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COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

06 NOV 29 PM 1:17

STATE OF WASHINGTON
BY _____ DEPUTY

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
Covell Thomas)
(your name))
)
Appellant.)

No. 34339-8-II

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Covell Thomas, 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

Prosecutorial Misconduct / Closing argument by Mr. Hillman

Additional Ground 2

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

Date: 11-27-06

Signature: Covell Thomas

Form 23

Statement Of Additional Grounds For Review

No. 34339-8-II

Additional Ground 1, Prosecutorial Misconduct. Date 11-27-06

Page 1697 lines 5-9

Mr. Hillman, states:

You'll also remember that Richard Geist was murdered in the front drivers seat and drug out the side of the van. Where he was resting was on the passenger's side of the van. As you'll remember --

Page 1697 lines 10-17

Objection made by defense. Objection denied by the court.

Mr. Schwartz, states:

Your honor, I'll object to that. That misstates the evidence. Lets have a sidebar.

The Court, states:

Objection denied. Lets keep going.

Mr. Hillman:

You'll recall that the van --

Mr. Schwartz:

Your Honor, they are attempting to admit evidence from another witness who didn't testify. Thats against the law. Thats unlawful --

The Court:

Objection denied. Lets move on.

Page 1702 - 1703

P. 1702 lines 14-25 (Jury exits.)

Mr. Schwartz makes a record based on defense's objection.

Mr. Schwartz:

Your Honor, I'd like to make a record based on my objection. The court wouldn't let me do it while Mr. Hillman was arguing. I understand the Court was pressed for time in that regard.

Mr. Hillman was making an argument regarding evidence that had not been addmitted, and the reason it wasn't admitted is he got that from Edward Rembert's statement that he made after originally making a plea deal with the prosecutors, but before withdrawing that. That's the only place that that whole thing comes, from the body being dragged out the passenger's side, from Edward Rembert. And thats prosecutorial misconduct. Not just —— continuing on 1703

Page 1703 lines 1-7

because you're attempting to argue evidence thats not in the record, but clearly he knows that the big problem with that, trying to get that in any other way, is there's a significant confrontation problem with that. And Rembert is the only one that ever said that. Thats where he got that. And thats why the court never should have allowed him to continue that argument.

Covell Thomas

The reason why I have used this error for additional grounds for review is....

1.) What prosecution did was against the law and my right to a fair and partial trial

2.) The only reason the objection was denied by the Court was because it was passed 5:00 P.M. This was very unfair to defense.

3.) It effected the jury into their decision on the verdict and made them bias towards defense.

Prosecution should never have been allowed to use any witness statements of a witness that never took the stand. I have the right to confront my accuser and defend myself. In this case I was not given that right. I humbly request that the Courts correct this injustice thats been done.

Covell Thomas

Date 11-27-06

No. 34339-8-II