

18-1-00326-08  
ORT78 55  
Order Transferring CrR 78 Motion to Appellate  
6789257



FILED  
Court of Appeals  
Division II  
State of Washington  
10/23/2019 1:56 PM

FILED  
SUPERIOR COURT

19 OCT 14 P3:14

CLERK  
STACI L. MYKLEBUST  
BY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR COWLITZ COUNTY

<p>THE STATE OF WASHINGTON,  Plaintiff,  vs.  ERIC JACOB NEWMAN  Defendant.</p>	<p>No. 18-1-00326-08  <b>ORDER RE CrR 7.8 and Additional MOTIONS</b>  <b>**CLERK'S ACTION REQUIRED**</b> Copies to Defendant and Prosecuting Attorney</p>
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**THIS MATTER** having come before the Court for consideration on the motion and affidavit(s) of Defendant herein, pursuant to Criminal Rule 7.8, along with other motions for relief, and the Court being fully advised in the premises, the Court finds:

- This court's ability to address the requests in defendant's motion is governed by RAP 7.2, defendant's case having been accepted for review, therefore all matters raised in defendant's motion are hereby transferred to the Court of Appeals for consideration
- Having further determined that the motion is not barred by RCW 10.73.090 (motion was filed within one year of date judgment and sentence became final or judgment and sentence is invalid on its face), but having determined that the Defendant has not made a substantial showing that s/he is entitled to relief or that an evidentiary hearing will be necessary to resolve the motion on the merits, hereby transfers this matter to the Court of Appeals for its consideration as a personal restraint petition.

It is so ordered.

DATED this 13 day of October, 2019.

THE HONORABLE Gary B. Bashor  
SUPERIOR COURT JUDGE

ORDER RE CrR 7.8 and Additional MOTIONS

SCANNED

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF Cowlitz

HOWLITZ CO. CLERK  
STACEY L. MYKLEBUST

BY [Signature]

State of Washington, )  
Plaintiff/Respondent )  
vs )  
ERIC NEWMAN )  
Defendant/Respondent )

NO. 18-1-00326-08  
MOTION TO MODIFY OR relief of  
~~CRIMINAL~~ SENTENCE  
AND JUDGMENT 7.8  
AND  
arrest of judgment 7.4  
and  
New trial 7.5

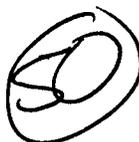
FACTS

- I. That the Defendant, Eric Newman, in the above-entitled case.
- II. That the Defendant, appeared before Judge \_\_\_\_\_, the State being represented by \_\_\_\_\_ of Cowlitz County Prosecutors Office, and Defense Attorney John Chambers representing the Defendant.
- III. That the Defendant plead/went to trial and received a sentence of 159 months.

GROUNDS

Pursuant to Rule 7.8, Superior Court Rules of Criminal Procedure, and the court imposed sentence. The Defendant only seeks ~~modification~~ <sup>relief</sup> of sentence, not retrial. Error in sentencing Court happened when:

- 1). A sentence which is ambiguous with respect to time and manner in which to be served;
- 2). The sentencing Judge must be very clear in pronouncement about whether the sentence will run concurrent or consecutive: U.S. v. Preston, 634 F.2d. 1285, 1294 (1980); also see RCW 9.94A.400; U.S. v. Nass, 755 F.2d. 1133, 1136 (5<sup>th</sup> Cir. 1985)



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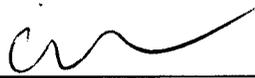
3). Other

Attached <sup>3</sup> ~~one~~ pages.

RELIEF

Attached 3 pages

I, Eric Newman, swear under the laws of perjury of the State of Washington that the foregoing is true and correct.



Signature

Eric Newman

Printed Name

ADDRESS: Coyote Ridge Corrections  
Center C-B-29  
P.O. Box 769  
Connell, WA 99326

## Arrest of Judgment 7.4; 7.8, 7.5

A. (3) Insufficiency of the proof of a material element of the crime.

B. The court may in its discretion extend time.

### request:

i. for court to extend time and set hearing for review/argument.

### Argument:

1.) Extension of time - ineffective council, inadequate law library access  
7.4 (B) and new evidence and supporting case law found.

1.1) 10.73.040 collateral attack (2) to include arrest of judgment.

2.) Insufficiency of material element - 1.) Search warrant did not include "safe".  
7.4 A. (3) 2.) No key as evidence yet stated as evidence.  
3.) No possession/control of safe established.

3.) lacks corpus delicti - material substance a crime has been committed.

## 7.5 New trial

1. CA(5) Irregularities in proceeding.

1. restrained without a restraint order.

2. 2 officers within 5 feet on 3rd day of trial

3. prosecutor rested then recalled witness for jury question without any jury question.

4. Doc arrested in front of jury without a warrant.

2. (A)(6) error of law.

1. refer to 1.(3.), 1.(1.), 1.(4)

2. testimony of recalled witness stating a "key" yet no key presented as evidence.

3. stated "dominion and control" of ~~the~~ items in a locked key and combo safe without any proof of ownership of either. Stated multiple times.

3. (A)(7) decision and verdict contrary to evidence.

1. witness stated on stand it was their safe not the defendants.

2. A 8.3 DISMISSAL should have been requested as lacks "corpus delicti".

request:

1. Motion hearing for new trial.

2. extraction of time as under 10.73.090 Collateral attack (2) to conclude "new trial".

## 7.8 relief from judgment

1. b.(5) refer to 7.4 brief and 7.5 brief

2. b(3) ineffective council

1. Not prepared for trial

2. No evidentiary hearing

2.1 (2,3,6)

3. No Franks hearing

A 8.3 dismissal should

(Franks v Delaware 438 US 154)

have been requested

4. No cross-examination of Any witness.

prior to trial.

5. No argument for Same Criminal Conduct of Concurrent sentence.

6. No Knapstad hearing

request:

(State v Knapstad 107 Wn 2d 346)

1. Motion hearing of 7.8, 7.4, 7.5 for New trial, relief of judgment and/or arrest of judgment

2. Due to No jury instruction for exceptional sentence

a exceptional sentence is barred by SRA RCW 9A.4A.1535

(3) considered by jury.

18-1-00326-08  
MT 48  
Motion  
6382636



FILED  
SUPERIOR COURT

19 AUG 22 P4:24

COWLITZ CO. CLERK  
STACI L. MYKLEBURST  
BY [Signature]

SUPERIOR COURT OF WASHINGTON  
COUNTY OF Cowlitz

STATE OF WASHINGTON )  
Plaintiff )  
v. )  
eric newman )  
Defendant )

NO. 18-1-00326-08  
MOTION FOR APPOINTMENT OF  
COUNSEL  
(CrR 3.1)

NOW COMES the defendant Eric Newman, Pro Se,  
and pursuant to Rule CrR 3.1 of the Superior Court Rules, respectfully moves this Honorable  
Court to declare him indigent and to appoint counsel to ~~defend~~ represent him on the ~~charge of~~  
pending in this court.

Represent 7.8 Motion  
7.4 motion  
7.5 motion

In support thereof, the Defendant, states as follows:

As indicated in the Affidavit of Indigency filed herewith, defendant is unable to afford an  
attorney to represent him at trial and, accordingly, requests that he be declared indigent and that  
counsel be appointed to represent him.

Been previously Declared indigent

Dated: 8/14/19

Signature

Presented by:  
eric newman  
Printed Name/DOC#

ADDRESS:

MOTION FOR APPOINTMENT OF COUNSEL

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**COWLITZ SUPERIOR COURT**

**October 23, 2019 - 1:56 PM**

**Filing PRP Transfer Order**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** Case Initiation  
**Trial Court Case Title:** State of Washington Vs Eric Jacob Newman  
**Trial Court Case Number:** 18-1-00326-08 (JIS Number: 18-1-00326-9)  
**Trial Court County:** Cowlitz Superior Court  
**Signing Judge:** Anne Crusier  
**Judgment Date:** 10/01/2018

**The following documents have been uploaded:**

- PTO\_PRP\_Transfer\_Order\_Plus\_20191023135445D2859839\_5254.pdf  
This File Contains:  
Other - Deft's Motions  
PRP Transfer Order  
*The Original File Name was 18-1-00326-08 ORT78.pdf*

**A copy of the uploaded files will be sent to:**

- Appeals@co.cowlitz.wa.us

**Comments:**

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Sender Name: Sheryl Moul - Email: mouls@co.cowlitz.wa.us

**Note: The Filing Id is 20191023135445D2859839**