

IN THE COURT OF APPEALS FOR THE STATE OF
WASHINGTON
DIVISION II

NO. 43415-6-II

STATE OF WASHINGTON

Appellant,

vs.

HELEN DEEDEE SHALE

Respondent.

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
FOR JEFFERSON COUNTY
Cause Number: 12-1-00069-2
The Honorable Craddock Verser

REPLY OF APPELLANT

SCOTT ROSEKRANS
Jefferson County Prosecuting Attorney
Attorney for Respondent

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Port Townsend, WA 98368
(360) 385-9180

Date: November 14, 2012

REPLY

Ms. Shale argues that the charge of Felony DUI brought against her in Jefferson County Superior Court was a “related charge” to the DUI charge against her in Jefferson County District Court under CrR3.3(a)(3(ii)). She cites *State v. Harris*, 130 Wn.2d 35,44, 921 P.2d 1052 (1996)., which stated “When multiple charges stem from the same criminal conduct or criminal episode, the State must prosecute all related charges within the speedy trial time limits.”

Ms. Shale was charged in District Court with a violation of RCW 46.61.502(1), which states, in pertinent part:

- (1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:
 - (a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or
 - (b) While the person is under the influence of or affected by intoxicating liquor or any drug; or
 - (c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

Ms. Shale was charged in Superior Court with a violation of RCW 46.61 502(6), which states, in pertinent part:

- (6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:
- (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or
 - (b) The person has ever previously been convicted of:
 - (i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);
 - (ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);
 - (iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or
 - (iv) A violation of this subsection (6) or RCW 46.61.504(6).

The criminal conduct Ms. Shale was charged with in District Court was a single episode of driving under the influence. In Superior Court, Ms Shale was charged with criminal conduct that extended over several years and included several separate convictions for alcohol-related driving offenses. These charges were not “the same criminal conduct or criminal episode.”

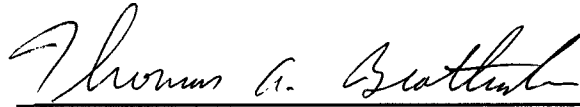
The Superior Court erred and its decision should be reversed.

CONCLUSION

The State respectfully requests that this Court reverse the Superior Court, reinstate the charge of Felony DUI, and remand for trial.

Respectfully submitted this 14th day of November, 2012,

SCOTT ROSEKRANS
Jefferson County Prosecuting Attorney

A handwritten signature in cursive script, reading "Thomas A. Brotherton".

By: Thomas A. Brotherton, WSBA # 37624
Deputy Prosecuting Attorney

PROOF OF SERVICE

I, Janice N. Chadbourne, certify that on this date:

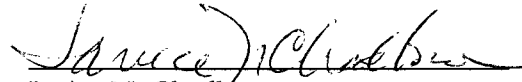
I personally filed the State's REPLY OF APPELLANT with the Court of Appeals, Division II, through the Court's online filing system.

I also delivered an electronic version of the brief, using the same online portal, to:

Catherine Glinski
cathyglinski@wavecable.com

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Port Townsend, Washington on November 14, 2012.


Janice N. Chadbourne
Lead Legal Assistant

JEFFERSON COUNTY PROSECUTOR

November 14, 2012 - 12:12 PM

Transmittal Letter

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Case Name: State of Washington v. Helen DeeDee Shale

Court of Appeals Case Number: 43415-6

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Comments:

No Comments were entered.

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cathyglinski@wavecable.com