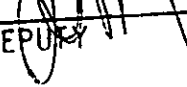


FILED
COURT OF APPEALS
DIVISION II

2016 JAN -7 AM 11:26

STATE OF WASHINGTON

BY 
DEPUTY

STATE OF WASHINGTON

COURT OF APPEALS

DIVISION II

STATE OF WASHINGTON,

NO: 47702-5-II

respondent

V.

STATEMENT OF ADDITIONAL

CHRIS A. FORTH

GROUND

APPEALANT

I, CHRIS A. FORTH, Have reviewed the opening brief my attorney provided me. Summarized below are 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.

I. First additional ground

ISSUE

When calculating appellants sentence pursuant to RCW. 9.94A.505(6), Did the trial court err in not including: (1) all the time served in Bonner County, Idaho for purpose of extradition on this cause, to include one hundred twenty two days from 8-2-2011; to 12-2-2011 and (2) 1 day in Kootiny County Idaho, (3) The four days in Spokane County Washington from 12-3-2011-12-6-2011; and (4) The ten days in King county Washington, from 12-6-2011-12-16-2011.

1. The trial court erred when it failed to comply with the order of the appellate court for Division II entered on Febuary 20, 2014.

A. FACTS SUPORTING CLAIM

On FEBUARY 20th ,2014, THE WASHINGTON COURT OF APPEALS FOR DIVISION II, Ordered the defendant be remanded to the trail court for a determination of fact, Ordering that defendant's Sentance required recalculation persuant to RCW 9.94A.505(6). CP40,42-43

(ATTACHMENT A, P.1&2

Appellants SAG, p.2 of 8

B. APPLICABLE LEGAL PRINCIPLES

RAP RULE 7.2(a), reads in part; "After review is accepted by the appellate court, The trial court has the authority to act in a case only to the extent provided in this rule unless the appellate court limits or expands that authority as provided in rule 8.3."

RAP Rule 8.3 provides the appellate court with the authority to issue orders.

The hearing held before the Pierce County Superior Court on 6/12 /2015 , and for the matter of State V. Forth was under the authority of rule 8.3, and subject to the restraints of rule 7.2(a). The order entered 2/20/2014 therefore legally required the trial court to determine all times served by by defendant before the sentencing and determine if that confinement was solely in regard to the offense for which the offender is being sentenced.

RCW 9.94A.505.(6)

According to this order and statutory authority the court had a duty to review the record, determine the facts, and fully credit the defendant all times served prior to sentencing.

2. The trial court caused a MANIFEST ERROR TO OCCUR WHEN IT FAILED TO FULLY REVIEW THE RECORD BEFORE ENTERING A DETERMINATION OF DEFFENDANTS PRE-sentence time served.

A. FACTS SUPPORTING CLAIM

As a result of being detained by the authority of warrant, defendant Forth served one hundred twenty two days in Bonner County Idaho from August 2, 2011 to December 2-2011. Subsequent to extradition defendant allso served an additional fourteen days at various locations within Washington State.

The (122) days served in The State Of Idaho does not reflect in the trial courts determination of time served by deffendant. Areview of that State's J&S clearly shows credit for the time however, appellatnt believes the language held within the Idaho J&S has caused a misscalculation . According to the sentance imposed by the State of Idaho on November 21, 2011, deffendant was ordered to serve one hundred elleven days in custody with time served being credited at (111) days allready being served by deffendant. However, in the same court through its order the court suspended that sentance "inliu" of defendant serving five years probation.

(ATTACHMENTBp.1-3

B. APPLICABLE LEGAL PRINCIPLES

A defendant is entitled to credit for time served on constitutional principles of due process and equal protection. Reanier V. Smith, 83WN.2d 342,346,517P.2d 949(1974). And RCW 9.94A.505(6) "Simply represents the codification of the constitutional requirement that the offender is entitled to credit for time served prior to sentencing." In re Pers. Restraint of Costello, WA.App. 826,833, 129 P.3d 827(2006)(quoting State v. Williams, 59 WN. App.379,382,796 P.2d 1301 (1990)

A potential implication of double jeopardy can arise when time served is not calculated correctly, before imposition of sentence. (Reanier, 83 WN.2d at 346-347) In the instant case defendant was sentenced by the State Of Idaho to five years probation "in lieu of one hundred eleven days incarceration. The use of "in lieu of " by that court allows for defendant's claim that the one hundred twenty two days served were not for the purpose of punishment under that conviction, and are de facto days served for the purpose of his Washington sentence. For the Washington trial court to ignore this period of confinement it must erroneously determine that the Idaho trial court intended to both confine the defendant as well as supervise him for the period of five years, such determination is not supported by the plain language of the record (ATTACHMENT Bp.2) and this fact would have become clear had the court APPELANTS SAG P 5 OF 8

actually done more than hold a desultory review of the facts.

3. THE TRIAL COURT ERRED WHEN IT FAILED TO CONSIDER FACTS SURROUNDING DEFENDANT'S LEGAL FINANCIAL OBLIGATIONS BEFORE IMPOSING SENTENCE.

A. FACTS SUPPORTING CLAIM

(i) On March 29, 1995, and for case number: 93-1-02523-0 defendant Forth was ordered to pay cost, fines, and or restitution, and (ii) Pursuant to RCW 9.94A. 760(4) Pierce County Superior court an "additional ten years to execute judgement" (see ATTACHMENT C). Per statute and order on February 25, 2015 the court lost jurisdiction to impose this portion of the sentence. (iii) As argued by appellate counsel within the "Appeal Brief, the court also failed to acknowledge defendants indigency before imposing this portion of sentence.

B. APPLICABLE LEGAL PRINCIPLES

In the interest of expeditious review appellant will to counsel's indigency arguments as held within appeal brief, and will only argue the loss of jurisdiction claim.

As appellant's judgement and sentence was imposed before the year 2000 review here must be weighed against the authority of RCW 9.94A. 760.

Already the trial court has invoked RCW 9.94A.760 when it extended the court's jurisdiction an additional ten year period on February 25, 2005. (Attachment C) RCW 9.94A.760(4) states in pertinent part:

"....For an offense committed to July 1, 2000, may be enforced at any time during the ten year period following the offenders release from total confinement or within ten years of reentry of the judgement and sentence, whichever period ends later. Prior to the expiration of the initial ten year period, The Superior court may extend the criminal judgement an additional ten years for payment of legal financial obligations including crime victims "assessments".

Therefore the imposition of judgement was statutorily sound, it is the enforcement that causes the manifest error here as the 2015 trial court did not enjoy jurisdiction of that judgement. It was the order of the appellate court entered February 20, 2014 (cp40,42-43) That the trial court review defendant's sentence with no defined direction as to in part or wholly, thus appellant properly preserved this issue by his verbal objection. (rpState V. Blazina, 174 WN.App.906,301 p.3d 492(2013)

Dated this 31st day of 2015

Respectfully Submitted,

Chris A. Forth

Chris A. Forth

, appellant

ATTACHMENT A

April 14 2015 8:53 AM

KEVIN STOCK
COUNTY CLERK
NO: 93-1-02523-0

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

CHRIS ALLEN FORTH,
Appellant.

Consol. Nos. 19429-5-II
43041-0-II

MANDATE

Pierce County Cause No.
93-1-02523-0

Court Action Required

The State of Washington to: The Superior Court of the State of Washington
in and for Pierce County

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division II, filed on February 20, 2014 became the decision terminating review of this court of the above entitled case on December 3, 2014. Accordingly, this cause is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion. Costs and attorney fees have been awarded in the following amount:

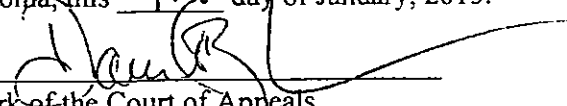
Judgment Creditor; State of Washington, Pierce Co. \$5,600.72
Appellate Indigent Defense Fund; 0.00
Judgment Debtor; Chris Forth; \$5,600.72

Court Action Required: The sentencing court or criminal presiding judge is to place this matter on the next available motion calendar for action consistent with the opinion.

Page 2
Mandate 19429-5-II



IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the seal of said Court at
Tacoma, this 9th day of January, 2015.


Clerk of the Court of Appeals,
State of Washington, Div. II

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Pierce County Prosecuting Atty Ofc
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Tacoma, WA, 98402-2171
TROBERT@co.pierce.wa.us

Chris Allen Forth
DOC#728948
Airway Heights Corr Ctr
PO Box 2049
Airway Heights, WA 99001

WSP Identification & Criminal History Section
ATTN: Quality Control Unit
PO Box 42633
Olympia, WA 98504-2633

Hon. Waldo F. Stone
Pierce Co Superior Court Jusge
930 Tacoma Ave South
Tacoma, WA 98402

ATTACHMENT B

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 DEC -2 P 4:34

MARIE SCOTT
CLERK DISTRICT COURT
MS
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,)

Plaintiff,)

vs.)

CHRIS ALLEN FORTH,)

DOB: 10/04/1962)

SSN: XXX-XX-5610)

Defendant.)

Case No. CR 2011-0004008

JUDGMENT AND ORDER
FOR UNSUPERVISED PROBATION

On the 21st day of November, 2011, before the Honorable Steve Verby, District Judge, personally appeared Philip Robinson, Chief Deputy Prosecuting Attorney for the County of Bonner, State of Idaho, and the Defendant, with his attorney, Isabella Robertson, this being the time fixed for pronouncing judgment in this matter.

It is ADJUDGED that the Defendant has been found guilty of the offense of Failure to Register as a Sex Offender, a felony in violation of Idaho Code § 18-8309, as charged in the Information on file in the above-entitled matter, the Court having asked if the Defendant had any legal cause to show why judgment should not be pronounced against him and no sufficient cause to the contrary having been shown or appearing to the Court.

It is further ADJUDGED that the Defendant is guilty as charged and convicted and that the offense for which the Defendant is adjudged guilty herein was committed on and before the 2nd day of August, 2011.

It is further ORDERED, ADJUDGED, and DECREED that the Defendant pay a fine in the amount of \$774.50 and pay court costs in the amount of \$225.50.

It is further ADJUDGED that the Defendant be sentenced to the custody of the Bonner County Sheriff to be held in the Bonner County jail for one hundred eleven (111) days with work release privileges. Any violation of work release rules shall be a probation violation. Defendant has served one hundred eleven (111) days of presentence incarceration and shall receive credit for time served.

It is further ADJUDGED that said sentence to incarceration and the same is hereby suspended and the Defendant is placed on informal, unsupervised probation for FIVE (5) years from November 21, 2011, until November 21, 2016, on the following terms and conditions:

Probation is granted to and accepted by the Defendant subject to all its terms and conditions and with the understanding that the Court may at anytime, in a case of a violation of the terms of the probation, cause the probationer to be returned to the Court for imposition of sentence as prescribed by law.

1. Defendant shall violate no federal, state or local laws.

2. It is further ADJUDGED that the Defendant be assessed and ORDERED to pay:

\$ 17.50 as Court costs

\$ 75.00 as payment to the Idaho Victim's Compensation Fund

\$ 10.00 to the Police Officers Standard and Training Academy Fund

\$ 10.00 to the ISTARs Technology Fund

\$ 10.00 to the County Administrative Fund

\$ 3.00 to the Peace Officer and Detention Officer Temporary Disability Fund

\$100.00 to the Emergency Surcharge Fund.

\$225.50 Total Costs which shall be paid in full within four (4) years from November 21, 2011.

3. Defendant shall be incarcerated in the county jail for one hundred eleven (111) days. Defendant has served one hundred eleven (111) days of incarceration and shall receive credit for time served.

4. Defendant shall pay a fine to the Clerk of the Court in the amount of \$774.50. Such fine shall be paid in full within four (4) years from November 21, 2011.
5. Payments for fine and court costs ordered herein shall be made payable to the Clerk of the Court in cash, certified check, cashier's check, or money order, and shall be paid in full within four (4) years from November 21, 2011.


It is further ORDERED that any bond remaining posted as of this date is exonerated.

NOTICE OF RIGHT TO APPEAL

YOU ARE HEREBY NOTIFIED that you have a right to appeal this Order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the entry of the written Order in this matter.

YOU ARE FURTHER NOTIFIED that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer.

DATED this 2nd day of December, 2011.



Steve Verby
District Judge

ATTACHMENT C

877- 210 5111
1908

February 25 2005 8:30 AM

KEVIN STOCK
COUNTY CLERK

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,)	Case No.: 93-1-02523-0
)	Judgment No.: Judgement No: 95-9-02902-8
Plaintiff,)	
vs.)	ORDER GRANTING ADDITIONAL TEN
)	YEARS TO EXECUTE JUDGMENT
CHRIS ALLEN FORTH)	(OREXTC)
)	
Defendant.)	

JUDGMENT SUMMARY

Judgment Creditor:	State of Washington
Attorney for Creditor:	Frank Krall
Judgment Debtor:	CHRIS ALLEN FORTH
Original Judgment Amount	\$ 1,210.00
Outstanding Obligation:	\$ 2,607.76
RCW 6.17:020 Filing Fee	\$ 110.0
Balance:	\$ 2,717.76
Balance bears Interest @ 12% from last date interest was paid	

THIS MATTER having come before the above-entitled court upon application of the Clerk, the court finds that the defendant was sentenced on March 29, 1995 and ordered to pay costs, fines, assessments and/or restitution in the above entitled matter.

That the requested extension of jurisdiction was filed in a timely manner and the court further finds that an additional ten years is necessary for the collection of this judgment;

That costs of collection pursuant to RCW 36.18.190 should be added to the obligation of the judgment debtor upon referral for collection, now, therefore,

Pierce County
Office of the County Clerk
930 Tacoma Avenue South, Room 110
Tacoma, WA 98402-2177
253-798-7455

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that :

1. The period during which judgment and sentence may be executed is extended for an additional ten years following ten years after the date judgment was entered or for ten years following the offender's release from total confinement as provided in chapter 9.94A RCW, whichever is later.
2. Additional costs of collection due under any agreement by the Clerk with a collection agency are assessed against the defendant, upon referral of judgment by the Clerk to the agency pursuant to an agreement authorized by RCW 36.18.190. Notwithstanding any such referral, the Court retains power over the defendant(s) to enforce this judgment. The Collection agency may be authorized by the Clerk to enter agreements with defendant(s) not to execute upon the judgment for so long as monthly payments are made strictly in accordance with a monthly payment schedule approved by the Court.

Dated: February 25, 2005



Kitty-Ann van Doornick, Judge

Kevin Stock, Clerk
by Daniel A Bohnett, Deputy Clerk