69743-9

69743-9

NO. 69743-9-I

IN THE COURT OF APPEALS
OFTHE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON

Respondent

v.

VADIM FEDOROV,

Appellant

BRIEF OF RESPONDENT

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I. ISSUES

1. Did a three hour lapse of time between the time the defendant was read his rights and acknowledged that he understood them, and questioning render the advice of rights "stale" so that the statements made in that later interview were involuntary?

2. Was the evidence sufficient to find the defendant used the identity of real person so as to support a conviction for second degree identity theft?

3. The "to convict" instruction did not identify the specific crime the defendant was alleged to have intended to commit when he used another person's identity. Did this instruction omit an essential element of the crime of second degree identity theft?

4. Did the reasonable doubt instruction erroneously suggest to jurors that their job was to search for the truth when it included optional language provided in the standard WPIC instruction which courts have been directed to use by the Supreme Court?

II. STATEMENT OF THE CASE

1. The Identity Theft.

On October 7, 2012 Officer Reid of the Everett Police Department stopped the defendant, Vadim Federov, for speeding.

The defendant did not have a driver's license. Instead he verbally identified himself as Zachary Anderson, with a date of birth August 31, 1984. Officer Reid ran the name and date of birth through dispatch. He learned that there was a record for a Zachary Anderson with a date of birth August 30, 1984. Officer Reid then pulled up a 10 year old booking photo of Zachary Anderson. Accounting for the time difference the officer could not say the defendant was not Zachary Anderson. Officer Reid confronted the defendant with the discrepancy between the record and what the defendant told the officer. The defendant maintained that he was Zachary Anderson born August 31, 1984. Because Zachary Anderson with the similar birthdate had warrants outstanding the defendant was arrested. He was also issued a ticket in the name of Zachary Anderson. RP 105-111, 131.[1]

Because Officer Reid was not completely convinced the defendant was Zachary Anderson he told Booking Officer Crowe at the jail that he thought the defendant might be lying about his name. While at the jail the defendant was again asked about his identity. The defendant confirmed several times that he was

[1] The State adopts the defendant's reference to the record. BOA at 4, n. 1.

Zachary Anderson, but corrected his date of birth to August 30, 1984. RP 111-112, 129.

Because officers were still not convinced that the defendant was who he claimed to be they fingerprinted him and compared his finger prints to the known prints for Zachary Anderson. This is not the normal part of the process for booking inmates, and did result in a delay in booking. Officers were able to identify the defendant as Vadim Federov. Once the defendant's true identity was confirmed Sergeant Hughes went out of his office and called out using the name Zachary Anderson. The defendant did not respond. When Sergeant Hughes called out the defendant's true name the defendant raised his hand. When Sergeant Hughes asked the defendant why he lied, the defendant said he thought they were stupid. Later the defendant told Officer Crowe that he had planned on revealing his true identity during the booking interview. The booking interview is the fourth step in the process of booking an inmate into jail. The defendant would have had several opportunities before then to have revealed his true identity. RP 130-138.

2. Procedural History.

The defendant was charged with one count of second degree identity theft. 1 CP 78-79. Prior to trial the court held a hearing to determine the admissibility of the defendant's statements. At that hearing Officer Reid testified to the original stop and the defendant's verbal identification as Zachary Anderson with a date of birth one day off from what records showed. Officer Nelson read the defendant his Miranda warnings in Officer Reid's presence. The defendant said he understood those warnings and was willing to talk to police. The defendant was then placed under arrest. He continued to insist that his name was Zachary Anderson. 12-6-12 RP 3-20.

Once at the jail his identity was verified through fingerprints. Officer Hughes then called out first Zachary Anderson, and then Vadim Federov. When the defendant responded to Federov, Hughes discussed with him why he had wasted their time. Officer Hughes did not re-advise the defendant of his Miranda warnings before talking to him. 12-6-12 RP 20-30. Although the record does not reflect the lapse of time between the time the defendant was read his Miranda warnings and when he spoke to Sergeant

Hughes, the parties agreed it was about 3 to 3 ½ hours. 1 CP 58, 65.

The trial court initially found the statements made by the defendant before he was arrested were voluntary. The court also found the defendant was properly advised of his rights and voluntarily waived them. The court also found the defendant's statements at the jail which Officer Crowe overheard were voluntary. After supplemental briefing the court issued a ruling finding the statements to Sergeant Hughes were also voluntary. The court then ruled that all of the defendant's statements were admissible at trial. 12-6-12 RP 39-41; 1 CP 55-74.

III. ARGUMENT

A. A THREE HOUR LAPSE BETWEEN ADVICE OF RIGHTS AND STATEMENTS MADE BY THE DEFENDANT DID NOT RENDER THOSE STATEMENTS INVOLUNTARY.

The defendant contends that his response to Sergeant Hughes at the jail indicating his true name and reason for originally lying about his identity should have been suppressed. The issue presented is whether the Miranda warnings became ineffective due to the passage of time and change in circumstances. This issue arises under the Fifth Amendment, and not under Art. 1, §9 of the Washington constitution. Under Washington law no specific

warnings are required in order to establish that a suspect's statements were voluntary. State v. Craig, 67 Wn.2d 77, 406 P.2d 599 (1965).

A defendant's statements made while in custody are admissible at trial if they were made voluntarily. A statement is voluntary if the defendant is fully advised of his rights and knowingly and intelligently waives them. Miranda v. Arizona, 384 U.S. 436, 444-445, 86 S.Ct. 1602, 16 L.Ed. 694 (1966). Whether a confession is voluntary is determined based on the totality of the circumstances. State v. Cushing, 68 Wn. App. 388, 393, 842 P.2d 1035, review denied, 121 Wn.2d 1021 (1993).The court may consider the defendant's physical condition, age, experience, mental abilities, and the police conduct. Id. at 392. A defendant may waive his rights either explicitly, or by implication by answering questions after receiving Miranda warnings. United States v. Rodriguez-Preciado, 399 F.3d 1118, 1127 (9th Cir. 2005).

The lapse of time or change of questioner alone does not render an advice of rights "stale" so as to require repetition of rights before a voluntary statement may be made. Wyrick v. Fields, 459 U.S. 42, 48-49, 103 S.Ct. 34, 74 L.Ed.2d 214 (1982), United States v. Andaverde, 64 F.3d 1305, 1312 (9th Cir. 1995), cert denied, 516

U.S. 1164 (1996). "Where a defendant has been adequately and effectively warned of his constitutional rights, it is unnecessary to give repeated recitations of such warnings prior to the taking of each separate in-custody statement." State v. Duhaime, 29 Wn. App. 842, 852, 631 P.2d 964 (1981), review denied, 97 Wn.2d 1009 (1982), see also, State v. Burkins, 94 Wn. App. 677, 696, 973 P.2d 15, review denied, 138 Wn.2d 1014 (1999). Thus Courts have found confessions were voluntarily given where there has been a lapse of hours and days between the advice of rights and questioning. Jarrell v. Balkcom, 735 F.2d 1242 (11th Cir. 1984), cert. denied, 471 U.S. 1103 (1985). (three hour delay between advice of rights and the questioning that led to the defendant's confession.), United States ex. re. Henne v. Fike, 563 F.2d 809, 814 (7th Cir. 1977), cert. denied, 434 U.S. 1072 (1978) (passage of 9 hours between advice of rights and waiver is not such a long period as to require fresh warnings be administered.), Rodriguez-Preciado, 399 F.3d at 1128-29 (statements made one day after advice of rights were voluntary).

The existence of intervening events which might have given the defendant the impression that his rights had been changed in a material way may affect the voluntariness of statement when the

defendant has not been re-advised of his rights after a delay between advice of rights and waiver of those rights. Id. at 1129. In Rodriguez-Preciado the court held those circumstances did not exist where the advice was 16 hours before waiver, which the trial court characterized as "close in time to the original advice of rights." Id. The court found the change of interrogator and change of locations did not affect the finding that the statements were voluntary. The Court did find it significant that the defendant had been continuously in custody from the time he was originally advised of his rights and the time that he waived those rights. Id.

Here the defendant was clearly in custody at the time Sgt. Hughes spoke to him. The defendant made two statements at issue. The first statement was responding to Sgt. Hughes when Hughes called out "Federov" and then coming over to Sgt. Hughes directed him to do so. In doing so the defendant effectively communicated that his name in fact was "Federov" and not "Anderson." The second statement occurred when in response to Sgt Hughes' questions, the defendant said he "wasted" the officer's time because he did not think they would find out and because he thought the officers were stupid.

Although Sgt. Hughes was not the officer who originally advised the defendant of his rights, the defendant had been continuously in custody since he was originally warned of those rights. The time lapse was relatively short, only about three hours. Significantly both Reid and Hughes were asking questions designed to determine the same information; i.e. the defendant's true identity. The defendant demonstrated that he had some familiarity with police and police procedures when he asked Officers Reid and Nelson for a "break" and offered to work for them in exchange for letting him go. 12-6-12 RP 13-14. Under these circumstances, where the trial court had already found the defendant's statements to Officers Reid and Nelson were voluntary, it was justified in finding the lapse of time did not render the original advice of rights "stale" so as to require additional warnings before Sgt. Hughes further questioned him.

The defendant cites the lapse of time, change in personnel questioning and securing fingerprints comparisons as changed circumstances that should preclude finding a valid waiver of rights. BOA at 11. The first two circumstances have not been found to preclude a valid waiver under these circumstances.

When police obtained the fingerprint comparison they found out the defendant was not telling the truth about his identity. The defendant does not cite any authority for the proposition that finding out the defendant had been lying is a circumstance that would turn an otherwise voluntary waiver into an involuntary waiver. The test is "whether the defendant knew he had the right to remain silent, not whether he understood the precise nature of the risks of talking." Cushing, 68 Wn. App. at 393. There is no evidence the defendant did not know that he had a right to remain silent when Sgt. Hughes talked to him. Rather the evidence is that he was aware of his rights because he told Officer Nelson that he understood his rights and was willing to talk to police. While presumably the defendant was aware police had determined his true identity when Sgt. Hughes called him by name, deciding to finally tell the truth about his identity involved calculating the risk of talking, not whether to talk or not. Thus new information that police were aware that he was not who he said he was did not otherwise turn a voluntary statement into an involuntary statement.

B. THE EVIDENCE WAS SUFFICIENT TO SUPPORT THE CHARGE OF SECOND DEGREE IDENTITY THEFT.

The defendant next challenges the sufficiency of the evidence to convict him of second degree identity theft. Evidence is sufficient if, when viewing all the evidence in the light most favorable to the State, and drawing all reasonable inferences in the State's favor, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). When a defendant claims the evidence is insufficient to prove the elements of the crime, he admits the truth of the State's evidence and all inferences that could reasonably be drawn there from. State v. Theroff, 25 Wn. App. 590, 593, 608 P.2d 1254, affirmed, 95 Wn.2d 385, 622 P.2d 1240 (1980), abrogation on other grounds recognized in, State v. Ramos, 124 Wn. App. 334, 101 P.3d 872 (2004). The reviewing court defers to the trier of fact to resolve conflicts in the testimony, weigh the persuasiveness of the evidence, and assess the credibility of the witnesses. State v. Boot, 89 Wn. App. 780, 791, 950 P.2d 964, review denied, 135 Wn.2d 1015, 960 P.2d 939 (1998). Circumstantial evidence and direct evidence are equally reliable. State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99

(1980). It is not necessary that the reviewing court be convinced beyond a reasonable doubt. State v. Smith, 31 Wn. App. 226, 228, 640 P.2d 25 (1982).

To convict the defendant of second degree identity theft the State was required to prove the defendant possessed or used a means of identification of another person with the intent to commit a crime. RCW 9.35.020(1), State v. Sells, 166 Wn. App. 918, 923, 271 P.3d 952 (2012), review denied, 176 Wn.2d 1001 (2013). A "means of identification" is defined as "information or an item that is not describing finances or credit but is personal to or identifiable with an individual or other person, including: a current or former name....and other information that could be used to identify the person..." RCW 9.35.020(3). The means of identification must belong to a real person. State v. Berry, 129 Wn. App. 59, 67, 117 P.3d 1162 (2005), review denied, 158 Wn.2d 1006 (2006).

The defendant claims that the evidence is not sufficient to show the defendant used Mr. Anderson's identity to commit a crime. Under circumstances similar to those presented here this Court has found the evidence sufficient to prove the defendant used another identity to commit the crimes of obstructing a police officer in violation of RCW 9A.76.020, and giving false information

while in charge of a vehicle in violation of RCW 46.61.020. State v. Presba, 131 Wn. App. 47, 55-56, 126 P.3d 1280 (2005), review denied, 158 Wn.2d 1008 (2006).

The evidence showed the defendant was stopped for speeding by a uniformed officer driving a marked patrol car. The defendant verbally identified himself as "Zachary Anderson and gave a birthday of 8-31-84." When Officer Reid ran the information with dispatch he found no record for Zachary Anderson with that date of birth. He did find a record for an individual with that name and a date of birth of August 30, 1984. There was an old booking photo for Zachary Anderson that the officer was able to compare to the defendant. The physical resemblance was sufficient for the officer to believe that the defendant was Zachary Anderson with the August 30, 1984 birthdate. At trial the State introduced a certified copy of Zachary Anderson driving record, showing a picture of that man with a date of birth August 30, 1984. Ex. 7. Later the defendant told Officer Reid that his date of birth was August 30, 1984. RP 109-112.

Police and corrections officers spent additional time trying to figure out if the defendant really was Mr. Anderson or someone else. The defendant gave false information because he thought the

police would not find out who he really was. Under those circumstances he gave that false information with intent to obstruct an officer in the discharge of his duties in violation of RCW 9A.76.020(1). He also intentionally gave false information in violation of RCW 46.61.020(1).

The defendant also contends the evidence is insufficient to find that he used the identity of a real person, and therefore his conviction should be reversed and dismissed. He points to the testimony that he originally gave the officer an incorrect date of birth. BOA at 14. He fails to acknowledge the evidence that while still maintaining his identity as Zachary Anderson he corrected that information, telling officers his true date of birth was August 30, 1984. A person named Zachary Anderson with that birthdate was booked into jail and had obtained a driver's license. Ex. 7. Those facts lead to the reasonable inference that Zachary Anderson, born August 30, 1984, exists.

Additionally, even the original information given to police was sufficient to conclude the defendant was using a real person's identity. In Presba the defendant gave the victim's former name and other identifying information, including a social security number that was one digit off, when she was stopped and cited for a traffic

offense. Id. at 50-51. Despite that discrepancy the defendant there was able to convince the citing officer that she was in fact the victim, explaining that the Department of Licensing's records were incorrect. The officer issued the defendant a ticket in the victim's name based on the defendant's assurances that despite the discrepancy she really was the victim. Id. at 51. Even with the discrepancy in the social security number this Court concluded the evidence was sufficient to convict the defendant. Id. at 56.

Here there really was a Zachary Anderson. The date of birth given by the defendant and the physical appearance between the defendant and Anderson was sufficiently close to cause the officer to arrest the defendant on Anderson's warrants and issue him a ticket in Anderson's name. Under those circumstances a rational trier of fact could conclude that the defendant used the identity of the Zachary Anderson portrayed in exhibit 7 to commit a crime.

C. THE "TO CONVICT" INSTRUCTION CONTAINED ALL OF THE ESSENTIAL ELEMENTS OF SECOND DEGREE IDENTITY THEFT.

The defendant next argues that the court's instruction listing the elements of second degree identity theft did not include all of the essential elements of the crime. Specifically he argues that the

instruction should have included the crime he was alleged to have intended to commit when used another person's identity.

The "to convict" instruction must include all of the elements of the crime charged. State v. Fisher, 165 Wn.2d 727, 753, 202 P.3d 937 (2009). An "element" is defined as "'the constituent parts of a crime—usu[ally] consisting of the actus reus, mens rea, and causation—that the prosecution must prove to sustain a conviction." Id. at 754 quoting Black's Law Dictionary 559 (8th ed. 2004). The statutory elements of a crime constitute the essential elements. Id.

The statutory elements of second degree identity theft are to "knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with intent to commit, or to aid or abet, any crime." RCW 9.35.020(1), (3). The court instructed the jury using the standard instruction found in WPIC 131.06. That instruction informed the jury that in order to convict the defendant of identity theft in the second degree the following elements must be proved beyond a reasonable doubt:

> (1) That on or about the 7th of October, 2012, the defendant knowingly obtained, possessed,

transferred or used a means of identification of another person

(2) That the defendant acted with intent to commit or aid or abet any crime; and

(3) That any of these acts occurred in the State of Washington

1 CP 40.

This instruction, written in the language of the statute, contained all of the essential elements of the crime.

The specific issue raised by the defendant here has not been considered in the context of second degree identity theft. It has been considered as it relates to other statutes.

The burglary statutes prohibit a person from entering or remaining "with intent to commit a crime against a person or property." RCW 9A.52.020(1), RCW 9A.52.025(1), RCW 9A.52.030(1). The Court held the specific crime or crimes intended to be committed inside a burglarized premise is not an element of burglary that must be included in the "to convict" instruction. State v. Bergeron, 105 Wn.2d 1, 16, 711 P.2d 1000 (1985). The Court reasoned that the modern offense of burglary is a statutory crime, for which the intent is simply the "intent to commit a crime against person or property therein." Id at 16-17.

The Court applied this reasoning in a challenge to jury instructions in an aggravated first degree murder case. State v. Jeffries, 105 Wn.2d 398, 717 P.2d 722, cert. denied, 479 U.S. 922 (1986). There the court instructed the jury that in order to convict the defendant of the crime, in addition to other elements, it must find "that the defendant committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime." Id. at 419 (emphasis in the original). The defendant alleged this instruction was erroneous because it did not instruct the jury as to what crime he was attempting to conceal. Id. Following the Court's reasoning in Bergeron, the Court looked to the language in former RCW 10.95.020(7), (now codified as RCW 10.95.020(9)). Because that statutory language did not require proof of any specific crime, the Court concluded that due process did not require the specific crime intended to be included in the jury instructions. Id. at 420. See also State v. Longworth, 52 Wn. App. 453, 461-62, 761 P.2d 67 (1988).

Like the statutes at issues in Bergeron, Jeffries, and Longworth, the statute defining second degree identity theft does not require showing intent to commit any specific crime. Following

the reasoning in those cases, it was sufficient to instruct the jury that the defendant acted with intent to commit "any crime."

The defendant argues that the burglary statute is inapposite because burglary had been a common law offense with different elements than it's modern day statutory equivalent. He asserts without citation to any authority authority that the underlying offense is an element of identity theft, and therefore the holding in Bergeron should not be extended to this offense. Like the statutes at issue in Bergeron, Jeffries, and Longworth, intent to commit a specific offense is not an element of identity theft as it is defined by statute.

The defendant also argues that identity theft is comparable to felony murder and that cases addressing instructions for that charge provides guidance as to what an adequate "to convict" instruction would include here. A person is guilty of second degree murder when "he or she attempts to commit any felony, including assault, other than those enumerated in RCW 9A.32.030(1)(c), and, in the course of and in furtherance of such crime or immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants..." RCW 9A.32.050(1)(b). The purpose of the felony murder statute is to punish accidental, negligent, or reckless killings that occur in the

course of a distinct felony. Bowman v. State, 162 Wn.2d 325, 333, 172 P.3d 681 (2007). For that reason the underlying felony serves as a substitute for the mental state that the State would otherwise be required to prove. State v. Bryant, 65 Wn. App. 428, 438, 828 P.2d 1121, review denied, 119 Wn.2d 1015 (1992).

Unlike second degree felony murder, second degree identity theft has a distinct mental state that the State must prove; i.e. intent. The crime that the defendant intends to commit does not serve as a substitute for the mental state required for that crime. For that reason second degree felony murder is not comparable to second degree identity theft, and does not compel the conclusion that an essential element of the crime is that the defendant intended to commit a specific crime.

D. THE INSTRUCTION DEFINING REASONABLE DOUBT WAS AN ACCURATE STATEMENT OF THE LAW.

The defendant challenges the court's instruction defining reasonable doubt. He argues it was error to instruct jurors that "if, from such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt" BOA at 22.

Jury instructions must inform the jury that the State bears the burden to prove every element of the crime beyond a reasonable doubt. State v. Pirtle, 127 Wn.2d 628, 656, 904 P.2d 245 (1995), cert denied, 518 U.S. 1026 (1996). The court considers challenged jury instructions de novo by examining the effect of a particular phrase in an instruction and by considering the instructions as a whole and reading the challenged portions of the instruction in the context of all the instructions given. State v. Gerdts, 136 Wn. App. 720, 727, 150 P.3d 627 (2007). A jury instruction that relieves the State of its burden of proof is reversible error. Id.

The "abiding belief" language has been repeatedly approved by Courts as a correct statement of the law. Pirtle, 127 Wn.2d at 656-58, State v. Price, 33 Wn. App. 472, 475-76, 655 P.2d 1191 (1982) review denied, 99 Wn.2d 1010 (1983), State v. Lane, 56 Wn. App. 286, 299-300, 786 P.2d 277 (1989), State v. Tanzymore, 54 Wn.2d 290, 291, 786 P.2d 277 (1959). In one case this Court recommended the language the defendant here takes issue with. State v. Olson, 19 Wn. App. 881, 884-85, 578 P.2d 866 (1978), reversed on other grounds, 92 Wn.2d 134 (1979). The Supreme Court approved WPIC 4.01 and specifically directed trial courts to use that instruction when instructing jurors on the State's burden of

proof. State v. Bennett, 161 Wn.2d 303, 318, 165 P.3d 1241 (2007). WPIC 4.01 which includes the challenged abiding belief language, was the instruction used by the trial court here. 1 CP 35.

Considering the instruction as a whole, the phrase "abiding belief" does not diminish the State's burden of proof. The instruction clearly tells jurors that the State bears the burden of proof beyond a reasonable doubt. Jurors are required to presume the defendant is innocent unless the jurors find the presumption is overcome by the evidence beyond a reasonable doubt. Jurors are to consider all the evidence. A reasonable doubt exists if a reasonable person would have a doubt after fully, fairly and considering the evidence or lack of evidence. Only after performing such consideration are jurors to determine whether they believe the charge is true, or have "an abiding belief", are jurors then convinced "beyond a reasonable doubt." 1 CP 35. The court did not err when it gave the reasonable doubt instruction which included the "abiding belief" language.

The defendant challenges the abiding belief language by arguing the language equates the juror's duty as one which is a search for the truth, relying on State v. Emery, 174 Wn.2d 741, 278 P.2d 653 (2012). In Emery the Supreme Court considered the

propriety of a prosecutor's closing argument in which the prosecutor translated the Latin term "vedictim" to the English equivalent "verdict." The prosecutor told jurors the Latin term meant to "speak the truth." The prosecutor then argued that jurors should "speak the truth" by convicting the defendants of the charged crimes. Id. at 751. The Supreme Court found the "speak the truth" argument was improper because it misstated the jury's role. "The jury's job is not to determine the truth of what happened; a jury therefore does not 'speak the truth' or 'declare the truth.' Rather, a jury's job is to determine whether the State has proved the charged offenses beyond a reasonable doubt." Id. at 760.

The defendant suggests that Bennett and Pirtle do not support the conclusion that the reasonable doubt instruction given in this case provides support for giving that instruction in light of Emery. The abiding belief language in the reasonable doubt instruction is not the equivalent of an instruction to "speak the truth" or suggests that the jury must search for the truth. The defendant's argument that "the belief in the truth" language encourages the jury to undertake an impermissible search for the truth fails to take into account that phrase in the context of the entire instruction. Phrases contained within instructions are not

considered in isolation, but in the context of the entire instruction. Bennett, 161 Wn.2d at 307. Taken in the context of the entire instruction, it informs the jurors of the level of certainty it must have, based on an examination of the evidence, before the presumption of evidence is overcome and it may render a guilty verdict.

IV. CONCLUSION

For the foregoing reasons the State asks the Court to affirm the defendant's conviction.

Respectfully submitted on September 12, 2013.

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September 12, 2013

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Re: STATE v. VADIM FEDEROV
COURT OF APPEALS NO. 69743-9-I

Dear Mr. Johnson:

The respondent's brief does not contain any counter-assignments of error. Accordingly, the State is withdrawing its cross-appeal.

Sincerely yours,

Kathleen Webber

KATHLEEN WEBBER, #16040
Deputy Prosecuting Attorney

cc: Washington Appellate Project
Appellant's attorney

Sept 13

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

THE STATE OF WASHINGTON, Respondent, v. VADIM FEDEROV, Appellant.	No. 69743-9-I AFFIDAVIT OF MAILING

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that on the 13th day of September, 2013, affiant deposited in the mail of the United States of America a properly stamped and addressed envelope directed to:

THE COURT OF APPEALS - DIVISION I
ONE UNION SQUARE BUILDING
600 UNIVERSITY STREET
SEATTLE, WA 98101-4170

WASHINGTON APPELLATE PROJECT
1511 THIRD AVENUE, SUITE 701
SEATTLE, WA 98101

containing an original and one copy to the Court of Appeals, and one copy to the attorney for the appellant of the following documents in the above-referenced cause:

BRIEF OF RESPONDENT

I certify under penalty of perjury under the laws of the State of Washington that this is true.

Signed at the Snohomish County Prosecutor's Office this 12th day of September, 2013.

DIANE K. KREMENICH
Legal Assistant/Appeals Unit