COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

COURT OF APPEALS
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2021 MAR -9 PM 2:08
STATE OF WASHINGTON
BY AP

STATE OF WASHINGTON Respondent, v. Andre McKenzie (your name) Appellant.	))))))))))	No. 54651-5-II STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Andre McKenzie, 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.

P/M: 3/8/21

Additional Ground 1

I believe that my Speedy trial rights were violated. My case was continued 10 times in which I disagreed 8 out of those 10 times (Refer to the document label "1" with the code of # mcenel37707 0052242 in line "25".

Additional Ground 2

In these grounds & in the ones that come after this I will be citing prosecutorial misconduct, false testimony by Sergeant Rodriguez, that I was not judged by my peers but judged by adults that range from 40-70, that I was denied an entrapment defense by my defense council & there was insufficent evidence in this case. Any & all evidence in this case was purely circumstantial.

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

Date: March 4, 2021 Signature: Andre McKenzie

Form 23

I cite
- prosecutorial misconduct
- false testimony
- prosecutor states I could use entrapment, defense disagrees
- not judged by my peers
- insufficient evidence for both charges

- entrapment case

Statement of Additional Grounds March 4, 2021

Volume 13 (December 12, 2019)

p 890 lines 11-13

The prosecutor lied when he stated that Sam's profile simply said "Younger then I said". It said "my age is wrong".

p 891 line 1-2

The prosecutor lied about my response when she claimed to be 13. He states that I said "You dont look that young". I said "13"; "oh no".

pg 891 line 3-4

The prosecutor states that Sam told me she was "13" multiple times when in reality it was once. She stated it in the SKOUT message & no more for the duration of the conversation

pg 891 line 6-7

The Sergeant requested that I text them not vice versa.

pg 891 line 13-14

The prosecutor lies when he states that we discussed getting together exclusively for sex.

pg 891 line 20

States that the word "Daddy" could mean a variety of things, not just the definition from law enforcement

pg 892 line 5-6

when I inquired if she had condoms, she didnt tell me to get some she suggested that I could purchase them

pg 892 line 7-8

The prosecuter lies again when he states Sam gave me a location to meet when it was vice versa.

Volume 5 (December 16, 2019)

pg 174 line 8

The prosecutor states that in Sam's profile it says "my age is wrong" confirming his lie in Volume 13 pg 890 lines 11-13

pg 180 line 5-10

The Sergeant explains that he has 99+ notifications/messages from different users (This will be cruciel later when the

prosecutor states that I had 99+ messages in cross-examination)

pg 191 lines 3-4

The sergeant stats that there are gaps in the communication & that some messages aren't synced on time

pg 193 lines 10-12

The prosecutor ask the sergeant if I thought he was older then what he stated in which he said "yes".

pg 196 line 15

The sergeant states what he "percieves" what my emoji means stating what he thinks it means vs what it actually means.

pg 198 lines 13-14

Again the prosecutor ask the sergeant what "sugar-deddy" meant to him not what I intended it to mean. The definition of "sugar-deddy" is an older man who spends lavishly on a young woman", has nothing to do with sex yet thats what they imply. Speculation

pg 198 lines 19-24

The sergeant states they are 3 responses following one another. In line 24 the sergeant tries to explain the definition of these 3 connected responses. Speculation

pg 199 line 19-20

The sergeant says we discuss me exchanging money for sex yet later on he states that we never discussed the matter

pg 200 lines 15-20

The prosecutor asked the sergeant on what he "thinks I mean when I said "this could be a fluke". He replies "I percieve it that I might think that, one, im either in enforcement or two, Im not who I say I am".

pg 204 line 25 pg 205 1-5

The sergeant admits that sometimes the text might come in late for various reasons.(

pg 217 lines 4-9
The prosecutor insinuates that Im playing Cat & mouse with the Sergeent when it comes to sexual matters in which the sergeent agrees ; Speculations
pg 223 lines 15-18
The sergeent trys to determine what my definition of what a daddy means ; this clearly states that both of us are mis-interpating what the other one means when it comes to certein things are said
pg 223 lines 23-25 pg 224 line 1
The Sergeant admits that he is trying to engage sexual conversation
pg 224 lines 3-7
The prosecutor is implying what he thinks I meen when I said "like arent you texting me & other guys also. He implies this is part of the cat & mouse game. Speculation
pg 228 lines 11-12
After the sergeant ask if I wanted to have Sex I replied "no I legit think your beautiful like I thought you was 22 when it said 18."
pg 230 lines 13-17
The prosecutor ask the Sergeent what he thinks I mean when he invited me over in which I replied "Do you want me to"? The Sergeant states he thinks Im asking to "chill" with them which is incorrect. Im asking her if she wants me to hang out not vice versa. Speculation
pg 230 lines 18-19
The prosecutor ask what the word "chill" means in this context. The Sergeant says that it means sexual relations but it dosent have to mean that which implies that he assumes thats my definition of what "chill means" Speculations
pg 231 lines 6-15
The Sergeant ask how big am I in which I reply "what do you mean? like my height or something else?"

indicating im not sure I understand what the sergeant is asking.

pg 232 lines 6-16

The sergeant states that he is "really tiny". The prosecutor asked if he was referring to his height & size. The sergeant states he is referring to everything. In like 16 he changes his anwser stating he meant "vagina".

pg 236 lines 23-25 pg 237 line 1

The sergeant admits the he tries to imply that I come over strictly for sex. He states that thats what he means when he refers to doing "adult shit" yet I interpet that differently.

pg 244 lines 13-15

The sergeant states that the officer in Sam's profile picture is in her early twenties which proves my assumption correct.

pg 245 lines 11-15

The prosecutor asked the sergeant if by me saying "I give her the dick" that it didnt mean intercourse in which he replices "no".

pg 247 lines 20-25

The sergeant says that I stopped replying until he reinitated contact at 10:49 pm

pg 248 lines 13-18

The prosecutor ask if the conversation is sexual enough to commit to phase 2 in which the sergeant dosent produce an anwser

pg 248 line 25

The sergeant states he lives near a mall (this will be important later)

pg 249 line 6-12

I inquire if im being set up

pg 253 line 20-25 pg 254 line 1-4

The sergeant admits that he never provided me with any

address to any location ; lied when asked if he told me that he lived near a mall in which he says he didnt (refer back to pg 248 line 25

pg 256 lines 15-23

The prosecutor ask the sergeant if the meeting place I gave him was part of their primary locations in which he dosent anwser but says its around that area. He intended to use me to a 7-eleven in which I refuse.

pg 266 lines 4-9

I state that I want to leave but the Sergeant dosent let me by requesting that I wait for 5 more minutes

pg 268 lines 14-17

Again the Sergeant states that I went to leave

Volume 5 P.M. Sessions (December 16, 2019)

pg 12 lines 3-8

The sergeant admits that the photos of the woman officer is indeed 22 or older.

pg 12 lines 16-17

The Sergeant admits that the 2nd women introduced was indeed in her late twenties ; indicates I was correct once again.

pg 14 lines 10-23

The defense council asked the Sergeant about the profile stating that her age was incorrect ; that people could assume that she was older rather then older in which he agrees.

pg 32 lines 5-19

The defense asked if im still not believing that Sam is a minor in which the Sergeant agrees.

pg 36 lines 13-25 pg 37 line 1-2

The defense council refers back to the Skout messages in which I stated that "this could be a fluke". Which means I was skeptical even afte she claimed she is a minor in which the Sergeant agrees.

pg 38 lines 22-25 pg 39 line 1

the prosecutor asked if I showcased anything that showed I didnt believe that she is a minor in which the sergeant says "yes".

pg 39 lines 5-7

The prosecutor again asked if I expressed that she was older then 13 in which the sergeant says "yes"

p41 lines 17-19

The sergeant states that the only thing that concerned him was that I didnt go against him being a prostitute, He stating he continued the communication based off the specific reason.

pg 41 lines 24-25

The prosecutor asked if I offered money for sex in which the sergeant says "no" (refer back to volume 13 pg 144 line 19-20 when he said we did discuss money for sex)

pg 42 lines 22-25

The prosecutor insinuates that im playing "cat & mouse" which the sergeant agrees, Speculation

pg 43 lines 12-14

when asked if I expressed any disbelif in her being a minor the sergeant says "no" contridicting himself in his prior testimony with the prosecuter & defense council.

pg 45 lines 10-15

The defense again ask if I showed any disbelif about her being a minor when now the sergeant says "yes"

Volume 6 (december 17, 2019)

* I was advised by my councel to stipulate everything because they said "the less witnesses the better" but in reality I was stipulating evidence that would have benefitted my defense.

pg 303 lines 11-15

The sergeant states that he only aquired 48 text messages instead of the whole conversation.

pg 304 lines 9-15

Sergeant Greer acknowledges that I could have deleted the previous text or that they could have deleted automatically

pg 310 lines 8-16
The sergeant states that its most likely that I deleted the messages not the application.
pg 311 lines 8-10
The prosecutor tries to put in its jury's mind that the conversation deleted itself rather than me deleting it myself. If this wasn't true then how can the sergeant extract any text if they weren't allowed access until 2019 which was 6 months after my incarceration? The message would not be present if there was an auto-delete future.
p 341 line 19-24
The prosecutor implies that im lying about how long it took me to get to puyallup
pg 344 lines 9-25
The prosecutor starts to mock me in front of jury & tried to insinuate that just because I had condoms alone solely meant that sex was a sure thing.
pg 346 lines 14-25 pg 347 lines 1-5
The prosecutor tries to say that I had 84 notifications / messages from other people when in fact the sergeant stated in his testimony that he was the one with 99 messages (refer back to volume 13 pg 180 lines 5-10)
pg 359 lines 5-8
The prosecutor then goes back to confirm that the message indicator belonged to the sergeant.
pg 362 lines 3-21
The prosecutor tries to argue with me about if I would believe the jury if they stated how old they are
pg 363 lines 1-24
The prosecutor is mocking me once again & making it seem like I dont know that having sex with a minor is illegal.
pg 346 lines 3-21
The prosecutor tries to say that I had stated that I would

give her the dick right after she claimed she was a minor which is false I never said that at that point in time. (She claimed to be a minor in the SKOUT message NOT any time in the text messages)

pg 367 line 9-25 pg 368 lines 1-23

The prosecutor again tries to mock me on how he percieves the meening of the emoji versus what I intended it to mean in the conversation.

pg 371 lines 1-6

The prosecutor imlies that just because I asked "what kind of daddy do you want" means that im trying to get with her. Speculation.

pg 373 lines 3-25 pg 374 lines 1-25 pg 375 lines 1-4

I state that the messages are broken apart but they were suppose to be together but the prosecutor tries to insinuate that im lying once again. He always starts to say "you really think the jury believes this or that (refer back to volume 13 pg 204 line 25 pg 205 lines 1-5 where the Sergeant states that once sent some messages arent recieved on time.

pg 379 lines 1-17

The prosecutor tries to argue with me on what I meant when I asked if I was being set up. He implies that im talking about law enforcement. Speculation

pg 379 lines 18-20

The prosecutor tries to say I "throw condoms into my car" when I already testified that they were already in my car even before talking to Sam.

pg 384 lines 3-25

The prosecutor again tries to argue that im playing the cat & mouse game. Speculation

pg 388 line 23-25 pg 389 lines 1-2

Again the prosecutor is implying that im not bringing up sex out of fear that im knowingly talking to law enforcement which is false. Speculation.

pg 392 lines 8-17
The prosecutor tries to argue on my explanation on what I mean when I said "you're way too young to be doing what you do."
p 396 lines 10-12
The prosecutor states that the idea of sex was in the sergeant head not mine.
pg 402 lines 5-9
The prosecutor again implies that just because the sergeant might inquire about my penis size that it means I want to have sex with her; that makes no sense. Speculation
pg 408 lines 22-25 pg 409 lines 1-7
The prosecutor tries to argue with me because he wasn't satisfied with my answer.
p 414 lines 1-7
The prosecutor test my knowledge about the age requirements to recieve a washington state driver's license in which I never researched because I already aquired my license.
pg 415 lines 15-25 pg 416 lines 1-4
The prosecuter implies that I intend to have sex with both women when I never said anything to that effect. Speculation
pg 418 lines 19-25 pg 419 lines 1-2
The prosecutor tries to say that after she claimed to be a minor she sent me a photo known as Exhibit 8 which again is false.
pg 421 lines 18-25 pg 422 lines 1-25
The prosecutor argues over my explanation once again when I said "make you happy". Then he makes me repeat the text "give you the dick" pretends not to hear me then asked me to say it again.
pg 423 lines 10-20
I tell the prosecutor that he is speculating on everything & interprets everything the way it wants things to mean. Argumentative & Speculation

pg 425 lines 1-25 pg 426 lines 1-25 pg 427 1-25 pg 428 line 1
The prosecutor tries to argue with me & continues to try to argue what he wants things to mean versus what they really mean

pg 437 lines 1-25 pg 438 lines 1-3
The prosecutor tries to argue about my estimation; since I couldnt remember every street or traffic light on my way to puywallup he implied that it was because I was thinking about sex. Speculation & that dosent make any sense. I took the highway 90% of the trip & noone memorizes how many traffic lights they past or memorize the routes they take to get to a destination specially if its their first trip & is guided by gps.

pg 440 lines 6-9
The prosecutor is calling me a liar when I stated I called the Sergeant. It couldnt prove if i did or didnt attempt to call but the call is on my phone in the call log of the talk-a-tone application. Speculation

pg 445 lines 16-25
The prosecutor states that to him it sounds like im desperate to meet with the women in which I openly disagree with his interpetation on the matter. Speculation

pg 450 lines 23-25
I admit that I deleted the text messages before the Sergeant reinitiated contact at 10:49 pm

pg 451 line 4-5
I state & reconfirm that the Sergeant reinitiated contact.

pg 452 lines 16-25 pg 453 lines 1-4
I state that I cut communication & deleted the message at 9:45 pm on July 29, 2018; the Sergeant sent me a text at 10:49pm inquiring for the 7th time if I wanted to "come play or not".

pg 470 lines 15-19
The prosecutor states he can prove that I lied about 2 things

I needed to speak to the sergeant yet he then said that he has no rebuttal / rebuttal witness meaning that I told the truth under oath.

volume 7 (december 18, 2019)

pg 519 lines 23-24

The prosecutor states that I played cat & mouse once again, speculation.

pg 529 lines 18-21

The prosecutor lied when he states that I enticed Sam to "chill" when it was vice versa.

pg 534 lines 14-19

The defense explains the real substantial step in which is required for proper conviction.

pg 539 line 11-13

The prosecutor is displaying his own interpretations on what my statements meant

pg 540 lines 14-21

The prosecutor states his opinion once again assuming what my state of mind was based off his speculation not facts.

pg 544 lines 1-5

The prosecutor plays the "rather be safe then sorry" play to entice the jury.

pg 545 lines 15-17

I never said the condoms fell out my glove box I said I had taken them out to look for an auxillery cord (refer to pg 448 lines 7-12) makes no sense for me to have them on the seat if I intended to drive both of them to the residence.

pg 555 line 4-25 pg 556 1-16

They refuse to answer the jury's question & did not have the definition of preperation in the jury instruction.