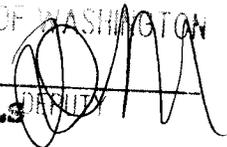


FILED
COURT OF APPEALS
DIVISION II

10 SEP 20 AM 8:59

STATE OF WASHINGTON

BY _____



WASHINGTON STATE COURT OF APPEALS
DIVISION TWO

RYAN R. JACKSON,

Appellant,

v.

STATE OF WASHINGTON,

Respondent,

) NO. 40512-I-II

) STATEMENT OF
) ADDITIONAL GROUNDS
) FOR REVIEW

RAP 10.10(a) permits a defendant/Appellant in a review of a criminal case to file a pro se statement of additional grounds for review to identify and discuss those matters which the defendant/Appellant believes have not been adequately addressed by the brief filed by the defendant/appellant's counsel I have received and reviewed counsel brief filed on my behalf and with the assistance of an inmate within the institution an additional ground is set forth as follows.

ADDITIONAL GROUND

" No incompetent person shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity continues." RCW 10.77.050. the trial courts failure to observe procedures adequate to protect Mr. Jackson's right

to not be tried while incompetent to stand trial was a denial of due process. State v. Heddrick (2009) 215 P.3d 201.

Jackson argues that he was denied due process of law when the trial court failed to execute the procedures in RCW 10.77.060. An accused in a criminal case has a fundamental right not to be tried while incompetent to stand trial. Drope v. Missouri, 420 U.S. 162, 171-72, 95 S.Ct. 896, 43 L.Ed.2d 103 (1975); In re Pers. Restraint of Fleming, 142 Wash.2d 853, 861, 16 P.3d 610 (2001)

" Washington law affords greater protection by providing that '[n]o incompetent person shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity continues.'" Fleming, 142 Wash.2d at 862, 16 P.3d 610 (quoting RCW 10.77.050).

"The failure to observe procedures adequate to protect this right is a denial of due process." State v. O'Neal, 23 Wash.App 899, 901, 600 P.2d 570 (1979) (citing Drope, 420 U.S. 162, 95 S.Ct. 896 43 L.Ed.2d 103; Pate v. Robinson, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed.2d 815 (1966)). Chapter 10.77RCW provides such a procedure. The "[p]rocedures of the competency statute... are mandatory and not merely directory," Fleming, 142 Wash.2d at 863, 16 P.3d 610 (citing State v. Wickland, 96 Wash.2d 798, 805, 638 P.2d 1241 (1982),

And failure to observe these procedures is a violation of due process. Id (citing O'Neal, 23 Wash.App. at 901, 600 P.2d 570). The record at sentencing is clear that the procedures outlined in RCW 10.77.060 were not utilized in Jacksons case although there was reason to doubt his competency at sentencing. RCW 10.77.060 mandates that when "there is reason to doubt" a defendant's competency to stand, the court will appoint two qualified experts to examine and report on the mental condition of the defendant. RCW 10.77.060(1)(a). The court failed to inquire into Jacksons purported incompetency.

dated this 15 day of September, 2010



RYAN R. JACKSON

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STATE OF WASHINGTON

BY _____
DEPUTY

RYAN R. JACKSON 912756
WASHINGTON STATE PRISON
1313 NORTH 13th STREET
WALLA, WALLA, WA. 99362

I, certify that I caused to be deposited in U.S. mail at WSP a true and correct copy of:

- (1) STATEMENT OF ADDITIONAL GROUNDS
- (2) NOTICE OF FILING OF ADDITIONAL GROUNDS

TO THE FOLLOWING PARTIES:

(1) _____ Attorney at law

_____, WA. _____

(2) WASHINGTON STATE COURT OF APPEALS
DIVISION TWO
950 Broadway, suite 300
Tacoma, Wa. 98402-4454

On this 15 day of September, 2010 under the penalty of perjury of the Laws of the State of Washington.



RYAN R. JACKSON