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ATTORNEY GENERAL'S OFFICE
CORRECTIONS DIVISION

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<input type="checkbox"/>	EXPEDITE
<input type="checkbox"/>	No hearing set
<input checked="" type="checkbox"/>	Hearing is set
	Date: 11/07/2008 _____
	Time: 9:00 a.m. _____
	Judge Wickham

HONORABLE CHRIS WICKHAM

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

DAROLD R. J. STENSON,

Plaintiff,

v.

ELDON VAIL, Secretary of Washington
Department of Corrections (in his official
capacity); *et al.*,

Defendants.

No. 08-2-02080-8

PLAINTIFF'S SUPPLEMENTAL FILING
IN OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS OR TRANSFER

Plaintiff makes this Supplemental Filing to bring to the Court's attention a Department of Corrections ("DOC") action that has recently come to plaintiff's counsel's attention. Plaintiff filed an internal grievance with DOC grieving the DOC's lethal injection policy and seeking changes to it. DOC responded on October 2, 2008 that the grievance was being returned because it was not a grievable issue and because Mr. Stenson had not used the proper DOC form for the grievance. (Exhibit 1 hereto) Mr. Stenson resubmitted the grievance on the DOC form. On October 21, it was again returned. The DOC's response stated that "This isn't a grievable issue, per policy, because you are able to seek relief

PLAINTIFF'S SUPPLEMENTAL FILING IN
OPPOSITION TO DEFENDANTS' MOTION
TO DISMISS OR TRANSFER

- 1


68695-0001/LEGAL14875089.1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 through the court system." (Exhibit 2 hereto) Mr. Stenson has been, and is, seeking relief
2
3 through the court system by this lawsuit.
4
5

6 DATED: November 3, 2008

PERKINS COIE LLP

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10 By: 
11 Sherilyn Peterson, WSBA No. 11713
12 Elizabeth D. Gaukroger, WSBA No. 38896
13 1201 Third Avenue, Suite 4800
14 Seattle, WA 98101-3099
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16 Attorneys for Plaintiff
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Exhibit 1

LOG I.D. NUMBER



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

OFFENDER COMPLAINT

CHECK ONE: INITIAL GRIEVANCE, EMERGENCY GRIEVANCE, APPEAL TO NEXT LEVEL

RESIDENTIAL FACILITIES: Send all completed copies of this form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible but include the necessary facts. A formal grievance begins on the date the typed grievance forms are signed by the coordinator. Contact a staff member to report an emergency situation or to initiate an emergency grievance. Please attempt to resolve all complaints through appropriate staff before initiating a grievance.

NAME: LAST Stenson	FIRST Darold	MIDDLE R.J	DOC NUMBER 232018
PROGRAM ASSIGNMENT <i>none offered</i>	WORK HOURS <i>none</i>	FACILITY/OFFICE <i>W.S.P</i>	UNIT/CELL <i>S.HU A-60</i> 5A102

COMMUNITY SUPERVISION: Send all completed copies of this form directly to: Grievance Program Specialist, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE NUMBER
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I WANT TO GRIEVE:

The DOC's policy and procedures for carrying out the penalty phase of my case. I believe that the State's current and alternative methods will cause undue pain and suffering and are cruel and unusual punishment. Also, I don't have enough information to make a choice between the available methods.

SUGGESTED REMEDY:

Changes in the State's method and procedures.

MANDATORY *Darold R. Stenson* 10-02-08
SIGNATURE DATE

GRIEVANCE COORDINATOR'S RESPONSE

Your complaint is being returned because:

- It is not a grievable issue.
- You requested to withdraw the complaint.
- You failed to respond to callout sheet on _____
- The formal grievance/appeal paperwork is being prepared.

LOCATION CODE <i>WSP-801</i>	DATE RECEIVED <i>10-2-08</i>
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- The complaint was resolved informally.
- Additional information and/or rewriting is needed.
(See below.) Return within five (5) days or by:
Due Date: _____
- No rewrite received. Date: _____

EXPLANATION: *This form can't be accepted because it isn't the proper no-carbon-required (NCR) that transfers your signature to all the copies. In addition, policy doesn't allow you to grieve your sentence*

INITIAL COMPLAINT OBJ'S INFORMATION						DATE OF RESPONSE	COORDINATOR'S SIGNATURE
TYPE	CATEGORY	AREA	SPEC	REMEDY	RESOLUTION		

Exhibit 2

LOG I.D. NUMBER

0824742

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

OFFENDER COMPLAINT

CHECK ONE: INITIAL GRIEVANCE, EMERGENCY GRIEVANCE, APPEAL TO NEXT LEVEL

RESIDENTIAL FACILITIES: Send all completed copies of this form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible but include the necessary facts. A formal grievance begins on the date the typed grievance forms are signed by the coordinator. Contact a staff member to report an emergency situation or to initiate an emergency grievance. Please attempt to resolve all complaints through appropriate staff before initiating a grievance.

NAME: LAST	FIRST	MIDDLE	DOC NUMBER
STENSON	DAROLD	R. J.	232018
PROGRAM ASSIGNMENT	WORK HOURS	FACILITY/OFFICE	UNIT/CELL
none offered	none	W. S. P.	S. H. 4. H-10

I WANT TO GRIEVE: The DOC's policy and procedures for carrying out the penalty phase of my case. I believe that the state's current and alternative methods will cause me undue pain and suffering and are cruel and unusual punishment. Also, I do not have enough information to be able to make an informed choice between the available methods.

SUGGESTED REMEDY:

A lawyer should be made in the state's penal methods and procedures at W. S. P.

MANDATORY

SIGNATURE

DAROLD R. J. STENSON

DATE

10-16-08

GRIEVANCE COORDINATOR'S RESPONSE

Your complaint is being returned because:

- It is not a grievable issue.
 You requested to withdraw the complaint.
 You failed to respond to callout sheet on _____
 The formal grievance/appeal paperwork is being prepared.

LOCATION CODE

WSP-E 05

DATE RECEIVED

10-20-08

 The complaint was resolved informally. Additional information and/or rewriting is needed.

(See below.) Return within five (5) days or by:

Due Date: _____

 No rewrite received. Date: _____

EXPLANATION:

This isn't a grievable issue, per policy, because you are able to seek relief through the court system. However, you may request information regarding your sentence through your counselor.

DATE OF RESPONSE

COORDINATOR'S SIGNATURE

TYPE	CATEGORY	AREA	SPEC	REMEDY	RESOLUTION	DATE OF RESPONSE	COORDINATOR'S SIGNATURE
01	02	010	688	08	08	10/21/08	L. Young