

NO. 44026-1-II

**IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON,**

DIVISION II

STATE OF WASHINGTON,

Appellant/Cross Respondent,

vs.

TERESA LYNN CLINE,

Respondent, Cross Appellant.

REPLY BRIEF OF APPELLANT/CROSS RESPONDENT

**SEAN BRITTAIN
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Deputy Prosecutor
for Appellant**

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I. ISSUE RAISED BY CROSS-APPELLANT

1. After viewing the evidence in the light most favorable to the State, did the trial court error in ruling that, there was sufficient evidence to support a prima facie case of the “intent” element of the crime of Custodial Interference in the First Degree?

II. SHORT ANSWER

1. **No.** The trial court was correct in ruling that the State presented sufficient evidence to support a prima facie case of the “intent” element of the crime of Custodial Interference in the First Degree.

III. STATEMENT OF FACTS AND PRIOR PROCEEDINGS

On June 15, 2012, Joel Galvino was meeting with CPS worker Tarassa Wiper at his residence, located at 137 Williams Ave, Kelso, Washington. During this meeting, Ranee Cline and Teresa Cline arrived at Mr. Galvino’s residence. CP 16. Mr. Galvino and Ranee Cline are the biological parents of B.G., the child in this case. CP 16. While Ranee Cline and Teresa Cline were at Mr. Galvino’s residence, Parent Child Assistance Program (PCAP) worker Jamie Nance arrived. Ms. Nance overheard Ranee Cline tell the Teresa Cline to take the child and leave Mr. Galvino’s residence. CP 11.

While Mr. Galvino, Ranee Cline, and Ms. Wiper were speaking, Haleigh Grasser, a neighbor, observed the Teresa Cline move her vehicle to a parking spot down the street from Mr. Galvino’s residence. CP 16. Approximately three minutes later, Ms. Grasser observed Teresa Cline

running towards her vehicle while carrying the child like a football. CP 16. Ms. Grasser then observed Teresa Cline drive away with the child. CP 16. Mr. Galvino and Rane Cline attempted to locate Teresa Cline and the child at CPS and PCAP. CP 16. After failing to do so, Mr. Galvino contacted 911. CP 16.

Cowlitz County Sheriff Deputy Dan Sheridan arrived at Mr. Galvino's residence. Deputy Sheridan interviewed Rane Cline, who stated that she had not given permission to Teresa Cline to take the child from Mr. Galvino's residence. CP 16. Rane Cline also stated that her grandmother, Rosemary Cline, had requested visitation with the child for the entire Father's Day weekend. CP 16. According to Rane Cline, they would be camping at Silver Lake. CP 16.

Deputy Sheridan interviewed Mr. Galvino, who stated that there had been an ongoing dispute between himself, Teresa Cline, and Rosemary Cline about visitation with the child. CP 16 at 88. Mr. Galvino told Deputy Sheridan that Rosemary Cline had previously requested to have the child for the entire Father's Day weekend for a camping trip to Silver Lake. CP 16.

Deputy Sheridan interviewed Diane Waadevig, Mr. Galvino's aunt. Ms. Waadevig showed Deputy Sheridan a text message conversation she had with Rosemary Cline. CP 16. The text messages

show that on June 13, 2012, Rosemary Cline had requested to have the child for the entire Father's Day weekend. CP 16. After Teresa Cline took the child from Mr. Galvino's residence, Ms. Waadevig told Rosemary Cline, through a text message, that she should call the Teresa Cline and tell her to return the child. CP 16. Rosemary Cline responded with a text message that said "this would not come to this if you would of just let ranee and the family see him once in a while." CP 16.

Cowlitz County Sheriff Deputy Kim Moore located Teresa Cline and the child at the Silver Cove RV campground. Deputy Sheridan arrived shortly and interviewed Teresa Cline. CP 16. After being informed of her rights, Teresa Cline told Deputy Sheridan that Ranee Cline had asked her to take the child. CP 16. Deputy Sheridan re-interviewed Ranee Cline, who was also at the campground. Ranee Cline told Deputy Sheridan that she had given Teresa Cline permission to take the child. CP 16.

On June 19, 2012, the Cowlitz County Prosecutor's Office filed an information charging Teresa Cline with Custodial Interference in the First Degree. CP 5. Teresa Cline's attorney filed a *Knapstad* motion on August 7, 2012. CP 10. Included within the *Knapstad* motion were affidavits signed by Ranee Cline and Rosemary Cline. CP 12 and CP 13.

On August 16, 2012, the State filed a motion to amend the information. CP 19. The court deferred ruling on the State's motion until the *Knapstad* motion was ready to be heard. On August 30, 2012, despite an objection from Teresa Cline's attorney, the trial court granted the State's motion to amend the information. CP 19; RP at 2-6. On that same date, the trial court heard Teresa Cline's *Knapstad* motion. RP at 7-19. On September 20, 2012, the trial court granted the *Knapstad* motion, dismissed the charge without prejudiced and entered its findings. CP 22. The State filed a timely notice of appeal. CP 23.

IV. ARGUMENTS

A. THE STATE PRESENTED SUFFICIENT EVIDENCE TO SUPPORT A PRIMA FACIE SHOWING OF TERESA CLINE'S INTENT; THEREFORE, THE TRIAL COURT WAS CORRECT IN DENYING TERESA CLINE'S *KNAPSTAD* MOTION IN REGARDS TO THE "INTENT" ELEMENT OF CUSTODIAL INTERFERENCE IN THE FIRST DEGREE.

Custodial Interference in the First Degree requires the State to prove beyond a reasonable doubt that:

A parent or other person acting under the directions of the parent...intentionally takes, entices, retains, or conceals a child, under the age of eighteen years and for whom no lawful custody order or parenting plan has been entered by a court of competent jurisdiction, from the other parent with intent to deprive the other parent from access to the child permanently or for a protracted period of time.

RCW 9A.40.060(3). The State agrees that to meet its burden of proof, the State must prove beyond a reasonable doubt that Teresa Cline had the intent to deprive Mr. Galvino from access to his child. As the trial court found, the State did present sufficient evidence of Teresa Cline's intent.

In support of its opposition to Teresa Cline's *Knapstad* motion, the State relied upon the numerous police reports generated pursuant to the investigation. During the initial investigation, Rancee Cline informed Deputy Sheridan that Rosemary Cline had requested the child accompany her family on a camping trip at Silver Lake during Father's Day weekend. CP 16. Mr. Galvino confirmed Rancee Cline's statement. CP 16. Mr. Galvino also informed Deputy Sheridan that he was having an ongoing dispute with the Clines, including Teresa Cline, about visitation with the child. CP 16.

Diane Waadevig, Mr. Galvino's aunt, showed Deputy Sheridan a text message conversation she had with Rosemary Cline in regards to the camping trip over Father's Day weekend. CP 16. After Teresa Cline took the child from Mr. Galvino, Ms. Waadevig had a second text message conversation with Rosemary Cline. Rosemary Cline informed Ms. Waadevig "this would not come to this if you would just let rancee and the family see him once in a while." CP 16. The child was located at the Silver Cove RV campground in Silver Lake, Washington. Also present at

that location was Ranee Cline, Rosemary Cline, Teresa Cline, and other members of the Cline family.


Based on the above set of facts, which must be undisputed for a *Knapstad* motion to prevail, Teresa Cline's intent can be inferred based upon her own conduct, the statements and conduct of Ranee Cline, and the statements of Rosemary Cline. There was an ongoing visitation dispute with Mr. Galvino that Teresa Cline was actively participating in. The Cline family was having a weekend camping trip at Silver Lake. At Ranee Cline's direction, Teresa Cline took the child, carried him like a football, sprinted to her vehicle, and quickly fled from Mr. Galvino's residence. The child was located at the exact location the Cline family camping trip was taking place. Teresa Cline and Ranee Cline were at the same location. This amounts to a prima facie showing of Teresa Cline's intent to deprive Mr. Galvino of access to his child.

V. CONCLUSION

Because there was a prima facie showing of Teresa Cline's intent, this Court should uphold the trial court's ruling and deny the Cross-Appellant's appeal.

Respectfully submitted this 13th day of May, 2013

SUSAN I. BAUR
Prosecuting Attorney

By 
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CERTIFICATE OF SERVICE

Michelle Sasser, certifies that opposing counsel was served electronically via the Division II portal:

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

Signed at Kelso, Washington on May 13th, 2013.

Michelle Sasser
Michelle Sasser

COWLITZ COUNTY PROSECUTOR

May 13, 2013 - 4:33 PM

Transmittal Letter

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