

Respondent,

v.

Daniel H. Bresler

(your name)

Appellant.

No. 38606-2-11

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I, DAN Bresler, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits. I do not understand it.

Additional Ground 1

Irish Counsel Ineffective - Several Issues

The following is a short list.

Additional Ground 2

Court Allowed states Witness to remain in Court - During Another officer testimony ER 615 Violated

Inconsistent and Contradicting testimony

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

Date: 8/22/09

Signature: [Signature]

Form 23

CERTIFICATE OF SERVICE  
I certify that I mailed  
copies of SAG  
to James Pease and counsel  
& Randall Sutton/Pros. atty.  
8/25/09 Date Signed

STATE OF CALIFORNIA  
BY [Signature]  
DEPUTY  
09 AUG 26 PM 12:05

NO .38606-2-II

COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

STATE OF WASHINGTON  
Respondent  
vs

Daniel H. Bresler  
Appellant

additional grounds for review

RECEIVED  
AUG 24 2009  
CLERK OF COURT OF APPEALS DIV II  
STATE OF WASHINGTON

Daniel H. Bresler  
134 Deerhaven drive  
Sequim WA 98382  
360-683-0747

ADDITIONAL GROUNDS FOR REVIEW  
INEFFECTIVE COUNSEL                      MISCARRIAGE OF JUSTICE

**U S v CRONIC** - --Defense Counsel failed to subject the States only witness with a meaningful adversarial cross ,HAD THIS FUNCTION BEEN PERFORMED IT WOULD HAVE EXPOSED THE CONTRADICTING & INCONSISTENT STATEMENTS AS WELL AS THE EXAGGERATED DETAILS that may appear to be possible but ARE actually impossible .This was one reason I requested Defense Counsel to address RULE 6.9 terrain and math doesn't & won't add up

RULE 6.9--- JURY TO VIEW SITE-- COUNSEL said the judge would not allow it ,besides it would cost to much money. Failed to serve AS ADVOCATE Counsel told me not to speak in court -BUT-- Counsel dismissed clients request It is really important that jury get the TERRAIN FACTOR to judge fairly ,because common sense will see what is being said , WOULD HAVE TO DOUBT IT

Defense Counsel IN CLOSING STATEMENT--- DISCRIBES TO THE JURY , IF there was a video tape. THEY WOULD SEE ME DO THE CRIME, every detail exactly as the prosecution says . INSTEAD OF WHAT I KNOW it would show

COUNSEL PREJUDICED DEFENSE further by suppressing .the weapons warrants and the officers beliefs .THAT CAUSED considerable damage to defense .IT also made me uncomfortable, when I sworn to tell the truth --THE WHOLE TRUTH--- and nothing but the truth. I felt I was already lying. I had nothing to hide and .I had NO CRIMINAL RECORD BEFORE THIS

I know and believe A MISCARRIAGE OF JUSTICE HAS OCCURED  
I don't feel my attorney was effective in his obligation due me  
The remaining jurors should have been challenged after a very prejudicial statement was made about me, in the courtroom in the jury voir dire.  
""HE IS GUILTY JUST LOOK AT HIM --HE LOOKS GUILTY

THE PROSECUTIONS ONE AND ONLY WITNESS seems quite CONFUSED ON THE DETAILS to this case .Three of the most SIGNIFICANT DETAILS HE FORGETS TO INCLUDE IN HIS ORIGINAL ARREST REPORT just 4 hours after the alleged pursuit . His written report OMITTED the most significant details to this alleged crime, that are the actual elements to convict , but he does include other details with much less significance so it would appear he was behind me , but IN FACT WAS NOT -- He just includes them later? HOW CONVENIENT--now I understand OFFICERS last comment in the interview--- "its easy money "

BOOKING ---Official record of ARREST regarding the facts to the case,identity of suspect ,circumstances involved ,officers involved, location time and date

His arrest report and taped interview bring to light many contradictions inconsistencies and exaggerated details. UNFORTUNATLY video camera , wasn't

working in that vehicle, supposedly.

WITHOUT EXCULPATORY EVIDENCE I CANNOT PROVE MY CASE

FIRST FOUR REQUESTS OF DEFENSE COUNSEL;

- 1--GET A COPY OF VIDEO TAPE -FROM POLICE CAR CAMERA
- 2-- " " " OF ALL OTHER--- POLICE REPORTS
- 3-- " " " OF THE FIRE DEPTS--- REPORT
- 4 - WASHINGTON STATE DEPT OF TRANSPORTATION BRIDGE CAMERAS  
THEY HAVE CAMERAS ON THAT BRIDGE THEY WOULD HAVE VIDEOS  
COUNSEL SAID" NONE OF THESE EXISTED . gave each a reason

TO THE CONTRARY I found A fire dept report and At trial I HEARD A  
SECOND OFFICER FILED A REPORT --GARY WESTERFIELD. I ALSO was  
unaware that he was a defense witness until the trial.

TO PRESENT SHOW AND EXPLAIN my case to the jury  
WITHOUT EXCULPATORY EVIDENCE. . The officers ARREST REPORT and  
TAPED INTERVIEW should have been introduced ,there were many  
inconsistent details and contradictions . I KNOW THERE ARE A FEW  
FABRICATIONS BECAUSE THE MATH DOES NOT ADD UP .

I STILL want to know ,Why, the 5 charges were dropped the next morning in  
JEFFERSON COUNTY , that Officer Anglin CHARGED & ACCUSED ME OF.

Then 2 1/2 months later I'm charged in Kitsap County on one charge---felony  
elude . FILING OFFICER --- GARY WESTERFIELD-- Kitsap County Sherrif  
FILING AGENCY -- KITSAP COUNTY SHERRIF'S DEPT  
INCIDENT LOCATION PORT LUDLOW . WA ----JEFFERSON COUNTY

INEFFECTIVE counsel issue's--

- 1--COUNSEL FAILED TO COMMUNICATE WITH CLIENT
- 2-- " " " INVESTIGATE EXCUPATORY EVIDENCE
- 3-- PREPARE CLIENT FOR and /about TRIAL
- 4-- SERVE AS DEFENDANTS ADVOCATE
- 5-- HAVE A SOUND TRIAL STRATEGY
- 6-- ADVERSARIALLY TEST STATES WITNESS

regarding the inconsistent ,contradicting and exaggerated statements  
A DISMISSED JUROR STATES--- HE WOULD feel bias HE **KNOWS THAT**  
OFFICER \_\_\_ QUOTE"is A LIAR he would not believe a word OFFICER SAYS  
UNFORTUNATELY THE **JURY DID NOT HEAR THIS STATEMENT**

PROSECUTOR "S closing statement-POINTED OUT CERTAIN TESTIMONY  
FACTS--- WHICH IN FACT, WAS NOT THE TESTIMONY --THE 2 that come to  
mind --- I said I was` going 80 miles an hour & I was hiding in the bushes  
my counsel instructed me i'm not to speak to the court directly -I CAN"T SPEAK?

## DEFENDANT DENIED EFFECTIVE ASSISTANCE OF COUNSEL

- 1)--Counsel has a duty to advocate defendants cause
- 2)--counsel has a duty to consult with defendant regarding important decisions
- 3)--Keep defendant informed of important developments
- 4)--duty to use level of skills and knowledge to keep trial truly adversarial

COUNSEL NEVER DEMONSTRATED ANY OF THESE REQUIREMENTS or even concerned for defense

His only instruction about trial --DON'T wear BLUE JEANS

FIRST INSTRUCTION WAS I am not to speak in court THATS why twice I had to say something at least try , AT THE BEGINING I had questions regarding rights and I commented I did not want to sign ,but I was instructed to by the judge .

### DEFENDANTS EXPLANATION TO DEFENSE COUNSEL

doesn't seem to believe me questioned me about not seeing the flashing lights .I said if they were on I think I would have seen them and no body followed me out of there and I explained.

IF IT WAS AN OFFICER, HE DID NOT IDENTIFY HIMSELF .I do know his identity was not known to me and his actions were not calm. After the fact, to say my explanation and account of what happened was not reasonable, why would officer do that . OFFICER ACTED DIFFERENTLY Prosecutor said the same OFFICER ACTED DIFFERENTLY NOT BASIC TRAFFIC STOP TO SAY HE JUST PULLED UP BEHIND ME AND WALKED UP TO THE WINDOW , CALMLY With all of these circumstances that he believes exist. NOW ASK IS THAT REASONABLE ?.

- 1) I HAVE Warrants for weapons violations SUPPRESSED BY DEFENSE COUNSEL
- 2) Officer believes I am trying to elude him --A FELONY STOP -- ALSO SUPPRESSED
- 3) Officer also believes I'm armed
- 4) If i'm armed , I would actually shoot at police
- 5) he says he saw me make quick right -- just pulled down a dark dead end street and shut lights off thats very unusual in his experience since I don't live near here
- 6) A German Shepard is with him .A LARGE ONE
- 7) you don't have any back up
- 8) you don't activate emergency equipment immediately exiting bridge  
YOU said I already appear to be eluding plus warrants etc etc
- 9) you don't use your loud speaker to order suspect out
- 10) You don't use your car for cover
- 11) you don't wait for back up
- 12) You don't demand vehicle to be turned off
- 13) you don't even demand-- SHOW ME YOUR HANDS
- 14) YOU DON'T EVEN DRAW YOUR WEAPON
- 15) YOU DON'T EVEN MAKE A RADIO CALL

THIS WAS MY THEORY AND DEFENSE. DEFENSE COUNSEL WITHOUT INFORMING CLIENT UNTIL TRIAL ,and suppress the two most important issue's to my defense

NOW REALLY WHAT IS MORE REASONABLE TO BELIEVE GIVEN THE CIRCUMSTANCES He just pulled up behind me . Then he activates all of his emergency equipment, not the siren just

lights and adjusts the spot light. He exits his vehicle and just walked up to this suspects vehicle calmly, holding only his flash light in his hand .( even at this point ,you dont do several precautions for officer safety ), the first question he asked is " are you DANIEL BRESLER." NOW we have a somewhat lengthy conversation and then I speed away down the dead end street and he knows this area and he know its a dead end. NOW HE FOLLOWS ME FURTHER DOWN THIS DARK DEAD END STREET, still no back up. and HE know this is a dead end .WHY WOULD HE FOLLOW ME ?

WHY WOULD ANY OFFICER USING PROPER DISCRETION DO WHAT HE DID

ALSO IF I WAS REALLY COMBATIVE AND NON COMPLIANT and required the use of a TASER WHY DID ALL THE OTHER OFFICERS NOT FILE REPORTS if it was true. MAYBE THE OATH they took has something to do with it they would have to file either a false report or tell the damaging truth against one of there own. THEY DIDN'T LIKE THERE CHOICES.

I HAVE EXPLAINED IN DETAIL THE ISSUES ---I have approx 40 pages I wanted to submit but it called a brief so I made it short but only because there is to much .I have a cumulative total upon request

AFTER THIS TRIAL I am not confident in the public defense I have now. however I'M NOT AN ATTORNEY \_\_\_I just feel there is a conflict of interest since he made a comment about if I DON'T WIN MY APPEAL I WILL HAVE TO PAY FOR IT approx \$4,000 . HE DID NOT COVER ANY OF THE ISSUE'S I pointed out JUST THE MINIMUM

**Appellate's request for review ———**

First , the officer wrote his original arrest report and then my counsel conducted an interview with the officer at a later date . His arrest report and taped interview have many inconsistencies and contradictions as well as extremely exaggerated details that mathematically could not have taken place. If they were questioned, explained and demonstrated to the court and jury .The officers credibility would have been in serious question and there's no doubt there would have been a completely different outcome in this trial because **THE PURSUIT NEVER TOOK PLACE .**

**NEXT— Counsel failed to assist client**

**NO 3.5 hearing —Court asks how did we get all the statements in with out it  
defence counsel doesn't object**

**My position was that this statement was made at arrest site were I noticed Jefferson county sherrifs and kitsap county sherrifs after being tased. I said to the kitsap county sherrif to take me to your jail .don't let them take me back to there jail after realizing now that is who tased me unnecessarily ,making me stay face down in the mud. many officers were present I have had other problems with JEFFERSON COUNTY FROM A PRIOR INCIDENT ,This statement was used to cover his lack of discretion and give the appearance of a reason for me to be running not from a hostile individual but supposedly a police officer conducting a traffic stop**

**SEVERAL CLOSING ARGUMENTS BY PROSECUTION ARE MISLEADING AND WERE NOT CORRECT and was not the testimony in trial**

**The charges were filed 2 1/2 months after this incident in Kitsap county —after these charges were dropped in Jefferson County ,the following morning .  
The morning of March 16 2008 . I received numerous phone calls from friends and family ,advising me that I had made the NEWSPAPERS . I had no idea what they were talking about .I was completely shocked after I read the newspaper. That afternoon a Clallam County Sheriff came to my door and I was officially served with the notice and 1—charge**

**1—NEWSPAPER STORY REGARDING THIS INCIDENT—PUBLISHED WITH MY NAME —The publicity and it's prejudicial effect on potential jurors —**

**2—THE STATEMENT MADE INJURY VOIR DIRE —Stated in front of all the candidates—  
QUOTE "**

**he's guilty ,look at him ,he even looks guilty -- damaging effect on impartiality**

**3—different juror makes statement in a private discussion in the court (not in front of any other jurors )**

**He doesn't believe he can be impartial in this matter —JUDGE asks him why ? He replies, he knows officer Anglin because he used to live in Jefferson County —JUDGE ASKS "what do you know about officer Anglin (or something on that line) He responds**

QUOTE " that cop is a liar -- HE would not believe a word that cop says .

3-- I selected a few jurors I would have liked on my jury --none were selected  
I noticed none of the male jurors had facial hair --I on the other hand DID

4-- Failed to prepare client for trial -- Counsel's opening statement caught me by surprise ...Mr Bresler is a GAMBLER --I don't even like that word it's high risk taker  
WE never discussed what would happen and what to expect in court. What questions he would be asking me on direct and what he was going to question and put to test on cross exam --Also how he was going to question the inconsistent statements ,the contradictions and the extremely exaggerated details and alledged events --TIMES----  
DISTANCE'S and SPEEDS he states I was supposedly doing -HE even admits doing them himself. The FACT BEING --WOULD BE IMPOSSIBLE TO ACTUALLY HAPPEN  
The MATHEMATICS OF HIS ALLEGATIONS DON'T EVEN COME CLOSE TO BEING POSSIBLE ---COMMON SENSE and simple math was all that my defense counsel had to demonstrate --he never questioned the contradictions and inconsistent statements on the important issues --the speeds and distances covered and time ---the incident on bridge way -- The important details left out of his original report because he didn't see them happen .HIS STRATEGY WAS FAR FROM WHAT I EXPECTED

5-- Attorney's reason for suppression of firearms warrant ---I believe SERRIOUSLY was more damaging to my defense --because originally the officer stated serious issue's of danger could exist ---my reason and theory why this person was threatening and made serious errors and did not appear to be the police ,but the complete opposite--as he clearly states on PAGE 23 OF HIS INTERVIEW -- he got out of the car quickley --

5--DEFENSE COUNSEL"S last minute concern to suppress concealed weapons violation and officers belief that I was attempting to elude before he found me parked on bridge way -- These concerns by the officer all added up ---Would be the corroborating actions leading up to the reason I believe he never activated his lights or IDENTIFIED HIMSELF and would also be more consistent with what I saw .Someone appearing excited -aggressive --threatening ---ON PAGE 23 FROM THE INTERVIEW / INVESTIGATION --he states something much different --ALOT DIFFERENT THAN PULLING UP BEHIND ME AND ACTIVATING LIGHTS AND WALKING UP TO VEHICLE CALMLY

This officer had many reasons to be concerned about his safety ,from what he believed was supposedly now in front of him --He has no back-up -no radio call and was caught by surprise -IT WAS ALL AMPLIFIED AND HE BLAMES ME  
OFFICER SERIOUSLY LACKED DICRETION

### INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS

First appearance in court was 4-08-08

1) Haven't even talked to Mr. Lewis yet or any attorney for that matter and I received a plea bargain / offer in the mail. \$2000 fines and fees and 30 days in jail --dated 4-15-08

2) first contact with Mr. Lewis—5—29—08 appearance in court

was informed about pretrial release. I spoke up and asked the judge about amending that order to allow me to travel to California. After that was finished Mr. Lewis looked over at me and said QUOTE " DON'T EVER DO THAT AGAIN i don't speak to the court directly ,if I have something to address to the court. I am to tell him what it is and he will then ask or speak to the court. but I am not allowed to speak to the court . I felt as though I was being scolded .I had no idea .

ON TWO DIFFERENT OCCASSIONS I HAD REQUESTED MR. LEWIS to address the court about a concern of mine , he denied to ask the court my question . Even as I motioned to him( HEY MY QUESTIION—are you going to ask —just ignored me ..

3) Failed to render adequate legal assistance

Cuyler v Sullivan 466 U S at 344

4) U S v Cronin 466 us 648, 80 I. ed. 2d. 657, 1.40s. ct 2039 (1984)

counsel failed to subject the prosecution's case to a MEANINGFUL adversarial testing .

5) Higgins v Renico 05-1564 11-20-06

failed to have a sound strategy at trial

6) U S v Pugh 03-3241 5-03- 05

Statements not harmless

7) Kimmelman v Morrison 477 US. 365,91 Led. 2d 305, 106s. ct 2574 (1986)

ineffective pretrial consultation , investigation, and preparation-  
(duty to investigate)

8) Silva v Woodford 279 f 3d 825 9th circuit (2002)

Failed to thoroughly investigate the existance of mitigating factors

9) Summerlin v Schiro 427. f 3d 623 9th circuit (2005)

A\_B\_A STANDARD Criminal justice 4-4-1 counsels duty to explore

I requested Mr Lewis to get all police reports —I want to see what the other officers present had to say —I can't believe they are all liars —  
Counsel informed me there was none

The WSDOT has camera's on the bridge get copies of the tapes from that morning -that's got to have something on it

Police car must have a camera —get that tape -Mr Lewis responded to that question QUOTE " WHAT MAKES ME THINK THAT CAR HAD A CAMERA I said — don't they all have cameras nowadays

MR Lewis QUOTE" THAT CAR DIDN'T HAVE A CAMERA —At trial I learned that that car did have a camera once . IN TESTIMONY OFFICER SAID" there is remnants of a video camera ( interesting use of words )counsel didn't question that IT WAS BROKEN ABOUT A YEAR AGO —HOW?

Failed to explore clients theories or requests

316  
DAVIS v ALASKA 415 US 308 318 (1974)

No showing of prejudice required --PETITIONER denied effective cross of states only witness --testimony only evidence

PERRERO v STATE 990 SW 2d 896 Tex ct app 1999  
counsel failed to prepare client for testimony

SANDERS v RATELLE, 21 F 3d 1446 9th cir 1994 Counsel ineffective in failing to prepare or present a defense

TEJEDA v Du BUIS 142 F 3d 18 1ST CIR 1998  
DEPRIVED OF MY ONLY DEFENSE  
suppression of only part of warrant and mitigate the factor caused defense to appear there was no defense at all ..  
simply stated ,it appears that what officer testified to. I agreed

GRIFFEN v WARDEN 970 F 2d 1355 4th cir 1992 Trial counsel ineffective for failure to contact defendants-witness list to counter the states eyewitness evidence which was uncorroborated by any physical evidence.---EXCULPATORY

PEOPLE V MEJIA 617 NE 2d 799 Ill app ct 1993  
failed to seek mistrial when police report contradicted testimony

GROSECLOSE v BELL 130 F3d 1161 6th cir 1997 affirming  
895 F supp 395 MD Tenn 1995

US v CRONIC 466 U S 648 1984  
Failed to perform adversarial line of questioning

BROWN v MEYERS 137 F 3d 1154 9th cir 1998  
failed to seek evidence to corroborate my testimony

GREEN v STATE 338 SC 428 527 SE 2d 98 2000  
ONLY EVIDENCE IS A CREDIBILITY ISSUE BETWEEN DEFENDANT'S TESTIMONY AND THE POLICE OFFICER. THE CENTRALITY OF THE CREDIBILITY IN THIS CASE BEING THE ONLY EVIDENCE , WAS NOT ESTABLISHED BY IMPEACHMENT OF OFFICERS TESTIMONY WHICH WAS VERY CLEAR IN THE INCONSISTENCIES AND CONTRADICTIONS AND EXAGGERATED DETAILS EXPRESSED BY THE OFFICER.

RICKMAN v BELL 131 F 3d 1150 6th cir 1997 affirming  
864 f Supp 686 MD TENN 1994

Presumed prejudice because counsel did not serve as advocate and showed contempt for client such as he was a second prosecutor --

defendant would have been better off to have been merely denied counsel  
defense counsel did most damage to case

BATTLE v STATE 305 SC 460 409 SE 2d 400 1991  
instructions on appearances to defendant and retreat  
as it relates to self defense

COMMONWEALTH v DOSWELL 621 A 2d 104 PA 1993

PITTS v STATE 432 SE 2d 643 Ga ct app 1993

BERRY v GRAMLEY 74 F supp 2d 808 ND Ill 1999  
Denied defendant material believed exculpatory impeachment evidence . Also  
failed to challenge jurors after juror made prejudice remark ,  
DUPREE v STATE 305 SC 285 408 SE 2d 215 1991

ANDERSON v BUTLER 858 F 2d 16 1st cir 1988

PERKINS v STATE 771 S W 2d 195 TEX CT APP 1989  
OFFICER HAD NO AUTHORITY TO ARREST OR CONDUCT A STOP  
OUTSIDE HIS JURISDICTION

WARNER V STATE 729 P2d 1359 NEV 1986--Credibility was main  
issue could have produced character witnesses ..PROSPETIVE juror stated  
bias towards states witness ,the officer , because JUROR SAID,"HE KNOWS  
THAT OFFICER AND THE OFFICER IS A LIAR .

EURE v STATE 764 SO 2d 798 FLA dist ct App 2000  
OFFICER LIED --ALL ELEMENTS NOT IN FIRST ARREST REPORT THEN DELIBERATLY  
LIED TO CREATE THE ELEMENTS TO CONVICT --had motive

Defense counsel's decision to portait me as a gambler in his opening  
statement to the jury was not a reasonable change in strategy but was  
ineffective assistance of my counsel --prejudiced defendant & client never  
advised that was going to be said IN FACT I didn't know what was going to  
take place in trial --EXCEPT DON" T WEAR BLUE JEANS IN COURT

OSBORN v SHILLINGER 861 F 2d 612 10th cir 1988  
Counsel was ineffective , counsel's failure to adequately prepare ,retain  
compare present evidence , due too counsels unsels  
Publicly chastising client is evidence of ineffective ness  
Defense counsel has a duty and must present conflicting evidence to the  
court --- not judge the issue for himself . suppose to remain loyal to clients  
cause (in fact the day of trial when I first arrived at court I approached  
counsel .HE and I went into meeting room , he asked me if I had an

questions ? I said 36 that come to mind . Then I asked one ? I have something bothering me whats that he said -----I replied ," are you really going to defend me , are you going to try ---I feel as though i'm going infront of a firing squad and my only hope is THAT THEY MISS Counsel abandoned duty to defense and joined the prosecution to late now? It's an education at least

UNITED STATES v WOLF 787 F 2d 1094 7th cir 1986

WOLF v STATE 96 SW 3d 90 MO 2003

UNITED STATES v RUSSELL 221 F 3d 615 4th cir 2000

UNITED STATES v NAGIB

**MASSARO v US --538 US . 500, 123 S.Ct 1690 (2003)**

IAC claim can be brought in a collateral proceeding under 28 USC \*2255 weather or not on direct appeal

WASHINGTON v SMITH

MARKS v STATE 492 SO 2d 681 FLA Dist ct App 1986

PEOPLE v VAZQUEZ 551 NE 2d 656 Ill App ct 1990

warrants pending doesn't suppress complete

STATE v HARVEY 692 S W 2d 290 MO 1985

**Crandell v Bunnell 144 F3d 1213 9th cir overruled in part**

**Schell v Witek 18 F3d 1017 9th cir 2000**

**pushed plea no real investigation no working committment**

PEOPLE v ANDREWS 485 NYS 2d 828 NY app div 1985

PEOPLE v BUTTERFIELD 484 NYS 2d 946 NY app div 1985

STATE V CARTER 641 NW 2d 517 Wis Ct app 2002 ---Jury without 12 impartial jurors renders the outcome unreliable and fundamentally unfair- ID at 521

PEOPLE v DONALDSON 113 CAL REPT 2d 548 CAL CT App 2001  
PROSECUTOR'S CLOSING ARGUEMENT EXPRESSED HIS PERSONAL BELIEF IN THE DEFENDANTS GUILT

PEOPLE v VAUSS 540 NYS 2d 56 NY APP DIV 1989

PEOPLE v MORGAN 530 NYS 2d 609 NY App Div 19

NELSON v STATE 832 S W 2d 672 TEX ct app 1992

**ASCH v STATE 62 P 3d 945 WYO 2003**

**MOORE v STATE 485 SO 2d 1368 FLA dist ct app 1986**  
ASSIGNMENT OF ERROR --defendant denied EAC of record to base appeal

MURPHY v PUCKETT 893 F 2d 94 5th cir 1990  
valid double jeopardy issue -- warrants were issued on the same case  
that was already paid

**SMITH v WAINWRIGHT 741 F2d 1248**

**BANKS v REYNOLDS 54 F3d 1508 10th cir 1995 APPELLATE**  
**COUNSEL INEFFECTIVE FOR FAILING TO RAISE BRADY CLAIM OR, IN**  
**THE ALTERNATIVE , ( IAC ) CLAIM WHEN TRIAL COUNSEL HAD FAILED**  
**TO CHALLENGE THE PROSECUTION'S FAILURE TO DISCLOSE**  
**EXCULPATORY MATERIAL**

Farmer v State 902 S W 2d 209 ARK 1995  
failed to subpoena dot video to corroborate my testimony

Smith v State 894 S W 2d 876 TEX CT app 1995

**JOSH v LOCKHART 879 F 2d 412 8th cir 1989**

United States v Jasin

**WHITT v HOLLAND ,342 S E 2d 292 W Va 1986 APPELLATE**  
**COUNSEL INEFFECTIVE FOR FAILING to communicate with client , failing**  
**to raise several important issues, including ineffective assistance during**  
**the trial , and exhibiting "A lack of conscientious attentiveness to the**  
**record**

Jemison v Foltz 672 F Supp 1002 E D MICH 1987

Dames v State 807 SO 2d 756 Fla Dist ct app 2002

State v Baker 428 SE 2d 476 NC ct App 1993

**COMMONWEALTH v GILLESPIE**--- 620 A 2d 1143 PA Super ct 1993  
Key issue credibility --failed to call defense character witnesses

**KYLES v WHITLEY 514 US 419 1995**

**STRICKLAND v WASHINGTON 466 US 668 1984**

**PEOPLE v MOORE 716 NE 2d 851 ILL App ct 1999**

**Stouffer v Reynolds 214 F 3d 1231 10th cir 2000**

**Brown v Meyers**

**THE FACTS SIMPLY DETAILED PRECISELY**

**THE FOLLOWING IS TAKEN FROM THE OFFICERS OWN STATEMENTS AND TESTIMONY ----HE FOUND ME, PARKED I sped away traveled 712 feet to end of road Right (EAST)turn up an undeveloped dirt road {311} feet .**

**Quick 180 (west) level dirt rd ( west 140 feet).**

**Right turn (north) into black top parking area { 60 } feet**

**Right (east) turn now RE enter bridge {104 east bound } 327 feet to intersection .NOT 1320 FT AS STATED BY OFFICER**

**Make left onto 104 north bound can see 1020 feet north from intersection til turns to the right barely but you do lose sight of intersection or from intersection this is the point you would lose site of road (not to a degree that would require a reduction of speed no caution signs, etc etc.)**

**This VERY SLIGHT right angle continues {900} feet**

Then it becomes a long straight away 1340 feet (<1/4 mile+)  
When you begin this stretch --- you have a clear view of wheeler  
rd off to the left and is very open

You then come to a slight rise { mound on the road } and  
arrive at the address of 4194 HIGHWAY 104 north the  
remaining (900 )ft  
THE ADDRESS WERE TASING AND ARREST OCCURED  
(approx--30 minutes later --not 10 minutes as stated by officer.)

**MY CONCLUSION AFTER AT LEAST 1500 HOURS OF  
RESEARCHING ---CASE LAW RCW's CONSTITUTION  
ISSUES-----ITS PRETTY SIMPLE  
MY APPOINTED COUNSEL WAS INEFFECTIVE IN THAT  
WE HAD A CONFLICT OF INTEREST**

**---STANDING---WOULD APPLY --ALSO FITS BECAUSE OF MY ON  
GOING ISSUES AND MISTAKES,NOT MINE --THAT CREATED THIS**

*Bowen v state  
Chapman v state  
Cuyler v state  
Rivera v Goodie  
People v Baldi  
People v Droe  
Vasquez v state - Jury Instruction  
Alford v state  
De la Per v state  
Naranjo v state*

*This Are case files that I believe  
have relevance to my case!  
However I'm not An Attorney.*

FATHER TIME }

MORE CASE LAW 6TH amendment

US v CRONIC- 466 us 648,80 l.ed.2d.657,1.40s.ct 2039 [1984]

-COUNSEL entirely failed to subject the prosecutions case to a meaningful adversarial testing .Time, distances , speeds, events over and under exagerations { I am amazed I actually have written statements to the facts he believed took place }

HIGGINS v RENICO 05-1564 11/20/06--Failed to have sound strategy at trial -

never communicated or informed me of what i can do. what he was going to do,

what and how he would present the case . He did go out of his way once came after me to advise me NOT to wear blue jeans to the trial. The judge doesnt like that. [IS that going to keep me out of prison ]

RAMONA v BERGHUIS 06-1852 6/18/07

US v PUGH 03-3241 5/3/05 statement not harmless

KIMMELMAN v MORRISON 477 us.365,91 Led.2d 305,106s.ct 2574 [1986]

ineffective pretrial consultation, investigation,and preperation--duty to investigate

SILVA v WOODFORD 279 f 3d 825 9th circuit [2002]

failed to thoroughly investigate the existance of mitigating factors

SUMMERLIN v SCHRIRO 427.f 3d 623 9th circuit [2005 ]????

A B A STANDARD Criminal justice 4-4.1 counsels duty to explore

The following is a portion of the interview that has certain details that would give weight to my theory and belief

BA —deputy Brett Anglin Jefferson County Sherrif  
BD -Becky Durkey DEFENSE INVESTIGATOR  
SL Steve Lewis DEFENSE COUNSEL

Deputy Anglin Left out some important details on his original arrest report

What he left out happens to be elements that are needed to convict

Deputy Anglin also used a little more force than was needed .I would say HE STEPPED OVER THE LINE

The next morning I went in front of the Judge—5 , charges but they dismissed all .and held me on the warrants \$15000 originally \$1000 and was paid . I called a friend and he posted bond . I know I was tased for no reason . However they dropped those 5 charges so I didn't see a need to pursue the first thing I would have got was the tapes Besides he wouldn't have to pay the people would

anyway THEY ARE PRETTY SELF EXPLANATORY

The one that bothers me the most is page12 —BD CAN'T FIGURE OUT A PICTURE THAT SHE TOOK\_\_STEVE LEWIS MY DEFENSE COUNSEL SAYS" this is the one where you STEPPED OVER THE LINE OFFICER SAY"S LET ME LOOK I WONDER WHAT MY LOYAL DEDICATED ADVOCATE MEANS BY THAT .

page 21— sounds like he turned lights on when I TOOK OFF  
What really gets me . Arrest report says he had to navigate the DIFFICULT TERRAIN MUCH SLOWER RATE by the time he got out of that hard area .he noticed I was already heading north on104, DO THE NUMBERS

BA: I was going to say.

BD: The middle of the road. There is another one that's right from the beginning.

BA: That's where he was found.

SL: Right.

BD: That's the beginning of the road.

SL: This one?

BD: No. Hang on.

SL: I think that's

BD: Which picture is that now, I took it and I can't remember.

SL: Now this is the one where you stepped over the line, this is the driveway I think isn't it?

BA: Here let me look. —

SL: This confuses me. *Great!*

BA: I think is your, this back to, this is this one.

BD: There it is.

SL: This is looking up at the bridge. I think that's the best picture we have of the road.

BD: Okay, so

BA: There's a turn, I think the turn is somewhere right here.

BD: This is this road, which is once you are standing in the middle of it is this road right here. So this one comes up, you know, it's headed up here and then that's the picture looking back down.

BA: And does this part do you have the one that goes up to the bridge then.

Yeah. Yup.

re these pictures numbered?

*Prosecutor Annelly  
Steps in*

*A*

*Great  
they don't even  
know what there  
talking About!*

*I got  
Tased*

BA: I want to say it actually. Oh no. I want to say that it isn't there because I could see him, I never lost sight of him. So with that trailer there I would have thought I would have not have been able to see his car.

SL: Because he would have gone behind.

BA: Correct. So I want to say that it was not there.

SL: Ok.

BD: Oh, right here. This is the other side of this trailer coming up and now they have... because that's where everybody drives through now.

SL: That's where all the guys are parking there, driving back there.

BA: You know, that could have, if that shows that trailer, that does kind of look like that's where he went over. Not We!

BD: That would have been the actually.. I mean that is straight across

BA: Where else would he have gone? Not We!

BD: That is straight

BA: Yeah that's going to be where he went over then. Not We!

BD: This blue thing right here.

BA: Yes.

BD: So just on the other side of the trailer?

BA: That is correct.

BD: So then he would have come around like in #9, he would have come around this area.

BA: Yeah if that. I'll have to stop by and look at it in daylight to make sure.

SL: Take a look, I mean.

BA: I'll have to look because there is no other way. It doesn't look like that. We didn't go into the grass or anything so there is no way we probably would have went this way and there is no it doesn't appear that there is any driveway where the trailer is right now.

SL: No there isn't.

BA: So it's going to be that one.

SL: Now your positive he would have gone

BA: He didn't go in the grass.

BD: He stayed on the road.

BA: Correct.

SL: Okay.

BD: So then he would have come out right there. And then that's a direct shot to the opening onto this road right here.

BA: That would be the same as I observed.

SL: So that would take you to, how many 10s do we have.

BD: We have one 10.

SL: All right, so then on 10 you recognize

BA: I do.

SL: What that is.

*He Entered Bridge 104 and saw me start a Left.*

BA: That would be where he came out of, at that point there was a vehicle stopped right about there, he obviously saw him coming out because he didn't stop or anything he pulled right out into traffic, this guy stopped because of that, um, he stayed there for me when I went by. And then he continued through the red light at the intersection. There was also at that point, I don't know if it was a tanker truck or a milk truck or some type of cylinder 18 wheel truck that was parked at that stopped because of on 104 and Hwy 3 he was heading onto highway 3 from 104.

JC: This would be.

BA: Correct, came through here, went through the red light at a high rate, took a left and then there was a tanker truck that stopped, I don't know if he was already stopped because of the red light or had to stop.

SL: So, what number picture would that be?

BD: That would be #12.

SL: Okay, so the light was red, Bresler comes out here and hangs a left, through the red light? *Attorney states did he not hear what was just said.*

BA: Correct, right in front of the tanker truck.

SL: Right in front of the tanker truck. And when he comes out between the jersey barriers, so there's a car

BA: There might have been more, I just recall one car with lights on, I don't recall what was behind it.

SL: He was coming towards Kitsap?

BA: He was coming yeah towards Kitsap from Jefferson on this way.

SL: You say he stopped?

BA: He was already stopped because Bresler had pulled out in front of him so he hit his brakes and then he could obviously see my lights on because that area was semi open and it was dark out so he stayed remained stopped as I went through.

SL: Did you have sirens on at all?

BA: At the end there, when he took off running from me, yes I did.

SL: When he took off.

BA: Not in the beginning but during the pursuit part of it when he took off, yes they were

SL: So when you guys are tearing up this dirt road you had your sirens going? *we were*

BA: And lights, yes. *Another? you had not turned light on*

SL: All right. So you see he goes through the red light, what do you do.

BA: He was at that point, I mean.. and then by the time I came out of that hard area, he was already starting to turn left onto 104 so I was a considerable distance away and I went as fast as I could, probably about 100 miles an hour through there, by the time there was a corner at 104, I guess this kind of depicts it, the corner here is basically past this it kind of turns even more and that's the area where I lost sight of him and then once I lost sight of him I started believing he either went over 100 miles an hour on 104 or pulled off again onto a side road.

*327 PM  
Back*

*1020 FT.  
Then straighten  
21 2200 FT.*

SL: So you accelerated to 100 miles per hour, you don't see him ahead of you, and so you thought maybe he jumped off down one of these driveways.

BA: Correct, I wasn't going.... if he continued at 100 I wasn't going to continue the pursuit. So I took the second option hoping that he turned into a driveway.

BD: Just for clarification, you said you were going 100 right, when you come out here.. he's a little ways down, can you see him down on highway 3?

BA: I saw him, he lost sight of me a bit at the truck there and um, I would guess he was easily going 80 miles an hour by the time, I mean I finally saw his taillights because I wasn't, in order for me to get to 100 it takes considerable distance because we have the Interception 2. *Now he realized that he could not*

BD: *Do A 100 mph through the*  
Now do you know how much distance it would take for you to get to 100?

BA: It's available online the 0-60 speed but it's not very fast in a Crown DeVille. I know that.

BD: Okay. And do you know how far down on highway 3 you were, like how many miles or how many?

BA: It would have been 104.

BD: I'm sorry, 104.

BA: But I would say, wherever that address is, that was basically where I stopped. He had...

BD: So you stopped right at the address?

BA: No, I was probably about a quarter mile before it, so I was right where he, he was, but I didn't continue any more because I was worried that he possibly could be armed and I was waiting for other units to respond so we could attempt to look at side streets to see if he, he pulled off, and he had a dog with him, a German Shepard, which I didn't want to deal with myself, so.

BD: Okay.

BA: A large dog.

SL: I've got a question, I'm sorry to back track,

BA: Sure.

*Brotherhood  
the  
first  
time*

*Now he doesn't want  
to deal with dog -  
But he did ever earlier.*

*will  
plain*

SL: Back when you go and you first pull off on the bridge, whatever it's called, Bridgeway, um, before you step out of your car, do you make any kind of radio call?

BA: I did, I notified them that, you know I don't recall if I told them that I was there but I told them I believe that I was stopping at that time.

*oops better rethinking this one!*

SL: Is that standard operating procedure?

BA: It tries to be, the problem is this was more amplified because knew he was trying to run from me in a sense and he had a warrant out for his arrest. Based on my training, I've had that quite a few times where they pulled off quick on the side of the road and especially on a dead end street, he lived in Sequim, so at 3:30 in the morning unless he was delivering papers, it's pretty uncommon for somebody to pull down a dead end street in different county. So I would assume at that point that he was running from me and I also assumed that he was actually armed. So when he stopped right away in the middle of the road, it basically kind of surprised me so I don't know if I, I probably did not get on the radio right away, you tend to just park and get out right away so you are not sitting in your car.

SL: So you don't think you got on the radio?

BA: At that point, I don't believe so, you know I'm not sure. I know I advised them that I wanted them to be looking for me after the fact and I they knew that I was going to be stopping. I informed the, I believe I had told dispatch that would stop in the area of Bridgeway because I called it out way before hand.

SL: That's what I am trying to get at, you definitely made a radio call while you were on the bridge?

BA: Oh, yeah, because I had already confirmed the warrants and whatnot through JeffCom. They were aware and if I called out the stop it would have been

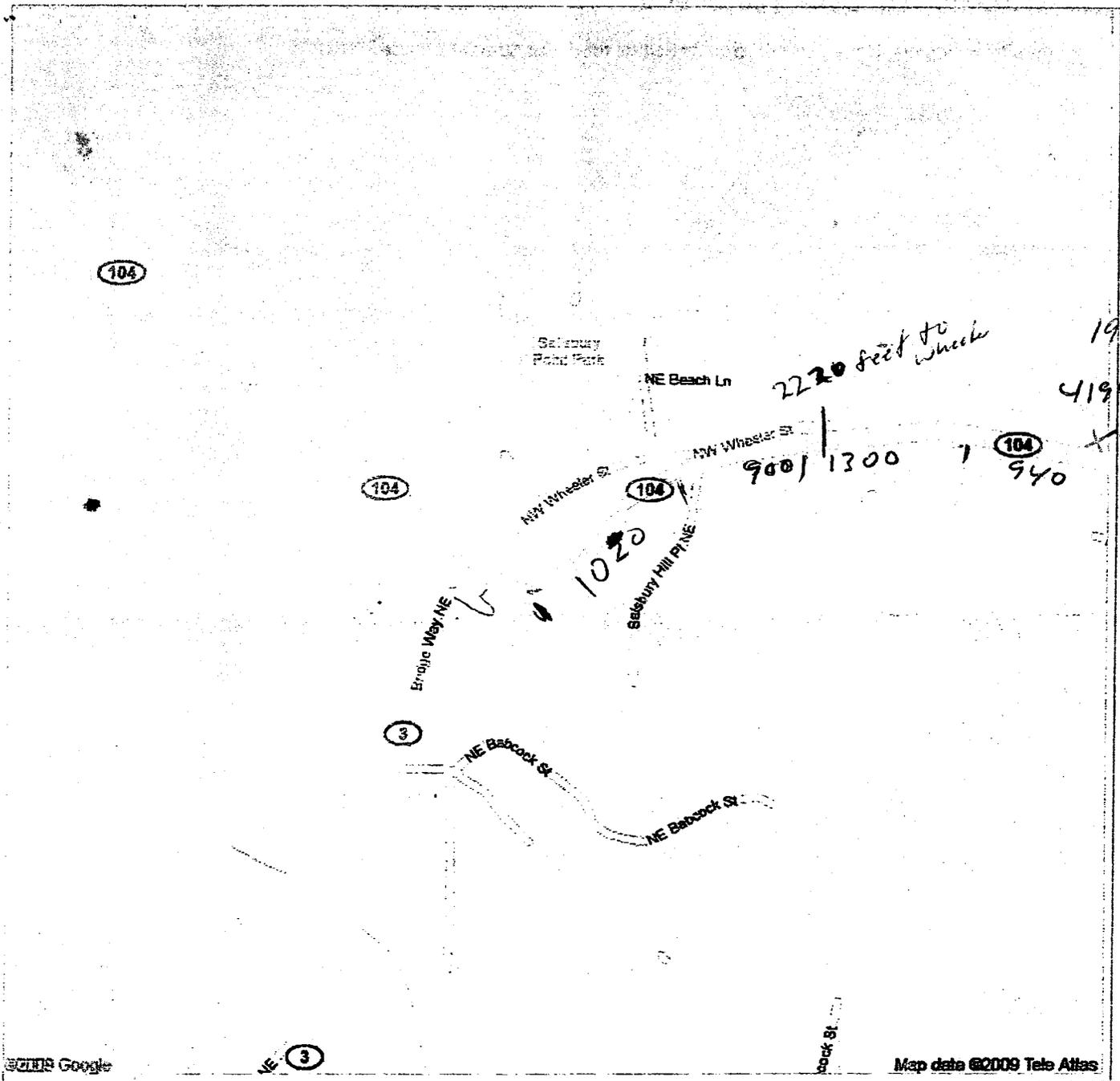
SL: Because that is just one thing that I am confused of. Maybe we just don't have the whole thing. At least it confused me. So when I am reading that, I just got the sense that this kind of starts right in the middle of the case.

BA: Basically you start, yeah, because they don't start a case number until it's confirmed basically a criminal action so if this would have been a basic traffic stop and it wouldn't have been Bresler, none of this would even be on here.

SL: Okay.

BA: So basically it started, I believe I told them already, this is the dispatcher notes is what you are looking at, so right there your looking at likely that they already knew that I was going to stop him at that area and requested another unit and then um,





W

ASCEND

Map data ©2009 Tele Atlas

SABURY HILL

10201

104

104

3

820

327

60°

34

712



104

<b>EXIT {RIGHT} from bridge -to bridgeway</b>	<b>-830 feet</b>
<b>Right turn around corner</b>	<b>100 ft</b>
<b>Bridgeway to bottom of dirt road</b>	<b>712 ft</b>
<b>Dirt rd bottom to top</b>	<b>311 ft</b>
<b>(this area questionable if unfamiliar it does not appear to go anywhere .It does connect properties from private to bridge access ,but sight is limited (this area is not visable to or from bridge til the top )</b>	
<b>180 switch back on top lot — to the left ( Still dirt area— but level to bridge ) this area is visible to &amp; from bridge</b>	<b>140 ft</b>
<b>right turn into paved area , access to bridge</b>	<b>61 ft</b>
<b>enter bridge ,right, to intersection</b>	<b>327</b>
<b>intersection to north 104, view &amp; distance then road vers right, still allows vision ahead</b>	<b>1020 ft</b>
<b>example — (no speed limit reduction required)</b>	<b>900 ft</b>
<b>now it becomes a straight away also area opens up very visible -cleared wheeler road turn off on left unobstructed view from 104from quite a distance back est—1300 ft— based on these facts</b>	<b>1300 ft</b>

Road slightly mounds on HWY 104. The double drive way at 4194 highway 104 .is located here. This remaining distance is **820 ft**

## **SUMMARY**

<b>Distance —paved access <u>TO</u> intersection</b>	<b>327 ft</b>
<b>Distance —intersection to 4194 hwy 104 is</b>	<b>4040 ft</b>
<b>Distance— bridgeway to top of dirt rd</b>	<b>1023 ft</b>
<b>(This is where alledged pursuit began</b>	
<b>Distance—top dirt area and paved access</b>	<b>201 ft</b>
<b>TOTAL DISTANCE of alledged pursuit</b>	<b>5591 ft</b>
<b>( AS I UNDERSTAND IT)</b>	

**NOTES THE FIRST 1023 FEET he get back into police car LIGHTS GOING  
radios vehicle is attempting to elude, already behind me as I go up dirt road  
I jump some kind of embankment onto bridge , then SEE'S blackie hit the ceiling of car  
see's me RECKLESSLY CUT in front of a car —that also waited for him to go by ,and I was  
just turning left at intersection —RUNNING RED light —327 feet in front of him , lights and  
sirens going . HE is going 100mph through there, in pursuit , just 327 feet behind and  
then , WHAT?**

**TIME----- DISTANCES---SPEEDS ---MATHEMATICS**

**HOOD CANAL BRIDGE FACTS TAKEN FROM -W S D O T**

**HOOD CANAL BRIDGE IS A TOTAL OF -7,869- FEET LONG  
(36 FEET SHY OF -1 1/2 MILES DISTANCE )**

**MID SPAN OR HALF WAY POINT BEING 3934.5 FEET  
(25.5 feet shy of 3/4 MILE)**

**CONVERSION BREAKDOWN FOR MORE ACCURACY**

**1/10 MILE ===528 feet  
1/4 MILE =====1329 feet  
1/2 MILE =====2640 feet  
3/4 MILE =====3960 feet  
1 MILE =====5280feet**

**F P S ---FEET PER SECOND ---CONVERSION**

**BASED ON 60 MPH YOU WILL TRAVEL 1 MILE EVERY  
60 SECONDS OR 60 MILES EVERY HOUR  
EQUIVALENT TO -88 FEET PER SECOND**

**15 MPH===22 FPS**

**30 MPH ===44 FPS**

**45 MPH===66 FPS**

**60 MPH ===88 FPS**

**75 MPH===110 FPS**

**90 MPH===132 FPS**

**105 MPH===154 FPS**

**120 MPH ===176 FPS**