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NO. 34185-9-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

Michael E. Ashby,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
COUNTY OF PIERCE STATE OF WASHINGTON

THE Honorable Thomas J. Felnagle, Judge

OPENING BRIEF OF APPELLANT

Michael E. Ashby
Appellant pro se
Airway Height Corr. Center NB-3411
PO Box 1839
Airway Heights, WA 98001-1839

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A. ASSIGNMENTS OF ERROR

1. The trial court lacked authority to enter an order on August 5, 2006, 2005, adding costs imposed in the Certificate of Finality in COA NO. 31152-6-II to the judgment and sentence in his criminal cause, Pierce County 90-1-01075-1.

2. The trial court erred in denying Mr. Ashby's motion for arrest of judgment and to vacate judgment.

3. The Department of Corrections Policy (DOC), DOC policy NO. 200.000, does not and did not authorize the DOC to transfer Mr. Ashby's money from his prison savings account to a "**HOLD ACCOUNT**" for full collections by the State Attorney General under RCW 10.73.160 or RCW 4.84.080 without a Court order issued by the Superior Court.

4. The Trial Court erred by denying Mr. Ashby's motion for a hearing under State v. Blank, 131 Wn2d 230, 242, 245-46, 247, 930 P.2d 1213, (1997), prior to full collection of Costs.

B. STATEMENT OF THE CASE

1. Procedural history

On January 7, 2004, this Court dismissed appellant Michael Ashby's personal restraint petition, cause number 29905-4-II; challenging, under Apprendi v. New Jersey, 530 U.S. 466 (200), the trial court's imposition of an exceptional sentence without requiring a jury to find the aggravating factors beyond a reasonable doubt. CP 1-5.

On June 24, 2004, this Court dismissed Mr. Ashby's personal restraint petition, cause number 31152-6-II, challenging the denial of any earned release credit for time served in custody in the Pierce County Jail prior to his Conviction, Judgment and Sentence. CP 6-8.

On August 27, 2005, this Court issued the Certificate of Finality in cause number 29905-4-II , awarding costs of \$125.00. CP 9-10.

On December 3, 2004, on motion of the state, the trial court added the appellate costs awarded by the court in the Certificate of Finality to Mr. Ashby's judgement and sentence. CP 11-12, 16. In letters both before and after December 3, 2004, Mr. Ashby indicated his desire to be present at the hearings and protested that he was not adequately served with notice of the hearing. CP 13-15, 17-20.

On April 6, 2005, this Court again issued a Certificate of Finality for cause number 31152-6-II, again awarding costs of \$125.00. CP 21-22. In response to the state's Motion to Add Appellate Costs, Mr. Ashby filed a note of issue, motion and affidavit for transportation to the hearing, a motion for remission of costs. CP 23,24,25,26-28,29-30. In his Motion and Affidavit for Order for Temporary Removal and Transport, Mr. Ashby demanded to be present at the hearing scheduled for August 5, 2005, and asserted that the hearing was a cridital stage because its purpose was to amend and change his **original judgement and sentence** and, under CrR 3.4, he had a right to be present. CP 26-28. In the Motion for the Remission and/or Modification of Appellate Costs, Mr. Ashby requested the appointed of counsel and indicated that he intended:

To call witnesses to testify that collections of the Appellate Costs have been started by both the State's Attorney General's office and the Department od Corr.'s these acts satisfy the opinions of a aggravated party under State v. Mahone, 98 Wash.App 342, 989 P.2d 583 (1999).... Defendant further moves this court for an order to Modify the method of payment under 10.01.170 in the alterative as determined in open court on the record in the presence of the Defendant....

CP 29-30.

On August 5, 2005, the trial court granted the state's motion to add appellate costs, denied Mr. Ashby's motion to be transported and motion based on **Mahone**, and ruled that the request for remission of **financial obligations** was denied as premature. CP 31, 32-33.

On August 15, 2005, Mr. Ashby filed a notice of appeal of the August 5, 2005, order, and a motion for order of indigency. CP 34, 35. At the same time, Mr. Ashby filed a **CrR 7.4 (a)(3)** motion for arrest of judgment for:

Insufficient Proof of a material element of the crime,
and/or ability to pay court ordered costs.

CP 39-56. Mr. Ashby argued, citing **State v. Blank, 131 Wn.2d 230, 242, 245-46, 247, 930 P.2d 1213 (1997)**, that he was an aggrieved party since appellate costs were being taken from his inmate saving account. CP 39-56. Attached to the motion were copies of grievances and responses and of his accounts. CP 39-42.

In a grievance filed on June 30, 2005, Mr. Ashby noted that his monthly inmate account statement for June 1 2005, through June 30 2005, showed that \$125.00 had been deducted from his "**Inmate Saving account**" from the previous month (**MAY**). CP 45. The response of the DOC noted that \$125.00 was for "**CSAF-cost sanctions atty fees** in reference to a court case you lost and the **Attorney General is requesting this money for court costs** (see attached)". CP 45. The motion also attached the court's August 5, 2005, order, imposing appellate costs. CP 46. Mr. Ashby included another grievance, filed on July 29, 2005, asserting that **RCW 72.09.450** does not authorize DOC' deductions from his savings account for DOC policy 200.000 to deduct any funds from his prison saving account as a collection for a Legal Financial Obligation for **CSAF**. CP 48. In response, the DOC indicated that the savings account was attached for CSAF as per **RCW**

72.09.450. CP. The attached savings account sheets indicated that on November 2, 2004, Mr. Ashby had \$145.50 in his account and that balance dropped to \$20.50 between May 1, 2005, and May 31, 2005, and had never been restored. CP 50-54.

On April 15, 2005, Mr. Ashby also filed a Motion (Second), for Remission of Appellate Costs, asserting his rights under **RAP 2.2 (a)(1)**, because the trial court had violated **State v. Blank, 131 Wn.2d 230, 242, 245-46, 247, 930 P.2d 1213 (1997)**, because the state Attorney General and DOC had enforced payment of the costs by reducing his prison savings account. This also violated **DOC policy 200.000**. CP 57-62. Mr. Ashby requested a hearing on his motion so that he could give evidence of his inability to pay the costs. CP 57-62.

On September 2, 2005, the trial court directed the state to file a response during a hearing in open court directing the state to file a response to Mr. Ashby's motion and indicated that the decision on whether to hold a hearing and rule on the motion for an order of indigency would be made after reviewing the state's response. **SEE RP 3-11.**

In response, the state argued: (a) that CrR 7.4 requires that motions for arrest of judgment be filed within 10 days of the actual underlying criminal conviction, not within 10 days of an order adding appellate costs; (b) that the motion, if construed as a collateral attack was untimely since it was beyond a year from the date of the mandate issued on direct appeal; (c) that the motion for remission should be denied because Mr. Ashby had failed to show that any funds had actually been collected or that placing a hold on the funds create a manifest hardship. CP 66-79.

On October 26, 2005, the court denied that motion for arrest of judgment as untimely and as failing to state a basis for relief, and denied his motion for remissione because he failed to show that costs had been collected or that a manifest hardship existed. CP 80. The court did not allow Mr. Ashby time to response to the state's response, although Mr. Ashby filed a motion for continuance and attached was his inmate account statment of September 1, 2005, through September 30, 2005, showing that a deduction had been taken from Mr. Ashby saving account. **SEE Attached Exhibit "A"**. CP 81-83.

On November 17, 2005, the trial court granted the state time respond to what it characterized as Mr. Ashby's motion to reconsider. CP 84-85.

On Novermber 17, 2005, Mr. Ashby filed a CrR 7.8 Motion to Vacate Amended Sentence, under the crinimal cause and under the Person Restraint Number **31152-6-II**. CP 86-107. In the motion, Mr. Ashby asserted: (a) that he had been denied his constitutional right to be present at sentencing because he was not transported for the hearing; and (b) that he was not properly served with notice of the hearing; and (c) that **State v. Nolan, 141 Wn.2 620, 8 P.3d 300 (200), RCW 10.73.090, RCW 10.73.160 and RAP TITLE 14**, do not provide subject matter jurisdiction for the trial court to impose costs against an indigent defendant **who does not challenge his crinimal judgement and sentence**. CP 86-107. Mr. Ashby also remind the court that it had not ruled on the motion for an order of indigency. CP 86-107.

In Appendix **"D"** to the letter dated Octocer 31, 2005, then considered as a motion for reconsideration by the trial court. Mr. Ashby submitted his inmate account balance as of September 30, 2005

noted a "**subaccount transfer**" for a deduction for "**CSAF-31162-6-II**" on September 23, 2005. CP 119-202.

The State elected not to file a further response. CP 108.

On November 17, 2005, the trial court considered Mr. Ashby's letter as a reconsideration, and despite the evidence contained attached, (**exhibit "A" here attached**), denied Mr Ashby's motion to Reconsider, Vacate and to declare indigent. CP 109-110.

On November 28, 2005, Mr. Ashby filed a notice of appeal from the November 17, 2005 order. CP 111-113. On February 6, 2006, the court entered an Order of indigency for the appeal. CP 114-115.

C. ARGUMENT

1. RCW 10.73.160 DOES NOT AUTHORIZE THE AWARD OF COURT COSTS AND FEE WHERE THE PERSONAL RESTRAINT PETITION AT ISSUE DOES NOT COLLATERALLY ATTACK A CRIMINAL CONVICTION.

The trial court had no authority, that is, lacked subject matter jurisdiction, to amend Mr. Ashby's judgment and sentence in his criminal case to include costs awarded after his personal restraint petition challenging the Pierce County's jail's denial of good time credit was denied.

RCW 10.73.160 provides that:

- (1) The court of appeals, supreme court, and superior courts may require an adult ... to pay appellate costs.**
- (2) Appellate costs are limited to expenses specifically incurred by the state in prosecuting or defending an appeal or collateral attack from a criminal conviction or sentence ...**
- (2) An award of costs shall become part of the trial court judgment and sentence.**

(emphasis added).

Because Mr. Ashby was neither appealing nor collaterally attacking his criminal conviction or sentence, **RCW 10.73.160** did

not apply to him or authorize the additional costs to his judgment and sentence. Mr. Ashby challenged **only the Pierce County Jail's failure to award him good time jail credits for the time he spent in custody there.** This contested jail time, whether awarded or not, had no consequence to the sentence imposed in the judgment and sentence. The jail time **did not change in any way the time ordered as a sentence by the trial court.**

As the court noted in State v. Nolan, 141 Wn.2d 620, 627, 9 P.3d 300 (2000), "costs are creature of statute; that costs were not given at common law." (quoting Harrigan v. Gilcrist, 121 Wis. 127, 99 N.W. 909 (1904). "The Legislature must ordinarily authorize costs in order for a court to impose them." Nolan, at 627.

RAP 14.3(a) authorizes, as costs awardable to the prevailing party on appeal, "**only statutory** fees and **reasonable** expenses actually incurred by a party" for the enumerated expenses, unless recovery for the expense is otherwise "**provided by statute.**" The only possible enumerated expense relevant to Mr. Ashby's PRP listed in RAP 14.3(a) petition is the preparation of a brief or original document. There were no clerk's papers. verbatim report of the proceedings or filing fee. RAP 14.3(a). Thus, while Nolan holds that RCW 10.73.160 arguments the ennumerated expenses, as additional expenses provided by statute, RCW 10.73.160 **is not applicable to Personal Restraint petition which does not challenge a criminal judgment or conviction.**

Further, while RAP 14.6(c) provides that an "[a]n award of costs may be enforced as part of the judgment in the trial court," here **there was no judgment in the trial court being attacked on appeal.** The only issue was the action of the Pierce County Jail in

failing to award food time jail credits.

The trial court lacked authority to amend the judgment and sentence by imposing the costs award as statutory attorneys fees. Accordingly, the order adding appellate costs to the judgment and sentence should be vacated.

2. **BY AMENDING THE JUDGMENT AND SENTENCE TO INCLUDE APPELLATE COSTS, THE TRIAL COURT CREATED A SECOND DEBT FOR MR. ASHBY.**

When Mr. Ashby filed a grievance protesting the removal of \$125.00 from his savings account, the DOC responded that this was taken **"for CSAF--cost sanctions attorney fees-- This is in reference to a court case you lost and the Atty General is requested these funds for court costs."** CP 45. **"CSAF's"** appears to be the mechanism by which the Attorney general's office recovers statutory attorney fees pursuant to **RCW 4.84.080**, when the office responds to a PRP. **CSAF's"** are distinct from court ordered **"LFO's" or legal financial obligations created by appellate costs added to the criminal judgment and sentence.**

In Mr. Ashby's case, the Attorney General's office requested and received payment for \$125.00 costs as **"CSAF."** When the trial court entered the order amending the judgment and sentence, the court created a **LFO**, obligating Mr. Ashby to pay \$125.00 he had already paid, through deductions from any money sent to him for deposit. As a result, Mr. Ashby is being forced to pay twice for the same cost as his prison savings account is deducted the full amount of costs, where the court order is a **LFO** only entitling collection at a 20% deduction. **SEE DOC policy 200.000.**

In other words, where a person challenges his conviction or sentence in a PRP and the county prosecutor responds to the PRP,

amending the judgment and sentence to create a **LFO** creates only one debt. However, where the Attorney General's office responds to a PRP, amending the judgment and sentence (J&S), to include the costs creates a second debt. This is because the Attorney General office collects payment via **RCW 4.84.080** without the amendment to the J&S by the trial court, as it appears what happen in this case. As here there is no **order** authorizing the Attorney General's office to collect the "**CSAF**" cost, which has been done, then still leaving Mr. Ashby with a **LFO** debt to pay. **SEE also Attached Exhibit "B"**.

Accordingly, the order adding appellate costs to the J&S as a **LFO** should be vacated, and all moneys collected by the Attorney General's office should be returned to Mr. Ashby's prison Savings Account, as there has been two debts created.

3. **THE DEPARTMENT OF CORRECTIONS IS NOT AUTHORIZED BY ITS OWN POLICY 200.000 TO DEDUCT FUNDS FROM MR. ASHBY'S PRISON SAVINGS ACCOUNT FOR COURT ORDERED LFO'S FOR CSAF AND COLLECTIONS FOR THE ATTORNEY GENERAL'S OFFICE.**

The DOC policy **200.000** states:

1. **DOC 200.000 II Sub Accounts**

- A. Offender funds are maintained in the Trust Accounting System (TAS) detailing transactions in sub Accounts....

- DOC 200.000 III Deposits**

- C. All funds received will be deposited to an offender's account in total. No deductions may be made from an offender's funds until posting to TAS has been completed.

- DOC 200.00 VII Withdrawals**

- A. Withdrawals from offender accounts include, but not limited to, the following:
 2. **Non-LFO court orders,**
 4. **Costs, sanctions, and attorneys' fee (i.e., non-LFO court orders),**

- C. Withdrawals for fees, assessments, ... and other transaction **will be handled as current transactions and deducted from the offender's spendable balance.**

DOC 200.000 VII Order to withhold and Deliver (OWD)

- A. An offender's trust fund balance, including savings sub account and amounts held by the Department for shipping costs,...ect., are subject to collection by OSE, Department of Social and Health Services (DSHS) through an OWD.

1. Pursuant to RCW 72.65.060, earnings of Work Release participants are not subject to garnishment, attachment, or execution, including OWD's.
2. An offender's education sub account is exempt....

DOC 200.000 DEDUCTIONS

Deductions specific in this attachment and displayed in the Deduction Matrix will be taken at each time each deposit is posted to an offender's trust fund.

The deposit types and percentages are displayed on the **Deduction Matrix.**

II. LEGAL FINANCIAL OBLIGATIONS (LFO):

- A. LFO deductions are taken in accordance with the offender's Judgment and Sentence (J&S). 20 percent for Prison offenders... will be deducted from deposits for offenders
- B. LFO's is forwarded to the appropriate county clerk until the offender's obligations are satisfied.

IV. COSTS, SANCTIONS, AND ATTORNEY FEES (non-LFO court orders):

- A. Costs, Sanctions, and Attorney Fees (CSAF) are orders received from the Attorney Generals Office. Per **RCW 72.09.450** collections of CSAF will be collected leaving the indigency level remaining on the offender's account. Collections will continue until the CSAF balance is paid in full.
- B. Other non-LFO court orders will be collected as stipulated in the court order.

DOC 200.000 SUB ACCOUNTS:

An offender's trust fund account is comprised of sub accounts. The Sub Accounts are: (in relevant part);

- I. Spendable sub account,
- II. Savings sub account,....

I. SPENDABLE SUB ACCOUNT:

- A. The spendable (REG) sub account is the amount of funds available for use by an offender.
- B. Offenders are not allowed to request to have funds from other sub accounts transferred to spendable balance for their use.

II. SAVINGS SUB ACCOUNT:

- A. The saving (SAV) sub account is the savings required by **RCW 72.09.111** and **RCW 72.09.480**. To request access to savings,....

Here in this case , this court should observe the fact that **first DOC policy 200.000** does not authorize the DOC to **withhold or deliver (OWD)** funds from my sub savings account for the attorney general, and it was a violation of its policy to have done so, and admitted to this fact in the grievance procedure. **Second**, DOC does not by its own policy have authority to deduct funds from my sub savings account by order of the **LFO issued on August 5, 2005, by the trial court** as the court order **LFO is a deduction taken at 20%. SEE DOC 200.00 DEDUCTIUONS at A.** Here the full \$125.00 was deducted. **SEE Exhibit "A". (emphasis added).** See also CP 66-79 at C.

Third, the only order authorizing collection for Costs have come from the trial court and entered as an amendment to Mr. Ashby's J&S and therefore could not result in a collection of a **CSAF** for sole collection by the attorney general's office. Without a court order, where does the attorney general receive its authority to even request the DOC to **withhold and deliver** funds from Mr. Ashby's savings account. Neither the DOC policy **200.000** or **amended J&S allowed for this deduction** and **DOC has violated its own policies in order to meet the request of the Attorney General. SEE Exhibit "B".**

Fourth, according to DOC policy, "**Cost, Sanctions and Attorney fees**" are "**non-LFO court orders.**" LFO's, legal financial obligation" are deductions "**taken in accordance with an offender's J&S.** LFO's are not deducted from an inmate account (sub savings), rather "**20 percent for Prison offenders ... will be deducted from deposits for offenders**" DOC 200.00a1.

The order amending the judgment and sentence from the PRP challenging his denial of jail good time credits should be vacated; it creates a debt which has been taken through the removal of \$125 from Mr. Ashby's savings account by the Attorney General's office, **not as a LFO as order by the trial court but by a simple request.**

4. THE TRIAL COURT ERRORED WHEN DENYING MR. ASHBY MOTION FOR HEARING FOR REMISSION OF COSTS PRIOR TO FULL COLLECTION OF COSTS.

The trial court comitted perjudicial error when it denied Mr. Ashby's motion (Second), for Remission of Appellate Costs. SEE CP 57-62. Here the DOC had violated its rgulations and policy and placed a **Withhold and Deliver (OWD)** on Mr. Ashby sub savings account. CP 66-79. The state argued that the hold was not an enforced payment on the **CSAF** and that Mr. Ashby's motion failed to show that any funds had actually been collected or that placing a hold on the funds created a manifest hardship. CP 66-79.

However, Mr. Ashby presented his the trial court with **exhibit "A"** (attached hereto), showing that the **May placment of the hold was in fact a collect taken on September 23, 2005.** Mr. Ashby motioned the trial court for a hearing under State v. Blank, 131 Wn.2d 230, 242, 245-46, 247, 930 P.2d 1213 (1997), and RAP 2.2(a)(1), and the trial court simply igmored the State's Supreme Court mandatatory hearing to determine wheather Mr. Ashby could pay the Costs award

entered by the trial court on August 5, 2005.

Mr. Ashby was entitled to a hearing under Blank, and the trial court erred when it denied Mr. Ashby Motion for Remission of Costs. CP 87-107

The trial court also erred when it denied Mr. Ashby letter dated October 31, 2005, then considered a Motion for reconsideration which the court was again provided with a printout of Mr. Ashby inmate account statement of September 30, 2005, that clearly showed that deductions were taken from Mr. Ashby's savings account on September 23, 2005. The question is why did the court deny Mr. Ashby's letter, considered as a motion for reconsideration with clear and undisputable evidence that the costs had been deducted thus creating enforced payment as described in State v. Blank, 131 Wn.2d 230, 242, 245-46, 247 (1997). Still with the trial court presented with all this evidence, it denied Mr. Ashby's **letter for reconsideration** on November 17, 2005, stating:

Mr. Ashby motion for remission is denied because he fails to show that any funds had been actually collected... or that placing a hold on funds create a manifest hardship.

CP. 84-85.

See also Exhibit "A" hereto attached.

Based on the record before this court should show that the trial court had enough evidence before it to hold a hearing under Blank, and it should have. Based on trial court error Mr. Ashby was denied due process of law under state and federal law as described by Blank, 131 Wn.2d 242, 245-46, 247, *supra*, and the 14th Amendment to the U.S. Constitution.

C. CONCLUSION

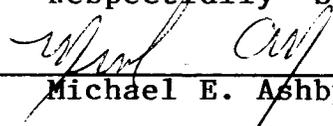
Appellate respectfully submits that the order amending his judgment and sentence to add \$125 in appellate costs should be

VACATED.

This court is also asked to award Costs in this case as to the Appellant pursuant to the Rules applicable in this case.

Dated this 5th day of DECEMBER 2006.

Respectfully Submitted,



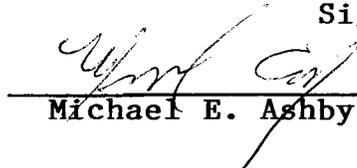
Michael E. Ashby #914138
Pro se
Airway Heights Corr. Center NB-43u
P.O. Box 1839
Airway Heights, WA 98001-1839

DECLARATION

I Michael E. Ashby, appellate in this matter do declare under the penalty of perjury 28 U.S.C. § 1746 that all of the above is true and correction to the best of my knowledge and belief.

Dated this 5th day of December 2006.

Signed By:



Michael E. Ashby #914138
Pro se

EXHIBIT

¹¹
A
¹²

EXHIBIT ¹¹A¹²

VLSNIDER

MCNEIL ISLAND CORRECTION CENTER

OTRTASTB

TRUST ACCOUNT STATEMENT

6.02.1.6

DOC# 0000914138 Name: ASHBY, MICHAEL E
 LOCATION: I01-241-C1101

BKG# 17020

Account Balance Today (09/30/2005) Current : 20.50
 Hold : 0.00
 Total : 20.50

Account Balance as of 09/30/2005 20.50

09/01/2005 09/30/2005

SUB ACCOUNT	START BALANCE	END BALANCE
SPENDABLE BAL	0.00	0.00
SAVINGS BALANCE	20.50	20.50
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00
POSTAGE ACCOUNT	0.00	0.00
COMM SERV REV FUND ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVC	CVC/07112000	09201999	UNLIMITED	7.25	0.00
COIS	COI/07112000	09201999	UNLIMITED	29.00	0.00
CSAF	COSTS, SANCTIONS, AND ATTORNEY FEES	31152-6-II	0.00	125.00	0.00
COPD	COPY COSTS DEBT	10232002	782.49	0.00	0.00
MEDD	MEDICAL COPAY DEBT	01222004	3.72	14.28	0.00
DEND	DENTAL COPAY DEBT	03172004	39.00	0.00	0.00
COI	COST OF INCARCERATION	09201999	UNLIMITED	0.00	0.00
CVC	CRIME VICTIM COMPENSATION	09201999	UNLIMITED	9.18	0.00
SPHD	STORES PERSONAL HYGIENE DEBT	04092000	0.00	0.23	0.00
TVD	TV CABLE FEE DEBT	04092000	0.00	0.03	0.00
TVD	TV CABLE FEE DEBT	09092000	0.00	3.57	0.00
TVD	TV CABLE FEE DEBT	11161999	0.00	0.50	0.00
TVD	TV CABLE FEE DEBT	04132002	19.50	0.00	0.00
WDCD	WESTERN DISTRICT COURT DEBT	C015592RJB	128.66	21.34	0.00
POSD	POSTAGE DEBT	03272002	32.38	0.00	0.00
POSD	POSTAGE DEBT	03262001	3.24	4.22	0.00
POSD	POSTAGE DEBT	10212000	0.00	0.22	0.00
TVRTD	TV RENTAL FEE DEBT	04152002	29.82	0.00	0.00
HYGA	INMATE STORE DEBT	03272002	721.39	73.70	0.00
HYGA	INMATE STORE DEBT	09052000	5.60	5.46	0.00
HYGA	INMATE STORE DEBT	11121999	0.00	11.20	0.00
LMD	LEGAL MAIL DEBT	09202001	41.94	0.00	0.00
LMD	LEGAL MAIL DEBT	03262002	318.40	0.00	0.00
KEYD	KEYS/LOCKS DEBT	08062002	3.00	0.00	0.00

VLSNIDER

MCNEIL ISLAND CORRECTION CENTER

OTRTASTB

TRUST ACCOUNT STATEMENT

6.02.1.6

DOC# 0000914138 Name: ASHBY, MICHAEL E
LOCATION: I01-241-C1101

BKG# 17020

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF	AMT.
UPSD	PERSONAL PROPERTY POSTAGE DEBT	03262002	4.04	0.00		0.00
10DCD	TENTH CIRCUIT COURT DEBT	99MK1227	90.72	14.28		0.00
USDOCD	US D.C. FOR DISTRICT OF COLORADO	03-1464	96.31	8.69		0.00
USDCT	US D.C. FOR W. DIST. OF TEXAS	C05-5416FDB	5.00	0.00		0.00

TRANSACTION DESCRIPTIONS --

SPENDABLE BAL SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
09/02/2005	INMATE STORE DEBT (AUTO)		4.00	4.00
09/02/2005	CRS SAL ORD #3049121STOR		(4.00)	0.00
09/06/2005	LEGAL MAIL DEBT		3.85	3.85
09/06/2005	LEGAL MAIL		(3.85)	0.00
09/06/2005	LEGAL MAIL DEBT		0.23	0.23
09/06/2005	LEGAL MAIL		(0.23)	0.00
09/06/2005	LEGAL MAIL DEBT		0.43	0.43
09/06/2005	LEGAL MAIL		(0.43)	0.00
09/06/2005	LEGAL MAIL DEBT		0.23	0.23
09/06/2005	LEGAL MAIL		(0.23)	0.00
09/06/2005	LEGAL MAIL DEBT		0.23	0.23
09/06/2005	LEGAL MAIL		(0.23)	0.00
09/06/2005	COPIES DEBT		40.00	40.00
09/06/2005	-legal copies		(40.00)	0.00
09/09/2005	TV RENTAL FEE DEBT		1.00	1.00
09/09/2005	TV RENTAL FEE-JUNE 2005		(1.00)	0.00
09/10/2005	TV CABLE FEE DEBT		0.50	0.50
09/10/2005	I05 - TV CABLE FEE		(0.50)	0.00
09/12/2005	INMATE STORE DEBT (AUTO)		4.00	4.00
09/12/2005	CRS SAL ORD #3060774STOR		(4.00)	0.00
09/19/2005	INMATE STORE DEBT (AUTO)		4.00	4.00
09/19/2005	CRS SAL ORD #3072195STOR		(4.00)	0.00
09/22/2005	POSTAGE DEBT		0.37	0.37
09/22/2005	POSTAGE		(0.37)	0.00
09/23/2005	INMATE STORE DEBT (AUTO)		4.00	4.00
09/23/2005	CRS SAL ORD #3081371STOR		(4.00)	0.00
09/23/2005	Sub-Account Transfer		125.00	125.00
09/23/2005	Deductions-CSAF-31152-6-II D D		(125.00)	0.00
09/26/2005	TV RENTAL FEE DEBT		1.00	1.00
09/26/2005	TV RENTAL FEE-JULY 2005		(1.00)	0.00

TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
09/23/2005	Remove Hold		125.00	145.50

09/30/2005 13:34

Department of Corrections

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VLSNIDER

MCNEIL ISLAND CORRECTION CENTER

OTRTASTB

T R U S T A C C O U N T S T A T E M E N T

6.02.1.6

DOC# 0000914138 Name: ASHBY, MICHAEL E

BKG# 17020

LOCATION: I01-241-C1101

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
09/23/2005	Sub-Account Transfer		(125.00)	20.50

TRANSACTION DESCRIPTIONS --	WORK RELEASE SUB-ACCOUNT SAVINGS
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DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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TRANSACTION DESCRIPTIONS --	EDUCATION ACCOUNT SUB-ACCOUNT
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DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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TRANSACTION DESCRIPTIONS --	MEDICAL ACCOUNT SUB-ACCOUNT
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DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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TRANSACTION DESCRIPTIONS --	POSTAGE ACCOUNT SUB-ACCOUNT
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DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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TRANSACTION DESCRIPTIONS --	COMM SERV REV SUB-ACCOUNT FUND ACCOUNT
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DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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EXHIBIT

B

EXHIBIT *B*



IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

MICHAEL ASHBY,

Defendant.

NO. 90-1-01075-1

ORDER ADDING APPELLATE COSTS
TO JUDGMENT AND SENTENCE

THIS MATTER coming on regularly for hearing before the above entitled court on the Motion of Gerald T. Costello, Deputy Prosecuting Attorney for Pierce County, Washington, for an order adding appellate costs to the Judgment and Sentence; and the court being in all things duly advised, Now, Therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that appellate costs in the amount of \$125.00 shall be added to the legal financial obligations listed in the Judgment and Sentence

90-9-02707-2

1
2
3 to be paid by the defendant. All other terms and conditions of the original Judgment and Sentence shall
4 remain in full force and effect as if set forth in full herein.

5 DONE IN OPEN COURT this 5 day of August, 2005.

6
7 Thomas J. Felnagle
8 JUDGE THOMAS J. FELNAGLE

9 Presented by:

10 [Signature]
11 Deputy Prosecuting Attorney
12 WSB # 27563

FILED
DEPT. 15
IN OPEN COURT
AUG 5 2005
Pierce County Clerk
By [Signature]
Deputy

13 Approved as to Form by:

14
15 Not Present
16 Attorney for Defendant
17 WSB # _____

FILED
COURT OF APPEALS

06 DEC -8 AM 11:04

STATE OF WASHINGTON
BY _____
CITY

STATE OF WASHINGTON
COURT OF APPEALS, DIVISION II

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
 Michael Ashby)
 Petitioner.)

No:

CERTIFICATE OF SERVICE

I, Michael Ashby, Petitioner in the above entitled cause, under the penalty of perjury, do hereby certify that on the date noted below, I sent copies of:

- 1. Appellant's Opening Brief

To: Pierce County Prosecutor's Office
Att. Kathleen Proctor
930 Tacoma Ave So RM 946
Tacoma, WA 98402

By processing as Legal Mail, with first-class postage affixed thereto, at the Airway Heights Correction Center, P.O. Box 1837, Airway Heights, WA 99001-_____.

Dated this 5th day of December, 2006.

Respectfully Submitted,

Michael Ashby
Petitioner