

COURT OF APPEALS
DIVISION THREE
OF THE STATE OF WASHINGTON

FILED

APR 27 2015

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
BY _____

STATE OF WASHINGTON)

Respondent,)

v.)

Thomas Weatherwax)

(your name))

Appellant.)

No. 32708-6-111

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Thomas Weatherwax, 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

Challenge Sufficiency of Evidence IN the Convictions of the First degree assaults towards Mr. Stromberg and Ms. Smith. I feel the state failed to prove the intent element of the assault charge towards the alleged "Intended Victim" MR. Bercier due to the testimony and physical evidence showing the Bullet trajectory was "10-15 yards" away from MR. Bercier. If the state failed to prove intent towards MR. Bercier then the transferred intent towards the other two victims will have failed, as well. thus far failing to prove key elements to the crime and should be reversed.

Additional Ground 2

Challenge Sufficiency of evidence of the conviction of UNLAWFUL possession of a firearm in the 1st degree. My DNA on the Holster of the Firearm proves Nothing but momentarily Handling of the Holster Not the actual Firearm and does Not permit actual OR Constructive possession of the Firearm. We attempted a motion to dismiss the charge during trial. The Judge agreed that it did not merit actual or constructive possession. But denied the motion and decided to give it to the jury. I move to Reverse this charge.

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

Date: 4-23-15
Form 23

Signature: Thomas Weatherwax

I would also like to reverse the allowance of the Gang evidence ER 404(b), and be granted a retrial due to denying my right to a fair trial. It was used to show character and intent but failed to prove Mr. Perrier's gang membership. Also I feel the Judge abused discretion by not applying it during sentencing. And also I feel it fails the prejudice vs. probative value test. Most of the issues brought up were more prejudicial towards me than beneficial towards the state. In regards to the actual crimes of this case. And according to state vs. Johnson 174 Wash. App. 1062 in order for the state to use past crimes/wrongs they must be relevant in time and place to current charges. The gang graffiti the state used to show character and intent was neither close in time or place and was extremely prejudicial.

04-23-15

~~Thomas Weatherwax~~
Thomas Weatherwax