

66526-0

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Form 7. Statement of Additional Grounds for Review  
[Rule 10.10(a)]

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STATE OF WASHINGTON  
2011 DEC 14 PM 4:29

IN THE COURT OF APPEALS OF THE STATE OF  
WASHINGTON  
DIVISION I

RECEIVED

DEC 13 2011

State of Washington

Respondent,

v.

David Bryner

Appellant.

Washington Appellate Project

Court of Appeals Cause No. 66526-0

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I David Bryner, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief.

I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground I

The state failed to comply with  
Confrontation clause. I was not prepared  
for cross examination with Detective  
Williams because he wasn't on the

~~Additional Ground~~ II

witness list be for omnibus. The  
State is required to have all  
witness available for defense prior  
to trial so I can be prepared for

If there are additional grounds, a brief summary is attached to this statement.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(cross examination at trial.

State v Williams 136 Wn App 486 (501-502)  
P 34 116 2007

(16) Williams next contends that the admission of the cell recording

violated his rights under the confrontation clause of the Sixth Amendment, which guarantees criminal defendants the right to be confronted with the witnesses

against them. Accordingly, a testimonial statement of a witness absent from

trial is properly admitted only where (1) the declarant is unavailable and (2)

the defendant has had a prior opportunity to cross examine the

declarant. Crawford v. Washington 541 U.S. 36, 59 121 S. Ct. 1354

Crawford v Washington 1355

(c) The confrontation clause text

(3)

does not alone resolve this case,  
so the court turns to the  
clause's historical background. The  
history supports two principal evils  
at which the clause was directed  
was the civil law made or  
criminal procedure, particularly the use  
of ex parte examination as  
evidence against the accused. The  
clause's primary object is testimonial  
hearsay, and interrogations by law  
enforcement officers fall squarely within  
that class. Second, the Framers  
would not have allowed admission  
of testimonial statements of a  
witness who did not appear at

trial unless he was unavailable to (4)

testify and the defendant had

had a prior opportunity for

cross examination. English authorities

and early state cases indicate

that this was the common law

at the time of the founding.

And the right to be confronted

~~with~~ with the witnesses against

him. Amdt. 6 is the most naturally

read as a reference to the

common law right of confrontation,

admitting those exceptions established

at the time of the founding.

"The partiality of a witness is subject to exploration at trial and is always relevant as discrediting the witness and effecting the weight of his testimony."

The Sixth Amendment to the constitution guarantees the right of an accused in a criminal prosecution to be confronted with the witness against him. The right is secured for the defendant in state as well as federal proceedings under *Pointer v Texas* 380 us 407 pg 1070

"Since we hold the right of an accused to be confronted with the witness against him must be determined by the same standards whether the right is denied in a federal or state proceeding, it follows that use of the transcript to convict the petitioner denied him a constitutional right and this conviction must be reversed."