

FILED
SUPREME COURT
STATE OF WASHINGTON
10/29/2018 8:00 AM
BY SUSAN L. CARLSON
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 96071-2
Respondent,)	
)	MOTION TO FILE SUPPLEMENTAL
v.)	PETITION FOR REVIEW/RESET
JOHN BAKER.)	CONSIDERATION (SET FOR 10/30/18)
Petitioner.)	
_____)	

I. IDENTITY OF MOVING PARTY

Comes now the Petitioner, by and through his appointed attorney, Kathryn Russell Selk of RUSSELL SELK LAW OFFICE, and respectfully asks this Court to grant the relief requested in section 2.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 1.2 and RAP 18.8, in order to serve the ends of justice and honor Petitioner's state constitutional right to a full, fair and meaningful appeal, Petitioner seeks leave to file a Supplemental Petition for Review based on the Court's recently issued decision in State v. Ramirez, __ Wn.2d __, __ P.3d __ (2018 WL 4499761) (September 20, 2018), and to reset consideration of the case in order to provide the opportunity for the state to file a supplemental response if it so chooses.

III. FACTS RELEVANT TO MOTION

1. After his conviction, Mr. Baker appealed to Division Two of the court of appeals, which affirmed in part and reversed in part. See Appellant's Petition for Review, at Appendix A (Opinion). He has previously filed a Petition seeking

review of the decision in this Court and that Petition is scheduled to be considered by this Court on October 30, 2018.

2. This Court's decision in Ramirez was just issued on September 20, 2018, and appears to both apply to this case and control on an issue not previously raised in the original Petition for Review. The supplemental Petition for Review is filed herewith.

IV. GROUND FOR RELIEF AND ARGUMENT

THE COURT SHOULD ACCEPT THE SUPPLEMENTAL PETITION ON THE APPLICABILITY OF THE COURT'S NEW DECISION IN RAMIREZ, WHICH APPLIES TO THIS CASE AND CONTROLS ON LEGAL FINANCIAL OBLIGATIONS

Our state constitution guarantees those convicted in a criminal case the right to appeal and, as a corollary, the right to a full, fair and meaningful review with effective assistance of appointed counsel. See State v. Giles, 148 Wn.2d 449, 450-51, 60 P.3d 1208 (2003); see also, Draper v. Washington, 372 U.S. 487, 496, 83 S.Ct. 774, 9 L.Ed.2d 899 (1963). Under RAP 13.4, a Petition for Review must be filed within 30 days of the date of the court of appeals decision. Mr. Baker complied with that rule in the filing of his original Petition.

In Ramirez, this Court recently held that 2018 statutory changes to the legal financial obligations system were applicable to all cases still pending on direct review. Ramirez, __ Wn.2d at __; see Supplemental Petition for Review at Appendix B (Ramirez opinion). RAP 18.8(a) and 1.2(c) give this Court the authority to waive the provisions of the rules of appellate procedure in a particular case in order to serve the ends of justice, with the overriding purpose of ensuring decisions on the merits. Under Ramirez, Petitioner is now entitled to relief from some of the legal financial obligations

imposed upon him and upheld by the court of appeals. Accepting a short supplemental Petition on the applicability of Ramirez and granting a continuance of the Court's consideration of the case will serve the ends of justice by ensuring that Mr. Baker is granted the relief to which he is entitled and that he receives a full, fair and meaningful appeal in which appointed counsel raises all relevant issues on his behalf. Petitioner asks this Court to grant the request, accept the Supplemental Petition for Review, filed herewith, and grant a continuance of consideration of the case in order to allow the prosecution the opportunity to file a Supplemental Response, if it so chooses.

V. CONCLUSION

For the reasons stated herein, Petitioner asks the Court to grant the requested relief, accept the Supplemental Petition for Review based on Ramirez filed herewith, and continue consideration of the case in order to allow the state adequate time to determine if it wishes to file a Supplemental Response and do so.

DATED this 26th day of October, 2018.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Russell Selk', written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the state of Washington that I served the attached document as follows: by this Court's portal upload I filed this document with Lewis County Prosecutor's Office, and Mr. Baker at DOC 942288, Cedar Creek CC, P.O. Box 37, Littlerock, WA. 98556-0037.

DATED this 26th day of October, 2018.

A handwritten signature in black ink, appearing to read 'Kathryn A. Russell Selk', written over a horizontal line.

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