

**FILED**

APR 02 2019

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

In the Supreme Court of the State of Washington

James-Benjamin; Barstad,  
Movant/Secured Party,

No. 97026-2  
COA No. 35809-7-III

Vs.

STATE OF WASHINGTON,  
Respondent.

MOTION FOR DISCRETIONARY REVIEW

**I. INTRODUCTION:**

Movant/Secured Party (hereinafter "Movant"), James-Benjamin; of the Barstad® Family, appearing in Social Visitation, seeks review (remedy) of the unpublished opinion dated March 14, 2019, wherein the COURT OF APPEALS, DIVISION THREE (hereinafter "court") dismissal was affirmed. RAP 13.1; RAP 13.3(b). Pursuant to RAP 2.5(a) a party may raise: (1) lack of trial court jurisdiction; (2) failure to establish facts upon which relief can be granted; (3) manifest error affecting a constitutional right. Movant raises all three issues. See Section II, below.

**II. ASSIGNMENTS OF ERROR:**

- 1) Trial Court Lacked Subject Matter Jurisdiction
- 2) Failure to Establish Facts Upon Which Relief Can Be Granted
- 3) Manifest Error Affecting a Constitutional Right
  - A) Improper Substitution of Parties

B) Failure to Recognize Standing / Property Right of Movant

4) Impairment / Abridgment of Movant's Contract Right

### III. STATEMENT OF THE CASE:

This is a case regarding the violation of Private Property Right of the Movant, a Trespass. This is based upon a failure to recognize the **Title** and Standing of the Movant, confusing Him with the DEBTOR, JAMES BENJAMIN BARSTAD® (hereinafter "DEBTOR"). The court focuses on "due process" only, based upon their presumption that the Movant and DEBTOR are the same "person," thereby presuming ownership of that "office" under the Fourteenth Amendment.

These presumptions have been properly rebutted by the Movant, and that fact has been accepted by STATE OF WASHINGTON on multiple occasions. Movant does not hold the "office" of "person," and is thereby WITHOUT the UNITED STATES, a non-resident alien. As such, he is not subject to statutory jurisdiction without a contract bearing his Bona Fide Signature. Movant seeks his remedy for trespass upon **Private Property** right, **as well as** due process violation, not solely due process violation.

### IV. ARGUMENT:

#### Assignment of Error One:

Congress cannot create a trade or business, i.e., "as defined within 26 U.S.C. 7701(a)(26)," within a State in order to tax it. See, inter alia, License Tax Cases, 72 U.S. 462; 18 L.E. 497 (1866); M'Ilvaine v. Coxe's Lessee, 8 U.S.C. 209; 2. L.E. 598 (1808); Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064 (1886). However, that is exactly what occurred with the Fourteenth Amendment, which created a different citizenship from the Citizenship created in Article 4 § 2 of the Constitution of the United States for the united Several States of America. At the same time, it set up a different court system from Common Law and Equity. Rather, we now have a system of

equity "at law," as opposed to "in law," since UNITED STATES Corporation is considered to hold the government office of "person." See, Trading With the Enemy Act, 50 U.S.C.A. App. and 50 U.S.C.A. 1622; Erie Railroad v Thompkins, 304 U.S. 64-92.

There is no way to "pay" debts at law. House Joint Resolution 192 of June 5th, 1933, codified at Chap. 48, 48 Stat. 112 (Pub.L.) created the only method for Congress to avoid the appearance of fraud. Movant has taken this lawful option to rebut the presumption that He hold the "office" of "person," and that He and DEBTOR (strawman/ens legis) are the same legal entity. Proof of said has been proffered to the trial court, Court herein, the lower "court" herein, the SECRETARY OF STATE OF WASHINGTON, WASHINGTON ATTORNEYS GENERAL, and Regional UCC Office in Colorado.

Movant has also obtained an Exemption Identification Number and taken control of his TreasuryDirect Account. Since "all crimes are commercial," i.e., since all "state" actions impose quasi-monetary fines, they also violate Article I § 10 and Article XI § 1 of the Constitution of the United States for the united Several States of America, as well as violating the U.S. Bankruptcy. See CFR 72.11. There are no longer any Article III courts of Common Law and Equity. There are only Article I Legislative Tribunals administering the Bankruptcy of the UNITED STATES.

As such, all courts are operating under a Maritime/Admiralty "type" of jurisdiction, as they are de facto and ultra vires. The only way this jurisdiction can be applied to the Movant is through a **valid** (non-fraudulent) contract containing His Bona Fide Signature. The only contract that Movant holds with STATE OF WAHSINGTON is the "Notice and Legal Demand" proffered to STATE OF WASHINGTON, also provided to trial court, lower "court," and this Court on multiple occasions. Refer to it for guidance. Since all STATE COURT actions are de facto and ultra vires, every preceding

ORDER is Void Ab Initio, thus any/all presumed jurisdictional and STATE COURT holdings are also Void. Movant demands His remedy, i.e., release of ALL Private Property, to include Bonds, Corpus, and settlement of damages.

Once jurisdiction is challenged, it must be **proven**. Without it (jurisdiction and proof) there can be no "benefits" derived from said jurisdiction. Further, Movant has explicitly denied any such "benefits" in His contract with STATE OF WASHINGTON ("Notice and Legal Demand"). Lower "court" herein states Movant has granted **in personam** jurisdiction over Him, via filing the case. Assuming arguendo to be true, there is still no granting of subject matter jurisdiction, nor that of in rem jurisdiction over the Private Property seized and converted without Title and/or due process. Show Me the Contract! Damages are due and owing to the Movant for trespass on Private Property.

Assignment of Error Two:

All presentments of STATE OF WASHINGTON have been "Accepted For Value" (Banker's Acceptance) and returned for discharge. Movant is not subject to "statutory" jurisdiction or other ethereal form of de facto quasi law jurisdiction, whether real or imaginary. "[S]overeignty, itself remains with the People, by whom and for whom all government exists and acts." Wills v. Michigan State Police, 105 L.Ed.2d 45 (1909).

Once jurisdiction is challenged it **must be proven**, and they must present more than "conclusory allegations or generic facts." 2011 U.S. Dist. LEXIS 78125 [WL] aqt \*4. To date, Movant has only received the statutory definition of "jurisdiction" as proof that the STATE OF WASHINGTON has/had any. This is no proof. A STATE COURT must charge the correct "person," i.e., real-party-in-interest, serve that "person" with proper service of process, in proper styling of the court(s), with documents bearing

His True Christian Appellation. There must be an affidavit from an injured party (corpus delicti) sworn as true, correct, and complete. STATE OF WASHINGTON operates inside of a fiction, with strawmen, under fraud, thereby negating any contractual nexus they may presume to glean from these dealings with a private flesh-and-blood human being.

As such, Movant has presented multiple opportunities for STATE OF WASHINGTON agents/employees to "prove their claim," via "Conditional Acceptance For Value" (CAFV), to include the Assistant Attorney General representing this case. ALL served parties have failed and/or refused to answer. Therefore, they have failed to prove any claim(s), are in default, and have no standing. This creates a compulsory counterclaim against STATE OF WASHINGTON pursuant to FRCP 13(a).

Further, Movant has properly registered Certificates of Title in the public Registry. See, UCC Filing(s) No(s). 2008-253-6421-8; 2008-347-0326-3; 2009-043-4688. When STATE OF WASHINGTON reneged on these documents after seven plus years, Movant re-filed in Colorado Regional Office, No. 2016-201-0433. Movant's Claim is perfected, "first in line, first in time," and STATE OF WASHINGTON has filed nothing to grant them title, in any shape or form.

Further, STATE OF WASHINGTON has failed to rebut the Movant's "Affidavit of Facts." See, Complaint, Section VI, underlying WALLA WALLA SUPERIOR COURT case. Notice that jurisdiction **was indeed challenged** in this trial court. Appellate Court abused its discretion in stating this did not occur. Any affidavit not rebutted point-for-point stands as truth/fact in commerce.

Movant is the Secured Party/Creditor of JAMES BENJAMIN BARSTAD TRUST. In order for STATE OF WASHINGTON to claim any title to property, they must show a purchase in good faith. Since they have stolen their property from the Secured Party, the

doctrine of nemo dat (rule of derivative title), they still have nothing. Since they have caused unlawful distraint and conversion of private property, they are bound by Trezevant v. City of Tampa, 741 F.2d 336 (11th Cir. 1984) for damages accrued at \$25,000.00 for every twenty-three (23) minutes of continued trespass. In the alternative, they are bound by our Contract, "Legal Notice and Demand," pages 4-5. Said Contract was accepted by STATE OF WASHINGTON in February of 2016 and remains in full force and effect.

STATE OF WASHINGTON has never proven jurisdiction. Any decision rendered without jurisdiction is Void. Any void decision fails to establish facts upon which relief can be granted. Movant is damaged via trespass on Private Property right, and damages are due and owing.

Assignment of Error Three:

A. Improper Substitution of Parties:

As continually presented herein, James-Benjamin; Barstad<sup>®</sup> (Movant) and JAMES BENJAMIN BARSTAD<sup>®</sup> (DEBTOR) are NOT the same legal entity, NOT the same "person." This is presented in the Contract "Notice and Legal Demand" which has been accepted by STATE OF WASHINGTON.

However, the STATE COURTS continually refer to the DEBTOR, even though Movant is explicitly appearing "in Special Visitation," and typing His True Christian Appellation on the documents He files in these COURTS. Movant is the real-party-in-interest in these proceedings, and NOT the DEBTOR.

"For the purpose of res judicata, the courts will look beyond the nominal party whose name appears formally upon the record and will treat as the real party him whose interests are involved in the litigation." See: 39 Am.Jur.1st Parties § 17.2; Gibson v. Solomon, 136 Ohio St. 101, 16 Ohio Ops 36, 23 N 2d 996, 126 ALR 903. The

"nominal party" is always portrayed in All-Capital letters, i.e., the name of the DEBTOR. This is done in order to force Movant into "accepting" the position of the DEBTOR and/or Surety for DEBTOR. This is done without My consent, and over My objection and exception.

"Substitution of Parties: A change of parties by the substitution of a new plaintiff for the original plaintiff or defendant, accomplished by amendment of the pleading and process **as permitted by and order of the court**, such order being granted only where a new cause of action is not introduced by the amendment." 39 Am.Jur.1st Parties § 98. "The revival of an action upon the death of a party **by the personal representative, heir, or devisee.**" 1 Am.Jur.2d Abat & R §§ 120 et.seq. "A novation by the substitution of a new debtor for an old one." See 39 Am.Jur.1st Nov § 13; McCann v. Bentley Stores Corp., (DC Mo.), 34 F.Supp.231.

The "deceased or legally disabled party" above in the DEBTOR, the Private Secured Property of the Movant. The STATE COURT is attempting to make the Movant the Surety of/for the DEBTOR. RAP 3.2(b) **mandates** a motion prior to order substituting parties! Surely the STATE COURTS follow their "own" Court Rules. This court is procedurally precluded from the application of RAP 3.2(d). Where was the court's motion? Where was the STATE's motion? Where was the (any) order? Failing to follow the court's own rules is an improper substitution of parties, done against the objections and exceptions of the Movant. How can I get a fair trial in STATE OF WASHINGTON when this is "standard operating procedure?" Where is My remedy/damages?

B. Failure to Recognize Standing / Property Right of Movant:

PLEASE TAKE JUDICIAL NOTICE: The Contract "Legal Notice and Demand," agreed to by/with STATE OF WASHINGTON is the only contract in full force and effect between Movant and STATE OF WASHINGTON. It specifically designates the damages due and owing

to the Movant. All "Oath(s) of Office(s)" have also been Accepted For Value. The "Affidavit of Facts" (Section IV) portion of the original Complaint also cover the difference between Movant and DEBTOR, as well as damages for failure/refusal to recognize said difference. Movant will proceed to all litigation necessary to effect His remedy, including Tort, Diversity of Citizenship, and Bankruptcy proceedings. Movant demands His Remedy.

Assignment of Error Four:

Movant has a property right to contract. See Prudential Ins. Co. v. Cheek, 259 U.S. 530, 66 L.Ed. 1044, 42 S.Ct. 516, 27 ALR 27. Private property has been confiscated by STATE OF WASHINGTON to another's enrichment. Missouri P.R. Co. v. Nebraska, 164 U.S. 403, 41 L.Ed. 489, 17 S.Ct. 130; Illinois Cent. R. Co. v. Commonwealth, 305 Ky. 632, 204 SW2d. 973. STATE OF WASHINGTON has usurped power in derogation of Movant's vested rights, evidenced by His perfected **Security Interest** in all of DEBTOR's property.

"The right to contract is not only an **inherent right** but a constitutional right," [331 U.S. 369] Rutherford Food Corp. v. McComb, 91 L.Ed. 1772, 331 U.S. 722. "Undoubtedly the right to contract, with some exceptions, is a liberty which falls within the protection of the due process clause of the Fourteenth Amendment." Adkins v. Children's Hospital, 261 U.S. 525, 545, 546, 67 L.Ed. 785, 791, 43 S.Ct. 394, 24 ALR 1238.

Movant has standing to bring action under contract clause when Movant alleges He has a contract with the state, which the state has attempted to impair; mere refusal to perform contract by state does not raise constitutional issue, but when state uses its legislative authority to impair contract, constitutional claim is stated. E & E Hauling, Inc. v. Forest Preserve Dist, (1980 CA7 Ill) 613 F.2d 675. Since STATE



COURTS are legislative tribunals, it follows that any STATE COURT holding is a derivative of legislative authority. Failing to recognize the "Legal Notice and Demand" and the difference between Movant and DEBTOR is abridgment. Doing so after notice is misprision of treason, which violates Oath(s) of Office(s).

"No state shall ... pass any ... Law impairing the obligation of Contracts ..."  
U.S. Const. § 10, Cl. 1, Art. I, § 10; Wash. Const. Art. 1, § 23. These provisions have substantially the same effect and relate to all legislative action [even by/through the judiciary, the "GVRS" DOC Policy, WAC 137-28-240(2)(c), WAC 137-36-030, etc.], including that delegated to municipal corporation [such as DOC] or directly exercised by the people. See, Ruano v. Spellman, 82 Wn.2d 820, 505 P.2d 447, 1973 WAL 853. Legislative action impairs the obligation of a contract if it, either directly or indirectly, lessens the value or alters the terms of the contract. Ruana, supra; Ketcham v. King County Medical Service Corp., 81 Wn.2d 565, 502 P.2d 1197, 1972 WAL 761; Tremper v. northwestern Mut. Life Ins. Co., 11 Wn.2d 461, 119 P.2d 707, 1941 WAL 360.

This case is an action to enforce trust in personal property [slander of title]. It is in personam and transitory. See, State ex rel. Scougale v. Superior Court of Pierce County, 55 Wash. 328, 104 P.607, 1901 WAL 756. STATE OF WASHINGTON has failed to recognize the Contract and is therefore in breach. "Every breach of contract gives the injured party a right to damages against the party in breach, unless the contract is not enforceable against that party ..." Restatement (Second) of Contracts § 346 cmt. a, at 110 (1981). See also, Cartozian & Sons, 64 Wn.2d at 5-6; Ross, 64 Wn.2d at 236. "Any unjustified failure to perform when performance is due is a breach of contract which entitled the injured party to damages." Colorado Structures, 125 Wn.App. 911-24.

V. CONCLUSION:

STATE OF WASHINGTON has improperly and illegally substituted Movant for the DEBTOR. In doing so, they have committed trespass on Private Property, a tort. Damages are due and owing to the Movant. In the alternative, "Legal Notice and Demand" required damages for distraint, unlawful distraint, deprivation/concealment of property, denial or abuse of due process, and that Contract has been accepted by STATE OF WASHINGTON. All served parties are on notice, making them guilty of misprision of treason. These "incoherent" arguments have been understood by the United States Supreme Court as valid, in that they recently docketed Movant's Certiorari petition (No. 18-8039). Movant is entitled to damages and demands His Remedy herein.

DATED: This 31 th day of MARCH, 2019 A.D.

*James-Benjamin; Barstad®*  
James-Benjamin; Barstad®, Sui Juris  
Attorney-In-Fact, Authorized Representative of the  
JAMES BENJAMIN BARSTAD® TRUST  
WITHOUT UNITED STATES, WITHOUT PREJUDICE  
Holder-In-Due-Course, UCC 1-308

Contents herein are sworn as true, correct, and certain. Pursuant to 28 USC § 1746(1), a Notary Public is not necessary.

Certificate of Service by Mailing

I, James-Benjamin; of the Barstad® Family, dsclare herein that on the 21 th day of MARCH, 2019, A.D., I placed into the Prison Mail System, at COYOTE RIDGE CORRECTION CENTER, P.O. BOX 769; N. 1301 EPHRATA AVENUE, CONNELL, WA 99362, with the proper prison postage forms attached, copies of the following documents:

- 1) CERTIFICATE OF SERVICE BY MAILING
- 2) MOTION FOR DISCRETIONARY REVIEW

These were sent to the following parties:

- 1) WASHINGTON COURT OF APPEALS, DIVISION THREE  
N. 500 CEDAR STREET  
SPOKANE, WA 99201
- 2) WASHINGTON SUPREME COURT  
TEMPLE OF JUSTICE  
P.O. BOX 40929  
OLYMPIA, WA 98504-0929
- 3) JOHN C. DITTMAN, ASST. ATTY. GENERAL  
WW. 1116 RIVERSIDE AVENUE, ROOM 100  
SPOKANE, WA 99201

Sworn as true, correct, and certain.

*James-Benjamin; Barstad®*  
James-Benjamin; Barstad®  
C/O JAMES BARSTAD [759730]  
COYOTE RIDGE CORRECTION CENTER  
P.O. BOX 769; MSC-IB-23-1L  
N. 1301 EPHRATA AVENUE  
CONNELL, WA [99326]

*Barstad® / WACI-308*

**FILED**  
**MARCH 14, 2019**  
**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

JAMES-BENJAMIN BARSTAD,	)	No. 35809-7-III
	)	
Appellant,	)	
	)	
v.	)	UNPUBLISHED OPINION
	)	
STATE OF WASHINGTON,	)	
	)	
Respondent.	)	

LAWRENCE-BERREY, C.J. — James Barstad, pro se, appeals the trial court’s dismissal of his lawsuit against the State of Washington. We affirm.

FACTS

After a violent prison incident, the Washington State Department of Corrections (DOC) served Mr. Barstad with a GVRS<sup>1</sup> “Notification of Restrictions” document and removed his JPay player for a period of 30 days. GVRS is a policy that was implemented by the DOC to reduce and deter violent acts among inmates by imposing privilege restrictions.

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<sup>1</sup> Group Violence Reduction Strategy.

Mr. Barstad filed a grievance with DOC and exhausted his potential administrative remedies. He then filed the present civil action against the State for over \$46 million, alleging that DOC trespassed against him and violated his due process rights by removing his JPay player before giving him notice and an opportunity to be heard.

The State moved to dismiss this action for failure to state a claim. The State additionally requested the trial court to enter a finding that the action was frivolous. The trial court granted the State's dismissal motion and entered the requested finding.

Mr. Barstad appealed.

#### ANALYSIS

Mr. Barstad argues the trial court erred by dismissing his civil action against the State. We review de novo an order granting dismissal under CR 12(b)(6). *FutureSelect Portfolio Mgmt., Inc. v. Tremont Grp. Holdings, Inc.*, 180 Wn.2d 954, 962, 331 P.3d 29 (2014).

##### A. CR 12(b)(6) DISMISSAL STANDARD

CR 12(b)(6) permits summary dismissal of a civil action if the complaint fails to state a claim on which relief can be granted. When ruling on a CR 12(b)(6) motion, the trial court presumes all facts alleged in the plaintiff's complaint are true. *Tenore v. AT&T Wireless Servs.*, 136 Wn.2d 322, 330, 962 P.2d 104 (1998). Also, any hypothetical

situation conceivably raised by the complaint will defeat a CR 12(b)(6) motion. *Bravo v. Dolsen Cos.*, 125 Wn.2d 745, 750, 888 P.2d 147 (1995). “If a plaintiff’s claim remains legally insufficient even under his or her proffered hypothetical facts, dismissal pursuant to CR 12(b)(6) is appropriate.” *Gorman v. Garlock, Inc.*, 155 Wn.2d 198, 215, 118 P.3d 311 (2005).

B. MR. BARSTAD WAS ENTITLED ONLY TO THE PROCESS AFFORDED TO HIM UNDER DOC REGULATIONS

Mr. Barstad argues that DOC’s removal of his JPay player for 30 days without notice or an opportunity to be heard violated his due process rights.

The Fourteenth Amendment to the United States Constitution prohibits any state from depriving “any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV, § 1. Generally, procedural due process requires notice and an opportunity to be heard before a deprivation of life, liberty, or property. *Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 216, 143 P.3d 571 (2006).

However, in the prison context, a prisoner’s liberty interest is protected only when the actions of prison officials impose “‘atypical and significant hardship . . . in relation to the ordinary incidents of prison life.’” *In re Pers. Restraint of Gronquist*, 138 Wn.2d 388, 397, 978 P.2d 1083 (1999) (alteration in original) (quoting *Sandin v. Conner*, 515 U.S. 472, 484, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995)). “Where sanctions imposed

for general infractions result at most in loss of privileges and not loss of good time credits, prisoners charged with general infractions are not entitled to minimum due process and the process afforded by regulation is all the inmate is due.” *Gronquist*, 138 Wn.2d at 397. Sanctions that are imposed for general infractions include loss of a privilege. WAC 137-28-240(2)(c).

DOC controls what items may be retained by an inmate, and those privileges may be suspended for safety, medical, or mental health reasons. *See* WAC 137-36-030. Here, DOC’s 30-day removal of Mr. Barstad’s JPay player was not an atypical and significant hardship in relation to the ordinary incidents of prison life. Rather, it was a loss of a privilege and, therefore, a general sanction. As such, the process afforded by DOC regulations was the only process required to be followed. Those regulations set forth a post-deprivation grievance procedure, which Mr. Barstad pursued.

We conclude that Mr. Barstad’s complaint failed to state a claim on which relief could be granted, and the trial court did not err in granting the State’s motion to dismiss.

C. WE DECLINE TO REVIEW CLAIMS OF ERROR NOT RAISED BELOW

Mr. Barstad makes many incoherent statements and claims in his opening and reply briefs. To the extent these statements or claims raise nonconstitutional or nonjurisdictional issues, they were not raised in the trial court, and we decline to review

them. *See* RAP 2.5(a) (appellate court generally will decline to review arguments not raised in the trial court). To the extent the statement or claims raise constitutional issues, the arguments are incoherent, and we decline to address them. *See Norcon Builders, LLC v. GMP Homes VG, LLC*, 161 Wn. App. 474, 486, 254 P.3d 835 (2011) (appellate court will not consider inadequately briefed arguments). To the extent Mr. Barstad asserts that the trial court lacked jurisdiction over him or the ability to decide his case, he submitted himself to the trial court’s jurisdiction when he filed his complaint and sought relief from that court. *See Threlkeld v. Tucker*, 496 F.2d 1101, 1103 (9th Cir. 1974) (state court had jurisdiction over the plaintiff because plaintiff instituted the action).

D. FRIVOLOUSNESS OF APPEAL

The State requests that we find Mr. Barstad’s appeal frivolous so as to limit his ability to file future actions or appeals without first paying filing fees. *See* RCW 4.24.430.

“‘A lawsuit is frivolous [for purposes of RCW 4.24.430] when it cannot be supported by any rational argument on the law or facts.’” *Matthews v. State*, No. 50835-4-II, slip op. at 5 (Wash. Ct. App. Sept. 18, 2018) (unpublished), <http://www.courts.wa.gov/opinions/pdf/D2%2050835-4->

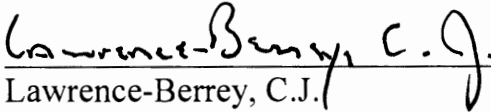


No. 35809-7-III  
*Barstad v. State*

II%20Unpublished%20Opinion.pdf<sup>2</sup> (quoting *Tiger Oil Corp. v. Dep't of Licensing*, 88 Wn. App. 925, 938, 946 P.2d 1235 (1997)). Here, Mr. Barstad's assertions, including assertions that DOC violated his due process rights, cannot be supported by any rational argument. We find that Mr. Barstad's appeal was frivolous.

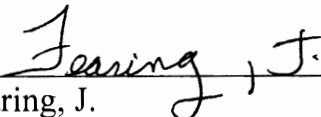
Affirmed.

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.

  
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Lawrence-Berrey, C.J.

WE CONCUR:

  
\_\_\_\_\_  
Siddoway, J.

  
\_\_\_\_\_  
Fearing, J.

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<sup>2</sup> Under GR 14.1, unpublished opinions have no precedential value, but may be cited as nonbinding authorities and accorded such persuasive value as the court deems appropriate.