

NO. 62156-4-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

JAMES WOODS, JR.,

Appellant.

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STATE OF WASHINGTON
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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JULIE SPECTOR

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

I.	<u>ISSUES PRESENTED</u>	1
II.	<u>STATEMENT OF THE CASE</u>	1
	A. PROCEDURAL BACKGROUND	1
	B. FACTUAL BACKGROUND.....	2
III.	<u>ARGUMENT</u>	6
	A. WOODS WAS NOT DENIED A FAIR TRIAL BY THE TRIAL COURT'S <i>SUA SPONTE</i> EXCUSAL OF A JUROR.....	6
	1. Factual Background: Excusal Of Juror No. 5.	6
	2. The Trial Court Had Authority To Excuse Juror No. 5; This Was Not A Challenge For Cause.....	8
	3. Woods Waived The Right To Challenge The Dismissal Of Juror No. 5 By Failing To Object At Trial.....	9
	4. Woods Has Failed To Make Any Showing That The Jury Was Partial Or Biased.....	11
	5. The Trial Court's Excusal Of Juror No. 5 Does Not Violate Woods' Right To A Trial By A Jury That Was Representative Of The Community.....	13
	6. The Trial Court's Excusal Of Juror No. 5 Does Not Violate Woods' Right To A Public Trial.	16

B. THE TRIAL COURT PROPERLY IMPOSED
RESTITUTION FOR THE DAMAGED STEREO
SYSTEM..... 20

IV. CONCLUSION 22

TABLE OF AUTHORITIES

Table of Cases

Federal:

<u>Batson v. Kentucky</u> , 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986).....	6, 8, 13, 14, 15, 16
<u>Martin v. Texas</u> , 200 U.S. 316, 26 S. Ct. 338, 50 L. Ed. 497 (1906).....	14
<u>Taylor v. Louisiana</u> , 419 U.S. 522, 95 S. Ct. 692 (1975).....	8, 15
<u>United States v. Al-Smadi</u> , 15 F.3d 153 (10th Cir.1994)	17
<u>United States v. Shryock</u> , 342 F.3d 948 (9th Cir.2003)	17
<u>Washington v. Davis</u> , 426 U.S. 229, 96 S. Ct. 2040, 48 L. Ed. 2d 597 (1976).....	14, 15

Washington State:

<u>In re Pers. Restraint of Orange</u> , 152 Wn.2d 795, 100 P.3d 291 (2004).....	16, 17, 18, 19
<u>Ingram v. Dep't of Licensing</u> , 162 Wn.2d 514, 173 P.3d 259 (2007).....	20
<u>State v. Bone-Club</u> , 128 Wn.2d 254, 906 P.2d 325 (1995).....	16, 17, 18, 19
<u>State v. Brightman</u> , 155 Wn.2d 506, 122 P.3d 150 (2005).....	16-17, 18
<u>State v. Collins</u> , 50 Wn.2d 740, 314 P.2d 660 (1957).....	12

<u>State v. Davison</u> , 116 Wn.2d 917, 809 P.2d 1374 (1991).....	20
<u>State v. Elmore</u> , 139 Wn.2d 250, 985 P.2d 289 (1999).....	9
<u>State v. Gentry</u> , 125 Wn.2d 570, 888 P.2d 1105 (1995).....	9, 11, 13
<u>State v. Griffith</u> , 164 Wn.2d 960, 195 P.3d 506 (2008).....	21
<u>State v. Hillard</u> , 89 Wn. App. 430, 573 P.2d 22 (1977).....	8, 15
<u>State v. Killen</u> , 39 Wn. App. 416, 693 P.2d 731 (1985).....	12
<u>State v. Landrum</u> , 66 Wn. App. 791, 832 P.2d 1359 (1992).....	21
<u>State v. Mead</u> , 67 Wn. App. 486, 836 P.2d 257 (1992).....	20
<u>State v. Reid</u> , 40 Wn. App. 319, 698 P.2d 588 (1985).....	11
<u>State v. Tharp</u> , 42. Wn.2d 494, 256 P.2d 482 (1953).....	9, 12
<u>State v. Thomas</u> , ____ Wn.2d ____, 208 P.3d 1107 (2009).....	14
<u>State v. Tobin</u> , 161 Wn.2d 517, 166 P.3d 1167 (2007).....	21
<u>State v. Williams</u> , 96 Wn.2d 215, 634 P.2d 868 (1981).....	9
<u>State v. Woods</u> , 90 Wn. App. 904, 953 P.2d 834 (1998).....	21

Constitutional Provisions

Federal:

U.S. Const. amend. VI 11
U.S. Const. amend. XIV 11

Washington State:

Const. art. I, § 22..... 11

Statutes

Washington State:

RCW 2.36.100..... 8
RCW 4.44.150..... 8
RCW 4.44.200..... 8
RCW 9.94A.753 21

Rules and Regulations

Washington State:

CrR 3.5..... 6
CrR 6.4..... 8
CrR 7.5..... 7

I. ISSUES PRESENTED

1. Was Woods denied the right to a fair trial when the trial judge *sua sponte* excused a juror with whom she was personally acquainted?
2. Can Woods raise this argument when he failed to object to the excusal of the juror at trial?
3. Has Woods shown that the jury that heard his case was partial or biased?
4. Does the trial court's excusal of the juror violate Woods' right to a jury that was representative of the community?
5. Does the trial court's excusal of the juror implicate Woods' right to a public trial?
6. Did the sentencing court err in imposing restitution for a stereo missing from the vehicle that Woods unlawfully possessed?

II. STATEMENT OF THE CASE

A. **PROCEDURAL BACKGROUND.**

Woods was convicted by a jury of one count of possession of stolen property in the second degree. CP 11. He received a 30-

day sentence with the option of work/education release. CP 65.

Woods has filed a timely appeal. CP 60-61.

B. FACTUAL BACKGROUND.

On September 9, 2006, Erin Kane returned from being “out and about” and noticed that her keys were missing. She retraced her steps but was unable to find them. 4RP 118. When Kane woke up the next morning, her car – a 1993 Honda Accord, License Plate No. 428 RBU – was missing from her driveway. 4RP 118-119, 123. Kane had not given anyone, including James Woods, permission to take or drive her car. 4RP 123-25. She called the police and reported that the vehicle had been stolen. 4RP 123.

On September 11, 2006, SPD Officer Tim Barnes was patrolling on Lake City Way in Seattle. He observed a Honda Accord – subsequently confirmed as belonging to Kane – whose license plate number was on the “hot sheet” for stolen vehicles. 4RP 132. After confirming that the vehicle was still reported as being stolen in police databases, Officer Barnes followed the car at a distance waiting for back-up to assist with the felony stop. 4RP 132-35. The vehicle made a number of turns in a residential area

before coming to a stop in a dead end. 4RP 135-36. Officer Barnes then arrested the driver and sole occupant of the vehicle, James Woods. 4RP 139-41.

After being arrested and advised of his constitutional rights, Woods told Officer Barnes that he had bought the vehicle the day before (September 10, 2006) from a person in the University District for \$500. 4RP 140-41. Woods said there was a handwritten bill of sale in the glove box. 4RP 142. There was a bill of sale in the glove box, but it was dated May 29, 2006 and listed A. Motl as the seller. 4RP 145. Also in the glove box was the title of the vehicle that listed the date title was transferred as May 29, 2006, the seller as A. Motl, and the purchaser as Erin Kane.¹ 4RP 146.

At the SPD North Precinct, Woods was interviewed by SPD Det. Bach after again being advised of his constitutional rights. 5RP 8-10. Woods said he had bought the vehicle in the parking lot of a Burger King on Rainer Avenue in Seattle. Woods claimed the seller was a black male in his 40's whose name Woods did not know. Woods bought the vehicle for \$500, paying \$150 upfront.

¹ Kane had testified that she had purchased the car from the friend of a friend named Anne Motl for \$500 on May 29, 2006. 4RP 122.

When asked how he would pay the balance if he did not know the seller, Woods said he could find the seller because he had dropped him off at a hotel. 5RP 10-13. Woods also said that he had an “itchin’ feeling the car might have been stolen. 5RP 13. He claimed he called a friend and asked whether he should buy the car and was told not to because there were “too many names on the vehicle.” 5RP 13-14.

Later that night, Kane recovered her car from impound. 4RP 124. Although it had many miles on it, Kane’s car had been in generally good condition prior to its being stolen and had a working CD player and stereo. 4RP 119-20. When she recovered it, the stereo had been pulled out and the seatbelt in the rear seat had been cut off.² 4RP 124.

Woods testified in his own defense. Woods admitted that he had bought and sold a car before this incident, that he knew what a vehicle title was, knew what a bill of sale was, and in his prior transaction had handled the bill of sale himself. 5RP 30.

² After the State rested, the trial court dismissed the possession of stolen property in the first degree because the value threshold of that crime had not been established. 4RP 150; 5RP 14-17, 23-27.

Woods claimed that he had bought the vehicle at issue in this case from a man whose name was James Haynes and whose street name was "Dicky Barnes." 5RP 32-33. Woods asked Haynes if the title was "straight" and he said it was. 5RP 34. Woods also claimed there was a woman with Haynes who said that it was a "good car" and "everything's straight." 5RP 33. Woods testified that the terms of the deal were that he would pay Haynes \$500 for the car, with an up front payment of \$150. 5RP 33-34, 46. He claimed Haynes called him later that day to demand the balance of the payment. 5RP 46.

Woods testified that Haynes told him that there was a vehicle title in the glove box. 5RP 33-34. Woods admitted that he did not look at the title. 5RP 35. Woods claimed that Haynes wrote him a bill of sale but that he never looked at it, but just put it in the glove box. 5RP 35. Woods called several friends because he was concerned the car was stolen and they advised that he not purchase it. 5RP 51. Woods denied knowing the car was stolen or that he had been involved in stealing the car. 5RP 39-40.

The jury found Woods guilty of possession of stolen property in the second degree. CP 11.

III. ARGUMENT

A. **WOODS WAS NOT DENIED A FAIR TRIAL BY THE TRIAL COURT'S *SUA SPONTE* EXCUSAL OF A JUROR.**

Woods contends that he was denied the right to a fair trial because, before voir dire commenced, the trial court *sua sponte* excused a juror with whom the court had a personal connection from the jury venire. This claim was waived by Woods' failure to object to the excusal of the juror. In addition, Woods has not shown that the jury that heard his case was either partial or biased. Finally, Woods' efforts to treat this case as a Batson violation or a denial of the right to an open courtroom are unpersuasive.

1. **Factual Background: Excusal Of Juror No. 5.**

After pre-trial motions and a CrR 3.5 hearing, jury selection commenced. Before the jury was brought into the courtroom, and in the defendant's presence, the trial court informed counsel that she had excused Juror No. 5:

Just so you know, juror 5 was excused by the Court. So we only have 34 jurors as opposed to 35. There is a personal connection there, and I think it would be inappropriate for him as an attorney to be on this case. I just want to give you an explanation why I excused him.

4RP 22. Woods did not object to the excusal of Juror No. 5 nor did he request that the trial court further discuss its reasons for excusing this juror.

The verdict in this case was entered on July 1, 2008. CP 11. On July 8, defense counsel for Woods received a phone call from Juror No. 5, who identified himself as Michael Kahrs, inquiring as to the reason for his dismissal. CP 40. On July 12, 2008, defense counsel for Woods received a declaration from Kahrs. CP 40. On July 14, 2008, Woods filed his motion for a new trial.³ CP 39-42.

In a written ruling, the trial court denied the motion for a new trial. CP 58-69. The trial court found that Woods had failed to object to the dismissal of Kahrs after being given an opportunity to do so. CP 58. The trial court concluded that Woods had waived his right to object to the dismissal of Kahrs. CP 58. The trial court also rejected Woods' attempt to rely on Batson, Hillard, and Taylor as a basis for a new trial. CP 58.

³ In responding to this motion, the State also argued that it was untimely, having been filed after the 10-day deadline set forth in CrR 7.5(b). CP 45-46. While the trial court did not explicitly address this argument, it clearly exercised its discretion under CrR 7.5(b) and considered the motion for a new trial.

2. The Trial Court Had Authority To Excuse Juror No. 5; This Was Not A Challenge For Cause.

On appeal, Woods repeatedly asserts that Juror No. 5 was excused “for cause.” See App. Brief, p. 7-9. This is not correct. A challenge for cause “is an objection to a juror.” RCW 4.44.150.⁴ After voir dire examination of a juror, such challenges may be raised by the court or made by a party. CrR 6.4(c)(1). Procedures are established for resolving a “for cause” challenge. CrR 6.4, RCW 4.44.150 -.200.

Here there was no voir dire of Juror No. 5 and accordingly no “for cause” challenge. Rather, the trial court’s authority to excuse the juror, prior to the commencement of voir dire, stems from RCW 2.36.100, which states:

Except for a person who is not qualified for jury service under RCW 2.36.070, no person may be excused from jury service *by the court* except upon a showing of undue hardship, extreme inconvenience, public necessity, *or any reason deemed sufficient by the court* for a period of time the court deems necessary.

RCW 2.36.100(1) (emphasis added). Woods references this provision, but neglects to discuss the clause that gives the court the authority to excuse a juror for “any reason deemed sufficient by the court.” See App. Brief, p. 8-9. The trial court had the authority to

conclude the court's personal connection with Juror No. 5 was a sufficient reason to exclude the juror from service.

3. Woods Waived The Right To Challenge The Dismissal Of Juror No. 5 By Failing To Object.

It is well-established that a defendant waives objections to a court's jury selection process by failing to raise or object at trial. See, e.g., State v. Tharp, 42 Wn.2d 494, 500-01, 256 P.2d 482 (1953); (selection of the jury is procedural and error regarding same not timely raised to trial court bars its consideration on appeal); State v. Williams, 96 Wn.2d 215, 634 P.2d 868 (1981), (claimed irregularity in excusing sick juror did not result in an unfair trial where the defendant failed to timely assert such irregularity); State v. Gentry, 125 Wn.2d 570, 615-16, 888 P.2d 1105 (1995) (voir dire involves compliance with procedural court rule rather than constitutional issue and challenge regarding same may not be raised for first time in capital appeal); State v. Elmore, 139 Wn.2d 250, 277, 985 P.2d 289 (1999) (failure to raise any objection in the trial court about the State's voir dire questioning of potential jurors precludes appellate review).

⁴ RCW 4.44.150 to .200 apply to criminal cases pursuant to CrR 6.4(c)(2).

Despite having been informed that the trial court was excusing juror No. 5, Woods neither objected nor asked the judge to clarify her reasons for excusing the juror. The failure to do so deprived the trial court of the opportunity to expand on its reasons for excusing Juror No. 5. It also deprived the State of the opportunity to respond factually to Woods' subsequent motion for a new trial. As the trial court found in its written ruling, and as the case law cited above confirms, by failing to object when given an opportunity to do so, Woods waived the objection to the excusal of this juror. CP 58.

Woods may argue that he could not have objected because it was not until after the trial was concluded that he was contacted by Kahrs. CP 49-50. This argument misses the point. Woods was aware that the trial court was excusing the juror at trial. Had Woods wanted more information about why the court had chosen to do so, he had an opportunity to object. Likewise, Woods could have requested that the juror be seated and issues concerning his ability to serve explored during voir dire. It was Woods' failure to take these basic steps that waives the argument. If this were not the rule, then waiver would be meaningless: counsel could raise any issue that could have been addressed during voir dire after the

completion of the trial. By contrast, if Woods had objected to Kahrs' excusal and then been contacted by Kahrs after the trial, his objection would likely have been preserved.

Because Woods failed to object to the trial court's excusal of Juror No. 5 at trial, the objection is deemed waived. This is an independent basis to reject Woods' argument on appeal.

4. Woods Has Failed To Make Any Showing That The Jury Was Partial Or Biased.

Woods argues that his right to a fair trial was violated by the excusal of Kahrs, but he has failed to establish that the jury that heard his case was partial or biased. Indeed, Woods – both below and on appeal – has made no effort at all to establish that the jury was biased or prejudiced in any way.

A defendant in a criminal case has a right to be tried by an impartial, 12-person jury. U.S. Const. amends 6 & 14; Wash. Const. art. I, § 22. There is no right to be tried by a particular juror or by a particular jury. State v. Gentry, 125 Wn.2d 570, 615, 888 P.2d 1105 (1995). Courts presume that each juror sworn to hear a case is impartial. State v. Reid, 40 Wn. App. 319, 322, 698 P.2d 588 (1985). Unless a party can show that unqualified jurors were

seated as the result of the removal of a specific juror, any error in removing the juror is harmless.⁵ State v. Killen, 39 Wn. App. 416, 419, 693 P.2d 731 (1985).

Here, there is absolutely no evidence, suggestion, or argument that the jury that heard Woods' case was partial or biased. There was no challenge for cause by Woods to any juror during voir dire that was denied by the trial court. 4RP 22-109. Woods cannot show that an partial or biased juror heard his case.

Moreover, Woods accepted the jury as constituted without exhausting his peremptory challenges. Woods had six peremptory challenges and only used five of them before accepting the panel. 4RP 104-07. He therefore cannot show any prejudice based on the jury's composition. Tharp, 42 Wn.2d at 500 (defendant must show the use of all his peremptory challenges or he can show no prejudice arising from the selection and retention of a particular juror and is barred from any claim of error in this regard); State v. Collins, 50 Wn.2d 740, 744, 314 P.2d 660 (1957) (no prejudicial error regarding prosecutor's questioning of panel where defendant

⁵ See also the cases set forth in Woods' Opening Brief, p. 6-8. These cases all stand for the proposition that a defendant is entitled to a fair and impartial jury. They do not stand for the proposition that a defendant is entitled to have a specific juror hear his case.

accepted the jury while having available peremptory challenges; nor did he challenge the panel); Gentry, 125 Wn.2d at 616 (where defendant participated in selecting and ultimately accepted jury panel, his constitutional right to an impartial jury selected by him was not violated).

Woods' constitutional right to a fair trial was not violated because he was tried by an unbiased and impartial jury. The fact that the trial court excused a juror before trial commenced is not grounds to reverse his conviction.

5. The Trial Court's Excusal Of Juror No. 5 Does Not Violate Woods' Right To A Trial By A Jury That Was Representative Of The Community.

Perhaps recognizing that he cannot establish that he was tried by a partial or biased jury, Woods argues that he was denied a right to trial by a jury that was representative of the community. But Woods' reliance on Batson v. Kentucky⁶ and related cases is misplaced for two basic reasons: (1) it was not the State (i.e., the prosecuting attorney) who excused Juror No. 5, and (2) there was no showing that Juror No. 5 was excused because he was a member of a protected class.

⁶ 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986).

A defendant's right to "be tried by a jury whose members are selected pursuant to nondiscriminatory criteria" is founded in the equal protection clause of the Fourteenth Amendment to the United States Constitution. Batson, 476 U.S. at 85, 106 S. Ct. 1712 (citing Martin v. Texas, 200 U.S. 316, 321, 26 S. Ct. 338, 50 L. Ed. 497 (1906)). A defendant challenging the State's action in venire selection must ultimately show "a racially discriminatory purpose" on the part of the prosecutor. Id. at 93, 106 S. Ct. 1712 (quoting Washington v. Davis, 426 U.S. 229, 240, 96 S. Ct. 2040, 48 L. Ed. 2d 597 (1976)); State v. Thomas, ___ Wn.2d ___, 208 P.3d 1107 (2009). Batson applies to the exercise of peremptory challenges. Id. at 82, 106 S. Ct. 1714. "[T]he ultimate issue is whether the *State* has discriminated in selecting the defendant's venire." Batson, 476 U.S. at 95, 106 S. Ct. at 1722 (emphasis added).⁷

In addition, and as the cases relied upon by Woods confirm, the essence of a Batson claim is that there are allegations of

⁷ The defendant's burden can be met by showing that the "totality of the relevant facts" in his case gives rise to an inference of discriminatory purpose. Id. at 94, 106 S. Ct. 1712 (citing Davis, 426 U.S. at 239-42, 96 S. Ct. 2040). After this showing, the burden shifts to the State to "come forward with a neutral explanation" for challenging the juror. Id. at 97, 106 S. Ct. 1712. After both sides have made their arguments, "[t]he trial court then [has] the duty to determine if the defendant has established purposeful discrimination." Id. at 98, 106 S. Ct. 1712.

discrimination against potential jurors because they were members of certain protected classes. Batson, 476 U.S. at 86 (purposeful racial discrimination in venire violates a defendant's right to equal protection); Taylor v. Louisiana, 419 U.S. 522, 95 S. Ct. 692 (1975) (Sixth Amendment violated by law that provided that "women should not be selected for jury service unless" she "had previously filed written declaration of her desire to be subject to jury service"); State v. Hillard, 89 Wn. App. 430, 441, 573 P.2d 22 (1977) (venire selection procedure can be unconstitutional "if it systematically excludes a cognizable class of citizens.").

Woods' argument that Batson analysis is required fails because Juror No. 5 was not excused by the prosecutor through the use of a peremptory challenge. That is, there has been no showing that the State sought to improperly exclude jurors.

Even more basically, however, Woods made no effort – and indeed cannot – show that Juror No. 5 was excluded because he was a member of a protected class. The only information touching upon this point in the record is Juror No. 5's declaration that he is from the Netherlands. CP 43. Being Dutch does not, without more, qualify one as a member of a protected class. A Batson claim that

does not even contain an allegation that the excused juror is a member of a protected class lacks any merit whatsoever.

f. The Trial Court's Excusal Of Juror No. 5 Does Not Violate Woods' Right To A Public Trial.

Woods also argues that the trial court's decision to excuse Juror No. 5 violated his right to a public trial. Again, this argument appears to be an attempt to circumvent the fact that Woods did not object to the excusal of Juror No. 5 below and cannot show that the jury was in fact partial or biased. It is not necessary to conduct the Bone-club⁸ analysis requested by Woods because the courtroom was not closed when the trial court excused Juror No. 5.

The Washington and federal constitutions guarantee a defendant the right to an open and public trial. This right extends to jury selection. In re Pers. Restraint of Orange, 152 Wn.2d 795, 804, 100 P.3d 291 (2004).

A closure of the court room – and thus a potential violation of the right to a public trial – does not occur unless there has been a closure request. Courts look to the plain language of the closure request and closure order to determine whether closure occurred. Orange, 152 Wn.2d at 808; Bone-Club, 128 Wn.2d at 261; State v.

Brightman, 155 Wn.2d 506, 516, 122 P.3d 150 (2005); see also Orange, 152 Wn.2d at 823 (Madsen, J., concurring) (“to determine whether a trial closure violates the constitutional standard applicable to the open trial guaranty, a reviewing court must consider. . . the language of the closure ruling. . . .”); United States v. Shryock, 342 F.3d 948, 974 (9th Cir.2003) (“The denial of a defendant's Sixth Amendment right to a public trial requires some affirmative act by the trial court meant to exclude persons from the courtroom.”) (quoting United States v. Al-Smadi, 15 F.3d 153, 155 (10th Cir.1994)).

In State v. Bone-Club, the trial court “ordered closure” of the courtroom by stating, “All those sitting in the back, would you please excuse yourselves at this time.” 128 Wn.2d at 256. In discussing whether the defendant could have waived his rights, the Supreme Court noted, “The *motion to close*, not Defendant's objection, triggered the trial court's duty to perform the weighing procedure.” Id. at 261 (emphasis added)

Similarly, in In re Personal Restraint of Orange, the trial court ordered closure by the following statement:

⁸ State v. Bone-Club, 128 Wn.2d 254, 256, 906 P.2d 325 (1995).

I am ruling no family members, no spectators will be permitted in this courtroom during the selection of the jury because of the limitation of space, security, etcetera [sic]. *That's my ruling.*

52 Wn.2d at 802 (emphasis and editorial comment in original). The Supreme Court examined the “plain language of [the trial court’s] ruling” in order to determine that the trial court had effectuated a permanent, full closure of the courtroom that day, thus requiring an analysis of the Bone-Club factors. Id. at 808 (emphasis added).

In State v. Brightman, the trial court told the attorneys in a pre-trial proceeding to:

. . . tell the friends, relatives, and acquaintances of the victim and the defendant that the first two or three days for selecting the jury the courtroom is packed with jurors, they can't observe that.

155 Wn.2d at 511 (2005). Although the Supreme Court did not inquire whether this order had actually been enforced, it emphasized that the court in Orange looked “*solely to the transcript of the trial court’s ruling*” to determine whether the order constituted a closure. Id. at 516 (emphasis in original).

In the present case, there was no motion to close the courtroom by either party or the court. The trial court never ordered that the proceeding be closed to the public, nor were spectators or family members ever excluded from the proceedings. Indeed,

nothing in the record indicates that the courtroom was ever closed in any way. Looking to the plain language of the transcript, as the cases require, it is apparent that no statement or order by the trial court triggered application of the Bone-Club factors.

Nowhere in this record is there any evidence that the trial judge closed voir dire to the public or the press in violation of any of the controlling cases. Rather, the court simply informed the parties that, after reviewing the list of potential jurors, she was excusing one juror because there was a personal connection with the court. This was done on the record and in the presence of the defendant. There was no motion to close the courtroom nor did the court close the court on its own initiative.

Woods' argument on appeal seems to be premised on the assumption that the trial court spoke with Juror No. 5 outside the presence of the defendant. See App. Brief at 16 ("The trial court here held a private colloquy, off the record, and reached the conclusion that Juror Number 5, Michael Kahrs, was unable to serve."). Not only is this claim completely unsupported by the transcript of the proceedings below, it is also not supported by Kahrs' own declaration, which makes no mention of any "private colloquy" with the court. See CP 43-44.

The courtroom below was never closed to the public. Rather, the court – on the record and in open court – informed the parties that she was excusing a juror because the court had a personal connection to the juror. Woods' claim that his right to a public trial was violated is without merit.

B. THE TRIAL COURT PROPERLY IMPOSED RESTITUTION FOR THE DAMAGED STEREO SYSTEM.

The trial court imposed restitution in the amount of \$323.76 for the stereo system missing from Erin Kane's vehicle. CP 69. Woods argues that restitution was improper because there was no causal connection between the missing stereo system and the crime for which he was convicted. This argument was fully considered, and properly rejected, by the trial court. 7RP 2-9.

"The size of [a restitution] award is within the court's discretion and will not be disturbed on appeal absent a showing of abuse." State v. Mead, 67 Wn. App. 486, 490, 836 P.2d 257 (1992) (citing State v. Davison, 116 Wn.2d 917, 919-20, 809 P.2d 1374 (1991)). A trial court's factual findings are reviewed for substantial evidence. Ingram v. Dep't of Licensing, 162 Wn.2d 514, 522, 173 P.3d 259 (2007).

A judge must order restitution whenever a defendant is convicted of an offense which results in loss of property. RCW 9.94A.753(5). "Restitution is allowed only for losses that are 'causally connected' to the crimes charged." State v. Tobin, 161 Wn.2d 517, 524, 166 P.3d 1167 (2007). Losses are causally connected if, but for the charged crime, the victim would not have incurred the loss. Tobin, 161 W.2d at 524, 166 P.3d 1167.

"In determining whether a causal connection exists, we look to the underlying facts of the charged offense, not the name of the crime to which the defendant entered a plea." State v. Landrum, 66 Wn. App. 791, 799, 832 P.2d 1359 (1992); see also State v. Griffith, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). In addition to determining whether the crime was a cause-in-fact of the loss, a reasonable person must foresee the loss as a consequence of the criminal act. State v. Woods, 90 Wn. App. 904, 909, 953 P.2d 834 (1998).

Under the facts in this case, the trial court did not abuse its discretion in concluding that there was a causal connection between the loss of the stereo and Woods' possession of the stolen vehicle. First, even accepting his testimony, Woods came into possession of the vehicle the day after the vehicle had been

stolen.⁹ This is not a case in which there is a significant gap between the theft and the possession that serves to break the causal chain. Second, the damage for which the restitution was ordered occurred to the vehicle itself.

Woods was in possession of the stolen property belonging to another person and that property was damaged. A reasonable person can foresee such damage (stripping the vehicle of the stereo) as a consequence of the criminal act (possession of stolen property). Even applying the “but for” causation test and accepting Woods’ version of events (which the jury clearly did not), the causation requirement is satisfied. Assuming someone else stole Kane’s vehicle and stripped the stereo, it was Woods’ acceptance of the stolen vehicle that allowed that crime to go undetected and unprosecuted.

D. CONCLUSION

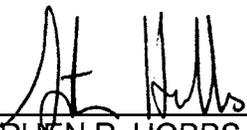
For the reasons stated above, the State of Washington respectfully requests that Woods’ conviction for possession of stolen property in the second degree be affirmed.

⁹ Kane last saw the vehicle on September 9, 2006, around 9:30 or 10:00 p.m. 4RP 123. Woods stated he purchased the vehicle the next day, September 10, 2006. 5RP 46.

DATED this 20th day of July, 2009.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
STEPHEN P. HOBBS, WSBA #18935
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Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to JAN TRASEN, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Brief of Respondent, in STATE V. JAMES WOODS, Cause No. 62156-4-I, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

W Brame

Name

Done in Seattle, Washington

Date

7/20/09

FILED
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STATE OF WASHINGTON
2009 JUL 20 PM 4:42