

NO. 37374-2-II

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

STATE OF WASHINGTON, Respondent

v.

OBABEBE ANENE, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE ROGER A. BENNETT
CLARK COUNTY SUPERIOR COURT CAUSE NO. 06-1-02202-5

STATE OF WASHINGTON
BY [Signature]
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FILED
COURT OF APPEALS
DIVISION II

BRIEF OF RESPONDENT

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I. STATEMENT OF THE FACTS

The State accepts the Statement of Facts as set forth by the defendant. Where additional information is needed, it will be set forth in the argument section of the brief.

II. RESPONSE TO ASSIGNMENT OF ERROR NO. 1

The first assignment of error raised by the defendant is a claim that there was improper admission of propensity evidence concerning the defendant and his sexual conduct with an uncharged juvenile. The claim is that this denied him a fair trial.

The Amended Information filed in this matter (CP 8) made allegations of Rape of a Child in the First Degree and Child Molestations in the First Degree and the named juvenile C.J.A. Her date of birth was October 9, 2000 (RP 302) and the claimed periods of misconduct ran from June 11, 2005, through October 20, 2005. This child was the natural child of the defendant and resided with him. Also residing with the defendant and C.J.A. was her older sister, S.A. (DOB March 2, 1990) (RP 347). Prior to the start of the trial, it was brought to the trial court's attention that the State of Washington wanted to use allegations that the defendant had sexually molested C.J.A.'s older sister, S.A., over a lengthy period of time in various jurisdictions. These were uncharged crimes against the child.

This matter was discussed in detail pretrial with the trial court. The State maintained that this would show a common scheme or plan that he had sexually abused his older daughter when she was of an age similar to the age of the charged victim and that the type of activity was of a similar nature. (RP 188-189). The court also asked of defense counsel whether or not they were aware that this was going to be offered as evidence in this case and the defense attorney indicated that he was aware of it and he was ready to respond to the allegations. They did not think it would be appropriate to allow this evidence to go to the jury. (RP 190-191). He was further aware that the allegations of sexual misconduct against the older child (S.A.) occurred in jurisdictions outside of the State of Washington. Because the defendant was in the military, some of the contacts were in Hawaii, Germany, and possibly also in Illinois. (RP 190).

The trial court also familiarized itself with the leading cases concerning this: State v. Lough, 125 Wn.2d 847, 889 P.2d 487 (1995) and State v. DeVincentis, 150 Wn.2d 11, 74 P.3d 119 (2003).

The court then heard the representations by both attorneys as to what they anticipated the testimony would be and also how it fit into this particular type of case law. (RP 190-217). After the recitation of factual information and review of the cases, the court made the following observations:

THE COURT: All right, well, the probative value has been determined already for this type of evidence, by the appellate courts, when they've held that it's proper to put in common scheme or plan evidence. Evidence Rule 404(b) itself establishes probative value and admissibility.

Prejudicial effect? Certainly it's prejudicial to the Defense - - to a defendant if the jury believes that he's molested more than one daughter.

The test, though, is whether or not the probative value is greatly outweighed by the danger of undue prejudice. Undue prejudice means to use evidence for a purpose other than that for which it is admissible.

If a jury were to use this evidence to find a general propensity of the defendant to molest children and use that against him to find him guilty of the charges involving Chantel, that would be undue - - unduly prejudicial and it would be improper.

Therefore, we will eliminate the possibility of undue prejudice by giving a limiting instruction upon the request of the Defense. So if you want to submit an instruction, I'll be glad to consider giving it.

That deals with the issue of undue prejudice. The probative value is great, therefore I cannot say that the danger of undue prejudice substantially outweighs the probative value.

(RP 218, L.2 – 219, L.6)

The trial court indicated during that recitation that it would give a jury instruction concerning how the jury was to interrupt this type of information. That in fact was done by the trial court. As part of the

Court's Instructions to the Jury (CP 78) is Instruction No. 7 which reads as follows:

Instruction No. 7

Evidence has been introduced in this case on the subject of the sexual abuse of [S.A.] for the limited purpose of proving a common scheme or plan. You must not consider this evidence for any other purpose, such as for the purpose of establishing propensity.

When S.A. testified, she indicated that the sexual activity with the defendant started when she was at least five years old because she remembers she tried to tell her mother about it when she was about five. (RP 364). She remembers the sexual activity involving touching of his penis (RP 358-359; 361) and she also remembers him ejaculating. (RP 362).

She indicated that this took place over a long period of time when she resided with the defendant and she was afraid to tell anyone. One of the reasons she was most fearful to tell anyone is because she was a witness to physical abuse of the mother and she indicated that "he is very violent" (RP 365, L.9-10). She indicated because of that she was scared to tell. She recalls one incident when she, S.A., was hit in the face by the defendant which knocked her to the ground. At that time she was trying to protect her mother from the aggressions of the defendant (RP 365). She remembers threats to kill the mother being made by the defendant and she

remembers that she continued to be scared for her mother and for her family. She did not want to make it worse by any disclosures she would make. (RP 366; 372-375). S.A. set forth in some detail an explanation for the jury as to why she remained silent.

QUESTION (Deputy Prosecutor): Had you ever heard or observed threats to kill your mother?

ANSWER (S.A.): Yes. Actually, a lot, a lot in my life. In - - in 2005, when they were splitting up, that he - - he wanted her to - - to sign a contract of the divorce agreements and a lot of - - a lot of money stuff, a lot of legal stuff, and, you know, he used to threaten her that if she doesn't sign it that, you know, he's gonna basically come after her and kill her.

If she interferes with his job and reports the abused, that he's gonna kill her. And he just said it in so many different ways.

QUESTION: Did you believe that?

ANSWER: Yes. I did. After being in a - - in - - seeing the - - his - - his temper and his violence, it's - - and his capabilities of destruction, it's not something that you won't believe. After living your whole life in fear, it's not something that you won't believe.

QUESTION: Is part of the reason you didn't disclose the physical - - sexual - - I mean, sexual abuse to you because of the fear of retaliation by your father?

ANSWER: Yes.

QUESTION: Physical abuse?

ANSWER: Yes. I mean, that - - that played a really big part in it. I was usually not the target of the physical abuse. I have been because I've interfered, but I'm usually not.

But there was still that - - that fear of not knowing what's gonna happen if I - - if I say something about it.

The - - because the sexual abuse went on for as far back as I can remember, and never once was it discussed, it was just pretend like it doesn't happen.

And - - and if you - - if you deviate from that pretend like it doesn't happen, then what - - what will happen if you address it?

QUESTION: Two years after this stopped do you still fear your father?

ANSWER: Yes. I do.

QUESTION: Was there ever a point that you broke down and told somebody?

ANSWER: Yes. I told my - - I told my - - I told my mom when we were in Germany, and that as a few days before I told my - - before I told my grandmother.

Because we were having a really in-depth conversation and talking about the condition that our family was in with all the domestic violence, and I just - - you know, I broke down and I told my grandmother.

And then that day my mom and my grandma were deciding we have to do something about this.

(RP 366, L.8 – 368, L.8)

S.A. testified for the jury that she finally began talking about this sexual activity with her father to the authorities when she discovered for

the first time, that her younger sister, C.J.A., had also disclosed that she was being sexually abused by the defendant. Up until that point, she had no idea that this was continuing to happen to her much younger sister. (RP 376-377).

“(S.A.): . . . I didn’t know that the same things were happening to my sister. I thought that I had it under control. I thought that I was watching her, that he couldn’t do anything to her.

But once I heard that it was happening to her too, it was – I couldn’t – I couldn’t lie any more.” (RP 376, L.24 – 377, L.5).

To admit evidence of other wrongs, the trial court must (1) find by a preponderance of the evidence that the misconduct occurred, (2) identify the purpose for which the evidence is sought to be introduced, (3) determine whether the evidence is relevant to prove an of the crime charged, and (4) weigh probative value against the prejudicial effect. ER 404(b); State v. Lough, 125 Wn.2d at 853. The evidence that was offered here was not to prove that a defendant had a criminal propensity, but it was proof of a common scheme or plan. Using the case law established in State v. Lough, supra, and State v. DeVincentis, 150 Wn.2d at 17, the prior acts must be (1) proved a preponderance of the evidence, (2) admitted for the purpose of proving a common scheme or plan,

(3) relevant to prove an element of the crime charged or to rebut a defense, and (4) more probative than prejudicial. State v. Lough, 125 Wn.2d 852. State v. DeVincentis, 150 Wn.2d 17.

The prior conduct in the current acts of sexual misconduct need not constitute unique ways of committing the crime, but the current and past incidents must be substantially similar. DeVincentis, 150 Wn.2d at 21. The acts must demonstrate such a concurrence of common features that they may naturally be explained as manifestations of a general plan. A decision to admit evidence under ER 404(b) is reviewed for abuse of discretion. State v. DeVincentis, 150 Wn.2d at 17. A trial court abuses its discretion when exercise of discretion is manifestly unreasonable or is based on untenable grounds. State v. Stenson, 132 Wn.2d 668, 701, 940 P.2d 1239 (1997).

In the appellant's brief, it appears that the defendant is focusing on the distinctions and ignoring the similarities of the conduct. In each of these situations he is dealing with a child who is of tender years (in both instances the two daughters were around the age of five or six); these were children that he had physical control over. The type of sexual activity of stroking his penis was common between both instances along with other types of sexual activity which took place with the children. Further, he kept control of the situation by threat and intimidation, knowing that the

children would not speak out. As the court in the Lough case indicated, “a common plan or scheme may be established by evidence that the defendant committed marketedly similar acts of misconduct against similar victims under similar circumstances.” State v. Lough, 125 Wn.2d at 852.

The tests set forth above have recently been spelled out in some detail in State v. Sexsmith, 138 Wn. App. 497, 157 P.3d 901 (2007).

Division III analyzed a similar situation to ours as follows:

Relevance of the Evidence

Where a defendant is charged with child rape or child molestation, the existence of “a design to fulfill sexual compulsions evidences by a pattern of past behavior” is probative of the defendant’s guilt. State v. DeVincentis, 150 Wn.2d at 17-18. Evidence of past acts may be admissible to show a common scheme or plan where the prior acts demonstrate a single plan used repeatedly to commit separate but very similar crimes. *Id.* At 19.

The past act and charge act must be substantially similar to be relevant and, therefore, admissible under this exception. *Id.* at 20. This means that the similarity must be clearly more than coincidental; it must indicate conduct created by design. Lough, 125 Wn.2d at 860. This court reviews the trial court’s determination of the relevance of prior acts for abuse of discretion. State v. Krause, 82 Wn. App 688, 695, 919 P.2d 123 (1996).

Here, there was a substantial similarity between the abuse of A.S. and C.H. Mr. Sexsmith was in a position of authority over both girls. He was A.S.’s biological father and appears to have been the primary father figure for C.H., beginning at age 7 until C.H. moved out at age 18. Both

girls were about the same ages when they were molested by Mr. Sexsmith.

In both cases, Mr. Sexsmith would isolate the girls when he abused them. While he resided at his mother's home, he molested both of the girls in the basement. In both cases, he forced the girls to take nude photographs, watch pornography, and to fondle him.

There is a significant lapse of time between the sexual abuse of A.S. and the abuse of C.H. But the lapse of time is not a determination factor in the analysis. See State v. Baker, 89 Wn. App. 726, 733-34, 950 P.2d 486 (1997).

While the individual features of the prior and charged acts of abuse are not in themselves unique, the cumulative similarity between the two suggest a common plan rather than coincidence. The trial court did not abuse its discretion in finding that A.S.'s testimony was relevant to the overall question of Mr. Sexsmith's guilt.

More Probative than Prejudicial

In addition to relevance, evidence of the prior acts must be more probative than prejudicial. Substantial probative value is needed to outweigh the potential prejudicial effect of ER 404(b) evidence. DeVincentis, 150 Wn.2d at 23. This is due to the inherent prejudice of evidence of prior bad acts. Lough, 125 Wn.2d at 863.

Generally, courts will find that probative value is substantial in cases where there is very little proof that sexual abuse has occurred, particularly where the only other evidence is the testimony of the child victim. See Krause, 82 Wn. App. at 695-96. This court reviews the trial court's balancing of probative value against prejudicial effect for abuse of discretion. In re Det. of Halgren, 156 Wn.2d 795, 802, 132 P.3d 714 (2006).

The trial court weighed the probative value of A.S.'s testimony against its potential for prejudice on the record.

Based on the effect of Mr. Sexsmith's general denial of the charges, which meant that every element of the offenses was at issue, and the fact that credibility was central to the outcome of the case, the trial court determined that A.S.'s testimony was "clearly more probative than prejudicial." RP at 35. Nothing in the record demonstrates that the court abused its discretion or based its decision on untenable grounds or reasons. The court did not err in admitting evidence of A.S.'s abuse by Mr. Sexsmith.

State v. Sexsmith, 138 Wn. App. at 504-506

The State submits that the trial court used the proper test and made the appropriate determinations based on the case law and offers of proof that had been provided. The testimony with the jury clearly indicates a consistency of planning by the defendant to utilize his position of authority over these children to gain silence and gain access to the children for purposes of sexually inappropriate conduct. There is nothing to indicate that this was an accident or a mistake on the part of the defendant. Nor is there anything that would indicate that this was not planned and consistently maintained throughout the years. It is of significance that the older daughter when she testified (she was approximately fifteen) did not know that her younger sister was being molested. She thought she had control of the situation and was watching her five year old sister. When she realized that the same type of activity was occurring with the five year old that had occurred with her when she was of that age, that led to reporting to the authorities even though she was frightened and afraid of

the serious repercussions to her family. The trial court also properly instructed the jury on how they were to regard this type of information and evidence. Further, at the time of the actual questioning of the child, it is obvious that the trial court kept a tight reign on the nature of the testimony. Further, the information concerning the patterns of domestic violence further explained to the jury the reasons for the silence in this family as to the ongoing sexual activities and violence in the family home. This was probative and necessary to further explain to the jury the testimony of the older child. This also was part of a common scheme or plan on the part of this defendant to control and manipulate the family to continue to maintain silence. The State maintains that the trial court made the proper rulings.

III. RESPONSE TO ASSIGNMENT OF ERROR NO. 2

The second assignment of error raised by the defendant is that the trial court failed to order a competency evaluation after it appeared that the defendant had attempted suicide during the course of the trial. The argument is that this violated the defendant's right to due process.

A defendant is presumed to be competent to stand trial, and the party claiming incompetence bears the burden of proving that the defendant is incompetent by a preponderance of evidence. Medina v. California, 505 U.S. 437, 112 S. Ct. 2572, 120 L. Ed. 2d 353 (1992).

A defendant is incompetent if he lacks the capacity to understand the nature of the proceedings against him or to assist in his own defense as a result of mental disease or defect. RCW 10.77.010(14); In Re Fleming, 142 Wn.2d 853, 861-862, 16 P.3d 610 (2001); State v. Lord, 117 Wn.2d 829, 900, 822 P.2d 177 (1991). A competency evaluation is required whenever there is reason to doubt the defendant's competency. RCW 10.77.060(1)(a). When the defendant raises the issue, the defense bears the threshold burden of establishing a reason to doubt the defendant's competency. State v. Lord, 117 Wn.2d at 903. The question is whether a legitimate question of competency existed, not the filing of the motion itself. State v. Marshall, 144 Wn.2d 266, 279, 27 P.3d 192 (2001). The Appellate Court reviews a trial court's decision on whether to require a competency evaluation for abuse of discretion. In Re Fleming, 142 Wn.2d at 863; State v. Ortiz, 104 Wn.2d 479, 482, 706 P.2d 1069 (1985). In determining whether there is reason to doubt competency, the trial court has an opportunity to observe the defendant that the Appellate Court does not have and is accordingly vested with a wide measure of discretion. City of Seattle v. Gordon, 39 Wn.2d 437, 441, 693 P.2d 741 (1985). The factors a trial judge may consider in determining whether or not to order a formal inquiry into the competence of an accused include the defendant's appearance, demeanor, conduct, personal and family history, past

behavior, medical and psychiatric reports and the statement of counsel.

State v. Dodd, 70 Wn.2d 513, 514, 424 P.2d 302 (1967).

At the start of the third day of the trial (the defendant was out on release) failed to appear for trial starting at 9:00 in the morning. (CP 517).

No one had had contact with him and the question was raised whether or not to continue the trial because of a voluntary absence under CrR 3.4(b) or to wait awhile to determine whether or not this was a voluntary or involuntary nonappearance. The defense attorney requested some additional time to see what was going on and the trial court agreed with that and adjourned until 10:00 for the purposes of allowing the parties an opportunity to find the defendant. (RP 520).

When the parties reconvened in court, the deputy prosecutor indicated that he had called one of the investigating officers in the case. The officer went to the defendant's residence where he contacted the manager of the apartments and discovered that the defendant had attempted suicide that morning and had been transported to Southwest Washington Medical Center. (RP 520-521). At that point, the question of his health was unknown. The trial court advised that he wanted a warrant immediately prepared so that the defendant would not be allowed to walk out of the hospital if his condition was not that serious. (RP 521).

The prosecution indicated that it appeared that this was a voluntary nonappearance by the defendant and wanted the trial to proceed. While they were in open court, the prosecutor received a telephone call from the investigating officer who had more information concerning the defendant's condition and also the circumstances surrounding what appeared to be an attempted suicide. Mr. Farr, the Deputy Prosecutor, explained it to the court as follows:

Mr. Farr: That was Sergeant Gunderson, who informed that the information he's received is at 7 a.m. he called on an overdose of an unknown substance. They found him (the defendant) at his home in his military outfit in bed with his military hat on and a bible on his chest. He was lost, that is, his heart stopped beating, in the ambulance on the way to the hospital. They revived him in the ambulance on the way to the hospital. And they do not know his status as to his survivability at the hospital.

(RP 525, L.20 – 526, L.6)

The court then requested of the attorneys what they wanted to do. The prosecution wanted the trial to proceed and the defense wanted to wait so that the defendant could be in attendance. The trial court indicated as follows:

THE COURT: All right, thank you.

The problem is, we don't know if that will occur soon or ever. We have jeopardy attached; we have a jury here that's heard two-thirds of the case and witnesses available, though the fact that they're from Texas and have flights

back and all that, of course, is an inconvenience, but isn't determinative.

The rule clearly provides that a person who intentionally absences himself from the proceedings, and that's the conclusion I'm making from hearing this description of him wearing his hat in bed. Obviously he just didn't lay down and take a nap and accidentally take a few pills, he was laying in bed with his uniform and his hat, fully regaled in his military uniform with a bible on his chest.

It shows, if those facts are true, and I have no reason to dispute them or disbelieve them, it indicates he intended not to appear and he voluntarily absented himself from the proceeding.

The rule says we can proceed with the trial all the way up to verdict.

(RP 527, L.15 – 528, L.11)

The trial court then further inquired of counsel as to how they wanted to address this with the jury. After hearing both sides, the trial court felt that it would be inappropriate to give the jury any type of instructions and indicated further that it was not even to be mentioned to the jury as to why the defendant was not present in court. (RP 530). During this entire discussion with the trial court and counsel, there was no question of competency being raised by the defense, the State or the Court. Further, up until that point, there had been nothing that the defendant had demonstrated or indicated that he was not fully cognizant of what was going on and was in a position to assist in his own defense. There is

nothing in his background, family history, or his activities that would have remotely indicated to the trial court, or the attorneys, that there was a question of competency here. Defense counsel in the appellate brief indicates that there was an incident where he went to the restroom. The argument is that that shows that he was having some type of mental issues. That simply is not accurate. This matter was discussed with the defendant and his attorney. The defense indicated that he had gone to the bathroom and that he understands he has to wait for a recess. The defendant indicated that he had gone to the bathroom and that he would abide by whatever the court decided. The court just left it at that. (RP 294-295). There is nothing that indicates that he “bolted” from the courtroom or that he was acting irrationally. (Brief of Appellant, page 27). No one at that point considered this to be of any significance.

It is interesting to note that the request for evaluation of competency was an after thought of the defense attorney at the close of all of the evidence and prior to argument in the case. As the defense attorney approached this with the trial court, it was as follows:

MR. VUKANOVICH (Defense Attorney): After deliberating at lunch time about this morning, I felt it was my duty, your Honor, to make a motion for a mistrial on the grounds that the defendant was to be the only witness in defense of his case, and therefore based on the fact and that the defendant is currently comatose at the Southwest

Washington Medical Center, proceeding with this case would be highly prejudicial to the defendant.

In addition, based on the fact that the defendant allegedly attempted suicide this morning, his mental capacity to stand trial now comes into issue.

(RP 600, L.22 – 601, L.9)

To further make a record concerning this, the trial court then had an offer of proof made from the officers concerning the defendant's condition.

The offer of proof was provided by Officer Steve Norton of the Child Abuse Intervention Center. Officer Norton indicated to the court that they had been in contact with the doctors at the hospital who indicated that the defendant was comatose and that he was on a respirator and further that it would be three to five days before they would know if he was going to get better, get worse, or pass away. (RP 605). The prognosis that was provided at that time was extremely poor. (RP 605, L.25). After that recitation, the trial court found the information to be highly reliable and that this certainly appeared to be a voluntary nonappearance by the defendant and continued its previous ruling that the trial would go through to completion. (RP 606). At this point, it is interesting to note that the defense does not raise the question of competency at all. The State submits that this is significant because the defense attorney is not

maintaining that based on his contacts with the defendant that there was anything that would lead one to believe that he was suffering from mental illness or disease. As the trial court indicated (and the defense attorney did not respond to) it appeared to the trial court that “a defendant, cannot see that things are going poorly in trial and then terminate the proceedings by voluntarily absenting himself or herself from the proceedings.

Certainly it is an unfortunate situation, and it is a situation totally self-made by the defendant.” (RP 607, L.1-7).

Further, it is interesting to note in the appellant’s brief that the primary reason for questioning competency was the apparent suicide attempt by the defendant. This becomes significant because the defendant has filed a Statement of Additional Grounds for Review with the appellate court where he categorically denies that he had attempted to commit suicide.

After the defendant was found guilty by the jury, the defendant remained in the hospital for a substantial period of time. The trial was in December, 2007, and the sentencing of the defendant did not take place until February 8, 2008. Prior to the sentencing, the trial court had the defendant evaluated by Dr. Kirk Johnson. His report was reviewed and later reduced to an Order Finding the Defendant Competent to Stand Trial. (CP 113). In that order it indicates that Dr. Johnson had met with the defendant on December 21, 2007, and December 26, 2007, and again on

January 4, 2008. He indicated that the defendant was competent to participate in his sentencing. The doctor had prepared a detailed report and submitted it to the court. The defense has chosen not to designate this as a Clerk's Paper in the appellate court. Likewise, a pre-sentence investigation report was prepared in this matter (Order for Pre-Sentence Report (CP 112)). The actual Pre-Sentence Report has not been designated as a Clerk's Paper by the defense in this matter.

At the time of sentencing, the defense attorney indicated to the court that the defendant as a result of the overdose of medications was in a comma for several months and had a tremendous lose of recall of memory and that he also suffered from partial blindness. (RP 657).

The defense did not raise at the time of sentencing competency as it related to the trial setting. In fact, the previous indication by the defense attorney at the close of the State's case was the only indication of competency being even remotely suggested to the court. It was the court, on its own initiative, that determined that prior to sentencing, he had to be competent. Thus, there is absolutely nothing in this record to support that anyone considered him to be incompetent at the time of trial. There was absolutely nothing in his demeanor or behavior that would indicate that he did not understand what was proceeding. There is absolutely nothing in his family history that has been presented to this appellate court that would

lead one to believe that he had been suffering from some type of mental disease or defect. In fact, the defendant flatly denies that he has a disease or defect. The defendant bears the burden of making a threshold showing of incompetency. The State submits that this has not been done in this case. There simply is no reason to doubt the defendant's competency.

IV. CONCLUSION

The trial court should be affirmed in all respects.

DATED this 29 day of August, 2008.

Respectfully submitted:

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By:


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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
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Clark Co. No. 06-1-02202-5

DECLARATION OF
TRANSMISSION BY MAILING

STATE OF WASHINGTON)

: ss

COUNTY OF CLARK)

On August 29, 2008, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the below-named individuals, containing a copy of the document to which this Declaration is attached.

TO:	David Ponzoha, Clerk Court of Appeals, Division II 950 Broadway, Suite 300 Tacoma, WA 98402-4454	Catherine Glinski Attorney at Law PO Box 761 Manchester, WA 98353
	Obadebe Anene, DOC #314708 Washington State Penitentiary 1313 N. 13 th Avenue Walla Walla, WA 99362-1065	

DOCUMENTS: Brief of Respondent

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Jennifer L. Jackson
Date: Aug. 29, 2008.
Place: Vancouver, Washington.

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