

Hearing Date: March 5, 2020, 1:30 PM

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FILED 24 PM 2:36
DISTRICT COURT

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF WHATCOM

STATE OF WASHINGTON,
Plaintiff,

v.

LISA MARIE RABANG,

Defendant.

Co-Defendants:

FRANCISCO J. RABANG, C00094699
JAMES VICTOREO RABANG, C0094697
MICHAEL J. RABANG, C00094698

NO. C00094696

SUPPLEMENT TO CrRLJ 8.3(c)
MOTION TO DISMISS

Defendant Lisa Marie Rabang, a Nooksack Tribal member, supplements her February 5, 2020, CrRLJ 8.3(c) Motion to Dismiss, with this reliance upon *State v. Knapstad*, 41 Wn. App. 781, 788, 706 P.2d 238 (1985), *aff'd*, 107 Wn.2d 346, 729 P.2d 48 (1986), which allows this Court to consider unavailable evidence of guilt under RCW 77.15.380(1), as grounds to dismiss. The State cannot proffer sufficient evidence that Defendant was a non-Indian who needed to have “purchased the appropriate fishing or shellfishing license,” before she engaged in subsistence clamming on the Semiahmoo Spit—a usual and accustomed Nooksack fishing place—on May 10, 2019. *Knapstad*, 41 Wn. App. at 788; 12 Stat. 927 (Jan. 22, 1855), Art. V. Therefore, “in the interest of justice,” this case should now be dismissed. *Id.*

SUPPLEMENT TO CrRLJ 8.3(c) MOTION TO
DISMISS - 1

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Seattle, Washington 98115
(206) 557-7509

1 A proposed alternative Order of dismissal accompanies this Motion.

2 DATED this 20th day of February 2020.

3 GALANDA BROADMAN, PLLC

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5 _____
6 Gabriel S. Galanda, WSBA #30331
7 P.O. Box 15146, Seattle, WA 98115
8 Phone: (206) 557-7509 Fax: (206) 299-7690
9 Email: gabe@galandabroadman.com

10 Attorneys for Lisa Marie Rabang

1 **CERTIFICATE OF SERVICE**

2 I, Wendy Foster, declare as follows:

3 1. I am now and at all times herein mentioned a legal and permanent resident of the
4 United States and the State of Washington, over the age of eighteen, not a party to the above-
5 entitled action, and competent to testify as a witness.

6 2. I am employed with the law firm of Galanda Broadman PLLC, 8606 35th Avenue
7 NE Suite L1, Seattle, WA 98115.

8 3. Today, I served the foregoing document via email and USPS on the following:

9
10 Jesse Corkern
11 Whatcom County Prosecutor's Office
12 311 Grand Avenue, Suite 201
13 Bellingham, WA 98225
14 JCorkern@co.whatcom.wa.us

15 The foregoing statement is made under penalty of perjury under the laws of the State of
16 Washington is true and correct.

17 DATED this 20th day of February 2020.

18 
19 _____
20 WENDY FOSTER