

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

2
3 **James A. Boyd,**
4 **Petitioner/Appellant,**

40411-7-II
5 **Supreme Court No. 83530-6**
6 **Superior Court No. 07-2-01175-4**

7 **v.**

8 **Appellant's Objections And Reply**
9 **Brief pursuant to RAP 10.3(c):**

10 **Accountant D. Lewis And**
11 **Washington Dept. of Corrections,**
12 **Respondent/Appellees'.**

13 **I. OBJECTION AND REPLY**

14 COMES NOW James A. Boyd, Appellant pro se, a Kansas
15 Interstate Corrections Compact Prisoner housed in Washington State,
16 and do submit the following Appellant's Objection and Reply Brief.

17 July 2007, Appellant originally filed a Writ of Review for
18 Declaratory Judgment and Injunctive Relief, pursuant to RCW 7.16 et
19 seq., and RCW 72.74.040, and pursuant to Washington State
20 Constitution Article 4, sec. 6, and 20 and Complaint for Damages for
21 Unlawful Seizure of Money and Violation of State and Federal Laws
22 RCW 2.08.010., against the above captioned WDOC officials and the
23 Washington Department of Corrections. At "no time" did Appellant
24 file a 42 U.S.C. §1983 complaint in the Thurston County Superior
25 Court in this instant cause.

26
27 Appellant petitioned the Thurston County Superior Court that
28 the above captioned Appellees' jointly arbitrarily and capriciously
29 subjected the Appellant to 35% deductions from his money/property
30 received from family and friends, in addition to his wages or
 gratuities, 5% deduction for crime victims compensation and 20%

1 deduction for costs of incarceration, pursuant to RCW 72.09.111 and
2 RCW 72.09.480 and RCW 72.09.015(11).

3
4 Appellant submits that Washington State Statutes RCW
5 72.74.020(4)(c) in agreement with Kansas State Statutes KSA
6 76.3002(4)(c), on it's face clearly provide that the Appellees' do not
7 have proper jurisdiction to make such illegal deductions from
8 Appellant's money/funds received from family and friends, in addition
9 to his wages or gratuities, 5% deduction for crime victims
10 compensation and 20% deduction for costs of incarceration; and
11 furthermore the Appellees' only act "solely as agents" for the Kansas
12 Department of Corrections, pursuant to Washington State Statutes
13 RCW 72.74.020(4)(a) in agreement with Kansas State Statutes KSA
14 76.3002(4)(a).

15 R.C.W. 72.74.020-(4)(c)

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

19 R.C.W. 72.74.020-(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 K.S.A. 76-3002-(4)(c)

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

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

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

29 The crust of this case lies purely in the jurisdiction, and who is
30 the proper and legal custodian of Mr. Boyd. This is not a case where
case laws should decide what laws should be applied to the Appellant.

1 The question presented before this Supreme Court is; Who's
2 jurisdiction is the prevailing authority when both laws Washington
3 and Kansas are in agreement?
4

5 It is a fact as Attorney General, Mr. Carr states; The Appellant
6 is no longer in Kansas. The question here is, does the Appellant have
7 to be located in Kansas for Kansas laws to apply to him?

8 The Supreme Court of Washington in it's wisdom is the proper
9 forum to decide what is proper and what is legal when there is an open
10 dispute of law. The Defendants' whole case is based on the first part
11 of RCW 72.74.020(4)(e);

12 R.C.W. 72.74.020-(4)(e),

13 (e) All inmates who may be confined in an institution
14 pursuant to the provisions of this compact shall be
15 treated in a reasonable and humane manner and shall
16 be treated equally with such similar inmates of the
17 receiving state as may be confined in the same institution.

18 And the Appellant's case is based on the second part of R.C.W.
19 72.74.020-(4)(e) and KSA 76-3002(4)(e);

20 The fact of confinement in a receiving state shall not deprive
21 any inmate so confined of any legal rights which said inmate
22 would have had if confined in an appropriate institution of the
23 sending state.

24 Here we have a clear case of two constructions regarding the
25 interpretations of language in both R.C.W. 72.74.020-(4)(e) and KSA
26 76-3002(4)(e), State Statutes of Washington and Kansas.

27 The Appellees arbitrarily and capriciously assert that the
28 Appellant is subject to 35% deductions from his money/property
29 received from family and friends, in addition to his wages or
30 gratuities, 5% deduction for crime victims compensation and 20%
deduction for costs of incarceration, pursuant to RCW 72.09.111 and

1 RCW 72.09.480 and RCW 72.09.015(11), because he is confined in a
2 Washington prison facility.

3 The Appellant asserts KSA 75-52,139-Article 52-Department of
4 Corrections, and Kansas Department of Corrections Regulations-Internal
5 Management Policy And Procedure-III-Processing of Administrative Fees-
6 KAR 44-5-115(a), are the applicable laws and regulations which govern Mr.
7 Boyd regarding any deductions of any type regarding fees from Boyd's
8 money/property in his offender trust account while incarcerated in the State
9 of Washington.

10 As indicated earlier, the Appellees' jointly arbitrarily and capriciously
11 and illegally subject the Appellant to 35% deductions from his
12 money/property received from family and friends, in addition to his wages
13 or gratuities, 5% deduction for crime victims compensation and 20%
14 deduction for costs of incarceration, pursuant to RCW 72.09.111 and RCW
15 72.09.480 and RCW 72.09.015(11), which is clearly unlawful according to
16 Both Washington and Kansas laws.

17 The Appellees' seek to confuse the real issue of jurisdiction in the
18 instant case stating that Appellant does not assert or argue that Washington
19 State's deduction statutes are unlawful or that on their face they do not
20 apply to him. (See page 4 of Appellee's Answering Brief) Kansas laws and
21 regulations KSA 75-52,139-Article 52-(IMPP)-KAR-44-5-115(a), clearly
22 conflicts with Washington's deductions and provides that Kansas Secretary
23 of Corrections shall deduct one dollar each payroll from Appellant, not to
24 exceed \$12.00 dollars per year. (See Appellant's Attachment-A-at-page-7)

25 The Appellees further seek to confuse the real issues in the instant
26 case by presenting piecemeal evidence (Appellees' Appendix 1) seeking to
27 give the elusion that KSA 75-52,139 does not make Washington's deduction
28 laws unlawful under the Interstate Corrections Compact laws in
29 Washington. It would be an injustice for Kansas laws not to be applicable
30 over Washington's laws when both states give jurisdiction to the sending
state pursuant to R.C.W. 72.74.020-(4)(c) and KSA 76-3002(4)(c).

1 It is pertinent that Appellant present a complete picture of the laws
2 and regulations that give authority to the Kansas Secretary of Corrections
3 adoption of regulations regarding Kansas offenders payment of fees, and
4 that Kansas laws and regulations should be the only jurisdiction Appellant
5 is subject to deductions.

6 Appellant request that this court accept Appellant's (Attachment-A)
7 pursuant to RAP Title 9.11(1) and (2) (Additional Evidence On Review),
8 which is pertinent to this case to clarify the deductions in WDOC, and the
9 deductions in KDOC.

10 The Kansas Secretary of Corrections adopts rules and regulations for
11 Kansas offenders to pay fees or deductions supported by Kansas Statutes,
12 K.S.A. 75-52,139-Article 52.-Department of Corrections, applicable to Mr.
13 Boyd pursuant to Kansas Department of Corrections Regulations-Internal
14 Management Policy And Procedure-III-Processing of Administrative KAR
15 44-5-115(a)--"Each inmate in the custody of the secretary of corrections
16 shall be assessed a charge of one dollar each payroll period, not to exceed
17 \$12.00 per year, as a fee for administration by the facility of the inmate's
18 trust account." (See Attachment- A-pages 1 and 7) (Also see Attachment-A
19 pages 9 and 10 at (a), (f) and (g))

20 Kansas State case laws support Washington State and Kansas State
21 regarding the jurisdiction of Mr. Boyd and what jurisdictional laws and
22 regulations apply to Mr. Boyd and his legal rights. (Also See, Lynn v.
23 Simmons 95 P.3d 99, 102 at [2] inmates confined in another state "shall at
24 all times be subject to the jurisdiction of the sending state." K.S.A. 76-
25 3002, Article IV(c). (Kan.App. 2003)

26 (Also See Most Recently, James A. Boyd v. Roger Werholtz, ___ Kan.
27 App.2d ___, 195 P3d 793 (2008), Affirmed November 14, 2008, by Kansas
28 State Court Of Appeals) ("Under the Interstate Corrections Compact,
29 K.S.A. 76-3002, Article IV(c), prison inmates confined in another state are
30 subject to the jurisdiction of the sending state.)

Appellees' violated Boyd's 14th Amendment Constitutional right and

1 Washington State Constitutional right Art. I,§3 ("No person shall be
2 deprived of life, liberty, or property, with out due process of law"), and
3 illegally applied Washington State Laws R.C.W. 72.74.020-(4)(e), to
4 Boyd's disadvantage, which subjected Boyd to RCW 72.09.111 and
5 RCW 72.09.480 and RCW 72.09.015-(11), 35% deductions from his
6 money/property received from family and friends and earned pay just
7 because he is confined in a Washington prison facility.

8 At no time in the proceedings of the Thurston County Superior Court
9 oral arguments did Boyd abandon or waive his 14th Amendment
10 Constitutional rights and Washington State Constitutional rights Art. I,§3
11 ("No person shall be deprived of life, liberty, or property, with out due
12 process of law"). It appears that Honorable Judge Hirsch and Attorney
13 General Douglass Carr put words in the Appellants' mouth which he did not
14 say. Mr. Carr does not present any evidence or copies of the oral
15 arguments to dispute what the Appellant actually said; Mr. Boyd requested
16 orally before the Thurston County Superior Court that he be allowed to
17 pursue his "Writ for Declaratory Judgment and Injunctive Relief". This can
18 be verified by the Thurston County Superior Court records if necessary.

19 Kansas State Laws clearly define that Kansas Department of
20 Corrections, Secretary of Corrections (Roger Werholtz) has jurisdiction
21 regarding deductions of Administrative Fees from Kansas inmates pursuant
22 to K.S.A. 75-52,139, (which is \$12.00 per year from work wages).

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

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

25 Article 52.--Department Of Corrections

26 75-52,139. Secretary adopts rules an regulations for
27 offenders to pay fees. The secretary of corrections is hereby
28 authorized to adopt rules and regulations under which
29 offenders in the secretary's custody may be assessed fees
30 for deductions for payment to the crime compensation funds.

The Appellees can not lawfully make deductions from

1 Appellant's account because such deductions deprive Appellant of
2 legal rights he would have if he were confined in an appropriate
3 facility in KDOC; such as, K.S.A. 75-52,139-Article 52.-Department
4 of Corrections, applicable to Mr. Boyd pursuant to Kansas Department
5 of Corrections Regulations-Internal Management Policy And
6 Procedure-III-Processing of Administrative KAR 44-5-115(a),
7 "Each inmate in the custody of the secretary of corrections shall be
8 assessed a charge of one dollar each payroll period, not to exceed
9 \$12.00 per year, as a fee for administration by the facility of the
10 inmate's trust account." (See Attachment-pages, A-1 and 7)

11 Furthermore, if this court allowed the Appellees to continue
12 such unlawful deductions from Appellant's account, it would mean
13 deductions from Appellant's money/property in both KDOC and
14 WDOC.

15 Also, it should be noted that the Appellant does not have a
16 victim in Washington, therefore Appellant's victim in Kansas would
17 never receive any benefits from Washington's deductions from
18 Appellant for victim compensation, which appears to be a case of
19 deductions under false pretense. It would be logical to assume that
20 this is why KDOC has their own laws and regulations for victim
21 compensation and deductions of other fees.

22 The Appellees have attempted to distort the issue before this
23 court by juggling terms such as punishment, fees, debt, assessments
24 and deductions to support the erroneous notion that the Kansas laws
25 and regulations do not provide the Appellant any rights that conflict
26 with the mandatory deductions applied to WDOC inmates.

27 The Appellees central argument is that notwithstanding the fact
28 that they have entered into a legal contract to an equal exchange of
29 prisoners as compensation for the costs of plaintiff's incarceration
30 with WDOC and therefore have been adequately reimbursed for such a
contract mandates that plaintiff not be deprived of any legal rights

1 which he would have had if confined in a Kansas prison facility and
2 the Washington state and United States Constitutions proscriptions
3 against the confiscation of personal property without due process of
4 law as well as the clear and unambiguous language of Kansas
5 jurisdiction, and Kansas laws and regulations entitling Appellant to
6 the right not to pay mandatory deductions twice, under both Kansas
7 and Washington.

8 To support their argument to subject Appellant to illegal
9 deductions, Appellees rely upon case law from the state of Kansas ,
10 Iowa, Utah, and other states that deal with an Interstate Corrections
11 Compact that has totally different language from the one in question
12 before this court, they address different issues of institutional policy
13 such as disciplinary rules, classification, visitation, prison wages, and
14 grooming, none of these cases involve the taking of funds by a state
15 agency from a Kansas inmate's account without due process of law.
16 (See Appellees Answer Brief at page 8)

17 Therefore, all of the cases cited by the Appellees are not
18 applicable to the issues presently before this court. Appellant submits
19 that his argument is grounded on the principles in articles 14 of the
20 United States Constitution which provides in part that ...No state
21 shall...deprive any person of life, liberty, or property without due
22 process of law; and correspondingly article I § 3 of the Washington
23 state Constitution which provides that, No person shall be deprived of
24 life, liberty, or property without due process of law.

25
26 To allow a state agency in a foreign jurisdiction determine the
27 amount or payment schedule of Cost of Incarceration and Crime
28 Victim Compensation would be to unlawfully delegate the legislative
29 functions of the Kansas legislators. Therefore the Appellees had no
30 independent authority to in effect override powers of the Kansas

1 Secretary of Corrections that are exclusive to the Kansas State
2 Legislator and Governer.

3 RCW 72.74.020(4)(e) expressly provides that I am entitled to
4 the benefits of my rights notwithstanding the fact of my incarceration
5 under contract in Washington state. In a Kansas facility only \$12.00
6 dollars per year is deducted from my account funds/property, pursuant
7 to KAR 44-5-115(a)-Service Fees. (See Attachment A-pg. 7) These
8 deductions are supported by Kansas laws. (See Attachment A-pg. 1
9 and 9 and 10 at (a)-(f)-(g))

10 Appellant benefits from Kansas laws because he is charged less
11 deductions in a Kansas facility, and Washington charges more. The
12 Appellees attempt to apply the Interstate Corrections Compact laws in
13 piecemeal fashion arguing that it requires Boyd to be treated equally
14 to WDOC inmates. While this may be true with respect to housing,
15 food, programs, disciplinary actions etc., when it comes to issues that
16 impact Boyd's Kansas State rights such as whether or not I am
17 required to pay Cost of Incarceration and Crimes Victim
18 Compensation this is simply outside the boundaries of WDOC's
19 authority. Pursuant to the laws of both Kansas and Washington, it is
20 the jurisdiction of the sending state (Secretary of Corrections) to
21 deduct fees from Boyd's account.

22 If the court were to adopt the argument advanced by the
23 Appellees Boyd would be entitled to for example the same earned
24 good-time credits as Washington state prisoners. It is obvious in this
25 case Washington good-time credit laws would significantly reduce
26 Boyd's sentence, but in reality Washington does not make these laws
27 applicable to Boyd.

28 The Appellees violated Appellant's due process rights when they
29 confiscated funds deposited by outside sources from his account
30 without affording him an opportunity to be heard as to the
unlawfulness of such deductions. The Appellees policies that purport

1 to take a Kansas State prisoners private resources cannot be
2 implemented without first granting Appellant an opportunity to
3 protect his interest from unreasonable deprivation. The Appellees do
4 not assert or argue that they afforded Appellant any such opportunity.
5 What Appellees assert is that the Appellant abandoned or waived his
6 United States Constitutional and Washington State Constitutional
7 rights. This statement is inaccurate and far from the truth. As
8 indicated earlier, the Honorable Judge Hirsch and Attorney General
9 Douglass Carr put words in the Appellants' mouth which he did not
10 say. Mr. Carr does not present any evidence or copy (printed
11 transcript) of his theory what Appellant said to support Appellees'
12 accusation before this court. Mr. Boyd requested orally before the
13 Thurston County Superior Court that he be allowed to pursue his "Writ
14 for Declaratory Judgment and Injunctive Relief". Appellees also state
15 that the Appellant did not allege or demonstrate the Superior Court's
16 determination that Appellant waived his constitutional claims and
17 arguments was factually inaccurate or legally improper. (See
18 Appellees Answering Brief page 10)

19 Appellant did make objections to the Honorable Judge Hirsch's
20 statement that Appellant waived his Constitutional claims, this
21 objection can be verified in "Plaintiff's Motion For Reconsideration".
22 The Appellant stated in his Motion For Reconsideration that no where
23 on the court's records did "Plaintiff make a statement that he waived
24 his constitutional rights". As indicated earlier, Appellant requested
25 that he be allowed to pursue his "Writ for Declaratory Judgment and
26 Injunctive Relief". This can be verified by Plaintiff's Motion For
27 Reconsideration and the Thurston County Superior Court Records.
28

29 This particular case describes Boyd's case at best; Harry J.
30 Whitman v. State of Washington, et al., Court Opinion No.05-2-
02279-2, (Judge Wm Thomas McPhee), page 6, at 11 thru 13, February

1 25, 2008, (However, in this matter, the Department is acting "solely as
2 an agent for the sending state". R.C.W. 72.74.020(4) (a). The legal
3 rights protected in R.C.W. 72.74.020(4) (e), are rights defined in the
4 sending state.)

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

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

11 R.C.W. 72.74.020-(3) (v) (b)
12 (3)(v) (b) The terms and provisions of this compact shall
13 be a part of any contract entered into by the authority
14 of or pursuant thereto, and nothing in any such contract
15 shall be inconsistent therewith.

16 CONCLUSION

17 Based on the foregoing facts and laws, if this Court does not
18 accept review to examine the merits of Mr. Boyd's claim, at minimum,
19 it should accept review and Summarily reverse and remand to the
20 Court of Appeals for consideration by a panel of Judges or reversed
21 and remanded back to the Thurston County Superior Court for the
22 State of Washington with directions to grant Mr. Boyd's Declaratory
23 Judgment and Injunctive Relief petition with requested relief.

24 (Oral arguments are not requested unless this court deems necessary.)

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

27 Date 14th day of January, 2010.

28
29 Respectfully Submitted,

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

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

James A. Boyd,
Petitioner/Appellant,

Supreme Court No. 83530-6
Superior Court No. 07-2-01175-4
Appellant's Additional Authorities
In Support Of Appellant's Objections
& Reply Brief, pursuant to RAP 10.8

v.

Accountant D. Lewis And
Washington Dept. of Corrections,
Respondent/Appellees'

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I. ADDITIONAL AUTHORITY

COMES NOW James A. Boyd, Appellant pro se, a Kansas Interstate Corrections Compact Prisoner housed in Washington State, and do submit the following Appellant's Additional Authorities In Support Of Appellant's Objection and Reply Brief, pursuant to RAP 10.8.

Respondent's state in Respondent's Answering Brief Of Appellees page 17, "Because RCWs 72.09.111 and 72.09.480 do not impose criminal penalties, the rule of lenity does not apply to them."

Appellant objectives to Appellee's statement and submits the following additional authority supporting the Appellant's case before this court alleging Appellees ambiguous application of RCW 72.74.020(4)(e). Appellant submits the following additional authority case law that applies to criminal cases, and civil complaints also. Appellees apply half of RCW 72.74.020(4)(e), while excluding the other half that applies to the Appellant's legal rights that he would have if incarcerated in Kansas.

U.S. v. Husted, 545 F3d 1240, 1245 at [5] (10th Cir. 2008

The government also wishes that we read the broad purpose in the preamble of the Adam Walsh Act to contradict the plain meaning of §2250(a) (B).

When a statute is unambiguous, however, we must apply its plain meaning except in the rarest of cases; after all, there can be no greater statement of legislative intent than an unambiguous statute itself. Holland v. Dist. Court, 831 F2d 940, 943 (10th Cir. 1987) ("What a legislature says in the text of a statute is considered the best evidence of legislative intent or will.") (quotation omitted)).

Appellant request that the court accept this additional authority in support of Appellant's case before this court.

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

Date 18th day of January, 2010.

Respectfully Submitted,

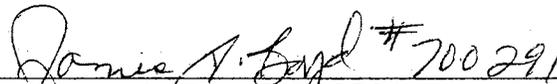

James A. Boyd #700291
WSR/MCC P.O. Box 777
Monroe, Wa. 98272-0777

CERTIFICATE OF SERVICE

The undersigned hereby certifies that two true and correct copies of the foregoing Appellant's Additional Authority In Support Of Appellant's Reply Brief, pursuant to RAP 10.8, was placed in the United States Mail, first class postage prepaid, addressed to the following named, this 18th of January 2010.

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

 #700291

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 Additional Authority In Support Of Appellant's Reply Brief, pursuant to RAP 10.8, was placed in the United States Mail, first class postage prepaid, addressed to the following named Attorney General, this 18th day of January 2010.

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

ATTACHMENT-A

Kansas Legislature

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75-52,139

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

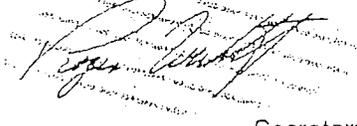
Article 52.--DEPARTMENT OF CORRECTIONS

75-52,139. Secretary adopts rules and regulations for offenders to pay fees. The secretary of corrections is hereby authorized to adopt rules and regulations under which offenders in the secretary's custody may be assessed fees for various services provided to offenders and for deductions for payment to the crime victims compensation fund.

History: L. 1994, ch. 227, § 10; July 1.

Pg - (1)

KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER	PAGE NUMBER
		04-106	1 of 7
Approved By:  Secretary of Corrections		SUBJECT:	
		FISCAL: Offender Fees	
		Original Date Issued:	12-07-98
		Current Amendment Effective:	10-10-05
		Replaces Amendment Issued:	11-07-04

POLICY

Offender fees shall be assessed for costs imposed by the Department of Corrections or as ordered by the courts. All offender fees will be made a part of a Central Office fee file, which will remain open throughout the offender's period of incarceration and post-incarceration supervision. Any outstanding fees/charges from a previous incarceration or post-incarceration shall be assessed upon the offender's re-entry into departmental custody.

The Director of Information Technology shall establish procedures for the automated processing of offender fees. Fees, fines, and other payments shall be collected in the order of priority and in accordance with procedures contained in this IMPP. The procedure shall require that fees be paid in full at one time, unless partial collection is requested by court order. Each offender shall be provided a listing of any outstanding fees as part of the Inmate Trust Fund Accounting Report, per IMPP 04-103.

DEFINITIONS

Administrative fee: A fee, based on a maximum annual dollar amount established by K.A.R. 44-5-115, charged for the administering of inmate trust fund accounts.

Federal filing fee: A docket fee assessed by the courts for filing a civil action or to appeal a judgment in a civil action or proceeding.

Mandatory Savings: A savings account in which 10% of incoming monies less any outstanding obligations, and a specified portion of inmate earnings from work release or private industry employment is deposited and maintained until the inmate's release from custody. The use of the funds in the account is restricted to payment of garnishment.

Medical fee: A fee assessed for each primary visit initiate by an inmate to a facility sick call.

Primary visit: The initial visit to the facility health authority by an inmate for a specific complaint or condition, as outlined in K.A.R. 44-5-115.

State filing fee: An initial fee, established and assessed by the court through a court order, for the filing of a civil action, or, to appeal a judgment in a civil action or proceeding. The remaining balance of the docket or filing fee may be assessed by the court if the case is determined to be frivolous.

Urinalysis fee: A fee assessed for each urinalysis, which has a positive result, administered to an offender for the purpose of determining the use of illegal substances.

Urinalysis Confirmation fee: A fee assessed for a positive result GCMS test as outlined in IMPP 12-124.

PROCEDURES

I. General Facility Collection Procedures

- A. The fee record shall be created by the entry of a fee, which is assessed in the inmate's name.
- B. When an inmate is returned to the custody of the Department any charges from a previous incarceration shall be included in the inmate's fee file as outstanding obligations in addition to any outstanding urinalysis fees and supervision fees assessed while the offender was under post-incarceration supervision.
 1. An automated search for outstanding fees from an inmate's previous incarceration shall be performed.

II. Procedures for the Automated Collection of Fines, Fees, and Payments (ACI#3-4044)

- A. The KDOC Information System and Communications section staff shall be responsible to initiate a routine process of the computer to determine if any outstanding fees exist and to determine the available of funds in the respective inmate's fund account.
 1. The computer shall collect fees, fines, and other payments in the following priority:
 - a. Money orders posted to the wrong accounts, and/or canteen errors;
 - b. Postage for legal mail (as per IMPP 12-127);
 - c. Urinalysis fees, urinalysis confirmation fee, administrative fees, medical fees and/or supervision fees;
 - d. Fines;
 - e. Disciplinary restitution;
 - f. Room and Board, and transportation obligations incurred while employed by a private industry (as per IMPP 04-109);
 - g. Work release loans, work release other expenses, room and board, and transportation obligations incurred while employed in traditional work release (as per IMPP 04-109);
 - h. Crime victims or court ordered restitution obligations incurred while employed by a private industry and/or in traditional work release (as per IMPP 04-109);
 - i. State or federal initial or frivolous filing fees; and/or,
 - j. Inmate badges, padlocks, non-legal postage, court-ordered restitution on escapes, UPS, copies, issued clothing not turned in on release and/or TDY charges for hearing impaired inmates..
- B. Fees shall be automatically collected, as per the above priority, in accordance with the dates the fees were incurred or assessed against the inmate's/offender's account. Fees incurred or assessed at a later date may be collected first if the inmate's account does not contain sufficient funds to satisfy an earlier established fee.
 1. If the inmate lacks the funds to pay the first fee incurred/assessed, the computer shall search through the fees incurred/assessed and the available funds until it determines that an adequate amount is available to pay the entire amount of a later fee.

- a. Partial payment of fees shall not be made unless requested by court order.
 2. The computer shall search all locations and facility banking records to determine if the inmate has other accounts from which the fee might be paid and automatically collect payment for the fees if funds are available to satisfy any outstanding fees.
 3. The computer program shall freeze inmates accounts if fees remain unpaid to permit monies to accumulate in the account sufficiently to enable the eventual payment of the fee.
- C. In accordance with IMPP 04-103, inmates shall receive a monthly computer printed statement of any banking account activity, which shall reflect the date and amounts of the automated transactions on their account. The monthly statement shall include a complete list of outstanding fees, fines, and other required payments assessed against the account.

III. Processing of Administrative Fees

- A. The Information Systems and Communications section shall be responsible to run the computer program which automatically assesses the administrative fee on the first working day of each month for any inmate who has a trust fund account at his/her current location.
- B. By the tenth calendar day of the month, each facility shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt Voucher depositing the total of the administrative fees collected for the previous month into the Crime Victims Compensation Fund.
 1. A copy of the Receipt Voucher must be submitted to the KDOC Central Office Fiscal Services section for the maintenance of system-wide totals of monies paid to the Crime Victims Compensation Fund.

IV. Processing of Medical Fees

- A. The facility health care staff shall be responsible to enter each inmates' billable visits to sick call which shall create a fee in the individual inmate fee file.
 1. The fees assessed should correspond with the dated information entered on the bottom half of the inmate's copy of the Medical Request Form, as provided/approved by the departmental health authority.
- B. By the tenth calendar day of the month, each facility shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt Voucher depositing the total of the medical fees collected for the previous month into the Department of Corrections General Fee Fund.
 1. A copy of the Receipt Voucher must be submitted to the KDOC Central Office Fiscal Services section for the maintenance of system-wide totals of monies collected as an offset to the cost of the medical services contract.
- C. In the event that the assessment of a medical fee is overturned during the grievance process, the facility's business office staff shall reverse the medical fee in the offender fee file which shall cause the computer to automatically deposit a refund of the fee into

the specified inmate's trust account if the fee had been paid, or to eliminate the outstanding fee against the trust account.

1. If the medical fee had been collected and deposited into the State General Fund, the repayment of the fee to the inmate's trust account shall be reflected as a credit against the collections of the current month medical fees.

V. Processing of Inmate Urinalysis (UA) and Urinalysis Confirmation Fees

- A. Facility staff and/or contract personnel, as designated by the warden and/or contractor, shall be responsible for the entry of all inmate urinalysis test results into the computer.
- B. The fee for each urinalysis test having a positive result shall be assessed upon the completion of the confirmation test.
 1. Upon a subsequent finding of not guilty or a dismissal in any directly related disciplinary case, the facility disciplinary administrator shall take appropriate steps to ensure that the inmate is reimbursed the related fee.
- C. Monthly, all monies collected from the fee for positive urinalysis results, incurred at a facility, shall be deposited in each of the respective facility's General Fee Fund to be used to defray the costs incurred in administering urinalysis tests.
 1. By the tenth calendar day of the month, each facility shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt voucher depositing the total of the urinalysis fee, incurred while on post-release supervision, into the Supervision Fee Fund; and,
 2. A copy of the Receipt Voucher must be submitted to the KDOC Central Office Fiscal Services section for the maintenance of system-wide totals of monies collected.
- D. In the event that the assessment of a UA fee is overturned during the grievance process, the facility's business office staff shall reverse the UA fee in the offender fee file which shall cause the computer to automatically deposit a refund of the fee into the specified inmate's trust account if the fee had been paid, or to eliminate the outstanding fee against the trust account.
 1. If the urinalysis fee had been collected and deposited into the facility's General Fee Fund, the repayment of the fee shall be made by a check drawn against the General Fee Fund local bank account which shall be deposited into the inmate's trust account.
 2. If the urinalysis fee had been collected and deposited into the Supervision Fees Fund, the repayment of the fee to the inmate's trust account shall reflect as a credit against the collections of the current month urinalysis fees incurred while on supervision.

VI. Processing of Urinalysis (UA) Fees for Offenders on Post-Incarceration Supervision

- A. The policy and procedures for the collection of fees for positive results of urinalysis tests are contained in IMPP 14-107 and 14-112.

VII. Processing State Filing Fees

- A. State Filing Fees (Without a Poverty Affidavit)
 1. The entire docket fee for filing a state civil lawsuit is required if the inmate does not file a poverty affidavit with the lawsuit. The fee for such a filing shall be entered into the computer by facility business office staff and automatically assessed during the routine computer run for available funds in the inmate's trust account. The computer generated check for the filing fee shall accompany the lawsuit papers filed by the inmate and forwarded to the appropriate court by the facility business office staff.

B. State Filing Fee (With a Poverty Affidavit)

1. Inmates who are unable to pay the filing fee must make a request to the facility business office for a Poverty Affidavit to accompany lawsuits filed in state courts. The facility business office staff shall cause the computerized Poverty Affidavit to be printed and include it with the lawsuit papers provided by the inmate for the appropriate court.
2. When the inmate has filed a poverty affidavit in the district court in which the civil lawsuit(s) have been filed the court will establish a filing fee or docket fee.
 - a. The facility business office staff shall enter the filing fee into the state civil service lawsuit file upon receipt of the court order.
3. An additional fee, which is the filing fee less the initial filing fee, may be assessed by the court if the case is determined to be frivolous.
 - a. The facility business office staff shall enter the additional fee in the state civil service lawsuit file upon the receipt of the court order.
4. When the fee(s) has been automatically assessed through the computer's nightly run process, the facility business office staff shall remit the filing fees to the appropriate court.

C. Court orders on outstanding state filing fees shall be forwarded to the receiving facility in the event of an inmate's intra-system transfer or transfer to the Larned State Security Hospital.

D. If the inmate is transferred under the Interstate Corrections Compact Agreement, the facility business office shall notify the court of the inmate's location.

1. The Court shall be notified of the inmate's transfer only if the court order specifically designates a specific employee at the inmate's current location to collect the filing fee.

VIII. Processing Federal Filing Fees

A. Initial filing fee

1. Federal law requires inmates who file lawsuits in federal court to make partial payments. Utilizing the poverty affidavit the court calculates the initial partial payment and issues a court order to the inmate allowing 30 days to remit the filing fees or object to the initial filing fee. If the inmate chooses to pay the initial fee:
 - a. The inmate is required to submit a Special Purchase Order (SPO), together with a copy of the court order, to the facility business office.
 - b. Upon receipt of the SPO, the business office staff shall enter the federal filing fee into the computer when sufficient funds exist to pay the initial filing fee. A check shall be issued to the court for the initial partial payment.

B. Subsequent partial payments

1. Upon payment of the initial filing fee, the federal court will issue a court order to the facility requesting monthly payments based upon a percentage of the preceding month's income credited to the inmate's account.
 - a. The business office staff shall enter the filing fee upon receipt of the court order.

44-5-114 (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; effective May 1, 1984; revoked March 22, 2002.)

44-5-115 Service fees.

(a) Each inmate in the custody of the secretary of corrections shall be assessed a charge of one dollar each payroll period, not to exceed \$12.00 per year, as a fee for administration by the facility of the inmate's trust account. The facility shall be authorized to transfer the fee from each inmate's account from the balance existing on the first of each month. If an inmate has insufficient funds on the first of the month to cover this fee, the fee shall be transferred as soon as the inmate has sufficient funds in the account to cover the fee. All funds received by the facility pursuant to this subsection shall be paid on a quarterly basis to the crime victims' compensation fund.

(b) (1) Each offender under the department's parole supervision, conditional release supervision, postrelease supervision, and interstate compact parole and probation supervision in Kansas shall be assessed a supervision service fee of a maximum of \$25.00 dollars per month. This fee shall be paid by the offenders to the department's designated collection agent or agents. Payment of the fee shall be a condition of supervision. All fees shall be paid as directed by applicable internal management policy and procedure and as instructed by the supervising parole officer.

(2) A portion of the supervision service fees collected shall be paid to the designated collection agent or agents according to the current service contract, if applicable. Twenty-five percent of the remaining amount collected shall be paid on at least a quarterly basis to the crime victims' compensation fund. The remaining balance shall be paid to the department's general fees fund for the department's purchase or lease of enhanced parole supervision services or equipment including electronic monitoring, drug screening, and surveillance services.

(3) Indigent offenders shall be exempt from this subsection of the regulation, as set forth by criteria established by the secretary in an internal management policy and procedure.

(4) The fees authorized by subsection (d) of this regulation shall not be considered a portion of the monthly supervision service fee.

(c) Each inmate in the custody of the secretary of corrections shall be assessed a fee of \$2.00 for each primary visit initiated by the inmate to an institutional sick call. A primary visit shall be the initial visit for a specific complaint or condition. Inmates shall not be charged for the following:

- (1) Medical visits initiated by medical or mental health staff;
- (2) institution intake screenings;
- (3) routinely scheduled physical examinations;
- (4) clinical service reports, including reports or evaluations requested by any service provider in connection with participation in the reentry program;
- (5) evaluations requested by the Kansas parole board;
- (6) referrals to a consultant physician;
- (7) infirmary care;

- (8) emergency treatment, including initial assessments and first-aid treatment for injuries incurred during the performance of duties on a work detail or in private industry employment;
- (9) mental health group sessions;
- (10) facility-requested mental health evaluations;
- (11) follow-up visits initiated by medical staff; and
- (12) follow-up visits initiated by an inmate within 14 days of an initial visit.

No inmate shall be refused medical treatment for financial reasons. If an inmate has insufficient funds to cover the medical fee, the fee shall be transferred as soon as the inmate has sufficient funds in the account to cover the balance of the fee.

(d) Each offender shall be assessed a fee for each urinalysis or other test approved by the secretary of corrections that is administered to the offender for the purpose of determining the use of illegal substances and that has a positive result. The amount of the fee shall be adjusted periodically to reflect the actual cost of administering these tests, including staff participation.

(e) Each offender shall be assessed a fee, if applicable, for the following:

- (1) Global positioning system (GPS) tracking;
- (2) electronic monitoring;
- (3) an application for transfer under the interstate compact for adult offender supervision;
- (4) polygraph examinations;
- (5) community residential bed housing; and
- (6) sexual abuser's treatment services.

The fee for each service specified in this subsection shall be assessed only if the service is required as a part of postincarceration release supervision.

If applicable, each offender on postincarceration release supervision shall also be assessed a fee for the collection of specimens of blood and saliva for the purpose of providing DNA profiles to the Kansas bureau of investigation, pursuant to K.S.A. 21-2511 and amendments thereto.

(Authorized by K.S.A. 2003 Supp. 75-5210, K.S.A. 75-5251, K.S.A. 75-52,139; implementing K.S.A. 2003 Supp. 22-3717, as amended by 2004 SB 422, ;st 5, K.S.A. 75-52,139; effective Jan. 3, 1995; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004.)

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75-5210

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES
Article 52.--DEPARTMENT OF CORRECTIONS

75-5210. Treatment of inmates; records; security status, incentives and presumption for certain offenders; health standards; furloughs; disciplinary rules and regulations; work and educational release; correctional work facilities; construction and repair of state buildings; contracts. (a) Persons committed to the institutional care of the secretary of corrections shall be dealt with humanely, with efforts directed to their rehabilitation and return to the community as safely and promptly as practicable. For these purposes, the secretary shall establish programs of classification and diagnosis, education, casework, mental health, counseling and psychotherapy, chemical dependency counseling and treatment, sexual offender counseling, prerelease programs which emphasize re-entry skills, adjustment counseling and job placement, vocational training and guidance, work, library, physical education and other rehabilitation and recreation services; the secretary may establish facilities for religious worship; and the secretary shall institute procedures for the study and classification of inmates. The secretary shall maintain a comprehensive record of the behavior of each inmate reflecting accomplishments and progress toward rehabilitation as well as charges of infractions of rules and regulations, punishments imposed and medical inspections made.

(b) Programs of work, education or training shall include a system of promotional rewards entitling inmates to progressive transfer from high security status to a lesser security status. The secretary shall have authority at any time to transfer an inmate from one level of status to another level of status. Inmates may apply to the secretary for such status privileges. The secretary shall adopt a custody classification manual establishing standards relating to the transfer of an inmate from one status to another, and in developing such standards the secretary shall take into consideration progress made by the inmate toward attaining the educational, vocational and behavioral goals set by the secretary for the individual inmate. In order to facilitate the reintegration into the community of some inmates who are scheduled for release within the next 90 days, there shall be a presumption of minimum security status for those offenders who have been returned to prison for violating conditions of their postrelease supervision not involving a new criminal conviction and whose last facility security custody status was not either special management or maximum. This presumption shall be applied to the initial security custody status assigned to the offender upon readmission into a correctional facility unless the security custody status is increased pursuant to policies adopted by the secretary. The security custody status designated by the department shall not be subject to judicial review.

(c) The secretary, with the cooperation of the department of health and environment, shall adopt rules and regulations establishing and prescribing standards for health,

medical and dental services for each institution, including preventive, diagnostic and therapeutic measures on both an outpatient and a hospital basis, for all types of patients. An inmate may be taken, when necessary, to a medical facility outside the institution.

(d) Under rules and regulations adopted by the secretary, directors of institutions may authorize visits, correspondence and communication, under reasonable conditions, between inmates and appropriate friends, relatives and others.

(e) The secretary shall adopt rules and regulations under which inmates, as part of a program anticipating their release from minimum security status, may be granted temporary furloughs from a correctional institution or contract facility to visit their families or to be interviewed by prospective employers.

(f) The secretary shall adopt rules and regulations for the maintenance of good order and discipline in the correctional institutions, including procedures for dealing with violations. Disciplinary rules and regulations may provide a system of punishment including segregation, forfeitures of good time earned, fines, extra work, loss of privileges, restrictions and payment of restitution.

The secretary and any persons designated by rules and regulations of the secretary may administer oaths for the purpose of conducting investigations and disciplinary proceedings pursuant to rules and regulations adopted by the secretary under this subsection and under K.S.A. 75-5251 and amendments thereto. For this purpose, the secretary shall adopt rules and regulations designating those persons who may administer oaths in such investigations and proceedings and the form and manner of administration of the oaths.

(g) A copy of the rules and regulations adopted pursuant to subsection (f) shall be provided to each inmate. Other rules and regulations of the secretary which are required to be published pursuant to K.S.A. 77-415 through 77-437, and amendments thereto, shall be made available to inmates by placing a copy in the inmate library at the institution or by some other means providing reasonable accessibility to inmates.

(h) Any inmate participating in work and educational release programs under the provisions of K.S.A. 75-5267 and amendments thereto shall continue to be in the legal custody of the secretary of corrections, notwithstanding the inmate's absence from a correctional institution by reason of employment, education or for any other purpose related to such work and educational release programs, and any employer or educator of that person shall be considered the representative or agent for the secretary.

(i) The secretary shall establish administrative and fiscal procedures to permit the use of regional or community institutions, local governmental or private facilities or halfway houses for the placement of inmates released for the purposes of this act and for the work and educational release programs under K.S.A. 75-5267 and amendments thereto.

(j) The secretary may establish correctional work facilities and select inmates to be assigned to such facilities.

(k) The secretary may acquire, in the name of the state, by lease, purchase or contract additional facilities as may be needed for the housing of persons in the secretary's custody.

(l) The secretary is hereby authorized to use any of the inmates assigned to the secretary's custody in the construction and repair of buildings or property on state owned or leased grounds.

(m) For the purposes of establishing and carrying out the programs provided for by subsection (a) and by K.S.A. 75-5267 and amendments thereto, the secretary may contract with qualified individuals, partnerships, corporations or organizations; with agencies of the state; or with the United States or any political subdivision of the state, or any agency thereof.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that two true and correct copies of the foregoing Appellant's Reply Brief, was placed in the United States Mail, first class postage prepaid, addressed to the following named Attorney General, this 14th day of January 2010.

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

Respectfully Submitted

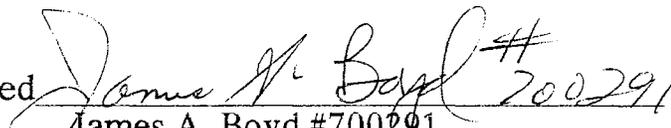

James A. Boyd #700291
WSR/MCC P.O. Box 777
Monroe, Washington 98272-0777

CERTIFICATE OF SERVICE

The undersigned hereby certifies that two true and correct copies of the foregoing Appellant's Reply Brief, was placed in the United States Mail, first class postage prepaid, addressed to the following named, this 14th of January 2010.

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

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

**James A. Boyd,
Petitioner/Appellant,**

**Supreme Court No. 83530-6
Superior Court No. 07-2-01175-4
Appellant's Additional Authorities
In Support Of Appellant's Objections
& Reply Brief, pursuant to RAP 10.8**

v.

**Accountant D. Lewis And
Washington Dept. of Corrections,
Respondent/Appellees'**

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I. ADDITIONAL AUTHORITY

COMES NOW James A. Boyd, Appellant pro se, a Kansas Interstate Corrections Compact Prisoner housed in Washington State, and do submit the following Appellant's Additional Authorities In Support Of Appellant's Objection and Reply Brief, pursuant to RAP 10.8.

Additional authority has come to the attention of the Appellant in regards to the Appellees' application of RCW 72.74.020(4)(e).

Appellant request that the court accept the additional authority listed below in support of Appellant's above captioned case before this court pursuant to RAP 10.8.

Prison legal News, Inc. v. DOC, 115 P3d 316-324 at [9] (Wash 2005)

[9] "Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous."

Whatcom County v. City of Bellingham, 128 Wash.2d 537, 546, 909 P2d 1303 (1996)) (citing Stone v. Chelan County Sheriff's Dep't, 110 Wash.2d 806, 810, 756 P2d 736 (1988); Tommy P. v. Bd. of County Comm'rs, 97 Wash.2d 385, 391, 645 P2d 697 (1982)).

Additional Authorities-1

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

Date 2nd day of March, 2010.

Respectfully Submitted,


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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one true and correct copy of the foregoing Appellant's Additional Authority In Support Of Appellant's Reply Brief, pursuant to RAP 10.8, was placed in the United States Mail, first class postage prepaid, addressed to the following named, this 2nd of March 2010.

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

