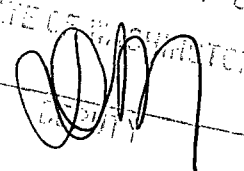


COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION TWO
2014 JUL 10 PM 1:01
STATE OF WASHINGTON
BY 

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
)
James John Chambers)
(your name))
)
Appellant.)

No. 45392-4-II
STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, James J Chambers, 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.

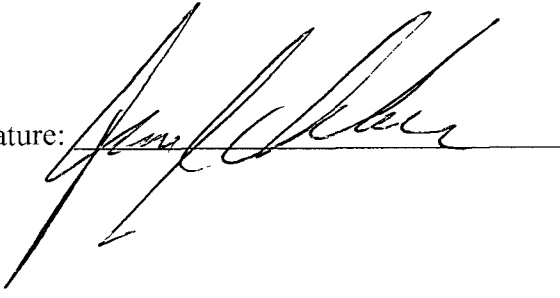
Additional Ground 1

Please note that even though I received my attorney brief on May 27th 2014 I never received notice from this court to file statement of additional grounds until June 27 2014 This filing is timely!
See attached please statement of additional grounds for review

Additional Ground 2

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

Date: July 8th 2014

Signature: 

NO. 45392-4-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

JAMES JOHN CHAMBERS,
Appellant,

vs.

STATE OF WASHINGTON,
Respondent.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR PIERCE COUNTY
HONORABLE THOMAS J. FELNAGLE

APPELLANT'S RAP 10.10 STATEMENT OF
ADDITIONAL GROUNDS FOR REVIEW

JAMES JOHN CHAMBERS
Appellant/Defendant
DOC# 743702
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TABLE OF CONTENTS

Table of Contents.....i
Table of Authorities.....ii
ASSIGNMENTS OF ERROR.....1
ISSUES PERTAINING TO ASSIGNMENTS OF ERROR.....1
STATEMENT OF THE CASE.....1
ARGUMENT.....1
A. The Trial Court Erred in Denying Appellant's
Motion to Withdraw Guilty Plea.....1
 1. Under the Law of the Case Doctrine the Trial Court was
 Required to Allow Appellant to Withdraw his Guilty Plea...1
 2. Any Relitigation of Underlying Factors for the Trial
 Court's Finding and Order Allowing Withdrawl of the Plea
 as to Cause No,. 99-1-00817-2 is Barred by res judicata
 and/or collateral estoppel.....3
CONCLUSION.....5

TABLE OF AUTHORITIES

Cases

Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 816, 108 S.Ct. 2166, 100 L.Ed.2d 811 (1988).....2

Ensler v. Pitcher, 152 Wn.App. 891, 904, 222 P.3d 99 (2001).....4

Loveridge v. Fred Meyer, Inc., 125 Wn.2d 759, 763, 887 P.2d 898 (1995).....4

Lutheran Day Care v. Snohomish County, 119 Wn.2d 91, 113, 829 P.2d 746 (1992).....2

Schroeder v. Excelsior Management Group, LLC, 177 Wn.2d 94, 108, 297 P.3d 677 (2013).....4

State v. Barber, 170 Wn.2d 854, 248 P.3d 494 (2011).....3

State v. Chambers, 163 Wn.App. 54, 61 n.9, 256 P.3d 1283 (2011)....4

State v. Harrison, 148 Wn.2d 550, 562, 61 P.3d 1104 (2003).....2

ASSIGNMENTS OF ERROR

Assignment of Error No.1: The trial court erred in denying Appellant's motion to withdraw guilty plea.

ISSUES PERTAINING TO THE ASSIGNMENT OF ERROR

Issue 1.1: Did the law of the case doctrine require the trial court to allow Appellant to withdraw his indivisible guilty plea?

Issue 1.2: Did res judicata bar relitigation or judicial redetermination of the finding and order previously allowing withdrawal of Appellant's plea in Cause No. 99-1-00817-2?

Issue 1.3: Did collateral estoppel bar relitigation or judicial redetermination of the finding and order previously allowing withdrawal of Appellant's plea in Cause No. 99-1-00817-2?

STATEMENT OF THE CASE

Appellant incorporates by reference all facts presented in Appellant's Opening Brief.

ARGUMENT

A. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO WITHDRAW GUILTY PLEA

1. Under the Law of the Case Doctrine the Trial Court was Required to Allow Appellant to Withdraw his Guilty Plea.

The Division Two Court of Appeals ruled, and the Washington Supreme Court affirmed, that based upon Mr. Chambers' predicate showing of sufficient basis to withdraw part of his guilty plea, because said plea was indivisible the invalid portion thus required Mr. Chambers to withdraw the entire plea.

Thus, upon remand, the trial court erred in denying Mr. Chambers' subsequent motion to withdraw his plea in its entirety, as the law of the case doctrine controls.

The "law of the case" doctrine generally "refers to 'the binding effect of determination made by the appellate court on further proceedings in the trial court on remand'" or to "the principle that an appellate court will generally not make a redetermination of the rules of law which it has announced in a prior determination in the same case. State v. Harrison, 148 Wn.2d 550, 562, 61 P.3d 1104 (2003)(quoting Lutheran Day Care v. Snohomish County, 119 Wn.2d 91, 113, 829 P.2d 746 (1992)).

The doctrine serves to "promote [] the finality and efficiency of the judicial process by 'protecting against agitation of settled issues.'" Harrison, 148 Wn.2d at 562 (quoting Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 816, 108 S.Ct. 2166, 100 L.Ed.2d 811 (1988)). "The courts apply the doctrine in order 'to avoid indefinite relitigation of the same issue, to obtain consistent results in the same litigation, to afford one opportunity for argument and decision of the matter at issue, and to assure the obedience of lower courts to the decisions of appellate courts.'" Harrison, supra.

It is thus axiomatic that the trial court's prior ruling granting withdrawal of Appellant's plea on Cause No. 99-1-0-00817-2, and the Division Two Court's concurrence as to the underlying facial invalidity, requires that, under the law of the case doctrine,

Mr. Chambers' motion to withdraw his entire indivisible guilty plea must be granted.

As the record clearly shows, the State appealed the trial court's May 28, 2010 ruling, arguing not that the court erred in finding facial invalidity as to Cause No. 99-1-00817-2, but rather a separate argument that the plea involved two other cause numbers and was thus indivisible.

The Court of Appeals agreed with Respondent's argument as to the indivisibility of the plea in its totality, but never reversed the trial court's express finding of facial invalidity as to underlying Cause No. 99-1-00817-2.

Therefore, the State not only received precisely the relief it sought on appeal, but more importantly, the State waived any further challenge as to the facial invalidity of the underlying cause number because the State never appealed the Division Two Court's holding affirming facial invalidity as to Cause No. 99-1-00817-2.

The trial court's initial finding and ruling thus became the law of the case, and based upon the facial invalidity, the only remedy is the withdrawal of the entire indivisible plea. See State v. Barber, 170 Wn.2d 854, 248 P.3d 494 (2011).

2. Any Relitigation of Underlying Factors for the Trial Court's Finding and Order Allowing Withdrawal of the Plea as to Cause No. 99-1-00817-2 is Barred by Res Judicata.

In Washington State, res judicata occurs when a prior judgment has a concurrence of identity in four respects with a subsequent

action. There must be identity of (1) subject matter; (2) cause of action; (3) persons and parties; (4) the quality of the persons for or against whom the claim is made." Schroeder v. Excelsior Management Group, LLC, 177 Wn.2d 94, 108, 297 P.3d 677 (2013).

Res judicata bars the litigation of claims and issues that were litigated, or might have been litigated, in a prior action. Loveridge v. Fred Meyer, Inc., 125 Wn.2d 759, 763, 887 P.2d 898 (1995). Res judicata bars litigation of a new claim if it relates to a previously dismissed claim based on the "same nucleus of facts." See Ensler v. Pitcher, 152 Wn.App. 891, 904, 222 P.3d 99 (2001).

As the Court's prior published opinion in this case clearly shows, the issues of potential injustice, specific performance, and "compelling reasons to deny [withdrawal of] Chambers' plea agreement" were already litigated, and the State's arguments thereto were subsequently rejected by the Division Two Court. See State v. Chambers, 163 Wn.App. 54, 61 n.9, 256 P.3d 1283 (2011).

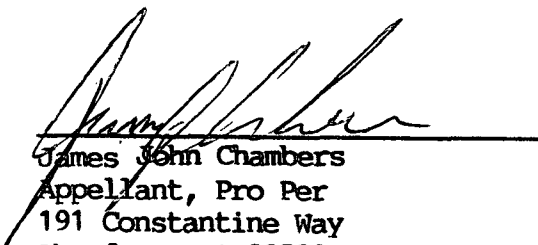
Therefore, under res judicata, these issues cannot be revisited by the trial court. Because the trial court already conducted a balancing test as to any potential injustice resulting from withdrawal of the plea in Cause No. 99-1-00817-2, the State cannot have a second bite at the apple, and the trial court cannot make a different finding or ruling by subjecting Mr. Chambers' motion to withdraw the plea to a de novo balancing test.

In the alternative, relitigation or redetermination of facts supporting or opposing withdrawal of the plea was barred by collateral estoppel.

CONCLUSION

The State has fomented a perpetuation of inconsistent and opposing positions which only serve to unjustly prolong Mr. Chambers' remedy of withdrawing his indivisible plea. Appellant respectfully requests that the Court grant this appeal.

RESPECTFULLY submitted this 8th day of July, 2014.



James John Chambers
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DECLARATION OF SERVICE BY MAIL

GR 3.1

2014 JUL 10 PM 1:01

I, James J Chambers, declare and say:

That on the 8th day of July, 2014, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, with First Class U.S. Mail, pre-paid postage affixed, under cause No. 99-1-00817-2:

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
DIV II COURT OF APPEALS # 45392-4-II

addressed to the following:

ATTORNEY
Stephen Johnson COURT OF APPEALS
925 ~~Redwood~~ DIV II
925 SOUTH REDWOOD AVE 950 REDWOOD WAY SUITE 300
TACOMA WA 98405 TACOMA WA 98402

I declare under penalty of perjury that the foregoing is true and correct to the best of my belief.

DATED THIS 8th day of July, 2014, in the City of Aberdeen, County of Grays Harbor, State of Washington.

WITH ALL RIGHTS RESERVED.

James J Chambers
Signature
James John Chambers
Printed Name

c/o [DOC 743702 UNIT H-6-A-29
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
Aberdeen Washington (98520)]