

RECEIVED *SC*
SUPREME COURT
STATE OF WASHINGTON
Jan 09, 2014, 12:02 pm
BY RONALD R. CARPENTER *RC*
CLERK

bj
RECEIVED BY E-MAIL

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Petitioner,

v.

LONNIE LAMAR, Jr.,

Appellant

NO. 89060-9

STATEMENT OF ADDITIONAL
AUTHORITY

As permitted by RAP 10.8, the State of Washington, respondent, submits the following additional authority:

1. On pre-RAP requirements for considering issues for the first time on appeal:

a. State v. Louie, 68 Wn.2d 304, 312, 413 P.2d 7 (1966):

We have, with almost monotonous continuity, ... adhered to the proposition that, absent obvious and manifest injustice, we will not review assignments of error based upon the giving or refusal of instructions to which no timely exceptions were taken. [A footnote cites 34 cases going back to State v. Williams, 13 Wash. 335, 43 P. 15 (1895).] We are satisfied that the requirements of this procedural rule are constitutional, and we do not conceive that requiring reasonable adherence to the rule violates due process concepts, especially where it does not appear that an accused is thereby denied a fair trial.

b. State v. Richard, 4 Wash. App. 415, 425 n. 1, 482 P.2d 343 (1971)

(summarizing conflicting decisions on whether judicial comment on evidence could be challenged for first time on appeal).

2. On application of RAP 2.5(a)(3):

a. State v. WWJ Corp., 138 Wn.2d 595, 601, 980 P.2d 1257 (1999):

When this court adopted the Rules of Appellate Procedure in 1976, RAP 2.5(a) replaced the common law rule for newly raised issues on appeal.

b. State v. Gordon, 172 Wn.2d 671, 676 ¶ 7, 260 P.3d 884 (2011):

A constitutional error is manifest if the appellant can show actual prejudice, i.e., there must be a plausible showing by the appellant that the asserted error had practical and identifiable consequences in the trial of the case.

c. State v. O'Hara, 167 Wn.2d 91, 99 ¶ 14, 217 P.3d 756 (2009) (same holding as Gordon)

d. State v. Kirkman, 159 Wn.2d 918, 935 ¶ 54, 155 P.3d 125 (2007) (same holding as Gordon).

Respectfully submitted this 9th day of January, 2014.

MARK K. ROE
Snohomish County Prosecuting Attorney

By: Seth A. Fine
SETH A. FINE, WSBA # 10937
Deputy Prosecuting Attorney
Attorney for Respondent

Sent via e-mail

~~On this day I mailed a properly stamped envelope addressed to the attorney for the defendant that contained a copy of this document.~~

I certify under penalty of perjury under the laws of the State of Washington that this is true.

Signed at the Snohomish County Prosecutor's Office
the 9th day of Jan 20 14



OFFICE RECEPTIONIST, CLERK

From: Kremenich, Diane <Diane.Kremenich@co.snohomish.wa.us>
Sent: Thursday, January 09, 2014 12:00 PM
To: OFFICE RECEPTIONIST, CLERK; tom@washapp.org; wapofficemail@washapp.org
Subject: State v. Lonnie Lamar
Attachments: SKMBT_60114010912360.pdf

Good Afternoon...

RE: State v. Lonnie Lamar
Supreme Court No. 89060-9

Please accept for filing the attached pleading: State's Statement of Additional Authority

Let me know if there is a problem opening the attachment.

Thanks.

Diane.

Diane K. Kremenich
 Snohomish County Prosecuting Attorney - Criminal Division
Legal Assistant/Appellate Unit
Admin East, 7th Floor
(425) 388-3501
Diane.Kremenich@snoco.org

CONFIDENTIALITY STATEMENT

This message may contain information that is protected by the attorney-client privilege and/or work product privilege. If this message was sent to you in error, any use, disclosure or distribution of its contents is prohibited. If you receive this message in error, please contact me at the telephone number or e-mail address listed above and delete this message without printing, copying, or forwarding it. Thank you.

 please consider the environment before printing this email