

FILED  
Court of Appeals  
Division II  
State of Washington  
No. 51948-8-II  
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IN THE WASHINGTON STATE COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON,

Respondent,

vs.

JEROME J. McFIELD

Appellant.

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APPEAL FROM THE SUPERIOR COURT  
OF PIERCE COUNTY  
Cause No. 16-1-02651-8

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REPLY BRIEF OF APPELLANT

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**I. STATEMENT OF THE CASE**

The appellant relies upon the statement of facts set forth within his opening brief.

**II. ARGUMENT**

In the state's brief, counsel references that appellant's ineffective assistance of counsel claim focuses on his trial counsel's failure to "provide" copies of the police reports to him. Respondent's Brief at 7. Respectfully, that is not appellant's complaint. Appellant's complaint is that trial counsel never presented the police reports for Mr. McField to review and that the only documents Mr. McField reviewed were the charging documents. RP 16:7-11. Both Mr. McField and his father testified that they asked to see the police reports, but the reports were not provided to them. RP 14:11-16, 19:11-14, 63:24-64:4.

Irrespective of the summary that trial counsel provided to Mr. McField, the individual who should be reading the police reports is Mr. McField. A summary of the information contained within the reports is not tantamount to allowing Mr. McField to review the reports. As such, Mr. McField should have been provided an opportunity to review the reports to the extent that he wished to review them.

As set forth within the opening brief, an attorney has a requirement to adequately investigate a case. *State v. Jones*, 183 Wn.2d 327, 346, 352 P.2d 776 (2015). It is unclear, exactly, how an attorney can properly investigate a case if

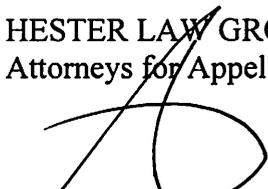
his client, here Mr. McField, has not reviewed the police reports so that he can add to the attorney's basis of understanding of the case and to aid in the case's preparation. Here, that part of the case investigation did not occur, and no rational reason existed for not allowing Mr. McField to personally review the discovery in his case and be part of the investigation process. As such, his attorney's failure to do so establishes ineffectiveness, and such failure prejudiced Mr. McField as it prevented him from entering a knowing, intelligent and voluntary plea. Respectfully, Mr. McField should be allowed to withdraw his guilty plea.

### III. CONCLUSION

Based upon the aforementioned, and the arguments set forth in his opening brief, the trial court erred by not allowing Mr. McField to withdraw his guilty plea as trial counsel was ineffective in his representation of Mr. McField. Respectfully, Mr. McField urges this Court to remand his case to the trial court to allow him to withdraw his guilty plea.

RESPECTFULLY submitted this 19<sup>th</sup> day of December, 2018.

HESTER LAW GROUP, INC., P.S.  
Attorneys for Appellant



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CERTIFICATE OF SERVICE

I certify that on the day below set forth, I caused a true and correct copy of this reply brief to be served on the following in the manner indicated below:

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Signed at Tacoma, Washington this <sup>20<sup>th</sup></sup> 19<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
LEE ANN MATHEWS

**HESTER LAW GROUP, INC., P.S.**

**December 20, 2018 - 10:22 AM**

**Transmittal Information**

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