Supreme Court No. 102183-6
COA No. 39498-1-III

THE SUPREME COURT OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Respondent,

v.

Paul Winger,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR MASON COUNTY

PETITION FOR REVIEW

Paul A Winger
Pro Se
771 E Krabbenhoft Rd
Grapeview, Wa 98546
(360) 830-6772
thevalueleader@gmail.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Washington Constitution

Washington Statutes

A. IDENTITY OF PETITIONER AND DECISION BELOW

Under RAP 13.4, Paul Winger asks this Court to review the opinion of the Court of Appeals *State v. Winger*, No. 39498-1-III (attached as Appendix 1- 25).

B. ISSUE PRESENTED FOR REVIEW

The prosecution alleged Mr. Winger starved three dogs and a horse on or about April 29, 2018. At trial, the State presented evidence the animals were negligently deprived food for that single day. The trial court found Mr. Winger guilty of animal cruelty for starving and dehydrating the dogs for *several months prior* to April 29, 2018, and for starving the horse for *several months or even several years* prior the charged period. 2RP 588-90. The charging document is constitutionally defective: it does not allege the negligent acts of starvation and dehydration happened for an "extended period." An essential durational element for each first degree animal cruelty charge. The Court of Appeals' ruling that the Information is adequate conflicts with this Court's decision in *Kjorsvik*[1]. Review is warranted under RAP

13.4(b)(1). **C. STATEMENT OF THE CASE**

Mason County Police received reports of an emanciated horse. 1RP 361, 442. When police searched the property and barn belonging to Paul and Thelma Winger on April 29, 2018, they found several animals that appeared emaciated and malnourished. 1RP 46-49, 54-55, 62. Police found dog food in front of the dogs at the residence, including some unopened bags. 1RP 48-49, 62. Police also found alfalfa before the horse. CP 106 at 3.

The State charged Mr. Winger with six counts of first degree animal cruelty as to a horse, three dogs, a cat, and a bird. CP 11-13. The allegations were that:

> on or about April 29, 2018, [the defendant] did, with criminal negligence, starve, dehydrate, or suffocate an animal . . . and as a result caused death or substantial and unjustifiable physical pain that extended for a period sufficient to cause considerable suffering; contrary to RCW 16.52.205 . . . .

CP 11-13.

The State in its case-in-chief, elicited from all its

[1] *State v. Kjorsvik*, 117 Wn.2d 93, 812 P.2d 86 (1991).

witnesses only Mr. Winger's negligent conduct that occurred on April 29, 2018. 1RP 54, 96, 111, 169, 422.

In closing, the prosecution argued for the first time: "[t]he facts of the case begin on April 17th, 2018" until on "April 29th, 2018." 2RP at 584-85. April 17, 2018 does not appear in the charging documents. CP 63. For count I, Fred the dog, the prosecution argued, the charged negligent conduct occurred over *months* and then again that it took *over six months*. 2RP at 588. And "it took *months* [of starvation and dehydration] to get this animal into this condition. . . . That is a period of *over six months*." 2RP at 588(emphasis added).

For Count II, Baby the dog, the prosecution did not argue the starvation and dehydration happened over any specific time period. 2RP 588-89. It only argued Baby was 42 lbs. on April 29, 2018 because he was not being appropriately fed. Her optimal weight was now 66.2 lbs. on July 29, 2018. 2RP 588-89.

For count III, Buddy the dog, the prosecution further argued: "And I would submit to the Court the Court can also find that Buddy suffered from

dehydration, based upon the finding of a *week prior* that the dog was dehydrated." 2RP at 590 (emphasis added.)

For count IV, Kissy the horse, the prosecution argued a police officer observed her April 17 and again on April 29, and in those 12 days he had a substantial decrease in body fat and weight and her physical condition had worsened. 2RP 591 (emphasis added).

The trial court concluded the animals had been deprived of adequate food and water over "several months" or "many months" or even years. CP 106 at 3. The written findings of fact and conclusions of law entered were also instructive: Concerning all three dogs, the court entered the findings of fact 13:

> The emaciated condition of the dogs was caused by starvation due to inadequate feeding. The dogs had either not been provided any food or had not been provided adequate food for *several months prior* to April 29, 2018, notwithstanding the dry dog food seen on April 29, 2018.

CP 106 at 3 (emphasis added).

The court entered finding of fact 21 concerning the horse:

> The emaciated condition of the horse Kissy was due to starvation caused by many months or years of neglect by not feeding it

> appropriately, notwithstanding the alfalfa seen on April 29, 2018.

CP 106 at 3.

The court found on April 29, 2018, the horse had "alfalfa" and the three dogs had food. CP 106 at 3. But it found Mr. Winger guilty of animal cruelty for depriving her animals of adequate food and water over "several months" or "many months" or even years. CP 106 at 3.

On appeal, Mr. Winger challenged the charging document as constitutionally defective as it did not specify the essential time frame for the alleged negligent conduct.

Mr. Winger maintained the trial court found her guilty for negligent acts committed for "fourteen days," "six months," "several months," or "even years," but those extended periods could not be fairly inferred from the language in the charging document: "on or about" April 29, 2018. Br. of Appellant at 33-34 *citing State v. Kjorsvik*, 117 Wn.2d 93, 105-06, 812 P.2d 86 (1991). Because the State in response agreed the charging document is inartful and "vague," Br. of Resp. at 20,

Mr. Winger urged the Court of Appeals to hold that the necessary durational element did not appear in any form, or by fair construction of the charging document under *Kjorsvik*'s first prong, and to presume prejudice and reverse the conviction. Reply of Appellant at 5 citing *State v. Zillyette*, 178 Wn.2d 153, 162, 307 P.3d 712 (2013).

In the alternative, Mr. Winger argued if the Court of Appeals construed "on or about April 29, 2018" was "some" language in the information giving notice of the essential missing element, as to satisfy *Kjorsvik*'s first prong, it should nevertheless reverse, because Ms. Winger was clearly prejudiced under *Kjorsvik*'s second prong by the inartful language, he was found guilty of conduct outside what was charged. Br. of Resp. at 20.

The Court of Appeals ruled the information was adequate and that Mr. Winger did not prove he was prejudiced by the defective Information. Mr. Winger seeks review of this opinion of the Court of Appeals.

D. ARGUMENT

The Information is constitutionally deficient as it omits an essential durational element for each first degree animal cruelty charge.

The standards for adequacy of a charging document are determined under the Sixth Amendment to the United States Constitution, under article I, section 22 of the Washington Constitution, and by CrR 2.1. An accused person must be informed of the criminal charge he or he is to meet at trial and cannot be tried for an offense which has not been charged. *State v. Vangerpen*, 125 Wn.2d 782, 787, 888 P.2d 1177 (1995).

In *Kjorsvik*, this Court set out a two-pronged test for posttrial challenges to charging documents: "(1) [D]o the necessary facts appear in any form, or by fair construction can they be found, in the charging document; and, if so, (2) can the defendant show that he or he was nonetheless actually prejudiced by the inartful language which caused a lack of notice?" *State v. Kjorsvik*, 117 Wn.2d at 105-06.

As the Supreme Court recently explained in *Derri*, an information is constitutionally adequate under the federal and state constitutions "only if it sets forth all essential elements of the crime, statutory or

otherwise, and the particular facts supporting them." *State v. Derri*, 199 Wn.2d 658, 691, 511 P.3d 1267 (2022) *citing State v. Hugdahl*, 195 Wn.2d 319, 324, 458 P.3d 760 (2020). "Essential elements" are "the facts that the State must prove beyond a reasonable doubt to establish that the defendant committed the charged crime." *Id.* (*quoting State v. Recuenco*, 163 Wn.2d 428, 434, 180 P.3d 1276 (2008)).

The main purpose of the essential elements rule "is to give notice to an accused of the nature of the crime that he or he must be prepared to defend against." *Kjorsvik*, 117 Wn.2d at 101. Statutes defining crimes "must be strictly construed." *State v. Shipp*, 93 Wn.2d 510, 515, 610 P.2d 1322 (1980). The requirements of due process and the importance of giving fair notice to the public demand that courts narrowly view the plain terms of a law penalizing certain conduct. *Id.*

a. The ruling conflicts with Kjorsvik as the charge document is missing an "extended" durational element for the negligent acts.

The State charged Mr. Winger by Information of knowingly starving, dehydrating, or suffocating five

animals on or about April 29, 2018. See CP 63 at 11-12. The Information alleged a time period "on or about" a single day and did not allege the negligent treatment occurred during an extended period. CP 63. As a result, the trial court did not require the State to prove Mr. Winger committed negligent acts over an extended period and those acts caused each animal substantial physical pain that "extended for a period" sufficient to cause considerable suffering as required by RCW 16.52.205.

As charged, a person commits first degree animal cruelty if "[w]ith criminal negligence, [they] cause[] death or substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering..." RCW 16.52.205. The State omitted the durational requirement in the Information, and Ms. Mr. Winger had no notice that the State alleged he negligently mistreated her animals over "extended period of time" sufficient to cause considerable suffering to each animal.

By requiring that the pain last long enough to cause "considerable suffering," the Legislature "clearly

indicated a durational requirement." *State v. Loos*, 14 Wn. App. 2d 748, 766, 473 P.3d 1229 (2020).. "The State must demonstrate that the amount of pain the [animal] victim experienced was considerable and the pain the victim experienced lasted for a significant period of time." *Id.*

This causal link between the criminal negligent conduct charged and the requirement that the negligent acts cause "physical pain that extends for a period sufficient to cause considerable suffering" to the animal is an essential element of the offense and must be provided in the Information . *See* RCW 16.52.205. For example, in *Peterson,* the Information alleged the negligent treatment occurred during an extended period of 68 days from June 1 to September 9, 2009. *State v. Peterson*, 174 Wn. App. 828, 841, 301 P.3d 1060 (2013), *abrogated on other grounds by State v. Jallow*, 16 Wn. App. 2d 625, 482 P.3d 959 (2021). Similarly, in *Jallow,* the prosecution alleged the underlying conduct occurred within a 35-day period, specifying an extended time of 19th day of October, 2016, through on or about the 9th day of December, 2016. 16 Wn. App.

2d at 636.

Here, Mr. Winger went to trial preparing to defend against the charge that he was criminally negligent, and starved and/or dehydrated, several animals "on or about April 29, 2018." CP 63. The inartful language of the charging document did not fully inform Mr. Winger of full extent of or "the nature of the accusations" against her. *Kjorsvik*, 117 Wn.2d at 101.

If for example, the Wingers neglected to feed Kissy the horse on or about April 29, 2018, that brief hunger and thirst could not cause a 1,000 lbs horse to weigh 700 lbs as later alleged in closing by the prosecution. 2RP at 591. As another example, one day of hunger and starvation did not make Baby the dog go down from his optimal weight of 66.2lbs to 42 lbs as alleged by the State. *See* 2RP at 588-89. One day of hunger and thirst is not the extended hunger and dehydration that causes an animal substantial pain extending for a period sufficient to cause considerable suffering.

The State's case-in-chief presented evidence of

starvation and dehydration on or about April 29, 2018. At the close of the evidence, the State had not proved the hunger and thirst on or about April 29, 2018, extended for a significant period of time. *Loos*, 14 Wn. App. 2d at 767. The brief April 29, 2018 starvation or dehydration is not causally linked to any "substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering." Ms Winger was charged with the negligent starvation or dehydration that happened on or about April 29, 2018. The trial court found Mr. Winger guilty negligent acts that he may have happened for "12- days," "many months," and even many "years," which is a much more expansive time frame. CP 106 at 3. In short, the charging document failed to contain the durational element of the charged crime.

b. The ruling also conflicts with Kjorsvik because it misconstrues the prejudice of omitting that necessary durational element from the charging document.

The Court of Appeals held that the Information was "adequate" based on *State v. Hayes*, 81 Wn. App. 425, 432, 914 P.2d 788 (1996) because 'on or about' is

sufficient to admit proof of negligent acts that occurred

at any time within the statute of limitations. App. 9. Therefore, "[r]ead as a whole, the charging document adequately alleged Mr. Winger's conduct occurred over an extended period of time, to include on or about April 29, 2018." App. 9. The statute of limitation for most felonies is ten years. By this logic the "on or about" April 29, 2018 encompasses all negligent acts of mistreatment Mr. Winger may have committed from April 29, 2008 until April 29, 2018. Which makes no sense.

More importantly, this absurd conclusion runs afoul of this Court's precedent in *Kjorsvik*. That durational element cannot be fairly implied from any language in the charging document.

Under *Kjorsvik's* first prong, Mr. Winger should prevail because the necessary temporal element does not appear in any form, or by fair construction of the charging document. *Kjorsvik*, 117 Wn.2d at105-06. And even if this necessary temporal element was present by a liberal, fair construction of the charging

document, *See State v. Chambers*, 23 Wn. App. 2d 917, 924, 518 P.3d 649 (2022), *review denied*, 200 Wn.2d 1030, 523 P.3d 1179 (2023), the court must reverse because Mr. Winger showed he actual prejudice by the inartful language. *Kjorsvik*, 117 Wn.2d at 105-06.

Mr. Winger demonstrated that he was convicted for conduct that happened days, months, or years before April 29, 2018. The court's findings of fact belie the court's ruling. The trial court's findings of fact 13 was that Mr. Winger committed acts of starvation on each dog that lasted *several months* prior to April 29, 2018, even though on the day in question the dogs had food infront of them. CP 106 at 3 (emphasis added). And the finding of fact 21 was that Mr. Winger starved the horse by not feeding it appropriately for many months or years, even though the horse appeared to have alfalfa on April 29, 2018. CP 106 at 3. The Court of Appeals overlooked Mr. Winger's showing of actual prejudice. It is conclusory about the lack of actual prejudice and summarily declares that "nothing" in the record suggests that Mr. Winger was confused about the nature of the charges or that he limited her

defense strategy based on the information's wording. App. 9 *citing Derri*, 199 Wn.2d at 691. The Court of Appeals' decision conflicts with *Kjorsvik* and this Court should accept review.

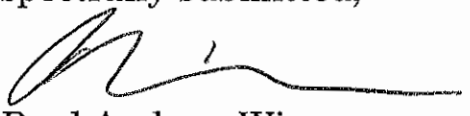
E. CONCLUSION

Mr. Winger respectfully requests this Court to accept review and reverse the first degree animal cruelty convictions for a constitutionally deficient Information.

This brief complies with RAP 18.7

DATED this 15th day of July 2023.

Respectfully submitted,



Paul Andrew Winger
Pro Se

APPENDICES

PAUL WINGER - FILING PRO SE

July 13, 2023 - 1:26 PM

Transmittal Information

Filed with Court:	Court of Appeals Division III
Appellate Court Case Number:	39498-1
Appellate Court Case Title:	State of Washington, Respondent v. Paul Andrew Winger, Appellant
Superior Court Case Number:	18-1-00144-7

The following documents have been uploaded:

- 394981_Motion_20230713132345D3104826_1151.pdf
  This File Contains:
  Motion 1 - Other
  The Original File Name was 39498120230713reviewrequest.pdf
- 394981_Other_20230713132345D3104826_4435.pdf
  This File Contains:
  Other - findinds of supreme court
  The Original File Name was 394981unp.pdf

A copy of the uploaded files will be sent to:

- Sloanej@nwattorney.net
- gibsonc@nwattorney.net
- nielsene@nwattorney.net
- thevalueleader@gmail.com
- timh@masoncountywa.gov
- timw@masoncountywa.gov

Comments:

Sender Name: Paul Winger - Email: thevalueleader@gmail.com
Address:
771 E Krabbenhoft Rd
Grapeview, WA, 98546
Phone: (360) 830-6772

Note: The Filing Id is 20230713132345D3104826

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

STATE OF WASHINGTON, Respondent, v. PAUL A. WINGER, Appellant.	)	No. 39498-1-III UNPUBLISHED OPINION

PENNELL, J. — Paul Winger appeals his convictions for first and second degree animal cruelty. We affirm.

FACTS

After receiving reports of suspected animal mistreatment, law enforcement searched a rural property owned by Paul and Thelma Winger on April 29, 2018. The search revealed several animals that were emaciated and malnourished. Pens and kennels were soaked in urine and caked in feces. Many of the animals had protruding bones and

open sores. The Wingers claimed they were experiencing financial difficulties. However, there was dog food at the residence, including some unopened bags. One of the investigating officers described the scene as one of worst cases of animal mistreatment they had ever witnessed.

Officers seized several of the animals and transferred them to the custody of animal rescue organizations. Veterinarians considered the possibility of euthanasia, but opted instead to provide medically necessary treatment.

The State separately charged the Wingers with six counts of first degree animal cruelty as to a horse, three dogs, a cat, and a bird. The Wingers were also charged with second degree animal cruelty against some turtles and doves. Each of the first degree charges alleged that:

> on or about April 29, 2018, [the defendant] did, with criminal negligence, starve, dehydrate, or suffocate an animal . . . and as a result caused death or substantial and unjustifiable physical pain that extended for a period sufficient to cause considerable suffering; contrary to RCW 16.52.205 . . . .

Clerk's Papers (CP) at 37-39. The Wingers waived their rights to a jury trial and their cases were jointly tried to the bench.

At trial, the court heard testimony from treating veterinarians who testified the animals were gravely emaciated. The veterinarians opined that the animals' conditions were the result of a lengthy and extremely painful period of deprivation of adequate

calories. Animal rescue professionals testified that the rescued animals readily ate and recovered—continually gaining weight—as soon as they were provided proper nutrition.

One of the animal rescue volunteers who testified at trial was an individual named Jo Ridlon. Ms. Ridlon explained that she first became aware of possible mistreatment of the Wingers' animals when she received reports from community members, including George Blush, who apparently runs a pet food bank. Ms. Ridlon testified that she and Mr. Blush spoke to Paul Winger by phone a few days prior to the animals' rescue. Ms. Ridlon testified that she told Mr. Winger that her organization would help bring a veterinarian to the Wingers' property if the Wingers did not want to take their horse to a vet, but that the Wingers "refused" to schedule a vet appointment. 1 Rep. of Proc. (RP) (May 19, 2021) at 153-54.

On cross-examination, Ms. Winger's counsel asked Ms. Ridlon how she could remember the specifics of this interaction that happened more than three years prior:

> [DEFENSE COUNSEL]: . . . [Y]ou don't have any record of [the phone conversation], correct?
> [MS. RIDLON]: It's kind of memorialized in an email.
> [DEFENSE COUNSEL]: Between who?
> [MS. RIDLON]: Me and Chief [Ryan] Spurling [of the Mason County Sheriff's Office].
> . . . .
> [DEFENSE COUNSEL]: . . . [H]ow do you know there's an email?
> [MS. RIDLON]: Because I wrote it.

Id. at 155.

The existence of an e-mail came as a surprise to both parties. The prosecutor thereafter obtained copies of the relevant e-mail correspondence and produced them to the defense.

The defense raised a *Brady*[1] challenge and moved to dismiss the charges. The defense argued that the State had failed to disclose the e-mails for more than three years, and that one sentence in one of the e-mails was exculpatory because it showed the Wingers had obtained food for their animals. The sentence in question is written by Ms. Ridlon and reads: "George [Blush] said when *he delivered dog food to* [*the Wingers*] there were several things that didn't seem right but he didn't say anything." Ex. 3 at 1 (emphasis added); *see also* 1 RP (May 20, 2021) at 162.

Defense counsel explained they had learned from their clients that Mr. Blush had delivered them dog food, and that counsel had thus tried to interview Mr. Blush, who was hostile and refused to voluntarily participate. Defense counsel claimed that, if they had known there was independent evidence that Mr. Blush delivered dog food, the case would have been "a very different ballgame." 1 RP (May 20, 2021) at 182. The prosecutor disagreed, pointing out that "[t]he defense was on notice that food was provided to these

[1] *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

animals," *id.* at 188, and noting that defense counsel was still free to interview Mr. Blush and subpoena him for a deposition if he proved uncooperative. *Id.* at 190.

The trial court continued the proceedings and entered an order requiring the State to search for more e-mails at the sheriff's office relating to the Winger case. Although the defense speculated that there were more Ridlon/Spurling e-mails than the ones disclosed, the search of sheriff's office records revealed no additional e-mails. The State acknowledged that, as a matter of policy, county government e-mails were ordinarily retained for only two years, so any e-mails about the Winger case were likely deleted as a matter of course.

The State also informed the trial court that the e-mail "which [defense] counsel is basing their argument on"—that is, the one containing the purportedly exculpatory sentence—was "from and to the same individual." 1 Supp. Rep. of Proc. (June 28, 2021) at 5. An examination of exhibit 3 confirms this: the e-mail that the Wingers alleged was exculpatory was both sent *and* received by Ms. Ridlon's e-mail address. It appears from the exhibit that Ms. Ridlon may have inadvertently replied to herself, because the most recent e-mail in the chain was an e-mail from her to Chief Spurling (stating, "Sorry phone is on 1% I'll be more informative when home."). Ex. 3 at 2. The trial court rejected the

Wingers' *Brady* challenge, basing its denial on the Wingers' failure to show that the e-mail in question was in fact ever received by Chief Spurling.

After the State rested, the court dismissed the first degree charge as to the bird at the State's request. The court also granted the Wingers' motion to dismiss the second degree charges as to the turtles and the doves, concluding the State had presented no evidence those animals were in pain. The court additionally reduced the charge related to the cat from first degree animal cruelty to second degree.

The court convicted the Wingers of four counts of first degree animal cruelty as to the three dogs and the horse, and one count of second degree animal cruelty as to the cat. Mr. Winger was sentenced to 45 days of confinement, 30 days of which were converted to 240 hours of community service.

Mr. Winger timely appealed his judgment and sentence. A Division Three panel considered Mr. Winger's appeal without oral argument after receiving an administrative transfer of the case from Division Two.

ANALYSIS

Mr. Winger contends his case should have been dismissed because the State breached its duty to disclose exculpatory evidence when it did not turn over Jo Ridlon's e-mails. The law clearly requires the State to disclose evidence favorable to the defense.

Brady v. Maryland, 373 U.S. 83, 87, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963). But Mr. Winger fails to show the State violated this obligation.

As an initial matter, we agree with the trial court that the State did not violate its duty to disclose exculpatory evidence because the Ridlon e-mail was never in the State's possession until after it came to light during Ms. Ridlon's trial testimony. Ms. Ridlon's copy of the e-mail indicates she sent it to herself, not Chief Spurling. The State does not violate its duty to turn over exculpatory evidence if it never possessed the evidence in the first place. *State v. Mullen*, 171 Wn.2d 881, 895, 259 P.3d 158 (2011) ("'[T]he prosecution is under no obligation to turn over materials not under its control.'" (quoting *United States v. Aichele*, 941 F.2d 761, 764 (9th Cir. 1991))).

Nor was the evidence in question exculpatory. The fact that the Wingers had access to dog food and still allowed their animals to become malnourished is indicative of criminal negligence. It is not exculpatory. Nothing about the information contained in Ms. Ridlon's e-mail tends to detract from the weight of the State's case.

Mr. Winger suggests that the e-mail would have impeached Ms. Ridlon's testimony. This mischaracterizes the record. Ms. Ridlon testified that the Wingers refused to accept veterinary treatment for their horse. She never testified the Wingers refused to accept food for their dogs. Moreover, at most, the Ridlon e-mail revealed there was,

at one point, dog food delivered to the Wingers' home. The State itself had already furnished evidence of multiple bags of dog food that had been found at the Winger residence. *See In re Pers. Restraint of Mulamba*, 199 Wn.2d 488, 503, 508 P.3d 645 (2022) (noting evidence is immaterial under *Brady* if it "can be considered cumulative of other trial evidence").

Mr. Winger argues in the alternative that if the current record is insufficient to establish the State's *Brady* violation, the matter should be remanded for additional evidence pursuant to RAP 9.11(a).

We decline to order a hearing for additional evidence under RAP 9.11(a). The trial court already afforded the parties substantial time to develop the record regarding a potential *Brady* violation. There is no reason to think that additional hearings will uncover facts favorable to the Wingers.

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

Mr. Winger has filed a statement of additional grounds (SAG) under RAP 10.10(a). He asserts two claims.

First, he contends there is a conflict with the funds that the State and sheriff's department received from Pasado's Safe Haven that ultimately came from the case restitution against Mr. Winger and his wife, Thelma Winger. Ultimately, Mr. Winger

alleges that this is a personal gain that violates ethics in public service laws pursuant to chapter 42.52 RCW. Mr. Winger attached a document to his SAG entitled "11th Annual Bucky Award Winners: Detective Chris Liles and Prosecutor Tyler Bickerton, Mason County, WA." SAG at 3. The document shows a news release detailing a brief summary of Detective Liles' and Mr. Bickerton's work in the Wingers' animal abuse case.

Second, Mr. Winger argues that his right to counsel under the Sixth Amendment to the United States Constitution was violated by changes in appointed counsel that he experienced over the course of four years. Specifically, Mr. Winger contends that the attorney changes occurred because the attorneys either wanted to work on other cases or were on the verge of retiring.

Mr. Winger's allegations are vague and refer to facts outside the current record. The record currently before this court fails to disclose any improper connection between the sheriff's office and Pasado's Safe Haven. Nor is there any indication of what Mr. Winger's various attorneys did or failed to do that could have constituted inadequate representation. Mr. Winger's recourse for allegations that rest on additional facts is to file a personal restraint petition. *See State v. McFarland*, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995).

CONCLUSION

The judgment of conviction is affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Pennell, J.

WE CONCUR:

Fearing, C.J.

Staab, J.

PAUL WINGER - FILING PRO SE

July 13, 2023 - 1:26 PM

Transmittal Information

Filed with Court:	Court of Appeals Division III
Appellate Court Case Number:	39498-1
Appellate Court Case Title:	State of Washington, Respondent v. Paul Andrew Winger, Appellant
Superior Court Case Number:	18-1-00144-7

The following documents have been uploaded:

- 394981_Motion_20230713132345D3104826_1151.pdf
  This File Contains:
  Motion 1 - Other
  The Original File Name was 39498120230713reviewrequest.pdf
- 394981_Other_20230713132345D3104826_4435.pdf
  This File Contains:
  Other - findinds of supreme court
  The Original File Name was 394981unp.pdf

A copy of the uploaded files will be sent to:

- Sloanej@nwattorney.net
- gibsonc@nwattorney.net
- nielsene@nwattorney.net
- thevalueleader@gmail.com
- timh@masoncountywa.gov
- timw@masoncountywa.gov

Comments:

Sender Name: Paul Winger - Email: thevalueleader@gmail.com
Address:
771 E Krabbenhoft Rd
Grapeview, WA, 98546
Phone: (360) 830-6772

Note: The Filing Id is 20230713132345D3104826