

**FILED**

APR 23 2019  
WASHINGTON STATE  
SUPREME COURT

In the court of appeals of the state of Washington  
Division two

No. 52703-2

No. 97118-8

FILED  
COURT OF APPEALS  
DIVISION II

2019 APR 18 AM 11:46

STATE OF WASHINGTON

BY Chel  
DEPUTY

MS

State of Washington  
Respondent  
↓

John Sanchez  
Appellant

On appeal from the Superior Court of  
the state of Washington for Thurston County

Cause #: 17-1-00508-34

Treated as petition for review

Brief of appellate

Motion for: petition for Supreme Court review

## C. Issues in Question

1. If speedy trial and administration of justice is severely delayed which to include but not limited to citizens due process rights and open trial found not Guilty can the no contact order be used as a predicate for a new crime of "Burglary" or for a violation of a temporary NCO from the case equited?

2. If the delay was 19.5 Months barring citizen from home, property and kids and the delay by courts and state and ineffective counsel severely prejudiced citizens constitutional

3. statutory rights? If the primary predicate element of "Burglary" is the no contact order that was equited upon an not guilty verdict?

4. If the primary predicate doesn't exist as the charge equited, how can that be "Burglary" in a new charge?

5. If the courts and state can just continue a case with sever restraints to the citizen as long as they want where is due process, constitutional statutory, state and <sup>ACW</sup> ~~new~~ regulations?

6. What relief is to be granted to the prejudiced citizen when the case is finally heard and found innocent yet faces a higher charge of "Burglary" instead of a simple no contact order using the Temporary "NCO" from the equited case previously dismissed? Should a temporary NCO even be able to be used for NCO violations and element in Burglary if case was equited?

7. If that is legally possible what is to stop the courts and state to simply extend any case now and in the future with sever restraints compromising citizens rights and limiting their freedom without any legal sanctions or retribution?

8. If case was timely tried in accordance with legal constitutional authority would the no contact violation exist or the "Burglary" by violation of the no contact order or neither?

9. If so should it be a no contact order or a "burglary"? the predicate element to the "burglary" is unlawfully enter remain within and was established by an alleged no contact order violation to an address not listed in the protection order listed in this case NO 17-100508-34 the order on restraints list no specific address and client is barred by further restraints in order to find out, the restraints in regard to residence is neither specific, plain, concise, definite or particular thus said should it not reach a constitutional magnitude? It is ambiguous by full of

leality. 10 If this was in fact a question of ambiguity or vagness should it not be questioned and heard as its currently

going on under color of law in our state of Washington?

11) if the issue does exist is it not a simple added sentence to be in compliance?

12) if so is the lacking element needed constitutionally does that not require it to be addressed?

13) if it is indeed a constitutional notice error then how can it be a predicate to a burglary if address is not listed and the case that issued the no contact order was found not guilty?

14) The judgment of equal is not in question the entirety of the prolonged case and it being used as a predicate for "Burglary" at an unlisted address and the 19.5 Month delay for the administration of justice to occur is the final finding of not-guilty cements the interest and prejudice to the citizen thus review is sought.

Primarily:

IF this case # 17-100508-34 was equited by Jury can A Temporary pretrial NCO entered by the state have for this case have grounds/rights to charge a new crime of "Burglary and Violation of NCO in reference to this equited case's NCO? With states continuance of case 19.5 Months to finally reach trial?

If indeed you are innocent till proven guilty by court  
of law how can that presumption include any punishment  
After the proven innocent by Jury?

## D Statement of case

- 1) 3-18-17 Citizen was charged with 4th degree simple assault and malicious mischief 2<sup>nd</sup> degree. case # 17-100508-34
- 2) 10-31-18 citizen found not guilty by jury at trial Approx 18.5 Month delay with unspecific restraints via nco.
- 3) Trial took 3 days with arresting officers statement X2, the citizen and alleged victim.
- 4) the case was very simple with half a page discovery and Approx 10 pictures.
- 5) There was a DV nco issued without specifics of address to be restricted from.
- 6) the same NCO was used to create a "burglary" by unlawfully "enter/remain" in reference to the NCO and the unspecified physical address.
- 7) 11-18-18 Appellate review and indigency filed in Thurston County Superior court signed and granted by commissioner Rebekah Zinn.
- 8) 1-10-19 court of appeals denied review by commissioner. Aitor Barse.
- 9) 4-2-19 motion to modify denied en Blank.
- 10) 4-10-19 petition for Supreme court review submitted.

## Relief Sought.

- 1.) When constitution fails liberty is always in peril.
- 2.) This is a recurring problem of exceptional, significant and vastly unsettled present issue of importance to the Constitution, statutory law, judicial system and the nation.
3. If we are protected by agreements to include due process and not punished till proven guilty in court and presumed innocent till proven guilty in court, once found Not guilty by trial far beyond speedy trial and timely administration of justice how can a alleged violation of a Temporary NCO "pre-trial" be used to create vastly ~~un~~unproportionate charges citing the case that was equited? when such temporary order was entered by the state in said reference to the allegation equited by jury trial.  
Then use it as "feloniously enters" to create a 1st degree Class A Burglary that wouldn't exist without that element.
- 4 The citizen is being punished after proving his innocence in court that was delayed by the state for 19.5 months while citizen was deprived of home, property, kids.
5. State v anaya, state v wilson and appendix correlate ~~to~~ the temporary NCO should not be able to be used when case that placed it into effect was equited by jury trial and delay of bringing it to trial for 19.5 months was on the state. *Jeter minor*

# Appendix

## Constitutional Challenges

1) Federal USC: Constitution § Amendment 6:

'Right to speedy and Public trial'

Amendment 14: "Adequate effective expeditious Review" deprive life, liberty, property

2) Washington Constitution

\* Article 1 § 22 "Right to a speedy trial, right to appeal all cases"

Article 1 § 29 "Constitution mandatory"

Article 1 § 10 "Justice administered without unnecessary delays"

Article 1 § 32 "recurrence of fundamental principles is essential"

Article 1 § 2 = the constitution is the supreme law of the land.

## Case law rulings

State v. Groves 1995: "statutory right to counsel at all proceedings including discretionary / interlocutory reviews"

State v. Robinson "court affirms right to counsel"

State v. Atchery "Not req. merit to have representation at public expense and verbatim transcripts"

State v. Wilson 138 Wn. app. 546: "address not listed on NCO case dismissed"

State v. Clowers 104 Wn. app. 935: "Must know of specific restrictions on order"

City of Seattle v. Formula: "Must be in scope of precluded order"

State v. Setherland: "Info on order defect NCO"



Stutu v Anaya 95 Wn app 751: "No express statutory language criminalizing a violation of the order after charges were dismissed."

Seattle v Edwards 87 Wn app 305: "Rule of lenity - ambiguity in a protection order is resolved in favor of the party restrained by order."

SMC 120.06.180: "Validity of order is foundational requirement of the crime."

10.99.020 Definitions of NCO: "(R) lists A residence / A location. Meaning of Specific / Singular"

26.50.110 Violation of NCO: "(1)(a)(ii)(iii) lists A residence / A location. Meaning of Specific / Singular"

City of Bothell v Kaiser: "address essential element of scope on predicate order."

### Rules

10.15.2(4): "const. statutory right to counsel at all proceedings."

10.101.005: "Const. Req of representation."

10.15.2(9): "Indigency filed."

Wash CrR 3.1 "Right to lawyer at all proceedings."

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

THE STATE OF WASHINGTON,

Respondent,

v.

JOHN MICHAEL SANCHEZ,

Appellant.

No. 52703-1-II

RULING DISMISSING  
APPEAL

FILED  
COURT OF APPEALS  
DIVISION II  
2019 JAN 10 PM 3:49  
STATE OF WASHINGTON  
BY *ced*  
DEPUTY

John Sanchez appeals a judgment of acquittal and order for immediate release. He contends that the prosecution harmed him due to the delay in prosecution and entry and enforcement of a no contact order. This court cannot grant him any relief. Accordingly, it is hereby

ORDERED that this appeal is dismissed.

DATED this 10<sup>th</sup> day of JANUARY, 2019.



Aurora R. Bearse  
Court Commissioner

cc: John Michael Sanchez, Pro Se  
Joseph J.A. Jackson  
Hon. James Dixon

April 2, 2019

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

**DIVISION II**

THE STATE OF WASHINGTON

Respondent,

v.

JOHN MICHAEL SANCHEZ,

Appellant.

No. 52703-1-II

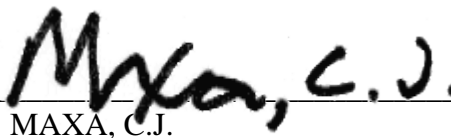
ORDER DENYING  
MOTION TO MODIFY

Appellant John Michael Sanchez moves to modify a Commissioner's ruling dated January 10, 2019 terminating review in this case. Following consideration, the court denies the motion. Accordingly, it is

SO ORDERED.

PANEL: Jj. Worswick, Maxa, Sutton

FOR THE COURT:

  
MAXA, C.J.