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SUPREME COURT  
STATE OF WASHINGTON

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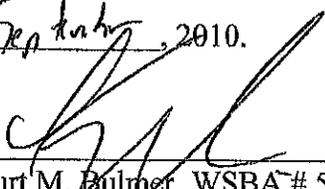
2010 NOV 30 P 12:44  
BY RONALD R. CARPENTER  
IN THE SUPREME COURT  
OF THE  
STATE OF WASHINGTON  
CLERK

In re: ) SUPREME COURT No. 200,748-1  
J. DAVID SMITH, )  
Lawyer (WSBA No. 8993). ) CORRECTION OF FACTUAL  
MISSTATEMENT OF RESPONDENT'S  
COUNSEL

During oral argument on this matter on September 21, 2010, I, the below signing Respondent's counsel, was asked a question from the Bench as to whether an "Alford Plea" was available to Mr. Smith at the time he pled guilty. I answered "Yes." The answer to this question is not a matter of record so I answered with my best understanding that an Alford Plea is always one of the options which can be considered and I knew of no reason why there would be an impediment in this particular case.

I am advised that, in fact, an Alford Plea was not available because the Deputy US Attorney was unwilling to accept such a plea. Under the circumstances of the issues in this case, I am not certain that it makes any difference one way or the other but since I made a factually incorrect statement to the Court in response to a direct question from the Bench, I felt it important for me to correct it.

Dated this 24<sup>th</sup> day of September, 2010.

  
Kurt M. Bulmer, WSBA # 5559  
Attorney for Respondent Smith

ORIGINAL

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ATTACHMENT TO EMAIL

IN THE SUPREME COURT  
OF THE  
STATE OF WASHINGTON

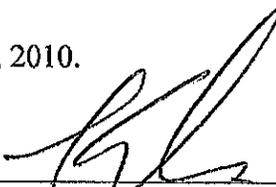
In re: ) SUPREME COURT No. 200,748-1  
J. DAVID SMITH, )  
 ) DECLARATION OF SERVICE  
 )  
 ) Lawyer (WSBA No. 8993). )

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I do hereby certify under penalty of perjury under the laws of the State of Washington that on the 23<sup>rd</sup> day of September, 2010, I caused to be served a true and correct copy of the CORRECTION OF FACTUAL MISSTATEMENT OF RESPONDENT'S COUNSEL by providing an electronic copy to the Office of Disciplinary Counsel at the same time as the pleading was filed with the Court and by mailing the same by regular, postage-prepaid first class US mail and addressed to the following:

Scott Busby  
Disciplinary Counsel  
Washington State Bar Association  
1325 4<sup>th</sup> Ave. STE 600  
Seattle, WA 98101-2539

Dated this 24<sup>th</sup> day of September, 2010.

  
\_\_\_\_\_  
Kurt M. Bulmer, WSBA # 5559  
Attorney for Respondent Smith