

FILED
COURT OF APPEALS
DIVISION II

No. 96599-4

NO. 49284-9-II

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STATE OF WASHINGTON
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
BY AP
DEPUTY DIVISION TWO

STATE OF WASHINGTON
Respondent,

v.

ROBERT DAVIS
Appellant.

On Appeal From The Superior Court Of The
State Of Washington For Kitsap County
The Honorable Jennifer A Forbes, Judge

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
PRO SE SUPPLEMENTAL
BRIEF OF APPELLANT

ROBERT DAVIS
Appellant

P/M: 5/23/17

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INTRODUCTION

I Mr. Robert L. Davis would like to inform the Court that I am a layperson and would like to be given broad leeway in the formality of the Court. I have truly put my best foot forward in a attempt to be formally correct in these proceedings! Please forgive me for the references to profanity for they are just that references to the States writings and arguements.

The statement of profanity are also proven to be untrue in my argument and at trial. I also did my best to provide sub numbers to all of my information and attachment, but because I am a layperson I had a little trouble on a bit! But for sure all is based from the Court files and most sub numbers are provided.

Thank you for your time and understanding!

ROBERT L. DAVIS

Table of Attachments in Support of
Statement of Facts, Argument, and Questions
"All from the Court Files"

Most can be found in Sub #27

I do not have all of the Sub's Numbers Please be understanding!
I am a layman to the Law.

- A. Probable Cause Statement's
 - 1. Dated 12-31-15, pg-5-to-7
 - 2. Dated 1-26-15 Amended pg-24-to-26
- B. Jennifer Rice, Report Dated 12-24-15, pg-1-and-3-of-5.
- C. Gerald Swayze, report dated 12-29-15, pg-2-of-10-first paragraph.
- D. Gerald Swayze, report dated 1-14-16, pg-5-of-8- 2nd to last paragraph.
- E. Gerald Swayze, report dated 2-3-16, pg-2-of-5- 2nd paragraph.
- F. Cory Menchester, report dated 12-22-15, pg-4, 2nd to last paragraph, pg-5, 4th paragraph, pg-6, 2nd paragraph, pg-7, 2nd paragraph. (So pg's 4, 5, 6, 7, of 9).
- G. States Memorandum of Authorities, statement of past facts and hearsay Part B Statement of the case dated March 19, 2016, pg-2-of-9.
- H. Mr. Davis, Omnibus Order dated March 3, 2016, pg-1-of-1.
- I. Jeniece LaCross, Affidavit in Support of Objection to Amendment and 8-3 Motion dated march 9, 2016, pg-651, 652, (all).
- J. Objection to States third amended information and motion to dismiss (8.3) dated March 7, 2016, pg-630-to-635, (all)

- K. States Memorandum of Authorizes, response to defense motion to dismiss dated March 9, 2016, pg-1-to-3-of-4.
- L. Courts order continuing trial date March 10, 2016, pg-654.
- M-1. Co-Conspirator statements dated May 4, 2016, pg-4, 6, and 7-#1 and #4.
- M-2. Co-Conspirator statement with court rulings dated May 16 2016, pg-5, #1, and pg-7-8, #4.
- N. Findings of Fact and conclusion of law for exceptional sentence dated August 5, 2016, pg-1-2-of-3.
- O. Exhibit #311, Alisha Small interview transcripts.
- P. Exhibit #355, the one jail phone call they did actually played at trial dated 3-1-16.

Table of Case
In Support of Arguement

#1

RE: P.C. Statement and Misstatement/Falsehood

State v. Wilson, 2008 Wash.App Lexis/645 (2-11-08)

Paragraph 37, The trial court determined that the affidavit did not contain materially false information and was not the product of "a knowing or deliberate falsehood or deliberate disregard for the truth"... the trial court properly declined to hold a Franks hearing, and it correctly denied Wilsons motion to suppress evidence based on the misstatement in the affidavit of probable cause [FN17].

Here in present case, unlike Wilson where the court is correct to denie! Here in Mr. Davis its clear a knowing or deliberate falehood or deliberate disregard for the truth "does exist"...

[FN17] We note that even had Wilson made the preliminary Franks showing and ultimately established a knowing and intentional falsehood or reckless disregard for the truth Wilsons argument fails because the affidavits remaining information, absent the excised misstatement, would still have been sufficient for the Magistrate to find P.C. 438 U.S. at 155-56.

Again the court was correct in Wilson by still finding P.C. with the excised misstatement!

Here in Mr. Davis the lead investigator for the state detective Bowman, worte a P.C. on 12-31-15 as a result "No" charges ever went to trail from this P.C.! (The video was gained on 1-8-16 proving Mr. Davis did not stop at 8275 Tracyton Blvd and drop off anybody). (Second lead detective Swayze reviewed the video footage! The information of a drop off "is" a falsehood its untrue).

Here in present case lead detective Rowman not gaining any charges from his first P.C. statement, writes a second Amended P.C. solely to add "the drop off statement" in this case! The misstatement here as it pertains to Mr. Davis case, and with out this misstatement there would not have still been sufficient information to find P.C., not to mention didn't get to this issue of missing video until last second before the State rested going into halftime.

#2

State v. Walken, 103 Wn.2d 823, at 828 (5-23-85)

An evidentiary hearing is mandated where the defendant makes a preliminary showing that the affiant knowingly, intentionally, or with reckless disregard for the truth included in his/her affidavit a false statement that was necessary to the finding of probable cause! Franks 439 U.S. at 155; State v. Haywood, 38 Wn App 117, 121, 684 P.2d 1337 (1984). The challenge must be to the representations of the affiant himself, not to those of the government informant!

#3

State v. Maddox, 152 Wn.2d 499 (WA S.Ct. 12-14-04) En Banc (99 P.3d 1201)(152 Wn.2d 503) In this case we consider whether probable cause must be re-determined by a magistrate when information acquired after the issuance of a search warrant, but before its execution, negatively impacts probable cause. We hold that when law enforcement receives information that, if believed, negates probable cause, the office must return to the magistrate for reevaluation of probable cause.

#4

Brady, withholding evidence 2016 Wash.App Lexis 1672, State v. Roussel, (July 10, 2016) # 68 under CrR 4.7 (a)(3) the

prosecuting attorney shall disclose to defendant's counsel any material or information within the prosecuting attorney's knowledge which tends to "negate defendant's guilt" as to the offense charged. Additionally in Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 1196-97, 10 L.Ed.2d. 111215 (1963). The U.S. supreme Court held that, the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material to guilt or punishment, irrespective to the good faith or bad faith of the prosecution. Since Brady, the United States Supreme Court extended the due process obligation of prosecutors to disclose.

- (1) Favorable evidence even if not requested by the defendant,
- (2) Impeachment evidence, and
- (3) Evidence possessed by law enforcement.

See State v. Mullen, 171 Wn.2d 831, 894, 259 P 3d 158 (2011), Citing U.S. v. Agurs, 427 U.S. 97, 110, 96 S.Ct. 2392, 47 L.Ed.2d 342 (1976), giglio v. United States, 405 U.S. 150, 154-55, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972), Kyles v. Whitley, 514 U.S. 419, 437, 115 S.Ct. 1555, 31 L.Ed 2d. 490 (1995).

To establish a Brady, violation Roussel must demonstrate the existence of each of the necessary elements:

- (1) The evidence at issue must be favorable to the accused either because it is exculpatory, or because it is impeaching.
- (2) That evidence must have been suppressed by the State, either willfully or inadvertently! and
- (3) Prejudice must have ensued.

Mullen, 171 Wn.2d 895 ... (quoting Strickler v. Greene, 527 U.S. 263, 281, 82,, 112 S.Ct. 1936, 144 L.Ed.2d. 286 (1999)).

Undercutting of a plea agreement: State v. McDonald, 183 Wn.2d 1 (S.Ct. of WA 10-2-14) at 183 Wn.2nd 21

Paragraph 145, We hold that Tomkins remarks breached the plea agreement Tomkins asked the court to impose the maximum sentence directly contrary to the plea agreement. he asked to present what happened to the victim ... his unsolicited testimony attacked each of the points in favor of the plea agreement, and he implored the court, to hold MacDonald accountable for his crime. This advocacy undermined the States's plea agreement.

Paragraph 46, Our holding today is in accord with the Court of Appeals Division Two's decision in Carreno - Maldonado, 136 Wn App at 86-87. There the court held that the State breached a plea agreement and makes unsolicited remarks on a victim's behalf that undermine's the State's plea agreement and asserted that the Washington State Constitution does not give the State the right to speak for victims when they have decided not to speak for them selves...(see footnote 5).

SUB NUMBER'S REFERENCE SHEET

#27 - Police Reports X5 and P C. Statements X2

#41 - Omnibus Order 3-4-16

#46 - Objection to State's Third Amended Information and Motion to Dismiss (8.3)

#53 - Memorandum of Authorities RE: States Response 3-10-16

#54 - Affidavit in Support of Objection to Amendment and 8.3 Motion 3-10-16

#56 - Order for Continuance of Trial 3-10-16

#61 - Memorandum of Authorities RE: Statement of Past Fact 3-21-16

#80 - Co-Conspirator Statements 5-4-16

#91 - Co-Conspirator Statements with Rulings 5-16-16

Also see Sub #27 for Statements of Co-Conspirators dated 2-25-16

ISSUES AND ERRORS

PROSECUTOR

Disconduct
Maliciousness
Mismanagement
Abuse of Power
Wrongful Prosecution

P.C. Statement

Based on falsehoods and perjured testimony by
lead detective "Cowman" put fourth with malicious intent.

PROB

Video - also not presented to the jury
Manchester report (12-22-15) - also not presented
to the jury.
Victim's impact statement presented by family advocate?
Advocate asking for max sentence.

ERRONEOUS RULINGS

Allowing Juries to ~~fo~~ based on second P.C. Statement.
Murder 1 - (denied motion to dismiss).
Joinder
Reverence
Not allowing Mr. Davis text from phone log.

Undercutting Plea Deal

By way of misconduct, and maliciousness, abuse of power!

Argued rapid reclassification "???"

Cited uncharged crimes and information

Putting forth unproven investigation and information, unrelated crimes.

Not striking from record states argument after objection (can't unring that bell).

Perjury

Lead detective Towman (P.C. Statement).

Second lead detective Swayze:

Ocean Wilson

Alisha Small

Christina Maddener

Speedy trial Violation

By successful charging tactics and malicious actions:

Ineffective Assistance of Counsel

"HE" my counsel did in fact get the Corv Manchester report and didn't tell Mr. Davis about it or use it to impeach Alisha Small then Mr. Davis's counsel is ineffective.

Not asking for dismissal for murder 1, robbery 1, at halftime clearing the slate of muck the jury would have to sift through

For not challenging P.C. Statements when the video proof became known (finally).

STATEMENT OF FACTS

This case began as a offer by Mr. Davis to sponsor a welcome home party for Shauna Dudley Pry. Mr. Davis was dating Dudley Pry's Mother at the time. Offer was made on 12-10-15, and the call came to Mr. Davis accepting the offer on 12-17-15!

Law Inforcement involvement began in this case as a potential drug case with Alisha Small a confidential informant trying to do controlled drug buys for Detective Jason Bowman! Mr. Davis was a potential target.

On 12-22-15 Mr. Davis was arrested and was questioned about a missing person, a man Mr. Davis has never met. Mr. Robert Hood who turned out to be a neighbor of Mr. Davis's, Mr. Davis was arrested for a bogus probation violation. The violations was for being at a casino on 12-22-15 the day of my arrest, and one violation for not living at 8686 Tracyton Blvd. This case proved I live at 8686 Tracyton Blvd. As for the casino violation it was dropped, thrown out, the Detectives used my probation officer to maliciously gain my arrest, Because in fact Davis had not violated his probation.
"Period"

On 12-31-15 Lead Detective Jason Bowman wrote a Certificate of Probable Cause statement on Mr. Davis with the crimes arrested for listed as rendering criminal assistance 1st degree, and Robbery 1st degree. Now from this P.C. Statement Mr. Davis was only charged with rendering 1st. So as of 12-31-15 there was not enough to charge Mr. Davis with Robbery from what's in this P.C. Statement. also the charge of rendering criminal assistance was dropped by the State. So at some point it was decided there was not enough evidence to support rendering 1st charges, from this P.C. Statement.

States witness Ocean Wilson was arrested on 12-22-15 and made a statement that Mr. Davis picked them up (Pry, Dudley Pry, Jones, Wilson) and drove to Mr. Davis's house at 8686 Tracyton Blvd, and the boy's Pry and Jones left on foot from there! Mr. Davis had

left Pry, Dudley Pry, and Wilson at his house, and went to go meet Alisha Small at the gas-station so she could follow Davis to his house. (Mr Davis did not remember seeing Jones when he left!)(or upon his return).

On 12-23 15 Ocean Wilson made a 2nd statement when asked is there anything else of importance to add to her 1st statement made on 12-22-15 Ocean Wilson say's "No" nothing else!

On 1-14 16 Ocean Wilson enters into a plea deal with the State prosecution and makes a 3rd statement and in this statement Wilson says after picking up Pry, Dudley Pry, Jones, and Wilson, Mr Davis dropped off Pry and Jones to do a Robbery, drop off location is in front of 8275 Tracyton Blvd the Loidhamer residence and said at that exact spot and time of drop off "dont fuck it up". What Ocean Wilson didn't know was this confirmed location, confirmed by Ocean Wilson, was under 24 hour Video surveillance (recorded), the drop off date also confirmed is 12-17-15.

On 12-24-15 Detective Jennifer Rice Report pg - 3 - of - 5 - 5th paragraph Carol Loidhamer will provide video! from there surveillance system

On 12-29-15 detective Gerald Swavze Report pg - 2 - of 10 - looking for any information about suspects or suspicious vehicle's contacting other residence's on Tracyton Blvd to include: 8669, 8221, 8269, 8247, 8273, all located around Mr. Davis's house at 8686 Tracyton Blvd and Loidhamer residence 8275 Tracyton Blvd, with no information found.

On 1 14-16 the same day Ocean Wilson makes her 3rd statement Detective Swayze's follow up report say's he obtained flash drive from Craig Loidhamer containing surveillance footage of 12-17-15 front gates roadside 8275 Tracyton Blvd and reviewed the footage on 1-8-16 and did not find any useful footage! Oddly Detective (second lead) Swayze say's the reason looked for and found this information and video is directly from Ocean Wilsons 3rd statement made on 1-14-16, the statement that Mr. Davis stopped in front of the Loidhamer residence and dropped off Pry, and Jones to commit the crime and said "then "don't fuck it up." (Wilson made statement

1-14 15 is very odd, because Detective Swazye got video 1-8-16 showing Mr. Davis "did not stop" his car)

Also from Ocean Wilson's 3rd statement dated 1-14-16, lead detective Jason Bowman writes a second Amended Probable Cause Statement dated 1-26-16 and the crime arrested in this P.C. Statement is Robbery 1st degree "only" the reason for the amendment is to add the statement made by Ocean Wilson on 1-14-16 saying Robert Davis drove Pry and Jones to the location of victim's residence in order for Pry and Jones to carry out the robbery! The exact drop off location of the front gates of 8275 Tracyton Blvd Loidhamer residence was confirmed to Detective Swayze by Ocean Wilson and the date in question is 12-17 15.

On 2-3 16 follow up report by second lead Detective Swayze pg-2-of-5 2nd paragraph, Ocean Wilson confirms the location of drop off is the very unique ornate front gates of the Loidhamer residence.

On 12-22-15 detective Cory Manchester report interviews Alisha Small -pg 3 of-9- 2nd to the last paragraph - Small explains why she at Mr. Davis's house in the first place Sav's to buy drugs from Mr. Davis!

Same Report pg-5 of-9 4th paragraph- Asked how involved Mr. Davis is. Small say's she doesn't know!

Also same Report -pg-6-of-9. 2nd paragraph Small gives a Oxymoron statement of Mr. Davis called her for assistance!

Again same Report -pg-7-of 9- 2nd paragraph Small denied making the oxymoron statement of Mr. Davis telling her he needed her assistance with an account! (This report is very important will explain further in Mr. Davis (my) Argument in Support of!)

On Feb-5-16 Report of Proceedings RE: Joiner Hearing pg-9-L-6-to-9- State Lays Out Rule for Joiner -L-10-to-12 State say's, they all were at Mr. Davis house 8686 Tracyton Blvd

On L-13-to-15 the States only statment to the Court to gain Joiner says - Basically Mr. Davis helped in the arrangements, dropped off Pry and Jones they committed the murder!

On pg 12-L 23-to 25-To-pg-13-L-1-to 2-the Judge join my case

to Pry and Jones, and Cruz Agreeing with the States argument.

On Feb-19-16 Report of Proceedings -pg-8-to-9-L-22-to-25--pg-9-L-1-to-2, the Prosecution/State provides proposed Amended Information -pg-12 L-14-to-16 the State says the elements at trial is basically we have Mr. Davis being charged with what essentially is being a accessorie "AFTER" the fact. Pg 21-L-14 to-18 the Judge admits to having only read the P C. Statements on the case to this point. On -L-24-25 To pg-22-L-1 Court Denied Motion to Sever based on P C Statement.

On Feb-26 16 Report of Proceeding -Omnibus and Status Hearing- Attorney Tom Weaver points out the Court felt in part it didn't have a good grasp on the facts to this point in this case.

On March 4 16 Report of Proceedings the prosecution states there intentions to press murder 1 charges see pg-14-L-5-to-18- On pg-19-L 4-to-7 and L-15-to-23 the State put holdback charges on the record.

On March 9-16 Report of Proceedings Motions Volume I -pg 11-L-22-To-pg-17-L-10 Davis/defense argues the States Amended Information citing State v. Michelli, and Prosecutorial Mismanagement see -pg-12-L-19-to-25--To-pg-13-L 1 to-7. Also pg-13-L-10 to-11 the Defense points out the fact of no new facts nothing has changed or is different. See L-17-to-19- Defense relied upon States Information of no murder charges would be filed in Defense counsel Prep for Trial. Pg-15-L-9-to-20 the defense points out the impact and that Mr. Davis has expressed his position through out this case to have this trial with in speedy trial and now would if forced to defend against murder charges would have to ask for a continuance at this late stage and this would be the only reason why we would be asking for a continuance. Pg-17-L-3-to-9 Defense Counsel says the State affirmatively represented to her that Davis would not be dealing with murder 1 issue! (Represented by Presecutor Christensen)

On March-7-16 defense Motion to Dismiss the Third Amended Information (Please see all)

On March 9-16 -pg 22-L-3-to-7 the State argues its office policy that they don't file the Amended Information until closer to the trial to allow for continued negotiations! ("Fact" there was no, on going continued negotiations).

On pg 24 L-12-to-25-To-pg-25-L 1-to-14 the defense further argues the fact that the state said that no murder charges would be filed. Pg-24 L-21-to24 Defense Counsel Clarifies.

On March-9-16 Response to Defense Motion to Dismiss pg-2-of-4 The State says additional discovery is as follows and list 5 Issues! (Davis will address all 5 Issues in his argument that were raised by the State).

On March-9-16 The State submits Amended Information 3 Counts Murder 1, Robbery 1, I.D. Theft 2nd. By Prosecutor Jennie Christensen.

On March 10-16 Affidavit in Support of Objection to Amendment and 8.3 Motion. Attorney for Mr. Davis Jeniece LaCross under penalty of perjury states 10 facts:

Fact #3 says during the pendency of this case and prior to the addition of the Robbery charges Counsel discussed with the prosecution (Christensen) the potential charges that would be brought against Mr. Davis.

Fact #5 Attorney LaCross clearly expressed her interest in wanting to be informed if a murder charge would be added!

Fact #6 says once a decision was made to amend the information against Mr. Davis to include the charge of Robbery 1, defense counsel LaCross was informed (by prosecutor Christensen) that a murder charge would not be added based upon the States belief that they could not prevail due to the statutory defense

On March-10-16 Report of Proceedings Motions Volume II - pg 155-L8-to-8 One Co-Defense counsel objects, all 3 defense object pg-156-L-7 Court agrees. Pg-167-L-20 To-pg-172-L 19 defense oral argues the Motion to Dismiss! pg-171 L-19-to25-To pg 172 L-1 to2 Defense counsel Clarifies was in fact told no murder charges! On pg-174-L-2-to-5 the State/Prosecution "ADMITS" that the decision in

RD

Fact was made at one point to not charge Mr. Davis with murder! Pg-
~~174-L-9 to-12 State points out them selves if Court grants there~~
~~Motion defense is going to trial past Mr. Davis speedy trial~~ L-17-
to-21 The State say's they did not have all the information in on
this case pertaining to Mr. Davis and on pg 175 L-5 State cite's
the 5 pieces of evidence used in March-9 Response to defense Motion
to Dismiss! On pg 175-L-10-to-14 The State "ADMITS" to the
weakness of there case against Mr. Davis, saying relied heavily on
witness testimony! Pg-176-L-18-To-pg-179 L 8 Defense argue's
mismanagement by the prosecution Pg-177-L 23-to-24-To-pg-178-L-1-
to 9 Defense argue's the fact of no new evidence to lead the
defense counsel to believe that possible murder 1 charges are on
the table do to case progression.

See Court Ruling on pg-179-L-22-to 25-To pg 186-L-7, Also pg-
183-L-25-To-pg-184-L 1 to 2 Court says State provided in its
briefing un-rebutted facts that demonstrate there was reason for
the State to change posture! (referring to the 5 Issues raised in
State March-9-16 Response to Defense Motion to Dismiss!) On pg-
186-L-2-to-3 The Court say's that most the evidence relates to this
charge is also relevant to the original charge of Robbery 1! (This
in it's self proves no new evidence to this point).

On pg-186-L8 To pg 189-L18 Mr. Davis is just now arraigned
for murder 1. On pg-190-L-3-to-10 defense counsel is forced to ask
for 45 day's to prepair. On pg-201-L-22-to 25-To pg 210-L-19 The
Defense and Co-defense argue is it a continuance or a recess The
State argues the same all ask for the Judge to rule on this very
important issue! The Court blows it off and refuses to rule one
way or the other! (See all)

On pg-207-L-22-to-23 The State trv's to get the Court to
rule that trial has started and this is a recess -L-24-to-25- The
Court ask's if everybody agree's -pg 208-L-1-to3- Defense does not
agree "No" ... On pg-209-L-5-to-6 The Court again refuses to rule
on this Issue.

On March-18-16 Prosecutor Careen Schnepp argues in her
Memorandum of Authorities RE: Statement of Past Facts and Hearsry
Part B. Statement of the case! L-18-to-22 say's on 12 17-15 Robert
Davis picked up Jones, Prv, Dudley Prv and Wilson from the

Tracyton duplex Davis dropped Jones and Pry off to do the Robbery.

On May-4-16 the State argues Co-Conspirator Statement pg 4- Alisha Small #1 D Davis called Ms. Small needed Smalls help, Small was supposed to access the money for the group!

On pg-6 and 7 Ocean Wilson #4- While dropping Pry and Jones off to do the Robbery Davis was saying things like "Don't fuck it up".

On May 16-16 Co Conspirator Statements with Courts rulings Alisha Small pg-5-Statement #1 admitted, Ocean Wilson pg 7- Statement #4 Admitted.

Mr Davis went to trial for murder 1, Robbery 1, Robbery 2, and I.D. Theft 2, all by way of accomplice, and was acquitted of murder 1, robbery 1, and robbery 2, by jury verdict. Was found guilty of I D. Theft 2nd by way of accomplice

During Mr. Davis arrest for violation of probation in the investigation of this case Davis hands his phone over for investigation (see Pinkenfeld testimony)

A warrant authorized the search and seizure of evidence contained on Mr Davis's phone related to the crimes of murder in the first degree, Robbery in the first degree, and rendering of criminal assistance 1st degree. The warrant says word for word

(1) To physically and forensically analyze the devices and/or sim cards for Images, videos, contacts, call logs, conspirator phone numbers, and addresses, text messages, emails, financial transactions information, electronic documents, facebook messenger chats, and any other stored information "relating" to the robbery and murder of M. Hood, and those rendering criminal assistance to suspects of those crimes

(2) To allow the use of any computer, electronic device, or forensic program to assist in the analysis of the cell phone sim cards, and related metadata held with-in the devices!

(3) To utilize any necessary specialist or expert in computer cellular devices, and high tech electronics to complete the physical and forensic analysis!

Mr. Davis turned his phone over at the time of his arrest. Mr. Davis believed the detectives had been told by Alisha Small that Mr. Davis stole her car, and the text messages and phone contact over the past 5 days contained in the phone would prove Mr. Davis did not steal Ms. Small's car.

During the search/investigation of Mr. Davis's phone in this case after gaining a warrant specific to the robbery and murder of Mr. Hood. The States investigators/detectives found an unrelated video of Mr. Davis engaging in sexual acts with a prostitute friend of his, she turns a trick-prostitutes herself to a John on this video. From that during this investigation I was wrongly charged with promotion of prostitution 2nd. Trial was due to begin on this July-11-16, but after unjustly fighting for his life Mr. Davis didn't have the stamina or mental energy to continue with non-stop court. So knowing Mr. Davis was going to prison for at the very least, the time it would take to overturn I.D. Theft 2nd on appeal Mr. Davis chose to enter into a deal and gave an Alford Plea of Guilt on the promotion charge! The plea agreement covers both charges list both case numbers through out, the agreement jointly is for 90 months. It didn't really matter the break down on how the numbers got to 90, it could have been 45 on one and 45 on the other. but 90 was the agreed amount of time by both sides. It was hand wrote in 57 and 33 months.

On Aug 5-16 Report of Proceedings Change of Plea and Sentencing for case numbers both #16-1-00002-7. and #16-1-00264-0 (Please see transcripts all)

Also see Aug-5-16 findings of Facts and Conclusion of Law for exceptional sentence case numbers listed are both #16-1-00002 7, and #16-1-00264 0

In findings of facts 1 State and Defense both stipulate that sentence of 90 month on both case numbers would be appropriate in this case!

In facts 2 its agreed jointly that the recommended sentence would be an exceptional sentence

In conclusion of law III state/Court says some offenses going unpunished R C W. 9.94A.535(2)(c).

ARGUEMENT

On 12-22-15 Mr. Davis was wrongly arrested for 2 probation violation's #1 being at a casino and #2 for not living at 8686 Tracyton Blvd. In this case Mr. Davis should have been detained and questioned, but not arrested. The detectives contacted Mr. Davis's probation officer and pressed him to issue a bogus arrest warrant. to gain Mr. Davis's incarceration! This was done with malicious intent! It is proven through out Mr. Davis's place of residence is 8686 Tracyton Blvd. for the violation of being at a casino Davis was found not guilty.

On 12-31-15 detective Jason Bowman the lead detective in this case wrote a Probable Cause Statement on Mr. Davis with the crimes arrested for listed as rendering criminal assistance 1st degree and robbery 1st degree! And from that P.C. Statement Mr. Davis was "only" charged with rendering 1st degree! Detective Bowman is a very large part of the malicious intent through out the progress of this case as it pertains to Mr. Davis. So as of 12-31-15 P.C. Statement there was not enough to charge Mr. Davis with robbery 1! And the charge of rendering criminal assistance 1st degree was dropped! So at some point it was decided there was not enough evidence to charge Mr. Davis with rendering criminal assistance as well as robbery 1! So not enough for robbery or rendering at this point! But the State maliciously holds on to the rendering charge to maintain Mr. Davis's incarceration! The prosecutors Schnepf and Christensen want Mr. Davis to be part of this case so bad at this point, they start to lose sight of there oath and duty as prosecutors and begin to abuse there power and go to the point of being power drunk as it pertains to Mr. Davis

The evidence proving Mr. Davis lack of involvement is so overwhelming that there's 2 reasons the state would continue in the prosecution of Mr. Davis:

Reason 1 Is the state is blatantly turning a blind eye to there own proven facts evidence reports/statements,

provided by there investigators!

Reason 2 Is malicious intent to Mr. Davis because to turn a blind eye in there position of power! to there own facts, and evidence, proven in there investigations is malicious!

State's witness Ocean Wilson was arrested on 12-22-15 and made a statement that Robert Davis picked up Pry, dudley Pry, Jones, and Wilson from there duplex on 12-17-15 and drove to Mr. Davis's house (no stops) 8686 Tracyton Blvd and the boys Pry and Jones left the property on foot and returned on foot! See, May 18, 2016 transcripts pg-2538-L13-to-17)

Lead detective Bowman and prosecutors Schnepf and Christensen maliciously turn a blind eye to this statement by Ocean Wilson as if it did not exist or this statement was never made! (The fact is Ocean Wilson's first statement is true Mr Davis picked them all up and drove with no stops to Mr Davis's house 8686 Tracyton Blvd. Mr Davis left them all there and went to the gas station to meet Alisha Small)!

On 12-23-15 Ocean Wilson's 2nd statement shes was asked is there anything else of importants to add to her 12-22-15 statement Wilson says *No* nothing else (See May 24 2016 transcripts pg 3035-L-14 to18, also see, Manchester Direct by LaCross. June 20. 2016 transcripts pg-4739-L-17-to 25-To pg-4740-L-1-to-13).

Prosecutor's Schnepf and Christensen. plus lead detective Bowman all turn a blind eye to this statement that supports Wilsons first statement on 12-22 15 and proceed maliciously as if this statement/report never happen or does not exist.

On 1-14-16 Ocean Wilson enters into a plea deal with prosecutors Schnepf and Christensen and makes a "3rd statement" and in this statement Wilson sav's after Mr. Davis picked them all up Davis dropped off Pry and Jones to do a robbery, Davis stopped in front of 8275 Tracyton Blvd the Loidhamer residence! And, now Davis says to Pry and Jones "Don't fuck it up"...

Now I (Mr Davis) will say this if this statement is true and Davis dropped off Pry and Jones to commit this crime I (Mr. Davis)

am guilty of murder 1 robbery 1, robbery 2, and I.D. theft 2nd by way of accomplice!

But what Ocean Wilson did not now is this fabricated drop off, and location "confirmed" by Ocean Wilson, was under 24 hour video surveillance, "recorded" and the date in question confirmed is 12-17-15.

On 12-24-15 detective Jennifer Rice's report pg-3-of 5, 5th paragraph say's Carol Loidhamer will provid video of 12-17-15.

On 1-14 16 the very same day Ocean Wilson makes her 3rd statement second lead detective Swayze's followed up report say's pg-5 of-8 6th paragraph and this is very odd because it says he on 1-8-16 obtained a flash drive from Craig Loidhamer containing surveillance footage of 12-17-15, front gates of 8275 Tracyton Blvd and Swayze reviewed the video surveillance and "did not" find any useful footage. (See, June 20, 2016 transcripts pg-4670-To-pg-4674 (see all please)) (See, pg-4671-L-22-to-24, detective Swayze commit's perjury because his report say he viewed the footage on 1-8-16)! (Also pg 4672-L 4 to 11)(Please see pg-4672-L25 To pg 4673 L-1-to-11, Wilson confirms fabricated drop off location).

Now at this point second lead Swayze and lead Bowman State prosecutors Schnepf and Christensen, all know its a "FACT" that Mr. Davis never stopped at the front gates of 8275 Tracyton Blvd and dropped off Pry and Jones and said at that "exact" time and "location" dont fuck it up, and in fact Ocean Wilson is lying! Rather then removing this proven lie from the States case against Mr. Davis the State and there investigators proceed with actual malice and malicious intent and turn a blind eye to there own video proof, evidence, and facts! Purving Mr. Davis in a sea of unjust proceedings and hearings covering up the weakness of the States case against Mr. Davis and extremely clouding the issues before the Court and the jury!

On 12-27-15 the State's lead investigator himself defective Jason Bowman say's in a text in his service phone provided by the county of kitsap to Alisha Small that he (Bowman) believed Robert Davis has "nothing" to do with the actual robbery! See June 15,

2016, pg-4422-L-10-To-pg-4425 (see all) (See pg-4424 L-8-to-18 Clerifies). Please see also pg-4434-L-5-to-14 when asked is this his actual belief as to Mr. Davis's involvement in this case? Detective Bowman answers (in this case "yes") Question? How could lead detective jason Bowman in good conscience write the second P.C. Statement Amended in light of his belief and the video! the answer is he can't! so with actual malice the State lead investigator Bowman proceeds to turn a blind eye to his own statements and belief, and the prosecution jumps on board as if this evidence/text never happen or does not exist. (So far this is all there evidence and they see it and just will not proceed ethically pertaining to Mr. Davis)!

Now from the Ocean Wilson's 3rd statement 1-14-15 that Mr. Davis stopped in front of the Loidhamer residence and dropped off Pry and Jones to commit the crime and said at that exact spot and time don't fuck it up! Lead detective Jason Bowman writes a Second Probable Cause Statement dated 1-26-16 Amended and in this P.C. Statement the crime arrested for at this time list Robbery 1 "only" the Amended P.C. Statement adds the 1-14-15 drop off statement by Ocean Wilson and (dont fuck it up)! Saying Robert Davis drove Pry and Jones to the location of the victims residence in order for Pry and Jones to carry out the robbery!

So for lead detective Bowman to at this date (1-26-16) to write this new P.C. Statement using Ocean Wilsons 3rd statement is clearly with malicious intent, and for the State to file robbery charges from this Amendment makes the State malicious and they are proceeding with actual malice! So at this point both the prosecution and there investigators Bowman and Swayze are directly with there actions abusing there power and going after Mr Davis with malicious intent? and both have turned a blind eye to a massive amount of there own evidence as follows:

- (1) Ocean Wilson's 1st statement! "No drop off" boys left on foot dated 12-22-15 supported by transcripts
- (2) Ocean Wilson 2nd statement nothing of importance to add to first statement dated 12 23 15, supported by transcripts

- (3) Video proof shows Ocean Wilsons is lieing dated 1-8-16, supported by transcripts
- (4) The lead detective Jason Rowman text Mr. Davis not involved dated 12-27-15, supported by transcripts
- (5) The Cory Manchester report Alisha Small statement Denied ever saying Davis called her to help with some accounts! Dated 12-22-15, see attachments

The evidence that drop off is not true was reviewed on 1-8-16 by detective Swayze this along with all the other evidence can't just b pushed out over looked, and treated as if it does not exist or didn't happen! The State and there investigators they are the pro s they know exactly what they are doing, and abuse of power, wrongful and malicious prosecution, and prosecutorial mismanagement are all taking place at this point!

On June 20, 2016 transcripts second lead detective Swayze testified pg-4670-To-pg-4674 (see all) that Ocean Wilson did in fact confirm the bogus drop off location! On pg-4671-L-6-to 24 Swayze sav's Wilson's statement is why looking at being maps (street view) and location is confirmed, by Ocean Wilson and this info is from 1-14-16 interview by Ocean Wilson. And, its information that Swayze didn't know before this interview. See attachments follow up report by detective Swayze dated 1-14-16 pg-5-of-8- 6th paragraph. Swayze sav's on 1-8-16, 6 days before Wilson statement is made on 1-14-16! He got the flash drive of surveillance footage from 8275 Tracyton Blvd the Loidhamer residence! Making his testimony on pg-4671-L 22-to-24 a untruth, and knowing this makes him and the State further malicious in there actions and intent, and detective Swayze commits perjury on the stand! On pg-4672-L 25-To pg-4673-L-1-to-11 Swayze confirms that Ocean Wilson "specifically" confirmed the "gates" of 8275 Tracyton Blvd the Loidhamer residence. Pg 4673-L-20-to-23 Swayze says was not able to find what he was looking for.

So with everything to this point how could lead detective Rowman write a 2nd P C. Statement using that information, on 1-26 16. The only explanation is the state and there investigators intend to do Mr. Davis legal harm plain as can be. On pg-4677-L 8-to-20 Swayze confirms what he's looking for in the video saying

looking for tiny and hubba (Jones and Pry) getting out of Mr. Davis's car a Ford Excursion. Also see L-21-to-25-To-pg 4678-L-1 to 3, See pg-4681-L-17-to 23.

On June 20, 2016 transcripts detective Bowman testimony pg-4677-To-pg-4689-L-2 (see all) on pg-4687-L-25-To-pg-4688-L-24 Bowman admit's no belief that Mr. Davis was involved in dropping off Jones and Pry as of 12-27-15. In fact his belief should be they left on foot and returned on foot, per Wilsons first statement and supporting 2nd statement! Detective Bowman and Swayze's actual malicious intent to do Mr. Davis legal harm should have stopped at State prosecutors Schnepf and Christensen's desk! But it was not, it was embraced by Schnepf and Christensen and pushed to the end. All to cloud the weakness of there case against Mr. Davis, and Davis believes to punish Mr. Davis for exercising his right to remain silent and not turn States evidence, also the fact that there drug investigation fell through! But no matter the reason and it could be a small number of things, the facts are proven and in there actions and behaviors through out this case to maliciously push this drop off lie to the Court and jury as if its fact. Without this drop off statement the State has no case or a leg to stand on add the Cory Manchester report and the State should have dropped all charges on Mr. Davis!

And, if all this is not enough the State never provided the video to the defense, only the reports about the video! (and testimony)(And if they did prove it)! and to add milk with cookies the video never went back with the jury for deliberation! (clear Brady violation)!

On 12-22-15 detective Cory Manchester interviewed Alisha Small and Mr. Davis has never seen this oh but so very important report to Mr. Davis until he received transcripts and court file for this appeal process Mr. Davis was very involved in his case and believes if this report was provided he most surely would have seen it! (At trial). Information contained in the report as follows:

Pg 3 of 9. 2nd to last paragraph Alisha Small explains why she is at Mr. Davis's house in the first place! Small is at Mr. Davis's house to buy drugs! (Working as a C.I)

See June 9, 2016 transcripts pg 4096-L-4-to 12 Small admits she and Mr Davis have just met for the first time 12-17-15, and all conversations before this meeting consisted of "solely" her attempting to get drugs from Mr. Davis!

Same report by Cory Manchester pg-5-of-9- 4th paragraph when Small is asked how involved Mr. Davis is in this case! Small says "she doesn't know"

Same report by Cory Manchester pg-6-of-9- 2nd paragraph Small gives a "Oxymoron statement" saying Davis telling her (a complete stranger)! That he needed her assistance!

Then she go's on to explain in the same report by Cory Manchester pg-7-of-9- 2nd paragraph says Small denied ever making the Oxymoron statement about Davis telling her he needed her assistance with an account!

Mr. Davis and the jury both should have heard this very important evidence at trial, so the jury could make a true and fair determination of this case! With this report the State proceeded to turn a blind eye to more of there own evidence and act as if this very important report to Mr Davis's defense does not exist maliciously so! And, to not turn this very important report over to the defense is Brady violation #2! Its obvious Ms. Small is at Mr. Davis's as a C.I., to try to do a controlled buy on Mr. Davis and the State and detectives know of this report and know its not in play at trial. They also know because of this report that its more then likely that Alisha Small is lieing and Mr. Davis truly is not involved. See June 9, 2016 transcripts pg-4099 L-15-to-18 Ms. Small admits she allowed Bubba Prv to borrow her car! Also L-24-to-25-to pg-4100-L-2 small admits Bubba asked her to cash a check "Not Mr. Davis" pg-4108-L-1-to 21 the reason we went to the casino was to gamble (not to steal money) Mr. Davis's criminal history is clear and it has nothing to do with this kind of behavior in this case. Also see this information in support of Davis arguement attached EXHIBIT-#311 interview of Alisha Small pg-29-L-8-to-20 - pg-30-L-9 to-15 - pg-41-L-2-to 3 -pg-42-L-4-to 6 and L-8-to-13 - pg-55-L-18-to-22 - pg-61-L-23-to 25 - pg-62 L-1-to-8.

On February 5, 2016 report of proceedings RE: Joiner hearing

pg-9-L-6-to-9 the State lays out rule's for Joiner L 10-to-12 the State say's they all were at Mr. Davis's house again further proving Mr. Davis does in fact live at 8686 Tracyton Blvd and the arrest warrant was bogus! L-13-to-15 the States only statement to gain Joiner say's basically Davis helped in the arrangements, "dropped off Pry and Jones" they committed the murder! (really)? Come on when will they stop? To use this proven lie or untruth of a drop off over and over and over again misleading the Court manipulating the system that's in place is a clear abuse of power, and to turn a blind eye to the facts because they don't fit there/States purpose makes there actions in this Joiner Hearing malicious and intentional. (Video proof for crying out loud)!

On Feb. 5, 2016 transcripts pg 12-L 23-to-25 To-pg-13-L 1-to-2 the Judge in error due to the States malicious writing/briefs and malicious oral argument and behaviors by misleading the Court Davis was wrongly joined to Pry and Cruz, the Court agreed with the States argument (Davis dropped them off) in error!

On Feb 19, 2016 transcripts report of proceedings pg-8-to-9-L-22 to-25-To-pg-9-L-1-to-2 the prosecution provided proposed amended information! Pg-12-L-14-to-16 the State say's elements at trial are basically we have Mr. Davis being charged with what essentially is being a assessorie "AFTER" the fact! This sounds like a rendering charge that they dropped not Murder 1, Robbery 1, Robbery 2, and I.D. Theft 2nd. This is showing there hand they know Mr. Davis is not a part of this, but the State has just lost sight, there are no repercussions to there actions, they are federally protected against criminal wrong doing so why should they proceed ethically as it pertains to Mr. Davis! He's just a low life felon not deserving of any thing in there eyes. This is heard loud and clear by just what the State did from one end to the other of these proceedings. (deliberate and intentional) pg-21L-14-to 18 the Judge admits she has only read the probable cause statement in this case to this point the statement that includes the bogus drop off and don't fuck it up! And, the State was counting on just that to gain rulings in there favor. This means the Court used untruths in its denying of motion to join

motions to sever, and dismiss murder 1, a clear error by the Court see L-24-25-To-pg-22-L 1

Feb. ~~16~~²⁶ 2016/ Report of Proceedings Omnibus status hearing Tom Weaver points out pg-4-L-15 to-20 the fact that the Court felt in part it didn't have a good grasp of the facts! How could the Court get a good grasp when the prosecution is misleading the Court on very important issues and statements, evidence, and facts! And, not having full disclosure of reports and evidence to the defense!

On March 4, 2016 report of proceedings the prosecution states there intentions to press murder 1 charges! (really a "holdback" charge of murder 1).

At this time the State is not ready for trial and needs more time, so the State maliciously force Mr. Davis counsel by there clear charging tactics to ask for a extension to prepair, gaining the State more time on the back of Mr. Davis instead of there s in order to not be responsible for violating all 3 defendants speedy trial rights at once! Its clear misconduct by the State and they are not done yet.

On March 9 2016 report of proceedings, motions volume I pg-11-L-22-To-pg-17-L-10 the Defense argues against the States amended information citing State v Michelli, and prosecutor mismanagement see pg-12-L-19-to-25-To-pg-13-L-1-to-7, Also pg-13-L-10-to 11, the Defense points out the fact that the State has the same facts from early in the case and nothing new or different! Also L 17-to-19, the Defense relied upon the States information given to Mr. Davis defense counsel of no murder charges would be pressed so Defense did not prepair for such in prep for trial. Pg 15-L-9-to-20 the Defense points out the impact of this! And, that Mr Davis has expressed his position through out this case to have this trial within speedy trial. And, now would be forced due to misconduct by the prosecution to defend against a unjust murder 1 charge. Mr Davis's counsel now would have to ask for a continuance and this would be the only reason why Defense would be asking for a continuance the eve of trial! See pg 17-L-3-to-7 the Defense counsel gets very upset at this point and states it was

"affirmatively" represented by the State (prosecutor Christensen) that the defense would not be dealing with the murder issue. (Look the States lead investigator says Mr Davis is not part of the Robbery! then Mr Davis can't be apart of the murder). "Mr Davis should not have even been apart of this trial." On pg-22-L 3-to-7 the state argues its office policy that they don't file the amended information until closer to trial to allow for continued negotiations. In this case there was no on going negotiations between State and Mr. Davis defense. (period) and office policy is not law or relevant. Pg-24-L-12-to-25-To-pg-25-L-1-to-14 the Defense further argues the fact that the State said no murder charges would be filed, pg-24-L-21-to-24 defense counsel clarifies.

The Court errored in allowing the amended info, and this murder charge to go forward, this issue forced the violation of Mr Davis s speed trial rights, also plays right into the hand of the prosecutions plan to force Davis counsel to ask for a continuance or recess and extremely clouds the weakness of the States case against Mr. Davis. This P.C statement and proven lie is tied to everything no matter what it just keeps coming up again and again at every stage and hearing/rulings!

On March 10, 2016 Affidavit in support of Objection to Amendment and 8 3 Motion, attorney for the defense Jeniece LaCross under penalty of perjury states #10 facts! (see all)

Fact #3 says during the pendency of this case and prior to the addition of the robbery charge LaCross discussed with the prosecution (Christensen) the potential charges that would be brought against Mr. Davis!

Fact #5 attorney LaCross "clearly" expressed her interest in wanting to be informed if a murder charge would be add! (Just like any attorney would in her position)

Fact #6 says once a decision was made by the State to amend the information (by way of the 2nd amended P C Statement to include the ever present drop off and don't fuck it up statements) against Mr. Davis to include the charge of Robbery 1 at that time

attorney LaCross was informed by the prosecution that murder charge would not be added (and states why not) based upon the belief that they (the State) could not prevail due to the Statutory Defense. and, the prosecution and Detective Bowman was right in there assessment of the case that they couldn't prevail and Davis has nothing to do with the actual Robbery! The jury also agreed by there verdict! The verdict does not in anyway mean no harm was done to Mr. Davis. The actual malice is clear the misconduct is clear, the abuse of power is clear, the Brady violations are clear, there intent is clear, the perjury by Swayze is clear, the 2nd P.C. Statement that never should have been wrote is clear. The Court though being deceived errored in allowing the States amended charges to stand!

See March 7, 2016 Defense Motion to Dismiss Third Amended Information (Please see all).

See March 9 2016 the response to Defense Motion to Dismiss pg-2-of-4 ~~the~~ State additional discovery and list 5 issues! all 5 were either already known or irrelevant to this case.

Issue #1 Mr. Hood's D.N.A. in Smalls trunk! Alisha Small got her car back at the Days Inn in Fife and borrowed it back to Bubba Prv again of her own free will. Mr. Davis has nothing to do with that car. Plus after that, 5 days later Mr. Davis still tried to helo Ms. Small get her car back! See Miranda Bond transcripts Cross by defense June 13, 2016 pg-4250-L-16-To-pg-4253-L-21 (all).

Issue #2 Cell Phone saving Davis deleted several text messages from December 17, 2015! The Court ruled all text messages from Mr. Davis' phone are out and were not apart of this trial so the text are irrelevant. In fact the Court errored in there ruling on the text messages they were a major part of the Davis Defense proving Mr. Davis was not involved. (Please see Davis phone down load and text from Court file).

Issue #3 Jail phone call dated February 25, 2016 the State never used that call at trial so its not a matter of record, Mr. Davis wanted the State to play that call to the jury, the State didn't because they know it would have back fired on them just

the one jail phone call that they did use back fired, and further proved Mr. Davis's innocents.

Issue #4 here we go again the the drop off statement and don't dont fuck it up statement is back (also is in Ocean Wilson's February 29, 2016 statement, her 4th statement).

Issue #5 The State says in the March 1, 2016 Alisha Small interview and the statement Mr. Davis called her to to help with some money. This the Cory Manchester report dated 12-22-15 that disappeared that did not get to the jury would have blown her statements out of the water at trial had the jury heard this Mr. Davis would have been acquitted of I.D. Theft 2nd! See attached Manchester report dated 12-22-15, (pg-3-of-9- 2nd to the last paragraph; pg-5-of-9- 4th paragraph; pg-6-of-9- 2nd paragraph; pg-7-of-9- 2nd paragraph) all from court file see Attachment EXHIBIT-355 phone jail call they did play at trial (call made on 3-1-16).

On March 10, 2016 Report of Proceedings Motion Volume II, pg-167-L-20-To-pg-172-L-19, the Defense Oral Argues the Motion to Dismiss! Pg-171-L-19-to-25-To-pg-172-L-1-to-2 Davis counsel clarifies was told no murder charges! Get this on pg-174-L-2-to-5 the State/prosecution admit's that the decision "WAS" made at one point "NOT" to charge Mr. Davis with murder! (Proving the truth of attorney LaCross's sworn affidavit dated March 10. 2016).

On pg-174-L-9-to-16 speedy trial issue: The State say's what Davis has to prove! The fact is Davis did go past his speedy trial. L-17-to-21 the State says they did not have all the information in on this case, at this point there is no new info as to Mr Davis to warrant this late stage mis filing there is mismanagement by the State to go with there misconduct, and malicious intent and behaviors! See, State v. Michelli.

On pg-175-L-5 the State cites the 5 pieces of evidence used in there response to defense motion to dismiss. Mr. Davis has addressed the 5 issues. they are a very sad attempt to tie Mr Davis to this case!

On pg 175 L-5 the 5 pieces of evidence again! L-10-12- the

State admits the weakness of there case against Mr Davis says they relied heavily on (bogus) witness statements known to be so by the State Per there investigation.

On pg-176-L-18-To-pg-179-L-8- the Defense Argues mismanagement by the prosecution! pg-177-L-23-25-To-pg-178-L-1-to-9 the defense argues no new evidence to lead defense counsel to believe possible murder 1 charges are on the table do to the case progression and info provided by the State.

See Court ruling on pg-179-L-22-to-25-To pg-186-L-7 (all), on pg-183-L-25-To-pg-184-L-1-to-2 the Court says state provided in its briefing unrebutted facts that demonstrate there was reason for State to change posture! referring to the 5 pieces of evidence again most of what was not used at trial no text no jail phone call, bogus statements by Wilson and Smalls, known lie and missing report (Manchester) Plus the Court was mislead through out with un-factual P.C. Statements, missing Cory Manchester report, missing video, also mislead by the State, turning a blind eye to there own investigation and factual information.

On pg-186-L-2-to-3 the Court admits and agrees with the defense that there is no new evidence saying most the evidence relating to this charge is also relevant to the original charge of robbery! (The very same robbery that lead detective Bowman believes Mr. Davis has nothing to do with)!

On pg-186-L-8-To-pg-189-L-18 Mr. Davis is just now arraigned for murder 1, at this last second before the jury is seated! Mr. Davis was fully prepared for trial and was ready to go. The State's tactic to gain more time and to inject Mr. davis into this sea of confusion by burying the weakness of there case in a complex murder trial in a attempt to get just anything to stick to Mr. Davis, when there own evidence say's drop all charges! If the prosecution had played fair Mr. Davis would not of had a P.C. Statement to include a drop off, (would not have been arrested for a bogus warrant) to gain robbery charges, that investigators know I'm not a part of. With the missing Manchester report the jury would have been afforded a fair determination of Ms. Small

credibility. The misconduct is clear from the State to effect the out-come of this trial as it pertains to Mr. Davis!

On pg-190-L-3-to-10- defense counsel asked for for 45 day's to prepair, over Mr. Davis's personal objections, to any continuance or recess. Mr. Davis's speedy trial rights were violated due to the State's, malice and bogus tactic's and misconduct, and malicious prosecution, or at the very least mismanagement.

On March 18, 2016 prosecutor Coreen Schnepf argues in her Memorandum of Authorities RE: Statement of the case part B. L-18-to-22 she says on 12-17-15 Robert Davis picked up Jones, Pry, Dudley Pry, and Wilson from the Tracyton Duplex, Davis dropped Jones and Pry off to do the Robbery! Here it is again this is the States issue tying Mr. Davis to this case and trial, this untruth, proven lie, this is the tool used to maliciously prosecute Mr. Davis. This thats got video evidence (dated 1-8-16) proving its just not true! This is evidence that the states investigators turn up themselves and turn over to the State and they both refuse to proceed in a professional and ethical manner. (Makes a person ask why?). The prosecution Schnepf and Christensen both are not new to this, they are very smart and they both know exactly what they are doing as to Mr. Davis, (its there abuse!). They also know they are federally protected by law against wrong doing, and that makes there actions so much more of a abuse of power. This Court Mr. Davis is before now should not support the State's behavior by allowing this to stand. The intent to do Mr. Davis actual legal harm is clear by there malicious actions!

On March 10, 2016 transcripts pg-201-L-22-25-To-pg-210-L-19 (all) Mr. Davis defense and co-defense argued is it a continuance or a recess the State also argues the same both sides ask the Court to rule! The Court errors by refusing to rule one way or the other, leaving it up in the air as to Mr. Davis's right to a speedy trial being violated or no! Making this issue ambiguous, and so speed was violated!

On pg-207-L-22-to-23- the State try's to get the Court to

rule that the trial has started and this is a resess! L-24-to-25 the Court ask if everybody agrees pg-208L-2-to3- Mr. Davis counsel does not agree, "No".

On pg-209-L-5-to-6 the Court again refuses to rule. (Why?) this issue is very important!

On May 4, 2016 the State argues co-conspirator statements pg-4 Alisha Small #1 says Davis called Small needed Smalls help, Small was supposed to access the money for the group. First off Small is a stranger to Mr. Davis until this night, Again the Cory Manchester report 12-22-15 Ms. Small denied ever making that statement, she also says at trial all phone conversations are about drugs before she and Davis met! See, June 9, 2016 transcripts pg-4096-L-4-to-12- also L-23-to-25, the jury should have heard and been able to consider the statements/information contained in the Manchester report that makes everything on this issue by Ms. Small ambiguous and a Oxymoron. Also should have been considered in deliberation but this report was unknown to Mr. Davis this information/discovery is major to Mr. Davis's defense clearly would have shed doubt as to the I.D. Theft 2nd by way of accomplice.

On pg-6-to-7 co-conspirator statements Ocean Wilson #4 says while dropping Pry and Jones off to do the robbery Davis was saying things like don't fuck it up! This is unreal!... How can the prosecution and detectives argue/push this when from the confirmed exact location of the drop off, they recovered video proof 1-8-16 that "NO" drop off ever happen! But here it is still in this case (maliciously so) tying Mr. Davis to this madness, and in turn the statement that was supposed to be said at this fictitious drop off spot and at that exact time is also fictitious! Untrue, a lie, plain and simple, this should not have ever been apart of this case. It was used to gain charges against Mr. Davis (P.C.) the prosecution is still pushing this with malicious intent deceiving the Court and jury and manipulating the system for there own legal gain!

On May 16, 2016 co-conspirator statements with Court rulings, Alisha Small pg-5- #1 is admitted and pg-7 Ocean Wilson #4 is

admitted! Both of these statements should not have been a part of this trial and or allowed by the Court. They both were used by the State to mislead the Court and cloud the issues, to hide the weakness of there case against Mr. Davis. Its clear the State lost sight of there duty as it pertains to Mr. Davis's case and proceeded to unethically turn a blind eye to the facts, abusing there power, with actual malice, and malicious intent to do Mr. Davis harm, misconduct, and mismanagement, violations of discovery (Brady) and speedy trial!

On May 18, 2016 record of proceedings Ocean Wilson testimony the prosecution continue there abusive and malicious behaviors and wrongly and knowingly put there witness on the stand to lie! See, pg-2399-L-14-to-25-To-pg-2390-L-1-to-15 the fictitious and bogus drop off is pushed to the jury! Mr Davis should not have had to defend against this proven lie by Ocean Wilson the State should not have used this proven lie against Mr. Davis, should not have been a part of trial! (P.C. should have been denied).

On May 19, 2016 Record of Proceedings transcripts Ocean Wilson say's pg-2599-L-4-to-23- and pg-2602-L-18-to-25-To-pg-2603-L-1-to-10 Ocean Wilson admits that she made the statement on 12-22-15 that they Tiny and Bubba (~~Z~~Pry and Jones) left Mr. Davis's house/property on foot and returned on foot on 12-17-15 and also admits made statement on 12-23-15 that she did not have anything else of importance to add to 12-22-15 statement saying on pg-2603-L-3- giving affirmative statement! If that's what you are reading! Implying "yes"

On May 19 2016 transcripts in support of Mr. Davis's argument "please see all!" pg-2563-L-22 to 25-To-pg-2564-L-1-to-10

Please see all, pg-2567-L-11-to-18; Also pg-2571-L-19-to-25; Also pg-2576-L-24-to-25-To-pg-2577-L-1-to-2; Also pg-2579-L-25-To-pg-2580-L-1-to-5; Also pg-2583-L-6-to-11, and L-12-to-20 (Thank you)

On May 24, 2016 report of Proceedings detective Ray Stroble's testimony pg-3023-To-pg-3039 (see all) pg-3024-L-13-to-25-To-pg-3027- the defense attempts to impeach Wilson and the

prosecution fight it tooth and nail! Why? Court erred by not allowing!

June 13, 2016 transcripts of proceedings miranda bond testimony pg-4250-L-16-to-25-To-pg 4253-L-1-to-21 this proves 5 days later 12-22-15 that Mr. Davis has no part in this case. If so what is Mr. Davis doing at the Duplex looking for Ms. Smalls car, is he there just acting like he does not know what's going on and (Tiny) Jones is doing the same acting! For who? For what? Its just two co-conspirators here in this conversation! (This make no sense) the State turns a blind eye to this as well.

On June 20, 2016 Report of Proceedings, Cory Manchester testimony pg-4737-To-pg-4746 (all) pg-4738-L-3 to-10 Manchester testifies he did interview Ocean Wilson on 12-23-15 to ask her if she had anything further to add to 12-22-15 statement L-19- "Yes" also L-20-to-25-To-pg-4739-L-1-to-22 Manchester confirms its the 23rd December 2015 pg 4740-L-11-to 13 Manchester confirmed did ask Ocean Wilson 12 23-15 if she had anything else to adds L-13 "Yes".

No where is the 12-22-15 Manchester report Alisha Small interview ever mentioned by the State or defense counsel in this case. The jury could not possibly get a fair determination of the case/facts and evidence with out the information contained in this report being put before them and defense would have did just that had the defense been provided with this info from the State. it appears this evidence/report was hidden from the defense, and if not and this was turned over to the defense Mr. Davis's counsel is in fact ineffective for not impeaching Ms. Small at trial! And, the jury should have had this report as part of there deliberation. (Small flat out denied ever making that statement!).

In the report by detective Kriste McDonald dated 1-3-16 pg 4-of-4 2nd paragraph the State know's that christina Waggoner told investigator (McDonald) that "she did not know if Robert Davis had ever met Mr. Hood". This all go's to the States intent to not play fair and do Mr. Davis harm! This report is there report and they (Schneef and Christensen) know the truth. But they still maliciously put Christina Waggoner on the stand to lie to the Court

and the jury, saying she introduced Mr. Davis to Mr. Hood. So on 1-3-16 Ms. Waggoner did not know if Mr. Davis ever met Mr. hood and now as State witness for the first time ever making this statement June 8, 2016 she now has "personally herself" introduced Mr. Davis to Mr. Hood, (oh come on!) "where is the States integrity" see June 8, 2016 transcripts pg-3970-L-6-to-25. Fact the first time Mr. Davis has ever seen Mr. Hood's face is at trial "neriod" . Christian Waggoner is lying with the States knowledge Prosecutor Christensen know's about 1-3-16 McDonald report it came from them to Davis defense counsel. So if a person (prosecutor Christensen) acts like it didn't happen or don't exist the State can add anything to fit there view or opinion! (Oh the State is not done yet) This report I had to remove because its not in the Court file But it does exist it is a "FACT".

On June 23, 2016 records of proceeding in closing arguments prosecutor Christensen says on pg-5004-L-6-to-10 that Waggoner introduced Robert Davis to Robert Hood! lying herself, when will this abuse stop? All this just to get Mr. Davis (really) the State is so out of line its unreal. Also in States closing pg-5005-L-3-to-9 there it is again the fictitious Groe off lie known to be just that a lie! As of 1-3-16 reason? lead Gerald Swazye report (report was turned over to the State) This bogus statement is the only reason as to Mr. Davis for a second P.C. statement to be wrote and detective Bowman knows its not true at the time he writes the 2nd P.C. on 1-26-16 (video proof 1-3-16) The malicious intent all starts with the States lead investigator Jason Bowman and bogus arrest warrant and his malicious 2nd P.C. statement that go's against facts, visual facts (video), Ocean Wilsons first statement and 2nd statement. And, this is a direct attempt (sucessful)! To do Mr. Davis legal harm, this abuse of power should have stopped at the State prosecutors desk but so the State embraced this unethical, malicious, abuse of Mr. Davis's rights to a fair trial and fair and true legal treatment. prosecutors Ichneof and Christensen both have a position of power in/over society within the legal system on pg-5005 the State says with knowledge

that the 12-22-15 Cory Manchester report is not in play, that Mr Davis brought in Alisha Small L-16-to 21 flat out cheating to win! This case started out as a potential drug case look at Mr Davis's criminal history not one crime of dishonesty until now 40 y are no crimes of dishonesty ... due to all addressed in Mr. Davis's argument and the facts within! This case should be over turned, or remanded for a new trial! If not one or two issue then the cumulative impact of all issues warrants a new trial

OTHER ARGUMENT SENTENCING

Mr Davis went to trial in this case unjustly so for murder 1, robbery 1, robbery 2, and I.D. Theft 2nd, all by way of accomplice, and Mr Davis was acquitted by jury of murder 1, robbery 1 and robbery 2, Mr. Davis was found guilty of I.D. theft 2nd.

On August 5, 2016 report of proceedings/change of plea and sentencing for #16-1-00002 7 and #16-00264-0 "both" the State continues with total lack of integrity to abuse there power and move with malicious intent from trial to sentencing! The States actions and behaviors in the sentencing proceeding are blatant in there intent to get the Court not to follow the joint agreed upon plea deal by both the State and the defense. The State in fact maliciously undercut the plea deal to the fu lest pg-10-to 11 the State starts listing crimes and charges not in issue in this case/proceedings clearly trying to influence the Court to give Mr Davis more time then the 90 month agreement! The sentences are together and argued as such together collectively pg 12 L 5 to 9 State continued the undermining of the plea deal on 13-L-6-to 16 The State go's as far to argue rapid recidivism at a joint plea deal to the Court! Clearly undercutting and attempting to sway the Court! See L 10 to 16. Through out the State non-stop aggressively argues against the plea deal (of 90 months) clearly undermining the deal! pg 13-L-17-to-25 The State with malicious intent points out Mr Davis was on community custody and then back to rapid recidivism! L-19-to-23 the State just keeps on going to

at the point of defense objection (in a plea deal). The Court on pg 14-L-17 sustains the objection. The State of all things says on 14-L-21-to 23 the State is in no way trying to undermine our negotiated resolution of 90 months! When in fact that's just what prosecutor Schnepf "just did" "aggressively so" .. The State is not done prosecutor Schnepf go's right back to it pg 14-L-25-To pg 15-L-2 saving the defendants behaviors throughout these Court proceedings! (Unbelievable)(really) . As far as the State go's? Davis should be remanded back to trial Court for re-sentencing to the agreed upon deal of 90 month or re-sentence Mr Davis to 44 months on the I D Theft to comply with the 90 months that was so greatly undercut.

This is not the first joint plea deal prosecutor Schnepf has been a part of she know's very well what she is doing she's continuing with her direct malicious intent to do Mr. Davis legal harm, undercutting the deal and influencing the Court.

What was wrong with her saying we are here today on a agreed upon plea deal of 90 months and we the State feel that's fair and ask the Court to follow that deal! (And, that's it) "Not what she did do? the plea deal was a joint agreement of a exceptional upward (consecutive) deal.

The Court gave Mr Davis due to the States actions 103 months a exceptional on top of a exceptional sentence Again due to the States blatant disregard of the plea deal and there direct undermining!

Again both cases started with the warrant for Mr Davis's phone in one case, can't separate that fact!

The Court erred in allowing a victim advocate to read impact statements at sentencing further undercutting the plea deal also violates Brady by not providing those statements to the defense before Davis signed the plea deal. During sentencing Davis himself agreed to the reading because he didn't want to seem unresponsive and or rude to the victims/Court in light of the impact the State already did (negatively) to the proceedings! Still Davis counsel did complain/object or oppose the letters being read (the victim advocate asked for the man)! (Remand for resentencing) (44

months on this case is fair!)

Also the cumulative impact of these issues should gain remand for new trial and if not on the totality of this brief then for sure the totality of attorneys brief and this one cumulatively warrant remand for new trial.

On August 5 2016 Findings of Fact and Conclusion of Law for exceptional sentence (see all) says some offenses going unpunished this is not the case here Mr Davis got a exceptional on top of a exceptional. Please remand for re-sentencing to 44 months on the I D Theft 2nd to comply with the 90 month deal that was in place before prosecutor Schaefer totally undermine the deal Mr Davis right to a fair trial was violated nothing about the State and there investigators behaviors are fair to Mr Davis's legal process!

I'll close with this: What's better than "Visual Video Proof" that something did in fact happen or did not in fact happen? "Nothing" is the answer its what every prosecutor should hope for in there cases video proof! And now you Appeals Court have a case with just that before you now. Proof that Ocean Wilson is lying proof that Bowen's P C Statement was done with intent to do Mr Davis harm and the state jumped on board. Its there facts there evidence from there investigation that they turn a blind eye to, time and time again!

Thank you for your time and consideration

"Q U E S T I O N S"

1. Did the State through there investigative team in fact maliciously obtain a arrest warrant via Mr. Davis's probation officer? Answer Yes

2 Was Mr. Davis in fact living at 8686 Tracyton Blvd the day of his arrest? Answer Yes.

3 From the 1st probable cause statement dated 12-31-15 wrote by lead detective Jason Bowman was the State able to press robbery charges on Mr Davis with just that information? Answer No.

4 Did the State in fact drop rendering criminal assistance 1st degree charges listed in the first probable cause statement by lead detective Bowman dated 12-31-15? Answer Yes.

5. Is it a fact that from lead detective Bowman's 1st probable cause statement dated 12-31-15, that in fact no charges directly from this P.C. was pressed at trial? Answer Yes.

6. Did Ocean Wilson tell the State's Investigators that Mr. Davis picked them all up on 12-17-15 and drove to his house 8686 Tracyton Blvd with no stops, and the boys (Pry and Jones) left on foot from there dated 12-22-15? Answer Yes.

7. Was Ocean Wilson asked in her 2nd statement to investigators if she's got anything further to add of importance to her 1st statement made on 12-22-15! dated 12-23-15? Answer Yes.

8. Is it possible that the State and lead detective Bowman are not aware of Ocean Wilsons first statement 12-22-15 and her second statement 12-23-15? Answer No.

9. Did Ocean Wilson after entering into a deal with the State change her 1st and 2nd statements to state in her 3rd statement, that Mr Davis picked them all up and dropped off Pry and Jones on the way at the front gates of 8275 Tracyton Blvd the Loidhamer residence and said "dont fuck it up" dated 1-14-16? Answer Yes.

10. Did second lead detective Gerald Swayze see per his testimony and follow up report dated 1-14-16 (pg-5-of-7-8th paragraph) that on 1-9-16 he obtained a flash drive from Craig Lei being containing surveillance footage of 12-17-15 and found no useful footage? Answer Yes.

11. Did second lead Swayze see the reason he was at 3275 Tracyton Blvd in search of information is because of the information given from Ocean Wilson in her 2nd interview/statement dated 1-14-16? Answer Yes.

12. Is it a fact that Detective Swayze's report dated 1-14-16 says on 1-9-16 he viewed the flash drive/footage in fact 6 days before Wilson's 3rd statement? Answer Yes.

13. From transcripts and reports relating to questions 10, 11, 12, and the information in Davis's argument on this issue did second lead detective Swayze verture himself by testifying the only reason he's searching for information/footage at 3275 Tracyton Blvd is from information Ocean Wilson gave on 1-14-16, but in fact he reviewed flash drive on 1-9-16 per his report dated 1-14-16? Answer Yes.

14. Did Ocean Wilson in fact confirm the location of 3275 Tracyton Blvd to be the "exact" spot of this drop off of Pry and Jones to detective Swayze? Answer Yes.

15. Is it possible the State and there investigators lead detective Sowden and second lead Swayze are not aware of what is on the surveillance footage or in fact what is not on the video footage? Answer No.

16. Is it a fact that Mr. Davis "did not" stop in front of 3275 Tracyton Blvd on 12-17-15 and dropped off Pry and Jones and said at that "exact" time and location "Don't fuck it up"? Answer Yes.

17. Would it be malicious of the State and the detectives with the overwhelming evidence of Wilson's 1st statement, 2nd statement and video proof, to turn a blind eye to there own evidence and proceed as if none of this factual information and

evidence does exist? Answer Yes.

18. Did in fact lead detective Jason Bowman say at trial that he texted on 12-27-15 Alisha Small his confidential informant for drug investigations, that he believed Mr. Davis had nothing to do with the actual robbery? (June 15, 2016 Transcripts pg 4422-L-10 To pg-4425 L 1) Answer Yes.

19. Is it possible that the State is not aware of this statement/evidence by their lead investigator on this case? (Jason Bowman statement dated 12-27-15 to Alisha Small via text message?) Answer No

20. After Ocean Wilson's 3rd statement on 1-14-16, does lead detective Jason Bowman use the drop off statement to write a second amended probable cause statement on Mr. Davis dated 1-26-16? Answer yes.

21. At this point 1-26-16 is the State investigators lead detective Bowman and second lead detective Swayze with Malice turn a blind eye to their own overwhelming evidence and drop off and to Bowman's own belief of the case in his 12-27-15 text? Answer yes

22. Does the State use the amended probable cause statement and pretty much only the added statement of a drop off to press robbery 1 charges on Mr. Davis? Answer yes

23. Is the State being malicious at this point in charging Mr. Davis with robbery 1 from the amended probable cause statement dated 1-26-16, by lead detective Bowman that basically just adds the drop off statement? Answer yes.

24. To what point is the State turning a blind eye to their own evidence, investigation and reports and proceeding with actual malice? (In the face of visual video proof) Answer Yes.

25. Did second lead Swayze inform lead Bowman and in turn the State Schnepf and Christensen of what was on the very important surveillance footage? Answer yes.

26. Is detective Swayze maliciously turning a blind eye to his own reports and evidence obtained and the facts in Wilson's 1st

and 2nd statements? Answer Yes.

27 Did second lead detective Swayze confirm the drop off location with Ocean Wilson? (June 20, 2016 transcripts pg-4572-L25-To-w-4573-L-11) Answer Yes.

28. Was this drop off statement and don't fuck it up statement a major part in all hearings, and charging! as to Mr. Davis in this case? Answer Yes.

29. Did Mr. Davis counsel ever receive a copy of what was contained on the flash drive, recovered by Detective Swayze and viewed on 1-8-16 by Swayze? Answer No

30 Should a copy of information/video of what was contained on the flash drive recovered by Swayze from 1-14-16 report view on 1-8-16 been turned over to Davis defense counsel? Answer yes. - Was it malicious! not to turn a copy over to defense? Answer yes.

31. Should a copy of the flash drive went back with the jury during deliberation for there potential viewing? Answer Yes.

32. Is the State in violation of Brady by not providing a copy of flash drive to Davis defense counsel? Answer Yes.

33 Is it possible the State and detective's Bowman and Swayze are not aware of the Cory Manchester report dated 12-22-15 (Alisha Small interview)? Answer No.

34 Did the State and lead detective Bowman and second lead Swayze all turn a blind eye with malice to the Cory Manchester report dated 12-22-15? Answer yes.

35 Was this very important report/information to the Davis defense dated 12-22-15, by Manchester hidden or pushed to the side and not provided or seen by Mr. Davis? Answer Yes.

36. Does the statements made by Alisha Small to detective Cory Manchester on 12-22-15 "raise doubt" to the creditability of Alisha Small and her testimony and to Davis's involvement in the L.O. Theft 2nd charge? Answer Yes.

37. Did the jury have a right to hear the information in the Manchester report 12-22-15 at trial in order to make a fair determination of the case? Answer Yes.

38. Did the Manchester report 12-22-15 go back with the jury for deliberation? Answer No

39. Did the State turn a blind eye to the Cory Manchester report 12-22-15 and the information provided within it and with malicious intent proceed as if it did not exist? Answer Yes.

40. Did the State violate Brandy by not turning over the Cory Manchester report 12-22-15? Answer Yes.

41. Did Alisha Small get her car back in five and borrow it back to Bubba Pry meaning Davis is no longer responsible to make sure she gets back to her car? (She recovered it?) Answer Yes.

42. Did the State with actual malice in Feb-5-16 report of proceedings - Joiner Hearing as to Mr. Davis, use only the statement, basically Davis helped in the arrangements, dropped off Pry and Jones they committed the murder? Answer yes.

43. Is it proven Mr. Davis "did not" drop off anybody at 8275 Tracyton Blvd on 12-17-15 in light of, Wilson's 1st statement, 2nd statement and visual video proof? Answer Yes.

44. Is the State maliciously misleading the Court when it comes to Mr. Davis with this drop off statement in the joiner hearing to gain a favorable ruling from the Court? Answer Yes.

45. Was the Court misled by the State to believe that in fact the drop off by Mr. Davis did occur in the motions hearings to dismiss the murder charge? The Joiner Hearing? And, the Severance Hearing? Also in the Courts use of the probable cause statement? (Amended)? Answer yes.

46. Is the Court in error for joining Mr. Davis's case to Pry, Cruz, using the misleading proven untruth of a drop off solely from the argument by the State to the Court? Answer Yes

47. February 11 - 2016 transcripts pg-21-L-14-to-18 does the Court admit to only reading the probable cause statement in this case as to Mr. Davis in making rulings on the Joiner, Severance, and Motion to Dismiss Murder Charge? Answer yes.

48. Did the State mismanage at the very least there case as to the charging of Mr. Davis? Answer Yes. (murder 1)

49. Did the State with malicious intent wrongly charge Mr Davis the eve of trial? Answer Yes

50. Did the Trial Court error due to the malicious intent of the State and there investigators using false and hidden information! error in its ruling to allow the murder charge to stand the eve of trial "clouding" Mr Davis's case? Answer Yes.

51. Did the Court error in ruling against Mr Davis on the Severance Issue using the bogus information provided by the State misleading the Court? Answer Yes.

52. Was Davis's speedy trial rights violated by the Courts erroneous decision to allow murder 1 charges to go forward? Answer Yes.

53. Was Davis prejudice by the P.C. Amendments and States filing, and behaviors of the State and investigators through out? Answer Yes.

54. Was Mr Davis prejudiced by going to trial joined to Pry and Cruz, "clouding" the States weak case against Mr. Davis? Answer Yes.

55. Did the State in fact tell Davis defense counsel "No" murder charges would be pushed? Answer Yes. (see Sworn Affidavit by LaCross).

56. Did the State lead Davis's counsel to believe there was no need to prep for a murder trial? Answer yes.

57. Should Alisha Small been impeached at trial with the detective manchester report? Answer Yes.

58. Did the Court error in denying Davis defense motion to dismiss murder charges (March 10 2016)? Answer yes.

59. Was Davis counsel forced to ask for 45 days to prepare for murder trial, when should have had months to prepare? Answer yes.

60. On March 18 2016 Memorandum of Authorities, did prosecutor Schnepf maliciously mislead the Court in Part B Statement of the case! When saying Davis dropped off Jones and Pry? Answer Yes

61. Is the prosecution abusing their power in this case as it pertains to Mr. Davis? Answer yes.

62. Are State Prosecutors Schenck and Christensen and their investigator Dorman and Swayze behaving with malicious intent pertaining to Mr. Davis with what's all been pointed out in this document? Answer yes.

63. Did the Court error by not ruling one way or the other on if it's going to be a recess or a continuance at the March 13 2016 hearing? Answer yes

64. Is the State acting with actual malice by pushing extrajudicial statements to the Court to rule on re The Mar 4, 2016 co-conspirator statement? Answer Yes.

65. Did the Trial Court error in allowing the co-conspirator statement in from Small's #1 and Wilson's #4 to be in at trial? Answer Yes

66. Is the State acting with malicious intent by turning a blind eye to the mountain of evidence against Ocean Wilson's 3rd statement and knowingly put Wilson on the stand to falsely testify to a drop off at 2875 Trayton Bl?? By Mr. Davis? Answer Yes.

67. If Davis' defense counsel LaCrosse did in fact not the Manchester report dated 12-22-15 and didn't impeach Althea Small at trial with it, is defense counsel ineffective on this major issue? Answer yes

68. In this case is there insufficient evidence to support conviction with out the "faded" claim of a joint murder/? co-defendants, and the "faded" name by the drop off statement and with/IF the Manchester report was provided before the jury? Answer Yes.

69. Did the State and its investigator s lead Sowa and second lead Swayze, act with malicious intent to do Mr. Davis legal harm such a blind eye to the detective McDonald's report dated 1-3-16 that says Christiana McDonald told her iv McDonald that she did not know if Robert Davis had ever met Mr. Sowa? Answer Yes

70. Did the State proceed with malicious intent by putting

Christie. Response on his stand to knowingly lie, directly contradict her statement and on 1-8-16 to Detective McDonald? Answer Yes.

71. Is the State or its investigators allowed to act as if they "don't know" the truth, facts, or probable truth, to cover own reports/statements evidence, and direct contradictions to there reports/statements evidence and facts? Answer No.

72. Has the State and Detective Bowen and Surver's very clear abuse of power, and actual malice all throughout the course of this case all the way to submitting a direct attempt to have Mr. Davis in the local system? Answer Yes.

73. Should this case be ever turned due to the State's blatant, actual unethical practices, and actual malice, and deliberate misleadings of the Court to obtain favorable ruling and out come at the expense of Mr. Davis's rights to a fair trial and full and fair determination of the case being put forward to the jury? Answer No.

74. Should at the very least this case be returned to the trial court for a new and fair trial. Because of the State's misleadings of the court causing the court to make ruling in error on joinder, and severance, and on the motion to dismiss murder 1st degree charges, and all other ruling and holdings that involved the bomb, turn off, and "don't fuck it up" statements! For the hidden flash drive or video for the missing Cory Manchester reports! For knowingly getting witnesses on the stand to lie or knowing what they are going to say is a lie! For flat out cheating to win. Answer yes.

QUESTIONS FOR OTHER ARGUMENT
SENTENCING #16-1-00002-7; #16-1-00-264-0

75. Did both these cases begin with the investigation of the robbery and murder of Mr. Hood? Answer Yes.

76. Did all the evidence in the probation prohibition 2nd

case come directly from the warrant to search Mr Davis's phone in the Mr. Hood investigation? Answer Yes.

77. Did both case's start at Alisha Small trying to do controled drug buys for lead detective Jason Bowman? Answer yes.

78. Does the State continue with there malicious intent from trial to sentencing with her actions? Answer yes (very clearly).

79. Did prosscutor Carcen Schnepf clearly and aggressively undercut the plea agreement with her actions and statements at sentencing? Answer Yes.

80 Did the state clearly and aggressively undercut the 90 month plea deal by her statements and influence the court to give Mr Davis a exceptional sentence over the agree upon joint exceptional sentence deal? Answer yes

81 Did the State violate Mr. Davis's rights and or the agreed deal by arguing rapid recidivism in a joint plea agreement? Answer Yes.

82. Did the State undercut the plea deal by arguing Mr Davis was on D.O.C. probation at the time? Answer Yes

83. Did the court error by not striking from the record all said by the State after the sustained objection to the State's clear undermining of the deal? Answer Yes.

84 Should Mr. Davis be remanded back to trial court for re-sentencing due to the States blatant and aggressive undercutting of the plea deal and the continued maliciousness of the States actions and behaviors! Had Mr. Davis had the slightest idea that prosecutor Schnepf would pull what she did, Davis would never thought she would be so unprofessional and deliberate in her abuse! Also would not have considered entering into a deal with her. Remand for resentencing and be given 90 month per the deal is the only remedy? Answer Yes.

85 Davis should be remanded for resentencing on the T.D. Theft 2nd degree and given 44 months due to the States action at sentencing! To comply with the plea deal of 90 months, before the States direct abuse. Answer Yes.

CONCLUSION

The trial courts errors are not harmless to the out come of Mr. Davis's trial process!

The actions and malicious intent by the State and it's investigator's is clearly harmful to Mr. Davis!

The errors and issues pointed out by Mr. Davis in his argument are all reversible errors!

There is a clear mis-joiner in this case per the way the State misled the court in its arguments and briefs!

The States amended probable cause statement in this case against Mr. Davis was completely discredited by there own evidence, witnesses, and investigation/reports!

The State could not have possible gotten to the point of actual "Information and Belief" in the charging process of Mr. Davis in light of there own evidence! (Video Proof).

The State clearly put there own witnesses on the stand to knowingly tell untruths and to directly contradict there own statements, with malicious intent to Mr. Davis!

The State maliciousness spans from arrest to probable cause to sentencing and probably will continue in there briefing in this appeals process!

The fraudy violations are so clear that nothing more needs to be said to this blatantly clear violations!

The State lost sight of its ethics and duty as it pertained to Mr. Davis and proceeded with extreme malice with there actions.

The State has in fact inflicted legal injury on Mr. Davis with there unethical practice and malicious actions and behaviors through out this entire case/proceedings.

I was forced to fight for my life, I saw unjustly so! But I put my faith in the system that is in place, to clear me in this tragic case!

After the jury heard all the smoke and mirrors and muck the State made them sift through and a very good job of sifting they did for the most part, because they the jury said to the State "No" to Mr. Davis and murder 1, "No" to Mr. Davis and robbery 1, "No" to Mr. Davis and robbery 2. They the jury said to the State after 44 days plus of trial and hearing all the muck the State threw at the wall to see what might stick! You the State are "wrong" as to Mr Davis and these 3 issues!

Being a black man I had very little hope of a positive outcome of any kind, but the faith that the system just might work was still there!

I thank the jury even though they are wrong in there verdict on the I.D. Theft 2nd degree because they have been deceived and manipulated same as the court was by the States prosecutors Schnepf and Christensen and there investigators lead detective Bowman and second lead detective Swayze

They the jury were not allowed a full and fair determination of the case and evidence due to the States actions and turning of a blind eye to there own investigations, evidence, and reports. Nor did the court through out its dealings of motions, hearings, and briefs, and oral arguments submitted by the state.

The State went after Mr Davis with malicious intent plain as can be.

Thank you for your consideration.

Page

REMEDIES

Overturn the identity theft 2nd conviction or remand to trial court for new trial.

Remand to trial court for re-sentencing on the identity theft 2nd and be given 44 months to comply with the undercut plea deal of 90 months.

Remand to trial court for re-sentencing to be sentenced to 90 month due to the blatant actions of the state in a agreed upon plea deal.

Dated this 22 day of May 2017.

Robert Davis

ROBERT DAVIS, # 959015
Airway Heights Corrections Center
P.O. Box 2049, Unit K-2-17
Airway Heights, WA. 99001

Page

Attachment A - (1) and (2)



KITSAP COUNTY SHERIFF'S OFFICE

CERTIFICATE OF PROBABLE CAUSE

REPORT NUMBER: K15-012322 CLERK CODE:

SUSPECT'S NAME: DAVIS, ROBERT LAVALLE BIRTHDATE: 07/11/1968

COURT: [X] SUPERIOR COURT [] DISTRICT COURT [] JUVENILE COURT

TITLE OF CRIMES ARRESTED FOR: Rendering Criminal Assistance 1st Degree Robbery 1st Degree RCWS: 9A.76.060 9A.56.200

ARREST DATE: 12/31/2015 ARREST TIME: 1100

LOCATION OF CRIME: 1270 Barker Creek Rd NW, Bremerton, Kitsap County WA

Probable Cause: On or about the day of December 16, 2015 a robbery occurred at the residence of Robert Archie Hood located at 1270 NW Barker Creek Rd, Bremerton, Kitsap County WA. The incident was first brought to my attention by Alisha Small on December 19, 2015. Small contacted me and stated she had been at a residence in the Bremerton area on or about the date of December 19, 2015. Small stated the residence was located at 8686 Tracyton Blvd NW and that the residence is where Robert Davis was living. I am familiar with Davis and the residence in question. Information provided by Small was that she overheard several people at the residence talking about how an old man had been tied up and robbed in a home. Small stated the persons taking place in the conversation were Robert "Bubba" Pry, Shawna Pry, Robert Davis, a female who has since been identified as Ocean Wilson, and a male since identified as Joshua Rodgers-Jones. Small stated that Davis was telling some of the other involved people that what they had done to

I certify (declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Deputy's Name: Jason Bowman Signature: [Signature] Date: 12/31/2015 Kitsap County, Washington

[X] See attached continuation

Rev Feb2012



KITSAP COUNTY SHERIFF'S OFFICE

CERTIFICATE OF PROBABLE CAUSE

REPORT NUMBER: K15-012322 CLERK CODE:

SUSPECT'S NAME: DAVIS, ROBERT LAVALLE BIRTHDATE: 07/11/1968

COURT: [X] SUPERIOR COURT [] DISTRICT COURT [] JUVENILE COURT

TITLE OF CRIMES ARRESTED FOR: PC Statement Amended 1/26/2016 Robbery 1st Degree RCWS: 9A.56.200

ARREST DATE: 12/31/2015 ARREST TIME: 1100 hours

LOCATION OF CRIME: 1270 Barker Creek Rd NW, Bremerton, Kitsap County WA

Probable Cause: On or about the day of December 16, 2015 a robbery occurred at the residence of Robert Archie Hood located at 1270 NW Barker Creek Rd, Bremerton, Kitsap County WA. The incident was first brought to my attention by Alisha Small on December 19, 2015. Small contacted me and stated she had been at a residence in the Bremerton area on or about the date of December 19, 2015. Small stated the residence was located at 8686 Tracyton Blvd NW and that the residence is where Robert Davis was living. I am familiar with Davis and the residence in question. Information provided by Small was that she overheard several people at the residence talking about how an old man had been tied up and robbed in a home. Small stated the persons taking part in the conversation were Robert "Bubba" Pry, Shawna Pry, Robert Davis, a female who has since been identified as Ocean Wilson, and a male since identified as Joshua Rodgers-Jones. Small stated that Davis was telling some of the other involved people that what they had done to

I certify (declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Deputy's Name: Jason Bowman Signature: [Signature] Date: 01/26/2016 Kitsap County, Washington

[X] See attached continuation

Attachment B.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 12/24/2015

ORI: WA0180000

Case Number: K15-012322

Supplement Information

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Supplement Date 12/24/2015 14:19:33	Supplement Type SUPPLEMENTAL REPORT	Supplement Officer (33) RICE, JENNIFER
Contact Name		Supervising Officer

Supplement Notes

MN/MCCARTER, EDWARD G.
 7/11/1966
 25768 NORVAL LN. NW, POULSBO, WA
 360-865-0034
 "BAMA" MIRANDA BOND: 360-932-7901 CELL
 MN/COSTELLO, SHEILA M.
 02/05/1968
 CELL: 360-301-3537

12/23/15, at approximately 0900hrs

We were briefed with our assignments for the day. I was paired up with Detective STROBLE to make the following contacts:

- 1) Contact BRANNDI MCCARTER - re-interview
- 2) Contact JOHN & CAROL LOIDHAMER at 8275 Tracyton Blvd - Video surveillance
- 3) Contact CHRISTINE POWELL (WAGGONER) at 8686 Tracyton Blvd

At approximately 1230hrs we went to 5734 Tracyton Blvd. to contact BRANNDI MCCARTER. Upon arrival, we observed a female out front at the back of a vehicle with the trunk open. We asked if BRANNDI was there. She said she was sleeping. We asked her to wake her. The female went inside and told us she would out shortly. She carried out a baby in a carrier and at that time 4 - 5 other individuals began exiting the residence and they all left.

BRANNDI came to the door and invited us inside to talk. She indeed looked as if she had just woken up. We asked if anyone else was there and she said just her kids. I returned a house key that her son had left in Detective MCDONALD's vehicle. I told BRANNDI we were there to get a better statement from her. I began reviewing the information she had given us the day before about seeing HOOD's I.D., and financial information in a folder. BRANNDI began saying she didn't say that and shortly after said she didn't want to talk to us anymore. She began acting very scared, looking up toward her ceiling toward noises we were hearing. I asked BRANNDI if TINY and BAMA were there. She said she didn't know. I asked if her kids were safe and she said yes. She began mouthing words and whispering. Detective STROBLE pointed up to the ceiling asking without speaking if they were upstairs. She began tearing up and shook her head yes. At this behavior we felt it very possible that TINY/BAMA were inside the residence and possibly BRANNDI felt threatened. We loudly announced our departure and exited maintaining a

Officer: (33) RICE, JENNIFER	SUPERVISOR:	INFO: ONLY:	F/U: DET:	F/U: LINE	PROSECUTOR:		
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KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 12/24/2015

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

giving us consent to search.

CHRISTINA said "BECCA", REBECCA BEEBEE, dropped the vehicle off there this morning with the keys. She told CHRISTINA that ROBERT DAVIS had been arrested last night at the Casino. CHRISTINA began getting DAVIS's belongings together in totes in his bedroom and BECCA was going to come back later to get his stuff and his Chevrolet Blazer parked on the side of her residence.

CHRISTINA didn't see any of the property we asked her about.

She saw "BUBBA" ROBERT PRY and SHAWNA PRY at her residence last week either Wed/Thursday morning. She couldn't tell what kind of car they came in because it was dark still.

CHRISTINA said DONALD GOODLOE is ROBERT DAVIS's cousin and they are tight. 3 - 4 days ago, DONALD helped ROB tow a white older jeep from "DAMMIT JIM'S" who lives in Poulsbo to DONALD's Mom's house on Sheridan/Perry (large white house). They stopped briefly at CHRISTINA's and ROB came in just to change his clothes then they continued to DONALD's Mom's (Martha).

See Detective STROBLE's report for further details.

I contacted CAROL & JOHN LOIDHAMER via phone. CAROL later called me back and said she would need to get her son's assistance to operate and download the video surveillance. She would get in touch with us when she did. The timeframe I had at that time was to get video for Thursday, 12/17/15.

At that time, we were asked to go to the Teal Lake area in Jefferson County to check for the outstanding vehicle, a 1994 Green Honda with Oregon plates, #105DLB. Detective BIRKENFELD had advised there was reason to believe it might be in the area. We drove through Teal Lake Rd. and were advised that Jefferson County had already had units checking that area yesterday and today and would continue to do so. We cleared and responded back to Kitsap County.

We were advised of a tip the vehicle was at an address on Bremerton Blvd. in Bremerton. We responded there and assisted with contacting residents at 231 Bremerton Blvd. We spoke to a male named "NATHAN". I did not get his full horsepower. NATHAN told us he lives there with his girlfriend, "MITCH". MITCH's friend, AMANDA's vehicle was stolen and they were helping her to get it back. He said they were calling all of their friends and putting the word out. He looked out the window at 0600hrs this morning and saw the car was parked in their driveway. He didn't know if the keys were in it or not. MITCH had driven the car this afternoon to the store. He didn't realize until later this evening the car was on the news until his Mom called and told him. They decided at that time to report it.

See Detective STROBLE's report for details.

Detective BIRKENFELD advised us that he was getting information from MITCH that DONALD GOODLOE, ROBERT DAVIS, and REBECCA BEEBEE were at her house last night. She overheard DONALD on the phone to

Attachment C.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 12/29/2015

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

beginning of December when he went to check on his generator for him. Scholfield said after he was called by Hood's caregiver about him missing he walked through his house looking for him and also walked into his detached garage. Scholfield at the time did not recall any suspicious vehicles being seen recently. Note: Scholfield later called back with additional information, see below. We contacted other residents on Tracyton Blvd. to include 8169, 8221, 8269, 8247, and 8273. None of the residents had information about our suspects.

We met with Search and Rescue (SAR) coordinator Deputy Hedstrom #144 at Hood's residence. He had K9 SAR searchers come to Hood's residence for an area search (See his report for details).

At about 1537 hours we received information that the resident at 5734 Tracyton Blvd. Branndi McCarter texted a friend saying fugitives were in her residence and she was scared. Note: we had previously been informed that Robert "Bubba" Pry, Shawna Dudley-Pry, Joshua "Tiny" Rodgers-Jones, and Miranda Bond all frequented that residence. Pry and Dudley-Pry had felony warrants. We met DOC, US Marshals, deputies and other detectives and responded to the residence at about 1718 hours. There were outstanding arrest warrants for Pry and Dudley-Pry.

We set up containment on the residence and I was on the south side. I was advised that we had made phone contact with McCarter inside and she had confirmed that Pry and Dudley-Pry were inside. I approached the residence with other deputies and detectives while occupants were directed outside by PA. Several people exited the residence, including Dudley-Pry who was detained in the back yard by other officers. We were advised that Pry was still inside the residence. I was advised we had obtained a search warrant for the residence. Detective Sgt. Bockelie announced our presence numerous times, asking Pry to come outside. K9 Deputy Hedstrom and his K9 arrived and he made several more announcements through the open front door. I entered the residence with Deputy Hedstrom, Detective Stroble, Sgt. Porter (shield), Lt. Clithero, and Lt. Vangesen. I had my issued pistol deployed in the low ready position. Pry was arrested in the upstairs bedroom from under a water bed. He was taken downstairs and aid arrived to examine a K9 injury to his left foot. No other persons were located in the house.

Deputy Jason Hedstrom transported Pry to Harrison Medical Center ER in Bremerton. Detective Bowman and I went to the ER and met with Pry, Deputy Jason Hedstrom, and K9 Deputy Joe Hedstrom. At about 1937 hours I advised Pry of his rights from my Miranda warning card I carry in my notebook. Pry said he understood his rights. K9 Deputy Hedstrom asked Pry questions about the K9 application. Pry said he didn't come out of the house because he knew he had a warrant and wanted to spend Christmas with family. He said he smoked then hid. He said he did hear us telling "Bubba" to come out and said he didn't hear that the residence would be searched by a K9. He did hear us yelling at the doorway. Pry was taken to X-Ray for a while then returned to the exam room. We contacted him again. I told Pry that we obviously weren't there about the warrant. I told him that we had information that he was involved in the disappearance of Hood and that we needed to find Hood. Pry denied several times that he had anything to do with Hood's disappearance and denied he had been to his house. Pry said he had been staying at 8686 Tracyton Blvd. last week and more recently had been staying at 5734 Tracyton Blvd. While there he became aware of people having account information for Hood and was aware that "Tiny" (Rodgers-Jones) was driving a Honda. He thought the Honda was black. Pry said last week he went to the Emerald Queen Casino with Robert Davis driving his Excursion. Also present in the vehicle were Pry's girlfriend Ocean Wilson and a female he only knew as "Bam." He called her Bam

Attachment D.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 01/14/2016

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

the packaging with the old one.

On 01-06-16 I was contacted by Mary Bertrand (541-708-0346). Bertrand said she used to live at the end of Barker Creek Rd., from the 1940's and knew Robert Hood. She said she could possibly provide leads for next of kin if needed.

I was contacted by Candy Gratton (360-627-3954). She advised that she is on Robert Hoods' will and had some sort of power of attorney. Gratton was seeking information on death certificates, date of death, etc. I advised Gratton to contact the coroner's office. Gratton said she had been contacted by another possible family member of Hoods, Joy Olson in Oregon (541-347-9351).

On 01-06-16 I had our investigative specialist request the 911 call from 12-22-15 at 8686 Tracyton Blvd. regarding the shooting. She provided me with the CD-R and CAD printout the same day and I entered the CD-R into evidence.

On 01-07-16 at about 1430 hours I received a phone call from Josh Adams a DOC investigator at Washington Corrections Center (Shelton). Adams said the prison intercepted a letter from Lela Vargo in Bremerton addressed to Mike Vargo, an inmate at Cedar Creek in Littlerock. Wa. Adams sent me a .pdf version of the letter. In the letter Lela tells him:

"That old man from Barker was a millionaire come to find out. Cruz said in court that he has killed before so you better believe that they will be all over that. Said that he was in the grave at Cruz' so I want to know who was in that tote."

See letter for details full details.

On 01-08-16 Detective Birkenfeld and I obtained a flash drive from Craig Loidhamer. The flash drive contained surveillance footage from his parent's residence at 8275 Tracyton Blvd. I later reviewed the surveillance and did not find any useful footage.

At about 0900 hours we went to 5734 Tracyton Blvd. and knocked on the door. BRANNI MCCARTY answered the door. MCCARTY said she had taken the plastic on the carport down and threw it away. As we prepared to leave MCCARTY opened her door and said she might still have it. She showed us to the carport and the black plastic was in the carport storage. She said we could take it. Detective Birkenfeld read MCCARTY the Ferrier warning from a card and she said she understood and we could take the plastic. I used Detective Birkenfeld's camera to photograph the plastic. We retrieved it and retained it for evidence (it was later entered into evidence in Silverdale). MCCARTY agreed to speak with us and sat in the front seat of Detective Birkenfeld's vehicle (see his report for details of the interview).

At about 1420 hours we met DAWN CLINKENBEARD at the Silverdale waterfront park. She provided us with an

LEGAL

Attachment E.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 02/03/2016

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

car, why don't you ever listen to me." On the ride there they went over a speed bump and she heard a thud, and described how she knew there was someone in the trunk. Ojeda was telling her "don't say anything" and "don't look at us any differently." They got to Cruz' property and talked to him for about 5 minutes then she and Ojeda were dropped off at Subway between 1000-1100 hours on 12-21-15. They were at Subway looking for a ride and Jason McCullough picked them up. They went to Arnold Cruz' upper property (the one where we found the grave site) and she startled Cruz and Pry who were in the shed with shovels. Pry said "don't walk up on me like that." She could see fresh dirt on the shed floor. The Honda was next to the house. Pry took her back out the driveway in the Honda and made her leave with McCullough and Ojeda who had already been driving away. She got back to the duplex and Cruz brought Pry home between 0000-0400 hours. She last saw Cruz when he came to the duplex and picked up the Honda, telling her "this car gone."

I showed Wilson photographs (from Bing maps street view) of two gates on Tracyton Blvd. near Barker Creek on the water side. She said the Loidhamer's gate appeared to be where Robert Davis dropped off Pry and Rodgers-Jones on 12-17-15. Note: I later reviewed the Loidhamer video and did not observe them being dropped off, though the video is of very poor quality.

Note: this is a brief synopsis of the interview which lasted over 1.5 hours; see full transcription for details.

On 01-15-16 at about 0930 hours I spoke to Lynn Whitmarsh on the phone. Lynn said on 12-28-15 or 12-29-15 Michelle Whitmarsh and a male named "David" (her description of David sounded like David Ojeda) came to her house. She saw David pacing outside talking on the phone. David was saying somebody went to a house in Belfair, somebody wanted help and the body was in the trunk. David said they told him no, get out of here, we don't want to be a part of this, we don't want to get in trouble. Lynn later talked to Michelle Whitmarsh about this situation with Mr. Hood. Michelle said somebody came to where they were staying in Belfair and told them to get out of here. In a round about way Michelle told her that Arnold cleaned out the car or got rid of the body.

At about 1000 hours Michelle Whitmarsh was due to show up for an interview with me and did not show. She later told me she had an emergency. Several attempts at meeting with her have failed since.

On 01-15-16 I received a copy of a court order from DPA Jennine Christensen for the DNA of Arnold Cruz. On 01-19-16 at about 1202 hours I had Cruz brought to our office from the jail. I provided a copy of the court order to Cruz and obtained two DNA samples (swabs) from the inside of his cheeks (one left, one right). I placed the DNA samples in evidence and Cruz was taken to back to the jail.

On 01-16-16 I went to the Kitsap County Jail to contact Melissa Verbic (Payne) for a separate case. I advised her of her rights from a Miranda warning card I carry in my notebook at 1225 hours. Verbic said she understood her rights.

Verbic said it was a weekend and she thought it was the 12th or 13th of December when she got a call from David Ojeda. Ojeda asked her if he could borrow her boyfriend's (Albert Jouravel) GMC Denali to pull Bubba's (Robert Pry) Honda out as it was stuck. Verbic asked Jouravel if he was willing to help and he asked how much they would give him

Attachment F.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 12/22/2015

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

ALISHA stated that while at the duplexes where the items were being loaded up into the vehicles, the group was there for only about 15 minutes. ALISHA talked about the conversation later that she overheard from a nearby room, where the group was talking the incident that went bad. Once again, ALISHA stated it was a male's voice and that she believed it was either ROBERTY PRY or the male that thinks he is a gangster.

After leaving duplex the group drove to Tacoma and arrived there after 2130 or 2200 hours. Several people all ended up in Tacoma, including ROBERT PRY and a female with red hair whose mother lives in Tacoma, ROBERT DAVIS, SHAUNA DUDLEY PRY and the male that thinks he is a gangster. ALISHA stated the male that thinks he is a gangster and SHAUNA showed up later.

ALISHA stated she went into the casino with ROBERT DAVIS. The others stayed in the vehicles. They were parked on the 2nd level of the parking garage. Further, a male identified as GOODLOE showed up. GOODLOE took ROBERT PRY and a female over to the Days Inn. ALISHA says she stayed all night at the casino with ROB and they gambled.

ALISHA appeared confused about the timeframes, but stated she got back to ROBERT DAVIS' residence at around 2230 hours.

ALISHA claims to know nothing about the male. She says she only heard the conversation about an old guy tied up.

Detective Bowman tried to talk with ALISHA about times and he refers to a text sent to him about ROBERT DAVIS raping her. That was at 1303 hours on Saturday. ALISHA states that she has already heard the conversation about the guy being tied up before 1303 hours on Saturday.

ALISHA adds that she tried to get the green car back when they were all at the Duplex. ROBERT DAVIS told her to stay in the car. ROBERT stated they would follow the car and get it back. That never happened.

ALISHA confirms this conversation and the duplex visit was on Thursday.

ALISHA became more and more frustrated about the car. At ROBERT DAVIS' house ALISHA stated ROBERT told her to go to a back room and stay there. He told her that people were watching her and she should not try to leave. He stated don't worry about it. ALISHA mentions ROBERT gave instructions to ALISHA on what to say if she was asked about the incident.

ALISHA was asked about why she came to ROBERT DAVIS' house in the first place. She mentioned talking to her boyfriend PHILLIP THOMES and he stated she could do big things with ROB, referring to buying drugs from ROBERT DAVIS.

ALISHA tells us she met ROBERT DAVIS at a gas station nearby, and then was only at ROBERT's house about 5 minutes and he took the keys to the Green Honda from her.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 12/22/2015

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

ALISHA makes mention of ROBERT talking about a guy having alot of money. ALISHA also tells us about the female with red hair having a file with papers in it while at ROBERT DAVIS' house.

Further, ALISHA tells a story about ROBERT PRY handing ROBERT DAVIS a bag with coins in it while they are headed to Tacoma.

ALISHA also says ROBERT PRY wanted to see if checks could be cashed at the Casino. ALISHA says while they were at the Casino, she let both ROBERT PRY and SHAUNA DUDLEY PRY use her phone. That phone is now missing.

ALISHA was asked how involved she believed ROBERT DAVIS is in this case. She claims she doesn't know. She says we should ask CHRISTINE, who is ROBERT DAVIS' girlfriend.

ALISHA is spoken to about the importance of being honest in this investigation and not holding back.

ALISHA says that ROBERT PRY asked her to cash checks at the casino, which she stated previously was the Emerald Queen casino. ALISHA tells us ROBERT filled out the checks. She attempted to cash two checks, but the casino refused. ALISHA was told the casino will not cash third party checks.

When asked how much money ALISHA had on her at the casino, ALISHA states she had about \$200 to \$220 dollars, but that she won a couple times and left with \$400 dollars.

ALISHA then tells a story about being at the Days Inn where "GOODLOE" rented a room. ALISHA says she gets in an argument with SHAUNA DUDLEY PRY and also with the white male mentioned previously that thinks he is a gangster. The male puts a gun in ALISHA's face. ALISHA says the gun is a black semi-automatic that is small.

ALISHA states her opinion to us about ROBERT DAVIS, that she thought he was a stand-up guy, but now knows otherwise. ALISHA says she is scared of ROB and that he send his little people after her.

ALISHA spoke briefly about ROBERT DAVIS finding \$2,000 dollars in cash in a bag that had items from the victim's house. ALISHA told us she got \$1000 of the \$2,000 ROB took from the duffle bag that came out of the duplex at Tracyton Blvd where the bags were loaded up.

ALISHA mentioned the girl with red hair having paperwork in a red folder. ALISHA was asked how she knew it was the victim's documents. She said ROBERT DAVIS stated it was (victim HOOD's paperwork).

ALISHA spoke about two checks she tried to cash at the Emerald Queen Casino. ALISHA said ROBERT PRY gave her the checks and endorsed them to her. She tried to cash them and they wouldn't take the checks. ALISHA threw them in a garbage can.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

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Case Number: K15-012322

Notes/Narrative

ALISHA admitted she let ROBERT PRY and SHAUNA use her phone while at the casino. SHAUNA tried to set up an online account, but it didn't work.

Asked how she originally got involved in this incident, ALISHA advised ROBERT DAVIS called her and told her to come over because there was a dude with a large amount of money and ROBERT DAVIS needed assistance with it.

ALISHA was asked more about the checks and she stated she thought they were tan, said Wells Fargo on them. She thinks she may have seen the name BOB BARKER.

I asked a clarifying question to ALISHA about the checks she tried to cash. ALISHA stated the attempt was at the main counter at the Emerald Queen.

ALISHA was asked again about the location of the body. ALISHA denies knowing anything about the location of the man's body. ALISHA mentions ROBERT DAVIS as someone she thinks would know about that. ALISHA says "yeah probably" when she is asked if she thinks the victim is dead.

ALISHA is asked who she thinks is in charge of this group. ALISHA says she thinks the gangster guy with the gun is in charge. She was asked about the gun the gangster male had and she says it as a smaller black gun. ALISHA also mentions that ROBERT DAVIS' roommate CHRISTINE is missing a gun, and that ALISHA was shown a picture of it and the one the gangster guy has appears to be similar.

At approximately 1507 hours we took a break from the interview. At 1517 we resumed the interview.

ALISHA told us the gangster guy and ROBERT "BUBBA" PRY loaded a bag into the Excursion at the duplex. The big bag had coins that she believed were from the victim's house. The coins were allegedly given to ROBERT DAVIS by either BUBBA PRY or gangster guy. ALISHA says while at the duplex she stayed in the Excursion ROBERT DAVIS went inside. The girl with red hair stayed where they parked.

ALISHA asked why she believed these items were stolen. ALISHA says she heard they tied up the guy and that he had money, so she assumed these were some of the items. ALISHA was asked about this duplex. She stated she believed it could have been SHAUNA and ROBERT PRY's residence, based on the multiple bags being brought out.

The interview was concluded at 1545 hours.

INTERVIEW #3 WITH ALISHA G. SMALL

On 12-23-2015 at approximately 1801 hours ALISHA met with Detective K. McDonald and I at the Kitsap Mall. She agreed to voluntarily come with us to the Silverdale Office for a follow up interview. We made a short drive to the Sheriff's Office Silverdale Precinct. Upon arrival we sat in the BAC room. I started by reading ALISHA her Miranda Rights. ALISHA understood her rights. She didn't appear to be under the influence of any drugs and/or alcohol and appeared to be fully coherent.

KITSAP COUNTY SHERIFF'S OFFICE INCIDENT/INVESTIGATION REPORT

Arrest Made/Citation Issued

Supplement Date: 12/22/2015

ORI: WA0180000

Case Number: K15-012322

Notes/Narrative

ALISHA agreed to view a couple of photo line-ups that I had prepared. ALISHA was asked if anyone in the photo line-ups looked familiar. ALISHA picked out both JOSHUA RODGERS JONES and OCEAN WILSON from the two line-ups. I retained the signed photographic admonition paperwork and the photo line-up paperwork. Both sets of paperwork were photocopied and the originals were placed into property as evidence. It should be noted that ALISHA made comments and wrote in the narrative for both admonition forms that the female she recognized was OCEAN and the male she recognized as the "gangster guy".

I went over the basic facts of the case again with ALISHA. She confirmed that ROB DAVIS had called her to come to town because he needed her assistance. She denied what she stated earlier about the ROB telling her he needed her assistance because he had an account with a lot of money. ALISHA said she went to ROB's house after meeting him at a gas station. ALISHA hadn't been there long and she provided her keys to ROB DAVIS so the green Honda she was driving could be moved. The car was then gone.

About 30 minutes later she drove with ROB DAVIS in his Excursion to the duplex. SHAUNA PRY, ROBERT PRY and RODGERS JONES were loading bags into two cars and everyone was acting "sketchy". ROB DAVIS told ALISHA not to talk to anyone. This is where ALISHA stayed in the car and heard RODGERS JONES say they would need to dispose of this car as the group loaded bags into the two vehicles.

ALISHA confirmed they all went to the casino in Fife and that ROB DAVIS grabbed 1000 dollars from a duffle bag in his Excursion without the others knowing. ALISHA told me she received 1000 of the dollars in cash. It was mostly 20's. She went into the casino after ROBERT PRY gave her two of the victim's checks that ROBERT PRY had filled out. ALISHA tried cashing the checks, but it didn't work because the casino didn't take third party checks. She threw the checks in the garbage.

Later at the Days Inn in Fife, ALISHA said ROBERT PRY used her phone to set up an online account, but she didn't know the outcome. ROBERT was in the bathroom when he was using her phone and she couldn't hear everything that was being said. SHAUNA used her phone as well, but she wasn't sure for what.

ALISHA confirms she stayed at the Days Inn and got into an argument with SHAUNA PRY and RODGERS JONES put a small semi-automatic handgun in her face. She tripped back with the group and was at ROB's house, where she heard the disturbing conversation from the adjoining room. ROB made a comment about it being a dirty job and SHAUNA is heard saying it was a mistake. ALISHA stated she then contacted Detective Bowman and he told her to call 911 since he was out of town. ALISHA said she never called 911, but left on foot and was later picked up by JARED YAZZIE.

ALISHA was informed that she was being arrested for Forgery for trying to pass victim Hood's checks and for Possession of Stolen Property 2nd Degree for receiving \$1000 dollars of the victim's cash from ROB DAVIS. ALISHA was cuffed without incident, and was taken to the Jail. While still in the booking area at the Jail I briefly interviewed ALISHA again, asking her if she recalled her Miranda rights. She told me she did. I asked ALISHA about the \$1000

Attachment G.

1 COMES NOW the Plaintiff, STATE OF WASHINGTON, by and through its attorney COREEN
2 E. SCHNEPF, Deputy Prosecuting Attorney, with the following Memorandum of Authorities Re:
3 Statements of past facts and hearsay-

4 A. ISSUE(S) PRESENTED

5 1. Issue One

6 Whether the Statements overheard by Ocean Wilson and Alisha Small in the hotel room are
7 statements made in further of the conspiracy. Answer: Yes

8 2. Issue Two

9 Whether the statements overheard by Ocean Wilson and Alisha Small in the hotel room are
10 adoptive admissions. Answer: Yes.

11 3. Issue Three

12 Whether the statements made by Joshua Rodgers-Jones to Miranda Bond are admissible as
13 statements against interest. Answer: Yes

14 B. STATEMENT OF THE CASE

15 Anticipated Facts

16
17 Shawna Dudley-Pry, Robert Pry, Joshua Rodgers-Jones, and Robert Davis began
18 planning the robbery of Robert Hood around the beginning of December. On December 17,
19 2015, Robert Davis picked up Rodgers-Jones, Pry, Dudley-Pry, and Wilson from the Tracyton
20 duplex where they were staying. Davis dropped Rodgers-Jones and Pry off to do the robbery and
21 took the other two back to Davis house which was down the road from the Tracyton duplex. A
22 while later, Rodgers-Jones arrived at Davis' house without Pry. Dudley-Pry and Rodgers-Jones
23 took Alisha Small's Honda to pick up Pry who was still at the victim's house.

24 While Dudley-Pry and Rodgers-Jones were picking up Pry, Wilson, Davis, and Small
25 got in to Davis car and went back to the duplex. Pry, Rodgers-Jones and Dudley-Pry were at the
26 duplex. Dudley-Pry put some items in the Honda and Davis' vehicle and the party left in two
27 vehicles. Rodgers-Jones and Dudley-Pry drove the Honda and Robert Davis, Small, Wilson, and
28 Pry drove in Davis' vehicle to the casino in Fife. The Honda broke down on the way to the
29 casino and they did not arrive for several hours later. When Davis' vehicle arrived at the casino,
30 Davis and Small went in to the casino. Pry and Wilson did not. Eventually, Goodloe arrived at
31

MEMORANDUM OF AUTHORITIES;
Page 2 of 9



Tina R. Robinson, Prosecuting Attorney
Adult Criminal and Administrative Divisions
614 Division Street, MS-35
Port Orchard, WA 98366-4681
(360) 337-7174; Fax (360) 337-4949
www.kitsapgov.com/pros

Attachment H.

MAR - 4 2016

DAVID W. PETERSON
KITSAP COUNTY CLERK

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

Robert Davis

Defendant.

No. 16-1-00002-7

OMNIBUS ORDER
(OOR)

1. DISCOVERY STIPULATION:

The State, represented by the undersigned deputy prosecuting attorney, and the defendant, represented by the undersigned attorney, hereby stipulate, with any disputed items and/or motions noted below in Section 4, that both parties have and will continue to comply with the discovery checklist set forth in CrR 4.5 consistent with the requirements of CrR 4.7.

2. THE DEFENDANT TO STATE THE GENERAL NATURE OF HIS OR HER DEFENSE(S) (Check If Applicable)

General Denial Alibi Insanity Diminished Capacity Intoxication
 Self Defense/Defense of Others/Defense of Property Entrapment Other: Statutory Defense

3. THE PROSECUTION GIVES THE FOLLOWING NOTICE:

- a. The State reserves the right to request to amend the Information pursuant to CrR 2.1(d).
- b. Notice of intent to use all of the defendant's (1) prior convictions; and (2) other acts contained in the State's discovery for all purposes pursuant to ER 404(b), unless otherwise indicated.
- c. If the defendant testifies at trial, the State may offer evidence of prior convictions as disclosed in the State's discovery for impeachment purposes. If additional criminal convictions are found, the State will advise the defendant of such convictions and may offer such convictions at trial.
- d. Check if applicable: Informant involved Special Inquiry conducted Child Hearsay (RCW 9A.44.120) will offer at trial statements of _____ made to _____

4. DISPUTED ITEMS, MOTIONS, AND HEARINGS REQUESTED:

Further arraignment (FA) CrR 3.5 Status (3.5S) CrR 3.5 Hg (3.5H) CrR 3.6 Status (3.6S) CrR 3.6 Hg (3.6H)
 Motion to dismiss, grounds: _____
 Child hearsay hearing Discovery issues: Discovery from the state is ongoing.
 Other: _____

5. ORDER SETTING HEARINGS:

The defendant(s) must personally be present at the following court hearings and report to the KITSAP COUNTY SUPERIOR COURT, 614 Division Street, Port Orchard, WA 98366:

Hearing for: 3.5, FA Date: _____ Time: _____
 Hearing for: _____ Date: _____ Time: _____

6. BRIEFING SCHEDULE:

Defendant's brief due: _____ Time: _____
State's brief due: _____ Time: _____
Reply briefs due: _____ Time: _____

ORDER approved this date: 3/7/16
[Signature]

Defendant
[Signature]
Attorney for Defendant, WSBA No. 28959

JUDGE
[Signature]
Deputy Prosecuting Attorney, WSBA No. 38820



Attachment I.

RECEIVED AND FILED
IN OPEN COURT
MAR 10 2016
DAVID W. PETERSON
KITSAP COUNTY CLERK

C

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

STATE OF WASHINGTON,

Plaintiff,

v.

ROBERT DAVIS,

Defendant.

No. 16-1-00002-7

**Affidavit in Support of Objection to
Amendment and 8.3 Motion**

**Affidavit in Support of Objection to
Amendment and 8.3 Motion**

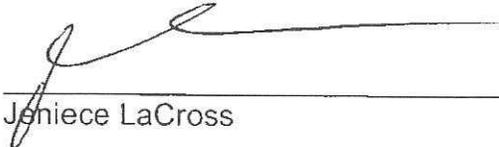
JENIECE LACROSS
Attorney at Law
904 DWIGHT STREET
PORT ORCHARD, WASHINGTON 98366
(360) 876-1879

54

1 I, Jeniece LaCross, counsel for Mr. Davis, do hereby declare the following to be true
2 and correct to the best of my knowledge, under penalty of perjury of the laws of the State of
3 Washington.

- 4
- 5 1. I am older than 18 years old and competent to hereby state the following.
- 6 2. I am counsel for Mr. Robert Davis
- 7 3. During the pendency of the case, prior to the addition of the Robbery charge, I
8 discussed with the prosecutor the potential charges that would be brought against
9 Mr. Davis.
- 10 4. It was stated to me that the potential charges were undecided.
- 11 5. I clearly expressed my interest in wanting to be informed if a Murder charge would
12 be added.
- 13 6. Once a decision was made to amend the information against Mr. Davis to include
14 the charge of Robbery, I was informed that a Murder charge would not be added
15 based upon the states belief that they could not prevail due to the statutory
16 defense.
- 17 7. It is my belief that the conversation occurred with DPA Jennine Christianson.
- 18 8. The conversation did not occur with DPA Coreen Schnepf.
- 19 9. I state with absolutely certainty, under penalty of perjury, that the conversation
20 occurred with the state, that I was informed a Murder charge would not be
21 brought, the reasons why it would not be brought, and that I relied upon that
22 representation in preparing for trial.
- 23 10. I relied upon such representation in preparing for trial and therefore specifically
24 did not address issues and defenses surrounding a charge of Murder.

25 Respectfully submitted this 9th day of March, 2016

26 

Jeniece LaCross

AFFIDAVIT

JENIECE LACROSS
Attorney at Law
904 DWIGHT STREET
PORT ORCHARD, WASHINGTON 98366
(360) 876-1879

Attachment J.

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IN OPEN COURT

MAR - 9 2016

DAVID W. PETERSON
KITSAP COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

STATE OF WASHINGTON,

Plaintiff,

v.

ROBERT PRY,

Defendant.

No 15-1-01509-3

**OBJECTION TO STATE'S THIRD
AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT
TO CrR 8.3(b)**

STATE OF WASHINGTON,

Plaintiff,

v.

ROBERT DAVIS,

Defendant.

No 16-1-00002-7 ✓

**OBJECTION TO STATE'S THIRD
AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT
TO CrR 8.3(b)**

STATE OF WASHINGTON,

Plaintiff,

v.

ARNOLD CRUZ,

Defendant.

No 15-1-01503-4

**OBJECTIONS TO STATE'S THIRD
AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT
TO CrR 8.3(b)**

MR. DAVIS'S OBJECTION TO STATE'S
THIRD AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT TO CRR
8.3(B)

JENIECE LACROSS
Attorney at Law
904 DWIGHT STREET
PORT ORCHARD, WASHINGTON 98366
(360) 876-1879

tle

COMES NOW the Defendant, Robert Davis by and through his attorney of record, Jeniece LaCross and submits the following objection to the state's Third Amended Information and motions the Court for dismissal pursuant to CrR 8.3(b).

FACTS

On February 19, 2016 the state put the Defense on notice that a Second Amended information would be filed adding Robbery in the First Degree- Accomplice and Identify Theft in the Second Degree. On March 4, 2016 the State notified the Defense of a Third Amended information which added Murder in the First Degree (Felony Murder)- Accomplice

AUTHORITY

The trial court may permit the prosecution to amend the information any time before the verdict unless the amendment prejudices the defendant's right to a fair trial. CrR 2.1(d); State v. Michielli, 132 Wn.2d 229, 244, 937 P.2d 587 (1997). A trial court's ruling on a proposed amendment to an information is reviewed for abuse of discretion. State v. Schaffer, 120 Wash.2d 616, 621-22, 845 P.2d 281 (1993).

Where prejudice is shown, a trial court may dismiss the cause of action pursuant to CrR 8.3(b). Michielli, 132 Wn.2d at 244. A trial court's decision whether to dismiss pursuant to CrR 8.3(b) is reviewed under the abuse of discretion standard. Michielli, 132 Wn.2d at 240. Under CrR 8.3(b), a defendant must make two showings before a court can require dismissal of a cause of action: (1) arbitrary action or governmental misconduct; and (2) that his right to a fair trial was prejudiced. Michielli, 132 Wn.2d at 239-40. Dismissal of charges is an extraordinary remedy available only

MR. DAVIS'S OBJECTION TO STATE'S
THIRD AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT TO CRR
8.3(B)

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when there has been prejudice to the rights of the accused which materially affected his or her rights to a fair trial. State v. Blackwell, 120 Wash.2d 822, 830, 845 P.2d 1017 (1993)

Simple government mismanagement satisfies the 'misconduct' element. State v. Michielli, 132 Wn.2d 229, 243, 937 P.2d 587 (1997) *citing* State v. Blackwell, 120 Wn.2d 822, 831, 845 P.2d 1017 (1993). Governmental misconduct, however, "need not be of an evil or dishonest nature; simple mismanagement is sufficient." Blackwell, 120 Wash.2d at 831, 845 P.2d 1017. Absent a showing of arbitrary action or governmental misconduct, a trial court cannot dismiss charges under CrR 8.3(b). Michielli, 132 Wash.2d at 240, 937 P.2d 587.

Here, the State has notified Mr. Davis of their intent to add Murder in the First Degree via the Felony Murder prong three days prior to trial. As there are no additional facts to support such an amendment, it is mismanagement to wait until basically the eve of trial to notify the Defense of their intent to do so.

Second, a defendant must show prejudice affecting his right to a fair trial. Michielli, 132 Wash.2d at 240, 937 P.2d 587 *citing* State v. Cannon, 130 Wash.2d 313, 328, 922 P.2d 1293 (1996). A defendant's right to a fair trial may be impermissibly prejudiced when he has to choose either his right to a speedy trial or his right to be represented by counsel who has had sufficient opportunity to adequately prepare a material part of his defense. State v. Price, 94 Wash.2d 810, 814, 620 P.2d 994 (1980). Both are part of the bedrock foundation upon which our justice system rests. A person cannot be forced to waive his or her right to a speedy trial in order to maintain the right to effective assistance. *See* State v. Michielli, 132 Wn.2d 229, 244-46, 937 P.2d 587 (1997), St. v. Price, 94 Wn.2d 810, 814, 620 P.2d 994 (1980). A defendant is not required to explain on the record why it is impossible to defend the case within the time remaining on the speedy trial calendar. State v. Earl, 97 Wash.App. 408, 412, 984 P.2d 427 (1999).

MR. DAVIS'S OBJECTION TO STATE'S
THIRD AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT TO CRR
8.3(B)

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A situation where a defendant may be forced to waive his speedy trial rights is not a trivial event. Michielli, 132 Wash.2d at 245, 937 P.2d 587. “[Our Supreme Court], ‘as a matter of public policy has chosen to establish speedy trial time limits by court rule and to provide that failure to comply therewith requires dismissal of the charge with prejudice.’ “ Michielli, 132 Wash.2d at 245, 937 P.2d 587 *quoting* State v. Duggins, 68 Wash.App. 396, 399–400, 844 P.2d 441, *aff’d*, 121 Wash.2d 524, 852 P.2d 294 (1993).

As the new charge of Felony Murder in the First Degree contains a statutory defense, additional preparation and strategy is required of the Defense, and to accomplish this Mr. Davis is put in a position of having to decide whether to waive his speedy trial rights to accommodate that. Mr. Davis has been explicitly clear from the beginning of his case that he is not willing to waive his right to a speedy trial.

Furthermore, the statutory defense requires that the Defense prove it by a preponderance of the evidence. To add this burden to the Defense three days prior to the start of trial is prejudicial as well.

If this Court does not find prejudice pursuant to act upon CrR 8.3, the State is still not allowed to Carte Blanche amend an information. Prejudice to the Defense is not required for the Courts to deny the prosecutor’s motion to amend. *See* State v. Lamb, 175 Wn.2d 171 (2012) (court denied amendment of information changing predicate felony in UPFA after successful motion to withdraw plea in predicate felony), State v. Rapozo, 114 Wn. App. 321 (2002)(court refused to allow amendment from misdemeanor to felony after opening statement in juvenile case).

When finding that the State had not met its burden of demonstrating that the trial court abused its discretion in declining to allow the State to amend the information, the Lamb Court held that the

MR. DAVIS’S OBJECTION TO STATE’S
THIRD AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT TO CRR
8.3(B)

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absence of prejudice to the defendant did not establish abuse of the trial Courts discretion. *Citing State v. Haner*, 95 Wash.2d at 863, 865, 631 P.2d 381; *Rapozo*, 114 Wash.App. at 324, 58 P.3d 290.

In *State v. Haner*, 95 Wash.2d 858, 859–60, 631 P.2d 381 (1981), the defendant was initially charged with second degree assault with a deadly weapon enhancement. Prior to trial, as a result of plea bargaining, the State moved to amend the information to reduce the charge to third degree assault and remove the deadly weapon allegation. *Id.* at 860, 631 P.2d 381. The court held that it could not “say that the judge abused his discretion in concluding that the public interest would not be served by reduction of the charge and dropping of the deadly weapon allegation.” *Id.* at 865, 631 P.2d 381. The proposed amendment to the information in *Haner* did not prejudice the rights of the defendant and yet the trial judge still possessed the authority to disallow the amendment.

Similarly, in *State v. Rapozo*, 114 Wash.App. 321, 322–24, 58 P.3d 290 (2002), the Court of Appeals held that the trial court did not abuse its discretion in refusing to permit the State to amend an information to charge a felony instead of a misdemeanor even though the amendment did not prejudice the defendant. The holdings of *Haner* and *Rapozo* both make clear that a trial court may deny a motion to amend an information irrespective of prejudice to a defendant. The absence of prejudice to the defendant does not establish an abuse of discretion.

Without having any basis to support the late notice of the amendment, this Court should not allow the state to move forward with adding the Felony Murder First Degree count.

CONCLUSION

This Court should deny the states motion to amend the criminal complaint against Mr. Davis and dismiss the case pursuant to CrR 8.3. It is mismanagement and would be prejudicial to the Defense in forcing Mr. Davis to choose between his right to a speedy trial and his right to effective

MR. DAVIS'S OBJECTION TO STATE'S
THIRD AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT TO CRR
8.3(B)

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representation, as well as placing a burden of proof upon him a mere three days before trial. Even if this Court finds that there is no prejudice, or dismissal is not the proper remedy, the amendment still should be disallowed, as there is no basis for the state's delay.

Dated this 7TH day of March, 2016

Prepared by:



Jeniece LaCross, WSBA 28859
Attorney for Defendant

MR. DAVIS'S OBJECTION TO STATE'S
THIRD AMENDED INFORMATION AND
MOTION TO DISMISS PURSUANT TO CRR
8.3(B)

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Attachment K.

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RECEIVED AND FILED
IN OPEN COURT
MAR 10 2016
DAVID W. PETERSON
KITSAP COUNTY CLERK

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,)	
)	No. 16-1-00002-7
Plaintiff,)	
)	MEMORANDUM OF AUTHORITIES RE:
v.)	RESPONSE TO DEFENSE CrR 8.3(B)
)	MOTION TO DISMISS
ROBERT LAVALLE DAVIS,)	
Age: 47; DOB: 07/11/1968,)	
)	
Defendant.)	

COMES NOW the Plaintiff, STATE OF WASHINGTON, by and through its attorney COREEN E. SCHNEPF, Deputy Prosecuting Attorney, with the following Memorandum of Authorities Re: Response to Defense CrR 8.3(b) Motion to Dismiss-

A. ISSUE(S) PRESENTED

1. Issue One

Whether the State acted with due diligence in preparing an amended information adding the charge of felony murder in the First Degree. Answer: Yes.

1. Anticipated Facts

The Defendant was first arraigned on the charge of rendering criminal assistance in the First Degree on January 5, 2016. One month later, the State filed a First Amended information charging the Defendant with Robbery in the First Degree as an accomplice and Rendering Criminal Assistance in the First Degree. The first amended information was based on additional information that the State had received subsequent to the original charging. Since the first

MEMORANDUM OF AUTHORITIES;
Page 1 of 4



Tina R. Robinson, Prosecuting Attorney
Adult Criminal and Administrative Divisions
614 Division Street, MS-35
Port Orchard, WA 98366-4681
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1 amended information was filed, the State has received and issued over a thousand pages of
2 discovery and many cds with additional information. This additional discovery includes the
3 following:

- 4 1) A crime lab report dated February 12, 2016, confirming that Robert Hood's DNA
5 was located in the trunk of Alisha Small's vehicle. The State alleges that Robert
6 Davis previously requested that Alisha Small come to his house to assist in breaking
7 in to the victim's accounts. Davis then requested Small's keys and gave the keys to
8 Dudley-Pry and Rodgers-Jones.
- 9 2) On approximately February 18, 2016, the State received the download of Davis' cell
10 phone which shows that the defendant was in contact with Robert Pry on the day of
11 the murder. Davis deleted several text messages from December 17, 2015.
- 12 3) On February 25, 2016, the State became aware that the defendant had placed a jail
13 calling using another inmate's account on December 23, 2015. On the jail call, Davis
14 admits to giving the kids a ride to do a "diggle." A diggle is a slang term for theft or
15 burglary. On February 29, 2016, the State received a transcript of that jail call.
- 16 4) On February 29, 2016, Ocean Wilson was interviewed by Jeniece LaCross and the
17 other defense attorneys related to this case. This interview solidified what the
18 Wilson's testimony would be at trial and what Davis' involvement in Hood's death
19 was.
- 20 5) On March 1, 2016, Alisha Small was interviewed by Jeniece LaCross and the other
21 defense attorneys related to this case. This interview solidified what the State
22 expected Small's testimony to be and also what Davis' involvement in the incident
23 was.

24 C. ARGUMENT

25 1. *The State acted with due diligence in preparing the amended* 26 *information charging Robert Davis with Felony Murder in the First Degree.*

27 Dismissal of charges is an extraordinary remedy "available only when there has been
28 prejudice to the rights of the accused which materially affected the rights of the accused to a fair
29 trial. *State v. Rohrich*, 149 Wn.2d 647, 71 P.3d 638 (2003). The defendant must show 1)
30 arbitrary action or governmental misconduct and 2) prejudice affecting the defendant's right to a
31

MEMORANDUM OF AUTHORITIES;
Page 2 of 4



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1 fair trial. *Id.* at 654. *State v. Michielli*, 132 Wn.2d 229, 937 P.2d 587 (1997), the State admitted to
2 the Court that it had all of the information necessary to file the increased charges on the defendant
3 at the time that the original charges were filed. The Court found that the delay in bringing the
4 charges could be considered mismanagement where there was no reason for the delay and the
5 delay caused the defendant to request a continuance.

6 This case is significantly different than *Michielli*. In this case, the State had reasons for
7 not filing the Felony Murder Charge at the original time of charging. This is a complex murder
8 case. The investigation was continuing long after the defendant was charged with Robbery in the
9 First Degree and Rendering Criminal Assistance. The State did not feel there was sufficient
10 evidence at the time of the original charging to add the felony murder charge. However, the
11 additional discovery that was produced through the course of the investigation changed the
12 State's case significantly. It is also significant to note that *Michielli* was charged with theft
13 offenses that appear to be much simpler than the case at hand. The prosecutor was likely able to
14 process through the discovery quickly and make charging decisions. In this case, the discovery is
15 complicated and voluminous. The State is still continuing to process the investigation and
16 discovery in this case. New information became available to the State subsequent to the
17 defendant's previous charges and the State made the decision, based on that additional discovery,
18 to amend Davis' charges. Given the degree of discovery and the continued information that the
19 State received, it is not mismanagement for the State to change the charges at the omnibus
20 hearing. It is also significant to note that up until March 4, 2016, defense counsel on this case felt
21 unprepared to proceed with an omnibus order because of the continued discovery. Given that
22 defense counsel was unprepared prior to March 4, 2016 to declare defenses because of the
23 continued discovery, it is also reasonable that the State might not have the ability to make final
24 charging decisions until that time. To bring a charge of Felony Murder in the First Degree is
25 significant and the State waited until the evidence was sufficient to justify the charge. The
26 defendant was notified of the charging decision at the omnibus hearing. Thus, no
27 mismanagement on the part of the State can be shown by the defense.

28 D. CONCLUSION

29 Accordingly, this Court should deny the Defendant's CrR 8.3(b) Motion to Dismiss.

30 RESPECTFULLY SUBMITTED this 9th day of March, 2016.
31

MEMORANDUM OF AUTHORITIES;
Page 3 of 4



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Attachment L.

RECEIVED AND FILED
IN OPEN COURT
MAR 10 2016

IN THE KITSAP COUNTY SUPERIOR COURT
DANIEL W. PETERSON
KITSAP COUNTY CLERK

STATE OF WASHINGTON,

Plaintiff,

v.

Robert Davis
Defendant

No. 16-1-00002-7

ORDER CONTINUING TRIAL DATE
PURSUANT TO CrR 3.3(f)(1) OR CrR
3.3(f)(2)

THIS MATTER having come on for hearing before the undersigned Judge it is hereby -

1. JOINTLY AGREED BY ALL PARTIES that the interests of the administration of justice will be furthered by continuing the trial date to _____, 20_____, and the Court finds that the interests of the administration of justice will be served by this continuance, pursuant to CrR 3.3(f)(1). (DEFENDANT'S SIGNATURE REQUIRED.)

2. On the motion of the STATE OF WASHINGTON DEFENSE COUNSEL, the court finds that the administration of justice will be furthered and the presentation of the defense case will not be prejudiced by continuing the trial date to _____, 20_____, pursuant to CrR 3.3(f)(2) to enable:

- A. Adequate trial preparation for defense counsel.
- B. Availability of defense counsel for trial.
- C. Availability of the prosecutor for trial.
- D. Availability of witness for trial.
- E. To permit continued negotiation for a resolution of the matter.
- F. Other: _____

DATED this 10 day of 3, 2016.

[Signature]
JUDGE

[Signature]
Schwarz, WSBANO. 37166
Deputy Prosecuting Attorney

_____, WSBANO. _____
Attorney for Defendant

DEFENDANT

ORDER RE: CrR3.3(f)



Tina R. Robinson, Prosecuting Attorney
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Attachment No. ① and ②



**SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP**

RECEIVED AND FILED
IN OPEN COURT
MAY 04 2016
DAVID W. PETERSON
KITSAP COUNTY CLERK

STATE OF WASHINGTON

Plaintiff

VS

16-1-00002-7

Co-Conspirator Statements

ROBERT LAVELLE DAVIS

Defendant

80

Co-Conspirator Statements:

	<p>who has a four by four, if I give them a call and find out if they're willing to help."</p> <p>6) Bubba said the mud was deep, so Ojeda did not get out of the truck.</p> <p>7) Pry and Ojeda talked about getting the window cleaned and eventually stopped at Heather Hudson's house.</p> <p>8) Pry told Ojeda that Ojeda probably didn't want to be in the car. Ojeda was angry and Pry apologized. Pry said that "there was a pedophile in the trunk who they thought was making videos of little kids and then the accident happened."</p> <p>9) Pry then told Ojeda and Wilson that he needed to drop them off at Subway.</p> <p>10) At one point, Pry tried to stop at an abandoned house to wash the Honda off. Ojeda told him to keep driving.</p>				
Kenneth Oleson	<p>1) Cruz said he needed a ride to Belfair. Oleson drove to Belfair and "then he told me that there was something in the back (of Oleson's truck) I didn't want no part of or didn't want to know what was in the barrel."</p> <p>2) Cruz had told Oleson to stay in the room and Cruz and another male left to unload the barrel.</p>				
Jody Schaefer	<p>Wilson said that Pry had dropped them off and said that he would come back but never did come back. Pry had told Wilson that he was going to Uncle's house and would be right back.</p>				
Ed Schofield	<p>The male (Robert Pry) said he was walking home and his sister picked him up. The female voice (Dudley-Pry) said, "come on, let's go"</p>				
Alisha Small	<p>1) Robert Davis called Small and told her that there was a dude with a large amount of money and he needed Small's help with it. Small was supposed to access the money for the group.</p> <p>2) Robert Davis told her that she needed to move her car and that Davis would move it. Davis came back without the keys and said that he had someone else move the car.</p> <p>3) Davis then told Small that they had to pack up their stuff and go. Davis continued to talk to Small about where her car was.</p>				

Co-Conspirator Statements:

	<p>somebody wanted help and the body was in the trunk. David said they told him: no, get out of here, we don't want to be a part of this, we don't want to get in trouble</p>				
<p>Michelle Whitmarsh</p>	<p>1) On 12/19/15 or 12/20/15, Ojeda, Pry and Wilson came to the Broad street address where Whitmarsh was staying. Ojeda told Whitmarsh that they were in a stolen Honda from Oregon and that Pry had done a robbery. 2) Whitmarsh heard Ojeda telling Pry that the car needed to be washed or cleaned</p>				
<p>Ocean Wilson</p>	<p>1) Wilson would hear Pry and Rodgers-Jones talk about hitting a lick. They had a lick they wanted to hit. Wilson would hear whisperings about the plan approximately a week prior to the murder. Dudley-Pry was also present for these conversations. Rodgers-Jones and Pry would say that it wasn't far from the house, it wouldn't be hard to get it done and have it over with. There was a whole bunch of money that was just going to be coming in their pockets. 2) As it got closer to the robbery, Davis started joining in on the conversations. Davis wanted to run the show. There was discussions about how Davis knew about the old man beforehand and how he could have hit the lick by himself and that Davis has lived on Tracyton longer. Davis would argue with Rodgers-Jones and Pry about this. Dudley-Pry was also present for these conversations. One conversation, Davis says "I could have done it myself. I've lived on Tracyton longer than you. I'd know about it before you. You just happen to hear about it." Pry says, "if you were going to do it, then you should have done it yourself. Davis says "Well, I'm still going to be a part of it." 3) Davis had come to an agreement with Pry and Rodgers-Jones that Davis would help the two with the robbery and, in exchange, Davis would receive any precious metals or coins taken during the robbery. 4) Pry came downstairs and told Wilson to get in the car. While</p>				

Co-Conspirator Statements:

	<p>dropping Pry and Rodgers-Jones off to do the robbery, Davis was saying things like "don't fuck it up." Pry and Rodgers-Jones responded that they knew what they were doing. Pry told Wilson he would be right back.</p> <p>5) When Wilson arrived at Davis' house he was introduced to Small as Bonnie. Davis directed Wilson to get him various things and eventually told her to sit in the living room w/ Dudley-Pry</p> <p>6) Dudley-Pry told Davis that the boys are ready. Davis gave Wilson the keys to Small's Honda and told her to give them to Dudley-Pry so that she could go pick up Pry</p> <p>7) Dudley-Pry was telling Rodgers-Jones, "how could you leave my brother down there?" and Rodgers-Jones was saying, "let's go, let's go get him</p> <p>8) Pry later said that while he was waiting for the ride, he was confronted by the neighbor.</p> <p>9) Davis told Wilson to get in the car to go back to the Tracyton Duplex.</p> <p>10) Dudley-Pry spoke to Wilson on the phone before they made it to the Tracyton duplex and said the car wasn't working and they were still trying to find Pry, and that they would meet Wilson and Davis back at the house.</p> <p>11) Dudley-Pry, Rodgers-Jones and Davis were arguing about who was going to take the Honda. Dudley-Pry put several pillow cases items in Davis' car, saying, this is Bubba's clothing, this is Tiny's.</p> <p>12) Small was complaining that she needed her car back and this wasn't supposed to happen.</p> <p>13) On the way to the casino, Davis was asking Pry for coins and gold. Pry said that there was no gold. There's no nothing. Pry gave Davis several coins and Davis said "this is garbage."</p> <p>14) Once at the casino, Pry wrote several checks for Small. Small was telling Pry to write it for \$12,000 and make it for caregiving.</p>				
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**SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP**

9

RECEIVED AND FILED
IN OPEN COURT

MAY 16 2016

DAVID W. PETERSON
KITSAP COUNTY CLERK

STATE OF WASHINGTON

Plaintiff

vs

ROBERT LAVELLE DAVIS

Defendant

16-1-00002-7

Co-Conspirator Statements
with Court's rulings

FILED

91

Co-Conspirator Statements:

	Kenneth Oleson	1) Cruz said he needed a ride to Belfair. Oleson drove to Belfair and "then he told me that there was something in the back (of Oleson's truck) I didn't want no part of or didn't want to know what was in the barrel." 2) Cruz had told Oleson to stay in the room and Cruz and another male left to unload the barrel	Yes	Cruz
Jody Schaefer		Wilson said that Pry had dropped them off and said that he would come back but never did come back. Pry had told Wilson that he was going to Uncle's house and would be right back	Excluded, not in furtherance	
Ed. Scholfield		The male (Robert Pry) said he was walking home and his sister picked him up. The female voice (Dudley-Pry) said, "come on, let's go"	Yes	Pry
Alisha Small		<p>1) Robert Davis called Small and told her that there was a dude with a large amount of money and he needed Small's help with it. Small was supposed to access the money for the group.</p> <p>2) Robert Davis told her that she needed to move her car and that Davis would move it. Davis came back without the keys and said that he had someone else move the car.</p> <p>3) Davis then told Small that they had to pack up there stuff and go. Davis continued to talk to Small about where her car was.</p> <p>4) Davis gave Small \$1000.00 for her help in accessing the accounts.</p> <p>5) Small drove with Davis to the Tracyton Duplex where she continued to insist on getting her keys and Davis told her she would get her vehicle and it would be alright. Pry, Rodgers-Jones, Davis, Wilson, and Dudley-Pry made plans to go to the casino.</p> <p>6) While at the hotel, Davis, Dudley-Pry, Pry and Rodgers-Jones. Small was not in the room when the conversation occurred but could over hear the people saying (a) that they had a male tied up. (b) Davis stated that "they did a dirty job." (c) Another male said they needed to dispose of</p>	<p>ALL ADMITTE D EXCEPT FOR 6) BELOW</p> <p>C YES A, b, d, e past events not</p>	<p>Davis party opp</p> <p>10) Pry & Davis party opp</p> <p>Davis b) excluded bruton</p>

Co-Conspirator Statements:

Whitmarsh	<p>the Broad street address where Whitmarsh was staying. Ojeda told Whitmarsh that they were in a stolen Honda from Oregon and that Pry had done a robbery.</p> <p>2) Whitmarsh heard Ojeda telling Pry that the car needed to be washed or cleaned</p>	unless Ojeda found to be conspirator	YES other than #5, 21	5) not hearsay	Party opponent Admission 5
Ocean Wilson	<p>1) Wilson would hear Pry and Rodgers-Jones talk about hitting a lick. They had a lick they wanted to hit. Wilson would hear whisperings about the plan approximately a week prior to the murder. Dudley-Pry was also present for these conversations. Rodgers-Jones and Pry would say that it wasn't far from the house, it wouldn't be hard to get it done and have it over with. There was a whole bunch of money that was just going to be coming in their pockets.</p> <p>2) As it got closer to the robbery, Davis started joining in on the conversations. Davis wanted to run the show. There was discussions about how Davis knew about the old man beforehand and how he could have hit the lick by himself and that Davis has lived on Tracyton longer. Davis would argue with Rodgers-Jones and Pry about this. Dudley-Pry was also present for these conversations. One conversation, Davis says "I could have done it myself. I've lived on Tracyton longer than you. I'd known about it before you. You just happen to hear about it." Pry says, "if you were going to do it, then you should have done it yourself. Davis says "Well, I'm still going to be a part of it."</p> <p>3) Davis had come to an agreement with Pry and Rodgers-Jones that Davis would help the two with the robbery and, in exchange, Davis would receive any precious metals or coins taken during the robbery.</p> <p>4) Pry came downstairs and told Wilson to get in the car. While dropping Pry and Rodgers-Jones off to do the robbery, Davis was saying things like "don't fuck it up." Pry and Rodgers-Jones responded that they knew what</p>	3) ok if based on stmts not assumption			

Co-Conspirator Statements:

<p>5) they were doing. Pry told Wilson he would be right back. When Wilson arrived at Davis' house he was introduced to Small as Bonnie. Davis directed Wilson to get him various things and eventually told her to sit in the living room w/ Dudley-Pry</p>	<p>5) subject to relevance foundtn, no character evid</p>	<p>5) party opp</p>
<p>6) Dudley-Pry told Davis that the boys are ready. Davis gave Wilson the keys to Small's Honda and told her to give them to Dudley-Pry so that she could go pick up Pry</p>		<p>8-9) Pry, Davis party opp</p>
<p>7) Dudley-Pry was telling Rodgers-Jones, "how could you leave my brother down there?" and Rodgers-Jones was saying, "let's go, let's go get him</p>		
<p>8) Pry later said that while he was waiting for the ride, he was confronted by the neighbor.</p>		
<p>9) Davis told Wilson to get in the car to go back to the Tracyton Duplex.</p>		
<p>10) Dudley-Pry spoke to Wilson on the phone before they made it to the Tracyton duplex and said the car wasn't working and they were still trying to find Pry, and that they would meet Wilson and Davis back at the house.</p>		
<p>11) Dudley-Pry, Rodgers-Jones and Davis were arguing about who was going to take the Honda. Dudley-Pry put several pillow cased items in Davis' car, saying, this is Bubba's clothing, this is Tiny's.</p>		<p>12) depends on how said, not hrsy if asking car back</p>
<p>12) Small was complaining that she needed her car back and this wasn't supposed to happen.</p>		<p>13) 13)</p>
<p>13) On the way to the casino, Davis was asking Pry for coins and gold. Pry said that there was no gold. There's no nothing. Pry gave Davis several coins and Davis said "this is garbage."</p>		<p>14) Pry/davis 14) Pry</p>
<p>14) Once at the casino, Pry wrote several checks for Small. Small was telling Pry to write it for \$12,000 and make it for caregiving.</p>		<p>15-20 yes</p>
<p>15) Pry called Dudley-Pry and asked "what the fuck are you doing." Dudley-Pry said that there were problems with</p>		

Attachment N.

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RECEIVED AND FILED
IN OPEN COURT
AUG - 5 2016
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KITSAP COUNTY CLERK

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IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

ROBERT LAVALLE DAVIS,
Age: 48; DOB: 07/11/1968,

Defendant.

No. 16-1-00002-7

16-1-00264-0

FINDINGS OF FACT AND CONCLUSIONS
OF LAW FOR EXCEPTIONAL SENTENCE

THIS MATTER having come on regularly for hearing before the undersigned Judge of the above-entitled Court pursuant to a hearing on sentencing; the parties appearing by and through their attorneys of record below-named; and the Court having considered the motion, briefing, testimony of witnesses, if any, argument of counsel and the records and files herein, and being fully advised in the premises, now, therefore, makes the following-

FINDINGS OF FACT

I.

That on 8/5/16, the Defendant entered a plea of guilty to the crime of Promoting Prostitution in the Second Degree and was previously convicted of the crime of Identify theft in the second degree on 7/6/16. At the time of the entry of the plea agreement on 16-1-00264-0 and the change of plea, the Defendant, his or her attorney and the State stipulated that a sentence of ~~90~~ 70 months between both cause numbers would be appropriate in this case.

II.

State ²⁰ defense recommends ~~57~~ 57 months on ~~16-1-00002-7~~ 33 months on 16-1-00264-0

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR EXCEPTIONAL SENTENCE; Page 1 of 3



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www.kitsapgov.com/pros

139

1 That the Defendant understands that this jointly recommended sentence would be an
2 exceptional sentence, because the Defendant's presumptive sentence under the standard range for
3 promoting prostitution in the second degree would be 51-60 months incarceration and
4 furthermore, the presumption is that the sentence would be concurrent to the conviction for
5 identity theft if sentenced on the same day. The statutory maximum is five (5) years incarceration
6 for both cases.

Then court

CONCLUSIONS OF LAW

I.

7 That the above-entitled Court has jurisdiction over the parties and the subject matter of
8 this action.

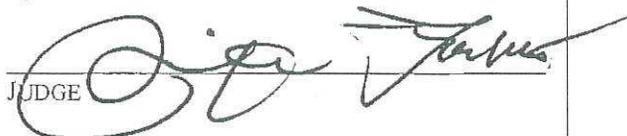
II.

9 That this Court concludes that an exceptional sentence of 90 months of incarceration (57
10 months on 16-1-00002-7, consecutive to ⁴¹⁶~~32~~ months on 16-1-00264-0) is appropriate for this
11 Defendant, even though the presumptive range is as set forth in Finding of Fact II.

III.

12 That this Court will impose an exceptional sentence of 103 months based on
13 the agreement between the State, the Defendant and Defendant's attorney and the presence of the
14 aggravating factor of multiple concurrent offenses that results in the defendant's high offender
15 score with some offenses going unpunished RCW 9.94A.535(2)(c). The Court concludes that the
16 parties' stipulation for this sentence constitutes a substantial and compelling reason for an
17 exceptional sentence pursuant to RCW 9.94A.535, and that the stipulated sentence is consistent
18 with the interests of justice and conforms with this state's prosecuting standards, pursuant to *In re*
19 *Breedlove*, 138 Wn.2d 298 (1999) and *State v. Hilyard*, 63 Wn.App. 413, 819 P.2d 809 (1991),
20 *review denied*, 118 Wn.2d 1025 (1992).

21 SO ORDERED this 5 day of August, 2016.

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JUDGE

PRESENTED BY-

APPROVED FOR ENTRY-

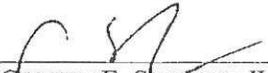
FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR EXCEPTIONAL SENTENCE; Page 2 of 3

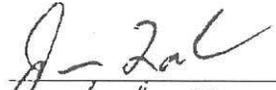
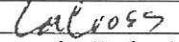


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STATE OF WASHINGTON


COREEN E. SCHNEPF, WSBA NO. 37966
Deputy Prosecuting Attorney


 WSBA NO. ~~29959~~
Attorney for Defendant

Prosecutor's File Number-16-107981-34

Prosecutor Distribution-Original (Court Clerk); 1 copy (Prosecutor), 1 copy (DOC), 1 copy (Defense Atty)

no crimes have gone unpunished

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR EXCEPTIONAL SENTENCE; Page 3 of 3



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Attachment 3.

Attachment - ①

STATE

Exhibit No.

311

PLAINTIFF

DEFENDANT

PETITIONER

RESPONDENT

OTHER _____

Case No. 16-1-00002-7

STATE OF WA vs. ROBERT DAVIS

[] Admitted

[] Refused

[] Withdrawn

[] Not Offered

Date of Court's Ruling: _____

1 somewhere around there.

2 Q. Okay.

3 A. Somewhere around there.

4 Q. Did you drive around or take the ferry?

5 A. I drove around.

6 Q. Okay. And was there anybody else with you when you
7 came over in the car?

8 A. No. I met them at the gas station, the Chevron gas
9 station up the road.

10 Q. Met who?

11 A. Rob.

12 Q. Rob. Okay.

13 And what was your reason for coming over from
14 Seattle?

15 A. Because I had thought that he -- you know, I thought
16 that -- from what Phil had told me, he does big
17 things or whatever. And I thought that he had -- had
18 something -- that I might be able to find useful for
19 you guys, yeah.

20 Q. Okay.

21 BY DETECTIVE MANCHESTER:

22 Q. Can you explain that again? I missed that.

23 A. I thought that he --

24 BY DETECTIVE BOWMAN:

25 Q. I'll just say this right now.

1 It's pretty much going to be known in the court
2 records that you were on contract as an informant for
3 me.

4 A. Mm-hmm.

5 Q. I mean, there's really nothing we can do to hide
6 that --

7 A. Yeah.

8 Q. -- at this point, nor do we want to.

9 So you told me that you thought that maybe Rob
10 was selling drugs --

11 A. Mm-hmm.

12 Q. -- and that you could probably buy from him.

13 A. Mm-hmm.

14 Q. So that's essentially why you went there?

15 A. Yeah.

16 Q. Okay. So how long were you at Rob's before the car
17 came up missing, do you figure?

18 A. I wasn't even there not even -- not even five
19 minutes. Rob took the car.

20 Q. Okay. How long was it before you noticed that the
21 car was gone?

22 A. Right away because he had come in -- back inside
23 right away. And I'm, like, well, where is -- I asked
24 for the keys back. And he said that he had given
25 them to somebody else to move the car.

1 A. Mm-hmm.

2 Q. I mean, how involved in all of this is Rob?

3 A. I don't know. I couldn't say.

4 Q. Okay. I mean, do you think that this is typical of

5 Rob, to hold people at his house and tell them that

6 they can't leave?

7 A. No.

8 Q. And you're telling me --

9 A. But from -- I see -- I feel -- I feel like, no, it's

10 not. But at the same time talking -- when Christina

11 a was talking to me, it sounds like he has, you know,

12 done some things out there to her, too, to where

13 she's scared of him. That's why she told me that she

14 had that Samoan guy out there is because she's scared

15 of him. He's supposed to be there to protect her.

16 Q. Okay. You know, so I mean, if these people asked you

17 to participate, we need to know that they asked you

18 to participate.

19 A. Participate in?

20 Q. Driving them somewhere. Going to cash checks.

21 BY DETECTIVE MANCHESTER:

22 Q. Letting you know what they had accomplished and now

23 --

24 BY DETECTIVE BOWMAN:

25 Q. Right.

1 A. Like I said, they had asked us to cash a check at --
2 cash a check or two at the casino in Tacoma.

3 BY DETECTIVE MANCHESTER:

4 Q. They asked you to do that?

5 A. Me and Rob.

6 Q. They asked you and Rob to do it. Who asked?

7 BY DETECTIVE BOWMAN:

8 Q. Yeah. Who?

9 A. I think it was Bubba or else -- maybe it was -- yeah,
10 it was Bubba.

11 Q. Is that why he stayed in the car?

12 A. Mm-hmm. They stayed in the car because they didn't
13 have ID.

14 Q. Okay. And the check, do you remember what the name
15 on the check was?

16 A. I don't recall, no.

17 Q. Okay.

18 A. They didn't -- they didn't cash it.

19 Q. How big was the check made out for?

20 A. Like 200, I think it was. 275.

21 Q. Okay. So they asked you guys to go cash it?

22 A. Mm-hmm.

23 Q. Did they say that they were going to pay you guys
24 anything or give you some money out of it?

25 A. No. There was no questions asked about it.

1 Q. The gangster guy was there?
2 A. Mm-hmm. The gangster guy was the one that was
3 driving that car, doing stuff to the car.
4 Q. Right. And the redhead female was there?
5 A. Mm-hmm.
6 Q. And Rob was with you?
7 A. Mm-hmm.
8 Q. Who else did you see come in or out of the duplex?
9 A. I didn't see anybody else.
10 Q. Okay.
11 BY DETECTIVE MANCHESTER:
12 Q. So say those names again one more time, just for my
13 notes. Rob --
14 A. Rob, Bubba, Shawna. And myself and the redhead girl.
15 BY DETECTIVE BOWMAN:
16 Q. And the gangster guy?
17 A. And the gangster guy.
18 Q. What do you think the extent of Rob's involvement in
19 all of this is?
20 A. I think his -- I mean, I think he has knowledge. You
21 know, I think he knows something. But I -- I haven't
22 really talked to anybody really about it besides Phil
23 and --
24 Q. Okay.
25 A. The --

1 Q. Okay.

2 BY DETECTIVE BOWMAN:

3 Q. Did Rob ever go in at all?

4 A. Yeah.

5 Q. Okay.

6 A. He was the last one to come out.

7 Q. Okay. So when you were looking at the duplex, was it
8 the one on the left hand or the right-hand side?

9 A. Right-hand side.

10 Q. Okay. And then when you guys went to the casino, did
11 you ever look in the bag and see what was there?

12 A. Hm-mmm.

13 Q. Did anybody pull anything else out of the bag?

14 A. Hm-hmm.

15 BY DETECTIVE MANCHESTER:

16 Q. Rob pulled the 2,000 bucks out?

17 A. Well, besides that, no.

18 Q. And he -- where was that at? Was that in the -- it
19 was in the parking lot or in the parking garage?

20 A. It was the parking lot of the casino.

21 Q. Parking lot. Okay.

22 A. Mm-hmm.

23 Q. And then he basically -- he didn't tell you why you
24 were getting it, but he basically said, look, they
25 got this from the guy's house and you get 1,000 of

1 it, is that what they said?

2 A. He never said nothing about getting -- he never said
3 nothing about getting it from the guy's house. He
4 never said nothing about it. He just gave me -- I
5 seen that he had the money and I said, "Wow, where
6 did you get that from?" And he said that he was
7 going to give me 1,000 of it to gamble on and he said
8 to have fun. That's what he said.

9 Q. What makes you believe that this stuff was from this
10 guy's house?

11 A. Because after hearing what they -- they said they had
12 a guy tied up after, I just put two and two together,
13 you know, that there was --

14 BY DETECTIVE BOWMAN:

15 Q. And that he had a bunch of money?

16 A. Yeah. I just put the two together and figured that's
17 what it was from. Neither of them had a bag of
18 clothes or anything like that that I thought it was.

19 Q. After you left Tacoma or Fife and came back here --

20 A. Mm-hmm.

21 Q. How long were you at Rob's?

22 A. I was there all night that night until about 11:00
23 that following the day.

24 Q. Okay. Which was?

25 A. Sunday.

Attachment - ~~P~~

STATE

Exhibit No.

355

PLAINTIFF

DEFENDANT

PETITIONER

RESPONDENT

OTHER _____

Case No. (15) 1503-4, (15) 1509-3, (16) 00002-7

STATE OF WA vs. CRUZ, PRY, DAVIS

Admitted

Refused

Withdrawn

Not Offered

Date of Court's Ruling:

JUN 13 2016

* Demonstrative purposes only

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JAIL CALL
Q=Robert Davis
A=Cara Digiulio

Edited

Q: You know? So, all fucking crazy old fucking ocean. Fucking, you know, God, you should have heard it. Her statement is so fucking - just back and forth. She said, "Oh, Rob - Rob Davis is tryin' to run it all." But then he said, "Oh, (Joshua Rogers), or Tiny, was trying to run it all." You know, I'm like, "What the fuck are you talking about?" Well, then they - when they asked, "Well, how - how and what I was doing to try to run it all," she said, "Well, he was driving." What the fuck? Are you fucking serious?

A: Well, you were not driving.

Q: I was dr- I mean, yes, I was driving. I was driving the truck.

A: You were what?

Q: I was driving the truck. I - I drove the truck. Yes I did. (Unintelligible)...

A: Drove the truck where?

Q: To - from (Tiny)'s house to my house.

A: Oh.

Q: Dropped them off - dropped them off at my house, okay? And then went and met (Bonnie), okay?

A: Okay.

Q: A- and then went back to my house. And then when we went to Tacoma I dropped them off again in Fife 'cause they did stay at the same motel as we, I did. 'Cause they didn't have ID.

A: Right.

46 Q: You know what I'm saying?

47

48 A: Right.

49

50 Q: Yep. So anyway, long story short with that is she's saying I fucking God
51 damn fucking was runnin' the fucking show. Check this out, I have no idea
52 who this man was Kara.

53

54 A: Right.

55

56 Q: Never seen him. Did - you should...

57

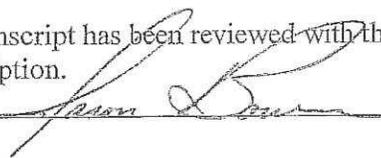
58 **Edited**

59

60 The transcript has been reviewed with the audio recording submitted and it is an accurate
61 transcription.

62

Signed

 5-8-16

