

FILED  
9-16-15  
Court of Appeals  
Division I  
State of Washington

COA No.72423-1-I

COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

WILLIAM DAILEY, *et ux*; and JANET SPARKS, *et ux*,

Appellants,

and

DEBORAH A. HIGGINS, *et al.*

Defendants.

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REPLY BRIEF OF APPELLANTS

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## I. ARGUMENT

### A. Indiscrete discretion

Arguing Dailey and Sparks have mischaracterized the record, the State claims the trial judge did not suggest their counsel should have engaged in unethical conduct to obtain a continuance and thus did not abuse his discretion. Faulting counsel for being ethical is an error of law and a manifest abuse of discretion.

*Spreen v. Spreen*, 107 Wn. App. 341, 349-50, 28 P.3d 769 (2001).

The State can put any spin it wants to on what the judge indicated counsel should have done. “What’s in a name? That which was called a rose By any other name would smell as sweet.” William Shakespeare, *Romeo and Juliet*, Act II, Scene II (1597). The record speaks for itself.

### B. Other issues

In reply to all other responsive arguments made by the State, Dailey and Sparks rest on their opening brief.

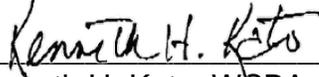
## II. CONCLUSION

Based on the foregoing, Dailey and Sparks respectfully urge this Court to cure this manifest abuse of discretion by a judge who suggested that counsel engage in unethical conduct to buy a

continuance in what he characterized as a “game.” This is not a game.

DATED this 16<sup>th</sup> day of September, 2015.

Respectfully submitted,



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#### CERTIFICATE OF SERVICE

I certify that on September 16, 2015, I served the reply brief of appellants by email, as agreed, on Kimberlee Gunning at [kimberleeg@atg.wa.gov](mailto:kimberleeg@atg.wa.gov) and Natalia Corduneanu at [nataliac@atg.wa.gov](mailto:nataliac@atg.wa.gov).

