

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

IN THE SUPREME COURT OF THE STATE OF WASHINGTON
2006 OCT 24 P 2:22

BY C. L. MEDPITT)	No. 77507-9
STATE OF WASHINGTON,)	
Respondent,)	STATEMENT OF
CLERK)	ADDITIONAL
v.)	AUTHORITIES
)	(RAP 10.8)
KIM MASON,)	
Appellant.)	

Pursuant to RAP 10.8, Appellant, Kim Mason, submits the following statement of additional authority for the consideration of the Court in the above-captioned matter:

James F. Flanagan, Confrontation, Equity, and the Misnamed Exception for "Forfeiture" by Wrongdoing, 14 Wm. & Mary Bill of Rts. J. 1193, 1239, 1241 (2006) (explaining "forfeiture" doctrine more accurately understood as waiver by conduct and should apply only when defendant deliberately acted for purpose of preventing testimony, since waiver approach is "more consistent with the history, precedent, and constitutional jurisprudence on the relinquishment of confrontation rights.");

James F. Flanagan, Forfeiture by Wrongdoing and Those Who Acquiesce in Witness Intimidation: A Reach Exceeding its Grasp and Other Problems with Federal Rule of Evidence 804(b)(6), 51 Drake L. Rev. 459, 462-66 (2003) (recounting early English and American history of using absent witness's out-of-court statements when accused person procured witness's absence and finding, "Significantly, all of these cases involved the admission of a prior deposition or prior trial testimony.");

Statement of Additional
Authorities

Washington Appellate Project
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J.L. Cooper & Co. v. Anchor Sec. Co., 9 Wn.2d 45, 73, 113 P.2d 845 (1941) (equity doctrine of unclean hands "must be understood to be willful misconduct in regard to the matter in litigation, and not to misconduct, however gross, which is unconnected therewith. . . .");

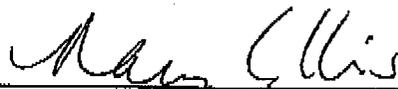
Mike M. Johnson, Inc. v. County of Spokane, 150 Wn.2d 375, 391, 78 P.3d 161 (2003) (waiver by conduct "requires unequivocal acts of conduct evidencing an intent to waive," citing Absher Const. Co. v. Kent Sch. Dist., 77 Wn.App. 137, 143, 890 P.2d 1071 (1995));

Robinson v. Seattle, 119 Wn.2d 34, 82, 830 P.2d 318 (1992) ("Equitable estoppel is not favored, and the party asserting estoppel must prove each of its elements by clear, cogent, and convincing evidence.");

In Re Personal Restraint of Call, 144 Wn.2d 315, 328, 28 P2d 709 (2001) (invited error doctrine applies only when "the defendant took knowing and voluntary actions to set up the error. . . .").

DATED this 24th day of October 2006.

Respectfully submitted,



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