86885-9

No. 42461-4-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

STEPHEN C. JOHNSON,

Petitioner.

RESPONSE TO MOTION FOR DISCRETIONARY REVIEW

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Lewis County Prosecuting Attorney

By: _____
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TABLE OF CONTENTS

TABLE OF AUTHORITES ii

APPENDIXES iv

I. IDENTITY OF PARTY FILING RESONSE 1

II. STATEMENT OF RELIEF SOUGHT 1

III. COUNTERSTATEMENT OF THE ISSUES 1

IV. STATEMENT OF THE CASE 2

V. ARGUMENT 5

A. THE DISTRICT COURT AND SUPERIOR COURT PROPERLY INTERPRETED THE DWLS STATUTE AND THE PETITIONER'S OWN INTERPRETATION IS NOT A MATTER OF PUBLIC INTEREST 6

B. THE SUSPENSION OF PETITIONER'S LICENSE DID NOT VIOLATE EQUAL PROTECTION AND DOES NOT PRESENT A SIGNIFICANT CONSTITUTIONAL QUESTION. 9

C. THE DISTRICT COURT DID NOT VIOLATE DUE PROCESS DURING ANY PROCEEDINGS IN THE TRIAL COURT 13

VI. CONCLUSION 15

TABLE OF AUTHORITIES

Washington Cases

City of Seattle v, Webster, 115 Wn.2d 635, 802 P.2d 1333 (1990) 9, 10

City of Spokane v. Port, 43 Wn. App. 273, 716 P.2d 945 (1986) 9

Merseal v. State Department of Licensing, 99 Wn. App. 414, 994 P.2d 262 (2000) 9

State v. J.P., 149 Wn.2d 444, 69 P.3d 318 (2003) 7

Washington Statutes

RCW 10.101.020(3) 13

RCW 10.101.020(4) 15

RCW 46.20.091(1)(d) 9, 10

RCW 46.20.289 6

RCW 46.20.342 ..... 7, 8

RCW 46.20.342(1)(c) 6

RCW 46.20.342(1)(c)(iv) 6

RCW 46.63.070(6) 6

RCW 46.63.110 ..... 6, 7

RCW 46.63.020 7

RCW 46.64.025 6

Other Rules or Authorities

CrRLJ 3.1 13

RAP 2.3(d) 1, 2, 5

APPENDIXES

Appendix A – Ruling on Appeal from District Court

Appendix B – Respondent's Transcript of Relevant Proceedings

I. IDENTITY OF PARTY FILING RESPONSE

The Petitioner, State of Washington, by and through its attorney, Shane O'Rourke, Lewis County Deputy Prosecuting Attorney, asks this court for the relief designated in Part II of this motion.

II. STATEMENT OF RELIEF SOUGHT

The State respectfully requests that the Court deny Petitioner's Motion for Discretionary Review of the Honorable Judge Richard L. Brosey's July 12, 2011 Ruling on Appeal from District Court.

III. COUNTERSTATEMENT OF THE ISSUES

Whether the superior court's ruling that RCW 46.20.342(1)(c) proscribes driving on a license that is suspended for failure to comply with the terms of a traffic infraction by failing to pay a monetary penalty imposed by court order merits review under RAP 2.3(d)?

Whether the superior court's ruling that a license suspension that is based upon failure to comply with a traffic infraction for failing to pay does not violate Equal Protection merits review under RAP 2.3(d)?

Whether the superior court's ruling that the district court did not violate due process during any proceedings merits review under RAP 2.3(d)?

IV. STATEMENT OF THE CASE

On September 19, 2008, Deputy McKnight of the Lewis County Sheriff's Office stopped Petitioner while he was driving a motor vehicle within Lewis County, State of Washington. [1] (Appendix A at 1). After making contact with Petitoner, Deputy McKnight ran a driver's check and found that Petitioner's driver's license was suspended in the third degree. (Appendix A at 1). Based upon this information, Petitioner was arrested and issued an officer citation charging him with Driving While License Suspended in the Third Degree, a misdemeanor offense. (Appendix A at 2).

On September 22, 2008, Petitioner was arraigned in Lewis County District Court. Petitioner was represented by court appointed attorney Robert Schroeder, waived formal arraignment, entered a plea of not guilty after a finding of probable cause, and was advised as to his right to have court appointed counsel. (Appendix A at 2). Petitioner did not qualify for court appointed

[1] For purposes of the Statement of the Case, the State will be citing to the superior court's Ruling on Appeal from District Court, a copy of which is attached as Appendix A.

counsel and on October 1, 2008, attorney Ryan Gunn entered a Notice of Appearance to represent Petitioner. (Appendix A at 2). On October 28, 2008, a pretrial conference was held and trial dates were set. (Appendix A at 2). On December 4, 2008, Petitioner filed a motion to dismiss and waived speedy trial to allow for setting of a motion hearing and new trial dates. (Appendix A at 2). On December 17, 2008, attorney Ryan Gunn filed a Notice of Withdrawal and Substitution of Counsel indicating that Petitioner would be representing himself. (Appendix A at 2).

On January 5, 2009, Petitioner filed a pro-se Notice of Appearance and Notice of Intent to file a new brief (which was filed on January 13, 2009). (Appendix A at 2). On February 4, 2009, the trial court asked Petitioner if he wished to proceed with his case pro-se from that point forward. Petitioner indicated that he did wish to proceed pro-se and his motion to dismiss was denied. (Appendix A at 2).

On February 24, 2009, Petitioner came before the court with a motion to reconsider its ruling of February 4, 2009. The court again advised Petitioner of his right to counsel and also that he could be appointed stand-by counsel if necessary. Petitioner

requested court appointed stand-by counsel and attorney Jerry Gray was appointed as stand-by counsel. (Appendix A at 2).

On March 19, 2009, Petitioner appeared with his stand-by counsel and his motion for reconsideration was denied and a speedy trial waiver was entered in order to set new dates. (Appendix A at 2).

On April 16, 2009, Petitioner filed a Notice of Interlocutory Appeal with the Lewis County District Court and commenced such an appeal in the Lewis County Superior Court under cause number 09-1-00239-2. Attorney Jerry Gray was appointed to be Petitioner's counsel on appeal. Petitioner's interlocutory appeal was subsequently dismissed by the Lewis County Superior Court. (Appendix A at 2).

On September 18, 2009 a bench trial was held in Lewis County District Court. The court considered the testimony of Deputy Matthew McKnight of the Lewis County Sheriff's Office, the testimony of Petitioner, and all of the exhibits admitted into evidence. Petitioner was found guilty of Driving While License Suspended in the Third Degree and a Judgment and Sentence to that effect was entered. (Appendix A at 2-3).

V. ARGUMENT

RAP 2.3(d) provides that discretionary review of a superior court decision entered in a proceeding to review a decision of a court of limited jurisdiction will be accepted only:

> (1) If the decision of the superior court is in conflict with a decision of the Court of Appeals or the Supreme Court; or
> (2) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
> (3) If the decision involves an issue of public interest which should be determined by an appellate court; or
> (4) If the superior court has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by the court of limited jurisdiction, as to call for review by the appellate court.

RAP 2.3(d).

The Petitioner's Motion for Discretionary Review must be denied because as discussed *infra*, the superior court's rulings do not conflict with any appellate decisions, there are no significant constitutional questions of law presented, there are no issues of public interest that should be determined by an appellate court, and the superior court acted properly and within its discretion.

A. THE DISTRICT COURT AND SUPERIOR COURT PROPERLY INTERPRETED THE DWLS STATUTE AND THE PETITIONER'S OWN INTERPRETATION IS NOT A MATTER OF PUBLIC INTEREST

At trial, the State proved every element of the crime of Driving While License Suspended in the Third Degree under RCW 46.20.342(1)(c). This included proving that Petitioner "failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289." *See:* RCW 46.20.342(1)(c)(iv).

RCW 46.20.289 states that the department of licensing may suspend a person's driver's license when the person has failed to "respond to a notice of traffic infraction", or has "failed to comply with the terms of a notice of traffic infraction or citation, other than for a standing, stopping, or parking violation."

One of the "terms" of a notice of traffic infraction or citation is that in the event that the infraction is resolved unfavorably for the citing party, that they pay the fine. RCW 46.20.289 cites three ways in which the department may receive notice from a court that a person's license may be suspended. RCW 46.63.070(6) and RCW 46.64.025 deal with situations where the person fails to appear. RCW 46.63.110 addresses situations where the person fails to comply with their traffic infraction by failing to pay the

monetary penalty. That statute states that "a person found to have committed a traffic infraction shall be assessed a monetary penalty" and goes on to say in subsection (6) that if the person fails to pay the monetary penalty, the department shall "suspend the person's driver's license or driving privilege until all monetary obligations... have been paid."

Petitioner suggests that the suspension of a driver's license for non-payment of a monetary obligation on a civil infraction under RCW 46.63.110 should result in yet another civil infraction. Not only is such a theory counterintuitive, it is not supported by any part of the statutory scheme or by any case law. RCW 46.63.020 does state that anything not specifically proscribed in that section is not a criminal offense. However, subsection (13) of RCW 46.63.110 specifically enumerates RCW 46.20.342 as one of the statutes that must be treated as a criminal offense and does not exclude suspensions for non-payment of monetary obligations.

In construing a statute, a reading that results in absurd results must be avoided because it will not be presumed that the legislature intended absurd results. *State v. J.P.*, 149 Wn.2d 444, 69 P.3d 318 (2003). Petitioner suggests that this court read the

statutes relating to license suspension in such a way that a person who received a civil infraction could fail to comply with a court order to pay their monetary penalty and the only remedy would be for that person to receive yet another civil infraction, which they could fail to pay yet again. This is not the way any court of limited jurisdiction in this state operates, because it is not what the relevant statutes calls for, and such a reading leads to an absurd result.

Instead, RCW 46.20.342 was created by the legislature to address the very problem Petitioner seeks to perpetuate. Namely, the driving suspended statutes serve the purpose of creating a criminal disincentive to refusing to obey the civil traffic laws of this state. When a person is cited for a civil traffic infraction and fails to pay the penalty, their license is suspended until they pay their monetary obligation. If the person continues to drive after having their license suspended, they don't merely receive another meaningless civil infraction, but rather, they are criminally prosecuted.

Petitioner presents no case law on point in support of his theory because the superior court's ruling does not conflict with any appellate court decisions, nor does it depart from the accepted and

usual course of judicial proceedings. Petitioner's reading of the driving suspended statutes are not a matter of public interest, nor do they present any significant questions under the Washington or U.S. Constitutions.

B. THE SUSPENSION OF PETITIONER'S LICENSE DID NOT VIOLATE EQUAL PROTECTION AND DOES NOT PRESENT A SIGNIFICANT CONSTITUTIONAL QUESTION

Suspension of a driver's license does not demand intermediate or heightened scrutiny for equal protection purposes. *Merseal v. State Department of Licensing*, 99 Wn.App. 414, 994 P.2d 262 (2000). There are no cases that recognize the homeless as a protected class for Fourteenth Amendment analysis. *City of Seattle v, Webster*, 115 Wn.2d 635, 802 P.2d 1333 (1990). Driving an automobile on the state's public highways is a privilege and not a right because the activity is limited to a certain class of individuals. *City of Spokane v. Port*, 43 Wn.App. 273, 716 P.2d 945 (1986). The privilege to drive on the state's highways is subject to reasonable regulation. *Id.*

RCW 46.20.091(1)(d) does not discriminate against homeless or indigent people as a class because the law applies with equal force to all citizens of Washington State. All persons

applying for a Washington State driver's license must provide proof of residence, not just indigent or homeless people. The mere fact that the law may adversely affect homeless people more often than those with homes does not render it immediately unconstitutional if it is applied equally on its face. *Webster, supra.*

Even if the Court finds that the law is applied differently to homeless people, all the State needs to show in order to survive an equal protection challenge is that RCW 46.20.091(1)(d) is rationally related to a legitimate state interest. One of the primary reasons the State requires a residence be provided is so that it may limit the privilege to drive motor vehicles to residents of Washington. If all that was required to obtain a valid license was to possess a P.O. Box in this state, the State would have no ability to limit licenses to those who actually live in the state. Instead, one could just pick up a P.O. Box and a valid license even though they were a resident of California.

Additionally, the State has an interest in maintaining information as to where its licensed drivers reside. This information is used to make certain drivers receive appropriate notices at their

residence, and to be able to locate drivers should it become necessary for criminal prosecution of traffic violations.

It is important to note that driving is a privilege and not some form of property right or other constitutional right. The requirement of providing a valid address is an appropriate regulation of the privilege to drive.

There is no case law whatsoever to support Petitioner's theory that suspending a driver's license for non-payment of fines is unconstitutional. Instead, Petitioner claims that this case is analogous to automatically converting non-payment of fines into jail terms. Such an analysis requires unreasonable leaps in reasoning. Petitioner is essentially claiming that when a person fails to pay the monetary penalty on a civil infraction, that they are effectively being sentenced to a jail term, because if they can't pay the infraction, they have no alternative but to be imprisoned. This completely overlooks the fact that in order to ever face the potential for being incarcerated, a person must not only fail to pay their civil infraction penalty, but they also must drive a motor vehicle on a public highway in this state after allowing their license to become suspended.

Petitioner's criminal conviction is not a result of his indigence; it is a result of his disregard for the laws of the state of Washington, specifically his decision to continue to operate a motor vehicle after he was notified that his privilege to do so had been suspended.

The driving suspended laws do not violate equal protection because there is no basis for claiming that on their face they are applied differently or disparately to people who are indigent. Every person who fails to pay their civil traffic infractions will have their license suspended under the law regardless of their income or social status.

Furthermore, there is a legitimate state interest for suspending a person's license for non-compliance with civil infractions. Petitioner argues that there is no public safety consideration when it comes to non-payment of monetary penalties on civil infractions. However, without there being some criminal liability for continuing to drive after non-payment of civil traffic infractions, there would be no incentive for individuals in this state to follow any rule of the road. If a person is cited for speeding and issued a civil infraction that they can essentially throw in a pile to be

sent to a collection agency, there is absolutely zero punitive deterrent to their ignoring the driving infraction, which only encourages future violations. Conversely, if that person decides to fail to comply with their civil infraction, the state should be able to suspend their privilege to drive in this state until they choose to come into compliance.

C. THE DISTRICT COURT DID NOT VIOLATE DUE PROCESS DURING ANY PROCEEDINGS IN THE TRIAL COURT

RCW Chapter 10.101 deals with services that may be provided to persons who are found to be indigent. RCW 10.101.020(3) deals with the determination of indigence and provides in part that the determination is to be made at the initial contact with the defendant or at the earliest time circumstances permit. The statute also provides that information provided by the defendant is confidential and shall not be available for use by the prosecution in the pending case. CrRLJ 3.1 follows this same scheme with respect to determining indigence.

At Petitioner's first appearance for arraignment in Lewis County District Court on September 22, 2008, the court advised Petitioner that he could apply for court appointed counsel by filling

out an affidavit to determine if he was indigent. [2] (Appendix B at 1-2). As discussed in the statement of facts, Petitioner did not initially obtain court appointed counsel and instead retained counsel. Subsequent to Petitioner filing a notice to represent himself, on February 24, 2009, the district court again advised Petitioner that he could apply for court appointed counsel. (Appendix B at 2-3). Petitioner did apply for court appointed counsel and attorney Jerry Gray was appointed as standby counsel (Appendix B at 3).

After Petitioner was found guilty a RALJ appeal was filed and Petitioner was appointed counsel on appeal. (Appendix A at 11-12). In June of 2010, Petitioner expressed dissatisfaction with his appointed counsel on appeal and the district court held a hearing regarding the appointment of counsel on June 2, 2010. (Appendix A at 12). During that hearing, the prosecution was present and the defendant disclosed previously undisclosed information which revealed that he was in fact not indigent, and not entitled to appointed counsel. (Appendix A at 12). There is nothing in the record to even remotely suggest that the State used information regarding indigence in its case. (Appendix A at 12).

[2] Portions of the record from the trial court were not transcribed by Petitioner on RALJ appeal and therefore, the State filed a transcript of additional relevant proceedings in the superior court on appeal. A copy of that transcript is attached as Appendix B and is cited as same.

The district court judge did not violate due process by conducting a hearing on June 2, 2010 as such a hearing is authorized pursuant to RCW 10.101.020(4). Given that such a hearing is permissible, the only manner in which the Petitioner's rights could have possibly been violated would be if the State had used any information obtained at that hearing in its criminal prosecution. There is absolutely no evidence in the record that this occurred. In fact, if anything, it is apparent from the record below that Petitioner may not have ever been entitled to the appointed representation he received in the first place.

VI. CONCLUSION

For the foregoing reasons, this court should deny Petitioner's Motion for Discretionary Review and the Superior Court's rulings should be enforced.

RESPECTFULLY submitted this 9th day of September, 2011.

JONATHAN L. MEYER
Lewis County Prosecuting Attorney

By: _____
SHANE O'ROURKE, WSBA 39927
Attorney for Respondent

APPENDIX A

RULING ON APPEAL FROM DISTRICT COURT

CERTIFIED

SUPERIOR COURT
LEWIS COUNTY, WASH.
REC'D & FILED
2011 JUL 12 AM 10: 29
KATHY BRACK, CLERK
BY
DEPUTY

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

STATE OF WASHINGTON Plaintiff / Respondent vs. STEPHEN C. JOHNSON Defendant/ Appellant	No. 09-1-00586-3 RULING ON APPEAL FROM DISTRICT COURT (RALJ)

I.

FACTS

On September 19, 2008, Appellant Stephen C. Johnson was stopped while driving in the 100 block of Falls Road in the Randle area of Lewis County. At the time of the stop, Mr. Johnson's driver's license and privilege to drive was suspended in the third degree. (RP 6-8, RP 12), (exhibit #1) According to the notice given by the Department of Licensing to Appellant, the suspension was due to his failure to respond to, appear, pay or comply with a citation for driving without a valid license, which citation was issued April 14, 2007. (Exhibit #1). In actuality, on April 14, 2007, Appellant, who had been a licensed driver but whose license the Department of Licensing had declined to renew, had been stopped while driving and issued a notice of infraction for driving without a valid driver's license. Appellant unsuccessfully contested the notice of infraction and a monetary penalty was imposed, which he failed to pay, claiming indigency.

Failure to pay the infraction resulted in the Department of Licensing suspending his driver's license and his privilege to drive in this state. (RP 58-63) (Exhibit #2)

As a result of the stop, Appellant was arrested for Driving while suspended in the Third Degree and transported to the Lewis County Jail. Appellant appeared for arraignment on September 22, 2008, at which time he waived formal arraignment, entered a plea of not guilty, and requested court appointed counsel. Despite claiming to be indigent, Appellant was found at that time to not qualify for court appointed counsel. Thereafter, attorney Ryan Gunn appeared as counsel for him. On December 4, 2008, a pretrial hearing was held and, a date for trial was set. That same day, Appellant filed a motion to dismiss the charge, and waived speedy trial to allow for setting of the motion to dismiss. On December 17, 2008, Attorney Gunn filed a notice of withdrawal as counsel for Appellant, indicating in the notice that Appellant would be representing himself, pro se. Appellant filed a pro se notice of appearance and a new brief on January 13, 2009. During a colloquy with the court on February 4, 2009, appellant stated that he desired to proceed pro se, did so and his motion to dismiss the charge was denied. (Brief of respondent page 2, lines 1-14) Thereafter, appellant filed a motion for reconsideration of the ruling denying his motion to dismiss. At that hearing, Appellant was apparently directed to file a new affidavit relative to his financial status, as the District Court determined that he then did qualify for court appointed counsel and after a colloquy with the Appellant, during which he reiterated his desire to represent himself, appointed attorney Jerry Grey as Standby counsel. On March 19, 2009, Appellant's motion to reconsider the denial of his motion to dismiss the charge was denied. Thereafter Appellant filed an interlocutory appeal to Superior court, which was dismissed.

The matter came on for trial September 18, 2009, before Court Commissioner Wendy Tripp. During the trial Appellant admitted in answer to various questions from the deputy prosecutor that he had received a notice of infraction, which he unsuccessfully contested, resulting in an adjudication being made that he owed a monetary penalty; had failed to pay the monetary penalty; had received notice that his driver's license would be suspended as a result of failing to pay the monetary penalty; knew that his driver's license was in fact suspended by the Department of Licensing for non-payment of the monetary penalty; and after such suspension drove his

motor vehicle on a public highway, which resulted in his being stopped and charged with driving while suspended. (RP pages 58-63). From a guilty verdict, the Appellant now appeals.

During the pendency of the appeal, Appellant, being dissatisfied with his appointed counsel for appeal, brought a pro se motion for new counsel on the appeal, which was first addressed to Superior Court where the appeal was then pending. Determining that the obligation to consider appointment of new counsel was properly a decision of the District Court, the request was referred to the District Court for a decision on the issue. Subsequently a hearing on the issue was held on June 2, 2010 before Judge Buzzard of the District Court. (RP hearing of June 2, 2010 12-23). During that hearing, inasmuch as he had examined the last affidavit of financial resources filed by Appellant in October of 2009 and determined that it was mostly blank, Judge Buzzard inquired of the Appellant relative to his finances, during which Appellant revealed that he owned a home, which he valued at $300,000. And which was free and clear. He also disclosed that he was the judgment creditor in a civil lawsuit in Lewis County Superior Court, wherein he was awarded 2.5 million dollars for the tort of outrage and $420,000.00 in actual damages, for a total of 2.928 million dollars. Appellant further disclosed that the interest on the judgment, which had not been appealed, was $960.00 per day and that no effort had been made by Appellant to collect upon or realize upon the judgment. Judge Buzzard declined the request to replace his then counsel and stated that Appellant did not get counsel of his choice at public expense. The record is thereafter silent on the issue of his request for "new" court appointed counsel, although appointed counsel thereafter took no further action relative to the appeal and present counsel, who was apparently retained for the purposes of appeal, appeared for Appellant on August 2, 1010.

II.

ISSUES ON APPEAL

The Appellant has raised several issues on appeal, including the following:

1. The state failed to prove all of the elements of the crime charged;

2. The suspension of the Appellant's driver's license was unconstitutional;

3. The suspension of a driver's license for non-payment as applied to indigent defendants is unconstitutional;

4. Appellant received ineffective assistance of counsel at trial and

5. The court violated procedural due process in determining that the Appellant was not indigent for the purpose of appointment of counsel on appeal.

III.

AUTHORITY AND DECISION

1. R.C.W. 46. 20.342 provides in part "That it is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status." Subsection (c) of the same statute provides in part "A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because...(iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of a traffic infraction or citation, as provided in R.C.W. 46.20.289... is guilty of driving while license suspended or revoked in the third degree." R.C.W. 46.20.289 provides in part, "the department shall suspend all driving privileges of a person when the department receives notice from a court under R.C.W. 46.63.070(6), 46.63.110 (6), or 46.64.025, that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a traffic infraction or citation." R.C.W. 46.63.110 (the version in effect at the time Appellant was stopped) provides in part: "(1) A person found to have committed a traffic infraction shall be assessed a

monetary penalty." The statute further provides in subsection (6): "Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by the court under this chapter it is immediately payable... (b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid."

Appellant claims that the state failed to prove all of the elements of the charge, driving while suspended third degree because the statute does not apply to Appellant, as he did "respond to the traffic infraction" in that he complied with the terms of the notice of infraction by requesting a hearing. Such an argument ignores the plain language and the interrelationship of the statutes referred to above, governing the issuance of traffic infractions and response to them. By the plain language of R.C.W. 46.73.070 when a person, such as Appellant receives a notice of traffic infraction, that person must "respond" by either paying the monetary penalty, asking for a mitigation hearing or asking for a contested hearing. There is no dispute that Appellant did initially "respond" to the notice of infraction and request a contested hearing. Appellant's driver's license and privilege was not suspended as a result of that response, rather Appellant's license and privilege was suspended for what came after that contested hearing, namely not paying the monetary penalty when the infraction was found to have been committed. As clearly set forth in the above in R.C.W. 46.63.110, when an infraction is found committed, a monetary penalty is imposed and a date by which it is to be paid is set. Someone in the position of Appellant who has contested an infraction and lost the contest can request a payment plan, which Appellant did not do, but in the event that the infraction is not paid by the due date or if there is a

failure of the payment plan, pursuant to R.C.W. 46.63.110, the court notifies Department of Licensing (DOL), which after notice, suspends the driver's license or privilege of the non-paying party. In the event that the non-paying party continues to drive and is stopped by law enforcement, pursuant to R.C.W. 46.20.342 and R.C.W. 46.20.289, which must be read together, that party is properly chargeable with driving suspended in the third degree since the non-paying party has failed to comply with the terms of the notice of infraction, specifically by not paying it. The "failure to comply with the terms of a traffic infraction as provided in R.C.W. 46.20.289" does not mean failing to respond to the initial notice of traffic infraction as set forth in R.C.W. 46.63.070 rather; it refers in clear and unequivocal language to non-compliance by doing what the adjudicated infraction requires, such as by not paying the monetary penalty.

In the case at bar, the evidence produced at trial showed that Appellant, when stopped by the deputy Sheriff on September 19, 2008, was driving his vehicle on a public highway, in Lewis County, State of Washington, during a period when his driver's license or privilege was suspended due to his failure to pay a monetary penalty imposed for an infraction for driving without a valid driver's license. Appellant knew his license was suspended and exhibit #1 clearly showed that he had received notice dated September 17, 2007, that his driver's license would be suspended on November 1, 2007, due to his failure to pay the infraction. The state proved all of the elements of the crime of driving while suspended and the claim to the contrary is without merit.

2. Appellant, with scant citation to relevant authority claims that the underlying suspension of his driver's license and privilege was unconstitutional, and that as a result the conviction for driving while suspended should be reversed. Appellant further claims that

suspension of a driver's license of non-payment of a monetary obligation is unconstitutional as applied to individuals who are indigent. Appellant acknowledges that his driver's license and privilege were suspended due to his non-payment of a fine (monetary penalty) incurred for committing the infraction of driving without a valid license, and claims that he did not have a valid license because of the refusal of the Department of Licensing to renew his driver's license due to his failure to provide a residence address in his application, as required by R.C.W. 46.20.091 (1) (d). Appellant asserts that the requirement of a residential address by R.C.W. 46.20.091 (1) (d) is unconstitutional. (Brief of Appellant pages 6-8)

In making this argument, Appellant ignores the underlying fact that his driver's license and privilege was not suspended due to anything concerning his application or address, but rather because he failed to pay the monetary penalty incurred due to the infraction of driving without a valid license. Both the infraction and the subsequent charge of driving while suspended share the same fact, that the Appellant was driving on a public highway with knowledge that he was unlicensed and in the latter circumstance suspended. In either event, both the infraction and the criminal charge could have been avoided by simply not driving. With regard to the claim regarding the unconstitutionality of R.C.W. 46.20.091 (1) (d), Washington requires that a statute must be shown to be unconstitutional beyond a reasonable doubt, City of Redmond v. Moore, 151 Wn. 2d 664, 91 P.2d875 (2004) A facial challenge to the constitutionality of a statute requires that it be shown beyond a reasonable doubt that there are no set of circumstances where the statute can be constitutional. Washington State Republican Party v. Public Disclosure Commission, 141 Wn. 2d 245, 282, 4 P.3ed808 (2000) Assumptions or hypotheses about the potential unconstitutionality of a statute are not enough. R.C.W. 46.20.091 establishes the criteria for an application for an original driver's license and requires at a minimum, name, verified by

evidence; date of birth, verified by evidence; sex; Washington residence address; description; driving record and any other information required by the department. Nothing in the statute on its face distinguishes among applicants or classes of applicants, as the same information is sought from all. Appellant claims the statute denies equal protection as it denies homeless persons the right to obtain a driver's license. Such a claim is wholly unsubstantiated by any evidence in the record, and assumes that homeless applicants do not have a residence address, and have a "right" to a driver's license neither of which contentions has been shown to be true or accurate. Moreover, the Washington Supreme Court has rejected equal protection challenges to ordinances because they apply equally to all persons. State v. Webster 115 Wn.2d 635, 646, 802 P.2d 1333 (1990) In the same case, in dicta, the court pointed out that in no case had the "homeless" been declared to be a protected class for the purpose of Fourteenth Amendment analysis.

The claim that R.C.W. 46.20.091 is unconstitutional is irrelevant to these proceedings in any event as Appellant admitted that he had no valid driver's license when the infraction was issued and, knew he was suspended when stopped on September 19, 2008. Moreover there is no evidence in the record that Appellant is "homeless" and a member of the "homeless" class of individuals if such class exists or, other than his own self-serving claim, that the reason he could not renew his driver's license was due to his failure to furnish a residence address in his application. The proper forum for Appellant to litigate a claim that he is should be entitled to obtain a driver's license without proving residence within the State of Washington should be in a civil proceeding with the Department of Licensing, not this appeal of a conviction for driving while license was suspended.

Appellant also appears to argue that there is no rational basis for requiring applicants for driver's licenses to furnish a residential address within this state, which ignores the requirement

of R.C.W. 46.20.001 that a driver within this state, unless subject to one or more of the exemptions listed, must obtain a driver's license issued to residents of this state to drive upon its highways. As pointed out in Spokane v. Port, 43 Wn. App.273, 275, 716 P.2d 945 (1986) driving on the highways of this state is a privilege, not a right, and always subject to such reasonable regulation and control as the proper authorities see fit under the police powers in the interest of public safety and welfare, See also Hendrick v. Maryland,235 U.S. 610, 59 L.Ed.385, 35 S. Ct. 140 (1915), where the U.S. Supreme Court held that states may rightfully prescribe uniform regulations necessary for public safety and order in the operation upon its highways of motor vehicles and it may require the licensing of drivers. The State of Washington certainly has an interest in seeing that those to whom driver's licenses are issued are not only competent and skilled but are actual residents of this state, and to require such an address is a valid regulation under the police powers of the state. Appellant has not shown that the underlying suspension of Appellant's driver's license or privilege was unconstitutional or that the requirement that a residential address be furnished to obtain a driver's license is unconstitutional on its face and his claims with respect thereto are without merit.

3 & 5. Appellant in his third assignment of error claims that Suspension of a driver's license for non-payment of a monetary obligation is unconstitutional as applied to indigents. In his fifth assignment of error he claims that the District Court Judge denied Procedural Due Process to Appellant in finding that he was not indigent and denying him appointed counsel for appeal. As both of these claims relate to the financial circumstances of the Appellant, they will be discussed here. Unfortunately the record before this court does not contain any documentation of Appellant's financial circumstances, other than a partial transcript of a hearing held before

Judge Roewe on February 24, 2009, and a partial transcript of a hearing held before Buzzard of the district Court on June 2, 2010. Other than those two partial transcripts of hearings actually held, the only other items in the record for consideration as to the financial status of Appellant are the statements contained in Appellant's brief.

Appellant argues that suspension of a driver's license for failure to pay a monetary penalty is unconstitutional as applied to the indigent. As pointed out above, pursuant to R.C.W. 46.63.110 (1), a person found to have committed a traffic infraction shall be assessed a monetary penalty. Pursuant to subsection 6 of the same statute, when a monetary penalty is imposed it is immediately payable. In the event that the person against whom the penalty has been assessed is not able to pay it in full, and not more than a year has elapsed since the penalty was assessed, the court may enter into a payment plan with the person owing the monetary penalty. Pursuant to the same subsection of the statute, in the event that payments are not made, the court notifies DOL and pursuant to statute, DOL suspends the driver's license or privilege of the non-paying person. By statute, monetary penalties imposed are civil in nature; hence non-payers may not be imprisoned for non-payment, although other consequences such as suspension of driver's license may follow. No authority for the claim that suspension of a driver's license for non-payment of a financial penalty is unconstitutional has been provided by Appellant and as imprisonment does not directly result from non-payment, Appellant's reliance upon Tate v. Short, 401 U.S. 395, 28 LED 2ed 130, 91 S Ct. 668 (1971) for support for the claim that it is unconstitutional is misplaced. The possibility of incarceration is remote and triggered not by non-payment of the monetary penalty but rather by driving subsequent to being notified of the suspension of a driver's license for non-payment, which may lead to prosecution for the criminal traffic offense of driving while suspended. Suspension of a driver's license has no direct or criminal

consequence absent driving while in that status. Again, the consequence of failing to pay a monetary penalty is the same for all classes of licensed drivers, namely suspension of driver's license and privilege after notice, it is not a consequence reserved for someone who claims to be indigent. Moreover, there is no distinction made between one who does not pay a monetary penalty due to a claim of inability to pay and one who does not pay merely because he or she decided not to do so. Suspension due to non-payment of a monetary penalty is not unconstitutional.

R.C.W. chapter 10.101.005 et. Sequence deals with services which may be provided to persons who are determined to be indigent. R.C.W. 10.101.020 (3) deals with determination of indigency and provides in part that the determination is to be made at the initial contact with defendant or at the earliest time circumstances permit. The statute also provides that the information furnished by the defendant is confidential and shall not be available for use by the Prosecution in the pending case. CrRLJ 3.1 follows the statute in that it provides in subsection (3) that information given by a person to assist in the determination of whether he or she is financially able to obtain a lawyer shall be on oath and shall not be available to the prosecution in the pending case in chief. R.C.W. 10.101.020 (4) provides in part that if the court subsequently determines the person receiving services is ineligible, the court shall notify the person. As stated above, none of the information furnished by Appellant to the District Court relative to his financial status was included in the "record" of the case filed in Superior Court, other than the two partial transcripts of hearings held on February 24, 2009 and June 2, 2010. At the hearing before Judge Roewe on February 24, 2009, in response to inquiry from the Court as to whether he had sought appointment of a public defender, Appellant initially responded, "I don't think I qualify." Appellant thereafter went to the District Court Probation Office and subsequently

qualified, and stand by counsel was appointed. In June of 2010, after Appellant expressed dissatisfaction with his the court appointed counsel, Judge Buzzard held a hearing to consider allowing his then counsel to withdraw and appointing new counsel and observing that the financial documents filed by Appellant were mostly blank, inquired on the record as to Appellant's financial status. During that hearing Appellant revealed that he owned a house, free and clear, which he valued at $300,000, and that he had left the paragraph describing his interest in real estate on the financial declaration blank. (RP June 2, 2010, page 18) In response to further questioning Appellant disclosed that he was the judgment creditor in a suit against his neighbor, which judgment totaled 2.928 Million dollars, and was accruing interest at the rate of $960.00 per day and had not been appealed. (RP June 2, 2010 page 21-22) Although the record of what transpired thereafter is not before the court, apparently Judge Buzzard determined that the Appellant was not indigent, and declined to appoint new counsel for him on appeal.

While it is true that Pursuant to above-cited statute and court rule, the information pertaining to the financial resources of Appellant is confidential and not to be used by the prosecution in the case or used in the prosecution's case in chief, there is no evidence that the information obtained by Judge Buzzard was so used. Moreover, it appears that full disclosure of assets was not done at the time the initial application for a determination of indigency was made and absent inquiry by Judge Buzzard disclosure of either the 2.928 million dollar judgment in Appellant's favor or his $300,000 unencumbered home would not have been forthcoming. Given the disclosure of Appellant's assets at the June 2, 2010 hearing, it does not appear that the determination, assuming that it was made, that Appellant was not indigent for the purpose of court appointed counsel for his appeal was error or erroneously made. Contrary to the claim of Appellant, there was nothing violative of due process by Judge Buzzard in conducting the inquiry

as it appears to be allowed by R.C.W. 10.101.020 (4) and Appellant does not appear to be entitled to counsel paid for by the taxpayers in prosecuting his appeal.

Contrary to the claims made by Appellant, it is not unconstitutional for the state to suspend a driver's license for failure to pay a monetary penalty, regardless of whether the person whose license is suspended is indigent or claims that he or she can't pay the monetary penalty. It does not appear that by any reasonable standard, Appellant is indigent and could not pay the monetary penalty imposed for the infraction found committed. It was not error for Judge Buzzard to conduct an under oath, on the record examination of Appellant relative to his financial assets and the determination that Appellant was not indigent was not in error. Appellant was not entitled to counsel paid for by the taxpayers in the prosecution of his appeal, and his claim to the contrary is without merit.

4. The final claim of Appellant pertains to his assertion that his standby counsel provided ineffective assistance at trial. A criminal defendant has a constitutional right to the assistance of counsel. U.S. Constitution amendment 6, 14; Washington Constitution article 1, section 3, and 22. The right to counsel necessarily includes the right to effective assistance of counsel. Kimmelman v. Morris, 477 U.S. 365, 377, 106 S.Ct. 2574, 91 L.Ed. 2ed 305 (1986). The "landmark" case involving a claim of ineffective assistance of counsel is Strickland v. Washington, 466 U.S. 668, 104 S.CT. 2052, 80 L.ED. 2ed 674 (1984). As held by the United States Supreme Court in Strickland, supra and in Washington cases following it, State v. Bradbury, 38 Wn. App. 367, 685 P.2d.623 (1984), in examining a claim that trial counsel was ineffective, appellate courts utilize a two part test, namely (1) was counsel's performance below objective standards of reasonable representation, and if so (2) did counsel's performance

prejudice the defendant. Strickland, supra at 687-88 and Bradbury, supra at 370. See also State v. Thomas, 109 Wn. 2d 222, 749 P.2d. 816 (1987). With respect to the first prong of the Strickland, supra, scrutiny of counsel's performance is highly deferential and courts will indulge in a strong presumption of reasonableness. See State v.McNeal, 145 Wn.2d 352, 362, 37 P.3ed 280 (2002). With regard to the second prong, the defendant has the burden to show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland at 694, Thomas, supra at 226. In order to prevail on an ineffective assistance of counsel claim, the Appellant must show that (1) trial counsel's performance was deficient in that it fell below an objective standard of reasonableness and (2) counsels' deficient performance prejudiced the defendant, in that there is a reasonable probability that, but for counsel's errors the outcome of the proceeding would have been different. State v. Pugh, 153 Wn. App 569, 222P.3d 821 (2009) citing State v. Hendrickson, 129 Wn. 2d 61, 917 P.2d 563 (1996). If either part of the test is not satisfied, the inquiry need go no further.

The role of "stand-by" counsel is not to represent a pro-se defendant, but rather to provide the pro-se defendant with technical information and to "be available to represent the accused in the event that termination of the defendant's self-representation is necessary." State v. Pugh, supra at 580, citing State v. Bebb, 108 Wn.2d 515,740 P.2.2d 829 (19087)

In the case at bar, Appellant, pro-se, filed a 7 page motion to dismiss the driving while suspended charge, followed by a 14 page motion to reconsider the refusal of the District Court to grant the initial motion. On March 19, 2009 Appellant, pro-se, argued the motion to reconsider before Judge Roewe with the assistance of stand-by counsel Mr. Grey. When the District Court denied the motion to reconsider, Appellant acting pro-se sought discretionary review in the Superior Court, which after argument by Appellant was denied. Mr. Grey was appointed by the

court as stand-by counsel only and functioned as standby counsel, although he did question Appellant at trial and raised numerous objections to actions of the state not only at trial by at pre-trial proceedings as well. No evidence in the record shows that Appellant ever requested a change in Mr. Grey's status from stand-by to full counsel. No evidence in the record supports the argument made by Appellant in his brief that Mr. Grey refused to make constitutional and statutory arguments for and on behalf of Appellant. Nothing in the record suggests that Mr. Grey, as claimed in Appellant's brief, somehow pressured Appellant to proceed pro-se, especially given Appellant's record of representing himself, pro-se on numerous occasions. Moreover, several of the arguments made by the Appellant in his initial motion to dismiss and in his motion to reconsider denial of that motion, specifically about his "right to drive", the claimed unconstitutionality of the statutes and that the statutes somehow do not apply to him and his situation are the same arguments made in his appeal. There is no showing that the outcome of the trial in District Court would have been any different, regardless of how or by whom Appellant was represented or assisted. The claim of ineffective assistance of counsel is without merit.

Considering all of the issues raised by Appellant in his appeal, there is no merit to his contention that the state failed, at trial to prove all of the elements of the offense; no merit to his contention that the underlying suspension of his driver's license and his privilege was unconstitutional; no merit to his contention that the requirement to furnish a residential address to obtain a driver's license is unconstitutional; suspension of a driver's license for non-payment of a monetary obligation or fine is not unconstitutional as to indigent defendants; Appellants stand-by counsel was not ineffective; and the examination of Appellant's financial status in determining that he was apparently not entitled to appointed counsel on appeal did not violate

due process of law. The conviction of Appellant for driving while suspended shall be affirmed and the matter remanded to District Court for imposition of costs, which are awarded to the respondent, State of Washington.

IT IS ORDERED, ADJUDGED AND DECREED THAT THE DECISION AND JUDGMENT OF THE LEWIS COUNTY DISTRICT COURT IS AFFIRMED. IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT THIS MATTER IS REMANDED TO THE LEWIS COUNTY DISTRICT COURT FOR ENFORCEMENT OF THE JUDGMENT AND FOR IMPOSITION OF COSTS OF APPEAL AWARDED TO RESPONDENT STATE OF WASHINGTON

DATED THIS 12TH DAY OF JULY, 2011

RICHARD L. BROSEY, JUDGE

APPENDIX B

RESPONDENT'S TRANSCRIPT OF RELEVANT PROCEEDINGS

SUPERIOR COURT
LEWIS COUNTY, WASH
REC'D & FILED
2011 FEB -1 AM 9:30
KATHY BRACK, CLERK
BY 2013
DEPUTY

ORIGINAL

CERTIFIED

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

STATE OF WASHINGTON, Appellant, vs. STEPHEN C. JOHNSON, Respondent.	Superior Court No.: 09-1-00586-3 District Court No.: C85203 **RESPONDENT'S TRANSCRIPT OF RELEVANT PROCEEDINGS**

SEPTEMBER 22, 2008 – LEWIS COUNTY DISTRICT COURT - ARRAIGNMENT:

PARTICIPANTS:

COURT COMMISSIONER:	WENDY TRIPP
PROSECUTOR:	CAILEN WEVODAU
ATTORNEY FOR DEFENDANT:	ROBERT SCHROEDER

COMMISSIONER: ...let's go through the arraignment and then we can talk about that. Is he waiving formal arraignment?

SCHROEDER: He is your Honor. He is advised...

COMMISSIONER: This is a driving suspended third degree charge.

SCHROEDER: He is aware of driving with license suspended in the third degree; it's a misdemeanor charge, maximum ninety days, maximum $2,050 fines fees costs and assessments if he's convicted of that charge. He is aware of the elements of that charge and he is at this time entering a plea of not guilty to driving while license suspended third. He is requesting a court appointed attorney if he does qualify for the same your Honor. We would like to address conditions of release... (conditions of release argued)...

MICHAEL GOLDEN
Lewis County Prosecuting Attorney
345 W. Main St., 2nd Floor
Chehalis, WA 98532-1900
(360) 740-1240 FAX: (360) 740-1497

COMMISSIONER: ... we'll enter the plea of not guilty to the charge and we can advise you of what you need to do as far as getting a court appointed attorney. You have to fill out the paperwork to do that. It's just not an automatic thing. You have to go to the probation office, fill out the paperwork and then if you qualify we can appoint an attorney to represent you...

FEBRUARY 4, 2009 – LEWIS COUNTY DISTRICT COURT - DEFENSE MOTION:

PARTICIPANTS:

JUDGE:	MICHAEL ROEWE
PROSECUTOR:	SHANE O'ROURKE
PRO-SE DEFENDANT:	STEPHEN C. JOHNSON

JUDGE: Matter is before the Court on a motion to dismiss. Mr. Johnson represents himself and is present, and the State is represented by Mr. O'Rourke. Mr. Johnson are you ready to proceed?

DEFENDANT: Yes.

FEBRUARY 24, 2009 – LEWIS COUNTY DISTRICT COURT - DEFENSE MOTION:

PARTICIPANTS:

JUDGE:	MICHAEL ROEWE
PROSECUTOR:	CAILEN WEVODAU
PRO-SE DEFENDANT:	STEPHEN C. JOHNSON

JUDGE: The third matter on for trial this morning is cause number 85203. Mr. Johnson is present representing himself although he has not waived his right to counsel. He previously was represented by an attorney in this matter, the attorney has withdrawn...

(SCHEDULING DATES FOR TRIAL)

JUDGE: Mr. Johnson, just to make the record clear, do I understand at this stage you're going to be representing yourself at trial in this matter?

DEFENDANT: I believe so.

JUDGE: Alright. And we've been over the fact that you have the right to counsel, you've chosen not to hire an attorney or keep an attorney in this matter?

DEFENDANT: I have no money.

JUDGE: And did you apply for a public defender? I don't remember seeing that.

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DEFENDANT: I don't think I qualify.

JUDGE: Alright, so you're going to go forward on your own is what you're choosing to do? Can't afford to keep a private attorney, but you make too much to have a public defender? Is that a fair statement?

DEFENDANT: That's where I'm at.

JUDGE: Alright. That happens.

(FURTHER SCHEDULING OF TRIAL)

(DEFENDANT GOES TO PROBATION OFFICE AND QUALIFIES FOR COURT APPOINTED COUNSEL. SUBSEQUENTLY RETURNS TO COURT AND IS APPOINTED COUNSEL)

APRIL 22, 2009: LEWIS COUNTY DISTRICT COURT - PRETRIAL HEARING:

PARTICIPANTS:

JUDGE:	MICHAEL ROEWE
PROSECUTOR:	CAILEN WEVODAU
STANDBY COUNSEL:	JERRY GRAY
PRO-SE DEFENDANT:	STEPHEN C. JOHNSON

JUDGE: ...suspended in the third degree. Mr. Johnson is present, representing himself. Mr. Gray is his standby counsel. Matter is on for pretrial hearing and trial setting. State is represented by Ms. Wevodau. Mr. Johnson are you prepared to set this matter for trial today?

DEFENDANT: I would like to ask for a continuance on the trial on an appeal that we've filed.

JUDGE: I'm aware of your interlocutory appeal Mr. Johnson, I don't know that the Court has the ability to not proceed. It doesn't seem to relieve us of the speedy trial time. What's the position of the State on this?

PROSECUTOR: The State's position is that the matter needs to be set for trial.

JUDGE: Mr. Gray?

MR. GRAY: Your Honor, what's the expiration date?

JUDGE: The current expiration date on Mr. Johnson... pull up his docket...

MR. GRAY: I think it might be down the way a little bit. I guess my request would be to set the matter for trial but as far out as we can according to speedy trial.

(THE COURT ATTEMPTS TO FIND A TRIAL DATE)

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JUDGE: You're asking for a jury trial Mr. ... excuse me Mr. Johnson, you're the attorney of record, Mr. Gray is only there as your backup. Mr. Johnson are you asking for a trial date in late June early July?

DEFENDANT: Yes.

(THE COURT CONTINUES TO LOOK FOR A TRIAL DATE)

JUDGE: 3.5 hearing needed Mr. Johnson?

DEFENDANT: What?

MR. GRAY: (whispering to Defendant) 3.5 hearing needed?

DEFENDANT: (whispering) What is that?

MR. GRAY: (whispering) It's a hearing dealing with any kind of statements you made to the officer.

DEFENDANT: (whispering) I don't believe so.

DEFENDANT: No.

JUDGE: Alright.

(THE COURT SETS TRIAL)

SEPTEMBER 15, 2009 LEWIS COUNTY DISTRICT COURT TRIAL CONFIRMATION:

PARTICIPANTS:

JUDGE:	MICHAEL ROEWE
PROSECUTOR:	SHANE O'ROURKE
STANDBY COUNSEL:	JERRY GRAY
PRO-SE DEFENDANT:	STEPHEN C. JOHNSON

JUDGE: C85203, a charge of driving while license suspended in the third degree. Mr. Johnson is present representing himself with his standby attorney Mr. Gray. The State is represented by Deputy Prosecuting Attorney O'Rourke. This matter is set for trial on Friday. Mr. Johnson, are you prepared to proceed to trial on Friday.

DEFENDANT: Yes, sir.

JUDGE: The defense is prepared to proceed on Friday. Mr. O'Rourke, is the Plaintiff prepared to proceed on Friday?

PROSECUTOR: We are your Honor.

(THE COURT GOES OVER WITNESSES AND READINESS)

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JUDGE: The matter is confirmed for trial on Friday at 8:45. Do you have any questions Mr. Johnson?

DEFENDANT: No.

JUDGE: Thank you sir. Mr. Gray, thank you. Mr. O'Rourke, thank you.

THE UNDERSIGNED CERTIFIES UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE STATED RECORDINGS OF THE PROCEEDINGS IN THIS MATTER.

DATED this 1st **day of** February **, 2011**

in the city of CHEHALIS, county of LEWIS, state of WASHINGTON.

SHANE MICHAEL O'ROURKE
Deputy Prosecuting Attorney WSBA#39927

MICHAEL GOLDEN
Lewis County Prosecuting Attorney
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COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON, Respondent, vs. STEPHEN C. JOHNSON, Petitioner.	)	NO. 42461-4-II DECLARATION OF MAILING

Ms. Teri Bryant, paralegal for Shane O'Rourke, Deputy Prosecuting Attorney, declares under penalty of perjury under the laws of the State of Washington that the following is true and correct: On September 9, 2011, the petitioner was served with a copy of the **Respondent's Response to Motion for Discretionary Review** by depositing same in the United States Mail, postage pre-paid, to the attorney for Appellant at the name and address indicated below:

Jon E. Cushman
Attorney at Law
924 Capitol Way S
Olympia, WA 98501-8239

DATED this 9 day of Sept., 2011, at Chehalis, Washington.

Teri Bryant
Teri Bryant, Paralegal
Lewis County Prosecuting Attorney Office

LEWIS COUNTY PROSECUTOR

September 09, 2011 - 2:08 PM

Transmittal Letter

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Case Name:

Court of Appeals Case Number: 42461-4

- ○ Designation of Clerk's Papers ☐ Supplemental Designation of Clerk's Papers
- ○ Statement of Arrangements
- ○ Motion: ___
- ○ Answer/Reply to Motion: ___
- ○ Brief: ___
- ○ Statement of Additional Authorities
- ○ Cost Bill
- ○ Objection to Cost Bill
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- ○ Letter
- ○ Copy of Verbatim Report of Proceedings - No. of Volumes: ___
  Hearing Date(s): _____
- ○ Personal Restraint Petition (PRP)
- ○ Response to Personal Restraint Petition
- ○ Reply to Response to Personal Restraint Petition
- ◉ Other: Declaration of Mailing

Sender Name: Teresa L Bryant - Email: Teri.Bryant@lewiscountywa.gov

LEWIS COUNTY PROSECUTOR

September 09, 2011 - 2:00 PM

Transmittal Letter

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Case Name:

Court of Appeals Case Number: 42461-4

- ○ Designation of Clerk's Papers ☐ Supplemental Designation of Clerk's Papers
- ○ Statement of Arrangements
- ○ Motion: ___
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- ○ Letter
- ○ Copy of Verbatim Report of Proceedings - No. of Volumes: ___
  Hearing Date(s): _____
- ○ Personal Restraint Petition (PRP)
- ○ Response to Personal Restraint Petition
- ○ Reply to Response to Personal Restraint Petition
- ○ Other: _____

Sender Name: Teresa L Bryant - Email: Teri.Bryant@lewiscountywa.gov