NO. 46611-2-II

COURT OF APPEALS OF THE STATE OF WASHINGTON,

DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

JAMES STERLING TURNER,

Appellant.

BRIEF OF APPELLANT

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ASSIGNMENT OF ERROR

Assignment of Error

The trial court's refusal to allow the defense to present evidence of another perpetrator violated the defendant's right to a fair trial under Washington Constitution, Article 1, § 3, and United States Constitution, Fourteenth Amendment.

Issues Pertaining to Assignment of Error

Does a trial court's refusal to allow the defense to present evidence of another perpetrator violate the defendant's right to a fair trial under Washington Constitution, Article 1, § 3, and United States Constitution, Fourteenth Amendment in a trial in which the victim had tentatively identified another person as the possible perpetrator and in which the state presented evidence concerning the other possible perpetrator?

STATEMENT OF THE CASE

Factual History

At about 11:00 pm on October 11, 2013, Latishia Larson was working alone at the Central Valley Texaco Station in Poulsbo preparing to close and lock up the business. RP 75-78[1]; CP 3. At the time there were no customers in the store. RP 75-78. As Ms Larson walked up to lock the door, a male customer came in, walked back, picked up some beer, walked up to the checkout counter and asked for two packs of cigarettes. *Id.* When Ms Larson reached up to get the cigarettes, the customer pulled out a pistol and partially obscured it with his other hand. *Id.* When Ms Larson saw the gun, which appeared to her to be a black, short 9mm automatic, she said: "Are you freaking serious?" RP 75-78, 113-114. The customer responded by saying "Times are Hard." RP 75-78. At this point she handed over $240 from the register and the customer, now robber, exited the store after taking the money and the cigarettes. RP 78-79. In fact, on November 5, 2013, a police officer remembers finding a realistic BB gun replica of a Smith and Wesson model MMP 40 caliber semi-automatic pistol in the defendant's possession. RP 143-145, 149-151.

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[1]The record on appeal includes 4 volumes of continuously numbered verbatim report of the jury trial. They are referred to herein as "RP [page #]." The record on appeal also includes a verbatim report of the sentencing held on August 22, 2014. It is referred to herein "RP 8/22/14 [page #]."

Once the robber was gone Ms Larson called 911. RP 79-80. Within a minute or two a number of sheriff's deputies responded to her call. *Id.* They immediately asked her to describe the robber and she responded as follows: short male, 120 to 130 pounds, about 5'1" to 5'2" wearing a black hoody, baseball cap, blue jeans, and gloves. RP 80-81, 159-160, 193-195209-210. When asked how she could be so specific on the height, she explained that she was 5'3" tall and that while both she and the robber were standing up she was looking straight across at him at eye level. RP 114-118. She was quite confident that he was slightly shorter than she. RP 193-195. Ms Larson also stated that she was wearing tennis shoes that night so her footwear did not give her any added height. *Id.* In the weeks that followed she added this to the description: Gap in the upper row of teeth in the middle with the lower teeth kind of "jig-jagged" about a little bit. RP 81, 159-160, 209-210..

In fact, the Texaco station where Ms Larson was working has a number of video surveillance cameras which the responding deputies reviewed that evening. RP 71-73, 81-82, 83-87, 161-162. Although grainy, one of these videos showed the robber walking up to the store while apparently smoking a cigarette. RP 196, 274. Just prior to entering the store he threw down the cigarette butt and, in the opinion of one of the deputies, apparently stepped on it. RP 161-162. However, the deputy could not be

sure because the view on the ground in that area was obscured by a newspaper box. RP 196. Upon seeing the video the deputy went outside and found two cigarette butts in the area around the newspaper box. RP 164-169. He took both as evidence. *Id.* Later testing revealed the defendant's DNA on one of the cigarette butts. RP 281-282.

One of the sheriff's deputies later prepared a photo montage with six suspects to show to Ms Larson. RP 107-108, 188-189. The defendant's photograph was not part of the montage. RP 198-199. Upon reviewing that montage, Ms Larson stated that she could not identify anyone in the montage as the robber but the person in place six did looked like him. RP 107-108, 188-189, 198-199. Although she stated that he was not the robber he looked so much like the robber that he could have "been his brother." RP 123. In fact, the person whose photograph was in place six on the montage was Antonio Diaz. RP 36-38. The reason the deputy who prepared the montage included his photograph was that the deputy has seen him walking in proximity to the Texaco earlier on the night of the robbery and the officer noted that he was short in stature. RP 132.

Once the State Patrol Crime Lab identified the defendant's DNA on one of the cigarette butts taken into evidence, one of the deputies investigating the case obtained photographs of the defendant's mouth and teeth and a photograph of his head. RP 219-221, 222-224. When he showed

those photographs to Ms Larson, she stated that the defendant looked like the robber but she couldn't be sure. RP 223-224. She had no idea of the defendant's height when she made this statement. RP 123-124, 235-236.

Procedural History

By information filed May 9, 2014, and later amended, the Kitsap County Prosecutor charged the defendant James Sterling Turner with one count of first degree robbery CP 1-5, 31-33. The original information lists the defendant's height as 5'8" and his weight at 170 pounds. CP 3. During pretrial motions in this case the state moved *in limine* to preclude the defense from arguing that another perpetrator committed the offense. RP 5-6. The defense responded with the following offer of proof in support of its desire to argue another perpetrator:

> MS. TAYLOR: And, Your Honor, in this particular case, the robbery was committed on October 11th. And initially, throughout the investigation, there was some question as to who were potential suspects.
>
> The clerk who was at the store during the time of the robbery gave a description of a suspect who was short in stature, between, I believe, five-one and five-three, about 130 to 140 pounds, dressed in jeans, a dark hoodie, a light-colored baseball cap.
>
> Additionally, there was some surveillance video. On that surveillance video, the suspect was seen wearing a specific type of sneaker that was noted by police officers.
>
> Additionally, other officers who were brought in for containment noticed a suspicious vehicle near the scene of the robbery. Their license plate was taken. That license plate was eventually connected

to Antonio Diaz through the owner of the vehicle who said at the time she was in custody and the car was either in the control of Mr. Diaz or someone else.

Mr. Diaz' s physical description matched the suspect description. The clerk of the store was shown, essentially, a lineup, a six-pack. She pointed out Mr. Diaz's photo and indicated that the person who robbed the store looked like that. Subsequently, the store clerk backed off that and said, well, no, you know, he is a regular at the store; you know, he' s known to the owner; you know, it's not him. However, she has maintained all along that she is unsure of who that person was, beyond this sort of somewhat vague description that was given.

Additionally, like I said, Mr. Diaz was connected to a car that was considered a potential suspect vehicle or connected to the robbery. An officer who was part of the containment noted a suspect who essentially came from the direction of the Central Valley store and was headed in the direction of the car. The car was then seen by another officer not far from the scene of the robbery.

So, therefore, I believe that there is a substantial enough basis to connect the potential of Antonio Diaz being involved in this. And that to deny my client the right to cross-examine on those facts would deny him an adequate and full defense of this case and essentially challenge his ability to fully confront the witnesses that are called in this case.

I understand that, you know, the store clerk may have changed her testimony, but simply changing, you know, her position is clearly an issue for the jury as to whether or not they believe its credible, whether or not they believe it's possible. It's not a matter of law to exclude the potential of Mr. Antonio Diaz as a suspect here when there's a number of things linking him, including the fact that he actually fits the suspect description better than my client does.

RP 6-8.

Following the state's rebuttal argument the defense added to its offer of proof and argument on its other perpetrator defense, stating as follows:

> Your Honor, with regard to the lineup, I think the fact that she pointed to Mr. Diaz and says the suspect looks like him, I think that is very telling when it comes to the idea that he was ruled out conclusively. The fact that she later says it's not him is, I think, highly suspect, based on the fact that she essentially starts out by saying, I can give you this vague description and it looks like him. I think that's highly relevant to a jury, when it comes down to it.
>
> I think, additionally, one factor that has been overlooked is that the State has claimed that this is conclusory because it comes down to the cigarette, which is based on a video, which, I think, when shown to the jury, could be open to a different interpretation.
>
> The State would like to posit that this video conclusively shows that the person who committed this robbery was smoking a cigarette and then, basically, stomped out the cigarette. I believe that that's the province of the jury to determine if that's actually what the video shows. Because I don't necessarily agree with that. And then what goes on beyond that is that when the cigarette was found, the stomped-cigarette was found, there was also a second cigarette found. That cigarette was subsequently not tested.
>
> I think, again, we come back to the fact that, you know, there is a realistic possibility that Antonio Diaz, although he was conclusively ruled out by the police, it's a question of whether or not that investigation was thorough and proper or whether that's an issue for the jury to consider in regard to whether or not my client is actually the person who did this.

RP 12-13.

The court took the state's motion under advisement. RP 13. Following a break in the proceedings the court reconvened the trial, granted the state's motion and precluded the defense from presenting any evidence about or arguing the existence of another perpetrator. RP 35-39. The case then proceeded to trial before a jury with the state calling eight witnesses,

including Latishia Larson, the deputies who responded to her 911 call and investigated the robbery and the state forensic scientist who performed the DNA tests. RP 71-286. They testified to the facts set out in the preceding factual history. *See* Factual History, *supra*.

Following the close of the state's case, the defendant took the stand for very brief testimony during which he stated that he is 5'8" tall, that he weighed 187 pounds, and that he was a smoker. RP 299-300. He then explained that one of the cigarette butts admitted into evidence was a "Camel Crush," which has a menthol packet in the filter that is activated by crushing that filter. *Id.* On cross-examination he admitted that the cigarette butt with his DNA on it was his. RP 301. However, neither the defense attorney nor the prosecutor asked him when he threw down that cigarette butt. RP 299-301.

After the close of the defendant's case the court instructed the jury with neither party making any objections. RP 303-314. The parties then presented their closing arguments and the jury retired for deliberation, eventually returning a verdict of guilty. RP 318-350, 353-357; CP 88. The court later sentenced the defendant within the standard range, after which the defendant filed timely notice of appeal. CP 97-107; 109-110.

ARGUMENT

THE TRIAL COURT'S REFUSAL TO ALLOW THE DEFENSE TO PRESENT EVIDENCE OF ANOTHER PERPETRATOR VIOLATED THE DEFENDANT'S CONSTITUTIONAL RIGHT TO A FAIR TRIAL UNDER WASHINGTON CONSTITUTION, ARTICLE 1, § 3, AND UNITED STATES CONSTITUTION, FOURTEENTH AMENDMENT.

While due process does not guarantee every person a perfect trial, both Washington Constitution, Article 1, § 3, and United States Constitution, Fourteenth Amendment do guarantee all defendants a fair trial. *State v. Swenson*, 62 Wn.2d 259, 382 P.2d 614 (1963); *Bruton v. United States*, 391 U.S. 123, 20 L.Ed.2d 476, 88 S.Ct. 1620 (1968). As part of this right to a fair trial, a defendant charged with a crime has the right to present relevant, exculpatory evidence in his or her defense, including evidence of another perpetrator. *State v. Kwan*, 174 Wash. 528, 25 P.2d 104 (1933); *State v. Hudlow*, 99 Wn.2d 1, 659 P.2d 514 (1983); *Chambers v. Mississippi*, 410 U.S. 284, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973).

For example, in *Chambers v. Mississippi, supra*, the defendant was charged with murder. At trial, the defense did not dispute that the decedent had died of homicidal violence. Rather, the defense attempted to elicit evidence that another person had committed the offense. Specifically, the defense called the other person, and asked if he had committed the offense. When that person denied the allegation, the defense sought to impeach him

with his prior statements admitting the murder. However, the trial court refused to allow the impeachment, holding that under the "voucher" rule a party may not impeach his or her own witness.

The defense then attempted to call the three witnesses to whom the other person had confessed committing the murder. However, the trial court refused to allow this evidence, ruling that it was inadmissible hearsay. The defendant was convicted. He then appealed, arguing that the trial court's refusal to allow him to present evidence that another person committed the offense denied him a fair trial.

The Mississippi Supreme Court later affirmed the conviction, and the defendant obtained review before the United States Supreme Court. The Supreme Court reversed, holding that the trial court's exclusion of the defendant's evidence indicating that another person committed the offense denied him his right under the due process clause to a fair trial. The court stated:

> Few rights are more fundamental than that of an accused to present witnesses in his own defense. In the exercise of this right, the accused, as is required of the State, must comply with established rules of procedure and evidence designed to assure both fairness and reliability in the ascertainment of guilt and innocence. Although perhaps no rule of evidence has been more respected or more frequently applied in jury trials than that applicable to the exclusion of hearsay, exceptions tailored to allow the introduction of evidence which in fact is likely to be trustworthy have long existed. The testimony rejected by the trial court here bore persuasive assurances of trustworthiness and thus was well within the basic rationale of the

> exception for declarations against interest. That testimony also was critical to Chambers' defense. In these circumstances, where constitutional rights directly affecting the ascertainment of guilt are implicated, the hearsay rule may not be applied mechanistically to defeat the ends of justice.

Chambers v. Mississippi, 410 U.S. at 302 (citations omitted).

In order for evidence of another perpetrator to be admissible, there must be some connection between the other potential perpetrator and the crime beyond mere motive and opportunity. *State v. Maupin*, 128 Wn.2d 918, 913 P.2d 808 (1996). The Washington State Supreme Court originally stated this rule as follows in *State v. Downs*, 168 Wash. 664, 13 P.2d 1 (1932), which is still cited as the leading case on this issue:

> While evidence tending to show that another party might have committed the crime would be admissible, before such testimony can be received there must be such proof of connection with it, such a train of facts or circumstances as tend clearly to point out some one besides the prisoner as the guilty party. Remote acts, disconnected and outside of the crime itself, cannot be separately proved for such a purpose.

State v. Downs, 168 Wash. at 667.

In *State v. Maupin, supra*, the Washington Supreme court addressed this issue in the defendant's appeal from his conviction for the felony murder with kidnaping as the underlying felony. The victim of the crime was six-years-old. On appeal, the defendant argued that the trial court had denied him a fair trial because it had granted the state's motion to exclude evidence under *Downs* from a witness who claimed to have seen the young girl alive in the

presence of another person after the state claimed the defendant had kidnaped and murdered her. In first addressing this issue, the court stated the following concerning what it characterized as the "*Downs*" doctrine.

> When Washington courts have invoked the *Downs* doctrine to exclude witnesses for the defense, the basis has been the lack of connection of the proffered testimony to the crime. In *State v. Clark*, 78 Wn.App. 471, 898 P.2d 854, *review denied*, 128 Wn.2d 1004, 907 P.2d 296 (1995), for instance, the Court of Appeals upheld the trial court's exclusion of evidence a person other than the defendant had committed arson because the defendant could show no connection other than motive between the other person and the crime. Motive alone was not enough: "[m]ere evidence of motive in another party, or motive coupled with threats of such other person, is inadmissible, unless coupled with other evidence tending to connect such other person with the actual commission of the crime charged." *State v. Kwan*, 174 Wash. 528, 533, 25 P.2d 104 (1933), *cited with approval in* State v. Russell, 125 Wn.2d 24, 77, 882 P.2d 747 (1994), *cert. denied*, 514 U.S. 1129, 115 S.Ct. 2004, 131 L.Ed.2d 1005 (1995). In *Russell*, a first degree murder case, the defendant attempted to introduce evidence that two other men had a motive to kill one of the victims. The trial court excluded the evidence and this court affirmed, citing *Kwan* for the proposition that mere evidence of the existence of someone else's motive to commit the crime is not enough.

State v. Maupin, 128 Wn.2d at 927.

In analyzing the defendant's argument, the court noted that the excluded evidence was more than "mere speculation" and was not solely evidence of motive or opportunity. Rather, it specifically pointed to another perpetrator. The court held:

> Unlike any of the *Downs* line of cases, and contrary to the State's argument, Brittain's testimony was neither evidence of another's motive nor mere speculation about the possibility that someone else might have committed the crime. Instead, Brittain would have

> testified he saw the kidnaped girl with someone other than the defendant after the time of kidnapping. Although the State correctly notes this testimony would not necessarily have exculpated Maupin, as he may have been acting in concert with the persons Brittain claimed to have seen, it at least would have brought into question the State's version of the events of the kidnapping. An eyewitness account of the kidnaped girl in the company of someone other than Maupin after the time of the kidnapping certainly does point directly to someone else as the guilty party, as Downs requires.

State v. Maupin, 128 Wn.2d at 928.

As late as 2014 the Washington Supreme Court has reiterated the rule that the exclusion of other perpetrator evidence violates a defendant's due process right to present a defense as long as that evidence goes beyond mere motive and opportunity. In that case, *State v. Franklin*, 180 Wn. 2d 371, 325 P.3d 159 (2014), the state charged the defendant of three felonies arising from allegations that he had harassed and stalked the complaining witness by sending unwanted, threatening e-mails, text messages, and by posting multiple Craigslist advertisements listing her as someone looking to participate in paid sexual activity. At trial the defendant tried to elicit evidence that unknown to him his live-in girlfriend had committed the offenses. Specifically, the defense intended to elicit evidence that the girlfriend had previously harassed the victim and that the girlfriend had access to the defendant's computer, which the state's evidence showed had been used to send the harassing e-mails and post the phoney Craigslist advertisements.

During pretrial motions the State moved to exclude evidence that the defendant's girlfriend had posted the Craigslist ads, arguing that there was an insufficient nexus between her and the crime. The trial court granted the State's motion, explaining that "the other suspect bar, quite frankly, is high" and that it required more than showing mere motive and opportunity – it required specific facts showing that someone else committed the crime. Moreover, the trial court stated, "I not only look at the foundation for other suspect evidence, but I also look at the evidence against the defendant." *State v. Franklin*, 180 Wn. 2d at 377. The defendant was later convicted and appealed, arguing that the trial court's exclusion of his other perpetrator evidence denied him his due process right to present relevant exculpatory evidence and that the standard the trial court used in determining the admissibility of that evidence was incorrect.

The Court of Appeals rejected the defendant's arguments and affirmed. The defendant then obtained review before the Washington Supreme Court, which reversed on both of the defendant's arguments. The court held:

> The trial court was thus incorrect to suggest that direct evidence rather than circumstantial evidence is required under our cases. The standard for relevance of other suspect evidence is whether there is evidence "'tending to connect'" someone other than the defendant with the crime. *Downs*, 168 Wn. at 667, 13 P.2d 1 (quoting 16 C.J. Criminal Law § 1085, at 560 (1918)), quoted in *Maupin*, 128 Wn.2d at 925, 913 P.2d 808. Further, other jurisdictions have pointed out

> that this inquiry, properly conducted, "focuse[s] upon whether the evidence offered tends to create a reasonable doubt as to the defendant's guilt, not whether it establishes the guilt of the third party beyond a reasonable doubt." *Smithart v. State*, 988 P.2d 583, 588 & n. 21 (Alaska 1999). The standard set forth by the trial court establishes a bar to admission of other suspect evidence significantly higher than the standard we have previously set forth and higher than the standard used in other jurisdictions.
>
> Our more restrained interpretation of the *Downs* standard is also compelled by the United States Supreme Court's holding in *Holmes*, 547 U.S. 319, 126 S.Ct. 1727. As discussed above, in that case, the Court examined the South Carolina Supreme Court's transformation of the "train of facts or circumstances" test – *i.e.*, the *Downs* test – into a balancing of the relative probative value of other suspect evidence against strong forensic evidence implicating the defendant. *Id.* at 328–29, 126 S.Ct. 1727. The Supreme Court held that trial courts may exclude evidence on the ground that its probative value is outweighed by other considerations, but the probative value must be based on whether the evidence has a logical connection to the crime—not based on the strength of the State's evidence: "[j]ust because the prosecution's evidence, if credited, would provide strong support for a guilty verdict, it does not follow that evidence of third-party guilt has only a weak logical connection to the central issues in the case." *Id.* at 330, 126 S.Ct. 1727. The South Carolina rule at issue in *Holmes*, like the rule applied by the trial court in this case, contradicts this constitutional standard and prior state case law.

State v. Franklin, 180 Wn.2d at 381-82.

Similarly in the case at bar the evidence of another perpetrator goes well beyond the mere motive or opportunity. Rather, it includes a number of specific connections between the commission of the offense and the other perpetrator as opposed to the defendant. This evidence was as follows: (1) that the other suspect was in the vicinity of the Texaco on the night of the robbery, (2) that a deputy sheriff obtained a photograph of the other suspect

and put it in a photo montage because he believed that the other suspect matched the description the victim gave of the robber, (3) that the victim picked the other suspect out of the photo montage as the person who looked like the robber, (4) that while the victim ultimately stated that she did not believe the other suspect was the robber she stated that he looked so much like him that he could have been the robber's brother, and (5) that the victim was positive that the robber was 5'1" or 5'2" and 120 to 130 pounds and the other suspect fit this physical description. This evidence went well beyond the "mere motive and opportunity" evidence that a trial court may properly exclude. Thus, in this case the trial court erred when it prohibited the defense from eliciting evidence of and arguing the existence of another perpetrator. This error denied the defendant his due process right under Washington Constitution, Article 1, § 3, and United States Constitution, Fourteenth Amendment, to present relevant, exculpatory evidence.

In *Franklin* the court went on to note that the exclusion of properly admissible evidence of another perpetrator is a constitutional error because it violates a defendant's right to due process. Thus, it is presumed to be prejudicial and the State bears the burden of proving that the error was harmless. *State v. Franklin*, at 382. The state only meets this burden if an appellate court is "convinced beyond a reasonable doubt that any reasonable jury would have reached the same result in the absence of the error." *State*

v. Watt, 160 Wash.2d 626, 635, 160 P.3d 640 (2007). In other words, a constitutional error is only harmless if the appellate court "cannot reasonably doubt that the jury would have arrived at the same verdict in its absence." *State v. Franklin*, 180 Wn.2d at 383 (citing *State v. Jones*, 168 Wn.2d 713, 230 P.3d 576 (2010)).

In the case at bar a careful review of the evidence elicited at trial demonstrates that the error in excluding the evidence of another perpetrator was far from harmless, much less harmless beyond a reasonable doubt. The most compelling evidence on this point came from the complaining witness. Although Ms Larson was unable to identify the person who committed the robbery and was quite frank about that inability, she was certain about two things: the height and weight of the robber. From her first description given within minutes of the robbery, through subsequent interviews, and all the way to her testimony at trial, she was positive that the robber was 5'1" to 5'2" in height and weighed between 120 and 130 pounds.

Ms Larson's explanation as to why she was so certain as to the robber's height was compelling. As she explained, she is 5'3" in height, she stood directly across from the robber when he came into the store, when he came to the counter, and when he left the store. When she looked straight across at the robber she noted that his eyes were slightly below her eyes, making him an inch or two shorter than she. By contrast, the defendant

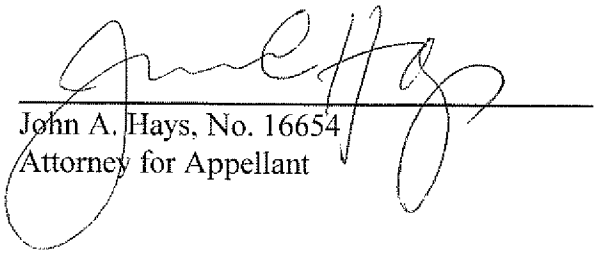
stands 5'8" tall and is between 180 and 190 pounds. As a deputy sheriff testified, and as the defense set out in its offer of proof during the state's motion *in limine*, Antonio Diaz does approximate the weight and height of the robber as Ms Larson described him. In fact, Ms Larson's description was compelling enough that one of the officers immediately went looking for this person and later put together a montage with that person's photograph in it. Had the defense been allowed to present this evidence to the jury, it is highly likely that the jury would have returned a verdict of acquittal. At a minimum the trial court's error in excluding this evidence creates a reasonable doubt as to what the verdict would have been. The latter measure is the standard for constitutional error which the state in this case cannot overcome. As a result, the defendant is entitled to a new trial.

CONCLUSION

The trial court's decision to grant the state's motion to exclude evidence and argument of another perpetrator denied the defendant his constitutional right to present relevant, admissible exculpatory evidence. Since this error was not harmless beyond a reasonable doubt this court should reverse the defendant's conviction and remand for a new trial.

DATED this 24th day of March, 2015.

Respectfully submitted,



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APPENDIX

WASHINGTON CONSTITUTION
ARTICLE 1, § 3

No person shall be deprived of life, liberty, or property, without due process of law.

UNITED STATES CONSTITUTION,
FOURTEENTH AMENDMENT

All persons born or naturalized in the United State, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

. . .

COURT OF APPEALS OF WASHINGTON, DIVISION II

STATE OF WASHINGTON, **Respondent,** **vs.** **JAMES STERLING TURNER,** **Appellant.**	**NO. 46611-2-II** **AFFIRMATION OF SERVICE**

The under signed states the following under penalty of perjury under the laws of Washington State. On the date below, I personally e-filed and/or placed in the United States Mail the Brief of Appellant with this Affirmation of Service Attached with postage paid to the indicated parties:

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Dated this 24th day of March, 2015, at Longview, WA.

Diane C. Hays

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