

FILED
SUPREME COURT
STATE OF WASHINGTON
12/5/2022 10:30 AM
BY ERIN L. LENNON
CLERK

CERTIFICATE OF SERVICE

I certify that on today's date: 12-2-2022 .

I, Marx W. Coonrod, Appellant/Petitioner, E-Filed Motion To Restart Direct Appeal For Due Process Violations, delivered an electronic version of the Motion, using the Court's filing portal, to the Court of Appeals Division II, and The Supreme Court of The State of Washington, through the Court's on line filing system.

Marx W. Coonrod, #839750, Unit 6-A03.
Washington State Penitentiary-MSU
1313 N. 13th Ave.
Walla Walla, WA. 99362-1065

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Walla Walla, Washington on: 12-2-2022 .

Marx W. Coonrod
SIGNED

12-2-2022
DATED

Marx W. Coonrod, #839750
Appellant.

IN THE WASHINGTON STATE
SUPREME COURT

State of Washington,) COA NO. 53527-1-II
Respondent,) Motion To Restart
V.) Direct Appeal For
Marx W. Coonrod,) Due Process
Appellant/Petitioner.) Violations

I. IDENTITY OF MOVING PARTY:

Comes Now Marx W. Coonrod acting Pro Se, incarcerated at Washington State Penitentiary-Minimum Security Unit, Camp, Walla Walla Washington.

II. STATEMENT OF RELIEF SOUGHT:

- 1). The Appellant/Petitioner in the above cause, requests and moves this court to restart Appellant's Direct Appeal for Due Process Violation[s].
- 2). Too appoint new Appellate Counsel to address issues of Admissibility of Trial Exhibits, that have merit, and write all the motions needed for a thorough Direct Appeal, that Kevin Hochhalter refused to write, and told the Appellant he had to write them; Motion for Evidentiary Hearing, Motion to Expand the Record under RAP 9.11 (Newly discovered Evidence), and a Motion to Preserve Evidence, and Motion for Franks Hearing.
- 3). For an ORDER to be issued for Appellant to be moved to a Minimum Security Facility, with a law library, to be able to file legal work with the use of a law library, in order to prevent a gross miscarriage of justice.

4). To allow the Appellant/Petitioner to combine the Direct Appeal with his PRP, as stated were his intentions before being moved to WSP-MSU, Camp on 12-4-21, where there is no law library that **VIOLATES DUE PROCESS RIGHT TO APPEAL**.

5). To be Afforded the Attorney/Client File and Discovery as Padgett has been afforded by COA Division III, under Equal Protection, and the Trial Exhibits in usable form, that also has been denied the Appellant.

III. FACTS RELEVANT TO CASE:

1). Appellant/Petitioner stated the fact of the desire to **COMBINE** his PRP with his Direct Appeal before being moved to WSP-MSU, Camp on 12-4-21, where there is no law library.

2). Appellant asked for New Appellate Counsel to be appointed twice for ineffective assistance, and was Denied.

3). Appellate counsel, Kevin Hochhalter, was **Purposely Dilatory** in producing the Trial Exhibits that were asked for from the beginning of his representation, and then were not in usable form. He also told the Appellant, Mr. Coonrod he had to write the motion for him to be given more money to copy and send the Trial Exhibits. Then the COA denied Trial Exhibits be given to the Appellant in **usable form**, and no law library or time left.

4). The State is withholding Exculpatory and Extrinsic Evidence in the form of a 9-1-1 phone call made from the Umpqua Bank on 4-22-16, an attempted bank robbery, by bank employee "Kian", that gives the description of the **Actual Suspect**, and being withheld even after Public Disclosure Requests. Also **trail cam pictures** from Coonrod's apartments that the state said **do not exist**, but are in police reports as being down loaded by Detectives. Then **the Prosecutor, KNOWINGLY in Bad Faith**, misrepresenting witnesses testimonies of bank employees testifying about the **Actual Suspect**, Doug Shattuck, as being the Defendant, Mr. Coonrod and now Appellant/Petitioner. With police interviews to prove that fact, as Exhibits.

5). Appellant/Petitioner asked Appellate Counsel to write the Motion[s] needed for Appeal; Motion for Evidentiary Hearing, RAP 9.11 Motion to Expand the Record on Review for Newly Discovered

Evidence, Motion to Preserve Evidence, and Motion for Franks Hearing for Admissability of Evidence taken on Search Warrant. Mr. Hochhalter told Appellant he would have to write the RAP 9.11 Motion himself, and would not write the other motions Mr. Coonrod had asked him to do. Then Appellant submitted his RAP 9.11 Motion to Expand the Record for Newly Discovered Evidence on Appeal dated 5-18-22, to combine his PRP with the Direct Appeal, but was told he had Appellate Counsel that had to present the motion, so the Motion was placed in the file.

6). Appellant was also denied the Attorney/Client File and Discovery by COA Division II, that was Afforded Mr. Padgett by Division III, that would deny Appellant **Equal Protection**.

7). Appellant was Denied his Motion To STAY Appeal, and was "Misrepresented", and was said to be a Motion to Extend Time. The Motion was to STOP any further Appeal Process.

8). The prison officials have violated Appellant's constitutional right to court access, grounded in the First Amendment right to petition and the Fourteenth Amendment right to due process, by denying him access to a prison law library by moving him to WSP-MSU, Camp, where there is no law library.

IV. LAW AND ARGUMENT:

Meaningful access to justice is our right on appeal. Mere access to the courthouse doors does not by itself assure a proper function of the adversary process, and that a criminal appeal is fundamentally unfair if the State proceeds against an indigent defendant without making certain that the Appellant has access to the raw materials integral to the building of an effective defense. The Courts have often reaffirmed that **fundamental fairness** entitles indigent defendants to "an adequate opportunity to present their claims fairly within the adversary system." Ake v. Oklahoma, 470 U.S. 78, 84 L.Ed.2d 53, 105 S.Ct. 1087 (1985).

Systemic official actions by moving the Appellant from Stafford Creek Corrections Center to WSP-MSU Camp on 12-4-21, where there is no law library, after being told at his Custody

Review by counselor Tera L. Flink, dated 10-25-2021, and was told he would stay at SCCC under a legal HOLD, and would not be transferred to another facility till after his Direct Appeal is complete. See Exhibit #1, Custody Review Offender Version, page three of three, under Comments. "Retain at SCCC. Transfer to a suitable MI2 facility once his active direct appeal is complete."

Pursuant to RAP Rule 2.1(a)(1) Review as a matter of right, called "Appeal", and RAP Rule 2.2(a)(13) Final Order After Judgment. Any final order made after judgment that affects a substantial right.

An Appeal is a matter of right, and is a substantial right. To be able to fight this case on appeal the Appellant must be afforded access to a law library while in minimum security. Having no access to a law library in minimum security denies the Appellant's First Amendment right to petition and constitutional right to access the court that denies the Appellant to due process under the Fourteenth Amendment.

In this denial-of-access to a law library that denies Appellant **Due Process**, and the essence of the access claim is that official action has and is presently denying the Appellant an opportunity to appeal his case. The object of this Motion To Restart Direct Appeal Process, for the denial-of-access to a law library, Discovery, and Exhibits in usable form is justification for recognizing that claim, and to place the Appellant back in a Minimum Security Facility with access to a law library that will afford him the opportunity to pursue the appeal process once the frustrating condition has been rectified.

See Hebbe v. Pliler, 627 F.3d 338 (CA9 2010). No access to law library during lockdown.

Hebbe alleges that the prison officials violated his constitutional right to court access, grounded in the First Amendment right to petition and the Fourteenth Amendment right to due process, by denying him access to the prison law library while the facility was on lockdown, and that the denial

prevented him from filing a brief in support of his appeal of this state court conviction.

V. CONCLUSION:

The Appellant, Mr. Coonrod, respectfully asks this Court to approve this Motion To Restart Direct Appeal For Due Process Violation[s], and having an Appellate lawyer that lied to the Appellant by telling him he had to write the Motion To Supplement The Record On Appeal (RAP 9.11(a)(1,2,5,6))(9.10), (See Exhibit #3 of Appellant's Motion To Supplement The Record On Appeal dated 5-18-22), and the **Purposely Dilatory action** in producing the Trial Exhibits that were asked for from the beginning of his representation, and then were not in usable form. Mr. Hochhalter was Ineffective Assistance of Counsel, and Appellant had asked twice through motions to replace his appellant lawyer for not addressing all the issues that had merit on appeal and write the other motions that are needed for a thorough appeal process, but he refused, and told the Appellant, "You better get a good Appellate lawyer if you want to win on appeal", because he said Mr. Coonrod had disrespected him.

Appellant is asking for new counsel to be appointed, to write and submit the motions needed and asked for from Mr. Hochhalter, but was refused by him. And for an **Order** to be issued for him to be moved to a minimum security facility with a law library, to be able to combine his PRP with the direct appeal as stated before being moved to WSP-MSU Camp from SCCC on 12-4-21.

To be afforded the Attorney/Client File and Discovery, or at least have an Evidentiary Hearing to show what was sent to Appellant as that File and Discovery that had no Police Reports from all the robberies, and nothing on the attempted robbery on 4-22-16.

To be given the Public Disclosure Requests that have been asked for several times but denied. And to be given the Trial Exhibits in usable form.

There is no way for the Appellant to be expected to do legal work on appeal with no access to a law library in Minimum Security here at WSP-MSU Camp. See exhibit #2.

RESPECTFULLY SUBMITTED on this 2nd day of December, 2022.

Marx W. Coonrod

SIGNED

12-2-2022

DATED

Marx W. Coonrod, #839750, Unit 6-A03.

Washington State Penitentiary-MSU

1313 N. 13th Ave.

Walla Walla, WA. 99362-1065

EXHIBIT LIST

Exhibit #1: Custody Review Offender Version.

Exhibit #2: Washington State Penitentiary,
Orientation Manual, Sep. 2019. No updated manual.

EXHIBIT #1

Custody Review Offender Version.

**State of Washington
Department of Corrections**

**Custody Review
Offender Version**

Assigned Counselor: Flink, Tera L

Printed By: Window, Allison M

Print Date: 11/22/2021

Inmate: COONROD, Marx Wayne (839750)

Gender: Male	DOB: 05/11/1956	Age: 65	Category: Regular Inmate	Body Status: Active Inmate
RLC: LOW			Custody Level: Minimum 3 - Long Term Minimum	Location: SCCC - H4 / H4042L
ERD: 11/26/2025				CC/CCO: Flink, Tera L

Purpose of Review

Purpose Of Review	Date Initiated
Plan Change	10/25/2021
Multi-Disciplinary Team Custody Promotion	10/25/2021

Program Needs

Education

GED/HSD:	Date Obtained:	Location:	Verified?
HSD	06/06/1974	Out Of State	

Offender Needs (Needs Assessment Tool)

Program Narrative

Narrative:

Has No Loss Of GCT To Restore. No Restoration Pathway Is Required. ***See Case Plan***

Education/Employment Needs

Education/Employment Need

Needs Vocational Training Program Of 6-12 Months
Needs Part Time Prison Work Assignment

Programs

Program Name	Program Date	Program Status
CUSTODIAN I	02/24/2021	Dropped

Custody Score

Current Custody

Current Custody Score: 10

Minimum 2 - Camp

Infraction Behavior

Infraction Behavior Score: 20

Program Behavior

Program Behavior Score: 12

Month	Year	Points	Non-Award Reason
May	2021	2	
June	2021	2	
July	2021	2	
August	2021	2	
September	2021	2	
October	2021	2	

Detainers

Detainer Score: 10

	Felony	ICE
Current	No	No
Potential	No	No

Escape History

Escape History Score: 15

DOC

Escape Description	Month	Year

Calculated Custody

Custody Score: 67
Calculated Custody: Minimum

Expectations

Condition

Expectation	Frequency	Due Date	Complete
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LFO (Legal Financial Obligations)

Cause	Amount
071001573	\$22,883.24
161009468	\$154,227.43
Total:	\$177,110.67

Targeted Custody

Targeted Date	Targeted Custody	Targeted Placement	Inmate Preferred Location
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Disciplines

Discipline	Other Discipline	Staff
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Discipline	Other Discipline	Staff
Custody		Golphenee, Jolie M
Intelligence / Investigations		Wayman, Michael K

Comments/Recommendations

Submit/Review Name Date		Comments	Concur
10/25/2021	Flink, Tera L	<p>(Offender) Met with Coonrod to go over his facility plan. He has signed his classification hearing notice and has decided to WAIVE his right to attend stating they understands the expectations and agrees with the recommendations.</p> <p>(Counselor) Coonrod entered DOC custody on 11/26/2025 and is serving a 171 month sentence out of Clark County for Robbery1 x3 and Attempted Robbery 1. He has an ERD of 11/26/2025 and has remained serious infraction free this incarceration He is currently working His Supervisor and unit officer Golphenee states that he is not an issue. Discussed form 17-087 Questionnaire. Recommendation: Promote to MI2 Custody with a (POL) Policy override less than 6 years left until ERD in compliance with 300.380 revision dated 10/21/2021 and retain at SCCG. Transfer to a suitable MI2 facility once his active direct appeal is complete.</p>	
10/26/2021	Grubb, Christopher P	(FRMT) CUS Grubb, CC2 Flink, CO Golphenee, I&I Wayman, Sup. Dominoski contacted. Due to policy change Coonrod is now eligible for lower levels of custody. Concur with Recommendations: Promote to MI2 custody with a POL override, transfer to a appropriate MI2 facility. No holds documented.	Yes
10/27/2021	Evans, Shane L	Support promotion to MI2 with (POL) Policy Override and transfer to suitable MI2 facility. II is no under 6 years to ERD and now camp eligible.	Yes

Assigned Custody

Calculated Custody:	Assigned Custody:	Override Reason:	Override Narrative:
Minimum	Minimum 2 - Camp	Policy	II Is Under 6 Years To ERD With Pending Policy Change For Camp Eligibility
	Classification Status:	Completion Date:	Custody Assigned By:
	In-Effect	10/27/2021	Shane Evans, Correctional Program Manager

DOC: 839750

Name: COONROD, Marx Wayne

EXHIBIT #2

Washington State Penitentiary, Orientation Manual,
Sep. 2019. No updated manual.

Incarcerated Individuals who are indigent, may order limited hygiene items and their account will be debited. Incarcerated Individuals arriving from WCC-Receiving will have access to their chain bags where the hygiene issued at WCC should have been packed. We are no longer authorized to provide emergency hygiene products.

Store orders are delivered to your housing unit. A copy of any original order request that could not be processed will be returned to Correctional Industries Commissary with the explanation. Do not order special order items more than once; after an appliance has been engraved, it cannot be returned. All special items are routed through the WSP Property Room. Watch the call Sheet.

Upon receipt of your store order, you should inspect it in the presence of staff, so any discrepancies can be noted on the original receipt that is returned to the Inmate Store. Orders not inspected at the time of receipt will not be adjusted if discrepancies are noted after signing for the order.

Legal Access

There are two Law Libraries at the facility. The Incarcerated Individuals housed in the West Complex Close Custody units (D, E, F & G) utilize the Law Library in the West Complex H Building Education area. The Incarcerated Individuals housed in the Close Custody (BAR) units, utilize the South Complex Law Library, located above the South Complex Shift Office area. Incarcerated Individuals housed in the South Complex Medium Security Units (Victor & William) also utilize Law Library in the South Complex. Incarcerated Individuals are required to be on the callout to access the Legal Library area. Any East Complex Incarcerated Individuals requesting law library access may request access through their counselor, but will be temporarily transferred to either the West or South Complex during the needed period.

Legal Copies are available in the Law Library. Incarcerated Individuals will need to submit WSP Form #20-590 Legal Copy/Mail Request form, which is available in the living units. Incarcerated individuals will need a disbursement for both the copies and the postage to send out the legal copies at the time they are made. Legal mail be logged and processed out to the Mailroom at the facility.

Priority Scheduling may be granted by submitting DOC Form # 02-247 Law Library request for Priority Scheduling Deadline, which is also available in the living unit. Incarcerated Individuals must have a verifiable deadline, within 45 days with court approval, for Priority Scheduling. Once approved, the Incarcerated Individuals will be placed on the callout for all sessions for the unit/quad in which they live. These callouts are Mandatory and missing the callouts may result in an infraction.

Incarcerated Individuals may obtain Notary service if needed, in the Law Library when staff are present. However, there are several other staff at the facility that can also provide this service. You can ask your counselor in the unit if you are unable to attend a session in the Law Library.

The Law Librarian and Clerks will not provide legal advice or assistance. They are there to assist you in searching for materials and checking out material during the Law Library session. These materials cannot leave the Law Library and are marked accordingly. Only loose legal paperwork is allowed in the law library. No personal papers, storage folders/envelopes, books or materials are allowed. In the event that you are obtaining legal copies and mailing them out while in session, you are allowed to bring your empty pre-franked

INMATE

December 5, 2022 - 10:30 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 53527-1
Appellate Court Case Title: State of Washington, Respondent v. Marx W. Coonrod, Appellant
Superior Court Case Number: 16-1-00946-8

DOC filing of COONROD Inmate DOC Number 839750

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The DOC Facility Name is Washington State Penitentiary.

The Inmate The Inmate/Filer's Last Name is COONROD.

The Inmate DOC Number is 839750.

The CaseNumber is 535271.

The Comment is 1OF1.

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