NO. 89429-9

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

VICENTE RUIZ aka VICENTE MENDEZ

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR

FRANKLIN COUNTY

ANSWER TO PETITION FOR REVIEW

SHAWN P. SANT
Prosecuting Attorney

by: FRANK W. JENNY
Deputy Prosecuting Attorney

1016 North Fourth Avenue
Pasco, WA 99301
Phone: (509) 545-3543

ORIGINAL

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

TABLE OF AUTHORITIES (Continued)

Other Authorities

Rules

A. IDENTITY OF RESPONDENT

State of Washington, Respondent, submits the following answer to the Petition for Review filed by Vicente Ruiz on October 14, 2013.

B. COURT OF APPEALS DECISION

Petitioner correctly identifies the Court of Appeals decision from which he seeks review.

C. ISSUES PRESENTED FOR REVIEW

The State respectfully submits the instant case raises no issues in need of review by the Washington Supreme Court.

D. COUNTERSTATEMENT OF THE CASE

Vicente Ruiz (hereinafter defendant) is petitioning for review of the Court of Appeals decision which affirmed his convictions for five counts of aggravated first degree murder and one count of attempted first degree murder. The case against defendant included direct evidence in form of testimony from the surviving victim, Aldo Montes. (RP 3208-33).[1] He identified defendant and Pedro Mendez-Reyna as the two assassins who wounded him and killed five others at Medina's Auto Body Shop on October 13, 1987. (RP 3219-20, 3231, 3338).

When Detective Henry Montelongo contacted the surviving victim at the hospital, he reported the assailants had taken off in an RX-7 automobile. (RP

[1] Except as indicated, RP Citations refer to the transcript of the jury trial. Other hearings will be distinguished by including the date of the hearing.

1530-31). He described the assailants as "Calentones" and also mentioned the first name "Vicente". (RP 1484-86). Detective Montelongo knew the Calentones to be a segment of the Mendez family. (RP 1486). The surviving victim picked out a photo of defendant from a montage without hesitation and identified him as the assailant named Vicente. (RP 1492-93, 1864-65). He identified Pedro Mendez-Reyna from the second group of photos that was shown to him in 1987, and also recognized him when he saw him in court in 1994. (RP 3231, 3338).

Police located the Mazda RX-7 outside defendant's apartment in the early morning hours of October 14, 1987. (RP 1295-96, 1866). The apartment manager, David Gamino, identified defendant as the renter of the apartment. (RP 2048-49). Tear gas was shot into defendant's apartment, but he eluded the manhunt. (RP 1298-99).

The Mazda RX-7 was impounded and searched. (RP 1778). A receipt was found in the vehicle for the purchase of Winchester .223 rifle ammunition from Phil's Sporting Goods in Pasco; the sale was on October 13, 1987, at 6:03 p.m., less than an hour before the homicides. (RP 1780, 2295-96). Defendant's fingerprint was found on the window glass of the vehicle. (RP 1783, 3014-15). Mauricio Ortiz identified defendant as the person to whom he had entrusted the RX-7 for a test-drive on October 13, 1987. (RP 1706-12, 1534-36).

In October 1987, Diana Garcia was defendant's girlfriend and was pregnant with their second child. (RP 2107-08). She identified defendant and

Pedro Mendez-Reyna as coming to her apartment in Kennewick shortly after 7:00 p.m. on October 13, 1987, within minutes after the homicides. (RP 1539-41, 1555-56, 2425-26). They were at her apartment only briefly. (RP 2425). In the search of her apartment after the homicides, police found an empty box of Blazer CCI ammunition in the kitchen garbage. (RP 2851, 2854). After October 13, 1987, she did not see or have any contact with defendant until after his arrest 20 years later. (RP 2114-15).

The ballistic evidence was consistent with a Mini 14 rifle and .38 special or .357 Magnum handguns having been used. (RP 2518-19, 2569, 2573, 3105-06). Shell casings recovered at the scene included 14 that were .223 rifle cartridge cases manufactured by Winchester. (RP 2481, 2486, 2487, 2495). Some of the ammunition was consistent with that manufactured by CCI/Speer, which is a company based in the Lewiston/Clarkston area (and consistent with the empty ammunition box found in the kitchen garbage at Diana Garcia's apartment). (RP 2851, 2854, 2569).

Since Mr. Mendez-Reyna was arrested on American soil, he initially faced the death penalty (unlike defendant, who was later arrested in Mexico). (CP 863-64). However, a plea agreement was reached whereby Mr. Mendez-Reyna would plead guilty as charged in exchange for the State withdrawing its Notice of Special Sentencing Proceedings seeking the death penalty. (CP 863-64). At the plea

hearing on May 6, 1994, the prosecutor explained the rationale for the plea agreement as follows:

> The final thing I wanted to point out is there is another defendant here. His name is Vicente Ruiz. And the State's case against Vicente Ruiz depends upon Aldo Montes, and although Aldo Montes has come back to this country to testify, who knows what could happen to him during the next five years or seven years, just like we've had seven years go by. And if Pedro Mendez Reyna were to be executed and something were to happen to Aldo Montes that would prevent him to come back to testify, the State does not have a case against Vicente Ruiz. But with Pedro Mendez Reyna confined for the rest of his life, the State has a witness against Vicente Ruiz.

(CP 957-58). At his plea hearing, Mr. Mendez-Reyna gave extensive and detailed testimony under oath in open court describing the involvement of both himself and defendant Vicente Ruiz in the commission of these crimes. (CP 876-902). The entire transcript of Mr. Mendez-Reyna's guilty plea hearing is in the Clerk's Papers at CP 862-962.

The trial court ruled Mr. Mendez-Reyna had no right to claim the Fifth Amendment at Mr. Ruiz's trial, since his conviction was final and he was merely being asked to repeat what he had previously disclosed under oath. (RP 2602). When called to the stand, the first substantive question he was asked was the following: "Referring to the defendant here in court today, second man from the wall; is that gentleman your first cousin?" Mr. Mendez-Reyna answered: "I don't know that man." (RP 2627). He responded to all of the prosecutor's remaining questions by saying, "I plead the fifth" in spite of the court's order that he answer

the questions. (RP 2627-33). Defense counsel declined the court's invitation to ask any questions of Mr. Mendez-Reyna. (RP 2635).

E. ARGUMENT WHY REVIEW SHOULD NOT BE ACCEPTED

(1) The instant case presents no substantial issue of a violation of constitutional confrontation rights.

Defendant first claims his right to confrontation was violated when Pedro Mendez-Reyna was called as a witness. However, the instant case presents no such issue for the simple reason that, unlike in the cases cited by defendant, Mr. Mendez-Reyna had no right to withhold testimony and no mention was made at trial of his prior statements and testimony.

In People v. Gearns, 457 Mich. 170, 577 N.W.2d 422 (1998), the lead opinion noted that a constitutional confrontation clause violation was found by the United States Supreme Court in Douglas v. Alabama, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed.2d 934 (1965). The court explained:

> In Douglas, the trial judge ruled that witness could not rely on the privilege against self-incrimination to support his refusal to testify because he had been convicted. He was ordered to answer, but persisted in his refusal. The prosecutor produced a document purported to be the witness' confession and read from the document, asking the witness every few lines whether he had made that statement, until the entire document was read to the jury. The Supreme Court held that, in the circumstances of that case, the petitioner's inability to cross-examine the witness about the alleged confession denied him the right of cross-examination secured by the Confrontation Clause.

Gearns, 577 N.W.2d at 428 (citation omitted). The Michigan Supreme Court continued:

> Implicit in the [United States] Supreme Court's Confrontation Clause jurisprudence is that a witness must put forth some testimony before the defendant's right of confrontation comes into play. A defendant has no right to confront a witness who does not provide any evidence at trial. A mere inference is simply insufficient for a confrontation clause violation.

Id. at 430 (emphasis original; citations omitted). Since in the consolidated cases in Gearns there were no statements or other evidence presented to the jury that were the equivalent of testimony, there was no confrontation clause violation. Id. at 429. Five of the seven justices joined in opinions finding no constitutional violation. Id. at 429, 445-48. The other two justices did not address the constitutional confrontation issue. Id. at 439-45.

While the equivalence of testimony has been found in cases where the prosecutor's questioning of a contemptuous witness discloses to the jury the existence of prior statements or testimony by the witness, there is no authority for such a finding where, as here, no mention is made of those previous utterances. Lower court decisions on which defendant relies where confrontation violations were found all involve situations, like Douglas v. Alabama, where the witness asserted a valid privilege and/or reference was made in the jury's presence to the prior statements of the recalcitrant witnesses. See Shockley v. State, 335 So.2d 659 (Ala. App. 1975) (as explained in Limbaugh v. State, 549 So.2d 582, 588 (Ala.

App. 1989)) (Prosecutor asked witness about his prior statements. When he refused to answer, his statement was read back to him in front of the jury); People v. Shipe, 49 Cal. App. 3d 343, 122 Cal. Rptr. 701, 704-05 (1975) (Prosecutor asked witnesses if they had given statements to police and prosecutors and if those statements were true, creating an inference "that the witnesses had related the events about which they were being questioned to the authorities and that their statements were true"); United States v. Torrez-Ortega, 184 F.3d 1128, 1131-32 (10th Cir. 1999) (Prosecutor read excerpts of witness's grand jury testimony and asked if he had made those statements).

Other cited cases are not constitutional confrontation cases at all, and thus have no relevance to the issue being raised. See State v. Morales, 788 N.W.2d 737, 744 &756 (Minn. 2010) (Prosecutor read from witness's prior testimony and asked if he had given that testimony. Decision based solely on Minnesota evidentiary law); Martin v. United States, 756 A.2d 901, 906 (D.C. App. 2000) (Victim held in contempt outside jury's presence for refusing to testify. No indication of relationship between defendant and victim such that victim may have been protecting defendant. Case merely holds procedure did not violate defendant's rights); Commonwealth v. DuVal, 453 Pa. 205, 307 A.2d 229, 223-34 & n. 3 (1973) (Prosecutor called reluctant non-accomplice witnesses without giving trial court opportunity to rule on whether they were required to testify. Witnesses actually had valid Fifth Amendment claims. It appeared the witnesses were

motivated only by fear of prosecution for perjury based on their earlier testimony. Decision based solely on Pennsylvania evidentiary law.); Gearns, 577 N.W.2d at 436-38 (Witnesses were at best accessories after the fact and no indication their refusal to testify was motivated to protect defendant. Court only considered prejudicial effect without balancing against probative value. Decision based solely on Michigan evidentiary law.); United States v. Griffin, 66 F.3d 68, 70-71 & n. 6 (5th Cir. 1995) (Case only holds that right to compulsory process is not guarantee a defendant may call jury's attention to a witness's refusal to testify. "Our holding should not be taken to mean that a court may never grant such a request, but that the Sixth Amendment does not require it.").

Defendant also cites State v. Nelson, 72 Wn.2d 269, 432 P.2d 857 (1967), a plurality opinion signed by only three justices. The Nelson plurality did find it was improper for the prosecutor to call a witness named Patrick knowing he would invoke his Fifth Amendment privilege. However, the Nelson plurality made clear that "Patrick's claim of the privilege against self-incrimination was proper, although he had pleaded guilty to the charge of second-degree murder, since he was subject to possible prosecution on an attempted burglary or robbery charge." Id. at 277. Thus, the Nelson plurality merely states the general rule that a prosecutor may not force an accomplice to assert a valid Fifth Amendment claim in the jury's presence. The critical fifth vote came from Justice Hill, who noted that Patrick could be called as a witness at the retrial following the issuance of the court's

decision; by then, the statute of limitations on any ancillary crimes would have expired and "[a] witness cannot invoke the Fifth Amendment merely to protect another from punishment." Nelson, 72 Wn.2d at 286 (Hill, J., concurring). In the instant case, Mr. Mendez-Reyna entered guilty pleas to all five counts of aggravated murder and the one count of attempted murder. (CP 769-91). The statute of limitations on any ancillary crimes arising from the 1987 incident expired decades ago; in any event, the prosecution of such crimes would be barred by the modern mandatory joinder rule. See CrR 4.3.1(b). Any Fifth Amendment claim was clearly bogus. As in the retrial in Nelson, it was proper here for the State to call the convicted accomplice as a witness.

There was no constitutional confrontation violation here. The prosecutor did not read from Mr. Mendez-Reyna's prior confession or testimony or ask if he had made those statements. In fact, there was no mention made at all of his prior testimony and statements. (RP 2627-33). The prosecutor merely asked the questions, suggested by the testimony of other witnesses during the trial, which the jurors themselves would have wanted to ask if they had the opportunity. Mr. Mendez-Reyna only exhibited contemptuous behavior in the courtroom; while his antics certainly created some inferences, he did not put forth any testimony when he uttered, "I plead the Fifth." Accordingly, the confrontation clause did not come into play.

Defendant further forfeited any claim that he was unable to cross-examine Mr. Mendez-Reyna simply because he made no effort to do so. The trial court made very clear that if Mr. Mendez-Reyna "does answer, then he will be subject to cross-examination by the defense." (RP 2617). The trial court expressly directed Mr. Mendez-Reyna to answer the questions of the State, "and any questions that may be asked by the defense[.]" (RP 2630). But defense counsel declined to question Mr. Mendez-Reyna when given the opportunity by the trial court. (RP 2635).

Since defendant did not ask Mr. Mendez-Reyna any questions, it is unknown how he would have responded. The witness had already demonstrated his unpredictability by testifying in the jury's presence that he does not know defendant (RP 2627) despite his earlier claims that he would not answer any questions (RP 2624). Merely because he was hostile to the prosecutor, it cannot be assumed he would not have responded favorably to friendly questions from his own cousin's attorney.

In Denton v. State, 348 So.2d 1031 (Miss. 1977), the court found no prejudice had been shown from an alleged inability to cross-examine a witness; the record did not show "that the defense was denied the right to question the witness on a material matter within the knowledge of the witness or to show what the witness's testimony would have been [had he answered truthfully]." Id. at 1034. By the same token, not only did defendant not attempt to question Mr.

Mendez-Reyna, he did not even make an offer of proof of matters within the knowledge of the witness concerning which defendant wished to inquire. Accordingly, no prejudice has been shown from any inability to question the witness. See State v. Allan, 88 Wn.2d 394, 396-97, 562 P.2d 632 (1977) (offer of proof required to show prejudice from inability to examine witness).

A witness who is present and takes the stand, but then refuses to testify with no valid claim of privilege, is available for cross-examination for purposes of the Confrontation Clause if no effort is make to compel the witness to respond. Fowler v. State, 829 N.E.2d 459, 465-68 (Ind. 2005). In Fowler, the Indiana Supreme Court explained that Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004) is not dispositive in such circumstances as Crawford dealt with a witness who was not physically present at trial. Fowler, 829 N.E.2d at 466. Fowler involved a domestic violence victim, Ms. Roar, who was called to the stand by the State and sworn as a witness, but refused to answer any questions concerning the incident. Neither the State nor the defense made any attempt to compel her to answer further questions. The defendant did not recall her for examination even after her excited utterances were admitted. The court noted that "a defendant's decision not to seek to compel the witness's testimony, like the decision not to subpoena a witness, leaves open the availability of the witness." Id. at 470. The court further noted:

> Because Roar refused to answer the questions from the defense on cross-examination during Fowler's criminal trial, either the prosecutor or the defendant could have requested the court to conduct a hearing on Roar's refusal and then determine whether Roar was required to answer the questions. We can only speculate as to what the result of such an inquiry would have been. It seems clear, however, that there is a range of possible remarks from very favorable to the defense ("I lied to Officer Decker") to very unfavorable ("my husband threatened me if I testified"). . . . We simply point out that there are very good reasons that a defendant may choose to forgo pressing the issue if a witness, such as Roar, refuses to testify. . . . By choosing to allow Roar to leave the witness stand without challenging her refusal to answer questions on cross-examination and then choosing to not recall her to the stand after her statement was admitted through Decker's testimony, Fowler's right to further confrontation was forfeited.

Id. (citation omitted). As in Fowler, here there was a range of possibilities if defendant had pressed the issue of the witness's refusal to answer questions. If defense counsel was confident Mr. Mendez-Reyna would not respond to questions posed by him, he had the option of asking him a series of questions favorable to defendant; this would have demonstrated to the jury that Mr. Mendez-Reyna would answer, "I plead the Fifth" to any and all questions. But this would have been a risky strategy indeed. It is possible Mr. Mendez-Reyna, overcome by guilt and emotion on the witness stand, would have begun testifying truthfully that he and defendant jointly committed the murders. A third possibility is one that may have been the most devastating to defendant's case: That he would have responded to friendly questions by defense counsel by giving testimony inconsistent with that provided at the time of his guilty plea, which would have made his earlier

testimony admissible as substantive evidence under ER 801(d)(1)(i). Indeed, defense counsel was "walking on eggshells" to not do anything that would make Mr. Mendez-Reyna's prior testimony admissible. As in Fowler, it was a strategic decision by the defense to get the witness off the stand as rapidly as possible. By choosing to allow Mr. Mendez-Reyna to leave the witness stand without attempting to question him on cross-examination, any right to further confrontation was waived.

(2) There is no substantial issue of prosecutorial misconduct.

There is likewise no issue of prosecutorial misconduct in this case. State v. Lowry, 56 Or. App. 189, 641 P.2d 1144 (1982) squarely holds that it is not misconduct for a prosecutor call a witness to the stand knowing that the witness will refuse to testify, where the witness "does not have a valid basis for asserting his rights under the Fifth Amendment." Id. at 1146. Such is the case here. Mr. Mendez-Reyna could not be incriminated by merely repeating what he had previously disclosed under oath (CP 876-906), Tomlin v. United States, 680 A.2d 1020, 1022 (D.C. App. 1996), and his convictions had been final for many years (CP 769-91), Reina v. United States, 364 U.S. 507, 513, 81 S. Ct. 260, 5 L. Ed. 2d 249 (1960). Moreover, as previously noted, there was no reference to Mr. Mendez-Reyna's previous statements or testimony. (RP 2627-33).

Cases cited by defendant are clearly not on point for either or both of the above reasons. State v. Corrales, 130 Ariz. 583, 676 P.2d 615, 619 n. 1 (1983) (Witness had valid Fifth Amendment claim as his conviction was not yet final); Robbins v. Small, 371 F.2d 793, 794 & 796 n. 5 (1st Cir. 1967) (Witness asserted valid Fifth Amendment claim. Prosecutor formulated leading questions from witness's signed statement, which he held in his hand. Prosecutor asked, "Did you make a statement to the Portland police on the day of the alleged robbery?" and "Was it in connection with the case against Small?"); Hagez v. State, 110 Md. App. 194, 676 A.2d 992, 1005 (1996) (Prosecutor repeatedly asked defendant's wife, who was asserting spousal privilege, if she had made certain statements to police, which was "akin to asking Marina Oswald if she had told the police that she saw her husband in possession of a rifle at the Texas School Book Depository on November 22, 1963") (emphasis added).

Absent a valid claim of privilege, leading questions may properly be posed to a hostile witness. ER 611(c). Hostility may arise not only where a witness is surly or contemptuous on the stand, but where the witness is closely associated with the defendant or the crime. 5A KARL B. TEGLAND, WASH. PRAC. EVIDENCE § 611.17 at 549 n. 8 (5th ed. 2007) (citing United States v. Brown, 603 F.2d 1022 (5th Cir. 1979) (while witness called by prosecution was not hostile in sense of being contemptuous or surely, he was close friend of defendant and appeared to be involved in same crime)). Here, the witness was both (a)

contemptuous on the stand, and (b) defendant's first cousin who participated in the same crime. Leading questions were proper.

Defendant asserts the questions corresponded to Mr. Mendez-Reyna's prior testimony, but neglects to mention that shows there was a good faith basis for the questions. As to each question, there were three possibilities: (1) The witness would testify consistently with his previous testimony; (2) The witness would testify inconsistently with his prior testimony, in which case the earlier testimony would become admissible as substantive evidence under ER 801(d)(1)(i); or (3) The witness would wrongfully refuse to answer the question, which would give rise to "the logical inference that a truthful answer would have implicated defendant." State v. Abbott, 275 Or. 611, 552 P.2d 238, 241 (1976). In either event, the prosecutor did nothing improper.

A different situation may have existed if the prosecutor had asked questions that made the jury aware of Mr. Mendez-Reyna's prior testimony (e.g., "Did you previously testify that Vicente Ruiz was the man who was with you and along with you shot and killed those other men?"). But that simply did not occur.

(3) **Other issues have no merit.**

Other issues raised by defendant are adequately addressed in the unpublished portion of the Court of Appeals opinion.

(4) **Even if error occurred, it was harmless.**

Even if some error took place during the course of the trial, such error was harmless. As noted by the Court of Appeals, the matters complained of were, "a small part of a strong State's case." Slip opinion, at 22. The surviving victim gave eyewitness testimony that defendant was one of the two assassins who committed the murders and the attempted murder at Medina's Body Shop on October 13, 1987. (RP 3211-31). As acknowledged in the Brief of Appellant at 14, defendant at trial pursued the only possible defenses under the circumstances: "that this was a case of misidentification, mistaken or deliberate" on the part of the surviving victim. Neither defense is rational.

The surviving victim first identified defendant while lying in a hospital bed the night of the homicides. (RP 1484-86, 1491-93, 1864-65). If he was deliberately misidentifying defendant, he would have had no way of knowing at the time whether defendant had an iron-clad alibi. He also could not have anticipated that the identification would be corroborated by the extensive evidence described in the counterstatement of the case.

The theory of an unintentional misidentification fares no better. Even if one accepts that the shock of the events may have led the surviving victim to make an incorrect identification, the same is not true of defendant's girlfriend (and mother of his children) Diana Garcia. In October 1987, Ms. Garcia identified defendant as coming to her apartment in Kennewick along with Pedro Mendez-Reyna within minutes after the homicides. (RP 1555-56). Her 1987 statement

was recorded on tape. (RP 1538-39). An empty ammunition box consistent with that used in the homicides was found in the kitchen garbage in her apartment. (RP 2851, 2854). She did not see or hear from defendant again until after his arrest 20 years later. (RP 2114-15). In addition, apartment manager David Gamino identified defendant as the renter of the apartment where the Mazda RX-7 was found and that was hurriedly abandoned on October 13-14, 1987. (RP 1995-96, 2048-49). There was a receipt in the car for the purchase of Winchester .223 rifle ammunition less than an hour before the homicides. (RP 1780, 2295-96). Defendant's fingerprint was found on the vehicle. (RP 1783, 3014-15). Finally, Mauricio Ortiz identified defendant as the person to whom he had entrusted the Mazda RX-7 for a test-drive on October 13, 1987. (RP 1534-36). The correctness of this identification is shown by (1) the fact that he drove defendant's Toronado vehicle (which he had been using while defendant test-drove the Mazda RX-7) to defendant's apartment on the morning of October 14, 1987, hoping to complete the automobile transaction but only to find the police were on the scene from executing a search warrant the night before (RP 1709-11); (2) that he later returned the Toronado to defendant's girlfriend, whom he knew from a church youth group as Diane (RP 1706, 1712-14, 1747-48); and (3) that Diana Garcia stated in her testimony that after the homicides she received defendant's Toronado along with the keys from one of defendant's friends, whom she acknowledged may have been Mauricio Ortiz, and that she eventually sold the

vehicle. (RP 2117-18). Moreover, these identifications were further corroborated by evidence outlined above in counterstatement of the case.

Finally, any theory of misidentification by the surviving victim does not explain his identification of Pedro Mendez-Reyna, which no one ever disputed. It would make no sense that he would correctly identify one assailant and not the other.

F. CONCLUSION

On the basis of the points and authorities set forth above, it is respectfully requested that the Petition for Review be denied.

Dated this 12th day of November, 2013.

Respectfully submitted,

SHAWN P. SANT
Prosecuting Attorney

By: Frank W. Jenny

Frank W. Jenny,
WSBA #11591
Deputy Prosecuting Attorney

AFFIDAVIT OF MAILING

STATE OF WASHINGTON)
) SS.
County of Franklin)

COMES NOW Patty Severns, being first duly sworn on oath, deposes and says:

That she is employed as a Legal Secretary by the Prosecuting Attorney's Office in and for Franklin County and makes this affidavit in that capacity.

I hereby certify that on the 12th day of November, 2013, a copy of the foregoing was delivered to Vincente Ruiz, Appellant, #740324, Cllalam Bay Corrections Center, 1830 Eagle Crest Way, Clallam Bay WA 98326, and to opposing counsel Casey Grannis, Nielsen, Broman & Koch, PLLC, 1908 E Madison Street, Seattle WA 98122-2842, by depositing in the mail of the United States of America a properly stamped and addressed envelope and to (grannisc@nwattorney.net) by email per agreement of the parties pursuant to GR30(b)(4).

Signed and sworn to before me this 12th day of November, 2013.

Notary Public in and for
the State of Washington,
residing at Kennewick
My appointment expires: May 19, 2014

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, November 12, 2013 2:22 PM
To: 'Debbie Ford'
Cc: Casey Grannis
Subject: RE: STATE OF WASHINGTON v. VICENTE RUIZ - NO. 89429-9

Rec'd 11-12-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Debbie Ford [mailto:dford@co.franklin.wa.us]
Sent: Tuesday, November 12, 2013 2:16 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Casey Grannis
Subject: STATE OF WASHINGTON v. VICENTE RUIZ - NO. 89429-9

Attached for filing is the Answer to Petition for Review on behalf of Respondent, State of Washington.

Debbie L. Ford
Legal Secretary
Franklin County Prosecuting Attorney's Office
1016 North Fourth Avenue
Pasco, Washington 99301
Phone: (509) 545-3543
Fax: (509) 545-2135
dford@co.franklin.wa.us