

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON
RESPONDANT

Case # 61118-6-I
07-1-03257- Sea
case #

Andre Menese

Motion: Identity of Appeallant

STATEMENT OF ADDITIONAL GROUNDS

RAP 10.10 and constitutional Grounds of United States

Question of Law and Fact
" When a Constitutional charge includes Fraud Statute ER 803 With Conspiracy of Fraud Statute U.S.C.A. 5 the Defendant ask the Question of Law & Fact.
How can multiple crimes from one criminal conduct of a phone call motivated by third party boyfriend, neighbor become the prosecutors motive to threaten state witness to testiphy and give Defendant ~~Answers~~ multiple counts

ERROR of Law and Fact
How can count 1 + 10 and count 3+ 5 and 4 + count VI fit into a unconstitutional Sentence violate double jeopardy.. Prof. N.J.D.Jr.
" If the sentence don't fit we must Aquit.

Appeallate Attorney Elizabeth Albertson
Washington Appeallate Project
701 Melbourne Tower
1511 third Ave.
Seattle, WA. 98101
(206) 587-2711

Submitted by Appeallant
7/10/08

Created by ref. Anthony J. Depp Scientist
7/10/08
White House Answer NRCC Wash. D.C. 2006
Bojaca inquiry 3/14-16-06 - Republican THX summit

Filed
COA
7-28-08
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good

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3 IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

4 DIVISION ONE

5 STATE OF WASHINGTON
6 RESPONDANT

case # 61118-6-I

7 VS

case # 07-1-03257-Sea

8 Andre Menese

Motion to Docket (Clerks Action

Statement of Additional Grounds RAP 10.10

9 1.Motion

10 Identity of Moving Party

11 I ANDRE' MENESES, Pro Se, have received and
12 reviewed my Attorney, Elizabeth Albertson _____, summarized in
13 attached memorandum of Laws and supporting exhibits enclosed
14 are the Constitutional grounds in additional for review that are
15 not addressed in my Attorney legal Brief. I pray for the mercy
16 of this court to review this Statement of additional Grounds/
17 if necessary discretionary review addendum is inclosed if court
18 of Appeals Judges cannot See/read constitutional Error of Law
19 An Fact herein addressed in This Legal Brief.

20 Andre' Meneses
21 Submitted By _____

Court of Appeals Clerk

22 ANDRE' MENESES
23 Handwriting of D.O.C. inmate
24 Bed # UC-326² D.O.C. # 825995
25 McNiel Island Corrections Center
P.O. Box 88-1000
Steilacoom, Wa. 98388

26 Clerks Action: Please send copyie to all parties and send
Appeallant stamp date of entry back to Him

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3 IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

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5 STATE OF WASHINGTON

DIVISION ONE

case # 61118-6-I

6 Andre Meneses ^{VS}

case # 07-1-03257-Sea

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- 14 5. Motion To Strike, Loss of Jurisdiction, subject matter U.S.C.A. 5,14 Amend
- 15 6. Writ of Injunction
- 16 7. Statement of Facts
- 17 8. Argument: Unconstitutional imprisonment review
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- 19 10. Ineffective Assistance of Defense Counse.Failure to dismiss
- 20 11. Criminal Law & Procedure >Jurisdiction Loss>constitutional
- 21 12. Criminal Law & Procedure > FRAP 12 (h)(3)>U.S.C.A.5>Rule 3.3
- 22 13. Criminal Law & Procedure > Statute> Error in Law & Fact
- 23 14. Criminal Law & Procedure > Sentencing> Sentencing guidelines
Miscalculation of offender score (SRA)
- 24 15. Criminal Law & Procedure > Statute > Subject matter loss of
- 25 Jurisdiction> FRAP rule 12, Vol 13B,14 § 14A/§§ 3561-3800
- 26

Case # 61118-6-I-----

Case # 07-1-03257-Sea

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> court Failure to include all the essential elements
 21. Error of Law & Fact > Nolle Prosequie > Fraud Statute ER 803
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 23. Statement of Issues Cont.
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United States Constitutional theme, Prof. N.J.D.Jr. Scientist.
 27. Note
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-

case # 6118-G-I

case # 07-1-03257-SEA

Notice of Motion for discovery & Inspection

1. PLEASE TAKE NOTICE, that upon the annexed affidavit supporting statement of additional grounds, duly sworn to court of Appeals on July 10, 2008 , Upon all the proceedings had herein, I ask my Appeallant Attorney and may have forgot me.. upon all the attached How can Rule 16 (a) of the rules of Criminal Procedure, a motion will be made on behalf of the Appeallant....., in the United States District court of Appeals Division One,, _ court Clerk.....Johnson in Room,.... Located atStreet Address, CitySeatt, at (a.m...../ P.M??s.....as soon as possible.. When Counsel reads this supporting overlooked element of Constitutional U.S.C.A. 6,14 Please insert when you mail Appeallant copies of Transcript.
Appeallant is a Poor Person with indingency staties. See Statement of Finances, D.O.C.
 2. All relevant written or recorded statements or confessions made by the Defendant:
 3. All 911 cid Come Tape printed version
 4. All relevant Court Written or Recorded Transcript by what court Reported.
 5. Apology for Mistake of this oversite and proceed for discovery overlooked by Superior Court Public Defender & Appeallant Attorney.
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case # 61118-6-I

case # 07-1-03257-SEA

Motion to Strike entire Jury Panel

Peremptory Challenge U.S.C.A.6..

Prosecutorial misconduct,, see To: Whit Jury instruction.

According to Federal Civ. Proc. 1825*

in N.D.Ill. 1994, On motion to dismiss for lack of subject matter jurisdiction, court may hold evidentiary hearing or may organize documentary inquiry into jurisdiction sua sponte, as question goes to very power of court to hear case. see Fed. Rules civ. Proc. Rule 12(b)(1), 28 U.S.C.A. and Clorox Co. V. Chromium corp., 158 F.R.D. 120

jurisdictional Interpretation of Two Criminal Statute

1. Witness motivated to call 911 by third party and state sorry
2. Misinterpretation of Force,, A voice is not a Physical force of a broken Car window.
3. How can the Car window become a charge of witness tampering phone tamperin, count 1=4 and 3=6 dont Fit into United States Constittuional Law violates Due Process of Law & Fact.

IN THE COURT OF APPEALS DIVISION ^{ONE} ~~THO~~ OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF ^{King} ~~PERCE~~

STATE OF WASHINGTON
VS
ANDRE' MENESES

case # 61118-6-I
case # 07-C-09257-SEA
case # _____

Writ of Injunction

order of Release extraordinary judicial, Court Fraud

1.

2. "Since relief by injunction is a drastic remedy, as considered supra § 2, it will be granted only in extraordinary or exigent circumstances. see Ill.-Crawley V. Bauchens, 312 N.E.2d 236,57 Ill.2d 360

3. If there was not Constitutional violation of the 4,5,6,14 Amendment raised by __ defendant, the Cause of Double jeopardy raises the existance of Tampering with the indictment.

4. exhibit relied on see Dept. of corrections Judgement & Sentence the Dept. of Corrections has no Idea they are holding defendant unlawfully untill defendant has filed in the Court of appeals such Fraud.

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2008 JUL 28 AM 11:18

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3 IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

4 DIVISION ONE

5 CASE # 6118-6-I

6 State of Washington)
7 respondent,)
8 vs)
9 Andre Meneses)
10 Appellant)
11 Constitutional grounds
12 Statement of Additional Grounds
13 RAP 10.10 / FRAP 44,28

14
15 I, ANDRE' MENESES, Have received and reviewed
16 my Attorney, Elizabeth Albertson # WAP. Summarized
17 in attached memorandum of Laws and supporting exhibits
18 inclosed are the additional grounds for review that are
19 not addressed in that brief . I understand the Court
20 will review this Statement of Additional Grounds for
21 Review when my appeal is considered on the merits.

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2. Table of Contents
1. Declaration of Service
 2. Motion for docket
 3. Statement of Facts
 4. Statement of the Issues
 5. Evidence Relied on
 6. Argument
 7. Legal Authorities
 8. Order Granting constitutional Relief
 9. notes.

STATEMENT OF FACTS CONT.

In a motion to modify by lower court the error of Law & fact is shown in misidentification of Constitutional Law and Miscalculation of offender score.

Question of Law & Fact.

when the error is seen on the judgement and Sentence the Appellate Court sometimes DO Not See this mistake.

See State Vs. Richard Brown, victim of U.S.C.A. 5,14,13, amend.14

With question of Law & Fact "How can count 1 fit into Count 2 by Prof. Nathaniel James Davis Jr. 7/11/08 ,court of Appeals div. 2,/Kitsap County mistake of Judicial process and Fraud upon the Court.

3. when a judgment or order will not be changed to one not authorized by law according to Wash.- Wagner V. Law, 28 P. 1109, 3 Wash. 500, modified on other grounds 29 P.927, 3 Wash. 500.

4. Loss of Jurisdiction, Fraud damages the United States Constitutional Amendment to function Properly in the 1- 14 amend.

6. the demurrer= Unconstitutionality of Statutes, § 12.44
The demurrer+= (dear Court please excuse the Type as we only have books and Swintec 2600 or swintec 600 manual typewriters...thank You....

~~2/25/7~~
Argument: Unconstitutional imprisonment review.

A violation of the Sixth Amendment renders an indictment fatally defective see United States V. Dickerson (1964), CA 6 Ky) 337 f2d 343

when a Court deliberately switches the Charge to double Jeopardy the Defendant becomes a Victim of Fraud upon the Court with Conspiracy of the Prosecuting Attorney and Public Defender while the Appellate Public Defender also conspired on Defendant while an angel came along to help the defendant provide a Constitutional Defense in interpreting the Conspiracy of the Govt. officials called "Attorney At Law"

Statement of Ingredients of Offense.

The due process clause of the Fifth Amendment prohibits Congress from enacting and enforcing penal legislation that fails to furnish an ascertainable standard of guilt or innocence. see United States V. L.Cohen Grocery Co. (1921) 255 US 81, 65 L. Ed 516, 41 S. Ct 298, 14 ALR 1045

PRP # _____ case # _____
case # _____
Writ of Injunction Cont.

5. " The propriety of granting an injunction depends on the facts of each particular case see Wash.-Venegas V. United Farm Workers Union, 552 P.2d 210, 15 Wash. App. 858,

6. Comparison of Demurrer; Misconduct of Prosecuting Attorney and Conspiracy of Public Defender. In a much proven fact. When Mr. Kibbey told defendant not to testify, but used the prior conviction to persuade a guilty verdict violated defendant Constitutional Amendment 6, "the Witness was improperly sworn in with a unlawfull use of measurement of the School Zone.
see _____

Demurrer
7. Contrast of ~~Demurrer~~: Judgement & Sentence Violated Defendants United States Constitutional Amend [5th] to allow Conspiracy with the Dept. of Correction to Punish defendant Twice and let him sit in Prison violate his right to be free on personal recognaces basis. Which this Writ of Injunctions provides the truth. " demurrer admits the truth of all material facts that are properly pleaded. see V.-Gupton V. Quicke, 247 Va 362,442 S.E.2d 658 (1994)

case # _____

case # _____

Comparison and Contrast Analysis of Unconstitutional
sentence/conviction.

reference case Foot note #5 see State V. Peterson 2 wn. App.

464, 469 P.2d 980 April 1980 3 93-40914-2 Division Two
court of Appeals

Appeal from a Judgment of the superior court for cowlitz county,
3931, Frank L. Price, J., entered March 6, 1969

Reversed and remanded.. Prosecution for indecent liberties, Defendant
appeals from a conviction and sentence.

Wayne Roethler and George E. Teining, for appellants.

Henry R. Dunn, Prosecution Attorney, for respondent (State)

[1] It is fundamental that a defendant charged with commission
of a crime should be given great latitude in the cross-examination
of prosecution witness to show motive or credibility. See State
V. Tate, 2 wn. App. 241, 469 P.2d 999 (1970). This is especially
so in the prosecutions of sex crimes, owing to natural instincts
and laudable sentiments on the part of the jury, the usual cir-
cumstances of isolation of the parties involved at the commi-
-ssion of the offense and the understandable lack of objective
corroborative evidence, the defendant is often disproportionately

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4 case # _____

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6 Comparison & contrast cont.

7 ---...at the mercy of the complaining witness" testimony.

8 see State V. Moneymaker, 100 Wash. 463,171 P.253 (1918):

9 and People V. Baldwin, 117 Cal. 244, 49 P.2d 186 (1897)

10 ..In the instant case, the questions put to the mother upon
11 cross-examination attempted to elicit testimony to establish
12 an inference that the prosecution was initiated by the complaining
13 witness for reasons which would tend to establish his innocence*.

14 failure to permit the defendant reasonable to pursue a valid
15 theory constituted error which seriously jeopardized his defense
16 to a heinous crime. The defendant should be granted an
17 opportunity to pursue this defense on retrial of this matter.

18 [2] defendant also challenges the admission of *Telephone
19 conversation as related by the complaining witness' MOTHER.

20 Defendant's a argument is 2 pronged. He contends (1) that the
21 Identity of the Caller was never sufficiently authenticated and
22 (2) in any event, the basis of statement "If you give me a break,
23 I will go to the doctor", cannot constitute an admission
24 against interest. We find no merit in either contention. *The
25 identification of the Voice at the other end of a telephone
26 conversation need not be unimpeachable declared.

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6 ...It insufficient that the witness provide a reasonable basis
7 for such identification. The evidence indicates the witness was
8 sufficiently familiar with the defendant's voice to have made
9 a reasonable identification.

10 furthermore, it is not so unreasonable to infer that a person
11 who has committed an abnormal sexual act is sick and might want
12 to see a physician. The evidence was relevant and material
13 and properly admitted into evidence. The judgments is reversed
14 and a new trial awarded.
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case # _____

case # _____

[8] Criminal Law & Procedure>Sentencing> sentencing guideline
>unconstitutional sentence> error of Law and Fact.

Defendant prays this Court shall reverse conviction from
a unconstitutional conviction that included Fraud in ER 803 ,
Jury Presumption of Defendants guilt by presentation in the
TO: Whit Jury instruction.

Error of Law and Fact review

According to State V. Staley, 848 P.2d 1274, 69 Wash. App.222
, Review granted, 859 P.2d 603, 122 Wash. 2d, 1491, Reversal
1872 P.2d, 123 Wash. 2d, 794 does this Defendant Andres
exsperience imprisonment unlawfully in sentenceing the Error
of Law and Fact is SEEN How can count 1 and 10 fit into count
IV and VI, including other duplicitous counts where there is
a insuffician authentication of Evidence in Violation
of United States Constitution Amend. 1,5,6,14.. How can a
Voice go into the Jury Room without a recorded tape.
No Tape= No case when a U.S.C.A. 1 Amend Freedom of Speech
is Assinated by a Unconstitutional Conviction built on
Hearsay and Prosecutorial misconduct adding Threat to State
Witness who had motive to lie mother of Andre Child but
third party Farther of Same mother coerced her to call 911
without a valid identification.. the neighbors said it was
a light skinned men.. How did Andress get singled out without

police line up or fingerprints identification...not applied.(footnote5)

[15] State V. Peterson 2 Wt.App. 464, 469 P.2d 980 April 11 1980 #93-40914-2
April 1980 division Two Court of Appeals

[1] CRIMINAL LAW & PROCEDURE [JURISDICTION LOSS [CONSTITUTIONAL

"For the Federal Court to determine whether it has Jurisdiction under the Civil Right Jurisdiction Statute, The Court, of necessity , must first determine whether plaintiff has stated a cause of Action under the Civil Rights Statute creating a cause of action for State Action which violates a person's constitutional rights.

[See Haldorson V. Blair, D.C. Minn, 1978, 449 F. supp. 1025

PROSECUTOR SUBMITTED TWO CRIMINAL CODES TO JURY

When the prosecutor of King County, Jamila Taylor, of Case # 07-1-03257-SEA The Appellate Attorney For Andre Meneses stated "After viewing the evidence in the light most favorable to the prosecution , no rational trier of fact could have found the essential elements of telephone harassment beyond a reasonable doubt. [see Jackson vs. Virginia, 443 U.S. at 319, where the evidence was insufficient to prove that Mr. Meneses acted with the intent to harass, intimidate, or torment, and that such intent was formed at the initiation of each of the phone calls, Reversal of all charges for both felony and gross misdemeanor. telephone harassment (counts I, III, IV, V, VI, VIII, IX and X is required and Double Jeopardy prohibits Retrial [see Hickman, 135 Wn. 2d at 103, Hardsity, 124 Wn. 2d at 309

[2] Criminal Law & Procedure | FRAP 12 (b) (3) - U.S.C.A. 5
Speedy trial, double jeopardy] Fraud no time bar

A. At anytime motion to dismiss, Prejudice;

"At anytime motion to dismiss, vacate record of conviction,
in keeping with the policy set forth in rule 12 (b) (3)
of preserving the defense, a lack of subject matter, jurisdiction
jurisdiction may be asserted at any time by;
interested partys. see Kingwood Oil Co., V. Bell, C.A.
7th, 1953, 204 F.2d 8.

B. State of Washington Loss of Jurisdiction Review

When defendant was arrested on May 19, 2007 he was arraigned
on May 31st, 2007 and June 12th Case Setting , July 13th
Pre-Trial , July 24th Trial Date set, however defendant
was not brought to trial until Sept. 24th 2007, and no waiver
was signed past speedy trial expiration of July 31st, 2007.
Defendant served 114 days before being taken to trial and held
for 72 hours hold in King County Jail with no access to an attorney
attorney.

C. Violation of Speedy Trial rights we reverse in State vs. Wilk
Wilks 85 Wn. App. 303,932 P.2d 687

see Appeal and Error ¶ 966 Meneses is a victim of misconception
of the facts, [See MD. -Raborg Vs. Bank of Columbia
1 Har. ¶ G. 231 "So, can appellate court may vacate or Reverse
the Conviction from a Constitutional Violation of Law & Fact.
Question of Law & Fact.. (How can two messages of Fit into a
Non threatened Witness Statement omitted by View of Jury.

case # 0118-6-I

Case # 07-1-03257-SEA

[3] criminal Law & Procedure>Statute> Error in interpreting or exercising jurisdiction.

"Court's error in interpreting or exercising statutory grant of jurisdiction is not equivalent to acting with total want of jurisdiction which will allow relief from judgment. "C.J.S. p. 427, see Wash.-Allstate Ins. Co. V. Khani, Div. 1, 877 P.2d 724,75 Wash.App. 317, Generally it is the duty of the court to annul an invalid judgment"

"a judgment may; be annulled where its enforcement would be unconscionable and inequitable and in impairment of one's legal right, see LA.-Bradford V thomas, App. 2 Cir., 499 So. 2d 525, Writ denied 503 So. 2d 480..(C.J.S. p. 426

² State v. Korum, 120 Wn. App. 686 ,720 (2004)

case # 01118-6-I
case # 07-1-03257 SEA

[4] criminal Law & Procedure > Sentencing > Sentencing guidelines > miscalculation of offender score (SRA)

This Appeal raise important questions involving the civil liberties of persons convicted of criminal behavior and involving rights guaranteed by the Eight, fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and by Article 1, Section Five, and Article 2 Section 10, of the constitution of the State of Washington.

In All proceedings had herein, and pursuant to rule 16(a) of the rules of Criminal procedure, a motion will be made on behalf of the Defendant,

A. Jurisdictional requirement 28 U.S.C.A. §§ 1331, 1332 see Stewart V. U.S., C.A. 7th, 1952, 199 F.2d 517 (How can two criminal Statutes fit into a Unconstitutional sentence. where the U.S.C.A. 5 is violated. If the sentence don't fit we must acquit, Prof. N.J.D.Jr. scientist.

B. Witness Misidentification, Wrong person testified see State v. Korum, 120 Wn.App. 686, 720 (2004)

C. Jury Presumption U.S.C.A. 14,, [In a Unconstitutiona l presumption of Jury instruction, see Bollenback V. U.S., 1946, 66 S.Ct. 402, 405-406, 326 U.S. 607, 614-615, 90 L.ed. 350

case # _____

case # _____

[5] Criminal Law & Procedure >Statute> Subject matter
loss of Jurisdiction

"In the Federal Rules of Procedure 12, the omitted
element of crime of violence is excluded from trial
where the message of no violence was testified by
the Girlfriend of Defendant mother of his child
where she had another child by the boyfriend that
got his window smashed and was motivated to lie in
calling 911 and report his car window broke on
Andres. This concept of entrapment is a defense
for Andres where he was not at the scene, nor
his fingerprint lifted from vehicle provide a
exclusionary violation of U.S.C.A. 14 Amend.

Multiple punishments be imposed for a single
act that violates several statutory provisions.

Question of Law & Fact. How did a phone call
turn into double jeopardy and added punishment 1 L"

"RCW 9A.08.010(1)(c). Reckless conduct may be
inferred from the unlawful discharge of a firearm from
moving motor vehicle "unless the discharge is shown by
evidence satisfactory to the trier of fact to have been
made without such recklessness. "RCW 9A.36.045(2)

Error of Law & Fact. (State failed to prove how
reckless a phone threat was where witness stated
there was no threat a third party called on Andres.

case # _____

case # _____

[7] criminal Law & procedure > insufficiency of indictment > proposal granting reversal of Conviction U.S.C.A. 5,6,14, failure to include all the essential elements.

Motion to Dismiss: "thus a motion may be made to -of crime.]
dismiss an indictment or information on the ground that the statute on which it is based is unconstitutional see United States V. Houcks (1963,WD Mo) 224 F. supp 778

We reverse the Conviction of ~~Andres~~ ^{Meneses} for U.S.C.A. 5 Amendment where the remedy for surplusage in an indictment or information is by a motion to strike under Rule 7 (d) and not by a motion to dismiss see Dranow V. United States (1962, Ca 8Minn) 307 f.2d 545, In Re disciplinary proceeding against Mckean (2003) 148 Wash. 2d 841, 64 P.3d 1226, Pros. had knowledge of transaction with Threatening State witness in Andres case and change testimony to none threatening. Starts a Reign of Terror Doctrine to exist in Abuse of the U.S.C.A. 4,6,14, to Stand firm. According To RCW 10.99.020 (domestic Violence) the City/State Lost Jurisdiction to Bring Andres to trial, see State V. Clowes 104 Wash. App. 935,18 P.3d 596, Wash. App. Div. 2, 2001, Reversal of Conviction Failure to include All the Essential elements of the Crime[/ conspiracy, State kv. Dorum,120 Wash. App. 688 ,86 P.3d 166, Wash. App. Div. 2 March 15, 2004

case # _____

case # _____

[6] criminal law & procedure > reversal of conviction
CrR 3.3> Trial-Time of Trial-Rules of Court

[State V. Wilks 85 Wn. App. 303,932 P.2d 687

Under CrR 3.3 (i) , a criminal charge against a defendant must be dismissed if the defendant is not brought to trial within the period provided for by the time for trial rule (CrR 3.3), unless the defendant has waived the right to a timely trial or the State has obtained an extension under the rule..

Court of Appeals: holding that the State had failed to bring the defendant to trial within the time limits required by court rule, the Court reverses the Judgment and dismisses the prosecution.) Address was held 114 days...

Sixth Amendment violation of Prosecuting Attorney

Omitted evidence "evaluated individually, these errors may or may not have been prejudicial to (Defendant) but we must assess the Totality of "Omitted evidence" under Strickland rather than the individual errors" see Washington V. Smith, 219 F.3d 620,634-35 (7th Cir. -2000) (Defendant's) trial has been nullified by incompetent witness violated constitutional privilege for incompetence of counsel for defendant.

case # _____

case # _____

Error of Law & Fact: > Nolle Prosequie,>

Criminal Law < Procedure > ^{Statute Preced} ER 803 > unconstitutional
Sentence > amicus curiae memorandum of Law & Fact.

Question of Law & Fact: How can the jury to whit
Jury instruction state defendant is guilty, without
weighing the balance of truthfulness from the State
witness " Mr. Andres did not threaten me the Prosecutor
threaten me.. see Ethel Jackson, video Deposition at

516 3rd Ave, Seattle, WA. 98104 Oct, 14, - 2005, reversal of conviction

insufficient authentication, Prosecutorial misconduct ^{Appoint} ^{3 Rule 4.3}

Fact review
^{of Evidence}

How can the woman and Boyfriend talk to Andres ^{Meneses}
with the same message of No Violence that triggered
a third party to call police on a Car window of the
boyfriend who Threaten Girlfriend the Mother of Andres
Child and boyfriend caused her to Give the Police, Pros.
Mr. Andres Phone # and arrested Him before a Judge who
previously sentence Andres becomes a Affidavit of
PREjudice is Herein printed RCW 4.12.50 ⁽⁵⁾

³ Preservation for review in State V. Coria 146 Wn. 2d
631,48 P.3d 980, (reverse the conviction, DV RCW 10.99

Loss of Jurisdiction / 28 U.S.C. 4 §§ 1331, 1332,

[2] Mistaken Equal protection
United States case # _____
ARGUMENT: constitutional LAWS. case # _____

Criminal Law & Procedure > U.S.C.A. 1 Amend > Phone
misconduct insufficient requires reversal of conviction

"Police officers or defendant ^{Meneses} Andres may also be exercising his or her free speech rights, any impact of SMC 12A.16.010(A)(5) on those rights would be minimal. see Seattle, V. Abercrombie 85 Wn.App. 393, 945 P.2d 1132 p. 398. Because.. "a substantial amount of constitutionally protected conduct" within its "plainly legitimate sweep" see halstien, 122 wn.2d at 123. (Jury verdict of Pros. to Whit ignored the constitutional protection of Free Speech and missed the concept of a damage to vehicle is Moot and vague to render a conviction with multiple crimes from one criminal conduct. This conviction becomes a entrapment case see State V. hubbard 27 Wn. App. 61, 615 P.2d 1335, # 3730-II division Two. Court of Appeals August 4, 1980, "[2] It is well settled that evidence of unrelated crimes may not be admitted, , except where such evidence shows scheme or plan, identity, or is somehow relevant and necessary to prove all essential ingredient of the crime charged. State V. Mack, 80 wn.2d 19, 490 P.2d 1301 (1971) (We reverse and remand.. Petrie, J., and Johnson., J Pro Tem., concur.)

(A) - Loss of Jurisdiction subject matter, Stewart V. U.S., C.A. 7th (1952), 199 F.2d 517 / 28 U.S.C.A. §§ 1331, 1332

LEGAL AUTHORITY (state)

1. Wash.- Wagner V. Law, 28 P.2d 1109, 3 Wash. 500, modified on other grounds 29 P. 2d 927, 3 Wash. 500
2. Wash.-Venegas V. United Farm Workers Union, 552 P.2d 210 ,15 Wash. App. 858
3. State V Hickman, 135 Wn.2d at 103,
4. State V. Hardsity, 124 Wn.2d at 309
5. Wash.- Allstate Ins. Co. V. Khani, Div,877 P.2d 724,75 Wash. App. 317
6. State V. Korum, 120 Wn. App. 686,790 (2004)
7. State V. Petersen 2 wn. App. 464,469 P.2d 980 April 1980 # 93-4-09142 div. 2 court of Appeals
8. State v. Tate, 2 Wn. App. 241, 469 P.2d 999 (1970)
9. State V. Moneymaker, 100 Wash. 463,171 P.253 (1918)
10. People V. Baldwin, 117 Cal. 244,49 P.2d 186 (1897)
11. State V. Wilks 85 Wn. App. 303,932 P.2d 687
12. Washington V. Smith,219 f.3d 620,634-35 (7th Cir. 2000) [6]
- 13 In Re disciplinary proceeding against Mckean (2003) 148 Wash. 2d 841,64 P.3d 1226
14. State V. Clowes 104 Wash. App. 935,18 P.3d 596,Wash. App. Div. 2, 2001 reversal of conviction
15. State V. Korum,120 Wash. App. 688,86 P.3d 166,Wash. App. div. 2 March 15, 2004

See note #6 STATE V. KORUM 157 Wn.2d 619, 141 P. 3d 13 (Aug 2006)

case # _____

case # _____

LEGAL AUTHORITY (State) cont.

16. State v. Staley, 848 P.2d 1274,69 wash. App. 222,
Review granted, 859 P.2d 603,122 Wash. 2d,1491,Reversal
1872 P.2d, 123 Wash. 2d, 794
17. State V. Coria 146 Wn. 2d 631, 48 P.3d 980, (reversal,DV)
18. Seattle, V. Abercrombie 85 Wn. App. 393, 945 P.2d 1132
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19. State v. Halstien, 122 wn.2d at 123
20. State V. Hubbard 27 Wn. App. 61,615 P.2d 1335, # 3730-II
division Two. Court of Appeals august 4,1980(reversal,entrap)
21. State V. mack, 80 Wn.2d 19,490 P.2d 1301 (1971)(Reversal of
conviction)
22. State V. maupin, 128 Wn.2d 918,924,913 P.2d 808 (1996)
23. State V. Goodloe, 130 Wn. App. 1039, 2005 Wash. App.
LEXIS 3408 (2005) reversal ER 803,Fraud.

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Legal Authorities (Federal)

1. Clorox Co. V. chromium Corp., 158 F.R.D. 120
2. Ill- Crawley V. Bauchens, 312 N.E.2d 236, 57 Ill.2d 360
3. united States V. Dickerson (1964), CA 6 Ky) 337 F.2d 243
4. united States V. L. Cohen Grocery Co. (1921) 255 Us 81, 65 L.Ed 516, 41 s. Ct 298, 14 ALR 1045
5. Gupton v. Quicke, 247 Va 362, 442 S.E.2d 658 (1994)
6. Haldorson V. Blair, D.C. Minn, 1978, 449 f.Supp. 1025
7. jackson V. Virginia, 443 U.S. at 319
8. Kingwood Oil Co., V. Bell, C.A. 7th, 1953, 204 F.2d 8
9. LA.-Bradford V. Thomas, App. 2 cir., 499 So.2d 525,
10. Stewart V. u.S., C.A. 7th, 1952, 199 F.2d 517
11. Jury presumption U.S.C.A. 14 violation, reversal,
see Bollenback V. U.s., (1946), 66 S. Ct. 402, 405-406, 326
U.S. 607, 614-615, 90 L.ed. 350
12. Washington V. Smith, 219 f.3d 620, 634-35 (7th Cir. (2000)
13. United States V. Houcks (1963), WD Mo, 224 F. Supp 778
14. Dranow V. united States (1962), CA 8 Minn, 307 F.2d 545,
15. Washington V. Texas 388 U.S. 14, 19 87 S.Ct. 1920, 18
L.ed 2d 1019 (1967)

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State Codes

- 1. RCW 9A.08.010 (1)(c)
- 2. RCW 9A.36.045 (2)
- 3. RCW 10.99.020
- 4. RCW 4.12.50
- 5. SMC 12a.16.010(a)(5)

Federal Rules of Procedure

- 1. FRAP 44,28
- 2. Fed. Civ. Proc. rule 12 (b)(1)
- 3. 28 U.S.C.A.
- 4. rule 16 (a)
- 5. CrR 3.3

Statutes

- 1. rule 3.3
- 2. fraud ER 803
- 3. rule 12
- 4. Jurisdictional= 28 U.S.C.A. §§ 1331,1332

constitutional, U.S.C.A. 1,5,6,14,

Jury To:Whit U.S.C.A. 14 Amend.,Pros. Misconduct rule 8.3

Law Language (vocabulary)

- 1. Misconception of the Facts section [2]
- 2. Lack of Subject matter= Jurisdictional rule 12 (h)(3),([1]
- 3. Invalid Judgement (C.J.S. p. 427) Statute of Fraud
- 4. Hearsay =U.S.C.A. 1,,
- 5. Jurisdictional 28 U.S.C.A.

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Prayer of Relief cont.

both the Federal and State Constitution guarantee a criminal defendant the right to call witness on his behalf, U.S. Const Amend VI "In all criminal prosecution, the accused shall enjoy the right to have compulsory process for obtaining witness in his favor, ...see Washington V. Texas 388 U.S. 14, 1987 S.Ct. 1920, 18 L.ed 2d 1019 (1967)

Fraud Statute

In the presense sense impression Hearsay Statute ER803 the girlfriend failed to authenticate with Pros. Phone message where she testified the Pros. threaten me. reversal of conviction See State V. Goodloe, 130 Wn. App. 1039, 2005 Wash. App. LEXIS 3408 (2005)

case # 61118-6-I

case # 07-1-03257-Sea

motion for

U.S Supreme Court Discretionary Review (Support theme)

Conclusion: Comparison and Contrast Analysis of Statute of Fraud > U.S.C.A. Constitutional Theme for Reversal - of Conviction
Criminal Law & Procedure > Statute of Fraud ER 803

The defendant Andre Meneses Claims are necessary to prove a Prejudicial Constitutional Error of Law & Fact where the Sentencing violated United States Constitutional 1,6,14 ,5 amend. see State V. maupin, 128 wn.2d 918, 924, 913 P.2d 808 (1996) (5)

If the message of recorded Court Transcript. Page 3 of Sentencing States memorandum of Public Defender Mark Langeley # 36380 "Defendant did not threaten Me, State Witness and boyfriend" Then the Conviction omitting a Element of Law becomes a Violation of ER 803 Presence Sence Impression see State V. Goodloe, 130 Wn.App.1039, 2005 Wash. App. LEXIS 3408 (2005) *Argument Summary Statement*

If the Message don't fit in exercising U.S.C.A. 1 Freedom of speech the Jury overlooked this element of constitutional right and becomes a Unconstitutional Sentence when Presumption of Defendant with Guilt of To whit Jury Instruction from Pros. 2007, *U.S.C.A. 14 Fraud statute ER 803*

Error of Law and Fact: Sentence guideline, *[Double language U.S.C.A. Theme for reversal of conviction of Statute in Law]*
by prot. N.D.R. JP Scientist 7/10/08
When a Constitutional Charge includes Multiple crimes from one criminal conduct A phone becomes the question of how can Count 1 + 10 fit into Count IV and VI,

violation of U.S.C.A. 5,6 Amend. Lesson on Conspiracy, IN Tempering with Fair Trial / sentencing for defendant State v. maupin, 128 wn.2d 918, 924, 913 P.2d 808 (1996)

Exhibits

1. Statement of Finances D.O.C.
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DECLARATION

I, Andre' Meneses, declare under penalty of perjury

^A
under the laws of the State of Washington that the following is true and correct:

I am sending this thru the U.S. Mail to include the enclosed.

DIVISION 1
ONE Union Square
600 University St.
Seattle, WA 98101
KING COUNTY PROSECUTING ATTORNEY
APPELATE UNIT
King County Courthouse
516 Third Aver W-554
Seattle, WA 98104

Andre Meneses Doc#825995
McNeil Island Corrections Center
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Steilacoom, WA 98388

Elizabeth Albertson
WASHINGTON APPELATE PROJECT
MELBOURNE TOWER
1511 3rd Ave. Suite 701
Seattle, WA 98101

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COURT OF APPEALS
STATE OF WASHINGTON
2008 JUL 28 AM 11:16

EXECUTED this 24 day of July, 2008, at McNeil

Island Washington.

(sign) ANDRE' MENESES
(Type or print name)

DECLARATION OF SERVICE

I, Andre Meneses, certify that I deposited today in the internal mail system of McNeil Island Corrections Center a properly stamped and

addressed envelope directed to: ^{Court Clerk Richard D. Johnson} 2. Procs. ATTORNEY
516 3rd AVE. W554
Seattle, WA. 98101

1. Court Clerk / Commissioner
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Containing the following document(s): p. 1-32

- Motion to Dismiss
- Statements of Additional Ground, U.S. Constitutional grounds
- Table of Contents
- Supporting memorandum of LAW and Fact
- Statement of Facts
- Statement of Issues
- Question of LAW and Fact
- Error of LAW and Fact
- Conclusion.

I declare under penalty of perjury under the laws of the State of Washington that the

foregoing is true and correct.

Submitted this 24 day of July, 2008, at McNeil Island

Corrections Center, Steilacoom, Washington.

Please Court Clerk send
copy of this brief to all
parties above, send stamp
date of entry to sender.
Thank you

By Andre Meneses
(Signature)

ANDRE MENESES ^{DOC#} 825995 C-3262
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