

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

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STATE OF WASHINGTON,

Respondent,

v.

SPENCER DOUGLAS GRANT,

Appellant.

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

The Honorable Garold E. Johnson,  
The Honorable Frank E. Cuthbertson,  
The Honorable Thomas J. Felnagle,  
Judges

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STATEMENT OF ADDITIONAL GROUNDS  
FOR REVIEW (RAP 10.10)

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Spencer Douglas Grant, #957302  
Coyote Ridge Corrections Center  
P.O. Box 769, GA-19  
Connell, WA 99326-0769

I, Spencer Douglas Grant, (hereinafter Grant), have received and reviewed the opening brief prepared by my attorney. Summarized below are the issues omitted in that brief that are significant and obvious in the record. This omission by counsel renders his performance deficient in reviewing and presenting my appeal to this Court.

#### Additional Ground 1

The State violated Grant's U.S. Constitution Fourth and Fourteenth Amendment Rights and Washington Constitution Article 1, §§3,7 when it failed to prove Spencer Daniel Grant (referred to in the arrest warrant and the Amended Information) and Spencer Douglas Grant are one and the same person.

Spencer Douglas Grant, the Appellant herein is not the person named on the arrest warrant. Appellant was convicted of failing to register as a sex offender, 3rd offense, and count II felony bail jumping by jury verdict.

See CP 0105-6 CAUSE No. 13-1-00530-3 (See Exhibit 1) where the amended information lists the person who committed these crimes as Spencer Daniel Grant. This is not the appellants name. In many instances people bear identical names. The State, in cases when criminal liability depends on the accused's being the person to whom a document pertains, the State cannot meet its burden of establishing the identity alone. Rather, the State must show, by evidence independent of the record, that the person named in the document is the defendant in the present action. See Exhibit 7.

The prosecution bears the burden of establishing, beyond a

reasonable doubt, the identity of the accused as the person who committed the offense.

To sustain the burden of establishing the identity of the accused as the person who committed the offense, when criminal liability depends on the accused being the person to whom a document pertains, the State must do more than Authenticate and Admit the documents. It must also show beyond a reasonable doubt that the person named therein is the same person on trial.

In McCollan v. Tate, 575 F.2d 509 (C.A. 5[Tex] 1978) the Court stated:

"the sheriff or arresting officer has a duty to exercise due diligence in making sure that the person arrested and detained is actually the person sought under the warrant and not merely someone of the same or similar name. See Restatement (2d) Torts §125, comment(d)(1965)." 575 F.2d at 513.

In Appellant's case, the arresting officer failed to "[make] sure that the person arrested and detained [was] actually the person sought under the warrant".

In Maryland v. Pringle, 540 U.S. 366, 124 S.Ct 795 (2003) the U.S. Supreme Court Stated:

"[t]he substance of all the definitions of probable cause is a reasonable ground for belief of guilt," ibid. (internal quotation marks and citations omitted), and that the belief of guilt must be particularized with respect to the person to be searched or seized. Ybarra v. Illinois, 444 U.S. 85, 91, 100 S.Ct 338, 62 L.Ed.2d 238 (1979)" 124 S.Ct @ 800

In Groh v. Ramirez, 540 U.S. 551, 124 S.Ct 1284 (2004) the U.S. Supreme Court stated:

"The Fourth Amendment states unambiguously that "no warrant shall issue, but upon probable cause, supported by Oath or affirmation, and **particularly describing** the place to be searched and **the person or things to be seized.**(Emphasis added)

The fact that the application adequately described the "things to be seized" does not save the warrant from its facial invalidity. The Fourth Amendment by its terms

require particularity in the warrant, not in the supporting documents. See Massachusetts v. Sheppard, 468 U.S. 981, 988 n. 5, 104 S.Ct 3424, 82 L.Ed.2d 737 (1984)("[A] warrant that fails to conform to the particularity requirement of the Fourth Amendment is unconstitutional"); See also U.S. v. Stefowek, 179 F.3d 1030, 1033 (C.A. 7 1999)("The Fourth Amendment requires that the warrant particularly describe the things to be seized, not the papers presented to the Judicial Officer ... asked to issue the warrant")"

Reverse and Remand with directions to dismiss.

#### Additional Ground 2

The Court violated Appellant's Sixth and Fourteenth Amendment rights defined in the U.S. Constitution and his Article 1 §§3,22 rights defined in the Washington Constitution whe it did not grant his request to Proceed Pro Se on July 1, 2014 and on August 19, 2015.

The Washington constitution grants the specific right of self-representation in Article 1 §22. The court violated this right twice.

Appellate counsel, Jared B. Steed raised this ground in his brief ground 1. Appellant adds the following to that ground.

Appellant filed a motion (Notice of Appearance) labeled #3 on bottom of page. 3/18/14 426 0099. Supp C.P. at 1-2. See Exhibit 2.

Appellant filed a Motion for change of venue on 3/21/14. CP 3/24/2014 489 0066. See Exhibit 3.

Appellant also filed an Order Granting Defendants Motion to Proceed Pro-Se Pusuant to Farretta v. California, 422 U.S. 806, 45 L.Ed.2d 562, 955 S.Ct 2525 (1975). All the Judge had to do was sign the order. CP Supp. 10/5/2014 2801 0080. See Exhibit 4. In

Faretta v. California the U.S. Supreme Court indicated that the Sixth Amendment grants the Appellant the right to represent himself. In Milton v. Morris, 767 F.2d 1443 (9th Cir 1985) the 9th circuit further stated:

"The right guaranteed by the fourteenth and sixth amendments to reject a lawyer and represent oneself is premised upon the right of a petitioner to make a defense: The Sixth Amendment does not provide merely that a defense shall be made for the accused; it grants to the accused personally the right to make his defense. . . . Although not stated in the Amendment in so many words, the right to self-representation or to make a defense personally--is thus necessarily implied by the structure of the Amendment."

Appellant also filed an Affidavit in Support of Motion to Proceed Pro-Se dated August 19, 2014 that stated he was aware of the dangers of representing himself. This was per Judge Thomas Feltnagle's statement that he wanted something more. Supp. CP 9/5/2014. See Exhibit 5.

Appellant also filed a Motion for Discovery CrR 4.7, CrRLJ 4 7, E.R. 705, RCW 10.50.020, RCW 46.61.502 et. seq. RCW 42.17 260. Supp. CP 9/5/2014 2801 0076, 0077, 0078, 0079 See Exhibit 6.

In U.S. v. Davila, 186 L.Ed.2d 139, 133 S.Ct 2139 (2013) the Court stated:

"We have characterized as "structural" "a very limited class of errors" that trigger automatic reversal because they undermine the fairness of a criminal proceeding as a whole. U.S. v. Marcus, 560 U.S. 258, 130 S.Ct 2159, 2164, 176 L.Ed.2d 1012 (2010)(internal quotation marks omitted) Errors of this kind include denial of counsel of choice, denial of self-representation, denial of public trial, and failure to convey to a jury that guilt must be proved beyond a reasonable doubt. See e.g. U.S. v. Gonzalez-Lopez, 548 U.S. 140, 150, 126 S.Ct 2557, 165 L.Ed.2d 409 (2006)(ranking "deprivation of the right to counsel of choice" as " 'structural error' "). See Neder v. U.S., 527 U.S. 1, 7, 119 S.Ct 1827, 144 L.Ed.2d 35 (1999)(structural errors are "fundamental constitutional errors that defy analysis by "harmless error "standards' ")(quoting Arizona v. Fulminate, 499 U.S. 279, 309, 111

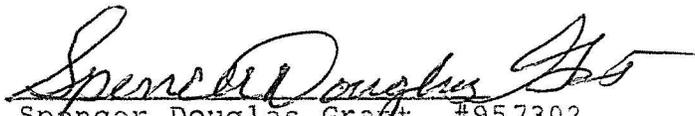
S.Ct 1246, 113 L.Ed.2d 302 (1991))." 133 S.Ct @ 2149.

Pursuant to U.S. v. Danila, the denial of self-representation is a structural error that can only be cured by automatic reversal. This Court should reverse and remand for dismissal.

#### CONCLUSION

For the reasons stated above, Mr. Grant requests his convictions be vacated because they were obtained in violation of the due process clause, because he was denied the right to self-representation, and because his right to be secure in [his] person was violated.

DATED this 29 day of June, 2015 at Connell, WA.

  
Spencer Douglas Grant, #957302  
Coyote Ridge Corrections Center  
P.O. Box 769, GA-19  
Connell, WA 99326-0769

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(Exhibit 1)

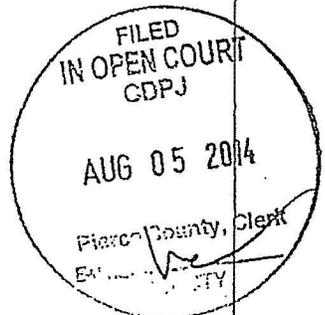
Amended Information that specifies Spencer Daniel Grant. It does not specify the Appellant's name which is Spencer Douglas Grant.

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-00530-3

vs.

SPENCER DANIEL GRANT,

AMENDED INFORMATION

Defendant.

DOB: 4/8/1962	SEX : MALE	RACE: AMER INDIAN/ALASKAN
PCN#:	SID#: 13924682	DOL#: WA GRANTSD381JH

COUNT I

I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse SPENCER DANIEL GRANT of the crime of FAILURE TO REGISTER AS A SEX OFFENDER - THIRD OFFENSE, committed as follows:

That SPENCER DANIEL GRANT, in the State of Washington, during the period between the 31st day of October, 2012 and the 27th day of November, 2012, did unlawfully, feloniously, having been convicted of a felony sex offense or having been found not guilty by reason of insanity under chapter 10.77 of committing any sex offense, as those offenses are defined by RCW 9A.44.128, and having previously been convicted of a felony failure to register as a sex offender on two or more occasions in this or another state, did knowingly fail to comply with the registration requirements of RCW 9A.44.130 when required to do so, contrary to RCW 9A.44.132(1)(b), and against the peace and dignity of the State of Washington.

COUNT II

And I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse SPENCER DANIEL GRANT of the crime of BAIL JUMPING, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely

AMENDED INFORMATION- 1

ORIGINAL

Office of the Prosecuting Attorney  
930 Tacoma Avenue South, Room 946  
Tacoma, WA 98402-2171  
Main Office (253) 798-7400

0106

2311

8/6/2014

1 connected in respect to time, place and occasion that it would be difficult to separate proof of one charge  
2 from proof of the others, committed as follows:

3 That SPENCER DANIEL GRANT, in the State of Washington, on or about the 4th day of March,  
4 2014, did unlawfully and feloniously, having been held for, charged with, or convicted of, FAILURE TO  
5 REGISTER AS A SEX OFFENDER, a class "B" or "C" felony, and been released by court order or  
6 admitted to bail with knowledge of the requirement of a subsequent personal appearance before any court  
7 in this state, fail to appear as required, contrary to RCW 9A.76.170(1),(3)(c), and against the peace and  
8 dignity of the State of Washington.

9 DATED this 31st day of July, 2014.

10 TACOMA POLICE DEPARTMENT  
11 WA02703

MARK LINDQUIST  
Pierce County Prosecuting Attorney

12 sk

13 By:   
14 \_\_\_\_\_  
15 SUSAN KAVANAUGH  
16 Deputy Prosecuting Attorney  
17 WSB#: 37802

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(Exhibit 2)

Notice of Appearance which appellant filed in an attempt to represent himself that was denied by the trial judge.

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3/18/2014 7102/81/3

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

~~in the name of~~  
Spencer Grant }  
Petitioner }  
and }  
Pierce County }  
WASH }  
Respondent }

No. 13-1-00530-3

NOTICE OF APPEARANCE

I enter my appearance and demand notice of all further proceedings.

I will inform the clerk of the court of any change in my address.

Any notices may be sent to me. I appear pro se (without attorney).

Spencer Grant  
(street; 18121 Boat St SW #F  
city, zip) Lake Wood WA. 98498

( ) Any notices may be sent to my attorney.

(street;  
city, zip)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Notice of Appearance

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(Exhibit 3)

Motion for Change of Venue Appellant submitted in an attempt to transfer venue to Thurston County.

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3/24/2014

13-1-00530-3 . 42240906 MT 03-21-14

FILED  
IN COUNTY CLERK'S OFFICE

A.M. MAR 21 2014 P.M.  
PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY [Signature] DEPUTY

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

~~[Signature]~~  
Spencer Grant

Petitioner,

and

Pierce County

Respondent.

No. 13-1-00530-3

MOTION FOR CHANGE OF VENUE

(No Mandatory Form Available)

I. MOTION

Spencer Grant [Name], moves the court for an order changing venue in this matter to Thurston County.

This Motion is based on the facts set forth in the attached Declaration In Support of Change of Venue and on the following legal authority: RCW 26.09.010(2); RCW 4.12 et. seq.; CR 12(b)(3); CR 81(b); and CR 82(d).

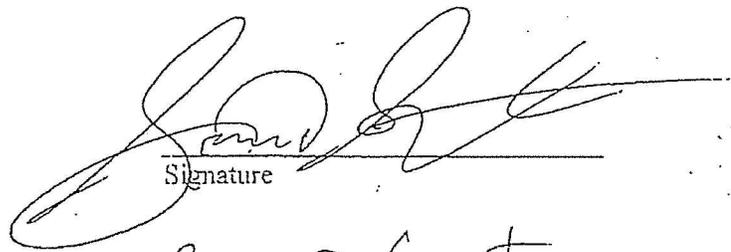
Based on the foregoing considerations, Spencer Grant [Name] requests that the Court order that venue of this matter be changed to Thurston County.

MOTION FOR CHANGE OF VENUE - Page 1 of 2

(1)

1 Spencer Grant [Name] further requests that all costs associated with the change of  
 2 venue shall be paid by the opposing party unless paid in full by the county the case is transferred  
 3 from per CR 82(d).

4  
 5 Dated: 2/10/2014

  
 Signature

Spencer D. Grant  
 Print or Type Name

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(Exhibit 4)

Order Granting Defendant's Motion to Proceed Pro-Se Appellant submitted with the trial court on August 19, 2014.

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8/5/2014

In The Superior Court of the State of Washington  
IN and for the County of Pierce

Washington State

Plaintiff

vs.

Spencer Douglas Grant

Defendant

Case No: 13-1-00530-3

Order Granting Defendant's

Motion to Proceed Pro-Se

Pursuant to *Farratta v. The*

*State of California*, 422 U.S. 806

The above entitled Court having heard a Motion  
to allow the Defendant to Proceed Pro-Se under  
Cause No: 13-1-00530-3 it is Ordered by this Court  
to allow the defendant to proceed Pro-Se Pursuant  
to *Farratta v. The State of California*, 422 U.S. 806,  
45 L. Ed. 2d 562, 955 S. Ct. 2525 (1975)

Dated this 19th day of August 2014

Judge

Printed Name

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(Exhibit 5)

Affidavit in Support of Motion to Proceed Pro-Se submitted to the trial court on August 19th, 2014.

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In The Superior Court of the State of  
Washington in and for the County of Pierce

8801

Washington State  
Plaintiff

Case No: 13-1-00530-3

Affidavit in Support of  
Motion to Proceed Pro-Se

VS  
Spencer Douglas Grant  
Defendant

9/5/2014

Comes Now: The defendant herein, Moves this  
Honorable Court to Proceed Pro-Se under Forrester  
VS The State of California 422 U.S. 806, =

I am aware of the dangers of representing  
myself, but, I feel this is the only way that  
I am going to get a fair justice. So at this  
time I am now moving this honorable court under  
US vs Walker, 142 F. 3d 103 (2nd cir 1998) which  
states that if a defendant asks to proceed pro-se  
before trial commences, the defendant's sixth Amendment  
Right to Self Representation is absolute, and his demand  
must be granted.

Dated this 19th day of August 2014

Spencer Douglas Grant  
Spencer Douglas Grant

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(Exhibit 6)

Motion for Discovery Appellant submitted to the trial court on August 19th, 2014.

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In the Superior Court of the State of Washington  
in and for the County of Pierce

2014

State of Washington  
Plaintiff

Case No. 13-1-0053-3

V.

Motion for Discovery

Spencer Douglas Carant  
Defendant

Clerk Action Required

Get Motion to Docket

9/5/2014

And to: The State of Washington Mark Linguist,  
Prosecutor

Comes now: The Defendant herein Pro-Se respectfully  
Makes this court for an Order to have the  
Discovery given to Me Pursuant to the Authority  
of CrR 4.7, CrRLJ 4.7, FR 705, RCW 10.50.010  
RCW 46.01.502 et seq RCW 42.17.260.

Hereby Makes the following request for Discovery  
in the Matter(s) Pending in this case

- (1). Copies of any and all police investigative report  
and statements of claimed experts, made in connection  
with this particular case, including results of any  
physical examination and scientific test, experiment, or  
comparisons made in connection with defendant's arrest.

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7102/5/6  
9/5/2014

(2). The names and addresses of any and all persons whom the Plaintiff intends to call as a witness at the hearing or trial, together with any and all written or recorded statements, and the substance of an oral statements of such witnesses together with a summary of the expected testimony is not contained in the materials otherwise provided. This shall include any notebook, diary, log record book, "CAD," or other such items maintained by the arresting officer; DOC officers.

(3). Copies of any and all forms read to or signed by defendant containing information regarding his constitutional rights, including information regarding the claim basis for the arrest of the defendant and all allegations giving rise to the mandatory provisions of R.C.M. 46.20.308;

(4). Copies of, any written or recorded statements and the substance of any oral statements made by defendant or witnesses;

(5). A list of, copies of, and access to any book, papers, document, photographs or tangible objects which the prosecuting Attorney intends to use in the hearing or trial.

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(6). A list of all items or things which were obtained from or belonged to the defendant, regardless of whether the prosecutor intends to introduce said items at a hearing or trial;

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(7). A description of any other tangible evidence which the plaintiff intends to use at the hearing or trial which is not contained in the materials otherwise provided pursuant to these demands.

9/5/2014

(8). Copies of or access to any recording photographs or video tapes made of the defendant and or his attorney prior to trial, including any and all recordings made by the police with respects to this case;

(9). Any record or prior criminal conviction known to the prosecuting attorney of the defendant and persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial.

(10). Any Material or information within the Prosecutor's knowledge which tends to negate the defendant's guilt as to the offense(s) charged;

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(11). Any electronic surveillance, tracking device, including wire tapping, of the defendant's premises or vehicle and conversations to which the defendant was a party any record thereof;

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(12) Any information which the prosecuting attorney has indicated entrapment of the defendant.

9/5/2014

You are further notified that the failure to comply these requests (Demands) will result in the defendant Moving for Appropriate From the Court.

Dated this 19<sup>th</sup> day of August 2014

Spencer Douglas Grant  
Spencer Douglas Grant  
Defendant Pro-Se

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(Exhibit 7)

Affadavit in support of Appellant's Statement of Additional Grounds.

GENERAL AFFIDAVIT

STATE OF WASHINGTON

COUNTY OF FRANKLIN

) Court of Appeals  
ss. )  
) No 46734-8-II

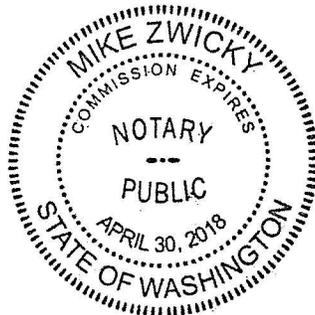
Before the undersigned, an officer duly commissioned by the laws of the State of Washington, on this 24 day of June, 2015, personally appeared

(Print name) Spencer Douglas Grant who having been duly sworn depose and say:

1. My true and correct name is Spencer Douglas Grant. I am not the person named in charging documents, filed in the Superior Court of Pierce County Cause No. 13-1-00530-3
2. State v. Spencer Daniel Grant.  
Not have i ever used the variation of Spenser Douglas Grant. The prosecutor added them, vindictively,
3. Not My Aliases  
in State v Grant 13-1-00530-3  
in violation R.P.C 8.3 "Prosecutors Duty" Special Responsibilities Act of A Prosecutor

Spencer Douglas Grant  
Signature Date 6/23/2015

Sworn and subscribed to before me this 24 day of JUNE, 2015.



Mike Zwicky  
Notary Public for the state of Washington  
Residing in Connell, WA  
Commission expires 4/30/2018

On September 26, 2014, Deputy Prosecuting Attorney Susan Kavanaugh, and Defense Counsel Joseph A. Evans, Fabricated ~~and~~ False information about Spencer Douglas Grant, at Sentencing, that both knew or should have known to be false, or untrue.

Fabricating Aliases of Spencer Daniel Grant  
Spencer Douglas Grant. I challenged my offender Score. State provided numerous certified copies of Spencer Douglas Grant there was not one single document provided that had the name Spencer Douglas Grant, spelled Spencer Douglas Grant, or Spencer Daniel Grant the person named in the Charging Documents. She filed these aliases to support her conviction of Spencer D Grant.

Civil Rights

Pierce County Prosecutors Office is currently under investigation in other case for Prosecutor Misconduct.

Violating my right to a fair trial. I am requesting the Court of Appeals to investigate my claim of prosecutorial misconduct and vindictiveness.

"Misconduct of Joseph A Evans,  
Susan Kavanaugh. Neither are fit  
to practice law."

#3 of 3

Spencer Douglas Grant

**NIELSEN, BROMAN & KOCH, PLLC**

**July 02, 2015 - 4:20 PM**

**Transmittal Letter**

Document Uploaded: 1-467348-Spencer Grant - SAG.pdf

Case Name: Spencer Grant

Court of Appeals Case Number: 46734-8

**Is this a Personal Restraint Petition?**  Yes  No

**The document being Filed is:**

- Designation of Clerk's Papers  Supplemental Designation of Clerk's Papers
- Statement of Arrangements
- Motion: \_\_\_\_\_
- Answer/Reply to Motion: \_\_\_\_\_
- Brief: \_\_\_\_\_
- Statement of Additional Authorities
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_  
Hearing Date(s): \_\_\_\_\_
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Petition for Review (PRV)
- Other: SAG

**Comments:**

No Comments were entered.

Sender Name: Patrick P Mayavsky - Email: [mayovskyp@nwattorney.net](mailto:mayovskyp@nwattorney.net)

A copy of this document has been emailed to the following addresses:

PCpatcecf@co.pierce.wa.us