

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
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No. 40693-4-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

Troy Rayment,

Appellant.

Thurston County Superior Court Cause No. 08-1-01943-1

The Honorable Judge Gary Tabor

Appellant's Reply Brief

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ARGUMENT

I. UNDER THE SUPREME COURT’S DECISION IN *HALL*, MR. RAYMENT SHOULD NOT HAVE BEEN CONVICTED OF TWO COUNTS OF TAMPERING WITH A WITNESS.

The Supreme Court has determined that multiple attempts to tamper with a single witness constitute one count of tampering. *State v. Hall*, 168 Wash.2d 726, 731, 738, 230 P.3d 1048 (2010). Mr. Rayment allegedly made multiple attempts to induce Ms. Armstrong not to testify. Accordingly, as in *Hall*, he committed only one offense, and should not have been convicted of two counts of tampering. *Id.*

Respondent seeks to circumvent *Hall* by arguing that Mr. Rayment should be liable for multiple charges because he repeatedly “terminated the negotiations,” and then “resumed negotiating with her to drop the charges.” Brief of Respondent, p. 7. Respondent’s analysis is incorrect.

Mr. Rayment’s conduct falls squarely within the rule set forth in *Hall, supra*. He allegedly made multiple attempts to influence Ms. Armstrong. Whether his communications are seen as a negotiating strategy or a termination and resumption of negotiation, the subject matter remained the same throughout. The Supreme Court did not create an exception allowing multiple convictions under the circumstances present here. *Id.*

Accordingly, the two convictions violated Mr. Rayment's rights under the double jeopardy clause. U.S. Const. Amend. V; U.S. Const. Amend. XIV; Wash. Const. Article I, Section 9; *Hall, supra*. Count 2 must be vacated and dismissed with prejudice. *Id.*

II. MR. RAYMENT WAS DEPRIVED OF HIS SIXTH AND FOURTEENTH AMENDMENT RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL.

Appellant rests on the argument set forth in the Opening Brief.

III. MR. RAYMENT'S CONVICTION WAS OBTAINED IN VIOLATION OF HIS RIGHT TO A JURY TRIAL UNDER THE SIXTH AND FOURTEENTH AMENDMENTS AND ARTICLE I, SECTIONS 21 AND 22 OF THE WASHINGTON CONSTITUTION.

Appellant rests on the argument set forth in the Opening Brief.

CONCLUSION

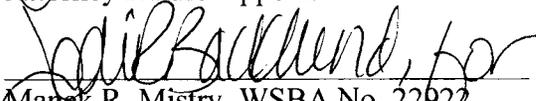
Mr. Rayment's convictions must be reversed, and count 2 must be dismissed with prejudice.

Respectfully submitted on March 18, 2011.

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