

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
DONALD R BABCOCK)
(your name))
)
Appellant.)

No. 41123-7-II *en*

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, DONALD R BABCOCK, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

SEE ATTACHED ADDENDUM 1

Additional Ground 2

SEE ATTACHED ADDENDUM 2

If there are additional grounds, a brief summary is attached to this statement.

Date: MAY 26, 2011

Signature: Donald R. Babcock

Form 23

CERTIFICATE OF SERVICE

I certify that I mailed
1 copies of SAB w/ent's Sag. Responses etc.
to J. Abbott
& J. Hillman of AG's office
6/9/11 CA
Date Signed

Addendum to Additional Grounds for Review 1

Defendant: Donald R. Babcock, Appeal # 41123-7-II, Clark County # 09-1-01780-8
Original 2004 Case Klickitat County (04-1-00024-8):

Comes the Defendant Pro Se and petitions the court to review these facts records and enclosures as relevant to the instant case (41123-7-II) I, Donald R. Babcock, claim I have been the victim of on going criminal justice conspiracies and malicious prosecutions with respect to the 2004 rape of a child charge, ultimately dropped, and the current conspiracy to commit murder conviction.

Statement of Facts:

Harley Turner, a convicted felon and parolee, and defendant Babcock's sister Kimberly were domestic partners. Turner had fathered one daughter with Kimberly. Turner had spent time in prison for assault and battery on Kimberly after Kimberly spent several weeks in intensive care after Turner assaulted her. Upon his conditional release in 2002 Turner became an informant for Goldendale PD, and was befriended by Lt. Bartkowski, who he reported to directly. Turner had several no contact orders in effect relating to Kimberly Babcock and immediate family at that time. Kimberly was awarded custody of their daughter (AT) and since his release Turner constantly endeavored to acquire custody.

In 2003 Turner contrived a scheme whereby defendant Babcock would be accused of child molestation, creating a situation whereby he would be awarded custody of AT. Turner abducted 5 year old AT and her sister 7 year old MB For a 9 day period in 2003 and coerced, bullied, and intimidated the children to claim Babcock had molested them. Dan Lofstrom, Turners roommate witnessed these activities. Lt Bartkowski returned the children to Kimberly after 9 days admonishing Turner "You are treading on very thin ice" but Lt Bartkowski took no action on Turners violation of the no contact orders.

Turner then sent an anonymous letter to the children's school claiming defendant Babcock and his domestic partner Lacey White had molested them. Defendant Babcock claims ineffective assistance of council, that anonymous letter never having been entered into evidence (1).

The resulting investigation generated by Turners anonymous letter was conducted by Lt. Bartkowski, who included Gail Froelich and other agents of CPS. Defendants Babcock and White were not questioned, no mental evaluation was conducted, no polygraphs were administered, they were arrested and charged with rape of a child and other charges based solely on testimony of the two children. (see attached Daly report). The two girls were immediately removed from Kimberly's home and held by CPS. Gail Froelich stated to Kimberly Babcock her children would be returned if she cooperated with her agency and Lt. Bartkowski in the upcoming prosecution of defendants Babcock and White. The children remained in CPS custody until after trial.

The 2004 Klickitat County Prosecutor, Tim O'Neil, assigned the prosecution of the Babcock case to assistant prosecutor Shawn Anderson, Anderson's position with Klickitat County being his first out of law school. During trial defendant Babcock had a court appointed attorney who exhibited consistent inadequate effectiveness of counsel. There were no defense witnesses called, no character witnesses, and no defense evidence presented. After conviction this attorney did not appear at defendant Babcock's sentencing hearing, which allowed the Klickitat County Probation Department to become extremely creative with the subsequent sentencing report. Based on that spurious report defendant Babcock was sentenced to the maximum, 120 months. Defendant Babcock had no previous criminal

arrest record or convictions whatsoever, felony or misdemeanor. Defendant Babcock claims further gross ineffective assistance of counsel in the sentencing phase (2).

While Defendant Babcock was in Klickitat County jail awaiting sentencing on the 2004 conviction an old friend, Dan Lofstrom, was incarcerated in the same jail pod. Lofstrom was actively vocal in his explanation that being Turner's roommate, he had witnessed the 9 day abduction and coercion of the two children by Turner. This information exchange was witnessed by jailers and members of Goldendale PD. Several weeks after his release Lofstrom was found dead in his home, a rope around his neck, the loose end hanging over a flimsy ceiling fan. Lofstrom, just under three hundred pounds, showed no damage to his Hyoid bone and thyroid cartilage at autopsy. Defendant Babcock claims Dan Lofstrom was a victim of a homicide in retaliation for blowing the whistle on Turner.

At the death scene acting County Coroner Shawn Anderson declared the Lofstrom death a suicide. Shortly thereafter Defendant Babcock was sentenced to 120 months imprisonment. Within weeks Assistant Prosecutor Shawn Anderson accepted a position with the U.S. Attorney's office in Yakima Washington and left Klickitat County.

Division III Appeals Court rejected the conviction and returned Defendant Babcock to Klickitat County for further action in 2008. At arraignment for re-trial defendant Babcock pled not guilty and after firing his previous attorney, was awarded a new attorney. The new attorney immediately petitioned the court for funding of a false molestation expert to investigate Babcock's case. The motion was granted. (see attached Daly Report).

Addendum to Additional Grounds for Review 2.

Ref Case Number 41123-7-II, Appeal, Conspiracy to Commit Murder Conviction

County Prosecutor Tim O'Neil and his new assistant Craig Juris, after reviewing the Daly report in 2009 advised Goldendale PD Lt Bartkowski "There is no way we can win this re-trial." Lt Bartkowski and Sergeant Hunziker immediately enlisted the help of two of their star drug informants. August "Jimmy" Law and Dana Seybold, jailing them in Defendant Babcock's pod with the promise they would be rewarded if they could "get something, anything on Babcock."

It took months for the two informants to maneuver Babcock into a situation whereby Bartkowski, Hunziker, and Juris could create the spurious conspiracy to commit murder charge. During this period A.J. Law had written numerous letters to Sgt Hunziker relating his lack of progress and Defendant Babcock's reluctance to participate in their criminal schemes. Defendant Babcock claims due to ineffective assistance of counsel these letters were never entered into evidence (3). The letter copies are now in the possession of defendant Babcock's 2010 trial attorney.

As A.J. Law and Dana Seybold's participation in the conspiracy began to have dubious results, Hunziker and Bartkowski decided it was time for a change of tactic. They conferred with then Assistant U.S. Attorney Shawn Anderson in Yakima. Anderson suggested they use ATF Agent Floyd, who's offices are in the same building with Anderson, over the years a friendship between the two having developed.

Defendant Babcock claims Lt. Barkowski, Sgt Hunziker, Shawn Anderson, and ATF Agent Floyd then conspired to establish further false allegations with which to charge defendant Babcock, in order that the truth surrounding the Lofstrom homicide would not be exposed in defendant Babcock's planned civil action against them (4).

Defendant Babcock claims during ATF Agent Floyds first unsolicited visits defendant Babcock explained to ATF Agent Floyd the entire malicious prosecution scheme involving Harley Turner, Lt. Bartkowski, Sgt Hunziker, and Shawn Anderson (5). Defendant Babcock also related the information to Floyd of the untimely death of Dan Lofstrom.

Defendant Babcock claims at that time, February and March 2009, all the recording devices available to Goldendale PD, the Klickitat County Jail, and ATF Special Agent Floyd simultaneously failed to record any of the real information defendant Babcock related (6).

Defendant Babcock claims Special ATF Agent Floyd initially introduced himself as "a friend who wants to help, I saw your story on the internet" when in fact the story posted on the internet reflected the conspiracies by Lt Bartkowski, Sgt Hunziker, and Shawn Anderson, relating to the original malicious prosecution and county efforts to suppress the Lofstrom homicide information (7).

Shortly before trial in July 2010 on the conspiracy to commit murder charge, August J. Law was committed to a state mental facility by Lt Bartkowski, Sgt Hunziker, and Prosecutor Juris. Defendant Babcock claims A.J. Law was committed to the mental institution to keep him from testifying at trial, which would have exposed the conspiracy against defendant Babcock in its entirety (8).

Defendant Babcock claims the Klickitat County Prosecutors Office under Tim O'Neil and Goldendale PD's agents Lt Bartkowski, Sgt Hunziker, and ATF Agent Floyd are guilty of unethical behavior in that they initiated an undercover sting operation on a represented inmate awaiting trial without notification to his attorney. Defendant Babcock was questioned by agents of the County on 3 occasions with no notification to his counsel (9).

Defendant Babcock claims There is hard evidence Assistant Prosecutor Craig Juris routinely used perjured testimony in cases assigned to him, ref statements by current Klickitat County Prosecutor Lori Hctor: "I have evidence of Juris submitting perjured testimony in my files at this time" (10). Hctor won the 2010 election replacing O'Neil-Juris as Klickitat County Prosecutors. Juris had run for County Prosecutor, O'Neil for District Court Judge, both lost by wide margins.

The enclosed Daly Report although relating to the original conviction reversal is evidence of the unprofessional atmosphere and unethical tactics surrounding the Klickitat County criminal justice system to which I have been subjected since 2004.

I Donald R. Babcock, acting Pro-Se herein swear under penalty of perjury the forgoing is a true and accurate statement of the facts, to the best of my knowledge and ability.

Respectfully Submitted on this 26 day of May 2011,

Donald R. Babcock



Washington State Court of Appeals Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454
David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, Issue Summaries, and General Information at <http://www.courts.wa.gov/courts>

May 12, 2011

Donald R. Babcock #257775
Washington State Penitentiary
1313 N. 13th. Ave.
Walla Walla, WA 99362

State of Washington v. Donald R. Babcock Case No. 41123-7-II

Dear Donald R. Babcock:

Your attorney has filed a proof of service indicating that you were mailed a copy of the opening brief in your appeal. If, after reviewing that brief, you believe there are additional grounds for review that were not included in your attorney's brief, you may list those grounds in a Statement of Additional Grounds for Review. RAP 10.10.

Because the Statement of Additional Grounds for Review is not a brief, there is no required format and you may prepare it by hand. No citations to the record or legal authority are required, but you should sufficiently identify any alleged error so that the appellate court may consider your argument. Copies of the rule and form are enclosed for your reference.

You must file your Statement of Additional Grounds for Review in this Court within 30 days of receiving your attorney's brief. Send it to the address below. You must also send a copy of the Statement to counsel. The Court will review it when your appeal is considered on the merits.

Court of Appeals, Division II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

Very truly yours,

David C. Ponzoha
Court Clerk

DCP:cm