

SUPREME COURT OF THE STATE OF WASHINGTON

RECEIVED  
FEB - 7 2019

Washington State  
Supreme Court

STATE OF WASHINGTON,  
RESPONDENT,

v.

WILLIAM ALVAREZ-CALO,  
PETITIONER.

SUPREME COURT CASE No. 96743-1  
COURT OF APPEALS No. 49794-8-II

OMNIBUS MOTION

1. Identity of Moving Party. Comes now, petitioner pro se William Alvarez-Calo, who asks and moves this court for the relief outlined in multiple parts in Section 2.
2. Statement of Relief Sought. The petitioner, William Alvarez-Calo, acting pro se, seeks the following relief listed in Parts (A) through (E):
  - A) Petitioner asks the court to withdraw the unauthorized Petition for Review filed with this court on January 25, 2019, by petitioner's former appellate counsel, Lisa E. Tabbut;
  - B) Petitioner further asks the court to suspend any action or decision the court has made on the Petition for Review filed by Ms. Tabbut;
  - C) Petitioner moves the court for leave to file an amended Petition for Review authored either by himself or with the assistance of new counsel;

D) Petitioner again moves the court to grant an Extension of Time for filing a PETITION FOR REVIEW, and requests a minimum of 120 days to prepare a petition;

E) Petitioner again moves the court to Appoint Counsel to provide assistance during the preparation of a Petition for Review.

3. FACTS RELEVANT TO MOTION. Petitioner's former appellate counsel, Lisa E. Tabbut, withdrew from the petitioner's case, and no longer represents the petitioner. She is not empowered to act for the petitioner. Her filing of a Petition for Review was unauthorized and was done against the wishes of the petitioner. The petitioner has no confidence in Ms. Tabbut. She violated her fiduciary responsibility to the petitioner and failed to represent him with the zeal and professionalism required by the Canon of Ethics.

After the Court of Appeals affirmed the petitioner's convictions in an unpublished opinion on December 27, 2018, Ms. Tabbut wrote to the petitioner on December 28, 2018 and indicated that she would file a Motion for Reconsideration with the Court of Appeals and that she would file a Petition for Review with the state Supreme Court.

Petitioner immediately wrote to Ms. Tabbut and told her that he indeed wished for her to file a Motion for Reconsideration with the Court of Appeals and a Petition for Review with the Supreme Court. Ms. Tabbut failed to even respond to this letter.

However, on January 10, 2019, when they spoke on the telephone for the first time since the Court of Appeals' decision, Ms. Tabbut informed the petitioner that, without explanation, she intended to file a motion to withdraw from his case; and that she would not file a Motion for Reconsideration or a Petition for Review as she previously indicated. She repeatedly and clearly stated that she was "off his case," abruptly leaving the petitioner with only 2 weeks to file a Petition for Review unassisted by counsel, and causing him considerable mental and emotional distress.

On January 14, 2019, petitioner mailed a certified letter to Ms. Tabbut, indicating to her that he expected her to proceed with the motion for Reconsideration and the Petition for Review as indicated in her letter of December 28, 2018, and that he expected her to represent him with the professional conduct required by her profession's ethical standards. Ms. Tabbut again failed to respond to this letter, and would not accept petitioner's phone calls.

Believing that he was no longer represented by counsel, the petitioner turned to another inmate for assistance, and on January 22, 2019, filed pro se motions with the court for an Extension of Time to file A Petition for Review, and a motion requesting that the court Appoint Counsel to assist him.

On January 24, 2019, the petitioner received an unexpected copy of a Motion for Extension of Time for filing A Petition for Review that was prepared by Ms. Tabbut and filed on January 16, 2019.

In this motion for Extension of Time, Ms. Tabbut repeats her intention to NOT file a Petition for Review on the petitioner's behalf, and untruthfully represented to the court that the petitioner "is working on filing the petition" himself.

Then, on January 28, 2019, the petitioner received a copy of a Petition for Review prepared by Ms. Tabbut and filed with the court on January 25, 2019. The petition is clearly a hastily and poorly prepared document of inferior quality that is cut-and-pasted from the original Appellate Brief, and offers no arguments of merit to issues raised by the Court of Appeals and that fails to present issues that were preserved for review in the original review. The Petition for Review filed by Ms. Tabbut also failed to argue that there was insufficient evidence to support the defendant's conviction for attempted first degree robbery, or that his co-defendant's case on the same charge was overturned (see State v. Mazzar Robinson).

The Petition for Review filed by Ms. Tabbut was unauthorized by the petitioner. Ms. Tabbut clearly withdrew from the petitioner's case, and was no longer empowered to act as his counsel. The petitioner believes that Ms. Tabbut quickly prepared a Petition for Review of mediocre quality to further her own self-interests and protect herself from a complaint with the WSBT for disciplinary action, being fully aware that she had provided ineffective counsel and that her abrupt withdrawal from his case at a crucial time in the appellate process constituted negligent and unprofessional conduct.

The meritless quality of her Petition shows that she was not acting in the best interests of her client. The petitioner has no further trust for Ms. Tabbut after her irresponsible and unprofessional conduct, and does not feel he can rely on her counsel. No client should be subjected to the back-and-forth whiplash threats to withdraw that petitioner was subjected to.

The petitioner is a native of Puerto Rico, and a native Spanish-speaker who speaks only limited English. He has little formal education, and does not even possess a G.E.D. He also has a recognized disability for dyslexia, and was on GAU (General Assistance Unemployable) welfare assistance prior to his arrest for this disability. He is also indigent and is currently incarcerated serving a very lengthy prison sentence, and is unfamiliar with the law and court procedures. He has very limited use of or access to the prison legal library. He is currently dependent on the assistance of an English-speaking inmate who is housed in the same restrictive conditions to simply file these motions for relief.

4) Grounds for Relief Sought, Granting these motions will prevent a gross miscarriage of justice. The petitioner, Mr. Alvarez-Calo, is in dire need of professional, competent legal counsel to prepare a Petition for Review that offers arguments with merit. Granting these motions will ensure that he has the assistance and time needed to prepare and file

a Petition for Review for this court that raises all relevant issues and that offers arguments in support of those issues that have merit and are grounded in current caselaw.

Further, granting these motions will ensure that the petitioner receives the full complement of his appellate rights.

PETITIONER, William Alvarez-Calo, declares under penalty of perjury, that the statements made in this document are true and correct to the best of his knowledge.

EXECUTED THIS 30<sup>TH</sup> DAY OF JANUARY, 2019.

RESPECTFULLY SUBMITTED,



WILLIAM ALVAREZ-CALO

PETITIONER PRO SE

D.O.C. # 395946

RANIER UNIT RB-304

WASHINGTON STATE PENITENTIARY

1313 N. 13<sup>TH</sup> AVE.

WALLA WALLA, WA 99362

RECEIVED  
FEB - 7 2019

Washington State  
Supreme Court

Supreme Court Case No. 96743-1

AFFIDAVIT OF SERVICE  
BY MAILING

STATE OF WASHINGTON

v.

WILLIAM ALVAREZ-CALO

I, WILLIAM ALVAREZ-CALO, BEING SWORN UPON OATH, DO  
HEREBY CERTIFY THAT I HAVE SERVED THE FOLLOWING DOCUMENTS:

OMNIBUS MOTION

Upon: Supreme Court of the State of Washington  
415 12TH ST. W.  
Temple of Justice  
P.O. BOX 40929  
Olympia, WA 98504-0929

By placing same in the United States mail at:

WASHINGTON STATE PENITENTIARY  
1313 NORTH 13TH AVE.  
WALLA WALLA, WA 99362

ON THIS 31<sup>ST</sup> DAY OF JANUARY 2019



WILLIAM ALVAREZ-CALO  
# 395946

Affidavit pursuant to 28 USC § 1746, Dickerson v. Wainwright 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.