



### **A. Identity of the Petitioner**

Carlos John Williams, asks this court to accept review of the decision designated in Part B of this motion.

### **B. Decision**

The Petitioner seeks review of the decision by the trial court to transfer this matter to the Court of Appeals as a Personal Restraint Petition. Petitioner also seeks review of the decision by the trial court to deny the Petitioner's motion submitted waiving filing fee and to proceed in forma pauperis. These decision where filled on April 19, 2010.

The above decisions restrained the Petitioner from seeking "redress" of grievance. A copy of the decision is attached in the Appendix: A. Because, the matter was transferred to the Court of Appeals as a Personal Restraint Petition by the trial court this was clear err, as pointed out in the Court of Appeals decision. This matter is a civil complaint, and not a "unlawful restraint" issue. Appendix: B.

### **C. Issues Presented for Review**

1. Whether the Petitioner should of had this matter proceed in the Superior Court and his motion to waive the filing fee should have been granted and he allowed to proceed in forma pauperis?

2. Whether the denial of the Superior Court to grant the Petition's motion for fee waiver and to proceed in forma pauperis violated his First Amendment right of the U.S. constitution to access the courts?

3. Whether this matter should be remanded back to the Superior Court for an full hearing on the merits of this civil complaint?

#### **D. Statement of the Case**

On April 1, 2010, Petitioner filed a complaint against the Department of Corrections for only requiring him to obtain a Health Status Report to gain employment in the Inmate Kitchen. In this complaint are several supporting declarations by other inmates who either are working or were working in the Inmate Kitchen and were not required to obtain a Health Status Report prior to gaining employment. The complaint also contains allegations of the Department of Correction's Health Service Provider stating she had never issue a Health Status Report for any prisoner prior to them gaining employment in the Inmate Kitchen. Petitioner believes his Eighth Amendment right of the U.S. constitution is be violated by the Department of Corrections and he is being dicriminated against.

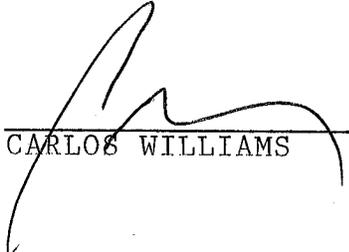
On April 19, 2010, the court entered a decision to deny forma pauperis and fee waiver. The court then transfered the matter to the Court of Appeals. Which promptly dismissed the complaint.

#### **E. Argument Why Review Should Be Accepted**

The Petitoner is obviously being denied access to the court by the Superior Court. The legal authority relied upon to determine as to whether to grant or deny forma pauperis and waive filing fee is Neal v. Wallace, 15 Wn. App. 506,550 P.2d 539. There are four criteria which must be met: (1).."actual not theretical, indigency; (2) that but for such waiver a litigant would be unable to maintain the action; (3) that there are no alternative means available for procuring the fees; and (4) that plaintiff's claim is'brought in good faith and with probable merit.'"

The Complaint, Motion and Affidavit to proceed in forma pauperis contains all the above. See the original brief filed with the trial court.

RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of June, 2010.



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CARLOS WILLIAMS

FILED

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SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR  
THE COUNTY OF SNOHOMISH

Carlos John Williams,  
Petitioner,

NO. **10 2 04202 2**

ORDER

vs.

Department of Corrections,  
Respondents.

The Court having considered the records and files herein, hereby denies the defendant's motion to waive filing fee and proceed in forma pauperis.

Furthermore, the defendant's motion is transferred to the Court of Appeals, Division I, as a Personal Restraint Petition, under the Rules of Appellate Procedure 16.4.

SIGNED this 19 day of April, 2010.

  
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Judge Ronald L. Castleberry

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE**

In the Matter of the Personal	)	
Restraint of:	)	No. 65320-2-1
	)	
	)	
CARLOS JOHN WILLIAMS,	)	ORDER OF DISMISSAL
	)	
Petitioner.	)	
_____	)	

Petitioner Carlos Williams has filed a personal restraint petition<sup>1</sup> seeking attorney fees and legal costs and \$150,000 in damages because he was told to complete a health status form before he would be considered for a job in the inmate kitchen. Williams complains that other inmates were not required to supply such a health form before taking jobs in the kitchen and that he believes he is being discriminated against or retaliated against because he filed a number of grievances against kitchen staff concerning his kosher diet from 2006 to 2009. In this setting, relief is available only if petitioner demonstrates he is currently subject to unlawful restraint. RAP 16.4. Williams does not describe any cognizable "restraint" or "disability" as a result of the requirement that he seek a health status report before seeking employment in the kitchen. And the financial remedy he seeks is beyond the scope of relief properly granted in a personal restraint petition. See In re Sappenfield, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999).

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<sup>1</sup> Williams initially filed his claim for damages in the Snohomish County Superior Court, which transferred the matter to this court for consideration as a personal restraint petition.

No. 65320-2-1/2

Now, therefore, it is hereby

ORDERED that Williams's motion to appoint counsel is denied and the personal restraint petition is dismissed under RAP 16.11(b).

Done this 1<sup>st</sup> day of June, 2010.

Leach A. C. J.  
Acting Chief Judge

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COURT OF APPEALS DIV #1  
STATE OF WASHINGTON  
2010 JUN - 1 AM 9:52