

FILED

AUG 13 2015

CLERK OF THE SUPREME COURT  
STATE OF WASHINGTON

CBF

SUPREME COURT OF THE STATE OF WASHINGTON

Andrew Flores, )  
Appellant, )  
vs. )  
Maggie Miller-Stout, et al, )  
Respondent, )

92059-1

COA no. 33156-3-III

PETITION FOR REVIEW

**A. IDENTITY OF PETITIONER**

Andrew Flores, petitioner 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**

Court of Appeals denied petitioner's motion to modify commissioner's ruling on July 15, 2015

**C. ISSUES PRESENTED FOR REVIEW**

1. ASSIGNMENT OF ERRORS

a. Does the Court of Appeals violate Mr. Flores Federal Constitutional First Amendment Right denying redress of grievance?

2. ISSUE PERTAINING TO Assignment of error.

a. Court of Appeals 'Mischaracterized Mr. Flores initial complaint

**D. STATEMENT OF THE CASE**

Petitioner brought Civil complaint against Maggie Miller-Stout, et al in Spokane Superior Court.

Spokane Superior Court FOUND Mr. Flores originally indigent SEE

RCW 10.101..020

Mr. Flores was denied review because he is poor and could not purchase his State Constitutional right of review for \$290.000 dollars.

Mr. Flores requested a free copy of trial transcripts and a free copy of the record, however was denied via correspondence by department 9 staff for Judge Cooney

Mr. Flores petitioned Court of Appeals division III, however again is denied by Order, because he is again poor.

Mr. Flores now is seeking review, attempting to receive his Constitutional right of free transcript of the record so as Mr. Flores can petition the United States Eastern District court for redress of grievance.

Mr. Flores brings now this timely Petition for Review.

**E. ARGUMENT**

Mr. Flores contends the Court of Appeals decision denying his request for a free transcript of the record is an abuse of their discretion.

The Court of Appeals 'Mischaracterizes Mr. Flores request of relief.

Mr. Flores stated request for relief in his Motion to Modify clear states Mr. Flores is attempting to secure his Constitutional rights, Appeal and Transcript of the record.

The Court of Appeals Order states the trial court made an initial finding that Mr. Flores was indigent.

From the onset, the Appeals Courts denying Mr. Flores review because he could not purchase his State Constitutional rights is in direct conflict with **GENERAL RULE 34; O'Connor v Matzdroff, 76 Wn.2d**

589, 458 P.2d (1969); Iverson v Marine Bancorporation, 83 Wn.2d 163, 517 P.2d (1973) and Jarfar v Webb, 177 Wn.2d 520, 303, 1042 (En Banc 1973)

In every single case, All have reasoned that denial of Appellate review because an appellate is "POOR" violates Washington Constitution ART I §

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As mentioned prior, Mr. Flores is seeking trial transcripts to further his appeal to the Federal courts, because unlike Washington State, the federal courts rely on 28 U.S.C. § 1915, wherein, a prisoner can bring his appeal without having to 'Prepay' or 'Purchase' his Constitutional guarantees of redress of grievance.

Mr. Flores had relied on Washington State Supreme Court precedent and General rule 34, however those cases and general rule were ignored.

Mr Flores is now relying on United States Supreme Court precedent of Draper v Washington, 372 U.S. 487, 83 S.Ct. 774 (1963) Whereas the Court, in terms of a Trial Record, means that the State must afford the indigent a 'Record of Sufficient Completeness To Permit Proper Consideration of his claims' Id at 499 83 S.Ct. at 781; Griffin v Illinois, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed. 891 (1956) Whereas under the 'due process' and 'equal protection clauses', destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts. Id at 19, 76 S.Ct. at 591. Additionally Eskridge v Wa. State Board of Terms and Paroles, 357 U.S. 214, 78 S.Ct. that Court held, "State Court's denial of indigent defendants motion for a free transcript of proceeding on ground that justice would not be promoted...was a denial of Constitutional right guaranteed by Fourteenth Amendment"

additionally the Court held "That if an indigent defendant alleges substantial errors requiring some record of the proceedings in order to properly prosecute his appeal, the burden shifts to the State".

Review is warranted, in light, of the fact that This Supreme Court had set rules in Woods v Rhay, 54 Wn.2d 36, 338 P.2d 331 (1959) Which contemplates a procedure which could have been followed to afford Mr. Flores what the Constitution requires.

What is shocking to the senses, is the TOTAL denial of Mr. Flores any means of getting adequate review on the Merits of his case in the Washington Courts, especially given the fact, that NO such clog on the process of getting contentions before the State Supreme Court or Court of Appeals attends the appeals of any petitioner or defendant with money.

Review is warranted, viewed logically, request for transcripts and indigency are 'Interconnected'. Federal courts have dealt with this very same issue argued here. Coopedge v United States, 369 U.S. 438, 446, 82 S.Ct. 917, 921, 8 L.Ed.2d 21 by requiring that when a defendant denied leave to appeal in in forma pauperis by the district court applies to the court of appeals for leave to appeal, that court, when the substance of the applicants claims cannot be adequately ascertained from the face of his application, must provide a 'Record of Sufficient Completeness' to enable him to attempt to make a showing..." It is error to deny and the leave to proceed in in forma pauperis should be allowed'""

Here, similarly, the courts denying Mr. Flores request for review of the denial of the Transcripts motion without first granting him a "Record of Sufficient Completeness" to permit proper consideration

of his claims is in error.

Such a grant, to Mr. Flores and other incarcerated indigent litigants a right to review as adequate and effective as that which Washington guarantees to nonindigents.

In all respects, the decision is discriminatory in nature, but because Mr. Flores is 'Poor' and 'Incarcerated', Washington courts denying his appeal and transcripts are contrary to Washington's OWN General Rule 34, which by the way allows "Waiver of Court and Clerk's fee's and Charges in Civil matters on the basis of Indigency"

Washington Supreme Court made comment on general rule 34 pertinent to this case. General rule 34 is supposed to establish the process by which Judicial officers may waive Civil filing fee and surcharges for which Judicial officers have authority to grant a waiver. This rule applies to mandatory fees and surcharges that have been lawfully established, the payment of which is a condition precedent to a litigant's relief. This comment in the rule was published by the SUPREME COURT as an Official part of the rule.

Mr. Flores was denied Supreme Court review because he could not pay the filing fee, now Mr. Flores is being denied a record of sufficient completeness...because he is poor and incarcerated. These rulings against Mr. Flores do not comport with the Constitutional premise that every level of the court has the inherent authority to waive pre-payment of filing fees and surcharges on a case by case basis.

Just on a purely human level, it is just wrong and devoid of fairness. Grant of Review is warranted.

**F. CONCLUSION**

For the reasons set forth above, Mr. Flores respectfully requests that this Court grants review of the court of appeals decision and grants relief.

I declare under the penalty of perjury under the laws of the State of Washington the foregoing is true and correct to the best of my knowledge and belief.

dated this 31<sup>st</sup> day of July, 2015

  
Andrew Flores, pro se.,

CERTIFICATE OF SERVICE

I CERTIFY under the penalty of perjury that on the date noted below, I mailed by United States Postal Service, with postage pre paid from Airway Heights Correction Center P.O. Box 2049, Airway Heights Wash. the following Motion for Review to:

COURT OF APPEALS  
DIVISION III  
500 N. Cedar ST.  
Spokane Wash. 99201-1905

Candie Dibble  
Office of the Attorney General  
1116 W. Riverside Ave.  
Spokane, Wash. 99201-1194

I processed as legal mail, with first class postage affixed.

DATED THIS 3<sup>rd</sup> day of July, 2015

  
Andrew Flores, pro se.,

The Court of Appeals  
of the  
State of Washington  
Division III

FILED

MAY - 7 2015

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON

ANDRE FLORES,

Appellant,

v.

MAGGIE MILLER-STOUT, et al.,

Respondent.

No. 33156-3-III

COMMISSIONER'S RULING

Andre Flores filed a notice of appeal of the Spokane County Superior Court's February 6, 2015 letter that stated that the court was "in receipt of your motion for Trial Transcripts and Statement of Facts," and that since the Washington Supreme Court had denied his motion for expenditure of public funds on September 4, 2014, "trial transcripts would be irrelevant." By letter dated March 9, 2015, this Court notified Mr. Flores that he had not paid the \$290 filing fee or obtained an order of indigency from superior court

No. 33156-3-III

on which the Supreme Court could consider a motion for expenditure of public funds to pay Mr. Flores' filing fee and other expenses of his appeal. The letter further advised that the Court had set his matter for dismissal for these failings on its docket of April 8, 2015. By letter of April 13, 2015, this Court continued the matter to the docket of May 6, 2015. On May 4, 2015, the superior court denied Mr. Flores' motion for order of indigency. Accordingly,

IT IS ORDERED, the Court's motion to dismiss for failure to pay the \$290 filing fee or obtain an order of indigency is granted, and Mr. Flores' cause is dismissed.

May 7, 2015



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Monica Wasson  
Commissioner



**FILED**  
**JULY 15, 2015**  
In the Office of the Clerk of Court  
WA State Court of Appeals, Division III

**COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON**

ANDRE FLORES,	)	No. 33156-3-III
	)	
Appellant,	)	
	)	
v.	)	ORDER DENYING
	)	MOTION TO MODIFY
MAGGIE MILLER-STOUT, et al,	)	
	)	
Respondent.	)	

THE COURT has considered appellant's motion to modify the Commissioner's Ruling of May 7, 2015, and is of the opinion the motion should be denied. The trial court made an initial finding that Mr. Flores was indigent in connection with a prior request for review at public expense in this civil matter, subject to review by the Supreme Court under RAP 15.2(c)(2)(d). The Supreme Court thereafter denied his request. Accordingly, the trial court's refusal to make a finding of indigency in connection with the present request was proper. Therefore,

IT IS ORDERED, the motion to modify is hereby denied.

DATED: July 15, 2015

PANEL: Judges Lawrence-Berrey, Brown, Siddoway

FOR THE COURT:

  
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LAUREL H. SIDDOWAY, Chief Judge