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COA No. 69467-7-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

D.N. (d.o.b. 11/28/96),

Appellant.

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STATE OF WASHINGTON
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ON APPEAL FROM THE SUPERIOR COURT OF KING COUNTY
JUVENILE DIVISION

The Honorable Barbara Mack

APPELLANT'S OPENING BRIEF

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A. ASSIGNMENTS OF ERROR

1. In D.N.'s juvenile bench trial on two counts of first degree robbery, the trial court erred in admitting hearsay evidence.

2. The trial court erred in admitting speculative opinion testimony.

3. The cumulative effect of the evidentiary errors allowed the State to introduce materially prejudicial evidence on which the court relied to find that the Respondent D.N. was part of a group that acted together, and was thus guilty as an accomplice to robbery of Tawney Fournier in count II.

4. The juvenile court's written findings are inadequate to support the conviction of D.N. for robbery as to count II where the court did not find that D.N. knowingly assisted in a taking by force. CP 26-35.

5. The evidence at the adjudicatory hearing was insufficient to find D.N. guilty of robbery as to count II. CP 8, CP 26-35.

6. In the absence of substantial properly admitted evidence, the juvenile court erred in entering Finding of Fact 42, that the group of males stayed and acted together during the incidents and that the incidents were a group effort that was discussed and planned. CP 31.

7. The juvenile court erred in entering Conclusion of Law 3 (sub-parts a, b and c), stating that another, "or" the Respondent D.N. personally, took the cell phone from Ms. Fournier by force or fear.

6. The juvenile court erred in entering Conclusions of Law 3.g and 4, stating that the Respondent D.N. was guilty as an accomplice to robbery in count II.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. At D.N's adjudicatory hearing, the juvenile court admitted portions of the complainant Parrish's police statements as substantive evidence under the "past recollection recorded" hearsay exception, where he did not have sufficiently inadequate memory of the matters, as required by ER 803(a)(5). Did the juvenile court abuse its discretion?

2. Did the juvenile court abuse its discretion in admitting the speculative opinion testimony of Mr. Parrish in the absence of personal knowledge?

3. Does the cumulatively prejudicial effect of the trial court's evidentiary rulings, which undergirded the court's decision that the Respondent acted as part of a "group effort," require reversal of D.N.'s conviction as an accomplice to robbery in count II?

4. Are the juvenile court's written findings and conclusions inadequate in the absence of a determination on the ultimate issue that D.N. had the required complicity *mens rea* of assistance provided with knowledge of the specific crime charged?

5. May the findings be remanded for revision where there is insufficient evidence of the missing element of knowledge?

6. Even considering the improperly admitted hearsay and opinion testimony, and certainly without it, the evidence was insufficient to convict D.N. of being an accomplice to robbery, where there was no evidence that he knew that another member or members of the group would take Ms. Fournier's cell phone and punch her, thus committing forcible robbery. Must the court's entry of judgment based on the finding of guilt be reversed?

C. STATEMENT OF THE CASE

1. Charging and adjudicatory hearing. D.N., age 15, was charged with two counts of first degree robbery based on claims by Brandon Parrish and Tawney Fournier that D.N. was part of a group of youths, one of whom, apparently the Respondent, grabbed money out of Mr. Parrish's hand, and another of whom snatched Ms. Fournier's cell phone from her hand, as a third person punched Fournier. CP 1-7.

On the day of the incident, Brandon Parrish, a young male individual, became intoxicated by drinking beer, and then he and Tawney Fournier went to the Kent Transit Center. Parrish contacted a group of seven or eight young persons, attempting to purchase marijuana from them. 9/24/12RP at 126-34. He testified that the group told him he and Fournier could purchase some marijuana, but they needed to go over to an alley near Pioneer Avenue to do so. 9/24/12RP at 126-29. Tawney Fournier stated that the persons in the group were having light conversation as they walked in that direction. 9/24/12RP at 198. Once at the alley, Parrish claimed, when he pulled money out of his pocket, someone swiped the cash out of his hand and ran. 9/24/12RP at 134.

Tawney Fournier testified that Brandon started chasing after the male who took his money. 9/24/12RP at 202, 207. At the same time this happened, Fournier testified, "they" suddenly took Ms. Fournier's cell phone out of her hand and punched her in the eye. 9/24/12RP at 202-04. Fournier did not remember if the phone was forcefully grabbed. 9/24/12RP at 205. She did not know which male or males took the cell phone from her and punched her, which caused her to fall and suffer injury. 9/24/12RP at 215-18.

Mr. Parrish could not identify the Respondent D.N. as the person who grabbed the money out of his hand, because all of the youths looked the same to him and he was not certain. 9/24/12RP at 138. However, he stated that he chased after that particular person, through the Transit Center, in an attempt to get his money back. 9/24/12RP at 137-39.

Phyllis Cratic, a transit officer, saw a commotion in the area and recognized some of the persons she observed. She approached a white male who had chased down a black male, whom the officer recognized as D.N. 9/24/12RP at 59-63. When Officer Cratic approached them, the white male started uttering statements claiming robbery, as DN was unsuccessfully trying to open a blade on a folding knife. 9/24/12RP at 63-64; Supp. CP ___, Sub # 75 (exhibit 3). D.N. said to the white male, "I'm going to cut you." 9/24/12RP at 67-68.

D.N. then ran from the white male again, and the white male again chased after him. 9/24/12RP at 75. As the pair approached a gas station, Mr. Parrish was able to get the male in a headlock and briefly hold him. 9/24/12RP at 146-47. However, the person somehow pulled free, and when he did, he opened a blade on the knife and wielded it in the direction of Mr. Parrish's stomach.

9/24/12RP at 147-51. He told Mr. Parrish, "Back off," before continuing to run away, toward a gas station. 9/24/12RP at 151-53.

Police responding to Officer Cratic's 911 call arrived at the scene and spoke with Mr. Parrish and then Ms. Fournier; the black male had left the area. 9/25/12RP at 241-44 (testimony of gas station customer Mark Shreve), 251-54 (testimony of Kent police officer Autumn Majack). Notably, Officer Majack smelled alcohol on Mr. Parrish. 9/25/12RP at 256.

D.N. was recognized by another transit officer the next day, and he was arrested. 9/28/12RP at 280-82 (testimony of Kent police officer David Ghaderi). D.N. told Officer Ghaderi that the white male had attacked him near the Transit Center, and protested that he had not committed any criminal conduct. 9/28/12RP at 294-95 (testimony of Officer Ghaderi). At the adjudicatory hearing, D.N. testified that he was approached by Mr. Parrish, who was stumbling and asking everyone in the area if he could buy any drugs. 9/28/12RP at 369-71, 378-79. At some point, D.N.'s sister seemed to have been given money by Mr. Parrish, and Parrish demanded methamphetamine from D.N. 9/28/12RP at 378. When D.N. told Parrish that he did not have any drugs and that he was not associating with him, Mr. Parrish began screaming, and hit or

grabbed D.N. multiple times around his neck. 9/24/12RP at 378-80. D.N. escaped and ran, but Mr. Parrish again charged and attacked him; D.N. briefly tried, unsuccessfully, to open his knife to ward Parrish off. 9/28/12RP at 381-84.

A business proprietor, Kevin Gemmell, whose store was located near the Transit Center, witnessed part of the incident. He testified that when he looked in the direction of the alley near Pioneer Avenue, the white male was hitting the black male, multiple times. 9/24/12RP at 108-09, 115.

2. Decision.

(a). Count 1. The juvenile court found D.N. guilty of first degree robbery of Mr. Parrish, finding that he was the person who took cash from Parrish, that he used force or threat of force to retain the property or to flee the crime, and that he was armed with, and displayed what appeared to be, a deadly weapon. 10/8/12RP at 459-60; CP 26-33.

(b). Count 2. The court stated it was a "more difficult" issue whether D.N. was guilty of first degree robbery of Ms. Fournier, based on accomplice liability for the taking of her cell phone and the forcible punch by others. 10/8/12RP at 460. However, the court found that the taking of Parrish's money and

Fournier's cell phone was a planned "group effort" in which the youths led the two complainants to the alley. Regarding complicity for Ms. Fournier being punched, the juvenile court stated that D.N. "was with a group and somebody in that group punched her in the eye[.]" 10/8/12RP at 461. In its oral ruling, the court concluded that D.N. was an accomplice to the crime of robbery in count II, and that the offense was first degree robbery based on infliction of injury. 10/8/12RP at 460-61; see also CP 8.

3. Findings. The juvenile court entered written findings of fact and a legal determination that the incidents, including the taking of Fournier's cell phone were part of a pre-planned and discussed "group effort," rendering D.N. an accomplice. See CP 26-33 - Finding of fact 7 (finding that "the group members were seen by Parrish and Fournier talking amongst themselves" as the whole group of people walked toward the alley); Finding of fact 31 (finding that the "members of the group . . . followed the Respondent and Parrish as they ran toward the gas station"); Finding of fact 42 (finding that the black youths stayed together "talking amongst itself" and acting "as a group" and followed the chase of D.N. by Parrish, and that the acts were a group effort that

was discussed and pre-planned by the group). See assignments of error at Part B., supra.

The trial court later denied D.N.'s motion for arrest of judgment at the disposition hearing. CP 9-11 (motion), CP 12-17 (State's response), 1/24/12RP at 469-70 (ruling).

D.N. was given a standard range juvenile disposition. CP 18-21. He appeals. CP 22-25.

D. ARGUMENT

1. THE JUVENILE COURT COMMITTED CUMULATIVE EVIDENTIARY ERROR REQUIRING REVERSAL AND A NEW ADJUDICATORY HEARING.

a. The trial court abused its discretion by erroneously admitting hearsay under ER 803(a)(5) where the witness did not have insufficient memory to be able to testify about the matter. The trial court committed evidentiary error by permitting the State to introduce portions of Brandon Parrish's prior police statement as substantive evidence under the ER 803(a)(5) exception for "past recollection recorded." The first of these was an assertion that the entire group of youths followed Mr. Parrish as he chased after the one of them who swiped his money. 9/24/12RP at 149-50. The prosecutor also read to the jury Mr. Parrish's

statement in which he said that one of the group pushed the robber off of him when he got him in a headlock. 9/24/12RP at 154. These statements were crucial to the juvenile court's determination that there was a "group effort" to take property from Ms. Fournier, thus rendering D.N. guilty under accomplice liability as to count II.

However, the statements were hearsay. Hearsay is generally not admissible. ER 802; see ER 801(a),(c). Under the exception established by ER 803(a)(5), a court may permit a party to read a testifying witness' prior statement about a matter into the record – as substantive evidence – if the witness cannot remember the incident, but can recall that whatever he said about it would be accurate. Here, however, the witnesses did not have inadequate memory of the incident, and the prosecutor's misuse of the ER 803(a)(5) exception allowed the State to simply introduce prior statements of the witness about the incident, when the witness's recall of the incident was deemed inadequately helpful to the State's case.[1]

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[1] The Court of Appeals review admission of statements under ER 803(a)(5) for abuse of discretion. State v. White, 152 Wn. App. 173, 183, 215 P.3d 251 (2009).

First, Brandon Parrish testified that during the chase of the robber, he was briefly able to put the robber in a "head lock." 9/24/12RP at 146. At some point, the robber freed himself from Parrish, and then pulled out the knife. 9/24/12RP at 144-47.

Over objection, under ER 803(a)(5), the court permitted the State to read into the record the part of Mr. Parrish's contemporaneous police statement in which he said of the robber:

> His friend was with him. His friend pushed me off of him.

9/24/12RP at 150. This was error. The prosecutor had asked Mr. Parrish if anybody had intervened when he got the robber on the ground. Referring to his police statement which had been used to refresh his memory of the incident, Parrish said, "[i]t says there that his friend pushed me off of him." 9/24/12RP at 148.

Mr. Parrish stated that he did not "recall that." 9/24/12RP at 148. But this is inadequate. ER 803(a)(5) allows a prior statement to be read into the record when the witness cannot remember the incident, not simply when the witness cannot recall and express the details of an incident in the way that the prosecutor believes the witness has previously done, and that the State deems most inculpatory. ER 803(a)(5) provides:

> **(a) Specific Exceptions.** The following are not excluded by the hearsay rule, even though the declarant is available as a witness:
>
> *   *   *
>
> **(5) Recorded Recollection.** A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

ER 803(a)(5). D.N.'s counsel properly and correctly objected that Mr. Parrish had not indicated a "lack of memory" regarding the incident. 9/24/12RP at 149. This is a fundamental requirement of the rule. State v. Alvarado, 89 Wn. App. 543, 551-52, 949 P.2d 831 (1998); White, 152 Wn. App. at 183.

Here, Mr. Parrish did recall the incident. He recalled that he chased the robber and that they both exited the alley. 9/24/12 RP at 13-44. He recalled that he caught up to the robber and put him in a headlock, successfully getting him down on the ground. 9/24/12RP at 147. Mr. Parrish recalled that when the robber got free of him, he then pulled out the knife. 9/24/12RP at 144-1-45. The Rule was not satisfied.

Similarly, the State was permitted to read the portion of Mr. Parrish's police statement in which he asserted that a number of the youths came toward him and the robber when the robber pulled out a knife, suggesting group effort. 9/24/12RP at 157. But again, Mr. Parrish had not stated that he did not recall the incident. He testified about the incident in great detail during his lengthy testimony at the adjudicatory hearing. When the prosecutor asked him if he remembered if any of the group of youths converged on the location where he was confronting the robber, Parrish stated: "No, I don't recall that." 9/24/12RP at 155. The State was then allowed to read Mr. Parrish's contrary prior police statement to the jury as substantive evidence, over objection. 9/24/12RP at 155-57.

None of this satisfies ER 803(a)(5). For example, in State v. Floreck, a witness, Mazza, admitted making certain statements in her police statement, but said she could not remember other assertions on the recorded tape. State v. Floreck, 111 Wn. App. 135, 138-39, 43 P.3d 1264 (2002). The trial court allowed the prosecutor to introduce her taped statement under ER 803(a)(5) as substantive evidence inculpating the defendant. State v. Floreck, at 139. The Court of Appeals reversed, because the witness's merely spotty or partial memory did not constitute "insufficient recollection"

under ER 803(a)(5). Floreck, at 137-39.

D.N. contends that the prosecutor used ER 803(a)(5) to elicit, as substantive evidence, statements previously made by the witness that comported more closely to the State's theory of the case and the evidentiary picture of *accomplice liability* that it wanted to portray. D.N. argues that the juvenile court abused its discretion. See also 5C Karl B. Tegland, Washington Practice: Evidence Law and Practice § 803.28, at 83 (5th ed.2007).

b. The trial court erroneously permitted Parrish to testify to his speculative opinion that the group of youths all clearly knew each other. Next, the court, over D.N.'s objection that the solicited testimony would be "speculation," allowed Mr. Parrish to testify that the group of youths, of which D.N. was one, obviously knew each other. 9/24/12RP at 131-32. After overruling D.N.'s objection, the court allowed Parrish to testify that the youths "absolutely" knew each other, and to further claim:

> You could obviously – Any outsider would be able to obviously tell that these individuals knew each other.

9/24/12RP at 131-32. D.N. contends that the juvenile court's

evidentiary ruling was an abuse of discretion.[2]

First, Evidence Rule 602, entitled "Lack of Personal Knowledge," bars a witness from testifying "to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." Under ER 602, a witness may therefore only testify concerning facts within his personal knowledge. State v. Vaughn, 101 Wn.2d 604, 611, 682 P.2d 878 (1984). Here, Mr. Parrish had no personal knowledge that the group of youths knew each other or were associating for a shared purpose.

Additionally, under Evidence Rule 701, opinion testimony by lay witnesses is "limited to those opinions or inferences which are . . . rationally based on the perception of the witness." Here, D.N. was merely speculating, and offering an improper lay opinion. Notably, the testimony solicited by the State was effectively Mr. Parrish's opinion regarding the guilt of the accused, which is improper. State v. Montgomery, 163 Wn.2d 577, 592, 183 P.3d

[2] D.N.'s "speculation" objection preserved the error for appellate challenge. RAP 2.5; see State v. Montgomery, 163 Wn.2d 577, 592, 183 P.3d 267 (2008) (witnesses are "not permitted to speculate or express their personal beliefs about the defendant's guilt or innocence"); State v. Warren, 134 Wn. App. 44, 58-59, 138 P.3d 1081 (2006) (addressing error of detective's ER 701 lay opinion testimony based on defendant's objection to "speculation"). Additionally, the nature of the objection was clear from the context. State v. Black, 109 Wn.2d 336, 340, 745 P.2d 12 (1987).

267 (2008). D.N. argues that Mr. Parrish was improperly allowed to opine that the group of youths absolutely and obviously knew each other, which was crucial to the juvenile court's determination of accomplice liability on count II.

c. Cumulative prejudice. Non-constitutional evidentiary errors require reversal if, "within reasonable probability, [they] materially affected the outcome of the trial." State v. Halstien, 122 Wn.2d 109, 127, 857 P.2d 270 (1993). Here, reversal is required because, within reasonable probabilities, the outcome of count II would be different absent the erroneously admitted evidence which supported a finding of a "group effort" that included the Respondent. D.N. appeared to have friends or companions that day that participated in taking property. Unfortunately, a member of the group punched Ms. Fournier, and at the same time her phone was taken. The court's evidentiary errors were used as support for the court's ultimate determination that all of this was a group effort, allowing it to find D.N. criminally liable as an accomplice for the taking of Fournier's cell phone, and the punch of Fournier by some person which elevated that taking to a robbery. The multiplicity of errors thus had a cumulatively prejudicial effect, requiring reversal and a new adjudicatory hearing. State v. Russell, 125 Wn.2d 24,

93, 882 P.2d 747 (1994); State v. Alexander, 64 Wn. App. 147, 150-51, 822 P.2d 1250 (1992).

2. THE FINDINGS AND EVIDENCE WERE INSUFFICIENT TO FIND D.N. GUILTY AS AN ACCOMPLICE TO ROBBERY IN COUNT II.

a. The evidence was insufficient. "Evidence is sufficient to support an adjudication of guilt in a juvenile proceeding if any rational trier of fact, viewing the evidence in a light most favorable to the State, could have found the essential elements of the crime beyond a reasonable doubt." State v. Echeverria, 85 Wn. App. 777, 782-83, 934 P.2d 1214 (1997) (citing, *inter alia*, State v. Green, 94 Wn.2d 216, 221–22, 616 P.2d 628 (1980)). Judgments entered in the absence of sufficient evidence violate Due Process. U.S. Const. amend. 14; Wash. Const. art 1, § 3; In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970).

In count II, D.N. was found guilty as an accomplice to the robbery of Tawney Fournier's cell phone. CP 26-35. Under RCW 9A.56.190, robbery requires that the taking of personal property from another's person must be accomplished "by using immediate force, violence, or fear of injury." Additionally, a person is guilty as an accomplice if he "solicits, commands, encourages . . . or aids" another in committing the crime, if he does so "[w]ith knowledge

that it will promote or facilitate the commission of the crime." RCW 9A.08.020(3)(a)(i)(ii).

By this standard, in order to be liable as an accomplice, "a defendant must not merely aid in any crime, but must knowingly aid in the commission of the specific crime charged." State v. Brown, 147 Wn.2d 330, 338, 58 P.3d 889 (2002); see also State v. Trout, 125 Wn. App. 403, 410, 105 P.3d 69 (2005) (stating that "it is also clear now that the culpability of an accomplice cannot extend beyond the crimes of which the accomplice actually has knowledge"); State v. Cronin, 142 Wn.2d 568, 578, 14 P.3d 752 (2000); State v. Roberts, 142 Wn.2d 471, 510-513, 14 P.3d 713 (2000).

Thus, in a jury trial, it would be error to instruct a jury that it could convict a defendant of robbery as an accomplice based solely on finding that the defendant agreed to aid his principal in committing a theft. Trout, 125 Wn. App. at 410.

In the present case, the trial court did not find that D.N. had the required mental state of knowing assistance in the crime of robbery. In its written findings, the juvenile court concluded that D.N. was an accomplice to robbery because "[t]he Respondent or another intended to commit theft of the property" (the cell phone),

and force was used to obtain or retain possession of the property. CP 26-33 (Conclusions of Law 3(a) to (g)).

This determination is inadequate, and ultimately the evidence in total was insufficient to make the required, but missing, finding of complicity. The State did not show that D.N. was a knowing accomplice to the crime of robbery. Importantly, this is not a case of an accused simply being held liable for a more serious *degree* of robbery than that which he knowingly aided. The present incident does not involve a robbery by snatching, that was simply elevated to first degree robbery by virtue of the fact that Ms. Fournier was injured by the punch. Although a simple taking can be a robbery, the force used must be more than simply that necessary to physically remove the property from the person's hand. State v. Austin, 60 Wn.2d 227, 232, 373 P.2d 137 (1962); W. LaFave & A. Scott, Criminal Law § 8.11(d) at 781 (2nd ed.1986).

Thus in State v. Grendahl, 110 Wn. App. 905, 43 P.3d 76 (2002), the Court of Appeals reversed a robbery conviction because the "to-convict" instruction, like the juvenile court's findings in D.N.'s case here, failed to include the necessary element of knowledge of the crime. It was important to the Court's decision that the prosecutor in Grendahl had argued that the accused could

be found guilty of robbery based on an intent to commit theft, if accompanied by any force employed by another Grendahl, 110 Wn. App. at 910.

Here, the prosecutor, in discussing accomplice liability as to count II, similarly contended that D.N, to be guilty, must have intent to commit theft and the defendant "must have known that a robbery took place." 9/28/12RP at 411-12 (State's closing argument). This is incorrect, and the juvenile court's inadequate findings followed.

D.N. could not be convicted of robbery as an accomplice where he intended merely that the principal commit theft. State v. Grendahl, 110 Wn. App. at 910; Trout, 125 Wn. App. at 410. This Court should reverse.

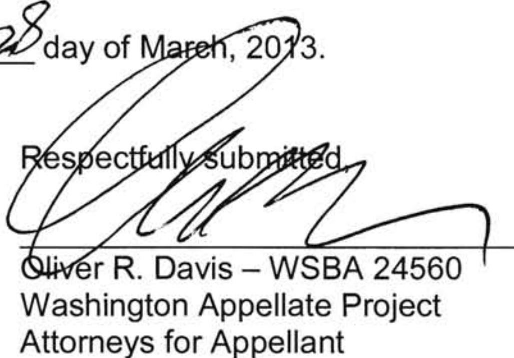
b. Inadequate findings. As argued, the juvenile court's findings in the present case are inadequate. Under JuCR 7.11(d), the juvenile court must make a finding on every ultimate fact necessary to guilt. State v. Alvarez, 128 Wn.2d 1, 19, 904 P.2d 754 (1995). Substantial evidence must support a bench trial court's findings of fact, and those findings must support the court's ultimate conclusions of law. State v. Madarash, 116 Wn. App. 500, 509, 66 P.3d 682 (2003); Landmark Dev., Inc. v. City of Roy, 138 Wn.2d 561, 573, 980 P.2d 1234 (1999).

Where evidence exists to support a finding on an ultimate fact, the appellate court may remand inadequate findings for the entry of a proper finding. However, if no evidence exists to support the necessary finding, the Court of Appeals should reverse. Alvarez, 128 Wn.2d at 19; State v. Head, 136 Wn.2d 619, 625, 964 P.2d 1187 (1998). This Court should reverse count II for insufficiency of the evidence.

E. CONCLUSION.

D.N. respectfully asks this Court reverse the judgment and sentence of the Juvenile Court.

Dated this 28 day of March, 2013.



Respectfully submitted,

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

STATE OF WASHINGTON, Respondent, v. DARRELL N., Juvenile Appellant.	)))))))))	NO. 69467-7-I

<u>DECLARATION OF DOCUMENT FILING AND SERVICE</u>

I, MARIA ARRANZA RILEY, STATE THAT ON THE 28TH DAY OF MARCH, 2013, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** 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] KING COUNTY PROSECUTING ATTORNEY APPELLATE UNIT KING COUNTY COURTHOUSE 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _______________
[X] DARRELL N. ECHO GLENN CHILDREN'S CENTER 33010 SE 99TH ST SNOQUALMIE, WA 98065	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _______________

SIGNED IN SEATTLE, WASHINGTON THIS 28TH DAY OF MARCH, 2013.

X

Washington Appellate Project
701 Melbourne Tower
1511 Third Avenue
Seattle, WA 98101
Phone (206) 587-2711
Fax (206) 587-2710