

No. 50003-5-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION TWO

STATE OF WASHINGTON,

Respondent,

v.

Alexander Brown (a minor child),

Appellant.

ON APPEAL FROM THE SUPERIOR COURT FOR PIERCE COUNTY
JUVENILE COURT

APPELLANT' REPLY BRIEF

DAVID L. DONNAN
Attorney for Appellant

MERYHEW LAW GROUP
600 First Avenue, Suite 512
Seattle, WA 98104-2253
(206) 264-1590

TABLE OF CONTENTS

A. ARGUMENT IN REPLY1

 1. The trial court abused its discretion when it denied Alex’s timely request for a continuance of the trial in order to complete reasonable and necessary investigation.....1

 a. Alex’s counsel made a timely request to continue for additional investigation and the trial court expressly denied the request.1

 b. Trial court abused its discretion when it failed to find Alex’s right to the effective assistance of counsel and due process of law were substantial and compelling reasons sufficient to require production of the records.4

 c. Denial of the motion to compel based on the 14-day requirement was untenable where the defense continuance was necessary and appropriate to ensure the right to fair trial where the evidence sought was material.....7

 d. Any failure to meet the procedural hurdles would be ineffective assistance of counsel and was prejudicial to the accused.10

 2. The trial court abused its discretion by entering findings of fact that were not supported by substantial evidence in the record and concluding the findings established guilt12

 3. The cumulative effect of these errors denied Alex a fair trial.16

B. CONCLUSION16

TABLE OF AUTHORITIES

Washington Supreme Court

City of Seattle v. Slack, 113 Wn.2d 850, 784 P.2d 494 (1989)..... 15

Detention of Henrickson, 140 Wn.2d 686, 2 P.3d 473 (2000) 9

Griffith v. City of Bellevue, 130 Wn.2d 189, 922 P.2d 83 (1996) 7

In re Crace, 174 Wn.2d 835, 280 P.3d 1102 (2012)..... 11

In re Khan, 184 Wn.2d 679, 363 P.3d 577 (2017)..... 11

Lutheran Day Care v. Snohomish County 119 Wn.2d 91,
829 P.2d 746 (1992)..... 8

Roberson v. Perez, 156 Wn.2d 33, 123 P.3d 844 (2005)..... 8

State v. Badda, 63 Wn.2d 176, 385 P.2d 859 (1963)..... 16

State v. Cadena, 74 Wn.2d 185, 443 P.2d 826 (1968)..... 9

State v. Campbell, 103 Wn.2d 1, 691 P.2d 929 (1984) 12

State v. Cantu, 156 Wn.2d 819, 825, 132 P.3d 725 (2006) 15

State v. Estes, 188 Wn.2d 450, 395 P.3d 1045 (2017) 11

State v. Johnson, 188 Wn.2d 742, 399 P.3d 507 (2017)..... 8

State v. Kalakosky, 121 Wn.2d 525, 852 P.3d 1064 (1993)..... 6

State v. Knutson, 121 Wn.2d 766, 854 P.2d 617 (1996) 6

State v. Koloske, 100 Wn.2d 889, 676 P.2d 456 (1985)..... 4

State v. Robinson, 171 Wn.2d 292, 253 P.3d 84 (2011)..... 3

Rules

RAP 2.2..... 3, 4

Washington Court of Appeals

State v. Alexander, 64 Wn.App. 147, 158, 822 P.2d 1250 (1992) 16

State v. Diemel, 81 Wn.App. 464, 914 P.2d 779 (1996) 5, 6

State v. Gross, 57 Wn.App. 549, 789 P.2d 317 (1990)..... 7

State v. Heredia–Juarez, 119 Wn.App. 150, 79 P.3d 987 (2003) 12

State v. Jury, 19 Wn.App. 256, 576 P.2d 1302 (1978) 12

State v. Thomas, 109 Wn.2d 222, 743 P.2d 816 (1987) 11

State v. Venegas, 155 Wn.App. 507, 228 P.3d 813 (2010) 16

State v. Whalon, 1 Wn.App. 785, 804, 464 P.2d 730 (1970)..... 16

United States Supreme Court

Anderson v. Bessemer City, N.C., 470 U.S. 564, 105 S.Ct. 1504,
84 L.Ed.2d 518 (1985)..... 13

Davis v. Alaska, 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974) 6

In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068,
25 L.Ed.2d 368 (1970)..... 15

Pennsylvania v. Ritchie, 480 U.S. 39, 107 S.Ct. 989,
94 L.Ed.2d 40 (1987)..... 6

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052,
80 L.Ed.2d 674 (1984)..... 10, 11

Ungar v. Sarafite, 376 U.S. 575, 84 S.Ct. 841, 11 L.Ed.2d 921 (1964)... 9

Wiggins v. Smith, 539 U.S. 510, 123 S.Ct. 2527,
156 L.Ed.2d 471 (2003)..... 10

Other Jurisdictions

Commonwealth v. Kyle, 367 Pa.Super. 484, 533 PA.2d 120 (1987)..... 6

Payne v. United States, 516 A.2d 484 (D.C. 1986) 14

Robinson v. United States, 928 A.2d 717 (D.C. 2007)..... 14

State v. Whitaker, 202 Conn. 259, 520 A.2d 1018 (1987) 6

United States v. Ferguson, 35 F.3d 327 (7th Cir. 1994), cert. denied, 115 S.Ct. 1832 (1995)..... 13

A. ARGUMENT IN REPLY

The complaining witness's testimony was so inconsistent and internally contradictory as to preclude finding substantial evidence to support the allegations. Because the two charges were not supported by evidence sufficient to sustain a guilty verdict beyond a reasonable doubt the adjudications must be reversed.

In the alternative, the trial court's denial of the defense request to continue the trial and complete discovery was an abuse of discretion. The evidence sought was material to the defense and counsel exercised due diligence in seeking the records. The juvenile court abused its discretion in denying the motions and violated appellant's constitutional rights in the process.

1. The trial court abused its discretion when it denied Alex's timely request for a continuance of the trial in order to complete reasonable and necessary investigation.

a. Alex's counsel made a timely request to continue for additional investigation and the trial court expressly denied the request.

The State concurs the defense requested a continuance on January 10, 2017, based on the need to complete witness interviews which were complicated by a series of impending scheduling conflicts on the part of defense counsel. BoR at 4-5; 1/10/17RP 3-6. The judge deferred ruling on

the motion, however, until the scheduled witness interviews were completed. 1/10/17RP 10.

After completing the witness interviews, defense counsel renewed the motion to continue because the witnesses disclosed the alleged victim had been in counseling focused on these events and the additional time was necessary to move for production of those records. 1/13/17RP 13. Judge Costello denied the motion to continue, but agreed to reconsider if the motion to compel production of the counseling and therapy records was granted. 1/13/17RP 20.

The State argues defense counsel withdrew the motion to continue pending a motion to compel disclosure of the counseling records. BoR 5. While defense counsel did accede to the juvenile court's initial characterization of the request as a withdrawal of the continuance request, the parties went on to discuss the briefing schedule for the motion to compel (1/13/17RP at 17-19). After outlining the briefing schedule, Judge Costello expressly ruled,

I'm not going to continue it today, I'm going to deny the motion for a continuance, but with the understanding that, theoretically, if the Court were to grant a motion that I haven't even seen yet, then potentially there could be a need for a delay. I can't forecast the outcome of those issues.

1/13/17RP at 20.

On January 20th, Judge Costello heard the defense motion for production of records. 1/20/17RP 35-41. The judge denied both the motion for production and the associated motion for continuance.¹ 1/20/17RP 50-53;² CP 39-40. Judge Costello understood the interrelated nature of the two requests and regrettably abused his discretion by putting the statutory desire for a speedy resolution ahead of the accused's right to competent and prepared counsel. The issue is preserved for appellate review under these circumstances by ensuring the trial court had the opportunity to address and correct the potential error. State v. Robinson, 171 Wn.2d 292, 304-05, 253 P.3d 84 (2011). The defense renewed the request at the start of trial to further preserve his right to relief. RAP 2.2, RAP 2.4.

¹ The defense renewed its motion to compel at the start of trial. 1/24/17RP 5-7.

² Judge Costello concluded:

The respondent suggests that in order to follow this, a continuance would be necessary. I don't think it's appropriate that a continuance be essentially forced upon the State under these circumstances because this problem is, frankly, of the respondent's own making. For whatever reason – I don't know why and it doesn't really matter why, but for whatever reason this case has gone on for a period of months and it's only shortly before the trial date that the alleged victim, or victims were interviewed, leading then to this particular motion. I don't know why the delay, but it is has now created this particular problem of the timing of this motion not be in compliance with the statute.

1/20/17RP 51-52.

Because the trial court's ruling regarding the request to continue was definitive and made on the record, Alex is entitled to rely on that ruling in the appellate court. See State v. Koloske, 100 Wn.2d 889, 896, 676 P.2d 456 (1985), overruled on other grounds by State v. Brown, 111 Wn.2d 124, 761 P.2d 588 (1988). Although Judge Costello found the motion was not supported by a sworn declaration and that sufficient notice had not been provided, defense counsel noted that these problems were created by the court's denial of the continuance he initially requested. 1/20/17RP 51-53. In light of the court's definitive ruling, Alex is entitled to full appellate review. RAP 2.2(a)(5).

b. Trial court abused its discretion when it failed to find Alex's right to the effective assistance of counsel and due process of law were substantial and compelling reasons sufficient to require production of the records.

The State asserts Alex made no showing or presented no evidence in support of his motion to compel. BoR 7. On the contrary, however, the defense motion detailed the specific factual basis upon which they believed further relevant evidence would be found in the records they sought. CP 19; 1/20/17RP 36-41. The complaining witness, an 11-year-old child, made several inconsistent statements and included new details regarding the alleged abuse. CP 19; 1/20/17RP 37. At the same time, defense counsel also learned J.K. was seeing a counselor following a

referral from the Child Advocacy Center where she engaged in “play therapy” and made additional disclosures. Id. The record established, therefore, that additional statements by J.K. had not been provided to the defense pursuant to the discovery request. CP 19; 1/20/17RP at39-40. This was exactly the form of particularized factual showing contemplated by the rules and is far from the mere speculation condemned in the case law.³

The difference between the showing Alex made, and that in Diemel upon which the respondent relies, illustrates the propriety of this request. State v. Diemel, 81 Wn.App. 464, 468, 914 P.2d 779, review denied, 130 Wn.2d 1008 (1996). “[C]onsiderable speculation,” and “little factual basis or foundation” were all the supported Diemel’s assertion the records might contain evidence of consent. 81 Wn.App. at 469. In Alex’s case, it is the changing nature and scope of the allegations themselves that are documented in J.K.’s various descriptions of the incidents and would very likely have been documented in the records the defense sought. These records were, therefore, discoverable pursuant to CrR 4.7(d). See Davis v.

³ Respondent’s reliance on State v. Grant, 89 Wn.2d 678, 689, 575 P.2d 210 (1978) is misplaced because the Court there simply noted that a motion for change of venue based solely on the appellants’ belief that a black person could not get a fair trial in Adams County, particularly in the face of appellate counsel’s statement he “assume(d) that blacks had not been purposely excluded from the jury panel,” without support in the form of affidavit or testimony, failed to establish an abuse of discretion. 89 Wn.2d at 689. In Alex’s case, however, the record established the J.K.’s recitation of the allegations had been changing and there was ample reason to believe the records sought would further document these inconsistencies. CP 19-26.

Alaska, 415 U.S. 308, 316, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974) (juvenile records discoverable pursuant to Sixth Amendment Confrontation Clause despite state law privilege).⁴

In this case, the shifting nature of the child's allegations regarding where and how the alleged incidents may have occurred were material to the defense because they illustrated the likely confabulation and contradictions found throughout J.K.'s "disclosures." 1/20/17RP 48. It is for this very reason, the Washington Supreme Court has noted that courts must be "sensitive to the importance impeachment evidence can have in sexual assault cases where the complaining witness and the accused are the only witnesses." State v. Knutson, 121 Wn.2d 766, 775, 854 P.2d 617 (1996). The records here were highly likely to provide relevant and material evidence for the defense in the form of important impeachment evidence and as such were subject to the motion to compel. CP 23-24.

The assertion that the absence of a separate affidavit precludes consideration of the factual basis the defense outlined is equally

⁴ Notwithstanding the statutory privileges governing records such as these, the United States Supreme Court has concluded they are subject to disclosure if they are in any way "favorable to the accused and material to guilt or punishment." Pennsylvania v. Ritchie, 480 U.S. 39, 57, 107 S.Ct. 989, 94 L.Ed.2d 40 (1987); see also Commonwealth v. Kyle, 367 Pa.Super. 484, 501, 533 PA.2d 120 (1987), appeal denied, 541 A.2d 744, 518 Pa. 617 (1988) (claims of privilege may be countered by showing there are reasonable grounds to believe failure to produce the information will impair the right to confrontation); State v. Whitaker, 202 Conn. 259, 271-72, 520 A.2d 1018 (1987).

unavailing. The rules are designed to place substance over form and aim to resolve cases on the merits. See e.g. Griffith v. City of Bellevue, 130 Wn.2d 189, 192, 922 P.2d 83 (1996) (holding statutory affidavit requirement was not a jurisdictional prerequisite). See also State v. Gross, 57 Wn.App. 549, 554, 789 P.2d 317 (1990) (holding failure to include information in affidavit form did not invalidate search warrant). The factual basis for the motion was clear to the parties and the court and any failure to present the facts in a particular format should not stand as a bar to relief under these circumstances.

Ultimately, the cases upon which the State relies upholding the denial of access to such records have been premised on the basis that there was no possibility they contained material exculpatory evidence. The contrary is plainly true here and the juvenile court judge's conclusion on materiality was, therefore, untenable in light of the record presented.

c. Denial of the motion to compel based on the 14-day requirement was untenable where the defense continuance was necessary and appropriate to ensure the right to fair trial where the evidence sought was material

The State argues the failure to satisfy the statutory 14-day notice requirement precludes relief as to both the therapist and the school counselor. BoR 15.

At the outset, however, RCW 70.125.065 has no application to the request for records from the school district counselor. See AOB 31-32. The law of the case doctrine does not preclude relief. The law of the case doctrine is most commonly applied in Washington to the jury instructions that are not objected to and are therefore treated as the applicable law for purposes of appeal. See State v. Johnson, 188 Wn.2d 742, 758-62, 399 P.3d 507 (2017); Lutheran Day Care v. Snohomish County 119 Wn.2d 91, 113, 829 P.2d 746 (1992). The doctrine has no application to the discovery process and the authorities cited by the State would not support such an extension. Furthermore, the doctrine itself is discretionary and leaves the reviewing court to reach a just result. Roberson v. Perez, 156 Wn.2d 33, 42, 123 P.3d 844 (2005).

The State asserts there was nothing precluding presenting the motion earlier, but this ignores the detail provided by counsel at the proceeding hearings regarding the progress of the case and the delay in completing the witness interviews which were a prerequisite to establishing the need for the counseling records. 1/10/17RP 4-5. At the initial hearing on January 10th, defense counsel explained that the case had been moving forward expeditiously, but that the previously scheduled witness interviews had to be moved because of his trial schedule. 1/10/17RP 4. Counsel further explained that he had been sent out on three

cases back to back on December 29th. It was this confluence of cases which made it impossible for counsel to complete the necessary investigation at an earlier date. Id. at 5.

By the time counsel was able to complete the interviews on January 12th and return to court on January 13th, it was not possible to satisfy the 14-day requirement without the continuance. 1/13/17RP 13. Denial of the motions based on the failure to satisfy the statutory requirement was an untenable Catch-22 then under these facts. To the extent, the statute is designed to give an opportunity to seek a protective order, in this case where the patient was a minor and provided a victim advocate, the Pierce County Prosecuting Attorney could adequately represent this patient's interest. To the extent it was never possible to meet that time limitation, the requested continuance was necessary and the denial of that request was unreasonable. Ultimately, the law does not require someone to do the impossible and due process does not require that the absurd be done before vindicating a compelling interest. Detention of Henrickson, 140 Wn.2d 686, 2 P.3d 473 (2000). Furthermore, "a myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to defend with counsel an empty formality." State v. Cadena, 74 Wn.2d 185, 189, 443 P.2d 826 (1968), citing Ungar v. Sarafite, 376 U.S. 575, 589, 84 S.Ct. 841, 11 L.Ed.2d 921 (1964). Where

defense counsel demonstrated reasonable diligence in investigating and preparing the case for trial, the juvenile court's conclusion to the contrary was unsupported by the record and based on untenable grounds and reasons.

d. Any failure to meet the procedural hurdles would be ineffective assistance of counsel and was prejudicial to the accused.

Every person accused of a crime has a constitutional right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668, 685, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Where counsel's performance was deficient and the deficient performance prejudiced the accused, a new trial is required. Id. at 687; see also Wiggins v. Smith, 539 U.S. 510, 521, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003). While an attorney's decisions are treated with deference, his actions must be reasonable under all the circumstances. Wiggins, 539 U.S. at 533-34.

In the present case, there was no conceivable tactical reason not to provide an affidavit in support of the motion to compel production. The motion outlined the facts in support of the request, so there was no concern regarding disclosure of defenses or alternate theories. CP 17-27. To the extent that Alex was prejudiced by the juvenile court's rejection of the motion to compel because of this failure, he has been substantially prejudice by the error. State v. Estes, 188 Wn.2d 450, 457-58, 395 P.3d

1045 (2017) (failure to investigate was objectively unreasonable and prejudiced defendant); In re Khan, 184 Wn.2d 679, 688-92, 363 P.3d 577 (2017) (failure to ensure right to interpreter had no tactical benefit and prejudiced Khan's other trial rights); In re Crace, 174 Wn.2d 835, 843, 280 P.3d 1102 (2012) (a successful claim of ineffective assistance of counsel necessarily satisfies the burden to establish substantial prejudice);.

There was a reasonable probability that but for counsel's inadequate performance, the result would have been different. Strickland, 466 U.S. at 694; State v. Hendrickson, 129 Wn.2d 61, 78, 917 P.2d 563 (1996). A reasonable probability "is a probability sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694; State v. Thomas, 109 Wn.2d 222, 226, 743 P.2d 816 (1987). Prejudice is established here, and reversal is required, because the trial judge's rejection of a number of charges illustrates the inadequate nature of the proof. Had the defense had the benefit of the evidence he sought, there is a very real possibility all the charges would have been rejected. To the extent that the juvenile court denied the motion to compel based on counsel's failure to satisfy certain procedural requirements, his performance was deficient and prejudiced Alex's ability to a fair trial. A new trial is required.

Ultimately, allowing counsel time to prepare for trial is a valid basis for continuance and must prevail over other procedural rights

because of its central part in the application of due process of law. State v. Campbell, 103 Wn.2d 1, 14-15, 691 P.2d 929 (1984); State v. Williams, 104 Wn.App. 516, 523, 17 P.3d 648 (2001). Scheduling conflicts are central considerations in the granting continuances and provided ample justification for the request below. See e.g. State v. Heredia-Juarez, 119 Wn.App. 150, 153-55, 79 P.3d 987 (2003). In the alternative, the defendant is denied effective assistance of counsel by his trial counsel's failure to conduct an adequate investigation or to properly support his motion for continuance. State v. Jury, 19 Wn.App. 256, 262-64, 576 P.2d 1302 (1978).

2. The trial court abused its discretion by entering findings of fact that were not supported by substantial evidence in the record and concluding the findings established guilt

The State acknowledges that Finding of Fact XVI is inaccurate and unsupported by substantial evidence in the record. BoR 16-17. Finding of Fact XVI, must therefore be stricken, to the extent it asserts, “The genital examination revealed that J.K. had a deep hymenal scallop at 5 o’clock....” CP 63.

The trial court similarly erred in entering Finding of Fact VI, VII and XXI regarding the underlying incidents in the absence of substantial evidence. AOB 42-45. J.K.’s testimony was so internally inconsistent and

contradictory; the record lacks the substantial evidence necessary to support the findings.

Where J.K. asserted for example that the improper contact had been going on for almost two years, but categorically indicated nothing occurred at the old house where she lived during that period of time and then that she could only remember two incidents, the evidence cannot be said to provide substantial support for a finding that she has credibly recounted wrongful conduct. RP 52, 56, 60, 75. The judge rejected the “one other time in my new house,” and should have similarly rejected the incident alleged to have occurred at Alex’s house Finding VII as well based on the conflicting testimony. Anderson v. Bessemer City, N.C., 470 U.S. 564, 575, 105 S.Ct. 1504, 84 L.Ed.2d 518 (1985) (trial court’s decision to credit witness’ testimony may be erroneous on review if “[d]ocuments or objective evidence ... contradict the witness’ story; or the story itself [is] so internally inconsistent or implausible on its face that a reasonable factfinder would not credit it.”); see also United States v. Ferguson, 35 F.3d 327, 333 (7th Cir. 1994), cert. denied, 115 S.Ct. 1832 (1995) (deference to trial court’s credibility determination gives way where it is without foundation.

Furthermore, a fact-finder’s credibility determination is not entitled to deference “if the testimony of the witness is inherently incredible under

the circumstances.” Robinson v. United States, 928 A.2d 717, 727 (D.C. 2007). This principle applies where the testimony is capable of being disproved as a matter of logic by the uncontradicted facts or when the person whose testimony is under scrutiny made allegations which seem highly questionable in light of common experience and knowledge. See Payne v. United States, 516 A.2d 484, 494 (D.C. 1986).

These principles have particular application to J.K.’s identification testimony. With regard to her identification of respondent, J.K. testified that she was asleep and that her head was covered by blankets. RP 52, 68. J.K. described herself as a “pretty sound sleeper, generally.” RP 102. She testified that putting blankets over her head did not wake her. RP 78. She believed it to be the respondent, however, “cause I would feel my pants go down to my ankles.” RP 59. Following this confused and contradictory account, J.K. testified it was only because “then the last time I saw him in my bedroom, that’s how I remember him.” RP 56. The clear implication being that J.K. had not seen respondent in any prior encounter and leaving residual doubt about significant portions of her testimony.

With regard to the “last” incident, contrary to the language in Finding VI that respondent “then ran out of her bedroom,” J.K. testified “he just gently walked out.” RP 61. The erroneous portion of the finding should be stricken.

With regard to the essential element of penetration, J.K. testified variously that respondent would insert three fingers “inside the number one area,” but on further examination was asked if she could feel the fingers go inside and she answered “no.” Cf RP 53, 62.

J.K. testified she knew it went inside “because I would always – it would always hurt.” RP 62. Michelle Breland testified that such penetrating trauma would make it painful to urinate, but J.K. testified she never had any such difficulties. RP 54, 379. Neither J.K.’s conflicting testimony, nor the medical witnesses’ observations provide substantial evidence from which to make a finding regarding penetration.

These shortcomings afflict Findings VI, VII and XXI. They should be stricken to the extent they are not supported by substantial evidence. In the absence of these critical findings regarding the allegations, this Court cannot find the allegations proven beyond a reasonable doubt. Where the evidence is not sufficient because of the inconsistencies, dismissal would be called for. In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); State v. Cantu, 156 Wn.2d 819, 825, 132 P.3d 725 (2006). A juvenile’s fundamental right to due process is violated when a conviction is based upon insufficient evidence. Winship, 397 U.S. at 358; City of Seattle v. Slack, 113 Wn.2d 850, 859, 784 P.2d 494 (1989).

3. The cumulative effect of these errors denied Alex a fair trial.

Alex's case represents a situation in which even if the individual errors standing alone did not require relief, the aggregate effect was to deny him a fair trial on the most critical issues presented by the evidence. See State v. Badda, 63 Wn.2d 176, 183, 385 P.2d 859 (1963); State v. Alexander, 64 Wn.App. 147, 158, 822 P.2d 1250 (1992); State v. Whalon, 1 Wn.App. 785, 804, 464 P.2d 730 (1970). In Alex's case, the cumulative effect of these errors worked a violation of his right to a fair trial. State v. Venegas, 155 Wn.App. 507, 526-27, 228 P.3d 813 (2010). Reversal of the adjudications of guilt on Counts 1 and 2 is required.

B. CONCLUSION

Alex Brown requests this Court reverse his adjudication of guilt and remand for a new hearing.

DATED this 6th day of October, 2017.

Respectfully submitted,



DAVID L. DONNAN (WSBA 19271)
MERYHEW LAW GROUP
Attorneys for Appellant

MERYHEW LAW GROUP

October 06, 2017 - 9:48 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 50003-5
Appellate Court Case Title: State of Washington, Respondent v. Alexander J. Brown, Appellant
Superior Court Case Number: 16-8-00728-4

The following documents have been uploaded:

- 7-500035_Briefs_20171006093510D2878275_2157.pdf
This File Contains:
Briefs - Appellants Reply
The Original File Name was Appellant Reply Brief.pdf

A copy of the uploaded files will be sent to:

- PCpatcecf@co.pierce.wa.us
- mvonwah@co.pierce.wa.us

Comments:

Sender Name: David Donnan - Email: david@meryhewlaw.com

Address:

600 1ST AVE STE 512
SEATTLE, WA, 98104-2253
Phone: 206-264-1590

Note: The Filing Id is 20171006093510D2878275