

NO. 77767-5
(COA No. 29965-8-II)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

Respondent,

v.

NICHOLAS D. HACHENEY,
Petitioner.

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STATEMENT OF ADDITIONAL AUTHORITIES

**THE SUPREME COURT
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,)	NO. 77767-5
Respondent.)	(COA) NO. 29965-8-II
)	
v.)	Statement of Additional Authorities
)	
NICHOLAS DANIEL HACHENEY,)	
Appellant.)	

1. IDENTITY OF MOVING PARTY

COMES NOW, the Appellant, Nicholas D. Hachenev, and respectfully requests this Court's for the relief below.

2. RELIEF SOUGHT

Appellant respectfully requests this Court's to take into consideration two additional authorities that are critical to the review of this case regarding the issue of whether the trial court violated the defendant's right to confrontation through the use of video

depositions taken in a non-public forum. These authorities are specific to that portion of the confrontation issue dealing with court closure.

3. ADDITIONAL AUTHORITIES.

State v. Rohrich, 132 Wn. 2d 472, 477, 939 P.2d 697 (1997) .

“At it’s core the Confrontation Clause, like the hearsay rule represents a preference for live testimony...Live testimony is preferred because it requires the eyewitness to relate the facts herself *in open court* subject to cross-examination while under oath in a face-to-face setting before the watchful eyes of the jury. Such live testimony maximizes ‘the accuracy of truth-determining process in criminal trials.’” *State v. Rohrich* 132Wn. 2d 472, 477, 939 P.2d 697 (1997). (Quoting *White v. Illinois*, 502 U.S. 346, 356, 112 S.Ct. 736, 116 L.Ed.2d 848(1992) and *Dutton v. Evans*, 400 U.S. 74, 89, 91 S.Ct. 210, 27 L.Ed. 2d 213 (1970)). (Emphasis added)

On June 29th, 2006 this Court ruled in the case of *State v.*

Ricko Fernandez Easterling, Docket # 76458-1.

Appellant would direct the Court to three portions of that opinion:

1. “The public trial right extends beyond the taking of a witness’s testimony at trial. It extends to pretrial proceedings.” *Id* at page 3.
2. “Absent a closure order narrowly drawn to protect a clearly identified interest, a trial court may not exclude the public or press from *any stage* of a criminal trial.” *Id* at page 5 (citing *In Re Orange* supra. emphasis added.)

3. Thirdly, this Court stated that the Washington Constitution contains broader protection for defendants and the public because Article 1 § 10 requires the open administration of justice in all cases.

“...the United States Constitution, unlike our State Constitution, does not contain the open administration of justice in all cases requirement that is contained in article I, section 10 of our state’s constitution. *Id.* note 12.

CONCLUSION

Appellant respectfully requests this Court accept this Statement of Additional authorities.

Respectfully submitted this 20th day of August 2006.



Nick Hachfeney, pro se.

Nick Hacheney #851884
Washington State Reformatory C-326
Monroe Correctional Complex
PO Box 777
Monroe WA 98272

August 21, 2006

Ronald Carpenter, Clerk of the Court
Washington Supreme Court
Temple of Justice
PO Box 40929
Olympia WA, 98504-0929

RE: **NO. 77767-5**
(COA) NO. 29965-8-II

Dear Sir:

I recently received your ruling denying my statement of additional authorities. Thank you for directing me to the proper rule. Please find enclosed an amended statement of additional authorities with the argument removed.

Sincerely,



Nick Hacheney

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Nicholas D. Hacheweg. Petitioner,

v.

State of WA. Respondent.

DECLARATION OF MAILING

NO 77767-5
COA 29965-8-II

I, Nick Hacheweg, appearing pro se, do hereby declare under the penalties of perjury that the forgoing is true and correct to the best of my knowledge.

That on 20th day of August, 2006, I did process through the law library at the Washington State Reformatory in Monroe, Washington, in accordance with the institutional mail policy, postage prepaid, United States Mail addressed to the following:

Reuben A. Sutton
Kitsap County Prosecuting Office
614 Division St
Port Orchard WA 98366

John Cross
420 Cline Ave
Port Orchard WA 98366

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BY MAIL ROOM
7/11/06

One (1) true and complete copy of the following documents:

- Amended Statement of Additional Authorities

Dated this 20th day of Aug, 2006, at Monroe, WA.

Respectfully submitted

[Signature]
Petitioner, pro se