

COPY

CHIEF CIVIL JUDGE JAMES DOERTY
WEDNESDAY, JUNE 16, 2004 AT 1:30 P.M.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ROGER W. KNIGHT,)
)
) Petitioner,)
)
) vs.)
)
)
) STATE OF WASHINGTON,)
) KING COUNTY DISTRICT COURT,)
) WEST DIVISION, SEATTLE COURTHOUSE)
) Judge Barbara Linde)
) Respondent.)
)

No. 04-2-07991-8 SEA

DISTRICT COURT #C0438381

**STATE'S RESPONSE AND
OPPOSITION TO PETITIONER'S
PETITION AND APPLICATION
FOR WRIT OF PROHIBITION**

A. ISSUES PRESENTED

- 1. Is a writ an appropriate remedy where the Defendant has not presented the issue for consideration before the trial court?**

B. STATEMENT OF THE CASE

With the understanding that this court will conduct an independent review of the record presented by petitioner, the State does not generally dispute petitioner's statement of the procedural history of the case.

1 **C. ARGUMENT**

2 **1. A writ is not an appropriate remedy where the district court has not even**
3 **considered the Defendant's motion and the defendant has an adequate remedy at**
4 **law still available.**

5 Petitioner has requested a writ of prohibition. Pursuant to RCW 7.16.300:

6 [A writ of prohibition] may be issued by any court, except district or municipal
7 courts, to an inferior tribunal, or to a corporation, board or person, in all cases where
8 there is not a plain, speedy and adequate remedy in the ordinary course of law. It is
9 issued upon affidavit, on the application of the person beneficially interested.

10 A writ of prohibition, "arrests the proceedings of any tribunal, corporation, board or person, when
11 such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or
12 person." RCW 7.16.290.

13 Thus, this court must determine whether the trial court acted without or in excess of its
14 jurisdiction. However, Mr. Knight has raised this issue for the first time in his petition and
15 application for a writ of prohibition. The defendant never raised this issue in the trial court, which
16 clearly has jurisdiction to hear such motions. Motions of this nature are routinely heard in the trial
17 court, and no appropriately considered for the first time by the superior court in a show cause
18 hearing.

19 Because Mr. Knight has not presented this issue to the trial court, the record is insufficient to
20 allow this court's review. The notice to appear for arraignment, which was sent to Mr. Knight and
21 returned to the court, is part of the trial court's file. However, it is not part of the record for review.
22 Thus, we have no way of knowing what address the notice was sent to and whether the court used
the defendant's address of record. That fact is of the utmost importance in motions of this nature. It
also further highlights the available remedy to Mr. Knight – a pretrial motion.

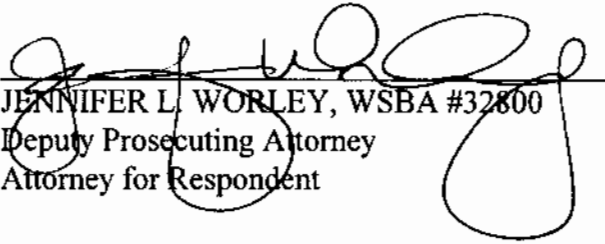
1 Additionally, Mr. Knight has not completed the necessary steps to properly put this motion
2 before this court. When the parties were present on May 18, 2004, this court denied the defendant's
3 first petition for a writ and lifted the stay. See Order Denying Writ, attached as Appendix A. Then,
4 the district court scheduled Mr. Knight's case for a readiness hearing on June 4, 2004 and a jury trial
5 on June 14, 2004. See King County District Court Docket No. C0438381, attached as Appendix B.
6 Mr. Knight has not sought a second stay. Further, the State would object to any ex parte motions
7 by Mr. Knight to seek a stay, as the petition for a writ is without merit. The issue presented by Mr.
8 Knight is a typical pretrial motion and a standard RALJ appeal.

9 **D. CONCLUSION**

10 For the foregoing reasons the State respectfully requests that this court deny the Defendant's
11 request for a writ of prohibition.

12 DATED this 2nd day of June 2004.

13
14 NORM MALENG
15 King County Prosecuting Attorney

16 
17 JENNIFER L. WORLEY, WSBA #32800
18 Deputy Prosecuting Attorney
19 Attorney for Respondent