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July 8, 2013 01

**NO. 69736-6-1**  
IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION 1

Mohamed Abdelkadir

Appellant,

Vs.

STATE OF WASHINGTON DEPARTMENTS OF EMPLOMENT SECURITY,

Respondent.

APPEAL FROM KING COUNTY SUPERIOR COURT  
Honorable Sharon Armstrong, Judge

REPLY BRIEF OF APPELLANT

2013 JUL -8 PM 1:58  
COURT OF APPEALS  
STATE OF WASHINGTON

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Mohamed Abdelkadir, App. Vs. STATE OF WASHINGTON DEPARTMENTS OF  
EMPLOMENT SECURITY, Respondent.

Kathleen M. Lovejoy Administrative Law Judge Hearing entered the ruling on January  
27, 2012

Office Of Administrative Hearings

2420-Bristol Court SW

PO Box 9046

Olympia, WA 98507-9046

See **page** 139 of 251 (OAH DECISION) the Commissions Rec. for more information.

Judge Sharon Armstrong King County Superior Court judge the ruling entered on  
November 30, 2012.

**1. LAW (STANDARD OF REVIEW):**

**Pursuant to RCW 50.22.130, the training  
benefits program should be available for  
those unemployed whose skills are no  
longer in demand. Exhausted Reasonable  
Measures, Please See JOB SEARCH**

**LOGS** See page 213 of 251 of the transcript  
testimony for more information.

Training benefits are available for an individual  
who is eligible for or has exhausted entitlement

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to unemployment compensation benefits when the individual is dislocated worker as defined in RCW 50.04.75.

The department should waive the deadlines established under this subsection for reasons deemed by the commission to be good cause. As the above statement Mohamed Abdelkadir has a right to receive Training Benefit.

**RCW 34.05.434** UNDER THIS RULES AS

FOLLOWS:

- (i) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding held in default in accordance with this chapter

**Pursuant WAC 192.04.040**

In all cases adjudicated under Title 50 RCW the employment security department is an interested party.

(1) Other interested parties in benefit appeals are:

- (a) The claimant;

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(b) Any employer entitled to notice under  
WAC 192-130-060; and

(c) An interested employer as defined in WAC  
192-220-060 in cases involving the recovery of  
benefit

## **II. FACTS:**

Two Issues (a) Commission Approved Training  
Docket No. 01-2011-25297

(b) Training Benefit Docket No. 01-2011-25298

The Benefit Year Ending Date of February 13,  
2010, While Appealing To The Court My Case.

I disagree with commission's decision, Reasons as  
follows:

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The Commission on 2009 denied me, Mohamed Abdelkadir, benefits.

1) I, Mohamed Abdelkadir, **APPEAL** THE DECISION TO STATE OF WASHINGTON KING COUNTY **SUPERIOR COURT. NO. 09-2-33625-3SEA.**

2) I, Mohamed Abdelkadir, **APPEAL** IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION 1. **NO 65402-1**

ORDER, it is here by ordered that the Commission's decision in Mr. Abdelkadir case is **reversed**, and he is determined to be eligible for benefits on December 3, 2010.

3) Also, when the matter was settled on December 12, 2010, I did not receive for training benefit "dead line" such as 90 days or 60 days.

4) I, Mohamed Abdelkadir learned on October 14, 2011, when I was denied by Unemployment Security Department for the training benefit dead line.

See pages 94, 95, 96, 97 of 251 of the transcript testimony for more info.

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5) The opposing part's counsel (Kathleen Cowsert-representative for CSK Auto inc) appeared at the hearing on January 23, 2012, and in the discussion with the Judge, recognized that party still had an interest in the case. See page 17 of 251, line 1 through 25 of the transcript testimony.

Then the opposing part (Kathleen Cowsert) did not appear on January 27, 2012, therefore, I should win by default.

6) On January 23, 2012 the administrative hearing Judge said (Judge Kathleen M. Lovejoy) during the telephone hearing there is no dead line or such as 90 days or 60 days for the commission approved retraining benefit, since 2009 changed, so there is no dead line to apply for commission approved retaining benefit. Judge Kathleen M. Lovejoy failed to issue an order of default for the employer representative, because Kathleen Cowsert-employer

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representative for CSK Auto Inc did not appear for the hearing during the time period on January 27, 2012.

See page 30 of 251, line 1 through 25 of the transcript testimony.

The (OAH) contacted to the interest part (CSK Auto Inc) on November 29, 2011, See AR at 244 of 251 for more information.

I, Abdelkadir Disagree with Robert W. Ferguson and April Benson Bishop Attorney's respondent's with their "INTERODUCTION " dated on June 10, 2013- for four (4) reasons,

(1) Abdelkadir did not know such programs exist to submit timely application on for training benefits, (2) Abdelkadir was denied for unemployment benefits, because the CSK Auto Inc employer was provide false evidence during (OAH) hearing over the phone in 2009 and the (ESD) denied my claim benefits (3) Abdelkadir under RCW 50.22.130 met the statutory

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definition of dislocated worker, Abdelkadir run out of income, the training benefits are available to dislocated worker payable after regular benefits run out.

See AR at 85 of 251 for more information, (4) I, Abdelkadir would say direct to the court's "attentions" to RCW 50.22.130, the intent by the training benefits program, and it's first that training should be available for those unemployed, who skills are no longer in demand -See AR at 62-63, also see job search log (Abdelkadir) AR at 114-131 and AR at 208-237 of 251 for more information.

The above "job search logs" indicates Abdelkadir "skill driving" no more in demand.

Cowsert, Kathleen (CSK Auto Inc) representative on January 23, 2012

Participate and she agree to appear on January 27, 2012 For (OAH)

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See AR at 21 of 251.

I, Abdelkadir disagree with Robert W. Ferguson and April Benson Bishop Attorney's respondents on page 2 , dated on June 10, 2013 under (C) CSK Auto Inc under the Law interest part, In all cases adjudicated under Title 50 RCW the employment security department is an interested party.

(1) Other interested parties in benefit appeals are:

(a) The claimant;

(b) Any employer entitled to notice under WAC 192-130-060; and

(c) An interested employer as defined in WAC 192-220-060 in cases involving the recovery of benefit.

The (ESD) denying unemployment benefits to Abdelkadir and the Commission decision was reversed On December 3, 2010 in the court of Appeal division one in Seattle, See AR at 157-158 of 251 for more information. I, Abdelkadir, disagree with respondent brief on page 2, line 9

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dated on June 10, 2013, Abdelkadir did not receive unemployment claims kit from the department on February 20, 2009.

This claimant say he has not received it, ( Judge Kathleen M. Lovejoy OAH Judge) and I am just surprised that document is not in this file. And what I mean (Judge Kathleen M. Lovejoy OAH Judge) by that, the document that would say we mailed out to claimant the monetary determination and his unemployment claims kit. See AR at 45 of 251, line 14-18 for more information, the respondents Attorneys ( Robert W. Ferguson and April Benson Bishop bringing new issue, which was not in my file (Abdelkadir) during administrate hearing (OAH) over the phone on January 27, 2013..

On page 3, line 12-13, I, Abdelkadir disagree with respondent brief dated on June 10, 2013, I, Abdelkadir I learned about the training benefits in September 2011 Vol. 13 NO. 8 flyer this program offered by Shoreline Community collage, See AR at 159 of 251 for more information.

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I am respectfully requesting from the ESD to provide a proof of my signature that showing received of the Training Benefit kit.

**III. ARGUMENT:**

**On page 6, line 1-10 respondent brief**

**incorrect as follows:**

**The commission's finding of fact were not**

**supported by substantial evidence,**

**because:**

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1) Abdelkadir did not know such programs exist to submit timely application on for training benefits

2) Abdelkadir was denied for unemployment benefits, because the CSK Auto Inc employer was provided false evidence during (OAH) hearing over the phone in 2009 and the (ESD) denied my claim benefits.

3) Abdelkadir under RCW 50.22.130 met the statutory definition of dislocated worker, Abdelkadir run out of income, the training benefits are available to dislocated worker payable after regular benefits run out.

See AR at 85 of 251 for more information.

4) I, Abdelkadir would say direct to the court's "attentions" to RCW 50.22.130, the intent by the training benefits program, and it's first that training should be available for those unemployed, who skills are no longer in demand  
-See AR at 62-63, also see job search log

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(Abdelkadir) AR at 114-131 and AR at 208-237 of 251 for more information.

The above "job search logs" indicates Abdelkadir "skill driving" no more in demand.

I, Abdelkadir did not receive unemployment claims kit from the department on February 20, 2009.

"This claimant say he has not received it, ( Judge Kathleen M. Lovejoy OAH Judge) and I am just surprised that document is not in this file. And what I mean (Judge Kathleen M. Lovejoy OAH Judge) by that, the document that would say we mailed out to claimant the monetary determination and his unemployment claims kit, See AR at 45 of 251, line 14-18 for more information", the respondents Attorneys ( Robert W. Ferguson and April Benson Bishop bringing new issue, which was not in my file (Abdelkadir) during administrate hearing (OAH) over the phone on January 27, 2013.

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“(Judge Kathleen M. Lovejoy OAH Judge)  
according the above statement the ALJ suppose  
not to affirming the Department’s determination  
“See AR at 45 of 251, line 14–18 for more  
information”

On page 3, line 12–13, I, Abdelkadir disagree  
with respondent brief dated on June 10, 2013, I,  
Abdelkadir I learned about the training benefits  
in September 2011 Vol. 13 NO. 8 flyer this  
program offered by Shoreline Community  
collage, “See AR at 159 of 251 for more  
information”.

I am respectfully requesting from the ESD  
to provide a proof of my signature that  
showing received of the Training Benefit  
kit.

On page 7, line 11–14 respondent brief  
incorrect, because:

Pursuant to RCW 50.22.130, the training  
benefits program should be available for

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those unemployed whose skills are no longer in demand.

**Exhausted Reasonable Measures, Please See JOB SEARCH LOGS, See page 213 of 251, 114-131 and AR at 208-237 of 251 of the transcript testimony for more information.**

On page 8, line Δ the respondent brief incorrect, because: I, Mohamed Abdelkadir, Declare under the penalty of perjury for the State of Washington, that the following is true and correct to the best of my knowledge.

**“I had not received claim kit the monetary determination See ALJ statement AR at 45 of 251, line 14-18 for more information”.**

On page 9, line 15-16 respondent brief incorrect, **The commission’s finding of fact were not supported by substantial evidence, because: I said no received claim kit, See AR at 58, line 22, AR at 59, line 16 and AR at 145(FF-8) and ALJ statement AR at**

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See AR at 45 of 251, line 14-18 for more information.

There were no substantial evidence showed the claimant received claim kit application in the AR.

On page 10, line 20 respondent brief incorrect, there were no indications said the claimant had said received claims kit application AR 87.

On page 12, 15-20 respondent brief incorrect, the claimant had said (Abdelkadir) learned the program training benefits in September 2011 flyer from SCC, "See AR at 159 of 251 for more information".

On page 14, line 1-6 respondents brief incorrect, because the claimant had not received claim kit application, See AR at 45 of of 251, line 14-18 for more information

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On page 14, line B respondent brief incorrect.

Dislocated worker is any individual who:

- (a) Has been terminated or received a notice of termination from employer.
- (b) Is eligible for or has exhausted entitlement to unemployment compensation benefits; and
- (c) Is unlikely to return to employment the individual's principle or previous industry because of a diminishing demand for their skills in that occupation industry.

On page 15, line 5 -18 the respondents brief incorrect because my skill driving no more in demand, Please See JOB SEARCH LOGS.

See page 213 of 251, 114-131 and AR at 208-237 of 251 of the transcript testimony for more information.

"THE general Attorney and assistant Attorney general send the transcript testimony with

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**out removing personal information of  
Mohamed Abdelkadir from the file to the  
court, which is illegal under the Law”.**

**“See AR at 145 of 251 for more information”**

Attorney’s respondents on page 16 dated on  
June 10, 2013 under (C) incorrect, because RCW

**34.05.434 UNDER THIS RULES AS FOLLOWS:**

- (ii) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding held in default in accordance with this chapter

**Pursuant WAC 192.04.040**

In all cases adjudicated under Title 50 RCW the employment security department is an interested party.

(1) Other interested parties in benefit appeals are:

(a) The claimant;

(b) Any employer entitled to notice under

WAC 192-130-060; and

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(c) An interested employer as defined in WAC 192-220-060 in cases involving the recovery of benefits.

Abdelkadir should win by default because a statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding held in default in accordance with above Law.

Attorney's respondents on page 17 dated on June 10, 2013 incorrect, because "CSK AUTO INC" was my employer , if the employer representative failed to appear to the court "I. Mohamed Abdelkadir Should win by default".

See page 30 of 251, line 1 through 25 of the transcript testimony.

Plaintiff (Abdelkadir) is filing the New York time newspaper for evidence, because TALX represent CSK AUTO Inc in this case.

A History of Complaints (April 4, 2010).

Hampshire Legal Assistance. "It's sort of a war of

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attrition. Hampshire Legal Assistance. “It’s sort of a war of attrition.

Talx often files appeals regardless of merits,”  
said Jonathan P. Baird, a lawyer at New  
Wisconsin and Iowa passed laws to curtail  
procedural abuses that officials said were  
common in cases handled by Talx. Connecticut  
fined Talx (pronounced talks) and demanded an  
end to baseless appeals. New York, without  
naming Talx, instructed the Labor Department  
staff to side with workers in cases that simply pit  
their word against those of agents for  
employers.

After Mr. Grenier waited three months for a  
hearing, Wal-Mart did not appear. A Talx agent  
joined by phone, then seemingly hung up as Mr.  
Grenier testified. The hearing officer redialed and  
left an unanswered message on the agent’s voice  
mail. The officer called Mr. Grenier “completely  
credible” and granted him benefits.

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Talx appealed, claiming that the officer had denied the agent's request to let Wal-Mart testify by phone. (A recording of the hearing contains no such request.) Mr. Grenier won the appeal, but by then he had lost his apartment and moved in with his sister.

Ms. Griess's won benefits at a hearing that Talx and Countrywide skipped, but Talx successfully appealed, saying the Countrywide witness had missed the hearing "because of a family death. Later asked under oath if that was true, the witness said, "No, it's not."

"The Court should use it's own discretions for this case".

I, Abdelkadir do not have a complete transcript from the prior proceeding, because the transcriber (Jessica Sanford) wrote "inaudible" in many sections.

**See page 60 of 251, line 1 through 25 of the transcript testimony for more information.**

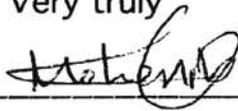
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**IV. CONCLUSION:**

Based upon the above facts and procedural analysis, the ruling of the administrative (**ALJ**) **Judge Kathleen M. Lovejoy** On January 27, 2012. And the Commission (ESD) should reverse the decision for reasons.

The Court should use it's own discretion for this case. Thank You.

Very truly



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Mohamed Abdelkadir Plaintiff Pro se

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Seattle, WA 98165

(206) 778-1983

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**ORDER**

**WHEREFORE. Petitioner asks for judgment:**

Based upon the above facts and procedural analysis;

The claimant Mr. Abdelkadir is requesting the Training Benefits legally due to him plus reasonable compensation for the time and expenses he suffered in order to pursue his legal rights in this matter. Thank you

Submitted this \_\_\_ day of \_\_\_\_\_, 2013

Very Truly

-----  
Judge

-----  
I, Mohamed Abdelkadir, Pro see

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I, Mohamed Abdelkadir, declare under the penalty of perjury under the law of the state of Washington that on JULY 8, 2013 I served a true and correct copy REPLY BRIEF FOR PETITIONER to Court of Appeal. Division one in Seattle of this documents and attachment documents and Was Mailed Via CERTIFY U.S Mail with proper postage attached to

Court of Appeal in Seattle

Division 1 one in Seattle

600-University St.

Seattle, WA 98101

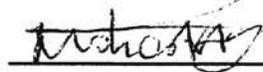
April Benson Bishop WSBA # 40766

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