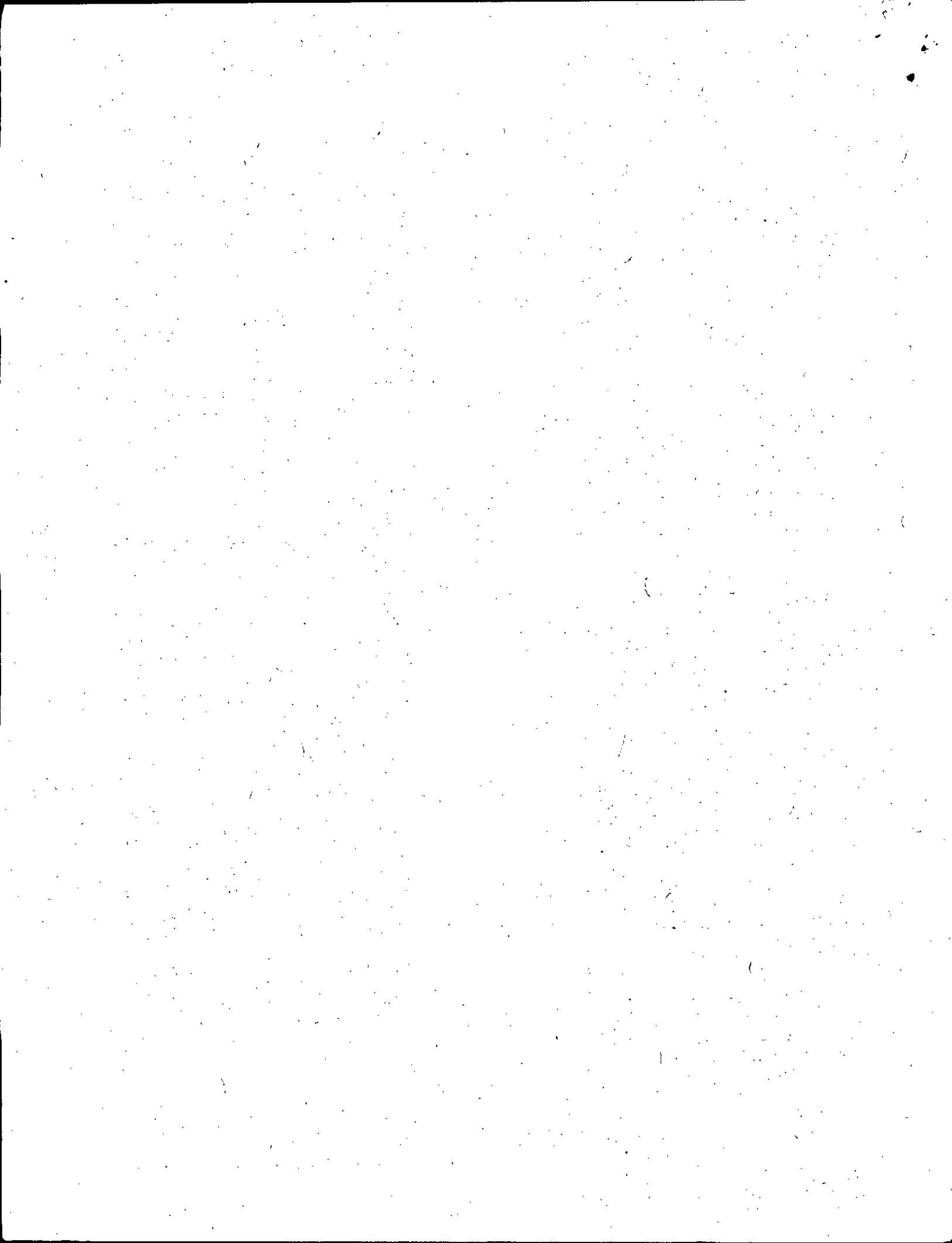


APPENDIX

KICUNZIKA

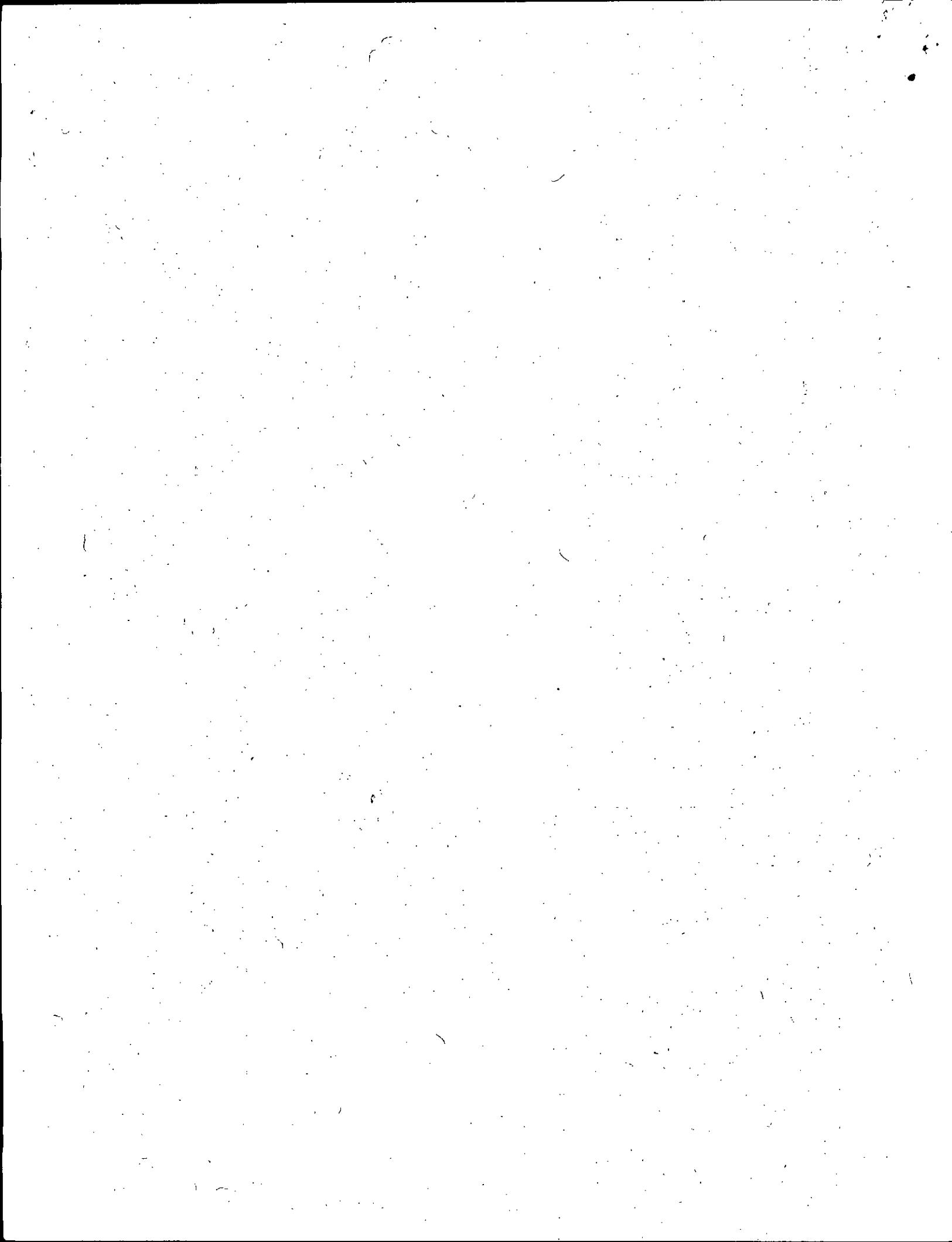
Index to Appendices

	Page
• Court's Decision (Clark County Superior Court)	A1
• Court's Decision on Motion for Reconsideration	B1
• Order Dismissing Petitions (COA Division II)	C1
• Letter (Washington Supreme Court)	D
• Letter	E
• Ruling Denying Review	F1
• Order	G
• Motion for Reconsideration	H
• Notice of Appeal	I
• Information	J1
• Letter (in forma pauperis)	K1
• Email (evidence)	L
• Newspaper Article (Mr)	M
• Police Report	N
• Police Report	O
• Ternus' Testimony	P
• Trial Transcripts	Q1
• Attorney General's Thoughts on Hurtado	R1
• Washington's First Constitution, 1878 (single page)	S
• State v. Blake Article	T
• Supporting Case Law (Evidence)	AA1
• Supporting Case Law (Expert Witnesses)	BB1
• Supporting Case Law (Hurtado / Preliminary Hearing)	CC1
• Supporting Case Law (in support of Hurtado)	DD1
• Supporting Case Law (Jurisdiction)	EE1
• Supporting Case Law (Preliminary Hearing)	FF1



Index to Appendices (cont)

	Page
◦ Supporting Case Law (Shall)	GG1
◦ Supporting Case Law (Silence is Agreement)	HH1
◦ Supporting Case Law (Time Bar)	TT1
◦ Supporting Case Law (U.S. Supreme Court)	JJ1
◦ Supporting Case Law (Other)	KK1
◦ Other Supporting Elements	LL1
◦ Supporting Rules, Laws, or Statutes	MM1



5
Ree
FILED

OCT - 1 2021

2
Scott G. Weber, Clerk, Clark Co

3
9:13

4
5 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

6 IN AND FOR THE COUNTY OF CLARK

7
8 Christopher Allred,

9 Case No. 21-2-01497-06

10 Plaintiff,

11 Court's Decision

vs.

12 State of Washington et al,

13 Defendant.

14
15 Mr. Christopher Allred was convicted by a Jury in 2016 in Clark County Cause
16 No. 15-1-01436-6. He filed an appeal on August 22, 2016. On July 10, 2018, the
17 Washington Court of Appeals, Division II, confirmed his convictions. The Washington
18 State Supreme Court denied further review.

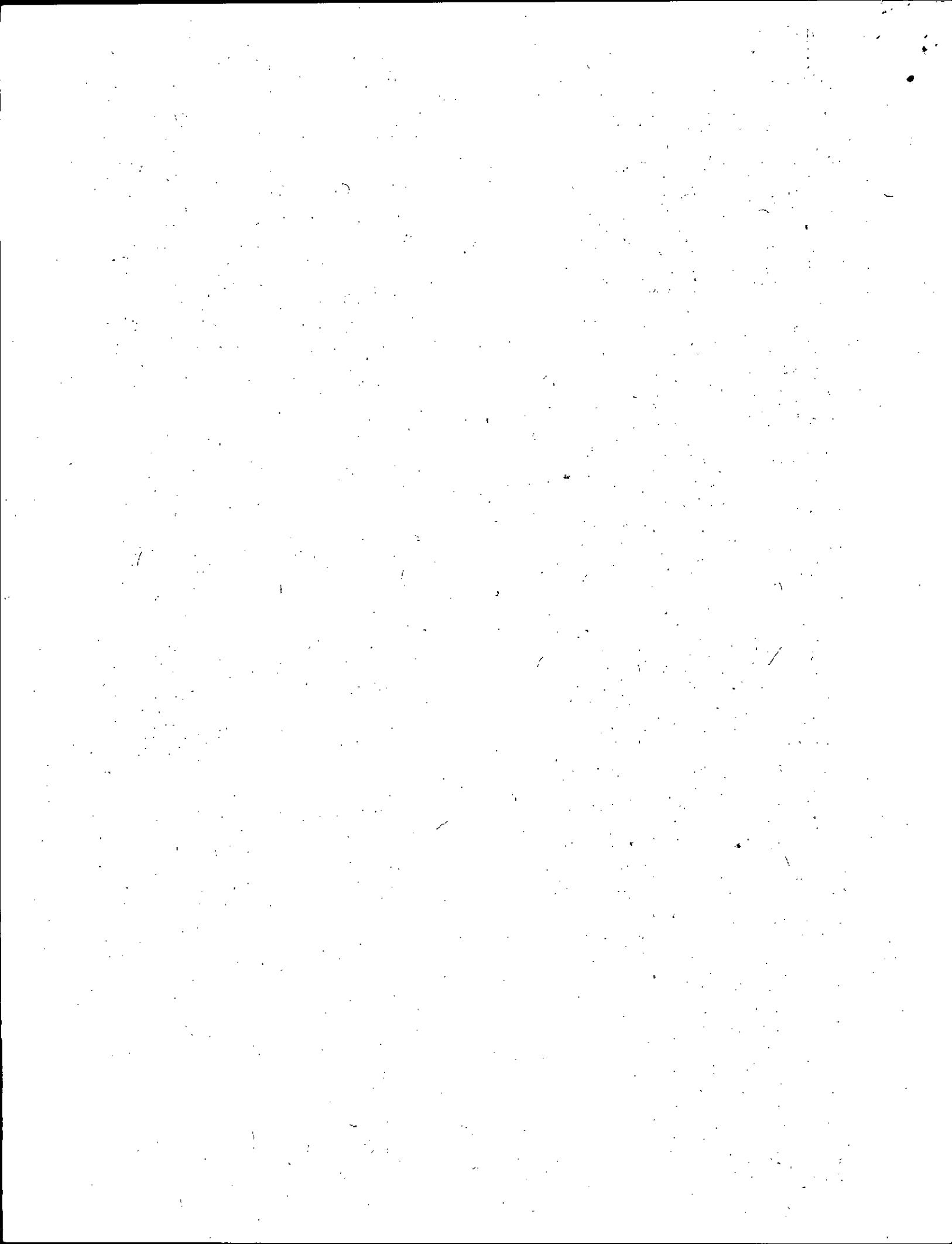
19 Mr. Allred filed a Personal Restraint Petition with Washington Court of Appeals
20 Division II in December 2019. On June 23, 2020, Division II determined that he failed to
21 show any grounds for relief from personal restraint. That became a final decision on
22 December 24, 2020.

23 Mr. Allred filed Petitions for writs of Habeas Corpus under the 15-1-01436-6
24 cause number on May 3, 2021 and again on June 7, 2021, but these were not
25 docketed. On August 11, 2021, Mr. Allred filed the same Petition for a Writ of Habeas
Corpus in this cause number after properly obtaining a fee waiver. On September 3,

DECISION

-A1 -

20



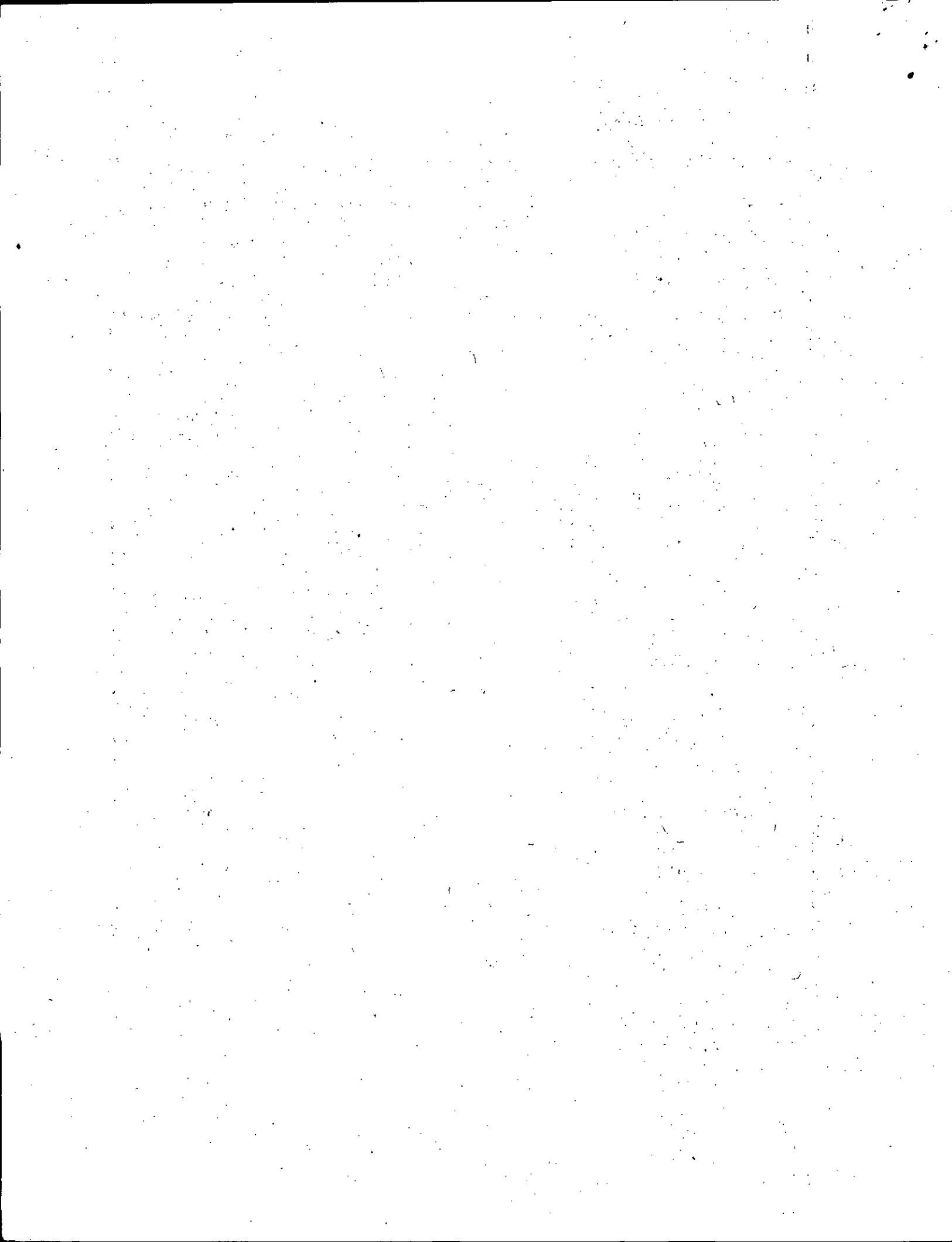
1 2021 this court issued a written decision indicating there was no proof Mr. Allred's
2 Petition had been properly served on named Defendants. On September 14, 2021, and
3 again on September 21, 2021, Mr. Allred filed handwritten "Proof of Service" documents
4 indicating he had mailed documents to the Washington State Attorney General's Office
5 and to the Clark County Sheriff for service under statute. The court is treating these
6 documents as proper "proof of service", so that the court can address the substance of
7 Mr. Allred's Petition. The court is issuing a written decision as Mr. Allred waived oral
8 argument.

9 Mr. Allred's first alleged basis for relief from confinement, is that expert testimony
10 should have been presented at his trial from doctors regarding his Multiple Sclerosis
11 diagnosis and sexual dysfunction. If that had occurred, he argues, the jury would have
12 been told that an MS sufferer could not have done the acts Mr. Allred was convicted of
13 doing.

14 In his direct appeal of his convictions, Mr. Allred asserted that it was ineffective
15 assistance of counsel not to introduce *medical records* of his neurological condition
16 and sexual dysfunction. Here, Mr. Allred argues instead that doctors should have been
17 called as *witnesses* in his defense. He claims they would have testified that he was
18 "incapable of doing what (he) was accused of" *Petition for Writ of Habeas, Page 10*. Mr.
19 Allred spends significant time detailing sexual dysfunction symptoms that may be
20 present within a diagnosis of MS, as support for this claim.

21 Expert testimony is only allowed if the matter is one that cannot be judged by
22 people of ordinary experience and knowledge. *ER 702*. Here, the jury had information
23 about Mr. Allred's sexual dysfunction and the ability to observe him throughout the
24 duration of the trial. Expert testimony was not required because the physical ability of
25 Mr. Allred to commit rape and/or incest was not beyond common understanding. In

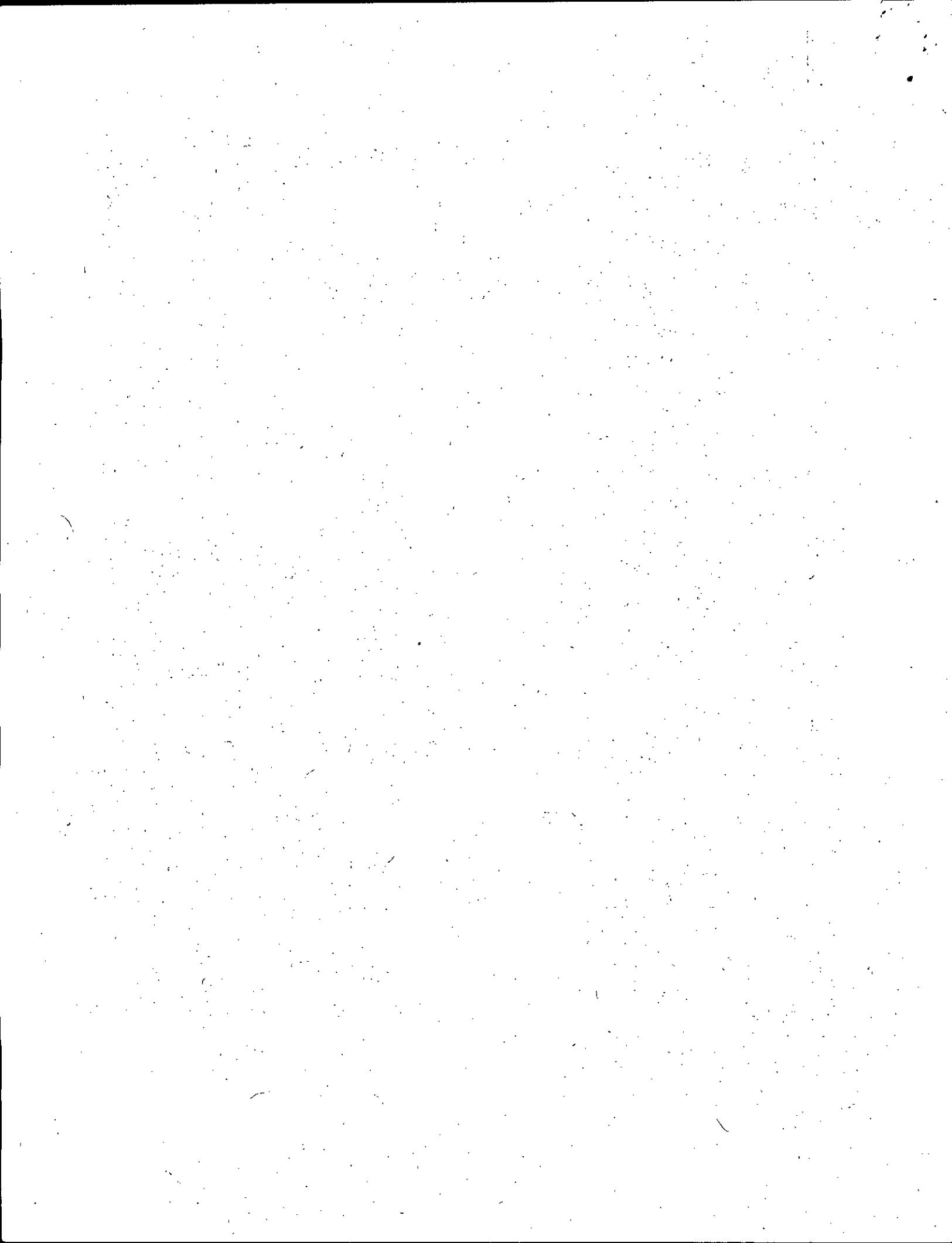
DECISION



1 addition, the court questions **any** medical professional's ability to testify that **these**
2 allegations were physically impossible from a medical standpoint, as they related to
3 digital and oral contact. Mr. Allred has demonstrated no basis for release from
4 confinement related to the failure to call doctors as witnesses in his defense.

5 The second alleged basis for release in the Petition for Writ of Habeas relates to
6 Mr. Allred's claim that he was entitled to a grand jury. Mr. Allred cites to the 5th and 14th
7 Amendments to the Constitution of the United States in support of this claim. The
8 Washington State Supreme Court has addressed this claim before and rejected it. In
9 *State v. Ng*, 104 Wash.2d 763, 713 P.2d 63 (1985), where defendant was charged with
10 13 counts of aggravated murder and 1 count of first degree assault, the court detailed
11 the rationale:

12 "Over 100 years ago, the United States Supreme Court held that
13 the **grand jury** provision of the Fifth Amendment does **not** apply to
14 state prosecutions. *Hurtado v. California*, 110 U.S. 516, 4 S.Ct. 111, 4
15 S.Ct. 292, 28 L.Ed 232 (1884). Although the reasoning used
16 in *Hurtado* has been specifically rejected, see *Powell v. Alabama*, 287
17 U.S. 45, 53 S.Ct. 55, 77 L.Ed. 158 (1932), the holding of the case
18 continues to be cited approvingly by the United States Supreme
19 Court. See, e.g., *Rose v. Mitchell*, 443 U.S. 545, 557 n. 7, 99 S.Ct.
20 2993, 3001 n. 7, 61 L.Ed.2d 739 (1979) ("[T]here is no constitutional
21 requirement that States institute prosecutions by means of an
22 indictment returned by a **grand jury**"); *Alexander v. Louisiana*, 405 U.S.
23 625, 633, 92 S.Ct. 1221, 1226, 31 L.Ed.2d 536 (1972) ("Although the
24 Due Process Clause guarantees petitioner a fair trial, it
25 does **not** require the States to observe the Fifth Amendment's provision
for presentment or indictment by a **grand jury**"). This court has
concluded that because the United States Supreme Court
criticized *Hurtado*'s reasoning without overruling the case,
the *Hurtado* court "correctly held that due process does **not** require
a **grand jury** indictment ..." *State v. Kanistanaux*, 68 Wash.2d 652, 656,
414 P.2d 784 (1966). An analysis of the modern Supreme Court
rationale for determining if a particular Bill of Rights provision applies to
the states indicates that this court's holding in *Kanistanaux* was correct.
In analyzing if a particular constitutional provision applies to the states,
the Supreme Court asks "whether given this kind of system a particular
procedure is fundamental—whether, that is, a procedure is necessary
to an Anglo-American regime of ordered liberty." *Duncan v.*

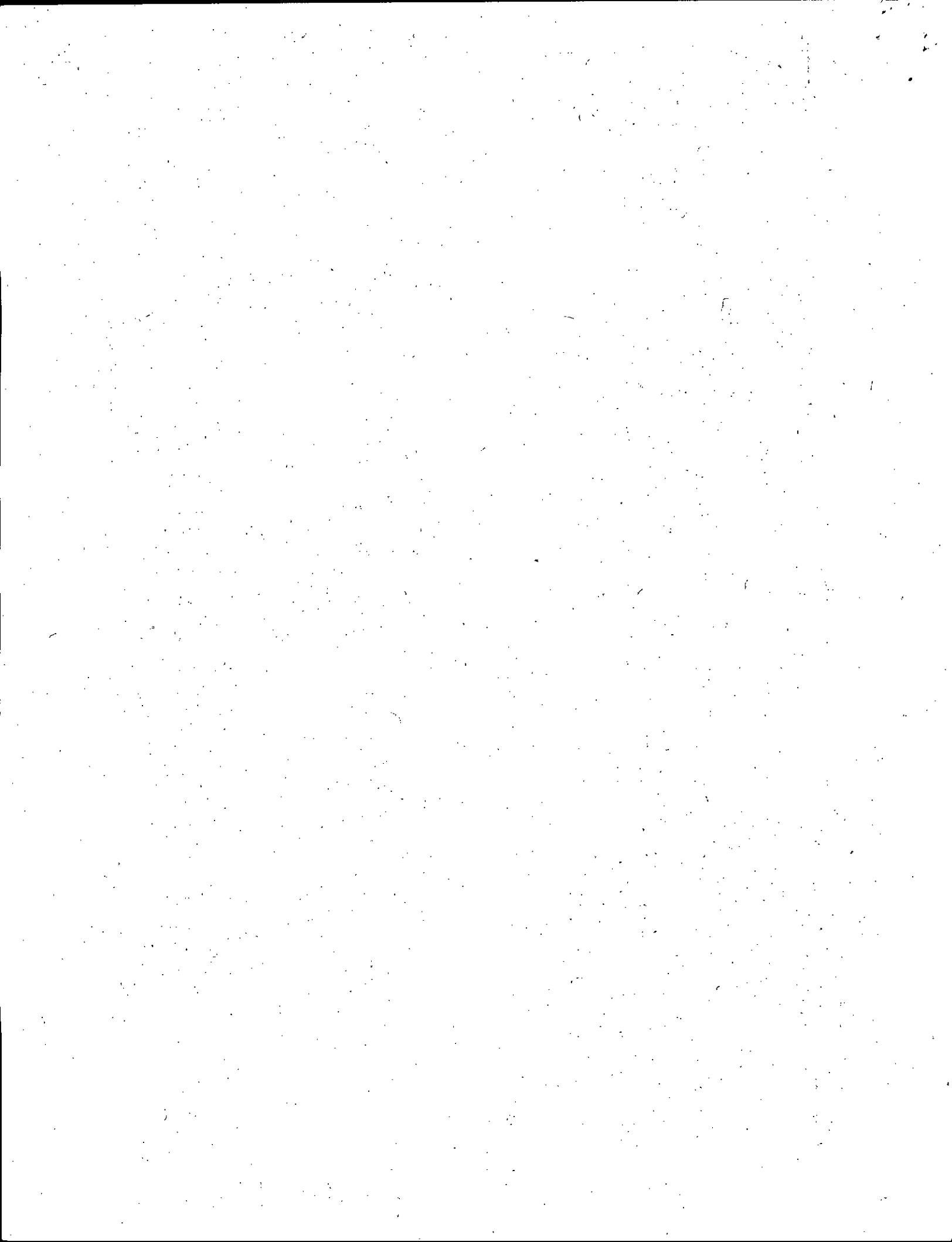


1 Louisiana, 391 U.S. 145, 149 n. 14, 88 S.Ct. 1444, 1447 n. 14, 20
2 L.Ed.2d 491 (1968). Considering that England abolished
3 the **grand jury** system in 1933 and that only half of the states use the
4 system as a regular adjunct of criminal prosecutions, the procedure
5 cannot be said to be a fundamental component of the Anglo-American
6 justice system. Bowers v. State, 298 Md. 115, 149, 468 A.2d 101
7 (1983). Thus, because of the long string of unbroken precedent and the
8 Supreme Court's modern incorporation analysis, we refuse to hold that
9 the federal constitution's **grand jury** provision is binding on the states."
10 Ng at 774-775.

11 Washington does not use a grand jury system. Instead, affidavits of probable
12 cause are reviewed by judicial officers. Sometimes this occurs within 48 hours of arrest
13 or in conjunction with a first appearance while in custody, and sometimes it occurs prior
14 to the mailing of a Summons to a Defendant. If probable cause is found, the
15 prosecuting attorney can elect to file an Information.

16 Contrary to Mr. Allred's claims that he did not receive a "preliminary hearing",
17 judicial review of probable cause occurred prior to a Summons being mailed to him.
18 The record shows that an affidavit of probable cause was presented to Clark County
19 Superior Court Judge Gregory Gonzales on September 29, 2015. Judge Gonzales
20 made a finding of probable cause as to Rape and Incest and signed a Summons
21 requiring Mr. Allred to appear in court on October 6, 2015. The county prosecutor did
22 not just "rubberstamp" charges as Mr. Allred claims. *Petition for Writ*, Page 17. Rather, a
23 disclosure of sexual abuse in March 2015 was followed up with a forensic interview of
24 AA in June 2015. (See *Affidavit of Probable Cause*). Based on that information, the
25 prosecutor decided in September 2015 to file charges against Mr. Allred if the court
 found probable cause. Mr. Allred has failed to demonstrate a basis for release from
 confinement related to violations of the 5th or 14th Amendments to the Constitution of the
 United States.

DECISION

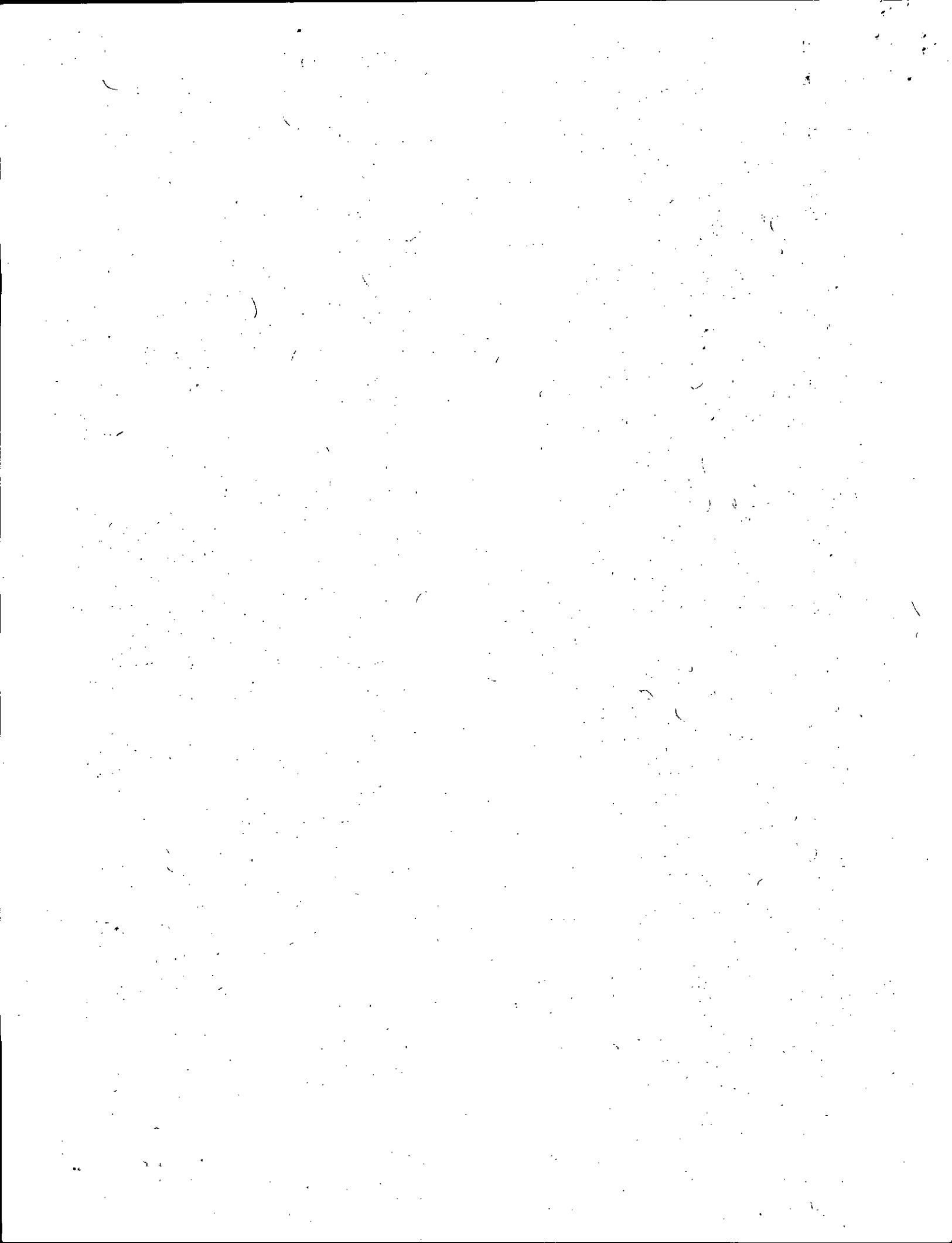


Mr. Allred has failed to show any grounds for release under RCW 7.36. His Petition is DENIED.

Dated this 1st day of October, 2021.

Jennifer K. Snider
Judge Jennifer K. Snider

DECISION



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
FILED

OCT 29 2021 3:34

Scott G. Weber, Clerk, Clark Co

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

Christopher Allred,

Case No. 21-2-01497-06

Plaintiff,

Court's Decision on Motion for
Reconsideration

vs.

State of Washington et al,

Defendant.

This matter came before the Court on Mr. Allred's Motion for Reconsideration filed October 19, 2021.

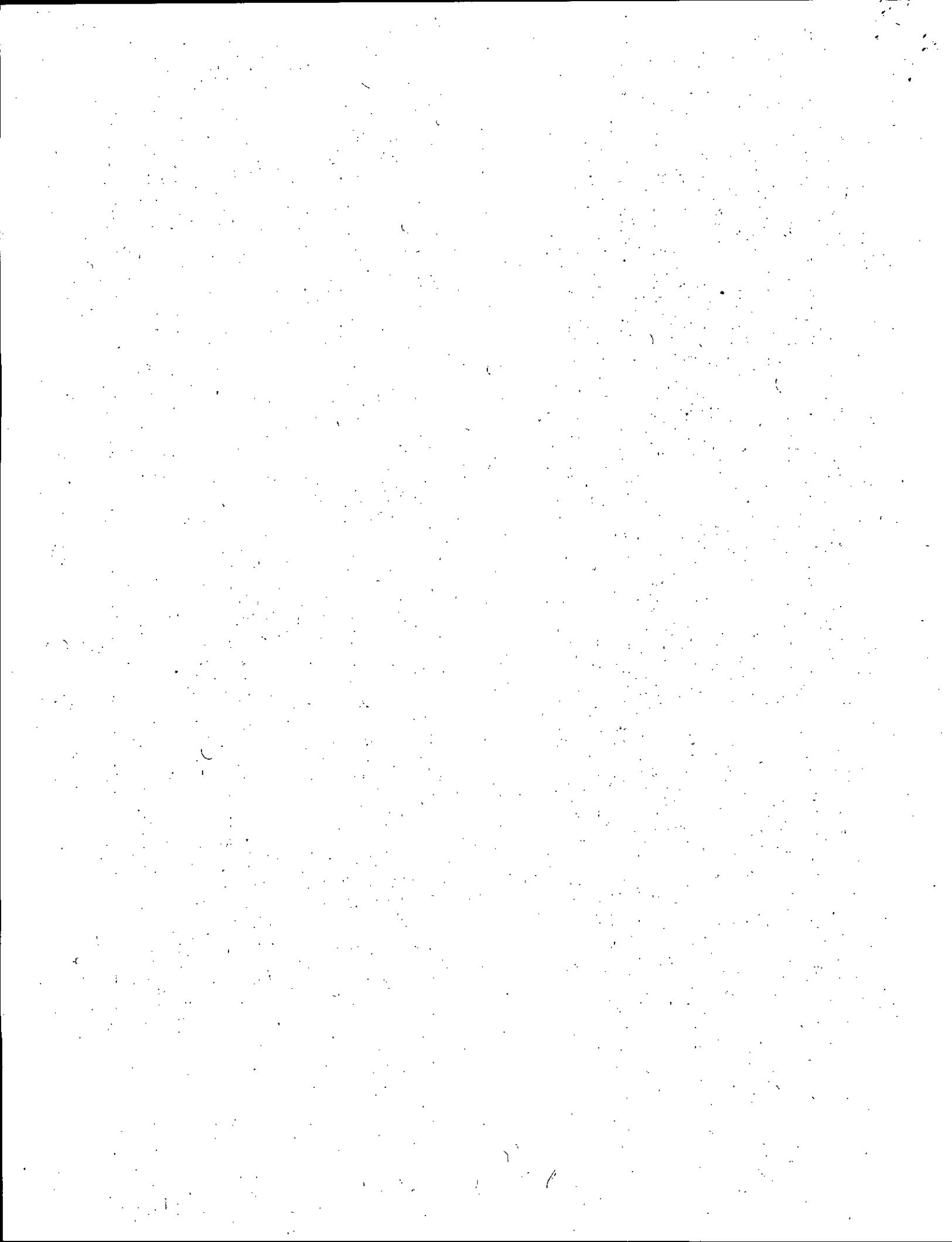
Clark County Local Rules regarding Reconsideration Motions are as follows:

RULE 59 NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS 20 (b) Time for motions; contents of motions. A motion for new trial or reconsideration shall be served and filed not later than 10 days after the entry of the judgment or order in question. The opposing party shall have 10 days after service of such motion to file and serve a response, if necessary. No reply will be permitted. The moving party shall provide copies of the motion (and response, if any) to the Judge. No oral argument shall be permitted without express approval of the court. The court shall issue a written ruling on the motion.

Mr. Allred's Motion was filed after the 10 day deadline set forth in the Rule.

Notwithstanding timeliness the court reviewed it in its entirety. The court declines to hear oral argument.

DECISION



1 CR 59 requires the moving party to identify the specific reasons in fact and law
2 as to each ground on which the motion is based. Mr. Allred does not reference any of
3 the 9 bases for reconsideration under the Rule in his Motion. However, the court is
4 treating the Motion as one under subsections 1, 8 and / or 9. Mr. Allred's simply
5 reargues the Motion in his request for Reconsideration. The court already addressed, it
6 its initial decision, alleged irregularity in the proceeding which prevented a fair trial,
7 alleged errors in law and claims that substantial justice has not been done. Mr. Allred
8 has failed to show any cause materially affecting his substantive rights.

9 The Motion for Reconsideration is DENIED.

10

11

Dated this 29th day of October, 2021

12

13


Judge Jennifer K. Snider

14

15

16

17

18

19

20

21

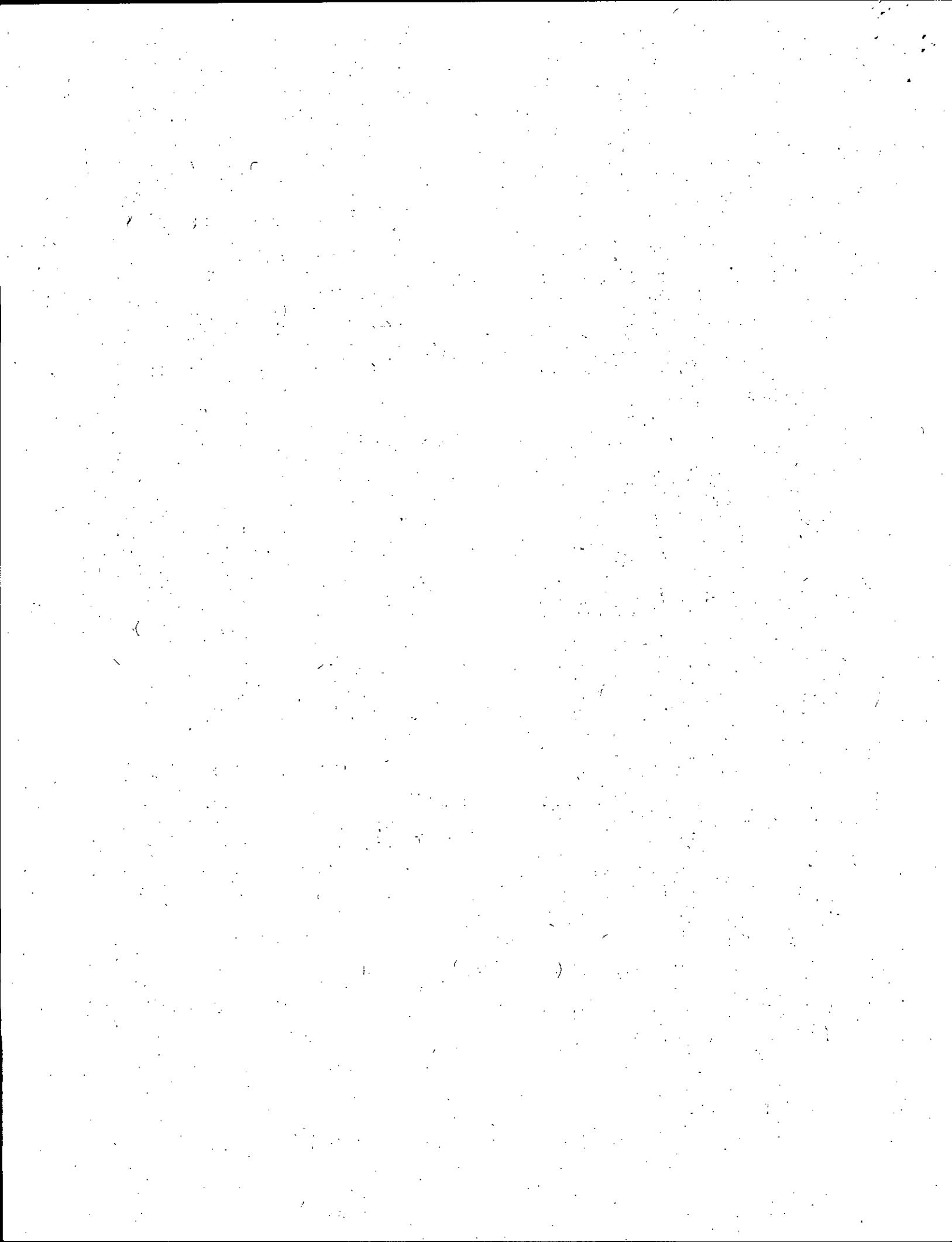
22

23

24

25

DECISION



IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the Personal Restraint Petition of
CHRISTOPHER ALLAN ALLRED,
Petitioner.

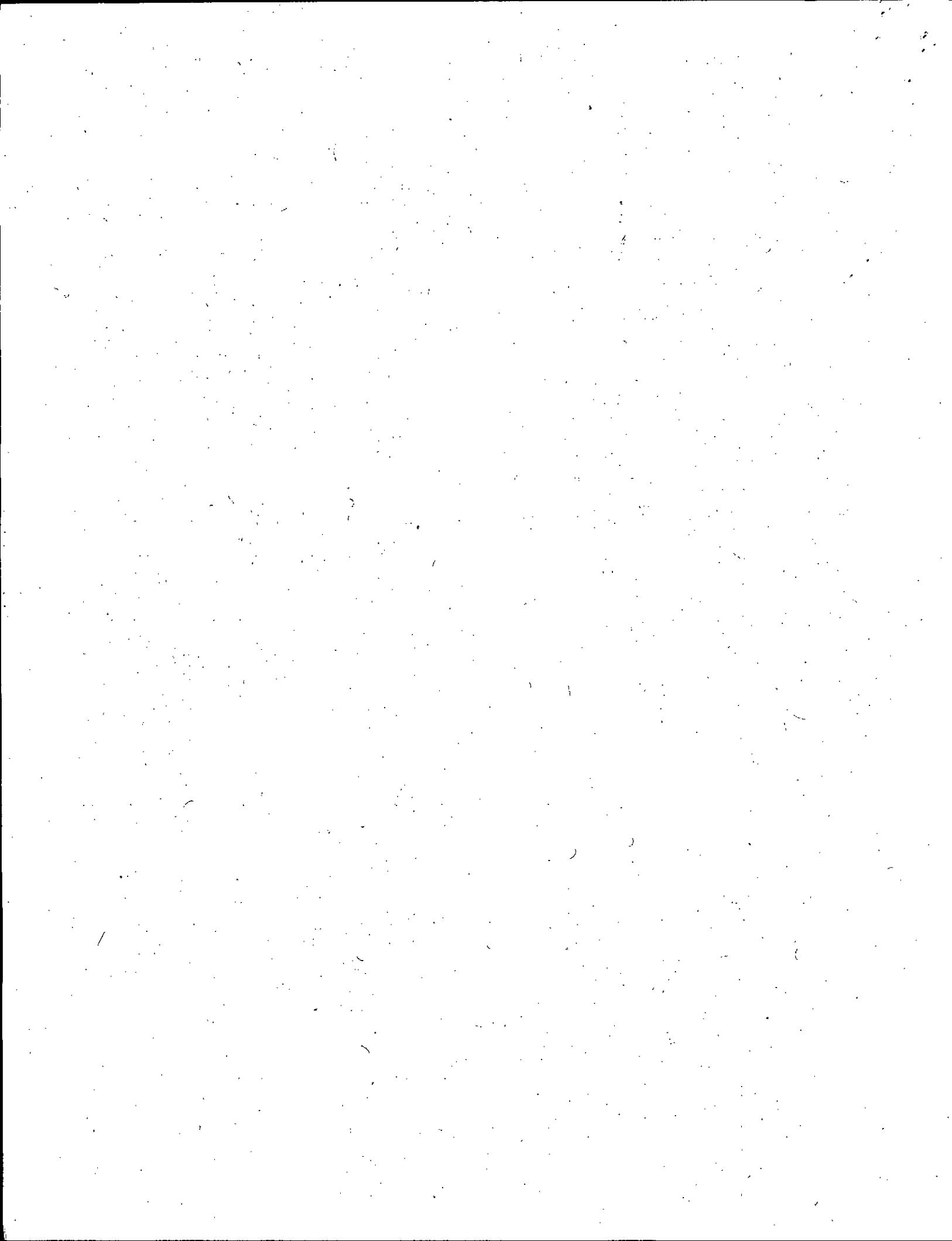
No. 56489-1-II and 56622-2-II
(consolidated)

ORDER DISMISSING
PETITIONS

Christopher Allred seeks relief from personal restraint imposed as a result of his 2016 convictions for one count of second degree rape, two counts of first degree incest, and one count of second degree incest. In this, his second and third petitions,¹ he argues that: (1) the information charging him was defective and lacked probable cause; (2) he could not have committed the above crimes because of a medical condition and his trial counsel was ineffective for not sufficiently presenting evidence of that medical condition; and (3) he was not charged by a grand jury and did not receive a preliminary hearing.

RCW 10.73.090(1) requires that a petition be filed within one year of the date that the petitioner's judgment and sentence becomes final. Allred's judgment and sentence became final on November 21, 2018, when we issued the mandate following his direct appeal. RCW 10.73.090(3)(b). He did not file his petitions until December 7, 2021, and

¹ See Unpublished Opinion, *In re Personal Restraint of Allred*, No. 54054-1-II (Jun. 23, 2020).



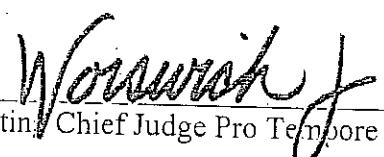
56489-1-II and 56622-2-II

January 27, 2022, more than one year later. Unless he shows that one of the exceptions contained in RCW 10.73.100 applies or that his judgment and sentence is facially invalid, his petitions are time-barred. *In re Pers. Restraint of Hemenway*, 147 Wn.2d 529, 532-33, 55 P.3d 615 (2002).

Allred shows neither that his judgment and sentence is facially invalid nor that any of the exemptions contained in RCW 10.73.100 applies to his petitions. Thus, his petitions must be dismissed as untimely.²

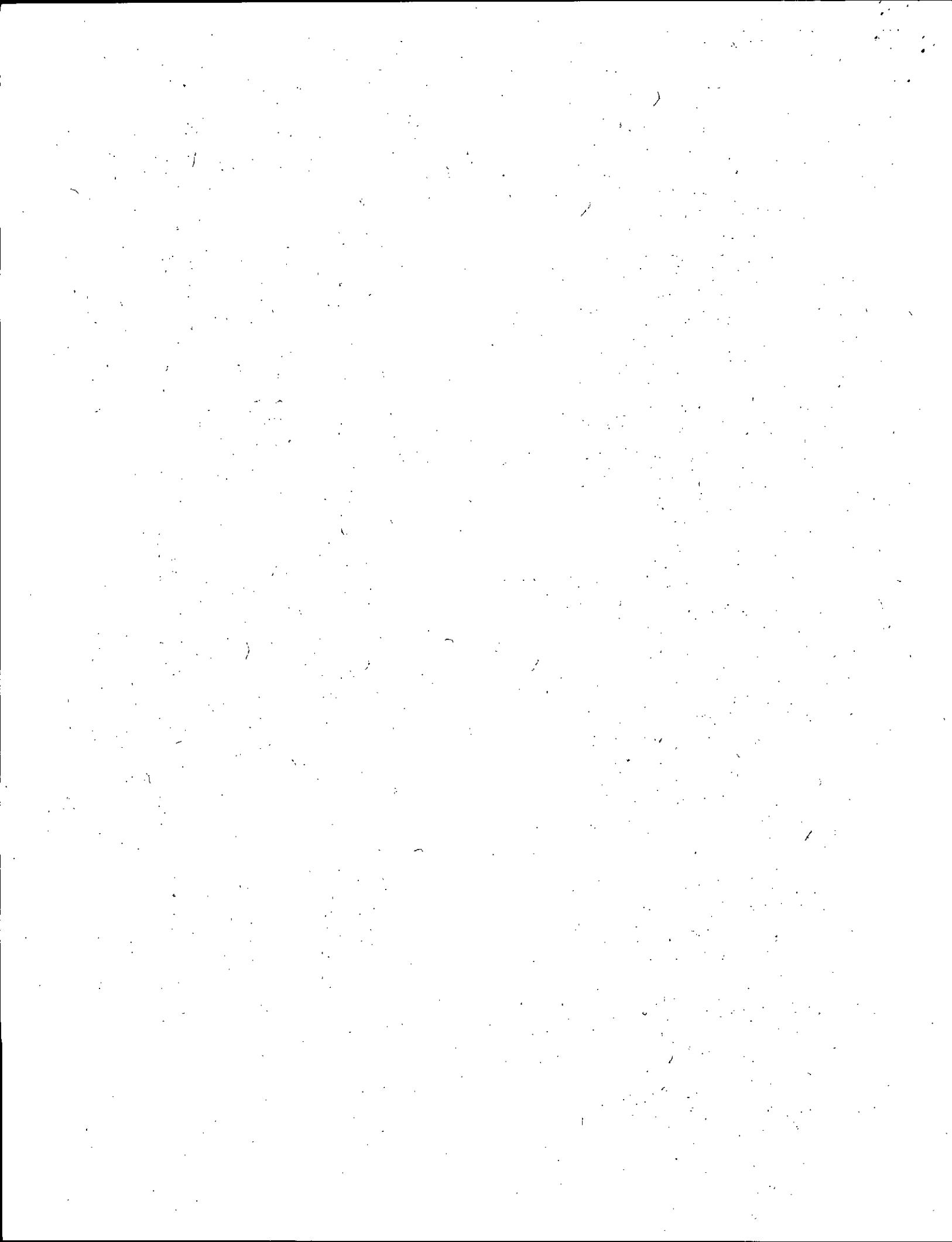
Accordingly, it is hereby

ORDERED that Allred's petitions are dismissed under RAP 16.11(b). His request for appointment of counsel is denied.


Acting Chief Judge Pro Tempore

cc: Christopher A. Allred
Clark County Prosecuting Attorney
Clark County Clerk
County Cause No. 15-1-01436-8

² Although Allred's petitions are successive, we dismiss them rather than transfer them back to our Supreme Court because they are also untimely. *In re Pers. Restraint of Turay*, 150 Wn.2d 71, 86-87, 74 P.3d 1194 (2003).



IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

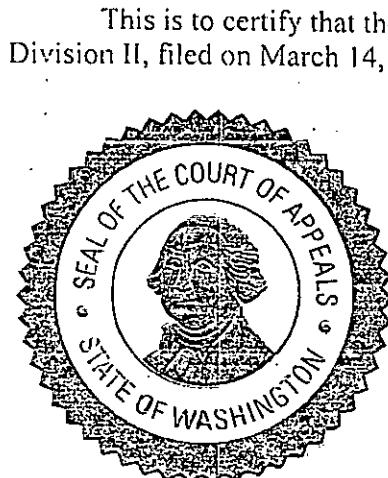
DIVISION II

In re the
Personal Restraint Petition of
CHRISTOPHER ALLAN ALLRED,
Petitioner.

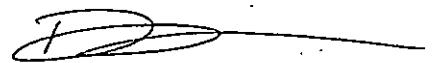
No. 56489-1-II
Consol. with No. 56622-2-II
CERTIFICATE OF FINALITY

Clark County Superior Court
No. 15-1-01436-6

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and
for Clark County.



IN TESTIMONY WHEREOF, I have hereunto set my
hand and affixed the seal of said Court at Tacoma, this
17 day of August, 2022.



Derek M. Byrne
Clerk of the Court of Appeals,
State of Washington, Division II

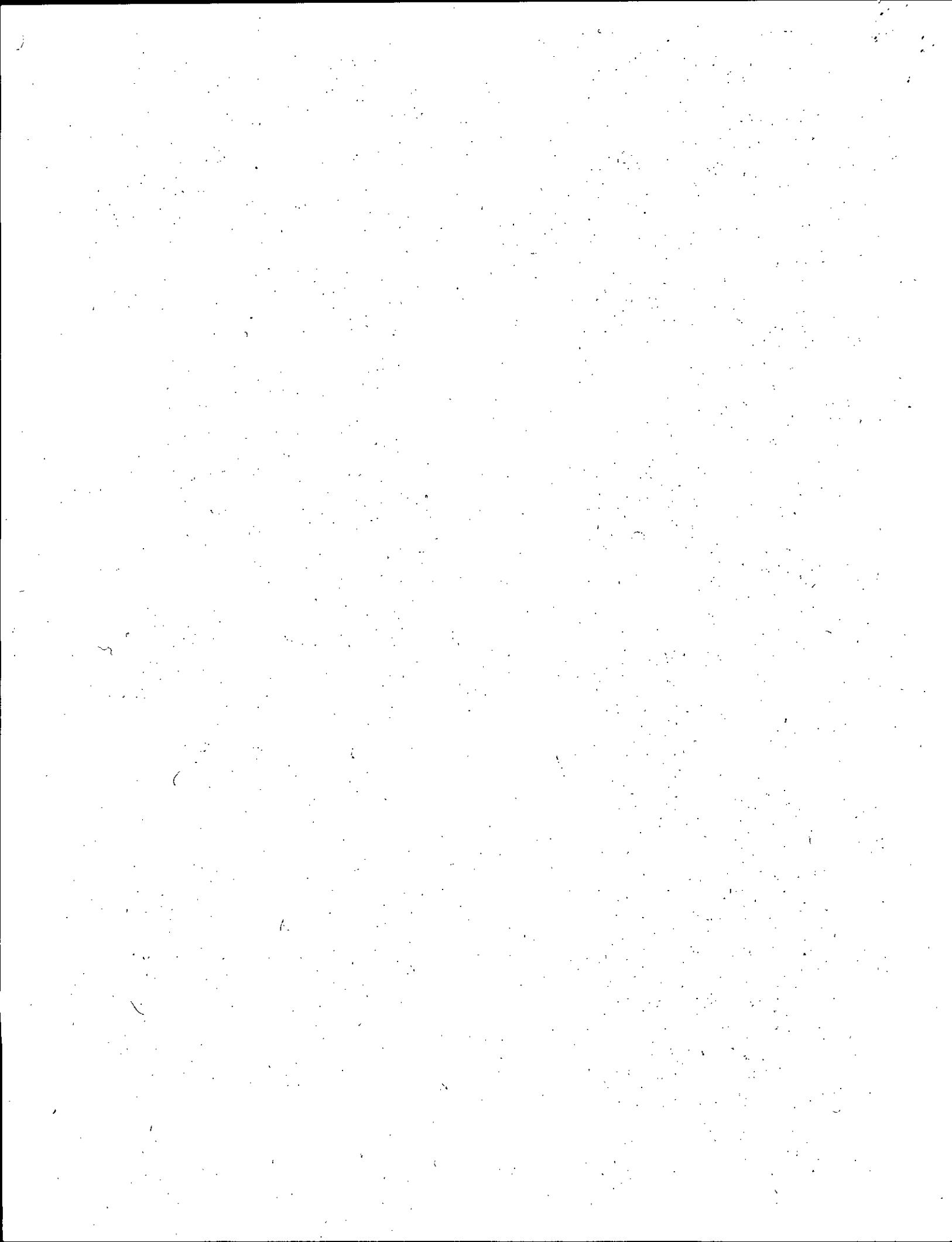
cc:

Aaron Bartlett
Attorney at Law
1013 Franklin St
Vancouver, WA 98660-3039
aaron.bartlett@clark.wa.gov

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

Prosecuting Attorney Clark County

Clark County Prosecuting Attorney
PO Box 5000 ~~attn: mwood on 11-3~~
1013 Franklin Street
Vancouver, WA 98666-5000
cntypa.generaldelivery@clark.wa.gov



ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

THE SUPREME COURT
STATE OF WASHINGTON



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

April 7, 2022

LETTER SENT BY E-MAIL ONLY

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

Hon. Derek Byrne, Clerk
Court of Appeals, Division II
909 A Street, Suite 200
Tacoma, WA 98402

Aaron Bartlett
Clark County Prosecutor's Office
1013 Franklin Street
Vancouver, WA 98660-3039

Re: Supreme Court No. 100800-7 – Personal Restraint Petition of Christopher Allan Allred
Court of Appeals No. 56489-1-II (consolidated with 56622-2-II)

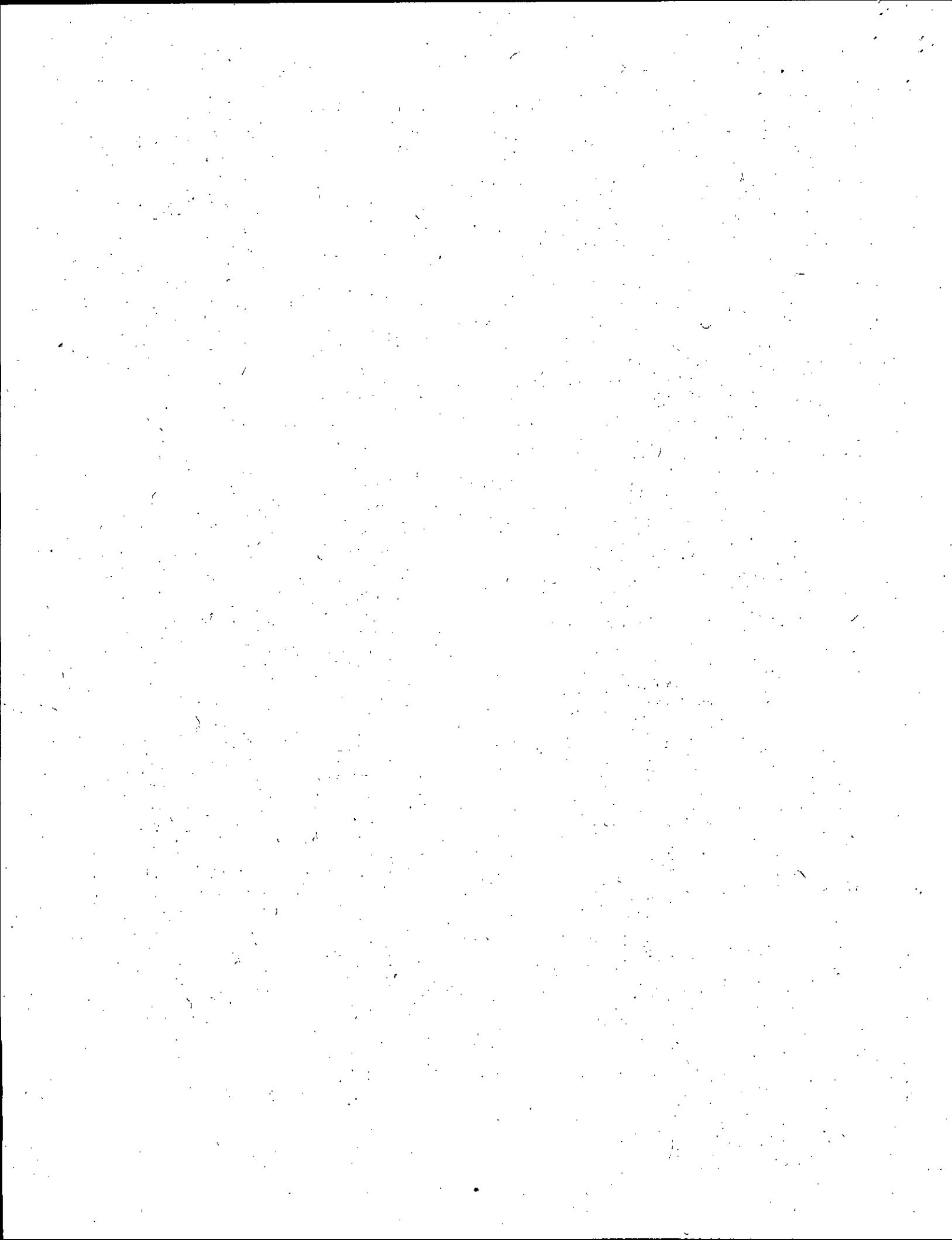
Clerk, Counsel and Mr. Allred:

On April 6, 2022, the Court of Appeals forwarded to this Court the Petitioner's "MOTION FOR REHEARING ON THE MERITS OF THE CASE", which attempts to seek review of the Court of Appeals order in the above referenced case number. The Court also received the Petitioner's "MOTION FOR SUMMARY JUDGMENT" and "AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT". The case has been assigned the above referenced Supreme Court case number.

The motion for rehearing will be considered a motion for discretionary review because additional review in the matter is only available through the use of a motion for discretionary review.¹

Pursuant to RAP 17.4(e), the Respondent "may" submit an answer to the motions. If the Respondent wishes to submit an answer to the motion for discretionary review and motion for summary judgment, the answer should be served and filed by May 9, 2022. Any reply to the

¹ The order of the Chief Judge of the Court of Appeals is not subject to reconsideration because it was only the action of one judge; see RAP 12.4(a). Therefore, additional review of the order may only be requested of this Court and the request must be in the form of a motion for discretionary review. See RAP 16.14(c).



THE SUPREME COURT

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



STATE OF WASHINGTON

TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

May 25, 2022

LETTER SENT BY E-MAIL ONLY

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

Aaron Bartlett
Clark County Prosecuting Attorney
1013 Franklin Street
Vancouver, WA 98660-3039

Re: Supreme Court No.100800-7 – Personal Restraint Petition of Christopher Allan Allred
Court of Appeals No. 56489-1-II (consolidated with No. 56622-2-II)

Counsel and Christopher Allan Allred:

On May 24, 2022, the Court received the Petitioner's "MOTION FOR DEFAULT JUDGEMENT" because the Respondent did not file an answer to the motion for discretionary review or motion for summary judgement.

The Petitioner is advised that the State is not required to file an answer to the motion for discretionary review or motion for summary judgement. See RAP 17.4(e), which states that a person "may" submit a written answer to the motion. Furthermore, there are no provisions in the Rules of Appellate Procedure for "default" to be declared when a party chooses not to file an answer. Therefore, the motion will be placed in the file without action.

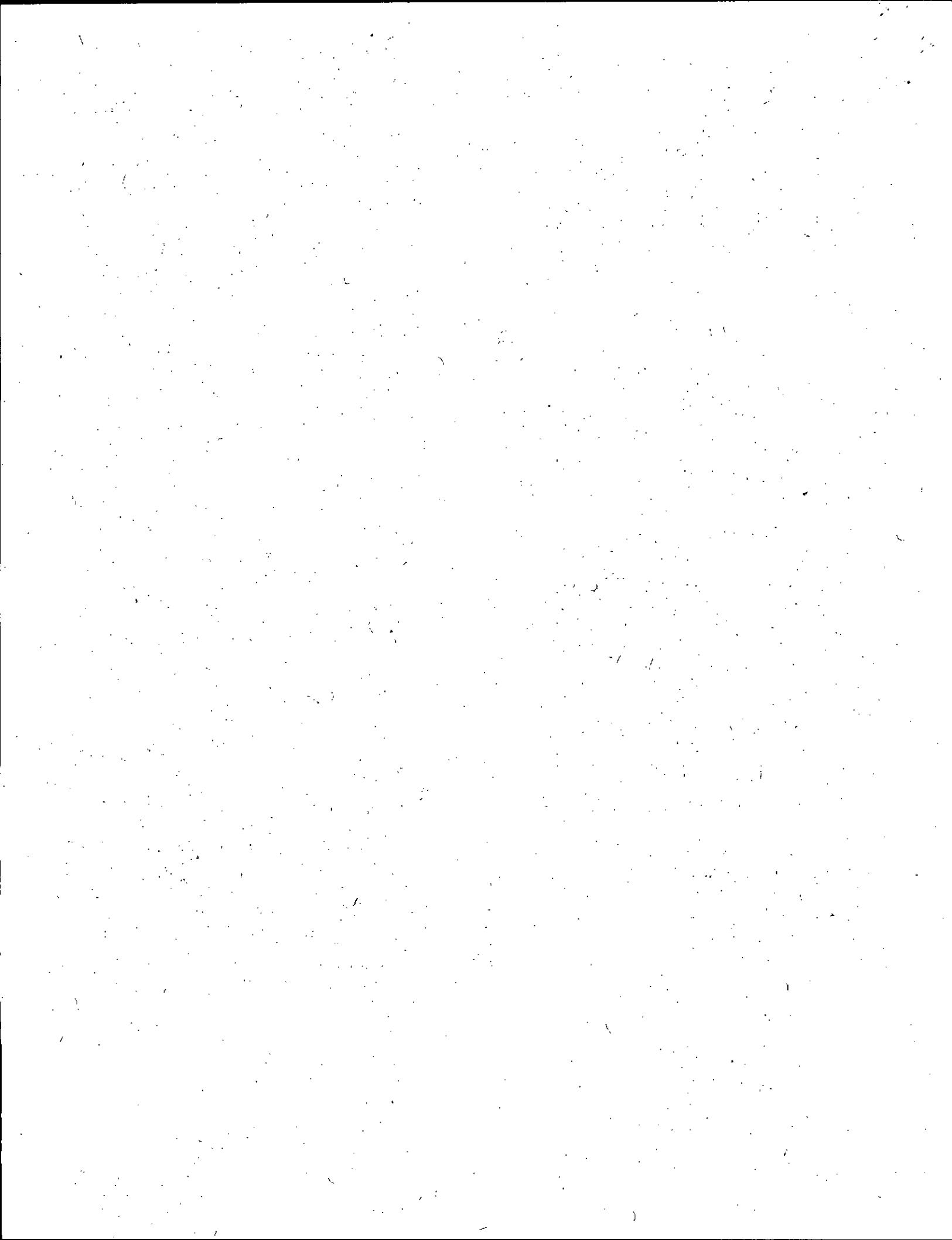
Sincerely,

Sarah Paulson

Sarah R. Pendleton
Supreme Court Deputy Clerk

531

SRP:jm



THE SUPREME COURT

STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK
CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

May 31, 2022

LETTER SENT BY E-MAIL

Christopher Allan Allred
(sent by U.S. mail only)
#392466
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

Hon. Derek Byrne, Clerk
Court of Appeals, Division II
909 A Street, Suite 200
Tacoma, WA 98402-5115

Aaron Bartlett
Attorney at Law
1013 Franklin Street
Vancouver, WA 98660-3039

Re: Supreme Court No. 100800-7 - Personal Restraint Petition of Christopher Allan Allred
Court of Appeals No. 56489-1-II (consolidated with No. 56622-2-II)

Clerk, Counsel and Christopher Allred:

Enclosed is a copy of the RULING DENYING REVIEW, signed by the Supreme Court
Deputy Commissioner on May 31, 2022, in the above entitled cause.

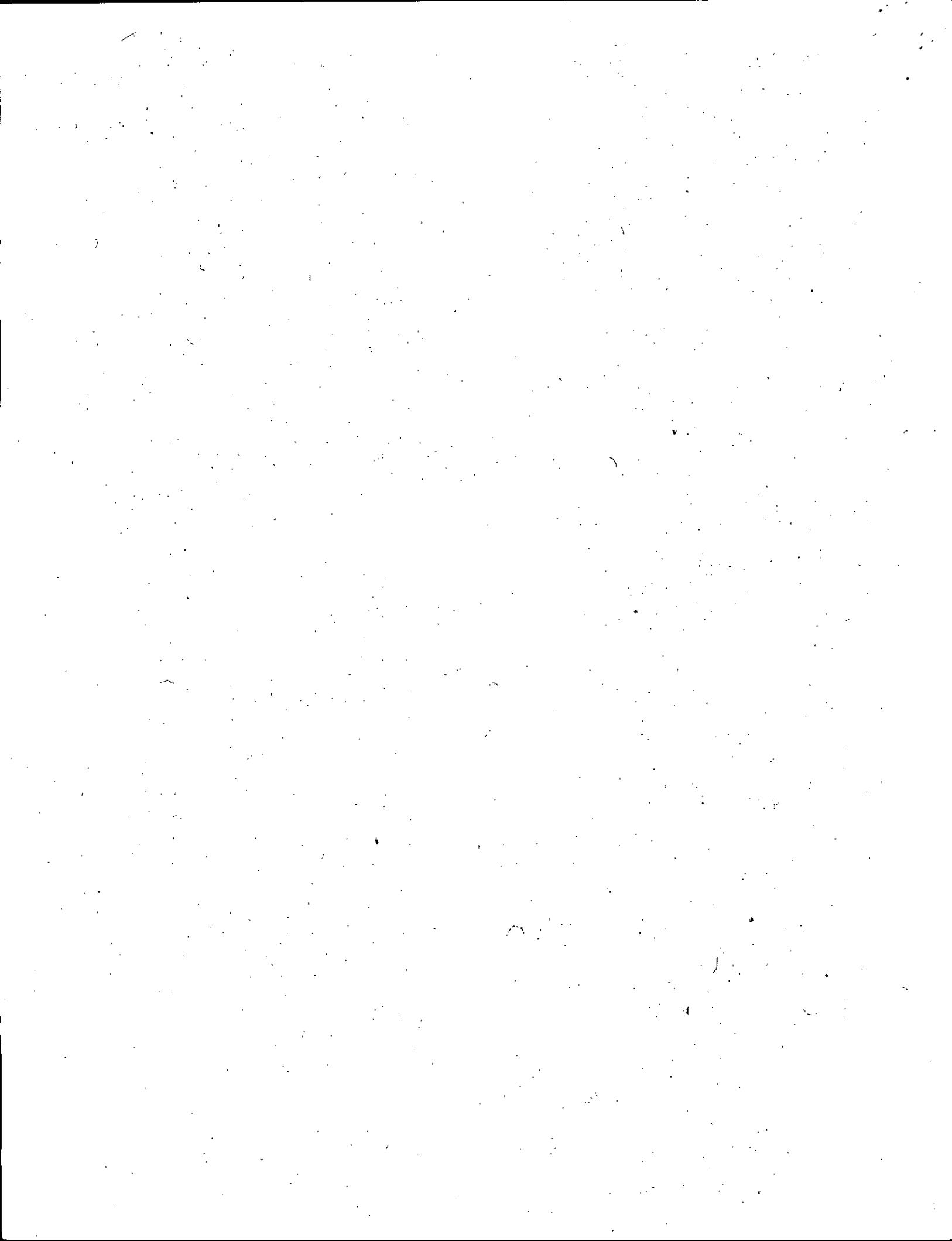
Sincerely,

A handwritten signature in black ink, appearing to read "E. L. Lennon".

Signed by docket clerk for:
Erin L. Lennon
Supreme Court Clerk

TNL:bw

Enclosure as stated



IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Personal Restraint of:

CHRISTOPHER ALLAN ALLRED,

Petitioner,

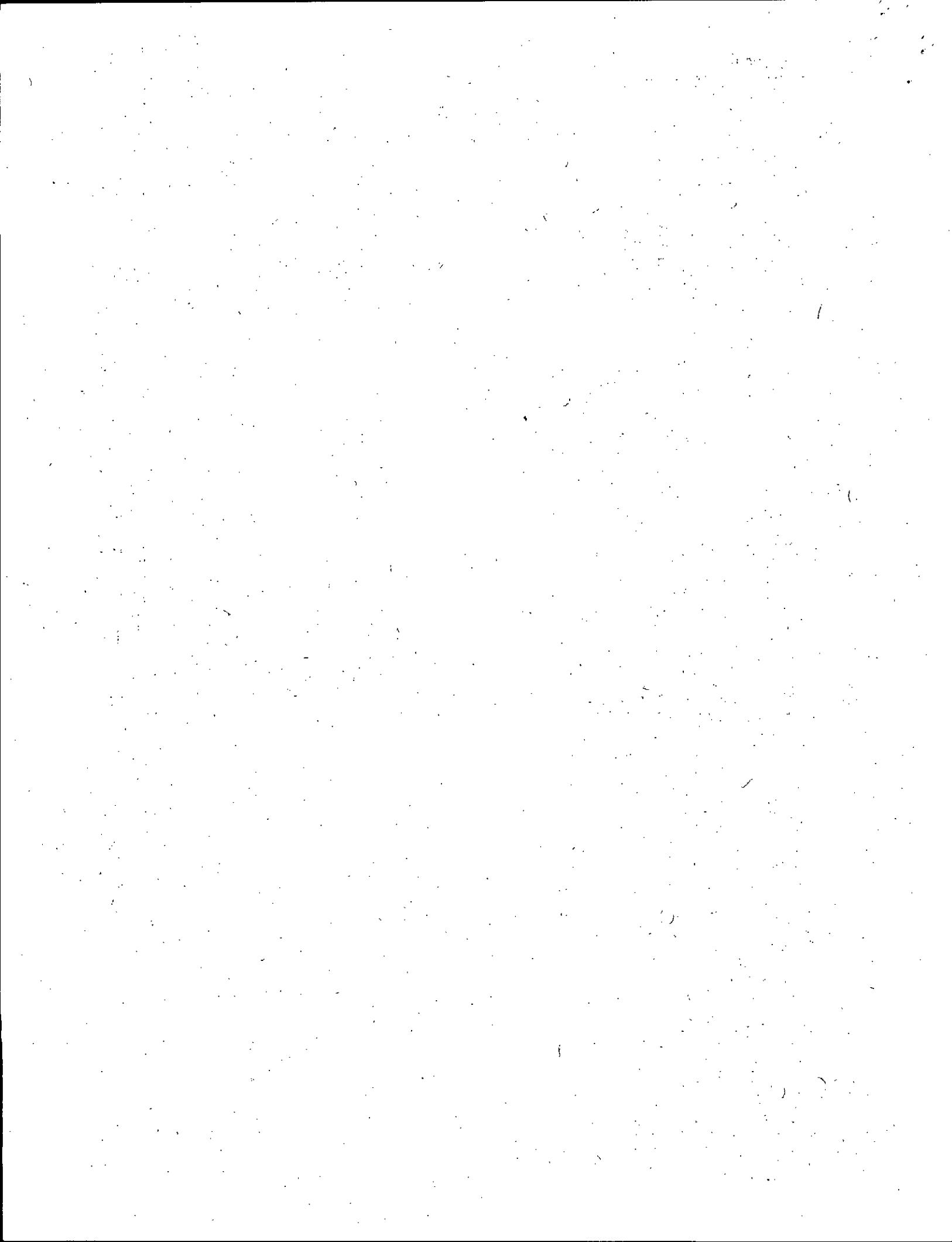
No. 100800-7

Court of Appeals No. 56489-1-II
(consol. w/No. 56622-2-II)

RULING DENYING REVIEW

Christopher Allred was convicted in 2016 of second degree rape and first and second degree incest. His judgment and sentence became final in November 2018. In December 2021 and January 2022 he filed personal restraint petitions in Division Two of the Court Appeals, which consolidated the petitions. Finding the petitions untimely, the acting chief judge dismissed them. Mr. Allred filed a motion for rehearing, which was forwarded to this court for treatment as a motion for discretionary review. RAP 16.14(c).

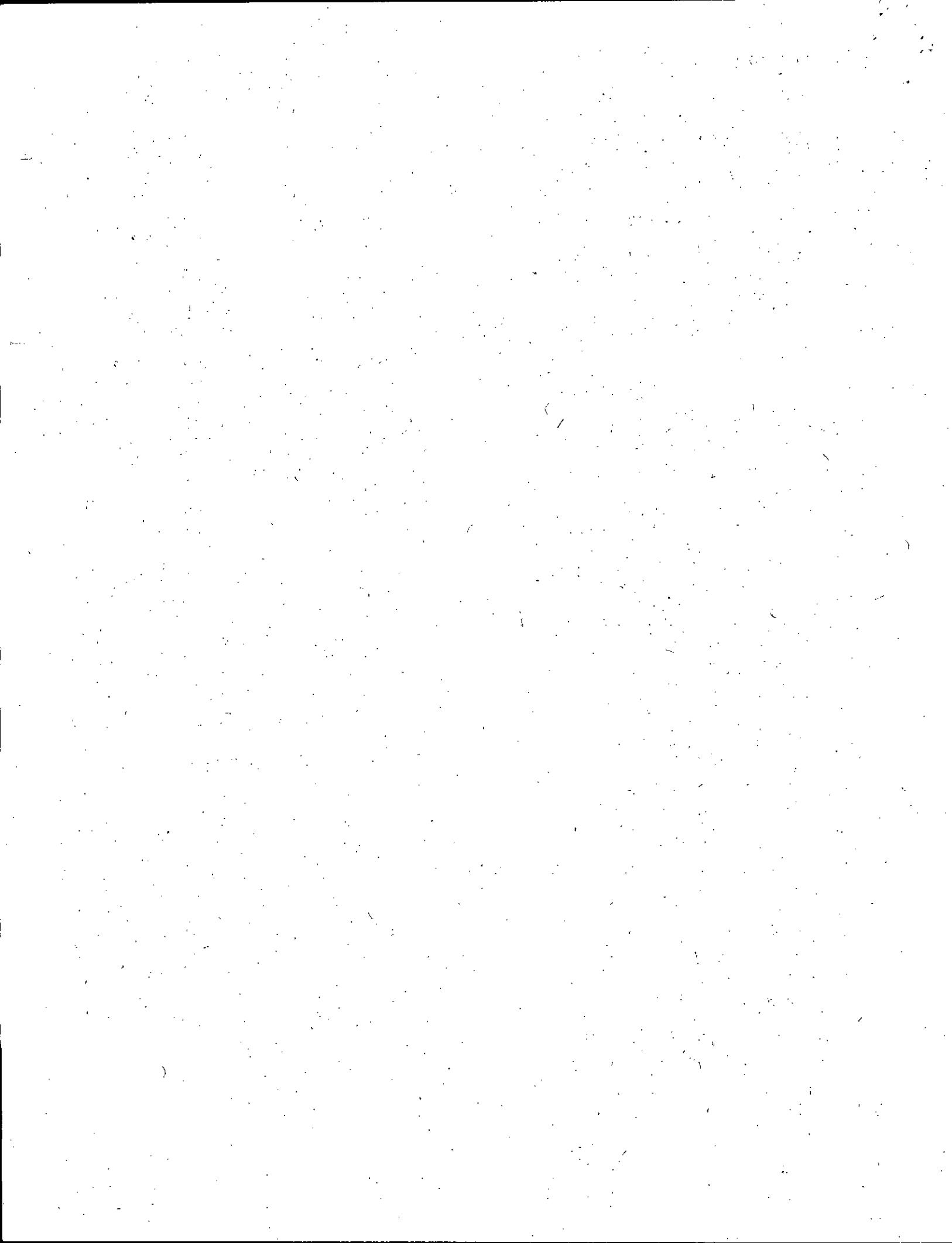
Because Mr. Allred filed his personal restraint petitions more than one year after his judgment and sentence became final, the petitions are untimely unless the judgment and sentence is facially invalid or was entered without competent jurisdiction, or unless Mr. Allred asserts solely grounds for relief exempt from the time limit under RCW 10.73.100. RCW 10.73.090; *In re Pers. Restraint of Stoudmire*, 141 Wn.2d 342, 348-49, 5 P.3d 1240 (2000). Mr. Allred challenges the information, claims he could not have committed the crimes due to a medical condition that trial counsel was ineffective in failing to investigate and present, and urges that he was entitled to be charged by



grand jury indictment and that he did not receive a preliminary hearing. These are not exempt grounds for relief. Mr. Allred also urges he has newly discovered evidence. *See* RCW 10.73.100(1). But the "new" evidence he cites consists of the affidavit of probable cause, the information, and the summons. The record of his own case cannot constitute "newly discovered evidence," since such "evidence" has always been available to him.

Mr. Allred further argues that his petitions are exempt from the time limit because he is "actually innocent." But to support this claim, he must show he has newly presented evidence of such nature that, had it been presented at trial, it is more likely than not that no reasonable juror would have found him guilty beyond a reasonable doubt. *In re Pers. Restraint of Weber*, 175 Wn.2d 247, 258-59, 284 P.3d 734 (2012). Mr. Allred asserts that he has multiple sclerosis that would have prevented him from engaging in the sex acts he was accused of, and that experts could have so testified at trial. But though Mr. Allred asserts that he informed law enforcement of this situation and that it failed to investigate (as did defense counsel), he provides no actual expert medical evidence supporting his claim. He thus provides no newly presented evidence establishing his actual innocence.

Mr. Allred has also filed a motion for summary judgment, urging that the State's failure to answer his motion for discretionary review constitutes acquiescence in his assertions. But summary judgment proceedings do not apply to motions for discretionary review, and failure to answer does not constitute acquiescence in any event because the State was not required to file an answer. RAP 17.4(e). And even accepting Mr. Allred's assertions as true, his petitions still are not exempt from the time limit under RCW 10.73.100, and his claim of "actual innocence" is not predicated on newly presented evidence establishing his innocence. Mr. Allred bases much of his summary judgment motion on his argument that he had a right to be charged by grand

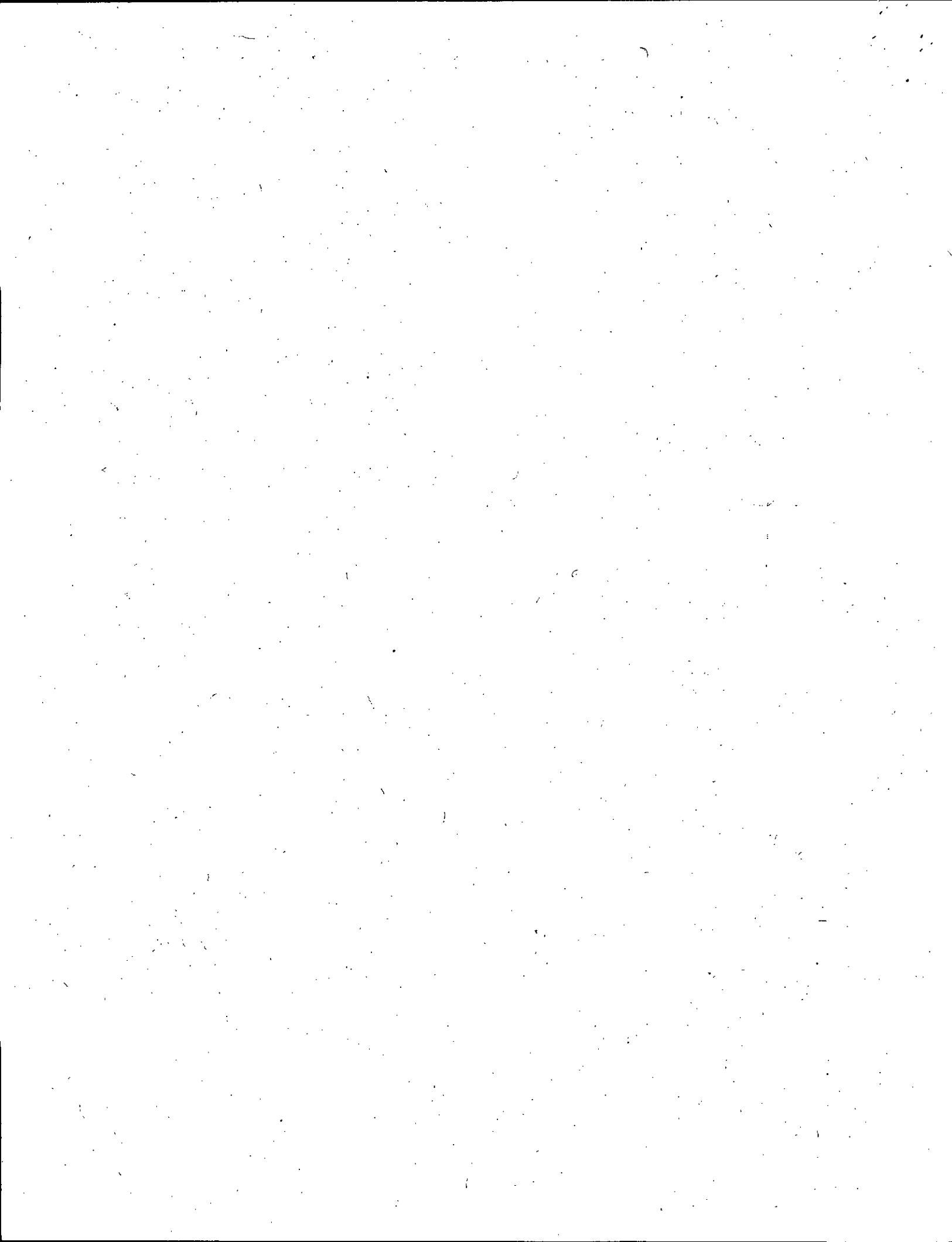


jury indictment. He did not. *State v. Ng*, 104 Wn.2d 763, 774-75, 713 P.2d 63 (1985); RCW 10.37.015(1).

The motion for discretionary review and the motion for summary judgment are denied.

Walter M. Burtis
DEPUTY COMMISSIONER

May 31, 2022



FILED
SUPREME COURT
STATE OF WASHINGTON
8/10/2022
BY ERIN L. LENNON
CLERK

THE SUPREME COURT OF WASHINGTON

In re the Personal Restraint Petition of)	No. 100800-7
)	
CHRISTOPHER ALLAN ALLRED,)	O R D E R
)	
Petitioner.)	Court of Appeals
)	No. 56489-1-II
)	(consolidated with No. 56622-2-II)
)	

A Special Department of the Court, composed of Chief Justice González and Justices Johnson, Stephens, Gordon McCloud and Yu, considered this matter at its August 9, 2022, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioner's motion to modify the Deputy Commissioner's ruling is denied.

DATED at Olympia, Washington, this 10th day of August, 2022.

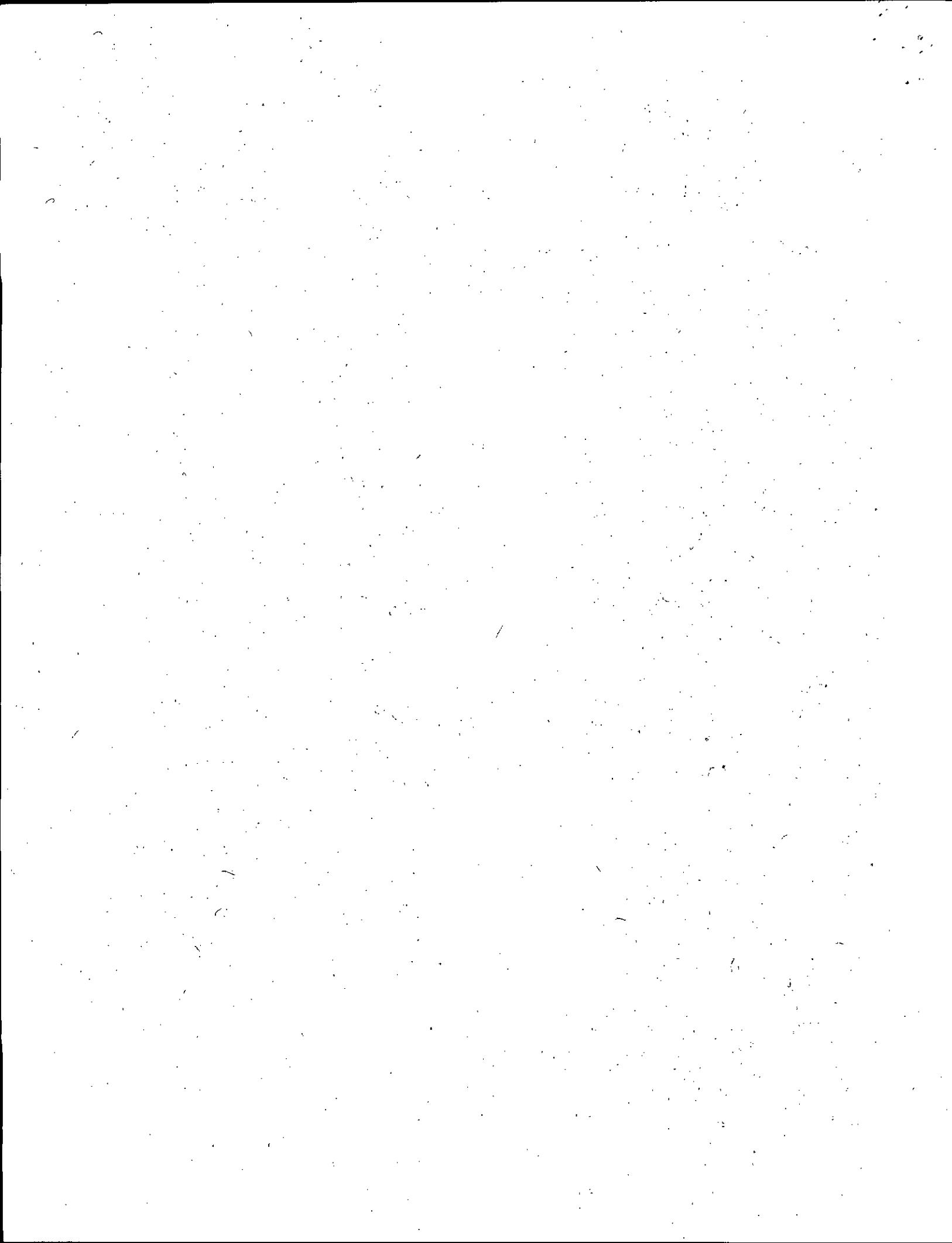
For the Court

González C.J.
CHIEF JUSTICE

100800-7-3

100800-7-4

100800-7-5



THE SUPREME COURT

STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

August 22, 2022

LETTER SENT BY E-MAIL ONLY

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

Aaron Bartlett
Clark County Prosecuting Attorney
1013 Franklin Street
Vancouver, WA 98660-3039

Re: Supreme Court No. 100800-7 - Personal Restraint Petition of Christopher Allan Allred
Court of Appeals No. 56489-1-II (consolidated with No. 56622-2-II)

Counsel and Petitioner:

On August 22, 2022, this Court received the Petitioner's "Motion for Reconsideration". The motion seeks reconsideration of this Court's August 10, 2022, order denying modification of the Deputy Commissioner's ruling denying review.¹

The Rules of Appellate Procedure (RAP) do not allow a motion for reconsideration in this situation. Specifically, RAP 12.4 states that "A party may not file a motion for reconsideration of an order refusing to modify a ruling by the commissioner or clerk."

Accordingly, although the motion has been placed in the closed file, this Court can take no further action on it.

Sincerely,

A handwritten signature in black ink, appearing to read "T. L." or "T. L. L.".

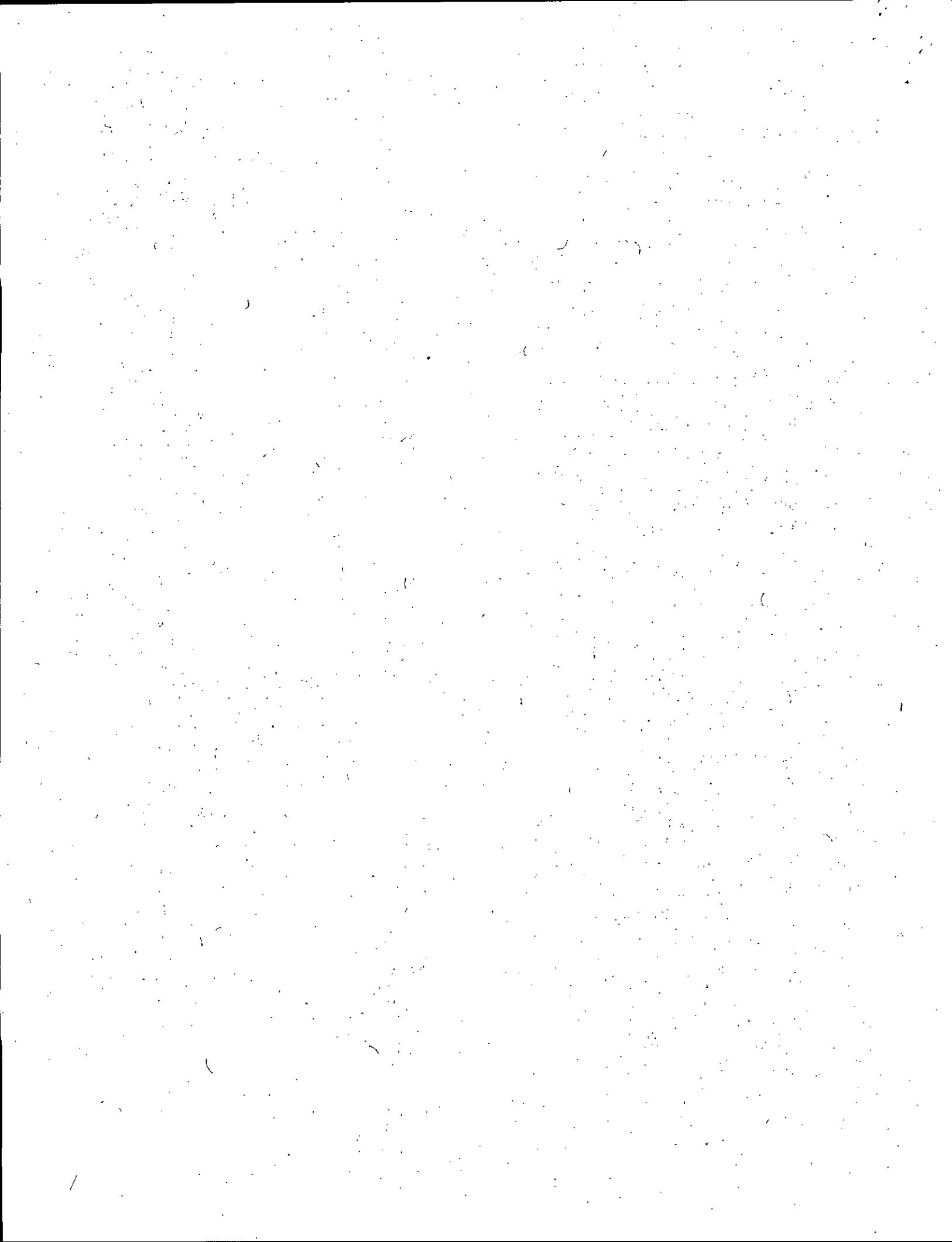
Signed by docket clerk for:
Erin L. Lennon
Supreme Court Clerk

TNL:bw

atnemwod gnillF-3

ems/w

It is noted that the Department of the Court that unanimously denied the motion to modify was comprised of five of the nine Justices of this Court, a majority of the Court.



THE SUPREME COURT
STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK
CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

August 24, 2022

LETTER SENT BY E-MAIL ONLY

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

Aaron Bartlett
Clark County Prosecuting Attorney
1013 Franklin Street
Vancouver, WA 98660-3039

Re: Supreme Court No. 100800-7 - Personal Restraint Petition of Christopher Allan Allred
Court of Appeals No. 56489-1-II (consolidated with No. 56622-2-II)

Counsel and Petitioner:

On August 24, 2022, this Court received the Petitioner's "Notice of Appeal", indicating that the Petitioner wishes to seek review by the United States Supreme Court.

The Petitioner is advised that this office has no information about how to seek review of this matter in the federal courts. Any request for review by the federal courts must be sent to the federal courts. This office does not forward filings to the federal courts. Therefore, no action will be taken on these documents.

If the Petitioner seeks review of this case in the federal courts, they do not need to send copies of federal court filings in this court. Any such filings will be placed in the closed file with no action taken.

Sincerely,

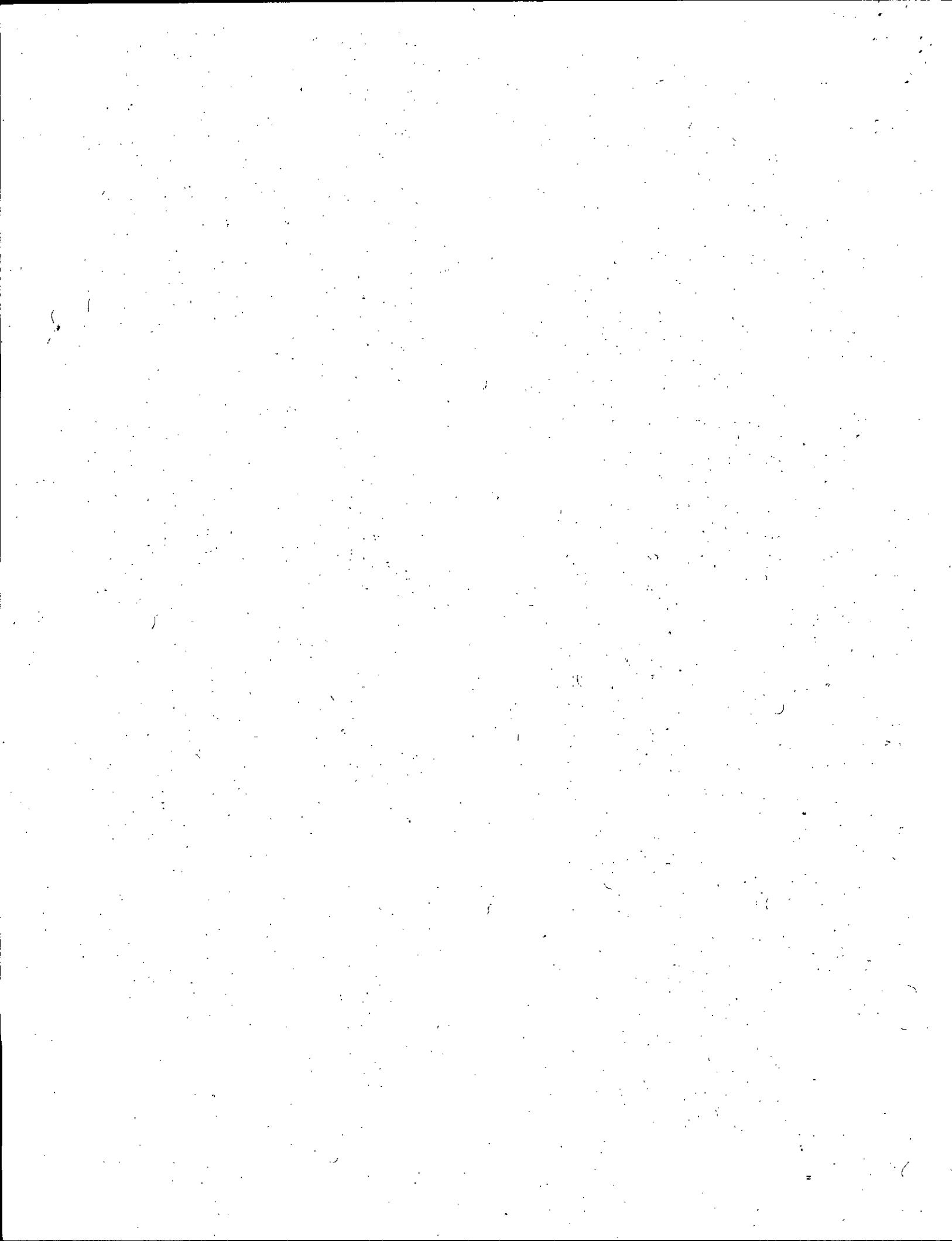
A handwritten signature in black ink, appearing to read "T. L." or "T. L. Lennon".

Signed by docket clerk for:
Erin L. Lennon
Supreme Court Clerk

TNL:bw

Name:
Date:
Time:

E-Filing Document



FILED

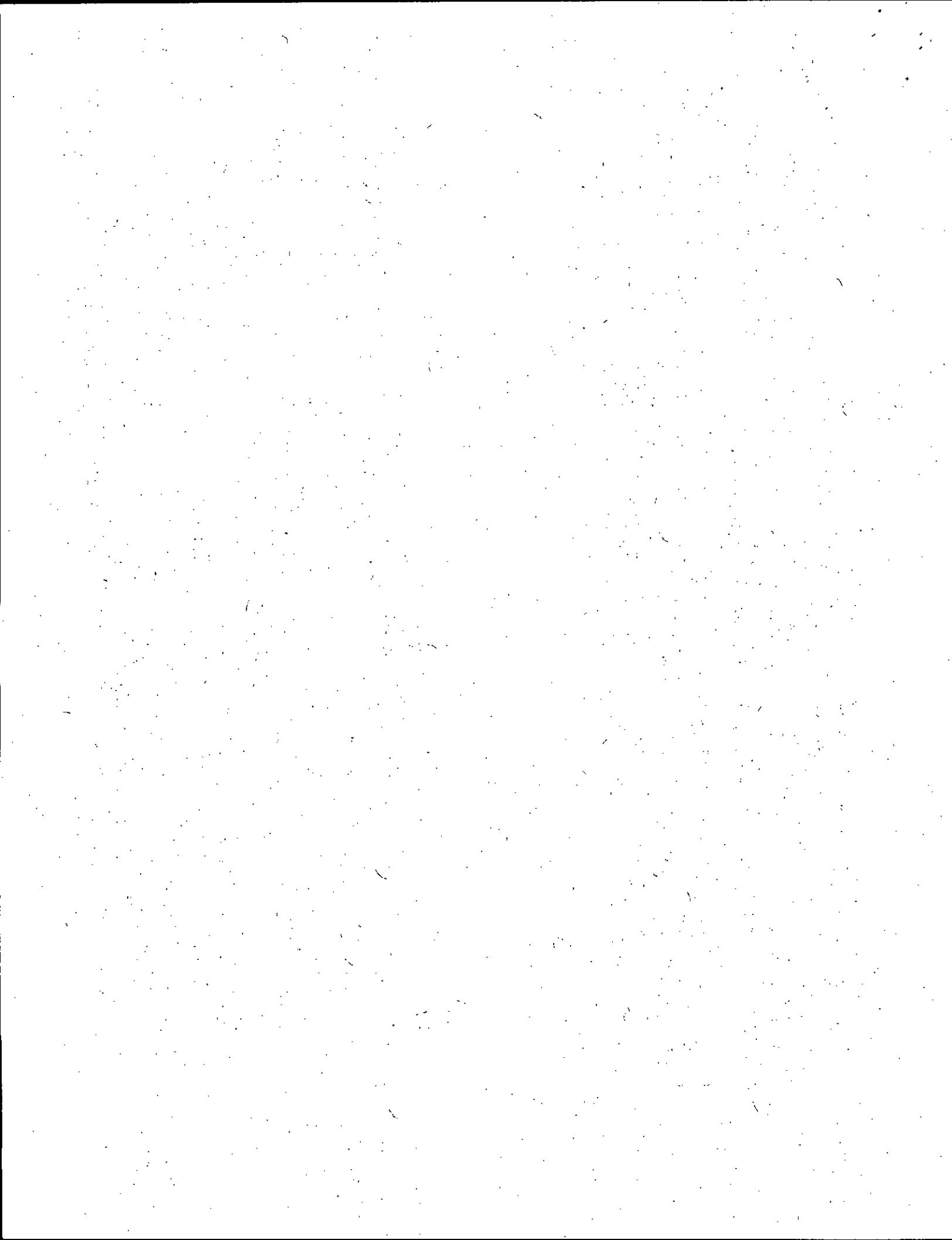
2015 SEP 29 PM 3:47

SCOTT G. WEBER, CLERK
CLARK COUNTYIN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK
STATE OF WASHINGTON,Plaintiff,
v.
CHRISTOPHER ALLAN ALLRED
Defendant.

INFORMATION

No. 15-1-01436-6
(CCSO 15-3091)

COMES NOW the Prosecuting Attorney for Clark County, Washington, and does by this inform the Court that the above-named defendant is guilty of the crime(s) committed as follows, to wit:



1
2
3
4
5
6
7
8
9
10
11
12
13 And further, that this crime was committed by one family or household member against another,
14 and that this is a domestic violence offense as defined by RCW 10.99.020 and within the
meaning of RCW 9.41.040. [DV]

15 Further, the State of Washington notifies the Defendant that it is seeking a sentence above the
16 standard sentencing range based upon the following aggravating circumstance(s):

17 The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate
18 the commission of the current offense. RCW 9.94A.535(3)(n).

19 This crime is a 'most serious offense' pursuant to the Persistent Offender Accountability Act
20 (RCW 9.94A.030(32), RCW 9.94A.030(37), RCW 9.94A.505(2)(a)(iii) and RCW 9.94A.570).

21 ANTHONY F. GOLIK
22 Prosecuting Attorney in and for
23 Clark County, Washington

24 BY:

25 Luka Vitasovic, WSBA #39850
26 Deputy Prosecuting Attorney

27 **DEFENDANT: CHRISTOPHER ALLAN ALLRED**

28 **RACE: W SEX: M DOB: 08/09/1975**

29 **DOL: ALLRECA252NZ WA**

SiD:

HGT: 601

WGT: 195

EYES: BRO

HAIR: BRO

WA DOC:

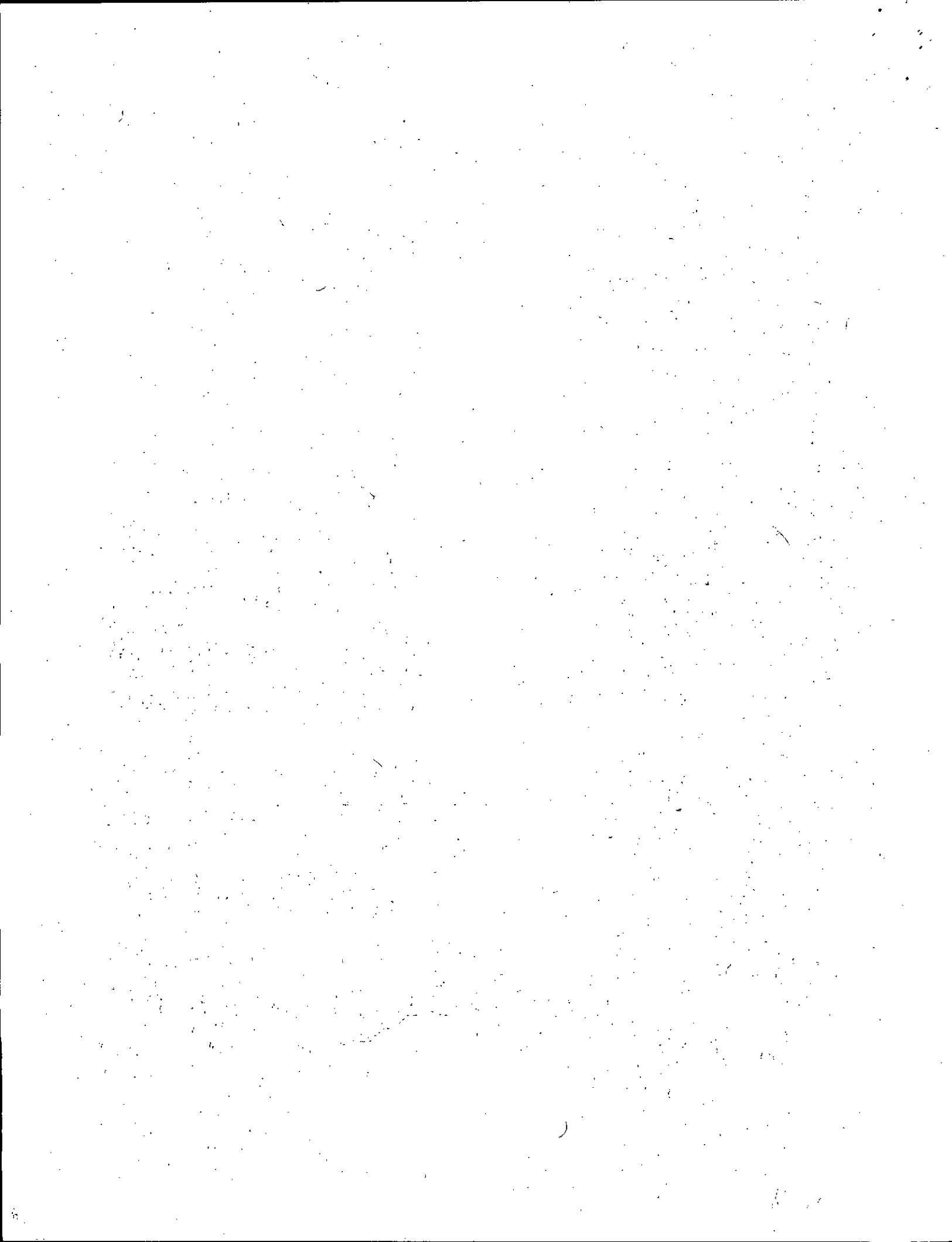
FBI:

LAST KNOWN ADDRESS(ES):

HOME - 5517 NE 44TH ST, VANCOUVER WA 98661

INFORMATION - 2

13



2
AS
FILED

2015 SEP 29 PM 3:47

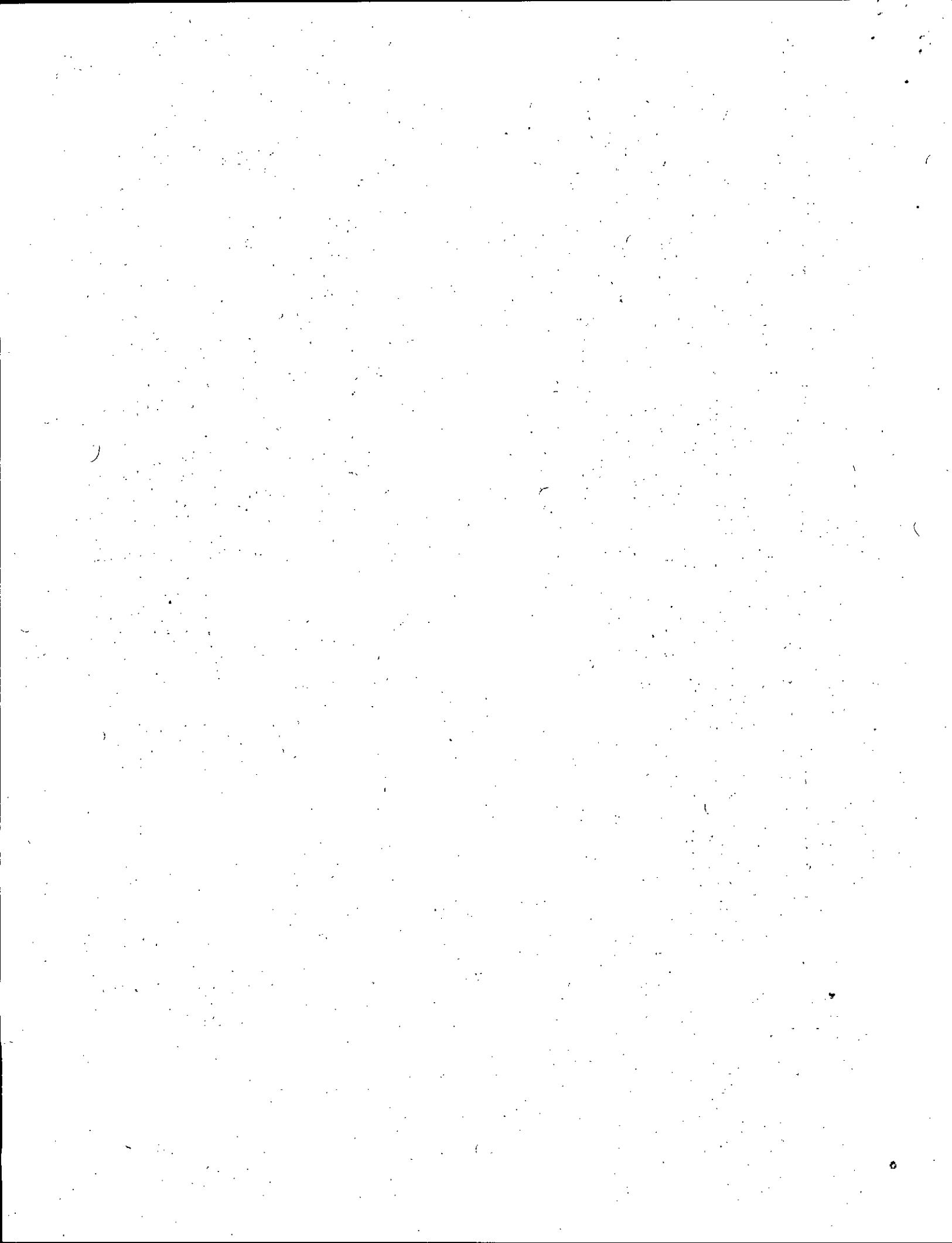
1 SCOTT G. WEBER, CLERK
2 CLARK COUNTY3
4
5
6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF CLARK

8 STATE OF WASHINGTON,

9 Plaintiff,
v.
CHRISTOPHER ALLAN ALLRED
Defendant.

INFORMATION

No. 15-1-01436-6
(CCSO 15-3091)10 COMES NOW the Prosecuting Attorney for Clark County, Washington, and does by this inform
11 the Court that the above-named defendant is guilty of the crime(s) committed as follows, to wit:12 [REDACTED]
13 That he, CHRISTOPHER ALLAN ALLRED, in the County of Clark, State of Washington, on or
14 about and between March 16, 2012 and August 1, 2014 [REDACTED]
15 [REDACTED]16 And further, [REDACTED]
17 and that this is a [REDACTED] RCW 10.99.020 and within the
meaning of RCW 9.41.040. [DV]18 Further, the State of Washington [REDACTED]
19 [REDACTED]20 The defendant [REDACTED] RCW 9.94A.535(3)(n).
21 [REDACTED]22 (RCW 9.94A.030(32), RCW 9.94A.030(37), RCW 9.94A.505(2)(a)(iii) and RCW 9.94A.570).
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]29 INFORMATION - 1
KNArthur D. Curtis Children's Justice Center
P.O. Box 61992
Vancouver Washington 98666
(360) 397-6002



1 And further,

2 [REDACTED] RCW 10.99.020 and within the
3 meaning of RCW 9.41.040. [DV]

4 Further, the State of Washington

5 [REDACTED] RCW 9.94A.535(3)(n).

6 [REDACTED] (RCW 9.94A.030(32), RCW 9.94A.030(37), RCW 9.94A.505(2)(a)(iii) and RCW 9.94A.570).

7 [REDACTED]
8 That he, CHRISTOPHER ALLAN ALLRED, in the County of Clark, State of Washington, on or
9 about and between March 16, 2012 and August 1, 2014

10 And further,

11 [REDACTED] RCW 10.99.020 and within the
12 meaning of RCW 9.41.040. [DV]

13 Further, the State of Washington

14 The defendant

15 [REDACTED] RCW 9.94A.535(3)(n).

16 [REDACTED] (RCW 9.94A.030(32), RCW 9.94A.030(37), RCW 9.94A.505(2)(a)(iii) and RCW 9.94A.570).

17 ANTHONY F. GOLIK
18 Prosecuting Attorney in and for
19 Clark County, Washington

20 BY:

21 Luka Vitasovic, WSBA #39850
22 Deputy Prosecuting Attorney

23 24 25 DEFENDANT: CHRISTOPHER ALLAN ALLRED

26 RACE: W SEX: M DOB: 08/09/1975

27 DOL: ALLRECA252NZ WA

28 SID:

HGT: 601 WGT: 195

EYES: BRO

HAIR: BRO

WA DOC:

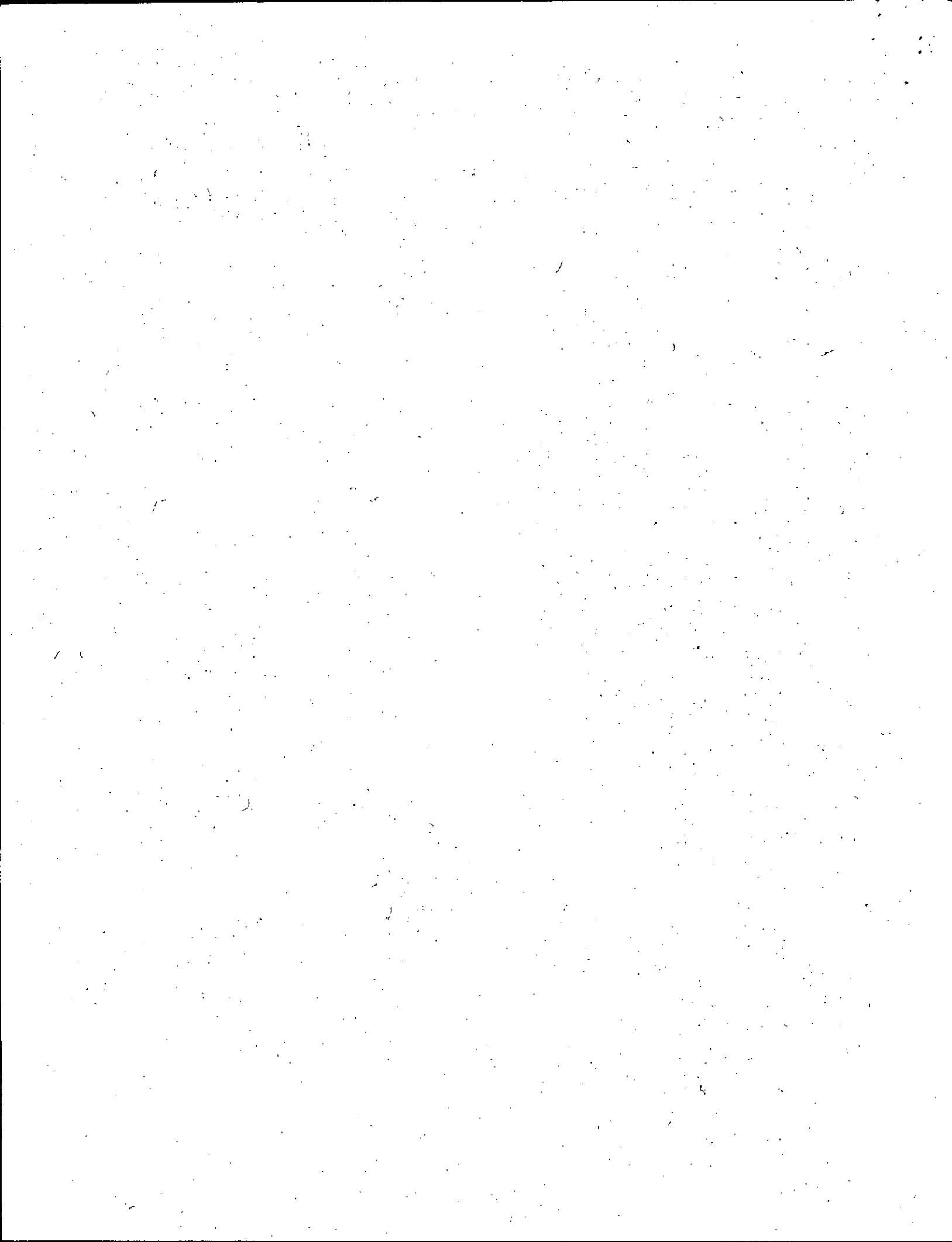
FBI:

29 LAST KNOWN ADDRESS(ES):

HOME - 5517 NE 44TH ST, VANCOUVER WA 98661

INFORMATION - 2
KN

Arthur D. Curtis Children's Justice Center
P.O. Box 61992
Vancouver Washington 98666
(360) 397-6002





Washington State Court of Appeals
Division Two

909 A Street, Suite 200, Tacoma, Washington 98402

Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> OFFICE HOURS: 9-12, 1-4.

February 18, 2022

Aaron Bartlett
Attorney at Law
1013 Franklin St
Vancouver, WA 98660-3039
aaron.bartlett@clark.wa.gov

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
PO Box 769
Connell, WA 99326

CASE #: 56489-1-II
Personal Restraint Petition of Christopher Allan Allred

Dear Christopher Allred:

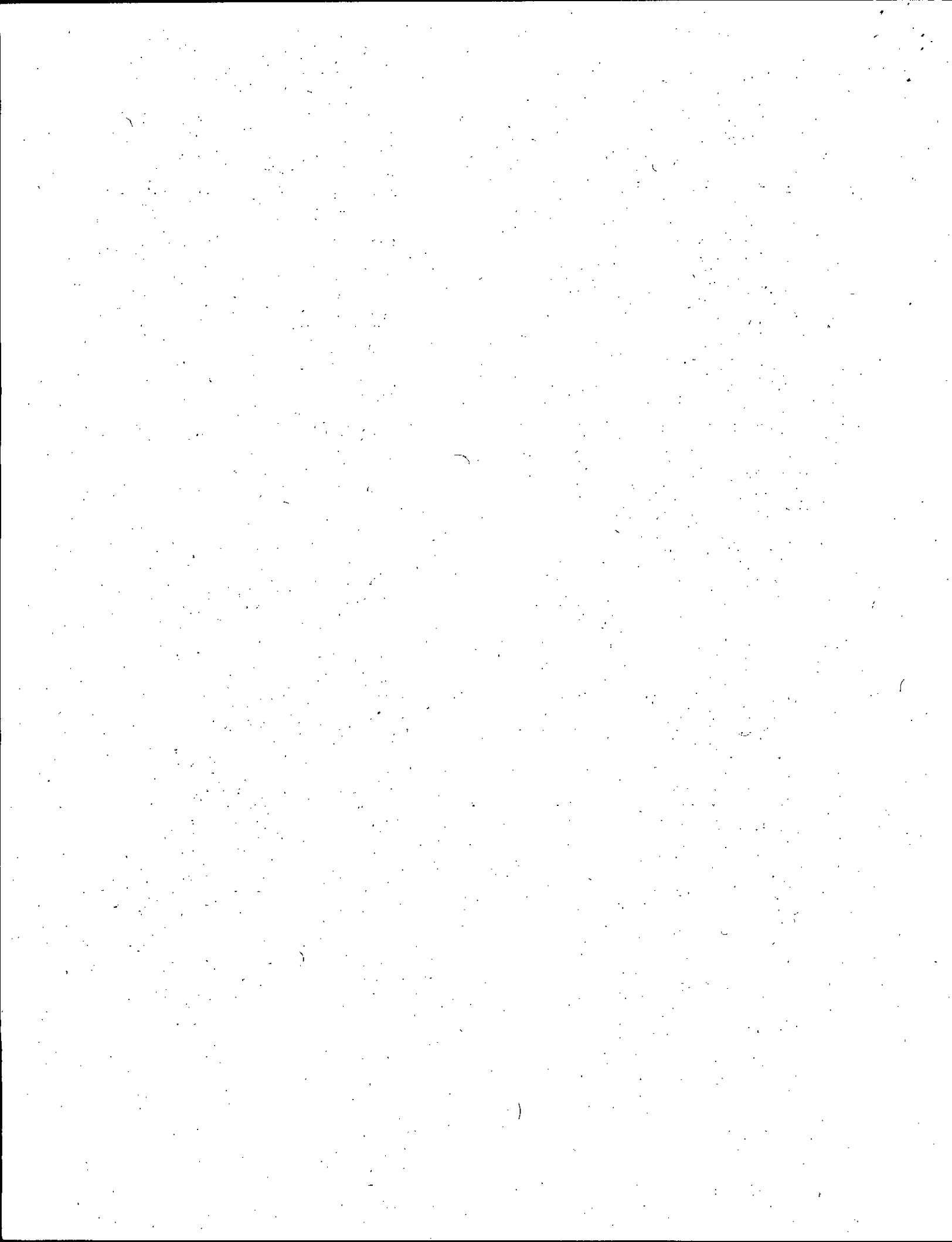
We have received your personal restraint petition, assigned it the above-referenced case number, and waived the \$250 filing fee in light of your financial affidavit. After reviewing your petition, we have initially determined that a response is unnecessary and have forwarded your petition to the Chief Judge for further instructions or for a decision, either of which will issue in due course. RAP 16.11(b). The Chief Judge will consider any decisions on motions for appointment of counsel and motions for production of the record at public expense during this initial consideration of your petition. RAP 16.11(a). We will not respond to written questions about your petition's status.

Very truly yours,

Derek M. Byrne
Court Clerk

DMB:BH

cc:





Washington State Court of Appeals

Division Two

909 A Street, Suite 200, Tacoma, Washington 98402

Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> OFFICE HOURS: 9-12, 1-4.

February 22, 2022

Aaron Bartlett
Attorney at Law
1013 Franklin St
Vancouver, WA 98660-3039
aaron.bartlett@clark.wa.gov

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
PO Box 769
Connell, WA 99326

Prosecuting Attorney Clark County
Clark County Prosecuting Attorney
PO Box 5000
1013 Franklin Street
Vancouver, WA 98666-5000
cntypa.generaldelivery@clark.wa.gov

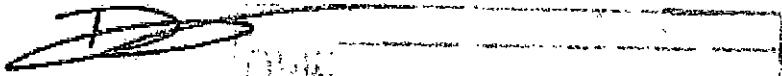
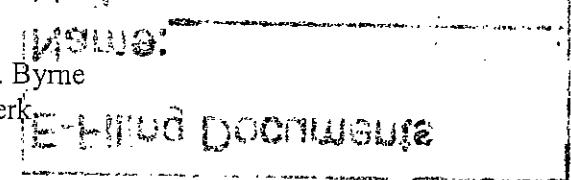
CASE #: 56622-2-II

Personal Restraint Petition of Christopher Allan Allred

Dear Petitioner:

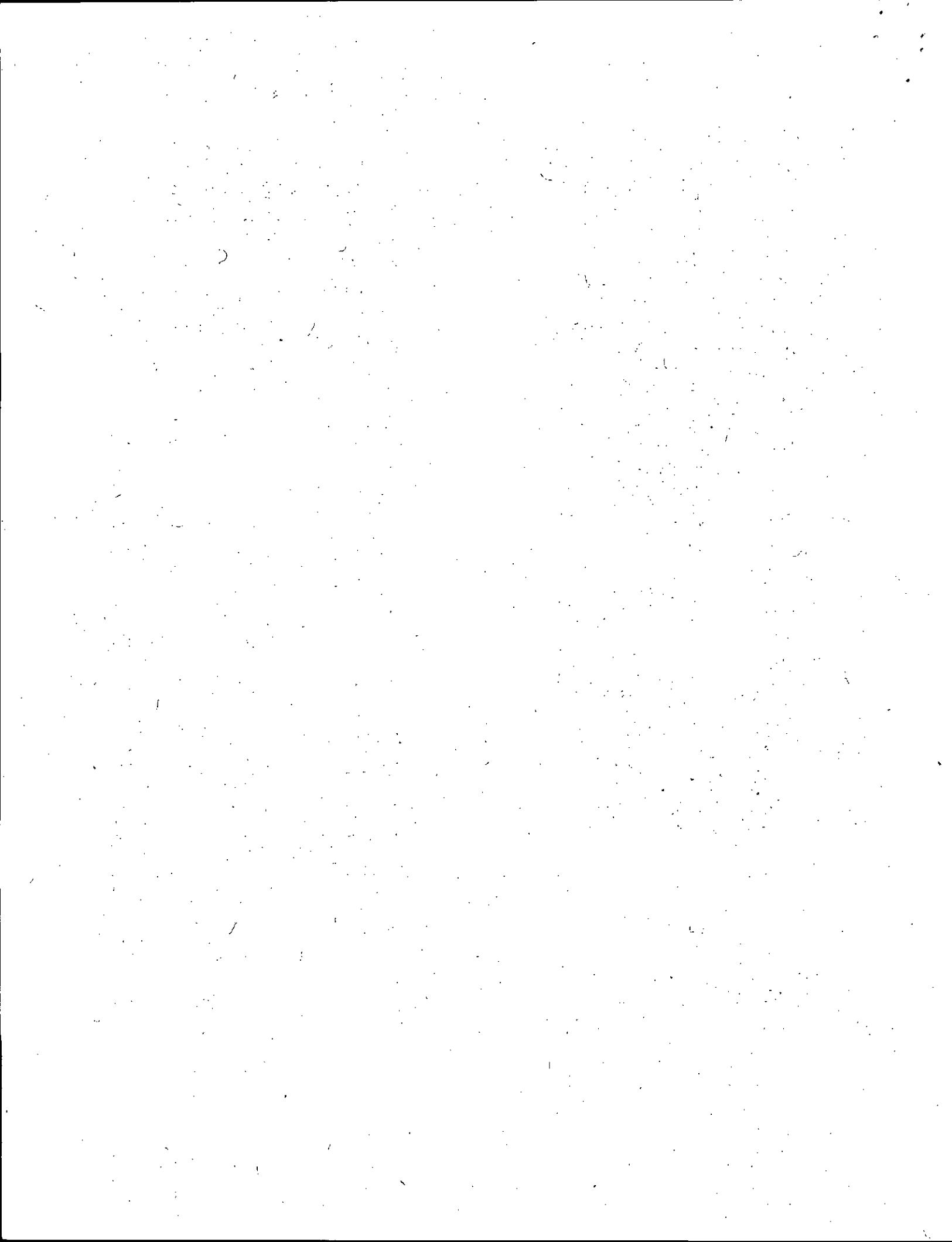
We have received your personal restraint petition, assigned it the above-referenced case number, and waived the \$250 filing fee in light of your financial affidavit. After reviewing your petition, we have initially determined that a response is unnecessary and have forwarded your petition to the Chief Judge for further instructions or for a decision, either of which will issue in due course. RAP 16.11(b). The Chief Judge will consider any decisions on motions for appointment of counsel and motions for production of the record at public expense during this initial consideration of your petition. RAP 16.11(a). We will not respond to written questions about your petition's status.

Very truly yours,


Derek M. Byrne
Court Clerk


DMB:BH

cc:





Washington State Court of Appeals
Division Two

909 A Street, Suite 200, Tacoma, Washington 98402

Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12 1-4 (509) 373-2600 (Fax)

February 28, 2022

Aaron Bartlett
Attorney at Law
1013 Franklin St
Vancouver, WA 98660-3039
aaron.bartlett@clark.wa.gov

Christopher Allan Allred
#392466
Coyote Ridge Corrections Center
PO Box 769
Connell, WA 99326

Prosecuting Attorney Clark County
Clark County Prosecuting Attorney
PO Box 5000
1013 Franklin Street
Vancouver, WA 98666-5000
cntypa.generaldelivery@clark.wa.gov

CASE #: 56489-1-II Consolidated w/56622-2-II
Personal Restraint Pétition of Christopher Allan Allred

Counsel:

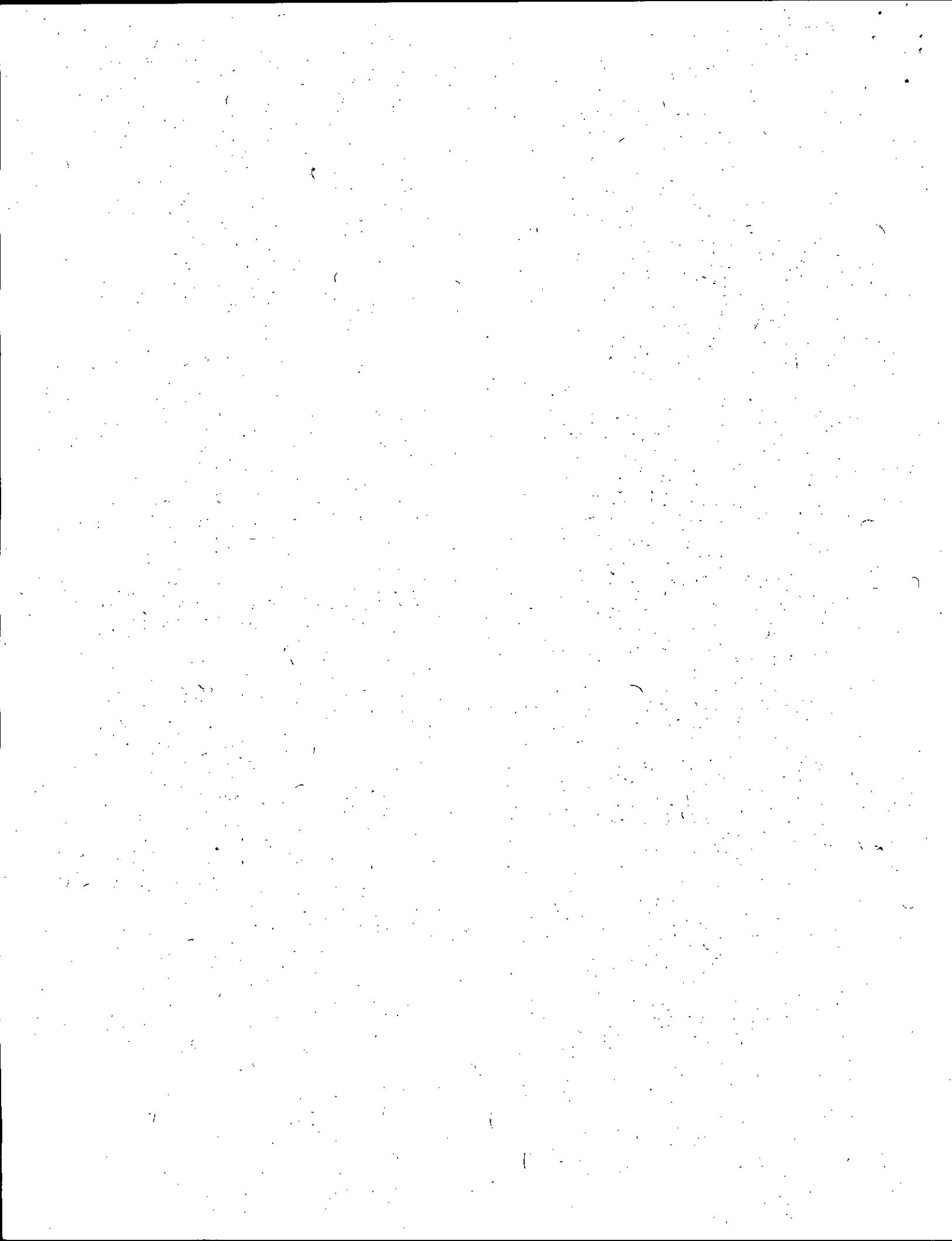
On the above date, this court entered the following notation ruling:

A RULING BY COMMISSIONER SCHMIDT:

Petitioner has moved to consolidate petition No. 56622-2-II to his other current petition, No. 56489-1-II. He asserts that all of the filings in both petitions were intended to be in a single petition. The motion to consolidate is granted and No. 56622-2-II is consolidated to No. 56489-1-II. All future correspondence should refer to case No. 56489-1-II.

Very truly yours,

Derek M. Byrne
Court Clerk



Ternus, Rob

From: Chris Allred <chrisallreddesign@gmail.com>
Sent: Thursday, March 19, 2015 8:26 PM
To: Ternus, Rob
Cc: Chris Allred
Subject: Chris Allred - Case S15-3091 - More Information

Rob,

I decided to share some of my own medical history with you. I suffer from MS like symptoms on a daily basis. Some of those symptoms are (but not limited to):

- Pain
- Tremors
- Issues with fine motor skills
- Speech
- Balance and coordination
- No sex drive
- Erectile Dysfunction

I do not, nor have not, taken any medicine or drugs for any of my symptoms...ever.

(There is a link to my website under my signature, where you can see my new MS blog that I re-launched at the beginning of this year.)

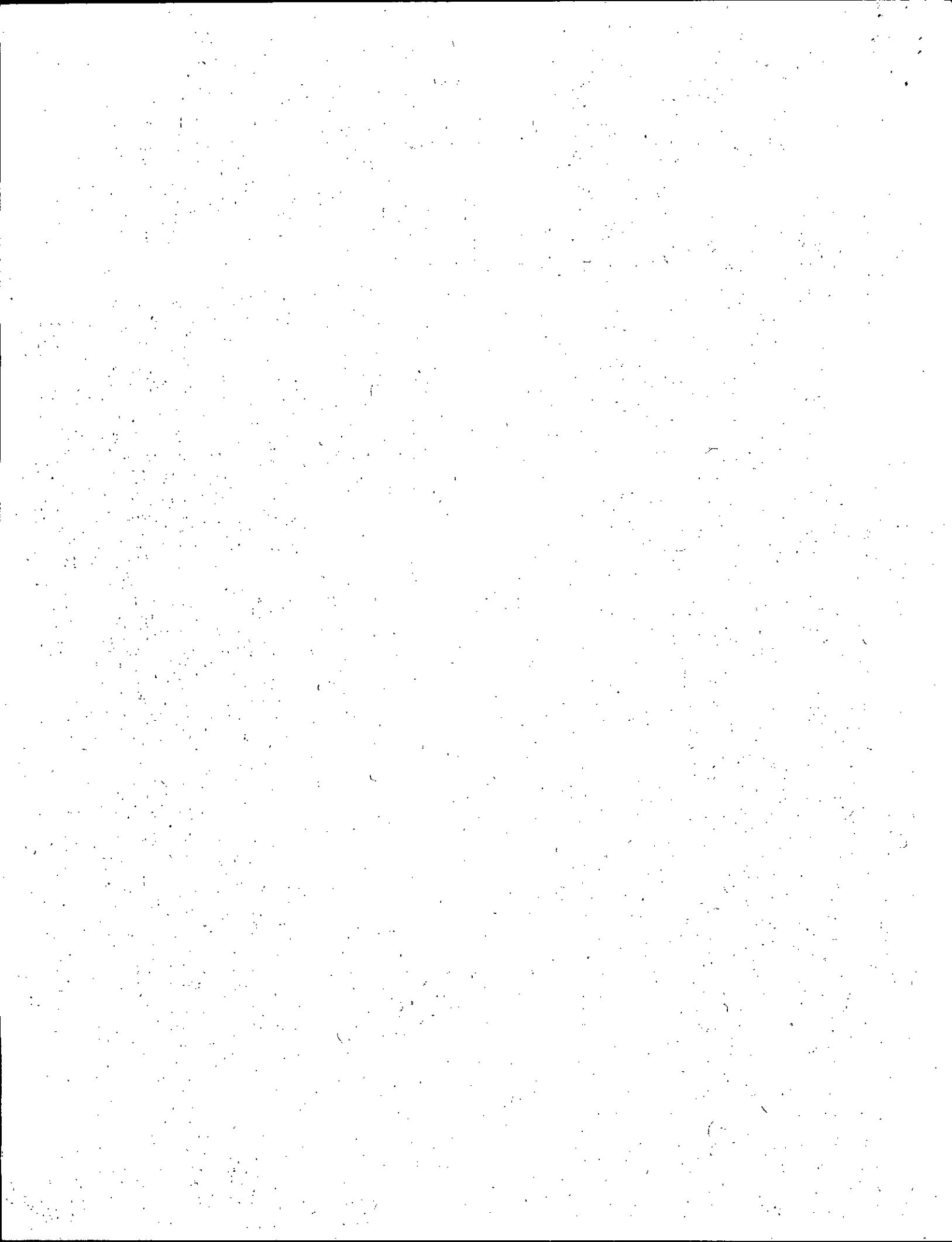
It is embarrassing to tell people that a man in his 30's can't get it up and has no sex drive (been the case for almost a decade, and started telling doctors about it 6-7 years ago). Nobody knows that I have those issues except for my wife and doctors. However, if it helps my case then I would rather be laughed at then in prison.

I strongly believe that if my accuser knew more about my symptoms, that she may have made different false accusations instead. I also have to believe that my accuser assumed that I was a normal functioning man.

Below is the list of doctors that I have seen for my issues. I haven't seen a doctor for a while, but will later this year.

- October 2008 - Dr. Sandrow (PeaceHealth)
- April 2009 - Dr. Djergaian (Vancouver Neurologists)
- April 2009 - Dr. Jacobsen (PeaceHealth - Neurology)
- May 2009 - Dr. Sandrow (PeaceHealth)
- July 2009 - Dr. Kim (OHSU)
- June 2012 - Dr. Ellison (The Oregon Clinic - Neurology)
- July 2012 - Dr. Ellison (The Oregon Clinic - Neurology)
- August 2012 - Dr. Ellison (The Oregon Clinic - Neurology)
- August 2012 - Dr. Jacobsen (PeaceHealth - Neurology)
- October 2013 - Dr. Dysktra (PeaceHealth)
- October 2013 - Dr. Jacobsen (PeaceHealth - Neurology)

Please confirm that you received my emails. I am fighting for my life, and I would like to know that my emails are reaching their destination. Please!



Sunlight Key to Battling MS and Flare-Ups

Sunlight Key to Battling MS and Flare-Ups

Researchers have long known about the link between sunlight and multiple sclerosis.

AMY DENNEY

People suffering from multiple sclerosis or at risk of developing it can live more rewarding lives when they increase and monitor their vitamin D levels.

Your body makes vitamin D in skin, the largest organ, when it's exposed to sunlight. Higher vitamin D levels lower the risk of developing multiple sclerosis (MS) and boosting vitamin D also appears to be beneficial for curbing disease relapses and even putting symptoms into remission.

Vitamin D is one of several natural remedies for MS that continues to draw the intrigue of researchers. Several organizations are using vitamin D and sunlight studies to formulate guidelines so they can inform patients to motivate them to get exposure to sunlight and take supplements when needed and offer specific losing.

Vitamin D is an essential vitamin that helps to regulate calcium and phosphorus in your body. Vitamin D is found in food such as fish, eggs, and milk.

Besides playing a role in MS, a vitamin D deficiency is thought to be associated with many other health conditions such as autoimmune conditions, allergies, asthma, COVID-19, heart disease, and others. Worldwide, a lack of vitamin D is a concern, particularly in colder climates and countries with longer winters. Experts say at least 1 billion people are deficient in vitamin D around the world.

Yale research in 2015 indicates that high levels of vitamin D in the blood act as a neuroprotector and are associated with fewer lesions in MS patients' brains. Supplementing vitamin D or increasing sunlight exposure is thought to increase gray matter in the brain, which indicates tissue regeneration.

University of Cambridge researchers found a positive relationship between vitamin D and a molecule that plays a role in the repair of myelin, which insulates the nerves. MS damages myelin. In this case, increasing vitamin D would speed up the process of myelin cell production, thereby protecting nerves from damage.

While the inner workings of the relationship are still somewhat of a mystery, the positive connection between vitamin D and MS is readily accepted as fact by MS organizations worldwide.

Continued on C2

AUG. 3-9 2022 | THE EPOCH TIMES

Continued from C1

Kassandra Munger, a senior research scientist at Harvard University who specializes in MS, said in a March 9 interview with BioNews that studies of people with higher levels of vitamin D show a decreased risk of MS, while those who are deficient in vitamin D have an increased risk. Additionally, studies on low levels of vitamin D in pregnant women and newborns are predictors of increased risk of MS as an adult.

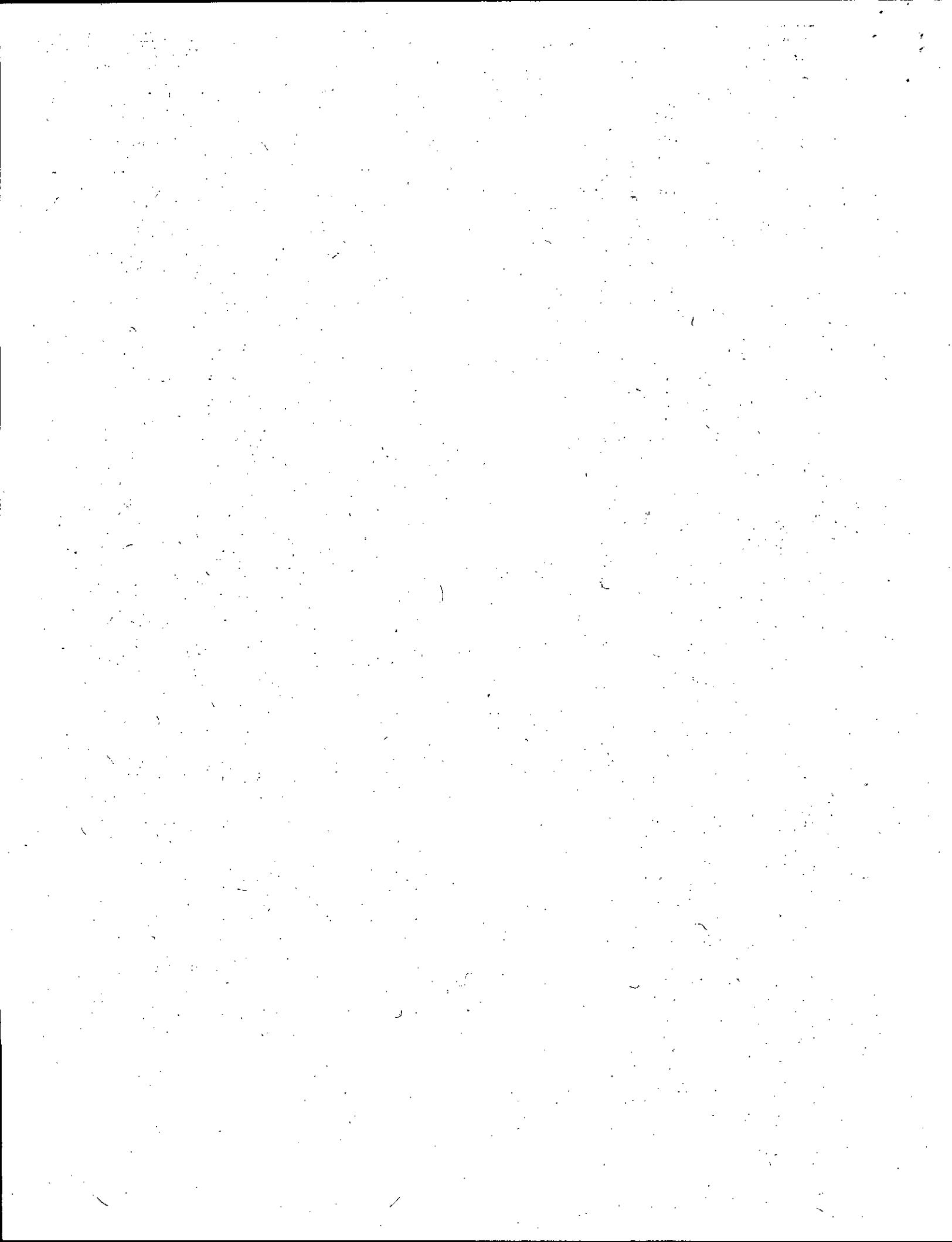
There is also remarkable consistency between many studies using different measures of vitamin D—assessing amount of sun exposure, vitamin D blood levels, or eating foods high in vitamin D in different populations worldwide—with nearly all pointing to vitamin D being an important risk factor for MS, Munger said.

While there's no official tracking system, one 2019 study in the journal Neurology concluded that there are more than 900,000 adults living with MS in the United States. (More than twice the number reported in a 1975 national study.)

One of the complications of diagnosing MS is the long list of possible symptoms that vary from one person to another and even fluctuate within a person over time.

The more common symptoms, according to the National Multiple Sclerosis Society, are: dysesthesia (a squeezing sensation around the torso); fatigue, walking difficulties, numbness, tingling, stiffness or spasms in muscles of the legs; weakness, vision problems, vertigo, significant pain, itching, cognitive changes, and emotional changes. Also common are bladder, bowel, and sexual problems, as well as depression.

One criterion for diagnosing MS, according to the National Multiple Sclerosis Society, is damage in at least two areas of the central nervous system, which is composed of the brain, spinal cord, and optic nerves. Evidence must exist that the damage occurred at different times.



INCIDENT REPORT			CLARK COUNTY SHERIFF'S OFFICE										CASE NUMBER 15003091		000003	
DL NUMBER [REDACTED]		DL ST WA	SSN [REDACTED]	FBI ID [REDACTED]		STATE ID [REDACTED]		LOCAL [REDACTED]		ID1 [REDACTED]		ID2 [REDACTED]				
COMMENT [REDACTED]																
ENTRY NO 6	INVOLVEMENT MENTIONED		NAME: LAST, FIRST, MIDDLE CULLEY, STEPHEN ANDREW													
HOME ADDRESS 2025 NE GOODWIN RD CAMAS WA							MAILING ADDRESS									
EMPLOYER [REDACTED]		EMPLOYER ADDRESS [REDACTED]											OCCUPATION [REDACTED]			
HOME PHONE [REDACTED]				CELL PHONE (360) 624-7606				OTHER PHONE [REDACTED]				EMPLOYER PHONE [REDACTED]				
DOB 11/14/1981	AGE 33	SEX M	RACE W	JUV N	ETH [REDACTED]	HEIGHT 601	WEIGHT 230	HAIR BRO	EYES HAZ	POB [REDACTED]	RESIDENCY F	CITIZEN [REDACTED]	GANG IDENTIFICATION [REDACTED]			
DL NUMBER [REDACTED]		DL ST WA	SSN [REDACTED]	FBI ID [REDACTED]		STATE ID [REDACTED]		LOCAL [REDACTED]		ID1 [REDACTED]		ID2 [REDACTED]				
COMMENT [REDACTED]																
ENTRY NO 7	INVOLVEMENT MENTIONED		NAME: LAST, FIRST, MIDDLE CULLEY, JOSEPH													
HOME ADDRESS 15012 NE 50TH ST VANCOUVER WA 98682							MAILING ADDRESS									
EMPLOYER [REDACTED]		EMPLOYER ADDRESS [REDACTED]											OCCUPATION [REDACTED]			
HOME PHONE [REDACTED]				CELL PHONE (360) 619-2331				OTHER PHONE [REDACTED]				EMPLOYER PHONE [REDACTED]				
DOB 01/13/1997	AGE 18	SEX M	RACE W	JUV N	ETH [REDACTED]	HEIGHT [REDACTED]	WEIGHT [REDACTED]	HAIR [REDACTED]	EYES [REDACTED]	POB [REDACTED]	RESIDENCY F	CITIZEN [REDACTED]	GANG IDENTIFICATION [REDACTED]			
DL NUMBER [REDACTED]		DL ST [REDACTED]	SSN [REDACTED]	FBI ID [REDACTED]		STATE ID [REDACTED]		LOCAL [REDACTED]		ID1 [REDACTED]		ID2 [REDACTED]				
COMMENT [REDACTED]																

PROPERTY

ENTRY NO 1	INVOLVEMENT EVIDENCE	TYPE DOCUMENT	MAKE				MODEL				REF NO 7229-1		EVIDENCE Y	
SERIAL NUMBER UNKNOWN			QUANTITY	COLOR	COLOR	OAN								
DESCRIPTION [207229-1] 10 PAGES CONTAINING EMAILS AND/OR ATTACHMENTS										CUSTODY STATUS CUSTODY				
VALUE RECOVERED \$0.00		DATE RECOVERED	JURISDICTION RECOVERED		RECOVERED LOCATION				RECOVERED BY NAME					
COMMENT [REDACTED]														

NARRATIVE SUMMARY

On March 16, 2015 at 1310 hours I arrived at the Lacamas Conference Center located at 2025 NE Goodwin Rd to take a report of an alleged rape. The victim was reported to be 19 year old [REDACTED] and the suspect was her [REDACTED] Chirstopher A. Allred. [REDACTED] reported that she had been sexually assaulted by her [REDACTED] on at least three occasions between the ages of 16 to 17 or 18 years of age. The last incident occurred approximately one to two years ago. After conducting my investigation, I was unable to validate [REDACTED] claims due to a lack of evidence and Christopher's denial of the incidents. This is a informational report only.

INVOLVED/MENTIONED

Lacamas City Police Sergeant Skeens

[REDACTED] : Victim

Allred, Christopher M: Suspect

Allred, Kari Lynn: Involved or Mentioned

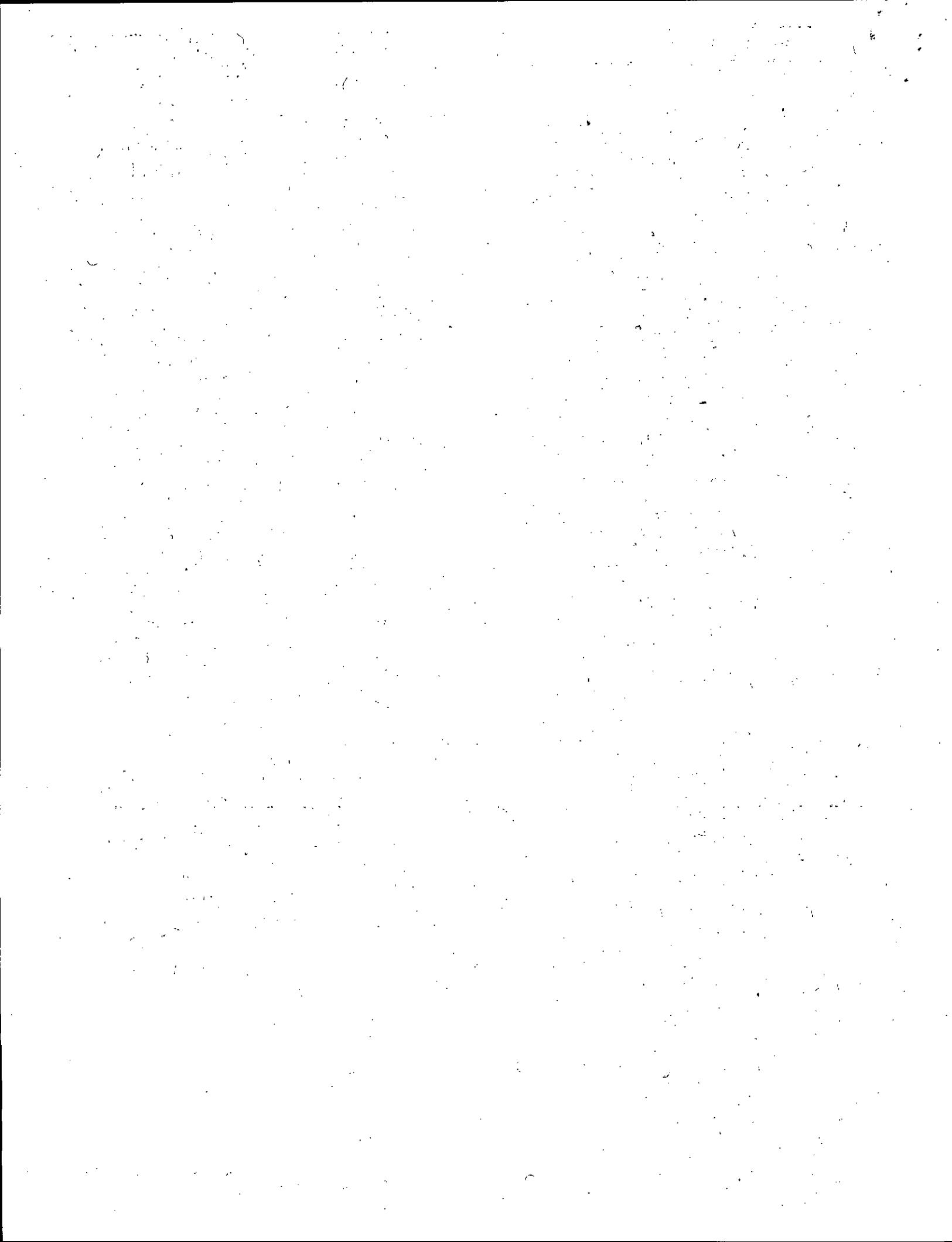
Davis, Jessica Ruth: Involved or Mentioned

Culley, Kalani Kristine: Involved or Mentioned

Culley, Stephen Andrew: Involved or Mentioned

Culley, Joseph: Involved or Mentioned

N -





**CLARK COUNTY
SHERIFF'S OFFICE**
707 W 13TH ST
VANCOUVER, WA 98666
(360) 397-2211

SUPPLEMENT INCIDENT REPORT

CASE NUMBER 15003091	SUPPLEMENT NUMBER 2
CASE TYPE INCIDENT (SUPPLEMENT)	CAD EVENT NUMBER
REPORTING OFFICER 1465 -	REPORT DATE 07/09/2015

INCIDENT

LOCATION	DATE 07/09/2015	TIME 15:11
PREMISE NAME		
PRECINCT	BEAT	SQUAD

STATUS

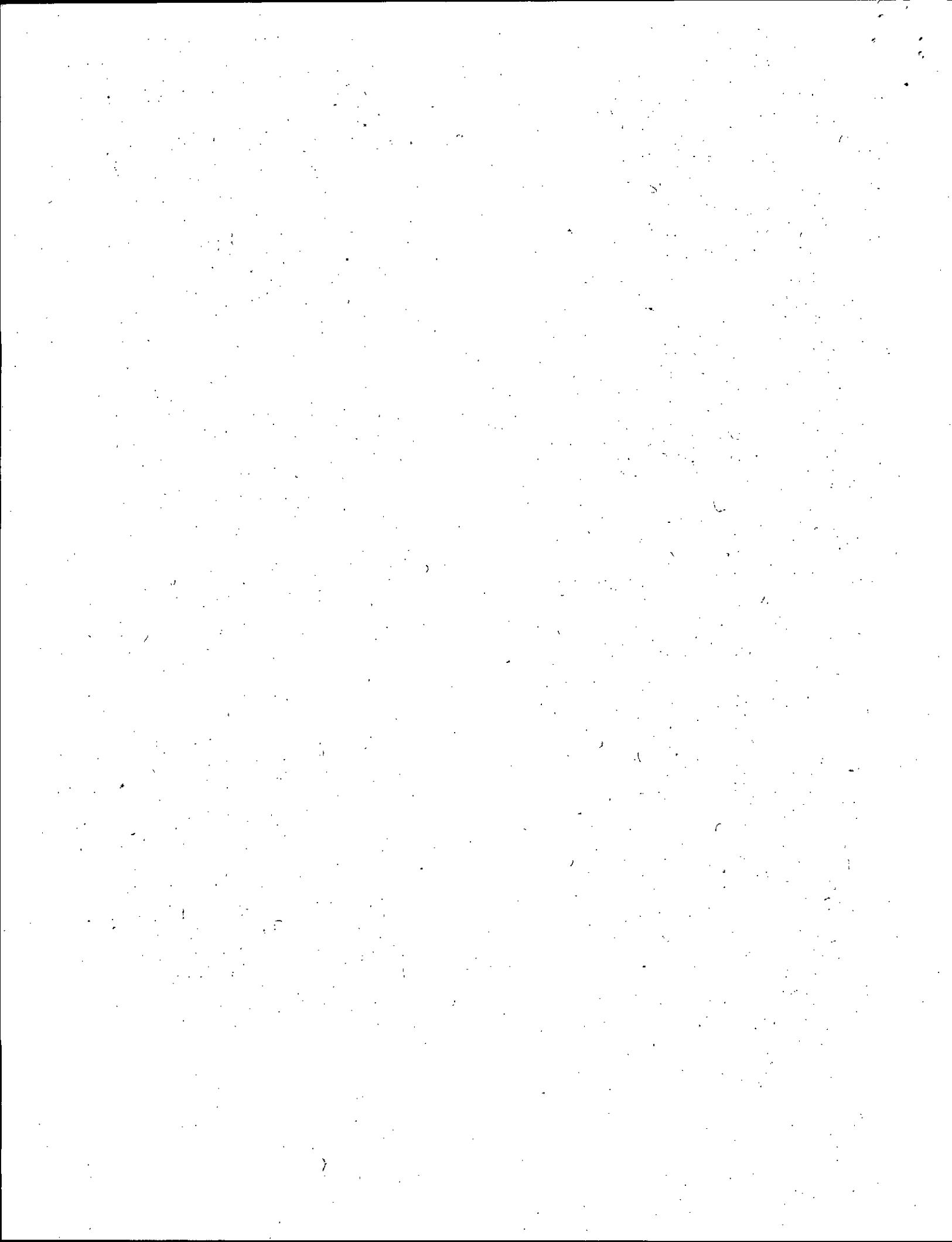
WORK FLOW STATUS APPROVED	APPROVAL 1271 - KIPP, BARB	APPROVAL DATE 07/09/2015
-------------------------------------	-------------------------------	-----------------------------

NARRATIVE

On 05/26/2015 I was assigned to follow up on an investigation done by patrol Officers which was documented

On 06/16/2015 at about 0900 hours, [REDACTED] was forensically interviewed by Kim Christly in room number one and I watched the entire interview from behind a one way window. The interview was recorded with the video equipment inside the CJC interview room, however, the equipment failed and no actual recording was made.

- 0 -



SB: Doctors? Was there any – was there a reference to anything in your report having to do with doctors? //

RT: Yeah. He said that she was – uh, she had seen a mental health specialist and she was taking Prozac, 25 milligram.

SB: OK.

RT: And stuff like that. And so, you know, I told him, you know, if you got all that information or any of that kind of stuff, get it together and put it together, you know, and hold onto that kind of stuff. Because I don't know.

SB: So you communicated with Kari by email?

RT: I believe I communicated with both of them at some point about that kind of stuff, but I don't recall exactly what it was, cause it's like, you know, just go about your business and, you know, wherever this goes you'll be contacted down the road by somebody who's interested in looking into it if that's what's going to happen at that point.

SB: Did you share any of your emails with anybody else in law enforcement or the Prosecuting Attorney's Office?

RT: Nope.

SB: So you didn't put them in a report anywhere?

RT: No.

SB: OK. Did you pass any of the emails onto anybody at CJC?

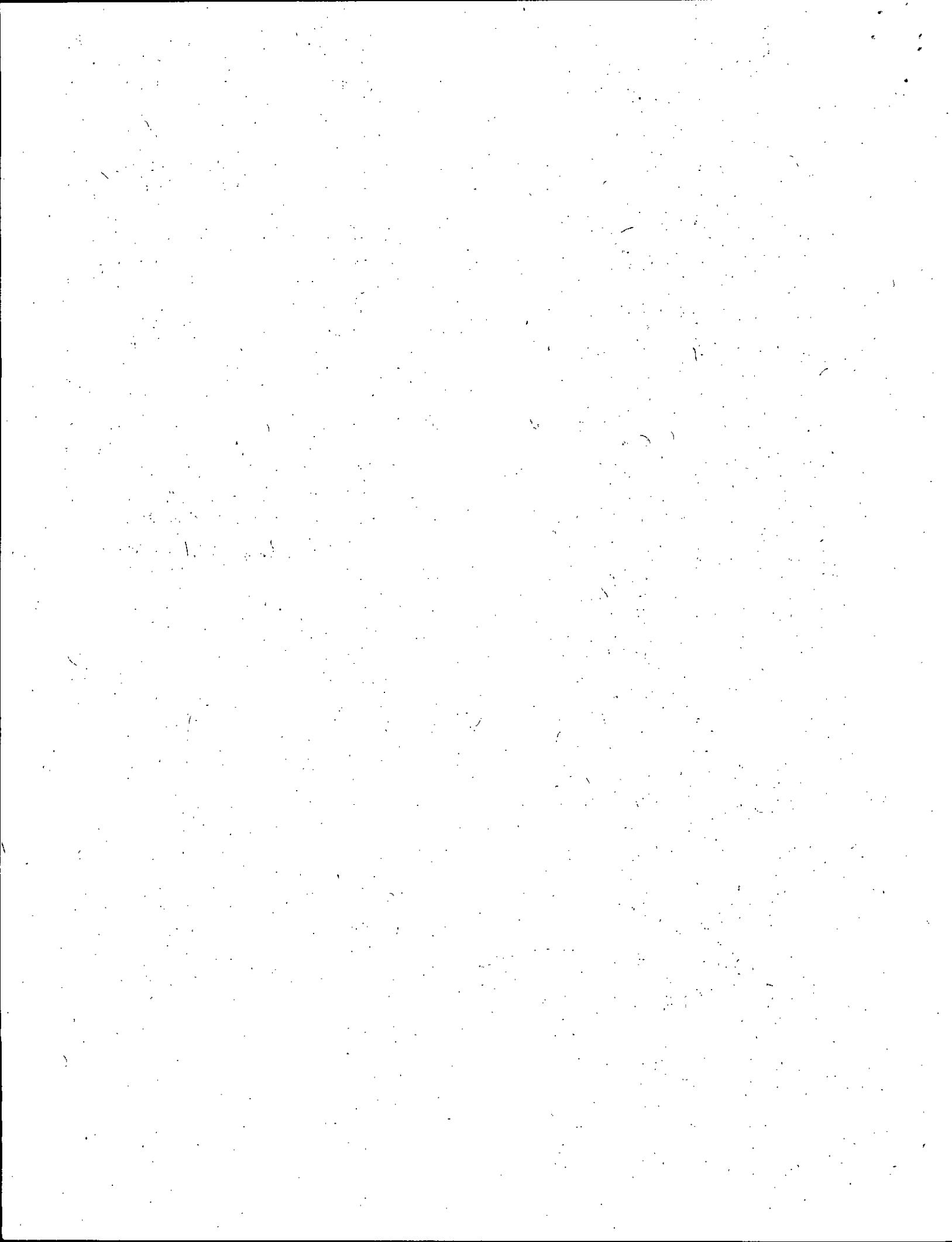
RT: No.

SB: OK. Um, did you follow up – did you do any other follow up, besides email, contact with anybody?

RT: No.

SB: Did you, um, ask, uh, [REDACTED] about any of the – anything more specific than what's outlined in the reports?

RT: No. As far as the, the only other thing that popped in my mind – I don't remember if we talked about it – I think it was [REDACTED] at one point, and it's in the report, about [REDACTED] told her she should wear shorter shorts when she was [REDACTED]. Um, I just remembered that. And that is in the report. Um, but beyond that, I



1 Q: Okay. Was anybody cross examining you like I'm doing now?

2 A: No.

3 Q: No. They were just asking you questions?

4 A: Yes.

5 Q: It was a safe place?

6 A: Yes.

7 Q: You didn't tell them that.

8 A: (no audible response)

9 Q: You told them that your [REDACTED]
10 but the story you described is different than what you told
11 [REDACTED]
12 today?

13 A: Yes.

14 Q: And the story you described then is different than you told
15 Detective Hernandez?

16 A: Yes.

17 Q: Different than what you told Deputy Terrus?

18 A: Yes.

19 Q: Different than what you told Mr. Tepley?

20 A: Yes.

21 Q: In fact, the story today is different than anything else

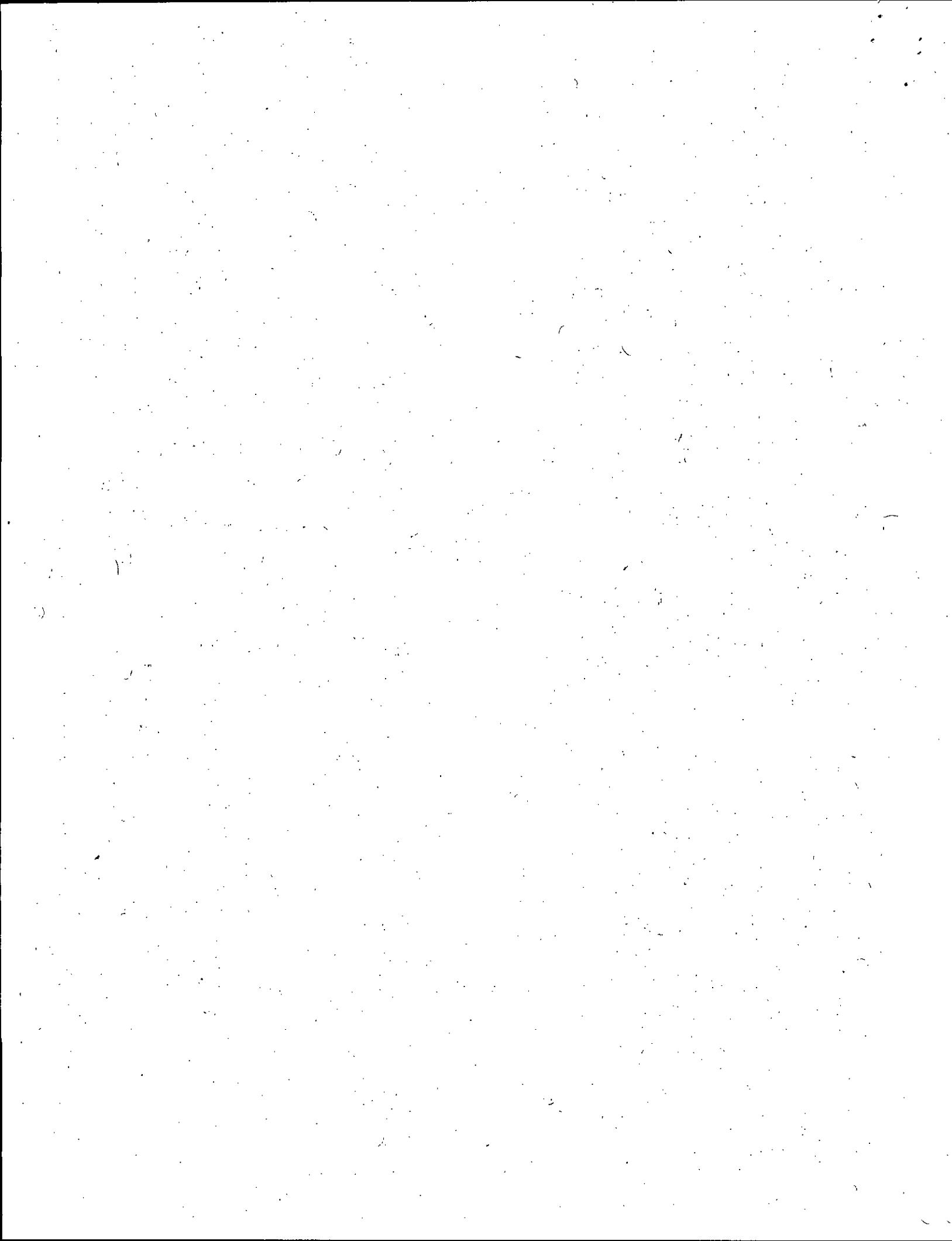
22

23

24

25

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 you've ever said, isn't it? //

2 A: Yes //

3 Q: Every time you tell the story it changes? //

4 A: (no audible response) //

5 Q: Isn't that true? //

6 A: Yes //

7 Q: Through all of those safe meetings you never said, when you
8 were there to talk about [REDACTED] you never
9 said that [REDACTED] //
10 correct? //

11 A: Yes.

12 MR. BOGAR: Your Honor, if I may have a moment?

13 THE COURT: Thank you.

14 Q: Handing you three more pages.

15 A: Okay.

16 Q: What pages are those, please?

17 A: 15 through 17.

18 Q: Okay. Can you please read them?

19 A: (no audible response)

20 Q: Are you done?

21

22

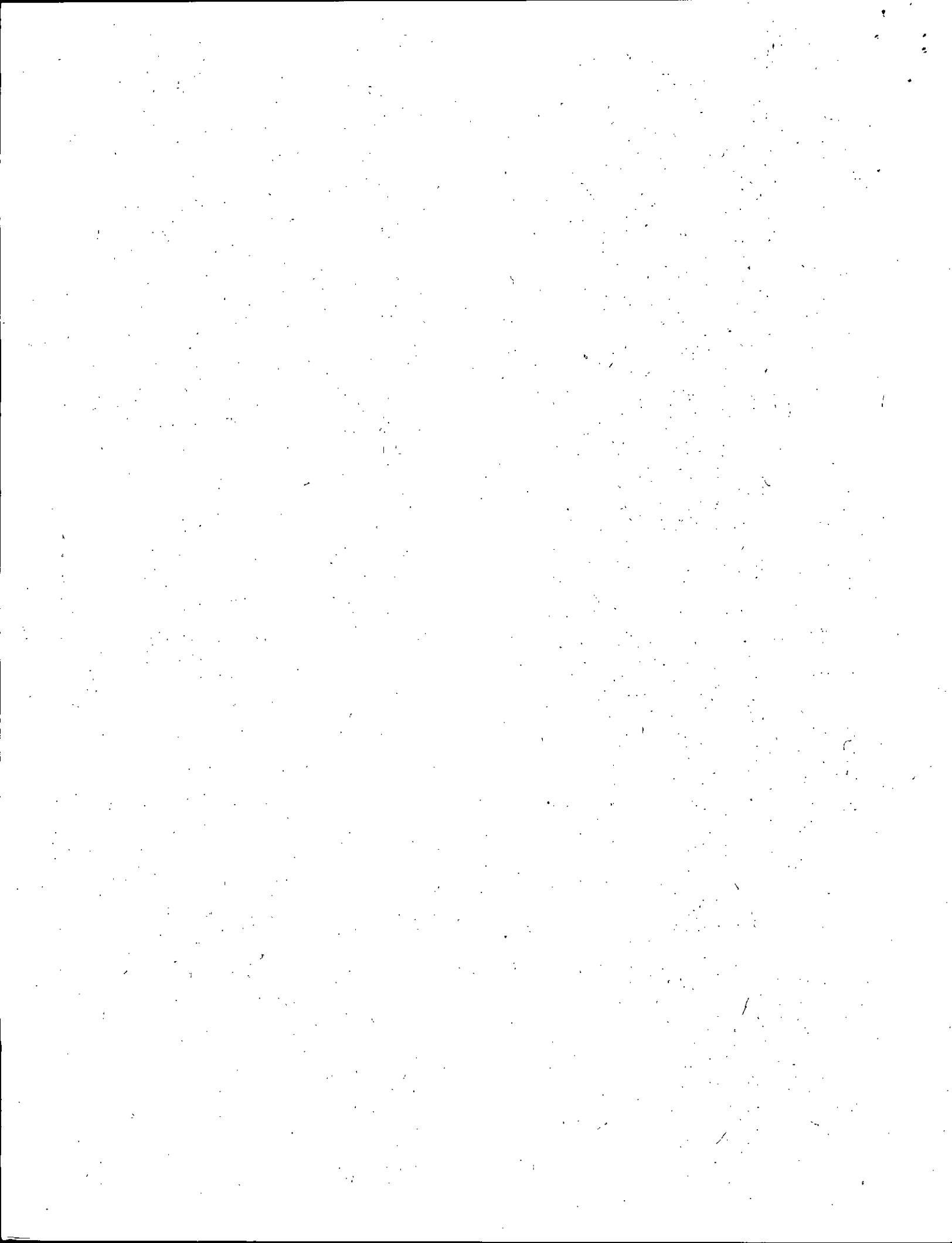
23

24

25

225

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 A: Yes.

2 Q: Your mother wanted you to graduate high school.

3 A: Yes.

4 Q: Who was the man who was stopping you?

5 A: My stepfather.

6 Q: Who was the man who was punishing you?

7 A: My stepfather.

8 Q: Who was the man who was keeping you from becoming an adult?

9 A: My stepfather.

10 Q: Who was the man who was charging you rent?

11 A: My stepfather.

12 Q: Who was the man who was causing all of the bad things in
13 your life?

14 A: My stepfather.

15 Q: And who was the man who was charging you rent?

16 A: My stepfather.

17 Q: On March 16th was your father expecting rent?

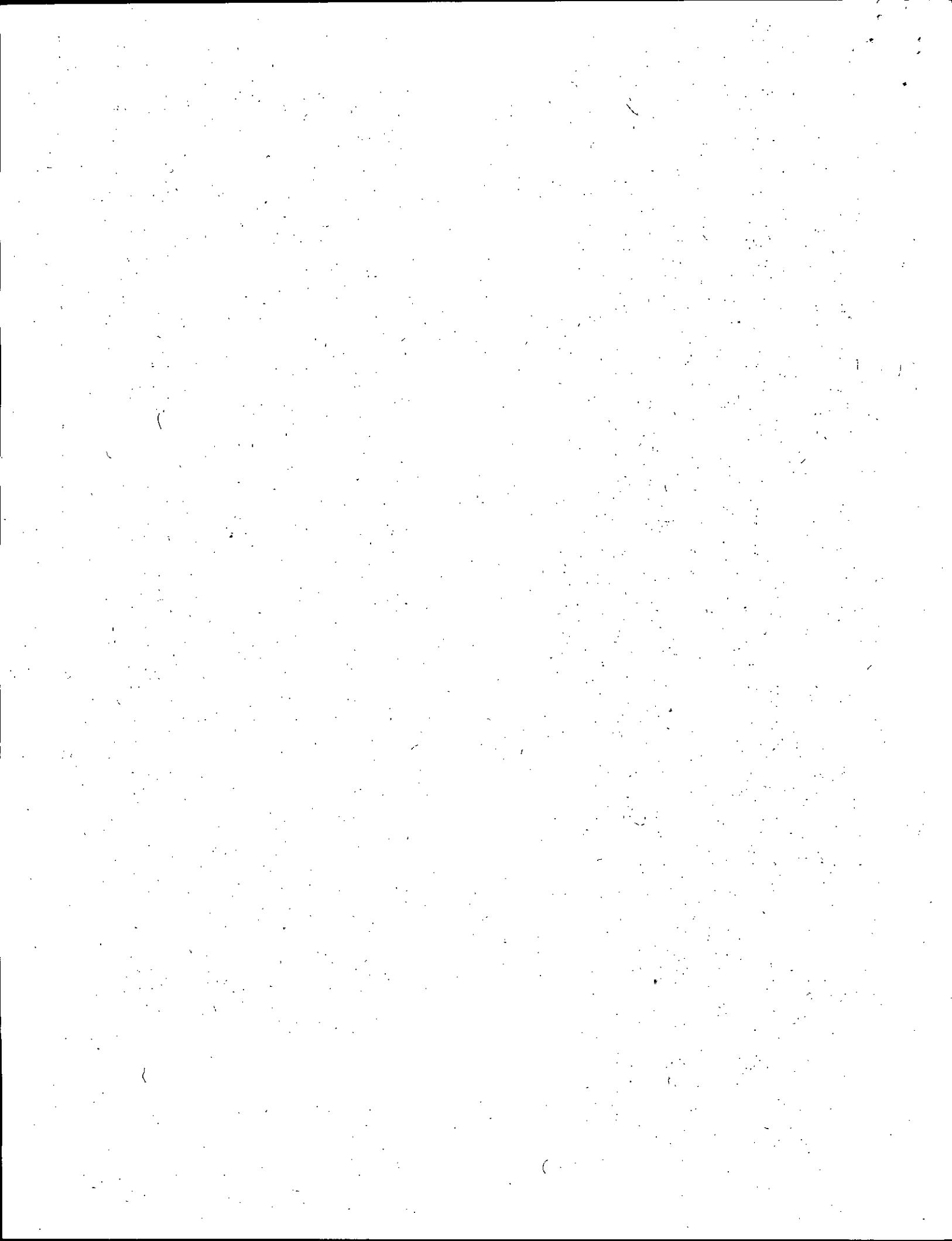
18 A: Yes.

19 Q: Did you have the rent?

20 A: No.

21 230

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 Q: To tell your mother, who loved you, that you were okay?

2 A: (no audible response)

3 Q: Right?

4 A: Yes.

5 Q: And you called your mom?

6 A: Yes.

7 Q: And your mom did not come and get you?

8 A: No.

9 Q: Your mom did not come and wrap you in her arms?

10 A: No.

11 Q: And tell you that it was going to be okay?

12 A: Yes.

13 Q: She knew you'd run away?

14 A: Yes.

15 Q: Because your father was not giving you the freedom that you
16 wanted?

17 A: Yes.

18 Q: And she called your bluff?

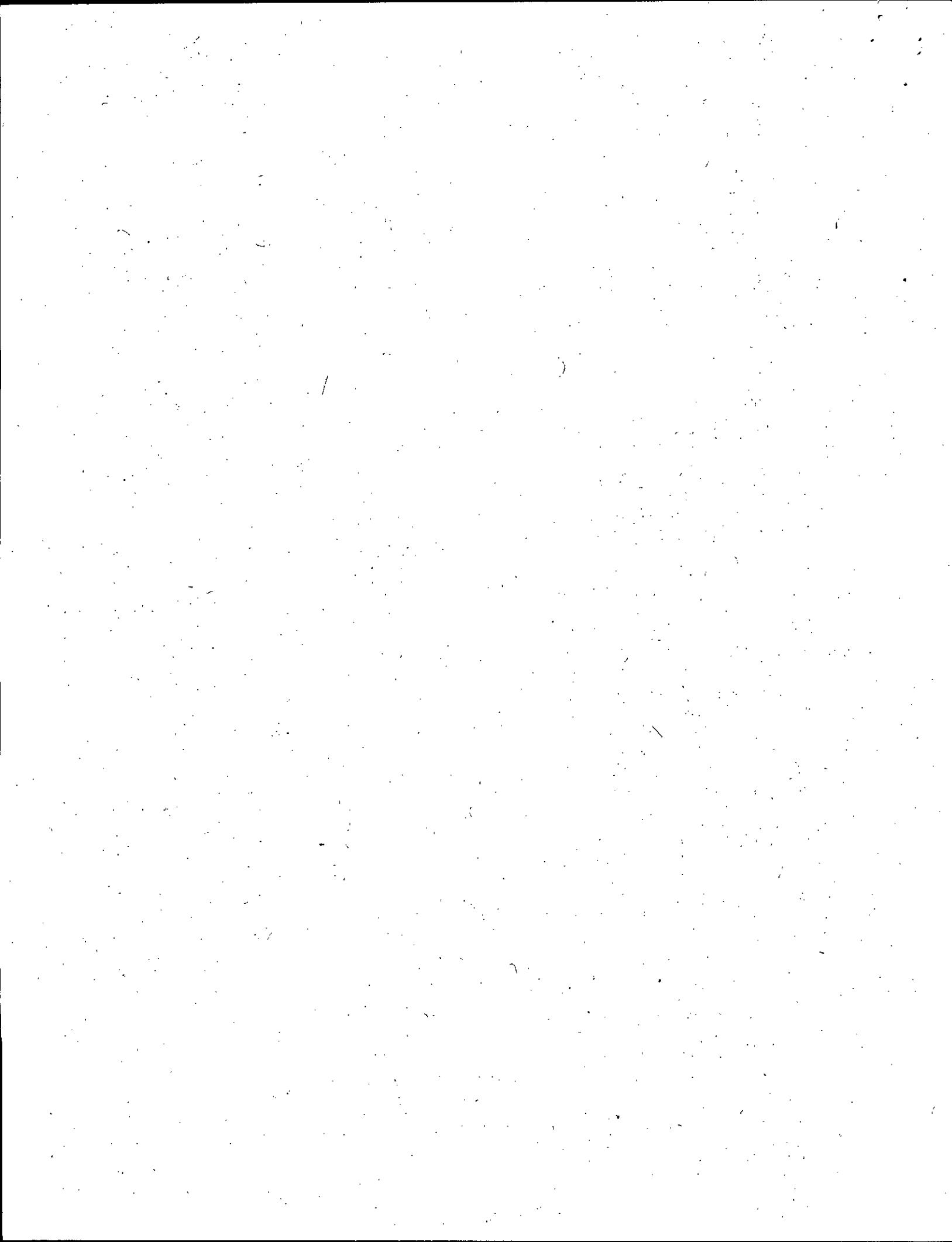
19 A: Yes.

20 Q: And that's when you brought up [redacted]?

21 22 23 24 25

232

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 A: (no audible response)

2 Q: That's when you brought up [REDACTED]

3 [REDACTED] had changed every single time you've spoken about them,

4 correct?

5 A: Yes.

6 Q: When you were about to be homeless by the [REDACTED]

7 [REDACTED]

8 A: Yes.

9 MR. BOGAR: No further questions.

10 THE COURT: Mr. McCarty, re-direct?

11 MR. McCARTY: Your Honor, I do have a brief matter for
12 the Court.

13 THE COURT: Okay.

14 MR. McCARTY: It should only take a couple minutes.

15 THE COURT: I'll have you leave your notepads on your
16 chair and have you step back to the jury room. We'll have
17 you back out shortly.

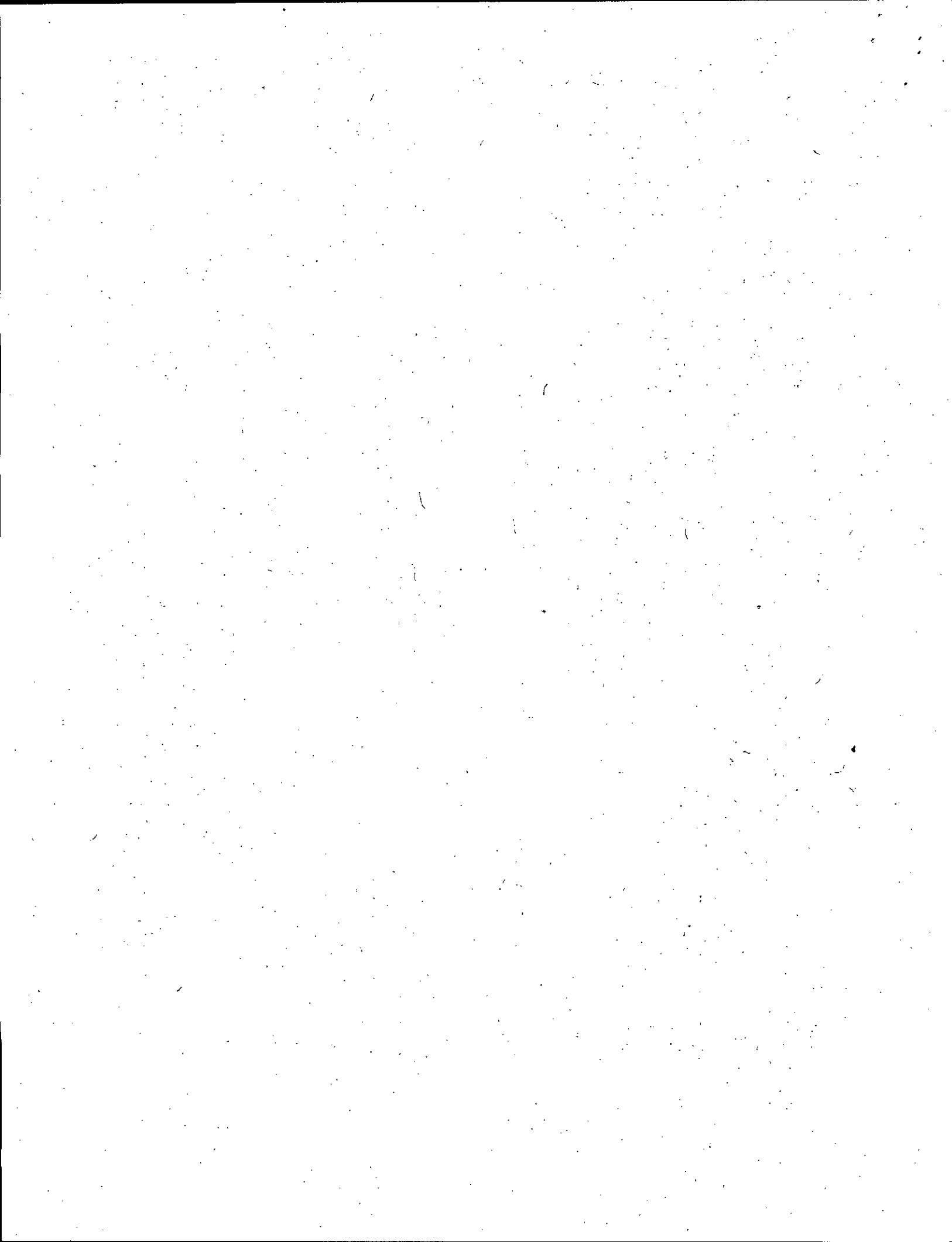
18 (JURY DEPARTS)

19 MR. McCARTY: Your Honor, when we were discussing mo-
20 tions in limine, we mentioned some of these that we would

21

22 233

23 Jo L. Jackson, Transcriptionist
24 P. O. Box 914
25 Waterville, WA 98858
509-745-9507/509-630-1705



1 Q:

2 A:

3 Q:

4 A:

5 Q: Did it happen daily, weekly, monthly?

6 A: It would vary. Usually it was about once a week.

7 Q:

8 A:

9 Q:

10 A:

11 Q:

12 A:

13 Q:

14 A:

15 Q:

16 Q:

17 A:

18 Q:

19 A:

20 Q:

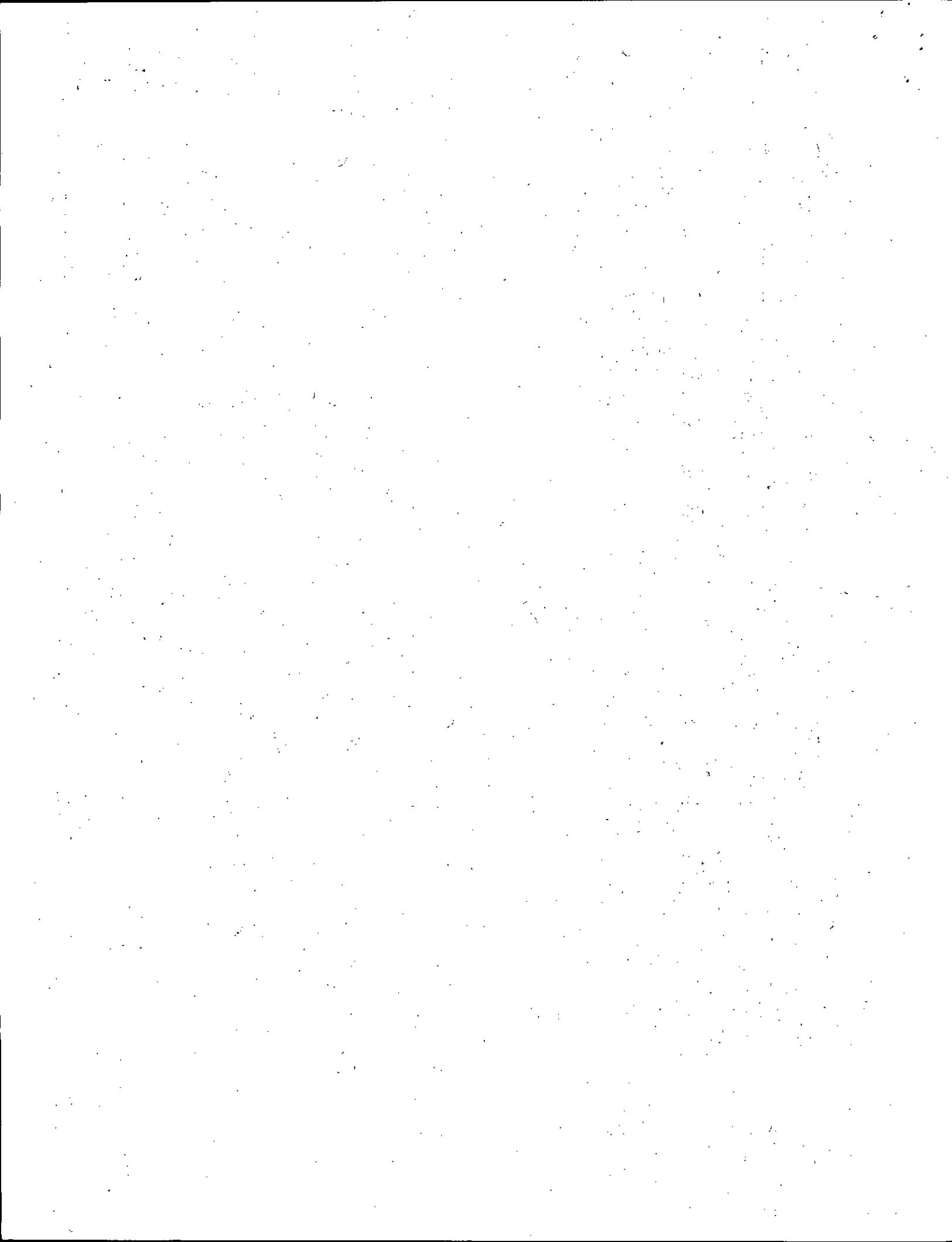
21 A:

22 Q:

23 A:

24 Q:

25 Q:



1 A: Yeah.

2 Q: It's not like the interview room over at the major crimes
3 unit?

4 A: No.

5 Q: Have you seen that one? No? All right.

6 A: No, it's not like that.

7 Q: That's just a table, chairs --

8 A: No, it's not like that.

9 Q: Right, nothing like that.

10 A: Correct.

11 Q: And you want to talk to the kids and hear the truth from
12 them?

13 A: Correct.

14 Q: Because your job is to get all the facts and all the evi-
15 dence?

16 A: Correct.

17 Q: When did you follow up with Deputy Ternus's email?

18 A: I didn't. I didn't know about his email.

19 Q: You didn't? Oh, okay.

20 A: Until today.

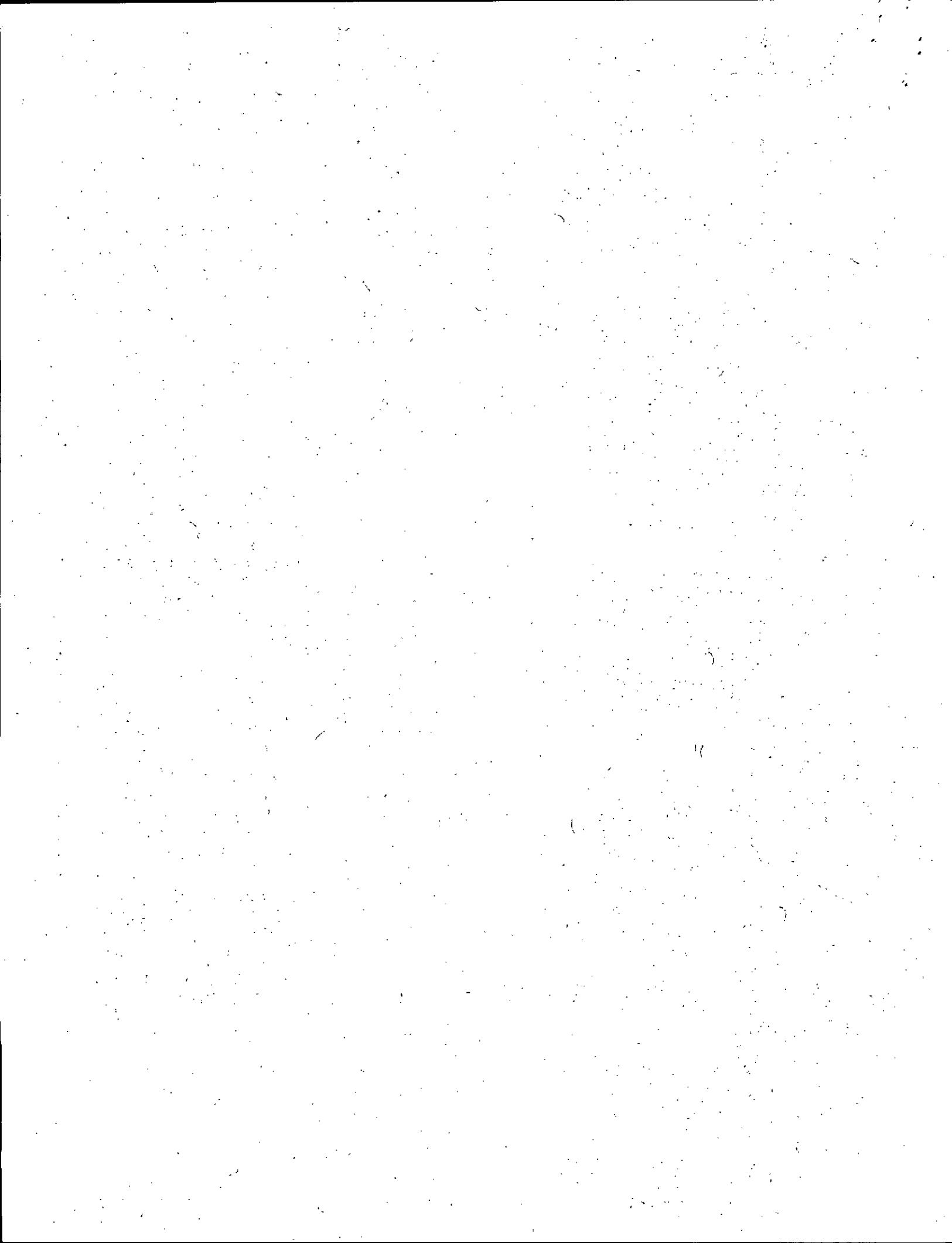
21

22

23

379

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 Q: This has been your case since. What day was it assigned
2

3 A: Do you?

4 Q: It was assigned to me 5/26/15.

5 Q: May 26th 2015.

6 A: Yes.

7 Q: And this is, this is your case?

8 A: Yes.

9 Q: You didn't know about the emails 'til today?

10 A: I did not.

11 Q: You're trained to also look for red flags when children
12 make disclosures, correct?

13 A: Yes.

14 Q: What are some of those red flags?

15 A: Details about the disclosure that might lead me to some ev-
16 idence, if... something to follow up on.

17 Q: Those are the only two red flags?

18 A: No, I mean, there's a number of things that you're looking
19 for in an interview. You're trying to hear everything that
20 they have to say and, and figure out if there's leads to go
21 off of or, or if something's not making sense, if, if some-
22

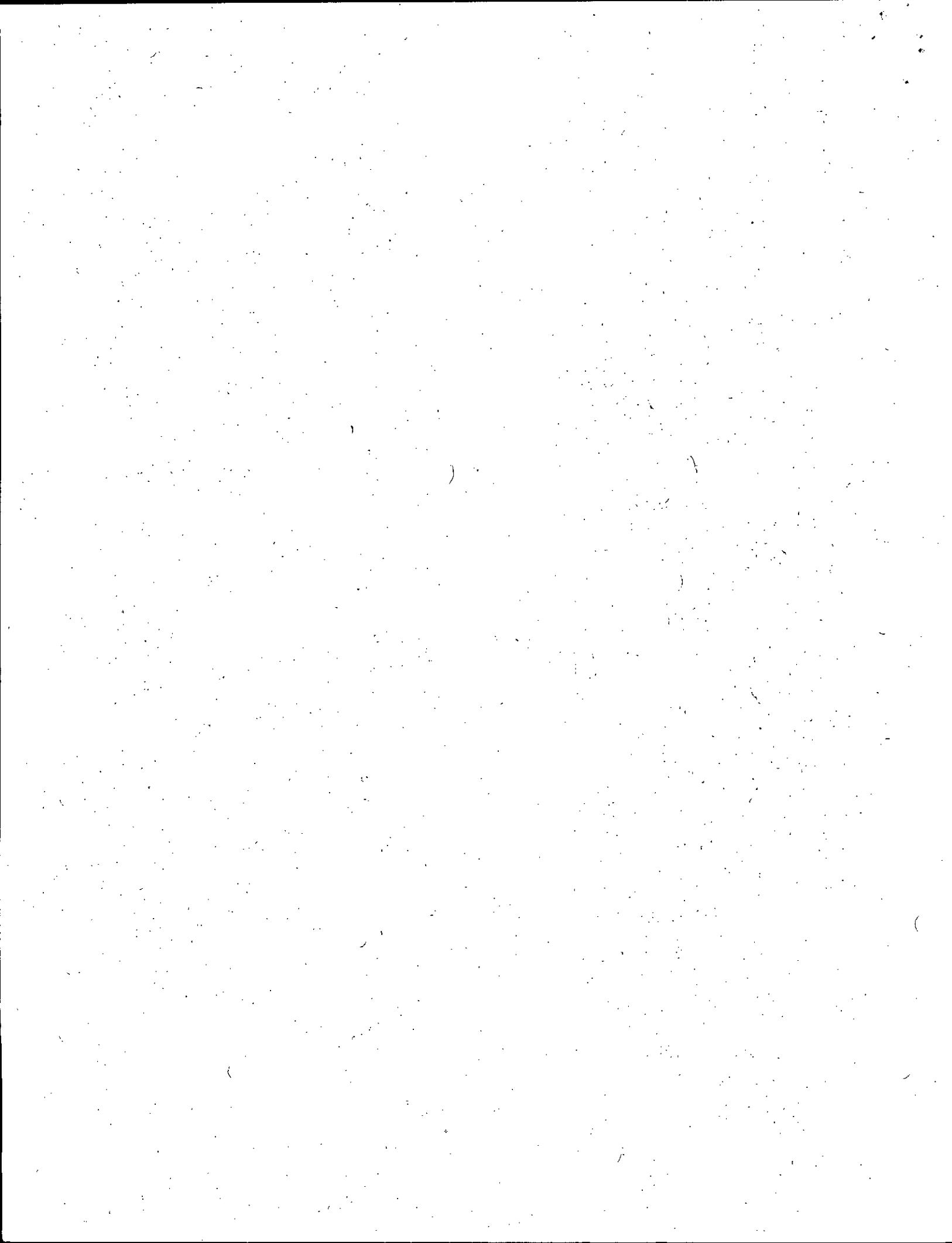
23

24

25

380

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 A: Okay.

2 Q: -- you did on the stand. You know him?

3 A: I know him. I worked with him in CJC.

4 Q: Okay. And his initial report detailed serious allegations?

5 A: Yes.

6 Q: And those allegations came to you to investigate further?

7 A: Yes.

8 Q: You didn't even give him a call and say, "Hey, is there anything else I'm missing?"

9 A: I spoke with him.

10 Q: You spoke with him?

11 A: Yes.

12 Q: Okay. He never told you about the emails?

13 A: I didn't know about the emails until today.

14 Q: We interviewed you. I mean, this is your case, right?

15 A: Yes.

16 Q: And you prepare packets, discovery packets, right?

17 A: I don't know what you're talking about.

18 Q: Well, you prepare information that goes to the prosecution
19 and then goes to the defense.

20

21

22

23

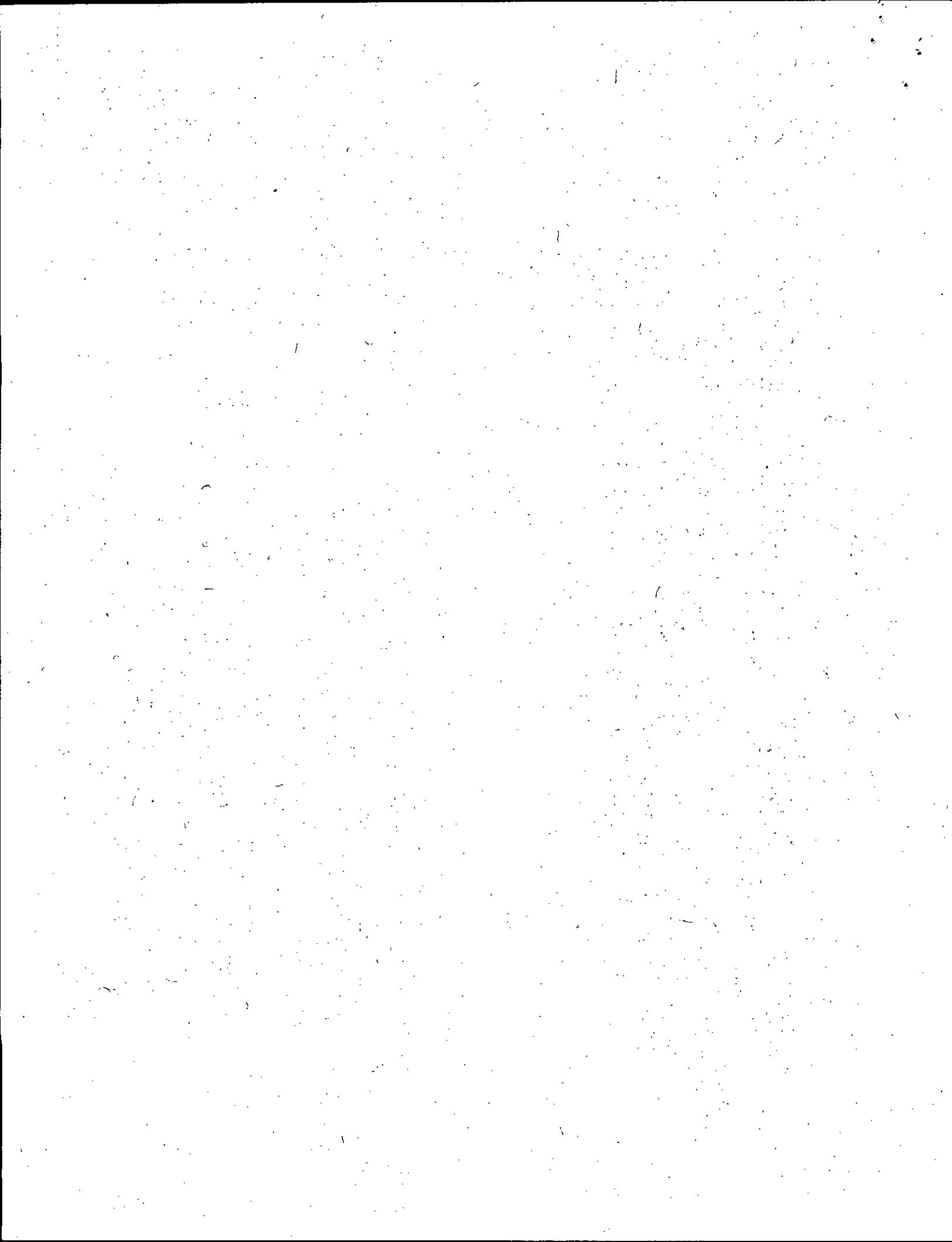
24

25

383

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-4705

-Q9-



1 A: And I write a report and I send it over to the Prosecutor's Office.
2 Q: Fine, yes.

3 Q: Okay. But you're involved, I mean, you've been sitting
4 there throughout trial?

5 A: Yes.

6 Q: You're involved with the preparation for trial?

7 A: In some ways, yes.

8 Q: You get interviewed by the defense?

9 A: Yes.

10 Q: And you didn't know about emails that would've... No, you
11 didn't know about these emails?

12 A: I did not know about the emails until today.

13 14 MR. BOGAR: No further questions.

15 MR. McCARTY: Nothing further. Thank you.

16 THE COURT: Okay. You may step down. Thank you.

17 18 Mr. McCarty, next witness?

19 MR. McCARTY: If I can have just a brief moment, Your
20 Honor?

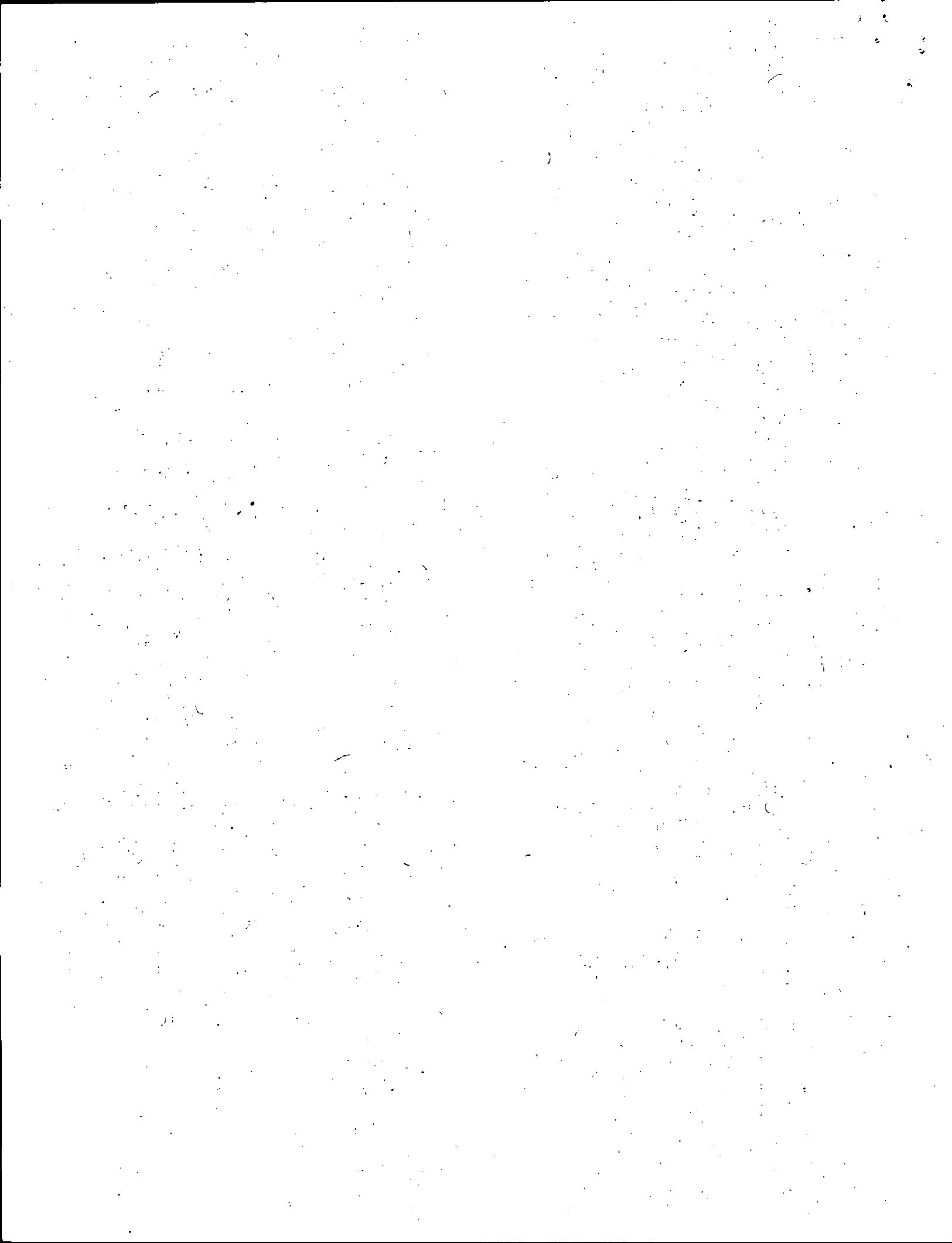
21 22 Your Honor, the State rests its case.

23 THE COURT: Okay. Thank you.

24 25

384

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705

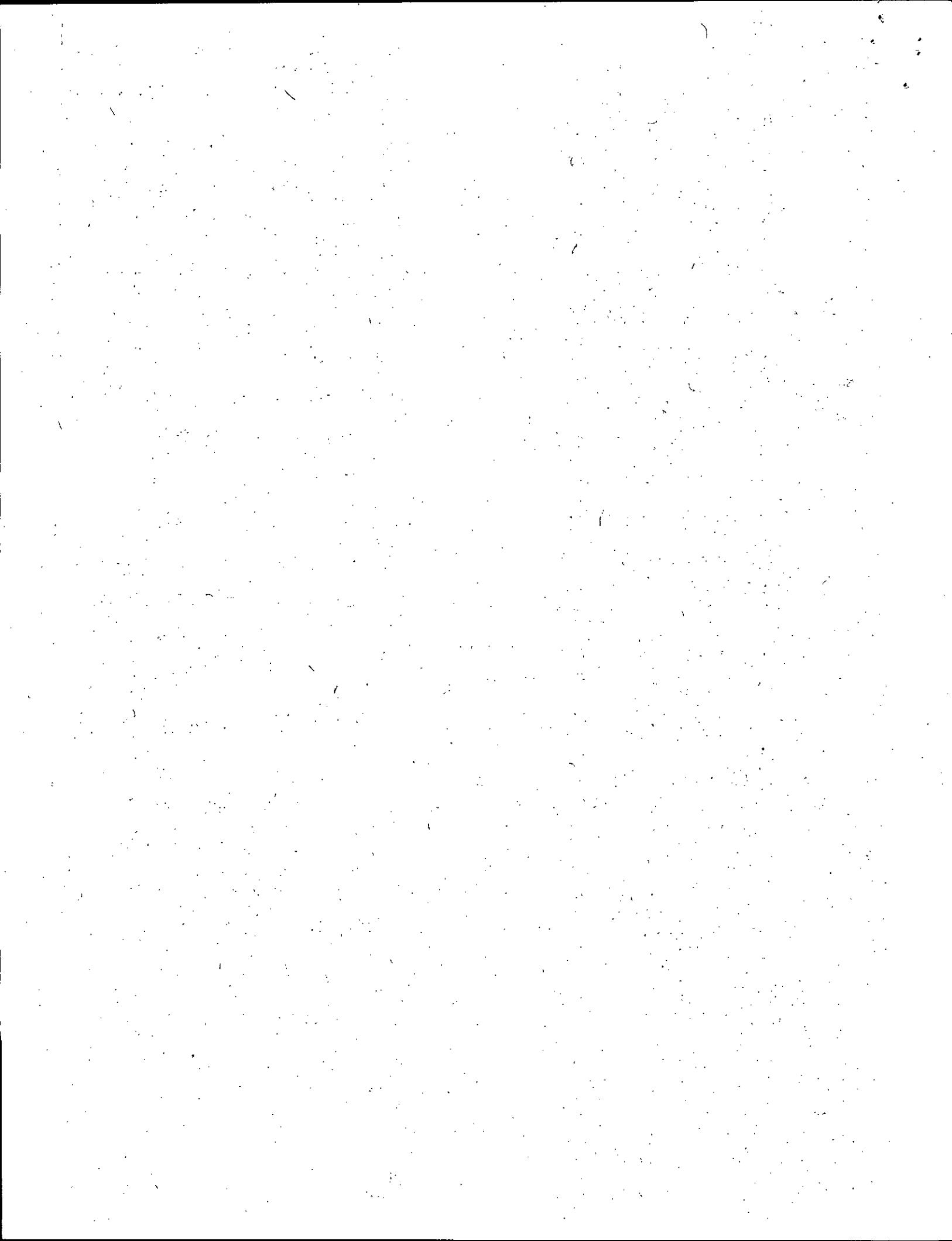


1 During my opening, I wrote it down, Chris Allred
2 has high standards. Said he wants his kids to do well and
3 [REDACTED] was not meeting those standards. I'm not saying
4 he's a great parent. I'm not saying that, that homeschool-
5 ing and sheltering your kids is what should be done.
6 That's not the issue. The issue is not whether or not she
7 should've been mad at her dad. ~~The issue is did she do [REDACTED]~~
8 ~~These things that every time she opens her mouth a new idea~~
9 ~~ascription comes out? She didn't tell anybody that she was~~
10 ~~about to be homeless? She didn't tell the cops that she~~
11 ~~had to pay rent? It was March 16th folks, that's rent day~~
12 ~~for her, because she paid the first half of the month's~~
13 ~~rent. She told you that. And she never told anybody about~~
14 ~~it. But she was 19 1/2 going on 20 without a job, a checking~~
15 ~~account, a driver's license, any plan, and she couldn't~~
16 ~~count on being able to go home. Why would she make up a~~
17 ~~story? She wasn't homeless March 17th. She reached out to~~
18 ~~her mom and her mom didn't come and get her. The normal~~
19 ~~teenage angst stuff, dad's being mean to me stuff, that~~
20 ~~wasn't going to keep her in the house. She knew that. She~~
21
22
23
24

474

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705

-Q11-



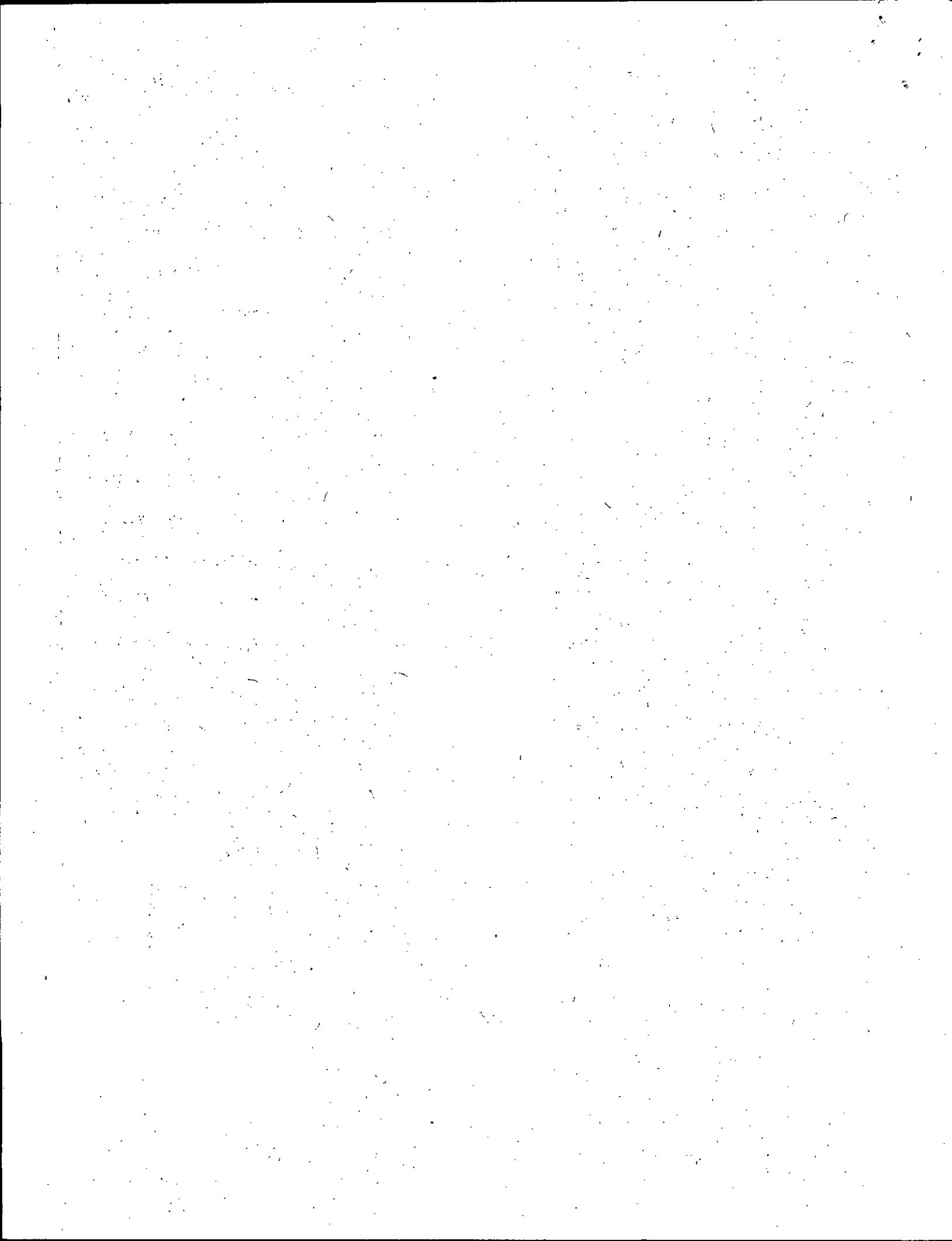
1 [happening all the time, almost every day. That the last
2 time had been about a week before, but at every step in the
3 process, the story's changed. Every single interview, I
4 wish I had the recording of when she conducted the first
5 interview. It was uncomfortable for her when every time
6 I'd walk back and I'd pick up a new question. Imagine if I
7 had two folders with direct quotes. Memory does not get
8 better with time. That's the evidence.

9
10 Now, [redacted] here's the thing, she
11 testified against her husband. She told you what she
12 thought she saw, but what she thought she saw comes with
13 what's called imperfect information. She hasn't been there
14 for any of [redacted] interviews. She wasn't here when she
15 testified, she wasn't in [redacted] with Mr. Tepley and she
16 wasn't there with the CJC. She doesn't know how [redacted]
17 story has changed every single time. If she'd saw what she
18 thought she saw, she would have called the police. She
19 testified against her husband. But the thing is when you
20 get imperfect information, sometimes memories change a
21 touch. It fills in some blanks, but if that information
22
23
24

25

482

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



1 because this room is where who we are as a people matters
2 most. He did not meet his burden. He tried to rehabilitate
3 her, but they were her own words and she was comfortable
4 when she said them. Hopefully she'll grow up, hopefully
5 she'll stop this, but right now the question is has the
6 government proven its case, ██████████ beyond a reasonable
7 doubt? And they have not. Not even close. ~~Truth does~~
8 ~~not get better with time. Memory does not get better with~~
9 ~~time. Her story has changed every single time, and that~~
10 ~~demands an acquittal on all four counts.~~ Remember, each
11 count is judged individually. Each allegation is judged
12 individually. When you go back in that jury room, do your
13 duty. It's not easy, it shouldn't be; embrace the challenge.
14 Do your duty. Christopher Allred is not guilty.
15 Thank you very much.
16

17 THE COURT: Thank you.
18

19 At this time I'm going to ask that you pay close
20 attention, Mr. McCarty has a chance to give the State's re-
21 buttal. Mr. McCarty?
22

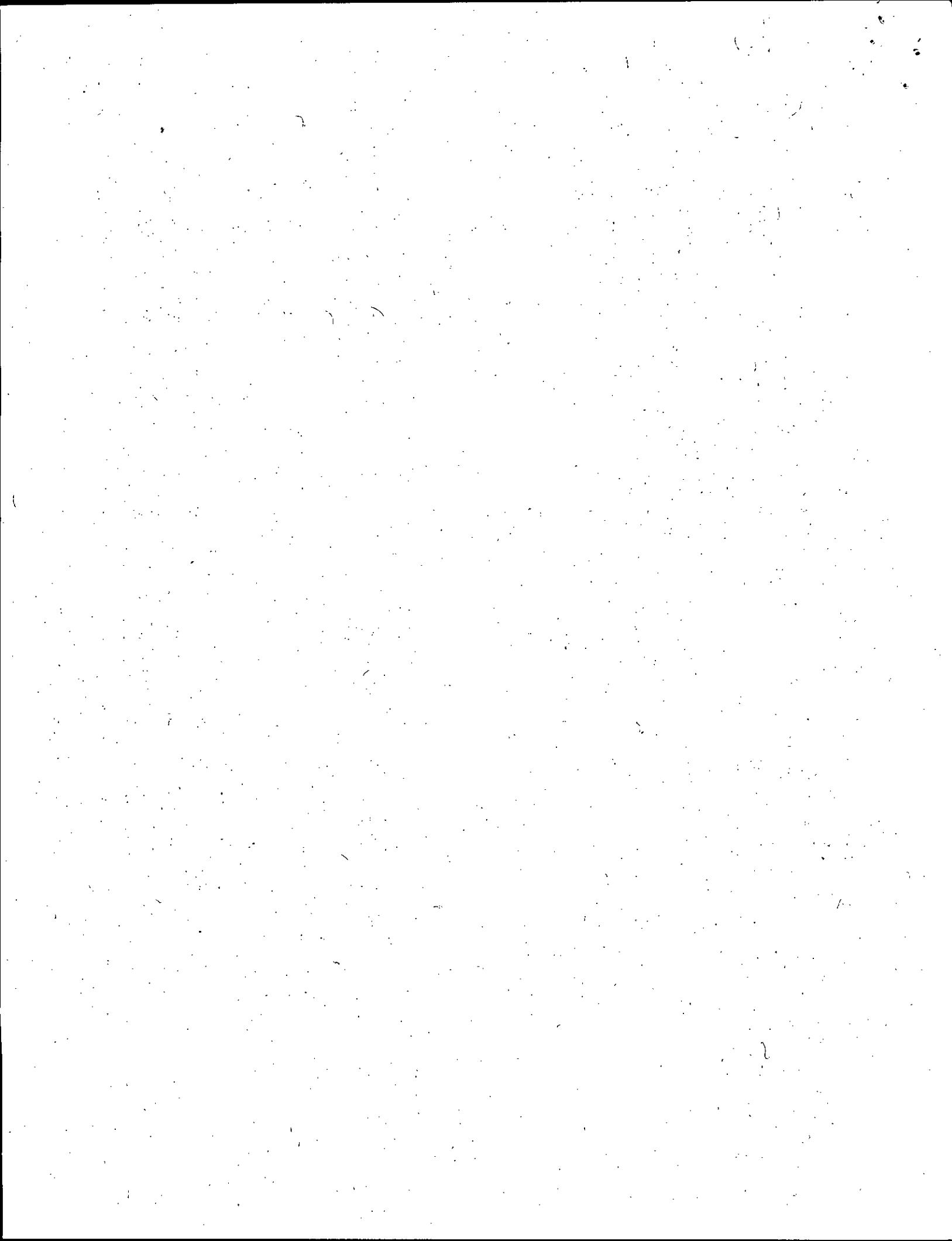
23 MR. McCARTY: Thank you, Your Honor.
24

25

491

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705

-Q13-



1 son to not say things during these interviews. Especially
2 since Detective Hernandez says memory does not get better
3 with time

4 So she ends up out at the church. Deputy Ternus,
5 he and I, you know, that was, that was a challenge. I want
6 you to look up there, "The impartial administration of jus-
7 tice is the foundation of liberty." A Deputy Sheriff can't
8 say he's there to find the truth. Excuse me? Impartial.
9 Impartial. You were instructed that you can take into ac-
10 count how somebody answered the questions. That man wears
11 a badge and a gun and he's sworn to serve and protect and
12 he couldn't say that he was there to just find the truth.

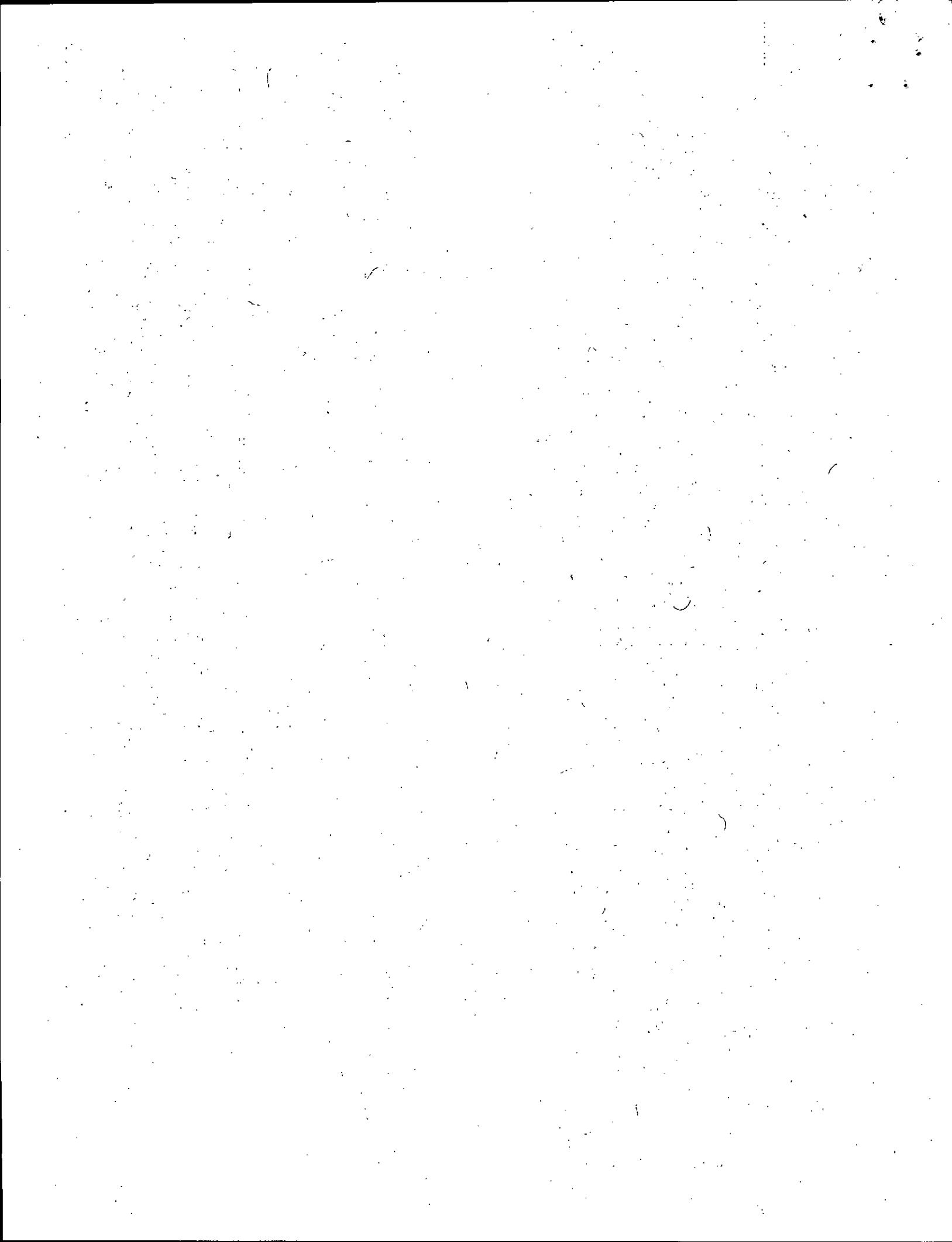
13 Detective Hernandez said that her job is to find out what
14 happened. Well, how could she do a complete investigation
15 if Deputy Ternus doesn't even provide the emails? She said,
16 she looks for red flags, red flags like stories that don't
17 make sense. You mean like being dragged down. This is
18 the drawing she drew, you're going to get it, being dragged
19 down between two couches in front of other people and for-
20 cibly raped when the couches were so close that her legs
21 were
22 were
23 were
24

25

477

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705

-Q14-



1 is asking you to make these conclusions when Christopher
2 Allred went home. When Christopher Allred sent him an
3 email directly addressing one of the allegations. She says

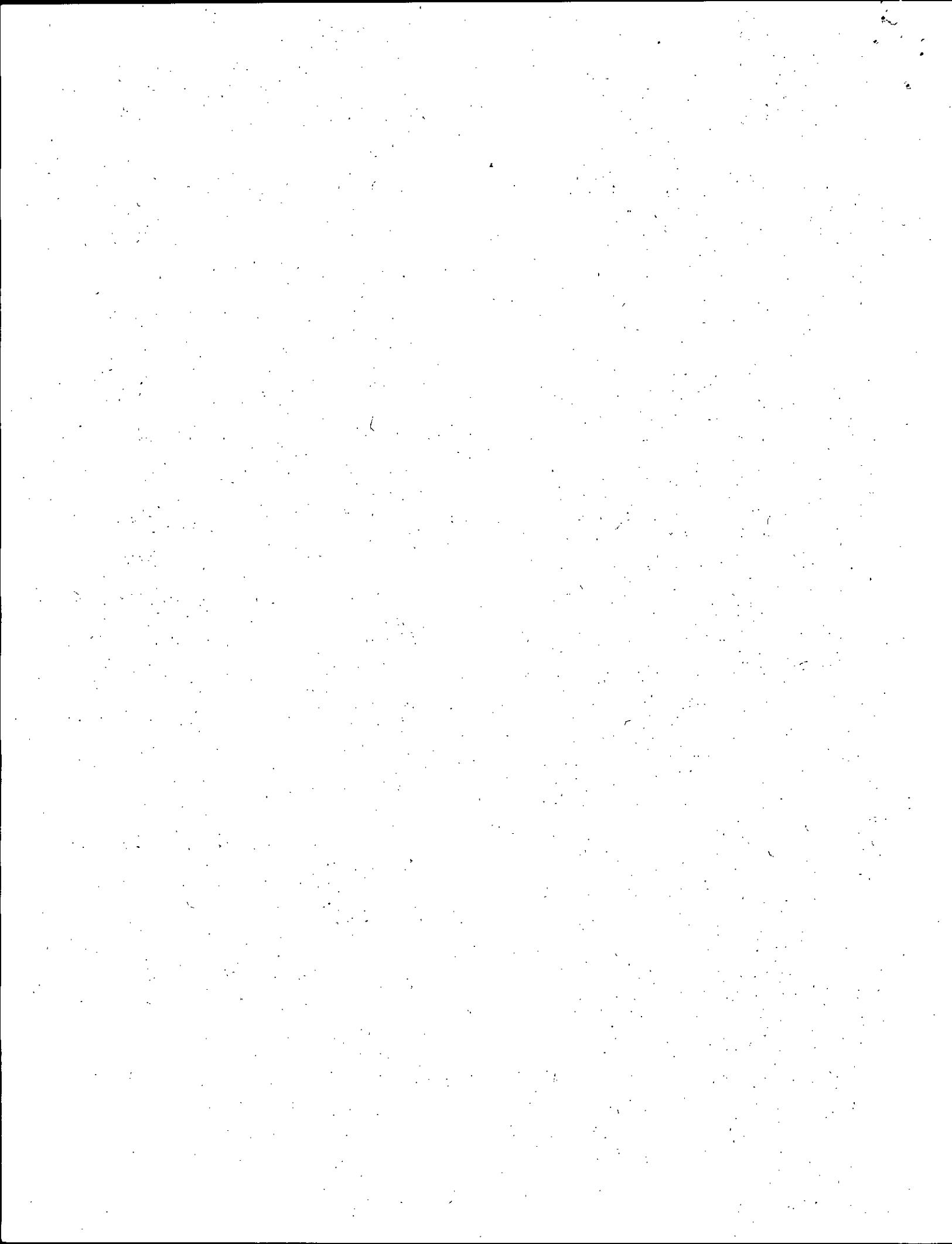
4 [REDACTED] I don't [REDACTED]
5 [REDACTED] I have multiple sclerosis. And it was never followed
6 up.
7

8 [REDACTED] October of 2008, doctor at Peace Health, April of
9 2009, April of 2009, May 2009, July 2009, it goes on. For
10 follow up. Look at your red flags. How can Detective Hernandez
11 [REDACTED] look for red flags if it doesn't even make it into the
12 [REDACTED] file? That's a motivated witness, ladies and gentlemen.

13 There are concerns with how that was done. And he wouldn't
14 answer whether or not he was there to find the truth.

15 Detective Hernandez, we talked about delayed reports.
16 [REDACTED] This wasn't a delayed report. [REDACTED] said it had
17 just been happening, so there's no indication that this was
18 a delayed report thing. There's no indication that she'd
19 been sitting on it and had the memory come to light, some
20 kind of episodic or distinct memory situation like de-
21 scribed by Mr. McCarty, huh-huh (negative). She says it was
22

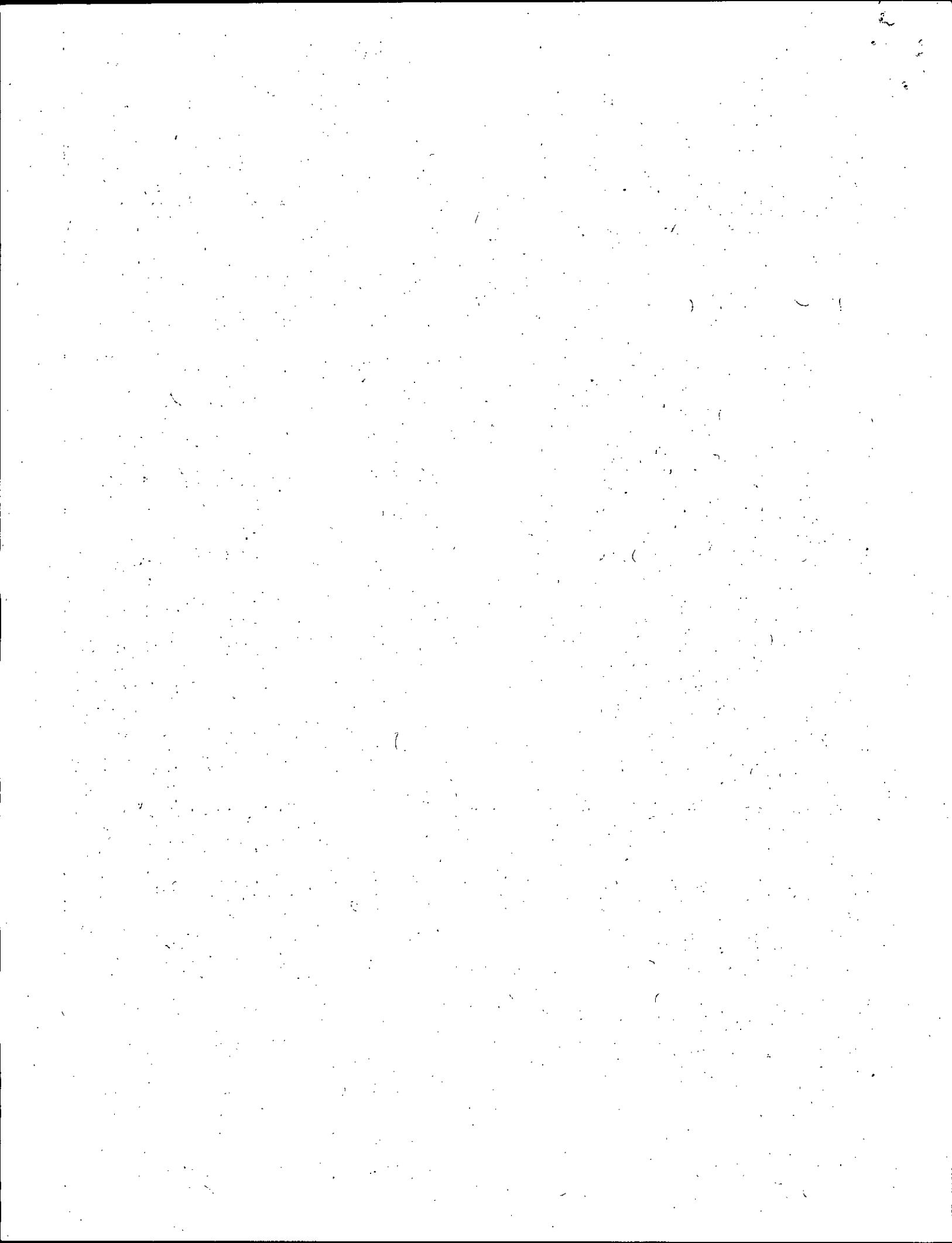
23 24 25



ages that the government has to prove. That's reasonable
doubt.

3 But, folks, at the end of the day it doesn't mat-
4 ter what I say, it doesn't matter what Mr. McCarty says, it
5 doesn't. We don't convict people based on an allegation if
6 the allegation doesn't make sense. ~~Detective Hernandez~~
7
8 ~~could not follow up on the things that don't make sense be-~~
9 ~~cause nobody asked, nobody asked the right questions and~~
10 ~~she didn't know about the MS issue. [REDACTED] cannot~~
11 ~~tell the same story two days in a row. That is a very~~
12 clear conclusion from what you heard, not because I twisted
13 her words, but because I showed her her words that she had
14 said before. Thank God we have recorders. Thank God we
15 have transcriptionists. She agreed that what I showed her
16 was what she had said, and the conclusion from that is that
17 every story is different.

20 Folks, the government has to prove its case be-
21 yond a reasonable doubt. Mr. McCarty asked you to hold him
22 to that burden. It's not a burden, it's a duty. This is
23 an honor. As distasteful as this case is, it is an honor



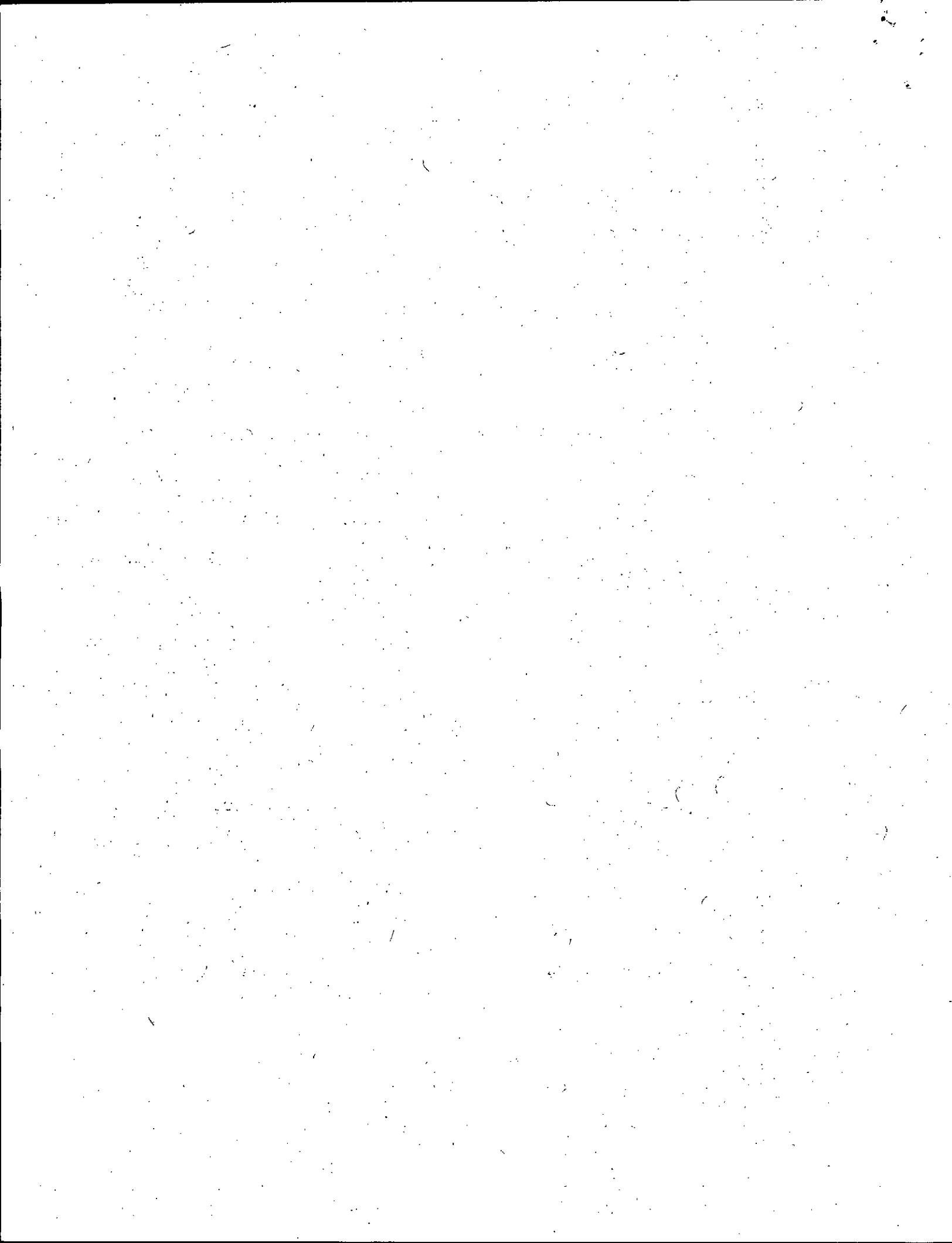
REBUTTAL CLOSING ARGUMENT/PLAINTIFF

1 about it, she can get better at it and better at it, she
2 gets better at talking about it and she can talk about it
3 more. That's what she meant by delayed disclosure.

4 Counsel pointed out that [REDACTED] had made a
5 statement to Deputy Ternus of how she thought about Chris-
6 topher Allred in a [REDACTED], and that probably makes per-
7 fect sense because for 3½ years he'd been treating her in a
8 [REDACTED] [REDACTED], so of course she thought about him in a [REDACTED]
9 [REDACTED]. It makes complete sense.

10
11 Mr. Bogar pointed out that in opening I described
12 [REDACTED] the evidence, what it would be for the [REDACTED] and didn't
13 give up to that. He's correct. But the only difference is
14 there was not testimony about the Defendant covering her
15 mouth as she tried to scream. [REDACTED] did not testify to
16 that, but she did testify very clearly to being held down,
17 to him holding her down, not letting her up when he [REDACTED]
18 [REDACTED] her, and that is [REDACTED] in the [REDACTED].

19
20 Counsel emphasized here, he said that [REDACTED] Allred
21 was not groomed because the Defendant was just so mean. So
22 mean, he's not grooming her, he's being mean to her and
23
24



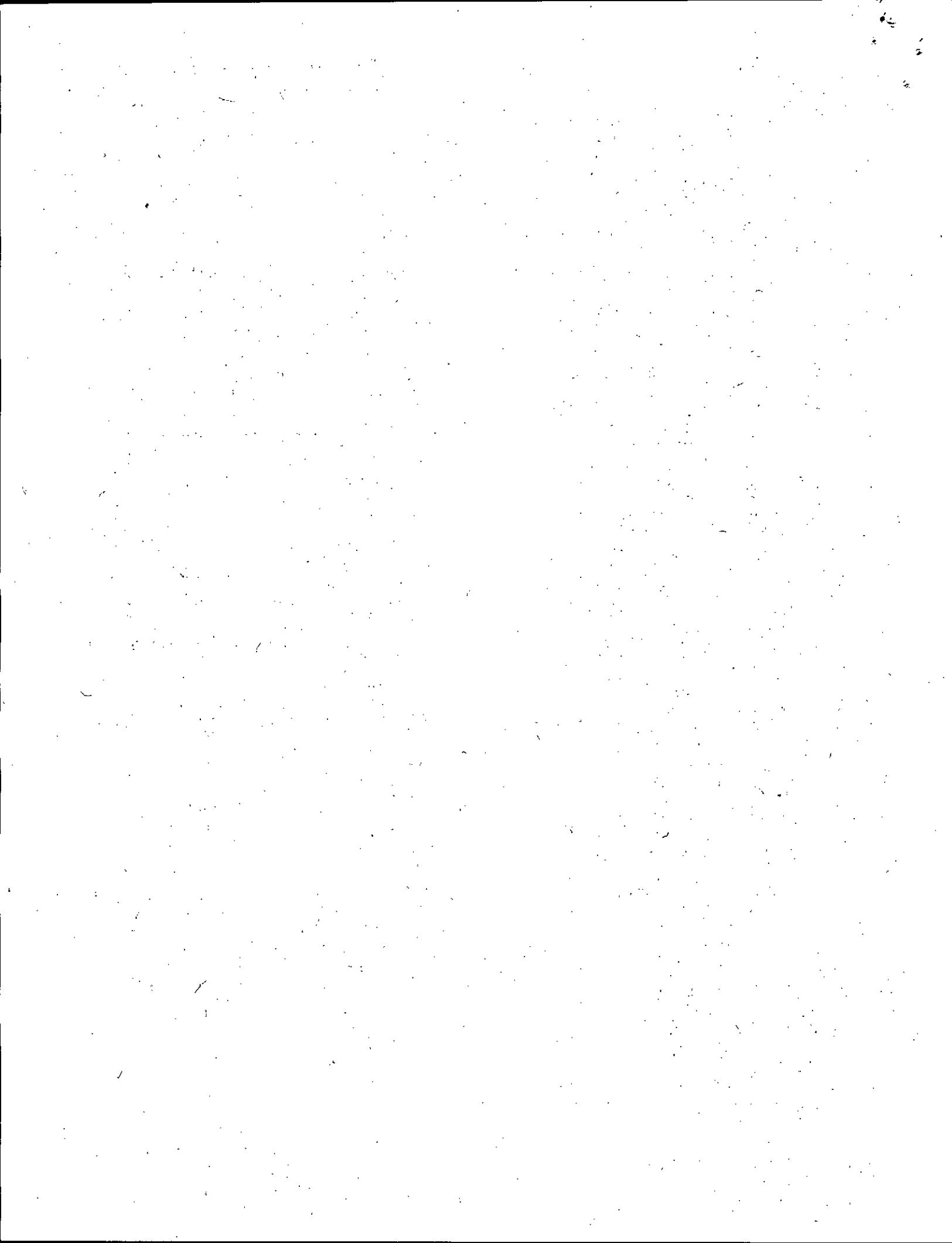
1 Nevertheless, the Court has a range of 210 months
2 to 280 months, or with the aggravators up to life. Where
3 the Court lands, The Court did hear all of the testimony.
4 From our perspective we were frankly somewhat surprised in
5 the conviction, especially [REDACTED] He does have
6 multiple sclerosis, which is going to greatly affect him as
7 he ages and gets older. We think that's something that the
8 Court should consider. His wife is in the courtroom. I
9 understand that she is maintaining the relationship. I be
10 lieve she wants to speak to the Court, as well. So if he
11 never -- he understands, we've talked at length about the
12 ISRB, he understands that as long as he maintains his inno
13 cence with these convictions he's unlikely ever to get out,
14 so that's the situation that he's in and he's going to be
15 in prison potentially for up to life with [REDACTED]
16 [REDACTED] multiple sclerosis, so that is certainly going to
17 be a challenging situation. So we ask the Court to take
18 that into account.

22 And, normally, you know, these cases we all know,
23 I think I can with a great deal of confidence that every-
24

25

509

Jo L. Jackson, Transcriptionist
P. O. Box 914
Waterville, WA 98858
509-745-9507/509-630-1705



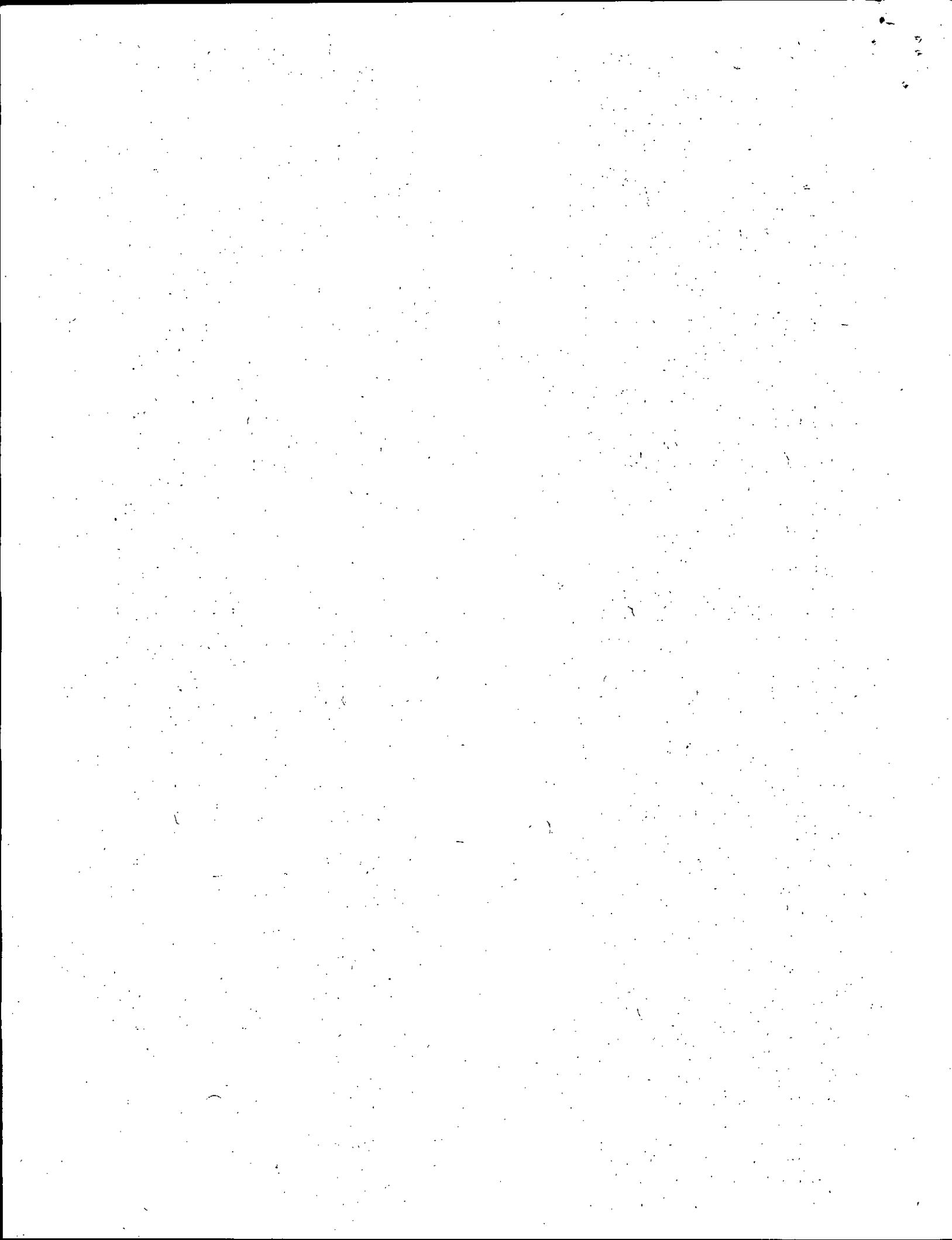
1 2. Rios's claims, that his convictions are unlawful because he was not charged
2 by grand jury indictment, fail to state a federal constitutional ground for
relief

3 Indictment by grand jury is not part of the due process guarantees of the Fourteenth
4 Amendment that apply to state criminal defendants. *Hurtado v. California*, 110 U.S. 516, 534
5 (1884); *see also Rose v. Mitchell*, 443 U.S. 545, 557 n.7 (1979).

6 [In the sense of the constitution, "due process of law" was not meant or intended
7 to include, *ex vi termini*, the institution and procedure of a grand jury in any case.
8 The conclusion is equally irresistible, that when the same phrase was employed
9 in the fourteenth amendment to restrain the action of the states, it was used in the
same sense and with no greater extent; and that if in the adoption of that
amendment it had been part of its purpose to perpetuate the institution of the
grand jury in all the states, it would have embodied, as did the fifth amendment,
express declarations to that effect.

10
11 *Hurtado*, 110 U.S. at 534-35. "This rule has been applied to Washington's state practice of
12 prosecution by information." *Jeffries v. Blodgett*, 5 F.3d 1180, 1188 (9th Cir. 1993) (citing
13 *Gaines v. Washington*, 277 U.S. 81 (1928)). Accordingly, a state prisoner's habeas claim alleging
14 the denial of indictment by grand jury fails to state a federal constitutional ground for habeas
15 relief and must be dismissed. *Id.*

16 All four of Rios's § 2254 claims are premised on the lack of a grand jury indictment in
17 his case. He argues that the State of Washington acted in "willful defiance" of the Constitution
18 by failing to follow the Fifth Amendment's requirement of indictment by a grand jury. Dkt. No.
19 6, at 6-11 (Grounds One-Four). In claim three, Rios further alleges that the State's "abrogation"
20 of his grand jury entitlement resulted in a violation of his rights under the Thirteenth Amendment
21 because he was not "duly convicted" for purposes of that Amendment. Dkt. No. 6, at 9. Rios's
22 arguments are without merit. *Hurtado* has been the law of the land for over a century. The fact
23 the State of Washington proceeded by charging him in an information rather than by indictment
24 fails to state a constitutional ground for federal habeas relief. The Court may dismiss Rios's
25 petition with prejudice:



1 This Court may deny relief on the merits, despite the fact Rios's grand jury claims are
2 unexhausted, because the claims are clearly without merit. *See Ayala v. Chappell*, 829 F.3d 1081,
3 1096 (9th Cir. 2016) ("[C]ourts are empowered to, and in some cases should, reach the merits of
4 habeas petitions if they are . . . clearly not meritorious despite an asserted procedural bar.")
5 (alteration in original) (quoting *Franklin v. Johnson*, 290 F.3d 1223, 1232 (9th Cir. 2002)).
6 AEDPA explicitly authorizes district courts to deny relief on the merits of unexhausted claims.
7 *See* 28 U.S.C. § 2254(b)(2) (providing that a petition may be denied on the merits
8 notwithstanding the failure to exhaust state remedies). "[A] federal court may deny an
9 unexhausted petition on the merits only when it is perfectly clear that the applicant does not raise
10 even a colorable federal claim." *Cassett v. Stewart*, 406 F.3d 614, 624 (9th Cir. 2005); *see also*
11 *Rose v. Lundy*, 455 U.S. 509, 525 (1982) (Blackman, J., concurring) ("Remitting a habeas
12 petitioner to state court to exhaust a patently frivolous claim before the federal court may
13 consider a serious, exhausted ground for relief hardly demonstrates respect for the state courts.").
14 Even if Rios returns to state court to properly litigate a grand jury claim and succeeds in obtaining
15 review on the merits (thereby exhausting state remedies), the claim would still not be cognizable
16 on habeas review based on *Hurtado* and its progeny. Therefore, Respondent respectfully requests
17 that the Court dismiss Rios's claim on this alternate basis.

18 ///

19 ///

20 ///

21 ///

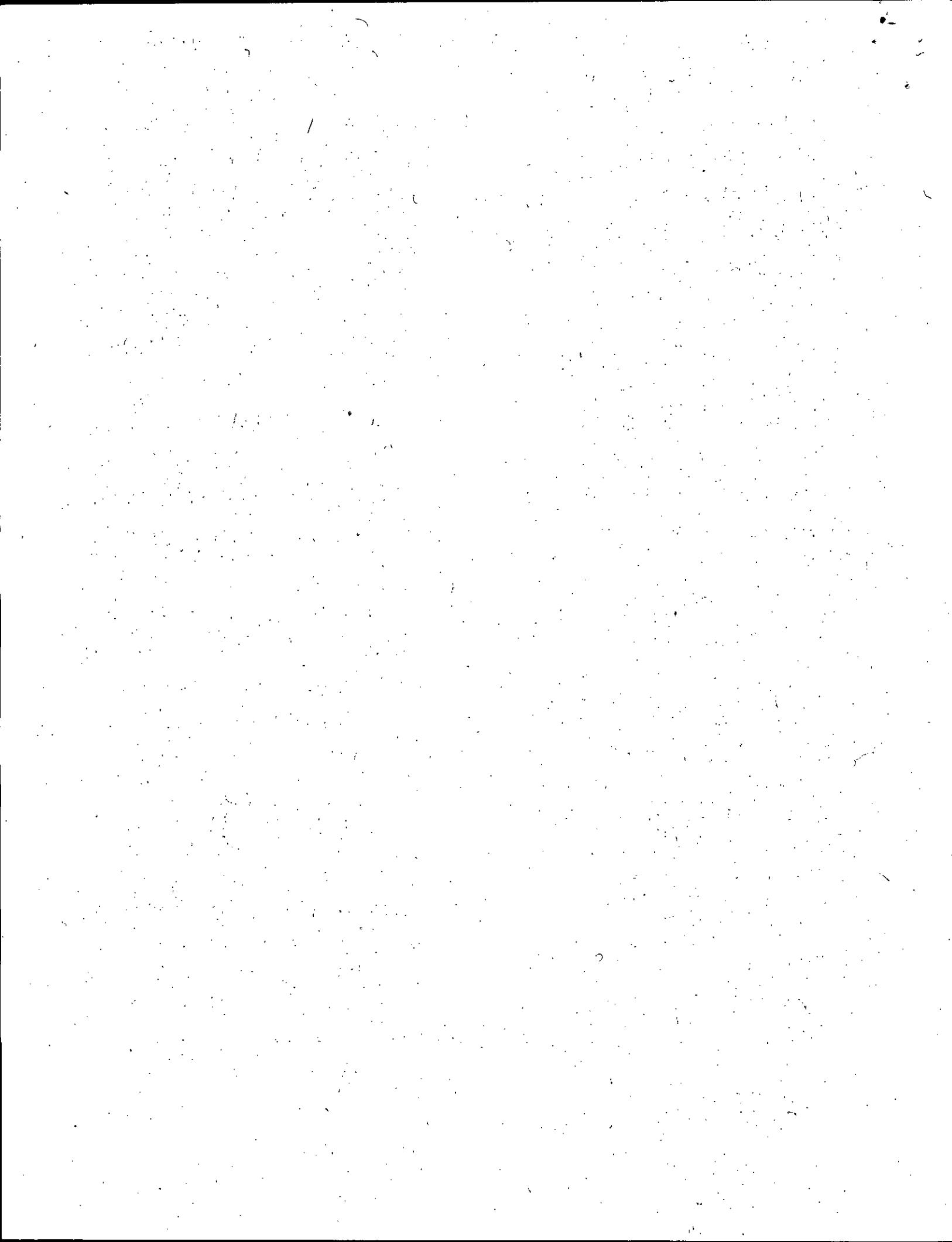
22 ///

23 ///

24 ///

25 ///

26 ///



1 Washington is acting in willful defiance of federally established procedures or processes for the
 2 adjudication of crimes, its acts resulting in the willful deprivation of life, liberty, or property can
 3 only be resolved through the petition of grievances to the authority providing such inalienable
 4 rights.”); *id.* at 7 (explaining that “[t]here are no remedies or alternate procedures as long as the
 5 State is acting in willful defiance [of] processes and statutes.”). But there is no general exception
 6 to the exhaustion rule based on the petitioner’s assessment of his claims’ relative merit. The
 7 Supreme Court has not recognized an exhaustion exception for so-called clear constitutional
 8 violations. *Duckworth v. Serrano*, 454 U.S. 1, 3-4 (1981) (per curiam). “[O]bvious constitutional
 9 errors, no less than obscure transgressions, are subject to the requirements of § 2254(b).” *Id.* at
 10 4. Although Reinbold may believe his grand jury claims are meritorious and entitle him to relief
 11 (a position with which Respondent disagrees), he is nevertheless required to exhaust state
 12 remedies.

13 2. Reinbold’s claims, that his state custody is unlawful because he was not
 14 charged by grand jury indictment, fail to state a federal constitutional
 ground for relief and violate *Teague* principles

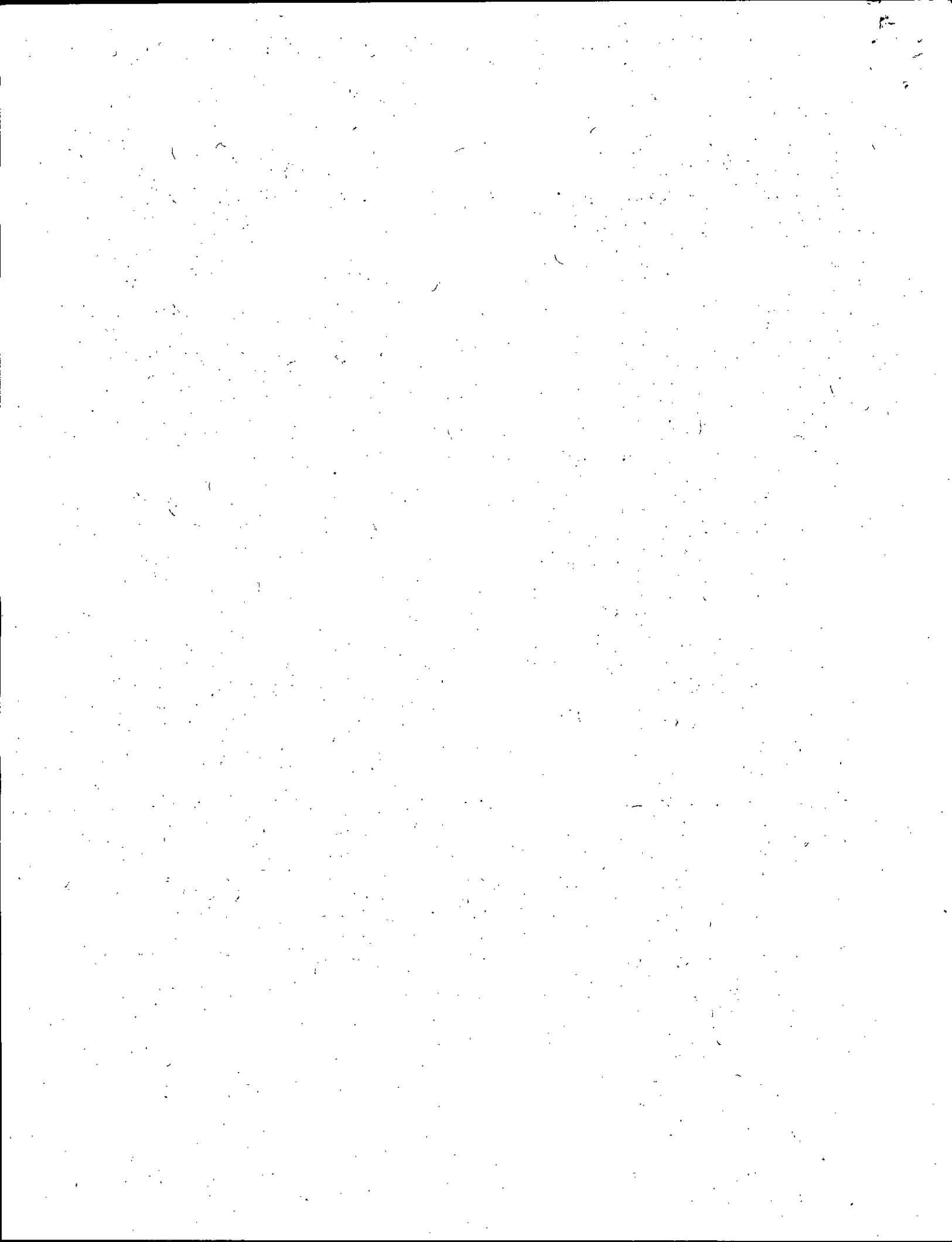
15 Indictment by grand jury is not part of the due process guarantees of the Fourteenth
 16 Amendment that apply to state criminal defendants. *Hurtado v. California*, 110 U.S. 516, 534
 17 (1884); *see also Rose v. Mitchell*, 443 U.S. 545, 557 n. 7 (1979).

18 [I]n the sense of the constitution, “due process of law” was not meant or intended
 19 to include, *ex vi termini*, the institution and procedure of a grand jury in any case.
 The conclusion is equally irresistible, that when the same phrase was employed
 20 in the fourteenth amendment to restrain the action of the states, it was used in the
 same sense and with no greater extent; and that if in the adoption of that
 21 amendment it had been part of its purpose to perpetuate the institution of the
 grand jury in all the states, it would have embodied, as did the fifth amendment,
 22 express declarations to that effect.

23 *Hurtado*, 110 U.S. at 534. “[T]here is no federal constitutional impediment to dispensing entirely
 24 with the grand jury in state prosecutions.” *Beck v. Washington*, 369 U.S. 541, 545 (1962).

25 *Hurtado* has been applied to the State of Washington’s practice of prosecution by information.

26 *Jeffries v. Blodgett*, 5 F.3d 1180, 1188 (9th Cir. 1993) (citing *Gaines v. Washington*, 277 U.S.

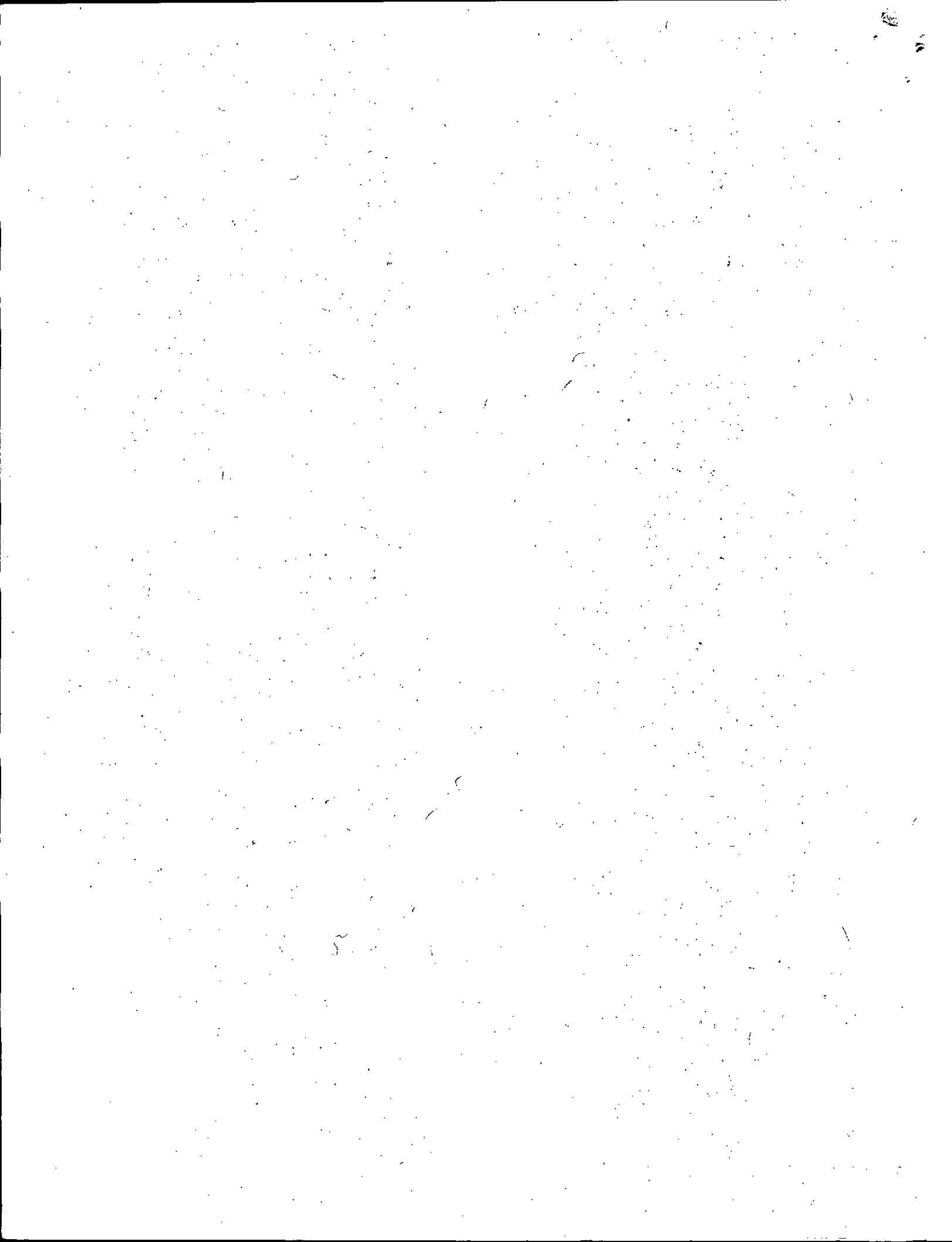


1 81 (1928)). Accordingly, a state prisoner's habeas claim alleging the denial of indictment by
 2 grand jury fails to state a federal constitutional ground for habeas relief and must be dismissed.
 3

4 *Id.*

5 All four of Reinbold's § 2254 claims are premised on the lack of a grand jury indictment
 6 in his case. He argues that the State of Washington acted in "willful defiance" of the Constitution
 7 by failing to follow the Fifth Amendment's requirement of indictment by a grand jury. Dkt. No.
 8 7, at 5-10 (Grounds One-Four). In claim 3, Reinbold further alleges that the State's "abrogation"
 9 of his grand jury entitlement resulted in a violation of his rights under the Thirteenth Amendment
 10 because he was not "duly convicted" for purposes of that amendment. Dkt. No. 7, at 8.
 11 Reinbold's arguments are without merit. *Hurtado* has been the law of the land for over a century.
 12 The fact the State of Washington proceeded by charging him in an information rather than by
 13 indictment fails to state a constitutional ground for federal habeas relief. The Court may dismiss
 Reinbold's petition with prejudice.

14 Moreover, granting Reinbold habeas relief would require that this Court announce and
 15 retroactively apply a new rule of constitutional procedure to a presumptively final and lawful
 16 conviction. At the time Reinbold's conviction became final in 2018, no reasonable jurist would
 17 have felt compelled by existing precedent to rule that the Fifth Amendment's Grand Jury Clause
 18 applied to state criminal proceedings. Granting habeas relief based on Reinbold's claims would
 19 violate the *Teague* non-retroactivity doctrine applicable in § 2254 cases. *See* Part VI, above.
 20 Whatever might be said of the grand jury process (as compared to charging by information), "it
 21 has none of the primacy and centrality of the rule adopted in *Gideon* or other rules which may
 22 be thought to be within the exception [for watershed rules of criminal procedure]." *Saffle v.*
 23 *Parks*, 494 U.S. 484, 495 (1990). The second exception is reserved for new rules that critically
 24 enhance the accuracy of the fact-finding process. *Graham v. Collins*, 506 U.S. 461, 478 (1993).
 25 Reinbold's proposed new rule would violate *Teague*.



SEC. 8. No person shall be held to answer for a criminal offense without due process of law; and no person, for the same offense shall be put twice in jeopardy of punishment, nor again be put upon trial for the same offense after having been once acquitted by a jury, nor shall be compelled, in any criminal cause, to be a witness against himself. All persons shall, before conviction, be bailable by sufficient sureties, except for murder in the first degree and treason, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require. The right of trial by jury of twelve persons shall remain inviolate in all criminal causes. A jury in civil causes, in all Courts, may consist of less than twelve persons, as may be prescribed by law; and the concurrence of three-fourths of the whole number of the jury shall be sufficient for a verdict; *provided* that the right may be waived by the parties, in such manner as may be provided by law.

Hereafter a grand jury shall consist of seven persons, any five of whom, concurring, may find an indictment; *provided*, the Legislature may change, regulate, abolish or re-establish the grand jury system.⁷

SEC. 9. Every person in the State shall be entitled to a certain remedy in the law, for all wrongs and injuries which he may receive in his person, character or property; justice shall be administered to all, freely and without purchase; completely and without denial; promptly and without delay; and all Courts shall be open to the public.

SEC. 10. The right of the people to be secure in their persons, papers, houses and effects, against unreasonable seizure and search shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation in writing, describing, as nearly as may be, the place to be searched, and the person or thing to be seized.

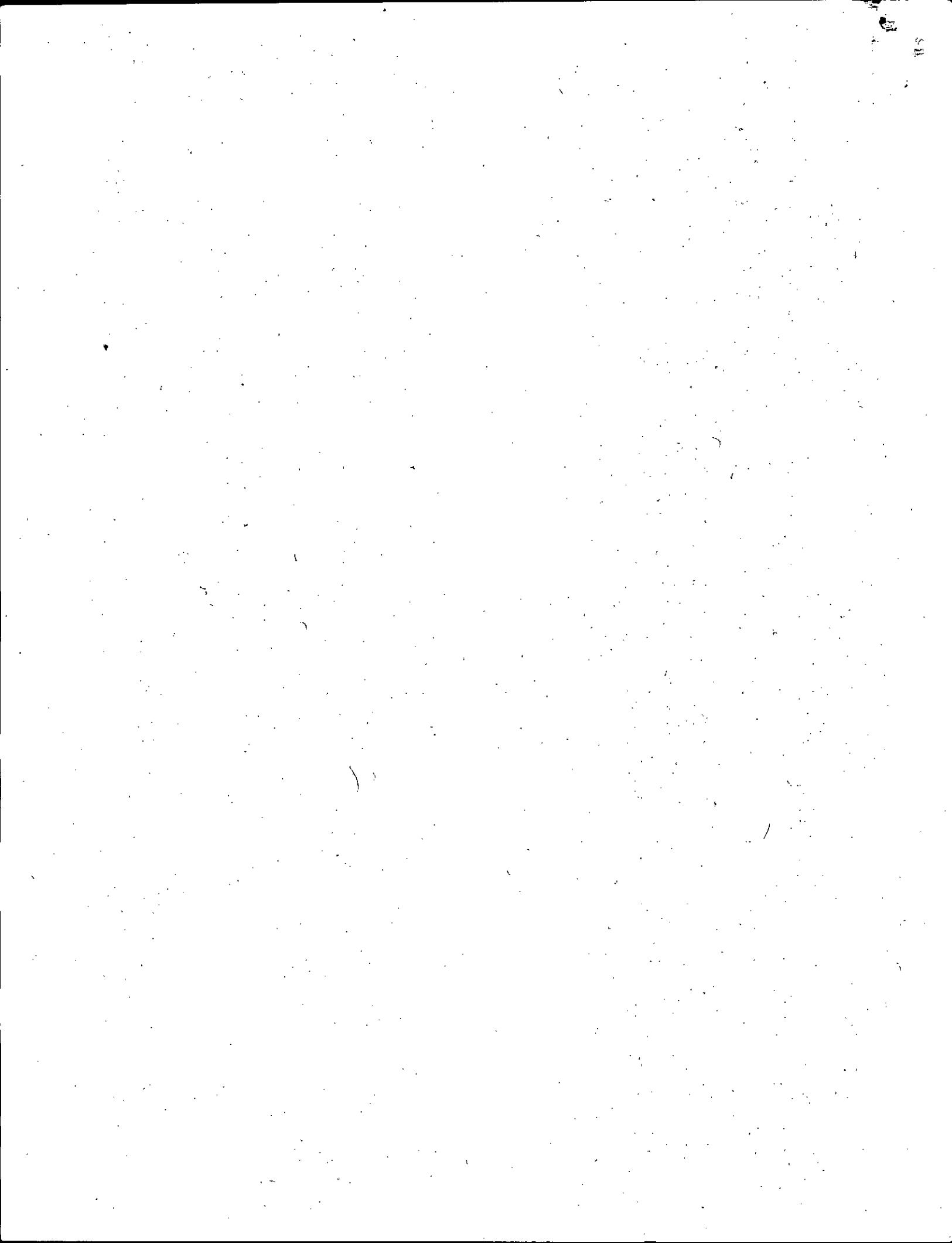
SEC. 11. There shall never be, in this State, involuntary servitude, save as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 12. No person shall be imprisoned for debt except in case of fraud in contracting the same, or of an absconding debtor having means legally applicable to the payment of his debts or some parts thereof.

SEC. 13. In criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the

⁷This was a forerunner of practical abolition of the grand jury system as a regular thing which occurs in Art. I, Sec. 28, present Constitution.

No mention of
an information
anywhere in this
constitution -
there were no
other constitutions
between 1878
and the present
1889 version.
Marked was in
1884 - between
the two versions
of the Constitution



State v. Blake – An Update

Apr 27, 2021

By Teresa Groves – Senior Attorney, Puget Law Group

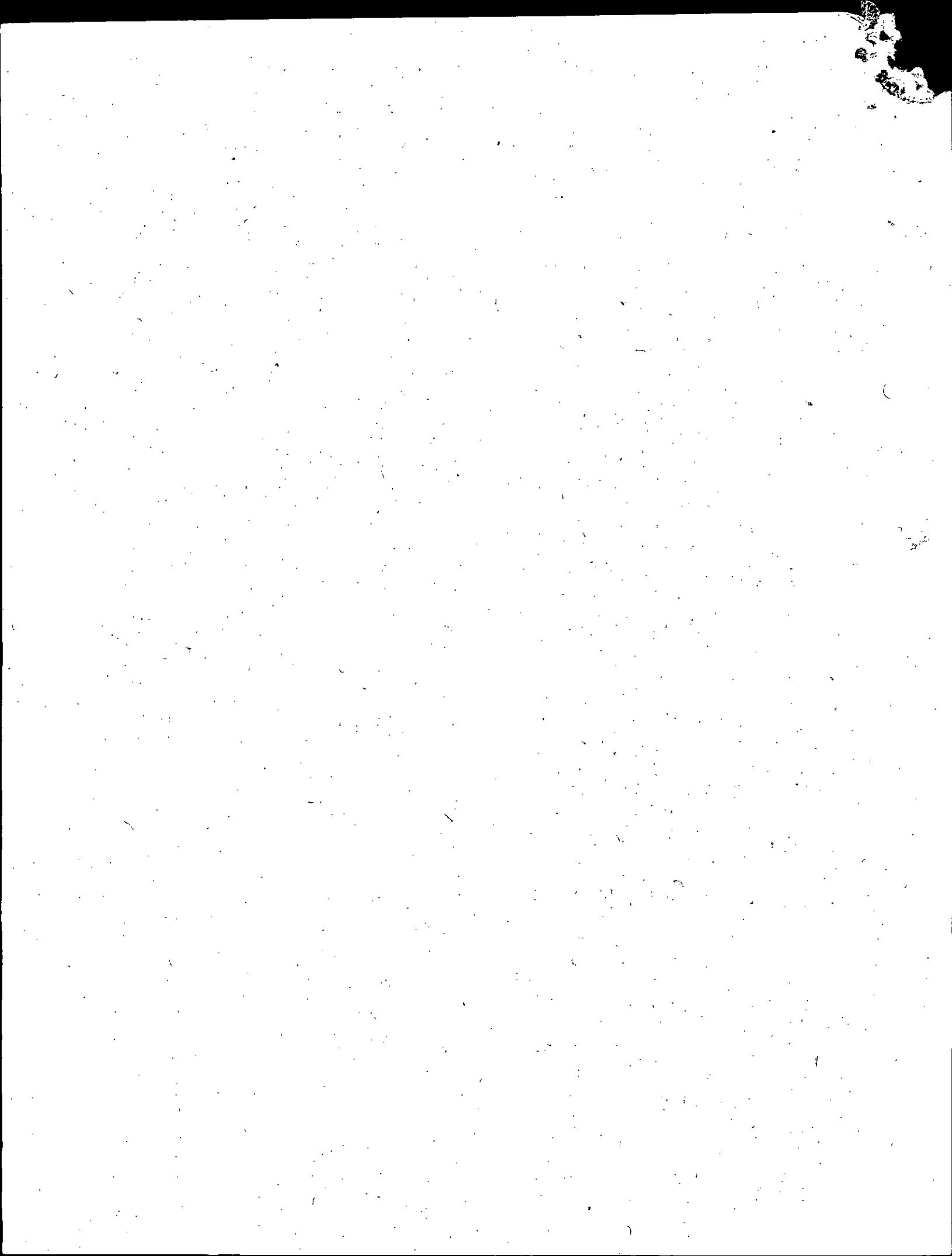
In the landmark decision of *State v. Blake* decided by the Washington Supreme Court in February, the Court voided all convictions for simple possession of drugs back to the time that the drug possession statute was enacted decades ago, which resulted in the release of Washingtonians held in jails awaiting trial on charges for simple possession. The court held that the statute is unconstitutional. The ruling applies to all controlled substances and all convictions whether felony or misdemeanor so long as the conviction is for simple possession and not for possession with intent to deliver, delivery of a controlled substance, or manufacture of a controlled substance.

After the court issued its decision in *Blake*, the State asked the court to reconsider that decision, pointing to the far-reaching implications of voiding these convictions. Many of the state's courts and county prosecutors have refused to act on the *Blake* decision, citing the lack of a "mandate" making the decision final. This has resulted in many people who are eligible to have their convictions vacated or voided waiting in limbo.

Last week, on April 20, however, the court rejected the State's arguments, denied the State's motion to reconsider, and denied any "further reconsideration." The next day, on April 21, the court issued its mandate on the *Blake* decision, making it final.

Now courts and county prosecutors who have previously refused to act on the decision, will have to address the magnitude of convictions affected by *Blake*. While it is obvious that convictions for simple possession must be voided or vacated, other implications of the decision will be worked out in the courts in all likelihood for many years to come.

In the meantime, late last week the Washington Legislature passed a new drug possession law, seemingly "fixing" the language in the old law that rendered that law unconstitutional and making simple possession a misdemeanor (rather than a felony). This law has not yet been signed by Governor Inslee. Assuming the new law passes, it does not in any way whatsoever affect people convicted prior to the new law being passed.



**Additional material
from this filing is
available in the
Clerk's Office.**

