

IN THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON,)	
)	SUPREME COURT
Respondent,)	NO. 100738-8
)	COA NO. 81955-1-I
vs.)	
)	RAP 9.6(a) MOTION
MELVIN JOHNSON,)	TO SUPPLEMENT
)	DESIGNATION OF
Appellant.)	CLERK'S PAPERS
_____)	

I. IDENTITY OF MOVING PARTY

Appellant, by and through counsel of record, Jared Steed of Nielsen Koch & Grannis, PLLC requests the relief stated in part II.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 9.6, appellant requests that this Court grant leave to supplement the designation of clerk's papers to

include the Skagit County Superior Court Minutes of December 18, 1997.¹

III. RELEVANT FACTS AND GROUNDS FOR RELIEF

1. Johnson is filing this motion contemporaneously with his petition for review from the Court of Appeals January 18, 2022, opinion in this case.

2. Johnson previously filed contemporaneous motions for reconsideration of Court of Appeals opinion, and a RAP 9.6(a) motion to supplement the designation of clerk's papers in his case. Both motions were denied on February 11, 2022.

3. The trial court minutes of December 18, 1997, show that Johnson stipulated to the affidavit of "jurisdictional facts" for purposes of his sentencing. This information is relevant to Johnson's argument in the petition for review that

¹ For the Court's convenience a copy of the minutes are attached to this motion as an appendix.

State v. Kopp, 15 Wn. App. 2d 281, 288, 475 P.3d 517 (2020), provides the authority for the trial court to look beyond the elements of Johnson's crime in determining whether his conviction was eligible to be vacated. For this reason, Johnson requests permission to supplement the record with the clerk's minutes via the supplemental designation of clerk's papers.

4. RAP 9.6(a) provides, in pertinent part, "Any party may supplement the designation of clerk's papers and exhibits prior to or with the filing of the party's last brief. Thereafter, a party may supplement the designation only by order of the appellate court, upon motion." Although not crystal clear, it appears the "last brief" refers to a reply brief or supplemental brief, and not a petition for review. For this reason, Johnson moves under RAP 9.6(a) to supplement the designation of clerk's papers.

5. RAP 9.6(a) encourages the parties to "designate only clerk's papers and exhibits needed to review the issues presented to the appellate court." Because the clerk's minutes

are necessary to fairly resolve the issue on review, Johnson asks this Court to accept the filing of his supplemental designation as part of the record on review. Permitting the supplemental designation of clerk's papers will facilitate this Court's review of Johnson's arguments contained in the petition for review on the merits.

IV. CONCLUSION

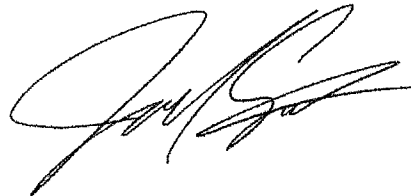
For the reasons stated, this Court should grant Johnson leave to file the supplemental designation of clerk's papers.

**I certify that this document contains 463 words,
excluding those portions exempt under RAP 18.17.**

DATED THIS 11th day of March, 2022.

Respectfully submitted,

NIELSEN KOCH & GRANNIS, PLLC

A handwritten signature in black ink, appearing to read "Jared B. Steed", written in a cursive style.

JARED B. STEED
WSBA No. 40635
Office ID No. 91051
Attorney for Appellant

APPENDIX

IN THE SUPERIOR COURT OF SKAGIT COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

vs.

Malvin M. Johnson
Defendant

NO. 95-123-7 DEC 8 1997

CLERK'S MINUTES *Wills (Colo. McKeehen Co. Clerk*

DATE: 12-18-97 *... Deputy*

CHANGE OF PLEA

- Change of Plea...GPOH
- Plea/Sentencing..GPSH
- Count(s) Dismissed:
- Motion.....MTHRG
- Case Continued:

John M. Meyer, Judge

Date: _____

Court Reporter: Ferrell/Scott/Corpologno HCNTDA HCNTPA

Clerk: J. Addema HCNTU HCNTSTP

Bailiff: Livera HCNTCC HCNTJC

Strike: HSTKU HSTKPA HSTKDA

STATE REPRESENTED BY:

- Garl Long
- Erik Pedersen
- Thomas Seguine
- Hilary Thomas
- Corbin Volluz
- David Wall

DEFENDANT REPRESENTED BY:

- Gary Gaer
- Doug Hiatt
- Robert Jones
- Keith Tyne
- Other: O. Desper ✓
- Other:

DEPARTMENT OF CORRECTIONS:

- Charles Wend
-

DEFENDANT:

- Present Not Present
- Custody Not in Custody
- BENCH WARRANT ORDERED

INTERPRETER: _____
(Affirmed, Qualified as stipulated)

BAIL \$ _____

- Counsel advise the court defendant will change plea.
- AMENDED INFORMATION filed. Formal arraignment waived.
- Defendant WAIVES formal arraignment and Information not read.
- Defendant formally arraigned.
- Defendant advised RIGHTS by court.
- STATEMENT ON PLEA OF GUILTY reviewed with defendant by court; signed and filed with the Clerk.
- Count(s) _____ will be/are orally DISMISSED.
- Defendant's CHANGE OF PLEA accepted by the Court and Defendant is found GUILTY.
- Counsel stipulate to affidavit JURISDICTIONAL FACTS on file.
- PRESENTENCE INVESTIGATION REPORT
- Order WAIVING signed. Order REQUESTING signed.
- Defendant's counsel will prepare Presentence Statement.

SENTENCE DATE: 1-8-98
 Defendant WAIVES 40-DAY speedy sentence rule and order signed.

NIELSEN KOCH & GRANNIS P.L.L.C.

March 11, 2022 - 11:06 AM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 81955-1
Appellate Court Case Title: State of Washington, Respondent v. Melvin Marcus Johnson, Appellant
Superior Court Case Number: 95-1-00123-7

The following documents have been uploaded:

- 819551_Motion_20220311110559D1458169_5128.pdf
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Comments:

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