

THE SUPREME COURT FOR THE STATE OF WASHINGTON

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IN RE: PERSONAL RESTRAINT OF BARON N. HAGHGHAI

STATE OF WASHINGTON, Respondent,)	No. 87529-4
)	COA No. 65130-7-1
v.)	STATEMENT OF
)	ADDITIONAL
)	AUTHORITIES
BARON N. HAGHIGHAI, Petitioner)	

Pursuant to RAP 10.8, Baron N. Haghighi, the petitioner herein, respectfully cites the following as additional authority in support of his motion for discretionary review, regarding the issue of whether adding an ineffective assistance of counsel claim to a personal restraint petition constitutes a separate claim that is time-barred if raised more than one year after the original mandate in the direct appeal:

In re Pers. Restraint of Wilson, __ Wn.App. __, __ P.3d __,

2012 WL 2511190, *3 (July 2, 2012):

The State suggests ineffective assistance is a new claim, distinct from the instructional issue raised in Wilson's timely original petition, and is therefore time-barred because it does not fall under any of the exceptions to the one-year

time limit. See RCW 10.73.100; In re Pers. Restraint of Stoudmire, 141 Wn.2d 342, 349, 5 P.3d 1240 (2000).

Wilson responds that the issue of ineffective assistance is "part and parcel" of the Cronin and Roberts issue, not a freestanding claim. We agree. . . . Seeing the accomplice liability instruction through the lens of ineffective assistance does not transform it into a different claim; the claim remains one of instructional error.

A "new" issue is not created merely by supporting a previous ground for relief with different factual allegations or with different legal arguments. For example, "[a] defendant may not recast the same issue as an ineffective assistance claim; simply recasting an argument in that manner does not create a new ground for relief or constitute good cause for reconsidering the previous rejected claim."

In re Pers. Restraint of Davis, 152 Wn.2d 647, 671, 101 P.3d 1 (2004) (footnote omitted). See also In re Pers. Restraint of Martinez, 171 Wn.2d 354, 361 n.2, 256 P.3d 277 (2011) (citing RAP 1.2 and liberally construing CrR 7.8 motion to raise a sufficiency of the evidence issue despite fact that the petitioner initially framed the issue as a matter of instructional error).

DATED this 10th day of July 2012.

Respectfully submitted,



Nancy P. Collins (WSBA 28806)
Washington Appellate Project (91052)
Attorneys for Petitioner

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 87529-4**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

- respondent Donna Wise, DPA,
King County Prosecutor's Office – Appellate Unit
- petitioner
- Attorney for other party


MARIA ANA ARRANZA RILEY, Legal Assistant
Washington Appellate Project

Date: July 10, 2012

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To: Maria Riley
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Rec'd 7/10/2012

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In re the PRP of Baron Haghghi

No. 87529-4

Please accept the attached documents for filing in the above-subject case:

STATEMENT OF ADDITIONAL AUTHORITIES

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