

NO. 68942-8-I

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON,

Appellant,

v.

JOSEPH A. PELTIER,

Respondent.

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2013 APR -1 PM 1:28

REPLY BRIEF OF APPELLANT

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I. REPLY ARGUMENT

WHEN A DISCRETIONARY RULING IS BASED ON A QUESTION OF LAW, THAT QUESTION IS REVIEWED DE NOVO.

The defendant points out that a trial court's ruling on a motion to amend an information is reviewed for abuse of discretion. Under the circumstances of this case, application of that standard does not change the analysis.

A decision is an abuse of discretion if it is based on untenable grounds or reasons. "[A] court necessarily abuses its discretion where it bases a ruling on an erroneous view of the law." Questions of law are reviewed de novo. In re Marriage of Herridge, 169 Wn. App. 290, 296-97 ¶14, 279 P.3d 956 (2012) (citation omitted).

In the present case, the sole basis for the trial court's ruling was its conclusion that the statute of limitations is jurisdictional and cannot be waived. RP 17-18. Whether the statute of limitations can be waived is a question of law. If the trial court's legal conclusion was wrong, then its decision was based on untenable reasons. Under the circumstances of this case, an "abuse of discretion" standard still results in de novo review.

II. CONCLUSION

The order of dismissal should be reversed.

Respectfully submitted on March 29, 2013.

MARK K. ROE
Snohomish County Prosecuting Attorney

By: 

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IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

THE STATE OF WASHINGTON,

Appellant,

v.

JOSEPH A. PELTIER,

Respondent.

No. 68942-8-1

AFFIDAVIT OF MAILING

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that on the 29th day of March, 2013, affiant deposited in the mail of the United States of America a properly stamped and addressed envelope directed to:

THE COURT OF APPEALS - DIVISION I
ONE UNION SQUARE BUILDING
600 UNIVERSITY STREET
SEATTLE, WA 98101-4170

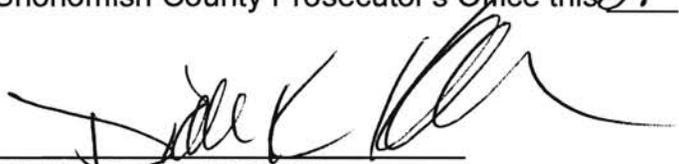
WASHINGTON APPELLATE PROJECT
1511 THIRD AVENUE, SUITE 701
SEATTLE, WA 98101

containing an original and one copy to the Court of Appeals, and one copy to the attorney for the respondent of the following documents in the above-referenced cause:

REPLY BRIEF OF APPELLANT

I certify under penalty of perjury under the laws of the State of Washington that this is true.

Signed at the Snohomish County Prosecutor's Office this 29th day of March, 2013.



DIANE K. KREMENICH
Legal Assistant/Appeals Unit