

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS

06 DEC 11 AM 8:52

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
Raf Kenneth Stillwagon II)
(your name))
)
Appellant.)

STATE OF WASHINGTON
BY [Signature]
COUNTY

No. 34351-7-II

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Raf K. Stillwagon II, 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

(see attached)

Additional Ground 2

(see attached)

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

Date: 12.6.06

CERTIFICATE OF SERVICE

I certify that I mailed Signature: [Signature]

copies of STG
to Raf Stillwagon
& R. Sutton
12/3/06
Date Signed

ADDITIONAL GROUND 1

On December 20th the state called Antoine Murkins as a witness. As the direct examination of Mr. Murkins progressed, his memory of the events in question faded. As this was not in the best interests of the states case, transcripts of previously recorded statements were introduced to refresh the witnesses memory.

Defense counsel objected to the repeated use of this transcript numerous times to no avail. The witness does have the ability to use a transcript to refresh their memory and provide them with an independent recollection of the events. This did not happen and the witness was repeatedly allowed to answer questions by reading his answer first and then reciting something similar or, at one point, even quoting himself from the transcript. This was improper use of the transcript as trial counsel pointed out to the Court.

The state addressed the Court by saying that defense counsel was correct about the proper procedures and stated the two types of evidentiary theory he claimed to be using. As defense council clearly pointed out that the states use of these theories was a combination of the two and was improper procedure. Neither of the proper protocols for impeachment of a witness nor refreshing recollection was followed and thus an error was made by the Court in allowing this to happen. It is due to this error by the Court that I respectfully request that this decision be dismissed and a remand for a new trial be given.

ADDITIONAL GROUND 2

On October 14, 2005 the court granted the state a continuance, moving the trial date of October 26 to December 7. This violated my speedy trial rights in that it was not given in the administration of justice and was also an unfair prejudice to the defense.

On October 7th the state gave notice to the court and defense that they would be seeking a new trial date of approximately November 9th. One week later the state was requesting a trial date of December 12. December 12 was coincidentally the date of the recently severed co-defendant Johnson. The state openly admitted to its desire to consolidate the two cases and wished to do so on October 14th. The only chance the state had to re-

open the consolidation issue was if the trial date of my case was pushed back closer to the December 12th date of defendant Johnson's trial. Ultimately all the states wishes were met with the continuance being given and consequently the consolidation granted.

The states argument for the continuance was founded on evidentiary testing being done in time for the October 26th trial date. The defense delayed this testing of consumables by one week to research that process but this was the only delay that could be attributed to the defense. The evidence in question consisted of : A hand gun found on September 10th , 2 Bags of clothing found on September 9, and various blood samples taken from the crime scene on August 26th. All of these items were in the states hands no later than September 10th. With the exception of the consumable items, which were under court order not to be tested until October 21st, the state had ample opportunity to test these items. In fact the state expressed to the court that evidence from the 2 bags of clothing were essential to the case. These 2 bags of clothing were in the states possession since September 10th. With a trial date of October 26th and the states previous request of a November 9th date, these items would have been in the states hands for approximately 2 months. Giving the delay of 1 week for the defense purposes, and another week for the court order, a mid-November trial date may have been appropriate, With a mid-November trial, the state would have had 2 ½ months to process the evidence. This was plenty of time according to the states DNA expert.

The December 12th date was requested for the purpose of accommodating the State in it's endeavor to re join the trials. This was not given in the administration of justice and therefore allowed unfair prejudice to the defense. Due to this violation of Speedy trial rights this Court should reverse this conviction

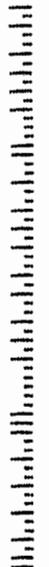
Stillwagon II #76MU2
C402-U
PX 777
Monroe, WA 98272

LEGAL MAIL



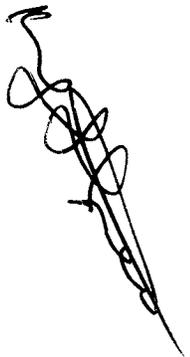
Court of Appeals
Division II
950 Broadway, STE 300
Tacoma, WA 98402-4454

LEGAL MAIL

98402+4454-73 0005 

THE ENVELOPE IS REVOLVED AND
IS WITH THE REPORT NUMBER ON FILE.

c/o WEBB-KUO 12/7/06


12/7/06