examiner Dale Fukura saw Nancy Robinson for concern of a sexual assault. Nurse Fukura stated that she has a fairly extensive conversation Pg 1 #1-7

Nurse Fukura stated that they do swabs for STD's and also forensics Pg 1 #10. She stated that the swabs are Q-Tips in the vagina and that she did not see any bruises, scratches, or injuries when she was doing everything but the genital exam Pg 2 #12-16

Nurse Fukura testified that she took swabs to check for STD's, and if it is less than 7 days, they take swabs just in case. Pg 2 #17-20

Nurse Fukura stated that finding touch DNA from one of the swabs was likely. She stated again that the office policy is to take DNA if it's within 7 days of the alleged assault and that, "We have taken it farther out" Pg 2 #21-24. Nurse Fukura repeated her statement that it was likely that DNA occurred and that, "DNA can be transferred any time you touch anything or any one." Pg 2 #25-26

Nurse Fukura said that it would be possible that if Mr. Cook had put his finger up Mrs. Robinson's vagina, DNA could have been taken from one of those swabs. Pg 3 #27-28

Nurse Fukura then indicated that it wouldn't make any difference to the swabs if Mr. Cook had oil on his hands. She stated, "No; it wouldn't have skin cells and oils, depending what the oil is." Pg 3 #29-30 She stated That if there was a likely transfer into the vagina the swab would capture it, "If I got the swab in the right place." Pg 3 #31-32

Nurse Fukura testified that four swabs were put into Mrs. Robinson's vagina and that the purpose of doing four is to get a broad area and that "if a case goes to trial, then the swabs are divided, supposedly, between the prosecution and the defense." Pg 3 #33-36. Nurse Fukura stated that on those swabs, DNA could "Potentially" be gathered from the swabs that touched the inside of her vagina as well as oil. Pg 3 # 37-38

Nurse Fukura stated that she "wasn't aware that oil was used in the massage on 7-6 and that Ms. Robinsin did not tell her that Mr. Cook had oil on his hands when he was massaging her. Pg 4 #43-44



She then stated that if she had come in the same day, it would have possibly been more likely that the transfer of DNA would have been captured by the swabs. Pg 4 #45-46

Nurse Fukura stated that she asked Robinson if she had showered and used the facilities and that it would be a slim possibility to find DNA on the swabs. Pg 4 #47-45

Statement of Additional Grounds for Review

1. Section 4) Argument against faulty DNA Evidence Investigation
2. Taken From) Verbatim report of proceedings (Day 2) Pg 203-209  
Sept. 23, 2013. Snohomish county Superior Court Cause No.  
14-1-01562-8 COA #72619-6-1
3. Prosecution: Hendrix  
Defense: Silbovitz  
Witness: Fukura  
Defendant: Cook

This section of my grounds review statement is from the testimony given by Dale Fukura, a registered nurse for 18 years with a masters degree in forensic nursing and 8 years experience in that field. She has 40 hours of classroom training and 10 prior cases at the Intervention Center.

A. Prosecution: Hendrix

1. Q: Did you treat or examine a patient named Nancy Robinson?  
Pg. 204 #12-13
2. A: "Yes I did" Pg. 204 #14
3. Q: Do you recall when you examined her? Pg. 204 #15
4. A: "Well the date I saw her was on July 10, 2014. Pg 205 #7
5. Q: What was the nature of the examination? Pg. 205 #9
6. A: ""She was in for a concern of sexual assault" Pg. 205 #10
7. Q: Did she say anything else? Pg 206 #8
8. A: "Well it was a fairly extensive conversation." Pg 206 #9
9. Q: Why don't you detail what you did and then I will ask you what you observed. Pg. 208 #14-15
10. A: "We do swabs for std's and also for forensics." Pg 208 #25
- 11 Q: By Swabs? How do you get those swabs? Pg 208 #25

12. A: ""Q-Tips in the vagina." Pg 209 #1
13. Q: Did you do that to Nancy? Pg 209 #2
14. A: "Yes I did." Pg 209 #3
15. Q: Did you see any bruises, scratches or injuries when you were doing everything but the genital exam? Pg 209 #4-5
16. A: No. I don't think I saw any. I don't have anything marked. Pg 209 #6-7
17. Q: Did you take swabs? Pg 210 #7
18. A: "Yes I did.: Pg 210 #8
19. Q: Why? Pg 210 #9
20. A: "Well, I took swabs to make sure that she didn't have any sexually transmitted diseases. Then, our policy is generally if it is less than 7 days, we will take swabs just in case." Pg 210 #10-13
21. Q: Is it likely you would ever find finger penetration, brief finger penetration DNA from one of those swabs? Pg 210 #14-15
22. A: It's probably not highly likely, but it is likely." Pg 210 #16 "Everyone transfers evidence to everyone when you touch them." Pg 210 #17-18
- B. Defense: Silbovitz
23. Q: It's your office policy to take DNA if it's within 7 days of the alleged assault? Pg 213 #11-13
24. A: "That's the general policy. We have taken it farther out." Pg 213 #14
25. Q: I believe you indicated it's not highly likely but likely that a DNA transferred occurred. Pg 213 #16-18
26. A: "Yes. DNA can be transferred anytime you touch anything or anyone." PG 213 #19

27. Q: If Mr. Cook put his finger up Mrs. Robinson's vagina there could have been DNA that was taken from those swabs?  
Pg 213 #21-22

28. A: "It's possible."

C. Prosecution: Hendrix

29. Q: I suppose if he had oil on his hands that wouldn't make any difference to the DNA. Pg 214 #9-10

30. A: "No it would more than likely have skin cells and oils, depending on what the oil is." Pg 214 #11-12

31. Q: If there was a likely transfer into the vagina, the swab would capture it? Pg 214 #17-19

32. A: "If I got the swab in the right place." Pg 214 #20

D. Defense: Silbovitz

33. Q: How many swabs in Mrs. Robinson's vagina? Pg 216 #16

34. A: "Four" Pg 216 #17

35. Q: The purpose of doing four is to get a broad area?  
Pg 216 #18-19

36. A: "That, and if a case goes to trial, then the swabs are divided supposedly between the prosecution and the defense."  
Pg 216 #20-22

37. Q: You indicated that on those swabs, not only would it be possible to get DNA from the swabs that touched the inside of her vagina, but also oil? Pg 217 #24-pg 218 #1

38. A: "Potentially" Pg 218 #2

39. Q: You are aware that oil was used in a massage on 7-6?

Pg 218 #3

40. A: "No, I wasn't aware." Pg 218 #4

41. Q: So, Ms. Robinson didn't tell you that Mr. Cook had oil on his hands when he was massaging her? Pg 218 #5-6

42. A: "No."

43. Q: If he did have oil on his fingers that penetrated her vagina, would that be something that would be potentially recovered on a swab? Pg 218 #8-10

44. A: "It's possible. It depends on the type of oil." pg 218 #11

45. Q: If she had come in and done the exam the same day would it have been more likely that the transfer of DNA would have been captured by the swab? Pg 218 #13-15

46. A: "Possibly." Pg 218 #16

E. Prosecution: Hendrix

47. Q: Did you inquire whether she had showered? Pg 218 #22

48. A: "Yes." Pg 218 #23

49. Q: What was her response? Pg 218 #24

50. A: "She Had." Pg 218 #25

51. Q: How about the use of the facilities? Pg 219 #1

52. A: "Yes." Pg 219 #2

53. Q: And? Pg 219 #3

54. A: "she had." Pg 219 #4

55. Q: Do you think it's likely to get a result on those swabs that were taken that would show foreign DNA? Pg 219 #5-6

56. A: I don't think it's real likely, I don't think it's highly likely. A slim possibility." Pg 219 #7

F. End of section 1 (From verbatim report of proceedings  
Pg 203-219 Day 2

Statement of additional grounds for review # 2

Section 1

Argument 1

Argument against ineffective assistance of counsel

FLIP FLOP

The assumption that Ms. Robinson was never on her back during the massage therapy session and the alleged sexual assault is made evident by her testimony to the jury.

Mr. Cook's testimony is that Ms. Robinson was absolutely on her back and on her side during the massage session. This fact alone casts a shadow of doubt in Cook's favor by illustrating Robinson continued to allow massage to go on after the alleged assault.

Detective Arnett's first statements were that Cook told her that Robinson was face up on her back. Then, Arnett said that "On the back sounds familiar, but the side does not." The third time she testified she stated "face up sounds familiar but I don't have that in my report. SO I'm not sure he actually told me that. It may sound familiar because I talked to Mrs. Robinson." Again, casting a wider shadow because Arnett herself recalls a conversation with Robinson about being on her back.

Ms. Sarah Silbovitz, the public defender representing Mr. Cook, never even picked up on the fact or challenged either Robinson or Arnett about the true and logical facts of the assault accusation. Ms. Silbovitz did not provide effective counsel in my defense!

## Conclusion

1. of the alleged sexual assault are that Mrs. Robinson was lying on her stomach when she was sexually assaulted and was never on her back at any time. To prove that that presumption wrong and that as Mr. Cook stated, she was in fact on her back and received a supine massage treatment would have proven Mr. Cook absolutely innocent and that the Robinson testimony an absolute and terrible lie in order to wrongfully convict an innocent man.

2. The Arnett testimony on page 22 #25, "Well I'm going to say that it may sound familiar because I talked to Mrs. Robinson," is incredible proof that Robinson had testified to Arnett that she was on her back at some point during the therapy session, eliminating Robinson's accusation and  $\frac{1}{2}$ roving her statement a lie. That statement was absolute verification that there was no forceble compulsion,sexual assault, let alone any sexual act, and no reason to arrest Cook. That testimony all by itself raises enough doubt.

3. Mr. Cook testified she rolled on her back (Pg 1 #2) then he stated that he asked Robinson to roll on to her side, putting a bolster between her leg and the table (Pg 1 #4). Then Mr. Cook stated that she would have been lying on her back. His testimony was given to Detective Arnett and in court.



Statement for Additional Grounds for Review

1. Section 1) Argument against ineffective assistance of counsel for the defense.
2. Taken from) Verbatim report of proceedings (Day 2 Pg 235-238)
3. Prosecutor: Hendrix  
Defense: Silbovitz  
Witness: Cook  
Defendant: Cook

This section of my 2nd grounds for review statement is from testimony given by Steven Cook, the defendant accused of a sexual assault crime which allegedly took place July 6, 2014.

Mr. Cook was working at a chiropractic business in Lynnwood, WA as a massage therapist. After four prior therapy sessions with the alleged victim, he was accused of the alleged victim 2 days after the 5th session, of the alleged crime mentioned above.

A. Defense: Silbovitz

Q; Can you describe what you did next? Pg 235 #12

A: She rolled on her back, slid down the table and I removed the face table from the the table

Q: So what happened next? Pg 237 #24

A: I asked Ms. Robinson if she would roll over onto her side and I put a bolster between her leg and the table. Pg 237 #25, Pg 238 #1

Q: This testimony today about what happened with Ms. Robinson on July 6 is that what you told detective Arnett when she questioned you on July 15? Pg 267 #14

A; Yes is it. Pg 267 #17

B. Prosecutor: Henrdrix

Q: Let's talk about the time where you said she flinched

A: She would have been lying on her back

C. This statement of facts are the same facts Mr. Cook gave to the investigato detective Arnett at the initial interview between Cook and Arnett. They are also the same facts that cook gave to the public defender Sarah Silbovitz before his trial.

Statement for Additional Grounds for Review

1. Section 2) Argument against ineffective assistance of counsel for defense.
2. Taken from) verbatim of proceedings (Day 2)
3. Prosecutor: Hendrix  
Defense: Silbovitz  
Witness: Robinson  
Defendant: Cook

This section of my 2nd grounds for review statement is from testimony given by Nancy Robinson, alleged victim of an alleged sexual assault that Steven Cook has been accused of committing on July 6, 2014.

A. Prosecution: Hendrix

Q: you called it a massage but this massage, how long on July 6 did it last?  
Pg 103 #24-25

A: I don't know how long it lasted, I was not looking at the clock. I do know that I had time when I left the massage to go home and shower and still arrive in time to pick up the boys at their dad's house at 9:00.  
Pg. #104 #1-4

Q: Where do you live? Pg 104 #5

A: In South Everett. Pg 104 #6

Q: How long did it take you to drive from the Lynnwood Urgent Care Chiropractic Clinic to your house? Pg 104 #9

Q: Can you say whether or not the massage lasted one hour? Pg 104 #13

A: I don't believe it did. Pg 104 #14

B. Defense: Silbovitz

Q: The boxer massage had just been completed and you are face down on the mat, Okay? Pg 113 #8

A: Okay Pg 113 #10

Q: You testified that he briefly massaged your back is that right?  
Pg 113 #11-12

A: Yes Pg 113 #13

Q: ~~That he went straight to the top of your butt,~~ is that right? Pg 113 #11-12

A: Yes ~~back~~ Pg 113 #13

Q: He went between your butt cheeks? Pg 113 #17

A: Correct Pg 113 #18

Statement for Additional Grounds for Review

1. Section 3) Argument against ineffective assistance of counsel for defense.
2. Taken from) verbatim proceedings (day 2
3. Prosecutor: Hendrix  
Defense: Silbovitz  
Witness: Arnett  
Defendant: Cook

This section of my 2nd grounds for review statement is from the testimony given by Detective Arnett, the investigator in the sexual assault case involving Steven Cook. Detective Arnett is also the arresting officer in the case.

A. Prosecution: Hendrix

Q: Do you recall him describing how he (Pg 187 #10) started off with the boxers massage? Pg 187 #10-11

A: Yes Pg 187 #12

Q: Then he had her go face down. Pg 187 #13

A: Yes Pg 187 #14

Q: Then how had he her flip face up. Pg 187 #15

A: Yes. Pg 187 #16

Q: Then he had her onto her side; did he tell you that? Pg 187 #18

A: I don't remember Pg 187 #19

Q: You spoke to Mr. Cook about his Recollection about that massage on 7-6. Pg 188 #2-3

A: Correct Pg 188 #4

Q: He told you the massage started with the boxer's massage. Pg 188 #5

A: Yes Pg 188 #6

Q: He had her go face down. Pg 188 #7

A: Yes Pg 188 #8

Q: He massage her that way. Pg 188 #9

Q: IS that a yes? Pg 188 # 11

A: Correct. Pg 188 #12

Q: Then he had her turn face up and he massaged her that way. Pg 188 #13-14

A: If I can look at my report. Pg 188 #15

Statement of case # 3

A-1 On September 22, 23, 24, 2014, public defender Sarah Silbovitz of the Snohomish county public defenders association, failed to provide effective assistance of counsel for defense in a case involving an alleged sexual assault charge against Steven Lee Cook. Effective defense was not provided primarily in the portion which pertains to DNA examination.

The accuser had charged that Mr. Cook had digitally penetrated her during a massage therapy session. The accuser waited 2 days to make a report to the police and, further, the officer failed to recommend a sexual assault exam, even though evidence collection possibility was well within the acceptable time frame.

Two days after that, which is four days after the alleged assault an examination was done. The exam was still within a 7 day window for DNA collection as we are told in testimony by the Forensic examiner in the case. The forensic examiner also stated that they have even collected DNA swabs farther out than 7 days.

DNA swabs were in fact taken but they were not tested by the crime lab based on an incorrect assumption on the part of the police detective, that 4 days was too long of a time passage that DNA could be collected, even though she suggested an exam. She also failed to inform the examiner of other potential, critical evidence that would likely have been present in the alleged assault referring to massage oils used during the massage.

The examiner stated that swabs were to be divided between the prosecutor and the defense and that was not done. There were other facts of a corrupted examination such as distortion of facts, suppressed evidence and prosecutorial mischief.

A-2 Ms. Silbovitz never had the swabs that were given to her tested to validated the fact that Mr. Cook's DNA was not present, nor challenged the detective in protest, that examination was stopped all together resulting in a lack of DNA analysis.

The prosecutor actually stated that there might have been a small chance that DNA could have been found on the swabs. On the same swabs that was tested to see if there were any sexually transmitted diseases, the detective is on record as stating that the swabs were not tested for anything.

Of these accusations and more evidence of deception and improper investigation to slant the outcome of the trial for the prosecution is in the statement of additional grounds for review argument against faulty DNA evidence investigation section 1-4

1. Ms Silbovitz should have had the swabs tested on her own.
2. Ms. Silbovitz should have found out about the swab the swab the prosecutor stated that was tested for STD's.
3. were the swabs tested?
4. How many swabs were put into evidence?
5. Why the detective stated the swab weren't tested for anything.
6. Argued to the jury that things were not right with the investigation. In my experience, DNA presence means guilty. No DNA means not guilty.
7. Ms. Silbovitz did not provide effective assistance. The DNA exam was corrupted with prosecutorial mischief and Ms, Silbovitz did nothing to stop it or change its outcome. Results would have exonerated Mr. Cook if done honestly and fairly.

Statement of Case #3

B. On September 22, 23, 24, 2014, Public defender Sarah Silbovitz failed to provide effective assistance of counsel for defense in a case involving an alleged sexual assault against Steven Lee Cook.

Effective defense was not provided when crucial argument was not made to confirm statements made by witnesses, Nancy Robinson (Alleged victim) and Detective Arnett (case investigator).

Nancy Robinson gave her testimony as to the events of the massage during which the alleged assault occurred and spoke of the procedures Mr. Cook used in the prior therapy sessions. Ms. Silbovitz never once in her cross examination asked if any of the procedures that Mr. Cook testified using in his statement to the detective and the court were used (primarily if at anytime was she on her back during the session). She never tried to get to the truth of it all.

Ms. Silbovitz failed to pick up on the fact that detective Arnett actually testified in court that Robinson being face up sounded familiar because she had talked to Ms. Robinson.

Ms. Silbovitz did not follow up on that statement or convey to the jury that, if true, Robinson had stated she was on her back it would prove her testimony of what happened was a lie and Mr. Cook would have been exonerated.

Ms. Silbovitz's lack of attention to details and confidence to aggressivley defend this case was evident throughout the trial Ms. Silbovitz failed to provide effective assistance of counsel for defense.

Q: Do you remember? Pg 188 #16

A: The face up sounds familiar, on the side does not. Pg 188 #17

Q: If you would like to refresh your memory. Pg 188 #18

A: The face up may sound familiar, but I don't have that in my report. So I'm not sure he actually told me that. Pg 188 #19-20

Q: It's not in your report, right? Pg 188 #21

A: Well I'm also going to say that it may sound familiar because I talked to Mrs. Robinson.

Q: What I'm asking you though, Mr. Cook's description that after she was face down she turned face up is not in your report? Pg 188 #24-25 Pg 189 #1

A: No it's not in my report. Pg 189 #2

Q: It's not in your memory. You can't remember if that was something he told you. Pg 189 #3-4

A: Correct. Pg 189 #5

Q: He could have told you that. Pg 189 #6

A: there is a number of things he could have told me Pg 189 #7

Q: Right. You don't have a perfect memory of that (Pg 189 #8-9) conversation.

A: Correct. Pg 189 #10