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Washington Appellate Project

STATE OF WASHINGTON

v.

DON GRABNER

APPEAL No. 67919-8-1

ADDITIONAL STATEMENT
OF GRUNDS

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1. Statement of facts regarding elements of crime that must be proven for possession of stolen motor vehicle

2. Statement regarding ineffective assistance of counsel i.e of not subpoenaing crucial witness

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COURT OF APPEALS
STATE OF WASHINGTON
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STATEMENT OF CASE

The law clearly states that in order to find a person guilty of possession of stolen vehicle. That two elements must first be proven

Those elements are one. That a person was in fact in possession of the motor vehicle and. Second that the person had knowledge that the vehicle was stolen.

In the present case Mr, Grabner was in fact in possession of the stolen motor vehicle . However he was also in possession of the keys to the motor vehicle in question.

Furthermore all of the locking devices to include all doors locks etc. to include its ignition were in fact present intact and functioning with the keys to which Mr. Grabner was using for the motor vehicle. The keys in question.

Was given to Mr. Grabner by Mr. Johe to whom was the person that was originally in possession of the Stolen moter vehicle.

Mr. Grabner had recently been released from incarceration and was in the proces of moving ,Mr. Grabner Car G.L Storm was loaded prior to moving out of the steps to recoverey house and recently obtained residence in Lake Stevens.

Mr. Grabner was in need of a bigger vehicle to load the rest of his belonging to Transport to Lake Stevens to put away by a relative for safe keeping.

Mr. Grabner had known John for a short time by working on John jeep and had seen him quit frequently driving the said vehicle.

Mr. Grabner ask John if he could please set up a time for John to help him in moving his belonging

Mr. John told Mr. Grabner that he was very busy but that he in fact had a nother vehicle that he himself could use to make necessary appointments etc. And gave Mr. Grabner permission to use the vehicle in question at wich point he then gave Mr. Grabner the keys to that motor vehicle.

Mr. Grabner repeatedly ask that John to be subpoenaed to Court, to show and prove that Mr. Grabner had been given the motor vehicle by John witch permission to use the vehicle.

At no time did Mr. Grabner attorney subpoenaed John to witch was a readily easy thing to do Mr. Grabner attorney was informed and know that at the time of Mr. Grabner incarceration that John was also Currently incarcerated in the king County Jail.

Not only doesn't this violat Mr. Grabners rights to prepares a defence for him self and presnt his side of /version of defenece counsel was infective in that effective assisstance of counsel is garented by both the United State and Washington State Constitution.

U.S. Cont and S Wash. Count art 1.22 (amend.x) Strickland v. Washington.466 us 668.689 104 S ct.2052.80 L Ed 2d 674 (1987)
State v. mierz. 127 wn 460.471.904 p 2d 286 (1995)

A criminal defendand claiming inefective assistance of counsel must prove (1).That the attorney performace was defective i.e that the represetation fell below an objective standard of reasonableness under the prevailing professional norms. And (2).That prejudice resulted from the defective performance i.e. That there is a probability that "but that for the attorney unprofessional Errors the result of the proceedings would have been different.

State v. Early.70 wn App.452.460.853 p 2d 964 (1993)
State v. Graham. 78 wn App.44.56.896 p 2d 704 (1995)

A reasonable probability means probability sufficient to undermine confidence in the outcome.

State v. Leavitt, 49 Wn App. 348, 359, 743 p. 2d 270 (1987)

However a defendant need not show that counsel's deficient conduct more likely than not altered the outcome of the case Strickland, 466 U.S. at 692. "Both" prongs of the Strickland test "are" met here.

In regards to speedy trial Mr. Grabner would please ask this Court to please take notice of the two New recently published opinions regarding speedy trial.

The first being from the Washington State Supreme Court in;

State v. James Ryon Kenton, Oct. 2009. (cite as 167 Wash 2d 130, 138, 39 216, p. 3d 1024.

And the second being Washington state court of Appeals-div. 11

State v. Christopher Israel Saunders, Nov-17-2009. (cite as 153 Wash App. 209, 220 p. 3d 1238.

Not only did Mr. Grabner verbally object to any and all continuances as well as refused to sign any and all continuances be also filed a objection /motion to dismiss for the violation of his speedy trial that was never heard by a trial Court Judges Eric Z.Lucas Superior Court told me that this ant the time to do motion this violating Mr. Grabner rights to duo process and violating Court rules as Mr. Grabner if had properly been filed his motion wich the court clerk.

Rules for speedy Trial as mandated by the Supreme Court and state that a Judge. Prosecutor, and or defence counsel vacation are in fact. Not a legal and or valid reason for a circumstances.

These are exactly the reasons why the continuances were grawted in my case.

Rules for speedy trial as mandaded by the, Supreme Court State that a Judges. or prosecutor, and defence counsels vacation are in fact Not a legal and or valid reason for a continuance as they are Not a unforseen and or unavoidable circumstance.

These are exactly the reasons why the continances were granted in my case.

The Supreme Court also hold that prosecution and or defence counsel in another thral are also deemed to not be a legal and or VALID REASON TO GO BEYOND THE SPEEDY TRIAL RULE.3.3

THE JUDGES MUST ALSO STATE ON THE RECORD, THAT HE IS ALLOWING CONTINUANCE, AND WHAT THAT LEGAL AND VALED REASON IS AS WELL AS PUT IN WRITING, THAT HE IS ALLOWING THE CONTINUANCE AND WHAT THE LEGAL AND OR VALID REASONS OR.

The rigths to speedy trial is Garenteed by the United State Constitution 6th.Amandment as wenas the Washington State Constitution Art.22 and protected further by the 14th.Amandment of the U.S. Constitution granting cituzens. of the United State freedom of due process of law ner deny to "any"person without its jurisdiction the Equal protection of the law

In this case my time started when I was rested july 2.2011 the Court went over my SPEEDY TRIAL by sixty four Days over.

Before I clase I ask that you please review the transcripts of my trial. Specificaly towards the end of my trial, you well see that my defence Attorney called me Names in front of the Jury as well as called ME RETARDED

I. Find that completely unacceptable and unprofessional I do have a learning disability. which is why I received SSI. His action violate rules of professional conduct and it is Showing a lack of courtroom etiquette. And absolutly inapropriate to deny proper accommodations for a disabled person;

It is and act of direct discrimination against that person .

I also feel and hope you agree that his actions Clearly show that he was not meeting the mandated representation necessary to be considered effective counsel as set by the americon Bar association I Sincerely appreciate all of your time and Consideration in this Matter.

CONCLUSION

I BELIEVE THAT I HAVE HUMBLY RESPECTFULLY AND LEGALY SHOWN THAT MY COUNSEL WAS NEGLIGENT AND DEFICIENT AND THAT I WAS NOT AFFORDED THE MOST BASIC DEFENCE ON MY BEHALF I.E. OF THE MISSING WITNESS ON MY BEHALF OF WHOM I HAD RECIEVED THE VEHICLE FROM

I ALSO BELIEVE THAT I HAVE SHOWN BASED ON THE FACTS EVIDINCE AND THE LACK OF THAT UNDER *No* CIRTUMSTANCES COULD I OR WOULD A REASONABLE PERSON HAVE ANY REASON TO BELIEVE THE VEHICLE IN QUESTION WAS STOLEN THERE BY THE PROSECUTION AND OR THE STATE IN NO WAY PROUED THE ~~SECOND ELEMENT OF THE~~ CRIME OF POSSESSION OF A STOLEN MOTOR VEHICLE WITCH SAYS THE STATE MUST PROVE BEYOND A REASONABLE DOUBT . THAT I HAD KNIWLEBGE THAT THE VEHICLE WAS STOLEN.

Lastly I believe that I have shown that my rights to a speedy trial has in fact been violated.

I there for Humbly and respectfully ask that you the Court of Appeals would please dismiss and vacate my Conviction.

I Sincerly sppricate an of your time and Consiration in this Matter

THANK YOU

5/2/2012

Don Grabner

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