

Case # 302563

**Statement of Additional Grounds
for Review**

**State of Washington
v.
Vance Lynn Baker**

FILED

JUL 23 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

State of Washington

v.

Vance Baker

Court of Appeals Div 3 Case No. 30256-3-III

STATEMENT OF ADDITIONAL GROUNDS under

RAP 10.10



(Pro Se)

Vance Baker #349587

Vance Baker 7-18-2013

Airway Heights Correction Ctr.

P.O. Box 2049 N-A 346

Airway Heights, Wa. 99001

RAP 10.10-Vance Baker

1. Due process Discovery Violation(s)

A structural discovery error/violation was present and proliferated by the trial court, and Deputy Prosecutor Anita Petra which did successfully preclude the defense from its successful impeachment of state's witness Lisa Baker. In my trial proceedings, my defense counsel on two occasions MOTIONED the trial court to compel the production of defense required police reports. But The Benton County superior Court further participated in blocking the production of these vital evidentiary documents for the defense's case. Thus the trial court as the government allowed law enforcement (specifically the Benton County Sheriff's Department to withhold favorable evidence and there is a reasonable probability that disclosure would have altered the result of the trial. The trial court failed to properly respond to defense counsel's Motions to compel production of the requested Police Reports which would have proven that Lisa Baker had completely fabricated one alleged rape incident while this trial process against Vance Baker was under way. It also would have shown that the Deputy Anita Petra's husband Deputy H. Gonzalez who was more than likely a law enforcement responder to the request for emergency aid requested by Lisa Baker to her father's home in late August 2009. The trial court further erred by making No finding which constituted a harmless error review on this issue Once

Constitutional suppression

When is found harmless error review is mandated. **Kyles v. Whitley**, 514 U.S. 419, 435 (1995). the facts from the trial
page 1

record in direct support of this issue are as follows:

--Defense Counsel Motions trial Court for police reports on

10/1/09 Case # 08-1-01152-0 Docket # 031

--on october 15, 2009 the Benton County Prosecutor Andrew Miller stated: "I had e-mailed the Sherrif's office we should get it tommorrow." page 12 at rp 10-13

--new ~~new~~ defense attorney MR. Holt makes Motion for police

Reports on ~~new~~ Date: 08-16-2010 Docket # 081

--what these police reports would show was that the police had showed up at the Lisa Baker & her father's residence, while she stated in court under Oath that sh'd been home alone, on page 167. And that her house was being broken into and that she was being raped. She told her boyfriend Jim Dillinger on -line from her computer to call the police. But this incident was just a lie. But being denied access to these police reports denied the defendant a due process opportunity to impeach Lisa Baker, one of the state's complaining witnesses against myself, Vance Baker. See page 167

--the deputy prosecutor kept stating there never was an incident nor a police report on this matter page 174, probably due to her husband's direct involvement in her matter before the court and the potential for discipline due to a serious "conflict of interest" In the professional Rules of Conduct. Page 174.

--Judge Vanderschoor wouldn't allow the father of Lisa Baker

(shawn) to testify regarding the police arrival nor the lie.
--Deputy Prosecutor Petra asks deputy sherrif Brockman who sat at her table during trial (who had no involvement in the police incident in question) whether or not there was any police report record of going out there to take a rape report from Lisa Baker. He told the court there isn't one. Page 174 rp5-8. then at rp15-20 the Judge realizes that this evidence is really critical to the defense & states he will allow Lisa on the stand outside the jury's presence & if she denies it then you will be able to ask her about it in front of the jury. P.174 rp 15-20.

--then on page 167 at rp 3-4 the court loses his own ruling & denies the defense..."I can't make a ruling on that until I see the police report.

--after denying to make a ruling on Lisa Baker even after she admitted she had lied on page 179 rp-13-16.

2. The defense OBJECTED to the trial court's unfair allowance of witnesses to prove it's case but the court guarded the state's case unfairly as to this procedure. It did this by refusing to allow the defense to call Jim Dillenger to testify at trial. see page 22, rp-24-25. Proceedings - March 23, 2011

3. The defendant suffered several serious incidents of ineffective assistance of counsel by (1) failure to Motion for a new trial over The Brady Violation of refusal to provide the police reports, as is ruled in Slutzker v. Johnson, 393 F.3d

373, 388 (3rd cir. 2004)(due process violated because prosecution failed to provide police reports). and in *Crivens v. Roth*, 172 F.3d 991, 999 (7th cir, 1999).(Due process violated because prosecution withheld evidence that could have been used to impeach testimony of state's key witness and affect credibility of state's witness.

4. State's witness Maygan Baker testifies on pages 272 rp-9-25, and on page 273 rp 1-8 that she had received a benefit for her adverse testimony against her father which as by product aided her mother in getting all her father's real Property from him. This constitutes a structural Non-reversible error

5. ABUSE OF DISCRETION when the trial court allows Hearsay from the boyfriend of ^{Maygan} ~~Maygan~~ Baker-Jimmy Jackson. OBJECTION BY DEFENSE Page 364 at rp 11-12 & then the trial court allowed it at RP 13-

Page 362. This was uniquely prejudicial not probative in any way.

Conclusion: The petitioner prays for a new trial with his due process rights protected, in the least.

respectfully submitted.

Vance Baker Vance Baker



Appendix

(References
from the
Trial Record)

For support in

Vance Baker's

RAP 10.10

Court: Benton Superior Ct
Case Number: 08-1-01152-0

Sub	Docket Date	Docket Code	Docket Description	Misc Info
001	11-13-2008	INFORMATION	Information	
002	11-13-2008	MOTION FOR ARREST/DETENT PROB CAUSE	Motion For Arrest/detent Prob Cause	
003	11-13-2008	ORDER FOR WARRANT	Order For Warrant	
	11-13-2008	EX-PARTE ACTION WITH ORDER JDG0006	Ex-parte Action With Order Judge Carrie L. Runge	
004	11-13-2008	WARRANT OF ARREST	Warrant Of Arrest Bail: \$10,000	
	11-13-2008	REQUEST ACTION	Request For Hearing-pa Child Molest 2	11-20-2008CM
		ACTION	Arraign	
005	11-18-2008	BAIL BOND	Bail Bond-lacey Ornelley	
	11-18-2008	EX-PARTE ACTION WITH ORDER JDG0005	Ex-parte Action With Order Judge Robert G Swisher Bond # As1Sk-47850	
005A	11-19-2008	NOTICE OF APPEARANCE	Notice Of Appearance -egan	
005B	11-19-2008	MOTION	Motion Under Cr4.7	
005C	11-19-2008	MOTION IN LIMINE	Motion In Limine -re: victim	
005D	11-19-2008	MOTION	Motion For 3.5 Hearing	
005E	11-19-2008	OMNIBUS APPLICATION BY DEFENDANT	Omnibus Application By Defendant	
006	11-20-2008	SHERIFF'S RETURN WARRANT OF ARREST	Sheriff's Return Wa - 11-13-08	
007	11-20-2008	ADVICE OF RIGHTS ACTION	Advice Of Rights Child Molest 2	02-02-2009
	11-20-2008	ACTION	Omnibus	
	11-20-2008	COMMENT ENTRY ACTION	Child Molest 2	01-22-2009
		ACTION	Stabng	
	11-20-2008	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date Child Molest 2	12-18-2008
		ACTION	Jtrial	
008	11-20-2008	ORDER FOR SEXUAL ASSAULT PROTECTION	Pre-trial Order For Sex Asslt Prot	
009	11-20-2008	INITIAL ARRAIGNMENT JDG0001	Initial Arraignment Vanderschoor/vnclaugh/dill/slatasky	12-18-2008CM
		ACTION	Child Molest 2	
		ACTION	Omnibus	
	11-20-2008	COMMENT ENTRY ACTION	Child Molest 2	01-22-2009
		ACTION	Stabng	
	11-20-2008	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date Child Molest 2	02-02-2009
		ACTION	Jtrial	
010	12-18-2008	MOTION HEARING ACTION	Motion Hearing Omnibus	01-08-2009CM
		ACTION	Child Molest 2	
		JDG0004	Jdg Craig Matheson/long/sindair	
011	01-08-2009	MOTION HEARING JDG0004	Motion Hearing Jdg Craig Matheson/long/ldier	01-22-2009CM
		ACTION	Child Molest 2	
		ACTION	Stabng/vornng	
012	01-22-2009	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	01-22-2009	WAIVER OF SPEEDY TRIAL ACTION	Waiver Of Speedy Trial Child Molest 2	03-26-2009
		ACTION	Oranng ***aft:bas***	
	01-22-2009	COMMENT ENTRY ACTION	Child Molest 2	04-09-2009
		ACTION	Stabng ***aft:bas***	
	01-22-2009	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date --reset Child Molest 2	04-20-2009
		ACTION	Jtrial ***aft:bas***	
013	01-22-2009	MOTION HEARING JDG0005	Motion Hearing Judge Swisher/long/ldier	
014	03-12-2009	AFFIDAVIT OF PREJUDICE JDG0002	Affidavit Of Prejudice: Judge Bruce A. Spamer	
015	03-19-2009	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	03-19-2009	WAIVER OF SPEEDY TRIAL	Waiver Of Speedy Trial	05-13-2009

		ACTION	Child Molest 2	
		ACTION	Stahrg\omnhrg * Aff:bas *	
	03-19-2009	NOTICE OF TRIAL DATE	Notice Of Trial Date -reset	05-26-2009
		ACTION	Child Molest 2	
		ACTION	Jtrial * Aff:bas *	
016	03-19-2009	MOTION HEARING JDG0006	Motion Hearing Judge Runge/adams/weldner	
017	05-11-2009	NOTE FOR MOTION DOCKET	Note For Motion Docket -pa	05-14-2009CM
		ACTION	Child Molest 2	
		ACTION	Stahrg\omnhrg*aff: Bas *	
018	05-14-2009	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	05-14-2009	WAIVER OF SPEEDY TRIAL	Waiver Of Speedy Trial	05-28-2009CM
		ACTION	Child Molest 2	
		ACTION	Stahrg	
	05-14-2009	NOTICE OF TRIAL DATE	Notice Of Trial Date -reset	06-08-2009
		ACTION	Child Molest 2	
		ACTION	Jtrial	
019	05-14-2009	MOTION HEARING JDG0005	Motion Hearing Judge Robert G Swisher/lang	
019A	05-19-2009	NOTICE	Notice Of Intent To Offer Evidence	
020	05-20-2009	STATE'S LIST OF WITNESSES	State's List Of Witnesses	
021	05-28-2009	MOTION HEARING JDG0005	Motion Hearing Judge Robert G Swisher/lang	06-11-2009CM
		ACTION	Child Molest 2	
		ACTION	Stahrg	
	05-28-2009	NOTICE OF TRIAL DATE	Notice Of Trial Date - Reset	06-22-2009
		ACTION	Child Molest 2	
		ACTION	Jtrial	
022	06-11-2009	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	06-11-2009	WAIVER OF SPEEDY TRIAL	Waiver Of Speedy Trial	07-30-2009CM
		ACTION	Child Molest 2	
		ACTION	Omnhrg	
	06-11-2009	COMMENT ENTRY		09-03-2009
		ACTION	Child Molest 2	
		ACTION	Stahrg	
	06-11-2009	NOTICE OF TRIAL DATE	Notice Of Trial Date - Reset	09-14-2009
		ACTION	Child Molest 2	
		ACTION	Jtrial	
023	06-11-2009	MOTION HEARING JDG0007	Motion Hearing Judge Cameron Mitchell/pelrier	
024	06-12-2009	NOTICE OF SUBSTITUTION OF COUNSEL	Notice Of Substitution Of Counsel Eherton For Egan	
025	07-09-2009	REQUEST FOR DISCOVERY	Request For Discovery	
026	07-30-2009	MOTION HEARING JDG0002	Motion Hearing Judge Bruce A. Spanner/munoz	08-20-2009CM
		ACTION	Child Molest 2	
		ACTION	Omnhrg	
027	08-20-2009	MOTION HEARING JDG0002	Motion Hearing Judge Bruce A. Spanner/munoz	08-27-2009CM
		ACTION	Child Molest 2	
		ACTION	Hthrg/reset Dates	
028	08-27-2009	MOTION HEARING JDG0001	Motion Hearing Judge Vic L Vanderschoor/mcaughlin	09-24-2009CM
		ACTION	Child Molest 2	
		ACTION	Omnhrg	
	08-27-2009	COMMENT ENTRY		10-01-2009
		ACTION	Child Molest 2	
		ACTION	Stahrg	
	08-27-2009	NOTICE OF TRIAL DATE	Notice Of Trial Date -reset	10-12-2009
		ACTION	Child Molest 2	
		ACTION	Jtrial	
029	09-24-2009	MOTION HEARING JDG0001	Motion Hearing Judge Vic L Vanderschoor/mcaughlin	10-08-2009
		ACTION	Child Molest 2	
		ACTION	Omnhrg	
	09-24-2009	STATUS CONFERENCE / HEARING	Status Conference / Hearing	10-15-2009
		ACTION	Child Molest 2	
		ACTION	Stahrg	

	09-24-2009	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date - Reset Child Molest 2	10-26-2009
		ACTION	Jtrial	
030	10-01-2009	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket -def Child Molest 2	10-08-2009CM
		ACTION	Mtng/discovery	
031	10-01-2009	REQUEST	Request For Discovery	
032	10-05-2009	RESPONSE	Response To States Motion Regarding Alleged Prior Acts Of Molestation	
033	10-08-2009	MOTION HEARING JDG0001 ACTION	Motion Hearing Judge Vic Vanderschoor/mclaughlin Child Molest 2	10-15-2009CM
		ACTION	Stabrg/omnrg	
034	10-15-2009	ORDER	Order Pre-assignment Judge	
035	10-15-2009	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	10-15-2009	WAIVER OF SPEEDY TRIAL ACTION	Waiver Of Speedy Trial Child Molest 2	11-19-2009CM
		ACTION	Stabrg	
	10-15-2009	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date -reset Child Molest 2	11-30-2009
		ACTION	Jtrial	
036	10-15-2009	MOTION HEARING JDG0005 ACTION	Motion Hearing Judge Robert G Swisher/tanp Child Molest 2	10-22-2009CM
		ACTION	Mtng/confirm Pre-assigned Judge	
036A	10-20-2009	NOTICE	Notice From Court Admin Re: Preassigned Judge	
037	10-22-2009	MOTION HEARING JDG0004	Motion Hearing Judge Craig J Matheson/kinn To Be Special Set	
038	11-03-2009	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket -pros Child Molest 2	12-04-2009TR
		ACTION	Evling/3.6 @ 1:30	
		ACTION	*special Set W/jdg Vanderschoor*	
039	11-19-2009	MOTION HEARING JDG0007 ACTION	Motion Hearing Judge Cameron Mitchell/pelletier Child Molest 2	12-17-2009CM
		ACTION	Stabrg * Preassigned: Vivs *	
	11-19-2009	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date -reset Child Molest 2	12-28-2009
		ACTION	Jtrial * Preassigned: Vivs *	
	12-01-2009	COMMENT ENTRY	Email From Maria In Pros Office Re Striking 12/4 Hrg And Will Re-set	
040	12-10-2009	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Pa Child Molest 2	12-16-2009
		ACTION	Evling/3.5/pt @ 1:30	
041A	12-15-2009	COMMENT ENTRY	Hearing Stricken	
041	12-17-2009	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	12-17-2009	WAIVER OF SPEEDY TRIAL ACTION	Waiver Of Speedy Trial Child Molest 2	01-14-2010CM
		ACTION	Stabrg	
	12-17-2009	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date - Reset Child Molest 2	01-25-2010
		ACTION	Jtrial	
042	12-17-2009	MOTION HEARING JDG0007	Motion Hearing Judge Cameron Mitchell/pelletier	
043	01-12-2010	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket - Pa Child Molest 2	01-20-2010CZ
		ACTION	Mtng/pt/mt In Limine *vivs* 1:30	
044	01-14-2010	STIPULATION	Stip & Agred Prot Ord Aside Evid	
045	01-14-2010	ORDER FOR SEXUAL ASSAULT PROTECTION	Armed Ord For Sexual Asslt Prtctn	
046	01-14-2010	MOTION HEARING JDG0005 ACTION	Motion Hearing Judge Robert G Swisher Child Molest 2	02-11-2010
		ACTION	Omnrg *aff Bas* *vivs*	
	01-14-2010	COMMENT ENTRY ACTION	Child Molest 2	02-18-2010
		ACTION	Stabrg *aff Bas* *vivs*	

	01-14-2010	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date - Reset Child Molest 2	03-01-2010
		ACTION	Jtrial *aff Bas* *vivs*	
047	01-20-2010	HEARING STRICKEN: IN COURT OTHER JDG0004	Hearing Stricken: In Court Other Judge Craig J Matheson/king	
048	01-27-2010	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket -pros Child Molest 2	02-09-2010TR
		ACTION	Mtng/entry Annd Info *vivs* 8:30	
051	01-28-2010	MOTION	Motion For Discovery	
049	02-01-2010	AMENDED INFORMATION	Frt Amended Information	
050	02-01-2010	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket - Pa Child Molest 2/child Molest 1	02-04-2010CM
		ACTION	Mtng/conditions Of Release	
052	02-04-2010	HEARING STRICKEN: IN COURT OTHER JDG0006	hearing Stricken: In Court Other Judge Carrie L. Runge/adams	
052A	02-05-2010	RESPONSE	State's Response To Defts Response To State's Mot & Addtl Facts & Authorities	
053	02-09-2010	NOTICE OF SUBSTITUTION OF COUNSEL	Notice Of Substitution Of Counsel Atty Holt Sub For Atty Eberhart	
054	02-09-2010	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	02-09-2010	WAIVER OF SPEEDY TRIAL ACTION	Waiver Of Speedy Trial Child Molest 2 /child Molest 1	03-11-2010
		ACTION	Stabng *vivs*	
	02-09-2010	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date -reset Child Molest 2 /child Molest 1	03-22-2010
		ACTION	Jtrial *vivs*	
055	02-09-2010	MOTION HEARING JDG0001	Motion Hearing Judge Vic L. Vanderschoor/mclaughlin	02-25-2010C2
		ACTION	Child Molest 2 /child Molest 1	
		ACTION	Omnary	
056	02-10-2010	AGREED ORDER	Agreed Protective Order Re:Image & Audio Evidence Via Dvd Recording	
	02-10-2010	EX-PARTE ACTION WITH ORDER JDG0002	Ex-parte Action WRth Order Judge Bruce A. Spanner	
057	02-12-2010	REQUEST FOR DISCOVERY	Request For Discovery	
057A	02-24-2010	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket -pa Child Molest 2/child Molest 1	03-12-2010TR
		ACTION	Mtng/adm Of Prior Sex Acts	
058	02-25-2010	HEARING CONTINUED: UNSPECIFIED JDG0001	Hearing Continued: Unspecified Judge Vic L. Vanderschoor/mclaughlin	03-04-2010CM
		ACTION	Child Molest 2 /child Molest 1	
		ACTION	Omnary * Aff:bas * * Vivs *	
059	03-04-2010	MOTION HEARING JDG0001	Motion Hearing Judge Vic L. Vanderschoor/mclaughlin	03-11-2010CM
		ACTION	Child Molest 2/child Molest 1	
		ACTION	Omnary * Aff:bas * * Vivs *	
	03-04-2010	COMMENT ENTRY ACTION	Child Molest 2/child Molest 1	05-13-2010
		ACTION	Stabng * Aff:bas * *vivs *	
	03-04-2010	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date Child Molest 2/child Molest 1	05-24-2010
		ACTION	Jtrial * Aff:bas * * Vivs *	
060	03-11-2010	HEARING CONTINUED: UNSPECIFIED JDG0007	Hearing Continued: Unspecified Judge Cameron Mitchell/lang	05-06-2010CM
		ACTION	Child Molest 2/child Molest 1	
		ACTION	Omnary **no Bas** *vivs**	
061	03-11-2010	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket -pros Child Molest 2/child Molest 1	05-14-2010
		ACTION	Mtng/admission Prior Sex Acts	
		ACTION	*special Set W/vivs - 9am*	
062	05-06-2010	HEARING CONTINUED:DEF/RESP REQUEST ACTION JDG0005	Hearing Continued:def/resp Request Stabng/Omnary Judge Robert G Swisher/lang	05-13-2010CM
		ACTION	Child Molest 2/child Molest 1	
063	05-13-2010	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	05-13-2010	WAIVER OF SPEEDY TRIAL ACTION	Waiver Of Speedy Trial Omnary	05-20-2010

		ACTION	Child Molest 2	
	05-13-2010	COMMENT ENTRY		06-10-2010
		ACTION	Child Molest 2	
	05-13-2010	NOTICE OF TRIAL DATE	Stahrg	
		ACTION	Notice Of Trial Date - Reset	06-21-2010
		ACTION	Jtrial	
064	05-13-2010	MOTION HEARING	Child Molest 2	05-20-2010CM
		ACTION	Motion Hearing	
		ACTION	Child Molest 2	
		ACTION	Ornrbg/status	
		JDG0005	Judge Robert G Swisher	
065	05-20-2010	HEARING CONTINUED:DEF/RESP REQUEST	Hearing Continued:def/resp Request	05-27-2010CM
		ACTION	Child Molest 2	
		ACTION	Ornrbg/status	
		JDG0005	Judge Robert G Swisher/lang	
066	05-27-2010	ORDER FOR CONTINUANCE: STIPULATED	Order For Continuance: Stipulated	
	05-27-2010	WAIVER OF SPEEDY TRIAL	Waiver Of Speedy Trial	08-05-2010
		ACTION	Ornrbg	
		ACTION	Child Molest 2	
	05-27-2010	COMMENT ENTRY		08-12-2010CM
		ACTION		
		ACTION	Stahrg * vlv *	
		ACTION	Child Molest 2	
	05-27-2010	NOTICE OF TRIAL DATE	Notice Of Trial Date - Reset	08-23-2010
		ACTION	Child Molest 2	
		ACTION	Jtrial * vlv *	
067	05-27-2010	MOTION HEARING	Motion Hearing	
		JDG0001	Judge Vic L Vanderschoor/munoz	
068	06-29-2010	NOTE FOR MOTION DOCKET	Note For Motion Docket - Pa	07-08-2010CM
		ACTION	Child Molest 2	
		ACTION	Mthrg/reset Dates	
069	07-08-2010	MOTION HEARING	Motion Hearing	08-06-2010TR
		ACTION	Mthrg/ornrbg 1:30 *vlv*	
		ACTION	Child Molest 2	
		JDG0006	Judge Carrie L Runge/adams	
069A	07-30-2010	NOTE FOR MOTION DOCKET	Note For Motion Docket - Pros	08-18-2010C2
		ACTION	Child Molest 2	
		ACTION	Mthrg/int Prior Offenses 1:30*vlv*	
070	08-02-2010	DECLARATION	Declaration Of Maygen Baker	
071	08-02-2010	DECLARATION	Declaration Of Malda Baker	
072	08-02-2010	DECLARATION	Declaration Of Terry J Bloor	
073	08-12-2010	MOTION HEARING	Motion Hearing	08-19-2010
		JDG0002	Judge Bruce A. Spanner/munoz	
		ACTION	Child Molest 2	
		ACTION	Stahrg *vlv*	
	08-12-2010	NOTICE OF TRIAL DATE	Notice Of Trial Date - Reset	08-30-2010
		ACTION	Child Molest 2	
		ACTION	Jtrial *vlv*	
074	08-16-2010	SUBPOENA	Subpoena For Jury Trial To	
			Det. Broclonan	
075	08-16-2010	SUBPOENA	Subpoena For Jury Trial To	
			Dpt. Jan Paul Benitez	
076	08-17-2010	DEFENDANT'S LIST OF WITNESSES	Defendant's List Of Witnesses	
077	08-18-2010	STATE'S LIST OF WITNESSES	1st Amended State's List Witnesses	
078	08-18-2010	DEFENDANT'S LIST OF WITNESSES	Defendant's List Of Witnesses	
079	08-18-2010	MEMORANDUM	Defendants Trial Memorandum	
080	08-18-2010	RESPONSE	Supplemental Response To Notice Of	
			Intent To Offer Evidence	
	08-18-2010	MEMORANDUM OF AUTHORITIES	Memorandum Of Authorities Support	
			Of The Admissibility Of Evidence Of	
			Other Sex Offenses	
081	08-18-2010	MOTION TO COMPEL	Motion To Compel Discovery-police Rpt	
			And Witness Interview	
082	08-19-2010	WITNESS RECORD	Witness Record Mthrg 08-19-10	
083	08-19-2010	EXHIBIT LIST	Exhibit List Mthrg 08-19-10	
084	08-19-2010	MOTION HEARING	Motion Hearing	10-07-2010CM
		JDG0001	Judge Vic L Vanderschoor	
		ACTION	Stahrg **vlv**	
		ACTION	Child Molest 2	

	08-19-2010	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date - Reset Child Molest 2	10-18-2010
		ACTION	Jtrial ***vvs**	
085	09-01-2010	COST BILL	Cost Bill -cc To Acct	
	09-01-2010	EX-PARTE ACTION WITH ORDER JDG0004	Ex-parte Action With Order Judge Craig J Matheson	
086	09-23-2010	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket - Pros Child Molest 2/child Molest 1	10-04-2010TR
		ACTION	Mthrg/mkt To Enter Prior Sex Acts Cont From 08/18/10 Hrg	
086A	10-04-2010	MOTION HEARING JDG0001	Motion Hearing Judge Vic L Vanderschoor/pelletier	
087	10-07-2010	ORDER FOR CONTINUANCE: STIPULATED ACTION	Order For Continuance: Stipulated Child Molest 2/child Molest 1	01-20-2011
	10-07-2010	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date - Reset Child Molest 2/child Molest 1	01-31-2011
		ACTION	Jtrial	
088	10-07-2010	MOTION HEARING JDG0001	Motion Hearing Jdg Vic L Vanderschoor/lang	
089	01-06-2011	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket - Holt Stahrg @ 1:30	01-20-2011
		ACTION	Child Molest 2/child Molest 1	
090	01-13-2011	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket-pros Child Molest 2/child Molest 1	01-19-2011
		ACTION	Stahrg/omnhrg ***vvs** 2:30	
091	01-19-2011	MOTION HEARING ACTION JDG0001	Motion Hearing Child Molest 2/child Molest 1 Judge Vic L Vanderschoor/pelletier	03-09-2011CM
		ACTION	Stahrg ***vvs**	
	01-19-2011	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date-reset Child Molest 2/child Molest 1	03-21-2011TR
		ACTION	Jtrial ***vvs**	
092	01-25-2011	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket-pros Child Molest 2/child Molest 1	03-02-2011CZ
		ACTION	Stahrg/omnhrg ***vvs** 1:30	
093	03-02-2011	OMNIBUS ORDER	Omnibus Order Satisfied	
	03-02-2011	OMNIBUS APPLICATION OF PROS ATTY	Omnibus Application Of Pros Atty	
094	03-02-2011	OMNIBUS HEARING JDG0001	Omnibus Hearing Judge Vic L Vanderschoor/adams	
095	03-09-2011	AMENDED INFORMATION	Second Amended Information	
096	03-09-2011	STATUS CONFERENCE / HEARING JDG0001	Status Conference / Hearing Judge Vic L Vanderschoor/mdaughlin	
		AMENDED INFORMATION	Ready For Trial 03-21-11	
097	03-18-2011	AMENDED INFORMATION	Third Amended Information	
098	03-18-2011	SUBPOENA	Subpoena -bob Brockman, Bcso	
099	03-18-2011	SUBPOENA	Subpoena -shasta Meyer	
100	03-18-2011	SUBPOENA	Subpoena -shawn Baker	
101	03-18-2011	SUBPOENA	Subpoena -malda Baker	
102	03-18-2011	SUBPOENA	Subpoena -lee Cantu, Bcso	
103	03-18-2011	SUBPOENA	Subpoena -jean Paul Benitz, Bcso	
104	03-18-2011	SUBPOENA	Subpoena -jason Bostic, Bcso	
105	03-18-2011	SUBPOENA	Subpoena -donald Van Zandt	
106	03-18-2011	SUBPOENA	Subpoena -janice Baker	
107	03-18-2011	SUBPOENA	Subpoena -david Baker	
108	03-18-2011	SUBPOENA	Subpoena -cody Baker	
109	03-21-2011	TRIAL MEMORANDUM	State's Trial Memorandum	
110	03-21-2011	APPLICATION	Juror Questionnaires	
111	03-21-2011	LIST	Jury List	
	03-21-2011	LIST	Random Jury List	
112	03-21-2011	PLAINTIFF'S PROPOSED INSTRUCTIONS	Plaintiff's Proposed Instructions	
113	03-21-2011	JURY TRIAL ACTION	Jury Trial Mthrg/reset Dates * vvs *	03-23-2011
		ACTION	Rape Child 1 /child Molest 2/++	
		JDG0001	Judge Vic L Vanderschoor/lang	
114	03-22-2011	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket - Pros Rape Child 1/child Molest 2/++	03-23-2011CZ

*
 Juanita May Baker
 225406 E. Donelson
 REARwiew, wa. 99827
 7-18-36 B.D.

115	03-23-2011	ACTION ADVICE OF RIGHTS ACTION	Mthru/reset Dates 9:00 *vivs* Advice Of Rights Rape Child 1/child Molest 2/++	04-28-2011
	03-23-2011	NOTICE OF TRIAL DATE ACTION	Stahrg/state's Pt Mot 1hr *vivs* Notice Of Trial Date Rape Child 1/child Molest 2/++	05-09-2011
116	03-23-2011	ACTION MOTION HEARING	Trial * Vivs * Motion Hearing Good Cause Can't Of Trial	
117	03-30-2011	JDG0001 NOTE FOR MOTION DOCKET ACTION	Judge Vic L. Vanderschoor/mclaughlin Note For Motion Docket - Pros Stahrg/state's Pt Mot *vivs* 8:30	04-28-2011C2
118	04-28-2011	ACTION STATUS CONFERENCE / HEARING JDG0001	Rape Child 1/child Molest 2/++ Status Conference / Hearing Judge Vic L. Vanderschoor/mclaughlin Ready For Trial 05-16-11	04-28-2011C2
	04-28-2011	NOTICE OF TRIAL DATE ACTION	Notice Of Trial Date - Reset Trial	05-16-2011TR
	05-16-2011	ACTION COMMENT ENTRY	Rape Child 1/child Molest 2/++ *****>>>>jacket 2<<<<<<*****	X**X
119	05-20-2011	ACTION APPLICATION	Jury Questionnaires	
120	05-20-2011	ACTION JURY PANEL	Jury Roster	
	05-20-2011	PEREMPTORY CHALLENGE SHEET	Peremptory Challenge Sheet	
	05-20-2011	LIST	Jury List	
	05-20-2011	LIST	Jury Random List	
121	05-20-2011	WITNESS RECORD	Witness Record	
122	05-20-2011	EXHIBIT LIST	Exhibit List State 3,4; Def 1,2,5,6 Exhibits Are For Illustrative Only	
123	05-20-2011	PLAINTIFFS PROPOSED INSTRUCTIONS	Plaintiff's Proposed Instructions	
124	05-20-2011	COURT'S INSTRUCTIONS TO JURY	Court's Instructions To Jury	
125	05-20-2011	VERDICT	Verdict Form A - Not Guilty	
126	05-20-2011	VERDICT	Verdict Form B - Guilty	
127	05-20-2011	VERDICT	Verdict Form C - Guilty	
128	05-20-2011	VERDICT	Verdict Form D - Guilty	
129	05-20-2011	PRESENTENCE INVESTIGATION ORDER	Presentence Investigation Order	
130	05-20-2011	ORDER ESTABLISHING COND. OF RELEASE	Order Establishing Cond. Of Release Bail: None/def Taken Into Custody	
131	05-20-2011	JURY TRIAL JDG0001 JDG0001 ACTION ACTION	Jury Trial Judge Vanderschoor/lang On 5/19only Judge Vanderschoor/mclaughlin Child Molest 2/2 Cts Child Molest 1 Sentho = Vivs * 5-16-11 Thru 5-20-11	06-30-2011C2
132	06-01-2011	ORDER OF DESTRUCTION	Order Of Destruction Of Exhibits	
133	06-01-2011	COST BILL	C/cost Bill For Trial Witnesses	
134	06-01-2011	BOND	C/bond Exon Lacey Omalley Bond #as15k-47850	
135	06-27-2011	NOTICE WITHDRAW & SUBSTITUTE COUNSEL	Notice Withdraw & Substitut Counsel Atty Mccool For Atty Holt	
136	06-28-2011	MOTION	Mot For Continuance Of Sentencing	
	06-28-2011	AFFIDAVIT	Affidavit Of Wm Mccool	
137	06-30-2011	HEARING CONTINUED: UNSPECIFIED ACTION	Hearing Continued: Unspecified Sentng * Vivs *	07-07-2011C2
		JDG0005 ACTION	Judge Carrie L. Runge/adams Child Molest 2/++	
138	07-07-2011	CONTINUED: PLAINTIFF/PROS REQUESTED JDG0004 ACTION ACTION	Continued: Plaintiff/pros Requested Judge Craig J Matheson/tdng Child Molest 2/++ Sentng *vivs*	07-28-2011C2
139	07-15-2011	PRE-SENTENCING INVESTIGATION REPORT	Pre-sentencing Investigation Report	
140	07-28-2011	HEARING CONTINUED: UNSPECIFIED JDG0006 ACTION ACTION	Hearing Continued: Unspecified Judge Carrie L. Runge/adams Child Molest 2/++ Sentho *vivs*	08-24-2011
141	08-03-2011	NOTE FOR MOTION DOCKET ACTION	To Be Special Set Note For Motion Docket - Pros Sentho **vivs** 8:30	08-24-2011

did not sign waiver
CONTINUANCE

142	08-17-2011	ACTION NOTICE OF HEARING ACTION	Child Molest 2/++ Notice Of Hearing - Mccool Child Molest 2/++	08-24-2011C2
143	08-23-2011	AFFIDAVIT	Sntcnrg/mot To Cont Sent *vlvs* 8:30	
144	08-23-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Supplemental Affidavit Of Onsl In Support Of Mt For Cont Of Sntcnrg	
145	08-24-2011	FELONY JUDGMENT AND SENTENCE	Affidavit Of Service By Mail	
	08-24-2011	APPENDIX	Felony Judgment And Sentence Appendix H	
	08-24-2011	COST BILL	Cost Bill	
146	08-24-2011	ORDER FOR SEXUAL ASSAULT PROTECTION	Post Conv Ord Sxd Asslt Protection	
147	08-24-2011	ORDER FOR SEXUAL ASSAULT PROTECTION	Post Conv Ord Sxd Asslt Protection	
148	08-24-2011	SENTENCING HEARING JDG0001	Sentencing Hearing Judge Vic L Vanderschoor/mclaughlin	
149	08-24-2011	WARRANT OF COMMITMENT	Warrant Of Commitment	
150	08-24-2011	REPORT	Report From Doc - Court Special	
151	09-16-2011	NOTICE OF APPEAL TO COURT OF APPEAL	Notice Of Appeal To Court Of Appeal Mccool, William	
152	09-22-2011	TRANSMITTAL LETTER - COPY FILED	Trans Ltr/coa/#151	
153	09-28-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
154	10-05-2011	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket - Def Child Molest 2/++	10-28-2011TR
155	10-05-2011	AFFIDAVIT OF MAILING	Mtng/ball Hrg*spec Set 2:30 Pm*	
156	10-07-2011	TRANSMITTAL LETTER - COPY FILED	Affidavit Of Mailing	
157	10-20-2011	MOTION	Trans Ltr Confirm/coa/#151	
158	10-20-2011	NOTE FOR MOTION DOCKET ACTION	Mot For Admission To Bail Pending Appeal	
159	10-25-2011	MEMORANDUM	Note For Motion Docket -mccool Child Molest 2/2 Cts Child Molest 1	10-28-2011TR
160	10-28-2011	MOTION HEARING JDG0001	Mtng/ball Pending Appeal	
161	11-09-2011	DESIGNATION OF CLERK'S PAPERS	Memorandum In Oppo To Defs Mot For Release Pending Appeal	
162	11-09-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Motion Hearing	
162A	12-05-2011	PERFECTION NOTICE FROM CT OF APPLS	Judge Vic L Vanderschoor/mclaughlin	
162B	12-05-2011	INVOICE VOUCHER	Designation Of Clerk's Papers Mccool, William	
	12-05-2011	INDEX	Affidavit/dclr/cert Of Service/#161	
163	12-06-2011	TRANSMITTAL LETTER - COPY FILED	Perfection Notice From Ct Of Appls	
164	12-15-2011	VERBATIM REPORT OF PROCEEDINGS	Invc Vchr To Mccool/154.S0	
165	12-16-2011	VERBATIM RPT TRANSMITTED	Index To Counsel/dsgn# 1-309	
166	01-03-2012	TRANSMITTAL LETTER - COPY FILED	Trans Ltr Confirm/coa/#161	
			Verbatim Report Of Proceedings 1 Volume/05-19-11 Am Only/lana	
			Verbatim Rpt Transmitted/#164	
			Trans Ltr/coa/#164	

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF BENTON

STATE OF WASHINGTON,

Plaintiff,

vs.

VANCE LYNN BAKER,

Defendant.

NO. 08-1-01152-0

SUBPOENA FOR JURY TRIAL

(Service: Regular Mail)

TO: JUANITA MAY BAKER
225406 E. DONALDSON ROAD
KENNEWICK, WA 99337

LEA #: 08-16248+

IN THE NAME OF THE STATE OF WASHINGTON: You are hereby required to appear in the Superior Court of Benton County, at the Benton County Justice Center, 7122 West Okanogan Place, Kennewick, Washington:

**DURING THE WEEK OF TUESDAY, MARCH 29, 2011
CALL FOR EXACT DATE AND TIME
ON FRIDAY, MARCH 25, 2011 AFTER 5 PM**

to give evidence in the above case on the part of the Benton County Prosecutor's Office. This case has been scheduled for trial. If you have any conflicts during this week, please email the trial DPA and AMBER D. PETERS at the following emails: anita.petra@co.benton.wa.us and amber.peters@co.benton.wa.us.

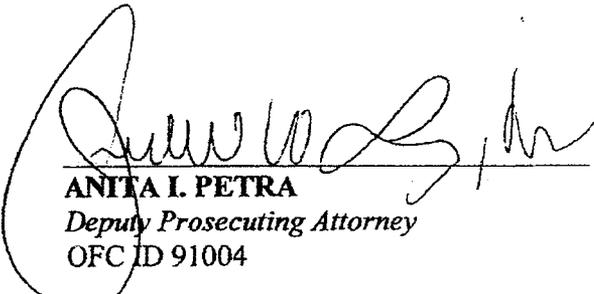
DATED: March 21, 2011.

NOTICE

You must call (509) 736-3898 after 5:00 p.m. the last working day before you are scheduled to testify. You will hear a recording listing only those cases that are still scheduled to go to trial.

If your case is not listed, you do not need to appear for trial.

If you need to talk to the Prosecuting Attorney's Office, please call (509) 735-3591 between 8:00 a.m. to 12:00 p.m., and 1:00 p.m. to 5:00 p.m., from Monday through Friday.


ANITA I. PETRA

Deputy Prosecuting Attorney

OFC ID 91004

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF BENTON

STATE OF WASHINGTON,
Plaintiff,
vs.
VANCE LYNN BAKER,
Defendant.

NO. 08-1-01152-0

SUBPOENA FOR JURY TRIAL
(Service: Regular Mail)

TO: JUANITA MAY BAKER
225406 E. DONALDSON ROAD
KENNEWICK, WA 99337,
LEA #: 08-16248

IN THE NAME OF THE STATE OF WASHINGTON: You are hereby required to appear in the Superior Court of Benton County, at the Benton County Justice Center, 7122 West Okanogan Place, Kennewick, Washington, during the week of:

MONDAY, AUGUST 23, 2010
CALL FOR EXACT DATE AND TIME
ON FRIDAY, AUGUST 20, 2010 AFTER 5PM

to give evidence in the above case on the part of the Benton County Prosecutor's Office. This case has been scheduled for trial. If you have any conflicts during this week, please email the trial DPA and Amber D. Peters at the following emails: anita.petra@co.benton.wa.us and amber.peters@co.benton.wa.us.

DATED: August 16, 2010.

NOTICE

You must call (509) 736-3898 after 5:00 p.m. the last working day before you are scheduled to testify. You will hear a recording listing only those cases that are still scheduled to go to trial. If your case is not listed, you do not need to appear for trial.

If you need to talk to the Prosecuting Attorney's Office, please call (509) 735-3591 between 8:00 a.m. to 12:00 p.m., and 1:00 p.m. to 5:00 p.m., from Monday through Friday.



ANITA I. PETRA
Deputy Prosecuting Attorney
OFC ID 91004

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR THE COUNTY OF BENTON

3 STATE OF WASHINGTON,) COA NO. 302563
)
 4 Plaintiff,)
) CAUSE NO. 08-1-01152-0
 5 vs.)
) (Continuance)
 6 VANCE LYNN BAKER,)
) VERBATIM REPORT OF
 7 Defendant.) PROCEEDINGS

8

9 TRANSCRIPT

10 of the proceedings had in the above-entitled cause before the
 11 HONORABLE ROBERT G. SWISHER, Superior Court Judge, on **October**
 12 **15, 2009**, at Kennewick, Washington.

13

14 APPEARANCES:

15 ANDREW MILLER
 Prosecuting Attorney
 16 7122 West Okanogan Place
 Kennewick, Washington 99336

17

On Behalf of the State

18

SCOTT ETHERTON
 19 Attorney at Law
 P. O. Box 6644
 20 Kennewick, Washington 99336

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On Behalf of the Defendant

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Lisa S. Lang - Official Court Reporter

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October 15, 2009

Kennewick, Washington

PROCEEDINGS

MR. ETHERTON: No. 14, Vance Baker. I think it's 14.

THE COURT: It is.

MR. ETHERTON: A couple things, Your Honor.

One is we're on -- we're on for a motion. I want to address a preliminary matter first. Well, I guess it depends on what you do on this.

We have a motion -- the State filed a motion to bring in propensity evidence under 10.58.090. Basically, 10.58.090 abrogates Evidentiary Rule 404(b), which directly addresses obviously propensity evidence. The State filed it sometime ago. I didn't know it was filed with the Court originally, but two or three, four weeks ago, something like that, I found out it was filed with the Court, and we set this hearing.

I responded -- I actually filed more than one motion, but I responded, and the State wasn't ready, which made sense because of the gravity of all this, so we continued it to today. I actually understand the State's point, but I'm asking that the motion be heard today.

The State's point is you probably or may or probably will not be the trial judge, and the trial judge needs to

1 hear this matter. But this is a matter of great weight and,
2 you know, at some point, anyway, it needs to be resolved.
3 That's number one. Let me get my issues out.

4 Number two, there are some Brady evidence out there;
5 at least we've got information that there is. And we believe
6 there's a witness that is good for our side, but we don't
7 know his name. He's the boyfriend of the alleged victim
8 here. There was some information that she told him. The
9 police got involved, et cetera, et cetera. Apparently, they
10 have -- the prosecution has asked for this information to get
11 us the police report, et cetera. I'm grateful for that, but
12 I don't even know this gentleman's name, and we're probably
13 going to ask for a judge subpoena because he's not in the
14 county, so we're going to have to get a judge-signed subpoena
15 for this guy.

16 So the two things are I want the motion heard, and
17 two, we're not ready for trial.

18 The other thing is we have some disks, and I haven't
19 been able to read them. Last week the prosecution said they
20 would give them to me. Apparently -- I thought it was going
21 to be in a disk form. Apparently, they e-mailed it. I
22 wasn't looking for it in the e-mail, and I had a glitch.
23 Every single e-mail on the 12th, 13th, 14th, I erased every
24 single e-mail, and I pray I don't miss anything gargantuan
25 and the IRS isn't going to break down my door in a couple

1 days.

2 Anyway, I haven't had time to actually review the
3 interviews, et cetera, so I have no idea exactly what they
4 are going to show and how much more investigation we're going
5 to need to do on that.

6 So I'm asking for a continuance of the trial based on
7 that. And that's it.

8 MR. MILLER: Your Honor, first of all, the
9 statute is not propensity evidence, and it does not abrogate
10 Evidence Rule 404, but we can save that to argue in a motion.
11 I understand Mr. Etherton may want to have that decision
12 decided ahead of trial. If that's defendant's position, he
13 should have asked for a preassigned trial judge. That's what
14 we've done before.

15 As smart as Your Honor is, you can make a ruling, and
16 the other the judge who actually does the trial may not be
17 smart enough to understand your ruling and may rule a
18 different way. It doesn't make sense to have this type of
19 evidentiary ruling made by a judge other than the trial
20 judge. If we need to have this resolved by pretrial, we need
21 to make an appointment of a preassigned trial judge, and the
22 State would not object to a motion by the defendant. We
23 would not object to a special setting once the Court
24 Administrator found the judge and gave us a time that judge
25 would be available.

1 I want to talk about the Brady issue. Your Honor, I
2 went back, and after Mr. Etherton briefed me on the file, I
3 looked at the State's omnibus -- the defendant's omnibus
4 application. I don't see the specific Brady request, the
5 victim's criminal history. I will say Mr. Etherton indicated
6 he made a verbal record or request of that. Miss Farabee
7 corroborated the fact there was a verbal request. I don't
8 think verbal requests fit the rule on the specifics, but our
9 office does want to follow up on that.

10 Miss Farabee was in trial this week, but I had
11 e-mailed the Sheriff's Office. I gave a copy of the e-mail
12 to Mr. Etherton, and we should get the information from the
13 Sheriff's Office tomorrow.

14 As to the issue of the ability to watch the video,
15 there is a program that does assist in opening up those
16 files. We sent that to the defense bar. Apparently,
17 Mr. Etherton did not receive that originally, but when he
18 raised this issue in this case, we sent it to him. I showed
19 Mr. Etherton the e-mail. He confirmed this was the correct
20 e-mail address. On October the 13th -- we enclosed the
21 program on the 13th, so I don't think this is any fault of
22 the State.

23 The fact -- I'm not being critical of defense counsel,
24 but certainly the State had no way of knowing that the
25 defendant's e-mail system was going to crash and lose all of

1 his e-mails, and I suppose in a perfect world it would have
2 been nice if defense counsel could have told us, "By the way,
3 I lost all my e-mails. If you sent me an e-mail, I haven't
4 been able to respond to it."

5 The State doesn't and the -- if the defendant wants to
6 make a motion to continue because of the circumstances of
7 this case, the State is not going to object. If he wants a
8 ruling prior to the -- and we'll work with him on the
9 discovery issues. If the defendant wants to have the
10 evidentiary ruling decided prior to trial, the State suggests
11 that we assign a judge and that we arrange for a special
12 setting next week or sometime after that, depending on how
13 the court rules on the continuance.

14 THE COURT: Okay. Mr. Etherton.

15 MR. ETHERTON: Just can I say something real
16 quick just to clarify?

17 I believe it was October 8th. I don't have the actual
18 copy, but I have a copy of the motion. I filed a motion for
19 discovery, and in that Section (p), Subsection (p), whatever
20 you want to call it, it requests Brady, just to clarify Brady
21 evidence.

22 Go ahead, Your Honor.

23 THE COURT: Okay. And -- well, you filed a
24 motion for discovery on October 1st, it looks like.

25 MR. ETHERTON: Okay. You are probably right.

Oct. 7, 2009

1 I don't remember the day.

2 THE COURT: Okay. In any event, you have
3 indicated you're not ready for trial. Is your client
4 prepared to waive his right to a speedy trial?

5 MR. ETHERTON: I believe so, Your Honor. We
6 need all the exculpatory evidence we can get.

7 THE COURT: Okay. Okay. Let's get the
8 document filled out and find a date, and this -- I won't rule
9 on the evidence. That's the trial judge that's going to rule
10 on the evidence, so you need a special-set before a
11 preassigned Judge. I mean that's standard procedure, and
12 that's what we'll do in this case.

13 MR. ETHERTON: I was riding the wave on this
14 one, Your Honor, but --

15 THE COURT: Okay. Well, we need a waiver, so
16 if you'll fill out the waiver form, we'll recall this in a
17 minute.

18 I suggest you talk with Mr. Miller about appropriate
19 dates for the trial because Mr. Miller's got some
20 commitments, so pick a date, and then we'll call it back in a
21 minute.

22 MR. ETHERTON: Sure.

23 (Later...)

24 MR. MILLER: I think we're ready on Mr. Baker
25 again, Your Honor.

1 THE COURT: Okay. I've been handed a
2 Stipulation for Continuance approved by Mr. Miller and
3 Mr. Etherton. And, Mr. Baker, this is your signature on it,
4 also; is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. So you're agreeing to waive
7 your right to a speedy trial to reflect a new trial date of
8 November 30th; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. New trial date is November
11 30th. What would be the pretrial date?

12 THE CLERK: November 19th.

13 MR. ETHERTON: I think I put November 26th.
14 You might want to change it.

15 THE COURT: Yes. It's got to be the 19th.

16 MR. ETHERTON: Sorry.

17 THE COURT: And I want to -- well, is there
18 also a request to get this preassigned?

19 MR. ETHERTON: I think it would be a good idea,
20 yes, Your Honor.

21 THE COURT: Okay.

22 MR. MILLER: No objection.

23 THE COURT: Okay. It should be preassigned, so
24 that's going to require -- well, if you'll hand-write out an
25 order, I'll sign it, and then you need to get a copy to Court

1 Admin.

2 So based on Mr. Baker's written waiver here, the new
3 trial date is November 30th, the pretrial is November 19th,
4 and I'm going to continue this one week to -- for tracking
5 purposes to make sure any other pretrial hearings are
6 properly set and that a judge is involved, a preassigned
7 judge is involved.

8 Thank you, Mr. Etherton.

9 MR. ETHERTON: Thank you, Your Honor.

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Docket # 081 08-18-2010

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
BENTON COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

VANCE L. BAKER,

Defendant.

)
) NO. 08-1-01152-0
)
)
) MOTION TO COMPEL DISCOVERY -
) POLICE REPORT AND WITNESS
) INTERVIEW
)
)
)
)

COPY

To: The Honorable Vic VanderSchoor, The Clerk Of The Court
and the Benton County Deputy Prosecutor, Anita Petra:

I. INTRODUCTION

Comes now; the Defendant, Vance Lynn Baker, by and through his attorney of record,
Kevin Holt, and renews the following demand for Police reports of the false report of Rape by
Lisa Baker, and a witness interview with Cody Baker. This memorandum is submitted
pursuant to applicable court rule and statute and based on the records and files herein.

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II. FACTS

The defense has requested an interview with Cody Baker, the brother of one of the alleged victims and the cousin of the other alleged victim. From police reports and other witness interviews Cody has been identified as being present when the alleged victim, Maygan Baker, denied that any inappropriate touching took place and stated that she was not sexually abused by her father. The request for this interview has been made by both of Mr. Baker's previous attorneys and the private investigator. To date the state has demanded the right to control access to the alleged victims and their families. The defense has complied with that demand out of respect to the Prosecutors office and with the desire to not further disrupt these family members. However, to date this interview has not been set up.

The defense has also learned from Lisa Baker's mother that Lisa Baker made a false police report that she was being assaulted by an intruder in her home. Benton County Sheriff Deputies responded to the call. The Defense has asked for names of individuals associated with that report and a copy of the report. This request has been made during two (2) separate interviews and the defense has requested the information directly from the Prosecuting Attorney. Defense investigator and the prior attorneys for Mr. Baker have also made the same request. To date this information has not been provided to the defense.

II. ARGUMENT

A. Information Related To Lisa Baker's False Reports To Police and Maygan Baker's denial that the alleged event took place are exculpatory.

Where the state withholds possible exculpatory evidence, sanctions for discovery violations include discovery of undisclosed information, a continuance, a dismissal, or other actions the court may deem appropriate. CrR 4.7(h)(7). The trial court has discretion in handling discovery violations: "We review such decisions for manifest abuse of discretion". State v. Smith, 67 Wn.App. 847, 851, 841 P.2d 65 (1992). Due process is an obvious concern in the imposition of remedies for discovery violations.

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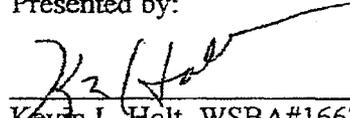
Due process requires the State to disclose "evidence that is both favorable to the accused and 'material either to guilt or to punishment.' " United States v. Bagley, 473 U.S. 667, 674, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985) (quoting Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963)).

Brady requires only that prosecutors discover and disclose "any favorable evidence known to the others acting on the government's behalf in the case, including the police." Kyles v. Whitley, 514 U.S. 419, 437, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); In re Benn, 134 Wn.2d 868, 916, 952 P.2d 116 (1998). The prosecution cannot avoid Brady by keeping itself ignorant of matters known to other state agents. United States v. Hamilton, 107 F.3d 499, 509 (7th Cir.1997).

It is respectfully requested that this court order the aforementioned discovery be provided to the Defense in an expeditious manner.

Dated this 16th day of August, 2010.

Presented by:


Kevin L. Holt, WSBA#16672
Attorney for Defendant

1 because their daughter said she was home alone and being
2 raped. That's the police report by her that is false.

3 THE COURT: I can't make a ruling on that
4 until I see the police report.

5 MR. HOLT: Your Honor, I can prove it
6 through alternative methods and her alternative method is
7 her father. They know that she made a false allegation,
8 false report. I get to ask her if she made a report that
9 she was being raped to the police.

10 THE COURT: Well, I will give counsel for
11 the State a chance to digest and respond to this and read
12 the Harris case as well as the Court and move on to that
13 at a later date but we will keep Lisa under subpoena for
14 further testimony depending on my ruling but I don't
15 expect any further cross-examination with regard to any
16 alcohol or substance abuse of Lisa.

17 MR. HOLT: I'm going to follow it up with
18 the fact that she ran away because she wasn't following
19 the rules then.

20 THE COURT: You can ask her that. You can
21 ask her that one. I think you already did.

22 MR. HOLT: I want for know what the rules
23 are.

24 THE COURT: The rules are relevancy is
25 minimal and the prejudice is great.

1 apply the same interpretation on Harris this one is in
2 because she is admitting that. She is the one making the
3 false allegation of a rape and it is to an official party,
4 to the police department and her parents.

5 MS. PETRA: Detective Brockman -- I had him
6 look to see if there was any report, record of the police
7 going out there to take a rape report from Lisa Baker.
8 There isn't one. I don't have any and to start opening up
9 the door and asking her about this I would ask it not be
10 allowed. This is not a fishing expedition. This is
11 cross-examination. He has to have a basis to ask these
12 questions.

13 MR. HOLT: It's not a fishing expedition.
14 I have a clear basis.

15 THE COURT: I've read Harris and Rule 608
16 comments including paragraph 8 and under that, which talks
17 about false report by witnesses. What I am going to do is
18 allow you to ask Lisa on the stand outside the presence of
19 the jury. If she denies it that's the end. If she admits
20 it then you will be able to ask it in front of the jury.

21 MR. HOLT: If she denies it can I ask her
22 parents about it?

23 THE COURT: No, 608 B indicates you cannot
24 prove it by extrinsic evidence so you were stuck with it
25 and that's also sub paragraph 11 under the comments to

1 Q Were you there when the police showed up?

2 A Yes.

3 Q Did they take a statement from you?

4 A No.

5 Q They talked to your parents?

6 A Yes.

7 Q And your parents talked to you?

8 A Yes.

9 Q And were they upset about the police coming
10 because?

11 A I don't remember a whole lot. They were upset
12 but I don't remember.

13 Q They believed that you were indicating that the
14 house was being broken into and you were being raped,
15 correct?

16 A Yes.

17 MR. HOLT: No further questions.

18 RE-CROSS EXAMINATION

19 BY MS. PETRA:

20 Q Just to understand. Now this is ringing a bell
21 to me. You were instant messaging with your friend
22 Dillon?

23 A Yes.

24 Q And you were talking about the -- talking about
25 the incident with your uncle?

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March 23, 2011
Kennewick, Washington

P R O C E E D I N G S

MS. LONG: Your Honor, I was able to speak to Ms. Petra via text message. She is still in Seattle, however, her mother is scheduled for a series of heart testing tomorrow. She said she is ready to go out Monday, however, I guess Mr. Holt had advised her sometime ago he was unavailable on Monday.

THE COURT: Yes, I'm gone from the fourth to the seventh and Mr. Holt.

MR. HOLT: I begin military leave on the eighth and I'm gone until the twenty-seventh. I am actually back for the Wednesday docket on the 27th.

MS. LONG: I believe our speedy trial runs on April 25th.

MR. HOLT: I think you are entitled to the fourteen plus for the cure period.

MS. LONG: I don't want to invoke the cure period.

THE COURT: I am also at the spring conference from May 2nd and 3rd so I think the first trial

1 date we can handle is May 9th.

2 MR. HOLT: We would be able to get that
3 trial out. The only consideration is you are probably
4 going to reset Morales on the eighth, from my
5 conversations with Mr. Henry so that is going to have to
6 go about the same time. I know it's difficult to balance
7 things.

8 THE COURT: I guess for the time being we
9 can set this for May 9th.

10 MR. HOLT: As of the 8th of May we may have
11 a conflict.

12 THE COURT: Eighth of April.

13 MR. HOLT: But it's tentatively set it for
14 the 9th now.

15 MS. LONG: May 9th. Is Your Honor finding
16 good cause.

17 THE COURT: Good cause due to Ms. Petra's
18 unfortunate situation and Mr. Holt's vacation and my
19 vacation and spring conference.

20 MR. HOLT: I wouldn't call it a vacation.
21 It's an obligation for the US government.

22 THE COURT: I will find good cause.

23 MS. LONG: I believe Ms. Petra is supposed
24 to be in a training that week.

25 MR. HOLT: I think she can forgo that.

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Just had pre-trial only April 21.

THE COURT: She seems trained.

MR. HOLT: It's not like she hasn't had enough vacation.

THE COURT: Do you we need to set anymore pretrial hearings?

MR. HOLT: I think it would probably behoove us to try to get the pretrial motion Ms. Petra file out of the way and Ms. Petra has still not given us an interview with either of the boyfriends of victim Meahgan or with the brother of victim Meahgan and I guess we will have to ask the court to rule on those. So those two issues need to be done before the trial.

THE COURT: When do you want to set a pretrial.

MR. HOLT: Would April 28th be okay. That's your judicial conference sorry..

THE COURT: That women give you time to get it figured out.

MS. LONG: Can you tell me who you need to interview.

MR. HOLT: Victim's boyfriend. I'm having difficulty with names this week -- and Cody.

MS. LONG: Those are two different people.

MR. HOLT: He is on the witness list. Jim Dillenger.

1 THE COURT: If you need another hearing
2 earlier than 4/28 just talk to Tiffany. I would be
3 willing to do that if it will help. Probably should set
4 that for an hour.

5 MR. HOLT: Set both of these for 8:30 for
6 now.

7 THE COURT: 4/28 at 8:30 for one hour and
8 trial 5/9 okay. I will make sure I leave that note for
9 Tiffany.

10 (End of proceedings)

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1 him the keys and he kept asking that over, over, and over
2 again and got into an argument.

3 Q In fact you go on to say you are very upset with
4 him?

5 A Yes.

6 Q That describes the relationship you had with
7 your father; is that a fair statement?

8 A At that time, yes.

9 Q The entire statement you gave here though --
10 this was given on December 10th, right?

11 A Right.

12 Q You are aware of Lisa's allegations?

13 A Yes.

14 Q You never mention anything in this statement
15 about any abuse to you, did you?

16 A No.

17 Q The purpose of this statement was in order to
18 get your mother a better divorce settlement?

19 A She never said that. I never knew what it was
20 for.

21 Q You understand that?

22 A Yes.

23 Q You understand you were making a statement
24 adverse to your father in order for your mom to get the
25 property?

1 A Correct.

2 Q And that property included having him move out
3 of the single-wide trailer house, correct?

4 A Yes.

5 Q And that's the same single-wide trailer house
6 that your mother promised to you and your boyfriend?

7 A She hadn't at that time but, yes, we live there
8 now.

9 Q You said on direct earlier this morning that you
10 had a class in kindergarten about good touch, bad touch;
11 is the true?

12 A Yes.

13 Q I want to ask you if you remember specifically
14 now that it was in kindergarten?

15 A Yes, it was in kindergarten.

16 Q Do you remember giving an interview and being
17 asked about when this incident stopped?

18 A I don't remember.

19 Q Okay. Do you remember indicating that any
20 touching that your father did had stopped after you having
21 had that class?

22 A No, I don't remember that.

23 Q You don't recall saying that after you had had a
24 good touch bad touch class you told him you don't feel
25 comfortable with his back rubs and you asked him to stop

1 BY MS. PETRA: (Continuing)

2 Q Do you remember what year your sophomore year
3 was?

4 A I don't.

5 Q Do you remember what year you graduated from
6 high school?

7 A 2010.

8 Q Would your sophomore year be around 2008?

9 A Yes.

10 Q What did she tell you.

11 MR. HOLT: Objection, Your Honor, it's
12 still hearsay.

13 THE COURT: Objection noted but overruled.

~~14 THE WITNESS: That her father molested her.~~

15 MS. PETRA: I have no further questions.

16 CROSS EXAMINATION

17 BY MR. HOLT:

18 Q You're Maygan's boyfriend?

19 A Yes, sir.

20 Q And you currently live off and on with her
21 mother? Maygan's?

22 A No.

23 MS. PETRA: I am going to object to this
24 line of questioning as beyond the scope.

25 MR. HOLT: Motive.

1 rub or tickling. I've never once indicated that she has
2 fabricated this or made it up, therefore I have not
3 challenged her on her statement therefore it does not come
4 in as a prior consistent statement.

5 MS. PETRA: Your Honor, of course they are
6 arguing that Maygan is making this all up and she is
7 fabricating this so she can move in with Jimmy Jackson in
8 the trailer. This is all a big lie so that her and her
9 boyfriend and her can move into the trailer. That's
10 preposterous to think.

11 THE COURT: I will allow the testimony.

12 (Recess taken)

13 (The following had in open court with the jury)

14 THE COURT: Mr. Petra.

15 MS. PETRA: In rebuttal the State calls
16 Jimmy Jackson to the stand.

17 JIMMY JACKSON,
18 was thereupon called as a witness on behalf of the
19 Plaintiff, and after having been first duly sworn, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. PETRA:

23 Q Mr. Jackson, can you pleasant state your name
24 and spell your last name for the record?

25 A Jimmy Jackson, J-A-C-K-S-O-N.



FILED

JUL 23 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

Certificate of Service
by Mail

I Vance Baker, hereby certify that
on the 19th day of July, 2013,
I have placed in the AHCC legal Mail
my S.A.G./RAP 10.10 to the following party:
No. 30256-3-III

Court of Appeals, Div. 3
N. 500 Cedar
Spokane, Wa. 99201

From: Vance Baker - # 349587

Vance Baker
Airway Heights Correction Center
P.O. Box 2049
Airway Heights, Wa. 99001