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Washington State
Supreme Court

NO. 92462-7

SUPREME COURT OF THE
STATE OF WASHINGTON

CALVIN NORMAN ROUSE, JR., APPELLANT

v.

STATE OF WASHINGTON, RESPONDENT

Appeal from the Superior Court of Pierce County
The Honorable Ronald E. Culpepper

No. 02-1-02929-1

BRIEF OF APPELLANT (Reply)

Calvin Norman Rouse, Jr.,
Appellant, Sui Juris, P.A.G.
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Cim 7-25-16

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ARGUMENT

The respondent has raised two arguments requiring address in this brief:

(A) The Respondent contends Appellant's direct appeal does not satisfy a bases for a direct appeal to this Court, and Pierce County Superior Court has subject matter jurisdiction over the cause of action under the Washington Constitution at IV, § 6 and RCW 2.08.010, this argument fail because, although the facts alleged in the Complaint/Information may be true, they are insufficient for the Plaintiff/State to state a claim for relief and for the Defendant/Appellant to frame an answer, however., **RAP 4.2(2)(4) allows the Appellant to seek direct review of superior court decision** upon the ground it is repugnant to Washington State Constitution Article II § 18. Our State Constitution requires all laws to be in the form and mode as prescribed. The style of of laws of the State of Washington shall be: **'Be it enacted by the Legislature of the State of Washington."** The laws our State are to bear this enacting style, otherwise they are **not vaild laws.** This is so in several other sister States. **Palmer v. State, 208 S.W. 436, 137 Ark. 160 (1919).** The law in this case was missing this constitutional prerequisite of an enacting clause as printed in 'Revised Code of Washington' Statute book. The publication of an act of the legislature, omitting the enacting clause or any other essential part thereof, is no

publication in law. The law not being in force when the Information was found against the Appellant, nor when the acts complained of therein were done, the Appellant could not have been guilty of any crime under its provisions, and is therefore, so far as this 'Information' is concerned, entitle to his discharge. In [the case of] **In re Swartz**, Petitioner, **47 Kan. 157, 27 P. 839(1891)**, this court found the act in question was invalid because it had been mistakely published without an enacting clause. "We again adhere to the dictates of that opinion." **State v. Kearns, 623 P.2d 507, 509, 229 Kan. 207 (1981)**. Thus whatever is published without an enacting clause is void, as it lacks the required evidence or statement of authority. Such a law lacks proof that it came from the authorized source (Legislature of Washington) spelled out in the constitution, and thus is not valid publication to which the public is obligated to give any credence.

RAP 4.2(4), A fundamental and urgent issue of broad public importance which requires prompt and ultimate determination, where the 'RCW statute book are published by the Revisor of Statutes, and are also copyrighted by his office. The "Session Laws" were never copyrighted as they are true public documents of this state or any state or united states has never been under a copyright. Public documents are in public domain. A copyright infers a private right over the contents of a book, suggesting that the laws in the 'Revised Code of Washington' are derived from a public source

and thus are not true laws, ("Thompson-West") 'Revised Code of Washington' is a reference book. The contents of such reference books cannot be used in charging citizens with crimes on criminal complaints/information's. It is obvious, that the enacting clause must be readily visible on the face of a statute in the common mode in which it is published so that citizens don't have to search through the legislative journals or other records and books to see the kind of clause used, or if any exist at all. **State of Nevada v. Rogers, 10 Nev. 120, 261 (1875); approved in Caine v. Robbins, 131 P.2d 516, 518, 61 Nev. 416 (1942); Kefauver v. Spurling, 290 S.W. 14, 15 (Tenn. 1926).** The public has an interest in Appellant's life and liberty, neither can be lawfully taken, except in the mode prescribed by law. That which the law makes essential in proceedings involving the deprivation of life or liberty cannot be dispensed or affecting by consent of the accused, much less by his failure, when on trial and in custody, to object to unauthorized method. **Hopt v. Utah, 110 U.S. 578, 4 S. Ct. 202, 28 L.Ed 2d 262.** The common mode by which a law is 'promulgated' is by being printed and published in some authorized public statute book. Thus that mode of ~~pomulgation~~ promulgation must show the enacting clause of each law therein on its face, that is, on the face of the law as it is printed in the statute book. This is the only way that the "courts of justice and the public are to judge of its authenticity and validity."

Vinsant, Adm'x v. Knox, 27 Ark. 266, 284, 285 (1871).

The State relied upon 'Revised Code of Washington' (RCW **9A.32.050(1)(a), 9A.08.020, 9.41.010) either, such provision as creating a cause of action,** has been adversely affected on the grounds that both of these provisions fail to create a cause of action against Appellant/Defendant and as such date of enactment, is before the court in any form. Appellant's evidence is Title 9 of the 'Revised Code of Washington' Statute book as it reveal its source of authority and is published by the Statute Law Committee (Legislative Committee's) under this section, it is not a body created by this State's Constitution, and its members are not in the same category as Constitutional officers.

State ex rel. Grieve v. Martin (1963), 63 Wn. 126, 385 P.2d 846. The legislative authority of this State is vested in the Legislature, and it is unconstitutional to abdicate or transfer its legislative functions to others. **Amalgamated Transit Union Local, 587 v. State, 142 Wn.2d 183, 11 P.3d 762 (2000), Wash. Const., Art. II § 1.**

The above are grounds for challenge the subject matter jurisdiction of the superior court, since that validity of a law on the complaint or information goes to the jurisdiction of Pierce County Superior Court since the judgment arise of that court., that argument is addressed herein, section A.

(B) The Respondent has argued to this Court, this case should be transferred to the Court of Appeals (COA), providing that the superior court decision was appealable as a matter of right, pursuant to RAP 2.2(a)(10) and other statutes respondent suggest to this Court. Certainly this Court has the authority to transfer or make its own determination.

However, Appellant's motion to dismiss has anything to do with the facts in the complaint/information. Subject matter jurisdiction involves more than having the right offense for the right court. Even if the court has jurisdiction over the type, class, or grade of crime committed, it will still lack subject mater jurisdiction if the law which the crime is based upon is invalid, void, unconstitutional, or nonexistent. In this case at bar, as Appellant stated herein, section 'A', Appellant's conviction is based upon invalid laws which does not constitutionally exist. Even if this Court transfer this matter to COA, the State's ruling is based an erroneous view of subject matter jurisdiction. Subject matter jurisdiction is frequently confused with the court's "authority" as in this particular case as, the Respondent argued at the hearing, **"RP 9, lines 9-18.)** "A tribunal lacks subject matter jurisdiction when it attempts to decide a type of controversy over which it has no authority to adjudicate. The "type of controversy" refers to the nature of a case or the relief sought, relief could not be sought

if there are no valid laws exist on the complaint/information, Plaintiff/State fail to state a claim upon which relief can be granted, therefore the court has no authority to adjudicate, whereby it lacks subject matter jurisdiction. **Marley v. Dep't of Labor & Indust.**, 125 Wn.2d 533, 886 P.2d 189 (1994).

This Court has rejected Appellant's motion(s) of the notion of applying civil rules in this court. The Court of Appeals (COA) remand this case to the superior court, ordering that court to hold a hearing pursuant to CrR 7.8(c), which superior court fail to hear the motion on its merits. The question presented to the State does a court acquire subject matter jurisdiction without an enacting clause, and does this State Constitution require all laws to have enacting clauses. No where on the record did the State show cause why relief asked should not be granted upon this question. The respondent again mislead this Court by stating in 'Brief of Respondent', "that the trial court subsequently convened a hearing on the motion and denied it on the merits. The state court is consistent with being deceptive, evasive. This misleading statement is found at the bottom of page 5, referenced by RP 8-10. Appellant and the COA has demonstrated state court misleding impulse of being deceptive and fraudulent. If, this Court accept the state's position, this Court would have to agree that the state court ruling is based on erroneous view of subject matter jurisdiction of the issue presented in appellants motion to dismiss and in Section 'A' of this Reply Brief.

Taking that as being the case, it still would not trump the provisions of the state constitution requiring the form and mode set forth in Art. II § 18. A constitutional provision that is plain and unambiguous on it face, then no construction or interpretation is necessary or permissible. **State ex rel. Evans v. Brotherhood, ect.,** 41 Wn.2d 133, 247 P.2d 787 (1952), another rule which is important to this matter is that the provisions of a constitution are mandatory **State ex rel. Anderson v. Chapman,** 86 Wn.2d 189, 543 P.2d 229 (1975)(at 543 P.2d 231), unless otherwise stated. The general rule is stated in 16 C.J.S. Constitional Law § 61 (1956). In this state the constitution itself expresses that rule is more forceful language. **Const. art.** I § 29 reads: "The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise."

The Appellant is entitled to immediate release, If this Court should transfer this case to the COA pursuant to RAP 2.2(a)(10) as an matter of right, this is at this Court's discretion , however, the respondent argument fail for several reasons as stated above, but mainly, because respondent rest upon the facts alleged in the 'Information', Appellant make no attempt to justify the judgment upon that theory. Respondent argument assumes that the requirement of a formal accusation as prescribed by statute involves only jurisdiction of the person and court. That assumption is inherent in the contention because it is held everywhere that jurisdiction

over the subject matter over the cause of action cannot be conferred upon a Court by consent or waiver, but may be questioned at any stage of the proceedings. In the absence of valid laws referenced in the 'Information' citing statutes of 'RCW' violation's without enacting clauses of the mandatory requirement of this state Constitution art., II § 18, there is nothing before the Court for it to act upon and, in such event, the Court acquires no jurisdiction over this case itself. Albrecht v. U.S., 273 U.S. 1, 47 S. Ct. 250, 71 L.Ed. 505; State v. Mckinley, 341 Mo. 1186, 111 S.W.2d 115; Davis v, State, 150 Tex. Cr.R. 463, 202 S.W.2d 943; Kyser v. State, 22 Ala. App. 431, 117 So. 157; State v. Mee, 67 S.D. 335, 297 N.W. 40. ("qouting" Harris v. State, 82 A.2d 387 (1951). There can be no argument for of this Court or the Court of Appeals and should not be harnessed in needless appellant litigation. This Court should on its own order an immediate release.

(C). CONCLUSION

For the foregoing reasons, Appellant ask this Court to order his immediate release, vacate final judgment because all laws of this state require enacting clauses, laws that lack enacting clauses are not laws of the Legislative body of this state.

DATED: Wens, July 20, 2016.

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CERTIFICATE OF SERVICE

The undersigned certifies that on this day Appellant delived by mail by and through Washington State Penitentiary mailing system to have place in the U.S. Mail to deliver Appellant's Reply Brief upon Mark E. Lindquist, PA for Pierce County Prosecuting Attorney Office, 930 Tacoma Avenue South., Room 946, Tacoma, WA 98402, and Kevin Stock, Clerk for Pierce County Superior Court, Room 110. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Walla Walla County, Washington, on the date below.

7/20/16 Calvin N. Rouse, Jr.
Date Signature