

## STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

The appellant, David Sandholm respectfully submits the following points that he believes constitute grounds for appellate review for the proceeding; STATE OF WASHINGTON V. DAVID LEE SANDHOLM, case no. 38772-7-11.

The appellant respectfully asks this court to review these issues but more importantly he asks that this court find that his appeal attorney erred in not finding one issue for review and that the court assign new appeal counsel to review the record and, if appropriate, raise these and other issues before this court.

1- The defendant requested and stated to his attorney and the court, his desire and ability to hire a private attorney. This ability do hire a private attorney prior to trial was verified by the defendant's step-father, Mr. David Knadle who had agreed to loan him the money and who was available at that time and throughout the trial.

A-The trial court's refusal to allow the defendant to retain private counsel severely damaged the defendant's and his assigned counsel's ability to properly prepare for this trial as each assumed this request would be granted and that further preparation by an attorney who would most likely not be a participant was a waste of both of their time and resources.

B-The defendant is aware of no legal precedent that would justify this denial of his right to retain an attorney of his choosing.

C- The court was under no pressure from speedy trial law, either CrR3.3 or 6<sup>th</sup> amendment rules that would justify this refusal. The defendant had signed speedy trial waivers and had expressed an willingness, if not a desire to sign further waivers. The defendant had a \$25,000.00 cash bond posted and was in compliance with the conditions on that bond. The defendant had not missed any court dates and had no history of bail jumping despite being out on bail and facing stiff prison terms on several occasions in the recent past.

D- The court stated at the time, "Judge Culpepper heard the motion to continue today, He denied it; sent it to me." This statement is absolutely false as it relates to the request to hire counsel and yet was used as the primary reason to deny me my right to hire private counsel.

E- This denial of the defendant's right to hire private counsel forced the defendant to make a 'Hobson's choice' of going to trial with an attorney that had told the court that he was un-prepared, had not filed a single pre-trial motion, had not submitted any jury instructions and who had told the defendant numerous times that, "there is no way this trial is going to start today."

F- This issue of un-preparedness came up repeatedly during the trial and at many points the defendant's counsel stated to the court that he was very un-prepared for trial.

2- The denial of the court to allow the defendant access to the 911 call from Mr. Rickbiel, who despite all the other testimony allowed in court, was the only witness and the only evidence that the defendant had, "entered a property with the intent to commit a crime."

A- The prosecution stated time and time again that all it had to prove was that the defendant, "entered a property with the intent to commit a crime." Mr. Rickbiel stated in his on-going 911 call that he was watching someone steal items from the St. Vincent DePaul. Mr. Rickbiel stated several times in his testimony that he never saw anyone steal anything from the St. Vincent DePaul. Mr. Rickbiel also stated during the 911 call that he saw the defendant stripping wire, building a fire, hiding items and arguing with someone. No evidence to support any of these claims was ever produced and Mr. Rickbiel himself never offered any testimony to support any of these claims. These inconsistencies were critical to the defense yet the defense was not allowed access to the record of the 911 call or the CAD report and therefore could not point out this inconsistency to the jury.

B- The denied continuance by Judge Culpepper, referred to earlier as the reason for the denial of the defendant's request for a continuance to retain private counsel was actually a denial of a continuance to allow the defense access to this record. Therefore this denial by Judge Culpepper was not only used to deny the defendant access to that very important record, but was then cited as the reason to deny him the opportunity to retain counsel.

3- The courts insistence on holding this trial at this particular time when the defense had not filed any discovery, jury instructions, 3.5 hearings or depositions, and had made clear to the court that it was very un-prepared for this trial at that time.

A- Throughout the proceeding, the judge made several remarks that clearly showed that he was more interested in getting this trial done than he was in holding a fair trial.

B- Allowing the defense 45 minutes to obtain evidence from the state that had only been introduced on the final day of trial was just one of many times fairness was thrown out for the sake of completing this trial on his schedule. The defense tried to obtain that evidence during that 45 minutes but was denied by the state's evidence room. A simple continuance for one day would have allowed access to this evidence. The judge's ruling that, "this trial is going to end today", is clear evidence that expediency far outweighed fairness to this judge.

4- Allowing rebuttal testimony by the prosecution that did not rebut anything but offered many un-related circumstantial incriminations at the very end of the trial.

A- The testimony regarding the condition of the hose both in the possession of the

defendant and inside the fence was not in rebut to any testimony by the defense and was completely irrelevant as the prosecution never offered any evidence that the defendant had stolen any hose.

B- The states only witness who claimed to have watched the defendant during this entire episode admitted that he never saw the defendant steal anything. This so-called rebuttal testimony was very damaging to the defense and should not have been allowed, with or without objection from the defense counsel.

5- The in-effectiveness of the defense counsel who was not only appointed by the state but whom the defendant was forced to accept despite his pleas to be allowed to retain his own counsel and who admitted on several occasions that he was completely unprepared to go to trial at the time of trial.

A-This lack of effectiveness and preparation is clear and very detrimental to the fair trial process in many ways and at many times but most notable to the defendant is the lack of pre-trial motions, jury instructions, depositions, discovery, witness interviews and lack of request for the jury to be allowed the opportunity to consider a lesser crime, such as trespassing.

B- This lack of effectiveness and preparation was clear and consistent during the trial and was very detrimental to the defense in many ways, most notable in not introducing the distance from the state's only witness to the scene of the supposed crime, which the state inferred was about 500 feet when the actual distance was closer to half a mile, not objecting to any of the unrelated testimony by the state, not objecting to the rebuttal testimony that rebutted nothing, not producing the hose that was in the possession of the defendant to show that it was completely worthless and not something that even the St. Vincent DePaul would sell, and by not once questioning the reliability of the state's only eye witness.

## APPEAL PROCESS

1- That the defendant's assigned appellate attorney, Sheri L. Arnold has failed to adequately represent the defendant by filing an appeal concerning sentencing only.

A- Ms. Arnold has refused to communicate with the defendant during this process other than to ask him what he wanted to achieve with this appeal. To that question, the defendant clearly stated that he thought his trial was grossly unfair and that he wanted to seek a new trial.

B- The defendant's trial attorney told him that there were several appealable issues that needed to be addressed, including but not limited to his own in-effectiveness.

C- It does not seem reasonable that an experienced appellate attorney could read the transcript from this or almost any trial and not find one appealable issue.

D- In this statement of additional grounds for review the defendant has raised several points that he believes constitute clear grounds for review, yet Ms. Arnold has failed to mention even one.

E- For the judicial system to function properly, the defense counsel must, at the least, maintain an adversarial process; 'U.S. v. Cronie'. Ms. Arnolds failure to bring up or argue even one point for review of this trial constitutes a complete breakdown of the adversarial process.

F- In almost all higher profile cases, handled by very much more experienced lawyers and courts with years to prepare, points for review are found. Death penalty cases especially. It is inconceivable that in a case where the defense counsel told the court prior to and during the trial of a defendant who was consequently sentenced to more than four years in prison for **allegedly poking a stick over a fence**, that he was unprepared for trial, that Ms. Arnold could not find one issue on which to seek review.

G- The defendant feels strongly that the trial judge would not have allowed him to remain free on bail pending appeal if he himself believed there were no appealable issues to be reviewed by this court.

## CONCLUSION

The defendant respectfully asks that this court rule on the above points and conclude that there were several errors of law which occurred throughout this process, from pretrial through sentencing, that these errors made a fair trial impossible, and that these errors constitute grounds for a new trial consistent with the rulings of this court.

The defendant further asks that this court find that Ms. Arnold's failure to find and/or raise even one of these issues or others that would be apparent to a non-layman like myself does not meet the requirement of providing effective counsel and is therefore grounds to have a new appellate attorney assigned and to continue the appellate dates to accommodate time for that new counsel to review and file a proper appeal