No. 47336-4-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re the Detention of

George Hancock,

Appellant.

Kitsap County Superior Court Cause No. 14-2-01409-2

The Honorable Judge Jay B. Roof

Appellant's Opening Brief

Jodi R. Backlund
Manek R. Mistry
Skylar T. Brett
Attorneys for Appellant

BACKLUND & MISTRY
P.O. Box 6490
Olympia, WA 98507
(360) 339-4870
backlundmistry@gmail.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES

FEDERAL CASES

WASHINGTON STATE CASES

CONSTITUTIONAL PROVISIONS

WASHINGTON STATUTES

OTHER AUTHORITIES

ISSUES AND ASSIGNMENTS OF ERROR

1. The trial court erred by rejecting Mr. Hancock's proposed jury instruction.

2. The court should have instructed jurors on the state's burden to show that Mr. Hancock's risk of re-offense exceeds 50%.

3. The court's instructions failed to make the relevant legal standard manifestly clear to the average juror.

   ISSUE 1: Instructions must make the relevant legal standards manifestly clear to the average juror. Did the court's instructions fail to make manifestly clear the state's burden to show a risk of recidivism exceeding 50%?

4. The trial court improperly commented on the evidence in violation of Wash. Const. art. IV, § 16.

5. Mr. Hancock's civil commitment infringed his right to due process because the court's instruction relieved the state of its burden to prove an element required for commitment.

6. The trial court improperly removed from the jury the determination of whether or not Mr. Hancock had previously been convicted of a "crime of sexual violence."

7. The trial court erred by instructing jurors that first degree child rape and indecent liberties with a child under 14 are "crimes of sexual violence."

8. The trial court erred by giving Instruction No. 6.

9. Instruction No. 6 failed to make the relevant standard manifestly clear to the average juror.

   ISSUE 2: A judge may not comment on the evidence. Did the trial judge comment on the evidence by telling jurors that Mr. Hancock's prior offenses were "crimes of sexual violence" as a matter of law? The trial court erred by admitting Ex. 44 over defense objection.

10. The evidence was insufficient for commitment.

11. The state failed to prove Mr. Hancock is currently dangerous.

12. The state erroneously relied on Mr. Hancock's lifetime risk of engaging in predatory acts of sexual violence.

> **ISSUE 3:** Only those who are currently dangerous qualify for civil commitment. Did the state fail to prove current dangerousness because it relied exclusively on evidence that Mr. Hancock's lifetime risk of recidivism exceeds 50%?The trial should have excluded Ex. 44 because it was irrelevant and unduly prejudicial.

13. The trial court erred by admitting Ex. 44.

14. The probative value of Ex. 44 was substantially outweighed by the danger of unfair prejudice under ER 403.

> **ISSUE 4:** Evidence is not admissible if it is irrelevant or if its probative value is outweighed by the risk of unfair prejudice. Did the court err by admitting a diagram that was not proportionate to available data, and which suggested Mr. Hancock is far more likely to reoffend than predicted by his actuarial score?

15. The trial court denied Mr. Hancock his statutory and due process right to the effective assistance of counsel.

16. The trial judge erred by failing to inquire into the extent of the conflict between Mr. Hancock and his attorney.

> **ISSUE 5:** A person facing civil commitment has a statutory and a constitutional right to the effective assistance of counsel. Did the trial court's failure to inquire into the attorney-client relationship violate Mr. Hancock's statutory and due process right to counsel?

17. Prosecutorial misconduct deprived Mr. Hancock of his Fourteenth Amendment right to due process.

18. The state committed misconduct that was flagrant and ill-intentioned.

19. The state committed misconduct by "testifying" to "facts" that were not in evidence.

> **ISSUE 6:** A prosecutor commits misconduct by "testifying" to "facts" not properly admitted into evidence. Did the Assistant

Attorney General commit flagrant and ill-intentioned misconduct by "testifying" to "facts" that suggested Mr. Hancock could not live safely in the community?

STATEMENT OF FACTS AND PRIOR PROCEEDINGS

1. After the state filed a petition to indefinitely commit George Hancock, he cooperated openly and honestly with the state's expert.

After serving a 14-year prison sentence, George Hancock found himself facing indefinite commitment to the Special Commitment Center. CP 3, 91. He cooperated with an evaluation performed by Dr. Richard Packard, participating fully in two rounds of psychological testing and more than six hours of interviews. CP 15, 56.

Dr. Packard described him as open and non-defensive, and said he had been "maturing and doing better, at least in recent years." RP 1012. Mr. Hancock also submitted to a video deposition at the state's request. CP 344-574.

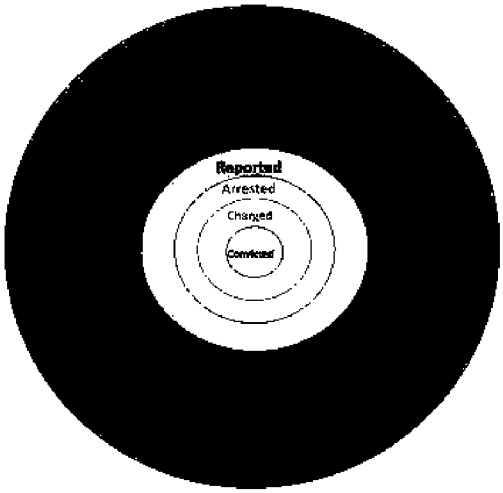
Mr. Hancock participated in another evaluation performed by Dr. Christopher Fisher. CP 715; RP 1081. Dr. Fisher found that Mr. Hancock, despite mental health problems, is no longer predisposed to offend. RP 1089, 1101-1103, 1110, 1118.

As a result, Dr. Fisher did not believe that Mr. Hancock had a "mental abnormality." RP 1119. Dr. Fisher also said that Mr. Hancock's antisocial personality disorder had diminished with age and maturity, and concluded that it was insufficient to justify commitment. RP 1110-1116.

Dr. Fisher also assessed Mr. Hancock's risk of reoffending. At trial he explained to the jury that he understood the word "likely" to mean greater than 50%. RP 1089, 1119. He opined that Mr. Hancock had changed since his last offense (in 1999), and was not likely to reoffend. RP 1095, 1101-1104, 1110, 1118, 1119, 1129, 1135-1137.

2. Mr. Hancock moved to exclude the state's "bullseye" exhibit because it was irrelevant and unduly prejudicial.

Prior to trial, defense counsel asked the court to exclude Exhibit 44. RP 30-31. The exhibit shows a series of concentric circles, purporting to compare the number of sex offenses actually committed to the number resulting in arrest, charge, and conviction.[1] Ex. 44. The exhibit looked like this:



Ex. 44 (See Appendix for full-sized image).

[1] Another circle purportedly represents the number of sex offenses reported. Ex. 44. The number reported is apparently not taken into account by the Static 99R or other instruments relied upon by the experts.

The radius of Exhibit 44's outer circle ("All Sex Offenses Committed") is approximately eight times the radius of the inner circle ("Convicted"). Ex. 44.[2] The inner circle—"Convicted"—is bright red. Ex. 44.

The exhibit is not limited to predatory acts of sexual violence. Ex. 44. Instead, it compares the numbers for "All Sex Offenses," including those committed by family members. Ex. 44.

Dr. Packard did not prepare the exhibit, and did not disclose who had prepared it. RP 783. He could not provide the numbers underlying the size of any of the circles, including those at the center of the bullseye. RP 783-785.[3]

Dr. Packard testified that the outer circle, representing "All Sex Offenses Committed" was not based on any number "in the research." RP 783; Ex. 44. He went on to describe it as "an unknown number," and acknowledged it was not based on "information that could be available

[2] A comparison of the area of the outer and inner circles makes it seem that only one out of every 64 sex offenses results in conviction. Ex. 44. Nothing in the record supports this suggestion.

[3] Although he knew where to find the data for the inner circles, he could not relate it to the court. RP 784-785.

through governmental sources and the like." RP 785-786.[4] When asked if the exhibit were "proportionate to the data," he told the court that "it's pretty much impossible to give a proportionate number." RP 790.

Based on this, the court admitted the exhibit for illustrative purposes. RP 790.

Dr. Packard relied on Ex. 44 during his testimony to suggest that the Static 99R and other actuarial measures underreport the risk of re-offense. RP 882-884. He did not imply at any time that predatory acts of sexual violence are underreported. Nor did he attempt to relate any aspect of Exhibit 44 to predatory acts of sexual violence. RP 690-1030, 1362-1409.

In closing, the prosecutor also relied on Ex. 44. RP 1451. She described Mr. Hancock as "a perfect example that the vast majority of sex offenses go unreported and that these [actuarial estimates] are underestimates." RP 1451. She finished her discussion of the exhibit by saying that "Mr. Hancock has hit that bull's-eye over and over and over again through the course of his history." RP 1452.

[4] He later said that the outer circle was an estimate based on crime victim's surveys, and said that such estimates "have their limitations." RP 784. He reiterated this, and noted that one limitation was the survey's failure to include children under age 12. RP 786. He did not describe the survey methodology or indicate that any effort had been made to verify survey responses. RP 783-790.

3. The state relied on evidence of Mr. Hancock's lifetime risk to prove that he qualified for commitment.

Dr. Packard testified that he assessed Mr. Hancock's risk "for the rest of his whole life." RP 949. He told jurors "That's the statutory question." RP 949. He concluded that Mr. Hancock was "more likely than not to engage in acts of predatory sexual violence." RP 936. He did not make any reference to the state's obligation to show a greater than 50% risk.[5] RP 690-1030, 1362-1409.

In closing, the state's attorney directed jurors to Dr. Packard's testimony about lifetime risk:

> The question [Dr. Packard] has to look at here is whether Mr. Hancock is going to re-offend in his lifetime. So it's not just in the next 5, 10, or 15 years.
> RP 1451.

The AAG also told jurors that three years of supervision was "[n]ot a lot when you're looking at a lifetime of potential re-offense." RP 1454.

4. Mr. Hancock acknowledged his offense history and told jurors about his release plan.

Mr. Hancock testified, and told jurors that he'd been raped by his grandfather when he was only seven years old. RP 1344. His own offending grew out of that incident. RP 1344. He admitted that he could

[5] In his written report, Dr. Packard indicated that Mr. Hancock's Static 99R score resulted in a risk level below 50%. CP 46.

not remember all the children he'd abused, starting from when he was 8 and ending in 1988 when he was 23. RP 1345. He committed his only subsequent offense in 1999.[6] RP 1345-1346.

He told the jury he planned to live on his mother's property, and that he'd be wearing an ankle bracelet during his three years of supervision. RP 1355-1356. He testified that his family knew he shouldn't be around children, and had agreed to keep children from the residence. RP 1351. His mother and sister confirmed that he would be living with them, that they were aware of his offense history (although he'd spared them specific details), and that they would not have any children visit the home. RP 1031-1055.

5. The court refused to instruct on the Supreme Court's 50% standard, and prohibited Dr. Fisher from explaining the legal standard to the jury.

Mr. Hancock proposed a single jury instruction, asking that jurors be instructed on the state's burden to prove a greater than 50% risk of re-offense:

> The term more likely than not as used in these instructions means that the probability of respondent's reoffending exceeds 50 percent.

[6]On the witness stand, Mr. Hancock admitted for the first time that he'd molested the victim of his 1999 conviction. RP 677-685. He explained that he'd consistently refused to admit guilt because he'd been charged with (and later convicted of) rape instead of molestation; he thought that if he admitted to molestation, everyone would believe he'd committed rape. RP 683-684.

CP 743.

His attorney argued that the instruction was necessary because jurors would be prejudiced against Mr. Hancock from the outset and would have too much "room for them to wiggle in their minds about what 'likely' or 'more likely' means." RP 34. He expressed concern about "the emotional nature of the case" and asked that the court instruct jurors on the 50% standard as a "reasonable step... to avoid a finding that any level of risk is sufficient enough of a probability for commitment." CP 163.

Counsel went on to argue that the standard "should be more precisely stated along the lines that the Supreme Court said." RP 34. He hoped to stop jurors "from making a bad call, essentially... [T]here is a real possibility that any sense of risk is going to cause a negative finding by this jury." RP 35.

In its response, the state argued that the "more probably than not" standard does not necessarily equate to a risk level greater than 50%. CP 575-576.

The court refused to give the instruction. RP 32-35. The judge reasoned that courts have "utilized the 'more probably true than not' standard for centuries without definition in terms of percentage." RP 34. At the AAG's request, the court prohibited the defense expert from

explaining that the law required a risk greater than 50%.[7] RP 35-38; CP 101-102, 576.

Dr. Fisher discussed the 50% standard during his testimony. RP 1089, 1119. In keeping with the court's limitation, he did not suggest that the law required a risk level greater than 50%; instead, he told jurors that he took the word "likely" to mean greater than 50%. RP 1119. Dr. Packard did not discuss the 50% standard. RP 690-1030, 1362-1409.

In closing, neither party mentioned the 50% standard to the jury. RP 1422-1517.

6. The court instructed jurors that Mr. Hancock's prior sexually violent offenses qualified as "crimes of sexual violence" as a matter of law.

The trial court defined the phrase "sexually violent predator" to mean, *inter alia,* a person who "has been convicted of or charged with a crime of sexual violence." CP 1081. The judge did not provide the jury with an instruction explaining the phrase "crime of sexual violence." CP 1074-1098.

In its elements instruction, the court instructed jurors (in relevant part) as follows:

[7] However, the court did allow counsel to try and convince jurors to use the 50% standard. RP 35-38.

> To establish that George Edward Hancock, Jr. is a sexually violent predator, the State must prove each of the following elements beyond a reasonable doubt: (1) That George Edward Hancock, Jr. has been convicted of a crime of sexual violence, namely Rape of a Child in the First Degree or Indecent Liberties with a Child Under the Age of 14…
> CP 1082.

Neither party objected to this instruction.

7. The state's attorney made arguments that were not supported by evidence introduced at trial.

In closing, the AAG suggested that Mr. Hancock had tailored his testimony, fabricating information that he had never said before.

The state claimed that Mr. Hancock said "for the first time" that he hadn't offended between 1988 and 1999, and that this was "the first time we ever heard of that." RP 1446. The AAG also claimed that Mr. Hancock's testimony that DOC planned to have him wear an ankle bracelet while on supervision was the "first time we've ever heard that." RP 1446.

No evidence showed that Mr. Hancock hadn't made these statements before. During the presentation of evidence, the parties introduced only limited portions of Mr. Hancock's 6+ hours of interviews with Dr. Packard, his interviews with Dr. Fisher, and his pretrial deposition. RP 656-657, 666, 667, 690-1030, 1066-1272, 1358, 1362-1409.

The state's attorney also argued that Mr. Hancock's mother and sister didn't "know his offense history" and had "no clue as to what he has done." RP 1455. In fact, both had testified they were familiar with his offense history. RP 1033, 1035-1037, 1044, 1049-1050.

Finally, the AAG claimed Mr. Hancock's mother and sister believed "it's ok [for him] to be around kids as long as adults are present." RP 1456. Neither had taken this position in their testimony.[8] RP 1031-1055. Mr. Hancock also confirmed that his family knew he could not be around children. RP 1351.

8. The jury found for the state, and the court entered an order committing Mr. Hancock indefinitely.

During deliberations, the jury sent out a request for clarification regarding Instruction No. 9:

> We "may only consider placement conditions." The "placement conditions" are unclear to us at this time.
> CP 1071.

The court responded by reminding them "to consider the instructions as a whole." CP 1071. Jurors also asked what impact Mr. Hancock's brother's presence would have on his release plan. CP 1073. The court directed

[8] In her deposition, Mr. Hancock's sister had stated her belief that Mr. Hancock would not offend against children in a public place such as a supermarket. RP 1051.

them to consider only the evidence admitted and the court's instructions. CP 1073.

The jury returned a verdict finding Mr. Hancock a sexually violent predator. CP 1099. The court entered an order committing him to the Special Commitment Center, and Mr. Hancock timely appealed. CP 1100, 1107.

ARGUMENT

I. THE COURT SHOULD HAVE INSTRUCTED JURORS ON THE STATE'S BURDEN TO PROVE THAT MR. HANCOCK'S RECIDIVISM RISK EXCEEDS 50%.

Dr. Fisher testified that Mr. Hancock's risk of recidivism fell below 50%. RP 1089, 1119, 1129, 1139. Dr. Packard testified that Mr. Hancock's lifetime risk made him "more likely than not" to reoffend over the course of his life. RP 936, 949. Mr. Hancock asked the court to instruct jurors on the state's burden to prove a recidivism risk exceeding 50%. CP 163, 742-743; RP 34-35. The government objected, and the court refused. RP 35-38; CP 575-576, 1074-1098.

Jury instructions must "do more than adequately convey the law." *State v. Watkins*, 136 Wn. App. 240, 241, 148 P.3d 1112 (2006). They must make the applicable legal standards "manifestly clear to the average juror." *Id.*

Here, the court's instructions did not make the applicable standard "manifestly clear." *Id.* Civil commitment requires proof "that 'the probability of the defendant's reoffending exceeds 50 percent.'" *In re Det. of Post*, 170 Wn.2d 302, 310, 241 P.3d 1234 (2010) (quoting *In re Det. of Brooks*, 145 Wn.2d 275, 298, 736 P.3d 1034 (2001) *overruled on other grounds by In re Det. of Thorell*, 149 Wn.2d 724, 72 P.3d 708 (2003)). An instruction that is "manifestly clear" would have communicated the 50% standard.

Instead of instructing jurors on the 50% standard, the court elected to use the statutory language without further elaboration. CP 1085. But the statutory phrase "more probably than not" is not manifestly clear. Indeed, the Supreme Court feels the need to use the phrase "50 percent" to explain the phrase "more probably than not", rather than allowing it to speak for itself. *Post,* 170 Wn.2d at 310; *Brooks,* 145 Wn.2d at 295. Furthermore, the state suggested in its briefing that "more probably than not" does *not* equate to a likelihood greater than 50%. CP 575-576.

By expressing the standard numerically, the Supreme Court brought greater precision[9] to the state's burden.[10]

---

[9] *See State v. Harrington*, 181 Wn. App. 805, 821, 333 P.3d 410, *review denied*, 337 P.3d 326 (Wash. 2014) ("Words, not numbers, are the material from which legislatures fabricate statutes… But words are funny things. We may use a word or phrase to convey one meaning and the reader or listener may receive a different meaning. Or the reader may question the meaning or not conceive any meaning.")

Instructions must be manifestly clear because jurors cannot rely on the rules of interpretation familiar to lawyers and judges. *State v. Harris*, 122 Wn. App. 547, 553-554, 90 P.3d 1133 (2004). Thus, "the standard for clarity in jury instructions is higher than that for a statute." *Id.* In other words, statutory language is not necessarily manifestly clear to the average juror. *Id.*

Jurors should not be required to guess at what is required for commitment. *See State v. Smith*, 131 Wn.2d 258, 263, 930 P.2d 917 (1997) ("It cannot be said that a defendant has had a fair trial if the jury must guess at the meaning of an essential element.") Furthermore, in cases involving an admitted history of sex offenses, every effort should be taken to remove passion and prejudice from the deliberative process, because in such cases, the potential for prejudice is at its highest. *See State v. Gresham*, 173 Wn.2d 405, 433, 269 P.3d 207 (2012); *State v. Gower*, 179 Wn.2d 851, 857-858, 321 P.3d 1178 (2014).

The court's instructions left the jury to guess whether the phrase "more probably than not" has exactly the same meaning as a probability

[10] Furthermore, the 50% standard also aligns the statutory language with the kind of expert testimony presented in most RCW 71.09 cases. When the jury hears conflicting expert testimony centering on a 50% likelihood of re-offense, only an instruction referring to that number qualifies as "manifestly clear."

greater than 50%. Mr. Hancock's proposed instruction would have made the standard manifestly clear. CP 742.[11]

A trial court's failure to instruct on a party's theory of the case is reversible error where there is evidence supporting the theory. *Barrett v. Lucky Seven Saloon, Inc.*, 152 Wn.2d 259, 266-67, 96 P.3d 386 (2004). Mr. Hancock's theory was that his likelihood of engaging in predatory acts of sexual violence was less than 50%. He presented evidence supporting this theory. Accordingly, the court should have made the 50% standard explicit for the jury. *Id.*

The commitment order must be reversed and the case remanded for a new trial with proper instructions. *Id.*

II. THE TRIAL COURT VIOLATED MR. HANCOCK'S FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS BY COMMENTING ON THE EVIDENCE AND RELIEVING THE DEPARTMENT OF ITS BURDEN TO PROVE THAT MR. DAVIS HAD PREVIOUSLY BEEN CONVICTED OF A "CRIME OF SEXUAL VIOLENCE."

In order to find that Mr. Hancock met the commitment criteria, the jury needed to determine whether he had been previously convicted of a "crime of sexual violence." RCW 71.09.020(18); RCW 71.09.060(1).

[11] The proposed instruction used the word "likely" in place of the statutory term "probably." CP 742. This clerical error was not a factor in the trial judge's decision, and should have no impact on review. RP 35-38. The issue is whether the trial judge should have made the 50% standard explicit for the jury. Any clerical error could have been corrected in the final instruction packet.

RCW 71.09 does not define the term "crime of sexual violence." Instead of instructing the jury to consider the term's plain meaning, however, the court's instructions relied on the statutory definition of "sexually violence offense," which provides an enumerated list of offenses that can serve as the predicate for screening and petitioning under RCW 71.09. RCW 71.09.020(17); *See* RCW 71.09.030; RCW 71.09.060.

The trial court conflated the two terms. It misconstrued the statute, impermissibly commented on the evidence, and violated due process by relieving the state of its burden to prove each element of the commitment criteria beyond a reasonable doubt.

A. RCW 71.09 differentiates between "sexually violent offenses" and "crimes of sexual violence."

Involuntary civil commitment involves a "massive curtailment of liberty." *In re Detention of Anderson*, 166 Wn.2d 543, 556, 211 P.3d 994 (2009) (citations and internal quotation marks omitted). Because of this, a civil commitment statute such as RCW 71.09 must be strictly construed to its terms. *In re Detention of Martin*, 163 Wn.2d 501, 509, 182 P.3d 951 (2008).

A court construing RCW 71.09 must choose a "narrow, restrictive construction" over a "broad, more liberal interpretation." *Id.* at 510. Civil incarceration achieved by means other than strict compliance with RCW

71.09 deprives a person of liberty without due process. *Id.* at 511; U.S. Const. Amend. XIV; Wash. Const. art. I, § 3.

Where the legislature uses different language in the same statute, different meanings are intended.[12] *State v. Costich*, 152 Wn.2d 463, 475-476, 98 P.3d 795 (2004).

Principles of statutory interpretation require a "comprehensive reading" of RCW 71.09, deriving legislative intent from "ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole." *In re Det. of Strand*, 167 Wn.2d 180, 188, 217 P.3d 1159 (2009) (internal quotation marks and citations omitted).

A person's prior offenses play a significant role in commitment proceedings under RCW 71.09. The statute uses two different phrases to describe a predicate offense under RCW 71.09: "sexually violent offense" and "crime of sexual violence." *See* RCW 71.09.020(17) *and* RCW 71.09.020(18).

The former ("sexually violent offense") is used repeatedly throughout the statute; the latter ("crime of sexual violence") occurs only

[12] Statutory construction is a question of law reviewed *de novo*. *Strand*, 167 Wn.2d at 186. The primary objective of statutory construction is to ascertain and carry out the intent of the legislature. *Id.* at 188.

in the definition of "sexually violent predator." RCW 71.09.020(18); *see also* RCW 71.09.020(17), RCW 71.09.025; RCW 71.09.030; RCW 71.09.060; RCW 71.09.140.

Since the legislature has used different language in RCW 71.09, different meanings are intended. *Costich*, 152 Wn.2d at 475-476.

The phrase "sexually violent offense" has a specific definition, listing the qualifying offenses.[13] RCW 71.09.020(17).

By contrast, RCW 71.09 does not define the phrase "crime of sexual violence." Rather than serving as a predicate to a petition, the jury must determine whether a person has been convicted of a "crime of sexual violence" as part of the commitment criteria. RCW 71.09.020(18); RCW 71.09.060(1).

Where a statute fails to define a term, rules of statutory construction require that the term be given its plain and ordinary meaning,

---

[13] Under the statutory definition,

> "Sexually violent offense" means … rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; [an equivalent offense under a prior statute, federal law, or from another jurisdiction]; an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act [was done with sexual motivation]; or… an attempt, criminal solicitation, or criminal conspiracy to commit [one of the listed offenses]." RCW 71.09.020(17).

derived from a standard dictionary if possible. *McClarty v. Totem Elec.*, 157 Wn.2d 214, 225, 137 P.3d 844 (2006).

Applying this rule and the requirement that RCW 71.09 be strictly construed, the phrase "crime of sexual violence" must be given the most restrictive meaning derived from the ordinary definition of each word. Assuming a detainee's predicate offenses qualify as sexual crimes, only the meaning of the word "violence" must be examined. The dictionary definition of violence is "swift and intense force," or "rough or injurious physical force." *Dictionary.com, based on the Random House Unabridged Dictionary*, Random House, Inc. 2015.

Examining these phrases in context (as required by the Supreme Court in *Strand*), the reason for the difference becomes apparent. "Screening questions" are made with reference to the list contained in RCW 71.09.020(17) (the definition for "sexually violent offense"). Thus, the prosecuting attorney must be notified prior to release of an inmate who has been convicted of a sexually violent offense and who appears to qualify for commitment under RCW 71.09. *See* RCW 71.09.025.

Similarly, the prosecuting attorney may file a petition prior to release of any inmate who has been convicted of a sexually violent offense. *See* RCW 71.09.030; RCW 71.09.060.

Finally, notice must be provided whenever a person committed under RCW 71.09 escapes or is conditionally released; such notice must be provided to the victims of the sexually violent offense and/or the sheriff of the county where the offense was committed. RCW 71.09.140.

These provisions, which use the phrase "sexually violent offense," do not require a factual determination as to whether or not actual violence was used in the commission in the offense. Instead, any decisions can be made simply by referring to the list of offenses contained in the definition of "sexually violent offense." RCW 71.09.020(17).

By contrast, the jury must determine whether the predicate offense qualifies as a "crime of sexual violence." RCW 71.09.020(18); RCW 71.09.060(1). The fact-finder must decide whether the predicate offense was in fact accomplished by "swift and intense force," or "rough or injurious physical force." RCW 71.09.020(18); *Dictionary.com.* The jury may not rely on a list of offenses, but must examine the underlying facts and determine whether actual violence was employed in the predicate offense under consideration.[14]

[14] Some sexually violent offenses—such as those involving forcible compulsion—will by definition involve actual violence. Others, however—such as Child Molestation or Residential Burglary with Sexual Motivation—might be accomplished without actual violence.

This reading is consistent with the statute's purpose: to address the risks posed by the "small but extremely dangerous group of sexually violent predators"—those who are likely to engage in "repeat acts of predatory sexual violence"—and not the larger pool of sexual predators who are not violent. *See* RCW 71.09.010.

In this case, the department introduced evidence that Mr. Hancock had been convicted of Rape of a Child in the First Degree, Indecent Liberties, and Lewd and Lascivious Acts Upon a Child (under California law). Ex. 16-19, 24-26, 32-33. Assuming these prior offenses qualified as sexual crimes, the question for the jury was whether or not they were violent in fact—that is, accomplished by physical force that was rough, injurious, swift, and/or intense. RCW 71.09.020(18); *Dictionary.com.*

B. The court's instructions included a comment on the evidence, directing the jury to find that Mr. Hancock had been convicted of a "crime of sexual violence."

The court instructed the jury that the state was required to prove beyond a reasonable doubt that Mr. Hancock "has been convicted of a crime of sexual violence, *namely Rape of a Child in the First Degree or Indecent Liberties with a Child Under the Age of 14...*" CP 1082 (emphasis added). Instruction number 6 included an unconstitutional judicial comment on the evidence. It erroneously told jurors that the

state's obligation to prove a "crime of sexual violence" had been met as a matter of law.

Under the state constitution, "Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law." Art. IV, § 16. A jury instruction improperly comments on the evidence if the instruction resolves an issue of fact that should have been left to the jury. *State v. Brush*, No. 90479-1, 2015 WL 4040831, at *4, --- Wn.2d ---, --- P.3d --- (July 2, 2015). An improper judicial comment can always be raised for the first time on review as a manifest error affecting a constitutional right. RAP 2.5(a)(3); *State v. Fehr*, 185 Wn. App. 505, 511, 341 P.3d 363 (2015).

Here, the instructions did not define the phrase "crime of sexual violence" for the jury. Instead, the court's instructions allowed the jury to return a "yes" verdict if it found that Mr. Hancock had been "convicted of a crime of sexual violence, namely Rape of a Child in the First Degree or fIndecent Liberties with a Child Under the Age of Fourteen." CP 1082.

This was an unconstitutional comment on the evidence. *Brush*, --- Wn.2d ---, at *4. The jury was required to determine if the predicate offenses qualified as crimes of sexual violence; this required a factual

determination regarding the physical force used to accomplish the prior offenses. RCW 71.09.020(18).

Under Instruction No. 6, the jury was directed to return a "yes" verdict if it found Mr. Hancock been convicted of a listed offense, regardless of whether or not the offense involved actual violence. The instruction was "tantamount to directing a verdict." *State v. Jackman*, 125 Wn. App. 552, 560, 104 P.3d 686 (2004) *aff'd,* 156 Wn.2d 736, 132 P.3d 136 (2006), *as corrected* (Feb. 14, 2007); *Brush*, --- Wn.2d --- at *4.

A comment of this sort is presumed to be prejudicial and reversal is required unless the record affirmatively establishes that no prejudice could have resulted. *Brush*, --- Wn.2d ---, at *5. This is a higher standard than that required for ordinary constitutional error.

In Mr. Hancock's case, there was no evidence that he used "swift and intense force," or "rough or injurious physical force" in committing his prior offenses. The state cannot establish harmlessness beyond a reasonable doubt. *Id.*

In addition, by failing to strictly follow the requirements of RCW 71.09, the trial court violated Mr. Hancock's Fourteenth Amendment right to due process. *Martin,* 163 Wn.2d at 509. Accordingly, the commitment order must be vacated and the case remanded for a new trial. *Brush*, --- Wn.2d ---, at *4-5.

C. The court's instructions relieved the department of its burden to prove that Mr. Hancock had previously been convicted of a "crime of sexual violence."

A jury instruction that relieves the state of its burden to prove all elements violates due process. *State v. Thomas*, 150 Wn.2d 821, 844, 83 P.3d 970 (2004); *State v. Randhawa*, 133 Wn.2d 67, 76, 941 P.2d 661 (1997). A jury instruction that misstates an element is not harmless unless it can be shown beyond a reasonable doubt that the error did not contribute to the verdict. *State v. Williams,* 136 Wn. App. 486, 493, 150 P.3d 111 (2007).

Jury instructions must be "manifestly clear," since juries lack the tools of statutory construction available to courts. *See, e.g., Harris*, 122 Wn. App. at 554.

Here, the court's instructions relieved the department of its burden to prove beyond a reasonable doubt that Mr. Hancock had been convicted of "crime of sexual violence," as required by RCW 71.09.020(18).

Instead of defining that phrase with reference to the physical force used to accomplish the prior offense, the court's instructions allowed the jury to return a "yes" verdict based solely on the fact of conviction. *See* Instruction No. 6, CP 1082. This did not make the relevant standard manifestly clear. Instead, it misled the jury and misstated the applicable law.

The court's failure to strictly comply with the requirements of RCW 71.09 violated Mr. Hancock's Fourteenth Amendment right to due process. Accordingly, the commitment order must be vacated and the case remanded for a new trial.

D. This court should not follow Division I's holding in *Coppin*, which was wrongly decided.

Division I has previously ruled that – despite the clear differentiation in language – "crime of sexual violence" and "sexually violent offense" mean the same thing. *In re Det. of Coppin*, 157 Wn. App. 537, 553, 238 P.3d 1192 (2010).

In so holding, Division I ignored the rules of statutory construction as established by the Supreme Court and failed to strictly construe the statute as required by substantive due process. *See Costich*, 152 Wn.2d at 475-476; *Strand*, 167 Wn.2d at 188; *Martin*, 163 Wn.2d at 509.

Coppin was wrongly decided and should not be followed by this court.

III. THE STATE FAILED TO PROVE THE ELEMENTS REQUIRED FOR COMMITMENT BECAUSE IT DID NOT SHOW THAT MR. HANCOCK IS CURRENTLY DANGEROUS.

A. RCW 71.09 does not permit commitment based on lifetime risk because it only allows commitment of those who are currently dangerous.

Due process prohibits civil commitment for those who are not currently dangerous. *Foucha v. Louisiana*, 504 U.S. 71, 78, 112 S.Ct. 1780, 118 L.Ed.2d 437 (1992). The word "currently" is an adverb meaning "at the present time; now." *Dictionary.com,* based on the Random House Dictionary, Random House (2015).

A person who is "currently dangerous" is dangerous at the present time. Someone who is unlikely to reoffend unless risk is aggregated over a long period cannot be described as "currently" dangerous: he is not dangerous at the present time.

If interpreted to allow commitment of those who are not currently dangerous, RCW 71.09 would be unconstitutional under *Foucha.* Where possible, statutes must be construed to avoid constitutional difficulty. *Utter v. Bldg. Indus. Ass'n of Washington*, 182 Wn.2d 398, 434, 341 P.3d 953 (2015).

RCW 71.09 may not be construed to allow commitment based on lifetime risk.[15] *Utter*, at 434. A person who is not currently dangerous but who might reoffend over the course of his lifetime does not qualify for commitment under *Foucha.*

This is consistent with the rule requiring courts to strictly construe statutes involving a deprivation of liberty. *In re Detention of Hawkins*, 169 Wn.2d 796, 801, 238 P.3d 1175 (2010). When strictly construed in favor of liberty, the statute does not allow commitment based on lifetime risk.

Substantive due process also requires this interpretation. The provisions of RCW 71.09 are constitutional only to the extent they are narrowly tailored to achieve the government's interest in protecting the public and providing treatment. *In re Young*, 122 Wn.2d 1, 26, 857 P.2d 989 (1993); *In re Albrecht*, 147 Wn.2d 1, 7, 51 P.3d 73 (2002).

Allowing commitment based on lifetime risk would violate substantive due process. Commitment based on lifetime risk is not narrowly tailored to achieving the government's goals of protecting the public from and providing treatment to those who are currently dangerous. A lesser period—such as a reasonable period of time or a fixed period of

[15] The sole exception would be the rare case where the state seeks commitment of a person nearing the end of his life.

years—would still allow the state to confine and treat those most likely to commit predatory acts of sexual violence. At the same time, such a standard would exclude those whose recidivism risk is low, unless considered over the course of an entire lifespan.

Instead of lifetime risk, some other formulation must be used to express a person's overall risk. The state need not prove imminent risk. *In re Harris*, 98 Wn.2d 276, 281-282, 654 P.2d 109 (1982) (addressing RCW 71.05). Nor is the state required to prove that the risk arises within the foreseeable future, or within a fixed number of years. *In re Det. of Moore*, 167 Wn.2d 113, 123, 216 P.3d 1015 (2009); *In re Det. of Keeney*, 141 Wn. App. 318, 327, 169 P.3d 852 (2007).

E. The evidence was insufficient for commitment because the state relied on Mr. Hancock's lifetime risk of recidivism.[16]

Evidence is insufficient to support commitment under RCW 71.09 unless – taken in the light most favorable to the state – it is adequate to persuade a fair-minded, rational person that the state has proved the elements beyond a reasonable doubt. *In re Det. of Aston*, 161 Wn. App. 824, 830, 251 P.3d 917 (2011).

[16] The sufficiency of the evidence may always be raised for the first time on appeal as a manifest error affecting a constitutional right and as a failure to prove facts upon which relief can be granted. RAP 2.5(a)(2) and (3).

Here, the state did not prove that Mr. Hancock was likely to engage in predatory acts of sexual violence over any period less than the remainder of his entire lifetime. Specifically, Dr. Packard opined that Mr. Hancock qualified for commitment based on his lifetime risk of reoffending.[17] RP 936, 949. He did not suggest that Mr. Hancock would more probably than not engage in predatory acts of sexual violence over any shorter period of time.

But RCW 71.09 does not permit commitment on the basis of lifetime risk. Accordingly, even when taken in a light most favorable to the government, the evidence was insufficient to support Mr. Hancock's commitment. The commitment order must be reversed and the petition dismissed with prejudice.

IV. THE COURT ERRED BY ADMITTING THE IRRELEVANT, MISLEADING, AND PREJUDICIAL "BULLSEYE" EXHIBIT.

The trial judge should not have allowed the state to introduce the irrelevant, misleading, and prejudicial bullseye exhibit, Exhibit 44. RP 790, 881.

Dr. Packard did not prepare the exhibit. He could not provide the underlying numbers supporting the illustration. RP 783-785. He acknowledged that the size of the critical outer circle was not based on any

[17] He told jurors that the statute required consideration of lifetime risk. RP 949.

research. RP 783, 785-786. He admitted that the outer circle was not proportionate, and that it would be impossible to make it proportionate because it was based on an "unknown" number. RP 790.

Dr. Packard did not relate the exhibit to the issue of predatory acts of sexual violence. RP 783-790, 881.

Evidence must be excluded if "its probative value is substantially outweighed by the danger of unfair prejudice." ER 403. Evidentiary error requires reversal if there is a reasonable probability that it materially affected the outcome of the trial. *State v. Briejer*, 172 Wn. App. 209, 228, 289 P.3d 698 (2012).

Exhibit 44 should have been excluded. It was irrelevant and unduly prejudicial.

First, it did not accurately illustrate the underreporting problem because it was not proportionate to the data. As Dr. Packard indicated, it was "pretty much impossible to give a proportionate number." RP 790.

Second, Dr. Packard did not relate the exhibit to underreporting of predatory acts of sexual violence. There is no indication that predatory acts of sexual violence are underreported in the U.S.[18]

[18] It is far more likely that sex crime victims are reluctant to report friends and family members, rather than predatory strangers.

The trial court should not have admitted Ex. 44 for illustrative purposes. It lacked probative value and created a grave risk of unfair prejudice. It should have been excluded under ER 402 and ER 403.

The error prejudiced Mr. Hancock. It left jurors with the inaccurate impression that he is far more likely to reoffend than predicted by his actuarial score. The exhibit bolstered the state's case on the primary disputed element at trial.

There is a reasonable probability that Exhibit 44 materially affected the outcome of the trial. *Briejer*, 172 Wn. App. at 228. Mr. Hancock's commitment order must be reversed and the case remanded with instructions to exclude Exhibit 44. *Id.*

V. THE COURT VIOLATED MR. HANCOCK'S STATUTORY AND DUE PROCESS RIGHTS TO COUNSEL BY FAILING TO INQUIRE INTO HIS REASONS FOR REQUESTING A MISTRIAL.

The judge presiding over a civil commitment proceeding must inquire into a detainee's dissatisfaction with counsel. *United States v. Blackledge*, 751 F.3d 188, 193-199 (4th Cir. 2014). The trial court failed to do so in this case.

Prior to closing arguments, Mr. Hancock told the trial judge that he was dissatisfied with his attorney's representation and requested a mistrial. RP 1421-1422. He said that counsel had deceived him for over six months about what would happen at the trial. RP 1421. He went on to say that he

was upset about his testimony, because his attorneys had changed strategy at the last minute. RP 1421.

The court did not inquire into the issue. RP 1421-1422. Instead, the judge summarily dismissed Mr. Hancock's concerns because, in the court's estimation, his attorneys had "busted their ass [sic]" for him throughout trial. RP 1421.

The court's failure to inquire violated Mr. Hancock's statutory and due process rights to the effective assistance of counsel. *Blackledge*, 751 F.3d at 188, 193-199.

A person facing civil commitment has a statutory right to the effective assistance of counsel. RCW 71.09.050(1); *see In re Det. of Stout*, 159 Wn.2d 357, 377, 150 P.3d 86 (2007). The standards applicable to ineffective assistance claims in criminal cases apply in civil commitment proceedings. *Id.*

The Fourteenth Amendment's due process clause also confers a constitutional right to the effective assistance of counsel. U.S. Const. Amend. XIV. This is so because the private interest at stake is fundamental and significant, the risk of error is high in the absence of effective counsel, and the public has a strong interest in avoiding erroneous civil commitments. *See Young*, 122 Wn.2d at 43 (citing

Mathews v. Eldridge, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976)). Any countervailing state interests are minimal. *Id.* [19]

The court's failure to inquire violated Mr. Hancock's statutory and due process rights to the effective assistance of counsel.[20] *Blackledge*, 751 F.3d at 193-199. Mr. Hancock's assertion that his attorneys had deceived him for six months was sufficiently serious to warrant the court to investigate. *Id.*

When new counsel is requested, the trial court must inquire into the reason for the request. *State v. Cross*, 156 Wn.2d 580, 607-610, 132 P.3d 80 (2006); *United States v. Adelzo-Gonzalez*, 268 F.3d 772 (9th Cir. 2001). An adequate inquiry must include a full airing of concerns and a meaningful evaluation of the conflict by the trial court. *Cross,* 156 Wn.2d at 610. The court "must conduct 'such necessary inquiry as might ease the defendant's dissatisfaction, distrust, and concern.' …The inquiry must also provide a 'sufficient basis for reaching an informed decision.'" *Adelzo-Gonzalez,* 268 F.3d at 776-777 (citations omitted). Furthermore,

[19] If there are cases explicitly recognizing a state or federal due process right to the effective assistance of counsel in civil commitment proceedings, they are difficult to find. However, the traditional balancing test clearly indicates the need for effective counsel in cases involving deprivations of liberty such as those at issue in civil commitment cases. *Cf. In re Welfare of J.M.*, 130 Wn. App. 912, 921, 125 P.3d 245 (2005) (noting that "the full panoply of due process safeguards applies" in parental deprivation proceedings) (internal quotation marks and citation omitted).

"in most circumstances a court can only ascertain the extent of a breakdown in communication by asking specific and targeted questions." *Id., at* 777-778. The focus should be on the nature and extent of the conflict, not on whether counsel is minimally competent. *Id., at* 778-779; *Blackledge*, 751 F.3d at 195.

The court did not conduct the necessary inquiry. As a result, the case went to the jury even despite Mr. Hancock's dissatisfaction with his attorney's performance on a critical point: his own testimony. As the *Blackledge* court noted, in civil commitment proceedings, "a respondent's own testimony… may indeed be significant to the evaluation of" the respondent's volitional impairment. *Blackledge*, 751 F.3d at 198.

The trial judge should have inquired into Mr. Hancock's dissatisfaction with his attorneys. *Id.* The courts failure to do so requires reversal and remand for a new trial. *Id.*

VI. THE GOVERNMENT'S ATTORNEY COMMITTED MISCONDUCT BY "TESTIFYING" TO "FACTS" THAT WERE NOT IN EVIDENCE.

Prosecutorial misconduct can deny a 71.09 detainee his right to a fair civil commitment trial. U.S. Const. Amend. XIV; art. I, § 3. *In re*

[20] The constitutional error can be raised for the first time under RAP 2.5(a)(3). The appellate court should also exercise discretion to review the statutory error under RAP 2.5(a). *See State v. Russell*, 171 Wn.2d 118, 122, 249 P.3d 604 (2011).

Det. of McGary, 175 Wn. App. 328, 342-43, 306 P.3d 1005 *review denied,* 178 Wn.2d 1020, 312 P.3d 651 (2013).

A prosecutor commits misconduct by making improper statements that prejudice the accused. *In re Glasmann*, 175 Wn.2d 696, 704, 286 P.3d 673 (2012). Misconduct that is flagrant and ill-intentioned requires reversal even absent an objection at trial. *Id.* at 678.

A prosecutor's improper statements prejudice the accused if they create a substantial likelihood that the verdict was affected. *Id.*, at 704. In determining whether prosecutorial misconduct prejudiced the accused, the inquiry turns not on the other evidence admitted, but on the misconduct and its impact. *Id.*, at 711.

A prosecutor commits misconduct by arguing facts that have not been admitted into evidence. *Id.*, at 696. It is a long-standing rule that "consideration of any material by a jury not properly admitted as evidence vitiates a verdict when there is reasonable ground to believe that the defendant may have been prejudiced." *Id.*

Prosecutorial misconduct during closing argument can be particularly prejudicial. *Id.*, at 706. In closing arguments for this, the prosecutor made several flagrant and ill-intentioned arguments "testifying" to "facts" that were not in evidence. This misconduct can be raised for the first time on appeal. *Glasmann*, 175 Wn.2d at 704.

First, the prosecutor improperly implied that Mr. Hancock perjured himself about two important points. RP 1446. Nothing in the record supported the prosecutor's assertion that this was "the first time" Mr. Hancock pointed out his lack of offenses between 1988 and 1999. RP 1446. Nor was there evidence that it was the "first time that we've ever heard" that Mr. Hancock had already spoken to his probation officer and knew he'd have an ankle monitor. RP 1446.

Mr. Hancock made numerous statements during his deposition and his hours of interviews with Dr. Packard and Dr. Fisher. CP 15, 56, 344-574, 715; RP 1081. Neither his deposition nor these other prior statements were introduced in their entirety. RP 656-657, 666, 667, 690-1030, 1066-1272, 1358, 1362-1409. Furthermore, the prosecution would presumably have impeached Mr. Hancock with evidence of (a) offenses committed between 1988 and 1999 and (b) the lack of any DOC plan to have him wear an ankle bracelet, if any such evidence existed.

Second, the prosecutor "testified," contrary to the evidence, that Mr. Hancock's mother and sister didn't "know his offense history" and had "no clue as to what he has done." RP 1455. In fact, both were familiar with his offense history. RP 1033, 1035-1037, 1044, 1049-1050.

Third, the prosecutor incorrectly claimed that Mr. Hancock's mother and sister believed "it's ok to be around kids as long as adults are

present." RP 1456. Neither took this position. Instead, they had agreed that no children or grandchildren would visit the house. RP 1031-1055, 1351.

The prosecutor's "testimony" to "facts" that were not in the record prejudiced Mr. Hancock. Uppermost in jurors' minds was whether or not he would be safe in the community. The prosecutor's "testimony" suggested that he hadn't spent 11 years without offending, that he wouldn't be wearing an ankle bracelet while on supervision, that his mother and sister didn't know his offense history and believed it would be fine for him to be around children. RP 1446, 1455-1456.

There is a substantial likelihood that this flagrant and ill-intentioned misconduct affected the verdict. *Glasmann,* 175 Wn.2d at 704. Mr. Hancock's commitment order must be reversed and the case remanded for a new trial. *Id.; McGary*, 175 Wn. App. at 342-43.

CONCLUSION

The civil commitment order in this case was not supported by sufficient evidence of Mr. Hancock's current dangerousness, because the state relied on evidence of his lifetime risk of engaging in predatory acts of sexual violence. The order must be reversed and the petition dismissed with prejudice.

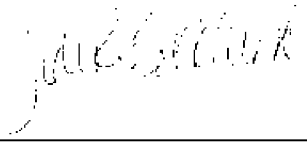
If the petition is not dismissed, the case must be remanded for a new trial.

The prosecutor committed misconduct by "testifying" to "facts" not in evidence. The court erred by rejecting Mr. Hancock's proposed instruction on the state's burden to show a greater than 50% risk of re-offense; the instructions given did not make the relevant standard manifestly clear to the average juror. The court also erred by admitting an irrelevant and prejudicial "bullseye" exhibit, by commenting on the evidence, and by relieving the state of its burden to prove that Mr. Hancock previously committed a "crime of sexual violence."

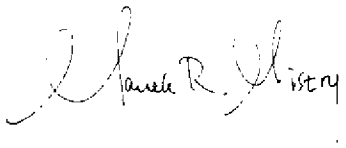
On remand, the court should instruct the jury on the 50% standard, exclude the "bullseye" exhibit, and refrain from commenting on the evidence.

Respectfully submitted on July 28, 2015,

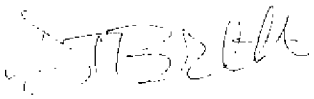
BACKLUND AND MISTRY



Jodi R. Backlund, WSBA No. 22917
Attorney for the Appellant



Manek R. Mistry, WSBA No. 22922
Attorney for the Appellant



Skylar T. Brett, WSBA No. 45475
Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that on today's date:

I mailed a copy of Appellant's Opening Brief, postage prepaid, to:

George Hancock
McNeil Island Special Commitment Ctr
P.O. Box 88600
Steilacoom, WA 98388

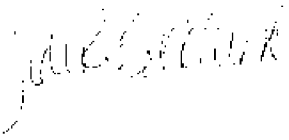
With the permission of the recipient(s), I delivered an electronic version of the brief, using the Court's filing portal, to:

Attorney General's Office
crjsvpef@atg.wa.gov
erin.dyer@atg.wa.gov

I filed the Appellant's Opening Brief electronically with the Court of Appeals, Division II, through the Court's online filing system.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Olympia, Washington on July 28, 2015.



Jodi R. Backlund, WSBA No. 22917
Attorney for the Appellant

APPENDIX

☑ STATE Exhibit No. 44

☐ PLAINTIFF ☐ DEFENDANT

☐ PETITIONER ☐ RESPONDENT

☐ OTHER _____

Case No. 14-2-01409-2

IN RE:DETENTION OF vs. GEORGE HANCOCK JR

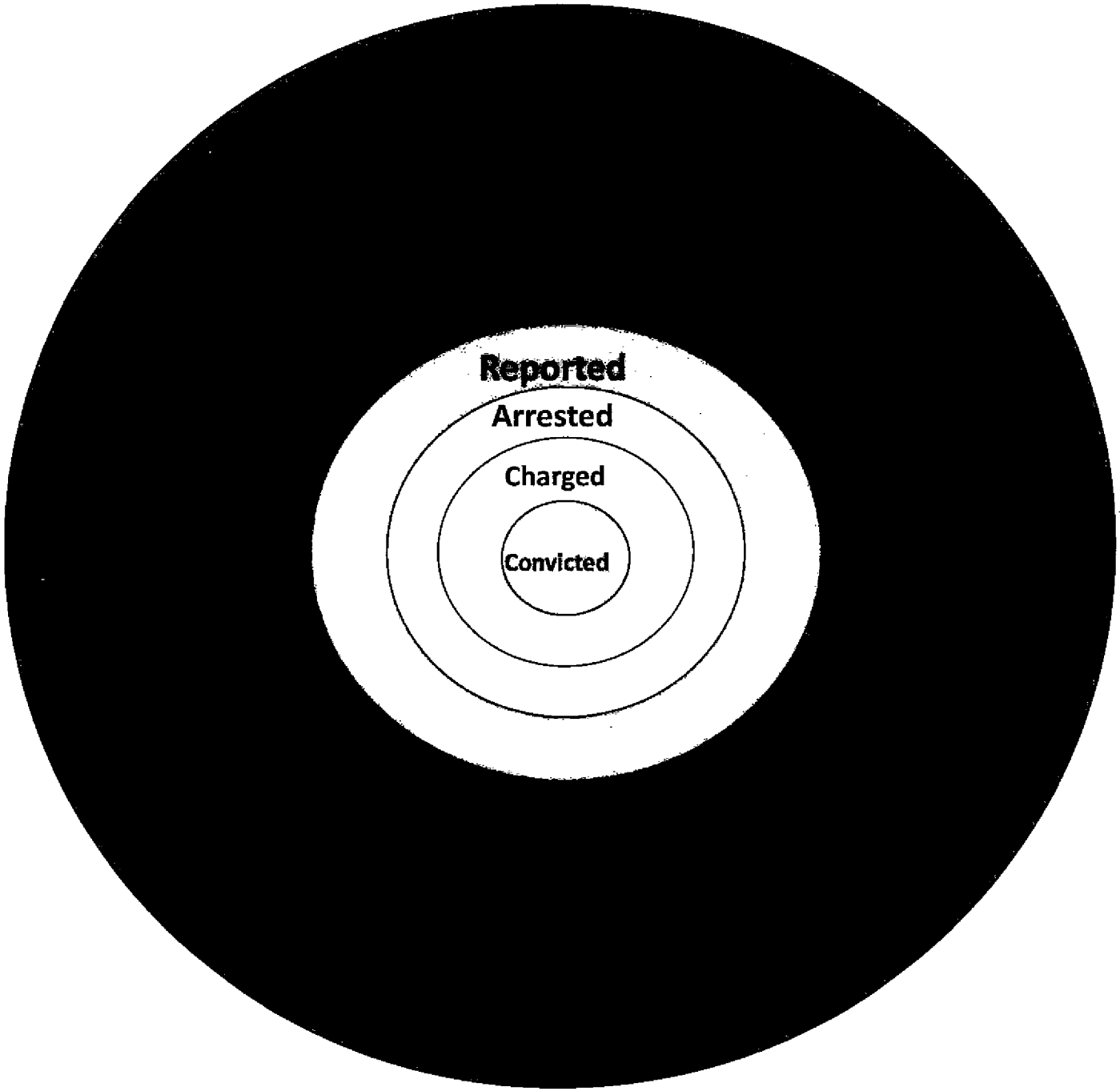
ILLUSTRATIVE

[✓] Admitted [ ] Refused

[ ] Withdrawn [ ] Not Offered

Date of Court's Ruling: FEB 17 2015

DOES NOT GO TO JURY


Reported
Arrested
Charged
Convicted

BACKLUND & MISTRY

July 28, 2015 - 7:55 AM

Transmittal Letter

Document Uploaded: 4-473364-Appellant's Brief.pdf

Case Name: In re the Detention of George Hancock
Court of Appeals Case Number: 47336-4

Is this a Personal Restraint Petition? Yes ■ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

■ Brief: __Appellant's__

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Manek R Mistry - Email: backlundmistry@gmail.com

A copy of this document has been emailed to the following addresses:

crjsvpef@atg.wa.gov
erin.dyer@atg.wa.gov