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Court of Appeals  
Division III  
State of Washington  
12/20/2019 3:57 PM

No. 36568-9-III

COURT OF APPEALS

DIVISION III

OF

THE STATE OF WASHINGTON

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**State of Washington,**  
*Respondent*

v.

**William J. Wright,**  
*Appellant*

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Appeal from the Superior Court of Pend Oreille County

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*AMENDED REPLY BRIEF OF APPELLANT*

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Attorney for Appellant William Wright:  
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## I. ASSIGNMENTS OF ERROR and ISSUE STATEMENTS

A. Did the court exceed its authority in resentencing Mr. Wright to a doubled sentence based upon a CrR 7.8 motion to enforce the original sentence?

## II. STATEMENT OF THE CASE

Any facts discussed beyond the Statement of Facts set forth in Appellant's Brief will be noted within the Argument.

## III. ARGUMENT

**ISSUE 1: The Superior Court exceeded its authority in resentencing Mr. Wright to a doubled sentence based upon a 7.8 motion to enforce a sentence previously entered.**

The court exceeded its authority in resentencing Mr. Wright. The standard of review on a CrR 7.8 motion is abuse of discretion. *State v. Hardesty*, 129 Wash. 2d 303, 317, 915 P.2d 1080 (1996) The Court acted contrary to the "law of the case doctrine" in not recognizing the binding effect of the court of appeals decision. *State v. Harrison*, 148 Wn. 2d 550, 562, 61 P.3d 1104 (2003)

The Superior Court abused its discretion by violating Mr. Wright's protection from double jeopardy under the United States Constitution. In *United States v. Jones*, 722 F. 2d 632, 638 (11<sup>th</sup> Cir. 1983), the court held a defendant has an expectation of finality in his sentence. Trial courts lack authority to resentence a defendant absent a basis for reopening a judgment and a request for resentencing from a party is an insufficient reason to set aside the judgment. *State v. Shove*, 113

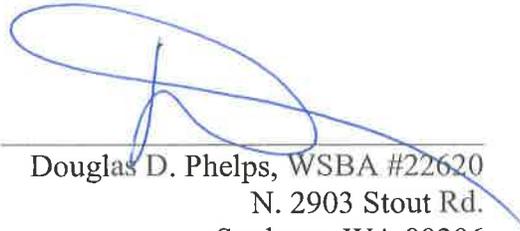
Wn. 2d 83, 87-88, 776 P. 2d 132 (1989) The double jeopardy clause of the 5<sup>th</sup> Amendment [and Article I, Section 9 of the Washington State Constitution] protect the defendant against multiple punishments for the same offense. *State v. Calle*, 125 Wn. 2d 769, 772, 888 P. 2d 155 (1995). The Superior Court is without authority to impose a second doubling of the punishment on Mr. Wright.

The trial court exceeded its authority in increasing and resentencing the defendant. Further, the court failed in its duty to enforce the original sentence by exceeding the 10-year sentence imposed by the trial judge.

#### V. CONCLUSION

The Superior Court at the time of the CrR 7.8 hearing failed to enforce the sentence imposed and exceeded its authority by resentencing Mr. Wright to a doubled sentence. The decision must be reversed to protect Mr. Wright from multiple constitutional violations by the Pend Oreille County Superior Court. The matter should be remanded for enforcement of a sentence not greater than 120 months.

Respectfully submitted this 20th day of December, 2019.



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**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff/Respondent,

v.

WILLIAM WRIGHT,

Defendant/Appellant.

Cause No. 36568-9-III  
Trial Court: 13-1-00105-8

**DECLARATION  
OF SERVICE**

I, Douglas D. Phelps, declare as follows: That I am over the age of eighteen (18) years, not a party to this action, and competent to be a witness herein. That I, as attorney of record for the Defendant/Appellant, served in the manner indicated below, an original of the Amended Reply Brief of Appellant, on December 20, 2019, to the following in the manner indicated:

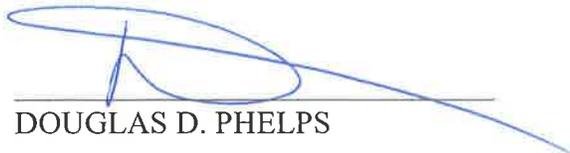
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PEND OREILLE COUNTY PROSECUTOR  Appellate Portal

I further declare that I served in the manner indicated below, a copy of the Amended Reply Brief of Appellant, on December 20, 2019, to the following:

WILLIAM J. WRIGHT, DOC #807340  U.S. Regular Mail  
Airway Heights Corrections Center, Unit K, A2  
PO Box 2049  
Airway Heights, WA 99001

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

Signed at Spokane, Washington, this 20th day of December, 2019.

  
DOUGLAS D. PHELPS

**PHELPS & ASSOCIATES, P.S.**

**December 20, 2019 - 3:57 PM**

**Transmittal Information**

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