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Court of Appeals  
Division III  
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

No. 34076-7-III

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STATE OF WASHINGTON, Respondent,

v.

RICHARD EUGENE YALLUP, Appellant.

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**APPELLANT'S BRIEF**

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## **I. INTRODUCTION**

Richard Yallup was fleeing from police when he entered a home with a gun and ordered the occupants to barricade it against officers outside. One of the occupants, who was shot when Yallup entered the home, was allowed to leave when her presence and injuries became known. Yallup was subsequently restrained, taken into custody, and charged with more than a dozen felony offenses, eight firearm enhancements, and multiple aggravating factors.

At trial, Yallup requested a lesser-included instruction on the crime of unlawful imprisonment, which the trial court refused to give. At sentencing, although Yallup requested a hearing on restitution and no evidence of damage amounts was presented at trial, the court imposed \$56,350.66 in restitution to multiple claimants. And despite waiving other discretionary financial obligations due to Yallup's inability to pay, the trial court imposed costs of incarceration, capped at \$1,000. Yallup's total term of confinement totaled 546 months in prison.

On appeal, Yallup now contends that the trial court erred in refusing to give his proffered lesser included offense instruction as to the two counts of kidnapping charged, that the restitution award is unsupported by evidence in the record, and that the imposition of

incarceration costs when Yallup is unable to pay them is clearly erroneous. Yallup further requests that the court exercise its discretion to decline to award the State appellate costs in the event he does not prevail on appeal.

## **II. ASSIGNMENTS OF ERROR**

**ASSIGNMENT OF ERROR 1:** The trial court erred in refusing to instruct the jury on the lesser included offense of unlawful imprisonment.

**ASSIGNMENT OF ERROR 2:** The trial court erred in imposing restitution without a hearing when Yallup requested one.

**ASSIGNMENT OF ERROR 3:** The trial court erred in imposing costs of incarceration when Yallup is clearly unable to pay them.

## **III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

**ISSUE 1:** When the evidence permitted the inference that Yallup restrained the individuals in the home to seek refuge from approaching police and did not intend to hold them as hostages, did the trial court err in declining to give Yallup's proffered instruction on unlawful imprisonment as to two charges of kidnapping?

**ISSUE 2:** When no evidence of monetary damage was presented at trial, and when the defendant expressly requests a restitution hearing at

sentencing, is it error for the trial court to impose restitution in the judgment and sentence?

ISSUE 3: When the trial court sentences a defendant to 45 years in prison, finds him indigent for purposes of trial and appeal, and strikes discretionary legal financial obligations on the grounds that the defendant will be unable to pay them, is it clearly erroneous for the court to impose costs of incarceration on the defendant?

#### **IV. STATEMENT OF THE CASE**

For reasons that never became known, on October 23, 2013, Richard Yallup approached Wilson Alvarado with a shotgun while Alvarado was working on a car his daughter had just bought. III RP 79-80. Alvarado told him to take the car and called the police. III RP 83, 85. Multiple police officers pursued the vehicle and tried unsuccessfully to stop it. III RP 104, 106, 110-11, 127, 128-29, 131-32.

Eventually, Officer Justin Paganelli pulled the car over, but the driver took off again after stopping initially. IV RP 162, 163. Paganelli continued to pursue the car at high speeds into an orchard, where the car drove into a ditch. IV RP 168-69. Paganelli saw the driver running from the car and then heard a gunshot in front of him and a muzzle flash. IV RP 169. Believing the man was shooting at him, Paganelli returned fire,

then retreated to his car and called for backup. IV RP 170-71. He heard two more shots shortly after firing his own weapon. IV RP 171.

Nicholas Cervantes was at home with his fiancée Corina Barrera and their two sons, Efraim and Emilio, when they heard gunshots outside of the house. IV RP 184, 185, 219-21, 242-43, 244, 246, 259-60. Barrera grabbed the phone to call 911 when the back door was shot and pellets struck her. IV RP 186-87, 189, 222-23, 246-47, 261-62, 263, 269. Cervantes, seeing that she was bleeding, dragged her through the bedroom into the bathroom and told her to stay there. IV RP 188-89. He returned to the living room and saw Yallup there with a shotgun, pointing it at his son. IV RP 190.

For the next hour or two, Yallup ordered Cervantes and his two sons to barricade the windows and doors with furniture and mattresses. IV RP 192-93, 194, 225, 248, 290. While he threatened to kill them and pointed the gun at them several times to get them to comply, Yallup's primary concern was the police outside. IV RP 192, 225, 227, 235, 248. At some point, Yallup became aware of Barrera's presence and told them to bring her out and let her leave the house. IV RP 195, 268-69. Eventually, Cervantes was able to grab the gun and with his sons, was able

to wrest it away from Yallup and disable him. IV RP 197-98, 228, 249-50.

The State proceeded to trial against Yallup on charges of first degree robbery, second degree assault against Alvarado, second degree assault against three police officers, attempting to elude a pursuing police vehicle, unlawfully possessing a firearm in the second degree, malicious mischief in the second degree, first degree kidnapping against Barrera, Cervantes, and one of the sons, second degree assault against Cervantes and one of the sons, third degree assault against Barrera, and felony harassment against Cervantes and one of the sons. CP 131-36.

Collectively, the State also charged eleven separate firearm enhancements and several aggravating circumstances. CP 131-36. At the close of the State's case, the trial court dismissed the three counts pertaining to the son because the State had alleged the wrong victim. V RP 361, 396.

As to the kidnapping counts, defense counsel requested that the court instruct the jury on the lesser included offense of unlawful imprisonment. CP 151-54; V RP 401. Counsel argued that the jury could believe Yallup committed the lesser crime to the exclusion of the greater if it found he did not have the specific intent to use Cervantes, Barrera and their sons as hostages. V RP 401-02, 407-08. The trial court denied the

unlawful imprisonment instruction but accepted the State's position that a lesser degree instruction on second degree kidnapping should be given. V RP 408, 420.

The jury acquitted Yallup of two counts of second degree assault against police officers arising from the vehicle pursuit as well as the first degree kidnapping charge against Barrera, convicting him of the lesser degree offense of second degree kidnapping. CP 210, 211, 216, 217. Otherwise, the jury convicted Yallup on the remaining charges and returned affirmative verdicts on all of the enhancements and special allegations. CP 208-33.

At sentencing, the trial court found that the kidnapping and assault convictions against Cervantes merged, and the harassment conviction constituted the same criminal conduct but did not merge. VI RP 562. The court also imposed a consecutive sentence for the assault conviction against Officer Paganelli based on the jury's special verdict. VI RP 564. Consequently, the sentence included 264 months imposed for firearm enhancements on top of a 198 month base sentence and a consecutive 84 month sentence, for a total incarceration term of 546 months. VI RP 564.

Defense counsel advised the court that Yallup had no work skills and an inability to earn much income while incarcerated. VI RP 556. As

to restitution, counsel stipulated to \$1,500 in out-of-pocket expenses of victims but asked the court to hold a restitution hearing as to amounts claimed by insurers. VI RP 556. Otherwise, defense counsel contended Yallup was unable to pay discretionary legal financial obligations and costs of incarceration. VI RP 557. Despite these representations, with no contrary information provided by the State or additional inquiry conducted by the court, the court imposed \$56,350.66 in restitution and costs of incarceration, capped at \$1,000, as well as the mandatory LFOs. IV RP 565-66.

Yallup now timely appeals, and has been found indigent. CP 347, 357.

## **V. ARGUMENT**

Yallup contends three errors require remand. First, by failing to give Yallup's requested lesser-included offense instruction on unlawful imprisonment, the trial court deprived Yallup of his ability to present a defense to the kidnapping charges. This error requires reversal and retrial on the kidnapping charges. Second, the trial court erred by imposing restitution above the amounts stipulated by defense counsel without holding a hearing, and thereby relieved the State of its burden of proof. Third, the trial court's imposition of costs of incarceration was clearly

erroneous in light of its implied finding that Yallup lacked the ability to pay discretionary legal financial obligations, which is abundantly supported in the record. These two errors require remand for resentencing. Finally, Yallup requests that the court decline to impose appellate costs in the event it denies him relief on appeal, on the grounds that his indigency continues and the imposition of costs will impose an untenable burden on re-entry upon his eventual release.

- A. Because the evidence supported an inference that Yallup did not have the specific intent to hold Cervantes and Barrera as hostages as required to prove the charge of first degree kidnapping, the trial court erred in declining to give Yallup's proffered instruction on unlawful imprisonment.

Appellate courts review a trial court's refusal to give a requested jury instruction de novo where the refusal is based on a ruling of law, and for abuse of discretion where the refusal is based on factual reasons. *State v. Ponce*, 166 Wn. App. 409, 412, 269 P.3d 408 (2012) (citing *State v. White*, 137 Wn. App. 227, 230, 152 P.3d 364 (2007)); *State v. Douglas*, 128 Wn. App. 555, 561, 116 P.3d 1012 (2005). Jury instructions are sufficient if substantial evidence supports them, they allow the parties to argue their theories of the case, and when read as a whole, they properly

inform the jury of the applicable law. *State v. Clausing*, 147 Wn.2d 620, 626, 56 P.3d 550 (2002).

Due process requires that the jury be instructed on the defendant's theory of the case. *State v. Garbaccio*, 151 Wn. App. 716, 732, 214 P.3d 168 (2009); *State v. Staley*, 123 Wn.2d 794, 803, 872 P.2d 502 (1994). It is reversible error to refuse to give a proposed instruction if the instruction properly states the law and the evidence supports it. *State v. Ager*, 128 Wn.2d 85, 93, 904 P.2d 715 (1995).

Defendants in Washington have a statutory right to instruction on lesser included offenses when certain conditions are satisfied. RCW 10.61.006; *State v. Condon*, 182 Wn.2d 307, 316, 343 P.3d 357 (2015). The conditions to be established are (1) Whether each element of the lesser offense is a necessary element of the crime charged (the "legal prong") and (2) Whether the evidence in the case supports an inference that the lesser crime was committed to the exclusion of the greater (the "factual prong"). *State v. Workman*, 90 Wn.2d 443, 447-48, 584 P.2d 382 (1978); *State v. Hunter*, 152 Wn. App. 30, 44, 216 P.3d 421 (2009).

When the reviewing court considers a refusal to give a lesser included offense instruction, it evaluates disputes under the factual prong for abuse of discretion and disputes under the legal prong de novo. *State*

v. *Walker*, 136 Wn.2d 767, 771-72, 966 P.2d 883 (1998). Because the present case concerns the trial court's ruling that the evidence did not satisfy the factual prong, the abuse of discretion standard applies. An abuse of discretion occurs when the trial court's decision is manifestly unreasonable or is based upon untenable grounds or reasons. *State v. Stenson*, 132 Wn.2d 668, 705, 940 P.2d 1239 (1997).

To satisfy the factual prong, there must be some affirmative evidence from which the jury could conclude that the defendant committed the lesser crime; however, this evidence need not be presented by the defendant, or even consistent with the defense case. *State v. McClam*, 69 Wn. App. 885, 888-89, 850 P.2d 1377 (1993). In evaluating whether the factual prong has been met, the trial court "must view the supporting evidence in the light most favorable to the party requesting the lesser included offense instruction." *Condon*, 182 Wn.2d at 321 (*citing State v. Fernandez-Medina*, 141 Wn.2d 448, 445-56, 6 P.3d 1150 (2000)). If the jury could rationally convict the defendant of the lesser offense while simultaneously acquitting on the charged offense, the instruction should be given. *State v. Henderson*, 180 Wn. App. 138, 148, 321 P.3d 298 (2014).

To prove the charge of first degree kidnapping, the State had to prove that he intentionally abducted the Cervantes family members with intent to use them as shields or hostages. RCW 9A.40.020(1)(a); CP 133-34. The defense theory to the kidnapping charges was that Yallup did not intend to use the Cervantes family as shields or hostages, but rather sought to remain safe from police snipers taking up positions outside the house who were prepared to shoot him on sight. IV RP 289, 296-98. Proving intent to use Cervantes and Barrera as hostages or shields required a showing that he intended to use them “as security for the performance of some action by another person or the prevention of some action by another person.” *State v. Garcia*, 179 Wn.2d 828, 840, 318 P.3d 266 (2014). Orders from the restrainer to the victim to perform acts, such as Yallup’s actions in ordering Cervantes and his son to barricade the house, in the absence of demands made on a third party, are insufficient to show such intent. *Id.* at 841. Furthermore, Yallup allowed Barrera to leave when he discovered she was present, injured, and unlike Cervantes and his son, unable to assist him with her labor. IV RP 195, 268-69. Accordingly, there was a rational basis for the jury to conclude that while Yallup restrained the movements of the Cervantes family, he did not act with intent to use them to negotiate with police, but rather exploited them to

move the furniture and mattresses to barricade the house quickly and effectively.

The proffered defense instruction on unlawful imprisonment required proof that Yallup knowingly restrained another person. RCW 9A.40.040. That restraint occurred was evident and amply supported by the State's evidence. The primary jury question, then, was the factual question of Yallup's intent in doing so. Because the jury could have rationally concluded that Yallup did not intend to use the Cervantes family as shields or hostages when he entered their home, failure to give the lesser included instruction on unlawful imprisonment effectively deprived Yallup of the ability to argue his defense.

The remedy for failing to give a lesser included instruction when warranted is reversal. *Henderson*, 180 Wn. App. at 143. Because here, the jury could have concluded that Yallup restrained Cervantes and Barrera without intent to hold them as shields or hostages, the trial court abused its discretion in declining the unlawful imprisonment instruction. Accordingly, the kidnapping convictions should be reversed and remanded for a new trial.

B. When counsel requested a hearing on restitution and the record does not establish an evidentiary basis for the State's restitution request, the trial court erred in imposing restitution amounts beyond those to which the defense stipulated.

A court's authority to impose restitution is derived from statute. *State v. Griffith*, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). In the present case, the restitution award is governed by RCW 9.94A.753, which provides that restitution "shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property." RCW 9.94A.753(5). The amount of restitution "shall be based on easily ascertainable damages for injury to or loss of property." RCW 9.94A.753(3). While restitution awards cannot be based upon speculative or intangible losses, the evidence supporting a restitution award is sufficient if it affords a reasonable basis for estimating loss and does not require the trier of fact to engage in speculation or conjecture. *State v. Kinneman*, 155 Wn.2d 272, 285, 119 P.3d 350 (2005).

Generally, a trial court's restitution order is reviewed for an abuse of discretion and, accordingly, fails if it is manifestly unreasonable or is based on untenable grounds or reasons. *State v. Woods*, 90 Wn. App. 904, 906, 956 P.2d 834, *review denied*, 136 Wn.2d 1021 (1998). However,

whether the loss is causally connected to the crime of conviction is a question of law that is reviewed de novo. *State v. Acevedo*, 159 Wn. App. 221, 230, 248 P.3d 526 (2011). Restitution assessments are within the trial court's discretion and are reversed when the trial court abuses its discretion, or its supporting findings are not supported by substantial evidence. *Griffith*, 164 Wn.2d at 965.

A restitution order must be based upon a causal relationship between the crime charged, the evidence proven at trial, and the victim's damages. *State v. Dauenhauer*, 103 Wn. App. 373, 378, 12 P.3d 661 (2000); *Woods*, 90 Wn. App. at 909; *State v. Tobin*, 161 Wn.2d 517, 524, 166 P.3d 1167 (2007). “[R]estitution cannot be imposed based on a defendant's ‘general scheme’ or acts ‘connected with’ the crime charged, when those acts are not part of the charge.” *Dauenhauer*, 103 Wn. App. at 378. A causal relationship exists when, but for the defendant's activities, the loss or damage would not have occurred. *State v. Oakley*, 158 Wn. App. 544, 552, 242 P.3d 886 (2010); *Griffith*, 164 Wn.2d at 966.

There is no causal connection if the victim's losses occurred before the acts constituting the defendant's crime. *Acevedo*, 159 Wn. App. at 230 (citing *Woods*, 90 Wn. App. at 909); see also *State v. Hunotte*, 69 Wn. App. 670, 676, 851 P.2d 694 (1993) (“In examining the causal relationship

between the crime and the loss, it is clear that if the loss or damage occurs before the act constituting the crime, there is no causal connection between the two.”).

Although the rules of evidence do not apply at restitution hearings, the evidence presented at restitution hearings must meet due process requirements. *State v. Kisor*, 68 Wn. App. 610, 620, 844 P.2d 1038 (1993) (citing *State v. Pollard*, 66 Wn. App. 779, 784, 834 P.2d 51 (1992)). Among these due process requirements are the requirement that the evidence be reasonably reliable, and that the defendant have an opportunity to refute the evidence presented. *Kisor*, 68 Wn. App. at 620. Further, when the evidence consists of hearsay statements, a certain degree of corroboration is required so as to provide the defendant a sufficient basis to challenge or rebut the assertion. *Kisor*, 68 Wn. App. at 620 (citing *State v. S.S.*, 67 Wn. App. 800, 807-08, 840 P.2d 891 (1992)).

In *Kisor*, the Court of Appeals vacated a restitution order that was entered after a hearing based solely on affidavits. 68 Wn. App. at 613, 620. The amount of loss claimed in *Kisor* was based on a witness’s statement that she “checked” with the Tacoma police and the Spokane Canine Training Unit about the cost of purchasing and training a new police dog, without any further indication of where she obtained the

figures. 68 Wn. App. at 620. The *Kisor* court observed that reliance upon the affidavit offended due process in remanding the matter for a new restitution hearing. *Id.*

Here, defense counsel advised the court that he had not received any bills from the insurance company claimants documenting their expenses, and requested a hearing. VI RP 556. Moreover, there is no evidence in the record supporting or substantiating those claims beyond the mere allegations of the prosecuting attorney. As a matter of due process, Yallup was never given an opportunity to evaluate the claims, to investigate them, and to determine whether the amounts claimed resulted solely from the charged conduct. Indeed, the record is bereft of any evidence that rises to the minimum due process standard established in *Kisor*. As a matter of evidentiary sufficiency, the record does not support the trial court's conclusion that Yallup's conduct caused \$56,350.66 in losses to any claimant.

Because the restitution award is unsupported by the record and its imposition under the circumstances violated due process, the trial court abused its discretion. The restitution award should, accordingly, be reversed.

C. When the trial court implicitly found that Yallup lacked the ability to pay discretionary legal financial obligations and when the record shows that due to the length of his incarceration, his lack of employment skills, and the amounts imposed, he plainly does not have the ability to pay them, it was error to impose costs of incarceration.

In *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015), the Washington Supreme Court held that to comply with RCW 10.01.160, trial courts must conduct an individualized inquiry into the defendant's ability to pay legal financial obligations (LFOs) before imposing them. Under *Blazina*, entry of a sentence with boilerplate language is insufficient; the record must demonstrate that the court considered "the financial resources of the defendant and the nature of the burden that payment of costs will impose," including the defendant's incarceration and other debts. *Id.* at 838. The *Blazina* Court further recognized that if a defendant meets the GR 34 standard for indigency, "courts should seriously question that person's ability to pay LFOs." *Id.* at 839.

The *Blazina* Court responded to national attention given to the burdens associated with imposing unpayable legal financial obligations on indigent defendants, including "increased difficulty in reentering society,

the doubtful recoument of money by the government, and inequities in administration.” 182 Wn.2d at 835. Under Washington’s system, unpaid obligations accrue interest at 12% per annum and can be subject to collection fees, creating the perverse outcome that impoverished defendants who pay only \$25 per month toward their obligations will, on average, owe more after ten years than at the time of the initial assessment. *Id.* at 836. As a result, unpaid financial obligations can become a burden on gaining (and keeping) employment, housing, credit rating, and increases the chances of recidivism. *Id.* at 837.

In the event the court conducts an adequate inquiry under *Blazina*, the finding of ability to pay must still be adequately supported in the record. A finding of ability to pay is reviewable under a “clearly erroneous” standard. *State v. Bertrand*, 165 Wn. App. 393, 403-04, 267 P.3d 511 (2011).

The trial court here conducted no inquiry before imposing costs of incarceration on Yallup. Those costs may only be imposed if the court determines at sentencing that the defendant has the ability to pay them. RCW 9.94A.760(2). Counsel advised the court at sentencing of Yallup’s lack of employment skills and resources and asked the court not to impose the costs of incarceration. VI RP 557. The State did not present any

contrary information showing a realistic likelihood that Yallup would be able to pay the costs after his release from prison 45 years later, and after paying the substantial restitution award, which is collected before all other LFOs. RCW 9.94A.760(1). And the court did not conduct any further inquiry into Yallup's ability to pay – no questions were asked about Yallup's employment history, skills, education, disability, assets, or other liabilities.

The failure to conduct an adequate inquiry before imposing the costs of incarceration is error under *Blazina*. Moreover, the court implicitly found that Yallup lacked the ability to pay legal financial obligations when it declined to impose the requested jury fee and attorney fee recoupment, which are both waivable if a defendant is likely unable to pay them. CP 344. The imposition of costs of incarceration is inconsistent with this implied finding.

To the extent the trial court did find Yallup able to pay some discretionary LFOs, that finding is clearly erroneous on this record. Even if Yallup had some job skills and prospects of employment with multiple felony convictions including strike offenses, he would be unable to pay the

amounts imposed after 45 years of interest accumulated on both the cost<sup>1</sup> as well as the restitution award. The length of incarceration affects both the outstanding balance of the LFOs upon release, but also the defendant's health and ability to obtain necessary skills for consistent employment upon release. The trial court's finding simply cannot be reconciled with the math in light of the obligation amounts and the length of incarceration.

Accordingly, the costs of incarceration imposed should be reversed and stricken from the judgment and sentence.

D. This court should decline to impose appellate costs if Yallup does not prevail on appeal.

Yallup was found to lack sufficient funds to prosecute an appeal and was found indigent for that purpose by the trial court. CP 357. The presumption of indigence continues throughout review. RAP 15.2(f).

In addition to the *Blazina* Court's observation that courts should seriously question imposing LFOs on defendants who meet the GR 34 indigency standard, 182 Wn.2d at 839, the Court of Appeals recently recognized that in the absence of information from the State showing a

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<sup>1</sup> The compound interest calculator available at <http://www.bankrate.com> shows that the \$1,000 cost assessment alone would balloon to a balance of \$215,546.93 at the end of the 45 year term. The restitution award would, at the conclusion of Yallup's sentence, amount to \$12,146,211.79.

change in the appellant's financial circumstances, an award of appellate costs on an indigent appellant may not be appropriate. *State v. Sinclair*, 192 Wn. App. 380, 393, 367 P.3d 612 (2016). The Supreme Court has additionally recognized that application of RAP 14.2 should "allocate appellate costs in a fair and equitable manner depending on the realities of the case." *State v. Stump*, 185 Wn.2d 454, 461, 374 P.3d 89 (2016).

Here, Yallup was found to be indigent for appeal purposes. His completed Report as to Continued Indigency, attached hereto, shows that he has no assets, no income, and substantial outstanding debt. He holds a GED and has only slight employment history in unskilled work. His appeal is prosecuted in good faith, and he has complied with the requirements of this court's General Order issued on June 10, 2016. Under these circumstances, this court should exercise its discretion under RAP 14.2 to decline to impose appellate costs.

## **VI. CONCLUSION**

For the foregoing reasons, Yallup respectfully requests that the court REVERSE his convictions on the kidnapping charges and remand them for a new trial; and that the court REVERSE the restitution award and costs of incarceration imposed, remanding for a hearing on the restitution amount and striking the costs of incarceration from the

judgment and sentence; and DECLINE to award costs of appeal to the State.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of August, 2016.

  
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Attorney for Appellant

**DECLARATION OF SERVICE**

I, the undersigned, hereby declare that on this date, I caused to be served a true and correct copy of Appellant's Brief upon the following parties in interest by depositing them in the U.S. Mail, first-class, postage pre-paid, addressed as follows:

Richard Yallup, DOC #313822  
Washington State Penitentiary  
1313 N. 13th Ave.  
Walla Walla, WA 99362

And, pursuant to prior agreement of the parties, by e-mailing a copy to:

David B. Trefry  
David.Trefry@co.yakima.wa.us

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 31st day of August, 2016 in Walla Walla, Washington.

  
Breanna Eng

REPORT AS TO CONTINUED INDIGENCY

(in support of motion or request that the court exercise discretion not to award costs on appeal)

Please fill out this report to the best of your ability. While you are not required to answer all of the questions, complete information will help the court determine whether to deny costs on appeal to the State, should it prevail.

I, Richard E. Yallop Jr certify as follows:

1. That I own:

- a. No real property
- b. Real property valued at \$\_\_\_\_\_.
- c. Real property valued at \$\_\_\_\_\_, on which I am making monthly payments of \$\_\_\_\_\_ for the next \_\_\_\_\_ months/years (circle one).

2. That I own:

- a. No personal property other than my personal effects
- b. Personal property (automobile, money, inmate account, motors, tools, etc.) valued at \$\_\_\_\_\_.
- c. Personal property valued at \$\_\_\_\_\_, on which I am making monthly payments of \$\_\_\_\_\_ for the next \_\_\_\_\_ months/years (circle one).

3. That I have the following income:

- a. No income from any source.
- b. Income from employment: \$\_\_\_\_\_ per month.
- b. Income of \$\_\_\_\_\_ per month from the following public benefits:

- Basic Food (SNAP)  SSI  Medicaid  Pregnant Women Assistance Benefits
- Poverty-Related Veterans' Benefits  Temporary Assistance for Needy Families
- Refugee Settlement Benefits  Aged, Blind or Disabled Assistance Program
- Other: \_\_\_\_\_

4. That I have:

<input checked="" type="checkbox"/> a. The following debts outstanding:	Approximate amount owed:
Credit cards, personal loans, or other installment debt:	\$ <u>none</u>
Legal financial obligations (LFOs):	\$ <u>over 60000</u>
Medical care debt:	\$ <u>unknown</u>
Child support arrears:	\$ <u>none</u>
Other debt:	\$ <u>none</u>

Approximate total monthly debt payments:

\$ \_\_\_\_\_

( ) b. No debts.

5. That I am without other means to pay costs if the State prevails on appeal and desire that the court exercise discretion to deny costs.

6. That I can pay the following amount toward costs if awarded to the State:

\$ \_\_\_\_\_.

7. That I am \_\_\_\_\_ years of age at the time of this declaration.

8. That the highest level of education I have completed is: G.E.D.

9. That I have held the following jobs over the past 3 years:

Employer/job title	Hours per week	Pay per week	Months at job
King Mountain Laborer	40	only worked a few days	less than a week
Legends Casino dishwasher	40	minimum	1 month

10. That I have received the following job training over the past three years: none

11. That I have the following mental or physical disabilities that may interfere with my ability to secure future employment: none

12. That I am financially responsible for the following dependents (children, spouse, parent, etc.):

none

I, Richard E. Valley Jr, certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

\_\_\_\_\_  
Date and Place

\_\_\_\_\_  
Signature of (Defendant) (Respondent) (Petitioner)