Supreme Court No. 90711-1
Court of Appeals No. 31244-5-III

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff/Respondent,

vs.

DAVID WAYNE HALLS,
Defendant/Petitioner.

APPEAL FROM THE BENTON COUNTY SUPERIOR COURT
Honorable Carrie L. Runge, Judge, Bench, Trial/Sentencing
Honorable Craig J. Matheson, Judge, Pre-Trial Matters

PETITION FOR REVIEW

SUSAN MARIE GASCH
WSBA No. 16485
P.O. Box 30339
Spokane, WA 99223-3005
(509) 443-9149
Attorney for Petitioner

TABLE OF CONTENTS

I. IDENTITY OF PETITIONER.....1

II. COURT OF APPEALS DECISION.....1

III. ISSUES PRESENTED FOR REVIEW.....1

IV. RELEVANT FACTS.....2

V. GROUNDS FOR REVIEW AND ARGUMENT.....9

1. The trial court violated the Mr. Halls' right to a jury trial under Washington Constitution, Art. 1, § 21 and U.S. Constitution, Sixth Amendment, by accepting a jury waiver made without advice of counsel and that was not knowingly, intelligently and voluntarily entered.....9

2. The trial court erred by accepting Mr. Halls' waiver of his right to counsel where the court did not inform Mr. Halls of the maximum penalty for witness tampering, or, with regard to the assault charge, the nature of the charge or the statutory offense against him.....13

3. The trial court erred by finding Mr. Halls competent to stand trial based only on a competency evaluation and without an evidentiary competency hearing.....15

VII. CONCLUSION.....18

TABLE OF AUTHORITIES

Cases **Page**

Cheff v. Schnackenberg, 384 U.S. 373, 86 S.Ct. 1523, 16 L.Ed.2d 629 (1966).....9

Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975).....13

City of Bellevue v. Acrey, 103 Wn.2d 203, 691 P.2d 957 (1984).....13, 14

In re Det. of Turay, 139 Wn.2d 379, 986 P.2d 790 (1999).....14

In re Keeney, 141 Wn. App. 318, 169 P.3d 852 (2007).....11

In re Personal Restraint of Fleming, 142 Wn.2d 853, 16 P.3d 610 (2001).....15

Pasco v. Mace, 98 Wn.2d 87, 653 P.2d 618 (1982).....9

State v. Bebb, 108 Wn.2d 515, 740 P.2d 829 (1987).....13

State v. Buelna, 83 Wn. App. 658, 922 P.2d 1371 (1996).....14, 15

State v. Christensen, 40 Wn. App. 290, 698 P.2d 1069 (1985).....14

State v. Donahue, 76 Wn. App. 695, 887 P .2d 485 (1995).....10

State v. Gimarelli, 105 Wn. App. 370, 20 P.3d 430 (2001).....11

State v. Heddrick, 166 Wn.2d 898, 215 P.3d 201 (2009).....16

State v. Hemenway, 122 Wn. App. 787, 95 P.3d 408 (2004).....13

State v. Pierce, 134 Wn. App. 763, 142 P.3d 610 (2006).....10, 11

State v. Ramirez-Dominguez, 140 Wn. App. 233, 165 P.3d 391 (2007).....10

State v. Stegall, 124 Wn.2d 719, 881 P.2d 979 (1994).....10, 11

State v. Vermillion, 112 Wn. App. 844, 51 P.3d 188 (2002).....13

Other StateJurisdictions

State v. Bertrand, 123 N.H. 719, 465 A.2d 912 (1983).....16

Statutes

U.S. Const. amend. 6.....9

Const. art. I, § 21.....9, 12

RCW 10.77.060(1)(a).....16

Court Rules

RAP 13.4(b)(1).....9

RAP 13.4(b)(2).....9

RAP 13.4(b)(3).....9

I. IDENTITY OF PETITIONER

Petitioner, David Wayne Halls, the appellant below, asks this Court to review the decision referred to in Section II.

II. COURT OF APPEALS DECISION

Halls requests review of the Court of Appeal's unpublished decision filed July 24, 2014, which affirmed his conviction and remanded for resentencing. A copy of the opinion is attached as Appendix A. This petition is timely.

III. ISSUES PRESENTED FOR REVIEW

1. Does a trial court violate a defendant's right to a jury trial under Washington Constitution, Article 1, § 21, and United States Constitution, Sixth Amendment, if it accepts a jury waiver made without advice of counsel and that was not knowingly, intelligently, and voluntarily entered?

2. Does a trial court err by accepting relinquishment of the Sixth Amendment right to assistance of counsel without sufficiently establishing that the waiver was knowing and intelligent?

3. Does a trial court deny a defendant due process where it fails to hold an evidentiary hearing on the issue of the defendant's competency and bases its finding of competency only on a competency evaluation?

IV. RELEVANT FACTS

The State charged David Wayne Halls with second and third degree assault – domestic violence on April, 2012, for allegedly throwing a candle holder at his girlfriend, causing a cut on her forehead that required staples. Clerk's Papers (CP) 5-6.

Mr. Halls' trial counsel withdrew due to a conflict of interest five days before trial. RP (4/4/2012) 1. The court appointed new counsel, who sought a week's continuance, but Mr. Halls again declined to waive his speedy trial right. RP (4/4/2012) 5-6. Mr. Halls, instead, wanted to represent himself at trial. RP (4/4/2012) 8; CP 7. After questioning Mr. Halls, the Court accepted his waiver of counsel, finding it was voluntarily and knowingly waived:

> THE COURT: Mr. Halls, before I have you represent yourself, and you've probably gone over most of these things with Mr. Swanberg, but I want to go over it on the record.
> MR. HALLS: Yes.
> THE COURT: Do you know what you're doing when you represent yourself?
> MR. HALLS: Partially.
> THE COURT: Well, do you think you need the assistance of counsel to do with correctly?
> MR. HALLS: Um, on my point, no, I don't think so. I'd like to switch from jury trial to have a bench trial and be ready for Monday, and I wish to take that upon myself and do it.
> THE COURT: You want to do it a nonjury trial?

MR. HALLS: Yes. I would like to have bench trial on Monday.
THE COURT: Now I have two things to address formally on the record. Let me – are you able – how far did you go in school?
MR. HALLS: Probably about the 9th grade.
THE COURT: Are you able to read and write?
MR. HALLS: Yes.
THE COURT: Do you understand the maximum sentence that you're exposed to is ten years in prison and a $20,000 fine on this charge?
MR. HALLS: OK, yes.
THE COURT: Do you understand the Court will not assist you? You'll be expected to handle all your own legal affairs without assistance from the Court?
MR. HALLS: Yes.
THE COURT: During the trial.
MR. HALLS: Yes.
THE COURT: Do you think you're capable of doing that?
MR. HALLS: Yes.
THE COURT: And have you been in court before? Have you gone to trial before? Have you been through the process?
MR. HALLS: I have been to trial once, and I think I had him for an attorney.
THE COURT: Mr. Swanberg?
MR. HALLS: Yeah, for residential burglary. I signed off on it. It's one that's kind of hard because everyone's trying to get me to plead guilty to second degree and third degree, a misdemeanor. Sylvia already knew who the person was on the witness, on the crime, and she waited till the last moment and then dropped me off. I don't actually want to be represented by no one. Just because I won't want to assign another attorney and go outside the 60 days.
THE COURT: I'm sorry. I didn't quite hear you. Do you want another attorney or not?
MR. HALLS: I do not.
THE COURT: And you don't want to go outside of the technical speedy trial rule here?
MR. HALLS: No, I do not.

THE COURT: All right. I would encourage you to consider that and be represented by counsel, given your limited education and limited experience in court. I think it makes more sense for you to be represented by counsel on this fairly serious charge.
MR. HALLS: Yes.
MS. WHITMIRE: Your Honor, there are some –
THE COURT: But the call is up to you.
MR. HALLS: Yes, I would like to take it upon myself and have a bench trial on Monday.
MS. WHITMIRE: Your Honor, there are some things specific to this case that I think may – maybe should be addressed, but he indicated right off the bat that he partially understands, and that concerns the state. I'm not sure what he thinks he doesn't understand. The defendant has 13 prior felonies. He's looking at a standard range of 63 to 84 months. Because he has convictions in excess of the nine, the state would be seeking an exceptional sentence of 120 months should he be convicted.
THE COURT: Let me -- let me just stop and address that. Mr. Halls, what that means is they're going to ask for ten years if you get convicted, and they would be legally in a position to get that.
MR. HALLS: Yes.
THE COURT: Are you sure you don't want counsel on this?
MR. HALLS: No, I do not.
THE COURT: A few days, you know, speedy trial rule is important, but it's not absolute. It's designed to get cases efficiently through the system and also not let cases get so old that memory fails, but this case is not that old. It was filed in February of 2010. Is that correct? February 10th of this year.
MS. WHITMIRE: Correct.
THE COURT: Of 2012. So it's a fairly new case. It might be reasonable for you to consider continuing it and taking advantage of Mr. Swanberg, who has represented you in the past. Do you want to reconsider that?

MR. HALLS: I -- no, I don't. I would just like to represent myself, go through Monday on bench trial, and not waste the Court's time and get it dealt with done and over.
THE COURT: Was there something else that the state wanted to raise?
MS. WHITMIRE: A number of things, your Honor. During the interview with the witness she, um, disclosed that the defendant had sent her a letter. We did get a copy of that letter from her. I've handed it to counsel or actually to the defendant. Now the contents of that letter do support a charge of witness tampering. Miss Cornish and I had discussed that letter previously. In fact I believe she read it, the original, because it's in pencil. No, she hadn't?
MS. CORNISH: I never received that letter. I never got it.
MS. WHITMIRE: It had been indicated to her, however, that the state will be filing tampering charges in the event we go to trial. I don't know if his defenses have now changed, if he has any affirmative defenses, he understands what those are, be calling any witnesses, or if he has any motions in limine or pretrial motions.
THE COURT: Well, we have a signed omnibus form here.
MR. HALLS: We had an omnibus hearing already. They didn't give no names, phone numbers, addresses, anything. Yes, there is a letter in the file. I wrote it to my attorney Sylvia. That's the only one I can see in there. And one for my celly, but he wants gas paid for.
THE COURT: Before we take on what's necessary to get the case out on the 9th, I want to finish a couple of things here. One is whether or not he's clearly waiving his right to counsel. And then whether or not he wants to waive a jury trial. Those are the two issues. And I'm trying to focus on those at this time. So, Mr. Halls, have you had a chance to go over the police reports with your attorney?
MR. HALLS: Um, not in full, not totally. With Sylvia.
THE COURT: Well, do you think you're ready to go to trial on the 9th if you haven't looked at the police reports?
MR. HALLS: Yes, and I'd like to waive the jury and --
THE COURT: Do you know who the witnesses are who will be called to testify against you?

MR. HALLS: Not by last names. The prosecutor wants them to come, I'm sure she can contact them. I have no part with that because I have a no-contact order, and I don't wish to violate that. So I can't call, visit, nothing. So if she wants that, she's going to have to have an omnibus hearing. Pretrial last week and rotated over to the 4th this week. I don't want to waste the Court's time no more. I want to waive the lawyer, and I want to waive having a jury trial.
THE COURT: Have you ever had a stay at Eastern State Hospital or any other mental health facility?
MR. HALLS: Eastern and Western and both competent.
THE COURT: Have you ever been committed involuntarily to a mental health institution?
MR. HALLS: What's that?
THE COURT: Have you ever been committed involuntarily to a mental health institution?
MR. HALLS: What does that mean?
Put myself into?
THE COURT: No, have you ever been put in by the county? Have you ever been put in a mental health institution other than evaluation?
MR. HALLS: No.
THE COURT: Before a trial?
MR. HALLS: No, I have not.
THE COURT: All right. I think he's competent to make this decision and represent himself and waive his right to trial -- or to counsel at trial.
MR. HALLS: Jury trial.
THE COURT: He's had -- doing one at a time.
MR. HALLS: Excuse me,
THE COURT: He's had the opportunity to speak with counsel, and he's making that choice I believe freely and voluntarily and knowingly. And so I'll consider his right to counsel waived.

RP (4/4/2012) at 8-15. The court then accepted Mr. Halls' waiver of his jury trial right after further questioning:

> THE COURT: . . . Now a jury trial, do you know the difference between a jury and a nonjury trial?
> MR. HALLS: Um, my say on it would be I'd have 12 in the box and one outside of it, 13, and then for a bench trial it would just be the prosecutor, me, and a judge.
> THE COURT: Well, you seem to notice the difference. Had you talked over that strategy with your attorney before making the decision?
> MR. HALLS: No. I've made that by myself and set that up.
> THE COURT: And do you think you know what you're doing? You have a reason for that? I don't want to necessarily know what that is, but do you have a reason for making that decision?
> MR. HALLS: I just don't want to waste no more court's time on this.
> THE COURT: Do you realize you'll have a jury trial on the 9th, the same day you would have judge trial?
> MR. HALLS: That's fine. I realize that.
> THE COURT: And you still want to go jury or nonjury?
> MR. HALLS: Nonjury.
> THE COURT: I'll find that he's waived his right to jury trial freely and voluntarily and knowingly. Appears to understand what it is, and he's been in the court system a lot, and I'm sure he does understand.

RP (4/4/2012) at 15-16.

Trial was held April 9, 2012. RP (4/9/2012) 3. Mr. Halls' girlfriend, with whom he lived at the time, testified he threw a candleholder that hit her in the head, causing her head to bleed and requiring staples. RP (4/9/2012) 15, 18-20, 54. The responding officer testified tMr. Halls "threw a candlestick at her and hit her in the head." *Id.* at 54. No one else witnessed the alleged assault. *Id.* at 39-40, 50.

After the State rested, Mr. Halls testified in his own defense and denied throwing anything at his girlfriend. RP (4/9/2012) 63.

Nevertheless, the Court found Mr. Halls guilty of second degree assault – domestic violence. RP (4/9/2012) 79; RP (4/18/2012) 21; CP 42-43, 49.

Counsel was appointed to represent Mr. Halls at sentencing because of Mr. Halls' request for an exceptional downward sentence. (RP (4/9/2012) 80; RP (4/18/2012) 21). His counsel moved for an evaluation of Mr. Halls' competency. (RP (4/18/2012) 21; RP (5/10/2012) 85). The Court granted the motion and stayed proceedings on May 10, 2012, ordering Eastern State Hospital to conduct a forensic mental health evaluation of Mr. Hall's competency to stand trial. CP 11, 14; RP (5/10/2012) 86-87. On August 16, 2012, Eastern State Hospital found Mr. Halls did not have a mental disease or defect and had the capacity to understand the proceedings against him and to assist in his own defense. CP 21.

The Court found Mr. Halls competent to stand trial based on Eastern State Hospital's report and entered an order of competency without holding an evidentiary hearing. CP 39; RP (8/29/2012) 28; RP (9/12/2012) 2-3.

V. GROUNDS FOR REVIEW AND ARGUMENT

The considerations which govern the decision to grant review are set forth in RAP 13.4(b). Petitioner believes that this court should accept review of these issues because the decision of the Court of Appeals is in conflict with other decisions of this court and/or the Court of Appeals (RAP 13.4(b)(1) and (2)) and/or involves a significant question of law under the Constitution of the United States and state constitution (RAP 13.4(b)(3)).

1. The trial court violated the Mr. Halls' right to a jury trial under Washington Constitution, Art. 1, § 21 and U.S. Constitution, Sixth Amendment, by accepting a jury waiver made without advice of counsel and that was not knowingly, intelligently and voluntarily entered.

A person charged with an offense that could result in over six months' imprisonment is entitled to a trial by jury. *See Cheff v. Schnackenberg*, 384 U.S. 373, 383, 86 S.Ct. 1523, 16 L.Ed.2d 629 (1966). By contrast, Washington Constitution, Art. 1, § 21, affords the citizens of this state the right to trial by jury for any offense that is defined as a "crime," the conviction of which could result in any imprisonment. *Pasco v. Mace*, 98 Wn.2d 87, 100, 653 P.2d 618 (1982). Since all persons

charged with a crime have a fundamental right to trial by jury, the waiver of this right may be sustained only if a defendant acts knowingly, intelligently, voluntarily and free from improper influences. *State v. Stegall*, 124 Wn.2d 719, 725, 881 P.2d 979 (1994).

The waiver of the right to jury trial must either be made in writing or made orally on the record. *State v. Donahue*, 76 Wn. App. 695, 697, 887 P .2d 485 (1995). If the defendant challenges the validity of the jury waiver on appeal, the State bears the burden of proving the waiver was knowingly, intelligently and voluntarily made. *Id.* Because it implicates the waiver of an important constitutional right, the appellate court reviews a trial court's decision to accept the defendant's jury trial waiver *de novo*. *State v. Ramirez-Dominguez*, 140 Wn. App. 233, 239, 165 P.3d 391 (2007).

The validity of a waiver of any constitutional right, and the inquiry required to establish waiver, will depend on the circumstances of each case, including the defendant's experience and capabilities. *Stegall*, 124 Wn.2d at 725. The reviewing court considers whether the defendant was informed of his constitutional right to a jury trial. *Ramirez-Dominguez*, 140 Wn. App. at 240. It may not presume that a defendant waived his jury trial right unless the record establishes a valid waiver. *State v. Pierce*, 134

Wn. App. 763, 771, 142 P.3d 610 (2006). A written waiver is not determinative evidence of a validly waived jury trial right. *Id.* at 771. The record must reflect a personal expression of waiver by the defendant. *Stegall*, 124 Wn.2d at 725.

In *Pierce*, the court found a valid waiver where the defendant received the advice of counsel, submitted his waiver in writing, knew only the judge would decide his case and where the court informed defendant that he had the right to a unanimous verdict by 12 people. 134 Wn. App. at 722. This state's constitutional right to a jury trial varies significantly from the United States Constitution and many other state constitutions, which do not require complete jury unanimity in order to sustain a guilty verdict. *See State v. Gimarelli*, 105 Wn. App. 370, 379, 20 P.3d 430 (2001). Thus, a trial court should ensure that the defendant understands he is entitled to a unanimous jury verdict.

Unlike the defendant in *Pierce*, Mr. Halls had not received the advice of counsel on waiving his jury trial right and expressed only an understanding that a jury consisted of 12 jurors and one alternate and a bench trial was before only the judge. The record does not show he knew he had a right to a unanimous jury verdict. *See In re Keeney*, 141 Wn. App. 318, 327, 169 P.3d 852 (2007) ("Every criminal defendant has the

constitutional right to a unanimous verdict of guilt determine by a jury . . . This constitutional requirement also demands unanimous jury findings on all of the elements of the charged offense"). Instead, the record shows Mr. Halls' waiver was based on his preoccupation with not wasting the court's time rather than trial strategy. It further shows the court acknowledged Mr. Hall's lack of education and courtroom experience. RP (4/2/2012) 10-11. Finally, the record shows the court accepted Mr. Halls' waiver after a brief colloquy consisting only of a few questions: whether Mr. Halls knew the difference between a jury and nonjury trial, whether he had discussed trial strategy with an attorney (answer: "No"), and whether he knew he could have a jury or nonjury trial on his trial. RP (4/2/2012) at 15-16. The court did not advise Mr. Halls that under the Washington constitution, a jury must agree unanimously to find a defendant guilty.

Absent advice on this important component of the right to jury trial under Washington Constitution, Article 1, § 21, the State cannot satisfy its burden of showing Mr. Halls knowingly, intelligently, and voluntarily waived his right to a jury trial. This Court should, therefore, reverse the conviction and remand for a new trial before a jury.

2. The trial court erred by accepting Mr. Halls' waiver of his right to counsel where the court did not inform Mr. Halls of the maximum penalty for witness tampering, or, with regard to the assault charge, the nature of the charge or the statutory offense against him.

The court erred by allowing Mr. Halls to waive his right to counsel and represent himself. A defendant has the constitutional right to represent himself at trial. *Faretta v. California*, 422 U.S. 806, 807, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975). However, a trial court must establish that a defendant, in choosing to proceed *pro se*, makes a knowing and intelligent waiver of his constitutional right to the assistance of counsel. *State v. Bebb*, 108 Wn.2d 515, 525, 740 P.2d 829 (1987); *City of Bellevue v. Acrey*, 103 Wn.2d 203, 209, 691 P.2d 957 (1984).

Appellate courts review a trial court's acceptance of a waiver of counsel for an abuse of discretion. *State v. Hemenway*, 122 Wn. App. 787, 792, 95 P.3d 408 (2004). A trial court abuses its discretion if its "decision is manifestly unreasonable, or is exercised on untenable grounds, or for untenable reasons." *State v. Vermillion*, 112 Wn. App. 844, 855, 51 P.3d 188 (2002). Appellate courts review the record as a whole in determining

whether a defendant knowingly and intelligently waived counsel. *In re Det. of Turay*, 139 Wn.2d 379, 396, 986 P.2d 790 (1999).

A trial court should assure the defendant understands the risks of self-representation through a colloquy on the record. *State v. Buelna*, 83 Wn. App. 658, 660, 922 P.2d 1371 (1996). "At a minimum, the colloquy 'should consist of informing the defendant of the nature and classification of the charge, the maximum penalty upon conviction[,] and that technical rules exist [that] will bind defendant in the presentation of his case.'" *Id.* (quoting *Acrey*, 103 Wn.2d 211, 691 P.2d 957) (alterations in original). Indeed, this court has previously set forth a list of questions to help the trial court explore a defendant's request to waive legal counsel. *State v. Christensen*, 40 Wn. App. 290, 295 n.2, 698 P.2d 1069 (1985).

In *Buelna*, the court of appeals held that Buelna's waiver of his right to the assistance of counsel was an uninformed and unintelligent waiver, because Buelna said he did not understand the charges and because the record did not establish that Buelna was properly advised of the nature and seriousness of the charges and the possible penalties. 83 Wn. App. at 661. The Court reversed Buelna's convictions and remanded the case for a new trial and advised the court to follow the colloquy in *Christensen*. *Id.* at 662.

Like in *Buelna*, the court here did not inform Mr. Halls that he was charged with second degree assault with a domestic violence enhancement – a felony. *See* RP (4/4/2012) at 8-15. Nor did the court ask Mr. Halls if he understood the nature of the charge. It also did not ask him to reconsider his waiver after the State indicated that it would likely amend its information and charge him with witness tampering or explain the maximum penalty if he was convicted of witness tampering.

In light of all of these omissions, the court's acceptance of Mr. Halls' waiver of counsel was based on untenable grounds and, therefore, constituted an abuse of discretion. Consequently, Mr. Halls' conviction should be reversed and the case remanded for a new trial.

3. The trial court erred by finding Mr. Halls competent to stand trial based only on a competency evaluation and without an evidentiary competency hearing.

Mr. Halls was denied due process when the trial court failed to hold an evidentiary hearing on the issue of Mr. Halls' competency. The two-part test for legal competency for a criminal defendant in Washington is (1) whether the defendant understands the nature of the charges and (2) whether he is capable of assisting in his defense. *In re Personal Restraint of Fleming,* 142 Wn.2d 853, 862, 16 P.3d 610 (2001).

"Whenever there is reason to doubt [a defendant's] competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate at least two qualified experts to examine and report upon the mental condition of the defendant." RCW 10.77.060(1)(a). Here, the trial court granted sentencing counsel's motion for a competency evaluation.

Competency to stand trial is a legal, not medical, concept. *State v. Bertrand*, 123 N.H. 719, 726, 465 A.2d 912 (1983); *see State v. Heddrick*, 166 Wn.2d 898, 904, 215 P.3d 201 (2009). The trial court must not delegate its duty to determine competency to a psychiatrist. *Bertrand*, 123 N.H. at 726. It must make an independent determination of competency after an evidentiary hearing even where the medical professional concludes a defendant is competent. A court's failure to hold an evidentiary hearing is an error that denies the defendant an opportunity to challenge the basis of a medical professional's opinion. *Id.* Thus, this court should review the trial court's competency determination de novo.

In this case, even though the court's competency order suggests a competency hearing was held, the court failed to hold an evidentiary hearing on competency and found Mr. Halls competent based upon only Eastern State Hospital's mental health evaluation:

> THIS MATTER having come on regularly for hearing Wednesday, August 29, 2012 @ 8:30a.m., following the defendant's commitment for evaluation from Eastern State Hospital, for an examination regarding his competency to stand trial, the defendant being present and represented by Sam Swanberg, and the State being present, and the Court having considered the report dated, August 16, 2012, from Eastern State Hospital, which was admitted into evidence for the purpose of this hearing, FINDS that the defendant does have the capacity to understand the proceedings against his and to assist his attorney in his own defense, NOW, THEREFORE, IT IS HEREBY ORDERED that the defendant is competent to stand trial.

CP at 39; *compare* RP (8/29/2012) 28. The court's reliance on only the evaluation and failure to hold an evidentiary hearing is an error that denied Mr. Halls' due process rights. Mr. Hall had no opportunity to challenge Eastern State Hospital's evaluation. His conviction should, therefore, be reversed and this matter remanded for a new trial. *See Bertrand*, 123 N.H. at 727 (concluding that a new trial is appropriate because remand for a *nunc pro tunc* inquiry of defendant's competency runs the risk of an erroneous retrospective determination of competency in the absence of a record of a hearing on the competency issue when the issue was raised).

VII. CONCLUSION

For the reasons stated, Petitioner respectfully asks this Court to grant review and reverse the decision of the Court of Appeals.

Respectfully submitted on August 25, 2014.

s/Susan Marie Gasch, WSBA #16485
P. O. Box 30339
Gasch Law Office
Spokane WA 99223-3005
Telephone: (509) 443-9149
FAX: None
E-mail: gaschlaw@msn.com

PROOF OF SERVICE (RAP 18.5(b))

I, Susan Marie Gasch, do hereby certify under penalty of perjury that on August 25, 2014, I mailed to the following, by U.S. Postal Service first class mail, postage prepaid, or provided e-mail service by prior agreement (as indicated), a true and correct copy of Mr. Halls' petition for review and Appendix A:

David Wayne Halls (#973846)
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen WA 98520

E-mail:
prosecuting@co.benton.wa.us
Andrew Kelvin Miller
Benton County Prosecutors Office
7122 W. Okanogan Place, Bldg. A
Kennewick WA 99336-2359

s/Susan Marie Gasch, WSBA #16485
P. O. Box 30339
Gasch Law Office
Spokane WA 99223-3005
Telephone: (509) 443-9149
FAX: None
E-mail: gaschlaw@msn.com

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

The Court of Appeals
of the
State of Washington
Division III

500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
http://www.courts.wa.gov/courts

July 24, 2014

E-mail
Andrew Kevin Miller
Megan Whitmire
Benton County Prosecutor
7122 W. Okanogan Pl Bldg A
Kennewick, WA 99336-2359

Susan Marie Gasch
Gasch Law Office
P.O. Box 30339
Spokane, WA 99223-3005
gaschlaw@msn.com

Hailey Louise Landrus
Stamper Rubens, P.S.
720 W. Boone Ave Ste 200
Spokane, WA 99201-2560
hlandrus@stamperlaw.com

CASE # 312445
State of Washington v. David Wayne Halls
BENTON COUNTY SUPERIOR COURT No. 121001565

Dear Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file an original and two copies of the motion. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Renee S. Townsley

Renee S. Townsley
Clerk/Administrator

RST:mk
Attach.
c: **E-mail** – Hon. Carrie Runge
c: David Wayne Halls #973846
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

FILED
JULY 24, 2014
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

STATE OF WASHINGTON,	)	No. 31244-5-III
	)	
Respondent,	)	
	)	
v.	)	
	)	
DAVID WAYNE HALLS,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	

BROWN, J. — David W. Halls appeals his second degree assault — domestic violence conviction. He contends his conviction lacks sufficient supporting evidence because the State failed to prove he intentionally meant to harm his girl friend. He further contends the trial court erred in accepting his jury waiver, allowing him to represent himself at trial, and in failing to conduct a competency hearing. Finally, Mr. Halls contends he received ineffective assistance of counsel. We reject Mr. Halls' contested contentions and find no merit in his pro se statement of additional grounds for review (SAG). But considering RCW 9.94A.701, we accept the State's error concession regarding the trial court's error in sentencing Mr. Halls to a variable term of community custody. *See State v. Franklin*, 172 Wn.2d 831, 836, 263 P.3d 585 (2011) ("a court may no longer sentence an offender to a variable term of community custody [that is] contingent on the amount of earned release but instead, it must determine the precise

length of community custody at the time of sentencing."). Accordingly, we affirm Mr. Halls' conviction and remand for the limited purpose of correcting his judgment and sentence to remove the offending community custody condition.

FACTS

According to the State's evidence, during an argument between Mr. Halls and his live-in girl friend, Rhonnda Harshman, Mr. Halls grabbed Ms. Harshman by the throat and pushed her onto the bed. He then picked up a glass candleholder and threw it at Ms. Harshman, hitting her on the head and causing a laceration. Ms. Harshman was transported to the hospital where she received stitches to close the wound.

The State charged Mr. Halls with second degree assault — domestic violence. At his arraignment, the court informed him of the charge against him and his standard range sentence of 63 to 84 months based on his criminal history. The State later amended the information to include "COUNT II – ASSAULT IN THE THIRD DEGREE." Clerk's Papers (CP) at 6. This charge included a domestic violence allegation.

Mr. Halls' trial counsel withdrew five days before trial and the court appointed new counsel, who requested a continuance. Mr. Halls declined to waive his speedy trial rights and requested self-representation during the following colloquy:

> THE COURT: Do you know what you're doing when you represent yourself?
> MR. HALLS: Partially.
> THE COURT: Well, do you think you need the assistance of counsel to do with correctly?
> MR. HALLS: Um, on my point, no, I don't think so. I'd like to switch from jury trial to have a bench trial and be

ready for Monday, and I wish to take that upon myself and do it.

THE COURT: You want to do it a nonjury trial?

MR. HALLS: Yes. I would like to have bench trial on Monday.

THE COURT: Now I have two things to address formally on the record. Let me – are you able – how far did you go in school?

MR. HALLS: Probably about the 9th grade.

THE COURT: Are you able to read and write?

MR. HALLS: Yes.

THE COURT: Do you understand the maximum sentence that you're exposed to is ten years in prison and a $20,000 fine on this charge?

MR. HALLS: OK, yes.

THE COURT: Do you understand the Court will not assist you? You'll be expected to handle all your own legal affairs without assistance from the Court?

MR. HALLS: Yes.

THE COURT: During the trial?

MR. HALLS: Yes.

THE COURT: Do you think you're capable of doing that?

MR. HALLS: Yes.

THE COURT: And have you been in court before? Have you gone to trial before? Have you been through the process?

MR. HALLS: I have been to trial once[.]

Report of Proceedings (RP) (Apr. 4, 1012) at 8. The court then stressed that based on Mr. Halls' multiple prior felonies, the State may ask for an exceptional sentence upward of 120 months. Mr. Halls responded that he understood and still did not want counsel.

The court later asked, "Have you ever had a stay at Eastern State Hospital or any other mental health facility?" RP (Apr. 4, 2012) at 14. Mr. Halls responded, "Eastern and Western and both competent." *Id.* Mr. Halls then stated he had never been put in a mental health institution after a competency evaluation. The court then

found Mr. Halls was "competent to make this decision and represent himself and waive his right to trial -- or to counsel at trial." RP (Apr. 4, 2012) at 15. The court stated, "He's had the opportunity to speak with counsel, and he's making that choice I believe freely and voluntarily and knowingly. And so I'll consider his right to counsel waived." *Id.*

Regarding the jury waiver, the following colloquy occurred on the record:

> THE COURT: . . . Now a jury trial, do you know the difference between a jury and a nonjury trial?
> MR. HALLS: Um, my say on it would be I'd have 12 in the box and one outside of it, 13, and then for a bench trial it would just be the prosecutor, me, and a judge.
> THE COURT: Well, you seem to notice the difference. Had you talked over that strategy with your attorney before making the decision?
> MR. HALLS: No. I've made that by myself and set that up.
> THE COURT: And do you think you know what you're doing? You have a reason for that? I don't want to necessarily know what that is, but do you have a reason for making that decision?
> MR. HALLS: I just don't want to waste no more court's time on this.
> THE COURT: Do you realize you'll have a jury trial on the 9th, the same day you would have judge trial?
> MR. HALLS: That's fine. I realize that.
> THE COURT: And you still want to go jury or nonjury?
> MR. HALLS: Nonjury.
> THE COURT: I'll find that he's waived his right to a jury trial freely and voluntarily and knowingly. Appears to understand what it is, and he's been in the court system a lot, and I'm sure he does understand.

RP (Apr. 4, 2012) at 15-16. Mr. Halls then signed a waiver to his right to a jury trial.

During the bench trial, a witness at the house on the night in question testified Ms. Harshman and Mr. Halls were arguing and that Mr. Halls grabbed Ms. Harshman by

the throat and threw her on the bed. The witness testified Mr. Halls picked up "nunchucks" in an attempt to scare her. RP (Apr. 9, 2012) at 49. Mr. Halls next picked up a candleholder and threw it at Ms. Harshman's head.

Ms. Harshman testified Mr. Halls picked up a candleholder and threw it at her head, causing a large cut that required medical attention. A picture of Ms. Harshman's wound was admitted into evidence. The court noted a scar was visible on her forehead. Mr. Hall denied throwing the candleholder in his defense.

The court found Mr. Halls "picked up a glass candle holder . . . and threw it at Ms. Harshman." CP at 41. The court then found Mr. Halls guilty of second degree assault – domestic violence. The court stated, "Sir, the State charged you with Assault in the Second Degree, or basically in [the] alternative, Assault in the Third Degree for the same acts. I found that the State met its burden on the Assault in the Second Degree, so you're guilty of that. And Count II will be dismissed because you only get found guilty of one count." RP (Apr. 9, 2012) at 82.

Mr. Halls accepted counsel for sentencing. Counsel asked for a competency evaluation. The court granted the motion and stayed proceedings, ordering Eastern State Hospital (ESH) to conduct a forensic mental health evaluation of Mr. Halls' competency. ESH found Mr. Halls did not have a mental disease or defect and had the capacity to understand the proceedings against him and assist counsel. The court entered a competency order without holding an evidentiary hearing.

The court sentenced Mr. Halls to 63 months (the low-end of a standard range sentence) and ordered community placement "for the longer of: (1) the period of early release. RCW 9.94A.728(1)(2); or (2) the period imposed by the court [18 months]." CP at 49. Mr. Halls appealed.

ANALYSIS

A. Evidence Sufficiency

The issue is whether sufficient evidence supports Mr. Halls' conviction for second degree assault – domestic violence. He contends the State's evidence was insufficient to prove he intentionally assaulted Ms. Harshman. "In a criminal prosecution, due process requires the State to prove every element of the charged crime beyond a reasonable doubt." *State v. Smith*, 155 Wn.2d 496, 502, 120 P.3d 559 (2005).

Evidence is sufficient if, when viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *Id.* Circumstantial and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). Because it is the fact finder's responsibility to resolve credibility issues and determine the weight of the evidence, we defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

To prove second degree assault – domestic violence, the State had to prove Mr. Halls "intentionally" assaulted Ms. Harshman and thereby recklessly inflicted substantial bodily injury. RCW 9A.36.021(1)(a); RCW 10.99.020(5). Intent may be inferred from the defendant's conduct. *Delmarter*, 94 Wn.2d at 638. Intent evidence includes the manner and act of inflicting the wound, the nature of the prior relationship, and any previous threats. *State v. Mitchell*, 65 Wn.2d 373, 374, 397 P.2d 417 (1964).

The record shows Ms. Harshman and Mr. Halls were arguing. Mr. Halls grabbed her by the throat and then threw her on the bed. He then picked up "nunchucks" to scare her. RP (Apr. 9, 2012) at 49. Still angry, Mr. Halls grabbed a candleholder and threw it at Ms. Harshman, causing substantial bodily injury. Pictures and Ms. Harshman's physical appearance support the live testimony. While Mr. Halls disputes this evidence, credibility determinations are for the trier of fact. *Camarillo*, 115 Wn.2d at 71. Therefore, viewing the evidence in the light most favorable to the State, sufficient evidence supports Mr. Halls' second degree assault – domestic violence conviction.

B. Waivers

The issue is whether the trial court erred in accepting Mr. Halls' waivers to his right to a jury trial and his right to the assistance of counsel at trial.

First, Mr. Halls contends the trial court erred by accepting his jury waiver without proof he had knowingly, intelligently, and voluntarily waived his jury trial right. The federal and state constitutions guarantee the right to a jury trial. U.S. CONST. amend VI; CONST. art. I, § 21. The right may be waived, but it must be done so voluntarily,

knowingly, and intelligently. *City of Bellevue v. Acrey*, 103 Wn.2d 203, 207, 691 P.2d 957 (1984). The State has the burden to demonstrate that the waiver is valid. *State v. Wicke*, 91 Wn.2d 638, 645, 591 P.2d 452 (1979). We review the validity of a jury trial waiver de novo. *State v. Ramirez-Dominguez*, 140 Wn. App. 233, 239, 165 P.3d 391 (2007). A defendant's waiver of his or her jury trial right must be made knowingly, intelligently, voluntarily, and without improper influences. *State v. Stegall*, 124 Wn.2d 719, 724-25, 881 P.2d 979 (1994). A written jury trial waiver "is strong evidence that the defendant validly waived the jury trial right." *State v. Pierce*, 134 Wn. App. 763, 771, 142 P.3d 610 (2006). Additionally, we consider whether the trial court informed the defendant of his or her jury trial right. *Id.*

Mr. Halls signed a written waiver of his right to a jury trial attesting he was notified of his right and chose to waive it. Additionally, the record shows the trial judge discussed the difference between a jury and nonjury trial with Mr. Halls and notified him of his right to a jury trial. Mr. Halls stated that he understood and wanted to waive his right. Under *Pierce*, this is strong evidence of a valid waiver, and we so conclude.

Second, Mr. Halls contends the trial court erred by accepting his assistance of counsel waiver without proof he knowingly, intelligently, and voluntarily waived his right. Specifically, Mr. Halls argues he was not adequately informed of the charges against him to make a proper waiver of his right to counsel. Like the right to a jury trial, the right to counsel is guaranteed under both the state and federal constitutions. U.S. CONST. amends. VI & XIV; WASH. CONST. art. I, § 22. A criminal defendant, however, has the

right to proceed without counsel when he or she voluntarily and intelligently elects to do so. *Faretta v. California*, 422 U.S. 806, 807, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975). We review a request for a waiver of the constitutional right to counsel for abuse of discretion.[1] *State v. Madsen*, 168 Wn.2d 496, 504, 229 P.3d 714 (2010). Discretion is abused if it is exercised without tenable grounds or reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

In order to exercise the right to self-representation, a defendant's request must be unequivocal, knowing, voluntary, intelligent, and timely. *Acrey*, 103 Wn.2d at 208-09. Courts should indulge every reasonable presumption against finding that a defendant has waived the right to counsel. *State v. Chavis*, 31 Wn. App. 784, 789, 644 P.2d 1202 (1982). Our Supreme Court "strongly recommend[s]" a colloquy between the trial court and defendant as the best means of assuring that the defendant understands the risks of self-representation. *Acrey*, 103 Wn.2d at 211. Such a waiver must be prefaced on the trial court "informing the defendant of the nature and classification of the charge, the maximum penalty upon conviction, and that technical rules exist which

---

[1] Federal and other state courts apply a de novo standard of review to a criminal defendant's waiver of his Sixth Amendment right to assistance of counsel. *United States v. McBride*, 362 F.3d 360, 365-66 (6th Cir. 2004) (discussing the trend in the Sixth Circuit for having two different standards of review for the counsel waiver issue and noting that the 9th, 10th, and 11th Circuits all apply a de novo standard of review); *State v. Watson*, 900 A.2d 702, 712-13 (Me. 2006) (while noting that North Dakota, Michigan, Iowa, and Colorado apply a de novo standard of review, the court concluded that Maine courts should apply a bifurcated standard of review for counsel waiver, reviewing any express or implicit factual findings for clear error, and the legal conclusions de novo).

will bind defendant in the presentation of his case." *Id.*

Mr. Halls argues the trial court abused its discretion when it granted his request to waive counsel because he was not adequately informed of the charges against him. Initially, Mr. Halls discusses a potential witness tampering charge. This charge, however, was never included in the information nor is it part of the judgment and sentence that is currently on appeal. Thus, his argument is unhelpful in analyzing his waiver argument.

Mr. Halls next argues the court failed to advise him that he was charged with second degree assault – domestic violence during the colloquy. Relying on *State v. Buelna*, 83 Wn. App. 658, 922 P.2d 1371 (1996), he argues this is an abuse of discretion. In *Buelna*, the defendant "at least three times" stated that he "did not understand the charges." *Id.* at 660. The court, nevertheless, allowed him to proceed pro se and was later convicted as charged. Division Two of this court reversed, holding "Buelna's waiver of his right to the assistance of counsel was an uninformed and unintelligent waiver, because Buelna said that he did not understand the charges and because the record does not establish that Buelna was properly advised of the nature and seriousness of the charges and the possible penalties." *Id.* at 661.

But here, unlike in *Buelna*, Mr. Halls was informed of the potential penalty he faced (up to 10 years' incarceration and a $20,000 fine), and expressed no confusion about the charges. Although the court did not identify the charge by name during its colloquy with Mr. Halls, the specific charge was discussed previously on the record at

Mr. Hall's arraignment hearing. The court may look beyond the colloquy to find evidence on the record that shows the defendant's awareness of the consequences of self-representation. *Acrey*, 103 Wn.2d at 211. Given all, Mr. Halls knowingly, intelligently, and voluntarily waived his right to counsel. The trial court did not abuse its discretion in finding likewise.

C. Competency

The issue is whether the trial court erred in not conducting an evidentiary hearing regarding Mr. Halls' competency. Mr. Halls contends an evidentiary hearing should have been conducted following the admittance of ESH's report.

Both the due process clause of the United States Constitution and RCW 10.77.050 forbid a criminal trial of an incompetent defendant. *Pate v. Robinson*, 383 U.S. 375, 378, 86 S. Ct. 836, 15 L. Ed. 2d 815 (1966); *In re Pers. Restraint of Fleming*, 142 Wn.2d 853, 861, 16 P.3d 610 (2001). In Washington, a defendant is competent if he is capable of understanding the nature of the proceedings and charges against him and is capable of assisting in his own defense. RCW 10.77.010(14); *State v. Lord*, 117 Wn.2d 829, 900, 822 P.2d 177 (1991). When an evidentiary basis exists creating doubt about the defendant's competency to stand trial, "'then due process requires that the trial court resolve that doubt.'" *State v. Johnston*, 84 Wn.2d 572, 576, 527 P.2d 1310 (1974) (quoting *State v. Peterson*, 90 Wash. 479, 482, 156 P. 542 (1916)). RCW 10.77.060(1) requires that a competency hearing be held "'[w]henever . . . there is reason to doubt [the defendant's] competency.'" *Lord*, 117 Wn.2d at 901 (quoting RCW

10.77.060)). Because Mr. Halls did not raise an insanity defense, "a hearing is required only if the court makes a threshold determination that there is reason to doubt the defendant's competency." *Lord*, 117 Wn.2d at 901.

No reason is shown to doubt Mr. Halls' competency to require an evidentiary hearing. ESH professionals found Mr. Halls did not have a mental disease or defect and had the capacity to understand the proceedings against him. Mr. Halls did not dispute this finding. Without more, the court properly entered a competency order without holding an evidentiary hearing. Mr. Halls fails to show a due process violation. At this juncture, we note Mr. Halls, pro se, challenges the court's competency determination in his SAG. But, appellate counsel adequately addressed this issue in the direct appeal. Therefore, further discussion on this issue is unwarranted. *See* RAP 10.10(a) (providing the purpose of an SAG is to "identify and discuss those matters which the defendant/appellant believes have not been adequately addressed by the brief filed by the defendant/appellant's counsel").

D. Amended Information

Mr. Halls contends the amended information should be remanded for correction because it did not expressly state that the third degree assault charge was an alternative charge.

The purpose of the information is to notify the accused of the offense charged. *State v. Powell*, 34 Wn. App. 791, 793, 664 P.2d 1 (1983). An existing information may be amended to include an alternative means of committing a crime formerly charged.

Id. Here, the State amended the information to include third degree assault. While the information did not expressly state it was an alternative charge, the record shows the trial judge expressly informed Mr. Halls, "The State charged you with Assault in the Second Degree, or basically in [the] alternative, Assault in the Third Degree for the same acts . . . . And Count II will be dismissed because you only get found guilty of one count." RP (April 9, 2012) at 82. This is sufficient; remand is unnecessary.

Affirmed and remanded for the limited, indicated action.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Brown, A.C.J.

WE CONCUR:

Korsmo, J.

Fearing, J.

GASCH LAW OFFICE

August 25, 2014 - 3:16 PM

Transmittal Letter

Document Uploaded:	312445-Petition for Review 8-25-14 Halls, David assault.pdf
Case Name:	State v. David Wayne Halls
Court of Appeals Case Number:	31244-5
Party Respresented:	petitioner
Is This a Personal Restraint Petition?	☐ Yes ☑ No

FILED
August 25, 2014
Court of Appeals
Division III
State of Washington

Trial Court County: ____ - Superior Court # ____

Type of Document being Filed:

- ☐ Designation of Clerk's Papers
- ☐ Statement of Arrangements
- ☐ 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
- ☑ Other: petition for review

Comments:

No Comments were entered.

Sender Name: Susan M Gasch - Email: gaschlaw@msn.com

GASCH LAW OFFICE

August 25, 2014 - 3:17 PM

Transmittal Letter

Document Uploaded:	312445-COA opinion 7-24-14-Appendix A to Pet. for Review.pdf
Case Name:	State v. David Wayne Halls
Court of Appeals Case Number:	31244-5
Party Respresented:	petitioner
Is This a Personal Restraint Petition?	☐ Yes ☑ No

FILED
August 25, 2014
Court of Appeals
Division III
State of Washington

Trial Court County: ____ - Superior Court # ____

Type of Document being Filed:

- ☐ Designation of Clerk's Papers
- ☐ Statement of Arrangements
- ☐ 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
- ☑ Other: Appendix A to Petition for Review

Comments:

No Comments were entered.

Proof of service is attached and an email service by agreement has been made to prosecuting@co.benton.wa.us.

Sender Name: Susan M Gasch - Email: gaschlaw@msn.com