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DIVISION II

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Cowlitz Co. Cause NO. 08-1-01159-BY

STATE OF WASHINGTON

DEPUTY

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Respondent,

v.

DARREN LUTHER IPOCK,

Appellant.

BRIEF OF RESPONDENT

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I. ANSWERS TO ASSIGNMENTS OF ERROR

1. Trial counsel was effective since the State's impeachment of a witness as to the Defendant's confession was not a collateral matter.
2. Trial counsel's cross-examination of the victim was effective as a trial tactic and if it fell below a reasonable standard the Defendant fails to show how the outcome of the trial would change.

II. ISSUES PERTAINING TO ANSWERS TO THE ASSIGNMENTS OF ERROR

1. Was the State's impeachment of a witness as to the Defendant's confession a collateral matter?
2. Whether trial counsel's failure to impeach the victim with a prior inconsistent statement was ineffective assistance of counsel?
3. Whether the outcome of the trial would have changed had counsel impeached the victim with a prior inconsistent statement, when the Defendant confessed to committing the crime to five separate people?

III. STATEMENT OF THE CASE

Statement of Facts

On August 15, 2008, 15 year-old Jane Doe was at her friend Alex Hausserman's house hanging out with the Defendant, Darren Ipock, and

other friends. Verbatim Report of Proceedings 15-16.¹ Jane had known Ipock since she was five years old and he was a friend of her brother, Aaron Denton. RP13-14, 117. Jane described her relationship with Ipock as acquaintances with no prior romantic attachments. RP 14-15, 115-17. On the 15th however, Jane said she and Ipock were flirting with each other. RP 16, 36-37. Jane said Ipock sent her multiple text messages that night, including one that said she had “nice boobs.” RP 36. She also was texting him, including a text telling him she was 15 years old. RP41-42.

Alex Hausserman noticed Ipock was looking at Jane that night. RP 166-67. Alex testified he and Ipock had a text message conversation concerning Jane. RP 171. Ipock asked Alex how old Jane was and when Alex responded 15, Ipock said she had a nice body for her age and nice boobs. RP 171, 177-78. Alex told Ipock that he shouldn’t be doing that because Jane was so young and he shouldn’t be saying stuff and looking at her. RP 172.

After the party, Ipock and Jane continued to text message each other. According to Kara Bragg, a friend of Jane, she saw a text from

¹ Verbatim Report of Proceedings (hereinafter referred to as RP) consists of two sequentially numbered volumes.

Ipock saying Jane was cute, asking what Jane would do with him if they hung out, and lamenting that Jane was not older. RP 156-57.

A few nights later, Ipock text messaged Jane asking her to accompany her friends Kara and Blair to a party at Brandon Jackson's home so he could see her again. RP 46-47. Jane agreed and when they arrived she and Ipock went to the living room couch, while Kara and Blair were in a back bedroom with other friends watching movies. RP 50, 145, 159. Ipock was drinking beer that night, Jane was not consuming any alcohol. RP 50. On the couch, Ipock asked Jane to cuddle with him and she laid her head on his shoulder. RP 50. Ipock asked her if she liked making the first move with a guy, the two of them then began making out. RP 51. After about a minute, Ipock left saying he would be back in a minute. RP 51-52. A little later, Ipock guided Jane into a dark empty bedroom. RP 52-54, 146. The two were on the bed and Ipock put his hands up Jane's shirt. RP 53. The two continued to make out and Ipock asked Jane if she wanted to have sex. RP 54-55. Jane responded that she was a virgin and Ipock said that was ok and removed Jane's pants. RP 55-56. With some difficulty and embarrassment, Jane testified Ipock put his fingers inside her vagina, he asked her to give him a "hand job," and she

masturbated him. RP 57-58. Then Jane said Ipock performed oral sex on her and she on him. RP 59-60. Jane said Ipock tried to have sex with her. RP 61. She explained he put his penis inside her vagina, but she told him it hurt and after several mutual attempts to continue intercourse, he stopped. RP 62. Ipock helped Jane into her pants and she left to ask her friends to go home. RP 665-66. Blair Baxley, Jane's friend, said that when Jane came to the back bedroom an hour after Ipock guided her to the room, she seemed scared and nervous, but they were not ready to leave. RP 147. Given the girls were not ready to leave, Ipock walked Jane home. RP 64-66. He kissed her goodnight and gave her a hug at her door. RP 67.

Later that morning Jenna, Jane's sister noticed something was bothering Jane. RP 94. Jane told her sister what happened with Ipock. RP 69. Jenna said Jane was crying, red faced and very shaky in telling her. RP 94. Afterwards, Jane asked Jenna not to say anything because she didn't want her dad finding out. RP 69-70. However, Jenna was so upset, she immediately text messaged Ipock, asking him why he would do that to her little sister, saying she was just 15 years old. RP 254-55. Ipock

responded he was sorry and didn't know Jane was her sister and that she was 15. RP 155.

Additionally, Jane's brother heard a rumor something happened between Jane and Ipock and immediately called her. RP 118-19. Jane told her brother that Ipock had sex with her, and made him promise not tell. RP 70-71, 119. Aaron was so upset, he called Ipock to confront him for having sex with Aaron's little sister. RP 119. During the call, Aaron said Ipock apologized. RP 120. When Aaron informed Ipock he didn't care he was sorry and asked him what happened, Ipock said he never would have done it had he known Jane was Aaron's sister. RP 120, 123. Aaron told Ipock he was lying, saying he knew who Jane was. RP 120-21. Ipock responded that he only put his penis in Jane part-way because she said it hurt too much. RP 121 He then asked Aaron not to tell Aaron's father because he didn't want to go to jail. RP 121.

At some point later, Jane's father, James Denton noticed his daughter's behavior had changed. RP 127. He confronted Jane and Jane told him about Ipock and she having sex. RP 71-72, 128-29. Jane and James Denton spoke about what to do from there and it was decided they would both take a couple of days to think it over. RP 130. Thereafter,

James Denton called Ipock to confront him. RP 131. Denton told Ipock he had two choices, Denton would either beat Ipock up or call the police. RP 131. Ipock chose the beating. RP 131. Given Ipock's choice, Denton told him he was going to call the police. RP 131. Ipock begged him not to call the police. RP 134. Ipock told Denton he wouldn't have texted, called, or messed with Jane had he known she was a Denton. RP 132-33, 136. When Denton told Ipock it was called rape, Ipock didn't disagree. RP 132. Ipock said he was sorry a hundred times over, saying he didn't brag about it. RP 132-137.

A few days after the gathering at Jackson's house, Ipock and his very good friend Brian Schneider went out garage sale-ing. RP 182. The two were catching up and Ipock told Schneider he hung out at a party with Aaron Denton's sister and they were kissing. RP 183-84. The State asked Schneider if Ipock said he went any further with Jane or if Jane was a virgin. RP 184. Schneider testified he never said either. RP 184. The State asked Schneider if he remembered talking with the Kalama police about what the Defendant said. RP 184. Schneider then admitted he told the police something different than he just testified to. RP 184. Schneider said he told the police, Ipock admitted to kissing Jane and was scared

Aaron would find out he was talking with his sister. RP 184. He also said something about her being a virgin to the police. RP 184. The State asked Schneider if it was true he told the police, Ipock said he didn't go all the way with Jane because she was a virgin. RP 185. Schneider denied this, saying Ipock told him he didn't go all the way more than kissing because she was a virgin. RP 185. The State called Officer Skeie, with the Kalama Police Department. RP 255-61. Officer Skeie testified Schneider told him Ipock said "he had gone to a party the night before with Aaron's sister and that they were making out and he knew that Aaron was going to be pissed." RP 259. Schneider said Ipock only made out with Jane because she was a virgin and didn't want to go all the way. RP 259.

Jonathan Wilfong, a friend of Aaron Denton and Ipock, also testified for the State. RP 189-98. Mr. Wilfong stated on the same day Schneider and Ipock went garage sale-ing, he saw Ipock, Schneider, and Tyson Day at a local bar. RP 191-92. He overheard Day and Schneider talking about Jane. RP 191-92. Afterward he asked Schneider to tell him what happened between Ipock and Jane. RP 193. After hearing from Schneider, Wilfong asked to speak to Ipock. RP 193. Wilfong asked Ipock what happened. RP 194. Ipock confessed that he had sex with

Jane. RP 194. When Wilfong told Ipock Jane was just 15 years old, Ipock, without any discernable expression of surprise, said he didn't know she was 15. RP 194.

During cross-examination of Jane, trial counsel asked her to identify the written statement she supplied the police and confirm she was 16 years-old when she wrote the statement. RP 74-75. Counsel elicited from Jane that she was reluctant when filling out the statement and she didn't want to talk about what happened between she and Ipock. RP 75-76. He also drew from Jane that her father made her go to the police and she didn't want to deal with the situation. RP 87. He pointed out that she no longer had the numerous text messages she testified about because she deleted them prior to going to the police. RP 82-83.

He also elicited more details about the gathering at Brandon Jackson's home. RP 77-78. Counsel had Jane agree she went to the back room willingly and Ipock did not force her to kiss him. RP 78. Counsel also cross-examined Jane on prior statements she made to the defense private investigator that she could not remember if Ipock's penis was hard or soft. RP 78-79. Counsel examined Jane about her earlier statements about wanting to leave the house, but her friends were not ready to leave.

RP 84. He asked her why she didn't just leave if she wanted to go, earlier pointing out she was fine to walk from her house to Jackson's house. RP 77, 84-85. He also pointed out Jane did not tell her two good friends about having sex, until a few days later. RP 86. Defense counsel did not ask Jane concerning her statements to the police about oral sex. RP 74-87.

The Defendant testified. RP 199-253. Ipock remembered the night at Hausserman's home, stating he was the one that started texting Jane. RP 203. He admitted the two texted quite a bit, but said it was not flirtatious on his part. RP 203-04. Ipock admitted he invited her to Brandon Jackson's house a few nights later. RP 207-08. When they arrived he and Jane were on the couch. RP 211. Ipock brought a six-pack of beer with him, but did not give any to Jane. RP 211. Ipock said he never asked Jane to cuddle, but she did put her head on his shoulder. RP 212. Ipock denied kissing Jane. RP 212. Ipock said he and Jane went to a back room because someone in the house began to smoke marijuana near them. RP 220. Ipock said they were only in the room for about fifteen to twenty minutes before they left the house. RP 221. In the room, he said they talked for a bit and he relayed to Jane that his pregnant fiancé was mad with him, attributing it to pregnant hormones. RP 249. At this point

they both decided to leave and he walked her home and gave her a goodbye hug. RP 222, 249-50. He denied ever kissing Jane or having any sexual contact with her. RP 222. He also denied knowing she was a virgin. RP 222.

Ipock testified he spoke to Jonathan Wilfong, Aaron Denton and Jim Denton about Jane. RP 214. Ipock said he heard from Wilfong about the accusations the night prior to speaking with Aaron. RP 214. He said Wilfong asked him what happened with Jane. RP 224. Ipock told him nothing happened, but they hung out. RP 224. Ipock also said he denied the accusations to Aaron, telling Aaron to have Jane see a doctor. RP 214-15. Ipock did admit to apologizing to Aaron and told him he had no idea Jane was his sister. RP 241-42. He also told Aaron they didn't go all the way, that nothing happened, and begged him not to tell Jim Denton. RP 243.

Furthermore, Ipock said he denied having sex with Jane in his conversation with Jim Denton. RP 217. He did admit Jim Denton gave him two options, to figure things out face-to-face, or go to the police. RP 217. According to Ipock, he said he wanted to talk face-to-face, and encouraged Mr. Denton to take Jane to a doctor for a rape kit. RP 218.

Upon cross-examination, Ipock admitted to noticing Jane at Hausserman's house because of her clothing. RP 226. He also admitted sending Alex Hausserman a text message that Jane had a "nice rack" and nice body. RP 226. He confirmed Alex told him Jane was only 15 years old. RP 226-27. He also confirmed that at Brandon Jackson's house, Jane went to see Kara and Blair before he got her to go to the bedroom. RP 232.

Ipock admitted to spending the next day with Schneider. RP 235. He denied telling Schneider he kissed Jane, but told him Aaron would be upset with Ipock for hanging out with Jane. RP 235-36. Ipock admitted there is a hidden code or rule that you don't mess with a friend's younger sister and if something happened he would have broken this rule. RP 236-37. Ipock said he never told Schneider Jane was a virgin, but likely said as far as he knows she's still a virgin. RP 237.

Procedural History

The State charged the Defendant with one count of Rape of a Child in the third degree. CP 1-2. The matter proceeded to trial and the State called a number of witnesses who testified to the above factual history. *See* Statement of Facts. After the Defendant's testimony, Defense counsel

asked the court to call Officer Skeie to testify Jane never told him about the oral sex. RP 247. The State objected as improper impeachment, noting defense counsel had not given Jane the opportunity to admit or deny making such statements to the police. RP 247. The court agreed and denied the Defendant's request to call Officer Skeie. RP 247. The State did call Officer Skeie to impeach Brian Schneider's statements of what Ipock told Schneider. RP 255-59. The Defendant did not object.

The jury returned a verdict of guilty. CP 36.

IV. ARGUMENT

A. TRIAL COUNSEL WAS EFFECTIVE SINCE THE STATE'S IMPEACHMENT OF A WITNESS AS TO THE DEFENDANT'S CONFESSION WAS NOT A COLLATERAL MATTER

The Defendant argues trial counsel's failure to object to the impeachment of a State's witness concerning the Defendant's confession was ineffective as such testimony was collateral. Def. Brf at 11.

Both the Federal and Washington State Constitutions provide the right to assistance of counsel. See *State v. Jury*, 19 Wa.App. 256, 262, 576 P.2d 1302, 1306 (1978); see also U.S. CONST. AMEND. VI, WASH. CONST. ART. 1, § 22. "[T]he substance of this guarantee is that courts must make 'effective' appointments of counsel." *Jury*, 19 Wa.App. at

262, 576 P.2d at 1306 quoting *Powell v. Alabama*, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed. 158 (1932). The test for determining effective counsel is whether: “[a]fter considering the entire record, can it be said that the accused was afforded an effective representation and a fair and impartial trial?” *Id.* citing *State v. Myers*, 86 Wn.2d 419, 424, 545 P.2d 538 (1976). Moreover, “[t]his test places a weighty burden on the defendant to prove two things: first, considering the entire record, that he was denied effective representation, and second, that he was prejudiced thereby.” *Id.* at 263, 576 P.2d at 1307. The first prong of this two-part test requires the defendant to show “that his . . . lawyer failed to exercise the customary skills and diligence that a reasonably competent attorney would exercise under similar circumstances.” *State v. Visitacion*, 55 Wa.App. 166, 173, 776 P.2d 986, 990 (1989) citing *State v. Sardinia*, 42 Wa.App. 533, 539, 713 P.2d 122 (1986). The second prong requires the defendant to show “that there is a reasonable probability that, but for the counsel’s errors, the result of the proceeding would have been different.” *Id.* citing *State v. Sardinia*, 42 Wa.App. 533, 539, 713 P.2d 122 (1986).

The Defendant argues the impeachment of Brian Schneider concerning the Defendant’s statements is impeachment on a collateral

matter. Officer Skeie's testimony to Schneider's inconsistent statements of the Defendant's admissions were admissible as impeachment on a prior inconsistent statement material to the case under Evidence Rule 801(d)(1)(i). Evidence rule 801(d)(1)(i) states: A statement is not hearsay if "[t]he declarant testifies at the trial or hearing and is subject to cross examination concerning the statement, and the statement is (i) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (ii) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive." WA ER 801(d)(1)(i) (2010).

It is true that "[a] witness or a defendant cannot be impeached upon matters collateral to the principal issues being tried." *State v. Descoteaux*, 94 Wash.2d 31, 37, 614 P.2d 179 (1980), *overruled on other grounds*, *State v. Danforth*, 97 Wash.2d 255, 643 P.2d 882 (1982); *State v. Carr*, 13 Wash.App. 704, 708, 537 P.2d 844 (1975). To determine if a matter is collateral, a court must ask the question, "Could the fact upon which error is based have been brought into evidence for a purpose independent of the contradiction?" *State v. Dickenson*, 48 Wash.App.

457, 468, 740 P.2d 312, 318 (Div 1. 1987) citing *State v. Hall*, 10 Wash.App. 678, 680, 519 P.2d 1305 *review den'd*, 84 Wash.2d 1003 (1974). *Accord State v. Descoteaux*, *supra* 94 Wash.2d at 37-38, 614 P.2d 179 (matter is collateral if the evidence is inadmissible for any purpose independent of the contradiction).

In the present matter, Brian Schneider's testimony about what the Defendant told him he did with Jane was admissible as an admission by a party opponent under Evidence Rule 801(d)(2) in the State's case in chief. Washington Evidence Rule 801(d)(2) states: A statement is not hearsay if the statement is offered against a party and is (i) the party's own statement, in either an individual or a representative capacity or (ii) a statement of which the party has manifested an adoption or belief in its truth. WA ER 801(d)(2) (2010).

In *State v. Dickenson*, 48 Wash.App. 457, 466, 740 P.2d 312, 318 (Div 1. 1987), Division One found it was error when the trial court refused to allow the defendant to impeach a state's eyewitness to a murder with her prior inconsistent to police, wherein she said the police killed the victim. The court held that the central issue in the case was the identity of

the murderer, the prior statement was material to this fact, and it was important for the jury to gauge the witness's credibility. *Id.* at 466-68.

In the present case, admissions by the Defendant of sexual contact were highly material and central to the case. Evidence the Defendant told Schneider he made out with Jane and didn't go all the way because she was a virgin was directly relevant and material to whether the Defendant had sexual intercourse with Jane and was an admission by the Defendant of engaging in sexual contact with Jane. Given the Defendant's denial of any sexual activity, it called into question the Defendant's credibility. Moreover, Schneider knowing they kissed and that Jane was a virgin corroborated Jane's account of events. Lastly, there was no logical way for Schneider to have this information unless the Defendant told him.

Additionally, this impeachment evidence affects the Schneider's credibility. *State v. Dickenson*, 48 Wash.App. 457, 466, 740 P.2d 312, 318 (Div 1. 1987). In this instance, Schneider testified to the close relationship he had with the Defendant. At trial Schneider appeared to minimize the Defendant's earlier statements to Schneider about what happened. RP 183-84. When the State asked him whether Ipock used the word virgin, Schneider said no. RP 184. Only when the State confronted

Schneider about his prior statement to the police, did Schneider admit he did use the word virgin to the police. RP 184. He also then denied telling the police Ipock said making out, but rather kissing. RP 184. It was vital the jury understand Schneider's credibility in light of all prior statements he told others the Defendant made about the sexual contact. This makes Officer Skeie's testimony impeachment on a relevant and material matter and not collateral.

To establish ineffective assistance for failure to object, Tran must show (1) an absence of legitimate strategic or tactical reasons supporting the challenged conduct; (2) that an objection to the evidence would likely have been sustained; and (3) that the result of the trial would have been different had the evidence not been admitted. *State v. Saunders*, 91 Wn.App. 575, 578, 958 P.2d 364 (1998), citing *State v. McFarland*, 127 Wn.2d 322, 336 and 337 n. 4, 899 P.2d 1251 (1995), and *Hendrickson*, 129 Wn.2d at 80. In the present case, the testimony was proper impeachment and any objection was not likely to have been sustained. Moreover, given the Defendant's admission to four other people, there is little reason to believe the outcome would be different at had the impeachment not been admitted.

B. TRIAL COUNSEL’S CROSS-EXAMINATION OF THE VICTIM WAS EFFECTIVE AS A TRIAL TACTIC AND IF IT FELL BELOW A REASONABLE STANDARD THE DEFENDANT FAILS TO SHOW HOW THE OUTCOME OF THE TRIAL WOULD CHANGE.

The Defendant argues trial counsel’s failure to impeach the victim concerning prior inconsistent statements amounted to ineffective assistance of counsel. Def. Brf at 13. However, it should be noted the Defendant does not cite a single case in this section of argument that the failure to cross-examine concerning a prior inconsistent statement amounts to ineffective assistance of counsel.

“In considering claims of ineffective assistance of counsel, the courts have declined to find constitutional violations when the actions of counsel complained of go to the theory of the case or to trial tactics.” *State v. Ermert*, 94 Wa.2d 839, 849, 621 P.2d 121, 126 (1980). Differences of opinion regarding trial strategy or tactics are not sufficient to prove a claim of ineffective assistance of counsel. *State v. Lord*, 117 Wa.2d 829, 883, 822 P.2d 177 (1991).

Courts generally entrust cross-examination techniques, like other matters of trial strategy, to the professional discretion of counsel. In assessing Petitioner's claim that his counsel

did not effectively cross-examine a witness, a court need not determine why trial counsel did not cross examine if that approach falls within the range of reasonable representation. In retrospect a court might speculate as to whether another attorney could have more efficiently attacked the credibility of ... witnesses.... The extent of cross-examination is something a lawyer must decide quickly and in the heat of the conflict. This ... is a matter of judgment and strategy.

In re Davis 152 Wa.2d 647, 720, 101 P.3d 1, 40 (Wash.,2004) citing *State v. Stockman*, 70 Wa.2d 941, 945, 425 P.2d 898 (1967).

In the present case, trial counsel cross-examined the victim as to the written statement she gave the police. The responses she gave him were that she did not want to write a statement, she was worried about her father's reaction, and didn't want to talk about it. RP 75-76. These responses were consistent with defense counsel's theory Jane was being pressured into this by her father and she didn't want to testify. RP 294.

Additionally, it was the defense theory the State could not prove the date the offense occurred and since Jane was so close to her 16th birthday, it was possible she was 16 at the time of the offense, making sexual contact legal. RP 295-96. No where in the Defendant's closing did he intimate Jane was lying about the sexual contact, but that she was pressured into coming to court, and her written statement was made after she turned sixteen.

It is a reasonable trial tactic that counsel did not want to cross-examine Jane concerning her prior statements to the police, potentially opening the door to prior consistent statements under Evidence Rule 801(d)(1)(ii). Moreover, it was not until after his client testified, counsel thought such information was necessary. As stated above, the extent of cross-examination is something a lawyer must decide quickly and is a matter of judgment. It is reasonable to think since counsel did not seek to recall Jane to ask her about these statements, it was a trial tactic not to appear to beat up on a 16 year-old girl. The fact that another attorney might cross-examine differently, does not meet the defendant's burden that his "lawyer failed to exercise the customary skills and diligence that a reasonably competent attorney would exercise under similar circumstances." *State v. Visitacion*, 55 Wa.App. 166, 173, 776 P.2d 986, 990 (1989) citing *State v. Sardinia*, 42 Wa.App. 533, 539, 713 P.2d 122 (1986).

Moreover, the Defendant fails in his burden to show the outcome of the trial would be different had the cross-examination took place. The State presented ample testimony the Defendant found Jane attractive, he commented on her appearance in a sexual way and chased after her to

spend time with her. Additionally, the testimonies of Kara Bragg and Blair Baxley corroborated Jane's timeline of the events that night and that the Defendant led her into the room. Jane's family noticed a behavior change in Jane after the events and Jane told her sister, brother, father, nurse consistently about those events. Lastly, the Defendant admitted to Jenna Denton, Aaron Denton, James Denton, Jonathan Wilfong, and Brian Schneider that he had sexual contact with Jane, contrary to his denial at trial.

There was overwhelming evidence the Defendant had sexual intercourse with Jane and the cross-examination concerning one prior inconsistent statement about oral sex does not eliminate the testimony concerning digital penetration and five prior admissions by the Defendant.

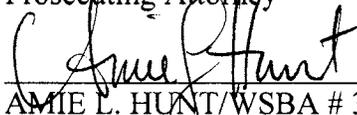
V. CONCLUSION

The State requests the Court affirm the trial court and deny the appeal based upon the above arguments.

Respectfully submitted this 23rd day of April, 2010.

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DIVISION II

STATE OF WASHINGTON

BY *V. [Signature]* DEPUTY

STATE OF WASHINGTON,)
)
 Respondent,)
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 vs.)
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 DARREN LUTHER IPOCK,)
)
 Appellant.)
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NO. 39720-0-II
Cowlitz County No.
08-1-01159-1

CERTIFICATE OF
MAILING

I, Michelle Sasser, certify and declare:

That on the 23rd day of April, 2010, I deposited in the mails of
the United States Postal Service, first class mail, a properly stamped and
address envelope, containing Brief of Respondent:

John A. Hays
Attorney at Law
1402 Broadway
Longview, WA 98632

Court of Appeals, Clerk
950 Broadway, Suite 300
Tacoma, WA 98402

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

Dated this 23rd day of April, 2010.

Michelle Sasser
Michelle Sasser