No. 36632-4-III

98954-1

SUPREME COURT OF THE STATE OF WASHINGTON

SIEGFRIED JOHN SCHEELER,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

MOTION FOR DISCRETIONARY REVIEW, RAP 13.1(a)
TREATED AS A PETITION FOR REVIEW

SIEGFRIED JOHN SCHEELER
Print Name
DOC # 414094, Unit WSP-MSC

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TABLE OF AUTHORITIES

A. IDENTITY OF PETITIONER

SIEGFRIED JOHN SCHEELER, asks this court to accept review of the decision or parts of the decision designated in Part B of this motion.

B. CITATION TO COURT OF APPEALS DECISION

Petitioner seeks review of the decision of the Court of appeals in case:

It States: Mr. Scheeler appeals from convictions resulting from his attempt to murder his wife, primarily arguing that various alleged errors require a new sentencing. They do not. We strike one offense and remand to strike various provisions of the judgment. Otherwise, we affirm. Korsmo, Appellate Court Judge

A copy of the decision is attached to this motion as Appendix A.

C. ISSUES PRESENTED FOR REVIEW

To justify review, a COA decision must be in conflict with a Supreme Court decision, RAP 13.5(b)(1), (2), and (3), RAP 13.4(b)(1), another COA, (b)(2), present a significant question of law under a constitution, (b)(3), or involve an issue of substantial public interest, (b)(4).

(1) WHY REVIEW SHOULD BE ACEPTED UNDER RAP 13.4(b)
COURT OF APPEALS NEVER ADJUDICATED HIS CLAIMS ON THE MERITS LEAVING HIS INEFFECTIVE ASSISTANCE CONTENTION UNREVIEWED.

(2) DOES MR. SCHEELER'S INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM HAVE MERIT ACCORDING TO STATE, FEDERAL, AND US SUPREME COURT DECISIONS.

(3) DOES THE OVERALL AND CUMULATIVE EFFECT OF THE PROSECTORS COMMENTS ESTABLISH MISCONDUCT.

D. STATEMENT OF THE CASE

On September 18, 2016, Mr Scheeler told his wife, Ms. Thomas, that he was going to meet a Ms. Shana Zutter in Bellevue to help go after the "tweekers" who robbed Mr. Scheeler's dad's house in Issaquah. RP 180

Ms Zutter told Mr Scheeler that she knew who it was, that it was her friends' son. RP 181-2

Ms. Thomas told him he wasn't going to Bellevue and Mr Scheeler was angry. RP 181-2. Ms. Thomas was jealous of Ms. Zutter because she was an ex-girlfriend of Mr. Scheeler. RP 182. A confrontation ensued into the kitchen area. RP 183. Ms. Thomas hit Mr. Scheeler over the head with a frying pan. RP 185. He ultimately knocked her to the ground. RP 187. Ms. Thomas' testimony was that she lost consciousness while on the ground. RP 187-8. When she awoke she heard a shotgun being loaded and got up and ran for the kitchen patio door. RP 189. Ms. Thomas' testimony was that Mr. Scheeler pinned her to the ground and held the shotgun on her. As she kept pushing it away it went off. RP 190-2. She had her hands around the barrel and the second shot hit the door frame. RP 192 The third shot hit the storm door. RP 193.

Mr Scheeler got up and told her to get in the shower. RP 194. After she was done, Mr. Scheeler took a shower and she got him ready to go to Bellevue. RP 198. He left and Ms. Thomas called 911. RP 198.

Mr. Scheeler was convicted of First Degree Assault, Forth Degree Assault, and Attempted Second Degree Murder. He was sentenced to 200 months in prison.

The Court vacated the First Degree Assault count based on Double Jeopardy clause and the interest on the non-restitutional financial obligations, cost of supervision, and collection was struck. This did not change the sentence that was imposed of 200 months.

E. ARGUMENT

WHY REVIEW SHOULD BE ACCEPTED UNDER RAP 13.4 (b)

1. REVIEW SHOULD BE ACCEPTED UNDER 13.4(b) BECAUSE THE COURT OF APPEALS NEVER ADJUDICATED MR SCHEELER'S CLAIMS ON THE MERITS LEAVING HIS CONTENTIONS UNREVIEWED.

All of Mr. Scheeler's Statement of Additional Grounds, # 1-6, basically breakdown to Ineffective Assistance or Prosecutorial Misconduct when read as a whole. Most were titled incorrectly but did point to issues and claims that do have merit.

The Court of Appeals reads:

> "Mr. Scheeler's SAG presents several arguments, but little that merit any discussion. We briefly address his ineffective assistance and prosecutorial misconduct claims."
>
> Slip Op at 5

Mr. Scheeler contends that the Court never adjudicated his claims on the merits and left his Ineffective Assistance claim unreviewed. Mr. Scheeler also contends that his claims do have merit according to State and Federal Law.

The Opinion states:

> "Here the bulk of the allegations involve cross examination" of the witnesses and alleged failure to present evidence and conduct investigations. The former category is just about never a basis for a successful claim, as it involves attorney strategy and tactics."
>
> Slip Op at 6

Mr. Scheeler and some Courts disagree with that Opinion as there is no strategy at being deficient…argued in #2 of the review.

The Courts Opinion only stated the common standards and did not take the time to look and see what Mr. Scheeler was pointing to in his the Statement of Grounds. The Court found it unnecessary to explain why his SAG lacked merit. In Johnson v. Williams, 133 S.Ct 1088, 1094, 185 L.Ed.2d 105 (2013) (The ninth circuit granted habeas relief because it thought it was obvious that The State Court of Appeals had overlooked or disregarded William's Sixth Amendment claim.) This seems to be a common occurrence with the Appellate Court when looking at SAG's by petitioners who have just become part of the "system" and know virtually nothing about the law and how it is argued. The Courts ask you if you have any addition grounds that you would like reviewed and, of course, there are because court appointed attorneys only get paid so much per case and usually only do enough to show effectiveness…some more than others. The Court instructs you to point out the issue and that you don't have to cite caselaw. Then they deny your issue because what you pointed out wasn't argued correctly or you titled your issue wrong…and, once you raise an issue in a state court it cannot be raised again in the State Court. This is called a "silent denial". Delgado v. Lewis, 223 F.3d 976, 982 (9th Cir. 2000)

The question here is…because the Appellate Court Opined;

> "If there is such evidence, Mr. Scheeler must present it in proper form through a P.R.P." Slip Op at 6

…Will the Appellate Court allow Mr. Scheeler to raise the Ineffective Assistance issue in a P.R.P. without rejecting it because it was already raised? And,

if not, then this is a "silent denial" by the Appellate Court and Mr. Scheeler must ask for review in order to save his claim by exhausting them to the highest state court in order to have relief at the Federal Habeas level on this issue?.

2. DOES MR. SCHEELER'S INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM HAVE MERIT ACCORDING TO STATE AND FEDERAL LAW.

An attorney's failure to perform to the standards of the profession will require a new trial when the client has been prejudiced by counsel's failure. State v. McFarland, 127 Wn.2d 322, 333-35, 899 P.2d 1251 (1995). To prevail on a claim of ineffective assistance, the defendant must show that his counsel erred and that the error was so significant it deprived him of a fair trial. Strickland v. Washington, 466 U.S. 688, 690-92, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)

Here, Mr. Scheeler's SAG arguments point to a significant amount of errors by his trial attorney, Mr Dold.

SAG #1 & #3: A sixth Amendment claim was contended by the defendant for Mr. Dold's failure to conduct a reasonable investigation to help him make informed decisions on how best to represent his client. Mr. Dold failed to hire an investigator, failed to have ballistics or DNA testing, failed to interview witnesses in advance of trial, failed to have statements transcribed verbatim so he could use as impeachment evidence, and failed to act professionally during trial.

SAG #2: This points to his failure to provide the prosecutor with an expert witness report. This failure would have kept the expert witnesses testimony from even entering the courtroom…if he would have called him in.

SAG #4: Is hard to understand, but it does bring up Mr. Dold's failure to adhere and understand Evidence Rule 613 when he did not have prior statements transcribed verbatim.

SAG #6: Is Mr. Dold's failure to prepare and argue for a reunification, withdrawal, or abandonment jury instruction.

The facts are that no defense was performed whatsoever by Mr Dold. There is no defense strategy tactic that can help a client by not interviewing the only other person that was at the scene of the alleged crime. RP 214. Ms. Thomas who's sole testimony, as the only eyewitness, was virtually the only evidence in this case simply because the Sheriff's Office failed to do an investigation of their own. RP 286-87, 342-46. At a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case. Nealy v. Cabana, 764 F.2d 1173, 1177 (5th Cir. 1985); "Strategic decisions are not objectively reasonable when the attorney has failed to investigate his opinion and make a reasonable choice between them." Ramonez v. Berghuis, 490 F.3d 482, 488 (6th Cir. 2007)

Quinn Dalon, who was Mr. Scheeler's first attorney, was diligent in her investigation before she left on maternity leave. Though she was prepared for trial upon her return from leave, without any explaintion, Dold was appointed as counsel. Ms. Dalon interviewed the alleged victim, Ms. Thomas. Mr. Dold did not even do the most basic of attorney duties by taking the time to have that interview transcribed verbatim. Therefore, Mr. Dold could not use that interview to impeach Ms. Thomas

with at trial. RP 267-75. Mr. Dold did not even understand the Evidence Rule 613 which shows complete ineffectiveness. RP 267-75.

There is "no" trial strategy or attorney tactic to not interview the State's main witness and have any and all statements transcribed so to use as impeachment evidence at trial…there is only neglect and deficiency. United States v. Tucker, 716 F.2d 576, 585-87 (9th Cir. 1983) (Counsel's failure to impeach witness with prior inconsistent statements was ineffective assistance). Also see, Higgens v. Renico, 470 F.3d 624, 633 (6th Cir. 2006) (ineffective assistance where unprepared did not effectively cross-examine key witness who implicated defendant).

Mr Scheeler's SAG identifies many deficiencies in his trial counselor's performance for failure to research and investigate. It raises the question of why Mr. Dold did no investigation whatsoever? Since the Sheriffs Office didn't do any ballistics or DNA evidence, all they had to rely on was Peggy Thomas' testimony. RP 341-46. All Mr. Dold had to do was have his client take the stand and tell his version of what happened that day, like he did at his sentencing hearing, and this case was over. RP489-514. Reasonable doubt would have won the day. But, if you don't put your client on the stand, you don't hire an investigator, you don't hire a ballistics or DNA specialist, and you don't have any statements transcribed verbatim so to use as impeachment evidence…RP 273…then you are either working with the State, and saving all the money you can for "Judicial Economy" and thereby failing your client, or you didn't care enough to take the time to do an independent investigation of your own violating your client's United States Constitutional 6th Amendment right to be

appointed effective counsel. A review under Strickland v. Washington, 466 US 668, 691, 80 L.Ed.2d 674 (1984) should have been raised by the Appellate Court.; also in United States v. Mooney, 497 F.3d 397, 404 (4th Cir. 2007) ("counsel in criminal cases charged with the responsibility of conducting appropriate investigations, both factual and legal, to determine if the matters of defense can be developed"); see also, Thomas v. Lockhart, 738 F.2d 304, 308 (8th Cir. 1984) (where an investigation consisting solely for reviewing prosecutors file "fell short of what a reasonable competent attorney would have done".)

Here there was no strategic decision not to investigate when the Sheriffs office completely failed on their investigation and then not put your client on the stand…This is a "complete inadequate performance" by Mr. Dold. See Montgomery v. Peterson, 846 F.2d 407, 412 (7th Cir. 1988).

The Appellate Courts Opinion that Mr. Scheeler arguments merit any discussion, Slip Op at 5, must be based on how it was argued and how it was titled. There is clear and strong evidence of an Ineffective Assistance claim here and Mr. Scheeler asks this court for review.

3. DOES THE OVERALL AND CULULATIVE EFFECT OF THE PROSECUTORS COMMENTS ESTABLISH MISCONDUCT.

The Appellate Court Opinion read as follows:

> "If it was not a significant statement whose utterance rendered the trial unfair." Slip Op at 7
>
> "Mr Scheeler has not established that any prejudicial misconduct occurred. His SAG arguments are without merit." Slip Op at 7

Mr. Scheeler pointed to 6 different prejudicial arguments by the Prosecution and their overall effect on the jury [was] unfair…according to State and Federal Law.

Vouching for government witness in closing argument has often been held to be plain error, reviewable even though no objection was raised.

United States v. Carleo, 576 F.2d 846 (10th Cir. 1978)
United States v. Ludwig, 508 F.2d 140 (10th Cir. 1974)

"A fair trial certainly implies a trial in which the attorney representing the State does not throw the prestige of his public office at the expression of his own belief of guilt into the scales of the accused." State v. Monday, 171 Wn.2d 667,677, 257 P.3d 551(2011).

The misconduct here isn't just the individual statements by the Prosecutor, but, it's the big picture and overall effect that was left with the jury when Mr. Soukup consistently vouched for the Sheriffs Dept's investigation as normal procedure when really it was a complete failure and prejudiced Mr. Scheeler's trial. In closing argument Mr. Soukup vouched for the Sheriffs Office's credibility when he states that ("There are no issues of identity. There's no issue of who was in the house. We know these two people are in the house. We know this blood is going to be from these two people.") RP 448 This was after stating that he called the Sheriffs Office Administrator and asked why they didn't test for DNA in the blood. RP 448…this was a cover-up statement used to pacify the Sheriffs blunder to the jury. What we don't know is "who's" blood is on the handle of the shotgun and "who's is on the barrel. Also, "who's" blood was on the floor by the doorway? Mr. Scheeler was the

one who was hit over the head by Ms.Thomas with the iron frying pan. RP 184 The Prosecutors comments vouched not only for the failed investigation by the Sheriffs Dept. but to the credibility of the States only eye witness. Mr. Soukup stated that Mr. Scheeler had the gun in his hand. RP19-24 Further vouching for the eyewitness. Mr. Soukup makes reference to spending taxpayer's dollar on the forensics evidence. RP408. This is the most prejudicial comment a prosecutor can make and, again, vouching for the failed investigation of the Sheriffs office. Then Mr. Soukup injects a personal Opinion story of Divorce and a custody battle over kids. RP499. Mr. Scheeler and Ms. Thomas getting a divorce after the trial and incident have absolutely nothing to do with what happened and Mr. Scheeler and Ms. Thomas do not have kids together.

Mr. Soukup completely prejudiced Mr. Scheeler by the overall effect of his vouching and comments that left a lasting impression on the jury that it was alright for the Sheriffs office not to do an investigation, and to just believe Ms. Thomas. It was the same as just outright saying it.

"It's a well established principle that the prosecutor has a special obligation to avoid improper suggestions, insinuations, and especially assertions of personal knowledge". Berger v. United States, 295 US 78, 88, 55 S,Ct. 629, 633, 79 L.Ed 1314 (1935).

It is improper for the prosecution to vouch for the credibility of a government witness. Vouching may occur in two ways; 1) the prosecutor may place the prestige of the government behind the witness; 2) or may indicate that

information not presented to the jury supports the witness's testimony. United States v, Roberts, 618 F.2d 530, 533 (9th Cir. 1980)

Mr, Scheeler has shown Prejudicial Misconduct by the Prosecution and asks this court for review.

F. CONCLUSION

Mr. Scheeler has shown by the State, Federal, and U.S. Supreme Court cases that his Statement of Additional Grounds have merit. Whether it was titled correctly or argued correctly is another matter. The Court only asked Mr. Scheeler to point out the issues and that he didn't need to cite caselaw. The Appellate Courts Opinion only stated the standards and left his Ineffective Assistance claim unreviewed.

Mr. Scheeler asks this court for review and prays the courts grant a retrial resulting in a dismissal or reversal of conviction on the grounds of, as stated, Ineffective Assistance and Prosecutorial Misconduct.

Respectfully submitted this 17 day of February, 2021.

Siegfried John Scheeler
DOC # 414094
Washington State Penitentiary

Unit: WSP-MSC

APPENDIX A

Appendix A

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

STATE OF WASHINGTON, Respondent, v. SIEGFRIED JOHN SCHEELER, Appellant.	)))))))))	No. 36632-4-III UNPUBLISHED OPINION

KORSMO, A.C.J. — Siegfried Scheeler appeals from convictions resulting from his attempt to murder his wife, primarily arguing that various alleged errors require a new sentencing. They do not. We strike one offense and remand to strike various provisions of the judgment. Otherwise, we affirm.

PROCEDURAL HISTORY

Mr. Scheeler was convicted at a jury trial of attempted second degree murder, first degree assault, and fourth degree assault. On the morning of sentencing, defense counsel asked for a continuance on two bases: the defendant was representing himself in the pending dissolution trial scheduled to be heard the following month, and several witnesses were expected who had not appeared.

Counsel explained that witnesses were coming from western Washington to address sentencing and that, due to chains being required on Snoqualmie Pass, the speed limit was 35 miles per hour. He had not heard from the witnesses (a former girlfriend of the defendant and her associates) and had no explanation for their absence other than suspecting travel conditions were to blame. He also advised the court that he had told them he would be seeking a continuance of the sentencing hearing, but had not advised them to anticipate that the continuance would be granted.

Noting that the hearing had already started an hour late and there was no indication that the witnesses were on the way, the court denied the continuance.[1] Counsel advised the court that the defense was ready to proceed and that the attorney and defendant had spent "quite a bit of time" going over the defendant's arguments. The hearing then went forward with Mr. Scheeler giving a lengthy allocution that blamed his wife for the crime and accused his counsel, Chad Dold, of performing ineffectively. In response, the court noted that "Mr. Dold is one of the finest trial attorneys that I've ever had in my courtroom . . . he did a very good job on this case." Report of Proceedings at 514-515.

The court merged first degree assault (count 1) into the attempted second degree murder conviction (count 4). It then imposed a term of 200 months for the attempted

[1] The court did indicate it would sign an order allowing Mr. Scheeler to stay in the county jail long enough to take part in the dissolution trial.

murder and ran a 364-day sentence for the fourth degree assault charge concurrently with count 4.

Mr. Scheeler then timely appealed to this court. A panel considered his appeal without hearing argument.

ANALYSIS

The appeal presents three arguments, although two of them can be briefly, and jointly, addressed. We then turn to the question of whether the court erred in denying a continuance of the sentencing hearing. Mr. Scheeler also filed a statement of additional grounds (SAG) that raises several claims; we briefly address two of those.

Judgment and Sentence

Mr. Scheeler argues, and the prosecutor agrees, that (1) the first degree assault conviction should be vacated, and (2) the judgment provisions permitting interest on non-restitution financial obligations and requiring Mr. Scheeler to pay costs of supervision and collection should be struck. We agree.

We accept the concessions and remand the matter to superior court for entry of an order striking the noted provisions from the judgment and sentence.

Continuance of Sentencing

Mr. Scheeler argues that the court erred in failing to continue the sentencing hearing to permit his witnesses to appear. There was no abuse of the court's discretion.

A "trial court has broad discretion to determine whether there is good cause to postpone sentencing." *State v. Roberts*, 77 Wn. App. 678, 685, 894 P.2d 1340 (1995) (*citing State v. Garibay*, 67 Wn. App. 773, 776-777, 841 P.2d 49 (1992)); *see also State v. Deskins*, 180 Wn.2d 68, 82, 322 P.3d 780 (2014) (*quoting State v. Eller*, 84 Wn.2d 90, 95, 524 P.2d 242 (1974)) ("The decision whether to grant a continuance is 'largely within the discretion of the trial court.'"). The trial court's refusal to grant a continuance "will 'be disturbed only upon a showing that the accused has been prejudiced and/or that the result of the trial would likely have been different had the continuance not been denied.'" *Deskins*, 180 Wn.2d at 82 (*quoting Eller*, 84 Wn.2d at 95) (affirming trial court's denial of defendant's motion to continue sentencing because defendant made no showing the court's order of restitution would have been different had her requested continuance been granted). Discretion is abused when it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

Here, the trial court had a very tenable reason for not continuing the hearing. The sentencing had already been postponed twice. It started an hour late and there was no word whether the witnesses were actually on their way. In addition to the unexplained absence, there was nothing presented suggesting they had important information bearing on the sentencing hearing. From the little identified in the record, it appears that the witnesses would address Mr. Scheeler's work history and character, matters that he had already put before the court.

No reason existed to postpone the hearing again. In addition, Mr. Scheeler cannot show that he was prejudiced by the denial since he cannot establish that the witnesses had any information of significance to present.

The trial court did not err by denying the continuance.

Statement of Additional Grounds

Mr. Scheeler's SAG presents several arguments, but little that merit any discussion. We briefly address his ineffective assistance and prosecutorial misconduct claims.

Ineffective assistance claims are adjudged on familiar standards. An attorney's failure to perform to the standards of the profession will require a new trial when the client has been prejudiced by counsel's failure. *State v. McFarland*, 127 Wn.2d 322, 333-335, 899 P.2d 1251 (1995). Thus, to prevail on a claim of ineffective assistance, the defendant must show both that his counsel erred and that the error was so significant, in light of the entire trial record, that it deprived him of a fair trial. *Strickland v. Washington*, 466 U.S. 668, 690-692, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). In evaluating ineffectiveness claims, courts must be highly deferential to counsel's decisions. A strategic or tactical decision is not a basis for finding error. *Id.* at 689-691. If the claim is based on evidence outside of the record of the appeals, it must be brought as a personal restraint petition (PRP) supported by admissible evidence sufficient to back the factual allegations. *McFarland*, 127 Wn.2d at 338 n.5.

Here, the bulk of the allegations involve cross-examination of witnesses and alleged failure to present evidence and conduct investigations. The former category is just about never a basis for a successful claim, as it involves issues of attorney strategy and tactics.[2] The latter category of allegations requires evidence outside of the record of this appeal. If there is such evidence, Mr. Scheeler must present it in proper form through a PRP.

Claims of prosecutorial misconduct also are reviewed under familiar standards. The appellant bears the burden of demonstrating prosecutorial misconduct on appeal and must establish that the conduct was both improper and prejudicial. *State v. Stenson*, 132 Wn.2d 668, 718, 940 P.2d 1239 (1997). Prejudice occurs where there is a substantial likelihood that the misconduct affected the jury's verdict. *Id.* at 718-19. The allegedly improper statements should be viewed within the context of the prosecutor's entire argument, the issues in the case, the evidence discussed in the argument, and the jury instructions. *State v. Brown*, 132 Wn.2d 529, 561, 940 P.2d 546 (1997).

Reversal is not required where the alleged error could have been obviated by a curative instruction. *State v. Gentry*, 125 Wn.2d 570, 596, 888 P.2d 1105 (1995). The failure to object constitutes a waiver unless the remark was so flagrant and ill-intentioned

[2] "However, even a lame cross-examination will seldom, if ever, amount to a Sixth Amendment violation." *In re Pers. Restraint of Pirtle*, 136 Wn.2d 467, 489, 965 P.2d 593 (1998).

that it evinced an enduring and resulting prejudice that could not have been neutralized by an admonition to the jury. *Id.*; *State v. Belgarde*, 110 Wn.2d 504, 507, 755 P.2d 174 (1988). Finally, a prosecutor has "wide latitude" in arguing inferences from the evidence presented. *Stenson*, 132 Wn.2d at 727.

Mr. Scheeler contends that the prosecutor twice injected facts outside the record into the argument. In one instance, apparently in response to a defense argument that some additional crime scene blood samples should have been tested, the prosecutor stated that he had asked the sheriff's office why they had not tested the sample, though he did not report a response. In context, the statement suggested that no testing was required because both people present at the scene were bloodied during the fight. While the positive statement that the sheriff had been asked was interjected without evidence to support it, the statement was easily curable by an objection. It was not a significant statement whose utterance rendered the trial unfair.

The other claim is that the prosecutor remarked there were shot gun pellets even though no testimony indicated any had been found. However, witnesses had described markings on the concrete that a deputy believed were consistent with pellets from buckshot or a shotgun slug. This comment was a reasonable inference from the evidence in the record. *Stenson*, 132 Wn.2d at 727. It was not improper argument.

Mr. Scheeler has not established that any prejudicial misconduct occurred. His SAG arguments are without merit.

Affirmed and remanded.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, A.C.J.

WE CONCUR:

Fearing, J.

Lawrence-Berrey, J.

NIELSEN KOCH P.L.L.C.

March 15, 2021 - 10:29 AM

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