ORIGINAL

No. 19-5234

IN THE

SUPREME COURT OF THE UNITED STATES

STEPHEN P. DOWDNEY JR.,

Petitioner,

v.

THE STATE OF WASHINGTON,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO

THE WASHINGTON STATE SUPREME COURT

Stephen P. Dowdney Jr.
971036
Stafford Creek Corr. Cent.
191 Constantine Way
Aberdeen,Wa, 98520
4jhd

QUESTIONS PRESENTED

1. DOES WASHINGTON STATE USE THE ANDERS v. CALIFORNIA (386 U.S. 738) PROCEDURE TO CIRCUMVENT A MEANINGFUL DIRECT (FIRST) APPEAL, EFFECTIVE ASSISTANCE OF COUNSEL, DUE PROCESS AND EQUAL PROTECTION ?

2. SHOULD THE UNITED STATES SUPREME COURT ADOPT THE STATE OF WISCONSIN'S COURT RULE REQUIRING APPOINTED COUNSEL ON APPEAL TO SUBMIT A SHORT DESCRIPTION OF WHY AN APPEAL IS IN FACT FRIVOLOUS WHEN ATTEMPTING TO WITHDRAW AS COUNSEL FOR THAT APPEAL AS APPROVED IN McCOY v. COURT OF APPEALS (486 U.S 429) ?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix 1. to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Washington Court of Appeals court appears at Appendix 18. to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was April 3,2019. A copy of that decision appears at Appendix 1.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourteenth amendment to the U.S. Const.

U.S. CONST amend. XIV Provides:

> All persons born of naturalized in the United States and subject to to the jurisdiction thereof, are citizens of of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within it's jurisdiction the equal protection of the laws.

The Sixth amendment to the U.S. Const.

U.S. CONST. amend. VI Provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been

previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defence.

Washington State Const. art 1 § 22

WASH. CONST. art 1 § 22 provides:

RIGHTS OF THE ACCUSED."In criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impatial jury of the county in which the offense is charged to have been commited and the right to appeal in all cases....."

STATEMENT OF THE CASE

Procedural Facts

On March 15, 2016, the Snohomish County Prosecutor's Office, Washington State, formally charged Stephen P. Dowdney with felonies proscribed by statute in District Court (Court of Limited Jurisdiction) Exhibit 2

Dowdney, at that point was removed from liberty and detained in jail.

When eventually also charged in Superior Court for the same charge based on the same conduct, Dowdney acting pro se objected to the commencement of action date set by the court as arraignment in Superior Court for purposes of his statutory (rule based) speedy trial, as he had been held to answer and detained for that conduct in District Court.

Mr. Dowdney filed several motions throughout the trial court proceedings moving that he be afforded a (rule based) speedy trial equally to those who were charged with the same conduct and filed directly into Superior Court. Those initially charged in District Court have a lapse of formal process of up to forty four (44) days compared to fourteen (14) for those initially filed on directly into Superior Court.

All motions were denied including his "motion to dismiss" for violating his rule based speedy trial (CrR 3.3(h)). Dowdney also claimed the arraignment rule was unconstitutional (CrR 4.1). Exhibit 3 (Motion to dismiss)

After being found guilty by stipulated facts bench trial, Dowdney promptly filed for direct (first) appeal as an indigent.

Appointed counsel on appeal filed to withdraw under Anders v. California[1] raising three potential issues including Dowdney's speedy trial issue. Exhibit 4

The State then responded arguing contrary to appointed counsel's claims. Exhibit 5

Consistent with Anders Dowdney filed his pro se brief discussing in detail issues he felt had merit. PLEASE SEE Exhibit 6

The Washington Court of Appeals then ordered the State to specifically respond to Dowdney's pro se brief. Exhibit 7

Eventually the State responded to Dowdney's pro se brief. Exhibit 8

Per Court Rule, Dowdney attempted to submit a reply brief. Exhibit 9

(1) 386 U.S. 738, 18 L.Ed. 2d 493, 87 S.Ct. 1396 (1967)

Additionally, during appeal Dowdney had attempted to supplement his pro se brief (before State response) and filed motions to modify the record, as it appeared the court did not have the entire proceedings before it. see Exhibit 10 & 11

In fact the Court order both the State and appointed Counsel to respond to Dowdney's motion to modify the record. Exhibit 12

See the State's and Counsel's responses. Exhibit 13 & 14

Dowdney separately filed with the Washington State Supreme Court Rules Committee, a General Rule 9 brief (GR 9) to formally change the Washington State arraignment rule (CrR 4.1), his brief was forwarded to the Washington State Bar Association for further consideration. See Dowdney's GR 9 brief Exhibit 15

The Washington State Supreme Court after a determination by the Bar Association (although the Bar felt it easier to fix the speedy trial rule CrR 3.3) that the issue had merit ordered the rule change published for public comment. Exhibit 16

Although ultimately deciding not to adopt that version of the rule change as further discussion amongst rule makers was necessary, the issue was hotly debated amongst the Bar Association, Defender associations, Judges, legal scholars and of course the Snohomish County Prosecutor. Exhibit 17

Despite all the argument just described, the Washington State Court of Appeals citing to Anders v. California dismissed Dowdney's direct appeal as "wholly frivolous" on October 15, 2018. Exhibit 18

Dowdney filed a motion for reconsideration in Court of Appeals. Exhibit 19 It was denied Exhibit 20

Dowdney filed a petition for discretionary review from the Washington Supreme Court. Exhibit 21

Petition was denied Exhibit 1

This Writ of Certiorari follows

I certify under the penalties of perjury of Washington State and United States of America the foregoing is true and correct.

Stephen R. Dowdney Jr. #971036
Stafford Creek Corrections
191 Constantine Way
Aberdeen, Wa, 98520
4jhd

REASONS FOR GRANTING CERTIORARI

I. Washington State's holding that Stephen P. Dowdney's Direct (First) Appeal was "wholly frivolous" conflicts with standards established in Anders v. California (386 U.S. 738), Due Process and Equal Protection under the 14th amendment to the U.S. Const. and Effective Assistance of Counsel under the 6th amendment to the U.S. Const. thus requiring an exercise of this Court's supervisory power. Rule 10(a)

(a) Dowdney had a constitutional right to due process and equal protection as well as effective assistance of counsel as an indigent defendant on direct (first) appeal.

In Washington State direct appeal is a matter of right. Wash. Const. art 1 § 22

The United States Constitution also provides that indigent defendants be provided effective assistance of counsel on appeals as a matter of right. Martinez v. Ryan, 566 US 1, 11, 132 S.Ct. 1309, 182 L.Ed 2d 272 (2012) also see Strickland v. Washington, 466 US 668, 104 S.Ct. 2052, 80 L.Ed 2d 674 (1984); U.S. Const. amend VI

The equal protection and due process clauses of the fourteenth (14th) amendment to the U.S. Const. "largely converge" to require that State appellate procedures "afford adequate and effective appellate review to indigent defendants". Smith v. Robbins, 528 US 259, 276, 120 S.Ct. 746, 145 L.Ed. 2d 756 (2000) quoting Griffin v. Illinois, 351 US 12, 20, 76 S.Ct. 585, 100 L.Ed. 891 (1956).

As State's are allowed to create their own procedures for indigent defendants on appeal as long as they provide constitutional protections, Washington State has chosen to adopt the Anders v. California procedure as approved by this Court. State v. Theobald, 78 Wn.2d 184, 470 P2d 188 (1970)

(b) Dowdney's claims on direct appeal were 'argued' thus not frivolous under Anders v. California.

Appointed counsel for Dowdney on direct appeal briefed three 'potential' issues including a statutory(rule based) speedy trial conflict resulting from a delayed arraignment, however, motioned to withdraw under the Anders procedure. Exhibit 4(Counsel's anders brief)

The State of Washington responded with competing argument. Exhibit 5(State's Reply)

Dowdney then filed a pro se brief allowed by Anders 386 U.S. at 744 greatly expounding upon the statutory (rule based) speedy trial issue and the constitutional foundations of being 'held to answer' , due process, and equal protections implicated as aresult of the delayed filing process utilized by Snohomish County Washington.

Dowdney raised the following issues:

1) Was Dowdney held to answer when Washington State filed a criminal complaint charging him with infamous conduct and detained him in jail. (felonies proscribed by statute)

2) Does Snohomish County abuse a court rule designed for purposes of holding a hearing to decide whether charged crimes are felonies.

3) Is Washington State's arraignment rule unconstitutional violating equal protection, due process allowing for disparate periods of incarceration prior to trial ?

PLEASE SEE DOWDNEY'S PRO SE BRIEF Exhibit 6

Washington State refers to this 'brief' as a "statement of additional grounds" Rules of Appellate Procedure (RAP) 10.10 (S.A.G.)

This procedure is NOT exclusive to the Anders procedure. Any individual on appeal may file a 'statement of additional grounds' in addition to counsel. RAP 10.10

The problem is the (S.A.G.) procedure has a lower standard of review than other briefs as the court will not consider issues overlapping issues raised by counsel. see State v. Calvin, 176 Wn.App. 1, 26; 316 P3d 496 (2013) Additionally , these briefs are not required to

be responded to by the State unless specifically ordered to by the court RAP 10.10(f)(The appellate court may, in the exercise of it's discretion request additional briefing from counsel to address issues raised in the defendant's pro se statement)

THE WASHINGTON STATE COURT OF APPEALS ORDERED THE STATE TO RESPOND SPECIFICALLY TO DOWDNEY'S PRO SE STATEMENT OF ADDITIONAL GROUNDS UNDER RAP 10.10(f) Exhibit 7

Eventually, the State responded to Dowdney's pro se 'brief'. Exhibit 8

Dowdney attempted to reply per court rule RAP 10.1(b)(reply briefs are allowed to be filed by attorney's) Exhibit 9

Dowdney also laterally to appeal filed what is called a General Rule 9 (GR 9) 'brief'

consistent with the Washington Court Rules rulemaking policies, with the Washington Supreme Court rule making committee to change the Arraignment Rule (Criminal Court Rule CrR 4.1)based on arguments made in the trial court. Please see Exhibit 15(GR 9)

This 'brief' was forwarded to the Washington State Bar Association for further review. The Washington Bar Association agreed that there was an issue, however, recommended that a change be made directly to the (rule based) speedy trial rule (CrR 3.3) . The Washington Supreme Court ordered the proposed rule change published for public comment. Exhibit 16

Although ultimately not adopted, as more discussion was needed amongst policy makers, the rule as proposed, was hotly debated between the Bar Association, Public defender Associations, Legal Scholars, retired Judges and the Snohomish

County Prosecutor's Office. (Dowdney still believed the problem was in the Arraignment rule) Exhibit 17 (see comments per GR 9)

Frivolous Standard

An appeal as a matter of law is frivolous where "[None] of the legal points [are] arguable on their merits" Neitzke v. Williams, 490 US 319, 325, 104 L.Ed 2d 338, 109 S.Ct 1827 (1989) citing Anders v. California 386 U.S. at 744

Frivolous means: "[L]acking a legal basis or legal merit, not serious: not reasonably purposeful".Blacks Law Dict. 692 (8th Ed. 1999) also see Watson v. County of Yavapai, 240 F. Supp. 3rd 996, 1000 (9th cir 2014)(frivolous means clearly hopeless and unquestionably without basis in fact or law); United States v. Braunstein, 281 F.3d 982, 995 (9th cir 2002)(frivolous means foreclosed by binding

precedent or so obviously wrong).

Arguable Standard

Arguable means capable of being convincingly argued. Sun v. Forrester, 939 F2d 924, 925 (11th cir 1991)

The Washington State Court of Appeals ordered separate argument on Dowdney's pro se issues raised in his 'statement of additional grounds (RAP 10.10(f)), The Court upon exercising it's discretion and ordering a reply evinces an 'argument' is ensuing therefore not "lack[ing] any basis in law or in fact" as Dowdney's issues involved "legal points arguable on their merits" Anders v. California, 386 U.S. at 744

Extensive argument was had in the trial court, and on appeal as well in the Washington

State legal community concerning Dowdney's issues.

Under a federal standard Dowdney's issues were arguable, the Washington State Supreme Court has defined "frivolous" as a claim that is "perfectly apparent without argument." In Re Personal Restraint of Khan, 184 Wn.2d 679, 687; 363 P3d 577 (2015) An appeal is "frivolous" if there is no debatable issues upon which reasonable minds may differ and is so totally devoid of merit that there is no reasonable possibility of reversal. State v. Chapman, 140 Wn.2d 436, 454; 998 P2d 282 (2000).

Dowdney's issues were 'argued'. see Exhibit 3, 4, 5, 6, 7, 15, 17

As Dowdney filed in the trial court a motion to dismiss under CrR 3.3(h): dismissal with prejudice, A charge not brought to trial within the time limit determined in this rule shall be dismissed with prejudice. CrR 3.3 Dowdney's

conviction may have been reversed.

Even if Dowdney's issues were ultimately found to be incorrect not requiring a reversal, the genuineness of his claims argued for purposes of a 'frivolous' standard does not turn on whether a claim ultimately succeeds. B.E. & K Const. Co. v. Nat'l Labor Relations Bd., 536 US 516, 532, 122 S.Ct. 2390 153 L.Ed. 2d 499 (2002) and whenever a claim is arguable, but ultimately unsuccessful it should be allowed to proceed. Cofield v. Ala. Pub. Serv. Comm'n, 936 F2d 512, 515 (11th cir 1991)

Dowdney's claims were debated and argued throughout the trial court and on appeal. Anders contemplates that an appeal with argued issues is "therefore not frivolous" Anders supra at 744.

Dowdney's Direct Appeal was not frivolous.

(c) Dowdney was denied counsel on direct appeal.

The Anders procedure cannot be characterized as an adversarial proceeding. Penson v. Ohio, 488 US 75, 81-82, 109 S.Ct. 346, 102 L.Ed 300 (1988); McCoy v. Court of Appeals Dist. 1, 486 US 429, 438, 108, S.Ct. 1895. 100 L.Ed 2d 440 (1988)

The McCoy Court explicitly stated that an 'Anders' brief is not an "advocates brief". The Anders brief is not a substitute for an explanation of why any possible issues lacked merit, it's simply a devise for assuring that the constitutional rights of indigent defendants are scrupulously honored. Thus, an indigent criminal defendant with appointed counsel who files a brief against that indigents interests does not have adversary representation; the

paperwork that lawyer files is not an "advocates brief" but a mere "device" to alert the appellate court to an awkward situation, hence, the appellant is not in a true adversarial contest with the State. 486 U.S. 444.

After the Court of Appeals ordered argument on Dowdney's pro se briefed issues, AT THAT POINT DOWDNEY WAS COMPLETELY WITHOUT COUNSEL. The McCoy Court States:

> "Of course, if the court concludes that there are non-frivolous issues to be raised, it must appoint counsel to pursue the appeal and direct that counsel to prepare an advocates brief before deciding the merits" Id.

Recognizing he had absolutely no representation Dowdney filed a motion to proceed pro se before the State responded. Motion was ultimately denied (when case was dismissed as frivolous) Exhibit 18 (pg 2) The ability to represent oneself on appeal is

constitutional in Washington State. Wash. Const art 1 § 22

Under the guise of Anders v. California Dowdney was denied representation on appeal for non-frivolous claims running afoul U.S Const amend VI; Strickland v. Washington, 466 U.S. at 686; Penson v. Ohio, 488 U.S. at 75 as he was denied counsel and "completely without representation during the appellate courts actual decisional process" 488 U.S. at 88. His direct appeal as a matter of right was not "resolved in a way that [was] related to the merit of the appeal" Smith v. Robbins, 528 U.S. at 276-77; Griffin, 351 U.S. at 17-18. See Dowdney's Motion for Reconsideration on the issue. Exhibit 19 Denied Exhibit 20

(d) The Court of Appeals did not review the "entire proceedings" as directed by Anders v. California.

After appointed counsel for an indigent has filed a motion to withdraw under Anders v. California (386 US 738), then comes judicial review from a disinterested judge. The Court-not-counsel then proceeds to determine if counsel correctly concluded the appeal was frivolous. Penson, 488 U.S. at 83 "[A]fter a full examination of all proceedings whether the case is wholly frivolous" Anders 388 US at 744 as to afford the indigent the same review as those with private counsel. Anders 386 US at 745

As the issues on appeal dealt with when a commencement of action took place concerning

formal proceedings initiated by The State of Washington and when the State first held Dowdney to answer for infamous conduct, Exhibit 2, (Criminal complaint) and when after formally being held to answer and faced with the prosecutorial forces of an organized society and immersed in the intricacies of substantive and procedural criminal law he had the right to the same process as similarly situated individuals. see Rothgery v. Gillespie County, 554 US 191, 207, 128 S.Ct. 2578, 171 L.Ed 2d 366 (2008); U.S. Const. amend XIV; Wash. Const. art 1 § 12 also see U.S. Const. amend V

Dowdney attempted to designate clerk's papers (CP's) and to "modify the current record" concerning documents relating to the District Court (lower court) proceedings as

they were obviously relevant to the "entire proceedings". Exhibits 10 & 11

The Court actually directed the State and appointed counsel to respond. Exhibit 12

The State and appointed counsel responded. Exhibit 13 & 14

The Washington State Court of Appeals did not have a complete record of all the proceedings. The Anders procedure as used in Washington does not have a mechanism for transmitting the entire record,' but, simply utilizes the same procedure used in all appeals. see Rules of Appellate Procedure (R.A.P.) RAP 9.6(only designated clerks papers are reviewed) The Court denied Dowdney the ability to designate clerks papers, modify the record and did not have a complete record of proceedings. Exhibit 21 also see Exhibit 18 (pg 2) (Court denied motion to modify record)

Dowdney was entitled to have the Court review all the proceedings. 386 U.S. at 744. And to have an opportunity to present his claims fairly within the adversary system by having the entire record reviewed. See Draper v. Washington, 372 US 487, 9 L.Ed 2d 899, 83 S.Ct. 744 (1963)

II. The United States Supreme Court should adopt the procedure approved in McCoy v. Court of Appeals Dist 1, (486 U.S. at 444-43(1988)) as a bright line dictating a description of why an appeal lacks merit upon appointed counsel's filing of an Anders brief .

(a) The rule approved by this Court does not implicate constitutional protections, but rather offers more protection for indigent defendants.

In McCoy this Court held that a Wisconsin court rule requiring counsel to submit a brief not only referring to anything in the record that could arguably support an appeal, but to also include a short discussion of why those issues lacked merit was not constitutionally conflicted. McCoy 486 U.S. at 441 as any attorney whether appointed or not has the obligation to refuse to prosecute a frivolous appeal. 486 U.S. at 436.

The requirement of appointed counsel filing "a brief referring to anything in the record that might arguably support the appeal" is so appointed counsel has indeed fully performed their duty to support their clients to best of their ability. 486 U.S. at 439.

This "Anders" requirement assures that indigent defendants have the benefit of what wealthy defendants are able to acquire by

purchase - a diligent and thorough review of the 'record' and an identification of any arguable issues revealed by such review, thus assisting the court in making the critical determination of whether an appeal is frivolous and whether counsel should be allowed to withdraw. 486 U.S. at 439.

The Wisconsin rule simply provides the court 'notice' that there are facts on record or cases or statutes on point which would seem to compel a conclusion of no merit.

> " The requirement is, as far as the Federal Constitution is concerned entirely unobjectionable" 486 U.S. 440

The requirement would also subject reviews, as in Washington State to more than just a 'because I said so'[2] doctrine as the Wisconsin procedure requires the attorney to go one step further, instead of relying on an

(2) The 'because I said so' doctrine usually only applies to adults and young children whom adult is under no obligation to explaination

unexplained assumption that the attorney has discovered law or fact that completely refute the arguments identified in the 'brief', the Wisconsin rule requires additional evidence of counsel's diligence. This requirement furthers the same interests that are served by the minimum requirements of Anders, because counsel may discover previously unrecognized aspects of law in processing or "preparing a written explaination for his or her conclusion. The discussion requirement provides additional safeguards against mistaken conclusions by counsel that the strongest arguments are frivolous". Just like references to favorable aspects of the record required by Anders the discussion requirement may forestall some motions to withdraw and will assist the court on the soundness of the lawyers conclusion that the appeal is frivolous. 486 U.S. at 442

Setting this requirement will foreclose, as in Dowdney's case the eventual ability to 'rubber stamp' counsel's frivolous finding.

This Court has, as stated earlier, held that an Anders brief is not an advocates brief, or characterized as an adversarial proceeding. Penson, 488 U.S. at 81-82.

Counsel in Anders actually argued for the same function as Dowdney now argues, with approval citing to the United States Court of Appeals for the District of Columbia, which required counsel to "convince the court that the issues are truly frivolous....in a documented memorandum which analyzes the facts and applicable law ot 1966, No. 98. p16" McCoy, at footnote 16

As the task of crafting appropriate procedures are left to the States, the Anders procedure as interpreted by Washington State

seems to be leaving an aperture to which equal protection, due process and of course the right not just to effective counsel but any counsel are escaping into the evergreen night, at least for indigent defendants. See Evitts v. Lucey, 469 US 387, 392, 83 L.Ed 2d 821, 105 S.Ct. 830 (1985) (the 14th amendment guarantees a criminal appellant on first appeal a minimum of safeguards necessary to make that appeal "adequate and effective") quoting Griffin, 351 U.S. at 20 also see Smith v. Robbins, 528 U.S. at 276.

Although no procedure can eliminate all risk of error, Smith v. Robbins, footnote 8, if indigent appellants are to have the equal protection afforded to appellants with private counsel. Anders, 386 U.S. at 745 perhaps the ability to withdraw without

comment as to why, strip an individual of his or her direct appeal as a matter of right (direct appeals have a different standard of burden than later appeals) then to leave them fumbling around in the dark searching for illumination as to exactly why, (aside from "go to bed because I said so") should be replaced with a simple requirement explaining why in fact an appeal has no merit in their professional educated opinion.

III. Conclusion

IN THE TRIAL COURT, Dowdney, without question, raised valid arguable issues concerning court rules, formal process upon being held to answer and the due process and equal protection implications.

Dowdney was completely separated from his direct appeal by the current use of Anders v. California by virtue of his indigency. Lane v. Brown, 372 US 477, 481, 9 L.Ed. 892, 83 S.Ct. 768 (1963). The appeal extended to Dowdney was a "meaningless ritual" while others with better economic circumstances had a 'meaningful appeal'. Douglass v. California, 372 US 353, 358 9 L.Ed 2d 811, 83 S.Ct. 814 reh den. 373 US 905, 10 L.Ed 2d 200, 83 S.Ct. 1288 (1963)

Dowdney humbly requests review of writ concerning reinstatement of his direct (first) appeal as a matter of right.

Stephen P. Dowdney Jr. 971036
Stafford Creek C.C.
191 Constantine Way
Aberdeen, Wa, 98520
4jhd