

NO.84585-9

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Petitioner,

v.

RENE P. PAUMIER, Respondent.

PETITIONER'S STATEMENT OF ADDITIONAL AUTHORITIES

TIMOTHY J. HIGGS
Deputy Prosecuting Attorney
Mason County Prosecutor's Office
521 N. Fourth Street
P.O. Box 639
Shelton, WA 98584
Tel: (360) 427-9670
FAX: (360) 427-7754

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COMES NOW the Petitioner, State of Washington, by and through its attorney Timothy J. Higgs, Deputy Prosecuting Attorney, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

With Respect to Request to Proceed Pro Se:

United States v. Betancourt-Arretuche, 933 F.2d 89, 96 (1st Cir. 1991) (defendant's request to proceed pro se is untimely if not made before voir dire).

United States v. Walker, 142 F.3d 103, 109 (2d Cir. 1998) (holding that a defendant's request for self-representation was untimely although he made it before empaneling of the jury because he asserted the request after voir dire had begun).

United States v. Lawrence, 605 F.2d 1321 (4th Cir. 1979) (defendant's request to proceed pro se was untimely because the trial proceedings had already consumed one day during which counsel had conducted their voir dire examination and the jury selected).

Robards v. Rees, 789 F.2d 379 (6th Cir. 1986) (request for self-representation was properly denied where the clerk had already called the roll of jurors).

United States v. Young, 287 F.3d 1352 (11th Cir.), *cert. denied*, 537 U.S. 1031 (2002) (defendant's request to proceed pro se is untimely if

not made before voir dire).

State v. Garrison, 928 S.W.2d 359, 362 (1996) (“A demand to proceed pro se made after jury selection is clearly untimely”).

State v. Garcia, 246 P.3d 1057, 1066-67 (N. Mex. 2011) (when a defendant does not assert the right to proceed pro se until after a jury is selected, the trial court has broad discretion to deny the motion).

With Respect to the Health Insurance Portability and Accountability Act (HIPAA):¹

42 U.S.C. § 1320d-1(a) (“covered entities” are health plans, health care clearinghouses, and health care providers; courts are not included in the list of “covered entities”).

45 C.F.R. §§ 160.102(a), 164.104(a) (“covered entities” are health plans, health care clearinghouses, and health care providers; courts are not included in the list of “covered entities”).

Standards for Privacy of Individually Identifiable Health Information, Department Health and Human Services Commentary, 65 Fed. Reg. 82462, 82524, 82680 (Dec. 28, 2000) (the Department does not "believe that there would be any situations in which a covered entity would also be a judicial or administrative tribunal"; the Privacy Rule "does

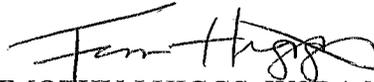
¹ Pub. L. No. 104-191, 110 Stat. 1936 (codified as amended in scattered sections of 42 U.S.C.) and its implementing regulations, known as the Privacy Rule, 45 C.F.R. parts 160 and 164.

not regulate the behavior of law enforcement officials or the courts").

45 CFR § 164.512 ("A covered entity may use or disclose protected health information without the written authorization of the individual . . . information in the course of any judicial or administrative proceeding:

(e)(1)(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order").

Respectfully submitted this 27th day of April, 2011.



TIMOTHY J.HIGGS, WSBA NO. 25919
Deputy Prosecuting Attorney

Proof of Service

I, Timothy J. Higgs, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On April 27th 2011, I caused to be deposited in the mails of the United States of America, postage prepaid, an envelop containing a copy of the Petitioner's Statement of Additional Authorities addressed to:

James Whisman
W554 King County Courthouse
516 3rd Avenue
Seattle, WA 98104

Jeffrey Ellis
Oregon Capital Resource Center
621 SW Morrison Street
Suite 1025
Portland, OR 97205-3813

Andrew P. Zinner
Nielsen, Broman & Koch, PLLC
1908 E Madison St
Seattle, WA 98122-2842

Sheryl Gordon McCloud
Washington Assn. of Criminal
Defense Lawyers
710 Cherry St.
Seattle, WA 98104-1925

On April 27th, 2011, electronic copies of the Petitioner's Statement of Additional Authorities were sent via e-mail to
James Whisman at Jim.Whisman@kingcounty.gov
Eric Nielsen at nielsene@nwattorney.net
Andrew Zinner at zinnera@nwattorney.net
Sheryl Gordon McCloud at sheryl@sgmcccloud.com
Jeffrey Ellis at jeffreyerwinellis@gmail.com

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JAMES HIGGS
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Signed under the penalty of perjury under the laws of the state of
Washington this 27th day of April, 2011, at Shelton, Washington.


Timothy J. Higgs, WSBA 25919