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NO. 41426-1-II

STATE OF WASHINGTON
BY *CM*
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

STATE OF WASHINGTON,

Respondent,

v.

KAMARA KAM CHOUAP,

Appellant.

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

The Honorable Frederick W. Fleming

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. Appellant's two convictions for attempting to elude a pursuing police vehicle violates his constitutional right against double jeopardy.

2. The trial court erred in instructing the jury that it must be unanimous to answer the special verdict.

3. The trial court erred in imposing a sentence for assault in the second degree which exceeds the statutory maximum.

4. The trial court erred in sealing the jury questionnaires without conducting a Bone-Club analysis.

5. Appellant's exceptional sentence is not legally justified.

Issues Pertaining to Assignments of Error

1. Must appellant's second conviction of attempting to elude a pursuing police vehicle as charged in count II be reversed because his two convictions of attempting to elude a pursuing police vehicle violated his constitutional right against double jeopardy?

2. Is reversal of the sentence enhancement for attempting to elude a pursuing police vehicle required where the trial court erred in instructing the jury that it must unanimously agree on an answer to the special verdict and the error was not harmless?

3. Is reversal of appellant's sentence for assault in the second degree required where the sentence exceeds the statutory maximum?

4. Is remand required where the trial court sealed the jury questionnaires without conducting a Bone-Club analysis in violation of the public's right to open court proceedings?

5. Is reversal of appellant's exceptional sentence required where the imposition of consecutive sentences is not legally justified?

B. STATEMENT OF THE CASE¹

1. Procedural Facts

On March 8, 2010, the State charged appellant, Kamara Kam Chouap, with one count of assault in the first degree and one count of attempting to elude a pursuing police vehicle. CP 1-2. The State amended the information on May 13, 2010, charging Chouap with one count of assault in the second degree with an aggravating factor of committing the crime against a law enforcement officer; one count of attempting to elude a pursuing police vehicle while endangering one or more persons other than the defendant or pursuing officer; and a second count of attempting to elude a pursuing police vehicle. CP 6-7.

¹ There are 10 volumes of verbatim report of proceedings: 1RP - 07/19/10; 2RP - 07/20/10; 3RP - 08/23/10; 4RP - 09/01/10; 5RP - 09/07/10; 6RP - 09/08/10 a.m.; 7RP - 09/02/10, 09/08/10 p.m.; 8RP - 09/09/10; 9RP - 09/10/10; 10RP - 11/05/10.

Following a 3.5 hearing and trial before the Honorable Frederick W. Fleming, a jury found Chouap guilty as charged on September 10, 2010. On November 5, 2010, the court sentenced Chouap to concurrent sentences of 29 months for his conviction of attempting to elude a pursuing police vehicle plus a sentencing enhancement of 12 months and imposed a consecutive, exceptional sentence of 120 for his conviction of assault in the second degree for a total of 161 months in confinement and 18 months of community custody. CP 89-90, Supp CP ____ (Order Correcting Judgment and Sentence, 01/07/2011).

Chouap filed a timely notice of appeal. CP 97-102.

2. Substantive Facts

On March 5, 2010, Tacoma Police Officer Joshua Rasmussen was on patrol with Officer Walkinson who was driving. 7RP 84-85, 108. Rasmussen testified that at around 2:46 a.m., they saw Chouap in a black Cadillac driving west on South 56th in University Place. 7RP 85-86, 88-89, 98. Rasmussen recognized Chouap so they began following him and “the vehicle accelerated at a high rate of speed.” 7RP 89. Walkinson activated his lights and siren but Chouap continued driving “well over” the speed limit of 35 miles per hour. 7RP 89-92. When Chouap kept driving recklessly through a residential area, they terminated the pursuit but alerted dispatch, “It’s common practice that when we have a vehicle

failing to yield or we are in a vehicle pursuit, LESA dispatch will automatically advise other surrounding agencies.” 7RP 93-94, 104-05. While staying in the area for about 15 to 20 minutes, Rasmussen saw the black Cadillac again in Fircrest. 7RP 95-96. When they got behind the car, “he took off again at a high rate” and they lost him. 7RP 96, 99, 102-03.

At about 3 a.m., Lakewood Police Officer, James Syler, learned that a black Cadillac that Tacoma Police tried to stop could be heading toward Lakewood on Bridgeport Way. 8RP 171-72. Syler testified that based on the information he received, he drove to a Wal-Mart on Bridgeport. While waiting in the parking lot, he saw Chouap drive by in a black Cadillac at a “normal” speed. 8RP 172-75. When he pulled out behind the car it “immediately accelerated to a high rate of speed.” 8RP 175-76. Syler activated his lights and siren and pursued the car onto Gravelly Lake Drive where another officer joined the chase as a second unit. 8RP 177-81. Syler saw a car ahead of Chouap take evasive action and pull to the right of the road to avoid being hit. 8RP 182.

Syler pursued Chouap onto I-5 for a couple of miles then Chouap took Highway 512 and got off on the Pacific Avenue exit. Chouap continued to flee and “blew through” a stop sign. 8RP 182-89. As Syler followed Chouap onto Garfield Street, he saw a Pierce County Sheriff’s

car parked on the side of the road and a deputy standing by the trunk of the car. 8RP 189-90. Chouap accelerated “directly at the deputy and the vehicle” but the deputy jumped into the car and it pulled out of the way. 8RP 191-92. In an effort to stop Chouap, Syler conducted a P.I.T. (Pursuit Intervention Technique) maneuver and collided with the Cadillac pushing it off the road onto the grass. While the car was stilling rolling, Chouap jumped out and fled on foot. Syler’s companion K-9 dog chased Chouap down and “held him in place until he could be taken into custody.” 8RP 195-96.

Officer Ryan Hamilton arrived at the scene and arrested Chouap then transported him to the hospital to be treated for dog bites. 8RP 246. Hamilton testified that he advised Chouap of his rights and after he agreed to talk to him, Hamilton asked him why he ran from the police. Chouap said he ran because “he had a warrant for his arrest.” 8RP 247-48.

Deputy Jeffrey Jorgenson was on patrol with Deputy Heimann when they heard from dispatch that Officer Syler was pursuing a black Cadillac. 7RP 128-29. To assist the Lakewood police, they drove ahead of the pursuit to set up “stop sticks” which have small hollow spikes that deflate tires when a car runs over them. 7RP 129-31. Heimann parked the patrol car at an intersection with its lights and siren activated. Heimann stayed in the car while Jorgenson got out to deploy the stop sticks. 7RP

132-33. When Jorgenson was getting the stop sticks out of the trunk, he saw a black Cadillac and heard Heimann yell, "Jeff, get back in the car." 7RP 133-34. The Cadillac was coming right at him at a high rate of speed so he jumped into the patrol car and Heimann "hit the gas" to get out of the way. 7RP 134-36. After the Cadillac and pursuing police cars passed them, they ended their involvement in the incident. 7RP 138.

Chouap did not testify. 8RP 258.

C. ARGUMENT

1. CHOUAP'S TWO CONVICTIONS OF ATTEMPTING TO ELUDE A PURSUING POLICE VEHICLE VIOLATE HIS CONSTITUTIONAL RIGHT AGAINST DOUBLE JEOPARDY.

Chouap's second conviction of attempting to elude a pursuing police vehicle as charged in count II must be reversed and dismissed because his conduct of driving a vehicle in a reckless manner while attempting to elude a police vehicle constitutes only one violation of the statute.

The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution provides, "Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb." Under Article I, section 9 of the Washington Constitution, "No person shall . . . be twice put in jeopardy for the same offense." The state constitutional prohibition

against double jeopardy provides the same scope of protection as its federal counterpart. State v. Gocken, 127 Wn.2d 95, 107, 896 P.2d 1267 (1995). The Double Jeopardy Clause “protects against multiple punishments for the same offense.” Brown v. Ohio, 432 U.S. 161, 165, 97 S. Ct. 2221, 53 L. Ed. 2d 187 (1997)(citing North Carolina v. Pearce, 395 U.S. 711, 717, 89 S. Ct. 2072, 23 L. Ed. 2d 656 (1969)).

The Legislature has the power, limited by the Eighth Amendment, to define criminal conduct and set out the appropriate punishment for the conduct. Bell v. United States, 349 U.S. 81, 82-83, 75 S. Ct. 620, 99 L. Ed. 905 (1955). Accordingly, the double jeopardy analysis for multiple convictions for violating the same statute requires a determination of what “act or course of conduct” the Legislature defined as the punishable act. State v. Graham, 153 Wn.2d 400, 405, 103 P.3d 1238 (2005)(citing State v. Adel, 136 Wn.2d 629, 633, 965 P.2d 1072 (1998)). Where the Legislature defines the scope of a criminal act (the unit of prosecution), double jeopardy protects a defendant from being convicted twice under the same statute for committing just one unit of the crime. Id. (citing Adel at 634). Where the Legislature has not clearly indicated the unit of prosecution, the lack of statutory clarity favors applying the rule of lenity. Id. (citing Adel at 635.)

In Adel, the petitioner argued that his two convictions for possession of marijuana for having marijuana in his convenience store and in his car parked outside violated double jeopardy. 136 Wn.2d at 631. Reasoning that the first step in the unit of prosecution inquiry is to analyze the criminal statute, our Supreme Court noted that the relevant portion of the possession statute states, “any person found guilty of possession of forty grams or less of marijuana shall be guilty of a misdemeanor.” Id. at 635. The Court observed that the statute failed to indicate whether the Legislature intended to punish a person multiple times for possession based upon marijuana being stashed in multiple places. Id. Upon analyzing the statute, the Court determined that a person is “equally guilty” of possession whether that person has the drug hidden in one place or several places. Id. at 637. The Court concluded that the unit of prosecution is possessing 40 grams of marijuana or less, regardless of where or in how many places the drug is kept. Holding that Adel’s conduct constitutes only one violation of the statute, the Court reversed one his two convictions. Id.

Here, Chouap was convicted of two counts of attempting to elude a pursuing police vehicle under RCW 46.61.024(1) which provides:

Any driver of a motor vehicle who willfully fails or refuses to immediately bring his vehicle to a stop and who drives his vehicle in a reckless manner while attempting to

elude a pursuing police vehicle, after being given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a class C felony. The signal given by the police officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and the vehicle shall be equipped with lights and sirens.

“Both the language and the legislative history of RCW 46.61.024 indicate that the Legislature enacted the statute to address the dangers of high-speed chases. State v. Malone, 106 Wn.2d 607, 611, 724 P.2d 364 (1986)(citing House Comm. on the Judiciary, Report on House Bill 2468, 46th Legislature (1979)). The issue under the statute is the nature of the defendant’s behavior *after* the police initiate a stop. Id. In Malone, our Supreme Court emphasized that Malone’s “extreme recklessness during the high-speed chase” by a deputy threatened the lives of Washington citizens. The Court concluded that his “conduct clearly falls into the behavior that the Legislature intended to address” when it enacted the statute. Id. It is evident that the unit of prosecution in RCW 46.61.024 is driving a vehicle in a reckless manner while attempting to elude a police vehicle.

Once the unit of prosecution is determined, a factual analysis is necessary to decide whether, under the facts of the case, more than one unit of prosecution is present. State v. Westling, 145 Wn.2d 607, 612, 40 P.3d 669 (2002). The record here substantiates that the facts show only

one unit of prosecution. Tacoma Police Officer Rasmussen was on patrol at around 2:46 a.m. on March 5, 2010, in University Place where he recognized Chouap driving a black Cadillac. When his partner Officer Walkinson began following Chouap, “the vehicle accelerated at a high rate of speed.” 7RP 84-86, 88-89, 98. Walkinson activated his lights and siren but Chouap continued driving “well over” the speed limit of 35 miles per hour. 7RP 89-92. When Chouap kept driving recklessly through a residential area, they terminated the pursuit but alerted dispatch:

Q. Did you at any time radio other police agencies that this black Cadillac was not pulling over, was indicating a refusal to pull over and was trying to get away?

A. Yes, I did.

Q. Which agencies did you radio?

A. It's common practice that when we have a vehicle failing to yield or we are in a vehicle pursuit, LESA dispatch will automatically advise other surrounding agencies, Pierce County Sheriff's Office, Lakewood PD, University Place, State Patrol that we either have one failing to yield or we are in a vehicle pursuit.

Q. And that is so everybody can assist?

A. Correct.

7RP 93-94, 104.

Lakewood Police Officer Syler learned at about 3 a.m. that a black Cadillac that Tacoma Police tried to stop could be heading toward Lakewood on Bridgeport Way. 8RP 171-72. Based on the information he received, he drove to a Wal-Mart on Bridgeport. While waiting in the parking lot, he saw Chouap drive by in a black Cadillac at a “normal” speed but when Syler pulled out behind the car, it “immediately accelerated to a high rate of speed.” 8RP 175-76. Syler activated his lights and siren and pursued the car for a few miles until he eventually caught Chouap and other officers arrested him. 8RP 177-90, 195-96.

Under the statutory analysis in Adel, Chouap was “equally guilty” of driving in a reckless manner while attempting to elude a police vehicle whether there are one or several police vehicles in pursuit. The unit of prosecution is driving in a reckless manner while attempting to elude a police vehicle regardless of how many different police agencies he tried to elude throughout the pursuit. Adel, 136 Wn.2d at 637. Any “lack of statutory clarity favors applying the rule of lenity” and finding Chouap guilty of only one count. Id. at 635. “The Double Jeopardy Clause is not such a fragile guarantee that prosecutors can avoid its limitations by the simple expedient of dividing a single crime into a series of temporal or spatial units.” Id. at 635 (citing Brown, 432 U.S. at 169).

Chouap's second conviction of attempting to elude a pursuing police vehicle must be reversed and dismissed because the facts establish that he committed only one unit of prosecution of the crime. "Multiple convictions are proper only where the facts of the case support multiple units of prosecution committed." Westling, 147 Wn.2d at 612.

2. THE TRIAL COURT ERRED IN INSTRUCTING THE JURY THAT IT MUST UNANIMOUSLY AGREE ON AN ANSWER TO THE SPECIAL VERDICT.

Chouap received a sentence enhancement for attempting to elude a pursuing police vehicle while endangering one or more persons other than the defendant or pursuing police officer. CP 89. Reversal of the sentence enhancement is required because the trial court erred in instructing the jury that it must unanimously agree on an answer to the special verdict and the error was not harmless pursuant to the Washington Supreme Court's decision in State v. Bashaw, 169 Wn.2d 133, 234 P.3d 195 (2010).

In Bashaw, the defendant was charged with three counts of delivery of a controlled substance and the State sought a sentence enhancement alleging that the sales took place within 1000 feet of a school bus route stop 169 Wn. 2d at 137. The trial court provided special verdict forms and instructed that the jury, "Since this is a criminal case, all twelve of you must agree on the answer to the special verdict." Id. at 139. The

Supreme Court concluded that the jury instruction on the special verdict was an “incorrect statement of the law” because although “unanimity is required to find the *presence* of a special finding increasing the maximum penalty, it is not required to find the *absence* of such a special finding.” Id. at 147 (citation omitted). The Court reversed the sentence enhancements, holding that because the jury instruction stated that unanimity was required for either determination, it was erroneous and the error was not harmless. Id. at 147-48.

The trial court here provided a jury instruction all but identical to the erroneous instruction given in Bashaw:

Because this is a criminal case, all twelve of you must agree in order to answer the special verdict form. In order to answer the special verdict form “yes”, you must unanimously be satisfied beyond a reasonable doubt that “yes” is the correct answer. If you unanimously have a reasonable doubt as this question, you must answer “no”.

CP 75-76, Instruction No. 22.

The Supreme Court’s analysis focused on the fundamental right to due process. The Court concluded that “[t]he error here was the procedure by which unanimity would be inappropriately achieved” and “[t]he result of the flawed deliberative process tells us little about what result the jury would have reached had it been given the correct instruction.” Bashaw, 169 Wn.2d at 147.

Importantly, the Court applied the constitutional harmless error test to determine whether the trial court's error was harmless. The Court determined that in order to hold that the jury instruction was harmless, "we must 'conclude beyond a reasonable doubt that the jury verdict would have been the same absent the error.'" Id. at 147 (citing State v. Brown, 147 Wn.2d 330, 341, 58 P.3d 889 (2002), which quoted Neder v. United States, 527 U.S. 1, 19, 119 S. Ct. 1827, 144 L. Ed. 2d 35 (1999)). The Court reversed the sentence enhancements, concluding that the error was not harmless:

[W]hen unanimity is required, jurors with reservations might not hold to their positions or may not raise additional questions that would lead to a different result. We cannot say with any confidence what might have occurred had the jury been properly instructed. We therefore cannot conclude beyond a reasonable doubt that the jury instruction error was harmless.

Id. at 147-48.

As in Bashaw, it cannot be concluded beyond a reasonable doubt that the jury instruction was harmless because the only testimony regarding whether anyone else was endangered occurred during the questioning of Officer Syler where he stated that another driver "[h]ad to make an evasive action, pulled to the right of the road to avoid being struck by the fleeing vehicle." 8RP 182. In light of the fact that seven officers testified and the only evidence of any endangerment to another

person was Officer's Syler limited testimony, it cannot be concluded beyond a reasonable doubt that the special verdict would have been the same absent the error.²

The sentence enhancement must be reversed because as the Washington Supreme Court concluded, the jury instruction stating that all 12 jurors must agree on an answer to the special verdict was an incorrect statement of the law and the error was not harmless. Godefroy v. Reilly, 146 Wn. 257, 259, 262 P. 539 (1928)(when the Supreme Court has once decided a question of law, that decision, when the question arises again, is binding on all lower courts); State v. Gore, 101 Wn.2d 481, 487, 681 P.2d 227 (1984)(it is error for the Court of Appeals not to follow directly controlling authority by the Supreme Court).³

² The jury also found by special verdict that assault in the second degree was committed against a law enforcement officer who was performing his official duties at the time of the crime and the defendant knew the victim was a law enforcement officer. CP 82. The error was harmless beyond a reasonable doubt as to this special finding given the overwhelming evidence.

³ Division Three and Division One reached opposite conclusions on this issue, but in any case, this Court is bound by the decision of the Supreme Court. State v. Nunez, 160 Wn. App. 150, 165, 248 P. 3d 103 (2011)(because we are satisfied that the claimed instructional error was not manifest constitutional error, we will not review it for the first time on appeal); State v. Ryan, No. 64726-1-I, 2011 WL 1239796, at 2 (we are constrained to conclude that under Bashaw, the error must be treated as one of constitutional magnitude and is not harmless).

3. REMAND FOR RESENTENCING IS REQUIRED BECAUSE CHOUAP'S SENTENCE EXCEEDS THE STATUTORY MAXIMUM IN VIOLATION OF RCW 9.94A.701(8) RECODIFIED AS RCW 9.94A.701(9).⁴

The trial court sentenced Chouap to 120 months in confinement and 18 months of community custody for his conviction of assault in the second degree. CP 89-90. A remand for resentencing is required because the sentence exceeds the statutory maximum of 10 years contrary to RCW 9.94A.701(9), which requires the trial court to reduce the term of community custody whenever an offender's term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime.

In 2009, the Legislature passed Engrossed Substitute S.B. 5288, 61st Leg., Reg. Sess. (Wash.2009), effective August 1, 2009, amending RCW 9.94A.701 and adding 9.94A.701(8) which provides:

The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

LAWS of 2009, ch. 375, section 5.

⁴ Effective June 10, 2010, RCW 9.94A.701(8) was recodified as RCW 9.94A.701(9). Laws of 2010, ch. 224, section 5.

Generally, statutes are presumed to apply prospectively, unless there is some legislative indication to the contrary. Macumber v. Shafer, 96 Wn.2d 568, 570, 637 P.2d 645 (1981). Here, the legislature explicitly stated that the statute applies retroactively as well as prospectively:

This act applies retroactively and prospectively regardless of whether the offender is currently on community custody or probation with the department, currently incarcerated with a term of community custody or probation with the department, or sentenced after the effective date of this section.

LAWS of 2009, ch. 375, section 20.

The statute therefore applies to Chouap because he is currently incarcerated with a term of community custody. Accordingly, Chouap's sentence must be amended to remove the community custody as required under RCW 9.94A.701(9).

4. REMAND IS REQUIRED BECAUSE THE TRIAL COURT ERRED BY SEALING THE JURY QUESTIONNAIRES WITHOUT FIRST CONDUCTING THE REQUIRED BONE-CLUB ANALYSIS.

Article I, section 10 of the Washington Constitution provides that "Justice in all cases shall be administered openly." Division One of this Court recently concluded in State v. Tarhan, 159 Wn. App. 819, 246 P.3d

580 (2011), that a trial court must conduct a Bone-Club⁵ analysis before sealing jury questionnaires and the court's failure to do so violates the public's right to open and accessible court proceedings under article I, section 10. 159 Wn. App. at 834. The court held that the appropriate remedy is to remand the case for reconsideration of the sealing order in light of Bone-Club and other relevant authority. 159 Wn. App. at 835.

Here, prior to voir dire, defense counsel and the prosecutor agreed to provide a jury questionnaire to the prospective jurors. Upon being informed of this agreement, the trial court stated that the judicial assistant would deliver the jury questionnaires to the venire. 7RP 74-75. The record reflects no discussion about whether the jury questionnaires should be sealed. However, on the last day of trial, the court entered an order

⁵ The trial court must perform a weighing test consisting of five criteria:

1. The proponent of closure or sealing must make some showing [of a compelling interest], and where that need is based on a right other than an accused's right to fair trial, the proponent must show a "serious and imminent threat" to that right.
2. Anyone present when the closure motion is made must be given an opportunity to object to the closure.
3. The proposed method for curtailing open access must be the least restrictive means available for protecting the threatened interests.
4. The court must weigh the competing interests of the proponent of closure and the public.
5. The order must be no broader in its application or duration than necessary to serve its purpose.

Bone-Club, 128 Wn.2d 254, 258-59, 906 P.2d 325 (1995).

sealing the jury questionnaires. Supp. CP___ (Order Sealing Jury Questionnaires, 09/14/2010).

As in Tarhan, remand is required for the trial court to reconsider sealing the order pursuant to properly conducting a Bone-Club analysis.

5. CHOUAP'S EXCEPTIONAL SENTENCE MUST BE REVERSED BECAUSE IT IS NOT LEGALLY JUSTIFIED.

An exceptional sentence may be imposed if the trial court finds "substantial and compelling" reasons to go outside the standard range. RCW 9.94A.535. An exceptional sentence is reviewed to see if either (a) the reasons for the exceptional sentence are not supported by the record or do not justify an exceptional sentence, or (b) the sentence imposed is clearly excessive or clearly too lenient. RCW 9.94A.585(4). Thus, appellate courts review to see if the exceptional sentence has a factual basis in the record, is a legally justified reason, and is not too excessive or lenient. State v. Law, 154 Wn.2d 85, 93, 110 P.3d 717 (2005).

Here, the trial court imposed an exceptional sentence ordering Chouap to serve his sentence for assault in the second degree consecutive to his sentences for attempting to elude a pursuing police vehicle. CP 89. In its Findings of Fact and Conclusions of Law supporting the exceptional sentence, the court found that "[t]he jurors returned a special verdict finding that the defendant driving endangered another person other than

the defendant or one of the pursuing police officers” and “the imposition of an exceptional sentence will assure that the defendant is punished for all three of these offenses.” Findings of Fact V and VII.

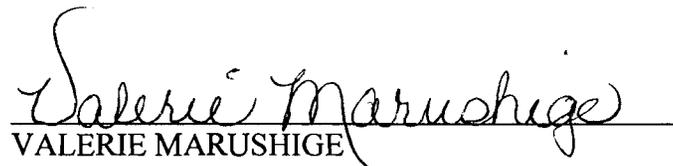
As argued above, the special verdict was based on an erroneous jury instruction and Chouap’s second conviction of attempting to elude a pursuing police vehicle violated double jeopardy. Consequently, Chouap’s exceptional sentence must be reversed because a significant aspect of the court’s reasons supporting the sentence is not legally justified.

D. CONCLUSION

For the reasons stated, this Court should reverse and dismiss Mr. Chouap’s second conviction of attempting to elude a pursuing police vehicle, reverse the sentence enhancement, reverse the exceptional sentence, and remand for resentencing.

DATED this 24th day of June, 2011.

Respectfully submitted,


VALERIE MARUSHIGE
WSBA No. 25851
Attorney for Appellant, Kamara Kam Chouap

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.

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

DATED this 24th day of June 2011, in Kent, Washington.


VALERIE MARUSHIGE
Attorney at Law
WSBA No. 25851

STATE OF WASHINGTON
JUN 27 11 00 AM '11
BY  [Signature]
[Faint text]

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 Kamara Kam Chouap, DOC # 811874, Coyote Ridge Corrections Center, P.O. Box 769, Connell, Washington 99326.

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

DATED this 24th day of June 2011, in Kent, Washington.

/s/ Valerie Marushige
VALERIE MARUSHIGE
Attorney at Law
WSBA No. 25851

MARUSHIGE LAW OFFICE

June 27, 2011 - 9:13 AM

Transmittal Letter

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Case Name: State v. Chouap

Court of Appeals Case Number: 41426-1

- Designation of Clerk's Papers
- Statement of Arrangements
- Motion: _____
- Answer/Reply to Motion: _____
- Statement of Additional Authorities
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Copy of Verbatim Report of Proceedings - No. of Volumes: _____
Hearing Date(s): _____
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Other: Amended Declaration of Service

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