SUPREME COURT NO. 93888-1

NO. 73401-6-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CHRISTOPHER HOOD,

Petitioner.

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

The Honorable Hollis Hill, Judge

PETITION FOR REVIEW

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

WASHINGTON CASES

TABLE OF AUTHORITIES (CONT'D)

TABLE OF AUTHORITIES (CONT'D)

RULES, STATUTES AND OTHER AUTHORITIES

A. IDENTITY OF PETITIONER/COURT OF APPEALS DECISION

Petitioner Christopher Robin Hood, the appellant below, seeks review of the Court of Appeals decision in State v. Hood, ___ Wn. App. ___, 382 P.3d 710 (2016), following denial of his motion for reconsideration on October 27, 2016.

B. ISSUES PRESENTED FOR REVIEW

1. WPIC 4.01[1] requires jurors to articulate a reason for having reasonable doubt. Does this articulation requirement undermine the presumption of innocence and shift the burden of proof to the accused?

2. Hood's first degree burglary and felony violation of a no-contact order convictions involved the same victim, same time and place, and same intent. Did the trial court err by concluding, without any analysis, that burglary and felony violation of a no-contact had different intents and did the Court of Appeals err by basing its decision on what the trial court *could have* found?

3. First degree burglary qualifies as both a "violent offense" under RCW 9.94A.030(55)(a)(i) and a "crime against persons" under RCW 9.94A.411(2). The community custody statute, RCW 9.94A.701, does not specify which community custody term to impose when an offense qualifies

[1] 11 WASH. PRACTICE: WASH. PATTERN JURY INSTRUCTIONS: CRIMINAL 4.01, at 85 (3d ed. 2008).

as both violent and against persons. Is RCW 9.94A.701 therefore ambiguous and must the lesser community custody term be imposed under the rule of lenity?

C. STATEMENT OF THE CASE

The State charged Hood with first degree burglary, stalking, and felony violation of a no-contact order (FVNCO). CP 14-16. All three counts contained domestic violence allegations and, with respect to the burglary and FVNCO charges, the State also allege the offenses were part of an ongoing pattern of abuse under RCW 9.94A.535(3)(h)(i). CP 14-15.

The charges arose out of Hood's alleged conduct toward his ex-wife, L.D. Hood's and L.D.'s divorce became final in November 2014. RP 230. Hood still had a copy of the keys to L.D.'s condo, however, and L.D. had found Hood in her apartment a couple times. RP 231-32. L.D. changed the locks to her front door but Hood apparently maintained access to the building. RP 234.

L.D. and others described separate occasions where someone tried to pry open L.D.'s door, glued the door shut, and spray painted the door. RP 162-64, 182-84, 237-42, 307-10, 316. L.D. obtained a no-contact order against Hood and also testified Hood had violated the no-contact order by showing up to her workplace and following her car when she got off work. RP 242-46, 248-49.

According to L.D., in the early morning hours of November 21, 2014, L.D. saw shadows outside her condo and opened the door to find Hood outside. RP 251. She testified Hood pushed her to the ground; she screamed for help but Hood put his hand over her mouth. RP 251-53. L.D. also stated Hood put a gun to her head, hit her two or three times with the gun, and then left. RP 253-55. L.D. called police. RP 255.

The trial court gave the pattern instruction on reasonable doubt, which read, in part, "A reasonable doubt is one for which a reason exists." CP 65; RP 425.

The jury found Hood guilty of first degree burglary, stalking, and FVNCO. CP 56-58. The jury also, following the second phase of trial, determined the first degree burglary and the FVNCO were part of an ongoing pattern of psychological, physical, or sexual abuse manifested by multiple incidents over a prolonged period of time. CP 91-92.

At sentencing, Hood asserted the first degree burglary and FVNCO constituted the same criminal conduct. RP 555-56. The trial court, without analysis, stated, "Those two offenses have different criminal intent," and did not consider the defense argument further. RP 555.

Based on the State's recommendation, the court imposed an exceptional sentence for the burglary of 156 months. CP 114; RP 562. The court imposed a concurrent 60-month sentence for the FVNCO and a

suspended 34-day sentence for stalking. CP 114, 122; RP 562. The court also imposed an 18-month community custody term for the commission of a violent offense. CP 115; RP 562.

Hood appealed. CP 132. Among other things, he challenged the articulation requirement in Washington's pattern instruction on reasonable doubt, argued the first degree burglary and FVNCO constituted the same criminal conduct under RCW 9.94A.589(1)(a), and also contended RCW 9.94A.701 was ambiguous as to the community custody term for first degree burglary given that first degree burglary is both a violent offense and a crime against persons under RCW 9.94A.030(55)(a)(i) and RCW 9.94A.411(2), respectively. Br. of Appellant at 6-27, 29-36.

In a published opinion, the Court of Appeals determined Hood's challenge to the reasonable doubt instruction was not preserved for appellate review. Hood, 382 P.3d at 714. The Court of Appeals also rejected Hood's same criminal conduct argument, reasoning that the trial court "could have reasonably taken a different view of the evidence." Id. The Court of Appeals also determined Hood's reading of the community custody statutes was not reasonable, stating, "The only reasonable reading of RCW 9.94A.701 is that it requires a term of 18 months of community custody for a violent offense that is not considered a serious violent offense, even if it is also a crime against persons." Hood, 382 P.3d at 716.

D. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. WPIC 4.01 DISTORTS THE REASONABLE DOUBT STANDARD, UNDERMINES THE PRESUMPTION OF INNOCENCE, AND SHIFTS THE BURDEN OF PROOF TO THE ACCUSED

The pattern jury instruction requires the jury or the defense articulate "a reason" for having reasonable doubt. This articulation requirement distorts the reasonable doubt standard, undermines the presumption of innocence, and shifts the burden of proof to the accused. Because it presents a significant constitutional question that has not been directly addressed by this court, and because it implicates jury instructions given in every criminal trial in Washington, this court should grant review under RAP 13.4(b)(3) and (4).

Jury instructions must be manifestly clear and not misleading to the ordinary mind. State v. Dana, 73 Wn.2d 533, 537, 439 P.2d 403 (1968). The error in WPIC 4.01 is readily apparent to the ordinary mind: having a "reasonable doubt" is not, as a matter of plain English, the same as having "a reason" to doubt. WPIC 4.01's use of the words "a reason" clearly indicates that reasonable doubt must be capable of explanation or justification.

Prosecutors have several times argued that juries must be able to articulate a reason for reasonable doubt, demonstrating that the reasonable doubt standard is not manifestly clear to legally trained professionals, let alone jurors. E.g., State v. Emery, 174 Wn.2d 741, 760, 278 P.3d 653 (2012); State

v. Walker, 164 Wn. App. 724, 731, 265 P.3d 191 (2011); State v. Johnson, 158 Wn. App. 677, 682, 243 P.3d 936 (2010); State v. Venegas, 155 Wn. App. 507, 523-24 & n.16, 228 P.3d 813 (2010); State v. Anderson, 153 Wn. App. 417, 431, 220 P.3d 1273 (2009). Indeed, the prosecutors in Johnson and Anderson recited WPIC 4.01's text before making their improper fill-in-the-blank arguments. Johnson, 158 Wn. App. at 682; Anderson, 153 Wn. App. at 424. It makes no sense to condemn articulation arguments from prosecutors but continue giving the very jury instruction that gave rise to these improper arguments. Because the Court of Appeals decision conflicts with these cases and cases requiring jury instructions to be manifestly clear, review is appropriate under RAP 13.4(b)(1) and (2).

Review is also appropriate because this court's own precedent is in serious disarray. In State v. Kalebaugh, 183 Wn.2d 578, 585, 355 P.3d 253 (2015), this court determined that the instruction "a doubt for which a reason can be given" was error, but that WPIC 4.01's "a doubt for which a reason exists" was not. This holding directly conflicts with this court's precedent that equated "for which a reason can be given" and "for which a reason exists."

In State v. Harras, 25 Wash. 416, 421, 65 P. 774 (1901), this court found no error in the instruction, "It should be a doubt for which a good reason exists." This court maintained the "great weight of authority" supported this instruction, citing the note to Burt v. State, 16 So. 342, 48 Am. St. Rep. 574

(Miss. 1894). This note, which is attached as Appendix B, cites cases using or approving instructions that define reasonable doubt as a doubt for which a reason can be given.[2]

In State v. Harsted, 66 Wash. 158, 162, 119 P. 24 (1911), the defendant objected to the instruction, "The expression 'reasonable doubt' means in law just what the words imply—a doubt founded upon some good reason." This court opined, "As a pure question of logic, there can be no difference between a doubt for which a reason can be given, and one for which a good reason can be given." Id. at 162-63. This court relied on out-of-state cases, including Butler v. State, 102 Wis. 364, 78 N.W. 590, 591-92 (1899), which stated, "A doubt cannot be reasonable unless a reason therefor exists, and, if such reason exists, it can be given." This court was "impressed" with this view and therefore felt "constrained" to uphold the instruction. Harsted, 66 Wash. at 165.

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[2] See, e.g., State v. Jefferson, 43 La. Ann. 995, 998-99, 10 So. 119 (La. 1891) ("A reasonable doubt . . . is not a mere possible doubt; it should be an actual or substantial doubt as a reasonable man would seriously entertain. It is a serious sensible doubt, such as you could give a good reason for."); Vann v. State, 9 S. E. 945, 947-48 (Ga. 1889) ("But the doubt must be a reasonable doubt, not a conjured-up doubt,—such a doubt as you might conjure up to acquit a friend, but one that you could give a reason for."); State v. Morey, 25 Or. 241, 256, 36 P. 573 (1894) ("A reasonable doubt is a doubt which has some reason for its basis. It does not mean a doubt from mere caprice, or groundless conjecture. A reasonable doubt is such a doubt as a juror can give a reason for.").

More recently, in State v. Weiss, this court determined the instruction, "A reasonable doubt is a doubt for a which a sensible reason can be given," was "a correct statement of law." 73 Wn.2d 372, 378-79, 438 P.2d 610 (1968) (emphasis added). Although ultimately disapproving the instruction because it was too abbreviated, this court concluded "the trial court did not err in submitting the instruction given." Id. at 379.

Harras and Harsted viewed "a doubt for which a good reason exists" as equivalent to requiring that a reason must be given for the doubt. In Weiss, this court determined that an instruction stating that a reasonable doubt was one for which a "sensible reason can be given," was a correct statement of the law. These decisions cannot be squared with Kalebaugh and Emery, both of which strongly rejected the concept that jurors must be able to articulate a reason for having reasonable doubt. Kalebaugh, 183 Wn.2d at 585; Emery, 174 Wn.2d at 760.

It is time for a Washington court to seriously confront the problematic articulation language in WPIC 4.01.[3] There is no meaningful difference between WPIC 4.01's doubt "for which a reason exists" and a doubt "for which a reason can be given." Both require articulation, and articulation of reasonable doubt undermines the presumption of innocence and shifts the burden of proof to the accused. Because this court's and the Court of Appeals' decisions are in disarray on the significant constitutional issue of properly defining reasonable doubt in every criminal jury trial, Hood's arguments merit review under all four of the RAP 13.4(b) criteria.

2. THE TRIAL COURT FAILED TO ENGAGE IN ANY SAME CRIMINAL CONDUCT ANALYSIS AND THE COURT OF APPEALS ACQUIESCED IN THIS FAILURE BASED ON WHAT THE TRIAL COURT COULD HAVE DONE

The sentencing range for a person who is sentenced for two or more current offenses "shall be determined by using all other current and prior

[3] The Court of Appeals determined Hood failed to preserve this issue for appellate review without addressing Hood's claim that failure to adequately instruct the jury on reasonable doubt is structural error under Sullivan v. Louisiana, 508 U.S. 275, 279-80, 113 S. Ct. 2078, 125 L. Ed. 2d 182 (1993). Hood, 382 P.3d at 714; Br. of Appellant at 23. Contrary to the Court of Appeals decision, this court has held that structural errors qualify as manifest constitutional errors for RAP 2.5(a)(3) purposes. State v. Paumier, 176 Wn.2d 29, 36-37, 288 P.3d 1126 (2012). In addition, the same division of the Court of Appeals has concluded that a challenge to WPIC 4.01 *does* constitute manifest constitutional error. State v. Paris, noted at 195 Wn. App. 1033, 2016 WL 4187765, at *1 (2016). The conflicts between the Court of Appeals decision in this case and other appellate decisions warrant review under RAP 13.4(b)(1) and (2).

convictions as if they were prior convictions for the purpose of the offender score" unless the crimes involve the "same criminal conduct." RCW 9.94A.589(1)(a). "Same criminal conduct" means crimes that involve the same intent, were committed at the same time and place, and involved the same victim. Id.

At sentencing, the State asserted Hood's offender score for the first degree burglary was 8, which included two points for the other current FVNCO. CP 165. Based on the other current first degree burglary, the State argued Hood's offender score with respect to the FVNCO was 7. CP 166. However, because the burglary and FVNCO comprised the same criminal conduct, Hood's offender score for each should have been 6 and 5, respectively.

The burglary and FVNCO occurred at the same time and place against the same person—November 21, 2014 against L.D. CP 6-7 (certification for determination of probable cause stating Hood "stepped into the doorway and pushed [L.D.] back into the apartment causing her to fall to the floor" and proceeded to assault L.D. with a firearm); RP 251, 253-54 (L.D. testifying she saw shadow outside, opened front door, Hood then pushed her, she fell down, and Hood assaulted her). Thus, there was evidence before the trial court to conclude that the burglary (pushing the door open and entering L.D.'s condominium to assault her) and the FVNCO (pushing the door open and

entering L.D.'s condominium to assault her) occurred at the same time, same place, against the same victim, and to further the same assault.

When defense counsel began to make the same criminal conduct argument, the trial court stated, "Those two offenses have different criminal intent," and rejected the defense argument without further analysis. RP 555. This was incorrect given that the standard "is the extent to which the criminal intent, objectively viewed, changed from one crime to the next." State v. Vike, 125 Wn.2d 407, 411, 885 P.2d 824 (1994). The appropriate analysis "takes into consideration how intimately related the crimes committed are" and whether one crime furthered the other. State v. Burns, 114 Wn.2d 314, 318, 788 P.2d 531 (1990).

Under the facts, the burglary and the felony violation of a no-contact order involved the same objective—Hood intended to assault L.D. He pushed open L.D.'s front door, pushed her to the floor, and assault her. His objective for both crimes were the same: he intended to enter her condo and assault her. These offenses should have been treated as a single offense at sentencing. Because the trial court failed to engage in the appropriate objective intent analysis under this court's precedent—indeed, the trial court refused to exercise its discretion—review is appropriate under RAP 13.4(b)(1).

The Court of Appeals disagreed with Hood based not on what the trial court did but what it could have done. Hood, 382 P.3d at 714-15. The Court

of Appeals determined that the "sentencing court could have reasonably taken a different view of the evidence" and that "the trial court could have reasonably found that Hood did not necessarily intend an assault when he approached the condo." Id. at 714. The problem with this reasoning is that the issue is not what the trial court could have done; the issue is that the trial court did not do what it should have done, which is perform the same criminal conduct analysis required to reach a meaningful decision.

The trial court just as easily could have concluded that Hood's objective intent was the same when he committed the burglary and the FVNCO. This is so for two reasons.

First, burglary is the unlawful entering or remaining in a building with an intent to commit a crime against persons or property therein. Thus, Hood's intent to commit FVNCO could have been coextensive with his intent to commit the burglary. Burglary is unique because it adopts the intent to commit some other crime: when there are two crimes committed and one is burglary, the burglary and the other crime should almost always constitute the same criminal conduct. This is precisely why the legislature has enacted the burglary anti-merger statute, RCW 9A.52.050.

Second, Hood's assault was what elevated the burglary to a first degree offense and was also one of the means to elevate the no-contact order violation to a felony offense. CP 70, 83. Had the trial court conducted any

actual analysis on the same criminal conduct issue, it could have concluded that Hood's intent to assault L.D. was what objectively drove him to commit the burglary and FVNCO.

Because the trial court failed to apply any legal standard, it abused its discretion given that a "trial court abuses its discretion when it fails to exercise its discretion." State v. Stearman, 187 Wn. App. 257, 265, 348 P.3d 394 (2015). Trial courts must actually exercise their discretion on questions of same criminal conduct and the trial court's statement here, "Those two offenses have different criminal intent," is a misapplication of the law and therefore an abuse of discretion. Cf. State v. Graciano, 176 Wn.2d 531, 536-37, 295 P.3d 219 (2013). The Court of Appeals decision—based not on the trial court's exercise of discretion but on how the trial court *could have* exercised its discretion had it performed its duty—conflicts with these principles. This court should grant review under RAP 13.4(b)(1) and (2).

3. THE COURT OF APPEALS DECISION REWRITES THE COMMUNITY CUSTODY STATUTES IN A MANNER THAT TRANGRESSES ON LEGISLATIVE POWER AND CONFLICTS WITH THE PRECEDENT OF THIS COURT

First degree burglary is statutorily defined as both a violent offense and a crime against a person. RCW 9.94A.030(55)(a)(i) ("'Violent offense'" includes "[a]ny felony defined under any law as a class A felony"); RCW 9A.52.020(2) ("Burglary in the first degree is a class A felony."); RCW

9.94A.411(2) ("1st Degree Burglary" categorized among "CRIMES AGAINST PERSONS"). These two types of offense carry different community custody terms under RCW 9.94A.701(2) and (3). Because the statutes conflict and cannot be reconciled, they are ambiguous and the rule of lenity requires them to be interpreted in Hood's favor. Hood's community custody term should be 12 months, not 18 months.

The trial court imposed 18 months of community custody because first degree burglary is a class A felony and class A felonies qualify as violent offenses under RCW 9.94A.030(55)(a)(i). CP 115. This community custody term is consistent with RCW 9.94A.701(2), which provides a "court shall . . . sentence an offender to community custody for [18] months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense."[4]

However, RCW 9.94A.411(2) also specifies that first degree burglary is a crime against persons. RCW 9.94A.701(3) requires the trial court to "sentence an offender to community custody for one year when the court sentences the person to the custody of the department for: (a) Any crime against persons under RCW 9.94A.411(2).

[4] First degree burglary is not a serious violent offense under RCW 9.94A.030(46).

Thus, first degree burglary is statutorily defined as both a violent offense and a crime against a person. Different community custody terms apply to these two different classifications of offenses. Because the statute does not specify which community custody term applies in these circumstances, the statue is ambiguous and must be construed in Hood's favor. See State v. Jacobs, 154 Wn.2d 596, 603, 115 P.3d 281 (2005).

The treatment of "violent offenses" and "crimes against persons" in other contexts confirms Hood's interpretation. When an offender is sentenced to less than one year of incarceration, the court may impose only "up to one year of community custody" for both a violent offense and a crime against persons. RCW 9.94A.702(1). But where the sentence is longer than one year, as here, the statute does not provide a clear community custody term for an offense qualifying as both violent and against a person.

RCW 9.94A.701(1)(b) requires courts to impose three years of community custody for a "serious violent offense." RCW 9.94A.701(2) requires courts to impose 18 months of community custody "for a violent offense that is not considered a serious violent offense." (Emphasis added.) This provision expressly distinguishes between a violent offense and a serious violent offense, making it clear which community custody term applies. By contrast, RCW 9.94A.701(3)(a) makes no such distinction and has no such clarifying language: the trial court must sentence an offender to one year of

community custody for "[a]ny crime against persons under RCW 9.94A.411(2)." The legislature did not say "any crime against persons that is not considered a violent offense," as it did in RCW 9.94A.701(2).

Indeed, "to express one thing in a statute implies the exclusion of the other. Omissions are deemed to be exclusions." In re Det. of Williams, 147 Wn.2d 476, 491, 55 P.3d 597 (2002) (citations omitted). The legislature included clarifying language in RCW 9.94A.701(2) that is omitted in RCW 9.94A.701(3)(a). Therefore, it is not clear from RCW 9.94A.701(3)(a) that the legislature intended first degree burglary to be punished as a violent offense rather than as a crime against a person.

The Court of Appeals rejected this argument, reasoning, "If we adopted Hood's interpretation of the statute, RCW 9.94A.701(1)(b) and (2) would be rendered largely superfluous because many 'serious violent offenses' and 'violent offenses' could only be punished with 12 months of community custody instead of the 3 years or 18 month the legislature prescribed in subsections (1)(b) and (2)." Hood, 382 P.3d at 715-16. The Court of Appeals determined that the "statute sets up a tiered step-down sentencing structure depending on the seriousness of the crime," and that this tiered structure applies to RCW 9.94A.701(3)(a) even though the legislature did not include the same clarifying language it provided in RCW 9.94A.701(2) that an 18-month community custody term applies to a "violent offense that is

not considered a serious violent offense." Hood, 382 P.3d at 716. According to the Court of Appeals, "[t]he clarifying language in subsection (2) is more accurately viewed as an expression of the legislature's intent to create a tiered step-down sentencing structure" and "[t]o determine the plain meaning of subsection (3)(a), it should be interpreted in a way that is consistent with the overall statutory scheme." Hood, 382 P.3d at 716. The problem with the Court of Appeals' analysis is that it rewrites the statute and thereby transgresses on the province of the legislature, which conflicts with constitutional principles and with this court's decisions.

In State v. Delgado, 148 Wn.2d 723, 726-27, 63 P.3d 792 (2003), this court addressed inconsistencies between the two-strike and three-strike provisions of the Persistent Offender Accountability Act: the two-strike statute did not list statutory rape as a predicate strike offense and did not have the same comparability clause as the three-strike statute. This court stated, "We cannot add words or clauses to an unambiguous statute when the legislature has chosen not to include that language." Id. at 727. "[T]he legislature knew how to include comparable offenses in the definition of a persistent offender. Yet, the legislature neither directly included a comparability clause, nor incorporated the definition of a 'most serious offense,' into the definition of two-strike persistent offenders directly following the three-strike definition."

Id. at 728-29. This court therefore presumed "the absence of such language in the two-strike scheme was intentional." Id. at 729.

The Delgado court identified three types of legislative errors in rendering its analysis. Id. at 730-31. "In the first type, a statute contains an omission or mistake, but the court is able to guess why the legislature intended a literal reading of the statute. The court does not correct this type of perceived legislative error." Id. at 730. "In the second type, we will not correct perceived errors if an omission or mistake creates some inconsistencies, but the statute remains rational on the whole." Id. Courts "will not 'arrogate to [them]selves the power to make legislative schemes more perfect, more comprehensive, and more consistent.'" Id. (quoting State v. Taylor, 97 Wn.2d 724, 729, 649 P.2d 633 (1982)). "The third type of legislative omission, an omission making a statute entirely meaningless, is the only type we will correct." Delgado, 148 Wn.2d at 731. In this third type of case, "the statute is not functional without judicial correction because it is completely ineffective in achieving its purpose." Id.

This court concluded the omission in the two-strike persistent offender statute was of the second type that the court could not correct:

> Here, if inconsistencies exist between the two-strike and three-strike provisions, and if they reflect a legislative error, they belong to this second type of case. Reading the two-strike statute to require only those prior offenses listed does not render the act meaningless. Despite potentially

> inconsistent sentences for those with prior convictions of rape of a child and the former offense of statutory rape, the act still functions to severely punish most recidivist sex offenders.

Id. at 731.

The same is true of Hood's challenge, which likewise falls into the second category of legislative omission discussed in Delgado. Although crimes that are both violent offenses and crimes against persons might create some inconsistencies, the statute remains rational and capable of application. Indeed, under Hood's interpretation, the legislative omission of clarifying language in RCW 9.94A.701(3)(a) akin to that in RCW 9.94A.701(2) would not render the statute entirely meaningless; it would result in him receiving a 12-month community custody term rather than an 18-month community custody term. Cf. Delgado, 148 Wn.2d at 730-31. Because the Court of Appeals decision "'arrogated to [itself] the power to make" this legislative scheme "more perfect, more comprehensive, and more consistent," id. at 730, it conflicts with Delgado and usurps the role of the legislature in writing statutes. This merits review under RAP 13.4(b)(1) and (4).

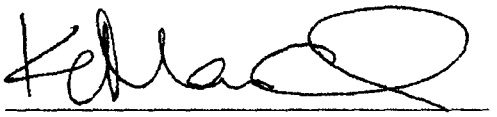
E. CONCLUSION

Because he meets all RAP 13.4(b) review criteria, Hood asks that this petition be granted.

DATED this 28th day of November, 2016.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC



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APPENDIX A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. CHRISTOPHER ROBIN HOOD, Appellant.	)	No. 73401-6-I DIVISION ONE PUBLISHED OPINION FILED: September 26, 2016

BECKER, J. — The community custody sentencing statute, RCW 9.94A.701, is not ambiguous with respect to which crimes have an 18-month term of community custody. Finding no error in sentencing and holding that it was not manifest constitutional error to use the pattern instruction defining reasonable doubt, we affirm.

FACTS

According to testimony at trial, appellant Christopher Hood was married to LD from 2006 to 2014. As the divorce was being finalized, Hood showed up uninvited at LD's apartment and workplace on several occasions. LD obtained a protection order. On November 21, 2014, LD was preparing to leave for work around 3:45 a.m. When she opened the door, Hood burst in and shoved her against the wall. He pulled a gun from his waistband, hit her with the butt of the

gun two or three times, and held the gun to her head. Hood left when a dog started barking upstairs. LD called the police.

A jury convicted Hood of three crimes of domestic violence as defined under RCW 10.99.020—burglary in the first degree, felony violation of a court order, and stalking. The trial court imposed an exceptional sentence based on the jury's finding of an aggravating factor. Hood appeals.

REASONABLE DOUBT INSTRUCTION

The court gave the standard reasonable doubt instruction, WPIC 4.01. 11 WASHINGTON PRACTICE: WASHINGTON PATTERN JURY INSTRUCTIONS: CRIMINAL 4.01, at 27 (3d ed. Supp. 2014-15) (WPIC). The instruction reads in relevant part, "A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence." Hood did not object. For the first time on appeal, he argues that it implicitly—and unconstitutionally—requires jurors to be able to articulate reasonable doubt. He claims the instruction undermines the presumption of innocence and shifts the burden of proof in the same way as the fill-in-the-blank arguments that our Supreme Court disapproved in State v. Emery, 174 Wn.2d 741, 760, 278 P.3d 653 (2012).

The State first contends that Hood invited any error that may exist in the pattern instruction. The basic premise of the invited error doctrine is that a party who sets up an error at trial cannot claim that very action as error on appeal and receive a new trial. State v. Momah, 167 Wn.2d 140, 153, 217 P.3d 321 (2009), cert. denied, 562 U.S. 837 (2010). Thus, a party may not request a particular instruction and later complain on appeal that the requested instruction was given.

State v. Studd, 137 Wn.2d 533, 546, 973 P.2d 1049 (1999). Invited error prevents review of instructional errors even if they are of constitutional magnitude. City of Seattle v. Patu, 147 Wn.2d 717, 720, 58 P.3d 273 (2002).

Hood responds that the State's claim of invited error is not supported by the record and that if anything his counsel did is interpreted as invited error, then he received ineffective assistance of counsel.

When the court inquired at the beginning of the trial, the prosecution had submitted instructions but the defense had not.

> THE COURT: . . . Let's see. It doesn't look like I've gotten instructions yet. So I'll be needing those—did you submit them?
> [PROSECUTOR]: Yes, I did.
> . . . .
> THE COURT: . . . Do we have any from the defense?
> [DEFENSE COUNSEL]: No, you don't.
> THE COURT: Okay. Whatever you're going to provide, please do it by tomorrow.

A week later, as the defense was about to rest, the court tentatively promised to provide counsel with a set of proposed instructions by the next morning. The court stated that defense counsel had "stipulated" to the instructions proposed by the State.

> THE COURT: Okay. So it sounds like we'll do—we might do instructions in the morning. We'll probably do closings in the afternoon first thing.
> [PROSECUTOR]: Sounds good.
> THE COURT: All right. One other thing.
> *I wanted to put on the record that counsel has stipulated to the jury instructions submitted by the prosecution.* And I will review those and get a proposed packet back to you. I'll try to do that over the break so we can get those taken care of maybe tomorrow morning. All right?
> You ready?

(Emphasis added.)

The defense rested mid-morning of the next day. The court stated that the defense had "joined" in the State's instructions.

> THE COURT: Okay. Well, I tell you what we'll do. I almost have the instructions ready. I just want to—you did leave out the Assault 1 to convict instruction, at least in the ones that I got, so Teresa is preparing that one. Maybe you filed it, I don't know.
>
> But in any event—and then I think, *as I understand it, the defense has joined in the submission of the prosecution*, so those should be ready to go. Why don't I instruct the jury after the morning recess, and then we'll recess until—can you be back here at 1:00?

(Emphasis added.)

After the recess, the court and counsel discussed the instructions. Both counsel raised issues with some of the instructions the court was proposing to give. The court made certain modifications. The jury was then called in, and the court read the instructions.

The State bases its claim of invited error on the trial court's statements, quoted above, that Hood "stipulated to" and "joined in" the jury instructions submitted by the State. The premise of the State's argument is that a criminal defendant has an obligation under CrR 6.15(a)[1] to propose jury instructions. The

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[1] **(a) Proposed Instructions.** Proposed jury instructions shall be served and filed when a case is called for trial by serving one copy upon counsel for each party, by filing one copy with the clerk, and by delivering the original and one additional copy for each party to the trial judge. Additional instructions, which could not be reasonably anticipated, shall be served and filed at any time before the court has instructed the jury.

Not less than 10 days before the date of trial, the court may order counsel to serve and file proposed instructions not less than 3 days before the trial date.

State contends that defense counsel efficiently discharged that obligation by choosing to join in the State's proposed instructions rather than generating a set of proposed instructions for the defense, and as a result, Hood should not now be heard to argue that one of the State's proposed instructions is erroneous.

The State's premise is incorrect. CrR 6.15(a) does not impose an obligation to propose jury instructions. If a party wishes to propose instructions, CrR 6.15(a) sets forth the timing and procedure to be followed. See State v. Sublett, 176 Wn.2d 58, 75-76, 292 P.3d 715 (2012). Since it is the State that wishes to secure the conviction, the State ordinarily assumes the burden of proposing an appropriate and comprehensive set of instructions. Just as a defendant has no duty to bring himself to trial, Barker v. Wingo, 407 U.S. 514, 527, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972), a defendant has no duty to propose the instructions that will enable the State to convict him.

It is typical for discussions about jury instructions to occur more than once during the course of a trial. The initial discussions are often somewhat informal and do not need to be held in open court. Sublett, 176 Wn.2d at 75. Often, the trial judge will review various drafts, solicit comments, and strive to isolate, understand, and reduce the areas of disagreement between the parties before producing the final set of instructions that the court proposes to give. Before the

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> Each proposed instruction shall be on a separate sheet of paper. The original shall not be numbered nor include citations of authority.
>
> Any superior court may adopt special rules permitting certain instructions to be requested by number from any published book of instructions.

final instructions are given to the jury, counsel must be given a formal opportunity to object in the absence of the jury. CrR 6.15(c). Any objections to the instructions, as well as the grounds for the objections, must be put on the record to preserve review. Sublett, 176 Wn.2d at 75-76. All of that occurred in this case. Hood did not propose instructions, but he did raise specific objections to the court's set of proposed instructions, and his objections led to changes being made.

It is not clear why the trial court made a point of saying that Hood had "joined in" or "stipulated to" the State's proposed instructions. There is no record of Hood formally stipulating to the correctness of the instructions proposed by the State. The court's remarks may have simply been intended to memorialize the fact that Hood had not proposed a competing set of instructions. In any event, the court's remarks do not provide a basis for holding that Hood specifically invited the court to give the reasonable doubt instruction to which he now assigns error.

In determining whether the invited error doctrine applies, our courts consider "whether the defendant affirmatively assented to the error, materially contributed to it, or benefited from it." In re Pers. Restraint of Coggin, 182 Wn.2d 115, 119, 340 P.3d 810 (2014). "The doctrine appears to require affirmative actions by the defendant." In re Pers. Restraint of Thompson, 141 Wn.2d 712, 724, 10 P.3d 380 (2000). It has been applied when a defendant took knowing and voluntary actions to set up the error. Thompson, 141 Wn.2d at 723-24. For example, in the consolidated appeals examined in Studd, the defendants were

claiming self-defense. Those defendants who proposed a particular self-defense instruction that was accepted by the court and given to the jury were held to have invited the error they claimed on appeal. Studd, 137 Wn.2d at 547. Nothing of the sort occurred in this case. Hood did not affirmatively request any particular instruction. We conclude appellate review of the reasonable doubt instruction is not barred by the doctrine of invited error.

This is not to say that defense counsel can safely ignore the process of developing the instructions in a criminal case. An attorney has an obligation to object to instructions which appear to be incorrect or misleading and must also propose instructions necessary to support argument of the client's theory of the case. Failure to preserve error by objecting in the trial court generally operates as a waiver, RAP 2.5(a), and this case is no exception. Hood contends that despite his failure to object, he may raise the alleged error under RAP 2.5(a)(3) as a manifest error affecting a constitutional right. But the error he alleges was not manifest, i.e., it was not an obvious error that the trial court would be expected to correct even without an objection. State v. O'Hara, 167 Wn.2d 91, 99-100, 217 P.3d 756 (2009). Our Supreme Court has instructed trial courts to use only the pattern instruction. State v. Bennett, 161 Wn.2d 303, 318, 165 P.3d 1241 (2007). The trial court was not obligated to anticipate that the use of WPIC 4.01 would be challenged on appeal as undermining the presumption of innocence.

Although the doctrine of invited error does not bar review, we decline to review Hood's challenge to the reasonable doubt instruction because he did not

object to it at trial and giving the instruction was not manifest constitutional error.

COMMENT ON THE EVIDENCE

On the charges of burglary and felony violation of a court order, the State alleged the aggravating circumstance that "the offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time." RCW 9.94A.535(3)(h)(i). In the second phase of a bifurcated trial, the jury found the allegation proven.

Using a pattern instruction, the court instructed the jury that "the term 'prolonged period of time' means more than a few weeks." WPIC 300.17. The State concedes that this instruction constituted an improper comment on the evidence. State v. Brush, 183 Wn.2d 550, 559, 353 P.3d 213 (2015). But the error was harmless. The evidence showed that Hood committed domestic abuse in several incidents occurring over a period from 1999 to 2014. Whether that was a prolonged period of time was not a contested issue. If the jurors believed the evidence of the prior domestic abuse, they could not have failed to find that the domestic abuse occurred over a prolonged period of time. Thus, the erroneous instruction was not prejudicial. See State v. Levy, 156 Wn.2d 709, 721-22, 726, 132 P.3d 1076 (2006). There is no reversible error.

OFFENDER SCORE

The court sentenced Hood to an exceptional sentence totaling 156 months. The exceptional sentence was due to the aggravating circumstance of an ongoing pattern of abuse.

Hood contends that the trial court should have granted his request to classify the two convictions as the same criminal conduct. To do so would have lowered his offender score and potentially lowered the length of the exceptional sentence.

The defendant bears the burden at trial to show that current offenses encompass the same criminal conduct. State v. Graciano, 176 Wn.2d 531, 539-40, 295 P.3d 219 (2013). Our review is for abuse of discretion or misapplication of the law. Graciano, 176 Wn.2d at 536.

"Same criminal conduct" means "two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim." RCW 9.94A.589(1)(a). Hood argues that both crimes required the same criminal intent—the intent to assault LD. The sentencing court could have reasonably taken a different view of the evidence. Hood violated the no-contact order when he approached the condo where LD lived. Having heard testimony about past vandalism of the condo, the trial court could have reasonably found that Hood did not necessarily intend an assault when he approached the condo. The court may have found that he developed the intent to commit an assault inside—the conduct that constituted the burglary—only after entering. We conclude the trial court did not abuse its discretion in finding that Hood did not meet his burden to show that his criminal intent was the same for each crime.

COMMUNITY CUSTODY TERM

At Hood's sentencing, the trial court imposed a term of 18 months of community custody under RCW 9.94A.701. Hood did not object to the length of

the term at that time. On appeal Hood contends the statute is ambiguous as to the length of the community custody term for burglary in the first degree.

A challenge to a sentence that is contrary to law may be raised for the first time on appeal. State v. Anderson, 58 Wn. App. 107, 110, 791 P.2d 547 (1990). Questions of statutory interpretation are questions of law subject to de novo review. State v. Franklin, 172 Wn.2d 831, 835, 263 P.3d 585 (2011).

The goal of statutory interpretation is to discern and implement the legislature's intent. State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). In interpreting a statute, we first look to the statute's plain language. Armendariz, 160 Wn.2d at 110. Where the plain language of the statute is subject to more than one reasonable interpretation, it is ambiguous. Armendariz, 160 Wn.2d at 110. To determine the plain meaning of a statute, the court looks to the text, the context of the statute in which the provision is found, related provisions, and the statutory scheme as a whole. State v. Jones, 172 Wn.2d 236, 242, 257 P.3d 616 (2011).

In relevant part, the statute provides:

> (1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:
>
> . . . .
>
> (b) A *serious violent offense*.
>
> (2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a *violent offense that is not considered a serious violent offense*.

> (3) A court shall, in addition to other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:
> (a) Any *crime against persons* under RCW 9.94A.411(2).

RCW 9.94A.701 (emphasis added).

Burglary in the first degree is a "violent offense." See RCW 9.94A.030(55)(i) ("violent offense" means "any felony defined under any law as a class A felony"); RCW 9A.52.020(2) ("Burglary in the first degree is a class A felony"). Thus, it falls within RCW 9.94A.701(2), which requires a community custody term of 18 months for a violent offense. But burglary in the first degree is also a "crime against persons" under RCW 9.94A.411(2). It therefore also falls within RCW 9.94A.701(3)(a), which requires a community custody term of 12 months for a crime against persons. Hood contends the legislature created an ambiguity by placing the crime of first degree burglary in two different categories and that the ambiguity must be resolved by shortening his term of community custody to 12 months in accordance with the rule of lenity.

Burglary in the first degree is not the only crime that falls into more than one category. "Serious violent offenses" and "violent offenses" are listed at RCW 9.94A.030(46) and (55), respectively. Many, if not most, of the crimes on the "serious violent offense" and "violent offense" lists are also listed as "crimes against persons" under RCW 9.94A.411(2).

Statutes must be interpreted and construed so that all language used is given effect, with no portion rendered meaningless or superfluous. State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003). If we adopted Hood's interpretation of the statute, RCW 9.94A.701(1)(b) and (2) would be rendered largely superfluous

because many "serious violent offenses" and "violent offenses" could only be punished with 12 months of community custody instead of the 3 years or 18 months the legislature prescribed in subsections (1)(b) and (2).

The statute sets up a tiered step-down sentencing structure depending on the seriousness of the crime: 3 years of community custody is imposed for "serious violent offenses"; 18 months for "a violent offense that is not considered a serious violent offense"; and 12 months for crimes against persons. RCW 9.94A.701(1)(b), (2), (3)(a). The statutory scheme as a whole establishes that the legislature intended for individuals who commit violent offenses to receive a longer term of community custody than individuals who commit nonviolent crimes against persons. This is consistent with the legislature's purpose to "ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history." RCW 9.94A.010(1).

For crimes that are listed as both serious violent offenses and violent offenses, the legislature eliminated the appearance of ambiguity by stating that the court shall sentence an offense to 18 months of community custody for a "violent offense that is not considered a serious violent offense." RCW 9.94A.701(2). Hood points out that the legislature did not include this type of clarifying language in RCW 9.94A.701(3)(a) for crimes that are listed both as violent offenses and crimes against persons. Therefore, he argues, it is not clear that the legislature intended an offense listed as both a violent offense and a crime against persons to be punished as a violent offense.

We disagree. The clarifying language in subsection (2) is more accurately

viewed as an expression of the legislature's intent to create a tiered step-down sentencing structure, as detailed above. To determine the plain meaning of subsection (3)(a), it should be interpreted in a way that is consistent with the overall statutory scheme.

We conclude RCW 9.94A.701 is not ambiguous as to the length of the community custody term for burglary in the first degree. The only reasonable reading of RCW 9.94A.701 is that it requires a term of 18 months of community custody for a violent offense that is not considered a serious violent offense, even if it is also a crime against persons. Because the potential ambiguity can be reconciled in a way that reflects the legislature's clear intent, we do not apply the rule of lenity. State v. Oakley, 117 Wn. App. 730, 734, 72 P.3d 1114 (2003), review denied, 151 Wn.2d 1007 (2004). The trial court correctly applied RCW 9.94A.701(2) and sentenced Hood to 18 months of community custody for first degree burglary.

APPELLATE COSTS

In his opening brief, Hood asks us not to impose appellate costs in the event that the State prevails on appeal and seeks costs. The State does not respond. Under RCW 10.73.160(1), this court has discretion to decline to impose appellate costs on appeal. State v. Sinclair, 192 Wn. App. 380, 385, 388, 367 P.3d 612, review denied, 185 Wn.2d 1034 (2016). In light of Hood's indigent status, our presumption under RAP 15.2(f) that he remains indigent "throughout the review," and the State's failure to respond, we exercise our discretion not to impose appellate costs.

Affirmed.

Becker, J.

WE CONCUR:

Trickey, ACJ

Cox, J.

APPENDIX B

convict, that the defendant, and no other person, committed the offense: *People* v. *Kerrick*, 52 Cal. 446. It is, therefore, error to instruct the jury, in effect, that they may find the defendant guilty, although they may not be "entirely satisfied" that he, and no other person, committed the alleged offense: *People* v. *Kerrick*, 52 Cal. 446; *People* v. *Carrillo*, 70 Cal. 643.

CIRCUMSTANTIAL EVIDENCE.—In a case where the evidence as to the defendant's guilt is purely circumstantial, the evidence must lead to the conclusion so clearly and strongly as to exclude every reasonable hypothesis consistent with innocence. In a case of that kind an instruction in these words is erroneous: "The defendant is to have the benefit of any doubt. If, however, all the facts established necessarily lead the mind to the conclusion that he is guilty, though there is a bare possibility that he may be innocent, you should find him guilty." It is not enough that the evidence necessarily leads the mind to a conclusion, for it must be such as to exclude a reasonable doubt. Men may feel that a conclusion is necessarily required, and yet not feel assured, beyond a reasonable doubt, that it is a correct conclusion: *Rhodes* v. *State*, 128 Ind. 189; 25 Am. St. Rep. 429. A charge that circumstantial evidence must produce "in" effect "a" reasonable and moral certainty of defendant's guilt is probably as clear, practical, and satisfactory to the ordinary juror as if the court had charged that such evidence must produce "the" effect "of" a reasonable and moral certainty. At any rate, such a charge is not error: *Loggins* v. *State*, 32 Tex. Cr. Rep. 364. In *State* v. *Shaeffer*, 89 Mo. 271, 282, the jury were directed as follows: "In applying the rule as to reasonable doubt you will be required to acquit if all the facts and circumstances proven can be reasonably reconciled with any theory other than that the defendant is guilty; or, to express the same idea in another form, if all the facts and circumstances proven before you can be as reasonably reconciled with the theory that the defendant is innocent as with the theory that he is guilty, you must adopt the theory most favorable to the defendant, and return a verdict finding him not guilty." This instruction was held to be erroneous, as it expresses the rule applicable in a civil case, and not in a criminal one. By such explanation the benefit of a reasonable doubt in criminal cases is no more than the advantage a defendant has in a civil case, with respect to the preponderance of evidence. The following is a full, clear, explicit, and accurate instruction in a capital case turning on circumstantial evidence: "In order to warrant you in convicting the defendant in this case, the circumstances proven must not only be consistent with his guilt, but they must be inconsistent with his innocence, and such as to exclude every reasonable hypothesis but that of his guilt, for, before you can infer his guilt from circumstantial evidence, the existence of circumstances tending to show his guilt must be incompatible and inconsistent with any other reasonable hypothesis than that of his guilt": *Lancaster* v. *State*, 91 Tenn. 267, 285.

REASON FOR DOUBT.—To define a reasonable doubt as one that "the jury are able to give a reason for," or to tell them that it is a doubt for which a good reason, arising from the evidence, or want of evidence, can be given, is a definition which many courts have approved: *Vann* v. *State*, 83 Ga. 44; *Hodge* v. *State*, 97 Ala. 37; 38 Am. St. Rep. 145; *United States* v. *Cassidy*, 67 Fed. Rep. 698; *State* v. *Jefferson*, 43 La. Ann. 995; *People* v. *Stubenvoll*, 62 Mich. 329, 332; *Welsh* v. *State*, 96 Ala. 93; *United States* v. *Butler*, 1 Hughes, 457; *United States* v. *Jones*, 31 Fed. Rep. 716; *People* v. *Guidici*, 100

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N. Y. 503; *Cohen* v. *State*, 50 Ala. 108. It has, therefore, been held proper to tell the jury that a reasonable doubt "is such a doubt as a reasonable man would seriously entertain. It is a serious, sensible doubt, such as you could give good reason for": *State* v. *Jefferson*, 43 La. Ann. 995. So, the language, that it must be "not a conjured-up doubt—such a doubt as you might conjure up to acquit a friend—but one that you could give a reason for," while unusual, has been held not to be an incorrect presentation of the doctrine of reasonable doubt: *Vann* v. *State*, 83 Ga. 44, 52. And in *State* v. *Morey*, 25 Or. 241, it is held that an instruction that a reasonable doubt is such a doubt as a juror can give a reason for, is not reversible error, when given in connection with other instructions, by which the court seeks to so define the term as to enable the jury to distinguish a reasonable doubt from some vague and imaginary one. The definition, that a reasonable doubt means one for which a reason can be given, has been criticized as erroneous and misleading in some of the cases, because it puts upon the defendant the burden of furnishing to every juror a reason why he is not satisfied of his guilt with the certainty required by law before there can be a conviction; and because a person often doubts about a thing for which he can give no reason, or about which he has an imperfect knowledge: *Siberry* v. *State*, 133 Ind. 677; *State* v. *Sauer*, 38 Minn. 438; *Ray* v. *State*, 50 Ala. 104; and the fault of this definition is not cured by prefacing the statement with the instruction that "by a reasonable doubt is meant not a captious or whimsical doubt": *Morgan* v. *State*, 48 Ohio St. 371. Spear, J., in the case last cited, very pertinently asks: "What kind of a reason is meant? Would a poor reason answer, or must the reason be a strong one? Who is to judge? The definition fails to enlighten, and further explanation would seem to be needed to relieve the test of indefiniteness. The expression is also calculated to mislead. To whom is the reason to be given? The juror himself? The charge does not say so, and jurors are not required to assign to others reasons in support of their verdict." To leave out the word "good" before "reason" affects the definition materially. Hence, to instruct a jury that a reasonable doubt is one for which a reason, derived from the testimony, or want of evidence, can be given, is bad: *Carr* v. *State*, 23 Neb. 749; *Cowan* v. *State*, 22 Neb. 519; as every reason, whether based on substantial grounds or not, does not constitute a reasonable doubt in law: *Ray* v. *State*, 50 Ala. 104, 108.

"HESITATE AND PAUSE"—"MATTERS OF HIGHEST IMPORTANCE," ETC. A reasonable doubt has been defined as one arising from a candid and impartial investigation of all the evidence, such as "in the graver transactions of life would cause a reasonable and prudent man to hesitate and pause before acting": *Gannon* v. *People*, 127 Ill. 507; 11 Am. St. Rep. 147; *Dunn* v. *People*, 109 Ill. 635; *Wacaser* v. *People*, 134 Ill. 438; 23 Am. St. Rep. 683; *Bowden* v. *State*, 102 Ala. 78; *Welsh* v. *State*, 96 Ala. 93; *State* v. *Gibbs*, 10 Mont. 213; *Miller* v. *People*, 39 Ill. 457; *Willis* v. *State*, 43 Neb. 102. And it has been held that it is correct to tell the jury that the "evidence is sufficient to remove reasonable doubt when it is sufficient to convince the judgment of ordinarily prudent men with such force that they would act upon that conviction, without hesitation, in their own most important affairs": *Jarrell* v. *State*, 58 Ind. 293; *Arnold* v. *State*, 23 Ind. 170; *State* v. *Kearley*, 26 Kan. 77; or, where they would feel safe to act upon such conviction "in matters of the highest concern and importance" to their own dearest and most important interests, under circumstances requiring no

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November 28, 2016 - 1:15 PM

Transmittal Letter

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Court of Appeals Case Number: 73401-6

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- ○ Statement of Additional Authorities
- ○ Affidavit of Attorney Fees
- ○ Cost Bill
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Court of Appeals
Division I
State of Washington

Comments:

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