

FILED
Court of Appeals
Division II
State of Washington
2/26/2020 4:47 PM

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

STATE OF WASHINGTON,

Respondent,

v.

ALEXANDER CARLSON,

Appellant.

NO. 53623-4-II

STATE'S ANSWER TO MOTION TO
WITHDRAW
AND STATE'S MOTION TO DISMISS

I. IDENTITY OF MOVING PARTY:

Respondent, State of Washington, requests the relief designated in Part II.

II. STATEMENT OF RELIEF SOUGHT:

The State respectfully requests that the Court dismiss the appeal filed herein and affirm the Appellant's convictions.

III. FACTS RELEVANT TO MOTION:

After this appeal was filed, counsel for Appellant in this appeal filed a Motion to Withdraw and Brief Referring to Matters in the Record which Might Arguably Support Review.

In the Motion, Appellant's counsel advises that he has communicated with his client to advise of his intent to withdraw and of the right and procedure for a pro se

STATE'S MOTION TO DISMISS

supplemental filing. Motion to Withdraw at 2. Counsel reviews the report of proceedings and the clerk's papers in detail. Motion to Withdraw at 3-9. Counsel considers matters in the record which arguably support review and potential assignments of errors, those being sufficiency of the evidence and effective assistance of counsel. Motion to Withdraw at 2-3, 9-12. The result of this consideration is counsel's request for permission to withdraw premised on there being no good faith argument to be made on review. Motion to Withdraw at 1 (citing RAP 15.2(i)).

The prosecutor for the State concurs in Appellant's counsel's legal opinion.

IV. RELEVANT AUTHORITY :

Withdrawal of Counsel in Appellate Court. If counsel can find no basis for a good faith argument on review, counsel should file a motion in the appellate court to withdraw as counsel for the indigent as provided in rule 18.3(a).

RAP 15.2(i).

(a) Criminal Cases.

- (1) Counsel for a defendant in a criminal case may withdraw only with the permission of the appellate court on a showing of good cause. ...
- (2) If counsel appointed to represent an indigent defendant can find no basis for a good faith argument on review, counsel should file a motion in the appellate court to withdraw as counsel for the indigent. The motion shall identify the issues that could be argued if they had merit and, without argument, include references to the record and citations of authority relevant to the issues. ...

RAP 18.3(a).

(c) Dismissal on Motion of Party.

The appellate court will, on motion of a party, dismiss review of a case (1) for want of prosecution if the party seeking review has abandoned the review, or (2) if the application for review is frivolous, moot, or solely for the purpose of delay, ...

RAP 18.9(c).

V. GROUND FOR RELIEF:

The Motion to Withdraw is premised on there being no meritorious appealable issue and no good faith argument to be made on review. Motion to Withdraw at 1 (citing RAP 15.2(i)). Appellant's Statement of the Case is a thorough and complete summation of all facts set forth in the record herein, and demonstrates that Appellant's counsel has conducted a full examination of all the proceedings herein. Motion to Withdraw at 3-9. That examination convinced Appellant's counsel that nothing in this record might arguably support this appeal, that there are no legal points in this appeal which are arguable on their merits. The prosecutor herein concurs in those legal opinions and joins in Appellant's counsel's request that this Court independently review this record and examine these proceedings to determine if there were any errors in the trial court or anything which might arguably support this appeal. If this Court concurs with Appellant's counsel and the State, this appeal should be dismissed. *Anders v. California*, 386 U.S. 738, 18 L.Ed.2d 493, 87 S.Ct. 1396 (1967); *State v. Atterberry*, 87 Wn.2d 556, 561-62, 554 P.2d 1053 (1976).

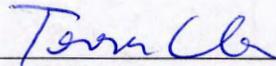
Review of the record does not provide a sufficient basis to continue with the appeal.

V. CONCLUSION:

Respondent finds no meritorious issues which can be or have been raised by the Appellant and submits that Appellant's conviction should be affirmed.

DATED: February 26, 2020.

MARY E. ROBNETT
Pierce County
Prosecuting Attorney



Teresa Chen
Deputy Prosecuting Attorney
WSB # 31762

Certificate of Service:

The undersigned certifies that on this day she delivered by ~~U.S. mail~~ and/or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his or her attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

2/26/20 Teresa Chen
Date Signature

PIERCE COUNTY PROSECUTING ATTORNEY

February 26, 2020 - 4:47 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
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Appellate Court Case Title: State of Washington, Respondent v. Alexander Carlson, Appellant
Superior Court Case Number: 18-1-03269-7

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Answer to Ander's Brief

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