

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

STATE OF WASHINGTON, Respondent,

v.

WILLIAM RICHARD COGGIN, Appellant.

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STATE OF WASHINGTON
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THIRD SUPPLEMENTAL BRIEF OF RESPONDENT

**DAVID S. McEACHRAN,
Whatcom County Prosecuting Attorney
By HILARY A. THOMAS
Appellate Deputy Prosecutor
Attorney for Respondent
WSBA #22007**

**Whatcom County Prosecutor's Office
311 Grand Avenue, Second Floor
Bellingham, WA 98225
(360) 676-6784**

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SUPPLEMENTAL BRIEF ISSUE

The Court has requested the parties to address the application of In re Morris, ___ Wn.2d ___, 288 P.3d 1140 (2012) to this case.

A. SUMMARY ANSWER

In re Morris does not apply to this case because Coggin never asserted an ineffective assistance of counsel claim regarding the alleged violation of his right to public trial in his personal restraint petition. The remedy of an automatic new trial under In re Morris is limited to those cases in which that claim is asserted. Where such a claim is not asserted, the petitioner still has the burden to demonstrate actual and substantial prejudice from a constitutional error. Coggin has not asserted any specific prejudice. His petition therefore should be denied.

Even if this case were on direct appeal, the failure to conduct a Bone-Club¹ analysis before conducting in chambers voir dire in this case would still be governed by State v. Momah.² While the majorities in Wise³ and Paumier⁴ have attempted to marginalize Momah, Momah has not been overturned and still holds that unless a trial is rendered

¹ State v. Bone-Club, 128 Wn.2d 254, 906 P.2d 325 (1995).

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³ State v. Wise, ___ Wn.2d ___, 288 P.3d 1113 (2012).

⁴ State v. Paumier, ___ Wn.2d ___, 288 P.3d 1126 (2012).

fundamentally unfair by a courtroom closure, there is no structural error and automatic reversal is not required.

Momah demonstrates that not all Art. 1 § 22 violations are structural errors and prejudice cannot be presumed in a personal restraint petition. Where the violation is a failure to conduct the Bone-Club analysis, and not an unlawful closure over defendant's objection, the petitioner must demonstrate actual and substantial prejudice flowing from the failure to conduct the analysis.

Assuming the alleged violation here was one that Coggin did not invite or waive⁵, Coggin was not actually prejudiced by the closure where defense counsel encouraged jurors⁶ to seek private questioning if they so desired, part of the voir dire occurred in chambers in order to avoid tainting the rest of the jury from jurors' prior exposure to the case and prior experiences with sexual assault, and the process resulted in a number of jurors being excused for cause, including three based on defense motion. Where, as in Momah, defense counsel assented to and encouraged the in chambers voir dire and where Coggin suffered no

⁵ The State still asserts, in accord with its response brief, that Coggin's actions in this case constitute invited error and/or that he waived any error regarding closing the courtroom without the court conducting a Bone-Club analysis.

⁶ The State uses the term "jurors" to refer to members of the venire panel for ease of reference, although the members had not been seated.

prejudice and actually benefitted from it, no structural error occurred and prejudice should not be presumed.

If this Court were to determine that prejudice can be presumed in this case pursuant to In re Morris, thus resulting in an automatic new trial, the State asserts that In re Morris was wrongly decided and harmful and should be overturned.⁷

B. ARGUMENT

- 1. The remedy of automatic reversal applied in In re Morris does not apply here because Coggin has not asserted ineffective assistance of counsel as the defendant in Morris did.**

The opinion recently issued in In re Morris does not apply to this personal restraint petition for the plain fact that Coggin has not asserted an ineffective assistance of counsel claim and therefore cannot rely upon presumed prejudice in seeking reversal. Coggin must demonstrate actual and substantial prejudice from the alleged error regarding his constitutional right to public trial in order to prevail. He has not asserted any specific prejudice that flowed from the failure to conduct the Bone-Club analysis and relies solely upon presumed prejudice in seeking

⁷ The State is aware that this is an issue that would need to be addressed by the Washington Supreme Court, but includes it here in order to preserve it in case of further review.

reversal. As per se prejudice is inapplicable in this case, his petition should be denied.

In In re Morris, the defendant asserted that his right to public trial had been violated when the trial court conducted a portion of voir dire in chambers and that appellate counsel had been ineffective for failing to raise the issue in his direct appeal. In re Morris, 288 P.3d at 1144. At trial, after voir dire had begun, the court indicated that some jurors who had requested to speak privately needed to be interviewed and then conducted individual voir dire of a number of jurors in chambers. *Id.* at 1142. The defendant waived his right to be present at the in chambers voir dire in hopes that jurors would be more forthcoming without him in the room. *Id.* Some of the individual jurors desired private questioning due to the nature of the case, a child sex abuse case, and some simply because they did not wish to speak in front of the venire. *Id.* at 1143.

The In re Morris court specifically declined to address whether “a public trial violation is also presumed prejudicial on collateral review” because it resolved the defendant’s claim on ineffective assistance of counsel grounds. *Id.* at 1144. Instead of analyzing the prejudice prong in light of the actual error, failing to conduct an on-the-record Bone-Club analysis before temporarily closing the courtroom, the In re Morris court relied on the newly announced decisions in Wise and Paumier that “a trial

court's in-chambers questioning of potential jurors is structural error" on direct appeal and held that the per se prejudice standard applied because appellate counsel failed to raise the issue on direct appeal. Id. at 1144. In doing so, the court rejected the State's argument that the defendant had waived his right to public trial by waiving his right to be present at the in chambers voir dire. Id. at 1144-45.

Even though the plurality opinion in Strode had not been published when Morris filed his appeal in 2005, the court found, based solely on In re Orange,⁸ that appellate counsel should have known that closure of voir dire without a Bone-Club analysis was presumptively prejudicial. Id. at 1145. The court reasoned that all appellate counsel had to do was review the public trial jurisprudence to recognize the significance of closing a courtroom without first conducting the Bone-Club analysis. Id. at 1145.

In re Morris does not provide any relief to Coggin because Coggin has not asserted an ineffective assistance of counsel claim. Therefore, under long-standing collateral attack jurisprudence, he is required to demonstrate actual and substantial prejudice. As noted in Chief Justice Madsen's and Justice Wiggins' dissents, the Washington Supreme Court has "rejected the premise that error that is presumed prejudicial on direct appeal is also presumed prejudicial on collateral review." Id. at 1149

⁸ In re Orange, 152 Wn.2d 795, 100 P.3d 291 (2004).

(Madsen, C.J. dissenting); *Id.* at 1151 (Wiggins, J. dissenting). The burden to demonstrate actual and substantial prejudice is a threshold burden the defendant bears in a personal restraint petition. *In re Cook*, 114 Wn.2d 802, 810, 792 P.2d 506 (1990).

Coggin has alleged no specific prejudice. On the record before this Court, it is difficult to perceive how Coggin could establish any actual prejudice from the in chamber voir dire process, since he desired the specific process that was employed and utilized the process in order to maximize his right to a fair trial by minimizing taint to the venire pool from media attention given to the case and from jurors' negative experiences with sexual violence and/or abuse.

As stated previously⁹, under *Momah* whether a closure error constitutes structural error necessarily depends upon the nature of the violation: "If, on appeal, the court determines that the defendant's right to public trial has been violated, it devises a remedy appropriate to the violation." *Momah*, 167 Wn.2d at 149. If the error is structural, automatic reversal is warranted. *Id.* An error is only structural though if the error "necessarily render[s] a criminal trial fundamentally unfair or an unreliable vehicle for determining guilt or innocence." *Id.* (*quoting* *Washington v. Recuenco*, 548 U.S. 212, 218-19, 126 S.Ct. 2546, 165

⁹ See State's Second Supplemental Brief.

L.Ed.2d 466 (2006)). The Court in Momah concluded there was no structural error because the defendant had “affirmatively assented to the closure, argued for its expansion, had the opportunity to object but did not, actively participated in it and benefitted from it.” Id. at 151. In concluding that the closure in Momah was not structural error, the court noted that the closure only occurred after the trial court consulted with the defense and prosecution, and found that the record showed that the closure occurred to protect the defendant’s right to an impartial jury and did not prejudice him. Id. at 155-56.

Even if this case were on direct appeal, it would still fall under the Momah holding that where there is no demonstrated structural error, automatic reversal is not the appropriate remedy. Defense counsel here not only did not object to the in chambers voir dire process, but assisted in developing the questionnaire that called for the very in chambers process that is now being challenged.¹⁰ Like Momah, defense counsel not only agreed to question jurors privately in chambers, but sought to expand the

¹⁰ As noted in prior briefing, the record demonstrates that defense counsel and the prosecutor agreed on the specific questionnaire that advised the jurors to request to speak in a “closed hearing” if they had concerns about answering certain questions in public. VDRP 34; State’s Response Brief, Appendix C at 1; Appendix B at 1. It was the prosecutor’s understanding from defense counsel that defense wanted to have jurors interviewed privately in chambers because of the publicity surrounding and the sexual nature of the case, in order to avoid tainting the rest of the panel. State’s Response Brief, Appendix B at 2. This case had received a fair bit of press including a story the morning of voir dire mentioning that Coggin was a convicted felon. VDRP 38-40, 46, 49-50, 55-57, 59.

in-chambers questioning.¹¹ Like Momah, defense counsel actively participated in the private questioning and exercised a number of challenges for cause as a result of that questioning.¹² Similarly here, the judge employed the in chambers process in the manner it did because defense counsel and the prosecutor agreed on a questionnaire that called for that very process, and the record demonstrates that the in chambers process was utilized to promote Coggin's right to a fair trial. Even if Coggin's conduct does not rise to the level of invited error, as the State maintains, his actions should be taken into consideration, just as the defendant's were in Momah, in determining what, if any, remedy would be appropriate.

Coggin is not entitled to relief under In re Morris because he has not asserted ineffective assistance of appellate counsel.¹³ Thus, he must demonstrate actual and substantial prejudice from his alleged right to public trial violation in order for his petition to prevail. He has not attempted to demonstrate prejudice and there is none. Moreover, even if this were a direct appeal, under Momah no structural error occurred so

¹¹Twice during general voir dire defense counsel encouraged the jurors to seek private questioning in chambers if they felt uncomfortable about anything. VDRP 92, 119-20.

¹²Defense counsel also expanded the questioning that occurred in chambers beyond that related to the questionnaire answers. VDRP 36-37, 41. A number of jurors were excused for cause, three based on defense motion. VDRP 60-63.

¹³Should this Court be inclined to conclude that Coggin is entitled to the relief set forth in In re Morris for ineffective assistance of counsel, the State would appreciate an opportunity to brief the issue as to whether appellate counsel was ineffective.

automatic reversal would not be warranted. A new trial would not be an appropriate remedy in this case because the closure here did not render Coggin's trial fundamentally unfair.

2. **In re Morris is incorrect, harmful and should be overturned.**

If this Court were to decide that an unlawful courtroom closure occurred entitling Coggin to a new trial based on In re Morris, the State asserts that the Washington Supreme Court's decision in In re Morris was wrongly decided, incorrect and harmful. The Washington Supreme Court's decision in In re Morris was incorrect in that the authority it relied upon did not stand for the broad remedy that the majority in Morris indicated it did. Its analysis regarding the effectiveness of appellate counsel was flawed. It was incorrect in concluding that jurisprudence was clear at the time of the direct appeal that an in chambers voir dire process without an on-the-record Bone-Club analysis, a process that was not objected to and benefitted the defendant, constituted an unlawful closure such that an automatic new trial would be warranted. It also was wrong to assume that appellate counsel would necessarily be aware that a part of voir dire had occurred in chambers. The opinion is harmful in that numerous cases in which the defendant received a benefit, greater candor in voir dire and less chance of a tainted jury, which in turn protected the

defendant's right to a fair trial, will be overturned simply because the court failed to conduct a Bone-Club analysis on the record, and not because an unlawful closure occurred, and where no prejudice resulted from the failure to conduct the analysis.

Washington Supreme Court precedent should be overruled if it is shown to be incorrect and harmful. State v. Nuñez, 174 Wn.2d 707, 713, 285 P.3d 21 (2012). A decision is incorrect if it is not supported by the authority upon which it relies or if it conflicts with other Washington Supreme Court precedent. *Id.*; *accord*, State v. Barber, 170 Wn.2d 854, 864, 248 P.3d 494 (2010). The Supreme Court clarified the meaning of "incorrect" in Barber:

The meaning of "incorrect" is not limited to any particular type of error. We have recognized, for example, that a decision may be considered incorrect based on inconsistency with this court's precedent; inconsistency with our state constitution or statutes; or inconsistency with public policy considerations. A decision may also be incorrect if it relies on authority to support a proposition that the authority itself does not actually support.

Barber, 170 Wn.2d at 864 (internal citations omitted). A decision may be harmful "for a variety of reasons." *Id.* at 865. A decision is harmful if it undermines an important public policy or a fundamental legal principle. Nuñez, at 174 Wn.2d 716-19. A decision is also harmful where it has a

“detrimental impact on the public interest.” Barber, 170 Wn.2d at 865.

The decision in In re Morris is both incorrect and harmful under this test.

In In re Morris, five members of the Washington Supreme Court (the lead opinion, signed by four justices, and a concurrence by Justice Chambers) held that the defendant was entitled to a new trial based on the theory that he had received ineffective assistance of appellate counsel because appellate counsel had not raised a public trial violation issue on direct appeal. In re Morris, 288 P.3d at 1144-45, 1149 (Chambers, J., concurring). In reaching this decision, the five justices concluded that appellate counsel’s performance was deficient because Morris’s case was indistinguishable from In re Orange, *supra*, and that prejudice resulted because Morris would have been entitled to a new trial if the issue had been raised on direct appeal. *Id.* at 1144-45, 1148 (Chambers, J., concurring). Both of these conclusions are deeply flawed.

a. In re Morris was wrongly decided.

First, In re Orange is plainly distinguishable from what occurred in In re Morris. In In re Orange, the defendant specifically objected to the exclusion of members of his family from the courtroom during voir dire, but the trial court excluded them anyway despite that specific objection. In re Orange, 152 Wn.2d at 801-02. Moreover, the trial court excluded Orange’s family from the courtroom simply due to concerns regarding

lack of seating for the large venire. *Id.* On review, the court specifically found that the defendant had been *harmed* by the permanent, full courtroom closure of voir dire¹⁴, due to “*the inability of the defendant’s family to contribute their knowledge or insight into the jury selection and the inability of the venirepersons to see the interested individuals.*” *Id.* 152 Wn.2d at 812 (*quoting Watters v. State*, 328 Md. 38, 48, 612 A.2d 1288 (1992)) (emphasis added by the Washington Supreme Court). Accordingly, the error in Orange was “conspicuous in the record” and thus, appellate counsel was ineffective for failing to raise it on direct appeal. In re Morris, 288 P.3d 1153 (Wiggins, J., dissenting). As the court in Momah explained, in Orange the trial was rendered fundamentally unfair because the closure excluded the defendant’s family and friends from being present during voir dire, despite the defendant’s repeated requests that they be present. Momah, 167 Wn.2d at 150-51.

In In re Morris, by contrast, the defendant did *not* object to conducting individual voir dire in chambers and was *not* harmed as a result of that procedure. To the contrary, the defendant waived his own right to be present for individual voir dire, and he received a benefit from the private questioning because the procedure promoted his right to an

¹⁴ While the Orange court concluded that the trial court had ordered a permanent, full closure, it acknowledged the ruling may have only effected a temporary, full closure. *Id.* at 808.

impartial jury and his right to a fair trial. In re Morris, 288 P.3d at 1142-43. Accordingly, the purported public trial violation was *not* “conspicuous in the record,” as it had been in Orange.

In light of these obvious and legally significant differences between the two cases, the court’s conclusion that In re Orange and In re Morris are indistinguishable and that Morris’s appellate counsel was ineffective for failing to raise the issue on direct appeal is simply incorrect. The defendant’s objection to the courtroom closure and the harm that resulted from that closure were central to the Orange court’s finding of ineffective assistance of appellate counsel. But these key features are notably absent from In re Morris. In sum, In re Morris is incorrect because it is not supported by the authority upon which it relies.

The In re Morris opinion also ignores the fact that in the very opinion it cites to for its clarity on this issue, In re Orange, a partial in chambers voir dire of jurors occurred there and was never raised as an alleged unlawful courtroom closure, and the opinion never treated that aspect of the voir dire process as an unlawful courtroom closure.

At the opening of trial on April 26, 1995, the court discussed with counsel the method of conducting voir dire. Acknowledging that the prospective jurors had completed a lengthy questionnaire, the trial judge explained that they would be interviewed in chambers about past crimes, pretrial publicity, and familiarity with the Orange family’s

reputation. As the trial judge told counsel, “The rest of [voir dire] you can conduct in open court.”

In re Orange, 152 Wn.2d at 801. An appellate attorney reading the opinion could assume that in chambers voir dire was either an issue that could not be raised for the first time on appeal or did not constitute an unlawful courtroom closure.

The In re Morris opinion is devoid of any analysis regarding the effectiveness of appellate counsel. It relies entirely on a conclusory assumption that any effective attorney would have understood that its jurisprudence in Orange extended to all types of closures, no matter how brief or not, no matter whether the defendant objected or not, and no matter whether the alleged closure benefitted the defendant or not. At the time the Morris case went to trial in 2004 and at the time his appeal was decided in 2005¹⁵, neither Strode nor Momah had been published, the cases in which the Supreme Court first addressed the issue of in chambers voir dire and the remedy for such courtroom closures. Moreover, under Momah, a clear majority, as opposed to the plurality opinion in Strode, concluded that not all violations of the right to public trial result in structural error warranting a new trial. State v. Frawley,¹⁶ the first state

¹⁵ State v. Patrick Morris, No. 54924-3-I, 130 Wn. App. 1036 (2005), *rev. den.*, 160 Wn.2d 1022 (2007).

¹⁶ State v. Frawley, 140 Wn. App. 713, 167 P.3d 593 (2007).

case to address in chambers voir dire, was not decided until September of 2007. As noted in Justice Wiggins dissent in In re Morris:

Second, and perhaps more importantly, it was not at all clear at the time of Morris's appeal that the public trial issue would be a winning issue on appeal or that it should even be pursued. It may seem clear with the benefit of hindsight after *Strode*, 167 Wash. 2d 222, 217 P.3d 210, but before *Strode* this court had never held that partial chambers voir dire would violate the public trial right. Morris's appeal was decided four years before *Strode*, so it is unlikely that Morris's appellate counsel was constitutionally deficient for failing to raise and develop what may have been a novel legal argument at the time.

In re Morris, 288 P.3d at 1154 (Wiggins, J. dissenting). The Supreme Court's jurisprudence certainly was not clear regarding partial in chambers voir dire of jurors at the time Morris filed his appeal, still wasn't clear when it issued its plurality opinion in Strode, and arguably wasn't clear until the opinions issued in Wise and Paumier.

The conclusory declaration in In re Morris that failure to raise the issue of unobjected-to in chambers voir dire without Bone-Club findings was ineffective assistance of appellate counsel also ignores the fact that the practice was common and beneficial to defense at that time, such that, as Justice Wiggins noted, counsel would not have been deficient in developing this issue on appeal. *Id.* Given that, it is also unlikely that defense counsel would have alerted appellate counsel to there being a problem with the voir dire. Moreover, under the RAP rules an appellant

isn't automatically entitled to a transcript of voir dire, s/he must seek permission of the trial court in order to obtain a copy, so the factual basis for raising the issue may not have been apparent from the designated record. RAP 9.2(b). Unless there was a notation in the court minutes, appellate counsel likely would never have known about the in chambers voir dire and, given that the appeal was filed prior to Frawley, would not have known to ask about it. Appellate counsel in In re Morris was not ineffective in failing to raise the issue.

The court's conclusion that defendant Morris had established prejudice is also incorrect. With no analysis, other than citing to Orange, the court stated that defendant Morris had suffered prejudice because he would have been entitled to a new trial if the issue had been raised on direct appeal. In re Morris, at 1144; *Id.* at 8 (Chambers, J., concurring). Again, however, because Orange is fundamentally different from In re Morris in legally significant ways, *i.e.*, Orange objected while Morris did not, and Orange was harmed while Morris was not, the court's conclusion is again not supported by the precedent it cites. The court's decision is incorrect in this respect as well.

In re Morris is also incorrect because it conflicts with other Washington Supreme Court precedent. As noted by both dissents, a wealth of precedent had rigorously adhered to the well-settled principle

that a personal restraint petitioner is required to show actual and substantial prejudice in order to obtain relief. In re Morris, 288 P.3d at 1149 (Madsen, C.J., dissenting); *Id.* at 1151-52 (Wiggins, J., dissenting). Other than the conclusory and incorrect statement that Morris's case was the same as Orange's case, the 5-justice majority in In re Morris identified no prejudice whatsoever.

Moreover, as noted in both dissents, the majority's conclusory analysis in In re Morris also conflicts with In re Personal Restraint of St. Pierre, 118 Wn.2d 321, 823 P.2d 492 (1992), wherein the court specifically held that a *higher* standard for prejudice applies on collateral attack:

We have limited the availability of collateral relief because it undermines the principles of finality of litigation, degrades the prominence of trial, and sometimes deprives society of the right to punish admitted offenders. *Therefore, we decline to adopt any rule which would categorically equate per se prejudice on collateral review with per se prejudice on direct review.* Although some errors which result in per se prejudice on direct review will also be per se prejudicial on collateral attack, the interests of finality of litigation demand that a *higher standard* be satisfied in a collateral proceeding.

In re St. Pierre, 118 Wn.2d at 329 (citation omitted) (emphasis supplied); *see also* In re Morris, at 1149 (Madsen, C.J., dissenting); *Id.* at 1151-52 (Wiggins, J., dissenting). But rather than apply this higher standard as required, the majority in In re Morris collapsed the rules for direct appeal

and the rules for collateral attack into a single standard under the rubric of ineffective assistance of appellate counsel. As such, the decision is erroneous.

b. In re Morris is harmful.

Furthermore, the decision in In re Morris is harmful because it undermines the public policy considerations and fundamental legal principles inherent in collateral review. It permits a defendant a second direct appeal regarding any alleged closure of the courtroom without a Bone-Club analysis. In doing so, it seriously undermines precedent regarding the finality of review.

It is axiomatic that “[a] personal restraint petition is not to operate as a substitute for a direct appeal.” In re St. Pierre, 118 Wn.2d at 328. To the contrary, because collateral relief “undermines the principles of finality of litigation” and “degrades the prominence of the trial,”¹⁷ collateral relief is reserved for cases in which the fundamental fairness of the proceedings has truly been compromised. Brecht v. Abrahamson, 507 U.S. 619, 633-34, 113 S. Ct. 1710, 123 L. Ed. 2d 353 (1993). It has long been the law in Washington that a personal restraint petitioner is entitled to relief only when the petitioner carries the burden of showing either constitutional error from which he has suffered actual and substantial

¹⁷In re St. Pierre, 118 Wn.2d at 329.

prejudice, or non-constitutional error that constitutes a fundamental defect that inherently resulted in a complete miscarriage of justice. In re Personal Restraint of Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990).

The court's decision in In re Morris undermines these fundamental principles. Rather than safeguard the finality of litigation and the prominence of the trial, the In re Morris decision grants the unjustified windfall of a new trial under circumstances where no prejudice has been shown. Indeed, the In re Morris decision grants the windfall of a new trial under circumstances where the defendant received a *benefit* from the procedure employed at trial. As Justice Wiggins stated in dissent,

The right to a public trial is not a magic wand granting new trials to all who would wield it. Openness is a crucially important value in our criminal justice system, but so is finality. It does not serve the interests of justice to reopen this long-decided case, requiring a young girl to relive old traumas, and granting a windfall new trial to a man convicted of sexually molesting his daughter. We require personal restraint petitioners to show actual and substantial prejudice because we value finality and seek to avoid outcomes of this nature. Morris should be required to meet that burden just like every other personal restraint petitioner.

In re Morris, at 1154 (Wiggins, J., dissenting).

In short, In re Morris dispenses with the fundamental principle that a personal restraint petitioner is required to show actual and substantial prejudice in order to obtain relief. As such, the decision is harmful,

because it undermines the public's interest in the finality of criminal convictions, and it will result in needless retrials for criminal defendants whose first trials were fundamentally fair.

C. CONCLUSION

The remedy for in chambers voir dire without Bone-Club findings set forth in In re Morris does not apply to this case because Coggin has not asserted an effective assistance of appellate counsel claim. Under long-standing precedent, Coggin therefore must demonstrate actual and substantial prejudice. He has not alleged any prejudice. Under Momah, not all closures, or in chambers questioning of prospective jurors without Bone-Club findings, results in structural error requiring reversal. The in chambers voir dire here safeguarded Coggin's right to an impartial jury and did not render his trial fundamentally unfair. Coggin cannot meet his burden to demonstrate actual prejudice and his petition should be dismissed.

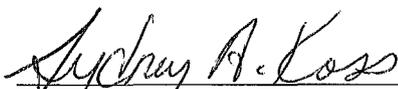
Respectfully submitted this 15th day of March, 2013.


HILARY A. THOMAS, WSBA #22007
Admin. No. 91075
Appellate Deputy Prosecutor
Attorney for Respondent

CERTIFICATE

I certify that on this date I placed in the mail with proper U.S. postage thereon, or otherwise caused to be delivered, a true and correct copy of the foregoing document to this Court, and appellant's counsel of record, Jennifer Winkler, addressed as follows:

Nielsen, Broman & Koch, PLLC
1908 East Madison Street
Seattle, WA 98122



Legal Assistant



Date