

33644-8

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ST. PETERSBURG FLORIDA

CLERK

Yodan

Washington State Court

in
Appeals Division II

Case # 33644-8-11

Washington State Respondent

Michelle Knotek Appellant

Statement of Additional
Grounds for Review

pm 5/22/06

Approx. 20 mins. before pre-sentencing
I met with my attorneys Mr. Harmer
and Mr. Embury. Mr. Harmer showed me
the first and the last time, the Plea
Bargain I was told this Plea Bargain had
the Alfred Plea - first thing I was
shown, "I was lucky to get the
state to agree with an Alfred Plea". The
Alfred Plea was handwritten in. During
this meeting it was never discussed that I
would be saying 'guilty' at pre-sentencing
hearing. If I had known I'd be saying guilty
I would not of signed or agreed to that
Plea Bargain. Looking back now and with
speaking to members of the Law Library
I was easily manipulated.

At pre-sentencing Judge McCully asked
me if I was guilty or innocent. He
made no reference to the Alfred Plea.
I didn't know for sure what to say, I
looked to Mr. Harmer - Mr. Harmer bent
down and told me to say 'guilty', he said
it guilty. I said 'But it's not' This
went back & forth, this went back and
forth 2 or 3 times. Mr. Harmer finally said
it's just a technicality. I was by that
time clearly upset, I did finally say
guilty, I was told to speak up. By that
time I was crying & clearly under duress.
How was it not noticed? I recall nothing
after responding as Mr. Harmer ~~stated~~

i instructed me to do - say guilty.
I don't recall any questions asked by
the Judge - I thought out pre-sentencing
I just recall a ~~bad~~ feeling. After
the hearing when leaving the Court I
told my attorney I wanted to withdraw
draw my plea I had a bad feeling I
felt then. Mr. Harmer said nothing, Mr
Embrey said he'd get on the documents.
I said to them both, I'm not guilty why
did I have to say that - at that time
the guard was telling me to go with back
to my cell. They both told me they'd come
up and speak to me - they didn't.

My saying 'But I'm not' when responding
to the Judge's ~~re~~ questions my demeanor
must of been noted. After leaving the
Court the guard had never heard my
saying 'But I'm not'. Several hours
later a guard brought me a letter from
1st chair attorney - Mr. Harmer. It was 2
pages typed, ~~th~~ triple spaced. This letter
said "He knew the Judge would go our way.
That he knew (Mr. Harmer) that I was upset
but he knew it would all work out for
the best." He listed several reasons for
how he knew that. He knew the Judge
would go with the States recommendation.
But it didn't, and saying guilty was
not "just a technicality". I believe
he wanted me to go with the plea

so badly he didn't want to instruct me at pre-sentencing that I'd be having to pay guilty. I did not want me to withdraw my plea. The case had gotten to be so overwhelming. He had a client accused of doing horrible things, the family dynamics complexed. But he was my attorney I trust him. He knew my conscience was all I had left. Mr. Hammer never let me at no time, days. The judge didn't have to go with me. If the question of a statement had come up at pre-sentencing, I can't recall it. When Mr. Hammer said, "Say guilty, it's just a technicality." He was very wrong. If it had been just a technicality I wouldn't have made a motion to withdraw my guilty plea.

At sentencing August 19, 2004, Judge McCully certainly didn't think it was a technicality. He looked at me and said "you said you were guilty!"

At pre-sentencing Mr. Hammer, even the judge should have asked for a recess-~~break~~ break. Something should have been retraced with my attorney sending down telling me what to say. Most clients would probably already know at that time what to say. I didn't. The letter from Mr. Hammer sent to me after the pre-sentencing made no mention about the forced plea.

Alford made under Dues. He made
no apology. Saying guilty to Judge
McLukey gave him the right to sent-
ence me as guilty as sentencing.
It wasn't a technicality to him

At sentencing my attorney, Mr. Harmon
presentation didn't even last 10 mins -
less it seemed to me. After 2+ months
and that's all the defense I had?
I recall him as saying "I took
responsibility", I don't recall that
but I thought for sure he said "I'd
always maintained my innocence"
to him - But where is it in the Court
transcript? It's hard to trust anyone
on anything anymore. Mr. Harmon had
3 years experience as a defense lawyer
and no experience as one defending
a client accused of homicide. It was
reversed into saying guilty. We looked
through legal case law - It's clearly,
I believed taking an Alford plea
perjured my innocence, and it was
supposed to, by the way. The Alford was
defined to me. Maintaining my inno-
cence was known to both my
attorneys as being the most import-
ant thing to me. It mattered to me
and should've mattered to them
as my legal counsel.

Mr. Warner misrepresented the Affidavit to me - I know that now from legal research I have done, & I'd know this before I would need to sign the Plea bargain, I would need to read stuff like this,

Later Mr. Warner said I'd be able to Appeal, do a Notice of Appeal, I'd put an appeal package together, we had spoken of this, why didn't (was it) an Appeal Notice put in filed for me?

After sentencing looking at 410 State representatives and through my attorneys left - it seemed as if we were the only one surprised ~~any~~ by the Judge's sentence. I read Mr. Warner's letter to me just last night. He was clearly trying to convince me the Judge would go with the State. I have this letter if it is needed in my Appeal.

Mr. Warner told me I had a good chance in appealing, a chance because maybe the political climate would change (it was an election year) that the media attention would die down - slow down!

An attorney cannot lead a client to believe a Judge would go with a Plea Bargain. I now know a Judge can go with the guide lines he sees fit, w/ any of this is in a Plea Bargain I don't know I've made requests to get a copy of the Plea Bargain - from Mr. Harms. The pre-sentencing hearing was rushed because we were on for the hearing right after. I was nervous scared and confused I wanted it done the right way. It wasn't.

Is there a possibility that if I hadn't said guilty & said Affid instead, the Judge may have responded differently? The Judge wouldn't of said 'You said you were guilty'; Because guilty would not of been said. If the Judge had notified me under advisement at pre-sentencing he had the power to tell all parties to go back to the drawing board, or ask for a recess - Why wasn't that done? When I last asked for the Plea Bargain from Mr. Harms, He said after sentencing he said he was no longer my attorney - I'd have to go to the Court for my copy. Wasn't he supposed to have given me one?

Legal - Before or After Plea/ Sentencing
or Sentencing?

Once a 12 month period is requested
to see a Mental Health Doctor
many, many times, I needed help
understanding what had happened
in my time all those years ago,
and support of some kind due to
the extremely harsh treatment
in the County Jail. I was being
accused of things I didn't do, was
talking out about other things
I was supposed to do - but
wasn't at that point being
Criminally accused of. Just threats
made to me. Threats to maybe get
me to sign a plea. Wanting to die
was why I signed a Plea. Believe
I was maintaining my innocence
and then Dying was all I wanted.

Mr. Haune and Mr. Embury did not
tell the Judge that I wanted help
to see a Mental Health Doctor.
Several times I told Mr. Haune
"I wasn't doing well" I told
this to Mr. Embury too - but I
didn't see Mr. Embury very
often. My request for Mental Health
Doctor started in Oct. 03 -
June or July 04, I'd made two suicide

You will attempt in Hospital 3 days.
 From the first day of my arrest
 I was put into solitary confinement -
 meant. Complete isolation and food
 were gone. This for 127 months. I was
 not denied any of the privileges as
 the other inmates had. I was not
 allowed phone privileges, no mail except
 to and from my legal lawyers - all
 bills regarding my loss of my
 home, of mail from IRS regarding
 my youngest daughter. She was in
 drug foster care. I was not allowed
 visitors. I was not allowed entertainers,
 my money and my books went for my
 medications - all of inmates had only
 10 to 20 dollars out of their funds
 for needs. I asked Mr. Starnes for help
 he wasn't doing well. The cell I
 was in was the old part of the
 jail. It looked great, the roof leaked
 in three places, the concrete Block
 walls were cracked and full of holes,
 after a suicide attempt he was
 put into the hole. The 3rd night my
 emergency button was not answered
 this was at 1200 p.m. I had
 to see the bathroom badly. I ended
 up using the drain in the toilet
 floor. The hole was always dark
 I could not see - I used legal papers
 to try to push pieces into the
 floor drain.

It was a mess, I ended up putting my mattress over the drain and the mess. No one helped me until 6:30 am. I also used only my hands to eat with. I was not allowed a shower for the duration of my stay - approx. 6 days. I told Mr. Hammer about this, he addressed nothing but my having to eat with my hands. The jail super. denied knowing about this. Mr. Sultman (the super.) had just served me my meal through the slot the night before. He had lied.

None of the issues of my incarceration were addressed - except in a sentencing statement wanting the Judge to take into consideration my harder than normal stay in jail.

Mr. Hammer promised me - 'said - He knew the Judge would go with the States recommendation! He had no reason to believe other wise. All this was put into a two page triple spaced letter (typed) the letter was received the evening of the day I went to my pre-sentencing hearing. Because of my coerced plea - I wanted to withdraw my plea - etc

a very important motion was being prepared by Mr. Embury it was completed and was to be put before the court in just a few days. It was a subpoena motion to separate the two cases.

Mr. Harmer came to my office after business hours. He wanted me to agree to postpone this motion. Mr. Burke - prosecutor - had told him if this motion goes before the court any future communications would not happen if they involve a plea bargain, no deals. Mr. Harmer was concerned about this.

I asked him if Mr. Embury knew - He led me to believe that Mr. Embury did. I spoke to Mr. Embury and he didn't know this. That talk with Mr. Embury took place a few days after Mr. Harmer had met with me.

I told Mr. Harmer I didn't understand because we hadn't been talking seriously about any plea bargain.

My attorneys often weren't on the same page. This left me confused and insecure.

My attorneys were being humble dealing with Mr. Burke. What they said about him I won't discuss

in using a test for ineffective representation I referred to some legal books in the law library here at W.C.C.W.

The following are some questions asked that applied to me

Did your attorney lead you to believe the Court, the Judge would go with your Plea Bargain? Did your attorney promise the Court would go with the States recommendation? Did your attorney coerce you into your Plea? All of this fit me. It went on to say - If your case worked out adversely because of the abate you'd had ineffective representation, I referred to a legal dictionary in looking up the word coerce. - To force to act or think a certain way by using use of pressure, Compel efforts to coerce an agreement.

If I'd withdrawn my coerced Plea, I'd go to trial and I might not be incarcerated now.

The Court, the Jury would hear the lack of evidence. Judge McCully wouldn't of been able to say "You said you were guilty" Because guilty wouldn't of been said.

#2 - Mental Health ISSUES.

I believe I had mental health issues for the last 16 years. Living a lie, not reporting a death. Having to live with memories of my home all of those years ago and how disfunctional it had become. Kathy Lorenzo had been my friend for over 10 years. She lived with my family for close to two years. Out of those 2 years 5 months of it was bad. Starting with the move to a different home. In May of 91 until June of 91 - for 2 weeks Kathy stayed in Battle Ground for 2 weeks - painting - meaning new tenants for our rental. Kathy was staying in and painting for us. She also went for applications for jobs in the area. (I'll be able to prove this) My daughter Sami & I took Kathy there dropped her off. We kept in touch by phone. She had my phone card. I picked her up 2 weeks later. When she came back the kids were out of school. Things started to go down hill. fighting, yelling. All of us a mess

#2 - Mental-Health issues

The harsh treatment in jail being cut off from everyone 12+ months of solitary confinement - total isolation. I was reliving Kathy and our friendship - ten years of friendship gone. I realized that night when I arrived home and was told Kathy was dead. I couldn't believe it. Some times I still can't believe it. Living as he for over 13 years I was reliving everything over and over. In the month of July I'd found a friend dead. This, just time I'd ever seen a dead body. At the point I found Ron dead. I lost it. I was so angry at him. He'd talked of suicide so often. He'd tried it your times I believe in the past. Too I interrupted. His death brought back memories of the past. Years of them. I'd find myself shaking, rocking myself. I'd wake up in the shower, a guard found me there. I'd been calling out Kathy's name.

you called when
Our whole family went camping
over the fourth for three days,
Kathy's face was swollen under
her ears and neck. She had
gotten stung out by the water
hose. She said she always had
been sensitive to Bee stings -
but she was not allergic.

On the sixth of July we were
shopping for shoes for school.
By the 12th she was dead. I
wasn't at home, I wish I had
been. I'd been gone for the am
until close to 11:00 pm.

I love that whole dome area
and Alex - maybe I should.

The harsh treatment in jail
being cut off from everyone
12+ months of Solitary Confinement.
My Mental Health Doctor
told me he didn't think he
could do more. Several have
told me this. Made it worse.

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About 2 weeks before my
arrest I'd found my friend Ron
Woodworth dead. I knew immedi-
ately he'd taken his own life -
I would've called it in - But
the fear over the lie that was
held regarding Kathy & recent
questioning, and because I totally
lost control, fell apart. I didn't

report it. Seems like everything
went back to Kathy. I believe
it always will, unless the whole
truth is finally told.

Roe had committed suicide + I'd
always thinking about it.
I now know he's deep depression
to have Kathy and no one.

was solitary I had one Book a
week but no one could get me
my glasses at home, I requested
Kathy of my attorney, I never got
them.

I couldn't stop crying, I couldn't eat
or sleep. I was dizzy, confused
and shaking all the time I
couldn't turn my mind off. My
hair was very long + thick. I
made a sort of paper hair tie for
a way to keep my hair back and
I got in trouble. I broke a
plastic pocket comb everyday
almost - they'd just give me
another one.

I'd get status reports about my
youngest daughter. She couldn't sleep,
couldn't eat or keep herself clean
I'd give CPS a copy of a journal I found
at home after CPS took her. She'd
called herself named + was a

claw, and other negative things
about herself. This entry made
the night before my arrest. She
was on antidepressants. Some
thing I never thought she'd
have to be on. She was always
happy, now she'd had the
foundation of her life ripped
out from under her. She
was told horrible things about
me just before my arrest. I
knew my eldest daughter was
talking to Bernette my ex-step
mother. I knew she was
scared, they used Ron's
depressed demeanor & his
actions - as ~~the~~ the reason
for coming to ward to speak
about Kathy. But lies were
told. Most lies are told because
of fear. I'd hear Tom crying in the night
I really thought it was her. Her
crys haunted me. I lost track
of time. I'd be dark then light.
The fluorescent lights were on
24/7. Causing migraines. I'd
hear singing and no one was
doing it I'd be told. I was
scared I felt I was losing
my mind. I was being caused
a monster, what was worse
is my eldest daughter was fine

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and I'm glad she is - but how can any
of us be if lies are being told?

Dec. 03, I'd been stockpiling pills for
2 months. I had about 125 pills -
Blood pressure, water pills, pain meds. I
stopped fluids & meals. I hid the pills in
the cracks in the concrete block walls.
Middle of Dec 03 (at home) I took all
of the pills this at 11:30pm. I had
letters to family & friends in all my legal
papers I knew they'd be found.

Things were so overwhelming, I
didn't understand what all was
happening to me, to my family, to the
Justice Syst/ System. I'd see faces
in the walls. I was tired, I'd
been tired for a long time. I couldn't
deal with my eldest daughter's
injury. I was called an abuser
a horrible man & person.

I then closed my eyes and I
prayed. I didn't recall anything
until I woke up in the local hospital
I'd almost died. But I didn't tell
anyone. I'd be taken to the Hall
I'd been there after my arrest.
It was a horrible place.
Little did I know I'd be going
there any day.

Mr. Suttimer the Jail Super
came on the second day of my
3 day stay. He just wanted
me to know how much it'd
cost him.

Upon my arrival at the hospital
a blood pressure reading could
~~barely~~ barely be picked up.
I didn't want to be alive.
If a person is serious about
dying its not usually admitted
to. Ron had spoken about death
then he stopped and just began
having injuries, and got quieter
and quieter, it was a liability ^{below}
to the family. They shouldn't of been
concerned - no one was going to
believe anything I'd have to say.
Any response I'd take in my
defense would just make me
look worse.

The closer to ~~death~~ the more
confused I'd be, I felt detached
cut off from anyone, anything.
Death was all I thought about. I
never had anyone to talk to. I
had no way to tell time. When
meals came I'd ask the time it
seemed like they never gave
my H the time, when if they could.

And
I was
singing
in the
hall

~~attempts~~^{mt} - One per month Hospital 3 days.
Eventually I saw a couple of counselors
who were contracted with the
Jail. One stressed she was not exper-
ienced enough to help me. The other
only was interested in knowing if
I was what the media was saying
about me. He asked if I was suc-
idal - I was but didn't tell him
I didn't want to go to work - I'd
been there on my first arrival
to jail.

I needed a Mental Health Doctor.
I had questions I needed help
with. I needed help in under-
standing my behavior, several
years ago & symptoms I was
having while incarcerated. I
had fears, anxiety. I needed
to understand what happened in
my home when Kathy Loreno died,
and what could lead up to it.
To try to understand the lies
that two daughters were saying
and so much more, and my con-
stant thoughts of dying.

Mr. Harmer and Mr. Embury failed to
notify the Judge (McCully) that I'd
been constantly requesting Mental
Health Care.

Note I told Mr. Harmer "don't
do my bill" and several other state

#3- Amendment Rights Violated.

The right to be present when witness were questioned. I requested this several times, it into 8 months before my attorneys were allowed to finally question two witnesses for 2 hours each. Many lies were caught. But I was not allowed to be present. Mr. Harmer told me, it won't be happening.

My harsh and humane ~~refusal~~.
treatment in jail;
no phones, no visits, no mail,

except
lawyer

↓
except
CPS
lawyer
Bills (cousin's)

no canteen

12+ months of Solitary Confinement.
no exercise areas.

No heat, two leaks in roof
fluorescent lights 24/7
Concrete Block walls falling in
at corners. Paint chips always
falling into my clothes, shoes

Premedical Treatment by the
Prosecutors office through the
Chain of Command.

Ineffective Council

Cruel and inhumane treat-
ment.

The right to a safe and clean
conditions while incarcerated.

No right to Mental Health Doctors
and I'd requested this often.

Judge not told of my requesting
Mental Health over & over
to my attorneys.

The right to Medical treatment
when returning from a 3 day
hospital stay - I was put into
the 'hole' - This was not Doctors orders.
By the second day my legs were
Black & Blue and huge in size.
Edema was setting in. They
need to be raised. Mr. Sultomere
went by - I got his attention -
Sarcasically he said 'Use the wall'
and kept going. I saw a nurse a
couple days later.

#4- Evidence Tampering

In trying to help my husband
Geld Pacific County deputies
about a very important piece
of evidence. This would cleared
me of any wrong doing. This
was a letter to me from Kathy
Lorne it was supposed to be
murder. My husband knew
about this letter. It was found
under Kathy's dress 4 days
after her death. I always
knew where it was. My attorneys
spent time looking for it
it was hard they never seek
a home so turned beautiful
thing dumped in old pole
building. My attorneys were
upset because there were
constant delays in getting
asked to get to house. My
attorneys were told of two
places to look & it was the
only one who knew where
it kept it. It wasn't
secreted away - it was
on a Hat Box (Wardrobe) It
has not been found. Yet I
was given handwriting exams
and some of the words that
had been on that letter I
witnessed. I also saw words

I'd memorialized in my youngest
daughters Journal. My exam
Came back Negative.

Where is this letter? After over
13 years - its now gone. And
my husband told me them all
about this letter. Was this
way discovery was so late going
through? Months & Months -
it took.

All the Cards & Letters Kathy had
given me over ten years would
gone - They were kept in a Box
under my Bed with Rubber
bands holding them together.
Where did they all go.

Letters & Cards from Rome, 16 years
years worth - Some very
Recent as recent as I look
before his death. Where was
the needle points he made for
me - These had beautiful words
on them - words that he
addressed to me from him - where
were they all? The Sheriff dept
commented to my husband I
was a pack rat - Keeping art work
School work, cards letters from
my children, husband, family

Deadlines made from the Court -
not met. I'd been incarcerated
for about 10 months or so before
Mr. Burke met a deadline. But
it was haphazardly put together.

My attorneys were still trying
to find out what it was supposed
to have done to cause Kathy's
and Ron's deaths. Dr. William
Brady wrote statements. He
didn't know for sure how Kathy
had died. There were no remains,
but with Lesley's statement and
David Knetels - he felt Kathy
had died by drowning or her
vomit - that could of been caused
my a head injury - He said he
couldn't be sure. He said Mr.
Woodworth had pills in his system
and alcohol - He said he could of
had hypothermia - He was sleeping
out on ~~the~~ porch on the recliner.
I found that hard to believe - it
was summer and it was warm
out, but Dr. Brady was the expert
not me.

Mr. Burke was served a Motion to
Compel discovery or drop charges.
He met this deadline. Mr. Burke
put together every allegation
of abuse that had been brought

One example - pulled hair,
 kicked - Both applying to 40
 people who never met + there
 was over 13 years between
 these deaths. Totally different
 situations - The state would
 see this once, I told every-
 thing to the court. I've left so
 much out and I want any more.

- So I was supposed to have
 pulled Boris hair + Kathy -
 Ron had no hair. I did not
 do the things to Kathy or to
 Ron that's being alleged.

Abuse that was blamed on another
 like Leslie accusing David -
 It was put under my name,
 Shane's abuse of Kathy - under my
 name. Leslie never mentioned
 Shane to the State - yet when asked
 by my attorney - why she hadn't
 she said 'she wasn't asked'
 she then said 'Shane abused Kathy
 so often it was noticed.'

Depositions can verify some of this
 if it's necessary.

Ron had a suicide letter had
written ~~back~~ to his partner
of 23 years, this man had left
Ron & remarried a woman in
the community. I believe this
letter is in evidence.

There were letters to his mother
that showed how depressed
he became. He called his
mother in May, she was still
how depressed he was. She said
that's how he always is. She
went on to comment on
how dramatic Ron could be.
She refused to see him or
talk to him, she had her
restrained order and would
not sit it. Someone I believed
named Betty was keeping
watch, it was said I
never told Ron about the card.

I believe the letter was found.
They said it was what it
was, I've memorized this
letter. And I will take a
polygraph to prove it
existed.

There is a lot of things wrong -
done wrong.

#5 Fraudulent Evidence
Brought Before the Sentencing
Judge.

Months into my incarceration
my attorneys made many, many
requests for discovery. Dead
line after deadline it seemed
went in. Deadlines made by the
Court. I'd been incarcerated
for approx. 10 months - perhaps
changed that my lawyers put out
a motion to compel the State
to say what it was paid to do
Bill R. Woodworth and Kathy
Conero, they just said abused.

Dr. Brady wrote his opinion - he
was to have been a defense
witness. The State's Pathologist
said only that it was consistent
with homicide. That Death
Certificate was kept from the
defense for months until it was
found half way down a box
of discovery just folded there
among other misc. papers.

Dr. Brady used David's and Leslie's
statements regarding Kathy.
He had no body - But he
made a surprisingly accurate
opinion. I had not even

tell him what I thought, or saw.

He believed Mr. Woodworth was not murdered - But believed there were other explanations for his injuries. He said there was sickle and pills in his system - getting a good reading was difficult because they were so degraded. My husband found Kathy tried to revive her. She had vomited it and it was in her throat. I can go any further with that. I was not allowed to see Kathy's body. David said it would upset me too much.

Mr. Bunker put together a response to our Motion. He put down every allegation done to Kathy & added them to Ron's name. W. Leslie's statements were used for Ron. She never said him meet him or talk to him. Some said Ron only at holidays rarely any other times. Ron didn't want me to speak to her about his issues, his problems.

But as I already mentioned the Burke team needed to keep the cases together so he could prove 'Min Bad acts'

Mr. Harman told me that Mr. Burke wouldn't lower the MII charge even though we didn't fit. There was no proof of intent, and I didn't do the crime, Manslaughter still didn't fit. But it was more believable than M2. He wouldn't consider it because the statute of limitations was 10 years and that time period was up. Can they legally charge you for a crime that doesn't fit - Because in a fear of a statute of limitations would affect the lower charge? Making the charge not valid anymore? Is this a sort of fraud? I think so.

#6 - Lack of Evidence, Failure to discover or preserve Exculpatory Evidence.

There is immense evidence to bring to the court to prove my innocence. Regarding Mr. Woodworth, I've contacted witnesses that not even my own attorneys questioned. The death

Certificate reads listed as
 consistent to homicide. Several
 tests Mr. Brady did that the
 Seattle are pathologist hadn't
 performed. Some of his remains
 couldn't even be found - (later
 they were found)

Mr. Brady has another opinion
 it to quote Mr. Hermer.

Was angry at Ron Lot, He
 didn't keep up his feet and
 his gums were close to not
 supporting what teeth he had
 left. He didn't wear the hard
 hat, boots & safety glasses when
 he worked - cutting himself.
 It made me so nervous, I'd
 yell at him to put them on.
 Neighbors heard me yell most likely.
 He'd wear t-shirts, shorts & a
 tank top around a hot fire.
 He'd bend over and use a tool
 from the ground to pull or push
 out a log from the fire.
 When a pitch fork was within
 feet from him. And he'd burn
 himself. arm & neck area. To the
 water hose would go and getting
 the ice. I worried about him
 He knew I did. He knew me
 my getting upset with him

was because I was worried.
 There is no evidence that
 a murder was committed. I
 was not home that day or
 evening. I took a daughter to
 work & spent a day & evening
 with my middle daughter. When
 I left the house Kathy needed
 an excuser, she said her
 stomach hurt. She'd gone
 with me the day before to take
 Jessica to work - but wanted
 to stay on this day. David was
 home, my nephew & baby Tiri.

Kathy was gone when I
 left - I had no reason to believe
 she wouldn't be home when
 I get home that evening.

There is no evidence of my
 causing Ross death. There is
 so much evidence to prove this
 and she located even more.
I've located witnesses that
my attorneys should find.

If I am granted my appeal
 I will be able to provide the
 reasons for the statements my
 daughters are making. I will
 be able to show witnesses that
 will ~~prove~~ provide another spin
 on how things were.

What do I do about any of this? It hurts my case. It scares me knowing that my life is held in their hand so I speak. That they compromise my defence like they've done. Thanks to the Media - Had my being blamed for other things. How that can be proved just that as lies.

Where is all of my belongings - Stamp collections, Quilery, Coins Collections - Pictures + Paintings? They've never contact me about these belongings that sit at the Sheriff's office. What about things Mr. Harner took. I've been contacted by none.

When my home was being literally torn apart - hundreds of belongings were stolen. A table was set up in the front porch close to the front door. This table held cookies, donuts + coffee. I've had photos of this sent to me. It looked like a circus, a mockery to any justice system. Not to mention contaminating the scene. Those in the photos had no gloves - nothing. Smiles were everywhere. That is wrong.

#6 - continued.

The Sheriff dept - Deputy Lynn gave up evidence to their main witnesses - one of my daughters. This was a 5 generation Bible. This Bible was very old and very large. On side this Bible were many important papers that could help in my defense. This Bible was given up early into the criminal case.

When he mentioned this Bible to him - he said he'd go look for it. It was found and he assured me it would remain safe as well as the papers on side. This didn't happen. When the subject of the Bible came up again 'By me', Mr. Harner had to tell me that a deputy gave up the Bible to one of my daughters. How can they do this? Even with my lack of legal procedural - I know this isn't done.

The Bible was handed down to me by my father. The idea that they did - just makes it make sense to me that I believe my instincts when I think about the letter Kathy had left behind under her dresser.

Additional grounds

VII (7)

Judicial Misconduct

When I was coerced to say guilty at pre-sentencing Judge McCully had a full view of me. I was right in front of him. It was clear I was upset. At no time did he ask for a recess. No time did he mention my demeanor to my attorneys - and he had the right.

(he was asked for a break)
Judge McCully made a statement before the court - regarding 'the Alford Plea' - He said "We don't ~~do~~ do them in ~~our~~ my County." Mr. Embury made a very verbal comment about that to me.

When I made my first suicide attempt - and he was made aware of it through a hearing Superintendent Mr. Sultmeier brought before the court. He was made aware of some of my treatment in the County Jail. He did nothing.

Shouldn't he have suggest Mental Health help?
When coerced into pleading
guilty at pre-sentencing
Judge McCully had a full
view of me. I was right
in front of him. It was
clear I was under duress.
At no time do I recall him
asking if I needed some time,
and he could do that.
At no time did he address
my attorneys if they needed
to speak to me. I was so
obviously upset. My attorneys
did not ask for a break from
this Judge - at recess. If
Judge McCully heard my response
to Mr. Harmer telling me to pay
guilty - he'd heard me say
"But I'm not" saying that
more than once. If so the
pre-sentencing should've been
stopped. My plea bargain said
Alford. Yet that was totally
ignored - never mentioned.

Sometime prior to the pre-
sentencing hearing, when
the Alford Plea was mentioned
to this Judge - His response
was, "We don't do those in my

County. Judge McCully was a
Judge for another County,
Mr. Embold's second chair
attorney. Made a very verbal
comment to Judge McCully's
statement. This response
was for my class, and Mr.
Hammers only, and it was Mr. Embold's
reaction to "Did not do Alfred's in court"
When I made my first
suicide attempt. This Judge
had been made aware of
this by a informal hearing
brought by Mr. Sultomer's jail
superintendent. Judge McCully
was told about some of the
way it was being treated
in the jail. He also was told
about my suicide attempt.
He did nothing. He did not
suggest I seek Mental Health
Care. He did ask me if I was
going to repeat what I'd done
to put me in the Hospital.
I told him no, if I were
to say yes - I'd been
put into the hole I believed.
Still, this Judge could've asked
more questions - just as he
could've at sentencing.

Conclusion:

It was never told I'd be hearing
Community Placement. Did not know
it until my review here
at W.C.C.W. Community Place-
ment taking place at Pacific
County. My sentencing of two
or more extra years. Just me
and the law. This was never dis-
cussed with me.

Thank You
Very Respectfully
Michelle
Frank

5-18-04

FILED
COURT APPEALS

06 MAY 23 PM 3:01

STATE OF WASHINGTON

BY _____
COURT CLERK

IN THE SUPERIOR COURT
IN THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PACIFIC *Pierce*

THE STATE OF WASHINGTON
Plaintiff,

v.

MICHELL KNOTEK
Defendant,

NO: *03-1-00148-0*
MOTION TO WITHDRAW GUILTY
PLEA

TO: THE CLERK OF PACIFIC COUNTY SUPERIOR COURT

Please Take Note, that upon the annexed Affidavit of the Defendant, Michelle Knotek, the attached Memorandum of Law, and upon all the papers, and proceedings heretofore had herein, the undersigned will move this Honorable Court on _____, 2005 or as soon thereafter as it can be heard, for an Order for Vacating the Withdraw for Guilty Plea, or granting the Defendant such other and or further relief as may appear just and proper, in this matter.

Dated this 30 day of April 2005.

Michelle Knotek
Signature ProSe

said plea, and order that the Defendant go to trial in this case.

III. STATEMENT OF FACTS

The Defendant, in the above captioned cause was charged with, Murder II / Manslaughter I
_____. Those charges were filed in _____
Pacific, County on 08-19-04.

The Defendant is residing in the Washington State Correction Center for Women, where she has been since she was sentenced.

The Defendant, argues that her Constitutional Rights were denied to her. Furthermore, that denial of her rights to accept a plea of guilty which was not **voluntarily, unequivocally, and with the understanding given**, and the Defendant's plea of guilty was not given.

The rights of an accused person of trial by jury is expressly gauranteed by Art. I, § 22, of the Washington State Constitution, as amended by the Tenth Amendment. That right is denied where a plea of guilty is not voluntary, unequivocally, intelligently and understandingly made. State v. Taft, 49 Wn. 2d 98, 29 P.2d 1116 (1956), relying on In Re Pennington v. Smith, 35 Wn. 2d 267, 212 P.2d 811, State v. Stacy, 43 Wn. 2d 358, 261 P.2d 400, In Re Burgess v. Cranor, 39 Wn. 2d 428, 235 P.2d 830. Since the defendant did not understandingly plead guilty, she was as shown above, denied a constitutional right. where a defendant is denied a constitutional right in connection with a plea it is an abuse of discretion to deny a motion to withdraw the plea.

The Defendant contends that she was never fully informed of the consequences with the sentence that would be imposed on her. Because the defendant should be allowed

to withdraw her plea of guilty.

IV. AUTHORITY

This motion is brought pursuant to CrR 4.2 (d) (f), CrR 7.8 (a)(1)(5), RCW 10.73.090 (1)(2), and the Defendant's Affidavit, also the attached Memorandum of Law.

V. ARGUMENT

The argument is set forth in the attached Memorandum of Law and is incorporated by references herein.

VI. CONCLUSION

For the reasons set forth above, The Defendant respectfully moves this Court for an Order Allowing her to Withdraw her Guilty Plea, to correct a manifest injustice.

Dated: 4-30-05

Michelle Knotek
Signature
Michelle Knotek 865733
Print Name DOC

Washington Correction Center for
Women
9601 Bujacich Rd N W
Gig Harbor, WA 98332

FILED
COURT OF APPEALS

06/07/23 PM 3:01

STATE OF WASHINGTON

BY _____
CITY

IN THE SUPERIOR COURT
IN THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PACIFIC

THE STATE OF WASHINGTON)
Plaintiff,)
v.)
MICHELLE KNOTEK)
Defendant,)

MEMORANDUM IN SUPPORT OF
MOTION TO WITHDRAW GUILTY
PLEA

I. STATEMENT OF THE CASE

The statement of the facts are set forth in the attached motion and are incorporated by reference herein.

II. SUMMARY OF ARGUMENT

The Defendant, in the above captioned cause contends that she should be allowed to withdraw her guilty plea. The Defendant maintains that she was not fully informed of the consequences of her guilty plea, because neither the State, nor her attorney advised her of the said consequences.

Furthermore, she states that: The Attorney represented the ALFORD PLEA as another way to say Innocent. I attempted to say innocent but was stopped by this Attorney. I refused 3 times to state a guilty plea after I was told that I had to in order to uphold a Alfod Plea. *substantial* *Just*

A technicality Mr. Harwood said to me.

It was obvious to everyone in the court that I did not want to say guilty. And later, that same Attorney stated to the court that I have always maintained my innocence and that I still do. Thus at ~~present~~ sentencing

During plea bargaining, counsel has a duty to assist the defendant " actually and substantially " in determining whether or not to plead guilty. State v. Osborne, 102 Wn. 2d 87, 684 P. 2d 683 (1984), quoting, State v. Cameron, 30 Wn. App. 229, 663 P.2d 901, review denied, 96 Wn. 2d 1023 (1981).

The Defendant claims she would never have agreed to plead guilty to the charges against her, if she had known about the direct consequences of the said plea. (See Affidavit In Support of This Motion).

The law is clear that the Judge has a duty to ensure that guilty pleas are knowingly, voluntarily and intelligently made. In Re Hammermaster, 958 P.2d 924 (Wn. 1999) relying on Boykin v. Alabama, 395 U.S. 238, 98 S.Ct. 1709, 23 L.Ed. 2d 274 (1969). At a minimum, this requires the defendant be appraised of the essential elements of the offense as well as any mandatory minimum sentence and the statutory maximum. State v. Holsworth, 93 Wn. 2d 148, 607 P.2d 845 (1980).

Pleas which were made without proper advise and knowledge of their consequences violated the defendant's constitutional rights to Due Process.

The law long before Boykin, supra, established the court's duty to insure that the defendant had been fully appraised of the nature of the offense and the consequences of pleading guilty thereto.

" [A] plea of guilty shall be accepted when made voluntarily after proper advise and with full understanding of the consequences." State v. Holsworth, supra, at 156, relying on Kercheval v. U.S., 271 U.S. 220, 223, 71 LED.2d

1009, 47 S.Ct. 582, (1927). See also, Machibroda v. U.S., 368 U.S. 487, 493, 7 L.Ed. 2d 473, 82 S.Ct. 510 (1962). It can be seen that failure to disclose the nature of the offense or **consequences** of a plea may result in a procedural defect of a constitutional magnitude, if the defendant's plea as a consequence of that failure is voluntary. As in Burgett, supra, violation of the defendant's constitutional rights is " renewed " through use in a habitual criminal proceeding of a uniformed guilty plea which thus violates due process.

Such a conclusion is further supported by the historical insistence by this court that the pleading defendant be **fully** apprised of the nature and consequences of the offense to insure that his/her guilty plea is freely, unequivocally, knowingly and intelligently made. Three years before the United States Supreme Court's decision in Boykin, supra, this court expressly articulated the importance of full disclosure to constitutional guilty plea:

To be voluntary, a plea of guilty must be freely unequivocally, intelligently and understandingly made, in open court by the accused person with full knowledge of his/her legal and constitutional rights and of the consequences of his/her act....

Before excepting a plea of guilty from an accused person, it is the duty and responsibility of the trial judge to satisfy himself that the plea is in fact voluntary and to ascertain that the accused person fully appreciates and understands the consequences of his/her plea. This should be done whether the accused is represented by counsel or not. The trial Judge's inquiries together with the accused person's responses should be made a matter of record so that doubt may not later be cast upon the propriety

of the proceedings. Though a failure on the part of the trial Judge to fully determine the voluntariness of a plea does not necessarily constitute a deprivation of due process of law, such a failure readily lends in itself to such a claim. State v. Holsworth, supra,.

It is a violation of the due process to accept a guilty plea without an affirmative showing that the plea was made intelligently and voluntarily. State v. Barton, 93 Wn. 2d 301, 609 P.2d 1353, citing Boykin, supra, Moreover, in addition to the minimum requirements imposed by the constitution, criminal pleas are governed by the rules of the court. CrR 4.2, Modeled after Rule 11 of the Federal Rules of Criminal Procedure, 18 U.S.C., at 1416-17 (1977), established requirements beyond the constitutional minimum. It provides:

(d) VOLUNTARINESS. The court shall not except a plea of guilty, without first determining that it is made voluntary, competently and with an understanding of the nature of the charge and the consequences of the plea. The court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is factual basis for the plea.

The record of plea hearing or clear and convincing extrinsic evidence affirmatively disclose a guilty plea was made intelligently and voluntarily, with an understanding of the full consequence of such a plea. State v. Barton, supra, at 304 citing Wood v. Morris, 87 Wn. 2d 501, 544 P.2d 1032 (1979).

CrR 4.2 (f), allows a defendant to withdraw a plea if it appears that withdrawal is necessary in order to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court determines under RCW 9.9A.090 that the agreement is not consistent with (1) the interest of justice; or (2) the

prosecution standards set forth in RCW 9.94A.430-.460, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered. if the motion for withdrawal is made after judgment, it shall be governed by CrR 7.8.

Relief from a judgment may be ordered under CrR 7.8 (a)(b)(1)(5). (a) states:

Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RAP 7.2 (e).

(b) states:

On motion and upon such terms as are just, the court may relieve a party from a final judgment, order or proceeding for the following reasons:

(1) Mistakes, inadvertance, surprise, excusable neglect or irregularity in obtaining a judgment or order;
(5) any other reasons justifying relief from the operation of judgment.

10.73.090 (1)(2) states:

(1) No petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction.

(2) For the purpose of this section, collateral attack " means any form of post conviction relief other than direct appeal." "Collateral Attack" includes, but it is not limited to, a Personal Restraint petition, Habeas

Corpus Petition, a Motion to vacate Judgment, and a Motion to Withdraw a Guilty Plea, a Motion to Arrest Judgment.

Under this rule, a " manifest injustice " is an " injustice that is obvious, directly observable, overt not obscure." State v. Saas, 118 Wn.2d 37, 820 P.2d 505, citing State v. Taylor, 83 Wn. 2d 594, 596, 521 P.2d 699 (1974). Under this standard, courts have allowed a guilty plea to be withdrawn when any one of the following has been shown: **failure to recognize consequences of the plea; ineffective assistance of counsel; plea induced by threats or promises; plea not ratified by defendant; involuntary plea and broken agreement by prosecution.** State v. Taylor, supra, .

An involuntary plea produces a manifest injustice to permit withdrawal. State v. Saas, supra, at 42, State v. Moore, supra, at 172. Due Process requires an affirmative showing that a defendant entered a guilty plea intelligently and voluntarily. State v. Barton, supra, citing Boykin v. Alabama, supra, State v. Ross, 129 Wn. 2d 279, 916 P.2d 405.

Washington courts have recognized four non exclusive instances of manifest injustice: (1) an involuntary plea; (2) a plea obtained due to ineffective assistance of counsel; (3) a plea not authorized or ratified by the defendant; and (4) the prosecutions failure to keep a plea agreement. State v. Saas, supra, State v. Zumqalt, 79 Wn. App. 124, 901 P.2d 319 (1995). The circumstances of this case fit several of these instances, for this reason, the defendant prays that this court will allow her to withdraw her guilty plea to correct a manifest injustice.

A plea of guilty is more than a confession which admits that the accused did various acts; it is in itself

a conviction; nothing remains but to give judgment and determine punishment. Boykin v. Alabama, supra, on Kercheval v. U.S., supra, admissibility of a confession must be based on a reliable determination on the voluntariness issue which satisfies the constitutional rights of the defendant." Boykin, supra, relying on Jackson v. Beeno, 328 U.S. 386, 387, 12 L.Ed. 2d 908, 922, 84 S.Ct. 1774, 1 ALR 3d 1205. The requirement that the prosecution spread on the record the prerequisites of a valid waiver is no constitutional innovation. Boykin, supra, in Carnly v. Cochran, 369 U.S. 506, 516, 8 L.Ed. 2d 70, 77, 82 S.Ct. 884, we dealt with a problem of waiver of the right to counsel, a Sixth Amendment right. We held:

" Presuming waiver from a silent record is impermissible." The record must show, that an accused was offered counsel, but intelligently and understandingly rejected the offer. Anything less is a waiver. We think that the same standard must be applied to determine whether a guilty plea is voluntarily made. For, as we have said, a plea of guilty is more than an admission of conduct; it is a conviction. Ignorance, incomprehension, coercion, terror, inducements, subtle or blatant threats might be a perfect cover up of unconstitutionality. The question of an effective waiver of a federal constitutional right is a proceeding of course governed by a federal constitutional rights standard.

Douglas v. Alabama, 380 U.S. 415, 422, 13 L.Ed.2d 934, 938, 85 S.Ct. 1074. Boykin, supra,.

Justice Douglas, speaking for the United States Supreme Court, stated that criminal defendants who plead guilty demand " the utmost solicitude of which courts are capable in convassing the matter with accused to make sure he has a full understanding of what the plea connotes and of its consequences." Boykin, supra, at 234-44, and thus

established the rules that the pleading defendant must be apprised of the nature of the offense; he/she must be given " notice of what he is being ask to admit." Henderson v. Morgan, 426 U.S. 637, 647 L.Ed.2d 108, 96 S.Ct. 2253 (1976). The consequences of which the defendant must be advised include not only the sentencing alternatives possible, including specifically and mandatory minimum or possible maximum sentence for the offense to which he pleads guilty.

The defendant must also be apprised of his constitutional rights to remain silent, to confront accusers, and to jury trial. He must be made aware that this guilty plea necessarily waives those rights. State v. Holsworth, supra, relying on Boykin, supra, at 243.

III. CONCLUSION

The question here concerns whether the defendant understood the consequences of her plea. As stated in the motion Defendant claims she did not. A defendant need not be informed of all the possible consequences of a plea but rather only direct consequences, which the defendant argues in the case here.

For the following reasons specified above and in the Affidavit of Michelle Knotek, the Defendant prays this Court permit her to withdraw her plea of guilty, which was made this 19th day of August, 2004.

Respectfully Submitted this 30th day of April, 2005.

Michelle Knotek
Signature
Michelle Knotek 865733
Print Name DOC
Washington Corr. Center for Women
9601 Bujacich Rd N W
Gig Harbor, WA 98332

Court Clerk

5-18-06

Please find enclosed proof of mailing. Due to lock down this copy went out at 11:00 PM 5-18-06.

The Statement of Additional Ground went out 5-18-06 at 7:00 PM.

Thank You
Sincerely

Michelle Gut
33644-8-11

Maidey Mailey
is here at Deere
& U.S. Mail



FILED
COURT OF APPEALS
PIERCE

06 MAY 23 PM 2:40

STATE OF WASHINGTON

BY _____
DEPUTY

IN THE SUPERIOR COURT
IN THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF Pierce

THE STATE OF WASHINGTON)
Respondent Plaintiff,)

DECLARATION OF SERVICE

v.)

Michelle Knotek)

cause # 33644-8-11

Appellant Defendant,)

I, Michelle Knotek, The Defendant in
the above captioned cause, declare that on the 18
day of May, 2006, I deposited in the mail
of the United States of America an addressed envelope
with postage fully paid thereon, directed to the fol-

lowing: (1) Wa. State Appellate Project
1511 3rd Ave, Suite 701
Seattle, Wa. 98101

(3) David J. Burke
(Prosecutor)
P.O. Box 45
South Bend, WA.
9586-0045

U (2) Wa State Court of Appeals Div. II
950 Broadway, Suite 300
Tecoma, Wa. 98402-4454

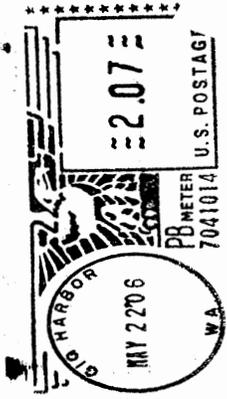
Said envelope contained: Table of Contents,
Letter of Introduction, Statement of Additional Grounds, Closings

Signed at the Washington Correction Center
For Women in Gig Harbor, Washington, Pierce County,

Michelle Knotek
Signature

DECLARATION OF SERVICE

Michelle Knotter
#805733 MS4 A' 226



Washington State Court of Appeals
Division II
930 Broadway, Suite 300
Tacoma, WA

98402-4454

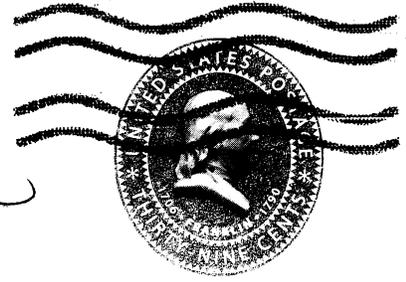
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5-18-06

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M.S. U. A' 224

TACOMA WA 984

22 MAY 2006 PM 3 T



Att: Court Clerk - Dr. Ponzo
Court of Appeals; Div. II
950 Broadway Suite 300
Tacoma, Wa. 98402-4454

98402/4454

