



## I. IDENTITY

Elijah F. Jackson, is the appellant in this action on direct appeal.

## II. ISSUES

Appellant, Elijah F. Jackson, is filing this motion before the Division II, Court of Appeals, for consideration for additional grounds for review.

The case at hand is currently filed and before this court on direct appeal, and appellant Jackson is represented by counsel. But wishes to entertain this motion for additional grounds before this court.

Appellant Jackson's counsel, failed to introduce relevant facts involved with the case as are stipulated below.

There are two additional grounds that appellant Jackson wishes to have entered on the record for the court.

### FIRST GROUND:

#### **A. CONSTITUTIONAL RIGHT VIOLATION; VIOLATION OF RIGHT TO SPEEDY TRIAL.**

- (1). Appellant's Sixth Amendment Constitutional Right to a speedy trial was violated by the trial court under CrR 3.3 (c)(1).
- (2). Under CrR 3.3 (c)(1), the trial court failed to arraign Mr. Jackson, within the required (14) fourteen-day time limit as required by law, even though he was being detained in the Clallam County jail at the time.

- (3). Washington State's CrR 3.3, and the Striker rule, combine to require the State to bring a defendant before the court within a timely manner for a speedy trial. ( see State v Hardesty, 149 Wn. 2d 230 ( 2003 ); pursuant to CrR 3.3 (c)(2)(ii), a defendant is 'detained in jail' for purposes of commencing 'time elapsed in district court' if, at the time the State files a complaint, the defendant is detained on that current charge.)

**SECOND GROUND:**

**B. DUE PROCESS RIGHT VIOLATION; MISCALCULATION OF OFFENDER SCORE.**

- (1). The trial court improperly calculated Mr. Jackson's offender score based upon his prior felony and gross misdemeanor crimes convictions.
- (2). Had the trial court properly calculated Mr. Jackson's offender score, Mr. Jackson, would have received a shorter sentence, or may not have even been charged with a felony crime in the first place.
- (3). Incorrect offender score may be brought for first time on appeal, even if not objected to at trial level. ( see State v Ford, 137 Wn. 2d 472 ( 1999 ), ( City of Seattle v Quezada, No. 58336-1-I, Wa. App. Division I, ( 2007 ), Here the Court of Appeals, Div. I, reversed the decisions and remanded for resentencing.

### III. STATEMENT OF THE CASE

When appellant Jackson, was arrested and detained in Clallam County Jail, he spent 50 days confinement before being arraigned, and another 55 days elapsed between the arraignment and his trial dates. This adds up to a total of 105 days from the filed complaint date, until his trial date.

At no time did Mr. Jackson, waive his speedy trial right nor did the prosecutor's office seek for any extensions and/or continuances. When the trial court finally did get around to actually bringing appellant Jackson to trial and ultimately conviction, the trial court erred in his offender score calculation, which caused Mr. Jackson, to receive a longer sentence that he should have been given.

And when appellant Jackson expressed his concern to his defense counsel, Mr. Rick Petersen, his attorney failed to preserve his clients right to due process under the law.

( see exhibits A and B )

### VI. CONCLUSION

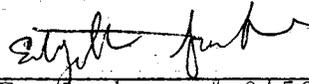
A. Appellant, Elijah F. Jackson, has had his Constitutional rights violated by the trial court in this case.

B. Appellant, Jackson, feels that the Washington State Court of Appeals, Division II, should grant his motion for additional grounds as the ends of justice will be served for granting this motion.

C. Appellant, Jackson, asks and prays that should this

motion be granted, that Division II, Court of Appeals, will remand this case back to Superior Court for further action.

Respectfully submitted this 9<sup>th</sup> day of October 2008, at Walla Walla, Wa.

 # 845364

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Elijah F. Jackson # 845364

Washington State Penitentiary

1313 N. 13th Av.

WALLA WALLA WA 99362 + 8817

V. APPENDIX

AUTHORITIES

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PHOTO COPY

EXHIBIT A

**CRIMINAL**  **TRAFFIC**  **NON-TRAFFIC**  **C 0572804**

IN THE  DISTRICT  MUNICIPAL COURT OF  
 STATE OF WASHINGTON, PLAINTIFF VS. NAMED DEFENDANT **FORDS**, WASHINGTON  
 COUNTY OF **C. Williams**  
 CITY/TOWN OF **08/106**

LEA OR # **WAWSP** 00 COURT OR # **073**

**THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF WASHINGTON**

DRIVER'S LICENSE NO. **JACKSEF712ND** STATE **WA** EXPIRES  PHOTO ID. ON PERSON  YES  NO

NAME: LAST **JACKSON** FIRST **ELSWAITH** MIDDLE **F**

ADDRESS **General Delivery**  IF NEW ADDRESS

CITY **LAPUSH, WA** STATE **WA** ZIP CODE **98350** EMPLOYER LOCATION

DATE OF BIRTH **8-20-79** SEX **M** HGT **5'6"** WEIGHT **140** EYES **BRN** HAIR **BLK**

RESIDENTIAL PHONE NO. CELLPHONE NO. WORK PHONE NO.

VIOLATION DATE MONTH **11** DAY **29** YEAR **07** TIME **1800**  INTERPRETER NEEDED

ON OR ABOUT AT LOCATION **SR 101 192 C. Williams**

**DID OPERATE THE FOLLOWING VEHICLE/MOTOR VEHICLE ON A PUBLIC HIGHWAY AND**

VEHICLE LICENSE NO. **424PCCWA** STATE **WA** EXPIRES **08-26** MAKE **POLARIS** MODEL **400** COLOR **GRY**

TRAILER #1 LICENSE NO. STATE EXPIRES TR. YR. TRAILER #2 LICENSE NO. STATE EXPIRES TR. YR.

**OWNER/OPERATOR IF OTHER THAN DRIVER**

**FRESNARES, EUGENIA**

ADDRESS **315 S 3rd St Apt 2 Yakima WA 98901** STATE **WA** ZIP CODE **98901**

ADJUNCT  BAC  COMMERCIAL  YES  HAZARD  YES  LICENSE  FARM  PWC

VEHICLE  R.V.  OTHER

**DID THEN AND THERE COMMIT EACH OF THE FOLLOWING OFFENSES**

VIOLATION STATE CODE **46-61-502**  DV DWI/Drive a motor vehicle while under the influence of alcohol and/or drugs.

VIOLATION STATE CODE **46-26-342.1a.**  DV Habitual Traffic

**Offender/Drive a motor vehicle while an order of suspension/revocation was operative.**

MANDATORY COURT APPEARANCE OR  BAIL FORFEITURE IN U.S. \$

APPEARANCE DATE NO. DT. YR. TIME A.M. P.M. **0572804** DATE ISSUED **11-29-07**

WITHOUT ADMITTING HAVING COMMITTED EACH OF THE ABOVE OFFENSES, I PROMISE TO APPEAR AS DIRECTED ON THIS NOTICE

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT I HAVE ISSUED THIS ON THE DATE AND AT THE LOCATION ABOVE, THAT I HAVE PROBABLE CAUSE TO BELIEVE THE ABOVE NAMED PERSON COMMITTED THE ABOVE OFFENSE(S), AND MY REPORT WRITTEN ON THE BACK OF THIS DOCUMENT IS TRUE AND CORRECT.

OFFICER **780**

DATE **11-29-07**

**COMPLAINT / CITATION**

CNC	PLCA	ONE	FINDING	FINE	SUSPENDED	SUB-TOTAL	FIND/UPR DATE
1	C	NG	G	NO	D	BP	\$
2	E	NO	G	NO	D	BP	\$

OTHER COSTS \$ WITH DATE SUP.

RECOMMENDED NON-EXTENSION OF SUSPENSION  LICENSE DURATION OR DATE TOTAL COSTS \$ CRBOT / TIME SVD

845364

C 0572804

PHOTO COPY

EXHIBIT B

SUPERIOR COURT OF WASHINGTON AND FOR CLALLAM COUNTY

STATE OF WASHINGTON, )  
 )  
 Plaintiff, )

vs. )

Jackson, Elijah F. Defendant. )

CAUSE NO. 08-1-00007-8

ORDER SETTING SCHEDULE AND DIRECTING PRETRIAL PROCEDURE

PROS. ATTY.: Lundquist DEF. ATTY.: W. Brown INTERPRETER?  No  Yes Language: \_\_\_\_\_

ARGNMT/RE-APRNC. DATE: 1-18-08 OUTSIDE DATE: 3-18-08  By CrR 3.3  By Waiver

THE COURT ORDERS THE FOLLOWING PRETRIAL SCHEDULE AND DISCOVERY OBLIGATIONS:

COMPLIANCE DATE: 2-1-08 MOTION REQUEST DEADLINE: 2-15-08  
STATUS/OMNIBUS CONFR.: 2-15-08 TRIAL: 3-12-08 @ 9:00 a.m., 2 days  
1:00 p.m., 1:30 p.m. JUDGE:  JUDGE GEORGE L. WOOD  VISITING JUDGE  
 JUDGE KEN WILLIAMS  
 JUDGE S. BROOKE TAYLOR

ON OR BEFORE THE COMPLIANCE DATE, THE PLAINTIFF SHALL:

1. State (a) if there was an informant involved; (b) whether the informant will be called as a witness; and (c) the informant's name and address (or claim a privilege not to disclose the same).
2. Disclose evidence in its possession favorable to the Defendant on the issue of guilt.
3. Disclose whether it will rely on prior acts or convictions of a similar nature for proof of knowledge, intent, etc.
4. Supply the names, addresses, telephone numbers, known prior conviction records and statements of Plaintiff's witness.
5. As to any expert witness who will be called, supply (a) name, address, telephone number and qualifications of the expert witness; (b) the anticipated subject of the witnesses' testimony; and (c) a copy of the witnesses' report(s).
6. Supply any report of tests, physical or mental examinations, experiments or comparisons pertaining to this cause in Plaintiff's control.
7. Permit inspection and copying of any books, papers, photographs or other tangible objects which (a) were obtained from, or belong to, the Defendant, or (b) Plaintiff intends to use at any trial or hearing.
8. Inform the Defendant of any information it has indicating entrapment of the Defendant.
9. Make any plea offer not later than two courts days before the pretrial conference.

ON OR BEFORE THE COMPLIANCE DATE, THE DEFENDANT SHALL:

1. State (a) the general nature of the defense; (b) whether an alibi defense will be offered; (c) whether incompetency, diminished capacity or insanity will be alleged, and, if so, whether Defendant will submit to an examination by an expert selected by plaintiff; (b) whether Defendant's prior convictions, if any, will be stipulated to if admissible; and (e) whether Defendant will stipulate to a continuous chain of custody of physical evidence from seizure to trial.
2. Supply the names, addresses, and telephone numbers of defense witnesses, specifying any who will testify to alibi or mental condition, or as an expert.
3. Permit inspection and copying of all medical reports relevant to defense allegations or defenses.
4. Supply any reports of tests, experiments or comparisons pertaining to this case in Defendant's control.

ON OR BEFORE THE MOTION REQUEST DEADLINE THE APPROPRIATE PARTY SHALL:

1. FILE A WRITTEN REQUEST FOR A HEARING UNDER CrR 3.5 OR 3.6 ON OR BEFORE THE DEADLINE STATED ABOVE OR BE DEEMED TO HAVE WAIVED THE SAME.
2. Stipulate, or file written motions, on the following issues:
  - (a) severance or joinder of counts or defendants;
  - (b) making charges more definite and certain, sufficiency of information to state an offense;
  - (c) depositions of witnesses, production of witnesses for trial or hearing;
  - (d) participation in identification procedures (line-up, voice or handwriting exemplar, photography, trying on clothing, sampling blood, hair or tissue, etc.).

AT THE STATUS/OMNIBUS CONFERENCE, THE DEFENDANT SHALL BE PRESENT, AND THE PARTIES SHALL:

Certify that (a) they have complied with all of the foregoing; and (b) a plea agreement, if one is to be offered, has been communicated to the other party, and has been accepted or rejected.

MOTIONS IN LIMINE MUST BE FILED IN WRITING BEFORE TRIAL COMMENCES.

DONE IN OPEN COURT, in the presence of the parties and/or their counsel, a copy provided to each attorney and to the Defendant.

DATE: 1-18-08

SIGNED BY JUDGE: \_\_\_\_\_

SCANNED

COURT OF APPEALS  
DIVISION II

03 OCT 16 PM 12:24

STATE OF WASHINGTON  
BY [Signature]  
DEPUTY

Elijah F. Jackson )  
Appellant, )  
v. )  
State of Washington )  
Respondent )

NO. 37585-1-II

AFFIDAVIT OF SERVICE  
BY MAILING

I, Elijah F. Jackson, being first sworn upon oath, do hereby certify that I have served the following documents:

MOTION FOR ADDITIONAL GROUNDS

Upon:  
Attorney At Law; Jodi R. Backlund  
203 E. Fourth Ave. Suite 404  
Olympia, Wa 98501

Court of Appeals Division II  
David Ponzona, Clerk  
950 Broadway St. Suite 300  
Tacoma, Wa 98402+3636

Office of The Prosecuting Attorney  
For Clallam County  
223 E. Fourth St. Suite 11  
Port Angeles, Wa  
98362+301E

By placing same in the United States mail at:

WASHINGTON STATE PENITENTIARY  
1313 NORTH 13<sup>TH</sup> AVENUE  
WALLA WALLA, WA. 99362

On this 9<sup>th</sup> day of October, 2008.

[Signature] #845364  
Name & Number  
Elijah Jackson #845364

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Wainwright 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.