

ATTACHMENT K

May 24, 1999

Washington State Supreme Court
P. O. Box 4029
Olympia, Washington 98504-0929

Re: Personal Restraint Petition of Darold R.J. Stenson
No. 66565-6

Washington State Supreme Court:

I would like to have this letter included as an addendum to my declaration for my personal restraint petition. I apologize that this addendum is in letter form, but I am not an attorney and I will not attempt to convince this court that I am. I want this included as an addendum because my appointed attorneys had so little time to properly prepare and there was not enough money or time allocated for investigators to properly investigate, locate witnesses, and document evidence that my trial attorneys refused to spend their time on. Even though every single piece of evidence against me could have been explained, shown to be exaggerated or wrong, or were down right false, if my attorneys would have taken the time to do so!

Every attorney that I have spoken with has told me that because this court is an elected body, I should not expect relief in this phase, that I will have to wait until I reach the federal appeal level. I don't understand why this should be but I have been told I must have all of my issues documented in this phase or I will not be able to bring them up in the federal courts. Before, and after, my P.R.P. attorneys were appointed, I informed both them and this court that the time and the money allocated for investigative work was sadly insufficient. So I feel that I must write this addendum to insure that some of my issues are recorded.

I am absolutely and unequivocally innocent of the crimes that I was convicted of. My conviction of these crimes was the result of a conspiracy! Not your normal concept of a conspiracy, but a conspiracy none the less, a conspiracy of silence and convenience that involved the prosecutors, the judge, and my court appointed attorneys.

Clallam County is a very tight knit rural community, all of the county employees work closely together on every thing that they can, or else their system won't work. In the months before my trial was to start, a couple of juveniles broke into the Port Angeles High School and did extensive damage. They were apprehended and Prosecutor Bruneau wanted to try them as adults, Judge Williams ruled that they would not be. This incensed Bruneau so much that he went to the Port Angeles newspaper, The Peninsula Daily News, and publicly rebuked Judge Williams, calling him every stereotypical liberal slur that he could on the front page, concluding his tirade with the statement, "that after the

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Stenson case, he would no longer bring any cases before Judge Williams' court. My copy of this article has been taken by officers of the Washington State Penitentiary as contraband because of it being over six months old, but it can still be gotten from the Peninsula Daily News.

There had been bad blood between the two long before this though. Before Judge Williams was a judge, he had represented Mrs. Bruneau in her divorce proceedings against Prosecutor Bruneau and had procured a very generous settlement for her. Prosecutor Bruneau thought that the settlement was unfair to him and he blamed Attorney Williams for his disadvantage, not being at all shy about that dissatisfaction.

So Judge Williams has an irate prosecutor, telling all of Clallam County that after my case, he won't bring further cases in front of his court because the county will not get justice from him. Then, just before my case is to start he hears from a defense attorney that he thinks that his client is guilty and that he will not put up a spirited defense for him, only a brief cross examination of witnesses. Here is the perfect opportunity to mend some fences. The prosecutor would be allowed to present whatever version of what happened that they want and the defense attorney will not do much of anything to rebut or refute this. The perfect opportunity for an attempted reconciliation. Subconscious or conscious, this thought was there.

Judge Williams refused my requests for new attorneys and to be able to defend myself, even though they were within federal time requirements, by saying that my requests were not "timely". I made those requests the day that I was told by my appointed attorneys that I would have no defense. How much more timely could I get? The untimely, was on the part of my appointed attorneys, yet I was held liable for their deceptions.

I threatened my lead attorney, Fred Leatherman, that I would bring him before the bar and would bring suit to compel him to do his job. His statement to me was "go ahead that he would do just enough to keep from getting in trouble with bar and the court."

He spent all of his time working on pre-trial motions and the sentencing phase of my trial. He did virtually nothing for my actual trial! But then even his pretense of "doing just enough" ended in a pre-trial hearing on D.N.A., when Prosecutor Bruneau became so enraged at Mr. Leatherman that he rushed over to the defense table and glowered over a sitting Leatherman, calling him "nothing but a shyster attorney" and then he went so far as to scream out that he would like to take my attorney out behind a barn somewhere! Leatherman did not even dare to look at the prosecutor, nor did he respond to his accusations. He was so intimidated that from that time on, there was virtually no pretense of a defense for me. Sadly, this was the only time, during my trial that Prosecutor Bruneau was correct about anything.

To further show this conspiracy of convenience, during a

break in testimony of prosecution witnesses, before my so called defense had been presented or the case presented to the jury, Attorney Leatherman stands up and gives Judge Williams dates that he would like the sentencing phase of my trial to start. He wanted a date set up so that he wouldn't have to postpone his Hawaiian vacation again. Judge Williams replied "that was a good idea because he wanted to get his vacation in too!" Vacations for all was much more important than justice or even my life was!

My conflicts with Mr. Leatherman started almost as soon as he was appointed. He came to detest both myself and my family because we would not go along with the "shyster attorney stories" that he wanted to tell. He felt badly and partially blamed himself because he had lost a previous death case, Jonathan Gentry's, and he thought that he had come up with a great idea that could save the life of almost anyone accused in a death penalty case. He would pick a good Christian jury, quote from the bible, and reason with his Christian jury that they really didn't want to kill anyone. However he was not even allowed to use his bible quoting ploy, because Kitsap County, Prosecutor Clem, called Bruneau and told him that he had also tried to do this in his loss of the Gentry case. Later when Kitsap County voted Clem out of office, Prosecutor Bruneau hired Clem as his assistant in Clallam County and supported him in his unsuccessful run for Judge William's office.

Mr. Leatherman tried to get me to admit to things that did not happen, and because I didn't agree with him he called me a liar in front of his whole team. He then sent his mitigation specialist, Mary Hudson, to North Dakota, to visit my parents and attempt to get my mother to admit that she had taken some kind of drug, during her pregnancy with me, and that it had caused me to become mentally diminished. Leatherman then told my parents that he thought that I was guilty and that if she had taken any drugs, that could save my life. My mother had taken no such drugs and refused to lie.

Next he met with my two oldest sisters, Wendy Cynkar and Twila Wentz, and tried to get them to admit that we had been physically or sexually abused by my father during our youth. No such abuse occurred and my sisters also refused to lie. He persisted, telling them that things like that were easy to repress and that he knew because he had did so.

Finally he went to the Oberman family, my in-laws, and showed them a picture of tiny spots on my pants, telling them that because of this picture he thought I was guilty! This was also over a month before he bothered to get a single expert opinion on the subject, he considered himself an expert. Up until that time my in-laws had supported me unequivocally. Why would a defense attorney, a man who was being paid by Clallam County to work for me, do or say any of these things?

As I have previously stated, in my declarations of innocence, every piece of evidence against me could have

been explained or refuted. The following are only a few of the many things that Mr. Leatherman could have did and I pleaded for him to do, but he chose not to.

With the very first witness, Ms. Stocker, the jury could have been shown the exaggeration of the evidence presented against me if she had been professionally cross examined. In a further showing of Leatherman being totally unprepared for the guilt or innocence phase of my trial, Ms. Stocker's testimony was supposed to start at 9:00 A.M., but the court had to grant a delay until 10:00 A.M. because my attorneys didn't even know who she was or what she was going to testify to! Her name had been on the prosecution's witness list for over a month and they not bothered to even find out who she was! The jury heard her testify that I had threatened my wife while agreeing to let her take a new truck for a drive. That I had told her that she had better be careful and the prosecutor told the jury that my statement was a threat. But what both the prosecutors and my attorneys knew, and the jury was never informed of, was that my wife was a terrible driver. It had only been a year or so since she had gotten her drivers license returned because it had been suspended for three years for too many tickets and accidents. I told her to be careful almost every time she went driving. What the jury was also not told, but both my attorneys and the prosecution knew, was that the sale on the truck was not final and indeed never happened, nor was there insurance for us on the vehicle yet. So because these facts were not presented to the jury, the prosecutor was allowed to claim that I was some threatening, controlling monster and both the prosecutor and my attorneys knew that this was not so!

Standard police procedure at a murder scene would dictate that law enforcement personal would preform a gunpowder residue test on all people present. This was not done, even though there was two other adults present, I was the only one tested. My attorneys chose not to inform the jury of this. They were then told by the prosecution that a minute amount of powder residue was found on my pants. They were not told that the F.B.I. had those pants for over eight months, because of the Waco incident, and when they were finally tested, no gunpowder residue was found. The pants were then sent back to the Clallam County Sheriffs Department where Det. Monte Martins then took them to his home to be checked. He later took them to Portland for a Dr. Englert to give an expert opinion on. While at Dr. Englerts office Det Martins actually put my pants on and rolled around on Dr. Englert's lab floor, trying to duplicate his imagined crime conditions. My pants were then sent back to the F.B.I. to be tested again and lo and behold the minute spec of gunpowder residue was found! Why would not a jury be told of these facts when both the prosecutors and the defense attorneys had knowledge of this faulty chain of command and the late findings of this residue?

The jury was told that a bloody fingerprint was found on

the side of one of our freezers. What they weren't told was that the freezer contained hundreds of dressed out quail and pheasants that we had raised on Dakota Farms. Nor were they told of the utility sink in front of the freezer was where we washed and packaged, after their slaughter, these birds for freezing. In all probability every single package would have my bloody fingerprints on them, bird blood! But again my attorneys decided that the jury didn't need to hear these facts.

The prosecutors hired a C.P.A. to analyze one of our farms accounts, a Mr. Wolfe. This account was in the process of being closed out! No other accounts were looked at, even though they were acknowledged and thousands of dollars were in them. Mr. Wolfe had no knowledge of the bird business. I begged my attorneys to hire an expert C.P.A. who had knowledge of the bird business to better understand how the time of the seasons and bird inventory affects the bottom line. Mr. Leatherman refused to do so saying it wasn't necessary because his secretary would analyze the single account instead!

The jury and the media were repeatedly told that there was some kind of love interest between Frank Hoerner and my wife or Denise Hoerner and myself. Justice Guy, in his written denial of my direct appeal, even mentions this, but what the Supreme Court and my jury was not told was that both of the Hoerners were infected with the genital herpes virus. Both the prosecutors and my attorneys knew of this because the investigating sheriffs discussed it in detail with Denise Hoerner in their discovery. My attorneys allowed the prosecutor to speak of these false love interests without informing the jury of their infection of this disease. Why did my attorneys feel that the jury didn't need to know of these facts? My wife and I thought it was kind of strange in that Frank had told me that his wife had given them to him and Denise Hoerner had told my Denise that Frank had given them to her. There is no way that either my wife or myself would have been romantically involved with anyone we knew that had a possible contagious venereal disease.

So much was made of my initial thought that Frank had killed my wife and then himself. When I first saw Frank, he was lying on the floor with the left side of his face showing. Only a small amount of blood was visible and a gun was lying next to his hand. When I next found my wife, also shot, and I had neither seen nor heard anything else, it was the first thought that came to my mind and that made sense. Much later on, during my trial, I was shown pictures of Frank's right side of his face. It was very obvious that someone had severely beaten that side of his face. If I would have seen the right side I doubt that I would thought or said that Frank had shot himself as the right side of his face was severely bruised and cut up, very obvious that he had been beaten! I don't think that anyone who saw what the right side of Frank's face looked like would have thought

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that he had shot himself. I never saw the right side of his face. Pictures of Frank, lying with the left side of his face showing, as I found him, and then the severely beaten right side, which I never saw, should have been shown repeatedly to the jury, but it was only casually mentioned by my attorneys.

The private investigator that Leatherman hired to do his investigative work was Jeff Walker. While he was a very nice individual he was a totally inept investigator for my case. I constantly called him at his home office requesting him to question certain witnesses and document certain facts. He either said that he would have to get Leathermans consent or he ignored virtually everything that I requested him to do. Our discussion usually ended with me listening to what his kids were doing as he watched them instead of working for the more than \$20,000 that he billed Clallam County for! All you have to do to verify how ill-prepared and insincere he was about his job is to go back to the testimony that he gave during pre-trial motions. During the prosecutors examination of his work in interviewing Dr. Englert, he was made to look like a total fool! He was not prepared to answer any of the prosecutors questions and was so nonchalant he never even bothered to bring his interview notes with him. Prosecutor Bruneau couldn't believe this and stated that "he had never heard of a private investigator who neglected to use his own notes!" He went on to question his billing practices but nothing else was ever done.

Prosecutor Bruneau was allowed to tell the jury, and later this court, outright lies. My appointed attorneys knew that his statements were lies and could have shown them to be so, but they did nothing to inform the jury of them. Bruneau told my jury and this court that Kit Eldridge received insurance payments and deeded the farm property over to me. This is not true and did not happen, an outright lie! The property was never deeded to me. Prosecutor Bruneau went on to tell the jury and then this court that I was so irresponsible and strapped for money that I missed making payments for the first six months of the farms purchase. He had the farms bank records and he knew that, I personally, never made payments for the first twenty-two months of our purchase. These payments were made by a third party, Bill Perry, who had put our deal together. The funds for these payments came mainly from proceeds from real estate interests and considerations from past real estate projects. My attorneys knew this, they had the figures from me and where they came from. They again chose to do nothing. Prosecutor Bruneau also lied to the jury and this court in telling them that I had declared personal bankruptcy. A lie that must have particularly caught this courts eye because Justice Guy mentions it on page seven of my direct appeal denial. I have never declared personal bankruptcy, a fact that can be easily verified.

My appointed attorney, kept refusing to investigate and

document my requests because he said they would interfere with his attempt to save my life. He would not even consider, that by proving my innocence he would also save my life! I now believe that he didn't and doesn't even want that! He did everything he could to keep my innocence from being shown during my trial and then told the sentencing jury that I accepted their guilty verdict! Another outright lie, I have never and will never accept this false verdict. I also believe that he will continue to do all that he can to prevent my innocence from being shown.

He detested myself and my family because we wouldn't go along with his scheme. He said that I was a liar because he didn't feel that there was enough time for Frank to go back to my office and sign bird insurance forms and that he believed that they never even existed because the prosecutors said that they never existed! Even though in my interview by Sgt. Gates, on the day my wife was shot, I tell him that the forms are on my desk and that we can go see them. His reply was that it wasn't necessary.

Approximately half way through my trial, the prosecution showed a video that they took of my office, as the camera panned across my desks, suddenly I saw the insurance forms that both my attorneys and the prosecutors said never existed! They were lying on top of my side desk just like I had said that they were. During my excitement in telling Leatherman this, the prosecution also heard my statements as to the documents existence. Leatherman refused to even attempt to look for them, but during the next days court, at about 4:30 P.M., as the court was about to recess, all of a sudden Prosecutor Burneau introduces one of the two bird insurance forms that Frank Hoerner had signed. This late time was used because the jury, being tired and looking forward to going home, took absolutely no notice and once again my attorneys said nothing as to the relevance of this document to the jury.

Further evidence of Leathermans dislike of me, besides his courtroom statements that he couldn't stand the sight of me, occurred on the day that he told me that he was not going to put up a defense for me, only about a week before my trial was to start. In this meeting, Mary Hudson, Dave Neupert, and Jeff Walker were also present. After telling me of my coming no defense he then told me "that many of his clients had found useful and fulfilling lives in prison." My response was "I'll bet that you do have a lot of clients in prison!" He then went out of his way to graphhically describe how life on death row would be, about the inhumane and humiliating conditions in an I.M.U., and that coming changes in state and federal laws would shorten the time before the state of Washington could murder me. He enjoyed this immensely and with a smile on his face he said and I quote "you are going down buddy!" All of this encouragement and reassurance and my trial had not even started!

The final showing of Fred Leathermans true feelings was on the last day where I had just been sentenced to death.

