

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
Respondent,

v.

CALVIN N. ROUSE, ©  
Appellant.

Received  
Washington State Supreme Court

MAR 28 2016

Ronald R. Carpenter  
Clerk

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BRIEF OF APPELLANT

Direct Review of Superior court  
No. 02-1-02929-1

Calvin N. Rouse, Jr.,  
Sui Juris, Private Attorney General  
Washington State Penitentiary  
1313 N. 13 Ave; DE#227; ID#821206  
Walla Walla, Washington 99362

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## I. INTRODUCTION

Appellant, Calvin Norman Rouse, Jr., Sui Juris, acting in his Sovereign capacity as 'Private Attorney General in all matter, seek direct review of superior court decision by supreme court, pursuant to RAP 4.2(a)(1), of Pierce County Superior Court order denying Appellant's 60(b)(5), Motion to Dismiss for Lack of Subject Matter Jurisdiction over the Cause of Action, entered on October 16, 2015; in violation of Superior Court Rule , "Rule CR 60(e)(2), in conjunction to CrR 7.8(c)(3)."

RAP 4.2(a), allow a party to seek review in the Supreme Court of a decision of a superior court which is subject to review under Title Two, which in this case at bar, is being appealed under RAP 2.2(10), Order on Motion Denying a Motion to Vacate Judgment. The trial court abused its discretion by failing to obey court order of the Appellant Court and Court Rules governing the procedure.

---

\* Please take note that the Transcript of Proceedings have typo's, the page and line would reflect the correction. Page # 5, line 17 should be replaced with **Rule 60(e)(2)**. Page # 7, line 21, "portending" should read **Pertaining**. Page # 8, line 19 "calls", should read "**charges**."

## II. ASSIGNMENT OF ERROR

### Assignment of Error

- No. 1. The trial court erred by fixing an order of August 17, 2015, transferring void judgment motion to the Court of Appeals to be a PRP
- No. 2. The trial court erred in dismissing Appellant's void judgment motion for lack of subject matter jurisdiction entered on October 16, 2015; on a hearing without applying the proper procedure

### Issues Pertaining to Assignments of Error

- No. 1. Does a trial court abuse its discretion by fixing an order to transfer a motion proper before it based upon its merits and rules of the court which direct trial court of fixing an order to set a date, time, place for hearing, for all party's to appear and show cause why relief should not be granted., did such action violate CrR 7.8(c)(3)
- No. 2. Does a trial court abuse its discretion when it fail to follow mandatory procedures set out in in a order to show cause and does failure of showing cause entitle the party seeking relief should be granted, did such failure violate CrR 7.8(c)(3)

### III. STATEMENT OF THE CASE

On June 11, 2015, Appellant filed in Pierce County Superior Court, Motion to Dismiss for Lack of Subject Matter Jurisdiction Over the Cause of Action, under Superior Court Rule 60(b)(5), (Hereinafter CR 60"), claiming the judgment is void. In the Motion and other supporting documented evidence presented to the court for resolution to the controversy of the information in conflict of this State Constitution, (See "CP 1-3, 6-42, Memorandum, p.#16"). The court or state attorney never respond, file an answer or otherwise defend against the motion as required by law, or at the hearing. Failure to respond or comply with court order is conceding to the motion and failing to comply with an order is consider to be a willful act of exercise of power.

On August 18, 2015, the trial court informed appellant by mail naming June 11, 2015, fiiling as titled above, while at the same-mentioned date and time, it fixed an fraudulent order to the Court of Appeal ("Hereinafter, COA) ascribing the pleading to being under a completely different statute, to cause procedure bar and to deprive appellant of relief asked, (See Appendix, 'A-02, Order, A-03, Court Letter attached hereto.). The tial court make reference of several 'PRP's appellant filed, (See "RP 9, at Lines 1-3.")., as justification of transfer., in violation of CrR 7.8 (c).

On August 24, 2015; the COA fixed an Order Denying Transfer of

the trial court's act of usurpation, it's (COA) order direct the trial court to comply with statute rule. ('A-04') . The statute rule require the trial court to set a time and place of hearing of the party's, for the adverse party to show cause why relief asked should not be granted on the merits of the motion, see CrR 7.8(c)(3), the trial court dismissed the motion on untenable reasons not consistent with the statute nor did the adverse party show cause why relief should not be granted, pursuant to CrR 7.8(c)(3)., in fact, the trial court claimed that the COA's order direct the court to resolve serveral motion's appellat filed, and it was not sure of the COA's reason, the trial court began bring up other matter's, ("RP. 4 , at lines 3-19"). From the beginning to the date of the hearing,(10/16/15) when the trial court dismissed the motion to dismiss for lack of subject matter jurisdiction over the cause of action, which the court never reached the claim, issues presented for resolution.,( "CP-1-3") at the Hearing., ("RP -9, at lines 11-18"). This is an incorrect assumption of of the challenge of subject matter jurisdiction over the Cause of Action. The court denied the motion on the ground of being barred on time restraint, (See "RP-9, at lines 19-25, and RP-10, at lines 1-2"). It is held everywhere, that a defense based this lack cannot be waived and may be asserted at any time.

On October 16, 2015, the date of the "so-called show cause hearing," the trial court abused its discretion because it fail to show cause why

relief asked should not be granted, in fact, the motion was denied without a hearing, "RP-8, lines 20-25)(Quoting the court, "You've got a motion to dismiss for lack of subject matter jurisdiction. I read your document. They don't make too much sense, but there was an appeal of this.") Appellant motion was dismissed not on the merits of the motion. Appellant motion stated none of the reasons why the court dismissed his motion, appellant made that clear at, "RP-9, Lines 4-8.")

#### -- V. SUMMARY OF ARGUMENT

The COA order the trial court to hold a hearing pursuant to Superior Court Rule, "CrR 7.8(c)," in order for the COA to give such a directive is, because it is apparent that Appellant made a substantial showing of merits and require a factual hearing to decide the motion. CrR 7.8 set forth the criteria for seeking relief from judgment and the procedure the trial court must follow in addressing such motions. The court is in direct violation of the statute, it decided the matter on sentencing and time restraint. these issues was not raised in appellant motion. Appellant is entitled to have a hearing on his motion since basis of the motion was based on void judgment under 60(b)(5), which CrR 7.8(b)(4), have criteria on procedure on vacation of judgment. Both, require motion and affidavit stating the grounds upon which relief is asked. The trial court was apprised of the facts and what the adverse party have to defend against. It fail to come forward with any affirmative defense as to why relief asked should not be granted upon the merits of the motion presented.



## V. ARGUMENT

No. 1. DOES A TRIAL COURT ABUSES ITS DISCRETION BY FIXING AN ORDER TO TRANSFER A VOID JUDGMENT MOTION FOR LACK OF SUBJECT MATTER JURISDICTION THAT WAS PROPER BEFORE THE TRIAL COURT BASED UPON COURT RULE WHICH DIRECT THE COURT TO ENTER AN ORDER FIXING THE TIME AND PLACE OF THE HEARING THEREOF AND DIRECTING ALL PARTIES TO THE ACTION OR PROCEEDING WHO MAY BE AFFECTED THEREBY TO APPEAR AND SHOW CAUSE WHY THE RELIEF ASKED FOR SHOULD NOT BE GRANTED. "CR 60(e)(2), 7.8(c)(3)."

Superior Court Rule, "Rule 60(b)" provide a party to file motion and upon such terms are just, the court may relieve a party from final Judgment , in this case at bar, for reason that appellant's judgment is void, under the fourth indicia of the above statute. "Where a case is brought before court on demurrer petition to vacate judgment, court is required to treat allegations of petition as true, even to the extent that petition pleaded disputed recital in judgment, which petition attacked directly. Ellern, In re (1945), 23 Wn. 2d 219, 160 P. 2d 639. The trial court abused its discretion when it transferred Appellant's Motion/Petition to the Court of Appeals, by order on August 17, 2015; (See Order, 'A-02'). The superior court rule required the trial court to enter an order notifying Mr. Rouse and States attorney of a time and place of the hearing so that the state can bring forth its proof of the charges constitutionally exist as valid laws, as challenged by Mr. Rouse, (See "CP. 1-3"). The state fail to file an answer denying the allegations in the motion and fail to show cause at the hearing on October 16, 2015. This State Court said "While one to whom is

addressed on order to show cause may both demur and answer must be submitted at the same time as the demurrer. *State ex rel. Gilbert v. Prosecuting Attorney*, 92 Wn. 484; *State ex rel. Cummings v. Johnson*, 105 Wn. 93. At October 16, 2015, show cause hearing, the court denied the motion without holding a hearing on the merits of the motion, and without hearing the states reason why the court should not grant the appellants' relief, (See "RP. 8, at lines 20-24"). The trial court abused its discretion for prematurely denying appellant's motion without the states argument. This is a manifest abuse of authority/discretion. CrR 7.8 set forth the criteria the court must follow. The State is required to show cause why appellant's relief should not be granted. CrR 7.8(c)(3), *State v. Smith*, 144 Wn. App., at 864. Supreme Court held: in *State v. Brazzel*, 154 Wn. App 1023 (2010)., that the trial erred when it dismissed Brazzel's motion for relief from judgment without first ordering a show cause hearing as required by CrR 7.8(c)(3), this Court vacate the order. The trial court abused its discretion when it transferred Appellant motion to the COA, in violation of the said-above statute. Rouse is entitled to the same relief as Brazzel.

No. 2. DOES A TRIAL COURT ABUSE ITS DISCRETION WHEN IT FAIL TO FOLLOW MANDATORY PROCEDURES SET OUT IN THE COURT OF APPEALS ORDER OF AUGUST 24, 2015, DIRECTING THE TRIAL COURT TO COMPLY WITH SUPERIOR COURT RULE, "RULE CrR 7.8, DOES SUCH FAILURE ENTITLE APPELLANT TO RELIEF ASKED

The day of the show cause hearing of October 16, 2015; the trial made an odd claim that it was not clear of what the Court of Appeals

order directed the trial court to do, the trial court claimed the Order stated several motions to be heard in the trial court, (See "RP. 4, at lines 1-6). The Order of the COA, is dated August 24th, 2015, as the states in the location of the record of proceeding, lines 1, 2. The COA provided appellant with the same Order, which clearly state in pertinent part: "the matter is returned to the superior for further action. CrR 7.8(c).", (See A-03). The way the October 16, 2015, hearing was conducted was an willful act of non-compliance on the court and States attorney. Failure to comply with any court order will be deemed willful if it occurs without reasonable justification. Jones v. City of Seattle, 179 Wn. 2d 322 ( 2003), Magnona v. Hyundai Motor Am., 167 Wn. 2d 570, 584, 220 P. 3d 191 (2009) ( Citing Rivers v. Wash. State Conference of Mason Contractors, 145 Wn. 2d 674, 686-87 & n. 54, 41 P.3d 1175 (2002)). This is an manifest abuse of power. As the failure of the trial court to comply with the dictates of the mandatory procedures set out in CrR 7.8(c), with review is based upon an abuse of discretion, it is certain that the decision was manifestly unreasonable, and inexcusable reasons. The fact the the trial court stripped Appellant of his right to be present at the hearing prejudiced the Appellant of the opportunity to enter and present documents pertinent to his claim as evidence to his claim in accordance to ER 904, admissibility of documents, as well asking the state to present and produce evidence challenged in Appellant's pleadings.

The trial court and States' attorney agreed that Appellant to have an physical appearance then reneged on the agreement, See "RP.-5, at lines 20-25, "RP.-6, at lines 2-3.). The trial court not only exhibit 'bad faith practices, but act arbitrary and capricious by disobeying the law governing the procedure on vacating judgment, "CR 60(b)(5), (e)(2), "CrR 7.8(b)(4), (c)(3)." Appellant is entitled to a fair hearing by a court of integrity and dispense justice, which appellant has been denied on October 16, 2015; at the "show cause hearing." Our State Constitution guarantee a 'fair hearing', Art. 1 § 22., CrR 7.8(c)(3).

#### VI. CONCLUSION

Appellant ask this Court to vacate final judgment of the cause of action of the trial court entered on September 26, 2003, for failure to show cause as directed by the Court of Appeals on August 24, 2016., in alternative remand strict directions to the trial court to hold a hearing on the merits of Appellant's motion under CrR 7.8(c)(3).

Executed on this 21st day of March, 2016; at Walla Walla County Washington.

Respectfully submitted,

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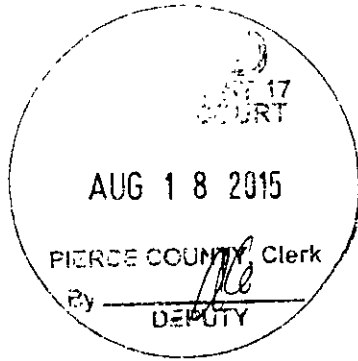
Calvin Norman Rouse, Jr., Sui Juris,  
P.A.G.  
CALVIN N. ROUSE ☎#821206  
Washington State Penitentiary  
1313 N 13 Avenue; DE#227  
Walla Walla, WA 99362

#### VII. APPENDIX

A P P E N D I X



A-02  
A-02



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,  
Plaintiff

Cause No: 02-1-02929-1

vs

ORDER ON DEFENDANT'S MOTION TO  
MODIFY JUDGMENT AND SENTENCE

ROUSE, CALVIN NORMAN,  
Defendant

CLERK'S ACTION REQUIRED

THIS MATTER came before the undersigned judge of the above entitled court upon review of the defendant's motion(s) filed on August 17, 2015 After reviewing the defendant's written pleadings, the court now enters the following order pursuant to CrR

7.8(c)(2):

**A.  IT IS HEREBY ORDERED** that this petition is transferred to the Court of Appeals, Division II, to be considered as a personal restraint petition. The petition is being transferred because:

it appears to be time-barred under RCW 10 73.090;

is not time-barred under RCW 10 73.090, but is untimely under CrR 7 8(a) and therefore would be denied as an untimely motion in the trial court, or

is not time barred but does not meet the criteria under CrR 7.8 (c)(2) to allow the court to retain jurisdiction for a decision on the merits

If box "A" above is checked, the Pierce County Superior Court Clerk shall forward a copy of this order as well as the defendant's pleadings identified above, to the Court of Appeals.

1           **B. [ ] IT IS HEREBY ORDERED** that this court will retain consideration of the motion  
2 because the following conditions have been met: 1) the petition is not barred by the one year  
3 time bar in RCW 10 73.090, and either:

- 4           [ ] the defendant has made a substantial showing that he or she is entitled to relief, or  
5           [ ] the resolution of the motion will require a factual hearing

6           **IT IS FURTHERED ORDERED** that the defendant's motion shall be heard on its merits  
7 The State is directed to.

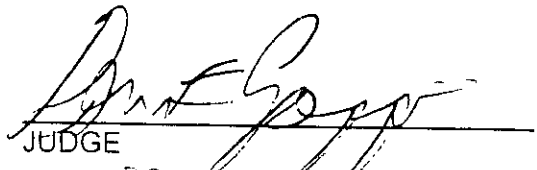
8           [ ] file a response by \_\_\_\_\_ After reviewing  
9 the response, the Court will determine whether this case will be transferred to the  
10 Court of Appeals, or if a hearing shall be scheduled

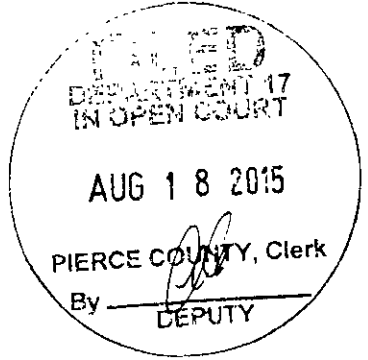
11          [ ] appear and show cause why the defendant's motion should not be granted. That  
12 hearing shall be held on \_\_\_\_\_ at \_\_\_\_\_ a m. / p.m.

13          [ ] As the defendant is in custody at the Department of Corrections, the State is further  
14 directed to arrange for defendant's transport for that hearing

15          **If box "B" above is checked, the clerk is directed to send a copy of this Order to**  
16 **the Appellate Division of the Pierce County Prosecutor's Office.**

17 DATED this 17 of August, 2015.

18   
19 JUDGE  
20 RONALD E. CULPEPPER





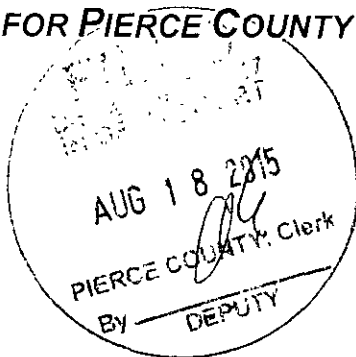


'A-03'

**SUPERIOR COURT  
OF THE  
STATE OF WASHINGTON  
FOR PIERCE COUNTY**

RONALD E. CULPEPPER, JUDGE  
Angela Edwardst, Judicial Assistant  
Karla Johnson, Court Reporter  
Department 17  
(253) 798-6640

334 COUNTY-CITY BUILDING  
930 TACOMA AVENUE SOUTH  
TACOMA, WA 98402-2108



August 18, 2015

Calvin Rouse - #821206 / DW230  
Washington State Penitentiary  
1313 N 13<sup>th</sup> Ave  
Walla Walla, WA 99362

RE: STATE OF WASHINGTON vs. ROUSE, CALVIN NORMAN  
**Pierce County Cause No. 02-1-02929-1**

Dear Mr Rouse:

I have reviewed documents apparently mailed by you on August 12<sup>th</sup> and received by the court August 17<sup>th</sup>. Among them is a Motion to Dismiss for Lack of Subject Matter jurisdiction and a proposed Order to Show Cause. These arise from your sentencing by now retired judge Buckner in 2003. You also enclosed some documents apparently addressed to "T.W." in the clerk's office.

All your motions appear to be time barred and thus will not be ruled upon by Pierce County Superior Court but will be forwarded to the Court of Appeals, Division II, as a personal restraint petition. A copy of the Order transferring to the Court of Appeals is enclosed.

Since I do not know who "T.W." is, I cannot forward, however all the documents you filed on August 17<sup>th</sup> will be filed with the Clerk's office.

Sincerely,

RONALD E. CULPEPPER

Ronald E Culpepper, Judge  
Pierce County Superior Court  
Department 17

cc: Pierce County Clerk for filing, DPA P. Hammond, DPA K Proctor,  
DAC M. K. High and Defense Atty Les Tolzin



'A-04'

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

FILED  
COURT OF APPEALS  
DIVISION II  
2015 AUG 24 AM 8:38  
STATE OF WASHINGTON  
BY [Signature] DEPUTY

In re the  
Personal Restraint Petition of

No. 48697-7-II

CALVIN NORMAN ROUSE,  
Petitioner

ORDER REJECTING TRANSFER

On August 18, 2015, this court received an August 17, 2015 Pierce County Superior Court order purporting to transfer Calvin Norman Rouse's August 17, 2015 CrR 7.8 motion under cause no. 02-1-02929-1 to this court for consideration as a personal restraint petition under CrR 7.8(c)(2). The filing dated August 17, 2015, however, is a letter concerning previous motions Rouse filed with copies of other documents Rouse purports to have filed, not a CrR 7.8 motion. Because the August 17, 2015 filing is not a CrR 7.8 motion and the superior court did not transfer the earlier motion or the subsequent matter to dismiss the earlier motion that Rouse mentions in his letter, this transfer is not proper.

Accordingly, it is hereby

ORDERED that the order transferring is rejected and the matter is returned to the superior court for further action. CrR 7.8(c)

DATED this 24<sup>th</sup> day of August, 2015

*Johanson, C.J.*  
Chief Judge

cc Calvin Norman Rouse  
Pierce County Clerk  
County Cause No. 02-1-02929-1  
Kathleen Proctor



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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

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STATE OF WASHINGTON, )  
 )  
 Plaintiff, )  
 vs. ) SUPREME COURT NO. 92462-7  
 ) P/C NO. 02-1-02929-1  
 )  
 CALVIN N. ROUSE, ) FILING NOTICE  
 )  
 Defendant. )

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NOTICE OF FILING  
TRANSCRIPT OF PROCEEDINGS

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CALVIN ROUSE, Washington State Penitentiary, 1313  
N. 13 Ave., Walla Walla, WA 99362

KATHLEEN PROCTOR, Deputy Prosecuting Attorney, 930  
Tacoma Ave. S., Tacoma, WA 98402

Please be advised that the Report of Proceedings for the  
date of 10-16-15 was filed with the Clerk's Office, Pierce  
County, on the 22nd day of February, 2016.

Karla A. Johnson, CCR, RPR  
Official Court Reporter  
Department 17  
930 Tacoma Avenue South  
Tacoma, Washington 98402

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

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STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	SUPREME COURT NO. 92462-7
	)	P/C NO. 02-1-02929-1
	)	
CALVIN N. ROUSE,	)	MOTIONS
	)	
Defendant.	)	

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REPORT OF PROCEEDINGS

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FRIDAY, OCTOBER 16, 2015

Pierce County Courthouse  
Tacoma, Washington

Before the  
HONORABLE RONALD E. CULPEPPER  
Department No. 17

[Appearances on next page]

Reported by: Karla A. Johnson, RPR  
Official Court Reporter, #82191

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APPEARANCES:

For the Plaintiff: Patrick Hammond  
Deputy Prosecuting Attorney  
Pierce County

For the Defendant: Pro Se (Via telephone)



1 FRIDAY, OCTOBER 16, 2015; AFTERNOON SESSION

2 (All parties present)

3  
4 --ooOoo--

5  
6 JUDICIAL ASSISTANT: Mr. Rouse, are you  
7 there?

8 MR. ROUSE: I'm here.

9 THE COURT: Good afternoon, Mr. Rouse. This  
10 is Judge Culpepper. I'm here on what was a Pierce  
11 County Cause No. 02-1-02929-1. There was a withdrawal  
12 from Mr. Tolzin and we had a communication from  
13 Department of Assigned Counsel saying that since this  
14 was post conviction, they would not be appearing.  
15 We're here on what was kind of an odd procedural  
16 background.

17 Mr. Rouse was charged back in 2002 with Murder in  
18 the First Degree, was convicted by way of a plea of  
19 Murder in the Second Degree, I think, in 2003, before  
20 Judge Buckner. Judge Buckner has retired. Mr. Rouse  
21 has filed a number of post-conviction motions and some  
22 personal restraint petitions.

23 After Judge Buckner's retirement I was the  
24 presiding judge and got the case because of the law of  
25 judicial gravity, basically. We are here after a Court

1 of Appeals order rejecting a transfer. That's dated  
2 August 24th.

3 It's not entirely clear to me what they want me to  
4 do, but they sent it back here for some rulings on a  
5 number of motions Mr. Rouse has filed. At least that's  
6 my understanding of why we're here. He has a motion of  
7 default against Mr. Lindquist and Kevin McCann under  
8 Civil Rule 55. He has a motion to dismiss for lack of  
9 subject matter jurisdiction, and there was some kind of  
10 a motion having something to do with the UCC and the  
11 fact that the County is bankrupt, and Mr. Rouse's offer  
12 to pay the County some money to release him from  
13 prison, as I understand that one. I'm not sure which  
14 one to start on.

15 So, Mr. Rouse, what is it with your motions -- the  
16 last one you filed I really had great difficulty  
17 understanding the motion. You had a motion for default  
18 against McCann and Lindquist under Civil Rule 55. I  
19 don't see how that applies to your case.

20 MR. ROUSE: Well, first of all, I'm a third  
21 party intervenor and I'm here by special appearance.

22 THE COURT: I don't know what you mean,  
23 "third party intervenor." You're the defendant in a  
24 murder case that you were convicted of. What do you  
25 mean, "third party intervenor"? How are you a third

1 party intervenor?

2 MR. ROUSE: The third party intervenor  
3 because of a debtor.

4 THE COURT: Because what?

5 MR. HAMMOND: Debtor.

6 MR. ROUSE: Third party to the debtor as  
7 identified on your charging information, of your  
8 charging instrument.

9 THE COURT: See, one of the problems I have  
10 responding to some of these things, Mr. Rouse, is that  
11 they make no sense. You're not a debtor. You're not a  
12 third party intervenor. You're a criminal defendant,  
13 so I don't really see what application the civil rules  
14 have in your case. Maybe you could explain that to me.

15 MR. ROUSE: As I pointed out to the counselor  
16 here, that I object to not being in a hearing. Per the  
17 Rule 60(b)(2), it gives me the opportunity to have a  
18 hearing and the parties involved to be there at the  
19 hearing.

20 THE COURT: Well, there was actually an order  
21 signed to transport you. That apparently wasn't  
22 accomplished. I don't know what happened on that.

23 MR. ROUSE: Well --

24 THE COURT: Hang on just a second.

25 Mr. Hammond, would you prefer that we set this

1 over and get Mr. Rouse here for this hearing?

2 MR. HAMMOND: I have no objection to doing a  
3 transport for Mr. Rouse, Your Honor. For the record,  
4 Patrick Hammond representing the State. Mr. Rouse  
5 might remember me as the other guy, if not McCann. I  
6 understand the court's next docket is two weeks from  
7 now and I would just note that we do object to the most  
8 recent filing that essentially was trying to  
9 characterize the situation the way Mr. Rouse just did  
10 as him somehow being a third party and the debtor or  
11 whatever. However he's characterized it, it would seem  
12 to indicate that if we remained silent after ten days  
13 of receipt that we would somehow become complicit in  
14 that motion and, clearly, we are not complicit in that  
15 motion.

16 I think probably the best thing to do, Your Honor,  
17 is to set it over to your next docket. That will give  
18 DOC time to transport him. If he had been held  
19 someplace here in Western Washington, I think the order  
20 entered on Monday would have been sufficient to get him  
21 here, but given that he has to travel from Walla Walla,  
22 that's going to take time. So the only thing I would  
23 ask him to do is maybe -- and it's his choice to do  
24 this or not -- he might want to check with his  
25 counselor to make sure that isn't going to do something

1 harmful in terms of his placement in DOC.

2 I have been told before that when defendants are  
3 transferred from DOC back here to make a court  
4 appearance, that they somehow start out and run lower  
5 in terms of their privileges in the institution, and so  
6 he might just want to take a minute to consult with his  
7 counselor on whether he prefers to do that or not.

8 MR. ROUSE: I do not need to consult with my  
9 counselor.

10 THE COURT: So do you want to set this over  
11 until we can have you transported, Mr. Rouse?

12 MR. ROUSE: Absolutely, sir.

13 THE COURT: Well, we actually don't have a  
14 calendar until November -- the first Friday in  
15 November.

16 MR. ROUSE: I object to that because the  
17 defendant that I filed a default motion to did not even  
18 -- Your Honor, sir, the defendant had over 90 days to  
19 respond to my allegations on my motion. They failed to  
20 respond and otherwise defend their position and  
21 anything and all things that was portending to this  
22 motion, so I do ask that this matter be dismissed based  
23 on the default.

24 THE COURT: Well, do you want me to rule on  
25 the motion for default today or do you want to set this

1 over?

2 MR. ROUSE: I want it to be ruled for default  
3 today.

4 THE COURT: Okay. I'm going to deny the  
5 motion for default since, of course, it has no  
6 application whatsoever here. Mr. Rouse, you're not an  
7 intervenor, a third party defendant or anything else in  
8 a civil matter. You were the defendant in a murder  
9 case. You were convicted. You filed this under the  
10 criminal case number. You didn't file a new suit  
11 against anybody. A motion for default against McCann  
12 and Lindquist is simply inapplicable and it makes no  
13 sense, so I'm going to deny the motion for default  
14 against Lindquist, McCann, or anybody else.

15 MR. ROUSE: Well, sir, those persons that you  
16 named were the ones that charged me with charges.

17 THE COURT: That's absolutely correct.

18 MR. ROUSE: I now challenge the court's  
19 jurisdiction on those calls.

20 THE COURT: Okay. You've got a motion to  
21 dismiss for lack of subject matter jurisdiction filed  
22 August 17th. I'm going to deny the motion to dismiss  
23 for subject matter jurisdiction. I read your  
24 documents. They don't make too much sense, but there  
25 was an appeal of this. The conviction was affirmed.

1           You filed two personal restraint petitions, all of  
2           which have been dismissed. I understand you don't like  
3           your sentence, Mr. Rouse.

4                   MR. ROUSE: My sentence has nothing to do  
5           with it, sir. The sentence doesn't have nothing to do  
6           with this matter. This matter was a subject matter  
7           jurisdiction. I want the court to prove the subject  
8           matter jurisdiction as stated in my motion.

9                   THE COURT: Mr. Hammond, do we have subject  
10          matter jurisdiction?

11                   MR. HAMMOND: We do. Article 4, Section 6,  
12          of the Washington State Constitution indicates that  
13          jurisdiction of superior courts shall be in all  
14          criminal cases amounting to a felony. There is an  
15          enacting statute, RCW 2.08.010, which adopts the exact  
16          same language and, by statute, thus jurisdiction over  
17          any criminal proceeding that amounts to a felony in  
18          this superior court.

19                   THE COURT: Is subject matter jurisdiction  
20          something that could have been challenged when he was  
21          originally charged over ten years?

22                   MR. HAMMOND: Yes, it could have been.

23                   THE COURT: Could it have been done by a  
24          personal restraint petition challenge also?

25                   MR. HAMMOND: Yes, it could have been.

1 THE COURT: So I'm going to deny the motion  
2 to dismiss due to subject matter jurisdiction.

3 MR. ROUSE: I object to that. I object to  
4 the dismissal on the grounds that the charging  
5 information reflects that the -- reflects a different  
6 thing than the Constitution. The Constitution is 50  
7 states, that the style of law has to be a certain way  
8 and also that the law, to me, is not an entity to where  
9 I have any relationship to.

10 THE COURT: Well, I don't know what that  
11 means, Mr. Rouse.

12 MR. ROUSE: Any relationship to as far as the  
13 copy written statutes in the book to where they wasn't  
14 enacted by the legislature and it was enacted by the  
15 statute committee. I have no legal relationship to the  
16 statute law committee because they were not elected to  
17 pass laws or enact laws, therefore the publications  
18 inside of the statute book, the RCW's, does not have  
19 enacted laws.

20 THE COURT: Okay. I'm going to deny the  
21 motion to dismiss for lack of subject matter  
22 jurisdiction.

23 We have one other matter Mr. Rouse filed. This  
24 was back in February of 2014 and he's requesting --  
25 it's very hard to understand what he wants. He wants



1 to benefit something. He says, among other things, as  
2 the County is bankrupt and therefore all violations of  
3 statute, according to HJR 192 as passed June 5th, 1933,  
4 must be accompanied by a commercial value to be  
5 satisfied in order to offset and lawfully exchange the  
6 debt incurred.

7 He apparently is offering \$100,000 to discharge  
8 the debt to be released from prison. At least, that's  
9 what I can make of this.

10 I don't understand your motion, Mr. Rouse. You  
11 say "I'll pay the court \$100,000 in cash to satisfy the  
12 judgment in exchange for release."

13 MR. ROUSE: Right.

14 THE COURT: Well, I really don't know how to  
15 respond to that.

16 MR. ROUSE: That is because the debt that was  
17 charged, I was not charged.

18 THE COURT: You weren't charged; the debtor  
19 was charged.

20 MR. ROUSE: The charge of infamous is not me.  
21 I'm not that 14th Amendment person.

22 THE COURT: Who are you?

23 MR. ROUSE: Who am I?

24 THE COURT: Well, you're arguing this under  
25 the --

1 MR. ROUSE: I'm on the behalf of the debtor,  
2 slash, defendant.

3 THE COURT: You're arguing on behalf of the  
4 debtor, slash, defendant, but you're not him?

5 MR. ROUSE: No, sir.

6 THE COURT: Well, what's your standing, then,  
7 to argue this at all?

8 MR. ROUSE: Pardon?

9 THE COURT: What standing do you have to  
10 argue on behalf of the debtor, slash, defendant?

11 MR. ROUSE: That's not me.

12 THE COURT: Mr. Hammond?

13 MR. HAMMOND: Well, that would be the point  
14 the State would make: He's either himself or he isn't,  
15 and I believe he is, and therefore he does have  
16 standing to make these arguments, but these arguments  
17 are citing authorities and cases that are completely  
18 inapplicable to the situation.

19 THE COURT: I'm not sure that's even correct  
20 because I'm not sure there's any authority or anything  
21 in his motion filed February 4th, 2014. I'm going to  
22 call this "a motion to benefit" because I don't know  
23 what else to call it. He says he wants to benefit from  
24 the language of the Statement of Defendant on Plea of  
25 Guilty.

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I looked at that statement, Mr. Rouse. There's nothing in it saying if you pay \$100,000, you get out of jail, so I'm going to deny the motion to benefit filed February 4th, 2014.

I think that is all the motions that Mr. Rouse has filed that haven't previously been ruled on.

So we will send you copies of the orders denying those motions, Mr. Rouse. We'll probably get those in the mail Monday or so. Thank you very much. We'll be at recess on this matter.

MR. HAMMOND: Thank you, Your Honor.

(The matter was concluded.)

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CERTIFICATE

STATE OF WASHINGTON )  
  )  
COUNTY OF PIERCE   )

I, Karla Johnson, Official Court Reporter for Department No. 17, of the Pierce County Superior Court, do hereby certify that the foregoing proceedings were reported by me stenographically and reduced to typewritten form.

I further certify that the foregoing transcript of proceedings is a full, true and correct transcript of my machine shorthand notes of the aforementioned matter for the date of: 10-16-15.

Dated this 19th day of February, 2016.

\_\_\_\_\_  
KARLA A. JOHNSON  
#82191

Calvin N. Gauss )

Gerald A. Culpeper )

NO. 92462-7  
02-1-02729-1  
AFFIDAVIT OF SERVICE  
BY MAILING

I, Calvin N. Gauss, Jr., being first sworn upon oath, do hereby certify that I have served the following documents:

Brief of Petitioners on Direct Review of Superior Court Division  
02-1-02729-1

Upon: Gerald Culpeper, Judge  
Superior Court of Pierce County, Washington  
730 Tacoma Ave S. Dept # 17  
Tacoma, WA 99162

By placing same in the United States mail at:

WASHINGTON STATE PENITENTIARY  
1313 NORTH 13<sup>TH</sup> AVENUE  
WALLA WALLA, WA. 99362

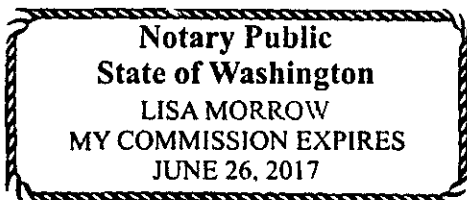
On this 22 day of March, 2016 :

Calvin N. Gauss, Jr.  
Calvin N. Gauss, Jr. 321204  
Name & Number

SUBSCRIBED AND SWORN to before me this 22 day of March, 2016.

[Signature]

Notary Public in and for the State of  
Washington. Residing at Walla Walla,  
WA. My Commission Expires: 6/26/17



Calvin N. Buss )  
 )  
 )  
Mark C. Lindquist )

NO. 92462-7

AFFIDAVIT OF SERVICE  
BY MAILING

I, Calvin N. Buss, Jr., being first sworn upon oath, do hereby certify that I have served the following documents:

Copy of Petitioner or Direct Review of Superior Court Decision  
Case No. 02-1-02929-1

Upon:

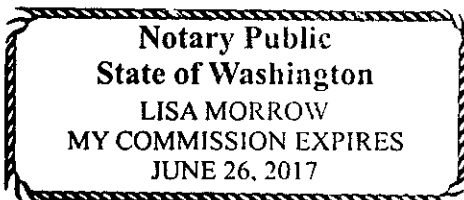
By placing same in the United States mail at:

WASHINGTON STATE PENITENTIARY  
1313 NORTH 13<sup>TH</sup> AVENUE  
WALLA WALLA, WA. 99362

On this 22 day of March, 2016.

Calvin N. Buss, Jr. ©  
Calvin N. Buss, Jr.  
Name & Number

SUBSCRIBED AND SWORN to before me this 22 day of March, 2016.



Lisa Morrow  
Notary Public in and for the State of  
Washington. Residing at Walla Walla,  
WA. My Commission Expires: 6/26/17