Supreme Court No. 97843-3
Court of Appeals No. 35841-1-III

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

STATE OF WASHINGTON,
Respondent,

v.

EDWARD JEGLUM
Appellant.

PETITION FOR REVIEW

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I.
IDENTITY OF PETITIONER

Edward Lee Jeglum, through his attorney, Suzanne Lee Elliott, seek review of the opinion designated in Part II.

II.
COURT OF APPEALS DECISION

On the May 21, 2019, this Court entered a published opinion in *State v. Jeglum*, Wash. App. -, 442 P.3d 1 (2019). See Appendix 1-5. The mandate was issued on July 9, 2019. Jeglum has filed a motion to recall the mandate along with this Petition. He will file a motion to extend time to file the Petition in the Supreme Court if this Court recalls the mandate.

III.
ISSUES PRESENTED FOR REVIEW

1. Did the Court of Appeals err when it proceeded without an acknowledgement by Jeglum that he was proceeding pro se and a colloquy to support his waiver of his right to counsel?

2. Did the Court of Appeals error in considering the trial court's January 18, 2016 order refusing to forfeit Jeglum's bail as a direct appeal under RAP 2.2(b) when an order refusing to forfeit bail is not a final judgment, an order suppressing evidence, an order vacating a judgment or an order granting a new trial?

3. Does the proposed forfeiture of $100,000 cash bail on a failure to appear on a gross misdemeanor violate the Eighth Amendment's prohibition against excessive fines?

4. Was the State's motion to forfeit Jeglum's bail on January 18, 2018 precluded by the trial court's March 14, 2016 unchallenged order denying forfeiture when the State's 2018 motion was made more than 10 after March 14, 2016 and where the State failed to comply with the requisites of CR 59?

5. Did the Court of Appeals error in holding that a trial court has the ability to forfeit cash bail of $100,000 after the defendant has appeared and been sentenced for a gross misdemeanor?

IV.
STATEMENT OF THE CASE

On February 15, 2015, Jeglum was charged in Chelan County Superior Court with stalking, in violation of RCW 9A.46.110(1) and (5)(b)(ii), two counts of violation of a no contact order, in violation of RCW 25.50.110(1). CP 2-5. The Court set bail at $100,000. CP 6-8.

On March 22, 2019, Jeglum entered a plea to one count of violation of a no contact order. At sentencing the trial court rejected the agreed recommendation of 30 days in jail with credit for the 30 days he had already served and instead sentenced him to 9 months in jail and a

fines in the amount of $700. CP 34-37. Defense counsel asked the court to release Jeglum's $100,000 that day but the trial court directed defense counsel to set a hearing on the matter. 3/22/16 RP 60. Defense counsel never did so.

On January 18, 2018, the State set a hearing because the clerk's office wanted an order regarding the bail money. RP 65 (1/18/18). Jeglum was not represented. The State did not file any pleadings. But the Court stated that it had done its own research and concluded that it could not forfeit the bail. CP 44-45. The trial judge also stayed his order for 30 days so that the State could "appeal."

The State subsequently filed a "Notice of Appeal." CP 46-47. It does not appear that at any point Jeglum was informed of his constitutional right to counsel to respond to the State's "appeal" or his statutory right to have counsel appointed if he was indigent.

The Court of Appeals heard and determined with State's appeal without any briefing from Jeglum. The Court concluded that the trial court misconstrued the existing precedent and held that the trial court had the power to forfeit bail even though Jeglum had appeared and the case had been concluded.

The remaining facts will be discussed below in the relevant sections.

V. ARGUMENT WHY REVIEW SHOULD BE GRANTED

1. THE COURT OF APPEALS ERRED WHEN IT PROCEEDED WITHOUT AN ACKNOWLEDGEMENT BY JEGLUM THAT HE WAS PROCEEDING PRO SE AND ENGAGING IN A COLLOQUY TO SUPPORT HIS WAIVER OF HIS RIGHT TO COUNSEL

Review is merited on this issue because the procedure employed by the Court of Appeals in this case conflicts with *State v. Rafay*, 167 Wash. 2d 644, 652, 222 P.3d 86, 89 (2009) and raises a significant constitutional question about the state and federal right to counsel. RAP 13.4.(1) and (3).

On January 18, 2018, when the trial judge entered the order denying the State's motion to forfeit bond, Jeglum was unrepresented. There was no colloquy on the record to establish a waiver of his right to counsel. On the record the State indicated that it wanted a stay of the order returning the bond to Jeglum for 30-days so that it could consider filing "an appeal." The trial judge granted the stay but did not inform Jeglum of his right to be represented by counsel when responding to a State's "appeal" in a criminal case. Const. Art. 1, Sec. 22; RCW 10.73.150 (2).

The State filed its "appeal. " Jeglum was not represented and clearly was ill-equipped to represent himself. He filed one request for a

continuance. In that request, it was clear he did not understand that he was required to file a written brief in response to the State's brief.

At no point did the Court of Appeals, or any other judicial body, advise Jeglum of his constitutional right to be represented or his statutory right to appointed counsel when the State "appeals."

The right to counsel attaches at all critical stages of criminal proceedings under article I, section 22. See *State v. Robinson*, 153 Wash.2d 689, 107 P.3d 90 (2005) (recognizing first appeal as critical stage). Courts recognize that a criminal defendant may waive counsel and proceed pro se so long as this waiver is knowing, intelligent, and voluntary. *State v. DeWeese*, 117 Wash.2d 369, 375–77, 816 P.2d 1 (1991). This rule applies to appellate proceedings in Washington. *Rafay, supra.*

A defendant who wishes to waive the right to counsel and exercise the right to self-representation—even at a trial court's prompting—must make "an unequivocal request to represent himself". *State v. Woods*, 143 Wash.2d 561, 587–88, 23 P.3d 1046 (2001); *City of Tacoma v. Bishop*, 82 Wash.App. 850, 856–61, 920 P.2d 214 (1996). Because an accused managing his own defense "relinquishes ... many of the traditional benefits associated with the right to counsel," he "must 'knowingly and intelligently' forgo those relinquished benefits" in order to represent

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

In *Rafay* at 652, the Court said:

> Thus, in both trial and appellate proceedings, courts must carefully balance the dissonant rights to counsel and to self-representation when a defendant seeks to proceed pro se. To this end, courts should be guided by the substantial body of law addressing appointment and waiver of counsel at all critical stages of criminal proceedings.

That body of law requires a colloquy during which the Court determines that any waiver is knowing, intelligent, and voluntary, *DeWeese*, at 375–77.

Here no court advised Jeglum that he had a right to have counsel defend him in the Court of Appeals. And, no court advised him that if he could not afford counsel, he had a right to appointed counsel.

The failure to appoint counsel was prejudicial to Jeglum because the Court of Appeals decided the matter without any challenge to the State's portrayal of the facts. The State cited to the sentencing judges statement that Jeglum had willfully "dragged the legal proceeding beyond a point I thought was possible." RP 57 (3-22-26). The Court of Appeals cited this statement in its opinion. But had Jeglum been represented, his counsel would have pointed out that resolution was delayed when the *State* sought a competency hearing on February 18, 2015 and received an

order for a competency evaluation on November 30, 2015. This accounted for a full nine months of delay not attributable to Jeglum. App 6-7, and Jeglum had permission to leave the State. App. 9-11.

Further briefing by the defense would have demonstrated that the Court of Appeals factual finding – one not made by the trial court – that Jeglum had "committed a fraud on the court" was incorrect. It is unclear how the Court came to that conclusion. On March 3, 2016, the trial court held a hearing to address Jeglum's health issues and why they were preventing his return to Washington. Defense counsel called the doctor who was supervising Jeglum's care in Arizona. RP 6 (3/3/16). But the trial judge refused to hear from that doctor because she wanted to hear from the person who was "actively treating" Jeglum. *Id*. at 9. This was despite the fact that the doctor made it clear he was supervising Jeglum's care and had reviewed Jeglum's medical records. *Id*. at 8, App. 12.

Jeglum was also prejudiced because the Order refusing to forfeit bail was not directly appealable. See Issue 2 below. Appointed counsel would have objected to the State's end run around the rules governing appeals by the State.

This Court should accept review and hold that, in light of the decision in *Rafay*, the Court of Appeals was prohibited from proceeding

without insuring that Jeglum had waived his right to counsel and was asserting his right to proceed pro se in response to the State's "appeal."

2. THIS COURT SHOULD REVERSE THE COURT OF APPEALS DECISION BECAUSE THE TRIAL COURT'S ORDER REFUSING TO FORFEIT JEGLUM'S CASE BAIL WAS NOT APPEALABLE AS A MATTER OF RIGHT.

The question of whether the State improperly filed an appeal, as opposed to a Notice of Discretionary Review, thereby circumventing the standards for granting discretionary review, is a question of substantial public interest. RAP 13.4(b)(4).

The State filed a Notice of Appeal in this case and this Court heard the matter as a direct appeal. This was error. The State is permitted to file a Notice of Appeal in only of a final order that discontinues the criminal proceedings, a pretrial order suppressing evidence, an order arresting judgment or granting a new trial, and certain juvenile or sentencing decision. RAP 2.2(b). Otherwise the State's only recourse was via discretionary review under RAP 2.3(b). Under that rule, the State would have been forced to demonstrate that the superior court committed probable or obvious error which would render further proceedings useless, substantially altered the status quo, so far departed from the accepted and usual course of judicial proceedings as to call for review by the appellate court or the State would have be required to seek certification of its issue.

Had the State been required to do so, the Court of Appeals likely would not have granted review. The trial judge did not commit obvious or probable error. His ruling conformed to the controlling decisions in *State v. Paul*, 95 Wash. App. 775, 976 P.2nd 1272 (1999). Moreover, nothing in the record would have supported an argument that the superior court departed from the accepted and usual course of judicial proceedings. And, as argued below, *Paul* was based upon controlling precedent from this Court and the Court of Appeals has no power to overrule this Court's precedent.

Further, at no time did the State demonstrate that it met the strict standard for overruling precedent: the earlier decision must be both incorrect and harmful. *State v. Devin*, 158 Wash.2d 157, 168, 142 P.3d 599 (2006). As argued below, this case demonstrates why *Paul* was correctly decided.

This Court should grant review and clarify that, where the State improperly seeks direct review rather than discretionary review, the remedy is reversal for a new proceeding where the State must make the proper showing under RAP 2.3(b) before any review is undertake by the Court of Appeals.

3. THE FORFEITURE OF $100,000 CASH BAIL ON A MISDEMEANOR VIOLATES THE CONSTITUTIONAL PROHIBITION ON EXCESSIVE FINES.

This is a significant question of federal constitutional law. RAP 13.4(b)(3).

On March 22, 2016, Jeglum entered a plea to a gross misdemeanor – violation of a no contact order. The maximum fine for a gross misdemeanor is $5,000. The State is seeking to forfeit $100,000 after Jeglum was returned, entered a plea and served his time. The amount the State seeks is 20 times the permissible fine for a gross misdemeanor.

The Supreme Court has indicated that, under the Eighth Amendment's prohibition against excessive fines, a determination of "punishment" for excessive fines purposes is conceptually distinct from other purposes. See *United States v. Ursery*, 518 U.S. 267, 282-83, 116 S.Ct. 2135, 135 L.Ed.2d 549 (1996) (highlighting the difference between punishment under the Double Jeopardy Clause and the Excessive Fines Clause); see also *Hudson v. United States*, 522 U.S. 93, 102-03, 118 S.Ct. 488, 139 L.Ed.2d 450 (1997). In the seminal case of *Austin v. United States*, 509 U.S. 602, 113 S.Ct. 2801, 125 L.Ed.2d 488 (1993), the Court considered an excessive fines challenge to a civil forfeiture statute. According to the Court in *Austin*, "'a civil sanction that cannot fairly be said solely to serve a remedial purpose, but rather can. only be explained

as also serving either retributive or deterrent purposes, is punishment, ...'" *Id*. at 610. Consequently, if the forfeiture here served the purpose of retribution or deterrence, it is subject to Eighth Amendment scrutiny. See also *State v. WWJ Corp*., 138 Wn.2d 595, 603-04, 980 P.2d 1257, 1261 (1999).

The *WWJ Corp*, case, also applied the "excessive" test established in *United States v. Bajakajian*, 524 U.S. 321, 118 S.Ct. 2028, 141 L.Ed.2d 314 (1998). Under the *Bajakajian* test, "a punitive forfeiture violates the Excessive Fines Clause if it is grossly disproportional to the gravity of a defendant's offense." *Id.*, at 334. In *Bajakajian*, the Supreme Court held that the criminal forfeiture of $357,144, pursuant to 18 U.S.C. § 982(a)(1) and 31 U.S.C. § 5316, violated the Excessive Fines Clause where the defendant's criminal violation was "unrelated to any other illegal activities" and the money subject to forfeiture was not the proceeds of illegal activity. Id. at 338-40.

The object of bail is to guarantee the appearance of the accused before the court at such times as the court may direct. It is not a revenue measure in lieu of a fine, or a method to punish sureties. *State v. Darwin*, 70 Wash. App. 875, 877, 856 P.2d 401, 403 (1993) citing *State v. Jackshitz*, 76 Wash. 253, 136 P. 132 (1913). Here, the Court of Appeals opinion suggests that even after Jeglum had reappeared, entered a plea and

was sentence, the trial court had the power to forfeit twenty times the amount of any fine was permissible because Jeglum "dragged out the proceedings." The Court of Appeals also noted that Jeglum filed to run against the sitting judge but failed to note that that was after judgment and sentence had been entered. App. 14. In short, the Court of Appeals made an unsupported findings of fact to conclude that Jeglum "committed a fraud on court."

Under the circumstance, the Court of Appeals' conclusion that trial court had the discretion to forfeit the bail clearly approves a punitive use of bail forfeitures of cash bail.

Furthermore, the Court of Appeals seemed to reason that there were no other measures by which the trial court could punish Jeglum. But, when Jeglum failed to appear, the State could have filed bail jumping, RCW 9A.76.170 or contempt of court charges, RCW 7.21.040. In both situations, the State would have had the burden of establishing that Jeglum's actions were willful beyond a reasonable doubt. But instead, the State made allegations about Jeglum's medical conditions and motivations without having to present admissible evidence or otherwise prove Jeglum's alleged "fraud" on the Court.

4. THE STATE'S MOTION TO FOREIT BOND ON JANUARY 18, 2018 IS PRECLUDED BY THE TRIAL COURT'S MARCH 14, 2016 ORAL ORDER DENYING THE STATE'S PREVIOUS REQUEST FOR FORFEITURE.

This is a question of substantial public interest. RAP 13.4(b)(4).

On March 3, 2016, the Court issued a warrant for Jeglum's arrest because he failed to appear for previously scheduled hearings. On March 14, 2016, Jeglum was returned to Chelan County by a bail bondsman. The State noted that on March 3, 2016, the trial judge had "reserved" on the issue of forfeiting the $100,000 cash bail. RP 26 (3/14/16). The State asked for forfeiture of the cash and a "no bail" order. *Id*. at 28. Defense counsel was present and objected. Id at 30. The trial court ruled as follows:

> Well, on the hundred thousand, cash, the Court's going to hang on to that, for now. The Court's not going to forfeit it. But it's not going to allow access to it by Mr. Jeglum.

Id. at 31. The Court then set a new bail amount of $1 million dollars. Id.

Thus, contrary to the Court of Appeals opinion, the trial court did not "reserve" ruling on March 14. The Court made a ruling. In fact, when the trial court raised the bail amount from $100,000 to $1,000,000, it essentially exonerated the $100,000 bail previously posted. There was no legal basis for the Court to continue to hold the $100,000 thereby preventing Jeglum to use those funds to secure a bond from a bail bondsman for the new $1,000,000 amount. Moreover, at that point, if the

State disagreed with the trial court's order refusing to forfeit the bail, it should have filed a motion for discretionary review. But it did not do so.

At best, the hearing in January 18, 2018 was an untimely motion to reconsider. The criminal court rules supersede conflicting procedural rules and statutes. CrR 1.1. Otherwise, the criminal procedures are "interpreted and supplemented" by other appropriate rules, law, and practice. CrR 1.1. No criminal rule is in conflict with the civil rule describing motions for reconsideration, therefore, the CR 59 applies in criminal cases and provides the procedure and authority for the superior court to reconsider its own rulings.

Under CR 59, the State was required to seek reconsideration within ten days of the March 14, 2016 ruling denying forfeiture. It did not do so.

The State was also required to identify the specific reasons in fact and law as to each ground on which the motion is based. CR 59. It did not do so. And the State may seek reconsideration only if it can establish:(1) Irregularity in the proceedings; (2) Misconduct of prevailing party or jury; (3) Accident or surprise; (4) Newly discovered evidence; (5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice; (6) Error in the assessment of the amount of recovery; (7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it

is contrary to law; (8) Error in law occurring at the trial and objected to at the time by the party making the application; or (9) That substantial justice has not been done.

The State failed to identify how its motion to reconsider forfeiture satisfied any of these criteria. In fact, the State did not file any motion. Instead it noted the matter because the Clerk's office wanted to know what to do with the cash posted by Jeglum. The trial court properly concluded that the law required the Clerk to return the money to Jeglum.

5. THE COURT OF APPEALS FAILED TO RECOGNIZE THAT THE DECISION IN *PAUL* WAS IN KEEPING WITH THE ESTABLISHED PRECEDENT FROM THIS COURT. THUS, ITS DECISION CONFLICTS WITH DECISIONS FROM THIS COURT.

Review is should be granted because the Court of Appeals opinion conflicts with this Court's opinions in *State v. Akers*, 156 Wash. 353, 355, 286 P. 846 (1930); *State v. Caruso*, 137 Wash. 519, 524, 243 P. 14 (1926). RAP 13.4(b)(1). In a criminal case, the sole purpose of bail is to ensure the appearance of the accused. When the accused appears, the conditions of the bail have been fulfilled, and the court must give the money back. *State v. Paul*, supra, citing *State v. Ransom*, 34 Wash.App. 819, 822-24, 664 P.2d 521 (1983). The trial court followed this black letter law when refusing to forfeit Jeglum's $100,000 cash bond 14 months after Jeglum

appeared, entered a plea, was sentenced and completed his term of imprisonment.

The Court of Appeals appeared to treat *Paul* and *Ransom* as the only controlling authority. Thus, the Court of Appeals overruled *Paul* and *Ransom* and instructed the trial court that it had the authority to forfeit Jeglum's bail. But this Court has consistently held that a bail bond is discharged when the principal is found guilty, sentenced and committed. *Akers*, at 355; *Caruso*, at 524. But Division III of the Court of Appeals cannot overrule or ignore *Akers* and *Caruso*. The Court of Appeals erred in ignoring those decisions.

Moreover, this case demonstrates why the rule expressed in *Akers* and *Caruso* should control. When the State seeks to forfeit bail after the defendant has appeared and served his sentence, the forfeiture can be based on improper reasons. Here the Court of Appeals opinion suggests that the bail can be forfeited to punish the defendant for continuing the case or taking actions the Court disapproves of - like filing a notice of candidacy against a sitting judge or committing what the Court of Appeals deemed a "fraud." But the only purpose of bail is to ensure the defendant's appearance.

Here, after the warrant was issued on March 3, 2016, Jeglum appeared, plead and was sentenced. If the trial court believed forfeiture

was appropriate, it was required to enter order before the judgment was entered and Jeglum was jailed. That would remove any suggestion that the forfeiture is based on improper reasons. Moreover, the trial court continued to hold the $100,000 because it wanted to prevent Jeglum from bailing out on the new $1,000,000 bail amount. In essence the Court made a new bail decision. Since Jeglum appeared and entered a plea a few days later, the $100,000 held by the court served the purpose of insuring Jeglum's appearance. Thus, it should have been returned to him after the sentence was entered.

VI.
CONCLUSION

The Court should accept review of the important issues raised in this case.

DATED this 10th of September 2019. .

Respectfully submitted,

___/s/_____
Suzanne Lee Elliott, WSBA #12634
Attorney for Jeglum

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I served by email where indicated, and by United States Mail one copy of this brief on:

Andrew Van Winkle
Chelan County Prosecutor's Office
401 Washington Street
Wenatchee WA 98801-2899

_____9/10/16 /s/_____
Date Suzanne Lee Elliott

8 Wash.App.2d 960
Court of Appeals of Washington, Division 3.

STATE of Washington, Appellant,
v.
Edward L. **JEGLUM**, Respondent.

No. 35841-1-III
|
FILED MAY 21, 2019

Synopsis

Background: State requested forfeiture of cash bail after defendant, who was charged with felony stalking and misdemeanor counts of violation of no-contact order, failed to appear at multiple court hearings. The Chelan Superior Court, 15-1-00084-6, reserved ruling on State's request, and defendant eventually pled guilty to charged offenses. More than one year later, the Chelan Superior Court, Ted W. Small Jr., J., denied State's request for forfeiture of cash bail. State appealed.

[Holding:] The Court of Appeals, Lawrence-Berrey, C.J., held that trial court had authority to forfeit cash bail even after defendant reappeared in court and judgment and sentence was entered.

Reversed and remanded.

Procedural Posture(s): Appellate Review; Bail or Custody Motion; Plea Challenge or Motion; Sentencing or Penalty Phase Motion or Objection.

West Headnotes (6)

[1] **Criminal Law**
Preliminary proceedings

Decision whether to forfeit bail is reviewed for an abuse of discretion.

Cases that cite this headnote

[2] **Courts**
Abuse of discretion in general

Abuse of discretion occurs only when the decision of the court is manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.

Cases that cite this headnote

[3] **Criminal Law**
Discretion of Lower Court

Under abuse of discretion standard, trial court's decision is based on untenable reasons when it is based on the wrong legal standard.

Cases that cite this headnote

[4] **Bail**
Deposit in lieu of bail

Constitutional provision requiring that all criminal defendants "be bailable by sufficient sureties" only applies to bail posted by third parties, not cash bail posted by the defendant. Wash. Const. art. 1, § 20.

Cases that cite this headnote

[5] **Bail**
Bond, Undertaking, or Recognizance

Bail
Deposit in lieu of bail

Underlying legal theories behind bail bonds and cash bail are different; in bail bonds the law looks to the surety to guarantee the defendant's appearance, while in cash bail the law looks to the money already in the hands of the state to insure defendant's appearance.

Cases that cite this headnote

[6] **Bail**
Appearance of Principal

Trial court had authority to forfeit cash bail based on defendant's failure to appear at multiple court hearings, even after he reappeared in court and judgment and sentence was entered upon his plea of guilty to felony stalking and misdemeanor counts of violation of no-contact order; state requested forfeiture of cash bail before defendant

was apprehended and returned, again prior to his plea, and again at plea and sentencing hearing, and trial court reserved ruling on State's multiple requests mostly because it wished to give defendant opportunity to rebut State's factual and legal arguments. Wash. Super. Ct. Crim. R. 3.2(o).

Cases that cite this headnote

Appeal from Chelan Superior Court, 15-1-00084-6, Honorable Ted W. Small Jr., J.

Attorneys and Law Firms

Andrew Bryan Van Winkle, Chelan County Prosecutor's Office, 401 Washington St., Wenatchee, WA, 98801-2899, for Appellant.

PUBLISHED OPINION

Lawrence-Berrey, C.J.

***961** ¶1 Edward **Jeglum** violated a condition of his cash bail by failing to appear at multiple court hearings. The State requested forfeiture of the cash bail. The trial court reserved ruling on the request. Eventually, Mr. **Jeglum** pleaded guilty and was sentenced. More than one year later, the trial court denied the State's request. In denying the State's request, the trial court construed existing law as preventing forfeiture of cash bail once an accused reappears in court.

¶2 The question before us is whether the trial court abused its discretion by misconstruing existing law. We conclude it did. We ****2** hold that if an accused has violated a condition of cash bail, a trial court has discretion to forfeit cash bail even after the accused reappears in court and even after entry of the judgment and sentence.

***962** ¶3 We reverse and remand this matter to the trial court for it to exercise its discretion to determine whether to forfeit Mr. **Jeglum**'s cash bail and, if so, the appropriate amount.

FACTS

¶4 On February 10, 2015, the State charged Edward **Jeglum** with felony stalking and two misdemeanor counts of violation of a no-contact order. The trial court set bail at $ 100,000. Mr. **Jeglum** posted $ 100,000 cash bail and was warned that failure to appear in court would result in the immediate forfeiture of the bail money.

¶5 On August 31, the trial court signed an order modifying Mr. **Jeglum**'s release conditions to allow him to travel to Arizona in November to attend scheduled medical appointments. The order provided that further requests for out-of-state travel would require prior court approval.

¶6 On November 30, Mr. **Jeglum** appeared in court and the court reset his trial readiness hearing to January 20, 2016, and his trial date to February 9, 2016. Mr. **Jeglum** failed to appear for his January readiness hearing.

¶7 On February 17, 2016, the trial court held a hearing to discuss Mr. **Jeglum**'s absence. At the hearing, defense counsel submitted a letter ostensibly signed by a nurse practitioner and a physician stating that Mr. **Jeglum** was currently residing in a licensed assisted living home and that travel was not recommended. Defense counsel told the court he had been in contact with the doctor, and the doctor was Mr. **Jeglum**'s primary care physician.

¶8 Later, when the State called the telephone number on the letter, the State learned that the number was for a storage unit company. The State requested a warrant and bail forfeiture. The trial court reserved ruling on the State's requests and scheduled a hearing for March 3, for Mr. **Jeglum** to provide more specific information. The trial court ordered that Mr. **Jeglum**'s doctor be available by telephone to testify at the hearing.

***963** ¶9 Mr. **Jeglum** sent a facsimile to the court an hour before the March hearing. Mr. **Jeglum** confirmed his knowledge of the hearing, but asserted that the doctor who had earlier signed the letter was not his doctor, the doctor had never spoken to him or examined him, and he did not consent to releasing any patient healthcare information. The facsimile made it clear that Mr. **Jeglum** had committed a fraud on the court.

¶10 The trial court granted the State's request for a warrant, but again reserved ruling on the State's request for bail forfeiture. A bail bondsman for Mr. **Jeglum**'s other pending

felony matters flew to Arizona, took Mr. **Jeglum** into custody, and surrendered him to the Chelan County jail.

¶11 On March 14, the State once again requested bail forfeiture. The trial court reserved ruling on the State's request, but substantially increased bail.

¶12 Mr. **Jeglum** soon after pleaded guilty and the parties recommended one month in jail. The trial court refused to accept the recommendation and sentenced Mr. **Jeglum** to nine months in jail. The court explained, "Frankly, Mr. **Jeglum**, I feel like you have made a mockery of the legal system. You have dragged out these legal proceedings beyond a point that I would have thought would have been possible." Report of Proceedings (3/3/16, 3/14/16, 3/22/16, 1/18/18) (RP) at 57. Once again the court reserved ruling on the State's bail forfeiture request. It directed defense counsel to set a hearing so it could hear from both parties and consider costs incurred by the bondsman in retrieving Mr. **Jeglum**.

¶13 Before the trial court could hear the forfeiture request, Mr. **Jeglum** filed a declaration of candidacy against the judge. The judge disqualified herself from Mr. **Jeglum**'s case. The State eventually succeeded in removing Mr. **Jeglum** from the ballot on the basis that he failed to meet the legal requirements to serve as a judge.

****3** ***964** ¶14 In January 2018, a successor judge heard arguments on the State's bail forfeiture request. The court ordered the cash bail to be returned to Mr. **Jeglum**, citing *State v. Paul*[1] as the controlling case. The court reasoned,

> So I think the Court has the discretion to forfeit all or a portion of that cash bail at any time, after [a defendant] fails to appear, but before he shows back up, and has the case resolved.
>
> Once he's shown up—and in this case, he did, eventually—and was sentenced—irregardless of why he showed up, he was here—then I don't believe this Court has any discretion, but must refund the bail money to the defendant.
>
> ....
>
> ... I don't think I have discretion, at this point. I did, up until the time he appeared in court. But, once he appeared, I don't believe the Court has any—any discretion.

RP at 74, 81. The trial court stayed the order 30 days to permit the State to appeal, which it did.

ANALYSIS

¶15 The State argues the trial court had discretion to forfeit the cash bail and asks this court to remand with instructions for the trial court to exercise its discretion.

Standard of review

[1] **[2]** **[3]** ¶16 The decision whether to forfeit bail is reviewed for an abuse of discretion. *State v. Banuelos*, 91 Wash. App. 860, 861-62, 960 P.2d 952 (1998); *In re Marriage of Bralley*, 70 Wash. App. 646, 651, 855 P.2d 1174 (1993); *State v. Molina*, 8 Wash. App. 551, 552, 507 P.2d 909 (1973). "An abuse of discretion occurs only when the decision of the court is 'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.' " *State v. McCormick*, 166 Wash.2d 689, 706, 213 P.3d 32 (2009) (quoting *State ex rel. Carroll v. Junker*, 79 Wash.2d 12, 26, 482 P.2d 775 (1971)). A trial court's ***965** decision is based on untenable reasons when it is based on the wrong legal standard. *State v. Sisouvanh*, 175 Wash.2d 607, 623, 290 P.3d 942 (2012).

¶17 The State argues the trial court abused its discretion by misconstruing *Paul*. We agree and take this opportunity to clarify the law of cash bail.

1. Cash bail is forfeitable if the accused fails to appear or otherwise violates a condition of release

[4] **[5]** ¶18 At the outset, we note there is no constitutional or statutory authority governing forfeiture of cash bail. Article I, section 20 of the Washington State Constitution requires that all criminal defendants "be bailable by sufficient sureties." However, that provision only applies to bail posted by third parties, not cash bail posted by the defendant. *State v. Barton*, 181 Wash.2d 148, 156, 331 P.3d 50 (2014). *Barton* explains:

> " 'The underlying legal theories behind *bail bonds* and *cash bail* are different; in bail bonds the law looks to the surety to guarantee the defendant's appearance, while in cash bail

the law looks to the money already in the hands of the state to insure defendant's appearance.' "

Id. (quoting *Bralley*, 70 Wash. App. at 653, 855 P.2d 1174) (quoting 8 C.J.S. *Bail* § 88, at 109 (1988)). In *Bralley*, we held that RCW 10.19.090, which governs forfeiture of bail bonds, does not apply to cash bail posted by the subject of the bail. *Bralley*, 70 Wash. App. at 654, 855 P.2d 1174.

¶19 CrR 3.2(o), however, applies to cash bail; that rule provides:

> If the accused has been released on the accused's own recognizance, on bail, or has deposited money instead thereof, and does not appear when the accused's personal appearance is necessary or violated conditions of release, the court, in addition to the forfeiture of the recognizance, or of the money deposited, may direct the clerk to issue a bench warrant for the accused's arrest.

***966** This provision authorizes a trial court to forfeit cash bail whenever an accused fails to appear in court or otherwise violates a condition ****4** of release. But it does not answer the questions presented here—whether forfeiture of cash bail is permitted after the accused reappears in court or after entry of judgment and sentence.

2. Cash bail is forfeitable even after the accused appears back in court and even after entry of judgment and sentence

¶20 In *Paul*, Anita Paul was convicted of first degree theft of public assistance and ordered to pay restitution. *Paul*, 95 Wash. App. at 776, 976 P.2d 1272. She failed to make payments, and she was arrested and charged with failure to make restitution payments and failing to report to her community corrections officer. *Id.* at 776-77, 976 P.2d 1272. The trial court set bail at $ 2,500, and her parents posted cash bail. *Id.* at 777, 976 P.2d 1272. Proceedings continued, and Ms. Paul always appeared at the hearings. *Id.* Yet, because she had trouble making her restitution payments, the trial court forfeited the cash bail. *Id.* It stated, " 'The bail is forfeited for restitution. I can forfeit it. It doesn't matter whose it is.' " *Id.*

¶21 We disagreed with the trial court and held that cash bail could not be forfeited when the accused has satisfied the bail conditions. *Id.* at 777-79, 976 P.2d 1272. We explained, "If the [accused] does not appear, the cash bail is forfeited. If the [accused] is subsequently apprehended, the court has the discretion to vacate the bail for forfeiture or not." *Id.* at 778, 976 P.2d 1272 (citing *Bralley*, 70 Wash. App. at 651, 855 P.2d 1174). Using unartful language, we also explained, "When the accused appears, the conditions of the bail have been fulfilled, and the court must give the money back." *Id.* (citing *State v. Ransom*, 34 Wash. App. 819, 822-24, 664 P.2d 521 (1983)). Given our earlier explanation of cash bail and the fact that Ms. Paul had attended all of her court hearings, the preceding quote should not be construed as applying to accused persons who have missed one or more court hearings. Thus construed, ***967** *Paul* does not preclude the trial court from forfeiting Mr. **Jeglum**'s cash bail.

¶22 In *Ransom*, Mr. Ransom posted $ 10,000 in cash bail in his pending first degree robbery case. *Ransom*, 34 Wash. App. at 820, 664 P.2d 521. Mr. Ransom's mother and brother supplied the funds. *Id.* Mr. Ransom appeared for trial and was found guilty. *Id.* The court sentenced Mr. Ransom to a term of not more than 10 years' imprisonment and remanded Mr. Ransom to the custody of the State. *Id.* The deputy prosecutor called for a deputy, but before one arrived, Mr. Ransom fled. *Id.* at 821, 664 P.2d 521. The trial court subsequently ordered forfeiture of the $ 10,000 cash bail. *Id.* We reversed the trial court's order. *Id.* at 825, 664 P.2d 521. We held that the cash bail was exonerated once the trial court entered its judgment and sentence. *Id.* at 823-24, 664 P.2d 521. And because Mr. Ransom had complied with the conditions of his cash bail prior to its exoneration, the trial court lacked authority to forfeit it. *Id.* at 824-25, 664 P.2d 521.

[6] ¶23 *Paul* and *Ransom* are distinguishable from the case now before us. In those cases, the accused persons did not violate the conditions of their cash bail. Here, Mr. **Jeglum** did. Not only did Mr. **Jeglum** fail to appear for court hearings, he perpetrated a fraud on the court by affirmatively misrepresenting he was unable to attend court because of his medical condition.

¶24 Moreover, the State requested forfeiture of the cash bail before Mr. **Jeglum** was apprehended and returned, again prior to his plea, and again at the plea and sentence hearing. The trial court reserved ruling on the State's multiple requests mostly because it wished to give Mr. **Jeglum** an opportunity to rebut the State's factual and legal arguments. Were we to conclude that these multiple delays for Mr. **Jeglum**'s benefit somehow deprived the trial court of its authority to forfeit cash bail, our conclusion would inequitably benefit a wrongdoer.

¶25 We conclude that the trial court had authority to forfeit Mr. **Jeglum**'s cash bail even after he reappeared in ***968** court and even after entry of the judgment and sentence. The trial court misconstrued *Paul* and, in so doing, abused its discretion. We remand this matter to the trial court for it to exercise its discretion to determine whether to forfeit Mr. **Jeglum's** cash bail and, if so, the appropriate amount.

¶26 Reversed and remanded.

WE CONCUR:

Siddoway, J.

Pennell, J.

All Citations

8 Wash.App.2d 960, 442 P.3d 1

Footnotes

1 95 Wash. App. 775, 976 P.2d 1272 (1999).

End of Document

FILED

2015 NOV 30 P 12:14

KIM MORRISON
CHELAN COUNTY CLERK

CHELAN COUNTY SUPERIOR COURT - CRIMINAL MINUTES
CAUSE No. 15-1-00084-6
DEF: JEGLUM, EDWARD LEE Present: Yes/No In Custody: Yes/No
CHARGES: /STALKING/DV COURT ORDER VIOLATION/DV COURT ORDER VIOLATION
ON FOR: STATUS
COUNSEL: ~~BESSLER, ALLEN~~ M Present: Yes/No Appointed/Retained
INTERPRETER: Martha Kullman Present: Yes/No

_____ Advised of Arrest Charges _____ Formal Charges to be filed by:_____
_____ Counsel ____ waived _____ requested _____ appointed _____ denied _____ Indigency Approved
_____ Probable Cause to detain found _____ Release Order signed _____ With Conditions
_____ Bench Warrant Ordered _____ Order for Bench Warrant Signed
_____ Bail set $_____, _____Cash or Commercial Surety only.
_____ Personal Recognizance authorized on condition:_____ PR Bond $_____
_____ Information furnished to Defendant _____Reading waived _____Read in open court
_____ Information amended:_____
✓ True name: 12-24-51 Age:_____ Grade completed_____
_____ Advised of Charges _____Constitutional Rights_____Maximum Penalty_____
_____ Acknowledgment of Rights signed. _____Standard range_____
_____ Not Guilty to all counts entered. Speedy Trial Expiration 3-9
✓ Trial Set: 2-9 Readiness: 1-20 Omnibus:_____Other:_____
_____ Guilty Pleas Entered to:_____Counts Dismissed_____
_____ Statement on Plea of Guilty _____Court reviewed Plea _____ Alford Plea
_____ Probable Cause Aff./Officer Rpt incorporated w/Plea _____Criminal History Provided
_____ Without threats or promises _____Immigration Status _____Weapons Registration
_____Release Conditions Reviewed_____Continued_____Modified
_____ Recommendations of Counsel heard _____ Presence waived at Restitution Hearing
_____ Defendant to Report to DOC/Financial Collector _____Order on noncompliance signed.

SENTENCE IMPOSED:

_____ DOC/Bench Supervision_____ Months
_____ Prison/Jail Term _____
_____ Consecutive/Concurrent_____
_____ W/Credit for _____ Days Served
_____ W/_____ Days Converted to _____
_____ Judgment and Sentence Signed
_____ Fingerprints Taken
_____ Order of Restitution entered/To be Entered
_____ Payments to Begin _____
_____ Notice re: Public Assist/Vote/Weapons/Deportation
_____ DNA/HIV _____ Notice re: Firearms/Drivers License

Court Costs $_____
Crime Victims $_____
Attorney Fees $_____
DNA $_____
Drug Fund $_____
Crime Lab $_____
Bench Warrant $_____
Restitution $_____
Service Fee $_____
Fine $_____
Min. Payment $_____/Mo

SPECIAL MINUTES:_____

Court entered Order Determining Competency
Def waived speedy trial thru 3-19. New
trial dates set

Next Hearing Date-

PLMHRG/ ARRAIGN/ STAHRG/ MTHRG/ OMNHRG/ EVIHRG/ ALFHRG/ GPOH/ GPSH/ DSMHRG/ NCHRG/ WID/ NGPH
SNTHRG/ FNRHRG/ SCVHRG/ RVWHRG/ HCNTPA/ HCNTDA/ HCNTSTP/ HSTKPA/ HSTKDA/ HSTKSTP/ HSTKIC/ARGPSH

JUDGE: Nakata/Small/Allan
CLERK: Morrison/~~Boeggeman~~/Johnson/Valentine/~~Brincat~~/Mulhall/VanWyk/Sandidge/Ovenell 4
REPORTER: Nelson/Komoto COLLECTOR: Hildum Hawkins
PROSECUTOR: Shae/Hershey/Hinkle/Forrest/Pearce/Stevenson/~~Blackmon~~/Johnson

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FILED

IN AND FOR THE COUNTY OF CHELAN

2015 NOV 30 P 12:

KIM MORRISON
CHELAN COUNTY CLE

THE STATE OF WASHINGTON,

Plaintiff,

vs.

Edward Jeglum

Defendant,

NO. 13-1-00344-2
15-1-00084-6

ORDER SETTING TIME FOR OMNIBUS HEARING AND TRIAL DATE

1. This Order is entered in compliance with the Criminal Rules for the Superior Court CrR 3.3 (f) (1).
2. Arraignment: 8/21/13, 3/4/15
3. Omnibus: _____

   CrR 3.5/3.6 Hearing _____
4. Readiness: ~~1/20/16~~ 1/20/16
5. Trial: 2/9/16
6. Days Elapsed Before Trial: _____ Expiration Date 3/9/16

DATED THIS 30th day of Nov, 20 15

JUDGE OF THE SUPERIOR COURT
FOR CHELAN COUNTY

I acknowledge receipt of a copy of this Order Setting Trial Date. I understand that failure to object to the date set for trial within 10 days of today will waive any objection that the above date is in violation of CrR 3.3. I also understand that my failure to personally appear at any of the above indicated hearing dates or trial date may result in the court issuing a warrant for my arrest and may result in the trial date being stricken.

Dated: 11/30/15

Defendant

Defendant's Lawyer 44192

1
16

SUPERIOR COURT OF WASHINGTON
COUNTY OF CHELAN

STATE OF WASHINGTON,

vs.

Edward Jeglum
and (Defendant)

NO. 15-1-00084-6

CHELAN COUNTY CLERK'S OFFICE
BAIL COLLECTION AGREEMENT

($TRB) Bail

Bail posted for: Edward Jeglum (Defendant's Name).
Receipt # 2015-01-02467 $ 100,000 — Amount paid

Cash bail posted by any person on behalf of the defendant may be used to ensure that the defendant appears before the court as many times as the court deems necessary.

- FAILURE TO APPEAR WILL RESULT IN THE IMMEDIATE FORFEITURE OF THE BAIL MONEY.
- CASH DEPOSITED AS BAIL IS CONCLUSIVELY PRESUMED TO BE THE PROPERTY OF THE ACCUSED AND MAY BE APPLIED TOWARD THE DEFENDANT'S FINE(S).
- ALL BAIL RECEIVED ON "FAILURE TO PAY VIOLATION" WARRANTS WILL BE AUTOMATICALLY APPLIED TO THE DEFENDANT'S FINE(S).

Generally, the bail will not be returned until the final disposition of the case. Unless you specifically request the check to be held for pick-up, it will be mailed to the address below. If bail is ordered released, upon resolution of the case, you may expect a refund in approximately one week.

I HAVE READ AND ACKNOWLEDGE RECEIPT OF THE ABOVE NOTICE.

Signature: _____

Print Full Name: Edward L. Jeglum

Mailing address: 4332 Anna Lane
Wenatchee, WA. 98801

Phone No: 509 662-2628 Date: 2/10/15

If the Judge orders bail released, I wish the refund to be:
_____ Returned to me __X__ Returned to the defendant (Check one)

Common/Forms/Bail

2

FILED

AUG 03 2015

Kim Morrison
Chelan County Clerk

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

STATE OF WASHINGTON

Plaintiff,

vs. EDWARD JEGLUM

Defendant.

No. 13-1-00344-0
15-1-00086-2
15-1-00084-6

ORDER MODIFY CONDITIONS OF PRETRIAL RELEASE

IT IS HEREBY ORDERED THAT DEFENDANT BE ALLOWED TO TRAVEL WITHIN THE STATE OF WASHINGTON FOR THE PURPOSES OF MEDICAL EVALUATIONS AND APPOINTMENTS WITH LEGAL COUNSEL.

DATED this 3rd day of AUGUST, 2015.

Judge of the Superior Court for the
County of Chelan

Presented by:

Deputy Prosecuting Attorney WSBA # 42895

Approved as to form for entry this
3rd day of AUGUST, 2015

Attorney for Defendant WSBA # 44192

ORDER

DOUGLAS J. SHAE
CHELAN COUNTY
PROSECUTING ATTORNEY
P.O. Box 2596
Wenatchee, WA 98807

FILED
AUG 31 2015
Kim Morrison
Chelan County Clerk

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

STATE OF WASHINGTON	)	
Plaintiff,	)	Nos. 13-1-00344-0
vs.	)	15-1-00086-2
	)	15-1-00084-6 ✓
EDWARD JEGLUM,	)	
Defendant.	)	**ORDER:** MODIFIED CONDITIONS OF
_____	)	PRETRIAL RELEASE

IT IS HEREBY ORDERED THAT the Defendant shall be allowed to travel to, and remain overnight at Omak, Washington to assist with and attend his father's memorial services, and be present for related activities including but not limited to, cleaning his father's house, family grieving and assisting with the administration of his father's estate. Defendant shall also be allowed to travel to the State of Arizona during the month of November, 2015 to attend scheduled medical appointments. Defendant understands that further requests for out-of-state travel will require prior approval from the Court. Lastly, under the current Conditions of Pretrial Release, the Defendant is required to check in with his attorney of record on a weekly basis; communication which must be

accomplished by either telephonic or in-person contact. This Order shall allow the Defendant's weekly check-in with legal counsel requirement to be satisfied by any form of communication, including but not limited to, text messaging and email correspondence.

STATUS HEARING STILL SCHEDULED FOR SEPT 16, 2015.

DATED this 31st day of August, 2015.

Judge of the Superior Court for the

County of Chelan

Presented By:

Deputy Prosecuting Attorney WSBA # 42845

Approved as to form for entry this

____ day of August, 2015

s/ Michael Terry Lee

Michael T. Lee, WSBA # 44192

Attorney for Defendant

CHELAN COUNTY SUPERIOR COURT - CRIMINAL MINUTES

2016 MAR -3 A 9:42

KIM MORRISON
CHELAN COUNTY CLERK

CAUSE No. 15-1-00084-6
DEF: JEGLUM, EDWARD LEE Present Yes/No In Custody Yes/No
CHARGES: /STALKING/DV COURT ORDER VIOLATION/DV COURT ORDER VIOLATION
ON FOR: TESTIMONY
COUNSEL: Lee, Michael Present: (Yes)/No Appointed/(Retained) by telephone
INTERPRETER: James Harvill Present: Yes/No

_____ Advised of Arrest Charges _____ Formal Charges to be filed by: _____
_____ Counsel ____ waived _____ requested _____ appointed _____ denied _____ Indigency Approved
_____ Probable Cause to detain found _____ Release Order signed _____ With Conditions
__✓__ Bench Warrant Ordered __✓__ Order for Bench Warrant ~~Signed~~
_____ Bail set $_____, Cash or $_____ (Bond). Forfeiture Reserved.
_____ Personal Recognizance authorized on condition: _____ PR Bond $_____
_____ Information furnished to Defendant _____Reading waived _____Read in open court
_____ Information amended: _____
_____ True name: _____ Age: _____ Grade completed _____
_____ Advised of Charges _____Constitutional Rights _____Maximum Penalty _____
_____ Acknowledgment of Rights signed. _____Standard range _____
_____ Not Guilty to all counts entered. Speedy Trial Expiration _____
_____ Trial Set: _____Readiness: _____Omnibus: _____Other: _____
_____ Guilty Pleas Entered to: _____Counts Dismissed _____
_____ Statement on Plea of Guilty _____Court reviewed Plea _____ Alford Plea
_____ Probable Cause Aff./Officer Rpt incorporated w/Plea _____Criminal History Provided
_____ Without threats or promises _____Immigration Status _____Weapons Registration
_____Release Conditions Reviewed_____Continued_____Modified
_____ Recommendations of Counsel heard _____ Presence waived at Restitution Hearing
_____ Defendant to Report to DOC/Financial Collector _____Order on noncompliance signed.
_____ State/Def Mt Continue _____ obj/no objection _____denied _____granted _____

SENTENCE IMPOSED:

_____ DOC/Bench Supervision _____ Months
_____ Prison/Jail Term _____
_____ Consecutive/Concurrent _____
_____ W/Credit for _____ Days Served
_____ W/_____ Days Converted to _____
_____ Judgment and Sentence Signed
_____ Fingerprints Taken
_____ Order of Restitution entered/To be Entered
_____ Payments to Begin _____
_____ Notice re: Public Assist/Vote/Weapons/Deportation
_____ DNA/HIV _____ Notice re: Firearms/Drivers License

Court Costs $_____
Crime Victims $_____
Attorney Fees $_____
DNA $_____
Drug Fund $_____
Crime Lab $_____
Bench Warrant $_____
Restitution $_____
Service Fee $_____
Fine $_____
Min. Payment $_____/Mo

SPECIAL MINUTES: * See 13-1-00344-0, Mr. Hagopian was present
Dr. Zamani sworn, Testified. Court did not find Dr. Zamani's testimony helpful, Ordered testimony from practioner who had actually met Defendant. Counsel Lee advised he had not been able to contact Defendant since last hearing. Argument. Court inquired re: lack of contact w/ Defendant. State moved for Warrant/Bond forfeiture, argument — Granted, Orders approved. Court advised Mr. Jeglum had just sent a fax, fax was read aloud. Court found the fax evidence that Mr. Jeglum was able to communicate. Mr. Bender moved the warrant be extraditable — Granted.

PLMHRG/ ARRAIGN/ STAHRG/ (MTHRG)/
SNTHRG/ FNRHRG/ SCVHRG/ RVWHRG/

JUDGE: Nakata/Small/(Allan)
CLERK: Morrison/Boeggeman/(Valentine)/
REPORTER: Nelson/(Komoto) COLLECTOR: Hildum
PROSECUTOR: Shae/Hershey/Forrest/Pearce/Blackmon/Johnson/(Hankins)/VanWinkle

Also present: Victim

MAY 25 2016

Kim Morrison
Chelan County Clerk

CHELAN COUNTY SUPERIOR COURT - CRIMINAL MINUTES

CAUSE No. 15-1-00084-6

DEF: JEGLUM, EDWARD LEE Present: (Yes)/No In Custody: (Yes)/No

CHARGES: DV COURT ORDER VIOLATION

ON FOR: DEFENSE MOTION FOR FURLOUGH

COUNSEL: THIES, RANDY Present: (Yes)/No Present/Appointed/(Retained)

INTERPRETER: James Harvill Present: Yes/(No)

_____ Advised of Arrest Charges _____ Formal Charges to be filed by: _____

_____ Counsel ____ waived _____ requested _____ appointed _____ denied _____ Indigency Approved

_____ Probable Cause to detain found _____ Release Order signed _____ With Conditions

_____ Bench Warrant Ordered _____ Order for Bench Warrant Signed

_____ Bail set $_____, Cash or $_____ Bond.

_____ Personal Recognizance authorized on condition: _____ PR Bond $_____

_____ Information furnished to Defendant _____Reading waived _____Read in open court

_____ Information amended: _____

_____ True name: _____ Age: _____ Grade completed _____

_____ Advised of Charges _____Constitutional Rights _____Maximum Penalty _____

_____ Acknowledgment of Rights signed. _____Standard range _____

_____ Not Guilty to all counts entered. Speedy Trial Expiration _____

_____ Trial Set: _____Readiness: _____Omnibus: _____Other: _____

_____ Guilty Pleas Entered to: _____Counts Dismissed _____

_____ Statement on Plea of Guilty _____Court reviewed Plea _____ Alford Plea

_____ Probable Cause Aff./Officer Rpt incorporated w/Plea _____Criminal History Provided

_____Release Conditions Reviewed____Continued____Modified

_____Without threats or promises _____Immigration Status _____Weapons Registration

__✓__ Recommendations of Counsel heard

_____ Defendant to Report to DOC/Financial Collector _____Order on noncompliance signed.

_____ Presence waived at Restitution Hearing

_____ State/Def Mt Continue _____ obj/no objection _____denied _____granted_____

SENTENCE IMPOSED:

_____ DOC/Bench Supervision _____ Months

_____ Prison/Jail Term _____

_____ Consecutive/Concurrent _____

_____ W/Credit for _____ Days Served

_____ W/_____ Days Converted to _____

_____ Judgment and Sentence Signed

_____ Fingerprints Taken

_____ Order of Restitution entered/To be Entered

_____ Payments to Begin _____

_____ Notice re: Public Assist/Vote/Weapons/Deportation

_____ DNA/HIV _____ Notice re: Firearms/Drivers License

Court Costs	$_____
Crime Victims	$_____
Attorney Fees	$_____
DNA	$_____
Drug Fund	$_____
Crime Lab	$_____
Bench Warrant	$_____
Restitution	$_____
Service Fee	$_____
Fine	$_____
Min. Payment	$_____/Mo

SPECIAL MINUTES: Court stated Defendant had filed a petition to run against Judge Allan. Cour further stated matter would be continued to May 27, 2016 at 11:00 to allow time for the Court t see what the proper action was. Court stated It was unsure if it was proper/improper to hear thi case and research needed to be done. State noted Defendant was ineligible to run against Judge Allan. Motion to withdraw from counsel was not addressed. Defense presented confirmatio of Dr. apt for May 31, 2016 at 8:50.

* Cont'd to 5-27-16 @ 11:00 LMA *

JUDGE: Nakata/Small/(Allan)

CLERK: Morrison/Boeggeman/Valentine/Brincat/Mulhall/VanWyk/Escalera/(Ovenell)/Niecking

REPORTER: Nelson/(Komoto)

PROSECUTOR: (Shae)/Hershey/Forrest/Pearce/Blackmon/Johnson/Hankins/VanWinkle

CHELAN COUNTY SUPERIOR COURT - CRIMINAL MINUTES

FILED
MAY 27 2016
Kim Morrison
Chelan County Clerk

CAUSE No. 15-1-00084-6
DEF: EDWARD JEGLUM Present (Yes)/No In Custody (Yes)/No
CHARGES: VIOLATION OF A PRTECTION ORDER
ON FOR: FURLOUGH/DEFENSE ATTORNEY WITHDRAWAL
COUNSEL: RANDY L THIES Present: (Yes)/No Appointed (Retained)

MTHRG

FURLOUGH 06/01/2016

SPECIAL MINUTES Court heard statements of counsel, Mr. Thies renewed his Motion to Withdraw. Court accepted Mr. Thies Notice of Withdrawal pursuant to CR 31.

Court reviewed the history of Defendant's case to date. Court found It had recused Itself while Mr. Jeglum was represented by Mr. Oreskocivh. Court further found that while Mr. Jeglum was represented by Mr. Ressler the Defendant had stipulated that this Court would hear motions.

Court noted Mr. Jeglum had filed to run for Judge against this Court in the upcoming election. Court advised It had reviewed the codes of judicial ethics and cannons, orally reviewed opinions regarding the issue of recusals and elections. Court noted the Court should avoid the appearance of inappropriateness or bias.

Court found it would not be appropriate for this Court to rule on further hearings at least pending the outcome of the election. Court Ordered the matter be set over to 06/01/2016 criminal calendar before Judge Nakata. Court noted that Mr. Jeglum had been subpoenaed in Chelan County Case Number 16-2-00439-8 for an 8:30 AM hearing on 05/31/2016, approximately the same time as the requested medical furlough.

Mr. Jeglum read portions of transcripts and moved that judicial error be part of the record, Court so noted his motion and advised it would be in the record.

Mr. Thies addressed the Court, Mr. Jeglum objected to any statements made by Mr. Thies. Court allowed Mr. Thies to address the Court, noted he was no longer representing Mr. Jeglum. Mr. Jeglum objected.

Mr. Thies made a statement pursuant to RPC 1.2 (d) [10] regarding timeliness of repudiation. Mr. Thies advised he wished to repudiate and comply with the RPCs and would appear on Tuesday 05/31/2016 to do so. Court so noted.

Mr. Jeglum moved to postpone the 05/31/2016 court hearing, for furlough for 05/31/2016 medical appointments. Court reiterated It would not rule on the issue of furlough and would not take further action at this time. Mr. Jeglum objected to the Court's ruling.

JUDGE: Nakata/Small/(Allan)
CLERK: Morrison/Boeggeman/(Valentine)/Brincat/Mulhall/VanWyk/Escalera/Ovenell/Wiecking
REPORTER: Nelson/(Komoto) COLLECTOR: Hildum
PROSECUTOR: (Shae)/Hershey/Forrest/Pearce/Blackmon/Johnson/Hankins/VanWinkle

LAW OFFICE OF SUZANNE LEE ELLIOTT

September 10, 2019 - 9:48 PM

Transmittal Information

Filed with Court:	Court of Appeals Division III
Appellate Court Case Number:	35841-1
Appellate Court Case Title:	State of Washington v. Edward Lee Jeglum
Superior Court Case Number:	15-1-00084-6

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  The Original File Name was Jeglum Motion to WD Mandate.pdf
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