

**FILED**  
**Court of Appeals**  
**Division III**  
**State of Washington**  
**2/7/2020 1:55 PM**

**No. 37165-4-III**

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

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STATE OF WASHINGTON, Respondent

v.

COREY J. WILLIAMS, Appellant

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**APPELLANT'S REPLY BRIEF**

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Corey J. Williams, *Pro se*  
Appellant  
DOC # 864621  
Coyote Ridge Corrections Center  
P.O. Box 769  
Connell, WA 99326

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## I. ARGUMENT

- A. The Appellants Arrest of Judgment hearing as well as the Note for Motion docket were filed appropriately and in accordance with the courts rules, the trial court has abused its discretion by not having a timely hearing.**

The appellant Mr. Williams properly noted his February 22, 2016 Motion to Arrest Judgment for a hearing contrary to what the State argues on page 4 of the Respondents Brief. Mr. Williams filed a Note for Motion Docket on April 7, 2016 see Appendix A. The matter was set for a hearing on April 12, 2016 and noted as #77 in the clerk's docket see Appendix B. The Verbatim Report of Proceedings for 04/12/2016 make no mention of Mr. Williams' motion and the Benton County Clerk's office has absolutely no reason on record as to what happened or even if it was addressed which it clearly was not.

The States argument that Mr. Williams did not properly note his motion according to LCR 7(b)(7)(A) is an untrue and baseless argument that contradicts the proof on record. Mr. Williams asserts that he has suffered prejudice and was undeniably refused his constitutional right to due process, that is a reality that cannot easily be forgotten or overlooked. The State is in default by not having a timely hearing making the judgment void this Court must remand, vacate and dismiss with prejudice the convictions.

- B. The elements of Residential Burglary were modified by the Honorable Judge Spanner, doing so has unjustly absolved the State of their mandatory burden to prove all elements of the Residential Burglary offense.**

The trial court most certainly modified the element of Residential Burglary opposed to what the State argues. On page two of the trial courts March 28, 2019 findings of fact and conclusions of law (see Appendix C) it states: "Whether she had knowledge that the defendant had entered the real property is irrelevant. The State must prove that the defendant had knowledge he was unlawfully entered [sic] property but not that the victim knew of the unlawful entry".

The fact finder has absolutely modified the element of Residential Burglary with that of Criminal Trespass relieving the State of their burden of proof. The Judge made his decision according to RCW 9A.52.070 Criminal Trespass in the first degree. The States attempt to use artful language to drive a narrative that Mr. Williams is confused about the elements of said crimes is misleading, there is no confusion on the elements of either offense. Mr. Williams holds the position that the fact finder modified the elements and is in agreement with and acceptance of the elements of Criminal Trespass laid out in the findings of fact and conclusions of law. Therefore, the Residential Burglary conviction should be remanded, vacated and dismissed with prejudice.

**C. The Appellant is not arguing a previously addressed issue by this Court, rather he believes that because the trial court Judge has brought in a new findings of fact and conclusions of law outside of the jury verdict, that this issue warrants being addressed.**

The abandonment issue is being addressed based off of the trial courts most recent findings of fact and conclusions of law submitted by Judge Spanner. Per RAP

12.1 see Appendix D this issue permits being addressed. The issue on direct appeal was that the trial court did not instruct the jury on abandonment preventing Mr. Williams from arguing his theory of abandonment as a defense. Mr. Williams in no way is attempting to argue an issue previously addressed by this Court.

The Superior Court Judge on page 2 of his findings of fact and conclusions of law stated: “abandonment doesn’t matter” in this case abandonment does matter for the reason that the Judge has brought in a new findings of fact and conclusions of law entering in Criminal Trespass instead of Residential Burglary, abandonment must have weighed on his decision to bring in a new findings of fact and conclusions of law outside of the jury verdict.

**D. The State intentionally redacted Mrs. Timmins permanent physical address and concealed it without a valid reason to do so, the State could not have fully and properly disclosed all obligatory evidence or information to the Appellant while redacting material evidence.**

The trial court heard Mr. Williams’ Motion to Arrest Judgment not as a CrR 7.4 but as a CrR 7.8 pursuant to RCW 10.73.090 as stated in the findings of fact and conclusions of law App. C. RAP 12.1 provides issues raised by brief are allowed App. D, therefore this matter is properly before the Court as it was raised in the Appellant’s Brief.

The State argues that the email from Ms. Lusignan to Detective Runge was properly disclosed and provided to Mr. Williams, the reality is it was not properly disclosed. RPC 3.8(d) is clear that all evidence or information must be disclosed,

and unless there was a protection order in place that would have relieved the State from that duty then Mrs. Timmins permanent address should have been provided. Instead the State hid the fact that Mrs. Timmins had a permanent address elsewhere, which shows the extent to which the State went to cover their deception and a clear violation of CrR 4.7(a)(1)(i) and RPC 3.8(d). There was no legally valid reason the State could stand on that would justify the redaction of the email or any other evidence and information the State had obtained.

On page 21 of the Appellant's Brief it was stated that the email from Ms. Lusignan to Detective Runge was obtained by Mr. Williams "unredacted" through a public disclosure request initiated by Mr. Williams see Appendix E. The information that was redacted in the email from Ms. Lusignan to Detective Runge previously quoted in the Appellant's Brief on pages 21-22 see Appendix F provided Detective Runge with a permanent address for Mrs. Timmins who testified to the fact that she had abandoned the 523 N. Ely Street home with no intentions of returning RP 02/16/2016 at 26, 28-29.

The logical reason that this key piece of evidence is material in this case is because it is favorable to Mr. Williams and would have potentially negated his guilt or mitigated the offense he faced, the end result of this case would have without question been very different.

## **II. CONCLUSION**

Mr. Williams properly filed and noted his Motion to Arrest Judgment and the trial court not properly holding the hearing but instead hearing it as a CrR 7.8 was a direct violation of his constitutional right to due process. The States failure to disclose exculpatory evidence is also a violation of Mr. Williams' constitutional rights and has denied him the right to a fair trial. The totality of the trial court's errors and the egregious nature of the States deception has resulted in Mr. Williams suffering severe prejudice.

The trial courts decisions to convict Mr. Williams, and deny his motion should be remanded, vacated and dismissed with prejudice.

**DATED** this 7th day of February, 2020.

RESPECTFULLY SUBMITTED,

*Corey-J. Williams.*  
*without prejudice all rights*  
*reserved ucc 1-308*

Corey-J: Williams, *pro se*

Appellant

Without prejudice

All rights reserved

UCC 1-308

**DECLARATION OF SERVICE**

I declare that on this day I caused a true and correct copy of this

Appellant's Reply Brief to be served on the following in the manner indicated

below:

Court of Appeals  
Division III  
Clerk of the Appellate Court  
500 N. Cedar Street  
Spokane, WA 99201

- U.S. Regular Mail, Postage Prepaid
- Hand Delivery
- E-File via Appellate Courts' Portal

Counsel for Respondent  
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7122 W. Okanogan Place, Bldg. A  
Kennewick, WA 99336  
terry.bloor@co.benton.wa.us

- U.S. Regular Mail, Postage Prepaid
- Hand Delivery
- E-File via Appellate Courts' Portal

Signed at Shelton, Washington on the 7th day of February, 2020.



Candace McCaskill

## **APPENDICES**

**APPENDIX A:** NOTE FOR MOTION DOCKET FILED 04/07/2016

**APPENDIX B:** COPY OF CLERK'S DOCKET ENTRY #77 PRINT OUT

**APPENDIX C:** FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  
ON DEFENDANT'S MOTION TO ARREST JUDGMENT

**APPENDIX D:** RAP 12.1

**APPENDIX E:** UNREDACTED EMAIL FROM MS. LUSIGNAN TO  
DETECTIVE RUNGE

**APPENDIX F:** REDACTED EMAIL FROM MS. LUSIGNAN TO DETECTIVE  
RUNGE

**APPENDIX A**  
NOTE FOR MOTION DOCKET FILED 04/07/2016

APR 07 2016

FILED

JA

15-1-01178-6

Note for Motion Docket

Motion to Arrest Judgment

+ Supplement Motion to

Arrest Judgment 7.4

A(3)(C)

STATE OF WASHINGTON  
Plaintiff

VS.

Corey Javon Williams,  
Defendant

TO: Benton County Clerk

AND TO: Superior Court Administrator's office (Tiffany Huson)

AND TO: Terry Blood (DPA)

Corey Javon Fugh note for Docket the Motion to Arrest Judgment  
and Supplement Motion on 4/12/16 at 9:30AM and the Clerk is  
requested to note this cause.

Authorized Rep:

All rights reserved

C:PA

**APPENDIX B**  
COPY OF CLERK'S DOCKET ENTRY #77 PRINT OUT

CASE#: 15-1-01178-6

JUDGMENT# 16-9-00378-1

TITLE: WILLIAMS, COREY JAVON/STATE VS

NOTE1: KPD/RUNGE/15-32379

NOTE2: APPEAL FILED 03-02-16

STATUS: APP DATE: 04/25/2019  
SECONDARY

SUB#	DATE	CODE	DESCRIPTION/NAME	STATUS: APP	DATE: 04/25/2019
070	03 29 2016	RQ	REQUEST OF APPELLATE REVIEW		SECONDARY
070A	03 29 2016	AFSR	AFFIDAVIT/DCLR/CERT OF SERVICE		
070B	03 29 2016	AFIND	AFFIDAVIT OF INDIGENCY		
071	03 29 2016	MTIND	MOTION FOR INDIGENCY		
072	03 29 2016	AFSR	AFFIDAVIT/DCLR/CERT OF SERVICE		
073	03 31 2016	ORIND	ORDER OF INDIGENCY		
	03 31 2016	EXWACT	EX-PARTE ACTION WITH ORDER		
		JDG08	JUDGE JACKIE SHEA-BROWN		
074	04 01 2016	TRLC	TRANS LTR/E-FILE/INDIGENCY ORD		
075	04 07 2016	LTR	LETTER TO COURT FILE FR DEFT		
076	04 07 2016	LTR	LETTER TO COURT FILE FR DEFT		
077	04 07 2016	NTMTDK	NOTE FOR MOTION DOCKET-DEFT		04-12-2016TR
		ACTION	RES BURG/THEFT 2		
		ACTION	MTHRG/DEFT ARREST JUDGMENT		
078	04 12 2016	PSI	PRE-SENTENCING INVESTIGATION REPORT		

**HNO Expires 04/12/2026**

? F1=Help Enter=Process F7=Bwd F8=Fwd PA1=Cancel

**APPENDIX C**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON**  
**DEFENDANT'S MOTION TO ARREST JUDGMENT**

JOSIE DELVIN  
BENTON COUNTY CLERK  
2019 MAR 28 PM 3:36

FILED

*Am2*

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

STATE OF WASHINGTON,

Plaintiff,

vs.

COREY JAVON WILLIAMS,

Defendant.

NO. 15-1-01178-6

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER ON DEFENDANT'S  
MOTION TO ARREST  
JUDGMENT**

**THIS MATTER** having come before the Court on the Defendant's Motion to Arrest Judgment, and the Court having reviewed the defendant's affidavit in support of the motion, including the attachments to that motion, and having read the State's Response to the Motion and Motion to Transfer the Matter to the Court of Appeals, and the Court having reviewed the files and records and decided the motion without oral argument, the Court makes the following Findings of Fact:

**FINDINGS OF FACT**

1. The defendant was found guilty via a jury trial of Residential Burglary and Theft in the Second Degree on February 17, 2016.
2. He was sentenced on April 12, 2016.
3. The defendant filed a direct appeal. The convictions were affirmed, and a Mandate was issued on November 14, 2018.
4. His current motion argues that there was insufficient evidence to support the conviction for Residential Burglary because the property was abandoned by the owner, Gail Timmins, that Ms. Timmins had no knowledge that the defendant entered onto the property and that the defendant had placed a lien of the property which gave him the right to possess the property under the Uniform Commercial Code (UCC).

From the above Findings of Fact, the Court makes the following:

### CONCLUSIONS OF LAW

1. The defendant's Motion to Arrest Judgment is not timely and is denied.
2. However, the Court will address the defendant's substantive arguments pursuant to CrR 7.8 or RCW 10.73.090.
3. The defendant's motion, if brought under CrR 7.8 or pursuant to RCW 10.73.090, would be timely.
4. To address the defendant's substantive arguments:
  - a) Whether Ms. Timmins abandoned the real property is irrelevant. She was still the owner of the property.
  - b) Whether she had knowledge that the defendant had entered the real property is irrelevant. The State must prove that the defendant had knowledge he was unlawfully entered property but not that the victim knew of the unlawful entry.
  - c) The Claim of Lien was filed under RCW 60.04, which is titled "Mechanics' and Materialmens' Liens." Such liens do not give the lien holder a right of possession. The UCC is not applicable.
5. The defendant has not made a substantial showing that he is entitled to relief.
6. Rather than transferring the motion to the Court of Appeals, this Court will deny the defendant's motion, which will allow him to appeal from this order if he so decides.

### ORDER

The defendant's motion to Arrest Judgment is denied as untimely. The Court has considered the merits of the defendant's motion as if it were a Personal Restraint Petition, and, while it is timely, it is denied. The State's motion to transfer the matter to the Court of Appeals is denied because the defendant may appeal from this Order.

DATED: <sup>March</sup> February 28, 2019.

  
\_\_\_\_\_  
BRUCE A. SPANNER, JUDGE

Presented by:

  
\_\_\_\_\_  
TERRY J. BLOOR, WSBA #9044  
Deputy Prosecuting Attorney  
OFC ID 91004

**APPENDIX D**  
**RAP 12.1**

**RAP 12.1**  
**BASIS FOR DECISION**

**(a) Generally.** Except as provided in section (b), the appellate court will decide a case only on the basis of issues set forth by the parties in their briefs.

**(b) Issues Raised by the Court.** If the appellate court concludes that an issue which is not set forth in the briefs should be considered to properly decide a case, the court may notify the parties and give them an opportunity to present written argument on the issue raised by the court.

[Adopted effective July 1, 1976.]

**APPENDIX E**  
**UNREDACTED EMAIL FROM MS. LUSIGNAN TO DETECTIVE RUNGE**

## Rick Runge

---

**From:** Evelyn Lusignan  
**Sent:** Friday, September 25, 2015 4:43 PM  
**To:** Rick Runge  
**Subject:** Corey Williams

I received a call from the PUD today asking if we knew Corey Williams was requesting service again - 523 N Ely St. I look in our database and we did have a sign in for service yesterday under THE C. WILLIAMS GROUP LLC. This house has been vacant for nearly 2 years. The current owner information in the Benton County database is Gail & Joseph Timmins. The utility account for Gail Timmins was closed December 2013 and the account has been inactive until now.

Both the PUD and our records have outdated telephone contact information for Ms. Timmins although we do know where Ms. Timmins resides:

8180 W 4TH AVE, Apt #M106

Mr. Williams may have a valid reason to be establishing service at this property but it is concerning, based on his previous brazen activities, that he is establishing service at a previously long-term vacant home.

Not sure what steps we should take, if any, to validate what he is doing. It would be nice to be able to talk to Ms. Timmins. I think I found her on LinkedIn and I sent a connection request. If she accepts I am going to try and contact her.

Evelyn



Evelyn Lusignan  
City of Kennewick  
Customer Service & Public Relations Manager  
O: 509.585.4265 | F: 509.585.4383  
[evelyn.lusignan@ci.kennewick.wa.us](mailto:evelyn.lusignan@ci.kennewick.wa.us)



**APPENDIX F**  
REDACTED EMAIL FROM MS. LUSIGNAN TO DETECTIVE RUNGE

## Rick Runge

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Evelyn



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**COREY WILLIAMS - FILING PRO SE**

**February 07, 2020 - 1:55 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 37165-4  
**Appellate Court Case Title:** State of Washington v. Corey J. Williams  
**Superior Court Case Number:** 15-1-01178-6

**The following documents have been uploaded:**

- 371654\_Briefs\_20200207135152D3305697\_5252.pdf  
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