

FILED
OCT 13 2016
WASHINGTON STATE
SUPREME COURT

FILED
September 8, 2016
Court of Appeals
Division III
State of Washington

SUPREME COURT NO. 93711-7
COURT OF APPEALS NO. 33873-8-III

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

TYRONE CHRISTOPHER BELLE,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SPOKANE COUNTY

The Honorable John O. Cooney, Judge

PETITION FOR REVIEW

LISA E. TABBUT
Attorney for Petitioner
P. O. Box 1319
Winthrop, WA 98862
(509) 996-3959

TABLE OF CONTENTS

	Page
A. IDENTITY OF PETITIONER.....	1
B. COURT OF APPEALS DECISION.....	1
C. ISSUE PRESENTED FOR REVIEW.....	1
D. STATEMENT OF THE CASE.....	1
E. REASON WHY REVIEW SHOULD BE ACCEPTED.....	4
The state did not prove beyond a reasonable doubt that Mr. Belle committed attempting to elude. The state failed to meet its burden of proof. The evidence did not establish Mr. Belle drove recklessly after he was knowingly signaled to stop.....	
F. CONCLUSION.....	8
CERTIFICATE OF SERVICE.....	9

TABLE OF AUTHORITIES

Page

Cases

Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435
(2000)..... 4

In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1070) 4

Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979) 4

State v. Delmarter, 94 Wn.2d 634, 618 P.2d 99 (1980) 5

State v. Flora, 160 Wn. App. 549, 249 P.3d 188 (2011) 6

State v. Hickman, 135 Wn.2d 97, 954 P.2d 900 (1998)..... 8

State v. Salinas, 119 Wn.2d 192, 829 P.2d 1068 (1992) 5

State v. Stayton, 39 Wn. App. 46, 691 P.2d 596 (1984) 5, 6

Statutes

RCW 46.61.024 6

RCW 46.61.924 6

Other Authorities

Fourteenth Amendment to the United States Constitution 4

RAP 13.4..... 4

Seth A. Fine & Douglas J. Ende, 13 Wash. Prac., Criminal Law With
Sentencing Forms § 2204 (2013-14 ed.)..... 5

A. IDENTITY OF PETITIONER

Petitioner Tyrone Christopher Belle asks this Court to review the decision of the Court of Appeals referred to in Section B

B. COURT OF APPEALS DECISION

Petitioner seeks review of the Court of Appeals's Ruling Affirming Judgment and Sentence in *State v. Tyrone Christopher Belle*, COA No. 33873-8-III, filed August 9, 2016 (Appendix).

C. ISSUE PRESENTED FOR REVIEW

Whether this Court should accept review of the Court of Appeals's opinion that the state proved beyond a reasonable doubt that Tyrone Belle committed the crime of attempting to elude a pursuing police vehicle even though there was insufficient evidence Mr. Belle drove in a reckless manner after knowingly being signaled to stop?

D. STATEMENT OF THE CASE

The Spokane County prosecutor charged Tyrone Belle by amended information with Attempting to Elude a Police Vehicle. CP 2-3.

Spokane Police Officer Seth Killian was monitoring traffic in a residential neighborhood where there had been complaints of speeding and reckless drivers. RP 113, 118. It was March 11, 2015. RP 120. The sun was shining and families were outside in the nice weather. RP 120-21.

People were working in their yards and children were riding their bikes.
RP 120-21.

Officer Killian was wearing his uniform and driving a marked patrol car equipped with overhead lights and a siren. RP 121, 133. He had just finished a traffic stop when he heard and saw a dually pickup "flying" around a corner with its exhaust and tires squealing. RP 122. Officer Killian faced the truck as it headed in his direction. RP 122-23. He flashed his overhead lights to signal the truck to slow down and to put the driver on notice of law enforcement presence. RP 125. The truck did not slow down. RP 124. Officer Killian pulled over to let it pass. RP 123. It passed him at 50 miles per hour. RP 160. .

Officer Killian got a "good look" at the driver. RP 129. He described the residential street as tight with vehicles parked on both sides. RP 118. Office Killian followed the truck. It slid around a corner to another residential street and went out of view. RP 125-26. To follow the truck, Officer Killian had to turn his car in the other direction. RP 125. Now headed in the right direction and ready to follow the truck, Officer Killian turned on his overhead lights and blipped his siren several times to alert people in the neighborhood to move out of his way. RP 126-27.

Once around the corner and on the same street as the truck, Officer Killian accelerated to catch up to the truck. RP 125. He did not testify that

he could see the truck ahead of him or testify to how fast he drove to catch up to the truck. RP 125-27. At one point, he switched his siren to automatic mode albeit briefly. RP 127.

Officer Killian next saw the truck as it was pulling to the right side of the road as if to stop. RP 127. Officer Killian could read the truck's license plate. RP 127. He called off the pursuit because he thought it was too dangerous. He also thought with the license plate number and his observation of the driver, he could find the truck and driver with little investigation. RP 127-28. Rather than come to a full stop, the truck accelerated, skid around another corner, and drove away. RP 127.

Officer Killian drove to the address of the truck's registered owner, Irene Nieves. RP 131. After speaking to Ms. Nieves, he used his patrol car's computer to look up DOL photos and mugshots for Mr. Belle. He identified Mr. Belle as the truck's driver from a single booking photo. RP 132-33.

Officer Killian found the truck parked at Ms. Nieves's mother's home. RP 134. He requested a warrant for Mr. Belle's arrest. RP 134.

Officer Killian was the state's only witness. RP 113-209. Mr. Belle did not present testimony. RP 232.

E. REASON WHY REVIEW SHOULD BE ACCEPTED

Under RAP 13.4, a petition for review will be accepted by the Supreme Court if

- (1) If the decision of the Court of Appeals conflicts with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals conflicts with a published decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

The state did not prove beyond a reasonable doubt that Mr. Belle committed attempting to elude. The state failed to meet its burden of proof. The evidence did not establish Mr. Belle drove recklessly after he was knowingly signaled to stop.

The Fourteenth Amendment Due Process Clause requires the state prove each essential element of the crime charged beyond a reasonable doubt. *Apprendi v. New Jersey*, 530 U.S. 466, 490, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000); *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970). Evidence is sufficient only if, reviewed in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

A claim of insufficient admits the truth of the state's evidence and all inferences that can reasonably be drawn therefrom. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). Circumstantial evidence and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

The "to convict" instruction for the attempting to elude, Count I, required the state to prove Mr. Belle, on March 11, 2015:

- (1) drove a motor vehicle;
- (2) was signaled to stop by a uniformed police officer by hand, voice, emergency light, or siren;
- (3) the signaling police officer's vehicle was equipped with lights and sirens;
- (4) willfully fled or refused to immediately bring the vehicle to a stop after being signaled to stop;
- (5) and while attempting to elude, drove his vehicle in a manner indicating a reckless manner.

CP 55-71 (Instruction 6).

Three essential elements of the crime "must occur in sequence." *State v. Stayton*, 39 Wn. App. 46, 49, 691 P.2d 596 (1984); accord Seth A. Fine & Douglas J. Ende, 13 Wash. Prac., Criminal Law With Sentencing Forms § 2204 (2013-14 ed.). First, a uniformed police officers with a vehicle equipped with lights and sirens must give a signal to a driver to

bring the vehicle to a stop. Second, the driver must willfully fail to immediately stop. Finally, the driver must drive his vehicle in a reckless manner while attempting to elude the pursuing police vehicle. RCW 46.61.024(1); *see Stayton*, 39 Wn. App. at 49-50 (interpreting prior version of RCW 46.61.924(1)). The state failed to present sufficient evidence any occurred in the required sequence. On this record there was insufficient evidence Mr. Belle willfully failed to stop and only thereafter drove recklessly to elude Officer Killian.

Officer Killian testified his initial flashing of lights at the truck was only to alert the driver of police presence and to slow down. RP 122. It was not a signal for the truck's driver, after skidding around the corner of the residential street, to stop. The truck flashed past Officer Killian at 50 miles per hour. RP 160. Officer Killian focus at that moment was to see the driver, not signal the truck to stop. RP 124. The truck passed Officer Killian, who was facing the opposite direction, and immediately turned onto another residential street. RP 125.

There can be no attempt to elude unless there is the prerequisite knowledge there is a pursuing police vehicle. *Stayton*, 39 Wn. App. at 49. The driver must know he is being signaled to stop. *State v. Flora*, 160 Wn. App. 549, 555, 249 P.3d 188 (2011). When the truck made the turn, Officer Killian's only signal to the truck was to slow down.

To turn himself around to follow the truck, Officer Killian had to drive up on a sideway, back down off of the sideway, and get back on the road to make the same turn. RP 125. In the meantime, the truck was moving down the other street and Officer Killian was not behind it.

As Officer Killian approached the same turn, he blipped his siren twice not to signal the truck to stop but to alert people in the area to police presence. RP 126-27. Although Officer Killian accelerated to an unspecified speed to catch up to the truck, and turned his siren on to full audible mode for a moment, he did not testify to seeing the truck – and the nature of its driving – again until the other end of the block. RP 127.

When Officer Killian saw the truck again, and the truck's driver could see Officer Killian's lighted patrol car, the truck was slowly rolling to a stop on the side of the road and Officer Killian could see the truck's license plate. RP 127. Arguably, at this moment, the truck's driver was signaled to stop by the patrol car's overhead lights. But, the truck's driver's subsequent burn out and slide around the corner was, without more, not a gross deviation from conduct that a reasonable person would exercise in the same situation. CP 55-71 (Instruction 7). Nothing in the description made the driving more conspicuous than the conduct that first caught Officer Killian's attention and then merited only a flash of an overhead light warning the driver to note police presence and slow down.

And finally, as Officer Killian had the truck's license plate, he was no longer pursuing the truck so there was nothing for the driver to elude.

On this record, the state failed to prove the required three-step sequence of proof necessary for an attempting to elude conviction. Because the state failed to meet its burden, reversal and dismissal of the prosecution is required. *State v. Hickman*, 135 Wn.2d 97, 103, 954 P.2d 900 (1998).

F. CONCLUSION

This Court should accept review of Ms. Belle's Petition for Review and reverse his attempting to elude conviction for insufficient evidence.

Respectfully submitted this 8th day of September 2016.



LISA E. TABBUT/WSBA #21344
Attorney for Tyrone Christopher Belle

CERTIFICATE OF SERVICE

Lisa E. Tabbut declares as follows:

On today's date, I efiled this Petition for Review with (1) the Washington State Supreme Court via the Court of Appeals's Division Three online filing portal and (2) the Spokane County Prosecutor's Office (at scpaappeals@spokanecounty.org).

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

Signed September 8, 2016, in Winthrop, Washington.



Lisa E. Tabbut, WSBA No. 21344
Attorney for Tyrone Christopher Belle

APPENDIX

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

*The Court of Appeals
of the
State of Washington
Division III*

500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>



August 9, 2016

E-mail

Brian Clayton O'Brien
Larry D. Steinmetz
Spokane Co Pros Atty
1100 W Mallon Ave
Spokane, WA 99260-2043

E-mail

Lisa Elizabeth Tabbut
Attorney at Law
PO Box 1319
Winthrop, WA 98862-3004

CASE # 338738
State of Washington v. Tyrone Christopher Belle
SPOKANE COUNTY SUPERIOR COURT No. 151010922

Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file an original and two copies of the motion (unless filed electronically). If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:btb

Attachment

c: **Email** Honorable John O. Cooney
c: Tyrone Christopher Belle
#748836
Airway Heights Correction Center
P.O. Box 2049
Airway Heights, WA 99001

FILED

Aug. 9, 2016

**In the Office of the Clerk of Court
WA State Court of Appeals, Division III**

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE**

STATE OF WASHINGTON,)	
)	No. 33873-8-III
Respondent,)	
)	
v.)	
)	
TYRONE CHRISTOPHER BELLE,)	UNPUBLISHED OPINION
)	
Appellant.)	

Pennell, J. — Tyrone Christopher Belle appeals his conviction for attempting to elude a police vehicle. He contends the evidence was insufficient to support the conviction, and that a mandatory \$100 deoxyribonucleic acid (DNA) collection fee imposed by the sentencing court violates due process and equal protection principles. We

reject his sufficiency challenge, decline to address the DNA collection issues raised for the first time on appeal, and affirm.

FACTS AND PROCEDURAL HISTORY

The State charged Mr. Belle by amended information with attempting to elude a police vehicle, including a special allegation that his eluding threatened harm or physical injury to one or more persons other than himself or the pursuing police officer. The State also charged him with misdemeanor violation of an ignition interlock requirement. The case proceeded to a jury trial.

Spokane Police Officer Seth Killian testified that in the early afternoon of March 11, 2015, he was in uniform and on patrol driving a fully marked vehicle in a residential neighborhood. He observed and heard a green Chevy “dually” extended cab pickup truck with loud exhaust “flying” around a corner with its tires squealing. Report of Proceedings at 122. Officer Killian was facing the truck as it came toward him on a narrow street with vehicles parked on both sides. He briefly flashed his overhead lights to signal the driver to slow down, but to no avail. The officer and another car in front of him pulled to the side of the street to avoid the truck, which nearly struck the patrol vehicle as it sped past at an estimated 50 m.p.h. in a 25 m.p.h. zone. Officer Killian was able to get a good look at the driver’s face.

Officer Killian then activated his overhead lights and made a U-turn using part of the sidewalk due to the narrowness of the street. Meanwhile, he saw the eastbound truck

make a dangerous maneuver around a tight corner to go north. He accelerated to catch the truck and hit his siren and air horn several times to move people out of the way, but had to slow down at the corner for a man with his child on a bicycle. He then accelerated as fast as he could in pursuit of the truck with siren fully engaged and overhead lights still flashing, although he briefly turned off the siren to report the chase over the police radio. With the truck in sight, Officer Killian observed the driver look at him in the mirror and pull over to the side of the road in a slow roll. But instead of stopping, the driver spun the truck's tires, took off, and slid around the next corner. As this occurred, Officer Killian observed children present and was concerned they possibly could be crossing the street to a nearby park. He thus terminated the pursuit due to risk of injury to persons in the area.

Officer Killian was able to document the truck's license plate number. Dispatch relayed the name and address of the truck's registered owner—a woman who lived nearby—and Officer Killian contacted her. As a result of that contact, and with the aid of a Department of Licensing (DOL) photograph, Officer Killian identified Mr. Belle as the driver of the pickup. DOL records showed his license was suspended and that he was required to have an ignition interlock device in a vehicle before driving it. Officer Killian located the truck at the registered owner's mother's house and observed it did not contain such a device. The court read to the jury a stipulation that Mr. Belle was required to have

an ignition interlock device in a vehicle before driving it. Officer Killian positively identified Mr. Belle in court as the driver of the truck. Mr. Belle did not testify.

The jury found Mr. Belle guilty as charged and answered yes to the special endangerment allegation on the attempting to elude. The court imposed a 12 month-plus-1-day sentence on the eluding charge, and by separate judgment and sentence imposed a 364-day suspended sentence for the misdemeanor ignition interlock conviction. The court imposed only mandatory legal financial obligations (LFOs) including a \$500 victim assessment, a \$200 criminal filing fee, and a \$100 DNA collection fee. Mr. Belle did not object in the trial court to any of the LFOs and did not raise any constitutional challenge to the DNA collection fee. He appeals.¹

ANALYSIS

Attempting to elude a police vehicle

Mr. Belle contends the evidence was insufficient to support his conviction for attempting to elude a police vehicle. He argues the evidence did not establish that he drove recklessly to elude after he was knowingly signaled to stop.

Evidence is sufficient if, when viewed in a light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). “A claim

¹ Mr. Belle states that he appeals all portions of both judgments and sentences, but he makes no assignment of error or argument regarding the ignition interlock conviction. We therefore deem his appeal of that judgment and sentence abandoned.

of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *Id.* Circumstantial evidence and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). We defer to the trier of fact on issues of conflicting testimony, witness credibility, and persuasiveness of the evidence. *State v. Walton*, 64 Wn. App. 410, 415-16, 824 P.2d 533 (1992).

RCW 46.61.024(1) defines the crime of attempting to elude a police vehicle:

Any driver of a motor vehicle who willfully fails or refuses to immediately bring his or her vehicle to a stop and who drives his or her vehicle in a reckless manner while attempting to elude a pursuing police vehicle, after being given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a class C felony. The signal given by the police officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and the vehicle shall be equipped with lights and sirens.

Jury instruction 5 correctly recited the elements of RCW 46.61.024(1). Jury instruction 6 stated in pertinent part:

To convict the defendant of the crime of attempting to elude a police vehicle, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about March 11, 2015, the defendant drove a motor vehicle;
- (2) That the defendant was signaled to stop by a uniformed police officer by hand, voice, emergency light or siren;
- (3) That the signaling police officer's vehicle was equipped with lights and siren;
- (4) That the defendant willfully failed or refused to immediately bring the vehicle to a stop after being signaled to stop;
- (5) That while attempting to elude a pursuing police vehicle, the defendant drove his vehicle indicating a reckless manner; and
- (6) That the acts occurred in the State of Washington.

.....

Clerk's Papers (CP) at 63. Jury instruction 7 defined "reckless" as follows:

A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and this disregard is a gross deviation from conduct that a reasonable person would exercise in the same situation.

When recklessness is required to establish an element of a crime, the element is also established if a person acts intentionally or knowingly as to that fact.

No. 7; CP at 64.² Jury instruction 8 stated: "A person acts willfully when he or she acts knowingly." CP at 65; *see State v. Flora*, 160 Wn. App. 549, 553, 249 P.3d 188 (2011) ("Willfulness" in the attempting to elude statute is identical to "knowledge.").

As Mr. Belle explains, Washington case law states that three elements must occur in sequence before the crime has been committed: (1) a uniformed officer in a vehicle equipped with lights and siren gives a signal to stop, (2) the driver willfully fails or refuses to stop immediately, and (3) the driver drives in a reckless manner. *See State v.*

² We note this is an incorrect instruction for use in attempting to elude cases. *See* 11A WASHINGTON PRACTICE: WASHINGTON PATTERN JURY INSTRUCTIONS: CRIMINAL 94.02, note on use at 198 (2014 supp.) (WPIC) (stating that WPIC 90.05 is to be used with WPIC 94.02, which is the "to convict" instruction for attempting to elude). WPIC 90.05 defines "reckless manner" as follows: "To operate a vehicle in a reckless manner means to drive in a rash or heedless manner, indifferent to the consequences." *See State v. Ratliff*, 140 Wn. App. 12, 15, 164 P.3d 516 (2007) (holding that a rash or heedless manner, indifferent to the consequences, is the correct definition of reckless manner). Here, the parties took no exception to jury instruction 7, and Mr. Belle makes no assignment of error or argument regarding the instruction. It is the law of the case and we analyze only whether there is "sufficient evidence to sustain the verdict under the instructions of the court." *State v. Hickman*, 135 Wn.2d 97, 103, 954 P.2d 900 (1998) (quoting *Schatz v. Heimbigner*, 82 Wash. 589, 590, 144 P. 901 (1914)); *see also State v. France*, 180 Wn.2d 809, 816, 329 P.3d 864 (2014) (same).

No. 33873-8-III
State v. Belle

Stayton, 39 Wn. App. 46, 49, 691 P.2d 596 (1984) (interpreting former version of RCW 46.61.024(1)); 11A WASHINGTON PRACTICE: WASHINGTON PATTERN JURY INSTRUCTIONS: CRIMINAL 94.02, cmt. at 199 (2014 supp.) (and cases cited therein). Jury instruction 6 comports with these principles. But Mr. Belle contends the State failed to present sufficient evidence both that the three elements occurred and that they occurred in the required sequence. More specifically, he argues there was insufficient evidence that he “willfully failed to stop and only thereafter drove recklessly to elude Officer Killian.” Br. of App. at 7. The arguments fail.

The evidence shows Officer Killian was in uniform and driving a patrol vehicle equipped with lights and a siren. He initially flashed his lights at the truck only to alert the driver of police presence and to slow down. But once the truck passed by on the narrow street at 50 m.p.h. and nearly struck the patrol car, the officer made the U-turn and engaged his overhead lights in pursuit of the vehicle as it made a dangerous maneuver around a tight corner. The officer hit his air horn and siren a few times to warn people to get out of the way and then fully activated the siren along with the overhead lights once he rounded that corner. He accelerated as fast as he could to catch up with the truck. He observed the driver look at him in the mirror and pull to the side of the road in a slow roll. Although the officer deactivated the siren for a short time to make a radio call, the patrol car’s overhead lights were all-the-while engaged. Instead of immediately stopping on this signal the driver spun the tires, sped off, and slid around the next

corner—in the presence of children. The officer then terminated the pursuit due to risk of injury to persons in the area.

From this evidence, the jury could find that the driver, Mr. Belle, knew he was being pursued by an officer and was signaled to stop—at least by the time he looked at the officer in his mirror and brought the pickup to a slow roll. This knowledge, and willful refusal to stop immediately, can be readily inferred by his manner of flight from the encounter—conduct the jury could deem unreasonable and in disregard of substantial risk and therefore reckless as defined in jury instruction 7. The officer's decision to then terminate the pursuit due to the danger is of no moment because the crime was already complete. The State thus proved that the elements of attempting to elude occurred and in the required sequence.

A rational trier of fact could find each element of attempting to elude a police vehicle beyond a reasonable doubt based on the testimony. RCW 46.61.024(1); *State v. Salinas*, 119 Wn.2d at 201.

DNA collection fee

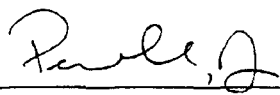
Mr. Belle contends the \$100 DNA collection fee mandated by RCW 43.43.7541 violates substantive due process and equal protection. Identical arguments have been rejected by this court previously. *State v. Lewis*, No. 72637-4-I, 2016 WL 3570550 (Wash. Ct. App. June 27, 2016); *State v. Johnson*, No. 32834-1-III, 2016 WL 3124893

No. 33873-8-III
State v. Belle

(Wash. Ct. App. June 2, 2016); *State v. Mathers*, 193 Wn. App. 913, ___ P.3d ___
(2016). We reject them here as well.

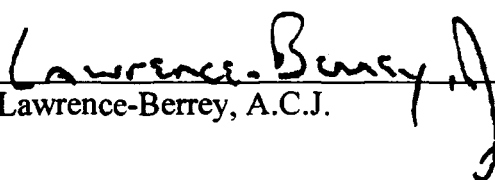
Affirmed.

A majority of the panel has determined this opinion will not be printed in the
Washington Appellate Reports, but it will be filed for public record pursuant to
RCW 2.06.040.

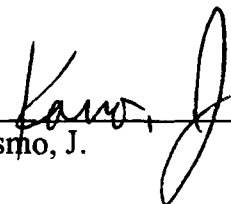


Pennell, J.

WE CONCUR:



Lawrence-Berrey, A.C.J.



Korsmo, J.

LISA E TABBUT LAW OFFICE

September 08, 2016 - 9:53 AM

Transmittal Letter

FILED

September 8, 2016
Court of Appeals

Division III

State of Washington

Document Uploaded: 338738-33873-8-State v. Tyrone Belle-Petition for Review.pdf

Case Name: State v. Tyrone

Court of Appeals Case Number: 33873-8

Party Represented: Appellant

Is This a Personal Restraint Petition? Yes No

Trial Court County: Spokane - Superior Court # ____

Type of Document being Filed:

- Designation of Clerk's Papers / Statement of Arrangements
- Motion for Discretionary Review
- Motion: ____
- Response/Reply to Motion: ____
- Brief
- Statement of Additional Authorities
- Affidavit of Attorney Fees
- Cost Bill / Objection to Cost Bill
- Affidavit
- Letter
- Electronic Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition / Reply to Response to Personal Restraint Petition
- Petition for Review (PRV)
- Other: _____

Comments:

No Comments were entered.

Proof of service is attached and an email service by agreement has been made to SCPAappeals@spokanecounty.org and ltabbutlaw@gmail.com.

Sender Name: Lisa E Tabbut - Email: ltabbutlaw@gmail.com