NO. 89982-7

Court of Appeals Cause No. 42712-5-II

SUPREME COURT OF THE STATE OF WASHINGTON

SHAWN D. FRANCIS,

Petitioner/Cross-Respondent,

v.

WASHINGTON STATE DEPARTMENT OF CORRECTIONS,

Respondent/Cross-Petitioner.

PETITIONER'S REPLY/CROSS-RESPONSE

SHAWN D. FRANCIS
Petitioner/Cross-Respondent, Pro Se
DOC #749717
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

TABLE OF CONTENTS

TABLE OF AUTHORITIES

(Table of Authorities Cont.)

Statutes — **Pg.**

Rules

Other Authorities

I. INTRODUCTION

Shawn Francis has argued that the Court of Appeals erred when upholding the trial court's low-end penalty assessment under the Public Records Act (PRA) despite the trial court's finding of agency "bad faith", in addition to several other aggravating factors. The Department of Corrections has filed a Cross-Petition for review arguing that the ambiguous "bad faith" term, under RCW 42.56.565(1), should be defined as a violation resulting only from an *intentional wrongful act* of sinister design. The Department, in its cross-petition, however, failed to respond to any of the issues raised by Francis in his petition for review (other than to say that his issues fail to meet the criteria for review under RAP 13.4(b)). Mr. Francis now replies to only those arguments raised by the Department of Corrections in its cross-petition.

II. SUMMARY OF ARGUMENT

Mr. Francis will first show that all of the issues raised in his Petition For Review merit review under RAP 13.4(b). He will then show that several of the Department's factual and procedural recitations are misrepresented and that DOC's attempt to blame Francis for its violative conduct is indicative of its sustained absence of accountability, as well

as its bias towards inmate requestors, in that, DOC does not consider public records requests submitted by inmates to be "legitimate" requests. He will then demonstrate that the Department's argument for a strict and limiting definition of the PRA's ambiguous "bad faith" term contravenes the PRA's mandate for liberal construction favoring requestors, moreover, that the legislature did not intend such a constricting definition of the term "bad faith" when enacting RCW 42.56.565(1). Mr. Francis will further demonstrate that the Court of Appeals properly held that, *when recognized alongside other factors*, an agency's failure to conduct a reasonable search consistent with its own policies can, indeed, establish the existence of agency bad faith. Lastly, Mr. Francis will show that the Court of Appeals properly determined that the trial court's consideration of the Yousoufian V factors were reasonably relied upon during its assessment of the Department's *culpability*.

III. ARGUMENT

A. Contrary To DOC's Assertions, The Issues Presented By Francis Meet The Criteria For Review Under RAP 13.4(b)

The Department insists that none of the issues raised by Francis in his petition meet the criteria for review under RAP 13.4(b). Respondent's Cross-Petition at 8. To the contrary,

Francis' petition establishes a conflicting disproportionality between Division Two's decision in this case to uphold the trial court's low-end penalty assessment with that of several other cases decided by both this Court, and various jurisdictions of the Court of Appeals, of which are illustrative of culpability proportionate PRA penalty assessments in applying a discretionary abuse standard. Therefore, due to such conflicting appellate conclusions, this case merits review under RAP 13.4(b)(1) & (2).

Second, the term "bad faith", as used in RCW 42.56.565(1), is an ambiguous undefined term. Therefore, because the PRA is a liberally construed statute,[1] which does not distinguish between requestors (once bad faith is established),[2] such ambiguity compels judicial review in the interest of all those who are subject to the provisions, as well as protections, under the PRA when considering where along the penalty scale "bad faith" is recognizably reflected. Therefore, the issues presented by Francis are clearly those of substantial public importance. RAP 13.4(b)(4).

Lastly, as pointed out by Francis in his petition, this is a case of first impression. This consideration, coupled with the above-mentioned factors, warrant review of Francis' issues in the interests of justice.

---

1 See RCW 42.56.030

2 See RCW 42.56.080

B. The Department's Recitation Of The Facts Are Grossly Distorted And Mistated

The Department's mistatements of both factual and judicial findings are grossly misleading at best. In their response/cross-petition, DOC contends that the trial court found *four* mitigating factors while finding that DOC displayed bad faith based solely on only *two* aggravating factors. Respondent's Cross-Petition at 6. To the contrary, the record here is clear that, while considering in sequential order each Yousoufian V mitigating factor, the trial court actually found only *two* mitigating factors, while conversely finding a total of *six* aggravating factors.

In its notably brief remarks regarding mitigation, the trial court found (1) that DOC "attempt[ed] to cooperate and keep in contact with [Mr. Francis]" (RP 8); and (2) that there didn't exist any "[u]nreasonableness for any explanation for noncompliance by [DOC]" (RP 6). These are unmistakably the *only* two mitigating factors established by the trial court. The Department's recitation of the facts contending that the trial court's mitigation findings also included DOC's "attempt[] to respond... in a timely manner", and DOC's lack of intentional withholding, are merely partial excerpts of the trial court record presented out of context. See Respondent's Cross-Petition at 6. While the trial court did comment on these facts, if put into proper context, these statements were

merely passing references during the trial court's consideration of the underlying aggravating factors of delay, for which, the trial court ultimately found that DOC's response was "delayed" (RP 5), and that DOC displayed "gross negligence in terms of timing and the delay [of 626 days] that it took in getting this material to [Francis]" (RP 8). Indeed, the record clearly indicates that the trial court did *not* consider any "attempt" by DOC to respond properly as a mitigating factor given its aggravated finding of delay.

As for the trial court's interpretation of bad faith, the Department holds that the trial court relied on only "two" aggravating factors - i.e., "some lack of proper training and supervision" and "negligence or gross negligence in terms of the timing and delay... ". Respondent's Cross-Petition at 6. Here, the trial court's oral ruling clearly suggests otherwise. After establishing the existence of *six* aggravating factors (not *two*), the trial court held that bad faith was "indicated in some of these factors" and that "there is sufficient bad faith to award damages" (RP 8-9). Moreover, the trial court further commented that "enough of these factors apply" in its finding that damages were warranted. See RP 9. Considered together, the trial court's statements clearly indicate its reliance upon *all* of its aggravated findings during its encompassing bad faith consideration.

In a footnote, the Department further contends that the Court of Appeals "overstate[d] the trial court's findings" when recounting the trial court's aggravated findings of "delayed response" and "lack of strict compliance with all PRA procedural requirements." Respondent's Cross-Petition at 6-7, fn. 3. There is no overstatement, the Court of Appeals merely recited what was expressed by the trial court on the record. Compare Francis' Petition for Review, Appendix A at 7 with RP 5. When considering the facts and DOC's production after a 626 day delay, the Court of Appeals did not "overstate" the trial court's findings.

Lastly, the Department contends that their "oversight" was "promptly corrected" at the time they discovered the withheld records. Respondent's Cross-Petition at 17. Much to the contrary, the record establishes that DOC was notified of its violation (and of, at least, some of the specific records being withheld) immediately after Francis filed suit, yet, it still took DOC an additional 8 months after becoming aware of its violation to provide Francis with those records. Indeed, DOC's response was anything but "prompt".

C. DOC's Attempt To Shift Blame Is Without Merit

In an attempt to shift this Court's focus from its obstinate and seemingly deliberate conduct, DOC contends that Francis has abused the system by exercising his right to judicial review, and in doing so, DOC suggests that they are

somehow the victim. Respondent's Cross-Petition at 10-11. As demonstrated below, DOC's contentions are unfounded and premised upon their bias against inmate requestors.

Here, the record indicates that Francis purchased a fan and a "crock" style hot pot from the DOC commissary. See Plaintiff's Opening Brief in the Court of Appeals at 3. However, upon arrival of these items at the McNeil Island facility, Department staff informed Francis that, pursuant to a McNeil Island facility policy, he would not be given these purchased items, nor would he be refunded his money for said purchases. Id. Rather, instead, Department staff informed Francis that he could either send the items home, place them in long term storage, or the items would be discarded in a manner determined by DOC. Id. Familiar with DOC's *agency wide* property policy *allowing* such items, and confused as to why DOC took receipt of his payment without providing him notice of McNeil Island's facility prohibition of such items, Francis requested to see a copy of this "McNeil Island policy". Department staff then directed Francis to the prison's law library to review the policy. After making a similar request to the McNeil Island Law Librarian, Francis was informed that the law library had no such policy. Frustrated, and out of options, Francis reasonably submitted a public records request asking for the illusive McNeil Island policy, as well as for any other documents supporting such institutional restrictions on these items. Id.

While disregarding the legitimacy and reasonableness of Francis' request, the Department posits that Francis displayed an abusive intent when he (1) failed to "indicate to DOC any dissatisfaction with [their] response" after receiving DOC's initial production, and (2) failed to "avail himself of DOC's appeal process". Respondent's Cross-Petition at 3-4; and fn. 5.[3] The Department, however, conveniently omits from its line of reasoning that it *silently withheld* responsive records from Francis. Indeed, Francis is not expected to simply have knowledge of records withheld in silence. See Zink v. City of Mesa, 162 Wn.App. 688, 711, 256 P.3d 384 (2011)("Silent withholding, the failure to reveal that some records have been withheld in their entirety... gives the requestors the misleading impression that all documents relevant to the request have been disclosed.")(internal quotations and citations omitted).[4] Francis cannot reasonably be expected to express "dissatisfaction" of records being withheld for which he did not know to exist. Furthermore, upon his discovery of the withheld records, it is similarly unreasonable to expect

---

[3] Notably, DOC has *never* sought enjoinment proceedings against Francis.

[4] DOC's final response to Francis' records request (prior to filing this lawsuit) stated "[s]ince all responsive records have been produced, this request is closed." See DOC's Opening Brief in the Court of Appeals, Appendix at pg. 143.

Francis to continue submitting requests (or even agency appeals)[5] to the very same agency which established themself unreliable and deceitful in claiming to have conducted a "thorough staff search" when, indeed, they did not. Moreover, even had Francis appealed the withholding of the responsive tier-rep meeting minutes once he discovered them, it is highly unlikely that DOC would have produced anything beyond those tier-rep minutes. Rather, it is likely that, depite producing the tier-rep meeting records, Francis still would not have received the McNeil Island property policy, as it was the filing of this lawsuit which prompted DOC to finally conduct a reasonable search for responsive records. Thus, continuing to silently withhold the McNeil Island policy would have constituted a continued violation of the PRA. Therefore, in order to avoid any further agency misconduct or flagrant misrepresentation, Francis chose instead to seek judicial review in order to ensure *complete* agency production of the records he sought.

DOC's attempt to blame Francis for a reasonably avoidable violation indicates a significant absence of the accountability that is fundamental to the PRA. Moreover, DOC's response strongly suggests that they do not recognize inmate requests to be "legitimate" public record requests. See Respondent's Cross-Petition at 17. Indeed, DOC's response

---

[5] The PRA does not require that requestors file agency appeals before seeking judicial review of an agency's response. Greenhalgh v. DOC, 170 Wn.App. 137, 153, 282 P.3d 1175 (2012).

to Francis' request, and their continued absence of accountability, supports the inference of such discriminatory bias against inmate requestors, further warranting this Court's decision to uphold the trial court's determination of bad faith.

D. DOC Improperly Interprets Both The Legislative Intent Behind The Enactment Of RCW 42.56.565(1), As Well As The Statute's Standard For Enforcement

In positing that the Court of Appeals applied an "incorrect standard" for bad faith, the Department structures its argument around two presumptuous and recurring themes: (1) that under the PRA, the legislature intended "bad faith" to be defined as no less than an *intentional* withholding of records cultivated from an improper or sinister motive; and (2) that public records requests submitted by inmates are not to be considered "legitimate" requests. The Department's attempt to create a constricted definition of "bad faith" is not supported by the language of the statute and cannot be harmonized with the remainder of the PRA. Moreover, while the Department is correct, in that, there does exist the potential for inmate (and citizen) abuse of the PRA, after taking an unbiased look at the conception of the PRA's bad faith clause, it stands to reason that DOC's proffered arguments are both misguided and without merit.

In 2009, the legislature initially began to realize that some inmates were abusing the PRA's intended purpose for monetary gain rather than to obtain records. Therefore, in recognition of such abuse, the legislature sought to provide state agencies with a mechanism by which to enjoin those inmates seeking to harass or intimidate agencies (or their employees) through public records requests. In doing so, the legislature enacted the enjoinment provision under RCW 42.56.565.[6] The legislature, however, quickly realized that the enjoinment requirements did not have the intended effect, in that, it still allowed inmates to abuse the PRA with superficial requests without triggering the enjoinment provision's requirements. In realizing this means of avoidance, in 2011, the legislature amended RCW 42.56.565 to provide that, in order to merit penalty awards for inmate requestors, the trial court would have to find that an agency displayed "bad faith" resulting in the improper withholding of records. See RCW 42.56.565(1).[7] Notably, the legislature elected not to define the term "bad faith" in the provision.

When considering the etymology of the 2011 provision, the legislature's purpose behind its enactment is two fold: First, the legislature intended to frustrate only those inmates submitting superficial requests, *made without substance or significance*, strategically worded in a manner by which to

---

6 Laws of 2009, ch. 10

7 Laws of 2011, ch. 300, §§ 1, 2

elicit an inadvertent withholding of records - solely for monetary gain. Second, the legislature intended to provide state agencies with a level of leniency and forbearance when violations were found to have occurred in an agency's response to inmate requests because of such potential for abuse. That is not to say, however, that state agencies are now relieved of all liability as it pertains to inmate requestors, nor does the provision suggest that requests submitted by inmates are to be considered less "legitimate" than those submitted by citizens in free society. Moreover, when establishing RCW 42.56.565(1), the legislature did not presume to relieve state agencies of their duty to strictly comply with the Act's provisions and to provide "the fullest assistance" to requestors, regardless of social status. See RCW 42.56.100. Put simply, the legislature intended to impede inmate abuse while still providing for agency accountability and punishment.[8]

The Department attempts to craft a definition of "bad faith" that would reflect its own interests while reading an intent requirement into the statute which does not appear. See State v. Malone, 106 Wn.2d 607, 610, 724 P.2d 364 (1986)("A court cannot read into a statute that which does not appear."); Hearst Corp. v. Hoppe, 90 Wn.2d 123, 131, 580 P.2d

---

[8] Notably, prior to its enactment of RCW 42.56.565(1), the legislature *refused* to adopt an earlier proposed amendment which would've made inmate's ineligible for penalties altogether. See S.B. 5025, 62nd Leg., Reg. Sess. (Wash 2011).

246 (1978)(leaving interpretation of the Public Records Act to those at whom it was aimed would be the most direct cause to its devitalization). Moreover, DOC's suggestion that bad faith requires action premised upon intentional wrongdoing or malicious intent would require an inmate to show an agency's actus reus coupled with mens rea, resulting in a nearly impossible burden of proof upon an inmate requestor. In recognizing such an extremely difficult burden, the Court of Appeals cited to Farmer v. Brennan, 511 U.S. 825, 841, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994), stating that "considerable conceptual difficulty would attend any search for the subjective state of mind of a governmental entity." Francis' Petition for Review, Appendix A at 16 (internal quotation omitted). Accordingly, the Court of Appeals further responded,

> "Were we to accept the Department's interpretation [of bad faith], agencies could safely respond to record requests from incarcerated persons with cursory or superficial searches, knowing that inmates would find it difficult to determine whether records were overlooked and all but impossible to produce admissible evidence of wrongful intent. This runs directly counter to the legislative intent to provide prisoners a reasonable and effective records search...."

Id.

DOC's proposed definition would require an extremely narrow reading of "bad faith" which belies the Act's liberal reading mandate. See RCW 42.56.030. Indeed, the legislature did not intend such a difficult burden be placed upon those

inmates properly exercising those protections afforded to them under the PRA when submitting *legitimate* requests. If they had, the legislature clearly would have added such limiting language to the provision before its adoption. Rather, it is much more likely that, in declining to define "bad faith", the legislature recognized that bad faith (as suggested in Black's Law Dictionary) can be established in a variety of manners, and therefore, the legislature, instead, sought to leave such interpretation to the considerable discretion of the courts.

Notably, the Court of Appeals relied, at least in part, on the Black's Law Dictionary definition of "bad faith", commenting that "[a] complete catalogue of types of bad faith is impossible", however, that various judicial decisions have held that bad faith can "be overt [conduct] or may consist of inaction", or that even a "lack of diligence or slacking off" can constitute a finding of bad faith. Francis' Petition for Review, Appendix A at 11; see also "bad faith" defined in Black's Law Dictionary, 159 (9th ed. 2009). While DOC contends that the appellate court should have relied on the "common meaning" derived from standard dictionaries,[9] Washington appellate courts, including this Court, has held that when determining the ordinary meaning of a statute's undefined term, and the otherwise common word is given a distinct meaning in a *technical* dictionary or other *technical* reference frequently relied upon in a specific profession, courts will turn to the *technical* dictionary, rather than

[9] See Respondent's Cross- Petition at 12, & 16

general purpose dictionary, to resolve the word's definition. City of Spokane v. Dep't of Revenue, 145 Wn.2d 445, 454, 38 P.3d 1010 (2002); Whidbey General Hospital v. Dep't of Revenue, 143 Wn.App. 620, 628-29, 180 P.3d 796 (2008). Accordingly, the Court of Appeals' reliance on the Black's definition (rather than a standard dictionary) was proper.

In refusing to adopt DOC's proposed "bad faith" definition, DOC contends that the Court of Appeals' decision "effectively nullifie[s] the statute through interpretation." Respondent's Cross-Petition at 16. In making such contention, DOC misreads the appellate decision to conclude that "a simple violation of the PRA is enough" to impose penalties for inmate requestors, and that agencies will now bear the burden of "demonstrat[ing] an absence of bad faith." Id. at 13. To the contrary, the Court of Appeals' clarification held,

> "This is not to say that the failure to conduct a reasonable search or the failure to follow policies in a search *by themselves* necessarily constitutes bad faith. We hold below that, *among other potential circumstances*, bad faith is present under RCW 42.56.565(1) if the agency fails to conduct a search that is both reasonable and consistent with its policies. In determining reasonableness, we examine, *among others*, the circumstances discussed in Part V of this opinion."

See Francis' Petition for Review, Appendix B (emphasis added).

In providing this clarification, and put into context with "Part V" of the appellate court's decision, it is clear that the Court of Appeals' decision in no way suggests that a mere

failure to conduct a reasonable search or to follow policies by themselves would automatically constitute bad faith, nor does it shift the burden of establishing an absence of bad faith to the agency.[10] Rather, the Court of Appeals' decision simply holds that an agency's failure to conduct a reasonable search or follow its policies can be probative of bad faith *when combined with other established aggravating factors.*

In its reliance on Neighborhood Alliance v. Spokane County, 172 Wn.2d 702, 261 P.3d 119 (2011), the Department attempts to reason that the adequate search standard was established well after RCW 42.56.565(1) was enacted, and therefore, should have no bearing on the question of bad faith. Respondent's Cross-Petition at 13. In taking this position, the Department attempts to minimize their violative conduct by insisting that honest and inadvertent violations can occur by a mere "need to resolve inconsistent policies", or by "responding to situations not adequately addressed by policies", and therefore, such factors would fail to support a finding of agency bad faith. Id. While correct, in a general sense, here DOC's violation was not the result of some necessity to resolve some inconsistent policy, nor was it an honest "oversight" amounting to "mere negligence". Id. at 15, & 17. Rather, DOC's violation was the result of its obdurate and dishonest conduct. In its continued absence of accountability, DOC claims that their silent withholding of records from Francis was an "oversight". Id. at 17. However,

---

10 In this case, prior to it ruling on bad faith, the court ruled that the burden was on Francis (not DOC) to establish the existence of bad faith. RP 3.

an "oversight" would be a situation in which DOC actually conducted a reasonable search in some of its known records locations, only to have *overlooked* some records by mistake. Such is not the case here. Rather, here, DOC's response was dishonest, in that, agency employees made a *deliberate* choice *not* to perform a meaningful search, all the while, assuring Francis that a "thorough staff search" had been "conducted". See Francis' Opening Brief in the Court of Appeals, Exhibit A.[11] As the "routing slip" demonstrates, DOC's response was clearly indicative of deceit as it was meant to mislead Francis into believing that, after conducting a "thorough" search, all responsive document had been disclosed.[12]

In addition to DOC's pivoting themes, DOC further argues that both the trial court, and the Court of Appeals, have read this Court's decision in Yousoufian out of context, in that, the Yousoufian V factors are to be strictly limited to the *amount* of the penalty, as opposed to a culpability based standard for determining *eligibility* for any penalty at all. Respondent's Cross-Petition at 17-18. DOC's argument, however, disregards the axiom that, under the PRA, culpability determinations and penalty determinations are seemingly interdependent. That is to say, that they are counter points to the same underlying consideration - a court's culpability

---

11 Attached as Exhibit A is DOC's "Public Disclosure Routing Slip" evidencing DOC's false assurance to have conducted a search for the records Francis sought.

12 While it took DOC 2 weeks to issue its initial notice, it is undisputed that, between 7 agency employees, less than 15 minutes total was afforded to DOC's "search". DOC's suggestion that it "searched" for the entire 2 weeks is misleading. See Respondent's Cross-Petition at 16.

determination must be reflected in its penalty assessment, likewise, its penalty award must be a reflection of its culpability assessment. Yousoufian IV, 165 Wn.2d 439, 466, 200 P.3d 232 (2009)(J.M. Johnson, J. concurring)("The people - and the legislature - intended the penalty to reflect the degree of culpability."); see also Yousoufian II, 152 Wn.2d 421, 440, 98 P.3d 463 (2004)("After determining the number of days that the agency has denied a request, the trial court should determine the proper amount of the penalty based on the agency's *culpability*.")(emphasis added).

In Neighborhood Alliance, this Court reaffirmed its purpose for establishing the Yousoufian V factors - that those factors were established to help "aid [trial courts] in *culpability* determination[s]", moreover, that "the agency's overall *culpability* is the focus of the penalty determination." Neighborhood Alliance, 172 Wn.2d at 717-18 (internal citations omitted)(emphasis added). The Act's ambiguous "bad faith" term, along with this Court's proffered nexus between culpability determinations and the Yousoufian V factors, suggest that a liberal reading of RCW 42.56.565(1) would *reasonably* allow a court to encompass within its consideration the Yousoufian V factors when determining culpability. This is not to say that consideration of the Yousoufian V factors is the only measure by which a trial court can arrive at a determination of bad faith, but rather, under a liberal reading of the statute, it is a *reasonable* and acceptable approach in assessing the existence of bad faith.

Furthermore, the Department's argument that "bad faith under RCW 42.56.565(1) requires a showing of willful or gross disregard of an agency's obligations under the PRA or other intentional or wrongful conduct" is further flawed for the following reasons. See Repsondent's Cross-Petition at 14.

First, when looking to this Court's construction of the Yousoufian V aggravating factors, this Court explicitly distinguished between different culpability levels of "non-compliance", in that, non-compliance could be categorized as "negligence, reckless, wanton, bad faith, *or intentional*." Yousoufian V, 168 Wn.2d at 468 (emphasis added). This Court's explicit disconnect between "bad faith" non-compliance and "intentional" non-compliance draws a distinct inference supporting the Court of Appeals' holding that bad faith does *not* necessarily require evidence of *intentional wrongdoing*.

Second, and more interestingly, the Department would have this Court adopt their definition of "bad faith", of which, incorporates "gross disregard" of an agency's obligations under the PRA. Respondent's Cross-Petition at 14. By this proposed definition, Francis would prevail as the trial court's finding of 6 aggravating factors are clearly indicative of DOC's "gross disregard" of its duties under the PRA. Moreover, under the PRA's liberal scheme, "gross disregard" is tantamount to the trial court's aggravated finding of "gross negligence". See RP 6.

After considering the legislative history of RCW 42.56.565(1), its statutory context, and the PRA's liberal undertone, the Court of Appeals properly held that "this particular provision require[s] a broader reading of the term 'bad faith' than the Department proposes." Francis' Petition for Review, Appendix A at 17. Moreover, the Court of Appeals' reasoning properly holds that failure to conduct an adequate search, *among other existing circumstances*, can reasonably establish the existence of agency bad faith. See Francis' Petition for Review, Appendix B. The Court of Appeals' decision neither negates the "bad faith" requirement outlined in RCW 42.56.565(1), nor does it read this statute out of context. Rather, the Court of Appeals' decision provides a thorough explanation and a reasonable defining of the statute's ambiguous "bad faith" term, and acts to provide sound guidance in future PRA cases.

IV. CONCLUSION

For the reasons outlined above, Petitioner Francis respectfully requests that this Court accept review of his petition. RAP 13.4 (b)(1), (2), & (4). Moreover, that this Court deny review of DOC's cross-petition as DOC's argument falls well short of establishing any reasonable basis meriting review under RAP 13.4(b)(4).

RESPECTFULLY SUBMITTED this 29th day of April, 2014.

SHAWN D. FRANCIS
Petitioner/Cross-Respondent, Pro Se
DOC #749717
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

CERTIFICATE OF SERVICE

I certify that on the below signed date I served and deposited into the internal legal mail system of the Stafford Creek Corrections Center a copy of the foregoing documents to be sent to all parties or their counsel of record, by U.S. First Class Mail, Postage Pre-Paid, as follows:

1) John C. Dittman
Assistant Attorney General
Corrections Division
PO Box 40116
Olympia, WA 98504-0116

EXECUTED this 29th day of April, 2014 at Aberdeen, Washington.

Shawn D. Francis