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COURT OF APPEALS  
DIVISION ONE

MAY 30 2014

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NO. 69968-7-1

DANIEL T. SATTERBERG  
PROSECUTING ATTORNEY  
CRIMINAL DIVISION  
MALENQ REGIONAL JUSTICE CENTER

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

Jason Markley,

Appellant.

\*NOTE: COA Clerk  
refused to initial  
for receipt of  
exhibits. Have  
video of her taking  
exhibits.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE CHERYL CAREY, JUDGE

APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS

King County Prosecutor

COA 69968-7-1

video presentation/Fraud

X gm

PDF-Transcripts  
Audio-omni bus  
FTR PIC

X gm

Hard copy Transcripts (Box)

X gm

Court of Appeals

COA 69968-7-1

video presentation/Fraud

X

PDF-Transcripts  
Audio-omni bus  
FTR-PIC  
X

Hard copy (outlined) Transcripts

X

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**COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION I**

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**APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS**

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**A. Unequivocal evidence of FRAUD UNDER CrR 7.8(b)(1)(2) and CrR 8.3(b)**

**COA Court must remand, dismiss and vacate for governmental misconduct and fraud.**

*\*Note - A video presentation of the bait n switch, perjury and embezzlement found after trial and sentencing is attached.*

- a. Photo tampering – The photo evidence was never held to the standard of custody of evidence. An “after” photo provided by the “rescue” known as Save a Forgotten Equine was found after trial to have visited PhotoShop CS 3 for Mac a clear violation of custody of evidence and fraudulent.
- b. Bait n Switch -It was additionally discovered that the “after” horse is not the same horse “Alex” because the horse’s “whorls” (the cowlick” are contrary to one another).
- c. Embezzlement – SAFE, Hannah Mueller aka Evergreen and Heather Steward each billed King County for the same horse (Alex) under three different names for the same periods of time. This is of record.
- d. Fraud - The comparative horses used by the prosecution to establish their case, changed color, changed breeds and apparently visited a fountain of young in the interim. These identification standards are in addition to the “whorls” are like fingerprints for a horse. This is fraud.
- e. Perjury - The State’s witnesses committed perjury when they misrepresented that the photos used at trial were the same horses given up for adoption to RASKC.
- f. Chain of evidence – The chain of evidence did not exist.
- g. Electronic record alterations en masse - The electronic record of the trial has been egregiously altered and modified. As a result there is no existence of an unaltered record of the trial. There is no way to determine how much and what is missing so there is no bona fide record of the trial. The case must be vacated and dismissed. Alterations of court records are a Class B Felony.

- i. The October 24, 2012 audio sources from Casey Grannis for the COA does not play. This unplayable audio is of the Omnibus hearing where Ms. Holmgren was exposed in front of Judge Mary Roberts and some 40 other attorneys present attempting to conceal RASKC ACO Westberg's criminal career. There is an audio copy that does play sourcing at the King County Clerk's office. It is attached.

It is a certainty that Ms. Holmgren knew of Ms. Westberg's nefarious history since it was her own office that prosecuted Ms. Westberg for her felony. This altered audio is a serendipitous omission in a troubling series of electronic anomalies of audio altercations and mutated transcriptions of a court record that can hardly be represented as an accurate record of the events of Mr. Markley's case. This record has been shamelessly mutilated to favor the prosecution's completely falsified prosecution.

- ii. December 11, 2012 - There are approximately 5 minutes missing from the electronic audio secured by Mr. Casey Grannis in the COA representation. In comparing this audio version to an earlier audio from King County Clerk secured 3 months earlier, this revealed a portion of discussion about the ramifications of having a simultaneous trial and it's fairness to the defendants as husband and wife.

There is no way to determine how much is missing from either version. It is apparent someone did not want to have the COA hear this discussion as it is at issue in this case.

The FTR Player time stamp confirms this finding of electronic tampering.

- iii. The last 30 seconds of the King County audio version is missing. It was a discussion where one of the defense attorneys discloses that several jurors attempted to engage him in conversation outside the courtroom and Judge Carey's response was nonsensical suggesting more of the conversation is missing from the audio than what appears. Apparently Carey did nothing to cure the juror's lapses. There can be no way to determine how much of that discussion was missing. Mr. Markley was also approached by several jurors while in the men's restroom.
- iv. December 12, 2012 – there is an audio break in both the King County and COA version of the audio. There is a 3 second artifact left on a portion of the King County audio that does not appear on the COA audio version. The time stamp from the FTR Player was tampered with. It appears unknown amounts of audio in both versions are missing.

- v. December 14, 2012 – there is a 20 -minute audio discussion that is not transcribed – it was not noted to be off the record.
- h. On the transcriptions provided by Mr. Casey Grannis, there is a massive amount of mutilation. On December 11, 2012 there are multiple pages of transcription missing.

The hardcopy transcripts are attached for demonstrative purposes as well as a CD copy version. There are entire pages missing of the audio.

There are affirmatives changed to negative and visa versa.

On page 148 line 17 the audio said ACO Westberg's police records "weren't disclosed" in discovery but the transcripts say "they *were* disclosed". (They were *NOT* disclosed).

On line 18 the audio says the prosecution didn't disclose the Brady violations when the transcripts state they did disclose the Brady violation. (The prosecution did *NOT* include the Brady issue). It appears the prosecutor is still not disclosing her Brady officer to defense counsels?

There was not enough time granted to translate this from handwritten to type. It has been outlined.

- i. From audio to transcripts there are anywhere from 30% to 100% alterations. The standard of error is 1%. Without exception, the alterations in this case marginalize the defense and strengthen the prosecution. Destroying official records in a Class B felony.

## **B. MALICIOUS PROSECTUTION**

- a. Ms. Gretchen Holmgren committed fraud en masse in this case and numerous other like cases of animal abuse since and before this trial. She cannot claim ignorance of these violations. Not only did she fail to disclose two arrests of RASKC ACO Jenée Westberg creating a Brady violation, she:
  - i. Never disclosed that prosecution witness RASCK ACO Jenée Westberg had over 40 additional police incidents and was a career criminal and drug addict.
  - ii. Never disclosed that prosecution witness RASKC ACO Jenée Westberg's mother, Geraldine "Anne" Westberg, has worked in the King County Prosecutor's office since 1989, occupies a supervisory position level V in IT and is the primary suspect for the tampering apparent of the SCOMIS database used to conceal

Jenee Westberg's criminal records. Ms. Holmgren surely knows this since she works with Jenee's mother as well and has never disclosed this either.

- b. Ms. Holmgren entered tampered evidence into trial and allowed Ms. Westberg, Heather Stewart and Ms. Hannah Mueller aka Evergreen to perjury themselves in order to prevail in her case.
- c. Ms. Holmgren steered and directed Ms. Heather Stewart on what to say in the hallway so that Stewart changed her testimony after lunch stating "I don't want to mess this up." Stewart was observed coming up behind Ms. Westberg – who was conversing with Ms. Holmgren at the time - and giving her a hug as long lost lovers do. This is not an arm's length transaction free of conflicts of interest.
- d. Ms. Holmgren entered tampered photo evidence into trial that had been visited by Photo Shop CS 3 for MAC representing it was legitimate evidence. The digital copies of this are in evidence and were discovered after trial. These digital files have been copied and secured just in case anyone attempts to lose or misplace them.
- e. Ms. Holmgren allowed and encouraged prosecution witnesses to commit perjury.
- f. Ms. Holmgren never established the qualifications of her expert veterinarian Hannah Mueller aka Evergreen and Heather Stewart as bona fide veterinarians as licensed in the State of Washington. She never produced neither Stewarts's nor Ms. Mueller's licensing package and proof she has taken her veterinarian board of examiner's exam nor did she produce her school transcripts as codified by both the State and King County to be a provider for either.
- g. Ms. Holmgren denied the extortion by RASKC ACO Westberg who used a sidearm to extort her way onto property. Ms. Westberg has since now done this in another case State v. Rose Rodlin in order to extort her way onto private property.
- h. Ms. Holmgren never disclosed that ACO Westberg was found to have secured "evidence" in the Lindsey prosecution unlawfully that ultimately resulted in the suppression of evidence in the 2011 Lindsey case resulting in the State losing their case.
- i. Ms. Holmgren misrepresented that horses were seized when they were extorted under the guise of adoption.
- j. Ms. Holmgren misrepresented to the trial court on December 5, 2012, page 152, that Weisberg's felony arrest was dismissed when there is no evidence of a dismissal in the court file.



- k. Because virtually all the evidence in this trial was falsified and/or manufactured, there can be no evidence thus prima facie was not met and there is not sufficient evidence to support charges of and/or conviction for any degree of animal abuse. The COA must remand, vacate and dismiss.

**C. INEFFECTIVE ASSISTANCE OF COUNSEL**

1. Defense Counsel Kevin Tarvin and Gene Piculell never gave either client an option of bifurcating the trial - instead – they allowed both to be tried simultaneously with a bench trial and a jury trial compromising both the integrity of the judicial system and their right to a fair judicial process. This seemed to be one of the topic at hand during the altered and missing electronic audio. It would appear to be an important issue to a fair judicial process.
2. Mr. Tarvin blind – sided Mr. Markley with taking a bench trial right before going into courtroom when Markley expected and desired a jury trial.
3. Neither defense counsels brought forth any defense witnesses (including any experts).
4. Mr. Tarvin concealed ACO Westberg’s career criminal history from defense record during trial.
5. Mr. Tarvin filed a notice of withdrawal and in doing so violated attorney-client privilege.
6. Conspired with Judge Carey to in an attempt to make Mr. Markley pro se without Mr. Markley’s knowledge, having a hearing without Markley or without notice to Markley. (Causing Mr. Markley to immediately stop doing his community service and spend about fifty hours, in order to get his case accepted at the COA).
7. Mr. Tarvin took a \$3,000 to bring case to COA then failed to get a stay for jail time and community service that Carey sentenced while knowing Mr. Markley was framed then lied to Mr. Markley about it.

**D. JUDICIAL MISCONDUCT – Judge Carey should have dismissed, vacated and declared a mistrial**

- a. Carey was aware of prosecution's Brady violations yet did not act to insist that Westberg's criminal record was in the trial record. As a result Judge Carey committed a Misprision of a felony under 18 US Code § 4.
- b. Court tried the case from the bench continually usurping the defense counsels.
- c. The court continually would not allow defense counsel to impeach Westberg.
- d. Court allowed a simultaneous trial – a jury and a bench trial knowing it forced Ms. Thomas to testify against her husband.
- e. Court allowed jurors to talk with others outside the courtroom and did not call a mistrial.
- f. Allowed prosecutor to direct jury on a weighted scale that doesn't exist as to which witnesses are considered credible.
- g. Allowed photo evidence into evidence that did not meet the standard of custody of evidence.

**E. CONCLUSION**

Given that the State's entire case is based on perjury and fraud, that both the electronic and hardcopy transcripts have been shamelessly mutated, the State's brief as well as Mr. Casey's brief are a moot issue.

These cases - as well as some 19 others like it - have been reported to federal authorities and there are several concurrent investigations under way at numerous levels.

It might make some sense that the COA Panel consider making their own report of this felonious case in lieu of jeopardizing themselves with their own violations of a Misprision of a felony under 18 US Code § 4.

Dated this 30<sup>th</sup> day of May, 2014.

RESPECTFULLY submitted,

By: \_\_\_\_\_

Jason Markley, Appellant

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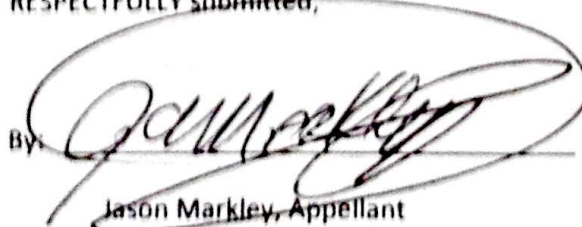
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Dated this 30<sup>th</sup> day of May, 2014.

RESPECTFULLY submitted,

By:



Jason Markley, Appellant

MAY 30<sup>th</sup> 2014