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DIVISION II

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STATE OF WASHINGTON
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COA's No. 48430-7-II

WASHINGTON STATE COURT OF APPEALS
DIVISION II

In re Personal Restraint Petition
of
Forrest E. Amos,
Petitioner.

Reply Brief

Forrest E. Amos #809903
Washington State Penitentiary
1313 N. 13th Avenue
Walla Walla, Wa 99362

P/M: 4/29/16

1. Amos' Petition is Timely And Not Timebarred Therefore Not A Mixed Petition.

The Washington Supreme Court has held that "pursuant to RCW 10.73.090 a judgment becomes final when all litigation on the merits ends." In re Pers. Restraint of Skylstead, 160 Wn.2d 944, 949, 162 P.3d 413 (2006). This includes a defendant's sentence. Id. at 950.

Here, the state attempts to persuade this court that Amos' petition is untimely and timebarred because the date of finality goes back to the date the original judgment and sentence was imposed after the trial court vacated the State's attempt to amend Amos' original judgment and sentence without affording him due process. RP 9-13 (1-8-15).

The prejudicial effect of the state's position is alarming and undermines the principles of finality. The state believes they are immune from affecting finality. This is simply incorrect. The state cannot be given free rain to amend, alter, or modify a defendant's judgment and sentence without notice, then later argue that their actions did not affect the original date of finality. This would render RCW 10.73.090 meaningless and allow the State an avenue to effectively narrow a defendant's one-year time limitation to file a collateral attack. This court should not be persuaded by the State's incorrect position here.

It is unquestionable that the state destroyed Amos' original date of finality when they amended his judgment and sentence without notice. State v. Harrison, 148 Wn.2d 550, 561-62, 61 P.3d 1104 (2003).

At this time, Amos filed a timely notice of Appeal. when the trial court vacated the amended judgment and sentence on January 8, 2015, it mooted Amos' appeal. RP 12-13 (1-8-15). The Court of Appeals issued the mandate in march, 2015, disposing of the appeal. It is obvious that between these two dates litigation on the merits ended. The state cannot revive Amos' original date of finality to suit their erroneous position here as they destroyed it.

Since Amos filed his petition on January 5, 2016, within one-year of the trial court vacating the amended judgment and sentence, Amos' petition is timely and not timebarred. Here, Amos utilized GR 3.1 (c), the prison mailbox rule, to timely file his petition. Amos provided this Court with a "Declaration of Service by Mail" indicating that he properly deposited his petition in the legal mail system at Stafford Creek Corrections Center on January 5, 2016. In re Pers. Restraint of Quinn, 154 Wn. App. 816, 226 P.3d 208 (2010). Amos' Declaration is supported by the prison officers time stamped signature on the back of the envelope containing his petition.

For these reasons, Amos' petition is timely and not timebarred. Therefore, it is not considered a mixed petition. The state destroyed the original date of finality of Amos' judgment and sentence when they attempted to amend it. The litigation on the merits ended when the trial court vacated the amended judgment and sentence or when the Court of Appeals issued the mandate. Either way, Amos' petition was timely filed on January 5, 2016, three days before his one-year time limitation expired.

2. AMOS' COLLATERAL ATTACK WAIVER DOES NOT BAR ANY OF THE CLAIMS RAISED IN HIS PETITION.

A number of courts have recognized that a "collateral attack" waiver does not bar a defendant's claim that he received ineffective assistance of counsel or the state breached the plea agreement. Hurlow V. United States, 726 F.3d 958 (7th Cir. 2013). Furthermore, the Washington Supreme Court has held that "a defendant cannot agree to punishment in excess of that which the Legislature has established" and a "waiver does not apply where the alleged sentencing error is a legal error leading to an excessive sentence. . . ." In re Pers. Restraint of Goodwin, 146 Wn.2d 861, 874, 50 P.3d 618 (2002).

While the state recognizes that "collateral attack" waivers cannot bar Amos' ineffective assistance of counsel claim they still attempt to persuade this court that Amos' petition is barred because he waived his right to collateral attack as part of his plea agreement. See footnote 6 of the state's response. This Court should not be persuaded by the state's argument as it is contrary to relevant caselaw.

The totality of Amos' ineffective assistance of counsel claim raises concerns as to the effectiveness of his counsel as a result of the state's intrusion into Amos' privileged communications and relationship with counsel and whether Amos' counsel's performance fell below an objective standard of reasonableness following the state's intrusion when negotiating his plea agreement, advising him to enter a guilty plea and waive all collateral attack rights, failing to challenge the state's intrusion, misadvising

him on the correct law, and allowing the state to breach his plea agreement. Because the constitution entitles Amos to effective assistance of counsel at all critical stages of the criminal process, waives obtained as a result of ineffective assistance of counsel are void. Hurlow v. United States, 726 F.3d 958 (7th Cir. 2013).

Furthermore, since Amos claims that his sentence is unlawful because it exceeds the statutory authority of the trial court to enter a particular sentence, his collateral attack waiver does not bar his claim. Amos cannot agree to punishment in excess of that which the Legislature has established. In re Pers. Restraint of Goodwin, 146 Wn.2d 861, 874, 50 P.3d 618 (2002).

For these reasons, the state cannot invoik Amos' collateral attack waiver to bar his petition because Amos did not receive effective assistance of counsel as a result of the state's illegal and unlawful intrusion into his privileged communications and relationship with counsel. Also Amos' sentence is unlawful as it exceeds statutory authority. State v. Besio, 80 Wn. App. 426, 907 P.2d 1220 (1995) (consecutive felony and gross misdemeanor sentences cannot be served in DOC custody together.).

3. THE STATE'S INTRUSION WAS UNJUSTIFIED AND DESTROYED AMOS' RELATIONSHIP WITH HIS COUNSEL CAUSING COUNSEL TO BECOME INEFFECTIVE.

The state attempts to persuade this court that Det. Haggerty was "justified" in his deliberate and egregious intrusion into Amos' attorney-client communications because he had a lawful warrant that authorized him to do so. Amos objects to this based on the following.

a.) The Supreme Court's precedent in State V. Cory, 62 Wn.2d 371, 382 P.2d 1019 (1963), and the Legislative intent behind RCW 5.60.060 (2)(a), do not authorize any form of intrusion into Amos' attorney-client communications.

The Washington Supreme Court made it very clear in Cory that "even" high motives and zeal for law enforcement cannot justify spying upon and intrusion into the relationship between a person accused of crime and his counsel." Id at 373-74. Furthermore, the Legislature's use of the term "shall not" within the meaning of RCW 5.60.060 (2)(a) imposes a mandatory requirement. State V. Krall, 125 Wn.2d 146, 148, 881 P.2d 1040 (1994).

Nothing within the meaning of RCW 5.60.060 (2)(a) or the Supreme Courts long-established precedent in Cory permits law enforcement to justify an intrusion into a defendant's attorney-client communications. This privilege

is imparitive to perserve the sanctity of communication between client and attorney. Dietz V. Doe, 131 Wn.2d 835, 935 P.2d 611 (1997). It is inconceivable to think that the Legislature would allow any type of avenue for law enforcement to intrude into a defendant's right to effective assistance of counsel.

b.) Hearsay cannot establish justification to intrude into Amos' privileged communications and relationship with his counsel.

The right to counsel and to communicate in private with counsel is not so fragile that it can be overcome with baseless allegations supported only by hearsay. Here, the State tries to convience this Court that Det. Haggerty's intrusion was justified because Amos was allegedly using the jail's mail system to send out letters via legal mail in order to harm witnesses in his current case. Amos objects to this as it is misleading and untrue.

At no time did Amos use the jail's legal mail system to send out any unauthorized letters or alleged "hitlists". Lt. Pea of the Lewis County Jail assured Det. Haggerty that it was not possible to do because of the jail's policy and procedure for sending out legal mail. Appendix K, State's Response.

However, Det. Haggerty claims Amos did send out unauthorized mail via legal mail but offers no evidence

proving his allegation other than hearsay. First, Det. Haggerty claims he was given an 8 page letter by Jennifer Lantau, who said it was given to her by Brett Warness who said he received it via legal mail from Amos. This is hearsay. The letter was not in an envelope nor did it contain any markings that it was sent via legal mail from Amos at the jail.

Second, Det. Haggerty claims that he intercepted a "hitlist" after being contacted by informant 153, who said Amos sent it via legal mail to his sister. This is hearsay.

A simple examination of the "LCSO" envelope tells the whole story. First, this envelope is a Lewis County Sheriff's Office envelope not a Lewis County Jail's envelope which would have been required if Amos did send it out legal mail. Second, this envelope was not addressed to anyone nor does it have Amos identified as the sender which would have been required if Amos did send it out as legal mail. Third, this envelope is not marked "Legal Mail" nor does it have an officer's name, date, and time on the back seal which would have been required if Amos did send it out as legal mail. Jail policy requires this practice varifying inspection of the contents inside the envelope as legal mail. Forth, and most shocking of all, this envelope does not have a postage stamp or post mark indicating when it was sent through the U.S. mail service which would have been required if Amos did

send it out as legal mail through the U.S. postal service.

There is absolutly no evidence to support Det. Haggerty's false claims here. At no time did Det. Haggerty intercept any mail that was sent via legal mail from Amos at the jail. This fraudulant inducement was used to justify an extremely invasive intrusion into Amos' privileged communications and relationship with his counsel.

C.) The issuance of an ex parte search warrant violated Amos' right to counsel and due process.

The state offers no responsive argument to this claim raised in Amos petition. There is no question that Amos' Sixth Amendment right to counsel was already attached at the time of Det. Haggerty's search warrant application. Since the potential of prejudice was enormous at this critical stage, participation of counsel was required. Amos' Sixth Amendment rights cannot be circumvented by Det. Haggerty's overzealous actions which led to an extremely invasive intrusion into Amos' privileged communications and relationship with his counsel. Discovery rule CrR 4.7 rather than search and seizure rule CrR 2.3 should have been utilized in this instance in order to perserve Amos' Sixth Amendment rights and attorney-client privilege.

d.) Amos objects to the misleading facts and perjury Committed by DPA Halstead and Det. Haggerty.

First, the State tries to convience this court that DPA Halstead knew nothing about Det. Haggerty's investigation into Amos' Legal mail or his intent to secure a search warrant on Amos jail cell in order to search and seize privileged communications. This is misleading and incorrect.

As an inducement to District Court judge Buzzard, Det. Haggerty claimed that both Centralia Police Department and Lewis County Prosecutor's office concluded an investigation that found that Amos was using the jail's mail system to send out letters via legal mail with intent to harm witnesses in his case. Appendix K, state's Response.

This conflicts with DPA Halstead and Det. Haggerty's most recent affidavits provided to this court in an attempt to hide DPA Halstead's involvement. Appendix L and M, state's Response.

Even more obvious facts show DPA Halstead's involvement. In Det. Haggerty's search warrant affidavit he claims he met with DPA Halstead on June 17, 2014, at 0900 hrs and was still with him at 1430 hrs, the same day he obtained the search warrant. Appendix K, state's Response. This court should not be convienced of DPA Halstead's lack of involvement in securing

the extremely invasive search warrant here. It is highly unlikely that Det. Haggerty, after spending all day with DPA Halstead, failed to mention anything about his intent to obtain a search warrant on Amos' jail cell after concluding their investigation together. Based on these facts, DPA Halstead is not innocent in this matter. This court should be concerned with the level of deception and perjury attempted by the State here.

Second, the state tries to convience this court that Amos only objected the the search and seizure of his Doc lawsuit. This is misleading and untrue. When Det. Haggerty executed his search warrant, Amos objected to any intrusion into his jail cell because it contained privileged communications with regard to both his criminal case and civil case. Det. Haggerty acknowledges this. Appendix N, state's response. Det. Haggerty disregarded Amos' warnings, claiming that he had a search warrant authorizing him to take all of Amos' legal materials. Amos continued to object. Affidavit of Forrest Amos, Appendix I.

Third, the state tries to convience this court that Det. Haggerty intended to secure Amos' privileged communications so an in camera review could be conducted by a Superior Court judge. This is misleading and incorrect. Det. Haggerty offers nothing in his search warrant affidavit which supports this claim. Appendix K, State's Response. It was not until Det. Haggerty

Shared the privileged communications with DPA Halstead was this intent formed in order to attempt to clean up his intrusion. This court should not be convienced by the deception attempted by the State here.

Fourth, the State tries to convience this court that Det. Haggerty did not read any of Amos' privileged communications. This is misleading and untrue. Det. Haggerty admits to reading Amos' privileged communications while filtering through them in his jail cell. This supports Amos' claim that he seen Det. Haggerty and Det. Withrow reading his privileged communications before seizing them. Appendix N, State's Response. This court should not be convienced by the deception attempted by the State here.

Lastly, the state tries to convience this court that Det. Haggerty secured Amos' privileged communications into the evidence locker at the Centralia Police Department and did not take them directly to DPA Halstead's office. This is misleading and untrue.

It was not until July 10, 2014, did superior court judge Richard Brosey become awear of the state's intrusion when Amos and his counsel raised the issue in open court. Standing in for DPA Halstead that day was DPA Eric Eisenburg, who told the judge that he witnessed Det. Haggerty bring Amos' privileged communications to DPA Halstead's office the day he seized them, June 18, 2014. RP ____ (7-10-14). Judge Brosey ordered

a hearing the following week, July 18, 2014, directing DPA Halstead to be present.

The following week, DPA Halstead confirmed to judge Brosey that Det. Haggerty seized Amos' privileged communications and brought them directly to his office. RP ___ (7-18-14). DPA Halstead also claimed that he did not read anything and told Det. Haggerty to secure them into the evidence locker for an in camera review. Judge Brosey at this time ordered an in camera review of the seized privileged communications. RP ___ (7-18-14).

This court should be very cautious of the state's misleading and incorrect factual account. Furthermore, this court should be shocked by DPA Halstead and Det. Haggerty's perjury. Appendix L and M, State's Response. If both DPA Halstead and Det. Haggerty will go as far as to commit perjury in order to hide facts in this case one can only wonder what else they have lied about. Based on the perjury committed here, it must be presumed that DPA Halstead read Amos' privileged communications when they were delivered to his office and now he tries to hide this fact from this court.

e.) Prejudice.

The state has provided no responsive argument to Amos' claim of prejudice resulting from the state's intrusion into his privileged communications and

relationship with counsel. The State misses the bases of Amos' claim and tries to persuade this court that Amos' has not proven prejudice because he failed to show how the outcome of counsel's deficient performance would have been different.

Here, Amos has proven prejudice in his petition claiming he was left with no other option other than to accept the state's unlawful plea agreement because they destroyed his confidence in his counsel and defense strategies when the state became privey to case narratives, witness questions, and strategies when Det. Haggerty read and seized his privileged communications and delivered them to DPA Halstead.

Also Amos proves prejudice by counsel's failure to challenge the state's intrusion and moving for dismissal under CrR 8.3(b). Amos' fair trial rights were destroyed by the States intrusion also. The contents of the legal mail seized would have been used to impeach Amos if he took the stand in his own defense. Instead of moving for dismissal counsel lied to Amos telling him the burden to prove prejudice was on him when in fact it was the State's burden to disprove prejudice. State V. Peña Fuentes, 179 Wn.2d 808, 318 P.3d 257 (2014).

The Court of Appeals in Garza recognized the potential for a defendant to demonstrate prejudice by demonstrating (1) that the evidence gained through

the intrusion will be used against them at trial; (2) that the prosecution is using confidential information pretaining to defense strategies; (3) that the intrusions have destroyed their confidence in their attorney's; or (4) that the intrusion will otherwise give the state an unfair advantage at trial. State v. Garza, 99 Wn. App. 291, 300-01, 994 P.2d 868 (2000).

Amos has undoubtfully proven prejudice. When the State took everything he did to assist his counsel in preparing his defense, at his counsel's request, Amos was left with nothing including his confidence. After the state's intrusion counsel lied to Amos, and Amos had no other avenues left other than accept the State's unlawful plea agreement. This court should not be convienced by the state's argument or lack of argument with regard to prejudice.

CONCLUSION

This court should not be pursuaded by the State's attempt to justify Det. Haggerty's illegal, unlawful, and unjustified intrusion into Amos' privileged communications and relationship with his counsel. In today's court system, a defendant's most valuable vehicle for navigating the court system is effective assistance of counsel. Nothing, including plea agreements, cannot be achieved without it. United States v. Bownes,

F.3d 634, 637 (7th Cir. 2005). To allow the State to use the practice of securing search warrants in ex parte fashion, in order to intrude into a defendant's most valuable right, would forever do away with the Sixth Amendment and fracture the bedrock of the Constitution. Amos was forced to accept unlawful terms in his plea agreement because he was left with no other option after the state destroyed his confidence and relationship with his counsel. This Court cannot allow the state to strike such blows in today's justice system. Here, the sole remedy is dismissal with prejudice because the state used unconstitutional means in securing Amos' conviction. Peña Fuentes, 179 Wn.2d at 808; State v. Perrow, 156 Wn. App. 322, 231 P.3d 853 (2010). "Deliberate intrusion upon the attorney-client relationship by a police officer cries out for a strong judicial response - such a dismissal of all charges - as a means of discouraging such "odious practices." " State v. Peña Fuentes, 172 Wn. App. 755, 764, 295 P.3d 253 (2012). Det. Haggerty reviewed the specific content of the privileged communications in Amos' jail cell and delivered them to the Prosecutor's office. There is no way to isolate the prejudice here. See Perrow, 156 Wn. App at 331-32.

4. Amos' 144 MONTH SENTENCE IS UNLAWFUL AS IT EXCEEDS STATUTORY AUTHORITY.

The state attempts to persuade this court that their decision in State V. Besio, 80 Wn. App. 426, 907 P.2d 1220 (1995), is incorrect and harmful because Besio ignores RCW 9.94A.190 and the principles of the SRA. It is obvious that the state did not take the time to read this Court's decision in Besio before trying to assassinate their decision.

In Besio, the parties directed this court to consider RCW 9.94A.190. Id. at 430. This Court conducted a thorough and complete analysis of the SRA as a whole, along with other Statutes containing the same subject matter, and concluded that "by its stated purpose and substantive provisions the SRA scheme applies solely to felony convictions." Id. at 430. Furthermore, RCW 9.94A.190 "is no exception; it does not purport to apply to sentences containing both felony and misdemeanor terms or otherwise attempt to address convictions for classifications other than felonies." Id. at 430-31. For this reason, this court held that "RCW 9.94A.190 encompasses only felony terms and not gross misdemeanor terms combined with felony terms." Id. at 432.

Here, the State offers the same argument rejected by this court in Besio. They have offered nothing new that would over come the doctrine of Star decisis. In re Stranger Creek, 77 Wn.2d 649, 653, 466 P.2d (1970).

This court must not forget the obvious here, which is, the State has already attempted to amend Amos' judgment and sentence according to Besio. It was not until Amos objected and asserted his due

process rights, did the State abruptly change their position with regard to Besio and refused to correct Amos' unlawful sentence. RP 9-13 (1-8-15), RP ____ (1-14-15).

The reality behind the state's baseless argument is the fact that they made a promise to Amos for a DOC sentence in exchange for his guilty pleas. Because of Besio, Amos can only be sentenced to 120 months in DOC, not 144 months. maybe the state should read and understand the law before making promises that they cannot fulfill.

For these reasons, Amos' sentence is unlawful because the Legislature did not intend for gross misdemeanor terms to be served in DOC custody, and Amos cannot agree to be punished in excess of that which the Legislature has established. Goodwin, 146 Wn. 2d at 874.

5. THE STATE DID BREACH AMOS' PLEA AGREEMENT FOR A PROMISE TO RECOMMEND A DOC SENTENCE.

The state attempts to persuade this court that the state fullfilled its promise to recommend 144 months. There is no question that the State's recommendation is unlawful because Amos' total sentence is 120 months and 728 days, two days short of 144 months. The state is trying to hide the fact that the recommendation was suppose to be a DOC sentence based recommendation which was made clear in the plea agreement form and on court record when Amos' change of plea was taken. RP 18 (7.31-14), Appendix E, State's Response.

Now that the state is stuck with the fact that they can only recommend 120 months DOC, they want to forget the promises they made to Amos in exchange for his guilty pleas. 120 months is the only lawful sentence Amos can serve in DOC because of State V. Besio, 80 Wn.App. 426, 907 P.2d 1220 (1995). The state's attempt to undermine the terms of the agreement at sentencing when they asked the trial court to credit Amos' time served towards his gross misdemeanor sentence constituted a breach of the promised DOC sentence. Furthermore, the states attempt to Amend Amos' judgment and sentence to include a county jail term of confinement breached the plea agreement.

The state made a promise to Amos for a DOC sentence and they must be held to their promise on remand because Amos can only serve 120 months in DOC custody.

6. AMOS WAS NOT GIVEN A RIGHT TO APPEAL HIS UNLAWFUL SENTENCE.

The state's argument misses the whole point of Amos' claim. After the trial court vacated the state's attempt to amend Amos' judgment and sentence the state was to file a second motion to amend. RP 13 (1-8-15). On January 14, 2015, the state refused to file a second motion and chose to let DOC figure out the sentencing error. RP ____ (1-14-15). At this time, Amos' judgment and sentence was unlawful as it exceeds the statutory authority of the court. Amos requested the court to fix the error and was told to file a PRP. He was not given the opportunity to appeal. This violates Amos' right to appeal as he never waived his right to appeal an unlawful sentence.

This court should grant Amos' right to appeal and consider this a late notice of appeal. Furthermore, counsel should be appointed.

Dated: April 25, 2016.

Respectfully Submitted,

Forrest E. Amos

APPENDIX 1

DECLARATION OF FORREST E. AMOS

I, Forrest E. Amos, declares under the penalty of perjury, laws of the State of Washington, that the following is true and correct to the best of my knowledge.

1.) I am over the age of 18 and competent to testify to the facts contained in this Declaration.

2.) While awaiting trial I was given a copy of my case discovery in order to assist my attorney in preparing my defense.

3.) Defense Counsel Don Blair requested that I write notes, case narratives, and witness questions detailing specifics that would aid my defense when questioning witness on the stand. I completed a number of pages that detailed how we could impeach witnesses base upon specific facts supporting my defense. I also prepared fact sheets detailing how to introduce evidence that directly countered specific elements of the case charged by the State.

4.) While housed in the Lewis County Jail I did not send or receive any unauthorized legal mail using the jail's mail system. When I was booked into

the jail on December 2, 2013, officer Jack Haskins made it clear to me that he was under specific orders from Det. Haggerty and the Lewis County Prosecutor's office to photo copy all incoming and outgoing mail as part of their continuing investigation. My mail was often delayed as a result. Furthermore, Officer Haskins was in charge of confirming my legal mail in order to varify its authenticity.

5.) On June 18, 2014, at about 8:00 Am Det. Haggerty and Det. Withrow along with a number of jail staff executed a search warrant on my jail cell with intent to secure all my legal materials and privileged communications. Sgt. Falker, officer Yeager stood outside my jail cell while officer Engle and officer Klumper entered my jail cell with both Det. Haggerty and Det. Withrow. I made many objections to the intrusion as it was illegal howerer Det. Haggerty disregarded my warnings and stated "I have a search warrant authorizing me to take everything." I again told him that it was illegal and that I had civil stuff in my cell to. He stated he would leave that stuff and only take my criminal stuff. I objected again and Sgt. falker stepped in and said that I needed to call my attorney at this point and there was nothing I could do.

6.) While in my cell Det. Haggerty and Det. Withrow read through all my privileged communications. I observed this while standing in the dayroom of D2 unit. I observed Det. Withrow sitting at my cell table reading through my legal papperwork and when he seen something he would point it out to Det. Haggerty who would place it a clear plastic bag. About thirty minutes later I was allowed back into my cell.

7.) All my legal mail was taken. This included a letter from Chris Baum regarding conversations we had about state witness Jennifer Lantau contacting me using fake names and how we would communicate. This fact knownby the state could have been used to impeach my testimony if I were to take the stand in my defense.

8.) All my legal materials, case narratives, defense strategies, and witness questions were taken. I was asked by my attorney Don Blair to write questions and fact sheets as I went through my case discovery in order to aid him in my defense and witness interviews. These writings contained vital strategies outlineing facts that ruined the state's case. It took me months to prepare these writings and before I could give them to my counsel they were read and seized.

9.) My case discovery was taken so I could not assist my attorney in preparing my defense.

10.) Defense Counsel Don Blair told Judge Brosey that he tried to access the seized materials at the Centralia Police Department so he could interview witnesses and was denied by the Centralia Police Department and Lewis County Prosecutor. This was on July 18, 2014, on court record.

11.) On July 10, 2014, on court record, I heard DPA Eric Eisenburg state that he seen Det. Haggerty bring my seized legal materials to DPA Halstead at the Lewis County Prosecutor's office on the day he executed the search warrant. June 18, 2014.

12.) On July 18, 2014, on court record, I heard DPA Halstead confirm that Det. Haggerty brought my seized legal materials to his office.

13.) After developing these facts, defense counsel told me he was preparing a CrR 8.3 (b) motion to dismiss. However, the following week on July 24, 2014, he did not file it with the court telling me that I had to prove prejudice. I did not find out until later that this was a lie. We argued over this many times and he refused to file the motion.

14.) My relationship with my attorney was non existent after the intrusion. I had nothing to offer him and he only wanted to resolve my case with a plea deal. With no confidence in my counsel or trial strategies I was left with no other option but to accept the deal offered by the state.

15.) My attorney assured me my total sentence would be served in DOC so I could get a third off for good time and take advantage of program opportunities.

16.) Prior to the intrusion I had full confidence that with my counsel's assistance, we had a good chance at winning my case. After the intrusion I was left with nothing, not even my confidence in my attorney or trial strategies. I would have never accepted the unlawful terms in my plea agreement if the state did not intrude into my privileged communications. I was left with no other option.

17.) I never authorized any search of my privileged communications or implied consent.

Dated this 25th day of April, 2016.

Forrest E. Amos

Forrest E. Amos
Walla Walla, WA 99362