

SEAL
COURT OF APPEALS
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STATE OF WASHINGTON

BY cm

**STATEMENT OF
ADDITIONAL GROUNDS**

Dino J. Constance
v
State of Washington

37576-1-II

Cover letter to Reviewing Judges

Summary of Relief Sought

Cover letter to Clerk

Statement of Additional Grounds

Exhibits in Support of Bases 3 & 4

Certificate of Service by Mail

1
May 12, 2009

Reviewing Judges
Washington State Court of Appeals, Division II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

Dear Reviewing Judges,

Your honors will please note that I maintain my full and complete innocence on all counts. This is a highly complex and deceptive case which spun off from a protracted child custody dispute, involving a woman who had already lost custody of her first two children, and has a vast history of manipulating the courts. When I attempted to acquire legal custody of my small son (her last child), this case exploded around me.

Trial counsel attempted to withdraw shortly after assignment due to the complexities of the case and a lack of available time to prepare; The trial was short and simple to the point of an evidentiary void on the record existing. This is why the case involves a comprehensive CrR 7.8 Motion for Relief from Judgment (or transferred PRP).

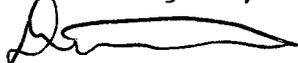
Please see the attached Summary of Post Conviction Relief Sought, and please note that many of the relief items requested are interrelated. As such, I request a single, fully informed, consolidated and comprehensive review of all issues, and that the CrR7.8 motion and Motion for Franks Hearing be remanded for evidentiary hearings prior to review, if not previously heard by the trial court.

Your honors will also please note that with the exception of Item #6, all stated issues have been prepared pro se. Appellate Counsel Andrew Zinner has refused virtually all communication about this relief effort. We have never spoken and he knows little or nothing about the "bigger picture" of this case. As such, I request to be present at the court for oral argument unless alternative counsel is appointed and given the opportunity to confer with me prior to review. If this is impossible, I request all relief items except #6 be considered without oral argument, as I would otherwise be even more prejudiced.

Although 'pro se wordy', the CrR 7.8 motion (or PRP) contains minimal extraneous information. This case involved complicated dynamics due to its family law origin. Issues include fraud, conspiracy, perjury, prosecutorial misconduct, false police reporting, a poorly prepared defense, likely tampered with evidence, false recitals by police, misinterpreted evidence, denial of every meaningful defense motion, and blackmail by state's witnesses who switched allegiances in the underlying family law case. As such, I request that the court pay particular attention to the CrR 7.8 motion facts section, argument pages 9-19, and exhibits 2, 5, 18-23, and 31.

Thank you very much for your fully informed considerations.

Kindest Regards,



Dino J. Constance

Attached: Statement of Additional Grounds and two attachments

SUMMARY OF

POST CONVICTION RELIEF SOUGHT

7-1-000843-8 37576-1-II

Dino J. Constance v State of Washington

CAUSE

Relief Issue

Item # -Brought via

- As of May 13, 2009 -

Requested
Relief

- 1 **CONSPIRACY TO DEFRAUD THE COURT** (counts 1&2).....**Dismiss counts 1&2 /w Prej.
Perjured testimony by Spry & Jordan, conspiring /w Koncos
-CRR 7.8 Basis I
Vacate counts 3&4
- 2 **KNOWING INTRODUCTION OF FALSE TESTIMONY BY PROSECUTION**.....Dismiss counts 1&2/w Prej.
Falsified warnings to Koncos known to prosecutor prior to trial
-CRR 7.8 Basis I
Vacate counts 3&4
- 3 **INEFFECTIVE ASSISTANCE OF COUNSEL**.....**Vacate all counts
Excessive errors, omissions, failures/untimely preparation issues/cumulative prejudicial error
-CRR 7.8 Basis II
- 4 **NEWLY DISCOVERED EVIDENCE**.....Vacate all counts
Probable evidence tampering occurred /ref, underlying Family Law case file key document replaced
-CRR 7.8 Basis III
- 5 **INTENTIONAL FALSE RECITALS IN DECLARATION SUPPORTING APP. TO INTERCEPT**.....Suppress illegal recording
Falsified danger to police/past criminal character/need for recording
-Motion for Franks Hearing
Vacate all counts
- 6 **ERROR: DENIED MOTION TO SUPPRESS RECORDED CONVERSATIONS**.....Suppress illegal recording
Violation of RCW 9.73.130
-Direct Appeal & SAG Basis 1
Vacate all counts
- 7 **ERROR: DENIED MOTION FOR SEVERANCE OF THE COUNTS**.....Severance of 1&2 from 3&4
Great disparity in strength of counts/inconsistent defenses/cum. evidence
-Direct Appeal SAG Basis 2
Severance of 3 from 4
Vacate all counts
- 8 **ERROR: DENIED MOTION ALLOWING WITHDRAWAL OF COUNSEL**.....Vacate all counts
Counsel unable to provide constitutionally sufficient defense
-Direct appeal SAG Basis 3
- 9 **ERROR: HOBSON'S CHOICE**.....Dismiss all counts
#8 resulted in defendant's forced choice between speedy trial and adequate defense by counsel.
-Direct Appeal SAG Basis 4

* - Relief sought in conjunction with #2

** - Establishes prejudice for # 8.

May 12, 2009

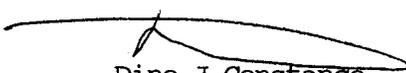
ref: 37576-1-II

Dear Mr. Ponzoha,

Attached, please find my Statement of Additional Grounds. Although the communication void with counsel continues, I have decided to submit a statement, and argue against my own attorney, rather than forgoe the right to appeal. I do this under protest and would like an objection so noted.

Please note that a number of RP references are missing. This is because Mr. Zinner refused to send me a particular transcript. I have filed a motion for an order so that I may receive this transcript, then I will follow you up with a completed SAG.

Thank You,



Dino J. Constance

WASHINGTON STATE COURT OF APPEALS, DIVISION TWO

DINO J. CONSTANCE,)	
)	No: 37576-1-II
APPELLANT)	
)	
v)	STATEMENT OF
)	ADDITIONAL GROUNDS
STATE OF WASHINGTON,)	
)	
RESPONDANT)	
)	
)	

Comes now, appellant, Dino J. Constance, appellant above named, who respectfully submits this STATEMENT OF ADDITIONAL GROUNDS to be considered on direct appeal by the State of Washington Court of Appeals, Division two. Appellant requests that the two collateral attacks, if denied or transferred, be consolidated with this action.

ASSIGNMENT OF ADDITIONAL ERRORS

- 1) REQUEST FOR ADDITIONAL RELIEF - Appellate counsel has erred in that he has requested relief for SUPPRESSION OF RECORDED CONVERSATIONS for count three only.
- 2) The trial court erred by denying the appellant's CrR 4.4(b) Motion for Severance of the Counts.
- 3) The trial court erred by denying trial counsel's Motion Allowing Withdrawal of Counsel.
- 4) The trail court erred by presenting the appellant with a Hobsons's choice.

ISSUE PERTAINING TO ASSIGNMENT OF ERROR

- 1) Has appellate counsel erred by requesting relief on count three only, where relief extended to other counts for suppression of recorded conversation is just and appropriate?
- 2) Did the trial court erroneously deny the appellant's motion for severance of the counts because of a great disparity in the strength of the counts, and because inconsistent defenses became appropriate and necessary?
- 3) Did the court violate the defendant's rights to adequate defense by counsel, speedy trial, and/or due process by denying counsel's motion allowing withdrawal, at which time counsel informed the court that he could not adequately represent the appellant for lack of available time?
- 4) Did the court force the appellant to choose between speedy trial and an adequate defense by counsel?

ADDITIONAL SUBSTANTIVE FACTS

- 1) Constance hired Spry to move his property from San Diego to Washington. On or about 3/18/07, Spry met with Alexa Constance-Saxon to pick up the appellant's car. At this meeting, he said nothing about the alleged dangers, as would have been expected based on the Spry claims of solicitation and other claims, first made only a few days later. (RP 710-11).
- 2) Before trial, appellant filed a Motion for Severance of the Counts, which was renewed during trial (RP214-26). In both cases the motions were denied by the court. (RP 599-603)
- 3) Defense counsel Brian Walker was assigned to this case on 9/12/07. On 10/8/07 he filed a Motion Allowing Withdraw of Counsel, citing a full case load and insufficient time available to provide effective representation for the appellant. The motion was denied and Walker was ordered to

prepare for trial. (Please see Exhibit A). Counsel flatly stated he could not be prepared by the set trial date. (RP).

4) The court stated that it had no other counsel available and did not hire from the private sector (RP). Appellant objected in a letter. (Exhibit B).

The appellant wanted to assert his right to speedy trial so requested a second examination at Western State Hospital, which provided counsel with additional preparation time, to mitigate the conflict. (Exhibit A, page 3, #10). (RP).

Ultimately, the appellant waived his right to speedy trial because he felt he "didn't have much choice" but could not give counsel all the time needed (RP 190).

(Basis II of the appellant's recently filed CrR 7.8 Motion for Relief from Judgment involves ineffective assistance of counsel, citing an extreme number of untimely/lack of preparation issues, including violation of defendant's right to testify. The majority of these issues are not on the record at this time, which is why the ineffective assistance claim is brought via CrR 7.8.¹)

¹If relief is not granted via CrR 7.8 on that basis, a motion to admit this evidence pursuant to RAP 9.11, or consolidation of the motion if transferred as a PRP may be requested to establish prejudice for SAG basis 3).

ARGUMENT

1) The Spry counts first appear fairly strong because they seemed credible, and the fact that there are two witnesses with the same allegations, and because they claimed that they had warned Koncos of the alleged death plot, during a hearing in the family court, and that their warnings began well prior to the unfriendly events of 3/27/07.

However, the Sprys testified that Constance began soliciting them the very day he moved in, yet also admitted to giving him favorable declarations for his custody case shortly thereafter. They claimed these solicitations were repeated yet also admitted to helping him with errands and assisting him by gathering information on Koncos. They never contacted police, but both claimed to have warned Koncos instead.

The lack of concerning statements to the appellant's sister in San Diego further eroded the credibility of the Sprys. On 3/27/07, when the financial disagreement broke out, again the Sprys said nothing about alleged solicitations to responding officers. Just five days later, when Jordan recorded his blackmail threats to Constance, again there were no mentions of solicitation or threats to report solicitation. Rather, the Sprys did not file complaints until the day after Koncos was contacted by police regarding the count three investigation. Because their behavior was altogether inconsistent with having recieved solicitations from Constance, or being concerned for Koncos as they claimed they were, the Spry credibility was greatly challenged and the counts very weak. Only the sworn warningsto Konocs prior to the 3/27/07 financial disagreement, and the similarity of their allegations to count three lent any credibility to the Sprys.

But, when Koncos herself disputed the Spry claims of ever having been warned by the Sprys until 3/27/07, even though they were known to have been collaborating with Koncos in the family law case, the Spry credibility was completely decimated; Only the similarity to count three with the very harmful effect of hearing Constance's voice in the recording made the Sprys believable. At that point, no rational trier of fact could have otherwise convicted with respect to counts one and two. For this obvious reason, the appellant requests that

relief be granted on all counts, but particularly counts one and two in addition to count three; Only the very strong count with the only evidence lent the slightest credibility to the very weak Spry counts. Per Koncos's testimony, they never said one concerning word to her prior to the (date of) the financial disagreement, despite being in frequent contact with her, then apparently lied about this fact.

2) At the point in time when Koncos destroyed all Spry credibility by disputing their testimony that they had warned her prior to 3/27/07, the court erred in not granting severance as had been requested. At that point, the Spry counts were exceedingly weak, whereas count three, with a witness who had no previous relationship with the appellant, and with a recording, was exceedingly strong. The strength of the state's cases support severance only where it varies greatly between the joined charges. State V Russel 125, Qn. 2d, 24, 64, 882, P.2d 747 (1994). A greater variance in strength of the counts can scarcely be imagined.

Because of the powerful effect of the erroneous recording, the jury was unable to compartmentalize the testimony of the witnesses, even though the Spry testimony was decimated, and their motives for harming Constance obvious. A jury instruction to consider the counts separately was insufficient because of the great disparity in power and effect between the counts. Although juries are presumed to follow instructions, in this case they could not; the jury misapplied the law. No reasonable judge would have denied severance given such great disparity between the counts. A manifest abuse of discretion occurred. A reviewing court will not find an abuse of discretion unless it concludes no reasonable judge would have made the same ruling. State v Olson, 162 Wn2d 1, 8 168 P.3d 1273 (2007).

Further, at the point in time when Koncos destroyed what little credibility the

Spry had, a general denial defense on counts one and two became necessary and appropriate, but was inconsistent with the defense of the other counts².

A defendant can show prejudice if he would be 'embarrassed' in presenting inconsistent defenses or if a single trial would invite the jury to cumulate the evidence or find guilt based on the defendant's criminal disposition. State v Sanders 66 Wn 878, 885, 883, P.2d 452 (1992). Here the jury must have cumulated evidence to convict on counts one and two because there was no evidence to support these counts, and between their behavior so inconsistent with the Spry allegations, the blackmail recording, and Koncos's disputing their testimony, neither did the Sprys command any credibility. Because severance was not granted, Constance was so manifestly prejudiced it outweighed the concern for judicial economy. State v Bythrow, 114 Wn.2d 713, 718, 790, P.2d 154 (1990).

Similarly, Count 4, which involved only a single conversation with Zack Brown when Constance was angry at having been jailed, but with no subsequent conversations or any follow up activities what so ever, does not support conviction. The jury must have cumulated the evidence of the other counts, especially count 3.

3) Counsel was very clear with the court that he could not adequately represent the appellant. Constance attempted a compromise to give counsel some additional

² The court will please note that by virtue of evidence which is not yet on the record (a police report by Koncos in concert with statements she made in her pretrial attorney interview), positive proof of Spry perjury concerning falsely claimed warnings to Koncos has been established in Basis I of the Motion for Relief from Judgment. It is further documented that Koncos was also attempting to confirm the existance of warnings to her from the Sprys prior to the 3/27/07 financial disagreement with Constance, until confronted with proof of this misrepresentation. She then abruptly changed her story. The appellant alleges a bona fide conspiracy to defraud the court by Spry, Jordan, and Koncos to establish fraudulent secondary counts, preceded by a similar fraud in the family court. Counsel failed to utilize this evidence at trial. Additional evidence supporting prejudice may be forthcoming via the now pending CrR 7.8 motion.

time to prepare which was insufficient. The extremely wide range of errors, omissions, and failures first raised in the Motion for Relief from Judgment, and the trial outcome, clearly demonstrate that counsel's recitals of being unable to adequately represent the appellant were true and correct. Even the Spry counts which were exceeding weak, were not effectively defended. In addition to all those deficiencies, counsel also failed to request a jury instruction for credibility of the witnesses and character of truthfulness with reference to counts one and two. A defendant is entitled to a jury instruction on his theory of defense, provided that it is supported by the law and has some foundation in the evidence. US v Mason, 902 F2d, 1434, 1438 (9th Cir. 1990). Even counsel's arrested judgment motion, regarding counts he knew involved perjury, was not timely. (RP).

4) Counsel's obvious conflict of interest with his client's should have been rectified by the court. By denying the Motion for Withdrawal and not providing unconflicted counsel who had the availability to prepare an adequate defense within the time specified under CrR 3.3, the court presented the defendant with a Hobson's choice; Either give up his right to speedy trial or adequate defense by counsel. The fact that the county or the court did not have availability of alternate counsel to replace Mr. Walker represents a lack of due diligence on the part of the county or the court. It is the court's dual responsibility to see to it that both a defendant's right to speedy trial and adequate defense by counsel are afforded him.

In State v Smith, 67 Wash App 847, 841, P2d 65 (WA App 12/07/92), a virtually identical situation arose, the single difference being a lack of due diligence on the part of the State in providing discovery, instead of a lack of due diligence on the part of the county in providing sufficient roster of attorneys, or otherwise

hiring from the private sector when necessary. Just as was the case here, where the court denied the withdrawal of counsel who plainly stated he could not be adequately prepared, and effectively forced the appellant to give up his right to speedy trial, in *State v Smith*, the court stated:

...places Smith in the position of having to choose between his CrR 3.3 speedy trial right and his right to be represented by adequately prepared counsel... It was simply not possible for Smith to receive both his CrR 3.3 speedy trial right and his constitutional right to be represented by adequately prepared counsel.

The trial court's discretion under CrR 4.7(h)(7)(i) must be measured in view of the court's dual responsibility to ensure compliance with CrR 3.3 and to ensure defendant's constitutional right to effective assistance of counsel. Were defendant so forced, by reason of the state's failure to comply with an applicable discovery rule or order, to choose between these rights, the appropriate remedy is dismissal of the charges.

Constance so requested this from the court on page 7 of his letter to the court, which was ignored. In *State v Smith*, the court went on to state that:

To require [appellant] to request a continuance under these circumstances would be to present him with a Hobson's choice; [he] must either sacrifice [his] right to speedy trial or his right to be represented by counsel who had sufficient opportunity to prepare [his] defense.

Here, the appellant first requested a second examination at Western State Hospital in order to preserve his speedy trial right and give counsel more time, but later was forced to waive speedy trial because the attorney the court would not relieve was still far from prepared for trial. Ultimately, the appellant received neither his speedy trial or adequate defense; both his rights were violated.

Finally, the court stated:

I would reverse and remand for dismissal because I believe the trial court abused its discretion by forcing Smith to make the Hobson's choice which we, and the Supreme Court, disapproved in Sherman and Price.

The question is whether it is permissible,.... ... to force Smith to choose between two conflicting rights--the right to speedy trial under CrR 3.3 or the right to be represented by adequately prepared counsel. Under State v Price, 94 Wash. 2d at 814, a defendant cannot be forced to make that choice. The appropriate remedy is dismissal. See also State v Sherman 59 Wash App. 763, 769-70, 801 P2d 274 (1990). The only difference here is that the lack of due diligence can be attributed to the county or the court itself, instead of the prosecution.

CONCLUSION

This case involved errors and prejudices at every level to such an extent that it seems to represent a near complete breakdown of the entire Clark County judicial system. Errors and improprieties were rampantly committed by the trial judge, the prosecutor, the police, some of the witnesses, and defense counsel as well.

The simplest and most obvious error mandates the broadest relief. When the trial judge denied defense counsel's motion for withdrawal based on his stated inability to perform in the time period required by law, and given the appellant's known desire to assert his right to speedy trial, the court automatically precipitated a Hobson's choice; The appellant simply could not receive both a speedy trial and an adequate defense by counsel, even with his attempt at mitigation. Dismissal of the charges is the remedy as per this court and the Washington State Supreme Court.

1 The fraudulent representations of Spry and Jordan, even not having become
2 known to the jury, were known to counsel. By the introduction of their testimony
3 by the prosecutor, dismissal of counts 1 & 2 with prejudice is just and appropriate.
4 So is ~~se~~nsure of the prosecutor for causing a fundamentally unfair trial.

5 The behavior of the police involving deliberate false recitals and boiler-
6 plated violations of RCW 9.73.130 requires suppression of the erroneous recordings
7 both by state and federal law, in the event of retrial.

8 The great divergence in strength of the counts the inconsistant defenses
9 needed, and the apparent cumulation of evidence which caused unsupported convictions
10 reveals yet another error which requires correcting via an order for severance,
11 should the case be retried.

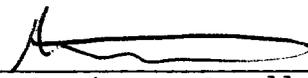
12 The key evidence which was missing from the family court file, whether
13 tampered with by Koncos or not, and the woefully deficient representation of
14 defense counsel, who plainly predicted his own deficient performance and all but
15 acknowledged it after trial, also requires retrial of any counts not dismissed.

16 Denial of all three of the appellant's motions, which were well founded
17 in the law and the facts of the case, precluded a fair trial and precipitated a
18 manifest injustice, even if counts 1 & 2 were not a fraud. The level of cum-
19 mulative error and prejudice in this case was extraordinary.

20 For these reasons, the appellant respectfully requests that this case be
21 dismissed, counts 1 & 2 with prejudice, that the corrections for suppression of
22 illegally obtained evidence and severance of the counts be ordered in the event
23 the prosecution chooses to retry the case (if for no other reason than to escape
24 civil liability). Alternatively, the appellant requests all counts be remanded
25 for retrial, with corrections for suppression and severance of the apparently
26 fraudulent Spry counts, at a minimum.

1 Respectfully submitted this 12th day of May, 2009.

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Dino J. Constance Appellant

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EXHIBIT A

FILED

OCT 08 2007

Sherry W. Parker, Clerk, Clark Co.

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CLARK COUNTY**

STATE OF WASHINGTON,

Plaintiff,

v.

DINO J. CONSTANCE,

Defendant.

NO. 07-1-00843-8

**MOTION AND DECLARATION FOR
ORDER ALLOWING WITHDRAWAL
OF ATTORNEY**

I. MOTION

COMES NOW Brian A. Walker, attorney of record for the Defendant, pursuant to CR 71(b); CrR 3.1(a) (criminal defendant's right to lawyer); Sixth Amendment of U.S. Constitution (criminal defendant's right to effective assistance of counsel); RPC 1.2(a) (objectives of representation belong to client); 1.3 (attorney's duty to render diligence, control workload); 1.16(1) (attorney may withdraw if representation would result in violation of RPCs); 6.2(a) (declining appointment for good cause), and moves this Court for an order allowing his withdrawal.

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///
///

EXHIBIT A

MOTION DECLARATION FOR ORDER ALLOWING WITHDRAWAL OF ATTORNEY	Page 1 of 4	WALKER & FONG-URIBE, P.S. ATTORNEYS AT LAW 100 East 13 th Street, Suite 111 Vancouver, WA 98660 (360) 695-8886
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SH
P

1 This motion is based the legal authority set forth above and any related case law,
2 and the Declaration of Counsel which follows.

3
4 DATED THIS 8 day of October, 2007.

5 
6 BRIAN A. WALKER, WSBA # 27391
7 Of Attorneys for Defendant

8
9 **II. DECLARATION**

10 1. I, Brian Walker, am the replacement appointed attorney of record for the
11 Defendant herein.

12 2. On September 13, 2007, I was appointed to represent the Defendant
13 pursuant to charges of three counts of Solicitation to Commit Murder in the First Degree,
14 and one count of Solicitation to Commit Assault in the Second Degree.

15 3. I currently accept only approximately one homicide case per year as an
16 appointed attorney and no other court appointed work. I have a full caseload of other
17 cases, most of which are criminal.

18 4. Within a day of my appointment herein, I received a return call from the
19 prior attorney who told me that all interviews, other than the police informant, had been
20 accomplished, but predicted that I would have to start from scratch.

21 5. On the afternoon of September 14, 2007, my staff retrieved a box from the
22 prior attorney containing five video CDs representing more than four hours of court
23 proceedings and other recordings, 1264 pages of police reports, and a number of
24

1 pleadings, both filed and unfilled, but not specifically so indicated. The box contents
2 were neatly stacked, but in no particular order.

3 6. Following more than 25 hours dedicated solely to review of "the box", I
4 have been unable to locate any case notes regarding the case, including witness
5 interviews; any defense interview transcripts; or any audio recordings of same.

6 7. On September 26, 2007, the Court set trial for November 5, 2007, 53 days
7 after my appointment, with the prediction that the State v. Adrian Reckdahl trial would
8 have first priority and would bump Defendant's trial to the end of November. I notified
9 that court at that time that I already had another trial scheduled for November 5, 2007 in
10 Clark County, and that I have a three to five day felony child sex abuse trial scheduled in
11 Cowlitz County, Washington on November 26, 2007.

12 8. I now understand that the Reckdahl trial has been continued and that the
13 trial herein is likely to have first priority for November 5, 2007. I have also learned that
14 there is at least one additional State's witness that has not yet been interviewed.

15 9. My other cases notwithstanding, I estimate that an adequate preparation of
16 a case such as this would take no less than six months, barring unexpected delays.

17 10. Defendant has steadfastly maintained his speedy trial right and I am not
18 inclined to move for continuance in contravention of my client's decision as to this
19 objective of the representation.

20 11. I am unable to adequately prepare this matter in only 53 days and do not
21 feel that I would be able to competently try this matter with any less than five to six
22 months preparation time.
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21. For the foregoing reasons, I respectfully request that I be allowed to withdraw from this matter.

I Declare under the penalties of perjury under the laws of the State of Washington that the information above is true and correct to the best of my ability and recollection.


BRIAN A. WALKER

10/23/07

EXHIBIT B

07-1-000843-8

Dear Judge Lewis,

Approximately three weeks ago, you informed my attorney that the speedy trial rule and the lack of availability of any other court appointed attorney to defend in the time aloted by law, mandated that he be prepared for trial by November 10th. My attorney infomed the court that he could not possibly providean adequate defense until at least February next year!

Also at that time, I informed the court that I was loosing competency due to excessive amount of time (5 months) I have been incarcerated, sick with worry about my small son who is being abused, and suffering from a painful medical condition the jail has neglected to treat.

Subsequently, I was transported to Western State Hospital for only two days, where I recieved some needed care and began to feel a little better. I was then returned to the jail two days later without having received the ordered evaluations, as my attorney did not have time to be present for my evaluations, as is my right by law.

In the mean time, the divorce I am being forced to litigate pro se will not wait. An order of Judge Rulli's in my favor is again being violated, and because I am still incarcerated and forced to represent myself, when I objected to this order vilation as my own attorney, I was charged with not one but two TRO violations!

I now understand that my attorney can not be expected to be available at Western State until some time next month! Whereas I appreciate Mr. Walker's representation and professionalism, and Judge Harris's appointment of him, the repeated violations of my right to speedy trial, both previously when represented by Mr. Barrar, and currently, have become altogether unacceptable.

As a result of this right being repeatedly denied me, my physcial and psychological health are failing, my son is being injured, my divorce case is a shambles, my family is suffering, my property is in jeopardy, and my clients are at risk of identity theft. As previously stated on the record, arresting officers failed to secure my residence and shortly thereafter, my main computer, which contains the personal financial records for thousands of Northwest resident families, is unaccounted for. I am required by federal law to do due diligence to protect these people. But because I am still in jail and with the holidays (when the usual safeguards against indentity theft are disabled) rapidly approaching, if my 700 Gb computer has fallen into the wrong hands, the Portland/Vancouver area could soon become known as the identity theft capital of the nation. This too weighs heavily on me while I wait and wait. As the court suspended the speed trial clock three weeks ago ofr a 15 day evalualuaton, the actual tests for which take 2-3 hours, I respectfully insist that htis suspension be stricken, as no evals occured.

Whereas I do not fault Mr. Walker and do not request his replacement, I will state for the record that Mr. Barrar wasted months, asking the court for speedy trial suspensions repeatedly, then still needed more time. For complicated reasons, after the end of November, the damage to my life will be so extensive and irreprable

EXHIBIT B

there will be no point in having a trial; even a full acquittal would be meaningless to me. This is why I have maintained since the day of my arrest that I could not waive my speedy trial right if not bonded.

Due to what I believe is an ongoing violation of my right to speedy trial, my physical and mental health are suffering and may render me 'untryable' in the near future, if not already. For this reason as well, I respectfully insist on the November 26th backup trial date. Any date after this simply will be of no use to me and Mr. Walker will have received significant extra time by then, in any case.

Of even greater concern is the apparently systemic problem of affording me my right to adequate defense by counsel. When Mr. Barrar tells me after almost five months and with a large support staff that I will lose my life (even though he says I had no intent) because he needs more time, and then Mr. Walker says he simply "can not be ready" in the time allotted by law, and the court says on the record that it lacks resources for any other attorney to provide an adequate defense, there is a huge problem! This is just like saying "Mr. Constance's right to an adequate defense by counsel will be violated. Unless Mr. Walker can find a way to do a "six month case" in two months, I respectfully submit that I am entitled to a dismissal.

Speedy trial and adequate defense by counsel are rights of the accused (and sometimes the innocent) which are cornerstones of our criminal justice system. I would hope that this court would take responsibility for any resource or local systemic shortcoming and order the requested dismissal without delay or appeal. In any case, with this right not afforded me, even after two attempts to provide the adequate defense in more than double the speedy trial time recommended by law, I submit that justice in my case, without the availability to bond, is simply an impossibility.

I will further state for the record that because the allegations in my case are significant that two of them are solely based on perjury to preclude my ability to bond, and have served their design. any remaining allegations have reasonable explanations, and there is simply no acceptable reasons why it should have to take an attorney like Mr. Barrar more than three months to get these facts before a jury; I was 100% up front about my intention to not waive speedy trial, and Mr. Walker had assumed that I already had.

Moreover, justice in this case and in the relationship between my wife, son, and I has been plagued for four years by repeated subversions due to perjury based civil rulings, as well as judicial impropriety. The best way for justice to be served in our case is to take a step back, prior to damaging past subversions, and work together to provide a less adversarial and normalized relationship in our son's best interests.

In summary, because of misconduct on the part of Mr. Barrar, Mr. Walker has been forced into an impossible position. Further, resource inadequacies by the system have resulted in repeated and ongoing violations of my rights, which preclude justice in this case. As such, I request an immediate dismissal with prejudice. I have already served six months of the worst kind of incarceration our society allows, and have learned my lesson about the illegality of venting angry, if even meaningless and harmless words,

Respectfully,
Dino J. Constance

EXHIBIT B
60 sm

to Western state hospital for
the treatment of the
suffering from a mental disease
and also to being ordered to
have her committed, and
amount of time (5 months) &
consequence due to the extreme
the court that I am leaving
also at that time, I informed
relating next year
not possible for me to be
informed the court that he could
by November 15th. My attorney
that he be prepared for that
the time established by law, provided
appointed attorney to defend me
of availability of any other court
The speedy trial rule & the fact
has informed my attorney
Sherry W. Parker, Clerk/Clerk

Dear Judge Lewis
Approximately three weeks ago,
OCT 31 2007
FILED

07-1-00843-8

10/23/07

EXHIBIT B

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only Two days, where I received some medical care & began to feel a little better. I was then returned to the jail 2 days later without having received the ordered evaluations, as my attorney did not have time within the ordered 15 days to be present for my evaluations, as is my right by law.

In the mean time, the device I am being forced to litigate per se will not wait. An order of Judge Pullio in my favor is again being violated, & because I am still incarcerated & forced to represent myself, when I objected to this order violation as my own attorney, I was charged with not one but two TRD violations!

I now understand that my attorney can not be expected to be available at Winter State until some time next

month! Whereas I appreciate
Mr Walker's representation +
professionalism, + Judge Annis
apparent trust of him, the repeated
violations of my right to speedy
trial, both previously when
represented by Mr Barron, +
currently, have become all together
unacceptable.

As a result of this right
being repeatedly denied me, my
physical + psychological health are
failing, my son is being injured,
my divorce case is a shambles,
my family is suffering, my property
is in jeopardy, and my charts
are at risk of identity theft.

As previously stated on the record,
another officer failed to receive
my records and shortly thereafter,
my main computer, which contains
the personal financial records
for thousands of Northwest
resident pensioners, is unaccounted
for. I am required by federal

law to do due diligence to protect these people. But because I am still in jail and with the boldness (under the usual safeguards against identity theft are disabled) rapidly approaching, if my 700 Gb computer has fallen into the wrong hands, the Portland / Vancouver area could soon become known as the identity theft capital of the nation. This too weighs heavily on me while I wait and wait. As the court suspended the speedy trial clock three weeks ago for a 15 day evaluation, the actual time for subjects take 2-3 hours, I respectfully insist that this suspension be struck, and no evals occur.

When I do not fault Mr. Walker & do not request his replacement, I will state for the record that Mr. Warner wasted months, asking the court for a speedy trial

suspension repeatedly, then still needed
 more time. For complicated reasons,
 after the end of November,
 the damage to my life will
 be so extensive and irreparable,
 there will be no point in
 having a trial; even a full
 acquittal would be meaningless
 to me. This is why I have
 maintained, since the day
 of my arrest, that I could
not waive my speedy
trial right if not bonded.

Due to what I believe is an
 ongoing violation of my right
 to a speedy trial, my physical
 + mental health are suffering
 + may render me 'incurably'
 in the near future, if not
 already. For this reason as
 well, I respectfully insist
 on the November 26th
backup trial date. Any date
 after this simply will be of
 no use to me + Mr Walker

will have received significant extra time by then, in any case.

Of our greater concern is the apparently systemic problem of affording me my right to an adequate defense by counsel.

When Mr. Jordan tells me after almost 5 months + with a large support staff that I will lose my life (even though he says I had no intent) because he needs more time, + then Mr. Walker says he simply "cannot be ready" in the time allotted by law, + the court says on the record that it lacks the resources for any other attorney to provide an adequate defense, there is a huge problem! This is just like saying "Mr. Cortez's right to an adequate defense by counsel will be violated." Unless Mr. Walker can find a

7
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to a dismissal.

'Speedy Trial' & 'adequate defense
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criminal justice system. I
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systemic shortcomings, and order
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delay or appeal. In any case, with
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after two attempts to provide
the adequate defense is more
than double the speedy trial
time recommended by law, I submit
that justice in this case, without
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The record that because the allegations in my case are significant that I was often in safety level or perjury to preclude my ability to work, & have secured their design. My remaining allegations have reasonable explanation, & there is simply no acceptable reason why it should have to take an attorney like Mr Bauer more than 3 months to get these facts before a jury, & I was 100% up front about my intention to not waive speedy trial, & Mr Mulka had assumed that I already had.

Moreover, justice in this case & in the relationship between my wife, son, and I, has been changed for 4 years by repeated subversions due to perjury based civil reliance, as well as personal incompetence. The best way for for justice to be served in our

can be to take a step back, prior to damaging past subsequence, + work together to provide a less adversarial + normalized relationship in our sons best interests.

In summary, because of misconduct on the part of Mr Baron, Mr Walker has been forced into an impossible position. Further, resource inadequacies by the system have resulted in repeated + ongoing violation of my rights, which preclude justice in this case. As such, I request an immediate demand with prejudice. I have already served six months of the worst kind of incarceration our society allows, + have learned my lesson about the illegality of venting anger, if even in words + harmless words.

Copy to Tony Golik, PA - courier
Bryan Walker - folder
at county office
10-31-07 AD

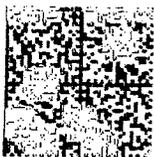
Respectfully,
Dwight L. Cantor

D Carstensen 175875
PO Box 1147
Vancouver, WA 98666

Judge Lewis
CLARK COUNTY
JAIL
PO Box 1147
Vancouver, WA 98666

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CERTIFICATE OF SERVICE BY MAIL

This is to certify and state under the penalty of perjury under the laws of the State of Washington that I have mailed a true and correct copy of the following documents(s):

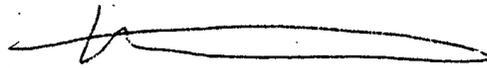
- Cover letter concerning missing transcript
- Cover letter to Reviewing Judges
- ~~Summary of Relief Sought~~
- Statement of Additional Grounds
- Two Exhibits

By depositing in the United States mail, marked *Legal Mail*, postage prepaid, on this 13 day of May, 2009 to the following:

Washington State Court of Appeals 950 Broadway Ste 300 Tacoma, WA 98402-4454
Anthony Golik Deputy Prosecutor PO Box 5000 Vancouver, WA 98660
Andrew Zinner Neilsen, Broman & Koch 1908 E Madison Seattle, WA 98122

COURT OF APPEALS
 CLALLAM COUNTY
 CLALLAM BAY
 13 MAY 2009 11:21 AM
 STATE OF WASHINGTON
 BY DEPUTY

Respectfully Submitted,



Signature

Dino J. Constance

Print Name

D.O.C.# 317289 Unit # A Cell # H4

Clallam Bay Corrections Center
 1830 Eagle Crest Way
 Clallam Bay, WA 98326