

NO. 93143-7

**THE SUPREME COURT
STATE OF WASHINGTON**

STATE OF WASHINGTON, PETITIONER,

v.

KEVIN ESTES, RESPONDENT

Court of Appeals Cause No. 46933-2
Appeal from the Superior Court of Pierce County
The Honorable

No. 14-1-00724-0

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER.

State of Washington, respondent in the Court of Appeals.

B. COURT OF APPEALS DECISION.

The petitioner seeks review of *State v. Kevin Lee Estes*, 2016 WL 1569471 (No. 46933-2-II, April 19, 2016). The Court of Appeals issued an unpublished opinion on the matter. (Appendix “A”).

C. ISSUE PRESENTED FOR REVIEW.

1. The Court of Appeals considered facts outside of the appellate record contrary to this court’s holding in *State v. McFarland*, 127 Wn.2d 322, 899 P.2d 1251 (1995), and therefore review should be accepted. RAP 13.4(b)(1). This case also represents an issue of substantial public interest and a significant question of law under RAP 13.4(b)(3) and (4). Did the Court of Appeals err in finding that defense counsel was ineffective in failing to advise the defendant that this was a third strike conviction and for failing to engage in plea negotiations when the record does not support such a finding?

D. STATEMENT OF THE CASE.

1. Procedure

The State originally charged Kevin Estes, hereinafter referred to as “defendant,” with two counts of second degree assault and one count of felony harassment by information on February 19, 2014, under cause number 14-1-00724-0. CP 1-2. Each of these three counts included a deadly weapon enhancement. CP 1-2. The information was later amended on July 8, 2014, to allege an aggravating factor due to defendant’s criminal history. CP 114-116. With a second amended information, the State added an additional second degree assault charge, again with a deadly weapon enhancement. CP 117-119. The State filed a third amended information July 31, 2014, and removed the additional assault charge. CP 206-208.

On February 27, 2014, the State filed a Persistent Offender Notice informing defendant that he was facing a third strike offense for both second degree assault charges and the felony harassment charge. CP 381.

During the pendency of his case, the defendant often filed his own motions and pleadings. In total, defendant filed approximately 32 separate documents with the court. (Appendix “C¹”). Among the documents filed

¹ Appendix “C” contains the following: CP 35-36, 37-40, 44-47, 48-52, 59-63, 68, 69-70, 71-75, 76-77, 78-79, 80-81, 82-84, 102-104, 109-113, 120-121, 122-123, 124-128, 133-134, 135-137.

was a demand from defendant that his charges be reduced to a misdemeanor with credit for time served or he was wanting to go to trial. (Appendix “B²”). Nothing in defendant’s filings, however, suggests that he was interested in resolving his case for anything more than a misdemeanor.

After defendant was convicted of the lesser offense of assault in the third degree and felony harassment, both with deadly weapon enhancements, defense counsel makes a single statement—“He wasn’t convicted of a strike offense”—on which this court bases its reversal. This appears to be the only reference that is part of the appellate record to even suggest that counsel was unaware that the charges of which defendant was convicted was a strike offense.

After trial but prior to sentencing, defense counsel moved to dismiss the deadly weapon enhancements. CP 341-349; RP 509-25. The trial court denied defense counsel’s motion to dismiss. RP 524-5. Because the deadly weapon enhancements made each of defendant’s current conviction a strike offense, RP 504; RCW 9.94A.030(32)(t), the court sentenced defendant to life in prison without the possibility of parole

² Appendix “B” contains CP 85-87.

on November 21, 2014 pursuant to Washington's Persistent Offender Accountability Act (POAA). CP 368.

The Court of Appeals issued its opinion on April 19, 2016.

Appendix A. The Court of Appeals reversed the defendant's convictions, finding that defense counsel was deficient and that prejudice resulted, not at trial, but in counsel denying the defendant an informed decision on plea bargaining. Appendix A, page 14-15. This timely petition for review follows.

1. Facts

On February 19, 2014, Defendant was drinking with his friend James Randle and Randle's roommate, Anthony Prusek, at Randle's apartment in Puyallup, Washington. RP 79-80; RP 278. Prusek's girlfriend, Ashley Stoltenberg, also stayed at the apartment frequently and was there during the evening of February 19, 2014. RP 79.

During the evening of February 19, 2014, Stoltenberg was in Prusek's room while the defendant, Randle, and Prusek were drinking and talking out in the living room. RP 83. Defendant began to make insulting comments about Stoltenberg's appearance. RP 83-4. At that point, Stoltenberg emerged from Prusek's room and told defendant to stop making such comments. RP 84. The record contains several accounts of

what happened next. *See, e.g.*, RP 86; RP 91; RP 131; RP 208; RP 281-83.

According to Stoltenberg, defendant stood up, drew a knife from his pocket, and told her “time to die, bitch.” RP 86. She then testified that Prusek grabbed defendant, and that defendant was thrusting the knife at Prusek’s torso during the altercation. RP 91.

Randle testified that defendant attempted to stand up, but was restrained by Prusek. RP 281. Randle also testified that he saw a knife on the floor as the two other men wrestled. RP 282.

Prusek testified that he grabbed defendant as defendant stood up and was attempting to “go for her,” in reference to Stoltenberg. RP 131. Prusek also testified that he heard defendant say something followed by the word “bitch” and that defendant “flailed around” with a knife in his hand as he was being restrained. RP 132. During the altercation, Prusek suffered wounds to his right big toe and one of his pinky fingers. RP 91; RP 144-45.

After this brief struggle, defendant was subdued and Randle took the knife and placed it on top of the refrigerator. RP 284. Defendant exited the apartment and went to sit in his car in the driveway. RP 194-5; RP 288. Officer Greg Massey of the Puyallup Police Department arrived at the scene following a 911 call from Stoltenberg. RP 91.

Officer Massey contacted defendant who was sitting in his car outside of the residence. RP 194-5. Defendant told Officer Massey that a fight had occurred inside the residence, that he was angry with two of the people inside, and that a knife had been involved. RP 195-7. Officer Massey searched defendant and found a knife on his person. RP 197. Defendant also told Officer Massey that the knife found on his person was not the knife used in the fight. RP 207. The knife Officer Massey found on defendant outside the residence was taken into evidence. RP 208. This knife was introduced as evidence at trial, along with a photo showing the knife next to a ruler. Ex.2; Ex. 6; RP 217-8. In the photo admitted as exhibit 2, the knife's blade measured over three inches. Ex. 2; RP 218.

In an interview with Officer Steve Pigman of the Puyallup Police Department, Stoltenberg indicated that the knife Randle had placed on the refrigerator was the knife used in the altercation between defendant and Prusek. RP 256.

At trial, Officer Pigman estimated the total length of that knife to be 6 inches and asserted that it was capable of inflicting serious bodily injury. RP 269-270.

Prusek testified that the knife that was placed on the refrigerator had a blade 3.5 to 4 inches long. RP 134.

Additionally, an evidence technician for the Puyallup Police Department testified that the blade of the knife found on defendant's person measured over three inches. RP 217-18.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED.

1. THE COURT OF APPEALS ERRED IN CONSIDERING FACTS OUTSIDE OF THE APPELLATE RECORD IN VIOLATION OF ***STATE v. McFARLAND***.

This court has previously held in ***State v. McFarland***, 127 Wn.2d 322, 338 n.5, 899 P.2d 1251 (1995) that matters outside the appellate record must be raised in a personal restraint petition. In this case, however, the Court of Appeals, contrary to ***McFarland***, considered allegations in the defendant's Statement of Additional Grounds that his defense counsel did not advise him that a weapon enhancement made any felony offense a strike offense. Appendix A, page 14.

The Court of Appeals majority appears to have accepted the defendant's naked allegation that defense counsel did not advise him that a deadly weapon enhancement on any felony offense elevated that felony to a strike offense, even when no such allegation was properly before the court. Opinion at 14. (Appendix "A"). A defendant alleging ineffective assistance of counsel has the burden to show, from the record, the absence of legitimate strategic or tactical reasons that would support the challenged

conduct by counsel. *State v. McFarland*, 127 Wn.2d 322, 336, 899 P.2d 1251 (1995).

As the Court of Appeals dissent states, the assertion by defendant that his attorney did not advise him that a weapon enhancement would result in any of his convictions being strikes is not part of the appellate record and cannot be considered in evaluating the defendant's claim of ineffective assistance of counsel. Dissent at 16, *see also State v. Dunaway*, 109 Wn.2d 207, 220-21, 743 P.2d 1237 (1987).

As the dissent further states, the defendant is not without remedy—he could file a personal restraint petition, at which point a reference hearing might be appropriate. A reference hearing would include testimony from the defendant and both attorneys, at which point a record could be developed about what defense counsel knew or did not know. It would also clarify what was told to the defendant regarding plea negotiations.

The majority concludes that because defense counsel did not know that a weapon enhancement elevated a felony to a strike offense, he could not provide mitigation. The record, however, suggests otherwise. The Omnibus Order that was filed on July 1, 2014, states “No offer at this point. This is a 3rd strike case, and a mitigation packet from defense is necessary before negotiations can take place.” (Appendix “C”). This order clearly informed the defense that they were responsible for initiating negotiations. While the majority opines that defense counsel “could not

fully inform Estes of his options regarding mitigation as offered by the State” it could also have easily been the case that the defendant simply did not want to mitigate his case.

During the pendency of this case, the defendant filed approximately 32 separate motions and documents which is an indication that he was not interested in resolving his case. More evidence that the defendant was not interested in mitigation was one of the 28 documents, titled “Propositioning Ms. Clarkson” filed on May 20, 2014. (Appendix “B”) In that document, the defendant offered a resolution of a misdemeanor with credit for time served. In the same document the defendant states that if his offer is not accepted, then “it’s time for trial.” *Id.* Such sentiment would suggest that he was not interested in any resolution other than his proposed misdemeanor. As the dissent states, there are many reasons why a criminal defendant would decline to negotiate, which appears to be the case here. Moreover, at the time defense counsel mad the single erroneous statement that the defendant was not convicted of a strike offense, the defendant notably remained silent and did not express any surprise. It was only on appeal did the defendant improperly raise the failure of defense counsel to so advise him.

The majority states that “it is clear from the record that Estes’s lawyer did not understand the consequences for Estes if he was convicted of any felony with a deadly weapon enhancement.” Opinion at 14. This finding appears to be reference to the single sentence spoken by defense

counsel after conviction. As the dissent states, however, defense counsel may have been momentarily confused or simply misspoke. A reference hearing would provide much more information to the appellate courts about what defense counsel did or did not know before trial. Without the function of a personal restraint petition and a reference hearing, the record cannot be clarified and this issue should not be determined.

F. CONCLUSION.

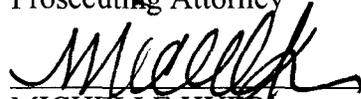
The Court of Appeals' opinion reversing the defendant's convictions is erroneous and contrary to *State v. McFarland* in that it considers supplemental statements by the defendant that are outside of the record below. The Court of Appeals erred in relying on such bald assertions by a defendant who may simply be dissatisfied with the result at trial.

To affirm the majority's decision would also unfairly place the burden on the State and trial courts to confirm with each defense attorney on a potential persistent offender case what that particular attorney's breath of knowledge is regarding persistent offender law in order to prevent defense counsel from stating that he or she was unaware that the charge was a strike after a conviction.

The Supreme Court should accept review in order not only to reverse an erroneous decision by the Court of Appeals, but also because this case represents an issue of substantial public interest.

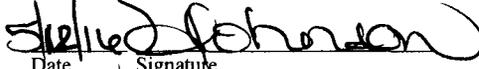
DATED: May 11, 2016

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Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.


Date _____ Signature _____

APPENDIX “A”

Unpublished Opinion

April 19, 2016

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

KEVIN LEE ESTES,

Appellant.

No. 46933-2-II

PUBLISHED OPINION

MELNICK, J. — Kevin Estes appeals from the trial court’s judgment and sentence after a jury found him guilty of assault in the third degree and felony harassment, each with a deadly weapon enhancement. The trial court sentenced Estes to total confinement for life without the possibility of release under the persistent offender statute.¹ Estes argues that he received ineffective assistance of counsel. He also asserts in his statement of additional grounds (SAG) that his attorney did not advise him that a felony with a deadly weapon enhancement constituted a strike under the persistent offender statute. Because defense counsel’s performance was deficient and there is a reasonable probability that counsel’s deficient performance prejudiced the outcome of the trial, we reverse and remand for a new trial.²

¹ RCW 9.94A.570

² Because of our resolution of this case on this ground, we do not address the other issues Estes raised in his appeal and his SAG.

FACTS

I. GENERAL OVERVIEW

On February 18, 2014, Estes visited an apartment shared by James Randle and Anthony Prusek. Prusek's girlfriend, Ashley Stoltenberg, was present and Estes flirted with her, making her uncomfortable.

Estes returned to the apartment the next day. He consumed alcohol and played video games with Randle and Prusek. Estes began talking about Stoltenberg and made statements about her breasts. Prusek told Estes that Stoltenberg did not like his comments. Shortly thereafter, an angry Stoltenberg came out of the bedroom and told Estes to stop or she would slap him. Stoltenberg testified that Estes stood up looking angry and said, "Time to die, bitch," while pulling a knife out of his pocket. 2 Report of Proceedings (RP) at 86. Stoltenberg knew that the blade was small enough to conceal in his pocket, but she could not say with certainty if the blade folded; she saw it for 10 seconds.

Prusek only caught the last word Estes spoke, which was "bitch." 2 RP at 132. Prusek stated that Estes stood up like he was going after Stoltenberg. Prusek grabbed Estes and pulled him down on the ground where they wrestled. Suddenly, Estes had a knife in his hand and flailed his arms. According to Prusek, Estes was still trying to get towards Stoltenberg. The knife cut Prusek's foot and then his pinky finger. Prusek described the blade as "three and a half, four inches" in length. 2 RP at 134. He stated that the blade could have done "grave harm" and "[w]as the type of a blade that could have cut through your skin and into muscle." 2 RP at 134. Stoltenberg called 911.

Randle took the knife away from Estes and went towards the kitchen. Stoltenberg saw Randle put the knife she believed Estes used on top of the refrigerator after Estes left. Randle also

remembered putting the knife on top of the refrigerator. Prusek went to the bathroom to get bandages and to clean himself up. Randle told Estes to leave because the police were coming and Estes left.

Officer Greg Massey was the first officer to respond. He found Estes sitting in his car in the driveway. Estes appeared angry and agitated, opened the car door, and when asked, told Massey he was in the apartment and had been in a fight. Massey was unsure but remembered Estes saying something like, “[H]e felt that he needed to rid the world of people like the two that were inside the apartment.” 2 RP at 207-08. Massey searched Estes’s person and seized a knife from him. That knife and a picture of it with a ruler beside it were admitted at trial. Massey described the knife as a fixed-bladed knife in a black sheath. The evidence technician who took the picture stated that the knife blade was about three inches long. Estes told Massey that the knife on his person was not the knife from the incident.

Officer Steven Pigman responded to the scene later and entered the apartment. He noticed a knife on the refrigerator and asked Stoltenberg whether it was used in the assault. She told him “[Y]es.” 3 RP at 256. Randle believed the officers took the knife from on top of the refrigerator. When the State showed Randle the knife in evidence, he could not remember if it was the knife he took from Estes that day. To Pigman’s knowledge, the knife on the refrigerator was not taken into evidence. Pigman believed the knife he saw in the apartment was six inches in length total. He did not remember the length of the blade but believed it was exposed. He also stated, “I didn’t inspect it at all.” 3 RP at 269. The State asked Pigman if the knife he saw was the type that could do someone harm. Pigman answered that it could. Pigman also confirmed that the knife would do serious bodily injury.

II. PROCEDURAL HISTORY

The State charged Estes with two counts of assault in the second degree, against Prusek and Stoltenberg respectively, and one count of felony harassment against Stoltenberg. Each count carried a deadly weapon enhancement. In the charging language of the information, the State referenced Estes's "multiple current offenses," which because of an already high offender score, would result in some of his offenses going unpunished without an exceptional sentence. Clerk's Papers (CP) at 245, 246.

In February 2014, the State filed a persistent offender notice indicating that Estes potentially faced a third strike.³ The notice stated,

[T]he offense of assault in the second degree; assault in the second degree; felony harassment, with which you have been charged, is a "Most Serious Offense" as defined in RCW 9.94A.030. If you are convicted at trial or plead guilty to this charge or any other most serious offense, and you have been convicted on two previous occasions of other "most serious offenses," you will be classified at sentencing as a 'Persistent Offender,' as defined in RCW 9.94A.030 and your sentence will be life without the possibility of parole as provided in RCW 9.94A.570.

CP at 381 (emphasis omitted).

Prior to trial, the court heard motions. Estes's lawyer argued that the State should not be allowed to mention or introduce the knife found on Estes's person. The trial court determined that whether or not the knife was used or readily accessible was a question for the jury. The court found the knife taken from Estes's person was relevant and "would certainly be admissible, if for

³ Estes's previous convictions include two counts of promoting prostitution, manslaughter, assault in the third degree, unlawful possession of a firearm, unlawful possession of a controlled substance, domestic violence assault in the third degree, and two counts of assault in the second degree. The manslaughter and assault in the second degree counts were violent offenses. During trial, Estes stipulated to the manslaughter conviction.

no other reason than just the enhancement.” 1 RP at 49. Estes’s lawyer also filed a *Knapstad*⁴ motion in which he argued the assault in the second degree counts should be dismissed because there was no evidence to support them. Estes’s criminal history was attached to the *Knapstad* motion.⁵

During Estes’s jury trial, Estes’s lawyer again objected to the admission of the knife taken from Estes’s person. The trial court overruled the objection. Estes’s lawyer also objected to specific jury instructions, including all instructions on assault in the third degree. The trial court acknowledged the objection but instructed the jury on assault in the third degree and assault in the fourth degree, which are inferior degree crimes to assault in the second degree. Estes did not object to the court’s instructions on assault in the fourth degree or on the deadly weapon enhancements. During the discussion of the jury instructions, defense counsel questioned whether the language in the deadly weapon enhancement special verdict form for count II, assault in the second degree against Stoltenberg, should be changed because assault in the fourth degree did not have a deadly weapon enhancement. At the same time, defense counsel objected again to the assault in the third degree instruction but did not object to the deadly weapon enhancement special verdict form for the felony harassment charge.

During closing argument, Estes’s lawyer contended that the State failed to prove Estes assaulted anyone with a knife and that the State could not prove that the knife in evidence was the knife from the apartment. Defense counsel emphasized the inconsistencies in the witnesses’ and the police officers’ testimony. Defense counsel argued that Estes was facing away from

⁴ *State v. Knapstad*, 107 Wn.2d 346, 729 P.2d 48 (1986).

⁵ The court’s ruling on the *Knapstad* motion is not a part of the record on appeal. However, we assume that the trial court denied the motion because the trial went forward on the assault in the second degree charges.

Stoltenberg when he allegedly threatened her. Counsel also argued that Stoltenberg “saw an opportunity to get rid of a problem, by making this statement and this story.” 4 RP at 459. Regarding the knife, defense counsel presented the theory that the knife was not used to cause harm to Prusek; instead, any harm occurred as the result of an accident. He also argued that because the knife from on top of the refrigerator was not in evidence, the jury was left to speculate about what it looked like. He stated, “They remember it being long and big and whatever, but it’s not here.” 4 RP at 468-69.

The jury ultimately found Estes guilty of assault in the third degree against Prusek and felony harassment against Stoltenberg. The jury also found that Estes was armed with a deadly weapon at the time of the commission of both crimes.

When the court discussed scheduling Estes’s sentencing, the State announced, “As the Court is aware, this is a third strike case.” 4 RP at 504. Defense counsel responded, “He wasn’t convicted of a strike offense.” 4 RP at 504. The State explained, “[T]he Defendant is a third strike case because of the deadly weapon enhancements.” 4 RP at 504.

Post-trial, Estes’s lawyer filed a motion to dismiss the deadly weapon enhancements, under CrR 7.4. At the motion hearing, defense counsel argued that the jury could not find that the knife was “used in such a way that was likely to or may bring about death” because it found Estes not guilty of assault in the second degree and that the jury could not find that the weapon was a “per se” deadly weapon. 4 RP at 510. Defense counsel provided the definition of the word “blade” and argued that the “cutting implement” was less than three inches long. 4 RP at 510. When the

State pointed out that Prusek testified that the knife was three and a half to four inches long, defense counsel objected saying that that was not the testimony. The State then argued that defense counsel failed to make a motion to dismiss at the close of the State's case, or at the close the trial, and failed to object to the jury instructions on the knives. The trial court denied the motion to dismiss.

Because these convictions constituted Estes's third strike, the trial court sentenced him to total confinement for life without the possibility of release. At the close of sentencing, the State also put on the record,

[O]ur office has a policy on third strike cases where the defense, the defense has an opportunity to seek mitigation, and come to our office, asking for something other than a third strike resolution. *The Defendant, Mr. Estes, declined to enter into any negotiations whatsoever during the entire course of this case. Also he did not wish to avail himself of the mitigation process.*

4 RP at 534 (emphasis added). The court responded, "I will just say that, as I indicated, this is not the kind of strike that we typically would be looking for as a community to be a third strike, so if there were no other options available, I guess I see that as another reason why we are here." 4 RP at 534. Estes appeals.

ANALYSIS

INEFFECTIVE ASSISTANCE OF COUNSEL

Estes argues that his defense counsel provided ineffective assistance because he did not know that Estes would be sentenced as a persistent offender if the jury convicted him of any felony with a deadly weapon enhancement. In his SAG, Estes also asserts that his attorney "did not advise [him] that the weapon enhancement was a strike in itself [sic] or when attached to a[n]

Assault [in the third degree] or felony harassment.”⁶ SAG at 2. We agree that Estes received ineffective assistance of counsel.

A. Standard of Review

We review claims of ineffective assistance of counsel de novo. *State v. Sutherby*, 165 Wn.2d 870, 883, 204 P.3d 916 (2009). To prevail on a claim of ineffective assistance of counsel, the appellant must show both (1) that defense counsel’s representation was deficient, and (2) that the deficient representation prejudiced the defendant. *State v. Grier*, 171 Wn.2d 17, 32-33, 246 P.3d 1260 (2011) (applying *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984) test). Representation is deficient if after considering all the circumstances, the performance falls “below an objective standard of reasonableness.” *Grier*, 171 Wn.2d at 33 (quoting *Strickland*, 466 U.S. at 688). Prejudice exists if there is a reasonable probability that except for counsel’s errors, the result of the proceeding would have differed. *Grier*, 171 Wn.2d at 34.

An appellant making an ineffective assistance of counsel claim faces a strong presumption that counsel’s representation was effective. *Grier*, 171 Wn.2d at 33. Legitimate trial strategy or tactics cannot serve as the basis for a claim of ineffective assistance of counsel. *State v. Kylo*, 166 Wn.2d 856, 863, 215 P.3d 177 (2009). However, “[w]here an attorney unreasonably fails to

⁶ Estes cites as authority, article 1, section 14 of the Washington State Constitution, the Eighth amendment of the United States Constitution, and the Rules of Professional Conduct. It is unclear whether Estes intends to argue ineffective assistance of counsel or cruel and unusual punishment. Because we reverse this case on the former issue, we do not address the latter. *See State v. Weller*, 76 Wn. App. 165, 167, 884 P.2d 610 (1994) (“An appellate court will not decide a constitutional issue when the case can be decided on other grounds.”). In addition, in so far as this assertion implicates matters outside the record, we do not consider it. A personal restraint petition is the proper vehicle for such an issue. *State v. Burke*, 132 Wn. App. 415, 419, 132 P.3d 1095, 1097 (2006).

research or apply relevant statutes without any tactical purpose, that attorney's performance is constitutionally deficient." *In re Pers. Restraint of Yung-Cheng Tsai*, 183 Wn.2d 91, 102, 351 P.3d 138 (2015). "An attorney's ignorance of a point of law that is fundamental to his case combined with his failure to perform basic research on that point is a quintessential example of unreasonable performance under *Strickland*.⁷" *Yung-Cheng Tsai*, 183 Wn.2d at 102 (quoting *Hinton v. Alabama*, ___ U.S. ___, 134 S. Ct. 1081, 1089, 188 L. Ed. 2d 1 (2014)). Failing to conduct research falls below an object standard of reasonableness where the matter is at the heart of the case. *See Kylo*, 166 Wn.2d at 868.

Under the "persistent offender" statute, "[A] persistent offender shall be sentenced to a term of total confinement for life without the possibility of release." RCW 9.94A.570. A "persistent offender" is a person who "[h]as been convicted in [Washington] of any felony considered a most serious offense" and who previously "[h]as . . . been convicted as an offender on at least two separate occasions . . . of felonies that under the laws of [Washington] would be considered most serious offenses." Former RCW 9.94A.030(37)(a)(i)-(ii) (2012). The definition of "[m]ost serious offense" includes a list of specific felonies; however, it also encompasses "[a]ny other felony with a deadly weapon verdict under RCW 9.94A.825." Former RCW 9.94A.030(32)(t). A "deadly weapon" is "an implement or instrument which has the capacity to inflict death and from the manner in which it is used, is likely to produce or may easily and readily produce death." RCW 9.94A.825. "[A]ny knife having a blade longer than three inches" is a deadly weapon. RCW 9.94A.825.

⁷ *Strickland*, 466 U.S. 668.

B. Third Strike

Estes argues that his counsel's representation was deficient because he failed to thoroughly investigate the legal impact of a felony conviction accompanied by a deadly weapon enhancement. He argues that as a result, his lawyer failed to vigorously defend Estes against the deadly weapon enhancements and could not weigh alternatives or make reasoned decisions. Because the undisputed evidence supports this argument, we agree.

1. Deficient Representation

Where an attorney is ignorant of a point of law that is fundamental to the case and fails to perform basic research on the point, his conduct is unreasonable. *Yung-Cheng Tsai*, 183 Wn.2d at 102. A defense lawyer must thoroughly research a case so as to be able to properly advise his or her client. *See State v. Crawford*, 159 Wn.2d 86, 99, 147 P.3d 1288 (2006) (holding defense counsel's performance was deficient where she knew her client had an extensive prior history and failed to ascertain through investigation that her client was at risk of a third strike and to advise him that, if convicted at trial, he faced a life sentence).

Estes argues, "[Counsel] was unable to weigh alternatives and make informed decisions about tactics," because he did not understand the charges against Estes. Br. of Appellant at 20. The record shows that defense counsel did not realize Estes was at risk of a third strike from the assault in the third degree charge with the deadly weapon enhancement. Additionally, defense counsel seemed to be unaware of the third strike attached to the felony harassment crime with a deadly weapon enhancement, which was charged from the start.

Before trial, defense counsel received the State's persistent offender notice.⁸ The charging document language stated that Estes had multiple prior convictions. Additionally, Estes's lawyer attached Estes's criminal history to a motion filed with the trial court; therefore, the defense attorney would have been at least aware of the seriousness of Estes's criminal record. However, after the jury returned a verdict of guilty on assault in the third degree and felony harassment, both with deadly weapon enhancements, the State said, "As the Court is aware, this is a third strike case." 4 RP at 504. In response, defense counsel stated, "[Estes] wasn't convicted of a strike offense." 4 RP at 504. This comment demonstrates that only then, after the verdict, did Estes's lawyer realize Estes was convicted of two offenses that made him a persistent offender. Only after that did Estes's lawyer move to dismiss the deadly weapons enhancements. As the State pointed out during argument on the motion, defense counsel did not make a motion to dismiss the charges at the close of the State's case or at the close of trial, and did not object to the jury instructions on a deadly weapon.

Estes also argues that defense counsel's failure to object to Pigman's testimony about the knife being a deadly weapon, his failure to remember that Prusek stated the knife was three and a half to four inches long, and his failure to emphasize a lack of evidence that the knife found was actually on Estes during the altercation, demonstrate that he was unaware of the importance of the enhancements. On their own, these actions do not equate to ineffective assistance of counsel. For

⁸ The notice the State provided did not accurately state the law. It read: "assault in the second degree; assault in the second degree, felony harassment, with which you have been charged, is a 'Most Serious Offense' as defined in RCW 9.94A.030." CP at 381 (emphasis omitted). Felony harassment, RCW 9A.46.020, is not a third strike crime in and of itself. It only becomes a strike when a deadly weapon enhancement attaches to it. The same is true for the crime of assault in the third degree. Former RCW 9.94A.030(32)(t). Because the notice is deficient, it is even more evident that defense counsel did not do additional research to familiarize himself with the persistent offender law.

instance, as the State points out, defense counsel's failure to object may well have been trial strategy to avoid drawing attention to the comment. However, as in *Yung-Cheng Tsai*, trial counsel's conduct here indicated that he did not understand the importance of one of the key matters in this case and did not adequately prepare. 183 Wn.2d at 101-02. We conclude that defense counsel's conduct clearly demonstrates he failed to fully research the charges and appreciate their significance to Estes's case.

The dissent asserts that there is a lack of evidence on the issue of what Estes's lawyer knew about Estes being convicted of a third strike. But the undisputed direct evidence clearly shows that the lawyer had no knowledge that convictions for assault in the third degree and felony harassment with deadly weapon enhancements were most serious offenses. At the hearing to schedule sentencing, Estes's counsel stated, "He wasn't convicted of a strike offense." 4 RP at 504. The State clarified, "[T]he Defendant is a third strike case because of the deadly weapon enhancements." 4 RP at 504. This direct evidence, accompanied by the circumstantial evidence presented throughout this case, clearly refutes the dissent's argument that this language is susceptible to more than one meaning and is not meaningful.

Estes compares his case to *State v. Felton*, 110 Wis. 2d 485, 329 N.W.2d 161 (1983).⁹ In *Felton*, defense counsel, who represented a woman charged with murder in the first degree for shooting her husband while he slept, only put on a battered spouse defense, not a heat-of-passion defense. 329 N.W.2d at 170. The woman was convicted of murder in the second degree and appealed, arguing ineffective assistance of trial counsel. *Felton*, 329 N.W.2d at 162. Defense counsel admitted he was unaware the heat-of-passion defense could be used in the case. *Felton*,

⁹ Estes and this court acknowledge that this case is persuasive authority only and does not carry the weight of precedential authority.

329 N.W.2d at 170. The Wisconsin Supreme Court ultimately held defense counsel was ineffective because he failed to familiarize himself with the relevant law when formulating his client's defense. *Felton*, 329 N.W.2d at 169-70. The *Felton* court acknowledged its hesitance to second guess trial counsel's decisions with an evaluation in hindsight, but stated that "prejudice does exist if the facts presented at trial or in the postconviction hearing would justify the submission of a defense . . . to the jury." 329 N.W.2d at 171.

Estes argues that his counsel's performance, as in *Felton*, was deficient because he failed to familiarize himself with the relevant law and thus, was ill-equipped to provide his client with a full defense. While Washington courts are also hesitant to second guess decisions of trial counsel in hindsight, we conclude that here, defense counsel's performance fell below a reasonable standard and thus, was deficient.

2. Prejudice

Estes must in turn show that counsel's deficient performance was prejudicial or undercut confidence in the result of the proceeding. *State v. Leavitt*, 49 Wn. App. 348, 359, 743 P.2d 270 (1987). Estes argues that a line of defense was foreclosed because of counsel's ignorance of the law. He contends that defense counsel would have put on a more robust defense during trial, *specific to the enhancements, had he understood*. We disagree.

Estes's attorney made several motions to keep the knife found on Estes out of evidence, both before and during trial. He also moved to exclude pictures of that knife. The trial court denied both motions. Further, defense counsel attacked Prusek's, Stoltenberg's, and Pigman's memory regarding the knife that was in the apartment. And, during closing argument, defense counsel presented the theory that the State failed to prove Estes assaulted anyone with a knife and

that the State could not prove that the knife in evidence was the knife in the apartment. Estes has not shown prejudice on this point.

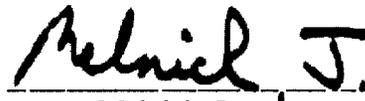
However, Estes also raises the issue of prejudice in his SAG. He states, “[My defense attorney] did not advise me that the weapon enhancement was a strike in itself [sic] or when attached to a[n] Assault [in the third degree] or felony harassment.” SAG at 2. Effective assistance of counsel in a plea bargaining context requires that counsel “‘actually and substantially [assist] his client in deciding whether to plead guilty.’” *State v. James*, 48 Wn. App. 353, 362, 739 P.2d 1161 (1987) (alteration in original) (quoting *State v. Osborne*, 102 Wn.2d 87, 99, 684 P.2d 683 (1984)). Representation must include not only communicating actual offers, but discussion of tentative plea negotiations and the strengths and weaknesses of a defendant’s case so that the defendant knows what to expect and can make an informed judgment whether or not to plead guilty. *State v. Edwards*, 171 Wn. App. 379, 394, 294 P.3d 708 (2012). Counsel must “‘reasonably evaluate the evidence’” against the defendant. *Edwards*, 171 Wn. App. at 394 (quoting *State v. A.N.J.*, 168 Wn.2d 91, 111, 225 P.3d 956 (2010)). Uncertainty about the outcome of plea bargain negotiations should not prevent reversal where confidence in the outcome is undermined. *James*, 48 Wn. App. at 363.

Here, it is clear from the record that Estes’s lawyer did not understand the consequences for Estes if he was convicted of any felony with a deadly weapon enhancement. Furthermore, Estes’s situation is different from *Crawford*, in which our Supreme Court held that the defendant could not show prejudice from counsel’s deficient performance where there was no indication the State would offer a non-strike offense. 159 Wn.2d at 100. Here, the State specifically stated at the sentencing hearing that it offered to work with Estes to avoid a third strike but that Estes declined to negotiate. Because Estes’s lawyer did not fully understand the consequences of the

convictions in this case, he could not fully inform Estes of his options regarding mitigation as offered by the State.

Plea bargaining is a part of defense strategy. Where the failure to plea bargain is based on ignorance of the law and, consequently, a failure to advise a client of the potential consequences of failing to negotiate, prejudice is demonstrated. *See Crawford*, 159 Wn.2d at 100. We cannot say that Estes's lawyer provided him adequate counsel, and thus, our confidence in the result is undermined. We conclude that Estes suffered prejudice because of defense counsel's lack of fluency with the law to the extent that there is a reasonable probability it impacted the outcome of the proceeding.

Because Estes received ineffective assistance of counsel, we reverse the convictions and remand for a new trial.


Melnick, J.

I concur:


Sutton, J.

MAXA, J. (dissenting) — I would agree with the majority that Kevin Estes received ineffective assistance of counsel *if* the record showed that defense counsel was unaware that the deadly weapon enhancements made his third degree assault and felony harassment charges strike offenses. However, the record simply is inconclusive regarding what defense counsel knew or did not know. Accordingly, I dissent.

Defense counsel never stated that he did not know that convictions for third degree assault and felony harassment with deadly weapon enhancements constituted strikes under the persistent offender statute. The majority’s conclusion that defense counsel did not know that Estes’s convictions constituted a third strike primarily is based on a single statement from defense counsel. When the State said, “As the Court is aware, this is a third strike case,” defense counsel responded, “[Estes] wasn’t convicted of a strike offense.” 4 Report of Proceedings at 504.

Defense counsel’s statement certainly could give rise to an inference that he was unaware of the third strike implications of Estes’s convictions. However, that is not the only explanation for defense counsel’s statement. Defense counsel may have been momentarily confused or simply may have misspoken. Nothing in the record discloses what defense counsel *actually* knew, what Estes knew, or what defense counsel told Estes about whether Estes’s convictions would be third strikes.¹⁰

The majority also references Estes’s refusal to engage in any negotiations with the State in order to avoid a third strike, and seems to suggest that this fact indicates that defense counsel

¹⁰ In his statement of additional grounds, Estes asserted that defense counsel did not advise him that the weapon enhancement would result in his convictions becoming strike offenses. However, this assertion is not part of the appellate record and cannot be considered in evaluating Estes’s ineffective assistance of counsel claim.

did not know that Estes was facing a third strike if convicted. However, there certainly are many other reasons why a defendant might decline to negotiate.

The absence of any meaningful evidence regarding what defense counsel actually knew is fatal to Estes's ineffective assistance of counsel claim. The starting point in any ineffective assistance of counsel analysis is the strong presumption that defense counsel's performance was effective. *State v. Grier*, 171 Wn.2d 17, 33, 246 P.3d 1260 (2011). This presumption cannot be overcome by speculation or even an inference about what defense counsel knew or did not know about the third strike implications of Estes's convictions.

If defense counsel *in fact* did not know that Estes's convictions were third strikes under the persistent offender statute, Estes is not without a remedy. He can file a personal restraint petition in which he presents sworn testimony to support his ineffective assistance of counsel claim. If that testimony or findings following a reference hearing demonstrate defense counsel's lack of knowledge, Estes may be entitled to a reversal of his convictions. However, based on the record on *this* appeal, Estes cannot establish ineffective assistance of counsel. As a result, I would affirm Estes's convictions.

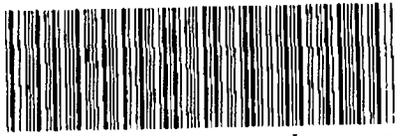


MAXA, A.C.J.

APPENDIX “B”

Defendant’s Letters to Ms. Clarkson

0236



14-1-00724-0 42581884 LTRDF 05-20-14

Clarkson # 22267

ing Attorney

Rm 946

FILED
IN COUNTY CLERK'S OFFICE

A.M. MAY 20 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY: [Signature] DEPUTY

Tacoma, Wa, 98402-2171

1121

From: Kevin Estes Bkg # 2014051002

910 Tacoma Ave S

Tacoma, WA, 98402

5/20/2014

Re: Cause # 14-1-00724-0, plea offer in lieu of continued
prosecutor misconduct and the W.S.B.A., and the Judicial
Commission for the Pierce County violations that are
ongoing

Ms. Clarkson,

You've received all copies of the papers I've filed minus the
bar complaint on my attorney. You did however receive the
notice of dismissal prior to the May 15th hearing. You have
been aware for some time that your alleged victims
signed statements for me. So in effect you'd be reaching for
even this offer, and that is leaving out the facts stated
in the record that constitutes my suite against Pierce
County. I will stop that action if you consider and take
this one-time offer before trial. Remember in essence
you've tried to take my life, I'm giving you a break
under the circumstances.

0237

1121

5/20/2014

I would stipulate to a mistrial on drunk and disorderly or the equivalent that precludes County probation, fine, and an alcohol assessment. I would get credit for time served no more. And be released by no later than Friday May 30th 2014. This is so I can maintain my disability insurance and income that would cancel June 1st due to your fraud. You must be forgetting the fact that it is you who is obligated to make sure I get a fair trial. And to date that hasn't come close. Knowledge being a bitch when you don't apply it properly, what with the higher level of accountability.

The only reason I'm offering this is because my spouse has made it clear I'm needed at home by her and my epileptic adult son. The fact that she makes good decisions and I don't unless I run them by her first is a factor. And the obvious fact I didn't run going to puyallup supports that, and part of my disability. A true good marriage/relationship is a codependant one. If you haven't been in one longer than 12 yrs you wouldn't know this, married to the law doesn't count. So I should have your answer by the next hearing on May 20th 2014. If not it's time for trial, no more b.s. continuances.

Sincerely,
 Devin Estey Pro Se
 5/16/14

0238

To: Pierce County Superior Court Clerk

930 Tacoma Ave S. Rm 110

Tacoma, Wa, 98402

1121

From: Kevin Estes Bkg # 2014051002

910 Tacoma Ave S,

Tacoma wa, 98402

5/20/2014

Re: Cause # 14-1-00724-0, filing courtesy copy and notice to current parties

Dear Clerk,

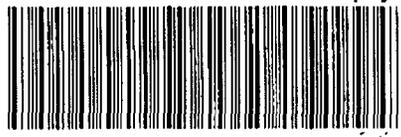
Please file the enclosed letter in my case file as it is already known by record that Derek Smith was dismissed. And that all correspondence with this Court and parties has been recorded and forwarded for the next stage.

cc
Self
Crt. Adm.

Sincerely
Kevin Estes Pro Se
5/16/14

APPENDIX “C”

Defendant's Pro Se Motions



14-1-00724-0 42318155 LTRDF 04-04-14

FILED
IN COUNTY CLERK'S OFFICE

A.M. APR 04 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

1019 Pacific Ave, Ste 701

Tacoma, wa, 98402

(253) 229-1591

From: Defendant/Client Kevin Estes # 14-1-00724-0

Bkg # 2014051002

910 Tacoma Ave S.

Tacoma, WA, 98402

Re: Multiple letters and copy of Franks motion dated on or about 3/8/14,
3/11/14, 3/14/14, and supporting affidavits. Client visits on 3/5/14,
3/24/14. Non responsive to discovery request and statements.
Disregard to clients relevant/factual evidence in support.

Dear Mr. Smith,

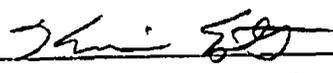
On those two occasions you came to see me when you were not
nodding from drugs or lack of sleep you appeared to hear what
I was saying and requesting. Yet to date nothing has transpired
even with multiple letters and a Pro Se motion in lieu of
councils inadequate representation. I've asked for discovery and
the three statements on your letter head that would of had
me released by now. You ignored such. Those in conjunction with
my motion equals dismissle. The fact that I've asked to get my
medical evaluations (physical/mental) from my Drs and safety
deposit Box with a Duces Tecum go's ignored. And a 1077 in it's
place with State Drs who's for the state clearly
prejudices me.

COURTS COPY

0123
804
4/4/2014

As in the letter in response to my girl picking up our sons car
and my property from the falsely alleged victims as
witness tampering thou it clearly established the need for
the Franks hearing since nothing remotely like the probable
happened. You've got their statements refuting the dirty
puyallup police's statement that also makes the prosecution
dirty as I accused. By you not responding accordingly and
not giving me the discovery and statements I will have no
alternative to have you removed and go to the Bar if
nothing by 3/14/14. If you wish to remove yourself fine.
In the interim I will be forced to be Pro Se until
Council or co-council is appointed.

cc
Superior
Court
Prosecutor
WS.B.A
Div II
App. Ct.

Sincerely

Kevin Estes Pro Se
4/2/14

Prosecutors Courtesy Copy

4/15/14

To: Judge Ronald E. Culpepper
930 Tacoma Ave S. Rm 260
Tacoma, wa 98402-2171

FILED

CDPJ
Competency

2014 APR -4 AM 9:02

TACOMA MUNICIPAL COURT
TACOMA, WA

From: Kevin Estes, Pro Se Defendant
Bkg# 2014051002
910 Tacoma, Ave S.
Tacoma, wa. 98402

Re: Cause no # 14-1-00724-0, Defendants Pro Se motion
for Franks Hearing Dismiss Pursuant to CrR 3.3 and
CrR 8.3 (B)... Progressive writ of Certioria /mandamus
upon rejection. And accompanying Affidavit in Support
mailed with letter requesting Docketing Dated 3/11/14/6 Am

Your Honor,

The referred motion and affidavit was duly sent to Rm 110,
930, Superior Court Clerk and the prosecutors office.

Rm 946 930 Tacoma Ave S. Simotaneously. The date requested
was the initial pretrial date of 3/25/14 as it was timely.

Continuences were granted and at no point has
my motion been addressed or acknowledged

under Relief. And it appears to have been dismissed
in its entirety. I believe then I may pursue a
writ of Certioria as also defined under relief

PROSECUTOR'S COPY

To my knowledge in such a case I need not file a *Informa Pauperis* to pursue this matter of higher review on a motion while represented by D.A.C. because I can't afford an attorney, such would be redundant up to the initial trial/appeal. And the presumption of *Ex parte* communications by this letter I believe is more by my motion, affidavit and the motion/order for Western State. I was not allowed on record today to state I have all mental/physical evaluations to date that established my permanent disability by SSI. The presumption is that Western State can get all the evaluations. That will consist of seven doctors and two specialists. This does not negate the fact I have yet to receive discovery in any form, and I object to that and my motion being routinely dismissed with out hearing

Presented by:

cc. Def. Att.

Prosecutor

K. Estes

Duv. II

App. Ct.

Superior

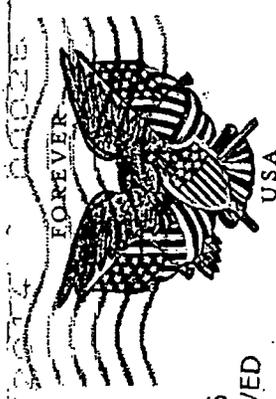
Court

Kevin Estes

Kevin Estes

Pro Se Defendant

3/31/14



732 4/11/2014 0026
TACOMA WA 583
OLYMPIA WA
01 APR 2014 PM 2 L

Room 946
COPY RECEIVED

APR 02 2014

RECEIVED
APR 03 2014
BY: [Signature]

Judge Ronald E. Culp
930 Tacoma Ave. S. Rm 260
Tacoma, wa, 98402-2171

Legal Mail
✓

Name: Kevin Estes
7014051007
Pierce County Sheriff's Department
311 Tacoma Avenue South
Tacoma, WA 98402-2168

Legal Mail

58402217159



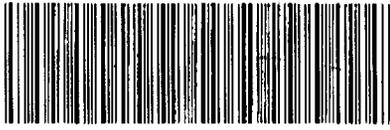
© USPS 2013

THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT



Legal Mail

00030
4/11/2014
732



14-1-00724-0 42345815 LTRDF 04-10-14

FILED
IN COUNTY CLERK'S OFFICE

A.M. **APR 10 2014** P.M.
PIERCE COUNTY WASHINGTON
KEVIN STOCK County Clerk
BY *[Signature]* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff ,

vs.

ESTES, KEVIN LEE,

Defendant .

Cause No. 14-1-00724-0

LETTER FROM DEFENDANT

A.M. MAR 14 2014

PIERCE COUNTY, WASHINGTON
BY KEVIN STOCK, County Clerk
DEPUTY

STATE OF WASHINGTON,
Plaintiff,
vs.
KEVIN LEE ESTES,
Defendant.

CAUSE NO. # 14-1-00724-0
MOTION FOR FRANKS HEARING
DISMISS PURSUANT TO CrR 3.3
and CrR 8.3 (B) **WORKING COPIES**

DEPARTMENT # 685

Comes Now: The Defendant Kevin Lee Estes ~~Estes~~ **HEARING DATE**

Pro-se and pursuant to CrR 3.3 and CrR 8.3 (B) moves
This Court respectfully for a motion of Franks
Hearing to support said motion Defendant states...

Relevant Factors:

The Franks Hearing test for material that are extended
to allegations, statements and omissions made from witnesses
concerning possible self defense which was excluded from the
probable cause. Had arresting officers included favorable
statements made by the Defendant at the time of arrest
and the State Prosecutor has added and addressed the
statements in their Declaration of probable cause, it is
quite possibly that the Court would have viewed an
absence of probable cause.

R.F. 1# Upon Puyallup Police arrival at the scene the Defendant
being in his car, the alleged victim James Randle being
approximately 15 to 20 feet away clearly states to the Police
and Defendant that "nobody is pressing charges, we are
not pressing charges."

R.F. 2# That by the police's admission that Anthony Prusick
was the aggressor putting the defendant in a sleeper hold and
James Randle assisted in the potentially lethal attack
on the Defendant. A sleeper hold is designed to suffocate
then snap the neck killing the person in said hold by
severing the spinal cord. The police asking the defendant what
he is doing, Defendant stating "Driving my self to the hospital for the
injuries by the attack." That not being reflected, or medical
attention allowed to date for said injuries

12000
4
11/12/2014
222

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4/11/2014
732

R.F. 3# The alleged victim Ashley Stoltenberg states she didn't see the entire altercation omitting facts that the other two alleged victims clearly stated that "No-body is pressing charges, we are not pressing charges."

R.F. 4# At no point to date has any officer, Court officer, Arresting officer, Booking officer read me my right to remain silent, or a loud medical treatment. *Green v. Daley* 414 F.3d 645 (7th Cir. 2005)

Authority I:

State v. Summers 104 Wn 801 Imminent danger that his adversary may injure him unless prevented [State v. Bernard 25 Wn App 146 Lawfull defense where a apprehension of danger calls for use of force reasonably. It is a generally accepted rule that a person owning or lawfully in possession of property may use such force as is reasonably necessary under the circumstances in order to protect that property and himself? He is not liable criminally or civilly [4AM Jur. 159, 164 Assault and Battery] §§ 61, 68, 6CJS 816, 821, 851, Assault and Battery §§ 20, 94

State v. Ladiges 66 Wn 2d. 273 The State has the burden of proof beyond a reasonable doubt this absence of Lawful force.

Authority II:

RCW § 9A16.050 (1)(2)(3). Use of force not unlawful when used by a party about to prevent an offense against his person "A person has no duty to retreat."

State v. Penni 89 Wn 2d 63. whereas; in conjunction with Franks v. Delaware 438 US 154, 95 S. Ct. 2674 Any criminal defense is entitled to a Franks Hearing to determine if the arresting officers failed to include or added erroneous evidence which may have been favorable to the Defense.

Green v. Daley 414 F.3d 645, 654 (7th Cir. 2005) (treatment so blatantly inappropriate as to evidence intentional mistreatment likely to seriously aggravate [plaintiff's] condition. Hughes v. Joliet Correctional Ctr 931 F.2d 425, 428 (7th Cir. 1991) (evidence that medical staff treated Plaintiff not as a patient, but as a nuisance.")

00033
4/11/2014
732

Relief:

The Defendant Kevin Lee Estes, in Pro Se on said motion on this 11th day of March 2014 prays for acknowledgment and hearing of the motion on this scheduled pre-trial conference day.

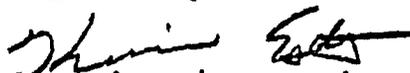
And that upon review the Presiding Judge will grant the Frank's Hearing on its merits and cited case Law and RCW's under Relivant factors 1[#] through 4[#], Authorities I[#] and II.

The defendant further request's access to the dails Law library which is denied to indigent inmates. All motions, Documents, anything related to the Law library is restricted to paying inmates. A constitutional issue being Obstruction to the Courts due to indigency.

If this motion is dismissed in part or in its intirety I pray for higher review of its merits facts in the form of a progressive writ of certioria or writ of mandamus Staying these proceedings until the conclusion of the writs status/outcome. I the defendant Kevin Estes state that because of lack of access to the laws I cannot determine wether certioria or mandamus is in Division two, or in Washington State Supreme. Hence the natural order of progresion request. And I request all transcripts of All proceedings prior to trial. And that Copies will be made of this motion for all Parties upon the Courts receipt of this motion.

I Kevin Lee Estes Duly Swear under penalty of perjury of Washington State that the forgoing is true and correct So help me God.

Dated this 11th day of March 2014


Defendant Pro Se
Kevin Lee Estes

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

IN COUNTY FILED
CLERK'S OFFICE
A.M. MAR 14 2014 P.M.
PIERCE COUNTY, WASHINGTON
BY KEVIN STOCK, County Clerk
DEPUTY

1 STATE OF WASHINGTON,

2 Plaintiff,

CAUSE # 14-1-00724-0

3 v.s.

AFFIDAVIT OF DEFENDANT IN SUPPORT

4 KEVIN LEE ESTES,

OF MOTION FOR FRANKS HEARING,

5 Defendant.

DISMISS PER C.R.3.3 and C.R.8.3(a)

7 Comes now the Defendant in Pro-Se form submitting
8 this affidavit in support of said motion praying for
9 relief as defined in the motion.

10 And...

11 Pursuant to the relevant factors, R.F. 1st through R.F. 4th
12 and the cited authorities under I and II sufficient
13 cause is shown to charge prosecutor Erica Eggertsen,
14 WSB #40447 with prosecutorial misconduct and dismissing
15 the charges with prejudice.

17 I the Defendant Kevin Lee Estes depose and says that...

19 I: The Puyallup Police selectively left out statements not only
20 from me, but also a alleged victim who latter proves he was
21 not a victim contrary to the probable cause statement.
22 That being James Randle. And further states "We aren't
23 pressing charges!" And the fact there are no photos of
24 any injury yet I'm charged falsely with such.

25 WORKING COPIES

26 DEPARTMENT # (DPJ)

28 HEARING DATE

00038

4/11/2014

7:2

1 II: James Randle being 15 to 20 feet away heard me tell
 2 the officers I was driving myself to the hospital as
 3 clearly as I heard him tell the officers "we aren't pressing
 4 charges." The officers never mention any of this, nor
 5 do they allow me medical treatment from the
 6 potentially fatal attack on me admitted to by Anthony
 7 Prusek. And to date I am still denied any medical
 8 treatment even though I am a disabled citizen by the
 9 record. That is consistent with Authority II.

10

11 III: The wounds to Anthony are not consistent with a attack
 12 on him just the opposite. The back of the hand and top of the
 13 toe. The hand being the hand used to snap the neck of
 14 the person in the fatal sleeper hold he applied. The foot
 15 to prevent chase when escaping the attempted killing
 16 of me. As cited in authority I and II I have the
 17 right to protect my self. When attacked from behind
 18 and put into a lethal hold you have few if any options,
 19 and seconds at best. And the mere fact that I
 20 ran as soon as he let go proves the authorities are
 21 consistent. Contrary to the false police reporting
 22 and the deliberate acts of the prosecutor.

23

24

25

26

27

28

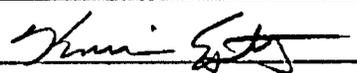
1 IV: R.F.3# Ashley not stating what she seen, yet suposidly
2 out of the blue I'm just talking away about my past? That
3 is cohersed completely by the puyallup police department
4 as a avenue to open the door to my past in Court. Jim
5 (James) Bandle and myself never talk about our past in
6 front of any one just for this exact reason. And the
7 reason it was cohersed is because when James stated
8 the no charges and I stated the hospital the police
9 shoved James and cuffed me. I emidiatly said
10 I will now lawyer up since you just proved
11 puyallup police are corrupt. This being the crux
12 of Franks v. Delaware in authority II.

13
14 V: The statement that there was a party, that is inconsistent
15 on face value, and the fact that no officer even
16 wanted or thought I needed a breathalizer thou I was
17 going to drive to the hospital? Why? I had 2 1/2 beer
18 over several hours. I don't drink anymore. Havent in
19 years just because of stupidity like this by
20 drunks and Stoners. Did the police view the
21 alledged crime scene and all the dope Anthony
22 had been using and the 5th of snapps and
23 beers they drunk? Prints would show mine on
24 3 bottles, 8 or 9 for James and about the same
25 for Anthony.

26
27
28

1 This should of made the prosicutor ask questions
2 of the validity of the claim. Instead I get
3 falsly charged due to retaliation for calling
4 the puyallup police corrupt as they are.
5 And the prosicution being in thier pocket by
6 allowing this to go this far. Not excluding
7 me my medical so to prove the damage done.

8
9 I Kevin Estes the defendant Pro-se Depose
10 and Says under Penalty of perjury by
11 the Laws of the state of Washington that
12 this affidavit is true and correct in
13 Statement and facts.

14
15
16 

17 Kevin Estes Pro-se defendant
18 3/11/14/ 6pm

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Cause # 14-1-00724-0

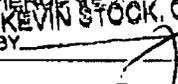
Kevin Stock, Pierce County ~~clerk~~



14-1-00724-0 42388778 LTRDF 04-18-14

FILED
IN COUNTY CLERK'S OFFICE

A.M. APR 18 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY  DEPUTY

Dear Clerk,

Please file the enclosed 8 page
informational letter to my cause
as it pertains to the 1077 Hearing
and none scheduling of my Franks
Hearing as asked in the request
attached to said Franks Hearing
under cause # 14-1-00724-0

Sincerely,

Kevin Estes Pro Se
4/16/14/7pm

824
4/21/2014
1:00:50

To: Pierce County, Superior Court and Clerk Rm 110.

Prosecuting Attorney Rm 946, 98402-2771

930 Tacoma Ave S.

Tacoma, Wa, 98402

From: Kevin Estes # Bkg 20141051002

Pierce County Sheriff's Department

910 Tacoma Ave South

Tacoma, Wa, 98402-2168

Re: Continuation of 1077 hearing, continued medical neglect as stated in 3/11/14 Franks hearing and a Plaintiff's 3/31/14 letter to Judge. 4/6/14 Pierce Co. Tort on Med. neg. 4/13/14 motion to dismiss with prejudice # 14-1-00724-0, File please

Dear Court, Clerk, Prosecutor, Defense Council,

As stated in the referred material that should ~~be~~ be filed as I am still confident till declared otherwise, I repeatedly mention multiple medical issues besides the one caused by Anthony Prusek then aggravated further by the booking officers doing the same maneuver on me not recognizing I'm hard of hearing. Keeping in mind the seven recent Doctor's evaluations and two specialist who aren't State Doctors and are for the defendant will be supplied now. Along with my current medication prescriptions that's denied.

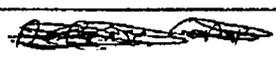
lofl

Letter, Courts

~~lofl~~

00192
4/21/2014
8:24

The fact that Pierce County, Court, Prosecution, Clerk has not acknowledged receipt to date doesn't so much bother me as the mail log proves such and I'm sure the Washington St. Supreme, and U.S. District will request such as they already have copies of all correspondence and chronological log to such. So here's the most current Dr's and prescriptions minus the Specialists, and my disability attorney with the determination from all Dr's going back decades as I understand. Hence SST without an appeal. Makes me want to record all my plea's and stipulations to my record because of the conditions of my disability. I will be checking that out outside of this venue for obvious reasons. David Oliver & Associates, 2608 S. 47th St, Ste. C Tacoma, wa. 98409, (253) 472-4357. Greater Lakes Eileen Ocasek, MA. 9330 59th Ave. S.W. Lakewood, wa. 98499 (253) 581-7020. Dr. Jean Riquelme Community health 188th in Pacific Ave Spanaway, wa, 98387 (253) 847-2304. Dr. Bruce Lanum Com. H. (253) 847-2304. Dr. Tran Ngoc Com. H. (253) 847-2304. Dr. Erin Lenza Com. H. (253) 847-2304. Dr. Jiman Jung, Com. H. 847-2304. Dr. Desiree white Com. Health, 1102 S. T St Tacoma wa 98405 (253) 597-3813. Dr. Rebecca Bergen, Com. Health South T (253) 597-3813. (phyc) Dr. Sunida Buntaran, 3rd floor above new D.O. location on 13th in Tacoma Ave. (phyc) Dr. Reshnicheck, D.O. Last Known C.A.C.S. State Pr. From DSHS on 19th in State 2012 via Mr. Gunn DSHS. Oh it's eleven that are under two years instead of seven. Well if that's a factor (2 yrs) that's good. Now say life add Aproximately that amount again.



00193
6100
4/21/2014
024
What I was being treated for prior to puyallup's and Pierce County's Sheriff's assault and neglect of my medical needs was: 1st PTSD, 2nd Diagnosis axis II, 3rd Chronic migrains 4th Asthma, 5th Head injury from baseball bat 6th Problems with primary support group, 7th Problems related to social environment, 8th Problems related to interaction with the legal system/crime. (ITS NOT PARANOID WHEN YOU HAVE THE DOCUMENTS.) 9th Other psychosocial and environmental problems.

Rx 70100424-6146107, Risperidone 3mg Dr. Sunida Bintasan

6146108, lithium carbonate 300mg Dr. Bintasan

6156162, Valproic Acid 250mg Dr. Bergren

6156163, calcium 500mg Dr. Bergren

6156149, Omeprazole 20mg Dr. Bergren

6156160, Montelukast Sod 10mg Dr. Bergren

6157306, Ibuprofen 600mg Dr. White

6158324, Diphenhydramine 25mg Dr. White

6157305, Sumatriptan Succ. 50mg Dr. White

6158325, Triamcinolone 0.1% cream Dr. White

6158852, Fluocinolone .025% oint. Dr. Reguelme

6159614, Qvar 80mg inhaler Dr. Lanum

6159617, Zpen 3mg Dr. Lanum

6166072, Cephalexin 250mg Dr. Lenza

616692, Desoximetasone .25% Dr. Lenza

6169341, Proair HFA 90mg Dr. Lanum

4523646, Lorazepam .5mg Dr. Dang

These are the "current" meds that have "expired" while in custody after my 4th med kite giving this very information. Further paper proof.

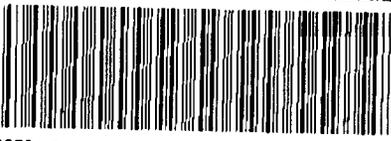
Depending on the depth in which a state Dr. wishes to go and if it's any indication by this County's ongoing neglect I can assume the prior Dr's prescriptions back to 12 yrs of age is over Kill or taxing thier capabilities. I have it none the less names in memory because my spellings lousy.

So to reiterate there's 25 issues and treatment within a "relivant" time frame and 20 "contributing factors." That is as I was told to record and document for better treatment. And to emphasise a point. I don't see myself as incompetent. And as "some" attorney's now prosecutors and Judges have called me brilliantly corrupt. I say this. What appears as contradictions is thier lack of knowledge of me. I am in mental and physical decline I know this. But any inference or context to the negative go's to prejudice and in-temitory not necessarily in that order. And by the Clerk returning motions and Discovery demands and associated letters that weren't filed, that being against wa. & U.S. Const. Amenda 1st, 4th, 5th, 6th, 8th, 14th. No scheduling of the Franks hearing constitutes extreme prejudice and or emidiate dismisal or change of venue.

Submitted by: Kevin Estes Pro Se

Kevin Estes

4/16/14/7:pm



14-1-00724-0 42452046 LTRDF 04-30-14

COURTS COPY

0026

1019 Pacific Ave Ste 701
Tacoma, wa, 98402

FILED
IN COUNTY CLERK'S OFFICE

APR 30 2014 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY: [Signature] DEPUTY

From: Kevin Estes Bkg # 2014051002

910 Tacoma Ave S, Tacoma, wa, 98402

841

Re: ~~14-1-00724-0~~ getting copies of discovery as stated by you on 4/9/14
4/13/14. And copies of James Randle's and Anthony Prusek's
statements that contradicts the discovery info.

5/1/2014

Dear,

It is 4/28/14 two weeks since you stated that I would have the
discovery and statements. It is also an undetermined amount of time
since you've had those statements and you not sending your investigator
to have them signed? Today is day 68 of my incarceration and by all
information to me this should be dismissed pursuant to the cited
CC, CrR's, ECR and constitutional/violations of amendments 1st, 4th, 5th, 6th,
Pierce Co. 14th, and 8th for the medical. That's the Wa. + U.S. as they're parallel
Prosecutor, I believe. I have had things filed and docketed only to be
Superior Ct ignored contrary to not being determined in compliance yet. So
on the 15th this will happen. Dismiss, hear my motions then dismiss with
W.S.B.A. prejudice. No more B.S. continuances under false pretences. And a
File 2nd change of venue due to the prejudice as defined in this
case and case log. Pierce County that is.

Sincerely,
Kevin Estes Pro Se
4/28/14

CTR

To: Prosecutor Diane Clarkson #22262



14-1-00724-0 42480307 LTRDF 05-06-14

Rm 946

22171

FILED IN COUNTY CLERK'S OFFICE

AM MAY 05 2014 PM

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY DEPUTY

From: Kevin Estes #14-1-00724-0

Bkg# 2014051002

910 Tacoma Ave S., Tacoma wa 98402

Re: Attached letter excusable of lost wallet, Id, and ongoing identity fraud due to either or, or all: Puyallup Police, Pierce Co Sheriff, Pierce Co. Prosecutor.

Dear Ms. Clarkson,

It is unlikely that all are involved given the nature. It is probable that that someone along your chain dropped the ball. You personally would never be such a (pardon my French) dumbass as to flagrantly steal an identity and cash out some \$3,300.00, especially if that identity stuff is in your evidence box so to say. And if it is there then your liable and not Puyallup Police. You can answer that much since you've ignored all discovery requests and it's day 71 without discovery. My history reflects no dishonesty, only harm to dishonest people so to say, so why would you have my wallet right? Throw me a bone so I can help my spouse.

Sincerely
Kevin Estes prose
5/1/14

0622
902
5/7/2014

Crt.

To: Puyallup Police Department

311 West Pioneer

Puyallup, Wa, 98371

From: Kevin Estes Bkg # 2014051002

Pierce County Sheriff's Department

910 Tacoma Ave S.

Tacoma, Wa 98402-2168

Re: Inc # 14001363, subsequent Bkg # 2014051002 and cause # 14-1-00724-0

Dear Captain,

Superior Ct. When your officers arrested me in my vehicle in front of the alleged
 prosecutor, crime scene after searching me they never booked into property
 Def. Co. my wallet containing license, Union bank card, Cit. bank card,
 U.S. Dist. Atty Discovery card, SSI card, library card, Disabled citizens bus card,
 F.B.I. That is carried in my front left pocket as your personal
 camera's will show. Due to this identity theft was done in
 3/14 and 4/1/14 amounting to \$35.00 and then \$3,300.00. Ultimately
 you are responsible for replacement costs, Now it is possible
 that your officer threw it in my car saying hell with it, or put
 it into evidence which brings up another problem. Either
 way I need to know so to help FOIC and my spouse
 who's injured because of this.

Sincerely
 Kevin Estes pro se
 5/1/14

CRT.



14-1-00724-0 42480260 LTRDF 05-06-14

#26036

#22262

9020001

5/7/2014

Pierce County Superior Court

FILED
IN COUNTY CLERK'S OFFICE

A.M. MAY 06 2014 P.M.
PIERCE COUNTY WASHINGTON
KEVIN SPOFFORD County Clerk
BY DEPUTY

From: Defendant: Kevin Estes #14-1-00724-0

Re: Release of wallet to P.O.A. and bank fraud since arrest
relevant to wallet and the ongoing obstructions in association
with this case. Basis for Dismissal or change of Venue.

Dear Court Officers,

By the attached inmate release of personal property form
you can see the refusal towards my wallet and such. And
you all know I've been in custody since 2/19/14. So the
FDIC bank fraud on the account only in my wallet for \$3,300.00
on 4/2/14 "miscellaneous bank origin" originated from a
Sheriff and this being the most recent episode. The other
is also described in the attached request to the office of the
Code reviser given I'm obstructed to law material, the
matter of redress and other constitutional violations you
already have complaints and objections too. To verify
the bank info: Union Bank, Puyallup-south hill branch %
Jessica Smith Branch Mgr. 6-374, 4417 South
Meridian P.O. Box 731869 Puyallup Wa, 98373

4/29/14

1 of 3

Letter to: Court/Prosec/Def. Co on corrupt & indifference.

Cont.

It is odd that the property is not released to the P.O.A. And since that farm states they don't release wallets or cards I will start another Tort for the cost of all replacements and changing accounts and associated pain and suffering. I also believe the associated harassment involving rejecting mail pertaining to my disabilities through SSI mailed by either my P.O.A. or my SSI attorney David Oliver furthers the obstruction dated 4/28/14. Those rejected papers were my evaluations so that proves prejudice. And is in relation with the prosecutions coercive approach as defined in all my filings. So now there will be two TORTS. The medical denial one is being investigated: #2014.0156 investigator Tony Jensen (253) 798-4920. The other relevant events are indifference towards a known disabled person and criminal negligence by Puyallup police/Pierce County Sheriff's March 2013 Curry Maruin attempts to murder me in Puyallup with a baseball bat. My teeth are knocked out, cactus can, and head split open. Puyallup confiscates the bat, wants to arrest me. Sheriff's take over and covers everything up. May 2013 Curry Maruin moves down the block from me. Dec. 10th 2013 a girl friend of Curry's slips me a near fatal dose of molly and crank in my soda. The DEA crime lab and my Dr. confirm this. You already have the Dr's name and location and medication prescribed. A Dr. Jiman Jung, #4523646 Lorazepam. Reported and again no action taken minus me not mentally recovering fully.

4/29/14

2 of 3

Letter to: Court/Prosec/Def. CO on corrupt & indifference.

Crt.

January 1st-3rd 2014 Curry Marvin post on face books his
9mm Taurus saying to bring Kevin over so he can get all 18
of what he deserves. I report it to facebook call 911 and
make copies. The Sheriff Pagan does nothing. Then on
2/3 through 2/12/14 Curry Marvin vandalized and breaks
into my new truck. The Sheriff P says the castings I made
of the tires and photos of Currys tires arent proof. And
as of now the sheriff has refused the face books
evidence to be mailed in to me by my P.O.A. A
consistant patern of criminal negligence on top
of the refusal of discovery requests, motions, Demands.
And Franks hearing all under the premis I'm
incompitent contrary to the determination and
defense councils own admission. It is evident I
cannot get a fair trial. This and all cause
chronological logging will support my change of
venue.

Sincerely
Kevin Estes
4/29/14

4/29/14

3 of 3

letter to Court/Prosec/Def Co. on corrupt & indifference

Crt.

TO: Office of the Code Reviser
P.O. Box 40552
Olympia, wa, 98504-0552

FROM: Kevin Estes
Bkg# 2014051002
910 Tacoma Ave S.
Tacoma, wa, 98402

RE: Purchasing the 2014 volume 1 and 2 of the RCW's and
related data/material encompassing local court rules
(ACLRBS) wa, and U.S. Constitution S.

Dear Sirs,

cc.

Pierce Co. I would like to purchase I believe volume 1 of the
Superior Ct. Revised Code of Washington because it contains both the
Del. ca. U.S. and Washington State constitutions. And to
Prosser a company that I need I believe volume 2 containing the
criminal RCW's, Court and evidentiary rules along with
Appral rules. I believe the SRA guidelines are in this
volume too. Can you give me a price for both please?
And if my bank sends you a cashiers check for said
amount would you mail it directly to me at the
above address?

Sincerely,
Kevin Estes pro se
Kevin Estes

4/29/14

1 of 1 Letter to Code Reviser

0005
5/7/2014 9:02

Inmate Name: ESTES, KEVIN

Inmate Identity Verified By: Officer: KW 1303

Booking Number: 20141051002

Employee Wales

I, hereby, request that the Pierce County Detention and Corrections Center staff release the below listed items from my personal property to the individual specified below.

Name of Individual to whom property is to be released:

First Name: Kimberly Last Name: Jacobson

Items to be released: Keys

Emergency Clause: With the exception of keys, no other items or property will be released without a confirmed emergency. Inmate Funds will not be released except when needed for life-sustaining purposes. All requests for emergency release of funds will be confirmed and authorized by the Classification Sergeant. All other items will be authorized by the Release Sergeant.

Emergency Declaration:

I, hereby, request that the below items be released under the provisions of the Emergency Clause.

Item(s): Money Amount: _____

Other Items: wallet with bank cards, credit, EBT, I'm the only one with the cards, and food bills (electric water), Union Bank card, Discover card, A.S.T. EBT card, my insurance card so to make payment.

Nature of Emergency: Bills and food; electric & water, Auto insurance, my spouse is diabetic on a special diet like my son. I always do the buying (diet foods) and cooking, picking up meds etc. I have car but they're dumb asses when it comes to

Approved - Keys Denied the above things unless I'm all a sure, -EVERYTHING ELSE

Sergeant Signature: [Signature] (Number) 1061

I have released the following items: RELEASE OF KEYS - OK WE DON'T RELEASE
WALLETS OR CARDS.

Employee Signature: [Signature] (Number) 10027

Date: [Signature] Time: _____

I have received the above listed items and have confirmed my true identity by providing a valid picture ID.

Name: (Print) _____ Date/Time: _____

Signature: _____

To: Social Security Administration



14-1-00724-0 42489602 LTRDF 05-07-14

FILED IN COUNTY CLERK'S OFFICE

A.M. MAY 07 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY: [Signature] DEPUTY

From: Kevin Estes Bkg # 2014051002

Pierce County Sheriff's Department

910 Tacoma Ave S,

Tacoma, WA, 98402

Re: my stolen wallet containing card 538-66-3059 by Puyallup Police and Pierce County Sheriff. Disability information and medical medication obstruction/Block of SSI Attorney David Oliver and P.O.A. Kim Jacobson by the Sheriff. Prejudice against a disabled person.

cc.

Superior CRT, Dear SSI,

Prosecution,

Defense Co.,

SSI,

Human Rights

Comm.

The Pierce County Sheriff is obstructing/Blocking all material that pertains to my SSI disability sent by my SSI Attorney David Oliver or my P.O.A. Kim Jacobson. The Sheriff also not only refuses any medical treatment, but the longstanding prescriptions too. Would you send me with your SSI envelope and letter head all my file for Court as every attempt by these entities is to block such and deprive or neglect a disabled person. Deprivation being a Terrific tool of these things, and their trying to get me, Kill me Etc.

Sincerely
Kevin Estes
5/4/14

Dear Clerk,

In reference to the case #14-100724-0
and the inclosed letter to the
Social Security Administrations
blockage as it pertains. please
file this letter in my case as
it will effect alot fairly shortly.

Sincerely,

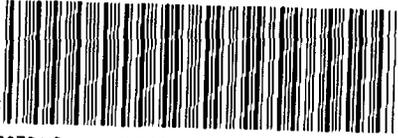
Kevin Estes
Kevin Estes Pro Se
5/4/14 *peepies*

0168

922

5/8/2014

LL
delcom
Human rights
Comm



5/2/14

Please file this response letter to my cause
#14-1-00724-0.

FILED
IN COUNTY CLERK'S OFFICE

A.M. MAY 07 2014 P.M.

PIERCE COUNTY, WASHINGTON
BY KEVIN STOCK, County Clerk
DEPUTY

It is odd how Am 334 sends me a letter stating
that all my things filed with you dating back
to 3/11/14 are just now actually being filed
contradicting the chronological log of the
cause you sent me. Is there a problem
with the way I ask to file and docket since
I'm obstructed from format and procedure
to such. I don't think things have changed
so drastically that indigent inmates can't
file now correct?

Sincerely
Kevin Estes in forma pauperis
Kevin Estes Pro Se
5/2/14

0167

922

5/8/2014

CRT

#14-1-00724-0

0168

TO: Criminal Administration
334 County-City Building
930 Tacoma Ave South
Tacoma, wa, 98402-2108

024

From: Kevin Estes BKg #2014051002
910 Tacoma Ave S.
Tacoma, wa, 98402-2168

5/8/2014

Re: Criminal Admin letter of 4/28 assuming Pro Se and lack of
format for scheduling hearing dates as improper. #14-1-00724-0.

Dear Administration,

cc.

Superior Cr.
Prosecution
Def. Council
=
Div. II
W.S.B.A.
J. Comm

I have copies of the letters attached to the motions requesting
docketing. It is also a fact that Pierce County does not offer a
"note for docketing" among the forms they "sell." So in other
words it's a double jeopardy of sorts to be a indigent
inmate. All my correspondence be it motion, letters, what
ever involving the Court, Prosecution, Defense Council
is done five times for all parties and future ones IE
Div. II, wa. St. Supr. Cr. I also have the chronological case
log showing "some" of my things entered yet ignored.
Do I now assume by your letter all will be addressed
May 15th 2014

Sincerely
Kevin G. Pro Se
Kevin Estes
5/2/14

9070



14-1-00724-0 42493320 LTRDF 05-07-14

FILED
IN COUNTY CLERK'S OFFICE
A.M. MAY 07 2014 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY KR DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff

vs.

ESTES, KEVIN LEE,

Defendant

Cause No. 14-1-00724-0

Letter from defendant

928

5/8/2014

CRT

To: Criminal Administration

334 County-City Building

930 Tacoma Ave S,

Tacoma, wa, 98402

From: Kevin Estes Bkg #2014051002

910 Tacoma Ave S,

Tacoma Wa 98402

Re: Criminal admin. letter of 4/28 assuming ProSec and lack of format for scheduling hearing dates as improper. #14-1-00774-0

Dear Administration,

Superior Ct.

Prosecution

Def. Council

U.S. BA

Jud. Comr

I have copies of the letters attached to the motions requesting

docketing. It's also a fact that Pierce County does not offer a

"note for docketing" among the forms they "sell". So in other words

it's a double jeopardy of sorts to be a indigent inmate. All my

correspondence be it motion, letter, whatever involving the

Court, Prosecution, Defense Council, is done five times for all

parties and future ones I.E. Div. II, Wa. St. Supr. Ct. I also

have the chronological case log showing "some" of my things entered

yet ignored. Do I now assume by your letter all will be

addressed May 15th 2014?

Sincerely

Kevin Estes

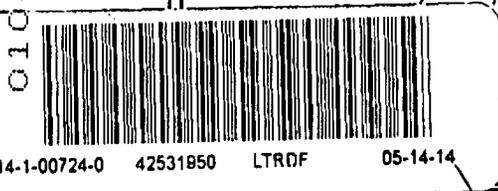
Kevin Estes

5/2/14

1#

Letter: Cr. Admin. resp.

To: Pierce County Superior Court Clerk



e S. Rm 110

402

FILED
IN COUNTY CLERK'S OFFICE

From: Kevin Estes Bkg #2014051002

A.M. MAY 14 2014 P.M.

910 Tacoma Ave S.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY: [Signature] DEPUTY

Tacoma, wa, 98402

Re: Cause #14-1-00724-0 Filing letter of Dismissal of
Defense Counsel Derek Smith #26036 for ineffective
assistance, nonzealous action, misrepresentation,
Conflict of interest.

Dear Clerk,

cc

Bcc

Bcc

Please file this letter in my case file. And if you
will please give me an approximate cost of
what it will take for me to copy and view
my discovery information. And all papers filed
to date. It seems that there is some question
as to Docketing and Filing. Given that there is no
Docketing Form available to buy or template this is
sufficient correct?

Sincerely,

Kevin Estes pro se

5/9/14

0105

TO: Washington State Bar Association

1325 4th Avenue, Suite 600

Seattle, wa, 98101-2539

1037

Attorney: Derek Smith #26036

1019 Pacific Ave Ste 701

Tacoma, wa, 98402

5/15/2014

Pierce County Superior Court # 14-1-00724-0

930 Tacoma Ave S. Rm 110

Office of Prosecuting Attorney: Diane Clarkson #22262

930 Tacoma Ave S. Rm 946

Tacoma wa 98402-2171

Re: Dismissing Derek Smith for ineffective assistance, non zealous
action, misrepresentation, Conflict of interest.

Mr. Smith,

On 5/7/14 you stated to me that as long as you my attorney none
of my motions would be addressed if you could help it, or fire
you if I don't like it. You also admitted that the 6/27 hearing
was a stall. And that my medical information as current as
January wouldn't be used. This so you could go on vacation
ignoring the statements of James Randt and Anthony Prusck
dated 3/16/14 or abouts, that is also addressed in
Several letters to you and the Court.

0106

1037

5/15/2014

All that is required is the signatures. You've stated multiple reasons for not getting me my discovery. None being valid as the address is my old address, and the statements of James and Anthony correcting the false statements of the payallup officers was done prior to your 1077 motion which was a stall.

So this is were it stops. Your dismissed. All the continuances done under your false pretenses are rescinded. Trial originally was scheduled for May 22nd and should be adhered to under the circumstances.

Sincerely

Kevin Estes Pro. Sec.

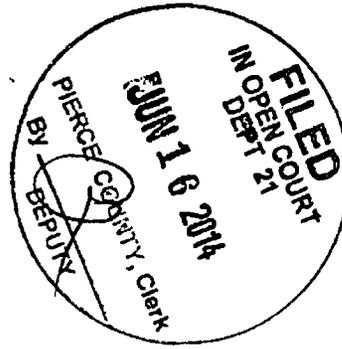
5/8/14

Kevin Estes

0104



14-1-00724-0 42788109 LTRDF 06-18-14



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff

vs.

ESTES, KEVIN LEE,

Defendant

Cause No. 14-1-00724-0

Letter from Defendant

1537

6/19/2014

Judge

TO: Judge Frank Cuthbertson
930 Tacoma Ave. S. Rm 260
Tacoma, wa, 98402-2171

From: Kevin Lee Estes, BKg # 2014051002
910 Tacoma Ave. S.
Tacoma, wa, 98402

Re: A impromptu guasa in camera Franks hearing minus
Defense council / if need be via 6th amend. "autonomy."

Your Honor,

As the chronological clerks record reflects I've made every attempt to have this matter resolved prior to trial, be it through council or myself. The latter resulting in a bar complaint. You did not hear the probable cause or information, yet you're charged with the clean up as it is. The police reports clearly state no assault or fight yet the prosecution is allowed to pursue under the false pretenses I've cited in the 3/11/14 motion and more as time progressed. I can site and argue this matter myself because if I lose in camera on just this it means three weeks or so before trial. Not dismissle. For this I'll cite: Decker, Supra note 72 at 537-39 and State v. Getters, 497 A.2d 408, 411 N4 (Conn 1985).

Judge

I presume your disregard is due to caution given the 1077 was pending. Even though I'm considered competent till proven otherwise not negating my rights such as autonomy. That is not never was the case (incompetent). This is what I would like consistly spelled out. 1[#]A in camera Frank's hearing with or without my council, that will prove insufficient cause and dismiss these charges. Approval/signing of my Frank's motion giving way to counter suit. 2[#] Immediate release, or if you support the probable allow me a bail and order a negotiation/arbitration on a drastically reduced plea of Disorderly conduct. I believe a C-class misdemeanor with credit for time served.

I want take up anymore of your time, and ex parte communications is not in line of autonomy and all other councilors will be getting a copy too. Please respond as it will save the County/State/Prosecutor time and money.

Sincerely

Kevin Estes

Kevin Estes Pro Se

under 6th Amend "autonomy"

June 11th 2014

0138



14-1-00724-0 42841503 LTRDF 07-01-14

CCT.
S. Rm 110

FILED
IN COUNTY CLERK'S OFFICE

A.M. 'JUL' 01 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY: _____ DEPUTY

1718

From: Kevin Estes Bkg # 2014051002
910 Tacoma Ave S,
Tacoma, wa, 98402

7/2/2014

Re: Courts copy of Bar Complaint(s) against Clarkson
and Smith care # 14-1-00724-0

Dear ~~Mr~~ Clerk,

Inclosed is a copy of review by the bar for the Bar
regarding this case. Please file it in. As I
will be orally asking to be prose with a lawyer
to assist on the 15th. Everythings been ignored
till now, and a formal motion docketing is
coming hopefully before the 9th. That is if copies
can be made timely. The jail obstruction in conjunction
with others to date makes legal moving virtually
impossible.

Sincerely,
Kevin Estes
Kevin Estes Pro Se
6th Amend Autonomy
6/28/14

Court
14-1-00724-0

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013
010

TO: CUSBA, Office of Disciplinary Council
Felice P. Congalton, Associate Director
1325 4th Ave Suite 600
Seattle, wa 98101-2539

1
118

From: Kevin Estes, B.Kg #2014051002
910 Tacoma Ave S.
Tacoma, wa, 98402

7
12/2014

Re: Written request for review of the dismissals of:
ODC Files: 14-00899, Derek Michael Smith
ODC File: 14-00891, Theresa Diane Clarkson
with June 8rd 2011 Guidelines for criminal defense representation
citations and Relevant RPCS cited and constitutional
amendments.

Derek Smith #26036

Violated Guideline: 1.1 a basic duty by not pursuing the
Discovery's contradictory victim's statements which in fact
support me not the prosecution as the affidavits from
said victims further supports that he refused to submit
These done on or about 3/11/14. He further falsely puts in for
a 10.77 hearing so to go on vacation when I complain. This
is against 1.1b and 1.3A, 4.1.1.C "any defects in charging
documents" ETC. 4.2 A, B, 1-14 Page 5 "Discovery sooner as possible"
To date none shown and no pretrial motions for such, as in
S.1.B, 2. Constitutionality 3# Defects 4# Sufficient for cause.

1 of 2

request for review

0135

7# Suppression of evidence: 6th amendment autonomy, 5.1.B12,
2.1 in conjunction with RPC's 1.3 [7] Vacation is not ethical grounds
when done under ruse of a 1077 motion. [3] procrastination.
1.16(a)(3) I discharged him for these irreconcilable differences yet
he lingers against [4] blocking affidavits 15.3.4(a), 1077.15 (B)
and (c). Discovery 15.(D). See Cuyler v. Sullivan 446 US 335, 348 64
Led 2d 333 100 Sct. 1708. See attached 1077 verification pages.

1118

Theresa Diane Clarkson #22262

7/2/2014

Guidelines: 6. Discovery obligations of prosecution. 7. Suppression
of evidence violates 4th, 5th, 6th, 8th, 14th amendments. RPC's
3.8(A) false and malicious prosecution, no evidence. (D) Refuses to
disclose any evidence at all. All would dismiss her case. 8.3(G)
refusing to report former colleague Derek Smith (prosecutor) for
abuse I.E. 1077 motion for vacation. (B) same on judge for being
complacent. 8.4(C) all of the actions to date are dishonest, misrepresented,
and prejudicial in attempts to (E) imply, influence against the
RPC's. Also see: Schaff v. Snyder 190 F3d 513 (7th cir). Cone v. Bell
243 F3d 961 (6th cir). U.S. v. Blaiss 98 F 3d 647 (1st cir).

C.

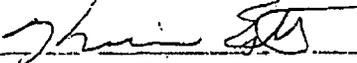
18A

Please reconsider the merits and relative positions
in lue of Mark linguist and his followers perse.

.Smith

D. Clarkson

4D. Crst.

Sincerely,

Kevin Estes
6/25/14

Court
14-1-00724-0

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 14-1-00724-0

vs.

KEVIN LEE ESTES,

ORDER FOR EXAMINATION BY
WESTERN STATE HOSPITAL OR
QUALIFIED EXPERT (Preliminary
Evaluation)

Defendant.

THIS MATTER coming on in open court upon the motion of the ^{Defense} STATE, and there being reason to doubt the defendant's fitness to proceed and there may be entered a mental defense, and the court being in all things duly advised, now, therefore, IT IS HEREBY

ORDERED, under the authority of RCW 10.77.060, that the defendant, KEVIN LEE ESTES, who is charged with the crime(s) of ASSAULT IN THE SECOND DEGREE, ASSAULT IN THE SECOND DEGREE; FELONY HARASSMENT be examined by:

Qualified member(s) of the staff of Western State Hospital who are designated by the Secretary of the Department of Social and Health Services, and shall be approved by the prosecuting attorney, or

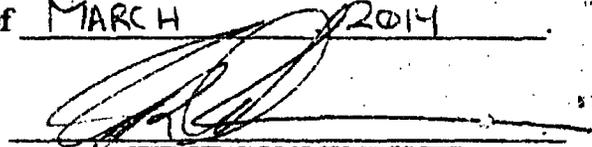
Pursuant to SB 5551 (2013-14), a qualified expert or professional person who is not a member of the staff of Western State Hospital but shall be compensated by the Department of

Court
14-1-00724-0

14-1-00724-0

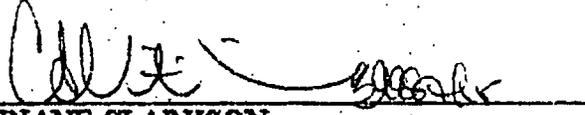
ORDERED that this action be stayed during this examination period and until this court enters an order finding the Defendant to be competent to proceed. The next hearing date is

DONE IN OPEN COURT this 31st day of MARCH 2014



JUDGE/COMMISSIONER

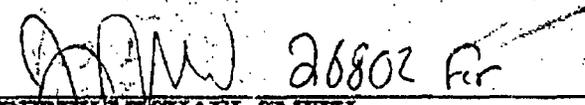
Presented by:



DIANE CLARKSON
Deputy Prosecuting Attorney

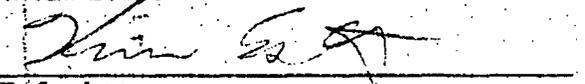
Phone Number: _____ FAX Number _____
WSB# 22262

Approved as to Form, Copy Received:



DEREK MICHAEL SMITH
Attorney for Defendant

Phone Number: 253-229-1591 FAX Number 206/400-1145
WSB# 26036



Defendant

dlk

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STATE OF WASHINGTON FOR PIERCE COUNTY



14-1-00724-0 42964877 MT 07-23-14

3 STATE OF WASHINGTON,

CAUSE 14-1-00724-0

4 Plaintiff,

MOTION IN LIMINI

5 vs.

POLICE STATEMENT

6 KEVIN LEE ESTES

of ASHLEY

7 Defendant

STOLTENBERG

FILED IN COUNTY CLERK'S OFFICE

A.M. JUL 23 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

9
10 COMES NOW the defendant Kevin Estes Pro Se,
11 and moves this Court for an order in limini suppressing
12 the statement of Ashley Stoltenberg under the
13 following Authorities:

14
15 Authorities:

16 State v. Griffin, 93 Wash. 591, 86 P. 951 (1906).

17 State v. Babar, 38 Wn. App. 758, 689 P.2d 1099
18 (1984).

19 State v. Dickerson, 48 Wn. App. 457, 740 P.2d
20 312, 109 Wn. 2d 1001 (1987).

21
22 Testimony is non material and subject for a jury
23 not grounds for probable cause as alleged.

24
25 And therefore

26
27 Cr. 607 Cr. 613

28
1 of 2 motion in limini A, Stoltenberg

0133

2011

7/23/2014

1 Pursuant to Officer Gary Shelley on Page 1
 2 of the incident report all were drinking. Admittedly
 3 Mrs. Stattenberg states she came out of Anthony
 4 Prusek's bedroom after the fact of the statement
 5 of her breasts (compliment), then further states
 6 she was only there maybe 30 seconds not seeing
 7 but speculating. That not being sufficient for a
 8 probable cause, nor witness to the facts. The
 9 probatable value is only prejudice towards the
 10 defendant as it is mitigating circumstances
 11 she is even involved to the level she is.
 12 Comments about her not to her.

13

14 Granted: _____ Denied: _____

15 Comments:

16

17

18

Judge

19

20 Respectfully presented by:

21 *Kevin Estes* 7/12/14

22 Pro Se

23 Kevin Estes

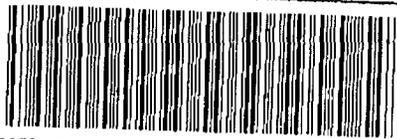
24 Defendant.

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WASHINGTON FOR PIERCE COUNTY

FILED IN COUNTY CLERK'S OFFICE

A.M. JUL 23 2014 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY DEPUTY

3 STATE OF WASHINGTON

CAUSE 14-1-00724-0

4 Plaintiff,

MOTION IN LIMINI

5 vs.

ARRESTING OFFICERS

6 KEVIN LEE ESTES

ILLEGAL SEARCH and

7 Defendant

SEIZURE

8

9

10 COMES NOW the Defendant Kevin Estes ProSe and
11 moves this Court for an order of in limini Suppressing
12 the arresting officers illegally seized items from
13 me in my car and then in the alleged residence
14 where the alleged assault took place. To wit
15 Knife, contrary to:

16

17 State v. Lesnick, 84 Wash.2d 940, 944, 530 P.2d 243 (1975)

18

19

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Police didnot listen to either suposid victim
prior to the search of my car and person. Both
allegded victims from initial contact by the Police
State no assault took place, and we arent
pressing charges.

In Lesnick as this case, the suspected crime posed
no threat of physical violence or harm to society
or officers

0135

- 1. A police officer doesn't need a warrant to conduct a Terry Stop
- 2. if its based on specific and articulable facts which taken
- 3. together with rational inferences from those facts give rise to
- 4. a reasonable suspicion. U.S. Const. Amend. 4.

2071

- 5.
- 6. The other attending officers with a SGT at
- 7. hand obtained verbal statements that no
- 8. assault or charges will be pressed. Thus
- 9. no justification to searching my car
- 10. and myself as it was non confrontational.

7/23/2014

- 11.
- 12. Granted: _____ Denied: _____
- 13. Comments:

- 14.
- 15.
- 16.

17. Judge

18. Respectfully presented by
 19. Kevin Estes Pro Se
 20. 7/13/14

21. Kevin Estes
 22. Defendant

- 23.
- 24.
- 25.

- 26.
- 27.

28



WASHINGTON FOR PIERCE COUNTY

3 STATE OF WASHINGTON

CAUSE 14-1-00724-0

4 Plaintiff,

MOTION IN LIMINI

FILED IN COUNTY CLERK'S OFFICE

5 vs.

SCOPE OF PROSECUTOR'S

JUL 23 2014

P.M.

6 KEVIN LEE ESTES

CLOSING ARGUMENT

PIERCE COUNTY WASHINGTON
KEVIN STOGK, County Clerk
BY DEPUTY

7 Defendant.

8

9

10 COMES NOW the defendant Kevin Estes Pro Se and

11 respectfully asks this Court to grant the following

12 motions in limini:

13 These motions are based on 5th, 6th, 8th and 14th

14 Amendments of the United States Constitution;

15 Wash. Const. Art. 1 sec 3, 9, 21, 22; RCW 4.44.090;

16

17 1. Prohibit the prosecution from flagrant

18 ill-intentioned prejudicial misconduct in

19 misstating and minimizing their burden

20 of proof.

21

22 State v. Anderson 153 Wn. App at 431-32. In Anderson

23 a prosecutor from Pierce County had described

24 reasonable doubt as if the standard were akin to

25 the degree of certainty people used when making

26 every day decisions,

27

28 (continued on P. 2

(continued from P. 1)

1
 2 something the Appeal Courts have condemned.
 3 The Appeal Courts reiterated the holding of Anderson
 4 in a case where the prosecutor - again from the same
 5 office as in both this case and Anderson. State v
 6 Johnson 158 W. App. 677, 243, P.3d 936 (2010) finding
 7 that Anderson controlled on this issue, the Appeal Court
 8 declared. "The prosecutors argument discussing the
 9 reasonable doubt standard in the context of making an
 10 affirmative decision based on a partially completed
 11 puzzle trivialized the states burden, focused on the
 12 degree of certainty the jurors needed to act, and implied
 13 that the jury had a duty to convict without a reason not
 14 to." Johnson 158 W. App. at 684-85. In Johnson the
 15 Appeals Court reversed even though there was no objection,
 16 finding that the misconduct was so flagrant and ill-intentioned
 17 that, even though it occurred before the decision in
 18 Anderson, the prejudice was incurable and thus compelled
 19 reversal.

20
 21 The Courts are condemning these puzzle arguments
 22 and abuse of power point presentation. See:

23
24
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27 (continued on P. 3)

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7/25/2014

1 (continued from P. 2)

2 People v. Katzenberger, 178 Cal. App 4th 1260, 1225, 101 Cal Rptr.

3 3d 122 (2009), that such arguments violate a defendant's

4 14th Amendment due process rights, and such arguments

5 urge the jury to fill in the missing pieces of the puzzle

6 with evidence the State doesn't have which are

7 similar to another condemned argument of fill in

8 the blank scenarios combined with power point

9 presentation, once again done by prosecutors from

10 Pierce County, See: State v. Sakellis, 164 Wn. App.

11 170, 269 P.3d 1038 (2011); State v. Walker, 164 Wn. App.

12 724, 265 P.3d 169 (2011); State v. Emery, 174 Wn 2d 741,

13 760, 761, 278 P.3d 664 (2012) And in all of the cases out

14 of this prosecutors office shows a pattern of abuse of

15 technology IE "power point presentation," That

16 regardless of the style of argument they are

17 abusing a tool to get a conviction at any cost,

18 and that they themselves have no real "abiding

19 belief" in their case or the evidence that

20 they have.

21

22 Granted: _____ Denied: _____

23 Comments

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7/23/2014

1 2. Prohibit the prosecution from urging or
 2 implying to convict in order to protect
 3 community values, preserve civil order, or to deter
 4 future law breaking.

5 Authority: State v. Koon, 34 F.3d 1416, 1443 (9th Cir. 1994);
 6 State v. Ramos 164 Wn. App. 327, 263, P3d 1274 (2011)
 7 U.S. v. Manning 23 F.3d 570 (1st Cir. 1994). Sr 403

8
 9 Granted: _____ Denied: _____

10 Comments:
 11
 12

13 3. Prohibit the prosecution from arguing that probable
 14 cause has already been established.

15 Authority: State v. Smith 71 Wn. App. 14, 856 P.2d 420 (1993)
 16 State v. Gonzalez 139 Wn. App. 895, 120 P.3d 651 (2005) "A
 17 conviction must be reversed if the right to the presumption of
 18 innocence was abridged."
 19

20 Granted: _____ Denied: _____

21 Comments:
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0140

1 4. Prohibit the prosecution from arguments
2 designed to attack the presumption of
3 innocence by relieving their burden of proof
4 by inferring that the jury must find a reason to
5 acquit the defendant.

2071

6 Authority: State v. Evans 163 Wn. App 635, 260
7 P.3d 938-940 (2011)

7/23/2014

8

9 Granted: _____ Denied: _____

10 Comments:

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12

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Judge

16

17 Respectfully submitted by:

18

19 *Kevin Estes Pro Se*

20

7/14/14

21

Kevin Estes

22

Defendant

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SofS

Defendant motion in limine Prosecutors closing



WASHINGTON FOR PIERCE COUNTY

D145

3 STATE OF WASHINGTON

CAUSE 14-1-00724-0 FILED IN COUNTY CLERK'S OFFICE

4 Plaintiff,

A.M. JUL 23 2014 P.M.

5 VS

MOTION IN LIMINE

6 KEVIN LEE ESTES

FORENSIC REPORTS

PIERCE COUNTY WASHINGTON
KEVIN STOCK, County Clerk
DEPUTY

7 Defendant.

AND EVIDENCE

8

9

10 COMES NOW, the defendant Kevin Estes Prase and moves this
11 Court for an order of in limini on the forensic reports and
12 alleged material evidence, to wit:

13

14 1. The Knife allegedly used. No forensic testing of the Knife
15 allegedly used was done, nor any forensic photography of
16 the alleged injuries taken. Discovery being complete.

17

18 Authority: State v. Rupe, 101 Wn. 2d 664, 683 P2d 571 (1984).

19 No testing done. For 402 evidence must be relevant in a
20 general sense, it must be both probative and material.

21 Material being other than testimonial and for a jury to
22 decide. Other Knives were not confiscated or tested
23 that were on my person, and statements made said
24 "Small Knives" To which a smaller one was on my person.

25

26 Granted: _____ Denied: _____

27

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0146

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Comments!

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5

2. Police reports referring to forensic evidence. All is

6

hinged on the alleged knife addressed in 1. No

7

physical evidence exists in discovery beyond police

8

statements not witnesses or victims perse. The contrary

9

exists by victims statements and affidavits. State v. Abuan.

10

161 W.N. App 135 (2010)

11

12

Granted: _____ Denied: _____

13

14

Comments:

15

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17

18

Respectfully submitted by:

19

Kevin Estes

20

7/7/14

21

Kevin Estes

22

Defendant

23

Judge

24

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Pro Se Defendant

Prosecutor WSBA

27

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8/20/2014

1 SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

2
3 STATE OF WASHINGTON CAUSE 14-1-00724-0

4 Plaintiff,

5 vs. MOTION FOR A

6 KEVIN LEE ESTES SILVA ORDER

7 Defendant.

FILED
IN COUNTY CLERK'S OFFICE
AM. JUL 23 2014 PM.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY: [Signature] DEPUTY

8
9
10 COMES NOW the defendant Kevin Estes, herein Pro Se.
11 respectfully asks this Court to grant a Silva order.
12 This motion is based on U.S. Const. 6th, 14th Amend;
13 Wa. Const. Art. I, Sec. 3.22; State v. Silva 107 Wn.
14 App. 605 (2001).

15
16 Under Silva I ask this Court to order my stand by
17 counsel to do the following:

18
19 1. Act as liason between the accused and Court or
20 prosecutor in confirming and filing motions.

21
22 Granted: _____ Denied: _____
23 Comments: _____

24
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1210

1 2. Coordinate discovery, that stand by counsel gets
2 me all discovery supplied by State plus any work
3 product developed by counsel/investigator.

4 Granted: _____ Denied: _____

5 to be done no later than _____ / _____ / 2014

6 Comments:

7

2140

8 3. Interviews. There maybe the necessity to interview

9 defense/state witnesses.

10 Granted: _____ Denied: _____

11 Comments:

12

3102/02/15

13 4. Provide forms if there are any premade forms

14 available to stand by counsel they should be made

15 available to Pro Se defendant.

16 Granted: _____ Denied: _____

17 Comments:

18

19

20 5. Assist in securing an investigator; to my understanding

21 one has been hired and I need access to this

22 investigator to assist in my defense.

23 Granted: _____ Denied: _____

24 Comments:

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203 Def. motion for Silva order

0138

- 1 6. Any other duties logically associated with appointed
- 2 counsel that would satisfy the accused right of access
- 3 to tools necessary to prepare an adequate Pro Se
- 4 defense. IF provide at least 2 available law books,
- 5 provide sound legal advice etc.

0540

6 Granted: _____ Denied: _____

7 Comments:

8/20/2014

8

9

10 Dated this 3rd day of July 2014

11

12 Respectfully submitted by:

13 Jesus Esby Pro Se

14 Defendant.

15

16 Done in open Court this _____ day of _____ 2014

17

18

19 _____

20 Judge

21

22 _____

23 Pro Se

24

25

26 _____

27 Stand by counsel

PIERCE COUNTY PROSECUTOR

May 12, 2016 - 8:39 AM

Transmittal Letter

Document Uploaded: 4-469332-Petition for Review.pdf

Case Name: State v. Kevin Estes

Court of Appeals Case Number: 46933-2

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

Brief: _____

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Heather M Johnson - Email: hjohns2@co.pierce.wa.us

A copy of this document has been emailed to the following addresses:

Sloanej@nwattorney.net