

TABLE OF CONTENTS

	Page No.
TABLE OF AUTHORITIES.....	iii
I. INTRODUCTION.....	1
Records Transmitted for Review.....	1
II. ISSUES PRESENTED FOR REVIEW.....	2
<u>Assignment of Error:</u>	
1. The Trial Court erred in ruling Stetson's complaint failed to state a claim for relief per CR 12(c).....	2
2. The Trial Court abused their discretion by denying Stetson's discovery for his PRA and UHCIA claims.....	2
3. The Trial Court violated the doctrine of stare decisis by claiming Stetson could not use the PRA for the documents he sought.....	2
<u>Issues pertaining to Assignment of error:</u>	
1a. Did Honorable Dixon error by ruling Stetson's complaint failed to state any cognet claim for relief, and the State complied with all their responsibilities under Washington's Uniform Health Care Information Act RCW 70.02. et. seq.	2
1b. Did Honorable Dixon abuse his discretion by ruling "undue burden or expense" would be had by the State to answer 20 interrogatories when they had a CR 12(c) motion pending?.....	2

1c. Were the holdings in Oliver, PLN,
Nissen, John Doe G., and Rickman violated by
Honorable Dixon when he ruled the PRA does not
apply to the type of documents Stetson sought?
If so, is this a direct violation of the doctrine
of stare decisis?..... 2

III. STATEMENT OF THE CASE..... 3

IV. ARGUMENT IN SUPPORT..... 7

1a. Did Honorable Dixon error by ruling
Stetson's Complaint failed to state any cognet
claim for relief, and the State complied with all
their responsibilities under Washington's Uniform
Health Care Information Act RCW 70.02 et. seq.?.... 7

CR 12(c) Standard of review.....7
Sufficiency of complaint..... 8

1b. Did Honorable Dixon abuse his discretion
by ruling "undue burden or expense" would be had
by the State to answer 20 interrogatories when
they had a CR 12(c) motion pending?..... 17

The written Order..... 17
The Oral Ruling..... 18
Abuse of discretion by denying discovery..... 18

1c. Were the holdings in Oliver, PLN,
Nissen, John Doe G., and Rickman violated by
Honorable Dixon when he ruled the PRA does not
apply to the type of documents Stetson sought?
If so, is this a direct violation of the doctrine
of stare decisis?..... 19

PRA & UHCIA can be used concurrently..... 20
Court of Last resort..... 22
WDOC continues to violate the PRA..... 24
No Exemption Log..... 25

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

	Page No.
WDOC has violated the 5 and 15 day rules.....	26
WDOC doesn't provide the fullest assistance...	26
WDOC's process violates the UHCIA.....	27
Stetson raises some of these issues for the first time on appeal.....	28
 V. COSTS.....	 28
 VI. PUBLICATION.....	 28
 VII. CONCLUSION.....	 29
 VIII. CERTIFICATION OF SERVICE.....	 30

TABLE OF AUTHORITIES

State Authorities:

<u>American Civil Liberties Union v. Blain School District No. 503, (ACLU 1), 86 Wn.App. 688, 937 P.2d 1176 (1997).....</u>	16
<u>Bowman v. John Doe Two, 104 Wn.2d 181, 704 P.2d 140 (1985).....</u>	8
<u>Bravo v. Dolsen Cos., 125 Wn.2d 745, 888 P.2d 147 (1995).....</u>	8

Crown Controls, Inc. v. Smiley, 110 Wn.2d
695, 756 P.2d 717 (1988)..... 23

Davis v. Baugh Indus. Contractors, Inc., 159
Wn.2d 413, 150 P.3d 545 (2007)..... 22,23

Doe v. Puget Sound Blood Ctr., 117 Wn.2d 772,
819 P.2d 370 (1991)..... 18, 27

Dragonslayer, Inc. v. State Gambling Comm'n.,
139 Wn.App. 433, 161 P.3d 428 (2007)..... 28

Francis v. State DOC., 178 Wn.App. 42, 313
P.3d 457 (2013) review denied, 327 P.3d 55 (2014).. 27

Haberman v. Wash. Pub. Power Supply Sys., 109
Wn.2d 107, 744 P.2d 1032 (1987)..... 7

Halvorson v. Dahl, 89 Wn.2d 673, 574 P.2d
1190 (1978)..... 8, 9

Hoffer v. State, 110 Wn.2d 415, 755 P.2d 781(1988).8

In re Waters of Strangers Creek, 77 Wn.2d 649,
466 P.2d 508 (1970).....23

John Doe G. v. Dept. of Corr., 197 Wn.App.
609, ___ P.3d ___ (2017).....20, 21

Koening v. City of Des Moines, 158 Wn.2d 173,
142 P.3d 162 (2006)..... 24

Limstrom v. Ladenburg, (Limstrom II), 136 Wn.2d
595, 963 P.2d 869 (1998)..... 11

Mitchell v. State Dept. of Corr., 164 Wn.App.
597, 277 P.3d 670 (2011)..... 13

Mount Adams Sch. Dist. v. Cook, 150 Wn.2d
716, 81 P.3d 111 (2003)..... 28

Neighborhood Alliance of Spokane v. County of
Spokane, 172 Wn.2d 702, 261 P.3d 119 (2011)..... 19

Nissen v. Pierce County, 183 Wn.2d 863,
357 P.3d 45 (2015)..... 20, 21, 22

Ockerman v. King County Dept. of Developmental
& Env'tl. Servs., 102 Wn.App. 212, 6 P.3d
1214 (2000)..... 11

Oliver v. Harborview, 94 Wn.2d 559, 618 P.2d
76 (1980)..... 9, 20, 22

O'Neill v. City of Shoreline, 170 Wn.2d 138,
240 P.3d 1149 (2010)..... 17

Parmelee v. O'Neel, 145 Wn.App. 223, 186 P.3d
1094 (2008) rev'd in part, 168 Wn.2d 515, 229
P.3d 723 (2010)..... 9

Parrilla v. King County, 138 Wn.App. 427, 157
P.3d 879 (2007)..... 7

Postema v. Pollution Control Hearing Bd., 1142
Wn.2d 68, 11 P.3d 726 (2000)..... 8

Prison Legal News, Inc. v. Dept. of Corr., 154
Wn.2d 628, 115 P.3d 316 (2005)..... 20, 22, 24

Prog. Animal Welfare Soc'y v. Univ. of Wash.,
(PAWS II), 125 Wn.2d 243, 884 P.2d 592 (1994)..... 11

Rickman v. Premera Blue Cross, 184 Wn.2d 300,
358 P.3d 1153 (2015)..... 20

Sanders v. State, 169 Wn.2d 827, 240 P.3d
120 (2010)..... 17

Ski Acres Inc. v. Kittitas Cnty., 115 Wn.2d
852, 827 P.2d 1000 (1992)..... 10

Smith v. Okanogan Cnty., 100 Wn.App. 7, 994
P.2d 857 (2000)..... 9

Spokane Research & Def. Fund v. City of
Spokane, (Spokane Research IV), 155 Wn.2d 89,
117 P.3d 1117 (2005)..... 15, 25

State v. Coffey, 77 Wn.2d 630, 465 P.2d
665 (1970)..... 10

State ex rel. Wash. State Fin. Comm. v. Martin,
62 Wn.2d 645, 384 P.2d 833 (1963)..... 23, 24

State v. Ray, 130 Wn.2d 673, 926 P.2d
904 (1996)..... 23, 24

Suleiman v. Lasher, 48 Wn.App. 373, 739 P.2d
712, review denied, 109 Wn.2d 1005 (1987)..... 9, 13

Tenore v. AT&T Wireless Servs., 136 Wn.2d
322, 962 P.2d 104 (1998)..... 8

Violante v. King County Fire Dist. #20, 114
Wn.App. 565, 59 P.3d 109 (2002)..... 16

West v. State Department of Natural Resources,
163 Wn.App. 235, 258 P.3d 78 (2011), rev. denied,
173 Wn.2d 1020, 272 P.3d 850 (2012).....14

West v. Thurston Cnty., (West II), 168 Wn.App.
162, 275 P.3d 1200 (2012)..... 10

Zink v. City of Mesa, (Zink I), 140 Wn.App.
328, 166 P.3d 738 (2007)..... 10, 11, 12

Zink v. City of Mesa, (Zink II), 162 Wn.App.
688, 256 P.3d 384 (2011) review denied, 173 Wn.2d
1010 (2012)..... 11, 16

Federal Authorities:

Hospital Bldg. Co. v. Rex Hosp. Trs., 425
U.S. 738, 96 S.Ct. 1848 (1976)..... 8

Jenkins v. Mckeithen, 395 U.S. 411, 89 S.Ct.
1843, reh'g denied, 396 U.S. 869, 90 S.Ct.
34 (1969)..... 8

Nordstrom v. Ryan, 762 F.3d 903 (9th Cir. 2014)... 8

Books, Law Reviews, and Dictionarys:

Black's Law Dictionary , 8th Edition(2014),p.1443.. 22

Civil Procedure, Jack H. Friedenthal, Mary Kay &
Arthur R. Miller; 294 - 95 (1985)..... 9

Precedent: Tension Between Continuity in the Law
and Prepetuation of Wrong Decisions, Stephen
Markman, 8 TEX. REV. L. & POL. 283, 284 (2004).... 23

Washington's New Public Records Disclosure Act:
Freedom of Information in Municiple Labor Law;
Michael C. McClintock, Steven A. Cruab, GF.
Douglas Tuffley: II Gonz. L. Rev.13, 16-17 (1975).. 13

Statutes and Rules

RCW 42.56 et. al..... Passim

RCW 42.56.010(3)..... 21

RCW 42.56.030..... 29

RCW 42.56.080..... 16

RCW 42.56.090..... 11, 14, 15

RCW 42.56. 100..... 10, 26

RCW 42.56.210(3)..... 16, 26

RCW 42.56.520..... 10, 14, 26

RCW 42.56.550(1)..... 15

RCW 42.56.550(2)..... 26

RCW 70.02. et. al..... Passim

RCW 70.02.080(1)..... 15

RCW 70.02.080(1)(a)..... Passim

RCW 70.02.080(2)..... 16, 27

RCW 70.02.090(1)..... 27

CR 12(b)(6)..... 9

CR 12(c)..... Passim

RAP 14.1..... 28

RAP 14.1(b)..... 28

WAC 44-14-03002..... 11

WAC 44-14-04003(6)..... 16

WAC 44-14-05001..... 12

WAC 137-08-090..... 22

WDOC's Policies & Protocols:

DOC 280.510(II)(A)..... 12

DOC 640.020..... 25

DOC 640.020(c)..... 25

DOC 640.020(D)(2)..... 14

HMIP 1.6(1)(c)..... 25

HMIP 3.6(I)(A)..... 13

HMIP 3.6(II)(A)(3)..... 25

HMIP 3.1(II)(A)..... 13

I. INTRODUCTION.

Bryan Lee Stetson, pro se appellant, is appealing the Honorable James Dixon's CR 12(c) ruling. The Defendant Washington State Department of Corrections (WDOC) moved for a Judgment on the Pleadings CR 12(c) dismissal of his Public Records Act (PRA), and Uniform Health Care Information Act (UHCIA) civil complaint. He is also appealing Judge Dixon's denial of discovery, the bedrock of all civil procedures.

Records Transmitted for Review:

Appellant Stetson has transmitted the relevant records and Verbatim Report of Proceedings (VRP's) to this Court for de novo review. Included in his Clerk's Papers (CP's) are: The summons; complaint; answers; motion for judgment on the pleadings (12(c)); response to motion for judgment on the pleadings; reply to motion for judgment on the pleadings; order granting motion for judgment on the pleadings; objections to order granting 12(c); motion for protective order staying discovery; response to motion for protective order (in oppsition); reply to response to motion for protective order; order granting motion for protective order. Also, all the other relevant documents mentioned in the CP's Index (PAGES 1-147).

Stetson has sent the VRP's from the 2/24/17 hearing for the protective order staying discovery; and VRP's from the 3/24/17 hearing on the CR 12(c) motion for judgment on the pleadings, to this Court for de novo review.

Appellant's Opening Brief--1
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

II. ISSUES PRESENTED FOR REVIEW.

Assignment of Error.

1. The Trial Court erred in ruling Stetson's complaint failed to state a claim for relief per CR 12(c).

2. The Trial Court abused their discretion by denying Stetson's discovery for his PRA and UHCIA claims.

3. The Trial Court violated the doctrine of stare decisis by claiming Stetson could not use the PRA for the documents he sought.

Issues pertaining to Assignment of error.

1a. Did Honorable Dixon error by ruling Stetson's complaint failed to state any cognate claim for relief, and the State complied with all their responsibilities under Washington's Uniform Health Care Information Act RCW 70.02. et. seq.? [CP's 129-130 and VRP's March 24, p.12-13].

1b. Did Honorable Dixon abuse his discretion by ruling "undue burden or expense" would be had by the State to answer 20 interrogatories when they had a CR 12(c) motion pending? [CP's 84-85 and VRP's February 24, p.7-8].

1c. Were the holdings in Oliver, PLN, Nissen, John Doe G, and Rickman violated by Honorable Dixon when he ruled the PRA does not apply to the type of documents Stetson sought? If so, is this a direct violation of the doctrine of stare decisis? [CP's 129-130 and VRP's March 24, p.12-13].

Appellant's Opening Brief--2
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

III. STATEMENT OF THE CASE.

The Plaintiff Bryan Lee Stetson (Stetson), was nearly paralyzed by the Washington Department of Correction's (WDOC) incompetence. This sent him on a crusade to become more active and involved in his medical care or risk being injured further while in WDOC's custody. This was the genesis of this case [see CP's 22-27]. [See also CP's 89-118]

A. The Department has denied Stetson access to his public health care information.

From September 2016, until November 2016, Stetson has made four (4) separate requests to review his public health care information via Health Service Kite (Kite). He was only provided two reviews. Each review was for 30 minutes (for a total of 1 hour). He was told by Medical Records Staff that his reviews were offered as a "courtesy" and he would only be allowed 30 minutes every 30 days [see CP's 22-27 at §3.5, 3.16 & 3.20]. [See also CP's 89-118]

During these reviews Stetson requested to review CD's containing his medical images. Stetson was told by medical records staff Mrs. Sansom (Sansom), that WDOC didnt have the equipment to review CD's, and that his only option was to mail them out to a 3rd party without knowing exactly what was on them [see CP's 22-27 at §3.8, &3.9]. [See CP's 89-118]

B. No exemption log was ever provided to Stetson.

During these reviews, Stetson was denied access to review any of the electronic health records by Sansom. Electronic records primarily consist of: provider notes, encounter reports as well as CD's of medical images [see CP's 22-27 at §3.6, 3.18 & 4.3]. [See CP's 89-118]

Appellant's Opening Brief--3
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

C. No explanation to codes or abbreviations were provided to Stetson.

During the reviews, Stetson asked for but never received explanations to codes and abbreviations used in his health records. Sansom told Stetson that she could not tell him what any of the codes meant [see CP's 22-27 at §3.19 & 4.1 - 5.8] [See CP's 89-118]

D. The Department only allows 30 minutes every 30 days to review health records.

During both reviews, Stetson was never provided with enough time to review his extensive health care records. When Stetson asked for an extension of time to review his records, Sansom told him that he was "out of time and needed to leave" [see CP's 22-27 at §3.20] 4.1-5.8 & CP's 88-118]

E. Records were missing from Stetson's medical file and his file was in diarray.

During Stetson's record review he noticed portions of his medical file were missing. His file was out of order and in diarray. When Stetson asked Mrs. Sansom about the missing records, she had no explanation and made no effort to locate them, but told Stetson he was "out of time and needed to leave" [see CP's 22-27 at §3.6, 3.19, 4.1-5.8 & CP's 88-118]

F. Appointments were canceled and reference markers were removed from Stetson's file.

Due to having limited time to inspect his records and

Appellant's Opening Brief--4
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

because his file was in disarray, Stetson placed reference markers to continue where he left off, at his next review. These markers were removed by staff, leaving Stetson to start completely over at his next review [See CP's 22-27 at 3.8, 3.17, 4.1-5.8 & CP's 89-118]

Sansom unreasonably canceled "Three" medical records review appointments before allowing Stetson his second file review (October 28th, November 8th, & November 21st of 2016) [See CP's 22-27 at 3.12, 3.14, 3.15, 4.1-5.8 & CP's 89-118]

G. Stetson filed a Complaint for the PRA and UHCIA.

On December 7th, 2016 Stetson filed his complaint with summons in Thurston County Superior Court [Case# 16-2-04861-34]. Stetson's complaint alleged multiple violations of the PRA and UHCIA committed by WDOC [See CP's 22-27]

On January 12th, 2017 WDOC filed their answer to Stetson's complaint in Thurston County Superior Court [see CP's, p.14-19].

On February 1st, 2017 WDOC filed "two" motions in the superior court; 1.) A motion for protective order staying discovery, and 2.) A motion for judgment on the pleadings (CR 12(c)) [see CP's p.33-39 & 45-66].

On February 13th, 2017 Stetson filed a response in opposition to the defendant's motion for protective order staying discovery [see CP's p.75-77].

On February 23rd, 2017 WDOC filed a reply to Stetson's response to their motion for protective order. This motion was heard on February 24th, 2017 and an order staying

Appellant's Opening Brief-5
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

discovery was entered by the Honorable James Dixon [see CP's p.80-83 & 84-85].

On March 10th, 2017 Stetson filed his response to the Defendant's motion for judgment on the pleadings (CR 12(c)). [See CP's 89-118]

On March 17th, 2017 WDOC filed their reply to Stetson's response to their motion for judgment on the pleadings. [see CP's p.121-128].

On March 24th, 2017 Stetson attended a telephonic hearing in Thurston County Superior Court, and the Honorable Dixon granted the Defendant's 12(c) motion [see Appx. B, CP's p.124-131].

H. Facts post judgment.

On April 4th, 2017 Stetson filed an objection to the order by Honorable Dixon granting Defendants 12(c) motion for judgment on the pleadings [see CP 133-134].

On April 6th, 2017 Stetson filed his notice of appeal to the March 24th, 2017 order granting Defendant's 12(c) motion for judgment on the pleadings. This appeal was assigned COA No. 50185-6-II [see CP's p.141-146].

On August 1st, 2017 the Thurston County Superior Court Clerk filed the "Clerk's Papers" in this case with the Court of Appeals Division Two [CP's p.1-147].

On September 12th, 2017 the Thurston County Superior Court Certified Court Reporter Ms. Kathryn Beehler transmitted the VRR's to the Court of Appeals for the March

Appellant's Opening Brief--6

COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

24th, 2017 CR 12(c) hearing [see March 24th VRP's].

On September 15th, 2017 the Thurston County Superior Court Certified Court Reporter Mr. Ralph Beeswick transmitted the VRP's to the Court of Appeals for the February 24th, 2017 hearing on the defendants motion for protective order staying discovery [see February 24th VRP's].

IV. ARGUMENT IN SUPPORT.

1a. Did Honorable Dixon error by ruling Stetson's complaint failed to state any cogent claim for relief, and the State complied with all their responsibilities under Washington's Uniform Health Care Information Act RCW 70.02. et. seq.?

(1) Mr. Stetson is still being denied access to his health care information; (2) He has never been given an exemption log; (3) WDOC have violated both the 5 and 15 day rule; (4) Mr. Stetson has never been able to decipher the codes in the few medical records he has reviewed [see CP's 22-27, 89-118, 129-130 & March 24th VRP's p.7-13][CP 89-118]

CR 12(c) Standard of review:

We review a dismissal under CR 12(c) de novo, examining the pleadings to determine whether the claimant can prove any set of facts, consistent with the complaint that would entitle the claimant to relief. Parrilla v. King County, 138 Wn.App. 427, 431, 157 P.3d 879 (2007). Because Stetson has shown multiple facts that would entitle him to relief, this Court should reverse the CR 12(c) ruling [see CP's 22-27, 89-118, 129-130 & March 24th VRP's p.7-13].

A dismissal under Cr 12(c) is appropriate only if "it appears beyond doubt that the plaintiff can prove no set of facts, consistent with the complaint, which would entitle the plaintiff to relief". Haberman v. Wash. Pub. Power Supply Sys., 109 Wn.2d 107, 120, 744 P.2d 1032 (1987)

Appellant's Opening Brief--7
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

(quoting Bowman v. John Doe Two, 104 Wn.2d 181, 183, 704 P.2d 140 (1985)). In understanding such an analysis, the "plaintiff's allegations are presumed to be true and a court may consider hypothetical facts not included in the record". Tenore v. AT&T Wireless Servs., 136 Wn.2d 322, 330, 962 P.2d 104 (1998). Accordingly, the court must take the facts alleged in the complaint, as well as hypothetical facts, in the light most favorable to the nonmoving party Postema v. Pollution Control Hearing Bd., 142 Wn.2d 68, 122-23, 11 P.3d 726 (2000). A motion to dismiss under CR 12(c) should be granted "'sparingly and with care,' and 'only in the unusual case in which plaintiff includes allegations that show on the face of the complaint that there is some insuperable bar to relief'". Tenore, at 330 (quoting Hoffer v. State, 110 Wn.2d 415, 420, 755 P.2d 781 (1988)). "'[A]ny hypothetical situation conceivably raised by the complaint defeats a CR 12(b)(6) motion if it is legally sufficient to support plaintiff's claim'". Bravo v. Dolsen Cos., 125 Wn.2d 745, 750, 888 P.2d 147 (1995) (quoting Halvorson v. Dahl, 89 Wn.2d 673, 674, 574 P.2d 1190 (1978))(emphasis mine).

In considering a motion to dismiss, the court must accept as true the allegations of the complaint in question, Hospital Bldg. Co. v. Rex Hosp. Trs., 425 U.S. 738, 740, 96 S.Ct. 1848 (1976), construe the pleading in the light most favorable to the party opposing the motion, and resolve all doubts in the pleader's favor. Jenkins v. McKeithen, 395 U.S. 411, 421, 89 S.Ct. 1843, reh'g denied, 396 U.S. 869, 90 S.Ct. 34 (1969)(plurality opinion). "Pro se complaints... may only be dismissed if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief". Nordstrom v. Ryan, 762 F.3d 903, 908 (9th Cir. 2014). [See CP's 22-27 & 89-118]

Sufficiency of the complaint:

Appellant's Opening Brief-- 8
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Because the Defendants filed their judgment on the pleadings after their answer, it was treated as a CR 12(c) motion.

Parties, venue, and jurisdiction were all agreed upon by both parties. And we treat a 12(c) motion for judgment on the pleadings identical to a CR 12(b)(6) motion to dismiss for failure to state a claim. Suleiman v. Lasher, 48 Wn.App. 373, 376, 739 P.2d 712 (citing Jack H. Friedenthal, Mary Kay & Arthur R. Miller, Civil Procedure 294-95 (1985)), review denied, 109 Wn.2d 1005 (1987). Like a CR 12(b)(6) motion, the purpose is to determine if a plaintiff can prove any set of facts that would justify relief. Suleiman at 376 (citing Halvorson at 574. "In making this determination, a trial court must presume that the plaintiff's allegations are true and may consider hypothetical facts that are not included in the record. Parmelee v. O'Neal, 145 Wn.App. 223, 232, 186 P.3d 1094 (2008) rev'd in part, 168 Wn.2d 515, 229 P.3d 723 (2010)). [See CP's 22-27 at 2.1-5.8 , 89-118 & March 24th VRP p. 3-13]

Section 3.1-3.20 are all considered true, and this Court can consider hypothetical facts that are not included in the record.[See CP's 22-27, 89-118 & March 24th VRP p3-13]

3.1 Stetson initiated a PRA and UHCIA request in writing to WDOC. Medical records are Public Records, Oliver v. Harborview, 94 Wn.2d 559, 566, 618 P.2d 76 (1980). Any written information about government conduct is a public record regardless of its physical form or characteristic. Smith v. Okanogan Cnty., 100 Wn.App. 7, 12, 994 P.2d 857 (2000).[See CP's 22-27 at 3.1, 4.1-5.8 & 89-118]

Appellant's Opening Brief--9
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

3.2 WDOC violated the 5-day response required by the PRA West v. Thurston Cnty., (West II), 168 Wn.App. 162, 275 P.3d 1200 (2012). Mr. Stetson also initiated a second PRA request via kite. [See CP's 22-27 at 3.2, 4.1-5.8 & CP's 88-118]

3.3 After the WDOC violated the PRA 5-day rule (RCW 42.56.520) and the UHCIA 15-day rule (RCW 72.02.080 (1)(a)), they flouted the mandate to "provide for the fullest assistance to inquiries", and "the most timely possible action on requests for information" (RCW 42.56.100). [See CP's 22-27 at 3.3, 4.1-5.8 , & CP's 88-118]

3.4 WDOC responded to Mr. Stetson's second request and magically combined it into his first request. This violated multiple PRA and UHCIA provisions. There is no limit to the number of requests a person may make. Zink v. City of Mesa, (Zink I), 140 Wn.App. 328, 340, 166 P.3d 738 (2007). [See CP's 22-27 at 3.4, 4.1-5.8 & CP's 88-118]

3.5 Irregardless of the 5 and 15 day violations, Stetson believes a 30 minute window to review an 8 inch thick file violates RCW 70.02.080(1)(a). By making reviews possible only 30 minutes every thirty days violates the "regular business hours" provision of .080(1)(a) and would thus make this provision superfluous. A result that violates the canons of statutory construction. Statues are to be construed to effect their purposes, and to avoid an unlikely or strained consequence. Ski Acres Inc. v. Kittitas Cnty., 115 Wn.2d 852, 857, 827 P.2d 1000 (1992). 30 minute reviews violates the PRA and UHCIA, "[o]verriding all technical rules of statutory construction must be the rule of reason upholding the obvious purpose that the legislature was attempting to achieve". State v. Coffey, 77 Wn.2d 630, 637, P.2d 665 (1970). [See CP's 22-27 at 3.5, 4.1-5.8 & 88-118]

Appellant's Opening Brief-10
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Although the PRA has its own construction instructions, the general rule for interpreting statutes also apply. Limstrom v. Ladenburg, (Limstrom II), 136 Wn.2d 595, 606, 963 P.2d 869 (1998). When the meaning of statutory language is plain on its face, courts must give effect to that plain meaning as an expression of what the legislature intended. Zink v. City of Mesa, (Zink II), 162 Wn.App. 688, 709, 256 P.3d 384 (2011), review denied, 173 Wn.2d 1010 (2012); Ockerman v. King County Dept. of Developmental & Envtl. Servs., 102 Wn.App. 212, 216, 6 P.3d 1214 (2000). Interestingly, RCW 42.56.090 says: "Public records shall be made available for inspection and copying during the customary office hours of the agency" [emphasis mine]. Nowhere does it say only prisoners are exempt from this statute, and should only be allowed 30 minutes every thirty days! [See CP's 22-27 & 88-118]

Records must be available for inspection during normal office hours. See RCW 42.56.090. If an agency does not maintain customary office hours of at least 30 hours per week, it must make requested records available for inspection either (1) from 9:00 a.m. to noon and from 1:00p.m. to 4:00 p.m. Monday through Friday or (2) at another time agreed to by the requestor. See WAC 44-14-03002. A limit of one hour per day for inspection is a violation of the PRA. See Zink I, at 341.[See CP's 22-27 & 88-118]

3.6 This section of Stetson's complaint could be read to run a veritable panoply of PRA violations. Missing records could be considered: silent withholding or unlawful redactions without an exemption log. Silent withholding occurs when an entire document is withheld and "gives requestors the misleading impression that all documents relevant to the request have been produced". Prog. Animal

Appellant's Opening Brief--11
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Welfare Soc'y v. Univ. of Wash., (PAWS II), 125 Wn.2d 243, 271, 884 P.2d 592 (1994). The fact that Stetson questioned records staff about the "missing records" and they responded by telling him he was "out of time" could evince egregious violations of the PRA amounting to "bad faith". They cannot claim it was an "oversight" or an "inadvertent withholding". The facts in this section alone shows the wanton, willful withholding of records by an Agency. For this section alone this Honorable Court should reverse the CR 12(c) ruling.[See CP's 22-27, 89-118]

3.7 This violation of RCW 70.02.080(1)(a); RCW 42.56.090, and WDOC's policy or custom at SCCC, violates the holding in Zink I. To continuously impede; interfere and put up roadblocks is "common fare" when dealing with WDOC. WDOC is colloquially known as Washington's Department of Construction for their well known practice of building roadblocks at every corner. These roadblocks not only keep offenders from their public records, but violates the very legislative mandates they are tasked to uphold.[See CP 22-27 & 89-118]

3.8 This section speaks for itself. [See CP 22-27 & 89-118]

3.9 Mr. Stetson requested to review his electronic medical images but was told he cannot review them. "The Public Records Act does not distinguish between paper and electronic records." WAC 44-14-05001. Laughingly, WDOC's suggested remedy was to have Stetson "mail out" his medical images. ["This could violate Washington's UHCIA and HIPPA without ever allowing him to review them! [See CP 22-27 & 89-118]

Curiously, WDOC's own policy 280.510 (II)(A) [see Appx. E, Att. 4]. Allows offenders to review their "medical file". Mr. Stetson requested to review his x-rays (found physically

Appellant's Opening Brief--12
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

in his file) and his MRI's (found on WDOC's computer system). Neither documents needed redactions, thus the holding in Mitchell v. State Dept. of Corr., 164 Wn.App. 597, 607, 277 P.3d 670 (2011) is unapplicable. WDOC recognizes "Offenders Health Records are public records"

HMIP sec 3.1(II)(A) (their own policy) They also recognize "patients access to review her/his own health information is unlimited" HIMP sec 3.6(I)(A). Sadly, what they say on paper, and what's commonly practiced does not reside in the same stratosphere. [See CP 22-27 & 89-118 and March 24th VRP p 3-13]

3.10 This section speaks for itself. [see CP 22-27 & 89-118]

3.11 This section speaks for itself. [See CP 22-27 & 89-118]

3.12 This canceled review could be construed as a total denial of review, and could easily satisfy "any set of facts that would justify relief" to a causeable violation of both the PRA and the UHCIA. Suleiman, at 376. This frustrates and qualifies as a violation of the very spirit of the PRA. A 1975 Gonzaga Law Review article stated:

Indeed, the Fourth Branch of government, the people has spoken [in the PRA]: Any person has the right to inspect and copy all public records which includes any writing regardless of physical form or characteristic... Other states have passed similar enactments and, like Washington, have used federal law, specifically the freedom of Information Act, as a model.

Michael C. McClintock, Steven A. Crumb, GF. Douglas Tuffley, Washington's New public Records Disclosure Act: Freedom of Information in Munciple Labor Law, II Gonz. L. Rev. 13, 16-17 (1975) (citation omitted).

This sign you up, and then cancel, is indicative of Bad Faith. Mr. Stetson didn't set his own appointment, the

Appellant's Opening Brief--13
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Department did. He isn't the owner/author of these records, the Department are. He didn't withhold the file, the Department did. Mr. Stetson does not hold any of the cards. The Department owns, shuffles, and even produced the whole deck. Mr. Stetson's only recourse for these wanton violations of both Acts is to file a pro se complaint with the Thurston County Superior Court. Then he got his complaint dismissed with the most abused court rule still on the books (CR 12(c)). [See CP 22-27 & 89-118]

3.13 This section speaks towards Mr. Stetson's diligence and good faith in pursuing his medical records. [See CP 22-27 & 89-118]

3.14 This "miscalculation of the date" by Ms. Sansom is for her to comport with WDOC's policy of only allowing 15 minutes every 15-days (or 30 minutes every 30-days) to offenders to review their medical files. This violates RCW 42.56.090, and RCW 70.02.080(1)(a). This policy or custom of WDOC is patently unlawful, and this Court should reverse the CR 12(c) ruling on this claim alone. [See CP 22-27 & 89-118]

3.15 This claim shows, WDOC's unwillingness to comport to the time requirement of the PRA (5-day) or the UHCIA (15-day). The Department was already well past Mr. Stetson's "view-by" dates, yet they continued to cancel and delay. [See CP 22-27- & 89-118]

3.16 This section of Mr. Stetson's complaint, by itself, should defeat CR 12(c). WDOC's own policy 640.020 (D)(2) as well as RCW 42.56.520 "Missing the five-day deadline is an actionable PRA violation", West v. State Department of Natural Resources, 163 Wn.App. 235, 243, 258 P.3d 78 (2011) rev. denied, 173 Wn.2d 1020, 272 P.3d 850 (2012). [See CP 22-27 & 89-118]

Appellant's Opening Brief--14
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Thirty-six days (Or 26 business days) later violates the more permissive 15 day rule found in RCW 70.02.080(1). Also WDOC's policy (or custom) of allowing 30 minutes every 30 days cannot even be liberally construed to comport with RCW 42.56.090 or RCW 70.02.080(1)(a). A cursory search does not fulfill WDOC's statutorily imposed obligations, and for this CR 12(c) should have been denied. [See CP 22-27 & 89-118]

3.17 This section speaks to the contrariness of WDOC record review process. Although, this could be attributed to lack of training and a slew of other PRA and UHCIA violations. [See CP 22-27 & 89-118]

3.18 This request is continuing, and has never been fulfilled by the Department. For this denial alone, this Honorable Court should reverse the CR 12(c) finding of the Honorable James Dixon. "[J]udicial oversight is essential to ensure government agencies comply with the [PRA]." Spokane Research & Def. Fund v. City of Spokane, (Spokane Research IV), 155 Wn.2d 89, 100, 117 P.3d 1117 (2005). Enforcement of the PRA rests entirely on Mr. Stetson -- there are no independent governmental agency that ensures that state agencies comply with the law. RCW 42.56.550(1) allows for Mr. Stetson to challenge the agency's denial of his opportunity to inspect his records. During oral arguments, Mr. Stetson asked the Court to compel WDOC "to lower their bridge over the moat of non-inmate access", and to allow him to "enter their digital fortress." [See CP 22-27, 89-118 & March 24th VRP p9]

This is an apt description of WDOC's reluctance to allow ANY inmates to view or review digitally stored records. Even when, like here, the records only pertained to the requestor. WDOC has not claimed any exemption, nor produced Mr. Stetson's electronically kept medical images

Appellant's Opening Brief-- 15
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

and health care information. Although the Department has adopted a robust digital filing system, they still deny inmates access to their "digital fortress" [See CP 22-27 & 89-118]

Mr. Stetson's claim here and in 3.9 above revolve around RCW 42.56.210(3) and .080. WDOC "effectively denied" Stetson's "opportunity to inspect his public [medical] record" See American Civil Liberties Union v. Blaine School District No. 503, (ACLU 1), 86 Wn.App. 688, 690, 937 P.2d 1176 (1997). WDOC also violated their own time estimated for production. See Violante v. King County Fire Dist. #20, 114 Wn.App. 565, 570-71, 59 P.3d 109 (2002); see also WAC 44-14-04003(6). [See CP 22-27 & 89-118]

WDOC has totally and continuously denied Stetson access to all of his digitally stored records. "If an agency withholds a record entirely but does not list the document on the exemption log or otherwise indicate to the requestor that it is withholding a record, the agency's action is called "silent withholding" because it gives the requestor the misleading impression that all documents responsive to the request were disclosed. Zink II, at 711. [See CP 22-27 & 89-118]

3.19 This section speaks for itself. Under the UHCIA at RCW 70.02.080(2), our Legislature has created a duty for "Health Care Providers" to "explain their codes and abbreviations." WDOC's record personnel either didn't know what the codes and abbreviations meant, or didn't know it was their duty to explain them to Mr. Stetson. Although this is purely a UHCIA violation, Stetson used both Acts as concurrent causes of action (like replevin and conversion). Whether these can be used concurrently and offensively would

Appellant's Opening Brief-16
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

be an "issue of first impression" in Washington State [see argument below]. [See also CP 22-27- & 89-118]

3.20 If file reviews are only done as a "courtesy", then there would be no need for RCW 42.56 or 70.02.. Our broadly enforced PRA exists to ensure that the public maintains control over their government, and the courts will not deny the citizens access to a whole class of possibly important government information. O'Neill v. City of Shoreline, 170 Wn.2d 138, 145, 240 P.3d 1149 (2010). To allow Stetson access to view his file as a "courtesy", and for "only 30 minutes every 30 days", files in contravention of the holding in Sanders v. State that, "All public records created, owned, used and/or retained by public agencies are public and must be disclosed." 169 Wn.2d 827, 856, 240 P.3d 120 (2010) [see CP's 22-27, 89-118 & March 24th VRP's p.7-13].

As outlined above, Stetson's complaint; while a bit unartfull, clearly pled multiple violations of the PRA and the UHCIA [see CP's 22-27].

1b. Did Honorable Dixon abuse his discretion by ruling "undue burden or expense" would be had by the State to answer 20 interrogatories when they had a CR 12(c) motion pending?

Honorable Dixon not only abused his discretion by denying Mr. Stetson a chance to discover evidence germane to his claims, but also by ruling the PRA is inapplicable to reviewing health care information.

The Written Order states in relevant part:

Defendant, having filed a Motion for Judgment on the Pleadings in this matter, and the Court being fully advised and having examined the records and files herein including Defendant's Motion for Judgment on the Pleadings, Plaintiff's Response, and Defendant's Reply, the court does hereby find and ORDER:

Appellant's Opening Brief--17
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Aberdeen, WA 98520)

1. Defendant's Motion for Judgment on the Pleadings is GRANTED;
2. Plaintiff's complaint against the Defendant is dismissed with prejudice; and
3. Counsel for Defendant will provide Plaintiff with a copy of this order.

(Dated March 24th, 2017)

[See CP 129-130]

The Oral Ruling states in relevant part:

"The Court grants the State's motion for entry of an order of dismissal with prejudice based upon its motion for judgment on the pleadings. The Court finds that the Uniform Health Care Information Act codified in RCW Title 70 is the exclusive statute to seek the relief being requested by Mr. Stetson, more specifically, his medical records. Those medical records are not subject to a Public Records Act cause of action.

The Court finds that Mr. Stetson did not make any claim for actual damages. Accordingly, any request for damages are denied. The Court finds that the State did comply with its obligations under the UHCIA, by timely responding to the requests made by Mr. Stetson. Accordingly, the Court grants the State's motion.

I will enter an order dismissing this matter with prejudice. Thank you, Mr. Stetson. Thank you, Ms. Faber. The court will sign an order. The Court is off the record."

(Conclusion of the March 24, 2017 Proceedings.)

[See March 24th VRP p12-13]

Honorable Dixon abused his discretion.

Honorable Dixon denied Mr. Stetson the chance to participate in discovery on his PRA and UHCIA claims. While,

Appellant's Opening Brief- 18
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

"[d]ecisions on discovery requests lie within the sound discretion of the trial court, which we will not disturb on appeal absent a showing of abuse of the discretion." Stetson posits Dixon did abuse his discretion by denying him discovery. Doe v. Puget Sound Blood Ctr., 117 Wn.2d 772, 777, 819 P.2d 370 (1991) [see CP's 53-66, 75-76 & 84-85].

In 2011, the Washington State Supreme Court expressly held the rules of civil procedure control discovery in a PRA case and that all relevant information likely to lead to admissible evidence is discoverable. Neighborhood Alliance of Spokane Cnty. v. County of Spokane, 172 Wn.2d 702, 716-18, 261 P.3d 119 (2011), Mr. Stetson was not allowed to engage WDOC in a discovery, the bedrock of all civil actions. This was an "abuse of discretion", as it stopped Stetson from gathering all the responsive documents Eric Carmichael provided him post suit (see HIMP's & Policy's ect...). It also allowed the State to get their erroneous CR 12(c) ruling, and wasted precious judicial resources.

1c. Were the holdings in Oliver, PLN, Nissen, John Doe G, and Rickman violated by Honorable Dixon when he ruled the PRA does not apply to the type of documents Stetson sought? If so, is this a direct violation of the doctrine of stare decisis?

While no Washington case has expressly ruled that the PRA and UHCIA can be used concurrently in an offensive manner, the general rule that allows for multiple causes of action to be consolidated "in the interest of justice" allows for it [see CP's 22-27 & 87-118].

More specifically, Honorable Dixon's ruling that the UHCIA "is the exclusive statute to seek relief being requested by Mr. Stetson... his medical records" [see CP's 129-130 & March 24th VRP's p.13 L.3-6] is incorrect. He also went on to say "medical

Appellant's Opening Brief--19

COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

records are not subject to the Public Records Act cause of Action" [RP's p.13, 1. 6-7]. This ruling is a direct violation of the doctrine of stare decisis and the Holdings in Oliver, PLN, Nissen, John Doe G., and Rickman.

The PRA and the UHCIA can be used concurrently.

The Supreme Court recently ruled in Rickman v. Premera Blue Cross, that "the remedies under this act [UHCIA] are nonexclusive, the existence of a remedy under the chapter does not preclude a common law action". 184 Wn.2d 300, 309, 358 P.3d 1153 (2015).

Once a governmental agency obtains a medical record, the record becomes a "public record" as defined in the PRA, although all or part of it might be exempt from disclosure. Oliver at 556. WDOC cannot claim that the records Stetson sought were exempt from disclosure, as he only sought his and WDOC's records.

Germane to this analysis is the holding that health care information must be disclosed if personal identifying information can be redacted, Prison Legal News, Inc. v. Dept. of Corr., 154 Wn.2d 628, 645, 115 P.3d 316 (2005). None of this information needed to be redacted, as Mr. Stetson was the requestor of his own records. In Nissen v. Pierce County, our Supreme Court recently ruled in agreement of the holding in Oliver, when it was talking about the broad range of documents that are considered "public records." 183 Wn.2d 863, 357 P.3d 45 (2015). "We adopted a similarly broad interpretation in Oliver v. Harborview, 94 Wn.2d 559, 613 P.2d 76 (1980) which involved medical records of patients hospitalized at a state owned facility. The records were unquestionably related to individual patients

Appellant's Opening Brief-20
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

and did not explicitly discuss government operations, but we still held that the records "relat[ed] to the conduct of government" Under RCW 42.56.010(3). From them, the public could learn about the "administration of health care service, facility availability, use and care, methods of diagnosis, analysis, treatment and costs, all of which are carried out or relate to the performance of a government or proprietary function". Nissen at 860.

Together, these cases suggest records can qualify as public records if they contain any information that refers to or impacts the actions, processes, and functions of government. Even inmate health care services.

In John Doe G. v. Dept. of Corr., 197 Wn.App. 609, ___P.3d___ (2017), Division One of our Court of Appeals just ruled that without redactions, SSOSA evaluations are not disclosable. But critical here to Stetson's case, is that the State presented some fleet Legerdemain to convince Honorable Dixon that the PRA doesn't apply to the records he sought. (It should be noted that the Supreme Court has accepted review in this case and heard oral arguments). Surprisingly, WDOC's position in that case, and their position in Mr. Stetson's case, were the exact opposite.

"The PRA includes an exemption for patients' health care information. This exemption incorporates the confidentiality provisions of Washington's UHCIA". John Doe G., supra. Under that reasoning, WDOC should have only assessed whether Mr. Stetson could access his own health care information (without redactions), and then allow him unfettered access.

Appellant's Opening Brief--21
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Unsurprisingly, WDOC's own WAC contemplates a health record review as a public records review. "(1) All requests for the disclosure of public record, other than requests by incarcerated offenders for inspection of their health record or central file must be submitted in writing directly to the Department of Corrections Public Record Office..." WAC 137-08-090.

This Court should rule that the PRA and UHCIA are concurrent cause of actions. To rule otherwise, violates the stare decisis doctrine and vitiates years of our precedence. [From Oliver, to PLN, to Nissen].

Supreme Court decisions, Case Law doctrine and the weight of stare decisis:

As the Court of Last Resort, Supreme Court decisions are binding on all lower courts; including the Court of Appeals. It is generally understood, that when a point has been settled by a decision of a higher court, it forms a precedent which is not afterwards to be departed from. The trial court must abide or adhere to decisions made by our Supreme Court in this case and not on other trial court decisions. It is not within this court's discretion under the doctrine of stare decisis to second guess or disregard a Supreme Court mandate. Stare decisis means, literally, "[t]o stand by things decided." BLACK'S LAW DICTIONARY 1443 (8th ed. 2004). It involves following rules laid down in previous judicial decisions unless they are found to contravene the ordinary principles of justice.

Davis v. Baugh Indus. Contractors, Inc., 159 Wn.2d 413, ¶22, 150 P.3d 545 (2007). [T]he decision of the courts of last resort are held to be binding on all others. State v. Ray, 130 Wn.2d 673, 677, 926 P.2d 904 (1996).

Appellant's Opening Brief-- 22
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

Stare decisis furthers unity in the system of justice, assuring that decision by courts of last resort are reliably binding. State v. Ray, 130 Wn.2d 673, 677, 926 P.2d 904 (1996); State ex rel. Wash. State Fin. Comm. v. Martin, 62 Wn.2d 645, 665, 384 P.2d 833 (1963). We have recognized that without the stabilizing effect of stare decisis, "law could become subject to... the whims of current holders of judicial office." In re Waters of Strangers Creek, 77 Wn.2d 549, 653, 466 P.2d 508 (1970)...

Continued adherence to precedent also reflects the important consideration that when a legal principle has been long established, it allows citizens to choose their courses of action with a reasonable expectation of future legal consequences. Crown Controls, Inc. v. Smiley, 110 Wn.2d 695, 704-05, 756 P.2d 717 (1988). See also Stephen Markman, Precedent: Tension Between Continuity in the Law and the Perpetuation of Wrong Decisions, 8 TEX. REV. L. & POL. 283, 284 (2004) (suggesting factors for determining when the presumption favoring precedent may be overcome, including "consideration of the reliance interests of the people, all of whom must carry out their personal and business affairs within the constraints of the legal system").

Davis v. Baugh Indus. Contractors, Inc., 159 Wn.2d 413, ¶24-25, 150 P.3d 545 (2007) (emphasis added).

Through stare decisis, the law has become a disciplined art--perhaps even a science--deriving balance, form and symmetry from this force which holds the components together. It makes for stability and permanence, and these, in turn, imply that a rule once declared is and shall be the law. Stare decisis likewise holds the courts of the land together. Making them a system of justice, giving them unity and purpose, so that the decisions of the courts of last resort are held to be binding on all others.

Without stare decisis, the law ceases to be a

Appellant's Opening Brief--23
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

system; it becomes instead a formless mass of unrelated rules, policies, declarations and assertions--a kind of amorphous creed yielding to and wielded by them who administer it. Take away stare decisis, and what is left may have force, but it will not be law.

State v. Ray, 130 Wn.2d 673, 677, 926 P.2d 904 (1996) (quoting opinion given by Justice Hale in State Fin. Comm. v. Martin, 62 Wn.2d 645, 665-66, 384 P.2d 833 (1963)) (emphasis added). This Court should rule that the PRA and UHCIA can be concurrent causes of action. Because of the likelihood of this coming back to this Honorable Court to make that determination, the interests of justice would best be served by making this ruling now.

Our Supreme Court shot down WDOC's reasoning in PLN v. Dept. of Corr., they held that health care information must be disclosed if personal identifying information can be redacted. 154 Wn.2d at 645. In Stetson's case, even the need for redactions is nullified, and he has the right to review his public records. [See CP 22-27, 89-118 & March 24th VRP p. 3-13]

Because our Courts have yet to address whether an agency must redact identifying information when the patient's identity is known, we present, Koenig v. City of Des Moines, as a guiding light. 158 Wn.2d 173, 142 P.3d 162 (2006). In that case, a father asked for the police records related to his daughter's sexual assault, and the Washington Supreme Court held the agency was required to redact the name and produce the records. Even though the victim's identity was obvious. Although not exactly on point, it shows the untenable position WDOC claims.

WDOC continues to violate the PRA.

To date, Mr. Stetson has never been able to review any

Appellant's Opening Brief--24
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

electronic medical records. Roaring like a true "paper tiger", WDOC's own policy 640.020 states "A health record will ...(c.) Include health information the Department maintains in electronic format."

WDOC's HIMP also says at sec. 1.6(1)(c) "The legal health record is comprised of: (1) the Offender Health Record (OHR), which includes: (c) Health information that has been scanned into the imaging system (OnBase) for permanent storage; and (2) x-ray films/images not included in the OHR".

The Defendant's would like for the Courts to believe that Stetson must first pay for his electronically formatted health records (CD's, x-ray's, MRI's & computer notes), BEFORE he can review them. This argument fails because their own HIMP, 3.6(II)(A)(3) states, "The patient may not be charged to review her/his health information" [see CP 22-27, 89-188 & March 24th VRP p3-13]

Since the record reviews at issue in this case, WDOC has allowed Stetson to review some of his medical images. Because this PRA violation was only rectified "after a lawsuit is filed, the agency will remain liable." Spokane Research & Def. Fund at 103-04. Mr. Stetson has never been afforded a chance to review his medical records that WDOC keeps electronically stored. This PRA violation continues to accrue, and will only be rectified if this Honorable Court reverses the DR 12(c) ruling. As of this filing, WDOC has not filed an exemption log for a whole class of medical records Mr. Stetson asked to review. [See CP 22-27 & 89-118]

No Exemption Log.

If an agency is going to withhold or redact a record,

Appellant's Opening Brief--25
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
(Appellant, Pro se)

the PRA mandates that the agency "shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld." RCW 42.56.210(3), the Department's own public record policy

says "incarcerated offenders will only be permitted to inspect their own: (1) Central file, and (2) Health Care Record." They also say they can "only deny records or portions of records based on an applicable legal exemption, using the Agency Denial Form/Exemption Log", which they have never given to Mr. Stetson while denying him access to all of his electronic health care information. Because WDOC has not provided Mr. Stetson with an adequate response as required by RCW 42.56.550(2), this Court should reverse Hon. Dixon's [3/24/17] order granting 12(c) and remand it back to the trial court for further proceedings.[CP 22-27 & 89-118]

WDOC has violated the 5 and 15 day rules.

The PRA has a 5 day rule for initial responses (RCW 42.56.520). The UHCIA has a 15 day rule (to make the records available)(RCW 70.02.080(1)(a)). It took the Department 26 days to give Stetson his first review, and 36 days for his second review. Because of these violations alone, this Court must reverse the CR 12(c) ruling. [See CP 22-27 & 89-118]

WDOC doesn't provide the "fullest assistance" to requestors.

Stetson has never met a WDOC record specialist whom provided the "fullest assistance" to a requestor as commissioned by RCW 42.56.100. During both of Stetson's file reviews, when he requested "more time"; or "explanations"; or help to find his "missing records"; or why his file was in "total disarray", he only met with resistance ("TIME TO GO!"). Samsom also failed miserably in her duty by not even

Appellant's Opening Brief-26
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

providing a cursory search for Stetson's missing records (she had at her finger tips a computer where most of the records are stored as back-up). [See CP 22-27 & 89-118]

Our Supreme Court held in Neighborhood Alliance, supra, that failure to perform an adequate search prevents an adequate response and production of records, and is in essence a denial. Because Samsom told Mr. Stetson he was timed-out of his review the instant that Mr. Stetson brought up the missing records; she not only acted in Bad Faith, but also denied him access to his records. See Francis v. State DOC., 178 Wn.App. 42, 313 P.3d 457 (2013) review denied, 327 P.3d 55 (2014). [See CP 22-27 & 89-118]

The Department's file review process violates many provisions of the UHCIA.

WDOC's whole medical file review process disrespects our Legislature and RCW 70.02.. Besides all the other violations of law that Mr. Stetson has presented for this Courts review, there are many discrete UHCIA violations the Defendant's commit every single day. [See CP 22-27, 89-118 & March 24th VRP p3-13]

As evinced by the RECORDS to this brief, WDOC's file review process is only a semblance of what the Legislature commands at RCW 70.02.. They don't heed § .080(2), as none of their file review people understand medical coding. They never invoke § .090(1) while denying large chunks of responsive documents. The Department attempts to follow § .080(1)(a), but never give a reason or notice to offenders when they go well past the 15 days mandate by statute. And probably the most glaring of all, is when records are absent or missing from the files, WDOC's records custodians make no attempt at locating them! For this and the other reasons

Appellant's Opening Brief-- 27
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

outlined above, this Honorable Court should reverse and remand with instructions outlining procedures that have been found lacking. [See CP 22-27, 89-118 and March 24th VRP p3-13]

Statson raises some of these issues for the first time on appeal because this case moved swiftly.

On 12-7-16, Statson filed his case. On 12-23-16, he sent his first set of interrogatories and requests for production to WDOC. On 2-24-17, Dixon denied Mr. Statson discovery pending the determination of WDOC's CR 12(c) motion. Honorable Dixon dismissed this case of 3-24-17. Put mildly, this case moved "breathtakingly fast". [See CP 45-66, 75-76, 84-84 & Feb 24th VRP]

Statson could only find one case germane to this issue in Washington jurisprudence. Dragonslayer, Inc. v. State Gambling Comm'n, 139 Wn.App. 433, 448-49, 161 P.3d 428 (2007), said that a party whom had little chance to argue an issue in the trial court may raise it for the first time on appeal. This Honorable Court should review de novo all the ancillary issues raised in this appeal because of the swift proceedings below.

V. COSTS.

Mr. Statson respectfully requests this Court to award him all costs and attorney fees in this appeal. RAP 14.1 states "the appellate court which accepts review and makes final determination (14.1(b)) decides costs in all cases." Mr. Statson requests all fees and costs be awarded him if he is the substantially prevailing party. see Mount Adams Sch. Dist. v. Cook, 150 Wn.2d 716, 727, 81 P.3d 111 (2003).

VI. PUBLICATION.

Mr. Statson respectfully request this Court to publish

Appellant's Opening Brief--28
COA No. 50185-6-II

Bryan Lee Statson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

its decision on this matter as the issues pertained herein are of great public importance. Appellant requests this court publish its ruling that WDOC's 30 minute reviews are unlawful. De minimus, he requests they publish the portion of their opinion that contemplates whether the PRA and the UHCIA can be used as concurrent causes of action (in an offensive manner) because this is an issue of "first impression".

VII. CONCLUSION.

Because the PRA controls in all questions of law (RCW 42.56.030), this Court should reverse Honorable Dixon's CR 12(c) ruling. Mr. Stetson's complaint stated multiple claims for relief under both the UHCIA and the PRA.

Because Honorable Dixon abused his discretion by denying Appellant discovery in the Court below, this Court should remand with instructions to allow discovery. Also, because the proceedings below moved so swiftly, this Court should make substantive rulings on all the ancillary issues raised in this appeal.

Because, Honorable Dixon's ruling violated the doctrine of stare decisis, this Court should issue instructions that the PRA can be used for medical records.

Finally, this Court should take the time to author a published opinion on whether the PRA and UHCIA can be used as concurrent causes of action. This is an "issue of first impression" in Washington State. Appellant also requests any other relief this Court finds just and equitable.

Signed and submitted this 8th day of NOVEMBER, in
Aberdeen, WA.

Appellant's Opening Brief--29
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

X Bryan Lee Stetson
BRYAN LEE STETSON, #339734
Stafford Creek Correction Center
191 Constantine Way, H4-A-77
Aberdeen, WA 98520

VIII. CERTIFICATION OF SERVICE.

I declare that on the 8th day of NOVEMBER, I did send true and correct copies of this Appellant's Opening Brief through the legal mail system at Stafford Creek Correction Center. One copy went to AAG-Katherine J. Faber WSBA#49726 (Washington State Attorney General) at P.O.Box 40116, Olympia, WA 98504. And One copy to the Court of Appeals Division II at 950 Broadway #300, Tacoma WA 98402-4454.; NOTE A copy of the VRP's were sent to AAG Ms. Faber & Defendants to AG's office with this filing. [Feb 24th, 2017 hearing VRP; and March 24th, 2017 hearing VRP]

X Bryan Lee Stetson
BRYAN LEE STETSON, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520

Appellant's Opening Brief-- 30
COA No. 50185-6-II

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Appellant, Pro se)

DECLARATION OF SERVICE BY MAIL
GR 3.1

FILED
COURT OF APPEALS
DIVISION II
2017 NOV 13 PM 1:20
STATE OF WASHINGTON

I, BRYAN LEE STETSON, declare and say:

That on the 8th day of NOVEMBER, 2017, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. 50185-6-II:

1. Appellant's Opening Brief,
(CR 12(c) finding By Honorable James Dixon,) [dated 11/3/17]
(CORRECTED VERSION);

2. Copy of verbatim report of proceedings 2/24/17 hearing
and 3/24/17 hearing; sent to AAG Faber & Defendants only
addressed to the following:

AAG - Katherine J. Faber, WSBA#49726
(Washington State Atty. General)
P.O. Box 40116
Olympia, WA 98504-0116
(cover letter)

Clerk of the Court
Washington State Court of Appeals,
Division Two
950 Broadway, Suite 300
Tacoma, WA 98402-4454
(Clerk's Letter)

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

DATED THIS 8th day of NOVEMBER, 2017, in the City of Aberdeen, County of Grays Harbor, State of Washington.


BRYAN LEE STETSON
Print Name

DOC #339734 UNIT H4-A-77
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
ABERDEEN WA 98520

BRYAN LEE STETSON, #339734
Stafford Creek Corrections Center
191 Constantine Way, H4-A-77
Aberdeen, WA 98520

November 8th 2017

TO:

Attn' Cheryl - Case Manager
Clerk of the Court
Washington State Court of Appeals, Div. II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

RE: Requesting Assistance
Appellant's Opening Brief, (Corrected version)
Stetson v. DOC, #50185-6-II
[Thurston County #16-2-04861-34]

Mrs. Cheryl

Thank you for your time.

Please file the enclosed (original) copy of my Appellant's Opening Brief... Corrected version [11/8/17] copies of which were served on defendant (WDOC) to their Attorney of Record Mrs. Faber at the AG's office consistent with GR 3.1 and Mail Box Rule etc... (See GR 3.1 Declaration of Service by mail, attached hereto)

Moreover, I sent Mrs. Faber (defendant) a copy of my VRP's from the hearing dates listed below to comport with RAP 9.5 (a)(1), and Court Rules; 1. VRP 2/24/17 hearing 2. 3/24/17 hearing. The VRP's are attached to the copy of my brief sent to AAG Ms. Faber for Defendants in this matter, and a copy of said VRP's have been transmitted to this Court.

If there is anything more needed to proceed with this appeal, then please contact me at the address above and I will comply.

Sincerely,

X 
BRYAN LEE STETSON

1 of 1

RECEIVED
NOV 13 2017
CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON