

Court of Appeals No. 36131-1-II

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

STATE OF WASHINGTON

v.

JEREMY JAMES BONO

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

Appeal from the Superior Court of Pierce County,
Cause No. 05-1-05264-5
The Honorable Brian Tollefson, Presiding Judge

Jeremy J. Bono 842528
H2A99L
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, Wa 98520

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GROUNDS FOR REVIEW

I Jeremy J. Bono, have recieved and reviewed the opening brief prepared by my attorney Shari L. Arnold that I recieved on the date of Oct. 17, 2007. Upon my written request to this court I have recieved and reviewed the Verbatim Reports of Proceedings, Volumes 1-8, which I recieved on Nov. 13, 2007. I did, along with my request for the VRP's, point out to both this court and my appellate counsel (Shari L. Arnold) that there seems to be errors in the VRP's. Later in this statement I will go into more detail as to exactly what errors exist, whether it was an error in the VRP's or a bad interpretation by my counsel.

The prosecutor (Mr. Greer) did argue many items that didnot exist in evidence. Mr. Wilson (the alleged victim) testified that the prosecutor should not have prosecuted this case. RP 358. The prosecutor (Mr. Greer) argued improperly not only before and at trial but at sentencing as well. Mr. Greer argued at sentencing that he had significantly undercharged Mr. Bono in this case, that it definitely constituted a kidnapping charge, as well as a possible (well I would not even repeat the horrible

things Mr. Greer said). There was not any evidence to support such bold claims, as the claims were clearly without merit. In fact there was much evidence to support the exact opposite. Clearly such claims were directed to inflame the emotions of the jury and judge. As I will soon show that the deceitful light (not to be mistaken as a light most favorable to the prosecution) that the prosecution chose to bring information forward did the exact job intended, it deceived both the jury and the judge. I filed a Notice of Special Appearance, a Declaration/ Offer of Proof, and a Motion for Dismissal with Prejudice in early 2006. In these documents I stated a few things. First there was lack of effective assistance of counsel by my attorney Mr. Kent Underwood. I clearly described that my counsel was deficient in his representation of me because I was clearly being wrongfully arrested and wrongfully charged for a crime that the alleged evidence and probable cause charging document didnot support one another as would be necessary. Clearly the alleged crime the prosecutor was alleging took place did not rise to the severity of the charge chosen, and clearly had shown that I didnot in fact assault the alleged victim (Mr. Wilson) due to the prosecutor's own Police Incident Reports, and Probable Cause Charging Document. Clearly such fundamental basics that by the required knowledge of both the prosecutor (Mr. Greer) and my counsel (Mr. Underwood) were being treated with deliberate indifference. I

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also stated that there was a "due process" violation because the case had already been continued many times past my constitutional right of a speedy trial, without just cause. Clearly the most fundamental requirements of a criminal attorney teach the attorney's to properly and effectively defend such rights of his client. I would again like to renew my claim of ineffective assistance of counsel for not just the above mentioned reasons, but as I will point out later in this statement. VRP 522.

The Limiting instruction was withdrawn by my counsel as to my alleged prior drug use. The only allegation made to any prior drug use I may have had was made by an unreliable witness (Mr. Tracy Vasquez) and was clearly not admissable because it was not first hand knowlege. VRP 536. My counsel failed to object in many areas. Mr. Greer (prosecutor), in his closing arguement, referred to me as a "thug", then stated that the co-defendant and I told Mr. Wilson (alleged victim) that sexual acts were going to be performed on him, by another male, and basically there was a follow through with those threats. This arguement was and is without merit, was not based on information in the record, and my counsel (Mr. Underwood) failed to object in his own deficient actions. VRP ^{556 88B}~~537~~. Counsel for the co-defendant Mr. Metcalf, Shane Silverthorne, in closing, states that I bribed Garrett Wilson (alleged victim), which there was no evidence of what so

ever, and again my counsel Mr. Underwood failed to object or clarify the record. Clearly if the jury is deceived to believe that I had somehow tried to bribe the alleged victim either to not testify or to change the story, then the jury would make a decision based on deceitful information that would have some feeling of guilt, or some feeling of involvement, that would cause me to do such a thing. Again there was no evidence to support Mr. Silverthorne's (Mr. Metcalf's counsel) allegation, and it should be considered a desperate act with serious prejudicial effect. VRP 605. Judge Tollefson allowed the color pictures of the alleged victim Mr. Wilson (that were clearly inflammatory and prejudicial for reasons I will later go into) in to the jury room for deliberations and again my counsel (Mr. Underwood) didnot object. Clearly any probative value that the prosecution was trying to provide could have been shown by a medical drawing, otherwise the probative value would be greatly outweighed by the pictures and the prosecutor's (Mr. Greer) intended prejudicial effects. In the failure of my counsel's (Mr. Underwood) objection he should have asked for a limiting instruction to deal with the issue but instead Mr. Underwood chose to not be beneficial however slight. There are many more issues of Mr. Underwood's (my counsel) ineffectiveness, however, they are coupled with other problems as I will soon point out. Second in my documents filed in early 2006 I made the claim that

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there didnot exist corpus delecti of the crime for which I was being charged.

CORPUS DELECTI:

1. The fact of transgression; ACTUS REUS

"[T]he definition of 'corpus delecti' often becomes important (a) Essentially it signifies merely the fact of the specific loss or injury sustained, e.g., death of a victim or burning of a house. (b) To this is added also, by most courts, the criminal agency of some person (i.e., not mere accident). (c) A few courts also include evidence of the accused's identity with the deed; but this is absurd, for it virtually signifies making 'corpus delecti' synonymous with the whole charge.- Many courts treat this rule with a pedantic and unpractical strictness." John H. Wigmore, A Students' Textbook of the Law of Evidence 310 (1935).

"One of the important rules of evidence in criminal cases is that which requires proof of the corpus delecti. Literally defined this term means "the body of the offense," or "the substance of the crime." In popular language it is used to describe the visible evidence of the crime, such as the dead body of a murdered person. Properly used, however, it is applicable to any crime and relates particularly to the act element of criminality; that is, that a certain prohibited act has been committed or result accomplished and that it was committed or

accomplished by a criminal human agency." Justin Miller, "The Criminal Act, " in Legal Essays in Tribute to Orrin Kip McMurray 469, 478 (1935).

2. Loosely, the material substance on which a crime has been committed; the physical evidence of a crime, such as the corpse of a murdered person. Despite the common misunderstanding, a victim's body could be evidence of a homicide, but the prosecutor doesnot have to locate or present the body to meet the corpus delecti requirement. Blacks Law Dictionary Eighth Edition Pg 369 I would like to renew my claim and go further to claim there is violation of the corpus delecti rule.

CORPUS DELECTI RULE:

The doctrine that prohibits a prosecutor from proving the corpus delecti based solely on a defendant's extrajudicial statements. The prosecution must establish the corpus delecti with corroborating evidence to secure a conviction. Blacks Law Dictionary Eighth Edition Pg 369. I would like to further my claim stating there was no actus reus of the crime.

ACTUS REUS:

The wrongful deed that comprises the physical components of a crime and that generally must be coupled with mens rea to establish criminal liability; a forbidden act - the actus reus for theft is the taking of or unlawful control over property without the owner's consent. "The word actus reus connotes a

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'deed,' a physical result of human conduct. When criminal policy regards such a deed as sufficiently harmful it prohibits it and seeks to prevent its occurrence by imposing a penalty for its commission. It has long been the custom of lawyers to describe a deed so prohibited by law in the words actus reus. Thus actus reus may be defined as 'Such result of human conduct as the law seeks to prevent.' It is important to note that the actus reus, which is the result of conduct, and therefore an event, must be distinguished from the conduct which produced the result. For example, in a simple case of murder it is the victim's death (brought about by the conduct of the murderer) which is the actus reus; the mens rea is the murderer's intention to cause that death. In other words, the crime is constituted by the event, and not by the activity (or in certain cases, as we shall see, by the omission to act) which caused the event." J.W. Cecil Turner, Kenny's Outlines of Criminal Law 13 (16th ed. 1952).

"The phrase 'deed of crime' [= actus reus] as so used does not indicate the crime itself but merely one of the ingredients of crime; and this ingredient may be present without any crime at all, just as hydrogen is one of the ingredients of water but may be present without water. The words 'deed of crime' are so suggesting of the crime itself, however, that perhaps the Latin phrase 'actus reus' is less likely to cause confusion. The actus reus is essential to crime but is not sufficient for this purpose

without the necessary mens rea, just as mens rea is essential to crime but is insufficient without the necessary actus reus."

Rollin M. Perkins & Ronald N. Boyce, Criminal Law 831 (3d ed. 1982). Blacks Law Dictionary Eighth Edition Pg 39.

I would like to further my claim again stating there is no mens rea of the crime.

MENS REA:

The state of mind that the prosecution, to secure a conviction, must prove that a defendant had when committing a crime; criminal intent or reclessness-the mens rea for theft is the intent to deprive the rightful owner of the property. Mens rea is the second of two essential elements of every crime at common law, the other being the actus reus.-Also termed mental element; criminal intent; guilty mind.

"Most English lawyers would however now agree with St. James Fitzjames Stephen that the expression mens rea is unfortunate, though too firmly established to be expelled, just because it misleadingly suggests that, in general, moral culpability is essential to a crime, and they would assent to the criticism expressed by a later judge that the true translation or mens rea is 'an intention to do the act which is made penal by statute or by the common law. [Allard v. Selfridge, (1925) 1K.B. at 137 (per Shearman, J.)]." H.L.A. Hart, "Legal Responsibility and Excuses," in Punishment and Responsibility 28, 36 (1968).

"Some years ago the mens-rea doctrine was criticized on the

ground that the Latin phrase is 'misleading.' If the words 'mens rea' were to be regarded as self-explanatory they would be open to this objection, but they are to be considered merely as a convenient label which may be attached to any psychological fact sufficient for criminal guilt (in connection with socially harmful conduct). This includes a field too complex for any brief self-explanatory phrase, and since it is important to have some sort of dialectic shorthand to express the idea, this time-honored label will do as well as any. "Rollin M. Perkins & Ronald N. Boyce, Criminal Law 826-27 (3d ed. 1982). Blacks Law Dictionary Eighth Edition Pg. 1006-1007.

In my Declaration/ Offer of Proof filed in early 2006 I also discussed the averment that I had been maliciously prosecuted.

MALICIOUS PROSECUTION:

1. The institution of a criminal or civil proceeding for an improper purpose and without probable cause. Blacks Law Dictionary Eighth Edition Pg 977.

I do believe that I showed in my documents I filed, the four required elements: (1) the initiation or continuation of a lawsuit; (2) Lack of probable cause; (3) malice; and (4) favorable termination of the lawsuit.

MALICE:

1. The intent, without justification or excuse, to commit a wrongful act. 2. Reckless disregard of the law or of a person's

legal rights. 3. Ill will; wickedness of heart. Blacks Law Dictionary Eighth Edition Pg 976.

In the averment I made notice that the following RCW had been violated.

9.62.010 MALICIOUS PROSECUTION:

Every person who shall, maliciously and without probable cause therefor, cause or attempt to cause another to be arrested or proceeded against for any crime of which he or she is innocent;

(1) If such a crime be a felony, is guilty of a class c felony and shall be punished by imprisonment in a State Correctional facility for not more than five years; and

(2) If such crime be a gross misdemeanor or misdemeanor, shall be guilty of a misdemeanor.

In the Motion for Dismissal that I filed in early 2006 (Feb. or March) I asked for further relief of twice the amount of my initial lost bail amount of \$5,000.00 dollars under I believe (I don't have a copy of these documents with me so I am going strictly off of my memory) RCW 9.94A.753.

Now I would like to join in my appellate counsel's averment of prosecutorial misconduct.

PROSECUTORIAL MISCONDUCT:

A prosecutor's improper or illegal act (or failure to act), esp. involving an attempt to avoid required disclosure or to persuade the jury to wrongly convict a defendant or assess an unjustified

punishment. Blacks Law Dictionary Eighth Edition Pg 1258.

I would like to add that there has also been prosecutorial vindictiveness.

PROSECUTORIAL VINDICTIVENESS:

The act or an instance of intentionally charging a more serious crime or seeking a more severe penalty in retaliation for a defendant's lawful exercise of a constitutional right. Blacks Law Dictionary Eighth Edition Pg 1258.

In the VRP's Pg 598, durring Mr. Greer's second closing (prosecutor) states, Mr. Wilson (alleged victim) only defecates on himself after Mr. Wilson removes his own clothes. Again there was clearly no information that such an event occurred, and clearly not as Mr. Greer (prosecution) alleged. Mr. Greer also alleges that there was money in Mr. Wilson's wallet. This is an absurd argument, because logic tells us otherwise, and this should be seen as a deliberate deceitful act by the prosecutor. Mr. Wilson (who was on his way to steal items from Wal-mart, a transient, drug addict, who virtually never had a job) would most likely not possess any money in his wallet, if he did so possess a wallet, otherwise he probably would have just bought drugs rather than looking for a ride to Wal-mart to go shoplifting so that he could return the items to get money and or a gift card to then exchange for drugs to feed his habit. In the VRP's Pg 546, Mr. Greer (prosecutor) testifies that Mr. Metcalf intended to

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rape Mr. Wilson. Again there is no truth to Mr. Greer's testimony, and here Mr. Greer is simply trying to use his own credibility to deceive the jury and judge to strengthen his own case. Clearly if the prosecutor felt the defendant was so clearly guilty he would not have lowered himself to using such misconduct. Mr. Greer admits in VRP Pg 547 that he arrested the alleged victim (Mr. Wilson) four times because the alleged victim was uncooperative in this case alone. Again in VRP Pg 546-547 in Mr. Greer's (prosecutor) closing argument he claims deceitfully that the alleged victim (Mr. Wilson) had in earlier evidence disclosed to Mr. Greer that sexual acts were to be performed on the alleged victim. Let the record show: THERE EXISTS NO SUCH EVIDENCE, AND MR. GREER KNOWINGLY AND WILLINGLY MADE SUCH EXPLOSIVE MISCONDUCT. Further Mr. Greer states that I tried to manipulate this case with bribery and that I was caught hiding up a tree in the VRP Pg 589, however, Mr. Greer is again being deceitful and trying to employ the strength of the case against Mr. Metcalf against me and for that reason is obviously prejudicial on my behalf. Again Mr. Greer (prosecutor) is deceitful by not asking his expert witness if the alleged injuries that the alleged victim obtained was consistent with the "two rock theory", or "if the bottle was glass", since Daniel Brocksmith (Physician's Assistant who helped alleged victim) should have known, by his level of required information and his

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own experiences. Mr. Wilson was brought in a wheelchair. Again Mr. Underwood (my counsel) failed to object, due to there would be some need for a limiting instruction at a minimum to ensure that there would be no confusion as to the injuries the alleged victim obtained from his separate "accident" and the alleged assault or the sympathy the jury would unnaturally give the alleged victim. Neither Mr. Underwood (my counsel) nor the prosecutor (Mr. Greer) explored the very likely avenue that the alleged victim (Mr. Wilson) most likely suffered from weak and or brittle bones (osteopenia), a very common disease amongst undernourished people (as Mr. Wilson was a homeless drug addict and he obviously had broken bones recently and was prone to break his bones). Mr. Greer questioned Mr. Wilson about his broken legs durring trial, however, this rose confusion in the jury's mind because Mr. Wilson (alleged victim) breaking his legs was a completely different situation than^d the one that the jury was asked to rule on. Again Mr. Underwood (my counsel) failed to object and or ask for a limiting instruction. Both Mr. Underwood (my counsel) and Mr. Greer (prosecutor) failed to explore the avenue that the alleged R & R bottle could not have possibly been made of glass since a simple visit to any local liquor store could have presented this information. I presented this information to my counsel Mr. Underwood, but, he failed to expose such material information. Mr. Greer stated (prosecutor) in

closing (VRP Pg 594) that the defendant's were asking to be rewarded for a good defense and asked only to be convicted of 2nd Degree Assault. This again was intended to improperly influence the jury. The fact of the matter is I had claimed in my documents filed prior to trial that the alleged crime didnot rise to a 1st Degree Assault, it had nothing to do with being rewarded, it had to do with being excessively charged, convicted, fined, and given excessive bail, which is a direct violation of the U.S. Constitution's 8th amendment. Again in closing at trial Mr. Greer testifies that Mr. Wilson (alleged victim) has some bogus headaches as a result of the alleged assault (VRP Pg 545). Mr. Greer's (prosecutor) expert witness (D. Brocksmitth, Physician Assistant) testified that Mr. Wilson was given thorough cat scans and skeletal x-rays, that all showed the alleged victim (Mr. Wilson) had no other damage besides a simple skull fracture without displacement. Mr. Greer also exchanged my name for Mr. Metcalf's (other defendant) and did so in an improper manner which was intended to employ the strength of the case against the other defendant (Jared Metcalf) against me (Jeremy Bono). Please see the example of this on VRP Pg 541. I wasnot questioned about this situation prior to my arrest on October 27, 2005. Durring testimony heard by Deborah Heishman (Pierce County Sheriff Detective) and questioned by the prosecutor (Mr. Greer) stated in VRP Pg 473 that such questioning prior to arrest is standard

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procedure. Further in the VRP's Mr. Wilson (alleged victim) on Pg 374 admits that he was put on the same chain and brought to court as the other defendant (Jared Metcalf). Lets move on to some other areas that I have made claims for.

FACTS:

1. Mr. Wilson (alleged victim) at trial testified that he "believes that the prosecutor (Mr. Greer) should not have prosecuted this case. RP 358.
2. Mr. Wilson openly discussed in trial his clear dislike for me (Mr. Bono). VRP Pg 336, 392.
3. Mr. Wilson was granted full immunity in order for his testimony by Judge Culpepper. VRP Pg 310. This clearly not only presented Mr. Wilson with the opportunity to fabricate information but he later admits motive and that he (Mr. Wilson, alleged victim) basically fabricated evidence.
4. Mr. Wilson, Mr. Vasquez, and Colleen Bono, were also wrongfully arrested as material witnesses. Mr. Wilson (alleged victim) was arrested multiple times for great lengths of time because he didnot want to cooperate with the state. VRP 189.

§13.09-- Misconduct involving witnesses

Where the prosecutor threatens, intimates, or improperly restrains a witness in a criminal matter, absolute immunity from civil liability may not be available to him. As in Redcross v. County of Rensselaer. Prosecutorial Misconduct by Joseph F.

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Lawless Pg 852. Mr. Vasquez (victim's alleged roommate and state witness) was charged with a P.S.P. and was given a deal in order for his testimony. VRP Pg 261 ^{80B}

5. Mr. Bono (me) was wrongfully placed on the states list of witnesses on the dates of: October 12, 2006, November 20, 2006, January 10, 2007. Now I went straight to my ~~my~~ counsel's (Mr. Underwood) office and informed him of the mistake, and asked for it to be corrected. Mr. Underwood (my counsel) contacted Mr. Greer (prosecutor) and informed him, which I was then told it would be fixed. I also later was informed that the incident was an accident and harmless error. The problem was not fixed. I later filed with the court in a supplemental Declaration in late 2006 early 2007 about the issue and that it must not be harmless error. This was an attempt from the prosecution (Mr. Greer) to possibly get the other defendant (Mr. Metcalf) to think that I would be testifying against him in court and intended to make Mr. Metcalf (other defendant) testify against me (Mr. Bono), or to possibly get me (Mr. Bono) labeled as a snitch to the people following the case. By putting my name on the state's list of witnesses, the prosecution made the mistake of removing my step-mothers name of Colleen Bono. Thus showing that the state didnot have Colleen Bono as a witness, or properly subpeona'd, and properly served as would be necessary prior to her arrest. Please see fact 4. VRP Pg 12.

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6. In direct violation of U.S. Constitution 8th amendment and Article 1 Subsection 14 of W.S. Constitution the charge was in excess (as was bail) to the alleged crime. The alleged crime only consisted of two alleged skull fractures with no displacement (there was a break in the bone or crack but not any movement or space between the breaks and or cracks). This does not rise to the set definition of 1st Degree Assault. Mr. Greer (prosecutor) himself states that a fractured skull only rises to the definition of substantial bodily harm (which is the clear definition of 2nd Degree Assault). VRP Pg 516. Mr. Greer also states in trial that his "two rock theory" only rises to substantial bodily harm. VRP Pg 518. There was no alleged loss of temporary or permanent limb and or body organ. This excludes the alleged crime of rising to the definition of 1st Degree Assault. Daniel Brocksmitth (Physician's Assistant, State expert witness) was unsure if Mr. Wilson (alleged victim) went unconscious, and this is why Mr. Wilson was admitted to the Trauma unit. Mr. Wilson was considered a level one trauma, which Mr. Brocksmitth (PA, expert witness for state) stated included the following: possible loss of consciousness, increased heartrate, and increased agitation. VRP Pg 281. There was no displacement on the fractures of Mr. Wilson according to Mr. Brocksmitth (PA, State expert witness) VRP Pg 289-290. Mr. Brocksmitth also stated there was only three wounds on Mr. Wilsons face, one to an

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ear, one under one eye, and one on Mr. Wilson's (alleged victim) forehead. VRP Pg 291. There would be no long term effects (D. Brocksmith, PA, State expert witness) VRP Pg 292. D. Brocksmith also testified that Mr. Wilson (alleged victim) tested positive while at the hospital for prior drug use of amphetamines, meaning Mr. Wilson was high before he came to the hospital. VRP Pg 294. D. Brocksmith (PA, State expert witness) made many more statements: There was no bodily damage besides two fractures, Mr. Wilson (alleged victim) informed Mr. Brocksmith that the alleged bottle was empty, Mr. Brocksmith (PA) stated that it was impossible to beat a man to death or to intend to beat a man to death with a plastic bottle, VRP Pgs 300, 301, 303. Through Mr. Wilson's (alleged victim) own testimony he never lost consciousness, which means he was unnecessarily admitted to the trauma unit. VRP 364, 371. Mr. Wilson (alleged victim) stated he basically only had^a cut under his eye and one on his forehead, the one on his forehead was given stitches. VRP 361, 372.

7. Mr. Wilson's (alleged victim) non related injuries were brought into court, as discussed earlier. Mr. Wilson durring trial by a non related incident had: a shattered left heel, tibia, fibula, and fractured right ankle, (VRP 343 had fractured a rib ealier) and was in two foot casts and in a wheelchair. VRP 312, 314. In the VRP's Pg 360 Mr. Wilson discusses the surgery on his feet. Clearly such a situation would inflame sympathy

from the jury as well as confuse the jury as to the clear extent of the alleged injuries due to the alleged assault, or to create some innuendo that the non-related injuries were actually somehow related to this case.

8. It was alleged that Mr. Wilson (alleged victim) was punched in the head and beat with a plastic bottle. RP 328-329. Prior to trial testimony no evidence or argument was made regarding any alleged rocks being thrown at Mr. Wilson (alleged victim). A plastic bottle clearly does not rise to the definition of a deadly weapon or suffice the deadly weapon enhancement that was given. The original Police Incident Report of Deputy Filleau (Pierce County Sheriff, state expert witness) only stated a R & R alcohol bottle. VRP 454. At trial Mr. Wilson (alleged victim) openly admitted to being misleading in his giving of information. VRP 384. No evidence such as the "alleged weapon" used was provided at trial. If the prosecutor was attempting to suggest that the alleged skull fractures Mr. Wilson (alleged victim) had were caused by the alleged "two rocks" theory, it would fail that purpose due to the claim that was presented only at trial which stated: Mr. Wilson ran but got hit with two rocks, the rocks hit Mr. Wilson (alleged victim) in the back of the head and in his ribs. RP 334, 342. Mr. Wilson (alleged victim) had one skull fracture in the back of the skull and one in front, contradicting the "two rocks thrown" theory. Mr. Wilson never mentioned to Sheriff Filleau (P.C.S.D., state expert witness),

Daniel Brocksmith (PA, state expert witness), or Detective Deborah Heishman (P.C.S.D., Expert witness for state) that he was hit with rocks. AOB Pg 8,14. Mr. Wilson absurdly suggests in trial that he (alleged victim) knows it was a rock that hit him, not because he seen it but because he felt it. VRP 377. Later in testimony though Mr. Wilson (alleged victim) states his non-related injury to his ribs are from a fight with Krystal's ex-boyfriend. VRP 395. In trial Deborah Heishman testified (P.C.S.D., state expert witness, Detective of 20 years experience) that Mr. Wilson (alleged victim) didnot mention to her the use of a choke hold, no rocks used, and didnot state the bottle was plastic but that whether or not the bottle was glass was a very important question that she (D. Heishman) should have asked. VRP 482,483. In trial Mr. Wilson states that he (alleged victim) told D. Brocksmith (PA, S.E.W.) that the bottle was plastic. VRP 382.

9. There was NO allegations that ever (not in the Police Incident Reports, testimony, or in any interview, or in any evidence) stated Mr. Bono (me) ever contributed to assault, intended to assault, assaulted with or without a deadly weapon (not verbally, nor physically), accompliced to assault, or conspired to assault Mr. Wilson (alleged victim). Through many different versions of Mr. Wilson's (alleged victim) story, the only thing that was consistent was the fact that I never

assaulted the alleged victim (Mr. Wilson). Mr. Bono never struck Mr. Wilson (alleged victim). RP 336-337. Mr. Bono (me) never said anything to Mr. Wilson (alleged victim). RP337. Mr. Wilson states Mr. Bono (me) didnot encourage anyone to beat him. VRP 390. Mr. Wilson (alleged victim) wrongfully states the color of my truck interior. VRP 392. Mr. Vasquez (alleged victims roommate, State witness) didnot see Mr. Bono (me) nor Mr. Metcalf (other defendant) harm Mr. Wilson (alleged victim). RP 225-226. Based on what Mr. Vasquez knew about the people around his house, it could have been someone besides the defendants who beat Mr. Wilson (alleged victim). RP 235. Mr. Wilson (alleged victim) allegedly told Deputy Filleau (P.C.S.D., S.E.W.) that "Jared had assaulted him while Jeremy stood by and watched," this was only after Deputy Filleau introduced the names Jeremy Bono and Jared Metcalf in conversation allegedly. RP 453-454, 463.

10. The pictures shown at trial were harmful because their probative value was greatly outweighed by their prejudicial effects. These pictures were in full color, and at the very least should have been black and white, or not shown at all. I was not allowed to view these photos in color until the day of trial they were also shown to the jury. Descriptive medical illistrations should have been used to represent the alleged injuries Mr. Wilson (alleged victim) had. Mr. Brocksmith (P.A., S.E.W., who allegedly sewn up Mr. Wilson) stated Mr. Wilson was

fully clothed when he arrived at the hospital. RP 286. Mr. Brocksmith (PA, S.E.W.) also testified that the back support and neck support that were seen in the photographs were not necessary with Mr. Wilson's (alleged victim) alleged injuries. Mr. Greer (prosecutor) used the photo's multiple times unnecessarily durring trial to show the alleged size of the scar Mr. Wilson (alleged victim) allegedly had. The ride from the Wilkeson Fire Department to St. Joseph's Hospital is a rather long ride, approximately, forty-five minutes to an hour. Mr. Wilson (alleged victim) was strapped to a board and immobilized durring transportation. The wound on Mr. Wilson's (alleged victim) forehead (headwounds tend to bleed more profusely) seemingly bleed profusely, and does not seem to have been addressed for the entire transportation. Mr. Wilson also claims that there was some time it took him to get a ride to get to the Wilkeson Fire Department. Essentially the time frame of which Mr. Wilson's (alleged victim) alleged injury was allowed to bleed was rather long and looked worse that the injury really was due to this. Mr. Brocksmith (PA, S.E.W.) testified that the three pictures shown at trial depicted what Mr. Wilson (alleged victim) looked like when he arrived at the hospital. The pictures were inflammatory for the above reasons. Clearly had Mr. Wilson's (alleged victim) pictures been taken with out the excessive blood, back board, and neckbrace, the rather small injury Mr.

Wilson allegedly had would not have made the jurors believe that the alleged assault was as severe as a first degree assault, or that a deadly weapon was used. Deputy Filleau (P.C.S.D., S.E.W.) testified that no one had touched Mr. Wilson (alleged victim) prior to taking his pictures. VRP 450. Deputy Filleau also stated that it took only five to ten minutes to clean Mr. Wilson up. VRP 452.

11. There existed no causal contact to support restitution on behalf of Mr. Bono (me).

CAUSAL:

1. Of, relating to, or involving causation (a causal link exists between the defendant's action and the plaintiff's injury. 2. Arising from a cause.

CAUSATION:

1. The causing or producing of an effect (the plaintiff must prove causation). 2. Causality. Blacks Law Dictionary Eighth Edition Pg 233.

According to the R.C.W. used in Mr. Bono's (me) case for restitution filed by the prosecutor (9.94A.753) there is a requisite of causal contact that must be shown, and in the absence of the corpus delect, actus reus, mens rea, and no one stating that Mr. Bono (me) assaulted anyone, this has not been shown.

12. Mr. Wilson was not an honest man, (alleged victim) according

to Mr. Vasquez (alleged victim's roommate, State witness). RP 228-229. Mr. Wilson's (alleged victim) criminal history included the following: four theft 3's, Attempted forgery, attempted taking of a motor vehicle, and a felony theft. VRP 379. Mr. Wilson (alleged victim) lied on the stand (which the prosecutor Mr. Greer had full knowledge of, yet kept silent), specifically when asked by Mr. Bono's (me) attorney (K. Underwood) if Mr. Wilson (alleged victim) had gone to Mr. Bono's place of employment. Despite the current no contact order that was in place, that was filed by the prosecutor Mr. Greer, Mr. Wilson (alleged victim) had stated yes that he had gone to Mr. Bono's (me) place of employment (Which I provided my counsel Mr. Underwood with specific Chevron surveillance of Mr. Wilson walking past my truck before walking into the store, and attempting to contact me, and yet my attorney failed to bring forward such material information), however Mr. Wilson stated that it was simply on Mr. Wilson's way to work on the date of June 6, 2006, and that he wanted to buy a single cigarette. VRP 406. In trial Mr. Wilson talks about the no contact order that he knew was in place. VRP 357. However, when I informed my attorney (Mr. Underwood) that the alleged victim was violating this no contact order, Mr. Underwood responded the no contact order only meant that I couldnot contact the victim, and did nothing. The particular Chevron store 1194 that I worked at didnot sell

single cigarettes. Now directly afterwards Mr. Wilson (alleged victim) went not directly to "work" but straight to the county city building to see Mr. Greer (prosecutor) and file a report that Mr. Metcalf (other defendant) had been making phone calls to Mr. Wilson, clearly the prosecutor (Mr. Greer) knew his witness was lying on the stand. However it seemed Mr. Greer would rather reap the possible rewards of the jury thinking that Mr. Wilson (alleged victim) actually had a job and might possibly be a productive member of society to try to harvest some sympathy from the jury, and avoid undercutting his own alleged victim's credibility, that was still at issue. Mr. Vasquez (alleged victim's roommate, state witness) stated that he and the alleged victim (Mr. Wilson) had planned on Oct. 12, 2005 to go to Wal-mart to shoplift. RP 174. Mr. Wilson (alleged victim) had left stolen property at Mr. Vasquez's home (alleged victim's roommate, state witness). RP 178.

13. The joinder of Mr. Metcalf's (other defendant) and Mr. Bono's (me) cases was misconduct.

§10.04 Prosecutorial Misconduct by Joseph F. Lawless Pg 647. Joinder of defendants and charges, while perfectly legitamite procedurally, can provide an unfair tactical advantage to the prosecutor by allowing her to unfairly employ the strength of her case against one defendant to make up for the absence of evidence against a co-defendant.

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In this case Mr. Bono attempted to file a motion of Severance in late 2005 or early 2006 against his (my) attorney Mr. Underwood's advice (Mr. Underwood said this was not necessary unless Mr. Bono (me) was willing to testify against Mr. Metcalf (other defendant)). Mr. Bono (me) didnot evade police prior to his arrest and charge of the first degree assault charge with a deadly weapon. On October 27, 2005, Deputy Filleau (P.C.S.D., S.E.W.) assisted in arresting Mr. Bono outside of his home as he (me) worked on a vehicle. RP 461-462. ~~There was no~~ ^{JB} There was no resistance. On Oct. 27, 2005, arrest warrants were made for Mr. Bono (me) and Mr. Metcalf. On Jan. 14, 2006, Officer Kitts and Daro (Police dog) were requested to assist in tracking Jared Metcalf (other defendant). RP 502-509. On June 6, 2006, Mr. Wilson (alleged victim), filed a complaint with Officer Jason Conner (State Witness) at the County City building stating that Mr. Wilson had been recieving phone calls from Jared Metcalf (other defendant), one of the suspects that had assaulted him, however, there was never validation that this actual conversation took place. RP 423. Mr. Wilson (alleged victim) said that Mr. Metcalf (other defendant) had called him and wanted Mr. Wilson to change his story and ~~the~~ ^{that as} Mr. Metcalf said he would pay Mr. Wilson (alleged victim) property equal to \$10,000.00. RP 423. Clearly there are no reports that Mr. Bono (me) ever tried to assault with or without a deadly weapon Mr. Wilson

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(alleged victim) nor tried to nor bribe Mr. Wilson. While each of these items shown can singularly show prejudice to the case of Mr. Bono (me), surely the combination of the mentioned items show that the joinder of the two cases caused a great amount of prejudice. Clearly any judicial economy would be heavily outweighed by the prejudicial effect that it played in trial.

§10.09 Rules governing joinder and severance of defendants.

Joseph F. Lawless Pg 653. The introduction of a co-defendant's extrajudicial confession that incriminates the defendant, even when introduced only against the co-defendant, should also result in severance.

Mr. Metcalf (other defendant) allegedly told Mr. Vasquez (alleged victim's roommate, State witness) (Which was in a conversation barred from being admitted to evidence VRP 3, 4, and barred by limiting instruction VRP 35, 58) (and was months after the alleged crime took place on a phone the other defendant knew was being recorded and monitored) that Mr. Metcalf (other defendant) was not involved in the assault on Mr. Wilson (alleged victim). RP 185-187. The innuendo that is trying to be made through Mr. Vasquez's testimony (literally multiple layers of hearsay), creates a "substantial and unjurious effect or influence". I would also believe it is a Bruton error.

BRUTON ERROR:

The violation of a criminal defendant's constitutional right of

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confrontation by admitting into evidence a nontestifying codefendant's confession that implicates both of them, where the statement is not admissible against the defendant under any exception to the hearsay rule. The error is not cured by a limiting instruction to the jury to consider the confession only against the one who made it, because of the high risk that the jury will disregard the instruction. Blacks Law Dictionary Eighth Edition Pg 207.

Meaning that clearly the blame was being pointed to me with this hearsay statement that allegedly took place, and as in Gray v. Maryland, 118 S. Ct. 1151, 140 L.Ed. 2d 294 (1988) the jury most likely reacted by realizing that the alleged confession refers specifically to Mr. Bono (me) even when the State does not blatantly link the statement to the unnamed defendant. The complexity of the cases did not allow the jury to keep the evidence, innuendo, and speculation separate for each defendant. A great example of this (which is clearly done intentionally to employ the strength of one case against another weaker case) is when Mr. Greer (prosecutor) argued that "degrading acts were done on him at the hands of these two individuals". First as has already been said Mr. Bono (me) never participated in any "degrading acts" and there was never a claim in evidence or testimony that stated "the hands" of Mr. Bono (me) ever did anything. Mr. Greer made the above statement in his closing

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argument.

14. No written plea agreement was ever offered to Mr. Bono (me). I recieved the full standard range with minimal points which can only suggest was punishment for Mr. Bono (me) refusing to testify and excercising his constitutional rights prior to trial, thus making an example out of Mr. Bono.

15. Mr. Greer (prosecutor) made baseless arguments not supported by evidence. In Mr. Greer's opening statement he testifies: "We (meaning Mr. Metcalf and I) rifled through Wilson's (alleged victim) belongings, we assaulted Wilson. VRP 146. Mr. Greer (prosecutor) claims the beating was severe, and Mr. Wilson (alleged victim) said he wouldnot talk to police for fear of being beat again. VRP 147. Mr. Greer (prosecutor) argues that Mr. Bono (me) verbally threatened Mr. Wilson (alleged victim) but couldnot lay the foundation of the conversation that allegedly took place, cannot provide a witness to this alleged threat, couldnot provide the context of the alleged conversation, and specifically called the alleged comment "idle chit chat", and that Mr. Wilson (alleged victim) didnt feel threatened by the comment by his own testimony. VRP 319. Mr. Greer (prosecutor) treating his own witness (Mr. Vasquez) with hostility, leading, states that Mr. Metcalf's (other defendant's) father encouraged Mr. Vasquez (alleged victim's roommate) to "tell the truth". Clearly such statements are hearsay (because Mr. Metcalf's (other

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defendant) dad was not a witness and therefore couldnot be questioned on such issues), and clearly full of innuendo such as Mr. Metcalf may have made some sort of confession to his father. VRP 261.

16. There didnot exist sufficient evidence to support the original probable cause charging document. Again no claim existed that Mr. Bono (me) had assaulted Mr. Wilson (alleged victim). The alleged injuries that Mr. Wilson (alleged victim) obtained didnot support evidence of a first degree assault, or that a deadly weapon was used durring the alleged assault. Again Mr. Wilson (alleged victim) wanted the charges dismissed and testified to this at the time of trial.

RCW 9.94A.411 Evidentiary Sufficiency:

(1) Decision not to prosecute.

Standard: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question, or would result in a decreased respect for the law.

(e) (ii) Conviction in the pending prosecution is imminent.

(g) Improper motives of Complaint- It may be proper to decline charges because motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in

decreased respect for the law.

(i) Victim Request- It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situation:

(I)(i) Assault cases where the victim has suffered little or no injury.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

Selection of Charges/ Degree of Charge.

(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

(a) Will significantly enhance the strength of the state's case at trial, or (b) will result in restitution to all victims.

(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(a) Charging to a higher degree;

(b) Charging additional counts

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct.

Again Mr. Greer (prosecutor) himself states durring trial that alleged injuries (skull fracture with no displacement) that Mr.

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Wilson (alleged victim) obtained and the speculated weapon (two rocks) only rose to the definition of substantial bodily harm. VRP 516-518.

17. Mr. Wilson (alleged victim) durring trial speculates to a motive that Mr. Bono (me) might have had for watching Mr. Wilson get beat up, even though such speculation was supposed to be barred by limine. VRP 68. The motives Mr. Wilson (alleged victim) states are: 1) That Mr. Bono (me) is a snitch (VRP 91). 2) Mr. Wilson (alleged victim) claims he was beat up because of a fight that he allegedly had with Mr. Bono's (my) father. 3) Mr. Wilson claims (alleged victim) that Mr. Bono (me) threatens to kill him (that was an alleged previous icident with no proof). 4) Mr. Wilson claims that Mr. Bono (me) had a crush on my own sister. 5) Mr. Wilson (alleged victim) states that he himself is a snitch and this is why he is beat up. The motives were barred by limine and yet because of Mr. Greer's (prosecution) own disregard for the court and the judge's imposed rules, some of these items were prejudicially and intentionally brought before the jury at the time of trial. Let the record show that all the specualtion Mr. Wilson (alleged victim) has made is without merit. Please see fact 12. I would also like to point out again that Mr. Wilson (alleged victim) clearly testified that he had a dislike for me and I think that this is clearly shown in Mr.

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Wilson's (alleged victim) wild speculation that was clearly harmful and prejudicial to Mr. Bono's (me) case and should have been removed from trial.

18. Tracy Vasquez (alleged victim's roommate, witness for the State) testified Jeremy Bono (me) is a decent person. VRP 165.

19. The actual jury selection didnot start until the jurors had been waiting in jury pool every day for two full weeks. Instead of allowing Mr. Bono a fresh and less aggitated jury as would be fair, the two week old jury pool was kept, for Mr. Bono's trial which went on for another two weeks further aggitating the jury as they had been forced to be jurors for a month. Clearly the jury became weary, and tired with case. Clearly the jury was deceived by Mr. Greer's antics. Keeping the jury was only intended to further agrivate the jurors and was an improper appeal to the jurors to raise a desire for revenge against the defendants.

20. Mr. Vasquez (alleged victim's roommate, state witness) testified about being beat up by two men in a house full of people who stood by and watched. VRP 192. This is a completely unrelated incident. Clearly Mr. Bono's (my) attorney Mr. Underwood should have objected. It is not clear as to whether the alleged incident happened before or after the alleged assault on Mr. Wilson (alleged victim). Clearly the prosecutor (Mr. Greer) was using such testimony for his advantage to entice

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passion and emotion from the jury. Mr. Vasquez (alleged victim's roommate, state witness) testifying in such a manner would create an innuendo that the defendants (or others unspecified) were in fact somehow involved with such activities or that the alleged defendants do similar crimes all the time. What I can say for a fact is of course there is no merit to what Mr. Vasquez was testifying about as far as any involvement directly or indirectly by myself (Mr. Bono). The only relevance this piece of information might have would clearly be the prejudicial effect that it played in trial.

21. In opening Mr. Greer (prosecutor) makes arguments for which he clearly knows that there is no proof of. Mr. Greer basically (trying to employ his credibility to a piece of information to intend on having the jury find it as fact, thus strengthening his own case) states that the defendant's didnot recieve any scratches. VRP 146. Neither defendant was questioned prior to arrest, which was two weeks after the alleged assault allegedly happened. So any evidence that a fight had taken place as far as any injuries that the alleged assailant had would most likely of not been noticeable two weeks or three months (in other defendant Mr. Metcalf's) case. However, it was the intention to also harvest anger, passion, and a desire for revenge from the jury by Mr. Greer (prosecutor).

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22. Mr. Greer (prosecutor) makes baseless arguments in his closing statements to the jury. Mr. Greer states that jury instruction 15 argues that the jury must find the defendant or accomplice assaulted victim (alleged) Mr. Wilson. VRP 538. NO evidence ever suggested that Mr. Bono (me) assaulted Mr. Wilson (alleged victim). The second remark Mr. Greer (prosecutor) made regarding jury instruction 15 was that the assault was committed with a deadly weapon or by force or means likely to produce grave bodily harm or death. VRP 538. NO evidence suggested a deadly weapon was used, and clearly not by Mr. Bono (me). Mr. Greer (prosecutor) made a third remark regarding the same jury instruction that said the defendant or accomplice acted with intent to inflict great bodily harm. VRP 538. Clearly Mr. Greer (prosecutor) was unable to show intent, he could only provide speculation or innuendo of some motive or intent which should have required my attorney to object to any and all such speculation and such speculation should have been barred from being exposed to the jurors. The only evidence the jurors heard was that Mr. Vasquez (alleged victim's roommate, state witness) stated Mr. Wilson (alleged victim) was looking for a ride to Wal-Mart. Clearly a man with criminal intent of theft would not notify a man without criminal intent as to why a ride was needed specifically. So the only evidence entered was that Mr. Wilson

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(alleged victim) was intending on getting a ride to Wal-mart, and not the innuendo and speculation that Mr. Greer (prosecutor) used to both confuse the jury about information and elicit speculation from the jurors that Mr. Wilson (alleged victim) was originally "picked up" with the sole intention for the alleged defendant's to commit a crime of assault or watching a man get beat up. Mr. Greer continues his baseless arguments and speculation and talks about Mr. Bono (me) being the motive as to why Mr. Wilson (alleged victim) was assaulted because "Mr. Wilson snitched on Mr. Bono's (my) sister for stealing." Such statements was barred by limine, because it was speculation. Again Mr. Greer (prosecutor) desperately, deceitfully, and prejudicially acting out claims that Mr. Metcalf (other defendant) intends to rape Mr. Wilson (alleged victim). Clearly this is without merit. Previous statement by Greer can be found in VRP 546. Mr. Greer continues such desperate acts over Shane Silverthorne (other defendant's counsel) in VRP 547, and begins trying to testify (using again Mr. Greer's (prosecutor) own credibility to bring strength to his own speculation that is otherwise unsupported) that "Mr. Wilson's (alleged victim) testimony and past statements have been that when its told to him durring this brutal situation that sexual acts are going to be done on him and he says he therefore defecates in order to prevent that." Again clearly Mr. Greer (prosecutor) is for lack of better words being dishonest. Mr.

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Greer was testifying to the jury that his version of the alleged victim's (Mr. Wilson) testimony is not as the jury remembered. Mr. Greer (prosecutor) argues that Mr. Wilson (alleged victim) was taken miles and miles up into the woods, that the alleged ride was twenty minutes or longer. Mr. Greer also refers to the location as Mt. Rainier. This is done so that the misinformation may implicate that Mr. Bono and the allegation of him driving rise to some crime. However, the town of Wilkeson where the alleged victim is allegedly taken is less than five miles away from the alleged pick up spot (Mr. Vasquez's home) and would take a small amount of time to go from point A to B, especially if a person didnot follow speed limits. I would like to point this out specifically because it shows improper argument on behalf of Mr. Greer (prosecutor) becuae it shows extreme prejudice, and it would show great failure to investigate on behalf of Mr. Bono's (my) attorney (Kent Underwood). Mr. Greer (prosecutor) objected to Mr. Underwood's (my counsel) closing argument. Now when this was the other way around for a legitamite reason the Judge (Tollefson) overruled the objection. However, Mr. Greer's reason to object was a red herring, yet the Judge allowed it and even decided to remove the jury for argument. This prejudicially affected the case because of the timely manner of Mr. Greer's objection. It was strategically planned to create an innuendo that the State could produce where the officers got the two names

of the defendants originally, even though the State couldnot, and was just another attempt by the prosecutor (Mr. Greer) to break the jury's focus, to arouse confusion, deceit, and anger from the jury. VRP 581. Mr. Greer (prosecution) in his second closing uses words like "the defendants were caught" instead of arrested to create an innuendo that Mr. Bono (me) ran or had some consciousness of guilt. VRP 589. Mr. Greer (prosecutor) then continues on referencing that "if you point a gun at someone and shoot even if you miss is 1st degree assault. VRP 592. However, there is no evidence a gun was used or discharged. This again was directed to the jury to raise confusion as to what this case was about. This was an alleged case of a beating with fists, not someone shooting or threatening someone with a gun. It also create the innuendo that a gun was used or that a deadly weapon was used durring the commission of this alleged crime.

23. Mr. Greer gave personal gains to his witnesses in order for thier testimony. Mr. Wilson was given full immunity (alleged victim). Mr. Vasquez (alleged victim's roommate) was given a lesser charge of a non-related crime but related charge (due to Mr. Vasquez's non cooperation for the State initially). The P.C.S.D. and other Law officers were gainfully employed by the State of Washington. Daniel Brocksmith was paid the sum of \$200.00 dollars for his expert testimony (P.A.). This is clearly defined as bribery.

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BRIBERY:

The corrupt payment, receipt, or solicitation of a private favor for official action. Blacks Law Dictionary Eighth Edition Pg 204.

This would clearly show that Mr. Greer is knowingly and willingly as a prosecutor for the State of Washington acting: as a corrupt criminal identity doing business as the State of Washington.

If this court should find this is not true I would respectfully ask that this court find that coupled with the following information(that Mr. Greer (Prosecutor) intentionally acted in such ways because of the documents Mr. Bono (me) had filed and the defense Mr. Bono (me) presented alleging that the prosecutor (Mr. Greer) had in fact acted unethically, immorally, illegally, and intentionally to help discredit any averment Mr. Bono (me) had made, and protect Mr. Greer's own dirty political (his own conviction rate) motives).

24. Mr. Bono makes the averment the following United States Constitution amendments have been violated: 6th amendment of Effective Representation of Counsel, 8th amendment of Excessive Fines, Punishments, and Bail, and 14th amendment of Due Process (as I was robbed of a fundamentally fair trial) and Equal Protection, and would respectfully ask this court to protect Mr. Bono's (me) constitutionally protected rights.

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25. I have pointed out to both my counsel and this court that there seems to be errors in the VRP's and in Mr. Bono's (my) Appellant's Opening Brief (AOB) that are prejudicial. Let me first point out the errors that were made by my attorney Shari Arnold in AOB. 1. On Pg 3 AOB, it claims: "Mr. Wilson (alleged victim) gave a statement to police indicated that Mr. Bono and Mr. Metcalf (other defendant) were the ones who had assaulted him". RP 449-454 (according to AOB). This is an error because Mr. Wilson (alleged victim) was only to have alleged to tell Deputy Filleau after being pressured and given the names of the alleged defendants by Deputy Filleau himself that: "Jared had assaulted him while Jeremy stood by and watched." RP 453-454. Deputy Filleau on RP 464 states that it was Jared and Jeremy, however, this is improper because it should have been clarified and given a limiting instruction to the jury based on the fact that Deputy Filleau's own report didnot claim anything but Jeremy watched. 2. On Pg 2 AOB it starts a section called Factual Summary. I would like to point out that these items included are **not facts**, but allegations. 3. Mr. Tracy Vasquez's (alleged victim's roommate, state witness) testimony is discussed on Pg 4 AOB. Sheri Arnold (my attorney) wrote: "When Mr. Bono (me) entered Mr. Vasquez's (alleged victim's roommate, state witness) home, he appeared to be intoxicated and Mr. Vasquez could smell the alcohol on his breath," the trial didnot hear this . I know

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this is not what Mr. Vasquez (alleged victim's roommate, state witness) testified to at trial and if you look at VRP 172 you will clearly see that Mr. Vasquez states "Jared" (other defendant). Mr. Vasquez said the other person who was not me was or appeared to be intoxicated and that he could smell the alcohol on this other person's breath. No one testified that Mr. Bono (me) was under or appeared to be under any influence of any drugs and or alcohol. Stating a person was or appeared to be under the influence of drugs and or alcohol durring the alleged commission of a crime would (if wrongfully accused such as here) make it appear more likely that he or she was willing to commit a crime and or committed a crime due to impaired judgement associated with drug and or alcohol abuse. 4. Also in Mr. Vasquez's (alleged victim's roommate, state witness) testimony in AOB Pg 4, my attorney (Shari Arnold) wrote: Mr. Bono (me) asked Mr. Vasquez who Garrett was, and Mr. Vasquez pointed Mr. Bono (me) to Mr. Wilson (alleged victim), citing from AOB (RP172). I don't recall Mr. Vasquez stating that it was Mr. Bono (me) who asked who Mr. Wilson was. In fact re read Pg 172 of VRP and you will see that Mr. Bono (me) is correct that it is not alleged by Mr. Vasquez (alleged victim's roommate, state witness) that Mr. Bono asked who Garrett is. This is further proven by the AOB Pg 5 that claims: Mr. Metcalf (other defendant) appeared to be angry and expressed hostility through his voice, RP 175-176.

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It was also stated Mr. Bono (me) was casual and had no aggressiveness and didnot say anything. VRP 238-239. 5. The next error I would like to bring the attention of this court to is also on Pg 5 of the AOB in the testimony of Mr. Vasquez (alleged Victim's roommate, state witness) that claims: Mr. Vasquez also wrote a statement for Mr. Bono (me) at Mr. Bono's request. RP 195-196 according to AOB. It further goes on in the AOB to state the statement contains statements that are not true. Let the record reflect Mr. Vasquez (alleged victim's roommate, state witness) testified that he stated he would and felt pressured to testify the way the State wanted, and later admitted in trial that he wrote a statement that was given to me, but was willing to do so for a girl named Brandy. VRP 240.

Literally the statement wrote by Mr. Vasquez (alleged victim's roommate, state witness) was not written to benefit Mr. Bono (me). It was a clarification by Mr. Vasquez (alleged victim's roommate, state witness). Clearly I did not threaten or bribe Mr. Vasquez to do so. VRP 240. Mr. Vasquez (alleged victim's roommate, state witness) also initially testified there were lies in the statement, however, later in testimony, Mr. Vasquez contradicted himself by stating basically there was truth and not lies. 6. The next error that needs to be

pointed out in the AOB Pg 7 is: during Daniel Brocksmith (Physicians Assistant, State Expert Witness) and his alleged testimony. My attorney (Shari Arnold) wrote Mr. Wilson (alleged victim) had lacerations under his eye which extended to his forehead and ear which required stitches. RP 291 according to AOB. This is incorrect, there existed no allegations claiming that the "lacerations" were joined or one big cut as was suggested here. Thus stating that the alleged injuries Mr. Wilson (alleged victim) had allegedly were worse than they actually were would also prejudice the case against me. 7.

In the AOB Pg 9 Shari Arnold (my counsel for appeal) wrote Mr. Wilson (alleged victim) was put to sleep. RP 324-325 according to AOB. This is not true, the VRP 324-325 is very clear Mr. Wilson (alleged victim) never went unconscious.

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Wrongfully stating the alleged victim went unconscious would make the alleged assault seem more serious or potentially goal oriented. 8. For reason of perfecting the record, Mr. Bono (me) was not on the photo montage used at trial.

26. One more error I would like to point out is: Mr. Greer (prosecutor) testified that Mr. Bono (me) stated "if Mr. Wilson ever slept with my sister," however without Mr. Wilson (alleged victim) being able to provide any context of an alleged conversation, situation, or any witness, and because Mr. Wilson stated he did not feel threatened, that the alleged statement was idle chit chat, the alleged comment was hearsay and should not have been admitted to the jury. Clearly speculation such as the above that was made by Mr. Greer (prosecutor) not Mr. Wilson (alleged victim) was prejudicial to such an extreme that any alleged probative value was greatly outweighed.

Let us recap some major issues here: 1. The punishment (the charge, conviction, and sentence) did not fit the alleged crime and was clearly in excess. 2. Mr. Wilson (alleged victim) never wanted charges filed for this alleged crime.

3. This case possesses clear, convincing, and overwhelming prosecutorial misconduct (amongst the issues Mr. Bono (me) raises) which requires relief. 4. Mr. Bono (me) correctly identified and notified the correct parties of the errors in this case prior to trial and that the issues were thus far treated with deliberate

indifference. 5. There are not one but many levels of truth at issue here. 6. No one ever accused Mr. Bono (me) of assaulting Mr. Wilson (alleged victim). 7. There did not exist sufficient evidence to support the probable cause charging document. 8. Mr. Bono was not given a fair trial. 9. Mr. Bono (me) was his high school valedictorian (CGPA 3.957) and Scholar Athlete of the year 1997. Mr. Bono (me) is also a father of six, all to the same woman to whom Mr. Bono is married. Mr. Bono was a productive member of society before this charge and until his unlawful conviction. Mr. Bono (me) needs to return to his family, to help more beneficially raise his children, and return to once again be a productive member of society.

Mr. Bono (me) would respectfully ask this court to find the above paragraph true. Mr. Bono (me) would like to throw himself at the mercy of the court asking this court to vacate his conviction and remand for new trial. Mr. Bono (me) would also ask that this court not be persuaded to claim that errors made by the prosecution but not limited to prosecution were harmless and to not tolerate such unjust actions.

Doing so in the presence of such a disgraceful episode as the prosecution but not limited to prosecution has caused here would send a horrible message to other prosecutors, attorneys, and Mr. Greer (prosecutor), in fact
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rewarding them. The message would say: 1) If misconduct is necessary to convict a defendant (who has tried to fight a charge he/she is innocent of and rightfully filed a claim for, because the prosecutor/attorney merely ~~speculates~~^{44B} speculates guilt, or preserves a personal conviction rate, and any other dirty political reason an attorney might find), by all means do it; 2) Try not to get caught, because that may complicate matters; 3) But if you do get caught, you can count on the court to bail you out either by ignoring the misconduct or by invoking the "harmless error" rule. Thus stating that the such actions would be intended to deny genuinely aggrieved plaintiffs (such as Mr. Bono) of their rightful day in court. Please do not allow the State of Washington to misconstrue a decision to not get involved ~~with~~^{44B} with unacceptable behavior into one of speculated criminal intent.

I just received an email from Shari Arnold (my appellant counsel) that stated no opening brief has been filed by Mr. Metcalf or his counsel (other defendant) Valerie Marushige. I would ask the cases be severed, so my half of the case is not extended unnecessarily and prejudicially affected by the length of time the State would be given to respond amongst other issues. I have not received notice that any extension was asked/granted on Mr. Metcalf's (other defendant) behalf. If this court should not sever the cases I would ask to be

allowed to file another S.A.G. and respond to what Mr. Metcalf (other defendant) / his counsel (Valerie Marushige) may or may not say.

I would also ask this case be heard for oral argument and that I be allowed to be present.

I Swear under the penalty of perjury pursuant to the laws of the State of Washington the foregoing is true and correct.

Signed this 7th day of December, 2007.

Jeremy J. Bono

Jeremy James Bono 842528

H2A99L

Stafford Creek Corrections Center

191 Constantine Way

Aberdeen, Wa 98520

COURT OF APPEALS
DIVISION TWO
STATE OF WASHINGTON

0702211 070418
STATE OF WASHINGTON
BY _____
DEPUTY

STATE OF WASHINGTON

NO. 36131-1-II

v.

JEREMY JAMES BONO

Affidavit of Service
By Mail

State of Washington

SS

County of Grays Harbor

Jeremy James Bono, appearing Pro per hereby states that on the ~~16th~~^{7th} day of ~~November~~^{December}, 2007, I placed in the United States Mail with first class postage affixed copies of my:

Statement of Additional Grounds for Review

Addressed to the opposing counsel, my appellate attorney, and this court at the following addresses:

Kathleen Proctor
Pierce County Prosecuting
Attorney Office
930 Tacoma Ave S Rm 946
Tacoma, Wa 98402-2171

Shari Lynn Arnold
Attorney at Law
P.O. Box 7718
Tacoma, Wa 98417

Valerie Marushige
Attorney at Law
2136 s 260th St #BB304
Des Moines, Wa 98198

Court of Appeals, Division II
950 Broadway, Suite 300
Tacoma, Wa 98402-4454

I swear under the penalty of perjury pursuant to the laws of the State of Washington that the foregoing is true, correct, and complete.

Signed this day the ~~16th~~^{7th} day of ~~November~~^{December}, 2007.

Jeremy J. Bono

Jeremy James Bono 842528
H2A99L
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, Wa 98520



Washington State Court of Appeals
Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454
David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

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January 4, 2008

Kathleen Proctor
Pierce County Prosecuting Atty Ofc
930 Tacoma Ave S Rm 946
Tacoma, WA, 98402-2171

Lisa Elizabeth Tabbut
Attorney at Law
PO Box 1396
Longview, WA, 98632-7822

Sheri Lynn Arnold
Attorney at Law
PO Box 7718
Tacoma, WA, 98417

Jeremy Bono
#842528 H2A99L
Stafford Cr Corr Center
191 Constantine Way
Aberdeen, WA 98520

CASE #: 36131-1-II

State of Washington, Respondent v Jeremy Bono and Jared Metcalf , Appellants

Dear Mr. Bono,

The Court accepts your Statement of Additional Grounds for Review received December 11, 2007, however, the motions in your brief will not be considered. See State v Ramero, 95 Wn App 323, 1999. Further, you are allowed to file only one Statement of Additional Grounds in which to discuss those matters you believe were not adequately addressed in the brief filed by your counsel. RAP 10.10.

Very truly yours,

David C. Ponzoha
Court Clerk

DCP:skw