

# Jones conviction in limbo while justices wait for resolution of unrelated case

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JACOB JONES/THE DAILY WORLD

Defendant Martin Jones, at the time a resident of Seaview, is pictured at the first day of his attempted murder trial in Pierce County Superior Court. Jones is seeking a new trial and may get one, depending on what the State Supreme Court decides to do in coming months.

**The state Supreme Court delayed a highly anticipated decision about the attempted murder trial of a former Seaview man, Martin Jones, who is suspected of shooting sheriff Scott Johnson. Now, the fate of Jones' conviction depends partly on a pending ruling in another, very different case.**

OLYMPIA — The Washington Supreme Court has delayed a highly anticipated decision about the attempted-murder case of former Seaview resident Martin Jones. Instead of deciding whether or not to hear the case on Tuesday, the judges took the unusual step of “staying” the decision until another case with similar legal questions is settled — a process that could easily take six months or more.

“I wouldn’t say its hugely common,” Supreme Court spokesperson Lorrie Thompson said on Wednesday. “The reason they would delay it is there is some other case that could affect this case. That’s not going to happen real often.”

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Jones was convicted of first-degree attempted murder after he allegedly shot Pacific County Sheriff Scott Johnson (who was a Washington state trooper at the time) in the aftermath of a 2010 traffic stop of Jones’ wife. But in 2011, a state appeals court

dismissed his conviction on a technicality. Fifteen months ago, prosecutors in the state Attorney General's office asked the Supreme Court to reconsider the case.

After learning of the delay on Wednesday afternoon, Johnson said he was disappointed that the court didn't accept the case.

"It's frustrating that it's not over, but I recognize the importance of the decision to a lot of cases besides my own," Johnson said. "It is frustrating though, as you can imagine."

Assistant Attorney General John Hillman, who is representing the state, and defense attorney Thomas Kummerow, who is representing Jones, were not available for comment at the time of publication.

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Before the Tuesday hearing, there appeared to be only two probable outcomes: If the justices agreed to review the case, months of preparations would have ensued, before attorneys for both sides presented a brief argument to the Supreme Court justices.

If the justices declined to hear the case, Pacific County officials would have had only about 30 days to prepare for a re-trial.

Instead, the fate of the Jones case now depends on the outcome of *State v. Unters Lewis Love*, which concerns a Spokane county property manager who is accused of stealing \$1,200 from a potential tenant.

That case will be heard on March 10, but it could be months before the court releases an opinion. Thompson, the court spokesperson, said that judges take an average of six months to decide a case but there is no deadline for these decisions. Really complex cases can take a year or more. Once the court releases a decision on Love, the judges will reconvene to consider Jones' case. There's also no deadline for putting Jones' case back on the calendar. But, once justices finally reconsider Jones, they will probably announce a decision to accept or reject the case within a few days.

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On the surface, the Jones and Love cases seem very different. But both involve disputes about whether courts conducted business openly during trials. If — as both defendants argued in successful appeals — they were excluded from court proceedings, the trials must be thrown out.

State judges are responsible for deciding how to interpret the state's constitution and laws, and then making sure they are applied consistently. So, if justices are uncertain about how the law applies to Love, they must figure that out before they can accept or reject the Jones case.

Court transcripts from the Love appeal show that when attorneys briefly paused to discuss a misbehaving juror and other minor court business, Unters Love repeatedly

asked to approach the judge's bench. The judge, who felt that Love was being disruptive, told him to sit down. Love argues that he cannot be convicted of second-degree theft, because he was not allowed to participate in these "sidebar" conversations between the attorneys and the judge.

Jones argues in his appeal that the court violated open court laws when they selected an alternate juror during an eight-minute break. All of the key players in the trial were still present, and the alternate juror was never called to duty, but the Court of Appeals still agreed that this breach of protocol invalidated his trial.

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Wednesday, Johnson said that he doesn't personally believe the trial was compromised.

"I was there, I don't think anybody even left the courtroom," Johnson said. But after talking with attorneys, he feels that the courts are leaning toward a very strict interpretation of open court laws. He's less optimistic than he once was that the court will uphold Jones' conviction.

With the five-year anniversary of the shooting coming up in just a few days, Johnson is eager for the ordeal to be done, and concerned about the financial impact to the county, if the Supreme Court orders a re-trial.

"It's basically in limbo right now," Johnson said. "I would like know that we either need to prepare for a trial or a trial is not going to happen. Right now we don't know either of things."