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STATE OF WASHINGTON

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BY RONALD R. CARPENTER

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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

IN RE PERSONAL RESTRAINT
PETITION OF:

JOSHUA DEAN SCOTT

Petitioner.

NO. 82951-9

STATE'S RESPONSE TO MOTION FOR
RELEASE

I. IDENTITY OF RESPONDING PARTY:

The State of Washington, Respondent, requests the relief designated in Part II.

II. STATEMENT OF RELIEF SOUGHT:

The State does not object to petitioner's motion for release only if this Court affirms the Court of Appeals decision below.

III. GROUND FOR RELIEF AND ARGUMENT:

RAP 16.15 (b) is entitled "release by appellate court of person in custody" and provides:

The appellate court may release a petitioner on bail or personal recognizance before deciding the petition, **if release prevents further unlawful confinement and it is unjust to delay the petitioner's release until the petition is determined.** The appellate court or the superior court in its decision on the merits, or by separate order after a decision on the

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1 merits, may release a petitioner on bail or on personal recognizance. The
2 appellate court may direct the release of petitioner with the conditions of
release to be determined by a trial court. (emphasis added).

3 As the State understands petitioner's request, it is not for immediate release
4 pending this Court's decision. The State would object to petitioner being released at this
5 time. The State understands petitioner's request to be limited to release if this Court
6 affirms the Court of Appeals. If this court votes to affirm the Court of Appeals, the State
7 does not object to petitioner's release to community custody. Petitioner's calculation of
8 his time served and his potential amended sentence is correct. Should this Court affirm the
9 Court of Appeals, the situation would appear to fall under RAP 16.15(b). The State asks
10 this court to deny petitioner's motion for release if, after argument, a majority of this Court
11 votes to reverse Division II of the Court of Appeals as reversal would validate petitioner's
12 existing 213 months sentence.
13

14 IV. CONCLUSION:

15 For the reasons stated above, the State does not object to granting petitioner's
16 motion should this Court affirm the Court of Appeals.
17

18 DATED: November 1, 2010.

19 MARK LINDQUIST
20 Pierce County
Prosecuting Attorney

21 
22 THOMAS C. ROBERTS
23 Deputy Prosecuting Attorney
24 WSB # 17442
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Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant or respondent a true and correct copy of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

11/10 [Signature]
Date Signature

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Sent: Monday, November 01, 2010 10:08 AM

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Subject: In re the PRP of: Joshua Dean Scott--82951-9

Thomas C. Roberts, WSB No. 17442

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Attached is the ordered response to the Motion for Release.