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COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON

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STATE OF WASHINGTON  
COURT OF APPEALS, DIVISION 2

STATE OF WASHINGTON, )

Respondent, )

No: 42352-9-II

v. )

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

Ronald A. Brady  
Appellant. )

I, Ronald Allen Brady, have received and reviewed the opening brief 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

Please see the attached 6 pages.

Additional Ground 2

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Dated this 19 day of March, 2012.

Respectfully Submitted,

[Signature]  
Appellant

I. The trial court erred by improperly putting itself into position as the trier of fact.

On page 36 (the 2nd to last paragraph and the last sentence) of my brief, the court said: "...there is no evidence that the actions of the decedent threatened the defendant's life of (sic) great bodily harm..."

There is evidence that my (the defendant's) life was threatened. It was my statement to Det. Kimsey in exhibit 213. (See page 642, lines 11 and 12 of the trial transcript.) I was blinded by the two flashlights of Tom and Joanna McKenzie. Blinding someone after he fires warning shots is a very threatening behavior.

The court also said "the defendant here went directly to the success<sup>ful</sup> of deadly force..." (page 36 of my brief, next to last paragraph, 2nd sentence.)

I, the defendant, did not go directly to the use of force, but I first attempted to disable their vehicle and at the same time give the decedent and his wife fair warning shots. (see lines 12-14, page 641 of the trial transcript. This was also taken from exhibit 213.)

The court wrongly evaluated this evidence to come to its conclusion. In a jury trial, it is the jury that is supposed to evaluate the evidence presented, not the court.

II. More Prosecutorial Misconduct.

While the prosecution is allowed a wide latitude in closing arguments, it should not be allowed to make false statements, especially in the very last stage, the rebuttal. From page 740, line 25 and page 741, lines 1-4 in the trial transcript, the prosecutor said:

"(he) Could have locked up his house at 2155, gone ~~XXXX~~ over to his property and just watched that night. He could have monitored the whole property from his house that was right next to it and called the police the second someone pulled up."

The only information presented in court about the distance between the houses is in exhibit 213, the initial interview with Det. Kimsey. This can be found on page 629, line 1 of the trial transcript. I told him that the rental house was about 400 feet away from the shooting site. That is emphatically not "right next door." The shooting site is too far away (and out of sight) to be monitored at the rental house. This gross falsehood shocked me, the defendant, so much that ~~it~~ I was not able to notify my attorney that ~~it~~ it was a falsehood until after the rebuttal had been finished. That is why my attorney did not object. The jury's reaction to my shocked body language so close to the end of the trial is incalculable.

III. Another reason for allowing testimony of Joanna McKenzie's constricted pupils.

In the June 15 presentation (page 13, lines 5-7) the prosecution admits that two witnesses saw Joanna McKenzie with constricted pupils that night. The jurors could have used information acquired over their lifetime, in this instance remembering their eighth grade science classes, to impeach her credibility as a witness. They would know that she could have not been able to see very much at night, since very little light was reaching the back of her eyeballs through those constricted pupils.

IV. Judicial Prejudice.

There are at least 4 items during the trial that indicate judicial prejudice.

The 1st item is (as detailed in my 3rd brief argument) with the denial that my (the defendant's) house was a dwelling.

The 2nd and 3rd items were noted in the I Additional Grounds statement. These were the "no evidence ... of threatening..." and "The defendant went directly to ... deadly force." finding of facts made by the court.

The 4th item is when the court told the jury that it would most likely would not allow the testimony to be read back. (See trial transcript, page 618, lines 17 and 18.) Not being able to adequately ~~review~~ review the record impedes the ability of the jury to make a full and careful deliberation.

Following the jury verdicts, there are ~~are~~ at least 5 items that also indicate judicial prejudice.

Item 1. The court did not vacate the guilty verdict of 2nd degree manslaughter as detailed in the 5th argument of my brief.

Item 2. There was no pre-sentencing investigation that normally would have been done.

Item 3. I, the defendant, was given a very limited time to prepare for prison. Between the guilty finding on June 25 and the sentencing on July 6, I had only 6 working days to prepare.

Item 4. A maximum sentence was given.

Item 5. No appeal bond was granted.

IV. Judicial Prejudice (continued).

This was done for an incident that the Sheriff Dept. considered to be a case of self-defense. It was also done for a 60 year old man with no arrests by law enforcement in his lifetime.

**V. Incompetent Defense Attorney.**

My (the defendant's) attorney did not interview me about my (lack of) criminal history until minutes before the first hearing. This lackadaisical approach continued. From his words to me, he did not thoroughly look at the evidence until a scant two weeks before the trial. In his opening statement, my attorney kept referring to me as "Tom", the decedant's name, and not by my given name of "Ron." The jury could easily gotten the impression that even my own defense attorney did not have any respect for me.

The most important failing by my attorney is failing to prepare me for the completely new and gruelling experience of being on the witness stand for my liberty. He spent somewhere ~~XXXXX~~ between 2 and 5 minutes in the attorney-client room in the courthouse preparing me. That would be woefully inadequate for a person who is an excellent communicator. With my having the typically poor communication skills of an engineer, this lack of preparation was disasterous.

Finally, my attorney failed to ask the court to vacate my guilty verdict as detailed in argument 5 of my brief.

I am aware that this is not the proper function of the Appeals Court, but could you please pass this on to the Washington State Patrol, or to the Washington Attorney General's office, or to whomever is appropriate.

The attached screen-shot shows that the file containing my statement to Det. Kimsey (Exhibit 213) was created on Oct. 9, 2010, not on the date it was supposed to be April 20, 2010.

I do not believe that this file is identical to the one actually made on April 20th.

Ronald Allen Brady

Ronald Allen Brady

3-19-12

