**NO. 39526-0-III**

**IN THE COURT OF APPEALS**

**STATE OF WASHINGTON**

**DIVISION III**

---

**STATE OF WASHINGTON,**

Plaintiff/Respondent,

V.

**JOSHUA JAMES GLAZIER,**

Defendant/Appellant.

---

# PETITION FOR DISCRETIONARY REVIEW

---

Dennis W. Morgan WSBA #5286
Attorney for Appellant
P.O. Box 1019
Republic, Washington 99166
(509) 775-0777

## TABLE OF CONTENTS


TABLE OF AUTHORITIES

TABLE OF CASES ii

CONSTITUTIONAL PROVISIONS ii

RULES AND REGULATIONS ii

OTHER AUTHORITIES ii

IDENTITY OF PETITIONER . . . 1

STATEMENT OF RELIEF SOUGHT . . . 1

ISSUES PRESENTED FOR REVIEW . . 1

STATEMENT OF THE CASE . . . 1

ARGUMENT WHY REVIEW SHOULD BE ACCEPTED. . . . . 6

CONCLUSION . . . . . 27

APPENDIX "A"

APPENDIX "B"

APPENDIX "C"

## TABLE OF AUTHORITIES

### CASES

*Arizona v. Fulminante*, 499 U.S. 279, 111 S. Ct. 1246, 114 L. Ed. 302 (1991).....27

*Barker v. Wingo*, 407 U.S. 514, 92 S. Ct. 2182, 43 L. Ed. 2d 101 (1972).....1, 7, 19, 20

*City of Seattle v. Klein*, 161 Wn.2d 554, 166 P.3d 1149 (2007).26

*Doggett v. United States*, 505 U.S. 647, 112 S. Ct. 2686, 120 L. Ed. 2d 520 (1992).....28

*Garrity v. New Jersey*, 385 U.S. 493, 498 (1967).....19

*Personal Restraint of Benn*, 134 Wn.2d 868, 952 P.2d 116 (1998).....16

*Simmons v. United States*, 390 U.S. 377, 394 (1968).....16

*State v. Crow*, 8 Wn. App. 2d 480, 438 P.3d 541 (2019) .....27

*State v. Hatt*, 11 Wn. App. 2d 113, 452 P.3d 577 (2019).....24

*State v. Iniguez*, 167 Wn.2d 273, 217 P.3d 768 (2009).....7

*State v. Johnston*, 143 Wn. App. 1, 177 P.3d 1127 (2007).....27

*State v. Nov*, 14 Wn. App. 2d 114, 469 P.3d 52 (2020).....7, 9, 12, 20, 22

*State v. Ollivier*, 178 Wn.2d 813, 312 P.3d 1 (2013).....13, 25

*State v. Palmer*, 24 Wn. App. 2d 1, 518 P.3d 252 (2022).....27

*State v. Ross*, 8 Wn. App. 2d 928, 442 P.3d 1254 (2009)...12, 28

*State v. Stegall*, 124 Wn.2d 719, 881 P.2d 979 (1994).....16

*State v. Varnell*, 137 Wn. App. 925, 155 P.3d 971 (2007).....18

*State v. Wicke*, 91 Wn.2d 638, 645, 591 P.2d 452 (1970).....17

**STATUTES**

CrR 3.3.....18

CrR 3.3 (a)(4).....18

**CONSTITUTIONAL PROVISIONS**

Const. art. I, § 22.....1, 7, 12, 13, 21

Const. art. I, § 3.....13

United States Constitution, Sixth Amendment....1, 6, 12, 13, 21

United States Constitution, Fourteenth Amendment.....13

**RULES AND REGULATIONS**

RAP 13.4 (b).....6

**OTHER AUTHORITIES**

ABA Criminal Justice Prosecution Function and Defense Function Standards (3rd ed.) 4-1.2 (f).....2

## 1. IDENTITY OF PETITIONER

JOSHUA JAMES GLAZIER requests the relief designated in Part 2 of this Petition.

## 2. STATEMENT OF RELIEF SOUGHT

Mr. Glazier seeks review of an unpublished Opinion of Division III of the Court of Appeals dated January 7, 2025. (Appendix "A" 1-25)

## 3. ISSUES PRESENTED FOR REVIEW

1. Did the Court of Appeals, in its decision, correctly analyze each of the four *Barker v. Wingo* (407 U.S. 514, 92 S. Ct. 2182, 43 L. Ed.2d 101 (1972)) factors in determining that the facts of Mr. Glazier's case (including ineffective assistance of counsel- IAC) do not support a violation of his right to a speedy trial under the Sixth Amendment to the United States Constitution and Const. art I, § 22?

## 4. STATEMENT OF THE CASE

Mr. Glazier's preliminary court appearance occurred on April 20, 2020. He was arraigned on May 4, 2020. A jury trial was originally scheduled for July 13, 2020. Mr. Glazier's

jury trial commenced 988 days later on January 3, 2023. (Steinmetz RP 8; RP 11-12; Moore RP 4, l. 4)

Between May 4, 2020 and January 3, 2023 there were a total of seven (7) continuances. Mr. Glazier and defense counsel agreed to three of the continuances. Mr. Glazier objected to four of the continuances. His attorney only agreed with one of those objections. (CP 12; CP 13; CP 14; CP 15; CP 16; CP 17; CP 18)

Initially defense counsel was asleep at the switch when Mr. Glazier's jury trial was scheduled for July 13, 2020. The trial setting was more than 60 days beyond the arraignment date.

The first agreed continuance was on July 10, 2020. The new trial date was February 16, 2021. The continuance order set out a reason of "COVID 19 Pandemic."

A total of 221 days elapsed between these dates. There is no indication in the record as to any action taken by defense counsel during that 221 day period.

The second agreed continuance occurred on February 5, 2021. The order stated the reason for the continuance as

"**DISCOVERY NOT COMPLETE, INVESTIGATION ONGOING, WITNESS INTERVIEWS TO BE DONE**." Mr. Glazier's jury trial was reset to November 15, 2021. A total of 283 days elapsed following entry of this order.

A question exists as to why there needed to be a 9-month continuance. In the absence of a record it complicates Mr. Glazier's ability to comprehensively argue his speedy trial issue.

The third agreed continuance was granted on November 5, 2021. The November 5 continuance order stated the reason for the continuance as "**INVESTIGATION ONGOING, WITNESS INTERVIEWS TO BE DONE, COUNSEL'S TRIAL SCHEDULE.**" Mr. Glazier's jury trial was continued to January 31, 2022. No record, other than the order itself, has been located. A total of 87 days elapsed. (CP 74)

There is no indication in the record outlining any actions by defense counsel during the period between February 5, 2021 and November 5, 2021.

Mr. Glazier contested the next order of continuance which was entered on January 21, 2022. The reason stated

was "additional time needed for preparation" by defense counsel. The jury trial was reset to July 25, 2022. (CP 75)

At the January 21, 2022 hearing defense counsel also indicated that he did not have any trials scheduled during the month of July 2022 and it would be an appropriate month for the trial. (Steinmetz RP 21, ll. 1-10)

Defense counsel stated:

> These cases aren't super difficult, we just need to get the witness interviews done. I – I think counsel for the State, has been trying to find these witnesses. … We haven't been able to get them done on this case.

(Steinmetz Supp. RP 5, ll. 4-14)

At this point Mr. Glazier argues that there was no basis for defense counsel's not having interviewed witnesses. Eight witnesses testified at trial. Mr. Nolan had been on the State's witness list. Five of the witnesses were local law enforcement officers. One witness was the county coroner. The other two

lay witnesses were Ms. Martin and Ms. Hernandez-Ornelas. They were both local witnesses.

175 days elapsed between January 21 and July 25, 2022 without any indication in the record as to what defense counsel was doing on Mr. Glazier's case.

On July 15, 2022 Mr. Glazier objected to defense counsel's additional request for a continuance. The reason stated was "**INVESTIGATION ONGOING, WITNESS INTERVIEWS TO BE DONE, COUNSEL'S TRIAL SCHEDULE**" The continuance order set Mr. Glazier's jury trial for October 24, 2022. (CP 76)

An additional 91 days passed and on October 14, 2022 Mr. Glazier again objected to a proposed agreed continuance between the State and defense counsel. The reason given was to "accommodate Mr. Swaby's trial schedule, trial prep." There was no mention of witness interviews at this hearing. Mr. Glazier's new trial date was November 14, 2022.

Defense counsel's multiple excuses for continued delay, including other trials, seems indicative of the fact that he was having difficulties handling his caseload. (Steinmetz RP

21, ll. 1-10; RP 22, ll. 4-15; RP 26, l. 13 to RP 27, l. 3; RP 27, l. 20 to RP 28, l. 4; Steinmetz Supp. RP 5, l. 4 to RP 6, l. 6)

The seventh order of continuance was entered on November 4, 2022. Mr. Glazier again objected. The continuance was at the State's request. The reason given was "State's trial calendar congestion." Mr. Glazier's new jury trial date was December 12, 2022.

The December trial date was continued due to defense counsel's illness. Trial was rescheduled to January 3, 2023.

## 5. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

RAP 13.4 (b) provides, in part:

> A petition for review will be accepted by the Supreme Court only, (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) …; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) …

The Sixth Amendment to the United States Constitution provides, in part: "In all criminal prosecutions, the accused shall enjoy the right to a speedy … trial."

Const. art. I, § 22 provides, in part: In criminal prosecutions the accused shall have the right … to have a speedy public trial…."

An analysis of speedy trial rights under Const. art. I, § 22 is substantially the same as a Sixth Amendment analysis. The State provision does not afford greater rights to a defendant. *See*: *State v. Iniguez*, 167 Wn.2d 273, 289, 217 P.3d 768 (2009).

"Constitutional claims are reviewed *de novo*." *State v. Nov*, 14 Wn. App. 2d 114, 128, 469 P.3d 52 (2020).

A criminal defense attorney needs to be fully aware of all provisions relating to time-for-trial/speedy trial. Defense counsel was negligent in not raising any objections to the scheduled trial dates.

Mr. Glazier's argument pertains to his constitutional speedy trial right. His case is dependent upon an accurate analysis of the *Barker v. Wingo, supra*, factors.

FACTOR 1 (length of delay)

> Owing to the congruence of the state and federal constitutional provisions, an analysis of a speedy trial

claim under article I, section 22 is substantially the same as an analysis of the speedy trial claim under the Sixth Amendment. *State v. Ollivier*, 178 Wn.2d 813, 826, 312 P.3d 1 (2013). Accordingly, we employ the United States Supreme Court's *Barker* [*Barker v. Wingo*, 407 U.S. 514, 92 S. Ct. 2182, 43 L. Ed. 2d 101 (1972)] balancing test to determine whether a violation of the right to a speedy trial has occurred. *Ollivier*, 178 Wn.2d at 826.

*The Barker analysis is "fact-specific and 'necessarily dependent upon the peculiar circumstances of a case.'"* *Ollivier*, 178 Wn.2d at 827… (quoting *Iniguez* [*State v. Iniguez*, 167 Wn.2d 273, 217 P.3d 768 (2009)] at 288, 292) The four nonexclusive factors to be considered are the "'[l]ength of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant'" *Ollivier*, 178 Wn.2d at 827 … (quoting *Barker*, 407 U.S. at 530). … [A] defendant must first demonstrate that the delay crosses the threshold "'dividing ordinary from 'presumptively prejudicial delay'" before the alleged violation warrants a *Barker* analysis. *Ollivier*, 178 Wn.2d at 827… quoting *Doggett v. United States*, 505 U.S. 647, 651-52, 112 S. Ct. 2786, 120 L. Ed. 2d 520 (1992)).

> For the purposes of a speedy trial analysis the length of delay is properly calculated from the date that charges are filed against the defendant. *State v. Ross*, 8 Wn. App. 2d 928, 942, 441, P.3d 1254, *review denied*, 194 Wn.2d 1008 (2019).

*State v. Nov*, *supra,* 128-29. (Emphasis supplied.)

Since the State conceded and the Court of Appeals acquiesced that the delay in Mr. Glazier's case is presumptively prejudicial Factor 1 is satisfied.

Mr. Glazier asserts that the Court of Appeals decision fails to give appropriate weight to Factor 1. It conflates Factors 1 and 2. They must be independently interpreted. The Court of Appeals decision concludes that the length of delay does not weigh in Mr. Glazier's favor due to the reasons for delay.

Having established that the delay was presumptively prejudicial Mr. Glazier next contends that the reasons for the delay must be closely examined in relation to his claim of IAC.

FACTOR 2 (reasons for delay)

What the Court of Appeals fails to recognize is that the reasons asserted by defense counsel for the continuances are not supported by the record. They appear to be excuses for defense counsel not preforming his duty to conduct an appropriate investigation of the facts and file appropriate motions. Instead, the record reflects that defense counsel apparently did not do anything between May 4, 2020 and January 21, 2022. (Steinmetz RP 11, l. 24 to RP 12, l. 22; RP 15, ll. 7-25; RP 20, l. 10 to RP 23, l. 22.)

Mr. Glazier objected to the defense counsel's request for a continuance on January 21, 2022. The trial court granted the continuance to July 25, 2022. Defense counsel again requested a continuance for the same reasons and it appears from the record that he accomplished nothing between January 21 and October 14, 2022. (Steinmetz RP 20, l. 10 to RP 23, l. 22; RP 26, l. 13 to RP 28, l. 19; CP 75; CP 76)

Mr. Glazier contends that there was insufficient inquiry by the trial court to support defense counsel's requests.

Moreover, the fact that an omnibus order was entered on December 12, 2020 indicates that discovery may well have been completed. No record has been located with regard to that hearing. (CP 11)

> …[A]n analysis of the second *Barker* factor requires "careful assessment of the reasons for the delay" in order to sort the legitimate or neutral reasons for delay from improper reasons." *Ollivier*, 178 Wn.2d 831. This "factor focuses on 'whether the government or criminal defendant is more to blame' for the delay." *Ross*, 8 Wn. App. 2d at 944 (quoting *Doggett*, 505 U.S. at 651). Each party's role in, and level for responsibility for, the delay is assessed. *Ollivier*, 178 Wn.2d at 831. Different weights are, then, ascribed to each particular reason. *Ollivier*, 178 Wn2d at 831. *Determination of weight is "primarily related to blameworthiness and the impact of the delay on [the] defendant's right to a fair trial."* *Ollivier*, 178 Wn.2d at 831. Notably, the State has some obligation to pursue and bring to trial a defendant. *Doggett*, 505 U.S. at 656. However, the focal question is whether the State's actions were diligent. *United States v. Aguirre*, 994 F.2d 1454, 1457 (9th Cir. 1993).

*State v. Nov*, *supra* 130. (Emphasis supplied.)

Both the Court and the prosecution owe a duty to a defendant to make certain that his/her trial occurs not only within the time-for-trial rules; but also within the constitutional provision for speedy trial under the Sixth Amendment and Const. art I, § 22. The State's duty appears secondary to the trial court's duty.

> Significantly, the Court in *Barker* made clear that *"the primary burden" falls "on the courts and the prosecutors to assure that cases are brought to trial." 407 U.S. at 529. "A defendant has no duty to bring himself to trial." Id.* At 527. "[T]he affirmative burden is on the state, not on the defendant, to see that a trial is held with reasonable dispatch." *State v. Sterling*, 23 Wn. App. at 171, 173, 596 P.2d at 1083 (1979).

*State v. Ross,* 8 Wn. App. 2d 928, 941, 442 P.3d 1254 (2009), *review denied*, 194 Wn.2d 1008 (2019). (Emphasis supplied.)

Finally, defense counsel also has a duty to safeguard the client's constitutional right to a speedy trial under both the court rules and the constitutional provisions.

> A court looks to each party's responsibility for the delay, and different weights are assigned to delay, primarily related to blameworthiness and the impact of the delay on the defendant's right to a fair trial. *Barker*, 407 U.S. at 531. *At one end of the spectrum is the situation where the defendant requests or agrees to the delay and therefore "is deemed to have waived his speedy trial rights as long as the waiver is knowing and voluntary." Iniguez*, 167 Wn.2d at 284 (citing *Barker*, 407 U.S. at 529).

*State v. Ollivier*, 178 Wn.2d 813, 831-32, 312 P.3d 1 (2013). (Emphasis supplied.)

HOBSON'S CHOICE

A defendant is guaranteed certain rights under the Sixth Amendment to the United States Constitution and Const art I, § 22. The rights are compatible rights between the two constitutions and gain additional support under the due process clauses of the Fourteenth Amendment to the United States Constitution and Const. art I, § 3.

The rights consist of:

1. Trial by jury;
2. The right to confront witnesses,
3. *The right to have compulsory process of obtaining witnesses in his/her favor;
4. The right to self-representation;
5. *The right to be represented by counsel;
6. The right to demand the nature and cause of the accusation and to have a copy of it;
7. The right to testify on his/her own behalf;
8. The right to have a speedy public trial; and
9. *The right to appeal.

The defendant may waive a constitutional right by making a knowing, intelligent and voluntary waiver. Certain rights can be impliedly waived. (* Above)

> The validity of any waiver of a constitutional right, as well as the inquiry required by the court to establish waiver, will depend on the circumstances of each case, including the defendant's experience and capabilities. *Johnson v. Zerbst*, 304 U.S. 458, 464, 82 L. Ed. 1461, 58

S. Ct. 1019, 146 A.L.R. 357 (1938). Moreover, the inquiry by the court will differ depending on the nature of the constitutional right at issue. For example, when a defendant wishes to waive the right to counsel, and proceed pro se, the trial court must usually undertake a full colloquy with the defendant, on the record, to establish the defendant knew the relative advantages and disadvantages of proceeding pro se. *See Acrey* [*Bellevue v. Acrey*, 103 Wn.2d 203, 208-09, 691 P.2d 957 (1984)], at 211 ("only rarely" will the record contain sufficient information to support a waiver of the right to counsel in the absence of a colloquy with the defendant). A guilty plea, which involves waiving numerous trial rights, is valid only if the record shows not only a voluntary and intelligent waiver, but also an understanding of the waiver's direct consequences. *State v. Smissaert*, 103 Wn.2d 636, 643, 694 P.2d 654 (1985).

By contrast, no such colloquy or on-the-record advice as to the consequences of a waiver is required for waiver of a jury trial; all that is required is a personal expression of waiver from the defendant. *Acrey*, at 207-08; *State v. Wicke*, 91 Wn.2d 638, 591 P.2d 452 (1979).

*State v. Stegall*, 124 Wn.2d 719, 724-25, 730, 881 P.2d 979 (1994).

The right to counsel comes into opposition to the right to a speedy trial. Both rights are encapsulated within the same constitutional amendments.

Which right controls should be determined by the defendant; not the attorney. It is the defendant's right that is constitutionally guaranteed.

As announced in *Simmons v. United States*, 390 U.S. 377, 394 (1968): "[W]e find it intolerable that one constitutional right should have been surrendered in order to assert another."

The Court of Appeals decision relies upon *Personal Restraint of Benn*, 134 Wn.2d 868, 920, 952 P.2d 116 (1998) in its determination that defense counsel is the individual who controls whether or not a continuance is needed. Mr. Glazier maintains that this represents a Hobson's choice within the respective constitutional provisions since the rights contained in those provisions are rights guaranteed to him.

> A criminal defendant has the "right to be present at a proceeding 'whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge.'" *United States v. Gagnon*, 470 U.S. 522, 526, 105 S. Ct. 1482, 84 L. Ed. 2d 486 (1985) (per curiam) (quoting *Snyder v. Massachusetts*, 291 U.S. 97, 105-06, 54 S. Ct. 330, 78 L. Ed. 674, 90 A.L.R. 575 (1934)). ... Nor did the defendant have the right to be present during a hearing on a motion for a continuance. His absence during that hearing did not affect his opportunity to defend the charge. The motion for continuance involved no presentation of evidence, nor was the purpose of the hearing on the motion to determine the admissibility of evidence or the availability of a defense or theory of the case. Moreover, the trial court was aware of the defendant's opposition to any continuance. The trial was delayed at defense counsels' request to enable counsel to provide the defendant with a competent defense.

The Court of Appeals decision is contrary to the constitutional speedy trial provisions.

As set forth in *State v. Wicke*, 91 Wn.2d 638, 645, 591 P.2d 452 (1970) "Every reasonable presumption should be

indulged against waiver… absent an adequate record to the contrary."

> An attorney can waive his client's substantial rights only with specific authorization. *State v. Ford*, 125 Wn.2d 919, 922, 891 P.2d 712 (1995). But "[a]n attorney is impliedly authorized to stipulate to and to waive procedural matters…. *State v. Finch*, 137 Wn.2d 792, 806, 975 P.2d 967(1999) ("a defendant's right to trial within 60 days is a procedural right which can be waived by defense counsel over defendant's objection").

*State v. Varnell*, 137 Wn. App. 925, 932, 155 P.3d 971 (2007).

The constitutional right to a speedy trial differs from the CrR 3.3 time-for-trial as evidenced by CrR 3.3 (a)(4). CrR 3.3 (a)(4) provides that:

> The allowable time for trial shall be computed in accordance with this rule. If a trial is timely under the language of this rule, but was delayed by circumstances not addressed in this rule or CrR 4.1, the pending charge shall not be dismissed unless the defendant's constitutional right to a speedy trial was violated.

However, the court rule cannot deprive Mr. Glazier of his constitutional rights.

> Where the choice is "between the rock and the whirlpool," duress is inherent in deciding to "waive" one or the other.
> "It always is for the interest of a party under duress to choose the lesser of two evils. But the fact that a choice was made according to interest does not exclude duress. It is the characteristic of duress properly so called." *Union Pac. R. R. Co. v. Pub. Service Comm.,* 248 U.S. 67, 70.

*Garrity v. New Jersey*, 385 U.S. 493, 498 (1967).

Mr. Glazier maintains that the continuances and/or delays under the second *Barker* factor favor his assignment of error concerning IAC. It appears that defense counsel was overextended and could not spend the requisite time to adequately prepare and have Mr. Glazier's trial ready to proceed within either the time-for-trial or constitutional speedy trial provisions.

FACTOR 3 (Mr. Glazier's demands)

> The third *Barker* factor, the defendant's assertion of his right, "is entitled to strong evidentiary weight in

> determining whether the defendant is being deprived of their right." *Barker*, 407 U.S. at 531-32. The primary focus of this factor is to determine "whether and to what extent a defendant demands a speedy trial." *Iniguez*, 167 Wn.2d at 294. We consider the frequency and force of a defendant's objections" and "the reasons why the defendant demands or does not demand a speedy trial." *Iniguez*, 167 Wn.2d at 295.

*State v. Nov, supra* 133.

Commencing on January 21, 2022, Mr. Glazier put objections on the record concerning each and every continuance that was granted by the court. It appears that all but one of those continuances was specifically requested by or agreed to by defense counsel with the exception of the final continuance requested by the State.

Mr. Glazier did not sit back and ignore the delay. He demanded his constitutional right to a speedy trial. It was denied to him without a proper foundational basis/record being made.

The third *Barker* factor favors Mr. Glazier.

The Court of Appeals decision states that this factor only mildly favors Mr. Glazier. The question that comes to mind is what else have Mr. Glazier done under the facts and circumstances of his case since ineffective assistance of counsel was precluding him from achieving his desire for enforcement of his right to a speedy trial under the Sixth Amendment to the United States Constitution and Const art. I, § 22.

> FACTOR 4 (prejudice)
>
> The fourth *Barker* factor, prejudice to the defendant, is generally analyzed by assessing effects on the interest protected by the right to a speedy trial: (1) prevention of a harsh pretrial detention, (2) minimization of the defendant's anxiety or worry, and (3) limitation of impairment of the defense. *Iniguez*, 167 Wn.2d at 295. "In general, a defendant must show actual prejudice to establish a speedy trial right violation." *Ross*, 8 Wn. App.2d at 956 (citing *Ollivier*, 178 Wn.2d at 840). Impairment of the defense is considered the most serious form of prejudice and is presumed to intensify over time. *Iniguez*, 167 Wn.2d at 295. *Although particularized showings of prejudice are not necessary when the delay is of a sufficient length that causes a presumption of prejudice to arise.*

> *see Ollivier,* 178 Wn.2d at 840, *this presumption may be rebutted by the State establishing that the delay left the defense unimpaired. See Doggett*, 505 U.S. at 658 n.4.

*State v. Nov*, *supra*, 134-35. (Emphasis supplied).

The Court of Appeals decision, in discussing Factor 4, correctly states the basis for establishing prejudice. Yet, the Court of Appeals determined that no prejudice occurred. It contrarily concludes that the delay actually benefitted Mr. Glazier. When considering the adverse impact of IAC this is difficult to believe.

On two occasions Mr. Glazier advised the Court that the continued delays that were occurring, or which had occurred, had an impact on his life. The first was at a pretrial hearing (Steinmetz Supp. RP 27, l. 16 to RP 30, l. 3; Appendix "B")

The second occasion was when he gave his allocution at his sentencing hearing. (Steinmetz RP 212, l. 11 to RP 216, l. 4; Appendix "C")

As can be gathered from Mr. Glazier's two presentations to the court his pretrial detention created a great deal of anxiety and worry for him.

It is apparent from Mr. Glazier's objections and allocution that he made every individual effort to bring himself to trial within the appropriate time frames.

Mr. Glazier further asserts that the excessive pretrial detention adversely impacted his other suspect defense. Ms. Martin suffered a stroke during this period of time. The stroke may or may not have adversely affected her memory.

Even though he had been in custody in January of 2020 at the Yakima County Jail Mr. Nolan's whereabouts were unknown. Why the State could not locate him in the King County Jail on a later date is inconceivable. It took defense counsel's investigator to find Mr. Nolan.

The delays involved prevented an adequate and comprehensive inquiry into Mr. Nolan's mental competency and his Fifth Amendment claim.

Mr. Glazier said Mr. Nolan did it. Mr. Nolan said Mr. Glazier did it. A he said/he said case that required defense

counsel to make every effort to ascertain and support the viability of the other suspect defense.

> The third *Barker* factor is the defendant's assertion of his right to a speedy trial....
>
> ...[T]he court must consider whether the delay prejudiced the defendant. *Id.* at 532, 92 S. Ct. 2182. This factor necessitates consideration of the interests of the defendant that the speedy trial right was designed to protect: prevention of oppressive pretrial incarceration, minimizing anxiety and concern of the accused, and limiting the possibility that the defense will be impaired. *Id.* To show that their constitutional right to a speedy trial has been violated, a defendant ordinarily must establish actual prejudice. *Ollivier*, 178 Wn.2d at 840. Where prejudice is not presumed due to an extreme delay, a defendant must establish "particularized prejudice that would weigh heavily against the State." *Id.* at 844.

*State v. Hatt*, 11 Wn. App. 2d 113, 452 P.3d 577 (2019).

The presumption of prejudice exists. The delay was not of Mr. Glazier's own making. It was extreme as a result of his attorney's dilatory conduct. The State has the burden of rebutting that presumption.

> The presumption of prejudice referred to in connection with the fourth *Barker* factor is prejudice that does not require that the defendant show actual prejudice to his defense. It is to be distinguished from the threshold presumption of prejudice that triggers the *Barker* analysis.

*State v. Ollivier, supra* 840 n.10.

988 days of pretrial detention constitutes a harsh penalty for a defendant desiring a speedy resolution to charges that have been filed against him/her.

For the reasons indicated defense counsel either could not or did not live up to his responsibility to Mr. Glazier.

> Standard 4- 1.3 Delays; Punctuality; Workload
> (a) Defense counsel should act with reasonable diligence and promptness in representing a client.
> (b) Defense counsel should avoid unnecessary delay in the disposition of cases. …
> (c) Defense counsel should not intentionally misrepresent facts or otherwise mislead the court in order to obtain a continuance.
> (d) …
> (e) Defense counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality

> representation, endangers the client's interest in the speedy disposition of charges, or may lead to the breach of professional obligations. ...

ABA Criminal Justice Prosecution Function and Defense Function Standards (3rd ed.).

Waiver of a constitutional right should not be condoned without first determining the validity of the request. This is clear from the decision in *City of Seattle v. Klein*, 161 Wn.2d 554, 559, 166 P.3d 1149 (2007) which declared the right to appeal inviolate.

> In Washington, our constitution guarantees citizens accused of a crime "the right to appeal in all cases." WASH. CONST. art. I, § 22. However, the City argues that the respondents forfeited their right to appeal after the appeal had already been filed, when respondents avoided the trial court's jurisdiction by failure to appear at later hearings. ... "[W]aiver" is the "act of waiving or intentionally relinquishing or abandoning a known right . . . or privilege." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 2570 (2002). When constitutional rights are involved, we require the government to bear the burden to prove "an intentional

> relinquishment or abandonment." *Johnson v. Zerbst*, 304 U.S. 458, 464, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938).

## 6. CONCLUSION

Mr. Glazier takes the position, under the facts and circumstances of his case, that defense counsel's actions and/or inactions are equivalent to a violation of his right to ineffective assistance of counsel. "Violation of the right to counsel is a 'structural error' not subject to … harmless error analysis." *State v. Palmer*, 24 Wn. App. 2d 1, 11, 518 P.3d 252 (2022), citing *Arizona v. Fulminante*, 499 U.S. 279, 309-10, 111 S. Ct. 1246, 114 L. Ed. 302 (1991).

The argument that overwhelming evidence existed and that the harmless error analysis applies is not supported by the record.

Furthermore, it does not appear that Mr. Glazier's due process argument was sufficiently undermined by the State, as set out in his original brief, and supported by *State v. Crow*, 8 Wn. App. 2d 480, 438 P.3d 541 (2019) and *State v. Johnston*, 143 Wn. App. 1, 177 P.3d 1127 (2007).

It should be kept in mind, as cautioned by the court in *Doggett v. United States*, 505 U.S. 647, 655, 112 S. Ct. 2686, 120 L. Ed. 2d 520 (1992) that "... we generally have to recognize that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove, or, for that matter, identify."

> "Dismissal of the charges against the accused is " 'the only possible remedy' for a violation of the constitutional right to a speedy trial." *Strunk v. United States*, 412 U.S. 434, 440, 93 S. Ct. 2260, 27 L. Ed. 2d 56 (1973) (quoting *Barker*, 407 U.S. at 522).

*State v. Ross, supra,* 959.

CERTIFICATE of COMPLIANCE: *I certify under penalty of perjury that this document contains 4834 words, excluding the parts of the document exempted from the word count by RAP 18.17.*

DATED this 6th day of February, 2025.

Respectfully submitted,

s/ Dennis W. Morgan
DENNIS W. MORGAN WSBA #5286
Attorney for Defendant/Appellant.
P.O. Box 1019
Republic, WA 99166
(509) 775-0777
nodblspk@outlook.com

# APPENDIX "A"

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

| | | |
|---|---|---|
| STATE OF WASHINGTON,<br><br>Respondent,<br><br>v.<br><br>JOSHUA JAMES GLAZIER,<br><br>Appellant. | ) | No. 39526-0-III<br><br>UNPUBLISHED OPINION |

C●●NEY, J. — Richard Plumlee was shot and killed in December 2019. The State charged Joshua Glazier with second degree murder for Mr. Plumlee's death and second degree unlawful possession of a firearm.

Mr. Glazier was arraigned on May 4, 2020, but his trial did not begin until January 3, 2023. Mr. Glazier was eventually convicted of both counts. At sentencing, the court determined Mr. Glazier had an offender score of 2 and sentenced him to a total of 292 months of incarceration. The court found Mr. Glazier indigent, but assessed the crime victim penalty assessment (VPA).

Mr. Glazier appeals, arguing he was afforded ineffective assistance of counsel, the offender score was incorrectly calculated, and the VPA should be struck from his judgment and sentence. We conclude Mr. Glazier's trial counsel was not ineffective, but remand for a full resentencing with an accurate offender score.

## BACKGROUND

On December 17, 2019, Richard Plumlee was shot and killed at the Yakima Inn, located in Yakima, Washington. Sheila Martin, a witness to the shooting, identified her nephew, Mr. Glazier, as the shooter. Ms. Martin also reported her grandson, Ahmad Nolan, was present when Mr. Plumlee was shot. Ex. SE-21A; Tr. of Ex. 21A at 5. During an interview, Mr. Nolan provided law enforcement with information that implicated Mr. Glazier in Mr. Plumlee's death. Four months later, Mr. Glazier was charged with second degree murder and second degree unlawful possession of a firearm. The State further alleged Mr. Glazier was armed with a firearm during the commission of the murder.

Mr. Glazier was arraigned on May 4, 2020, and an initial trial date was set for July 13, 2020, without any objection from defense counsel. Thereafter, Mr. Glazier's trial was continued seven times. When his case was ready for trial, the court postponed trial for three weeks, over Mr. Glazier's objection, as Mr. Glazier's attorney had fallen ill with the flu. Of the seven continuances, Mr. Glazier personally agreed to three, objected to three, and both he and his trial counsel objected to one. The three continuances Mr. Glazier

individually objected to were requested by his trial counsel to allow him time for trial preparation, including locating and interviewing the State's witnesses. The sole continuance objected to by both Mr. Glazier and his attorney was requested by the State because the deputy prosecutor had three trials scheduled during the same period of time.

In a pretrial omnibus order, Mr. Glazier asserted his defense was a "General Denial." Clerk's Papers (CP) at 11. Mr. Glazier did not submit a witness list. Before trial, and again over Mr. Glazier's objection, defense counsel and the State entered an *Old Chief*[1] stipulation. In the stipulation, it was agreed that Mr. Glazier had a previous felony conviction, alleviating the State from having to prove that element for the second degree unlawful possession of a firearm charge.

Trial commenced on January 3, 2023. During his opening statement, Mr. Glazier's attorney presented the jury with the possibility that they would be unable to find beyond a reasonable doubt that Mr. Glazier was the person who shot Mr. Plumlee due to Mr. Nolan's presence at the scene:

> Good afternoon, folks. The first time Ms. Martin speaks to the police in the heat of the moment in what the police will describe as an excited utterance, she says I'm inside when I hear a shot. She doesn't say I saw my nephew with a gun. She doesn't say, I saw my nephew shoot

[1] 519 U.S. 172, 191, 117 S. Ct. 644, 136 L. Ed. 2d 574 (1997) (The defendant voluntarily stipulated to an element of a charged crime rather than requiring the State to offer evidence supporting the element that is admissible but also potentially prejudicial to the defendant for jury consideration.)

> anyone. She doesn't even say, I saw my boyfriend and my nephew having some sort of beef over money.
>
> The story changes over time because Ms. Martin talks to people. It's like a game of telephone.
>
> What I'm discussing is what is my understanding of the evidence from reading the reports, from interviewing the witnesses. If there wasn't going to be a difference of interpretation there wouldn't be a case.
>
> *Mr. Nolan is the person who fired the shot.* And maybe just as important to folks, are when you're trying to determine what happened you have to believe beyond a reasonable doubt that Mr. Glazier was armed and that Mr. Glazier fired that shot. You will not have that evidence because you will not have a version of events that you can rely on because Ms. Martin changes her story.
>
> Ms. Martin gives four separate interviews. . . Each interview things change. People are in different places. People have different roles.
>
> In the end there will not be any question that Richard Plumlee was shot. That on its face is a tragedy. *You will not know beyond a reasonable doubt who did what.*

1 Rep. of Proc. (RP) (Jan. 5, 2023) at 438-42 (emphasis added).

The jury was taken from the courtroom for a recess after the State's first witness finished testifying. During the recess, defense counsel informed the court that the windows on the courtroom doors were causing a distraction. The court agreed to cover one of the two windows to accommodate defense counsel. The State suggested placing a sign on the door that indicated the courtroom was open.

Throughout the trial, and outside the presence of the jury, defense counsel repeatedly claimed Mr. Nolan's presence at the scene created a reasonable doubt as to

whether it was Mr. Glazier who shot Mr. Plumlee. Defense counsel never asserted an "other suspect" defense or a missing witness:

> Is the state really concerned that our argument is that someone else in the parking lot shot him and that that is the correct order of things? I mean, our argument is not going to be that because of how [Ms. Martin] described describes the order of things that Mr. Glazier isn't guilty. I haven't hidden the ball. You heard [Ms. Martin] testify. And we referenced Mr. Nolan. I'm not suggesting that that's what this is about. And I don't know how many times you got to say the thing they want before that's enough.
>
> [Ms. Martin]'s confused about all kinds of things. I'd probably have the argument that she didn't know really what happened. That they shouldn't—I'm telling you that I'm going to be saying to the jury you can't rely on her. You can't on her memory. You can't rely on any of this.

2 RP (Jan. 9, 2023) at 657.

> I don't know what [Mr. Nolan] is going to say. And I believe he has a right to have counsel because, Your Honor, I am arguing that it is at least as likely that [Mr. Nolan] is the shooter as it is my client.

2 RP (Jan. 10, 2023) at 707-08.

> Let me be clear. I'm not arguing a missing witness. I want to take—I'm not arguing a missing witness. I'm not going to argue that they didn't hear from [Mr. Nolan] because he did. If he takes the stand, I'm saying [Mr. Nolan] did it.
>
> *What I said in opening was it as likely as in questioning the main witness's credibility and bias.* If they don't call [Mr. Nolan], I'm not going to point out if they had him, they didn't call him. I don't think that that's fair. I agree. But that's never been my defense. That's not what I'm saying.

2 RP (Jan. 10, 2023) at 820-21 (emphasis added).

> And to be clear, I did not say in opening that [Mr. Nolan] did do it. I said as it is as likely on the evidence that [Mr. Nolan] did it as Mr. Glazier having done it.

2 RP (Jan. 11, 2023) at 842.

Mr. Nolan was named on the State's witness list. The State intended to call Mr. Nolan to testify about his previous statements to law enforcement that implicated Mr. Glazier as the shooter. However, neither party was able to interview Mr. Nolan as his whereabouts were unknown. During trial, Mr. Nolan was found to be incarcerated in the King County jail.

Mr. Nolan was transported to Yakima and assigned counsel. Mr. Nolan's attorney informed the court that Mr. Nolan was asserting his Fifth Amendment right to remain silent under the United States Constitution and would refuse to be interviewed by the State or defense counsel. Mr. Nolan's competency was also at issue based on an evaluation from King County. Mr. Nolan's attorney opined that because Mr. Nolan was refusing to speak, the court was effectively stymied from making any competency determination.

In the hopes of enticing Mr. Nolan to testify, the State presented his attorney with a verbal limited offer of immunity. Mr. Nolan's attorney rejected the offer, in part, because it was not in writing. The State eventually relieved Mr. Nolan of his subpoena.

During trial, the court asked defense counsel whether Mr. Glazier was maintaining his opposition to the stipulation of his criminal history. Defense counsel, citing *State v.*

*Humphries*,[2] incorrectly claimed he could stipulate to an element of a crime over his client's objection as a trial tactic. The court reviewed *Humphries*, read aloud the relevant authority, and correctly interpreted the case as precluding the court from accepting a stipulation over the defendant's objection. However, after further consultation with his attorney, Mr. Glazier stipulated to having a previous felony conviction for the purpose of the State having to prove that element of unlawful possession of a firearm.

At the conclusion of the State's case, but prior to it resting, Mr. Glazier's counsel moved for dismissal, arguing the State failed to prove each of the elements of the charged crimes. After the State rested its case-in-chief, defense counsel informed the court that Mr. Glazier would not be calling any witnesses and rested.

Ultimately, the jury found Mr. Glazier guilty of second degree murder and second degree unlawful possession of a firearm and additionally found he was armed with a firearm during the commission of the murder. At sentencing, the court found Mr. Glazier had two juvenile felony convictions: a third degree assault from July 23, 2009, and second degree unlawful possession of a firearm from February 16, 2011. In calculating Mr. Glazier's offender score, the court counted each juvenile conviction as one-half of a point and counted each current conviction as one point against the other. The court concluded Mr. Glazier had an offender score of 2 on each count. The court sentenced

[2] 181 Wn.2d 708, 336 P.3d 1121 (2014).

Mr. Glazier to 220 months on the second degree murder conviction, 60 months for the firearm enhancement, and 12 months on the second degree unlawful possession of a firearm conviction. The court ordered the sentences be served consecutively. The court found Mr. Glazier indigent, yet ordered him to pay the VPA.

Mr. Glazier timely appeals.

## ANALYSIS

On appeal, Mr. Glazier argues he was afforded ineffective assistance of counsel, his offender score was miscalculated, and the VPA should be struck from his judgment and sentence. We hold Mr. Glazier failed to establish his trial counsel's representation was deficient, but remand for a full resentencing with an accurate offender score. Because Mr. Glazier is granted a full resentencing, we refrain from addressing the VPA.

In a statement of additional grounds (SAG), Mr. Glazier alleges numerous errors. Because Mr. Glazier's SAG was untimely, we decline review.

### WHETHER MR. GLAZIER WAS AFFORDED INEFFECTIVE ASSISTANCE OF COUNSEL

Mr. Glazier claims four instances of ineffective assistance of counsel. He asserts his attorney was deficient: (1) by failing to call Mr. Nolan as a witness, (2) through conduct related to his right to a speedy trial, (3) in misleading the court on the law concerning an *Old Chief* stipulation, and (4) in requesting the court place window coverings over the courtroom doors. We address each contention in turn.

INEFFECTIVE ASSISTANCE OF COUNSEL

Criminal defendants have a constitutional right to effective assistance of counsel. U.S. CONST. amend. VI; WASH. CONST. art. I, § 22; *State v. Lopez*, 190 Wn.2d 104, 115, 410 P.3d 1117 (2018). A claim of ineffective assistance of counsel is an issue of constitutional magnitude that may be considered for the first time on appeal. *State v. Nichols*, 161 Wn.2d 1, 9, 162 P.3d 1122 (2007). Claims of ineffective assistance of counsel are reviewed de novo. *State v. White*, 80 Wn. App. 406, 410, 907 P.2d 310 (1995).

A defendant bears the burden of showing that his counsel's performance "fell below an objective standard of reasonableness based on consideration of all the circumstances" and, if so, there is a reasonable probability that but for counsel's poor performance the outcome of the proceedings would have been different. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). "If either element . . . is not satisfied, the inquiry ends." *State v. Kyllo*, 166 Wn.2d 856, 862, 215 P.3d 177 (2009).

In reviewing the record for deficiencies, there is a strong presumption that counsel's performance was reasonable. *McFarland*, 127 Wn.2d at 335. "The burden is on a defendant alleging ineffective assistance of counsel to show deficient representation." *Id.* "The reasonableness of counsel's performance is to be evaluated from counsel's perspective at the time of the alleged error and in light of all the circumstances." *Kimmelman v. Morrison*, 477 U.S. 365, 384, 106 S. Ct. 2574, 91 L. Ed.

2d 305 (1986). "When counsel's conduct can be characterized as legitimate trial strategy or tactic[ ], performance is not deficient." *Kyllo*, 166 Wn.2d at 863 (citing *State v. Hendrickson*, 129 Wn.2d 61, 77-78, 917 P.2d 563 (1996)).

A defendant must also affirmatively prove prejudice, rather than simply show that "the errors had some conceivable effect on the outcome." *Strickland v. Washington*, 466 U.S. 668, 693, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). A defendant demonstrates prejudice by demonstrating that the result of the proceedings would have been different but for counsel's deficient representation. *McFarland*, 127 Wn.2d at 337. Even if we were to find that the performance was deficient, the defendant still needs to prove prejudice. If a defendant fails to satisfy either prong, a court need not inquire further. *State v. Thomas*, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987).

*Failure to Call Mr. Nolan as a Witness*

Mr. Glazier contends that his attorney asserted an "other person" defense during his opening statement but failed to present any evidence that someone else shot Mr. Plumlee. Because the presumptive "other person," Mr. Nolan, was present when the Mr. Plumlee was shot, Mr. Glazier asserts his attorney was deficient in not calling Mr. Nolan as a witness. We disagree.

To demonstrate an "other person" defense, the defense must present some evidence that there is another person who committed the charged crime. *See State v. Downs*, 168 Wash. 664, 667, 13 P.2d 1 (1932). Citing *State v. Greiff*, Mr. Glazier asserts

trial counsel can be ineffective during an opening statement. 141 Wn.2d 910, 925-26, 10 P.3d 390 (2000). *Greiff* highlighted three out-of-state cases[3] in which the defense promised to provide "other person" evidence during its opening statements and then failed to do so. However, unlike *Greiff*, here, defense counsel never asserted an "other person" defense. Rather, during his opening statement, defense counsel suggested that, based on Mr. Nolan's presence at scene, "You will not know beyond a reasonable doubt who did what." 1 RP (Jan. 5, 2023) at 442. This statement was intended to inform the jury that the State would be unable to prove the murder charge beyond a reasonable doubt. The statement was also consistent with Mr. Glazier's stated defense of a "General Denial" and the lack of a witness list. CP at 11.

Moreover, defense counsel informed the court on at least four occasions that he was using Mr. Nolan's presence at the scene to cast doubt rather than designate him as the suspect. Defense counsel's actions also support the stated defense. At the conclusion of the State's case, defense counsel moved for dismissal, arguing the State had not proved all the elements of the charged crimes. Defense counsel's actions were consistent with his intended "General Denial" defense. CP at 11.

---

[3] The cases cited in *Greiff* are *Anderson v. Butler*, 858 F.2d 16, 17 (1st Cir. 1988) (promised to call doctors as witnesses but failed to do so); *People v. Lewis*, 240 Ill. App. 3d 463, 469, 609 N.E.2d 673 (Ill. App. Ct. 1992) (defense counsel promised to provide evidence that was inadmissible during opening statements); and *People v. Ortiz*, 224 Ill. App. 3d 1065, 1073, 586 N.E.2d 1384, 167 Ill. Dec. 112 (1992) (defense counsel promised to provide evidence of another suspect but failed to produce it during the trial).

Mr. Glazier's trial counsel made a valid strategic decision to present a general denial defense rather than an "other person" defense. The right to counsel does not include the right to have trial counsel raise every issue advanced by the defendant. *State v. Elwell*, 199 Wn.2d 256, 272, 505 P.3d 101 (2022). Mr. Glazier's trial counsel was not ineffective in failing to call Mr. Nolan as a witness.

Even if we were to conclude Mr. Glazier's trial counsel's performance was deficient, Mr. Glazier is unable to prove that the deficiency had some conceivable effect on the outcome of the trial. Because Mr. Nolan asserted protection under the Fifth Amendment, he was unavailable to testify. Had Mr. Glazier's attorney called him as a witness, the jury still would not have heard from him. Further, given the questions surrounding Mr. Nolan's competency, even assuming the State's verbal limited immunity offer was enforceable, it is unlikely Mr. Nolan could have made an intelligent decision on the offer. Consequently, Mr. Glazier is unable to demonstrate that he was prejudiced by his trial counsel's alleged deficiency in not calling Mr. Nolan as a witness.

*Time for Trial – Failure to Object*

Mr. Glazier argues his attorney was ineffective in failing to object to the initial trial setting. We disagree.

CrR 3.3(d)(3), Washington's time for trial rule, provides:

> A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial within those

> time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. *A party who fails, for any reason, to make such a motion shall lose the right to object that a trial commenced on such a date is not within the time limits prescribed by this rule.*

(Emphasis added). In *State v. Walker,* the Supreme Court reinforced the plain language of the rule:

> [O]nce the time-for-trial period has expired, a party cannot object to the untimely trial date under CrR 3.3(d)(3) because it is no longer reasonably possible to comply with the rule's requirement to "object" in the prescribed manner, i.e., by moving to set the trial date within the time-for-trial period. This conclusion is further supported by the language of the final sentence of CrR 3.3(d)(3), which contemplates that any remedy under the rule will be lost if the party cannot comply "for any reason."

199 Wn.2d 796, 802, 513 P.3d 111 (2022). In reaching this holding, the Supreme Court recognized the only remedy CrR 3.3(d)(3) offers is an adjustment of the trial setting within the parameters of CrR 3.3(b)(1)(i) as dismissal is not available to an aggrieved defendant. *Id.* at 806.

Mr. Glazier was arraigned on May 4, 2020. The trial court set trial for July 13, 2020, outside the time limitations of CrR 3.3(b)(1)(i). Mr. Glazier's counsel failed to move for a trial date within 60 days of the arraignment within 10 days of receiving notice of the trial date. Although defense counsel's performance may have fallen below an objective standard of reasonableness by not moving for a trial date within the limitations of CrR 3.3(b)(1)(i), Mr. Glazier is unable to demonstrate that the result of the proceedings would have been different but for counsel's deficient representation. Rather, had defense

counsel brought the appropriate motion, the remedy would have been a timely trial setting.

Because Mr. Glazier cannot establish prejudice, he was not afforded ineffective assistance of counsel when his trial counsel failed to object to the untimely trial setting.

*Time for Trial – Constitutional Right*

Mr. Glazier next contends his attorney was ineffective in failing to safeguard his constitutional right to a speedy trial. We disagree.

We review both constitutional speedy trial challenges and rules-based time-for-trial challenges de novo. *State v. Rafay*, 168 Wn. App. 734, 769, 285 P.3d 83 (2012).

Where a defendant alleges a violation of their right to a speedy trial as guaranteed by the Sixth Amendment, we apply the framework provided in *Barker v. Wingo*.[4] *State v. Iniguez*, 167 Wn.2d 273, 283, 217 P.3d 768 (2009). Under *Barker*, a defendant who alleges a speedy trial violation must first show the delay "crossed a line from ordinary to presumptively prejudicial." *Iniguez*, 167 Wn.2d at 283. If this initial threshold is met, we then analyze the remaining *Barker* factors: (1) the length of the delay, (2) the reasons for the delay, (3) whether the defendant asserted their right to a speedy trial, and (4) whether prejudice resulted. *Id.* However, these factors are neither exclusive nor, independently, necessary. *Id.*

[4] 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972).

Mr. Glazier was arraigned on May 4, 2020, and his trial commenced on January 3, 2023. This approximate 32-month period, as the State concedes, is "'presumptively prejudicial.'" *See Doggett v. United States*, 505 U.S. 647, 652, 112 S. Ct. 2686, 120 L. Ed. 2d 520 (1992) (quoting *Barker*, 167 Wn.2d at 652). We therefore analyze the *Barker* factors.

The first *Barker* factor is the length of the delay. Following Mr. Glazier's arraignment, the trial court granted seven motions to continue trial and once postponed the trial due to defense counsel's illness. Of the seven continuances, defense counsel either requested or mutually agreed to six. Defense counsel objected to the State's lone motion for a continuance. Albeit Mr. Glazier personally objected to three of the continuances sought by his attorney, when defense counsel requests a delay, even over the objection of the defendant, the delay is chargeable to the defendant. *In re Pers. Restraint of Benn*, 134 Wn.2d 868, 920, 952 P.2d 116 (1998).

Defense counsel's requested continuances were due to his need to prepare for trial, including locating and interviewing witnesses. Defense counsel's ability to prepare for trial is "an extremely important aspect" to consider in deciding whether the length of the delay was reasonable. *State v. Ollivier*, 178 Wn.2d 813, 831, 312 P.3d 1 (2013). Because this was a homicide trial, the delay was not highly disproportionate to the complexity of the issues and trial counsel's need to prepare. The length of delay factor weighs against Mr. Glazier.

The second *Barker* factor is the reasons for the delay. When, like here, the delay is based on defense counsel's need to prepare for trial, the first and second *Barker* factors are closely related. *Ollivier*, 178 Wn.2d at 831.

As previously discussed, delays caused by defense counsel are attributable to the defendant. *Id.* at 832. Most of the continuances were based on defense counsel's need to prepare for trial. Delay was also attributed to the State being unable to locate some of the witnesses to be interviewed. Indeed, Mr. Nolan was not located until after trial had begun.

Because defense counsel's requested delays are attributable to Mr. Glazier and the delays were largely based on his attorney's need to prepare for trial, locate witnesses, and interview witnesses, the reason for the delay factor weighs against Mr. Glazier.

The third *Barker* factor is whether the defendant asserted his right to a speedy trial. Mr. Glazier objected to three of the motions to continue that were brought by his trial counsel. Both Mr. Glazier and his trial counsel objected to the State's motion for a one-month continuance due to the deputy prosecutor's unavailability. Mr. Glazier also objected to the resetting of the trial date, within speedy trial, due to his attorney's illness.

Mr. Glazier asserted his right to a speedy trial on at least four occasions. The assertion of the right to a speedy trial factor weighs mildly in favor of Mr. Glazier.

The final *Barker* factor is whether any prejudice resulted from the delay. We assess prejudice by examining the interests that the right to a speedy trial protects, which

includes the prevention of harsh pretrial incarceration, the minimization of the defendant's anxiety and worry, and limiting the impairment to the defense. *Iniguez*, 167 Wn.2d at 295. Of these, impairment to the defense is the most serious to consider but demonstration of this factor is not required to show a constitutional speedy trial violation. *Id.*

At a pretrial hearing, Mr. Glazier expressed he was experiencing anxiety and depression, and had been subject to harsh treatment while awaiting trial. Nevertheless, his defense was not impaired by the delays. To the contrary, the delays likely benefited Mr. Glazier as Ms. Martin, a key witness for the State, had suffered a stroke and was having memory issues. During trial, defense counsel was able to point out deficiencies in Ms. Martin's memory or inconsistencies in her testimony. Furthermore, the State's case did not seemingly benefit from the delays as its case mainly relied on the veracity of the witness' testimony. Witness memories fade and become less reliable over time.[5] Therefore, the prejudice factor weighs against Mr. Glazier.

In sum, the *Barker* factors weigh against Mr. Glazier. The delay was not unreasonably lengthy, especially in light of the nature of the charges; nearly all the delays were either agreed to by Mr. Glazier or credited to his attorney's need to prepare for trial, locate witnesses, and interview witnesses; and Mr. Glazier asserted his right to a speedy

[5] *E.g.*, *State v. Lawson*, 352 Or. 724, 746, 291 P.3d 673 (2012) ("Memory generally decays over time.").

trial by objecting to only three of the continuances and the final three-week rescheduling of his trial date. Compellingly, Mr. Glazier is unable to show he was specifically prejudiced by the delay.

Because Mr. Glazier's constitutional right to a speedy trial was not infringed upon, he was not afforded ineffective assistance of counsel due to his trial attorney failing to safeguard the right, nor was Mr. Glazier prejudiced by the delay.

Lastly, Mr. Glazier asserts several of the continuances were improper. He first claims the continuance granted on July 10, 2020, did not meet the requirements of CrR 3.3(f)(1) because there was no written agreement. CrR 3.3(f) provides, in pertinent part:

> **Continuances.** Continuances or other delays may be granted as follows:
>
> (1) *Written Agreement*. Upon written agreement of the parties, which must be signed by defense counsel or the defendant or all defendants, the court may continue the trial date to a specified date. In the absence of the defendant's signature or presence at the hearing, defense counsel's signature constitutes a representation that the defendant has been consulted and agrees to the continuance. The court's notice to defense counsel of new hearing dates constitutes notice to the defendant.

A continuance order signed by the parties constitutes a writing in satisfaction of CrR 3.3(f)(1). Here, the continuance at issue was in writing and signed by Mr. Glazier's attorney who stated Mr. Glazier authorized the continuance. The continuance complied with CrR 3.3(f)(1).

Mr. Glazier also presents vague challenges to the continuances granted on February 5, 2021, November 5, 2021, January 21, 2022, July 15, 2022, and the court's

order of December 8, 2022, that postponed trial for three weeks. His limited arguments are generally based on conjecture about his trial counsel's conduct or are otherwise indiscernible. An appellant must provide "argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record." RAP 10.3(a)(6). We need not consider arguments that a party has not properly developed in their briefs and for which the party has cited no authority. *State v. Dennison*, 115 Wn.2d 609, 629, 801 P.2d 193 (1990) (citing *Smith v. King*, 106 Wn.2d 443, 722, P.2d 796 (1986)). Consequently, we decline to review Mr. Glazier's remaining challenges to the continuances.

Old Chief *Stipulation*

Mr. Glazier contends his defense counsel was ineffective when he misled the court on the law related to defense counsel's authority to stipulate to an element of a crime over the defendant's objection. We disagree.

Inaccurately citing the holding in *State v. Humphries*, defense counsel asserted, over Mr. Glazier's objection, that he could stipulate to Mr. Glazier having a previous felony conviction, alleviating the State from having to prove that element of second degree unlawful possession of a firearm. 181 Wn.2d at 708. Problematic to this claim is the trial court correctly interpreted and followed the holding in *Humphries*. Moreover, Mr. Glazier later stipulated to the previous felony conviction, alleviating the State from having to prove that element of unlawful possession of a firearm. Assuming defense

counsel was deficient due to him inadvertently misleading the court on the holding in *Humphries*, because the trial court correctly interpreted and applied the law, and Mr. Glazier later stipulated to his previous felony conviction, there exists no reasonable probability that the outcome of the proceedings would have been different but for trial counsel's alleged deficient performance.

Mr. Glazier was not afforded ineffective assistance of counsel when his attorney inadvertently misstated the law to the trial court.

*Courtroom Closure*

Mr. Glazier contends his attorney effectively requested closure of the courtroom, in violation of *State v. Bone-Club*,[6] when he requested window coverings on the doors to the courtroom. We disagree.

The Sixth Amendment and article I, section 22 of the Washington State Constitution guarantees the criminally accused the right to a public trial. A courtroom closure occurs "when the courtroom is completely and purposefully closed to spectators so that no one may enter and no one may leave." *State v. Lormor*, 172 Wn.2d 85, 93, 257 P.3d 624 (2011). To prevail on a courtroom closure claim, the proponent bears the burden of showing a closure had occurred. *State v. Love*, 183 Wn.2d 598, 605, 354 P.3d 841 (2015).

[6] 128 Wn.2d 254, 906 P.2d 325 (1995)

Here, the trial court, at defense counsel's request, placed a cover over one of the two windows on the courtroom doors. However, Mr. Glazier has failed to show that anyone was deprived access to the courtroom because of the window covering. Moreover, because Mr. Glazier brings this claim under the guise of ineffective assistance of counsel, he would have to show his attorney's performance fell below an objective standard of reasonableness and, if so, there was a reasonable probability that but for counsel's poor performance the outcome of the proceedings would have been different. He fails to present argument on either factor.

Mr. Glazier was not afforded ineffective assistance of counsel when his attorney requested window coverings nor was Mr. Glazier deprived of a public trial.

OFFENDER SCORE

Mr. Glazier contends his offender score was miscalculated when the trial court included two juvenile convictions that had washed out. The State concedes the alleged error, but requests it be allowed to present additional evidence concerning the convictions at resentencing. We accept the State's concession and grant its request to present additional evidence at resentencing.

We review the trial court's calculation of an offender score de novo. *State v. Mutch*, 171 Wn.2d 646, 653, 254 P.3d 803 (2011). Challenges to illegal or erroneous sentences may be raised for the first time on appeal. *State v. Ford*, 137 Wn.2d 472, 477, 973 P.2d 452 (1999).

An offender score is used to establish the standard sentencing range for a felony offense. *See* RCW 9.94A.525, .530(1). To calculate an offender score, the court relies on the seriousness level of the current offense together with the defendant's criminal history, including juvenile adjudications and other current offenses. RCW 9.94A.030(11), .589(1). Juvenile nonviolent felony convictions count as one-half a point towards a defendant's offender score. Former RCW 9.94A.525(7), (9) (2019). However, prior class C convictions do not count toward an offender score if the defendant spent five consecutive years from the time of the defendant's release from confinement in the community without committing any crime that resulted in a conviction. Former RCW 9.94A.525(2)(c).

Here, the court concluded Mr. Glazier had an offender score of 2 for each count. The trial court calculated this score by counting each current offense against the other and adding 1 point for the two juvenile convictions. Both of Mr. Glazier juvenile convictions were class C felonies.[7] The maximum sentence for a class C felony is imprisonment for a term of not more than five years. RCW 9A.20.020(1)(c). Mr. Glazier was sentenced on his most recent juvenile felony on February 16, 2011. Assuming he received the maximum term of five years, he would have been released in 2016. In this matter, the

[7] Third degree assault sentenced on July 23, 2009, and unlawful possession of a firearm in the second degree sentenced on February 16, 2011.

crime was committed in December 2019, and Mr. Glazier was sentenced in February 2023. It is possible Mr. Glazier may have been crime-free for more than five consecutive years between the time of his release on the most recent juvenile conviction and the date of the crimes at issue here.

Thus, we remand for a full resentencing. On remand, the State may present additional evidence regarding Mr. Glazier's criminal history. *See* RCW 9.94A.530(2).

VICTIM PENALTY ASSESSMENT

Mr. Glazier contends that the VPA must be struck from his judgment and sentence due to recent changes in the law. Although the State concedes, we decline review because Mr. Glazier has been afforded a full resentencing. Mr. Glazier may raise this issue before the sentencing court.

STATEMENT OF ADDITIONAL GROUNDS

RAP 10.10(a) allows an appellant to "file a pro se statement of additional grounds for review to identify and discuss those matters related to the decision under review." RAP 10.10(d) requires an appellant's attorney to promptly "advise the defendant of the substance of [RAP 10.10]" when they provide the defendant a copy of the brief being filed by counsel. The purpose of a SAG is to "identify and discuss those matters related to the decision under review *that the defendant believes have not been adequately addressed by the brief filed by the defendant's counsel*." RAP 10.10(a) (emphasis added).

Mr. Glazier first attempted to raise numerous issues through a purported SAG. The purported SAG appears to be correspondence between Mr. Glazier and his appellate counsel. The document contains a handwritten date of "2023/06/11." We are unsure whether "2023/06/11" refers to June 11, 2023, or November 6, 2023. Based on Mr. Glazier handwriting the date in month/day order on his second SAG, we surmise the document was likely dated June 11, 2023. The document was filed on November 17, 2023, but was rejected because it was unsigned. The same document was refiled on December 6, 2023, with the inclusion of Mr. Glazier's signature.

Mr. Glazier's appellate counsel filed an opening brief on November 7, 2023. Because Mr. Glazier's purported SAG predates the filing of his opening brief by approximately five months, coupled with the document appearing to be a communication between Mr. Glazier and his attorney, the document was likely prepared without Mr. Glazier first reviewing the opening brief as required by RAP 10.10(a).

Mr. Glazier's attorney filed an amended opening brief on February 23, 2024. Mr. Glazier filed a second SAG on April 29, 2024. Although Mr. Glazier's second SAG was filed on the proper "Statement of Additional Grounds for Review" form, it was rejected as untimely. In rejecting the SAG, the court clerk informed Mr. Glazier that his counsel would have to file a motion before an untimely SAG would be accepted for filing. (*See* May 10, 2024 letter to Mr. Joshua Glazier). No such motion was made.

Because Mr. Glazier's first purported SAG is a communication with his attorney and was drafted before Mr. Glazier had an opportunity to review the brief filed by his attorney to determine what issues had not been adequately addressed, we decline review of his first SAG. Further, because Mr. Glazier's second SAG was rejected as untimely, and no motion was filed for us to accept it, we decline review of his second SAG. Mr. Glazier's remedy is through a personal restraint petition.

## CONCLUSION

Mr. Glazier was not afforded ineffective assistance of counsel. However, we remand for a full resentencing with an accurate offender score. Because Mr. Glazier is granted a full resentencing, we decline to review the VPA.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Cooney, J.

WE CONCUR:

Fearing, J.

Lawrence-Berrey, C.J.

# APPENDIX "B"

THE COURT: I don't know. Mr. Swaby?

MR. SWABY: Mr. Glazier's going to make a record and I think it's important for him to feel as if he has been heard. I think he has something he needs to say and --

THE COURT: Okay.

MR. SWABY: -- frankly, Your Honor, I don't --

THE COURT: Your -- your attorney --

MR. SWABY: -- I don't think it makes things worse.

THE COURT: -- that -- that's fine. I just want to make sure, because you have an attorney, I wanted to make sure he weighs in before you say anything.

MR. GLAZIER: Okay. I just want to say being the innocent person who has been wrongfully charged, arrested, and in prison has had a detrimental impact on my life. I've lost my opportunities and privileges for school and work due to the enforced idleness of being in this jail. I've lost the opportunity to be present for the birth of my first son, my first child in that matter, in September of 2020. I haven't been there to be able to -- for anything else in his life.

My mother has had her leg amputated while I've

been here and my family has gone through a lot of stress due to me being in this jail.

I believe society has a right to prompt, speedy trial for detainees. The imprisonment here clouds my mind with severe depression and anxiety. I also endure unreasonable source of wanton suspicion and hostility from corrections officers. The administrative -- the administration of the jail ahs classified me as a security threat and those files are ultimately viewable to local and state law enforcement and federal agencies. I've been suggested to twenty-three hour lockdown solitary confinement for the first twenty-nine months of me being at this jail.

And I believe I am being biased going into trial for the following reasons: My -- having my trial scheduled around the holidays due to that creating juries' anxiety, stress, anger, and other mental factors. The length of the State's delay, which could be used to find loopholes to help the State with its cause to dismay the defendant, to incriminate the defendant through various tactics, to negotiate plea offers with the defendant, to coerce and manipulate witnesses, to coerce -- to coerce and manipulate guards and transporting officers.

I also feel bias going into this jury for the



Tina M. Steinmetz, PO Box 1806, Moses Lake, WA 98837
(509) 660-0691

following reasons: the lack of expert witnesses for me, being subject to local press mis -- misinformation and propaganda, the lack of cooperation with my counsel. Me and myself being financially unable to afford certain discovery material, corrections staff previously assisting prosecution in court, being permanently traumatized in inst -- from being institutionalized here and having brought [inaudible on tape -- mumbled/muffled] the previous prosecutor.

I'm not sure of the State's basis for his continuances previously, my counsel has been ready for trial, besides this date, since July 15th and that's been a hundred and fifty days now. I'm frustrated with the State's continuances and I think that counsel is as well. I -- I'd like to -- I think I am being gaslighted here. I -- I don't believe the government is supposed to manifest unfair nor unpractical fudgery to create or define courtroom rules and uniquely suit his customs, nor do I believe the government is supposed to abuse its discretion or deprive me of my right to satisfy scores or special interests.

I have been subject to the chill effect and other -- other governmental tactics here for over thirty-two months. I want to exercise my right to a speedy trial at this time. You know, we're supposed to be to trial



Tina M. Steinmetz, PO Box 1806, Moses Lake, WA 98837
(509) 660-0691

on the 2nd. I was not advised in any way, shape, or form that this court date was going to be continued until today. I feel like I'm being ignored.

THE COURT: So, Mr. --

MR. GLAZIER: I feel like I'm being ignored and given ineffective assistance of counsel and the courts. And I'm ready to move on from this cause.

THE COURT: -- okay. Mr. Glazier, I want you to know that this case was scheduled to go to trial on Monday. We were fully prepared to do that, but some things are unforeseeable and outside of our hands. If we went to trial on Monday your attorney would not be able to give you effective assistance of counsel. He is ill, he is sick, he will probably be sick for the next several days and he will not be adequately prepared to go to trial he cannot attend on Monday, to a trial.

Even if your speedy trial has already been violated, we can -- that -- that has come and gone and that has already preserved in the record. We don't believe your speedy trial ends, at this point, any sooner than January 11. So, although Mr. Aaron, you did -- you did fill out the continuance with a bunch of other dates, I'm still, at this point, going to make it a -- I -- I know what you handed me, but I'm

# APPENDIX "C"

MR. SWABY: Yes. Yes.

THE COURT: So, again, Mr. Glazier --

MR. SWABY: The Judge wants to hear from you.

THE COURT: -- this is your opportunity to say anything at this point, if you want to. Those comments need to be directed towards the Court. Go ahead.

**JOSHUA GLAZIER ADDRESSES THE COURT**

MR. GLAZIER: Pertaining to this or --

THE COURT: Whatever it is you want to say. This is your -- your only opportunity.

MR. GLAZIER: -- today I am going to begin with representing the premonition and acronym by Tupac Shakur. The acronym is Thug Life and Thug Life stands for the hate you give little infants fucks everybody. A police was -- a police officer was originally created in this country to keep captured enslaved people from escaping -- escaping plantations.

This country's forefathers [inaudible -- muffled/mumbled] practices of kidnapping, human trafficking, and slavery has proved itself an impeccable legacy for Caucasian elites, capitalists, and their monopolist counterparts fully understand the concept that someone always benefits from more.

The two leagues become exceptional chess players because the business of capitalism is lucrative.

Taking advantage of people is their human nature.

As an inhabitant of this country, I do not have to become whitewashed, assimilated, or a conformist -- - a conformist. This is a free country and I do not have to become any of those things in order not to be stereotyped, profiled, targeted, or victimized by imperialistic id -- ideologies or systemic and cultural racisms.

This Court is pursuing me -- is pursuing to lead me into a sea of despair. What this county calls justice I call diligent, methodical, meticulous, and intentional retaliation. Not only is this Court full of sharks, it is full of vultures.

During my incarceration I have been ostracized, lied upon, discriminated against, threatened, prejudiced, deprived, depressed, made -- maliciously reported in Yakima press prop -- propaganda on several occasions. Persecuted, outcast, condemned, anguished, and disenfranchised.

This Court has pursued me with multiple strategies including but not limited to the deprivation of my resources along with divide and conquer. This Court has also projected much theory towards me. I have lost all of my material possessions and I have been separated from my family. If we will reflect --

reflect upon the historical time of bloody Sunday or the lies of Rodney King, Brianna Taylor, George Floyd, Tyre Nichols, we will witness governmental racisms, brutality, and coverups to this day.

The American criminal justice system is a trap. The national recidivism rate averages around sixty-six percent within three years of a person being released from jails or prison. The American criminal justice system has been weaponized. It has been full -- it has been filled with hatchet men and mercenaries hired to execute government agendas.

This pattern of behavior that governmental bodies are exhibiting towards their civilians is a national plague. This is the fruit of a human evil that has a profound effect on the world. The American criminal justice system is broken and is being usualized by the government as the new Jim Crow.

Critical information was withheld from me in this case by my counsel. I mentioned on December 8th of 2022 that I cannot afford discovery materials. I never seen the interview with Sheila Martin or any other people involved in this case. I never seen the coroner's report and I was never given specifics on the few crime scene and autopsy photos I briefly viewed. I viewed the Bureau of Alcohol, Tobacco, and Explosives

telephone pole surveillance video one time for about half the amount of time that it was shown at trial. And I viewed that ATF footage on a very small device which was a laptop about fifteen inches and not an 80 inch Samsung TV like the jury was allowed.

Discovery information, had it been more forthcoming, transparent, and better presented to me may have greatly affected my choices with the proceedings of this case. Okay?

I do not believe I received a fair trial in this court and I do not believe I will ever receive a fair trial in Yakima County Superior Court. Yakima County Superior Court has abused its discretion in this case and if this Court does not respect the United States Constitution in its entirety, the integrity of the judicial process cannot be preserved.

I am now going to read two passages from the bible. The first one is Luke chapter six, verse forty:

The student is not above the teacher, but everyone who is fully trained will be like their teacher.

The second one I believe is pronounced Ecclesiastics, chapter twelve, verse seven:

The dust returns to the ground from -- the dust returns to the ground it came from and the spirit returns to God who gave it.

Finally, I believe it is a tragic experience any time someone loses a loved one, no matter the cause. And I send my condolences to the Plumly family. That's all I have, thank you.

**COURT IMPOSES SENTENCE**

THE COURT: Alright. Thank you. Well, let me respond to some of the things that I've heard today. And this was a matter that was addressed by both of the attorneys in their presentation. There certainly seems to be a suggestion that this act was over $10.00 or over a debt. We're never going to know what it was over because we don't have a witness who can say that one way or another.

What we know is that there was conversation about $10.00. We know that at least three gentlemen stepped outside, just after that conversation had been going on. We don't know what else happened out there. Ms. Martin wasn't able to tell us what else happened out there.

So, whether it was over a debt, or -- and this is speculating, over a harsh word or for no reason at all; we don't know the reasons why. What we do -- do know, is that that was the last time Mr. Plumly was going to be around because he died shortly thereafter over in another section of that parking lot.

**NO. 39526-0-III**

**IN THE COURT OF APPEALS**

**STATE OF WASHINGTON**

**DIVISION III**

| | | |
|---|---|---|
| STATE OF WASHINGTON,<br><br>Plaintiff,<br>Respondent,<br><br>vs.<br><br>JOSHUA JAMES GLAZIER,<br><br>Defendant,<br>Appellant. | ) | YAKIMA COUNTY<br>NO. 20 1 00615 39<br><br><br><br>**CERTIFICATE OF SERVICE** |

I certify under penalty of perjury under the laws of the State of Washington that on this 6th day of February, 2025, I caused a true and correct copy of the *REPLY BRIEF* to be served on:

COURT OF APPEALS, DIVISION III — E-FILE
Attn: Tristen Worthen, Clerk
500 N Cedar St
Spokane, WA 99201

YAKIMA COUNTY PROSECUTOR'S OFFICE E-FILE
JILL SCHUMAKER REUTER
appeals@co.yakima.wa.us
jill.reuter@co.yakima.wa.us

JOSHUA JAMES GLAZIER #436650 U.S. MAIL
Clallam Bay Correction Center
1830 Eagle Crest Way
Clallam Bay, WA 98326

s/Dennis W. Morgan
DENNIS W. MORGAN, WSBA #5286
Attorney for Defendant
PO Box 1019
Republic, Washington 99166
Telephone: (509) 775-0777
nodblspk@outlook.com

CERTIFICATE OF SERVICE

# February 06, 2025 - 9:47 AM

## Transmittal Information

| | |
|---|---|
| **Filed with Court:** | Court of Appeals Division III |
| **Appellate Court Case Number:** | 39526-0 |
| **Appellate Court Case Title:** | State of Washington v. Joshua James Glazier |
| **Superior Court Case Number:** | 20-1-00615-2 |

**The following documents have been uploaded:**

- 395260_Petition_for_Review_20250206094703D3745209_5908.pdf
  This File Contains:
  Petition for Review
  *The Original File Name was Glazier Petition for Discretionary Review.pdf*

**A copy of the uploaded files will be sent to:**

- Appeals@co.yakima.wa.us
- jill.reuter@co.yakima.wa.us

**Comments:**

---

Sender Name: Dennis Morgan - Email: nodblspk@outlook.com
Address:
PO BOX 1019
REPUBLIC, WA, 99166-1019
Phone: 509-775-0777

**Note: The Filing Id is 20250206094703D3745209**