

70168-1

70168-1

NO. 70168-1-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

---

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL LeCLECH,

Appellant.

FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2014 MAY 30 AM 10:58

---

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR KING COUNTY

---

APPELLANT'S REPLY BRIEF

---

Elaine L. Winters  
Attorney for Appellant

WASHINGTON APPELLATE PROJECT  
1511 Third Avenue, Suite 701  
Seattle, Washington 98101  
(206) 587-2711

**TABLE OF CONTENTS**

A. ARGUMENT IN REPLY ..... 1

**1. Mr. LeClech did not waive his constitutional right to a public trial or invite the violation of this right..... 2**

        a. Mr. LeClech did not knowingly, intelligently, and voluntarily waive his right to open hearings ..... 3

        b. Mr. LeClech did not invite the violation of his constitutional right to open hearings..... 7

**2. Mr. LeClech may raise the public’s constitutional right the open administration of justice..... 10**

**3. Mr. LeClech’s constitutional right to be present was violated when the drug court team met to discuss his case without him..... 14**

B. CONCLUSION ..... 15

**TABLE OF AUTHORITIES**

**Washington Supreme Court Decisions**

City of Bellevue v. Acrey, 103 Wn.2d 203, 691 P.2d 957 (1984)..... 4

City of Seattle v. Klein, 161 Wn.2d 554, 166 P.3d 1149 (2007)..... 3, 4

City of Seattle v. Patu, 147 Wn.2d 717, 58 P.3d 273 (2002)..... 7

John Doe v. Puget Sound Blood Center, 117 Wn.2d 772, 819 P.2d 370  
(1991)..... 10

Satomi Owner’s Ass’n. v. Satomi, LLC, 167 Wn.2d 781, 225 P.3d 213  
(2009)..... 14

Seattle Times Co. v. Ishikawa, 97 Wn.2d 30, 640 P.2d 716 (1982)..... 6

State v. Bone-Club, 128 Wn.2d 254, 906 P.2d 325 (1995) ..... 2, 6, 12, 13

State v. Chervenell, 99 Wn.2d 309, 662 P.2d 836 (1983) ..... 5

State v. D.F.F., 172 Wn.2d 37, 256 P.3d 357 (2011)..... 10, 11

State v. Irby, 170 Wn.2d 874, 246 P.3d 796 (2011) ..... 14

State v. Madsen, 168 Wn.2d 496, 229 P.3d 714 (2010) ..... 4

State v. Marsh, 126 Wash. 142, 217 P. 705 (1923) ..... 2

State v. Momah, 167 Wn.2d 140, 217 P.3d 321 (2009), cert. denied,  
131 S. Ct. 160 (2010)..... 7, 8, 13

State v. Shutzler, 82 Wash. 365, 144 P. 284 (1914) ..... 14

State v. Sweet, 90 Wn.2d 282, 581 P.2d 579 (1978)..... 3

State v. Wise, 176 Wn.2d 1, 288 P.3d 1113 (2012)..... 2

### Washington Court of Appeals Decisions

<u>Detention of Ticeson</u> , 159 Wn. App. 374, 378-79, 246 P.3d 550 (2011), <u>overruled on other grounds</u> , <u>State v. Sublett</u> , 176 Wn.2d 58 (2011) ....	11
<u>State v. Gutierrez</u> , 50 Wn. App. 583, 749 P.2d 213, <u>rev. denied</u> , 110 Wn.2d 1032 (1988).....	12
<u>State v. Partosa</u> , 41 Wn. App. 266, 703 P.2d 1070, <u>rev. denied</u> , 104 Wn.2d 1017 (1985).....	14
<u>State v. Ward</u> , 125 Wn. App. 138, 104 P.3d 61 (2005).....	14

### United States Supreme Court Decisions

<u>Alderman v. United States</u> , 394 U.S. 165, 89 S. Ct. 961, 22 L. Ed. 2d 176 (1969).....	12
<u>Boykin v. Alabama</u> , 395 U.S. 238, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969).....	5
<u>Faretta v. California</u> , 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975).....	4
<u>Johnson v. Zerbst</u> , 304 U.S. 458, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938) ..	3
<u>Kentucky v. Stincer</u> , 482 U.S. 730, 107 S. Ct. 2658, 96 L. Ed. 2d 631 (1987).....	14
<u>Miranda v. Arizona</u> , 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).....	5
<u>Missouri v. Seibert</u> , 542 U.S. 600, 124 S. Ct. 2601, 159 L. Ed. 2d 643 (2004).....	5
<u>Presley v. Georgia</u> , 588 U.S. 209, 130 S. Ct. 721, 175 L. Ed. 2d 675 (2010).....	13
<u>Rakas v. Illinois</u> , 439 U.S. 128, 99 S. Ct. 421, 58 L. Ed. 2d 387 (1978)..	12

<u>Simmons v. United States</u> , 390 U.S. 377, 88 S. Ct. 967, 19 L. Ed. 2d 1247 (1968).....	12
<u>Waller v. Georgia</u> , 467 U.S. 39, 104 S. Ct. 2210, 81 L. Ed. 2d 31 (1984).....	13

**Federal Circuit Court of Appeals Decisions**

<u>United States v. Bruton</u> , 416 F.2d 310 (8 <sup>th</sup> Cir. 1969), <u>cert. denied</u> , 397 U.S. 1014 (1970).....	12
<u>Walton v. Briley</u> , 361 F.3d 431 (7 <sup>th</sup> Cir. 2004).....	6

**United States Constitution**

U.S. Const. amend. I.....	1
U.S. Const. amend. IV.....	12
U.S. Const. amend. V.....	5, 12
U.S. Const. amend. VI.....	1, 4, 14
U.S. Const. amend. XIV.....	1, 4, 5, 14

**Washington Constitution**

Const. art. I, § 5.....	1
Const. art. I, § 9.....	5
Const. art. I, § 10.....	1, 10, 11
Const. art. I, § 22.....	1, 4, 14

**Washington Statute**

RCW 2.28.170 ..... 6

**Washington Court Rules**

CrR 4.2 ..... 5

CrR 7.2 ..... 3

CrRLJ 4.2 ..... 5

JuCR 7.7 ..... 5

RAP 10.3 ..... 14

A. ARGUMENT IN REPLY

Michael LeClech was convicted of delivery of a controlled substance after his termination from the King County Drug Diversion Court. Pursuant to local drug court policy, the judge, prosecutor, defense counsel, drug court administrative and treatment staff, police liaison, and treatment providers met before court hearings to discuss Mr. LeClech's case. Mr. LeClech and members of the public were excluded from the meetings, and there is no public record of the proceedings. On appeal Mr. LeClech argues that his state and federal constitutional right to a public trial (U.S. Const. amend. VI; Const. art. I, § 22) and the public's constitutional right to the open administration of justice (U.S. Const. amend. I; Const. art. I, §§ 5, 10) were violated by the closed proceedings. He also argues that his constitutional right to be present by the closed meetings. (U.S. Const. amends. VI; Const. art. I, § 22).

The State concedes that King County's drug court procedure violated Mr. LeClech's constitutional right to a public trial and the public's right to open access to the courts. Brief of Respondent at 6 (hereafter BOR). The State argues that Mr. LeClech invited the violation of his right to a public trial and lacks standing to raise the public's right to the open administration of justice. BOR at 5-14. The State does not

address Mr. LeClech's argument that his right to be present at the meetings was violated.

The State's arguments should be rejected because the State cannot demonstrate that Mr. LeClech made a knowing, intelligent, and voluntary waiver of his right to public court proceedings and, as a member of the public, Mr. LeClech may raise the public's right to open courts. In addition, this Court should treat the State's failure to address Mr. LeClech's right to be present as a concession on that issue.

**1. Mr. LeClech did not waive his constitutional right to a public trial or invite the violation of this right.**

Team meetings, referred to as staffings, occurred prior to Mr. LeClech's drug court appearances. Mr. LeClech did not object to the violation of his right to public trial. Washington courts, however, have consistently reviewed courtroom closure issues in the absence of an objection.<sup>1</sup> See State v. Wise, 176 Wn.2d 1, 15, 288 P.3d 1113 (2012); State v. Bone-Club, 128 Wn.2d 254, 261, 906 P.2d 325 (1995); State v. Marsh, 126 Wash. 142, 145-47, 217 P. 705 (1923). This is consistent with the trial court's responsibility for ensuring public proceedings. Bone-Club, 128 Wn.2d at 261.

---

<sup>1</sup> While acknowledging the Wise holding, the State argues that Mr. LeClech did not preserve his public trial right on appeal in the event that the Washington Supreme Court overturns this long-standing position. BOR at 10-11.

The State argues that Mr. LeClech may not address the violation of his constitutional right to a public trial because he invited or waived the error when (1) he signed a drug diversion court waiver that included a waiver of his right to “a speedy and public trial;” (2) his counsel asked for a sidebar at a drug diversion court hearing on March 26; and (3) he participated in the drug diversion court for a year. BOR at 9-10.

- a. Mr. LeClech did not knowingly, intelligently, and voluntarily waive his right to open hearings.

While the defendant may waive important constitutional rights, he must understand the right he is forgoing. Johnson v. Zerbst, 304 U.S. 458, 464, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938) (“A waiver is ordinarily and intentional relinquishment or abandonment of a known right or privilege.”) (emphasis added). Any waiver of a constitutional right must therefore be knowing, intelligent, and voluntary. City of Seattle v. Klein, 161 Wn.2d 554, 556, 166 P.3d 1149 (2007). Courts “indulge in every reasonable presumption against waiver of fundamental constitutional rights.” Zerbst, 304 U.S. at 464.

For example, a waiver of the right to appeal is not knowing and therefore invalid unless the trial court strictly complied with CrR 7.2(b) by advising the defendant of his right to appeal and the procedures for doing so. State v. Sweet, 90 Wn.2d 282, 286-87, 581 P.2d 579 (1978) (citing

former CrR 7.1(b), later recodified as CrR 7.2(b)); accord Klein, 161 Wn.2d at 560 n.5; Const. art. I § 22. The circumstances must show that the defendant understood the import of the court rule and “did in fact willingly and intentionally relinquish a known right.” Sweet, 90 Wn.2d at 286-87; Klein, 161 Wn.2d at 560 n.5.

When the defendant waives his constitutional right to counsel, the court must engage in a colloquy on the record to determine that the waiver is valid and the defendant understands “the dangers and disadvantages of self-representation.” Faretta v. California, 422 U.S. 806, 835, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975); accord City of Bellevue v. Acrey, 103 Wn.2d 203, 211, 691 P.2d 957 (1984); U.S. Const. amends. VI, XIV; Const. art. I, § 22. During the colloquy, the defendant must be informed of the seriousness of the charges and maximum possible penalty as well as the requirement that he comply with the same technical rules as an attorney. Acrey, 103 Wn.2d at 211. The waiver of counsel is not valid until the defendant has received this information and unequivocally asserts his desire to forgo counsel. State v. Madsen, 168 Wn.2d 496, 504, 229 P.3d 714 (2010).

When a defendant is in police custody, a waiver of the constitutional rights to remain silent and to counsel is valid only if he has first been advised of those rights and says he understands them. Missouri

v. Seibert, 542 U.S. 600, 608, 124 S. Ct. 2601, 159 L. Ed. 2d 643 (2004); Miranda v. Arizona, 384 U.S. 436, 444-45, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966); U.S. Const. amends. V, XIV; Const. art. I, § 9. Similarly, a defendant's waiver of his right to a trial is not knowing and voluntary unless he is informed of the numerous constitutional rights that are waived by a guilty plea. State v. Chervenell, 99 Wn.2d 309, 312, 318-19, 662 P.2d 836 (1983); Boykin v. Alabama, 395 U.S. 238, 244, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969).

The drug court agreement referenced by the State includes a waiver of a "speedy and public trial in the county where the crime is alleged to have been committed." CP 6. While Mr. LeClech may have waived his right to a public trial, he did not waive his right to public drug court hearings. The sentence at issue is identical to the waiver found in Washington's guilty plea forms. CrR 4.2(g) at 5; CrRLJ 4.2(g) at 5; JuCR 7.7 at 5(a). This does not constitute an agreement that the defendants who enters a plea of guilty may be sentenced in private or that the judge may secretly meet with the lawyers and DOC pre-sentence writers before the sentencing.

Moreover, the drug court agreement does not inform Mr. LeClech that the judge, prosecutor, defense counsel, drug court administrative and treatment staff, police liaison, and treatment providers would be staffing

his case outside of court prior to court hearings. CP 6-10. This information is also not found in the Drug Court Handbook, which Mr. LeClech was required to obtain and read after signing the purported waiver. Ex. 2; CP 7; King County Drug Diversion Court Policy and Procedure Manual at 5. Nor is this procedure found or authorized in the drug court statute. RCW 2.28.170. Thus, the waiver mentioned by the State does not constitute a knowing, intelligent or voluntary waiver of the drug court's pre-hearing staffing procedure.

The "right to a public trial may be relinquished only upon a showing that the defendant knowingly and voluntarily waived such a right." Walton v. Briley, 361 F.3d 431, 433 (7<sup>th</sup> Cir. 2004). The opportunity to object has no "practical meaning" unless the court informs any objectors to closure of the interests at stake. Bone-Club, 128 Wn.2d at 261 (quoting Seattle Times Co. v. Ishikawa, 97 Wn.2d 30, 39, 640 P.2d 716 (1982)). In Mr. LeClech's case, the court never engaged in a Bone-Club analysis, and the State cannot demonstrate that Mr. LeClech was ever informed of his right open proceedings. In the absence of such knowledge, this Court cannot conclude that he waived his right to public hearings, let alone that any waiver was knowing, intelligent, and voluntary.

b. Mr. LeClech did not invite the violation of his constitutional right to open hearings.

The State argues that Mr. LeClech invited the violation of his right to a public trial by (1) his participation in drug court, (2) his attorney asked for a side bar conference prior to a review hearing in March 2012, and (3) the assumption that Mr. LeClech benefitted from the closed team meetings. BOR at 9-10. The State is incorrect.

The State supports its invited error argument with cases addressing jury instructions. BOR at 6-7. These cases hold that a party may not propose an instruction in the trial court and then challenge the instruction on appeal. City of Seattle v. Patu, 147 Wn.2d 717, 721, 58 P.3d 273 (2002) (and cases cites therein). While Mr. LeClech volunteered for drug diversion court, he did not help craft the system wherein closed meetings involving the judge occur before court hearings.

The State also relies upon State v. Momah, 167 Wn.2d 140, 217 P.3d 321 (2009), cert. denied, 131 S. Ct. 160 (2010). In that case defense counsel participated without objection in in-chambers jury voire dire so that prospective jurors would not be “contaminated” by other jurors’ knowledge of the high-profile case which had extensive media coverage. Momah, 167 Wn.2d at 145-47, 155-56. The closure was designed to protect another of Momah’s constitutional rights – the right to a fair and

impartial jury. Id. at 152-53. With the input of defense counsel and the prosecutor, the trial court therefore carefully tailored the courtroom closure after considering both the right to a public trial and the competing right to an impartial jury. Id. at 156.

Because the actions of defense counsel and the trial court were designed to safeguard the defendant's right to an impartial jury, the Momah Court concluded the error was not structural. Momah, 167 Wn.2d at 155-56. The private staffings in this case were not tailored to protect any competing constitutional right of Mr. LeClech, but were simply part of the King County Drug Diversion Court's protocol. Momah does not support the State's argument.

As mentioned in subsection (a) above, there is no evidence that Mr. LeClech was informed of the closed meetings prior to entering his agreement to participate in drug court. CP 6-10; 2/27/12 RP 3-4. After he signed the agreement in February 2012, he was never given the opportunity to object to the private staffings.

The State is correct that defense counsel requested a side bar at the March 12, 2012, review hearing. This was Mr. LeClech's first drug court review hearing, and the record shows that he did not understand the side bar was private and attempted to participate. The court said,

No, Mr. LeClech, not for you to explain it yet. You'll get a chance to do that in a minute. I want to speak with Mr. Essex and with counsel and work together, so go ahead and have a seat.

3/26/12RP 4.<sup>2</sup> The court then took a recess, without offering Mr. LeClech the opportunity to object to the closure. Id. at 5.

Finally, there is little support for the State's argument that Mr. LeClech benefitted from the closed drug court meetings, where drug court sanctions and Mr. LeClech's termination from the program were discussed. See 11/15/12 RP 4, 8-9; 7/31/12 RP 13-14; 8/23/12 RP 3-10; CP 92-93, 95-96.

For example, a staffing before the August 31, 2012, hearing resulted in a lengthy lecture from the judge before either the prosecutor or defense counsel even spoke. 7/31/12 RP 13-14; 8/23/12 RP 3-10. The court was upset in part by an email from Mr. LeClech, which is not in the court record. 8/23/12 RP 5-6. Eventually Mr. LeClech was sanctioned with 14 days in jail. 8/30/12RP 4, 6, 7.

The tone of these and other hearings demonstrate that the judge had discussed Mr. LeClech's case with the attorneys and others prior to the hearing and had reached a decision about how to proceed before speaking to Mr. LeClech. This type of closed decision-making did not

---

<sup>2</sup> Mr. Essex is not identified on the record, but in context he appears to be drug court staff member.

benefit Mr. LeClech and runs counter to the due process rights that underlie our criminal justice system.

Mr. LeClech participated in a drug diversion court, but he had no hand in setting up its system of off-the-record meetings and was never given the opportunity to object. The State's argument that Mr. LeClech invited the error must be rejected.

**2. Mr. LeClech may raise the public's constitutional right the open administration of justice.**

Article I, section 10 provides that “[j]ustice in all cases shall be administered openly.” Open justice is a “bedrock foundation upon which rest all the people’s rights and obligations. In the course of administering justice the courts protect those rights and enforce those obligations.” State v. D.F.F., 172 Wn.2d 37, 40, 256 P.3d 357 (2011) (Sanders, J., lead opinion) (quoting John Doe v. Puget Sound Blood Center, 117 Wn.2d 772, 780-81, 819 P2d 370 (1991)). Mr. LeClech is a member of the public and the subject of the drug court proceedings that ended in his conviction for delivery of a controlled substance. The State nonetheless argues that Mr. LeClech lacks “standing” to assert the public’s right to access to the courts. BOR at 11-14.

The D.F.F. Court held that a person facing civil commitment under RCW 71.05 has standing to assert the public right to observe the

commitment hearing. D.F.F., 172 Wn.2d at 39-41. Noting that D.F.F. was a member of the public, the Court held that article 1, section 10 provided her the right as a member of the public to attend the hearings and also an individual right to have the hearings open to the public. Id. at 40.

D.F.F. also has a right to open proceedings to permit family, friends, and other interested individuals to be present at the proceedings. Not only can those individuals monitor the case and publicly disseminate information about it, but also they may possess specialized or personal knowledge that they can provide to assist D.F.F. If D.F.F.'s rights under article I, section 10 are limited to assuring her presence at her own proceedings, she is robbed of any of the actual benefits of the open administration of justice.

Id. at 40-41.

This Court found that a person facing civil commitment under RCW 71.09 also has standing to contest chamber conferences during his commitment trial in which the court ruled on evidentiary issues. Detention of Ticeson, 159 Wn. App. 374, 378-79, 382-82, 246 P.3d 550 (2011), overruled on other grounds, State v. Sublett, 176 Wn.2d 58, 72, 136, 292 P.3d 715 (2011). This Court held that the respondent could raise the article I, section 10 issue because he was a member of the public. Id. at 381. "We see no reason to apply the third party standing rule to rights granted to the public at large." Id.

In addition, courts are independently obligated to “ensure the public’s right to open trials is protected” when considering the closure of a courtroom. Bone-Club, 128 Wn.2d at 258-59. The King County Drug Diversion Court judge never announced the closing of multiple team meetings in Mr. LeClech’s case, thus abrogating its responsibility and leaving members of the public with no opportunity to object.

The State refers this Court to cases addressing whether a defendant can raise violations of another individual’s Fourth or Fifth Amendment rights. BOR at 12. The rights to be free from unreasonable searches and seizures and the right to remain silent, however, are “personal rights.” Rakas v. Illinois, 439 U.S. 128, 133-34, 99 S. Ct. 421, 58 L. Ed. 2d 387 (1978) (the rights assured by the Fourth Amendment are “personal rights,” quoting Alderman v. United States, 394 U.S. 165, 174, 89 S. Ct. 961, 22 L. Ed. 2d 176 (1969) and citing Simmons v. United States, 390 U.S. 377, 389, 88 S. Ct. 967, 19 L. Ed. 2d 1247 (1968)); State v. Gutierrez, 50 Wn. App. 583, 592, 749 P.2d 213 (Fifth Amendment rights are “purely personal rights”), rev. denied, 110 Wn.2d 1032 (1988); accord United States v. Bruton, 416 F.2d 310, 312 (8<sup>th</sup> Cir. 1969) (Fifth Amendment privilege is personal to witness), cert. denied, 397 U.S. 1014 (1970). When a personal constitutional right is violated, there is no reason to believe that the individual whose rights were violated will not himself

move to suppress the evidence, recover damages for the violation, or seek redress for invasion of privacy or trespass. Rakas, 439 U.S. at 134.

Unlike the personal rights mentioned by the State, the public's right to access to court proceedings and the defendant's right to a public trial "serve complimentary and interdependent functions in assuring the fairness of our judicial system." Momah, 167 Wn.2d at 148; Bone-Club, 128 Wn.2d at 259. The rights are so similar that trial courts utilize the same test in determining whether to close a courtroom. Bone-Club, 128 Wn.2d at 259; Waller v. Georgia, 467 U.S. 39, 47, 104 S. Ct. 2210, 81 L. Ed. 2d 31 (1984).

Mr. LeClech is a member of the public, and the public's right to open administration of the courts benefits him as a participant in the criminal justice system. As the United States Supreme Court stated, "There could be no explanation for barring the accused from raising a constitutional right that is unmistakably for his or her benefit." Presley v. Georgia, 588 U.S. 209, 213, 130 S. Ct. 721, 175 L. Ed. 2d 675 (2010). This Court should reject the State's argument that Mr. LeClech lacks standing to raise an article I, section 10 claim.

**3. Mr. LeClech’s constitutional right to be present was violated when the drug court team met to discuss his case without him.**

A person accused of a crime has the fundamental constitutional right to be present for all critical stages of the proceedings. U.S. Const. amends. VI, XIV; Const. art. I, § 22; Kentucky v. Stincer, 482 U.S. 730, 745, 107 S. Ct. 2658, 96 L. Ed. 2d 631 (1987); State v. Irby, 170 Wn.2d 874, 880-81, 246 P.3d 796 (2011). The Washington Constitution specifically provides the right to “appear and defend in person,” and this right applies at “every stage of the trial when his substantial rights may be affected.” Const. art. I, § 22; Irby, 170 Wn.2d at 885 (emphasis deleted) (quoting State v. Shutzler, 82 Wash. 365, 367, 144 P. 284 (1914)).

Mr. LeClech argues that his right to be present was violated by his exclusion from the drug court’s team meetings. Brief of Appellant at 18-22. The State does not address this issue in its response.

A response brief should answer the appellant’s argument with argument that is supported by legal authority. RAP 10.3(b); RAP 10.3(a)(6); Satomi Owner’s Ass’n. v. Satomi, LLC, 167 Wn.2d 781, 807-08, 225 P.3d 213 (2009). This Court may therefore treat the State’s failure to address the issue as a concession of error on that point. State v. Ward, 125 Wn. App. 138, 143-44, 104 P.3d 61 (2005); State v. Partosa, 41 Wn. App. 266, 268-69, 703 P.2d 1070, rev. denied, 104 Wn.2d 1017 (1985).

B. CONCLUSION

For the reasons stated above and in the Brief of Appellant, Michael LeClech asks this Court to reverse his conviction and his termination from drug court.

DATED this 29<sup>th</sup> day of May 2014.

Respectfully submitted,



---

Elaine L. Winters – WSBA #7780  
Washington Appellate Project  
Attorneys for Appellant

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

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	NO. 70168-1-I
v.	)	
	)	
MICHAEL LECLECH,	)	
	)	
Appellant.	)	

**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ANA ARRANZA RILEY, STATE THAT ON THE 29<sup>TH</sup> DAY OF MAY, 2014, I CAUSED THE ORIGINAL **REPLY BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS - DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] JAMES WHISMAN, DPA KING COUNTY PROSECUTOR'S OFFICE APPELLATE UNIT 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____
[X] MICHAEL LECLECH 12227 SE 179 <sup>TH</sup> PL RENTON, WA 98058	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

**SIGNED** IN SEATTLE, WASHINGTON THIS 29<sup>TH</sup> DAY OF MAY, 2014.

X \_\_\_\_\_ 

**Washington Appellate Project**  
701 Melbourne Tower  
1511 Third Avenue  
Seattle, WA 98101  
Phone (206) 587-2711  
Fax (206) 587-2710