

**FILED**

**AUG 11 2015**

**No. 33180-6-III**

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

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

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CLARENCE J. FAULKNER,

Plaintiff/Appellant,

v.

WASHINGTON DEPARTMENT OF CORRECTIONS,

Defendant/Appellee.

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REPLY BRIEF OF PLAINTIFF/APPELLANT

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Clarence J. Faulkner, pro se

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## I. INTRODUCTION

This Public Records Act (PRA) case involves a man's request for two FedEx invoices possessed by the Department of Corrections and qualifying as public records under the PRA. Specific information including tracking numbering was provided to the agency holding the records, and a sample invoice from a previous request was submitted as an aid in describing and locating the requested records. CP 54-55. Included with the FedEx package tracking information was the language, "The records are most likely available from the MCC Business Office (MS. Karen Looney) where the payables are batched for payment." The Requestor Faulkner sought the records to verify whether or not he had been overcharged by the agency Department of Corrections.

Though defendants state, "All payments and invoices are handled through Department headquarters," (Brief of Defendant [hereinafter BOD] at 1 ¶2) production of the two invoices required the filing of two agency appeals, the conducting of three searches, and the elapsing of 161 days after being requested. The issue should not be shrouded by the volume of irrelevant Department of Corrections Property and Transfer Policy. CP 45-63. Faulkner did not violate any portion of the policy and complied with the Department's demands to prepay \$45.00 for shipments that were later invoiced for much less. CP 42-43 and CP 90-92.

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## II. REPLY

With reference only to the record, Appellant Faulkner respectfully replies to three important misstatements and omissions made by the defendants in their BRIEF OF DEFENDANT/APPELLEE.

1. Faulkner did not indicate that the records were at the prison facility. BOD 1 at ¶3. Faulkner suggested, "The records are most likely available from the MCC Business Office (Ms. Karen Looney) where the payables are batched for payment." At no time did the agency seek clarification from Faulkner after the MCC mailroom notifying the public records specialist that they had no records qualifying as invoices. Defendants do not dispute Faulkner's assertions that MCC's Business Manager Karen Looney was not contacted for information on the location of the FedEx invoices. CP 76, 79-80, and 106. To parse out Faulkner's suggestion is an important omission of the facts.

2. Defendants do not dispute, nor give any explanation, why they were able to promptly provide the FedEx invoice Faulkner attached as an example of what he sought. It should be no stretch of reason to expect that a specialized public records unit ~~would~~ <sup>would</sup> review and repeat the inquiries on the recent successful records request example.

3. The failure of the agency's specialized Public Disclosure Unit to promptly resolve the request absent two agency appeals and three searches should not be excused due

to a heavy workload. The prison system is a records intensive environment where each prisoner's request to review their central file constitutes a public records request, and it is further compounded when a PRA request is required for records which were previously offered in the course of conducting business. This case does not display a record of giving the requestor anything near, "...the fullest of assistance," rather it demonstrates a willingness to resist production of a common accounting record of importance. The request was a non-frivolous, non-abusive, use of the PRA to uncover payment records which ultimately showed that Faulkner and many others had been overcharged for their FedEx outbound shipments from the Monroe Correctional Complex encompassing a lengthy period lasting from July, 2010 through November, 2014.

Appellant Faulkner respectfully requests this Court to closely review the record and find that the defendant agency violated the PRA, and did so in a "bad faith" willful dereliction of duty and/or resistance to follow the requirements and provisions of the PRA.

Respectfully submitted this 10th day of August, 2015.



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CERTIFICATE OF SERVICE

I, Clarence J. Faulkner, certify that I served the original and a copy of the foregoing Appellant's Reply Brief, Court of Appeals Division III No. 33180-6-III, with the Clerk of the Division III Court of Appeals, and I served a copy on Respondent's counsel of record by mailing it through the "Legal Mail" process of the Airway Heights Corrections Center, via the U.S. Mail postage prepaid on this the 10th day of August, 2015.

addressed to:

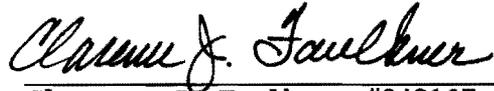
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and to:

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I certify under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of August, 2015 at Airway Heights, WA.



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