

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

STATE OF WASHINGTON,  
Respondent,

v.

LARRY DARNELL DUNOMES,  
Appellant.

FILED  
COURT CLERK  
16 JUL 13 09 PM 12:08  
STATE OF WASHINGTON  
BY [Signature]

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR PIERCE COUNTY

THE Honorable James R. Orlando, Judge

7/1/16

This is the  
third SAG filed  
by appellant. The  
court will accept  
this one, but no  
additional SAGs  
may be filed. App has  
had adequate to raise  
additional grounds.  
E. Glinski  
Clerk

Amended Additional Grounds Brief of APPELLANT

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Washington Court of Appeals  
Division Two

Additional Grounds 1

1. Double Jeopardy - See United States v. Kaplan  
on page 2 of 3

2. Cumulative Effect Error - See Thomas v.  
Hubbard on Pg 3 of 3

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19 JUN 25 PM 12:08  
STATE OF WASHINGTON  
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Larry D. Denomes  
signature

June 25, 2010  
Dated



UNDER THE UNITED STATES FEDERAL GUIDELINES THAT GOVERNS THE SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY CrR 8.3 (b) DISMISSAL-STATES: "THE COURT, IN THE FURTHERANCE OF JUSTICE, AFTER NOTICE AND HEARING, MAY DISMISS ANY CRIMINAL PROSECUTION DUE TO ARBITRARY ACTION OR GOVERNMENTAL MISCONDUCT WHEN THERE HAS BEEN PREJUDICE TO THE ACCUSED WHICH MATERIALLY AFFECT THE ACCUSED'S RIGHT TO A FAIR TRIAL. THE COURT SHALL SET FORTH ITS REASONS IN A WRITTEN ORDER.

(RULE 1901. BILL OF PARTICULARS-IN GENERAL)

A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION AGAINST HIM TO ENABLE HIM TO PREPARE HIS DEFENSE AND TO AVOID A SUBSEQUENT PROSECUTION FOR THE SAME CRIME.

HAMLING v. UNITED STATES, 418 U.S. 87, 94 S.Ct. 2887, 41 L.Ed.2d 590(1974) 419 U.S. 885, 95 S.Ct.157, 42 L.Ed.2d 129 (1974).

UNITED STATES v.KAPLAN, 470 F.2d 100 (7th Cir.1972).

A DEFENDANT'S ARRAIGNMENT IS TO PROMPTLY FOLLOW THE FILING OF THE INFORMATION. AS A GENERAL RULE, THE DEFENDANT MUST BE ARRAIGNED IN SUPERIOR CUORT WITHIN 14 DAYS OF FILING OF THE INFORMATION. AS THE DEFENDANT'S SPEEDY TRIAL RIGHT UNDER CrR 3.3 IS DEPENDENT UPON THE DATE OF ARRAIGNMENT. A PROPER COMPUTATION OF THE DATE FOR TRIAL STARTS WITH A TIMELY ARRAIGNMENT.

RULE 2107. DOUBLE JEOPARDY.

THE COMMON LAW PRINCIPLE OF DOUBLE JEOPARDY PRECLUDES ANY PERSON FROM BEING TWICE PUT IN JEOPARDY FOR THE SAME OFFENSE. THIS PRINCIPLE IS EMBODIED IN THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION WHICH STATES, "NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB", AND IS APPLICABLE TO THE STATES THROUGH THE FOURTEENTH AMENDMENT. UNITED STATES v. MARYLAND, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969).

IN GENERAL, A DEFENDANT IS PLACED IN "JEOPARDY" FOR A CRIME WHEN HE IS PUT ON TRIAL IN A COURT OF COMPETENT JURISDICTION UPON A VALID INFORMATION AND A JURY IS IMPANELED AND SWORN TO DETERMINE THE ISSUE OF THE DEFENDANT'S GUILT OR INNOCENCE OF THE CRIME CHARGED. SCHIRO v. FARLEY, 510 U.S. 222, 114 S.Ct. 783, 127 L.Ed.2d 47 (1994).

HOWEVER, WHERE A LESSER INCLUDED OFFENSE IS A CONSTITUENT ELEMENT IN PERPETRATION OF THE GREATER OFFENSE, THE PROHIBITION AGAINST DOUBLE JEOPARDY PROHIBITS A SECOND PROSECUTION FOR THE LESSER INCLUDED OFFENSE WILL BAR LATER PROSECUTION FOR THE GREATER OFFENSE. MORRIS v. MATHEWS, 475 U.S. 237, 106 S.Ct. 1032, 89 L.Ed. 187 (1986).

THIS VIOLATION OF DOUBLE JEOPARDY VIOLATED A SUBSTANTIAL RIGHT OF APPELLANT DUNOMES AND REQUIRES A REVERSAL.

