

40411-7-II

Case No. 83530-6

**IN THE SUPREME COURT FOR THE STATE OF WASHINGTON**

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JAMES A. BOYD  
Petitioner/Appellant,

V.

ACCOUNTANT D. LEWIS AND  
(WDOC) WASHINGTON DEPARTMENT OF CORRECTIONS  
Respondents/Appellees.

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**APPELLANT'S BRIEF**

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On Appeal from the Thurston County Superior Court  
For The State of Washington  
The Honorable Anne Hirsch, Judge  
Case No. 07-2-01175-4

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James A. Boyd, Pro. Se.  
Washington State Reformatory/MCC  
P.O. Box 777-C-317  
Monroe, Washington 98272-0777

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1 c) Judge Anne Hirsch erred disregarding Mr. Boyd's legal  
2 rights pursuant to Kansas Interstate Compact Corrections Laws K.S.A.  
3 76-3002-(3) (a) (2) and (4) (a), (c), (e) and (h). (See App. Brief-pgs. 9,10)

4 d) Judge Anne Hirsch erred and ambiguously applied R.C.W.  
5 72.74.020(4)(e), in her decision to Mr. Boyd concluding 35%  
6 deductions pursuant to RCW 72.09.111 and RCW 72.09.480 and RCW  
7 72.09.015(11), are applicable to Mr. Boyd's money/ property received  
8 from family and friends; in conflict to the plain language of this  
9 Court, State v. B.E.K., 141 Wn. App. 742, 755 at [1-4], 172 P.3d 365  
10 (2007). (See Exhibit-1-Court's Opinion-page-0-002-at-21 -thru-23-  
11 and-page-0-003-at-1-and-2-and-page-0-004-at-20 thru 23)

### 12 STATEMENT OF THE CASE

13 Appellant, James A. Boyd is a Interstate Compact Prisoner  
14 housed in Washington State pursuant to an agreement under, KSA 76-  
15 3002, Art III(a) (2), (5) (b), Art. IV (a), (c), (h), and Title 72, RCW  
16 72.74.020, (3) (a) ii), (5) (b), (4) (a), (c), (h), between Washington  
17 Department of Corrections and Kansas Department of Corrections, and  
18 currently confined at Washington State Reformatory-MCC, P.O. Box  
19 777, Monroe, Washington, 98272-0777. (See Appellant's Brief-pages-  
20 8,9,10)

21 Appellant originally filed a Writ of Review for Declaratory  
22 Judgment and Injunctive Relief, RCW 7.16 et seq., and RCW  
23 72.74.040, pursuant to Washington State Constitution Article 4, sec. 6,  
24 and 20 and Complaint For Damages for Unlawful Seizure of Money  
25 and Violation of State and Federal Laws RCW 2.08.010., July 11,  
26 2007.

27 Mr. Boyd petitioned the Thurston County Superior Court that the  
28 above captioned Defendants jointly arbitrarily and capriciously  
29 determined that Mr. Boyd a Kansas State inmate housed in a  
30 Washington State facility under a compact agreement (Kansas  
boarder) is subject to 35% deductions from his money/property

1 received from family and friends, in addition to his wages or gratuities  
2 subject to 5% deductions for crime victims compensation (CVC); and  
3 20% deductions for costs of incarceration (COI), pursuant to RCW  
4 72.09.111 and RCW 72.09.480 and RCW 72.09.015(11).

5 The department applied these 35% deductions to Mr. Boyd, a  
6 Kansas State Boarder, despite the clear and unambiguous language of  
7 RCW-72.74.020, (3)(a)(ii), (5)(b), (4)(a), (c), (b), (e), & (h),  
8 and correspondingly, K.S.A. 76-3002-(3)(a)(2)(5)(b) and  
9 (4)(a), (c), (e), & (h) and Kansas Internal Management Policy And  
10 Procedure (IMPP)-III-(A)(B)(1); Processing of Administrative  
11 Fees/KAR 44-5-115(a), and K.S.A. 75-52,139, Chapter 75.--State  
12 Department; Public Officers and Employees, Article 52.--Department  
13 of Corrections, 75-52-139. Secretary adopts rules and regulations for  
14 offenders to pay fees. (See Appellant's Brief-pages-1,7,8,9,10)

### 15 ARGUMENT

16 The Honorable Judge Anne Hirsch misinterpreted and  
17 ambiguously and erroneously applied Kansas and Washington State  
18 laws to the disadvantage of Mr. Boyd, concluding in her Court  
19 Opinion, R.C.W. 72.74.020, (4)(e), supported the Defendants' case that  
20 Mr. Boyd should be treated equally regarding 35% mandatory  
21 deductions from his money, the same as Washington State inmates  
22 confined in WDOC prison facilities. Judge Anne Hirsch disregarded  
23 Mr. Boyd's legal rights provided by Kansas State laws, KSA-76-3002-  
24 Art. (4)(e), which are identical to Washington State (ICC) laws. (See  
25 Exhibit-1-Court's Opinion-page-0-002-at-21-thru-23-and-page-0-003-  
26 at-1-and-2-and-page-0-004-at-20 thru 23)

27 In this instance the department deducted 35% of Mr. Boyd's  
28 incoming money/property coming from friends or relatives, and in  
29 addition from institutional wages or gratuities, pursuant to RCW  
30 72.09.111 and RCW 72.09.480 and RCW 72.09.015(11).

**APPELLANT'S BRIEF--3**

1 The Honorable Judge Anne Hirsch's Court Opinion concluded  
2 that Mr. Boyd is subject to one half of R.C.W. 72.74.020(4)(e).,  
3 concluding that Mr. Boyd should receive equal treatment in WDOC.

4 Judge Anne Hirsch disregarded the other half of R.C.W.-  
5 72.74.020(4)(e)., which provides that Mr. Boyd shall not be deprived  
6 of any rights he would have had if housed in KDOC facilities.

7  
8 R.C.W. 72.74.020(4)(e),

9 (e) All inmates who may be confined in an institution  
10 pursuant to the provisions of this compact shall be  
11 treated in a reasonable and humane manner and shall  
12 be treated equally with such similar inmates of the  
13 receiving state as may be confined in the same institution.  
14 The fact of confinement in a receiving state shall not deprive  
any inmate so confined of any legal rights which said inmate  
would have had if confined in an appropriate institution of the  
sending state.

15  
16 KSA-76-3002-Art.(4)(e)

17 (e) All inmates who may be confined in an institution  
18 pursuant to the provisions of this compact shall be  
19 treated in a reasonable and humane manner and shall  
20 be treated equally with such similar inmates of the  
21 receiving state as may be confined in the same institution.  
22 The fact of confinement in a receiving state shall not deprive  
any inmate so confined of any legal rights which said inmate  
would have had if confined in an appropriate institution of the  
sending state.

23  
24 Kansas and Washington State Jurisdiction Laws are identical,  
25 K.S.A. 76-3002(4)(c), and R.C.W. 76.74.020(4)(c)., which state that  
26 the sending state has jurisdiction of Mr. Boyd at all times.

27  
28 K.S.A. 76-3002(4)(c)

29 (4)(c) Inmates confined in an institution pursuant to  
30 the terms of this compact shall at all times be subject  
to the jurisdiction of the sending state.

1 R.C.W. 72-74.020(4)(c)

2 (4)(c) Inmates confined in an institution pursuant to  
3 the terms of this compact shall at all times be subject  
4 to the jurisdiction of the sending state.

5 Mr. Boyd cited supportive Washington State case law to this  
6 effect; Harry J. Whitman v. State of Washington, et al., Court Opinion  
7 No.05-2-02279-2, (Judge Wm Thomas McPhee), page 6, at 11 thru 13,  
8 February 25, 2008, (However, in this matter, the Department is acting  
9 "solely as an agent for the sending state". R.C.W. 72.74.020(4)(a).  
10 The legal rights protected in R.C.W. 72.74.020(4)(e), are rights  
11 defined in the sending state.)

12  
13 Washington State act "solely" as an agent in regards to the  
14 jurisdiction of Mr. Boyd's legal rights pursuant to R.C.W. 76.74.020  
15 (4)(a), and Kansas K.S.A. 76-3002(4)(a), and they support each other.

16 R.C.W. 72.74.020-(4)(a)-Interstate Corrections Compact.  
17 (4)(a) The receiving state to act in that regard "solely" as  
18 agent for the sending state.

19 K.S.A. 76.3002-(4)(a)-Interstate Corrections Compact.  
20 (4)(a) The receiving state to act in that regard "solely" as  
21 agent for the sending state.

22 Kansas Department of Corrections cannot give WDOC  
23 jurisdiction pursuant to R.C.W. 72.74.020,(3)(a)(2),(v)(b), and  
24 (4)(a),(c),(e) and (h), to illegally deduct 35% deductions from Mr.  
25 Boyd's money/property coming from friends or relatives, and in  
26 addition from institutional wages or gratuities for Cost of  
27 Incarceration and Victim's Compensation, pursuant to RCW 72.09.111  
28 and RCW 72.09.480 and RCW 72.09.015(11).

29 The Kansas Secretary of Corrections adopts rules and  
30 regulations for Kansas offenders to pay fees or deductions supported

**APPELLANT'S--5**

1 by Kansas Statutes, K.S.A. 75-52,139-Article 52.-Department of  
2 Corrections, applicable to Mr. Boyd pursuant to Kansas Department  
3 of Corrections Regulations-Internal Management Policy And  
4 Procedure-III-Processing of Administrative Fees-K.A.R. 44-5-115(a)--  
5 "Each inmate in the custody of the secretary of corrections shall be  
6 assessed a charge of one dollar each payroll period, not to exceed  
7 \$12.00 per year, as a fee for administration by the facility of the  
8 inmate's trust account." (See Appellant's Brief-page-7-also, Id-page-1)

9 Kansas State case laws support Washington State and Kansas  
10 State regarding the jurisdiction of Mr. Boyd and what jurisdictional  
11 laws apply to Mr. Boyd and his legal rights. (Also See, Lynn v.  
12 Simmons 95 P.3d 99, 102 at [2] inmates confined in another state  
13 "shall at all times be subject to the jurisdiction of the sending state."  
14 K.S.A. 76-3002, Article IV(c). (Kan.App. 2003)

15 (Also See Most Recently, James A. Boyd v. Roger Werholtz, No.  
16 100,156-page 2, at 3, Affirmed November 14, 2008, by Kansas State  
17 Court Of Appeals) ("Under the Interstate Corrections Compact, K.S.A.  
18 76-3002, Article IV(c), prison inmates confined in another state are  
19 subject to the jurisdiction of the sending state.)

20 Thurston County Superior County Judge Honorable Anne Hirsch  
21 disregarded and Respondents' violated Mr. Boyd's 14<sup>th</sup> Amendment  
22 Constitutional right and Washington State Constitutional right Art.  
23 I,§3 ("No person shall be deprived of life, liberty, or property, with  
24 out due process of law"), and ambiguously applied Washington State  
25 Laws R.C.W. 72.74.020-(4)(e), to Mr. Boyd's disadvantage, which  
26 subjects Mr. Boyd to RCW 72.09.111 and RCW 72.09.480 and RCW  
27 72.09.015- (11), 35% deductions from his money/property received  
28 from family and friends and earned pay. (See Exhibit-1-Court's  
29 Opinion-page-0-002-at-21-thru-23-and-page-0-003-at-1-and-2-and-  
30 page-0-004-at-20 thru 23)

1 Respondents' illegally deducted 35% deductions from Mr. Boyd's  
2 money/property pursuant to RCW 72.09.111 and RCW 72.09.480 and  
3 RCW 72.09.015(11), coming from friends or relatives, and in addition  
4 from institutional wages or gratuities for Cost of Incarceration and  
5 Victim's Compensation, clearly contrary to R.C.W. 72.74.020,(3)(2),  
6 (v)(b), (4)(a), (c),(e) and (h), and K.S.A. 76-3002, Art. (3)(2),(v)(b),  
7 4(a),(c), (e) and (h). (See Appellant's Brief-pages-8,9,10)

8 Kansas State Laws clearly define that Kansas Department of  
9 Corrections, Secretary of Corrections (Roger Werholtz) retains  
10 jurisdiction regarding deductions of Administrative Fees from Kansas  
11 inmates pursuant to K.S.A. 75-52,139, (which is \$12.00 per year from  
12 work wages).

13 **K.S.A. 75-52,139**

14 Chapter 75.--State Departments; Public Officers And Employees

15 Article 52.--Department Of Corrections

16 75-52,139. Secretary adopts rules an regulations for  
17 offenders to pay fees. "The secretary of corrections is hereby  
18 authorized to adopt rules and regulations under which  
19 offenders in the secretary's custody may be assessed fees  
20 for deductions for payment to the crime compensation funds."

21 Most importantly Judge Anne Hirsch's Court's Opinion  
22 misinterprets and misplaced Washington State laws regarding the  
23 jurisdiction of Mr. Boyd conflicting with this Courts ruling opinion  
24 regarding the plain language of Washington laws when the language is  
25 plain on its face. (See State v. B.E.K., 141 Wn. App. 742, 745 at [1-4],  
26 172 P3d 365 (2007) "Where a statute's meaning is plain on its face, we  
27 follow the plain meaning without resorting to statutory construction."

28 Judge Anne Hirsch gave a new meaning or interpretation to the  
29 plain language of both Washington State and Kansas State laws to the  
30 disadvantage of Mr. Boyd. Judge Anne Hirsch's ruling/Court Opinion  
is in obvious error and in conflict to this Court's ruling regarding the  
plain language of statutes which are plain on the face. Judge Anne  
Hirsch's reasoning radically alters the very language and letter of the  
**APPELLANT'S BRIEF--7**

1 laws regarding R.C.W. 72.74.020, (3)(2),(v)(b), (4)(c), (e) and (h), and  
2 K.S.A. 76-3002, Article (3)(2),(v)(b), 4(c), (e) and (h), and the legal  
3 protections and rights they provide for Mr. Boyd. (See Appellant's  
4 Brief-pages-8,9,10)

5 Appellant asserts that the department's application of RCW  
6 72.09.111 and RCW 72.09.480 and RCW 72.09.015 is misplaced.

7 The relevant part portion of RCW 72.09.015 which the  
8 department claims provides authority to make such deductions from a  
9 Kansas State prisoner reads:

10 "Inmate means a person committed to the  
11 custody of the department including but not  
12 limited to persons...received from...Kansas  
13 Jurisdiction."

14 While this RCW defines inmate for general purposes, it in no way  
15 supercedes or pre-empts the Interstate Corrections Compact Laws,  
16 RCW 72.74.020(3)(a)(ii),(v)(b) and (4)(a),(c),(b),(e), and(h) and the  
17 Kansas Internal Management Policy And Procedure-III-(A)(B)(1);  
18 KAR 44-5-115(a), and KSA 76-3002 Art. I, Art. (3)(a)(2),(5)(b) and  
19 Art. (4)(a),(c),(e) and (h). (See Appellant's Brief-pages-8,9,10)

20  
21 **Kansas And Washington State Interstate Compact Laws**  
22 **Are Unambiguous And Identical**

23 R.C.W. 72.74.020-(3)(a)(ii)-Interstate Corrections Compact.

24 (3)(a)(ii) Payments to be made to the receiving state or to  
25 the federal government, by the sending state for inmate  
26 maintenance, extraordinary medical and dental expenses,  
27 and any participation in or receipt by inmates of  
28 rehabilitative or correctional services, facilities, programs  
29 or treatment not reasonably included as part of  
30 normal maintenance.

(3)(v)(b) The terms and provisions of this compact shall  
be a part of any contract entered into by the authority  
of or pursuant thereto, and nothing in any such contract  
shall be inconsistent therewith.

1 R.C.W. 72.74.020-(4)(a)-Interstate Corrections Compact.  
2 (4)(a) The receiving state to act in that regard "solely" as  
3 agent for the sending state.

4 R.C.W. 72.74.020-(4)(c)  
5 (4)(c) Inmates confined in an institution pursuant to  
6 the terms of this compact shall at all times be subject  
7 to the jurisdiction of the sending state.

8 R.C.W. 72.74.020-(4)(e),  
9 (e) All inmates who may be confined in an institution  
10 pursuant to the provisions of this compact shall be  
11 treated in a reasonable and humane manner and shall  
12 be treated equally with such similar inmates of the  
13 receiving state as may be confined in the same institution.  
14 The fact of confinement in a receiving state shall not deprive  
15 any inmate so confined of any legal rights which said inmate  
16 would have had if confined in an appropriate institution of the  
17 sending state.

18 R.C.W. 72.74.020-(4)(h).  
19 (4)(h) Any inmate confined pursuant to the terms of this  
20 compact shall have any and all rights to participate in  
21 and derive any benefits or incur or be relieved of any  
22 obligations or have such obligations modified or his  
23 status changed on account of any action or proceeding  
24 in which he could have participated if confined in any  
25 appropriate institution of the sending state located  
26 within such state.

27 K.S.A. 76-3002-(3)(a)(ii)-Interstate Corrections Compact.  
28 (3)(a)(ii) Payments to be made to the receiving state or to  
29 the federal government, by the sending state for inmate  
30 maintenance, extraordinary medical and dental expenses,  
and any participation in or receipt by inmates of  
rehabilitative or correctional services, facilities, programs  
or treatment not reasonably included as part of  
normal maintenance.

(3)(v)(b) The terms and provisions of this compact shall  
be a part of any contract entered into by the authority  
of or pursuant thereto, and nothing in any such contract  
shall be inconsistent therewith.

1 K.S.A. 76-3002-(4)(a)-Interstate Corrections Compact.

2 (4)(a) The receiving state to act in that regard  
3 "solely" as agent for the sending state.

4 K.S.A. 76.3002-(4)(c)

5 (4)(c) Inmates confined in an institution pursuant to  
6 the terms of this compact shall at all times be subject  
7 to the jurisdiction of the sending state.

8 K.S.A. 76-3002-(4)(e),

9 (e) All inmates who may be confined in an institution  
10 pursuant to the provisions of this compact shall be  
11 treated in a reasonable and humane manner and shall  
12 be treated equally with such similar inmates of the  
13 receiving state as may be confined in the same institution.  
14 The fact of confinement in a receiving state shall not deprive  
15 any inmate so confined of any legal rights which said inmate  
16 would have had if confined in an appropriate institution of the  
17 sending state.

18 K.S.A. 76-3002-(4)(h).

19 (4)(h) Any inmate confined pursuant to the terms of this  
20 compact shall have any and all rights to participate in  
21 and derive any benefits or incur or be relieved of any  
22 obligations or have such obligations modified or his  
23 status changed on account of any action or proceeding  
24 in which he could have participated if confined in any  
25 appropriate institution of the sending state located  
26 within such state.

27 The dispositive issue is whether "Kansas Boarders" are exempt  
28 under Interstate Corrections Compact, **K.S.A. 75-52,139** and KSA 76-  
29 3002 Art. I, Art. III(2),(5)(b) Art IV(a)(c),(e), and (h) and under RCW  
30 72.74.020(3)(ii),(v)(b), (4)(a), (c) and (e), from paying 5% deductions  
for crime victims compensation (CVC); and 20% deductions for costs  
of incarceration (COI) in Washington State, set forth in RCW  
72.09.111(1)(b) and RCW 72.09.480(2). (See Appellant's Brief-pages-  
7,8,9,10)

1 Leonard v. Civil Service Commission, 25 Wn. App. 699, 701-02, 611  
2 P.2d 1290 (1980) (And agency's violation of the rules which govern its  
3 exercise of discretion is certainly contrary to law and , just as the right  
4 to be free from arbitrary and capricious action, the right to have the  
5 agency abide by the rules to which it is subject is also fundamental);  
6 Pierce County Sheriff, 98 Wn.2d at 994, (An agency acts contrary to  
7 law when it fails to abide by the rules which govern it).

8  
9 RULE OF LENITY

10  
11 Thurston County Superior Court Judge, Honorable Anne Hirsch  
12 ambiguously applied RCW 72.74.020(4) (e), Interstate Corrections  
13 Compact Laws, to the disadvantage of Mr. Boyd. Judge Anne Hirsch  
14 stated, "RCW 72.09.111 and RCW 72.09.480 applies to all inmates in  
15 this state, including Mr. Boyd. RCW 72.09.015(11). These  
16 provisions require deductions from the funds earned or received by  
17 inmates." (See Exhibit-2-Court's Opinion-page-1-at-21-thru-23-and-  
18 page-2-at-1-and-2-and-page-3-at-20 thru 23)

19  
20 Judge Anne Hirsch's conclusion applied one half of RCW  
21 72.74.020(4) (e), which states Mr. Boyd, "shall be treated equally with  
22 such similar inmates of the receiving state as may be confined in the  
23 same institution." Judge Anne Hirsch disregarded the provisional  
24 legal rights of Mr. Boyd in the second half of RCW 72.74.020(4) (e),  
25 which states "The fact of confinement in a receiving  
26 state shall not deprive any inmate so confined of any legal rights  
27 which said inmate would have had if confined in an appropriate  
28 institution of the sending state. Thereby ambiguously applying RCW  
29 72.74.020(4) (e), to Mr. Boyd's disadvantage by deducting 35% of Mr.  
30 Boyd's funds/properties from his account.

1 Judge Anne Hirsch also disregarded Kansas and Washington  
2 State laws R.C.W. 72.74.020-(4)(c) and K.S.A. 76.3002-(4)(c).

3  
4 R.C.W. 72.74.020-(4)(c) and K.S.A. 76-3002-(4)(c)  
5 (4)(c) Inmates confined in an institution pursuant to  
6 the terms of this compact shall at all times be subject  
7 to the jurisdiction of the sending state.

8 Kansas Secretary of Corrections (Roger Werholtz) retains  
9 jurisdiction to deduct Administrative Fees from Kansas inmates  
10 pursuant to K.S.A. 75-52,139, and Kansas Department of Corrections  
11 Regulations-Internal Management Policy And Procedure-III-  
12 Processing of Administrative Fees-K.A.R. 44-5-115(a)--"Each inmate  
13 in the custody of the secretary of corrections shall be assessed a  
14 charge of one dollar each payroll period, not to exceed \$12.00 per  
15 year, as a fee for administration by the facility of the inmate's trust  
16 account."

17 The rule of lenity requires that two possible constructions should  
18 be construed strictly against the State and in favor of the petitioner.  
19 (State v. Ague-Masters 138 Wn. App. 86, 106 at [31,33] 156 P.3d 265  
20 (2007))

21  
22 RCW 72.74.020(4)(e), obviously appears to be the subject matter  
23 of the rule of lenity and Appellant's appeal seeks a decision from this  
24 court regarding what jurisdiction and laws apply to Mr. Boyd as a  
25 Kansas Interstate Compact Corrections prisoner. The conclusions of  
26 Superior Court Judge, Honorable Anne Hirsch's application of RCW  
27 72.74.020(4)(e), are ambiguous and unfounded and these are the  
28 Appellant's reasons why this court should review Mr. Boyd's appeal.  
29  
30

1 CONCLUSION

2  
3 Based on the foregoing facts and laws, if this Court does not  
4 accept review to examine the merits of Mr. Boyd's claim, at minimum,  
5 it should accept review and Summarily reverse and remand to the  
6 Court of Appeals for consideration by a panel of Judges or reversed  
7 and remanded back to the Thurston County Superior Court for the  
8 State of Washington with directions to grant Mr. Boyd's Declaratory  
9 Judgment and Injunctive Relief petition with requested relief.  
10 (Oral arguments are not requested unless this court deems necessary.)

11  
12 I James A. Boyd, declare under penalty of perjury that the above  
13 statement is true and correct to the best of my knowledge.

14 Date 25<sup>th</sup> day of November, 2009.

15  
16 Respectfully Submitted,

17 James A. Boyd #700291  
18 James A. Boyd #700291  
19 WSR/MCC P.O. Box 777  
20 Monroe, Wa. 98272-0777

## **EXHIBIT-1**

IN THE THURSTON COUNTY SUPERIOR COURT  
FOR THE STATE OF WASHINGTON

James A. Boyd  
Plaintiff, Appellant

Case No. 07-2-01175-4  
Supreme Court No. 83530-6

Appellant's Amended  
Designation Of Clerk's Papers :

V.

Accountant D. Lewis, et al.,  
Defendants/Respondents'.  
Defendants'.

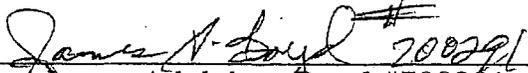
TO THE CLERK OF THE COURT:

Please prepare and transmit to the Supreme Court of Appeals, the following clerk's paper's.

SUB#	DOCUMENT	DATE
103	COURT'S DECISION	02/17/2009
114	ORDER DENYING MOTION/PETITION	03/27/2009
123	COURT'S DECISION	07/23/2009

Date this day 7<sup>th</sup> of October, 2009.

Respectfully Submitted

  
James Adolphas, Boyd #700291  
WSR/MCC P.O. Box 777-B-317  
Monroe, Washington 98272-0777

FILED  
SUPERIOR COURT  
THURSTON COUNTY WA  
09 OCT 14 AM 1:04  
BY BETTY J GOULD CLERK  
DEFIN

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I certify to be true under penalty of perjury  
Under the laws of the State of Washington that  
I delivered/mailed a copy of this document to:  
all parties on 2/17  
2009 at Olympia, WA  
Signed [Signature]

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SUPERIOR COURT  
THURSTON COUNTY, WASH.  
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SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY

JAMES A BOYD,

Plaintiff(s),

v.

HAROLD CLARKE,

Defendant(s).

NO. 07-2-01175-4

COURT'S OPINION

(CLERK'S ACTION REQUIRED)

Kevin Boyd is an inmate convicted in the state of Kansas in 1991 of various offenses. He resides in a Washington State Department of Corrections (DOC) prison facility pursuant to an Interstate Corrections Compact (ICC) between the states of Kansas and Washington. Mr. Boyd filed an action for declaratory relief,<sup>1</sup> alleging that the mandatory statutory deductions from his incoming funds (wages and gifts) he receives while incarcerated in Washington, violate the ICC and the terms of his Kansas Judgment and Sentence. The DOC disputes those claims, and filed a cross motion for summary judgment. DOC asserts that there is no disputed issue of material fact and that, as a matter of law, Mr. Boyd's (remaining) claims should be dismissed. DOC argues that as a matter of law Mr. Boyd must be treated similarly to other

<sup>1</sup> Although Mr. Boyd initially raised other issues, including constitutional claims and a personal claim against a private party, he orally withdrew those additional claims at oral argument, at which time he stated that the only issue he wishes to pursue is his claim that the DOC is violating both the terms of his Kansas Judgment and Sentence, and the terms of the ICC.

1 inmates incarcerated in this state, all of whom are subject to the mandatory deductions to  
2 which Mr. Boyd objects.<sup>2</sup>

3 The pertinent facts in this matter are not in dispute. Mr. Boyd was convicted of various  
4 offenses (the nature of which are not relevant to this case) in the state of Kansas in 1992. The  
5 Kansas sentencing court ordered Mr. Boyd to be incarcerated for specific amounts of time and  
6 further ordered that, within 30 days of the entry of the judgment and sentence, restitution  
7 would be set. The order further provided that Mr. Boyd would not be eligible for  
8 release/parole, unless restitution was first paid. The Judgment and Sentence made no other  
9 mention of any fines, fees or costs.

10 Mr. Boyd was transferred to the state of Washington pursuant to the Interstate Corrections  
11 Compact (ICC), entered into between the states of Kansas and Washington in 1985. Under the  
12 facts of this case, Kansas is the "sending state" and Washington is the "receiving state." The  
13 ICC outlines the agreements between the two states regarding, essentially, the trading of  
14 inmates to serve their terms of incarceration.

15 Several sections of the ICC are applicable to this case. First, Paragraph 2 specifies:

16 GOVERNING LAW: Except where expressly otherwise provided in this contract or by law,  
17 the laws and administrative rules and regulations of the sending state shall govern in any  
18 matter relating to an inmate confined pursuant to this contract and the Interstate Corrections  
19 Compact.

19 Paragraph 13 states, in pertinent part:

20 RESPONSIBILITY FOR OFFENDERS CUSTODY: It shall be the responsibility of the  
21 administration of the institution in the receiving state to confine inmates from a sending state,  
22

23  
24 <sup>2</sup> DOC correctly asserts that although Mr. Boyd's petition is filed as a request for a declaratory  
25 judgment, it is more properly denominated a Motion for Summary Judgment since it refers to  
26 evidence, included as attachments, for the court to consider in making its determination. Neither  
27 party contests the accuracy of the attachments, although they are not in proper form. However,  
28 the pertinent attachments are either state statutes or Mr. Boyd's Kansas Judgment and Sentence,  
the court will consider them in its ruling, based on the lack of objection by either party.

1 ...to make available to them the programs of training and treatment comparable to those  
2 provided to inmates of the receiving state; ...to make certain that they receive no special  
3 privileges and that the sentences and orders of the committing court in the sending state are  
4 faithfully executed. But nothing herein contained shall be construed to require the receiving  
5 state or any of its institutions to provide treatment, facilities or programs for any inmate  
6 confined pursuant to the Interstate Corrections Compact which it does not provide for similar  
7 inmates not confined pursuant to said Compact. (Emphasis added)

8 Paragraph 15 addresses the issue of training or employment and states:

9 TRAINING OR EMPLOYMENT: A. Inmates from the sending state shall be afforded the  
10 opportunity and shall be required to participate in programs of occupational training and  
11 industrial or other work on the same basis as inmates of the receiving state. Compensation in  
12 connection with any such participation...shall be paid to inmates of the sending state on the  
13 same basis as to inmates of the receiving state. (Emphasis added).

14 Finally, Paragraph 27 addresses:

15 COST AND REIMBURSEMENT: It is intended by both states that the costs to each state of  
16 the custody of inmates transferred under the terms of this contract shall be offset through  
17 mutual exchange of inmates between the states...Except as specifically provided in this  
18 contract, each state shall bear the cost of providing care and custody of the inmate sent to it.  
19 Any differences in actual lengths of custody time involved in any one exchange will be  
20 resolved through set-offs in subsequent exchange actions.

21 This case comes before the court in the posture of Cross Motions for Summary Judgment.  
22 A motion for summary judgment should be granted where there is no genuine issue of material  
23 fact or if reasonable minds could reach only one conclusion on that issue based on the  
24 evidence in the light most favorable to the nonmoving party. CR 56.

25 RCW 72.09.111 and RCW 72.09.480 apply to all inmates in this state, including Mr.  
26 Boyd. RCW 72.09.015(11). These provisions require deductions from the funds earned or  
27 received by inmates. The statute was implemented by the legislature to help defray costs of  
28 incarceration and to compensate victims of crime.

The record shows there is nothing in Mr. Boyd's Judgment and Sentence that expressly  
prohibits the DOC from deducting from funds he voluntarily receives in the state of

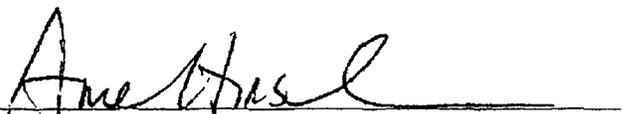
1 Washington. Additionally, all such amounts are deducted for all other inmates incarcerated in  
2 this state. Mr. Boyd's Judgment and Sentence does not address any fees, fines or costs. Under  
3 paragraph 13 of the ICC inmates from the sending state are to receive no special privileges.  
4 To be exempt from the requirement of mandatory deductions would constitute a special  
5 privilege for Mr. Boyd. Additionally, since there is no provision in his Judgment and Sentence  
6 that specifically waives costs to Mr. Boyd, paragraph 15 of the ICC provides that he shall be  
7 paid the same as any other inmate from the state of Washington, all of whom do have these  
8 mandatory deductions from their wages and from funds sent to them voluntarily. Finally, the  
9 court notes that although the decision of the Honorable Judge McPhee has no precedential  
10 value, the facts of that case are not similar to the facts presented here since in the case cited,  
11 the applicable Judgment and Sentence at issue specifically waived costs and fees to the  
12 complaining party.

13 Because Mr. Boyd waived consideration of his other claims, and because this Court  
14 finds no violation of either the ICC or Mr. Boyd's Judgment and Sentence, the Court need not  
15 reach the issue of the running of the statute of limitations.

16 In summary, I am dismissing, by agreement of the parties, all claims asserted by Mr.  
17 Boyd relating to alleged violations of the Washington and/or United States Constitutions. I am  
18 further granting summary judgment to the Defendant on its cross motion, and dismissing  
19 Plaintiff's remaining complaint, finding that there was no violation of the Interstate  
20 Corrections Compact by the Washington State Department of Corrections in this case.

21 As the prevailing party, the Department should prepare an appropriate order for the court's  
22 signature.

23 Dated: February <sup>13</sup>~~4~~ 2009.

24  
25   
26 Anne Hirsch, Judge

27  
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**EXHIBIT-2**

FILED  
SUPERIOR COURT  
THURSTON COUNTY

'09 MAR 27 P 4:12

BY \_\_\_\_\_

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EXPEDITE  
 No Hearing Set  
 Hearing is Set:  
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HONORABLE ANNE HIRSCH

STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT

JAMES A. BOYD,  
  
Plaintiff,  
  
v.  
  
STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS,  
et al.,  
  
Defendants.

NO. 07-2-01175-4  
  
ORDER DENYING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT AND GRANTING  
DEFENDANTS' CROSS-MOTION  
FOR SUMMARY JUDGMENT

This matter having come on for hearing on January 16, 2009, and the court having considered the Plaintiff's Motion for Judgment on the Pleadings for Declaratory and Injunctive Relief, Defendants' Response to Motion for Judgment on the Pleading and Cross Motion for Summary Judgment and Memorandum in Support Thereof, Plaintiff's Objection and Response and Motion to Strike Defendants' Cross Motion for Summary Judgment and Memorandum in Support Thereof, and Plaintiff's Addendum in Support of Plaintiff's Objection and Response and Motion to Strike Defendants' Cross Motion for Summary Judgment and Memorandum in Support Thereof, and having heard the arguments of the parties, and being familiar with the file herein and having issued a memorandum opinion on February 13, 2009, does hereby find and **ORDER:**

1. Plaintiff's Motion for Summary Judgment is **DENIED**.
2. Defendants' Cross-Motion for Summary Judgment is **GRANTED**.

ORIGINAL

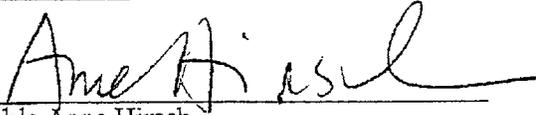
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3. Plaintiff's claims relating to alleged violations of the Washington and/or United States Constitution are **DISMISSED WITH PREJUDICE**.

4. Plaintiff's request for declaratory judgment, re-noted by the Court as a complaint is **DISMISSED WITH PREJUDICE**.

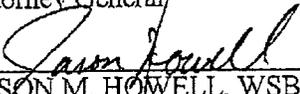
5. The Clerk of the Court is instructed to send uncertified copies of this Order to Plaintiff and counsel for Defendants.

DATED this 27 day of March, 2009.

  
\_\_\_\_\_  
Honorable Anne Hirsch  
Thurston County Superior Court Judge

Presented By:

ROBERT M. MCKENNA  
Attorney General

  
\_\_\_\_\_  
JASON M. HOWELL, WSBA #35527  
Assistant Attorney General

Approved as to Form Only:  
(Waiver of Presentment)

\_\_\_\_\_  
James Boyd, Plaintiff Pro Se

CERTIFICATE OF SERVICE

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I certify that I served a true and correct copy of the foregoing ORDER GRANTING DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT on all parties or their counsel of record as follows:

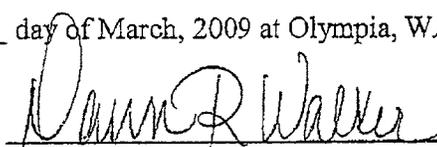
- US Mail Postage Prepaid
- United Parcel Service, Next Day Air
- ABC/Legal Messenger
- State Campus Delivery
- Hand delivered by \_\_\_\_\_

TO:

JAMES A. BOYD, DOC #700291  
MCNEIL ISLAND CORRECTIONS CENTER  
P.O. BOX 881000  
STEILACOOM, WA 98388

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 14<sup>th</sup> day of March, 2009 at Olympia, WA.

  
DAWN R. WALKER

**EXHIBIT-3**

Superior Court of the State of Washington  
For Thurston County

Paula Casey, Judge  
Department No. 1  
Thomas McPhee, Judge  
Department No. 2  
Richard D. Hicks, Judge  
Department No. 3  
Christine A. Pomeroy, Judge  
Department No. 4



2000 Lakemridge Drive SW, Building No. 2 • Olympia, Wa 98502  
Telephone (360) 786.5560 • Fax (360) 754-4060

Gary R. Tabor, Judge  
Department No. 5  
Chris Wickham, Judge  
Department No. 6  
Anne Hirsch, Judge  
Department No. 7  
Carol Murphy, Judge  
Department No. 8

July 22, 2009

James A. Boyd #700291  
McNeil Island Corrections Center  
PO Box 88900-B-131  
Steilacoom WA 98388-1000

Jason M. Howell  
Assistant Attorney General  
PO Box 40116  
Olympia WA 98504-0116

Re: *Boyd v. Clarke et al*  
Thurston County Cause No. 07-2-01175-4

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WASH  
09 JUL 23 PM 1:36  
BETTY J. GOULD, CLERK  
BY \_\_\_\_\_  
DEPUTY

LETTER OPINION

Dear Mr. Boyd & Mr. Howell:

This case last came before the court for hearing on cross motions for summary judgment, on January 16, 2009, at which time the court issued an oral ruling and directed the Defendant, as the prevailing party, to draft appropriate orders, submit them to Mr. Boyd for his review and signature, and then if uncontested, to the court for signature. Based on a letter the court later received from Mr. Howell, the court directed that the matter be placed on for hearing for entry of orders on the record. In that letter from the court, dated March 6, 2009, the court stated that it was in receipt of a premature motion for reconsideration filed by Mr. Boyd and that it would consider that motion after entry of written orders. The court further stated that although Mr. Boyd's motion for reconsideration was premature, the court would not require Mr. Boyd to refile his Motion for Reconsideration but that the court would entertain after written orders were signed. The hearing for entry of final orders took place on March 27, 2009 and the court did sign a written order

that date, denying Mr. Boyd's Motion and granting the state's cross Motion for Summary Judgment.

Regrettably this court did not have the file pulled again after that hearing and the court did not see the file again until today, when it was provided for review of Mr. Boyd's Motion for Praecept and accompanying Memorandum. Mr. Boyd accurately sets forth in his Memorandum the timing of the various hearings and actions in this case and the court reiterated them above. Mr. Boyd also provided a letter to the court in which he requests that the court address his matter without oral argument. The court is addressing both the previous Motion for Reconsideration (discussed above) and the current Motion for Praecept, in this letter opinion.

Motions for Reconsideration are governed by Local Rule 59 which specifically sets forth the standards the court must use.

#### **LCR 59 MOTIONS FOR RECONSIDERATION/REVISION**

(a) Motions for Reconsideration.

(1) *Procedures*

(A) *Civil and Criminal orders.* At the time a motion for reconsideration is filed, working copies of the motion, brief, affidavit, proposed order, and notice of issue shall be provided to the judge's judicial assistant. All briefs and materials in support of a motion for reconsideration shall be filed at the time the motion is filed. At the time of filing, the motion for reconsideration shall be noted for a hearing to be held within 14 days. Briefs and materials in opposition to a motion for reconsideration, and reply briefs and materials shall be filed in accordance with LCR 5(b)(2). Each judge reserves the right to strike the hearing and decide the motion without oral argument. At the time of filing, the clerk of the court shall provide a copy of the first page of all motions for reconsideration to the judicial assistant for the assigned judge.

....

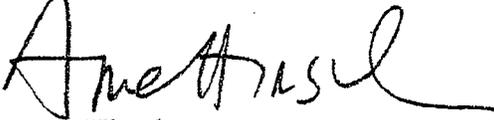
(2) *Timing.* A Motion for Reconsideration of a judicial officer's order must be filed and served within 10 days after the written order is entered.

(B)(3) *Standards.* Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence. (emphasis added)

All Parties  
July 22, 2009  
Page 3 of 3

Plaintiff requests that the court reconsider its Order Denying his Motion for Summary Judgment and granting the Department's cross motion. Under the court rule, Motions for Reconsideration must have merit and not merely be an attempt by a party to reargue its case. Although Plaintiff does not agree with the court's decision, he has shown no manifest error in the court's ruling, or shown new facts or legal authority which it could not have brought to the court's attention earlier with reasonable diligence. Rather, the Plaintiff is re-arguing the claims made in its brief and in court, all of which the court considered in making its initial ruling. The court thus finds no basis for reconsidering its ruling, or the reasons relied on for it. The court is satisfied its rulings are supported by the record, the required standards of review and the applicable case law. The Plaintiff's motion for reconsideration is therefore denied.

Very truly yours, -

A handwritten signature in black ink, appearing to read "Anne Hirsch". The signature is fluid and cursive, with a long horizontal stroke at the end.

Anne Hirsch  
Judge

AH/tw

c: court file

0-000000011

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that two true and correct copies of the foregoing Appellant's Supreme Court Brief, was placed in the United States Mail, first class postage prepaid, addressed to the following named, this 25<sup>th</sup> day of November 2009.

Deputy Clerk Of The Supreme Court  
Supreme Court Of Washington  
C/O Susan L. Carlson  
415 12th Avenue S.W.  
P.O. Box 40929  
Olympia, Washington 98504-0929

Respectfully Submitted



James A. Boyd #700291  
WSR/MCC P.O. Box 777  
Monroe, Washington 98272-0777

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that two true and correct copies of the foregoing Appellant's Supreme Court Brief, was placed in the United States Mail, first class postage prepaid, addressed to the following named Attorney General, this 25<sup>th</sup> day of November 2009.

Attorney General's Office  
C/O Douglas W. Carr, WSBA #17378  
Criminal Justice Division  
P.O. Box 40116  
Olympia, Washington 98504-0116

Respectfully Submitted James A. Boyd #700291  
James A. Boyd #700291  
WSR/MCC P.O. Box 777  
Monroe, Washington 98272-0777