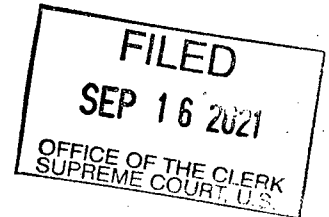


21-6565
No. USCA9

ORIGINAL

21-35168



IN THE

SUPREME COURT OF THE UNITED STATES

WASHINGTON DC 20543

Edmond MAYNOR — PETITIONER
(Your Name)

vs.

RONALD HAYNES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Edmond HAYNOR
(Your Name)

Steele Creek Corrections Center
(Address) 191 CONSTITUTION WAY

ABERDEEN WA, 98520
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

LAW LIBRARY CLOSING DUE TO COVID LOCKDOWN AND DOC STOPP
REFUSE TO DELIVER LEGAL MAIL IN A TIMELY MANNER HAVE
NEGATIVELY AFFECTED ACCESS TO COURT AND PRESENTATION OF
CLAIMS IN US DISTRICT COURT.

SEE APPENDIX A Pg 30

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix C to Pg 34
the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to Pg 32
the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at
Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court
appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 22, 2021 See Appendix C PG

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

TABLE OF CONTEXT

(A)

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- 2 TRIAL COUNSEL FAILURE TO CROSS-EXAMINE ROBERTO SANDRAL . 7, 8, 9
- 3 TRIAL COUNSEL FAILURE TO CROSS-EXAMINE OMAR CRUZ . 10, 11, 1
- 4 COUNSEL'S FAILURE TO CROSS-EXAMINE EVIDENCES ANDREW HODGE . 13, -17
- 5 COUNSEL'S "HE SAYS SO" ARGUMENT THAT PREVENTED MR MAYNOR FROM RECEIVING A FAIR TRIAL . 18, 19
- 6 THE CUMULATIVE ERRORS AT TRIAL HAVE RESULTED IN PREJUDICE . 20

(B)

INTERPRETIVE ASSISTANCE OF COUNSEL ON APPEAL

- 1 INADEQUATE COUNSEL APPEAL TO ADDRESS ALLEGATIONS OF ASSAULT AS ALLUDED BY THE TESTIMONY OF ROBERTO SANDRAL AND OMAR CRUZ . 21-25

TABLE OF AUTHORITIES

COLEMAN V THOMPSON 501 US 722, 752-53, 115 . . . 5
S. CT. 640 111 L. Ed. 2d 2546 (1991)

- SILVA V WOODFORD, 279 F.3d 825, 833 . . . 8
(9TH CIR 2002)

GROSCLOSE V BELL, 130 F.3d 1161, 1169-70 . . . 17
(6TH CIR 1997)

STRICKLAND V WASHINGTON 466. US 668 80L Ed 2d . . . 19, 21, 22
674 104 S CT 2052

- HIGGINS V RANICO, 470 F.3d 624 (6TH CIR 2006) . . . 11

- DAVID V ALASKA 415 US 308, 318, 943, CT 1105 39L
Ed. 2d 347 (9TH CIR 1974) . . . 22, 25

CONSTITUTION PROVISIONS

1

SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION

4

STATEMENT OF THE CASE

THE PETITION BEFORE THIS COURT HAVE BEEN DRAFTED PRO SE AND ADDRESS MATTERS OF CONSTITUTIONAL SIGNIFICANCE, AS OUTLINED WITHIN GROUND 1 AND 2. FURTHERMORE, THE PETITIONS HAVE BEEN TIMELY FILED BEFORE THE COURT OF APPEALS (WESTERN DISTRICT AT SEATTLE) THE WASHINGTON STATE SUPREME COURT, FEDERAL DISTRICT COURT AND BEFORE THE 9TH CIRCUIT COURT OF APPEALS. HOWEVER, DURING FEDERAL LOCKDOWNS (WHICH IN MY CASE BEGAN 8-3-20) IT BECAME DIFFICULT ALMOST IMPOSSIBLE TO LITIGATE THE FOLLOWING CLAIMS PRO SE DUE TO THE OUTBREAK OF COVID-19 CASES HERE AT THE PRISON AND ALSO CONTRACTING COVID AND WAS QUARANTINED FOR A PERIOD OF TIME UNTIL I RECOVERED THERE. MOREOVER, DUE TO THE PROTOCOL THE LAW LIBRARY WAS SHUT DOWN FROM THE TIME THIS CASE ENTERED FEDERAL JURISDICTION UNTIL THE FIRST OR SECOND WEEK IN MARCH 21, 2021. (HOWEVER, I DID MOTION THE FEDERAL DISTRICT COURT FOR AN APPOINTMENT OF COUNSEL DUE TO INDIGENCY) AND DEPARTMENT OF CORRECTIONS STAFF WITHHOLDING MY LEGAL DOCUMENTS UNTIL THE FINAL DAY TO RESPOND TO ORDER FROM FEDERAL COURT, WHICH HAVE OCCURRED ON MORE THAN ONE OCCASION HERE AT THE INSTITUTION.

NEVERTHELESS, I PRAY THAT THIS COURT WOULD ALLOW FOR THE LITIGATION OF CONSTITUTIONAL ISSUES OUTLINED WITHIN GROUNDS 1 AND 2. OR IF IN THIS COURT JURISDICTION TO ALLOW FOR COA (CERTIFICATE OF APPEALABILITY) TO ADDRESS THE MATTERS PRESENTED HERE.

GROUND 1 (A)

TRIAL COUNSEL'S REFUSAL TO CROSS-EXAMINE TU HOYNH OR LITIGATE ALLEGATIONS DIRECTLY RELATED TO THE ROBBERY WHICH ENCOMPASS ALLEGATIONS OF ASSAULT IN THE FIRST DEGREE AND FIREARM ENHANCEMENTS COUNT TWO AND FOUR, HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL.

AT TRIAL THE STAGES THREE OF MR MAYNOR'S CONDUCT WERE TREATED AS SEPARATE AND DISTINCT CRIMINAL ACTS, AS THIS COURT IS AWARE. THE PRIMARY ISSUE ADDRESS ON DIRECT APPEAL WAS MAYNOR ROBBERY OF HOYNH, AND ALLEGATIONS OF ASSAULT IN THE SECOND DEGREE (COUNT TWO WITH FIREARM ENHANCEMENT) AND ASSAULT IN THE FIRST DEGREE (COUNT FOUR WITH FIREARM ENHANCEMENT) BOTH COUNTS WERE VACATED ON APPEAL. HOWEVER THE ENHANCEMENT COUNT FOUR REMAINS. (SEE EXHIBIT K JUDGMENT AND REASONS) ✓

MAYNOR TESTIFIED, AND OUTLINES HIS CONDUCT DURING THE ROBBERY. THIS TESTIMONY INCLUDES HIS RECOLLECTION OF THE SHOT THAT HE FIRED IN THE JEWELRY STORE TO FRIGHTEN HOYNH INTO RELEASING THE TRAY OF ENGAGEMENT RINGS BEFORE FLEEING THE STORE, AND THE TWO SHOTS HE FIRED TO FRIGHTEN HOYNH FROM PURSUING HIM AS MAYNOR FLED WITH THE STOLEN PROPERTY. THE OUTCOME ON APPEAL SHOW THAT HAD COUNSEL DISPUTED THE STAGES THREE OR CROSS-EXAMINED HOYNH AS THE MAIN WITNESS THE JURY'S INTERPRETATION OF THIS ROBBERY CONSECUTIVE COUNTS OF ASSAULT IN THE FIRST DEGREE AND CONSECUTIVE FIREARM ENHANCEMENTS WOULD HAVE BEEN VIEWED DIFFERENTLY. BUT OUTRIGHT REFUSAL TO PROVIDE A DEFENSE CHARGES TRIAL WAS PREJUDICIAL AND HAS UNDERMINED THE OUTCOME AT TRIAL.

A defendant claiming ineffective assistance must overcome the presumption that under the circumstances the challenged action might be considered sound trial strategy. *Coleman v. Thompson*, 501 U.S. 722, 752-53, 115 S. Ct. 640, 111 L. Ed. 2d 2546 (1991).

Counsel's refusal to examine the testimony of Hovnh or Litette Aliberti's of assault in the first degree and firearm enhancements counts two and four have resulted in ineffective assistance of trial counsel.

Ground 1 (B)

DEFENSE COUNSEL'S REFUSAL TO CROSS-EXAMINE THE MAIN WITNESS TESTIMONY OF ROBERTO SANDOVAL OR PROVIDE A DEFENSE AGAINST PASS ALLEGATIONS OF ASSAULT IN THE FIRST DEGREE, HAVE RESULTED IN IMPROPER ASSISTANCE OF TRIAL COUNSEL. COUNSEL'S IN ACTION AT TRIAL ARE IN VIOLATION OF CONSTITUTIONAL AMEND 8X OF THE UNITED STATES CONSTITUTION.

BYSTANDERS ROBERTO SANDOVAL AND OMAR CRUZ PURSUED AND DETAINED MAYOR AFTER THE REFUSAL OF TO HUNCH. DURING THIS ALTERCATION TO A FIST FIGHT ENSUES AND SANDOVAL SUSTAINED A GUNSHOT WOUND THROUGH HIS HAND, AS SANDOVAL STRUGGLED FOR POSSESSION OF MAYOR'S HANDGUN. SANDOVAL CLAIMS DURING HIS TESTIMONY THAT HIS INJURY IS A RESULT OF PROTECTING HIMSELF FROM THE CHASEMAN AS HE ATTEMPTED TO AVOID APPREHENSION FROM SANDOVAL AND CRUZ. HOWEVER, SANDOVAL TESTIMONY DOES NOT CORROBORATE EYEWITNESSES WHICH VIEWED MAYOR APPREHENSION. FOR EXAMPLE, THE EYEWITNESSES TESTIMONY OF AMY BRAUN (WITNESS FOR THE DEFENSE) CORROBORATES PROSECUTION'S EYEWITNESSES ANDRAUL HOANG'S ACCOUNT OF MAYOR'S APPREHENSION. THAT SANDOVAL INJURY WAS NOT AS SANDOVAL TESTIMONY HAVE SUGGESTED AS AN INTENTIONAL ACT. HOANG'S VANTAGEPOINT OF SANDOVAL'S APPREHENSION OF MAYOR IS DIRECTLY ACROSS THE STREET AND AMY BRAUN OBSERVATION OF THIS ENCOUNTER IS ALSO DIRECTLY ACROSS THE STREET INSIDE THE STARBUCKS ON SEVENTH AND STEWART. BOTH EYEWITNESSES ACCOUNT WOULD HAVE TESTIFIED TO AN "INTENTIONAL" ASSAULT AS SANDOVAL CLAIMS TO HAVE OCCURRED. IN OTHER WORDS, SANDOVAL'S CLAIMS OF AN INTENTIONAL ASSAULT ARE NOT CORROBORATED BY THESE TWO EYEWITNESSES, WHICH WERE APPROXIMATELY 20 TO 30 FEET FROM WHERE MAYOR IS DETAINED BY SANDOVAL AND CRUZ.

Ground 1 B

FURTHERMORE, BOTH BRAUN AND HOWES TESTIFY, THAT MR MAYNOR, DID NOT PULL A HANDGUN FROM HIS PANT POCKET, NOR DOES MAYNOR POINT HIS HANDGUN AT MR SANDOVAL, NOR DOES MAYNOR HAVE POSSESSION OF HIS HANDGUN WHILE ENGAGED WITH SANDOVAL ON THE GROUND, HITTING SANDOVAL IN THE FACE, AS SANDOVAL TESTIFIES TO HAVE OCCURRED.

(SEE APPENDIX A, EXHIBIT E - EYEWITNESS TESTIMONY OF ANDREW HOWES) PG 84

ADDITIONALLY, MS BRAUN TESTIFIES THAT SHE OBSERVED SANDOVAL AND MAYNOR, AS MAYNOR IS PURSUED AND THEN TACKLED BY MR SANDOVAL.

SHE ALSO ASSERTS THAT SHE OBSERVED BOTH SANDOVAL AND MAYNOR ENGAGED IN A FIST FIGHT AND APPROXIMATELY 15 SEC AFTER MAYNOR IS

TACKLED TO THE GROUND SHE HEARS FIRED SHOTS: BRAUN ALSO STATES THAT AS THIS ALTERCATION OCCURS SHE IMMEDIATELY GRABS HER CELL PHONE

AND CALLS 911. (FROM INSIDE THE STARBUCKS CW SERRA AND STEWART)

(SEE APPENDIX A, EXHIBIT G - EYEWITNESS TESTIMONY OF AMY BRAUN) PG 110

ON THE OTHER HAND, ROBERTO SANDOVAL TESTIFIES TO HOW THE GUNSHOT INJURY TO HIS HAND OCCURRED, WHEN THE STATE EXAMINES SANDOVAL RECOLLECTION OF

HIS EVENT Q (STATE) HOW ABOUT THE GUN

A (SANDOVAL) "HE HAD HIS HAND ON THE MASK LIKE THIS THEN HE THREW THE GUN, I HAD GRABBED HIM BY THE HAND TO AND EVERYTHING I AM SAYING WENT SO FAST"

[THE COURT]: WOULD YOU REPEAT THAT PLEASE

A (SANDOVAL) "WELL, I WAS JUST SAYING EVERYTHING HAPPENED SO QUICKLY AND I HAD ALREADY BEEN SHOT SO I DON'T REMEMBER IF I TOOK THE GUN FROM HIM OR HE THREW IT WHEN HE TOOK THE MASK OFF" RP 75 LINE

9 TO 17. (GIVEN SANDOVAL RECOLLECTION) OF THIS IMPORTANT EVENT

3 WHICH ULTIMATELY LEAD TO SANDOVAL'S INJURY AND MAYNOR BEING

IMPRISONED BY BOTH SANDOVAL AND CRUZ.

Ground 1 B

TRIAL COUNSEL ASSUMES THAT EXAMINATION OF BOTH CR02 OR MAIN WITNESS SANDOVAL'S TESTIMONY AS UNSUBSTANTIAL. FUNDAMENTAL FAIRNESS REQUIRES CROSS-EXAMINATION OF MAIN WITNESS TESTIMONY BUT MORE IMPORTANTLY AN OPPORTUNITY TO PROVIDE A DEFENSE AGAINST ALLEGATIONS OF FIRST DEGREE ASSAULT.

COUNSEL'S INACTION AND FAILURE TO LITIGATE THIS CRITICAL ISSUE AT TRIAL HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL IN VIOLATION OF CONSTITUTIONAL AMEND SIX OF THE UNITED STATES CONSTITUTION. - AS NOTED IN WOODFORD

"WHEN AN ATTORNEY FAILS TO CHALLENGE THE TESTIMONY OF A CRITICAL WITNESS MAY BE SO UNREASONABLE AS TO VIOLATE BOTH PRONGS OF THE STRICKLAND TEST
SILVA V WOODFORD, 279 F.3d 825, 833 (9th CIR 2002)

GROUND 1 (C)

TRIAL COUNSEL'S REFUSAL TO CROSS-EXAMINE THE KEY EYEWITNESS TESTIMONY OF OMAR CRUZ OR PROVIDE A DEFENSE AGAINST ALLEGATIONS OF FIRST DEGREE ASSAULT AS ALLUDED DURING HIS TESTIMONY, HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL.

OMAR CRUZ AND REBONTO SANDOVAL PURSUED AND DETAINED THE DEFENDANT AFTER THE ROBBERY OF HUYONH. MR CRUZ MAKES SEVERAL STATEMENTS DURING HIS TESTIMONY WHICH DESCRIBES HIS VANTAGEPOINT OF MAYNOR'S ALLUDED ASSAULT AGAINST SANDOVAL. FOR EXAMPLE MR CRUZ TESTIMONY ALLEGES THAT SANDOVAL'S INJURY OCCURS WHEN HE WITNESSED MAYNOR'S ATTEMPT TO TURN AROUND, AND AT THAT MOMENT HEARS THREE FIRED SHOTS FROM MAYNOR'S HANDGUN AND THEN WITNESSED SANDOVAL AND MAYNOR FALL TO THE GROUND TOGETHER.

HOWEVER, CRUZ AND SANDOVAL'S TESTIMONY GOES UNCHALLENGED AT TRIAL BUT WHAT IS TROUBLING IS THAT NOT ONLY IS CRUZ RECOLLECTING OF THIS EVENT OF SANDOVAL'S DETAINING MAYNOR FALSE BUT CONTRADICT SANDOVAL'S TESTIMONY ALTOGETHER. COUNSEL'S REFUSAL TO PROVIDE A DEFENSE OR FAILURE TO REPUTE ALLEGATIONS OF ASSAULT AS OUTLINED BY CRUZ'S TESTIMONY IS NOT ONLY PROBABLY BUT IS APPROPRIATE PORTAGE BY COUNSEL REFUSAL TO CROSS-EXAMINE THE KEY EYEWITNESS TESTIMONY OF ANDREW HOPKINS.

HOPKINS'S TESTIMONY DESCRIBES IN DETAIL HOW MAYNOR IS PURSUED AND DETAINED BY SANDOVAL AND CRUZ,

ADDITIONALLY, BYSTANDER ANDREW HOBBS, WHICH OBSERVED MR SANDOVAL DETAIN MR MAYNOR (AFTER THE ROBBERY OF TU HUYNH) WAS DIRECTLY ACROSS THE STREET. - ANDREW HOBBS RECALLS THIS ALTERCATION BETWEEN SANDOVAL AND MAYNOR DURING HIS TESTIMONY, WHEN HE SAYS:

A AS HE RAN BY ME ONE OF THE HOTEL GUYS YELLED STOP, TURNED AROUND LOOKED AT THE GUY AND THEN STARTED RUNNING ACROSS THE DIRECTION TOWARD THE WEST CORNER OF 7TH AVENUE THE NORTHWEST CORNER.

Q THE NORTHWEST CORNER OF STEWART AND 7TH?

A CORRECT

Q WHAT DO YOU REMEMBER HAPPENING NEXT?

A THE HOTEL STAFF GRABBED THE GENTLEMAN BY THE BACK OF THE COAT AFTER YELLING "STOP" AGAIN AND THEN STOPPED AND THEN SHOTS WERE FIRED ROUGHLY THREE OR FOUR SHOTS.

Q DID YOU SEE THIS INTERACTION BETWEEN THE HOTEL STAFF PERSON AND THE PERSON WEARING THE MASK?

A YES. I WAS STANDING ROUGHLY HERE, THE SCUFFLE WAS PROBABLY STARTED SOMEWHERE IN THIS CORNER, THEY WERE FACING EACH OTHER AND YOU COULD TELL THERE WAS SOME SORT OF TUSSELE, SCUFFLE THAT WAS ENSUING.

Q CAN YOU DESCRIBE IN AS MUCH DETAIL WHAT YOU CAN REMEMBER AND WHAT YOU SAW.

A YEAH. BASICALLY, TWO GUYS THAT WERE ABOUT TO GET INTO AN ALTERCATION.

Q WHO WAS DOING WHAT TO WHOM?

A THE HOTEL STAFF GRABBED THE GENTLEMAN BY THE BACK OF THE COAT THE OTHER SUSPECT TURNED AROUND AND THEY STARTED KIND OF PUSHING EACH OTHER UNTIL THE SHOT WENT OFF.

Q WERE YOU ABLE TO SEE A GUN WHEN YOU HEARD THESE GUNSHOTS?

A NO. I WAS NOT

Q WERE YOU ABLE TO SEE WHAT THE PERSON WITH THE MASK WAS DOING WITH HIS HANDS PRIOR TO HEARING THESE GUNSHOTS?

A NO

Q WERE YOU ABLE TO SEE WHAT THE HOTEL STAFF PERSON WAS DOING THAT WAS CHASING HIM, PRIOR TO THE GUNSHOTS?

A NOT OUTSIDE OF GRABBING THE BACK OF HIS JACKET. RP 42-43

(SEE APPENDIX A - EXHIBIT - E RP 42-43) TESTIMONY OF EYEWITNESS ANDREW HODGINS (PLS 84 OF THIS SECTION)

NEVERTHELESS, PROSECUTION'S EYEWITNESS ANDREW HODGINS CLEARLY DESCRIBES HOW MAYNOR'S APPREHENSION OCCURRED. PUT ANOTHER WAY, FOR MRS BRANDES TO SUGGEST THAT THE CROSS-EXAMINATION OF OMAR CROZ (WHICH ASSISTED ROBERTO SANDOVAL IN DETERMINING MR MAYNOR) AND ANDREW HODGINS TESTIMONY (WHICH OBSERVED MAYNOR'S APPREHENSION BY MR SANDOVAL FROM ACROSS THE STREET) WAS NOT NECESSARY, ULTIMATELY, PREVENTED MR MAYNOR FROM RECEIVING A FAIR TRIAL. - COUNSEL'S REFUSAL TO CROSS-EXAMINE THE TESTIMONY OF OMAR CROZ OR PROVIDE A DEFENSE AGAINST ALLEGATIONS OF ASSAULT AS ALLUD DURING CROZ'S TESTIMONY HAVE RESULTED IN IMPROPER ASSISTANCE OF TRIAL COUNSEL.

FAILURE TO IMPROPER KEY WITNESS MOST RESULT IN IMPROPER ASSISTANCE WHEN JURY MUST CONCLUDE A DEFENDANT GUILT.

12

WHEN THIS WITNESS IMPLICATED DEFENDANT (CITING) HIBBINS V RENICO, 470 F.3d 624 (6TH CIR. 2006)

GROUND 1

Argument
D

COUNSEL'S FAILURE TO CROSS-EXAMINE THE EYEWITNESS TESTIMONY OF PEDESTRIAN ANDREW HOANG, PREVENTED THE PETITIONER FROM DISPUTING ALLEGATIONS OF ASSAULT AGAINST ROBERTO SANDOVAL. COUNSEL'S INACTION HAS UNDERMINED THE OUTCOME OF MAYNOR TRIAL RESULTING IN PREJUDICE.

THE STATE'S ALLEGATIONS OF ASSAULT IN THE FIRST DEGREE AGAINST MR MAYNOR, IS BASED ON THE TESTIMONY OF ROBERTO SANDOVAL, OMAR CRUZ AND ANDREW HOANG. UNFORTUNATELY, COUNSEL'S FAILURE TO CROSS EXAMINE MR HOANG IS PROBLEMATIC, BECAUSE MR HOANG'S OBSERVATION OF SANDOVAL AND CRUZ APPROPRIATION OF MAYNOR IS DIRECTLY ACROSS THE STREET. WHEN MR HOANG IS ASKED TO DESCRIBE THIS ENCOUNTER HE TESTIFIES AS FOLLOWS:

"I GOT OUT OF THE CAR, WALKING INTO THE DOOR WHEN TO THE WEST THERE WAS A GENTLEMAN THAT WAS BEING PURSUED BY TWO HOTEL STAFF. THEY RAN RIGHT BY ME. THE CROSS STREET OF STEWART, TOWARD THE HOTEL MAX. (SEE APPENDIX A - EXHIBIT E EYEWITNESS TESTIMONY OF HOANG.)

FURTHERMORE, WHEN ANDREW HOANG IS ASKED TO DESCRIBE HOW THIS ENCOUNTER OCCURRED BETWEEN MAYNOR AND SANDOVAL, MR HOANG TESTIFIES BY SAYING:

"I WAS STANDING ROUGHLY HERE THE SCUFFLE PROBABLY STARTED SOMEWHERE IN THIS CORNER. THEY WERE FACING EACH OTHER AND YOU COULD TELL THERE WAS SOME SORT OF TUGGLE, SCUFFLE THAT WAS ENSUING.

Q CAN YOU DESCRIBE IN MUCH DETAIL WHAT YOU CAN REMEMBER WHAT YOU SAW?

A YEAH, BASICALLY, TWO GUYS THAT WERE ABOUT TO GET INTO AN ALTERCATION

Q WHO WAS DOING WHAT TO WHOM?

A THE HOTEL STAFF GRABBED THE GENTLEMEN BY THE COAT, THE OTHER SUSPECT TURNED AROUND AND THEY STARTED KIND OF PUSHING EACH OTHER UNTIL THE SHOTS WENT OFF. (SEE APPENDIX A, EXHIBIT-E PG 84)

— DURING STATE'S PROCEEDINGS, MR HOWARD IS ASKED WHERE HE WAS STANDING WHEN THIS APPREHENSION OCCURRED, HE TESTIFIES AS FOLLOWS:

Q WHERE ON THIS STILL SHOT IN THIS VIDEO, EXHIBIT NUMBER 13 WHERE YOU PARKED AND THE SHOE STORE? DO YOU SEE THE GENERAL AREA.

A YEAH, I CAN SEE THE GENERAL AREA

Q CAN YOU COME DOWN AND POINT IT TO US FOR THE JURY?

A SURE, I WAS PARKED RIGHT IN FRONT OF THIS WHITE CAR?

Q YOU ARE REFERRING TO THE WHITE CAR?

A ON THE OTHER SIDE

Q SO, THE UPPER LEFT-HAND CORNER AREA OF THAT PHOTOGRAPH?

A RIGHT

Q WAS THAT YOUR VANTAGE POINT THROUGHOUT THIS?

A FOR THE MOST PART UNTIL I CROSSED THE STREET

Q AT WHAT TIME DID YOU CROSS THE STREET TO THE NORTH SIDE OF STEWART?

A IT WAS PROBABLY SHORTLY AFTER HIS MASK WAS PULLED OFF AND THE POLICE WERE PRESENT.

Q DID YOU SEE WHEN THIS WAS HAPPENING?

A YES, I WAS JUST ON THE OTHER SIDE OF THE STREET.

A THEY WERE ABOUT - I WAS AT THE STARBUCKS ON SEVENTH AND STEWART.
THEY WERE KIND OF ADJACENT, ACROSS THE STREET FROM ME.
(SEE APPENDIX A EXHIBIT-G PG 218 LINE 24) TESTIMONY OF AMY BRAUN
Amy BRAUN TESTIFIES AS FOLLOWS:

Q WHAT HAPPENED WHEN THE SECURITY GUARD CAUGHT UP WITH THE
OTHER PERSON?

A THEY BASICALLY WENT TO THE GROUND.

Q WHAT HAPPENED AFTER THEY WERE ARRESTED AND WENT TO THE GROUND?

A SOON AFTER, THERE WAS A FIRE TRUCK

Q WHEN THEY WERE STANDING UP, YOU NOTICED SHOTS

A YES

Q HOW LONG WERE THEY ON THE GROUND BEFORE YOU HEARD THE FIRED
SHOTS?

A LESS THAN 15 SECONDS

Q AND WHEN YOU SAY WRITING, CAN YOU DESCRIBE MORE CLEARLY WHAT
YOU SAW?

A THEY WERE BASICALLY, THEY WERE BOTH ON THE GROUND AND THERE WERE
PUNCHES BEING THROWN, AND THEN OVERALL SCUFFLE AND SHOUTING

Q FROM THE TIME YOU SAW THEM RUNNING, DID YOU HAVE YOUR
ATTENTION DIVERTED FROM THEM AT ALL?

A NOT REALLY, I GRABBED MY PHONE AND CALLED 911.

(SEE APPENDIX A-EXHIBIT-G PG 220 LINE 24) PG 110 OF THIS PETITION ✓

THE CORROBORATING EYEWITNESS TESTIMONY OF AMY BROWN AND ANDREW HANCOCK ARE CRUCIAL WITNESSES WHICH DESCRIBE HOW SANDOVAL APPROPRIATED MAYNOR. FURTHERMORE, THESE EYEWITNESSES CLEARLY JUSTIFY THAT THERE WAS NO PUSH AS DESCRIBED DURING SANDOVAL'S TESTIMONY THAT HE PUSHED MAYNOR TO PREVENT HIM CROSSING STEWART STREET, NOR DOES MAYNOR PULL A HANDGUN FROM HIS POCKET AND POINT IT AT SANDOVAL, NOR DOES MAYNOR HAVE POSSESSION OF HIS HANDGUN HITTING SANDOVAL IN THE FACE AS SANDOVAL ALLEGED TO HAVE OCCURRED. ANDREW HANCOCK'S TESTIMONY IS CRITICAL IN DISPUTING FALSE ALLEGATION OF ASSAULT IN THE FIRST DEGREE DURING TRIAL.

TRIAL COURT'S REFUSAL TO CROSS-EXAMINE THIS CRITICAL EYEWITNESS OR ADDRESS ALLEGATION OF ASSAULT IN THE FIRST DEGREE HAS RESULTED IN PERJURY.

GROUND 1

E

TRIAL COUNSEL'S DESPITE STATES THEORY OF DEFENSE AND REFUSAL TO EXAMINE MAIN WITNESSES AND KEY WITNESS TESTIMONY TO LITIGATE FALSE ALLEGATIONS OF ASSAULT IN THE FIRST DEFENSE COUNT 3 HAVE PREVENTED THE PETITIONER FROM RECEIVING A FAIR TRIAL.

MAVLOK TESTIFIED, AND GIVES A CANDID RECOLLECTION OF EVENTS WHICH RESULTED IN HIS ARREST, INCLUDING THE ROBBERY OF HUYNH AND CHIZOUS ARREST BY SANDOVAL. HOWEVER, COUNSEL'S REFUSAL TO LITIGATE FALSE ALLEGATIONS OF ASSAULT IN THE FIRST DEFENSE AND ENHANCEMENTS IMPOSED FOR COUNTS 1 THROUGH 4 IS EXTREMELY PROBLEMATIC. IT WOULD BE COMPLETELY UNREASONABLE FOR COUNSEL TO SUGGEST THAT NOT EXAMINING CRITICAL WITNESS TESTIMONY ESPECIALLY MAIN WITNESSES TO HUYNH AND ROBERTO SANDOVAL WAS UNNECESSARY OR IN ANY WAY CONSTITUTE SOUND TRIAL STRATEGY.

BASIC FAIRNESS REQUIRES CROSS-EXAMINATION OF MAIN WITNESS TESTIMONY. *GRASECLOSE V BALL*, 130 F.3d 1161, 1169-70 (6th CIR 1997) FOR EXAMPLE COUNSEL'S CLOSING ARGUMENT HAS SUGGESTED BEFORE THE JURY THAT MAVLOK'S CREDIBILITY SHOULD BE VIEWED THROUGH THE LENSES OF HIS "OBSERVATIONS". THIS NARRATIVE PROVES PREJUDICIAL GIVEN THAT COUNSEL DOES NOT EVEN EXAMINE THESE CRITICAL WITNESSES AND MAKES MIS STATEMENTS BEFORE THE JURY TO SUGGEST THIS MISLEADING DEFENSE THEORY WHEN COUNSEL SAYS DURING CLOSING ARGUMENTS:

"HE WANTED TO GET AWAY OR HE WOULD BE DEAD. ONE WAY OR ANOTHER IT WAS GOING TO END" RP 308 LINE 8th 10 - OR BY SAYING:

"DESPITE PEOPLE DO DESPITE THINGS" RP 299 LINE 20

Furthermore, I disagree with counsel's reasoning that that sound trial strategy would exclude litigating allegations of assault in the first degree during trial proceedings. In other words, despite counsel's belief that nonexamination of main witness testimony as unnecessary is clearly unreasonable and have prevented the petitioner from receiving a fair trial.

ARGUMENT Ground 1 F

TRIAL COUNSEL'S CUMULATIVE ERRORS AND FAILURE TO EXCULPATE ALLEGATIONS OF FIRST DEGREE ASSAULT AGAINST TU HUYNH OR ROBERTO SANDOVAL AT TRIAL, HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL.

THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND/OR ARTICLE 1 SECTION 22 OF THE WASHINGTON STATE CONSTITUTION PROVIDES IN PART THE RIGHT OF CROSS-EXAMINATION. FURTHERMORE, THE PETITIONER MUST BE PERMITTED TO TEST BOTH THE WITNESSES KNOWLEDGE OF MATERIAL FACT, BECAUSE A JURY'S DETERMINATION OF THOSE FACTS WOULD MORE LIKELY THAN NOT HINGE UPON CROSS-EXAMINATION OF PRINCIPAL AND KEY EXHIBIT WITNESS TESTIMONY - AS NOTED IN STRICKLAND:

"THE BENCHMARK FOR JUDGING ANY CLAIM OF INEFFECTIVENESS MUST BE WHETHER COUNSEL'S CONDUCT SO UNDERMINED THE PROPER FUNCTION OF THE ADVERSIAL PROCESS THAT THE TRIAL CANNOT BE RELIED ON AS HAVING PRODUCED A JUST RESULT" ((STRICKLAND V WASHINGTON 466 US 668 801 ED 2D 674 104 S CT 2652)). NEVERTHELESS, AN EXAMPLE OF THIS PREJUDICE OCCURS WHEN DEFENSE COUNSEL FAILS TO CROSS EXAMINE: ROBERTO SANDOVAL, TU HUYNH, OMAR CRUZ, ANDREW HOANG, MICHAEL EPSTEIN, ANH HOANG, STEPHANIE MCKINNEY, DAVID CLEMENT, THOMAS CORROD AND ALMER SMITH. NOT ONLY HAVE MS BRANDES FAILURE TO CONFRONT AND CROSS EXAMINE PRINCIPLE AND KEY EXHIBIT WITNESSES PROBLEMATIC, BUT COUNSEL'S CONDUCT HAVE UNDERMINED THE PROPER FUNCTION OF THE ADVERSIAL PROCESS, RESULTING IN PREJUDICE.

(SEE APPENDIX A, EXHIBIT H - WITNESS INDEX VOLUME 1 AND 2) PG 118

COUNSEL'S INACTION AND FAILURE TO DISPUTE ACCUSATIONS OF ASSAULT IN THE FIRST DEGREE AND CONSECUTIVE FIREARM ENHANCEMENTS IMPOSED FOR COUNTS THREE AND FOUR HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL.

(A)

ARGUMENT

GROUND TWO

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

ON DIRECT APPEAL, COUNSEL LILA J. SILVERSTEIN FAILS TO DISPUTE TRIAL COUNSEL'S INEFFECTIVENESS FOR FAILURE TO CROSS-EXAMINE TU HOYNH (COUNTS 1 AND 4), AND ANDREW HOBBS, OMAR COOZ AND ROBERTO SANDOVAL (COUNT 3). APPELLATE COUNSEL'S FAILURE TO ADDRESS THE CORROBORATING EYEWITNESS ACCOUNT OF ANDREW HOBBS AND AMY BRAUN WHICH CONTRADICT SANDOVAL'S TESTIMONY THAT HE WAS ASSAULTED BY MAYNOR HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ON DIRECT APPEAL.

CLAIMS OF INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ARE REVIEWED IN ACCORDANCE WITH THE STANDARD SET OUT IN STRICKLAND V WASHINGTON 466 U.S. 668, 104 S. CT. 2052, 80 L ED. 2D 674 (1984) FIRST THE PETITIONER MUST SHOW THAT APPELLATE COUNSEL'S PERFORMANCE WAS UNREASONABLE WHICH ON APPEAL REQUIRES THE PETITIONER TO DEMONSTRATE THAT COUNSEL'S CONDUCT WAS DEFICIENT; IN FAILING TO DISCOVER WITHIN THE RECORD A MERIT-WORTHY ISSUE WHICH COULD HAVE BEEN RESOLVED ON DIRECT APPEAL. AND SECOND, THE PETITIONER MUST SHOW PREJUDICE, WHICH IN CONTEXT MEANS THAT THE PETITIONER MUST DEMONSTRATE A REASONABLE PROBABILITY OR MORE LIKELY THAN NOT, THAT BUT FOR APPELLATE COUNSEL'S FAILURE TO PRESENT A MERITS BRIEF CONTESTING AN ISSUE OF CONSTITUTIONAL SIGNIFICANCE, THAT THE APPELLANT WOULD HAVE PREVAILED HIM/HERSELF OF ALLEGATIONS WHICH WERE CLEARLY WITHIN THE RECORD ON DIRECT REVIEW. IN OTHER WORDS, APPELLATE COUNSEL'S FAILURE TO ADDRESS ALLEGATIONS OF INTENTIONAL ASSAULT AGAINST ROBERTO SANDOVAL WAS PREJUDICIAL TO THE OUTCOME OF MAYNOR'S DIRECT APPEAL.

(A)

APPELLATE COUNSEL'S PERFORMANCE ON DIRECT APPEAL WAS CONSTITUTIONALLY DEFICIENT FOR FAILURE TO RAISE CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILURE TO CROSS-EXAMINE: OMAR CRUZ, ANDREW HOAGS AND STAR WITNESS ROBERTO SANDOVAL.

11

AS BEING MENTIONED, EDWARD MAYNOR IS REPRESENTED ON DIRECT APPEAL BY COUNSEL LILA J SILVERSTEIN. MOREOVER THE RECORD REFLECTS COUNSEL'S SAME CRIMINAL CONDUCT ARGUMENT, REGARDING THE SHOT MAYNOR FIRED IN THE STORE AND SHOT MAYNOR FIRED TO ESCAPE WITH THE STOLEN TRAY OF ENGAGEMENT RINGS, BUT COUNSEL FAILS TO CONTEST THE ADDITIONAL FIREARM ENHANCEMENT IMPOSED FOR THE ROBBERY COUNT 4.

(SEE APPENDIX A EXHIBIT K - MAYNOR'S JUDGMENT AND SENTENCE)

FURTHERMORE, APPELLATE COUNSEL DOES NOT DISPUTE TRIAL COUNSEL'S INACTION FOR DENYING MAYNOR'S CONSTITUTIONAL RIGHT TO CONFRONT AND CROSS-EXAMINE TO HUYNH OR DISPUTE THE CONSECUTIVE FIREARM ENHANCEMENT IMPOSED FOR COUNT 4 ON DIRECT APPEAL. IN OTHER WORDS, COUNSEL'S FAILURE TO PRESENT A MERITS BRIEF ADDRESSING TRIAL COUNSEL FAILURE TO CROSS-EXAMINE: TO HUYNH, ROBERTO SANDOVAL, OMAR CRUZ, PEDESTRIAN ANDREW HOAGS, ALMER SMITH, THOMAS CORREA, DAVID CLEMENT, STEPHANIE MCKINNEY, MICHAEL EASTMAN AND DAVID HOAGS HAVE PROVEN PREJUDICIAL TO THE OUTCOME OF MR MAYNOR'S DIRECT APPEAL.

(SEE APPENDIX A EXHIBIT H WITNESS INDEX VOLUME 1 AND 2) PG 118 OF THIS PETITION

"DENIAL OF THE RIGHT OF EFFECTIVE CROSS-EXAMINATION IS CONSTITUTIONAL ERROR OF THE FIRST MAGNITUDE WHICH NO AMOUNT OF SHOWING OR WANT OF PREJUDICE CAN CURE.

DAVID V ALASKA 415 US 308, 318, 943, CT 1105 39L
ED. 2d 347 (9TH CIR 1974)

INEFFECTIVE ASSISTANCE OF COUNSEL REQUIRED BOTH DEFICIENT PERFORMANCE BY COUNSEL AND PREJUDICE STRICKLAND V WASHINGTON 466 US. 668, 104 S. CT 2052, 80 L ED. 2d 674 (1984)

NEVERTHELESS, THE RECORD AND THE EYEWITNESS TESTIMONY OF

AMY BROWN IS CLEAR; AS SHE OBSERVED MAYNOR APPREHENSION BY MR SANDOVAL FROM WITHIN THE STARRUCKS, DIRECTLY ACROSS THE STREET ON 7TH AND STEWART RP 218 LINE 6-9. THE TESTIMONY OF AMY BROWN CLEARLY STATES, THAT MAYNOR NEVER ACTED MALICIOUSLY, NOR DOES MAYNOR PULL A HANDGUN FROM HIS POCKET AND POINT HIS HANDGUN AT MR SANDOVAL, NOR DOES MAYNOR AFTER HE IS TACKLED TO THE GROUND HAVE POSSESSION OF HIS HANDGUN HITTING MR SANDOVAL IN THE FACE AS SANDOVAL CLAIMS TO HAVE OCCURED.

(SEE APPENDIX A - EXHIBIT G - EYEWITNESS TESTIMONY OF AMY BROWN)

FURTHERMORE, THE EYEWITNESS TESTIMONY OF ANDREW HOANG'S CORROBORATES AMY BROWN'S RECOLLECTION OF HOW MR MAYNOR IS DETAINED BY ROBERTO SANDOVAL AS HE STOOD DIRECTLY ACROSS THE STREET. HOANG DESCRIBES HOW THIS ALTERCATION BETWEEN MAYNOR AND SANDOVAL OCCURED WHEN HE SAYS:

"YES I WAS STANDING ROUGHLY HERE, THE SCUFFLE WAS PROBABLY STARTED SOMEWHERE IN THIS CORNER, THEY WERE FACING EACH OTHER AND YOU COULD TELL THERE WAS SOME SORT OF TUSSELE, SCUFFLE THAT WAS ENSUING RP 42 LINE 15-17 (SEE APPENDIX A) (EXHIBIT - E - EYEWITNESS TESTIMONY OF ANDREW HOANG) THIS RECORD IS CLEAR, IN DESCRIBING HOW MAYNOR'S APPREHENSION OCCURED. NEVERTHELESS, DESPITE MRS SILVERSTEIN FAILURE TO PRESENT A MOTION'S BRIEF TO HIGHLIGHT THE CORROBORATING EYEWITNESS TESTIMONY OF AMY BROWN AND ANDREW HOANG, MR MAYNOR WAS DENIED HIS CONSTITUTIONAL RIGHT TO EXAMINE IN THE LENSE SANDOVAL'S TESTIMONY AT TRIAL. HAD LATE COUNSEL'S FAILURE TO PRESENT A MOTION'S BRIEF WHICH SPECIFICALLY DISPUTE FALSE ALLEGATIONS OF FIRST DEGREE ASSAULT AGAINST ROBERTO SANDOVAL HAVE PREJUDICED MAYNOR'S DIRECT APPEAL.

(SEE APPENDIX A EXHIBIT F, TESTIMONY OF ROBERTO SANDOVAL)

OF THIS PORTION)

(B)

APPELLATE COUNSEL'S FAILURE TO RAISE CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILURE TO CROSS-EXAMINE: ANDREW HOWARD, OMAR CRUZ AND PRINCIPAL WITNESS ROBERTO SANDOVAL HAVE RESULTED IN PREJUDICE ON DIRECT APPEAL.

- 2) THE RECORD ON DIRECT APPEAL IS CLEAR IN DESCRIBING HOW THE PETITIONER IS DEPRIVED HIS CONSTITUTIONAL RIGHT OF CONFRONTATION AND CROSS-EXAMINATION WHEN TRIAL COUNSEL FAILS TO CROSS-EXAMINE ROBERTO SANDOVAL, OMAR CRUZ, PASTORIAN ANDREW HOWARD, TU HUYNH ALMER SMITH, THOMAS CORRAL, DAVID CLEMENT, STEPHANIE MCKINNEY MICHAEL EASTMAN AND ANH HOWARD. HOWEVER, APPELLATE COUNSEL FAILURE TO PRESENT A MEMORANDUM BRIEF ADDRESSING THESE ERRORS THAT OCCURRED AT TRIAL, HAVE RESULTED IN INEFFECTIVENESS OF APPELLATE COUNSEL. THIS PREJUDICE ENCOMPASS, APPELLATE COUNSEL OMITTING TRIAL COUNSEL'S FAILURE TO CROSS-EXAMINE PRINCIPAL WITNESSES TU HUYNH AND ROBERTO SANDOVAL, IN VIOLATION OF MR MAYNOR'S CONSTITUTIONAL RIGHT PURSUANT TO ARTICLE I SECTION 22 OF THE WASHINGTON CONSTITUTION, AND THIS PREJUDICE EXTENDS TO APPELLATE COUNSEL OMITTING THE CORROBORATING EVIDENCES ACCOUNT OF AMY BRAUN AND ANDREW HOWARD FROM APPELLATE BRIEFING, WHICH CLEARLY DESCRIBE MR MAYNOR APPREHENSION, AND REFUTE THAT MAYNOR ASSAULTED ROBERTO SANDOVAL, AS ALLEGED DURING HIS TESTIMONY. REVIEW OF THE RECORD INDICATES THAT TRIAL COUNSEL REFUSED TO CROSS-EXAMINE: ROBERTO SANDOVAL AND TU HUYNH, HAVE PREJUDICED THE OUTCOME OF MAYNOR'S TRIAL. FURTHERMORE, ON DIRECT REVIEW, APPELLATE COUNSEL DOES NOT ASSERT MAYNOR'S CONSTITUTIONAL RIGHT OF CROSS-EXAMINATION, NOR CONTEST ACCUSATIONS OF ASSAULT IN THE FIRST DEGREE AND FIREARM ENHANCEMENTS IMPOSED FOR COUNTS 3 AND 4. APPELLATE COUNSEL IS CONSTITUTIONALLY REQUIRED ON DIRECT APPEAL TO ADDRESS ISSUES OF CONSTITUTIONAL SIGNIFICANCE (SEE APPENDIX A EXHIBIT-E) (EVIDENCES TESTIMONY OF ANDREW HOWARD COUNT 3) WHEN THE RECORD CLEARLY

INDICATES THAT A CONSTITUTIONAL VIOLATION HAS OCCURRED.

(SEE APPENDIX A - EXHIBIT - F) (TESTIMONY OF MAIN WITNESS ~~REBERTO~~ SANDOVAL

"THE SIXTH AMENDMENT RIGHT OF CONFRONTATION OF WITNESSES MEANS MORE THAN BEING ALLOWED TO CONFRONT THE WITNESSES PHYSICALLY AND THE PRIMARY INTEREST SECURED BY THE SIXTH AMENDMENT IS THE RIGHT OF CROSS-EXAMINATION" - DAVID V. ALASKA 415 U.S. 308, 318 943, CT, 1105, 39 L. ED. 2D 347 (9TH CIR 1974)

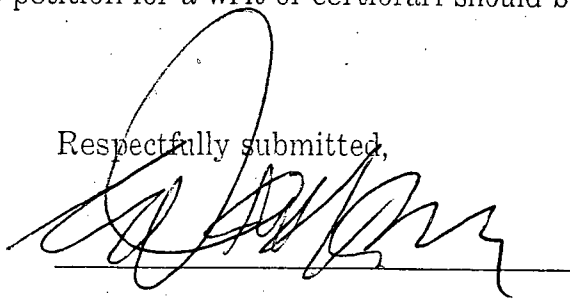
APPELLATE COUNSEL STRATEGIC DECISION) NOT TO PRESENT TO THE COURT OF APPEALS A MERIT WORTHY BRIEF WHICH WOULD ADDRESS THE CORROBORATING EYEWITNESS TESTIMONY OF AMY BROWN AND ANDREW HOWLS WHICH CLEARLY PROVES THAT MAYOR ASSAULTED SANDOVAL AFTER THE REFUSAL OF TO HONOR OR COUNSEL REFUSED TO RAISE CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR COUNSEL'S FAILURE TO PRESENT A DEMURSOR OR EXAMINE THE TESTIMONY OF ANDREW HOWLS, OMAR CRUZ OR MAIN WITNESS REBERTO SANDOVAL REGARDING ALLEGATIONS OF ASSAULT IN THE FIRST DEGREE AT TRIAL HAVE RESULTED IN INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ON LAST APPEAL. APPELLATE COUNSEL'S INACTION HAVE VIOLATED THE PETITIONER'S CONSTITUTIONAL RIGHT ON APPEAL TO PRESENT A DEMURSOR AS PROVIDED BY THE SIX AMENDMENT OF THE UNITED STATES CONSTITUTION.

SEE EYEWITNESS TESTIMONY OF ANDREW HOWLS AND AMY BROWN COURT TRIAL.

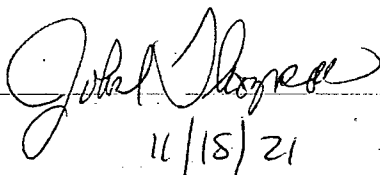
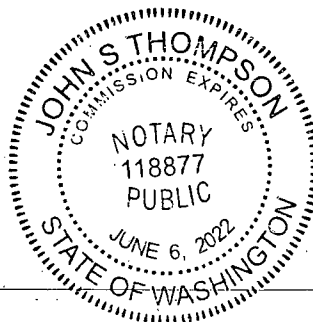
CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11-18-21



11/18/21