COURT OF APPEALS
DIV II
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STATE OF WASHINGTON
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COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

Case No.# C.O.A. 40526-1

State of Washington
Plaintiff,

v.s.

Richard Plechner
Defendant.

Appealed from Mason County
Causes: 09-1-00109-0
04-1-00283-4

Amended Statement of additional Grounds for Review - The missing issues that Are missing from my Original Petition. (Pro-se) (Part II of I)

Richard Plechner 1/28/11

Between the Front cover page (this page) And the LAST cover page is Pages 34 to 49 of my Statement of Additional Grounds for Review. I Ask this court to be fair and have the clerk of the court add these pages to my brief. I have suffered many Hardships in bringing this brief to you. I never got a real or confirmable start date as to when my dead-line time started. Then, when I tryed to get confirmation and a Extention of time I get back a very un-realistic "dead-line." on top of that, I don't think the Court clerk understood just how bad my copy of the verbatim Report is. (See Exhibit "B" and "C".) Then, to top it off, the State had a rash of "furlough Days" the entire week of the 23rd to the 28th (See Exhibit "A") while the exhibit only pertains to the LAW library... the mail room, the Access to the phone, Yard for the IMU, computer, ect, each took a different day to furlough. The Long and the Short of it was, I was cheated out of several days, to effectively work on my S.A.G. The case LAW on the LAST page makes my point. Also; the Properity Room would Not give me my Legal Supplies for Months!!! I can get Proof!!!

Cover page for PAGES 34 to 49

ISSUE No. #10:

Prosecutorial Misconduct event("A") is a little unique; but explains the prejudice I suffered, in the other events. This envolves the circumvention of the adversary process. The states own withesses had diametrically opposing testimony, about a material Fact(s).

This testimony turned the adversarial process into a three ringed circus. It forced my Attorney to defend against basically 2 "charges", or "Stories", with two different Motives. It was not a difference of opinion; such as one of the States witness saying it was a; "Red Truck", and one saying it was kind of a; "off orange". In my case, one of the States witnesses was flat out Lying. I now ask you to compare R.O.P. 173 @ 3, with R.O.P. PAge 222 @ 21. Now; compare R.O.P. PAge 242 @ 6 and 270 @ 4.

So now Esther "Sherri" Wurzbacher" is A innocent victim, Attacked for no reason... or she is a Lying thief, and conversly; "Gina Wurzbacher"... is Esther a Lying SCAmmer who collected $300.00 dollars, that she Now KNows WAS stolden... or she was a innocent party, who was paid with legitimate funds, but now, for unknown reasons, has used this hearing, to CAst disparaging remarks, on her sister. (The Scenario's only get worse.

If you don't have a vote on who is telling the truth, on States direct... It Looks Like the State does. R.O.P. PAge 401 @ 17.)" And when there are twelve folks convened to be a Jury in the case of State of WAShington v. Sherri Wurzbacher, At SOME Point, they'll be evaluating that circumstantial evidence." Then; on R.O.P. PAge 407 @ 1.)" She does not have a dog in this fight..." But Now see what he says on

R.O.P. PAge 218 @ 17.) It was a straight comment on the Evidence and improper Vouching!!! [Sic]

What happend in my case was so un-fair and Prejudical I don't even know where to start? I think it was very Prejudical when the Prosecutor Vouched for "GinA" By SAying She does not have a dog in this fight. First of all, She got $300.00 dollars of my money!!! R.O.P. PAGE 269 @ 8.) (GinA:) "Q.) Okay, How much did She give you? A.) Three hundred dollars!" Since the state obviously concedes that "Sherri" Stole my money... then it only follows; that "Gina" Received stolden money, that she would have to give back, if I don't go to prison! Some of the moneny; no doubt, made its way into; "Shelly GArdners", hands as well.

So all of the States witness; (who were there) all had a dog in the fight! (the state knowingly covered this up!) (Again Now See PAge 218 of R.O.P. at 17, How can he have it Both WAYS?)

Please see the CASE of:

State v. Coleman; (No. # 64923-01) MAY 10, 2010

"The Prosecutor may Not conduct improper Vouching."

(See R.O.P. PAge 218 @ 20.) "...untill it's been investigated,...".

But at a deeper Level; it's not fair, to have a trial, where an un-adjudicated perpetrator, is allowed to testify as a victim, and the real victim is forced to Put on a defense!!! The State has to have its Story Straight. The State can't be a co-conspirator in the on-going crime. The state has not made Any effort to recover my money!!! There is a resent case, this court ruled on, regarding statute of Limitations. This court said; in short; "the clock does not start, untill the crime is over. If you steal, and still got the stuff... the crime is on-going!" The State Should be required to bring victims, with; "clean Hands"... Deals for testimony completed... ect. The state has to have one theory for the case. Anything Less is Not a Search for the truth, but a moving target for the

defense to try and shoot at. And because the state could Add targets, untill the defense is just over-whelmed... there is no way you could have a fair trial. The state could put on a un-limited number of witnesses, if there was enough money, up for grabs... and that can't be right. with enough theories and witnesses... any jury would be bound to find a defendant guilty. The state had a obligation to try the defendants, in the crime order! That is: Try the defendants, in the order the crime(s) Actually happend... or at the very least... all of the states witnesses, need to have their crimes adjudicated, before they take the stand, So it does Not Look like, the state is playing favorites, just to convict someone, who must be; really, really, bad; if the state is willing to Let these other criminals go free. In the above situation... there is No way that the defendant would Not be prejudiced, in the eyes of the jury. The case Law I found follows:

9/15/80 United STATES of America V. Guillermo NOVO SAMPOL; United States court of Appeals, Dist. of Columbia cir. No.# 79-1541; 79-1542, 79-1808

@ 95.) "... even if the agents statement is accepted that he did not intend that Nichols would take affirmative steps to secure incriminating information, he must have known that such Propinquity would Likely Lead to that result."

@ 98.) "... and was rewarded by a grant of his freedom, a commodity more precious than money."

United States V. Perkins; 748 F. 2d. 1519 (11th cir. 12/19/84)

@ 39.) "while mere presence or Association with others involved in a criminal Scheme is Not sufficient to Prove participation in a conspiracy, the essential elements of a conspiracy can be proved by

inference from the actions of the parties or by circumstantial evidence. Direct evidence of an agreement to join a criminal conspiracy is Rare, so a defendant's assert can be inferred from acts furthering the conspiracy's purpose. The government is Not required to prove that each alleged conspirator knew all the details of the conspiracy, it is enough to establish that a defendant knew the essentials of the conspiracy. (This ones called; "Put "Rich" in Prison!")
Washington v. Roberts; 25 WASH. APP. 830, 611, P.2d. 1297 WASH. APP. 04/14/1980
"@32.) ... we conclude that the failure to permit the defendant to pursue a theory that MS. A's testimony was Motivated by compulsion to cooperate with the Prosecuter constitutes a denial of the defendants right to effective cross-examination. Davis v Alaska, Supra; State v. Tate, Supra; Fuller v. State, Supra It cannot be said that the constitutional error was harmless beyond a reasonable doubt. Davis v. Alaska, Supra at 317, makes the following observation:"
United States v. Tobias; 662 F. 2d. 381. (11th Cir. 11/30/81) @ 58.)"... As Justice Brandeis observed, to declare that in the administration of criminal Law, the end justifies the means to declare that the Government may commit criminal crimes in order to secure the conviction of a Private criminal would bring terrible retibution." Olmsted v. United States, 277 U.S. 438, 485, 48 S. Ct. 564, 575, 72 L. Ed. 944. (1927)

Now Please Review R.O.P. Page 277 @ 17 (Gina!) "- and then, then I had said, yes, I believe She took it!" R.O.P. Page 271 @ 12.)" Well, at - I can't even remember. I don't know. I blanked out between the time I had yelled at him and then I stood up and came back around." Now R.O.P. Page 269 @ 11.)" ...I Asked her if She Stole it, and She said...".

(C.A. 40 326-1

Now R.O.P. PAge 326 @ 2.)" I couldn't tell for sure. It happend - it happened too fast, and it was too freaky for me to sit there and tell you how long it took.". (Shelly GARDNER) Then on PAge 327 R.O.P. @ 12.)" Now, is she - do you know her very well? A.) Not very well, no.". Now R.O.P. PAge 170 @ 11.)(Sherri:)"A.) She's my sister's friend and she's also my friend. Now; R.O.P. 162 @. 19.) (officer christopher KOSTAD:)" I don't recall seeing any distinct features, anything just other than it being a red around her neck." R.O.P. PAge 340 @ 22.)"- are you able to note the redness and/or what you've charaterized as finger marks? A.) Yes.".. (Detective Heldreth speaking). Now; R.O.P. PAge 9.)(Richard Plechner:)"@ 17.)" My friend delivered a tape to BRUCE FINLAY and the tape clearly proves that I'm Not guilty of this charge." Now R.O.P. PAge 10, @ 9 "- he Already has kind of a case against the city for this exact SAME officer doing this exact SAME thing to me not even a month ago."

So there is not one major material fact that is not directly disputed by one of the states own witnesses. Further; Every witness except officer christopher Kostad, had Motive to see me be found guilty. And the State became a willing co-conspirator, when it not only did not try and recever my $590.00 dollars... but let the so called victim and witnesses keep my money.!!! The State even got the jury on the "dole", when it said;" when there are 12 folks convened to be a Jury in the case of State of washington v. Sherri wurzbacher..."

By the State doing the Above, the following happend.

A.) I could Not Afford an Atterney... because the state was actively helping the Prevention of me getting my money back.

B.) If I went to Prison... "Gina" could keep the money! She knew; or had reason to believe it was stolden.

C.) Sherri was Able to keep $290.00 dollars, of the Stolden money, and knew the state would Never use me as a victim... expecially if I went to Prison! [sic]

D.) officer (Detective Heldreth) knew that there WAS Little chance of my false Arrest charge, comming to Light, against him, if I went to Prison.

E.) durring the trial Detective Heldreth sat next to the Prosecutor the entire trial. If the state wants to have a "Representive" of the police department at its side fine... but it Should Not be a witness also.

F.) I WAS cheated out of a more lenient Sentence at Sentencing because the jury could believe "Sherri", and feel Sorry for her, that "Gina" was Lying. So they found me guilty of both charges. R.C.W. 9.94A.535 "mitigating circumstances(a) to a significant degree, the Victim WAS an initiator, willing participant, aggressor or Provoker of the incident. (wouldn't this be a Blakley issue and Needs to be put before the Jury?) otherwise Who gets it? I could not find ANY CASE LAW???

G.) I guess if you believe I did ASSAULT "Sherri", then at the Least, I feel my mental Health issues would have been a factor. Mental Health claim: State v. Ford; 137 wn. 472, 485-86, 973 P.2d. 452(1999) "PANS capacity to conform her conduct to the requirements of the Law was significantly impaired" R.C.W. 9.94A. 535(1)(e). It WAS only obvious; that "Gina" WAS running the Show, and I was Set-up. (see Note)*

H.) CrR 6.12 witnesses (d) Not excluded on grounds of interest. ... but such interest may be shown to affect his or her credibility. (How and when does this rule ever get used, if it does not Apply to the Above CASE? "Gina" "Sherri" and the "state", all conspired to steal my money, albeit for their own Reasons!

In conclushion of this issue I offer: STATE v. WALLS; "...a court may dismiss any criminal prosecution due to arbitrary Action or governmental misconduct when there has been prejudice to the rights of the accused which materially affected the accused's right to a fair trial.".

* Note: "Aberrant conduct"; United States v. Working; (98-30121) 9th cir. 9/11/2000

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issue No. #11: Prosecutorial Misconduct event("B").

The State makes Numerous comments; that I believe were very prejudical, and prevented me from having a fair trial. In his closing Arguements he said the following:

R.O.P. PAge 428 @ 6.) " The state has proven the charges and you are officers of the court now, and your duty, as defined in your Instructions, is to deliberate with an earnest desire to determine and declare the Proper verdict." That proper verdict as to counts I and II is guilty." (That's a Long way from; declare what the Evidence shows!)

While this case un-Published... its foundation is Published. [sic] [U] State v. Johnson, (No. # 35135-8-II)(Wash. App. Div. 10/9/07) @ 77.)" So Long as counsel does not express an personal opinion." State v. Rivers 96 Wn. App. 672, 674-75, 981 P. 2d. 16 (1999) @ 127.) "...United States v. Young; 470 U.S. 1, 105 S. Ct. 1038, 84 L. Ed. 2d 1 (1985) (Prosecutor commited misconduct in arguing that he believed that the defendant was guilty, and that the jury should "do its Job"."

Then on R.O.P. 427 @ 16.)"...It's Charged exactly what it is, assault in the Second degree and felony harassment."

Then on R.O.P. @ 11.) "...because we all enjoy the right to that Presumption if we are ever to be accused of a crime. All of you folks, my Self, Mr. Baum, Detective Heldreth, we all enjoy that right in this Society, including Sherri Wurzbacher, okay". (Notice I'm Not on the List!!!)

Then R.O.P. PAge 404 @. 22)"...You don't know how much I want to kill her and go bury her out at Hanks Lake." This Comment was designed to inflame the jury.

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R.O.P. Page 406 @ 15.)" Gina wurzbacher told you, "candidly"..."

Webster's New Pocket Dictionary; copyright 2007, 2005 on PAge 43 discribes candid. "Candid - Straightforward; open 2.) Not Posed." Except he never Asked her where is the money you got? Are you going to give it BACK? Are you tired of giving your sister free dope? So the so called; "Straightforwardness", WAS Not so Straight forward as it might have appeared.

R.O.P. PAge 408 @ 19.)" ...or that she took money from him, or that she in some way, brought it on or deserved it. That's - it's ludicrous and that's Not before you for your consideration." So if "Gina", Shelly and "Sherri" are all Lying, and the whole event Never even happened... The jury can't even consider it??? They can't think... well she Lied About the money... She's Lying About being choked. Then on R.O.P. PAge 407 @ 1.)(He SAYS)" She doesn't have a dog in this fight, She's told you how she saw it on MARCH 17th of 2009." No only is this A Straight-up Lie... CAUSE Gina got $300.00 dollars of my money, but it was improper vouching![sic] See: STAte v. Coleman, (No.# 64923-01)(MAY 10th 2010) Then he does it again R.O.P. PAge 407 @ 16.)"...She in the midst of this tumultuous violent incident when she SAYS..." Then on R.O.P. PAge 410 @ 19.)"...Any reasonable person Would have been afraid.". Then on R.O.P. PAge 409 @ 6.) "...forget about it, Somebody Steals from me again, I'm not comming to you guys, I'm going to take care of it my Self." This Sentence is totally out of context and is only being use to inflame the Jury.

I could go on, but I thik my point, and CASE LAW is clear. I Suffered; "Reverseable Error."

C.C.A. 40526-1

Issue No.# 12:

In my case; Allowing the State to put before the jury, that one of the charges WAS "domestic violence," WAS a big mistake. It Allowed the prosecutor to put highly prejudical comments before the jury, and affected the outcome of my trial. Most; if Not All, of Sherri's Statements were designed to be Prejudicial, Not truthfull.

R.O.P. PAge 231 @ 6.) (Sherri:) "Q.) "As far as - during the assault that took place on March the 17th, you have testified that you would or may? A.) Possibly if it had gone on maybe. [Sic.]

So I'm being charged and convicted on a "Possibly" and a "maybe"... 2 felonies, 1 Strike and 80 months! (So All the other stuff WAS A Lie!)

Page 169 @ 24.) "We were Seeing each other, dating. Yeah, we were seeing each other and dating and also Sexual relations.

Now; this court maybe a Little; "jadded", after all the cases it has heard... but this trial was in a town that has a very Right winged Christian pool of Jurors. Look how She Answers the States question. She Sounds Like my "Whore"! Not even my un-married girlfriend, which would be bad enough. (As A Side Note, has this court ever heard a woman talk Like this?)

From R.O.P. @ 4.) "You're meaning the comments that he made that what he was gonna do to her?"

Then R.O.P. PAge 188 @ 9.)" Should I go into detail how he tracked her down to her house and barged in and--".

This WAS full blowen "Hear-say" testimony... Sherri never SAW Anything that She is testifying too. The state never Subpoenaed me. Yes, it true I could take the 5th or testify during my defense... but that does Not change the fact that if the State wants to have this testimony in its CASE in Chief... they are required to call me as a witness.

Then R.O.P. PAge 190 @ 1)" He said; You better get a good "Attorney" or I'm going to kill you and bury you at Hanks LAke."

This WAS Prejudical to me because I WAS being represented by an Attorney; and the comment implys, that Attorneys Are "hired thugs." The jury might think my Attorney WAS a thug!

The whole Sentence is obviously a Lie... but if you are going to run with it... I'm going to claim it's prejudical on 2 grounds. It has Nothing to do with being "choked" and my Attorney is Not a defendant.

But this LAST one, is the worse one...
R.O.P. PAge 210 @ 23.)" A,) Yes, I did, And I Actually became pregnant with his Child and miscarried in the third month."

The CASE Law that I found may not be from this division but it Provides a illuminating Point.
STAte v. Hagler; (No.# 61107-1-I) (wash. App. Div. 1 5/26/09) @ 28.)" The jurys task is to decide whether the State has Proved the elements of the charges beyond a reasonable doubt. A domestic violence disignation under Chapter 10.99 R.C.W. is neither an element nor evidence relevant to an element. The fact of the designation thus does not assist the jury in its task. We can see no reason to inform the jury of such

a designation, and We believe that Prejudice might result in some cases."

@27.) " Hagler contends that informing the jury of the designation is prejudicial and unnecessary.".

State v. Grant; (1996)

@18.) " under E.R. 404(b.) Noting that Prior conviction are admissable under 404(b) to prove such factors as Motive, opportunity, and intent, the court held that it was satisfied that there are Circumstances in which thoes exceptions may be present in this case but at this point based on the representations of counsel I'm Satisfied that they are not admissible basically because at this juncture thay are not relvant".

" balancing the probative value of the evidence against its prejudical effect, the trial court held..."

The story about being Pregnant and having a miscarrage; is a total falsehood, and She only Said it, so I would get a D.V. Beef.'

Because of the forgoing I request: dismissal of case or Reverseable Error, Prejudice, Ineffective Assistance of Counsel.

Issue No.# 13

Prosecuterial Misconduct and Ineffective Assistance of counsel culminated to create this issue. It is a collection of a "Brady violation" and an Atterney who did not Listen to or understand his client. To start off; I will Just give you the Record: R.O.P. PAge 239 @ 12.) (GinA:) (And it's on states direct!) "... I had kind of a; "Little BLACK-MAil Letter", I had in order to get her to go to treatment..."

Now; for some really Stupid reason my Atterney thought that she was refering to a earlyer police report statement!!!! He did not figure out the truth, untill it was to Late.

No-where in the record does it Show that my Atterney "discovered" or "received" a copy of the Letter. further; he does Not Make any inquirey reguarding the Letter at all. (Big clue!!!)

Jean v Collins; 107 F. 3d. 111 (4th cir. 03/07/1997) @31.) " we held that failure of Police to disclose impeachment evidence involves a question fundamental fairness rising to the Level of constitutional due process which cannot be brushed aside as mere error in evidentiary ruling. BArbee v. WArden, 331 F. 2d. 842. (4th cir. 1964) And
@ 64.) "... In other words; if the undisclosed evidence created a reasonable doubt that did not otherwise exist, there was constitutional Error.
The above issue Shows Reverseable Error, and a dumb Atterney.

Issue No. #14

This issue Revolves Around Ineffective Assistance of counsel, and Abuse of discretion. R.C.W. 9.95.120 SAy's; "Whenever a PArole Prisoner is Accused of a Violation of his or her parole, "OTHER THAN" the commission of, and conviction for, a "feloney" or "misdemeanor" under the..."
So As in the following:
[U] State v. NASON; No. 26180-8-III (wash. Div3 7/31/08) @ 22.) "... Following the Violation If the offender and the department make a stipulated agreement,..."
United States v. Workman; 585 F.2d. 1205, 1205, 1211 (4th cir. 1978) (No. 77-1884)
"... If a Serious question of culpability exists, the probationer is constitutionally entitled to the assistance of counsel..."
United States v. Tonelli; 577 F.2d. 194, 196 (3d cir. 1978) "delay the institution of probation revocation Proceedings untill the disposition of State Criminal Charges."

It is very obvious I had a right to have an atterney present at my D.O.C. hearing. I will also claim in a Later P.R.P. that I Suffered a illegle hearing... but for Now... I just want to Prove I did Not get effective ASSistance of Counsel Regarding a "Defense TAPe" that wound up being totally Played for the prosecution, and distroyed Any confidence in my Attorney.

The tAPe was Super important for Several reasons. It Proved I WAS Not guilty of said Charges!!! And the D.O.C.'s hearings tAPe where officer Det. Heldreth testified was important too.

But how do we know All this from the current Report of Proceedings? Because the court tells us with a simple; "Uh-huh." R.O.P. PAge 11 @ 12.). PAGES 19, 20, 21, 22, and to 23 @ 11 tells the story of How I definately was going to "A" D.O.C. Probation Hearing... and for sure, I did Not have counsel! While, I can't Prove from this Record that it was in Regards to this Charge... it really does not matter... because, the rule SAY'S; "Accused of a violation of his or her Parole..." So I was entitled to have my Attorney, "JAMES foley" Look into Any matter that might affect my trial.

It was an abuse of discretion for the Judge not to do So. Further, I did try and Motion the court as a pro-se Litigant and a defendant with counsel to develop the record on this issue. See the following:

Schell v. Witek; 218 F. 3d. 1017 (9th cir. 07/11/2000) @ 63.) "...we note also that Schell attempted to discover the facts, develop the record, and explore this issue in state court in his appropriate request to the state appellate court for Remand for an evidentiary hearing, but his attempt was rebuffed."

My Attorney and I really needed the D.O.C. hearings tape AS well AS the one I had. See the following:

Graham 547 S.W. 2d. @ 543

In re; Sealed CASE; No. 99-3096, 337 U.S. APP. D.C. 332, 185 F. 3d. 887 (D.C. Cir. 07/21/1999) @ 34.) "...although she may prefer to delay its use and disclosure untill after the witness testifies, both to Prevent tailoring of the testimoney in expectation of the Cross-examination and to employ the Element of Suprise to expose the witness "MENDACITY".

ALSO see: United States v. KLAT; 156 F. 3d.

1258 (D.C. Cir. 09/22/1998) @29.) "... The Supreme Court explained that the determination of whether a Sixth Amendment Violation requires a Auto-matic reversal turns on the extent to which the Violation Pervades the entire criminal Proceeding. As the Court Noted "Some constitutional Violations... by their very NAture CAST So much doubt on the fairness of the process that, as a matter of Law, thay can never be considered harmless. Sixth Amendment Violations that Pervade the entire proceeding fall within this category" Id. at 256. The court further Noted that in previous CAses requiring auto-matic reversal " The deprivation of the right to counsel affected-and contaminated the entire criminal Proceeding." Id at 257.

It WAS So bad I finally was forced to get; "Robert Quillian" to do a (7.8(7.6) but he ripped off my family instead! I said a Lot to the judge on this issue See:

R.O.P, PAge: 468 @ 11 459 @ 17
471 @ 7 466 @ 9
471 @ 18

I hope I have Shown how I Suffered Ineffective ASSistance of counsel, Abuse of discretion, why my CASe Shald be reversed and dismissed with prejudice.

issue No.#15

I just want some reasonable BAil.
R.e.P. PAge 517 @ 19.) "(The court:) There is No BAil because you've already been convicted. You don't have a right to bail once you've been convicted) there is Not a presumption of innocence at this time.".

[U] State v. Branch No. 52601-4-1 (WASH. APP. Div. 1 12/06/2004)
@ 32.) "The Setting of BAil Pending APPeal is a matter of discretion. A trial court abuses its discretion if its decision is manifestly unreasonable or based on un-tenable grounds or untenable reasons.".

[U] State v MAddox No. 37362 99-II (WASH. APP. Div. II 02/18/2009)
@ 10.) "... the trial court sentenced MAddox to confinement for 81 months... MAddox posted an appeal bond and was released from custody pending Appeal..." "... increased MAddox's appeal bond to $150,000.00..."

I think the forgoing CASes show why I Should be able to get an fair Appeal Bond.

C.O.A. 40526-1

The forgoing pages are for my brief that was mailed to you on 1/25/11.

These pages should be accepted for the following case law points.
[U] Joubert v. Sanai; (No. #49990-4-I) (Wash. App. Div. 1 04/7/03) @ 33.) "we can perceive nothing in the record supporting a denial of a short extension of time requested by Christian. The case had not been pending for a long time, and Christians explanation for requesting the extension was reasonable..." United States v. Howard (No. 02-16228) (9th cir. 08/25/04) (No. 06-7317) Ericksen v. Pardus; ("All Pleadings shall be so construed as to do substantial justice.".). In Bounds v. Smith; 430 U.S. 817, 52 L. Ed. 72 97. Sct. 1491 (1977) "The court observed that states have an affirmative obligation to ensure indigent prisoners "meaningfull" access to court." Casey v. Lewis; 43 F.3d. 1261 (1994) "under Bounds access to the courts requires that prisoners have access to law library or to legal assistance. 430 U.S. @828. If the claim involves access to either a law library or legal assistance, no actual injury is required." Sands v. Lewis, 886 F.2d. 1166, 1171 - (9th cir. 1989). See Mckinney v. Rees; (No. #89-55869) "fair play".

I declare under penalty of perjury under the laws of the State of washington, that the foregoing is true and correct. That I was also an inmate in the I.M.U.; at Clallam Bay corr. ctr., Clallam county.

Repectfully Submitted this 27th day of January, 2011.

Mailing Address;
Richard Plechner 975-117
I.M.U. F-A-02
Clallam Bay corr. ctr.
1830 Eagle Crest way
Clallam Bay, WA. 98326-9724

Richard Plechner
Signature

Richard A. Plechner
Print

End cover page for pages 34 to 49

COA 40526-1

DECLARATION OF SERVICE BY MAIL
GR 3.1(c)

I, Richard Plechner, declare that, on this 27th day of January, 2011, I deposited the forgoing documents:

Supplement to my (S.O.A.G.) Statement of Additional Grounds for Review - the missing issues.

or a copy thereof, in the internal legal mail system of Clallam Bay Correctional Center 1830 Eagle Crest Way
Clallam Bay, WA 98326

And made arrangements for postage, addressed to: (name & address of court or other party.)

Tim Whitehead
Mason Co. Pros. Atty's office
P.O. Box 639
Shelton, WA. 98584-0639

Patricia Anne Pethick (Attorney at Law)
P.O. Box 7269
Tacoma, WA. 98417-0269

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated at Clallam Bay, Wash. (City & State) on 1/27/11 (Date)

Richard Plechner
Signature

Richard Plechner
Type / Print Name

Exhibit "A"

C.O.A. 40526-1

Please do This one
By hand so the
copier does not JAM

Department of Corrections
WASHINGTON STATE

OFFENDER'S KITE

PAPELETA DE PETICIÓN DEL INTERNO

OFFENDER NAME (PRINT) *NOMBRE DEL INTERNO (LETRA DE MOLDE)*		
PLECHNER, RICHARD		
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975117	F A02	1/24/11
DESIRE INTERVIEW WITH OR ANSWER FROM/*DESEA ENTREVISTA CON O RESPUESTA DE*		
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RAZÓN/PREGUNTA

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RESPONSE
RESPUESTA

RESPONDER/*PERSONA QUE RESPONDE*	DATE/*FECHA*

Distribution: **WHITE/YELLOW**-Responder, **YELLOW**-Return to Offender with Response, **PINK**-Offender keeps
Distribución: ***BLANCA/AMARILLA****-Persona que responde,* ***AMARILLA****-Devuelva al interno con respuesta,* ***ROSA****-Interno*

DOC 21-473 E/S (Rev. 02/17/10) DOC 450.500

Exhibit "B" C.O.A. 40526-1

Look! I CAN'T Read this! This section is very important!!! I got 6 more pages that are messed up!! This is why I motioned for the TAPE/CD Recording!

n .th the Court's permission

-t ou to listen to it and the

Sta .t No. 1 played for the
wit ury as follows:

MEN arted March 17, 2009 at

H

H 911.

: now, can you hurry or

O you gave me the wrong

ne

: earborn Avenue.

W

: rn Avenue.

O down.

: rry. 1013 Dearborn

ICE en off (inaudible) right

1 n Avenue. He's taken off

: (inaudible).

ICE d left--

INGS

1 have brought with me some external speakers, which I think are
2 better than the internal speakers on this laptop, but they
3 really need to sit on this table unless we have another surface
4 to set them on. It's been my experience that sometimes there is
5 difficulty hearing a recording such as this, but, you know, I'll
6 defer to the Court on that.
7 THE COURT: I'm gonna allow you to give out the
8 transcripts. Go ahead and place them on their chairs rights now
9 if that's going to be the next thing you do. They have to be
10 immediately returned upon the completion of the 911 tape. I'll
11 do that as it's a minute and a half long and we do, in fact,
12 have trouble with the audio. And I'll find that I don't - since
13 the 911 - the content of it - is going to be admissible, I don't
14 see the prejudice. It's not something the jury will keep and I
15 will note the objection for the record from the defense.
16 Mr. Baum, was there something else you wanted to put on the
17 record?
18 MR. BAUM: No, no.
19 THE COURT: Is that it? Okay. Thank you. And, then,
20 with that, bring the jury back in, please?
21 Jurors brought into courtroom.
22 THE COURT: Alright. Proceed, Mr. Dorcy.
23 MR. DORCY: Thank you, Your Honor.
24 DIRECT EXAMINATION CONTINUES
25 BY MR. DORCY:

Exhibit C" C.O.A. 40526-1

1 Right.
2 A. Is that correct?
3 Q. Yeah.
4 Okay. Okay. So, my question with that, then, is you had
5 indicated that you went to the door, I believe, and let
6 A. your sister and Shelly in?
7 Q. Correct.
8 Okay. And then you said Mr. Plechner came out from the
9 kitchen?
10 have.Uh-huh.
11 And was that behind you?
12 Yes.
13 Okay. Now, which side did you go to?
14 BY MRThis side. My right side.
15 Q. So, you went--
16 A. Further into the living room towards the couch.
17 And you were facing the door?
18 you wRight.
19 You'lOkay. So, you went - and then he, Shelly and . . .
20 Sherri.
21 I'm sorry - Sherri and Mr. Plechner got into this scuffle
22 Q. on your left side?
23 We came -- well, no not quite. We had come--
24 A. THE COURT: I'm sorry--
25 Q. MR. BAUM: Am I not catching me? Sorry.

There Are many of these!!!

?

?

1 requirements preclude you from having a--
2 A. No, no. Huh-uh.
3 Q. No? How long had you had that cataract?
4 A. I don't know, five years.
5 Q. Okay. And how much did it affect your vision?
6 A. It's - the reason I finally had it removed is because they
7 wouldn't give me glasses, you know, it wasn't - you know, I
8 couldn't get glasses with it. So, I finally decided - I
9 couldn't read.
10 Q. You couldn't read?
11 A. Right.
12 Q. Okay.
13 A. I could see, you know, distance, but not - you know, I
14 couldn't see small letters.
15 Q. Were things blurry? A little it blurry because of that?
16 A. Out there or - you know, my - here, yeah.
17 Q. Let's start with close-up; was it blurry?
18 A. Yeah, here, like reading, yes.
19 Q. Okay. What about farther out?
20 A. It had to be pretty far.
21 Q. It would be clear quite far out?
22 A. You would be clear, he would be clear, he'd be clear.
23 Q. Okay. Okay. Now, it's my understanding - and you can
24 correct me if I'm wrong - but it's my understanding when
25 you have a cataract it's hazy?