

July 2, 2009  
Case # 282015 is hereby  
consolidated with # 278298.  
Drend S Jowneley  
Clerk

FILED

JUN 25 2009

COURT OF APPEALS  
DIVISION II  
STATE OF WASHINGTON  
By: [Signature]  
No. 282015



COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION III

2005-1-00056-7 -  
No: ~~24271-4-11~~

PERSONAL RESTRAINT PETITION

40063-4-II

Paulette Melville  
Petitioner.

If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of this form and other papers you are attaching before you sign this form in front of a notary.

A. Status of Petitioner

I, Paulette M Melville, apply for relief from confinement.  
PLCCW-unit 1-0-10  
P.O. Box 300 Medical Lake, Wa. 99022  
(full name and address)

I am  am not  now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order:  
\_\_\_\_\_  
(identify type of order)

- The court in which I was sentenced is Stevens County Superior  
COURT
  - I was convicted of the crime(s) of POSS. w/ Intent to Dist. Oxycodone  
POSS. of Morphine, POSS. of Meth, POSS. of Marijuana (misd)
  - I was sentenced after trial  after plea of guilty  on July 08, 2005  
(date of sentence)
- The judge who imposed sentence was Honorable Judge Rebecca Baker  
(name of trial court judge)

4. My lawyer at trial court was Ronnie Rae 1208.W. Broadway  
Spokane, Wa. 99201  
(name and address if known; if none, write "none")

5. I did  did not  appeal from the decision of the trial court. (If the answer is that I did), I appealed to Court of Appeals

and Supreme Court

(name of court or courts to which appeal was taken)

My lawyer on appeal was ERIC Browman 1908 E. Madison  
Seattle, Wa. 98122

(name and address if known; if none, write "none")

The decision of the appellate court was  was not  published. (If the answer is that it was published, and I have this information), the decision is published in \_\_\_\_\_

(volume number, Washington Appellate Reports or Washington Reports, and page number)

6. Since my conviction I have  have not  asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked) the court I asked was Stevens County Superior

Court for DASA sentence

(name of court or courts in which relief was sought)

Relief was denied on December 31, 2008

(date of decision or, if more than one, dates of all decisions)

7. (If I have answered in question 6 that I did ask for relief), the name of my lawyer in the proceeding mentioned in my answer to question 6 was

None

(name and address if known; if none, write "none")

8. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case,

tell about it here: my case involves Jury Tampering (Coersion)  
With Juror #5 John Kloster.

Stevens County denied my Dosa Motion and I believe  
the decision is prejudicially biased.

B. Grounds for Relief

(If I claim more than one reason for relief from confinement, I attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc.). I claim that I have 8 reason(s) for this court to grant me relief from the

(number)

conviction and sentence described in Part A.

\_\_\_\_\_ Ground

(First, Second, etc.)

1. I should be given a new trial or released from confinement because [Here state legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement.]:

Jury Coercion, Spousal privilege, Jury instruction, Fact Issue, Ineffective Assistance of Counsel, Recusal of Judge, Suppression of Evidence,

2. The following facts are important when considering my case [After each fact statement, put the name of the person or persons who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that also.]: The 14<sup>th</sup> amendment.  
See attached  
Affidavits,

3. The following reported court decisions [include citations if possible] in cases similar to mine show the error I believe happened in my case [If none are known, state "None known".]:

Pine Lodge does not have any legal information or case law available for me to cite. I desperately need a lawyer to help me with this PRP.

4. The following statutes and constitutional provisions should be considered by the court [If none are known, state "None known".]: The 14<sup>th</sup> amendment and Wash. Article I Section 22 "Due process" and Fair trial.

5. This petition is the best way I know to get the relief I want, and no other way will work as well because I have exhausted my remedies

### C. Statement of Finances

If you cannot afford to pay the filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form.

1. I do  do not  ask the court to file this without making me pay the filing fee because I am so poor I cannot pay the fee.
2. I have \$ 0 in my prison or institution account.
3. I do  do not  ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer I am incarcerated at PLECW and there is NO legal information or legal resources available here.
4. I am  am not  employed. My salary or wages amount to \$ 0 a month. My employer is \_\_\_\_\_  
(name and address)
5. During the past 12 months I did  did not  get any money from a business, profession or other form of self-employment. (If I did, it was \_\_\_\_\_ and the total income I got was \$ \_\_\_\_\_)  
(kind of self-employment)

6. During the past 12 months, I

did  did

~~X~~ <sup>not</sup> get any rent payments. If so, the total amount I got was \$\_\_\_\_\_.

~~X~~ get any interest. If so, the total amount I got was \$\_\_\_\_\_.

~~X~~ get any dividends. If so, the total amount I got was \$\_\_\_\_\_.

~~X~~  get any other money. If so, the amount of money I got was \$20<sup>00</sup>.

7.  ~~X~~ have any cash except as said in answer 2. If so, the total amount of cash I have is \$0.

~~X~~  have any savings accounts or checking accounts. If so, the amount in all accounts is \$82<sup>00</sup> (Prison money)

~~X~~ own stocks, bonds, or notes. If so, their total value is \$\_\_\_\_\_.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
<del>0</del>	

9. I am ~~X~~ am not  married. If I am married, my wife or husband's name and address is \_\_\_\_\_

10. All of the persons who need me to support them are listed here.

Name and Address	Relationship	Age
N/A Due to incarceration		

11. All the bills I owe are listed here.

Name of creditor you owe money to	Address	Amount
Court fines		unlimited and unknown

I want this court to:

- vacate my conviction and give me a new trial.
- vacate my conviction and dismiss the criminal charges against me without a new trial.

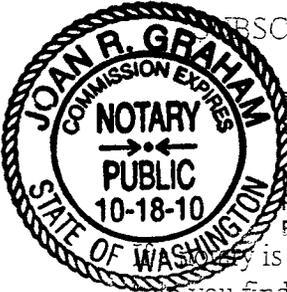
other: \_\_\_\_\_  
(specify)

E. Oath of Petitioner

THE STATE OF WASHINGTON )  
 ) ss  
COUNTY OF Spokane )

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

Paulette Melville [sign here]



SUBSCRIBED AND SWORN to before me this 11<sup>th</sup> day of June, 2009.

Subscribed before me this 11<sup>th</sup> day of June 2009  
Signed Joan Graham  
Joan Graham  
Notary Public in and for the State of Washington  
Residing in Spokane, in the county of Spokane  
Expiration Date: 10-18-10

Joan Graham  
Notary Public in and for the State of Washington,  
residing at Spokane County

If any notary is not available, explain why none is available and indicate who can be contacted to help you find a notary: \_\_\_\_\_

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

Dated this 11<sup>th</sup> day of June 2009.

Paulette Melville [sign here]

FILED

JUN 25 2009

COURT OF APPEALS  
DIVISION II  
STATE OF WASHINGTON  
By: *[Signature]*

RECEIVED

282015

COPY ORIGINAL FILED

APR 22 2009

STEVENS COUNTY  
PROSECUTING ATTORNEY  
SUPERIOR COURT  
STEVENS COUNTY, WA

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

STATE OF WASHINGTON, )  
Plaintiff, )  
vs. )  
PAULETTE M. MELVILLE, )  
Defendant. )

Cause No. 2005-1-00056-7

AFFIDAVIT OF JOHN KLOSTER

JOHN KLOSTER, being first duly sworn under oath deposes and states as follows:

I am a resident of Stevens County living in the Chewelah area. I deliberated on the jury that was empanelled in the matter State v. Paulette Melville. I got a message that I was contacted by way of two phone calls from Mr. Simeone on or around April 15<sup>th</sup>. I returned his call on April 18<sup>th</sup> and told him about the regret I had about the jury deliberation process. In particular, I advised Mr. Simeone that my vote as well as the vote of two other jurors was to acquit Ms. Melville of the charge of Possession with Intent to Deliver Oxycodone, Possession of Morphine and Possession of Methamphetamine.

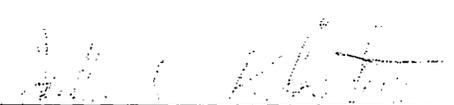
I know when polled I told the court my vote was to convict. I did that for reasons that follow:

That night when I was deliberating, as the day grew long, the disposition of those jurors who wanted to convict Ms. Melville became very unpleasant. At around 10:30 p.m. the atmosphere was tense, almost unbearable. I no longer felt I was participating in a collegial process. Rather, I felt as though I was being coerced and harassed into changing my vote from not guilty to guilty. My honest opinion was to acquit Ms. Melville. Because of the pressure I was receiving, I at one point changed my vote thinking that the other two jurors on the side of

1 acquittal would hold out for a while and give me an opportunity to join forces with them again  
2 after they expressed their positions to the other jurors. The three of us were feeling like we  
3 couldn't persuade the others to our position. However, as soon as I let the other jurors know that  
4 I would change my vote, the two jurors who were holding out with me, one juror from  
5 California, and one Ms. Philpot, almost immediately caved in on their position. It is my own  
6 feeling that they gave in against their will as did I.

7 I have lost a couple of nights sleep thinking about how I let my honest opinion be  
8 surrendered to the majority of the jurors who were voting to convict Ms. Melville. As it is, it is  
9 my belief that the jury deliberations were irregular and unfair. I do not believe Ms. Melville was  
10 guilty of some of the charges for which she was convicted.

11 DATED this 27 day of April, 2005.

12  
13   
14 \_\_\_\_\_  
15 JOHN KLOSTER

16 SUBSCRIBED AND SWORN to before me this 27 day of April, 2005.

17  
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19 \_\_\_\_\_  
20 NOTARY PUBLIC in and for the  
21 State of Washington, residing  
22 at Seattle

23 My Commission Expires: 5/1/07  
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FILED  
IN SUPERIOR COURT  
STEVENS COUNTY  
JUN 7 2 19 PM '05  
PATRICIA A CHESTER  
COUNTY CLERK

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

STATE OF WASHINGTON, )  
Plaintiff, ) Cause No 2005-1-00056-7  
)  
vs )  
) **SECOND AFFIDAVIT OF JOHN KLOSTER**  
)  
PAULETTE M MELVILLE, )  
Defendant )

**JOHN KLOSTER**, being first duly sworn under oath deposes and states as follows

I submit this affidavit in clarification of that which I previously submitted in support of Paulette Melville's Motion for New Trial

My understanding from those who attended the hearing on Ms Melville's Motion for New Trial is that the court was concerned about the way I expressed myself in my previous affidavit. In particular, it is my understanding that the court felt that I minced words when in my affidavit I stated I "felt" that I was being coerced.

For purposes of clarification I will say I used the term "felt" to mean I was coerced. I did not only feel I was coerced, I was coerced into changing my vote from not guilty to guilty. Maybe an hour before I did change my vote I was visited in the jury room by some representative of the court. The distinct effect upon me of that visit was that we had to finish our deliberation fast because it was getting late. At that point the pressure from other jurors became unbearable for me and I was coerced into giving up my honest opinion by other jurors voting to convict, too.

Therefore in response to the parsing of my syntax, I will only say that the court should read that previous affidavit as affirmatively stating that I changed my vote based upon the

85

coercion of my fellow jurors to make me change my vote. An injustice has been done here. In almost every sense of the word this was an injustice. Ms Melville has been prejudiced as a result of the way the jurors coerced me into changing my vote. That pressure continued through the time the jury was polled and I once again said that my vote was guilty. The pressure was at that time existing so as to make me say that my vote was "guilty" and at that guilty was the verdict of the jury.

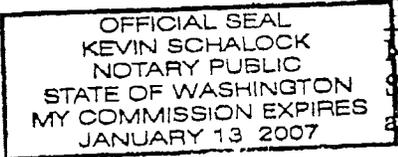
I also understand that there was some uncertainty in the court's mind as to which of the convictions I claim were the result of coercion. My answer to this is that my vote as to all of these convictions was the result of coercion. As to my last statement in my first affidavit where I stated I do not believe Ms Melville was guilty of "some" of the charges for which she was convicted, what I meant was the felony convictions at trial. It is these convictions, the felony convictions, to which the reference "some" was directed. The conviction which wasn't a part of my thinking was the misdemeanor conviction for Possession of Marijuana.

I hope this affidavit clarifies that I cast my vote on the basis of coercion and that I surrendered my honest opinion as a result of coercion.

I would be willing to provide the court with an oral statement to this effect as necessary.  
DATED this 3 day of <sup>June</sup>~~May~~, 2005

  
\_\_\_\_\_  
JOHN KLOSTER

SUBSCRIBED AND SWORN to before me this 3 day of <sup>June</sup>~~May~~, 2005

  
\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington, residing  
at Chehalis  
My Commission Expires 1/13/2007

FILED  
IN SUPERIOR COURT STEVENS COUNTY  
JUN 14 2005  
PATRICIA A CHESTER  
COUNTY CLERK

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

STATE OF WASHINGTON,  
Plaintiff,

vs

PAULETTE M MELVILLE,  
Defendant

NO. 2005-1-00056-7

DECLARATION OF AMANDA DAHLEN

ROBERT A SIMEONE

ATTORNEY AT LAW  
300 E BIRCH AVE \* PO BOX 522  
COLVILLE WA 99114-0522  
(509) 684-5847

00150

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June 4, 2005

I swear under penalty of perjury and penalty of the law what I'm about to write is true.

I, Amanda Dahlen am responsible for anything that was located in my bedroom at 3941 B Hwy 292, Loonlake, WA. I sold and used meth. I also used marijuana and meth and oxy's. My safe had my grandma's marijuana and med's inside of it. I am the only person who had any access to my safe. Nobody had the code but me, I changed my code frequently. The reason my grandma had a key to my room was because the landlord had done work on our pipes in the basement and my room was the only way to access the basement. The pills that were found in the vent only me and Willy knew about. There was a deal worked with Cory and we got them. They were hidden from everybody. My mother - Paulette Melville - was unaware of the drugs and drug paraphenila in her home. She had actually kicked me out Feb 23<sup>rd</sup> because she didn't want it around at all. I snuck back in at about 3 or 4 am when everybody was asleep. She had no idea I was even in her home. All the phone →

Calls that were made through out the day couldn't of been my mom. She attended school from 9:30 am to about 6 pm. She would be gone all week long. That was all probably me or the other young girls who also live in the home. Kelley Dahlen and Rachelle Brown. We are all teenagers and we have many friends. That's why their would be traffic at our home. We run in and out all teenagers do.

Most of the t.v.'s and electronics located at the house were mine all stuff that i've had. The list of names of money owed that's mine. It was a black Snoics pad from Staples "I think." I'm not positive where it was from but it was mine.

The day I was arrested I said whatever I could cause I really didn't want to go to jail. I made a lot of false ~~statements~~ statements to detective Erdman. I had about 3 hours of sleep in about 5 days. I was unaware of what I was saying.

Thank you for your  
time,

X Amanda Dahlen

01.18.87.

Amanda Dahlen

**FILED**  
IN SUPERIOR COURT  
STEVENS COUNTY

JUN 7 2 19 PM '05

PATRICIA A CHESTER  
COUNTY CLERK

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

STATE OF WASHINGTON,  
Plaintiff,

vs

PAULETTE M MELVILLE,  
Defendant

NO 2005-1-00056-7

WILLIAM MELVILLE STATEMENT

WILLIAM MELVILLE STATEMENT

ROBERT A SIMEONE  
ATTORNEY AT LAW  
300 E BIRCH AVE \* PO BOX 522  
COLVILLE WA 99114-0522  
(509) 684-5847

Mr. Robert Simpson

5/28/05

I swear under the penalty of perjury, that what is written here is a true statement.

On the night of February 20<sup>th</sup> I found my wife Paulette Melville with another man at her mother's house. Later that night I was pulled over and taken to jail for negligent driving & driving Suspended. When I was pulled over I ingested a substantial amount of Methamphetamine, which altered my judgement.

When I was taken to the jail, I was given a U.A. which came up positive for Meth, Oxycodone & marijuana. I was very upset with my wife and in a few hour rage I made up lies to put her in jail. I knew that there was meth, pills & money in the house. So I told Detective Edmore at the jail that every thing was my wife's. The truth is

that the meth was her daughter  
Anandis. She was getting out of the  
house. It was not Paulette. The money  
found there was in fact her mother's  
(Georganne Dabed) from a settlement  
check she received months prior.  
The prescribed pills were also her  
mother's (Georganne) because of a prior  
neck surgery she endured.

I feel very guilty and ashamed  
of these lies, and now I am trying  
to make things right. I am sorry for  
telling these lies and please accept  
this letter as atone statement,  
because it is.

Signed

William J Melville

DATED this 21 day of June, 2005

William J. Melville  
WILLIAM MELVILLE

SUBSCRIBED AND SWORN to before me this 21 day of June, 2005

Brenda L. Keller

Notary Public  
State of Washington  
BRENDA L. KELLER  
My Appointment Expires Jul 15, 2008

NOTARY PUBLIC in and for the  
State of Washington, residing  
at Hunter  
My Commission Expires 7/15/08

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AFFIDAVIT OF WILLIAM MELVILLE

ROBERT A SIMEONE

ATTORNEY AT LAW  
300 E BIRCH AVE \* PO BOX 522  
COLVILLE WA 99114-0522  
(509) 684-5847