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Court of Appeals
Division I
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Supreme Court No. 95625-1
(COA No. 75050-0-1)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

PAUL CHASE,

Petitioner.

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

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Paul Chase, petitioner here and appellant below, asks this Court to accept review of the Court of Appeals decision terminating review designated in Part B of this petition pursuant to RAP 13.3(a)(2)(b) and RAP 13.4(b).

B. COURT OF APPEALS DECISION

Mr. Chase seeks review of the published decision by the Court of Appeals dated December 26, 2017, for which reconsideration was denied on February 1, 2018, copies of which are attached as Appendix A and B.

C. ISSUE PRESENTED FOR REVIEW

This Court has held that the government may not obtain business-related bank records without prior judicial approval because these records reveal private information protected by article I, section 7.

Addressing “a matter of first impression” in a published decision, the Court of Appeals held that a state agency can use an administrative subpoena to access any bank records if addressed to a business account, without judicial oversight, without notifying the business owner, and without substantive limits on the type of banking information gathered. Should this Court grant review to determine

whether a bank account used by a business contains no private affairs protected by article I, section 7 and the Fourth Amendment?

D. STATEMENT OF THE CASE

Paul Chase owned a private construction business with his wife, called Red Leaf Construction. CP 89. He was the president, secretary, treasurer, and chairman of the board; his wife was vice president.

1/22RP 14; CP 89. No one else was named as part of the company's staff or management. CP 89.

The Department of Revenue sent Mr. Chase a notice demanding he produce all of Red Leaf's bank records after receiving a complaint that he had not been paying sales tax. CP 30. But the Department of Revenue sent its request to the wrong address and it was returned to the Department unopened. 38, 39. The request said his failure to comply could result in being found guilty "of contempt in Superior Court." CP 30.

The Department of Revenue sent this same summons to four banks, not knowing whether any bank had company records. CP 25. The summons demanded all bank records for any account involving Red Leaf Construction. *See* CP 75. The summons stated the bank was:

required to produce then and there the following books, papers, records or documents for the period beginning January 1, 2008, and ending August 21, 2011:

For RED LEAF CONSTRUCTION INC, UBI 602 782 203, including but not limited to account number 12510891 for each month listed above:

- 1- All bank statements
- 2- All bank signature cards
- 3- Copies of all checks written
- 4- Copies of front and back of all checks deposited
- 5- Copies of lease agreement
- 6 - Copies of all invoices

CP 75. Banner Bank responded by sending all bank records it had for Red Leaf Construction, including Mr. Chase's own social security number and signature card, to the state agency. CP 90. Relying on these bank records, the State charged Mr. Chase, not Red Leaf Construction, with first degree theft for failing to pay retail sales tax to the State of Washington. CP 85-86.

Mr. Chase objected to this administrative process of obtaining these bank records without a judicial warrant or valid notice. CP 77-82. After a hearing, the court ruled that business bank records have no privacy protections under article I, section 7. CP 19.

Mr. Chase sought discretionary review in the Court of Appeals and the State concurred that review should be granted based on the importance of the issue to the prosecution. Commissioner's Ruling

Granting Review at 1-2 (Aug. 9, 2016). In a published decision, a panel of judges ruled that business records do not belong to any person and have no implication for privacy rights or protections.

Mr. Chase's trial court proceedings have been stayed pending the resolution of this appeal.

E. ARGUMENT

A sweeping administrative summons for a business's bank accounts, without any judicial oversight, violates this Court's precedent and the constitutional privacy rights accorded to individuals and business entities.

1. This Court has firmly established that judicial oversight is constitutionally necessary for the government to access bank records.

Financial records held by a bank, "are within the constitutional protection of private affairs" and require a warrant under article I, section 7. *State v. Miles*, 160 Wn.2d 236, 244 & n.4, 156 P.3d 864 (2007). Bank records are private affairs because they "potentially reveal[] sensitive personal information" including what people buy, organizations they support, and where they travel. *Id.* at 245-46.

Article I, section 7 similarly requires a judicial warrant for the government to search garbage sitting at the curb, telephone records, and a motel's guest registry, because each "can reveal much about a

person's activities, associations, and beliefs" that the government may not access without a warrant. *State v. Boland*, 115 Wn.2d 571, 578, 800 P.2d 1112 (1990); see *State v. Gunwall*, 106 Wn.2d 54, 68, 720 P.2d 808 (1986) (outgoing phone numbers dialed are private affair); *State v. Jorden*, 160 Wn.2d 121, 129, 156 P.3d 893 (2007) (protecting motel's guest registry from government access without a warrant, because they reveal private details of "personal or business associates").

In *Miles*, the state used an administrative subpoena to access bank records when investigating business fraud perpetrated by an investment advisor. 160 Wn.2d at 240-41. During its investigation, the Securities Division issued an administrative subpoena to a bank, requesting records of all accounts Miles used. *Id.* at 241. The bank provided the records, leading to criminal charges, including theft and securities fraud. *Id.* at 240.

This Court held that the administrative subpoena did not provide the necessary authority of law to obtain the bank records, which contained personal and business financial information. The State agency's broad subpoena gave it access to an array of personal details which must be overseen by a judge to supply the authority of law required by article I, section 7. *Id.* at 245.

Similarly, in *State v. Reeder*, 184 Wn.2d 805, 810, 365 P.3d 1243 (2015), this Court held that a government investigation into fraud by a business at least requires oversight by a special inquiry judge.

These cases demonstrate that historically, bank records contain private and personal information about spending habits, priorities and affiliations that the government is not free to rummage through without oversight.

The published Court of Appeals decision definitively declares that a “corporation’s bank records are not an individual’s person bank records.” Slip op. at 6. It summarily holds that a corporation’s business activities do not overlap with a person’s private affairs, even if an individual may be personally liable for her conduct performed on behalf of a corporation. Slip op. at 6-7. By drawing an absolute line that no bank record regarding a business account may contain private affairs, the Court of Appeals concludes no citizen is entitled to hold a personal privacy interest in financial transactions described in a corporation’s financial records and judicial oversight is not required before issuing wide-ranging administrative summons for any bank records of a business. *Id.* at 7.

2. *Summoning all banking records in a business account without oversight is inconsistent with historical protections and far broader than the statute allows.*

*Miles and Reeder***Error! Bookmark not defined.** focused on the rights of the accused individual to keep certain information free from unfettered governmental intrusion, even if the criminal allegation is rooted in business behavior. This stems from a long-standing recognition that it is “human beings who own, run, and are employed by” businesses and they have protected privacy interests. *Burwell v. Hobby Lobby Stores, Inc.*, U.S. , 134 S. Ct. 2751, 2768, 189 L. Ed. 2d 675 (2014). A corporation “is simply a form of organization used by human beings to achieve desired ends” and the Fourth Amendment protects “the rights of these people” even when associated with a corporation. *Id.* While a business “may open itself to [privacy] intrusions that would not be permissible in a purely private context,” a business may not be unreasonably searched. *G.M. Leasing, Inc. v. United States*, 429 U.S. 338, 353, 97 S.Ct. 619, 50 L.Ed.2d 530 (1977) (holding that tax agents lacked authority to search and seize documents potentially revealing hidden financial assets without warrant).

Because businesses are made of individuals, they also have constitutionally protected rights of free speech and association,

including the right to make political donations without governmental restrictions. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 342, 349, 130 S. Ct. 876, 899, 175 L. Ed. 2d 753 (2010). They may assert the rights of their individual members. *NAACP v. Button*, 371 U.S. 415, 428, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963); *see also Hale v. Henkel*, 201 U.S. 43, 76, 26 S.Ct. 370, 50 L.Ed. 652 (1906) (“A corporation is, after all, but an association of individuals under an assumed name and with a distinct legal entity. In organizing itself as a collective body it waives no constitutional immunities appropriate to such body.”).

Government agencies may not search a corporate workplace without a warrant unless the search is tailored in scope and frequency based on the needs of the particular industry being regulated. *Donovan v. Dewey*, 452 U.S. 594, 601, 101 S.Ct. 2534, 69 L.Ed.2d 262 (1981); *Seymour v. Wash. State Department of Health, Dental Quality Assurance Commission*, 152 Wn.App. 156, 216 P.3d 1039 (2009) (holding Department of Health lacked authority to seize records from dental office in warrantless search investigating unprofessional conduct). The government’s power to collect taxes does not entitle it to warrantless seizures of documents. *G.M. Leasing*, 429 U.S. at 355-55.

Historically, Washington has respected the private affairs of businesses from intrusion absent a proper request. Business records must be material to the investigation for a witness to be compelled to provide them. *In re Bolster*, 59 Wash. 655, 658, 110 P. 547 (1910). A company may be required to produce records “pertaining to” a regulated business, *Kelleher v. Minshull*, 11 Wn.2d 380, 402, 119 P.2d 302 (1941), but the government’s request must be re narrowly tailored to the permissible state regulation.

Article I, section 7 provides, “No person shall be disturbed in his private affairs, or his home invaded, without authority of law.” From the time of statehood, Washington has construed the term “person” to include companies and individuals. *See Laws of 1891, ch. 23 §1* (“‘person’ may be construed to include . . . any public or private corporation or limited liability company, as well as an individual.” (currently codified as RCW 1.16.080(1)). The Legislature directed this definition of person apply throughout “the code of procedure of this state.” *Laws of 1891, ch. 23 §1*. A similar definition governs criminal proceedings. RCW 9A.04.110(17) (“‘Person,’ ‘he or she,’ and ‘actor’ include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association”); *see also Laws of*

1917, ch. 123, § 3 (currently codified as RCW 4.20.005) (“the word person shall also apply to bodies politic and corporate”).

The Department of Revenue relied on its administrative authority under RCW 82.32.110, which says the Department:

may examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made

The Department of Revenue’s investigatory authority is not a broad power to fish through private documents. *Miles*, 160 Wn.2d at 249. The Department of Revenue exceeded its statutory authority because it issued overbroad administrative summonses to banks and failed to comply with the statutory remedy of contempt for a business owner’s failure to comply. RCW 82.32.110.

It sent a summons saying that the remedy for failing to comply would be the possibility of a judicial finding of contempt. CP 30. This is the remedy set forth under the governing statute for the failure to comply with a request for records. RCW 82.32.110.

But it never sought a judicial finding of contempt for Mr. Chase when he did not provide bank records. Without any judicial oversight, it

went directly to the banks and demanded “all bank statements” and all checks deposited or written in the account of Red Leaf Construction.

CP 75.

The Department of Revenue’s request was not narrowly tailored to its investigatory needs. It was investigating a failure to pay retail sales tax. CP 60. It did not limit its search to records of business conducted, such as deposits made – which would indicate payments generated by the company and thus be relevant to sales tax that should be paid -- but rather demanded any record ever generated by the business over three years including any check ever written. CP 30, 75. Thus the government learned not merely what type of income the company earned but how it spent its money and what activities or associations it had. This private information is protected from unauthorized intrusion, as this Court explained in *Miles* and *Reeder*.

This Court should grant review to address the decision’s conflict with this Courts decisions, the significant constitutional question raised, and because this issue of first impression is one of substantial public interest. RAP 13.4(b)(1), (3), (4).

F. CONCLUSION

Based on the foregoing, Petitioner Paul Chase respectfully requests that review be granted pursuant RAP 13.4(b).

DATED this 5th day of March 2018.

Respectfully submitted,



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APPENDIX A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 75050-0-1
)	
Respondent,)	DIVISION ONE
)	
v.)	PUBLISHED OPINION
)	
PAUL TIMOTHY CHASE,)	
)	
Petitioner.)	FILED: December 26, 2017
_____)	

LEACH, J. — Paul Chase, shareholder and principal officer of Red Leaf Construction Inc., appeals the trial court's partial denial of his motion to suppress Red Leaf's bank records. A commissioner of this court granted discretionary review. We consider, as a matter of first impression, whether a shareholder or officer of a closely held corporation has a personal privacy interest in the corporation's financial information. We hold that neither has this personal privacy interest and affirm.

FACTS

In 2007, Paul Chase incorporated Red Leaf Construction Inc., a closely held corporation. Chase was the president, secretary, treasurer, and chairman of the board. His wife was the vice-president. In 2009, a former customer filed a civil claim against Red Leaf. In 2010, the customer sent a fraud referral to the Department of Revenue (Department), alleging that Chase and his company had

committed sales tax fraud. This referral was the Department's first indication that Red Leaf was conducting business. Red Leaf filed a tax return in 2007 showing no sales tax due but filed no further tax returns and paid no sales tax for the years 2008, 2009, and 2010.

After the referral, the Department began the audit process of Red Leaf. The Department mailed a summons to Chase demanding that he produce Red Leaf's bank records. The postal service returned the summons to the Department as undeliverable. The Department later issued administrative summonses to several banks. The Department sought records to assess Red Leaf's sales tax liability for the period beginning January 1, 2008, and ending August 31, 2011. It requested the following records: all bank statements, all bank signature cards, copies of all checks written, copies of the front and back of all checks deposited, a copy of the lease agreement, and copies of all invoices.

Banner Bank complied with the request. The Banner Bank records showed that Red Leaf collected sales tax from customers but did not pay it to the Department. The Department referred the case to the attorney general, who charged Chase with theft in the first degree.

Chase filed a motion to suppress Red Leaf's bank records. The trial court held that Red Leaf's bank records, except for Chase's social security number on

the signature cards,¹ were not subject to protection under article I, section 7 of the Washington State Constitution because they were not his personal or private records. In addition, the court concluded that even if the Department had violated Red Leaf's privacy rights, Chase did not have standing to assert that violation. Chase filed a motion for discretionary review. The State concurred in this request. This court granted review. The trial court stayed Chase's prosecution pending the outcome of this appeal.

STANDARD OF REVIEW

When an appellate court considers a challenge to findings of fact in a suppression order, the court reviews the record before the trial court to determine whether substantial evidence supports the challenged findings.² Evidence is substantial when it is enough "to persuade a fair-minded person of the truth of the stated premise."³ When an appellant does not assign error to a finding of fact, the appellate court accepts that finding as true on appeal.⁴ The appellate

¹ The trial court suppressed Chase's social security number on the bank signature cards because, unlike Red Leaf's financial information, the court determined Chase had a privacy interest in his social security number. The State does not challenge this ruling.

² State v. Garvin, 166 Wn.2d 242, 249, 207 P.3d 1266 (2009).

³ Garvin, 166 Wn.2d at 249 (quoting State v. Reid, 98 Wn. App. 152, 156, 988 P.2d 1038 (1999)).

⁴ Dep't of Revenue v. March, 25 Wn. App. 314, 316, 610 P.2d 916 (1979).

court reviews challenged conclusions of law from a suppression order de novo.⁵

It also reviews issues of standing de novo.⁶

ANALYSIS

I. “Private Affairs” under Article I, Section 7

Chase asserts that the Department’s receipt of Red Leaf’s bank records through issuance of an administrative summons violated his right against unlawful search and seizure under article I, section 7 of the Washington Constitution.⁷ Article I, section 7 has two components: “private affairs” and “authority of law.”⁸ If the defendant does not show that his private affairs were disturbed, there is no violation.⁹ If a valid privacy interest has been disturbed, the reviewing court must determine whether the disturbance was justified by authority of law.¹⁰

Chase claims that he has a personal privacy interest in the financial information in Red Leaf’s bank records. Article I, section 7 protects “those

⁵ Garvin, 166 Wn.2d at 249.

⁶ State v. Magneson, 107 Wn. App. 221, 224, 26 P.3d 986 (2001).

⁷ “No person shall be disturbed in his private affairs, or his home invaded, without authority of law.” WASH. CONST. art. I, § 7. Article I, section 7 protections are broader than those afforded in the Fourth Amendment to the United States Constitution. See generally State v. Reeder, 184 Wn.2d 805, 813-14, 365 P.3d 1243 (2015).

⁸ Reeder, 184 Wn.2d at 814 (internal quotation marks omitted) (quoting In re Pers. Restraint of Maxfield, 133 Wn.2d 332, 339, 945 P.2d 196 (1997)).

⁹ Reeder, 184 Wn.2d at 814.

¹⁰ Reeder, 184 Wn.2d at 814.

privacy interests which citizens of this state have held, and should be entitled to hold, safe from governmental trespass.”¹¹ In State v. Miles¹² and State v. Reeder,¹³ our Supreme Court held that individuals have a privacy interest in their personal bank records held by a third party.¹⁴ The court reasoned that private bank records could potentially reveal sensitive personal information, such as “where the person has traveled, the person’s reading habits, and the person’s financial condition.”¹⁵

Here, both parties contend that Miles controls. Although both parties characterize Red Leaf’s bank records as Chase’s business bank records, they advocate for opposing outcomes based on their differing interpretations of the holding in Miles. We distinguish this case from Miles.

In Miles, the State demanded, by administrative subpoena, banking records from all accounts used by Miles and did not limit its request to business records.¹⁶ Our Supreme Court rejected the State’s argument for a reduced expectation of privacy based on Miles’s participation in the pervasively regulated

¹¹ Reeder, 184 Wn.2d at 814 (internal quotation marks omitted) (quoting Maxfield, 133 Wn.2d at 339).

¹² 160 Wn.2d 236, 156 P.3d 864 (2007).

¹³ 184 Wn.2d 805, 365 P.3d 1243 (2015).

¹⁴ Miles, 160 Wn.2d at 244, 251-52; Reeder, 184 Wn.2d at 814-15.

¹⁵ Reeder, 184 Wn.2d at 814.

¹⁶ Miles, 160 Wn.2d at 251.

securities industry in part because the State's subpoena allowed "intrusion into matters outside the records or scope of the regulated industry."¹⁷

But here the Department limited its request to a corporation's business records. The Department issued administrative summonses to four banks for Red Leaf's bank records. The Department did not issue a summons for Chase's personal bank records. A corporation's bank records are not an individual's personal bank records. "A corporation exists as an organization distinct from the personality of its shareholders."¹⁸ Moreover, "a corporation's separate legal identity is not lost merely because all of its stock is held by members of a single family or by one person."¹⁹ Thus, although Chase was the president, secretary, treasurer, and chairman of the board of Red Leaf and his wife was the vice-president, Red Leaf remained a separate legal entity.

In addition, a distinction exists between the criminal responsibility of a corporation²⁰ and the criminal responsibility of a corporate officer in his personal capacity.²¹ This division underscores that corporations and corporate officers

¹⁷ Miles, 160 Wn.2d at 251.

¹⁸ Grayson v. Nordic Constr. Co., 92 Wn.2d 548, 552, 599 P.2d 1271 (1979).

¹⁹ Grayson, 92 Wn.2d at 553.

²⁰ RCW 9A.08.030(2) delineates in what circumstances a corporation can be criminally charged.

²¹ An individual may be personally criminally liable for conduct "he or she performs or causes to be performed in the name of or on behalf of a corporation to the same extent as if such conduct were performed in his or her own name or behalf." RCW 9A.08.030(3).

acting in their personal capacities maintain distinct legal obligations and interests. As the trial court correctly decided, Red Leaf's bank records are not Chase's personal bank records. The State's demands did not intrude beyond the corporation's business activities into Chase's private affairs. Thus, Miles does not control this case.

This court must therefore decide, as an issue of first impression, whether a corporate officer has a personal privacy interest in the corporation's financial transactions described in its bank records. To determine "whether a particular expectation of privacy is one that a citizen of this state should be entitled to hold," this court must engage in a two-part inquiry.²²

First, we must examine whether the interest has been protected historically as part of an individual's private affairs.²³ For example, in State v. McKinney,²⁴ the Washington Supreme Court analyzed a 1937 statute that created the Department of Licensing (DOL) and required it to maintain vehicle ownership and licensing information. Anyone could obtain vehicle registration information until the legislature amended the statute in 1990.²⁵ The 1990 amendment narrowed public access to information from the DOL but did not

²² Reeder, 184 Wn.2d at 814.

²³ Reeder, 184 Wn.2d at 814.

²⁴ 148 Wn.2d 20, 27, 60 P.3d 46 (2002).

²⁵ McKinney, 148 Wn.2d at 27.

restrict release of information to law enforcement.²⁶ The court held that “[o]ur historical review of driver’s license records does not support a conclusion that DOL licensing records constitute ‘private affairs.’”²⁷

Second, we must consider the nature and extent of the information that may be obtained by the challenged government conduct.²⁸ For example, in addition to private bank records, our Supreme Court has held that individuals have a privacy interest in their garbage that they place on the curb because garbage “could include sensitive information about business records, bills, correspondence, tax records, and so on.”²⁹ Here, this two-part inquiry shows that Chase does not have a privacy interest in Red Leaf’s financial information.

First, a corporation’s financial transactions described in its bank records historically have not been considered part of a shareholder’s or an officer’s “private affairs.” Also, records related to the collection of taxes have historically been available to the Department for audit. The Department issued summonses in this case in accordance with its authority under RCW 82.32.110. This statute dates back to 1935 and authorizes the Department to issue administrative summonses to determine a person’s or entity’s tax liability.³⁰ RCW 82.32.070

²⁶ McKinney, 148 Wn.2d at 28.

²⁷ McKinney, 148 Wn.2d at 29.

²⁸ Reeder, 184 Wn.2d at 814.

²⁹ Miles, 160 Wn.2d at 245.

³⁰ Under RCW 82.32.110, the Department may

was also first adopted in 1935 and states that “[e]very taxpayer liable for any tax collected by the department must [have his or her] books, records, and invoices . . . open for examination at any time by the department of revenue.³¹ Thus, since 1935, taxpayers have been on notice that their financial records could be subject to random audit at the Department’s discretion. This weighs against treating Red Leaf’s financial information as Chase’s private affairs.

Second, a corporation’s financial transactions do not reveal sufficiently sensitive information about a person’s personal contacts and associations to require the protections of article I, section 7. Records of a corporation’s financial transactions do not pose the same risk of exposing, for example, a person’s financial standing, personal reading habits, or personal travel register as do a person’s personal bank records or a person’s garbage. We thus conclude that neither a shareholder nor corporate officer has a privacy interest in the corporation’s financial transactions described in its bank records. This means that Chase does not have a privacy interest in Red Leaf’s financial information

examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the department of revenue.

³¹ RCW 82.32.070(1).

disclosed in its bank records. The State did not violate Chase's article I, section 7 rights.

Because the Department did not intrude into Chase's private affairs with its summons demanding records of Red Leaf's financial transactions, we need not determine whether that administrative summons was sufficient authority of law under article I, section 7.

II. Standing

Chase also claims that he has standing to challenge any search of Red Leaf's bank records. Generally, a person must have a legitimate expectation of privacy in the area searched or the property seized to have standing to challenge a search.³² Because Chase does not have a privacy interest in Red Leaf's financial information and asserts no exception to the general standing rule, he did not have standing to challenge the Department's ability to obtain Red Leaf's financial information or the Department's authority to issue the particular summons at issue.

CONCLUSION

Red Leaf's financial transactions contained in bank records are not Chase's "private affairs." Thus, the Department did not violate Chase's rights under article I, section 7 when it obtained Red Leaf's financial information

³² State v. White, 40 Wn. App. 490, 494, 699 P.2d 239 (1985).

through issuance of an administrative summons. And Chase does not have standing to contest the search. We affirm.

Leach, J.

WE CONCUR:

Spencer, J.

Schubert, J.

APPENDIX B

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
 PAUL TIMOTHY CHASE,)
)
)
 Petitioner.)
 _____)

No. 75050-0-I

ORDER DENYING MOTION
FOR RECONSIDERATION

The appellant, Paul Timothy Chase, having filed a motion for reconsideration herein, and the hearing panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration be, and the same is, hereby denied.

FOR THE COURT:




Judge

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Petition for Review to the Supreme Court** to which this declaration is affixed/attached, was filed in the **Court of Appeals** under **Case No. 75050-0-I**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office / residence / e-mail address as listed on ACORDS / WSBA website:

- respondent Matthew Thomas, AAG
[crjsvpef@atg.wa.gov] [matthewt1@atg.wa.gov]
Office of the Attorney General – Criminal Justice Division
- petitioner
- Attorney for other party


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Date: March 5, 2018

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