

Received  
Washington State Supreme Court

JUL 23 2015

E OF  
Ronald R. Carpenter  
Clerk

No. 91808-2

SUPREME COURT

OF THE STATE OF WASHINGTON

---

STATE OF WASHINGTON, Respondent,

v.

JAMES JOHN CHAMBERS, Petitioner,

---

SUPPLEMENTAL PETITION FOR REVIEW

---

James John Chambers  
Pro Se

191 Constantine Way  
Aberdeen, WA 98520

**TABLE OF CONTENTS**

Table of Contents	i
Table of Authorities	ii
A. IDENTITY OF PETITIONER	1
B. COURT OF APPEALS DECISION	1
C. ISSUES PRESENTED FOR REVIEW	1
D. STATEMENT OF THE CASE	2
<hr/>	
E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED	
ISSUE 1	2
ISSUE 2	4
F. CONCLUSION	6
APPENDIX A - COA DECISION (4/14/2015)	
APPENDIX B - MOTION FOR RECONSIDERATION	
APPENDIX C - DENIAL OF MOTION FOR RECONSIDERATION	
APPENDIX D - COA DECISION (8/5/2011)	

**TABLE OF AUTHORITIES**

<u>Barber, State v.</u> , 170 Wn.2d 854, 248 P.3d 494 (2011)	4
<u>Breedlove, State v.</u> , 138 Wn.2d 298, 979 P.2d 417 (1999)	3
<u>Chambers, State v.</u> , 163 Wn.App. 54, 256 P.3d 1283 (2011)	5
<u>Cook, In Re</u> , 114 Wn.2d 802, 792 P.2d 506 (1990)	3
<u>Forest, State v.</u> , 125 Wn.App. 702, 105 P.3d 1045 (2005)	2
<u>L.K. Operating, LLC v. Collection Group, LLC</u> , 331 P.3d 1147, 181 Wn.2d 48 (2014)	4
<u>Protect the Peninsula's Future v. City of Port Angeles</u> , 175 Wn.App. 201, 304 P.3d 914 (2013)	2
<u>Runquist, State v.</u> , 79 Wn.App. 786, 905 P.2d 922 (1995)	2
<u>Turley, State v.</u> , 149 Wn.2d 395, 69 P.3d 338 (2003)	4

**A. IDENTITY OF PETITIONER**

James John Chambers, pro se, asks this court to accept review of the Court of Appeals decision terminating review designated in Part B of this petition.

**B. COURT OF APPEALS DECISION**

On 4/14/2015, Div. II of the Court of Appeals affirmed the trial court's order denying Chambers's motion to withdraw his guilty pleas. Chambers filed a motion for reconsideration. The order denying reconsideration was filed on 5/12/2015. A copy of the court of appeals decision is included in Appendix A. A copy of the motion for reconsideration is included in Appendix B. A copy of the order denying the motion for reconsideration is included in Appendix C.

**C. ISSUES PRESENTED FOR REVIEW**

(1.) Is an appellate court required to reverse and remand where a trial court abuses its discretion by applying the wrong legal standard?

(2.) Upon remand, after a defendant's plea agreement has been deemed to be "invalid", can the trial court consider "compelling reasons" not to allow the defendant to withdraw his guilty plea?

**D. STATEMENT OF THE CASE**

The facts are set out in Section D of the petition for review that was filed on behalf of petitioner by counsel.

**E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED**

It should be noted that while the issues presented in this motion were not raised by Appellant's counsel for consideration under direct review, they were brought to the appellate court's attention in Chambers's pro se motion for reconsideration. That motion has been attached as Appendix B, and the arguments made therein are hereby incorporated by reference.

---

(1.) The appellate court failed to recognize that the trial court abused its discretion by applying the wrong legal standard.

An appellate court reviews "a trial court's decision to grant or deny a motion to withdraw guilty plea for an abuse of discretion." State v. Forest, 125 Wn.App. 702, 706, 105 P.3d 1045 (2005). A trial court abuses its discretion when its decision is manifestly unreasonable, based on untenable grounds, or made for untenable reasons. Protect the Peninsula's Future v. City of Port Angeles, 175 Wn.App. 201, 215, 304 P.3d 914 (2013) (citing Wilson v. Horsley, 137 Wn.2d 500, 505, 974 P.2d 316 (1999)). A decision is based on "untenable grounds" or made for "untenable reasons" if it rests on facts unsupported by the record or was reached by applying the wrong legal standard. State v. Runquist, 79 Wn.App.

786, 793, 905 P.2d 922 (1995). The trial court in this case entered an order stating that Chambers "has not sufficiently shown that he is or should be entitled to relief where his sentence does not result in a complete miscarriage of justice". A "complete miscarriage of justice", however, is an appellate standard of review that is applied to nonconstitutional errors in collateral proceedings. See In re Pers. Restraint of Breedlove, 138 Wn.2d 298, 304, 979 P.2d 417 (1999); In re Pers. Restraint of Cook, 114 Wn.2d 802, 811-12, 792 P.2d 506 (1990). Thus, without further elaboration, it is readily apparent that the trial court abused its discretion by applying the wrong legal standard. In its review, under Forest, the appellate court should have recognized that the trial court had abused its discretion. Since the appellate court failed to do so, this case is in conflict with Forest and it meets the criteria for this court's consideration under RAP 13.4(b)(2).

Furthermore, the appellate court's opinion, at pg. 3, states that "the trial court denied Chambers's motion, concluding that Chambers's [sic] had failed to demonstrate a manifest injustice allowing him to withdraw his guilty pleas." Factually-speaking, that statement is not supported by the record. In reality, the trial court's order makes absolutely no mention of a "manifest injustice" and the appellate court cannot enter such a finding on behalf of the trial court. The appellate court's opinion is not supported by the facts in this case, and, as has recently been

held, when "facts in the record do not support the Court of Appeal's holdings as a matter of law, those holdings are subject to reversal by this court". L.K. Operating, LLC v. Collection Group, LLC, 331 P.3d 1147, 1157, 181 Wn.2d 48 (2014) (citing DGHI Enters. v. Pac. Cities, Inc., 137 Wn.2d 933, 942-43, 977 P.2d 1231 (1999)).

(2.) The trial court improperly applied Turley and achieved an outcome that is in conflict with Barber.

There is no factual dispute as to whether Counts III and IV (Chambers's "February crimes") are invalid. The appellate court has already ruled upon the issue (see Appendix D - COA Division II No. 45392-4-II), this Supreme Court affirmed, and the proceedings were remanded back to the trial court for a plea withdrawal hearing. Chambers's plea agreement has been determined to be invalid, and he is entitled to relief. Under State v. Barber, 170 Wn.2d 854, 248 P.3d 494 (2011), withdrawal of his guilty plea was "the only remedy the court has the authority to impose". Barber, 248 P.3d at 503-04.

Rather than following Barber, however, the trial court here incorrectly applied State v. Turley, 149 Wn.2d 395, 69 P.3d 338 (2003) and denied Chambers any form of relief at all. Not only was this an incorrect application of Turley, since nothing in that case is indicative of defendants being denied relief, but the trial court improperly utilized the holding in Turley to

achieve an outcome that is in conflict with this court's holding in Barber.

It should also be noted that when the appellate court previously reviewed this case, in State v. Chambers, 163 Wn.App. 54, 256 P.3d 1283 (2011), it recognized Barber to be the controlling authority that applied to Chambers's circumstances (see Appendix D). On page 7, at FN 9, the appellate court stated that it was declining to reach "the State's additional argument that the trial court erred when it allowed Chambers to withdraw his guilty plea because the trial court did not properly consider whether the State demonstrated compelling reasons to deny Chambers's plea agreement, noting that our Supreme Court in State v. Barber, 170 Wn.2d 854, 248 P.3d 494 (2011), recently held that a defendant may not seek specific performance of an illegal sentence." Upon remand, however, the trial court behaved as if the State had somehow prevailed on that issue. Under Barber, as was pointed out in the appellate court's previous opinion, the State had no right to demonstrate compelling reasons not to allow Chambers to withdraw his guilty pleas. Surprisingly, in its latest opinion, the appellate court seems to have completely overlooked the applicability of Barber to this case.

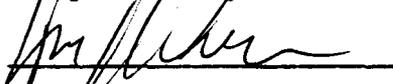
The appellate court's opinion upholds a trial court's decision that is in conflict with both Barber and Turley. For that reason this case meets the criteria for this court's consideration under RAP 13.4(b)(1).

**F. CONCLUSION**

This court should accept review for the reasons indicated in Part E and remand this case back to the trial court for a plea withdrawal hearing with instructions to the court to allow Chambers to withdraw his guilty pleas.

July 19, 2015

Respectfully submitted,



James John Chambers

# APPENDIX A

FILED  
COURT OF APPEAL  
DIVISION II

2015 APR 14 AM 9:5

STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,

Respondent,

v.

JAMES JOHN CHAMBERS,

Appellant.

No. 45392-4-II

Consolidated with  
Nos. 45399-1-II; 45402-5-II

UNPUBLISHED OPINION

WORSWICK, J. — James John Chambers moved under CrR 7.8 to withdraw his 1999 guilty pleas to several charges that were included in an indivisible plea agreement under three different cause numbers, which motion the trial court denied. Chambers appeals, asserting that because his pleas are facially invalid, the trial court erred by denying his motion. In a statement of additional grounds for review (SAG), Chambers argues that the trial court failed to comply with remand instructions when denying his CrR 7.8 motion to withdraw his guilty pleas. We affirm.

**FACTS**

In 1999, Chambers entered into an indivisible plea agreement under three different Pierce County Superior Court cause numbers. *State v. Chambers*, 176 Wn.2d 573, 577-78, 583, 293 P.3d 1185 (2013). In cause number 99-1-00817-2, Chambers pleaded guilty to unlawful possession of a controlled substance with intent to deliver, unlawful manufacturing of a controlled substance, and two counts of first degree unlawful possession of a firearm (February

No. 45392-4-II  
Cons. wi Nos. 45399-1-II; 45402-5-II

crimes).<sup>1</sup> *Chambers*, 176 Wn.2d at 577-78. In cause number 99-1-02235-3, Chambers pleaded guilty to unlawful possession of a controlled substance (May crime). *Chambers*, 176 Wn.2d at 578. Finally, in cause number 99-1-05307-1, Chambers pleaded guilty to failure to remain at an injury accident, unlawful possession of a firearm, unlawful manufacture of a controlled substance, and two counts of first degree possession of stolen property (November crimes). *Chambers*, 176 Wn.2d at 578-79.

In 2008, Chambers filed a personal restraint petition with this court that challenged the validity of his sentence with respect to his February crimes. *Chambers*, 176 Wn.2d at 579; *In re Pers. Restraint of Chambers*, No. 38074-9-II, (Wash. Ct. App. Jan. 15, 2009). We granted Chambers's 2008 petition in part, holding that his judgment and sentence was invalid on its face as to his convictions for two counts of first degree unlawful possession of a firearm. Order Granting Petition in Part, *In re Chambers*, No. 38074-9-II. Our Supreme Court accepted discretionary review from our order granting Chambers's petition in part and ordered the trial court to consider withdrawing Chambers's guilty pleas as to all his February crimes. *In re Pers. Restraint of Chambers*, 171 Wn.2d 1035 (2009).

On remand, the trial court granted Chambers's motion to withdraw his guilty pleas to all his February crimes. *See State v. Chambers*, 163 Wn. App. 54, 60, 256 P.3d 1283 (2011), *aff'd*, 176 Wn.2d 573 (2013). Additionally, "[b]ecause the State had destroyed the evidence to support

---

<sup>1</sup> For clarity, and for consistency with prior decisions addressing Chambers's plea agreement, this opinion will hereafter refer to Chambers's convictions under cause number 99-1-00817-2 as "February crimes"; conviction under cause number 99-1-02235-3 as "May crime"; and convictions under cause number 99-1-05307-1 as "November crimes."

No. 45392-4-II  
Cons. wi Nos. 45399-1-II; 45402-5-II

the February crimes, the trial court dismissed the case on the State's motion." *Chambers*, 163 Wn. App. at 60. The State appealed the trial court's order granting Chambers's motion to withdraw his guilty pleas to his February crimes, arguing that Chambers's guilty pleas to those crimes were part of an indivisible agreement to plead guilty to his May and November crimes. *Chambers*, 163 Wn. App. at 60-61. We agreed with the State, reversed the trial court's order granting Chambers's motion to withdraw his guilty pleas to the February crimes, and remanded "for further proceedings, in which Chambers may seek to withdraw his indivisible guilty plea on all nine counts." *Chambers*, 163 Wn. App. at 62. Our Supreme Court accepted review and affirmed our holding that the trial court had erred by granting Chambers's motion to withdraw his guilty pleas as to his February crimes, agreeing that those pleas were part of an indivisible plea agreement. *Chambers*, 176 Wn.2d at 580-83.

After our Supreme Court issued its opinion, Chambers moved under CrR 7.8 to withdraw his guilty pleas as to all of the charges contained in his indivisible plea agreement. The trial court denied Chambers's motion, concluding that Chambers's had failed to demonstrate a manifest injustice allowing him to withdraw his guilty pleas. Chambers appeals the trial court's order denying his motion to withdraw his guilty pleas.

#### ANALYSIS

Chambers contends that the trial court erred by denying his CrR 7.8 motion to withdraw his guilty pleas to his February, May, and November crimes due to the facial invalidity of his judgment and sentence with respect to his February crimes of first degree unlawful possession of a firearm. We disagree and affirm the trial court's order denying Chambers's motion to withdraw his guilty pleas.

We review a trial court's decision to grant or deny a motion to withdraw a guilty plea for an abuse of discretion. *State v. Forest*, 125 Wn. App. 702, 706, 105 P.3d 1045 (2005). A trial court abuses its discretion when it bases its decision on untenable grounds or reasons. *State v. Powell*, 126 Wn.2d 244, 258, 893 P.2d 615 (1995). A defendant is permitted to withdraw a guilty plea under CrR 4.2(f) "whenever it appears that the withdrawal is necessary to correct a manifest injustice." CrR 7.8 governs postjudgment motions to withdraw a guilty plea and provides in relevant part:

**(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.** On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

- ....
- (4) The judgment is void; or
  - (5) Any other reason justifying relief from the operation of the judgment.

A defendant seeking to withdraw his or her guilty plea in a postjudgment must meet the requirements for a plea withdrawal under both CrR 4.2(f) and CrR 7.8. *State v. Lamb*, 175 Wn.2d 121, 128, 285 P.3d 27 (2012). In other words, to succeed on a postjudgment motion to withdraw a guilty plea, the defendant must demonstrate *both* (1) that withdrawal of the plea is necessary to correct a manifest injustice, *and* (2) that relief from the final judgment is justified by one of the reasons enumerated in CrR 7.8(b).

#### I. MANIFEST INJUSTICE

A manifest injustice allowing a defendant to withdraw a guilty plea is "an injustice that is obvious, directly observable, overt, [and] not obscure." *State v. Taylor*, 83 Wn.2d 594, 596, 521 P.2d 699 (1974) (citing WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (1966)). A defendant carries a heavy burden in demonstrating a manifest injustice permitting the withdrawal

No. 45392-4-II  
Cons. wi Nos. 45399-1-II; 45402-5-II

of a guilty plea, which “burden is justified by the greater safeguards protecting a defendant at the time [the defendant] enters [his or] her guilty plea.” *State v. Wilson*, 162 Wn. App. 409, 414, 253 P.3d 1143 (2011). One of the ways in which a defendant may meet the burden of demonstrating a manifest injustice is by showing that the plea was not voluntary. *State v. Wakefield*, 130 Wn.2d 464, 472, 925 P.2d 183 (1996). A guilty plea is not voluntary if the defendant was misinformed about the direct sentencing consequences of pleading guilty. *State v. A.N.J.*, 168 Wn.2d 91, 113-14, 225 P.3d 956 (2010).

Chambers asserts that he met the requirement of showing a manifest injustice because (1) his guilty plea convictions for first degree unlawful possession of a firearm required him to serve “nearly double the amount of time in custody than he would have received had he been properly charged and sentenced,” and (2) he was misinformed about the direct sentencing consequences of his guilty pleas. Br. of Appellant at 10. On both points we disagree.

First, the record belies Chambers’s assertion that his first degree unlawful possession of a firearm convictions required him to serve more time in confinement than if he had been properly charged and sentenced for second degree unlawful possession of a firearm. Although Chambers is correct that the trial court sentenced him to 116 months for each of his first degree unlawful possession of a firearm convictions and that the statutory maximum sentence for second degree unlawful possession of a firearm was 60 months, Chambers was ordered to serve his 116 month sentences for first degree unlawful possession of a firearm concurrent with each other *and concurrent with* his 149 month sentence for unlawful possession of a controlled substance with intent to deliver conviction and his 144 month sentence for unlawful manufacturing of a controlled substance. Former RCW 9.41.040(2)(b) (1997); former RCW

No. 45392-4-II

Cons. wi Nos. 45399-1-II; 45402-5-II

9A.20.021(1)(c) (1982). Accordingly, in light of Chambers's concurrent sentences for his February crimes, the trial court's imposition of 116 month sentences for each of Chambers's first degree unlawful possession of a firearm convictions did not require him to serve any more time in confinement than if the trial court had sentenced him to the statutory maximum of 60 months for second degree unlawful possession of a firearm.<sup>2</sup>

Second, we disagree with Chambers's assertion that he was misinformed about the direct sentencing consequences of his guilty pleas. Chambers's statement on plea of guilty clearly shows that he was aware that the statutory maximum penalty for first degree unlawful possession of a firearm, the crimes to which he had pleaded guilty, was ten years of confinement. Former RCW 9.41.040(2)(a); former RCW 9A.20.021(1)(b). Properly construed, Chambers's challenge to the voluntariness of his guilty pleas to first degree unlawful possession of a firearm was not that he had been misadvised about the sentencing consequences of those crimes but, rather, that those charges lacked a factual basis with which to support his guilty pleas. But Chambers did not move to withdraw his guilty plea on this ground, and he does not argue it on appeal. Because Chambers's guilty plea convictions for first degree unlawful possession of a firearm did not require him to serve any more time than if he had been convicted of second degree unlawful possession of a firearm, and because he was properly informed of the direct sentencing consequences of pleading guilty to first degree unlawful possession of a firearm, the trial court

---

<sup>2</sup> Chambers does not contend, and the record does not appear to support, that his offender score would have differed had he been charged and sentenced for second degree unlawful possession of a firearm. Former RCW 9.94A.360 (1998).

No. 45392-4-II  
Cons. wi Nos. 45399-1-II; 45402-5-II

did not abuse its discretion by concluding that he failed to show a manifest injustice warranting the withdrawal of his guilty pleas.

## II. UNJUST REMEDY

Even assuming that Chambers had met his burden of demonstrating a manifest injustice with regard to his first degree unlawful possession of a firearm convictions and sentences, the trial court nonetheless did not abuse its discretion by denying his motion to withdraw his guilty pleas to all the charges in his indivisible plea agreement because withdrawal of Chamber's guilty pleas under these circumstances would be unjust to the State.

When a defendant demonstrates a manifest injustice with respect to some of the charges included in an indivisible plea agreement, the defendant has the initial choice of remedy between withdrawal of the entire plea agreement and specific performance. *State v. Turley*, 149 Wn.2d 395, 400-401, 69 P.3d 338 (2003); *but see State v. Barber*, 170 Wn.2d 854, 873-74, 248 P.3d 494 (2011) (excluding remedy of specific performance where the parties agreed to an illegal sentence based upon a mutual mistake). However, a trial court is not bound by the defendant's choice of remedy. *Turley*, 149 Wn.2d at 401. Rather, "[o]nce the defendant has opted for one of the available remedies, the State 'bears the burden of demonstrating that the defendant's choice of remedy is unjust.'" *Turley*, 149 Wn.2d at 401 (quoting *State v. Miller*, 110 Wn.2d 528, 536, 756 P.2d 122 (1988), *overruled on other grounds by Barber*, 170 Wn.2d 854). This burden requires the State to show that "compelling reasons exist not to allow the defendant's choice" of remedy. *Turley*, 149 Wn.2d at 401. And the State may base this showing on any or all of the charges included in the indivisible plea agreement. *Turley*, 149 Wn.2d at 401. "The trial court then

No. 45392-4-II

Cons. wi Nos. 45399-1-II; 45402-5-II

determines whether those reasons are compelling and [whether] the defendant's choice of withdrawal or specific performance is unjust." *Turley*, 149 Wn.2d at 401.

Here, the State presented compelling reasons why withdrawal of Chambers's guilty pleas would be unjust. First, the State asserted that withdrawal of the indivisible plea agreement would be unjust because the evidence that could be used to prosecute Chambers for his February crimes had been destroyed. Under *Miller*, this reason alone was sufficient for the trial court to deny Chambers's motion to withdraw his guilty pleas. 110 Wn.2d at 535 ("plea withdrawal may be unfair if the prosecutor has detrimentally relied on the bargain and has lost essential witnesses or evidence") (citing *United States v. Jerry*, 487 F.2d 600 (3d Cir. 1973); *Farnsworth v. Sanford*, 115 F.2d 375 (5th Cir. 1940)). Additionally, the State asserted that withdrawal of Chambers's guilty pleas would be unjust because the State had relied on the agreement in deciding not to prosecute him for murder in regard to his November crimes and it would be difficult to now prosecute him for an alleged murder that took place in 1999. This is also a compelling reason to deny Chambers's motion to withdraw his guilty pleas. Because the State presented compelling reasons why withdrawal of Chambers's guilty pleas would be unjust, the trial court did not abuse its discretion by denying Chambers's motion to withdraw his guilty pleas.

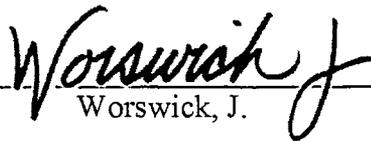
### III. SAG

In his SAG, Chambers argues that the trial court erred by denying his motion to withdraw his guilty pleas because our prior decision in *Chambers*, 163 Wn. App. 54, and our Supreme Court's affirmance of that decision in *Chambers*, 176 Wn.2d 573, required the trial court to grant his withdrawal motion. But Chambers misreads our holding in that case. We did not direct the trial court to *grant* his motion to withdraw his pleas as he asserts in his SAG. Rather, we

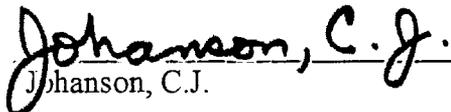
No. 45392-4-II  
Cons. wi Nos. 45399-1-II; 45402-5-II

reversed the trial court's order granting Chambers's motion to withdraw his guilty pleas to his February crimes and remanded for further proceedings, stating that on remand "Chambers *may seek* to withdraw his indivisible guilty plea" agreement with respect to all of his charges. *Chambers*, 163 Wn. App. at 62 (emphasis added). Similarly, in affirming our decision, our Supreme Court did not direct the trial court to grant Chamber's withdrawal motion. Accordingly, this argument lacks merit. We affirm the trial court's order denying Chambers's motion to withdraw his guilty pleas.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

  
Worswick, J.

We concur:

  
Johanson, C.J.

  
Melnick, J.

# APPENDIX B

No. 45392-4-II

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

---

JAMES JOHN CHAMBERS,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

---

ON APPEAL FROM THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

---

APPELLANT'S RAP 12.4 MOTION FOR RECONSIDERATION

---

JAMES JOHN CHAMBERS  
Appellant/Defendant, Pro Se  
191 Constantine Way, SCCC  
Aberdeen, WA 98520  
(360)537-1800

**A. MOTION**

COMES NOW the Appellant, pro se, James John Chambers, and moves the Court to reconsider its April 14, 2015 decision affirming denial of Appellant's motion to withdraw guilty plea. This motion is brought pursuant to RAP 12.4.

**B. INTRODUCTION**

As this Court is well aware, Chambers' case has taken quite the twisting path as it bounced back and forth, repeatedly, between the Superior Court, the Court of Appeals, and the Supreme Court. A case with such an extensive procedural history is bound to get confusing at some point. This motion for reconsideration is filed in order to clarify what has been presented for this Court's consideration, what rulings have been made thereupon, and how the outcome is not consistent with current Washington case law.

**C. ISSUES PRESENTED**

Issue No. 1:

Was the trial court's denial of Chamber's motion to withdraw his guilty plea based upon untenable grounds?

Issue No. 2:

Is the outcome in this case in conflict with State v. Barber, 170 Wn.2d 854, 248 P.3d 494 (2011)?

Issue No. 3:

What portion of State v. Turley, 149 Wn.2d 395, 69 P.3d 338 (2003) is applicable to the instant case?

D. ARGUMENT

1. Was the trial court's decision to deny Chambers' motion to withdraw guilty plea based upon untenable grounds?

This Court enumerated the specific standards of review for this case on page 4 of its unpublished opinion. The Court established its standard of review as well as the standard of review that should have been applied by the trial court. Appendix A. While this portion of the opinion is properly stated, as far as the law, a startling oversight has been made. If one looks to the order denying Chambers' motion to withdraw guilty plea, there is no mention of CrR 4.2, CrR 7.8, manifest injustice, or compelling reasons. Those are the relevant standards of law that should have been applied when the trial court made its decision on Chambers' motion.

A trial court abuses its discretion when its decision is manifestly unreasonable, based on untenable grounds, or made for untenable reasons. Protect the Peninsula's Future v. City of Port Angeles, 175 Wn.App. 201, 215, 304 P.3d 914 (2013) (citing Wilson v. Horsley, 137 Wn.2d 500, 505, 974 P.2d 316 (1999)).

A decision is based on "untenable grounds" or made "for untenable reasons" if it rests on facts unsupported by the record or was reached by applying the wrong legal standard. State v. Runquist, 79 Wn.App. 786, 793, 905 P.2d 922 (1995).

The trial court here entered an order stating that Mr. Chambers "has not sufficiently shown that he is or should be entitled to relief where his sentence does not result in a

complete miscarriage of justice." Appendix B, at 2. A "complete miscarriage of justice", however, is an appellate standard of review that is applied to nonconstitutional errors in collateral proceedings. See In re Pers. Restraint of Breedlove, 138 Wn.2d 298, 304, 979 P.2d 417 (1999); In re Pers. Restraint of Cook, 114 Wn.2d 802, 811-12, 792 P.2d 506 (1990); In re Pers. Restraint of Elmore, 162 Wn.2d 236, 251, 172 P.3d 335 (2007).

As these holding make clear, a trial court's order that is based upon the wrong standard of review is based on untenable grounds and is an abuse of discretion. Upon review, this Court should have immediately recognized this error. The oversight is glaring. While it was inartfully presented by Chambers' appellate counsel, this Court still had a duty to review the proceedings for an abuse of discretion. Mr. Chambers should not be penalized nor should he be bound by an order that is untenable, manifestly unreasonable, and contrary to law.

2. Is the outcome here in conflict with State v. Barber?

The decision in State v. Barber, 170 Wn.2d 854, 249 P.3d 494 (2011) was aimed towards avoiding the exact outcome that has been reached here in Chambers' case. To understand Barber more fully, however, we must go back to State v. Miller, 110 Wn.2d 528, 756 P.2d 122 (1988), which Barber overruled, in part. It has been noted that both Miller and Barber are about remedies, Miller, 110 Wn.2d at 531 ("All the parties agree that Miller... was entitled to some remedy"); Barber, supra, ("No dispute that he was misinformed and the plea is invalid"). In that respect,

as will be explained, Chambers is indistinguishable from either of those cases.

In Miller, the defendant argued that his plea agreement was not legal, and therefore unenforceable, and that the only remedy was to allow him to withdraw his plea. Miller, 110 Wn.2d at 532. Prior to the Miller decision, specific performance was a remedy only for the State's breach of a plea agreement. But when the court made its decision, the majority determined that extending this remedy to involuntary pleas -- which were based upon a mutual mistake -- was somehow appropriate. From that point on, defendants who were found to have entered into an involuntary plea agreement were given an initial choice of remedies. They could elect to either withdraw their plea, or request specific performance of the original, invalid agreement that they made with the State. The entirety of the holding did not sit well with Justice Durham, however, and he voiced his concerns in his concurrence, "To my mind, this is an impossible result. There is simply no credible legal argument that can be made for the proposition that a Court...may exceed its statutory sentencing authority in order to enforce the terms of a plea agreement." Miller, 110 Wn.2d at 538. Further along, Justice Durham stated that, "The only remedy for Miller's invalid plea is rescission." Id., at 539. He then reiterated his thinking one last time, "Miller's plea is not valid...thus, he is entitled to some form of relief. Specific performance is impossible." Id., at 540.

Years later, when faced with Barber, the Supreme Court came to terms with the wisdom that Justice Durham had offered when Miller was being decided. Specifically, the Court in Barber held that "the actual sentence imposed pursuant to a plea bargain must be statutorily authorized; a defendant cannot agree to be punished more than the legislature has allowed for." It was decided that Miller was both incorrect and harmful because the trial court, in Barber, was being required to enforce an illegal sentence. The Supreme Court felt that such a requirement, pursuant to Miller, "undermines the goal of uniformity and consistency in sentencing that gave rise to the SRA." Barber, at page 505, also found that the Miller holding threatened the separation of powers doctrine by allowing the prosecutor, a member of the executive branch, to bind the court to a particular sentence through plea agreement. The ultimate logic in Barber, as it veered away from stare decisis, can be found at pages 503-04, "We hold that Miller is both incorrect and harmful to the extent that it allows specific performance of a plea agreement to bind the court to enforce an illegal sentence....Where the parties have agreed to a sentence that is contrary to law, the defendant may elect to withdraw his plea. While withdraw may not return the defendant to the precise status quo ante in every circumstance, it is the only remedy the court has the authority to impose."

Thus, in overruling Miller, our state Supreme Court had every intention of allowing defendants an opportunity to withdraw guilty pleas that are invalid and unenforceable. This Court has previously held that Mr. Chambers does have an invalid charge (Appendix C, at 3-4), and that holding was affirmed by the Supreme Court. Despite these findings, Chambers was not allowed to withdraw his plea and both he and the court have been bound by an invalid and unenforceable agreement. Such an outcome is contrary to Barber. Chambers is entitled to relief and withdraw of his plea is the only remedy available.

3. What portion of Turley is applicable to this case?

At page 7 of its unpublished opinion, this Court noted that Barber excludes specific performance as a remedy when parties have agreed to an illegal sentence based upon a mutual mistake. While this reading of Barber is not incorrect, it is not quite complete either. As has been explained, Barber abrogated Miller, in the face of stare decisis, and it was not lightly done. The Supreme Court emphasized the gravity of what they felt compelled to do, and such a ruling should be carefully examined, in future decisions, to ensure that its core holding is not breached.

To that point, Miller opened a door that Barber subsequently shut. Miller allowed for the initial choice of remedy to be given to a defendant when invalid or unenforceable plea bargains were made, and opportunity for the State to oppose that choice. Turley's call for the State to demonstrate compelling reasons not to allow the defendant's choice was born of Miller's allowance

for initial choice. In fact, Turley directly quotes Miller as the precedent for that holding. However, when the Barber court found Miller to be both incorrect and harmful, the choice of remedy was eradicated as an option. "When the parties agree to a sentence that is contrary to law, the defendant may elect to withdraw his plea...it is the only remedy the Court has the authority to impose." Barber, at 503-04.

Nothing stated in any of those cases can reasonably be read to infer that a defendant should receive no relief at all if the State does demonstrate compelling circumstances not to allow that "initial choice". That would lead to an absurd result wherein defendants, who are entitled to relief, would subsequently be required to play a virtual game of roulette with their lives (as they gambled on which type of relief to request).

Barber, holds that no choice of remedy is available when a sentence is contrary to law. A defendant may either choose to withdraw his/her plea, if it is invalid or otherwise unenforceable, or he/she can live with the bargain they've agreed to. If the State were allowed to present compelling reasons to disallow the withdrawal of such a plea, and it was successful in doing so, it would achieve the very result that Barber was tailored to eliminate: A court being forced, by a prosecutor, to enforce an illegal sentence. Unfortunately, that is exactly what has resulted here.

Mr. Chambers has an invalid conviction, which cannot stand, but the trial court still allowed the State to argue against the only form of relief available. The outcome, for Mr. Chambers, is the "impossible result" that Justice Durham once cautioned against. The "compelling reasons" that Turley and Miller refer to are to be looked at after a defendant has made his/her initial choice of remedy.

This is clear, as the holding reads, "[o]nce the defendant has opted for one of the available remedies, the State bears the burden of demonstrating that the defendant's choice of remedy is unjust." Turley, 149 Wn.2d at 401 (quoting State v. Miller, 110 Wn.2d 528, 536, 756 P.2d 122 (1988)). The State's opportunity to demonstrate compelling reasons is not triggered until a defendant makes a choice of remedy. Mr. Chambers, however, had no choice to make. Barber mandates a single form of relief. While Turley may be applicable in this case insofar as determining the indivisibility of Mr. Chambers' plea agreements, it cannot be utilized to disqualify him from the relief that he is entitled to.

#### E. CONCLUSION

The trial court abused its discretion when it entered an order that was based upon untenable grounds. The wrong legal standard was applied and, for that reason, this Court should remand. In the interest of judicial efficiency, the appellant also asks that, in its order for remand, this Court direct the trial court to allow Mr. Chambers to withdraw his plea.

This Court has already once recognized the invalidity of Mr. Chambers' conviction, and according to Barber, allowing Chambers to withdraw his plea is "the only remedy the Court has the authority to impose." This motion should be granted.

RESPECTFULLY submitted this 2nd day of May, 2015.

---

James J. Chambers  
Appellant, Pro Se

# APPENDIX C

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,  Respondent,  v.  JAMES JOHN CHAMBERS,  Appellant.
---

No. 45392-4-II

ORDER DENYING MOTION FOR RECONSIDERATION

FILED  
COURT OF APPEALS  
DIVISION II  
2015 MAY 12 AM 9:32  
STATE OF WASHINGTON  
BY DEPUTY

APPELLANT moves for reconsideration of the court's April 14, 2015 opinion. Upon consideration, the court denies the motion. Accordingly, it is

SO ORDERED.

PANEL: Jj. Worswick, Johanson, Melnick

DATED this 12<sup>th</sup> day of May, 2015.

FOR THE COURT:

*Johanson, C.J.*  
CHIEF JUDGE

Thomas Charles Roberts  
Pierce County Prosecuting Attorney  
930 Tacoma Ave S Rm 946  
Tacoma, WA, 98402-2171  
TROBERT@co.pierce.wa.us

Stephen Gregory Johnson  
Attorney at Law  
925 S Ridgewood Ave  
Tacoma, WA, 98405-3364  
badseedlawyer@gmail.com

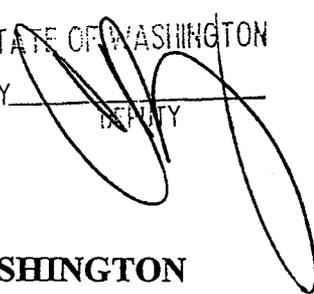
Brian Neal Wasankari  
Pierce County Prosecuting Atty  
930 Tacoma Ave S Rm 946  
Tacoma, WA, 98402-2171  
bwasank@co.pierce.wa.us

# APPENDIX D

FILED  
COURT OF APPEALS  
DIVISION II

11 AUG -5 AM 8:32

STATE OF WASHINGTON

BY  DEPUTY

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,

Appellant,

v.

JAMES JOHN CHAMBERS, JR.,

Respondent.

STATE OF WASHINGTON,

Respondent,

v.

JAMES JOHN CHAMBERS, JR.,

Appellant.

No. 40899-6-II

CONSOLIDATED WITH

41082-6-II

PUBLISHED OPINION

WORSWICK, J. — The State appeals an order allowing James Chambers to withdraw a guilty plea for some, but not all, of his convictions. The trial court ruled that because Chambers's guilty pleas were not part of an indivisible agreement, he could withdraw his pleas for four of the nine counts. James Chambers appeals from the trial court's denial of his CrR 7.8 motion to vacate his judgment and sentence stemming from one of the remaining plea agreements, arguing that the judgment and sentence imposed an illegal sentence outside of the

standard range in violation of its terms.<sup>1</sup> Holding that Chambers's pleas were part of one indivisible plea agreement, we reverse and remand for further proceedings.

#### FACTS

In two cases pertinent to this appeal, the State charged Chambers with nine crimes. The first information listing four crimes was filed on February 24, 1999; the second information listing an additional five crimes was filed on November 22, 1999. Chambers pleaded guilty to the charges in the first information on July 7, 1999, and was sentenced on March 17, 2000. He pleaded guilty to the charges in the second information on March 17, 2000, and was sentenced on those crimes on May 5, 2000.

With regard to the first four crimes, the State charged Chambers with one count of unlawful possession of a controlled substance, one count of unlawful manufacturing of a controlled substance, both with firearm enhancements, and two counts of first degree unlawful possession of a firearm. These charges were all filed under cause number 99-1-00817-2.<sup>2</sup>

Chambers pleaded guilty to these February crimes on July 7.<sup>3</sup> The statement of defendant on

---

<sup>1</sup> Originally these cases were to be considered separately, but upon further consideration we find that consolidation would save time and expense and provide for a fair review of these cases. Thus, we exercise our discretion under RAP 3.3(b) to consolidate them.

<sup>2</sup> For purposes of clarity, we refer to these crimes as the "February crimes" henceforth.

<sup>3</sup> Around this time, Chambers also pleaded guilty to other criminal charges under cause number 99-1-02235-3, from which he never appealed. The trial court sentenced Chambers on these convictions at the same time as it sentenced him on convictions under cause number 99-1-00817-2.

40899-6-II  
Consolidated with 41082-6-II

plea of guilty did not include the State's sentencing recommendation. Rather, it stated that the State's recommendation was "open." Clerk's Papers (CP) (Nov. 9, 2010) at 155. The trial court scheduled sentencing for a later date and released Chambers.

While released, Chambers committed additional crimes in November 1999, including striking and killing a pedestrian with a stolen car that he was driving. On November 22, the State charged him with one count of failure to remain at an injury accident, two counts of first degree possession of stolen property, one count of unlawful possession of a firearm, and one count of unlawful manufacturing of a controlled substance, methamphetamine.<sup>4</sup> These newest charges were filed under cause number 99-1-05307-1.<sup>5</sup>

The State extended a plea agreement offer that encompassed recommendations for both the February crimes and the November crimes, and on February 9, 2000, a Pierce County deputy prosecutor sent Chambers's attorney a letter "in order to memorialize" the offer. CP (Aug. 10, 2010) at 44. The letter stated in relevant part:

Re: State of Washington vs. James John Chambers, Jr.  
Pierce County Superior Court Cause No. 99-1-05307-1

...  
I am writing you this letter in order to memorialize my offer to your client in the above entitled case. With this letter I am enclosing copies of the first several pages of the pleas of guilty on cause numbers 99-1-02235-3 and 99-1-00817-2. *My offer to your client consists of two parts.* First as to the 02235-3 and 00817-2 matters, your client must agree that the sentences in those matters run

---

<sup>4</sup> For purposes of clarity, we refer to these crimes as the "November crimes" henceforth.

<sup>5</sup> A third case, cause number 99-1-02235-3, also was included in the State's overall sentencing proposal, but no appeal stems therefrom.

consecutive to the 05307-1 matter. . . . All of those counts would run concurrent to one another but consecutive to the matters involving the hit and run injury accident (99-1-05307-1). Your client would be free to ask for the 149 months, which is the low end of the standard range on count 1.

The second part of the offer is that the defendant has to plead guilty to all presently charged counts on 99-1-05307-1. His score for purposes of the SRA would be ten (10) for the non-manufacturing/intent to deliver crimes (PSP1 x 2, Hit and Run felony, Unlawful Poss F/A 1). For the manufacturing of methamphetamine charge, your client would be a sixteen (16). As you are aware, RCW 69.50.408 sets forth the statutory maximum for a crime involving manufacture or possession with intent to deliver. This statutory maximum is ten (10) years. As you are also aware, RCW 69.50.408 allows for the doubling of any standard range for a subsequent conviction for manufacturing or possession with intent to deliver. At the time of your client's manufacturing offense as charged in 99-1-05307-1, your client had two prior manufacturing convictions and one prior possession with intent to deliver conviction. RCW 9.94A.030(10) defines conviction to include a plea of guilty so the 02235-3 and 00817-2 matters count as priors for the 99-1-05307-1 matter.

Your client would have to agree to 240 months on the manufacturing on the 99-1-05307-1 matter. . . . This would run consecutive to the 02235-3 and 00817-2 matters.

If your client rejects this offer the state will amend to include the charges of felony murder and the state will add gun [sic] enhancement on the manufacturing charge. I have given your client until March 17th, 2000 to accept this offer, however, unless I receive by February 17, 2000, a written waiver regarding late arraignment, I will proceed with the arraignment. Once I arraign your client on the felony murder there is no going back.

CP (Aug. 10, 2010) at 44-45 (emphasis added).

On March 17, 2000, Chambers pleaded guilty to the November crimes. Also on March 17, the trial court entered its judgment and sentence on the four counts on the February crimes.<sup>6</sup> Then at a May 5 sentencing hearing for the November crimes, the trial court and the State engaged in the following relevant exchange:

---

<sup>6</sup> The State's recommendation comported with the terms of its February 9, 2000 plea offer letter.

[STATE]: Your Honor, the State's recommendation on Count I is 60 months to run concurrent with the other counts; Count II is 57 months; Count III is 57 months; Count IV is 116 months; Count V is 240 months. All of these counts are to be served concurrently, however, consecutive to 99-1-00817-2 and 99-1-02235-3. He was sentenced in those matters on the 17th of March, and those matters are running concurrent to one another but consecutive to the matter we're here on today. . . . Count V also requires a \$3,000 fine because he's been convicted of manufacturing several times in the past, and that is what makes Count V also the 240 months.

....  
THE COURT: . . . [I]t's my understanding that that's the highest standard range sentence available for each count.

[STATE]: That's correct, Your Honor, because the law says it's double the standard range for Count V, which is 240 months. All the other ones essentially make no difference, so—

....  
THE COURT: . . . Mr. Chambers' life was just totally out of control when this happened, completely, in every way. And because of that, there's really no sentence that's fair other than the high end of the range on each of the counts, as is being suggested. I'm going to impose the agreed-on sentence and the other financial conditions and otherwise that the State's requesting.

(Verbatim Report of Proceedings) at 4-6, 17-18; CP (Ex. 2). Then the trial court sentenced Chambers for the November crimes and imposed its sentence as proposed by the State.

Chambers then filed several appeals and personal restraint petitions surrounding his sentence, claiming that the sentences for counts III and IV of the February crimes were unlawful. The matter ultimately went to our Supreme Court, which remanded for further proceedings to consider Chamber's motion to withdraw his guilty plea. *In re Pers. Restraint of Chambers*, \_\_\_ Wn.2nd \_\_\_, 217 P.3d 1159 (2009).

Following remand by our Supreme Court, Chambers filed a motion to vacate the judgment, a motion to withdraw his guilty plea, and a motion for specific performance as to the

four February crimes. The State argued that even though there were three separate cause numbers, the sentencing for each stemmed from only one indivisible plea agreement and that Chambers must withdraw his pleas on the February and November crimes, not just the February crimes. On May 28, 2010, the trial court disagreed with the State and found the plea agreements to be separate and entered an order granting Chambers's motion to withdraw his pleas on counts I to IV of the February crimes only.

Because the State had destroyed the evidence to support the February crimes, the trial court dismissed the case on the State's motion. Then on July 2, 2010, Chambers moved for relief from the judgment and sentence under CrR 7.8,<sup>7</sup> arguing error in the sentencing range for his sentence as to the November crimes. The trial court denied Chambers's motion. The State

---

<sup>7</sup> CrR 7.8(b) provides:

**Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.** On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

- (1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;
- (2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.5;
- (3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) The judgment is void; or
- (5) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken, and is further subject to RCW 10.73.090, .100, .130, and .140. A motion under section (b) does not affect the finality of the judgment or suspend its operation.

appeals from the trial court's order granting Chambers's motion to withdraw his guilty plea and Chambers appeals from the trial court's denial of his motion for relief from judgment.

#### ANALYSIS

The State contends that the trial court erred when it failed to find that the pleas and sentences on all three cause numbers were part of a single agreement.<sup>8</sup> Chambers counters that because he entered into plea agreements at separate times on separate days, the trial court properly treated the agreements as divisible. We agree with the State.<sup>9</sup>

A plea agreement is essentially a contract made between a defendant and the State.” *State v. Turley*, 149 Wn.2d 395, 400, 69 P.3d 338 (2003). As a result, issues regarding the interpretation of a plea agreement are questions of law we review de novo. *State v. Bisson*, 156 Wn.2d 507, 517, 130 P.3d 820 (2006). “Under normal contract principles, whether a contract is considered separable or indivisible is dependent upon the intent of the parties.” *Turley*, 149

---

<sup>8</sup> The State also argues as a threshold matter that an evidentiary hearing and factual findings as to the scope of the plea agreement were necessary as a preliminary step to the determination of any remedies to which the defendant was entitled. But here, the record is sufficient for us to conclude that the agreement was meant to be indivisible without inquiry into the substance of the plea negotiations. Thus, an evidentiary hearing was not necessary here. *See Turley*, 149 Wn.2d 395, 400, 69 P.3d 338 (2003).

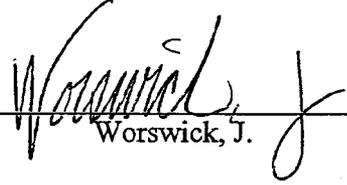
<sup>9</sup> Because we reverse and remand on this issue, we do not reach Chambers's appeal that the trial court erred by denying him relief from an illegal and unlawful sentence, an issue which is now moot in light of our holding that the guilty pleas were part of a single agreement. We also decline to reach the State's additional argument that the trial court erred when it allowed Chambers to withdraw his guilty plea because the trial court did not properly consider whether the State demonstrated compelling reasons to deny Chambers's plea agreement, noting that our Supreme Court in *State v. Barber*, 170 Wn.2d 854, 248 P.3d 494 (2011), recently held that a defendant may not seek specific performance of an illegal sentence.

Wn.2d at 400. When we determine intent, we do not consider unexpressed subjective intent, only objective manifestations of intent. *Turley*, 149 Wn.2d at 400. “Absent objective indications to the contrary in the agreement itself, we will not look behind the agreement to attempt to determine divisibility.” *Turley*, 149 Wn.2d at 400.

If the plea agreement is “indivisible,” Chambers would then be required to withdraw his entire guilty plea on all of the cause numbers assuming he still seeks to withdraw it. This would then free the State to amend the charges against Chambers, as described in the letter dated February 9, 2000. There are several facts that lead us to hold, contrary to the trial court, that the plea agreement here was “indivisible.” The letter from the deputy prosecutor to Chambers’s counsel details the interconnectedness of the agreement. All of the cause numbers and the sentences for each are mentioned. Additionally, the agreed sentencing range for the November crimes is discussed in the context and with clear consideration of the sentencing ranges on the other cause numbers. And most notably, the letter explicitly states that Chambers’s failure to accept the terms would result in filing of charges of felony murder. The parties then represented to the trial court at sentencing that it had agreed to these terms. It is clear that the parties intended to enter into one “indivisible” plea agreement. The State’s argument prevails.

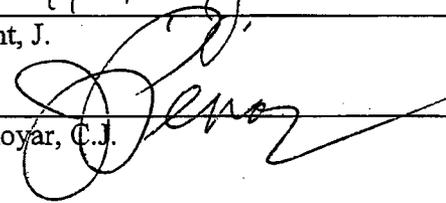
40899-6-II  
Consolidated with 41082-6-II

We reverse the trial court's order allowing Chambers to withdraw only counts I to IV and remand for further proceedings, in which Chambers may seek to withdraw his indivisible guilty plea on all nine counts under cause numbers 99-1-00817-2 and 99-1-05307-1.

  
\_\_\_\_\_  
Worswick, J.

We concur:

  
\_\_\_\_\_  
Hunt, J.

  
\_\_\_\_\_  
Penoyar, C.J.

DECLARATION OF SERVICE BY MAIL  
GR 3.1

Received  
Washington State Supreme Court

JUL 23 2015

I, James J Chambers, declare and say:

Ronald R. Carpenter  
Clerk

That on the 21 day of July, 2015, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. Supreme Court 91808-2  
Court of appeals no 45392-4-II;  
\_\_\_\_\_  
\_\_\_\_\_

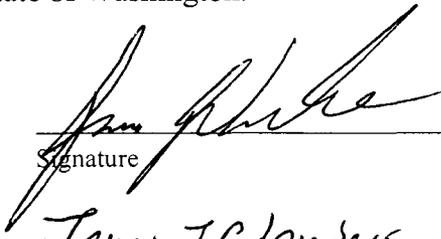
addressed to the following:

Attorney at Law  
Stephen Johnson  
925 South Ridgewood Ave  
Tac WA 98405

Pierce County Prosecutors Office  
930 Tacoma Ave Room 946  
Tacoma WA 98402

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2015, in the City of Aberdeen, County of Grays Harbor, State of Washington.

  
\_\_\_\_\_  
Signature

James J Chambers  
\_\_\_\_\_  
Print Name

DOC 743702 UNIT H-6-A-29  
STAFFORD CREEK CORRECTIONS CENTER  
191 CONSTANTINE WAY  
ABERDEEN WA 98520