

NO. 42630-7-II

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

STATE OF WASHINGTON, Respondent

v.

ELVIA ROSAS-MIRANDA, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NO.11-1-00134-2

BRIEF OF RESPONDENT

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A. RESPONSE TO ASSIGNMENT OF ERROR

- I. The trial court properly ruled that the defendant's statements were admissible because the defendant was not in custody when they were made.
- II. The trial court's failure to enter timely findings of fact and conclusions of law was harmless.

B. STATEMENT OF THE CASE

I. Procedural History

The appellant, Elvia Rosas-Miranda (hereafter, "the defendant"), was charged by Amended Information with Count One: Possession of a Controlled Substance with Intent to Deliver – Heroin and Count Two: Possession of a Controlled Substance with Intent to Deliver – Methamphetamine. (CP 17). For both counts, the State alleged that the crimes occurred within 1,000 feet of a school bus route stop. (CP 17). The defendant was charged as an accomplice with Angel Rosas-Miranda (hereafter, "Angel").¹ (CP 17).

Following a trial by jury, the defendant was found guilty of Count One and Count Two. (CP 87, 90). The jury also found that the State

¹ Angel was also charged, individually, with two counts of Alien in Possession of a Firearm Without an Alien Firearm License and with one count of Maintaining a Dwelling for Controlled Substances. (CP 18).

proved the presence of the sentencing enhancement for both counts. (CP 89, 92).

Sentencing was held on September 28, 2011. (CP 95). The court sentenced the defendant to 40 months confinement on Count One and Count Two, to be served concurrently. (CP 97-98). This timely appeal followed. (CP 107).

II. Summary of Facts

On January 14, 2011, members of the Clark/Skamania County Drug Task Force (“DTF”) conducted a knock-and-talk at the residence of the defendant and her brother, Angel, who lived at 3708 NE 109th Avenue, Unit A411, in Vancouver, Washington. (RP 250). Officers suspected that the defendant and Angel may be involved in drug and gun activity, after they arrested their brother, Carlos Rosas-Miranda (hereafter, “Carlos”) for drug and gun charges. (RP 250, 631). Carlos lived in the same apartment complex and he had a vehicle registered to the defendant and Angel’s unit. (RP 631, 644).

Clark County Sheriff’s Office (“CCSO”) Detective Shane Hall, CCSO Detective Mike Cooke, and Vancouver Police Department Sergeant Patrick Moore each arrived at the defendant’s door. (RP 251). Each officer was also assigned to DTF and was working in his capacity as a DTF officer. (RP 251, 353, 404). Detective Hall is bilingual in Spanish

and he was responsible for speaking to the defendant and Angel. (RP 409, 421, 427). Angel answered the officers' knock at the door. (RP 688). Angel told Detective Hall that the defendant was in the bathroom. (RP 688). Angel left the officers for approximately thirty seconds in order to retrieve the defendant, he returned alone, and then he left for another two-to-three minutes in a second attempt to retrieve her. (RP 688, 719-20).

Once the defendant arrived at the door with Angel, Detective Hall requested and received both of their consent to enter and to search the residence. (RP 421). Detective Hall remained with the defendant and Angel while other officers searched the apartment. (RP 421). In the course of their search of the apartment, officers discovered the following items: suspected heroin, which was packaged and then wrapped inside a sweatshirt that was located inside a drawer under the kitchen stove; a functional digital scale, which was located inside a kitchen drawer; a second functional digital scale, which was located on a shelf inside the hall closet; a 9 millimeter Smith & Wesson firearm and a 9 millimeter Taurus handgun, which were located on a shelf inside a closet in Angel's bedroom, 2.2 ounces of suspected methamphetamine, which was contained inside a yellow box that was hidden under the box springs of Angel's bed; a marble-size ball of suspected heroin that was hidden inside a vacuum nozzle on a TV stand in Angel's bedroom; \$200.00 cash inside

Angel's wallet; \$900.00 cash inside a purse that also contained the defendant's photo ID and the defendant's cell phone; \$60.00 cash in a purse that was located in the master bathroom (which was connected to the defendant's bedroom), and wet packaging materials containing brown residue, which were located inside a garbage can next to the toilet in the master bathroom. (RP 270-74, 302, 304, 321-22, 334, 337-38, 356, 367).

Regarding the packaging material in the master bathroom, the defendant told Detective Hall that she became scared when Angel told her there were police at the door, so she went to her bedroom closet, she retrieved the packaging material and its contents, and then she flushed the contents down the toilet. (RP 434-35). The defendant told Hall that she flushed six-to-seven balls of "negra," which is Spanish slang for heroin. (RP 415, 435). The defendant also told Detective Hall that she did not have a job. (RP 450).

Each of the suspected drugs that were recovered from the defendant's and Angel's apartment tested positive for methamphetamine or heroin. (RP 547-553). The two firearms that were recovered at the defendant's and Angel's apartment contained the DNA profile for Angel. (RP 395-96). Detective Hall testified that, based on his training, his experience, and his professional involvement in hundreds of drug transactions, the evidence recovered from the apartment was consistent

with wholesale or mid-level drug dealing due to the quantity of drugs that were recovered, the types of packaging materials, the scales, the firearms, the cash, and the absence of tools for personal drug ingestion. (RP 416, 418-19, 436-49).

Carlos testified that he never lived with his brother and sister; however, Carlos claimed that he hid drugs, guns, and scales inside his siblings' apartment, without their knowledge. (RP 631-32, 636, 644). When Carlos was questioned about where he hid the scales within his siblings' apartment or about the quantity of drugs that he hid, he was unable to provide a coherent response. (RP 669-71).

The defendant testified that Carlos gave her "something to hold" on the same day that officers searched her and Angel's apartment. (RP 703). The defendant said she flushed these items down the toilet when law enforcement arrived because she learned that Carlos had been arrested and she became concerned that he had given her "something bad." (RP 704-05).

The defendant and Angel testified that that they had no idea that there were drugs, scales, or guns inside their apartment. (RP 681-82, 685, 703). The defendant and Angel also testified that, prior to his arrest; they had no idea that Carlos was a drug dealer. *Id.*

III. Facts Pertaining to CrR 3.5 hearing

The trial court conducted a combined CrR 3.5 and CrR 3.6 hearing on the morning of trial. (RP 5-6). At the hearing, Detective Hall testified that he and the two other officers arrived at the defendant and Angel's apartment at approximately 6:45 p.m., on January 14, 2011, in order to conduct a knock-and-talk. (RP 12-13). Detective Hall said that he was dressed in plain clothes and he was wearing a tactical vest that said "Police" on it, which had handcuffs and a holster for his firearm. (RP 22). Detective Hall said, at the time they arrived at the defendant and Angel's apartment, they only had a suspicion that the defendant and Angel may be involved in drug and gun activities. (RP 14).

Detective Hall testified that he spoke to the Angel and the defendant exclusively in Spanish. (RP 15, 88). Detective Hall said he received a Bachelor of Arts degree in Spanish, he worked in Mexico for two years, he has assisted as a Spanish interpreter for eleven years, and he is a certified Spanish communications facilitator for law enforcement. (RP 7-11).

Before any of the officers entered the apartment, Detective Hall testified that he insisted on speaking to both residents of the apartment: the defendant and Angel. (RP 17). Detective Hall said he told the defendant and Angel that they were interested in searching the apartment for drugs

and guns, but would not search the apartment without their consent. (RP 20). Detective Hall said he told the defendant and Angel that the search was voluntary. (RP 20). Detective Hall said he told them “they could refuse the permission, they could revoke the permission and they could limit the scope of the search at any time.” (RP 21). After Detective Hall advised both the defendant and Angel of these rights, he asked “if they were still willing to allow the search.” (RP 21). Detective Hall said he looked the defendant and Angel in the eyes and both responded “si” (“yes”). (RP 21, 90-91). Detective Hall testified that he did not receive any indications from the defendant or Angel that they did not understand. (RP 21, 90).

Detective Hall said he remained with the defendant, Angel, and the defendant’s children in the living room area, which was in the front of the apartment, while other officers conducted the search. (RP 22). Detective Hall said that he remained with the defendant, Angel, and the children, so that he would know if either of them wanted to revoke their consent, and he could then advise the other officers to stop the search. (RP 23). Detective Hall said he never told the defendant or Angel that they were not free to go into any of the other rooms in the apartment. (RP 23). Detective Hall said he never made any threats or promises; he did not “barge” into the residence; he never handcuffed or detained either the

defendant or Angel; and he never directed them to go anywhere with him. (RP 22, 32, 86). Detective Hall said he never told the defendant or Angel that they could not stop the search. (RP 23). Detective Hall testified that, throughout the course of the search, the defendant and Angel were not in custody, they were not under arrest, and “[t]hey were still free to leave at any time or stop the search at any time.” (RP 25).

Detective Hall said he never had any communication problems with the defendant or Angel. (RP 24). Detective Hall said their answers were always appropriate to his questions and they spoke freely to him throughout the course of the search. (RP 25, 32). Detective Hall said he engaged in a lot of “small talk” with the defendant, Angel, and the defendant’s children. (RP 85). Detective Hall said neither the defendant nor Angel appeared to be under the influence of intoxicants. (RP 31-32).

Detective Hall said, for brief periods of time, he spoke to either the defendant or Angel in the hallway, but he always remained within “earshot” of the other person, in case that person wanted to revoke his or her consent. (RP 23). Detective Hall said, at one point, he left both the defendant and Angel for approximately two minutes because “they had some visitors show up...[t]hey didn’t speak English so I helped interpret a little.” (RP 84).

Detective Hall said that the search of the apartment lasted approximately one and one-half hours. (RP 84). Detective Hall said, as the other officers discovered items, he would tell the defendant and Angel about what had been found. (RP 24). Detective Hall said the packaging materials in the master bathroom were discovered at the beginning of the search. He said

when we started the initial search we located some - - some plastic packaging material bearing what we suspected was heroin residue in the bathroom next to the toilet. So, I asked [the defendant] about that because I knew she was in the bathroom.

- (RP 28).

When the defendant testified at the hearing, she said Detective Hall asked for her consent to enter and to search the apartment and she said she gave him her consent. (RP 72-73). The defendant said Detective Hall and the two other officers did not enter the apartment until they received her and Angel's consent to enter. (RP 75). The defendant said, at some point, three to four additional officers showed up at the apartment. (RP 74).

Regarding the packaging materials that were discovered in the master bathroom, the defendant said

[a]fter I gave [Detective Hall] permission to come in, he came to the bedroom with my brother. And, he asked me what it is that I threw in the toilet. And, I told him, 'Yes, my brother gave me a little bag.'

(RP 75). Defense counsel asked the defendant, “[w]as this before any of the other officers arrived?” (RP 75). The defendant responded, “[y]es, it was before.” (RP 75). Defense counsel asked the defendant whether Detective Hall “required” her to go to the bedroom, to which the defendant responded, “[n]o. No.” (RP 75). The defendant testified that Detective Hall never told her to stay in any particular part of the apartment. (RP 74).

Following testimony, the trial court made oral rulings. (RP 108). The court found the defendant and Angel were properly advised of their *Ferrier* warnings, they understood their rights under *Ferrier*, and they understood their right to refuse consent. (RP 109-110, 113); *State v. Ferrier*, 136 Wn.2d 103, 960 P.2d 927 (1998). Next, the court found the defendant was not under arrest, or “under a custodial situation” when she made statements to Detective Hall. (RP 113-14). The court found that the case was in an “investigatory stage” in the proceedings at the time statements were made. (RP 114). The court found the defendant was in her own home, she was not placed in handcuffs, and she was not otherwise detained. (RP 114). Consequently, the court concluded that *Miranda* warnings were not required and the statements that the defendant made were voluntary and admissible. (RP 114).

The trial court subsequently entered written findings of fact and conclusions of law, which were filed on April 6, 2012.² (CP 124). The court found that Detective Hall remained in close proximity to the defendant and Angel so that he could advise the other officers if they wanted to revoke their consent to the search. (CP 127, Finding of Fact No. 11). The court found Detective Hall’s interaction with the defendant remained conversational in tone. (CP 127, Finding of Fact No. 14). The court found the defendant was in her own home, she was never handcuffed, her movements were not restricted, and she was not under arrest at any time while the search was conducted. (CP 127, Finding of Fact No. 13, 16). The court concluded that, “[i]f this was a detention of any kind, it was a *Terry*-type detention;” however, the court also concluded that the defendant was not in custody at the time she made statements she was never detained to a level associated with a formal arrest. (CP 128-29, Conclusion of Law No. 6, 7, 9). Accordingly, the court concluded that *Miranda* warnings were not required and the defendant’s statements were voluntary and admissible. (CP 129, Conclusion of Law No. 9, 10).

² On May 24, 2012, the State filed a motion to supplement the Clerk’s Papers to include the trial court’s *Findings of Fact and Conclusions of Law – CrR 3.6 & 3.6 Hearing*. The State presumes the court’s written findings and conclusions would be Clerk’s Papers 124-129.

C. ARGUMENT

- I. The trial court properly ruled that the defendant's statements to Detective Hall were admissible because the defendant was not in custody when they were made.

The defendant claims that Detective Hall's questioning of her constituted a custodial interrogation. *See* Brief of Appellant ("Brief"), at p. 9-13. Consequently, the defendant argues that the trial court erred when it admitted her statements to Detective Hall because they were made without prior advisement of her rights under *Miranda v. Arizona*. *Id.*; 384 U.S. 436, 444, 16 L. Ed. 2d 694, 86 S. Ct. 1602, 10 A.L.R.3d 974 (1966). The defendant's argument is without merit.

A trial court's findings of fact, following a CrR 3.5 hearing, are reviewed for substantial evidence. *State v. Broadaway*, 133 Wn.2d 118, 130-31, 942 P.2d 363 (1997). "Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the finding." *State v. Mendez*, 137 Wn.2d 208, 214, 970 P.2d 722 (1999). The trial court's conclusions of law are reviewed de novo. *State v. Armenta*, 134 Wn.2d 1, 9, 948 P.2d 1280 (1997).

The Fifth Amendment right against compelled self-incrimination requires law enforcement to inform a suspect of his or her *Miranda* rights prior to a custodial interrogation. *State v. Cunningham*, 116 Wn. App.

219, 227, 65 P.3d 325 (2003). The purpose of this requirement is to protect an individual “from the potentiality of compulsion or coercion inherent in in-custody interrogation” and from “deceptive practices of interrogation.” *State v. Hensler*, 109 Wn.2d 357, 362, 745 P.2d 34 (1987). The purpose of the *Miranda* requirement is not to unduly interfere “with a proper system of law enforcement” or to “preclude police from carrying out their traditional investigatory functions.” *Miranda*, 384 U.S. at 481. Consequently, *Miranda* warnings are unnecessary when either custody or interrogation is not present. *Id.*, at 444.

For the purposes of *Miranda*, “custodial interrogation” means “questioning elicited by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” *Miranda*, at 444. Washington applies the same standard. *State v. Hawkins*, 27 Wn. App. 78, 82, 615 P.2d 1327 (1980). The definition of “custody” is narrowly circumscribed. *State v. Post*, 118 Wn.2d 596, 606, 826 P.2d 172 (1992). Custody requires a formal arrest or a “‘restraint on freedom of movement’ of the degree associated with a formal arrest.” *Post*, 118 Wn.2d at 606 (quoting *Minnesota v. Murphy*, 465 U.S. 42, 430, 104 S. Ct. 1136 (1984)). The court reviews the totality of the circumstances in order to determine whether a suspect was in custody. *See Thompson v. Keohane*, 516 U.S. 99, 112, 116 S. Ct. 457, 133

L. Ed. 2d 383 (1995). The relevant inquiry is whether a reasonable person, under the totality of the circumstances, would believe his freedom of action was restricted to such a degree that he or she could not terminate the interrogation and leave. *Thompson* 516 U.S. at 112; *Berkemer v. McCarty*, 468 U.S. 420, 442, 104 S. Ct. 3138 (1984).

An interrogation that is conducted within a suspect's home is not *per se* custodial. See *Beckwith v. United States*, 425 U.S. 341, 342-43, 47, 96 S. Ct. 1612 (1976). To the contrary, the courts have found that the element of coercion and compulsion that concerned the Court in *Miranda* is less likely to be present when the suspect is in "familiar surroundings." *United States v. Craighead*, 539 F.3d 1073 (9th Cir. 2008), *citing see Orozco v. Texas*, 394 U.S. 324, 326, 89 S. Ct. 1095 (1969). In *Craighead*, the Ninth Circuit set forth a list of non-exhaustive factors to consider when determining whether an in-home interrogation was custodial, including:

(1) the number of law enforcement personnel and whether they were armed; (2) whether the suspect was at any point restrained, either by physical force or by threats; (3) whether the suspect was isolated from others; and (4) whether the suspect was informed that he was free to leave or terminate the interview, and the context in which any such statements were made.

Craighead, 539 F.3d at 1083-84. Applying these factors to the defendant's case, the Court in *Craighead* found the defendant was in custody when eight armed officers from three different agencies arrived at

his home to execute a search warrant, when a number of the officers unholstered their weapons in the defendant's presence, when two officers directed the defendant to a storage room in the back of his home to have a "private conversation," when the officers closed the door to the storage room, and when one officer stood with his back to the door while wearing a flak jacket and displaying a firearm. *Craighead*, 539 F.3d at 1078, 1085-90 (finding behavior of officers suggested they were prepared for a confrontation, finding defendant was isolated and restrained when he was closed into the storage room, and finding it would not have been reasonable for defendant to believe he could terminate the encounter until the officers had completed the execution of the search warrant); *see also United States v. Revels*, 510 F.3d 1269, 1276-77 (10th Cir. 2007) (finding that handcuffing of suspect upon entry into her home by law enforcement contributed to a custodial environment); *Sprosty v. Buchler*, 79 F.3d 635, 642-43 (7th Cir. 1996) (finding that police officers' use of their police cars to block the suspect's driveway to prevent his departure, and their standing so as to block the suspect's exit path from his home, contributed to a custodial environment); *State v. Richmond*, 65 Wn. App. 541, 544, 828 P.2d 1180 (1992) (finding suspect was in custody when one officer "burst" into suspect's apartment, pulled his gun, and told suspect to "freeze;"

after which, second officer “subdued” suspect while first officer searched his apartment).

Here, the relevant inquiry is what a reasonable person in the defendant’s situation would have believed at the time the challenged statement was made. The only statement to which the defendant takes exception is her statement that she flushed six-to-seven balls of “negra” down the toilet when she heard that police were at the door. *See* Brief, at p. 5, 7. The record makes it clear that the defendant made this statement at the beginning of the search of her apartment. Therefore, the defendant made this statement immediately after she gave the officers consent to search her home; she made this statement immediately after she was told that she could limit her consent; and she made this statement immediately after she was told that she could revoke her consent at any time. The circumstances here stand in sharp contrast to the circumstances in *Craighead*, wherein the defendant made statements in the context of a search warrant being executed at his home. Whereas, it would not necessarily be reasonable for a person to believe that he or she could terminate an encounter with law enforcement inside his or her home when law enforcement were present in order to execute a court-authorized search warrant, it would be reasonable for a person to believe that he or she could terminate an encounter with law enforcement inside his or her

home when law enforcement were present only because they had that person's express permission to be there.

In addition, at the time the challenged statement was made, the defendant's home was not a "police dominated" environment. Only three officers were present at the beginning of the search. Only one of these officers (Detective Hall) remained with the defendant and Angel throughout the course of the search. Detective Hall did not remain with the defendant and Angel in order to act as a coercive or dominating presence; rather, he remained with them so that he could call-off the search if either of them decided to revoke their consent. Detective Hall was dressed in plain clothes, he was wearing a vest that said "police" on it, and there is no evidence that he ever displayed a weapon. Assuming, *arguendo*, that the challenged statement was made after additional officers arrived, there is no evidence that any other officer interacted with the defendant or that any other officer displayed a weapon.

Furthermore, there is no evidence that the defendant's movements were restricted. The defendant testified that Detective Hall did not "require" her to go to the bedroom and she said Detective Hall never told her that she had to stay in any part of the apartment. The defendant was never handcuffed, she was never told to "freeze," she was never told that

she was not free to leave or free, exits were never blocked, and she was never closed into any room.

Next, there is no evidence that the defendant was isolated. Absent brief interruptions, the defendant remained with Angel and with her children in the living room, which was located in the front of the apartment, throughout the entirety of the search.

Lastly, the context in which the challenged statements were made was conversational. There is no evidence that Detective Hall ever raised his voice or that he demanded answers from the defendant. Rather, Detective Hall engaged in “small talk” with the defendant and her children. Also, the record shows that the defendant understood Detective Hall’s questions and she spoke voluntarily.

To the extent that the trial court equated this encounter to an investigatory “*Terry*-type detention,” the court erred. The record shows that the officers were engaged in a type of “preliminary investigation;” however, the record also decisively shows that the defendant was not “seized” during this investigation. This is the case because, before any officer entered the defendant’s apartment, Detective Hall told the defendant that she was free to deny the officers’ entry and, if she consented to their entry, she was free to terminate their search at any point. In other words, Detective Hall told the defendant that she was free

to exclude the officers from her apartment and she was free to make them leave her apartment at any time.

The totality of circumstances demonstrates that the defendant was not in custody when the challenged statement was made, or at any point during the course of the search. A reasonable person under these circumstances would not have believed that his or her freedom of action was restricted to such a degree that he or she could not terminate the interrogation and leave. Similarly, a reasonable person under these circumstances would not have believed that he or she could not terminate the interrogation and tell the officers to leave.

The trial court's decision can be affirmed on any grounds supported by the record. *State v. Costich*, 152 Wn.2d 463, 477, 98 P.3d 795 (2004). Therefore, irrespective of the trial court's finding regarding "Terry," this Court should find that substantial evidence supported the trial court's finding that the defendant was not in custody at the time the statement was made. This Court should also find that, because the defendant was not in custody, *Miranda* was not required and the defendant's statements were voluntary and admissible. Consequently, no error occurred.

Assuming, *arguendo*, that this Court finds the defendant's statements were admitted in violation of *Miranda*, any error was harmless.

State v. Guloy, 104 Wn.2d 412, 425, 705 P.2d 1182 (1985) (finding an error is harmless if the appellate court is convinced beyond a reasonable doubt that any reasonable jury would have reached the same result in the absence of the error).

Here, the evidence was overwhelming. Heroin and methamphetamine were found throughout the defendant's apartment. Scales for measuring drugs were found throughout the defendant's apartment. Large sums of cash were found throughout the defendant's apartment and in the defendant's purse. Multiple guns were found in the defendant's apartment. Also, the quantity of drugs discovered and the materials that they were packaged in were consistent with drug dealing. Even if the defendant's statement to Detective Hall was excluded, the jury would have still heard evidence that the defendant hid in the bathroom for at least three minutes after the officers arrived and the jury would have still heard evidence that officers discovered wet packaging material with a brown substance on it next to the toilet in the bathroom where the defendant had been hiding. Also, the defendant testified that she flushed the items that her brother, Carlos, gave her down the toilet when law enforcement arrived because she was concerned that Carlos had given her "something bad." Given this evidence, any reasonable jury would have reached the same result in the absence of the error.

II. The trial court's failure to enter timely written findings and conclusions is harmless.

The defendant claims it was error for the trial court to fail to enter written findings and conclusions following the CrR 3.5 hearing. The defendant claims her case must be remanded to the trial court for entry of written findings and conclusions. *See* Brief, at p. 16. The defendant's claims are without merit.

Under CrR 3.5, the trial court is required to make written findings and conclusions; however, a court's failure to comply with this requirement is harmless if the court's oral findings are sufficient for appellate review. *State v. Thompson*, 73 Wn. App. 122, 130, 867 P.2d 691 (1994). Furthermore, the late entry of written findings is not grounds for reversal unless the defendant can demonstrate that he was prejudiced by the delay or that the findings were tailored to address the issues raised on appeal. *State v. Cannon*, 130 Wn.2d 313, 329, 922 P.2d 1293 (1996).

Here, the trial court's oral findings and conclusions are sufficient for appellate review. The trial court made an oral finding that the defendant was not in custody and it provided adequate reasons for its finding. The court's oral finding supported its oral conclusion that *Miranda* was not required and that the defendant's statements were admissible.

Also, remand to the trial court is not required because written findings and conclusions were entered. Certainly, the State does not oppose the defendant filing a supplemental brief in response to the court's late-entry of written findings and conclusions. However, there is no evidence that the defendant was prejudiced by the court's late entry of findings and conclusions. In addition, there is no evidence that the court's written findings and conclusions were "tailored" because they are consistent with the court's oral findings and conclusions.

D. CONCLUSION

The defendant's convictions and sentence should be affirmed. The defendant's case should not be remanded to the trial court for entry of written findings and conclusions.

DATED this 25 day of May, 2012.

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May 25, 2012 - 3:55 PM

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- Answer/Reply to Motion: _____
- Brief: Respondent's
- 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: _____

Sender Name: Abby Rowland - Email: **Abby.Rowland@clark.wa.gov**

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