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COURT OF APPEALS  
DIVISION ONE  
OF THE STATE OF WASHINGTON

2016 JAN 19 PM 1:30  
COURT OF APPEALS  
DIVISION ONE  
STATE OF WASHINGTON

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JEREMY GRANDE

v.

SKAGIT COUNTY

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BRIEF OF APPELLANT

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Jeremy Grande  
Appellant, Pro Se

General Delivery  
Mount Vernon, WA 98273

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## I. Assignments of Error

### *Assignments of Error*

1. The Skagit County Superior Court erred in denying appellant's motion to file his notice of appeal of his forfeiture hearing *nunc pro tunc*.

### *Issues Pertaining to Assignments of Error*

1. Whether a *pro se* party who has substantially complied with the rules of appellate procedure in a forfeiture action being appealed to superior court, and where the *pro se* party did file his notice of appeal in the correct superior court within the 30-day deadline, but used the wrong form and case number due to no fault of his own, should be allowed to file a correct version of his notice of appeal in superior court *nunc pro tunc*.

## II. Statement of the Case

This matter arises from my civil forfeiture hearing that occurred in Mount Vernon Municipal Court before Mr. Scott Thomas who was appointed by S.C.I.D.E.U to be the hearing examiner.

This hearing was held on April 24, 2013. But the order of forfeiture was not entered until May 17, 2013. A copy is attached. (EX.2) I received a copy of the 5/17/13 forfeiture order in D.O.C

It is important for the court to know that I was in custody at the Skagit County Jail at the time of this forfeiture hearing and was brought to the court for the hearing.

My criminal case was resolved after the hearing but before the order was issued, and by the time the order was issued, I had already been found guilty and sentenced and sent to D.O.C. for 42- months.

At that point, I had no attorney to represent me, but did everything I could as best as I could figure out to appeal this order. On June 10, 2013, I filed a notice of appeal to the Skagit County Superior Court using the criminal case number of 11-1-00530-4. See copy attached (EX. 1)

The problem was that the form I was given by D.O.C was an appeal form to the Court of Appeals. I asked D.O.C personnel for a form to appeal and this is the one that they gave me, even though I have only recently come to understand it was the wrong appeal form, and that what I really needed to do was to appeal the forfeiture order to Skagit County Superior Court under the forfeiture cause number of 11-TF027.

I asked D.O.C personnel for my case number and the criminal case number is the only one they would give me, so I used that.

So what I ended up doing was filing my appeal of the civil forfeiture hearing in Skagit County Superior Court using an appeal form to the Court of Appeals and using the criminal case number.

Although I have now learned that I did not follow the correct procedure, the important thing is that I did file my appeal of the civil forfeiture hearing in Skagit County Superior Court within 30- days of entry of the forfeiture order, and so I believe that my notice of appeal of that issue was timely.

After I filed my notice of appeal, though, it became the source of a lot of confusion, going all the way up to division one of the Court of Appeals, who had trouble making head or tails about what I was trying to accomplish.

I believe now that this is because of the way I filed the appeal in Skagit County Superior Court.

I did file a request for legal assistance to help me in this matter, but that request was denied. See copy attached. (EX 3) If I had had legal counsel appointed, I think much of this confusion could have been eliminated.

I was in D.O.C. at the time with no money to hire an attorney, though I did make the attempt at one point which fell through because I could not pay him the money.

Ultimately, my matter which was misfiled in the Court of Appeals had reviewed terminated on October 10, 2014, and was mandated back to Skagit County Superior Court for further proceedings.

I got out of D.O.C on April 30 2015, and did everything I could to perfect my appeal of the civil forfeiture hearing.

I filed a motion to change the heading of my notice of appeal on May 8, 2015 under the criminal case number, but it was stricken by Judge Cook on May, 20, 2015.

On 6/9/2015, I filed a motion to allow me to file my notice of appeal *nunc pro tunc* but this motion was denied, as well (CP 4, 12). This appeal timely followed (CP 13).

The purpose of this appeal is to allow me to file my notice of appeal. *Nunc pro tunc* effective June 10, 2013, which is the date I originally filed my appeal of the forfeiture hearing in Skagit County Superior Court, using the wrong form and case number as escribed above. (See Exhibit 1)

### III Argument

#### *Argument*

Issue No. 1- Whether a *pro se* party who has substantially complied with the rules of appellate procedure in a forfeiture action being appealed to Superior Court, and where the *pro se* party did file his notice of appeal in the correct Superior Court within the 30-day deadline, but used the wrong form and case number due to no fault of his own, should be allowed to file a correct version of his notice of appeal in Superior Court *Nunc Pro Tunc*.

The issue in this appeal is whether the Skagit Superior Court erred when it denied my motion to file my notice of appeal there *nunc pro tunc*.

I did file a notice of appeal of the forfeiture hearing in Skagit County Superior Court within 30-days of the entry of the order. But due to the fact I had no attorney and was already in custody at the Department of Corrections, I filed the notice of appeal using the wrong form (given to me by D.O.C personal) and using the wrong case number, because that is the only case number D.O.C would give me.

This original filing of my notice of appeal went up to the Court of Appeals and was assigned an appellate case number of 70543-1-1. This led to a great deal of confusion at the Court of Appeals, which was caused primarily by the fact that I did not have legal representation and was doing the very best that I could on my own. I would ask that Court of Appeals file number 70543-1-1 be included in this appeal, primarily to show that I was diligent in trying to pursue that appeal, and was not being dilatory in any way.

In addition to the argument presented in my motion for leave of court to file notice of appeal *Nunc Pro Tunc* (CP 4), I want to advance another argument in this brief, that I believe gives additional reasons why my appeal should be granted.

In the hearing examiner's order denying my claim at the forfeiture hearing, the hearing examiner did not advise me as to what steps I had to take to properly appeal his decision.

In the prior Court of Appeals case 70543-1-1, Richard D. Johnson, the court administrator, wrote a letter dismissing my appeal there dated August 18, 2014. (A true and correct copy of this letter may be found not only in the prior case file, but also in this Court of Appeals file as attachment 4 of the declaration of Judy Kiesser, which is clerks paper 8.) I am also attaching a copy of this letter here to as Exhibit 4.

Richard D. Johnson wrote, "At this juncture, review is unavailable in this court. I take no position as to whether review maybe available in the District Court. The Superior Court, or some other arena. I note that the hearing examiner's decision provides no information as to how or when a party can seek judicial review of the hearing examiner's decisions and instead provides, "It is the responsibility of a person seeking review of a hearing examiners decision to consult the applicable code section and other appropriate sources, including state law. To determine his/her rights and responsibilities relative to its appeal."

This language was insufficient to apprise me of how or when I could seek judicial review of the hearing examiner's decision. This situation was only made worse by the fact that by the time the hearing examiner's issued his written order, I had already been sent to D.O.C. on the underlying criminal offense. And I had no attorney to advise me how to do this properly.

This fed into the confusion of what happened on the first appeal case no. 70543-1-1. Because I was not properly advised of my "rights and responsibilities relative to appeal" by the hearing examiner, coupled with my being in D.O.C. and not having a lawyer, I did not file my appeal by the proper method in Skagit County Superior Court. Although I repeat that, even though I was doing this on my own, and I have no legal training, and I dropped out of school in the 10<sup>th</sup> grade, I was still able to file my notice of appeal in Skagit County Superior Court within the 30-day deadline.

As noted above, the problem was I used the wrong form (the form I got from D.O.C. personnel incorrectly showing the appeal was not to Superior Court, but to the Court of Appeals), and I used the wrong case number (being the case number of my criminal case in Superior Court.)

#### IV Conclusion

##### *Conclusion*

Under all the circumstances, I believe that Skagit County Superior Court was mistaken in not allowing me to file my notice of appeal of the forfeiture hearing *nunc pro tunc*, to date it back to the day that I filed my original appeal there.

I believe I should have my day in Superior Court to appeal the hearing examiner's forfeiture decision. If the Court of Appeals denies my motion, I will have no other options, and will be unable to ever appeal the forfeiture hearing, which I have tried so hard for so long to do.

All I'm asking for is the chance to be heard in Superior Court on my appeal. To do otherwise will deny me access to justice.

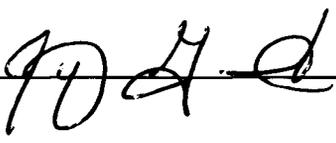
The filing of my appeal of the forfeiture hearing in Skagit County Superior Court was a “technical flaw” in my compliance with the Rules of Appellate Procedure.

According to *State v. Olson*, 126 Wash. 2d 315, 323, 893 P.2d 629, 633 (1995), a Court should normally exercise its discretion to hear cases and issues on their merits in spite of technical flaws in an appellant’s compliance with the Rules of Appellate Procedure.

It is clear from the language of RAP 1.2(a), and the cases decided by this Court, that an appellate court may exercise its discretion to consider cases and issues on their merits. This is true despite one or more technical flaws in an appellant's compliance with the Rules of Appellate Procedure. This discretion, moreover, should normally be exercised unless there are compelling reasons not to do so. In a case where the nature of the appeal is clear and the relevant issues are argued in the body of the brief and citations are supplied so that the Court is not greatly inconvenienced and the respondent is not prejudiced, there is no compelling reason for the appellate court not to exercise its discretion to consider the merits of the case or issue.

Additionally, if I am unable to file my notice of appeal in Superior Court *nunc pro tunc*, there will be no other avenue available to me to contest the forfeiture of my vehicles. Under the circumstances where I have substantially complied with the Rules of Appellate Procedure, this would deny my right to equal access to justice under the law. “It is incumbent upon personnel in the courts-law officers, clerks, attorneys, mediators, arbitrators, and judges-to assure that all have equal access to justice. *In re Hammermaster*, 139 Wash. 2d 211, 244, 985 P.2d 924, 941 (1999). See also *Mendez v. Palm Harbor Homes, Inc.*, 111 Wash. App. 446, 464-65, 45 P.3d 594, 605 (2002), *as amended* (June 6, 2002); *Gendler v. Batiste*, 174 Wash. 2d 244, 262-63, 274 P.3d 346, 355 (2012).

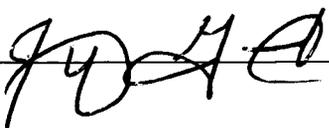
Respectfully Submitted - Jeremy Grande

 Date: 1/15/16

I Jeremy Grande, declare under penalty of perjury under the laws of the State of Washington that on ~~JANUARY 15, 2015~~ I did personally deliver a copy of this brief of appellant to the Skagit County Prosecutors at the office address of 605 South Third, Street Mount Vernon WA, 98273

Signed this ~~JANUARY 15, 2015~~ JANUARY 15, 2016 in Mount Vernon WA 98273

Jeremy Grande

 Date: 1/15/16

Superior COURT OF WASHINGTON  
IN AND FOR Snohomish COUNTY

Washington State  
Plaintiff

No. 11-1-00530-4

v.  
Jeremy D. Grande  
Defendant

Notice of Appeal to  
Court of Appeals  
(RAP 5.2)  
[ Within 30 days To Trial Court ]

I, Jeremy D. Grande, defendant, Pro Se, pursuant to RAP 5.2, seeks  
review by the designated appellate Court of the:

Forfeiture ruling in District Court

Entered on 17 day of May, 2013.

A copy of the decision is attached to this notice, as (APPENDIX-A)

6/10/13

Date

[Signature]  
Signature

[Signature]  
Notary  
6/11/2013



Jeremy D. Grande, 772839 R6 A-5

Print/Type Name/Doc#/Unit/Cell

Washington Corrections Center

Institution

P.O. Box 900

Address

Shelton WA, 98584

City

State

Zip

EX 1, 1 of 3

IDENTIFICATION OF PARTIES AND ADDRESSES

Skagit County Court Clerk - Nancy K. Scott  
205 W. Kincaid, RM. 103, Mt. Vernon WA, 98273-4225 (360) 336-9440

Skagit County Prosecuting Attorney - Trisha Johnson  
605 S. 2nd St. Mt. Vernon WA, 98273-3867

Skagit County Attorney at Law - Corbin T. Volluz  
508 S. 2nd St. Mt. Vernon WA, 98273-3819 (360) 336-0154

The issues I wish reviewed are:

My Forfeiture ruling by District Court of Skagit County  
of the two vehicles, Case # 11-1-00530-4  
A 1973 Chevrolet pickup (Lic # A23791Y, Vin # CCY143J152229)  
And a 1949 Chevrolet Fleetline (Lic # CV7903, Vin # AZ238518.)

My Attorney Corbin T. Volluz told me it was part of my plea  
agreement that if I pled guilty I would be allowed to  
retain the two vehicles easily in a forfeiture hearing  
as a result I entered a plea of guilty in Skagit  
County Superior Court, at that time the Superior Court  
sent the forfeiture hearing to the District Court  
where it was ruled I should forfeit the vehicles that  
I was promised in the ~~in the~~ Original plea agreement.  
It is this ruling I now wish to be reviewed. That My  
Attorney left evidence of income out of the  
forfeiture hearing.

  
Signature

EX 1, 2 of 3

IN THE SUPERIOR COURT OF WASHINGTON STATE

IN AND FOR Skagit COUNTY

Washington State

Plaintiff

v.

Jeremy D. Grande

Defendant

No. 11-1-00530-4

DECLARATION OF SERVICE  
BY MAIL

I, Jeremy D. Grande, the defendant in the above  
entitled cause, do hereby declare that I have served  
the following documents:

Notice of Appeals

PARTIES SERVED:

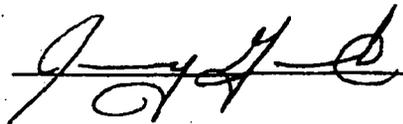
Nancy Scott - County Clerk  
205 W. Kincaid St, RM. 103  
Mt. Vernon WA, 98273-4225

Trisha Johnson - Prosecuting Attorney  
605 S. 3rd St, Mt. Vernon  
WA, 98273-3867

I deposited the aforementioned documents in the  
U.S. Postal Service by way of process as Legal Mail  
through an officer station at WASHINGTON CORRECTIONS  
CENTER, P.O. BOX 900, SHELTON, WA. 98584.

Dated this 10 day of June, 2013.

I declare under penalty of perjury under the laws  
of the State of Washington that the foregoing is true  
and correct.



EX 1, 3 of 3

May 17, 2013

Trisha Johnson  
Skagit County Prosecuting Attorney  
605 S 3rd St  
Mount Vernon, WA 98273-3867

Corbin Volluz  
Law Office of Corbin T. Volluz  
508 S 2nd St  
Mount Vernon, WA 98273-3819

**SUBJECT: IN RE: FORFEITURE OF ONE 1973 CHEVROLET PICKUP AND ONE 1949 CHEVROLET FLEETLINE**

~~This matter came before the Skagit County Interlocal Drug Enforcement Task Force Hearing Examiner for hearing on the claim of Jeremy D. Grande to a 1973 Chevrolet Pickup (License A23791Y, VIN CCY143J152229) and a 1949 Chevrolet Fleetline (License CV7903, VIN AZ238518), vehicles seized by the Skagit County Interlocal Drug Task Force. The Hearing Examiner determines that the vehicles should be forfeited.~~

The claimant stipulated to the timeliness of the hearing in this matter, which was held on April 24, 2013. The claimant was incarcerated in the Skagit County Jail on that date and appeared at hearing. Testimony was received from Det. Neufeld of the Skagit County Sheriff's Department. Det. Neufeld was commissioned as a law enforcement officer in 1996, and has served on the Skagit County Interlocal Drug Task Force since 2005. Det. Neufeld has experience with the Sheriff's Department investigating financial crimes. The Hearing Examiner found Det. Neufeld's testimony to be credible. The following documents were considered as part of the record:

- Defendant's Ex. 1-6;
- Plaintiff's Ex. 7 - 51.

RCW 69.50.505 (g) provides that the following are subject to seizure and forfeiture:

All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. ...

(3) EX 2

The question before the Hearing Examiner is whether either of the two vehicles seized by the Skagit County Interlocal Drug Enforcement Task Force meets any of these criteria.

At execution of the search warrant, law enforcement officers recovered a receipt which identified "hours" by certain specified days, with a notation to the "49 chevy" and the "impala." Adjacent to the hours marked down for the 49 chevy was a notation of "40 sack." Det. Neufeld's unchallenged testimony, based upon his experience with the Drug Task Force, is that the term "40 sack" is a slang term for \$40 worth of marijuana. While the defense objected that Det. Neufeld's testimony as to the ultimate conclusion to be arrived at from the testimony, i.e., that the receipt recorded Jeremy Grande's recordation of services rendered in trade of marijuana supplied by Mr. Grande, and specifically that there was no evidence that Mr. Grande wrote the receipt, the objection misses the mark. As trier of fact, the Hearing Examiner is called upon to determine ultimate facts. Moreover, the issue is not whether Mr. Grande wrote the receipt. The issue is whether the receipt related to the vehicle in question - the 1949 Chevrolet owned by Mr. Grande, and whether the receipt is evidence of the trading of marijuana for work performed on that vehicle. The standard of proof that must be met by the state is a "preponderance of the evidence." The Hearing Examiner notes that Det. Neufeld testified to five controlled buys of marijuana from Mr. Grande, and the Hearing Examiner further observes that Mr. Grande has pled guilty to manufacturing and delivering marijuana. The apparatus of manufacturing and selling marijuana was recovered from Mr. Grande's residence pursuant to a search warrant. The Hearing Examiner concludes that the receipt does record transactions involving work traded for marijuana, and further concludes that intangible property in the form of labor and services was furnished or intended to be furnished in exchange for a controlled substance. Further, the Hearing Examiner observes that the receipt records work performed on several different days, for several hours of each day recorded. This is not a negligible amount of time.

The next issue is whether the 1973 Chevrolet pickup is subject to forfeiture. As defense counsel argues, this vehicle may only be forfeited if the vehicle constitutes property "acquired in whole or in part with proceeds traceable to an exchange or series of exchanges" involving controlled substances. Thus, the question is whether the vehicle can be traced to a transaction. The state argues that the Grande's legal income was extremely limited during the time that work was being performed on the vehicle, and that the Grande's living expenses greatly exceeded their legitimate income. The state has introduced exhibits showing the limited income of Lacey Grandee, and evidence to suggest that Jeremy Grande's detail business was a sham, used to launder drug profits. Therefore, the state argues, because the Grandes' legitimate income was necessarily supplemented to pay for normal day-to-day expenses as well as other expenses, including significant sums paid for work performed on the 1973 vehicle, it follows that the amounts paid for that work necessarily resulted from illicit drug profits.

The resolution of this issue turns on what the legislature meant by using the term "traceable." Webster's College Dictionary defines "trace" as "to follow (footprints, evidence, the history or course of something, etc.)" The American Heritage College Dictionary, 3rd Ed., defines "trace" as "to locate or discover by searching or researching evidence." The Hearing Examiner concludes that following evidence of the source of funds used to procure an item in the context of RCW 69.505 requires demonstrable evidence of the source and use of funds, and not a direct linkage of identifiable dollars from drug transaction to ultimate use. The state has placed a significant amount of evidence in the record as to the Grande's financial condition. While other sources of income, not reported to the state, could account for the Grande's large cash outlays, a preponderance of the evidence leads to the opposite conclusion. The defense did not put forth any evidence contravening the state's case. The Hearing Examiner concludes that there is sufficient evidence in the record to show that the sheriff's department followed the money used to pay for the work performed on the 1973 Chevrolet to Mr. Grande's activities with controlled substances.

#### FINDINGS OF FACT

The material facts are undisputed.

1. Lacey Hurley and Jeremy Grande were married in September, 2007. Prior to marriage, Lacey Hurley and Jeremy Grande entered into a separate property agreement in which a 1973 Chevrolet pickup and a 1949 Chevrolet Fleetline were characterized as separate property, and owned by Jeremy Grande. As of May 16, 2011, the state of Washington recognized Lacey Hurley as the registered owner of the 1973 Pickup, and as of May 2, 2011, the state of Washington recognized Jeremy Grande as the registered owner of the 1949 Chevrolet. There is no evidence in the record reflecting a transfer of title of the 1973 Pickup from Mr. Grande to Ms. Hurley.
2. Jeremy Grande purchased the Chevrolet Fleetline from Anthony Starkovich on or about July 31, 2006. The purchase price for the vehicle as reported to the state of Washington was \$9,000. According to Mr. Starkovich, the vehicle was in "excellent" shape. Scott Slater of the Skagit County Interlocal Drug Task Force recounted by affidavit his conversation with the prior owner of the vehicle, Ronald Hawton, and that Mr. Hawton sold the vehicle in 2004 to Mr. Starkovich for the sum of \$36,000.
3. Jeremy Grande was known to sell marijuana in quarter-pound, half-pound and full-pound quantities and offer multiple-pound discounts. Between April and May 26, 2011, Skagit County Sheriff deputies engaged in five transactions with Mr. Grande, entailing the purchase from Mr. Grande of multiple pounds of marijuana.
4. Jeremy Grande sold marijuana at prices between \$3,000 and \$3,400 per pound, depending on the quantity purchased.

5. On May 27, 2011, Skagit County Sheriff deputies served a search warrant at Jeremy Grande's residence. Mr. Grande lived at the residence with his wife. Detectives located approximately 3 pounds of processed and packaged marijuana in the bedroom. Marijuana plants were also found drying in the bedroom. An additional 2-3 pounds of marijuana was found in the kitchen. Digital scales were found in various locations of the residence. Detectives also found multiple marijuana grow rooms in the residence, containing a total of 252 plants. The residence was equipped with various pieces of equipment, including carbon dioxide generators, and carbon air filters.
6. For the past several years, Lacey and Jeremy Grande's income from known sources have been significantly less than their expenses. Lacey Grande's reported gross income from wages from 2007 through 2010 ranged from a high of \$17,434 in 2008, to a low of \$4,460 in 2011. In addition, Lacey Grande received unemployment benefits in the amount of \$173/week from October 4, 2008 through May 9, 2009, and again from June 27, 2009 through May 22, 2010.
7. Jeremy Grande received no wages that had been reported to the state Employment Security Department from January 1, 2005, through April 12, 2011. From 2007 through 2010, Jeremy Grande received income from a detailing business, which ranged from a high of \$15,244 in gross income in 2007, to a low of \$7,480 in 2010. The Grande's 2010 joint tax return indicates an adjusted gross income of \$16,100. In addition, the Grande's toddler daughter was receiving public assistance from DSHS in June of 2011.
8. During execution of the May 27, 2011 search warrant, Skagit County Sheriff deputies recovered receipts that totaled several thousand dollars of cash purchases. From January 5, 2007 through May 24, 2011, receipts indicate expenditures totaling \$222,534.84.
9. Evidence of an account with Columbia Bank was discovered, with the account in Lacey Grande's name. Law enforcement officers found no evidence to suggest that either Lacey or Jeremy Grande typically used a bank account for their various transactions, and most purchases were made with cash.
10. Transactions in controlled substances are typically completed using cash.
11. In April, 2010, the Grandes entered into a lease-option agreement for the residence they were living in, and at the location the search warrant was served. The agreement required the Grandes to pay \$1,000/month in rent, beginning April 15, 2010. The lease option agreement provided that the Grandes would pay an option fee of \$11,500, and acknowledged receipt of that amount from the Grandes. Receipts recovered pursuant to the search warrant indicate that monthly payments commenced on May 11, 2010.

12. Lacey Grande's reported income was insufficient to cover the \$1,000 monthly rent payments during this time.
13. Receipts recovered with the search warrant indicate that considerable work was performed on the 1973 pickup. In January and February of 2006, work included the installation of a customized 383 c.i. engine complete with roller-rocker arms, custom intake manifold, valve upgrades, and miscellaneous polished aluminum parts. In April of 2008, work included the installation of suicide doors; \$800 in cash was deposited for this work, performed by a paint and body shop located in Anacortes.
14. In October and December, 2009, additional work was performed on the 1973 pickup by a Marysville speed shop. Jeremy Grande's name appears on the receipts. The receipts show that \$2,500 was "paid down" on July 1, 2009; \$541.35 was paid on August 25, 2009; \$4,600 was prepaid on October 2, 2009; \$9,000 was prepaid on October 3, 2009; that \$3,500 was prepaid on October 6, 2009; that \$12,000 was prepaid on December 3, 2009; and that \$800 was prepaid on December 19, 2009; \$5,000 was paid on February 25, 2010 with \$7,500 paid at an unknown future date; and \$500 was prepaid on May 11, 2010. Receipts for additional parts and work performed by the speed shop were entered into evidence, but do not indicate on their face if payment was received.
15. In early 2011, additional work was performed on the 1973 Chevrolet pickup by Kustom Collision and Rods of Marysville. Receipts that list Jeremy Grande as the customer show that the pickup was delivered to the shop on February 11, 2011, and that \$25,879.36 of parts and labor was performed; Mr. Grande paid \$3,000 for the work on February 15, 2011. A chattel lien for the remaining amount - \$22,879.36 - was recorded by Kustom Collision on May 31, 2011.
16. On August 7, 2006, Jeremy Grande had the 1949 Fleetline towed to and evaluated by Steve's Autocenter of Burlington. Receipts show that this work totaled \$364.31, and that towing bill totaled \$140.14.
17. On January 30, 2008, A&C Automotive provided additional services to the Fleetline, and billed \$599.18 for that work. The owner of the Fleetline was identified as "Grande."
18. During execution of the search warrant, a receipt was recovered which identified "hours" by day, with a notation to the "49 chevy" and the "impala." Adjacent to the hours marked down for the 49 chevy was a notation of "40 sack." Det. Neufeld's unchallenged testimony, based upon his experience with the Drug Task Force, is that the term "40 sack" is a slang term for \$40 worth of marijuana.
19. Receipts were recovered during execution of the search warrant that identified Jeremy Grande as a customer of T&D Automotive, Skagit Grand Central Collision, A&C Auto, Drive Line Service of Bellingham, and other automotive



businesses, and identified work performed on, and parts for, a 1963 Chevrolet Impala. The work included customization, and was paid for in cash. The total expenditures are in excess of \$15,000.

20. On November 15, 2012, Jeremy Grande pleaded guilty to five counts of drug dealing, money laundering, unlawful firearm possession, manufacturing marijuana and reckless endangerment.
21. Intangible property in the form of labor and services was furnished or intended to be furnished in exchange for a controlled substance, marijuana.

### CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding.
2. Forfeiture proceedings before a Hearing Examiner are governed by Chapter 34.05 RCW. See RCW 69.50.505(5).
3. Evidence, including hearsay evidence, is admissible if, in the judgment of the presiding officer, it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. RCW 34.05.452(1).
4. RCW 69.50.505 authorizes the seizure and forfeiture of three different types of personal property. The first clause covers personal property furnished or intended to be furnished in exchange for a controlled substance. *Id.* The second clause relates to personal property, proceeds, or assets acquired with proceeds traceable to an exchange or series of exchanges of controlled substances. *Id.* The third clause covers forfeitures of personal property used to facilitate the illegal transaction. *Id.*
5. Among the lawful manners in which property may be seized for forfeiture by law enforcement without process are if the seizure is incident to an arrest or a search warrant, RCW 69.50.505(2)(a).
6. A seizing agency has the initial burden of showing probable cause to believe that seized items were the proceeds of or used or intended to be used in illegal drug activities.
7. Probable cause requires the existence of reasonable grounds for suspicion supported by circumstances sufficiently strong to warrant a person of ordinary caution in the belief. Probable cause may be shown by circumstantial evidence.
8. Once the agency meets its burden of proving probable cause, the claimant must then prove by a preponderance of the evidence that the property does not represent proceeds from drug sales.

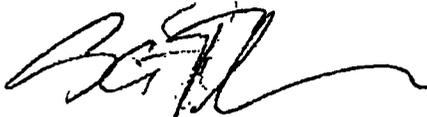


9. A "[c]ontrolled substance' means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules." RCW 69.50.101(d). Marijuana is classified as a Schedule I controlled substance under the Controlled Substances Act.
10. The state has met its burden of demonstrating that there is probable cause to believe that the work performed on the 1973 and 1949 Chevrolet were the proceeds of illegal drug activities. Jeremy and Lacey Grande's income from identifiable sources was well below that required to obtain the parts and services used to restore and/or repair the vehicles.
11. A preponderance of the evidence compels the conclusion that Jeremy Grande traded a controlled substance, to wit marijuana, for services performed on the 1949 Chevrolet. As a result of the claimant trading marijuana for services, the vehicle is subject to forfeiture.
12. A preponderance of the evidence compels the conclusion that the Grandes' family income was predominantly the result of trade in controlled substances. This income was used, in part, to acquire parts and services to rebuild the 1973 Chevrolet. As a result, the vehicle is subject to forfeiture.

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED that the 1973 Chevrolet Pickup (License A23791Y, VIN CCY143J152229) and 1949 Chevrolet Fleetline (License CV7903, VIN AZ238518) are deemed forfeited to the Skagit County Sheriff's Department for use as provided in RCW 69.50.505. Jeremy Grande has no further title or interest in the forfeited vehicles.

NOTE: It is the responsibility of a person seeking review of a Hearing Examiner decision to consult applicable Code sections and other appropriate sources, including State law, to determine his/her rights and responsibilities relative to appeal.



SCOTT G. THOMAS,  
Examiner

RICHARD D. JOHNSON,  
Court Administrator/Clerk

*The Court of Appeals*  
of the  
*State of Washington*

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May 27, 2014

Jeremy Duston Grande  
#772839  
Olympic Correction Center  
11235 Hoh Mainline  
Forks, WA, 98331

CASE #: 72083-0-1  
Personal Restraint Petition of Jeremy Duston Grande

Counsel:

A notation ruling was entered on May 27, 2014, which authorized the filing of the above-referenced personal restraint petition without the payment of a filing fee.

Petitioner's request for appointment of counsel is premature. However, if the Acting Chief Judge orders that the personal restraint petition shall be retained by this court or transferred to the superior court for determination on the merits or transferred to the superior court for a reference hearing under RAP 16.11, counsel will be appointed. Honore v. Board of Prison Terms and Paroles, 77 Wn.2d 660, 466 P.2d 485 (1970); RCW 10.73.150(4).

You will be informed when a decision on the petition is reached. Any request limited solely to the status of the petition will be placed in the file without further action.

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

law

EX 4

The Court of Appeals  
of the  
State of Washington

RICHARD D. JOHNSON,  
Court Administrator/Clerk

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August 18, 2014

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Jeremy D. Grande  
DOC 772839 Ozette -G-5-L  
Olympic Correction Center  
11235 Hoh Mainline Rd.  
Forks, WA, 98331-9492

CASE #: 70543-1-I  
State of Washington, Respondent v. Jeremy D. Grande, Petitioner

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on August 18, 2014, regarding appellant's appeal of motion for discretionary review:

Jeremy Grande is attempting to obtain review of a decision of the hearing examiner decision forfeiting two vehicles. As is apparent from letters Mr. Grande has sent the court, he now states that he understands he should seek review in the district court and that he is attempting to do so. The State takes the position that review is unavailable in this court because Mr. Grande "never pursued a civil appeal of the forfeiture decision in a Superior Court civil cause as required by RCW 69.50.507."

At this juncture, review is unavailable in this court. I take no position as to whether review may be available in the district court, the superior court, or some other arena. I note that the hearing examiner's decision provides no information as to how or when a party can seek judicial review of the hearing examiner's decision and instead provides, "It is the responsibility of a person seeking review of a Hearing Examiner decision to consult the applicable Code sections and other appropriate sources, including State law, to determine his/her rights and responsibilities relative to appeal."

Review is dismissed.

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

~~Attachment 4~~

EX 5