

FILED
SUPREME COURT
STATE OF WASHINGTON
6/9/2023 8:45 AM
BY ERIN L. LENNON
CLERK

washington State Supreme court

STATE of WASHINGTON

Respondent

V.

JASON R. GARCIA

Appellant

No. 101952-1

motion to
supplement

Comes now the appellant Jason Garcia
pro se and hereby asks this court to supplement
the following

Facts

on MAY 3rd 2023 a Petition for review
and a motion for Discretionary review was
filed to this honorable court. Asking for
reconsideration on the extension of time to
file, motion for reconsideration to the court
of appeals division Two. Due to time
restraints on motions and court rules.

Appendix A is the Verbatim Transcript
of proceeding of November 22, 2021 hearing.

Also an unadmitted copy of the docket from
Pierce County Superior court case NO. 20-1-01964-1

Shows no hearing.. Due to the failure of superior court clerk to file the proceedings from said hearing which made the record of inadequate.

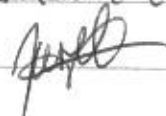
Superior court shall be courts of record
WASH. CONST. ART 4 11 The revised code echoes the constitution R.C.W. 2.32.050
Court of records R.C.W. 2.32.050 (1)(4)
powers and duties of court clerk
R.C.W 36.23.030 (1)(4) Records to be kept.

Due process demands that criminal appellant must be provided with assistance of counsel also a trial record complete enough to further meaningful appellate review. Appellate review may be violated if a record of sufficient completeness to allow appellate review cannot be obtained. I have not received either of these.

I ASK that this supplement motion be attached to motion for discretionary review that was filled on may 3, 2023.

DATED 6/8/23

JASON GARCIA



Appendix A

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,)	
)	
Plaintiff,)	Superior Court
vs.)	No. 20-1-01964-1
)	
JASON ROBERT GARCIA,)	Court of Appeals
)	No. 56819-5-II
)	
Defendant.)	

VERBATIM TRANSCRIPT OF PROCEEDINGS

Monday, November 22, 2021
 Before The Honorable Edmund Murphy
 Pierce County Courthouse
 Tacoma, Washington

<<<<< >>>>>

Kimberly A. O'Neill, CCR, #1954
 Official Court Reporter
 Pierce County Superior Court
 930 Tacoma Avenue South
 334 County-City Building
 Tacoma, WA 98402

A P P E A R A N C E S

1
2
3 For the Plaintiff: SUNNI YOUNG KO
4 Deputy Prosecuting Attorney
5 OFFICE OF THE PROSECUTING ATTORNEY
6 946 County City Building
7 Tacoma, WA 98402-2171
8 (253) 798-7400

9 For the Defendant: PAULA T. OLSON
10 Attorney at Law
11 LAW OFFICE OF PAULA T. OLSON
12 4020 North Vassault Street
13 Tacoma, WA 98407
14 (253) 777-5716
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STATE OF WASHINGTON vs. JASON ROBERT GARCIA

No. 56819-5-II

Proceedings of November 22, 2021

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E X H I B I T S

Admitted _____ Page:

(No exhibits admitted.)

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1 BE IT REMEMBERED that on Monday, the 22nd
2 day of November, 2021, the above-captioned cause came on
3 duly for hearing before THE HONORABLE EDMUND MURPHY, Judge
4 of the Superior Court in and for the county of Pierce, state
5 of Washington; the following proceedings were had, to wit:

6
7 <<<<<< >>>>>>

8
9 (The defendant was not present.)

10 MS. KO: This is the matter of State vs.
11 Jason Robert Garcia; it's 20-1-01964-1.

12 The defendant is not present. Present on his behalf is
13 his counsel, Ms. Paula Olson.

14 Sunni Ko on behalf of the State.

15 The trial is set for next Monday, November 29th and this
16 matter comes on for defendant's motion to continue which the
17 State is opposing. It is the Defense's motion. I will
18 defer to the Defense.

19 THE COURT: Ms. Olson?

20 MS. OLSON: Thank you, Your Honor. Yes,
21 Paula Olson, appearing for Jason Garcia who is not present
22 in court this morning.

23 Your Honor, we're asking for a continuance of the trial
24 date. Mr. Garcia believes that there's exculpatory evidence
25 that could be found in the helmet -- of a motorcycle helmet

1 that the State alleges he was wearing at the time that the
2 robbery allegedly took place. He denies that he was wearing
3 it, and he seeks the opportunity to locate the helmet and
4 have it tested for DNA as exculpatory evidence; so we need
5 additional time to do that, and we are asking the Court for
6 a continuance to accommodate that.

7 MS. KO: May the State respond, Your
8 Honor?

9 THE COURT: You can; let me just take a
10 look at the probable cause.

11 (Pause in proceedings.)

12 THE COURT: Ms. Ko?

13 MS. KO: Your Honor, the State has alleged
14 that the perpetrator who committed the robberies and the
15 assault drove a red motorcycle and wore a blue helmet; and
16 in the surveillance videos and the still photographs, you
17 can see the perpetrator arriving at the scene of the crime,
18 riding a red motorcycle and wearing a blue helmet.

19 You also see in the surveillance video the perpetrator
20 following the victims on a red motorcycle wearing a blue
21 helmet. Shortly after the incident was reported, the police
22 officers responded to the defendant's home; and on the
23 property where he resides with his parents, next to the
24 trailer that he was living in, they found a red motorcycle
25 and a blue helmet. The red motorcycle and the blue helmet

1 were not seized as evidence, but they were photographed; and
2 the defendant has known about this information since August
3 of 2020 when the discovery went out, describing where the
4 motorcycle and the red -- and the blue helmet was found next
5 to his house. And if you listen to the jail recordings,
6 he's been talking to his parents; and if this motorcycle and
7 this helmet was that important for him, he should have asked
8 his parents, with whom he was residing, and also his
9 girlfriend, who was residing with him, where that helmet was
10 back in August of 2020 if he felt that he needed to have it
11 tested for DNA.

12 But more importantly, when he was interviewed by the
13 detectives, what he told the detectives was that many people
14 rode his motorcycle, and he named several individuals who
15 routinely rode his motorcycle. He named Derek Clark, Earl
16 Reeves, Duane George, and he stated specifically that on the
17 date of the incident, a guy named Sean McCarty, whom he
18 didn't know that well, rode that motorcycle. He
19 acknowledged to the detectives that he owned a motorcycle,
20 and he, in fact, told the detectives that on the date of the
21 incident, he, himself, rode that motorcycle. He went
22 driving around. He rode his motorcycle to Safeway. He
23 bought milk and cereal. He goes into lengthy descriptions
24 about him riding the motorcycle on the date of the incident,
25 as well as other people, and other people having access to

1 his motorcycle and riding his motorcycle; so on the eve of
2 trial, he wants to come in asking the Court to continue this
3 case so that he can find his helmet that was left on his
4 parents' property so that he can have it tested for DNA when
5 he's told the detectives already that many people had access
6 to the motorcycle and, I'm assuming, wearing that helmet.
7 It is -- it doesn't make sense. Even if the helmet was
8 recovered at his parents' home and was tested, and it came
9 back to any of these individuals, it would not exculpate the
10 defendant.

11 And the State has notified the Defense that the State
12 intends on admitting his statements, so the defendant's
13 statements to the detectives that other people had access to
14 the motorcycle and rode the motorcycle on the date of the
15 incident, all of that is going to come in; so even if they
16 found other people's DNA in that helmet, it's not going to
17 help him any more or hurt him any more.

18 So for all of those reasons, the State is asking the
19 Court to deny this desperate attempt to continue the trial
20 date. If you can imagine, Your Honor, if his parents have
21 the motorcycle and they do have it tested, it could take
22 another year before that gets done, and so the State is
23 concerned about how long this case has dragged on. The
24 victims in this case are desperate to have this matter
25 resolved. They have stayed in town and have not moved away

1 because they want to have this case go to trial, and so,
2 again, this late attempt to have this matter set over for
3 God knows how long, we're asking that this is not
4 unforeseen. It does not help to exculpate the defendant,
5 and the trial should proceed as scheduled.

6 THE COURT: Ms. Olson?

7 MS. OLSON: Thank you, Your Honor. Your
8 Honor, the issue is not who rode the motorcycle; the issue
9 is who wore the helmet? Mr. Garcia denies that that's his
10 helmet, and he wants to find the helmet in order to prove
11 that. He knows other people, and he knows that he has said
12 other people rode the motorcycle but that's not the issue;
13 the issue is the helmet. And he believes that if he can
14 find the helmet and have it tested, that will be exculpatory
15 evidence for him for trial.

16 THE COURT: Do you agree that this is the
17 helmet that was found on his parents' property?

18 MS. OLSON: The helmet, it was --

19 THE COURT: Is that what he's looking for?

20 MS. OLSON: That's the one he's looking
21 for, yes.

22 THE COURT: Okay.

23 MS. OLSON: And partly, this issue came up
24 from the State's trial brief indicating, first, that the
25 helmet had been recovered, but then we discovered that the

1 helmet had not been taken into evidence; it was just
2 photographed. So now it's a process of locating the helmet
3 first.

4 THE COURT: Well, I first want to address
5 the issue of the defendant not being here. The defendant's
6 in custody and because of COVID and COVID protocols within
7 the jail, we don't transport individuals from jail to the
8 court except for limited times and a request for continuance
9 is not one of the situations that is necessary to have the
10 defendant's presence. The attorneys are able to articulate
11 their client's position. Having Mr. Garcia present for this
12 motion wouldn't change the ability of Ms. Olson to argue his
13 position, and so that's why he's not here in court this
14 morning.

15 In regards to the request for the continuance, I do note
16 that the case is 480 days old, that there was a trial
17 readiness that was held in May of this year; an order was
18 entered. The State indicated that they were ready for
19 trial; the Defense indicated they were not ready for trial
20 because they were -- had requested a video and needed that
21 video before the trial was -- before they would be ready for
22 trial. The State filed a trial brief on June 1st of this
23 year. The Defense filed a trial brief on June 21st of this
24 year. The matter has been continued a couple of times
25 because of different issues. The defendant filed a

1 suppression motion. The State wants some time to respond to
2 that, and then the most recent continuance, which was on
3 August 26th, setting the trial date of November 29th, it was
4 set over because defense counsel had been preassigned on
5 another case. I believe it was a murder case, and the
6 prosecutor was in trial at that time as well.

7 So this is an issue that hasn't come up until here we are
8 a week before trial, and I agree that given the age of this
9 case, given what appears to be something that isn't going to
10 provide necessarily exculpatory evidence, the Court is going
11 to deny the request for the continuance; and we will keep
12 the trial date of November 29th. I believe both counsel had
13 indicated that you were ready for it other than this request
14 for the additional time for this helmet.

15 MS. KO: Yes, Your Honor.

16 THE COURT: So we'll work on getting a
17 courtroom for you for the 29th.

18 MS. KO: Thank you.

19 MS. OLSON: The Defense is ready as well.
20 Thank you, Your Honor.

21 (Proceedings concluded.)

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,)	
)	
Plaintiff,)	
)	Superior Court
vs.)	No. 20-1-01964-1
)	
JASON ROBERT GARCIA,)	Court of Appeals
)	No. 56819-5-II
)	
Defendant.)	

REPORTER'S CERTIFICATE

STATE OF WASHINGTON)	
)	ss.
COUNTY OF PIERCE)	

I, Kimberly A. O'Neill, Court Reporter in the state of Washington, county of Pierce, do hereby certify under penalty of perjury under the laws of the state of Washington that the following is true and correct:

- (1) That I am a certified court reporter;
- (2) This transcript is a true and correct record of the proceedings;
- (3) I am in no way related to or employed by any party in this matter, nor any counsel in the matter; and
- (4) I have no financial interest in the litigation.

DATED this 20th day of May, 2023, in Tacoma, Washington.

/s/ Kimberly A. O'Neill

KIMBERLY A. O'NEILL, CCR
Certified Court Reporter
License No. 0001954

Pierce County Superior Court Criminal Case 20-1-01964-1

Defendant: JASON ROBERT GARCIA

Filing Date	Filing	Access	Pages
07/30/2020	INFORMATION	Public	5
07/30/2020	AFFIDAVIT/DETERMINATION FOR PROBABLE CAUSE	Public	3
07/30/2020	LAW ENFORCEMENT INFORMATION SHEET	Sealed	3
07/30/2020	LAW ENFORCEMENT INFORMATION SHEET	Sealed	3
07/30/2020	PRE-TRIAL INDIGENCY REPORT	Sealed	3
07/30/2020	ORDER ESTABLISHING CONDITIONS OF RELEASE	Public	2
07/30/2020	ORDER PROHIBITING CONTACT PENDING DISP	Public	1
07/30/2020	ORDER PROHIBITING CONTACT PENDING DISP	Public	1
07/30/2020	ORDER FOR HEARING	Public	1
07/31/2020	NOTICE OF APPEARANCE	Public	2
08/10/2020	RECEIPT OF DISCOVERY	Public	1
08/12/2020	RECEIPT OF DISCOVERY	Public	1
08/13/2020	ORDER FOR HEARING	Public	1
08/17/2020	RECEIPT OF DISCOVERY	Public	1
08/19/2020	CLERK'S MINUTE ENTRY	Public	2
08/20/2020	VICTIM STATEMENT	Public	3
08/20/2020	VICTIM STATEMENT	Public	2
09/08/2020	ORDER FOR CONTINUANCE OF TRIAL DATE	Public	1
09/14/2020	RECEIPT OF DISCOVERY	Public	1
10/19/2020	RECEIPT OF DISCOVERY	Public	1
10/22/2020	ORDER FOR HEARING	Public	1
11/05/2020	ORDER FOR HEARING	Public	1
11/19/2020	ORDER FOR CONTINUANCE OF TRIAL DATE	Public	1
12/31/2020	RECEIPT OF DISCOVERY	Public	1
01/04/2021	RECEIPT OF DISCOVERY	Public	1
01/14/2021	RECEIPT OF DISCOVERY	Public	1
02/16/2021	RETURN ON SUBPOENA	Public	1
02/16/2021	RETURN ON SUBPOENA	Public	1
02/16/2021	RETURN ON SUBPOENA	Public	1
02/17/2021	RETURN ON SUBPOENA	Public	1
02/17/2021	RETURN ON SUBPOENA	Public	1
02/22/2021	STATE'S LIST OF WITNESSES	Public	2
02/26/2021	ORDER FOR CONTINUANCE OF TRIAL DATE	Public	1
03/15/2021	RECEIPT OF DISCOVERY	Public	1
03/15/2021	AFFIDAVIT/DECLARATION OF NON SERVICE	Public	1

03/25/2021	OMNIBUS ORDER	Public	3
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04/14/2021	RETURN ON SUBPOENA	Public	1
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04/16/2021	RETURN ON SUBPOENA -3	Public	3
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06/24/2021	RETURN ON SUBPOENA	Public	1
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11/12/2021	STATES RESPONSE	Public	75
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12/01/2021	JURY PANEL SELECTION LIST	Public	2
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12/01/2021	PEREMPTORY CHALLENGE SHEET	Public	1
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12/07/2021	WITNESS RECORD - TRIAL	Public	1
12/07/2021	ORDER ON MOTION IN LIMINE	Public	3
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12/09/2021	VERDICT FORM 1 COUNT 1 - GUILTY	Public	1
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01/18/2022	ORDER FOR HEARING	Public	1
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03/22/2022	RESTITUTION INFORMATION	Confidential	5
03/25/2022	STATE'S MEMORANDUM RE SENTENCING	Public	6

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04/01/2022	ORDER PROHIBITING CONTACT SENTENCING	Public	1
04/01/2022	ORDER PROHIBITING CONTACT SENTENCING	Public	1
04/01/2022	ORDER OF INDIGENCY	Public	2
04/01/2022	EXHIBITS RECEIVED IN VAULT - SENTENCING	Public	1
04/06/2022	NOTICE OF APPEAL NO FEE	Public	18
04/11/2022	TRANSMITTAL LETTER COPY FILED	Public	1
04/14/2022	ORDER CORRECTING JUDGMENT & SENTENCE	Public	3
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06/28/2022	CLERK'S PAPERS PREPARED	Public	3
06/28/2022	CLERK'S PAPERS SENT	Public	1
06/28/2022	INDIGENCY BILLING VOUCHER	Public	1

INMATE

June 9, 2023 - 8:45 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 101952

DOC filing of GARCIA Inmate DOC Number 794651

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The DOC Facility Name is Washington State Penitentiary.

The Inmate The Inmate/Filer's Last Name is GARCIA.

The Inmate DOC Number is 794651.

The CaseNumber is 101952.

The Comment is 1OF1.

The entire original email subject is 15,GARCIA,794651,101952,1OF1.

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