31175-9-III

COURT OF APPEALS

DIVISION III

OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

TYLER L. JAMISON, APPELLANT

APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

APPELLANT'S BRIEF

Jill S. Reuter
Attorney for Appellant

Janet G. Gemberling
Attorney for Appellant

JANET GEMBERLING, P.S.
PO Box 9166
Spokane, WA 99209
(509) 838-8585

INDEX

TABLE OF AUTHORITIES

WASHINGTON CASES

SUPREME COURT CASES

CONSTITUTIONAL PROVISIONS

STATUTES

OTHER AUTHORITIES

A. ASSIGNMENTS OF ERROR

1. The trial court erred in convicting Mr. Jamison on both count I and count II.

2. The trial court erred in sentencing Mr. Jamison on both count I and count II.

3. The trial court erred in entering Finding of Fact 2.1:

> These offenses occurred over a several hour period of time and count II also included assaults that had occurred repeatedly in the weeks prior.

(CP 252).

4. The trial court erred in entering Finding of Fact 2.2:

> The types of assaults on April 5, 2010 were distinct and caused several different types of harm. Count II occurred over the course of several weeks.

(CP 252).

5. The trial court erred in entering Conclusion of Law 3.1:

> The offenses in counts I and II are separate courses of conduct and the defendant shall be sentenced for each of these convictions.

(CP 252).

B. ISSUES

1. Mr. Jamison was convicted of two counts of assault of a child in the first degree, against the same victim, in the same time span. The assault statute does not define the specific unit of prosecution

for assault in terms of each physical act against a victim. Did Mr. Jamison's two convictions under the same statute violate the federal and state constitutional prohibitions against double jeopardy?

2. The trial court sentenced Mr. Jamison on two counts of assault of a child in the first degree, and ran the sentences consecutively. The two counts involved the same victim, occurred at the same place, involved the same objective criminal intent, and occurred over a short time frame. Did the trial court err in sentencing Mr. Jamison to consecutive sentences, rather than classifying the two counts as same criminal conduct and sentencing Mr. Jamison for one crime?

C. STATEMENT OF THE CASE

On February 8, 2010, Kelsey Goble gave birth to S.A.J. (RP[1] 417, 495-496, 564). The father of the baby was Tyler Jamison. (RP 495, 557-559). He was present when S.A.J. was born, and he lived with Ms. Goble. (RP 418, 502, 562, 564-565).

On March 17, 2010, Ms. Goble and Mr. Jamison brought S.A.J. to the emergency room at Holy Family Hospital, stating she had a weak cry and was

[1] The Report of Proceedings consists of three separate volumes of pretrial hearings, followed by seven consecutively paginated volumes, comprising pretrial hearings, the trial, and sentencing. References to the RP herein refer to these seven consecutively paginated volumes.

spitting up. (RP 199). Mr. Jamison told the examining physician that S.A.J. had not stopped breathing, but she seemed to be turning pale. (RP 200). The physician examined S.A.J. and did not find any physical concerns. (RP 201-202).

On April 3, 2010, Ms. Goble took S.A.J. to the home of Mr. Jamison's mother, Michelle Jamison, to stay overnight. (RP 512-513, 576, 585, 612). Ms. Jamison stated that S.A.J. threw up overnight, that S.A.J.'s eyes rolled back into her head while she was feeding her, and that S.A.J. was lethargic. (RP 539-540, 547-548). The next day, Ms. Jamison brought S.A.J. back to Ms. Goble, at a friend's house. (RP 586). S.A.J. threw up on the car ride, and Ms. Goble noticed a bruise on S.A.J.'s left eyelid. (RP 540, 586-587, 613-614). The friend's mother gave S.A.J. a bath, and did not notice any marks on her body. (RP 768-769). S.A.J. was drowsy and overly tired for the remainder of the day. (RP 587-588, 614). Ms. Goble, Mr. Jamison, and S.A.J. returned to their home that evening. (RP 588).

That night, Mr. Jamison cared for S.A.J. in the living room, while Ms. Goble slept. (RP 588). At approximately 4:15 a.m., Ms. Goble woke up, and fed and changed S.A.J. (RP 588-589). S.A.J. had no trouble eating, and went back to sleep. (RP 589, 591, 615). The next morning, Monday, April 5, 2010, Mr. Jamison watched S.A.J. while Ms. Goble took a shower. (RP 591). At 7:10 a.m., Ms. Goble, Mr. Jamison, and S.A.J. rode together to take Ms. Goble to school. (RP 591-592, 616). While Ms. Goble and Mr. Jamison were putting S.A.J. in her

car seat for the drive, her legs locked, and would not bend for several minutes. (RP 591-592, 616-17). Ms. Goble asked Mr. Jamison to call their doctor. (RP 592, 617). Mr. Jamison made an appointment for 1:00 p.m. (RP 592, 594). Mr. Jamison and S.A.J. dropped Ms. Goble off at school around 7:30 a.m. (RP 593, 616, 896).

Mr. Jamison and S.A.J. picked Ms. Goble up from school around 11:15 a.m. (RP 593). Ms. Goble noticed that S.A.J. was doing a swimming motion with her arms. (RP 593, 618). Mr. Jamison told her S.A.J. had been doing that since approximately 8:00 a.m. (RP 593-594). Ms. Goble also noticed that S.A.J.'s breathing was shallow. (RP 594, 618). Ms. Goble contacted their doctor's office, and they instructed her to take S.A.J. to the emergency room. (RP 594).

Ms. Goble and Mr. Jamison took S.A.J. to the emergency room at Holy Family Hospital, arriving at 12:19 p.m. (RP 309, 327, 594). A physician examined S.A.J., and observed bruising on her left eye; a bruise on her sternum; a tender chest and upper right abdomen; and a bulging fontanelle. (RP 327-328, 341). The physician also observed a fast heart rate and fast respiratory rate and that S.A.J.'s eyes would not track. (RP 331, 333). A CT scan of S.A.J.'s head, neck, chest, abdomen, and pelvis was conducted. (RP 336). The physician reviewed the results, and determined that S.A.J. had a subdural hematoma inside her skull; rib fractures on her right and left chest; and prior rib fractures, from an

earlier injury. (RP 336-337). The physician then arranged for S.A.J.'s transfer to Sacred Heart Children's Hospital for ongoing care. (RP 339).

At Sacred Heart, S.A.J. was placed in the pediatric intensive care unit, and diagnosed as critically ill, with very severe neurological dysfunction. (RP 221, 223).

On the same day as S.A.J.'s hospital admission, Ms. Goble and Mr. Jamison spoke with police officers at Sacred Heart. (RP 745-748, 836-837, 885-886). Both Ms. Goble and Mr. Jamison agreed to accompany two police detectives, City of Spokane Police Detectives Mark Burbridge and Neil Gallion, to the police station for further interviews. (RP 837, 886). Mr. Jamison told the detectives he did not hurt S.A.J. at any time. (RP 856-857, 870-871, 913).

The next day, Mr. Jamison called Detective Burbridge and told him he wanted to come to the police station and talk to him. (RP 858-859, 893). After arriving at the station, Detective Gallion asked Mr. Jamison what he wanted to tell them, and he told them "I am the one who did it." (RP 894). The detectives spoke with Mr. Jamison for approximately 30-45 minutes, and then obtained Mr. Jamison's consent to videotape a second interview. (RP 860-862, 873).

In the first interview, prior to the videotaping, Mr. Jamison told Detective Gallion that nothing happened on Sunday night. (RP 895). Mr. Jamison stated that on Monday morning he drove Ms. Goble to school, and then returned home with S.A.J (RP 895). He said around 7:30 a.m., S.A.J. started to cry. (RP 896).

Mr. Jamison stated he put his fingers on S.A.J.'s throat for about 15 seconds, to try to stop her crying, and that she would go pale. (RP 896, 899, 901). He said he also put his hand over S.A.J.'s nose and mouth until she turned pale. (RP 896, 899). Mr. Jamison stated that after pushing on S.A.J.'s throat and covering her mouth and nose, she made a swimming motion with both of her arms, and it did not stop for the rest of the morning. (RP 897).

In terms of the injuries to S.A.J.'s ribs, Mr. Jamison stated he would hold S.A.J. against his chest and squeeze very tightly to try to get her to stop crying, and that she would sometimes cry louder than normal when he did this. (RP 879, 899-900, 906). Mr. Jamison also described how he bounced S.A.J. on the couch:

> He talked about placing her on the couch and putting his hands on either side of her and bouncing the cushion and then how he would bounce - - bounce her off the couch cushion and that sometimes her head would snap back and forth, sometimes with her chin making contact with her chest, other times with the back of her head making contact with her back or the arm of the couch.
> . . .
> The arm of the couch has some padding on it, but it is solid wood. And he said that the back of her head would sometimes hit - - hit the cushion.

(RP 901-902).

Mr. Jamison said he bounced S.A.J. on the couch this way on Monday to try to revive her. (RP 902). He stated S.A.J. struck her head on the arm of the couch at least two times. (RP 902). Mr. Jamison also described poking S.A.J. in the chest, hard enough to feel in between her ribs, to try and revive her. (RP 903).

Mr. Jamison told Detective Gallion he had bounced S.A.J. on the couch prior to Monday, and that he had also put his fingers to her throat, and nose and mouth, on prior occasions. (RP 878, 880, 899-900, 903-905).

After this first interview, a second interview was videotaped. (RP 906-907). The only additional fact stated by Mr. Jamison in the second interview was that on Monday, he pressed S.A.J.'s throat until she turned white and her lips turned purple, and then she began ragged breathing. (RP 862, 907-908).

S.A.J. was discharged from Sacred Heart on May 5, 2010. (RP 235). She had cortical blindness, and did not respond to external visual stimuli. (RP 235, 279-280, 283-284). She also had cystic encephalomalacia, meaning her brain had been replaced by fluid. (RP 236). S.A.J. was only functioning at a lower brain stem level, with a very limited awareness of her environment. (RP 237). She could not recover from this loss of brain function. (RP 237). S.A.J. has a long-term prognosis of persistent neurological abnormalities, with a need for complete care with feeding and nutritional support. (RP 249-250).

The State charged Mr. Jamison with one count of assault of a child in the first degree against S.A.J., occurring on or about April 5, 2010. (CP 1-2). The State alleged the assault occurred in one of two alternative ways. (CP 1-2). The State later amended the information, splitting the two alternative ways into two separate counts of assault of a child in the first degree. (CP 51-52). The State alleged the following two counts:

> COUNT I: ASSAULT OF A CHILD IN THE FIRST DEGREE, committed as follows: That the defendant, TYLER L. JAMISON, in the State of Washington, on or about April 5, 2010, being eighteen (18) years of age or older, did intentionally assault S.A.J., a child under the age of thirteen (13) years, and did thereby recklessly inflict great bodily harm[.]
> . . .
> COUNT II: ASSAULT OF A CHILD IN THE FIRST DEGREE, committed as follows: That the defendant, TYLER L. JAMISON, in the State of Washington, on or about April 5, 2010, being eighteen (18) years of age or older, did intentionally assault S.A.J., a child under the age of thirteen (13) years, and did thereby cause substantial bodily harm, and the said defendant had previously engaged in a pattern or practice of assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks[.]

(CP 51-52).

The State also alleged three aggravating factors on each count. (CP 51-52).

At trial, pediatric neurologist James Reggin testified that his clinical impression was that S.A.J.'s brain injury was caused by severe physical insult. (RP 241, 251-252). Dr. Reggin told the court that S.A.J.'s brain injury was an acute injury that occurred within hours of her arrival at the hospital. (RP 247, 256-257).

Pediatrician Michelle Messer testified she evaluated S.A.J., and determined that her injuries were "abusive head trauma caused by typically a violent shaking of this child." (RP 687). She stated she cannot say exactly when S.A.J.'s injuries occurred, but that she would have expected her to be fairly

symptomatic within a short period of time from being injured. (RP 684). Dr. Messer testified that swimming motions in the extremities "is a very devastating type of process in the brain." (RP 676). She told the court "[w]hen you see this, there tends to be a very bad brain injury . . . ." (RP 677).

Forensic Pathologist Janice Ophoven reviewed S.A.J.'s case and testified for Mr. Jamison. (RP 928-1026). Dr. Ophoven testified the case involved an onset of seizures with altered consciousness. (RP 946). She told the court that although S.A.J.'s brain died in the hospital, it was not caused by a single variable, but "[w]e just know that this complex thing has been going on for some time and the seizures added to it." (RP 972). Dr. Ophoven testified that Mr. Jamison's statements to Detective Gallion do not help her scientifically, and do not explain the medical findings. (RP 967-968, 995-996). She told the court what Mr. Jamison described doing to S.A.J. does not match her injuries. (RP 1003). Dr. Ophoven testified that bouncing S.A.J. on the couch would not have caused the injuries she had when she came to the hospital. (RP 968).

In rebuttal to Dr. Ophoven's testimony, Dr. Messer testified that what Mr. Jamison described fit S.A.J.'s injuries, and that bouncing her head on the arm of the couch could cause significant trauma. (RP 1034-1036, 1043). Dr. Messer also stated she disagreed with the premise that the cause of S.A.J.'s brain injury had been going on for some time, and testified that this type of injury can occur very suddenly. (RP 1041). Also in rebuttal, neuroradiologist David Munoz

testified that the damage to S.A.J.'s brain was caused by violent trauma, rather than by seizure activity. (RP 1033).

The jury found Mr. Jamison guilty as charged. (CP 187, 190; RP 1132). The jury also found the existence of three aggravating factors on each count. (CP 193-196; RP 1132-1133).

At sentencing, Mr. Jamison argued convicting him of both count I and count II violates the constitutional prohibition against double jeopardy, and requested the trial court dismiss count II. (CP 215-217; RP 1159-1161). Mr. Jamison also argued that count I and count II are same criminal conduct. (CP 215-217; RP 1159-1161).

The trial court declined to dismiss count II. (CP 229-240; RP 1165-1176). The trial court also found that count I and count II are not same criminal conduct, stating "[t]hey involved the same victim, virtually the same place, but happening over a period of time, distinct activities that have been carried out by the defendant in causing injury." (RP 1170).

The trial court sentenced Mr. Jamison to an exceptional sentence of 180 months' confinement on each count, to run consecutively, pursuant to RCW 9.94A.589(1)(b), for a total of 360 months' confinement. (CP 229-240; 251-253; RP 1173-1174). The trial court entered findings of fact and conclusions of law regarding the exceptional sentence. (CP 251-253).

Mr. Jamison appealed. (CP 241-242).

D. ARGUMENT

1. MR. JAMISON'S TWO CONVICTIONS UNDER THE SAME STATUTE VIOLATED THE FEDERAL AND STATE CONSTITUTIONAL PROHIBITIONS AGAINST DOUBLE JEOPARDY.

The fifth amendment to the United States Constitution provides "[n]o person shall . . . be subject for the same offense to be twice put in jeopardy of life or limb . . . ." Article I, § 9 of the Washington Constitution provides "[n]o person shall be . . . twice put in jeopardy for the same offense." Washington's double jeopardy clause offers the same protection as the federal provision. *State v. Womac*, 160 Wn.2d 643, 650, 160 P.3d 40 (2007). The federal and state constitutional prohibitions against double jeopardy prevent "'(1) a second prosecution for the same offense after acquittal, (2) a second prosecution for the same offense after conviction, and (3) multiple punishments for the same offense imposed in the same proceeding.'" *Id*. at 650-51 (*quoting In re Pers. Restraint of Percer*, 150 Wn.2d 41, 49, 75 P.3d 488 (2003)). Double jeopardy is an issue of law, subject to *de novo* review. *Id*. at 649.

"To determine if a defendant has been punished multiple times for the same offense, this court has traditionally applied the same evidence test." *State v. Adel*, 136 Wn.2d 629, 632, 965 P.2d 1072 (1998) (internal quotation marks omitted). "The same evidence test mirrors the federal same elements standard adopted in *Blockburger v. United States*, 284 U.S. 299, 304,

52 S. Ct. 180, 76 L. Ed. 306 (1932)." *Id*. (internal quotation marks omitted). However, the same evidence and same elements tests only apply "where a defendant has multiple convictions for violating *several* statutory provisions." *Id*. at 633 (*citing Blockburger*, 284 U.S. at 304).

Where a defendant is convicted of violating one statute multiple times, "[t]he proper inquiry . . . is what 'unit of prosecution' has the Legislature intended as the punishable act under the specific criminal statute." *Id*. at 634; *see also State v. Tili*, 139 Wn.2d 107, 113, 985 P.2d 365 (1999). "When the Legislature defines the scope of a criminal act (the unit of prosecution), double jeopardy protects a defendant from being convicted twice under the same statute for committing just one unit of the crime." *Id*. "[I]f the statute is ambiguous because the Legislature has failed to denote the unit of prosecution, 'the ambiguity should be construed in favor of lenity.'" *State v. Tili*, 139 Wn.2d at 113 (*quoting State v. Adel*, 136 Wn.2d at 634-35).

Our Supreme Court has stated the following regarding what defines an assault:

> [T]he assault statute does not define the specific unit of prosecution in terms of each physical act against a victim. Rather, the legislature defined "assault" as that occurring when an individual "assaults" another. A more extensive definition of "assault" is provided by the common law, which sets out many different acts as constituting "assault," some of which do not even

> require touching. Consequently, the Legislature clearly has not defined "assault" as occurring upon *any* physical act.

Id. at 116-17 (internal citations omitted); *see generally* RCW 9A.36 (statutory chapter governing assault – physical harm).

Mr. Jamison was convicted of two counts of assault of a child in the first degree against S.A.J. on April 5, 2010. (CP 187, 190; RP 1132). He admitted to several actions against S.A.J. on this date. (RP 879, 894, 896-897, 899-903, 906). These were actions taken against the same victim, S.A.J., within the same short time span. *Cf. State v. Smith*, 124 Wn. App. 417, 432, 102 P.3d 158 (2004) (where the defendant fired one bullet into a vehicle occupied by three people, three people were assaulted, resulting in three units of prosecution). Because assault is not defined in terms of each physical act against a victim, Mr. Jamison's actions on April 5, 2010, constituted one single assault. *See State v. Tili*, 139 Wn.2d at 116-17.

In *State v. Jennings*, the court upheld the defendant's convictions for two counts of assault of a child in the first degree, occurring against the same victim, on the same day. *See State v. Jennings*, 106 Wn. App. 532, 24 P.3d 430 (2001). However, this case provides no guidance here, because the defendant did not argue his double jeopardy rights had been violated by these two convictions. *See id.*

Mr. Jamison's two convictions under the same statute for one continuous assault violate the federal and state constitutional prohibitions against double jeopardy. *See State v. Adel*, 136 Wn.2d at 634; *State v. Tili*, 139 Wn.2d at 113, 116-17. The remedy for a double jeopardy violation is to vacate one of the underlying convictions. *State v. Weber*, 159 Wn.2d 252, 266-69, 149 P.3d 646 (2006). Mr. Jamison's conviction for count II must be vacated.

2. COUNT I AND II ARE SAME CRIMINAL CONDUCT, AND SHOULD BE SENTENCED AS ONE CRIME.

RCW 9.94A.589(1)(a) provides, in relevant part:

> Except as provided in (b) or (c) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions . . . "Same criminal conduct," as used in this subsection, 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).

RCW 9.94A.589(1)(b) creates an exception to subsection (1)(a) for serious violent offenses. RCW 9.94A.589(1)(b); s*ee also State v. Tili*, 139 Wn.2d at 120 (analyzing a previous version of this statute). This subsection provides for

mandatory consecutive sentences and a form of calculating offender scores "[w]henever a person is convicted of two or more serious violent offenses arising from separate and distinct criminal conduct[.]" RCW 9.94A.589(1)(b); *see also State v. Tili*, 139 Wn.2d at 120.

Assault of a child in the first degree is a serious violent offense. RCW 9.94A.030(45)(a)(viii). To determine whether Mr. Jamison's criminal conduct was not "separate and distinct," thus removing him from the mandatory consecutive sentence requirement of RCW 9.94A.589(1)(b), the factors defining same criminal conduct must be evaluated. *See State v. Tili*, 139 Wn.2d at 122 (setting forth this analysis for a prior version of the statute).

Multiple crimes are treated as "same criminal conduct" at sentencing if the crimes have "(1) been committed at the same time and place; (2) involved the same victim; and (3) involved the same objective criminal intent." *State v. Tili*, 139 Wn.2d at 123. In order for multiple crimes to be committed at the same time, simultaneity is not required. *State v. Porter*, 133 Wn.2d 177, 182-83, 942 P.2d 974 (1997). "[T]here is one clear category of cases where two crimes will encompass the same criminal conduct - 'the repeated commission of the same crime against the same victim over a short period of time.'" *Id*. at 181 (*quoting* 13A Seth Aaron Fine, *Washington Practice* § 2810 at 12 (Supp. 1996)). Criminal intent "is not the particular mens rea element of the particular crime, but rather is the offender's objective criminal purpose in committing the crime."

State v. Adame, 56 Wn. App. 803, 811, 785 P.2d 1144 (1990). A same criminal conduct claim is reviewed for an abuse of discretion or a misapplication of the law. *State v. Grantham*, 84 Wn. App. 854, 857, 932 P.2d 657 (1997).

The trial court erred in concluding that count I and count II are not same criminal conduct. (CP 252; RP 1170). The offenses involved the same victim, S.A.J. The offenses occurred at the same place, the home where Ms. Goble, Mr. Jamison, and S.A.J. lived. (RP 895); *cf. State v. Channon*, 105 Wn. App. 869, 877-78, 20 P.3d 476 (2001) (three counts of assault were not same criminal conduct, where the assaults took place at three separate locations). The offenses also involved the same objective criminal intent, to physically assault S.A.J. *See State v. Adame*, 56 Wn. App. at 811. There was no change in Mr. Jamison's objective criminal intent when he assaulted S.A.J. on the morning of April 5, 2010. Mr. Jamison's stated purpose in assaulting S.A.J. was to get her to stop crying. RP 896, 899-902.

The offenses also occurred at the same time. To be considered same criminal conduct, they need not occur simultaneously, but rather, in a short period of time. *See State v. Porter*, 133 Wn.2d at 181-183. Although the trial court found that the offenses occurred over several hours, this finding is not supported by the evidence. (CP 252). Mr. Jamison and S.A.J. dropped Ms. Goble off at school at 7:30 a.m. (RP 593, 616, 896). When they picked Ms. Goble up at 11:15 a.m., Mr. Jamison told Ms. Goble that S.A.J. had been doing a swimming motion

with her arms since approximately 8:00 a.m. (RP 593-594). Dr. Messer testified that the swimming motion tends to show a brain injury. (RP 677).

The evidence shows the offenses occurred in the short time frame between when they dropped Ms. Goble off at 7:30 a.m., and when the swimming motions occurred, around 8:00 a.m. Based on the medical evidence, S.A.J.'s brain injury was likely inflicted during this short time frame. (RP 677). The medical evidence also indicated the brain injury likely occurred that morning. (RP 247, 256-257, 684, 1041).

The three criteria for same criminal conduct have been satisfied. *See State v. Tili*, 139 Wn.2d at 123. Because count I and II were same criminal conduct, they are not "separate and distinct," and therefore, the exception for serious violent offenses in RCW 9.94A.589(1)(b) does not apply. *See State v. Tili*, 139 Wn.2d at 122; RCW 9.94A.589(1)(b). Mr. Jamison should be sentenced under RCW 9.94A.589(1)(a) for one crime.

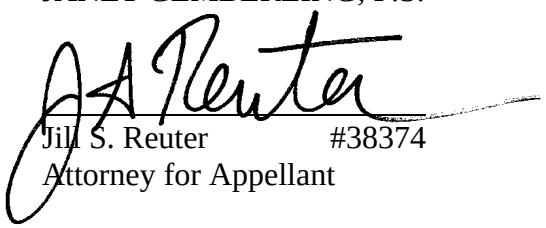
E. CONCLUSION

The trial court violated the federal and state constitutional prohibitions against double jeopardy by convicting Mr. Jamison of two counts under the same statute, assault of a child in the first degree. This court should vacate Mr. Jamison's conviction for count II.

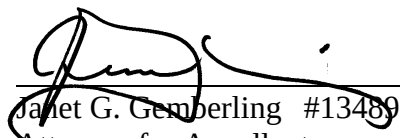
In the alternative, count I and II were same criminal conduct. This court should remand this case for resentencing, under RCW 9.94A.589(1)(a), for one crime.

Dated this 29th day of April, 2013.

JANET GEMBERLING, P.S.



Jill S. Reuter #38374
Attorney for Appellant



Janet G. Gemberling #13489
Attorney for Appellant

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON,

DIVISION III

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	No. 31175-9-III
	)	
vs.	)	CERTIFICATE
	)	OF MAILING
TYLER L. JAMISON,	)	
	)	
Appellant.	)	

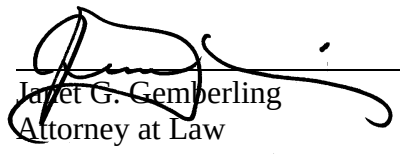
I certify under penalty of perjury under the laws of the State of Washington that on April 29, 2013, I served a copy of the Appellant's Brief in this matter by email on the following party, receipt confirmed, pursuant to the parties' agreement:

Mark E. Lindsey
mlindsey@spokanecounty.org

I certify under penalty of perjury under the laws of the State of Washington that on April 29, 2013, I mailed a copy of the Appellant's Brief in this matter to:

Tyler Lee Jamison
#361091
Stafford Creek Correction Center
191 Constantine Way
Aberdeen WA 98520

Signed at Spokane, Washington on April 29, 2013.



Janet G. Gemberling
Attorney at Law