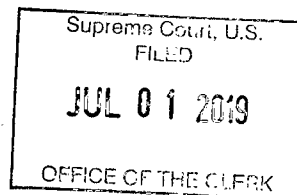


19-5483 ORIGINAL  
No.

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IN THE  
SUPREME COURT  
OF THE  
UNITED STATES



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GRANT THOMAS McADAMS, Petitioner,  
VS.  
WASHINGTON STATE, Respondent.

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ON PETITION FOR WRIT OF CERTIORARI TO  
THE DIVISION THREE COURT OF APPEALS OF WASHINGTON STATE

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PETITION FOR WRIT OF CERTIORARI

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Presented by--Grant Thomas McAdams, Pro Seer  
Coyote Ridge Corrections Center  
1301 N. Ephrata Ave.  
PO Box 769  
Connell, WA 99326  
(509) 543-5800 (via Counselor)

## A. QUESTIONS PRESENTED FOR REVIEW

A.1. Does the Due Process protection of the federal Constitution apply to Washington State's collateral review procedures; if the such protections do apply, did Washington State courts violate Mr.McAdams' right to due process of the law by handling his petitions for post conviction relief in a way that appears unfair; where courts erroneously apply caselaw to dismiss Mr.McAdams pro se collateral review; where the State courts inaccurately represented material facts to find sufficient evidence of an intent to commit theft when the only well founded intent was to leave the dangerous environment; where the State courts similarly handled Mr.McAdams' previous collateral attack that claimed insufficient evidence existed to prove great bodily harm or an intent thereof, but the court fabricated more sever injuries and circumstances while misappling caselaw to justify dismissing his case (see Appendix I for copy of the Writ of Certiorari that was time barred from this United State Supreme Court); and where Mr.McAdams clearly has shown to the State courts that Emad K. Mohammed-Salih ("Mr.Salih", the victim) was assaulted during which bystanders began threatening, yelling at, and running toward who was thought to be Mr.McAdams and only then did any indication of an intent appear when he ran to the presumably running car sitting in the street about a half a city block away, which was found about eleven blocks away within hours of the assault with all property intact, and that Mr.Salih was not missing any propoerty from his person?

A.2. Are Rules of Appellate Procuder (RAP) 16.1 through 16.18 along with Revised Code of Washington (RCW) 10.73.090 and RCW 10.73.100 ripe for judicial review concerning their constitutionality because they allowed the Washington state courts to deprive Mr.McAdams of a fair collateral review without first providing due process of the law, which hurts the public faith in the United State justice system?

## B. LIST OF PARTIES

B.1. Rebecca L. Pennell, an Acting Chief Judge of the Division Three Court of Appeals of Washington State, is a respondent. Honorable Pennell issued the 6 September 2018 order dismissing Mr. McAdams's personal restraint petition (No. 36198-5-III) and is located at 500 N. Ceder St, Spokane, WA 99201-1905. The court's phone number is (509) 456-3082. A copy of the order is attached hereto in Appendix A.

B.2. Gregory D. Sypolt, a former Spokane County Superior Court Judge, is a respondent. Honorable Sypolt heard Mr. McAdams's case (No. 2011-01-01580-8) and entered the 19 July 2012 judgement sentencing Mr. McAdams to 171 months for First Degree Assault and 68 months for First Degree Robbery both with a combined 54 month deadly weapon sentence enhancements. The contact information for this party is unknown to the petitioner. A copy of the transcriptions of the judgement is attached hereto in Appendix B.

B.3. Michael E. Johnston, a Commissioner in the Supreme Court of Washington State, is a respondent. Honorable Johnston issued the 18 January 2019 ruling denying Mr. McAdams's motion for discretionary review. Honorable Johnston is located at the Temple of Justice, PO Box 40929, Olympia, WA 98504-0929. A copy of the ruling is attached hereto in Appendix C.

B.4. Honorable Fairhurst, Chief Justice of the Supreme Court of Washington, is a respondent. Honorable Fairhurst issued the 4 April 2019

ruling denying Mr. McAdams's motion to modify the commissioner's ruling. Honorable Fairhurst is located at the Temple of Justice, PO Box 40929, Olympia, WA 98504-0929. A copy is attached hereto in Appendix D.

B.5. Grant Thomas McAdams, the convict in this case, is the petitioner. He is located at Coyote Ridge Corrections Center, 1301 N. Ephrata (PO Box 769), Connell, WA 99326.

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## I. OPINIONS BELOW

1.1. The opinion of the Division Three Court of Appeals at issue was not publicly published. A copy of the opinion is in Appendix A.

1.2. The Washington State Supreme Court opinion at issue was not publicly published. A copy is in Appendix C.

## II. JURISDICTION

2.1. United State Supreme Court Rule 13 provides a 90 day time frame within which Mr. McAdams may submit an application for writ of certiorari, and the time frame starts on the date of the issuance of the final ruling on the matters at issue. On April 3, 2019, the Supreme Court of Washington State issued the final ruling that inspired the drafting and submission of this application for writ of certiorari. This application was deposited in the institutional-mail system by Mr. McAdams (Petitioner) within the 90 days ending on July 2, 2019, thus this application is timely as this Court's Rules require.

2.2. Final judgements of the highest court of a State are reviewable by this Court through an application for writ of certiorari when a violation of rights to Due Process as protected under federal Constitution is claimed or when the validity of a State statute is drawn into question. 28 USCS § 1257. This Court may review a state court's application or decision of federal law that conflicts with relevant decisions of this Court as

authorized by Rule 10 (b) (c) of this Court's rules. This application presents a claim of Due Process deprivation involving the public interest in the appearance of fairness in the justice system and a question of legal validity of the rules and statutes allowing such a deprivation of Mr. McAdams's rights. Therefore, this application is timely and justiciable; and thus, this Court has jurisdiction to issue the writ of certiorari.

### III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3.1. The questions presented herein to this Court involve the following Constitutional provisions:

"No person shall be held to answer for capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual services in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment V of the US Constitution.

"The power not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Amendment X of the US Constitution

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Amendment XIV, Section 1, of the US Constitution.

3.2. The following Washington State statutes and rules are involved:

[Robbery--Definition]

"A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use of threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear."

Revised Code of Washington (RCW) 9A.56.190.

[Robbery in the First Degree]

"(1) A person is guilty of robbery in the first degree if:

(a) In the commission of a robbery or of immediate flight therefrom, he or she:

(i) Is armed with a deadly weapon; or

(ii) Displays what appears to be a firearm or other deadly weapon; or

(iii) Inflicts bodily injury; or

(b) He or she commits robbery within and against a financial institution as defined in RCW 7.88.010 or 35.38.060.

(2) Robbery in the first degree is a class A felony.

RWC 9A.56.200

[General requirements of culpability]

"Kinds of Culpability Defined.

(a) INTENT. A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime.

(b) KNOWLEDGE. A person knows or acts knowingly or with knowledge when:

(i) he or she is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or

(ii) he or she has information which would lead a reasonable person in the same situation to believe that facts exists which facts are described by a statute defining an offense.

(c) RECKLESSNESS. A person is reckless when he or she knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

(d) CRIMINAL NEGLIGENCE. A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of such substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable

person would exercise in the same situation.

(2) Substitutes for Criminal Negligence, Recklessness, and Knowledge. When a statute provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly, or recklessly. When recklessness suffices to establish an element, such element also is established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts intentionally.

(3) Culpability as Determinant of Grade of Offense. When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

(4) Requirement of Wilfulness Satisfied by Acting Knowingly. A requirement that an offense be committed wilfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears."

RCW 9A.08.010.

#### RULES

"Judge shall at all times in manner that promotes public confidence in the independence, integrity, and impartiality, of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Rule 1.2 of Canon 1 of the Code of Judicial Conduct (CJC)

"A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and avoid the appearance of impropriety."

Canon 1 of the CJC.

3.3. In Appendix H are Rule 16.1 through 16.17 of RAP, which allowed Mr. McAdams to collaterally attack his conviction. Appendix H

#### IV. STATEMENT OF THE CASE

##### A. Procedural Facts

4.1. In Washington State during 2012, Spokane County Superior Court Judge Gregory Sypolt (who was not re-elected after this term) entered a judgement and sentence convicting Grant Thomas McAdams (Petitioner, Mr. McAdams) of Robbery and Assault in the highest degrees thereby sentencing him to 225 months (18.75 years) of incarceration. Appendix B. On July 19, 2018, Mr. McAdams collaterally attacked the judgement with a Personal Restraint Petition (PRP) as authorized by Washington State Rules of Appellate Procedure (RAP) title 16 along with Revised Code of Washington (RCW) 10.73.090 and RCW 10.73.100. Appendix E. In his PRP, Mr. McAdams argued that his conviction for Robbery in the First Degree is unconstitutional because the State failed to properly prove an intent to commit theft existed in Mr. McAdams when the assault took place and because no property was taken from the person of the victim nor was any property missing from the car that was left merely blocks away from the hostile and dangerous environment surrounding the assault. Appendix E. For the Division Three Court of Appeals on September 6, 2018, Acting Chief Judge dismissed the PRP concluding that "Where Mr. McAdams drove away in the vehicle immediately after assaulting Mr. Salih, the jury could reasonably infer that Mr. McAdams intended to take Mr. Salih's vehicle, regardless of where the vehicle was found" thereby sufficient evidence of Robbery in the First Degree existed. Dismissal at 6 in Appendix A.

4.2. On October 4, 2018, Mr. McAdams then filed a Motion for

Discretionary Review in the Supreme Court of Washington arguing that the lower court applied the law inccorectly because robbery requires that force be used with an intent to commit theft but the facts of this case do not support such an intent yet the lower court found that simply taking the car after the assault was sufficient. Appenddix F. Furthermore, Mr.McAdams also argued that the "immediatcy" of the taking of the car as required by the instructions was not properly proven and the jury even questioned this part of the instructions but the trial court refused to re-instruct. Id. For the Supreme Court on January 8, 2019, of Washington, Commissioner Johnston denied review concluding that "the State presented multiple eyewitness accounts of the assault, and a reasonable juror could conclude from these fasts that Mr.McAdams beat Mr.Salih in order to take the vehicle." Denial at 2 in Appendix C.

4.3. On February 13, 2019, Mr.McAdams submitted a Motion to Modify the Commissioner's Ruling arguing that the Commissioner selectively considered part of the fact-set in a light most favorable to the State thus treating the undeniable facts as thought they do not exist. For example, the State courts' decision-makers stated Mr.Salih was dragged from his car, but Mr.Salih testified that he existed the car independently and the closest bystander witnessed the same as Mr.Salih was chased for nearly half of a block, rather than taking the car once abandoned. VRP 262-3, 399, 403, 75, & 97-8 in Appendix J. The decision-makers also stated Mr.McAdams drove away "immediately". Appendices A and C. On the contrary, the facts show that the car was at least a half a city block away during the assault, it was

abandoned by both Mr. Salih and his attacker, and it was only taken after the bystanders began running at, yelling at, and threatening the attacker. VRP 262-3, 399-403, 75, 86-88, & 97-102 in Appendix J. Thus, the decision-makers cherry-picked the facts instead of viewing the fact-set in its entirety and in a light favoring the State to determine if reasonable inference could have been made that found Mr. McAdams guilty beyond a reasonable doubt.

4.4. Additionally, the facts show that 1.1-pound-metal-stick-like object was used to hit Mr. Salih after an argument in the car, that a wrench was not used to assault Mr. Salih, that his car was only taken after the environment became dangerous, that the car was not missing any property nor was Mr. Salih's person, that Mr. McAdams had access to cars, that Mr. McAdams had several jobs, that Mr. McAdams had money but Mr. Salih did not, and that the jury was confused about how the law was to be applied to these facts (formal inquiry). VRP 350-354 in Appendix J and Affidavit in Appendix K. For the State Court of Washington State on April 3, 2019, Chief Justice Fairhurst denied to modify the Commissioner's ruling.

4.5. Importantly, the same decision-makers (Honorable Pennell, Johnston, & Fairhurst) dismissed, denied, and refused to grant Mr. McAdams relief from the Assault in the First Degree conviction. See Petition for Certi in Appendix I. Mr. McAdams sought relief from that conviction on grounds that Mr. Salih suffered only substantial bodily harm--specifically superficial wounds, a likely concussion, and temporary dizziness--and the



circumstances around the assault did not support an intent to inflict great bodily harm because no threats were made, no prior adversarial relationship, and the assailant chose to stop the assault before great harm was actually inflicted (only inflicting superficial wounds). Id. The decision-makers appear to have fabricated facts concerning Mr. Salih's injuries, such as "long term damage", "seizure", and strikes from "wrench". Id. Mr. McAdams drafted and tried to submit an application for certiorari before this Court concerning these judgments, but it was a day late because his residential facility opened the legal-mail and re-dated the mailing-out date to send it non-certified as Mr. McAdams was too indigent to pay for certified mail. Id. As a result, Mr. McAdams concluded that these decision-makers were more likely than not biased in handling both of his collateral attacks claiming insufficient evidence (first of Assault in the First Degree and now of Robbery in the First Degree).

4.6. Hereby, Mr. McAdams comes before this Court submitting this application for writ of certiorari concerning the due process rights that the lower court appear to have violated.

#### 8. Substantive Facts

4.7. This case presents a collision of rights. Specifically, Mr. McAdams's right to due process of the law versus the State's right to mete out justice as it sees fit. At trial Mr. McAdams was advised not to take the stand and many of the witnesses were not properly questioned by his State

paid trial counsel. Many facts were illogically presented leading to an extremely high probability of juror confusion, especially concerning the elements of "intent". With respect to the First Degree Robbery conviction, the jury even issued a formal inquiry about the "immediacy" of the assault in relation to the taking of the car, but the trial court refused to clarify that an intent to steal must exist in the mind of the assailant during the assault. VRP 532 in Appendix J.

(1) The Circumstantial and Direct Evidence Presented at Trial Failed to Proving "Intent to Commit Theft" Existed During the Assault

(i) VICTIM SAID HE WAS NOT DRAGGED AND HE RECEIVED MONEY FROM MR.MCADAMS

4.8. At trial, Mr.Salih (victim) testified that he went to use a public phone (pay phone) and buy cigars at the local 7-eleven. VRP 257 in Appendix J. He saw a man who he believes was Mr.McAdams using the pay phone and the man gave Mr.Salih money because he did not have enough money to use the pay phone. VRP 257-258 in Id. Mr.Salih gave the man a ride during which the man asked Mr.Salih to stop the car and then stuck him with tool stick-like metal tool sitting in Mr.Salih's car (Mr.Salih used the tool to start his car). VRP 259-261. Mr.Salih believed he was first struck in the forehead, perhaps several times. VRP 261 in Id. Mr.Salih also believed the man went around to the driver side of the car and hit Mr.Salih several more time. VRP 262 in Id. Next, Mr.Salih believed he unbuckled himself and independently exited the car where he ran and was chased by the man until Mr.Salih fell down to the ground (about a half a block away from his car). VRP 262-3 in Appendix J.

(ii) MR.BROWN SAID MR.SALIH WAS NOT DRAGGED FROM CAR AND MR.BROWN WAS RUNNING AT, YELLING AT, AND THREATENING ATTACKER THEN THE ATTACKER STOPPED AND RAN A HALF A BLOCK TO THE CAR

4.9. The bystander closest to the assault was about thirty feet away and his name was Randall Brown. He testified that he believed he saw one person exit the driver-side door of the car and another exit the passenger-side door to then chase and hit the first person with something. VRP 399 in Appendix J. Mr.Brown believed Mr.Salih was stuck several times while running away until he fell on the ground. VRP 401. Mr.Brown believed that he was running toward Mr.Salih and the attacker when Mr.Salih fell to the ground and Mr.Brown yelled at the attacker to "get off him" (Mr.Brown was only fifteen feet from the attack). VRP 401-402 in Id. About five or ten seconds after yelling at the attacker and before the attacker struck Mr.Salih while he was on the ground, Mr.Brown believed the attacker realized something and began running toward the car (at least a half a block away). VRP 403 in Id.

(iii) MS.MELCHER SAW THE ATTACKER RUN TO THE CAR ONCE MS.MELCHER AND MR.O'BRIEN GOT CLOSER WHILE YELLING

4.10. From the front of her house near the assault, Whitney Melcher believed she saw the attacker hit Mr.Salih when he was on the ground about fifteen times (medical evidence proves this absolutely false) while her and another man ran toward the attacker. VRP 74-75 in Id. Ms.Melcher believed the attacker "just as soon as" she and Mr.O'Brien "got close" "ran to the

car and took off." VRP 75 in Id.

(iv) MS.KRAMER HEARD AND SAW A LOUD ARGUMENT IN THE CAR BEFORE THE ATTACK, SHE SAW THE ATTACKER "YANK" MR.SALIH FROM THE CAR AND CHASE HIM, SHE DID NOT SEE ANY DRAGGING, AND SHE SAW NEIGHBORS RUNNING AT AND YELLING AT THE ATTACKER WHEN HE STOPPED TO RAN AWAY TO THE CAR

4.11. From inside her house and looking her window, Lori Kramer believed she saw two men in Mr.Salih's car arguing and yelling before seeing one man exit the passenger side to go to the driver side where he hit Mr.Salih with a pipe wrench thing. VRP 84 in Id. Ms. Kramer believed the attacker yanked Mr.Salih out of the car while still hitting him. VRP 86 in Id. Ms. Kramer believed she saw the attacker chase Mr.Salih and hitting him until he fell at the corner of the block near a stop sign where Mr.Salih fell. VRP 86 in Id. Ms. Kramer believed she hear another neighbor yelling statements like "Hey, stop the fighting" and "I'm going to call the cops." VRP 86 in Id. Ms. Kramer believed the whole event lasted about five minutes and ended with the attacker running back to the car after others were yelling at the attacker. VRP 88 in Id.

4.12. Mr.McAdams had several streams of income when Mr.Salih was assaulted. Appendix K. Testimony concerning his the time he left work on the day in question verifies one stream of income in addition. VRP 350-53 in Appendix J. However, Mr.McAdams only has his own affidavit to prove his other streams of income because his state paid attorney never obtained statements from Mr.McAdams's employers at the time, including Dale Swift (a

builder), Toney Yates (a plumber), and Richard Sherman (a pole building builder). Appendix K.

4.13. Mr.McAdams had access to several cars to drive. Appendix K.

Mr.McAdams's State paid attorney also failed to obtain witness statements from Kevin Bruns and Kristy McAdams who would allow Mr.McAdams to drive cars registered in their names when Mr.McAdams asked, usually for getting to job sites of Mr. Swift or Mr. Yates. Appendix K. Mr. McAdams had no need to steal a car.

(v) MR. O'BRIEN SAW A VERY HEAVY PIPE WRENCH AND HEARD OTHER BYSTANDERS YELLING AT THE ATTACKER WHILE MR. OBRIEN RAN AT AND YELLED AT THE ATTACKER

4.14. From his front yard, Dennis O'Brien believed he heard screaming and saw Mr.Salih running down the side walk and his attacker running behind Mr.Salih jumping up to hit him, but Mr. O'Brien did not see any type of dragging. VRP 97-98 in Appendix J. Mr. O'Brien believed the attacker used a "red pipe wrench" to hit Mr.Salih while chasing him. VRP 99 in Id.

Mr.O'Brien believed he saw the attacker hit Mr.Salih three times before he was on the ground. VRP 99-100. During the attack, Mr. O'Brien believed he was threatening the attacker with statements like "we've called the cops" and "you're going to kill him, stop!" because he thought the attacker was wielding a "steal" "pipe wrench" that was "very heavy". VRP 100 in id.

While viewing the assault, Mr.O'Brien moved closer to the assault staring in his yard and ending past the lot next to his or about two lots from the assault (approx. 80 feet). VRP 101 in id. Mr. O'Brien believed that other bystanders near the attacker were also yelling and running at the attacker when the attacker stopped, looked around, and then ran to the car. VRP 102 in Id.

(vi) MEDICAL DOCTORS SAW ONLY SUPERFICIAL WOUNDS, TEMPORARY INJURY, FOUR IMPACT WOUNDS (not five, eight, nor fifteen), QUESTIONABLE POST CONCUSSION SYNDROM, MR.SALIH WAS DISCHARGED THE SAME DAY OF THE ASSUALT, AND THE LACK OF SYMPTOM VALIDITY TESTING ALLOWED MR.SALIH TO RETURN TO MEDICAL CARE WITH NO VERIFIABLE MEDICAL PROBLEMS (such as pseudo-seizures).

4.15. Medical Doctor Oliver Drouin helped cared for Mr.Salih from May 10, 2011, through May 14, 2011. VRP 155 in Appendix J. After his initial discharge on May 9, 2011, MD Drouin saw Mr.Salih return to medical care with self-reported episodes of losing memory, fainting, and dizziness. VRP 155-7 in Id. Mr.Salih was initially diagnosed with "post concussion syndrome" for demonstrating possible seizure-like symptoms involving Mr.Salih roling his eyes and falling back into the hospital bed. VRP 157-9 in Id. After the doctors approved Mr.Salih for going to St.Luke's, the doctors discovered that Mr. Salih was actually having "psuedoseizures", which are a behavior in which a persion acts in a way they think that their injuries could effect them. VRP 159-61 in Id. Also see Medical Records in Appendix M.

4.16. Furthermore, MD Drouin observed that Mr.Salih's memories of the event were mainly what other people had told him had happened. VRP 161 in Id. MD Drouin also assessed Mr.Salih's injuries to consist of "superficial lacerations and the small fracture, but other than that it was fairly benign". VRP 164 in Id. Ph D James Bryan testified seeing the medical records characterizing Mr.Salih as having "questionable postconcussion syndrome." VRP 364 in Id. Ph D Bryan assessed the medical records showed that Mr.Salih had symptoms of something other than medical problem as his symptoms were inconsistent with the typical case of post concussion syndrome. VRP 363-70 in Id. Ph D Bryan concluded that the medical treatment of Mr.Salih lacked "syptom-validity testing" and that the "symptoms reported by Mr. Salih don't necessarily reflect that which the injury is from a neurological standpoint" and that something other than medical problem needed to be identified. VRP 371-88 in Id. Also see Medical Record in Appendix M.

## 2. The Misbehavior of the State Courts

(i) THE DIVISION THREE COURT OF APPEALS MISAPPLIED CASELAW WHILE ADOPTING OBVIOUSLY FALSE FACTS, AND COMPLETELY DISREGARDING UNDENIABLE FACTS IN ORDER TO DISMISS MR.MCADAMS'S PRP

4.17. Acting Chief Judge Rebecca L. Pennell mischaracterized caselaws. First, Honorable Pennell stated that "[w]hen a petitioner challenges the

sufficiency of the evidence, this [State] Court views evidence in the light most favorable to the State and determines whether any trier of fact could have found guilt beyond a reasonable doubt" citing In Re Personal Restraint of Bell, 1878 Wn.2d 558, 566 (2017), and that "[c]ircumstantial evidence is as reliable as direct evidence" citing State v. Castillo, 144 Wn.App 584, 588 (2008). Dismissal Order at 2-3 in Appendix A. However, the Acting Chief Judge omitted that "any rational trier of fact could have found guilt" as the case law states in Bell, 187 Wn.2d 558, 566 citing State v. Salinas, 119 Wn.2d 192, 201 (1992).

4.18. Second, State v. Walker, 75 Wn.App. 101 (1994) clearly provided guidance for deciding if "theft" of a vehicle has occurred as distinguished from "taking a motor vehicle with out permission". Id, 75 Wn.App 101. Despite the clear caselaw, the Acting Chief Judge decided that "proof that an item has been taken for a substantial period of time may help establish the intent element [of theft], but proof of duration is not required as an element [of Robbery]. Dismissal Order at 6 in Appendix A. Washington's Robbery statute requires that an "intent to commit theft" be proven beyond a reasonable doubt in Washington State. State v. Hicks, 102 Wn.2d 182, 184.

4.19. The Acting Chief Judge also cited evidence obviously false facts. First, a "wrench" was cited. Dismissal Order at 4 in Appendix A. Second, Mr.McAdams "dragged Mr.Salih from the vehicle" was cited. Id. Third, the



fact that bystanders were yelling at, running at, and threatening the attacker were not cited. Id.

(ii) THE WASHINGTON SUPREME COURT COMPLETELY IGNORED FACTS RATHER THAN VIEWING THEM IN A LIGHT FAVORABLE TO THE STATE WHILE ADOPTING FALSE FACTS THAT NO RATIONAL JUROR WOULD ACCEPT AS PROOF BEYOND A REASONABLE DOUBT ALL IN ORDER TO DENY REVIEWING THE LOWER COURT'S JUDGEMENT

4.20. Commissioner Micheal E. Johnston cited facts that no rational trier of fact would accept as proven beyond a reasonable doubt. First, a "wrench" was cited as the instrument with which Mr. Slaih was hit. Second, "Mr.Salih" having been "dragged" "out of the vehicle" was cited. Third, undeniable fact that many if not all of the bystanders were running at, yelling at, and threatening the attacker when the attacker decided to run a half a city block and leave the environment was completely ignored and disregarded in the view favoring the State.

3. The Innocence Project Acknowledged the Injustice of Mr.McAdams Case and Have Obtained a Sustained Order for DNA Testing

4.21. The Innocence Project Northwest Clinic (IPNC) has accepted Mr.McAdams case. The IPNC represented Mr.McAdams in obtaining DNA testing. DNA Motion in Appendix N. The IPNC pointed out the low weight of the tire-tool with a picture of the item show at trial. Id.

## V. ARGUMENT

### 1. The State Court Decision-Makers Twice Mischaracterized Facts and Misapplied State Law to Uphold Mr. McAdams Convictions Base on Insufficient Evidence

(i) STATE COURTS CONTORT FACTS AND LAW TO ESTABLISH AN INTENT TO COMMIT THEFT WHERE A RATIONAL TRIER OF FACT WOULD FIND NO INTENT TO COMMIT THEFT EXISTED DURING THE ASSAULT OF MR. SALIH

5.1. All the eye-witnesses of the assault testified that Mr. Salih ran from the car and he was chased by his attacker. See Facts Above. Also, not one of the witnesses at trial testified that Mr. Salih was "dragged" from his car. *Id.* However, the State Courts stated that Mr. Salih was dragged from his car. Appendices A & C. This is an important fact from which one could infer an intent to steal. Just imagine a man being dragged out of his car and then his car being taken by the other man; therefrom, a rational juror could reasonably infer an intent to steal existed during the assault. Nevertheless, the facts even in a light favoring the State, tell a different story that the State Court tried to hide.

5.2. Turning on several omitted material facts. First, nearly all, if not all, of the eye-witnesses were running at, yelling at, and threatening the attacker at the time he ran to the car and left. Second, the attacker pursued Mr. Salih after he abandoned car showing no intent to steal the car. Third, no property was taken from the car nor was any property taken from Mr. Salih's person showing no intent to steal property from Mr. Salih.

Fourth, Mr.Salih was no hit with any type of heavy wrench or pipe wrench and the 1.1-pound-stick-lick object was entered into evidence at trial, so no rational trier of fact would have thought differently. Thus, the evidence shown in a light favoring the State was insufficient to prove Robbery in the First Degree.

5.3. The State Courts misapplied state law. The Acting Chief Judge inaccurately cited Bell, 187 Wn.2d 558 leaving out key concepts, specifically "rational" and "reasonable inferences", as follows: [To decide insufficient evidence challenges, the Washington State Court view] the evidence in the light most favorable to the State and determines whether any trier of fact could have found guilt beyond a reasonable doubt." Dismissal Order at 3 in Appendix A. The Acting Chief Judge then applies this caselaw as though obvious and undeniable facts are permissibly ignorable thereby disregarding the material facts. Thus, "rational" meant a great deal when properly cited in Bell, 187 Wn.2d 558 (citing State v. Salinas, 119 Wn.2d 192, 201 (1992)), which read as follows:

"The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State a **rational** trier of fact could have found guilt beyond a reasonable doubt. [...(internal cite omitted)]. All **reasonable inferences** drawn from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant."

5.4. This miscited law was obviously applied to Mr.McAdmas case because viewing the facts in favor of the State tells this story. A man thought to be Mr.McAdmas gave Mr.Salih money to call Canada from a pay phone. Then,

Mr.Salih gave the man a ride. Mr.Salih stopped the car arguing with the man and the man then struck Mr.Salih with a 1.1-pound-stick-like-metal object. Mr.Salih exited the car and his attacker followed. The attacker did not immediately take the car once Mr.Salih abandoned it. Rather, the attacker chased Mr.Salih for about a half a block where Mr.Salih fell to the ground. Eyewitness testimony conflicts on how many times Mr.Salih was struck in the head with the metal object. However, medical evidence was clear that Mr.Salih suffered four lacerations (mended with one suture each) caused by three-to-four strikes. Appendix M. Medical Professionals assessed Mr.Salih's injuries to be "superficial" and "temporary" while police officers assessed Mr.Salih's injuries as "substantial" not "great". Appendices J, M & L. Eyewitnesses all agree that many, if not all, of the bystanders present at the scene of the assault were yelling at, running at, and threatening the attacker when he stopped engaging Mr.Salih to run away by leaving in the nearest car with keys in it and perhaps still running. Also, Mr.Salih's car was spotted hours later parked where it was recovered by police on the May 10, 2011. No property was taken from Mr.Salih's person nor from his car.

5.5. Furthermore, Mr. McAdams was employed by multiple employers at the time. Appendix K. He had access to cars if he needed to drive to a job. Id. He also has no history of taking property from people nor of violence of any type. Id. He would likely give a person the shirt off his back if they asked or if he thought they needed it. Id. Based on these facts, a rational juror would reasonably infer that sufficient evidence exists to conclude that

Mr.McAdmas did not intent to commit theft of Mr.Salih's car during the assault and that Mr.McAdams did not immedeately take Mr.Salih's car (as the car was left abandoned for more than several minutes while both men ran away from the car).

(ii) STATE COURT FABRICATED FACTS AND CONTORTED LAW TO ESTABLISH AN INTENT TO INFLICT GREAT BODILY HARM DESPITE THAT NO SUCH HARM WAS INFLICTED ON MR.SALIH

5.6. The same exact State court decision-makers have put their thumbs on the scales of justice in handling Mr.McAdams previous PRP claiming insuficeint evidence to properly prove Assault in the First Degree. The Acting Chief Judge in this matter made up her own set of facts. She claimed that Mr.Salih suffered "long term damage" and symptoms such as "seizures" after being "dragged" and beat with a "pipe wrench". Appendix I. As shown above, Mr.Salih suffered superficial wounds after being struck with a 1.1-pound-stick-like metal object (not a 5 or 6 pound pipe wrench that has much of its weight distributed to its head). Thus, the facts used in that matter, like this matter, were absurdly incorrect.

5.7. The Acting Cheif Judge did cite Bell, 187 Wn.2d 588, 566 (2017) properly. Dismissal Order at 2 in Appendix A of Appenidx I. However, the Commissioner of the Washingotn Supreme Court then misapplied the the law by concluding that an intent to inflict great bodily harm had been properly proven, so the conviction was proper. Appendix I. These desison makers have and will likely continue to put their thumbs on the scales of justice until this US Suprem Court corrects such misbehaviour in the Sate courts.

(iii) THE STATE COURT DESISION-MAKERS COMPLETELY IGNORED THE GUIDING CASWLAW CONCERING ROBBERY

5.8. In his PRP, Mr.McAdmas cited a just sample of robbery caselaw to establish two general rules that function as the major premises of the logical sylogisms that conclude in an injustice. First, the specific intent to commit theft to prove robbery cannot be presumed but it can be inferred as a logical probalility from all the facts and circumstance (major permise one). PRP at 13 in Appendix E. Second, to prove robbey, an intent to commit theft must be proven to exist in the mind of the accused when the force or threat is used. PRP at 14 in Id. Mr.McAdams then gave the specifict facts that function as the minor premises; those facts are listed above and in more detail in the PRP. PRP in Id. The legal sylogism would conclude that evidence was insufficeint to prove robbery in the first degree within the meaning of RCW 9A.08.010, 9A.56.190, and 9A.56.200.

5.9. Moreover, the decision-makers in this matter and in the matter concerning the first degree assault appear unfair. The judgmdnets rendered by the decision-makers fail to promote public confidenc in the integrity of the judicialary. Thus, these judgements volated Cannon 1 of Washingotn's Code of Judicial Conduct and the Rules of Appellate Procedure allowed such behavior to deprive Mr.McAdmas of his right to a fair procedure of accessing the courts.

5.10. Therefore, there is sufficient evidence to conclude that the Washington Court desision-makers' judgement convicting Mr.McAdmas of Robbery and Assault violated the due process cluase of the Fourteenth Ammendment of the Federal Constitution pursuant to Fiore v. White, 531 US 225 at 228-9 (2001) (prohibiting abuses of distretion), Jackson v. Virginia, 443 US 307 (prohibiting convictions on insufficient evidence), and In re Winship, 397 US 358 at 364 (Requireing proof beyond a reasonable doubt for every element of a crime charged).

#### VI. CONCLUSION

6.1. Based on the foregoing reasoning, Mr.McAdmas prays for this Court to grant this petition for writ of certiorari and guide the Washington State courts thereby lessing tyrannical judgements.

RESPECTFULLY SUBMITTED,

Grant Thomas McAdams

Grant Thomas McAdmas, Pro Seer

#### VII. VERIFICATION

7.1. I, Grant Thomas McAdams, declare under the penalty of perjury under the law that the foregoing is true and correct. 28 USC §1746.

Executed on:

7/1/19

Grant Thomas McAdams

Grant Thomas McAdams, Pro Seer