

FILED

JUL 22 2011

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

29363-7-III

COURT OF APPEALS

DIVISION III

OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

CHRISTOPHER H. DEVLIN, APPELLANT

APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

SUPPLEMENTAL BRIEF OF RESPONDENT PURSUANT TO

RAP 10.1(h)

STEVEN J. TUCKER
Prosecuting Attorney

Mark E. Lindsey
Deputy Prosecuting Attorney
Attorneys for Respondent

County-City Public Safety Building
West 1100 Mallon
Spokane, Washington 99260
(509) 477-3662

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I.

ISSUES PRESENTED

1. Do cases from other jurisdictions provide relevant guidance regarding the issue of transferred indigency for purposes of appeal?
2. Should a substituted appellate party's indigency be scrutinized pursuant to RAP 15.2(b) or RAP 15.2(c) when it is determined that the party cannot proceed under a deceased-defendant's order of indigency?
3. Are there compelling public policy considerations that impact the issue of transferred indigency to an appellate substituted party from a deceased criminal defendant?

II.

STATEMENT OF THE CASE

The Respondent relies upon the statement of the case set forth in its prior briefs for purposes of this supplemental brief.

III.

ARGUMENT

A. THE DEATH OF A DEFENDANT WHILE HIS APPEAL IS PENDING EXTINGUISHES HIS CONSTITUTIONAL RIGHT OF APPEAL.

The issue presented is whether this appeal can proceed under the deceased-defendant's Order of Indigency. Though there are numerous cases, from the varied State and Federal jurisdictions, most address the impact of a defendant's death upon a pending appeal, vis-à-vis the application of the abatement doctrine *ab initio*. In *Whitehouse v. State*, 266 Ind. 527, 364 N.E.2d 1015 (1977), the Indiana Supreme Court held that the defendant's death during the pendency of his appeal results in the dismissal of the appeal. The Court observed, in pertinent part:

We do not see that the dismissal of the appeal...denies any rights granted or protected by the statutes or the constitutional provisions. Such rights were personal to and exclusively those of the defendant...I may no more appeal my brother's conviction than I may enter his guilty plea...

...

[I]f the judgment of the trial court were affirmed, it would...be impossible of execution. If it were reversed, the defendant would not be available for trial. It follows that no state interest can be served by proceeding. At the same time, a reversal can not benefit the defendant.

...

In none of the cases reviewed have survivor interests of third parties been suggested. Undoubtedly, in some cases, the standing conviction may be consequential to such

interests. Such, however, could not have been the factor in the appeal, had it been concluded. The presumption of innocence falls with a guilty verdict. At that point in time, although preserving all of the rights of the defendant to an appellate review, for good and sufficient reasons we presume the judgment to be valid, until the contrary is shown. To wipe out such a judgment, for any reason other than a showing of error, would benefit neither party to the litigation and appears...likely to produce undesirable results in the area of survivor's rights in more instances than it would avert injustice...[I]t would be unwise to reach out to adopt a policy favoring survivor interests of questionable validity...this decision does not cut off any rights that survivors may now or hereafter have...

Whitehouse, at 529-530. The Court thereupon dismissed the appeal, while leaving the conviction intact.

In *State v. Carlin*, 249 P.3d 752 (2011), the Alaska Supreme Court produced a *tour de force* analysis of the law in the various States regarding what procedurally occurs when a convicted defendant dies while an appeal is pending. The Court overruled its prior position that the conviction is abated *ab initio* based upon “the expansion and codification of victims’ rights.” *Id.*, at 759. The information provided is interesting; however, in the final analysis, the Alaska Supreme Court decided that the deceased-defendant’s appeal could continue based upon the provisions of the Alaskan Public Defender Act, AS 18.85, and the fact that the case had already been paid for by the time the defendant died. Neither the Revised Code of Washington (“RCW”), Indigent Defense Services Act,

RCW 10.101, nor the Office of Public Defense Act, RCW 2.70, include the same provisions as does the Alaskan Public Defender Act. The *Carlin* court cited with approval the Washington Supreme Court's perspective of the issue as set forth in *State v. Devin* and *State v. Webb*. Nevertheless, the *Carlin* case did not address the issue of whether a substituted party may prosecute a criminal appeal under the order of indigency originally entered on behalf of the deceased-defendant.

In *State v. Webb*, 167 Wn.2d 470, 219 P.3d 695 (2009), the Supreme Court reiterated its holding from *State v. Devin*, 158 Wn.2d 157, 142 P.3d 599 (2006), that the automatic abatement of a conviction is no longer acceptable in Washington because it “does not reflect the compensation purpose served by restitution and victim penalty assessment under modern law.” *Webb*, at 473. The Court reiterated its holding that convicted criminals are no longer presumed innocent pending appeal. *Id.*, at 474 citing *Devin*, at 169. The Court in *Devin* further noted that there is no case law holding that the constitution requires abatement of a conviction when a defendant dies pending an appeal. *Devin*, at 170.

In *State v. Webb*, *supra*, the Court resolved the issue of whether a deceased-defendant's “heir may establish that financial obligations other than restitution are unfairly burdensome and under what circumstances an appeal on the merits are warranted.” *Id.*, at 476. The Court held that: “a

deceased-defendant's heir(s) may seek substitution under RAP 3.2 *for the purpose of attempting to show that criminal financial penalties imposed on the decedent, other than restitution payable to a victim(s), would result in an unfair burden on the heir(s).* *Id.*, at 477. Here, the Superior Court has held that Mr. Devlin's estate is insolvent; hence, there are no assets to be protected and no unfair burden on the heirs to be litigated by this appeal.

In *State v. Devin, supra*, the Court also held that it was not foreclosing "courts from deciding a criminal appeal on the merits after the appellant has died, *if* doing so is warranted." *Id.*, at 172. Here, there has been no showing that a criminal appeal on the merits is warranted.

B. CASE LAW FROM OTHER JURISDICTIONS HAS NOT RULED THAT AN ORDER OF INDIGENCY MAY BE TRANSFERRED FROM A DECEASED-DEFENDANT TO A SUBSTITUTED PARTY ON APPEAL.

A search of case law from the federal and other states has not discovered any cases holding that an order of indigency relative to a deceased-defendant may be transferred to a substituted party to facilitate the prosecution of an appeal.

C. WHERE IT IS DETERMINED THAT AN ESTATE CANNOT PROSECUTE AN APPEAL UNDER THE DECEASED-DEFENDANT'S ORDER OF INDIGENCY, THE PARTY SUBSTITUTING IN MUST BE SCRUTINIZED TO DETERMINE WHETHER SHE QUALIFIES AS "INDIGENT."

RAP 15.1(1) makes the procedures defined in RAP 15.2 applicable to "determine indigency and to determine the expenses of an indigent party to review which will be paid from public funds." RAP 15.2(a) provides, in pertinent part:

A party seeking review in the Court of Appeals...partially or wholly at public expense *must* move in the trial court for an order of indigency. The party *shall* submit a Motion for Order of Indigency, in the form prescribed by the Office of Public Defense. (emphasis added)

RAP 15.2(a).

Here, the trial court executed an order appointing the Office of Public Defense as defendant's counsel for purposes of appeal though it was not pursuant to the procedure cited above. Later, a Superior Court Commissioner, in an *ex parte* hearing, granted the petition by Leslee A. Devlin to be appointed administrator of the estate of her brother, the deceased-defendant, Christopher H. Devlin. In that same hearing, the Commissioner ordered that, "as Administrator, the Petitioner is authorized to conduct an appeal of the Decedent's recent criminal conviction."

Attachment A. However, the probate pleadings are conspicuously sparse with respect to the requirements of RAP 15.2(b).

RAP 15.2(b) provides, in pertinent part:

The trial court *shall* determine the indigency, if any, of the *party* seeking review at public expense. The determination *shall* be made in written findings after a hearing, if circumstances warrant, or by reevaluating any order of indigency previously entered by the trial court. The court:
(1) shall grant the motion...if the **party** seeking public funds is unable by reason of poverty to pay for all or some of the expenses for appellate review of: (a) criminal prosecutions. (emphasis added)

RAP 15.2(b).

Here, the deceased-defendant's estate is not the substituted party, his sister, Leslee A. Devlin, is the substituted party pursuant to RAP 3.2. The trial court must separately determine whether Ms. Devlin qualifies for an Order of Indigency by virtue of her having wholly *substituted* in as a party to the appeal. The order granting substitution made Leslee A. Devlin, not her deceased brother's estate, a *party* to the appeal. Accordingly, the order of indigency entered with regard to the deceased-defendant is not transferable to a person who substitutes in as a party to prosecute an appeal.

RAP 15.2(c) provides, in pertinent part:

In cases not governed by subsection (b)...the trial court shall determine in written findings the indigency, if any, of the party seeking review. The *party* must demonstrate in

the motion or supporting affidavit that the issues the party wants reviewed have probable merit and that the party has a *constitutional or statutory right* to review partially or wholly at public expense... (emphasis added)

RAP 15.2(c).

Here, Leslee A. Devlin, the party who was granted authority to substitute in for her deceased-brother for purposes of appeal, has no *constitutional or statutory right to review at public expense* because she was not the party who was found guilty of aggravated murder by the jury.

D. THERE ARE NO COMPELLING PUBLIC POLICY CONSIDERATIONS RAISED WHERE AN INDIVIDUAL SUBSTITUTES AS A PARTY TO A CRIMINAL APPEAL PURSUANT TO RAP 3.2 BECAUSE THAT PARTY HAS NO CONSTITUTIONAL OR STATUTORY RIGHTS VIS-À-VIS THE SUBSTITUTION.

This Court ruled that defendant's sister was properly substituted as a party to this appeal pursuant to RAP 3.2 as the personal representative of defendant's estate. The RAP does not provide that a trial court order of indigency regarding a defendant is transferrable to a party who substitutes in as a personal representative to prosecute an appeal.

The Supreme Court's analysis in *Webb*, provides guidance regarding the issue before this Court. First, the *Webb* court ruled that the rule of abatement *ab initio* is no longer the law in Washington State.

Accordingly, we hold the a deceased defendant's heir or heirs may seek substitution under RAP 3.2 for the purpose of attempting to show that criminal financial penalties imposed on the decedent, other than restitution payable to the victim or victims, would result in an unfair burden on the heirs.

Id., 167 Wn.2d at 477. The Supreme Court further ruled that a substituted party may also prosecute the appeal on the merits. *Id.*, 167 Wn.2d at 478. Nevertheless, the Supreme Court left conspicuously absent any mention of whether a trial court's Order of Indigency regarding the deceased defendant was transferrable to clothe the substituted party with that "indigency" to prosecute an appeal at State expense. Additionally, the *Webb* court was addressing the circumstance where the appellant has passed away unintentionally. Tragically, in the present case, the defendant took his own life which, arguably, manifested his intent to abandon his appeal.

Here, the Superior Court appointed Ms. Devlin as the Administrator of the deceased defendant's estate which enabled her to substitute in to prosecute the appeal pursuant to RAP 3.2. The Superior Court *ex parte* order referenced that the defendant's estate had minimal assets because the only asset has secured indebtedness that exceeds its market value. Nevertheless, the Superior Court's *ex parte* order did not settle defendant's estate, including all potential legal claims that the estate

may be entitled to file. The Administrator of defendant's estate has not established that the estate is indigent. The Administrator has not established that the Trial Court's Order of Indigency respecting the deceased-defendant is legally transferrable to enable his estate to prosecute an appeal at State expense.

In *Webb*, the Court focused on whether the imposition of legal financial obligations against a deceased-defendant's estate were appealable to avoid an unfair burden on the heirs. Here, the issue is whether an Order of Indigency is an asset of an estate. This issue is legally separate from whether an estate administrator can substitute in as a party to a civil appeal pursuant to RAP 3.2. By analogy, neither the RAPs nor Washington case law provide for the *estate* of a deceased-defendant to maintain a *collateral attack* of a criminal judgment when the defendant dies while incarcerated. Neither the court rules nor case law provide that such a pending cause may proceed at State expense after the death of the defendant/petitioner. Under the circumstances present herein, there is the right to appeal through a substitution of party; however, there is no right to appeal at State expense.

Defendant/Appellant's estate Administrator has not identified a meritorious basis for appealing the deceased-defendant's conviction and judgment at State expense.

V.

CONCLUSION

For the reasons stated herein and previously argued, the appeal should be dismissed absent the Administrator of the deceased-defendant's estate providing a legal basis for proceeding with the appeal at State expense or, alternatively, establishing that she, personally, is willing to bear the expense of prosecuting the appeal.

Respectfully submitted this 19th day of July, 2011.



Mark E. Lindsey #18272
Deputy Prosecuting Attorney
Attorney for Respondent

ATTACHMENT A

I certify that this document is a true and correct copy of the original on file and of record in my office

ATTEST JUL 14 2011

THOMAS R. FALLQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON
BY V. Hochstedler DEPUTY

FILED
DEC 30 2010

THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SPOKANE

In re the Estate of:

No. **10401659-9**

CHRISTOPHER H. DEVLIN,

PETITION FOR LETTERS OF
ADMINISTRATION AND FOR AUTHORITY
TO PARTICIPATE IN A CRIMINAL APPEAL

Deceased.

The Petitioner, Leslee Devlin, by counsel, respectfully represents:

1. **Jurisdiction.** Christopher H. Devlin (the "Decedent") died on either September 19, 2010, or September 20, 2010, and on such date was a resident of Spokane County, Washington, and left minimal property subject to probate administration.

2. **Reason for the appointment.** The Petitioner is advised that in order to conduct an appeal of the criminal conviction of the Decedent, shortly after his death, she needs to be appointed as personal representative and substituted for the Decedent as the appellant.

3. **Venue.** The Petitioner elects Spokane County, Washington, as the venue to conduct an administration of the Decedent's Estate.

4. **Petitioner.** The Petitioner is a sister of the Decedent. The Decedent was not survived by either parent or a spouse. The Decedent's heirs at law are two children who have declined to request their appointment as personal representative within 40 days from the date of the Decedent's death as required by RCW 11.28.120.

PETITION FOR LETTERS OF
ADMINISTRATION AND FOR AUTHORITY TO
PARTICIPATE IN A CRIMINAL APPEAL - 1

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS

1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
(509) 624-5265

The Petitioner is of legal age and a resident of the State of New York. The Petitioner has nominated her Washington counsel, Robert H. Lamp, as resident agent for the acceptance of service of process.

5. **Will.** The Petitioner has not conducted a thorough search for a will of the Decedent, but believes the Decedent died intestate. Since the Decedent was incarcerated in the Spokane County Jail at the time of his death, the Petitioner's search for a will has been quite restricted.

If a will of the Decedent is discovered, the Petitioner will promptly petition for its admission to probate.

6. **Heirs.** The Decedent was survived by the following heirs:

<u>Name</u>	<u>Relationship</u>	<u>Age</u>
Jennifer Devlin	Daughter	Legal
Scott M. Devlin	Son	Legal

Since the Decedent was estranged from his children at the time of his death, the Petitioner requests authority to delete any reference to the children's addresses.

7. **Criminal Appeal.** After her appointment, the Petitioner requests authority to continue the Decedent's criminal appeal as personal representative and to sign all documents necessary to conduct and perfect such appeal.

8. **Bond.** The assets of the Decedent's estate are nominal. The Decedent had an interest in real property, but the secured indebtedness against the real property is in excess of the value of such real property, and the Decedent's estate has no assets to continue to pay such indebtedness. The Decedent's personal effects and clothing have no fair market value.

Therefore, the Petitioner requests that a cash bond ~~not be~~ required.

9. **Advance Notice.** The Decedent was not survived by a spouse.

WHEREFORE, the Petitioner requests that the court enter an order as follows:

A. Appointing the Petitioner as administrator of the Decedent's Estate and that Letters of Administration be issued to the Petitioner upon her filing of an oath; and

B. That a cash bond be waived: and

PETITION FOR LETTERS OF ADMINISTRATION AND FOR AUTHORITY TO PARTICIPATE IN A CRIMINAL APPEAL - 2

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS

1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
(509) 624-5265

C. That the petitioner be authorized to be substituted for the Decedent on his criminal appeal.

DATED this 23rd day of December, 2010.

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.

BY [Signature]
ROBERT H. LAMP, WSBA #1197
Attorneys for Petitioner

STATE OF NEW YORK)
County of SUFFOLK) ss.

LESLEE DEVLIN, being first duly sworn on oath, deposes and says:

That she is the petitioner herein, has read the foregoing petition, knows the contents thereof, and believes the same to be true.

[Signature]
LESLEE DEVLIN

SUBSCRIBED AND SWORN to before me on this 23rd day of DEC., 2010.

LEE PRESTON
Notary Public, State of New York
No. 4585410
Qualified in Suffolk County
Commission Expires July 31, 2014

[Signature]
NOTARY PUBLIC in and for the State
of New York, residing at EAST SULLOGE
My appointment expires: JULY 31, 2014

PETITION FOR LETTERS OF
ADMINISTRATION AND FOR AUTHORITY TO
PARTICIPATE IN A CRIMINAL APPEAL - 3

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS
1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
(509) 624-5265

I certify that this document is a true and correct copy of the original on file and of record in my office

ATTEST JUL 14 2011

THOMAS R. FALLQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON
BY: *[Signature]* DEPUTY

FILED
DEC 30 2010

THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

In the Matter of the Estate of
CHRISTOPHER H. DEVLIN,
Deceased.

No. **10401659-9**
ORDER GRANTING LETTERS OF
ADMINISTRATION AND FOR
AUTHORITY TO PARTICIPATE IN THE
CRIMINAL APPEAL

The verified Petition of Leslee Devlin requesting her appointment as administrator of the estate of Christopher H. Devlin, Deceased, and also requesting authority after appointment to participate in a criminal appeal as a substituted party having come on regularly for hearing this date, and the Court having examined the verified petition requesting this Order, having heard comments of counsel and being fully advised,

FINDS:

1. Christopher H. Devlin (the "Decedent") died on either September 19 or September 20, 2010, and on such date was a resident of Spokane County, Washington, and left minimal property subject to administration.
2. The Petitioner is a sister of the Decedent. The Decedent was not survived by either parent or a spouse. The Decedent's heirs at law are his two children from whom he was estranged and who have declined to request their appointment as administrator within 40 days of the date of the Decedent's death.
3. The Petitioner is of legal age and a resident of the State of New York. The Petitioner has

**ORDER GRANTING LETTERS OF
ADMINISTRATION AND FOR AUTHORITY TO
PARTICIPATE IN THE CRIMINAL APPEAL - 1**

WITHERSPOON, KELLEY, DAVENPORT & TOOLE
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS
1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
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1 nominated her Washington counsel, Robert H. Lamp, as resident agent for the acceptance of
2 service of process.

3 4. The Petitioner has conducted a search for a Will of the Decedent, but believes that the
4 Decedent died intestate. Since the Decedent was incarcerated in the Spokane County Jail at the
5 time of his death, the Petitioner's search for a Will has been quite restricted.

6 5. After her appointment, the Petitioner, as Administrator, requests authority to continue the
7 Decedent's criminal appeal as personal representative and requests authority to sign all
8 documents necessary to conduct and perfect such appeal.

9 6. Since the assets of the Decedent's estate are minimal and the only asset of the estate has
10 secured indebtedness in excess of its market value, cash bond should be waived.

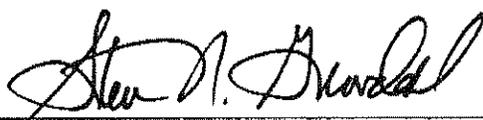
11 **NOW THEREFORE, IT IS ORDERED:**

12 A. Leslee Devlin is appointed Administrator of the Estate of Christopher H. Devlin,
13 Deceased; and

14 B. As Administrator, the Petitioner is authorized to conduct an appeal of the
15 Decedent's recent criminal conviction; and

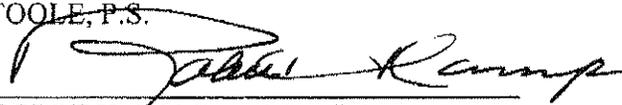
16 C. Letters of Administration shall be issued to the Petitioner upon her filing an Oath.
17 Cash bond is waived.

18 DONE IN OPEN COURT this 30th day of Dec, 2011

19
20 
21 _____
22 JUDGE/COURT COMMISSIONER

23 Presented By:

24 WITHERSPOON, KELLEY, DAVENPORT
25 & TOOLE, P.S.

26 BY 
27 ROBERT H. LAMP, WSBA #1197
Attorneys for Petitioner

28 **ORDER GRANTING LETTERS OF
ADMINISTRATION AND FOR AUTHORITY TO
PARTICIPATE IN THE CRIMINAL APPEAL - 2**

WITHERSPOON, KELLEY, DAVENPORT & TOOLE
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS
1100 U.S. BANK BUILDING
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(509) 624-5265

I certify that this document is a true and correct copy of the original on file and of record in my office

ATTEST

JUL 14 2010

THOMAS R. FALLQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON

BY T. Hochstedler DEPUTY

FILED

DEC 30 2010

THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

In the Matter of the Estate of:

CHRISTOPHER H. DEVLIN;

Deceased.

No. 10 4 01659 9

OATH OF PERSONAL REPRESENTATIVE

STATE OF NEW YORK)
County of SUFFOLK) ss.

LESLEE DEVLIN, being first duly sworn on oath, deposes and says:
I will be appointed personal representative of the Estate of Christopher H. Devlin, Deceased, by this Court, and I solemnly swear that after my appointment as personal representative I will perform, according to law, the duties of my trust as personal representative of this estate, SO HELP ME GOD.

Leslee A. Devlin
LESLEE DEVLIN

SUBSCRIBED AND SWORN to before me on this 23rd day of DEC, 2010.

LEE PRESTON
Notary Public, State of New York
No. 4685410
Qualified in Suffolk County
Commission Expires July 31, 20 14

Lee Preston
NOTARY PUBLIC in and for the State
of New York, residing at EAST QUOGUE
My appointment expires: JULY 31, 2014

OATH OF PERSONAL REPRESENTATIVE - 1

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS

1100 U.S. BANK BUILDING
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ATTEST

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COUNTY OF SPOKANE, STATE OF WASHINGTON
BY L. Hochstedler DEPUTY

FILED

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THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

(Date Stamp)

 <p>SUPERIOR COURT OF WASHINGTON, COUNTY OF SPOKANE</p>	
ESTATE OF: CHRISTOPHER H. DEVLIN, <p style="text-align: right;">Deceased.</p>	CASE NO. 10-4-01659-9 LETTERS OF ADMINISTRATION (NO WILL) (LTRAD)

I. BASIS

- 1.1 The decedent(s), late of SPOKANE COUNTY, WASHINGTON died intestate on or about: **September 19, 2010** leaving property in this state subject to administration.
- 1.2 On: **DECEMBER 30, 2010** the court appointed: **LESLEE DEVLIN** to administer the estate of the decedent according to law.
- 1.3 The personal representative has qualified.

II. AUTHORIZATION

THIS CERTIFIES: **LESLEE DEVLIN** is authorized by this court to administer the estate of the above decedent according to law.

THOMAS R. FALLQUIST, SPOKANE COUNTY CLERK

Dated: December 30, 2010

By Cecily Coulter
Deputy Clerk

(Small)

III. CERTIFICATE OF COPY

State of Washington)
County of Spokane)

As clerk of the superior court of this county, I certify that the above is a true and correct copy of the Letters of Administration (No Will) in the above-named case which was entered of record on: **December 30, 2010**

I further certify that these letters are now in full force and effect.

THOMAS R. FALLQUIST, SPOKANE COUNTY CLERK

Dated:

By _____
Deputy Clerk

(Small)

I certify that this document is a true and correct copy of the original on file and of record in my office

ATTEST JUL 14 2011

THOMAS R. FALLQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON
BY V. Hochstetler DEPUTY

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THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

In re the Estate of:

CHRISTOPHER H. DEVLIN,

Deceased.

No.

APPOINTMENT OF RESIDENT AGENT

Leslee Devlin, who will be appointed personal representative in the above-referenced Estate, appoints her Washington attorney, Robert H. Lamp, as resident agent for the acceptance of service of process pursuant to RCW 11.36.010.

Leslee A. Devlin
LESLEE DEVLIN

ACCEPTANCE

The undersigned attorney accepts the appointment of resident agent.

DATED this 23rd day of Dec., 2010.

Robert H. Lamp
Robert H. Lamp

APPOINTMENT OF RESIDENT AGENT - 1

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

In the Matter of the Estate of:

CHRISTOPHER H. DEVLIN,

Deceased.

No. **10401659-9**
NOTICE TO CREDITORS

The personal representative named below has been appointed as personal representative of the estate of Christopher H. Devlin, Deceased. Any person having a claim against the decedent must, before the time the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.40.070 by serving on or mailing to the personal representative or the personal representative's attorney at the addresses below stated a copy of the claim and filing the original of the claim with the court. The claim must be presented within the later of: (1) Thirty days after the personal representative served or mailed the notice to the creditor as provided under RCW 11.40.020(3); or (2) four months after the date of first publication of the notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in RCW 11.40.051 and RCW 11.40.060. This bar is effective as to claims against both the decedent's probate and nonprobate assets.

Date of First Publication: not published

NOTICE TO CREDITORS - I

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS
1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
(509) 624-5265

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Leslee D Devlin

LESLEE DEVLIN
PO BOX 809
EAST QUOGUE, NY 11942

WITHERSPOON, KELLEY, DAVENPORT
& TOOLE, P.S.

By *Robert H Lamp*

ROBERT H. LAMP, WSBA #1197
Attorneys for the Petitioner
West 422 Riverside Avenue, Suite 1100
Spokane, WA 99201-0300

NOTICE TO CREDITORS - 2

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS
1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
(509) 624-5265

I certify that this document is a true and correct copy
of the original on file and of record in my office

ATTEST JUL 14 2011

THOMAS R. FALLQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON
BY V. Hochstedler DEPUTY

FILED

JAN -7 2011

THOMAS R FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

In re the Estate of

CHRISTOPHER H. DEVLIN,
Deceased.

No. 10-4-01659-9

NOTICE OF APPOINTMENT

NOTICE IS GIVEN that on December 30, 2010, Leslee Devlin was appointed personal representative of the Estate of Christopher H. Devlin, Deceased, and probate of that estate is now pending in the Spokane County Superior Court.

DATED this 6th day of January, 2011.

WITHERSPOON, KELLEY, DAVENPORT
& TOOLE, P.S.

BY [Signature]
ROBERT H. LAMP, WSBA #1197
Attorneys for the Estate

NOTICE OF APPOINTMENT - 1

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS

1100 U.S. BANK BUILDING
422 WEST RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201-0300
(509) 624-5265

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CERTIFICATE OF SERVICE

On January 6, 2011, I caused to be served one copy of the document attached hereto described as **NOTICE OF APPOINTMENT** on all interested parties to this action as follows:

Leslee Devlin
PO Box 809
East Quogue, NY 11942

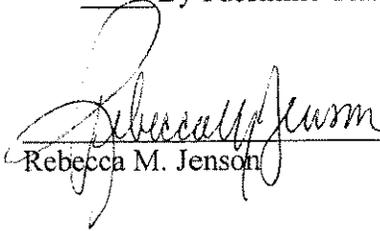
By Hand
 U.S. Mail
 By Overnight Mail
 By Facsimile Transmission

Scott M. Devlin
c/o Leslee Devlin
PO Box 809
East Quogue, NY 11942

By Hand
 U.S. Mail
 By Overnight Mail
 By Facsimile Transmission

Jennifer Devlin
c/o Leslee Devlin
PO Box 809
East Quogue, NY 11942

By Hand
 U.S. Mail
 By Overnight Mail
 By Facsimile Transmission


Rebecca M. Jenson

FILED

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

JUL 22 2011

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

STATE OF WASHINGTON,)
)
 Respondent,)
 v.)
)
 CHRISTOPHER DEVLIN,)
)
 Appellant,)

NO. 29363-7-III

CERTIFICATE OF MAILING

I certify under penalty of perjury under the laws of the State of Washington, that on July 22, 2011, I mailed a copy of the Respondent's Supplemental Brief in this matter, addressed to:

David L. Donnan
Attorney at Law
1511 - 3rd Ave, Suite 701
Seattle, WA 98101

7/22/2011
(Date)

Spokane, WA
(Place)

David L. Donnan
(Signature)