

No. 28334-8

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON.

Respondent,

v.

JAMES R. LEE SR.,

Appellant,

YAKIMA COUNTY SUPERIOR COURT

CAUSE NO. 082038687

THE HONERABLE BLAINE G. GIBSON

Presiding at the Trial Court.

APPELLANT'S OPENING BRIEF

James R. Lee JR pro se
1245 E. 43rd Place
Los Angeles, CA 90011
323-377-9463 - C
323-234-4647 - H

Lana T. Frazier - Turner pro se
2616 Alpine Place S.E.
Auburn, WA 98002-7030
253-217-0361- H

FILED

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I. ASSIGNMENTS OF ERROR

1. The trial court erred in dismissing James R. Lee JR. and Lana T. Frazier-Turner as parties having a claim under the condemnation petition as owners, conclusion of law ten and conclusion of law four and not limiting its ruling and jurisdiction to the eminent domain issues of law in speculating that the deeds were not to be recorded until after Mitzi Lee's death and that Mitzi Lee did not intend to transfer any of her present interest.

2. The trial court erred in entering conclusion of law number five, and finding of fact number eight, ruling the quit claim deed, grantor being Mitzi Lee to grantees James R. Lee JR. and Lana T. Frazier turner on separate inherited property void and of no effect, speculating that the deeds were not to be recorded until after Mitzi Lee's death or that Mitzi Lee did not intend to transfer any of her present interest without any testimony from Mitzi Lee to that effect.

3. The trial court erred by granting the summary judgment of James R. Lee Sr. and by making rulings that left parties unrepresented in violation of their civil rights

4. The trial court erred in permitting a "trial" on matters unrelated to the eminent domain issues of law.

5. The trial court erred by violating the rights of James R. Lee JR., Mitzi Lee and Lana T- Frazier-Turner under the 5th Amendment of the US Constitution concerning fair and just compensation.

6. The trial court erred in entering conclusion of law number six that James R. Lee Sr. has an equitable lien in the separate estate of Mitzi Lee upon summary judgment.

7. The trial court erred in entering finding of fact and conclusion of law number eight that the community composed of James R. Lee Sr. and Mitzi Lee has an equitable lien of 153,300 on the home located at "1414."

8. The trial court erred in entering conclusion of law number nine as to the distribution of funds deposited in the registry and not permitting Mitzi Lee to withdraw funds according to his own ruling.

9. The trial court erred in entering conclusion of law number ten dismissing the claim of James R. Lee JR. and Lana T. Frazier - Turner.

10. The trial judge erred in his order having made the finding of fact and conclusions law dispersing \$6,700 dollars to James R. Lee Sr. as his separate property and \$78,300 to James R. Lee Sr. as his share of the community property.

11. The trial court erred in permitting a conflict of interest to prevail with regard to the representation of the parties against the interests of Mitzi Lee.

12. The trial court erred in not requiring James R. Lee Sr. and his attorney to abide by their settlement agreement.

13. The trial court erred by breaching a legal contract that James R. Lee JR. and Lana T. Frazier - Turner entered into with the State of Washington Department of Transportation.

14. The trial court erred in ruling that Mitzi Lee was not a party in the eminent domain case.

15. The trial court erred deprived and violated the civil rights of James R. Lee Jr. and Lana T. Frazier-Turner.

16. The trial court erred in not permitting James R. Lee and Lana T. Frazier - Turner after being dismissed by him as parties from representing the interest of Mitzi Lee as her Attorneys-in-Fact.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Should the judge have dismissed title holders James R. Lee JR. and Lana T. Frazier-Turner as parties to the Condemnation Petition on speculation and hearsay, committing, an abuse of authority, yet maintain the integrity of a settlement agreement involving the title holders in which property taken from the title holders was the basis for the compensation in a legal settlement agreement with WSDOT, then rule afterwards that appellants deeds were void and of no effect, when except for the eminent domain hearing the opportunity to rule on the deeds would have never been presented to this judge, the deeds having been made months earlier? (Error number one)

1. The trial court erred in dismissing James R. Lee JR. and Lana T. Frazier-Turner as parties having a claim under the condemnation petition conclusion of law ten and conclusion of law four and not limiting its ruling and jurisdiction to the eminent domain issues of law in speculating that the quit claim deeds were not to be recorded until after Mitzi Lee's death or that Mitzi Lee did not intend to transfer any of her present interest.

2. Should the court have made rulings after the fact, on deeds, affecting a settlement that had already been reached by the title holders, James R. Lee JR. and Lana T. Frazier-Turner with the WSDOT when the sole issue for the court was just compensation for property taken in the eminent domain Condemnation Petition? (Error number two)

2. The trial court erred in entering conclusion of law number five, and finding of fact number eight, ruling that the quit claim deed grantor being Mitzi Lee to grantees James R. Lee JR. and Lana T. Frazier-Turner void and of no effect speculating that the quit claim deeds were not to be recorded until after Mitzi Lee's death or that Mitzi Lee did not intend to transfer any of

her present interest without any testimony from Mitzi Lee to that effect.

3. Did the trial court violate the rights of the appellants under The US Constitution, 14th Amendment and Washington State Constitution Article 1 Section 3 with regard to due process and fair trials by removing appellants and title holders James R. Lee JR. and Lana T. Frazier-Turner as parties to the Condemnation Petition? (Error number three)

3. The trial court erred in granting of the summary judgment of James R. Lee SR. and by making rulings that left parties unrepresented in violation of their civil rights.

4. Did the court violate appellants civil rights when June 23, 2009 to June 29, 2009 by allowing appellants to be subjected to false and slanderous allegations of possible dire personal consequence and jeopardy, being blindsided and without warning or preparation compelled to defend against accused criminal acts, including: forgery, coercion, abuse and neglect of Mitzi Lee. (Error number four)

4. The trial court erred in permitting a “trial” on matters unrelated to the eminent domain issues of law.

5. Did the judge’s rulings violate the rights of James R. Lee JR., Lana T. Frazier-Turner and Mitzi Lee with regard to fair and just compensation under the 5th Amendment? (Error number five)

5. The trial court erred by violating the rights of James R. Lee Jr., Lana T. Frazier-Turner and Mitzi Lee under the 5th Amendment of the US Constitution concerning fair and just compensation.

6. Was James R. Lee SR. entitled to an equitable lien through summary judgment in the separate inherited property of Mitzi Lee even though she had quit claim deeded her interest in her separate inherited property to her son and daughter James R. Lee JR. and Lana T. Frazier-

Turner? (Error number six)

6. The trial court erred in entering conclusion of law number six that James R. Lee SR. has an equitable lien in the separate estate of Mitzi Lee upon summary judgment.

7. Could James R. Lee SR. legally acquire an equitable lien through community property interest in compensation based on separate inherited property of Mitzi Lee which was transferred by Quit claim deed to her son and daughter James R. Lee JR. and her daughter Lana T. Frazier-Turner? (Error number seven)

7. The trial court erred in entering finding of fact and conclusion of law number eight that the community composed of James R. Lee SR. and Mitzi Lee has an equitable lien of 153,300 on the home located at "1414".

8. Could funds be legally removed and distributed from the registry?
(Error number eight)

8. The trial court erred in entering conclusion of law number nine as to the distribution of funds deposited in the registry and not permitting Mitzi Lee to withdraw funds according to his own ruling.

9. Did James R. Lee JR. and Lana T. Frazier-Turner have a legal claim to funds deposited in the registry as the title holders to 1414 through quit claim deeds granted by their mother on her separate inherited property being 1414? (Error number nine)

9. The trial court erred in entering conclusion of law number ten dismissing the claim of James R. Lee JR. and Lana T. Frazier-Turner.

10. Could James R. Lee SR. acquire separate property of 78,300 where there is no community? (Error number ten)

10. Trial court erred in his order in having made the finding of fact and conclusion of law dispersing \$6,700 dollars to James R. Lee SR. as his separate property and 78,300 to James R. Lee SR. as his share of the community property.

11. Should the judge have ruled that a conflict of interest had occurred when the attorney representing James R. Lee SR. (only) against the interest of Mitzi Lee also purported to represent the community of James R. Lee SR. and Mitzi Lee even with regard to the Summary Judgment? (Error number eleven)

11. The trial court erred in permitting a conflict of interest to prevail with regard to the representation of the parties against the interest of Mitzi Lee.

12. Should James R. Lee SR. and his attorney been permitted to strike their original stipulated settlement agreement with the state? (Error number twelve)

12. The trial court erred in not requiring James R. Lee SR. and his attorney to abide by their settlement agreement.

13. Was the settlement contract that James R. Lee JR. and Lana T. Frazier-Turner entered into with The State Attorney General and WSDOT a legal and binding contract?(Error number thirteen)

13. The trial court erred by breaching a legal contract that James R. Lee JR. and Lana T. Frazier-Turner entered into with the state of Washington Department of Transportation.

14. Was Mitzi Lee a party to the eminent domain petition? (Error number fourteen)
Judge ruled she could not transfer community property without spouse permission.

14. The trial court erred in ruling that Mitzi Lee was not a party in the eminent domain case.

15. Were the Civil Rights of James R. Lee JR. and Lana T. Frazier -Turner violated?

(Error number fifteen)

15. The trial court erred deprived and violated the civil rights of James R. Lee JR. and Lana T. Frazier-Turner.

16. Should Mitzi Lee's interest be represented during the hearing and could her interest be represented by James R. Lee JR. and Lana T. Frazier under Power of Attorney Granted to James R. Lee JR. and Lana T. Frazier-Turner May 28th 2009 after that date? (Error number sixteen)

16. The trial court erred in not permitting James R. Lee JR. and Lana T. Frazier-Turner after being dismissed by him from representing the interest of Mitzi Lee as her attorneys-in-fact.

III. STATEMENT OF THE CASE

1. Procedural History

This matter came before the court due to an Eminent Domain Condemnation Petition filed on or about October 6, 2008 in which the WSDOT represented by the Washington State Attorney General sought to acquire portions of two adjacent properties 1412 E. Terrace Heights Way and 1414 E. Terrace Heights Way for a freeway widening project. CP 137-143. 1412 was originally deeded as a wedding gift to James R. Lee SR. and Mitzi Lee together from her aunt as a wedding gift to both. 1414 was inherited property which included a residence willed to Mitzi Lee by the same aunt as her separate property. 1412 at one time also had a home on it moved there by James R. Lee SR. but was now vacant land. CP 22-26. On January 15, 2008, Mitzi Lee, mother of appellants James R. Lee JR. and Lana T.

Frazier-Turner Quit Claim deeded her community interest in 1412 E. Terrace Heights Way and full interest in 1414 E. Terrace Heights Way, being her separate inherited property to her son and daughter, appellants James R. Lee JR. and Lana T. Frazier-Turner. Mitzi Lee did not Quit Claim deed the property with the intent that the deeds be recorded after her death. CP 53-57. In June 2008 appellants became aware of an eminent domain hearing concerning condemnation, appellants recorded the deeds in that same month and were later notified by WSDOT of the proceedings in an offer letter June 23, 2009 for the property. James R. Lee JR. and Lana T. Frazier-Turner represented themselves pro se through the months of proceedings and eventually negotiated a \$170,000 settlement with WSDOT and the State Attorney General on May 15, 2009. CP 61-66. On May 29th 2009, the court granted a Summary Judgment in part CP 135-136 to James R. Lee SR. finding an equitable lien and community property interest of James R. Lee SR in the separate inherited property of Mitzi Lee, done over the opposition motion on May 6, 2009 of James R. Lee JR and Lana T. Frazier-Turner. CP 80-90. Approximately 17.5 months after Mitzi Lee deeded the property to James R. Lee JR and Lana T. Frazier-Turner, Mitzi Lee went on to grant full Power of Attorney to James R. Lee JR. and Lana T. Frazier-Turner on May 28th 2009. Appellants James R. Lee JR. and Lana T. Frazier-Turner were removed by the Judge at the beginning of the trial on June 19, 2009 and dismissed as having a legal interest in the Condemnation Petition. James R. Lee JR. and Lana T. Frazier-Turner argued in their motion that ownership of the property was not at issue and that the issues of law and issue of fact were already determined evidenced by the Settlement contract entered into on May 15th 2009 with WSDOT and The State Attorney General. Also on June 19, 2009 the Summary Judgment Motion filed by James R. Lee JR. and Lana T. Frazier-Turner was ruled as

frivolous. CP 74-79 and CP 70-71. On August 7, 2009 the judge ruled in conclusion of law number ten over the opposition motion filed by appellants having no claim in the funds deposited in the registry, and also ruled in conclusion of law number five August 7, 2009 that the deeds were void and of no effect. CP 35-47. Mitzi Lee was permitted to be brought into court by the judge on that last day and vehemently objected to the community property award to James R. Lee SR. based on separate inherited property. The judge refused to permit funds allocated to Mitzi Lee per his own ruling to be removed from the registry but permitted James R. Lee SR. and his attorney to withdraw funds amounting to 85,000 on 8/10/09. James R. Lee JR. and Lana T. Frazier-Turner filed a motion in behalf of Mitzi Lee pursuant to the judge's ruling, as her Attorneys in Fact before the judge September 21,2009 which included the Declaration of Mitzi Lee for the release of funds which proved unsuccessful. CP 110 -134. At the close of the condemnation case there were several issues due to the judges rulings and actions that have formed the basis for continued legal issue and hardship for Mitzi Lee, James R, Lee JR. and Lana T. Frazier-Turner.

IV. ARGUMENT

A. THE TRIAL COURT JUDGMENT OF WHICH APPELLANTS SEEK REVIEW DENIED JAMES R. LEE JR., LANA T. FRAZIER-TURNER AND MITZI LEE OF NUMEROUS RIGHTS INCLUDING A FAIR TRIAL. THE TRIAL COURT ABUSED ITS AUTHORITY AND DISCRETION IGNORED COMMON AND STATUTORY LEGAL PRECEDENTS IN EXISTING LAW WITH REGARD TO LAWFUL AND LEGAL CONTRACTS, NOTORIZED DOCUMENTS, INHERITED AND COMMUNITY PROPERTY. THE TRIER OF FACT CONTRADICTED HIS OWN FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH REGARD TO THE DISTRIBUTION OF FUNDS "TRIAL" AND SUMMARY JUDGEMENT WHEN HE RULED, WITHOUT LEGAL GROUNDS THAT THE QUIT CLAIM DEEDS WHICH ULTIMATELY EFFECTED THE INTEGRITY OF THE CONTRACT BY WHICH THE FUNDS WERE INITIALLY DEPOSITED, WERE OF NO EFFECT AND VOID. HAD THAT BEEN THE CASE THERE COULD HAVE BEEN NO LEGAL CONTRACT, NO TRIAL OR FUNDS DEPOSIT. THE TRIAL COURT LATER IGNORED THE POWER -OF-

ATTORNEY OF JAMES R. LEE JR. AND LANA T. FRAZIER TURNER ATTORNEYS -IN-FACT FOR MITZI LEE CONFERRED MAY 28TH 2009. THE TRIAL COURT THROUGH IT'S JUDGEMENT FAILED TO ENTER FINDINGS OF FACT AND CONCLUSIONS OF LAW WHICH WERE SUPPORTED BY LAW AND EVIDENCE. THE JUDGE ACTED ARBITRARILY, INSTEAD OF RULING ACCORDING TO THE LAW AND EVIDENCE. THE JUDGE MADE HIS OWN LAW. IN DOING SO, THE JUDGE COMMITTED REVERSIBLE ERRORS OF CONSTITUTIONAL MAGNITUDE RESULTING IN DEPRIVING JAMES R. LEE JR., LANA T. FRAZIER-TURNER AND MITZI LEE OF THEIR CONSTITUTIONAL RIGHTS AND PROPERTY.

The 5th Amendment of the U S Constitution and Article 1 Section 16 of the Washington State Constitution guarantee that in eminent domain cases that “just compensation be paid when private property is taken for public use. The federal court has held that the Fourteenth Amendment extended that right to the states, in Washington, under Article 1 Section 3. Due process of law under the Fourteenth Amendment guarantees that a person is entitled to due process of law before his “life, liberty or property” can be taken away from him. The 5th Amendment Article 1 Section 16 of the Washington State Constitution also provides protection against abuses involving government authority and against self incrimination to which James R. Lee JR. and Lana T. Frazier-Turner were exposed by the trial court. The court conducted a proceeding June 23-29, 2009 in which appellants unprepared, found themselves on trial, subjected to possible arrest and prosecution (without legal advisement of possible consequences) compelled to provide evidence against the allegations of first, forgery, by providing valid legal deeds which had already been recognized as such by the WSDOT and the State Attorney General. CP 53-57. Secondly, malicious allegations of abuse, neglect and coercion of Mitzi Lee were permitted to be made at the “trial” against appellants which were countered by official Adult Protective Services Report findings of the allegations being unsubstantiated, CP 124 as well as Auburn, Washington Police investigation reports both which included interview of Mitzi Lee proving the

same. CP 115-118. All were exhibits which the judge refused to admit into evidence. However none of this was an issue in the eminent domain Condemnation Petition. (Error number four). Appellants James R. Lee JR. and Lana T. Frazier-Turner have also been deprived of their rights as legal title holders by being dismissed from the Condemnation Petition. Further, Mitzi Lee was deprived of those same rights by not being included as a party to the eminent domain Condemnation Petition. Property was taken from her through the judges ruling in his findings of Fact and conclusions of Law judgment number eight made on August 7, 2009(Assignment of Error number six) and (Assignment of Error number Seven). CP 22-26. Mitzi Lee acquired her separate real property Yakima County Assessor's parcel No. 191320-22003 hereinafter referred to as "1414" through inheritance as her separate property from her aunt. RCW 26.16.010 and in re Brown v Brown, 100 Wn. 2d 729,737,675 P. 2d 1207 (1984) and In re Marriage of White, 105 Wn, App, 545,550, 20 P. 3d 481 (2001) and Skarbek, 100 Wn. App at 447 make it abundantly clear concerning the separate property of a spouse remaining separate when acquired by "gift, bequest, devise, descent, or inheritance" RCW 11.12.230 provides that, "All courts and others concerned in the execution of last wills shall have due regard to the direction of the will and the true intent and meaning of the testator, in all matters brought before them. The testator being Mitzi Lee's aunt intended for her separate property being "1414" to be and remain separate unless otherwise determined by Mitzi Lee. RCW 11.12.220. States that "No interest shall be allowed or calculated on any devise contained in any will unless such will expressly provided for such interest. RCW 6.15.040 exempts all real and personal property belonging to any married person from liability or judgment even with regard to the other spouse where property is separate. The law in Washington is well settled on these matters. Under RCW 26.16.040

only the community realty shall be subject to liens and executions. Under RCW 6.04.041 a lien , must be authorized by the owner, in this case no lien was authorized in community property as it would have been one spouse against the other and would have had to be community property. Marriage of Elam 97, Wn. 2d 11, 650 P. 2d 213 (1982) No lien was established under 60.04.021 and none was filed under 60.04.211 effecting a community interest. Who was the Summary Judgment of James R. Lee SR. against? Mitzi Lee? James R. Lee JR. and Lana T. Frazier-Turner? It could not legally be against Mitzi Lee for the foregoing reasons. A Summary Judgment against James R. Lee JR. and Lana T Frazier-Turner would validate the claim of appellants as having an interest in the Condemnation Petition. It would follow that the conclusions determined as “a matter of law” as determined by the judge in his ruling is not supported by the conclusions of law and findings of fact. CP 22-26. Yakima County Assessor’s parcel No. 19132022034 hereinafter referred to as “1412” the adjacent property was acquired as a marriage gift to both Mitzi Lee and James R. Lee as community and would have been the only property subject to community. “1414“ was not. Appellants argue that Mitzi Lee had every legal right to grant through Quit Claim deed “1414” to appellants, James R. Lee JR. and Lana T. Frazier-Turner as her separate inherited property. CP 53-57. Upon doing so James R. Lee JR. and Lana T. Frazier-Turner became owners and legally entitled to enter into a contract with the State Attorney General and The Washington State Department of Transportation and did so. Appellants should not have been dismissed as parties to the eminent domain Condemnation Petition when in fact they were owners who had negotiated a settlement with a legal binding contract with the WSDOT and the State Attorney General. Based on that fact pursuant to RCW

8.04.090 funds had been deposited into the registry. CP 61-65. The only Issues of Fact and Conclusions of Law pursuant to the stipulated contract May 15, 2009 appellants James R. Lee JR. and Lana T. Frazier-Turner entered into were to be the following:

ISSUES OF FACT

The following are the issues of fact to be determined at trial:

1. Just compensation and damages to be paid for specific property identified in Condemnation Petition.

ISSUE OF LAW

The following are the issues of law to be determined by the Court:

1. Sole issue for trial is a determination of just compensation for property taken or damaged;
2. Method of determination of just compensation and damages;
3. Burden of proof.
4. Temporary conditions incidental to construction are not compensable;
5. Lost business profits, if any, are not compensable.

1. The case is set for trial on June 23, 2009, to begin at 9:00 a.m. It is estimated to last 3 days.

2. The parties and their counsel shall observe the following schedule. (not shown)

The sole duty for the judge was to distribute the funds in the registry. Instead without grounds or cause the judge breached a legal agreement Appellants had with the WSDOT and the State Attorney General then went on later, without legal authority to enter a judgment to void the very deeds the contract was based upon. A material point is that except for the eminent domain action there would have been no ruling on the deeds or opportunity for this particular judge to make this judgment ruling. The judge erred and abused his authority and discretion in his ruling on the Summary Judgment and permitting a substitution of the original issues of law and issue of fact instead ruling on the issues of law and of law and findings of fact to which James R. Lee JR. and Lana T.

Frazier-Turner have assigned error. The ownership of the property had already been established. The material evidence of this was the deed to "1414" itself. A Summary Judgment ruling is permitted when a trial would be a "waste of time" or no real issues of law or disagreement as to fact. The judge had no grounds or basis for making the ruling he did other than a presumed speculative interpretation illustrated by (Assignment of Errors 1,2,and 9) and (finding of fact eight) which itself contains hearsay when respondent attorney made a self serving testimony for James R. Lee JR. and Lana Frazier-Turner and Mitzi Lee in his petition for Finding of Fact and Conclusion of Law April 7, 2009 (Finding of Fact number eight) CP 22-26.

Stating, "Mitzi Lee told James R. Lee JR. and Lana Frazier-Turner that the Quit Claim Deed was not to be recorded until after her death, and that James R. Lee, JR. and Lana T. Frazier-Turner were to hold the Deed and protect her interest. Mitzi Lee did not intend to transfer any of her present interest in the property by Quit Claim Deed."

Not only is this hearsay; it never happened. The Appellants on June 23rd 2009 having been removed as parties suffered a violation of their Civil rights by being deprived of the legal right to participate in any further hearings or any hearing or trial from that point, thus denying them a voice and violating their rights under the 5th, and 14th Amendments of the US Constitution of fair and just compensation and due process of Law as well as abuse of government authority in a legal procedure. The appellants were deprived of any compensation for property taken in violation of their Constitutional rights, specifically under the 5th Amendment in eminent domain cases concerning fair and just compensation. There was no compensation. The judge permitted a conflict of interest to prevail in violation of the rules of Professional Conduct Rule: 1.7(a) "A lawyer shall not represent a client if the representation of that client will be adverse to

another client.”

Respondent who claimed to represent James R. Lee SR. (only) represented the “community” of Mitzi Lee without her consent and was adverse and detrimental to her wishes. This was illustrated when on April 7, 2009, Mitzi Lee who was never a part of the proceedings was permitted by the Judge to be brought into court by James R. Lee JR. and Lana T. Frazier-Turner. Mitzi Lee objected to the Community Property award to James R. Lee SR. represented by respondent attorney and also to the condemnation award based on inherited property stating “My aunt is turning over in her grave.”

E. CONCLUSION

For all of the foregoing reasons James R Lee JR. and Lana T. Frazier-Turner respectfully request that the Appeals court overturn the judgment ruling of the trial court. That the Appeals Court rule in behalf of appellants James R. Lee JR. and Lana T. Frazier-Turner and overturn the trial courts findings of fact and conclusions of law to which appellants James R. Lee JR. and Lana T. Frazier-Turner have assigned error, that the court rule that James R. Lee JR. and Lana T. Frazier-Turner have a legal claim as legal owners, to the funds deposited in the registry pursuant to the legal Settlement Agreement with the WSDOT and The Attorney General. That the funds be distributed according to the appellant’s interest in “1414” and to the value respondent attributed to the home on “1414” owned by appellants.

RESPECTFULLY SUBMITTED THIS 5 DAY of MARH, 2010



James R. Lee JR. Appellant pro se
1245 E. 43rd Place
Los Angeles, CA 90011
H - 323-234-4647 C- 323-377-9463



Lana T. Frazier-Turner Appellant pro se
2616 Alpine Place S.E.
Auburn, WA 98002-7030
253-217-0361

IN THE COURT OF APPEALS DIVISION III OF THE STATE WASHINGTON

STATE OF WASHINGTON)	Trial Court No. 082038687
)	Appeals Court No. 283348
)	
v)	
)	
Respondent)	CERTIFICATE OF MAILING
)	
JAMES R. LEE, SR)	
)	
)	
Appellant)	

I, PAMELA Lee, certify that I mailed a copy of the following documents: Appellant's Opening Brief, placing them in a sealed envelope, postage prepaid to the following parties on March 5, 2010.

MR GUY BOWMAN
ASSISTANT ATTORNEY GENERAL
PO BOX 40113
OLYMPIA, WA 98504-0113

MR TERRY D. AUSTIN
CHIEF CIVIL DEPUTY PROSECUTING ATTORNEY
COUNTY COURTHOUSE
128 NORTH 2ND STREET ROOM 211
YAKIMA, WA 98901-2639

KIM M. EATON
OFFICE OF THE CLERK
YAKIMA COUNTY SUPERIOR COURT
128 NORTH 2ND STREET, ROOM 323
YAKIMA, WA 989012639

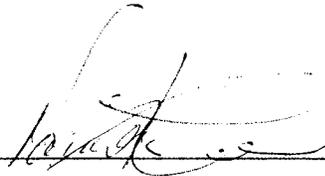
MR WADE GANO, THORNER, KENNEDY AND GANO
PO BOX 1410
YAKIMA, WA 98907-1410

LANA T. FRAZIER-TURNER
2616 ALPINE PLACE S.E.
AUBURN, WA 98002-7030

COURT OF APPEALS STATE OF WASHINGTON DIVISION III
RENEE S. TOWNSLEY/CLERK/ADMINISTRATOR
JOYCE A. ROBERTS, CASE MANAGER
500 N. CEDAR STREET
SPOKANE, WA 99201-1903

DATED this 5 day of March, 2010

Signature _____

A handwritten signature in cursive script, appearing to read "Renee S. Townsley", is written over a horizontal line. The signature is positioned to the right of the word "Signature".