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SUPREME COURT  
STATE OF WASHINGTON  
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SUPREME COURT  
NO. 99104-4

COURT OF  
APPEALS NO.  
36190-0-III

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

JUAN ENRIQUEZ-MARTINEZ,

Petitioner.

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APPEAL FROM THE SUPERIOR COURT  
OF KLICKITAT COUNTY, STATE OF WASHINGTON

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RESPONSE TO PETITION FOR REVIEW

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**A. ISSUE PRESENTED**

1. Was the Defendant entitled to receive credit in Washington for all of his pretrial jail time served when in-custody in Oregon on Oregon charges but under arrest on Washington charges?

**B. STATEMENT OF THE CASE**

As the issue presented is purely procedural for purposes of this appeal the State defers to the Petitioner's statement of the case except as to any legal conclusions.

**C. ARGUMENT**

Credit for time served under confinement before sentencing is allowed only if that confinement was solely in regard to the offense for which the offender is being sentenced. RCW 9.94A.505(6). Credit is not allowed for time served on other charges. Petition of Phelan, 97 Wn.2d 590, 597, 647 P.2d 1026, 1029 (1982); State v. Williams, 59 Wash. App. 379, 796 P.2d 1301 (1990). That is true even if the sentence is concurrent with the sentence on those charges. State v. Stewart, 136 Wash. App. 162, 149 P.3d 391 (2006); State v. Davis, 69 Wash. App. 634, 640–41, 849 P.2d 1283, 1286–87 (1993); State v. Watson, 63 Wash. App. 854, 859–60, 822 P.2d 327, 329–30 (1992); Petition of Phelan, 97 Wn.2d at 597–98.

In State v. Lewis the State conceded that the defendant there was entitled to credit for time served on several charges contained in three

separate cause numbers because to do otherwise would result in him serving a longer sentence than if he had been able to make bail on the various charges contrary to In re Habeas Corpus of Reanier, 83 Wn.2d 342, 517 P.2d 949 (1974). State v. Lewis, 184 Wn.2d 201, 205, 355 P.3d 1148 (2015).

Division III properly applied RCW 9.94A.505(6) as interpreted by Lewis. That court held that Lewis was inapplicable because the sentence in this case occurred prior to any sentence being imposed by the separate sovereign, the State of Oregon. In addition, the no bail warrant placed on respondent did not implicate the constitutional concerns at issue in Lewis. 184 Wn.2d 201.

The concern that led to the concession in Lewis, that the offender may receive a greater sentence than that he would receive if he had posted bail, is not present in this case. 184 Wn.2d 201. The Klickitat County Superior Court issued a no bail warrant to secure the appearance of the defendant to determine suitable conditions of release. If defendant had been allowed to post bail in Oregon on the Washington charges, he would have then been released without the Washington court being able to advise him of the charges he faced and the rights he possessed. More importantly, the court would have been deprived of the opportunity to impose pretrial conditions of release under CrR 3.2. The need to secure the defendant for his preliminary appearance had no relation to his

financial means and resources. Therefore, this is a distinction with important differences and no constitutional concerns of the magnitude conceded in Lewis are at issue. 184 Wn.2d 201.

**D. CONCLUSION**

For the foregoing reasons the appellant was properly denied credit for time served in Oregon on Oregon charges while awaiting extradition for a preliminary appearance on Washington charges. To do otherwise would impermissibly give the appellant double credit for that time of incarceration in Oregon and would be contrary to the clear and unambiguous language of RCW 9.94A.505(6) as interpreted by this court.

*/s/ David R. Quesnel*  
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# KLICKITAT COUNTY PROSECUTOR'S OFFICE

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## Transmittal Information

**Filed with Court:** Supreme Court  
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**Appellate Court Case Title:** State of Washington v. Juan Enriquez-Martinez  
**Superior Court Case Number:** 14-1-00084-9

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