70398-6

70398-6

1.

Joel Collins
WA DOC 366312
King Unit, Cell No. B-46 U
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PO Box 2049
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COURT OF APPEALS DIV I
STATE OF WASHINGTON
2014 JAN 31 PM 1:

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COURT OF APPEALS DIV I
STATE OF WASHINGTON
2014 FEB 13 PM 1:44

Mr. Richard D. Johnson
Chief Clerk / Administrator,
Washington State Court of Appeals-
Division One
600 University Street
One Union Square Building
Seattle, Washington
98101-4170

RE: Defendant / Appellant's Statement of Additional Grounds (RAP 10.10 (a)-(c)).
No. 70398-6-I

To The Clerk:

Please find enclosed for filing the original document to the above cause number.

Respectfully,

Joel Collins 366312
Jan 26, 2014

cc: Ms. Amy Rood, Deputy Appellate Unit, (NCPAO, Wash. 516 3rd Av. Seattle WA 98104)
Ms. Sarah M. Ward Hirchsky, Washington Appellate Project 1511 3rd Av. Suite 701, Seattle WA 98101.

COURT OF APPEALS DIV I
STATE OF WASHINGTON
2014 JAN 31 PM 1:2

(Cover Page Only)

RAP 10.10(c) in
70396-6-I

Statement of Additional
Grounds for Review
36036

Pro Se Brief of Appellant

IN THE COURT OF APPEALS OF THE
STATE OF WASHINGTON, DIVISION I
Case No. 70396-6-I / Appeal of King County
No. 12-1-06666-0 SEA

The State of Washington,
King County Prosecuting Attorney's Office
(KCPAO), Western King County Courthouse,
516 Third Avenue, Seattle, Washington
98104, Plaintiff / Respondent,

v.

[illegible] Holmes, WA [illegible]
[illegible] Tacoma, Cell No. B-6471,
Airway Heights Corrections Center (AHCC)
PO Box [illegible], Airway Heights, Washington
[illegible], Defendant / Appellant.

PRO SE BRIEF OF APPELLANT/DEF.
36312

DEFENDANT / APPELLANT'S [illegible]
[illegible] CHAP [illegible]
ON APPEAL FROM THE HONORABLE JUDGE
GEORGE [illegible] Pro Se
PRESENTED BY: Joel [illegible], Pro Se, WA DOC 36036.
January 26, 2014.

[illegible]

[illegible] Motion [illegible]

[illegible] Information [illegible] December [illegible] argue [illegible] the Pro Se Statement of Additional Grounds for Review (PRAP [illegible]

PRIOR PROCEEDINGS

Petitioner was charged by Information, with two counts, both naming as the alleged victim Judge John A. Speer, who had presided over Appellant's previous January 30-Feb 2, 2006 trial (King Co. 04-1-14102-4 SEA), on four counts of "Felony Telephone Harassment" (RCW [illegible]) and four counts of "Intimidating A Judge" (RCW 9A.72.160(1)(2)) as well as one count of "Felony Harassment" (RCW 9A.46.020(1)(a)(i)). Both prior to the November 16, 2006 Telephone "911" call accusations to the Defendant's Verbatim Report of Proceedings (VRP) [illegible] IX Motion [illegible]. According to the State's Pleadings, [illegible] recorded "911" call from a [illegible] located at 4045 Interurban Ave, Seattle, WA 98108, where

10 [illegible] reportedly declared (State's Exhibit No. [illegible], [illegible] May 9th, 2013):

"... I'm going to assassinate [illegible] Donald [illegible] Judge Douglas DeSmuck, Shreveport Criminal [illegible] Saint Patrick's [illegible] ..."

In a [illegible] second telephone call received [illegible] recorded by Shreveport Police Department Joint Emergency Dispatch Headquarters, [illegible] Shreveport Police Department SFCCS, [illegible] Friday, VIII VRP [illegible] 58-55, [illegible] released by the Defendant [illegible] Judge Spector [illegible] time [illegible] the 911 recorded seconds. Joint Exhibit [illegible] (Transcript, Page [illegible] lapse between [illegible] Attorneys [illegible] HEAD [illegible] Two [illegible] the [illegible] Defendant [illegible] Tuesday, [illegible] 2013) [illegible] that [illegible] 2013, were supposed [illegible] Shreveport [illegible] King [illegible] Jacobs. [illegible] [illegible] [illegible]

who had been appointed to [illegible]
Pres. Reagan "No X/Y" by [illegible]
Gary A. Lotz in 1988, and subsequently
elevated to that position in [illegible] the
Navy's Guidelines Review Department of
Elementary, Sec. Edu. http://www.[illegible]

Gov. Judge [illegible] presented testimony
to the effect that the Veteran's relationship,
[illegible] that she alone at
the alleged multiple "lucrums" cited in
the November 18, 2013 "all" call attributed to
the Defendant, that she alone had been
placed in "reasonable fear" that the Veteran's
alleged telephonic "threats" would be
"carried out." RCW 9.61.230(1)(a)(b)(c)(d)-
(h). This same [illegible]
[illegible]
which the Defendant [illegible]
[illegible] VRP [illegible]

ISSUES PRESENTED

1. CAN [illegible] BE
[illegible] OF HAVING [illegible]
[illegible] JUDGE [illegible]
PURSUANT TO [illegible] OF THE [illegible]
[illegible] PROCEEDING (CCUP[illegible]

JUDGE INSTRUCTION NUMBER 1 [illegible]
[illegible] NAME OR IDENTIFYING THE
JUDGE [illegible] OF THE

II. CAN [illegible] BE
"CONVICTED" UNDER TWO STATUTES,
[illegible] BECAUSE BOTH
THE [illegible] UPON [illegible]
WHICH HAVE BEEN [illegible]
RE-INVESTED OR REPEALED?

1. RCW 9A.46.060(2)(b), which is
a Definitional Section of the
RCW's (RCW 9A.04.110(25)), which has
since been re-indexed
2. RCW 9A.46.020(1)(b)(i)-(iv),
and its relevant "Judge Julie Spencer"
(Court's Jury Instruction No. 9), which was
clearly distinguish the "[illegible] charge
from the "Felony Harassment" charge?
RCW 9A.46.020(2)(b)(ii)-(iv) (Harassment of a
"Criminal Justice [sic] [illegible]") (Laws of [illegible])

III. IS THIS [illegible] AN [illegible] TO
THE UNITED [illegible] CONSTITUTION, SOMEHOW
100 [illegible] FOR WASHINGTON
STATE'S [illegible] TRIAL
JURISPRUDENCE?

1. IS RCW 9A.46.060(1)(a) [illegible]
[illegible] under overbreadth? [illegible]

[illegible] 16.60(a)(b)(1) [illegible] unconstitutionally vague and [illegible] overbroad, [illegible] the [illegible] Nevada [illegible] have [illegible] [illegible] Peter [illegible]

IV. DID PETITIONER HAVE THE STATUTORY INTENT TO MISLEAD A JUDGE OR HAVE A JUDGE JUST A DECEIVE, AS THE [illegible] OF [illegible] NEVERTHELESS IGNORE, [illegible] FALL? (State v. Lightbody, 165 Wn.2d 1, 8-10, 177 P.3d [illegible] 660 (2008))

V. WAS PETITIONER'S DEPRIVED OF HIS SIXTH AMENDMENT RIGHTS TO A UNANIMOUS JURY BY THE LACK OF SPECIFIC CONT. IN THE COURT'S JURY INSTRUCTIONS AND IN THE STATE'S INFORMATION, FILED IN [illegible]

VI. WAS PETITIONER DEPRIVED OF HIS SIXTH AMENDMENT RIGHTS TO CONFRONT THE WITNESSES AGAINST HIM BY THE STATE'S PLACING [illegible] NEVADA [illegible] ONLY NEVADA BODY TAPES, WITHOUT ALLOWING PETITIONER TO SUBPOENA THE WITNESSES WHO [illegible] PRESENTED THESE TAPES SUBMITTED, USED AS EVIDENCE AGAINST HIM AT TRIAL? Mar 6th Nev. [illegible] TRIAL, CONVICTED IN No. D-1-[illegible] (See [illegible] Nev. [illegible], 4-5, 6)

1. Failure of Subpoena SPD Police [illegible] "Emergency" Nev. Dispatcher, [illegible] 911/Sexual Assault

2. Failure to subpoena recordings of November 13, 2001 pages recorded by William P. Gerberding, SPD Detective Daniel R. Schiffer (See State v. Williams, 141 Wash. App 1040 (Wash. Court App (Div. I) (November 26, 2007)), 2007 Westlaw 4107303 *6-*7 (Slip op. at p. 10-11))?

VII. WAS PETITIONER PLACED "TWICE IN JEOPARDY" BY THE DUAL (CONVICTION) RULED AGAINST HIM - TWO OFFENSES RULED THE "SAME IN FACT AND LAW" INHERENTLY Blockburger v. United States, 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932), and State v. Mano, 169 Wn.2d 465, 467, 238 P.3d 495 (2010) - "INTIMIDATING A JUDGE" (Count [illegible]) AND "FELONY HARASSMENT" (Count [illegible]) ?

VIII. WAS PETITIONER DEPRIVED OF HIS RIGHTS TO AN "IMPARTIAL" TRIAL, SUBJECTED TO "CRUEL AND UNUSUAL PUNISHMENT" AND SENTENCED TO "ONE YEAR OF" "COMMUNITY CUSTODY" (RCW 9.94A.505), IN VIOLATION OF AMENDMENT VIII, USC, AND ARTS. 1, 22(32), RCW, AMENDMENT VIII, USC, AS WELL AS RCW 9.94A.[illegible] (

(Statutory enumeration of "Crimes Against Persons")?

IX. WAS THIS PROSECUTION, UNLAWFULLY COMMENCED BY THE STATE, BASED ON A JUDICIAL "RULING OR DECISION" FROM March 19, 2006 (RP, No. 04-1-14112-4 SEA), MORE THAN "THREE YEARS" AFTER THE STATUTE OF LIMITATIONS, (RCW 9A.04.080) HAD BEGUN TO RUN?

STATEMENT OF CASE.

Petitioner is being punished for his alleged "threats" purportedly "directed" at a judicial "ruling or decision," made almost seven years before the filed telephonic "hate" "threat" in question. Plaintiff's Exhibits, 1-8, 10 VRP at pp. 16-100, May 9th, 2013. Furthermore, it drastically violates the separation of judicial powers established under Washington State Article IV, Section 6, to allow a Judge to comment on the evidence from a previous case (as well as for the State to introduce as evidence purported rulings made by other State and Federal courts — see State's Exhibits No. 9-14). RCW 9A.46.060(1)-(3), is unconstitutionally vague and overbroad because it is not limited to "threats" designed to change a "pending" judicial ruling or decision (-the

"prong" of the statute not applied against the defendant in the case at bar. Sec 10 VRP 1-199, May 9th, 2013, Instead, RCW 9A.46.160 (1)-(3) applies "in an unlimited way against any kind of threat" (State v. Smith, 166 Wn.2d 643 (Dissent, C.J.)) (upholding RCW 9A.46.020 against vagueness and over broad challenges) supposedly "directed" at a prior judicial ruling or decision — irrespective of whether that judicial ruling or decision is "pending" or not. Obviously, such a statute wrongly bears on a given deed of protected speech and expression — assuming it proceeded to or (even?) above "judges" communications, do not occur in a "public forum" for open political debate (see City of Seattle v. Huff, 111 Wn.2d 655, 657-8, 767 P.2d 572 (1989) (Dolliver, J.) (upholding Seattle Telephone Harassment ordinance, SMC 12A.06.A-2 based on "public" (non/non forum) distribution). However, as noted by Petitioner, Judges (both and the appellate) are ELECTED public officials in this state and must be open to criticism in terms of their RCW 9A.72.160 (1)-(3) functions or the way they carry out open political debate.

debate in the State. Moreover, the statute (RCW 9A.46.020 (1)-(3)), as well as the trial court's Jury Instruction No. 7, by criminalizing alleged "threats [5] ... to cause bodily injury in the future to the person threatened or to any other person ..." (Court's Jury Instruction No. 16), are based on a definition section, RCW 9A.04.110 (25), which was repealed and re-enacted by the legislature, starting in 2005, for the same provides:

RCW 9A.12.160 Intimidating A Judge

... (1) A person is guilty of intimidating a judge if a person directs a threat to a judge because of a ruling or decision of the judge in an official proceeding ...

(2) "Threat" as used in this section means:

...

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threat as defined in RCW 9A.04.110 (25) [5] ...

NOTES:

10.

RCW 9A.[illegible].160 (1)-(3), Laws of [illegible] 30161. However, the court determined Section [illegible] 167 [illegible] that the statute is [illegible] and [illegible] explained in RCW 9A.[illegible] was repealed [illegible] and reenacted by the legislature [illegible] 2000 and [illegible] until the 2001 session. [illegible] Section 6(2) Pursuant Laws of 2001, [illegible] 2000 [illegible] RCW 9A.[illegible] (25) was reindexed as RCW 9A.[illegible] (26), RCW 9A.[illegible] 160 (26) became RCW 9A.04.110 (27) in 2001 and finally this definition of "stranger" was re-codified as RCW 9A.[illegible].110 (26), starting in 2011. (The "definition of stranger" exception encompasses everything from attempts "strangers" to share "intimate bodily" effects against the recognition of the "stranger" to have to "personal relationships" of the targeted victim(s). (E.G. alleged strangers to Judge Judy A [illegible] Judge Judy [illegible] Judge Judy [illegible] Specifically [illegible] The Jury [illegible] based on RCW 9A.[illegible].160 b1(h)! "stranger" means to commit the intended [illegible] [illegible] "Have [illegible] based on [illegible] [illegible]

Notes:

* Rel

Cf. State v. [illegible] 167, [illegible]

Wash 2d [illegible]

470, 473, 519 P. 2d [illegible] 695 (2000) (removal of former common law statutory rule) (Specter, 2d); State v. Patterson, 110 Wash App. 790, 796-800, [illegible] 790 (2002) (offender score) (Specter, 2d) see also State v. [illegible] 143 Wash [illegible] 1001, [illegible] 434 (Wash App [illegible] Feb 25, 2002) (Not [illegible])

Beware of a "Hot Threat" recognized in RCW 9A.72.100(b) [illegible] the Code which was recorded and [illegible] by the Legislature in Jersey. [illegible] separately charged [illegible] "Defendant of a Hot Threat" (Instruction No. 10 and Instruction No. [illegible]) and [illegible] "Hot Threat". A judge used against him [illegible] See 11 VRP at 30-30, May 19th, 2006 [illegible] Petitioner, PPA Roger Davidson, and Judge George Wu (Boulder). Here, there were No Jury Instructions in any way proposed or "invited" by Petitioner. (Cf. Carter Jury Instructions No. 8-12, No. 04-1-1410-4 JEA, Feb. 2, 2006; Reply Brief of Petitioner, PRP No. 63060-1-I, August 6, 2009 (discussing "invited error" doctrine). Petitioner did not "invite" this error, and his own proposed Jury Instructions were not adopted by Judge Boulder. See also VRP, No. 04-1-1410-4 JEA, Feb. 2, 2006 (Jury Instructions). However, the Jury Instruction No. 1, used by the Court, NEVER defined exactly WHICH "judge" was the target of Defendant's alleged November 18, 2012, "threats"!

... (1) That on or about November 18, 2010, the defendant [Petitioner] drew a threat to

Beware of a "Hot Threat" recognized in RCW 9A.72.100(b) [illegible] the Code which was recorded and [illegible] by the Legislature in Jersey. [illegible] separately charged [illegible] "Defendant of a Hot Threat" (Instruction No. 10 and Instruction No. [illegible]) and [illegible] "Hot Threat". A judge used against him [illegible] See 11 VRP at 30-30, May 19th, 2006 [illegible] Petitioner, PPA Roger Davidson, and Judge George Wu (Boulder). Here, there were No Jury Instructions in any way proposed or "invited" by Petitioner. (Cf. Carter Jury Instructions No. 8-12, No. 04-1-1410-4 JEA, Feb. 2, 2006; Reply Brief of Petitioner, PRP No. 63060-1-I, August 6, 2009 (discussing "invited error" doctrine). Petitioner did not "invite" this error, and his own proposed Jury Instructions were not adopted by Judge Boulder. See also VRP, No. 04-1-1410-4 JEA, Feb. 2, 2006 (Jury Instructions). However, the Jury Instruction No. 1, used by the Court, NEVER defined exactly WHICH "judge" was the target of Defendant's alleged November 18, 2012, "threats"!

... (1) That on or about November 18, 2010, the defendant [Petitioner] drew a threat to

Jury Instructions, No. 04-1-1410-4 JEA, Feb. 2, 2006, VRP at 100-120 (comparing 2012 U.S. "PATRIOT" Act to previous Act of 2006 case under RCW 9A.72.030 (1)(a)(b)(c)!

(1) Jury Instructions

a Judge [sic] because of a ruling or decision of the Judge in an official proceeding.

Clerk's Jury Instruction No. 7, Case No. 10-1-06065-2 SEA May 13th 2013, (emphasis added)

Neither did this Instruction specifically exclude the "Judge" who was the target of Petitioner's WHICH Prosecutorial "threat," (A. brief TWO other "Judges" were raised by the State at trial as the target of Petitioner's threats by Defendants Judge Douglas J. Worth and Washington Court of Appeals Judge Barbara A. Madsen. See 11 VRP at 110-114 (rebuttal of R. Davidson, DPA.) Hence, it was never clarified to the jury, exactly who Defendant was "threatening" or "threatening" a threat to the "Judge." Jury Instruction No. 7 made it all bar. Literally, the "Judge" anyone. Anyone.

Similar to DPA Davidson's allowing rebuttal error "hearsay" law, Petitioner's attorneys Written were ineffective for failing to object to the Jury Instructions, and for the Jury's reversed by this Court. not be.

Moreover, the ambiguity in the trial

2000 WL 2526682 at *4-5 (Wash. App. (Div 1 (Nov. 28, 2000) (No. 53749-8-I) (Same) See Pep. State v. Merriam, 164 Wn. 2d 872, 878-79, 238 P.3d 366 (2008) (G.W. Johnson, J.) (RCW 9A.46.180))

Trial by Jury Instruction, is not limited to the "Intimidating A Judge" charge. Jury Instruction No. 9, "Have defendant knowingly threatened to kill Judge Julie Spencer" did not clarify whether or not this charge was based on Julie A. Spencer's status as a sitting Superior Court Judge or not (making reference to the "Intimidating A Judge" charge found by the State in Count I.

In 2011, RCW 9A.46.020 was amended to elevate "threats" against designated Criminal Justice Participants," from a "gross misdemeanor" to a "class C felony" based solely upon the status of the recipient of the "threat," as enumerated under RCW 9A.46.020 (2)(b)-(4):

> ... (b) A person who harasses another is guilty of a class C felony if any of the following applies: ... (iii) The person harasses a criminal justice participant who is performing his or her official duties at the time the threat is made; or (iv) The person harasses a criminal justice participant because of an act or omission taken or decision made by the criminal justice participant during the performance of his or her official duties or for

the purposes of (iv)(iii) and (iv) of this section, the term "threat" means a threat that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the criminal justice participant that the person does not have the present ability to carry out the threat ...

RCW 9A.46.020 (2)(b), Laws of 2011 Ch 64 §1, eff. July 22, 2011. Also:

...(1) For purposes of this section, a criminal justice participant includes any (a) federal, state, or local law enforcement agency employee; (b) federal, state, or local prosecuting attorney or deputy prosecuting attorney; (c) staff member of any adult corrections institution or local adult detention facility; (d) staff member of any juvenile corrections institution or local juvenile detention facility; (e) community corrections officer, probation, or parole officer; (f) member of the indeterminate sentence review board; (g) advocate from a crime victim/witness program; or (h) defense attorney ...

From the [illegible] "Laundry List" of alleged prosecutorial "Misconduct" [illegible] as well as from the Trial's Jury Instructions No. 9, it is not clear whether Appellant was convicted in Count II of the Information, for an alleged "threat to kill" "Judge Julie Spector"

as prohibited under RCW 9A.46.020 (1)(b)(ii) — or for making any kind of a "threat" supposedly "directed" against a "criminal justice participant" under RCW 9A.46.020(2)(b)(iii)-(iv) — or because of Petitioner's alleged past "threats," as chronicled during the May 6th - May 13th, 2013 Trial (e.g. 10 VRP 50-100, May 6th, 2013) and as prohibited under RCW 9A.46.020 (2)(b)(i), State v. Osier, 141 Wn.App. 141, 146-6, 33 P.3d 26 (2002) (over [illegible] of [illegible] RCW 10.99.040(4)(c)). In particular, the jury instructions given in the case at bar (No. 12-1-00688-3) stated and not in any way: (i) clearly state the "threat" at the moment "Judge" in Jury Instruction No. 1; (ii) Clearly distinguish whether or not the "threats" "[illegible]" were based upon the fact of "Judge Julie Spector" as a "criminal justice participant" and were in any way distinct from the "[illegible] conduct" "Intimidating A Judge" charged in

Counsel of the Jurors, Information State v. Schultz, 146 Wn.2d [illegible] 319, 46 [illegible] d [illegible] (Jurors, jury [illegible] (preservation of [illegible] evidence [illegible] by (cont). As noted by Appellant in his May 13th, 2013, Summation to the Jury, conveyed in No. 12-1-06688-2 SEA, Government has no business, in a free society, "protecting" one gender from another, or one group of government employees from the rest of society. † But cf. State v. Parmelee, 108 Wash. App. 702, 710, 32 P.3d 1029 (2001) (Agid, J.) (merger doctrine applied), review denied, 146 Wn.2d 1014, 52 P.3d 514, appeal after new sentencing hearing, 121 Wash. App. 707, 90 P.3d 1092, habeas corpus denied, 2006 WL 1325612, affirmed, 251 Fed. Appx. 450, 451-2 (Ninth Circuit (WA) [illegible] Corpus) indifferent denied in [pre-trial] elevation of one year sentence for felony stalking to FOUR years); but cf. In re Parmelee, 116 Wash. App. 1041, 2003 WL 371061 (Wash. App. (Div. 1) (Feb. [illegible] 2003) (No. 56190-2-I); State v. Parmelee, 116 Wash. App. 1036, 2003 WL 4055613 (Wash. App. (Div. 1) (Sep. 15, 2003) (No. 57217-1-I), the purpose of

* - Note: J.E., viz., Blakely v. Washington, 542 U.S. 296, 307, 159 L.Ed.2d 403, 124 S.Ct. 2531 (2004) (Scalia, J.) (jury must find facts sufficient to warrant sentence above standard range) (reversing 111 Wash. App. 851, [illegible] 47 [illegible] 154 [illegible]).

† - See

This opinion, is not to serve the hyperbole "Land of Parmelee," but simply to note that the irregularities in the County Jury Selection Nos. 7-10 prevented Petitioner from receiving a fair trial in the case at bar!

COMMENTS

Tried Crime. For case of reference, the WPIC committee has referred to this crime as "felony harassment." The word "felony" should not be included unless the jury is also being instructed on the gross misdemeanor form of the crime. WPIC 36.01. Juries are routinely instructed that they should not consider potential punishment during their deliberations. WPIC 1.02 (conclusion of the ... instructions) ...

Washington Practice Series, Volume 11, Washington Pattern Jury Instructions - Criminal Part VI. Crimes Against Persons Security - WPIC Chapter 36 Harassment And Domestic Violence, WPIC 36.01.02 Harassment - Felony - Threat to kill - Elements. However, where Petitioner ... ignored in Jury Instruction No. 9, ...

by the Court:

No. 9

To convict the defendant of the crime of federal harassment as charged in Count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about November 18, 2016, the defendant knowingly threatened to kill Judge Julie Spencer immediately or in the future;

(2) That the words or conduct of the defendant placed Judge Julie Spencer in reasonable fear that the threat to kill would be carried out.

Court's Jury Instruction No. 9, Mar. 2018, Doc. 1[illegible] in Instruction No. 1[illegible]

No. 7

To convict the defendant of the crime of intimidation of a judge as charged in Count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about November 18, 2016, the

A Petition Candidate, 3 Objection Newsletter 3 (March 1969) and 1970 In Further Their You Think," 3 Obj. News. 10 (Dec 1969) Complaint of Jon Goldward Prior the defendant. Following the War. Supreme Court are Kilbur, protest Spencer,"

defendant directed a threat to a Judge because of a ruling or decision of the judge in an official proceeding...

Certain Jury Instruction No. 7, Neither are otherwise required to lessen other instructions (see e.g. Jury Instruction No. 10), clearly distinguished between the cited "threat to kill" (State's Exhibit No. 1) attributed to the Defendant and a lesser "threat", "the cause bodily injury in the future" (Jury Instruction No. 10), nor did any one of these Instructions, identify who the undefined "Judge" was, in Instruction No. 7, nor the identity of "another person" in Instruction No. 6, No. 10, Cf. WPIC 36.01.02, 03; State v. Mills, 154 Wn.2d 1, 7, 8 n.5, 109 P.3d 415 (2005) (Ireland, J., Pro Tem) ("cognizable threat" of "threat to kill" distinguished from "threat" of some lesser "threat"). Here, despite the seemingly almost [illegible] of the State's and the lower "Intimidating A Judge" (No. 7) and the only "Harassment" (No. 6) Instructions, recently distributed to the jurors at trial, the lower Neither identified the "Judge" in Instruction No. 7, but simply used the generic term, "threat to a judge," (Instruction No. 7) (emphasis added) and similarly did not distinguish who for the charge in Instruction No. 6, was dependent upon

State's jw state a "prc" wherever first Amendment rights are at stake. Cf. Goldwater v. Ginzburg, 414 F.2d 324, 339 (Second Cir. (NY)) (1969) (libel suit involving ex-President and candidate), cert. denied, Ginzburg v. Goldwater, 396 U.S. 1049, 90 S.Ct. 704, 24 L.Ed.2d 695 (1970).

(future emergency "detention" authority of U.S. President). In sum, citizens are not "above and living in ignorance of criminal threats — "true" or otherwise — and cases such as Hilburn and Bailey must be reversed!

ARGUMENT (if the above were not enough):

I. JURY INSTRUCTION No. 7, IS AN EXAMPLE OF "GOVERNMENT FAILURE" — "A THREAT TO A JUDGE" IS NOT SPECIFIC ENOUGH FOR A PROPER DESCRIPTION OF THE CRIME CHARGED.

As noted before, Jury Instruction No. 7, which purports to describe the "Harassing A Judge" crime charged, under RCW 9A.72.160 (1)-(3), do NOT even specify the name of the alleged "Judge!" Even the (court's) Jury Instructions No. 8-12, used in the February 2, 2006 verdict Judge Spector presided over (King Co. No. 04-1-14102-4 SEA), were more specific than No. 7 in the case at bar. Nor is the identity of the alleged "victim" in Count I, Judge Julie A. Spector, specified

a-
bar, or
charges.
However,
given
the
practical
possibility
for
successfully
prosecuting
a
"true
threat,"
either
civilly or
criminally,
obviously
the
"victim"
must be
aware of
the "threat"
for a
successful
prosecution
to arise.
Cf. State

v. Phillips, 53 Wash. App. 533, 534 (Wash. App. Div. 2 (1989)) (RCW 9A.36.020(1) ("threats" not communicated to Governor), see also State v. Kiehl, 128 Wash. App. 861, 93, 113 P.3d 129 (2005) ("threats" communicated to judge) State v.

specified amounts, etc. in the Court's Jury Instructions. At a minimum, the charge (count 1) must be reversed. State v. Eplett 167 Wash. App. 660, 663-667, 274 P.3d 401 (Wash. App. (Div. 2 (2012)) (Johanson, J.) (ineffectiveness of trial counsel based on defective instruction). Since Petitioner clearly objected to the Court's and the State's proposed instructions (see 10 VRP at 50-75, May 13th, 2013), the "invited error" doctrine does not apply here!

II. RCW 9A.72.160 (2)(b) / RCW 9A.46.020 (2)(b)(iii)-(iv).

Here, the error is the failure by the trial court to follow the re-indexation of the Revised Code of Washington since the 1985 enactment of both statutes. Laws of 1985, ch. 327, § 1, eff. May 1st, 1985. As noted supra, RCW 9A.04.110(25), was replaced and re-indexed sequentially, starting in 2007, c 79, § 3, and extended in 2011, c 166, § 2. RCW 9A.72.160 was NEVER re-written by the Legislature. See State v. Albright, 144 Wn. App. 360, 370, 183 P.3d 1094 (2008) (re-indexation of RCW 9A.[illegible]). Since it is possible to envision that the Legislature wished to limit the application of RCW 9A.72.160 to "threats" as defined in RCW 9A.72.160 (2)(b)

J.M.
1st Wn.2d
478, 479, 480
26 P.3d
720 (2001).
In all of
these
cases,
the
Washington
courts
seem to
be saying
that the
"victim"
(or "the
person
threatened"),
would be
better off
not testifying
about the
possibility
that the
threatened
clerk will
(or which
[illegible])

treatment falls within the first two cases enumerated in State v. Taylor, 97 Wn.2d 724, 728, 649 P.2d 633 (1982) (quoting Jenkins v. Bellingham Mun. Court, 95 Wn.2d 574, 579, 627 P.2d 1311 (1981)).

In the second case (Count II), the Court's Jury Instruction No. 9 did not clearly distinguish between "threats" directed against "Judge Julie A. Spector" in the capacity of a "sitting King County Superior Court Judge" (State's Trial Brief at 8-10, Feb. 11, 2013) and "threats" against "Julie A. Spector" as a private citizen. In effect, by labelling the alleged "victim" in Count II as "Judge Julie A. Spector," Jury Instruction No. 9 obscured the distinction between the State's "Intimidating A Judge" charge (Count I), filed under RCW 9A.72.160(1)(3) (however defined) and the misdemeanor "Felony Harassment" charge (Count III), charged under RCW 9A.46.020(1)(b)(i)-(iv). In particular, the Jury Instruction No. 7, did not clearly distinguish whether or not the jury in No. 12-1-00688-2 SEA had to find Appellant "[illegible] at" making a "threat" against a "Law Enforcement Participant" (RCW 9A.46.020(1)(b)(i)(III)-(IV)), or not. Both charges allowed the 12 jurors to find Petitioner "guilty" of making

"threats ... to cause bodily injury in the future" against "the person threatened or any other person ..." citing to the statutory definition of "threat" in RCW 9A.72.160(2)(b), the same section which was "re-indexed" by the Legislature starting in 2015. However, following the "3-pronged" "Morgan" rule in Albright, supra, 44 Wash. App 566 at 568-573, it is possible to consider that the Legislature, sought to limit the scope of the statute, to "threats ... immediately to use force against anyone [who is] present at the time ..." as delineated under RCW 9A.72.160(2)(a). In terms of the case at bar, there was NO ONE "present at the time" of Petitioner's alleged 4:54 a.m. "hail" call, received by SPD from the pay phone at 4245 University Way, NE, to VRP Haag, May 4th, 2013, testimony of Wa Freeser. Hence, if the "intimidating" statute is properly limited to "threats" as defined in RCW 9A.72.160(2)(a) there is no sufficient evidence, that Petitioner, in any way, made a "threat", against "Judge Julie A. Spector," since neither the Judge, nor anyone else, was "present" at the time that alleged 4:54 a.m. "hail" "threat" was "made or received" (RCW 9.61.250)

whether or not any given "threat" is communicated at all to anyone by the speaker]." In other words, a "threat" is a "crime," because it is, well, a "threat".

† See e.g. State v. Kiera, 712 So. 2d 273 (La. Ct. App. 1st Cir. (1998)) (L.S.A. R.S. 14:40.2).

* See Here, even accepting the State's and Judge Boudreau's definition of "Have threat" as a "serious expression of intention to carry out the threat" (Court's Jury Instruction No 10), since there was NO ONE "present at the time" of Petitioner's alleged "November 10, 2010 Night" part (Here "threat" received by SPD (and not by Judge Spector) at least [illegible] of the Information must be dismissed, State v. Ashley, 11 Wash. App 423, 426 513 P.2d 844 (1974) (RCW 9.61.230). Since there was literally NO ONE "present" at the time of the "threats" were "made" by Petitioner this pending charge must be dismissed. State v. Kilburn, 151 Wn. 2d 36, 43, 85 P.3d 1148 ("threats" written in a form prohibiting "Telephone threats" under RCW 9.61.230(2)(b)). Similarly, since the State's Jacobs and the Court's Jury Instruction No 9, did NOT distinguish whether or not the defendant's "threats" were "made" in the case at bar (Count 17), not based on hierarchical "Status" or "Authority" or overpowering the "Victim" in the case at bar (Count 17), not [illegible] Jerome v. State, 2013 WL 1[illegible] (Wash. App. Div. 1 Feb. 11, 2013), this charge is essentially redundant (comparable to the charges in Count 1, and must be dismissed as well. If Petitioner is not

* State v. Jerome, 2013 WL 1[illegible] (Wash. App. Div. 1 Feb. 11, 2013) (citing State v. [illegible] 2 Wash. App. 2d [illegible] 2013 WL [illegible] 2 SFA, Feb. 11, 2013) (citing State v. [illegible] 2 Wash. App. 2d [illegible] 2013 WL [illegible] 2 SFA, Feb. 11, 2013)

"guilty" of the lesser charge of "Felony Harassment," then he cannot be "guilty" of the greater charge of "Intimidating A Judge," either. 9 VRP 100-105, May 6th, 2013, Opening Statement of Defendant [Pettiford].

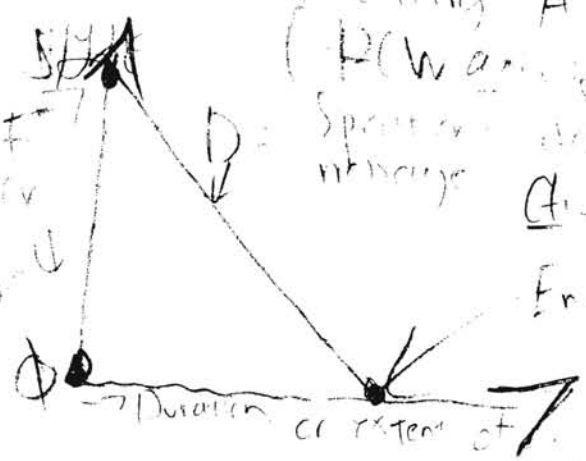
III. IS THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION, ~~ART 1 SEC 5~~ [JIC] INTIMIDATING A FOR WASHINGTON'S TRIAL AND APPELLATE COURTS? (USCS, Constitution Amendments I and XIV, Article 1, §3, §12, RCW 9A.72.160 (1)-(3).

A. Voguerosse

As noted above, Defendant [Pet.] was "convicted" under a section of the State's Revised Code [RCW 9A.04.110 (25)] which was re-indexed or repealed in 2003. He was also "convicted" for "threats" against "Judge Julie A. Spector" - without clearly determining whether this charge (Count II), was functionally dependent upon her status as "Judge Julie Spector," RCW 9A.46.020 (2)(b)(i-iv). Furthermore, RCW 9A.72.160(1) does not in any way determine whether or not the "threat" directed against a "testifying or deciding" of the judge, MUST occur within the three-year statute of limitations, set by the legislature for most felony offenses (RCW 9A.04.080 (1)).

whether the ruling can be arbitrarily remote in time from the cited "threat" [illegible] changed under the stance, can be determined for "threat" ... as defined under LRCW 9A.46.060 [illegible] against as to "stare, [illegible] borrow, etc." "threats" against personal relationships "at the "[illegible]" "suicide threats" etc. all [illegible] against the "re-indexed" RCW 9A.46.060(2)(b). Furthermore, the stance [illegible] RCW 9A.46.110(6) [illegible] the requisite mens rea to be [illegible] the speaker [illegible] the "threat" must "direct" the judge as the [illegible] of the alleged [illegible] before or after the alleged [illegible] "made or received".

Figure 4: "Intimidating a Judge" [illegible] (RCW [illegible] (1)(3))



Cf. State v. Lilybladd, 163 Wn. 2d 1, 8

NOTE: t-Jec Drais v. Kjorvik, 117 Wn.2d 93, 97, 812 P.2d 86 (1991) (specificity of (charge). See also State v. Zillyette, 173 Wn.2d 784, 210 P.3d 589 (2011), 301 P.3d 712 (Aug. 1, 2013) (Fairhurst, J.).

Furthermore, the change in the rule of law in the way specified [illegible] when "ruling or decision" is subject to Judge Spector's [illegible] was issued and reviewed by [illegible] "during" his [illegible] "[illegible]" [illegible] is not limited to "[illegible]" directed against a pending "ruling or decision" of a judge or other decision-maker, and DPA Roger Davidheiser, relying in part on this, is clearly the appearance of [illegible] law (II VRP at 1-55, [illegible], 2013), the law must be varied "[illegible]" the case at bar. Judge Spector (as well as other judges on the appellate and trial levels) made [illegible] of "rulings or decisions" during the [illegible] year-long course of [illegible] JCA [illegible] Helton v. [illegible], 506 [illegible] App. 660, 661 (Feb. [illegible]) (No. 11-3-06660) (Nix [illegible]) ("custody" not [illegible] [illegible] "[illegible]" [illegible] to [illegible] "[illegible]".

Judge Spencer — or even the prosecutor — should have instructed the jury at (Instruction No. 7) that charges must be dismissed if "void for vagueness."

... However, for the instant case, there is no way to establish which crime the jury relied on. Evidence is lacking. Then, the jury was given a choice, not between two alternatives as in [State v. Franco, 96 Wn.2d 816, 625 P.2d 1320] but of the entire catalog of criminal offenses. The instruction was, therefore, constitutionally defective...

State v. Bond, 98 Wn.2d 1, 16, 653 P.2d 1024 (1982), 48 Wash. App. 16. See also State v. Hendricks, 23 Wn. App. 734 P.2d 744 (1987) (William A. Jaquette, Prosecuting Atty.) (vagueness of charge); State v. Savage, 94 Wn.2d 569, 618 P.2d 62 (1980). The same arguments, hitherto directed by Petitioner against Court's Jury Instructions No. 7-10, apply even more to the vagueness of the charge itself, not just to the specific instructions or decision rendered by Judge Spencer during the

course of Petitioner's trial Jan. 30, 2006 – Feb. 3, 2006 in No. CR-1-14163-4 JEA. See (e.g.) Pages, No. 66-101, No. CR-I-14163-1 JEA. Similar to the removal of a centrally planned economy, the 2006 trial involving Judge Spencer involved many thousands of peculiar "rulings or decisions" (as well as other rules provided over by Judge Spencer since 1999). Hayek (collected Economic Planning (1935 ed.) (impossibility of successful economic calculation under "socialism" or other central economic "planning"); Rothbard, Man, Economy, And State, Ch. 10, "Monopoly" (1962 ed.) (same). Exactly WHICH "ruling or decision," were Appellant purported "threats" supposedly "directed" against? Cf. National Federation of Indep. Business v. Sebelius, 132 S. Ct. 2566, 2589 (June 28, 2012) (Scalia, J. dissenting) (inapplicability of Commerce Clause to so-called "insurance mandate"). Was in Petitioner's March 10, 2006 sentencing, the removal of his liberty rights by Judge Spencer (RCW 9.94A.505(5)(a)(i)), the DNA "taking" ordered in the 2006 case (RCW 43.43.754 – Hereinbefore Petitioner was assessed a $100.00 mandatory collection "fee" begun in May 13th, 2018) (see eg

+ See also cases Trigyve D.B. Hall, Economic Calculation In A Socialist State (1949 ed.), for the same argument. Today's statists seek instead to centrally "plan" and monitor all phone messages!

Maryland v. King, 133 S.Ct. 1958, 1981, 1989 (June 3, 2013) (Scalia, J., dissenting) (DNA "storage of arrestees upheld) the reversal of Petitioner's "seizing rights", the decision to admit "prior crimes" evidence (ER 404(b)) consisting of former UW Provost Steven Glenn Dowaliby unsupported allegations he saw Petitioner "standing in the driveway" [sic] in front of 1504 East Interlaken, on June 7, 1988 (see State v. Holmes, supra 141 Wash. App. 1040, 2007 WL 4157303 or *1-*3 (Div. 1 (Nov. 26, 2007)) (Ellington, J.) (ER 404(b)) for what exactly "ruling or decision", attributed by the State to Judge Julie A. Spencer. The most critical "ruling or determination" adverse to the Petitioner, in the trial of November 2006 (not in Supra trial XL!), before the Honorable Judge [illegible] on Monday, January 22, [illegible] the State [illegible] the [illegible] (1)(c)(2)(b) [illegible] applied to Defendant, Jec Doyle [illegible] RCW 9.61.230 RP, Nov. 13 [illegible] at 4, Jan. 23, 2006, (Judge [illegible] defense attorney in State v. Dyer, 74 Wash. App. 337, 2015 WL 2015 (Div. 1 [illegible]) 9.61.230 (all parts), the Petitioner is [illegible] being charged with allegedly violating RCW "harassing" Judge Spencer, based on a

"Nothing or dreaming" attributed to Judge Lee II, VRP 55-114, Nov. 1st, 2013 (Sentencing of Perrone). Nowhere in the Court's ruling, however, is a specific "nothing or dreaming" (or even the name! "Judge Spector") enumerated in Instr. 16 (May 13th, 2013). Here, the charge (Count I) must be dismissed. State v. Farr-Lenzini, 93 Wash. App. 453, 461, 463, 968 P.2d 313 (1999) (specifically at "federal felony" charge).

B. Overbreadth

In settling to say that the First Amendment to the Federal Constitution is "too intimidating [sic]" for Washington State's judiciary, cf. FCC v. Fox Television Stations, supra, 132 S. Ct. 2332 (Ginsburg, J., concurring), Seattle Apollo Media Corp. v. Reno, 12 F.Supp.2d 1081, 1089-90 (three-judge panel) (1998) (47 U.S.C.A. § 223(a)[CDA] [illegible] Southern [illegible] Grants), the State of [illegible] 9A.46.160(1)(3), unlike the comparable State RCW 9A.46.020(1)(b)(3)(b) applied in Count III against Perrone, [illegible] was limited to "[illegible] against judges, including a "reasonable fear" that the [illegible] will be carried out" [illegible] the color

NOTE: * This Court's definition of a "true threat" is supposed to be based upon an "objective, reasonable person" standard (Kilburn, 151 Wn.2d 36 at 41-45 (Dec. 4) (Madsen, J.)). However, to the [illegible] bar, the State's crime charge

parameters applied in RCW 9A.46.020(1)(b)
(2)(b)(i)-(iv), to determine a "true
threat". See, e.g., State v. Allen, 176 Wn.2d
611 at 618-620 (¶¶ 11 (C.W. Johnson, J.)) (det
of "true threat" under Washington State law).
Even if one accepts (as PETITIONER
DOES NOT!) that the Universe of so called
"true threats" is coterminous with numbers
(similar to an illegal Hate Crime Act, 18
USCA [illegible] Act) was enacted in
1968) which government can use
SHOULD legally prohibit, RCW 9A.[illegible]
160(1)-(3), only ONE of the constitutional
limitations upon the "true threat" concept recognized
in pertinent RCW 9A.46.020. See State v. J.M.,
supra, at 479-80 (Sanders, J.). Instead, the law
punishes speech, such as Petitioner, solely for
their alleged future "dangerousness" to judges.
This lies beyond the proper bounds of a
constitutionally limited government. See, e.g., United
States v. Stevens, 559 U.S. 460, 130 S.Ct. 1577, 1587-92,
176 L.Ed.2d 435 (2010) (Roberts, C.J.) ("protected"
speech under First Amendment, cf. "criminal conduct"
videos [videos depicting illegal murder of animals]).
To tolerate punishing speech, such as
this Petitioner, for their alleged

Wn. board solely upon the "true threat" exception

CONE of the 7 four personal "liberties":

Judge Julie A. Spector. See, e.g., 10 VRP at 456.

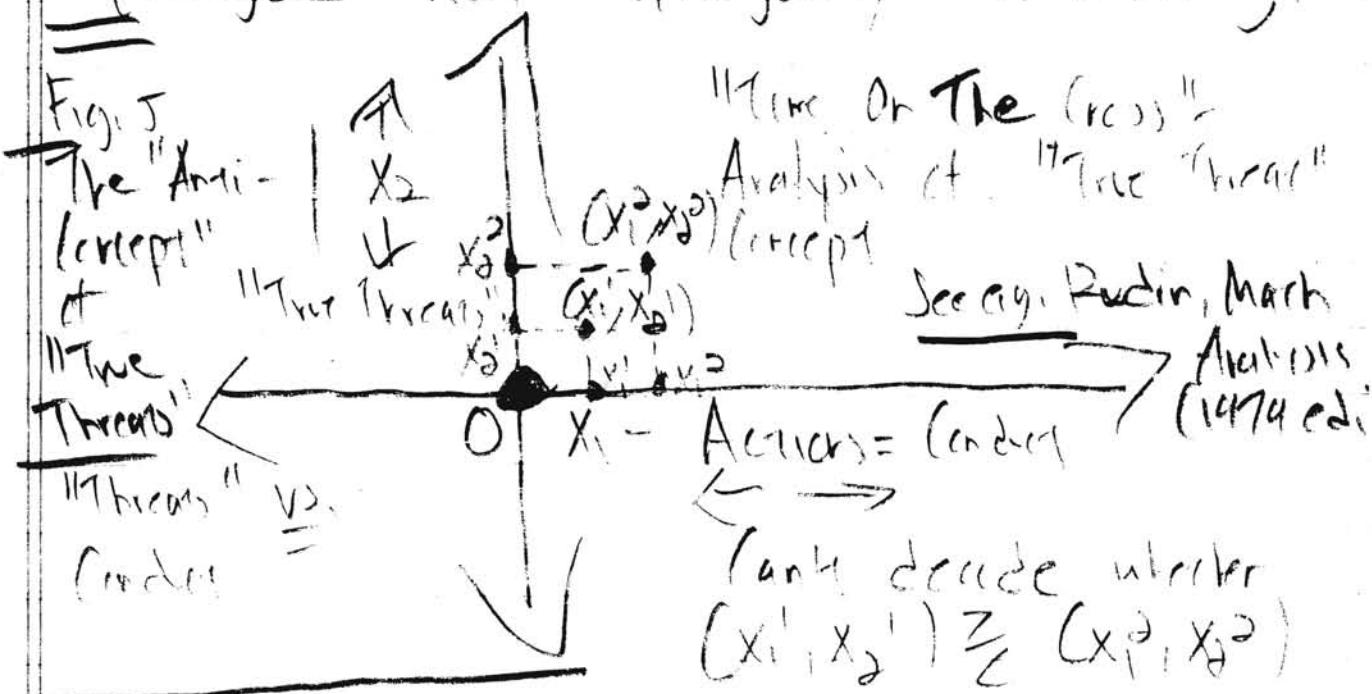
Thus, subjective, "reasonable" board standard.

† See e.g. State v. Barker, 117 Wn. 2d 701, 709-710, 818 P. 2d 1088 (1991) (Utter, J.) (future "dangerousness" NOT proper grounds of sentencing under SRA of 1981).

† 57.255.

"Dangerousness" to Judges (or to anyone else) clearly exceeds the limits of a valid, constitutionally limited government. See e.g. Ayn Rand, "The Nature of Government" in Capitalism: The Unknown Ideal. Clearly the charges levied against this Defendant (See Ins. No. 7) did NOT even specify which "Judge" he was charged with allegedly "threatening."

Fig. 5 The "Anti-Concept" of "True Threats"



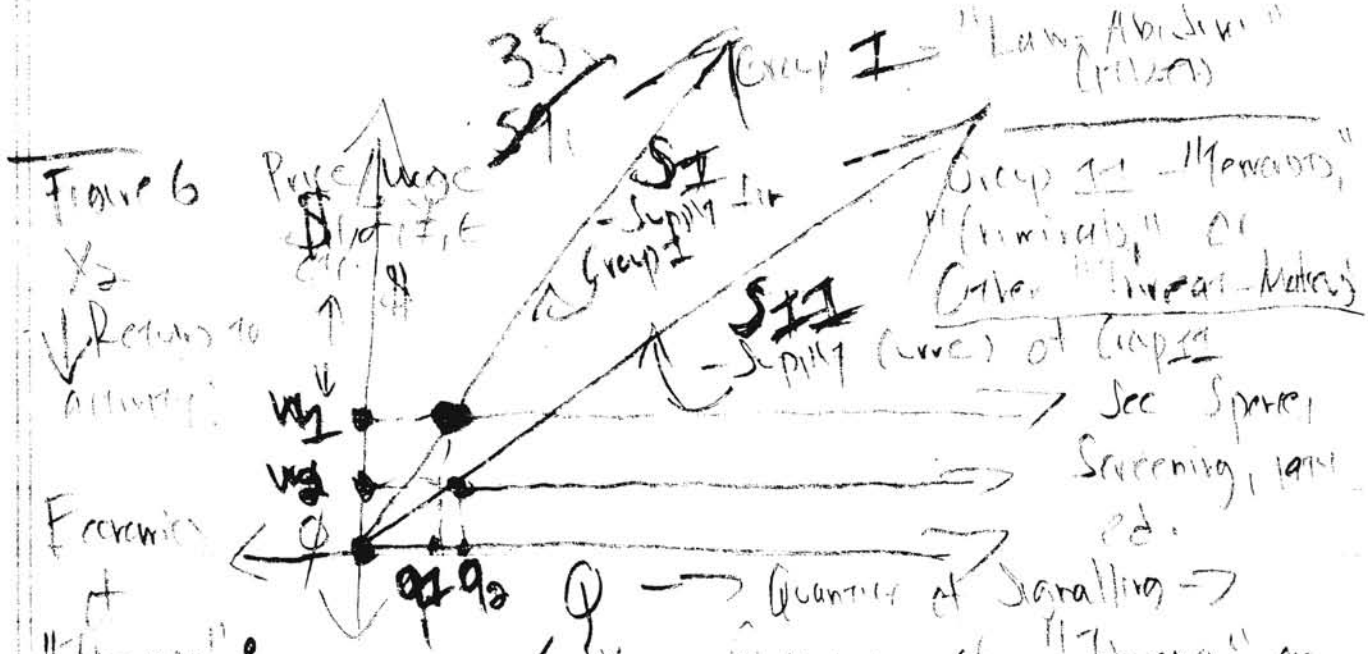
"True On The Cross": Analysis of "True Threat" Concept

See e.g. Rudin, March Analysis (1974 ed.)

See (Cont'd) Jury Instr. No. 7, Issue on the proposed "jury instructions" for RCW 9A.10.160(1)(3), is the issue "dangerousness" of the defendant (See State v. D.M., at 119-180), and of all persons charged and convicted under the statute. The scope of the statute clearly exceeds the maximal scope of a proper government in the area of a criminal penal statute. See e.g. R.A.V.

v. [illegible] [illegible] 120 L.Ed.2d 367 (1992) ("[illegible] 56, 110 S. Ct. [illegible]) (A "bare minimum" endorsement) (Scalia, J.), (furthermore, it everywhere chilled the law [RCW 9A.72.160 [illegible] "dangerousness"] would be totally undermined! If governments justification [future Since RCW 9A.72.160, punishes every citizen based simply on the suspected likelihood, $\beta \geq 0$, in $E(X) = (p \cdot x_1) + (\beta \cdot x_2)$, ct each individual to commit a future violent crime, x_1, RCW 9A.72.160 is facially overbroad, U.S. v. Alvarez, 132 S.Ct. 2537, 2549, 163 L.Ed.2d 574 (2012) (Kennedy, J.) ("Justice [sic] Valor Act" of 2006 invalidated). Furthermore, it society wanted to distinguish exactly who MIGHT commit a future violent crime, it would be far better to allow the unregulated utterance of "threat" through — Since the existence of the law might well exert a "chilling effect" on the intention to commit a future violent act: [illegible] might determine signal their

Figure 5 "Screening" or "Signalling" of "True Threats" — An Analysis (See A.M. Sperber, Theory et al. (1974 edition).) ⇒



Suppressing the "threats" in effect terribly suppresses the "signals" society needs in order to determine who might commit a future "crime" of violence. See A. Michael Spence, Signalling: A Theory of Labor Market Screening (1974 ed.) and e.g. Layard and Walters, Microeconomic Theory (1978 ed.) (theory of higher education as labor market "signalling" or "screening"). Sure "criminals" have a lower "cost" curve, SII, to make convincing "threats" vis-a-vis those in category I ("SI"), allowing unregulated "true threats" can serve as important social transfers in terms of sorting who is likely to commit a future violent act. Gary S. Becker, Economic Theory (1968) (analysis of crime and punishment); Inc Clerks v. Hemp, 481 U.S. 204, 208-209 S.Ct. 1756, 1764-65, 95 L.Ed.2d 262

statistical evidence in regard case. Finally, in the cases at bar, Petitioners alleged "threats" were deemed, by the U.S. Secret Service, NOT to be a "true threat" as regards the President of the United States or other federally protected officials, 18 USCS § 871-879; United States v. Richards, supra, 271 Fed. Appx. 174, 176-178 (Third Circuit (PA) (2008) (Hillary Rodham Clinton). See Vols. 9, 10, 11 of VRP passim (opening and closing statements of Petitioner re "threats" to Pres. Obama). Cf. State v. Helm, supra, 2007 Westlaw at 4157303, *1-*3. Following this criteria, if Petitioner's "true threat" to eg. President Obama, is NOT a "threat" to Judge Spencer, or to any other lesser public officials, as well as State v. Locke [sic], 175 Wn. App. 779, 307 P.3d 771, 784-786 (Governor Christine Gregoire).

2. RCW 9A.46.020(1)(b)(i)(iv). In the case at bar, Petitioner was criminally charged and convicted for the alleged Nov. 18, 2012, 4:54 a.m. "911" telephone "threat" which was NEVER communicated (at least by the Petitioner

"Woo" a Supreme Court Judge-ship!

Further there were alleged "threats" made over a "911" Emergency Phone Line. It is always impossible to distinguish "Prove threat" delivered in this way from the reporting of a crime. See RCW 9.61.160(1)(a)(c)!

to Judge Julie A. Spector (or any other public officials) directly, 11 VRP at 35-114.

A. Vagueness.

RCW 9A.46.020(1)(b)(a)(b)(i)-(iv), is unconstitutionally vague, "as applied" in the case at bar, since, inter alia, it does NOT in any way specify exactly who "the person threatened," as well as "the person placed in reasonable fear..." must be. In a case just as the case at bar, where the alleged "threat" is NOT communicated directly by the speaker to the alleged "victim," (10 VRP at 1-30, May 9th, 2013), who must be placed in the "reasonable fear" that any alleged "threat..." will be carried out"? Judge Spector? Seattle SPD Officer Dorsey Wesky Fisher? The "911" dispatcher (not allowed by Judge Bowden to be cross-examined at trial!), who responded to the "911" call? The other three alleged targets of the "threats", on Nov. 18, 2012 (Judge Douglas J. Smith, King Co. Atty. Dan Satterberg, Sheriff Steve Strachan, Prosecutor Sarah Nelson)? The targets of the Nov. 20, 2012 call? (Pres. Barack Obama? U.S. Secret Service Agent Grinsley?) Here, we have a man (Petitioner) convicted

of an alleged "true threat" against Judge Julie A. Spencer, but rather, a mere prosecutorial or an "acquittal" of a parallel "True threat" against the Chief Executive of the Land (not even the Commander of the Jackanapes!!) R.A.V. v. City of St. Paul, 505 U.S. 377, 388 (1992), Nor were any one of the other three or four alleged "victims" of the Nov. 18, 2012 "911" calls placed in "fear" by Petitioner's attributed "threats". These inconsistent results, clearly show that RCW 9A.46.020, is too vague "as applied" against the Defendant. Cf. State v. Smith, 166 Wn. App. 111, 269 P.3d 372 (2012) (Durham, C.J.) (rejecting vagueness challenge to RCW 9A.46.020, challenging concept of "lawful authority" in statute); cf. Smith, idem. at 15-23 (Pranzer, C.J., Van Deren, J., dissenting).

B. Overbreadth.

RCW 9A.46.020, is also too broad as applied against the Defendant. In particular, the phrase "knowingly threatened", contained in the

Three a little or no hierarchy of values in the matter of threats based upon [illegible] involving juveniles under the age of 16) in the WA (or literature). All we get is a miasma of material, with no analysis equating juveniles with adults.

NOTE * This law was NOT available to Petr. at the time of his Feb. 2006 trial (No. CR-1 1160-4 JFA) under RCW 9.67.230 (1)(e)(2)(b) and, hence, the defense was NOT available to the Petr. at the time, rather was Alter!!

statute, CANNOT be applied as written

in a case such as the one at bar, where the alleged "threat" was NEVER communicated by the speaker, directly to the alleged "victim(s)!" State v. Allen, 176 Wn.2d 611, 614-620 (2013) ("face-to-face "threats"). "How can one knowingly threaten, if one does not know that what one says is [frightening] to another [person]!" Allen, Id. at note 11 (quoting State v. Schaler, 236 P.3d 858, 863-867, n.6 [and 169 Wn.2d 274, 286] (2010)). In the case at bar, Petitioner had no way of estimating or gauging the reaction of Judge Spector (or other alleged recipients of the "threat") to his "words or conduct" — since the participants were separated by the medium of the telephone. Cf. RCW 9A.72.160 (2)(a), "anyone present at the time"; see also cases cit. of State v. Hutt, 111 Wn.2d 923, 925-927 (1989) (Dolliver, J.) ("medium of telephone" is barely separates "face-to-face "threats"). "How can one knowingly threaten," someone whose reaction was NOT visible to the Petitioner, because of the nature of a "[illegible]". In sum, State v. J.M., supra at 480 (2011) and other cases which held that a "true threat" (are taken under the

† 169 Wn.2d 274, 286, 236 P.3d 858, 864 (July 29, 2010)

Stephens, J. (concurring)

"Have threats" under RCW 9A.46.020(1)(b)(a)(b)(ii).

See also King County RALJ Appeal No. [illegible]

64.40

aggrieved RCW 9A.46.020 (1)(b)(a)(b)(ii), NEED NOT be communicated by the speaker to the alleged victim; are not actionable, since Justice Deborah M. Stephens' decision, on July 29, 2010, in Schaler v. holding that the speaker cannot "knowingly threaten" the alleged "victim" of "felony harassment" under RCW 9A.46.020 "without knowing that mental [frightening]..." to the alleged "victim." In sum, J.M. (basing on adult) those purported "First Amendment rights" on delineated (for juveniles) and other similar cases must be repudiated by this Court. FCC v. Fox Television, supra, 132 S.Ct. 2321 (2012) (Ginsburg, J.) (FCC regulations); Helms v. City of Shoreline, WA, Petitioner, Certiorari No. [illegible] (Ginsburg, J.) (Statutory analysis challenged).

IV. PETITIONER, DID NOT HAVE THE STATUTORY "INTENT" TO DIRECT

9A.46.040 (1)(b)(i)

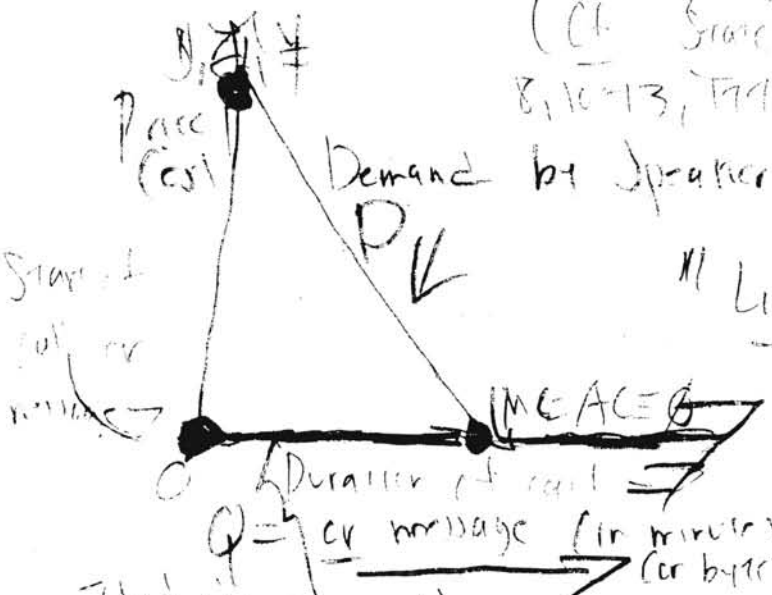
A THREAT AGAINST A "RULING OR DECISION", OF A JUDGE [SIC]" AT THE START OF THE CITED 4:34 a.m. Nov. 18, 2012, "911" CALL.

The "911" call cited by the State (9 VRP 1-155, 10 VRP 1-199), started with reference to eg. King County Attorney Daniel T. Satterberg and Sheriff (King County) Urquhart or "District Court Judge Douglas J. Smith" — and only referred to "Judge Julie [A.]

Specter" during a five second interval of the call (00:00:16 - 00:00:21, Nov. 18, 2012). Clearly, Petitioner did NOT initiate this "911" call with the intent to "direct" any "threat ... against a ruling or decision" made by Judge Spector. State v. Lilybland, loc. cit. 163 Wn.2d 148, 153, 177 P.3d 686 (Feb. 4, 2008) (Quasi, J.) (statutory "intent" under RCW 9.61.230). The Supreme Court should grant review of this [illegible] determine exactly what mens rea is required in order to convict someone of the offense of

"Intimidating A Judge" under the aegis of RCW 9.61.230.

Figure 4 "The Lilyblad" Issue (reprinted from Reply Brief of Pet., No. 63060-1-I, August 6, 2009); (Cf. State v. Lilyblad, 163 Wn.2d 19, 8, 16-13, 177 P.3d 686 (2008) (Gonzalez, J.))



"Lilyblad Revisited" (Cf. City of Redmond v. Burkhart, 99 Wn. App. 21, 25-27, 991 P.2d 717 (2000))

This issue applies equally to the set of statutory prohibitions against "Intimidating A Judge" [RCW 9.61.230, Wrongful Robbing of Jurors, Robbing Jurors]. Cf. State v. Thomas, 169 Wn.2d 366, 395, 238 P.3d 495 (2010) (Stephens, J.). ("Intimidating A Witness" does not merge with "Felony Telephone Harassment"). Must the speaker, intent to call a message ("directed at a bystander"), with the statutory "intent to intimidate" the listener or other recipient of the message? Answer, idem 169 Wn.2d 586 at 581 n. 6 ("intent to harass"); WPIC 36.11, Telephone Harassment. Clearly, we cannot be "guilty of the crime of 'intimidating a judge,' unless the law's statutory 'intent to intimidate...'" a la RCW 9.61.230.

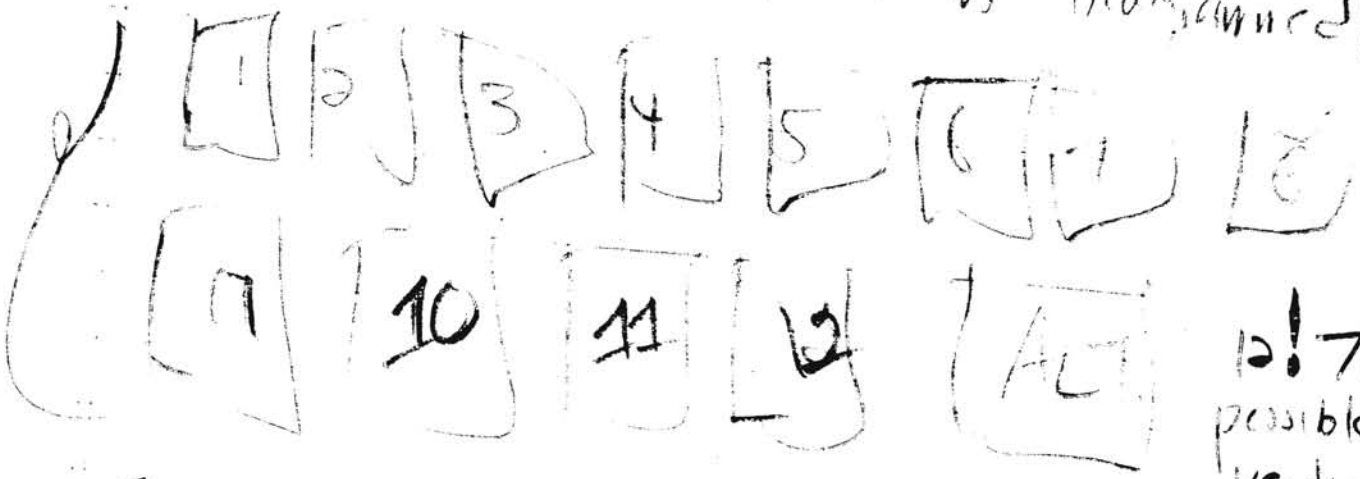
State v. Burlew, 167 Wash. App. 359, 363-366, 272 P.3d 867 (2012) ("intent to intimidate" distinguished from "intent to alarm" under RCW 9.61.160(1)(a)-(b)); Virginia v. Black, 538 U.S. 343, 358, 123 S.Ct. 1536, 155 L.Ed.2d 535 (2003) (O'Connor, J.) (Virginia "Anti-Cross Burning 'To Intimidate' law upheld as prohibiting a method). In particular, one cannot be "convicted," as in the case at bar, of "intimidating a Judge," without some assessment of the mens rea or "intent to intimidate" on the part of the Defendant. State v. Leach, 113 Wn.2d 679, 681, 782 P.2d 552 (1989) (sufficiency of jury instructions on mens rea).

V. PETITIONER WAS DEPRIVED OF HIS SIXTH AMENDMENT RIGHT TO A UNANIMOUS OR AT LEAST PLURALITY VERDICT BY THE LACK OF SPECIFICITY OF THE TWO (TWO OF) AGAINST HIM.

In the case at bar, Petitioner has been convicted of the crime of "Intimidating a Judge," based upon any one of thousands of possible "rulings or decisions" allegedly made by Judge Spector (or by "a Judge", Instr. No. 7) during the course of the Jan. 30 - February 2013 trial. Judge Spector presided over 16 VRP at 1-100 (May 6th, 2013). No all of those

"alternative means" to commit the two crimes alleged, were supported by "substantial evidence." State vs Petrich, 101 Wn. 2d 566, 569, 683 P.2d 173 (1984) ("alternative means" doctrine explicated); State vs Kitchen, 110 Wn.2d 403, 400, 755 P.2d 775, 778 (1988) ("substantial evidence" required to support "alternative means" jury verdicts). Here, each one of the 12 jurors, could have selected 0 different "alternative means" to commit each one of the two crimes alleged:

Figure 8 "Alternative Means" Diagrammed:



$12! \approx 2^{10}$ possible verdicts.

In each one of the two crimes alleged, Juror 1 could have selected 0 different "alternative means." Juror 2 could were specifically in both of the two charges. The problem is insoluble for the State. In the case at bar, the

The State never specified exactly which "threat or stalking" (or even

which "Judge" was the target of Petitioner's alleged "threats". Nor did the State specify exactly WHICH Nov. 18, 2012 - Dec. 5, 2012, "call or message" was the locus of either one of the two (charged) State v.

Helms, 141 Wn. App. 1010, 2007 WL 417303 at *1-*5 (Ellington, J.) ("continuing course of conduct" term under RCW 9.61.230), State v. Zillyette, supra, 307 P.3d 712 (August 1, 2013) (State "homicide by controlled substance" conviction reversed because of lack of specificity). Was Petitioner "convicted" for other and more, because of the Nov. 18, 2012 "call", the Dec. 4, 2012 "e-mail", the June 12, 2011 calls to Judge Spencer's downtown courtroom, or his general demurrer going back to at least Jan. 26, 2006? The charges are NOT specific enough to answer.

VI. CONFRONTATION CLAUSE (Amd. VI, USCA):

1. November 18, 2012 "all" calls Not to provoke a "confrontation" [sic]

over this issue, but the narrative of the "911" calls introduced by the State (Exhibit 172) was clearly "Testimonial," and, at a MINIMUM, the "911" SPD Dispatchers should have appeared for cross-examination at trial. Crawford v. Washington, 541 U.S. 36, 44, 68, 124 S.Ct. 135, 158 L.Ed.2d 177 (2004) (Scalia, J.) (interpreting "Confrontation Clause"); Davis v. Washington, 547 U.S. 813, 126 S.Ct. 2266, 2273-74, 165 L.Ed.2d 224 (2006) (Thomas, J.) (same). However, this request was explicitly DENIED by Judge Bowden. See X VRP at 50-65, May 9th, 2013. The "911" tapes were not properly introduced nor authenticated (ER 803(a)(3)), nor should Judge Spencer have been allowed to testify concerning the alleged mental "illness" of Petitioner (ER 701-2).

2. The November 13, 2004 SPD Tapes

Similar considerations apply to the Nov. 13, 2004 calls, recorded by ex-UW President William P. Gerberding and former Vice-President Steven G. Olswang. See Clerk's Papers, No. 04-1-14102-4 SEA (January 2, 2006). Again, the two UW Administrators, as well as SPD (Ret.) Detective Duane R. Jackson, should have appeared to testify

to the authenticity (ER 1001) of these tapes, allegedly recorded from the home answering machines of the two UW officials. State v. Holmes, 141 Wn. App. 1010, 2007 WL at *1-*8 (Nov. 26, 2007) (Ellington, J.).

VII. DOUBLE JEOPARDY.

Clearly, both charged offenses were "the same in fact and law" (Blockburger v. U.S., 284 U.S. 299, 304, 52 S.Ct. 180, 76 L.Ed. 306 (1932) (" continuing course of conduct" under Harrison "Anti-Narcotics Act" of 1912); State v. Meneses, 169 Wn.2d 566, 595, 238 P.3d 495 (2010), under the famous Federal Blockburger test for "double jeopardy" where this protection was based on one Nov. 18, 2012 "911" call, attributed to the Petitioner. This is why the trial judge, correctly ruled that both offenses, comprised the "same" criminal conduct, 11 VRP at 100-114, May 13th, 2013. The State did NOT object to this "ruling or decision"! One of the two charged Counts, should be dismissed.

VIII. OTHER ISSUES.

See e.g. State v. Stilltner, 80 Wn.2d 47, 53, 491 P.2d 1043 (1971) (CrR 5.2(b)); In re Detention of Lewis, 134 Wash. App. 896, 143 P.3d 833 (2006) (pre-trial "poll" of potential jurors); Starvish v. Spellman, 654 F.2d 1349, 1354 (Ninth Circuit (WA) (1981) (transfer to Clallam County Larch CCC with no Law Library); Sheppard v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d

+ Pet. was also "convicted" in No. 12-1-06088-2 SEA, for one June 12, 2011 call to Judge Spector's court room, for which he had already been charged by the King of Strawline.

† See e.g. State v. Swindell, 93 Wn.2d 192, 607 P.2d 652 (1980), and State v. Gore, 101 Wn.2d 481, 681 P.2d 227, 39 A.L.R.4th 975 (1984) (validity of prior convictions).

600 (1966) ("In Sam[illegible] ... under RCW 9.94A.411(2) ... does NOT ... either ONE of ... offenses, Petitioner was "convicted" of ... 9A.46.160(1-3) or RCW 9A.46.020(1)(b)(2)(b)(i)-(iv), or a "Crime Against Persons," allowing "[illegible] ... in terms of RCW 9.94A.715. Petitioner's Review of Court of Appeals, 161 Wn.2d 160, 166, 167-169, 163 P.3d 786 (2007) (Sanders, J.) ("Crimes Against Persons" list exhaustive, not merely "illustrative"). This part of the Judgment and Sentence must be rescinded by the appellate court. The King County Jail staff (KCCF) also wrongly and forcibly prevent Petitioner from filing a timely Notice of Appeal on [illegible] 2013. Many of the [illegible] finally transferred to WSP [illegible]. See Riggins v. Nevada, 504 U.S. 127, 134, 112 S.Ct. 1810, 118 L.Ed.2d 479 (1992). Finally, Petitioner's "Offender Score" was arbitrarily raised from "10" to "11" before the sentencing of the two "Current Offenses" (following the same criminal conduct), see VRP at [illegible] 11 (Dec. 13th), partially by the inclusion of a Shoplifting non-felony Gross Misdemeanor Violation (SMC 10.41.[illegible]) which preceded Petitioner's four prior "Offenses" from Washington. This Shoplifting Gross Misdemeanor criminalizing

Note 1 - Or the alleged media adoration for such groups, such as eg. Hillary Rodham Clinton. Cf. U.S. v. Richards, supra, 271 Fed. Appx. 174, 176-8 (Third Circuit (PA) (2008) 16 U.S.C. § 5141)

"gay" males, and lesbians, presumes the "right" to enslave the rest of American society — this time, the millions of "blue collar" and other non-elite men who are imprisoned under these state-level "anti-harassment," "anti-stalking," and "no-contact" order laws. Cf. U.S.A. Today at A1-A6, November 15, 2013, "Charges Withdrawn In Florida Teen Stalking Case." The plain truth is, that society cannot base its decision-making, on the rare cases when a verbal "threat" actually is "carried out" by the speaker (cf. Watson v. Mitchell, 508 U.S. 476, 484, 124 L.Ed.2d 436, 113 S.Ct. 2194 (1993) (Rehnquist, C.J.) (alleged racial assault based on award winning film "Mississippi Burning")) — and still remain a FREE society - any more than this society could survive or maintain any constitutional rights to freedom of expression, if everyone acted on the assumption that there was, in fact, a "fire in [every] crowded theatre" (or in every "cluttered" University Dormitory apartment unit, see Per Kennedy Properties LLC v. Holmes [Petitioner], Court of Appeals No. 6985-0-1, pending), and that we should immediately ban films such as "Mississippi Burning," in the name of laws against "increitement," or alleged

NOTE:

+ (1)

e.g. RCW 9.69.100 (1)(a), "A person who utters ... preparations for the commission of [a violent] offense shall ... guilty of a law enforcement ..." w. 9.69. (1)(a)(i).

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"hateful" racial epithets. State v. Talley, 122 Wn.2d. 192, 208, 858 P.2d 217 (1993) (Madsen, J.) (citing RCW 9A.46.020 explicitly) ("malicious harassment"). (The Talley court did not define explicitly). ("malicious harassment" [sic]!). "Now can start a fire on a '911' line!" II VRP (5/13/ 82-96 (Summation of Petitioner). Either Petitioner's cited "911" were "true threats," spoken in which case he is "guilty," only of reporting a pre-existing + "crime" -- or else, these spoken "words or conduct" attributed to this Petitioner, were "protected" speech. There is a "fire" in a "crowded" country — "Anti-Harassment!!!" laws.

Joel C. Wolf 366312 Pro Se

Joel C. Wolf Pro Se January 28, 2014

366312

CERTIFICATE OF SERVICE

I, Joel Christopher Wolf, Pro Se, hereby do certify and declare that I served Ms. Amy Meeking, Felony Appellate Unit, King County Prosecuting Attorney's Office (KCPAO), W-554 King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, with the original of the enclosed Statement of Additional Grounds (Pro Se Brief) via U.S. Postal Service, postage prepaid, this 28th day of Jan. 2014.

Joel C. Wolf 366312

Appellant, Pro Se

[Note: Advised to report in federal murder case]

256, 1256, 2562-63, 162 L.Ed.2d 510 (2011) (Ginsburg, J.) (right to counsel on state-level discretionary review), (2) the public importance of the Court's "liberalized" [illegible] The Honorable Judge John A. Speaker and the state of Illinois, Petitioner as a "limited public forum" appellate court, the validity of the state's "public forum" in debate was "convicted" of violating Petitioner Hutt III Wn.2d 423, 425-427, 767 P.2d 572 (1989) (Dellinger, J.) ("public forum" [illegible]) also e.g. United States v. Dellinger, 472 F.2d 340, 366 (Seventh Circuit (IL) (1972)) ("forum" for political debate) (Federal court of [illegible]) (cert. denied, 410 U.S. 970, 35 L.Ed.2d [illegible]), (3) The failure of the trial court below to make findings [illegible] State would [illegible] whether or not the [illegible] WA DOC "community custody" [illegible] 161 Wn.2d 166, 166.1, 163 P.3d 782 (2007) (Sanders, J.) (RCW 9.94A.[illegible]) (4) The validity of [illegible] 144 Wn.App. 566, 570 (Quinn-Brintnall, J.) (RCW 9.94A.[illegible]) State v. Albright, 163 P.3d [illegible] (2007) (Jan 2010)

CERTIFICATE OF SERVICE.

I, Joel Christopher Helms, Pro Se, hereby certify and declare that I served: Mr Amy Meeklung, State of Washington, King County W-554, Fifth Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington, 98104, with one copy of [Petitioner's] Motion to File Overlength Brief, VIA First-Class Mail, this day the 28TH day of January, 2014.

Joel Pro Se
36630

Joel Pro Se
36630

COURT OF APPEALS DIV I
STATE OF WASHINGTON

2014 JAN 31 PM 1:[illegible]

70398-6-I

No. 70398-6-I / King County No. 12-1-06086-2 SEA
IN THE COURT OF APPEALS OF
THE STATE OF WASHINGTON
DIVISION ONE

The State of Washington, Plaintiff/Respondent,
v.
Joel Christopher Helms,
WA DOC 366312
"New" Unit, Cell No. B-08 Upper
Airway Heights Correctional Center
(AHCC)
PO Box 2049
Airway Heights, WA
99001-2049, Defendant/Appellant/Petitioner

MOTION FOR CHANGE OF APPELLATE
VENUE (CR 3.2(b)),
Joel C. Helms 366312
PROOF WITH BY: Joel Christopher Helms, WA DOC
366312, "New" Unit, Cell No. B-08 Upper, Airway
Heights Correctional Center, (AHCC), PO Box 2049
Airway Heights, WA, 99001-2049, January 3rd, 2014

IDENTITY OF MOVANT

Mr. Joel Christopher Holmes, hereby appears to demand that a new appellate court hear his direct appeal (No. 70398-6-I) of the King County Superior Court case No. 12-1-06086-2 SEA — either another Division of the Washington State Court of Appeals, or an intermediate state level appellate court in another state, such as California.

PROCEEDINGS BELOW

Petitioner was "convicted" of one count of "Intimidating a Judge" (RCW 9A.72.160 (3)(1)-(3)) (Count 1), and one count of "Felony Harassment" (RCW 9A.46.020(3)(b)(i)(A)-(iii)) (Count 2), in King County Superior Court, on Monday, May 13th, 2013. After being prevented from filing a timely Notice of Appeal by KCCF staff, on the afternoon of May 13, 2013 — who forcibly transported Petitioner to the 7th floor "Mental Health" lockup at the downtown jail, and deprived Petitioner of access to legal materials, counsel, and court — Petitioner eventually filed a timely Notice of Appeal (RAP 5.1-5.3), on June 4, 2013, after being transported to Western State Hospital, for being of dangerous insanity, on May 17th, 2013. Petitioner had already filed at least

Two state level actions, designed to secure his freedom from the "restraint" imposed by the State of Washington, King County Prosecuting Attorney's Office (KCPAO), in No. 12-1-00688-2 SEA, Washington Supreme Court No. 86214-9 a Personal Restraint Petition filed on December 31, 2012 and Washington Court of Appeals No. 69953-9-I a Motion for Discretionary Review of the trial court's January 17, 2013 Ruling, denying a change of venue (CR 5(a)(b)), see Ruling, Judge James Rogers, No. 12-1-00688-2 SEA, January 17, 2013.

On June 12, 2013, Court of Appeals Commissioner Mary Neel, issued a Ruling, dismissing Petitioner's Personal Restraint Petition No. 69953-9-I, without properly "serving" Petitioner with a copy of this Ruling, RAP 18.5(a), Service and Mailing of Papers. Petitioner was also never served by this Court, with a Notice of Rights as the Grounds of Additional Grounds (RAP 10.10(a)-(d)), after the Opening Brief of Appellant has submitted to the Court by Petitioner's court-appointed counsel, Sarah McNeal, Washington Appellate Project, 1511 3rd Avenue, Suite 701, Seattle, WA, 98101, on December 4, 2013. The motion for change of venue venue [illegible]

ISSUES FOR REVIEW:

I. CAN PETITIONER HAVE A FAIR AND IMPARTIAL APPEAL (Arredondo v. State, 155 Cal.App.3d) HEARD BY THIS COURT?

II. SHOULD ANOTHER STATE LEVEL APPELLATE COURT - IN THIS STATE OR IN ANOTHER STATE - HEAR PETITIONER'S PENDING APPEAL?

STATEMENT OF CASE

Petitioner plaintiff, <u>Larry</u> seeks review of his appeal (No. 763918-6-I), based on the record of loss or misplaced documents, failure to send Petitioner copy of the trial transcripts, etc. The interests of justice require appointment of another state level intermediate appellate court from this state or ANOTHER State.

ARGUMENT:

I. PETITIONER <u>CANNOT</u> RECEIVE A FAIR APPEAL FROM THIS APPELLATE COURT (DIVISION ONE).

Petitioner is charged, inter alia, with [illegible] Larry — Judge for Judge, Judge and Approver. Many of [illegible]

not [illegible] the appellate judges in [illegible] reason of personal friendship or acquaintanceship of the alleged victim. It is addressed, every registered [illegible] forty voters, including judges, [illegible] voted at least once for Judge John A. Spencer. Under [illegible] circumstances, with the Mayor's [illegible] Mr. [illegible] Nat [illegible] SEA, it would be almost impossible for [illegible] to obtain a fair hearing of this appeal. Microsoft Corp. v. [illegible], 530 U.S. 130, 1303, [illegible] F.3d 1018, [illegible] 25, 26-27 (2000) (Statement of Rehnquist, C.J.) (declining recusal) (see below at [illegible] F. Supp. 2d 59 (D.D.C. 1998) (1999)). Nor has the Court's record of failing to mail or to otherwise serve this appellant, [illegible] decisions in [illegible] prior [illegible] appeals [illegible] confidence in the fairness of this appeal. RAP 10.10 (c); [illegible] Griffith v. Illinois, 351 U.S. [illegible] 76 S. Ct. 565, [illegible] L.Ed. 891 (1956) (right to [illegible] accurate record). transcript — i.e.

III. CHANGE OF APPELLATE VENUE

This case is ripe to be transferred to a different appellate venue.

predecessor courts. Division of the Court is an intermediate-level appellate court in a state state with an appellate [illegible] similar to the state [illegible] California (following Washington State law) [illegible] Federal Circuit Court. Stepped v. Maxwell, 384 U.S. 333, 352, 86 S.Ct. 1507, 16 L.Ed.2d 600 (1966) (Pro "Sam" Stepped case); Estes v. Texas, 381 U.S. 532, 542 n. 85 S.Ct. 1628, 1632, 14 L.Ed.2d 543 (1965) ("pre-trial" publicity). This appeal must be heard by a different appellate court, just weeks before the Democratic Adjudication [illegible] was approved [illegible] motion by [illegible] Petitioner, Appellant was improperly transferred out of Miles Prison [illegible] prison with inferior law library [illegible] facilities from Stafford Creek. These actions by WA DOC, support an inference of an intent to delegate Petitioner's appeals. Since in Monday, [illegible] Wn.2d 667, 616-618, 557 P.2d 331 (1976) [illegible] of prejudicial error.

PETITIONER'S [illegible]

[illegible] appellate Court [illegible] appeal [illegible] 366312. Jan[illegible]

CERTIFICATE OF SERVICE

I, [illegible] certify that I served Ms. Anne Marie Sinnar, Appellate Unit, King County PAO, W-554, King County Courthouse, 516 3rd Avenue, Seattle, WA, 98104, (206)-296-9150, with one copy of the enclosed Motion For Change of Appellant Venue, USA 1st Class Mail, postage prepaid.

This 4th Jan, 2014.

Jan 3, 2014 366312