

Supreme Court No.  
Court of Appeals No. 328708-III  
Consolidated with No. 32990-9-III  
Yakima Superior No. 11-1-01110-6

SC#93328.6

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON  
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STATE OF WASHINGTON, Respondent

v.

APOLINAR PEREZ GOMEZ, Appellant

---

MOTION FOR DISCRETIONARY REVIEW

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TABLE OF CONTENTS

A. IDENTITY OF MOVING PARTY ..... 1

B. STATEMENT OF RELIEF SOUGHT ..... 1

C. ISSUES PRESENTED FOR REVIEW ..... 1

    ISSUES PERTAINING TO ASSIGNMENTS OF ERROR..... 1

D. STATEMENT OF THE CASE..... 1

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED ..... 2

    1. DISMISSAL IS IMPROPER UNDER THE PROCEDURAL  
        CIRCUMSTANCES OF THIS MATTER..... 2

    2. DISMISSAL CURTAILS MR. PEREZ GOMEZ’S RIGHTS TO  
        FILE ANY FUTURE COLLATERAL APPEALS ..... 3

    3. THE STATE DID NOT SEEK DISMISSAL OF MR. PEREZ GOMEZ’S  
        APPEAL IN ITS MOTION TO REMAND THIS MATTER TO THE TRIAL  
        COURT FOR VACATION OF HIS CONVICTION ..... 4

F. CONCLUSION..... 5

G. CERTIFICATE OF SERVICE ..... 5

APPENDIX A – COURT OF APPEALS ORDER DATED JUNE 2, 2016

APPENDIX B – STATE’S MOTION TO REMAND DATED APRIL 25, 2016

APPENDIX C – APPELLANT’S REPLY TO STATE’S MOTION DATED MAY 19, 2016

APPENDIX D – STATE’S ANSWER LETTER DATED MAY 23, 2016

APPENDIX E – YAKIMA SUPERIOR COURT 11-1-01110-6 DOCKET TO DATE

## TABLE OF AUTHORITIES

### Cases

<i>Becker</i> , 143 Wn.2d at 496 .....	3
<i>Becker</i> , 143 Wn.2d at 498 (citing <i>Brand</i> . 120 Wn.2d at 370).....	3
<i>In re Pers. Restraint of Becker</i> , 143 Wn.2d 491,499. 20 P.3d 409 (2001) (citing <i>State v. Brand</i> , 120 Wn.2d at 369).....	3
<i>In re Personal Restraint of Tsai</i> , 183 Wn.2d 91, 351 P.3d 138 (2015) .....	4
<i>State v. Kells</i> , 134 Wn.2d 309, 949 P.2d 818 (1998).....	3
<i>State v. Sandoval</i> , 171 Wn.2d 163, 249 P.3d 1015 (2011) .....	4
<i>State v. Smith</i> , 134 Wn.2d 849, 953 P.2d 810 (1998).....	3
<i>State v. Sweet</i> , 90 Wn.2d 282, 581 P.2d 579 (1978).....	3
<i>State v. Tomal</i> , 133 Wn.2d 985, 948 P.2d 833 (1997) .....	3

### Statutes

RCW 10.73.140.....	1, 3, 4
--------------------	---------

### Rules

CrR 7.8(b) .....	3
RAP 13.4 .....	1
RAP 13.5 .....	1
RAP 13.5A .....	1

### Treatises

WA Const. art. 1, §22 .....	3
-----------------------------	---

### Federal Cases

<i>Padilla v. Kentucky</i> , 559 U.S. 356, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010).....	4
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A. IDENTITY OF PETITIONER

The Petitioner, APOLINAR PEREZ GOMEZ, by and through his attorney of record, Brent A. De Young, asks for the relief designated in Part B.

B. RELIEF REQUESTED

The Petitioner, APOLINAR PEREZ GOMEZ, by and through his counsel, Brent A. De Young, moves this Court for review of the Court of Appeals Order dated June 2, 2016 dismissing his appeal. A copy of this decision is attached hereto as Appendix A.

C. ISSUES PRESENTED FOR REVIEW

1. IS DISMISSAL PROPER AT THIS TIME?
2. DOES DISMISSAL AT THIS TIME UNFAIRLY CURTAIL MR. PEREZ GOMEZ'S RIGHT TO FILE ANY NECESSARY FUTURE COLLATERAL APPEALS?
3. DOES THE JUDGE'S MISINTERPRETATION OF THE STATE'S MOTION TO REMAND THAT AT NO TIME PREVIOUSLY HAD ASKED FOR DISMISSAL AS A CONDITION OF REMAND TO VACATE HIS CONVICTION PREJUDICE MR. PEREZ GOMEZ?

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Is dismissal properly exercised when it could serve to foreclose a defendant's constitutional rights to a further appeal based on subsequent proceedings in the trial court?  
(RCW 10.73.140) (RAP 13.4)
2. Is dismissal properly exercised when a stay of proceedings could have better protected Mr. Gomez Perez' rights should the trial court fail to properly implement the court of appeals' order or should it commit further error based on the same issues (RAP 13.5, RAP 13.5A)

D. STATEMENT OF THE CASE

On October 6, 2014, Mr. Perez Gomez filed a Notice of Appeal to the Washington State Court of Appeals – Division III. (CP 37-47) Also filed with the Yakima County Clerk on that date was another Notice of Appearance by Attorney De Young, a Memorandum of Authorities, and a Transcript of the October 6, 2011 Guilty Plea and Sentencing Hearing. (CP 54-60)  
On December 15, 2014, Mr. Perez Gomez filed a Personal Restraint Petition (COA3 No. 32990-9).

Mr. Perez Gomez's Direct Appeal No. 32870-8 and his Personal Restraint Petition No. 32990-9 were consolidated by the Court of Appeals – Division III on March 12, 2015 under Case No. 32870-8.

On April 15, 2016, this Court ordered a reference hearing to be held in the Yakima County Superior Court.

On April 25, 2016, the State filed a Motion to Remand Mr. Perez Gomez's matter to the Superior Court in order for him to withdraw his guilty plea and to be tried by jury. (See APPENDIX B)

A reply was filed by Mr. Perez Gomez on May 19, 2016. The reply argued against remand based on the refusal of the State to stipulate to facts sufficient to support vacation of the conviction. (See APPENDIX C)

On May 23, 2016, the State filed an answer in the form of a letter. (See APPENDIX D)

On June 2, 2016, this Court ordered that Mr. Perez Gomez's matter be remanded to the Yakima Superior Court and that his appeal be dismissed.

To date, no actions have been taken in the Yakima Superior Court to follow the Court of Appeals Order. (See APPENDIX E)

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. DISMISSAL IS IMPROPER AT THIS TIME

In granting the State's motion to remand, the Court of Appeals also dismissed Mr. Perez Gomez's appeal. The Court of Appeals order states as follows:

This matter was set on the court's March 17, 2016 docket for decision without oral argument. On April 15, 2016, the Chief Judge signed an order for a reference hearing. In response to the order, the State filed a motion (1) to remand for the trial court to enter an order withdrawing guilty plea, and (2) for this court to dismiss the appeal. Having considered that motion, appellant's response, and the State's reply,

IT IS ORDERED that the State's motion to remand for the trial court to enter an order withdrawing guilty plea is granted, and the trial court shall enter such order and any further order necessary to vacate appellant's conviction arising from that plea.

IT IS FURTHER ORDERED that the appeal is dismissed.

IT IS FURTHER ORDERED that each party shall bear their own costs of appeal.

Court of Appeals – Division III Order dated June 2, 2016.

The court's order does not address Mr. Perez Gomez rights to file a further appeal

depending on what actions that the trial court might take.

The court's order can neither grant additional rights nor abridge the rights of either party as granted by the Washington State Constitution or as interpreted by case law.

In this instance it is quite possible that this order may abrogate Mr. Perez Gomez' rights by cutting off his rights to file a further appeal should the trial court commit any errors during the further proceedings in this matter.

2. DISMISSAL AT THIS TIME UNFAIRLY CURTAILS MR. PEREZ GOMEZ'S RIGHT TO FILE ANY NECESSARY FUTURE COLLATERAL APPEALS.

The Washington State Constitution guarantees the right to appeal in all criminal cases. Const. art. 1, §22. See also, *State v. Kells*, 134 Wn.2d 309, 949 P.2d 818 (1998); *State v. Smith*, 134 Wn.2d 849, 953 P.2d 810 (1998); *State v. Tomal*, 133 Wn.2d 985, 948 P.2d 833 (1997); *State v. Sweet*, 90 Wn.2d 282, 581 P.2d 579 (1978).

On the other hand, the right to an appeal is also subject to limitations. Collateral attacks based on the same issues must be rejected. See, *In re Pers. Restraint of Becker*, 143 Wn.2d 491, 499, 20 P.3d 409 (2001) (citing *State v. Brand*, 120 Wn.2d at 369). "[A] court may not consider a CrR 7.8(b) motion if the movant has previously brought a collateral attack on similar grounds." *Becker*, 143 Wn.2d at 498 (citing *Brand*, 120 Wn.2d at 370). "Collateral attack" includes all types of postconviction relief except direct appeal. *Becker*, 143 Wn.2d at 496. See also RCW 10.73.140.

It does not require any stretch of the imagination to see that any arguments that Mr. Perez Gomez currently has regarding his deficient initial representation and regarding the State's weighing of and application of *Padilla* and *Sandoval* would also then be afterwards precluded by the court's order. *Padilla v. Kentucky*, 559 U.S. 356, 130 S. Ct. 1473, 176 L. Ed.

2d 284 (2010); *State v. Sandoval*, 171 Wn.2d 163, 249 P.3d 1015 (2011) The Washington Supreme Court's decision in the matter of *In re Personal Restraint of Tsai*, 183 Wn.2d 91, 351 P.3d 138 (2015) demonstrate that even if a court acts in error, that error is not held against the defendant who fails to appeal the court's error. In *Tsai*, the trial court did not follow CrR 7.8 and instead of transferring the PRP to the Court of Appeals, it dismissed the defendant's appeal. *Tsai* at 97.

In the instant matter, should the trial court subsequently commit error and simply decide not to follow *Padilla* and *Sandoval*, Mr. Perez Gomez would be left without the means for any further appellate review. Such an outcome is not in the interests of justice.

3. THE STATE AT NO TIME PREVIOUS HAD ASKED FOR DISMISSAL AS A CONDITION OF REMAND TO VACATE HIS CONVICTION

The Court of Appeals order states that the Respondent had asked for dismissal of Mr. Perez Gomez's appeal in its motion to remand. The Respondent's motion of April 25, 2016 does not make this demand. The Respondent's answer dated May 23, 2016 also does not make this request. The Court of Appeals appears to have ordered dismissal of Mr. Perez Gomez's appeal *sua sponte* in this instance.

A more balanced decision based on these competing issues of judicial efficiency and of the rights to an appeal vis-à-vis the rule prohibiting successive collateral appeals on the same issues might have been to stay further proceedings in Mr. Perez Gomez's appeal pending the outcome of proceedings in the trial court. (RCW 10.73.140)

F. CONCLUSION

Based on the foregoing, it is respectfully requested that the Court of Appeals decision dated June 2, 2016 dismissing Mr. Perez Gomez' appeal be reversed and remanded for further proceedings based on the issues herein cited.

Respectfully submitted this 3<sup>rd</sup> day of July, 2016.

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Attorney for Appellant

SUPREME COURT  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
Respondent	)	
	)	MOTION FOR DISCRETIONARY
	)	REVIEW
v.	)	
APOLINAR PEREZ GOMEZ,	)	CERTIFICATE OF SERVICE
Appellant.	)	
_____	)	

I certify that on this 3<sup>rd</sup> day of July, 2016, I caused a copy of Appellant's MOTION FOR DISCRETIONARY REVIEW to be sent to the following by electronic mail:

David Trefry  
Yakima Prosecuting Attorney  
[David.Trefry@co.yakima.wa.us](mailto:David.Trefry@co.yakima.wa.us)

and to the following by U.S. Mail, first-class postage prepaid:

Apolinar Perez Gomez  
1114 Rock Ave.  
Yakima, WA 98902

s/ Brent A. De Young  
WSBA #27935  
De Young Law Office  
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Attorney for Appellant

# APPENDIX A

**FILED**  
**June 2, 2016**  
In the Office of the Clerk of Court  
WA State Court of Appeals, Division III

**COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON**

<b>STATE OF WASHINGTON,</b>	)	<b>No. 32870-8-III</b>
	)	<b>(consolidated with</b>
<b>Respondent,</b>	)	<b>No. 32990-9-III)</b>
	)	
<b>v.</b>	)	
	)	<b>ORDER GRANTING</b>
<b>APOLINAR PEREZ GOMEZ,</b>	)	<b>STATE'S MOTIONS TO</b>
	)	<b>REMAND AND</b>
<b>Appellant.</b>	)	<b>TO DISMISS APPEAL</b>
<hr/>	)	
<b>In the Matter of the Personal Restraint of</b>	)	
	)	
<b>Apolinar Perez Gomez,</b>	)	
	)	
<b>Petitioner.</b>	)	

This matter was set on the court's March 17, 2016 docket for decision without oral argument. On April 15, 2016, the Chief Judge signed an order for a reference hearing. In response to the order, the State filed a motion (1) to remand for the trial court to enter an order withdrawing guilty plea, and (2) for this court to dismiss the appeal. Having considered that motion, appellant's response, and the State's reply,

IT IS ORDERED that the State's motion to remand for the trial court to enter an order withdrawing guilty plea is granted, and the trial court shall enter such order and

No. 32870-8-III; 32990-9-III  
*State v. Perez Gomez; PRP of Perez Gomez*

any further order necessary to vacate appellant's conviction arising from that plea.

IT IS FURTHER ORDERED that the appeal is dismissed.

IT IS FURTHER ORDERED that each party shall bear their own costs of appeal.

PANEL: Judges Lawrence-Berrey, Siddoway and Pennell

FOR THE COURT:

  
\_\_\_\_\_  
GEORGE FEARING  
CHIEF JUDGE

# APPENDIX B

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

STATE OF WASHINGTON,	)	
	)	NO. 32870-8-III
Respondent,	)	
	)	MOTION TO REMAND
vs.	)	TO ALLOW WITHDRAWAL OF
	)	PLEA – TRIAL.
APOLINAR PEREZ GOMEZ,	)	
	)	
Appellant.	)	
_____	)	

I. IDENTITY OF MOVING PARTY.

The respondent, State of Washington, asks for the relief designated in Paragraph II.

II. STATEMENT OF RELIEF SOUGHT.

The respondent requests the Court of Appeals Division III grant the respondent's request as set forth in this Motion. So that the ends of justice might be served, the Respondent, State of Washington, requests that this court remand this case to the trial court where the defendant shall be allowed to withdraw his guilty plea and have his case tried to a jury of his peers.

III. GROUNDS FOR RELIEF SOUGHT.

After receiving this court's order to remand this case for a reference hearing the State of Washington by and through the Yakima County Prosecutors Office reviewed the case and determined that the best use of the scarce resources of the State would be to agree to allow the Appellant/defendant, Apolinar Perez Gomez, to withdraw his guilty plea to the underlying offense of Attempting to Elude a Pursuing Police RCW 46.61.024 and reset this case for trial.

This remand will grant the relief Appellant is asking for and this action will allow the defendant a chance to have his case tried to a jury thereby negating his present claim that he would not have plead guilty if he had been properly informed of the immigration consequences of that plea.

The State vehemently disagrees with the Appellant's contention that the actions of his original trial counsel was deficient at the time of the plea, however in order to expedited this case and use the least amount of the scarce resources of the State the remand and trial will be the most efficient method of creating a record, negating the present claim and satisfying Gomez's desire to withdraw his plea and have his day in court.

The State has determined that the reference hearing and the procedure for that hearing along with all the previous actions that have taken place in this case will in all probability exceed the time and expense of conducting an actual trial.

Further, if this court were to determine that Gomez's allegation is correct

and remand for a trial the State would then have had to proceed through the CrR 7.8 motion, the initial Personal Restraint Petition, the motions to allow a direct appeal, motions to consolidate, responses to the motions to consolidate, the ordered reference hearing and then finally the trial.

Therefore this motion should considerably decrease the overall cost in time, money and effort for all parties.

The State has communicated this intent by separate correspondence to appellate counsel for Mr. Gomez to determine if he shall be representing appellant/defendant in trial and if not the State has requested current address/contact information for the Appellant in order to allow the State to serve Gomez with any notices needed to speedily try this case.

#### IV. Conclusion.

The State respectfully requests that this court remand this case to the trial court to allow the Appellant/defendant to withdraw his guilty plea, have the matter set for trial and trial counsel appointed if needed.

Further, the State would request that this court require Appellate counsel to inform this court and the State if he will or will not be representing Mr. Gomez in trial. If Appellate counsel is not going to be trial counsel the State requests that this court order counsel to supply the State with current contact information for Mr. Gomez so that a summons may be served and any notice be properly sent to Mr. Gomez.

Respectfully submitted this 25<sup>th</sup> day of April, 2016

s/ David B. Trefry  
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Senior Deputy Prosecuting Attorney  
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Certificate of Service

I, David B. Trefry, hereby certify that on this date I served a copies, by email, by agreement of the parties as follows: Brent De Young at [deyounglaw1@gmail.com](mailto:deyounglaw1@gmail.com)

Dated at Spokane, WA this 25<sup>th</sup> day of April, 2016

s/ David B. Trefry  
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# APPENDIX C

Court of Appeals No. 32870-8  
Consolidated with No. 32990-9  
Yakima Superior No. 11-1-01110-6

COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON  
Respondent,

vs.

APOLINAR PEREZ GOMEZ,  
Appellant.

---

REPLY TO STATE'S MOTION TO REMAND

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Attorney for Appellant

The State has moved to remand this matter to the trial court so that Mr. Perez Gomez might proceed to trial. The State contends that this is the only issue that Mr. Perez Gomez brings in this matter and that remanding the matter to the trial court would give Mr. Perez Gomez his day in court and sufficiently resolve this matter. This is not so.

Mr. Perez Gomez argued that representation by competent counsel applied to all phases of his criminal matter. Representation by competent counsel during all phases of representation does appear to be the standard given by the Washington Supreme Court in *State v. Sandoval*. (See Footnote *State v. Sandoval*, 171 Wn.2d 163, 249 P.3d 1015 (2011))

Perhaps not surprisingly, the State has a more limited view of *Sandoval* and contends that trial counsel fulfills his Sixth Amendment duties under *Sandoval* simply by ascertaining his client's citizenship status and then providing his client with information as to how a conviction for that crime(s) would affect his client's immigration status.<sup>1</sup>

There are several reasons why Mr. Perez Gomez is not able to join the State's motion in its current form.

1. The State has not indicated that it would agree to facts sufficient that the trial court could review for the purpose of granting an agreed motion to vacate Mr. Perez Gomez's conviction.<sup>2</sup>
2. The State does not have any inherent authority to vacate a conviction unless the trial court judge agrees to sign such an order. Without some written agreement between the parties as to a factual basis for the remand, it is easily possible that a

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<sup>1</sup> [trial counsel must ascertain] "whether the relevant immigration law is truly clear about the deportation consequences" *Sandoval* at 171 (quoting, *Padilla v. Kentucky*, 559 U.S. 356, 130 S. Ct. 1473, 1483, 176 L. Ed. 2d 284 (2010))

<sup>2</sup> In fact, the State has indicated that it "vehemently disagrees with the Appellant's contention that the actions of his original trial counsel was *SIC* deficient at the time of the plea" *Respondent's Motion to Remand* at p.2

trial court could deny a party's agreed motion on the basis that it lacks a sufficient factual basis.

3. The rule against successive motions might apply should this matter be voluntarily withdrawn by the Appellant and, if then, the trial court judge were to deny a "no fault" stipulated motion to withdraw.
4. Although it is ultimately up to the Appellant whether or not to accept the State's motion, the issues in this matter are compelling. Resolution of these issues would add to the growing body of case law. This matter presents at first these specific issues:
  - a. Is trial counsel absolved of his Sixth Amendment duty to advise his client of immigration consequences solely on the basis that his client has talked to an immigration lawyer prior to pleading guilty?<sup>3</sup>
  - b. What level of specificity is required of immigration consequences advice under *Padilla* and *Sandoval*? May trial counsel satisfy the requirement by telling his client "that he will be sent to Tacoma" presumably for removal proceedings?

### CONCLUSION

The motion brought by the State and the discussions with the State's trial attorney do not provide a sufficient basis for Mr. Perez Gomez to join the State's motion at this time.

Appellant's counsel continues to meet regularly with the Appellant to discuss these issues and remains available for such further discussion.<sup>4</sup>

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<sup>3</sup> The State contends that immigration counsel was hired before Mr. Perez Gomez entered his plea. Immigration counsel's transcribed statement provides that she was hired only after the conviction. Immigration counsel stated that she talked with trial counsel briefly one time before Mr. Perez Gomez was convicted.

<sup>4</sup> The questions asked in the State's motion regarding Mr. Perez Gomez's mailing address and the issue of representation at the trial court level have been provided to the State's trial counsel.

Respectfully submitted this 19<sup>th</sup> day of May, 2016.

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Attorney for Appellant

Court of Appeals No. 32870-8  
Consolidated with No. 32990-9  
Yakima Superior No. 11-1-01110-6

COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
Plaintiff/Respondent,  
vs.  
APOLINAR PEREZ GOMEZ,  
Defendant/Appellant.

REPLY TO STATE'S MOTION FOR  
REMAND  
CERTIFICATE OF SERVICE

I certify that on this 19<sup>th</sup> day of May, 2016, I caused a copy of REPLY TO  
STATE'S MOTION FOR REMAND to be sent by electronic mail to:

Yakima County Prosecuting Attorney  
[Appeals@co.yakima.wa.us](mailto:Appeals@co.yakima.wa.us)  
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Yakima County Prosecutor's Office  
P.O. Box 4846  
Spokane, WA 99220-0846

and by U.S. Mail, first-class postage prepaid, to:

Apolinar Perez Gomez  
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s/ Brent A. De Young  
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Attorney for Appellant

# APPENDIX D



**JOSEPH A. BRUSIC**  
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May 23, 2016

TO: Washington State Court of Appeals, Division III  
500 W. Cedar St., Spokane, WA 99201

**RE: *State v. Gomez*, COA# 32870-8-III**

To Whom It May Concern:

The Yakima County Prosecutors Office requested that this court allow the remand of this case in order that Mr. Gomez may be allowed to withdraw his plea and proceed to trial as he requested this present appeal. Mr. Gomez has responded to the State's request by indicating that he cannot join in that request for several reasons. A brief response is needed to that objection.

1. There is no need to stipulate to a set of facts for the trial court to review, the State is asking this court to remand to the trial court with an order to the trial court that Mr. Gomez be allowed to withdraw his plea, as he has requested.
2. It is correct that the State does not have the "inherent" authority to vacate a conviction, which once again, is why the State is asking this court to order the remand with direction to the trial court to allow withdrawal of the plea and set the matter on for trial.
3. The State is unsure what "rule" against successive motions Mr. Gomez is referring to but if this court orders the withdrawal of the guilty plea the trial court will obviously act in accordance. In addition this matter is not being dismissed by this remand, the case will be pending until withdrawal occurs at which time the State would move for dismissal of this petition as moot.
4. It is not "ultimately up to Appellant...to accept the State's motion" it is this court's power to grant or deny motions, not the parties. Further, by allowing

the remand and trial there will be no issues regarding advisement of rights at the time of the plea for Mr. Gomez, who after all is the petitioner herein.

5. The ultimate fate of this case if it were to proceed to fruition and Mr. Gomez were to prevail is a remand by this court with an order to the trial court to allow withdrawal of his plea. This would allow him to proceed to trial as he indicates he would have done if, as alleged, his attorney had not incorrectly advised him of the consequences of his plea.
6. Finally it must be noted that the State's request has no hidden agenda or false pretense. The Yakima County's Prosecutors Office on a regular basis has reviewed claims before this court and determined that the best resolution, the resolution that wisely uses the scarce resources of the judicial system is one that does not require the full process of appeal. That is the reason for the State's motion, to allow Mr. Gomez to have what he has requested.

Respectfully submitted this 23<sup>rd</sup> day of May, 2016.

s/ David B. Trefry

David B. Trefry WSBA #16050

Senior Deputy Prosecuting Attorney

Attorney for Respondent

Telephone: (509)534-3505

P.O. Box 4846, Spokane, WA 99220

[David.Trefry@co.yakima.wa.us](mailto:David.Trefry@co.yakima.wa.us)

DECLARATION OF SERVICE

I, David B. Trefry, state that on May 23, 2016, I emailed a copy of this letter, by agreement of the parties, to Mr. Brent De Young at [deyounglaw1@gmail.com](mailto:deyounglaw1@gmail.com)

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 23<sup>rd</sup> day of May at Spokane, Washington,

s/ David B. Trefry  
DAVID B. TREFRY, WSBA #16050  
Senior Deputy Prosecuting Attorney  
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# APPENDIX E

### Case Information

11-1-01110-6 | STATE OF WASHINGTON VS PEREZ GOMEZ, APOLINAR

Case Number <b>11-1-01110-6</b>	Court <b>Yakima</b>	File Date <b>08/08/2011</b>
Case Type <b>ADL Criminal Adult</b>	Case Status <b>On Appeal</b>	

### Party

Plaintiff (Criminal) <b>STATE OF WASHINGTON, NFN</b>	Active Attorneys ▼ <b>Lead Attorney CLEMENTS, TROY Court Appointed</b>
	Work Phone <b>509-574-1210</b>

Non-Party Conversion (Participant)  
**Suspense, Money**

Defendant (WIP) <b>PEREZ GOMEZ, APOLINAR</b>	Active Attorneys ▼ <b>Lead Attorney KELLEY, PAUL Court Appointed</b>
DOB <b>XX/XX/XXXX</b>	

Work Phone  
509-574-1160

Fax Phone  
509-574-1161

Inactive Attorneys ▼  
**Attorney**  
**BRUNS, SCOTT A.**  
**Court Appointed**

Work Phone  
509-698-3000

Fax Phone  
509-698-3001

**Attorney**  
**DE YOUNG, BRENT ADRIAN**  
**Court Appointed**

Work Phone  
509-764-4333

## Charge

Charges  
PEREZ GOMEZ, APOLINAR

	Description	Statute	Level	Date
1	ATTEMPT TO ELUDE POLICE VEHICLE	46.61.024	Felony C	08/06/2011
2	DRVNG INTOX/UNDER INF DRUG PEN	46.61.502(5)	Gross Misdemeanor	08/06/2011

## Disposition Events

10/06/2011 Disposition ▼

Defendant

PEREZ GOMEZ, APOLINAR

- |   |                                 |           |
|---|---------------------------------|-----------|
| 1 | ATTEMPT TO ELUDE POLICE VEHICLE | Guilty    |
| 2 | DRVNG INTOX/UNDER INF DRUG PEN  | Dismissed |

10/06/2011 SCOMIS Judgment and Sentence ▼

- |   |                                 |                              |
|---|---------------------------------|------------------------------|
| 1 | ATTEMPT TO ELUDE POLICE VEHICLE | SCOMIS Judgment and Sentence |
|---|---------------------------------|------------------------------|

Comment

Comment (Sentenced By: ELFOSON; Sentencing Deferred: N; Jail Serve: Y; Fine: 500.00VC; Court Costs: \$200.00; Attorney Fees: \$600.00; Sentence Description: 63 DYS CONF CT1, W/ CREDIT TBD, CONCURRENTLY W/ DISTRICT CRT 11-40393, NO COMM; CSTDY,; )

Comment

Comment (SCOMIS JUDGMENT BASIC INFORMATION: Judgment Type: CRI; Date Signed: 2011-10-06; Signed By: JUDGE ENGLE; Date Filed: 2011-10-06; Effective Date: 2011-10-06; Judgments This Case: 1; Judgment Status: ; Date: ; )

Comment

Comment (SCOMIS JUDGMENT EVENTS: 2011-10-06 FJS FELONY JUDGMENT AND SENTENCE VICTIMS COMP 500.00 COSTS 200.00 ATTORNEY FEE 600.00 DNA FEE 100.00; 2011-10-26 ARCR ACCOUNT(S) RECEIVABLE CREATED; )

## Events and Hearings

08/08/2011 Court Hearing Minutes ▼

Comment

**COURT HEARING MINUTES; (HARTHCOCK-SA) PC FND, DAC APTD,; ARR 8-22-11, BIAL \$100,000. CRT; G/S ORD (ARB) (D ORNELAS-INTERP); AD/PLM FTRY51;**

08/08/2011 Affidavit of Probable Cause ▼

Comment

**1: AFFIDAVIT/DECLARATION PROB CAUSE;**

08/08/2011 Request ▼

Comment

**2: REQUEST FOR ATTY (SEALED);**

08/08/2011 Preliminary Appearance Findings and Order ▼

Comment

**3: PRELIM APPEARANCE,FINDINGS, & ORDER;**

08/08/2011 Order Appointing Attorney ▼

Comment

**ORDER APPOINTING ATTORNEY;**

08/08/2011 Order Setting Bail ▼

Comment

**ORDER SETTING BAIL;**

08/08/2011 Order Setting Case Schedule ▼

Comment

**ORDER SETTING CASE SCHEDULE;**

08/08/2011 Preliminary Appearance ▼

Hearing Time

**01:30 PM**

08/10/2011 Information ▼

Comment

**4: INFORMATION;**

08/12/2011 Designation ▼

Comment

**5: DESIGNATION OF DEF ATTY; ATTY FOR DEFENDANT: BRUNS, SCOTT A.;**

08/22/2011 Court Hearing Minutes ▼

Comment

**COURT HEARING MINUTES; (GIBSON/LA) ARGND ORIG INFO, OM; 09-22-11, TD 10-03-11; (BOSWELL/BRUNS) AD-PLM FTRY51;**

08/22/2011 Order on Arraignment ▼

Comment

**6: ORDER ON ARRAIGNMENT;**

08/22/2011 Order Setting Case Schedule ▼

Comment

**ORDER SETTING CASE SCHEDULE;**

08/22/2011 Initial Arraignment ▼

Hearing Time

**01:30 PM**

09/22/2011 Order Setting Case Schedule ▼

Comment

**7: ORDER SETTING CASE SCHEDULE;**

09/22/2011 Criminal and Offender Motion ▼

Hearing Time

**09:00 AM**

09/29/2011 Order Setting Case Schedule ▼

Comment

**8: ORDER SETTING CASE SCHEDULE;**

09/29/2011 Criminal and Offender Motion ▼

Hearing Time

**09:00 AM**

10/03/2011 Court Hearing Minutes ▼

Comment

**COURT HEARING MINUTES; (LAWRENCE-BERREY-SA) CRT G/S ORD; SET PLEA 10-5-11 PM ON ARR; CALENDAR (CLEMENTS/BRUNS) (D; ORNELAS-INTERP) AD/AM FTRY51;**

10/03/2011 Order Setting Case Schedule ▼

Comment

**9: ORDER SETTING CASE SCHEDULE;**

10/03/2011 Jury Trial 12 ▼

Hearing Time

**09:00 AM**

Comment

**plea set for 10/5/11**

10/03/2011 Criminal and Offender Motion ▼

Hearing Time

**09:00 AM**

10/06/2011 Case Resolution: Guilty Plea Before Trial Commencement

10/06/2011 Statement of Defendant on Plea of Guilty ▼

Comment

**10: STATEMENT OF DEFENDANT, PLEA GUILTY;**

10/06/2011 Felony Judgment and Sentence ▼

Comment

**11: FELONY JUDGMENT AND SENTENCE;**

10/06/2011 Def Res: Guilty Plea

10/06/2011 Sentence Conditions Violation Hearing ▼

Hearing Time

**01:30 PM**

04/18/2012 Financial Statement ▼

Comment

**12: FINANCIAL STATEMENT;**

01/31/2014 Proposed Order/Findings ▼

Comment

**13: PROPOSED ORDER FOR WAIVER;**

01/31/2014 Notice of Appearance ▼

Comment

**14: NOTICE OF APPEARANCE;**

01/31/2014 Note for Motion Docket ▼

Comment

**15: NOTE FOR MOTION DOCKET;**

02/11/2014 Court Hearing Minutes ▼

Comment

**COURT HEARING MINUTES; (BARTHELD/SG) CRT G/S ORD FOR; WAIVER OF ATTY CLIENT PRIVILEGE; AND CONFIDENTIALITY (DEYOUNG); AD/AM FTRYS1;**

02/11/2014 Order Waiving ▼

Comment

**16: ORDER WAIVING OF ATTY CLIENT; PRIBILEGE/CONFIDENTIALITY;**

02/11/2014 Criminal and Offender Motion ▼

Hearing Time

**09:00 AM**

10/06/2014 Filing Fee Received ▼

Comment

**FILING FEE RECEIVED;**

10/06/2014 Notice of Appeal to Court of Appeals ▼

Comment

**17: NOTICE OF APPEAL TO COURT OF APPEAL;**

10/06/2014 Notice of Appearance ▼

Comment

**18: NOTICE OF APPEARANCE;**

10/06/2014 Memorandum ▼

Comment

**19: MEMORANDUM RE AUTHORITIES;**

10/06/2014 Transcript of Proceedings ▼

Comment

**20: TRANSCRIPT OF PROCEEDINGS;**

11/03/2014 Letter ▼

Comment

**21: LETTER TO COA/SENT APPEAL;**

03/13/2015 Court's Decision ▼

Comment

**22: COURT'S DECISION /COA CMMR RULING;**

03/13/2015 Perfection Notice from Court of Appeals ▼

Comment

**23: PERFECTION NOTICE FROM CT OF APPLS;**

04/16/2015 Designation of Clerk's Papers ▼

Comment

**24: DESIGNATION OF CLERK'S PAPERS;**

04/16/2015 Affidavit/Declaration/Certificate/Confirmation of Service ▼

Comment

**25: AFFIDAVIT/DCLR/CERT OF SERVICE;**

04/27/2015 Index ▼

Comment

**26: INDEX / APPLNT TO CP 1-68;**

04/27/2015 Letter ▼

Comment

**27: LETTER TO COA/SENT CP 1-68;**

09/02/2015 Non Fee ▼

Comment

**NON FEE - 1 FTR CD FOR PROSECUTOR;**

05/03/2016 Motion ▼

Comment  
**FOR ORDER ALLOWING WITHDRAWAL OF COUNSEL**

05/03/2016 Declaration/Affidavit ▼

Comment  
**OF THE DEFENDANT APOLINAR PEREZ GOMEZ**

05/03/2016 Notice ▼

Comment  
**of Issue at Law and Note for Motion Docket**

05/03/2016 Proposed Order/Findings ▼

Comment  
**withdrawal of counsel**

05/03/2016 Sealed Financial Source Document(s) ▼

Comment  
**RE: INDIGENCY**

05/10/2016 Order ▼

Comment  
**APPOINTING COUNSEL**

05/10/2016 Court Hearing Minutes ▼

Judicial Officer <b>Bartheld, Richard H</b>	Comment <b>(Clerk:AM) Order Allowing withdraw of Attorney DeYoung &amp; appointing DAC signed (Clements) AD/AM Recorded SCJ1</b>
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05/10/2016 Motion Hearing ▼

Judicial Officer  
**Bartheld, Richard H**

Hearing Time  
**9:00 AM**

Result  
**Held**

Comment  
**w/d of counsel**

05/17/2016 Notice Withdraw & Substitution of Counsel

05/25/2016 Order Setting Case Schedule ▼

Judicial Officer  
**Harthcock, Gayle M**

05/25/2016 Court Hearing Minutes ▼

Judicial Officer	Comment
<b>Harthcock, Gayle M</b>	<b>(HS) ORDER SETTING STATUS 5/27 (CLEMENTS/DALAN) AD/AM RECORDED SCJ1</b>

05/25/2016 Motion Hearing ▼

Judicial Officer  
**Harthcock, Gayle M**

Hearing Time  
**9:00 AM**

Result  
**Held**

Comment  
**Court of Appeals - Reference Hearing**

05/27/2016 Court Hearing Minutes ▼

Judicial Officer	Comment
<b>Bartheld, Richard H</b>	<b>(Clerk:AM) Court confirmed DAC appointed, Status hearing 7-12, Scheduling Order signed (Clements/Kelley/Interp Castro) AD/AM Recorded SCJ1</b>

05/27/2016 Order Setting Case Schedule ▼

Judicial Officer  
**Bartheld, Richard H**

05/27/2016 Motion Hearing ▼

Judicial Officer  
**Bartheld, Richard H**

Hearing Time  
**9:00 AM**

Result  
**Held**

Comment

Status of Reference Hearing

07/12/2016 Motion Hearing ▼

Hearing Time

01:30 PM

Comment

Reference Hearing

## OFFICE RECEPTIONIST, CLERK

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Tuesday, July 05, 2016 8:47 AM  
**To:** 'Brent De Young'; David Trefry  
**Subject:** RE: State v Apolinar Perez Gomez, COA 328708 consolidated with 329909, Yakima Superior 11-1-01110-6

Received 7/5/2016.

Supreme Court Clerk's Office

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**From:** Brent De Young [mailto:deyounglaw1@gmail.com]  
**Sent:** Sunday, July 03, 2016 7:47 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>; David Trefry <David.Trefry@co.yakima.wa.us>  
**Subject:** State v Apolinar Perez Gomez, COA 328708 consolidated with 329909, Yakima Superior 11-1-01110-6

Please find Mr. Perez Gomez's Motion for Discretionary Review attached hereto.

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De Young Law Office  
P.O. Box 1668  
Moses Lake, WA 98837  
TEL (509) 764-4333  
FAX (1-888) 867-1784

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