

NO. 72204-2-I

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

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STATE OF WASHINGTON,

Respondent,

v.

SANTOS SALOY,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Elizabeth Berns, Judge  
The Honorable Mary Roberts, Judge

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BRIEF OF APPELLANT

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CHRISTOPHER H. GIBSON  
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC  
1908 E Madison Street  
Seattle, WA 98122  
(206) 623-2373

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A. ASSIGNMENT OF ERROR

The trial court violated appellant's Sixth Amendment right to counsel of choice.

Issue Pertaining to Assignment of Error

Did the superior court violated appellant's Sixth Amendment right to counsel of choice by denying his pretrial motion for substitution of retained counsel and a continuance on the basis it was untimely because it was made the day trial was scheduled to begin?

B. STATEMENT OF THE CASE

In mid-July 2013, then 36-year old appellant Santos Saloy (d.o.b. 5/3/79) was arrested and charged by the King County Prosecutor with second degree rape of a child, alleging he had sexual intercourse with then 12-year old A.M. (d.o.b. 9/4/00), sometime between October 16, 2012 and November 30, 2012. CP 1-7. Saloy was released on bond and retained attorney Teri Rogers Kemp to represent him. Supp CP \_\_\_ (sub no. 2A, Appearance Bond Face Sheet, filed 7/19/13); Supp CP \_\_\_ (sub no. 3, Notice of Appearance/ Demand for Discovery, filed 7/22/13). Saloy entered a "not guilty" plea at arraignment on July 29, 2013. Supp CP \_\_\_ (sub no. 7, Clerk's Minutes, filed 7/29/13). August 8, 2013 was set as the "Case Setting Date." Id.

Between August 8, 2013 and April 4, 2014, there were eleven continuance orders entered as follows;

1. On August 8, 2013, an "Order Continuing Case Scheduling and Waiver of Time for Trial" until September 12, 2013, was entered without objection at defense request "for the following reasons: negotiations with KDPA-St; investigation[.]" Supp CP \_\_ (sub no. 11, filed 8/8/13).

2. On September 12, 2013, another "Order Continuing Case Scheduling and Waiver of Time for Trial" until October 10, 2013, was entered without objection at defense request. Supp CP \_\_ (sub no. 13, filed 9/12/13). No reason is indicated on the order.

3. On October 10, 2013, another "Order Continuing Case Scheduling and Waiver of Time for Trial" until November 7, 2013, was entered without objection at defense request "for the following reasons: consult w/ client re: set or accept offer[.]" Supp CP \_\_ (sub no. 15, filed 10/10/13).

4. On November 7, 2013, another "Order Continuing Case Scheduling and Waiver of Time for Trial" until November 14, 2013, was entered without objection at defense request "for the following reasons: final negotiation, d/c w/ client[.]" Supp CP \_\_ (sub no. 17, filed 11/7/13). On November 14, 2013, a "Trial Scheduling Order, Waiver" was entered

setting the Omnibus Hearing for January 24, 2014, and trial for February 6, 2014. Supp CP \_\_ (sub no. 19, filed 11/14/13).

5. On January 24, 2014, a "Stipulated Order to Continue Omnibus Hearing" to January 31, 2014, was entered "for the following reason(s): defense counsel scheduling conflict today." Supp CP \_\_ (sub no. 22, filed 1/24/14).

6. On January 31, 2014, an "Order Continuing Trial" to March 11, 2014, was entered at defense request "for the following reason: . . . [x] other: interview witnesses prepare for trial." Supp CP \_\_ (sub no. 23, filed 1/31/14).

7. On February 28, 2014, a "Stipulated Order to Continue Omnibus Hearing" to March 7, 2014, was entered "for the following reason(s): Δ has been present since 8:30 a.m. and defense counsel has been present since 8:45. State is not present and defense counsel had to go to another court matter. State was present at 8:45 am and had a plea and motion in Judge White's court - which I notified defense counsel of. State has no objection to resetting." Supp CP \_\_ (sub no. 25, filed 2/28/14).

8. On March 7, 2014, an "Order Continuing Trial" until April 8, 2014, and the Omnibus Hearing until March 21, 2014, was entered at defense request "for the following reason: . . . [x] other: witness interviews, potential dx - may be more, State will amend for trial to add 2

counts of CMIP. Parties have agreed to set up interviews at 6:30 pm on weekdays." Supp CP \_\_ (sub no. 27, filed 3/7/14).

9. On March 21, 2014, a "Stipulated Order to Continue Omnibus Hearing" until March 28, 2014, was entered "for the following reason(s): St. interview Δ's witnesses, review some pics, negotiations." Supp CP \_\_ (sub no. 32, filed March 21, 2014).

10. On March 28, 2014, a "Stipulated Order to Continue Omnibus Hearing" until April 4, 2014, was entered "for the following reason(s): Agreement of the parties[.]" Supp CP \_\_ (sub no. 33, filed 3/28/14).

An "Order on Omnibus Hearing" was entered on April 4, 2014. Supp CP \_\_ (sub no. 34, filed 4/4/14).

11. On April 4, 2014, an "Order Continuing Trial" until April 16, 2014, was entered at defense request and by party agreement "for the following reason: . . . [x] other: Δ's counsel recently out of trial in Pierce (4/2014); final negotiations for possible plea; final investigation; interview trial witnesses." Supp CP \_\_ (sub no. 36, filed 4/4/14).

On April 16, 2014, the parties appeared before the Honorable Elizabeth Berns, Judge, on Saloy's motion to substitute retained counsel.

RP<sup>1</sup> 1-7. The hearing began at 8:39 a.m., and ended at 8:48 a.m. RP 1, 7. Saloy's current counsel in the matter, Rogers Kemp, deferred to the court on whether to grant or deny the request. RP 1.

Robert Perez, the attorney Saloy sought to replace Rogers Kemp with, informed the court that he had recently been retained by Saloy and had several investigative paths he needed to pursue before trial, claiming that going to trial without first doing so would constitute ineffective assistance of counsel. RP 1-3. Perez then confirmed he would need a continuance if allowed to substitute in for Rogers Kemp. RP 3-4.

In response, the prosecutor argued Saloy's request to replace Rogers Kemp with Perez should be denied as it had not been shown there was "an absolute breakdown in communications or conflict" between Saloy and Rogers Kemp. RP 4-5. In response, Saloy asserted Rogers Kemp had failed to keep him properly informed of his options. RP 5.

Thereafter Perez noted Saloy did seem to have a breakdown in communications with Rogers Kemp, noting it was Saloy's understanding a number of defense witnesses were unprepared for trial, his attempts to resolve this situation with Rogers Kemp were unsuccessful, and that he had contacted Perez as soon as he realized his predicament. RP 5-6.

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<sup>1</sup> "RP" refers to the five consecutively paginated volumes of verbatim report of proceedings for the dates of April 16, 17, 21, 22-24, 2014, May 1, 5, 6 & 12, 2014, and June 13, 2014.

Noting it was Saloy's first request for new counsel, Perez argued it would be "reversible error to continue at this point" and there was "good cause" to grant Saloy's request. RP 6.

The court then ruled as follows:

All right. Thank you, Mr. Perez. Mr. Saloy has been represented in these proceedings today by Ms. Rogers Kemp, and he's had ample opportunity to bring to the Court a request to discharge his attorney and request to continue the trial. There is no information that this Court has to believe that that relief is appropriate at this time. Whether it's the first time or the fifth time that Mr. Saloy come before the Court and asks either for a continuance or for new counsel, the fact that it is the day of trial and this Court has had no indication based on actions of the party and the opportunities that Mr. Saloy has had that this matter should be one, continued, or that counsel should be discharged and a new counsel substituted and the trial continued based on the fact that new counsel would need some time to prepare, it doesn't matter. And under these circumstances, I consider the request extremely untimely and I'm going to deny both the request for continuance as well as the substitution of counsel. The matter can be brought before the trial judge. This needs to go to trial today.

RP 6-7.

Perez noted, "I strongly disagree with this Court's analysis[.]" and stated he wished to raise the matter before the trial court once the case was assigned. RP 7.

The parties next met before the Honorable Leroy McCullough, Judge, at 10:29 a.m. on the same day. RP 7. That hearing was concluded at 10:31 a.m., after Judge McCullough noted his children had gone to

school with Saloy's children and therefore a different judge would need to hear the matter. RP 7-10.

The parties next met before the Honorable Mary Roberts, Judge, at 11:20 p.m. RP 10. When informed Saloy wanted to relitigate his motion to substitute counsel, Judge Roberts refused to hear the matter, and directed the parties to reconvene before Judge Berns if reconsideration of her ruling was sought by Saloy. RP 11-12. The hearing ended at 11:26 a.m. RP 15.

The parties then reconvened before Judge Berns at 11:46 a.m. for reconsideration of her earlier ruling. RP 15-28. Judge Berns asked Perez "what new information he feels the Court should consider in making a determination whether it will reconsider its prior ruling . . . ." RP 15.

In response, Perez recounted interactions between Rogers Kemp, Saloy and Saloy's family he witnesses outside Judge Berns' court after she denied the motion to substitute. According to Perez, Rogers Kemp told Saloy and his family that she would "protect her professional reputation against any misleading statements and would not speak to me when I asked her about even if they came at the expense of her client." RP 16. Perez claimed Rogers Kemp then engaged Saloy and his family in argument, such that it was Perez's opinion that "the attorney-client . . . relationship is as broken down as it can be." Id. Perez also relayed that

Saloy told him that Rogers Kemp had "accus[ed] him of essentially lying." RP 17. In Perez's opinion, "it would be impossible for this trial to proceed fairly under the circumstances." Id.

Following Perez, the prosecutor urged the court not to reconsider, noting it was her observation that Rogers Kemp had diligently been working on Saloy's behalf. RP 17-20. The prosecutor also expressed concern that any further delay could take a toll on the complaining witnesses memory, as well as her emotions. RP 18. Noting Rogers Kemp had stated she was ready to proceed to trial, and that Perez would need "at least a month" to get prepared, the prosecutor urged the court to deny the request for substitute counsel "based on this untimely request and the public's right to efficient administration of the calendar." RP 19-20.

Following the prosecutor, Rogers Kemp informed the court that she was "nonplussed" by Saloy's desire for new counsel, claiming they had worked well together since July 2013, and that Perez had come "dangerously close" to interfering with her relationship with Saloy. RP 20-21. Rogers Kemp concluded her remarks by noting she had "strategically worked" the case and was prepared to proceed with trial, but would defer to the court. RP 22.

Perez was allowed to respond to the representation of the prosecutor and Rogers Kemp. RP 25. According to Perez, given Saloy's

current relationship with Rogers Kemp, there was no way he could get a fair trial with her as his attorney. Saloy was then allowed to address the court.

According to Saloy, he no longer wanted to be represented by Rogers Kemp because, unlike Perez, she failed inform Saloy of every viable defense option. RP 26. Saloy pleaded with the court to give him a "chance to a fair trial." RP 26-27.

Thereafter the court ruled as follows:

Thank you, Mr. Saloy. All right. Okay. Thank you very much. Again, just to reiterate so it's very clear. The sole issue before this Court is whether there is in fact new information that would cause the Court to reconsider its prior ruling on the Defendant's Motion to Discharge Counsel and to Continue the Trial Date. That new information, as I understand it, is Mr. Perez's observation of family discussions with Rogers Kemp, who is Mr. Saloy's attorney and who has been Mr. Saloy's attorney since the beginning of summer last year. This Court does not consider the observation of family discussions or even arguments on the day of trial to be sufficiently new information, and the Court will not reconsider its prior decision. The parties are directed to return to their trial court at the appropriate time and this matter must proceed. Thank you.

RP 27-28.

The matter then proceeded to trial before Judge Roberts. RP 28.

On April 17, 2014, the prosecutor filed an amended information adding two counts of communicating with a minor for immoral purposes,

and alternative charges to the second degree child rape charge of attempted second degree rape and second degree child molestation. CP 13-14. A jury subsequently found Saloy not guilty of the rape, attempted rape and molestation charges, but guilty of the communicating with a minor charges. CP 45-49.

On June 13, 2014, the trial court imposed concurrent 12-month sentences for each communicating with a minor conviction. CP 74-83; RP 903. Saloy appeals. CP 84-85.

C. ARGUMENT

THE COURT'S DENIAL OF SALOY'S CONSTITUTIONAL RIGHT TO COUNSEL OF CHOICE REQUIRES REVERSAL.

Criminal defendants have the Sixth Amendment right to counsel of choice. Absent sufficient countervailing considerations, that right must be honored. Here, the trial court violated Saloy's right to choose his attorney in denying his motion to substitute Perez for Kemp Rogers as his trial attorney, and in denying the associated motion for a continuance. Under the circumstances, Saloy's interest in counsel of choice outweighed the public's interest in maintaining the trial date. The trial court abused its discretion due to an unreasoning and arbitrary insistence upon expeditiousness in the face of a justifiable request for delay to allow

counsel of choice to prepare for trial. The convictions must be reversed because the deprivation constitutes structural error.

- a. The court violated Saloy's Sixth Amendment right in denying his choice of counsel without sufficient justification.

The Sixth Amendment provides "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense." U.S. Const. amend. VI.<sup>2</sup> The right to counsel of choice "guarantees a defendant the right to be represented by an otherwise qualified attorney whom that defendant can afford to hire, or who is willing to represent the defendant even though he is without funds." United States v. Gonzalez-Lopez, 548 U.S. 140, 144, 126 S. Ct. 2557, 165 L. Ed. 2d 409 (2006) (quoting Caplin & Drysdale, Chartered v. United States, 491 U.S. 617, 624-625, 109 S. Ct. 2646, 105 L. Ed. 2d 528 (1989)). The right to counsel of choice "commands, not that a trial be fair, but that a particular guarantee of fairness be provided — to wit, that the accused be defended by the counsel he believes to be best." Gonzalez-Lopez, 548 U.S. at 146.

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<sup>2</sup> The Washington Constitution similarly provides "In criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel[.]" Wash. Const. art. I, § 22. The state and federal constitutions provide the same degree of protection in this regard. State v. Medlock, 86 Wn. App. 89, 97-99, 935 P.2d 693, review denied, 133 Wn.2d 1012, 946 P.2d 402 (1997).

The right to privately retain one's own counsel derives from the defendant's right to determine his defense. United States v. Laura, 607 F.2d 52, 56 (3rd Cir. 1979). "Lawyers are not fungible, and often the most important decision a defendant makes in shaping his defense is his selection of an attorney." United States v. Gonzalez-Lopez, 399 F.3d 924, 928 (8th Cir. 2005) (quoting United States v. Mendoza-Salgado, 964 F.2d 993, 1014 (10th Cir. 1992)), aff'd, 548 U.S. 140, 126 S. Ct. 2557, 165 L. Ed. 2d 409 (2006). Within the range of effective advocacy, attorneys will differ as to their trial strategy, oratory style, and the importance they place on certain legal issues, as well as their expertise in certain areas of law and experience or familiarity with opposing counsel and the judge. Gonzalez-Lopez, 399 F.3d at 934. "These differences will impact a trial in every way the presence or absence of counsel impacts a trial." Id.

"The deprivation of a defendant's right to counsel of choice is 'complete' when the defendant is erroneously prevented from being represented by the lawyer he wants, regardless of the quality of the representation he received." State v. Hampton, 182 Wn. App. 805, 818, 332 P.3d 1020 (2014), review granted, 342 P.3d 327 (2015).<sup>3</sup> For this reason, it is improper for the trial court to consider the legitimacy of the

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<sup>3</sup> The Washington Supreme Court heard oral argument in Hampton on May 26, 2015. A decision is pending.

defendant's dissatisfaction with appointed counsel and whether a denial is likely to result in identifiable prejudice. Hampton, 182 Wn. App. at 822-23 (disapproving State v. Roth, 75 Wn. App. 808, 825, 881 P.2d 268 (1994) and its progeny on this point in light of Gonzalez-Lopez). "Unless the substitution would cause significant delay or inefficiency or run afoul of . . . other considerations . . . a defendant can fire his retained *or* appointed lawyer and retain a new attorney for any reason or no reason." United States v. Rivera-Corona, 618 F.3d 976, 979-80 (9th Cir. 2010).

When a continuance is sought to obtain chosen counsel, the trial court must balance the defendant's interest in counsel of choice with the public's interest in the prompt and efficient administration of justice. State v. Aguirre, 168 Wn.2d 350, 365, 229 P.3d 669 (2010); State v. Price, 126 Wn. App. 617, 632, 109 P.3d 27, review denied, 155 Wn.2d 1018, 124 P.3d 659 (2005). A trial court's resolution of that balancing exercise is reviewed for abuse of discretion. Aguirre, 168 Wn.2d at 365.

A trial court has wide latitude in balancing the right to counsel of choice against the needs of fairness, and against the demands of its calendar. Gonzalez-Lopez, 548 U.S. at 152. But an "unreasoning and arbitrary 'insistence upon expeditiousness in the face of a justifiable request for delay' violates the right to the assistance of counsel." United States v. Nguyen, 262 F.3d 998, 1003 (9th Cir. 2001) (quoting Morris v.

Slappy, 461 U.S. 1, 11-12, 103 S. Ct. 1610, 75 L. Ed. 2d 610 (1983) (quoting Ungar v. Sarafite, 376 U.S. 575, 589, 84 S. Ct. 841, 11 L. Ed. 2d 921 (1964)). Factors to consider include whether the court had granted previous continuances at the defendant's request and whether available counsel is prepared to go to trial. Hampton, 182 Wn. App. at 821, 825.

In State v. Bolar, for example, the court concluded the defendant was trying to disrupt the administration of justice because of his inconsistent requests to proceed pro se or be appointed counsel, which changed from one day to the next. State v. Bolar, 118 Wn. App. 490, 516, 78 P.3d 1012 (2003), review denied, 151 Wn.2d 1027, 94 P.3d 959 (2004). In contrast, Saloy did not waiver in his request to discharge Rogers Kemp and have time for Perez to prepare and try the case. RP 26-27. He made the request as soon as he became aware Perez would pursue a preferable defense strategy. See RP 2 (Perez notes he and Saloy first met only recently before the request was made).

In State v. Chase, the court properly exercised its discretion in denying a continuance to seek new counsel where the request was not made until after jury selection on the first day of trial. State v. Chase, 59 Wn. App. 501, 506, 799 P.2d 272 (1990). Saloy not wait until after jury selection. His case presents different timing considerations.

Judge Berns heard and denied Saloy's motion to substitute counsel before it was ever assigned to Judge Roberts for trial. RP 6-7 (Judge Berns denies motion); RP 10 (First appearance for trial before Judge Roberts). After Judge Berns denied Saloy's motion to reconsider, the parties reconvened before Judge Roberts at 1:38 p.m. for a hearing that lasted only ten minute because both Judge Roberts and Rogers Kemp had scheduling conflict for the rest of the afternoon. RP 28-34. Before concluding, however, the court did grant the prosecutor's motion to exclude witnesses. RP 33. Clearly, Saloy's request was made before trial had begun.

The trial court is permitted to consider whether previous continuances were granted at the defendant's request. Hampton, 182 Wn. App. at 821, 825. The record shows there were eleven continuances, seven of which were at "defense request,"<sup>4</sup> and four were by stipulation of the parties.<sup>5</sup> The prosecution did not object to any of the defense requested continuances, and agreed to the last two entered on March 7, 2014 and April 4, 2014. Judge Berns, however, did not hold the previous

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<sup>4</sup> The continuances granted at "defense request" were entered on August 8, 2013, September 9, 2013, October 10, 2013, November 7, 2013, January 31, 2014, March 7, 2014, and April 4, 2014. Supp CP \_\_ (sub nos. 11,13, 15, 17, 23, 27 & 36, supra).

<sup>5</sup> The stipulated orders of continuance were entered January 24, 2014, February 28, 2014, and March 21 & 28, 2014. Supp CP (sub nos. 22, 25, 32, & 33, supra).

continuances against Saloy, noting instead, "[w]hether it is the first time or the fifth time that Mr. Saloy comes before this Court and asks either for a continuance or for new counsel, the fact that it is the day of trial and this Court has had no indication based on the actions of the party and the opportunity that Mr. Saloy has had that this matter should one, [be] continued, or that counsel should be discharged and new counsel substituted and the trial continued based on the fact that new counsel would need some time to prepare, it doesn't matter." RP 7. Judge Berns basis for denial of the request was not because there had been numerous continuances before, but instead only because it was made the day trial was set to begin.

Moreover, Saloy did not attempt to use the discharge of Rogers Kemp and employment of Perez as counsel as a dilatory tactic to frustrate the progress of the action against him. Rather, he was adamant that he was upset with Rogers Kemp's failure provide the information he had only recently received from Perez about his defense options, and that he did not believe he could get a fair trial with Rogers Kemp as his trial attorney. RP 5, 26-27. The timing of Saloy's request was justifiable under these circumstances.

Judge Berns denied Saloy's request because she considered it "extremely untimely" because made the day trial was set to begin, and

insisted that the matter "needs to go to trial today." RP 7. It is true the court must balance the defendant's interest in counsel of choice with the public's interest in the prompt and efficient administration of justice. Aguirre, 168 Wn.2d at 365. Up until the point that Saloy made his request, however, the administration of justice in his case had been anything but prompt and efficient. It had lingered for almost a year, limping from one trial date to the next to accommodate both Rogers Kemp's and the prosecutor's schedules. In striking the balance between chosen counsel and bringing the case to trial sooner rather than later, the long period of time between charging and trial should weigh in favor of chosen counsel because a prompt trial date had long since passed as an option.

The right to choose one's counsel does not include the right to unduly delay the proceedings. Id. at 365. But here, the proceedings had already been delayed. Allowing Perez to substitute in for Rogers Kemp and giving him additional time to prepare would not have made any meaningful difference in the scheme of things.

The trial court concluded Saloy had "ample opportunity to bring to the Court a request to discharge his attorney and a request to continue trial." But "a defendant should be afforded a fair opportunity to secure counsel of his own choice." Powell v. Alabama, 287 U.S. 45, 53, 53 S. Ct.

55, 77 L. Ed. 158 (1932). Defendants may need time to acquire the services of counsel of choice. Hampton, 182 Wn. App. at 827 n.18. The trial court made no specific inquiry into why Saloy waited until the eve of trial to make his request, although Perez did inform the court it was because Saloy had only just learned he had more defense options than Rogers Kemp was telling him. RP 2.

Saloy's right to counsel was violated because the court unreasonably denied his request to substitute Perez for Rogers Kemp, and to continue trial so his counsel of choice could get ready for trial. Under the circumstances, the court's insistence that the matter "go to trial today" constituted an unreasoning and arbitrary insistence upon expeditiousness in the face of a justifiable request for delay. RP 7; Nguyen, 262 F.3d at 1003; Slappy, 461 U.S. at 11-12.

b. The Erroneous Deprivation Of Chosen Counsel Is Structural Error Requiring Reversal Of The Convictions.

Erroneous deprivation of the right to chosen counsel is structural error not subject to harmless error analysis. Gonzalez-Lopez, 548 U.S. at 150, 152. The erroneous denial of chosen counsel is structural error because it bears directly on the framework within which the trial proceeds. Id. at 150. As explained by the United States Supreme Court, "[d]ifferent attorneys will pursue different strategies with regard to investigation and

discovery, development of the theory of defense, selection of the jury, presentation of the witnesses, and style of witness examination and jury argument. And the choice of attorney will affect whether and on what terms the defendant cooperates with the prosecution, plea bargains, or decides instead to go to trial." Id.

"A choice-of-counsel violation occurs whenever the defendant's choice is wrongfully denied." Id. The court wrongly denied Saloy his Sixth Amendment right in denying his chosen counsel without sufficient justification. This structural error requires reversal of the convictions. Id.

D. CONCLUSION

For the reasons given, this Court should reverse and remand for a new trial.

DATED this 21<sup>st</sup> day of August 2015

Respectfully Submitted,

NIELSEN, BROMAN & KOCH, PLLC.

  
CHRISTOPHER H. GIBSON

WSBA No. 25097

Office ID No. 91051

Attorneys for Appellant

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

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STATE OF WASHINGTON	)	
	)	
Respondent,	)	
	)	
v.	)	COA NO. 72204-2-1
	)	
SANTOS SALOY,	)	
	)	
Appellant.	)	

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**DECLARATION OF SERVICE**

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 21<sup>ST</sup> DAY OF AUGUST 2015, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY EMAIL AND/OR DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] SANTOS SALOY  
30103 53<sup>RD</sup> AVENUE S  
AUBURN, WA 98001

SIGNED IN SEATTLE WASHINGTON, THIS 21<sup>ST</sup> DAY OF AUGUST 2015.

x Patrick Mayovsky