NO. 44015-6-II

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

STATE OF WASHINGTON,

Respondent,

v.

WILLIAM CRAM,

Appellant.

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

The Honorable Carol Murphy, Judge, and
The Honorable Gary R. Tabor, Judge

OPENING BRIEF OF APPELLANT

Peter B. Tiller, WSBA No. 20835
Of Attorneys for Appellant

The Tiller Law Firm
Corner of Rock and Pine
P. O. Box 58
Centralia, WA 98531
(360) 736-930

TABLE OF CONTENTS

Page

A. ASSIGNMENTS OF ERROR 1

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR 4

C. STATEMENT OF THE CASE 4

D. ARGUMENT 9

1. MR. CRAM WAS SEIZED, UNDER THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE 1, SECTION 7 OF THE WASHINGTON STATES CONSTITUTION, PRIOR TO ARREST ON AN OUTSTANDING WARRANT 9

a. The police conduct of parking behind the suspect car, shining the spotlight in the passenger compartment, and then detaining Mr. Cram while asking for his name and birthdate constituted a police seizure of the defendant, initiated on the inadequate basis only of the car's presence in an area where thefts and burglaries had previously been reported 9

b. Suppression of the evidence is required 16

E. CONCLUSION 18

TABLE OF AUTHORITIES

WASHINGTON CASES **Page**

State v. Day, 161 Wn.2d 889, 168 P.3d 1265 (2007) 10, 11, 12
State v. Aranguren, 42 Wn. App. 455, 711 P.2d 1096 (1985).....11, 14
State v. Belanger, 36 Wn. App. 818, 677 P.2d 781 (1984).....11
State v. Crane, 105 Wn. App. 301, 19 P.3d 1100 (2001) 15
State v. Crawley, 61 Wn. App. 29, 808 P.2d 773 (1991).....17
State v. DeArman, 54 Wn. App. at 622-24 15
State v. Ellwood, 52 Wn. App. 70, 757 P.2d 547 (1988).....16
State v. Kennedy, 107 Wn.2d 1, 726 P.2d 445 (1986) 11, 17
State v. Ladson, 138 Wn.2d 343, 979 P.2d 833 (1999) 17
State v. Larson, 93 Wn.2d 638, 611 P.2d 771 (1980).....11
State v. O'Neill, 148 Wn.2d 564, 62 P.3d 489 (2003). 10, 12, 13, 14
State v. Rankin, 151 Wn.2d 689, 92 P.3d 202 (2004).....12
State v. Stroud, 30 Wn. App. 392, 634 P.2d 316 (1981),
review denied, 96 Wn. 1025 (1982).....10, 15
State v. Young, 135 Wn.2d 498, 957 P.2d 681 (1998).....10, 12, 13

UNITED STATES CASES **Page**

Brown v. Texas, 443 U.S. 47, 99 S.Ct. 2637, 2641, 61 L.Ed.2d 357
(1979).....11

United States v. Mendenhall, 446 U.S. 544, 100 S.Ct. 1870,
1877, 64 L.Ed.2d 497 (1980) 11, 14

Nardone v. United States, 308 U.S. 338, 60 S.Ct. 266, 84 L.Ed. 307
(1939).....16

Terry v. Ohio, 39 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d
889 (1968).....10, 11, 12, 16

Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441
(1963).....16

FEDERAL CASES **Page**

United States v. Kapperman, 764 F.2d 786 (11th Cir.1985) 17

REVISED CODE OF WASHINGTON **Page**

RCW 69.41.030 8

RCW 69.50.4013(1) 8

CONSTITUTIONAL PROVISIONS **Page**

Wash. Const. art. 1, § 7 ..... 1, 4, 9, 10, 12, 14

U. S. Const. Amend. IV 1, 9, 10, 14

COURT RULE **Page**

CrR 3.6 ..... 1, 2, 8, 10

A. ASSIGNMENTS OF ERROR

1. The trial court erred following the CrR 3.6 hearing in admitting drug evidence that was obtained as the product of an illegal police detention of the defendant, Mr. Cram.

2. The trial court erred in entering Finding of Fact 2.9 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of Mr. Cram occurred only after he gave the officer identifying information, where the seizure of Mr. Cram occurred when the officer contacted him and asked for identifying information. Clerk's Papers (CP) 56.

3. The trial court erred in entering Finding of Fact 2.11 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 56.

4. The trial court erred in entering Finding of Fact 2.12 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 56.

5. The trial court erred in entering Finding of Fact 2.13 to the extent that its summary of the CrR 3.6 evidence suggests that the

seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 56.

6. The trial court erred in entering Finding of Fact 2.14 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 57.

7. The trial court erred in entering Finding of Fact 2.15 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 57.

8. The trial court erred in entering Finding of Fact 2.16 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 57.

9. The trial court erred in entering Finding of Fact 2.18 to the extent that its summary of the CrR 3.6 evidence suggests that the seizure of the defendant occurred only after he gave the officer identifying information, where the seizure of the defendant occurred prior to that. CP 57.

10. To the extent the conclusion of law resolves disputed factual issues, and in the absence of substantial evidence in the record, the trial court erred in entering Conclusions of Law 3.3. (CP 58).

11. To the extent the conclusion of law resolves disputed factual issues, and in the absence of substantial evidence in the record, the trial court erred in entering Conclusions of Law 3.4. (CP 58).

12. To the extent the conclusion of law resolves disputed factual issues, and in the absence of substantial evidence in the record, the trial court erred in entering Conclusions of Law 3.5. (CP 58).

13. To the extent the conclusion of law resolves disputed factual issues, and in the absence of substantial evidence in the record, the trial court erred in entering Conclusions of Law 3.7. (CP 58).

14. To the extent the conclusion of law resolves disputed factual issues, and in the absence of substantial evidence in the record, the trial court erred in entering Conclusions of Law 3.8. (CP 58).

15. The trial court erred in entering Findings of Fact 3, 4, and 5, and Conclusions of Law 2, 3, 4, and 5, finding Mr. Cram guilty, in the stipulated facts and conclusions. CP 26, 27.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Under Article I, § 7 of the Washington Constitution, whether a person is seized is an objective inquiry that assesses whether, following a show of authority by law enforcement, a person's freedom of movement is restrained such that a reasonable person would not feel free to leave. Does the police conduct of parking behind the suspect car, shining a spotlight in the passenger compartment, and requiring a passenger in the car to identify himself constitute a police seizure of the defendant?

2. Whether such seizure is legal where it was initiated on the inadequate basis only of the car's presence where thefts, burglaries and narcotics complaints were previously reported to law enforcement?

3. Whether under the Fourth Amendment and under Article 1, §7 of the State Constitution, which protect Washington citizens against unreasonable intrusions by police into their private affairs, the police can pull up behind any car they believe to be suspicious, and then be permitted to seize and detain the occupants of any such car when the police shine a spotlight into their passenger compartment?

C. STATEMENT OF THE CASE

At approximately 2:26 a.m. on June 17, 2012 Officer Tim Eikum of

the Tumwater Police Department was dispatched regarding a report of a suspicious vehicle parked at Little Street SW and S 2nd Ave SE in Tumwater, Thurston County, Washington. Finding of Fact (FF) 2.2, CP 55, Report of Proceedings (RP) at 8. Dispatch told Officer Eikum that a female was sleeping in the front passenger seat of the vehicle and she was the sole occupant of the vehicle, which was described as a Saturn with license plate 868 XKF. FF 2.2, CP 55, RP at 9. The registered owner of the vehicle had a warrant for her arrest for theft. FF 2.2, CP 55, RP at 9.

Officer Eikum, who was in uniform and driving a marked patrol vehicle, arrived at the location and he saw the described Saturn parked facing westbound on the north side of Little St, just west of S 2nd Ave SW near an apartment complex. FF 2.3, CP 55, RP at 9, 10, 17. Officer Eikum parked his patrol car behind the Saturn, which was not running, and turned on the spotlight inside his patrol car and illuminated the interior of the Saturn. FF 2.5, 2.6, CP 55, RP at 10. He did not have his siren or emergency lights activated. FF 2.5, CP 55, RP at 10. Using the spotlight, the officer saw three people in the vehicle. A male was seated in the driver's seat, and a female was seated in the front passenger seat. Mr. Cram was seated in the back seat, behind the driver. FF 2.6, CP 55.

Officer Driver with the Tumwater Police Department arrived shortly after Officer Eikum arrived, also without his emergency lights or siren activated. FF 2.7, CP 55, RP at 11.

Officer Eikum got out of his patrol vehicle and walked up to the driver's door and contacted the driver, who identified himself as Gregory Beckford. FF 2.8, CP 56, RP at 17, 18. The spotlight continued to illuminate the car. RP at 17. Mr. Beckford stated he lived at the apartments at 1275 S 2nd Ave SW and he was sitting in the vehicle with his friends visiting because he was not allowed to have overnight guests. FF 2.8, CP 56, RP at 11, 12.

Through the open rear driver's side window, Officer Eikum asked the man sitting in the back behind the driver his name and date of birth. The man responded that his name was William A. Crum and his date of birth was 1-7-77. FF 2.9, CP 56, RP at 12. To Officer Eikum, the man appeared to be older than the age he would be based on the date of birth provided. FF 2.11, CP 56, RP at 13. Officer Driver conducted a records search using the information provided by the male passenger, and dispatch stated that there was no record found using the information provided. FF 2.12, CP 56, RP at 13, 14.

Officer Eikum asked the rear passenger to confirm the information, and he then gave a birth date of 1-7-68. FF 2.13, CP 56, RP at 14. Information was provided to dispatch, which again stated there was no record found, but that there was a William A. Cram with a date of birth of 1-7-63, and that that person had a felony warrant. FF 2.14, CP 57, RP at 14. Officer Eikum asked the passenger if he was Mr. Cram. Mr. Cram provided Officer Eikum with the last four digits of his social security, which he confirmed with dispatch. FF 2.15, CP 57, RP at 15.

Officer Eikum told Mr. Cram to step out of the vehicle and then handcuffed Mr. Cram while dispatch confirmed the warrant. FF 2.16, CP 57, RP at 15. Officer Eikum searched Mr. Cram incident to arrest and found pills on Mr. Cram's person. FF 2.18, CP 57, RP at 16. He was transported to the Thurston County jail. Following that transport, Officer Eikum located substances in the rear of his patrol car in the vicinity of where Mr. Cram had been seated that field tested positive for heroin and methamphetamine. FF 2.19, CP 57, RP at 16.

William Cram was charged by information filed in Thurston County Superior Court with two counts of possession of a controlled substance,

contrary to RCW 69.50.4013(1), and one count of possession of prescription drugs without prescription, contrary to RCW 69.41.030. CP 6.

Following a CrR 3.6 hearing before the Honorable Carol Murphy, the court denied the motion to suppress, finding that Mr. Cram was not seized, and that he was placed under arrest before he was searched incident to arrest. RP (8/13/12) at 38, 39. The court ruled that the evidence obtained by police was admissible and entered the following conclusions to which Mr. Cram assigns error:

> 3.2 The presence of a second officer (Officer Driver) is not sufficient to support a finding that Mr. Cram was seized.
>
> 3.3 The use of a spotlight to illuminate the vehicle is not sufficient to support a finding that Mr. Cram was seized.
>
> 3.4 Based on the totality of the circumstances, Mr. Cram was not seized at the time that Officer Eikum asked Mr. Cram for his name and date of birth.
>
> 3.5 Mr. Cram was not seized until the point that he was detained in handcuffs, after Mr. Cram had stated that he was William A. Cram and had provided the last four digits of his social security number. At that point, Officer Eikum had grounds to detain Mr. Cram while awaiting confirmation of the warrant.
>
> . . .
>
> 3.7 Mr. Cram was validly searched incident to arrest by Officer Eikum.
>
> 3.8 The motion to suppress the evidence is denied because the evidence was lawfully obtained.

CP 58.

Mr. Cram proceeded to a stipulated facts bench trial before the Honorable Gary Tabor. CP 26-34. Based on the stipulated facts, the trial court convicted Mr. Cram as charged in the Second Amend Information on September 14, 2012, and sentenced him pursuant to the Drug Offender Sentencing Alternative. RP (9/14/12) at 11. Stipulated findings of fact and conclusions of law as to the trial were entered September 17, 2012. CP 26-34.

Timely notice of appeal was filed on September 28, 2012. CP 60-70. This appeal follows.

D. ARGUMENT

1. MR. CRAM WAS SEIZED, UNDER THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE 1, SECTION 7 OF THE WASHINGTON STATE CONSTITUTION, PRIOR TO ARREST ON AN OUTSTANDING WARRANT.

a. The police conduct of parking behind the suspect car, shining the spotlight in the passenger compartment, and then detaining Mr. Cram while asking for his name and birthdate constituted a police seizure of the defendant, initiated on the inadequate basis only of the car's presence in an area where thefts and burglaries had previously been reported.

The drug evidence obtained by the police in this case was the fruit of an unreasonable seizure prohibited by the Fourth Amendment and Article 1, §7 of the Washington Constitution. Mr. Cram argues that he was seized when the officer drove his patrol car up behind the parked car occupied by Mr. Cram and shined his spotlight on him and the car's other occupants. In order to prevail on his appeal of the lower court's CrR 3.6 ruling, Mr. Cram must establish at what point a seizure of his person occurred and must convince that the seizure was not supported by reasonable articulable suspicion based on objective facts. *State v. Stroud*, 30 Wn. App. 392, 394, 634 P.2d 316 (1981), review denied, 96 Wn. 1025 (1982); *Terry v. Ohio,* 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968).

The Fourth Amendment and article I, § 7 of our state constitution prohibit unreasonable searches and seizures. *State v. Day*, 161 Wn.2d 889, 893, 168 P.3d 1265 (2007); *State v. O'Neill*, 148 Wn.2d 564, 584, 62 P.3d 489 (2003); *State v. Young*, 135 Wn.2d 498, 957 P.2d 681 (1998). As a general rule, warrantless searches and seizures are per se unreasonable, and the State bears the burden of demonstrating the applicability of a recognized exception to the rule. *Day*, 161 Wn.2d at 893-94; *Young*, 135 Wn.2d at 510. One such exception is that officers may briefly stop and detain a person they

reasonably suspect is, or is about to be, engaged in criminal conduct. *Day*, 161 Wn.2d at 893. This is often referred to as a "*Terry* stop."• *Day,* 161 Wn.2d at 893 (citing *Terry v. Ohio*, supra). If the initial stop is not lawful or exceeds the scope of a lawful search, the fruits of the search may not be admitted in court. *Day* at 895.

In Washington, a police officer has not seized an individual merely by approaching him in a public place and asking him questions, if a reasonable person would have felt free to leave. *State v. Belanger*, 36 Wn. App. 818, 677 P.2d 781 (1984). A seizure occurs, however, if "in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *State v. Aranguren*, 42 Wn. App. 452, 455, 711 P.2d 1096 (1985) (citing *United States v. Mendenhall*, 446 U.S. 544, 554, 100 S.Ct. 1870, 1877, 64 L.Ed.2d 497 (1980)).

A seizure is reasonable only if an officer has "a reasonable suspicion, based on objective facts, that the individual is involved in criminal activity." *State v. Larson,* 93 Wn.2d 638, 644, 611 P.2d 771 (1980) (citing *Brown v. Texas*, 443 U.S. 47, 51, 99 S.Ct. 2637, 2641, 61 L.Ed.2d 357 (1979)); see also *State v. Kennedy*, 107 Wn.2d 1, 5, 726 P.2d 445 (1986).

In this case, the officers had only the suspicion that the vehicle was parked in area where thefts, narcotics complaints, and burglaries had previously been reported and that it was occupied by three people. FF 2.4, RP at 9. The officers' suspicion did not justify a seizure under the constitution, even a limited seizure such as a *Terry* stop. *Day* states that in these circumstances, the officer may approach and speak with the occupants of the vehicle, but may not detain them. *Day* at 898, fn. 7.

The testimony of Officer Eikum established that he parked his patrol car directly behind the car occupied by Mr. Cram. FF 2.5, CP 56. A seizure occurs, under Article 1, § 7 when considering all the circumstances, an individual would not believe he or she is free to leave or decline a request due to an officer's use of force or display of authority. *State v. Rankin*, 151 Wn.2d 689, 695, 92 P.3d 202 (2004); *State v. O'Neill*, 148 Wn.2d 564, 574, 62 P.3d 489 (2003). The standard is "a purely objective one, looking to the actions of the law enforcement officer."• *O'Neill,* 148 Wn.2d at 574, quoting *State v. Young*, 135 Wn.2d 498, 501, 957 P.2d 681 (1998).

Washington cases have held that there was no seizure where police positioned their squad car behind, but not so close as to block, the suspect car, or where the police merely utilized certain police utility lights as an aid to

viewing the scene. See, e.g., *State v. O'Neill*, 148 Wn.2d 564, 578, 62 P.3d 489 (2003) and *State v. O'Neill,* 104 Wn. App. 850, 856, 862, 17 P.3d 682 (2001) (affirmed in part by *State v. O'Neill*, supra) (no seizure where police pulled up 6 to 8 feet behind the suspect car and used his spotlight to view the car's license plate, and did not activate his emergency lights); *State v. Young*, 135 Wn.2d 498, 513-14 and n. 8, 957 P.2d 681 (1998) (no seizure by using police vehicle spotlight to illuminate walking pedestrian).

In *O'Neill*, the defendant was in a parked car that was parked in the parking lot of a closed business that had recently been burglarized. A police officer pulled his patrol vehicle into the parking lot so that he could talk to the occupant of the vehicle and inquire what he was doing. The officer did not activate his emergency lights, but instead used his spotlight to see the car's license plate. *O'Neill*, 148 Wn.2d at 572. The officer approached the car and shined his flashlight into the driver's face and illuminating the passenger compartment. *Id.* He asked O'Neill to roll down the window and for his identification, and O'Neill volunteered that he had been driving with a suspended license. *Id.*. The Supreme Court held that there was no show of authority on the officer's part which would have elevated the request for identification to a seizure. *Id.* at 577. The Court noted that O'Neill was free to

refuse the officer's request that he roll down his window, and was under no obligation to speak to the officer. *Id.* at 579.

Mr. Cram submits that *O'Neill* is inapposite. Looking objectively at the facts in the present case, it is obvious that Mr. Cram was seized when the officer parked behind his car behind the Saturn in which Mr. Cram was a passenger, illuminated the passenger compartment with his spotlight, and then got out the car and approached the Saturn. The *O'Neill* court noted that the flashlight used by the officer is commonly used and is "an exceedingly common device that can do no more than reveal what would be visible in natural light." *O'Neill*, 148 Wn.2d at 578. Unlike the facts in the case at bar, the officer in *O'Neill* did not use his spotlight to illuminate the interior of the car. Moreover, the officer was alone, whereas this case involves two officers in separate cars.

The presence of these factors—positioning the patrol vehicle behind the suspect car, the presence of two officers, and aiming the spotlight at the passengers in the passenger compartment—shows that the occupants of the suspect car in this case were seized, because no reasonable person would feel free to leave the scene in such circumstances. *State v. Aranguren*, 42 Wn. App. at 455; *United States v. Mendenhall*, 446 U.S. at 554.

The use of the spotlight to illuminate the passenger compartment and occupants (as opposed to using it to merely illuminate the car's license plate as in *O'Neill*, supra) would only further corroborate the awareness of a reasonable person (in the defendant's position) that he or she was the focus of police interest, and that sudden departure from the scene was not a realistic alternative. Mr. Cram was "seized" under Article 1 §7 and the Fourth Amendment at this juncture.

Officer Eikum's act of pulling his patrol vehicle up behind the Saturn, even if he did not block it but merely parked behind it, constituted a seizure when combined with the officer's use of the spotlight and the presence of a second officer, which shows the officers' authority and focus on the suspect as equally as does the use of emergency lights. See *Stroud*, 30 Wn. App. at 396 (parking behind but not blocking car was seizure); *State v. DeArman*, 54 Wn. App. at 622-24 (use of emergency lights).

The positioning of the police vehicle adjacent to the defendant's car, the presence of a second officer in a separate vehicle, the aiming of the spotlight at the passengers, and the fact that both officers exited their vehicles to approach the car and then Officer Eikum issued direction to Mr. Cram to

provide his name and date of birth all transformed this citizen-police encounter in this case into a *Terry* seizure requiring reasonable suspicion. At the time of the initial contact by Officer Eikum and Officer Driver, the only factor in support of suspicion was the suspect car's presence in an area where the police had received reports of theft, burglaries, and narcotics, which quite frankly, could describe vast swaths of any town or city. RP at 9. Settled law indicates the presence of the car in a high crime area was inadequate for reasonable suspicion. *State v. Stroud*, 30 Wn. App. at 399 (stop of an automobile because it was parked in an industrial area some distance from a retail business which had its own parking lot, at 1:41 a.m. in the morning, was unreasonable, because the officers were unable to articulate specific, objective facts upon which to base a reasonable suspicion that the person in the car was engaged in criminal activity); *State v. Crane*, 105 Wn. App. 301, 312, 19 P.3d 1100 (2001); *State v. Ellwood*, 52 Wn. App. 70, 73, 757 P.2d 547 (1988).

Certainly someone in Mr. Cram's position, who observes a patrol car pull in behind him, would reasonably believe that he was seized by the officer and was not free to leave. The trial court erred in holding that Mr. Cram was

not seized at this point and that the arrest and search was performed with lawful authority.

b. Suppression of the evidence is required.

Where an unconstitutional search or seizure occurs, courts must suppress evidence discovered as a result of the search as well as evidence that derives from the illegality, i.e., the "fruits of the poisonous tree." *Nardone v. United States*, 308 U.S. 338, 341, 60 S.Ct. 266, 84 L.Ed. 307 (1939); *Wong Sun v. United* States, 371 U.S. 471, 484, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963) ; *Kennedy*, 107 Wn.2d at 4; *State v. Ladson,* 138 Wn.2d 343, 359, 979 P.2d 833 (1999). Exclusion of the tainted evidence "provides a remedy for the citizen in question and saves the integrity of the judiciary by not tainting . . . proceedings" with illegally obtained evidence. *Ladson*, 138 Wn.2d at 359-60 (citing *State v. Crawley*, 61 Wn. App. 29, 34- 35, 808 P.2d 773 (1991)). Here, drugs would not have been discovered but for the officers' illegal detention of Mr. Cram and his removal from the car. In determining whether there is a nexus between the evidence in question and the police conduct, the court essentially makes a common sense evaluation of the facts and circumstances of the particular case. *United States v. Kapperman*, 764 F.2d 786 (11th Cir.1985). Here, common sense requires a conclusion that the evidence was

discovered as a product of the officers' illegal governmental activity, and the evidence must be suppressed.

This should result in dismissal of the possession charges for insufficiency of the evidence. The pills found on Mr. Cram's person and the drugs found in the police vehicle after Mr. Cram was transported to jail formed the basis of the trial court's determination of guilt. CP 26, 27. (stipulated bench trial).

E. CONCLUSION

For the reasons stated above, William Cram respectfully requests this Court reverse his convictions.

DATED: March 20, 2013.

Respectfully submitted,
THE TILLER LAW FIRM

Peter B. Tiller

PETER B. TILLER-WSBA 20835
Of Attorneys for William Cram

CERTIFICATE OF SERVICE

The undersigned certifies that on March 20, 2013, that this Appellant's Opening Brief was sent by JIS link to Mr. David Ponzoha, Clerk of the Court, Court of Appeals, Division II, 950 Broadway, Ste. 300, Tacoma, WA 98402, and copies were mailed by U.S. mail, postage prepaid, to Ms. Karen Horowitz, Deputy Prosecuting Attorney, 2000 Lakeridge Dr. SW, Olympia, WA 98502 and Mr. William Allen Cram, 8511 Thuja Ave. SE,

Yelm, WA 98597, true and correct copies of this Opening Brief of Appellant.

This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on March 20, 2013.

Peter B. Tiller

PETER B. TILLER

TILLER LAW OFFICE

March 20, 2013 - 4:16 PM

Transmittal Letter

Document Uploaded: 440156-Appellant's Brief.pdf

Case Name: State of Washington v. William Cram

Court of Appeals Case Number: 44015-6

Is this a Personal Restraint Petition? Yes ■ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

■ Brief: Appellant'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

Petition for Review (PRV)

Other: _____

Comments:

ATTN: CHERYL

Sender Name: Shirleen K Long - Email: **slong@tillerlaw.com**