

NO. 67150-2-I

THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

RONNIE E.S., a minor

Appellant.

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

REPLY BRIEF OF APPELLANT

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A. ARGUMENT.

THE JUVENILE COURT ABUSED ITS  
DISCRETION BY FAILING TO VACATE THE  
DEFERRED DISPOSITION IN JULY, 2010.

According to the terms of Ronnie's deferred disposition order, if Ronnie met all of the conditions of community supervision, the case would be dismissed on July 1, 2010.

Under the Juvenile Justice Act (JJA), a juvenile who has received a deferred disposition is entitled to adjudication and finality within the time period set forth in the order. RCW 13.40.127. Because neither the State, nor the juvenile probation counselor (JPC) provided notice of any violation of the deferred disposition prior to July 1<sup>st</sup>, Ronnie was entitled to vacation of the deferred disposition on that date. RCW 13.40.127. On July 1<sup>st</sup>, the JPC moved for dismissal of the deferred disposition. CP 14.

1. The JPC's motion for dismissal should have been granted. The JJA contemplates motions to dismiss by probation officers, as well as prosecutors. RCW 13.40 127. "A juvenile's lack of compliance shall be determined by the judge upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor." RCW 13.40.127(7) (emphasis added).

When a juvenile has been found in full compliance with a deferred disposition order, the conviction must be dismissed, pursuant to RCW 13.40.127(9):

At the conclusion of the period set forth in the order of deferral and upon a finding by the court of full compliance with conditions of supervision ...the respondent's conviction shall be vacated and the court shall dismiss the case with prejudice.

[emphasis added]

Although the State argues Ronnie was not technically in compliance with the terms of the deferred disposition agreement, there was no timely notice of non-compliance. In the absence of a motion to revoke filed by either the State or the JPC – at any time – but particularly prior to July 1, 2010, the conviction should have been vacated and the case dismissed with prejudice. RCW 13.40.127(9).

2. This case is distinguishable from *State v. Tucker*.

Unlike the respondent in Tucker, who was at liberty, Ronnie was confined and not able to make appearances on his own volition. 171 Wn.2d 50, 54, 246 P.3d 1275 (2011). As argued in our opening brief, the State's failure to transport Ronnie resulted in serious prejudice not resulting to a respondent who is not incarcerated.

This case is also different from State v. Mohamoud, another case cited by the State. 159 Wn. App. 753, 246 P.3d 849 (2011). In Mohamoud, this Court reversed a deferred disposition where the juvenile court granted it sua sponte, without statutory authority. Id. at 765.

Here, the juvenile court had the authority to vacate the deferred disposition upon the JPC's motion in July 2010, but failed to, when neither the State, nor the JPC, filed a written motion to revoke prior to the expiration of the deferred disposition period. RP 85-86. Unlike in Mohamoud, dismissal with prejudice was required. RCW 13.40.127(7).

B. CONCLUSION.

For the foregoing reasons, as well as those contained in the Opening Brief of Appellant, Ronnie E.S. respectfully requests this Court reverse order of the juvenile court and remand the case for further proceedings.

DATED this 2<sup>nd</sup> day of May, 2012.

Respectfully submitted,



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Attorney for Appellant

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DIVISION ONE**

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	NO. 67150-2-I
v.	)	
	)	
RONNIE E. S.,	)	
	)	
Juvenile Appellant.	)	

**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ANA ARRANZA RILEY, STATE THAT ON THE 1<sup>ST</sup> DAY OF MAY, 2012, I CAUSED THE ORIGINAL **SUPPLEMENTAL 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:

[X] BRIDGETTE MARYMAN, DPA KING COUNTY PROSECUTOR'S OFFICE APPELLATE UNIT 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____
[X] RONNIE E. S. 11726 256 <sup>TH</sup> PL SE KENT, WA 98032	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

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**SIGNED** IN SEATTLE, WASHINGTON THIS 1<sup>ST</sup> DAY OF MAY, 2012.

X \_\_\_\_\_ 

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