

71454-6

71454-6

NO. 71454-6-I

COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION I

---

STATE OF WASHINGTON,  
Respondent,

v.

JOSEPH FRANCIS WILLIAMS,  
Appellant.

---

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY  
THE HONORABLE MARY I. YU

---

R E P L Y   B R I E F

---

JOSEPH FRANCIS WILLIAMS,  
Pro Se Appellant  
#954443  
MCC-WSRU / C-314  
PO Box 777  
Monroe, WA 98272-0777

2014 OCT 27 AM 10:48  
STATE OF WASHINGTON  
COURT OF APPEALS

TABLE OF CONTENTS

	Page
A. <u>ARGUMENT</u> . . . . .	1
1. THE THIRD PLEA BARGAIN, TO WHICH THE STATE CLAIMS TO HAVE MY AGREEMENT, IS INVALID AS THE CHARGES CONTAINED WITHIN THE AGREEMENT ARE IN VIOLATION OF MY RIGHTS AGAINST THE IMPOSITION OF A CONVICTION OR SENTENCE BY MEANS OF DOUBLE-JEOPARDY. . . . .	1
a. This argument and Ineffective Assistance of Counsel . . . . .	6
2. A CONTRACT WAS FORMED WITH THE STATE BY MY ACCEPTANCE OF THE SECOND PLEA BARGAIN OFFER. . . . .	8
a. The Second Plea bargain offer was never rejected. . . . .	10
3. I RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL DURING THE PLEA BARGAINING PROCESS, AND IN PROTECTION OF MY RIGHTS. . . . .	13
a. Hal Palmer was ineffective during his first representation of me. . . . .	13
b. Kris Jensen provided me with ineffective assistance of counsel. . . . .	15
c. Hal Palmer provided ineffective assistance of counsel during his second representation of me. . . . .	17
4. THE STATE FAILED TO RESPOND TO ARGUMENTS AND BY THIS CHOICE, CONCEDES THEM. . . . .	17
B. <u>CONCLUSION</u> . . . . .	19

TABLE OF AUTHORITIES

Table of Cases	Page
<u>Federal</u>	
<u>Alabama v. Smith</u> , 490 U.S. 794, 109 S.Ct. 2201, 104 L.Ed.2d 865 (1989). . . .	3
<u>Ball v. United States</u> , 470 U.S. 856, 105 S.Ct. 1668, 84 L.Ed.2d 740 (1985) . . . .	5
<u>Blockburger v. United States</u> , 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932) . . . .	2
<u>Lafler v. Cooper</u> , _____ U.S. _____, 132 S.Ct. 1376, 182 L.Ed.2d 398 (2012). . . .	7, 14
<u>Missouri v. Frye</u> , _____ U.S. _____, 132 S.Ct. 1399, 182 L.Ed.2d 379 (2012). . . .	17
<u>North Carolina v. Pearce</u> , 395 U.S. 711, 89 S.Ct. 2072, 23 L.Ed.2d 656 (1969) . . . .	3
<u>Sanders v. Ratell</u> , 21 F.3d 1446 (9th Cir., 1994) . . . .	13
<u>Strickland v. Washington</u> , 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d (1984) . . . .	7, 13
 <u>Washington State</u>	
<u>Forbes v. American Bldg. Maintenance Co. West</u> , 184 Wn.App. 233, 198 P.3d 1042 (2003) . . . .	9
<u>Sanwick v. Puget Sound Title Ins. Co.</u> , 70 Wn.2d 438, 423 P.2d 624 (1967) . . . .	9
<u>State v. Beals</u> , 100 Wn.App. 189, 997 P.2d 941 (2000) . . . .	3
<u>State v. Calle</u> , 125 Wn.2d 769, 888 P.2d 155 (1995) . . . .	4
<u>State v. Freeman</u> , 153 Wn.2d 765, 108 P.3d 753 (2005) . . . .	1-2
<u>State v. Jerde</u> , 93 Wn.App. 774, 970 P.2d 781 (1999). . . .	8

	Page
<u>State v. Sledge,</u> 133 Wn.2d 828, 947 P.2d 1199 (1997). . . .	8
<u>State v. Talley,</u> 134 Wn.2d 176, 949 P.2d 358 (1998). . . .	8
<u>State v. Vladovic,</u> 99 Wn.2d 413, 419 n.2, 662 P.2d 853 (1983)	3, 4
<u>State v. Womac,</u> 160 Wn.2d 646, 160 P.3d 40 (2007) . . . .	2
<u>State v. Kennedy,</u> 107 Wash.2d 1, 10, 726 P.2d 445 (1986). . . .	18
<u>State v. Seagull,</u> 95 Wash.2d 898, 901, P.2d 44 (1981). . . .	18

**A. ARGUMENT**

1. THE THIRD PLEA BARGAIN, TO WHICH THE STATE CLAIMS TO HAVE MY AGREEMENT, IS INVALID AS THE CHARGES CONTAINED WITHIN THE AGREEMENT ARE IN VIOLATION OF MY RIGHTS AGAINST THE IMPOSITION OF A CONVICTION OR SENTENCE BY MEANS OF DOUBLE-JEOPARDY.

As I stated in Argument 7 of my BRIEF, charge I. Residential Burglary, against Mr. Kurt Gahnberg, was for the alleged theft of golf clubs from his residence. Charge VII. Theft in the Second Degree, was for the same incident, same golf clubs, and same victim, Mr. Kurt Gahnberg.

The Amended Information, of August 4, 2011, did not charge these crimes 'in the alternative,' as the State suggests, but as separate and distinct crimes, each carrying different penalties for the same exact crime. The State did the same thing in charge II. Residential Burglary, against Ms. Diana Kreklow, for the theft of golf clubs from her residence. And in charge VIII. Theft in the Third Degree, for that exact same incident, with the same golf clubs, and same victim, Ms. Diana Kreklow.

The State, on pages 26-27 argued, "The State may bring, and a jury may consider, multiple charges arising from the same criminal conduct without violating double-jeopardy" citing State v. Freeman,

153 Wn.2d 765, 770, 108 P.3d 753 (2005). And further stated, "Double jeopardy only restricts a court's ability to enter multiple convictions for the same offense. Id." This latter point is precisely what did happen in this case.

The two paired sets of offenses stated above, as I stated in my BRIEF, met the "same elements" test under Blockburger v. United States, 284 U.S. 299, 304, 52 S.Ct. 180, 76 L.Ed. 306 (1932), and thus implicate a double-jeopardy violation. The paired offenses, I. and VII., and II. and VIII., should have been "merged." In State v. Womac, 160 Wn.2d 646, 658-60, 160 P.3d 40 (2007) the court said that a defendant's double jeopardy claim, based on failure to merge two charges, meets the manifest constitutional error test; and determined that any convictions that violate double-jeopardy in this way, must be vacated.

The Fifth Amendment of the Constitution of the United States, applicable to the states through the Fourteenth Amendment, guarantees "[n]o person shall be... subject for the same offense to be twice put in jeopardy of life or limb." The Constitution of Washington State, article I, section 9, similarly

protects a defendant from being "twice put in jeopardy for the same offense." The Washington courts interpret both clauses identically. State v. Gocken, 127 Wn.2d 95, 107, 896 P.2d 1267 (1995).

In North Carolina v. Pearce, 395 U.S. 711, 717, 89 S.Ct. 2072, 23 L.Ed.2d 656 (1969), [overruled on other grounds by Alabama v. Smith, 490 U.S. 794, 109 S.Ct. 2201, 104 L.Ed.2d 865 (1989)], the court said: "The constitutional guaranty against double jeopardy protects against a second prosecution for the same offense after acquittal or conviction, and against multiple punishments for the same offense."

In the considerations of "merger," the Discussion in State v. Beals, 100 Wn.App. 189, 193, 997 P.2d 941 (2000) states:

Merger is "a doctrine of statutory interpretation used to determine whether the Legislature intended to impose multiple punishments for a single act which violates several statutory provisions." State v. Vladovic, 99 Wn.2d 413, 419 n.2, 662 P.2d 853 (1983). The doctrine only applies "where the Legislature has clearly indicated that in order to prove a particular degree of a crime (e.g., first degree rape) the State must prove not only that the defendant committed that crime (e.g., rape) but that the crime was accompanied by an act which is defined

as a crime elsewhere in the criminal statutes (e.g., assault or kidnapping)." Vladovic, 99 Wn.2d at 421. In other words, crimes merge when proof of one crime is necessary to prove an element or the degree of another crime. Vladovic, 99 Wn.2d at 419-21. If one of the crimes involves an injury that is separate and distinct from that of the other crime, the crimes do not merge. Vladovic, 99 Wn.2d at 421.

It's clear that both of the paired offenses are the same crimes, having no difference in any fact, and arising out of the same intent, in each case. That they are separated, as far as possible, away from their paired offenses in the Amended Information, demonstrates that the State was not charging 'in the alternative,' but instead intended these to be separate charges, with equally separate convictions and sentences. The State's own arguments in this matter support such a conclusion.

And while the punishments may have been run concurrently in some of the charges, that doesn't matter in considering double jeopardy, or merger. In State v. Calle, 125 Wn.2d 769, 773, 888 P.2d 155 (1995), the court considered the issue, and stated:

In 1985, the United States Supreme Court observed that multiple convictions whose sentences are served concurrently may still violate the rule

against double jeopardy. Ball v. United States, 470 U.S. 856, 864-65, 84 L.Ed.2d 740, 105 S.Ct. 1668 (1985).

The second conviction, whose concomitant sentence is served concurrently, does not evaporate simply because of concurrence of the sentence. The separate conviction, apart from the concurrent sentence, has potential adverse collateral consequences that may not be ignored. For example, the presence of two convictions on the record may delay the defendant's eligibility for parole or result in an increased sentence under a recidivist statute for a future offense. Moreover, the second conviction may be used to impeach the defendant's credibility and certainly carries the societal stigma accompanying any criminal conviction.

Ball, at 864-65.

Accordingly, the Court concluded that the mere fact that the sentences are concurrent will not shield multiple convictions from scrutiny under the double jeopardy clause.

The court went on to uphold the Ball decision, and decided that double jeopardy may be implicated when multiple convictions arise out of the same act, even if concurrent sentences have been imposed. Calle, at 775.

The plea agreement should be set aside for the above reasons in that it violated my rights against double jeopardy, and the previous rulings in this State's courts, and in the Supreme Court of the United States. The plea agreement should be declared invalid.

a. This Argument and Ineffective Assistance  
of Counsel

Hal Palmer, in his second representation of me, failed to challenge the Amended Information that charged me in violation of my rights against double jeopardy, leading to his repeated failure to challenge the third plea bargain, which contained the same unmerged offenses.

In the hearing, he was asked about the Merger Doctrine, and the charges, and he stated:

A. "Well, my specific -- my specific recollection -- because I did see that as one of the allegations -- um, was -- was -- was that I didn't have a specific recollection regarding that. But after I thought about the case further, um, there was another case that I handled a month before, which involved a burglary and a theft and I -- I did challenge at sentencing, um, the fact that, uh, as you cited in your response, Blackburger (phonetic) seems to say that you can't have it. And that's when I learned about the Anti-Merger Statute. Um --"

Q. "I think it's older than we are."

A. "Well. So, uh, uh, the anti-merger statute definitely could have applied in this case."

(RP/Hearing, pg. 175) [Brief of Appellant, pg.32]

Allowing me to agree to a flawed plea agreement, that was based on a flawed charging document, could never be considered a strategy or tactic of trial. It is a lack of representation directly related to

the plea bargain process.

In Lafler v. Cooper, \_\_\_ U.S. \_\_\_, 132 S.Ct. 1376, 1384, 182 L.Ed.2d 398 (2012), the Court said:

To establish Strickland prejudice a defendant must "show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id., at 694, 104 S.Ct. 2052. In the context of pleas a defendant must show the outcome of the plea process would have been different with competent advice. See Frye, ante, at 1388-1389, 132 S.Ct. 1399 (noting that Strickland's inquiry, as applied to advice with respect to plea bargains, turns on "whether 'the result of the proceeding would have been different'" (quoting Strickland, supra, at 694, 104 S.Ct. 2052)); see also Hill, 474 U.S., at 59, 106 S.Ct. 366 ("The... 'prejudice,' requirement... focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process").

The deficiency of counsel is in his failure to object to the unmerged charges, both in the plea bargain, called the "third offer," and in the charging document, and his representation on these points.

The prejudice arises from the fact that the proceedings would have been different if provided with competent advice and representation from Hal Palmer's second time as my counsel.

2. A CONTRACT WAS FORMED WITH THE STATE BY MY  
ACCEPTANCE OF THE SECOND PLEA BARGAIN OFFER.

The State argues against this point in their  
Argument #2, of RESPONDENT'S BRIEF. In it, the State  
asserts that a "plea bargain is made binding only  
by the defendant's entry of a guilty plea." (Brief  
of Respondent, pg. 16) We disagree.

In State v. Jerde, 93 Wn.App. 774, 780, 970  
P.2d 781 (1999), as cited in my BRIEF, pg.14:

"The State enters into a contract with the  
defendant when it offers a plea bargain and  
the defendant accepts. State v. Talley, 134  
Wn.2d 176, 949 P.2d 358 (1998); State v. Sledge,  
133 Wn.2d 828, 947 P.2d 1199 (1997)."

As the courts have said, it is 'when the defendant  
accepts,' not when they enter the plea, which is  
the performance part of the defendant's side of the  
contract. The State is, in this point, conflating  
'performance' with 'acceptance of an offer.' Sledge,  
incidentally, is the case the State cites in their  
argument, minus the point drawn from the case that  
Jerde cites above.

Because the State chose not to write any of  
their offers down, with terms and what constitutes  
acceptance and rejection, at the time that they first  
made Offers 1 and 2, then any ambiguity is construed  
against the State, as the drafters of the contract.

In Forbes v. American Bldg. Maintenance Co. West, 184 Wn.App. 273, 198 P.3d 1042 (2003), the court said:

"Generally, ambiguous contracts are to be construed against the drafter."

And when considering what constitutes certain acceptance of an offer, the court said, in Sanwick v. Puget Sound Title Ins. Co., 70 Wn.2d 438, 423 P.2d 624 (1967):

"If an offer does not specify a particular method or manner of acceptance, the party wishing to accept the offer may do so by any words and/or conduct which, under the circumstances, would lead a reasonable person to conclude that the offer had been accepted."

When I stopped the trial, and told my attorney, Hal Palmer, that I wanted to accept the State's offer, by those words, and that action, I was accepting the State's second plea offer; this, in that moment, formed the contract, waiting only for the performance of both parties.

In that moment of acceptance, the third plea agreement offer did not exist; therefore, the only plea agreement that could have been being accepted was the second offer. This is what my attorney, Hal Palmer, should have defended and insisted upon. He is not there to facilitate the State's desires, but to ardently defend me and my interests.

a. The Second Plea bargain offer was never rejected.

I argued this point thoroughly in Arguments 3, 4, and 5 of my BRIEF OF APPELLANT. In those arguments, I showed that the State was contradictory in what they said constituted 'rejection.'

It seemed to rest on this idea that, in one aspect, if one doesn't immediately accept, that it means that such 'non-acceptance' is the same as a 'rejection,' even though this is never said to my counsels, or myself, as is shown in the testimony at the hearing. If it were true, that 'non-acceptance' was equivalent to rejection, then DPA Mafe Rajul could not have come to a conclusion that our setting a date for trial constituted rejection of the First Plea bargain offer. (see Stipulation of the Parties as to the Testimony of Mafe Rajul, BRIEF OF APPELLANT, Appendix "D") Such a conclusion by Ms. Rajul, I should also point out that, if true, makes no sense, given that the Second offer was made on April 8, 2011, which was months after the January 24, 2011, date when trial was set. If that were the rule, then no other plea offers would be made after a trial date was set, in any case. But if it's a Mafe Rajul rule, then theres no way defendants could know it, unless she told them.

If there were a clause that gave an expiration point for an offer, then 'non-acceptance' could be possible. But absent such specific disclosure, then there is no means for a 'non-acceptance' rejection to occur.

DPA Suzanne Love was also contradictory in her claim of 'terms of rejection.' She thought that plea "Offers -- negotiations can occur up until a jury comes back with a verdict." (RP/Hearing, pg. 98) And then, "... But any offer that I made prior to trial would have expired the minute trial started." (RP/Hearing, pg. 108) When citing her reason for why it would have expired at the start of trial, she said:

A. "It -- that's the standard operating for the Prosecutor's Office."

(RP/Hearing, pg. 110)

As I said in my BRIEF, the State's averment that there is a 'procedural office policy' in the King County prosecutor's office, to which a defendant doesn't have access, that an offer 'expires' in an automatic way, at some point in time or in relation to some action, is never stated to a defendant. How would I ever know such a thing?

I accepted the Second Plea offer, and no other.

I would point out that on page 18 of the BRIEF OF RESPONDENT, the State said, "The State was entitled to withdraw the second plea offer at any time prior to the entry of a guilty plea, and to extend a different offer when Williams indicated his willingness to plead guilty mid-trial." This acknowledges several points: 1) that the State knew I stopped the trial to accept the deal and plead guilty; 2) that the second plea offer was 'in place' when I stopped the trial; 3) that the State knowingly drew back the second plea and replaced it with a third. All of which I said from the beginning, and which the State knew was true, even while opposing my Motion to Withdraw my Guilty Plea.

The State cited little case law in their brief, relying instead on argument. As this matter turns on the issues of plea bargains and ineffective assistance of counsel, as it relates to the plea bargaining process, I believe I have covered all that is necessary as to the plea bargains themselves. The final series of arguments deals with ineffective assistance of counsel.

3. I RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL DURING THE PLEA BARGAINING PROCESS, AND IN PROTECTION OF MY RIGHTS.

a. Hal Palmer was ineffective during his first representation of me.

Hal Palmer performed no investigation, and the State acknowledges the truth of that statement. The excuse offered is that "The case was not set for trial until the very end of Palmer's first period of representation, and it was reasonable to delay interviewing witnesses until it was clear whether Williams would set the case for trial."

Palmer didn't know that it was coming up to the end of his first representation, which occurred 3-4 weeks after trial was set. There was fully two months before trial was set to interview witnesses or get depositions or review the evidence, or the lack thereof. Representation isn't suspended while counsel waits to see if the pleas all work out.

In Sanders v. Ratell, 21 F.3d 1446, at 1456 (9th Cir., 1994), the Court said (as I stated in my brief):

"The inquiry in determining whether counsel's performance was constitutionally deficient is whether counsel's assistance was reasonable considering all of the circumstances. Strickland, 466 U.S., at 689. To provide constitutionally adequate assistance, "counsel must, at a minimum, conduct a reasonable investigation enabling

(counsel) to make informed decisions about how best to represent (the client)."

This minimum standard was not met during the first representation by Hal Palmer. This is not even disputed by the State. The prejudice is presumed with this kind of deficiency of performance, and representation.

Palmer did not seek to get the first plea offer in writing, which would have protected all parties, and afforded me the opportunity to read and fully understand what the State was offering, and what limits or terms existed relating to the offer; this is also uncontested by the State.

Hal Palmer did not advise me to take the offer or refuse it; he merely provided the offer, and a "general assessment." (RP/Hearing, pg. 130) In Lafler, at 1387, 132 S.Ct. 1376 (2012), the court said:

If a plea bargain has been offered, a defendant has the right to effective assistance of counsel in considering whether to accept it. If that right is denied, prejudice can be shown if loss of the plea opportunity led to a trial resulting in a conviction on more serious charges or the imposition of a more severe sentence.

That is certainly the case here. By his words, he didn't advise me in this plea, to take it or not. (RP/Hearing, pg. 130) And I did end up finding another attorney later. Advice is what a client needs.

- b. Kris Jensen provided me with ineffective assistance of counsel.

Kris Jensen failed to get the second plea offer in writing with the specifics of the plea bargain. Therefore, there were no limits or terms of what constituted acceptance or rejection.

The State said, "Jensen's conduct was not prejudicial because he accurately conveyed the substance of the offer to Williams, and Williams emphatically and explicitly rejected it." (BRIEF OF RESPONDENT, pg. 24) This is highly inaccurate as an accounting of the facts, none of which the State was present to hear, on any of the occasions I met with counsel.

Three days after the end of his representation, Kris Jensen sent an e-mail to Hal Palmer, apprising him of the status of the case as he left it. This was on April 15, 2011, and the e-mails were placed in the Hearing record as Exhibits 1 and 3.

In his e-mails, he recounted the plea offer (which was the Second offer) to Mr. Palmer, letting him know it's status. Nowhere does he say I rejected the offer. Not in his notes, which he reviewed on the stand at the hearing, and nowhere in any other

notes in the prosecutor's files, or in Hal Palmer's files. In fact, when Suzanne Love was asked about it, she said that the offer was on the table up to the date of trial, and nowhere in her testimony did she say she received an "explicit" or "emphatic" rejection of the second plea offer. Or any other kind of rejection.

And as I showed in section pg. 12 of this REPLY, the State said that the second offer was replaced with the third offer, because they had the right to do so, at least so the State believes. (citing pg. 18 of BRIEF OF RESPONDENT)

During the Hearing, Kris Jensen's memory was 'spotty, at best.' (see BRIEF OF APPELLANT, pg.28-29) But the physical evidence, his e-mails, coupled with the prosecutor's testimony, and the State's own brief in this matter, show the truth.

Kris Jensen didn't want to go to trial; he only wanted to do the plea process.

he wanted out. I filed Motions to the court during this time that speaks to this situation. (see Hearing Exhibit 2). That he said that he feared I wasn't going to pay him makes nothing close to sense, as I had been paying him, and hadn't defaulted on any payment.

Mr. Jensen did not get a written plea offer, which invited ambiguity and uncertainty in the plea bargain process. This failed to protect me, and my right to be fully informed at every stage of the proceeding.

In Missouri v. Frye, \_\_\_ U.S. \_\_\_, 132 S.Ct. 1399, 1408-09. 182 L.Ed.2d 379 (2012), the Court did discuss how plea bargains should be made; with a formal offer, and in writing, and made part of the record, which would alleviate any confusions or ambiguities.

c. Hal Palmer provided ineffective assistance during his second representation of me.

Mr. Palmer never performed any investigation, despite having been given specific information which if followed upon, would have provided his client with exculpatory evidence he needed to prove I wasn't guilty of the charges, as alleged against me, and none of the people I provided to Mr. Palmer were ever contacted or investigated. The duty to investigate is a basic requirement, because no counsel can effectively represent his client if he has not met the legal minimum, Mr. Palmer did not investigate despite my continued insistence and pleas urging him to investigate the Search Warrant that was conducted on the car. (Appendix "A". (Search Warrant)).

(Appendix "B" King County Sheriff Follow-up Report), states that the suspect's vehicle was a 1993 White 4 DR. Oldsmobile, WA License 437 RGW; Vin# 1G3AG55N6P6387291 owned by Harvey E. Anderson.

Even though witnesses observed something from a vantage point. The observation is not a "Search" triggering the protections of Article I, Section 7. State v. Kennedy, 107 Wash.2d 1, 10, 726 P.2d 445 (1986); State v. Seagull, 95 Wash.2d 898, 901, 632 P.2d 44 (1981). The officer's right to seize the items observed must be justified by a valid warrant a valid exception, if the items are in constitutionally protected area, under state constitution, search or seizure is improper only if it's executed without authority of law, but a lawfully search warrant provides such authority. The exclusionary rule requires the suppression of evidence gathered through unconstitutional means; when an unconstitutional search or seizure occurs, all subsequently uncovered evidence becomes "fruit of the poisonous tree" and must be suppressed. U.S.C.A. Const. Amendment 4; West's R.C.W.A Constitution. Article I, Section 7: Hal Palmer was ineffective for failing to argue in a 3.6 Motion To Suppress that the evidence seized from the car was the result of an unlawful

warrant search, and there was no legitimate tactical reason for counsel not to have moved to suppress the evidence based on an unlawful warrant search of the car, and because the trial court likely would have granted a motion to suppress on this basis.

For the arguments cited above, at pgs. 6-7, and in my BRIEF OF APPELLANT, at pgs. 30-33, Hal Palmer provided ineffective assistance of counsel.

As the State did not provide any refutation of any meaningful point to my argument, I believe I have already proven this particular argument.

4. THE STATE FAILED TO RESPOND TO ARGUMENTS  
AND BY THIS CHOICE, CONCEDES THEM.

The following arguments were made in my BRIEF, which the State chose not to respond to with any argument, which I take to mean, they conceded them.

While I disagree with the State's claim of what 'facts' existed, or didn't exist, with regard to the alleged crimes, I brought specific issues and arguments to this Court, as presented in my appellate brief, which the State did not address.

Those issues, in brief, are:

ISSUE 2: Is ambiguity in a contract, as a plea bargain offer, construed against the drafter?

- ISSUE 3: What is the State's obligation to set forth all the particulars of a plea offer, prior to acceptance, of any limits or terms of acceptance?
- ISSUE 4: The Superior Court cited the King County prosecutor's office "procedural cultural rule" as foundation for judgment and opinion in this matter, as if it had the force of law, or merit as a principal or fact.
- ISSUE 5: What is the court's obligation at the moment of acceptance of a plea offer?
- ISSUE 7: Regarding the expiration points of offers that are not specified by the drafter of the plea bargain contract, and never rescinded in the record, or by any means measurable or knowable transmitted to the defendant; do they exist?
- ISSUE 8: Is instant 'non-acceptance,' in fact a 'rejection?'
- ISSUE 9: Absent court documentation, where is a rejection recorded, or proven?

The State chose not to respond to these issues.

It is therefore left up to the Court to consider my arguments, without opposition.

APPENDIX "A"

"SEARCH WARRANT"

Filed at Shoreline Courthouse

MAR 20 2009

SHORELINE COURT FOR KING COUNTY

STATE OF WASHINGTON ) NO. SH001659
: ss
COUNTY OF KING ) SEARCH WARRANT

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

Upon the sworn complaint made before me there is probable cause to believe that the crimes(s) of, has been committed and that evidence of that crime; or contraband, the fruits of crime, or things otherwise criminally possessed; or weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or a person for whose arrest there is probable cause, or who is unlawfully restrained is/are concealed in or on certain premises, vehicles or persons.

YOU ARE COMMANDED to:

1. Search, within 7 days of this date, the premises, vehicle or person described as follows: a White Oldsmobile Cierra (4door) WA license 342WRZ; VIN 1G3AJ51WXKG333043. Vehicle located in the parking lot at King County Sheriff's Office precinct 2 18118 73 Ave NE Kenmore, WA. 98028. The vehicle has been sealed to maintain integrity.

2. Seize, if located, the following property or person(s): The following items located inside the vehicle (in plain view) Taylor made golf bag w/clubs and 2 I ZIP brand electric scooters and the following property stolen in recent burglaries where the vehicle and suspect description matched the above vehicle and subject Joseph F Williams.

Any sports equipment as follows; snow skis specifically Solomon, Nordica, K2 or Fischer brand. Golf clubs (men's and women's) specifically Callaway, Ping, Nike, Taylor Made, Tommy Armour, Titleist, Tommy Watson, Odyssey, Scotty Cameron golf equipment, bags, shoes, clothes, balls etc. Bauer and Easton brand hockey sticks. Snowboards; Heelside brand and one vintage style "natural wood" with neon yellow grip. Razor brand electric scooter and assorted power tools including Milwaukee, Dewalt, Ryobi, Paslode or Honda brands.

Paperwork indicating the pawning of property described above or any like property. Documents of Dominion and Control; any other property deemed to be stolen or bearing the name of persons other than Joseph F Williams.

3. Promptly return this warrant to me or the clerk of this court; the return must include an inventory of all property seized.

Court File \_\_\_\_\_
Police File \_\_\_\_\_
Judge's Copy \_\_\_\_\_
Left at premises searched \_\_\_\_\_

A copy of the warrant and a receipt for the property taken shall be given to the person from whom or from whose premises property is taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found.

Date/Time: MARCH 20, 2009  
1320 Hours

JUDGE *[Signature]*  
JUDGE DOUGLAS J. SMITH  
KING COUNTY DISTRICT COURT  
Printed or typed Name of Judge SHERIFF'S DIVISION

( ) This warrant was issued by the above judge, pursuant to the telephonic warrant procedure authorized by JCrR 2.10 and CrR 2.3, \_\_\_\_\_ 19\_\_ at \_\_\_\_\_ .m.

Printed or Typed Name of Peace Officer, Agency and Personnel Number

Signature of Peace Officer Authorized to Affix Judge's Signature to Warrant

APPENDIX "B"

"KING COUNTY SHERIFF FOLLOW-UP REPORT"

APPENDIX "B"

Association: <b>VICTIM</b>		Last, First Middle <b>KREKLOW, DIANA MARIE</b>				Interpreter Needed <input type="checkbox"/>		Phone Numbers: Home 206/234-7628	
Address <b>14431 82 AV NE</b>			City <b>KENMORE</b>			ST <b>WA</b>	Zip <b>9802</b>		
Sex <b>F</b>	Race <b>W</b>	DOB <b>5/24/1957</b>	Height <b>5' 11"</b>	Weight <b>220</b>	Hair <b>BRO</b>	Glass' 	Eyes <b>HAZ</b>	Facial Hair	
Scars, Marks & Tatoos			Clothing			Gang		Set	
Occupation		Employer		OLN <b>KREKLDM430K4</b>		ST <b>WA</b>	SSN	AFIS#:	

Association: <b>VICTIM</b>		Last, First Middle <b>LAWRENCE, NANCY R</b>				Interpreter Needed <input type="checkbox"/>		Phone Numbers: Home 425/823-1838	
Address <b>9308 NE 135 ST</b>			City <b>KIRKLAND</b>			ST <b>WA</b>	Zip <b>98034</b>		
Sex <b>F</b>	Race <b>W</b>	DOB <b>2/15/1955</b>	Height <b>5' 3"</b>	Weight <b>150</b>	Hair 	Glass' 	Eyes <b>BRO</b>	Facial Hair	
Scars, Marks & Tatoos			Clothing			Gang		Set	
Occupation <b>ICU NURSE</b>		Employer <b>EVERGREEN HOSPITAL</b>		OLN <b>LAWRENR451CN</b>		ST <b>WA</b>	SSN	AFIS#:	

Association: <b>VICTIM</b>		Last, First Middle <b>MATTHEWS, GARY ALAN</b>				Interpreter Needed <input type="checkbox"/>		Phone Numbers: Home 425/488--4711 Work 206/714-4521	
Address <b>15001 110NE</b>			City <b>BOTHELL</b>			ST <b>WA</b>	Zip <b>98011</b>		
Sex <b>M</b>	Race <b>W</b>	DOB <b>2/15/1956</b>	Height <b>6' 4"</b>	Weight <b>260</b>	Hair <b>BRO</b>	Glass' 	Eyes <b>BLU</b>	Facial Hair	
Scars, Marks & Tatoos			Clothing			Gang		Set	
Occupation <b>OWNER</b>		Employer <b>SELF</b>		OLN <b>MATTHGA447CN</b>		ST <b>WA</b>	SSN	AFIS#:	

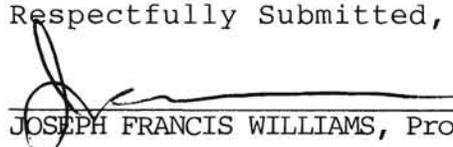
<b>VEHICLE SECTION</b>										
<b>SUSPECT Vehicle</b>										
Vehicle Association <b>SUSPECT</b>		License <b>437RGW</b>	State <b>WA</b>	Year <b>1993</b>	Make <b>OLDSMOBILE</b>	Model <b>CIE</b>	Style <b>4DR</b>	Color <b>WHI</b>		
Features						VIN <b>1G3AG55N6P6387291</b>				
Registered Owner Name <b>ANDERSON, HARVEY E</b>					Registered Owner Address <b>6552 57TH AVE SE #DD6 LACEY, WA</b>					
Legal Owner Name <b>ANDERSON, HARVEY E</b>					Legal Owner Address <b>6552 57TH AVE SE #DD6 LACEY, WA</b>					
Vehicle Disposition (If towed, list towing company, address)				Hold <b>No</b>	ReasonForHold					
Stolen Vehicle <input type="checkbox"/>	DivorceInProgress <input type="checkbox"/>	PaymentsOverdue <input type="checkbox"/>	KeysInIgnition <input type="checkbox"/>	EstimatedValue	Radio Notified Clerk	Date	Time			
<input type="checkbox"/> HDBComplaint	<input type="checkbox"/> DoorsUnlocked									
Recovered Vehicle Condition (damage, items stripped, etc.)				Other Agency/Case Number			Owner Notified By	Date	Time	

B. CONCLUSION

For the reasons and arguments made in this  
REPLY BRIEF, and in my BRIEF OF APPELLANT, I do  
respectfully ask this Court to allow the withdrawal  
of my plea of guilty, and to overturn the trial  
court's denial of my motion in this regard.

DATED this 24<sup>th</sup> day of OCTober, 2014.

Respectfully Submitted,

  
\_\_\_\_\_  
JOSEPH FRANCIS WILLIAMS, Pro Se

#954443  
MCC-WSRU / C-314  
PO Box 777  
Monroe, WA 98272-0777

CERTIFICATE OF SERVICE BY MAIL

Today I deposited in the institutional mail system of Monroe Correctional Complex - WSRU, by First Class postage, a true and correct copy of my REPLY BRIEF, addressed to Daniel T. Satterberg, Office of the Prosecuting Attorney, W554 King County Courthouse, 516 Third Avenue, Seattle, WA, 98104-2385, in the matter of State of Washington, Respondent v. Joseph Francis Williams, Appellant, CASE #: 71454-6-I, in the Court of Appeals, Div. I, of the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

  
\_\_\_\_\_  
JOSEPH FRANCIS WILLIAMS, Appellant  
Done in Monroe, WA.

10/24/14  
DATE

2014 OCT 27 PM 10:50  
STATE OF WASHINGTON  
COUNTY OF KING