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STATE OF WASHINGTON,	)	No. 103510-1
Respondent,	)	COA No. 84950-6-I
	)	
v.	)	MOTION
	)	REGARDING
JOEL ZWALD,	)	TIMELY FILED
Petitioner.	)	PETITION FOR
	)	REVIEW

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I. IDENTITY OF MOVING PARTY AND RELIEF SOUGHT.

Petitioner Joel Zwald, asks this Court to conclude the petition for review in this matter was timely filed under RAP 13.4(a). Alternatively, if this Court believes a declaration of counsel is required, Mr. Zwald asks this Court to extend the time for filing that declaration from October 4, 2024, to October 8, 2024.

## II. GROUND FOR RELIEF AND ARGUMENT.

### **A. The Petition for Review was timely filed pursuant to RAP 13.4(a).**

On January 4, 2024, the Court of Appeals consolidated Mr. Zwald's direct appeal of his conviction, 84950-6-I, with a Department of Corrections Post-Sentence Petition, 85332-5-I, regarding one aspect of Mr. Zwald's sentence. The direct appeal, 84950-6-I was designated the "anchor" case.

No rule specifies that when cases are consolidated, pleadings may only be filed in the "anchor" case. Indeed, no rule mentions "anchor" case. In fact, even after these matter were consolidated, briefs were filed by the parties and accepted for filing by the Court of Appeals under the consolidated case number, 85332-5-I. Indeed, a search on ACORDS under 85332-5-I lists the opinion at issue in this petition, as filed in that case.

On August 4, 2024, the Court of Appeals issued an opinion in the consolidated cases. On August 28, 2024, the court denied a motion to reconsider in the consolidated cases. On

September 27, 2028, counsel timely filed a petition for review in this matter within 30 days of the denial of the motion to reconsider as required by RAP 13.4(a). Appendix at 1-2. However, because that petition was filed using case number 85332-5-I, the consolidated case, rather than the “anchor” case number the Court of Appeals refused to accept the petition for filing. Appendix at 2.

Counsel was not informed of that action until the morning of September 30, 2024, the next business day, when the Court of Appeals contacted counsel’s office and informed them of its action. Appendix at 3. A corrected petition with the anchor case number was promptly filed, approximately 90 minutes later, without any substantive changes. Appendix at 4.

To be clear, the same petition was filed within 30 days of the order denying the motion to reconsider, as required by RAP 13.4(a). That petition merely included the number of the consolidated case rather than the “anchor” case. Appendix at 4.

As required by the rules, counsel timely filed a petition for review in Mr. Zwald's case. The use of the consolidated case number rather than the "anchor" case number does not change that fact. The petition was timely filed as required by RAP 13.4(a).

**B. If the Court believes a declaration of counsel is required, it should extend the time to file such declaration to October 8, 2024.**

As made clear above, the petition was timely filed. However, if the Court believes a declaration is nonetheless required, the Court should extend the time for filing such declaration to October 8, 2024.

After timely filing the petition in this case, counsel for Mr. Zwald went on vacation. Counsel will return on October 7, 2024. Counsel could not file a declaration by October 4, 2024, as contemplated by the Court's October 1, 2024, letter.

### III. CONCLUSION.

Mr. Zwald timely filed a petition for review in this case as required by RAP 13.4(a). This Court should conclude as much.

This pleading complies with RAP 18.7 and contains words.

DATED this 2<sup>nd</sup> day of October 2024.



Gregory C. Link (25228)  
**FOR** Nancy P. Collins (28806)  
Washington Appellate Project (91052)  
Attorneys for Appellant  
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**REJECTED FILING**  
**This document received but**  
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Supreme Court No. \_\_\_\_  
(COA No. 85332-5-I)

**IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON**

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**STATE OF WASHINGTON,**

**Respondent,**

**v.**

**JOEL ZWALD,**

**Petitioner.**

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**ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR WHATCOM COUNTY**

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**PETITION FOR REVIEW**

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**NANCY P. COLLINS**  
**Attorney for Petitioner**

**WASHINGTON APPELLATE PROJECT**  
**1511 Third Avenue, Suite 610**  
**Seattle, Washington 98101**  
**(206) 587-2711**

# WASHINGTON APPELLATE PROJECT

September 27, 2024 - 4:24 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 85332-5  
**Appellate Court Case Title:** Post-Sentence Petition of Joel Duane Zwald  
**Superior Court Case Number:** 19-1-01394-2

### The following documents have been uploaded:

- 853325\_Motion\_20240927162353D1682137\_3077.pdf  
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- 853325\_Petition\_for\_Review\_20240927162353D1682137\_7120.pdf  
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### Comments:

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**Subject:** 85332-5 Post-Sentence Petition of Joel Duane Zwald  
**Date:** Monday, September 30, 2024 10:11:27 AM  
**Attachments:** [Rejected Pleading - - 853325 - Court - Motion Party - Consolidate- 9 27 2024.pdf](#)  
[Rejected Pleading - - 853325 - Court - Notice - Petition for Review- 9 27 2024.pdf](#)  
**Importance:** High

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LEA ENNIS  
*Court  
Administrator/Clerk*

*The Court of  
Appeals  
of the  
State of  
Washington*

Division I  
One Union  
Square  
600 University  
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Seattle, WA  
98101-4170  
(206) 464-7750

Good Morning,

Please find attached rejected pleadings filed under the secondary case number 85332-5 filed on September 27, 2024.

I called counsel's office today and advised to refile the documents under the correct case number of 84950-6.

Thank you,

Karin Nakamichi  
Case Manager



# WASHINGTON APPELLATE PROJECT

September 30, 2024 - 11:20 AM

## Transmittal Information

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 84950-6  
**Appellate Court Case Title:** State of Washington, Respondent v. Joel Duane Zwald, Appellant  
**Superior Court Case Number:** 19-1-01394-2

### The following documents have been uploaded:

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\*Both documents corrected only as to the COA case number.

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## DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 103510-1**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

☒ respondent Holger Sonntag, AAG  
[holger.sonntag@atg.wa.gov]  
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Office of the Attorney General-DOC

☐ petitioner

☒ respondent Kimberly Thulin, DPA  
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Whatcom County Prosecutor's Office  
[Appellate\_Division@co.whatcom.wa.us]



MARIA ANA ARRANZA RILEY, Paralegal  
Washington Appellate Project

Date: October 2, 2024

# WASHINGTON APPELLATE PROJECT

October 02, 2024 - 11:14 AM

## Transmittal Information

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**Appellate Court Case Number:** 103,510-1  
**Appellate Court Case Title:** State of Washington v. Joel Duane Zwald  
**Superior Court Case Number:** 19-1-01394-2

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