

64862-4

64862-4

NO. 64862-4-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

GERALD COLLICK,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE RICHARD EADIE

BRIEF OF RESPONDENT

DANIEL T. SATTERBERG
King County Prosecuting Attorney

ANN SUMMERS
Senior Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000

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STATE OF WASHINGTON
2010 OCT -7 PM 4:51

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A. ISSUES PRESENTED

1. An aggravating circumstance found by a jury should be affirmed if, viewing the evidence in the light most favorable to the state, there is evidence to support it. The testimony of the victims in this case supports the jury's conclusion that the defendant's crimes had a destructive and foreseeable impact on the victim's families. Should the aggravating circumstance be affirmed?

2. The Sentencing Reform Act does not prohibit a sentencing court from imposing an exceptional sentence that is above the standard range and consecutive to other counts when there is a substantial and compelling reason to depart from the standard range. The length of the overall sentence may be reversed if the appellate court finds it clearly excessive. Should the exceptional sentences imposed in this case be affirmed, where the defendant does not argue that they are clearly excessive?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS.

Gerald Collick was charged by amended information with six counts of felony harassment. CP 28-31. Prior to trial, he was

found incompetent to stand trial and determined to pose a substantial risk of future dangerousness to others, but he was rendered competent to stand trial after treatment at Western State Hospital. CP 17-27. A jury found Collick guilty of all six crimes. CP 60-65. The jury found that the defendant's conduct constituted deliberate cruelty as to all six counts. CP 66-71. The jury also found that the offense had a destructive and foreseeable impact on persons other than the victim as to counts III, IV, V and VI. CP 66-71. The court imposed standard range sentences of 22 months each on counts I and II. CP 94. The court imposed sentences outside the standard range of 60 months each on counts III, IV, V and VI. CP 94. The court ordered that counts III, IV, V and VI be served consecutively to each other and to counts I and II, for a period of 262 months of total confinement. CP 94.

2. FACTS OF THE CRIME.

In 2005, Gerald Collick attended Ashmead College in order to obtain a massage license. RP 136. At Ashmead College, he became acquainted with fellow students Nathaniel Schleimer and Charity Cox. RP 136, 251-54. Although Collick seemed normal at first, he started exhibiting strange behavior and started expressing

anger toward Nathaniel Schleimer and the school. RP 256, 259, 266. He started making bizarre accusations and threatened to "shoot up" the school. RP 266. He told people that he bought a gun and had received sniper training while in the military. RP 156, 258, 267. Charity Cox reported these threats, and gave a statement to the police. RP 269-70. Collick was arrested and prosecuted for those threats in 2006. RP 144-45.¹ Nathaniel Schleimer and Charity Cox had no further contact with Collick until 2008. RP 146, 272.

Nathaniel Schleimer received a threatening telephone call at his home from Collick to in May of 2008. RP 146-47, 370. He recognized Collick's voice immediately. RP 133-34. The threats were directed toward both Schleimer and his girlfriend. RP 148. As a result of that call, Schleimer had their home telephone number disconnected. RP 371-73.

On June 13, 2008, Schleimer received a voice mail message on his cell phone from Collick, who had somehow located the cell phone number after Schleimer disconnected his home number. RP 122, 132-35. The message, which formed the basis for Count I,

¹ Collick pled guilty to threatening the school president, but this fact was not admitted at trial. RP 53-54.

was recorded and played for the jury. RP 128-29, 133, 135; CP 134-35.² In that message, Collick referenced a restraining order and states that the restraining order would not protect Schleimer because "when I find you, I'm gonna rip your guts out." CP 134. Collick also threatens to "rape" and "mutilate" Schleimer. CP 134. In the obscenity-laden tirade that follows, Collick repeatedly states, "you are going to die," and threatened to "torture" Schleimer. CP 135. He ends the message by stating, "you are a dead man walking you bitch, and I mean it. I mean it, motherfucker." CP 135.

On June 15, 2008, Schleimer received a second threatening voice mail message from Collick on his cell phone. RP 122, 136. That message, which formed the basis for Count II, was recorded and played for the jury. RP 128-29, 133-36; CP 136-37. In the message, Collick complains about events that occurred at Ashmead College and states, "I promise you when I find you Nathaniel, I'm going to kill you." CP 137.

² Transcripts of the six voicemail messages that formed the bases of the six counts of felony harassment in this case are attached hereto as Appendix A, and were made part of the court file below as Attachment E to the State's Presentence Report. CP 134-49.

On August 3, 2008, Schleimer received two more threatening voice mail messages from Collick on his cellular phone. RP 149, 172-75, 224-25. These messages, which formed the bases of Counts III and IV, were recorded and played for the jury. RP 172-75, 224-25, 239; CP 138-143. In the first of these two messages, Collick again complains about events that occurred at Ashmead College. CP 138. Collick states that he does not care about any restraining orders or the police. CP 139. Collick states, "I'm going to beat you to death" and "you're gonna die." CP 139. Collick states that he is not in Washington but that he is "not too far away." CP 139. He repeatedly states, "I'm going to kill you," and refers to the name of a band with which Schleimer played. CP 140.

In the second message left on August 3, 2008, Collick states that he knows where Schleimer lives and what kind of car he drives, and recites the address. CP 142. Collick states, "I'm killing you and your parents and Sonya is goin watch. And you know what I might just tie your ass up and rape her and make you watch and then I'll kill you and burn your fucking house to the ground." CP 142. He also makes threats toward Charity Cox. CP 142. Collick continues, "If I die so be it, but I'm taking you and your

friends, and your precious Sonya and house with me." CP 143. He again states clearly, "I'm going to kill you Nathaniel." CP 143.

As a result of receiving these threats, Schleimer and his girlfriend placed a baseball bat under their bed for protection. RP 148. Schleimer testified that his girlfriend was terrified. RP 147.

Police attempted to trace the telephone calls through the cell phone service provider. RP 227. However, they found that the caller had used an "Internet voice over," which made the call untraceable. RP 228.³

Charity Cox received two threatening voice mail messages from Collick during the same time period as well. CP 273. She was living with her husband and stepson at the time, and had changed her name. CP 251. She also immediately recognized Collick's voice. RP 273.

The first threatening voice mail message to Charity Cox was left on August 5, 2008. RP 181, 187, 273. The message, which formed the factual basis for Count V, was recorded and played to

³ Voice over Internet Protocol systems allow a caller to "spoof" caller ID information, making calls appear as though they are from a number that does not belong to the caller. See www.wikipedia.org/wiki/Voice_over_Internet_Protocol.

the jury. RP 187-90. In the message, Collick complains about events at Ashmead College and states, "when I find you I'm going to kill you." CP 144. He then broadens the threat to Cox's family, stating, "you and your husband, your innocent kids are dead." CP 144. He reiterates the threat, stating, "when I find you, I'm taking you the fuck out," and states, "I don't care, and if I die in the process, you're gonna die with me." CP 144.

The second threatening voice mail message to Charity Cox was left on September 10, 2008. RP 192-98, 277-80. That message, which formed the factual basis for Count VI, was recorded and played to the jury. RP 198, 205. Collick starts by reciting Cox's address, and then threatens to "rape" and "mutilate" her. RP 147, 311. He threatens to burn her house down and rape her children. RP 147.

After receiving the threatening messages, Cox and her husband bought guns and made preparations to move. CP 276, 281. Cox, who suffers from post traumatic stress disorder, testified that as a result of Collick's threats, "I feel like I am going to have a heart attack all the time." RP 282. The police officer who responded to Cox's home testified that she was so frightened by

the messages that she began hyperventilating and actually collapsed while listening to them. RP 182, 195.

Detective Diana Magan took custody of Gerald Collick in Portland, Oregon, where he was under arrest, on October 16, 2008. RP 300, 312. Collick told Detective Magan that he threatened Charity Cox because she was a drug dealer. RP 319. He recited Cox's address and phone number from memory. RP 321. Records from Collick's cell phone confirmed that he called the Cox home on September 10, 2008. RP 355.

In closing, the State argued Collick's actions caused the victims and their families to live in fear. RP 399-415. The State further argued that Collick's ability to find the victims' phone numbers and addresses, and to take steps to ensure his calls could not be traced, demonstrated that he posed a real danger to the victims. Id. The defense argued that there was no proof that Collick made the calls. RP 419-35.

3. FACTS PERTAINING TO SENTENCING.

At sentencing, the State conceded that the court could not use the deliberate cruelty aggravating circumstance as a basis for exceptional sentences because the jury had not received

definitional instructions that this Court found necessary in State v. Gordon, 153 Wn. App. 516, 529-39, 223 P.3d 519 (2009), review granted, ___ Wn.2d ___ (August 5, 2010). The State requested exceptional sentences for Counts III, IV, V and VI based on the destructive and foreseeable impact on others aggravating circumstance that the jury found as to those counts. RP 442-43.

At sentencing, the State submitted evidence that in August, September, and November of 2009, Collick continued to make threats to jail staff that he will "go on a killing spree" worse than the Columbine and Virginia Tech shootings as soon as he is released from custody. CP 121-32, 150.

C. ARGUMENT

1. THE JURY'S FINDING THAT COLLICK'S CRIMES HAD A DESTRUCTIVE AND FORESEEABLE IMPACT ON OTHERS IS NOT CLEARLY ERRONEOUS.

Collick argues that the jury's finding that his crimes had a destructive and foreseeable impact on persons other than the victims is not supported by the evidence. This claim should be rejected. Viewing the evidence in the light most favorable to the State, the evidence presented supports the jury's conclusion that

Collick's threats foreseeably put persons other than Nathaniel Schleimer and Charity Cox in substantial fear for their lives.

RCW 9.94A.535(3)(r) provides that an exceptional sentence above the standard range may be imposed if the crime involved a destructive and foreseeable impact on persons other than the victim. This aggravating circumstance applies when the destructive impact is of a nature not normally associated with the offense. State v. Johnson, 124 Wn.2d 57, 75, 873 P.2d 514 (1994). For example, in Johnson, the aggravating circumstance applied because the gang shooting in that case occurred outside an elementary school while classes were in session, putting the entire school community in fear. Id. at 73. Similarly, in State v. Cuevas-Dias, 61 Wn. App. 902, 906-07, 812 P.2d 883 (1991), the aggravating circumstance applied because the victim's children were traumatized by witnessing the sexual assault of their mother. See also State v. Barnes, 58 Wn. App. 465, 475, 794 P.2d 52 (1990) (aggravating circumstance applied because children present in home when mother killed).

In reviewing whether sufficient evidence supports a jury's finding of an aggravating circumstance, the reviewing court should view the evidence in the light most favorable to the State, and draw

all reasonable inferences from the evidence. State v. Yarbrough, 151 Wn. App. 66, 96, 210 P.3d 1029 (2009). Circumstantial and direct evidence are equally reliable, and the appellate court should defer to the trier of fact on the persuasiveness of the evidence. State v. Thomas, 150 Wn2d 821, 874-75, 83 P.3d 970 (2004).

In the present case, Collick's threats went beyond that normally associated with the crime of felony harassment. The crime of felony harassment is established when a person threatens to kill another person. Collick did not just threaten to kill the victims, Nathaniel Schleimer and Charity Cox. He threatened to burn down both their homes. He threatened to rape Nathaniel Schleimer's girlfriend, Sonya. He also threatened to tie her up and force her to watch as he killed Schleimer. Finally, he threatened to kill her. Collick threatened to rape and kill Charity Cox's stepson. He also threatened to kill her husband.

These threats had a destructive and foreseeable impact on Sonya and Charity Cox's husband. Schleimer testified that Sonya was "terrified" by the threats, and the two slept with a baseball bat under their bed for protection. RP 146-48, 156. Charity Cox testified that her husband was also fearful of Collick's threats, and

that they bought guns to protect themselves and planned to move to a new home. RP 176, 281. These threats had a profound impact on the lives of these people, forcing them to live in fear day in and day out. This impact was certainly foreseeable. Viewing the evidence in the light most favorable to the State, the jury's finding of the aggravating circumstance is supported by the evidence.

Collick argues that the State could not establish the aggravating circumstance without calling Sonya and Charity Cox's husband as witnesses. However, other cases have upheld the aggravating circumstance based on testimony from persons other than the ones affected. For example, in State v. Jackson, 150 Wn.2d 251, 276, 76 P.3d 217 (2003), the aggravating circumstance was affirmed based on the crime's impact on the children in the school, which was established with testimony from a teacher, the principal and a school counselor. Similarly, in Barnes, the aggravating circumstance was affirmed based on the crime's traumatic impact on the victim's children, which was established with testimony from a psychiatrist. 58 Wn. App. at 475 n. 5. Schleimer and Cox both had personal knowledge of the effect that Collick's threats had on their loved ones. That testimony was

admitted without objection. Sufficient evidence supports the jury's finding that Collick's threats had a destructive and foreseeable impact on persons other than the victims.

2. THE SENTENCE REFORM ACT AUTHORIZES IMPOSITION OF AN EXCEPTIONAL SENTENCE CONSISTING OF A SENTENCE OUTSIDE THE STANDARD RANGE AND CONSECUTIVE SENTENCES WHEN THERE IS A SUBSTANTIAL AND COMPELLING REASON TO DEPART FROM THE STANDARD RANGE.

Collick argues that a defendant may not receive an exceptional sentence consisting of a sentence outside the standard range and consecutive sentences unless the court finds more than one aggravating circumstance. His argument should be rejected. It runs contrary to the language of the Sentencing Reform Act and contrary to logic. The Division III cases supporting Collick's position are not well reasoned and should not be followed.

Any question as to what type of exceptional sentences are authorized by the Sentencing Reform Act must begin with the language of RCW 9.94A.535. RCW 9.94A.535 provides that "The court may impose a sentence outside the standard sentence range if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional

sentence." The statute additionally provides "A departure from the standards in RCW 9.94A.589(1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section." Nothing in the statutory language prohibits the court from imposing a sentence outside the range and consecutive to other counts when there is a valid basis for an exceptional sentence.

In State v. Batista, 116 Wn.2d 777, 780, 808 P.2d 1141 (1991), the state supreme court clarified the standards governing the imposition of consecutive sentences as an exceptional sentence. The court stated, "Where multiple current offenses are concerned, in addition to lengthening of sentences, an exceptional sentence may also consist of imposition of consecutive sentences." Id. at 784. In correcting the trial court's misunderstanding that consecutive sentences are required when the "multiple offense policy" aggravating circumstances is found, the court stated, "If a presumptive sentence is clearly too lenient, this problem could be remedied *either* by lengthening concurrent sentences, *or* by imposing consecutive sentences." Id. at 786 (emphasis in original). Two other aggravating circumstances had been found by the trial

court, and thus, the Supreme Court was not addressing the question of whether a sentence outside the standard range and consecutive to other counts could be imposed based on one aggravating circumstance. Id. at 791. Because that question was not presented, Batista cannot be read to stand for the proposition that more than one aggravating circumstance must be found to impose an exceptional sentence that is both outside the standard range and consecutive to other counts.

The cases from Division Three of this Court that rely on Batista for that proposition are mistaken. In State v. McClure, 64 Wn. App. 528, 827 P.2d 290 (1992), the court relied on the above-quoted sentence from Batista in concluding that "this language *suggests* the court must choose between the two forms of exceptional sentences" when only one aggravating circumstance is present. Id. (emphasis added). No other analysis is presented and the language of the statute is never addressed.

McClure is also distinguishable in that there were two counts and the trial court only found one valid aggravating circumstance with respect to one count. The court of appeals concluded that a single aggravating factor on only one of the two offenses did not

justify a sentence outside the standard range and consecutive sentencing. Here, the jury found the aggravating circumstance on the four separate counts at issue.

In In re Personal Restraint of Holmes, 69 Wn. App. 282, 848 P.3d 754 (1993), the question presented was quite different. In that case, the court curiously imposed a sentence *below* the standard range to run consecutively to other counts. Id. at 293. Citing Batista without further analysis, the court held that the sentence imposed by the court on the basis of a single aggravating factor was improper. Id.

Finally, in State v. Quigg, 72 Wn. App. 828, 845, 866 P.2d 655 (1994), the court affirmed multiple aggravating circumstances on appeal. Thus, Quigg is inapposite.

The claim that a trial court is limited to imposing either a sentence above the standard range or a consecutive sentence, but not both, once a basis for an exceptional sentence has been found is similar to the discredited "doubling rule." When the Sentencing Reform Act was first enacted, defendants argued that an exceptional sentence should be limited to no more than twice the standard range. State v. Oxborrow, 106 Wn.2d 525, 531, 723 P.2d 1123 (1986). The state supreme court rejected that limitation,

finding there was no statutory authority for imposing an arbitrary limit on exceptional sentences. Id. The court reasoned that once a basis for an exceptional sentence is established, "the court is permitted to use its discretion to determine the precise length of the exceptional sentence." Id. at 530. An exceptional sentence that is "clearly excessive" may be reversed as an abuse of discretion. Id. See RCW 9.94A.585(4).

In the present case, Collick does not argue his sentences are clearly excessive. If an exceptional sentence has a valid basis and is not clearly excessive, it should be affirmed. As in Oxborrow, this court should reject the defendant's invitation to impose an arbitrary limit on the trial court's discretion that has no basis in any statutory language. The sentences imposed by the trial court in this case are consistent with the purposes of the Sentencing Reform Act, and should be affirmed.

3. IF THIS COURT REVERSES THE EXCEPTIONAL SENTENCE, THE STATE MAY IMPANEL A JURY TO RECONSIDER THE DELIBERATE CRUELTY AGGRAVATING CIRCUMSTANCE THAT THE FIRST JURY FOUND.

If this Court concludes that the destructive and foreseeable impact aggravating circumstance is not supported by substantial

evidence, or that the sentences imposed here may not be imposed based upon a single aggravating circumstance, the case will be remanded for further sentencing proceedings. The State should be free to impanel a new jury to consider the deliberate cruelty aggravating circumstances.

The State charged and the jury found the additional aggravating circumstance of deliberate cruelty in this case. However, the trial court did not rely on that aggravating circumstance in imposing sentence because the instructions to the jury did not define deliberate cruelty as required by this Court's decision in State v. Gordon, 153 Wn. App. 516, 529-39, 223 P.3d 519 (2009), review granted, ___ Wn.2d ___ (August 5, 2010), which was issued after the jury's verdict but before sentencing in this case. Should Collick's sentence be reversed and the case remanded for further proceedings, a new jury may consider deliberate cruelty without violating double jeopardy principles. See State v. Thomas, 166 Wn.2d 380, 395, 208 P.3d 1107 (2009) (double jeopardy does not prohibit submitting noncapital sentencing aggravators to a new jury on remand); RCW 9.94A.537 (allowing court to impanel jury to consider aggravating circumstances on remand).

4. THERE IS NO NEED TO REMAND TO CORRECT THE JUDGMENT AND SENTENCE.

In his brief, Collick assigns error to the trial court's failure to file the judgment and sentence with the findings of facts supporting the exceptional sentence attached. On September 14, 2010, the court refiled the judgment and sentence with the required findings incorporated as Appendix D. CP 151-66. Thus, this Court need not address the issue or remand for correction of the judgment and sentence.

D. CONCLUSION

Collick's sentences should be affirmed.

DATED this 7th day of October, 2010.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
ANN SUMMERS, WSBA #21509
Senior Deputy Prosecuting Attorney
Attorneys for Respondent
Office WSBA #91002

APPENDIX A

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
)	No. 08-1-11571-9 SEA
)	
vs.)	
)	TRANSCRIPT OF VOICEMAIL FOR
GERALD CRAIG COLLICK,)	COUNT 1
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CALLER: If this is the residence of Nathaniel Paul Schleimer, you think it was real funny you said at massage school telling me what to say to my mouth and try to intimidate me little fuck punk. Telling me to ...(unintel)... grab me in the elevator, trying to squeeze me when we got down there in front of a bunch of women. You ...(unintel)... motherfucker. You can hide behind your little restraining order, but you're restraining order is not gonna protect you forever because you're an old man and I tell you when I find you, I'm gonna rip your guts out. I'm gonna rape you and I'm gonna mutilate you Nathaniel. You ain't heard the last of me. You ever try to dominate me again, you ever try to make a punk out of me again, you

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

1 ever try that pussified punk ass shit boy, and I promise you I'm gonna
2 fuck you up. You better never try me again motherfucker, and as long as
3 you live, you're gonna be living me. I'm gonna be in your dreams and
4 your nightmares, there when you're making love to your fuckin' stinkin'
5 hole wife, girlfriend or what the fuck she is. You fuck with me
6 Nathaniel, you fuck with me Nathaniel, and I promise you Nathaniel Paul
7 Schleimer your days are comin' to an end. I know you're a sex offender
8 from Pasadena, California. I know about your ...(unintel)... bitch, and
9 when I find you Nathaniel you are going to die. You are going to die
10 Nathaniel Paul Schleimer. You punk ass bitch. You better never tell me
11 ...(unintel)... again. You better never try and dominate me again
12 motherfucker. You better never fuck with my life ever the fuck again
13 because when I come back I'm gonna swear to God as Satan as my
14 witness I am going to rip your fucking flesh apart and I'm gonna take
15 your soul and I'm gonna torture you to death. You tried to treat me like I
16 was a little punk, treatin' me like I was a fuckin' child and you're gonna
17 pay for scarring my life. ...(unintel)... and tell the police department you
18 wanta tell 'em, but you are a dead man walking you bitch, and I mean it.
19 I mean it motherfucker.

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21 [end of phone messages]
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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
)	No. 08-1-11571-9 SEA
Plaintiff,)	
)	
vs.)	
)	TRANSCRIPT OF VOICEMAIL FOR
GERALD CRAIG COLLICK,)	COUNT 2
)	
Defendant.)	
)	
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CALLER: I'm gonna leave this message on your answer ...(unintel)... son of bitch. You tried to intimidate me and dominate me and punk me out of that massage school ...(unintel)... and I'm violating the restraining order. I don't really give a damn because I'm not in the state of Washington no more. You're trying to punk me, telling me what to say to my mouth, ...(unintel)... in my face, telling me what responsibility to take in the elevator and punched me in the side. I've been severely traumatized by what happened at Ashmead College, and I'm probably never gonna forget it, but I'm gonna tell you this Nathaniel Paul Schleimer every day I'm gonna be there wherever you are, in your home, at your job, playing

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

1 music, making love to your girlfriend, while you're in the shower, while
2 you're peeing, while you're taking a shit. I'm gonna be there and
3 ...(unintel)... you and I rip you the fuck apart because no man dominates
4 me. What happened at Ashmead College is you, Charity ...(unintel)... is
5 you ...(unintel)... treating me like a child. ...(unintel)... like a punk.
6 Telling me I need mental health counseling. You're the one who needs
7 mental health counseling. I have been traumatized by it. But what comes
8 around, goes around and goes around, comes around and that day gonna
9 come. I did nothing, but you son of a bitches got away with getting my
10 massage licenses, so it's up to you ...(unintel)... practice for. If I ever see
11 you again, I promise you when I find you Nathaniel, I'm going to kill
12 you, and I'm leaving this message on your answering service because I
13 don't give a fuck. Because you will not see me again in the ...(unintel)...
14 I promise you. I did a year in jail for something I didn't do while you a
15 sex offender ...(unintel)... got away with a lot of shit. I promise you, you
16 punk-ass bitch when I find you—when I find you again I will—

17 RECORDER:

This message will be automatically deleted in 14 days. Saved message
18 number 1 from caller five. Zero, three, two, four, nine, nine, zero, seven,
19 seven. Received on Sunday, June 15th, 9:46 p.m.

20 [end of phone messages]
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22
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TRANSCRIPT OF VOICEMAIL- 2

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

GERALD CRAIG COLLICK,

Defendant.

No. 08-1-11571-9 SEA

TRANSCRIPT OF VOICEMAIL FOR
COUNT 3

CALLER: I didn't get a chance to talk to you over the phone because you're too much of a fucking coward to pick up the phone. But let me tell you like this, you call the Seattle Police Department one more time you little bitch. Talk about you see me ok. Because if anything the motherfuckers mean would fight me like a man instead of having restraining orders you little punk. Telling me what comes out of my mouth. Trying to kick me out of massage school and tell me I need some mental health fucking counseling? You need some fucking mental health counseling. Because when I find your motherfucking ass. I know what you said, I'm fucking kill you for what you did to me last week. I don't give a fuck who'd you tell, I don't give a fuck about your restraining order. I don't give a fuck

1 about Seattle Police. You're going to pay. Because I know you're a fucking
2 (unintelligible). You little bitch. And for psychologically scarring me and
3 (unintelligible) my PTSD. You, Charity Weyrick, Juanita all of your asses going
4 down. Because I reported all this shit to the FBI in Washington DC. You people
5 think you slick, because you got your home number blocked so I can't call you.
6 You know where I'm going call you. You best be rest assured, when I find you,
7 you're a dead man walking. I don't give a fuck how you take it. And fuck you
8 and that judge and your precious little self and then you bitch. You are going to
9 pay for trying to dominate me and punking me outside that school. You're gonna
10 pay because I don't play that shit. And whoever said that the bad things feel
11 good didn't know what the fuck they were talking about. When I find you
12 Nathaniel Paul Shumama Shlama whatever the fuck your name is. I'm going to
13 fuck you up. I mean it. I'm going to beat you to death. And you better be ready.
14 I'm going to kill you Nathaniel. I'm not fucking around. You got about maybe
15 a couple of months to live because you're not going to make it to see the new
16 year. I promise you, you are going to die. And you call Seattle Police
17 Department (unintelligible). I'm out of state you punk ass bitch. I'm not in
18 Washington but you gonna die because I'm going to find you 'cause I'm not too
19 far away from you. I'm not that far away from you and I know where you live at
20 so I suggest if you don't want me to find you. You better pack your shit, leave
21 your fucking house and move to another fucking state or leave the fucking planet.
22 Because I'm taking you out. I mean it so you better get go you some fucking
23 guns and whatever 'cause you're gonna die. You're gonna pay for that shit at
24

1 Ashmead College. I mean it. And I'm gonna fuck around and ride you like a
2 motherfucking goddamn demon until I psychologically, physically break you like
3 you and Charity Weyrick and all those you Punk motherfuckers your ass.
4 (unintelligible). You bitch. You a bitch Nathaniel. Here allow because you a
5 bitch. You try to disrespect me; you try to dishonor my manhood. I'm gonna
6 take you the fuck out. (unintelligible). I'll take a bunch of em with me. Fuck
7 you. 'cause when I find you I'm gonna bust your ass. You bitch talking I'm mad
8 about you about some lawsuit. You better hope and pray I don't find you. Cause
9 I know you take me for. You better hope and pray I don't find you Nathaniel.
10 You better hope and pray I don't find you, but I swear to you I'm going to kill
11 you. I'm going to kill you Nathaniel. I'm going to rip your fucking guts out and
12 that time you played in that band called the Solomon Douglas Swintet. Douglas
13 Solomon Swintet I promise you motherfucker. Is that probably all the music you
14 make it's going to be your last. Just you wait and see. Because I promise you
15 I'm going to kill you. Bitch.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

GERALD CRAIG COLLICK,

Defendant.

No. 08-1-11571-9 SEA

TRANSCRIPT OF VOICEMAIL FOR
COUNT 4

CALLER: Your answering service. You don't want to pick up the fucking phone because you ain't man enough to sit there and talk to me. You know what? Everyday that I have flashbacks from you grabbing me in that fucking elevator with those people in the elevator squeezing me tell me what to say in my fucking mouth. Telling me to say it right. Every fucking thing Nathaniel every day that I'm traumatized by what happened in fucking school two years ago and for everything I'm gon fuck you up when I find you. You see you better be prepared to do battle motherfucker you better get your shit together Nathaniel Paul Schleimer, because I telling you when Gerald Collick gets finished with you, you gon wish your day that you were never fucking born. You play in this little band

1 and the saxophone for the Douglas Solomon Swintet. Well I'm going to tell you
2 like this you little bitch. This the last time you going to play in that fucking band.
3 Because when I find you I'm fucking you up. You and your principal soldier
4 whatever up there 1733, 1735 fuck around what's that NE 106 Street. I know
5 exactly where the fuck you live at bitch. I know what kind of car you drive. You
6 see. I know what the color of your fucking goddamn house looks like on the
7 inside. I know exactly how much food you got in your fucking apartment. I'm
8 gonna fuck you up. You don't play me for no punk. Yeah I'm mentally
9 disturbed. I'm crazy. I've been several traumatized and now that I'm homicidal
10 and suicidal I don't give a fuck anymore. I don't give a fuck anymore. When I
11 find you I promise you. I'm killing you and your parents and Sonya is goin
12 watch. And you know what I might just tie your ass up and rape her and make
13 you watch and then I'll kill you and burn your fucking house to the ground and
14 that goes for you and Charity because I'm going to find Charity Weyrick, I'm
15 going to find fucking Wally the conqueror and I promise you motherfucker when
16 I find them I promise you, you motherfuckers are going to pay for Ashmead
17 College. You try to treat me like I was a little punk. You try to treat me like a
18 little bitch And I don't play that shit. I've had more of my life taken the fuck
19 away from me. So what I'm going to boy, boy is I'm going to take your life
20 away from you. You 52, 53 years old. I'm 35 years old I've been well trained in
21 martial arts and kickboxing. My hands are like (unintelligible) motherfuckin.
22 My hands are indicted now. You don't stand a chance against me. You better
23 go, you better go buy a gun. Because I'm going keep fucking with you because I
24

1 don't care. I ain't got nothing to lose. If I die so be it, but I'm taking you and
2 your friends, and your precious Sonya and house with me. I'm going to burn
3 your fucking house to the ground. I promise you Nathaniel I'm going to rip your
4 fucking soul the fuck apart. I'm going to kill you Nathaniel. And you best get
5 ready to do battle 'cause you're not going to make it to New Year's Eve. More
6 or less you're not going to make it to fuckin see Halloween. Bitch, Bitch and if
7 you see Charity Weyrick around you're (unintelligible) because she's next.
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TRANSCRIPT OF VOICEMAIL - 3
0909-038

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
)	Plaintiff,
)	No. 08-1-11571-9 SEA
vs.)	
)	TRANSCRIPT OF VOICEMAIL FOR
GERALD CRAIG COLLICK,)	COUNT 5
)	
)	Defendant.
)	
)	
)	
)	

CALLER: Just wanted to let you know if this is the home of Charity Weyrick, the Charity Weyrick you go to Ashmead College, let me let your little paranoid schizophrenic little white trashy little bitch know. What you and those people did to me was really wrong, it was a set up. I'm gonna let you know, what comes around goes around. When I find you, when I find you I'm going to kill you. I don't care if it's being recorded, I don't care if you call the police or not. When I find you, you your husband, your innocent kids are dead. You mother fuckers in Seattle Washington are gonna learn a lesson. You are a bunch of sick disturbed mother

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fuckers, sex offending, child molestin', drug fucking usin' bitch is what
you people are. You're a bunch of sick disturbed people and I ain't
walking through life feelin' like I'm the one with the mental illness, the
mental is you. When I find you Charity Weyrick, you, Nathaniel Paul
Schleimer, Juanita Carpenter, all of you mother fuckers, when I find you
I'm taking you the fuck out. I promise you, no I rephrase that. I give you
a guaranteed seal of approval when I find you, I'm taking you the fuck
out. I don't care, and if I die in the process, you're gonna die with me.
You white disgusting ...(unintel)... schizophrenic white trashy little bitch.
You little stinking little bitch, you little bitch. Hear it loud and clear
bitch. Do the world a favor and kill your fucking self. Kill your fucking
self. Kill your fucking self. You bitch. You stinking ass white trashy,
little fucking little whore.

[end of voicemail]

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

GERALD CRAIG COLLICK,

Defendant.

No. 08-1-11571-9 SEA

TRANSCRIPT OF VOICEMAIL FOR
COUNT 6

CALLER:

I know this is your phone number Charity Weyerick, but I'm gonna tell you like this. I'm gonna threaten your life again you little bitch. Seven, one, seven, two one, six. Second Avenue Northeast Shoreline. The zip code's 98155. You thought it was real funny...(unintel)... massage school didn't you. You thought it was real funny trying to get up in my face and try to punk me out in front of a bunch of fucking people. Well you know what, none of them gonna...(unintel)... Nathaniel. None of them will talk with you and...(unintel)... you're not woman enough to answer the phone. When I find your paranoid schizophrenic, schizo...(unintel)... ass, I'm gonna fuck you little blonde stinkin' ass up bitch.

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

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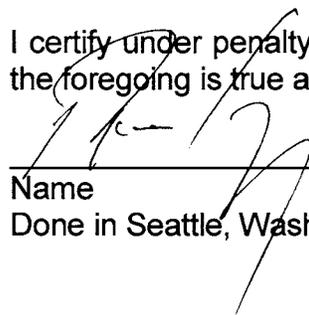
Fuck you you little bitch. You people in Washington are gonna pay for this shit. I mean it you little bitch. You little bitch and I'm gonna have my way with you, you fuckin' whore, and I'm gonna rape you and I'm gonna mutilate you. I'm gonna burn your house to the ground, and I'm gonna rape your fuckin' kids, and if you don't think I have the heart for it why the fuck ...(unintel)... you gonna fuck with my life ...(unintel)... you little bitch. You bitch. You stinkin' little bitch. I hope you die. You fuckin' whore.

[end of voicemail]

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 Dana Lind, the attorney for the appellant, at Nielsen Broman & Koch, P.L.L.C., 1908 E. Madison Street, Seattle, WA 98122, containing a copy of the Brief of Respondent, in STATE V. COLLICK, Cause No. 64862-4-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.



Name
Done in Seattle, Washington

10-07-10

Date

~~FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2010 OCT - 7 PM 4: 51~~