

Additional Ground I

Defendant's right to a fair trial under the 6th Amendment to the US constitution and Section 22 of the Washington State constitution was abrogated by improper education of jury as to Defendant's severely psychotic mental state, and a proper understanding of how acute onset of psychosis impacts decision making leading to observed behavior, as well as a clear understanding of the substance and scope of a medical excuse for alleged criminal behavior. As a matter of record, the court had enough gratuitous evidence that it could have and should have taken judicial notice of the impairment and instructed clearly to the jury what affect the impairment plays into the elements of the alleged crime even before the start of the trial. Section 32 of Washington State Constitution recites "a recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government. Defendant's extreme psychotic disability was not properly treated as a fundamental principle which needed to be addressed in conjunction with fair trial requirements afforded a reasonable (sane) person. Additionally, the judge decided to leave it to the jury to vote as to the propriety or relevance of a medical diagnosis as to the alleged criminal behavior without providing certified medical training or relying on certified medical credentials. Further, the jury is asked to determine whether Defendant displays behavior consistent with being under the influence of marijuana without providing certified training for the jury as to the effects of marijuana consumption. Thus the jury would be incompetent to know the effects of marijuana outside their own illicit association with the substance, which is anecdotal at best and not at all certifiable.

Additional Ground II

Admission of Defendant's statements to Dr Young was a reversible error of a matter of law. Defendant never made a statement against his own interest in describing his medical condition to Dr. Young, and thus there is no additional admission by a party-opponent bolstering the veracity in the matter asserted, which would have warranted an exception to the hearsay rule. This was raised as the primary evidence against Defendant.

Additional Ground III

Defendant's 6th Amendment of the US constitution and Section 22 of the Washington State constitution right to an impartial jury was abrogated. During jury selection a negative portrayal of Defendant as a mentally ill, recreational drug abuser biased the jury against Defendant as depraved before any evidence was introduced properly at trial. A fair trial required instead an educated jury as to how the Defendant's psychotic condition might have affected Defendant's mental state and behavior as well as instruction as to the substance and scope of how mental capacity affects the legal liability of a Defendant for an alleged criminal action. Instead of being impartial through education, the jury was partial through negative portrayal during voir dire prior to the introduction of any evidence in the trial.

Additional Ground IV

Insufficiency of counsel. Counsel provided no special jury instruction for what was clearly a very special case. The Defense counsel never requested judicial notice as to the medical condition of Defendant at the time of alleged criminal activity as well as the affirmative legal defense associated with a recognized lack of capacity to form intent. Further counsel did not raise the express affirmative defense of RCW 46.61.024(2), despite the relevance in light of testimony introduced as a matter of court record through Dr Young's testimony that Defendant, arguably reasonably under the established psychotic condition, did not believe there was an appropriate place to pull over. Counselor created and allowed the admittance of the only substantive evidence against Alex in the DUI charge by creating and publishing Dr Young's report. Further, counselor allowed hearsay statements to be admitted to court record without adequate advocacy. The State plead that the statements were an exception to the Rules of Evidence with regard to hearsay statements, invoking an admission of a party opponent. However, this is not such a situation. The essence of this exception to the rule prohibiting the admission of hearsay is that a party would not make a statement against their own interest unless it had a tendency to be true. However, in this situation Alex is consulting with a doctor about his medical condition and has a reasonable expectation of privacy and the opposite of an admission of a party opponent, that is Alex is relating information in the hope that it will help either his legal or medical condition and thus speaks nothing as to the accuracy of the statements, much less the truth of the matter asserted. As such, Dr. Young's statements should not have been admissible. It doesn't appear counsel knows the officer will be showing a tape in court, so that she could not have had a defensive advocacy already prepared, which a reasonable professional attorney would. It is noted the prosecution will fight to hold a witness that is biased to the prosecution, whereas the defense counsel allows them to walk unchallenged. As a matter of record, the defense counsel had no trial experience.

Additional Ground V

Insufficient jury instruction provided to inform jury how to properly take into account the behavior impairment associated with psychosis and the impact of same on any established legal defenses. The American Bar Association (ABA) provides a comprehensive model code for trying those accused of behavior displayed while mentally ill and appropriate jury instructions.

Additional Ground VI

Insufficiency of evidence: Only evidence is the smell of marijuana, which intimates no ingestion. Dr. Young's report is verifiable inaccurate and should not be allowable as a matter of hearsay protection. Clearly police saw no drug impairment or they would have performed the most cursory of tests. Additionally, any statement by Defendant to Dr. Young would be a medical record, which should not be open to public disclosure without discreet redaction. Note: officer testifies that marijuana is a depressant and the video shows Defendant extremely manic indicating marijuana is not an influencing agent.

Additional Ground VII

The State's rightful capacity to charge a DUI against Defendant in this matter was bargained away by the state while Defendant was still in Harborview hospital in consideration for Defendant waiving his right to a trial to be released from involuntary care at Harborview psychiatric facility as witnessed by Defendant's father, John McCormack, and Defendant's counsel Shiela LaRose.

Additional Ground VIII

Prosecutorial Misconduct occurred as a result of Prosecutor voicing misstatement of facts in closing argument and elsewhere with regard to Defendant's documented psychotic disorder that would have led the jury to a different conclusion as to the impact of the psychotic impairment if not misstated by the Prosecution.

Additional Ground IX

Vindictive prosecution: Prosecutor admits on record that a felony conviction was not necessary or in the state's interest, yet Prosecutor incurred the cost of trying an indigent citizen at the State's expense because Prosecutor claims Defendant "simply doesn't want to be held accountable and doesn't want to take responsibility for his actions." However, there is no indication why the Prosecutor would make such a statement.

Additional Ground X

Defendant denied a due process right under the 6th Amendment of the US constitution and Section 22 of the Washington State constitution to compulsory process for obtaining witnesses in Defendant's favor. A motion to exclude witness is granted (7/26/11, p. 12) without any discussion on the record. Several witnesses crucial to the outcome for the defense were not called, including Defendant's father and primary care provider John McCormack, Dr. Sharon Romm (Chief Psychiatrist, Harborview Hospital) and many others from the Harborview staff.

Additional Ground XI

Defendant's right of Due Process under the 14th Amendment of the US constitution violated by perfunctory denial of the motion to set aside jury verdict without any discussion or consideration on the record. In addition, Judge denied the motion to continue the sentencing hearing until after a ruling on the motion for setting aside the verdict that resulted in the sentencing. Based on the request of counselor Tran, it was clear that there would be no positive ruling on the motion to set aside the verdict despite there being no discussion or evidence of any consideration of same. In addition, Defendant's right to Equal Protection under the law as defined by the 14th Amendment to the US was denied by not adequately considering the psychotic disability influencing Defendant's behavior in considering the required mental state for the alleged crime resulting in disparate rights enjoyed by citizens that are not suffering from a cognitive defect. Conversely stated, a different standard is required for one medically impaired in order to achieve Equal Protection under the law

Date: _____ Signature: _____

Date: 9/17/12 Signature:  _____