FILED
Court of Appeals
Division I
State of Washington
3/3/2020 4:20 PM

FILED
SUPREME COURT
STATE OF WASHINGTON
3/5/2020
BY SUSAN L. CARLSON
CLERK

Supreme Court No. 98237-6
(COA No. 80647-5-I)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

---

STATE OF WASHINGTON,

Respondent,

v.

PABLO BELLON,

Petitioner.

---

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

---

# PETITION FOR REVIEW

---

KATE R. HUBER
Attorney for Petitioner

WASHINGTON APPELLATE PROJECT
1511 Third Avenue, Suite 610
Seattle, WA 98101
(206) 587-2711
katehuber@washapp.org
wapofficemail@washapp.org

TABLE OF CONTENTS

A. IDENTITY OF PETITIONER AND DECISION BELOW ............... 1

B. ISSUES PRESENTED FOR REVIEW ............................................. 1

C. STATEMENT OF THE CASE ......................................................... 3

D. ARGUMENT ......................................................................... 7

1. **This Court should accept review because the Court of Appeals fails to recognize a contractual diversion agreement that waives core constitutional rights is invalid when it is predicated on critical misinformation. .................................................................... 7**

a. Due process requires a waiver of core constitutional rights be knowing, intelligent, and voluntary in order to be valid................ 7

b. A waiver of rights is involuntary where the individual is misinformed of the consequences of the waiver............................. 8

c. Mr. Bellon waived his core constitutional rights in the diversion contract. ........................................................................... 9

d. The diversion contract misinformed Mr. Bellon of the consequences of waiving his core constitutional rights................. 9

e. The Court of Appeals affirmed the convictions despite the misinformation of direct consequences that induced Mr. Bellon's waiver, in conflict with other opinions. ....................................... 10

f. This Court should accept review to correct the due process violation and to resolve the conflict with other opinions. ............ 13

2. **The Court of Appeals opinion conflicts with other Court of Appeals opinions and affirms the convictions based on insufficient evidence.** ...................................................................... 13

a. The State failed to present sufficient evidence of strangulation... 13

b. The State failed to present sufficient evidence of "substantial pain" extending for a "sufficient" period to cause "considerable suffering." ......................................................................... 15

c. The Court should accept review where the evidence was insufficient to support conviction on either count. ....................... 17

**3. This Court should accept review because the Court of Appeals ignores this Court's opinions holding any personal characteristic of a defendant may be relevant in deciding a motion for an exceptional sentence based on mitigation.** ..................................... 17

E. CONCLUSION ..................................................................... 20

TABLE OF AUTHORITIES

**Washington Supreme Court**

*State v. A.N.J.*, 168 Wn.2d 91, 225 P.3d 956 (2010) ............................. 7, 8

*State v. Barber*, 170 Wn.2d 854, 248 P.3d 494 (2001)......................... 8, 13

*State v. Drum*, 168 Wn.2d 23, 225 P.3d 237 (2010).................... 10, 11, 12

*State v. Grayson*, 154 Wn.2d 333, 111 P.3d 1183 (2005) ................. 19, 20

*State v. Ha'mim*, 132 Wn.2d 834, 940 P.2d 633 (1997)........................... 18

*State v. Law*, 154 Wn.2d 85, 110 P.2d 717 (2005) ............................ 18, 19

*State v. Mendoza*, 157 Wn.2d 582, 141 P.3d 49 (2006) ............................ 8

*State v. O'Dell*, 183 Wn.2d 680, 358 P.3d 359 (2015)....................... 18, 19

*State v. Turley*, 149 Wn.2d 395, 69 P.3d 338 (2003).................................. 8

*State v. Vasquez*, 178 Wn.2d 1, 309 P.3d 318 (2013).............................. 15

*State v. Walsh*, 143 Wn.2d 1, 17 P.3d 591 (2001) .................................... 13

*State v. Weyrich*, 163 Wn.2d 554, 182 P.3d 965 (2008)....................... 8, 13

*Wood v. Morris*, 87 Wn.2d 501, 554 P.2d 1032 (1976)............................. 7

**Washington Court of Appeals**

*State v. Amo*, 76 Wn. App. 129, 882 P.2d 1188 (1994)........................... 19

*State v. Ashue*, 145 Wn. App. 492, 188 P.3d 522 (2008) .................. 12, 13

*State v. Drum*, 143 Wn. App. 608, 181 P.3d 18 (2008)........................... 11

*State v. Garcia-Martinez*, 88 Wn. App. 322, 944 P.2d 1104 (1997)........ 20

*State v. Robertson*, 88 Wn. App. 836, 947 P.2d 765 (1997).................... 16

*State v. Rodriguez*, 187 Wn. App. 922, 352 P.3d 200 (2015).................. 14

*State v. Saunders*, 132 Wn. App. 592, 132 P.3d 743 (2006) .................... 16

**United States Supreme Court**

*Boykin v. Alabama*, 395 U.S. 238, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969) ........................................................................................... 7, 9, 11

*Brady v. United States*, 397 U.S. 742, 90 S. Ct. 1463, 25 L. 2d. 747 (1970) ........................................................................................... 7, 8, 11

*Jackson v. Virginia*, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979) ........................................................................................... 15

*Johnson v. Zerbst*, 304 U.S. 458, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938)… ........................................................................................... 7, 11

**Washington Constitution**

Const. art. I, § 3........................................................................... 7

**United States Constitution**

U.S. Const. amend. XIV .................................................................. 7

**Washington Statutes**

RCW 9.94A.030........................................................................... 5

RCW 9.94A.411........................................................................... 5

RCW 9.94A.510........................................................................... 9

RCW 9.94A.515........................................................................... 9

RCW 9.94A.535........................................................................... 17

RCW 9.94A.701........................................................................... 5, 10

RCW 9A.04.110........................................................................... 14, 16

RCW 9A.36.021 .......... 13

RCW 9A.36.031 .......... 15, 16

RCW 9A.36.130 .......... 13

RCW 9A.36.140 .......... 15

**Rules**

RAP 13.1 .......... 1

RAP 13.3 .......... 1

RAP 13.4 .......... 1

## A. IDENTITY OF PETITIONER AND DECISION BELOW

Mr. Bellon petitions this Court for review of the Court of Appeals opinion in *State v. Bellon*, No. 80647-5-I. RAP 13.1(a), 13.3 (a)(1), (b), 13.4 (b)(1)-(4). The opinion (filed February 3, 2020) is attached.

## B. ISSUES PRESENTED FOR REVIEW

1. Due process requires a defendant knowingly, intelligently, and voluntarily waive core constitutional rights in order for a waiver to be valid and enforceable. Consequently, misinformation of a direct consequence of the waiver renders it invalid. Here, the diversion contract by which Mr. Bellon waived his constitutional rights affirmatively misinformed him of the direct consequences of his waiver because the contract contained the wrong sentencing range and omitted mention of the mandatory terms of community custody. Despite the contract's failure to comply with due process, the court enforced the contract and bound Mr. Bellon to his waiver. The Court of Appeals did not dispute the misinformation but nonetheless found Mr. Bellon was not denied due process because the contract was not a guilty plea. Should this Court accept review and hold that due process requires a knowing, intelligent, and voluntary waiver of core constitutional rights, whether that waiver be by guilty plea, in a diversion contract, or any other matter?

2. Assault of a child in the second degree requires proof beyond a reasonable doubt of strangulation. Here, the Court of Appeals affirmed the conviction because the complainant stated she was "choked" even though she explained she could still breathe. Should this Court accept review where the opinion affirmed based on a witness's conclusory statements in the face of facts contradicting the element and where the evidence is insufficient to support the definition of strangulation?

3. Assault of a child in the third degree requires proof of substantial pain extending for a period of time to cause considerable suffering. The Court of Appeals affirmed the conviction based on evidence of the duration of pain but absent any evidence of the level of pain or that it was substantial. Where there is no evidence of an actual injury and no evidence of the amount of pain, should this Court accept review and find the evidence insufficient to support the conviction?

4. Every defendant is entitled to have the court actually consider his request for an exceptional sentence below the standard range. Mr. Bellon presented mitigating information about his progress in services, as well as information related to the crime itself, including arguments Mr. Bellon was precluded from presenting under the terms of the diversion contract. The court found it lacked discretion to grant a lower sentence.

Should this Court accept review and find a court may consider any factor it deems relevant in deciding a request for a mitigated sentence?

## C. STATEMENT OF THE CASE

Mr. Bellon was a 48 year old divorced father of three children who shared custody of his children with his ex-wife. Ex. 1, Incident/Investigation Report p.4.[1] His children lived with him every other week and every other Wednesday. *Id.* Mr. Bellon, who earned both a college and a master's degree, worked for twenty years at the Lucky Eagle Casino & Hotel, eventually earning the title of Director of Information Technology. CP 81-82.

Mr. Bellon has no prior criminal record. CP 85, 103. But in 2016, he was charged with assault of a child in the second and third degrees in relation to an allegation involving his then eight-year-old daughter, B.E.B. CP 4. B.E.B. alleged Mr. Bellon picked her up by her neck and shook her and also picked her up by her stomach and squeezed her stomach. Ex. 1, Arrest Report. Medical personal examined B.E.B. but did not treat her for any injuries, and B.E.B. did not sustain any marks on her neck. Ex. 1, Incident/Investigation Report p.4-5; Ex. 1, pictures. B.E.B. described the

[1] Exhibit 1 is the packet of materials constituting the stipulated documents on which the court tried the case. CP 80. The materials are: Arrest Report, Incident/Investigation Report, six photographs of B.E.B., and Transcript of Interview of Complaining Witness: [B.E.B.]. Ex. 1.

incident as “he choked me” and reported “it hurt,” but acknowledged she was able to scream and breathe during the incident. CP 37-38. She said her stomach and back hurt for “a couple of days” as well. CP 40.

Although Mr. Bellon denied the charges, in an attempt to save his daughter and family the trauma of an ongoing criminal case and eventual trial, Mr. Bellon agreed to a diversion contract in lieu of fighting the case. CP 82, 172-74; 1/19/17 RP 3-8; 5/7/18 RP 20-21, 27-29. Under the terms of the contract, the parties agreed Mr. Bellon would participate in the Friendship Diversion Program for 24 months. CP 5. If he successfully completed the program and complied with the terms of the diversion contract, the State agreed to dismiss the pending charges. CP 6. If he failed to succeed, the State would recommence the prosecution. CP 6.

The diversion contract included several stipulations and waivers of Mr. Bellon’s constitutional rights. In the event the prosecution recommenced, the contract required Mr. Bellon to agree (1) to a stipulated facts bench trial, (2) to the admissibility of his statements to law enforcement and to waive all legal challenges to those statements, and (3) to waive his constitutional rights to a jury trial, to a speedy trial, to a public trial, to confrontation, to present a defense, to testify, to appeal, and to the presumption of innocence. CP 6-7 (paragraphs 7-9, 17).

The diversion contract misadvised Mr. Bellon of the sentence he faced if the prosecution recommenced. The contract stated Mr. Bellon faced a standard range of 36 to 48 months on count one and 3 to 8 months on count two. CP 6. Mr. Bellon's correct standard range was 31 to 41 months on count one and 1 to 3 months on count two. CP 104. In addition, Mr. Bellon faced mandatory terms of community custody of 18 months on count one and 12 months on count two. CP 106; RCW 9.94A.701(2), 9.94A.030(55)(a)(iv); RCW 9.94A.701(3)(a), 9.94A.411(2)(a). But the diversion contract contained no advisement of these mandatory sentences.

Mr. Bellon complied with all of his classes and services coordinated through Friendship Diversion Services. 1/8/18 RP 24-25. He participated in domestic violence treatment, parenting classes, and a chemical dependency evaluation and treatment. 1/8/18 RP 24-25. Despite his successful performance in the underlying services, Mr. Bellon failed to comply with all the terms of his contract with Friendship Diversion Services, thereby violating the diversion contract. The State moved to revoke the diversion contract, and the court held a hearing. CP 11-15; 1/8/18 RP 1-58. The court found Mr. Bellon violated the contract and granted the State's motion. 1/8/18 RP 48-52; CP 76-77.

In accordance with the diversion contract, the court held a stipulated facts bench trial. CP 79-80; 4/9/18 RP 3-58. Mr. Bellon was not

permitted to present evidence, to testify, to challenge the stipulated documents, to challenge his statements to the police, or to confront any witnesses. *Id.* The court decided the case based on the stipulated facts under the diversion contract. CP 79-80. Based on that limited evidence it could consider under the contract, the court found Mr. Bellon guilty of assault of a child in the second and third degrees. CP 80, 102.

At sentencing, Mr. Bellon moved for an exceptional sentence below the standard range. CP 89-95; 5/7/18 RP 14-30. Mr. Bellon presented several mitigating circumstances. CP 89-95. Mr. Bellon supported his motion with a lengthy letter he wrote to the court and twenty letters of support from family and community members. CP 138-86.

The court found it had no authority to consider Mr. Bellon's request for a sentence below the standard range based on Mr. Bellon's mitigating circumstances. Instead, it held the only discretion it possessed was to determine a sentence within the standard range. 5/7/18 RP 39. The court sentenced Mr. Bellon to concurrent terms of confinement of 31 months and 3 months. CP 105-06; 5/7/18 RP 39-40. The court also imposed the mandatory terms of 18 months and 12 months of community custody of which Mr. Bellon was never informed. CP 105-06; 5/7/18 RP 39-40.

## D. ARGUMENT

### 1. This Court should accept review because the Court of Appeals fails to recognize a contractual diversion agreement that waives core constitutional rights is invalid when it is predicated on critical misinformation.

Mr. Bellon waived his core constitutional rights in the diversion contract. But the contract misinformed Mr. Bellon of the direct consequences of that waiver. Because Mr. Bellon waived his core constitutional rights based on misinformation of the direct consequences of the waiver, the waiver was involuntary. Therefore, the Court of Appeals erred in affirming the convictions predicated on the contract.

a. <u>Due process requires a waiver of core constitutional rights be knowing, intelligent, and voluntary in order to be valid.</u>

A waiver of core constitutional rights must be knowing, intelligent, and voluntary to be valid. U.S. Const. amend. XIV; Const. art. I, § 3. These core rights include the right against self-incrimination, the right to confrontation, and the right to a jury trial. *Brady v. United States*, 397 U.S. 742, 748, 90 S. Ct. 1463, 25 L. 2d. 747 (1970); *Boykin v. Alabama*, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969); *Johnson v. Zerbst*, 304 U.S. 458, 465-69, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938); *see also State v. A.N.J.*, 168 Wn.2d 91, 117, 225 P.3d 956 (2010).

Where a defendant does not knowingly, intelligently, and voluntarily waive these rights, the waiver may not stand. *Boykin*, 395 U.S. at 244; *Wood v. Morris*, 87 Wn.2d 501, 505-06, 554 P.2d 1032 (1976).

Thus, in order for a court to enforce a waiver of certain constitutional rights, the State must establish the defendant knowingly, intelligently, and voluntarily waived those rights.

b. A waiver of rights is involuntary where the individual is misinformed of the consequences of the waiver.

A valid waiver of constitutional rights requires the defendant be informed of all direct consequences of the waiver. *A.N.J.*, 168 Wn.2d at 113-14. "Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences." *Brady*, 397 U.S. at 748.

Likewise, a waiver of core constitutional rights is involuntary where a defendant is misinformed of the consequences of waiving those rights. *State v. Weyrich*, 163 Wn.2d 554, 556-57, 182 P.3d 965 (2008). Consequences courts must accurately advise defendants include statutory and guideline sentencing ranges. *State v. Mendoza*, 157 Wn.2d 582, 590, 141 P.3d 49 (2006). This is true even where, the actual, correct sentence is shorter than the mistaken sentence of which the defendant was advised. *Id.* at 590-91. Terms of community custody are also a direct sentencing consequence of which defendants must be accurately advised. *State v. Barber*, 170 Wn.2d 854, 858, 248 P.3d 494 (2001); *State v. Turley*, 149 Wn.2d 395, 399, 69 P.3d 338 (2003).

c. Mr. Bellon waived his core constitutional rights in the diversion contract.

Mr. Bellon's diversion contract included both stipulations and waivers. CP 5-9. Mr. Bellon agreed to a stipulated facts trial and agreed not to mount legal or factual challenges to the admissibility or the content of the State's evidence. CP 6. In addition, Mr. Bellon, waived his constitutional rights to a jury trial, to a speedy trial, to a public trial, to his right against self-incrimination, to confrontation, to present a defense, to testify, to appeal, and to the presumption of innocence. CP 6-8. Thus, Mr. Bellon waived the three core rights protected by due process under *Boykin*, as well as numerous other essential constitutional rights.

d. The diversion contract misinformed Mr. Bellon of the consequences of waiving his core constitutional rights.

Here, the diversion contract misinformed Mr. Bellon of the consequences of waiving his constitutional rights. First, the contract advised him of the wrong sentencing range he faced if he failed the program. The contract informed Mr. Bellon he faced a standard range of 36 to 48 months on count one and 3 to 8 months on count two. CP 6. This was incorrect. Mr. Bellon's actual range was 31 to 41 months on count one and 1 to 3 months on count two. CP 104; RCW 9.94A.510, .515.

Second, the contract failed to advise Mr. Bellon of the mandatory terms of community custody he faced if he failed the contract. CP 5-7.

Count one required community custody in the amount of 18 months and count two in the amount of 12 months. CP 106; RCW 9.94A.701 (2), (3)(a). The contract advised Mr. Bellon of neither.

Thus, the diversion contract misinformed Mr. Bellon of two direct consequences of his waiver of constitutional rights – the requirement and lengths of the mandatory community custody terms and the length of the custodial sentences. Because the diversion contract misinformed Mr. Bellon of two direct consequences of his waiver of constitutional rights, Mr. Bellon's waiver was involuntary.

e. The Court of Appeals affirmed the convictions despite the misinformation of direct consequences that induced Mr. Bellon's waiver, in conflict with other opinions.

The Court of Appeals rejected Mr. Bellon's argument that he did not knowingly, intelligent, and voluntarily waive his constitutional rights because it found his diversion contract was not a guilty plea and, therefore, it excused the diversion contract's misadvisement of the direct consequences of failure to comply. Slip Opinion at 9. In doing so, the Court of Appeals relied on *State v. Drum*, 168 Wn.2d 23, 39, 225 P.3d 237 (2010). The Court of Appeals opinion is in error and conflicts with *Drum* and other cases.

First, Mr. Bellon did not argue he was entitled to due process because his diversion contract was equivalent to a guilty plea. Mr. Bellon

argued due process required that *any* waiver of core constitutional rights must be knowing, intelligent, and voluntary to be valid and enforceable. *Brady*, 397 U.S. at 748; *Boykin*, 395 U.S. at 243-44; *Johnson*, 304 U.S. at 465-69. It matters not whether the waiver is contained in a guilty plea, a diversion contract, or in any other proceeding. Here, the diversion contract induced Mr. Bellon to waive his core constitutional rights based on misinformation. Therefore, the waiver was invalid.

Second, *Drum* does not hold otherwise. In *Drum*, the Court of Appeals declined to apply due process protections to a diversion contract because such contracts are not guilty pleas. 143 Wn. App. 608, 617-20, 181 P.3d 18 (2008). However, this Court specifically declined to affirm *Drum* on the Court of Appeal's reasoning that due process does not require a defendant enter a drug court contract knowingly, intelligently, and voluntarily and with an understanding of the consequences of the contract. *Drum*, 168 Wn.2d at 26 ("We affirm Drum's conviction, though for different grounds."). Instead, this Court examined the drug court contract and held the defendant's stipulation to the sufficiency of the evidence did not bind the trial court because courts are not bound to stipulations to legal conclusions. *Id.* at 34. However, the trial court actually considered the sufficiency of the evidence. *Id.* Therefore, the Court found the defendant did not waive her right to "an independent

finding of guilt beyond a reasonable doubt" under the drug court contract. *Id.* Contrary to the Court of Appeals' opinion, this Court did not hold due process does not apply to the waiver of rights in a diversion contracts.

Here, the Court of Appeals also found that, because the trial court conducted an independent review of the evidence and made findings, the diversion contract was not a guilty plea, and the due process challenge was satisfied. Slip Opinion at 9. But Mr. Bellon did not seek to set aside only that part of the contract in which he stipulated to the sufficiency of the evidence. Mr. Bellon sought to challenge the entire contract by which Mr. Bellon waived all of his constitutional rights – including the right to present his own evidence, to testify, and to contest the State's evidence. Misinformation of the direct consequences of the contract induced Mr. Bellon to waive those rights. The mere fact the trial court independently evaluated the stipulated evidence does not resolve the due process challenge.

Finally, *State v. Ashue*, supports Mr. Bellon's argument and conflicts with the Court of Appeals opinion. 145 Wn. App. 492, 502-04, 188 P.3d 522 (2008). In *Ashue*, the court recognized any waiver of constitutional rights, even as part of a diversion agreement, must be knowing, intelligent, and voluntary. *Id.* Indeed, the court engaged in this due process analysis even though the defendant waived these rights in a

diversion contract, not a guilty plea. *Id.* The Court of Appeals' conclusion that because the waiver occurred within a diversion contract, as opposed to a guilty plea, it is somehow insulated from due process requirements is erroneous. Slip Opinion at 9.

f. <u>This Court should accept review to correct the due process violation and to resolve the conflict with other opinions.</u>

Mr. Bellon waived his core constitutional rights based on misinformation in the diversion contract regarding the direct consequences of that waiver. Therefore, Mr. Bellon did not knowingly, intelligently, and voluntarily waive his constitutional rights. The diversion contract in which he waived those rights is invalid. Where an agreement by which a defendant waives core constitutional rights does not comply with due process requirements, a defendant is entitled to withdraw the agreement. *Weyrich*, 163 Wn.2d at 556-57; *State v. Walsh*, 143 Wn.2d 1, 8-9, 17 P.3d 591 (2001); *Barber*, 170 Wn.2d at 855. This Court should accept review and hold due process requires any waiver of a core constitutional right must be knowing, intelligent, and voluntary to be valid.

**2. The Court of Appeals opinion conflicts with other Court of Appeals opinions and affirms the convictions based on insufficient evidence.**

a. <u>The State failed to present sufficient evidence of strangulation.</u>

The State charged Mr. Bellon with assault by strangulation. CP 4; RCW 9A.36.130(1)(a), 9A.36.021(1)(g). Strangulation requires proof the

defendant compressed the complainant's neck "thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe." RCW 9A.04.110(26). Here, the State argued Mr. Bellon's actions obstructed B.E.B.'s ability to breathe. CP 4; 4/9/18 RP 31-33.

However, the stipulated facts establish B.E.B. both *could* and *could not* breathe when Mr. Bellon picked her up by her neck. Ex. 1, Arrest Report; Ex. 1, Incident/Investigation Report p.4; CP 37-40. When the forensic interviewer explicitly asked B.E.B. if she could breathe, she stated she could. CP 37, 40. In addition, B.E.B. had no bruises, marks, or scratches on her neck. Ex. 1, photographs; Ex. 1, Incident/Investigation Report p.5. And the State did not present any evidence from medical professionals that B.E.B. had injuries consistent with being unable to breathe.

Although strangulation does not require complete obstruction, the statute does require at least partial obstruction of the ability to breathe. *State v. Rodriguez*, 187 Wn. App. 922, 932-36, 352 P.3d 200 (2015). Here, the State presented insufficient evidence to prove beyond a reasonable doubt that either partial or complete obstruction occurred.

The Court of Appeals ignored the conflicting evidence from the sole witness – B.E.B. – and relied on her definition of choking, rather than

her description of what happened, to find sufficient evidence. Slip Opinion at 6. When asked what choking meant, B.E.B. replied "Like squeezed your neck really hard so you couldn't breathe." Slip Opinion at 6 (quoting CP 38). But when asked whether she could breathe, B.E.B. responded "Yea," and, "Kind of." Slip Opinion at 6 (quoting CP 37). B.E.B.'s subjective understanding of what constitutes a choking fail to establish that her father's alleged acts were legally sufficient to constitute strangulation.

Even considered in the light most favorable to the State, the totality of the evidence presented was inconsistent and contradictory. It is unreasonable to credit one allegation over the other from the same witness. Presenting merely a "modicum of evidence" on an essential element is "simply inadequate" to be legally sufficient. *Jackson v. Virginia*, 443 U.S. 307, 320, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); *accord State v. Vasquez*, 178 Wn.2d 1, 7, 309 P.3d 318 (2013). Without sufficient evidence Mr. Bellon obstructed B.E.B.'s ability to breathe by at least some degree, the State failed to present sufficient evidence of the essential element of suffocation.

b. The State failed to present sufficient evidence of "substantial pain" extending for a "sufficient" period to cause "considerable suffering."

The State also charged Mr. Bellon with negligent assault causing bodily harm. CP 4; RCW 9A.36.140(1), 9A.36.031(1)(f). Bodily harm is

defined as "physical pain or injury, illness, or an impairment of physical condition." RCW 9A.04.110(4)(a). The statute also requires proof of "substantial pain that extends for a period sufficient to cause considerable suffering." RCW 9A.36.031(1)(f).

Here, the State presented no evidence as to the level of pain such that either "substantial pain" or "considerable suffering" were established. Instead, the evidence was simply that B.E.B.'s stomach "hurt" when she spoke with the police immediately after the incident and continued to hurt "for a couple of days." Ex. 1, Arrest Report; CP 37.

The State presented no evidence that medication or treatment was required, no evidence demonstrating an actual injury, and no evidence describing the intensity of any pain. *Cf. State v. Robertson*, 88 Wn. App. 836, 841, 947 P.2d 765 (1997). Without evidence supporting the level and severity of the pain, the State failed to establish both substantial pain and considerable suffering.

The Court of Appeals acknowledged "The record does not contain evidence of any visible injuries to the victim." Slip Opinion at 7. But the Court affirmed the conviction because B.E.B. described soreness for "a few days." Slip Opinion at 7. The Court relied on *State v. Saunders*, which held pain lasting three hours was sufficient. Slip Opinion at 7 (citing *State v. Saunders*, 132 Wn. App. 592, 600, 132 P.3d 743 (2006)). But the Court

failed to recognize that *Saunders* had sufficient evidence of both substantial pain and a sufficient time period that caused considerable suffering. 132 Wn. App. at 597-600. Here, B.E.B.'s statements of soreness lasting "a few days" may satisfy the duration, but evidence of the substantial pain and considerable suffering is entirely lacking.

c. The Court should accept review where the evidence was insufficient to support conviction on either count.

The State failed to prove beyond a reasonable doubt either charge of assault. Substantial evidence fails to support the court's findings of fact and conclusions of law to the contrary. CP 78-80. The Court of Appeals opinion affirming the convictions conflict with other Court of Appeals opinions. This Court should accept review and reverse both convictions with instructions to dismiss the charges with prejudice.

**3. This Court should accept review because the Court of Appeals ignores this Court's opinions holding any personal characteristic of a defendant may be relevant in deciding a motion for an exceptional sentence based on mitigation.**

Courts may impose a sentence below the standard range where mitigating circumstances established by a preponderance of the evidence offer a substantial and compelling reason to depart from the standard range. RCW 9.94A.535. RCW 9.94A.535(1) contains a nonexhaustive list of mitigating circumstances on which a court may rely to impose a sentence below the standard range. Courts may consider any mitigating

circumstances as long as they were not necessarily considered by the legislature in establishing the standard range sentence and they are "sufficiently substantial and compelling to distinguish the crime in question from others in the same category." *State v. O'Dell*, 183 Wn.2d 680, 690, 358 P.3d 359 (2015) (quoting *State v. Ha'mim*, 132 Wn.2d 834, 840, 940 P.2d 633 (1997)).

Here, the sentencing court categorically refused to consider Mr. Bellon's motion for a sentence below the standard range and his mitigating circumstances based on its mistaken belief it lacked discretion to do so. The court discussed the restrictive nature of the Sentencing Reform Act and read extensively from *State v. Law*, 154 Wn.2d 85, 110 P.2d 717 (2005). 5/7/18 RP 33-39. The court specifically ruled it had no authority to consider an exceptional sentence downward based on the circumstances Mr. Bellon offered. 5/7/18 RP 39. The only discretion the court acknowledged it had in determining the sentence was to determine the sentence within the standard range. 5/7/18 RP 39.

The Court of Appeals erred in finding the sentencing court recognized and exercised its discretion. Slip Opinion at 10-11. The Court ignored Mr. Bellon's argument that the more limited considerations suggested in *Law* are no longer binding after *O'Dell*. *O'Dell* held that courts may consider any personal factors relevant to the particular

defendant in determining the propriety of an exceptional sentence. 183 Wn.2d at 690. In so holding, *O'Dell* relaxed the strict interpretation of *Law* and recognized courts may consider any circumstance that could "amount to a substantial and compelling factor, in particular cases, justifying a sentence below the standard range." *Id.* at 696. Although *O'Dell* addressed the mitigating factor of youth, its holding does not rely on the uniqueness of this particular characteristic.

Moreover, contrary to the Court of Appeal's opinion, Mr. Bellon did offer mitigation related to crime itself. Slip Opinion at 10. Mr. Bellon offered mitigating circumstances that distinguished his crimes from others in the same category. *State v. Amo*, 76 Wn. App. 129, 131, 882 P.2d 1188 (1994); CP 89-95, 138-86. Specifically, Mr. Bellon argued he was deprived of the ability to challenge the offense and present a more accurate account of the incident under the constraints of the contract. CP 92-95. Even under *Law*, courts possess the authority to depart based on factors that "relate to the crime, the defendant's culpability for the crime, or the past criminal record of the defendant." 154 Wn.2d at 89.

Mr. Bellon is entitled to actual consideration of his request for an exceptional sentence by a court meaningfully exercising its discretion in deciding whether a departure is appropriate. *O'Dell*, 183 Wn.2d at 697; *State v. Grayson*, 154 Wn.2d 333, 335-36, 111 P.3d 1183 (2005)

(remanding for new sentencing hearing where court categorically denied defendant's request for DOSA sentence). The court refused to exercise its discretion when it refused to consider Mr. Bellon's motion for a sentence below the standard range. *State v. Garcia-Martinez*, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997). A court commits reversible error when it refuses to meaningfully consider a sentencing option. *Grayson*, 154 Wn.2d at 342.

This Court should accept review because the Court of Appeals opinion affirming the sentence conflicts with opinions of this Court and the Court of Appeals.

**E. CONCLUSION**

For the reasons set forth above, Mr. Bellon requests this Court grant review.

DATED this 3rd day of March, 2020.

Respectfully submitted,

KATE R. HUBER (WSBA 47540)
Washington Appellate Project (91052)
Attorneys for Appellant
katehuber@washapp.org
wapofficemail@washapp.org

# APPENDIX A

February 3, 2020, Opinion

FILED
2/3/2020
Court of Appeals
Division I
State of Washington

# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

| | |
|---|---|
| STATE OF WASHINGTON ,<br>Respondent,<br>v.<br>PABLO LARA BELLON,<br>Appellant. | No. 80647-5-I<br>DIVISION ONE<br>UNPUBLISHED OPINION<br>FILED: February 3, 2020 |

APPELWICK, C.J. — Bellon appeals his convictions for assault of a child in the second and third degrees. He argues that the State presented insufficient evidence to support his convictions. He contends that the diversionary contract he entered into with the State is unenforceable because he did not knowingly, intelligently, and voluntarily waive his constitutional rights. He also argues that the trial court failed to exercise discretion in considering his request for an exceptional sentence. Last, he seeks relief from certain LFOs. We affirm his conviction and sentence, but remand to have the criminal filing fee and the interest accrual on his nonrestitution LFOs stricken.

## FACTS

Pablo Bellon and his ex-wife have three children. While the children were at his home, Bellon became angry with his youngest daughter for not moving fast enough when he told her to brush her teeth. He picked up the child by her neck and began shaking her. The child told the responding officer that she could not

breathe because Bellon was squeezing her neck so hard. Bellon briefly put the child down turning her over, squeezing her tummy, and spanking her. The child was still feeling pain in her stomach when she spoke to the responding officer.

The child's older brother, who had been sitting on the couch, got up and yelled at Bellon to stop hurting his sister. He walked over to Bellon and pushed him to get him to stop. Bellon let go of the child, who walked off toward her room. The brother then called their mother to pick them up.

The mother called the police and met them near Bellon's apartment. The police interviewed the mother and children and called for medical support to have the victim evaluated. Medical staff indicated that the victim appeared to be fine but should follow up with a doctor. The children both reported the events above to the responding officer. The older brother added that their father had been drinking all day and appeared to "snap." The responding officer called in another officer, knocked on Bellon's door, and placed him under arrest.

In a later interview with police, the victim largely reiterated what she had said on the night of the incident. When asked what happened, she said that her father had picked her up by the neck and choked her. When asked what choking means, she said, "Like, squeezed your neck really hard so you couldn't breathe." When asked if she could breathe or scream when Bellon first picked her up, she said, "Yea," then "Kind of." She said that her neck was sore for the rest of the week. She said that her father had squeezed her stomach and that it hurt for a couple of days afterward.

The State charged Bellon with assault of a child in the second and third degrees. He chose to enter into a diversionary contract with the State. Under the contract, the State would dismiss the charges if Bellon successfully completed the "Friendship Diversion Program." If, however, Bellon was unsuccessful in completing the program, he agreed that the State would recommence prosecution. He further agreed that the court would determine his guilt or innocence solely on the basis of law enforcement and investigatory agencies' reports on the incident. He waived any objections to the admissibility of this evidence.

His declaration further stated,

> I understand that, by this process, I am giving up the following constitutional rights: the right to a jury trial; the right to a speedy and public trial by an impartial jury in the county where the crime(s) is/are alleged to have been committed; the right to hear and question the witnesses against me; the right to call witnesses [o]n my own behalf and no at expense to me; the right to testify or not to testify; the right to appeal a determination of guilty after trial; and the presumption of my innocence until the charge(s) has/have been proven beyond a reasonable doubt.

Prior to signing off on the agreement, the trial court questioned Bellon on whether he understood that he was waiving his rights. When asked if he had discussed the agreement with his attorney, he replied, "In great detail." When asked if he understood that he would not be able to present evidence at a potential trial, he replied, "Yes." When asked if he understood that he was waiving his right to a speedy trial, he again replied in the affirmative.

On September 6, 2017, Friendship Diversion Services informed the State that Bellon had failed to comply with the requirements of the diversion program by failing to report in person to the program as required and failing to pay fees. The

State moved to revoke the diversion. After a hearing, the trial court found that Bellon had violated the diversion agreement and granted the State's motion to revoke the diversion.

The trial court held a stipulated facts bench trial. After hearing argument from both sides, the court found "beyond a reasonable doubt that Mr. Bellon is guilty of assault of a child in the second degree domestic violence" and "that Mr. Bellon is guilty of the crime of assault of a child in the third degree domestic violence."

Bellon requested an exceptional sentence below the standard range. He urged the trial court to consider the unique nature of the proceeding, the progress he made in the diversionary program, and various letters of support from family and friends. After a lengthy discussion of the law, the court determined that there was no basis for an exceptional sentence. The court instead sentenced Bellon to 31 months of confinement, which was on the low end of the standard sentence range. The court also ordered Bellon to pay a $500 victim assessment fee, $200 criminal filing fee, and $100 deoxyribonucleic acid (DNA) collection fee.

Bellon appeals.

## DISCUSSION

Bellon makes four arguments. First, he argues that the State failed to present sufficient evidence to prove his guilt beyond a reasonable doubt. Second, he argues that his diversion contract was invalid because he did not knowingly, intelligently, and voluntarily waive his constitutional rights. Third, he argues that the trial court failed to exercise appropriate discretion in considering his request

for an exceptional sentence below the standard range. Last, he argues that he should be relieved of certain legal financial obligations (LFOs).

I. Sufficiency of Evidence

Bellon contends that the State did not present sufficient evidence to support his convictions.

Sufficiency of the evidence is a question of constitutional law that this court reviews de novo. State v. Rich, 184 Wn.2d 897, 903, 365 P.3d 746 (2016). The State is required to prove all elements of the charged offense beyond a reasonable doubt. Apprendi v. New Jersey, 530 U.S. 466, 477, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000). Evidence is sufficient to support a conviction if, "'after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980) (emphasis omitted) (quoting Jackson v. Virginia, 443 U.S. 307, 318, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)), abrogated on other grounds by Washington v. Recuenco, 548 U.S. 212, 126 S. Ct. 2546, 165 L. Ed. 2d 466 (2006).

When a defendant challenges the sufficiency of the evidence, they admit the truth of all of the State's evidence. State v. Cardenas-Flores, 189 Wn.2d 243, 265, 401 P.3d 19 (2017). In reviewing the sufficiency of the evidence, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). In conducting this review, circumstantial evidence and direct evidence carry equal weight. State v. Goodman, 150 Wn.2d 774, 781, 83

P.3d 410 (2004). Specific criminal intent of the accused may be inferred from the conduct where it is plainly indicated as a matter of logical probability. Id.

A. Assault of a Child in the Second Degree

The State charged Bellon with assault of a child in the second degree by strangulation. To sustain a conviction for this charge, the State was required to prove that Bellon is over 18 years old and that he assaulted a victim under 13 years old by strangulation. RCW 9A.36.021(1)(g); RCW 9A.36.130(1)(a). "Strangulation" means to "compress a person's neck, thereby obstructing the person's blood flow or ability to breath, or doing so with the intent to obstruct the person's blood flow or ability to breathe." RCW 9A.04.110(26). A person's blood flow or ability to breath need not be completely obstructed under the statute. See State v. Rodriguez, 187 Wn. App. 922, 935, 352 P.3d 200 (2015). It needs to be hindered or blocked only to some degree. Id.

Bellon contends that the State failed to prove that Bellon strangled his daughter. His argument focuses primarily on the victim's interview with the police after the incident. When asked if she could breathe after her father picked her up by the neck, she responded, "Yea." However, when asked to clarify, she said, "Kind of." She then said, "[H]e picked me up by the neck and . . . then he choked me." When asked what choking means, she said, "Like squeezed your neck really hard so you couldn't breathe." This evidence is sufficient for a rational trier of fact to conclude that the victim's ability to breathe was partially obstructed.

We hold that the State presented sufficient evidence to sustain Bellon's conviction for assault of a child in the second degree.

B. Assault of a Child in the Third Degree

The State also charged Bellon with assault of a child in the third degree. To sustain this charge, the State was required to prove that Bellon was over the age of 18, that his victim was under the age of 13, and that Bellon, with criminal negligence, caused bodily harm to the victim accompanied by substantial pain that extended for a period sufficient to cause considerable suffering. RCW 9A.36.031(f); RCW 9A.36.140(1).

Bellon contends that the State failed to prove that the victim was in substantial pain or considerable suffering. He asserts that the State presented no evidence of actual injury, or severity or duration of pain. The record does not contain evidence of any visible injuries to the victim. However, the record does contain evidence of the duration of pain. In her interview with police, Bellon's victim said that her "tummy and back" were sore for "a few days," and that her neck was sore for the "the rest of the week." We have previously held that pain lasting longer than three hours with an abrasion and swelling was sufficient evidence of substantial pain and considerable suffering. State v. Saunders, 132 Wn. App. 592, 600, 132 P.3d 743 (2006). Here, the victim's pain lasted for several days rather than a few hours.

We hold that the State presented sufficient evidence to sustain Bellon's conviction for assault of a child in the third degree.

II. Validity of the Diversion Contract

Bellon argues that the diversion contract that he entered with the State is not valid. Specifically, he claims that he did not "knowingly, intelligently, and

voluntarily" waive his constitutional rights. He claims this is so for two reasons. First, because the contract did not inform him that he would face community custody if found guilty. Second, because the contract incorrectly stated a standard sentencing range higher than the range he would face if found guilty.

This is essentially the same argument the appellant made in State v. Drum, 168 Wn.2d 23, 225 P.3d 237 (2010). Drum claimed a due process violation when he waived his rights to a speedy public trial, trial by jury, the right to hear and question witnesses, call witnesses, and testify in his own defense as part of a diversionary agreement. Id. at 28, 30. And, claimed because he did not know the standard range and the term of community custody, he did not knowingly, intelligently, and voluntarily waive his constitutional rights. State v. Drum, 143 Wn. App. 608, 617, 181 P.3d 18 (2008), aff'd, 168 Wn.2d 23, 225 P.3d 237 (2010).

Like the contract in Drum, Bellon's diversionary contract stipulated the evidence that would be used to determine his guilt if he failed to complete the requirements of the diversionary program. It also stipulated that this evidence was sufficient to establish his guilt for the underlying offenses. In it, Bellon indicated that he was aware that he was giving up several of his constitutional rights:

> I understand that, by this process, I am giving up the following constitutional rights: the right to a jury trial; the right to a speedy and public trial by an impartial jury in the county where the crime(s) is/are alleged to have been committed; the right to hear and question witnesses who testify against me; the right to call witnesses in my own behalf and at no expense to me; the right to testify or not to testify; the right to appeal a determination of guilty after trial; and the presumption of my innocence until the charge(s) has/have been proven beyond a reasonable doubt or I enter a plea(s) of guilty.

These rights include all those waived in the diversionary contract in Drum, with the addition of waiver of the right to an appeal and the right to the presumption of innocence. Drum, 168 Wn. 2d at 28. But, Bellon has not actually been deprived of these rights because the trial court made an independent determination of guilt beyond a reasonable doubt, and because we are presently hearing his appeal.

Like Drum, Bellon contends that he was unaware of the term of community custody, and misinformed of the standard sentencing range.[1]

The Drum court rejected the due process argument, finding that once the trial court made an independent determination of guilt, Drum's due process claim "evaporate[d]." Drum, 168 Wn.2d at 39. The trial court made such an independent determination here. The court specifically noted that a stipulated facts bench trial where the trial court independently reviews the evidence and makes its own findings is not the equivalent of a guilty plea. Id. (citing State v. Mierz, 127 Wn.2d 460, 468-69, 901 P.2d 286 (1995)).

Bellon argues that we should not follow Drum because his diversionary contract, unlike the contract in Drum, is nonstatutory. He articulates no reason why this changes the due process analysis.

We find no due process violation in Bellon's diversionary contract.

---

[1] The defendant in Drum asserted he was completely unaware of the standard sentence and term of community custody. Drum, 143 Wn. App. at 617. Bellon contends that he was unaware of the term of community custody, but misinformed of the standard sentencing range. Bellon's contract indicated the standard sentencing range was 36 to 48 months on count 1, and 3 to 8 months on count 2. This range was lowered to 31 to 41 months for count 1 and 1 to 3 months for count 2 after Bellon successfully argued at sentencing that the two offenses were in fact the same criminal conduct. This minor difference does not affect our due process analysis.

III. Exceptional Sentence

Bellon argues next that the trial court failed to exercise its discretion to consider his request for an exceptional sentence below the standard sentencing range. The trial court instead imposed a sentence within the standard sentencing range.

A sentence within the standard sentence range is not appealable unless the trial court refuses to exercise discretion or relies on an impermissible basis for refusing to impose the exceptional sentence. State v. Mail, 121 Wn.2d 707, 710, 854 P.2d 1042 (1993); State v. Khanteechit, 101 Wn. App. 137, 138, 5 P.3d 727 (2000). Where a trial court has considered the facts and concluded there is no basis for an exceptional sentence, the court has exercised discretion. State v. Garcia-Martinez, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997).

Here, the trial court considered the facts of Bellon's request, but concluded there was no basis for an exceptional sentence. Specifically, the court considered Bellon's proffered reasons for an exceptional sentence and found they did not fall within any of the 11 enumerated factors courts are to consider under RCW 9.94A.535. It nevertheless considered whether Bellon's reasons could be considered under a catchall provision. After a lengthy discussion, the court found that Bellon's proffered reasons could not be considered because they did not relate to the crime or his previous record. The court also noted that our Supreme Court has specifically rejected the use of the defendant's good conduct since the commission of the crime as a basis for an exceptional sentence. Clearly, the court

exercised its discretion to consider an exceptional sentence. And, its conclusion was within its sound discretion.

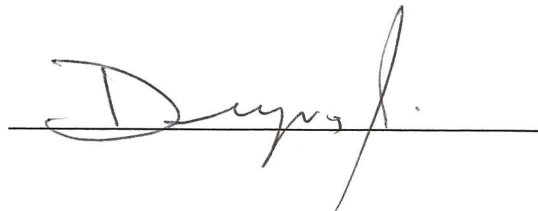
Because the trial court exercised its discretion in reviewing Bellon's request for an exceptional sentence, he is precluded from appealing his standard range sentence.

IV. Legal Financial Obligations

Last, Bellon argues that we should strike his criminal filing fee and the immediate accrual of interest on his nonrestitution LFOs. RCW 36.18.020(2)(h) prohibits the imposition of a criminal filing fee on indigent defendants. RCW 10.82.090(1) prohibits interest on nonrestitution LFOs. In State v. Ramirez, 191 Wn.2d 732, 747-50, 426 P.3d 714 (2018), our Supreme Court ruled these statutes apply prospectively to all cases pending on direct appeal. Bellon is indigent, and his case is now before us on appeal. He is therefore entitled to relief from his criminal filing fee and interest accrual on his nonrestitution LFOs.

We affirm Bellon's judgment and sentence, but remand to the trial court to strike his criminal filing fee and interest accrual on his nonrestitution LFOs.

WE CONCUR:



## IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
## DIVISION ONE

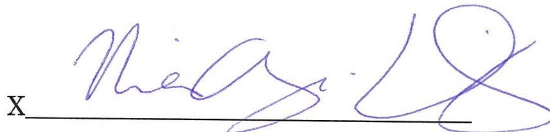
| | | |
|---|---|---|
| STATE OF WASHINGTON, | ) | |
| | ) | |
| Respondent, | ) | |
| | ) | NO. 80647-5-I |
| v. | ) | |
| | ) | |
| PABLO BELLON, | ) | |
| | ) | |
| Petitioner. | ) | |

## DECLARATION OF DOCUMENT FILING AND SERVICE

I, NINA ARRANZA RILEY, STATE THAT ON THE 3RD DAY OF MARCH, 2020, I CAUSED THE ORIGINAL **PETITION FOR REVIEW TO THE SUPREME COURT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

| | | | |
|---|---|---|---|
| [X] | JOSEPH JACKSON, DPA<br>[jacksoj@co.thurston.wa.us]<br>[PAOAppeals@co.thurston.wa.us]<br>THURSTON COUNTY PROSECUTOR'S OFFICE<br>2000 LAKERIDGE DR SW BLDG 2<br>OLYMPIA WA 98502-6045 | ( )<br>( )<br>(X) | U.S. MAIL<br>HAND DELIVERY<br>E-SERVICE<br>VIA PORTAL |
| [X] | PABLO BELLON<br>(ADDRESS OF RECORD)<br>ON FILE WITH OUR OFFICE) | (X)<br>( )<br>( ) | U.S. MAIL<br>HAND DELIVERY<br>_______________ |

**SIGNED** IN SEATTLE, WASHINGTON THIS 3RD DAY OF MARCH, 2020.



X_______________________________

**Washington Appellate Project**
1511 Third Avenue, Suite 610
Seattle, Washington 98101
Telephone (206) 587-2711
Fax (206) 587-2710

## WASHINGTON APPELLATE PROJECT

## March 03, 2020 - 4:20 PM

## Transmittal Information

| | |
|---|---|
| **Filed with Court:** | Court of Appeals Division I |
| **Appellate Court Case Number:** | 80647-5 |
| **Appellate Court Case Title:** | State of Washington, Respondent v. Pablo Lara Bellon, Appellant |
| **Superior Court Case Number:** | 16-1-01675-1 |

**The following documents have been uploaded:**

- 806475_Petition_for_Review_20200303162000D1201878_3200.pdf
  This File Contains:
  Petition for Review
  *The Original File Name was washapp.030320-4.pdf*

**A copy of the uploaded files will be sent to:**

- PAOAppeals@co.thurston.wa.us
- jacksoj@co.thurston.wa.us

**Comments:**

---

Sender Name: MARIA RILEY - Email: maria@washapp.org
**Filing on Behalf of:** Kate Huber - Email: katehuber@washapp.org (Alternate Email: wapofficemail@washapp.org)

Address:
1511 3RD AVE STE 610
SEATTLE, WA, 98101
Phone: (206) 587-2711

**Note: The Filing Id is 20200303162000D1201878**