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64271-5

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

FILED COURT OF APPEALS DIV. #1 STATE OF WASHINGTON 2010 APR 16 PM 3:58

STATE OF WASHINGTON

Respondent,

No. 64271-5-1

v.

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

Andrew Russell (Your name)

RECEIVED

Appellant.

APR 15 2010

Nielsen Bronan & Koch PLLC

I, Andrew Russell, 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

I am the defendant in the above-entitled cause.

I was tried and convicted of the crime(s) of: Felony violation of a court order before the Honorable Michael T. Downes. A judgment and sentence was entered on this matter on 15th day of September, 2009. I desire to appeal that conviction and the sentence imposed. I believe that the appeal has merit and is not frivolous and make the following

Additional Ground 2

assignments of error: 3.5 hearing and granting states to continue on 8/29/09; All evidentiary rulings, especially as it relates to state calling witness not on witness list. Testimony about other alleged violations at trial 9/8/09 9/10/09. On the day of trial Rachel Forde Public defender. I did what she told me.

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

Date: 3-23-10 3-23-10

Signature: Andrew J Russell Andrew J Russell

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APR 15 2011
Nielsen, Broman & Koch, P.L.L.C.

IN THE WASHINGTON STATE COURT OF APPEALS
DIVISION I

THE STATE OF WASHINGTON
PLAINTIFF

V.

ANDREW RUSSELL
APPELLANT

} COA NO. 64271-5-I
} NO. 09-1-01218-5
} STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I(GROUNDS)

(1). DID THE TRIAL COURT ERROR WHEN IT ONLY GAVE TEN MINUTES TO
DEFENSE SO THAT THEY COULD INTERVIEW STATES LAST MINUTE WITNESSES ?

(2). WAS DEFENSE DENIED THE RIGHT TO COMPULSORY PROCESS WHEN HE
WAS NOT ALLOWED TO CALL ALIBI WITNESS TO REBUTT STATES SUPRISE WITNESSES ?

II(STATEMENT OF THE CASE)

CASE NO. 64271-5-I

— THE APPELLANT WAS CONVICTED OF FELONY VIOLATION OF A NO CONTACT ORDER. HE APPEALS THE CONVICTION AND ON NUMEROUS GROUNDS BEING INEFFECTIV ASSISTANCE OF TRIAL COUNSEL, AND DENIAL OF SIXTH AMEND. RIGHT TO COMPULSORY PROCESS AND THE DENIAL OF THE RIGHT TO BRING A DEFENSE AGAINST THE CRIMINAL ALLEGATIONS. APPELLANT MOVES IN THIS STATEMENT OF ADDITIONAL GROUNDS AS FOLLOW:

III(ARGUMENT)

(A). APPELLANT ARGUES THAT HE WAS DENIED SUFFICIENT AMOUNT OF TIME TO INTERVIEW STATES SUPRISE WITNESSES. WHEN THE STATE WAS ALLOWED TO BRING IN SUPRISE LAST MINUTE WITNESSES THAT WOULD ATTEMPT TO STATE THAT THE APPELLANT WAS LIVING WITH THE ALLEDGED VICTIM, THE COURT ONLY GAVE THE DEFENSE TEN MINUTES TO INTERVIEW THE SUPRISE LAST MINUTE WITNESSES, CAUSING THE DEFENDANT RIGHT TO CALL REBUTTAL WITNESSES TO BE DENIED CAUSING PREJUDICIAL ERROR IN SO THAT HE WAS DENIED THE RIGHT TO COMPULSORY PROCESS GUARANTEED BY THE SIXTH AMENDMENT OF THE U.S. CONSTITUTION.

CASE NO. 64271-5-I

— (B). THE COURT ERRORED WHEN IT DENIED DEFENSE RIGHT TO CALL ALIBI WITNESSES THAT WOULD HAVERE BUTTED STATES SUPRISE WITNESS TESTIMONY THAT HE WAS LIVING WITH THE ALLEDGE VICTIM.

APPELLANT ARGUES THAT HE SHOULD HAVE BEEN ALLOWED TO CALL THE ALEDGED VICTIM'S DAUGHTER THAT WAS LIVING IN THE HOUSE AT THE TIME THAT THE STATES WITNESSES TESTIFIED THAT APPELLANT WAS LIVING WITH THE ALLEDGED VICTIM WHICH WAS NEEDED TO CONVICT THE APPELLANT.

OVERALL THE APPELLANT ARGUES THAT THE STATES SUPRISE WITNESSES SHOULD NOT HAVE BEEN ALLOWED TO TESTIFY, AND EVEN IF SO THAT THE DEFENSE SHOULD HAVE BEEN ALLOWED TO HAVE AN ADEQUATE AMOUNT OF TIME TO INTERVIEW STATES SUPRISE LAST MINUTE WITNESSES.

IV. (MEMORANDUM OF LAW)

APPELLANT ARGUES THAT HIS SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS WAS DENIED WHEN THE TRIAL COURT ONLY GAVE HIM TEN MINUTES TO INTERVIEW STAES SUPRISE WITNESSES. IN VIOLATION TO THE SIXTH AMENDMENT CONSTITUTIONAL RIGHT OF THE U.S. CONSTITUTION.

CASE NO. 64271-5-I

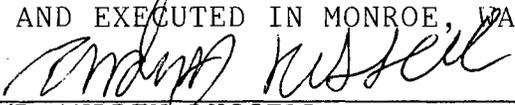
— V. (STANDARD OF REVIEW)

RATHER APPELLANTS SIXTH AMEND. RIGHT TO THE U.S. CONST. WAS DENIED BY THE TRIAL COURT SHOULD BE REVIEWED DE NOVO.

VI. (CONCLUSION)

APPELLANT SIXTH AMEND. RIGHT TO THE U.S. CONSTITUTION RIGHT TO COMPULSORY PROCESS HAS BEEN DENIED THUS A NEW TRIAL SHOULD BE GRANTED AND OR THIS CASE DISMISSED WITH PREJUDICE IN ACCORDANCE WITH LAW.

I CERTIFY AND OR VERIFY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY PURSUANT TO WASHINGTON STATE LAWS SIGNED AND EXECUTED IN MONROE, WA. THIS 12 DAY OF APRIL 2010.



MR. ANDREW RUSSELL

#

P.O. BOX 514
MOROE, WA 98272

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.)	COA NO. 64271-5-I
)	
ANDREW RUSSEL,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 16TH DAY OF APRIL 2010, I CAUSED A TRUE AND CORRECT COPY OF THE **STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] SNOHOMISH COUNTY PROSECUTOR'S OFFICE
3000 ROCKEFELLER AVENUE
EVERETT, WA 98201

SIGNED IN SEATTLE WASHINGTON, THIS 16TH DAY OF APRIL.

x *Patrick Mayovsky*