

FILED
COURT OF APPEALS

08 MAY 19 AM 10:41

STATE OF WASHINGTON

STATE OF WASHINGTON)
Respondent,)
v.)
Michael Lee Glave)
Appellant)

No.33171-3-11

Statement of Additional
Grounds For Review

SW
BY
CLERK

I, Michael Lee Glave, 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

On page 1848 of the court transcripts, the defense rests it's case and on page 2609 the prosecution rests it's case, however prior to closing arguments , page 2814, the prosecution addresses the court to include an option to add an attempt charge on the 2nd count. In State Vs Markle, 229 Wash 2nd at 424,437,823 P.2 1101 1992, criminal rule 2.1 "a criminal charge may not be amended after the state has rested it's case." They use an unpublished case (DIV.3 of WA Court of Appeals in State VS. Arnett 117 Wash . App. At 1053, Div 3 2003) to argue and even though the defense counsel objects the court allows this amendment, thus giving the jury another consideration.

Additional Ground #2

From the initial disclosure to this day, no one from the detective's department had considered interviewing my wife or sons (pg 1758). They have never gone to my home, never confiscated my computer. All they have done is take a report by the Basich's. I volunteered to give a statement and have successfully taken a polygraph, and passed. I was told by Det. Harai that if I passed ,everything would be dropped. When this arose during the trial, Judge Tollefson stated that he would "look into it", but never did this. Why wasn't anyone concerned about my family if I had done such a bad thing? On the night of the disclosure the Basich's state that they called a neighbor, the Anders, to come over and help them. The Ander's did come over, but why did it take the detectives over a year to interview them?? This raises a question of how concerned the detectives were about these accusations.

CERTIFICATE OF SERVICE
I certify that I mailed

1 copies of SAG
to Mr. High & R. Speir
& M. P. Dregan
5/23/06 SW
Date Signed

Additional Ground #3

a) From the onset of the actual trial, the court would not allow evidence or testimony that did not have anything to do with the actual date of disclosure, other than on the day of Sept. 13, 2003. The prosecution argued that the trial would either take too long or we would have "mini trials". Why is time an issue? This is my life we are talking about. The justice system was built on a "fair trial" and it should be, regardless of time. This is about getting to the truth and finding out the inconsistencies and lies.

b) Also pg 1956, the prosecution is arguing to not let testimony in regarding several home owner meetings that took place in September and October '03. On line # 22-24 he argues that we may not be out of here until March or April if we go into all the issues. Is this not what the court system is supposed to be doing??

c) On Feb 14, 2005 my sister, Kelly Newton, who was a witness for the defense, was assaulted outside the court room doors, by Michele Basich. Kelly was assured that if she filed a report the necessary steps would be taken. She did, however these steps were not taken, nor was her report filed at the court house. AGAIN because of the trial, they did not want to arrest Michele Basich.

d) Previously the Basich family opened a CPS case with false allegations, however this was not allowed to be brought into trial as it happened before the disclosure date. This evidence would have shown a pattern, that began in July 1995, of false accusations by the family. This case was investigated and closed. The case worker did not feel there was any substantial proof to further investigate. However the Basich family tried to say that this happened much later, and the children involved were much older, in fact Justin was 4 and Brianna was 3.

e) During the testimony of Tracy Mulkins, Brittany's teacher for the past 2 years, she was extremely limited in what she was able to say. Hammond would only ask limited questions and not allow her to be able to testify to her professional opinion as the teacher of Brittany for 2 years straight. Mrs. Mulkins has an extensive experience with children Brittany's age as well as a Bachelors and Masters Degree in teaching, however Joanne Metler, the nurse, was allowed to give her opinion on a subject that was not in her background. Mrs. Mulkins was well aware of the situation and wanted to be unable to testify to what she knew. My council was equally vague in her questioning, again ineffective counsel.

Additional Ground #4

During Pre-trial Joanne Mettler was able to discuss medications and behavior issues with Michele regarding Brittany, (pg 524 and 558) however during trial testimony these were not able to be discussed. This was also an issue prior to trial, where it was brought in front of Judge Stoltz. She felt it necessary to have an "in camera review" of these records and ordered it to happen. She then felt it was important for some of Brittany's medical and counseling records to be disclosed, however Judge Tollefson was not going to entertain this area in any way. Brittany has had medical issues prior to this and it was never allowed. The parents discussed specific meds Brittany was on for ADD but again it was not allowed in front of the jury. Brittany's teacher was also told by her parents of medication she was put on, but was not allowed to testify. Joanne Mettler should have only been allowed to testify to physical evidence as this is her expertise, and that's it.

Additional Ground #5

Throughout the trial and interviews, the testimonies of Michele, Michael, Breanna and Brittany, have had little consistency with their own testimonies and with each other's testimony's, and the lack of my counsel to consistently show the jury this was in fact ineffective counsel.

Additional Ground #6

During pre-trial, my wife was asked about several times that she found Brittany to be untruthful. She brought up several, one of which our youngest son was also witness to. During trial Brittany was asked and denied any knowledge. When Brandon was asked, (pg 1882) about this incident, the prosecution objected and the court sustained. Why is she allowed to be asked, deny it happened and then it can no longer be an issue to be addressed? There was more than one witness to this incident but it was still an issue that the court would not allow. Again, is this not about getting to the truth????

Additional Ground #7

During the trial Det Harai was asked if a bathroom is large enough to have a sink and toilet, then is it large enough to have sex? His answer is "yes" (pg 1806) If he as admitted that he has not been to my house to see the bathroom, what makes him qualified to say how big or what you can do in my bathroom?? After an objection was noted, the court overruled it and the answer was re-stated "yes".

Additional Ground #8

During the pre-trial Det. Dogeagle stated that he did not recollect any statement that I made “if I was going to prey on children, I wouldn’t pick Brittany because she is kind of a tattler”. This was strictly a statement only made by Harrai and that I have denied. On page 1082 Det. Dogeagle changed his testimony, and supported Det. Harrai’s statement, who was on investigation for falsifying documents. In fact neither detective took notes during any part of the non-taped interview on October 23, 2003. At some point he was/is lying and isn’t that perjury?? The prosecution was aware that I would deny this statement, but why was it even asked, when my council was not able to go into an issue that Brittany was going to also deny?

Additional Ground #9

During Laurie Barkley’s testimony, she admitted on the stand that she did not like me. Much Of her testimony was about how bad a employee I was when I provided reviews and Certificates of Achievement. Her opinion of me was clearly tainted because of a previous incident where I was a “whistle blower” at the school district. I was able to produce a member of the School Board in rebuttal, but my council did not bring her on the stand to testify, clearly another case of ineffective council.

Additional Ground #10

It is quite obvious, thru Brittany’s testimony, that she had been told what to say. There are several questions that she answers before the question is asked as well as different answers to same questions asked by both attorneys. This appears to be additional proof that she was not competent to stand trial, thus Crawford should be an important issue. She had a teddy bear with her, during her testimony. Mr. Hammond ,at one point, even asked the court to have Mr. Meikle move so that she could see him. These are additional attempts to make her appear competent. Many of her answers did not appear “spontaneous“, again another “Crawford” issue.

Additional Ground #11

When Michele Basich testified she was allowed to state “this past year has been hell on her.“ however on page 2181 & 2182 my counsel requested for my wife to be allowed to testify regarding the impact of these allegations and trial on our family. Hammond argued that this was a blatant effort to arouse passion and sympathy. She opened the door, but the judge would not allow us to explain our “hell” to the jury. The judge stated, from the beginning, if the door was opened by the prosecution, that we should also be allowed to go there. In fact there were many times this happened, during trial. What’s the purpose of ruling something and again not following the rule?? Page 2266, line #1-13, the court is relying on the jury’s common sense that both families have been in turmoil. If were not able to explain this, why is it proper to think the jury is going

to assume it??

Through out this trial, my rights were either violated by the prosecution or by my own counsel. Objections were not risen when they should have, objections were not argued strong enough to the court and considerations were given to the prosecutor but not to my defense. There is so much that I wish I could bring up, unfortunately since the court would not allow it in trial, I am not able to discuss it with the Appeals Court, now. The justice system had erred, horribly, with my case and I feel that a fair trail was never going to be allowed. With so many issues during my trial, that were clearly violations, I strongly believe that if the TRUTH was what mattered then I would have never been convicted. For these reasons , as well as the ones stated above, I am asking that you reconsider my conviction, exonerate me and allow me to go back to the life I had with my family that I so much deserve.

May 18, 2006



Signature