RULE IRLJ 6.7
IDENTITY CHALLENGES AND RELIEF FROM JUDGMENT

(a) Relief from Judgment. A motion to waive or suspend a fine, or to convert a penalty to community restitution, or to vacate a judgment is governed by CRLJ 60(b).

(b) Identity Challenge.

(1) Right Granted. In addition to the rights granted defendants pursuant to rule 6.7(a), a defendant may move to vacate a judgment that was entered after a failure to respond to a notice of infraction on the basis that he or she was mistakenly identified as the person who allegedly committed the infraction.

(2) Identity Affidavit. A defendant moving to vacate a judgment for mistaken identification shall file an affidavit or certification under RCW 9A.72.085 with the court in which the infraction was found committed and with the office of the prosecuting authority assigned to the court stating that he or she could not be the person identified by the citing officer as having committed the infraction, citing a factual basis for the assertion and stating that he or she was not served with the notice of infraction.

(3) Adjudication Pending Hearing. The court may, at its discretion, set aside the default judgment pending the hearing.

(4) Scheduling of Hearings. An identification hearing shall be scheduled for not less than 14 days and not more than 120 days from the date an identity affidavit is filed unless otherwise agreed by the defendant. The court shall send the defendant written notice of the time, place and date of the hearing within 28 days of the receipt of the request for hearing.

(5) Hearing Procedure. The court may require the presence of the defendant at the scheduled hearing. At the hearing, identification may be established by methods other than direct identification in court.

(6) Disposition. If the court determines that the named defendant was the person identified by the citing officer as the person who committed the infraction or was served with the notice of infraction, the infraction shall remain committed or be re-adjudicated as committed.

[Adopted effective September 1, 1994; amended effective January 3, 2006; amended effective February 28, 2006.]