19-7384

ORIGINAL

No. WASC no.96414-9

FILED
SEP 03 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Office of the Clerk

IN THE

SUPREME COURT OF THE UNITED STATES

In re

Jon Jason King — PETITIONER
(Your Name)

vs

Benton County Sheriff's Office,
Classification Staff et.al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Washington State Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jon J. King UCC 1-308
(Your Name)

P.O. Box 769
(Address)

Connell, Washington 99326
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Why would Benton County Superior Court Clerk's office (BCSCCO) falsify "Court documents", and force an indigent pro-se litigant, to pay money ($30), to gain access to the court?

2. Why would the def.'s authorize their attorney, DPA Ryan Lukson, to falsify court documents, and enter forged documents on their behalf?

3. Why would BCSCCO, cover up the petitioner's timely filed Civil Complaint (Oct. 3, 2016), and the false and Non Exhisting ex parte fee ($30), (Dec. 13, 2016), in the Case Summary?

4. Why did Benton County Superior Court, Judge Alexander Ekstrom forge Court documents, by ruling on a Motion of Reconsideration, that in fact was NOT Filed with any of the (3) three legal entities (BCSCCO, BCPO, DPA Ryan Lukson, attorney for def's, and BCSC judge Ekstrom, on July 25 2017?

5. Why was there so much Fraud by all, def's, and BCSCCO, DPA Ryan Lukson, and BCSC judge Ekstrom, if the def's did nothing wrong?

6. Can BCSC judge Ekstrom, Washington State Supreme Court Chief Justice Fairhurst, Justice Johnson, Wiggins, Owens, and Gordon McCloud, completely disregard their Oaths in: Constitution of the State of Washington (W.S.C.), Article IV, Section 28. Oath of Judges/and Justices alike?

7. Can BCPO DPA Ryan Lukson, falsify court documents, and commit perjury in a legal/official proceeding without reprecussions?

8. Can the def.'s default (2) two times, and argue same issues (2) two times by means of Fraud?

9. Is the petitioner afforded the same rights as all other citizens in the U.S., Washington State residents, under Common Law?

10. Will the fraudulent actions of the Washington State Courts be willfully disregarded?

11. Are the fraudulent actions in Benton County, What U.S. Citizens, and residents of Benton County, are to expect from our courts?

12. Where is the fairness, or equality that ALL U.S. Citizen's, and Washington State residents are Guaranteed under both the U.S., and Constitution of the State of Washington?

13. Congress, assured all U.S. Citizen's, our rights would Not be Abridged, why were my Constitutional Rights Abridged?

14. Is Fraud, what U.S. Citizen's are to expect, from our judicial System

15. Will the U.S. Supreme Court, turn a "blind eye" to the fraudulent actions by Benton County Superior Court, judge Ehstrom, and his direct counterparts; BCSCCO, and BCPO, DPA Ryan Luhson, or Reverse BCSC judge Ehstrom's, ruling on July 26 2017, and Award damages, and all associated costs (interest, attorney costs, filing fees, court cost's, etc...), to the petitioner, given all of the Fraud Committed in this case?

LIST OF PARTIES

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

[X] 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:

1. Benton County Superior Court Clerk's Office, Russell Lodge, Josie Delvin

2. Benton County Prosecutor's Office, DPA Ryan Luhson, Andy Miller

3. Benton County Superior Court, Judge Alexander Ekstrom

4. Div. III Court of Appeals, Commissioner M. Wasson, Panel of Judges, Judge Lawrence-Berry, Judge Siddoway, Judge Pennel.

5. Washington State Supreme Court, Chief Justice Mary Fairhurst, Justice Gordon McCloud, Justice Susan Owens, Justice Charles Wiggins, Justice Charles Johnson, Commissioner M. Johnston

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. U.S.C. Article III, Section 1.-"The judicial Power of the U.S. Shall be vested in one Supreme, and in such inferior Courts as Congress may from time to time ordain, and establish. The Judges, both of the Supreme and Inferior Courts, shall hold their Offices during good behavior;...

2. U.S.C. Article III, Section 2.-"The judicial Power shall extend to all Cases, in Law, and Equity, arising under this Constitution, the Laws of the U.S., and Treaties made, or which Shall be made, under their Authority;... -- and between a state, or the Citizens thereof";...

3. U.S.C. Article IV, Section 1-"Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."

4. U.S.C. Article IV, Section 2.-"The Citizen's of each State shall be entitled to all Privileges, and Immunities of Citizens in the Several States.

5. U.S.C. Article VI,..."This Constitution, and the laws of the U.S. which shall be made in Pursuance thereof; and all Treaties made, or which Shall be made, under the Authority of the U.S., shall be the supreme Law of the land; and the Judges in every State shall be bound thereby, any Thing in the Constitution, or Laws of any State to the Contrary notwithstanding."

6. (The Bill of Rights) U.S.C. Amend. I-"Congress shall make make no law respecting an establishment of religion, or

prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, AND to petition the Government for a redress of of Grievances."

7: (Bill of Rights) U.S.C. Amend. V - "No person... be deprived of life, liberty, or property, without due process of law;"...

8: (Bill of Rights) U.S.C. Amend. IX - "The enumeration in the Constitution, of certain rights, shall not be construed to deny, or disparage others retained by the people."

9: U.S.C. Amend. XIV - "All persons born, or naturalized in the U.S., and subject to the jurisdiction thereof, are citizens of the U.S., and of the State wherein they reside. No State shall make or enforce any law which shall Abridge the privileges, or immunities of citizens of the U.S.; nor shall any State deprive ANY PERSON of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

10. Section 3 - "No person shall be a Senator, or Representitave in Congress, or elector of President, and Vice President, or hold any office, Civil or Military, under the U.S., or under any State, who, having previously taken an Oath, as a member of Congress, or as an officer of the U.S., or as a member of any State legislature, or as an executive, or judicial officer of any State, to Support the Constitution of the U.S., Shall have engaged in insurrection, or rebellion against the Same, or given aid, or comfort to the enemies thereof. But Congress may by a vote of (2/3) two-thirds of each House, Remove such Disability."

Constitution of the State of Washington (W.S.C.)

1: W.S.C. Article I · Declaration of Rights;

: Section 2 · Supreme law of the Land · "The Constitution of the U.S. is the supreme law of the land."

: Section 3 · Personal Rights: "No person shall be deprived of life, liberty, or property, without due process of law."

: Section 4 · Right of Petition and Assemblage · "The right of petition, and of the people peaceably to assemble for the common good shall never be abridged."

· Section 5 · Freedom of Speech · "Every person may freely speak, write, and publish on all subjects, being responsible for the Abuse of That.

· Section 6: Oaths - Mode of Administering · "The mode of administering an Oath, or Affirmation, shall be such as may be most Consistent with, and binding upon the Conscience of the person to whom such Oath, or Affirmation may be administered."

: Section 10 · Administration of Justice: "Justice in all cases shall be administered openly, and without unnecessary delay."

: Section 29 · Constitution Mandatory · "The provisions of this Constitution are Mandatory, Unless by express words they are declared to be otherwise."

: Section 30 · Rights Reserved · "The enumeration in this Constitution of certain rights shall not be construed to deny others retained by the people."

- Section 32 · Fundamental Principles · "A frequent recurrence to fundamental principles is essential to the Security of Individual Right, and the Perpetuity of free government."

2. W.S.C. Article IV · The Judiciary;

- Section 2 · Supreme Court · "The Supreme Court shall consist of (5) five judges, a majority of whom shall be necessary to form a quorum, and pronounce a decision. The said Court shall always be open for the transaction of business except on non judicial days. In the determination of Causes all decisions of the court shall be given in writing, AND the Grounds of the Decision shall be STATED. The legislature may increase the number of judges of the Supreme Court from time to time, and may provide for seperate departments of said Court."

- Section 28 · Oath of Judges · "EVERY Judge of the Supreme Court, and EVERY Judge of a Superior Court shall, Before entering upon the duties of his office, take and subscribe an Oath, that he will support the Constitution of the U.S., And the Constitution of the State of Washington, and Will Faithfully, and Impartially discharge the duties of judge to the best of his ability, which Oath shall b filed in the Office of the Secretary of State."

- Section 30 · Court of Appeals · "(1) Authorization In addition to the courts authorized in Section 1 of this article, judicial power is vested in a Court of Appeals, which shall be established by Statute. (2) "Jurisdiction. The jurisdiction of the Court of Appeals shall be as provided by Statute or by rules authorized by Statute."

"(3) Review of Superior Court. Superior Court actions may be reviewed by the Court of Appeals, or by the Supreme Court as provided by Statute, or by rule authorized by Statute."

3: W.S.C. Article V · Impeachment:

: Section 2 · Officers Liable To: "The governor, and other State, and Judicial Officers, except judges, and justices of courts not of record, shall be liable to impeachment for high crimes, or misdemeanors, or malfeasance in office, but judgement in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit, in the State. The party, whether convicted, or acquited, shall, nevertheless, be liable to prosecution, trial, judgement, and punishment according to law."

: Section 3 · Removal From Office: "All officers not liable to Impeachment, shall be subject to Removal for Misconduct, or malfeasance in office, in such manner as may be provided by law."

Revised Code of Washington (RCW)

1: RCW 2.32.050(4) · Powers and duties of Court Clerk's
"The Clerk of the Supreme Court, each Clerk of the court of appeals, and each Clerk of a Superior Court, has power to take, and certify the proof and acknowledgement of a Conveyance of real property, or any other written instrument authorized, or required to be proved, or acknowledged, and to administer oaths in every case when authorized by law: and

it is the duty of the Clerk of the Supreme Court, each Clerk of the court of appeals, and of each county Clerk for each of the Courts for which he or she is a Clerk: (4) To file All Papers delivered to him or her for that purpose in Any Action or proceeding in the Court as directed by court rule, or Statutes".

2: RCW 2.08.080 · Oath of Office -
"Every judge of a Superior Court shall, before entering upon the duties of his or her Office, take and subscribe an oath that he or she will support the Constitution of the U.S., and the Constitution of the State of Washington (W.S.C.), and will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary. Such oath or affirmation to be in form substantially the same as prescribed for justices of the Supreme Court."

3: RCW 2.08.240 · Limit of time for decision -
"Every case submitted to a judge of a superior Court for his or her decision shall be decided by him or her within (90) ninety days from the submission thereof: PROVIDED, That if within said period of (90) ninety days a rehearing shall have been ordered, then the period within which he or she is to decide shall commence at the time the cause is submitted upon such rehearing, and upon willfull failure of any judge so to do, he or she shall be deemed to have forfeited his or her office".

4. RCW 2.48.210 · Oath on Admission -
"Every person before being admitted to practice law in this State (Washington), shall take, and subscribe the following

Oath: "I do solemnly swear: I am a citizen of the U.S., and owe my allegiance thereto: I will support the U.S., and the Constitution of the State of Washington; I will maintain the respect due to Courts of justice, and judicial officers."

5. RCW 2.48.220 · Grounds for disbarment/or Suspension

6. RCW 4.16.080 · Actions limited to (3) three years
(4) An action for relief upon the ground of Fraud, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the Fraud;
(5) An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his or her official capacity, and by virtue of his or her office, or by the omission of an official duty, including the non-payment of money collected upon an execution;...

7. RCW 4.96.020 · Tortious conduct of local governmental entities and their agents—Claims—Presentment and filing—Contents
(1) The provisions of this section apply to claims for damages against all local governmental entities, and their officers, employees, or volunteers, acting in such capacity.
(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until (60) sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof.

The applicable period of limitations within which an action must be commenced shall be tolled during the(60) sixty calendar day period. For purposes of the applicable period of limitations, an action commenced within (5) five court days after the(60) sixty calendar day period has elapsed is deemed to have been presented on the(1st) first day after the (60) sixty calendar day period elapsed.

8. RCW 4.28.080 · Summons, how served -

Service made in the modes provided in this section is Personal Service. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action is against Any County in this State, to the county auditor, or during normal office hours, to the deputy auditor, or in the case of a Charter County, Summons may be served upon the agent, if any, designated by the legislative authority.

9. RCW 9A.04.110 · Definitions -

In this title unless a different meaning plainly is required:

(1) "Acted" includes, where relevant, omitted to act;

(8) "Government" includes any branch, subdivision, or agency of the government of this State, and any County, City, district, or other local government unit;

(12) "Malice" and "Maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willfull disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty;

(13) "Officer" and "Public Officer" means a person holding office

under a city, county, or state gov't, or federal gov't who performs a public function, and in doing so, is vested with the exercise of some sovereign power of gov't, and includes all assistants, deputies, clerks, and employees of any public officer, and all persons lawfully exercising, or assuming to exercise any of the powers or functions of a public officer;
(28) "Threat" means to communicate, directly, or indirectly the intent:
(h) To take wrongful action as an official, against anyone, or anything, or wrongfully withhold official action, or cause such action or withholding; or
(g) To testify or provide information, or withhold testimony, or information with respect to another's legal claim, or defense; or...

10. RCW 9A.08.020 - Liability for conduct of another - Complicity
(1) A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable.
(2) A person is legally accountable for the conduct of another person when (a) Acting with the kind of culpability that is sufficient for the commission of the crime he or she causes an innocent, or irresponsible person to engage in such conduct; or (3) A person is an accomplish of another person in the commission of the crime, he or she;
(a) With knowledge that it will promote, or facilitate the commission of the crime, he or she; (4) A person who is legally incapable of committing a particular crime himself, or herself, may be guilty thereof if it is committed by the conduct of another person for which he or she is legally accountable, unless such liability is inconsistent with the

purpose of the provision establishing his or her incapacity.

11. RCW 9A.60 - Fraud - sections -

RCW 9A.60.010 - Definitions -
The following definitions, and the definitions of RCW 9A.56.010 are applicable in this Chapter unless the context otherwise requires: (1) "Complete written instrument" means one which is fully drawn with respect to every essential feature thereof; (3) To "Falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete, or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transportation of matter, or in any other manner; (4) To "Falsely Complete" a written instrument means to transform an incomplete written instrument into a complete one by adding, or inserting matter, without the authority of anyone entitled to grant it; (5) To "Falsely Make" a written instrument means to make, or draw a complete, or incomplete written instrument which purports to be authentic, but which is not authentic, either because the ostensible maker is fictitious, or because, if real, he or she did not authorize the making, or drawing thereof; (6) "Forged Instrument" means a written instrument which has been falsely made, completed, or altered; (7) "Written Instrument" means (a) Any paper, document, or other instrument containing written, or printed matter, or its equivalent; or (b) any access device, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification.

12. RCW 9A.60.020 · Forgery -

(1) A person is guilty of forgery if, with intent to injure or defraud: (a) He or she falsely makes, completes, or alters a written instrument or; (b) He or she possesses, utters, offers, disposes of, or puts off as a true wr instrument, which he or she knows to be forged. (3) Forgery is a class C felony.

13. Chapter 9A.72 RCW · Perjury and Interferrance with Official Proceedings

· RCW 9A.72.010 · Definitions – (1) "Materially False Statement" means Any False Statement, Oral or Written, regardless of it's admissibility under the Rules of Evidence, which could have affected the course, or outcome of the proceeding: whether a false statement is material shall be determined by the court as a matter of law; (2) "Oath" includes an affirmation, and every other mode authorized by law of attesting to the truth of that which is stated; in this Chapter, written Statements shall be treated as if made under oath if: (a) The Statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable; (b) The Statement recites that it was made under oath, the declarant was aware of such recitation at the time he or she made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery, or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or (c) It is a statement, declaration, verification, or certificate, made within, or outside the State of Washington, which is certified, or declared to be true under penalty of perjury as provided in

RCW 9A.72.085(4) "Official Proceeding" means a proceeding heard before Any legislative, judicial, administrative, or other government agency, or official authorized to hear evidence under oath, including any referee, hearing examiner, Commissioner, notary, or other person taking testimony, or depositions; (6) "Testimony" includes Oral, or Written statements, documents, or any other material that may be offered by a witness in an official proceeding.

14. RCW 9A.72.020 · Perjury in the first degree -
(1) A person is guilty of perjury in the first degree if in Any Official proceeding, he or she makes a materially false statement which he or she knows to be false under oath required, or authorized by law.
(2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his, or her statement was not material is Not a defense, to a prosecution under this section.
(3) Perjury in the first degree is a Class B felony.

15. RCW 9A.72.060 · Perjury and false swearing - Retraction
No person shall be convicted of perjury, or false swearing if he or she retracts his or her false statement in the course of the same proceeding in which it was made, if in fact he or she does so before it becomes manifest that the falsification is, or will be exposed, and before the falsification substantially affects the proceeding. Statements made in seperate hearings at seperate stages of the same trial, administrative, or other official proceeding shall be treated as if made in the course of the same proceeding.

16. RCW 9A.72.080 · Statement of what one does not know

to be true.
Every unqualified statement of that which one does not know to be true, is equivalent to a statement of that which he, or she knows to be false.

17. RCW 9A.72.085 · Unsworn Statements, certification - Standards for subscribing to an unsworn statement
(1) Whenever, under any law of this state, or under any rule, order, or requirement made under the law of this state, any matter in an official proceeding is required, or permitted to be supported, evidenced, established, or proved by a person's sworn written statement, declaration, verification, certificate, oath, or affidavit, the matter may with like force, and effect be supported, evidenced, established, or proved in the official proceeding by an unsworn written statement, declaration, verification, or certificate, which:
(2) The certification, or declaration may be in substantially the following form: "I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:"
... (Date and place) ... (Signature) ...
(3) For purposes of this section, a person subscribes to an unsworn written statement, declaration, verification, or certificate by: (a) Affixing, or placing his, or her signature, as defined in RCW 9A.04.110 on the document;

18. RCW 9A.72.150 · Tampering with physical evidence
(1) A person is guilty of tampering with physical evidence if, having reason to believe that an official proceeding is pending, or about to be instituted, and acting

without legal right, or authority, he or she:
(a) Destroy's, mutilate's, Conceals, removes, or alter's physical evidence with intent to impair it's appearance, character, or availability in such pending, or prospective official proceeding; or (b) knowingly presents, or offers any false physical evidence.
(2) "Physical Evidence" as used in this section includes any article, object, document, record, or other thing of physical Substance.
(3) Tampering with physical evidence is a gross misdemeanor.

19. Chapter 10.58 RCW · Evidence -

· RCW 10.58.040 · Intent to Defraud -
Whenever an intent to defraud shall be made an element of an offense, it shall be sufficient, if an intent appears to defraud Any person, association, or body politic, or corporate whatsoever.

20. RCW 34.05.010 · Definitions -
(19) "Service", except as otherwise provided in this Chapter, means posting in the U.S. mail, properly addressed, postage prepaid, or personal, or electronic service. Service by mail is complete upon deposit in the U.S. mail. Agencies may, by rule, authorize Service by electronic transmission, or by Commercial parcel delivery company.

21. RCW 40.16.030 · Offering false instrument for filing or record
Every Person who shall knowingly procure, or offer Any false, or forged instrument to be filed, registered, or recorded in Any public office, which instrument, if genuine, might

be filed, registered, or recorded in such office under any law of this State, or of the U.S., is guilty of a Class C felony, and shall be punished by imprisonment in a State correctional facility for not more than (5) five years, or by a fine of not more than ($5,000.00) five thousand dollars, or by both.

General Rule (GR)

1: GR 3.1 · Service and Filing by an inmate Confined in an institution

(a) If an inmate confined in an institution files a document in any proceeding, the document is timely filed, if deposited in the institution's internal mail system within the time permitted for filing.

(b) Whenever service of a document on a party is permitted to be made by mail, the document is deemed "mailed" at the time of deposit in the institution's internal mail system, addressed to the parties on whom the document is being served.

(C) If an institution has a system designed for legal mail, the inmate must use that system to recieve the benefit of this rule. Timely filing, or mailing may be shown by a declaration, or notarized affidavit in form substantially as follows:

2: GR 34 · Waiver of court and Clerk's fee's and Surcharges in Civil matters on the Basis of Indigency

(a) Any individual, on the basis of "indigent Status", as defined herein, may seek waiver of filing fees, or surcharges the payment of which is a condition precedent to a litigants ability to secure access to judicial relief from a judicial officer in the applicable trial court.

(1) The application for such a waiver may be made ex-parte in writing, or orally, ... whereby the applicant attests to his, or her financial status...

(2) The court shall accept an application submitted in person, by mail, and where authorized by local court rule, not inconsistent with GR30, electronic filing. The process for presentation of the application shall conform to local court rules, and clerk processes not inconsistent with the rules of this court for presenting ex-parte orders to the court directly, or via the clerk. All applications, shall be presented to a judicial officer, for consideration in a timely manner, and in conformity with the local court's established procedures. There shall be no locally imposed fee for making an application. The applicant, or applicant's attorney filing by mail shall provide the court with a self-addressed stamped envelope for a timely return of a conformed copy of the order.

Comment

This rule establishes the process by which judicial officers may waive civil filing fees, and surcharges for which judicial officers have authority to grant waiver. This rule applies to mandatory fees, and surcharges, that have lawfully established, the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief. These include, but are not limited to legislatively established filing fees, and surcharges (eg. RCW 36.18.020(5)): other initial filing charges required by statute (e.g. family court facilitator) surcharges established pursuant to RCW 26.12.240; family

Court service surcharges established pursuant to RCW 26.12.260; domestic violence prevention surcharges established pursuant to RCW 36.18.016(2)(b); and other lawfully established fees, and surcharge's which must be paid as a condition of securing access to judicial relief.

(3) An individual who is not represented by a qualified legal services provider (as the term is defined below), or an attorney working in conjunction with a qualified legal services provider shall be determined to be indigent within the meaning of this rule, if such person on the basis of the information presented establishes that;

(D) other compelling circumstances exist that demonstrate an applicant's inability to pay fees, and surcharges. The adoption of this rule, is rooted in the Constitution premise that every level of court has the inherent authority to waive payment of filing fees, and surcharges on case by case basis. Each court is responsible for the proper, and impartial administration of justice, which includes ensuring that meaningful access to judicial review is available to the poor, as well as those who can afford to pay.

(b) Nothing in this rule shall prohibit, or delay action on the underlying petition upon the court's approval of a waiver, and presentation of an original petition may accompany the initial fee waiver.

Rules of Appellant Procedure (RAP)

1: RAP 2.2 · Decisions of the Superior Court that May be appealed.
(a) Generally. Unless otherwise prohibited by statute, or court rule, and except as provided in sections (b), and (c), a party may appeal from only the following Superior Court decisions.

(1) Final Judgement. The final judgement entered in any action, or proceeding, regardless of whether the judgement reserves for future determination an award of attorney fees, or costs.

(2) [Reserved.]

(3) Decision Determining Action. Any written decision affecting a substantial right in a civil case, that in effect determines the action, and prevents a final judgement, or discontinues the action.

(10) Order on Motion for Vacation of Judgement. An order granting, or denying a motion to vacate a judgement.

(12) Order Denying Motion to vacate Order of Arrest of a person. An order denying a motion to vacate an order of arrest of a person in a civil case.

2: RAP 2.3 · Decisions of the trial Court which may be reviewed by Discretionary Review.
(a) Decision of Superior Court. Unless otherwise prohibited by statute, or court rule, a party may seek discretionary review of any act of the Superior Court not appealable as a matter of right.

(b) Considerations Governing Acceptance of Review. Except as provided in Section(d), discretionary review will be accepted only:

(1) If the superior court has committed an obvious error, which would render further proceedings useless;

(2) If the Superior Court has committed probable error, and the decision of the Superior Court substantially alters the status quo, or substantially limits the freedom of a party to act;

(3) If the Superior court has so far departed from the accepted, and usual course of judicial proceedings, or so far sanctioned such a departure by an inferior court, or administrative agency, as to call for review by the appellate Court.

3. RAP 2.5. Circumstances which may affect scope of Review

(a) Errors Raised for First time on Review. The appellate Court may refuse to review any claim of error which was not raised in the trial court. However, a party may raise the following claimed errors for the first time in the appellate court: (1) lack of trial court jurisdiction, (2) failure to establish facts upon which relief can be granted, and (3) manifest error affecting a Constitutional Right. A party, or the court may raise at any time the question of appellate Court jurisdiction. A party may present a ground for affirming a trial court decision which was not presented to the trial court, if the record has been sufficiently developed to fairly consider the grand. A party may raise a claim of error which was not raised by the party in the trial court, if another party on the same side of the case has raised the claim of error in the trial court.

RULES OF PROFESSIONAL CONDUCT (RPC)

1. RPC 3.4 · Fairness to Opposing Party, and Counsel -

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence, or unlawfully alter, destroy, or conceal a document, or other material having potential evidentiary value. A lawyes shall not counsel, or assist another person to do any such act;

(b) falsify evidence, counsel, or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

2. RPC 3.5 · Impartiality and Decorum of the Tribunal -

A lawyer shall not:

(d) engage in conduct intended to disrupt a tribunal.

3. RPC 4.1 · Truthfulness in Statement to Others -

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact, or law to a third person; or

(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal, or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

4. RPC 8.4 - Misconduct

It is Professional misconduct for a lawyer to

(a) violate, or attempt to violate the Rules of Professional Conduct, knowingly assist, or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trust worthiness, or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deciet, or misrepresentation.

(d) engage in conduct that is prejudicial to the administration of justice.

(e) State, or imply an ability to influence improperly a government agency, or official, or to achieve results by means that violate the Rules of Professional Conduct, or other law;

(f) knowingly
(1) assist a judge, or judicial officer in conduct that is a violation of applicable rules of judicial conduct, or other law, or...

(h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward judges, lawyers, or LLLT's, other parties, witnesses, counsel, jurors, or court personnel, or officers, that a reasonable person would interpret as manifesting prejudice, or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status.

(i) Commit any act involving moral turpitude, or corruption, or any unjustified act of assault, or other act which reflects disregard for the rule of law, whether the same be committed in the course of his or her conduct as a lawyer, or otherwise, and whether the same constitutes a felony, or misdemeanor, or not; and if the act constitutes a felony, or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal, or dismissal thereof preclude the commencement of a disciplinary proceeding;

(K) Violate his or her oath as an attorney.

<u>Washington State Code of Judicial Conduct (CJC)</u>

1. <u>CANON 1</u>. A Judge shall uphold, and Promote the Independence, Integrity, and Impartiality of the Judiciary, and shall avoid Impropriety, and the appearance of Impropriety.

<u>Rule 1.1 Compliance with the law</u>
A judge shall comply with the law*, including the Code

Rule 1.2 · Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence*, integrity,* and impartiality,* of the judiciary, and shall avoid impropriety, and the appearance of impropriety.*

[1] Public confidence in the judiciary is eroded by improper conduct. This principle applies to both the professional, and personal conduct of a judge.

[3] Conduct that comprimises the independance, integrity, and impartiality of a judge undermines public confidence in the judiciary.

[5] Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds, a perception that the judge violated this code, or engaged in other conduct that reflects adversely on the judges honesty, impartiality, temperament, or fitness to serve as a judge.

Rule 1.3 · Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal, or economic interests* of the judge, or others, or allow others to do so.

2: CANON 2 · A Judge Should Perform the Duties of Judicial Office Impartially, Competently, and Diligently.

Rule 2.2 · Impartiality, and Fairness

A judge shall uphold, and apply the law,* and shall perform all duties of judicial office fairly, and impartially*

[1] To ensure impartiality, and fairness to all parties, a judge must be objective, and open minded.

[2] Although each judge comes to the bench with a unique background, and personal philosophy, a judge must interpet, and apply the law without regard to whether the judge approves, or disapproves of the law in question.

Rule 2.3 · Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias, or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words, or conduct manifest bias, or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction, and control to do so.

Comment

[1] A judge who manifests bias, or prejudice in a proceeding impairs the fairness of the proceeding, and brings the judiciary into disrespute.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempting humor based upon stereotypes; threatening, intimedating, or

hostile acts; Suggestions of connections between race, ethnicity, or nationality, and crime; and irrevalent references to personal characteristics. Even facial expressions, and body language can convey to parties, and lawyers in the proceeding, jurors, the media, and others an appearance of bias, or prejudice. A judge must avoid conduct that may reasonably be percieved as prejudiced, or biased.

Rule 2.4 · External Influences on Judicial Conduct

(B) A judge shall not permit family, social, political, financial, or other interests, or relationships to influence the judges judicial conduct, or judgement.

Comment

Judges shall decide cases according to the law, and facts, without regard to whether particular laws, or litigants are popular, or unpopular with the public, the media, gov't officials, or the judges friends, or family.

Rule 2.6 · Ensuring the Right to be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*

COMMENT

[1] The right to be heard is an essential component of a fair, and impartial system of justice. Substantive rights

of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judges participation in settlement discussions may have, not only on the judges own views of the case, but also on the perceptions of the lawyer's, and the parties, if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested, or voluntarily consented to a certain level of participation by the judge in settlement discussions (2) whether the parties, and their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge, or a jury (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil, or criminal.

Rule 2.7 · Responsibility to decide

A judge shall hear and decide matters assigned to the judge, except when disqualification, or recusal is required by Rule 2.11, or other law.*

Rule 2.10 · Judicial Statements on Pending and Impending cases.

(A) A judge shall not make any public statement that would reasonably be expected to affect the outcome, or impair the fairness of a matter pending, or impending* in any Court, or make any nonpublic statement that would reasonably be expected to substantially interfere with a fair trial, or hearing.

3. CANON 4 · A Judge or Candidate For Judicial Office Shall Not Engage in Political or Campaign Activity that is Inconsistent with the Independence, Integrity, or Impartiality of the Judiciary.

Rule 4.1 · Political and Campaign Activities of Judges and Judicial Candidates in General.

(10) knowingly*, or with reckless disregard for the truth, make any false, or misleading statement;

(11) make any statement that would reasonably be expected to affect the outcome, or impair the fairness of a matter pending*, or impending* in any court; or...

Civil Rules (CR) Superior Court

1. CR 52 · Decisions, Findings, and Conclusions

(d) Judgement Without Findings, etc... A judgement entered in a case tried to the court where findings are required, without findings of fact having been made, is subject to a motion to vacate within the time for the taking of an appeal. After vacation, the judgement shall not be reentered until findings are entered pursuant to this rule.

(e) Time Limit for Decision [Reserved. See RCW 2.08.240]

2. Rule 55 · Default, and Judgement

(a) Entry of Default

3. Rule 60 · Relief from Judment, or Order

(b) Mistakes; Inadvertance; Excusable neglect; Newly Discovered Evidence; Fraud; etc... On motion, and upon such terms as are just, the Court may relieve a party, or his legal representative from a final judgement, order, or proceeding for the following reasons:

(1) Mistakes, inadvertance, surprise, excusable neglect, or irregularity in obtaining a judgement, or Order.

(4) Fraud (whether heretofore denominated intrinsic, or extrinsic), misrepresentation, or other misconduct of an adverse party;

(5) The judgement is void

Miscellaneous

1: Evidence Rule (ER) 904 · Admissibility of Documents

(a) Certain Documents Admissable, in a civil case, any of the following documents proposed as exhibits in accordance with section (b) of this rule shall be deemed admissable unless objection is made under section (C) of this rule:

(6) A document not specifically covered by any of the foregoing provisions but relating to a material fact, and having equivalent circumstantial gaurantees of trustworthiness, the admission of which serve the interests of justice.

2. Westlaw · §3907 · Preassignment of Judge

As a matter of practice, it may be desirable to have a particular case preassigned to a judge, who will then preside over all proceedings in the case. A motion for preassignment is addressed to the discretion of the court, which has the inherent authority to efficiently administer the proceedings before it.

When a motion is made for preassignment, the assignment is usually made by the court on a random basis. After selection of the trial judge in the preassigned cause, all motions, conferences, and other matters, and proceedings, including trial, are then heard before that judge.

3. The Prison Litigation Reform Act (PLRA)

4. 28 U.S.C. §455(a)(b)(1)(5)(iii)

5. Rule 12.9 Recall of Mandate
(b) To Correct Mistake or Remedy Fraud. The appellate court may recall a mandate issued by it to correct an inadvertent mistake or to modify a decision obtained by the fraud of a party or counsel in the appellate court.

6. 28 U.S.C. §1257(a)

7. 42 U.S.C. §1983: "If two, or more persons in any State Conspire on the highway, or on the premisis of another for for the purpose of depriving either directly, or indirectly, ANY Person, or Class of person's of the Equal Protection of the laws, or of the Equal Privileges, and immunities under the laws in Any Case of Conspiracy set forth in this section, if one, or more persons engaged there in do, or cause to be done, any act in furtherance of the object of such Conspiracy, where by another is injured in his person, or Property, or deprived of having, and exercising any right, or privilege of a citizen of the U.S., the party so injured, or deprived may have an action for recovery of damages occasioned by such injury or deprivation, against any one, or more of the Conspirators."

8. RAP 18.8(b) Waiver of Rules and Extension and Reduction of Time.
(b) Restriction on Extension of Time. The appellate Court will only in extraordinary Circumstances, and to prevent a gross miscarriage of justice extend the time within which a party must file a notice of appeal, a notice for discretionary review, a motion for discretionary review of a decision of the court of appeals, a petition for review, or a motion for reconsideration. The appellate court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. The motion to extend time is determined by the appellate Court to which the untimely notice, motion or petition is directed

9. RCW 36.18.016(12): "For processing ex parte orders, the Clerk may Collect a fee of ($30) thirty dollars."

10. RCW 4.16.170: "Tolling of Statute of Limitations - When

deemed commenced, or not commenced." For purpose of Tolling any Statute of limitations on action shall be deemed commenced when the complaint is filed, or summons is served whichever occurs first. If service has not been had on the defendant prior to the filing of the complaint, the plaintiff shall cause (1) one or more of the defendants to be served personally, or commence service by publication, within 90 days from the date of service, or filing, whichever occurs first.

11. Civil Rule (CR) 4(a)·summons (d), (1) Service of summons, and complaint. The summons, and complaint shall be served together. (4) Alternative to service by publication. In circumstances justifying serve by publication, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service be made by any service be made... by mailing copies of the summons and complaint, and other process to the party to be served.

12. Civil Rule (CR) 8(d)·Avertments in a pleading to which a "responsive pleading" is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Avertments in a pleading to which no responsive is required, or permitted shall be taken as denied, or avoided. (f) Construction of pleadings. All pleadings shall be so construed as to do substantial service.

13. Civil Rule (CR) 12(a) When presented. A defendant shall serve his answer within the following periods: (1) Within 20 days, exclusive of the day of service, after the service of the summons, and complaint upon him pursuant to rule

4;

14. §1915 A Screening procedures, as a matter of Congressional design are ex-parte, and sua sponte

15. Washington Pre-trial Civil Procedure § 8.05[1](2015)

16. Title IV Relevancy and its Limits - Rule 401 - Definition of "Relevant Evidence"
"Relevant evidence", means evidence having any tendency to make the exhistence of any fact that is of consequence to the determination of the action more probable, or less probable than it would be without the evidence.

OPINIONS BELOW

Petitioner, respectfully prays that a Writ of Certiorari be issued to review the judgements below.

For Cases from State Courts:

The opinion of the highest State Court to review the merits appears at Appendix I to the petition. Publishing Status unknown.

The opinion of the Div. III Court of Appeals, Court appears at Appendix F to the petition. Publishing Status unknown.

JURISDICTION

For Cases from State Courts:

The date which the highest State Court decided my case was June 4, 2019. A copy of that decision appears at Appendix I.

A timely petition for rehearing was thereafter denied on the following date: July 15, 2019, and a copy of the court document denying rehearing appears at Appendix J.

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

STATEMENT OF THE CASE

Facts of the Case

A. Def's (Benton County Sheriff's Office, BCSO Classification), Caused Serious medical damage (Dental), and permanent disfigurement, by willfully disregarding petitioner's "Kite", seeking safety, from a violent gang member (Juan Fernandez), while housed at Benton County Sheriff's Office. On/or around July 11, 2013, petitioner submitted a "Kite", putting BCSO Classification Officer's, on notice of violence against petitioner, by a known violent Sureno gang member, Juan Fernandez. BCSO, Classification Officer's, in fact had sufficient notice of petitioner's fear's of violence against his person, and let the petitioner's fears of violence, come to fruition, when they put this known violent gang member in the very same pod (202 pod Classification pod) where the petitioner was being held for 'reclassification', by BCSO, classification. Def's, in fact violated petitioner's U.S.C. 8th, 14th Amend. rights, along with petitioner's Civil Rights, while housed at the BCSO on, Aug. 3, 2013.

B. Benton County's, (3) three identified legal entities; Benton County Superior Court Clerk's Office (BCSCCO), Benton County Prosecutor's Office (BCPO) DPA Ryan Lukson, and Benton County Superior Court (BCSC) judge Alexander Ekstrom, had completelly stripped petitioner of his Constitutional Rights, and subjected petitioner to fraudulent actions, so as to procure judicial rulings by means of FRAUD, while violating petitioner's DUE PROCESS RIGHTS throughout this entire case.

C. Washington State's appellate Court's; Div. III Court of Appeals, and Washington State Supreme Court, completely disregarded their Constitutional Responsibilities when they, willfully refused, to review BCSC judge Ekstrom's, fraudulent actions (fraud upon the Court, deception, abuse of discretion, and forgery) De Novo.

REASONS WHY CERTIORARI SHOULD BE GRANTED

I.

Review is Warranted, Because the Fraudulent actions by Benton County Superior Court, judge Alexander Ekstrom's ruling on July 26, 2017, is in direct violation of the U.S.C., Washington State's Constitution, and Washington State's Code of Judicial Conduct.

On July 20, 2017, petitioner filed a; Motion of Reconsideration on Plaintiff's Motion for Default Judgement under General Rule (GR) 3.1(a),(c),(d), while housed at; Washington State Penitentiary (WSP), a Washington State Dept. of Corrections facility. On July 25, 2017, petitioner's Motion of Reconsideration on Plaintiff's Motion for Default Judgement, with supporting legal pleadings, were in fact recieved by all (3) three of Benton County's legal entities; Benton County Superior Court Clerk's Office (BCSCCO), Benton County Prosecutor's Office (BCPO) (Civil Dept.) DPA Ryan Lukson (attny. for def.'s), and Benton County Superior Court (BCSC), judge Alexander Ekstrom. See Appendix A.

On July 26, 2017, BCSC, judge Ekstrom makes a ruling on a; Motion of Reconsideration, asking the Court to reverse the dismissal of petitioner's Civil Complaint, AGAIN. See Appendix B.

Petitioner's, Motion of Reconsideration on Plaintiff's Motion for Default Judgement, has/had No Wording in all of these legal pleadings stating; "Plaintiff ask's the Court again to reverse it's dismissal of his case..." BCSC, judge Ekstrom, had in fact filed a Forged document on July 26, 2017, when he made a ruling on a Motion of Reconsideration, that was NOT FILED by the petitioner. BCSC, judge Ekstrom, Clearly exhibited Bias, and Prejudice, when he ruled on a Motion that, was not yet filed by the petitioner. BCSC, judge Ekstrom acted with a "preconcieved frame of mind", when he willfully refused to read the petitioner's Motion of Reconsideration on Plaintiff's Motion for Default Judgement, and acted with Malicious Intent by ruling on a Motion of Reconsideration that was Not Filed, while violating petitioner's U.S.C., and W.S.C. Due Process Rights , and Fundamental Fairness in this case. BCSC, judge Ekstrom's, fraudulent actions on July 26, 2017, not only deprived the petitioner of his Gauranteed Constitutional Rights, and Fundamental Fairness, BCSC judge, extinguished petitioner's; U.S.C. 1st, 5th, and 14th Amend.'s; Bill of Rights (U.S.C. 1st, and 5th Amend.'s) W.S.C.; Article 1 · Declaration of Rights, sections 2 - Supreme law of the land, 3 - personal rights, 4 - Right of petition and Assemblage, 10 - Administration of Justice, 29 - Constitution Mandatory, 30 - Rights Reserved, BCSC, judge Ekstrom disregarded; Article IV · The Judiciary, Section 28 - Oath of Judges, and violated RCW 2.08.080 - Oath of office, RCW 2.08.240 - Limit of time for decision, RCW 9A.60.020 - Forgery, RCW 9A. 72 - Perjury and Interferrance with Official Proceedings, RCW 9A.72.010 - Definitions (1), (2), (a), (b), (c), (4), RCW 9A.72.085 - Unsworn Statements, Certification - Standards for for subscribing to an Unsworn Statement (1), (3), RCW 10.58.040 - Intent to Defraud, RCW 40.16.030 - Offering false instrument for filing or record, Washington State Code of Judicial Conduct; Canon 1" ", Rule 1.1 · Compliance with the law, Rule 1.2 · Promoting Confidence in the Judiciary (1), (3), (5), Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office, Canon 2" ", Rule 2.2 · Impartiality and Fairness, (1), (2), Rule 2.3 · Bias, Prejudice, and Harassment, (A), (B) · See Comments (1), (2), Rule 2.4 · External Influences on Judicial Conduct, (B) See Comment, Rule 2.6 Ensuring the right to be heard, (A) See Comments, Rule 2.6 See Comments (1), (2), Rule 2.7 · Responsibility to decide, Rule 2.10 · Judicial Statements on Pending, and Impending Cases (A), Canon 4" ", Rule

4.1-Political and Campaign activities of Judges and Judicial Candidates in General(10),(11). West law§ 8907-Preassignment of Judge.

BCSC,judge Ekstrom's, abuse of discretion, Fraud Upon the Court, Forgery, and Malicious Intent to defraud a document in petitioner's Case, Could have been prevented on July 26,2017, had judge Ekstrom read petitioner's actual Motion of Reconsideration on Motion for Default Judgement, Filed on July 20,2017, under GR 3.1(a),(c),(d), and recieved by all (3) three of Benton County's legal entities; BCSCCO, Def.'s, by, and through BCPO, DPA Ryan Lukson, and BCSC, judge Ekstrom, on July 25,2017

"Trial Court's, Constitutional Error (Abuse of discretion, Judicial Misconduct, Fraud upon the Court, Forgery, etc...) Must be reviewed DE NOVO." State v. Armstrong, 188 Wn.2d 333,339,394 P.3d 373,377 (2017). The De Novo Standard, Applies to 'discretionary decisions' that would otherwise be reviewed for 'abuse of discretion'."

"The Supreme Court has explained what is meant by the phrase 'practical, and identified consequences'." State v O'Hara, 167 Wn.2d 91,99-100, 217 P.3d 756(2009), as corrected (Jan. 21, 2010). The court equate's this language with the phrase 'actual prejudice'; Id at 99. An error is 'identifiable (and thus produces "actual prejudice") if the trial court record [is] sufficient to determine the merits of the claim". Id at 99. Thus, "if the facts necessary to adjudicate the claimed error are not in the record on appeal, no actual prejudice is shown, and the error is not manifest."' (quoting State v. McFarland, 127 Wash.2d 322,333, 899 P.2d 1251(1995)) See Appendix A,B.

Petitioner's, Due Process Rights in this case were Maliciously extinguished, when BCSC judge Ekstrom willfully refused to read petitioner's; Motion of Reconsideration on plaintiff's Motion for default judgement, while exhibiting bias, prejudice, with malicious intentions, when on July 26, 2017, BCSC judge Ekstrom rules on a motion of reconsideration, that in fact was **Not Filed** by the petitioner, nor was said motion filed with BCSCCO, or BCPO DPA Ryan Lukson. BCSC judge Ekstrom, goes even further, and improperly denied the petitioner, to appear in his case, after petitioner filed a motion to appear by telephonic hearing. In BCSC judge Ekstrom's, Order filed on July 26, 2017, State's: 2." Plaintiff's Note for motion, asking that the matter be noted for Aug. 4, 2017, and motion asking that plaintiff appear telephonically are both **DENIED AS MOOT**. See Appendix B.

Constitutional adequacy of State law, on the procedural protections accompanying the deprivation of Constitutionally protected interest in the petitioner's liberty rights. It is not the deprivation itself that is actionable, but the deprivation without the requisite process.

Accordingly," the focus of the actual prejudice, Must be on whether the error is So obvious on the record that the error warrants appellate review." Id at 99-100. " The proper test, as announced by the O'Hara Court, focuses on the presence, or absence of facts in the record." To determine whether an error is practical, and identifiable, the appellate court Must place itself in the Shoes of the trial court to ascertain whether, given what the trial court knew at that time, the court could have corrected the error." Id at 100.

Evidence Rule(ER)904(a),(6)·Admissibility of Documents

"To be relevant, evidence must tend to prove, or disprove the existence of a fact, and the fact Must be of Consequence to the outcome of the case. See Appendix A,B.

"The Supreme Court has determined, that State action is present when judges are asked to enforce, or authorize a discriminatory practice". See e.g. Edmonson v. Leesville Concrete Co., 500 U.S. 614, 627-28(1991); Shelley v. Kraemer, 334 U.S. 1, 22-23(1948)." Because the use of 'Judicial Power,' in these Context's would Sanction private discrimination, the (14th) Fourteenth Amend. prohibits judges from using their power in this manner." The Due Process Clause of the (14th) Fourteenth Amend. encompasses (3) three kinds of federal Claims enforceable through 42 U.S.C. §1983: (1) claims for the deprivation of certain rights denoted in the Bill of Rights, and made applicated to the State's through incorporation; (2) claims under the Substantive Component of the 'due process clause,' "that bars certain arbitrary, wrongful gov't actions, regardless of the fairness of the procedures used to implement them"; (3) claims under the 'procedural component' of the due process clause that prohibits the deprivation of life, liberty, or property without fair procedure's.'"

Petitioner, timely, and properly asserted the violation of his Constitutional rights, specifically identified in the Bill of Rights, and protected under the Substantive Component of the due process Clause, the violation is complete at the time of challenged conduct, and the §1983 remedy is available, regardless of remedies under State law. Petitioner's, Claims based on a denial of procedural due process clause, Challenges the constitutional adequacy of State law procedural protections accompanying the deprivation of constitutionally protected interest in life liberty, or property. It's not the deprivation itself that is actionable, but the deprivation, without the requisite process.

BCSC judge Ekstrom's, failure to honor the fundamental, constitutional rights of the petitioner, a pro-se litigant, is "Compelling reason, and Strong evidence", of both "Malicious Intentions, and Judicial Misconduct." Generally, due process requires some notice, and an opportunity to be heard, prior to the deprivation of a protected interest. Petitioner's, "opportunity to be heard", was willfully, and maliciously denied by the fraudulent actions of BCSC judge Ekstrom in his Order filed on July 26, 2017.

Petitioner, properly, and timely afforded BCSC judge Ekstrom (Trial Court), his opportunity to correct his Malicious, and Fraudulent ruling on July 26 2017, when petitioner filed his actual; Motion of Reconsideration of plaintiff's motion to reverse, and vacate defendant's motion to dismiss declaration, and affidavit, on Aug. 23, 2017, while complying with Civil Rule (CR) 52(d), (e); "...within the time for the taking of appeal." See Appendix C.

Petitioner, went even further by writing BCSC judge Ekstrom a letter (given the fact, BCSC judge Ekstrom, would not allow petitioner to appear by telephonic hearing), both putting him on notice of judge Ekstrom's fraudulent actions, violating both of petitioner's, U.S.C., and W.S.C. Constitutional rights, and to try to appear in my case, so as to argue my case, since BCSC judge Ekstrom, would Not allow me to appear by telephonic hearing, in petitioner's case. BCSC judge Ekstrom, recognized petitioner's letter (8-30-17), judge Ekstrom, respond's to petitioner's letter, on Sept. 14, 2017. See Appendix C2.

"Trial Court Must be given an opportunity to correct trial error's, and claimed errors not raised in any manner before trial court, will not be considered on appeal." State v. Badda, (1966) 69 Wash. 2d 50, 441 P.2d 411.

BCSC judge Ekstrom (Trial Court), had (90) ninety day's under both; CR 52(d)(e), and RCW 2.08.240 (Limit of time for decision), which judge Ekstrom, willfully refused to Correct his fraudulent actions on July 26, 2017. Petitioner, filed his "Notice of Appeal," on Dec. 6, 2017, the (89th) eighty ninth day, of the required (90) ninety day limit of CR 52(d), (e), and RCW 2.08.240. See W.S.C. Article V: Impeachment, Section 3: Removal from office.

II.

Review is Warranted Because Division III Court of Appeals Refused to Review Benton County Superior Court's Fraudulent Actions - DE NOVO - For Abuse of Discretion on July 26, 2017, And Disregarding Their Constitutional Responsibilities, And Petitioner's Constitutional Right's.

Div. III Court of Appeals (C.O.A.), notified the petitioner he was required to pay a $290, two hundred, and ninety dollar filing fee, or file a Motion of Indigency with the Trial Court. Petitioner, filed his Motion of Indigency, with both BCSC, and Washington State Supreme Court (W.S.S.C.), ultimately denied petitioner's; Motion for Expenditure of Public Funds, Without any "Grounds for their decision", and Div. III C.O.A. notified petitioner his Motion for Expenditure of Public Funds, was denied on March 7, 2018. See Appendix D, E.

W.S.S.C., was REQUIRED by; Constitution of the State of Washington (W.S.C.) Article IV · The Judiciary - § 2 · Supreme Court"; In the determination of causes, **ALL DECISIONS** of the Court shall be given in writing, And the grounds of the decision shall be stated" ... W.S.S.C., willfully refused to give "the grounds for their decision", on why they denied petitioner's Motion for Expenditure of Public Funds, and ultimately denying the petitioner his Due Process Rights. See Appendix E.

W.S.S.C., Dept. 1 of the Court, Composed of: Chief Justice Fairhurst, and Justice's Johnson, Owens, Wiggins, and Gordon McCloud, disregarded their Constitutional responsibilities, as Supreme Court Justice's by not honoring their Oaths under; W.S.C. Article IV § 28 · Oath of Judges "take and subscribe an Oath that he will support the Constitution of the United States, and the Constitution of the State of Washington, and will faithfully and impartially discharge the duties of judge to the best of his ability"...

Petitioner, was able to pay the ($290) two hundred, and ninety dollar filing fee. Div. III C.O.A., ultimately ruled, petitioner's Notice of Appeal was "Untimely", given petitioner filed his Notice of Appeal on Dec. 6, 2017, and Div. III C.O.A., recieved petitioner's Notice of Appeal on, Dec. 11 2017. Petitioner, was required under R.A.P. 18.8(b), to show Div. III C.O.A., Commissioner M. Wasson, should waive his "Untimely filed", Notice of Appeal. Petitioner, gave Commissioner M. Wasson the required "Extraordinary Circumstances", of R.A.P 18.8(b). Petitioner, met the required "Extraordinary Circumstances", yet Commissioner M. Wasson denied the petitioner to proceed with his appeal. See

Appendix F.

"An appeal under R.A.P. 2.2 section (a)(3), is appriopriate from written decisions of the Superior Court, that discontinues the action, or prevent final judgement if they affect a substantial right in a Civil Case". Gilman v. MacDonald, 74 Wn. App. 733, 737, 875 P.2d 697 (1994)

"Whether review is by appeal, or discretionary review, is governed by R.A.P. rules 2.2, and 2.3."

Petitioner, was "legally obligated", to afford BCSC, judge Ekstrom with the "opportunity" to correct the trial court's malicious, erroneous, bias, and prejudicial ruling on July 26, 2017, or waive his Constitutional rights, with both Washington State's appellate courts; Div. III C.O.A., and Washington State Supreme Court

"If trial Court is not afforded an "Opportunity" to rule on 'error' later asserted on appeal, it "Constitutes Waiver" of right to assert alleged error, unless it is of such "flagrant, and prejudicial nature", that curative measures would have been futile"'. State v. Van Auken, (1969) 77 Wash. 2d 136, 460 P.2d 277.

"Alleged error must be asserted in the trial Court, in order to obtain review on appeal, unless it is of such 'extreme flagrant, and prejudicial nature', as to make 'Curative measures' futile, or the right to appeal a final judgement, and include for review the trial court's 'interem rulings, and orders, even appealable orders."

Right-Price Recreation LLC v. Connell's Prairie Community Counsel,(2001) 105 Wash. App. 813, 21 P.3d 1157. "In a discretionary review case, the parties still have the 'right to appeal' a final judgement, and include for review the trial court's interem rulings, and Order's, even 'appealable order's'." Right-Price Recreation LLC v. Connell's Prairie Community Council, (2001) 105 Wash. App. 813, 21 P.3d 1157.

Petitioner, properly afforded BCSC judge Ehstrom (Trial Court) the 'opportunity' to correct his 'flagrant, and prejudicial ruling on July 26, 2017. BCSC judge was fully aware of his prejudicial ruling, and was given the required (90) ninety day timeframe under both', CR52(d), (e), and RCW 2.08.240, and willfully refused to correct his fraudulent actions. Petitioner, had in fact timely, and properly filed his Notice of Appeal on Dec. 6, 2017, under General Rule (GR) 3.1 (a)(c)(d). See Appendix G.

Div. III C.O.a., had a Constitutional Responsibility, to review BCSC, judge Ehstrom, fraudulent actions on July 26, 2017, De Novo for Abuse of Discretion. This blatant disregard of the petitioner's Constitutional rights by Div. III C.O.a. is a Manifest error, that was willfully disregarded.

III.

Review is Warranted, Because Washington State Supreme Court was Constitutionaly Responsible, to protect petitioner's Constitutional Rights, that were Properly, and Timely raised. Petitioner IS Entitled To the Due Process Clauses, and Fundamental Fairness in Both the U.S.C. And Washington State's Constitution.

Petitioner, timely proceeded to the W.S.S.C, by and through Discretionary Review.

W.S.S.C., Commissioner Johnston, heard petitioner's discretionary review, on Jan. 15, 2019, by Telephonic Hearing, where both petitioner, and def's (by and through DPA Ryan Luhson), were present. Commissioner Johnston, notified petitioner, and DPA Ryan Luhson, the "telephonic hearing" on Jan. 15, 2019, "would NOT be Recorded". The fact petitioner's hearing on Jan. 15 2019, was not recorded "amplifies" petitioner's argument in regards to his Due Process Right's being violated by so called "Court's of Equity," can not be overlooked. W.S.S.C. Commissioner Johnston, ultimately denied petitioner's; Motion for Discretionary Review on Jan. 22, 2019. Petitioner, timely filed a; Motion for Extension of Time, so as to file an; Objection/motion to modify, Commissioner Johnston's ruling on Jan. 22, 2019, which was granted on Feb. 13, 2019. See Appendix H.

Petitioner's, "Motion to Modify," is just what it means; "To modify a parties argument.

"Supreme Court, will not consider questions not properly submitted to 'Trial Court', since trial court Must Be Given Chance to correct claimed error, before it will be reviewed on appeal."' State v Johnson, (1966) 69 wash. 2d 264, 418 P.2d 238.

"The law of the case doctrine, whereby a 'legal issue' actually decided by an 'appellate Court' will not be considered in a later appeal of the same case applies unless, the prior decision is Clearly erroneous, and not deciding it Correctly will result in a 'Manifest Injustice'." Folsom v County of Spokane, (1988) 111 Wash. 2d 256, 759 P.2d 1196.

Petitioner, a pro se litigant, afforded the trial court with the "Required" opportunity to correct its fraudulent actions, per statute's, case law, and respect for the judicial system, and according to both CR 52(d)(e), and RCW 2.08.240, yet Washington State's appellate Courts (Div. III C.O.A., W.S.S.C.) no longer allow's this proper, and fair practice for the petitioner is absurd, and extremelly prejudical, while denying the petitioner of both of his Constitutional Rights (U.S.C., and W.S.C.), Due Process Rights.

"For purpose's of rule(s) providing that manifest error affecting Constitutional right's may be raised for the first time on appeal, 'Manifest' means; that a showing of actual prejudice is made'." State v Walsh, (2001) 143 Wash. 2d 1, 17 P.3d 591.

"To raise a Manifest Constitutional Error, a party need only make a 'Plausible Showing that the error... had practical and identifiable consequence at the trial Court level. Such a showing need not establish' an actual violation of a Constitutional error. State v Lamar, 180 Wn. 2d 576, 583, 327 P.3d 46 (2014).

BCSC, jude Ekstrom's, fraudulent actions (Abuse of discretion, Biasness, deception, Forgery, Fraud upon the Court, Misconduct, etc...) on July 26, 2017, in fact were done with Malicious Intent, so as to defraud the judicial proceedings, and the petitioner, where in fact extinguished the petitioner of his Constitutional rights, by means of Fraud. Petitioner's, U.S.C., and W.S.C. are Constitutional provision's, guaranteed for all U.S. Citizens, and Washington State residents, regardless of their status, or financial Status. It is the role of court's to provide relief to claimants, in individual, or class actions, who have suffered, or will imminently suffer, actual harm, it is not the role of Court's, but that of political branches, to shape institutions of gov't in such fashion as to comply with the laws, and the constitution.

"In Order to establish 'Manifest error affecting a Constitutional right' as required to obtain appellate review of an alleged error not raised at trial court, petitioner Must Show actual prejudice.'" State v Contreras (1998) 92 Wash. App. 307, 966 P.2d 215; Alleged error Must be asserted at trial Court, in order to obtain review on appeal, unless it is such extreme flagrant and prejudicial nature, as to make curative measures futile, or there has been Course of Conduct so persistently prejudicial, as to Constitute Denial of Due Process of Law." State v Gefeller (1969) 79 Wash. 2d 449, 458 P.2d 17.

Petitioner, gave all (3) three court forums; BCSC, Div III C.O.A., and W.S.S.C., every opportunity to correct the erroneous, and fraudulent rulings/and actions throughout this entire Case, just to have these (3) three court forums Completely disregard their Constitutional Responsibilities, and the petitioner's Constitutional Rights, by Abridging, and Denying the petitioner, his basic/and fundamental Due Process Rights, given his Pro-Se Status.

W.S.S.C. Dept. 1, Chief Justice Fairhurst, and Justice's Owen's, Johnson, Wiggins, and Gordon McCloud, for the (2nd) Second time, have willfully refused to give the "grounds for their decision." See W.S.C. Article IV § 2 · Supreme Court. See Appendix E, I.

Petitioner, has exhibited Due Diligence, throughout this entire case, just to have all (3) three court forums continue to disregard their Constitutional Responsibilities, and ignore the petitioner's Constitutional rights, directly due to his current status as a 'pro-se litigant', and his being "legally disabled", given petitioner has no schooling, or training to be attorney, which firmly supports petitioner's argument of Manifest Constitutional error's, which clearly exhibits Compelling Reason's, and Extraordinary Circumstances, which are in Conflict with Washington State's Constitutional Provision's, Washington State's Court of Appeals, Trial Court's Fraudulent actions.

IV.

Review is Warranted, Because Petitioner in Fact Timely, and Properly Filed His Civil Complaint on Sept. 28, 2016, Under General Rule (GR) 3.1(a), (c), (d), and Was Denied Access To the Court.

Petitioner, Timely, and Properly Filed his Civil Complaint, along with all supporting legal pleadings on Sept. 28, 2016, under GR 3.1(a), (c), (d) State's; "service, and filing by an inmate confined in an institution. (a) If an inmate confined in an institution files a document in Any Proceeding, the document is timely filed, if deposited in the institution's internal mail system within the time permitted for filing. (C) If an institution has a system designed for legal mail, the inmate Must use that

System to recieve the benefit of this rule...(d) Whenever a party has the right, or is required to do some act, or take some proceedings within a prescribed period after filing, or Service of a document under this rule, that period shall begin to run on the date the document is recieved by the party.

Petitioner, initially filed his Civil Complaint, and Supporting legal pleadings within his Statute of Limitations (S.O.L.), under GR 3.1(a), (c), (d), on Sept. 28, 2016, and Benton County Superior Court Clerk's office (BCSCCO), in fact recieved petitioner's Civil Complaint, and Supporting legal pleadings on Oct. 3, 2016, which was in fact within petitioner's S.O.L. See Appendix K, L.

BCSCCO, in fact acted with malicious intent by frustrating, and impeding petitioner's access to the Court, by falsifying court documents, and forcing petitioner to pay money ($30) to gain "access to the Court" on Oct. 3, 2016, Oct. 19, 2016, Nov. 22, 2016, and Nov. 30, 2016. BCSCCO, was fully aware that RCW 36.18.016(12)/or "required ex parte fee $30", in fact did NOT EXHIST in their Benton County Clerk's Fee Schedule and/or Local Court Rule (LCR). See Appendix M.

Petitioner, researched this false, and Non Exhisting "required" ex-parte fee, while at; Stafford Creek Corrections Center (S.C.C.C.), a Washington State Dept. of Corrections facility. See Appendix N.

Revised Code of Washington (RCW) 36.18.016 § 12, does Not Exhist in the Civil Section, let alone, in the entire Benton County Clerk's Fee Schedule. See Appendix O.

BCSCCO, was required to file petitioner's Civil Complaint, and supporting legal pleadings, that they recieved on Oct. 3, 2016, under RCW 2.32.050(4) - Power and duties of Court Clerk's : ..."it is the duty of the clerk of the Supreme Court, each Clerk of the court of appeals, and each County Clerk for each of the Court's for which he, or She is a Clerk: ... (4) To file ALL PAPER'S delivered to him, or her for that purpose in ANY ACTION, or proceeding in the court as directed by Court rule, or Statute"...; BCSCCO fraudulent actions, who in fact falsified Court documents so petitioner would miss, and file Civil Complaint outside petitioner's S.O.L., was in fact done with Malicious Intentions. BCSCCO, had full knowledge that a "required ex parte fee" and RCW 36.18.016(2), did Not Exhist in Benton County Clerk's Fee Schedule, and Local Court Rule (LCR). BCSCCO, are in fact direct Counterparts, to the def.'s (Benton County Sheriff's Office) Christopher v Harbury, (2002) 122 S.Ct 2179.

Petitioner, paid ($ 30) So as to Gain Access to the Court, on Dec. 13, 2016. See Appendix P.

BCSCCO, repeatedly falsified Court documents, telling petitioner to pay a "required ex-parte fee", in order for petitioner's Order's, to be "placed in front a judge for signature". BCSCCO, 24 hrs (Dec. 14, 2016) after petitioner paid a Non Exhisting ex parte fee, BCSCCO removed (2) two Order's, out of petitioner's; (1) Motion for Appointment of Counsel, and; (2) Motion to Serve def.'s by Mail by and through return reciept, and Stated: "Your case has successfully been filed, but please note that, once filed, Judge's are unable to remove Order's from the file for signature. As such, We're returning your unsigned order's so you'll have them available to present for Signature at a future date if a judge grant's your motion(s)"...

Petitioner, paid a "required ex-parte fee", given BCSCCO "assured" the petitioner, his Orders would be given to the judge, when petitioner paid the "required ex-parte fee". Petitioner, had scheduled his case to be heard on Dec. 16, 2016, which BCSCCO, placed on the docket for Dec. 16, 2016 BCSCCO, fraudulent actions, on Oct. 3, 2016, up and through March 23, 2017, were done with Malicious Intentions, So as to deny the petitioner access to the Court, which violates petitioner's U.S.C. 1st Amend., 5th Amend., and 14th Amend., and W.S.C. Article 1: Declaration of Rights - Section's 3, and 4. BCSCCO, willfully decieved the petitioner, so as to deprive the petitioner of both (U.S.C., and W.S.C.), Constitutional Rights in this legal proceeding, with their Fraudulent Actions.

"Washington law limits personal injury actions to (3) three years. RCW 4.16 080 § (2)(2015). Washington Court's generally apply 'equitable tolling' to cases where the plaintiff exercises diligence, and this evidence of bad faith, deception, or false assurances neglect." State v. Duvall, 940 P.2d 671, 674 (Wash. Ct. App. 1997) § 1915A · Screening procedures, as a matter of Congressional design, are ex-parte, and Sua Sponte

"Washington cases finding bad faith, or other misconduct by the def., is not the Sine qua non, equitable tolling in Washington. Those cases have recognized that the guiding principle of equitable tolling in Washington is that, the law allows equitable tolling when justice requires." Millay v. Cam, 955 P.2d 791, 797 (Wash. 1998). See also In re Bonds, 196 P.3d 672, 679 (Wash. 2008) (Sanders J. dissenting) "[C]ase law has not held equitable tolling is appriopriate only in those circumstances [of bad faith, deceptions, or false assurances]. Equitable tolling, applies generally when justice requires it." (emphasis Ommitted) (citations Omitted); 1-8 Lexis

Nexis Practice Guide: Washington Pre trial Civil Procedure §8.05[1](2015) (A court may allow equitable tolling of a Statute of Limitations when justice requires...)

BCSCCO, fraudulent actions, from Oct. 3, 2016 up, and through March 23, 2017, were Malicious Intentions, so as to deny the petitioner of his Due Process rights, when BCSCCO forced a indigent, incarcerated, prose litigant to pay money ($30) to "gain access to the Court," for judicial relief. BCSCCO, then attempting to "cover up" their fraudulent actions by continually falsifying Court documents, and in fact not giving the petitioner a Case number until his (3rd) third attempt of the filing of his Civil Complaint, and supporting legal pleadings (11-22-16) (temporary case no. 16-2-00001-8) (see Appendix M). See Appendix R.

Petitioner, wrote a letter to BCSCCO, Russell Lodge, putting him on notice of his office (BCSCCO) hindering his access to the Court, and should the def's argue "S.O.L.", and GR 34. See Appendix S.

"The Supreme Court has explained what is meant by the phrase: Practical, and identified Consequences." The court equate's this language with the phrase: "actual prejudice". An error is identifiable, and thus produces "actual prejudice", if the trial record is sufficient to determine the merits of the claim. State v. O'Hara, 167 Wn.2d 91, 99-100, 217 P.3d 756 (2009), as Corrected (Jan. 21, 2010).

BCSCCO, Continued to falsify documents (Superior Court Case Summary, Benton Superior Ct., Case no. 16-2-02632-7), so as to Cover up their fraudulent actions from Oct. 3, 2016, up and through March 23, 2017, by frustrading, and impeding petitioner's access to the Court, which in fact denied petitioner his Gouranteed Constitutional Rights to Due Process Rights, while interferring in a legal procceding, and forcing the petitioner to "miss" his S.O.L. (no pun intended) See Appendix T.

The U.S. Supreme Court, has articulated (2) two guideposts; (1st) First, Any State Action, under the (14th) fourteenth Amend. is action under color of law, (2nd) Second, when the def.(s) is a "gov't official, or gov't employee", and is somehow linked to the Gov't, courts Must question, whether there was "joint action, an intertwined relationship, State encouragement, or a public functioned" performed. Gov't employee's, act under "Color of law", when performing their duties, whether they act in "Compliance with State law, Contrary to it, or exercise professional discretion. Actions Contrary to State law, are also actions under Color of law, because employee's are given power to act on behalf of the gov't.

BCSCCO, are in fact direct counterparts to the def.'s (Benton County Sheriff's Office), who have also violated petitioner's Constitutional, and Civil Rights.

V

Review is Warranted, Because Defendant's Falsify Court Document's, And Defendant's Attorney, Deputy Prosecuting Attorney Ryan Lukson, an Attorney out of; Benton County Prosecutor's Office, Civil Department, Entered Forged Document's as Evidence, Committing Perjury in a Official and Legal Proceeding, While Violating Petitioner's Due Process

Right's.

Benton County's Prosecutor's Office(BCPO), DPA Ryan Lukson, def.'s attorney, entered forged document's, as evidence, and falsified court documents, that in fact, procured a ruling by means of Fraud, on May 25, 2017. DPA Ryan Lukson, fraudulent actions, were done with Malicious Intentions, so as to deprive the petitioner of his Civil, and Constitutional rights, while extinguishing petitioner's Due Process Rights in this case(no. 16-2-02632-7).

BCSC judge Ekstrom, on May 2, 2017, Vacated, def's already untimely defense, that was originally given (8) eight days outside the permitted (20) twenty days under both; Civil Rule(CR) 4(a)(2)(ii), and CR 12(a)(1). Def.'s, were served on 12-27-16. Def.'s, respond on 1-24-17. See Appendix U, V.

"Excluding day of service", 12-27-16, def's had until 1-16-17, to give their defense. Petitioner; "had in fact, caused a named def. to be served on 12-27-16", by U.S. mail, by means of Return Reciept. See GR 3.1(d), RCW 4.28.080(1). "If the action against Any County in this State"... Benton County Sheriff's Office, employee's, et.al., is a local gov't entity, NOT THE COUNTY. See Appendix V.

Petitioner, was required to "cause a named def.", to be served within (90) ninety days (Sept. 28, 2016 - Dec. 27 2016), per RCW 4.16.170. Campbell V Thunderbird Trucking & Constr. Inc., 30 Wn. App. 496, 636 P.2d 494, 1981 Wash. App. Lexis 2790 (Wash. Ct. App. 1981).

Def.'s gave their attorney DPA Ryan Lukson, permission to enter fraudulent documents, as evidence, while Committing a felony, Perjury 1°, 2°., and supported the fraudulent actions of BCSCCO, and willfully enter forged document's in a legal procedure, so as to gain a ruling by means of FRAUD.

DPA Ryan Lukson, in fact had full knowledge that there was No "required" ex parte fee. RCW 36.18.016(12), in fact does NOT Exhist in; Benton County Clerk's Fee Schedule, and/or Local Court Rule, and both; BCSCCO, and DPA Ryan Lukson, knew this, and yet, the petitioner was forced to pay on, 12-13-16, to gain access to the Court. DPA Ryan Lukson's fraudulent actions, were intended to defraud (RCW 10.58.040: Intent to Defraud) the plaintiff, by denying the petitioner, of his Due Process Rights. On July 7, 2017, def.'s procured their ruling, by means of FRAUD.

R.A.P. rule 12.9: Recall of Mandate (b)(c); "The appellate court may recall a mandate, issued by it to correct an inadvertant mistake, or to modify a decision obtained by the fraud of a party, or counsel in the appellate court."

U.S. Supreme Court, has the authority, to order a Washington State Appellate Court, to recall a Mandate, within a "reasonable time", to prevent a "Gross Miscarriage of Justice", given all of the fraudulent actions, Manifest Constitutional Errors, by all (3) three of Benton County's legal entities in this case; BCSCCO, BCPO DPA Ryan Lukson, and BCSC judge Alexander Ekstrom, along with both; Div. III C.O.A., and Washington State Supreme Court, where all (3) three Court forums, willfully disregarded their Constitutional Responsibilities, and their Oaths under W.S.C.

Article IV § 28: Oath of Judges, all (3) three Court forums have acted with deliberate indifference towards the petitioner's Civil, Constitutional, and Due Process Rights, all because of his Status as an indigent, and Pro Se Status.

DPA Ryan Lukson's, willingness to falsify Court document's, and enter forged document's as evidence, while willfully supporting the fraudulent actions of BOTH; BCSCCO (in re: Non Exhisting Ex-parte fee/or RCW 36.18.016(12)), and BCSC, judge Ekstrom (ruling on a Motion of Reconsideration asking the Court AGAIN to reverse the dismissal of plaintiff's case, that in Fact was NOT FILED by the Petitioner, on July 25, 2017), Clearly violates petitioner's DUE PROCESS Rights. DPA Ryan Lukson, willingness to fully Support/and participate, in all the fraudulent actions in this Case, exhibits CORRUPTION in our judicial system, in Benton County, and shows there is NO ACCOUNTABILITY as well.

"Failure to Fully Divulge Fact's to the Court in an action involving his own Conduct, is grounds for Suspension of attorney." In re Healy, 43 Wn.2d 266, 261 P.2d 89 1953 Wash. Lexis 309 (Wash 1953).

Petitioner, was NOT REQUIRED to serve either the, Auditor, nor the Deputy Auditor, under RCW 4.28.080(1), "If the action is against Any County in this State... Def.'s, Benton County Sheriff's Office, BCSO classification et. al., is a local gov't entity, Not the County.

Petitioner, was required to "cause a named def.", to be served within (90) ninety days per. RCW 4.16.170. Campbell v. Thunderbird Trucking & Constr. Inc, 30

Wn. App. 496, 636 P.2d 494, 1981 Wash. App. Lexis 2790 (Wash. Ct. App. 1981)

DPA Ryan Luhson, Swore an Oath, under RCW 2.48.210 · Oath on Admission. This "Oath", is in fact a Binding Contract, which DPA Ryan Luhson, willfully disregarded, and broke, with his fraudulent actions on; May 25, 2017, and July 7, 2017. which firmly establishes both; Misconduct, and Perjury. See Rules of Professional Conduct (RPC); RPC 3.4 · Fairness to Opposing Party, RPC 3.5 · Impartiality and Decorum of the Tribunal, RPC 4.1 · Truthfulness in Statement to Others, RPC 8.4 · Misconduct, RCW 9A.04.110(1), (8), (12), (13), (28), (h), (g), RCW 9A.60 · Fraud · (1), (3), (4), (5), (6), (a), (b), RCW 9A.60.020 · Forgery (1), RCW 9A.72 · Perjury and Interferrance with Official Proceedings, RCW 9A.72.010 · Definitions (1), (2), (a), (b), (c), RCW 9A.72.085(4) · Official Proceeding, RCW 9A.72.020 · Perjury in the first degree, RCW 9A.72.060 · Perjury and false Swearing-Retraction, RCW 9A.72.080 · Statement of what one does not know to be true, RCW 9A.72.085 · Unsworn Statements, Certification-Standards for Subscribing to an unsworn Statement, RCW 9A.72.150 · Tampering with Physical Evidence, RCW 10.58 · Evidence, RCW 10.58.010 · Intent to Defraud, RCW 34.05.010 · (19) · Definitions, RCW 40.16.030 · Offering False Instrument for Filing or Record

VI

Review is Warranted Because All Three Court Forums in The State of Washington State Have in Fact Stripped the Petitioner of His Due Process Rights While Disregarding Their Constitutional Responsibilities

Petitioner's, Civil/and Constitutional Rights were completely stripped, and disregarded by Washington State's (3) three court forum's; Benton County

Superior Court (BCSC), Div. III Court of Appeals (C.O.A.), and Washington State Supreme Court (W.S.S.C.), Without any equality, or Due Process.

Because §1983 lack's a Statute of Limitations," even federal court's apply the forum state's Statute of Limitation's for personal injury actions, along with the forum States law regarding tolling, including equitable tolling". Butler v. Nat'l Cmty. Renaissance of Cal., 766 F.3d 1191, 1198 (9th Cir. 2014) (quoting Canatella v. VanDeKamp, 486 F.3d 1128, 1132 (9th cir. 2007). In re Carlstad, 80 P.3d 587, 591 (Wash. 2003)," and refrain from tolling Claims time barred because of a 'garden Variety of excusable neglect'." In re Hoisington, 993 P.2d 296 (Wash. Ct. App. 2000) There the Washington Appellate Court found that justice required equitable tolling, where Hoisington exercised due diligence, and a Court error time barred his Claim. See also State v Littlefair, 51 P.3d 116, 122 (Wash. Ct. App. 2002) (holding that a Statute of limitations for a Collateral attach on a Criminal judgement was equitably tolled because the defendant's failure to understand that deportation was a Consequence of his plea bargain for growing marijuana was "due to a Series of mistakes by his attorney, the court, and arguably the INS".) Bonds 196 P.3d at 677.

Petitioner, as a pro-se litigant, pursued his Claims well within his Statute of limitations (Sept. 28, 2016 and Oct. 3, 2016) under GR 3.1 (a), (c), (d), yet the fraudulent actions by Benton County's (3) three legal entities; Benton County Superior Court Clerk's Office (BCSCCO), Benton County Prosecutor's Office (BCPO), DPA Ryan Lukson, and Benton County Superior Court (BCSC), judge Alexander Ekstrom, were done with Malicious Intentions, so as to deprive the petitioner of his

Civil/and Constitutional Rights, and Due Process Rights. Petitioner, has Clearly exhibited Due Diligence, throughout all of the Fraud in all(3) three Court forums in Washington State; BCSC, Div III C.O.A., and W.S.S.C..

Def.'s, have Defaulted as of Jan. 17, 2017, then BCSC, judge Ekstrom, Vacate's def.'s already untimely "defense", on May 2, 2017. Petitioner, filed his Motion for Default Judgement on May 23, 2017, which entitles the petitioner to damages, $2,999,999.97, plus interest at 12%, reimbursement of false ex-parte fee $30, attorney Costs, 197,997.93, hospital bill, $793, and any other cost's incured, Docket fee's, Appellate Costs, copies, to include ALL OTHER COSTS associated in this case, to be paid by the def.'s Benton County Sheriff's Office, Classification Staff. "Convinced firmly, that the reviewed decisions, lies beyond the pale of reasonable justification, under the extraordinary Circumstances". Boyd v. City & County of San Francisco, 576 F.3d 938, 943 (9th cir. 2009)

Benton County's, (3) three legal entities (BCSCCO, BCPO, BCSC), and def.'s fraudulent actions in this entire case, provides an even more "Compelling reason", to implement federal principles. Cf Lake v. Arnold, 232 F.3d 360, 370 (3d cir. 2000) (explaining that rigid State limitations Must Not Apply, when the plaintiff has been prevented in Some 'extraordinary way' from obtaining relief).

Petitioner, timely filed his Civil Complaint, well within his Statute of Limitations (S.O.L.) (Sept. 28, 2016 /and Oct. 3, 2016), which Support's Due Diligence on the petitioner's behalf. Goldlawr Inc. v. Neiman, 369 U.S. 463, 467 S. Ct. 913 8 L.Ed. 2d 39 (1962) (explaining that tolling is proper when the litigant originally file's within the limitation's period because, the adversary is put on notice of the Claims, satisfying the concerns underlying repose). Thus, the petitioner's Compelling reason's justifies tolling.

Roy v. Lampert, 465 F.3d 964, 969-70 (9th cir. 2006); Balistreri v. Pacifica police dept., 901 F.2d 696, 699 (9th cir. 1990); Harris v. Carter, 515 F.3d 1051, 1055 (9th cir. 2008)." Morever, the judicial system have held that 'the purpose of the equitable tolling doctrine', is to soften the harsh impact of the technical rules, which might otherwise prevent a good faith litigant, from having a day in Court.'" Accordingly, the Court should accept the petitioner's Writ of Certiorari, to prevent a Gross Miscarriage of Justice, in this case, given all of the fraudulent actions in this entire case. Petitioner's, pro-se status, offer's additional justification. See Garaux v. Pulley, 739 F.2d 437, 439 (9th cir. 1984).

Petitioner's, 42 U.S.C. § 1983, were maliciously, and intentionally violated, so as to prevent judicial relief for the petitioner, and the def.'s also willfully, and intentionally violated petitioner's Civil/and Constitutional Rights. Benton County's (3) three legal entities (BCSCCO, BCPO, DPA Ryan Lukson, and BCSC, judge Ekstrom), meant to deprive the petitioner of his Constitutional/and Civil rights by their fraudulent actions in this case.

"To satisfy the 'Manifest' constitutional error exception in section (a), 'actual prejudice', from the Claimed error must be shown, and the trial Court record Must be sufficiently developed to determine the merits of the 'constitutional Claim.'" See State v. McDonald, 138 Wn.2d 680, 691, 981 P.2d 443 (1999) (error is Manifest, if it actually **prejudice's the petitioner's rights.**) "Irregularity in entry of judgement cannot be '**urged on appeal**', until **motion to vacate** it on that ground is interposed below." **State ex rel Hennessy v. Hutson**, (1903) 32 Wash. 154, 72 P1015.

Petitioner, was "**required**" to afford **BCSC judge Ekstrom**, an opportunity to correct his "**fraudulent error**"/"**manifest error**," on **July 26, 2017**, even though petitioner had **no access** to a law library while housed at: **Washington State Penitentiary (WSP) a Wash. State Dept. of Corrections facility (DOC)** from **March 2016** up and through **Jan. 14, 2019. Stewart v. Sheahan**, 1997 WL 392073* (N.D. III 1997) "If the judge ruled against him because, Stewart **did NOT** have the '**resources**' to disabuse him of his misunderstanding of the law, this is a matter of effective argument..."

Petitioner, while housed at **WSP** from **March 2016**, up and through **Jan. 14, 2019**, had no access to WSP's law library to present supporting case law to both; **Div III C.O.A.**, and **W.S.S.C.**, on why there was nearly a (4) four month delay, on why the petitioner filed his **Notice of Appeal** on, **Dec. 6, 2017**, which was a **timely filed; Notice of Appeal**, as of **Dec. 6, 2017** per **CR52(d), (e), (Reserved RCW 2.08.240** - Limit of time for decision) see also **RAP rules 2.2(a), (3)**, and **2.3.**

Petitioner's, compliance with **CR52(d), (e)**, and **Washington State's Supporting case law, and provisions**, by affording **BCSC judge Ekstrom** an **opportunity** to correct his "**abuse of discretion**" on **July 26, 2017**, is the **sole reason** for the petitioner filing of his; **Notice of Appeal** on **Dec. 6, 2017**. See Appendix(s) **A, C**, and **G.**

BCSC, judge Ekstrom, **Vacated**, def.'s **already** untimely, and Moot/and **late defense**, on **May**

2, 2017, which in **FACT** leave's def's in **DEFAULT** as of **May 2, 2017**, thereby **entitling** petitioner to **Damages plus interest, reimbursement, hospital bill, attorney costs, Court costs, filing fee's, Docket fee's**, and all **associated costs**. See Appendix **V**.

Petitioner, was **required** to exhaust all **administrative remedies**, under; Prisoner's Litigation Reform Act (**PLRA**), and filed a **Tort Claim** on, **June 27, 2016**. **Benton County Personnel Resource's Dept.**, initiated their "**investigation**" on **Aug. 1, 2016**, assigning the petitioner, Claim no. **CC2016-12**. See Appendix **W**.

Petitioner, wrote **Dan Meyer, "Claim's Administrator"** (**2**) two seperate times; (**1**) **Oct. 16, 2016**, and (**2**) **Nov. 17, 2016**, yet **Dan Meyer, willfully refused** to give his/their findings of their investigation on **Tort Claim no. CC2016-12**. See Appendix **X**.

Def's, in fact had **full knowledge** of petitioner's **fears of violence against his person**, yet they **willfully disregarded** to protect the petitioner from physical violence, then **willfully refused** to give the petitioner **proper Medical Care (Dental)**, after Def's **willfully**, and **intentionally placed** the petitioner in the **violent situation**, which **should/ and could** have been prevented. See Appendix **Y**.

RCW 4.96.020 (1), (4), applied to toll the **Statute of Limitations** for claims under **§1983. Wyant v. City of Lynwood**, 621 F.Supp. 2d. 1108, 2008 U.S. Dist. Lexis 98740 (**W.D. Wash. 2008**). **Wash. Rev. Code § 4.96.020(4)**, expressly State's, that a plaintiff's **Statute of Limitations** on a **Tort Claim (CC2016-12)** against a **local gov't entity** is **Tolled**, or **Temporarily Stopped** during the **60 day waiting period, AND 5 business Court day's, Required** under the **Statute**.

Petitioner's, **Tort Claim CC2016-12**, Started **Aug. 1, 2016**, and tolled petitioner's filing of **Civil Complaint**, up and through **Oct. 6 2016**. See Appendix's **K, L, M, W.**

Petitioner, was **Consistently Subjected** to Fraud/and Fraudulent Actions by Benton County's (5) five individual entities (**Benton County Sheriff's Office, Benton County Personnel Resources Dept., Benton County Superior Court Clerk's Office, Benton County Prosecutor's Office, and Benton County Superior Court**), where all (5) five of these entities **willfully refused** to give a response, **falsified court documents/ and written instrument's**, and all (5) five of these entities had Malicious Intentions, so as to **Decieve** the petitioner throughout this entire matter/case.

Div III C.O.A., and **W.S.S.C.**, both of these **appellate Courts**, refused to address the **fraudulent actions** by **BCSC judge Ekstrom, De Novo**, and **W.S.S.C.**, **repeatedly**, and **willfully refused** to deny the petitioner his **Gouranteed Due Process Rights**, by **Not giving** the petitioner "**grounds for their decisions**". Petitioner, afforded every opportunity to **BCSC, Div III C.O.A.**, and **W.S.S.C.**, to correct the **erroneous**, and **flagrant rulings**, yet none of these "**Court's of equity**" would afford the petitioner, his **due process rights, Gouranteed** to all U.S. Citizens, and **Washington State Residents**.

"Supreme Court, has the authority to determine whether a matter is properly before the Court, to perform act's which are proper to secure fair, and oderly review, and to waive the rules of appellate procedure when necessary to serve the ends of justice". **State v. Aho**, (1999) 137 Wash. 2d 736, 975 P.2d 512.

"Supreme Court, has jurisdiction of appeal from jurisdiction of appeal from judgement in independant action in equity vacating judgement for **Fraud** in it's procurement which was not discovered until after expiration of (1) one yr. limited by Statute for proceeding in original case, since it can not be treated as proceeding in original case from which no appeal would lie". **Chehalis Coal Co. v. Laisure, (1917)** 97 Wash. 422, 166 P. 1158.

Def.'s, in fact procured a dismissal of petitioner's case (**16-2-02632-7**) on **July 7, 2017** by **Fraud**, when they **falsified court document's** on **May 25, 2017**, supporting the **fraudulent actions** of **BCSCCO**, by referencing to a "**required**" ex parte fee/or **RCW 36.18.016(12)**, that does **Not Exhist** in their; **Benton County Clerk's Fee Schedule.** Def.'s, also argue petitioner, was "**required**" to do "personal service" on the **Auditor/or Deputy Auditor.** Petitioner, is **Not Suing; Benton County**, nor is **Benton County**, a named def.

Washington Administrative Procedure Act · Service by Mail:

"An administrative appeal was improperly dismissed based on '**service of process**', because the individual was only required to comply with the **service requirements** of the **W.A.P.A.**, rather than the inconsistent Civil rules". The **A.P.A.** service requirements were met when parties served in person, or **by Mail**, under **RCW 34.05.-010(19)** within **30** days of the agency decision under **RCW 34.05.542(2),(4)**. The failure to serve the attorney general's office was not grounds for dismissal, because it was clear that the attorney general had actual notice. All other requirements were met. **John Diel v. Western Wash. Growth Management Bd. ET. AL.**, 153 Wn. 2d 207; 103 P.3d 193; 2004 Wash. Lexis 921 No. 74768-7. see also **In re Marriage of Tsarbolous**, 125 Wn. App. 273, 104 P.3d 692 (**2004**) **effective Service**. See **RCW 4.16.170**: Tolling of Statute - actions, when deemed commenced, or not commenced.

The Supreme Court has highlighted, most Court's, and legislature's have recognized that there may be factual Circumstances, justifying an exception to the policies underlying a State's limitation's period. Bd. of Regents of Univ. of State of N.Y. v. Tomanio, 446 U.S. 478, 487 (1980) (discussing how tolling is appriopriate in cases of inequity). Beckman v. Dept. of Soc. & Health Svcs., 102 Wn. App. 687, 691, 694 11 P.3d 313 (2000) "The Court indicated that, unlike other appellate Court rules, R.A.P. rule 18.8(b) does not recieve liberal construction, and that 'extraordinary Circumstances' do not exhist, unless the filing was late despite 'reasonable diligence', and due to Circumstances beyond the party's Control. Beckman, 102 Wn. App. at 693

"Various Statute's appear to limit review Superior Court decisions, to Certiorari in particular kinds of cases. The court has held that this sort of statute precludes an appeal as a matter of right." Berman v. Urquart, 48 Wash. 2d 85, 291 P.2d 655 (1955).

"Precise point on which appellate relies for reversal, Must have been brought to the attention of the trial court, AND Passed Upon." State v. Reano, (1966) 67 Wash. 2d 768, 409 P.2d 853.

VII

Review is Warranted Because Petitioner Properly Pled Facts To Show That He Faced a Substantial Risk of Serious Harm and/or Prima Facie

"To allege a Claim under State and Federal (§1983), a plaintiff must plead that (1) the def.'s acting under Color of State law; (2) deprived plaintiff of rights secured by the Constitution's on State, and federal statute's." Gibson v. United States, 781 F.2d 1334, 1338 (9th Cir. 1986)

Benton County Sheriff's Office, and **Classification Officer's**, while acting in the course of their duties, there is no dispute they were acting "**under color of law**".

Leer v. Murphy, 844 F.2d 628, 633 (9th Cir. 1988). "Thus the only issue is whether plaintiff pled sufficient facts to show that the def.'s deprived him of his (8th) eigth Amend. rights. [P]rison Officials have a duty.... to protect prisoner's from violence at the hands of other prisoner's."

Farmer v. Brennan, 511 U.S. 825, 833 (1994). "To plead an (**8th**) eigth Amend. violation, the inmate must show that he is 'incarcerated under conditions posing a **Substantial risk of serious harm**'. Id at 834. **Deliberate indifference**, to this risk, or to a prisoner's serious illness, or **Injury**, state's a cause of action under **§1983. Estelle v. Gamble**, 429 U.S. 97, 105 (1976) See Appendix Y, Z.

First, Benton County Sheriff's Office, and their Classification Officer's, placed Mr. King at serious risk of harm, by ignoring his "kite" requesting a **keep seperate** on this specific inmate, Juan Fernandez, a violent gang member. **Second**, the threat Mr. King **Warned** Benton County Sheriff's Office of, by this inmate **Juan Fernandez**, came to fruition, when BCSO classification placed this violent gang member in **202 pod/ Classification pod**, with Mr. King, causing serious medical harm, and permanent disfigurement by allowing this violent gang member, to assault the petitioner. It is a fundamental principle that "**having stripped [inmates] of virtually every means of self-protection, and foreclosed their access to outside aid the gov't, and it's officials, are NOT free to let the State of nature take it's course.** Farmer 511 U.S. at 833. See; **Title IV: Relevancy and it's Limits - Rule 401** • Definition of "**Relevant Evidence**". See Appendix's / Evidence **A-Z.**

Finally, Benton County's (3) three legal entities, committed a form of **Fraud**, and a **Felony**, so as to prevent legal reprimand to the def's, who are **direct counterparts** to all (3) three legal entities in Benton County. Denying the petitioner his **Due Process Rights** in this case. **Div III C.O.A.**, and **W.S.S.C.**, also **willfully disregarded** their **Constitutional Responsibilities**, and **willfully continued** to deny the petitioner his **Due Process Rights** in this case.

CONCLUSION

Based on the foregoing, Petitioner respectfully submits this Petition for Writ of Certiorari should be granted. The Court may wish to reverse, and award damages w/interest, re-imbursement fee's, attorney costs, court costs, any and all associated cost's in this case given all the **Fraud** committed in the Washington State Court forums.

Dated: January 6, 2020

Respectfully Submitted,

Jon J. King #775517

• Without Prejudice ~ UCC 1-308 •