

61566-1

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FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2009 MAY 27 AM 10:53

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION 1

BRIAN TURNER

Petitioner

VS

STATE OF WASHINGTON

Respondent

NO: 61566-1-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON

Respondent,

v.

BRIAN TURNER

(your name)

Appellant

No. 61566-1-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, BRIAN TURNER, 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

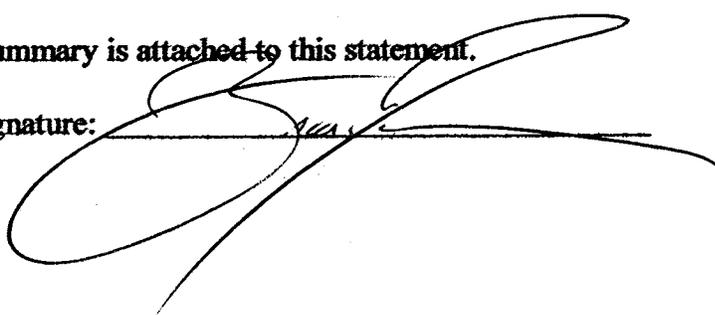
STATE VS. DICTADO 102 Wn. 2d 277 THE ADMISSIBILITY OF STATEMENTS ATTRIBUTED TO MS. TRALK UNDER A THEORY OF A STATEMENT OF CO-CONSPIRACY UNDER RULE 801(d) (2)(V) STATE MUST PRESENT A PRIMA FACIE CASE OF CONSPIRACY INDEPENDENT THE WORDS THAT ARE USED OR ATTEMPTED TO BE INTRODUCED AGAINST THE DEFENDANT. AND THERE WAS TO BE EVIDENCE OF INDIVIDUAL PARTICIPATION BY THE DEFENDANT. THATS REFERRED TO IN STATE VS. DICTADO 102 Wn. 2d 277; STATE VS. SMITH 65 Wn. App 468 (1992) STATEMENTS MUST BE MADE DURING THE COURSE OF AND IN FURTHERANCE OF THE CONSPIRACY, NOT BEFORE THE CONSPIRACY WAS FORMED OR AFTER IT WAS OVER. IN ORDER

Additional Ground 2

TO ESTABLISH CONSPIRACY ACTION THERE HAS TO BE EVIDENCE OF AN AGREEMENT, A CONCERTED ACTION BY THE PERSON INVOLVED IN THE CONSPIRACY. AT THE TIME THE STATEMENT WAS MADE THERE WAS NO FOUNDATION THAT AN AGREEMENT EXISTED BETWEEN MR. TURNER AND MS. TRALK FOR ANY KIND OF CRIMINAL PURPOSE. WEST LAW DIRECTS STATE VS. DICTADO: PROPOSITION OF DEFENSE OF WILLING A CONSPIRACY IS STATE VS. SMITH 65 App 2d 468.

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

Date: 3/2/09

Signature: 

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

STATE OF WASHINGTON
RESPONDENT

v.

NO. 61566-1-I

Brian Turner

Appellant.

ADDITIONAL Ground 1

STATE VS. DICTADO 102. Wn. 2d 277. THE ADMISSIBILITY OF STATEMENTS ATTRIBUTED TO MS. TRAUT UNDER A THEORY OF A STATEMENT OF CO-CONSPIRACY UNDER RULE 801(d)(2)(V) STATE MUST PRESENT A PRIMA FACIE CASE OF CONSPIRACY INDEPENDENT THE WORDS THAT ARE USED OR ATTEMPTED TO BE INTRODUCED AGAINST THE DEFENDANT. AND THERE HAS TO BE EVIDENCE OF INDIVIDUAL PARTICIPATION BY THE DEFENDANT. THATS REFERRED TO IN STATE VS. DICTADO 102 Wn. 2d 277.

ADDITIONAL Ground 2

STATE VS. SMITH 65 Wn. App 468 (1992) STATEMENTS MUST BE MADE DURING THE COURSE OF AND IN FURTHERANCE OF THE CONSPIRACY, NOT BEFORE THE CONSPIRACY WAS FORMED OR AFTER IT WAS OVER. IN ORDER TO ESTABLISH CONSPIRACY ACTION THERE HAS TO BE EVIDENCE OF AN AGREEMENT. A CONCERTED ACTION BY THE PERSON INVOLVED IN THE CONSPIRACY. AT THE TIME THE STATEMENT WAS MADE THERE WAS NO FOUNDATION THAT AN AGREEMENT EXISTED BETWEEN MR. TURNER AND MS. TRAUT FOR ANY KIND OF CRIMINAL PURPOSE. WESS LAW DIRECTS STATE VS. DICTADO: PROPOSITION OF DEFINITION OF WHAT A CONSPIRACY IS STATE VS. SMITH 65 App. 2d 468



D. THE COURT OF APPEALS DIV 1

IS THERE ANY DIRECT AUTHORITY REGARDING THAT ALL MOTIONS SHOULD BE NOTED
BY THAT DATE OF MY OMNIBUS?

IT WAS CLEAR THAT THE INFORMATION WAS NOT GOING TO BE AMENDED...
ON THE OMNIBUS ORDER, THE BOX WAS MARKED NO.
HASN'T MY RIGHTS BEEN PREJUDICED?

R.S.V.P.

THANK YOU.

A large, stylized handwritten signature in black ink, consisting of a large loop followed by a series of connected strokes.