

04909-8

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No. 64969-8-1

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

ROBERT SCOTT INGRAM,

Appellant.

2011 MAR 24 10:41 AM
CLERK OF COURT

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

The Honorable Brian Gain
The Honorable Cheryl B. Carey

REPLY BRIEF OF APPELLANT

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WASHINGTON APPELLATE PROJECT
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A. ARGUMENT

THE TRIAL COURT ERRED IN FAILING TO
DISMISS THE ACTION FOR A VIOLATION OF MR.
INGRAM'S RIGHT TO SPEEDY TRIAL

The State's response to Mr. Ingram's argument that his right to a speedy trial was violated is based on arguments anticipated and dismissed by Mr. Ingram in his Brief of Appellant. Accordingly, this Court should dismiss the State's arguments and reverse Mr. Ingram's conviction.

Initially, the State contends that Mr. Ingram completed a signed order waiving his right to speedy trial on October 7, 2009, which automatically reset the time for trial to December 25, 2009. Brief of Respondent at 5-6. Although the State is correct that Mr. Ingram signed the *last* page of the Case Scheduling Order, that portion of the order does not contain the personal signed waiver by the defendant required by CrR 3.3(c) 2)(i). CP 133. The waiver portion of the form contains the admonition and explanation of rights and was explicitly left blank by Mr. Ingram. CP 133.

The State also contends that regardless of the failure of Mr. Ingram to sign the waiver portion, the trial court found that he intended to waive his speedy trial rights. Brief of Respondent at 6-7; CP 130. But, as Mr. Ingram argued in his opening brief, there is

nothing in the record to support this conclusion by the court. The only thing in the record before this Court, and also before the trial court, is the waiver signature line that does not contain Mr. Ingram's signature. The court's conclusion was not supported by the evidence.

Finally, the State argues the discharge of Mr. Ingram's counsel was proper and correctly reset the time for trial. Brief of Respondent at 7-9. Again, in his opening brief, Mr. Ingram contended the discharge of counsel did not rise to the level of a conflict of interest, irreconcilable conflict, or complete breakdown in communication as required. *State v. Stenson*, 132 Wn.2d 668, 734, 940 P.2d 1239 (1997). As noted in the opening brief, Mr. Ingram noted merely a general loss of confidence in Ms. Parker when he moved for substitute counsel, which is not enough under current caselaw to warrant new appointed counsel. The same argument applies equally to the reasons for Mr. Schmidt's removal as well.

The record fails to support any conclusion that Mr. Ingram either intended to, or did in fact, waive his right to a speedy trial. The trial court erred in failing to dismiss the matter for a violation of

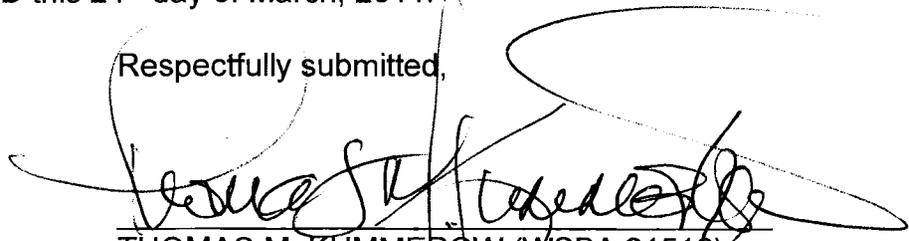
Mr. Ingram's right to a speedy trial. Mr. Ingram is entitled to reversal of his conviction.

B. CONCLUSION

For the reasons stated here as well as those stated in the Brief of Appellant, Mr. Ingram requests this Court reverse his conviction and order the matter dismissed for a violation of speedy trial.

DATED this 24th day of March, 2011.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Thomas M. Kummerow', is written over the typed name and contact information below.

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Attorneys for Appellant

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

| | | |
|----------------------|---|---------------|
| STATE OF WASHINGTON, |) | |
| |) | |
| Respondent, |) | |
| |) | NO. 64969-8-I |
| v. |) | |
| |) | |
| Robert Scott Ingram, |) | |
| |) | |
| Appellant. |) | |

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 24TH DAY OF MARCH, 2011, I CAUSED THE ORIGINAL **REPLY BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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|---|-------------------|-------------------------------------|
| [X] DOUGLAS K YOUNG, DPA KING COUNTY PROSECUTOR'S OFFICE APPELLATE UNIT 516 THIRD AVENUE, W-554 SEATTLE, WA 98104 | (X) () () | U.S. MAIL HAND DELIVERY _____ |
| [X] ROBERT INGRAM 953001 Coyote Ridge Corrections Center P.O. Box 769 Connell, WA 99362 | (X) () () | U.S. MAIL HAND DELIVERY _____ |

SIGNED IN SEATTLE, WASHINGTON THIS 24TH DAY OF MARCH, 2011.

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