Supreme Court No. 96690-7

Court of Appeals No. 348164

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CARLOS HERNANDEZ II,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR GRANT COUNTY

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Carlos Hernandez II, petitioner here and appellant below, asks this Court to accept review of the published Court of Appeals decision 348164, issued on December 6, 2018, pursuant to RAP 13.3 and RAP 13.4(b)(3) and (4). The opinion is attached.

B. ISSUES PRESENTED FOR REVIEW

1. The public trial right serves to ensure a fair trial, reminding the prosecutor and judge of their responsibility to the accused and the importance of their functions. Const. art. I, §§ 5, 10, 22; U.S. Const. amend. I, VI.

Here the trial court impermissibly closed the court without conducting a *Bone-Club*[1] analysis, and the closure was discovered and brought to the attention of the parties during trial. In a published opinion, the Court of Appeals determined that Mr. Hernandez forfeited his right to challenge the court's improper closure on appeal because his attorney failed to request a mistrial at the "earliest explicit opportunity," despite the fact that the Court did not fully apprise Mr. Hernandez of the nature of the right that was violated and did not seek a personal waiver from him. Slip op. At 7.

[1] *State v. Bone-Club*, 128 Wn.2d 245, 906 P.2d 325 (1996).

Does the Court of Appeals decision that places the burden on the accused to seek a specific remedy for the court's violation of this fundamental right or else forfeit the ability to raise the error on appeal require review and guidance by this court under RAP 13.4(b) (3), and (4)?

2. The accused has the right to be present at all proceedings at which his presence has a reasonably substantial relation to the fullness of his opportunity to defend against the charge. U.S. Const. amends.VI, XIV; Const. art. I, § 22. Mr. Hernandez was excluded from an in camera proceeding in which the trial court considered his then-retained, and now-disbarred attorney's factual allegations in support of his motion to withdraw from representing Mr. Hernandez.

Does the Court of Appeals decision that requires Mr. Hernandez to make public these ex parte communications, which he challenged on appeal because he was unable to confront the allegations at the time, require review by this Court, because the Court of Appeals decision undermines the accused's constitutional right to a fair and open proceedings, a matter of both constitutional import and public interest in the fairness of trial proceedings under RAP 13.4(b)(3) and (4).

C. STATEMENT OF THE CASE

Mr. Hernandez was charged with two misdemeanor driving offenses and possession of heroin. CP 115-116 (amended information). After he was initially appointed a public defender, Mr. Hernandez retained private counsel, John Crowley. CP 61-62. Six months later, Mr. Crowley moved ex parte and under seal to withdraw from the representation. Supp CP __ (Sub 67 (order on motion to seal)). The court granted Mr. Crowley's motion to withdraw. Id. (order sealing and granting withdrawal). Mr. Hernandez was not present at the hearing where the court determined whether Mr. Crowley could withdraw. Hrg RP 48-57. Mr. Hernandez did not have an opportunity to review Mr. Crowley's assertions or provide the court with Mr. Hernandez's own evidence or information. Id. Mr. Hernandez was not present for consideration of the motion and the only record of the proceedings are sealed. Id.; Supp CP __ (Sub 67 (order on motion to seal)). No basis is provided for Mr. Hernandez's exclusion. Id.

Following Mr. Crowley's withdrawal, Michael Morgan was reappointed to represent Mr. Hernandez. See CP 64-66.

During jury selection, four spectators approached the courtroom to view the proceedings but were turned away because the deputy

bailiff believed the courtroom was filled by the panel of prospective jurors. RP 105-08, 113. A prosecutor unaffiliated with the case became aware that the courtroom had been closed to the public and interrupted proceedings to alert the court, that it was a closed courtroom. RP 107.

The court inquired into how long the bailiff had closed the court and how many people were excluded. RP 108. The prosecutor informed the court that the identified group of spectators were the prosecutor's family. RP 110. The court relied on the bailiff and excluded spectator's report to determine that other people had not been excluded. RP 110, 114. The court allowed the spectators in, as there was room for them in the courtroom, and made a record that the deputy bailiff had turned them away from viewing jury selection on the belief there was no place for them to sit. RP 106-15.

The court never conducted a *Bone-Club* analysis to determine the propriety of the courtroom closure and no waiver was obtained from Mr. Hernandez. See RP 105-15. Mr. Hernandez's counsel noted that he would not move for a mistrial, but also noted that Mr. Hernandez's constitutional right to a jury trial might not be something he can waive for him. RP 114. After this record was made, jury selection continued. RP 115-16.

On appeal, Mr. Hernandez sought reversal based on the court's failure to conduct a *Bone-Club* analysis and obtain a valid waiver of the public trial right before proceeding. He also challenged the court's exclusion of him from the in-chambers hearing in which his counsel withdrew from representation based on factual allegations that Mr. Hernandez was unable to challenge.

The Court of Appeals ruled, in a published opinion, that Mr. Hernandez forfeited the right to redress the public trial violation on appeal when his attorney did not seek a mistrial at the time of the improper closure. Slip op. at 4. Despite the fact that the trial court never informed Mr. Hernandez of the nature of his right that had been violated, and failed to seek his personal waiver of the violation of the right, the Court of Appeals ruled that his counsel's failure to request a mistrial at the time of the improper closure deprived the court of the opportunity to provide an "efficient remedy" at the time, and thus precluded Mr. Hernandez him from seeking relief on appeal. Slip op. at 5.

The Court of Appeals also affirmed the trial court's decision to exclude Mr. Hernandez from the in camera proceeding where his now-disbarred attorney alleged a factual basis for withdrawal. The Court of

Appeals faulted Mr. Hernandez for seeking to keep sealed his attorney's unchallenged factual allegations made in camera without his ability to respond at the time, finding that Mr. Hernandez was barred from obtaining relief on appeal because "the record does not disclose why Mr. Crowley moved for withdrawal." Slip op. at 9.

E. ARGUMENT WHY REVIEW SHOULD BE GRANTED

1. This Court should grant review under RAP 13.4(b)(3) and (4) of the Court of Appeals decision that undermines the public trial right by placing the burden on the accused to seek a remedy for the court's impermissible court closure.

The accused's right to a public trial is intended to remind the prosecutor and judge of their responsibility to the accused and the importance of their functions. *State v. Sublett*, 176 Wn.2d 58, 72, 292 P.3d 715 (2012); Const. art. I, §§ 5, 10, 22; U.S. Const. amend. I, VI. This public trial right entitles the accused to an open courtroom during jury selection. *State v. Schierman*, __Wn.2d ___, 415 P.3d 106, 123 (2018) *(citing State v. Love*, 183 Wn.2d 598, 605, 354 P.3d 841 (2015)).

A courtroom cannot be closed to the public during jury selection unless the court conducts a five factor inquiry outlined in *Bone-Club* and finds closure favored. *State v. Wise*, 176 Wn.2d 1, 9-10, 288 P.3d 1113 (2012). "*Bone-Club* requires that trial courts at least: name the

right that a defendant and the public will lose by moving proceedings into a private room; name the compelling interest that motivates closure; weigh these competing rights and interests on the record; provide the opportunity for objection; and consider alternatives to closure, opting for the least restrictive." *Id*. at 10.

If a courtroom is closed without the court having conducted the five-part *Bone-Club* analysis justifying the closure, the error is structural and the only remedy is a new trial. *Wise*, 176 Wn.2d at 15. Here, the deputy bailiff turned away four spectators during jury selection, wrongly believing the courtroom to be too full to allow in any members of the public. RP 105, 107, 113-14. The trial court did not conduct a *Bone-Club* inquiry prior to the spectators being excluded. Once the trial court became aware of the exclusion, it welcomed the spectators into the courtroom. RP 106, 111. Therefore, even if a *Bone-Club* inquiry had been made, it is plain that it would not have resulted in closure of the courtroom.

Although the closure was brought to the trial court's attention, the court failed to conduct a post-closure *Bone-Club* inquiry that would have apprised Mr. Hernandez of the nature of the right that was violated. Nor did the court attempt to obtain a personal waiver from

Mr. Hernandez. *See State v. Herron*, 183 Wn.2d 737, 743–44, 356 P.3d 709 (2015) (a defendant may only be found to have waived the right to a public trial through an "an affirmative and unequivocal personal expression of waiver" *(quoting State v. Frawley*, 181 Wn.2d 452, 461-62, 334 P.3d 1022 (2014) (plurality opinion)); RP 105-15 (no analysis of *Bone-Club* factors, no personal expression of waiver from defendant).

Rather than requiring the Court to inform all interested parties of the nature of this fundamental right that was violated, and obtain a valid waiver of a remedy to this invalid closure, the Court of Appeals ruled that Mr. Hernandez's counsel's failure to request a mistrial at the time means that he forfeited the opportunity to challenge this closure on appeal. Slip op. at 4-5. Mr. Hernandez seeks review by this Court to decide whether the accused must be informed about the nature of this foundational right before it will be deemed forfeited by counsel's failure to request a specific remedy at the moment the violation is discovered. RAP 13.4(b)(3) and (4).

2. This Court should review the Court of Appeals decision that denied Mr. Hernandez the right to be present when his retained attorney sought to withdraw from representation through an ex parte communication with the court under RAP 13.4(b)(3) and (4).

An accused person has the right to attend all critical stages of his trial. U.S. Const. amends. VI, XIV; Const. art. I, § 22. The right derives from both the right to confrontation and the right to due process. *United States v. Gagnon*, 570 U.S. 522, 526, 105 S .Ct. 1482, 84 L. Ed. 2d 486 (1986). "[T]his right entitles a defendant to be present at every stage of his trial for which 'his presence has a relation, reasonably substantial, to the ful[l]ness of his opportunity to defend against the charge.'" *State v. Pruitt*, 145 Wn. App. 784, 798, 187 P.3d 326 (2008) (*quoting, inter alia, Snyder v. Massachusetts*, 291 U.S. 97, 105-08, 54 S. Ct 330, 78 L. Ed. 2d 674 (1934)). Although this privilege of presence is not guaranteed when "presence would be useless, or the benefit but a shadow," *Snyder*, 291 U.S. at 106-07, an accused "is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure." *Id*.

Thus, "the presence of a defendant is a condition of due process to the extent that a fair and just hearing would be thwarted by his absence[.]" *Gagnon*, 570 U.S. at 526; *accord State v. Berrysmith*, 87

Wn. App. 268, 274, 944 P.2d 397 (1997). Although the Supreme Court has found that a defendant does not have an unqualified right to attend an in-chambers conference, his exclusion will violate his right to be present if presence is "required to ensure fundamental fairness." *Gagnon*, 570 U.S. at 526.

Mr. Hernandez was not provided notice of the proceeding whereby Mr. Crowley moved to withdraw. He was also never afforded an opportunity to address the accusations against him. The court provided no justification for excluding Mr. Hernandez. *See* Supp CP __ (Sub 67) (order on motion seal). These accusations focused on him; Mr. Crowley's motion integrally regarded the attorney-client relationship. Yet, the court heard only from one side—the attorney.

Considering Mr. Crowley was subsequently cited by the defense and prosecution for being dishonest to the court when seeking continuances, it is particularly concerning in this case that the court and the file portrays only his assertions. Hrg RP 51-52, 61-62, 68-71.

Mr. Hernandez was excluded from this ex parte proceeding, but faulted on appeal for not making public the allegations made against him in support of withdrawal by his hired counsel, who all parties seemed to agree was not honest in his representations to the ocurt. Slip

op. at 9. The Court of Appeals even acknowledged that the withdrawal of an attorney could involve the release of confidential information, yet required Mr. Hernandez to release the substance of his former attorney's allegations against him which he was never able to factually counter. Slip op. at 9.

Mr. Hernandez seeks review by this Court of the Court of Appeals decision that requires him to make public ex parte allegations by a disbarred attorney in order to challenge his exclusion from that proceeding in violation of his constitutional right to attend all critical stages of trial and the public's interest in the fairness of trial proceedings under RAP 13.4(b)(3) and (4).

F. CONCLUSION

Based on the foregoing, Mr. Hernandez respectfully seeks review of this published decision under RAP 13.4(b)(3), and (4).

Respectfully submitted this the 27th day of December 2018.

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WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON, Respondent, v. CARLOS HERNANDEZ, II, Appellant.	)))))))))	No. 34816-4-III PUBLISHED OPINION

PENNELL, A.C.J. — Carlos Hernandez raises two challenges to his criminal convictions: (1) his courtroom was closed during voir dire in violation of the right to a public trial, and (2) he was denied the right to participate in his retained attorney's motion for withdrawal as counsel. Both claims fail for lack of error preservation. With respect to the first issue, Mr. Hernandez's attorney forfeited appellate review by expressly declining to seek a new trial after being advised of the factual basis for a public trial violation. As for the second matter, Mr. Hernandez has not made a factual showing that his attorney's withdrawal motion could have been altered by client input. Given these circumstances, the judgment of conviction must be affirmed.

BACKGROUND

Mr. Hernandez faced several charges in Grant County Superior Court and retained private counsel, John Crowley, to represent him. Approximately six months after being retained, Mr. Crowley moved to withdraw. His motion was filed ex parte and under seal, and was considered in camera without Mr. Hernandez's presence or the presence of opposing counsel. The substance of Mr. Crowley's motion and the in camera proceedings are not part of the record on appeal. The trial court granted Mr. Crowley's motion and allowed Mr. Hernandez time to find new counsel. Approximately one month later, after Mr. Hernandez indicated he was unable to obtain private counsel, the court appointed an attorney for him.

Mr. Hernandez's case proceeded to trial. In a side bar proceeding that occurred during voir dire, counsel for the State notified the court and Mr. Hernandez's attorney that four spectators had been refused entry into the courtroom by a deputy bailiff. The court ordered the spectators be let in. The venire was then excused to allow for further inquiry.

Once the jury venire was excused, counsel for the State explained the four spectators were family members of one of the State's prosecutors. The spectators were denied entry by a deputy bailiff, who claimed the courtroom was full. The four individuals then went to the prosecutor's office and disclosed what had happened.

A deputy prosecutor responded by coming to the courtroom and alerting the court and parties about what had transpired.

The trial court inquired of the four spectators and the deputy bailiff. The spectators indicated they did not object to being excluded from the courtroom. The bailiff indicated no additional individuals had been excluded. The court commented that the courtroom needed to be open. The parties agreed the courtroom could have accommodated the four spectators.

After developing the factual record, the court asked defense counsel if he had a motion to make. Defense counsel responded he was "not moving for a mistrial." Report of Proceedings (July 27, 2016) at 113. Counsel for the State confirmed the four spectators had each affirmed they had no objection to what had occurred. The trial court then thanked everyone and resumed the proceedings.

The jury found Mr. Hernandez guilty of all charges. After Mr. Hernandez filed his notice of appeal and opening brief, the State filed a motion in the trial court to obtain a copy of Mr. Crowley's declaration in support of his motion to withdraw so it could be designated as part of the appellate record. Mr. Hernandez opposed the State's request and the trial court denied the motion.

ANALYSIS

Courtroom closure and the right to a public trial

The right to a public trial is guaranteed by the state and federal constitutions. U.S. CONST. amend VI; WASH. CONST. art. I, §§ 10, 22. When a criminal defendant establishes a public trial violation on direct review, we will generally order a new trial under a theory of structural error. *State v. Wise*, 176 Wn.2d 1, 13, 288 P.3d 1113 (2012). Our analysis of public trial claims is de novo. *State v. Sublett*, 176 Wn.2d 58, 70, 292 P.3d 715 (2012).

In the present case, we need not reach the merits of Mr. Hernandez's public trial claim. Regardless of whether a public trial violation occurred, Mr. Hernandez has forfeited the right to a remedy on appeal. Mr. Hernandez and his attorney were alerted to the possibility of a public trial violation early in the proceedings, prior to the close of jury selection. When the trial court asked Mr. Hernandez's attorney if he had a motion to make as a result of the potential violation, counsel expressly stated he was not seeking a mistrial. This tactical decision by trial counsel may well have appeared advantageous at the time. Counsel may have been satisfied with the venire or concerned a delay would benefit the State. But like many trial decisions, counsel's actions had consequences. Because Mr. Hernandez's counsel explicitly refused to seek a mistrial at a time when the

trial court could have provided an efficient remedy, Mr. Hernandez is precluded from now seeking a new trial on appeal.

Mr. Hernandez argues we should review his public trial claim regardless of his attorney's conduct because an attorney cannot waive a client's right to a public trial. Mr. Hernandez points out that the constitutional right to a public trial is akin to the jury trial right. *State v. Herron*, 183 Wn.2d 737, 743-44, 356 P.3d 709 (2015); *State v. Frawley*, 181 Wn.2d 452, 461-62, 334 P.3d 1022 (2014) (plurality opinion). Just as an attorney cannot waive a client's right to a jury trial, counsel also cannot waive the right to a public trial. Any public trial waiver must be individual to the defendant and also must be knowing, voluntary, and intelligent. *Frawley*, 181 Wn.2d at 462.

The problem with Mr. Hernandez's argument is that this case does not involve a waiver of the right to a public trial. Instead, it involves forfeiture of a remedy for a violation of that right. Mr. Hernandez's attorney never purported to waive Mr. Hernandez's right to have his trial conducted in public. Counsel never asked the bailiff to exclude spectators from the courtroom. Nor did counsel condone the closure after it occurred. The alleged closure of Mr. Hernandez's proceedings was inadvertent. It was not a problem that was invited or waived. Rather than waiving Mr. Hernandez's public trial right, his attorney simply made the strategic decision not to seek a remedy.

Attorneys have discretion throughout trial to make tactical decisions that can have preclusive effect on appeal. *See Gonzalez v. United States*, 553 U.S. 242, 250, 128 S. Ct. 1765, 170 L. Ed. 2d 616 (2008) (Defense counsel may waive a defendant's right to have an Article III judge preside over voir dire.); *New York v. Hill*, 528 U.S. 110, 114-15, 120 S. Ct. 659, 145 L. Ed. 2d 560 (2000) (attorney can waive client's speedy trial rights). Efficient trial management and effective advocacy would be undermined if courts required client approval every time an attorney makes a strategic decision during a case. *Gonzalez*, 553 U.S. at 250; *Hill*, 528 U.S. at 114-15

An attorney's decision to decline an invitation to remedy a public trial violation is the type of tactical decision that can bar appellate review. The law is clear that an appellate attorney's decision not to raise a public trial violation has preclusive effect. *Weaver v. Massachusetts*, __ U.S.__, 137 S. Ct. 1899, 1913, 198 L. Ed. 2d 420 (2017); *In re Pers. Restraint of Serano Salinas*, 189 Wn.2d 747, 760-61, 408 P.3d 344 (2018). If an appellate attorney can forfeit a client's right to direct review by failing to seize on the opportunity presented by an appeal, so too can trial counsel forfeit the issue when counsel is presented with an appellate-like opportunity to redress a public trial violation during trial. After all, "not every public-trial violation will in fact lead to a fundamentally unfair trial." *Weaver*, 137 S. Ct. at 1911. Interests in finality and efficient use of court

resources weigh in favor of requiring a defendant to seek redress of a public trial violation at the earliest explicit opportunity. *Id*. at 1911-12.

A defendant does not, of course, lose the right to raise a public trial claim merely through silence. *Wise*, 176 Wn.2d at 15. No objection is necessary to preserve review of a public trial claim on appeal. *State v. Paumier*, 176 Wn.2d 29, 36-37, 288 P.3d 1126 (2012). But when counsel expressly declines to pursue a public trial remedy, the equities are different. In such circumstances, the defendant has already been provided sufficient opportunity to remedy a public trial violation. The hindsight and misgivings that accompany a criminal conviction are not sufficient reasons to revisit a strategic decision made during the course of trial.

An attorney's forfeiture of a public trial claim also does not prevent a defendant from seeking any possibility of redress. A defendant may still argue the attorney's conduct amounted to ineffective assistance of counsel. However, to establish ineffective assistance, the defendant would need to show not only deficient performance, but also prejudice. *Weaver*, 137 S. Ct. at 1910-11; *Serano Salinas*, 189 Wn.2d at 764-65. Automatic reversal under a theory of structural error does not apply. *Weaver*, 137 S. Ct. at 1910-11; *Serano Salinas*, 189 Wn.2d at 764-65.

Mr. Hernandez has not made a claim of ineffective assistance in this case. Accordingly, his public trial claim is not subject to further scrutiny.

Mr. Hernandez's right to be present during counsel's motion to withdraw

A defendant has a constitutional right to be present during all critical stages of a criminal proceeding. *State v. Wilson*, 141 Wn. App. 597, 603, 171 P.3d 501 (2007) (citing *United States v. Gagnon*, 470 U.S. 522, 526, 105 S. Ct. 1482, 84 L. Ed. 2d 486 (1985)). But this right is not implicated "when presence would be useless, or the benefit but a shadow." *Snyder v. Massachusetts*, 291 U.S. 97, 106-07, 54 S. Ct. 330, 78 L. Ed. 674 (1934), *overruled in part on other grounds by Malloy v. Hogan*, 378 U.S. 1, 84 S. Ct. 1489, 12 L. Ed. 2d 653 (1964). We review de novo whether trial court proceedings violated a defendant's constitutional right to presence. *State v. Irby*, 170 Wn.2d 874, 880, 246 P.3d 796 (2011).

A defendant's presence is not required when trial counsel is obliged to withdraw from representation under the rules of professional conduct. *State v. Rooks*, 130 Wn. App. 787, 799-800, 125 P.3d 192 (2005); *State v. Berrysmith*, 87 Wn. App. 268, 273-74, 944 P.2d 397 (1997). In such circumstances, the matter is purely legal and nothing a defendant can say or do can alter the basis for withdrawal. *Rooks*, 130 Wn. App. at 798-99.

Mr. Hernandez makes the categorical argument that, regardless of the legal basis for an attorney's motion to withdraw, a defendant must be consulted and provided the opportunity to present information that could permit continued representation. While we agree there may be some circumstances where a defendant's input can matter, this is not always true. In fact, the basis for an attorney's withdrawal motion will sometimes rest on confidential information that cannot be disclosed to the client. For example, an attorney who represents clients Smith and Jones must withdraw as counsel upon learning that client Smith wishes to become a cooperating witness in client Jones's criminal prosecution. RPC 1.7(b) & cmt. n.6. In seeking withdrawal from client Jones's case, the attorney is prohibited from disclosing client Smith's confidences. RPC 1.6(a). In such circumstances, the only way withdrawal can occur in conformance with the rules of professional conduct is through a proceeding, such as an in camera hearing, that does not involve any factual disclosures to client Jones.

Here, the record does not disclose why Mr. Crowley moved for withdrawal. This gap in the record, which is attributable to Mr. Hernandez's litigation strategy, is dispositive of Mr. Hernandez's argument on appeal. As the appellant, Mr. Hernandez "has the burden of providing an adequate record to establish error." *State v. Barry*, 183 Wn.2d 297, 317, 352 P.3d 161 (2015). Because there are at least circumstances in

which an attorney will be obliged to withdraw, regardless of any input from the client, Mr. Hernandez has not established that he is entitled to relief from his conviction.

APPELLATE COSTS

On August 16, 2017, Mr. Hernandez filed a motion requesting that we deny costs on appeal. He also filed a report of continued indigency. As the State has not responded to the motion, we grant Mr. Hernandez's request to deny costs.

CONCLUSION

The trial court's judgment and sentence is affirmed.

Pennell, A.C.J.

WE CONCUR:

Siddoway, J.

Fearing, J.

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
RESPONDENT,	)	
	)	
v.	)	COA NO. 34816-4-III
	)	
CARLOS HERNANDEZ,	)	
	)	
PETITIONER.	)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ANA ARRANZA RILEY, STATE THAT ON THE 27TH DAY OF DECEMBER, 2018, I CAUSED THE ORIGINAL **PETITION FOR REVIEW TO THE SUPREME COURT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION THREE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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[X] CARLOS HERNANDEZ 741820 WASHINGTON STATE PENITENTIARY 1313 N 13TH AVE WALLA WALLA, WA 99362	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

SIGNED IN SEATTLE, WASHINGTON THIS 27TH DAY OF DECEMBER, 2018.

X_____

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WASHINGTON APPELLATE PROJECT

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