

*Renee S. Townsley  
Clerk/Administrator*

*(509) 456-3082  
TDD #1-800-833-6388*

*The Court of Appeals  
of the  
State of Washington  
Division III*



*500 N Cedar ST  
Spokane, WA 99201-1905*

*Fax (509) 456-4288  
<http://www.courts.wa.gov/courts>*

July 29, 2020

Stephanie Jane Richards  
Larry D. Steinmetz  
Spokane County Prosecuting Attorney's  
Office  
1100 W Mallon Ave  
Spokane, WA 99260-2043  
Email

Richard Wayne Lechich  
Gregory Charles Link  
Washington Appellate Project  
1511 3rd Ave Ste 610  
Seattle, WA 98101-1683  
Email

Jeffrey Uttecht  
Superintendent  
Coyote Ridge Corrections Center  
P.O. Box 769  
Connell, WA 99326  
[jeffrey.uttecht@doc.wa.gov](mailto:jeffrey.uttecht@doc.wa.gov)

CASE # [REDACTED]  
State of Washington v. [REDACTED]  
SPOKANE COUNTY SUPERIOR COURT No. 161025138

Dear Counsel and Mr. Uttecht:

Enclosed is a copy of the Order Granting Release Pending Appeal and Setting Conditions, filed today.

A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.5(a). A party seeking discretionary review must file a motion for discretionary review in the Supreme Court and a copy in the Court of Appeals within 30 days after this Court's Order. The address for the Washington State Supreme Court is: Temple of Justice, P. O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Renee S. Townsley  
Clerk/Administrator

RST: res

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

STATE OF WASHINGTON,	)	
	)	No. [REDACTED]
Respondent,	)	
	)	ORDER GRANTING RELEASE
v.	)	PENDING APPEAL AND
	)	SETTING CONDITIONS
[REDACTED],	)	
	)	
Appellant.	)	

THE COURT has considered appellant [REDACTED] motion for stay of sentence pending appeal; the appellant's statement of additional authorities; the record and file herein; and oral argument of the parties.

The motion is based on the following facts, which are not in dispute:

[REDACTED] is incarcerated at the Coyote Ridge Correctional Facility in Connell, Washington. He is serving a 26-month sentence for forgery. [REDACTED] offense involved an attempt to cash a \$156 fraudulent check at a Money Tree store in Spokane, Washington.

[REDACTED] was released from custody pending trial in Spokane County Superior Court and complied with the terms of release. At his sentencing hearing, [REDACTED].

[REDACTED] requested a stay of his term of incarceration pending appeal. The court denied the request. Although the court found [REDACTED] did not pose a danger to the

No. [REDACTED]  
*State v.* [REDACTED]

community or risk of flight, it determined that a stay of sentence would diminish the deterrent effect of punishment. [REDACTED] began serving his term of incarceration on July 26, 2019.

On August 5, 2019, [REDACTED] filed a notice of appeal. [REDACTED] appeals both his conviction and sentence. The briefing on appeal is not yet complete and [REDACTED] case has yet to be set for hearing before a panel of this court. The State filed its response brief on July 23, 2020. In its brief, the State concedes that [REDACTED] is entitled to resentencing.

In March 2020, the Governor Jay Inslee began issuing emergency proclamations designed to limit the spread of COVID-19. [REDACTED] is [REDACTED]-years-old and a [REDACTED]. As such, he is at increased risk of harm from COVID-19. The realities of the prison environment make preventing the transmission of COVID-19 difficult. The facility at which [REDACTED] has been housed has had an outbreak of COVID-19 among its inmates and staff members. It does not appear [REDACTED] has been exposed to COVID-19, but an individual adjacent to his cell has been quarantined due to possible exposure.

[REDACTED] is married and has a supportive wife who lives in [REDACTED], Washington. [REDACTED] wife has filed a declaration stating [REDACTED] can live with her during the pendency of his appeal.

No. [REDACTED]  
State v. [REDACTED]

During a July 28, 2020, telephonic hearing on this motion, counsel for the State affirmed that [REDACTED] does not pose a risk of flight or danger to the community. [REDACTED] has not engaged in any misconduct during his current term of incarceration that would undermine his claim for release pending appeal.

The State opposes [REDACTED] request for release pending appeal. Nevertheless, should the court grant release, the parties agree on the appropriate conditions.

Based on the foregoing, IT IS HEREBY ORDERED that the appellant's motion for stay of sentence pending appeal is GRANTED.

Pursuant to RCW 9.94A.585(3), [REDACTED] is ordered released pending appeal and shall contact the Spokane County Office of Pre-Trial Services (OPTS) by telephone within 24 hours of his release from custody. The OPTS is a designee of the court and will monitor compliance of [REDACTED] with the following conditions of release:

1. Telephonically check in with OPTS on a weekly basis unless otherwise directed by OPTS or the court.
2. No new criminal law violations, including no possession of a firearm.
3. Maintain residence [REDACTED]

[REDACTED]

No. [REDACTED]  
State v. [REDACTED]

4. Appear at all court hearings requiring the appearance of [REDACTED]. If a ruling or decision by the appellate court affirms the conviction and sentence or dismisses the appeal, and no further court dates are issued, [REDACTED] shall report to serve the remainder of his term of incarceration within 30 days of issuance of the appellate mandate, as directed by the State, the court or the Department of Corrections.

5. No contact with any Money Tree branch or similar check cashing institution. This restriction does not apply to any FDIC-insured banking institution.

6. Comply with all COVID-19 directives issued by the state or local authorities applicable to the county of residence.

The OPTS is open from 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday. The OPTS check-in telephone number is (509) 477-3881.

Counsel for Mr. Almaguer shall ensure [REDACTED] and his wife understand the terms of release. Counsel for the State shall make the OPTS aware of the terms of this court's order.

PANEL: Judges Pennell, Siddoway, and Fearing

FOR THE COURT:



---

REBECCA L. PENNELL  
Chief Judge