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COURT OF APPEALS  
DIVISION II

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NO. 34533-1-II  
COURT OF APPEALS, DIVISION II

STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

vs.

CHRISTOPHER KNOBLOCK,

Appellant,

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APPEAL FROM THE SUPERIOR COURT  
FOR THURSTON COUNTY  
The Honorable Richard A. Strophy, Judge  
Cause No. 05-1-02456-2

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BRIEF OF APPELLANT

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THOMAS E. DOYLE, WSBA NO. 10634  
PATRICIA A. PETHICK, WSBA 21324  
Attorney for Appellant

P.O. Box 510  
Hansville, WA 98340-0510  
(360) 638-2106

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A. ASSIGNMENTS OF ERROR

01. The trial court erred in not dismissing the charge of perjury in the first degree for lack of sufficiency of the evidence.
02. In finding Knoblock guilty of perjury in the first degree, the trial court erred in entering findings of fact 5, 6, 13, 14, 15, 18, 19, 20 and 21 as set forth herein at pages 2-5.
03. In finding Knoblock guilty of perjury in the first degree, the trial court erred in entering conclusions of law 2, 3 and 4 as set forth herein at pages 5-6.

B. ISSUE PERTAINING TO ASSIGNMENTS OF ERROR

Whether the trial court erred in not dismissing the charge of perjury in the first degree for lack of sufficiency of the evidence? [Assignments of Error Nos. 1-3].

C. STATEMENT OF THE CASE

01. Procedural Facts

Christopher Knoblock (Knoblock) was charged by information filed in Thurston County Superior Court on December 27, 2005, with perjury in the first degree, contrary to RCW 9A.72.020(1). [CP 4].

No pre-trial motions were filed nor heard regarding either a CrR 3.5 or CrR 3.6 hearing. [CP 9]. Following a bench trial, Knoblock was

found guilty as charged, and the court entered the following Findings of

Fact and Conclusions of Law for Trial Without a Jury:

## II. FINDINGS OF FACT

1. On December 19, 2005 in Thurston County Superior Court in a CrR 3.5 Hearing in the prosecution of defendant Christopher Knoblock, defendant Knoblock and defendant Tucker each provided testimony under oath.
2. The testimony of defendant Knoblock was set forth in Trial Exhibit 2 and the testimony of defendant Tucker is set forth in Trial Exhibit 1, both of which are incorporated herein by reference.
3. In that same hearing, prior to the testimony of defendants Knoblock and Tucker, Detective Dave Haller testified regarding statements defendant Knoblock had made on July 3, 2005. Detective Haller's testimony is set forth in Trial Exhibit 6, which is incorporated herein by reference.
4. Detective Haller testified that he had interviewed defendant Knoblock on the evening of July 3, 2005 at the Lacey Police Department, that he was accompanied by Detective Eric Kolb, that defendant Knoblock had been given his Miranda rights and then been interviewed about the robbery and assault with a firearm of Travis McEntire on June 30, 2005 at the residence of Knoblock's father.
5. Detective Haller testified that during that interview, defendant Tucker was not present and that defendant Knoblock had admitted

being in possession of a firearm and discharging the firearm at the victim, Travis McEntire.

6. When defendant Knoblock testified at the hearing, he told the Court that he had been locked up with Caleb Tucker on the evening of July 3, 2005, at the Lacey Police Department, that when Detective Haller and Detective Kolb entered the room, defendant Knoblock immediately requested a lawyer, and that defendant Knoblock had not made the incriminating statements set forth by Detective Haller in Detective Haller's testimony.
7. When defendant Tucker testified, he also told the Court that he had been locked up with defendant Knoblock on the evening of July 3, 2005 at the Lacey Police Department, that when Detective Haller and Detective Kolb entered the room, defendant Knoblock immediately requested a lawyer, and that defendant Knoblock made no statement to Detective Haller and Detective Kolb.
8. On July 3, 2005, defendant Tucker was questioned at the Lacey Police Department about the location of defendant Knoblock, who was a fugitive at that time.
9. At about 10:15 p.m. on July 3, 2005, defendant Tucker told Detective Haller and Detective Kolb that defendant Knoblock was at a motel in Lakewood. The two detectives then went to Lakewood to investigate.
10. At about 10:30 pm on July 3, 2005,

defendant Knoblock spoke with Lacey Detective Dave Miller and made arrangements to turn himself in at a nearby McDonalds.

11. At 10:47 pm on July 3, 2005, defendant Knoblock was placed under arrest, after which time he was allowed to smoke a cigarette and say goodbye to his family members.
12. At about 11:10 pm on July 3, 2005, the defendant was allowed to hug defendant Tucker at Lacey Police Department for several minutes.
13. Defendant Knoblock was then placed in the Lacey Police Department holding room and defendant Tucker was separated and sat in the report writing room.
14. At 11:40 pm on July 3, 2005, Detective Haller and Detective Kolb entered the Lacey Police Department holding room where they spoke with defendant Knoblock. Defendant Tucker was not in the room when the two detectives interviewed defendant Knoblock.
15. In speaking with defendant Knoblock, Detective Haller read defendant Knoblock his Miranda rights, defendant Knoblock agreed to speak with the detectives and defendant Knoblock admitted possessing a firearm and discharging that firearm at Travis McEntire on June 30, 2005.
16. When Detective Haller started asking the defendant about the details of the underlying marijuana transaction, defendant stopped answering questions.

17. At 12:19 am on July 4, 2005, defendant Knoblock was taken to Thurston County Jail.
18. At no time between defendant Knoblock's arrest on July 3, 2005 at 10:47 pm and his transport to the Thurston county Jail on July 4, 2005 at 12:19 am, were defendant Knoblock and defendant Tucker interviewed together nor placed in the holding room together.
19. The testimony of Detective Haller, Detective Miller, Detective Kolb, Officer Ed McClanahan, CSO Carrie Nastansky and CSO Emily Logsdon was credible.
20. The testimony of defendant Knoblock was not credible.
21. The testimony of defendant Knoblock and defendant Tucker on December 19, 2005 was perjurious(.

Having made the above findings of fact, the Court now makes the following:

### III. CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter.
2. The above findings of fact are incorporated herein as conclusions of law.
3. The State has proven beyond a reasonable doubt that the defendant Knoblock and defendant Tucker, on December 19, 2005, each made false statements, that they knew were false, that were material, that were made in an official proceeding, that were

made under oath as authorized or required by law, and were made in the State of Washington.

4. Defendant Knoblock and defendant Tucker are each guilty beyond a reasonable doubt of the crime of Perjury in the First Degree.

[CP 13-16].

Knoblock was sentenced within his standard range. [CP 24, 27-35].

#### 02. Substantive Facts

On December 19, 2005, Detective Haller, during a CrR 3.5 hearing involving Knoblock on an unrelated matter, testified that on the previous July 3<sup>rd</sup> he, along with Detective Kolb, had interviewed Knoblock after he had waived his Miranda<sup>1</sup> rights in an interview room at the Lacey Police Department. [RP 02/27/06 12-16]. Knoblock was alone and never requested an attorney. [RP 02/27/06 15-16]. Detective Kolb corroborated Haller's testimony. [RP 02/27/06 96-97, 101].

According to Haller, during the CrR 3.5 hearing, Knoblock, who was under oath, testified that Caleb Tucker was in the room when Detectives Haller and Kolb arrived, that he was never read his Miranda rights, that he didn't want to talk to Haller, that he insisted on having an

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<sup>1</sup> Miranda v. Arizona, 384 U.S. 436, 16 L. Ed. 2d 694, 86 S. Ct. 1602 (1966).

attorney and that Haller's testimony at the hearing was incorrect . [RP 02/27/06 16-18, 103-04, 109-110; State's exhibit 1]. Knoblock also admitted to being at the location of the offense, to being armed with a firearm and to shooting at the alleged victim. [RP 02/27/06 15].

Detective David Miller, Emily Logsdon and Carrie Nastansky all testified that Knoblock and Tucker were separated when Detectives Haller and Kolb arrived at the Lacey Police Department: Knoblock was in a holding cell and Tucker was in the report writing room. [RP 02/27/06 27-28, 39, 45, 49, 54, 63, 67, 74].

Knoblock testified that he voluntarily turned himself into the police and that he was in the holding cell with Tucker, where he made "plenty of phone calls," when Haller and Kolb arrived, and that he told Detective Haller that he had nothing to say to him and that he wanted to talk to his lawyer. [RP 02/27/06 135, 138]. "And that's when he told them to get Caleb out of the room, and he started questioning me, and I told him I didn't want to talk, just to take me to jail." [RP 02/27/06 138].

D. ARGUMENT

THERE WAS INSUFFICIENT EVIDENCE  
TO UPHOLD KNOBLOCK'S CRIMINAL  
CONVICTION FOR PERJURY IN THE FIRST  
DEGREE.

The test for determining the sufficiency of the

evidence is whether, after viewing the evidence in light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. Salinas, at 201; State v. Craven, 67 Wn. App. 921, 928, 841 P.2d 774 (1992). Circumstantial evidence is no less reliable than direct evidence, and criminal intent may be inferred from conduct where “plainly indicated as a matter of logical probability.” State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom. Salinas, at 201; Craven, at 928.

RCW 9A.72.020(1) defines the crime of perjury in the first degree: “A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law.” See also CP 4. A statement is material only if it ‘could have affected the outcome of the proceeding.’ Recall of Peasall-Stipek, 141 Wn.2d 756, 772, 10 P.3d 1034 (2000) (quoting RCW 9A.72.010(1)).

The requirements of proof in a perjury case are more stringent than those in any other area of law except treason. State v. Olson, 92 Wn.2d

134, 136, 594 P.2d 1337 (1979). To prove perjury, the State must present ‘testimony of at least one credible witness which is positive and directly contradictory of the defendant’s oath; and ... [a][n]other such direct witness or independent evidence of corroborating circumstances.’ State v. Stump, 73 Wn. App. 625, 627, 870 P.2d 333 (1994) (quoting State v. Olson, 92 Wn.2d at 136).

In order to sustain a perjury conviction, the questions and answers which support the allegation must demonstrate both that the defendant was fully aware of the actual meaning behind the examiner’s questions and that the defendant knew his answers were not the truth. United States v. Eddy, 737 F.2d 564, 567 (6<sup>th</sup> Cir. 1984). The questions and answers at issue must be interpreted in the context of what immediately preceded and succeeded them. People v. Wills, 71 Ill. 2d 138, 374 N.E.2d 188 (1978).

State v. Stump, 73 Wn. App. at 628. And it is the State’s burden “to pin the witness down to the specific object of his inquiry.” State v. Olson, 92 Wn.2d at 139.

Here, the State argued that Knoblock committed perjury in the first degree when he testified at the CrR 3.5 hearing that (1) he was with Tucker when Detectives Haller and Kolb arrived at the Lacey Police Department, (2) that he immediately requested an attorney, (3) that he never gave a statement and (4) that Haller’s testimony regarding what Knoblock had told him was not accurate. [RP 02/27/06 142-43].

The circumstances of this case, however, do not evince proof beyond a reasonable doubt that Knoblock committed the offense of perjury in the first degree. Initially, it must be noted that he never denied at the CrR 3.5 hearing that he had been read his Miranda rights, instead asserting that he could not recall.

Q. And do you recall if Detective Haller ever read you any rights?

A. I don't.

[State's exhibit 2 at 58].

Concomitantly, his alleged statement to Haller and Kolb can hardly be considered inculpatory, the essence being that he had shot at the supposed victim to defend himself. [State's exhibit 6 at 37]. And while this and Knoblock's other assertions surely could not have affected the course or outcome of the CrR 3.5 hearing, it is also plausible, given that Knoblock never denied that he had been given his Miranda rights, that he did not understand the full meaning of questions posed to him in the context of how his responses would affect the outcome of the CrR 3.5 hearing.

Under these circumstances, it cannot be said that the State carried its burden to prove Knoblock was guilty of perjury in the first degree.

E. CONCLUSION

Based on the above, Knoblock respectfully requests this court to reversed and dismiss his conviction consistent with the arguments presented herein.

DATED this 21<sup>st</sup> day of August 2006.

Thomas E. Doyle  
THOMAS E. DOYLE  
Attorney for Appellant  
WSBA NO. 10634

Patricia A. Pethick  
PATRICIA A. PETHICK  
Attorney for Appellant  
WSBA NO. 21324

CERTIFICATE

I certify that I mailed a copy of the above brief by depositing it in the United States Mail, first class postage pre-paid, to the following people at the addresses indicated:

James C. Powers	Christopher Knoblock #892631
Senior Dep Pros Attorney	Clallam Bay Corrections Center
2000 Lakeridge Drive SW	1830 Eagle Crest Way
Olympia, WA 98502	Clallam Bay, WA 98326

DATED this 21<sup>st</sup> day of August 2006.

Thomas E. Doyle  
Thomas E. Doyle  
Attorney for Appellant  
WSBA No. 10634

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