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June 17, 2016

Court of Appeals
Division III
State of Washington

33810-0-III

COURT OF APPEALS

DIVISION III

OF THE STATE OF WASHINGTON



STATE OF WASHINGTON, RESPONDENT

v.

CHARLES FLETCHER, APPELLANT

APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

BRIEF OF RESPONDENT

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I. RESPONSE TO ISSUES AND ASSIGNMENTS OF ERROR

1. The Trial Court did not err by reserving the appointment of counsel until the Court determines whether a hearing for conditional release under RCW 10.77.150 is appropriate.

2. The Trial Court did not err when it did not direct the DSHS Secretary to develop a Conditional Release Plan in September, 2015.

3. The Trial Court did not abuse its discretion when no date for a conditional release hearing was set.

4. Neither party should be awarded costs regardless of the ultimate decision of the Court of Appeals.

II. STATEMENT OF THE CASE

On March 28, 2013, Appellant was found not guilty by reason of insanity pursuant to RCW 10.77.080 by Honorable Salvatore F. Cozza, Superior Court Judge. Findings of Fact and the appropriate Judgment of Acquittal and Order requiring Appellant to go to Eastern State Hospital ("ESH") were entered that day. (CP 1-5)

Thereafter, Appellant remained at ESH, never petitioning for a Conditional Release and never qualifying for a Conditional Release

under RCW 10.77.150(3)(a) until on or about September 1, 2015, when Appellant prepares and forwards to Judge Cozza a document entitled "Motion for Conditional Release and for Appointment of Public Defender" which appears to have been received on September 4, 2015. (CP 11, 14) Apparently, a form "Certificate of Indigency" on a Public Defender pleading was also sent to Judge Cozza. (CP 12-13)¹

On September 10, 2015, Judge Cozza responded. (CP 6, 17) In that response Judge Cozza aptly noted: (1) he had received Appellant's letter requesting a hearing to consider Conditional Release; (2) he attached the relevant statute RCW 10.77.150 (CP7-8); (3) he indicated the first step was for Appellant to apply to the Secretary of DSHS; and (4) notified Appellant the Court can consider appointment of counsel and whether a hearing is necessary once the application to the Secretary of DSHS was made.

Thereafter, with nothing in this record to suggest Appellant made any attempt to follow Judge Cozza's September 10, 2015, letter

¹ Interestingly enough, those documents which are part of the Clerk's Papers do not show being filed-stamped in Court File 11-1-02625-7. The Pleadings appear incomplete.

to him, Appellant filed a Notice of Appeal (CP 15-16) and an Order of Indigency was entered by Judge Cozza (CP 24-25).

Appellant's case was then placed on a calendar to determine whether this appeal was as a matter of right or for Discretionary Review pursuant to RAP 2.3. On March 15, 2015, the Appellate Commissioner granted review on the issue of appointment of counsel under RAP 2.3(b)(3), but otherwise held under the authority of *State v. Howland*, 180 Wn. App. 196, 321 P.3d 303 (2014) that the matter was not directly reviewable as a matter of right and that RCW 10.77.150 was a more specific statute than RCW 10.77.200 and applied in the case at bar.²

Neither side sought further review of that decision by way of RAP 17.7, and this appeal ensued.

Appellant also suggests if this appeal is unsuccessful, he not be required to pay costs under *State v. Sinclair*, 192 Wn. App. 380, 367 P.3d 612 (2016).

² Court Commissioner Wasson's Ruling filed March 15, 2016, pages 2-3.

III. ARGUMENT

A. THE TRIAL COURT DID NOT ERR BY RESERVING THE APPOINTMENT OF COUNSEL UNTIL THE COURT DETERMINES WHETHER A HEARING FOR CONDITIONAL RELEASE UNDER RCW 10.77.150 IS APPROPRIATE

The Trial Court deferred in the last sentence of its responsive letter of September 10, 2015, on the issue of appointment of counsel. (CP 6, 17) Appellant contends the trial judge erred in waiting to do so and cites RCW 10.77.020(1)³ as the only authority on this issue. A cursory or literal reading of that statute may suggest the same. However, when one analyzes this statute in the context of a Conditional Release proceeding, the trial judge's deferral on any counsel appointment makes much sense. RCW 10.77.020(1) provides in pertinent part, as follows:

- (1) At any and all stages of the proceedings pursuant to this chapter, any person subject to the provisions of this chapter shall be entitled to the assistance of counsel, and if the person is indigent the court shall appoint counsel to assist him or her. ...

³ See also, *State v. Elgin*, 118 Wn.2d 551, 555, 825 P.2d 314 (1992), relating to avoiding a literal reading of a statute which results in an absurd, unlikely or strained interpretation which is cited in *State v. Yakima County Commissioners*, 123 Wn.2d 451, 869 P. 2d 56 (1994), *infra*.

Initially, one might think that the request to contact ESH as the trial judge suggests in his September 10, 2015, letter (CP 6) is a “proceeding under this chapter.” Respondent suggests this is not a proceeding as what occurred here is merely the filing of a pro se motion under such that should not in and of itself warrant appointment of counsel. Appellant then does not follow the Court’s direction as to what should be done next, nor does Appellant seek any clarification of the relevant process before “appealing.” Under the broadest reading of RCW 10.77.020(1), as suggested by Appellant, a defendant would appear to have a right to counsel the entire time he or she is committed pursuant to RCW 10.77, yet this would appear to be absurd and not what our legislature intended when a “proceeding” is not pending. Respondent notes in *State v. Yakima County Commissioners*, 123 Wn.2d 451, 869 P.2d 56 (1994), our Supreme Court stated:

This court has the ultimate authority to determine the meaning and purpose of a statute. *Multicare Med. Ctr. v. Department of Social & Health Servs.*, 114 Wn.2d 572, 582 n. 15, 790 P.2d 124 (1990). Our paramount duty in statutory interpretation is to give effect to the Legislature's intent. *WPPSS v. General Elec. Co.*, 113 Wn.2d 288, 292, 778 P.2d 1047 (1989). We avoid a literal reading of a statute if it would result

in unlikely, absurd, or strained consequences. *State v. Neher*, 112 Wn.2d 347, 351, 771 P.2d 330 (1989). “The spirit or purpose of an enactment should prevail over the express but inept wording.” *State v. Day*, 96 Wn.2d 646, 648, 638 P.2d 546 (1981).

123 Wn.2d at 462.

Respondent suggests when this Court construes RCW 10.77.020(1) an “absurd” or “strained” result be avoided such as that advocated by Appellant.

Additionally, the term “proceeding” is not defined in RCW 10.77.020 or in that chapter’s definitional section, RCW 10.77.010. Thus, one must search elsewhere to determine that meaning.

For example, Merriam Webster’s Learner’s Dictionary defines “proceedings” as: “law: the process of appearing before a court of law so a decision can be made about an argument or claim: in a legal action.” <http://learnersdictionary.com/definition/Proceedings>.

Respondent looks to RCW 2.43.020(3), regarding what a “legal proceeding” is, that statute provides the following:

RCW 2.43.020 - Definitions.

...

(3) “Legal proceeding” means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

Further, this definition was relatively recently construed in *Kustura v. Labor of Industries*, 169 Wn.2d 81, 233 P.3d 853 (2010), where our Supreme Court stated:

... Thus, for an LEP (*limited English Proficiency*) individual to have a statutory right to interpreter services at government expense, the government action must (1) be initiated by the government entity and (2) satisfy the definition of a “legal proceeding.”⁴ If the government action is not a legal proceeding or if a legal proceeding is initiated by an LEP, the LEP bears the cost of interpreter services. RCW 2.43.040(3).⁵

169 Wn.2d at 89.

The Court does note in footnote 5 at 169 Wn.2d at 89 it does not discuss what input indigency may have on a person’s rights under RCW 2.43 relating to court interpreters.

It also is appropriate to look at the notion of whether the situation in the case at bar is a “critical stage of the proceedings” as set forth in *State v. Durnell*, 16 Wn. App. 500, 558 P.2d 252 (1976).

There, the Court stated:

... A ‘critical stage’ is one in which there exists a possibility a defendant could be prejudiced in the defense of his case. *Garrison v. Rhay*, 75 Wash.2d 98, 449 P.2d 92 (1968). More specifically, it is one ‘in which a defendant’s rights may be lost, defenses waived, privileges claimed or waived, or in which the outcome of the case is otherwise substantially affected.’ *State v. Agtuca*, 12 Wash.App. 402, 404, 529 P.2d 1159, 1161 (1974).

16 Wn. App. At 502.

Respondent suggests that, by analogy, the Appellant is attempting to initiate a matter and he would not appear to have a “right” to an interpreter and the pro se motion as set forth is not a “critical stage of the proceedings.”

Importantly, his complaint under RCW 10.77.110 (acquittal of crime by insanity) is civil in nature as he is in the state hospital for treatment and not punishment and would ultimately be entitled to discharge no later than the statutory maximum of the (10) years for second degree assault whether he can establish prior to that time he is

entitled to a conditional release, a more general release or no release. (CP1-5) Should he prove to a Court's satisfaction he is no longer mentally ill, for example, he could be discharged. See *State v. Platt*, 143 Wn.2d 242, 252, 19 P.3d 412 (2001); *State v. Reid*, 144 Wn.2d 621, 631, 30 P.3d 465 (2001). However, he had no evidence as of September, 2015 when Appellant sent the letter to Judge Cozza to establish a realistic basis for release. See footnote 7, *infra* (p. 13).

Respondent strongly and respectfully contends this matter is not a "legal proceeding" and that Appellant would not necessarily be entitled to counsel at public expense under these circumstances even should it be deemed a "legal proceeding" since he is initiating it and he is a not guilty by reason of insanity, acquitted, and is not a "criminal defendant" in the legal sense.

Here, the "judgment" in the case finding Appellant not guilty by reason of insanity had already been in existence for over two (2) years at the time of his letter to Judge Cozza. There was not a "proceeding" pending, nor did Appellant's letter and material sent to the Court in September, 2015 amount to a "legal proceeding." Respondent suggests RCW 2.43 cited is similar to an analogous to the

situation here and is consistent with what right(s) Appellant has with regard to appointment of counsel under these facts.

Further, unlike a right to a trial or a certain hearing, Appellant's "right" to a hearing was dependent upon the discretion of Judge Cozza. Most recently, *State v. Howland*, 180 Wn. App. 196, 321 P.3d 303 (2014), noted that a petition by an individual without approval of the Secretary for a Conditional Release, as in this case, the discretion as to whether to convene such a hearing is up to the Court. *Howland, supra*, at 204 citing *State v. Platt*, 143 Wn.2d 242, 248, 19 P.3d 412 (2001). Appellant is not entitled to a "hearing for a hearing's sake" or counsel at public expense anytime he desires it. Thus, this situation is far different from counsel at a dispositive hearing, jury or bench trial, which would be required under statutory or constitutional law. Here, the trial judge should be able to see what the Secretary's position is and what the petition's status is before deciding to go forward with such hearing(s), appointing counsel, and when to do so.

It is reasonable and discretionary for the Court to desire more preliminary information before deciding whether to appoint counsel or to convene a hearing.

Appellant attempts to “bootstrap” his Conditional Release Motion (CP 11) into the more general “release” statute, RCW 10.77.200. Yet, as the Appellate Court Commissioner aptly noted in her decision as follows:

Here Mr. Fletcher petitioned for Conditional Release, and, therefore, the case specific statute-- RCW 10.77.150 -- applies. See *State v. Howland*, 180 Wn. App. 196, 321 P.3d 303 (2014)⁴

Additionally, had RCW 10.77.200 been the statute under which Appellant wished to proceed, there is no proof within this record that RCW 10.77.200(5) was strictly followed. There is no record of the required notice to ESH.⁵ Given these circumstances, it appears that if Appellant could proceed under RCW 10.77.200 and if Appellant had that specifically in mind, Appellant could and should have advised the judge of such as it was certainly reasonable for the

⁴ Court Commissioner Wasson’s March 15, 2015, ruling, page 2, first full paragraph.

⁵ There is nothing within with the Clerk’s Papers submitted by the Appellant – or otherwise - which indicates notice to ESH was given as required. Appellant (supposedly) copies in his letter (CP 21), to two (2) the deputy prosecutors -- Debby Kurbitz and Tony Hazel – and to ESH Officials along with Assistant Public Defender Amy Sullivan. Nothing in the Court file reflects this actually being transmitted to all listed. In fact, ESH did not receive the correspondence per a record check for Appellant’s letter to Judge Cozza.

trial judge to respond as he did under the circumstances with sending a copy of RCW 10.77.150, to the Appellant as occurred here.

B. THE TRIAL COURT DID NOT ERR WHEN IT DID NOT DIRECT THE DSHS SECRETARY TO DEVELOP A CONDITIONAL RELEASE PLAN IN SEPTEMBER 2015

When the trial judge responded to Appellant's letter on September 10, 2015, at that time it was uncertain whether Appellant would proceed to advise DSHS as suggested in the September 10, 2015, letter,⁶ drop the matter, seek counsel on his own, or directly through the Spokane County Public Defender's Office, proceed pro se, go to the people at ESH as Judge Cozza suggested in his responsive letter (CP 6, 17) or seek additional information as to what he would do. The trial judge probably anticipated Appellant would obtain a report from ESH when he wrote the September 10, 2015, letter if Appellant contacted DSHS as noted in that letter. At that point, there was no reason for the trial judge to direct the DSHS Secretary to prepare any report under RCW 10.77.150. It was clear the trial judge believed Appellant must make application under 10.77.150 (1) for his Conditional Release and as a courtesy provided that statute to

⁶ CP 6, 17 with enclosed CP 18 and 19 (RCW 10.77.150).

Appellant with his letter. There was no reason for the trial judge to direct a report from DSHS on September 10, 2015, when the trial judge responded to Appellant.⁷

C. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN NO DATE FOR A CONDITIONAL RELEASE HEARING WAS SET

As noted earlier, the setting of such a hearing is largely discretionary with the Court. *State v. Platt*, 143 Wn.2d 242, 248, 19 P.3d 412 (2001). There is nothing within the law or good sense which would require a trial judge to set a hearing just because the NGRI detainee would like to have a hearing when there is nothing to suggest the DSHS Secretary or ESH would recommend a Conditional Release or potentially more as is conceivably the case under RCW 10.77.200. This is underscored by the Secretary's April 28, 2015 and May 27, 2016, six (6) month reports showing no obvious or tenable reason for such a review hearing.

⁷ Until May 27, 2016, the last report pursuant to RCW 10.77.140 from DSHS Secretary at ESH was dated April 28, 2015, and attached as Appendix 2, pp. 1-4 to Respondent's Memorandum Objecting to Review filed February 24, 2016. The May 27, 2016, report is attached herewith as an Appendix to this document and a copy was forwarded to Appellant's counsel on June 3, 2016. Both versions essentially contend a Conditional Release is not appropriate.

Such would not be a good use of resources and is why such Courts are given necessary discretion with regard to holding hearings under RCW 10.77. The facts here have not “triggered” RCW 10.77.150(2), RCW 10.77.150(3), RCW 10.77.200(1)-(3). There is nothing in these facts to suggest the judge abused his discretion, a high standard requiring a manifestly unreasonable action or an action exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).⁸

D. NEITHER PARTY SHOULD BE AWARDED COSTS REGARDLESS OF THE ULTIMATE DECISION OF THE COURT OF APPEALS

As Appellant notes in his brief on page 5, neither party has substantially prevailed in this case to date. The Commissioner’s decision to date is not what either party requested by way of earlier briefing and the Discretionary Review Hearing of March 2, 2016.

Further, unlike many decisions an Appellate Court must make as to costs under RAP 14.2, in the case at bar those costs are likely far

⁸ Please note that at least since 2010, the Public Safety Review Panel has a role in most circumstances regarding such Conditional Release requests. RCW 10.77.270(1)(a), RCW 10.77.270(3), and RCW 10.77.270(4). This is not even discussed by Appellant.

less than in most cases. Both sides of this litigation are being paid at public expense. Therefore, the parties have agreed neither side will request costs from the other before this Court.

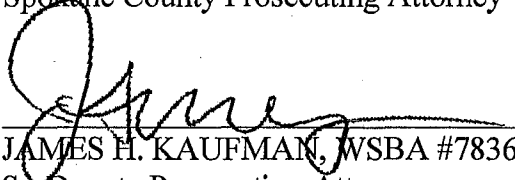
IV. CONCLUSION

Respondent respectfully suggests the trial judge's decision as incorporated in his letter of September 10, 2015, be affirmed.

Respondent notes there has been no abuse of discretion in how the trial judge handled the Appellant's referral. The trial judge merely stated an orderly process which within his discretion could ultimately result in a review hearing under RCW 10.77.150 or his seeing, within his discretion, no reason to conduct one or to appoint counsel.

Respectfully submitted this 17th day of June, 2016

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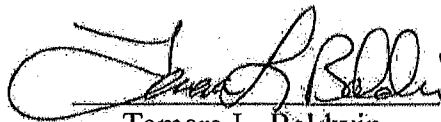
PROOF OF SERVICE

I hereby declare under the penalty of perjury and the laws of the State of Washington that the following statements are true.

On the 17th day of June, 2016, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

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Manek R. Mistry, Esq.	<input type="checkbox"/>	U.S. Mail
Backlund & Mistry	<input type="checkbox"/>	Hand-Delivered
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(Attorney for Appellant)		

Dated this 17th day of June, 2016, in Spokane, Washington,


Tamara L. Baldwin

APPENDIX NO. 2



STATE OF WASHINGTON
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Aging and Disability Services
Behavioral Health and Service Integration Administration
Eastern State Hospital
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May 27, 2016

The Honorable Salvatore F. Cozza
Judge of the Spokane County Superior Court
1116 W. Broadway Avenue
Spokane, Washington 99260-0350

RE: FLETCHER, CHARLES D.
ESH NO: 549029
CAUSE NO: 11-1-02625-7

Dear Judge Cozza:

This letter is written pursuant to RCW 10.77, and is a 6-month progress report regarding the above named individual. On March 27, 2013, Spokane Superior Court found Mr. Fletcher not guilty by reason of insanity to the charges of Assault in the Second Degree (3 counts), Failure to Remain at the Scene of an Accident-Injured Person, and Attempt to Elude a Police Vehicle. He is committed to the State of Washington Department of Social and Health Services for a maximum supervision time of up to 10 years which is due to expire on March 27, 2023.

According to police records and Mr. Fletcher's admission psychosocial assessment, on 8/19/11 the Spokane Police Department responded to a call regarding a person with a weapon. A male was reportedly in the roadway armed with a knife trying to stab vehicles. When the police arrived they saw the suspect enter the Sacred Heart ER with the knife. The officer believed that due to the initial call that the officer had interrupted Charles from entering the ER with a knife where he was possibly going to assault or kill people. The suspect, who was later identified as Charles Fletcher, turned around and saw the officer and then started running back outside and then Charles got in his Bronco that he had parked in front of the ER. Charles then drove his Bronco backwards and the officer pursued in his patrol car. After pursuing the patient in his vehicle for a while, and once they were clear from civilian traffic, the officer initiated a PIT maneuver. During the maneuver the officer's PIT bumper got caught on Charles' rear bumper

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and since the officer could not break free Charles was dragging the patrol car. The officer did not have any control of his vehicle at this time. When Charles was driving he drove over a median which knocked the patrol car free. Additional officers joined in the pursuit at this time. It appeared at one point that Charles was attempting to ram one of the officers' patrol cars, but the officer was able to get the vehicle out of the way before Charles was able to ram it. Charles drove into traffic the wrong way on a one-way street, appeared to have lost control and struck a telephone pole, striking a street sign, then a real estate sign, and then drove into the Subway. An officer blocked Charles' vehicle with his and ordered the patient to the ground as he had already exited his vehicle. The patient at first refused to comply and then after several commands acted like he was going to comply. Another officer arrived and assisted the patient to the ground where he was placed in handcuffs. The patient's Bronco was searched and the officers found a large kitchen knife with approximately a 10-inch blade on the driver's side floorboard.

The patient told the police that he was just passing through town and that he stopped in the middle of the road because a female called his truck a "piece of shit." He had a large kitchen knife in his possession, which he said was for protection, so he approached her car and asked her if she wanted to get out and talk about it. He also stated that she called him a "dumb pig." He stated that he was afraid she was going to run him over so he stabbed her car. The patient stated he drove to the hospital because someone told him his friend was there and then when he got to the hospital he realized he had been lied to and left. He stated he ran from the police because he was afraid. The patient told the police that he suffers from bipolar and that he had been off his meds for a week. He told the police, "I'm glad you caught me, I was gonna hurt someone." He did not know if he was going to hurt anyone at Sacred Heart but did admit that he is a danger to society when he is not on his meds.

Another victim later came forward and stated that she was driving with her son when they observed a white male standing outside his Bronco who appeared agitated and was holding something in his hand. Her son started to slow the vehicle down to offer assistance but when they observed the patient holding something they drove away and Charles swung at the vehicle leaving a scratch down the side of the rear fender. Another person came forward and stated he observed Charles standing outside his Bronco screaming and yelling holding something in his hand that he was waving around. Charles was described as "extremely angry" and the man thought Charles was going to break out his window and attack him so he drove away. Another witness stated he saw Charles chasing a man while he was holding a knife and Charles was swinging the knife at the man when the man was trying to run away.

The patient was arrested for Assault 1st Degree-3 counts, Attempt to Elude and Felony Hit and Run, and booked into the Spokane County Jail on 8/19/11.

Mr. Fletcher is assigned the following diagnoses according to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V):

Axis I (Clinical Disorders):

1. Bipolar Affective Disorder Manic, with Psychosis
2. Alcohol Dependence (institutional remission)

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Axis II (Personality Disorders, Mental Retardation): None

Axis III (General Medical Conditions):

1. Chronic Back Pain
2. Latent Tuberculosis (TB)

Since the last letter to the court, Mr. Fletcher has been moved to several different wards within the hospital. The hospital opened a new long-term forensic ward (2N3) primarily for patients who entering pre-reintegration and active reintegration phases of their treatment. As Mr. Fletcher was a category level of 7 (pre-reintegration phase), he met admission criteria and was moved from his longstanding ward of 2S1 to 2N3 in November 2015. A chart review indicated that Mr. Fletcher had some ward rules violations and restrictions soon after his transfer. On November 29, 2015, he was placed on ward hold for a major rules violation. He was also placed on medication watch to make sure he was taking/ingesting his medications. On December 4, 2015, he was restricted from using bleach due to odd behaviors and potential danger. On December, 7, 2015, his psychotropic medication Seroquel was increased by 200 mg. Due to escalating concern that Mr. Fletcher was exhibiting more psychiatric symptoms and becoming a greater risk he was placed on location observations (visual checks every 15 minutes) for safety.

On the morning of December 17, 2015, Mr. Fletcher's Treatment Team believed his mood was improving and discontinued medication watch and location observations; however, at 2100 hours on the same day Mr. Fletcher was placed on ward hold for threatening behaviors. Later that evening he was placed back on medication watch, location observation, placed on suspended status (a status used on FSU that indicates a patient is actively experiencing psychiatric symptoms), and given extra medications. On December 28, 2015, Mr. Fletcher was taken off location observations as his mood had again improved.

On January 13, 2016, Mr. Fletcher received a minor rules violation for verbal abuse and placed on a 24-hour ward hold.

Then on February 23, 2016, Mr. Fletcher got into a verbal altercation with two patients and then assaulted them by spitting on one and head butting another (no charges filed). Following the assault, he was reduced in category to level 2 (as per Forensic Services Unit policy 1.16; Major and Minor Rules Violations), placed on assault observations (visual checks every 15 minutes), placed on ward hold, and transferred back to ward 2S1. While on assault observations due to dangerousness, he was restricted from going off ward to the Treatment Mall (an intrahospital series of groups that focus on individual therapy, group therapy, skills building, job training, education, psychoeducation, and physical fitness). On March 2, 2016, the ward hold and assault observations were discontinued and he was again allowed to attend the Treatment Mall. Mr. Fletcher was given a 24-hour ward hold for a minor rules violation on March 12, 2016, for failing to follow staff direction.

By March 28, 2016, Mr. Fletcher's mood and behavior had improved and he was increased to a category level 3 by his Treatment Team.


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Mr. Fletcher continues to evidence great difficulty in taking responsibility for his actions. He remains outwardly focused (e.g. it is everyone else's fault that things happen to him). In fact, he can become verbally hostile when confronted with the details of his crime and the assault precipitating his transfer to ward 2S1. Additionally, it has been reported by his attending psychiatrist that Mr. Fletcher has also asked to change his medications repeatedly (primarily to reduce them). It should be noted that this is appropriate dialogue with his treatment provider but also indicates a potential risk factor if not monitored.

Until Mr. Fletcher can demonstrate better insight into his crime, psychological disorders, symptoms, medications, warning signs, and refrain from verbal and physical outbursts he remains a significant risk to commit further crimes in the community. Furthermore, his Treatment Team believes that without further close supervision and secure structure he continues to pose a risk to self or others. Therefore, his Treatment Team does not believe he is ready for community reintegration or pre-reintegration programs at this time.


Respectfully,



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Forensic Therapist
Forensic Services Unit



Greg Bahler, MD
Psychiatrist
Forensic Services Unit



NOTED BY: Karen McDonald, MSW
Clinical Director
Forensic Services Unit

SC/(kda)

pc: Anthony D. Hazel, Deputy Prosecuting Attorney
Stephen C. Heintz, Attorney for Defendant
Charles Fletcher, Defendant

Renee S. Townsley
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CASE # 338100
State of Washington v. Charles David Fletcher
SPOKANE COUNTY SUPERIOR COURT No. 111026257

This may be the only notice you will receive concerning due dates. A document filed prior to or after its due date may affect all subsequent due dates. The parties are responsible for determining adjusted due dates by reviewing the appropriate rules of appellate procedure. Failure to comply with the provisions of the rules may result in the imposition of sanctions pursuant to RAP 18.9.

Dear Counsel/Others:

Pursuant to the Commissioner's ruling of March 15, 2016, the following is the perfection schedule for this appeal.

The time periods for compliance with the Rules of Appellate Procedure are as follows:

1. The **designation of clerk's papers** is due to be filed and served with the trial court, with a copy filed in this court, by **April 15, 2016**. RAP 9.6(a).
2. The party seeking review must timely arrange for transcription of the report of proceedings and must file a **statement of arrangements** in this court by **April 15, 2016**. To comply with RAP 9.2(a), the statement should include the name of each court reporter, the hearing dates, and the trial court judge. Serve each court reporter and all counsel of record with a copy of the statement of arrangements, and provide this court with proof of service.

If the party seeking review arranges for less than all of the report of proceedings, all parties must comply with RAP 9.2(c).

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If a verbatim report of proceedings will not be filed, you must notify this court, in writing, by **April 15, 2016**. RAP 9.2(a).

3. The **verbatim report of proceedings** must be filed with Court of Appeals, Division III, no later than 60 days after service of the statement of arrangements. The court reporter or authorized transcriptionist shall promptly serve notice of filing on all parties and shall provide a copy of the report of proceedings to the party who arranged for transcript. RAP 9.5(a).

Please note:

- 1) The Court will post public accessible briefs to the Washington Courts website.
- 2) All parties filing a brief must serve one copy of the brief on every other party and on any amicus curiae and must file proof of service with this court. RAP 10.2(h).
- 3) When preparing your brief and referring to clerk's papers, use the page numbers assigned on the index to clerk's papers. Do not refer to the Superior Court docket numbers.

4. **Appellant's brief** is due in this court 45 days after the report of proceedings is filed. RAP 10.2(a).

If the record on review does not include a report of proceedings, the appellant's brief is due 45 days after the designation of clerk's papers has been filed. RAP 10.2(a).

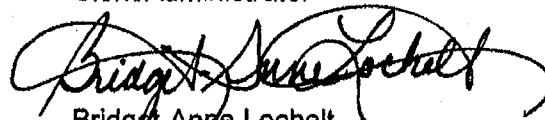
5. **Appellant's statement of additional grounds for review**, if any, is due 30 days after the clerk notifies appellant of the substance of RAP 10.10. If appellant requests a copy of the verbatim report of proceedings from appellant's counsel, it shall be mailed by counsel and proof of mailing filed in this court within 10 days after the request is received. RAP 10.10(e).

6. **Respondent's brief** is due in this court 60 days after service of the appellant's brief. RAP 10.2(c).

7. A **reply brief**, if any, is due 30 days after service of respondent's brief. RAP 10.2(d).

Sincerely,

Renee S. Townsley
Clerk/Administrator



Bridget-Anne Lochelt
Commissioners' Administrative Assistant

RST:bal
c: Spokane County Superior Court

SPOKANE COUNTY PROSECUTOR

June 17, 2016 - 12:45 PM

Transmittal Letter

Document Uploaded: 338100-33810 - Fletcher, Charles - Resp Br - JHK-upldVersion2.pdf

Case Name: State of Washington v. Charles Fletcher

Court of Appeals Case Number: 33810-0

Party Respresented: Respondent

Is This a Personal Restraint Petition? Yes No

Trial Court County: Spokane - Superior Court # 11-1-02625-7

Type of Document being Filed:

- Designation of Clerk's Papers / Statement of Arrangements
- Motion for Discretionary Review
- Motion: _____
- Response/Reply to Motion: _____
- Brief
- Statement of Additional Authorities
- Affidavit of Attorney Fees
- Cost Bill / Objection to Cost Bill
- Affidavit
- Letter
- Electronic Copy of Verbatim Report of Proceedings - No. of Volumes: _____
Hearing Date(s): _____
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition / Reply to Response to Personal Restraint Petition
- Petition for Review (PRV)
- Other: _____

Comments:

No Comments were entered.

Proof of service is attached and an email service by agreement has been made to backlundmistry@gmail.com and scpaappeals@spokanecounty.org.

Sender Name: Kimberly Carnelius - Email: scpaappeals@spokanecounty.org