

APPENDIX (e)

DENIAL LETTER

From:

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

MAY 15 2020

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DOUGLAS DEAN SCYPHERS,

Petitioner-Appellant,

v.

STATE OF WASHINGTON,

Respondent-Appellee.

No. 20-35116

D.C. No. 2:19-cv-00409-SMJ  
Eastern District of Washington,  
Spokane

ORDER

Before: CANBY and CALLAHAN, Circuit Judges.

The requests for a certificate of appealability (Docket Entry Nos. 4, 6, 8, and 10) are denied because appellant has not shown that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012).

Any pending motions are denied as moot.

**DENIED.**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

JUL 1 2020

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DOUGLAS DEAN SCYPHERS,

Petitioner-Appellant,

v.

STATE OF WASHINGTON,

Respondent-Appellee.

No. 20-35116

D.C. No. 2:19-cv-00409-SMJ  
Eastern District of Washington,  
Spokane

ORDER

Before: WARDLAW and BENNETT, Circuit Judges.

Appellant's motion for reconsideration (Docket Entry No. 14) is denied. *See*  
9th Cir. R. 27-10.

Appellant's motion to add an additional petitioner (Docket Entry No. 15) is  
denied.

No further filings will be entertained in this closed case.

## UNITED STATES DISTRICT COURT

for the  
Eastern District of WashingtonFILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Feb 03, 2020

DOUGLAS DEAN SCYPHERS,

SEAN F. McAVOY, CLERK

Plaintiff

v.

Civil Action No. 2:19-CV-00409-SMJ

STATE OF WASHINGTON,

Defendant

## JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

☐ the plaintiff (name) \_\_\_\_\_ recover from the  
defendant (name) \_\_\_\_\_ the amount of \_\_\_\_\_  
dollars (\$ \_\_\_\_\_), which includes prejudgment  
interest at the rate of \_\_\_\_\_ %, plus post judgment interest at the rate of \_\_\_\_\_ % per annum, along with costs.

☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) \_\_\_\_\_  
recover costs from the plaintiff (name) \_\_\_\_\_

☒ other: That the petition, ECF No. 1, is DISMISSED pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the  
United States District Courts. All pending motions are DENIED AS MOOT.  
The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith  
and there is no basis upon which to issue a certificate of appealability is therefore DENIED.

This action was (check one):

☐ tried by a jury with Judge \_\_\_\_\_ presiding, and the jury has  
rendered a verdict.

☐ tried by Judge \_\_\_\_\_ without a jury and the above decision  
was reached.

☒ decided by Judge Salvador Mendoza Jr. \_\_\_\_\_

Date: 2/3/2020

CLERK OF COURT

SEAN F. McAVOY

s/ Sara Gore

(By) Deputy Clerk

Sara Gore

FILED DOCUMENT

# E-Filing Documents

#404358

Name: Scyphers

Unit: GISA242U

**Wonders, Lori S. (DOC)**

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**From:** waed\_cmecf@waed.uscourts.gov  
**Sent:** Monday, January 27, 2020 1:23 PM  
**To:** waed\_cmecf@waed.uscourts.gov  
**Subject:** Case 2:19-cv-00409-SMJ Scyphers v. State of Washington Motion for Reconsideration

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**Eastern District of Washington**

**U.S. District Court**

**Notice of Electronic Filing**

The following transaction was entered on 1/27/2020 at 1:22 PM PST and filed on 1/27/2020

**Case Name:** Scyphers v. State of Washington  
**Case Number:** 2:19-cv-00409-SMJ  
**Filer:** Douglas Dean Scyphers  
**Document Number:** 8

**Docket Text:**

**Motion for Reconsideration by Douglas Dean Scyphers. Motion Hearing set for 2/26/2020 Without Oral Argument before Judge Salvador Mendoza Jr. (SG, Case Administrator) \*\*17 PAGE(S), PRINT NEF ONLY\*\* (Douglas Scyphers, Prisoner ID: 404358)**

**2:19-cv-00409-SMJ Notice has been electronically mailed to:**

Douglas Dean Scyphers docccrcinmatefederal@doc1.wa.gov

**2:19-cv-00409-SMJ Notice has been delivered by other means to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1069357611 [Date=1/27/2020] [FileNumber=3454650-0  
] [3660491de8c16427ab3c51e467ab6274e67b3238241039fbd8d9dfd891487c68d67  
54212e33c646c6a5bebbba3488756a788a31a24824d0ba37762bd9f50e478c]]

E-Filing Documents

# 404358

Name: Scyphers

Unit: 6/342424

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Feb 11, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DOUGLAS DEAN SCYPHERS,

Plaintiff,

vs.

STATE OF WASHINGTON,

Defendant.

No. 2:19-CV-00409-SMJ

9CCA Case No. 20-35116

ORDER TRANSFERRING *IN FORMA*  
*PAUPERIS* APPLICATION TO COURT  
OF APPEALS

Before the Court is Plaintiff's application to proceed on appeal to the Circuit Court *in forma pauperis*. ECF No. 13. Plaintiff filed his Notice of Appeal on February 10, 2020. ECF No. 12.

Since this case is already before the Circuit Court, this Court hereby transfers Plaintiff's application to proceed *in forma pauperis* and all supporting documentation to the Ninth Circuit Court of Appeals.

The Court executive is instructed to provide a copy of this order to Plaintiff and to the Clerk of the Circuit Court.

**IT IS SO ORDERED.**

DATED February 11, 2020.



A handwritten signature in black ink, appearing to be "M" or "Rodgers", is written over a horizontal line.

JOHN T. RODGERS  
UNITED STATES MAGISTRATE JUDGE



E-Filing Documents

Case: Scyphers 404358  
Unit: G/GA242U

## Chapter Listing

### Chapter 10.27 RCW

#### GRAND JURIES—CRIMINAL INVESTIGATIONS

##### Sections

- 10.27.010** Short title—Purpose.
- 10.27.020** Definitions.
- 10.27.030** Summoning grand jury.
- 10.27.040** Selection of grand jury members.
- 10.27.050** Special inquiry judge—Selection.
- 10.27.060** Discharge of panel, juror—Grounds.
- 10.27.070** Oath—Officers—Witnesses.
- 10.27.080** Persons authorized to attend—Restrictions on attorneys.
- 10.27.090** Secrecy enjoined—Exceptions—Use and availability of evidence.
- 10.27.100** Inquiry as to offenses—Duties—Investigation.
- 10.27.110** Duration of sessions—Extensions.
- 10.27.120** Self-incrimination—Right to counsel.
- 10.27.130** Self-incrimination—Refusal to testify or give evidence—Procedure.
- 10.27.140** Witnesses—Attendance.
- 10.27.150** Indictments—Issuance.
- 10.27.160** Grand jury report.
- 10.27.170** Special inquiry judge—Petition for order—Investigation of sexual exploitation of children.
- 10.27.180** Special inquiry judge—Disqualification from subsequent proceedings.
- 10.27.190** Special inquiry judge—Direction to public attorney for proceedings in another county—Procedure.

##### NOTES:

*Interpreters—Legal proceedings: Chapter 2.42 RCW.*

*Juries: Chapter 2.36 RCW.*

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### RCW 10.27.010

#### Short title—Purpose.

This chapter shall be known as the criminal investigatory act of 1971 and is enacted on behalf of the people of the state of Washington to serve law enforcement in combating crime and corruption.

[ 1971 ex.s. c 67 § 1.]

**RCW 10.27.020****Definitions.**

For the purposes of this chapter:

(1) The term "court" shall mean any superior court in the state of Washington.

(2) The term "public attorney" shall mean the prosecuting attorney of the county in which a grand jury or special grand jury is impaneled; the attorney general of the state of Washington when acting pursuant to RCW 10.27.070(9) and, the special prosecutor appointed by the governor, pursuant to RCW 10.27.070(10), and their deputies or special deputies.

(3) The term "indictment" shall mean a written accusation found by a grand jury.

(4) The term "principal" shall mean any person whose conduct is being investigated by a grand jury or special inquiry judge.

(5) The term "witness" shall mean any person summoned to appear before a grand jury or special inquiry judge to answer questions or produce evidence.

(6) A "grand jury" consists of twelve persons, is impaneled by a superior court and constitutes a part of such court. The functions of a grand jury are to hear, examine and investigate evidence concerning criminal activity and corruption and to take action with respect to such evidence. The grand jury shall operate as a whole and not by committee.

(7) A "special inquiry judge" is a superior court judge designated by a majority of the superior court judges of a county to hear and receive evidence of crime and corruption.

[ 1988 c 188 § 16; 1971 ex.s. c 67 § 2.]

**NOTES:**

**Legislative findings—Severability—Effective date—1988 c 188:** See notes following RCW 2.36.010.

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**RCW 10.27.030****Summoning grand jury.**

No grand jury shall be summoned to attend at the superior court of any county except upon an order signed by a majority of the judges thereof. A grand jury shall be summoned by the court, where the public interest so demands, whenever in its opinion there is sufficient evidence of criminal activity or corruption within the county or whenever so requested by a public attorney, corporation counsel or city attorney upon showing of good cause.

[ 1971 ex.s. c 67 § 3.]

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**RCW 10.27.040****Selection of grand jury members.**

Members of the grand jury shall be selected in the manner provided in chapter 2.36 RCW.

[ 1988 c 188 § 17; 1971 ex.s. c 67 § 4.]

## NOTES:

**Legislative findings—Severability—Effective date—1988 c 188:** See notes following RCW 2.36.010.

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### RCW 10.27.050

#### Special inquiry judge—Selection.

In every county a superior court judge as designated by a majority of the judges shall be available to serve as a special inquiry judge to hear evidence concerning criminal activity and corruption.

[ 1971 ex.s. c 67 § 5.]

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### RCW 10.27.060

#### Discharge of panel, juror—Grounds.

Neither the grand jury panel nor any individual grand juror may be challenged, but the court may:

- (1) At any time before a grand jury is sworn discharge the panel and summon another if it finds that the original panel does not substantially conform to the requirements of chapter 2.36 RCW; or
- (2) At any time after a grand juror is drawn, refuse to swear him or her, or discharge him or her after he or she has been sworn, upon a finding that he or she is disqualified from service pursuant to chapter 2.36 RCW, or incapable of performing his or her duties because of bias or prejudice, or guilty of misconduct in the performance of his or her duties such as to impair the proper functioning of the grand jury.

[ 2010 c 8 § 1018; 1971 ex.s. c 67 § 6.]

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### RCW 10.27.070

#### Oath—Officers—Witnesses.

(1) When the grand jury is impaneled, the court shall appoint one of the jurors to be foreperson, and also another of the jurors to act as foreperson in case of the absence of the foreperson.

(2) The grand jurors must be sworn pursuant to the following oath: "You, as grand jurors for the county of . . . . ., do solemnly swear (or affirm) that you will diligently inquire into and true presentment make of all such matters and things as shall come to your knowledge and you will submit things truly as they come to your knowledge, according to your charge the laws of this state and your understanding; you shall indict no person through envy, hatred, malice or political consideration; neither will you leave any person unindicted through fear, favor, affection, reward or the hope thereof or political consideration. The counsel of the state, his or her advice, and that of your fellows you shall keep secret."

(3) After a grand jury has been sworn, the court must deliver or cause to be delivered to each grand juror a printed copy of all the provisions of this chapter, and the court may give the grand jurors any oral or written instructions, or both, relating to the proper performance of their duties at any time it deems necessary or appropriate.

(4) The court shall appoint a reporter to record the proceedings before the grand jury or special inquiry judge, and shall swear him or her not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090. In addition, the foreperson of the grand jury may, in his or her discretion, select one of the grand jurors to act as secretary to keep records of the grand jury's business.

(5) The court, whenever necessary, shall appoint an interpreter, and shall swear him or her not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(6) When a person held in official custody is a witness before a grand jury or special inquiry judge, a public servant, assigned to guard him or her during his or her appearance may accompany him or her. The court shall swear such public servant not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(7) Proceedings of a grand jury shall not be valid unless at least twelve of its members are present. The foreperson or acting foreperson of the grand jury shall conduct proceedings in an orderly manner and shall administer an oath or affirmation in the manner prescribed by law to any witness who shall testify before the grand jury.

(8) The legal advisers of a grand jury are the court and public attorneys, and a grand jury may not seek or receive legal advice from any other source. When necessary or appropriate, the court or public attorneys or both must instruct the grand jury concerning the law with respect to its duties or any matter before it, and such instructions shall be recorded by the reporter.

(9)(a) Upon request of the prosecuting attorney of the county in which a grand jury or special inquiry judge is impaneled, the attorney general shall assist such prosecuting attorney in attending such grand jury or special inquiry judge.

(b) Whenever directed by the court, the attorney general shall supersede the prosecuting attorney in attending the grand jury and in which event the attorney general shall be responsible for the prosecution of any indictment returned by the grand jury.

(c) When the attorney general is conducting a criminal investigation pursuant to powers otherwise granted to him or her, he or she shall attend all grand juries or special inquiry judges in relation thereto and shall prosecute any indictments returned by a grand jury.

(10) After consulting with the court and receiving its approval, the grand jury may request the governor to appoint a special prosecutor to attend the grand jury. The grand jury shall in the request nominate three persons approved by the court. From those nominated, the governor shall appoint a special prosecutor, who shall supersede the prosecuting attorney and the attorney general and who shall be responsible for the prosecution of any indictments returned by the grand jury attended by him or her.

(11) A public attorney shall attend the grand jurors when requested by them, and he or she may do so on his or her own motion within the limitations of RCW 10.27.020(2), 10.27.070(9) and 10.27.070(10) hereof, for the purpose of examining witnesses in their presence, or of giving the grand jurors legal advice regarding any matter cognizable by them. He or she shall also, when requested by them, draft indictments and issue process for the attendance of witnesses.

(12) Subject to the approval of the court, the corporation counsel or city attorney for any city or town in the county where any grand jury has been convened may appear as a witness before the grand jury to advise the grand jury of any criminal activity or corruption within his or her jurisdiction.

[ 2010 c 8 § 1019; 1971 ex.s. c 67 § 7.]

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## RCW 10.27.080

**Persons authorized to attend—Restrictions on attorneys.**

No person shall be present at sessions of the grand jury or special inquiry judge except the witness under examination and his or her attorney, public attorneys, the reporter, an interpreter, a public servant guarding a witness who has been held in custody, if any, and, for the purposes provided for in RCW 10.27.170, any corporation counsel or city attorney. The attorney advising the witness shall only advise such witness concerning his or her right to answer or not answer any questions and the form of his or her answer and shall not otherwise engage in the proceedings. No person other than grand jurors shall be present while the grand jurors are deliberating or voting. Any person violating either of the above provisions may be held in contempt of court.

[ 2010 c 8 § 1020; 1971 ex.s. c 67 § 8.]

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**RCW 10.27.090****Secrecy enjoined—Exceptions—Use and availability of evidence.**

(1) Every member of the grand jury shall keep secret whatever he, she, or any other grand juror has said, and how he, she, or any other grand juror has voted, except for disclosure of indictments, if any, as provided in RCW 10.27.150.

(2) No grand juror shall be permitted to state or testify in any court how he, she, or any other grand juror voted on any question before them or what opinion was expressed by himself, herself, or any other grand juror regarding such question.

(3) No grand juror, public or private attorney, city attorney or corporation counsel, reporter, interpreter or public servant who held a witness in custody before a grand jury or special inquiry judge, or witness, principal or other person shall disclose the testimony of a witness examined before the grand jury or special inquiry judge or other evidence received by it, except when required by the court to disclose the testimony of the witness examined before the grand jury or special inquiry judge for the purpose of ascertaining whether it is consistent with that of the witness given before the court, or to disclose his or her testimony given before the grand jury or special inquiry judge by any person upon a charge against such person for perjury in giving his or her testimony or upon trial therefor, or when permitted by the court in furtherance of justice.

(4) The public attorney shall have access to all grand jury and special inquiry judge evidence and may introduce such evidence before any other grand jury or any trial in which the same may be relevant.

(5) The court upon a showing of good cause may make any or all grand jury or special inquiry judge evidence available to any other public attorney, prosecuting attorney, city attorney or corporation counsel upon proper application and with the concurrence of the public attorney attending such grand jury. Any witness' testimony, given before a grand jury or a special inquiry judge and relevant to any subsequent proceeding against the witness, shall be made available to the witness upon proper application to the court. The court may also, upon proper application and upon a showing of good cause, make available to a defendant in a subsequent criminal proceeding other testimony or evidence:

(a) When given or presented before a special inquiry judge, if doing so is in the furtherance of justice; or

(b) When given or presented before a grand jury, if the court finds that doing so is necessary to prevent an injustice and that there is no reason to believe that doing so would endanger the life or safety of any witness or his or her family. The cost of any such transcript made available shall be borne by the applicant.

[ 2010 c 8 § 1021; 1971 ex.s. c 67 § 9.]

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**RCW 10.27.100****Inquiry as to offenses—Duties—Investigation.**

The grand jurors shall inquire into every offense triable within the county for which any person has been held to answer, if an indictment has not been found or an information filed in such case, and all other indictable offenses within the county which are presented to them by a public attorney or otherwise come to their knowledge. If a grand juror knows or has reason to believe that an indictable offense, triable within the county, has been committed, he or she shall declare such a fact to his or her fellow jurors who may begin an investigation. In such investigation the grand juror may be sworn as a witness.

[ 2010 c 8 § 1022; 1971 ex.s. c 67 § 10.]

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**RCW 10.27.110****Duration of sessions—Extensions.**

The length of time which a grand jury may sit after being convened shall not exceed sixty days. Before expiration of the sixty day period and any extensions, and upon showing of good cause, the court may order the grand jury panel extended for a period not to exceed sixty days.

[ 1971 ex.s. c 67 § 11.]

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**RCW 10.27.120****Self-incrimination—Right to counsel.**

Any individual called to testify before a grand jury or special inquiry judge, whether as a witness or principal, if not represented by an attorney appearing with the witness before the grand jury or special inquiry judge, must be told of his or her privilege against self-incrimination. Such an individual has a right to representation by an attorney to advise him or her as to his or her rights, obligations, and duties before the grand jury or special inquiry judge, and must be informed of this right. The attorney may be present during all proceedings attended by his or her client unless immunity has been granted pursuant to RCW 10.27.130. After immunity has been granted, such an individual may leave the grand jury room to confer with his or her attorney.

[ 2010 c 8 § 1023; 1971 ex.s. c 67 § 12.]

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**RCW 10.27.130****Self-incrimination—Refusal to testify or give evidence—Procedure.**

If in any proceedings before a grand jury or special inquiry judge, a person refuses, or indicates in advance a refusal, to testify or provide evidence of any other kind on the ground that he or she may be incriminated thereby, and if a public attorney requests the court to order that person to testify or provide

the evidence, the court shall then hold a hearing and shall so order unless it finds that to do so would be clearly contrary to the public interest, and that person shall comply with the order. The hearing shall be subject to the provisions of RCW **10.27.080** and **10.27.090**, unless the witness shall request that the hearing be public.

If, but for this section, he or she would have been privileged to withhold the answer given or the evidence produced by him or her, the witness may not refuse to comply with the order on the basis of his or her privilege against self-incrimination; but he or she shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any transaction, matter, or fact concerning which he or she has been ordered to testify pursuant to this section. He or she may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or for offering false evidence to the grand jury.

[ 2010 c 8 § 1024; 1971 ex.s. c 67 § 13.]

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## **RCW 10.27.140**

### **Witnesses—Attendance.**

(1) Except as provided in this section, no person has the right to appear as a witness in a grand jury or special inquiry judge proceeding.

(2) A public attorney may call as a witness in a grand jury or special inquiry judge proceeding any person believed by him or her to possess information or knowledge relevant thereto and may issue legal process and subpoena to compel his or her attendance and the production of evidence.

(3) The grand jury or special inquiry judge may cause to be called as a witness any person believed by it to possess relevant information or knowledge. If the grand jury or special inquiry judge desires to hear any such witness who was not called by a public attorney, it may direct a public attorney to issue and serve a subpoena upon such witness and the public attorney must comply with such direction. At any time after service of such subpoena and before the return date thereof, however, the public attorney may apply to the court which impaneled the grand jury for an order vacating or modifying the subpoena on the grounds that such is in the public interest. Upon such application, the court may in its discretion vacate the subpoena, extend its return date, attach reasonable conditions to directions, or make such other qualification thereof as is appropriate.

(4) The proceedings to summon a person and compel him or her to testify or provide evidence shall as far as possible be the same as proceedings to summon witnesses and compel their attendance. Such persons shall receive only those fees paid witnesses in superior court criminal trials.

[ 2010 c 8 § 1025; 1971 ex.s. c 67 § 14.]

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## **RCW 10.27.150**

### **Indictments—Issuance.**

After hearing, examining, and investigating the evidence before it, a grand jury may, in its discretion, issue an indictment against a principal. A grand jury shall find an indictment only when from all the evidence at least three-fourths of the jurors are convinced that there is probable cause to believe a principal is guilty of a criminal offense. When an indictment is found by a grand jury the foreperson or acting foreperson shall present it to the court.

[ 2010 c 8 § 1026; 1971 ex.s. c 67 § 15.]



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**RCW 10.27.160****Grand jury report.**

The grand jury may prepare its conclusions, recommendations and suggestions in the form of a grand jury report. Such report shall be released to the public only upon a determination by a majority of the judges of the superior court of the county court that (1) the findings in the report deal with matters of broad public policy affecting the public interest and do not identify or criticize any individual; (2) the release of the report would be consistent with the public interest and further the ends of justice; and (3) release of the report would not prejudice any pending criminal investigation or trial.

[ 1971 ex.s. c 67 § 16.]

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**RCW 10.27.170****Special inquiry judge—Petition for order—Investigation of sexual exploitation of children.**

(1) When any public attorney, corporation counsel or city attorney has reason to suspect crime or corruption, within the jurisdiction of such attorney, and there is reason to believe that there are persons who may be able to give material testimony or provide material evidence concerning such suspected crime or corruption, such attorney may petition the judge designated as a special inquiry judge pursuant to RCW 10.27.050 for an order directed to such persons commanding them to appear at a designated time and place in said county and to then and there answer such questions concerning the suspected crime or corruption as the special inquiry judge may approve, or provide evidence as directed by the special inquiry judge.

(2) Upon petition of a prosecuting attorney for the establishment of a special inquiry judge proceeding in an investigation of sexual exploitation of children under RCW 10.112.010, the court shall establish the special inquiry judge proceeding, if appropriate, as soon as practicable but no later than seventy-two hours after the filing of the petition.

[ 2017 c 114 § 3; 1971 ex.s. c 67 § 17.]

**NOTES:**

**Findings—2017 c 114:** See note following RCW 10.112.010.

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**RCW 10.27.180****Special inquiry judge—Disqualification from subsequent proceedings.**

The judge serving as a special inquiry judge shall be disqualified from acting as a magistrate or judge in any subsequent court proceeding arising from such inquiry except alleged contempt for neglect

or refusal to appear, testify or provide evidence at such inquiry in response to an order, summons or subpoena.

[ 1971 ex.s. c 67 § 18.]

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## **RCW 10.27.190**

### **Special inquiry judge—Direction to public attorney for proceedings in another county—Procedure.**

Upon petition of a public attorney to the special inquiry judge that there is reason to suspect that there exists evidence of crime and corruption in another county, and with the concurrence of the special inquiry judge and prosecuting attorney of the other county, the special inquiry judge may direct the public attorney to attend and participate in special inquiry judge proceedings in the other county held to inquire into crime and corruption which relates to crime or corruption under investigation in the initiating county. The proceedings of such special inquiry judge may be transcribed, certified and filed in the county of the public attorney's jurisdiction at the expense of that county.

[ 1971 ex.s. c 67 § 19.]

APPENDIX (g)

GENERAL DOCKET

For:

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

**General Docket**  
**United States Court of Appeals for the Ninth Circuit**

<b>Court of Appeals Docket #:</b> 20-35116 <b>Nature of Suit:</b> 3530 Habeas Corpus Douglas Scyphers v. State of Washington <b>Appeal From:</b> U.S. District Court for Eastern Washington, Spokane <b>Fee Status:</b> Due		<b>Docketed:</b> 02/11/2020 <b>Termed:</b> 05/15/2020												
<b>Case Type Information:</b> 1) prisoner 2) state 3) 2254 habeas corpus														
<b>Originating Court Information:</b> <b>District:</b> 0980-2 : 2:19-cv-00409-SMJ <b>Trial Judge:</b> Salvador Mendoza, Junior, District Judge <b>Date Filed:</b> 11/26/2019 <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;"><b>Date</b></td> <td style="text-align: center;"><b>Date Order/Judgment</b></td> <td style="text-align: center;"><b>Date NOA</b></td> <td style="text-align: center;"><b>Date Rec'd</b></td> </tr> <tr> <td style="text-align: center;"><b>Order/Judgment:</b></td> <td style="text-align: center;"><b>EOD:</b></td> <td style="text-align: center;"><b>Filed:</b></td> <td style="text-align: center;"><b>COA:</b></td> </tr> <tr> <td style="text-align: center;">02/03/2020</td> <td style="text-align: center;">02/03/2020</td> <td style="text-align: center;">02/10/2020</td> <td style="text-align: center;">02/10/2020</td> </tr> </table>			<b>Date</b>	<b>Date Order/Judgment</b>	<b>Date NOA</b>	<b>Date Rec'd</b>	<b>Order/Judgment:</b>	<b>EOD:</b>	<b>Filed:</b>	<b>COA:</b>	02/03/2020	02/03/2020	02/10/2020	02/10/2020
<b>Date</b>	<b>Date Order/Judgment</b>	<b>Date NOA</b>	<b>Date Rec'd</b>											
<b>Order/Judgment:</b>	<b>EOD:</b>	<b>Filed:</b>	<b>COA:</b>											
02/03/2020	02/03/2020	02/10/2020	02/10/2020											
<b>Prior Cases:</b> None														
<b>Current Cases:</b> None														

DOUGLAS DEAN SCYPHERS (State Prisoner: 404358)  <div style="text-align: center;">Petitioner - Appellant,</div>   v.   STATE OF WASHINGTON <div style="text-align: center;">Respondent - Appellee,</div>	Douglas Dean Scyphers [NTC Pro Se] CRCC - COYOTE RIDGE CORRECTIONS CENTER P.O. Box 769 Connell, WA 99326
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DOUGLAS DEAN SCYPHERS,  <div style="text-align: center;">Petitioner - Appellant,</div>   v.	
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STATE OF WASHINGTON,

Respondent - Appellee.

- |            |           |  |
|------------|-----------|--|
| 02/11/2020 | <u>1</u>  | Open 9th Circuit docket: needs certificate of appealability. Date COA denied in DC: 02/03/2020. Record on appeal included: Yes. [11592842] (JMR) [Entered: 02/11/2020 10:09 AM]  |
| 02/11/2020 | <u>2</u>  | Received copy of District Court order filed on 02/11/2020 transferring ifp application to court of appeals. [11593677] (CW) [Entered: 02/11/2020 03:11 PM]   |
| 02/19/2020 | <u>3</u>  | Filed Appellant Douglas Dean Scyphers motion to proceed In Forma Pauperis. Deficiencies: None. Served on 02/09/2020. [11604332] (CW) [Entered: 02/21/2020 09:06 AM]  |
| 03/03/2020 | <u>4</u>  | Filed Appellant Douglas Dean Scyphers motion for restoration. Deficiencies: None. Served on 02/26/2020. [11618829] (CW) [Entered: 03/05/2020 07:50 AM]   |
| 03/03/2020 | <u>5</u>  | Filed Appellant Douglas Dean Scyphers motion for immediate relief from confinement and addition of exhibits. Deficiencies: None. Served on 03/03/2020. [11618832] (CW) [Entered: 03/05/2020 07:52 AM]  |
| 03/06/2020 | <u>6</u>  | Filed Appellant Douglas Dean Scyphers letter dated 02/27/2020 re: addendum to COA. Paper filing deficiency: None. [11621894] (CW) [Entered: 03/09/2020 07:09 AM]   |
| 04/02/2020 | <u>7</u>  | Filed Appellant Douglas Dean Scyphers letter dated 04/02/2020 re: request for confirmation of rcpt of docs/docket. Paper filing deficiency: None. [11650006] (CW) [Entered: 04/02/2020 01:17 PM]   |
| 04/02/2020 | <u>8</u>  | Filed Appellant Douglas Dean Scyphers motion for vicarious exhaustion of state remedies. Deficiencies: None. Served on 04/02/2020. [11650012] (CW) [Entered: 04/02/2020 01:18 PM]  |
| 05/04/2020 | <u>9</u>  | Filed Appellant Douglas Dean Scyphers motion for summary disposition mtn for newly and previously discovered precedents. Deficiencies: None. Served on 04/28/2020. [11680016] (CW) [Entered: 05/04/2020 03:53 PM]  |
| 05/08/2020 | <u>10</u> | Filed Appellant Douglas Dean Scyphers motion to show a substantial constitutional violation. Deficiencies: None. Served on 05/03/2020. [11685742] (CW) [Entered: 05/08/2020 09:19 PM]  |
| 05/12/2020 | <u>11</u> | Filed Appellant Douglas Dean Scyphers motion to appoint counsel. Deficiencies: None. Served on 05/07/2020. [11688582] (CW) [Entered: 05/12/2020 03:10 PM]  |
| 05/15/2020 | <u>12</u> | Filed order (WILLIAM C. CANBY and CONSUELO M. CALLAHAN): The requests for a certificate of appealability (Docket Entry Nos. <u>[4]</u> , <u>[6]</u> , <u>[8]</u> , and <u>[10]</u> ) are denied because appellant has not shown that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” Slack v. McDaniels, 529 U.S. 473, 484 (2000); see also 28 U.S.C. § 2253(c)(2); Gonzalez v. Thaler, 565 U.S. 134, 140-41 |

(2012). Any pending motions are denied as moot. DENIED. [11692826] (AF)  
[Entered: 05/15/2020 03:56 PM]

05/18/2020 13 Filed Appellant Douglas Dean Scyphers letter dated 05/13/2020 re: request for  
docket, copies of filings by aplt. Paper filing deficiency: None. [11694361] (CW)  
[Entered: 05/18/2020 03:43 PM]

CLOSED,APPEAL,HABEAS,LC02,NOT-SERVED,PEF

**Eastern District of Washington  
U.S. District Court (Spokane)  
CIVIL DOCKET FOR CASE #: 2:19-cv-00409-SMJ**

Scyphers v. State of Washington  
Assigned to: Judge Salvador Mendoza, Jr  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 11/26/2019  
Date Terminated: 02/03/2020  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus  
(General)  
Jurisdiction: Federal Question

**Petitioner****Douglas Dean Scyphers**

represented by **Douglas Dean Scyphers**  
404358  
COYOTE RIDGE CORRECTIONS  
CENTER  
PO BOX 769  
CONNELL, WA 99326-0769  
Email:  
docccinmatefederal@doc1.wa.gov  
PRO SE

V.

**Respondent****State of Washington**

Date Filed	#	Docket Text
02/11/2020	<u>17</u>	ORDER TRANSFERRING IN FORMA PAUPERIS APPLICATION TO 9CCA. Signed by Magistrate Judge John T. Rodgers. (SG, Case Administrator) **1 PAGE(S), PRINT ALL** (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/11/2020)
02/11/2020	<u>16</u>	COPY OF 9CCA ORDER as to <u>12</u> Notice of Appeal filed by Douglas Dean Scyphers. 9CCA: 20-35116. (SG, Case Administrator)**1 PAGE(S), PRINT ALL** (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/11/2020)
02/10/2020	<u>15</u>	Letter from Appeal Deputy Clerk to Mr. Scyphers dated 2/10/2020. (Attachments: # <u>1</u> Notice of Appeal, # <u>2</u> Docket Sheet) (SG, Case Administrator)**15 PAGE(S), PRINT ALL** (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/10/2020)
02/10/2020	<u>14</u>	

		9CCA Payment Notification form re <u>12</u> Notice of Appeal, Fee: IFP Pending. (SG, Case Administrator) <b>**1 PAGE(S), PRINT ALL**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/10/2020)
02/10/2020	<u>12</u>	NOTICE OF APPEAL from District Court decision as to <u>10</u> Order Summarily Dismissing Habeas Corpus Petition and <u>11</u> Clerk's Judgment by Douglas Dean Scyphers. (SG, Case Administrator) <b>**11 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) Modified on 2/11/2020 <b>9CCA: 20-35116</b> (SG, Case Administrator) (Entered: 02/10/2020)
02/03/2020	<u>11</u>	JUDGMENT IN A CIVIL ACTION. (SG, Case Administrator) <b>**1 PAGE (S), PRINT ALL**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/03/2020)
02/03/2020	<u>10</u>	ORDER SUMMARILY DISMISSING HABEAS CORPUS PETITION - The court further certifies that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. 2253(c); Fed. R. App. P. 22(b). Signed by Judge Salvador Mendoza, Jr. (SG, Case Administrator) <b>**5 PAGE(S), PRINT ALL**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/03/2020)
02/03/2020	<u>9</u>	Motion to exhaust state remedies through corrective process by Douglas Dean Scyphers. Motion Hearing set for <b>3/4/2020</b> Without Oral Argument before Judge Salvador Mendoza Jr. (SG, Case Administrator) <b>**34 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 02/03/2020)
01/27/2020	<u>8</u>	Motion for Reconsideration by Douglas Dean Scyphers. Motion Hearing set for <b>2/26/2020</b> Without Oral Argument before Judge Salvador Mendoza Jr. (SG, Case Administrator) <b>**17 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 01/27/2020)
01/27/2020	<u>7</u>	Motion For Petitioner Initiated Summary Judgement by Douglas Dean Scyphers. Motion Hearing set for <b>2/26/2020</b> Without Oral Argument before Judge Salvador Mendoza Jr. (SG, Case Administrator) <b>**32 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 01/27/2020)
01/14/2020	<u>6</u>	NOTICE RE: NON-COMPLIANCE WITH E-FILING PROGRAM. The Eastern District of Washington received documents from you for filing through the U.S. Postal Service. Pursuant to General Order 16-35-1, participation in the E-Filing Program is mandatory for all prisoner litigants incarcerated at facilities participating in the Prison E-Filing Program. Please comply by submitting all future documents to be filed with this Court to the law librarian/designee for electronic filing. (SG, Case Administrator) <b>**TEXT ONLY ENTRY, PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 01/14/2020)
01/14/2020	<u>5</u>	Letter from Doug Scyphers to Honorable Judge Mendoza dated 1/12/2020 in support of his Writ of Habeas Corpus Petition. (Attachments: # <u>1</u> Transmittal Envelope) (SG, Case Administrator) <b>**5 PAGE(S), PRINT NEF ONLY**</b>



		Received via USPS (Douglas Scyphers, Prisoner ID: 404358) (Entered: 01/14/2020)
12/16/2019	<u>4</u>	MOTION to Amend Writ of Habeas Corpus (Addendum to Supplemental Data) <u>1</u> Petition for Writ of Habeas Corpus by Douglas Dean Scyphers. Motion Hearing set for <b>1/15/2020</b> Without Oral Argument before Judge Salvador Mendoza Jr. (VR, Courtroom Deputy) <b>**7 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 12/16/2019)
12/05/2019	<u>3</u>	MOTION TO COMPEL FOR INFORMATION (SHOW CAUSE) by Douglas Dean Scyphers. Motion Hearing set for <b>1/6/2020</b> Without Oral Argument before Judge Salvador Mendoza Jr. (SG, Case Administrator) <b>**2 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 12/05/2019)
11/27/2019		Filing Fee Received. Receipt #spo035965 in the amount of \$5.00 from Judy Nelson. (CLP, Case Administrator) <b>**1 PAGE, PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 11/27/2019)
11/26/2019	<u>2</u>	Letter from Clerk - Advising prisoner of case number and deficiency. (Attachments: # <u>1</u> IFP Application) (SG, Case Administrator) <b>**PRINT ALL**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 11/26/2019)
11/26/2019	<u>1</u>	PETITION for Writ of Habeas Corpus (Filing fee not paid and no IFP submitted) Filed by Douglas Dean Scyphers. (SG, Case Administrator) <b>**38 PAGE(S), PRINT NEF ONLY**</b> (Douglas Scyphers, Prisoner ID: 404358) (Entered: 11/26/2019)

1/31/20

E-Filed Documents

**E-Filing Documents**

404358  
Name: Scyphers, D  
Unit: G16A2424

(2012). Any pending motions are denied as moot. DENIED. [11692826] (AF)  
[Entered: 05/15/2020 03:56 PM]

05/18/2020 13 Filed Appellant Douglas Dean Scyphers letter dated 05/13/2020 re: request for  
docket, copies of filings by aplt. Paper filing deficiency: None. [11694361] (CW)  
[Entered: 05/18/2020 03:43 PM]

APPENDIX

- (i). (a). On March 3rd, 2020, Petitioner filed a "Motion For Restoration", in the U.S. Court of Appeals for the Ninth Circuit, noted as docket entry no. 4, case no. 20-35116; also citing Trezevant v. City of Tampa, 741 F. 2d 336 (11th Cir. 1984).
- (b). On March 3rd, 2020, Petitioner filed a "Request To Remand Case To The United States Supreme Court", in the U.S. Court of Appeals for the Ninth Circuit, noted as docket entry no. 5, case no. 20-35116; In the Ninth Circuit denial "ORDER", dated on May 15th, 2020, only docket entry nos. 4,6,8, and 10 were cited for the denial. Docket entry no. 5 was not addressed.
- (c). On April 2nd, 2020, Petitioner filed a "Motion for Vicarious Exhaustion of State Remedies", in the U.S. Court of Appeals for the Ninth Circuit, noted as docket entry no. 8, case no. 20-35116.
- (d). On May 25th, 2020, Petitioner filed a "Motion To Add Additional Petitioner For Vicarious Exhaustion", in the U.S. Court of Appeals for the Ninth Circuit, noted as docket entry no. 15, case no. 20-35116; adding Petitioner Thomas Boardman.
- (e). Denial Letter form the U.S. Court of Appeals for the Ninth Circuit, see attached copies.
- (f). RCW 10.27, see attached copies.
- (g). General Docket and docket entry no. 2 citing "informa pauperis" "ifp", see attached copies.

APPENDIX continued

(ii). (a). State of Washington v. Tanawah Downing

1. Benton County Superior Court, case no. 17-1-01244-4; In his address to the court, Downing specifically mentions the constitutional issue in question. The court denied his comments.
2. State of Washington v. Downing, Appeals Court, case no. 35865-8-III.
3. State of Washington v. Downing, State Supreme Court, case no.
4. Tanawah Downing v. State of Washington, U.S. District Court for Eastern Washington; case no. 4:19-cv-05055-TOR
5. Tanawah Downing v. State of Washington, U.S. Court of Appeals for the Ninth Circuit, case no. 19-35803.

(b). State of Washington v. Thomas Boardman

1. State of Washington, Appeals Court, case no. 53893-8-III.
2. State of Washington v. Thomas Boardman, State Supreme Court, case no. 98412-3.
3. Thomas Boardman v. State of Washington, U.S. District Court, changed to v. Jeffery Uttecht, case no. 3:19-cv-05328-BHS
4. Thomas Boardman v. Jeffery Uttecht, U.S. Court of Appeals for the Ninth Circuit, case no. 19-35813.

(c). State of Washington v. Scott Fischer

1. Fischer, 2:20-cv-00051-TZV, document 5, filed 2-26-2020, pg. 2, lines 1-13.
2. State of Washington v. Scott Fischer, Appeals Court, case nos.

APPENDIX continued

58499-5-I; and 75249-9-I.

3. State of Washington v. Scott Fischer, State Supreme Court,  
154 Wn. 2d 1006, 113 P. 3d 482 (2005)

4. Scott Fischer v. State of Washington, U.S. District Court,  
case no. 2:20-cv-00051-TZV.

5. Scott Fischer v. State of Washington, U.S. Court of Appeals  
for the Ninth Circuit, case no. 20-35253.

(iii). (a). On January 26th, 2020, Petitioner filed a "Motion for  
Reconsideration", in the U.S. District Court for Eastern  
Washington, case no. 2:19-cv-00409-SMJ.

(b). On May 25th, 2020, Petitioner filed a "Motion for  
Reconsideration", in the U.S. Court of Appeals for the Ninth  
Circuit, noted as docket entry no. 14, case no. 20-35116.

(VI). (a). The Oxford Companion To The Supreme Court Of The United States,  
second edition, (2005); citations on pages 170 and 212.

(b). Black's Law Dictionary, 11th edition, (2019); Definitions:

1. VAGUE: "Imprecise or unclear by reason of abstractness; not  
sharply outlined; indistinct; uncertain. > Unconstitutionally  
Vague, (1938) 1. (of a penal legislative provision) so unclear  
and indefinite as to not give a person of ordinary intelligence  
the opportunity to know what is prohibited, restricted, or  
required. 2. (of a statute) impermissibly delegating basic  
policy matters to administrators and judges to such a degree

APPENDIX continued

as to lead to arbitrary and discriminatory application."

2. VAGUENESS: "Uncertain breadth of meaning; uncertainty resulting from abstract expression <the phrase "within a reasonable time" is plagued with vagueness - what is reasonable?>... vagueness raises due process concerns... because enforcement may become arbitrary."
3. VAGUENESS DOCTRINE (1957): "Constitutional Law. The doctrine - based on the Due Process Clause - requiring that a criminal statute state explicitly and definitely what acts are prohibited or restricted, so as to provide fair warning and preclude arbitrary enforcement - also termed void for vagueness doctrine."
4. VOID FOR VAGUENESS DOCTRINE: "(of a penal statute) establishing a requirement or punishment without specifying what is required or what conduct is punishable, and therefore void because violative of due process."
5. SUBSTITUTION: "The process by which one person or thing takes the place of another person or thing."
6. VICARIOUS: "Performed or suffered by one person as substitute for another; indirect; surrogate."
7. VICARIOUS EXHAUSTION OF REMEDIES DOCTRINE (1987): "The rule that if one member of a class satisfies a requirement to exhaust administrative remedies, that is enough for all others similarly situated to be considered as having exhausted the remedies."
8. CLASS: "A group of people, things, qualities, or activities that have common characteristics or attributes."