

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

vs.

ERIC DANIEL CRUZ,

Respondent.

NO. 93732-0

THIRD  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES

COMES NOW the petitioner, State of Washington, by and through its attorney, Pamela B. Loginsky, Special Deputy Prosecuting Attorney for Okanogan County, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

**Failure to Separately Appeal from the Order of Dismissal**

RAP 2.4(b) (“The appellate court will review a trial court order or ruling not designated in the notice, including an appealable order, if (1) the order or ruling prejudicially affects the decision designated in the notice, and (2) the order is entered, or the ruling is made, before the appellate court accepts review.”)

RAP 6.1 (“The appellate court ‘accepts review’ of a trial court decision upon the timely filing in the trial court of a notice of appeal from a decision which is reviewable as a matter of right.”)

RAP 1.2(a) (“These rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands, subject to the restrictions in rule 18.8(b).”)

*State v. Olson*, 126 Wn.2d 315, 321, 323, 893 P.2d 629 (1995) (overruling *State v. Fortun*, 94 Wn.2d 754, 626 P.2d 504 (1980), and stating that “[i]n a case where the nature of the appeal is clear and the relevant issues are argued in the body of the brief . . . so that the court is not greatly inconvenienced and the respondent is not prejudiced, there is no compelling reason for the appellate court not to exercise its discretion to consider the merits of the case or issue”)

#### **Exceptions to the Mootness Doctrine**

*State v. Watson*, 155 Wn.2d 574, 577, 122 P.3d 903 (2005) (a decision that has the potential to affect a number of proceedings in the lower courts may warrant review as an issue of substantial public interest, despite the fact that the State is not technically an aggrieved party, if review will avoid unnecessary litigation and confusion on a common issue)

*Cathcart-Maltby-Clearview Cmty. Council v. Snohomish County*, 96 Wn.2d 201, 208, 634 P.2d 853 (1981) (“A moot case will be reviewed if its issue is a matter of continuing and substantial interest, it presents a question of a public nature which is likely to recur, and it is desirable to provide an authoritative determination for the future guidance of public officials.”)

*State v. Hunley*, 175 Wn.2d 901, 907, 287 P.3d 584 (2012) (the Court may retain and decide an appeal in a technically moot case if it involves matters of continuing and substantial public interest)

*State v. Deer*, 175 Wn.2d 725, 731 n. 2, 287 P.3d 539 (2012) (“Like the Court of Appeals, we review this question because, although it is moot, it may arise on remand. Our resolution of this question will also provide guidance for future cases.

DATED June 6, 2017.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Pamela Beth Loginsky". The signature is written in black ink and is positioned above a horizontal line.

PAMELA B. LOGINSKY, WSBA NO. 18096  
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PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 6th day of June, 2017, I e-mailed a copy of the document to which this proof of service is attached to

Branden Platter at [bplatter@co.okanogan.wa.us](mailto:bplatter@co.okanogan.wa.us)

Karl Sloan at [ksloan@co.okanogan.wa.us](mailto:ksloan@co.okanogan.wa.us)

Ronald Hammett at [ron@hammettlaw.com](mailto:ron@hammettlaw.com)

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Kelly Paradis at [kellyp@atg.wa.gov](mailto:kellyp@atg.wa.gov)

On the 6th day of June, 2017, I also deposited in the mails of the United States of America, postage prepaid, a copy of the document to which this proof of service is attached in an envelop addressed to:

Ronald Alan Hammett  
Law Office of Ronald A. Hammett  
PO Box 3940  
Omak, WA 98841-3940

and to

Ronald Hammett  
120 N. Howard St  
Moscow, ID 83843

I declare under the penalty of perjury of the laws of the State of Washington

that the foregoing is true and correct.

Signed this 6th day of June, 2017, at Olympia, Washington.

A handwritten signature in cursive script that reads "Pamela Beth Loginsky". The signature is written in black ink and is positioned above a horizontal line.

PAMELA B. LOGINSKY  
WSBA NO. 18096