

THE
COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
BY [Signature]
DEPUTY

NO. 38568-6-II

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

STATE OF WASHINGTON, Respondent

v.

AZAEL ORTIZ LOPEZ, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN F. NICHOLS
CLARK COUNTY SUPERIOR COURT CAUSE NO. 08-1-00956-4

BRIEF OF RESPONDENT

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I. STATEMENT OF FACTS AND RESPONSE TO ASSIGNMENT OF ERROR

The issue raised in this appeal is the fact that the Judge had not prepared Findings of Fact and Conclusion of Law at the conclusion of his bench trial. The State has prepared the supplement to the designation of clerk's papers to include the Findings of Fact and Conclusions of Law recently entered by the trial court. Reversal is warranted if the defendant can show actual prejudice from belated entry of findings. State v. Pruitt, 145 Wn. App. 784, 794, 187 P.3d 326 (2008). However, in our situation, given the nature of the appeal request that findings be entered, the State submits that by entry of the findings it has complied with the issues raised on this appeal.

The State has no objection to supplementing of briefing by the appellant once these Findings of Fact and Conclusions of Law on the bench trial have been entered.

II. CONCLUSION

The State submits that the supplementing of the designation of clerk's papers will comply with the requests of this appeal. The State does

not object if the appellate requests additional briefing to respond to any of the issues raised.

DATED this 18 day of August, 2009.

Respectfully submitted:

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