

Case # 28222-8

**“Statement of Additional Grounds
for Review”
and
“Supplemental to Statement of
Additional
Ground’s 1,2,3,4,5”**

**State of Washington
v.
Salvador Nava**

COPY

MAR 25 2010

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
P. 100Statement of Additional Grounds

Ground #1 violation of Rule 612.

Writing used to Refresh Memory:

After objection

Court improperly allowed police officer Mark Lewis to continue reading from the written material. RP 32-33

(C) If an objection is made to the use of the writing, the court must determine whether the witness's memory has actually been refreshed, or whether the witness simply intends to continue reading from the written material. Bankers Trust Co. v. Publicker Industries, Inc., 641 F.2d 1361 (2d Cir. 1981).

Ground #2 violation of Rule 611 (18)

The court erred when it improperly allowed & after counsels standing objection, tape recorded statement of Ms. Perez to be replayed to jury. RP-531-532. State v. Monroe, 107 Wn. App. 637, 27 P.3d 1249 (2001)
State v. Koontz, 145 Wn.2d 650, 41 P.3d 475 (2002).

Ground #3 violation of Rule 403 (9) •
Surprise, evidence not disclosed in
discovery. The court erred in allowing
alleged statements made by defendant
after counsel's objection. RP-2
RP-59 RP-599-600

Ground #4 prosecutorial misconduct
prosecutor makes argument not in
evidence. By saying Alicia
Velasquez had key chain that said
I love Chava. RP-394

Ground #5 Hearings on photo montages

It is respectfully requested that
Nava's convictions be reversed for any
or all of the above reasons

Dated this 18th day of
March, 2010

Salvador Nava #331749
W.S.P
1313 N. 13th Ave
Walla Walla, WA 99362

By: Salvador Nava

Appellant

page 2 of 2

FILED

MAR 25 2010

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE**

STATE OF WASHINGTON,)	
)	
Respondent,)	
)	
v.)	COA NO. 28222-8-III
)	
SALVADOR NAVA,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 23RD DAY OF MARCH, 2010, I CAUSED A TRUE AND CORRECT COPY OF THE **STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] DAVID TREFRY
P.O. BOX 4846
SPOKANE, WA 99220-0846

SIGNED IN SEATTLE WASHINGTON, THIS 23RD DAY OF MARCH, 2010.

x Patrick Mayovsky

Supplemental to statement of Additional Grounds 1, 2, 3, 4, 5.

FILED

MAR 24 2010

PRELIMINARY ASSERTIONS OF THE ABSOLUTE UNITED STATES ACCORDED

CONSTITUTIONAL ENUMERATED RIGHT'S WITHIN AMENDMENT'S

1,4,5,6,8,13,14

*State v. NAVA
28222-8-11*

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By *[Signature]*

This appeal as of right by Salvador Nava, was made necessary due to the Washington's prosecuting authorities (RCW ch. 43.10), through it's: (1) prosecuting attorney and it's office (RCW ch. 36.27); (2) the public defender's office (RCW ch. 36.26), through an Unlawfull Collusion, when, in an **OPPRESSIVE** governmental act of **OVERREACHING** that constituted an **ARBITRARY** and **CAPRICIOUS** **BAD FAITH** act's, action's, and inaction's, by Intentionally and Willfully **Interfereing WITH**, and, Preventing Salvador nava with his Ability to know of, Understanding, and comprehending his **ACCORDED Constitutional and Legal RIGHT'S** **ENUMERATED** Within Amendmen's: **ONE** (Freedom of Speech and Petition for Redress of His Grievances clauses) **MCDONALD V. SMITH**, 472 U.S., 479, 482-85 and cases cited therein; **FOUR** (Search & Seizure) **GROH V. RAMIREZ**, 540 U.S. 551, 558-59 nn.4 to 6 and cases cited therin; **FIVE** (Indictment/Information) **Hamling V. U.S.**, 418 U.S. 87, 117 and cases cited therein/**RUSSELL V. U.S.**, 369 U.S. 749, 763-64; **FIVE** (Self-Incrimination) **RHODE ISLAND V. INNIS**, 446 U.S. 291 and cases cited therein/**BRAM V. U.S.**, 168 U.S. 532 and cases cited therein/**MIRANDA V. ARIZONA**, 384 U.S. 436 and cases cited therein; **FIVE** (Double Jeopardy) **BREED V. JONES**, 421 U.S. 519, 529-32 and cases therein/**U.S. V. BALL**, 163 U.S. 662, 671 and cases cited therein; **SIXTH** (Speedy Trial) **BARKER V. WINGO**, 407 U.S. 514, 522 n.4; **DOGGEIT V. U.S.**, 505 U.S. 651; **U.S. LOUD HAWK**, 474 U.S. 302, 310-11 and cases cited therein; **SIXTH** (PUBLIC TRIAL) **LEVINE V. U.S.**, 362 U.S. 610, 619-20 and cases cited therein, **WALLER V. GEORGIA**, 467 U.S. 39 and cases cited therein; **SIXTH** (JURY TRIAL) **BLAKELEY V. WASHINGTON**, 542 U.S. 296 and cases cited therein, **DUNCAN V. LOUISIANA**, 391 U.S. at 155-56 88 s.ct. 1451 nn. 3-5 and cases cited therein, **BATSON V. KYNTUCKY**, 476 U.S. 79 nn. 1-6 and cases cited therein; **SIXTH** (COFRONTATION OF HIS ACCUSER'S) **SMITH V. ILLINOIS**, 390 U.S. 129 and cases cited therein, **CRAWFORD V. WASHIGTON**, 541 U.S. 36 and cases cited therein; **SIXTH** (COPULSORY PROCESS for a MEANINGFUL COMPLETE DEFENSE) **CALIFORNIA V. TROMBETTA**, 467 U.S. 479 and cases cited therein, **ARIZONA V. YOUNGBLOOD**, 488 U.S. 51 and cases cited therein, **HOLMES V. SOUTH CAROLINA**, 547 U.S. 319, 328-29 n.3 and cases cited therein; **SIXTH** (ABSOLUTE RIGHT TO CONFLICT FREE COUNSEL LOYAL TO DEFENDANT'S CONSTITUTIONAL AND LEGAL RIGHT'S) **U.S. V. CRONIC**, 466 U.S. at 654-56 and cases cited therein, **HOLLOWAY V. ARKANSAS**, 435 U.S. 475 and cases cited therein, **WOOD V. GEORGIA**, 450 U.S. 261 and cases

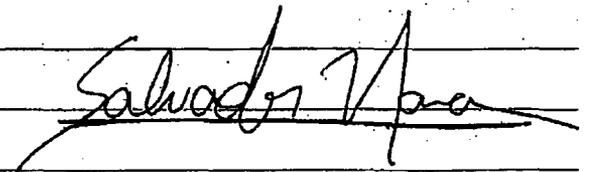
cited therein, MEMPA V. RHAY, 415 U.S. 128 and cases cited therein; EIGHTH (CRUEL & UNUSUAL PUNISHMENT) ROBINSON V. CALIFORNIA, 370 U.S. 660, 667-68, 82 S. Ct. 1417, 1420-21, 8 L.Ed.2d 758, RALPH V. WARDEN (1st Cir. MD. 1970), 438 F.2d 786, 788 n.2, 789 n.4 and cases cited in ft. n.6, U.S. V. MCKINNY (6th Cir. KY., 1970), 427 F.2d 449, 455; THIRTEENTH (SLAVERY & INVOLUNTARY SEVITUDE) U.S. V. ALLEN (9th Cir. MONT. 2003), 341 F.3d 870, 883, cert. den. 541 U.S. 975, 124 S. Ct. 1876, 158 L.Ed.2d 471 (2004) and cases cited therein, WATSON V. GRAVES (5th Cir. LA. 1990), 909 F.2d 1549; FIFTH & FOURTEENTH (DUE PROCESS:) MCDONALD V. SMITH, 472 U.S. 447 and cases cited therein, MULANE V. CENTRAL HANOVER BANK & TRUST CO., 339 U.S. 306 and cases cited therein (EQUAL PROTECTION) YICK WO V. HOPKINS, 118 U.S. 356, 370 and cases cited therein, GRIFFIN V. ILLINOIS, 351 U.S. 12 and cases cited therein, ROBERT V. LAVALLE, 389 U.S. 40 and cases cited therein, COPPEDGE V. U.S., 369 U.S. 438 and cases cited therein (also as quoted in STATE V. THOMAS, 70 WN. APP, 296). violation of CRR 4.7 TO "FULL NOTICE" of the charges, before trial, with the "OPPORTUNITY to be FULLY HEARD" prior to, and, during, "TRIAL", and or in the "APPEAL AS OF RIGHT", as well as any and all "COLLATERAL ATTACKS" as of RIGHT RAP Title 16), and any "DIRECT APPEALS" ②

(U.S. SUPREME COURT/WASHINGTON STATE SUPREME COURT), for a "FULL & FAIR HEARING ON ALL COMPLAINTS; ISSUES; GROUNDS; MOTIONS; and REQUESTS" presented to this court by SALVADOR NAVA, with an UNBIASED AND IMPARTIAL TRIAL and/or APPELLATE Judge[s]," which, as to this date, has been COMPLETELY DENIED to SALVADOR NAVA.

I, SALVADOR NAVA, now being made aware of all the above Constitutional ACCORDED Rights, I Assert all of the above ENUMERATED RIGHTS EXPLICITLY EXPRESSED and IMPLIED WITHIN AMENDMENTS 1, 4, 5, 6, 8, 13, and 14 under the United States Constitution of America TO A FULL AND FAIR HEARING WITH THE OPPORTUNITY TO BE FULLY HEARD ON EACH AND EVERY ISSUE, GROUND, MOTION AND REQUEST SUBMITTED TO THIS COURT, WITH A DULY GIVEN PROPER DECISION ON THE RELEVANT CASE LAW AS TO EACH AND EVERY ISSUE, GROUND, MOTION AND REQUEST THERETO.

The Trial/Hearing MUST BE A REAL ONE, NOT A SHAM OR PRETENSE. MOCRE V. DEMPSEY (1923), 261 U.S. 86, 43 S. Ct 265, 67 L. Ed. 543; MONNEY V. HOLOHAN (1935), 294 U.S. 103, 55 S. Ct. 340, 79 L. Ed. 791, as stated by the court in PALKO V. CONNECTICUT (1937), 302 U.S. 319, 327 n.5, 58 S. Ct. 149, 153 n.5, 82 L. Ed. 288.

DATE: March 21, 2010



SIGNATURE

It is respectfully requested that Nava's convictions be reversed for any or all of the above reasons.

Salvador Nava #33174^o
W.S.P
1313 N. 13th Ave
Walla Walla, Wa 99362

Supplemental to Statement of Additional Grounds.

CRIMINAL LAW 218-

Fourth amendment requirement that arrest warrants be based upon probable cause, supported by oath or affirmation, may be satisfied by indictment returned by grand jury, but not by mere filing of criminal charges in unsworn information signed by prosecutor.

U.S.C.A. Const. Amend. 4.

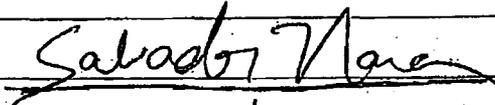
Was arrest warrant invalid? If so all convictions should be reversed or dropped.

CIVIL RIGHTS 133,214

Section 1983 creates damages remedy against prosecutor for making false statements of facts in affidavit supporting application for arrest warrant, as such conduct is not protected by doctrine of absolute prosecutorial immunity: abrogating Joseph V. Patterson 795 F.2d 549 42 U.S.C.A., 1983.

It is respectfully requested convictions be dropped for invalid Warrant under Fourth Amendment Right & Civil Right 133,214 & Criminal Law 218 - Please see attached Warrant

Date: March 21, 2010


signature

BOOKING NUMBER		RECEIVED		CASE NO. 01-08271	
DISTRICT COURT		ARRESTED THE ABOVE NAMED PERSON FOR THE FOLLOWING OFFENSES:			
PROBABLE CAUSE: MURDER 2		01 MAY 10 AM 10 12		01 1 00902 3	

Yakima County District Court
State of Washington

vs. Salvador Nava
Defendant

KIM M. EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON

No. 01 1 00902 3
Request for a Determination of Probable Cause and Findings (Telephonic)

In the Superior Court of the State of Washington
In and for the County of Yakima
Statement of Arresting Officer and Preliminary Finding of Probable Cause

FILED
MAY 18 2010

TYPE OR PRINT

Comes now J. SALINAS, YPD Law Enforcement Officer, and state that the person above was arrested by this officer at the time and place listed above.

State of Washington
County of Yakima

NO. _____

KIM M. EATON, YAKIMA COUNTY CLERK

NARRATIVES FOR

- DIST. CRT. P.C.
- SUMMONS REQUEST
- SUP. CRT. P.C.
- SIR
- WARRANT REQUEST

On 05-13-01 at 0012 hrs, Yakima Police were dispatched to Fair and Nob Hill Blvd regarding a shooting victim. When police arrived, they found the victim deceased inside a vehicle. The victim suffered from gunshot wounds to the head. Witnesses reported that a man approached on foot and fired shots into the vehicle as it was parked in the parking lot on the northwest corner of Fair Ave and Nob Hill Blvd near a taco truck. The victim was the only person struck by gunfire despite being only one of five people inside the vehicle. The deceased himself was involved in a previous incident on 05-03-01 where a rival gang member was murdered as the result of a gang dispute. Witnesses identified the person responsible for the shooting as Salvador Nava, aka "Chava". Additionally, a witness reported seeing a second gunman, identified as Lance Nanamkin, aka "Sleepy" pointing a firearm at the victim's vehicle and firing, however the handgun failed to discharge a bullet.

District Court Probable Cause Cont.:

- The undersigned certifies under penalty of perjury under the laws of The State of Washington that the following is true and correct:
- I contacted Judge _____ by telephone this date at _____ A.M./P.M. and under oath recited the above facts in support of my request that the court find probable cause to believe the Defendant committed the above offense (s) and to detain the Defendant in lieu of bail or other conditions of release:
- Probable Cause to believe the offense (s) was/were committed;
 No Probable Cause to believe the offense (s) was/were committed and ordered the immediate release of the defendant.
- The Judge authorized me to make record of the above finding, attach this document to my official report and file the same with the court on/or before the next judicial day along with the original complaint/citation.
Dated This _____ day of _____, 1998.
- The foregoing truly and accurately reflects the testimony given to me by the arresting officer and the finding of the court.

Date _____ Judge/Officers Signature _____

Superior Court Probable Cause:

The above named individual was arrested for the listed charges based upon the above facts and circumstances.

INCIDENT NO 01-08271, page No. 2 I certify (or declare) under the penalty of perjury under the laws of The State of Washington that the foregoing is true and correct.

Date and Place, 05-16-01 / Yakima, Wa

Officer's Signature JMS #3686

Suspect Information Report:
Law Enforcement Position on Release:

STATE OF WASHINGTON
COUNTY OF YAKIMA

Nava is unemployed and has a history of gang related activity. He has no ties to this community and will likely fail to appear if released from custody. This retaliatory attack has fueled an ongoing dispute between rival gang members. Nava fired a handgun into a car full of people and is a definite threat to public safety. I recommend he be held on bail high enough to ensure public safety and his appearance in court.

Additional Narrative Form Included
Page 2 of 2

I, Kim M. Eaton, Clerk of the above entitled court, do hereby certify that the foregoing instrument is a true and correct copy of the original now on file in my office. In witness whereof, I have hereunto set my hand and the seal of said court on this 18 day of May, 2010.

By Kim M. Eaton Deputy
County

n

ISSUED
SUPERIOR COURT OF WASHINGTON FOR YAKIMA COUNTY

STATE OF WASHINGTON,

vs.

SALVADOR NAVA
DOB: 06/14/1982

KIM M. EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON

NO. 01 1 00902 3

FILED
MAY 18 2001

Defendant.

THIS CAUSE coming on regularly to be heard in open court ~~KIM M. EATON, YAKIMA COUNTY CLERK~~
Prosecuting Attorney, appearing for and on behalf of the Plaintiff, State of Washington moves
the Court for an Order directing the Clerk of said Court to forthwith issue a warrant for the arrest
of SALVADOR NAVA defendant, charged with the crime(s) of Count 1 - FIRST DEGREE
MURDER - RCW 9A.32.030(1)(a) committed on or about May 13, 2001, Counts 2, 3, and 4 -
FIRST DEGREE ASSAULT - RCW 9A.36.011(1)(a) committed on or about May 13, 2001, and
Count 6 - FIRST DEGREE UNLAWFUL POSSESSION OF A FIREARM - RCW 9.41.040(1)(a)
committed on or about May 13, 2001, and said Deputy Prosecuting Attorney further moves the
Court to fix the bail of said defendant, whereas, the Court having found probable cause based
upon the sworn statement of the Investigating officer; and an Information having been filed
charging the above-named defendant with having committed the crime(s) set out above, it is
hereby

ORDERED that the Clerk of the above-entitled Court forthwith issue a warrant addressed
to the Sheriff of Yakima County, Washington, directing him to apprehend the above-named
defendant and bring said defendant before this Court, to be dealt with according to law. The
Court finds probable cause for the arrest of the above-named defendant, it is further

ORDERED that the amount of the bail of the above-named defendant be, and here is
fixed in the sum \$500,000.

DONE IN OPEN COURT May 18, 2001.

[Signature]
JUDGE

Presented by:

[Signature]
KENNETH L. RAMM, DEPUTY PROSECUTING ATTORNEY
COUNTY OF YAKIMA } ss
Deputy Prosecuting Attorney

I, Kim M. Eaton, Clerk of the above entitled
court, do hereby certify that the foregoing
instrument is a true and correct copy of the
original now on file in my office. In witness
whereof, I hereunto set my hand and the seal of
said court this 18th day of May, 2001.

[Signature]
Kim M. Eaton, Clerk
Yakima County Deputy

ORIGINAL

LAW OFFICES OF

NIELSEN, BROMAN & KOCH, P.L.L.C.

1908 E MADISON ST.
SEATTLE, WASHINGTON 98122
Voice (206) 623-2373 · Fax (206) 623-2488

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JENNIFER J. SWEIGERT
OF COUNSEL
K. CAROLYN RAMAMURTI
JARED B. STEED

State V. Salvador Nava

No. 28222-8-III

Certificate of Service by Mail

FILED

MAR 24 2010

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON

On March 24, 2010, 2010, I deposited in the mails of the United States of America,
A properly stamped and addressed envelope directed to:

David B. Trefry
Special Duty Prosecuting Attorney
PO Box 4846
Spokane, WA 99220

Containing a copy of the supplement to statement of additional grounds, re State V.
Salvadore Nava Cause No., 28222-8-III in the Court of Appeals, Division III, for the state
of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the
foregoing is true and correct.



John Sloane
Office Manager
Nielsen, Broman & Koch

~~3~~ 3-24-10

Date
Done in Seattle, Washington