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Court of Appeals  
Division I  
State of Washington

NO. 73220-0-I

IN THE COURT OF APPEALS – STATE OF WASHINGTON  
DIVISION ONE

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STATE OF WASHINGTON  
Respondent,

v.

**LORI A. HARGROVE,**  
Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON, FOR SKAGIT COUNTY

The Honorable Michael E. Rickert, Judge

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**BRIEF OF RESPONDENT**

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## **I. SUMMARY OF ARGUMENT**

Lori Hargrove was convicted of Possession of Methamphetamine and Bail Jumping. Hargrove contends insufficient evidence of identity and proof that she knew of the requirement to appear was presented to the jury to support the bail jumping charge. Hargrove was identified by her community corrections officer at trial when testifying about the drug charge. The certified documents showed Hargrove was required to appear for a court hearing on the drug charge and failed to appear for court. Thus, there was sufficient evidence to prove her identity and that she knew of the requirement to appear at court for a rational trier of fact to find her guilty of Bail Jumping.

## **II. ISSUES**

Where a defendant is identified by her community corrections officer in the courtroom at trial and the certified documents indicate the defendant was required to appear in court, was there sufficient evidence for a rational trier of fact to find the defendant had knowledge of the requirement to appear sufficient to establish guilty for Bail Jumping?

### **III. STATEMENT OF THE CASE**

#### **1. Statement of Procedural History**

On April 25, 2014, Lori Hargrove was charged with Possession of Methamphetamine alleged to have occurred on January 9, 2014. CP 1. Hargrove was alleged to have possessed a glass pipe containing methamphetamine upon arrest on a warrant. CP 5.

On December 11, 2014, the information was amended to allege an additional count of Bail Jumping for Hargrove's failure to appear at a court hearing on November 13, 2014, in the case. CP 7.

On January 13, 2015, the case proceeded to trial. 1/13/15 RP 3.<sup>1</sup>

On January 13, 2015, the jury found Hargrove guilty of both Possession of Methamphetamine and Bail Jumping. CP 42, 43, 1/13/15 RP 63.

On March 5, 2015, Hargrove was sentenced. 3/5/15 RP 3. Hargrove had six prior felony convictions and with two current offenses had an offender score of seven. CP 26, 3/5/15 RP 3. Her range was 12+ to 14 months on the Possession of Methamphetamine and 33 to 43 months on bail jumping charge. CP 26, 3/5/15 RP 3. Hargrove was sentenced to the low-end

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<sup>1</sup> The State will refer to the verbatim report of proceedings by using the date followed by "RP" and the page number. The report of proceedings in this case are as follows:

1/13/15 RP	Trial including verdicts,
3/5/15 RP	Sentencing.

of the range on each count for a net sentence of 33 months. CP 26-7, 3/5/15 RP 7.

On March 5, 2015, Hargrove timely filed a Notice of Appeal to the Court of Appeals. CP 39, 3/5/15 RP 8.

## **2. Summary of Evidence at Trial**

Marlanea Aspden was Lori Hargrove's assigned community corrections officer. 1/23/15 RP 25-6. Aspden identified Hargrove in court and listed the alias names that Hargrove used. 1/23/15 RP 27-8. The alias names were Wake, Brigham, Fox and Blake. 1/23/15 RP 27-8. Aspden testified Hargrove's assigned Department of Corrections (DOC) number is 709029. 1/13/15 RP 28.

On January 9, 2014, Aspden was aware of a warrant for Hargrove and located her at a motel in Burlington to serve the warrant. 1/23/15 RP 29. Hargrove was the only one in the room. 1/23/15 RP 30. She was acting fidgety and was moving a lot of stuff around. 1/23/15 RP 30.

Aspden placed Hargrove into handcuffs and asked Hargrove if she had any knives or anything that would poke or stick officers. 1/23/15 RP 31. Hargrove responded that there was a pink pipe in the room and she knew she would get in trouble for it. 1/23/15 RP 31.

Hargrove asked Aspden to collect her belongings from the room. 1/23/15 RP 32. Officers searched through the property being collected and found a pink pipe in a sock. 1/23/15 RP 33. Hargrove was transported to jail on the warrant. 1/23/15 RP 35. The pipe was placed into an evidence locker. 1/23/15 RP 35-6. Aspden identified the pipe she collected from Hargrove. 1/23/15 RP 34, 37.

Community corrections officer Jason Ulrich assisted in the service of the arrest warrant on Hargrove. 1/23/15 RP 40. Ulrich sent the pipe which was collect to the crime laboratory for testing. 1/23/15 RP 41.

Karen Finney, a forensic scientist with the Washington State Crime Laboratory, tested the contents of the pipe. 1/23/15 RP 42, 46-7. Finney testified that the contents of the pipe contained methamphetamine. 1/23/15 RP 49.

The State admitted certified copies of the court orders entered in the case. 1/23/15 RP 49-50.

Exhibit 6 is a minute sheet entered May 22, 2014, in Superior Court case number 14-1-00282-2. The minute sheet releases Lori Hagrove on P.R. on the case, and lists her date of birth of May 2, 1967. The minute sheet includes a notice to the defendant right above the signature line that indicates failure to appear at the scheduled time may result in an additional criminal offense of bail jumping.

Exhibit 7 is the information filed from this case on April 25, 2014, which charged Lori Hargrove with Possession of Methamphetamine alleged to have occurred on January 9, 2014. The information provides “AKA” names of Lori A. Wake, Lori A. Brigham and Lori A. Fox. It also lists Hargrove’s date of birth as May 2, 1967 and DOC number as 709029.

Exhibit 8 is an order entered in this case on June 13, 2014. The order quashed the warrant entered in this case and set dates. The order included a notice at the end of the page which reads:

FAILURE TO APPEAR AT DATES SET ABOVE OR  
SUBSEQUENTLY SET PROVIDES A BASIS FOR  
FELONY BAIL JUMPING CHARGES.

Exhibit 9 is an order entered in this case October 29, 2014. The order indicates the defendant’s presence is required for the trial confirmation date of November 13, 2014.

Exhibit 10 is an order entered in this case on November 13, 2014. The order indicates the Defendant had failed to appear and directed the issuance of a bench warrant.

Exhibit 11 is a criminal minute sheet entered in this case on November 13, 2014. The minute sheet indicates the defendant was not present and a bench warrant was issued.

#### IV. ARGUMENT

**Where the defendant was identified by her community corrections officer and the certified court documents established the defendant was required to appear in court on the drug charge, the other count for which she was on trial, there was sufficient evidence for a rational trier of fact to find the defendant was the person charged and was aware of the requirement to appear.**

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *Salinas*, 119 Wn.2d 201. Circumstantial evidence and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

*State v. McNeal*, 98 Wn. App. 585, 592, 991 P.2d 649 (1999).

In determining whether the necessary quantum of proof exists, the reviewing court need not be convinced of the defendant's guilt beyond a reasonable doubt, but only that substantial evidence supports the State's case. *State v. Fiser*, 99 Wn. App. 714, 718, 995 P.2d 107 (2000), *rev. denied*, 141 Wn.2d 1023, 10 P.3d 1074 (2000). Substantial evidence is evidence that "would convince an unprejudiced, thinking mind of the truth of the fact to which the evidence is directed." *State v. Hutton*, 7 Wn. App. 726, 728, 502 P.2d 1037 (1972). In finding substantial evidence, we cannot rely upon guess, speculation, or conjecture. *Hutton*, 7 Wn. App. at 728, 502 P.2d 1037.

**Credibility determinations are for the trier of fact and are not subject to review.** *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990). **We must defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence.** *State v. Walton*, 64 Wn. App. 410, 415-16, 824 P.2d 533, *rev.*

*denied*, 119 Wn.2d 1011, 833 P.2d 386 (1992). **The trier of fact is free to reject even uncontested testimony as not credible as long as it does not do so arbitrarily.** *State v. Tocki*, 32 Wn. App. 457, 462, 648 P.2d 99, *rev. denied*, 98 Wn.2d 1004 (1982).

*State v. Prestegard*, 108 Wn. App. 14, 22-3, 28 P.2d 817 (2001).

The bail jumping statute reads:

Any person having been released by court order or admitted to bail with knowledge of the requirement of a subsequent personal appearance before any court of this state, or of the requirement to report to a correctional facility for service of sentence, and who fails to appear or who fails to surrender for service of sentence as required is guilty of bail jumping.

RCW 9A.76.170(1). Thus, bail jumping requires proof of knowledge of the requirement for personal appearance before the court and subsequent failure to appear.

The defense tries to couch the claim in terms of the element of knowledge. Appellant's Opening Brief at page 7. Under the bail jumping statute, the knowledge element required to be proven is the knowledge of the requirement of a subsequent appearance in court. RCW 9A.76.170. That element is established by the orders that required the defendant to appear. See Exhibits 8, 9.

Hargrove relies on *State v. Huber*, 129 Wn. App. 499, 119 P.3d 388 (2005) to support her positions. However, *Huber* is factually distinguishable from the present case.

In *Huber*, the only evidence presented were certified court documents as evidence the defendant committed the crime of bail jumping. The State did not present any evidence that identified the person sitting in the “defendant’s chair” as the person charged in the case. *Huber*, at 500-01, 119 P.3d 388. For all the trier of fact knew the person sitting in the “defendant’s chair” could have been Huber or “John Doe.” The *Huber* court held, consistent with a long line of cases, that it is not sufficient for the State to submit certified documents and call it good. This does not establish identity. *Id.* at 502. Rather, the State must show “by evidence independent of the record, that the person named therein is the defendant in the present action.” *Id.* The court went on to note some of the specific ways this can be accomplished, depending on the circumstances of the case, to include eyewitness identification. *Id.* at 503.

This does not mean the State has to offer testimony of someone present in court when the documents were signed or when the defendant did not appear. That is the purpose of the certified court documents and they speak for themselves unless called into question. All *Huber* requires is that someone or something identify the person on trial, who is the person sitting in the courtroom as the person named in the documents. In the present case, the person named in the documents is Lori Hargrove. Hargrove’s community corrections officer identified her in the courtroom as Lori Hargrove. 1/13/15

RP 28. The community corrections officer also provided Hargrove's aliases and department of corrections number. 1/13/15 RP 27-8. Therefore, the present case is factually distinguishable from *Huber*.

Hargrove also argues there was insufficient evidence to prove beyond a reasonable doubt that the defendant was the person who appeared in court on the date the orders were signed and failed to appear on the date the warrant was issued. Brief of Appellant at pages 9-10.

Viewing the evidence of bail jumping against the defendant most favorable to the State demonstrates that the defendant in the courtroom was Lori Hargrove, the person charged by in this case, based upon witness identification. The certified court documents are sufficient to establish beyond a reasonable doubt that having been released on her personal recognizance she was required to appear November 13, 2014. Exhibits 8, 9. There was no contrary evidence provided. The evidence supports the reasonable inference that Lori Hargrove was the person who appeared in court and signed those documents. She was charged with Possession of Heroin alleged to have occurred on January 9, 2014. Exhibit 7. Testimony at trial established she committed that offense on that day. 1/23/15 RP 25-50. Her name, aliases and DOC number on the information matched that provided by her community corrections officer. Exhibit 7, 1/23/15 RP 27-8. And the certified documents provided showed the Court had notified

Hargrove that “FAILURE TO APPEAR AT DATES SET ABOVE OR SUBSEQUENTLY SET PROVIDES A BASIS FOR FELONY BAIL JUMPING CHARGES” and that her “presence was required for the trial confirmation hearing.” Exhibits 8, 9. Sufficient evidence was presented to the trier of fact that supported all elements of bail jumping.

Case law other than *Huber* suggests that the level of identification need not be great.

In *State v. Hill*, 83 Wn.2d 558, 520 P.2d 618 (1974), the Supreme Court held that an in-court identification by a witness of the defendant in the courtroom was not necessary in a charge of possession of controlled substance. In *Hill*, the court observed:

It is axiomatic in criminal trials that the prosecution bears the burden of establishing beyond a reasonable doubt the identity of the accused as the person who committed the offense. 1 H. Underhill, *Criminal Evidence* s 125 (5th ed. P. Herrick 1956, Supp.1970); 1 Wharton's *Criminal Evidence* s 16 (13th ed. C. Torcia 1972). Identity involves a question or fact for the jury and any relevant fact, either direct or circumstantial, which would convince or tend to convince a person of ordinary judgment, in carrying on his everyday affairs, of the identity of a person should be received and evaluated. 1 H. Underhill, *Criminal Evidence*, *Supra*.

*State v. Hill*, 83 Wn.2d at 560, 520 P.2d 618. In *Hill*, the defendant was present in the courtroom during trial, and there were numerous references in the testimony to "the defendant" and to "Jimmy Hill." Although there

was no in-court identification, the court was satisfied that the evidence was adequate to establish the defendant's identity in connection with the offense charged. *State v. Hill*, 83 Wn.2d at 560, 520 P.2d 618. The court then observed:

Although we do not recommend the omission of specific in-court identification where feasible, we are satisfied that the evidence as it developed in the instant case was adequate to establish the defendant's identity in connection with the offense for which he stood accused.

*State v. Hill*, 83 Wn.2d at 560, 520 P.2d 618.

Hargrove also relies on *State v. Ceja Santos*, 163 Wn. App. 780, 260 P.3d 982 (2011) a case in which the defendant was charged with felony DUI. In that case only certified copies of prior convictions were admitted to support proof of the element of prior convictions. The judgment and sentences had differing names and dates of birth and there was no evidence of address, date of birth, photographs or criminal history of the person on trial to compare to the prior convictions. *State v. Ceja Santos*, 163 Wn. App. at 785. The court summed the circumstance as “nothing links the prior DUI judgments in this case to Mr. Santos.” *Id.*

As explained above, there were significant links here that Hargrove, the one charged with the Possession of Methamphetamine charge as testified to by the officer, was the individual who was charged in the case and had failed to appear in court as required.

On appeal Hargrove argues there was no expert identifying Hargrove's signature on the documents. Brief of Appellant at page 9-10. However, simply because other means of presenting evidence of the defendant's identity may have been available, the State was not required to use them. Furthermore, this does not establish that the amount of proof was insufficient.

The argument and suggestions that another Lori Hargrove or other individual could have signed the documents seek this Court to draw inferences in favor of the defense in violation of the standards for evaluation of sufficiency of the evidence which requires all rational inferences be drawn in favor of the state. The State contends those inferences are both not rational and since they are inconsistent with the standard, must be ignored.

**V. CONCLUSION**

For the foregoing reasons, the defendant's conviction for bail jumping must be affirmed.

DATED this 21<sup>st</sup> day of October, 2015.

SKAGIT COUNTY PROSECUTING ATTORNEY



By: \_\_\_\_\_  
ERIK PEDERSEN, WSBA#20015  
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DECLARATION OF DELIVERY

I, Karen R. Wallace, declare as follows:

I sent for delivery by;  United States Postal Service;  ABC Legal Messenger Service, a true and correct copy of the document to which this declaration is attached, to: Jared Steed, addressed as Nielsen Broman Koch PLLC, 1908 E Madison St., Seattle, WA 98122 . I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Mount Vernon, Washington this 21<sup>st</sup> day of October, 2015.



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KAREN R. WALLACE, DECLARANT