Petition for Review

No. 33814-2-III

93874-1

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent,

v.

DENNIS WALLACE PATTERSON, Petitioner, *pro se*

PETITION FOR REVIEW

Dennis Patterson, pro se
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Identity of Petitioner

My true name is Dennis Wallace Patterson. I am the living man imprisoned by officers of Stevens County Washington for the act of peacefull assembly to redress grievances with the District Court judge. I am seeking review of the panel opinion of the Court of Appeals Division 3 case number 33814-2-III, filed October 20, 2016. (Appendix A)

The appeals court has notified me it has excused the appointed attorney. I cannot afford an attorney and do not waive my right to counsel but must proceed *pro se* under duress and in *forma pauperis* at this time to meet the filing deadline.

I am making this petition under the court's criteria for review. The issues created by the orders and opinions of the courts below are in conflict with decisions of the United States Supreme Court; Involve significant questions of law under the Constitution of the State of Washington and of the United States and; involve issues of substantial public interest that should be determined by this Supreme Court.

Issues Presented for Review

"His conduct – Mr. Patterson's conduct did not injure anybody. It was not a violent crime. No property was stolen."--Prosecutor Rasmussen (RP 312 @ 4-6)

1. Was the assembly and redress of grievances complained of protected

under the 1st and 10th amendments?

2. Can a judge enter a plea over the top of a willing and able Defendant?

3. Can a case be moved forward absent consent when the prosecution has been repeatedly challenged for evidence of jurisdiction and remained silent?

4. When do due process violations rise to criminal conduct?

Statement of the Case by Affidavit

AFFIDAVIT IN SUPPORT OF PETITION FOR REVIEW

BY THE SUPREME COURT OF WASHINGTON

I , Dennis Wallace Patterson, swear under penalty of perjury that the following facts are true and correct. The purpose of this affidavit is to set the factual record straight and refute false presumptions.

1. In 2014 I became aware and actively participated with other community members to notify all elected county government officers their refusal to comply with state codes enabling them to perform the duties of office left those offices effectively vacant. They were served 3 notices citing RCW 36.16.060 Place of filing oaths and bonds, RCW 65.04.030 Instruments to be recorded or filed and RCW 42.20.030 Intrusion into and refusal to surrender public office. (See Appendix C for relevant text) Consequently, the Stevens county prosecutor, Timothy Rasmussen has no authority to exercise jurisdiction on behalf of the State of Washington absent consent. The prosecutor has exercised his right to remain silent in the face of multiple

challenges for evidence of jurisdiction. (RP 315 @ 24 thru 316 @ 14)

2. Also during 2014 I witnessed Gina Tveit, sitting in the position of District Court judge, deny a poor rural family a limited license to travel for food and medicine while a suspended license charge was being resolved. She approved a pre-textual stop, made up her own standard of "probable cause, probable cause" but ultimately had to dismiss with prejudice. Even so, a few months later despite serving copies of the order of dismissal with prejudice on each law enforcement agency in the county, the defendant Mr. Loe was arrested by the City of Colville with the active participation of county deputies, for the same offense which Gina Tveit and the county prosecutor proceeded to prosecute. Gina Tveit found my friend guilty while not allowing him to defend himself. I witnessed this first hand. I was deeply aggrieved for my community.

3. Subsequently I witnessed Gina Tveit threaten a handicapped man struggling to communicate through an interpreter with contempt for not answering her questions and continually repeating he needed an attorney and order an associate out of the courtroom then immediately write a warrant for Failure to Appear. My grievance grew.

4. In the fall of 2014 a dozen community members, including myself, properly filed a citizens complaint resulting in a Summons for sheriff Kendle Allen's appearance in District court, signed by Gina Tveit. But, just a few

days prior to the scheduled hearing Gina she arbitrarily dismissed the complaint, giving no reason and without any response to the complaint. We were deeply aggrieved by Gina Tveit's arbitrary administration of justice and determined to redress these grievances.

5. I diligently studied the People's right to redress of grievance and determined under the 10th amendment that a reading in our Stevens County District courtroom, as Gina Tveit entered but before putting court into session, was the lawful way to peacefully redress our grievance with her directly. My intent of peaceful redress was guided by the following authorities (Appendix B for text)

- Declaration of Independence
- United States Constitution Amendments 1 and 10.
- State of Washington Constitution ARTICLE I DECLARATION OF RIGHTS SECTION 1 POLITICAL POWER., SECTION 2 SUPREME LAW OF THE Land, SECTION 3 PERSONAL RIGHTS, SECTION 4 RIGHT OF PETITION AND ASSEMBLAGE, SECTION 5 FREEDOM OF SPEECH, SECTION 12 SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED, SECTION 29 CONSTITUTION MANDATORY.
- And these US Federal and Supreme Court opinions:

A. "Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the

citizen." Olmstead v. U.S., 277 US 438 485; (Dissenting Opinion, justice Brandeis)

B. " Even judges, cloaked with absolute civil immunity for centuries, could be punished criminally for willful deprivations of constitutional rights on the strength of18 U.S.C. 242, the criminal analog of § 1983... The prosecutor would fare no better for his willful acts ." Imbler v. Pachtman, US 47 L Ed 2d 128, 96 S Ct

C. "If courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.." Marbury v. Madison, 5 US 137, 176

D. "When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate, the judicial branch of the Government has only one duty -- to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former.." U.S. v. Butler, 297 US(1936)

E. "Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." Miranda v. Arizona 384 U.S. 436, 491.

F. "It is clear that the Government may not prohibit or control the conduct of a person for reasons that infringe upon constitutionally guaranteed freedoms. The approval of such restrictive action would permit the government to 'produce a result which (it) could not command directly.'" Smith v. U.S. 502 F 2d 512

G. "The (court's prior) decisions...reflect the obvious concern that there be no sanction or penalty imposed upon one because of his exercise of constitutional rights. Sherar v. Cullen, 481 F 2d 946(1973) (9th circuit)

H. "The right to petition government for redress of grievances is "among the most precious of the liberties safeguarded by the Bill of Rights."

...Furthermore, the right to petition applies with equal force to a person's right to seek redress from all branches of government. *See California Motor Transport Co. v. Trucking Unlimited,* 404 U.S. 508, 510, 92 S. Ct. 609, 611, 30 L. Ed. 2d 642 (1972)." Farr v. Blodgett 810 F.Supp. 1485, 1489 (us dist court eastern Washington)

I. "The right of petition is one of the freedoms protected by the Bill of Rights, and we cannot, of course, lightly impute to Congress an intent to invade these freedoms."...The right of access to the courts is indeed but one aspect of the right of petition. *See Johnson v. Avery,* 393 U. S. 483, 393 U. S. 485; *Ex parte Hull,* 312 U. S. 546, 312 U. S. 549." California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 510

J. "The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances." Hague v. C.I.O. 307 U.S. 496, 513 (1939).

6. On January 1, 2015 Gina Tveit, Kendle Allen and Timothy Rasmussen received an advance e-mail of our call to a public reading to redress these grievances.

7. On January 5, 2015 myself and 3 other people volunteered to deliver the redress. I began reading our redress of grievance in our county courtroom as Gina Tveit entered. She quickly interrupted our lawful redress by attempting to put court in session without offering any alternative forum. Within 50 seconds I was physically grabbed then arrested for Trespassing by deputy Loren Erdman--despite being directly informed that our intent was peaceful redress. (RP 258 @ 19-20)

8. On January 5, 2015 I was Imprisoned when a magistrate was initially available, while presumed innocent, having no criminal record nor charged with harming anyone. (RP 312 @ 4-6)

9. On January 6, 2015, the sheriff paraded me in his jail uniform, shackled and chained, disheveled and exhausted after a sleepless night on a cement floor in the dead of winter, without adequate clothing or bedding through the public hallways of the courthouse and before the judge who was to make a character judgment about me in his determination of probable cause. This interfered with the administration of justice. I appeared as a criminal, as stereo-typical rabble. Indeed the judge belatedly admitted to this very prejudice stating: " I-I thought you might be an anarchist. I thought you might be essentially rabble, that had no philosophical construct. I don't believe that now." (RP 317 @25 thru 318 @2; 319 @16-19).

10. On January 8, 2015, two days after the probable cause hearing in which no finding was made (RP 7 @9-11), prosecutors Lech Radzimski (#39437) and Jessica L. Taylor (#36248) filed a Declaration of Probable Cause and charging Information. Neither prosecutor had a sworn Oath of Office.

11. The contempt of due process engaged in by the government officers have harmed me in violation of these federal codes (Appendix C for text):

18 U.S. Code § 241 - Conspiracy against rights;18 U.S. Code § 242 - Deprivation of rights under color of law; 18 U.S. Code § 2382 - Misprision of treason; 18 U.S. Code § 2384 - Seditious conspiracy; 18 U.S. Code § 2385 - Advocating overthrow of Government; 42 U.S. Code § 1983 - Civil action for deprivation of rights; 42 U.S. Code § 1985 - Conspiracy to interfere with civil

rights; 42 U.S. Code § 1986 - Action for neglect to prevent.

Sworn to and Dated this 14th day of November, 2016 by

Dennis Patterson

Dennis Wallace Patterson—Affiant

State Of Washington
County Of _____
On this day personally appeared before me Dennis Patterson, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.
Given under my hand and seal of office this day of
, 2016.

_____
Notary Public residing at _____
Printed Name: _____
My Commission Expires:

Argument

"In every state of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people."--*Declaration of Independence*

1. The people have reserved the right to determine the manner of exercising 1st amendment rights under the 10th amendment. This is the

essence of the affirmative Constitutional Defense that was denied in this case. Criminalizing the assembly and redress is in conflict with decisions of the United States Supreme Court (See Statement of the Case 5 A-J above); Involves significant questions of law under the 1st and 10th amendments of the Constitution of the United States and Article 1 sections 1,2,3,4 and 12 of the Constitution of the State of Washington; and should be reviewed by the Supreme Court due to the substantial and growing public interest today in penalties for exercising the rights of assembly and redress.

Absent the State government having established guidelines or procedures for redress of grievances Imprisonment for exercising this right is an attack on the people's constitutional government.

2. A judge cannot enter a plea over the top of a competent Defendant entering his own plea. This unjustly forces a man to defend another man's plea under an uninformed nature and cause of the action in violation of the 6th amendment and Article 1 section 22 which involves significant questions of law under the Constitutions of the United States and the State of Washington; and should be reviewed by the Supreme Court due to the substantial public interest in protecting affirmative Constitutional defenses. The prosecutor and trial court judge worked together to subvert an affirmative Constitutional defense, which the appellate court has affirmed. (RP 39 @13 thru 46 @2; 81 @24 thru 84 @14; 85 @7 thru 87 @10; 88 @18

thru 89 @9; 111 @10 thru 112 @5; 116 @2-3 and 22 thru pg.117 @3; 126 @15-19; 130 @2-9; 135 @19-24; 172 @4-12; 175 @20-25; 176 @15 thru 178 @7 ; 185 @1-3; 186 @23 thru 187 @25; 198 @22 thru 201 @21; 202 @9 thru 204 @3; 213 @10-15; 214 @23 thru 215 @3; 217 @6-8; 228 @13-17; 230@ 3-19 ; 239 @23 thru 243 @23; 248 @9-10; 249 @7-10; 256 @18 thru 257 @5; 258 @19-20; 261 @9-13; 272 @22-25; 297@1 and 22-25; 313 @4-5; 316 @14-20)

3. It is unjust to move a case forward when the prosecution has failed to meet its burden of proof of jurisdiction. Absent consent there is no jurisdiction to subvert Constitutional rights to state codes or local court rules in order to criminalize them. Especially not by officers who are in violation of those codes and their Oaths to support the Constitutions. Absent the Oath of Offices' guarantee to support the people's rights there is no consent to be governed under Washington State Constitutions Article 1 Section 1:

"POLITICAL POWER. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights."

4. Subverting Constitutional rights to state codes and local court rules raises critical issues under the Supreme law of the land and is too chilling not to Petition for review in the public interest.

By operating a de-facto jurisdiction as STATE OF WASHINGTON within The State of Washington and using it as cover to criminalize the right of

redress of grievances under their statutes, parties driving the case below have violated the Supreme Law of the Land—the federal constitution's proscription against new states in Article 4, section 3, cl 1 (Appendix B) And, defrauded the people of their consented government under the State of Washington's Constitution Article 4 section 27 (Appendix B).

5. Violating Due process in order to criminalize the exercise of rights is not a function of government officers whether due jure or de facto. Errors occur but at some point the quantity and type of violations go beyond repairable error and reach a criminal threshold. The multiple and grievious due process violations chilling the right to peacefull assembly and redress of grievances in this case warrant review in the public interest by this court under the people's Constitutions. Each and every violation offends The United States Constitution's 5th amendment and Washington's Article 1 Section 3. The due process violations include:

I. Violation of my lawfull authority under the 10th amendment to determine the manner of exercising my 1st amendment right.

II. Using codes and rules to subvert my constitutional rights.

III. The prosecutors having no subscribed Oath of Office to support the Constitutions were in violation of RCW 36.16.060, and therefore had no jurisdictional authority on behalf of the State of Washington to file the complaint or prosecute this case.

IV. Subjecting me to cruel and unusual punishment in violation of the United States Constitution's 8th amendment and Washington's Article 1 section 14.

V. Selectively prosecuting me by holding me accountable and charging me for the free willed actions of other people I have no authority over.

VI. Violating my right to be secure in my person and reputation in violation of the United States Constitution 4th Amendment.

Judge Neilson committed grievous due process violations through the entire proceedings from the probable cause hearing through sentencing. His contempt for due process includes:

a. Relieving the prosecutor of the burden to prove jurisdiction and thus failing to state a case.

b. Finding no probable cause for arrest then setting conditions for release from imprisonment and an arraignment under threat of force in violation of the United States Constitution's 4th amendment. (RP 7 @9-11)

c. Binding me to his plea which he entered over the top of a competent and willing Defendant in the act of entering his own. (RP 35 @10 thru 36 @6). This is a violation of the 13th amendments prohibition against involuntary servitude.

d. Proceeding, in collusion with the prosecution, to use his own plea as grounds to deny an affirmative constitutional defense. (see RP citation list in

Argument 2 above)

e. Falsely stating in his self-created motion to recuse that I "refused to enter a plea" and using this as ground to deny his prejudice.

f. Violating my right to an impartial jury in violation of the United States Constitution's 6th amendment and Washington's Article 1 section 22 by denying Voire Dire questions testing jurors ability to be impartial.

g. Violating my right to a trial by jury by denying the Supreme Law of the Land is the United States' Constitution.

h. Commencing trial over the clear objection of "NO" when asked if ready to begin trial based on the courts untimley exclusion of Defense experts and other witnesses on the morning of trial. (RP 131 @ 3-7; 134 @ 10-15)

i. Violating my 1st amendment and Article 1 section 5 free speech right to testify in my own defense by prohibiting me from telling the jury the cause and nature of the redress. I could be held in contempt of court for telling the whole truth or perjur myself for not doing so.

j. Belatedly admitting at sentencing his extreme prejudice that he initially believed I might be an "anarchist...essentially rabble..." but failing to reverse the errors based on his prejudice.

k. Violating my liberty to freely associate by includinging additional imprisonment in my sentence should any of my un-named associates who agreed with or supported me were to be disorderly while my sentence was in

effect.

And, the appeals court has violated due process by:

i. Moving the case forward, relieving the prosecutor of the burden of proof of jurisdiction.

ii. Knowingly relying on perjured testimony (that I disrupted court for 20 minutes) to support its opinion.

iii. Denying a fair hearing by "stacking the deck" against the Defendant in favor of the State.

Conclusion

Due to the unlawfull prosecution without jurisdition of this case, and the chilling effect of the many grievious due process violations employed to criminalize the rights of assembly and redress, the issues created by the orders and opinions of the courts below are in conflict with decisions of the United States Supreme Court; Involve significant questions of law under the Constitution of the State of Washington and of the United States and; involve timely issues of substantial and growing public interest that should be determined by this Supreme Court.

The following remedies will grant sufficient relief:

1. Dismissal of the case or return to the appeals court for reconsideration of the Constitutional issues raised in this Petition.

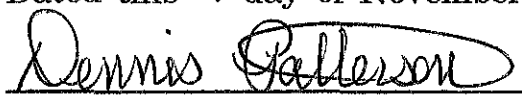
2. Every document signed and action taken from Jan. 2 through March 30

by Lech Radzimski and Jessica L. Taylor declared null and void for want of an Oath of Office.

3. Restitution for due process violations to be determined by jury.

4. Any other equitable relief within the discretion of this court.

Dated this 14th day of November, 2016 by



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In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON,	)	No. 33814-2-III
	)	
Respondent,	)	
	)	
v.	)	OPINION PUBLISHED IN PART
	)	
DENNIS WALLACE PATTERSON,	)	
	)	
Appellant.	)	

LAWRENCE-BERREY, J. — Dennis Patterson appeals his convictions for disorderly conduct and interference with a court. He argues a provision of the disorderly conduct statute, RCW 9A.84.030(1)(b), is unconstitutionally overbroad and infringes on protected speech. He also argues the State presented insufficient evidence of his intent to disrupt or interfere with court proceedings.

In the published part of this opinion, we conclude the challenged provision of the disorderly conduct statute does not reach a substantial amount of constitutionally protected speech, and therefore is not overbroad. In the unpublished part of this opinion, we reject his second argument and his argument contained in his statement of additional grounds for review (SAG). We therefore affirm.

Appendix A

FACTS

Mr. Patterson believes that several elected Stevens County officials, including judges, are not authorized to perform the duties of their offices because they have not complied with state laws relating to taking, filing, and bonding their oaths of office. Although he has brought his concerns to the attention of county and state officials, his concerns have not been addressed to his satisfaction. Believing that certain county officials, including District Court Judge Gina Tveit, were acting outside of the law, Mr. Patterson believed his only option was to present his grievance in person to Judge Tveit in her courtroom before she called a session to order.

On the morning of January 5, 2015, Mr. Patterson and several others who shared his beliefs gathered in the gallery of Judge Tveit's courtroom. Judge Tveit hears the traffic infraction docket on Monday mornings, and her courtroom was full that morning with people waiting to have their infractions considered by her. As Judge Tveit entered the courtroom, Mr. Patterson remained standing and began to loudly read his prepared statement. Judge Tveit told Mr. Patterson that court was in session, but he interrupted her and continued explaining why she lacked authority to judge anyone. Judge Tveit, trying to speak over Mr. Patterson, said a court rule prohibited persons in the audience from speaking. Continuing, she explained court proceedings were recorded, and the reason

audience members were prohibited from speaking was to preserve the full record. Judge Tveit, still attempting to speak over Mr. Patterson, said his loud speaking was disrupting court proceedings. She then declared court was in recess, and ordered him to leave. Mr. Patterson continued to question the judge's authority.

A deputy sheriff stationed in the courtroom approached Mr. Patterson and told him he was trespassing. Mr. Patterson did not leave. The deputy physically removed Mr. Patterson from the courtroom and placed him under arrest. As this was happening, another man in the courtroom began to loudly read a prepared statement. He, too, was removed.

Judge Tveit returned to the courtroom. Proceedings were immediately interrupted again by a third person loudly reading a statement. Once this third person was removed from the courtroom, order was restored and Judge Tveit was able to proceed with the morning infraction docket. The interruptions delayed court proceedings by 20 minutes.

The State charged Mr. Patterson with disorderly conduct and interference with a court. At the trial, Judge Tveit testified she has a duty to maintain control of the courtroom, and order is important for effective and efficient administration of court business. She testified she recessed court that Monday morning because Mr. Patterson would not stop talking loudly, and his actions prevented her from hearing cases. Judge

Tveit acknowledged there is no procedure in place for a citizen to directly address a judge if they have a grievance or issue with that judge. And a sign posted outside the courtroom informs the public that contact or conversation with a judge outside of the courtroom is prohibited.

A jury found Mr. Patterson guilty of both counts. He appeals his convictions.

ANALYSIS

A. CONSTITUTIONAL CHALLENGE TO PROVISION OF DISORDERLY CONDUCT STATUTE

Mr. Patterson first argues the provision of the disorderly conduct statute under which he was convicted is overbroad and infringes on constitutionally protected speech under the First Amendment to the United States Constitution and article I, section 5 of the Washington Constitution.

The interpretation of constitutional provisions and legislative enactments presents a question of law reviewed de novo. *City of Spokane v. Rothwell*, 166 Wn.2d 872, 876, 215 P.3d 162 (2009); *Federal Way Sch. Dist. No. 210 v. State*, 167 Wn.2d 514, 523, 219 P.3d 941 (2009). Generally, legislative enactments are presumed constitutional. *State v. Bahl*, 164 Wn.2d 739, 753, 193 P.3d 678 (2008). The party challenging an enactment has the burden of proving its unconstitutionality beyond a reasonable doubt. *Voters Educ. Comm. v. Pub. Disclosure Comm'n*, 161 Wn.2d 470, 481, 166 P.3d 1174 (2007). But in

the free speech context, "'the State usually bears the burden of justifying a restriction on speech.'" *State v. Immelt*, 173 Wn.2d 1, 6, 267 P.3d 305 (2011) (internal quotation marks omitted) (quoting *Voters Educ. Comm.*, 161 Wn.2d at 482).

The disorderly conduct statute, RCW 9A.84.030, makes it a misdemeanor to engage in four proscribed forms of speech and/or conduct. The provision at issue here is RCW 9A.84.030(1)(b). It provides that:

> (1) A person is guilty of disorderly conduct if the person:
>
> . . . .
>
> *(b) Intentionally disrupts any lawful assembly or meeting of persons* without lawful authority.

RCW 9A.84.030.

Mr. Patterson makes a facial overbreadth challenge to this provision. In a facial challenge, a person may argue the statute is overbroad without first demonstrating that his or her own conduct could not be regulated by a sufficiently specific statute. *Immelt*, 173 Wn.2d at 7. Such a challenge is permitted because

> First Amendment overbreadth doctrine is largely prophylactic, aimed at preventing any "chilling" of constitutionally protected expression. As a result, courts will permit facial overbreadth challenges when the statute in question chills or burdens constitutionally protected conduct. Overbreadth doctrine also has a constitutionally mandated "core", in which a defendant has a right not to be sanctioned except under a constitutionally valid rule of law. When a defendant convicted under a criminal statute challenges the statute as overbroad, he or she is asserting that the conviction rests on an unconstitutional law. Application of the overbreadth doctrine is strong

> medicine, however, and should be employed by a court sparingly and only as a last resort.

State v. Halstien, 122 Wn.2d 109, 122, 857 P.2d 270 (1993) (citations omitted).

"[O]ur article I, section 5 analysis of overbreadth follows the analysis under the First Amendment." *Bradburn v. N. Cent. Reg'l Library Dist.*, 168 Wn.2d 789, 804, 231 P.3d 166 (2010). A court's first task in an overbreadth challenge is to determine whether the enactment at issue reaches a substantial amount of constitutionally protected speech or expressive conduct. *Immelt*, 173 Wn.2d at 7; *City of Houston v. Hill*, 482 U.S. 451, 458, 107 S. Ct. 2502, 96 L. Ed. 2d 398 (1987). An enactment is overbroad if it "'sweeps within its prohibitions'" a substantial amount of constitutionally protected conduct. *Immelt*, 173 Wn.2d at 6 (quoting *City of Tacoma v. Luvene*, 118 Wn.2d 826, 839, 827 P.2d 1374 (1992)). Criminal statutes must be scrutinized with "particular care," and those that make a substantial amount of constitutionally protected speech unlawful may be held facially invalid even if there is also a legitimate application. *Hill*, 482 U.S. at 459. But "[a] statute or ordinance will be overturned only if the court is unable to place a sufficiently limiting construction on a standardless sweep of legislation." *Luvene*, 118 Wn.2d at 840.

To determine whether a statute sweeps too broadly, we must first construe it. We will abstain from declaring a statute unconstitutional if we can fairly give the statute a narrow construction. "In cases involving a facial challenge to a statute, the pivotal question in determining whether abstention is appropriate is whether the statute is 'fairly subject to an interpretation which will render unnecessary or substantially modify the . . . constitutional question.'" *Hill*, 482 U.S. at 468 (quoting *Harman v. Forssenius*, 380 U.S. 528, 534-35, 85 S. Ct. 1177, 14 L. Ed. 2d 50 (1965)).

The provision here is short and direct, with few words or phrases subject to judicial construction. One word that requires judicial construction is "disrupt." That word can be construed to mean a slight disruption or to mean a substantial disruption. One phrase that requires judicial construction is the exception, "without lawful authority." The lawful authority exception can refer to law enforcement or it can refer to any specific recognized authority—such as a principal in a school or a teacher in a classroom. So to render RCW 9A.84.030(1)(b) constitutional, we give the scope of the statute a narrow reading, and the exception a broad reading. Therefore, we hold RCW 9A.84.030(1)(b) requires the State to prove the intentional disruption was substantial, meaning that it reasonably caused the meeting to be delayed or canceled. We also hold that the State must prove the disrupter did not have specific recognized authority to disrupt the

meeting.[1]

"[T]he overbreadth doctrine attenuates as the sanctioned behavior moves from pure speech toward conduct." *Immelt*, 173 Wn.2d at 8. Here, the disorderly conduct provision sanctions conduct more than speech. Although an assembly of people may be substantially interrupted by words as readily as by conduct, the statute is speech neutral, and focuses on the disruption rather than the viewpoint expressed by the disrupter. For example, had Mr. Patterson stood and loudly read the Wizard of Oz, and continued to read loudly after the judge ordered him to stop, the judge still would have recessed court.

In *Colten v. Kentucky*, 407 U.S. 104, 92 S. Ct. 1953, 32 L. Ed. 2d 584 (1972), the United States Supreme Court upheld a provision of Kentucky's disorderly conduct statute. Under the provision in question, a person was guilty of disorderly conduct if, "'with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he . . . [c]ongregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse.'" *Id.* at 108 (quoting KY. REV. STAT. § 437.016(1)(f) (1968)). In upholding the provision, the court noted the Kentucky statute

[1] Mr. Patterson relies on *People v. Rapp*, 492 Mich. 67, 821 N.W.2d 452 (2012) to establish the provision here is substantially overbroad. Although *Rapp* involved a Michigan State University ordinance that criminalized conduct similar to the provision here, we depart from that court's result primarily because that court broadly construed the ordinance instead of narrowly construing it, as our precedent requires of us.

was construed very narrowly by the state court so to encompass only insubstantial protected speech or activity. *Colten*, 407 U.S. at 111.

Having set forth the above principles, we now undertake the task of weighing "the amount of protected speech proscribed by the [law] against the amount of unprotected speech that the [law] legitimately prohibits." *Immelt*, 173 Wn.2d at 11. We note the provision, as construed, would prohibit very little protected speech or conduct. A person who merely intends to make his or her views known would not be subject to the law's proscription. Instead, only the person who intends to substantially disrupt a meeting so the meeting is delayed or canceled would be subject to the law's proscription.

A person generally has a free speech right to make his or her views known, but the rubric of free speech does not include the intent to substantially interfere with a meeting. Notably, the United States Supreme Court has held:

> The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in the excesses of anarchy.

Cox v. Louisiana, 379 U.S. 536, 554, 85 S. Ct. 453, 13 L. Ed. 2d 471 (1965).

We conclude that, because RCW 9A.84.030(1)(b) does not reach a substantial amount of constitutionally protected speech, it is not overbroad.

The remainder of this opinion has no precedential value. Therefore, it will be filed for public record in accordance with the rules governing unpublished opinions. RCW 2.06.040.

B. SUFFICIENCY OF EVIDENCE

Mr. Patterson next argues the State failed to prove he intended to disrupt or interfere with a court proceeding, but only proved he intended to exercise his constitutional right to petition the government for redress of his grievances. In so arguing, Mr. Patterson challenges both his disorderly conduct conviction and his interference with a court conviction.

In a criminal case, the State must provide sufficient evidence to prove each element of the charged offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 316, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979). When a defendant challenges the sufficiency of the evidence, the proper inquiry is "whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt." *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "[A]ll reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant." *Id.* Furthermore, "[a] claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably

can be drawn therefrom." *Id.*

In a challenge to the sufficiency of the evidence, circumstantial evidence and direct evidence carry equal weight. *State v. Goodman*, 150 Wn.2d 774, 781, 83 P.3d 410 (2004). This court's role is not to reweigh the evidence and substitute its judgment for that of the jury. *State v. Green*, 94 Wn.2d 216, 221, 616 P.2d 628 (1980). Instead, because the jurors observed the witnesses testify firsthand, this court defers to the jury's resolution of conflicting testimony, evaluation of witness credibility, and decision regarding the persuasiveness and the appropriate weight to be given the evidence. *State v. Thomas*, 150 Wn.2d 821, 874-75, 83 P.3d 970 (2004).

As we have held above, the pertinent provision of Washington's disorderly conduct statute required the State to prove Mr. Patterson intended to substantially disrupt the courtroom to cause it to be reasonably delayed or discontinued. Mr. Patterson does not argue Judge Tveit's decision to recess was unreasonable or that he had specific authority to disrupt.

The interference with a court statute provides, in relevant part:

> Whoever, interfering with, obstructing, or impeding the administration of justice . . . in or near a building housing a court of the state of Washington . . . resorts to any . . . demonstration in or near any such building . . . shall be guilty of a gross misdemeanor.

RCW 9.27.015.[2]

Here, Mr. Patterson argues his only intent was to petition Judge Tveit for a redress of his grievances, not to disrupt the morning's court proceedings. But he did disrupt the court proceedings. And he continued to disrupt the court proceedings after Judge Tveit announced court was in session, and while she articulated the reason why persons from the audience were required to be quiet. Judge Tveit testified she believed it was necessary to call a recess so that order could be restored in the courtroom. If Mr. Patterson's purpose was to petition Judge Tveit and not to disrupt the court proceedings, he might have found a less onerous method than causing a cacophony at the beginning of the morning docket and requiring every person who had court business to wait an additional 20 minutes to have their matters considered.

When evidence supports both an innocent explanation and a criminal explanation, a jury is entitled to infer guilt. *State v. Bockoh*, 159 Wn.2d 311, 340-41, 150 P.3d 59 (2006). Mr. Patterson was entitled to make his argument to the jury, and the jury was entitled to disbelieve it. *State v. Montgomery*, 163 Wn.2d 577, 587, 183 P.3d 267 (2008). Because a rational trier of fact could have found that Mr. Patterson acted with the intent

[2] RCW 9.27.015 does not contain a mens rea element. However, the court's instructions added an intent element to this offense. We express no opinion as to whether RCW 9.27.015 would be declared unconstitutionally overbroad under the test we

to substantially disrupt the courtroom, we will not disturb a jury's finding when it is based on substantial evidence.

C. APPELLATE COSTS

In compliance with this court's local rule, Mr. Patterson filed a supplemental brief with appropriate argument, supported by a current declaration of financial circumstances, establishing his current and future inability to pay an award of appellate costs. We therefore deny the State an award of appellate costs.

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

In his SAG, Mr. Patterson argues he was arrested and convicted unlawfully because he was exercising his constitutional right. Specifically, Mr. Patterson argues: "It is a foregone conclusion that if even the United States Congress can't criminalize our right to peaceably assemble and redress of our grievances then county and state government officers can't. Absent a constitutional amendment, neither can a jury." SAG at 2.

Although phrased differently, this is the same argument we addressed above: Mr. Patterson was entitled to argue to the jury that his intent was only to peaceably assemble and seek government redress of his grievances. But the jury was also entitled to

articulate today.

disbelieve him and find that he intended to throw the courtroom into disorder. We all have the right to peaceably assemble and petition the government for redress of our grievances. But as with all constitutional rights, this right is qualified. *See Cox*, 379 U.S. at 554 (the constitutional guarantee of liberty implies the existence of an organized society maintaining public order).

Lawrence-Berrey, J.

WE CONCUR:

Fearing, C.J.

Siddoway, J.

APPENDIX B CONSTITUTIONAL AUTHORITIES

DECLARATION OF INDEPENDENCE

"In every state of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people."

UNITED STATES CONSTITUTION

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Amendment XIII

Neither slavery nor involuntary servitude...shall exist within the United States, or any place subject to their jurisdiction.

Article 4, section 3, cl 1

New states may be admitted by the Congress into this union; but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

WASHINGTON CONSTITUTION

ARTICLE I DECLARATION OF RIGHTS

SECTION 1 POLITICAL POWER. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

SECTION 2 SUPREME LAW OF THE L AND. The Constitution of the

United States is the supreme law of the land.

SECTION 3 PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

SECTION 4 RIGHT OF PETITION AND ASSEMBLAGE. The right of petition and of the people peaceably to assemble for the common good shall never be abridged.

SECTION 5 FREEDOM OF SPEECH. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.

SECTION 12 SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED. No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.

SECTION 14 EXCESSIVE BAIL, FINES AND PUNISHMENTS. Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.

SECTION 22 RIGHTS OF THE ACCUSED. In criminal prosecutions the accused shall have the right to appear and defend in person, or counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses

against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is charged to have been committed and the right to appeal in all cases: *Provided,* The route traversed by any railway coach, train or public conveyance, and the water traversed by any boat shall be criminal districts; and the jurisdiction of all public offenses committed on any such railway car, coach, train, boat or other public conveyance, or at any station or depot upon such route, shall be in any county through which the said car, coach, train, boat or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate. In no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed. [AMENDMENT 10, 1921 p 79 Section 1. Approved November, 1922.]

SECTION 29 CONSTITUTION MANDATORY. The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.

ARTICLE 4 SECTION 27: The style of all process shall be, "The State of Washington," and all prosecutions shall be conducted in its name and by its authority.

APPENDIX C-STATUTORY AUTHORITIES

REVISED CODE OF WASHINGTON

RCW 36.16.060 Place of filing oaths and bonds. Every county officer, before entering upon the duties of his or her office, shall file his or her oath of office in the office of the county auditor and his or her official bond in the office of the county clerk...Oaths and bonds of deputies shall be filed in the offices in which the oaths and bonds of their principals are required to be filed.

RCW 65.04.030 Instruments to be recorded or filed. The auditor or recording officer must, upon the payment of the fees as required in RCW 36.18.010...(3) All such other papers or writing as are required by law to be recorded and such as are required by law to be filed.

RCW 42.20.030 (in relevant part) – Intrusion into and refusal to surrender public office. Every person who shall falsely personate or represent any public officer, ... or who shall willfully exercise any of the functions or perform any of the duties of such officer, without having duly qualified therefore, as required by law, ... shall be guilty of a gross misdemeanor.

UNITED STATES CODES

18 U.S. Code § 241 - Conspiracy against rights: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State... in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same...They shall be fined under this title or imprisoned not more than ten years, or both...

18 U.S. Code § 242 - Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State... to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States...shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon...shall be fined under this title or imprisoned not more than ten years, or both...At minimum.

18 U.S. Code § 2382 - Misprision of treason: Whoever, owing allegiance

to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both.

18 U.S. Code § 2384 - Seditious conspiracy: If two or more persons in any State... conspire to overthrow, put down, or to destroy by force the Government of the United States... or by force to prevent, hinder, or delay the execution of any law of the United States... shall each be fined under this title or imprisoned not more than twenty years, or both

18 U.S. Code § 2385 - Advocating overthrow of Government: Whoever knowingly or willfully advocates, abets... or teaches the... overthrowing or destroying(of) the government of the United States or the government of any State...or the government of any political subdivision therein, by force or violence...Shall be fined under this title or imprisoned not more than twenty years, or both..."

42 U.S. Code § 1983 - Civil action for deprivation of rights: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any ...subjects, or causes to be subjected, any citizen of the

United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law ... or other proper proceeding for redress....

42 U.S. Code § 1985 - Conspiracy to interfere with civil rights: (2) Obstructing justice; intimidating party, witness, or juror. If ... two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire ... for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws... ... in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right

or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators. 42 U.S. Code § 1986 - Action for neglect to prevent: Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured... for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case..."