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SUPREME COURT
STATE OF WASHINGTON
Aug 26, 2011, 8:57 am
BY RONALD R. CARPENTER
CLERK


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August 26, 2011

Clerk of the Court
Washington Supreme Court
via email

RE: In re PRP of Crace, No. 85131-0

Clerk of the Court:

Pursuant to RAP 10.8, Petitioner submits the following additional authority: *State v. Sandoval*, 171 Wash.2d 163, 168-9, 249 P.3d 1015 (2011) (internal citations omitted):

Ordinarily, a personal restraint petitioner alleging constitutional error must show actual and substantial prejudice. This actual and substantial prejudice standard does not apply when the petitioner has not had a prior opportunity to appeal the issue to a disinterested judge. However, if some other showing of prejudice is required by the law underlying the petitioner's claim of constitutional error, the petitioner must make the requisite showing of prejudice.

Sandoval had to bring a PRP to meet his burden of proving ineffective assistance of counsel because his counsel's advice does not appear in the trial court record. Because of this unique procedural obstacle to Sandoval's ineffective assistance claim, he has not "already had an opportunity to appeal to a disinterested judge." Thus, Sandoval does not have to show actual and substantial prejudice; his burden is only to show that he is entitled to relief for one of the reasons listed in RAP 16.4(c). Sandoval still has the burden of establishing the prejudice required for a claim of ineffective assistance of counsel based on an attorney's advice during the plea bargaining process.

Sincerely,
/s/ Jeffrey Ellis
Jeffrey Ellis
Attorney at Law

cc: Kathleen Proctor, Pierce County Prosecutor's Office

ORIGINAL

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To: Jeff Ellis
Cc: PCpatcecf@co.pierce.wa.us
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Rec. 8-26-11

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Jeff Ellis [<mailto:jeffreyerwinellis@gmail.com>]
Sent: Friday, August 26, 2011 8:53 AM
To: OFFICE RECEPTIONIST, CLERK
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Subject: Re: Supreme Court No. 85131-0

Attached is a statement of additional authorities to be filed in the above entitled case. I have served opposing counsel by simultaneously sending this email and its attachment to the Pierce County Prosecutor's Office.

--

Jeff Ellis
Attorney at Law
Oregon Capital Resource Counsel
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