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WASHINGTON STATE COURT OF APPEALS  
DIVISION TWO

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COURT OF APPEALS

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STATE OF WASHINGTON

BY Cm

NORMAN WHITTIER,  
Appellant,

V.

STATE OF WASHINGTON,  
Respondent.

NO. 40066-9-II

APPELLANT'S STATEMENT  
OF ADDITIONAL GROUNDS

(RAP 10.10)

I, Norman Whittier, have received and reviewed the brief that my attorney prepared and submitted. I have submitted the following statements to be considered by this court when the court considers the merits of my appeal.

What happened is that the alleged victom, Kerri Connelly, (hereafter Ms. Connelly), along with the witnesses Mr. Neal and Mr. McDonald were at a house on the peninsula and they accessed information about my past crimes on the computer. Ms. Connelly was at my house earlier in the evening, but I kicked her out and that's when she and the others went to the house on the peninsula, and they were looking on the computer, and they saw my prior convictions, and they saw that I had to register as a sex offender, and I think it's pretty clear from their statements that they became very fearful of me.

I think that finding out that I was a sex offender with a violent past caused Ms. Connelly to exaggerate about what happened between me and her on the night of the assault. I also believe that the information about my past caused Mr. Neal and Mr. McDonald to exaggerate their version of what happened between me and Ms. Connelly.

Three weeks before all of this happened, Ms. Connelly was in her room at my house, and I was sitting in the living room when she yelled to me that one of her teeth had just fallen out. At trial, my attorney presented evidence showing that Ms. Connelly had been to the dentist in June to have an abscessed tooth drained. Ms. Connelly's claim that I knocked her tooth out is simply not true. Her tooth fell out weeks before, and I did not have anything to do with her tooth falling out. My attorney was given a calendar in which Ms. Connelly had written down the dates and times for her medical and dental appointments for the months from January to September, 2005. The calendar shows that she had issues with her teeth well before I slapped her.

There were a number of times that Ms. Connelly took my prescriptions and filled them without my permission. I later found out that she was trading my medications and selling them so that she could get heroin for her personal use.

In June, 2005, Ms. Connelly went to Tacoma General Hospital to get medical treatment because a large hole had formed in her shoulder as a result of an infection in her mouth that caused puss to drain down into her shoulder.

In August, 2005, Ms. Connelly and I got into an argument because I found some hypodermic needles in the bathroom medicine cabinet. I told her that I wanted this stuff out of my house because I could lose my house if the police ever found the needles and stuff in my house. I ended up telling her that I wanted her to move out of my house. She went to live with a neighbor who lived down the street from me. After a few days, she called me and asked me to take her to buy some drugs. I agreed to take her to get her drugs. While taking her to buy drugs, she convinced me to allow her to move back in with me. I wanted to tell her no, but I could not make myself tell her that she could not live with me.

After moving back in with me, Ms. Connelly took it upon herself to invite Mr. Neal to come stay at my house, too. I did not mind him sleeping out in my van, and I even moved a mattress into the van so that he could sleep there. I ended up getting into an argument with Ms. Connelly about this, and I went for a walk around the block to calm down.

When I got back from my walk, Ms. Connelly and Mr. Neal were in the red truck, about to leave. I planned on using the truck the next day, but the truck was in Ms. Connelly's name, that way, if she got in an accident, I would not be responsible. They ended up leaving in the truck. The next day I told Ms. Connelly that I wanted her and her friends out of my house. I took all of my keys back from her. too. She went to live with the neighbor down the street again.

The next day, I went to the neighbor's house to let Ms. Connelly know that I needed to use the red truck for work, and she started yelling at me. She said that since the truck was in her name I could not use it. That's when I slapped her. She started calling me names, and accusing me of sneaking through her personal belongings. We were standing in the front room of the house, with a large table between us. She was yelling at me and I was yelling at her, and she started pounding her fists on the table. Then she started to beat herself with her own fists. Then she started pounding the table again, and her hands were bleeding from hitting the table so hard. When she saw that her hands were bleeding, she started smearing blood from her hands onto her face.

She then went into the bathroom and put water in her hands and started throwing the bloody water on the bathroom walls. This is why the evidence photos show blood on the walls. I was never in the bathroom with her, and I did not hit her in a way that caused her to bleed. All I did was slap her one time, and the slap was not forceful enough to cause her to bleed, and I definitely did not strike her hard enough to cause her teeth to come out of her mouth. When I left the house, Mr. McDonald and Ms. Connelly were in the bathroom together, they were arguing about the blood on the walls of the bathroom.

I returned to my house and went to sleep. When I awoke, I found a card with contact information for Pierce County Police. I called the number on the card, but I was not able to find out why the card was left at my house. I decided go to the police station to turn myself in for slapping Ms. Connelly. This was on September 13, 2005.

When I arrived at the police station, I was made to wate over an hour before an officer came over and arrested me. I told the officer that I had gotten into an argument with Ms. Connelly, and I thought that that was what the police wanted to takl to me about. I said this to Deputy Decker when I was being booked into the jail. It was not until I was at the booking desk that I was read my miranda rights.

I believe that my rights to a fair trial were violated when the judge allowed Deputy Decker to testify about statements that I made to him before my rights were read to me. Deputy Decker testified that I told him that I had beat Ms. Connelly up. He also testified that I told him that I was going to go back and do it again. I did not say these things to Deputy Decler. I told him that I had an argument with Ms. Connelly, and that I felt that I was going to be unfairly accused of doing more than I had actually done. I believe that Deputy Decker's testimony caused the jury to think that I had admitted to beating Ms. Connelly, and that's not what happened.

I also believe that my rights were violated, and that I received an illegal when the sentcing court relied on unproven crimes to enhance my sentence. At sentencing, the state claimed that there was an assualt 2, and a rape 1 that I was charged with in the late 1970's that should be factored into my current sentence. The court accepted the state's claims, and used the charges to enhance my sentence. I was not prosecuted for either of these charges and I believe that it was improper for the court to rely on this information to enhacnce my sentence.

I also believe that my rights were violated when the court had ex parte communication with Ms. Connelly regarding injuries to Ms. Connelly's face.

At least one time during my trial, Ms. Connelly called the judge on the phone and discussed aspects of the case. My attorney informed me that Ms. Connelly had told the judge that she had lost sight in one of her eyes, and that she was experiencing numbness on one side of her face. Ms. Connelly told the judge that her condition was the result of me assaulting her. I believe that it was improper for the judge to discuss the case with Ms. Connelly over the telephone. I also believe that this communication influenced the judge against me.

I am requesting that this court review these matters in an effort to determine whether my rights have been violated.

DATED this 30 day of July, 2010.

*Norman F. Whittier*  
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