

No. 45101-8-II

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

SOPHIA FATIMA THOMAS,

Appellant.

On Appeal from the Pierce County Superior Court
Cause No. 12-1-00723-5
The Honorable Thomas Larkin, Judge

OPENING BRIEF OF APPELLANT

STEPHANIE C. CUNNINGHAM
Attorney for Appellant
WSBA No. 26436

4616 25th Avenue NE, No. 552
Seattle, Washington 98105
Phone (206) 526-5001

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I. ASSIGNMENTS OF ERROR

1. The State failed to meet its burden of proving, beyond a reasonable doubt, that Sophia Thomas acted as an accomplice to possession of a controlled substance with intent to deliver.
2. The State failed to meet its burden of proving, beyond a reasonable doubt, that Sophia Thomas was armed with a firearm when she committed the crimes of possession of a controlled substance and possession of a controlled substance with intent to deliver.
3. The State failed to meet its burden of proving, beyond a reasonable doubt, that Sophia Thomas conducted a financial transaction with proceeds from illegal activity.

II. ISSUES PERTAINING TO THE ASSIGNMENTS OF ERROR

1. Where the evidence shows at most that Sophia Thomas constructively possessed drugs found in her home, that she knew her boyfriend was dealing drugs, and that she allowed her boyfriend to stay in her home and use her cars while she was at work, did the State fail to meet its burden of proving, beyond a reasonable doubt, that Sophia Thomas acted as an accomplice to possession of a controlled substance with

intent to deliver? (Assignment of Error 1)

2. Where the firearms found in Sophia Thomas' home were legally registered to her boyfriend and were not found in proximity to any of the illegally possessed controlled substances, and where no other security or police monitoring devices were found in the home, did the State fail to meet its burden of proving, beyond a reasonable doubt, a nexus between the firearms and the crimes of possession of a controlled substance and possession of a controlled substance with intent to deliver? (Assignment of Error 2)
3. Where the undisputed evidence showed several legitimate sources of cash being received by Sophia Thomas during the time that her boyfriend was dealing drugs, did the State fail to meet its burden of proving, beyond a reasonable doubt, that money she deposited in her bank account was proceeds from illegal activity? (Assignment of Error 3)

III. STATEMENT OF THE CASE

A. PROCEDURAL HISTORY

The State charged Sophia Fatima Thomas in Pierce County Superior Court with four counts of unlawful possession of a controlled substance with intent to deliver (count 1, cocaine; count 2,

oxymorphone; count 4 oxycodone; count 5 hydrocodone), and alleged that Thomas and/or an accomplice was armed with a firearm during the commission of the offenses (RCW 69.50.401; RCW 9.94A.530, .533). (CP 7-9) The State also charged Thomas with one count of money laundering (RCW 9A.83.010, .020). (CP 8)

After the State rested its case-in-chief, Thomas moved to dismiss the charges for failure to prove the crimes. The trial court denied the motion. (RP 258-61, 264) Thomas' motion to dismiss for discovery violations was also denied. (RP 264-70, 655-58; CP 159-61) At Thomas' request, the jury was instructed on the concept of unwitting possession. (CP 46, 49,92)

The jury found Thomas guilty of money laundering and unlawful possession of a controlled substance with intent to deliver for count 5 only (hydrocodone). (RP 630-31; CP 99, 102) The jury found Thomas guilty of simple possession of a controlled substance for counts 1, 2, and 4. (RP 630-31; CP 97, 98, 101) The jury also found that Thomas was only armed with a firearm during the commission of the possession offense charged in count 1 (cocaine) and count 5 (hydrocodone). (RP 631-32; CP 104-07)

Thomas has no criminal history. (CP 212-14) The trial court did not impose a term of confinement for the substantive crimes, but

imposed two mandatory consecutive 18-month sentences for the firearm enhancements. (RP 673; CP 203-04) This appeal timely follows. (CP 195-96)

B. SUBSTANTIVE FACTS

In late 2011 and early 2012, the Pierce County Sheriff's Department was involved in investigating a suspected drug dealer named Kenneth Criswell. (RP 125-26, 131) Investigators arranged controlled buys from Criswell using confidential informants, and conducted live and GPS surveillance of Criswell's movements. (RP 126-28, 131-33)

Even though Criswell's residence was in Tacoma, investigators noticed that Criswell spent a great deal of time at the University Place home of his girlfriend, Sophia Thomas. (RP 133) They also observed that on several occasions Criswell arrived at the controlled buys driving one of the vehicles registered to Thomas.¹ (RP 55, 128-29) However, investigators never saw Thomas with Criswell during any of the drug buys. (RP 55, 130, 135)

In the early morning hours of February 28, 2012, Deputies served a search warrant on Thomas' home. (RP 38) Thomas and

¹ Thomas owned a Mercedes and an Acura. (RP 43, 128, 129)

Criswell were found asleep in the master bedroom. (RP 101, 102-03) As he placed Criswell into custody, a Deputy noticed a holstered handgun hanging on the headboard. (RP 104)

During the search, Deputies found several different controlled substances. They found a bottle containing oxycodone pills and a jar containing marijuana in separate kitchen drawers.² (RP 51, 52, 166, 187, 190, 257) Investigators found oxymorphone pills concealed in a fake mayonnaise jar in the kitchen. (RP 166, 257) They found a plastic baggie containing 29 grams of cocaine inside a Crown Royal bag on the kitchen counter. (RP 88, 91, 92, 256-57) Thomas' purse was found in the master bedroom, and contained a bottle and a baggie both with hydrocodone pills inside. (RP 107, 109, 257)

Deputies found an electronic currency counter in a closet, a digital scale on the kitchen counter, and plastic sandwich baggies in a kitchen drawer. (RP 48, 52, 89) These are items commonly used by people engaged in selling drugs. (RP 52, 84, 89, 122) Deputies also found nearly \$3,000 in cash inside a desk in the master bedroom. (RP 113) And inside Thomas' purse, Deputies found an

² The oxycodone was found in a drawer that also contained several documents addressed to Criswell at his Tacoma home. (RP 48, 62)

envelope with what appeared to be drug transaction “crib notes” written on the outside and nearly \$3,500 in cash inside. (RP 107, 111, 122-23)

In addition to the handgun in the bedroom, Deputies found a firearm on the passenger seat of Thomas’ Mercedes, which was parked in the garage, and a rifle in the living room, behind a coffee table between the drapes and the wall.³ (RP 161, 163, 174-75, 191-92) One Deputy testified that it is common for drug sellers to have firearms in their home for protection. (RP 135)

When questioned by investigators, Thomas explained that she and Criswell had only been dating for a few months, and she did not know if Criswell kept drugs in the house or sold drugs. (RP 42, 43, 72) She acknowledged that the marijuana in the kitchen belonged to her, but she denied knowledge of the other drugs found in the house and denied being involved in selling drugs. (RP 44-45) When asked about the crib notes, she said it was not her handwriting. (RP 224)

In December of 2011, Thomas’ BECU bank account was flagged because she made several large cash deposits. (RP 208,

³ Criswell had valid weapon permits and legally owned all of the firearms. (RP 144, 145)

239, 241) First she deposited \$9,055 in small bills then immediately withdrew the same amount in larger, mostly \$100 bills. (RP 240) Then, on separate occasions, she deposited about \$9,000 and \$1,200 in smaller bills. (RP 241)

Investigators were suspicious because Thomas had not made large cash deposit in the past, and because drug sellers often take a large amount of small bills collected through many transactions and deposit them or exchange them for larger bills. (RP 208, 241)

Deputies testifying at trial believed that the amount of drugs found in Thomas' house was greater than the amount a person would commonly possess for personal use. (RP 92) Oxycodone and hydrocodone pills generally sell for \$5 to \$30 on the street, and cocaine sells for \$80 to \$100 per gram. (RP 93, 124-25) And drug transactions are usually conducted using smaller denomination bills. (RP 124-25)

The defense called a number of witnesses to testify, including Thomas and Criswell. Thomas testified that she began working at Boeing Employees' Credit Union (BECU) after she graduated from high school. (RP 401-02) While attending college, she worked her way up to a position of responsibility in the BECU IT department, and had recently received an increase in salary to \$86,000 per year. (RP

404, 410-11)

In 2004, Thomas and her then-husband purchased their first home in Tacoma. (RP 407) Thomas' sister, Sesilia Thomas, currently lives there and pays Thomas \$1,250 per month in cash for rent. (RP 285, 407-08)

In 2008, while her husband was in the military and stationed overseas for long periods of time, Thomas decided to find ways to fill her time. (RP 275, 409) She began working as a waitress at Latitude 84, a sports bar and grill managed by Sesilia. (RP 274, 275, 409) Thomas worked part-time for \$50 per night, plus whatever tips she received from patrons. (RP 276-77) On an average night, she might earn \$300 to \$500 dollars in cash tips. (RP 278) Most of the tip money was \$1 and \$5 bills, but the owner would allow the staff to exchange the bills for \$20 bills. (RP 279)

Thomas also began playing in a pool league, and eventually became captain of one team. (RP 280-81) The team had some success in tournaments, and won a cash prize after qualifying for and playing in a tournament in Las Vegas in the fall of 2011. (RP 282)

The end of the year is a busy time at BECU, so Thomas was working long hours during the fall and winter of 2011. (RP 412, 415-16) Her responsibilities as captain and member of her pool team

were also time consuming. (RP 418)

In November of 2011, she met Criswell at Latitude 84, and they began dating soon after. (RP 422) Thomas did not know that Criswell had brought drugs or guns into her house. (RP 400, 500) She also testified that Criswell would often watch her purse while she played pool, and she was so focused on the game that she did not notice his activities or whether he placed anything in her purse. (RP 434-35)

As an employee of a bank, Thomas was aware that large cash deposits would raise a red flag on her account. (RP 413-14) She explained that the cash deposits were not made at Criswell's request, and were not the proceeds of his drug sales. (RP 423, 425) One deposit was the tips that she had accumulated over several months, which she exchanged for larger bills before her trip to Las Vegas. (RP 426) Another deposit was money she had collected from family members in order to help a dying uncle, and to pay for his funeral. (RP 423-24, 425)

Sesilia and several other witnesses confirmed that Thomas worked as a waitress at Latitude 84, and that she played in a pool league. (RP 275, 276-77, 280-81, 313, 318-19, 389) They also confirmed that Thomas worked long hours at BECU. (RP 326, 394-

95) And Sesilia confirmed that she rents Thomas' first house, and pays her \$1,250 in cash every month. (RP 284-85; Exh. D-76)

Sesilia elaborated on the money collected by Thomas for their uncle's care and funeral. Their family is part Samoan, and it is traditional in Samoan culture for all members of the extended family to contribute what they can to help care for elderly family members, and to contribute funds to pay for an elaborate funeral celebration. (RP 288-90) Thomas was in charge of collecting and accounting for the donations, which were largely cash donations. (RP 293)

Criswell testified that he was injured while serving in the military, and was unemployed and receiving veterans and disability benefits. (RP 335, 336-37, 338, 339) Just before he met Thomas, he had been arrested for driving while intoxicated, and had lost his job. (RP 338) Things "went downhill," and he started taking and dealing drugs. (RP 338, 350)

Criswell explained that Thomas did not know that he was selling drugs because he did not tell her and did not conduct business in front of her. (RP 356, 358) He testified that he put the drugs and envelope in her purse while she was shooting pool the night before his arrest. (RP 362) Criswell put the cocaine in the Crown Royal bag so that Thomas would not see it. (RP 363-64) He

also explained that he had an ignition interlock on his car, so he often drove Thomas' cars because it was less hassle. (RP 348)

Criswell testified that as a result of his experience in the military and in combat, he is "paranoid" and keeps firearms for personal protection. (RP 339-40, 349) Thomas knew he had a permit for the guns he owned, but she did not know the details and did not know that the guns were in her home or car. (RP 341, 342) He hid the rifle behind the curtains in Thomas' living room because he did not want her to know it was there. (RP 342)

Criswell testified that the drugs were his, and he felt responsible for the fact that Thomas was facing charges as a result of his behavior, because she was not involved. (RP 369)

IV. ARGUMENT & AUTHORITIES

"Due process requires that the State provide sufficient evidence to prove each element of its criminal case beyond a reasonable doubt." City of Tacoma v. Luvene, 118 Wn.2d 826, 849, 827 P.2d 1374 (1992) (citing In re Winship, 397 U.S. 358, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970)). Evidence is sufficient to support a conviction only if, viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. State v. Salinas,

119 Wn.2d 192, 201, 829 P.2d 1068 (1992). “A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.” Salinas, 119 Wn.2d at 201.

A. THE STATE DID NOT PROVE THAT THOMAS AIDED CRISWELL IN THE CRIME OF POSSESSING HYDROCODONE WITH THE INTENT TO DELIVER.

The State proceeded on the theory that Thomas constructively possessed the drugs, and acted as an accomplice to Criswell’s intent to deliver the drugs. (RP 536, 604) The State argued to the jury that it could convict Thomas as an accomplice to possession with intent to deliver if they found that she “encouraged or aided” Criswell by “letting him stay at her house or letting him use her cars[.]” (RP 554) The jury found Thomas guilty of simple possession on three of four charges, but found her guilty of possession with intent to deliver the hydrocodone, which was found in her purse. (CP 102; RP 631)

Under RCW 9A.08.020(3)(a)(i)-(ii), an accomplice is one who, “[w]ith knowledge that it will promote or facilitate the commission of the crime ... encourages ... or aids” another person in committing a crime. The evidence must show that the accomplice aided in the planning or commission of the crime and that he had knowledge of the crime. State v. Berube, 150 Wn.2d 498, 511, 79 P.3d 1144

(2003). An accomplice must associate herself with the venture and take some action to help make it successful. In re Welfare of Wilson, 91 Wn.2d 487, 491, 588 P.2d 1161 (1979).

Mere knowledge or presence of the defendant is not sufficient to establish accomplice liability. State v. Parker, 60 Wn. App. 719, 724-25, 806 P.2d 1241 (1991); Wilson, 91 Wn.2d at 491. Rather, the State must prove that the defendant was ready to assist the principal in the crime and that she shared in the criminal intent of the principal, thus “demonstrating a community of unlawful purpose at the time the act was committed.” State v. Castro, 32 Wn. App. 559, 564, 648 P.2d 485 (1982); see also State v. Rotunno, 95 Wn.2d 931, 933, 631 P.2d 951 (1981); Wilson, 91 Wn.2d at 491.

Thus, the focus is on whether Thomas, by her presence and actions, attempted to facilitate Criswell’s possession with intent to deliver. State v. Fisher, 74 Wn. App. 804, 816, 874 P.2d 1381 (1995).

In State v. Amezola, evidence showing only that the defendant cooked and kept house for other household members dealing in heroin was insufficient to establish accomplice liability with respect to a charge of possession of a controlled substance with intent to deliver. 49 Wn. App. 78, 741 P.2d 1024 (1987). There was

no evidence that the defendant participated in the drug dealing activities at all, as she did not go on deliveries or answer the phone.

49 Wn. App. at 83, 89-90. As the court explained:

The mere performance of domestic tasks which, at most, might have made life easier for those committing the crime, is hardly conduct sufficient to expose one to criminal liability. [Defendant's] cooking and cleaning are activities totally distinct from and incidental to the criminal acts charged here. Her connection to the latter is no more than physical presence and assent, both insufficient to establish accomplice liability for possession of a controlled substance with intent to deliver.

49 Wn. App. at 89-90.

In this case, as the State acknowledged, the evidence shows at most that Thomas allowed Criswell, her boyfriend, to stay at her house and use her cars. (RP 554) Though this may have “made life easier for” Criswell and made it easier for him to make drug sales, her connection to the deliveries or to Criswell’s intent to deliver amounts to, at most, knowledge and assent. There is no evidence that Thomas took any steps to aid or assist Criswell, or that she shared in his criminal purpose. As with Amezola, the evidence in this case is insufficient to establish accomplice liability. Thomas’ conviction on this count should be reduced to simple possession of a controlled substance.

B. THE STATE FAILED TO PROVE A NEXUS BETWEEN CRISWELL'S FIREARMS AND THE CRIMES.

The State alleged that Thomas was armed with a firearm when she committed the possession offenses. (CP 7-9) The State acknowledged that there was no proved connection between Thomas and the firearms, other than their presence in her home. (RP 555) The State instead offered the theory that because Criswell was armed, as his accomplice Thomas was armed as well. (RP 555)

The jury found that Thomas was armed only during commission of the possession of the cocaine (found in the Crown Royal bag in the kitchen), and possession with intent to deliver the hydrocodone (found in her purse). (CP 104, 107; RP 631-32) The jury did not find that she was armed when she possessed the oxymorphone and the oxycodone (also found in the kitchen). (CP 105, 106; RP 631-32) However, the evidence does not support a finding that Criswell, and Thomas as his alleged accomplice, was "armed" during the commission of any of the possession offenses.

The Sentencing Reform Act authorizes a sentence enhancement whenever a defendant or an accomplice is armed with a deadly weapon during the commission of a crime. RCW 9.94A.533(3), (4), .602. A person is "armed" if a weapon is easily

accessible and readily available for use, either for offensive or defensive purposes, and there is a connection between the defendant, the weapon, and the crime. State v. Eckenrode, 159 Wn.2d 488, 493, 150 P.3d 1116 (2007) (quoting State v. Valdobinos, 122 Wn.2d 270, 282, 858 P.2d 199 (1993)). Thus, to support a finding that a defendant was armed with a deadly weapon during the commission of a crime, there must be a nexus between the weapon and the crime. State v. O'Neal, 159 Wn.2d 500, 503-04, 150 P.3d 1121 (2007) (quoting State v. Schelin, 147 Wn.2d 562, 575-76, 55 P.3d 632 (2002)).

In determining whether a defendant is armed, the court “should examine the nature of the crime, the type of weapon, and the circumstances under which the weapon is found (e.g., whether in the open, in a locked or unlocked container, in a closet on a shelf, or in a drawer).” Schelin, 147 Wn.2d at 570. In this case, one firearm was found hanging from the headboard in the master bedroom, one firearm was found behind a coffee table and curtain in the living room, and one firearm was found in a car in the garage. (RP 104, 161, 163, 174-75, 191-92)

However, a person is not armed simply because a weapon is present or on the premises during the commission of a crime.

Schelin, 147 Wn.2d at 570 (the mere presence of a weapon is not sufficient to impose a firearm enhancement). Courts are especially careful in this area because of the constitutional right to bear arms. U.S. Const. amend. II; Wash. Const. art. I, § 24; see also State v. Rupe, 101 Wn.2d 664, 703-08, 683 P.2d 571 (1984) (“constitutionally protected behavior cannot be the basis of criminal punishment;” thus, courts must be protective of the right to bear arms during criminal trials implicating gun possession); State v. Johnson, 94 Wn. App. 882, 892-97, 974 P.2d 855 (1999).

When a crime is a continuing crime—like a drug possession or manufacturing operation—a nexus exists if the weapon was “there to be used,” which requires more than just the weapon’s presence at the crime scene. State v. Gurske, 155 Wn.2d 134, 138, 118 P.2d 333 (2005). Generally, in drug cases, courts have found the required nexus between the drug crime and a weapon where there is evidence from which a jury can infer that the weapon was used to protect the possession, distribution or manufacture of the drugs, and was therefore used in furtherance of the crime.

For example, in Schelin, the Court concluded that the jury could infer that the defendant was using the weapon to protect his marijuana grow operation, where the operation was located in the

same room in which the officers found the defendant and the easily-accessible weapon. 147 Wn.2d at 574-75.

In State v. O'Neal, officers searched the defendants' methamphetamine laboratory. 159 Wn.2d at 503. Besides evidence of drug manufacturing, the officers found over 20 guns, body armor, night vision goggles, and a police scanner. 159 Wn.2d at 503. The Court affirmed the firearm enhancements, noting that since the weapons were easily accessible to protect the drugs, and since the defendants kept a police scanner in the laboratory, the jury could find that the defendants used the guns to protect the drugs. 159 Wn.2d at 502, 504.

In Eckenrode, the defendant called the police, alerting them to an intruder in his house. 159 Wn.2d at 491. The defendant told the dispatcher he was armed, and police later found what appeared to be methamphetamine, dried marijuana, two firearms, and a police scanner in the house. 159 Wn.2d at 491-92. The Court affirmed Eckenrode's firearm enhancements, finding that the presence of two weapons and a police scanner supported an inference that he was monitoring police activity against the chance he might be raided. 159 Wn.2d at 494. Therefore, a jury could readily have found that the

weapons were there to protect an apparent drug manufacturing operation. 159 Wn.2d at 494.

In State v. Neff, during a search of the defendant's garage, police found two loaded pistols in a safe, which also contained four bags of marijuana. Police also found two security cameras and a monitor in the garage on which to view live feeds. 163 Wn.2d 453, 464, 181 P.3d 819 (2008). An officer testified that the monitors were for counter surveillance. The Court found the presence of the additional equipment was enough to find that Neff used the guns to protect his drug operation. 163 Wn.2d at 464-65.

In Valdobinos, by contrast, police arrested the defendant when he offered to sell cocaine to an undercover officer. They searched his house, finding cocaine and an unloaded rifle under his bed. 122 Wn.2d at 274. The Court reversed the firearm enhancement, holding the jury could not infer from an unloaded rifle near the cocaine that the defendant was armed. 122 Wn.2d at 282.

And in Johnson, police executing a search warrant for drugs arrested the defendant, took him into the living room and sat him down. 94 Wn. App. at 891-92. They then asked him if there were any weapons in the home. 94 Wn. App. at 891-92. Johnson indicated that there was a loaded handgun in a bookcase under the

coffee table five to six feet in front of him. 94 Wn. App. at 892. The court rejected the State's contention that the mere presence of the weapon on the premises established the requisite nexus to support the enhancement. 94 Wn. App. at 896-97.

In this case, the hydrocodone was in a container in Thomas' purse in the master bedroom, and the other drugs were in the kitchen. (RP 48, 88, 91, 107, 109, 166, 187) One firearm was hanging from the bedframe, one was hidden behind a table and curtains in the living room, and one was in a car in the garage. (RP 104, 161, 163, 191, 192) The weapons were therefore not kept in proximity to the drugs.

There were no additional security items or police monitors located in the home. There was no evidence that Criswell was ever armed during any of his deliveries, or that he ever indicated an intent to use the firearms to protect the possession or delivery of the drugs. The only evidence presented by the State was a detective's testimony that drug dealers often have firearms for protection. (RP 135)

As in Valdobinos and Johnson, the mere presence of a weapon on the premises does not establish the requisite nexus to support the enhancement. There is insufficient evidence to establish

a nexus between Thomas' constructive possession of the cocaine and the hydrocodone, and the firearms. The jury's two firearm findings should be reversed, and Thomas' firearm sentence enhancements should be stricken.

C. THE STATE FAILED TO PROVE THAT THE MONEY THOMAS DEPOSITED IN HER BANK ACCOUNT WAS PROCEEDS FROM DRUG SALES.

The State alleged that the cash deposits made by Thomas in December of 2011 were proceeds from Criswell's drug sales, and therefore charged her with one count of money laundering. (CP 8, 82, 83; RP 556-58) Under RCW 9A.83.020, a person launders money when that person conducts or attempts to conduct a financial transaction involving the proceeds of specified unlawful activity and knows the property is proceeds of specified unlawful activity.

In this case, the State did not dispute that Thomas was receiving significant amounts of cash from legitimate sources, such as her job as a waitress at Latitude 84, rent from her sister, and contributions from family members for her uncle's care and funeral. But the State argued that the timing of the cash deposits was suspicious, and therefore must have been proceeds from Criswell's drug sales. (RP 558-89)

While the timing may be suspicious, timing alone does not

establish, beyond a reasonable doubt, that the cash deposited by Thomas was actually proceeds from Criswell's drug sales. Without more, no reasonable fact finder could conclude, beyond a reasonable doubt, that Thomas knowingly conducted a transaction with the proceeds of Criswell's illegal activity. Thomas' money laundering conviction must also be reversed.

V. CONCLUSION

The State's evidence showed that, at most, Thomas was aware that Criswell possessed and delivered controlled substances when they dated and when he lived with her and used her cars. But the State failed to present any evidence to establish that Thomas took any further action designed to aid Criswell's possession with intent to deliver. The State also failed to prove that Criswell's firearms had any nexus to the possession or delivery of his controlled substances. And finally, the State failed to prove that Thomas deposited the proceeds of Criswell's drug sales.

The State therefore failed to prove that Thomas acted as an accomplice to Criswell's possession with intent to deliver, that Thomas laundered the proceeds of illegal activity, or that Thomas was armed with a firearm when she constructively possessed Criswell's drugs. Thomas' convictions for each of these crimes, and

the two firearm enhancements, must be reversed.

DATED: January 17, 2014



STEPHANIE C. CUNNINGHAM

WSB #26436

Attorney for Sophia F. Thomas

CERTIFICATE OF MAILING

I certify that on 01/17/2014, I caused to be placed in the mails of the United States, first class postage pre-paid, a copy of this document addressed to: Sophia F. Thomas, 5514 55th St. Ct. W, University Place, WA 98467.



STEPHANIE C. CUNNINGHAM, WSBA #26436

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