

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON, )

Respondent, )

vs. )

VINAY BHARADWAJ, )

Petitioner. )

No. 91111-8

MOTION TO  
ACCELERATE  
REVIEW

I. IDENTITY OF MOVING PARTY

Petitioner, by and through counsel of record, Nielsen, Broman & Koch, requests the relief stated in part II.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 1.2, 18.8, and 18.12, petitioner requests that – should his Petition for Review be granted on March 31, 2015 – review be accelerated so that oral argument can occur at the earliest possible date during the term and a decision filed by October, the first month in which Bharadwaj faces deportation.

III. FACTS RELEVANT TO MOTION AND GROUNDS FOR RELIEF

1. Bharadwaj, an engineer and software designer, was charged with multiple criminal offenses and hired attorney John Henry Browne. CP 484-486; 3RP 1; 9RP 98-100. Bharadwaj is an Indian citizen living lawfully in the United States since 1998. CP 1211. One of Bharadwaj's primary concerns was avoiding conviction for any offense that would result in deportation. CP 1211. Browne botched plea negotiations and provided faulty and inadequate advice on

the immigration consequences Bharadwaj faced under different scenarios. CP 1210-1216, 1219-1226, 1228-1230.<sup>1</sup> Ultimately, Bharadwaj was convicted of three counts of Child Molestation in the Second Degree. CP 1174-1178. These convictions constitute aggravated felonies under 8 USC § 1101(a)(43)(B) (sexual abuse of minor offenses) and subject him to removal under 8 USC § 1227(a)(2)(A)(iii) (aggravated felony ground of deportation).

2. Bharadwaj's case presents issues pertaining to the scope of a defense attorney's Sixth Amendment duties to investigate and provide competent advice on the immigration consequences of possible pleas. The Washington Defender Association has filed a memorandum in support of discretionary review. The matter has been set for consideration on March 31, 2015 in Department 2.

3. Currently, the Department of Corrections calculates Bharadwaj's earned release date at October 11, 2015. See appendix. After that date, he presumably will be turned over to U.S. Immigration and Customs Enforcement ("ICE") and deported from the United States. This will obviously result in great financial, professional, and personal hardship for Bharadwaj, who has made his home in the United States for the past 17 years.

4. On a motion of a party, and in order to serve the ends of justice, this court may accelerate review under RAP 1.2(c), RAP 18.8(a), and RAP 18.12. Bharadwaj respectfully requests that – should this Court grant his Petition for Review on March 31 – his case be set for oral argument on the earliest

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<sup>1</sup> Defense counsels' mistakes and their consequences are discussed at length in the Court of Appeals briefs. See Brief of Appellant, at 30-57; Reply

available date during the term, allowing for supplemental briefs, and decided with the October 11, 2015 date in mind. A decision in his favor prior to that date would avoid the complications associated with a decision in his favor following deportation.

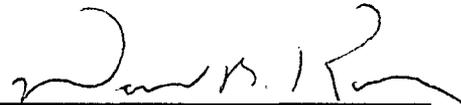
IV. CONCLUSION

Counsel respectfully requests that this Court grant the motion.

DATED this 9<sup>th</sup> day of February, 2015.

Respectfully submitted,

NIELSEN, BROMAN & KOCH



DAVID B. KOCH, WSBA No. 23789  
Office ID No. 91051  
Attorneys for Petitioner

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Brief of Appellant, at 7-11.

## APPENDIX

**State of Washington  
Department of Corrections**

**Custody Review  
Offender Version**

**Assigned Counselor:** Denzer, Ryan T

**Printed By:** Hopkins, Gregory A

**Print Date:** 05/22/2014

**Inmate: BHARADWAJ, Vinay Keshavan (361033)**

Gender: Male	DOB: 09/14/1975	Age: 38	Category: Regular Inmate	Body Status: Active Inmate
RLC: LOW			Custody Level: Medium	Location: SCCC — H2 / H2092L
ERD: 10/11/2015				CC/CCO: Denzer, Ryan T

**Purpose of Review**

Purpose Of Review	Date Initiated
Regular Review	03/12/2014
Multi-Disciplinary Team Custody Promotion	03/17/2014

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Nielsen, Broman & Koch, P.L.L.C.

**Program Needs**

Education				Grade Point Equivalency	
GED/HSD:	Date Obtained:	Location:	Verified?	Math:	Reading:
GED	11/09/2012	WASHINGTON	Y	13+	11 - +

Dependency	
Chemical Dependency:	Level Of Care:
N	1

Offender Needs (Needs Assessment Tool)
Alcohol/Drug Use

Offender's Willingness to Participate	
Chemical Dependency Program: No	Cognitive/Mental Health Programs: No
	Family/Community Support: Yes

Education/Employment Needs
<b>Education/Employment Need</b>
Has Specific Work Skills For Prison Work Or Correctional Industries
Has Work Skills Needed For Community Employment
<b>Narrative:</b>
Offender Reports That He Has A Master's Degree And Would Like To Work As A Teacher's Aide In Education. Offender States That He Is From India And Does Not Have Much Family Support In Washinton. Job Screening Was Completed Prior To Arrival To SCCC ON 12/10/12. He Is Approved For Food Services, Unit Porters, Laundry, Maintenance, Recreation, Education, Legal Library, Chapel, Correctional Industries. He Is Denied For Outside Crew, DNR And Gate Card Due To Lack Of MI2 Status.

Programs

**Custody Score**

Record of Earned Release Time

Date: 3/20/2013

**Offender Name:**

Bharadwaj, Vinay Keshavan

**Doc No.:**

361033

**Assigned Staff Name:**

Sullivan, Sarah A

**Sentence Data:**

Cause No:	County:	Start of Cause:	Report End Date:
101100098	King	9/28/2012	3/20/2013
Earned Release Date:	Total Confinement Length for Cause:		
10/11/2015	1,734		

**Earned Time Percentage by Count**

1 - 33.33%  
2 - 33.33%  
3 - 33.33%

**Earned Time**

Start Date	End Date	Earned Time Type	Reason	Offender Location	Days
9/28/2012	12/1/2012	Earned		WCC-RC	10.67
12/1/2012	3/1/2013	Earned		SCCC	15.00

**Total Good Conduct Time (GCT)**

Potential GCT for this Cause	Total GCT Lost to Date	Available GCT
369		369

**Total Earned Time (ET)**

Potential ET for this Cause	ET Not Earned	Earned Time Earned	Available ET
184.63	0.00	25.66	158.97

**Offender Signature Block:**

## OFFICE RECEPTIONIST, CLERK

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Attached for filing today is a motion to accelerate review for the case referenced below.

State v. Vinay Bharadwaj

No. 91111-8

Motion to Accelerate Review

Filed By:  
David Koch  
Nielsen, Broman & Koch  
206.623.2373  
WSBA No. 23789  
[kochd@nwattorney.net](mailto:kochd@nwattorney.net)