

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

FILED  
COURT OF APPEALS  
DIVISION II

2013 JUN 17 AM 9:37

STATE OF WASHINGTON

STATE OF WASHINGTON )  
)  
Respondent, )  
)  
v. )  
MICHAEL D. MILAM )  
(your name) )  
)  
Appellant. )

No. 44208-6-II BY [Signature]  
DEPUTY

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I, MICHAEL D. MILAM, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

ANTHONY CRAIG LEE V. STATE OF WASHINGTON DIV II  
NO. 65967-7-I  
ERRED IN DENYING ARGUING THAT THE TRIAL COURT  
IN HIS MOTION TO  
SUPPRESS OCTOBER 24, 2011

Additional Ground 2

ARRESTING OFFICER WHOM WAS SUBPOENA TO  
APPEAR, FAILED TO APPEAR AT THE SUPPRESSION HEARING  
6TH AMENDMENT VIOLATION. FAILED VALIDATE HIS ARREST.  
CONVICTION AND ARREST UNLAWFUL.

If there are additional grounds, a brief summary is attached to this statement.

Date: 6-13-2013

Signature: Michael D Milam

FILED  
COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY 44208-6-II

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

---

STATE OF WASHINGTON  
APPELLEE

V.

MICHAEL D. MILAM  
APPELLANT

---

APPELLANT'S BRIEF  
STATEMENT OF ADDITIONAL GROUNDS  
PRO SE

---

APPEAL FROM PIERCE COUNTY SUPERIOR COURT

---

HONORABLE BUCKNER

---

APPELLANT: PRO SE  
MICHAEL D. MILAM  
286036  
P.O. BOX 888  
MONROE, WA 98272

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

STATE OF WASHINGTON  
PLAINTIFF

)  
) NO. 44208-6-II  
)  
) APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS  
)  
) PURSUANT TO RAP. 10.10  
)  
)  
)  
)  
)

V.

MICHAEL D. MILAM  
APPELLANT

I. (STATEMENT OF PROCEDURAL FACTS)

ON OR ABOUT MAY 31, 2012 MR. MILAM WAS ILLEGALLY ARRESTED AND UNLAWFULLY IMPRISONED AND MALICIOUSLY ACCUSED AND CHARGED WITH FALSE CRIMES, DID THE COURT FAIL TO HOLD A PRELIMINARY HEARING TO DETERMINE IF PROBABLE CAUSE EXISTED TO WARRANT A WARRANTLESS ARREST ? PROBABLE CAUSE DID NOT EXIST BE NO CRIME HAD BEEN COMMITTED BECAUSE NO CRIME HAD BEEN REPORTED BY ANY PERSON. THE STATE OF WASHINGTON PROCEEDED TO MALICIOUSLY PROSECUTE MR. MILAM AFTER NO CRIME WAS COMMITTED AFTER ILLEGAL ARREST, SEARCH AND SEIZURE OF PROPERTY NOT VALIDATED TO THIS DAY BY THE ARRESTING OFFICER SHAWN NOBLE, WHOM FAILED TO APPEAR AT THE SUPPRESSION HEARING FORWHICH HE WAS LAWFULLY SUBPOENAED TO APPEAR, THE STATE FAILED TO GIVE ANY "EXIGENT CIRCUMSTANCE" FOR THE ARRESTING OFFICER SHAWN NOBLE REFUSAL TO OBEY A SUBPOENA OF THE COURT. THE COURT REFUSED TO TAKE ANY PROPER ACTION TO ENSURE MR. MILAM 4th AMEND. RIGHTS TO THE U.S. CONST. AND ART. 1 §7 OF THE WASHINGTON STATE CONST. WERE NOT VIOLATED WHICH PROTECTS HIM FROM UNLAWFUL ARREST, SEARCHES, AND SEIZURES, AND THE "EXCLUSIONARY RULE" WHICH PROVIDES SAFEGUARDS FOR THE FOREGOING RIGHTS. THE COURT WHEN ON TO DENY MR. MILAM RIGHTS TO DEFEND BY REFUSING TO HEAR MR. MILAM MOTION TO DISMISS ON THE GROUNDS THAT THE ALLEGED EVIDENCE WAS INADMISSABLE, THE ARREST WAS UNLAWFUL, AND THAT AT THE TIME OF HIS UNLAWFUL ARREST NO CRIME HAD BEEN COMMITTED OR ATTEMPTED. THE MALICIOUS PROSECUTION PROCEEDED EVENTHOUGH THE STATE FAILED TO PROVIDE ANY DISCOVERY PURSUANT TO THE "HANDOVER RULE", AND ALL DISCOVERY LAWS, AND AGAIN THE COURT DENIED MR. MILAM RIGHT TO DEFEND WHEN IT IMPROPERLY TRANSFERED MR. MILAM MOTION TO DISMISS DO TO DISCOVERY VIOLATIONS TO AN UNPRESIDING JUDGE WHOM DENIED THE DEFENDANT'S MOTION TO DISMISS OR SANCTIONS AND AN ORDER TO COMPEL DISCOVERY, THE MALICIOUS PROSECUTION CONTINUED AND THE COURT FAILED TO PROPERLY

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INSTRUCT THE JURY ON WHAT NEEDED TO BE FOUND AS TO THE ELEMENTS OF THE CRIMES FOR THEM TO RETURN A VERDICT OF GUILTY, AND THE STATE OF WASHINGTON IMPROPERLY INSTRUCTED THE JURY BY TELLING THEM THEY ONLY HAD TO FIND THAT **MR. MILAM** POSSESSED THE STOLEN PROPERTY IN ORDER TO CONVICT HIM FOR [15 COUNTS] OF CRIMINAL CHARGES. THE MALICIOUS PROSECUTION CONTINUED WHEN THE COURT REFUSED **MR. MILAM** THE RIGHT TO PRESENT HIS MOTION TO ARREST PRO SE, BY APPOINTING AN ATTORNEY WHOM INSTANTLY FOUND NO COLORABLE ISSUES. AND THE MALICIOUS PROSECUTION CONTINUED WHEN THE COURT GAVE **MR. MILAM** AN EXCEPTIONAL SENTENCE OUTSIDE THE SENTENCING RANGE FOR REASONS OTHER THAN PRIOR CONVICTIONS WHICH CAN ONLY BE DECIDED BY A JURY, AND AGAIN WITH THIS THE COURT DENIED **MR. MILAM** RIGHTS TO DEFEND FOR BASING HIS DECISION TO GIVE AN EXCEPTIONAL SENTENCE ON THE GROUNDS OF "LACK OF REMORSE" BECAUSE AS HE IS TO THIS DATE **MR. MILAM** WAS ADAMANT ABOUT HIS INNOCENSE.

HERE THE STATE OF WASHINGTON HAS COMMITTED CRIMES OF MALICIOUS PROSECUTION RCWA 9.62.-010 (1); OFFICIAL MISCONDUCT- RCWA 9A.80.010 (a), (b), ; CRIMINAL CONSPIRACY- 9A.28.040(c), AND A COMPLETE VIOLATION OF THE LAWS OF THE STATE OF WASHINGTON AND THE UNITED STATES CONST. AND TITLE 18 OF THE FEDERAL CODES OF CRIMINAL PROCEDURE AND THESE CRIMES AGAINST **MR. MICHAEL D. MILAM** WAS COMMITTED UNDER COLOR OF STATE LAW BEYOND ANY DOUBT.

LOUIS D. BRANDEIS- U.S. SUPREME COURT JUSTICE-1856-1941: "CRIME IS CONTAGIOUS. IF THE GOVERNMENT BECOMES THE LAWBREAKER, IT BREEDS CONTEMPT FOR THE LAW."

II. (GROUNDS)

GROUND 1: THE STATE OF WASHINGTON HAS UNLAWFULLY IMPRISONED MR. MILAM SINCE THE DAY OF HIS UNLAWFUL ARREST MAY 31, 2012 TO THIS VERY DAY BECAUSE A FORMAL COMPLAINT HAS NEVER BEEN MADE BY AN AGGRIEVED PARTY THERE WAS NO VICTIM BECAUSE A CRIME HAD NOT BEEN REPORTED BECAUSE NO CRIME HAS BEEN COMMITTED:

MR. MILAM, WAS UNLAWFULLY ARRESTED ON MAY 31, 2012 BY OFFICER SHAWN NOBLE BECAUSE NO CRIME HAD BEEN COMMITTED BY MR. MILAM NOR WAS A CRIME ATTEMPTED BY MR. MILAM. THE ALLEGED ASSISTING OFFICERS STATES THAT AT THE TIME OF MR. MILAM ARREST AND PRIOR TO THEY WERE CONDUCTING AN "OFFICIAL POLICEORGANIZED PROSTITUE STING", AND THAT MR MILAM WAS BEING INVESTIGATED FOR A POSSIBLE CONECTION, AT WHICH TIME OFFICER ANDY HALL HINDERED MR. MILAM PROGRESS HOME FROM THE CONVIENT STORE OF WHICH HIS PURCHASE WAS IN HIS HANDS, THE OFFICERS WENT BEYOND THE SCOPE OF THEY'RE ALLEGED INVESTIGATION AND EVEN DISCONTINUED THEY'RE "ORGANIZED-PROSTITUTE STING", BY ARRESTING MR. MILAM UNLAWFULLY, THEN SEARCHING ,AND SEIZING PROPERTY, AT NO TIME WAS ANY CRIME COMMITTED, AT NO TIME DID OFFICER SHAWN NOBLE INVESTIGATE THE FRUITS OF HIS UNLAWFUL SEARCH WHICH AT THIS TIME WAS SPOILED, BY CALLING IN TO THE POLCE DEPARTMENT TO VERIFY WHETHER ANYTHING IN MR. MILAM POSSESSION WAS PART OF A CRIME OR STOLEN. WHEN MR. MILAM WAS TRANSPORTED TO THE POLICE DEPARTMENT AND OR JAIL HE WAS NOT BOOKED FOR ANY CRIMES BUT THE NEXT DAY HE AWOKE WITH [15 COUNTS] OF IDENTITY THEFT AND TRAFFICKING IN STOLEN PROPERTY. WHICH ARE CRIMES TO THIS DAY HAS NEVER BEEN COMMITTED BY ANY CREATED POLICE REPORT OR PROSECUTOR REPORT. 72 HOURS LATER MR. MILAM WAS RECHARGED WITH [15 DIFFERENT COUNTS AND OR ADDITIONAL] TO THE 15 FOR A TOTAL OF 15. MR. MILAM INVETIGATIVE TEEM INVESTIGATED TO FIND OUT IF THE ALLEGED VICTIM EVER REPORT A CRIME OF IDENTITY THEFT OR ANY OTHER CRIME AGAINST HER PERSON AND SHE HAD NOT, AND TO THIS VERY DAY HAS NOT FILED ANY FORMAL COMPLAINTS WITH ANY POLICE DEPARTMENT OR PROSECUTORS OFFICER IN THE STATE OF WASHINGTON. MAKING THE ARREST UNLAW, THE SEARCH UNLAWFUL, THE SEIZURE UNLAWFUL, THE PRETRIAL UNLAWFUL, THE IMPRISONMENT UNLAWFUL, THE TRIAL UNLAWFUL, THE JURY CONVICTION UNLAWFUL, THE SENTENCING UNLAWFUL, AND HIS PRESENT ILLEGAL IMPRISONMENT UNLAWFUL.

A. (STANDARD OF REVIEW)

WHETHER MR. MILAM ARREST, PROSECUTION, AND IMPRISONMENT IS UNLAWFUL IS A QUESTION OF LAW REVIEWED BY THIS COURT DE NOVO.

B. (LEGAL AUTHORITY)

CrRLJ 2.1.COMPLAINT--CITAIONAND NOTICE:(5) (C) CITIZEN COMPLAINTS.: ANY PERSON WISHING TO INSTITUTE A CRIMINAL ACTION ALLEGING CRIME SHALL APPEAR BEFORE A JUDGE EMPOWERED TO COMMIT PERSONS CHARGED WITH OFFENSES AGAINST THE STATE. BEFORE A FELONY CHARGE MAY BE FILED BY THE

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THE PROSECUTOR THERE MUST BE A CRIME AND WHEN IT IS A CRIME AGAINST A PERSON THERE MUST BE A VICTIM BECAUSE WITHOUT SUCH THERE IS NO CRIME.

THERE IS NO VICTIM HERE BECAUSE NO CRIME WAS EVER REPORTED NOR COMMITTED.

14th CONST. AMEND. U.S.C.A., AND ART. I § 3 OF THE WASHINGTON STATE CONST. PROHIBITS DEPRIVATION OF LIBERTY WITHOUT DUE PROCESS OF LAW. THIS IS ALSO MALICIOUS PROSECUTION AND OVERALL TYRANNY.

C. (ARGUMENT)

MR. MILAM, HAS NOT COMMITTED ANY CRIME TO THIS DAY AND IS UNLAWFULLY IMPRISONED, THERE IS NO VICTIM THUS NO CRIME PRIOR TO ARREST, DURING PROSECUTION, NOR AFTER PROSECUTION, BECAUSE NO CRIME HAS BEEN COMMITTED.

(2): VIOLATION OF DEFENDANTS FOURTH AMENDMENT RIGHTS OF U.S. CONST. WAS COMMITTED BY OFFICER SHAWN NOBLE WHEN HE UNLAWFULLY ARRESTED, SEARCHED, AND SEIZED PROPERTY ALL WITHOUT PROBABLE CAUSE AS FOLLOW:

ON MAY 31, 2012 AT APPROXIMATELY 11:30pm ON THE 92nd AVENUE S. TACOMA W. THE DEFENDANT WAS DEPARTING THE CONVIENT STORE "SEVEN-ELEVEN" AND WHILE PROGRESSING ACROSS THE PARKINGLOT OF THE GOLDENLION MOTEL WITH A DESTINATION OF HOME, MR. MILAM PROGRESS WAS HINDERED BY POLICE OFFICER ANDY HALL AND THE OFFICER ASKED WHAT I WAS DOING ? [DEFENDANT WITH THE INNOCENT INTENTIONS OF POSSIBLY GETTING A RIDE HOME] GOT INSIDE THE OFFICER UNREGULATED POLICE VEHICLE, AT WHICH TIME OFFICER ANDY HALL ADVANCED TO THE CURB AND EXACTLY AT THIS TIME THE PASSENGER DOOR WAS YANKED OPEN BY OFFICER SHAWN NOBLE AND WITH AN INAPPROPRIATE USE-OF-FORCE, [BECAUSE NO CRIME HAD BEEN COMMITTED], REMOVE MR. MILAM FROM THE POLICE VEHICLE INSTANTLY PLACED HANDCUFFS ON MR. MILAM AND INSTANTLY PROCEEDED TO SEARCH MR. MILAM BODY AND CLOTHES [REMOVING PROPERTY THAT WAS NOT IDENTIFIED AT THIS TIME AS UNLAWFUL], OFFICER SHAWN NOBLE THEN TRANSPORTED MR. MILAM TO JAIL [WITHOUT ANY REASON OTHER THAN YOUR UNDER ARREST], THE NEXT MORNING MR. MILAM WAS FALSELY CHARGED WITH IDENTITY THEFT, TRAFFICKING IN STOLEN PROPERTY FOR A TOTAL OF [15] COUNTS CRIMES TO THIS DAY HAS NEVER BEEN COMMITTED.

**A. (STANDARD OF REVIEW)**

(1): CrR 3.2.1.: [PROCEDURE FOLLOWING WARRANTLESS ARREST--preliminary appearance]:

(a) PROBABLE CAUSE DETERMINATION. A PERSON WHO IS ARRESTED SHALL HAVE A JUDICIAL DETERMINATION OF PROBABLE CAUSE NO LATER THAN [48] HOURS FOLLOWING THE PERSON'S ARREST, UNLESS PROBABLE CAUSE HAS BEEN DETERMINED PRIOR TO SUCH ARREST].

DEPENDANT WAS FIRST TOLD HE WAS NOT UNDER ARREST THEN INSTANTLY THAT HE WAS UNDER ARREST WITHOUT HAVING VIOLATED ANY LAWS OF THE STATE OF WASHINGTON-

-N NOR WAS THERE ANY ATTEMPT TO DO SUCH TO PROVOKE A BODY CAVITY SEARCH OF MR. MILAM CLOTHES AND BODY BY OFFICER SHAWN NOBLE.

**CrR 3.2.1: (b) HOW DETERMINED:** THE COURT SHALL DETERMINE [PROBABLE CAUSE] ON [EVIDENCE PRESENTED] BY A PEACE OFFICER OR PROSECUTING AUTHORITY IN THE SAME MANNER AS PROVIDED FOR A WARRANT OF ARREST IN RULE 2.2(a). THE [EVIDENCE] SHALL BE PRESERVED AND MAY CONSIST OF AN ELECTRONICALLY RECORDED TELEPHONIC STATEMENT. IF THE COURT FINDS THAT RELEASE ON PERSONAL RECOGNIZANCE, OTHER THAN THE PROMISE TO APPEAR FOR TRIAL, THE COURT SHALL PROCEED TO DETERMINE WHETHER [PROBABLE CAUSE] EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE CHARGED.

[DEFENDANT WAS FIRST CHARGED WITH IDENTITY THEFT AND TRAFFICKING IN STOLEN PROPERTY WHICH HAD NOT BEEN COMMITTED BY ANY WAY OR ATTEMPT WHICH FACTUALLY ARGUES THAT IF THERE WAS A PRELIMINARY HEARING TO DETERMINE WHETHER [PROBABLE CAUSE EXIST] TO BELIEVE THE CRIMES HAD BEEN COMMITTED THE COURT WOULD HAVE BEEN COMPELLED TO DETERMINE THE DEFENDANT HAD NOT COMMITTED THE CRIMES].

[THE APPELLANT MR. MILAM CHARGES DID NOT CHANGE UNTIL AFTER 72 HOURS WHICH AT THAT TIME HE WAS CHARGED WITH [15] COUNTS OF FALSE CRIMES.

WESTERMAN V. CARY 125 WASH.2d 277, 892 P.2d 1067 (1994):"WHEN COMBINING [PROBABLE CAUSE] WITH PRELIMINARY APPEARANCE, PRELIMINARY APPEARANCE MUST BE ACCOMPLISHED WITHIN [48]HOURS OF ARREST.

THE STANDARD OF REVIEW IS TO REVIEW UNDER ABUSE OF DISCRETION STANDARD.: U.S.C.A. CONST. AMEND.4; WEST'S RCWA CONST. ART. 1§7.

#### B. (LEGAL AUTHORITY)

FOURTH AMENDMENT OF THE U.S.C.AMEND. PROHIBITS UNREASONABLE SEARCHES AND SEIZURES; WASHINGTON STATE CONST. ARTICLE I § 7 PROHIBITS UNREASONABLE SEARCHES AND SEIZURES. [BOTH PROHIBITS UNLAWFUL ARREST]., [ARREST WITHOUT PROPER LEGAL AUTHORITY], FALSE ARREST MAY ALSO BE A CRIMINAL OFFENSE].[IF THE RESTRAINT IS IMPOSED BY THE USE OF PURPORTED LEGAL AUTHORITY AND RESULTS IN AN

CONT. FRM. PG, [6]  
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-ARREST, THEN THERE IS A FALSE ARREST AS WELL AS FALSE IMPRISONMENT. [MALICIOUS ARREST ALSO OCCURRED HERE IN MR. MILAM CASE,]: WRONGFUL ARREST, WITHOUT [GROUNDS] TO BELIEVE THE PERSON HAS COMMITTED A CRIME.

THE ARRESTING OFFICER SHAWN NOBLE DID NOT GIVE ANY NOTICE OF ARREST HE JUST ARRESTED MR. MILAM.

STATE V. SMITH 102 Wn.2d 449, 688 P.2d 146(1984)

"THE WASHINGTON SUPREME COURT FOUND THE ARREST UNJUSTIFIED."

STATE V. BOWERS 36 Wn.App. 119, 672 P.2d 753 (1983): THIS COURT DECLARED THAT PROBABLE CAUSE HAD NOT BEEN ESTABLISHED."

[SUSPICION OR CONJECTURE WILL NOT SUPPORT FINDING OF PROBABLE CAUSE] STATE V. KNIGHTEN, 109 Wn.2d 896, 748 P.2d 111 (1988), see also, ORNELAS V. U.S. 517-U.S. 690, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996).

U.S.C.A. -AMENDMENT IV. SEARCH AND SEIZURE"THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO WARRANT SHALL ISSUE, BUT UPON [PROBABLE CAUSE], SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THING-TO BE SEIZED].

U.S. V. GOODRICH, 450 F.3d 552 (2006): AN OFFICER CANNOT CONDUCT A TERRY STOP SIMPLY BECAUSE CRIMINAL ACTIVITY IS AFOOT; INSTEAD, THE OFFICER MUST HAVE A PARTICULARIZED AND "OBJECTIVE BASIS" FOR BELIEVING THAT THE PARTICULAR PERSON IS SUSPECTED OF CRIMINAL ACTIVITY."

HERE MR. MILAM WAS NOT SEEN COMMITTING ANY CRIME NOR ATTEMPTING TO COMMIT A CRIME, NO REASONABLE EXPLANATION HAS BEEN FOR THE "STOP" OF MR. MILAM THE ARREST THEN INCIDENT TO THE ARREST A BODY CAVITY SEARCH THAT ALLEGEDLY RESULTED IN THE ILLEGAL SEIZURE OF PROPERTY THAT WAS NOT THE OBJECTIVE OF THE HINDERING OF THE PROGRESS OF MR. MILAM FAILING TO MEET THE [OBJECTIVE BASIS] FOR BELIEVING THAT THE PARTICULAR PERSON IS SUSPECTED OF CRIMINAL ACTIVITY.

U.S. V. JOHNSTONE, C.A.5 (TEX.) 1978, 574 F.2d 1269: "MERE SUSPICION THAT A SEARCH WILL REVEAL CONTRABAND DOES NOT CONSTITUTE "PROBABLE CAUSE".

LEWIS V. U.S. C.A.6 (ky.) 1974, 504 F.2d 92, : CERT.DENIED 95 s.ct. 1-974, 421 U.S. 975, 44 L.Ed.2d 466:PROBABLE CAUSE TO SEARCH MEANS MORE THA-

-N "BARE SUSPICION". PEYTON V. NEW YORK, 445 U.S. 573, 63 L.ed.2d 639, 100 S.CT. 1371 (1980): "ABSENT EXIGENT CIRCUMSTANCES, POLICE OFFICERS MAY NOT UNDERTAKE WARRANTLESS ARREST".

U.S. V. VELARDE, 25 F.3d 848 (9thCir.1994): "THERE MUST BE REASONABLE ARTICULABLE SUSPICION".

MINNESOTA V. DICKERSON, 508 US , 124 L.ed.2d 334, 113 SCT 21-30 (1993): "SEIZURE OF LUMP DETECTED IN PERSON'S POCKET DURING PATDOWN SEARCH HELD VIOLATIVE OF FOURTH AMENDMENT".

HERE MR. MILAM'S ARREST, SEARCH AND SEIZURES WERE ALL ILLEGAL IN VIOLATION OF HIS FOURTH AMENDMENT RIGHTS TO BE FREE FROM SUCH AS OFFICER SHAWN NOBLE DID NOT SATISFY THE FOREGOING REQUIREMENTS OF "LAW" AND TO THIS DAY HAS NOT SATISFIED AND OR ESTABLISHED [PROBABLE CAUSE].

### C. (ARGUMENT)

MR. MILAM, NEVER COMMITTED NOR ATTEMPTED TO COMMIT ANY CRIME AGAINST ANY PERSON OR THE STATE OF WASHINGTON. THE ARRESTING OFFICER SHAWN NOBLE DID NOT HAVE AN OBJECTIVE BASIS TO BELIEVE THAT MR. MILAM WAS COMMITTING OR WAS IN THE PROCESS OF COMMITTING A CRIME. MR. MILAM ARREST WAS INCIDENT TO UNLAWFUL, AND OR ILLEGAL SEARCH AND SEIZURE, IN DIRECT VIOLATION OF THE 4TH AMEND. TO THE UNITED STATES CONST. AND IN VIOLATION TO ART. I §7 OF THE WASHINGTON STATE CONSTITUTION. THE TRIAL COURT ORDERED A SUPPRESSION HEARING PURSUANT TO CrR [3.5],[3.6] AND THE ARRESTING OFFICER SHAWN NOBLE DID NOT APPEAR TO VALIDATE THE ARREST PROCEDURE, NOR PROPERLY ADMIT HIS REPORT OF THE ARREST AND SEARCH AND SEIZURES. THIS ALSO VIOLATED THE 6th AMEND. U.S. CONST. AND ART. I §22 OF THE WASH. STATE CONST. RIGHT TO CONFRONT AND CROSS EXAMINE ALL MATERIAL WITNESSES". THERE IS NO WAY THE STATE OF WASHINGTON CAN ALLEGE THAT A SUPPRESSION HEARING OCCURRED WHEN THE WITNESS WHICH IS SUBJECT OF THE SUPPRESSION HEARING DOES NOT APPEAR, AND NO REASON IS GIVEN FOR THE ARRESTING OFFICER NOT APPEARING TO VALIDATE THE UNLAWFUL

-ARREST, SEARCH AND SEIZURES. THUS THIS IS A CLEAR VIOLATION OF MR. MILAM RIGHTS WHICH PROHIBITS UNREASONABLE SEARCHES AND SEIZURES AND ARREST WITHOUT PROPER LEGAL AUTHORITY.

GROUND3: (THE STATE OF WASHINGTON DENIED MR. MILAM RIGHT TO SUPPRESS THE UNLAWFUL ARREST, SEARCH, AND SEIZURE, WHEN THE ARRESTING OFFICER SHAWN NOBLE DID NOT APPEAR, AND THE COURT CONSPIRED IN THIS CONSTITUTIONAL VIOLATION WHEN IT REFUSED TO HEAR MR. MILAM MOTIONS TO DISMISS OR ENTER ANY OTHER PROPER ORDER TO ENSURE MR. MILAM RIGHTS WAS NOT VIOLATED AND THAT HE RECEIVED A FAIR TRIAL:

THE JUDGE ORDERED A SUPPRESSION HEARING FOR **SEPTEMBER 20, 2012** SO THAT MR. MILAM COULD SUPPRESS THE UNLAWFUL ARREST, SEARCH AND SEIZURES PURSUANT TO CrR [3.5], AND [3.6] THE ARRESTING OFFICER SHAWN NOBLE WAS SUBPOENAED AND ORDERED TO APPEAR AT THE SUPPRESSION HEARING TO VALIDATE HIS ARREST OF PAGE [3 OF 3] OF THE INCIDENT REPORT IN THE DISCOVERY OFFICER SHAWN NOBLE DID NOT APPEAR AT THE SUPPRESSION HEARING, THE PROSECUTION DID NOT ATTEMPT TO GIVE ANY REASON FOR THE ARRESTING OFFICER "**NOSHOW**" AND DELIBERATE DISREGARD OF THE COURT'S SUBPOENA AND DIRECT ORDER TO APPEAR. JUDGE BUCKNER DID NOT ENTER ANY PROPER ORDERS TO RECTIFY THIS DELIBERATE DISREGARD NOR DID JUDGE BUCKNER ASK THE STATE OF WASHINGTON WHY THE ARRESTING OFFICER SHAWN NOBLE DID NOT APPEAR. MR. MILAM THEN ON THE RECORD ADVISE THE COURT THAT HE COULD NOT CHALLENGE THE UNLAWFUL ARREST, NOR SEARCH AND SEIZURES WITHOUT THE ARRESTING OFFICER, SEARCHING OFFICER, AND SEIZING OFFICER SHAWN NOBLE BEING PRESENT AND THAT HE COULD NOT PER SE QUESTION A INCIDENT REPORT AND A INCIDENT REPORT PER SE WOULD NOT ANSWER". JUDGE BUCKNER THEN STATED ON THE RECORD, "**QUOTE**", I WILL NOT HEAR ANY MOTIONS RELATING TO THIS SUPPRESSION HEARING". [UNQUOTE]. AGAIN ON OR ABOUT **NOVEMBER 19, 2012** MR. MILAM MOVED FOR THE 2nd TIME TO ARREST JUDGMENT **CrR 7.4** AND DISMISSAL BECAUSE IT HAD NOT BEEN OPENED TO HEARSAY AND THE ILLEGAL ARREST, SEARCH, AND SEIZURES HAD NOT BEEN VALIDATED, AND AGAIN THE JUDGES REPLY WAS NOT PROPER, BECAUSE INSTEAD OF RULING ON THE MOTION TO ARREST THE JUDGE DENIED MR. MILAM RIGHT TO SELFREPRESENTATION BY APPOINTING COUNSEL AND THE COUNS-

- EL APPOINTED CONSPIRED WITH THE PROSECUTION BY WAY OF THE MEETING OF THE  
HIRDS-[THIS WILL BE LATER ILLUSTRATED]- WHEN APPOINTED COUNSEL CLAIMED THERE  
WAS NO COLORABLE ISSUES AND REFUSED TO TAKE ANY ACTION WHEN DEFENDANTS HAVE  
A CLEAR AND CONVINCING INTEREST TO A SUPPRESSION HEARING FAILURE BY ANY PERS-  
ON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE  
DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA ISSUED".

THE ARRESTING OFFICER SHAWN NOBLE DID NOT OBEY THE SUBPOENA AND  
NO REASON WAS GIVING FOR THE DELIBERATE FAILURE THIS IN AND OF ITSELF WAS A  
COLORABLE ISSUE].- THERE IS NO DOUBT THAT HAD THE ARRESTING OFFICER SHAWN  
NOBLE OBEYED THE SUBPOENA AND APPEARED AT THE SUPPRESSION HEARING THE UNLAWF-  
UL ARREST AND EVERYTHING INCIDENT TO THE ARREST WOULD HAVE BEEN SUPPRESSED  
BECAUSE MR. MILAM IS BEYOND ANY DOUBT INNOCENT.

A. (STANDARD OF REVIEW)

REVIEW BY THIS COURT OF THE TRIAL COURT'S VIOLATION OF MR. MILAM RIGHTS TO A  
SUPPRESSION HEARING CREATED BY WAY OF THE 4th AMEND. FOR THE UNITED STATES CON-  
STITUTION, AND ART. I § 7 OF THE WASHINGTON STATE CONSTITUTION, "EXCLUSIONARY-  
RULE" IS DE NOVO. RESULTING IN AUTOMATIC DISMISSAL WITH PREJUDICE.

B. (LEGAL AUTHORITY)

THE COURT'S FAILURE TO HOLD A SUPPRESSION HEARING IS A DIRECT VIOLATION OF THE  
4th AMEND. U.S.C.A. CONST.; WEST'S RCWA CONST. ART. I, § 7.  
SEE, STATE V. SWETZ, 160Wn.App. 122, 247 P.3d 802 (2011) ARRESTING OFFICER-  
'S SEIZURE OF EVIDENCE AFTER HANDCUFFS PLACED ON DEFENDANTS HANDS INADMISSABLE.  
WHERE HERE IN MR. MILAM'S UNLAWFUL ARREST AND MALICIOUS PROSECUTION MR. MIL-  
AM WOULD HAVE BEEN SUCCESSFUL IN SUPPRESSING THE ARREST, SEARCH AND SEIZURE OF  
EVIDENCE HAD THE ARRESTING OFFICER APPEARED AT THE SUPPRESSION HEARING FORWHI-  
CH HE WAS SUBPOENAED TO APPEAR OF WHICH NO REASON WAS GIVEN BY THE STATE OR-

THE COURT AND **MR. MILAM'S** ATTEMPTS TO ADDRESS THIS ISSUE WAS HINDERED BY THE COURT IN GENERAL BASED SOLEY ON THE GROUNDS THAT THE COURT WOULD NOT ENTERTAIN ANY ARGUMENTS PERTAINING TO THIS ISSUE, WHICH IS A CLEAR AND DIRECT VIOLATION OF THE 4th, 6th, and 14th CONST. AMEND. U.S.C.A. AND ART. I § 3, §7, AND §22 OF THE WASHINGTON STATE CONST. DUE PROCESS OF LAW.

**C. (ARGUMENT)**

**MR. MILAM** WAS UNLAWFULLY ARRESTED SEARCHED AND ALL EVIDENCE SEIZED, AND THE STATE OF WASHINGTON DENIED **MR. MILAM** A FAIR TRIAL AND DUE PROCESS OF LAW WHEN IT DENIED **MR. MILAM** THE RIGHT TO PROVE THE FOREGOING BY WAY OF A SUPPRESSION HEARING, BECAUSE THE ARRESTING OFFICER WHOM WAS SUBPOENAED TO APPEAR DID NOT APPEAR AT THE SUPPRESSION HEARING TO VALIDATE THE UNLAWFUL ARREST, SEARCH, AND SEIZURES. THERE ARE MANY VIOLATIONS HERE IN **MR. MILAM'S** MALICIOUS CONVICTION BECAUSE WITHOUT THE ARRESTING OFFICER OF WHOM ALSO SEARCHED, AND SEIZED ALLEGED EVIDENCE DID NOT APPEAR AT THE SUPPRESSION HEARING OR TRIAL THERE SHOULD HAVE NEVER BEEN A TRIAL IN THIS MATTER. CREATING A MANIFEST INJUSTICE AND A CONSTITUTIONAL MANIFEST MISCARRIAGE OF JUSTICE AN OVERALL VIOLATION OF BOTH THE UNITED STATES CONST., AND THE WASHINGTON STATE CONSTITUTION AND ALL LAWS OF THE UNITED STATES PROHIBITING CRIMES AGAINST ANY PERSON WHICH HERE A INNOCENT **MR. MILAM** WAS DELIBERATE MALICIOUSLY CONVICTED.

GROUND 4: THE TRIAL AND OR SENTENCING JUDGE VIOLATED THE APPELLANT'S 6th AMEND RIGHTS AND BLAKELY WHEN IT WITHOUT A JURY ENTERED AN EXCEPTIONAL SENTENCE OUTSIDE THE MAXIMUM SENTENCE RANGE CITING, "LACK OF REMORSE", WHICH PURSUANT TO BLAKELY SHOULD BE DECIDED BY A JURY "ONLY".:

THE SENTENCING JUDGE VIOLATED THE APPELLANT MR. MILAM RIGHT TO A JURY WHEN IT ERRONOUSLY CONSIDER MATTERS BEYOND PRIOR CRIMINAL HISTORY TO GIVE MR. MILAM AN EXCEPTIONAL SENTENCE OUTSIDE THE MAX. CITING "LACK OF REMORSE", BASED SOLELY ON MR. MILAM BEING ADAMANT ABOUT HIS INNOCENSE AND EXERCISING HIS RIGHTS TO DEFEND AGAINST FALSE AND MALICIOUS ALLEGATIONS IN DOING THIS THE SENTENCING JUDGE VIOLATED WASHINGTON STATE CONSTITUTION ART.I § 22 WHICH STATES, THE DEFENDANT MAY APPEAR AND DEFEND, AND ART. I § 21 RIGHT TO A JURY TRIAL SHALL REMAIN INVIOLETE. AND THE 6th AMEND.TO THE UNITED STATES CONST. RIGHT TO A JURY TRIAL.

A. (STANDARD OF REVIEW)

REVIEW OF THIS ISSUE BY THIS COURT IS DE NOVO. AND PURSUANT TO BLAKELY AUTOMATIC REVERSAL IS COMPELLED.

B. (LEGAL AUTHORITY)

PUSUANT TO BLAKELY V. WASHINGTON 124 S.CT. AT 2537 "A COURT MAY ONLY IMPOSE AN EXCEPTIONAL SENTENCE BASED ON FACTS REFLECTED IN THE JURY VERDICT".

SEE ALSO, STATE V. FERRO, NO. 30356-6-II (12/06/2005)  
SEE ALSO, CITING, APPRENDI V. NEW JERSEY, \_\_\_\_\_ US \_\_\_\_\_, \_\_\_\_\_ LED2D \_\_\_\_\_, 120 SCT 2-348 (2000); JONES V. US, 526 US 227, 143 LED2d 311, 119SCT (1999). "OTHER THAN THE FACT OF PRIOR CONVICTION, ANY FACT THAT INCREASES PENALTY FOR CRIME BEYOND PRESCRIBED STATUTORY MAXIMUM MUST BE SUBMITTED TO JURY, AND PROVED BEYOND REASONABLE DOUBT".  
WASHINGTON STATE CONST. ART. I §21, §22.; UNITED STATES CONST. AMEND. 6, AND 14.

C. (ARGUMENT)

THERE IS NO DOUBT..... THE SENTENCING JUDGE VIOLATED MR. MILAM RIGHTS TO APPEAR AND DEFEND AND TO ENTER HIS PLEA OF "NOT GUILTY" TO BE ADAMANT ABOUT HIS SINCERE INNOCENSE WHEN THE JUDGE VIOLATED LAW AND ABUSED HIS DISCRETION BY GIVEN AN EXCEPTIONAL SENTENCE BASED ON GROUNDS OTHER THAN PRIOR CONVICTIONS VIOLATING THE 6th AMEND. U.S.C.A. RIGHT TO A JURY, AND WASH. STATE CONST. ART. I §21, AND § 22 RIGHTS TO A JURY AND RIGHTS TO DEFEND BY WAY OF BLAKELY. REVERSAL IS COMPELLED.

GROUND 5: THE TRIAL COURT FAILED TO PROPERLY INSTRUCT THE JURY ON ALL ELEMENTS OF THE CRIMES THAT THE JURY WAS CONSIDERING AND THE STATE OF WASHINGTON DELIBERATLY GAVE THE WRONG JURY INSTRUCTION TELLING THE JURY THEY MUST FIND "ONLY" THAT THE DEFENDANT POSSESSED THE ALLEGED STOLEN PROPERTY VIOLATION OF 6th amend. u.s.c.a., AND WASH.STATE.CONST. ART. I §21 RIGHTS TO A JURY TRIAL AND ALSO CREATED MISCARRIAGE OF JUSTICE:

THE TRIAL COURT FAILED TO PROPERLY INSTRUCT THE JURY ON [15 COUNTS] 3 COUNTS OF 1st DEGREE TRAFFICKING IN STOLEN PROPERTY, 3 COUNTS OF IDENTITY THEFT, 8 COUNTS POSSESSION OF STOLEN PROPERTY, DRUG PARAPHERNALIA, AND POSSESSION OF MARIJUANA\*[WHICH IS NO LONGER A CRIME IN THE STATE OF WASHINGTON FOR POSSESSION OF AN OUNCE OR LESS]\* THE PROSE-CUTION INFORMED THE JURY THAT IN ORDER TO CONVICT ON ALL CHARGES THEY MUST FIND "ONLY" THAT MR. MILAM POSSESSED THE STOLEN PROPERTY.

A. (STANDARD OF REVIEW)

REVIEW OF THIS ISSUE BY THIS COURT IS DE NOVO, BECAUSE THE JURY WAS NOT PROPERLY INSTRUCTED AS TO EACH ELEMENT OF THE CRIMES AND WHAT MUST BE FOUND AUTOMATIC REVERSAL IS COMPELLED.

B. (LEGAL AUTHORITY)

[1]. THE JUDGE SHOULD CONDUCT A CHAMBER CONFERENCE AT THE EARLIEST OPPORTUNITY DURING THE COURSE OF THE TRIAL IN ORDER TO BE ABLE TO FORMULATE THE PROPOSED INSTRUCTIONS AND FORMS OF VERDICT BEFORE THE DEFENSE REST.

[2]. AT THE CONCLUSION OF THE EVIDENCE, THE JUDGE SHOULD DELIVER TO EACH LAWYER THE INSTRUCTIONS AND FORMS OF VERDICT IN THE FORM PROPOSED TO BE SUBMITTED TO THE JURY AND THEN RECESS TO ALLOW BOTH LAWYERS THE OPPORTUNITY TO STUDY THE PROPOSED INSTRUCTIONS AND FRAME ANY OBJECTIONS THEY MAY HAVE. CrR 6.15 THIS MANDATORY PROCEDURAL PROCESS DID NOT OCCUR IN MR. MILAM TRIAL.

THE INSTRUCTIONS GIVEN TO THE JURY SHOULD EXPLAIN THEIR RESPONSIBILITY WITH RESPECT TO THE VERDICTS THEY MAY REACH AND THE VERDICT FORMS WHICH WILL BE A PART OF THE INSTRUCTIONS. THE VERDICTS SHOULD COVER ALL POSSIBLE ALTERNATIVES AND TAKE INTO ACCOUNT THE RAMIFICATIONS WHEN TWO OR MORE DEFENDANTS ARE JOINTLY CHARGED. CrR 6.16 (1). AGAIN THIS PROCEDURAL PROCESS DID NOT OCCUR IN MR. MILAM TRIAL.

WPIC 3.01 MULTIPLE COUNTS--SINGLE DEFENDANT: A SEPERATE CRIME IS CHARGED IN EACH COUNT. YOU MUST DECIDE EACH COUNT SEPERATELY. YOUR VERDICT ON ONE COUNT SHOULD NOT CONTROL YOUR VERDICT ON [any][the] OTHER COUNT. IN MR. MILAM TRIAL FOR ALL [15] COUNTS THE PROSECUTOR INSTRUCTED THE JURY THAT THEY MUST ONLY FIND THAT THE DEFENDANT POSSESSED THE STOLEN PROPERTY TO CONVICT ON ALL [SEPERATE] COUNTS.

THE JURY WOULD HAVE TO FIND THE FOLLOWING TO CONVICT FOR TRAFFICKING IN STOLEN PROPERTY IN THE 1st DEGREE: RCWA 9A.82.505. TRAFFICKING IN STOLEN PROPERTY IN THE FIRST DEGREE:

(1) A PERSON WHO KNOWINGLY INITIATES, ORGANIZES, PLANS, FINANCES, MANAGES, OR SUPERVISES THE THEFT OF PROPERTY FOR SALE TO OTHERS, OR WHO KNOWINGLY TRAFFICS IN STOLEN PROPERTY, IS GUILTY OF TRAFFICKING IN STOLEN PROPERTY IN THE FIRST DEGREE. THIS MORE THAN POSSESSIONS NEEDED IN ORDER TO CONVICT.

THE JURY WOULD HAVE TO FIND THE FOLLOWING IN ORDER TO CONVICT THE DEFENDANT FOR IDENTITY THEFT: RCWA 19.300.020. identity theft or fraud--PENALTY:

A PERSON, THAT INTENTIONALLY SCANS ANOTHER PERSON'S IDENTIFICATION DEVICE REMOTELY, WITHOUT THAT PERSON'S PRIOR KNOWLEDGE AND PRIOR CONSENT, FOR THE PURPOSE OF FRAUD, IDENTITY THEFT,

- OR FOR ANY OTHER ILLEGAL PURPOSE, SHALL BE GUILTY OF A CLASS C FELONY. POSSESSION IS NOT EVEN AN ELEMENT OF IDENTITY THEFT THUS THE JURY WOULD HAVE TO FIND MORE THAN POSSESSION.

THE JURY WOULD HAVE TO FIND THE FOLLOWING IN ORDER TO CONVICT THE DEFENDANT FOR POSSESSION OF STOLEN PROPERTY: RCWA 9A.56.140: (1) "POSSESSING STOLEN PROPERTY" MEANS KNOWINGLY TO RECEIVE, RETAIN POSSESS, CONCEAL, OR DISPOSE OF STOLEN PROPERTY KNOWING THAT IT HAS BEEN STOLEN AND TO WITHHOLD OR APPROPRIATE THE SAME TO THE USE OF ANY PERSON OTHER THAN THE TRUE OWNER OR PERSON ENTITLED THERETO. THUS THE JURY WOULD HAVE TO FIND MORE THAN MERE POSSESSION IT WOULD ALSO HAVE TO FIND THAT THE DEFENDANT "KNEW" THE PROPERTY WAS STOLEN.

IN ORDER FOR THE JURY TO CONVICT THE DEFENDANT FOR POSSESSION OF DRUG PARAPHERNALIA THEY WOULD HAVE TO FIND THAT THE PARAPHERNALIA WAS ACTUALLY DRUG PARAPHERNALIA. SEE, STATE V. GEORGE (2008) 146 Wash.App. 906, 193 P.3d 693: "BARE POSSESSION OF DRUG PARAPHERNALIA IS NOT A STATUTORY CRIME. THUS THE JURY WOULD HAVE TO FIND MORE THAN MERE POSSESSION.

POSSESSION OF MARIJUANA AN OUNCE OR UNDER IS NOT A CRIME IN THE STATE OF WASHINGTON. THUS THE JURY WOULD HAVE TO FIND MORE THAN MERE POSSESSION IN ORDER TO CONVICT.

THE SEPERATE CRIME INSTRUCTION CAN NOT SAVE THE JURY INSTRUCTIONS AS A WHOLE WHEN THEY FAIL TO CONVEY THE NECESSITY OF A SEPERATE AND DISTINCT "ACT FOR EACH". SEE, STATE V. KIER, 164 Wn.2d 798, 813, 194 P.3d 212 (2008); #STATE V. VERDON ISAAGO MALO-NO. 40736-1-II (2/22/2012); THE INSTRUCTIONS IN THIS CASE ARE NEARLY IDENTICAL TO THOSE IN BORSHEIM. IN BOTH CASES, THE "TO CONVICT" INSTRUCTION INCLUDE MULTIPLE COUNTS ALLEGED TO HAVE OCCURRED WITHIN THE SAME TIME PERIOD, BUT DID NOT INFORM THE JURY THAT IT HAD TO FIND A "SEPERATE AND DISTINCT" ACT FOR EACH COUNT. SEE, STATE V. HERNANDEZ, NO. 39148-II (11-02-2010).

FAILURE TO GIVE CORRECT JURY INSTRUCTIONS IS A DIRECT VIOLATION TO A JURY TRIAL, PROTECTED BY THE 6th AMEND. U.S.C.A. CONST. AND ART. I § 21 OF THE WASHINGTON STATE CONSTITUTION. AND THE APPELLANT'S RIGHTS TO A FAIR TRIAL AGAIN PROTECTED BY THE 14th AMEND. U.S.C.A. CONST., AND ART. I § 3 OF THE WASHINGTON STATE CONST. SEE, DONNELLY V. DECHRISTOFONA, 416 US 637, 648-49, 40 L.ed2d 431, 440, 94 SCT 1868- (1974).

LOUIS D. BRANDEIS- U.S. SUPREME COURT JUSTICE-1856-1941: "TO DECLARE THAT IN THE ADMINISTRATION OF CRIMINAL LAW THE END JUSTIFIES THE MEANS- TO DECLARE THAT THE GOVERNMENT MAY COMMIT CRIMES IN ORDER TO SECURE CONVICTION -

- OF A PRIVATE CRIMINAL- WOULD BRING TERRIBLE RETRIBUTION".

C. (ARGUMENT)

MR. MILAM HAS NOT RECEIVED A FAIR TRIAL BY A PROPERLY INSTRUCTED JURY, A IMPROPERLY INSTRUCTED JURY IS A DENIAL OF A UNBIASED JURY THUS A CLEAR DENIAL OF MR. MILAM RIGHTS TO A JURY TRIAL. A JURY THAT DOES NOT NO THE ELEMENTS OF ALL CRIMES THE DEFENDANT IS BEING TRIED FOR CAN NOT RENDER A VERDICT NOT SPOILED BY A MISCARRIAGE OF JUSTICE. REVERSAL IS COMPELLED.

GROUND 6: THE STATE OF WASHINGTON REFUSED TO PROVIDE DISCOVERY TO A PRO SE DEFENDANT MR. MILAM AFTER MILAM MADE INCESSANT REQUEST, BECAUSE OF THIS MR. MILAM REQUESTED SANCTIONS BY WAY OF MOTION TO THE COURT, INSTEAD OF THE JUDGE WHOM WAS FAMILIAR WITH THE ISSUES THE TRIAL JUDGE TRANSFERED THE DISCOVERY MATTER TO A UNFAMILIAR JUDGE OF WHOM DENIED THE DEFENDANT MOTION FOR SANCTIONS:

A. (STANDARD OF REVIEW)

REVIEW OF A DISCOVERY ISSUE IS IN THIS MATTER A QUESTION OF LAW THUS STANDARD OF REVIEW IS DE NOVO.

B. (LEGAL AUTHORITY)

LMCLR CR 4.7.DISCOVERY---: "THE PROSECUTING AUTHORITY SHALL PROVIDE DISCOVERY TO COUNSEL APPOINTED AT PUBLIC EXPENSE WITHIN [14 DAYS] OF THE PROSECUTING AUTHORITY'S RECEIPT OF THE ORDER APPOINTING COUNSEL OR OTHER NOTIFICATION OF APPOINTMENT BY THE COURT. THE ORDER APPOINTING COUNSEL OR OTHER NOTIFICATION OF APPOINTMENT BY THE COURT SHALL BE CONSIDERED A WRITTEN DEMAND FOR DISCOVERY, THEREBY TRIGGERING THE PROSECUTING AUTHORITY'S OBLIGATIONS UNDER CrRLJ 4.7 (a).

TO JUSTIFY DISMISSAL OF A CRIMINAL CASE DUE TO A PRETRIAL DISCOVERY VIOLATION, THE DEFENDANT MUST SHOW ACTUAL PREJUDICE; MERE POSSIBILITY OF PREJUDICE IS INSUFFICIENT.

14th AMEND.CONST. U.S.; AND WASHINGTON STATE CONST. ART. I §3 AND §22 HAS BEEN VIOLATED HERE.

C. (ARGUMENT)

MR. MILAM, WAS NEVER GIVEN ANY DISCOVERY PRETRIAL MID-TRIAL OR AT ANY TIME AND MADE INCESSANT REQUEST TO THE PROSECUTORS OFFICE TO NO AVAIL, THUS MR. MILAM MOVED IN THE TRIAL COURT REQUESTING SANCTIONS OR DISMISSAL DUE TO IT BEING APPROXIMATELY [10 DAYS] TO TRIAL AND HE HAD NOT RECEIVED ANY AT ALL DISCOVERY AND THE TRIAL COURT IMPROPERLY TRANSFERED THE ISSUE TO AN UNFAMILIAR JUDGE WHOM DENIED HIS REQUEST FOR SANCTIONS AND REFUSED TO COMPELL THE STATE OF WASHINGTON TO HANDOVER THE STATES TRIAL DISCOVERY. THIS VIOLATION IS FLAGRANT AND ILL INTENTIONED AND BEYOND ANY DOUBT PREJUDICED MR. MILAM AND DENIED HIM A FAIR TRIAL.

III. (APPELLANT'S OVERALL SUMMERATION)

THIS MALICIOUS PROSECUTION RCWA 4.24.350: ACTIONS FOR DAMAGES THAT ARE FALSE, UNFOUNDED, MALICIOUS, WITHOUT PROBABLE CAUSE, OR PART OF A[CONSPIRACY]--ACTION, CLAIM, OR COUNTERCLAIM BY JUDICIAL OFFICER, PROSECUTING AUTHORITY, OR LAW ENFORCEMENT OFFICER FOR MALICIOUS PROSECUTION-- DAMAGES AND COSTS--ATTORNEYS' FEES--DEFINITIONS. (2): MALICE AND WANT OF PROBABLE CAUSE CONSTITUTE GIST OF MALICIOUS PROSECUTION.

RCWA 9.62.010 MALICIOUS PROSECUTION: EVERY PERSON WHO SHALL, MALICIOUSLY AND WITHOUT PROBABLE CAUSE THEREFOR, CAUSE OR ATTEMPT TO CAUSE ANOTHER TO BE ARRESTED OR PROCEEDED AGAINST FOR A CRIME OF WHICH HE OR SHE IS INNOCENT:

- (1) IF SUCH CRIME BE A FELONY, IS GUILTY OF A CLASS C FELONY AND SHALL BE PUNISHED BY IMPRISONMENT IN A STATE CORRECTIONAL FACILITY FOR NOT MORE THAN FIVE YEARS; AND
- (2) IF SUCH CRIME BE A GROSS MISDEMEANOR OR MISDEMEANOR, SHALL BE GUILTY OF A MISDEMEANOR.

WHAT HAPPENED AND IS HAPPENING TO AN [INNOCENT MR. MILAM] IS BEYOND ANY DOUBT MALICIOUS INITIATED BY ARRESTING OFFICER SHAWN NOBLE \*[WHOM FAILED TO APPEAR AT THE SUPPRESSION HEARING-- AND FAILED TO OBEY A COURT'S SUBPOENA TO APPEAR]\* ARRESTING OFFICER SHAWN NOBLE HAD NO GROUNDS TO ARREST MR. MILAM. THE TRIAL COURT FAILING AND REFUSING TO ISSUE PROPER ORDERS FOR THE ATTENDANCE OF OFFICER SHAWN NOBLE FAILURE TO OBEY IT'S ORDER TO APPEAR BY SUBPOENA. THE TRIAL COURT FAILING IT'S DUTY ALSO TO RESOLVE THE DISCOVERY ISSUE, AND TO HOLD APRELIMINARY HEARING TO-- DETERMINE IF PROBABLE CAUSE EXISTED TO BELIEVE MR. MILAM HAD COMMITTED THE CRIME OF IDENTITY-- THEFT, TRAFFICKING IN STOLEN PROPERTY, AND TO DETERMINE IF THE WARRANTLESS ARREST WAS JUSTIFIED.

THE PROSECUTOR FILED MALICIOUS CHARGES AND PROCEEDED TO MALICIOUSLY PROSECUTE TOGETHER WITH JUDGE BUCKNER, JUDGE TOMLISON, AND JUDGE LINDA LEE, THE COURT APPOINTED COUNSEL TO REPRESENT MR. MILAM WITH HIS MOTION TO ARREST THE JUDGMENT AND COUNSELOR \_\_\_\_\_

\_\_\_\_\_, IMMEDIATELY FOUND NO COLORABLE ISSUES, PROSECUTOR BRENT HYER REFUSED TO PROVIDE ANY DISCOVERY AND THE TRIAL JUDGE TRANSFERED THE ISSUE TO A NONPRESIDING JUDGE OF WHOM PROMPTLY DENIED ANY SANCTIONS AND REFUSE TO ENTER A ORDER TO COMPELL.

FOR THERE TO BE A CONSPIRACY, THE CONSPIRATORS MUST AGREE TO COMMIT A CRIMINAL ACT. A FORMAL AGREEMENT IS NOT NECESSARY. THE AGREEMENT CAN BE SHOWN BY CONCERT OF ACTION, ALL THE PARTIES WORKING UNDERSTANDINGLY, WITHA SINGLE DESIGN FOR A COMMON PURPOSE. THE CONSPIRATORS NEED NOT REACH THEIR AGREEMENT BY PERSONAL NEGOTIATION. THEY CAN ACT THROUGH AN INTERMEDIARY. THE EXISTENCE OF THE AGREEMENT CAN, AND MUST, BE PROVED CIRCUMSTANTIALLY. THE AGREEMENTS CAN BE PROVED BY THE CONSPIRATORS DECLARATIONS, ACTS AND CONDUCT DONE IN PURSUANCE OF IT. ONCE THE CONSPIRACY HAS BEEN ESTABLISHED, EVIDENCE, OF A DEFENDANT'S SLIGHT CONNECTION TO IT, IF PROVEN BEYOND A REASONABLE DOUBT, IS SUFFICIENT TO CONVICT THE DEFENDANT OF PARTICIPATION IN THE CONSPIRACY.

STATE V. WALKER, 24 Wn.App. 78, 80, 599 P.2d 533, 534 (1979).

THE FACTS OF THIS MATTER PROVES THAT JUDGE BUCKNER, JUDGE TOMLISON, JUDGE LINDA LEE, ARRESTING OFFICER SHAWN NOBLE, OFFICER ANDY HALL, OFFICER JEREMY JAMES, PROSECUTOR BRENT HYER, APPOINTED COUNSELOR \_\_\_\_\_, AND INVESTIGATOR \_\_\_\_\_,

\_\_\_\_\_, BY WAY OF THE MEETING OF THE MINDS CONSPIRED TO UNLAWFULLY ARREST, UNLAWFULLY IMPRISON, UNLAWFULLY PROSECUTE, UNLAWFULLY DENY CONSTITUTIONAL RIGHTS, UNLAWFULLY CONVICT, AND TO UNLAWFULLY IMPRISON FOR [10 YEARS] IN THE WASHINGTON STATE PENITENTIARY.

BEYOND ANY DOUBT, AN EXIGENT RELEASE IS WARRANTED, MR. MILAM SHOULD BE PROMPTLY AND EXIGENTLY VINDICATED IN ACCORDANCE WITH THE LAWS THAT THE FOREGOING PERSONS USED WITH MALICE TO CONVICT AN INNOCENT MR. MILAM.

I THE APPELLANT HEREIN VERIFY CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY PURSUANT TO THE LAWS OF WASHINGTON STATE SIGNED AND EXECUTED THIS 13 DAY OF MARCH 2013. AT MONROE, WA.

*Mr. Michael D. Milam*  
MR. MICHAEL D. MILAM  
286036  
P.O. BOX 888  
MONROE, WA 98272