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Court of Appeals
Division II
State of Washington
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STATE OF WASHINGTON
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CERTIFICATE OF SERVICE
GR 3.1

Case #: 1035110

I, Robert Woodward, certify under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct. 28 U.S.C. §1746.

That on the date expressed below, I did serve the following documents, by efile from Stafford Creek Correction Center, Aberdeen, Washington, through the legal library, administrated by Paula Maine.

1. PETITION FOR REVIEW
2. UNPUBLISHED OPINION: 58111-6-I; 9/10/24 (odd pages only)
3. ATTACHMENT: STATEMENT OF ADDITIONAL GROUNDS
4. ADDITIONAL GROUNDS FOR REVIEW
- 5.

to the following parties:

1. Court of Appeals - Division II, Tacoma, WA 98402
- 2.
- 3.

The Clerk is to serve the following parties: RCW 2.32.050.

1. Mason County Prosecuting Attorney.

For cause: 58111-6-I

SWORN TO and EXECUTED in the City of Olympia, County of Grays Harbor, in the State of Washington.

DONE THIS 27 day of September, 2024.
Robert Woodward

Robert Woodward
DOC# 351466 / S.C.C.C.
191 Constantine Way
Aberdeen, WA 98520

COURT OF APPEALS,
DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent

vs.

ROBERT WOODWARD, Appellant

PETITION FOR REVIEW

No. 58111-6-I

Robert Woodward
DOC# 357466
Stafford Creek C. C.
191 Constantine Way
Aberdeen, WA 98520

September 10, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

ROBERT LUCAS WOODWARD,

Appellant.

No. 58111-6-II

UNPUBLISHED OPINION

LEE, J. — Robert L. Woodward appeals the trial court’s denial of a 2023 motion to compel and motion to arrest judgment. Woodward’s briefing to this court argues that the crime victim penalty assessment (CVPA), DNA collection fee, and requirement that he pay community custody supervision fees should be stricken from his judgment and sentence. Woodward also raises additional claims in statements of additional grounds for review (SAG).¹

We hold that Woodward’s arguments in his briefing discussing legal financial obligations (LFOs) and supervision fees are beyond the scope of appeal. Because Woodward fails to provide any argument relating to an alleged error relating to the 2023 motion to compel, we affirm the trial court’s denial of the 2023 motion to compel. Also, all but two of the various claims Woodward makes in his SAG fail because they are either unrelated to the decisions from which Woodward appealed or fail to inform the court of the nature and occurrence of the alleged errors. Finally, because the trial court properly denied the motion to arrest judgment as untimely, we reject

¹ RAP 10.10.

1. Motions to Compel

Woodward filed his first motion to compel in 2017, seeking an order “directing the prosecution to permit discovery and inspection or copying of” a list of “General Items.” Clerk’s Papers (CP) at 1457. Woodward also sought a copy of his client file pursuant to RPC 1.16(d). The trial court denied the motion because Woodward’s counsel no longer had the materials Woodward sought and may have forwarded it to another attorney. Woodward appealed. *State v. Woodward*, No. 51178-9-II, slip op. at 1 (Wash. Ct. App. June 18, 2019) (unpublished), *review denied*, 194 Wn.2d 1016 (2020).³ We affirmed the trial court. *Id.* at 6.

Woodward apparently filed another motion to compel discovery in 2023, but that motion is not in the record on appeal. In March 2023, the trial court denied the motion because it was “based on the same arguments that were previously adjudicated and denied” and could not be characterized as a motion for reconsideration, which would have been time barred regardless. CP at 1574.

2. Motion to Vacate LFOs

Also in 2023, Woodward filed a CrR 7.8(b)(4) motion seeking vacation of his LFOs. The trial court treated the motion as a “Motion for Order Waiving Interest and Granting Remission or Reduction of Legal Financial Obligations” under GR 39. CP at 1413. The trial court found Woodward indigent pursuant to RCW 10.101.010(3) and waived all non-restitution interest and all non-restitution, discretionary LFOs from Woodward’s judgment and sentence.

³ <https://www.courts.wa.gov/opinions/pdf/D2%2051178-9-II%20Unpublished%20Opinion.pdf>

RAP 2.4(a) defines this court's scope of review: "The appellate court will . . . review the decision or parts of the decision designated in the notice of appeal." Here, Woodward's notice of appeal designated the trial court's denial of his motion to compel and motion to arrest judgment as the decisions for this court to review. Neither the motion to compel nor the motion to arrest judgment involve LFOs. Thus, the LFO and supervision fees issues are beyond the scope of review, and we do not address them.⁵

B. ORDERS ON 2023 MOTION TO COMPEL AND MOTION TO ARREST JUDGMENT

Woodward appealed the trial court's denial of his 2023 motion to compel and motion to arrest judgment. However, Woodward's briefing to this court addresses only LFO and supervision fees issues.

Because Woodward provides no argument to support any alleged error with the trial court's order denying the 2023 motion to compel, we affirm the trial court's order denying the 2023 motion to compel. With regard to the trial court's order denying the motion to arrest judgment, although Woodward's briefing provides no argument to support any alleged error with the trial court's denial of the motion to arrest judgment, Woodward does raise claims relating to the motion to arrest judgment in his SAG. Therefore, this opinion will address the motion to arrest judgment claim to the extent presented in Woodward's SAG.

⁵ We note that the trial court vacated all non-restitution, nondiscretionary LFOs and all non-restitution interest in 2023, and the record on appeal shows that there are no LFOs owed by Woodward. *See* CP at 1619 (showing a \$0.00 balance of January 12, 2024).

1 (some capitalization omitted). However, Woodward provides no argument to inform the court of the basis or nature of the alleged errors. Because Woodward's first three grounds, and the issues flowing from them, fail to "inform the court of the nature and occurrence of alleged errors," we do not address them. RAP 10.10(c).

In his fourth ground, Woodward makes a number of claims touching on "appellate counsel," LFOs, and restitution. SAG 1 at 2 (some capitalization omitted). To the extent ground 4 touches on challenges to LFOs, that issue is not "related to the decision under review," and, as addressed above, is beyond the scope of review. RAP 2.4(a); RAP 10.10(a). To the extent ground 4 makes an ineffective assistance of counsel claim, because Woodward provides no argument, the "nature and occurrence of alleged errors" is unclear. RAP 10.10(c). Therefore, we not address this claim.

Woodward's fifth ground⁷ claims that the trial court erred by "ruling a CrR 7.4 was governed by CrR 7.8(c)(2)." SAG 1 at 3 (some capitalization omitted). However, the trial court did not deny Woodward's motion to arrest judgment pursuant to CrR 7.8(c)(2);⁸ rather, the trial court denied the motion because it was untimely. The trial court did not err in doing so.

⁷ Woodward asserts six grounds in SAG 1, but the fifth ground is noted as "STRUCK." SAG 1 at 3.

⁸ CrR 7.8(c)(2) states:

The court shall transfer a motion filed by a defendant to the Court of Appeals for consideration as a personal restraint petition unless the court determines that the motion is not barred by RCW 10.73.090 and either (i) the defendant has made a substantial showing that they are entitled to relief or (ii) resolution of the motion will require a factual hearing.

Fifth, Woodward claims, “The appellant s judgment and sentence clearing [sic] imposes an offender score of ‘6’.” SAG 2 at 5. This claim fails to inform the court of the “nature and occurrence of [the] alleged error[.]” RAP 10.10(c). Therefore, we do not address this claim.

Sixth, Woodward claims, “The trial court abused it’s [sic] discretion by failing to amend the appellant’s judgment and sentence to reflect the retroactive sentencing statute of RCW 9.94A[.]760, which required the court to make individual assessments to pay in light of being found indigent at sentencing.” SAG 2 at 6 (some capitalization omitted). As discussed above, the LFO issue is beyond the scope of review.

CONCLUSION

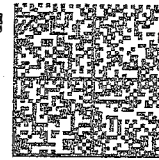
The issue of whether to strike certain LFOs and supervision fees is beyond the scope of appeal. As Woodward provides no argument regarding the 2023 motion to compel, we affirm the trial court’s order denying the 2023 motion to compel. We do not address all but two of Woodward’s SAG claims because they are either unrelated to the decisions from which Woodward appealed or do not inform the court of the nature and occurrence of the alleged errors. As for the SAG claims relating to the motion to arrest judgment, those claims fail on the merits. Thus, we also affirm the trial court’s order denying the motion to arrest judgment.

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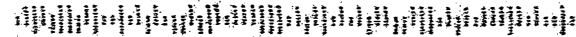
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MAIL SERVICES

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GROUND 1

WAS THE APPELLANT UNLAWFULLY SEIZED BY LAW ENFORCEMENT WITHOUT AN ARREST WARRANT SIGNED BY A MAGISTRATE IN VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION?

The appellant was surrendered to law enforcement on by defense counsel of March 17, 2011. Probable cause was filed on March 18, 2011. CP-2; ER 201(b)(e).

This Court is to instruct appellate counsel to brief this issue, knowing that the appellant is prejudiced by the Court's denying request for a Brady Order. Brayd v Maryland 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

An arrest warrant issued prior to the filing of information in the superior court must be signed by a magistrate CrRLJ 2.2(a)(2)(c) IV & XIV Amend. U.S. Const ; Const. Article 1, §§ 3, 22.

GROUND 2

DID THE CHARGING DOCUMENT VIOLATE THE APPELLANT'S FIFTH, SIXTH, and FOURTEENTH AMENDMENT RIGHT BY FAILING TO GIVE NOTICE IN VIOLATION OF CrR 2 1(a)?

Information and probable cause were filed separately ,
March 18, 2011 and March 22, 2011 CP-2; CP-9. ER 201(b)(e).

The information is void of the common law essential element
identifying any alleged victim as meeting the essential
element of RCW 9A 44 073 or RCW 9A.44.083

Failure to include the common-law essential element
is a violation of the appellant's Constitutional rights
CrR 2.1(a); Fifth, Sixth, and Fourteenth Amendment; Const
Article 1, §§ 3, 22

GROUND 3

WAS THE APPELLANT'S DUE PROCESS RIGHT TO A SPEEDY TRIAL PURSUANT TO THE SIXTH AND FOURTEENTH AMENDMENT, AND CrR 3.3, VIOLATED WHEN THE TIME TO TRIAL EXPIRED PRIOR TO THE COURT ENTERING A NEW WAIVER?

On September 19, 2011, the trial court entered a "WAIVER OF SPEEDY TRIAL " CP-35 ER 201(b)(e) The appellant's time to trial expiration was December 18, 2011. CrR 3.3(b)(2).

Failure to enter a valid time to trail waiver now violates the appellant's Sixth Amendment right as applied through the Fourteenth Amendment. CrR 3.3; VI & XIV Amend. U.S Const ; Const Article 1, §§ 3, 22

GROUND 4

WAS THE APPELLANT SENTENCE OUTSIDE THE STANDARD RANGE FOR COUNT 3, IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENT, NOW IMPOSING AN EXCEPTIONAL SENTENCE WITHOUT DUE PROCESS?

Upon the judgment and sentence the trial court imposed a sentencing range for count 3 of "162-216" months. CP-109; ER 201(b)(e).

The Sentencing Reform Act, RCW 9.94A et al., cites the standard range for RCW 9A.44 073, as a serious level of "XII" with a standard range of "146-194 " RCW 9 94A 510; RCW 9 94A 515; RCW 9.94A.520 ER 201(b)(e).

The appellant is sentenced to the maximum of 216 months, thus he is outside the standard range. No exceptional sentence was imposed by the trail court. VI, XIV Amend U S Const.; Const Article 1, §§ 3, 22.

GROUND 5

DID THE TRIAL COURT ABUSE ITS DISCRETION WHEN IT DEEMED AN OFFENDER SCORE OF "6" WITHOUT ANY PRIOR CONVICTIONS, THUS IMPOSING AN EXCEPTIONAL SENTENCE WITHOUT ENTERING FINDINGS OF FACTS AND CONCLUSIONS OF LAW?

The appellant's judgment and sentence clearing imposes an offender score of "6". This clearly elevates the sentencing range from "51-68" months to "98-130" months for count 1 and count 2; and elevates the standard range from "78-102" to "146-194" for count 3. RCW 9.94A.510; ER 201(b)(e); CP 109.

GROUND 6

HAS THE TRIAL COURT ABUSED IT'S DISCRETION BY FAILING TO AMEND THE APPELLANT'S JUDGMENT AND SENTENCE TO REFLECT THE RETROACTIVE SENTENCING STATUTE OF RCW 9.94A 760, WHICH REQUIRED THE COURT TO MAKE INDIVIDUAL ASSESSMENTS TO PAY IN LIGHT OF BEING FOUND INDIGENT AT SENTENCING?

The appellant's judgment and sentence continues to reflect the imposition of legal financial obligations, restitution and cost of incarceration, despite entering an order to cancel the debt. In re Personal Restriant of Dove 196 Wn App. 148 (2016)(the court is bound to the judgment and sentence, in making any determination.) CP-109; RCW 9.94A 760(2022 c260, §4); ER 201(b)(d).

DONE THIS 25 day of January, 2024.



Robert Woodward
Stafford Creek Correction Center
191 Constantine Way
Aberdeen, WA 98520

COURT OF APPEALS - DIVISION II
IN AND FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Respondent

vs.

ROBERT WOODWARD,
Appellant

No. 58111-6-I

ADDITIONAL GROUNDS
FOR REVIEW

GROUND I

DID QUALIFIED COMPETENT JURISDICTION OF MR. WOODWARD'S
PERSON PASS INTO THE POSSESSION OF MASON COUNT SUPERIOR
COURT WITHOUT MASON DISTRICT COURT EXISTENCE?

Whenever the judge of the superior court of any county,
elected or appointed under the provisions of the
Constitution shall have qualified several causes then
pending in the District Court of the territory except such
causes would have been within the exclusive jurisdiction
of the United States District Court had such court existed
at the time of the commencement of such causes, within
such county, and the records, papers and proceedings of
said District Court, and seal and other property
pertaining thereto, shall pass into the jurisdiction and
possession of superior court for such county.

Const. art. XXVII, §8.

Appellant asserts the Court of Appeals refusal to rule on Ground 1 of the Statement of Additional Grounds now raises the Superior Court's lack of jurisdiction: lacking documents to commence the action.

Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

Ex parte McCardle 74 U.S. 506, 7 Wall 506, 514, 19 L.Ed. 264 (1869).

Appellant moves this Court to conduct the United States Supreme Court jurisdiction analysis to establish jurisdiction. Steel Co. v. Citizens for a Better Env't 523 U.S. 83, 118 S.Ct. 1003 (1998).

Denial of a jurisdiction analysis is a procedural defect. Williams v. Taylor 592 U.S. 362, 120 S.Ct. 1495 (2000).

GROUND II.

DID THE COURT OF APPEALS DECISION VIOLATE STARE DECISIS?

The Court of Appeals has ruled:

when the miscalculation of an offender score and standard range sentence can be determined from the judgment, it renders the judgment facially invalid even when the court imposes the recommended exceptional sentence.

State v. Fletcher, 19 WN.App.2d 566, 572-73, 497 P.3d 886

(2021)(footnote omitted). The Court concluded that such a defects is constitutes a fundamental defect and is a complete miscarriage of justice. RAP 2.5. It is axiomatic that a sentencing court acts without statutory authority when it imposes a sentence based on miscalculated offender score.

State v. Roche, 75 Wn.App. 500, 513, 878 P.2d (1994).

The imposition of an offender score without any prior convictions is contrary to law. RCW 9.94A.030(13)(b).

The state has the burden to prove the appellant's criminal history. State v. Herzog, 48 Wn.App. 831, 834, 740 P.2d 380 (1987) aff'd 112 Wn.2d 419, 771, P.2d 739 (1989); RCW 9.94A.110.

The Court of Appeals refusal to enter a decision consistent to stare decisis, with regard to Ground I, IV and V, now violates stare decisis.

GROUND III

DID THE COURT OF APPEALS FAIL TO APPLY THE RETROACTIVE
SENTENCING STATUTE: RCW 9.94A.760 (2022 c160, §4)?

This Court is to apply the United States Supreme Court
retroactivity analysis, to determine if the statute appellant
relies upon is mandatory or discretionary. Teague v. Lane,
489 U.S. 288, 109 S.Ct. 1060 (1989).

Failure to apply United States Supreme Court precedent
is a procedural defect in these proceedings. Williams v. Taylor
supra.

GROUND IV

DID THE COURT OF APPEALS DENY THE APPELLANT THE RIGHT TO A COMPLETE RECORD, WHEN DENYING THE BRADY v. MARYLAND, 373 U.S. 83 (1963)?

Denial of the record now denies a complete review of this matter. 28 U.S.C. §2250. The disclosure of the requested records establishes material facts omitted from the charging information, which now voids the charging documents. State v. Pry, 194 Wn.2d. 745 (2019). The omitted essential element is a requirement. Id. (citing United States v. Cina, 699 F.2d 853, 859 (7th Cir. 1983); State v. Nonog, 169 Wn.2d 220, 237 P.3d 250 (2010)(citing State v. Leach 113 Wn.2d. 679, 688 (1989)).

Furthermore, denial of Brady material now denies a complete record to establish jurisdiction. CrRLJ 2.1(a)(1).

Petitioner requests an application of United States Supreme Court precedent and apply the Brady v. Maryland, supra, analysis. Failure to apply Supreme Court precedent will be a defect in the proceeding. Williams v. Taylor supra.

GROUND V

DID THE TRIAL COURT ABUSE ITS DISCRETION BY DISMISSING
APPELLANT'S CrR 7.4, AS UNTIMELY?

Washington' Superior Court Rule reads: CrR 7.4(b)

A motion for arrest of judgment must be served and
filed within 10 days after the verdict or decision.
the court on application of the defendant or on its
own motion may in its discretion extend the time until
such time as judgment is entered.

The record is clear, appellant filed the questioned arrest
of judgment after a January, 2023 decision. Thus it was timely.

Both the superior court and Court of Appeals abuse there
discretion by deeming the record to the judgment entered at
sentencing.

GROUND VI


DID THE COURT OF APPEALS ABUSE ITS DISCRETION BY FAILING
TO APPLY THE SPEEDY TRIAL ANALYSIS?

The United State Supreme Court has established a test to
determine speedy trial rights violations. Barker v. Wingo
407 U.S. 518, 33 L.Ed.2d 101 (1982).

Further more, the Court of Appeals now violates its own
stare decisis, by failing to establish the due process violation,
asserted by the appellant. State v. Denton 23 Wn.App. 437, 516
P.3d 422 (2022).

Failure to apply United States Supreme Court precedent
will be a defect in these proceedings. Williams v. Taylor supra.
Attached: Statement of Additional Grounds

DONE THIS 27 day of September, 2024.


Robert Woodward
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September 27, 2024 - 10:15 AM

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