

Nº. 46314-8-II

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

CITY OF TACOMA
Respondent,

v.

KENNETH DRISCOLL,
Appellant.

OPENING BRIEF OF APPELLANT

Appeal from the Superior Court of Pierce County,
Cause No. 13-1-03277-7
The Honorable Katherine Stolz, Reviewing Judge

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A. ASSIGNMENTS OF ERROR

1. Mr. Driscoll's constitutional right to present a defense was violated by the exclusion of evidence relevant to his defense of self-defense.
2. The trial court abused its discretion in excluding evidence of the prior attacks against Mr. Driscoll where the facts introduced at the hearing did not support the trial court's conclusions of law that the evidence was irrelevant and inadmissible.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Was Mr. Driscoll denied his constitutional right to present a defense by the trial court erroneously excluding evidence of the prior attacks by Ms. Miles against Mr. Driscoll where Mr. Driscoll sought to introduce the evidence for purposes of establishing his defense of self-defense? (Assignment of Error No. 1)
2. Did the evidence introduced at the pre-trial hearing on the admissibility of evidence support the trial court's findings of fact entered on March 11, 2014? (Assignment of Error No. 2)

C. STATEMENT OF THE CASE

Factual and Procedural Background

On May 30, 2013, Gene McPherson, the lead maintenance mechanic for Pierce Transit, was surveying bus stops on 6th avenue when he saw a man, later identified as Mr. Kenneth Driscoll, kneeling a woman, later identified as Ms. Lisa Miles, laying on a bench in a bus shelter. CP 172-176. Mr. McPherson was 30-35 feet away from the bus shelter and believed he saw Mr. Driscoll knee the woman in the face about eight

times. CP 174-175. Mr. McPherson contacted his communications center who then called 911. CP 175-176. Mr. McPherson stayed at the scene until a police officer arrived. CP 178.

While he waited for the police, Mr. McPherson continued to observe Mr. Driscoll and the woman he had been kneeling. CP 179. First the woman and then Mr. Driscoll began walking south on 6th Avenue. CP 179.

Tacoma Police Sergeant Jepson responded to the area. CP 270. At the time officer Jepson arrived at the scene, Mr. Driscoll had already been taken into custody by other police officers. CP 271-272. Officer Jepson contacted the woman. CP 190. The woman was reluctant to talk to officer Jepson and initially indicated that she just wanted to walk away, leave the incident behind her, and not pursue any "issues." CP 190. Officer Jepson noted that the woman's left cheek was swollen and her left eye was swollen shut. CP 190.

After speaking with the woman, officer Jepson contacted Mr. Driscoll. CP 190. Mr. Driscoll told officer Jepson that the woman was his ex-girlfriend, her name was Lisa, and that she had attacked him and he had to defend himself. CP 191. Mr. Driscoll said that the woman had slapped him and broke his glasses. CP 192. Officer Jepson transported Mr. Driscoll to jail. CP 192. During the drive Mr. Driscoll continued to say

that he had been defending himself. CP 192. Officer Jepson saw no visible injuries on Mr. Driscoll. CP 195.

Officer Jepson did discover that there was a no-contact order in place prohibiting Lisa from having any contact with Mr. Driscoll. CP 198.

On May 31, 2013, Mr. Driscoll was charged with one count of domestic violence assault in violation of Tacoma Municipal Code (TMC) 8.12.013. CP 70.

On July 8 2013, Mr. Driscoll filed notice that he would be asserting the defense of self-defense at trial. CP 10-11. Mr. Driscoll attached to this notice documentation that in July of 2010, Lisa Miles, Mr. Driscoll's ex-girlfriend, was charged with second degree domestic violence assault for attempting to stab Mr. Driscoll with a pair of scissors. CP 10-12. In October of 2010, Ms. Miles ultimately entered an *Alford* plea because Mr. Driscoll initially told police Ms. Miles tried to stab him with scissors but then recanted his statement. CP 10-22.

On July 23, 2013, a hearing was held to address pre-trial motions. CP 95-118. At this hearing the City objected to the introduction of evidence of prior acts of violence perpetrated by Ms. Miles against Mr. Driscoll and moved to exclude such evidence under ER 404(b). CP 97. Mr. Driscoll argued that evidence of Ms. Miles' prior assaults against Mr. Driscoll were necessary to establish Mr. Driscoll's state of mind at the

time he acted in self-defense against Ms. Miles on May 30, 2013. CP 98. Mr. Driscoll gave an offer of proof that he would testify about three incidents: (1) the 2010 incident involving the scissors; (2) a 2009 incident where Ms. Miles threatened him with a meat cleaver at the Gold Lion Hotel; and (3) another incident in late 2009 or early 2010 where Ms. Miles threw a rock at Mr. Driscoll while they were both inside a Pierce Transit bus. CP 99-104.

The City objected to the introduction of any of these incidents for the following reasons: (1) all three incidents were too remote in time; (2) Mr. Driscoll had not provided any evidence aside from his testimony to establish that two of the incidents actually happened; (3) that ER 404(b) prohibited the introduction of evidence regarding Ms. Miles' behavior; (4) introduction of the evidence of the prior assaults of Mr. Driscoll by Ms. Miles would confuse the jury; and (5) the prior incidents have nothing to do with what happened on May 30, 2013. CP 105-107.

The trial court held that the 2009 incidents involving the meat cleaver and the rock were not admissible and reserved ruling on the admissibility of the 2010 incident involving the scissors until the court had heard further testimony regarding the incident Mr. Driscoll was being prosecuted for. CP 109-110, 113.

Mr. Driscoll's trial began on July 23, 2013. CP 173.

Mr. Driscoll testified that on May 30, 2013, he was going to take the bus downtown to research the status of his certifications to help his job search. CP 203-204. Mr. Driscoll testified that Ms. Miles called him and said she wanted to ride the bus downtown with him. CP 204. Mr. Driscoll testified that he didn't want Ms. Miles getting on the bus with him because there was a no contact order in place and because of her past behavior towards him on the bus. CP 204-205. The City objected to Mr. Driscoll testifying about past events and objected to testimony about the no contact order on the basis that it was not relevant. CP 204-205. The trial court sustained the objections. CP 204-205.

The trial court then excused the jury and a sidebar conference was held regarding the admissibility of the incident where Ms. Miles attempted to stab Mr. Driscoll with a pair of scissors. CP 205-219. Mr. Driscoll indicated that he wished to introduce evidence of the attempted stabbing for purposes of establishing his state of mind at the time he kned Ms. Miles, specifically that he was aware that she had attacked him previously and that he had reason to believe he needed to defend himself. CP 206. The City again argued that the incident with the scissors was too remote in time, argued that the City had not had a chance to read the paperwork attached to Mr. Driscoll's notice that he was asserting self-defense, that

Ms. Miles entered an “Alfred”¹ plea and did not plead guilty, and that the incident with the scissors was irrelevant and had no probative value. CP 206-208.

The trial court indicated that it was excluding the two earlier attacks by Ms. Miles on the basis that Mr. Driscoll had no evidence to corroborate his testimony regarding the prior assaults. CP 208-209.

Mr. Driscoll gave an offer of proof detailing how Ms. Miles attempted to stab him with a pair of scissors while they were seated in his truck at Fred Meyer. CP 212-213. The City objected to Mr. Driscoll testifying about what happened at the Fred Meyer on the basis that there was nothing to substantiate what Mr. Driscoll was saying and because Mr. Driscoll’s testimony would be hearsay. CP 213-214. The City also objected on the basis that the incident was too remote in time and that it would be “so prejudicial” to the City. CP 214. The City also claimed that Mr. Driscoll was making up his assertion that Ms. Miles attempted to stab him with a pair of scissors and argued that such evidence was irrelevant. CP 216. At the end of the sidebar the trial court held that evidence of the incident at Fred Meyer with the scissors was not admissible but the court

¹ It will be assumed that counsel for the City was referring to an *Alford* plea entered pursuant to *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970). Under an *Alford* plea, a defendant may take advantage of a plea agreement without acknowledging guilt. *Alford*, 400 U.S. 25, 36, 91 S.Ct. 160, 27 L.Ed.2d 162. The Washington Supreme Court adopted *Alford* in *State v. Newton*, 87 Wn.2d 363, 372, 552 P.2d 682 (1976).

would listen to Mr. Driscoll's testimony regarding his kneeling of Ms. Miles and then decide whether or not evidence of the Fred Meyer scissors incident would be relevant to Mr. Driscoll's state of mind at the time he kneed Ms. Miles. CP 219.

Mr. Driscoll testified that Ms. Miles arrived at the bus stop after he did and that they both got on the bus. CP 220. Mr. Driscoll testified that Ms. Miles sat behind him on the bus and began randomly yelling profanity. CP 221. Mr. Driscoll testified that Ms. Miles followed him when he got off the bus and that Ms. Miles punched him in the side of his head from behind, breaking his sunglasses and smashing them off his face. CP 221-222. Mr. Driscoll turned around and looked at Ms. Miles and saw that she was coming at Mr. Driscoll and punching him. CP 221-222. Mr. Driscoll testified that he had to defend himself so he punched Ms. Miles back and hit her in the eye, causing her to stumble. CP 222. Mr. Driscoll testified that he took Ms. Miles down onto a bench and kneed her in the body. CP 222-223. Mr. Driscoll testified that he felt threatened by Ms. Miles and used the force necessary to defend himself. CP 222, 231.

The trial court did permit Mr. Driscoll to testify that there was an incident where he was in a truck with Ms. Miles at Fred Meyer and Ms. Miles pulled a pair of scissors out of her purse and threatened to stab Mr. Driscoll with them, but that he jumped out of the truck and summoned

security officers. CP 224-225.

The jury found Mr. Driscoll guilty of assault as charged and found that the assault was a crime of domestic violence. CP 292.

Notice of appeal was filed on August 22, 2013. CP 72.

On November 22, 2013, the Pierce County Superior Court remanded Mr. Driscoll's case back to the trial court for entry of findings of fact and conclusions of law on the City's motion to suppress evidence of Ms. Miles' prior attacks on Mr. Driscoll. CP 317-318.

On March 11, 2014, the trial court entered the missing findings of fact and conclusions of law on the City's motion to suppress. CP 322-325.

Mr. Driscoll's case returned to the Superior Court and Mr. Driscoll filed his second Brief on RALJ Appeal on March 25, 2014. CP 326-339. In this second brief, Mr. Driscoll argued that his right to a present a defense was violated when the trial court erroneously excluded evidence of the prior attacks by Ms. Miles against Mr. Driscoll where Mr. Driscoll sought to introduce evidence of the attacks to support his defense of self-defense. CP 331-338.

The Pierce County Superior Court denied Mr. Driscoll's appeal and affirmed his conviction. CP 360-361.

Notice of Discretionary Review to this Court was filed on May 27, 2014. CP 371-374.

D. ARGUMENT

When reviewing the decision of a Superior Court on an appeal from a court of limited jurisdiction, the Court of Appeals' inquiry is whether the court of limited jurisdiction committed an error of law and whether substantial evidence supports the factual findings. *City of Seattle v. May*, 151 Wn.App. 694, 697, 213 P.3d 945 (2009); RALJ 9.1. Any unchallenged findings are verities on appeal and review for errors of law is de novo. *May*, 151 Wn.App. at 697, 213 P.3d 945.

1. Mr. Driscoll was denied his constitutional right to present a defense by the trial court's erroneous ruling excluding the evidence of the meat cleaver and rock throwing attacks by Ms. Miles.

a. Mr. Driscoll had a constitutional right to present evidence in support of his defense of self-defense.

Mr. Driscoll was charged with assault and asserted the defense of self-defense. CP 10-11, 70.

The right to present testimony in one's defense is guaranteed by both the United States and the Washington Constitutions.² *State v. Hudlow*, 99 Wn.2d 1, 14, 659 P.2d 514 (1983).

² The Sixth Amendment to the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him [and] to have compulsory process for obtaining witnesses in his favor." Similarly, article I, section 22 of the Washington Constitution guarantees that "[i]n criminal prosecutions the accused shall have the right ... to meet the witnesses against him face to face, [and] to have compulsory process to compel the attendance of witnesses in his own behalf."

- b. *Mr. Driscoll had a constitutional right to present evidence of all of Ms. Miles' prior attacks as evidence of his state of mind at the time he acted in self-defense.*

A criminal defendant's right to present evidence in his defense is not absolute, as "a criminal defendant has no constitutional right to have irrelevant evidence admitted in his or her defense." *Hudlow*, 99 Wn.2d at 15, 659 P.2d 514. However, given that the threshold to admit relevant evidence is very low, even minimally relevant evidence is admissible. *State v. Darden*, 145 Wn.2d 612, 621, 41 P.3d 1189 (2002).

A defendant's right to present relevant evidence may be limited by "the State's interest in precluding evidence so prejudicial as to disrupt the fairness of the trial." *Darden*, 145 Wn.2d at 621, 41 P.3d 1189. "[T]he State's interest to exclude prejudicial evidence must be balanced against the defendant's need for the information sought, and only if the State's interest outweighs the defendant's need can otherwise relevant information be withheld." *Darden*, 145 Wn.2d at 622, 41 P.3d 1189. The Washington Supreme Court has noted that for evidence of high probative value, "it appears [that] no state interest can be compelling enough to preclude its introduction consistent with the Sixth Amendment and Const. art. 1, § 22." *Hudlow*, 99 Wn.2d at 16, 659 P.2d 514. Moreover, the considerations of Evidence Rule 403, which requires balancing the probative value of

evidence against the danger of prejudice, cannot be used to exclude “crucial evidence relevant to the central contention of a valid defense.” *State v. Young*, 48 Wn.App. 406, 413, 739 P.2d 1170 (1987).

Here, Mr. Driscoll sought to introduce evidence of two prior acts of violence by Ms. Miles against him in order to support his claim of self-defense. Evidence of a victim's prior acts of violence, which are known by the defendant, is relevant to a claim of self-defense “because such testimony tends to show the state of mind of the defendant ... and to indicate whether he, at that time, had reason to fear bodily harm.” *State v. Cloud*, 7 Wn.App. 211, 218, 498 P.2d 907 (1972) (quoting *State v. Adamo*, 120 Wn. 268, 269, 207 P. 7 (1922)). Thus, such evidence is admissible to show the defendant's reason for apprehension and the basis for acting in self-defense. See *State v. Woodard*, 26 Wn.App. 735, 737, 617 P.2d 1039 (1980); *State v. Walker*, 13 Wn.App. 545, 549–50, 536 P.2d 657 (1975); *Cloud*, 7 Wn.App. at 217, 498 P.2d 907.

Where self-defense is at issue, “the defendant's actions are to be judged against [his] own subjective impressions and not those which a detached jury might determine to be objectively reasonable.” *State v. Wanrow*, 88 Wn.2d 221, 240, 559 P.2d 548 (1977). The jury must take into account “**all** the facts and circumstances known to the defendant, **including those known substantially before the [incident].**” *Wanrow*,

88 Wn.2d at 234, 559 P.2d 548 (emphasis added); *see also State v. Kelly*, 102 Wn.2d 188, 196–97, 685 P.2d 564 (1984); *State v. Allery*, 101 Wn.2d 591, 594–95, 682 P.2d 312 (1984). Because the “vital question is the reasonableness of the defendant's apprehension of danger,” the jury must stand “as nearly as practicable in the shoes of [the] defendant, and from this point of view determine the character of the act.” *Wanrow*, 88 Wn.2d at 235, 559 P.2d 548 (quoting *State v. Ellis*, 30 Wn. 369, 373, 70 P. 963 (1902)). The jury should consider, not only the immediate circumstances surrounding the killing, **but those occurring substantially beforehand.** *State v. Crigler*, 23 Wn.App. 716, 719, 598 P.2d 739, 741 (1979); *State v. Bailey*, 22 Wn.App. 646, 649, 591 P.2d 1212, 1214 (1979).

Mr. Driscoll's State and Federal constitutional rights to present a defense entitled him to present to the jury evidence of all the facts he was aware of at the time he acted in self-defense against Ms. Miles. The “vital question” presented to the jury in this case was the reasonableness of Mr. Driscoll's apprehension of the danger presented by Ms. Miles. The jury was required to judge the reasonableness of Mr. Driscoll's apprehension of danger based on all the facts and circumstances known to Mr. Driscoll. That knowledge included knowledge of the two attacks the trial court excluded.

- c. *The trial court and Superior Court abused their discretion in finding that evidence of the two attacks was irrelevant and inadmissible under ER 401 and ER 402.*

A trial court's decision to admit evidence is reviewed for abuse of discretion. *State v. Foxhoven*, 161 Wn.2d 168, 174, 163 P.3d 786 (2007).

A trial court abuses its discretion when its decision is “manifestly unreasonable or based on untenable grounds.” *Grandmaster Sheng-Yen Lu v. King County*, 110 Wn.App. 92, 99, 38 P.3d 1040 (2002). A court’s decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. *Grandmaster Sheng-Yen Lu*, 110 Wn.App. at 99, 38 P.3d 1040.

When reviewing a trial court’s ruling on a motion to suppress evidence, appellate courts independently determine whether (1) substantial evidence supports the trial court’s factual findings, and (2) the factual findings support the trial court’s conclusions of law. *State v. Carney*, 142 Wn.App. 197, 201, 174 P.3d 142 (2007), *review denied* 164 Wn.2d 1009, 195 P.3d 87 (2008) (*citing State v. Hill*, 123 Wn.2d 641, 647, 870 P.2d 313 (1994)); *State v. Dempsey*, 88 Wn.App. 918, 921, 947 P.2d 265

(1997)). “Substantial evidence exists where there is a sufficient quantity of evidence in the record to persuade a fair-minded, rational person of the truth of the finding.” *Hill*, 123 Wn.2d at 644 (citing *State v. Halstien*, 122 Wn.2d 109, 129, 857 P.2d 270 (1993)). Appellate courts consider any unchallenged findings of fact as verities on appeal. *Hill*, 123 Wn.2d 644 (citations omitted).

Appellate courts review the trial court’s conclusions of law **de novo**. *State v. Mendez*, 137 Wn.2d 208, 214, 970 P.2d 722 (1999) (citation omitted), *overruled on other grounds by Brendlin v. California*, -- - U.S. ----, 127 S.Ct. 2400, 168 L.Ed.2d 132 (2007) (emphasis added).

The trial court’s findings of fact and conclusions of law on the City’s motion to exclude evidence of Ms. Miles’ attacks on Mr. Driscoll were entered on March 11, 2014. CP 322-325. Mr. Driscoll does not challenge any of the trial court’s findings of fact entered on March 11, 2014. However, Mr. Driscoll does challenge conclusions of law 4 and 5.

In conclusion of law number 4, the trial court found that the evidence of the meat cleaver and rock attacks were not relevant under ER 401 because “the evidence of both incidents provided by defense did not have a tendency to make existence of fact or consequence [sic] more or less probable than without the evidence.” CP 324.

In conclusion of law number 5, the trial court found that evidence

of the meat cleaver and rock attacks were inadmissible under ER 402 because the “accuracy and credibility of offered testimony by defendant regarding the two incidents have [sic] no corroboration.” CP 324

The findings of fact entered by the trial court do not support the trial court’s conclusions of law that evidence of the meat cleaver and rock attacks were irrelevant and inadmissible. Mr. Driscoll was entitled to present evidence of **all** the attacks on him by Ms. Miles in support of his defense, not just the one for which Mr. Driscoll had corroborating evidence. The lack of corroborating evidence would go to the weight of Mr. Driscoll’s evidence, not its admissibility. The City would have been fully able to cross examine Mr. Driscoll and point out the lack of corroborating evidence to the jury. The trial court abused its discretion in excluding evidence of the meat cleaver and rock throwing attacks by Ms. Miles. Further, the trial court’s ruling is contrary to *Cloud* and *Woodard, supra*.

d. The exclusion of the attacks by Ms. Miles on Mr. Driscoll violated Mr. Driscoll’s constitutional rights to present testimony in support of his defense.

The Washington Supreme Court has held that the Sixth Amendment is violated where a defendant is effectively barred from presenting a defense due to the exclusion of evidence. *State v. Jones*, 168 Wn.2d 713, 230 P.3d 576 (2010). In *Jones*, the court reversed a rape

conviction because the defendant was precluded from testifying as to his version of the incident. 168 Wn.2d at 720–21, 230 P.3d 576. The court held that evidence that constitutes a defendant's entire defense is so highly probative that no State interest is compelling enough to preclude its introduction. *Jones*, 168 Wn.2d at 721, 230 P.3d 576.

Similarly, here, Mr. Driscoll was effectively barred from presenting his self-defense claim where the trial court excluded evidence of two of Ms. Miles' alleged prior acts of violence against Mr. Driscoll.

As stated above, where self-defense is at issue, “the defendant's actions are to be judged against [his] own subjective impressions and not those which a detached jury might determine to be objectively reasonable.” *Wanrow*, 88 Wn.2d 221, 240, 559 P.2d 548. The jury must take into account “**all** the facts and circumstances known to the defendant, **including those known substantially before the [incident].**” *Wanrow*, 88 Wn.2d at 234, 559 P.2d 548 (emphasis added); *see also State v. Kelly*, 102 Wn.2d 188, 196–97, 685 P.2d 564 (1984); *State v. Allery*, 101 Wn.2d 591, 594–95, 682 P.2d 312 (1984). Because the “vital question is the reasonableness of the defendant's apprehension of danger,” the jury must stand “as nearly as practicable in the shoes of [the] defendant, and from this point of view determine the character of the act.” *Wanrow*, 88 Wn.2d at 235, 559 P.2d 548 (quoting *State v. Ellis*, 30 Wn. 369, 373, 70 P. 963

(1902)).

Mr. Driscoll was asserting the defense of self-defense and sought to introduce evidence of the meat cleaver and rock attacks to establish his “state of mind” and to explain Mr. Driscoll’s “perspective and understanding” at the time he used force against Ms. Miles. B 16. The evidence of the meat cleaver and rock throwing incidents were relevant to the jury’s determination of the critical issue of the reasonableness of Mr. Driscoll’s belief that the force he used to defend himself was necessary given the facts known to Mr. Driscoll at the time he defended himself.

Exclusion of the evidence that Ms. Miles had attacked Mr. Driscoll on two occasions prior to the immediate incident and both times had used a deadly weapon in the attacks greatly weakened Mr. Driscoll’s defense. Not only was the jury supposed to make its determination based on **all** facts known to Mr. Driscoll, but the jury would have weighed the reasonableness of Mr. Driscoll’s actions differently if it was aware of three prior attacks rather than only one prior attack by Ms. Miles. Mr. Driscoll’s violent response to Ms. Miles in the instant case appears far less reasonable if one is only aware of a single prior attack by Ms. Miles against Mr. Driscoll. A man using the amount of force Mr. Driscoll used appears much more reasonable when considered in light of the fact that the person against whom he used force had attacked him three times

previously, each time with a deadly weapon. Mr. Driscoll's claim of self-defense was much less credible without the evidence that Ms. Miles had previously attacked him with a meat cleaver and a rock, both of which were items Ms. Miles could have secreted on her person.

Because Mr. Driscoll was not permitted to testify regarding two of Ms. Miles' prior acts of violence against him, the jury was unable to consider all of the facts and circumstances known to Mr. Driscoll when it was evaluating his claim of self-defense. Mr. Driscoll was precluded from presenting highly probative evidence relevant to whether he reasonably feared Ms. Miles and, thus, relevant to whether he was justified in using force against her.

Testimony regarding Ms. Miles' prior acts of violence against Mr. Driscoll was relevant to show that Mr. Driscoll reasonably feared Ms. Miles. Because Mr. Driscoll was prevented from presenting evidence essential to proving his claim of self-defense, his Sixth Amendment right to present testimony in his defense was violated.

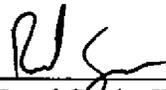
E. CONCLUSION

Mr. Driscoll's right to present a defense was violated by the trial court's erroneous exclusion of evidence that Ms. Miles had previously attacked Mr. Driscoll with a meat cleaver and a rock attacks. The exclusion of this evidence seriously prejudiced Mr. Driscoll's ability to

assert his defense of self-defense. This court should vacate Mr. Driscoll's conviction and remand his case for a new trial at which evidence of all prior attacks on Mr. Driscoll by Ms. Miles is admitted.

DATED this 5th day of February, 2015.

Respectfully submitted,



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CERTIFICATE OF SERVICE

Reed Speir hereby certifies under penalty of perjury under the laws of the State of Washington that on the 5th day of February, 2015, I delivered a true and correct copy of the Brief of Appellant to which this certificate is attached by United States Mail, to the following:

Mr. Kenneth Driscoll,
425 South Tacoma Way
Tacoma, WA 98402

And, I delivered via legal messenger a true and correct copy of the Brief of Appellant and the Verbatim Report of Proceedings to which this certificate is attached, to

City of Tacoma Prosecuting Attorney's Office
930 Tacoma Avenue South
Tacoma, WA 98402

Signed at Tacoma, Washington this 5th day of February, 2015.



Reed Speir, WSBA No. 36270

LAW OFFICE OF REED SPEIR

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Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

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