

FILED
Court of Appeals
Division II
State of Washington
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NO. 51236-0-II

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

In re the Personal Restraint of

JOB M. EDWARDS,

Petitioner.

**REPLY TO STATE'S RESPONSE TO
PERSONAL RESTRAINT PETITION**

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The Petitioner herein, JOB M. EDWARDS, hereby responds to the State's Response to Personal Restraint Petition as follows:

The Petition Was Timely Filed

RCW 10.73.090(3)(b) states that the one year time limitation of the filing of a Personal Restraint Petition begins on the date the appellate court enters its "mandate disposing of a timely direct appeal from the conviction."

Mr. Edwards filed a direct appeal, and that Court of Appeals issued its Mandate on December 2, 2016. Thus, the one year time frame began on that day. December 2, 2017, was a Saturday, and under clear court rules and procedures, specifically RAP 18.6(a), the applicable filing deadline was extended until the next following business day, which was Monday, December 4, 2017. The Personal Restraint Petition was filed on Monday, December 4, 2017, thus making it a timely filing.

The Claim Set Forth in the Personal Restraint Petition is not Simply a Repetition of a Previously Litigated Claim

The State's claim that the issue raised herein is simply a recasting of a previously litigated claim has no merit. The quoted language from the original Court of Appeals' opinion clearly indicates that the issue was not addressed in the original appeal or by the Court of Appeals in the direct appeal. Indeed, the quoted language should be viewed as almost an invitation to raise the matter by way to Personal Restraint Petition.

The case cited by the State in its Response, *In re Personal Restraint of Stenson*, 142 Wn. 2d 710, 16 P. 3d 1 (2001), is clearly distinguishable. In that case, the issues raised in the Personal Restraint Petition by Stenson, claiming ineffective assistance of

counsel, had all been clearly raised and litigated in his direct appeal in appealing the denial of a motion to substitute counsel. Thus, the direct appeal had addressed and ruled upon exactly the same issue which he had attempted to raise in his PRP under the guise of ineffective assistance of counsel.

That is clearly not the case in Mr. Edwards' matter. The issues raised in his PRP, while similar in nature to the issue raised in his direct appeal, concern a completely different charge, to-wit Felony Harassment, and thus do not simply re-cast an argument previously addressed and disposed of in his direct appeal.

The Record and Citations are Sufficient

Edwards moved that the record from his direct appeal be incorporated into the record for his Personal Restraint Petition. Contrary to the claims of the State, the citations and the prior record clearly set forth the claims of Edwards herein, and clearly satisfy his obligations to state his claim in a reasonable and sufficient manner.

Substantive Argument

The Petitioner relies on the argument set forth in his Personal Restraint Petition as to his claims that self-defense/use of lawful force jury instructions should have been given with regard to the Felony Harassment charge and that it was prejudicial ineffective assistance of counsel for those instructions not to have been proposed by trial counsel.

CONCLUSION AND PRAYER FOR RELIEF

Based on the arguments set forth herein, this court should grant the Petitioner's Petition and reverse and vacate his conviction for Felony Harassment or, at the very least, remand the case to the trial court for an evidentiary hearing as to the allegations of ineffective assistance of counsel herein.

DATED this 11th day of May, 2018.

Respectfully submitted,

/s/ RM Quillian
ROBERT M. QUILLIAN,
Attorney for Petitioner
WSBA #6836

CERTIFICATE

I certify that I mailed a copy of the Reply to State's Response to Personal Restraint Petition by depositing same in the United States Mail, first class postage prepaid, to the following people at the addresses indicated:

Pierce County Prosecuting Attorney
946 County-City Building
930 Tacoma Avenue South
Tacoma, WA 98402

Mr. Job M. Edwards
#371462
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

DATED this 11th day of May, 2018.

/s/ RM Quillian
ROBERT M. QUILLIAN, WSBA #6836
Attorney for Petitioner

May 11, 2018 - 9:40 AM

Transmittal Information

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