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STATE OF WASHINGTON
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NO. 40082-1-II

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

STATE OF WASHINGTON,

Respondent,

v.

DEONTE JAMAR THOMPSON,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR PIERCE COUNTY

The Honorable John A. McCarthy

BRIEF OF APPELLANT

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7-21-2010 pm

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A. ASSIGNMENTS OF ERROR

1. The prosecutor committed misconduct during closing argument.

2. The cumulative effect of repetitive prosecutorial misconduct denied appellant a fair trial.

3. The trial court erred in overruling defense counsel's objections to the prosecutor's improper remarks during closing argument.

4. There was insufficient evidence to prove beyond a reasonable doubt that appellant was armed with a firearm while unlawfully possessing a controlled substance as charged in count VI.

Issues Pertaining to Assignments of Error

1. Is reversal required where numerous instances of prosecutorial misconduct constituting cumulative error denied appellant his right to a fair trial? (Assignments of Error 1, 2, 3)

2. Is reversal of the firearm enhancement required where the evidence was insufficient to prove beyond a reasonable doubt that a nexus existed between the appellant, the crime, and the weapon? (Assignment of Error 4).

B. STATEMENT OF THE CASE¹

1. Procedural Facts

On July 21, 2010, the State charged appellant, Deonte Jamar Thompson, with three counts of assault in the first degree with firearm enhancements, one count of drive-by shooting, one count of unlawful possession of a firearm in the first degree, and one count of unlawful possession of a controlled substance with a firearm enhancement. CP 1-4. Thompson was tried before the Honorable John A. McCarthy on September 24, 2009 - October 13, 2009. 3RP-10RP. Following a midtrial motion to dismiss by Thompson, the court dismissed the charge of drive-by shooting. 8RP 772. A jury found Thompson guilty of the remaining charges. 10RP 1005-07; CP 188-96. On December 4, 2009, the court sentenced Thompson to 495 months in confinement and community custody. CP 214-15. Thompson filed this timely appeal. CP 224-240.

2. Substantive Facts

a. Trial Testimony²

On July 18, 2008, at 1:28 in the morning, Tacoma police officers were dispatched to 25th Street and Martin Luther King Way to investigate

¹ There are ten volumes of verbatim report of proceedings: 1RP - 05/14/09; 2RP - 09/22/09; 3RP - 09/24/09; 4RP - 09/28/09; 5RP - 09/29/09; 6RP - 09/30/09; 7RP - 10/01/09; 8RP - 10/08/09; 9RP - 10/12/09; 10RP - 10/13/09, 12/04/09.

² The witnesses who have the same last name of Jackson are referred to by their first name for clarity.

a report of a shooting. 5RP 275-76. Officer Kevin Bartenetti testified that he and his partner, Officer May, arrived on the scene looking for a suspect vehicle described as a silver SUV Saturn or Jeep and a suspected shooter named "Deonte." 5RP 276. After activating his overhead lights and spotlight, Bartenetti pulled up behind a Saturn parked on South 25th Street. 5RP 276-79. The car took off but after a short pursuit, it pulled over and stopped. 5RP 280-81. Backup units arrived and the officers ordered three people out of the car and detained them in handcuffs. 5RP 281-83, 285. Bartenetti questioned the driver, later identified as Timothy Offord. 5RP 283-85. While the officers cleared the car, they discovered a semiautomatic pistol with a missing magazine. 5RP 286-87.

Officer David May testified that he obtained the identifications of the front seat passenger as Deonte Thompson and the back seat passenger as Deshawn Pugh. 5RP 307. May participated in the clearing of the suspect car, "During that clearing, I observed what appeared to be a handgun resting on the floorboard in the rear passenger compartment of the vehicle." 5RP 309. Their forensics personnel photographed and collected the firearm as evidence. 5RP 310.

Officer Kevin O'Rourke testified that he handcuffed Thompson and took him to the back of his patrol car where he advised Thompson of his *Miranda* rights. 6RP 408-09. O'Rourke conducted a pat-down and

felt a hard object in Thompson's front pocket. When he asked Thompson about the hard object, "he was very candid, and he just said it was crack cocaine." 6RP 411.

Marquita Jackson lived at a house on 25th Street and Martin Luther King Jr. Way. 6RP 366. Marquita testified that family and friends were gathered at her house on July 19, 2008, to celebrate her birthday. 6RP 367. That night, several people were outside on the porch while others were inside the house. 6RP 376-77. While sitting on the porch, Marquita noticed a silver SUV going up and down 25th Street. 6RP 379-82. As she watched it go down a hill and out of sight, she saw Thompson approaching her house with a gun. As he was walking, he started shooting. Marquita recalled hearing three shots and everybody ran in the house. 6RP 382-85. She felt a bullet graze her leg and her cousin Michael got shot in the arm. 6RP 386-87. Jackson called 911, giving a description of Thompson and identifying him as "Deonte." 6RP 385, 390. Thereafter, the police apprehended Thompson and she identified him as the shooter. 6RP 391, 403. During cross-examination, Marquita acknowledged that she wears glasses because she is nearsighted but claimed that she could see Thompson's face even though she did not have her glasses on that night. 6RP 403-05.

Michael Jackson was at his cousin Marquita's house for her birthday party. 6RP 463-64. Michael testified that while he was outside with family and friends, he noticed a car pass by the house twice. 6RP 468-69. As he lost sight of the car, he saw Thompson walking toward them, "pointing a gun at the house." 6RP 470-71. He opened the door of the house and told everyone to get inside. 6RP 471. Michael heard three or four shots while everyone made it into the house. 6RP 474-75. He felt pain in his arm and saw that he was hit. His mother took him to the bathroom and wrapped the wound. 6RP 475. Shortly thereafter, the police arrived and an ambulance transported him to the hospital for treatment. 6RP 475, 478. During cross-examination, Michael acknowledged that he could only see the face of the shooter from his nose to his chin because he was wearing a hoody that partially covered his face but claimed he knew it was Thompson. 6RP 487, 489.

Christiana Williamson was at her niece Marquita's house for a birthday celebration. 6RP 418-19. Williamson testified that she was out on the porch with her son, Michael, and other family members when she became a little leery after seeing a car slowly pass by the house twice. 6RP 426-30. The car disappeared down the street and in less than five minutes, Williamson saw Thompson walking toward the house with a gun. 6RP 430-31. Thompson started shooting and they all ran in the house.

She recognized Thompson when his “hoodie fell off his head” and she saw his face. 6RP 433. While stating that Thompson was not someone she would recognize if she passed him on the street, she claimed that she recognized him that night. 6RP 424, 431-32.

Danielle Green was sitting on the porch when the shooting began. 7RP 599. It was dark outside but she recognized Thompson as the shooter. 7RP 604, 609. Courtney Moore was talking with Green when she saw someone walking up the street and start shooting. 7RP 642, 646-47. While admitting that she only saw part of his face, Moore claimed that the shooter was Thompson. 7RP 645.

Brittany Jackson saw Thompson with her boyfriend, Deshawn Pugh, on the night of the shooting. 8RP 711, 715-16. They were at Pugh’s house when Brittany and Pugh got into an argument because Pugh planned to leave with Thompson and Timothy Offord. 8RP 716-18. When Brittany confronted Pugh while he and Thompson were sitting in Offord’s Saturn SUV, Thompson started “cussing” at her and “mushed” her face. 8RP 719-22. Brittany warned Thompson that she was going to call her “older male cousins to come over here and protect me or to fight.” 8RP 722-23. She called her cousin, Michael Jackson, who came to pick her up and they went to Marquita’s house where she told her cousins what happened. 8RP 725-26. Later that night, when Brittany was in the house,

she heard her aunt who was outside shouting, "Get down, Get down." 8RP 727, 731. Then she heard three shots and ran to the back laundry room. After 10 or 15 minutes, she came out and police officers had arrived at the house. 8RP 731-32.

Deshawn Pugh testified that he, his brother Tim, and Deonte drove to Tacoma, but he could not remember what happened because he was drunk, "I got really wasted." 9RP 884-85. He fell asleep in the back seat and woke up when a police officer knocked on the window. 9RP 887. Pugh could only recall that the police took him to jail for a drive-by shooting even though he told them that no one shot at anybody. 9RP 888.

Thompson testified and acknowledged that he "mushed" Brittany's face with his hand because she was "just talking crazy." 9RP 842. When he, Deshawn, and Tim went to Tacoma, he knew that the Jacksons were mad at him "because I put my hands on Brittany." 9RP 848. Thompson assumed there would be a "physical altercation." 9RP 848. They parked near the house and started walking down the street, "then we heard gunshots, and we came back to the car." 9RP 848-49. They drove away but a police car pulled them over. The officers found crack cocaine on him and took him into custody. 9RP 849-50, 872. Thompson did not know about any gun and did not know who fired the gun. 9RP 849.

Prior to resting, the State presented evidence that Thompson was previously convicted of attempted residential burglary which is a serious offense. 8RP 765-70.

2. Closing Argument

During closing argument, the prosecutor told the jury that Thompson “is not charged with attempted murder. He is not charged for the crime he actually committed. . . . He is not charged with the crime that he meditated and for the crime he is actually guilty of. He is charged only with Assault in the First Degree, three counts. 9RP 938. She asserted that someone got shot because Thompson meant to kill someone and she could not explain why he would want to do such a thing, “But he did. He did. That man who sat in that chair and testified in the manner that he did this morning, that’s who did that. He is guilty. He is guilty of everything as charged.” 9RP 952-53. On rebuttal, the prosecutor continued to argue that Thompson “could have gotten charged for every single person who sat out there on that porch.” 10RP 997. She assured the jury that Marquita Jackson testified that Thompson was the shooter because “[i]t’s the truth because he did it, and we know he did it because he said he was there.” 10RP 1000. She told the jury to “return a verdict of guilty that reflects the truth of what he did that night.” 10RP 1001.

C. ARGUMENT

1. THOMPSON WAS DENIED HIS CONSTITUTIONAL RIGHT TO FAIR TRIAL WHERE THE PROSECUTOR COMMITTED NUMEROUS INSTANCES OF MISCONDUCT CONSTITUTING CUMULATIVE ERROR.

Reversal is required where the prosecutor committed numerous instances of misconduct during closing argument constituting cumulative error which denied Thompson his right to a fair trial.

In State v. Reed, 102 Wn.2d 140, 684 P.2d 699 (1984), the State Supreme Court noted, “Our view of a prosecutor’s responsibilities is not of recent vintage. As early as 1909, Washington courts were characterizing it as the ‘safeguards which the wisdom of ages has thrown around persons accused of crime.’ ” 102 Wn.2d at 147 (quoting State v. Montgomery, 56 Wn. 443, 447, 105 P. 1035 (1909)). The Court emphasized in State v. Belgarde, 110 Wn.2d 504, 755 P.2d 174 (1988), that a public prosecutor is a *quasi*-judicial officer, representing the People of the state, and presumed to act impartially in the interest only of justice:

If he lays aside the impartiality that should characterize his official action to become a heated partisan, and by vituperation of the prisoner and appeals to prejudice seeks to procure a conviction at all hazards, he ceases to properly represent the public interest, which demands no victim, and asks no conviction through the aid of passion, sympathy or resentment.

110 Wn.2d at 517.

“A prosecuting attorney’s duty is to see that an accused receives a fair trial.” State v. Charlton, 90 Wn.2d 657, 664-65, 585 P.2d 142 (1978). “If prosecutors are permitted to convict guilty defendants by improper, unfair means, then we are but a moment away from the time when prosecutors will convict innocent defendants by unfair means.” State v. Torres, 16 Wn. App. 254, 263, 554 P.2d 1069.

- a. The prosecutor committed misconduct by appealing to the passion and prejudice of the jury and accusing Thompson of attempted murder.

It is improper for a prosecutor to tell the jury that the defendant was guilty of more crimes and could have been charged with other crimes. Torres, 16 Wn. App. at 256 (citing State v. Ranicke, 3 Wn. App. 892, 479 P.2d 135 (1970)). “Mere appeals to jury passion and prejudice, as well as prejudicial allusions to matters outside the evidence, are inappropriate.” Belgrade, 110 Wn.2d at 507 (citing State v. Claflin, 38 Wn. App. 847, 690 P.2d 1186 (1984)). A prosecutor has no right to call to the attention of the jury matters or considerations which the jurors have no right to consider. State v. Case, 49 Wn.2d 66, 71, 298 P.2d 500 (1956).

During closing argument, after describing Thompson’s actions to the jury, the prosecutor accused Thompson of attempted murder:

But, ladies and gentlemen, he is not charged with attempted murder. He is not charged for the crime he actually committed.

MS. CAMPBELL: Your Honor, I am going to object to that part and ask that that be stricken and ask that the jury not consider that.

THE COURT: This argument. Overruled.

MS. KO: He is not charged with the crime that he meditated and for the crime he is actually guilty of. He is charged only with Assault in the First Degree, three counts.

9RP 938.

During rebuttal, the prosecutor told the jury that Thompson could have been charged with more crimes:

Well, ladies and gentlemen, the truth of it is the defendant could have gotten charged for every single person who sat out there on that porch.

MS. CAMPBELL: Your Honor, I am going to object to this as far as facts not in evidence.

THE COURT: Overruled.

MS. KO: If there were six people out there or eight people out there, if he shot at a group of people and every single one of those individuals had fear, was frightened, was scared out of their wit, every single person is a victim in the eyes of the law. He could have been charged with every single count for every single person, but he has not been. We chose three, the lady who was crying and emotional and had to be calmed down by Officer Birge, the person who got grazed with a bullet, and the person who got shot through and through.

10RP 998.

Clearly, the prosecutor's inflammatory comments were a deliberate attempt to appeal to the passion and prejudice of the jury, improperly encouraging the jurors to find Thompson guilty of the three assaults because he should have been charged with attempted murder and should have been charged with more crimes. The prosecutor's extraneous rhetoric and recitation of facts outside the record constitute misconduct.

- b. The prosecutor committed misconduct by expressing her personal belief that Thompson was guilty.

It is improper for the prosecutor to express his personal belief of the defendant's guilt. State v. Henderson, 100 Wn. App. 794, 804, 998 P.2d 907 (citing United States v. Young, 470 U.S. 1, 8-9, 105 S. Ct. 1038, 84 L. Ed. 2d 1 (1985)). It is "reprehensible" for a public prosecutor to assert in argument his personal belief in the guilt of the accused. Reed, 102 Wn.2d at 145.

Throughout closing argument, the prosecutor repeatedly expressed her personal belief that Thompson was guilty:

[H]e is undeniably accountable for what he did. He is definitely responsible. He is responsible for possession of cocaine. He is guilty of being a Felon in Possession of a Firearm.

9RP 950.

[S]omeone got shot because he meant to kill someone, and that's why he had come down there. I can't explain to you why he would do such a thing. I don't have to. Why people do the things they do, I can't explain that. But he did. He did. That man who sat in that chair and testified in the manner that he did this morning, that's who did that. He is guilty. He is guilty of everything as charged, not watered down, not he only wanted to scare. He is guilty. You know he is guilty.

9RP 952-53.

As in Reed, where the prosecutor improperly stated, "There is no question about murder two," the prosecutor's constant reminder to the jury that Thompson was guilty, constitutes misconduct. Reed, 102 Wn.2d at 144.

c. The prosecutor committed misconduct by improperly vouching for a witness.

It is misconduct for a prosecutor to state a personal belief as to the credibility of a witness. State v. Warren, 165 Wn.2d 17, 30, 195 P.3d 940 (2008); State v. Brett, 126 Wn.2d 136, 175, 892 P.2d 29 (1995). Such opinion is especially prejudicial because a prosecutor "commands the respect of the people of the county and usually exercises a great influence upon jurors." Case, 49 Wn.2d. 66, 70-71, 298 P.2d 500 (1956)(quoting People v. Fielding, 158 N.Y. 543, 547, 53 N.E. 497, 46 L. R. A. 641 (1899). " 'Fair trial' certainly implies a trial in which the attorney representing the state does not throw the prestige of his public office,

information from its records, and the expression of his own belief of guilt into the scales against the accused.” Torres, 16 Wn. App. at 263-64.

Here, the prosecutor repeatedly assured the jury that Marquita Jackson testified that Thompson was the shooter because it was the truth:

Everything that she said to that 911 operator within seconds, everything was true. And so how could she have been mistaken when everything she said was true. She was not inconsistent, has never been so. She was adamant about what she saw. You saw her demeanor in this courtroom. You saw how she reacted when she was asked to identify who the shooter was. She believes it because it’s true.

....

Ladies and gentlemen, Marquita believes it because it’s the truth. It’s the truth because he did it, and we know he did it because he said he was there. And you are right, it does fit into a nice picture when you put all the pieces together because that’s what it is.

....

I am going to ask you to return a verdict of guilty that reflects the truth of what he did that night.

MS. CAMPBELL: I am going to object to the last comment regarding the truth, ask the jury to disregard.

THE COURT: Overruled.

10RP 1000-01.

The prosecutor improperly expressed her personal belief that Marquita was not mistaken and that her testimony was based on the truth.

In telling the jury that “[i]t’s the truth because he did it, and we know he did it because he said he was there,” the prosecutor was clearly and unmistakably not arguing an inference from the evidence because the mere fact that Thompson said he was at the scene does not imply guilt. In vouching for Marquita’s credibility, the prosecutor improperly expressed her personal opinion of Thompson’s guilt, independent of the evidence. “A] prosecutor’s expressions of personal opinion about the defendant’s guilt or innocence or the witnesses’ credibility are improper.” State v. Anderson, 153 Wn. App. 417, 428, 220 P.3d 1273 (2009).

d. The prosecutor committed misconduct by misstating the law.

A prosecutor commits misconduct by misstating the law. State v. Venegas, 155 Wn. App. 507, 228 P.3d 813, 821-22 (2010). It is improper for a prosecutor to misstate or mischaracterize the law. State v. Gotcher, 52 Wn. App. 350, 355-56, 759 P.2d 1216 (1988).

Here, the prosecutor improperly misstated the law by telling the jury that Thompson could not argue that he acted recklessly rather than intentionally because he denied being the shooter:

And counsel to argue that he acted recklessly rather than intentionally, well, I am not going to use the word “ridiculous” because apparently it’s offensive. I will use the word “unreasonable.” It’s not reasonable. Because you know what? If he didn’t do it, if he wasn’t the shooter, he

is guilty of nothing. You don't have it both ways. I wasn't the shooter, but if you believe I was, I didn't really intend to hurt anybody.

MS. CAMPBELL: Your Honor, I'm going to object to that. Again, shifts the burden. It's a misstatement of the law.

THE COURT: Overruled.

MS. KO: That's what defense would have you believe. If Deonte was not the shooter, but if you do believe he was the shooter, then fine, but he did not intend to hurt these people. He shot at these people. He walked over there and just started shooting at them. What do you think he was thinking of doing?

10RP 993.

The prosecutor clearly misstated the law because denial of the crime does not preclude the defendant from arguing for a lesser included offense. As defense counsel properly argued in closing, "discharging a firearm in a crowd of people can also be a reckless act. And without any other proof that it was more than that in this particular case, then you've got a reckless act." 10RP 981.

- e. Thompson was denied his right to a fair trial because the prosecutor committed numerous instances of misconduct constituting cumulative error.

Under the cumulative error doctrine, a defendant may be entitled to a new trial where errors cumulatively produced a trial that was fundamentally unfair. In re Personal Restraint Petition of Lord, 123

Wn.2d 296, 332, 868 P.2d 835 (1994). The doctrine applies to instances where there have been several trial errors that standing alone may not be sufficient to justify reversal but when combined may deny a defendant a fair trial. State v. Greiff, 141 Wn.2d 910, 929, 10 P.3d 390 (2000). Reversal is required where the cumulative effect of several errors is so prejudicial as to deny the defendant a fair trial. Mak v. Blodgett, 970 F.2d 614 (9th Cir. 1992).

Here, the prosecutor committed numerous instances of misconduct during closing argument by: 1) accusing Thompson of attempted murder and asserting that he should have been charged with more crimes; 2) appealing to the passion and prejudice of the jury; 3) expressing her personal belief as to Thompson's guilt; 4) improperly vouching for the credibility of a witness; and 5) misstating the law.

In State v. Huson, 73 Wn.2d 660, 440 P.2d 192 (1968), cert. denied, 393 U.S. 1096 (1969), the State Supreme Court emphasized the importance of impartiality and fairness:

[The prosecutor] represents the state, and in the interests of justice must act impartially. His trial behavior must be worthy of the office, for his misconduct may deprive the defendant of a fair trial. Only a fair trial is a constitutional trial. . . . We do not condemn vigor, only its misuse. . . . No prejudicial instrument, however, will be permitted. His zealotry should be directed to the introduction of competent evidence. . . .

73 Wn.2d at 663.

It is evident from the tenor of the prosecutor's entire closing argument, that her conduct constitutes an egregious dereliction of the duties of her office.

As in State v. Henderson, 100 Wn. App. at 804-05, where this Court reversed, concluding that the cumulative effect of the incidents of prosecutorial misconduct materially affected the outcome of the trial, reversal is required here where the prosecutor committed numerous instances of misconduct thereby denying Thompson a fair trial.

2. THERE WAS INSUFFICIENT EVIDENCE TO PROVE BEYOND A REASONABLE DOUBT THAT THOMPSON WAS ARMED WITH A FIREARM WHILE UNLAWFULLY POSSESSING A CONTROLLED SUBSTANCE.

Reversal is required where there was insufficient evidence to prove beyond a reasonable doubt that Thompson was armed with a deadly weapon while unlawfully possessing a controlled substance as charged in count VI.

Under Washington law, defendants convicted of certain felonies while "armed with a firearm" receive a firearm enhancement to their standard range sentence. RCW 9.94A.533(3). A defendant is "armed" for the purpose of a firearm enhancement only if there is a "nexus between the

defendant, the crime, and the weapon.” State v. Gurske, 155 Wn.2d 134, 138, 118 P.3d 333 (2005). A nexus between a defendant and a firearm exists only if the firearm is “easily accessible and readily available for use.” State v. Schelin, 147 Wn.2d 562, 567, 55 P.3d 632 (2002)(citing State v. Valdobinos, 122 Wn.2d 270, 282, 858 P.2d 199 (1993)). A nexus between the firearm and a crime exists only if the firearm is related to the crime. Gurske, 155 Wn.2d at 142.

The trial court here instructed the jury on the requirement of a nexus between the defendant, the crime and the weapon:

A person is armed with a deadly weapon if, at the time of the commission of the crime, the weapon is easily accessible and readily available for offensive or defensive use. The State must prove beyond a reasonable doubt that there was a connection between the weapon and the defendant. The State must also prove beyond a reasonable doubt that there was a connection between the weapon and the crime. In determining whether these connections existed, you should consider, among other factors, the nature of the crime and the circumstances surrounding the commission of the crime, including the location of the weapon at the time of the crime and the type of weapon.

CP 184.

According to the State’s evidence, Thompson was in the front passenger seat of the Saturn when the police stopped the car. 5RP 307. Officer May saw a handgun on the floorboard in the rear passenger compartment of the car and forensics retrieved the firearm as evidence.

5RP 309-10. When Officer O'Rourke arrested Thompson and conducted a pat-down, he found crack cocaine in Thompson's front pocket. 6RP 411.

A person is armed if a weapon is easily accessible and readily available for use, either for offensive or defensive purposes. This requirement means that where the weapon is not actually used in the commission of the crime, it must be there to be used. Gurske, 155 Wn.2d at 138-39. The evidence substantiates that the firearm on the floorboard of the rear passenger compartment was not there to be used by Thompson who was in the front passenger seat and out of the car when O'Rourke discovered the crack cocaine. Furthermore, a nexus between the weapon and the crime exists only if the defendant "used a deadly weapon to protect his drugs." Schelin, 148 Wn.2d at 569. It is indisputable from the evidence that Thompson did not use the firearm to unlawfully possess the crack cocaine.

Reversal is required because the evidence was insufficient to prove beyond a reasonable doubt that Thompson was armed during the commission of the crime. Gurske, 155 Wn.2d at 144.

D. CONCLUSION

For the reasons stated, this Court should reverse Mr. Thompson's convictions and remand for a new and fair trial.

DATED this 21st day of July, 2010.

Respectfully submitted,



VALERIE MARUSHIGE

WSBA No. 25851

Attorney for Appellant, Deonte Jamar Thompson

DECLARATION OF SERVICE

On this day, the undersigned sent by U.S. Mail, in a properly stamped and addressed envelope, a copy of the document to which this declaration is attached to Kathleen Proctor, Pierce County Prosecutor's Office, 930 Tacoma Avenue South, Tacoma, Washington 98402 and Deonte Thompson, DOC # 336492, Washington State Corrections Center, P.O. Box 900, Shelton, Washington 98584.

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

DATED this 21st day of July, 2010 in Kent, Washington.


Valerie Marushige
Attorney at Law
WSBA No. 25851

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