

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

1/01/13

STATE OF WASHINGTON )  
 )  
 Respondent, )  
 )  
 v. )  
 )  
 RALPH PEREZ, )  
 )  
 Appellant. )

No. 34354-1-II

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

FILED  
COURT OF APPEALS  
SEP 15 11:18 AM '06  
Ked

I, RALPH PEREZ, 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

1. B. Proctor, S. Arnold  
9/21/06

SEE ATTACHED

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

Date: 9/8/06

Signature: RPP

9/8/06

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In January 2006 I was convicted of Felony Harassment and was sentenced to 16 months because I had 4 points as shown on pages 3 and 4. Then I was convicted of Burglary in the 1<sup>ST</sup>, malicious mischief in the 3<sup>RD</sup> degree and ASSault in the 4<sup>TH</sup> degree on page 5 three quarters down the page on the right shows my range is 41-54 months as charged with 5 points, page 6 shows my criminal history with 5 points but my Sentencing Data shows 6 points which I disagreed with on page 7. on 10-7-05 when the Pierce County Responded, I was telling them to give MR Ingram a WA because he was drunk and or high page 8 shows that MR Ingram was not making any sense and MR Ingram testified in trial that he only wrote what the officer told him to write. Judge CJ Lee signed a Findings of Fact, Conclusion of Law on 1/6/06 indicating that the forced entry of Pierce County Sheriff's into my apartment was illegal and in violation of my 4<sup>TH</sup> Amendment of the U.S. Constitution and the Washington Constitution, Article I, Section 7.

Conclusion: For all the foregoing reasons I RALPH PEREZ respectfully request that this Court determine that I was denied my due process rights and reverse my Convictions of all three crimes. AND I RALPH PEREZ request that this court reverse my conviction of Burglary in the 1<sup>ST</sup> degree because the evidence was insufficient to the crime.

RALPH PEREZ  
on D

# 34354-1-1

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SUPERIOR COURT OF WASHINGTON JUDICIAL CENTER

STATE OF WASHINGTON

Plaintiff

CAUSE NO. 05-1-03172-9

vs

RAYMOND PEREZ

Defendant

STIPULATION ON PRIOR RECORDS AND OFFENDER SCORE (Plea of Guilty)

Upon the entry of a plea of guilty to the above cause number, charge FELONY HARASSMENT, IRELEVANT UNDER THE PROHIBITION OF INTOXICANTS, the defendant RAYMOND PEREZ hereby stipulates that the following convictions are his complete criminal history, are correct and that he is being sentenced to the maximum.

CONCURRENT CONVICTIONS UNDER FEDERAL LAWS

Date of Conviction	County	Case No.	Adult Juvenile	Crime Type	Class	Level	Felony or Misdemeanor
12/12/00	King Co.	0201400	A	NV	B	1	Felony
08/18/01	King Co.	0202801	A	NV	C	1	Felony
12/01/01	King Co.	0200603	A	NV	C	1	Felony
12/01/01	King Co.	0200603	A	NV	C	1	Felony

Concurrent conviction records

CONCURRENT CONVICTIONS UNDER FEDERAL LAWS

The following convictions are recorded in Washington State: (none)

Date of Conviction	County	Case No.	Adult Juvenile	Crime Type	Class	Level	Felony or Misdemeanor

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The defendant stipulates that the above criminal history and scoring are correct, producing an offender score as follows, including current offenses, and stipulates that the offender score is correct.

COUNT NO	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	4	III	12+16 MOS.	NONE	12+16 MOS.	5 YRS.

\*(F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present.

The defendant further stipulates:

- 1) Pursuant to *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004), defendant may have a right to have factors that affect the determination of criminal history and offender score be determined by a jury beyond a reasonable doubt. Defendant waives any such right to a jury determination of these factors and asks this court to sentence according to the stipulated offender score set forth above.
- 2) That if any additional criminal history is discovered, the State of Washington may resentence the defendant using the corrected offender score without affecting the validity of the plea of guilty.
- 3) That if the defendant pled guilty to an information which was amended as a result of plea negotiation, and if the plea of guilty is set aside due to the motion of the defendant, the State of Washington is permitted to refile and prosecute any charge(s) dismissed, reduced or withheld from filing by that negotiation, and speedy trial rules shall not be a bar to such later prosecution.
- 4) That none of the above criminal history convictions have "washed out" under RCW 9.94A.360(3)/9.94A.525 unless specifically so indicated.

If sentenced within the standard range, the defendant further waives any right to appeal or seek redress via any collateral attack based upon the above stated criminal history and/or offender score calculation.

Stipulated to this on the 6 day of January, 2006

  
TIMOTHY F. JONES  
Deputy Prosecuting Attorney  
WSB # 15928

  
RALPH PEREZ  
  
JOHN D. CHIN  
WSB # 7160

klis

PLEASE PRINT OFFER HAVE CLIENT SIGN AT BOTTOM

DATE: 12/11/01 DEF: [REDACTED] Defense Atty: [REDACTED]

I. INFORMATION:

Defendant: [REDACTED] Race: [REDACTED] SID: WA 12714212 Cause #: 051-0112

5 of 13 # 34354-1-II [REDACTED]

II. WAIVED UPON CHARGES:

Original Inf: [REDACTED] Amend Inf. to: [REDACTED] State further agrees to refrain from adding the following, which would otherwise be added:

III. WAIVED UPON SENTENCING RECOMMENDATION:

CL I [REDACTED] CL II [REDACTED] CL III [REDACTED] converted to community service from 180 days, community service upon release ON ASSAULT 2nd degree 01-11 no direct/indirect contact with victim(s) or victim business Legal Financial Obligations: \$500.00 CVPA; \$110 costs; \$400 BAC (comp); Restitution \$100.00 mandatory cost assessed if crime committed after 9/10/02; HIV testing; surrender of driver's license; Other:

IV. CRIMINAL HISTORY: Will be stipulated by both parties to be as follows:

- 1. Prior criminal history as attached as Appendix A, and incorporated herein by reference.
2.
3.
4.
5.

V. OFFENDER SCORE:

Table with columns: Score, Seriousness Level, Range, Max. Term. Rows for CL I, CL II, CL III.

VI. DOCUMENT & SENTENCE PAPERWORK:

Plea: [REDACTED] Trial Conviction by Jury: [REDACTED] by Judge: [REDACTED] Special Finding: [REDACTED] Incident #: [REDACTED] Crime Codes: CL I [REDACTED] CL II [REDACTED] CL III [REDACTED] Other: [REDACTED]

VII. ACKNOWLEDGEMENT:

The State is relieved of its obligations under this agreement in the event the defendant subsequently re-offends, fails to appear for a court hearing or otherwise violates the conditions of release. The defendant and the State hereby acknowledges understanding the entire contents of this document and accepts the terms herein, and further request a plea date.

Defendant

Deputy Prosecuting Attorney

2.2 CRIMINAL HISTORY (RCW 9A.42.025)

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	ADJ ADULT JUV	TYPE OF CRIME
1 ASLT 3°	12/14/00	PIERCE, WA	11/14/00	A	NV
2 ASLT 3°	08/16/01	PIERCE, WA	07/08/01	A	NV
3 ATT ASLT 2°	12/01/03	PIERCE, WA	08/06/03	A	V
4 ASLT 3°	12/01/03	PIERCE, WA	08/06/03	A	NV
5 PEH HARASS	01/06/06	PIERCE, WA	06/24/05	A	NV

The court finds that the following prior convictions are one offense for purposes of calculating the offender score (RCW 9A.42.025)

2.3 SENTENCING DATA

COUNT NO	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	6	VII	37-75 MONTHS	NONE	57-75 MONTHS	LIFE

2.4 EXCEPTIONAL SENTENCE Substantial and compelling reasons exist which justify an exceptional sentence [ ] above [ ] below the standard range for Count(s) Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [ ] did [ ] did not recommend a similar sentence.

2.5 LEGAL FINANCIAL OBLIGATIONS. The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW, Chapter 379, Section 22, Laws of 2003.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9A.42.753)

The following extraordinary circumstances exist that make payment of nonmandatory (egs) financial obligations inappropriate

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [ ] attached [ ] as follows: N/A

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 The court DISMISSES Counts [ ] The defendant is found NOT GUILTY of Counts

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

CLASS CODE

JUDGMENT AND SENTENCE (JS)

Revised 9/2003 Page 1 of 10

7 of [redacted]

05-1-04938-5

13 # 35354-1-II

If sentenced within the standard range, the defendant further waives any right to appeal or seek review via any collateral attack based upon the above stated criminal history and/or offender score calculation.

Stipulated to this on the \_\_\_\_\_ day of \_\_\_\_\_, 2006

*[Signature]*

FERRY R. ADAIR  
King County Prosecuting Attorney  
WSB # 10628

*[Signature]*  
RALPH PEREZ

STEVEN FRANKLIN BURDESS  
WSB # 18275

kes

I disagree with the current  
convictions scoring on this document  
(Cause # 05-1-04938-5)

I believe my score should  
have been 5 instead of 4

*[Signature]*

1/27/06

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DECLARATION ON PROOF  
TESTIMONY  
AFFIDAVIT

Office of Prosecuting Attorney  
946 County-City Building  
Tacoma, Washington 98402

INCIDENT # 052800846

# HANDWRITTEN STATEMENT FORM

PIERCE COUNTY SHERIFF/TACOMA POLICE

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Date 10-7-05 Time

My name is SHAWN INGRAM . I am 24 years of age.

I reside at \_\_\_\_\_ with \_\_\_\_\_

I am employed at \_\_\_\_\_

I have been informed of my constitutional rights. \_\_\_\_\_

Narrative of facts: \_\_\_\_\_

He came down and knocked on my door and shoved his way in my house and start to hit on me and I asked him to get out and he kept on knocking on my door and I asked him to leave and I shut the door on him and he ~~put~~ his way in my house ~~and~~ and I opened the door and he ran up on me and hit me and there is a hole in wall betide the door

The above is a true and correct statement to the best of my knowledge. No threats or promises have been made to me nor any duress used against me.

Shawn Ingram  
Signature

WITNESSES:  
Wynne Carey #346

—If you need additional space use other side—



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

STATE OF WASHINGTON, )  
 )  
 Plaintiff, )  
 vs. )  
 RALPH PEREZ, )  
 )  
 Defendant. )

No. 05-1-04938-5  
FINDINGS OF FACT/  
CONCLUSIONS OF LAW

FINDING OF FACTS

1. On October 7, 2005, Pierce County Sheriff's Deputies (PCSD) responded to 14414 Second Avenue East, Tacoma, WA regarding a possible assault.
2. Upon arrival, PCSD contacted the alleged victim, Shaun Ingram, who informed them that he had just been assaulted by his neighbor, Ralph Perez.
3. During the initial contact with the alleged victim, the defendant was observed standing outside, near his apartment.
4. PCSD approached and attempted to make contact with the defendant. Defendant, however, walked away from PCSD and entered his apartment.



1 3. The defendant specifically and repeatedly denied PCSD consent to enter  
2 his apartment.

3 4. There was no evidence that the defendant posed any threat to the safety of  
4 the surrounding neighborhood or PCSD.

5 5. There was no evidence that emergency aid needed to be rendered to  
6 anyone inside defendant's apartment.

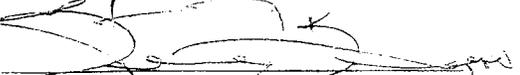
7 6. ~~PCSD's forceful entry into defendant's apartment was illegal and~~  
8 ~~in violation of the Washington Constitution, Article I, section 7.~~

9  
10  
11 7. All statements made by the defendant, subsequent to PCSD kicking in his  
12 apartment door, are suppressed.

13  
14 DATED this 6<sup>th</sup> day of January 2006.

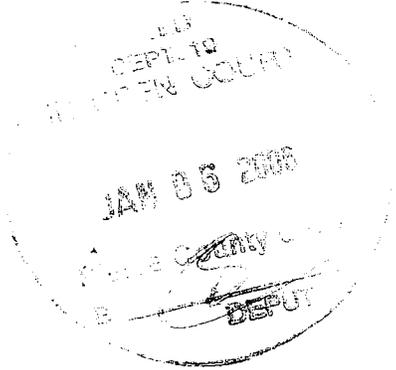
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Judge Linda CJ Lee

17 Presented by:

18   
19 Steven F. Burgess, WSBA #18275  
20 Attorney for defendant

21 Approved as to form:

22   
23 Jerry R. Adair, WSBA #10628  
24 Deputy Prosecuting Attorney



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RALPH PEREZ  
#34354-1-II



The Washington Constitution affords greater privacy protection than the Fourth Amendment.

Article I, Section 7 state in pertinent part:  
"No person shall be disturbed in [that person's] private affairs ... without authority of law."  
[Adopted 1889].

The Washington Supreme Court has remedied all violations of article I, section 7, by applying the exclusionary rule. State v. Ladson, 138 Wn.2d 343, 359, 979 P.2d 833 (1999); State v. Hendrickson, 129 Wn.2d 61,76, 917 P.2d 563 (1996); State v. Boland, 115 Wn.2d 571,582-83, 800 P.2d 1112 (1990); State v. Chrisman, 100 Wn.2d 814,819, 676 P.2d 419 (1984); State v. White, 97 Wn.2d 92,111-12, 640 P.2d 1061 (1982); State Gunkel, 188 Wash. 528,534, 63 P.2d 376 (1936); State v. Raum, 172 Wash. 171,188-89, 203 P. 390 (1922); State v. Johnson, 75 Wn.App. 692,709, 879 P.2d 984 (1994), review denied,126 Wn.2d 1004 (1995).

In State v. Miles, 29 Wn.2d 921,927,933, 190 P.2d 740 (1948), the [c]ourt stressed that "[I]t is beneath the dignity of the State of Washington, and..

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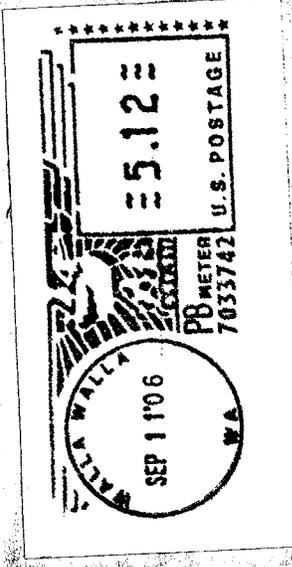
RALPH PEREZ  
# 34354-1-I

... against public policy, for the State to use for  
it's profit any evidence obtained in a search  
following an arrest without probable cause.'" "If  
the arrest is unlawful, search is unlawful.'"

"Privacy interests which citizens of this State  
have held, and should be entitled to hold, safe from  
governmental trespass absent a warrant.'" Boland,  
115 Wn.2d at 577, quoting, State v. Myrick, 102 Wn.2d  
506, 511, 688 P.2d 151 (1984)). Violation of a right  
of privacy under this provision turns on whether the  
State has unreasonably intruded into a person's  
"private affairs." Myrick, 120 Wn.2d at 510, citing,  
State v. Simpson, 95 Wn.2d 170, 178, 622 P.2d 1199  
(1980)). The difference between the right of privacy  
under Const. art. I, § 7 and the Fourth Amendment has  
been explained as follows:

"[C]onstitution art. 1, §7 analysis encompasses  
those legitimate privacy expectations protected by  
the Fourth Amendment, but is not confined to the  
subjective privacy expectations of modern citizens  
who, due to well publicized advances in surveillance  
technology, are learning to expect diminished  
privacy in many aspects of their lives. Rather, it  
focuses on those privacy interests which citizens of  
this State have held, and should be entitled to hold,  
safe from governmental trespass absent a warrant."

RALPH PEREZ 814339  
Bmu 2-E80  
Washington State Penitentiary  
1313 N. WALLA AVE  
Walla Walla WA 99052



To: Court of Appeals District II  
950 Broadway Suite 300  
Tacoma WA 98402  
ATTN: KIM C. Case manager

