

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

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

---

STATE OF WASHINGTON,	)	
	)	Case No 36249-3-III
Appellant,	)	
	)	RESPONSE TO MOTION FOR
vs.	)	EXTENSION OF TIME; OBJECTION,
	)	AND COUNTER MOTION TO DISMISS
JAMES JOHN FAIRE,	)	AND FOR AN AWARD OF TERMS AND
	)	COMPENSATORY DAMAGES
Respondent.	)	

---

COMES NOW, James John Faire, by and through counsel of record, Stephen Pidgeon, and responds to Appellant’s Motion for Extension of Time and objects to any further extension of time.

**ARGUMENT**

The conduct of the State is dilatory and is an abuse of due process. RAP 9.6 provides that “[t]he party seeking review should, **within 30 days after the notice of appeal is filed** or discretionary review is granted, serve on all other parties and file with the trial court clerk a designation of those clerk's papers and exhibits the party wants the trial court clerk to transmit to the appellate court. A copy of the designation shall also be filed with the appellate court clerk. Any party

RESPONSE TO MOTION FOR EXTENSION OF TIME; OBJECTION; AND COUNTER MOTION TO DISMISS AND FOR AN AWARD OF TERMS AND COMPENSATORY DAMAGES - 1

1 may supplement the designation of clerk's papers and exhibits prior to or with the filing of the party's  
2 last brief. Thereafter, a party may supplement the designation only by order of the appellate court,  
3 upon motion. Each party is encouraged to designate only clerk's papers and exhibits needed to review  
4 the issues presented to the appellate court.

5 RAP 9.10 provides in relevant part that “[t]he appellate court or trial court may impose  
6 sanctions as provided in rule 18.9(a) as a condition to correcting or supplementing the record on  
7 review. The party directed or permitted to supplement the record on review must file either a  
8 designation of clerk's papers as provided in rule 9.6 or a statement of arrangements as provided in  
9 rule 9.2 within the time set by the appellate court.

#### 10 **PROCEDURAL BACKGROUND**

11 This appeal was filed by the State of Washington on August 9, 2018 appealing the decision of  
12 the trial court to dismiss the charges against James Faire on the basis of Criminal Rule 8.3(b)  
13 violation, Criminal Rule 4.7 violation, and a Brady violation. A perfection letter was issued on  
14 August 14, 2018. The Statement of Arrangements was filed on September 4, 2018, together with the  
15 Designation of Clerks Papers. The Clerk’s Papers were filed on September 7, 2018. Following a  
16 series of motions, including a motion to substitute counsel, the Court set the due date for Appellant’s  
17 Brief on March 22, 2018, seven months following the perfection of the appeal.

18 Ten days prior to the due date, new counsel for the state sought to supplement the record on  
19 appeal, and the Court provided a due date to do so two months later, due on May 13, 2019. Even  
20 then the State of Washington could not manage to meet its deadline, now nearly nine months

21

22 **RESPONSE TO MOTION FOR EXTENSION OF TIME; OBJECTION; AND COUNTER  
MOTION TO DISMISS AND FOR AN AWARD OF TERMS AND COMPENSATORY  
DAMAGES - 2**

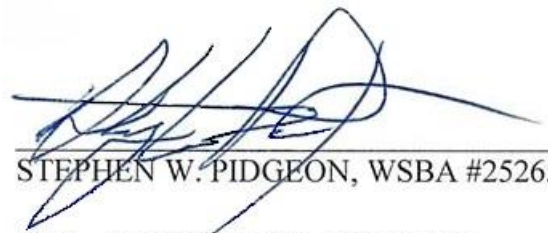
**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 following the filing of the notice of appeal, the State seeks yet another extension of time. Such a  
2 motion should be denied as being untimely.

3 Respondent therefore moves for sanctions pursuant to RAP 18.9. The State of Washington  
4 is using these rules for the purpose of delay, has filed a frivolous appeal, and has failed to comply  
5 with these rules. Respondent therefore seeks terms and compensatory damages who has been harmed  
6 by the delay and the failure to comply.

7 Respondent further moves the court to dismiss review of this case, pursuant to 18.9(1) for  
8 want of prosecution as the State of Washington has effectively abandoned the review, and pursuant  
9 to 18.9 (2) because the application for review is frivolous, and has been brought solely for the  
10 purpose of delay.

11 Respectively submitted this 16<sup>th</sup> day May 2019.

12  
13  
14   
15 STEPHEN W. PIDGEON, WSBA #25265  
16 1523 – 132<sup>nd</sup> Street SE, Suite C-350  
17 Everett, Washington 98208  
18 (425)-299-9012  
19  
20  
21

22 RESPONSE TO MOTION FOR EXTENSION OF TIME; OBJECTION; AND COUNTER  
MOTION TO DISMISS AND FOR AN AWARD OF TERMS AND COMPENSATORY  
DAMAGES - 3

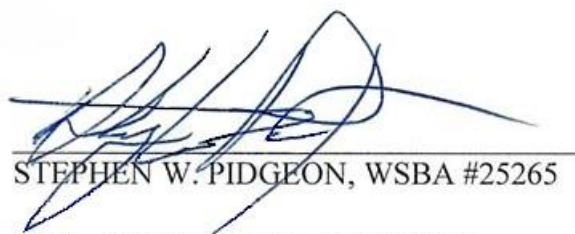
**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 **CERTIFICATE OF SERVICE**

2 The undersigned now certifies that the foregoing was served on the following:

3 Tamara Hanlon  
4 Email: [tamara.hanlon@co.yakima.wa.us](mailto:tamara.hanlon@co.yakima.wa.us)  
5 128 N 2ND ST RM 329  
YAKIMA, WA, 98901-2621

6 by e-service through the Washington State Court of Appeals this May 16, 2019.

7  
8   
9 STEPHEN W. PIDGEON, WSBA #25265  
10 1523 – 132<sup>nd</sup> Street SE, Suite C-350  
11 Everett, Washington 98208  
(425)-299-9012

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22 RESPONSE TO MOTION FOR EXTENSION OF TIME; OBJECTION; AND COUNTER  
MOTION TO DISMISS AND FOR AN AWARD OF TERMS AND COMPENSATORY  
DAMAGES - 4

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

**STEPHEN PIDGEON, ATTORNEY AT LAW**

**May 16, 2019 - 7:27 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 36249-3  
**Appellate Court Case Title:** State of Washington v. James John Faire  
**Superior Court Case Number:** 15-1-00202-1

**The following documents have been uploaded:**

- 362493\_Answer\_Reply\_to\_Motion\_20190516072621D3657632\_2299.pdf  
This File Contains:  
Answer/Reply to Motion - Response  
*The Original File Name was State v Faire - Response to motion for extension of time.pdf*

**A copy of the uploaded files will be sent to:**

- stephen.pidgeon@comcast.net
- tamara.hanlon@co.yakima.wa.us

**Comments:**

---

Sender Name: Stephen Pidgeon - Email: stephen.pidgeon@comcast.net

Address:

1523 132ND ST SE STE C  
EVERETT, WA, 98208-7200

Phone: 425-605-4774

**Note: The Filing Id is 20190516072621D3657632**