

FILED  
COURT OF APPEALS  
DIVISION II  
2017 FEB -6 AM 9:09  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY \_\_\_\_\_

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

**DIVISION II**

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NO. 14-1-01251-6

**PERSONAL RESTRAINT PETITION**

Fernando Jose Ortiz

**Petitioner's Full Name**

If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of the form and other papers you are attaching before you sign this form in front of a notary.

**A. STATUS OF PETITIONER**

I, Fernando Jose Ortiz, DOC # 390750  
(Full name and current address)

Stafford Creek Correction Center, 191 Constantine Way, Aberdeen WA 98520

Apply for relief from confinement. I am  am not \_\_\_\_\_ now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order: Felony Assault  
(Identify type of court order)

1. The court in which I was sentenced is: Superior Court for Colville County

2. I was convicted of the crime of: Assault in the first degree

3. I was sentenced after (check one) Trial  Plea of Guilty \_\_\_\_\_ on 05-03-16  
Date of Sentence

4. The Judge who imposed sentence was Michael H. Evans

5. My lawyer at trial court was Matthew D. Kowitz  
Name and Address if known

6. I did  did not \_\_\_\_\_ appeal from the decision of the trial court. (If the answer is that I did), I appealed to: Court of Appeals Division II  
Name of court or courts to which appeal took place

7. My lawyer for my appeal was: 450 211st St, PO Box 2711, Vashon WA 98070  
Name and address if known or write "none"

The decision of the appellate court was \_\_\_\_\_ was not  published. (If the answer is that it was published, and I have this information) the decision is published in \_\_\_\_\_

8. Since my conviction I have \_\_\_\_\_ have not  asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked, the court I asked was \_\_\_\_\_ . Relief was denied on \_\_\_\_\_  
Name of court

\_\_\_\_\_ .  
Date of Decision or, if more than one, all dates)

(If you have answered in question 7 that you did ask for relief), the name of your lawyer in the proceedings mentioned in my answer was \_\_\_\_\_  
Name and address if known

9. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here: The appeal

has not yet been finalized

#### B. GROUNDS FOR RELIEF:

(If I claim more than one reason for relief from confinement, I will attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc). I claim that I have 1 reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

First Ground  
(First, Second, etc)

1. I should be given a new trial or released from confinement because (State legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement): The trial court violated Mr. Jara-Cruz's constitutional

right to present a defense by refusing to instruct the jury on self-defense. Ineffective assigned counsel.

2. The following facts are important when considering my case. (After each fact statement put the name of the person or persons who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that also) An interpreter was

not present when the plea was presented to me (Zambrado Barozjo)

3. The following reported court decisions (indicate citations if possible) in cases similar to mine show the error I believed happened in my case. (If none are known, state "None Known".)

None are known

4. The following statutes and constitutional provisions should be considered by the court. (If none are now, state, "None Known") INEFFECTIVE ASSISTANCE of COUNSEL

Strickland v. Washington (1984). Insufficiency of EVIDENCE to  
Plea was not presented with a translator. Convict numerous Blood types  
5. This petition is the best way I know to get the relief I want, and not other way will work as inconclusive  
well because: The appeal court can only go off of the trial documents.

#### C. STATEMENT OF FINANCES:

If you cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help you, fill out this form. If you have enough money for these, do not fill this part of the form. If currently in confinement you will need to attach a copy of your prison finance statement.

1. I do  do not  ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.

2. I have \$ 0.00 in my prison or institution account.

3. I do  do not  ask the court to appoint a lawyer for me because I am so poor and cannot afford to pay a lawyer.

4. I am  am not  employed. My salary or wages amount to \$ \_\_\_\_\_ a month. My employer is \_\_\_\_\_  
Name and address of employer

5. During the past 12 months I did  did not  get any money from a business, profession or other form of self-employment. (If I did, it was \_\_\_\_\_  
Type of self-employment

And the total income I received was \$ 0.00.

6. During the past 12 months I:

Did  Did Not  Receive any rent payments. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any interest. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any dividends. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any other money. If so the total I received was \$ \_\_\_\_\_

Do  Do Not  Have any cash except as said in question 2 of Statement of Finances. If so the total amount of cash I have is \$ \_\_\_\_\_.

Do  Do Not  Have any savings or checking accounts. If so, the total amount in all accounts is \$ \_\_\_\_\_

Do  Do Not  Own stocks, bonds or notes. If so, their total value is: \$ \_\_\_\_\_.

7. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what item or property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
<u>None</u>	

8. I am  am not  married. If I am married, my wife or husband's name and address is:

\_\_\_\_\_  
\_\_\_\_\_

9. All of the persons who need me to support them are listed below:

Name & Address	Relationship	Age
Zambrado Bernzjo	Partner	32
_____	_____	_____
Jenifer Jaca	Daughter	4
Jaguilin Jaca	Daughter	5

10. All the bills I owe are listed here:

Name & Address of Creditor	Amount
Legal Financial Obligations	\$49,000.00
_____	_____
_____	_____

D. REQUEST FOR RELIEF:

I want this court to:

Vacate my conviction and give me a new trial

Vacate my conviction and dismiss the criminal charges against me without a new trial

Other: \_\_\_\_\_  
(Please Specify)



01/26/2017

Department of Corrections

PAGE: 01 OF 01

BTISLER

STAFFORD CREEK CORRECTIONS CENTER

OIRPLRAR

10.2.1.18

**PLRA IN FORMA PAUPERIS STATUS REPORT  
FOR DEFINED PERIOD : 06/30/2016 TO 12/31/2016**

DOC# : 0000390750      NAME : JACA-ORTIZ FERNANDO      ADMIT DATE : 05/06/2016  
 DOB : 05/31/1984      ADMIT TIME : 12:48

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
3.33	0.67	0.32	0.06

STATE OF WASHINGTON  
 DEPARTMENT OF CORRECTIONS  
 OFFICE OF CORRECTIONAL OPERATIONS  
 STAFFORD CREEK CORRECTION CENTER  
 CERTIFIED BY: *B. Tisler*