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**COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

THEOTIS MOORE, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Frank Cuthbertson

No. 16-1-03352-2

Brief of Respondent

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Has the defendant failed to demonstrate ineffective assistance of counsel where he was observed leaving his apartment to sell Percocet to the confidential informant providing no basis to challenge the search warrant?
2. In viewing the evidence in the light most favorable to the State, was the evidence sufficient to support both firearm enhancements where the gun was found in the same room as the defendant, the narcotics and the drug paraphernalia?
3. Should this court remand to correct the scrivener's error on count III where the judgment and sentence reflects the incorrect standard range?

B. STATEMENT OF THE CASE.

1. PROCEDURE

On August 19, 2016, the State charged Theotis Moore, hereinafter referred to as the "defendant" with one count of unlawful possession of a controlled substance with intent to deliver, to-wit: oxycodone (count I),

one count of unlawful possession of a controlled substance with intent to deliver, to wit: methamphetamine (count II), one count of unlawful possession of a firearm in the first degree (count III), and one count of unlawful use of drug paraphernalia (count IV). CP 1-2.

Trial was held on February 8, 2017 before the Honorable Judge Frank Cuthbertson. RP 17-18.¹ Prior to trial, the court granted the State's motion to dismiss count IV. RP 5. A jury found the defendant guilty beyond a reasonable doubt of unlawful possession of a controlled substance with intent to deliver, oxycodone (count I), unlawful possession of a controlled substance, methamphetamine, the lesser included offense of count II, and unlawful possession of a controlled substance (count III). RP 365-366.

On March 17, 2017, the Court sentenced the defendant to 66 months in custody on count I, 42 months in custody on count 2, 36 months in custody on count III to be run concurrently. CP 122-134. For the firearm sentencing enhancements, the court imposed 36 months on count I and 18 months on count II to be served consecutively for a total of 120 months in custody. CP 122-134.

Defendant timely filed a Notice of Appeal. 142-158.

¹ The record includes six volumes of verbatim reports. All volumes are consecutively numbered. Accordingly, this brief refers to each report by its paginated number.

2. FACTS

On August 18, 2016, Pierce County Sheriff's deputies (PCSD) served and executed a search warrant for narcotics at the defendant's apartment. RP 80. Prior to executing the search warrant, deputies conducted surveillance on the defendant. RP 128-129. The defendant was observed and followed making trips to parking lots from his apartment in a Black Escalade. RP 128-129.

Deputy Hotz served the search warrant on the defendant and asked whether there were any drugs or firearms in the house. RP 81-82. The defendant initially denied having any drugs or firearms, but later admitted to having Oxycodone and Flexeril and that he'd sold pills to another person. RP 96-98. The defendant also stated that Melissa Scanlan whom he lived with, had a gun that may be in the closet. RP 96-97, 132. Ms. Scanlan lived with the defendant with their three year old child and her fifteen month old child at the time. RP 132-133. Ms. Scanlan had access to prescription medication from her job at St. Joseph's Medical Center. RP 93, 150. She admitted to detectives that the defendant delivered drugs to other people. RP 150. Ms. Scanlan denied owning a firearm. RP 159.

Sergio Madrigal Mendoza of the PCSD special investigations unit assisted in the execution of the search warrant at the defendant's home. RP 187-188. He searched the defendant's master bedroom where the

following items were found: a digital gram scale, money in a sock and the defendant's pants pocket, two boxes of .45 caliber ammunition, a loaded .45 caliber magazine, a bag of methamphetamine, a jar containing small baggies for drug distribution as well as various documents bearing the defendant's name and information. RP 188-200, 239-240.

Mark Gosling who also assisted in the search of the defendant's home found the following items in the defendant's master bedroom: two cell phones, numerous empty prescription bottles, one of which still had an Oxycodone label intact in the defendant's name, \$437 in cash in the defendant's pants, the defendant's wallet, six 10 mg Oxycodone pills, K56 pills, three 15 mg Oxycodone pills, A214 pills, fourteen 30 mg Oxycodone pills and A215 pills, some of which were found in the defendant's pants, and marijuana. RP 211-224, 230. Deputies also found a fully operational Walther PPK semiautomatic handgun on a closet shelf of the bedroom. RP 225, 259.

PCSD deputy Darrin Rayner found the following items in the defendant's living room: 15 mg Oxycodone prescription receipts and instruction pamphlets for the defendant, 10 mg Cyclobenzaprine pills. RP 279. Deputy Rayner also found the same items in the defendant's Escalade near his apartment. RP 280.

C. ARGUMENT.

1. DEFENDANT IS UNABLE TO SATISFY EITHER PRONG OF THE **STRICKLAND** TEST AND SHOW HE RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL.

The right to effective assistance of counsel is the right “to require the prosecution’s case to survive the crucible of meaningful adversarial testing.” *United States v. Cronin*, 466 U.S. 648, 656, 104 S. Ct. 2045, 80 L. Ed. 2d 657 (1984). When such a true adversarial proceeding has been conducted, even if defense counsel made demonstrable errors in judgment or tactics, the testing envisioned by the Sixth Amendment has occurred. *Id.* “The essence of an ineffective-assistance claim is that counsel’s unprofessional errors so upset the adversarial balance between defense and prosecution that the trial was rendered unfair and the verdict rendered suspect.” *Kimmelman v. Morrison*, 477 U.S. 365, 374, 106 S. Ct. 2574, 91 L. Ed. 2d 305 (1986).

A defendant who raises a claim of ineffective assistance of counsel must show: (1) that his or her attorney’s performance was deficient, and (2) that he or she was prejudiced by the deficiency. *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); *State v. Hendrickson*, 129 Wn.2d 61, 77-78, 917 P.2d 563 (1996). Under the first prong, deficient performance is not shown by matters that go to trial strategy or tactics. *State v. Garrett*, 124 Wn.2d 504, 520, 881 P.2d

185 (1994). Under the second prong, the defendant must show that there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different. *State v. Thomas*, 109 Wn.2d 222, 226, 743 P.2d 816 (1987).

Judicial scrutiny of a defense attorney's performance must be "highly deferential in order to eliminate the distorting effects of hindsight." *Strickland*, 466 U.S. at 689. The reviewing court must judge the reasonableness of counsel's actions "on the facts of the particular case, viewed as of the time of counsel's conduct." *Id.* at 690; *State v. Benn*, 120 Wn.2d 631, 633, 845 P.2d 289 (1993).

What decision [defense counsel] may have made if he had more information at the time is exactly the sort of Monday-morning quarterbacking the contemporary assessment rule forbids. It is meaningless...for [defense counsel] now to claim that he would have done things differently if only he had more information. With more information, Benjamin Franklin might have invented television.

Hendricks v. Calderon, 70 F.3d 1032, 1040 (C.A. 9, 1995).

The standard of review for effective assistance of counsel is whether, after examining the whole record, the court can conclude that defendant received effective representation and a fair trial. *State v. Ciskie*, 110 Wn.2d 263, 284, 751 P.2d 1165 (1988). A presumption of counsel's competence can be overcome by showing counsel failed to conduct

appropriate investigations, adequately prepare for trial, or subpoena necessary witnesses. *Id.* An appellate court is unlikely to find ineffective assistance on the basis of one alleged mistake. *State v. Carpenter*, 52 Wn. App. 680, 684-685, 763 P.2d 455 (1988).

The reviewing court will defer to counsel's strategic decision to present, or to forego, a particular defense theory when the decision falls within a wide range of professionally competent assistance. *Strickland*, 466 U.S. at 489; *United States v. Layton*, 855 F.2d 1388, 1419-20 (9th Cir. 1988), *cert. denied*, 488 U.S. 948 (1988). When the ineffectiveness allegation is premised upon counsel's failure to litigate a motion or objection, defendant must demonstrate not only that the legal grounds for such a motion or objection was meritorious, but also that the verdict would have been different if the motion or objections had been granted.

Kimmelman, 477 U.S. at 375; *United States v. Molina*, 934 F.2d 1440, 1447-48 (9th Cir. 1991). An attorney is not required to argue a meritless claim. *Cuffle v. Goldsmith*, 906 F.2d 385, 388 (9th Cir. 1990).

A defendant must demonstrate both prongs of the *Strickland* test, but a reviewing court is not required to address both prongs of the test if the defendant makes an insufficient showing on either prong. *State v. Thomas*, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987).

- a. Petitioner fails to demonstrate that there was any basis to challenge the search warrant.

The standard of review for the issuance of a search warrant is abuse of discretion, with all doubts being resolved in favor of warrant validity. *State v. Cole*, 128 Wn.2d 262, 286, 906 P.2d 925 (1995). An affidavit in support of a search warrant must set forth the facts and circumstances to establish a reasonable probability that criminal activity is occurring or is about to occur. *State v. Higby*, 26 Wn. App. 457, 460, 613 P.2d 1192 (1980). A magistrate's determination as to probable cause and other legal conclusions, such as those here, are reviewed de novo. *State v. Chamberlin*, 161 Wn.2d 30, 40-41, 162 P.3d 389 (2007). Findings of fact are reviewed for substantial evidence. *State v. Macon*, 128 Wn.2d 784, 911 P.2d 1004 (1996).

Courts rightly apply a commonsense reading to search warrants and resolve all doubts in favor of their validity. *State v. Cole*, 128 Wn.2d 262, 286, 906 P.2d 925 (1995); *State v. Young*, 123 Wn.2d 173, 195, 867 P.2d 593 (1993); *State v. Tarter*, 111 Wn. App. 336, 340, 44 P.3d 899 (2002). It remains "axiomatic that if a warrant sufficiently describes the premises to be searched, this will justify a search of the personal effects ... if those effects might contain the items described in the warrant." *United States v. Gomez-Soto*, 723 F.2d 649, 654-55 (9th Cir. 1984) (*citing*

United States v. Ross, 456 U.S. 798, 820-21, 102 S. Ct. 2157, 72 L. Ed 2d 572 (1982)).

The court examines whether probable cause existed to issue a search warrant on a case-by-case basis viewing the totality of facts contained in the supporting affidavit. *State v. Thein*, 138 Wn.2d 133, 147, 977 P.2d 582 (1999). Probable cause requires a nexus between criminal activity and the item to be seized, and also a nexus between the item to be seized and the place to be searched. *State v. Goble*, 88 Wn. App. 503, 509, 945 P.2d 263 (1997). In *Thein*, a search of a drug dealer's residence led to evidence that Thein was the drug dealer's supplier. *State v. Thein*, 138 Wn.2d at 137-138. Police subsequently obtained a warrant to search Thein's home based on the officers' general statements of belief that drug traffickers commonly store portions of their drug inventory in their homes. *Id.* at 138-139. The court rejected the State's argument that evidence someone is involved in drug dealing automatically establishes a nexus between the items to be seized and that person's residence. *Id.* at 141, 147. Instead, the court held that a reasonable nexus is not established unless officers present specific facts linking such illegal activity to the residence to be searched. *Id.* at 148.

In *G.M.V.*, the court held that defense counsel was not ineffective for failing to move to suppress evidence obtained from a search of a home

where the “warrant was to search the place [a person] left from and returned to before and after he sold drugs.” *State v. G.M.V.*, 135 Wn. App. 366, 144 P.3d 358 (2006). This court further held that

“*G.M.V.* did not create a bright line rule that a suspect must be seen leaving from and returning to a residence after a single drug transaction to establish probable cause to search that residence. Instead, we examine whether probable cause existed to issue a search warrant on a case-by-case basis viewing the totality of facts contained in the supporting affidavit.”

State v. Wood, 1 Wn. App. 1052, 4, 2017 WL 6493307² citing *State v. Thein*, 138 Wn.2d at 147. In *Wood*, this Court found sufficient facts to support probable cause to search the defendant’s home where Wood was seen leaving from his home prior to a suspected drug transaction. *State v. Wood*, 1 Wn. App. at 4.

Here, there were sufficient facts in the affidavit to support probable cause to search the defendant’s home. As in *Wood*, the affidavit states that the defendant was seen leaving his apartment to sell narcotics to a confidential informant. CP 95-98. The affidavit for the search warrant states in relevant part the following:

During the course of this investigation, Theotis L. Moore sold Percocet multiple times to at least one confidential and reliable informant working for the Pierce County Sheriff’s Department.

² GR 14.1 allows for citations to unpublished opinions filed on or after March 1, 2013 for persuasive value only as the court deems appropriate.

Surveillance conducted during the investigation suggested that Theotis L. Moore lives at 16110 A St S Apartment number 3.

Within the past 72 hours Theotis L. Moore was under surveillance when he met with the confidential informant and was operating a black Cadillac Escalade bearing license WA (BAH4690). The vehicle was used to facilitate the drug deal. Deputy K. Shaffer observed Theotis L. Moore **leave apartment number 3** and get into the Cadillac Escalade. The vehicle and Theotis L. Moore was kept under constant surveillance to the deal.

CP 95-98 (emphasis added).

There is a nexus between the defendant's drug dealing and his apartment where he left directly from his apartment to sell the Percocet to the confidential informant. CP 995-98. Here, as in *Wood* and *G.M.V.*, there was probable cause to search the defendant's home where the warrant was to search the place the defendant left from right before he sold drugs. *Wood*, 1 Wn. App. at 4, *State v. G.M.V.*, 135 Wn. App. 366.

Defendant claims that "there are *no* facts linking illegal activity to his home. Rather, the activity indicates the observed drug transactions occurred in a public place away from [the defendant's] home." Brief of Appellant (BOA) at 16. He also states that *Thein* is "directly on point" and therefore controls. BOA at 18. This claim fails where there the affidavit for probable cause explicitly states that the defendant is seen leaving his apartment before selling the Percocet to the confidential informant. CP 95-

98. Unlike *Thein*, the affidavit did not merely include general statements of belief that drug traffickers commonly store portions of their drug inventory in their homes. *State v. Thein*, 138 Wn.2d at 138-139.

- b. The defendant fails to demonstrate that counsel was deficient or that he was prejudiced in any way.

Defendant cannot establish that counsel was ineffective for not challenging the search warrant where, as argued *supra*, there was no basis to do so. Defendant fails to demonstrate not only that the legal grounds for a suppression motion would have been meritorious, or that the verdict would have been different if the motion was granted. *Kimmelman*, 477 U.S. at 375; *United States v. Molina*, 934 F.2d 1440, 1447-48 (9th Cir. 1991). His attorney was not required to argue a meritless claim. *Cuffle v. Goldsmith*, 906 F.2d 385, 388 (9th Cir. 1990). Defendant fails to demonstrate either prongs of the *Strickland* test, and a reviewing court is not required to address both prongs of the test if the defendant makes an insufficient showing on either prong. *State v. Thomas*, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987).

On the contrary, the record demonstrates that counsel was effective. Defense counsel objected at appropriate times, cross examined witnesses, made closing arguments, and not only subpoenaed a defense witness, but also elicited his testimony at trial. RP 96, 115, 303, 344.

Where the defendant cannot establish that counsel's performance fell below an objective standard of reasonableness, this Court should dismiss his claim and affirm his conviction.

2. IN VIEWING THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE, EVIDENCE WAS SUFFICIENT TO SUPPORT THE FIREARM ENHANCEMENTS FOR COUNTS I AND II WHERE THE GUN WAS IN THE MASTER BEDROOM WITH THE DEFENDANT, NARCOTICS AND DRUG PARAPHERNALIA DURING THE EXECUTION OF THE SEARCH WARRANT.

Due process requires that the State bear the burden of proving each and every element of the crime charged beyond a reasonable doubt. *State v. McCullum*, 98 Wn.2d 484, 488, 656 P.2d 1064 (1983); *see also Seattle v. Gellein*, 112 Wn.2d 58, 61, 768 P.2d 470 (1989); *State v. Mabry*, 51 Wn. App. 24, 25, 751 P.2d 882 (1988). The applicable standard of review is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *State v. Joy*, 121 Wn.2d 333, 338, 851 P.2d 654 (1993). A challenge to the sufficiency of the evidence admits the truth of the State's evidence and any reasonable inferences from it. *State v. Barrington*, 52 Wn. App. 478, 484, 761 P.2d 632 (1987), *review denied*, 111 Wn.2d 1033 (1988) (*citing State v. Holbrook*, 66 Wn.2d 278, 401 P.2d 971 (1965)); *State v. Turner*, 29 Wn.

App. 282, 290, 627 P.2d 1323 (1981). All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

Circumstantial and direct evidence are considered equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). In considering this evidence, “[c]redibility determinations are for the trier of fact and cannot be reviewed upon appeal.” *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990) (citing *State v. Casbeer*, 48 Wn. App. 539, 542, 740 P.2d 335, review denied, 109 Wn.2d 1008 (1987)).

The written record of a proceeding is an inadequate basis on which to decide issues based on witness credibility. See *Camarillo, supra*. The differences in the testimony of witnesses create the need for such credibility determinations; these should be made by the trier of fact, who is best able to observe the witnesses and evaluate their testimony as it is given. See *State v. Cord*, 103 Wn.2d 361, 367, 693 P.2d 81 (1985). On this issue, the Supreme Court of Washington said:

great deference . . . is to be given the trial court’s factual findings. It, alone, has had the opportunity to view the witness’ demeanor and to judge his veracity.

Id. (citations omitted). Therefore, when the State has produced evidence of all the elements of a crime, the decision of the trier of fact should be upheld.

A court must add time to a defendant's sentence for certain felonies if the jury enters a special verdict that the defendant was armed with a firearm while committing the crime. RCW 9.94A.533(3). A person is "armed" if "a weapon is easily accessible and readily available for use, either for offensive or defensive purposes." *State v. Eckenrode*, 159 Wn.2d 488, 493, 150 P.3d 1116 (2007). With constructive possession, there must be a "nexus between the weapon and the defendant and between the weapon and the crime." *State v. Schelin*, 147 Wn.2d 562-68, 55 P.3d 632 (2002); accord *State v. Gurske*, 155 Wn.2d 134, 138, 141, 118 P.3d 333 (2005). The "easily accessible and readily available" requirement means that "mere constructive possession is insufficient to prove a defendant is "armed" with a deadly weapon during the commission of a crime." *Gurske*, 155 Wn.2d at 138. "[T]he weapon must be easy to get to for use against another person, whether a victim, a drug dealer, or the police." *Id.* at 139.

When a crime is a continuing crime, like a drug manufacturing operation, a nexus obtains if the weapon is "there to be used," which requires more than just the weapon's presence at the crime scene. *State v.*

Neff, 163 Wn.2d 453, 462, 181 P.3d 819 (2008). The potential use may be offensive or defensive and may be to facilitate the crime's commission, to escape the scene, or to protect contraband. *Id.* at 462.

A firearm does not need to be loaded for the purposes of the deadly weapon enhancement. *State v. Simonson*, 91 Wn. App. 874, 882, 960 P.2d 955 (1998). Whether a firearm is loaded or unloaded is one of many factors to consider when deciding whether the defendant caused the gun to be "readily available for use" during the commission of the crime. *Id.* at 883.

A defendant does not have to be armed at the moment of arrest to be armed for purposes of the firearm enhancement. *State v. O'Neal*, 159 Wn.2d 500, 504, 150 P.3d 1121 (2007). "[T]he State need not establish with mathematical precision the specific time and place that a weapon was readily available and easily accessible, so long as it was at the time of the crime." *Id.* at 5-4-505 (firearms were "easily accessible and readily available" where police discovered a rifle leaning against a wall and a pistol underneath a mattress in the residence where defendants manufactured drugs); *Schelin*, 147 Wn.2d at 564 (a loaded revolver in a holster hanging from a nail in the wall was "easily accessible and readily available" where the defendant was 6 to 10 feet from the revolver when the police discovered him); *State v. Simonson*, 91 Wn. App. at 876-878,

883, 960 P.2d 955 (1998) (affirming deadly weapon enhancements where police found several guns hidden in a bedroom in a residence where defendant manufactured drugs).

In *Neff*, the court held that sufficient evidence supported a firearm enhancement where the police discovered a methamphetamine manufacturing laboratory and marijuana grow operation in the defendant's unattached garage and also found two loaded firearms in a locked safe containing bags of marijuana, a third loaded firearm hanging from a tool belt in the garage's rafters, and surveillance equipment inside the garage. *State v. Neff*, 161 Wn.2d 453, 821-822, 825, 181 P.3d 819 (2008). When officers apprehended Neff, he was outside leaving the scene, having tossed away the garage keys. *Id.* at 821. The court determined that this evidence sufficiently supported the inference that Neff was using the firearms found in the garage to protect his ongoing drug operations located there. *Id.* at 825. It also noted that, because a drug operation is a continuing crime, a defendant need not be armed at the moment of arrest to be armed for purposes of a firearm enhancement and may be "elsewhere when the police arrive." *Id.* at 825.

The State adduced sufficient evidence to prove beyond a reasonable doubt that the defendant was armed with a firearm. At the time the search warrant was executed, the defendant was in his bedroom with

the firearm and narcotics. RP 148, 196, 224, 230, 226. The firearm was found on a shelf in the closet of the master bedroom where most of the narcotics were found. RP 148, 196, 224, 230, 226. It was easily accessible and readily available where the defendant had quick and easy access to it in terms of both proximity and accessibility. Ms. Scanlan testified that the room was small. RP 135. The firearm was easily accessible. The defendant kept the firearm on a shelf, not in a locked safe, container or obstructed by other items. RP 225.

Defendant claims that “there were no facts presented that could lead a jury to infer there was a connection between [the defendant], the firearm and the crimes for which he was charged and ultimately convicted.” BOA at 21-22. Specifically, he argues that evidence was insufficient because the firearm was “found in a different location than the controlled substances” and “unloaded.” This claim fails as there are no requirements that the firearm must be found in the same *exact* location as the narcotics or must be loaded. As the courts have already explained, “[T]he State need not establish with mathematical precision the specific time and place that a weapon was readily available and easily accessible, *so long as it was at the time of the crime.*” *State v. O’Neal*, 159 Wn.2d at 504 (emphasis added). In addition, whether the firearm was loaded is only

one of many factors to consider. *State v. Simonson*, 91 Wn. App. at 882-883. The defendant's firearm was fully operational. RP 259.

In viewing the evidence in the light most favorable to the State, the evidence was sufficient to support both firearm enhancements where the defendant was found in the same bedroom as the narcotics. As such, this Court should dismiss this claim and affirm his convictions.

3. THE STANDARD RANGE FOR COUNT III IS LISTED INCORRECTLY ON THE JUDGMENT AND SENTENCE, THUS THIS COURT SHOULD REMAND TO CORRECT THE SCRIVENER'S ERROR AS TO THAT COUNT ONLY.

The State agrees that the judgment and sentence entered in this case reflects an incorrect standard range for count III, unlawful possession of a firearm in the first degree. CP 122-134. This was a scrivener's error. The parties were all in agreement that defendant had an offender score of three for that charge. RP 374. Unlawful possession of a firearm in the first degree has a seriousness level of seven. RCW 9.94A.515. As such, defendant's range should have been 31-41 months. This error had no impact on the defendant's sentence because the court ran the time on count III concurrent to counts I and II. The trial court inadvertently imposed a standard range sentence of 36 months on count III, which is the low end of the incorrect range, but within the standard range for the correct sentencing range, and ran the time concurrent counts I and II which were

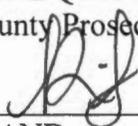
66 months and 42 months. CP 122-134. However, because the incorrect range is reflected in the judgement and sentence, this Court should remand to correct the scrivener's error on count III only.

D. CONCLUSION.

For the foregoing reasons, the State asks this court to affirm defendant's convictions below. The State also asks this court to affirm defendant's sentence with the exception of count III which the State requests be remanded back to the trial court for correction of the scrivener's error to reflect the correct sentencing range.

DATED: March 20, 2018.

MARK LINDQUIST
Pierce County Prosecuting Attorney



ROBIN SAND
Deputy Prosecuting Attorney
WSB # 47838

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

3.20.18 Theresa Ke
Date Signature

PIERCE COUNTY PROSECUTING ATTORNEY

March 20, 2018 - 2:13 PM

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