72450-9

72450-9

No. 72450-9-I

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON, Respondent,

v.

THOMAS FEELY, JR., Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY
#14-1-00418-7

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Washington Supreme Court

Washington State Court of Appeals

Codes and Regulations

INTRODUCTION

In 2008, the Washington Legislature created a special sentencing enhancement for endangering people during a high-speed police chase. RCW 9.94A.834. This appeal raises two questions regarding the enhancement. First, does the statutory term "pursuing law enforcement officer" include officers attempting to stop the defendant, but not in a cruiser pursuing him? Second, may a trial court impose consecutive sentences based on a conviction for attempting to elude *with* the endangerment enhancement?

The State of Washington respectfully requests the Court to affirm defendant Thomas Feely's exceptional sentence. The jury properly found that defendant Feely endangered others -- the public and police officers not in direct pursuit – during a high-speed chase through Ferndale, Washington. And the Court properly sentenced defendant to consecutive sentences for felony DUI and attempting to elude with the endangerment enhancement.

I. RESTATEMENT OF ISSUES PRESENTED

Defendant's appeal presents five issues:

A. The court may increase the sentence for eluding a police vehicle if the jury finds "one or more persons other than the

defendant or the pursuing law enforcement officer were endangered during the commission of the crime." RCW 9.94A.834. The jury found endangerment based on testimony and a video showing defendant narrowly missing oncoming cars and speeding around officers placing spike strips in his path. (Special Verdict Form; CP 53) Does sufficient evidence support the jury's special verdict?

B. Under RCW 9.94A.535(2)(c), the Court may impose an exceptional sentence if "defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished." Here, the Court imposed consecutive sentences for defendant's convictions of felony DUI and attempting to elude with the endangerment enhancement. May the Court impose an exceptional sentence for an offense with a sentencing enhancement?

C. In closing argument, a prosecutor may not minimize or trivialize the State's burden of proving defendant's guilt beyond a reasonable doubt. State v. Johnson, 158 Wn. App. 677, 684, 243 P.3d 936 (2010). After discussing the reasonable doubt instruction, the deputy prosecutor mentioned "it can be very frustrating to have a jury come back and say we all knew he was guilty, but you didn't

prove it beyond a reasonable doubt." (VRP 482). Did this statement in context trivialize the State's burden?

D. Under ER 404(b), evidence of past crimes may be used to prove motive. In closing, the deputy prosecutor argued without objection that defendant's admitted record of four prior DUIs "gives him a motive to flee police." (VRP 485). Was this argument prosecutorial misconduct?

E. "A defendant claiming ineffective assistance of counsel must show that counsel's performance was objectively deficient and resulted in prejudice. "State v. Emery, 174 Wn.2d 741, 754-55, 278 P.3d 653 (2012). Here, defense counsel did not object to the deputy prosecutor's closing argument regarding the sentencing enhancement, burden of proof, and motive to flee. Was this objectively deficient and if so, did it prejudice defendant?

II. STATEMENT OF FACTS

A. Defendant's Dangerous High-Speed Chase

On the evening of April 9, 2014, Washington State Trooper Travis Lipton parked at the side of an onramp to Interstate 5 in Bellingham, Washington. (VRP 56). He was driving an unmarked 2011 Dodge Charger, working for the aggressive driver apprehension team. (VRP 54). In addition to a siren and multiple

flashing lights, the cruiser had a COBAN audio and video recording system.

> The camera is a front-facing camera right up here on the visor, and we also have a rear-facing camera which is the middle of the partition up about head level, and that points down in the backseat, and it has night vision, so when there's no light back there, you can see what's going on.

(VRP 55).

At about 1:00 am, a pickup truck passed close by the cruiser and entered the freeway. "[T]he vehicle merged onto I-5 and kind of drifted out to the left of the two lanes, and then drifted back, and it was like it drifted back wide and came back to the right lane of the freeway." (VRP 58). Trooper Lipton decided to follow the pickup -- without turning on his siren or emergency lights. (VRP 59).

When he caught up to the truck, he noticed erratic driving and turned on the video recorder.

> The first thing that I noticed was that the vehicle was drifting back and forth within the right lane continuously, and it touched the, I believe the first thing I saw was that it touched the fog line on the right...

(VRP 60) Trooper Lipton did not pull the truck over immediately. "[O]ne deviation from the, from the lane of travel may not

necessarily be enough for a stop on a vehicle, so I decided to wait and make some more observations." (VRP 61).

After watching the truck continue to weave, and then fail to make a proper lane change, Trooper Lipton turned on the lights to pull the driver over. (VRP 64). The truck kept going. He turned on the siren. (VRP 64). Nothing. The truck took the Grandview Road off-ramp, and Trooper Lipton radioed in a vehicle failing to yield. (VRP 66).

At the top of the exit ramp, the truck failed to stop at the intersection. Then the truck took off.

> I followed, siren still going, lights still going. It was at that point just over I-5 that I noticed the truck, I could hear the truck accelerating, and it started to accelerate rapidly as we made the curve going past the ARCO AM/PM gas station. The speeds were probably 65 to 70 miles an hour.

(VRP 67). The speed limit was 45.

This began a high-speed chase over the rural and suburban roads near Ferndale, Washington. On narrow, two-lane roads, defendant's truck hit speeds close to 100 miles per hour. (VRP 68). Trooper Lipton called in an officer in pursuit, alerting local and county law enforcement to the dangerous driver. (VRP 70).

> [A]fter I called a pursuit, I started hearing the deputies over the scanner saying they were heading that way

> trying to get into position. They were talking amongst themselves trying, you know, to figure out where they were going, where they were starting to set up spike strips...

(VRP 72).

During the chase, defendant nearly caused two accidents. First, his truck sped past two oncoming cars.

> [J]ust after we turned onto Kickerville, there were two cars. I recall, I don't recall whether he, I think it was two cars may have been coming at us, and they either slowed or stopped because they saw my lights, and we went by them.

(VRP 69). It was fortuitous the chase happened at night. Had it occurred in daylight, there could have been more cars on the road.

Second, his truck skidded past law enforcement officers operating spike strips by the side of the road. Sergeant Larry Flynn with the Whatcom County Sheriff's Office was on duty that night, screening calls for the deputies on patrol. (VRP 178). When he heard Trooper Lipton's call of officer in pursuit, Sergeant Flynn coordinated "setting up the box."

> We have stop sticks that we use, tire deflation devices. So one of my jobs in something like that is to try to coordinate, we call it setting up the box, try to get people at major choke points in every direction...

(VRP 180). Flynn and his deputies began setting up the southwest corner of the box. (VRP 180).

To deploy spike strips, an officer does not simply lay them on the roadway and stand back. The officer must position them to hit the oncoming car and then reel them in before the pursuing cruisers run over the spikes. As Sergeant Flynn explained,

> [S]top sticks consist of, there's three three-foot sections of tubing, and they have actually three hollow spikes in them. So they're triangular shaped, and so that way, no matter which way they land, there's a spike angled up and towards whatever direction the vehicle would come.
>
> ...the spikes go into like a ballistic nylon tube with handles on the end, and then we have a plastic reel that has about a hundred feet of cord in it, and a reel so we can reel it back in.
>
> So what we do is I throw it all the way to the far side, the far shoulder, and then try to back up a little bit with the thing, and you want to wait until you see them coming, and then you try to drag it in front of them because it's not long enough to cover from shoulder to shoulder.

(VRP 184).

When Sergeant Flynn set the spike strips, defendant Feely drove recklessly to get around them, endangering the officer. (VRP 184) ("immediately locked up the brakes, and slid almost the whole way to me, stopped about 20 yards short of where I had the spike strips"). They then played a game of cat and mouse, with defendant in his truck and Sergeant Flynn by the side of the road.

> He started to jerk forward and kind of come back into the southbound lanes towards me. I assumed he was trying to figure out a way to get around the spike strips, but I also didn't know if he was going to suddenly accelerate and try to run me over.
>
> So I watched him real close, his front tires, which way they're turning, and watching the vehicle kind of jerk, and as he's edging closer and coming closer to my lane, I let out some more line so I could get farther off the road for my safety, and then I – as he committed more and more, I started to pull the spike strips farther over west into the northbound lanes.

(VRP 185).

When he saw the spike strips move into the southbound lane, defendant Feely gunned his truck into the northbound lane to get away. But his front tire hit the spikes.

> So he hit them – well, as he saw he was going to hit them, he locked up the brakes again, and so instead of the tires rolling over them which tends to give you a good puncture, they kind of just drug across the spike strips, and then once he realized he hit them, he gunned it...

(VRP 185). Throughout this contest, Sergeant Flynn worried about his safety. "I'm concerned that he's just going to gun it and just come right at me which sometimes happens." (VRP 186).

The high-speed chase continued even though defendant's left front tire went flat and shredded. (VRP 77). After turning down a dead-end driveway, defendant drove up over a berm and high-

centered his truck in a swamp. (VRP 80). He ran into woods, leaving one shoe behind in the mud. (VRP 86). By now, a number of officers arrived, and after searching with two police dogs, they found defendant Feely hiding in a tree.

> He was ordered out of the tree. His response was, "I'll come out of the tree if the dog doesn't bite me." We advised him the dog is not going to bite him. At that point in time, his left hand was behind the tree, and we couldn't fully see his hand.
>
> At this time, after a few commands, he then pulled his hand out from behind that tree, and then Deputy Lee assisted him out of the tree and took him into custody.

(VRP 219). The officers could smell alcohol on defendant. (VRP 222).

Trooper Lipton took Feely to St. Joseph's Hospital in Bellingham. (VRP 119). After obtaining a search warrant, the officer collected defendant's blood draw, which registered a blood alcohol level of .13. (VRP 124-25). He booked defendant into the Whatcom County Jail.

The State initially charged defendant Feely with two counts: felony DUI and attempting to elude a police vehicle with the endangerment sentencing enhancement. (Information; CP 2). The State later amended the Information to allege an aggravating

circumstance under RCW 9.94A.535(2)(c), unpunished current offenses. (Second Amended Information; CP 15).

The case went to trial on July 28, 2014 and on July 31, 2015, the jury returned a verdict of guilty on both counts. (Verdict; CP 51). In addition, the jury in a special verdict found that a "person, other than Thomas J. Feely Jr., or a pursuing law enforcement officer, [was] endangered (i.e. threatened with physical injury or harm) by the actions of Thomas J. Feely Jr., during his commission of the crime of Attempting to Elude a Police Vehicle." (Special Verdict Form; CP 53).

On August 18, 2015, Whatcom County Superior Court Judge Charles Snyder sentenced defendant to 60 months for Count I (felony DUI) and 29 months for Count II (attempting to elude). (Judgment and Sentence at 3; CP 70). The Court also sentenced defendant to 12 months and one day under RCW 9.94.834 for endangerment. (Judgment and Sentence at 3). Finally, the Court ordered "all counts shall be served consecutively, including the portion of those counts for which there is an enhancement..." (Judgment and Sentence at 3). The Court imposed this exceptional sentence after finding that "defendant has committed multiple current offenses and defendant's high offender score results in

some of the current offenses going unpunished." (Judgment and Sentence at 9; CP 76).

Defendant now appeals.

ARGUMENT

III. STANDARD OF REVIEW

This Court reviews alleged prosecutorial misconduct – if defendant objected at trial -- for an abuse of discretion. State v. Lindsay, 180 Wn.2d 423, 430, 326 P.3d 125 (2014) ("allegations of prosecutorial misconduct are reviewed under an abuse of discretion standard"). Because he did not object at trial, "defendant must also show that the misconduct was so flagrant and ill intentioned that an instruction would not have cured the prejudice." State v. Walker, 182 Wn.2d 463, 477-78, 341 P.3d 976 (2015).

This Court reviews allegations of ineffective assistance of counsel de novo. State v. Rafay, 168 Wash. App. 734, 775, 285 P.3d 83 (2012) ("we review ineffective assistance claims de novo").

Finally, the Court reviews defendant's challenge to his consecutive sentence de novo. State v. France, 176 Wn. App. 463, 469, 308 P.3d 812 (2013) review denied, 179 Wn.2d 1015, 318 P.3d 280 (2014) ("second standard of review [de novo] applies

here, because France challenges the trial court's authority to construct the exceptional sentence as it did").

IV. THE PROSECUTOR'S CLOSING ARGUMENT WAS APPROPRIATE

Defendant alleges that the deputy prosecutor made three misstatements during closing that deprived him of a fair trial: (1) the deputy prosecutor incorrectly included police officers as people endangered by defendant's driving; (2) the deputy prosecutor lessened the State's burden of proof; and (3) the deputy prosecutor violated the Court's limiting instruction. In context, none of the deputy prosecutor's arguments were improper, let alone flagrant and ill-intentioned misconduct that created incurable prejudice.

A. Police Officers Not In Direct Pursuit Count Under The Endangerment Enhancement

Defendant's allegations of prosecutorial misconduct fall short of the Court's demanding standard.

> To prevail on a claim of prosecutorial misconduct, the defendant must establish that the prosecutor's conduct was both improper and prejudicial in the context of the entire record and the circumstances at trial. The burden to establish prejudice requires the defendant to prove that there is a substantial likelihood that the instances of misconduct affected the jury's verdict. The failure to object to an improper remark constitutes a waiver of error unless the remark is so flagrant and ill intentioned that it causes an enduring and resulting prejudice that could not have been neutralized by an admonition to the jury. When

> reviewing a claim that prosecutorial misconduct requires reversal, the court should review the statements in the context of the entire case.

State v. Thorgerson, 172 Wn.2d 438, 442-43, 258 P.3d 43 (2011) (citations omitted).

In his closing, the deputy prosecutor argued that defendant's speeding endangered police officers *not in pursuit* as well as other people in defendant's path.

> [T]he officers that are not pursuing, but did apply the stop sticks. They can be endangered by his driving, and I think at one point in the video, you can see the first officer, I think it's on North Star Road coming down North Star Road. You can see him coming out and try to deploy the sticks and run back, and you can find that he's endangered by Defendant driving as he is...

(VRP 455). This argument is not misconduct or reversible error for four reasons.

First, this is a correct statement of law – officers not in pursuit can qualify as "endangered" under RCW 9.94A.834. The statute excludes defendant and "the pursuing law enforcement officer" from those "threatened with physical injury or harm." RCW 9.94A.834(1). This makes sense, given that every high-speed chase endangers the defendant and the officer in pursuit.

Officers by the side of the road are not in pursuit. They may be attempting to stop defendant, like Sergeant Flynn here, but they are not in a police cruiser following defendant at high speeds. As defendant notes in his opening brief, pursuit means "*follow* in order to overtake, capture, kill or defeat". (Opening Brief at 17) (citing Merriam Webster online dictionary definition). Sergeant Flynn was not following when defendant drove recklessly around him. The plain meaning of the statute permits the jury to hold defendant accountable for endangering Sergeant Flynn. "If the statute's meaning is unambiguous, our inquiry ends." State v. France, 176 Wn. App. at 470.

Second, the legislative history supports including non-pursuing law enforcement. Defendant claims the legislature's intent was "to target the defendant's endangerment of ordinary citizens or innocent bystanders, not the police officers who are involved in the defendant's attempted capture." (Opening Brief at 19) Yet the legislative history emphasizes the purpose of the sentencing enhancement: accountability.

> This bill is not about money. Offenders need to know that there is going to be consequences for their actions of endangering others.

(ESHB 1030 House Bill Report at 3; Appendix C to Defendant's Opening Brief). The sentencing enhancement protects "one or more persons" from dangerous drivers – and that includes officers by the side of the road. RCW 9.94.834(1).

Third, the jury received proper instruction on the enhancement and arrived at a reasonable verdict. The Special Verdict Form – which defendant does not challenge – asked the right question. "Was any person, other than THOMAS J. FEELY JR or a pursuing law enforcement officer, endangered (i.e. threatened with physical injury or harm) by the actions of THOMAS J. FEELY JR during his commission of the crime of Attempting to Elude a Police Vehicle?" (Special Verdict Form; CP 53). The jury was free to disregard the deputy prosecutor's argument and could find defendant guilty of endangerment based solely on the two cars he nearly hit on Kickerville Road.

Fourth, the deputy prosecutor's comments were not flagrant, ill-intentioned, or so prejudicial that an instruction could not cure it. At best, this is a question of relevant evidence to the sentencing enhancement. The deputy prosecutor's short, reasoned argument does not approach the recent examples of misconduct that require reversal despite counsel's failure to object. See State v. Walker,

182 Wn.2d 463, 478, 341 P.3d 976 (2015) ("prosecution committed serious misconduct here in the portions of its PowerPoint presentation"); State v. Lindsay, 180 Wn.2d 423, 434, 326 P.3d 125 (2014) ("prosecutor impugned defense counsel in this case by calling Holmes's counsel's closing arguments 'a crock'").

B. The Prosecutor Accurately Portrayed The State's Burden Of Proof

Next, defendant alleges the following comment in the deputy prosecutor's closing minimized and trivialized the State's burden of proof:

> It can be very frustrating to have a jury come back and say we all knew he was guilty, but you didn't prove it beyond a reasonable doubt. Those are inconsistent.

(VRP 481-82). This snippet of argument does not require a new trial.

First, the comment in context was neither improper nor objectionable. Throughout his closing, the deputy prosecutor emphasized the State's burden of proving defendant guilty beyond a reasonable doubt.

> There's a presumption of innocence, and the Defendant doesn't have to prove anything to you. It's my burden. The State as representative of the people of this State, it's my burden to prove those elements beyond a reasonable doubt, and I'm arguing to you that I have proven those elements.

(VRP 477). This corresponded with Instruction 4 that properly defined reasonable doubt for the jury. (Instruction No. 4; CP 31).

Second, the comment did not imply that defendant had responsibility for proving something. Immediately after the comment, the deputy prosecutor continued,

> if you all know the Defendant committed a crime, and committed all of the, or all of the elements are proven, then you are convinced beyond a reasonable doubt. It's not just that I knew that it happened, or I knew that he was guilty. So think about those terms.

(VRP 482). Because the deputy prosecutor here never suggested the burden of proof shifted to defendant, the cases requiring reversal do not apply. (Opening Brief at 22) (citing State v. Johnson, 158 Wn. App. 677, 243 P.3d 936 (2010)).

Third, the comment was not flagrant, ill-intentioned and incurably prejudicial. Nothing the deputy prosecutor said minimized the State's burden of proof or trivialized it. To the contrary, his argument fairly explained the reasonable doubt instruction and gave practical examples of what it means. If the comment was improper – which is was not – defendant waived any objection and suffered no prejudice.

C. Evidence Of Past Crimes Is Relevant To Motive

Finally, defendant argues that the deputy prosecutor strayed beyond the Court's limiting instruction on using defendant's four prior DUIs. (Instruction No. 8; CP 36). Because an element of felony DUI is proof of four earlier convictions for DUI, the State had to prove defendant Feely's past convictions. The parties stipulated to defendant's four DUIs. (VRP 444). The Court appropriately instructed the jury that "the evidence is not to be used or considered for the purpose of proving the character of a person in order to show that the person acted in conformity with that character." (Instruction No. 8; CP 36).

The Court did not forbid the parties from using the convictions for other purposes under ER 404(b). Here, the deputy prosecutor argued that the convictions gave defendant a motive to flee from his truck, given that this would be his fifth. (VRP 484). The deputy prosecutor was careful to repeat the Court's admonition against using the evidence to prove character.

> Mr. Feely has the four priors, we know that, four prior DUIs. You can't use that, you cannot use that to say that because he was convicted four times of driving under the influence, he must have been driving under the influence this time. It's not a character thing. You can't do that.

(VRP 484).

Defendant argues this is flagrant misconduct, citing State v. Fisher, 165 Wn.2d 727, 202 P.3d 937 (2008). But in Fisher, the Court excluded evidence of a prior bad act *unless* the defendant made a particular argument. Fisher, 165 Wn.2d at 734. Here, the evidence of defendant's convictions was already admitted and before the jury. And the trial court did not in limine forbid counsel from arguing the evidence.

Finally, the jury was free to disregard the deputy prosecutor's argument. Defendant alleged that he was not the driver, and as the deputy prosecutor argued, there was substantial evidence proving defendant was. (VRP 449, 460, 479) (defendant's truck, video shows one driver). The jury had ample evidence to convict defendant without relying on an inference of motive.

The deputy prosecutor made an appropriate closing argument. Although defendant in hindsight objects to phrases and comments, nothing was objectionable, let alone flagrant and incurable.

V. DEFENDANT RECEIVED EFFECTIVE ASSISTANCE FROM COUNSEL

Defendant alleges that trial counsel was ineffective, but fails to meet the standard for reversal and new trial.

> To prove ineffective assistance of counsel, a defendant must show (1) that counsel's conduct fell below an objective standard of reasonableness; and (2) that this deficient conduct resulted in prejudice to the defendant—that there is a reasonable probability that, but for the deficient conduct, the outcome of the proceeding would be different. State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2004). Although courts strongly presume that defense counsel's conduct was not deficient, a defendant rebuts this presumption when no conceivable legitimate tactic exists to explain counsel's performance. Id.

State v. Maynard, __ Wn.2d __, __ P.3d __, 2015 WL 3413327 at 3 (May 28, 2015).

Counsel's performance was not objectively deficient. Although defendant now criticizes trial counsel for failing to object to the deputy prosecutor's comments above, the trial court would have overruled the objections.[1] In addition, counsel did object to the evidence and arguments that hurt defendant's case – the video of the high-speed chase. (VRP 456-459).[2] All of defendant's

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[1] Defendant's statement of additional grounds #1 claims his counsel failed to interview the State's expert on dog tracking. Because counsel thoroughly cross-examined the State's expert, no evidence exists that counsel was deficient or defendant suffered any prejudice.

[2] Defendant's statement of additional grounds #2 alleges that the deputy prosecutor's comments during the video were improper. Given defense

criticism on appeal involve technical legal issues that do not constitute error or misconduct. Defense counsel at trial did an admirable job with a difficult case.

Furthermore, any of counsel's alleged deficiencies would not have changed the jury's verdict. Defendant's arguments on appeal pick at the edges of the case but do not address the core evidence of his guilt: the testimony of the arresting officers, the blood alcohol level, and the video of the high-speed chase. The only element at issue was identity – was defendant the driver. Given the multiple, corroborating facts identifying defendant Feely, compelling evidence supports the jury's findings of guilt.

Defendant received competent legal counsel at trial.

VI. THE COURT PROPERLY SENTENCED DEFENDANT TO CONSECUTIVE TERMS

Defendant's final challenge is to his consecutive sentences for felony DUI and attempting to elude with the sentencing enhancement. According to defendant, the trial court imposed an exceptional sentence because of the jury's special verdict.

> [T]he court was not concerned with a current *offense* going unpunished. Rather, as its oral ruling indicates, the court was concerned with the jury's special finding of endangerment going unpunished.

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counsel's objections and the court's instructions, any alleged misconduct was harmless.

(Opening Brief at 38). This is incorrect for two reasons.

First, the Court's written findings of fact establish the proper grounds for a consecutive sentence. (Judgment and Sentence at 9; CP 76) ("defendant has committed multiple current offenses and defendant's high offender score results in some of the current offenses going unpunished"). Because defendant faced a 60 month sentence for felony DUI, *any* sentence for eluding – with the enhancement or not – would have been subsumed. This is exactly the reason for the "free crimes" aggravator in RCW 9.94A.535(2)(c).

Second, the Court properly considered the jury's special verdict when deciding whether compelling reasons exist to impose an exceptional sentence. Defendant contends that a court may only look at offenses, not offenses with enhancements, when exercising discretion on imposing consecutive sentences. Not only is there no caselaw in support, this assertion makes no sense. Why would a court be less justified in imposing consecutive sentences for an enhanced offense compared to a regular one? The enhancement exists because defendant's actions were

particularly egregious. A court appropriately takes those facts into account.

Because it may take a sentencing enhancement into account when imposing consecutive sentences, the trial court did not exceed its authority.

CONCLUSION

Defendant Thomas Feely led law enforcement on a high-speed chase through Ferndale, Washington – endangering the public and police officers not in pursuit. After a fair trial, with correct instructions, the jury appropriately found defendant guilty of felony DUI and attempting to elude with the endangerment sentencing enhancement.

The State of Washington respectfully requests the Court to affirm defendant's conviction and dismiss his appeal with prejudice.

DATED this 17 day of July, 2015.

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington, that on the date stated below, I mailed or caused delivery of **Notice of Association of Counsel** to:

Nielsen, Broman, & Koch
1908 E. Madison St.
Seattle, WA 98122

DATED this 17th day of July 2015.

HEIDI MAIN