

No. 42577-7-II

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

NICHOLAS MICHAEL RICKMAN,

Appellant.

On Appeal from the Pierce County Superior Court
Cause No. 09-1-01897-1
The Honorable Vicki Hogan, Judge

OPENING BRIEF OF APPELLANT

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I. ASSIGNMENTS OF ERROR

1. Nicholas Rickman was denied his constitutional right to effective assistance of counsel when his trial attorney failed to request instructions on the lesser degree offense of second degree assault.
2. The trial court violated Nicholas Rickman's constitutional right to a public trial when it sealed the juror questionnaires without first conducting the required Bone-Club¹ analysis.
3. The trial court violated the constitutional requirement of public access to court records when it sealed the juror questionnaires without first conducting the required Bone-Club analysis.

II. ISSUES PERTAINING TO THE ASSIGNMENTS OF ERROR

1. Was trial counsel ineffective for failing to request instructions on the lesser degree offense of second degree assault, where the instruction was factually supported and an "all or nothing" strategy was unreasonable under the circumstances of this case? (Assignment of Error 1)
2. Did the trial court violate the constitutional requirements of a

¹ State v. Bone-Club, 128 Wn.2d 254, 259, 906 P.2d 325 (1995).

public trial and public access to court records, when it sealed the juror questionnaires on the same date that jury selection was conducted, without first conducting the required Bone-Club analysis? (Assignments of Error 2 & 3)

III. STATEMENT OF THE CASE

A. PROCEDURAL HISTORY

The State charged Nicholas Michael Rickman by Amended Information with one count of attempted first degree murder (RCW 9A.28.020, 9A.32.020) and one count of assault in the first degree (RCW 9A.36.011(1)(a), (1)(c)). (CP 19-21) The State further alleged that Rickman was armed with a deadly weapon (a knife) during the commission of the alleged offenses (RCW 9.94A.530, .533, .602, .825). (CP 19-21) Rickman asserted that he acted in self-defense. (CP 5)

The jury found Rickman not guilty of attempted murder but guilty of first degree assault, and found that he was armed with a deadly weapon during the offense. (CP 178-81; RP 1742) The trial court sentenced Rickman to a standard range sentence of 108 months plus a 24-month deadly weapon sentence enhancement. (CP 189-90) This appeal timely follows. (CP 202)

B. SUBSTANTIVE FACTS

Nicholas Rickman, Alex Leslie, Daniel Cedarland and Jacob Diaz spent the night of April 6 -7, 2009, drinking together at various Tacoma nightclubs. (RP 211-12, 471, 474, 476, 767-68, 770-71, 1321, 1323) At around 2:00 in the morning, the group left a club called Jazzbones, got into Diaz's car, and started driving to Rickman's house near Gig Harbor. (RP 475, 477-78, 771, 1325) All four men were extremely intoxicated, but Diaz nevertheless got behind the wheel, Rickman sat next to him in the front passenger seat, and Leslie and Cedarland sat in the back. (RP 477-78, 521, 526, 771, 806, 810, 1328)

Rickman was behaving in a way that Diaz felt was rude, and Diaz became angry. (RP 479, 772, 1326, 1327) In fact, Diaz was so angry that he pulled the car to the side of the road, got out of the car, pounded on the hood, yelled at Rickman to get out of the car also, then opened the passenger-side door and tried to pull Rickman out of the car. (RP 479, 481, 482, 525, 772, 773, 1329-20) Rickman stayed in the car and refused to fight Diaz. (RP 482, 526-27, 530, 773, 1488-89)

Diaz eventually calmed down, and the four men once again drove towards Gig Harbor. (RP 483, 774, 1331) At first everyone

was quiet, but then Diaz began discussing Rickman's behavior again. (RP 483-84, 774, 1333) Rickman stayed quiet and did not respond to Diaz's complaints, which only seemed to make Diaz angrier. (RP 488, 490, 534, 774-75, 777) Diaz became "enraged," and threatened to "kick [Rickman's] ass" and "fuck [Rickman] up" when they arrived at Rickman's house. (RP 490, 526, 534, 776, 815, 823-24, 1402, 1420, 1418, 1421)

Diaz was driving the car at excessive speeds, and when he arrived at Rickman's home he "whipped" into the driveway and jerked to an abrupt stop. (RP 491, 774, 777, 825) Diaz "flew" out of the car and moved quickly around the front. (RP 491, 495) Rickman also exited the car, and he and Diaz met at the front passenger-side of the car. (RP 491, 1336, 1339) Diaz testified that he planned to "confront" Rickman and to "kick his ass." (RP 1334, 1335, 1421)

Leslie testified that Diaz and Rickman "locked together" at the front of the car. (RP 491) Cedarland testified that as he was walking towards Rickman's house, he heard "scuffling" but ignored it because he thought it was "just two drunk guys probably arguing, or whatever[.]" (RP 777) But Diaz testified that he and Rickman did not scuffle and that Rickman "immediately" stabbed him in the

chest. (RP 1339, 1340)

Cedarland and Leslie heard Diaz call out, and saw that Diaz was holding his side and bleeding profusely. (RP 494-95, 779) Diaz said that Rickman had stabbed him. (RP 491) Cedarland and Leslie helped Diaz to Rickman's porch and tried to stop the bleeding. (RP 491-92, 499, 779-80) Rickman and Leslie both called 911, but neither of them told the 911 dispatcher that Rickman was the person who stabbed Diaz. (RP 502, 504-05, 1539)

Diaz suffered life threatening stab wounds to his chest and abdomen caused by what his treating physician believed was a knife with a blade of at least three inches long. (RP 616, 619, 620, 629-30, 648-49) After two surgeries to repair the internal injuries, Diaz was declared critical but stable, and he spent a week recovering in the intensive care unit. (RP 640-41, 643, 644, 1354, 1355)

Investigators found a great deal of blood on and around Diaz's car. (RP 217, 879, 1090, 1097) They searched for but did not recover a knife. (RP 226, 227, 891, 892) Rickman was interviewed at the scene and did not initially admit to his involvement and told the detective that another man had stabbed Diaz and fled the scene, but eventually Rickman told the detective

that he stabbed Diaz because he thought Diaz was going to kill him. (RP 223-24, 226, 250)

The State's forensic scientist examined the bloodstains on Rickman's clothing, and testified that one would expect to see more blood deposited on Rickman's clothing if he had been in close contact with Diaz when the stabbing occurred. (RP 1154-55, 1167, 1171) But she also noted a large "disturbance" of the dust on the hood of Diaz's car, which appeared to have been made before any of Diaz's blood was deposited on the hood. (RP 1172)

Rickman testified that the issues began that night when Diaz began to pull away from Jazzbones without Rickman. (RP 1486) Rickman told Diaz that leaving him without a ride was not something a good friend would do, which caused Diaz to become angry. (RP 1486-87) Diaz told Rickman that he was being disrespectful, and Rickman apologized. (RP 1488)

But Diaz remained angry, and pulled the car over, tried to pull Rickman out of the car, and said he would kick Rickman's ass and "fuck him up." (RP 1488-89) Rickman could not understand why Diaz was so angry, so Rickman stayed in the car and did not get out to fight Diaz. (RP 1488, 1491)

On the remaining drive back to Gig Harbor, Diaz said to

Rickman: "Wait until we get to your house, I am going to fucking kill you." (RP 1492) Diaz's erratic driving and his threats made Rickman feel afraid, and he believed that Diaz would carry through on his threats. (RP 1493-94, 1512) His fear was also based in part on Rickman's knowledge of a prior incident where Diaz threatened and then assaulted a person he was upset with. (RP 1476-78, 1525)

When Diaz pulled into Rickman's driveway, Rickman told Diaz to go home. (RP 1494) Then Rickman grabbed his keys and a pocket knife he often carries, and got out of the car.² (RP 1509-10, 1521, 1540) Rickman wanted to get away from Diaz as quickly as possible, and his only plan was to go inside his house. (RP 1495)

But Diaz immediately came toward Rickman, grabbed him, and pushed him onto the hood of the car. (RP 1495, 1496) Diaz started punching Rickman in the head. (RP 1496) Rickman tried to fight back, but Diaz had overpowered him. (RP 1497) Rickman was afraid Diaz would not stop and could beat him to death, and he panicked. (RP 1497, 1512, 1521, 1575) Rickman opened his knife

² Rickman often carries his pocket knife to use in his construction job, when he goes fishing, or for other tasks that may arise. (RP 1509-10)

and stabbed Diaz. (RP 1521, 1523) Rickman testified that he was afraid for his life, and felt he had no other option. (RP 1575, 1581)

IV. ARGUMENT & AUTHORITIES

A. TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO PROPOSE A LESSER INCLUDED OFFENSE INSTRUCTION OF SECOND DEGREE ASSAULT

Effective assistance of counsel is guaranteed by both our Federal and State Constitutions. U.S. Const. amd. VI and Wash. Const. art. I, § 22 (amend. x); Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); State v. Mierz, 127 Wn.2d 460, 471, 901 P.2d 286 (1995). A criminal defendant claiming ineffective assistance of counsel must prove (1) that the attorney's performance was deficient, i.e. that the representation fell below an objective standard of reasonableness under the prevailing professional norms, and (2) that prejudice resulted from the deficient performance, i.e., that there is a reasonable probability that, but for the attorney's unprofessional errors, the results of the proceedings would have been different. State v. Early, 70 Wn. App. 452, 460, 853 P.2d 964 (1993); State v. Graham, 78 Wn. App. 44, 56, 896 P.2d 704 (1995).

A "reasonable probability" means a probability "sufficient to undermine confidence in the outcome." State v. Leavitt, 49 Wn.

App. 348, 359, 743 P.2d 270 (1987). However, a defendant “need not show that counsel’s deficient conduct more likely than not altered the outcome of the case.” Strickland, 466 U.S. at 693.

A defendant has the right to have lesser included offenses presented to the jury. RCW 10.61.006; State v. Stevens, 158 Wn.2d 304, 310, 143 P.3d 817 (2006). Defense counsel’s failure to seek instructions on an inferior degree offense or lesser included offense can deprive the accused of effective assistance of counsel. See State v. Breitung, 155 Wn. App. 606, 615, 230 P.3d 614 (2010).

In this case, defense counsel’s failure to request an instruction on second degree assault deprived Rickman of effective assistance of counsel, because Rickman was entitled to the instruction and it was objectively unreasonable to pursue an all-or-nothing strategy.

1. *Rickman Was Entitled to an Instruction on Second Degree Assault*

A lesser included instruction should be given when: (1) each of the elements of the lesser offense is a necessary element of the charged offense (legal prong); and (2) the evidence supports an inference that the defendant committed only the lesser crime

(factual prong). State v. Smith, 154 Wn. App. 272, 277-78, 223 P.3d 1262 (2009) (citing State v. Workman, 90 Wn.2d 443, 447-48, 584 P.2d 382 (1978)). Both prongs are satisfied in this case.

First, it is well settled that second degree assault is an inferior degree offense of first degree assault. State v. Fernandez-Medina, 141 Wn.2d 448, 455-56, 6 P.3d 1150 (2000) (citing State v. Foster, 91 Wn.2d 466, 472, 589 P.2d 789 (1979)); Breitung, 155 Wn. App. at 613-14. Thus, the legal prong is easily met.

Turning to the factual prong, a lesser or inferior degree offense instruction should be given “if the evidence would permit a jury to rationally find a defendant guilty of the lesser offense and acquit him of the greater.” Fernandez-Medina, 141 Wn.2d at 456 (quoting State v. Warden, 133 Wn.2d 559, 563, 947 P.2d 708 (1997)). In other words, the instruction should be given when the evidence raises an inference that the lesser offense was committed to the exclusion of the charged offense. Fernandez-Medina, 141 Wn.2d at 455.

First degree assault (as charged and instructed in this case) occurs when a person, *with intent to inflict great bodily harm*, assaults another with a deadly weapon or assaults another and inflicts great bodily harm. RCW 9A.36.011(1)(a), (c); CP 20, 167.

Second degree assault can be accomplished when, without intent to inflict bodily harm, a person assaults another and recklessly inflicts substantial bodily harm, or assaults another with a deadly weapon. RCW 9A.36.021(1)(a), (c).

When determining if the evidence at trial was sufficient to support the giving of an instruction, the appellate court views the evidence in a light most favorable to the accused. Fernandez-Medina, 141 Wn.2d at 456. The instruction should be given even if there is contradictory evidence, or if other defenses are presented. Fernandez-Medina, 141 Wn.2d at 456.

Under this favorable standard, the trial court would likely have given a second degree assault instruction had Rickman's trial counsel proposed one. The testimony from both State and defense witnesses established that Diaz threatened numerous times to either "kick [Rickman's] ass" or to "fuck [Rickman] up" once they arrived at Rickman's house. (RP 490, 526, 534, 776, 815, 823-24, 1402, 1418, 1420-21) Diaz himself testified that his intent upon exiting the car was to "confront" Rickman and "kick his ass". (RP 1421) On the other hand, Rickman made no threats against Diaz. (RP 527, 534, 777, 1332) Rickman was on his own property when Diaz attacked, and therefore had no duty to retreat and every right

to stand his ground and use force to defend himself.³

Rickman testified that he was afraid that Diaz would carry out his threats, and was only trying to defend himself from bodily harm or death. (RP 1521, 1575, 1581) Rickman also testified that he panicked, and that he does not specifically remember opening the knife and using it against Diaz. (RP 1497, 1498, 1522)

This evidence supports a theory that Rickman did not stab Diaz with the intent to cause him great bodily harm, but instead used excessive force in defending himself.⁴ An instruction on second degree assault, by either use of a deadly weapon or by reckless infliction of substantial bodily harm, is consistent with this theory and would have been given if requested.

2. *Failing to Propose a Second Degree Assault Instruction Was Not a Reasonable Trial Strategy and Was Prejudicial*

The decision to forgo an instruction on a lesser included offense is not ineffective assistance of counsel if it can be characterized as part of a legitimate trial strategy to obtain an acquittal. State v. Hassan, 151 Wn. App. 209, 218, 211 P.3d 441

³ A person has no duty to retreat when he is assaulted in a place where he has a right to be. See State v. Studd, 137 Wn.2d 533, 549, 973 P.2d 1049 (1999).

⁴ The degree of force used in self-defense is limited to what a reasonably prudent person would find necessary under the conditions as they appeared to the defendant. See State v. Walden, 131 Wn.2d 469, 474, 932 P.2d 1237 (1997).

(2009); see also State v. Hoffman, 116 Wn.2d 51, 112, 804 P.2d 577 (1991). But defense counsel can be ineffective where a tactical decision to pursue an all-or-nothing approach, by not requesting a lesser included instruction, is objectively unreasonable. Hassan, 151 Wn. App. at 218-19. The defendant bears the burden of establishing the absence of any “conceivable legitimate tactic explaining counsel’s performance.” State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2004).

Rickman’s defense to the charges of first degree murder and first degree assault was that his use of force was justified because he was afraid for his safety when Diaz threatened to and then did attack him. This argument applies just as well to a charge of second degree assault. A jury instruction on that lesser degree offense therefore would not have required Rickman to abandon his theory of the case or make an argument contradictory to his self-defense claim.

Furthermore, the overall risk of forgoing the second degree assault instruction was great because it left the jurors with only two choices: (1) that Rickman intended to cause death or great bodily harm; or (2) that Rickman did nothing at all. The jury in this case rejected the State’s argument that Rickman acted with intent to

cause Diaz's death, but also apparently rejected Rickman's total self-defense claim. The jury could have simply concluded that Rickman was acting to defend himself, but used excessive force under the circumstances. Consistent with this conclusion, the jury might have found that Rickman did not stab Diaz with the intent to cause great bodily harm; but rather, he used more force than was reasonable under the circumstances and thereby committed some form of assault.

“Where one of the elements of the offense charged remains in doubt, but the defendant is plainly guilty of some offense, the jury is likely to resolve its doubts in favor of conviction.” State v. Grier, 150 Wn. App. 619, 643, 208 P.3d 1221 (2009) (quoting Keeble v. U.S., 412 U.S. 205, 212–13, 93 S. Ct. 1993, 36 L. Ed. 2d 844 (1973)). The lesser offense and lesser degree rules “afford[] the jury a less drastic alternative than the choice between conviction of the offense charged and acquittal.” Beck v. Alabama, 447 U.S. 625, 633, 100 S. Ct. 2382, 65 L. Ed. 2d 392 (1980).

A “third option” of finding a defendant guilty of a lesser degree of the offense gives the defendant the full benefit of the reasonable-doubt standard. Beck, 447 U.S. at 633. A second degree assault instruction in Rickman's case would have given the

jury the “third option” of convicting him of something that did not require intent to cause death or great bodily harm.

For example, the court in Grier found trial counsel ineffective for failing to propose the lesser included instruction of manslaughter in Grier’s second degree murder trial, where “the record supports a conclusion that Grier acted with the reasonable belief of imminent harm to herself or to Nathan, but that she recklessly or negligently used excessive force.” 150 Wn. App. at 639. The court found it unreasonable for defense counsel to ask jurors to outright acquit Grier on the insufficient evidence of the intent element alone because there was overwhelming evidence Grier was guilty of some offense: “In short, Owen’s being shot and killed was highly disproportionate to his advancing toward Grier and shoving her.” 150 Wn. App. at 643.

Similar circumstances exist in Rickman’s case. Diaz admittedly made verbal threats against Rickman that included his intent to “kick his ass,” and Diaz raced to “confront” Rickman at the front of the car. (RP 1334, 1335, 1420-21) But Diaz was unarmed, and suffered four very serious and life threatening stab wounds. (RP 616, 624, 620, 1332) It is quite plausible that the jury found that Rickman’s response to Diaz was “highly disproportionate” to

the threat Diaz actually posed, and he therefore deserved some level of punishment.

Finally, the all-or-nothing approach was unreasonable in this case because of the extreme difference in punishment between first degree assault and second degree assault. With an offender score of zero, Rickman faced a standard sentence of 93 to 123 months for first degree assault. RCW 9.94A.510, .525(9). (CP 187) In contrast, Rickman's standard range sentence for second degree assault would have been just three to nine months. RCW 9.94A.510, .525(8).

Counsel's failure to offer a second degree assault instruction was unreasonably risky under the circumstances of this case. Counsel's performance therefore fell below objective standards of reasonableness, and the deficient performance was prejudicial. Rickman's conviction should be reversed and his case remanded for a new trial.

B. SUMMARILY SEALING THE JUROR QUESTIONNAIRES VIOLATED RICKMAN'S RIGHT TO A PUBLIC TRIAL AND OPEN COURT RECORDS

The court and parties used juror questionnaires to assist them in jury selection. (RP 6-7; Sup CP 215-19) The court reminded the parties that the completed questionnaires would not

be sealed without first conducting a hearing to determine whether sealing was necessary. (RP 6-7) Jury voir dire and selection were then conducted on June 8, 2011. (RP 138; Sup CP 449, 450-52, 453) On that same date, but without a hearing, the completed questionnaires were filed under seal. (Sup CP 220-448) The trial judge violated Rickman's right to an open and public trial by summarily sealing the juror questionnaires.

1. *The Trial Court Erred When it Sealed the Juror Questionnaires Without First Holding a Hearing to Consider Whether Sealing Was Necessary and Appropriate*

An accused's right to a public trial is protected by both the state and federal constitutions. Specifically, the Sixth Amendment provides, "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. CONST. AMEND. VI. Similarly, the Washington Constitution provides "[i]n criminal prosecutions the accused shall have the right ... to have a speedy public trial by an impartial jury." WASH. CONST. ART. 1, § 22.

The Washington Constitution also provides that "[j]ustice in all cases shall be administered openly." WASH. CONST. ART. 1, § 10. This provision has been interpreted as protecting the right of the public and the press to open and accessible court proceedings,

similar to the public's right under the First Amendment. State v. Easterling, 157 Wn.2d 167, 174, 179, 137 P.3d 825 (2006) (citing Press-Enterprise Co. v. Superior Court, 478 U.S. 1, 7, 106 S. Ct. 2735, 92 L. Ed. 2d 1 (1986)).

The right to a public trial encompasses voir dire. Press-Enterprise Co. v. Superior Court, 464 U.S. 501, 508, 104 S. Ct. 819, 78 L. Ed. 2d 629 (1984); State v. Brightman, 155 Wn.2d 506, 515, 122 P.3d 150 (2005). However, the right to a public trial is not absolute. State v. Momah, 167 Wn.2d 140, 148, 217 P.3d 321 (2009); State v. Bone-Club, 128 Wn.2d 254, 259, 906 P.2d 325 (1995). But a trial court may restrict the right only “under the most unusual circumstances.” Bone-Club, 128 Wn.2d at 258. Before a court can close any part of a trial from the public, it must first apply on the record the five “Bone-Club” factors:

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 a 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 at 258-59 (quoting Allied Daily Newspapers v. Eikenberry, 121 Wn.2d 205, 210–11, 848 P.2d 1258 (1993)).

In State v. Waldon, the court held this same analysis applies to the sealing of court documents. 148 Wn. App. 952, 957, 202 P.3d 325 (2009). And in State v. Coleman, the court relied on Waldon and held that a trial court must conduct the Bone-Club analysis before sealing jury questionnaires. 151 Wn. App. 614, 623, 214 P.3d 158 (2009).

The trial court in this case did not hold a hearing to consider the Bone-Club factors before sealing the jury questionnaires. This was clear error under Waldon and Coleman.

2. *The Remedy Is a New Trial*

Where courts have found improper closure of voir dire, the remedy has been reversal and a new trial. See State v. Strode, 167 Wn.2d 222, 231 P.3d 310 (2009) (“denial of the public trial right is deemed to be a structural error and prejudice is necessarily presumed”). In Coleman, however, Division 1 rejected appellant’s structural error claim, finding that because questionnaires were not

sealed until several days after the jury was seated and sworn, “there is nothing to indicate that the questionnaires were not available for public inspection during the jury selection process,” which was conducted in open court. Coleman, 151 Wn. App. at 623-24. Under those circumstances, the court found the proper remedy was remand for reconsideration of the order sealing the questionnaires using the Bone-Club analysis. Coleman, 151 Wn. App. at 624.

In this case, the questionnaires were sealed on June 8, 2011, the same day the questionnaires were filed and the same day that voir dire and jury selection were conducted. And the questionnaire cover sheet explicitly states:

The information you provide is confidential and for use by the Judge and the lawyers during questions associated with jury selection. At the end of the jury selection process, the copies supplied to the lawyers will be collected and destroyed. The original will be filed in the court file.

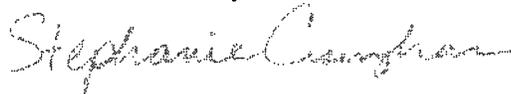
(Sup CP 215) Thus, unlike in Coleman, it appears that the questionnaires were never available for public inspection during the jury selection process. This violates Article I, section 10’s requirement that justice be administered openly. Therefore, unlike

in Coleman, the remedy in this case should be a new trial.⁵

V. CONCLUSION

Trial counsel's all-or-nothing approach to the jury instructions in this case was not a legitimate trial tactic and fell below objective standards of reasonableness, and therefore denied Rickman his constitutional right to effective assistance of counsel. Furthermore, the trial court improperly sealed the juror questionnaires without considering the required factors. On either or both of these grounds, Rickman's conviction should be reversed and his case remanded for a new trial.

DATED: February 21, 2012



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WSB #26436

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⁵ In State v. Tarhan, 159 Wn. App. 819, 246 P.3d 580 (2011), Division 1 again rejected the appellant's claim, under facts similar to Coleman, that the error was structural and required reversal. However, the Supreme Court has accepted review on that issue. See State v. Tarhan, Supreme Court No. 85737-7. And recently, in State v. Smith, this court rejected Coleman altogether, and held that "the trial court's sealing of the confidential juror questionnaires did not constitute a courtroom closure and, therefore, no Bone-Club analysis was required." 162 Wn. App. 833, 846-48, 262 P.3d 72 (2011). Consideration of co-appellant Jackson's petition for review on this issue has been stayed by the Supreme Court pending its decision in Tarhan. See State v. Jackson, Supreme Court No. 86386-5.

CERTIFICATE OF MAILING

I certify that on 02/21/2012, I caused to be placed in the mails of the United States, first class postage pre-paid, a copy of this document addressed to: Nicholas M. Rickman, DOC# 351865, Stafford Creek Corrections Center, 191 Constantine Way, Aberdeen, WA 98520.



STEPHANIE C. CUNNINGHAM, WSBA #26436

CUNNINGHAM LAW OFFICE

February 21, 2012 - 9:47 AM

Transmittal Letter

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