

FILED
Court of Appeals
Division III
State of Washington
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NO. 35271-4-III

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

STATE OF WASHINGTON
Respondent,

v.

RUDY WILLIAMS,
Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR ASOTIN COUNTY

The Honorable Scott D. Gallina, Judge

APPELLANT'S OPENING BRIEF

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A. ASSIGNMENT OF ERROR

1. Williams assigns error to the trial court's refusal to remove his signature from the entry of findings and conclusions following a bench trial. CP 111-115.

Issue Presented on Appeal

1. Did the trial court abuse its discretion by refusing to remove Williams's signature from the findings and conclusions following a bench trial where Williams, pro se, did not understand the ramifications of signing that document?

B. STATEMENT OF THE CASE

Mr. Williams proceeded pro se for his bench trial. RP 7. Following the bench trial, the court entered findings and conclusions. CP 17-21. Williams signed the findings, but later moved to remove his signature arguing that he did not understand what he was signing. RP 8, 12.

C. ARGUMENT

1. THE TRIAL COURT ABUSED ITS DISCRETION BY DENYING WILLIAMS' MOTION TO REMOVE HIS SIGNATURE FROM THE FINDINGS AND CONCLUSIONS FOLLOWING HIS BENCH TRIAL.

Williams challenges the trial court's denial of his motion to remove his signature from the findings and conclusions following his bench trial. Counsel has not discovered any cases precisely on point.

CR 11 is instructive and provides in relevant part:

(a) Every pleading, motion, and legal memorandum of a party represented by an attorney shall be dated and signed by at least one attorney of record in the attorney's individual name, whose address and Washington State Bar Association membership number shall be stated. A party who is not represented by an attorney shall sign and date the party's pleading, motion, or legal memorandum and state the party's address.

.....

The signature of a party or of an attorney constitutes a certificate by the party or attorney that the party or attorney has read the pleading, motion, or legal memorandum, and that to the best of the party's or attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact; (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are

reasonably based on a lack of information or belief.

Id.

Court rules are interpreted the same way as statutes. *State v. Hecht*, ___Wn.2d___, 409 P.3d 1146, 1150 (2018). Interpretation of a court rule is a matter of law and reviewed de novo. Id. Where legislative intent is “insufficient to clarify the ambiguity, the court interpret[s] the statute in favor of the defendant under ‘the rule of lenity.’” *State v. Evans*, 177 Wn.2d 186, 193, 298 P.3d 724 (2013) (*citation omitted*). Under the rule of lenity, the court “strictly construes” the statute in favor of the defendant. *Hecht*, 409 P.3d at 268 (*citations omitted*).

The court “interpret[s] an ambiguous penal statute adversely to the defendant only if statutory construction ‘clearly establishes’ that the legislature intended such an interpretation.” *Hecht*, 409 P.3d at 269 (*quoting Evans*, 177 Wn.2d at 193 (*citation omitted*)).

CR 11 is ambiguous regarding whether a party who signs a pleading must actually understand what he or she reads. The rule requires the person to believe the pleading is made in good faith, but that does not address the subjective understanding of a pro se signatory. CR 11. Accordingly, under the rule of lenity, this Court

must interpret the rule in Williams's favor. *Hecht*, 409 P.3d at 268.

Williams did not understand what he was signing, therefore his signature carries an unintentional endorsement of the findings and conclusions contrary to CR 11. Under the rule of lenity, this Court should permit Williams to remove his signature from the findings and conclusions to protect Williams from endorsing the pleading without understanding the import of their contents.

Alternatively, while this issue is not of constitutional magnitude, cases addressing waiver of constitutional rights are instructive. For example, in *State v. Branch*, 129 Wn.2d 635, 919 P.2d 1228 (2006), our Supreme Court recognized the importance of a defendant's signature to convey the voluntariness of a waiver of constitutional rights. *Branch*, 129 Wn.2d at 642 (plea); *See also State v. Rupe*, 101 Wn.2d 664, 678, 683 P.2d 571 (1984) (waiver of Miranda rights).

Branch and *Rupe*, establish that while a defendant's signature on a waiver is not essential to determine the voluntariness of the waiver, the signature can be a measure of voluntariness. *Branch*, 129 Wn.2d at 642; *Rupe*, 101 Wn.2d at 678. To correct the assumption that Williams's signature was knowing

and voluntarily, this Court should remand with instruction for the trial court to remove Williams's signature from the findings and conclusions.

D. CONCLUSION

Rudy Williams respectfully requests this Court remand for withdrawal of his signature from the bench trial findings and conclusions.

DATED this 5th day of March 2018.

Respectfully submitted,



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I, Lise Ellner, a person over the age of 18 years of age, served the Asotin County Prosecutor's Office bnichols@co.asotin.wa.us and Rudy Williams/DOC#761174, Larch Corrections Center, 15314 NE Dole Valley Road, Yacolt, WA 98675 a true copy of the document to which this certificate is affixed on March 5, 2018. Service was made by electronically to the prosecutor and Rudy Williams by depositing in the mails of the United States of America, properly stamped and addressed.



Signature