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Court of Appeals
Division II
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No. 51791-4-II

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

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL HAXTON
Appellant.

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

The Honorable Erik D. Price
Cause No. 16-1-01556-34

BRIEF OF RESPONDENT

Joseph J.A. Jackson
Attorney for Respondent

2000 Lakeridge Drive S.W.
Olympia, Washington 98502
(360) 786-5540

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A. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR.

1. Whether the trial court applied the correct standard and acted within its discretion when it denied Haxton's motion to withdraw his guilty plea.
2. Whether Haxton's counsel during the hearing on his motion to withdraw plea provided effective representation.

B. STATEMENT OF THE CASE.

1. Substantive Facts

On September 7, 2016 the appellant, Michael Haxton began to communicate with a person he believed was a mother with multiple children, ages 6, 11, and 12, via text message and telephone calls. CP 3. He indicated he was interested in participating in sexual acts with the children. CP 3. He said he fantasized that the children would be "very orally attentive. Going slow to take in every inch of their young bodies. Allowing them to process pleasures they have never felt before. Introducing them to the taste of semen. And introducing a boy to the pleasures of his prostate." CP 3. He continued to communicate with the mother and came to her reputed residence, after agreeing that he would bring gifts including candy, nail polish, a stuffed animal and a ball. CP 3.

When Haxton arrived at the residence, he was placed under arrest. CP 4. During a search incident to the arrest, law

enforcement located candy, nail polish, a stuffed animal and a ball. CP 3. When detectives searched Haxton's residence, they located a rifle and approximately 1000 rounds of armor piercing ammunition. CP 4.

2. Procedural History

Following his arrest, Haxton was charged with two counts of attempted rape of a child in the first degree and one count of attempted rape of a child in the second degree. CP 5-6. On December 21, 2016, Haxton's counsel Robert Quillian requested an evaluation as to Haxton's competency and he was ordered to undergo a pretrial competency evaluation conducted by Western State Hospital. CP 7-8. Haxton was evaluated and found to be competent by Dr. Marilyn Ronnei, a forensic evaluator at Western State hospital. CP 9-15. He was found competent by the Court and an Agreed Order on Competency was filed February 27, 2017. CP 16.

On June 5, 2017, Haxton executed a Statement of Defendant on Plea of Guilty to Sex Offense and pled guilty to one count of attempted rape of a child in the second degree. CP 17-28. Counts I and II, attempted rape of a child in the first degree were

dismissed in exchange for his plea of guilty. CP 21, CP 54.¹ Haxton verbally acknowledged his plea of guilty and indicated that his plea was freely and voluntarily entered. CP 54. A presentence investigation was ordered and the matter was set over for sentencing to occur on July 10, 2017. CP 29, 54.

On July 17, 2017, Haxton filed a pro se Motion to Withdraw plea. CP 38. On July 31, 2017, the trial court heard argument regarding Haxton's desire to withdraw his plea and obtain new counsel. Finding that the issue created a conflict, the trial court allowed Robert Quillian to withdraw as Haxton's counsel of record. CP 39. On October 17, 2017, his new attorney of record, Mr. Cabrera, filed a Motion to Withdraw Guilty Plea and Supporting Memorandum. CP 43-56. On October 25, 2017, Haxton again filed a pro se Motion to Withdraw Plea. CP 60-64.

On November 2, 2017, the trial court ordered Haxton to undergo an additional pretrial mental health evaluation conducted by Western State Hospital. CP 71-77. Haxton was again evaluated by Dr. Ronnei, who opined that Haxton was competent, but noted

“His emotional stress over his legal peril and his poor coping skills have led him to consider any and all

¹ The report of proceedings for the change of plea was attached to Haxton's Motion to Withdraw his plea at the trial letter and not reproduced again for the appeal. It will be cited to as CP 48-56.

possibilities for avoiding further criminal proceedings which could potentially lead to considerable time in prison. This stance is not unusual in defendants facing possible substantial penalties, and in Mr. Haxton's case, had been reinforced by discussions with another inmate. Mr. Haxton voiced a willingness to work with an attorney but wants their collaboration to be on his terms. He has no symptoms of psychosis or a major affective disorder, but his characterological traits will likely render him a difficult client."

CP 86

On November 20, 2017 the trial court entered an order of competency, finding that Haxton was competent to proceed to resolution for the crimes of attempted rape of a child in the second degree. CP 88. A hearing was held on his motion to withdraw his guilty plea on December 18, 2017. 2 RP 4.² The trial court denied Haxton's motion. CP 97. On January 8, 2018, the trial court sentenced him to 60 months to life on count III, attempted rape of a child in the second degree, with lifetime community custody pursuant to RCW 9.94A.507. CP 107-119. The same day Haxton filed a Notice of Appeal. CP 102.

² The verbatim report of proceedings appears in three volumes. For purposes of this brief, volume 1, November 20, 2017, will be referred to as 1 RP; volume 2, December 18, 2017, will be referred to as 2 RP; and volume 3, January 8, 2018 will be referred to as 3 RP.

3. Motion to Withdraw Plea- December 18, 2017

As stated above, the trial court heard testimony and arguments regarding Haxton's motion to withdraw his guilty plea on December 18, 2017. 2 RP 4. At the hearing, Haxton was represented by attorney Kevin Griffin. 2 RP 3. Griffin informed the trial court that the defense argument was

"that a manifest injustice occurred or it resulted as of when he entered his guilty plea in this case, and that manifest injustice resulted from Mr. Haxton not receiving effective assistance of counsel in making a decision whether to enter a plea and settle the case as proposed."

2 RP 5-6. Griffin went on to state

"My client will - - my final comment is my client will specifically be asking the Court to find that his decision to plead guilty in this case was not made voluntarily because of all the factors that we hope the Court will hear during his testimony."

2 RP 6.

Haxton testified that he met with his attorney, Robert Quillian, about ten times. 2 RP 8. He alleged that in those ten meetings Robert Quillian never discussed defenses with him. 2 RP 10. However, Haxton later indicated that he discussed with Quillian, in the context of a potential defense, the possibility of arguing that

his statements with the reputed mother were “fantasies.” 2 RP 36-37.

Haxton alleged that Robert Quillian told him that his possible maximum sentence was between twenty and twenty-two years. 2 RP 27-28. Further, he stated that the possibility of serving twenty years or more was a “big factor” in his decision to plead guilty. 2 RP 30. Haxton also indicated that Quillian did not discuss that he would have 75 percent of the standard range due to having been charged with attempt offenses. 2 RP 28.

Haxton was familiar with indeterminate sentencing and admitted that Quillian had discussed that with him prior to entering his plea of guilty. 2 RP 31. When asked why he thinks the plea was involuntary, Haxton responded, “because Mr. Quillian refused to - - he - - refused to hire an investigator or come up with a defensive strategy.” 2 RP 35. On cross examination, Haxton admitted that he never told Quillian or the trial court that he was having second thoughts regarding his plea of guilty. 2 RP 38-39. Haxton indicated that during the plea hearing he stated that he had reviewed the plea documents with his attorney and was aware of the range of potential sentences. 2 RP 40. Additionally, he

affirmatively answered when asked if the signature on the plea agreement was his own. 2 RP 43-44.

The original physical plea agreement had a score sheet attached that included the correct range of 121.5 to 162 months. 2 RP 61-63, Exhibit 2. Haxton claimed that while he was aware of the offer he never saw this sheet. 2 RP 66. The deputy prosecutor went over the Statement of Defendant on Plea of Guilty with Haxton. Haxton acknowledged that in the statement he had indicated that Quillian had gone over the evidence with him and that he was entering the plea knowingly and voluntarily. 2 RP 46-47.

The trial court entered an order denying his Motion to Withdraw Plea. CP 97. The trial court did not make a factual finding as to whether or not Robert Quillain actually misinformed Haxton of the potential sentences. 2 RP 77. The trial court focused its verbal decision on Haxton's claims that Quillian failed to hire an investigator and incorrectly informed Haxton of the risks he faced if he went to trial. 2 RP 72.

With regard to Haxton's claim that Quillian failed to investigate, the trial court stated:

“The Court notes that there isn’t anything before the Court that establishes in a concrete way what the allegation specifically referred to. The Court doesn’t have before it facts regarding Mr. Haxton’s belief that the advertisement would have somehow been challengeable with an investigator, certainly no evidence regarding what an investigator may or may not have found, or even if an investigator could be found, to conduct what Mr. Haxton wanted to have happen.”

2 RP 73. Noting that “the burden is on the defendant in this hearing,” the trial court found that there was

“[N]o information that any investigation would have resulted in information that would have assisted Mr. Haxton in this case. The bare allegation alone that Mr. Haxton wanted that to happen and Mr. Quillian didn’t do what he wanted is insufficient, in the Court’s view, to have that qualify as ineffective assistance of counsel such that there is a manifest injustice requiring withdrawal of a plea.”

2 RP 74.

With regard to Haxton’s claim that Quillian misinformed him of the risks he faced, the trial court stated:

“The Court is skeptical that Mr. Quillian would have missed the range having been provided with the plea offer by the State. I am not prepared to make a finding that he did not. I am not prepared to make a finding whether he did or he didn’t make that representation. I think there are reasons to question both the recollection and the motivations of Mr. Haxton in his testimony today but not sufficient to disregard everything Mr. Haxton said.”

2 RP 77.

Without making a finding about whether or not Haxton was misinformed of the risks he faced, the trial court focused on the second prong of the *Strickland* test concluding “that there ha[d] been an insufficient showing that Mr. Haxton would not have plead guilty if he have been told 13 years instead of 20.” 2 RP 78.

The trial court entered written findings of fact and conclusions of law on January 4, 2018, consistent with its verbal ruling. Significantly, the trial court included in its written findings,

“The Court makes no finding that Mr. Quillian did, or did not, provide incorrect information. The Court is skeptical that Mr. Quillian would have misrepresented the range given the plea offer documentation he possessed at the time. Based in the court’s observations of the content and demeanor of the defendant while testifying, there are reasons to question his recollection and motivations.”

CP 100-101.

C. ARGUMENT.

1. The Court correctly denied Haxton’s Motion to Withdraw Plea.

Motions to withdraw guilty pleas made before the judgment is entered are governed by CrR 4.2(f), which states:

The court shall allow a defendant to withdraw the defendant’s plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest

injustice. If the defendant pleads guilty pursuant to a plea agreement and the court determines under RCW 9.94A.090 that the agreement is not consistent with (1) the interests of justice or (2) the prosecuting standards set forth in RCW 9.94A.430-.460, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered.

CrR 4.2(f).

Referring to CrR 4.2(f), Washington courts have said that “There are four possible indicia of ‘manifest injustice’: (1) the denial of effective counsel, (2) the plea was not ratified by the defendant or one authorized by him to do so, (3) the plea was involuntary, or (4) the plea agreement was not kept by the prosecution.” State v. McCollum, 88 Wn. App. 977, 981, 947 P.2d 1235 (1997) (citing to State v. Taylor, 83 Wn.2d 594, 597, 521 P.2d 699 (1974)). CrR 4.2(f) places a demanding standard on the defendant to establish a manifest injustice. State v. Watson, 63 Wn.App. 854, 857, 822 P.2d 327 (1992). See also, State v. Saas, 118 Wn.2d 37, 820 P.2d 505 (1991) (defendant did not meet his burden of showing manifest injustice).

A defendant seeking to withdraw a guilty plea on the basis of ineffective assistance of counsel must show a reasonable probability that, but for counsel’s errors, he would have gone to trial rather than pleading guilty. In re Pers. Restraint of Riley, 122

Wn.2d 772, 780-81, 863 P.2d 554 (1993). A “bare allegation” that he would not have pled guilty had the claimed error not occurred is not sufficient to establish prejudice under the standard set forth in *Strickland*. [Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)].

Faulty advice of counsel may result in the defendant’s guilty plea being involuntary or unintelligent. The defendant must meet the *Strickland* test of objectively unreasonable performance and prejudice resulting from the deficiency. State v. Sandoval, 171 Wn.2d 163, 169, 249 P.3d 1015 (2011). They must present some evidence that it was involuntary other than their self-serving allegations. State v. Osborne, 102 Wn.2d 87, 97, 684 P.2d 683 (1984); In re Pers. Restraint of Yates, 180 Wn.2d 33, 321 P.3d 1195 (2014).

A trial court’s denial of a defense motion to withdraw a guilty plea is reviewed for abuse of discretion. State v. Zhao, 157 Wn.2d 188, 197, 137 P.3d 835 (2006). The State bears the burden of proving the validity of the guilty plea, but the defendant bears the burden of proving manifest injustice. “[M]anifest injustice’ is defined as ‘an injustice that is obvious, directly observable, overt, [and] not obscure.’” State v. Knotek, 136 Wn. App. 412, 423, 149 P.3d 676

(2006), (cites omitted). Once the safeguards of CrR 4.2, i.e. a valid guilty plea statement and colloquy between the trial court and the defendant, a defendant will be permitted to withdraw a plea only upon a showing that withdrawal is necessary to avoid a manifest injustice. State v. Perez, 33 Wn.App. 258, 261, 654 P.2d 708 (1982).

A. The Court correctly found that Haxton failed to meet his burden for claims of ineffective assistance of counsel.

Ineffective assistance of counsel claims only succeed if the person is able to show (1) that their attorney's conduct fell below an objective standard of reasonableness and (2) said conduct actually prejudiced them. Strickland, 466 U.S. at 688, 691-692; In re Pers. Restraint of Cross, 180 Wash. 2d 664, 693, 327 P.3d 660, 679 (2014); In re Pers. Restraint of Yates, 177 Wash. 2d 1, 35, 296 P.3d 872, 889 (2013); State v. Stowe, 71 Wash. App. 182, 186, 858 P.2d 267, 269 (1993). Mere allegations are not enough to satisfy this standard. In re Pers. Restraint of Riley, 122 Wash. 2d at 782.

Here, Haxton has offered no evidence to show that his attorney actually misinformed him, and instead the only basis for his claim is his own testimony. The trial court specifically found that there was insufficient evidence and declined to make a ruling on

whether or not Haxton had been misinformed regarding his risks. 2 RP 77, CP 100-101. The Court reviewed the original plea agreement, admitted as Exhibit 2, and confirmed that the correct range was included with it. 2 RP 76.

Additionally the trial court's finding that there was reason to question Haxton's recollection and motivation was supported by contradictions in Haxton's testimony. *Compare* 2 RP 10 *with*, 2 RP 36-37. Haxton's assertion that Quillian never explained that the consequence of an attempt offense would be 75 percent of the completed range is contradicted by the plea itself. Haxton pled guilty to attempted rape of a child in the second degree and his statement of defendant on plea of guilty clearly reflected that the low end of the range was reduced to 75 percent of that which exists for the completed offense. CP 18, CP 124-125. The score sheet attached to the Prosecutor's Statement on Criminal History also clearly demonstrated that the range was reduced for an attempt offense. This document was presented to the trial court immediately prior to Haxton's plea. CP 50.

Despite Haxton's claim that he had never seen the State's offer, 2 RP 65-66, Haxton testified that he had reviewed score sheets with Quillian. 2 RP 27. The score sheets include language

regarding the effect that an attempt designation has on the standard range. The trial court clearly had reason to question Haxton's the credibility and motivation of Haxton's testimony.

Haxton failed to demonstrate that his attorney misinformed him. The burden of showing that a manifest injustice exists is on the defendant. Without a demonstration that his attorney's performance was actually deficient, the inquiry could end. However, the trial court found that Haxton also failed to satisfy the prejudice standard even if he had shown that he was misinformed.

It was not inappropriate for the trial court to address the issue of prejudice. A reviewing court need not address both prongs of the test if the defendant makes an insufficient showing on one prong. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. at 697.

To establish actual and substantial prejudice the individual must "show that a rational person in his circumstances would have declined to plead guilty and would more likely than not have gone to trial." State v. Buckman, 190 Wash. 2d 51, 58, 409 P.3d 193, 197 (2018). In Buckman, the Court held that Buckman's claim failed because he simply alleged that he would not have pleaded guilty

without the misinformation, without any evidence to support that statement. Id. at 58. If there is no evidence that that the person would have refused to enter the plea absent the alleged ineffective assistance, the trial court is correct in finding that the plea was voluntary, intelligent, and knowingly given. In re Pers. Restraint of Cross, 180 Wash. 2d 664, 706, 327 P.3d 660, 685 (2014). In Cross, the Court rejected the defendant's ineffective assistance of counsel claim because there was no evidence that he would have refused to enter his plea if he had been informed of the additional consequences. Id. at 706.

When there is overwhelming evidence of petitioner's guilt there is no reason to think a rational person would have chosen to proceed to trial, unless they argue that potential nullification of the law was worth the risk of trial. Buckman, 190 Wash. 2d at 68. There the Court held that because there was overwhelming evidence of Buckman's guilt there was no reason to believe a rational person would proceed to trial unless they argued for nullification of the law and because Buckman never mentioned nullification as a reason to proceed to trial, his claim failed.

Here, Haxton failed to establish that if the alleged misinformation actually occurred it prejudiced him. He indicated that

the alleged misinformation was a “big factor” in his decision to plead guilty, 2 RP 30, but failed to indicate that it was the direct cause of his decision. Similar to Buckman and Cross, Haxton's assertions are not supported by objective evidence and are instead passed solely upon his testimony, the validity of which is questionable. 2 RP 77.

Furthermore, Haxton failed to show that a rational person in his circumstances would have refused to plead if the sentence range was 13+ years to life instead of 20+ years to life. The difference between thirteen and twenty years is negligible when the individual is facing a maximum indeterminate sentence of life. This is especially true where the State agreed to dismiss the two most serious charges and regardless of whether a plea was entered or a trial occurred, the defendant was subject to review by the Indeterminate Sentencing Review Board with a maximum penalty of life.

Additionally, similar to Buckman there is no reason to think that a rational person would have proceeded to trial when facing the overwhelming evidence Haxton faced. The evidence against Haxton contained transcripts of numerous conversations where Haxton graphically described what he planned to do to the children,

and the “gifts” he would bring them. CP 3. When he arrived at the residence he had those objects in his possession. CP 3.

Haxton admits to making the communications but claims they were mere “fantasies.” CP 37. When he arrived at the residence the line between fantasy and reality was clearly crossed; he brought “gifts” and took a substantial step towards completing his intended offense of sexual intercourse with children. When faced with the overwhelming evidence, which included graphic communications regarding sexual acts with children, there is no reason to believe a rational person would have proceeded to trial. While only Haxton and Quillian can truly state what was discussed in regard to Haxton’s “fantasy” claim, it is no stretch to imagine that the conversation included Quillian telling Haxton that jury would likely not look favorably upon the defense.

The trial court did not abuse its discretion in finding that Haxton had failed to demonstrate prejudice, even if his attorney had misinformed him of the risks of going to trial. As stated above, Haxton did not meet his burden of demonstrating that he had been misinformed.

B. The trial court correctly applied the *Strickland* test to Haxton’s claim that his plea was involuntarily entered due to faulty advice from counsel.

Haxton assigns error to the trial court's review of his claim that his plea was involuntary under an ineffective assistance of counsel analysis. The trial court's analysis was correct. Faulty advice of counsel may result in the defendant's guilty plea being involuntary or unintelligent, but the defendant must still meet the Strickland test of objectively unreasonable performance and prejudice resulting from the deficiency for their plea to found involuntary. Sandoval, 171 Wn.2d at 169.

Haxton relies on State v. Weyrich, 163 Wash. 2d 554, 182 P.3d 965 (2008), to argue that an individual may withdraw their plea whenever they were misinformed. However, this is an incorrect statement of the law established in Weyrich. The Court actually held that "a guilty plea may be deemed involuntary when based on misinformation regarding a direct consequence [of] the plea." Id. at 557. In Weyrich, the defendant was given two separate statements of defendant on plea of guilty that incorrectly stated that the maximum sentence was five years when in reality it was ten. Id. at 556. The state conceded that this error occurred. Id. at 557. Regardless of the error, the court sentenced him using the correct range. Id. at 556.

This is in contrast to the facts in this case, the statement of defendant on plea of guilty included the correct range, and Haxton stated he reviewed the statement with his attorney then signed it in open court. Haxton was sentenced using the range stated in the plea agreement. There was no misinformation on the statement of defendant on plea of guilty that he signed, unlike the facts in Weyrich. In Weyrich, the court held “The defendant need not establish a causal link between the misinformation and his decision to plead guilty [,]” but this was within the context of being misinformed of the sentencing consequences of the plea deal. Id. at 557.

Here, Haxton does not allege that he was misinformed of the sentencing consequences of his plea because the plea correctly stated the sentencing range that he was subsequently sentenced under. Thus, his argument is not that he was misinformed of the sentencing consequences of the plea but instead that his attorney inadequately assisted him in deciding whether or not to take the plea, which means Weyrich does not apply and instead the standard is that established in Strickland and reaffirmed in Cross; Buckman; Riley, Osborne and numerous other decisions.

Haxton additionally relies on State v. Stowe, 71 Wash. App. 182, to establish that misinformation about collateral consequences of a plea renders it invalid. However, once again Stowe was in the context of affirmative misinformation about accepting the plea, the defendant there had been told by his attorney that accepting the plea would not impact his military career when in reality it would. Id. at 188. The Court held that this misinformation about the consequences of accepting the plea met the standard of ineffective assistance of counsel under Strickland.

Once again, Haxton does not allege he was misinformed about the consequences of accepting the plea. All consequences for the crime that he pled guilty to were clearly outlined in the statement of defendant on plea of guilty that he accepted and signed in open court. As discussed above, Haxton failed to demonstrate that his attorney's performance was deficient, and therefore failed to demonstrate that a manifest injustice occurred. All of the evidence before the trial court, with the lone exception of Haxton's bare allegations, indicated that Haxton's plea was knowingly, voluntarily, and intelligently made.

2. Haxton's counsel was not ineffective during his motion to withdraw his plea.

In his Statement of Additional Grounds, Haxton alleges that attorney Kevin Griffin was ineffective during the hearing on Haxton's motion to withdraw his guilty plea because Griffin failed to offer a copy of Haxton's original competency evaluation as an exhibit at the hearing. Haxton's contention is without merit.

There is great judicial deference to counsel's performance and the analysis begins with a strong presumption that counsel was effective. Strickland v. Washington, 466 U.S. at 689, State v. McFarland, 127 Wn.2d 332, 335, 899 P.2d 1251 (1995).

In the competency assessment dated February 15, 2017, Dr. Ronnei indicated, "[Haxton] knew the charges to be felonies, and believed that should he be found guilty of all the charges the possible penalty could be 'around 20 years.'" CP 14. This evaluation was part of the record at the time of the hearing and in Haxton's Motion to Withdraw his Plea, his prior attorney Mr. Cabrera specifically asked the trial court to consider the court file. CP 43.

The competency evaluation occurred early in the case and may have reflected Haxton's thoughts at the time of the evaluation; however, the statement attributed to Haxton in that February evaluation does little to demonstrate the Haxton's attorney

misinformed him of the risks he faced. The change of plea occurred on June 15, 2017. CP 17. Haxton had four months prior to his plea to discuss the case with his attorney following the evaluation. The information contained in the evaluation does not add to Haxton's credibility regarding his knowledge and understanding at the time that his plea was entered.

Further, the information contained in Haxton's competency evaluation was a statement made by Haxton that mirrors statements made during his testimony. Haxton cannot show that his counsel was deficient by not offering an exhibit that was duplicitous to Haxton's testimony and was already a part of the court record.

Haxton fails to demonstrate either prong of the Strickland test. Mr. Griffin was not ineffective at the hearing on Haxton's Motion to Withdraw his plea.

D. CONCLUSION.

The trial court did not abuse its discretion in denying Haxton's Motion to Withdraw Plea. The statement of the defendant on plea of guilty clearly outlined the sentencing consequences of Haxton's plea and Haxton failed to meet his

burden that withdrawal of his plea was necessary to correct a manifest injustice. Haxton failed to show that he had actually been misinformed of the potential sentencing consequences of proceeding to trial and the trial court correctly found that Haxton had not demonstrated actual prejudice, even if he had shown that he had been misinformed. With the exceptions of Haxton's bare and easily contradicted allegations, all of the evidence before the trial court indicated that Haxton's plea was knowingly, intelligently and voluntarily entered. Haxton's guilty plea was valid and the trial court acted within its discretion when it denied Haxton's motion to withdraw his plea. The State request that this Court affirm Haxton's conviction.

Respectfully submitted this 18 day of June, 2018.



Joseph J.A. Jackson, WSBA# 37306
Attorney for Respondent

CERTIFICATE OF SERVICE

I certify that I served a copy of Brief of Respondent on the date below as follows:

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TO: DEREK M. BYRNE, CLERK
COURT OF APPEALS DIVISION II
950 BROADWAY, SUITE 300
TACOMA WA 98402-6045

VIA E- MAIL

TO: CHRISTOPHER H. GIBSON
NIELSEN, BROMAN & KOCH, PLLC
1908 E MADISON STREET
SEATTLE, WA 98122

GIBSONC@NWATTORNEY.NET

I certify under penalty of perjury under laws of the State of Washington that the foregoing is true and correct.

Dated this 18th day of June, 2018, at Olympia,

Washington.


JENA GREEN, PARALEGAL

THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE

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