

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON)

Respondent,)

v.)

MARTIN EGAN - RUSSETT)

(your name))

Appellant.)

No. 67765-9-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, MARTIN EGAN RUSSETT, 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

MY DIMINISHED CAPACITY DUE TO ILL HEALTH

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 MAY 17 AM 11:39

Additional Ground 2

LACK OF PREPARATION OF MY LEGAL COUNSEL
AND MY RELIANCE ON THEM

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

Date: 5-3-12

Signature: Mark A. E. Rusk

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KC PROSECUTING ATTORNEY

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TO COURT OF APPEALS
STATE OF WASHINGTON
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SEATTLE WA 98101-4170

Label 228, January 2008

The Court of Appeals Notice to Appellant Re Statement of Grounds for Review was mailed to my home address from Nielsen, Broman & Koch (NB&K) but wasn't received by me until the evening of 17 April when I returned home from the hospital (had been admitted on April 14). Hope this is on time (Exhibit A).

I had written to NB&K that I felt there was a certain amount of Prosecutorial Misconduct that occurred during my trial the direct result of which was that I was railroaded into taking a plea. At no time did I ever meet with anyone from NB&K or even talk to them. Their written response to me was "when you plead guilty, you waive any potential issues you may have encountered before the plea." If this is true, this is not what I was told by The Defender Association (TDA) attorneys who said I could withdraw the plea at a later date. I met with one of them to complete the request to withdraw the plea and petition the court for a new sentencing hearing and signed the paperwork on 10/13/2011. The attorney filed the petition on 10/21/2011. I've since learned that this action should have been within 30 days of the sentencing. (Exhibit B)

In the interest of justice, my hope is the Court will consider the environment in which the plea was prepared, the clustering of three different cases, my mental and physical state, and the lack of preparation by the counsel was assigned to me.

I'd been in jail since January 24, 2011 and for the 1st 6 months had no meetings with any attorney except in open court during continuances that referenced "the administration of justice". My bail was set at \$250,000 but I had no opportunity to get information about the multiple serious felony charges against me. My mother wrote a certified letter to the Director of the TDA (received 7/25/11) at which time I still hadn't met with defense counsel (Exhibit C).

Soon thereafter I was assigned two attorneys – one for each action - but by then I was already in the hospital for severe ulcerative colitis being told that my colon may need to be removed.

Here's what happened right after my release from the hospital after all that time in jail waiting to work with counsel.

TIMELINE

3 August 2011	Returned to King County Jail from Harborview Hospital
10 August 2011	Trial for 1 st charge begins - attorney assigned is new to Superior Court
16 August 2011	My attorney moves for a mistrial (details in other section)
18 August 2011	My mother contacts the attorney for the 2 nd charge about bail reduction and possibly property bond to provide for release for medical reasons
21 August 2011	TDA attorney for 2 nd charge files motion to dismiss charge of Attempted Indecent Liberties
22 August 2011	State responds that to do so would invade the province of the jury
23 August 2011	TDA attorney for the 2 nd charge advises me that I would not win if I went to court on the 2 nd count and says that the Office of the Prosecutor is willing to accept a plea but I would need to make the decision right away.
24 August 2011	Motion for Plea negotiation

At the time of the plea agreement I was still recovering from ulcerative colitis of such severity that I was hospitalized for a week at Harborview Hospital 27 July - 3 August. Since May I had been complaining to the Jail Infirmary of extremely bloody evacuations –they didn't seem to believe me. It was only when my hematocrit went so low that I needed to be put on an IV and hospitalized.

Because of my ill health I was frantic to be released from the King County Jail after more than 7 months waiting to go to trial or even to get a bail reduction hearing (\$250,000). A week after my 1st meeting with an attorney a trial on the first charge was scheduled to begin (8/10/11). This was my lawyer's first trial in Superior Court so she was accompanied by another attorney. It was he who requested that this trial be declared a mistrial. And this declaration of a mistrial (and my attorney's not challenging the OPA in court) directly contributed to the plea.

This was contrary to my wishes in that as soon as the first trial date was identified, and the attorneys assigned, my mother was so concerned about my health that she proposed that when the first trial was ended, that I petition the court for a bail reduction, which, if not successful, we would put up a house as a property bond and petition the court to accept this in lieu of the \$150K bail on the 2nd charge. (Exhibit D)

The TDA lawyer for the 2nd charge petitioned the court for bail reduction but was told by the court that this could not be considered because, given that the original trial was declared a mistrial, I remained under the jurisdiction of the court. By this time, this TDA attorney prepared a motion for dismissal of the very serious charge using Knapstad. The motion was denied when the court cited that given the facts, that it was not appropriate for them to "invade the province of the jury." By this time my mother had figured out how to access the King County Superior Court website and printed this out. This is what we thought best too – that is why I spent all the time in jail – waiting for an opportunity to put the charges and evidence to a jury and let them decide my guilt or innocence.

Unfortunately, the TDA attorney assigned to this case told me that I shouldn't go to court – that the evidence against me was too much – recommended that I take work with them to a

plea. On 23 August when my mother tried to send the draft documents for requesting a property bond for \$150K, the TDA attorney said that it would not be needed.

I was desperate to get out of jail and depended on my lawyers on the plea. I may have signed the paper, but I was weak, confused, and did not fully understand the result of pleading guilty to the charges that were presented to me. I felt deprived of an opportunity to appear in court to confront my accusers on the Felony Telephone Harassment charge. I was still very ill at trial when I signed the plea agreement and felt that it was presented to me for the convenience of the attorneys who advised me to sign it so I could be released from jail by Labor Day weekend. (As it was they never completed the paperwork and it wasn't until a family member emailed the TDA attorney that they returned to the court the following week to complete their paperwork.)

Background of charges against me.

In September 2009, I saw myself a protector of a young woman who I had been seeing. She had had a troubled upbringing, serious abuse which caused estrangement with the father's family and a mother who had serious mental issues. At this time I was living in the duplex apartment at my mother's house who told me that I was in no position to help her and she didn't want her over at the house – it would bring nothing but trouble. In May I had accompanied the girl and her mother when her mother wanted her to stop living on the street and wanted her to stay with her grandmother in Chehalis which didn't last. In September, she had run away again (she was 19) and her mother telephoned my mother a lot asking if she was at our house. One evening she came over after being on the streets for more than 4 days – she was very high, dirty and unkempt. She started screaming in my backyard and the neighbors called 911 – she was running around in the dark incoherent, falling, and accusing everyone of

everything. Her mother took her to the hospital days later and had photos taken. I was charged with Assault 2. The young woman was sent to *Passages Malibu* in California for 60 days during which time she continued to email me. I responded to some of the emails during a no contact period. The case went to trial and was declared a mistrial – according to my attorney 11 to 1 for not guilty. What was fortunate was that there were multiple eye witnesses who signed statements saying that they witnessed my actions and they all appeared to be lending assistance (helping her up, calming her down, etc.). The Prosecuting Attorney said that they were going to file additional charges of Witness Tampering because of the emails. I did break the no contact order by emailing her so plead guilty to 2 counts of breaking a no contact order. But there was no harassment – just a breaking of the no contact order my text message to someone more than 1000 miles away..

Fast forward to New Year's Day 2011 when my girlfriend Sara and I had an argument about my drinking. The next day she went to a yoga retreat with her friend on San Juan Island, and when she returned I was at her apartment wanting to talk. (I had a key and was there waiting for her.) But I had been drinking. When she arrived back from her trip with her friend, and they saw that I was impaired, they didn't want anything to do with me so they left in the friend's car. I followed them out, and as they were driving away, backing out of a long narrow driveway, I banged on the car shouting for them to stop – I wanted to talk to Sarah. I was a drunken idiot. They drove off and the friend wanted to call 911 so they did. On 13 January 2011 the police came to Sara's house with a warrant for her cell phone which they returned to her on 26 January. She was told that they needed the telephone for their investigation of felony harassment. She said that there had been no harassment but they took the telephone anyway. Sarah felt that the police deprived her of her property in their attempt to make a case against me. This was never mentioned in the trial.

On 24 January 2011 a warrant was issued for my arrest for the charge of Residential Burglary, Felony Harassment and Malicious Mischief. Police came to my house and I was arrested and but into King County Jail with \$100,000 bond.

When Sara found out she petitioned the court on 4 February that there was no residential burglary that Martin had a key and there was never any abusive behavior – that she has never been afraid of me, etc. She had prepared this document and presented it to the Victim Advocate assigned to her. Nevertheless, the state proceeded to arraignment and bail was set at \$100,000. I knew that if I could get a trial, then the matter would be cleared up.

But then additional charges were filed.

A Seattle Police detective located two other complaints about me from 2010:

1. 27 January 2010 from a young woman who I went to school with at North Seattle Community College and who I asked for a date. When she came over to my house I was drunk and acted inappropriately. She came into my apartment, sat on the couch with me, and I tried to kiss her and misinterpreted her diffidence as interest. When she made it clear she wasn't interested she left. But she called in a complaint and made a statement to a police officer. An SPD detective contacted this young woman in February and told her "there were other victims at risk" and asked if she would cooperate in a prosecution and then recorded a conversation with her on 30 April 2011.

These are referenced in the brief submitted to the court on my appeal of the requirement for a sexual deviancy evaluation. The brief states (page 2) that the statement

made to detectives in 2011 was similar to the one a year earlier – but when I read them I see that they are markedly different. The original statement made in 2010 stated that when I was in another room, she gathered her things and left.

The more recent statement has me following her out and grabbing her by the arms then lifting her up and saying I could do anything I want with her. I did put my hand on her leg but at the time we were both fully dressed and both wearing jeans. But in her most recent statement to the detective she comments that she spoke in a “whimsical way” which I interpreted as her being interested. I made no attempt to interfere with her clothing. When she made it clear she was not interested I backed off and did not try to overpower her in any way. Being alone in an apartment with two men who had been drinking was probably traumatic in and of itself which was compounded by my inappropriate fumbling advances. I did not know she was only 19 years old. My actions were wrong and regret I caused her to be so upset, I mistakenly thought she was interested in me in a romantic way. I have not seen her since the evening this occurred.

The TDA attorney filed a brief to dismiss the charges. When this was not accepted she then starting talking to me about accepting a plea. There was a witness in the apartment that could have been located and could have helped my defense but I felt that the TDA felony division had so many very serious cases they couldn't be bothered with me.

2. The second charge also involved a long time friend who I had known since childhood (we attended the same afterschool program in elementary school). Laura said she'd been living with someone named Evan and she kept trying to break up with but unsuccessfully. She said he was into computer security and complained to me about how possessive and controlling he

was. As our relationship became intimate, Laura said she'd broken up with Evan but that he was still living in their apartment. I was very uncomfortable with this. In the police report they state that during the time that Laura and I were dating and Evan was still living in her apartment "Martin was already showing signs of jealousy about Evan". The situation was very weird. I thought Laura was a great girl and wanted a relationship with her, but if I visited her apartment, there was her ex-boyfriend. In June, after Evan moved out, Laura said she didn't want to get into a relationship right away and then, after I got drunk in the middle of June after the sentencing for my trial was over, she said she didn't want to see me again. That was that and I didn't push it and in July 2010 went to live in Montana to find work.

The 2nd week I was there I had a seizure and was hospitalized in the Billings Clinic. After this I returned to Seattle. In August, Laura came over to see me at my apartment several times and I thought I'd have another chance with her. I said some nasty things on 31 August, but felt baited by Evan who emailed me on 8/28/10 writing "Laura has nothing to do with this, she did not ask me to talk to you, I just want you to stop bothering her my girlfriend... I feel that she needs to be left alone." I was enraged – who is he to tell me to see or not see Laura. In the police report, Evan says he was physically shaking from fear after reading messages – this is surprising if you see how he presents himself on Facebook– all punk with skulls on his shirt. In the police report, he says he had never met me and he feels the only reason for my "threats" is to get me away from Laura.

They both came to the North Seattle precinct to lodge a complaint in October 2011. Her boyfriend had recorded all of my calls and kept a phone log. But what wasn't presented into evidence are the communications from Laura to me during the period the police report states they were being harassed. Her emails ended with a little heart. My hope was that the truth

would come out at trial. I know I am an ugly drunk and that I said things I shouldn't have that were mean and hurtful but felt that the people making the charges against me were not honest in their selective use of material and lying about what actually occurred. I was charged with multiple counts of Cyberstalking, Felony Telephone Harassment

These two above incidents were combined into another charge with bail of \$150,000.

Now my total bail was \$250,000

Lack of appropriate preparation by counsel and the clustering of cases in the plea.

Actions of Prosecuting Attorney at my trial

It didn't seem like a trial because both the Prosecuting Attorney and my attorney kept checking documents and excusing the jury. I lost count on how many times the jury was excused. I thought that after the jury would learn of Sara's affidavit (cited in the brief submitted to the Court (Page 7; Supp CP 11, Sara Grossman's Demand for Revocation of Order Prohibiting Contact – Exhibit E) that I would be exonerated of the charge of Burglary, Felony Harassment and I had already reimbursed Sara's friend the \$25 to fix her taillight which she accused me of breaking. But when the affidavit was attempted to be presented into evidence, it was objected to by the Prosecuting Attorney for the reason that there was no clear evidence that the document was from Sara Grossman citing it wasn't notarized. I couldn't believe it. Neither could my mother who was in court.

My understanding is that one of the responsibilities of the Prosecuting Attorney is to provide to the defense any exculpatory evidence (Brady vs Maryland) and admit at trial any "evidence that is material to either guilt or to punishment". In my case, not only did the Prosecuting Attorney (PA) not provide information to the defense, but when the defense sought to introduce this evidence (a statement Ms Grossman made to the court on 4 February 2011), the (PA) objected on the grounds that the evidence was not credible (signature was not

notarized). But this same (un-notarized) document was presented by Sara Grossman to the Court-appointed Victim Advocate Lisa Immerwahr who confirmed its receipt to her and who was working with the Court and the OPA. That the Prosecuting Attorney relied on this document that he attempted to suppress is seen in his never calling Sara Grossman as a witness which speaks to his not wanting her testimony in court, testimony that would have spoken strongly in my defense. Instead, he caused the court great inconvenience and expense by flying one witness from San Juan Island to Superior Court (individual who is heard giggling during the 911 call, who suffered \$25 damage in backing out of a narrow 50 ft driveway for which she was reimbursed – to support the Felony Harassment charge) and the landlady of Sara Grossman, an elderly woman who needed to be escorted by police officers to ask her about the condition of Ms. Grossman's apartment (to support the Burglary charge).

Instead of my lawyer's citing the Prosecuting Attorney for attempting to withhold exculpatory evidence that would have been material to my guilt or innocence, instead they chose to declare a mistrial an action which served to insulate the Prosecuting Attorney from such a charge.

Now I understand that what occurred during the trial is not able to be judged, but what occurred during the trial has a direct association with how I came to sign the plea agreement. That afternoon when the February 4th document was denied admission into evidence my mother spoke to Sara and told her what had occurred. That evening my mother was home babysitting my nephew and was awoken in the middle of the night hearing something on the porch. It was an envelope that contained a new notarized statement from Sara. My mother emailed my attorney in the middle of the night, told her what had happened and asked what she should do. The next day my mother brought the envelope to court and gave it to my attorney. Then Sara came into the court and my mother got up and went outside the court to talk with

her. All of a sudden there was uproar by the Prosecuting Attorney who called my mother to testify and be sworn in court and questioned her what envelope she had handed to my attorney, how she got the envelope, her relationship with Sara, making inferences of collusion. My mother testified truthfully. After this, my attorney called for a Mistrial. The judge specifically asked them if this is really what they wanted to do and they said that was what they recommended because the incident that just occurred had the potential of influencing jury.

This declaration of mistrial, given my physical state, had a direct impact on my being persuaded to pleading guilty to these charged. I did sign the plea agreement but want the court to consider that the decision to sign was at the direction of the attorneys that were assigned to me after I was told that there was no chance of me being found not guilty at trial – that this was the best course of action. Given their lack of preparation, a plea agreement benefited them – they didn't have to deal with me evidenced by the fact that soon after the motion to dismiss Count I of the 2nd case was not accepted, they were not supportive of my going to trial. If the facts demonstrate sufficient questions to put forward a motion to dismiss this very serious charge, don't think it was in my best interest to plead guilty to an assault charge with sexual motivation which is a creepy accusation.

Also having two attorneys, one assigned for each of the above-referenced cases was confusing – one worked with me on the plea but then the other one was in court. There was no continuity of counsel. I thought a mistrial happened when the jury could not come to a decision. The judge made it a point to ask my attorneys if they really wanted to do this, and they said yes. I relied on them for this decision. But it was contrary to what I wanted which was to have this trial over so I could have a bail reduction hearing because of the mistrial, I was still under the jurisdiction of Judge Gonzalez so could not move forward with this.

After I told my family this, they engaged counsel to prepare property bond and had documents prepared to use to petition the court that equity in a house in King County be used for my bail so that I could be released. On 23 August they contacted Attorney McKee to advise that these documents were ready and how could they provide them to her these. She emailed my mother to say that these documents would not be necessary. (They had already persuaded me to sign the plea agreement which was signed the following day.)

The second case was comprised of two different and unrelated incidents – the only common element was me. Charges were bundled together after a detective researched past complaints against me - one that involved a first date with an individual who called the police after coming to my apartment, making out with me, then leaving because I was inebriated / the other which involved a relationship that had extended from childhood. This detective then followed up with these two separate parties advising them that there were “other victims at risk”.

Feel the bundling of two incidents into one case was bizarre and then bundling two cases (three incidents) into one plea agreement was inappropriate. Know I was pressured into signing the plea agreement which denied me opportunity to face my accusers in open court. I spent 7 months in jail waiting to defend myself and then wasn't given the opportunity. When asked about withdrawing the pleas was told I could appeal.

EXHIBIT A

ERIC J. NIELSEN
ERIC BROMAN
DAVID B. KOCH
CHRISTOPHER H. GIBSON
DANA M. NELSON

LAW OFFICES OF
NIELSEN, BROMAN & KOCH, P.L.L.C.
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OFFICE MANAGER
JOHN SLOANE

LEGAL ASSISTANT
JAMILA BAKER

OF COUNSEL
K. CAROLYN RAMAMURTI
REBECCA WOLD BOUCHEY

April 11, 2012

Martin Egan-Russert
5614 Brooklyn Ave NE
Seattle, WA 98105

RE: *State v. Egan-Russert*, COA No. 67765-9-I

Dear Mr. Egan-Russert:

Enclosed is a letter from the Court of Appeals informing you of your right to file a Statement of Additional Grounds for review. The letter should be self-explanatory. If you decide you want to file a Statement of Additional Grounds, you can fill out the enclosed form, or you can file something that more closely resembles a brief, with citations to the record and to legal authority. In order to exhaust any federal issues, you would need to cite the U.S. Constitution and appropriate federal case law and argue those issues in a traditional brief format.

The Statement of Additional Grounds for Review is due 30 days after you receive our brief, or 30 days after you receive the transcripts if you have requested transcripts. If you file a Statement of Additional Grounds, the original should be sent to the Court of Appeals with a copy to the prosecutor and a copy to our office. When you send the original to the Court, you should also send a letter showing "proof of service," which states that you mailed a copy to the prosecutor and to our office. Be sure to sign and date the letter and the Statement.

Sincerely,



Dana Nelson
Attorney at Law

Enclosure

RICHARD D. JOHNSON,
Court Administrator/Clerk

The Court of Appeals
of the
State of Washington

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

NOTICE TO APPELLANT RE:
STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

RECEIVED
APR 10 2012
Nielsen, Broman & Koch, P.L.L.C.

COURT OF APPEALS DIVISION I OF THE STATE OF WASHINGTON

Re: Case No. 67765-9-1
State of Washington, Resp v. Martin Amadeus Egan-Russert aka Russert, App

Dear Appellant:

Your attorney has filed a proof of service indicating that you were mailed a copy of the opening brief in your appeal. If, after reviewing that brief, you believe there are additional grounds for review that were not included in your lawyer's brief, you may list those grounds in a Statement of Additional Grounds for Review. RAP 10.10.

Because the Statement of Additional Grounds for Review is not a brief, there is no required format and you may prepare it by hand. No citations to the record or legal authority are required, but you should sufficiently identify any alleged error so that the appellate court may consider your argument. A copy of the rule is enclosed for your reference.

Your Statement of Additional Grounds for Review must be sent to the Court within 30 days. It will be reviewed by the Court when your appeal is considered on the merits.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

DATE: April 10, 2012
NBK

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON

Respondent,

v.

(your name)

Appellant.

No. _____

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, _____, 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

Additional Ground 2

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

Date: _____

Signature: _____

RULE OF APPELLAGE PROCEDURE 10.10
STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

(a) Statement Permitted. A defendant/appellant in a review of a criminal case may file a pro se statement of additional grounds for review to identify and discuss those matters which the defendant/appellant believes have not been adequately addressed by the brief filed by the defendant/appellant's counsel.

(b) Length and Legibility. The statement, which shall be limited to no more than 50 pages, may be submitted in handwriting so long as it is legible and can be reproduced by the clerk.

(c) Citations; Identification of Errors. Reference to the record and citation to authorities are not necessary or required, but the appellate court will not consider a defendant/appellant's statement of additional grounds for review if it does not inform the court of the nature and occurrence of alleged errors. Except as required in cases in which counsel files a motion to withdraw as set forth in RAP 18.3(a)(2), the appellate court is not obligated to search the record in support of claims made in a defendant/appellant's statement of additional grounds for review.

(d) Time for Filing. The statement of additional grounds for review should be filed within 30 days after service upon the defendant/appellant of the brief prepared by defendant/appellant's counsel and the mailing of a notice from the clerk of the appellate court advising the defendant/appellant of the substance of this rule. The clerk will advise all parties if the defendant/appellant files a statement of additional grounds for review.

(e) Report of Proceedings. If within 30 days after service of the brief prepared by defendant/appellant's counsel, defendant/appellant requests a copy of the verbatim report of proceedings from defendant/appellant's counsel, counsel should promptly serve a copy of the verbatim report of proceedings on the defendant/appellant and should file in the appellate court proof of such service. The pro se statement of additional grounds for review should then be filed within 30 days after service of the verbatim report of proceedings. The cost for producing and mailing the verbatim report of proceedings for an indigent defendant/appellant will be reimbursed to counsel from the Office of Public Defense in accordance with Title 15 of these rules.

(f) Additional Briefing. The appellate court may, in the exercise of its discretion, request additional briefing from counsel to address issues raised in the defendant/appellant's pro se statement.

EXHIBIT B

FILED

2011 OCT 21 AM 11:50

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

COPY TO COURT OF APPEALS OCT 21 2011

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON,)

Plaintiff,)

v.)

Martin Egan-Russert)

Defendant.)

NO. *11-1-00438-1 SEA*
11-1-00191-8 SEA

DECLARATION

Martin Egan-Russert, the defendant-appellant herein, states:

FINANCIAL DATA

I. ASSETS AND INCOME

1. EMPLOYMENT HISTORY

	<u>Employer's Name</u>	<u>Date of Employment</u>	<u>Monthly Income</u>
a)	<i>No Employer</i>	<i>NA</i>	<i>NA</i>
b)	<i>—</i>	<i>—</i>	<i>—</i>

Declaration -
(Form #68)

LAW OFFICES OF
THE DEFENDER ASSOCIATION
810 THIRD AVENUE, SUITE 800
SEATTLE, WASHINGTON 98104
206-447-3900



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c)

2. OTHER SOURCES OF INCOME:

NONE

3. ASSETS (e.g. car, bank accounts, cash on hand, etc.)

Item	Estimated Value
a) - GAV - Disability	\$ 120 a month
b) Food Stamps	\$200 a month
c)	

4. CURRENT TOTAL ASSETS AND INCOME

Monthly Income: \$ 120.00 GAV

Total Assets: \$ 120.00

II. EXPENSES AND LIABILITIES

1. DEPENDENTS. The following persons are dependent upon me for financial support:

NONE

Declaration - (Form #68)

LAW OFFICES OF
THE DEFENDER ASSOCIATION
810 THIRD AVENUE, SUITE 800
SEATTLE, WASHINGTON 98104
206-447-3900

	Name	Age	Relationship
1 a)	N-A	/	/
2 b)			
3 c)			
4 d)			

6 2. MONTHLY EXPENSES (e.g. rent, mortgage payments, food, utilities,
7 notes, etc.)

	Item	Monthly Expense	Balance Due (if any)
9 a)	Food	\$200.00	—
10 b)	misc	\$120.00	—
11 c)	—		
12 d)	—		

14 e)
15 3. CURRENT TOTAL EXPENSES AND LIABILITIES

16 Monthly Expenses: \$320.00
17 Long Term Liabilities: \$ —

18 III. I can contribute the following toward expenses of appeal:

19 \$ \$0

21 Declaration -
(Form #68)

LAW OFFICES OF
THE DEFENDER ASSOCIATION
810 THIRD AVENUE, SUITE 800
SEATTLE, WASHINGTON 98104
206-447-3800

APPEAL DATA

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1. The nature of the case I am appealing is:

2. I am seeking the following relief:

() Reversal of my conviction(s) (revocation of probation);

() Reversal and remand for a new trial (new revocation hearing);

() New sentencing hearing;

() Vacation of special verdicts;

() Other: withdrawal of pleas

3. I wish all issues reviewed which may result in the relief requested

above. More specifically, I wish the following issues reviewed:

a) New Sentencing hearing

b) withdrawal of pleas

c) 

4. The costs sought to be waived or provided at public expense are: a)

Filing Fee; b) Certified Copy, in forma pauperis Order Appointing Counsel; c) Report

Declaration -
(Form #68)

LAW OFFICES OF
THE DEFENDER ASSOCIATION
810 THIRD AVENUE, SUITE 800
SEATTLE, WASHINGTON 98104
206-447-3900

1 of Proceedings; d) Clerk's Papers; (e) Cost of Reproducing Brief on Appeal; f) Costs of
2 Professional Services of Appointed Counsel and any actual expenses incurred by said
3 counsel, excluding normal overhead; g) Other: I wish to pay for none
4 of these fees.

5 5. I believe my appeal is in good faith and has probable merit.

6 I declare under penalty of perjury under the laws of the State of Washington
7 that the foregoing is true and correct.

8 10-13-11
9 Date and Place

Martin a Eg. Pasquet
Defendant
Address: 5614 Brooklyn Ave NE
Seattle, WA 98105

martin.a.madeuse@gmail.com

Thanks Maurcen ☺

21 Declaration -
22 (Form #68)

23 LAW OFFICES OF
THE DEFENDER ASSOCIATION
810 THIRD AVENUE, SUITE 800
SEATTLE, WASHINGTON 98104
206-447-3900

Elizabeth Egan
PO Box 45534
Seattle, Washington 98145

22 July 2011

Benjamin Louis Goldsmith
The Defender Association
810 3rd Avenue, Suite 800
Seattle, Washington 98104-1695
benjamin.goldsmith@defender.org

RE: Martin Amadeus Egan-Russert, my son
In King County Jail since 24 January 2011 – BA #211010044

11-1-00191-8 – 1. Residential Burglary-DV amended to Felonious Telephone Harassment & 2. MM3
11-1-00438-1 – 1. Attempted Indecent Liberties; 2. Stalking- Felony; 3. Cyberstalking - Felony

Dear Mr. Goldsmith:

Yesterday evening I visited my son, Martin Egan- Russert at the King County Detention Facility in downtown Seattle. This weekend will mark 6 months since he has been in jail and he reports that he has had 2 opportunities to meet with his court-appointed attorney both of which occurred in open court: on 16 May at a continuance hearing and in early July when this same attorney requested another month continuance.

I've accessed the King County Superior Court website weekly seeking to learn how his case is progressing. The two cases referenced above have generated a substantial paper record with the Court – with many of the posted records having the box checked: "in the administration of justice" – the reason for the court's existence.

Respect for the rule of law is a key element of a society's ability to function effectively. I'm no attorney but remember being taught in school about our founding father's frame of reference was English law, which, since 1215, held to a doctrine of **habeas corpus**. How I understand this right to be reflected in our current society is that any individual who is accused of a crime, has the right not to be unlawfully detained, to know the details of the charges against them, and to stand in open court to defend themselves against those charges/complaints.

But trumping the rights of any individual is society's right to public safety. One of the charges against my son is a very serious felony (I. 438). I read the statement of Probable Cause of the Office of the King County Prosecuting Attorney posted in Court's public access site and see this crime is alleged to have occurred at my home on 27 January 2010. I was home this evening and am sure of the date because it is the birthday of my oldest son and the first such birthday our family did not all go out to dinner (he had just become a father)!

I checked my emails from that date and know that I met with an attorney on another matter that day about and spoke with Martin about this meeting in the early evening.

My son has not had any opportunity to get information on this very serious charge made after a Seattle Police Detective followed up on a complaint from >a year ago and induced the complainant to be recorded because he told of other "victim's at risk". My son's case is under the care of The Defender Association.

I understand that your office is challenged every day, every month, with constrained resources and increasing demands. But if it is important to follow the law, I have serious concerns about the constitutionality of keeping someone in jail for six months time during which at no time were they afforded access to the details of the charges against them.

Sincerely,

Elizabeth Anne Egan.
Cc: Martin Egan-Russert

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p><i>R. D. [Signature]</i></p>
<p>1. Article Addressed to:</p> <p>BENJAMIN GOLDSMITH DEFENDER ASSOCIATION 810 - 3rd Avenue # 800 Seattle WA 98104-1695</p>	<p>B. Received by (Printed Name) <i>R. D. [Signature]</i></p> <p>C. Date of Delivery <i>7/25</i></p>
<p>2. Article Number (Transfer from service label)</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p style="text-align: right;">RES DEL</p>
<p>PS Form 3811, February 2004</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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09 JUL 25 2011

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PS Form 3800, August 2006 See Reverse for Instructions

EXHIBIT D

EXHIBIT D

YOU JUST CALLED

I will bring what I have which are records primarily prior to Jan 2011. I will contact our family physician to see if they have received records from the King County Jail and Harborview Hospital.

See you Thurs Aug 18 at 8:20AM

Thank you

Betty Egan

DATE: Tuesday, August 16, 2011
TO: Maureen McKee, Counsel for Martin Egan-Russert
The Defender Association
RE: Martin Egan-Russert - BA # 211010044

Dear Ms McKee:

I don't know the law but suspect an rash, unthinking action on my part this today contributed to the trial of my son on 11-100191-8 being identified as a mistrial and thus delaying closure of this case which seemed close to being over. I so regret not just staying in my seat. Trial court is an exceptional place that I am not at all familiar with. I just wanted a word with Sarah - what an idiot I am.

Once this trial is finally over, so will the associated \$100K bail. Know that the case you are representing him is yet to come and it carries a bail of \$150K (about how much equity I have on my house). My hope was it the bail was reduced, to charge \$15K on a credit card and put my house up for collateral. Now there will be another delay

Why?

Since this May, all of which time he has been in custody, he has been very ill. I know his weight mid March was ~175 pounds. Think his last weigh-in had him at 153 pounds - a significant difference (>10%). As you know he was hospitalized at Harborview Hospital for a week at the end of July / early August, but you may not know that since his return back to King County Jail, all supplemental shakes have been discontinued as well as all medications except a prednisone taper. He's looking like a ghost.

I've been away from my office for > week, but stopped in the other evening to find a voice mail from the Harborview Dietician following up on Martin's diet plan. My understanding is there was no diet plan implemented upon his return so contacted the dietician and provided her contact info for the KCJ, his family physician, as well as Bette Pine, the Manager of Jail Health Services.

I also received the 1st bill from Harborview Hospital (>\$28K) which was been billed to our family insurance provide, Premera Blue Cross. I receive regular messages from them for Martin to discuss effective management of his ulcerative colitis. It is my intention to pay the co-pays associated with his initial hospital stay, but, absent an aggressive treatment plan for managing his disease, don't see how private insurance can be expected to foot the bill if a recommended treatment plan is not implemented.

Thus, for the health of my son - present and future - I hope a bail reduction hearing can be presented, and a request for electronic home detention be granted. At Harborview it was suggested to Martin that he might consider having his colon removed. Please do whatever you can to allow him proper medical care. Let me know if it would be good practice for me to petition the court.

I know that the KCJ team work hard at their jobs. But Martin had been submitting medical kites since the beginning of May complaining of bloody stools. He was transferred to a cell with a private toilet and it just got worse. He'd complained about excessive bleeding for over a month and said that he didn't feel that anyone believed him. He submitted requests for release of medical records from his gastroenterologist three different times (paperwork kept getting lost). When he was admitted to Harborview he

said the medical staff told him his hematocrit was low (24) and his WBC was high (16). He's worried about getting sick again. He's been in jail since January.

Betty Egan

Quota Usage:

4.3% of 1,024.00 MB



Folders

Last Refresh:
Wed, 4:01 am
(Check mail)

- INBOX (4)
- Drafts
- Sent
- Trash (Purge)
- 1717
- 3519
- 5614
- Apple
- Boat
- Costume Group
- Craigslist selling
- Deleted Messages
- E2 consulting
- Family
- Family Business
- Friends
- Gallagher
- Investments
- KC DOC
- Martin Legal
- Notes
- Palo Alto
- PIX VIDEOS JOKES
- Saved
- Sent Messages
- Shopping
- Spam (Purge)
- Bs
- Tennis
- Travel
- Work FHCRC

[Pruning...]

Current Folder: **Martin Legal**

- Compose
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[Message List](#) | [Delete](#) [Previous](#) | [Next](#) [Forward](#) | [Forward as Attachment](#) | [Reply](#) | [Reply All](#)

Subject: Re: Egan Russert - Property Bond for existing Bail on 11-1-000438-8]

From: "Maureen McKee" <maureen.mckee@defender.org>

Date: Tue, August 23, 2011 11:11 am

To: egan@seanet.com

Priority: Normal

Create Filter: [Automatically](#) | [From](#) | [To](#) | [Subject](#)

Options: [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#) | [Spam](#) | [Not Spam](#) | [View Message details](#) | [Add to Address Book](#)

No- I don't need drafts of those docs.

On Tue, Aug 23, 2011 at 11:08 AM, <egan@seanet.com> wrote:

- > Working with another attorney I have drafted some docs that could b
- > to meet bail of \$150K should the first case be resolved. Docs incl
- >
- > -Motion of Property Bond and Notice of Hearing
- > -Property Bond
- > -Order Approving Bond
- >
- > Would hope these could be used when and if the first case is resolv
- >
- > Let me know if you would like me to send drafts.
- >
- > Betty Egan
- >
- >
- >

--

Felony Division

The Defender Association

810 Third Avenue, 8th Floor

Seattle, WA 98104

(206) 447-3900 ext. 503

Attachments:

[untitled-\[2\]](#) 1 k [text/html] [Download](#) | [View](#)

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EXHIBIT E

RECEIVED
JUDGES MAIL ROOM

2011 FEB -4 AM 10: 20

KING COUNTY
SUPERIOR COURT

RECEIVED

2011 FEB -4 AM 10: 15

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

KING COUNTY SUPERIOR COURT
STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff,

vs.

MARTIN EGAN-RUSSERT,
Defendant.

No. 11-1-00191-8-SEA

DECLARATION OF SARA GROSSMAN

STATE OF WASHINGTON \
COUNTY OF KING /

> SS: Declaration of Sara Grossman, February 4, 2011

1. I am the alleged victim in the above-caption information.
2. Martin Egan-Russert (hereinafter, RUSSE^RT) never unlawfully entered or remained in my apartment; I gave him permission to enter and a key. Even officer BRENDAN BAYS KOLDING (hereinafter KOLDING) affirms under penalty of perjury that "[t]here were no signs of forced entry." SPD incident report GO 2011-1951 (Hereinafter SPD Report)
3. I told responding officers that RUSSE^RT did not steal anything from my apartment; indeed, KOLDING acknowledges that I "did not feel RUSSE^RT stole anything from her apartment." SPD Report
4. Officer KOLDING lied in his report that I advised him that I was in fear that RUSSE^RT was going to harm me. I was not, and am not, in fear of Mr. RUSSE^RT. I feel very safe with him. Nor do I intend to move out of my apartment, as the SPD Report suggests.
5. I object to this court's violation of my right of association, as guaranteed by the first amendment. I elect to associate with Mr. RUSSE^RT, and this court's imposition of its Order Prohibiting Contact is a violation of that right.

I certify under the penalty of perjury of the laws of the state of Washington that the foregoing is true and correct. DONE in Seattle this 4th day of February, 2011

Sara Grossman
Sara Grossman

RECEIVED
JUDGES MAIL ROOM

2011 FEB -4 AM 10: 21

KING COUNTY
SUPERIOR COURT

RECEIVED

2011 FEB -4 AM 10: 12

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

KING COUNTY SUPERIOR COURT
STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff,

vs.

MARTIN EGAN-RUSSERT,

Defendant.

No. 11-1-00191-8-SEA

SARA GROSSMAN'S DEMAND
FOR REVOCATION OF
ORDER PROHIBITING CONTACT

COMES NOW Sara Grossman and hereby demands that this Court rescind its Order of January 27, 2011, prohibiting me from enjoying contact with MARTIN EGAN-RUSSERT. This Demand is supported by the attached DECLARATION OF SARA GROSSMAN.

RESPECTFULLY SUBMITTED:

Sara Grossman

Sara Grossman

RECEIVED
JUDGES MAIL ROOM

2011 FEB -4 AM 10:17

KING COUNTY
SUPERIOR COURT

FEB 04 2011

THE DEFENDER ASSOC.

REC'D

FEB 04 2011

King County Prosecutor
Special Assistant Unit
Domestic Violence Unit

ATTN: JUDGE
DOYLE

KING COUNTY SUPERIOR COURT
STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff,

No. 11-1-00191-8-SEA

vs.

CERTIFICATE OF SERVICE

MARTIN EGAN-RUSSERT,
Defendant.

STATE OF WASHINGTON \
COUNTY OF KING /

> SS: Declaration of Sara Grossman, February 4, 2011

Sara Grossman states as follows:

I served a copy of that attached DECLARATION OF SARA GROSSMAN on February 4th, 2011 to each of the following by presenting it to these individuals or their representatives authorized to accept receipt of service:

Daniel T. Satterberg, King County Prosecutor

Public Defender for the Defendant

Judge's working papers in case file 11-1-00191-8-SEA

I certify under the penalty of perjury of the laws of the state of Washington that the foregoing is true and correct. DONE in Seattle this 4th day of February, 2011

Sara Grossman
Sara Grossman

Brady v. Maryland

From Wikipedia, the free encyclopedia

Brady v. Maryland, 373 U.S. 83 (1963),^[1] was a United States Supreme Court case in which the prosecution had withheld from the criminal defendant certain evidence. The defendant challenged his conviction, arguing it had been contrary to the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

Maryland prosecuted Brady and a companion, Boblit, for murder. Brady admitted being involved in the murder, but claimed Boblit had done the actual killing. The prosecution had withheld a written statement by Boblit confessing that he had committed the act of killing by himself. The Maryland Court of Appeals had affirmed the conviction and remanded the case for a retrial only of the question of punishment.

The court held that withholding exculpatory evidence violates due process "where the evidence is material either to guilt or to punishment"; and the court determined that under Maryland state law the withheld evidence could not have exculpated the defendant but was material to the level of punishment he would be given. Hence the Maryland Court of Appeals' ruling was affirmed.

Brady refers to the holding of the Brady case, and the numerous state and federal cases that interpret its requirement that the prosecution disclose material exculpatory evidence to the defense. Exculpatory evidence is "material" if "there is a reasonable probability that his conviction or sentence would have been different had these materials been disclosed."^[1] Brady evidence includes statements of witnesses or physical evidence that conflicts with the prosecution's witnesses^[2], and evidence that could allow the defense to impeach the credibility of a prosecution witness.^[3]

Police officers who have been dishonest are sometimes referred to as "Brady cops." Because of the Brady ruling, prosecutors are required to notify defendants and their attorneys whenever a law enforcement official involved in their case has a sustained record for knowingly lying in an official capacity.^[4] Brady evidence also includes evidence material to credibility of a civilian witness, such as evidence of false statements by the witness or evidence that a witness was paid to act as an informant.^[5]

Contents

- 1 See also

http://en.wikipedia.org/wiki/Brady_v._Maryland

Brady v. Maryland



Supreme Court of the United States

Argued March 18–19, 1963

Decided May 13, 1963

Full case name *Brady v. State of Maryland*

Citations 373 U.S. 83 (*more*)
83 S. Ct. 1194; 10 L. Ed. 2d 215;
1963 U. S. LEXIS 1615

Prior history Certiorari to the Court of Appeals of Maryland

Holding

Withholding of evidence violates due process "where the evidence is material either to guilt or to punishment. "

Court membership

Chief Justice

Earl Warren

Associate Justices

Hugo Black · William O. Douglas
Tom C. Clark · John M. Harlan II
William J. Brennan, Jr. · Potter Stewart
Byron White · Arthur Goldberg

Case opinions

Majority Douglas, joined by Warren, Clark, Brennan, Stewart, Goldberg

2/16/2012

State of Washington

County of King

August 16, 2011

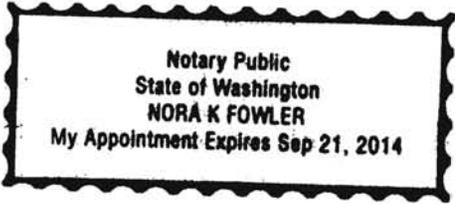
To Whom It May Concern;

I certify that I know or have satisfactory evidence that

Sara A Grossman

is the person who appeared before me, and said person acknowledged that she signed the accompanying documents and that it was a voluntary act for the purpose as stated in the documents.

Sara A. Grossman Date: 8/16/2011



Nora K. Fowler 08/16/2011
Notary Public
Residing in Bellevue, WA 98004

My commission expires: 09/21/2014

