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Division II
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No. 52063-0-II

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

State of Washington,

Respondent,

v.

Fernando A. Celaya,

Appellant

OPENING BRIEF OF FERNANDO A. CELAYA

Appeal from Pierce County Superior Court, 17-1-0278-9

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WPIC 115.81 Tampering with a Witness, Elements 19

Assignments of error

1. The trial court erred in continuing the trial date over Celaya's objection.
2. The trial court erred in allowing amendment of the charges on the day of trial.
3. The trial court erred in not dismissing charges because Celaya's right to a speedy trial was violated.
4. The trial court erred in not dismissing the charges because of government misconduct.

Issues Pertaining to Assignments of Error

1. The prosecutor told the trial court, incorrectly, that the State had to wait until the day of trial to amend to add a Tampering with a Witness charge because it was not "going to be able to prove that witness tampering" without a witness who could testify that the message was conveyed. In closing, the State told the jury, correctly, that a threat need not be communicated to convict on a charge of Tampering with a Witness.

- a. Did the State commit misconduct by amending the charges on the day of trial when its proffered reason for delay was legally incorrect?
 - b. Did the trial court violate Celaya's right to a speedy trial by allowing the amendment on the day of trial, when that day of trial was more than two months after the court had continued the trial over Celaya's objection, and was more than seven months after the original trial date?
 - c. Where the State knew for months that it could bring charges, did trial court violate Celaya's right to prepare an adequate defense by allowing amendment on the day of trial and forcing Celaya to choose between his speedy trial right and the right to present a defense?
2. The State sought a continuance to allow an officer to testify at a CrR 3.5 hearing. In the end, the State admitted that there were no statements that were subject to Rule 3.5.

- a. Did the State engage in misconduct through case mismanagement when it sought a continuance, over Celaya's objection, although there were no statements that needed to be suppressed?
 - b. Was Celaya's right to a speedy trial violated by the grant of a continuance where the proffered reason demonstrated government misconduct by case mismanagement by the State?
3. Can Celaya show prejudice as a result of the violation of his speedy trial rights where he was forced to choose between his speedy trial rights and his right to prepare a defense; where the delays gave the prosecution time to file additional charges; where he was in custody while awaiting trial; and where witnesses' memories had faded?

Introduction

After many months of delay, Celaya's trial was scheduled to take place in December 2017. Over Celaya's objection, the trial court granted the State's request for a continuance. The State proffered that a witness for the CrR 3.5 hearing was not available. But at trial, the State first moved to exclude Celaya's statements as self-serving hearsay, and then admitted that there were no statements subject to Rule 3.5 and thus there was no need for a Rule 3.5 hearing.

After more delay (again over Celaya's objection), trial was scheduled to begin on February 8, 2018. On the day of trial, the State moved to amend. The State sought to add a felony Witness Tampering charge as well a misdemeanor violation of a no contact order and a misdemeanor assault charge.

In justifying its late amendment, the State told the trial court that it needed to contact a witness, Pace, and that it had been unsuccessful in finding him until after the last scheduled trial date, in January 2018. The State told the trial court that without Pace's testimony, it would "not [] be able to prove that witness tampering . . . because he is the one that conveys the message from that call to the alleged victim." RP 2/8 at 23.

That misstated the law. In closing, the State correctly argued to the jury that "we don't even have to show that Mr. Pace relayed that message . . ." RP 4/25 at 248.

The State here engaged in misconduct that requires dismissal based on a violation of Celaya's speedy trial rights. Government misconduct need not be ill-intentioned and encompasses mismanagement. Where, as here, the State seeks an exception from the speedy trial rule based on evidence it eventually admits does not exist (the 3.5 issue), or asks for a late amendment based the need to contact a witness whose

testimony it properly tells the jury is unnecessary (Pace), that is misconduct. The misconduct need not be ill-intentioned; it is misconduct if the State was simply so unsure of its evidence and the elements of the charges that it failed to manage the case properly.

Where, as here, government misconduct leads to a violation of a defendant's speedy trial rights, the charges must be dismissed. This case should be remanded with instructions to dismiss with prejudice all charges against Celaya.

Statement of the Case

Celaya was arrested in mid-June 2017 and charged with Felony Harassment and Assault 2. CP 3.

Beginning in July 2017, the trial date was continued several times, and trial did not begin until April 17, 2018.

The first continuance, on July 18, 2017, was on a joint motion; the new trial date was October 2. CP 7.

On August 18, 2017, the State submitted its list of witnesses. It included the alleged victim, Kaleena Jeffries. CP 8. It also include Brien Pace, the witness the State would rely on in seeking to amend charges on the day of trial on February 8, 2018. CP 8. That August list also included

the name of Torvald Pearson, who would eventually testify at trial to authenticate the recording of the allegedly threatening call and that the call came from Celaya's personal account. CP 9. Indeed, Pearson testified that he had made the CD of the call that would become an exhibit at trial on August 11, 2017. RP 4/24 at 132.

In September, the case was continued again, on a joint motion, with a new jury trial date of November 14. CP 12. Speedy trial was to expire December 14, 2017. CP 12. On November 13, 2017, the defense moved for a continuance because counsel had been unable to interview the alleged victim. CP 24. The State had not provided other discovery. CP 24. The new trial date was set for December 12, and speedy trial was to expire January 11, 2018. CP 24. On November 13, the case was 145 days old and had been continued twice. CP 24.

On December 1, 2017, the trial court granted a continuance because "officer Bradley (3.5) is unavailable for training 12-11-12-15 and officer Robillard is on vacation [until December 24]" and the prosecutor planned a vacation until January 6. CP 27. The defendant objected to the continuance. CP 27. In all caps on the bottom of the order, the trial court stamped "NO MORE CONTINUANCES." CP 27. On December 1, the case was 163 days old and had been continued three times. CP 27. The

new trial date was January 17, 2018, and speedy trial was set to expire February 16, 2018. CP 27.

The parties appeared in court again on January 5 for a trial readiness hearing. The State indicated that would amend to add one count of Assault 4, and defense had no objection to adding the misdemeanor charge. CP 28. There was no plea offer. CP 28. Trial was scheduled for January 24. CP 30. The State told the Court all subpoenas had been served. CP 29. The speedy trial deadline was pushed out to February 23, over Celaya's objection. CP33. The State and defense both estimated a trial length of 3-4 days. CP 31.

On the eve of trial, January 23, defense counsel spent "all night preparing for trial" expecting trial the next day. RP 2/8 at 7. On January 24, however, the State moved to continue the trial, stating that counsel was "out on another trial." CP 35. A new trial date of February 8 was assigned. On the bottom of the order, the court again stamped in all caps "NO MORE CONTINUANCES." CP 35. On February 8, 2018, the case would be 232 days old, having been continued 6 times. CP 63.

On the trial date, February 8, 2018, the State presented an amended information. The defense objected to amending information on day of trial. RP 2/8 at 4. Defense counsel argued that "the State [was]

trying to substantially change the course of the facts of this case based upon the amendment of the Information.” RP 2/8 at 4. The defense noted that the alleged phone calls occurred in June 2017. RP 2/8 at 4-5.

The defense briefly reviewed the already-long history of the case. The defense “had asked for a continuance to do some additional investigation back in July. We set the matter over for some time, and then we came back. And then, again, in September where it was then continued again, both parties agreed to that continuance.” RP 2/8 at 5.

Defense counsel then explained that in September “the State had said that they were waiting a report on a jail call and potential—waiting report on jail call and NCO violation, if any.” RP 2/8 at 6. The alleged calls happened in June 2017. CP 51. Despite what the State apparently told the Court in September, at trial, the State’s witness, Pearson, testified that he had prepared the exhibit of the phone call on August 11, 2017. RP 4/24 at 132.

By November, the defense “had not been contacted in respects to the arrangements of those interviews. Defense had to ask for a continuance based upon the State’s unavailability as well as needing to interview these witnesses in which we have been asking to do so for some time.” RP 2/8

at 6. The case was then delayed, over Celaya's objection, in December and January, as discussed above.

When the parties arrived for trial on February 8, the State moved to amend the Information to add charges. The State sought to add not just the Assault 4 charge that it indicated it would add on January 5, but also a misdemeanor count of Violation of a No Contact Order (domestic violence related) and a felony count of Tampering with a Witness (domestic violence related). RP 2/8 at 4. The State made no attempt to argue that the late amendment to add the VNCO charge was related to any need to find witnesses or additional information.

Defense counsel "strenuously object[ed] to the amending of the Information" because the allegations "substantially change[d]" the case and would "bring great difficulty in the defense that we had anticipated putting forth." RP 2/8 at 8. While the State had apparently sent the Amended Information earlier that week, RP 2/8 at 8, defense counsel explained that he could not "prepare for this trial effectively." RP 2/8 at 8.

In addition to the new charges, defense counsel objected to late disclosure of a motion to use Celaya's criminal history and a host of new motions in limine. RP 2/8 at 9.

Defense counsel noted that “the two continuances that the State asked for last were based upon Officer Bradley not being available to do a 3.5 hearing, which the State—apparently, based upon their motions in limine—don’t believe that they are going to have one.” RP 2/8 at 9-10.

Defense counsel was referring to the State’s flip-flop on the issue of Celaya’s pretrial statements to officers. While the State had previously asked for a continuance to allow for a 3.5 hearing, on the new trial date, the State moved for the opposite: “they want to exclude [Celaya’s] statements based upon self-serving hearsay . . .” RP 2/8/18 at 9-10. *See also* CP 53 (State’s trial brief, seeking to exclude “self-serving hearsay”).

The State defended its actions, saying it had tried to contact a witness it would rely on for the new charges, Pace, and stating that it has tried about 9 times over the previous months to contact Pace. RP 2/8 at 24-5. Defense counsel argued that these efforts were not enough to justify the late amendment, pointing out that there was no attempt to go Pace’s house until mid-January. RP 2/8 at 27.

The State also said it sent a draft amended complaint to defense counsel on January 30. RP 2/8 at 11. Defense counsel responded that the State had never told counsel orally about the amendment, RP 2/8 at 7, and then explained that the first he had seen the email containing the amended

complaint draft was on Sunday, February 4, RP 2/8 at 7, and he first had a chance to review it on Monday, February 5. RP 2/8 at 8. Defense counsel had pinkeye, and then his son had surgery, keeping him out of the office Tuesday-Friday, January 30 to February 2, and got back to the office on February 5. RP 4/8 at 7-8.

Neither side mentioned that Pace had been served with a subpoena to testify in this matter on August 21, September 21, November 15, December 6, and January 24, 2019.¹

The State told the trial court that “The reason why the State couldn’t add charges before is we didn’t know whether or not we could secure the cooperation of Mr. Pace,” and that is an “essential element to the Witness Tampering to know whether or not it was actually conveyed to Ms. Jeffries.” RP 2/8 at 11.

The trial court found no prosecutorial misconduct. The court granted the motion to amend and accepted the Amended Information for filing. RP 2/8 at 35.

¹ These subpoenas were included in a Supplemental Clerk’s Paper designation, filed shortly before this brief on January 14, 2019. For the Court’s convenience, they are also attached to this brief as an Appendix.

The trial court also ruled that “even if I don’t allow the amendment, it seems to me that this information would be information [Celaya’s criminal history] that the State would want to bring in anyway on the case in chief to show his consciousness of guilt. It is still going to be substantive evidence on the main charge of Assault in the Second Degree.” RP 2/8 at 32-3. Celaya was found not guilty of what the trial court said was the “main charge” of Assault 2. CP 340. Celaya did, however, receive an additional 24 month sentence based on the late-amended Tampering with a Witness charge.

In response to the trial court granting the motion to amend the charges, Celaya requested a continuance to allow time to prepare to defend against the new charges, which the court granted. CP 65. As the State noted, defense counsel made “a fairly thorough record that he is not going to be able to proceed effectively on the new charges.” RP 2/8 at 39. Defense counsel asked for 18 days to prepare to defend against the new charges. RP 2/8 at 39.

At a February 27 hearing continuing the trial, both the State and defense counsel acknowledged that “Mr. Celaya has expressed a desire to get this case to trial . . .” RP 2/27 at 4, 3.

On March 19, the matter came before the court again for trial, but there were no available courtrooms. CP 71. Celaya objected to the continuance. CP 71. On March 20, 2018, the matter came before the court again for trial, and again there were no courtrooms available, and Celaya objected to the continuance. CP 71. On March 21, 2018, the matter came before the court for trial, and again there was no available courtroom. RP 3/21 at 19. Celaya objected to the continuance. RP 3/21 at 20.

Trial proceedings

After several more delays, trial began on April 17, 2018. The court tried to hold the CrR 3.5 hearing the State had said it needed in December. CP 348. A 3.5 hearing is required when “a statement of the accused is to be offered in evidence . . .” CrR 3.5.

But this was a 3.5 hearing with a difference, a difference that confused the trial court. “I don’t know what anybody wants me to find here. I mean the State’s motion was to not make reference to self-serving hearsay. And, apparently, we’re not going to ask Officer Bradley about any statement that the Defendant made.” RP 4/17 at 110. In fact, the prosecutor admitted that, “I don’t believe that there is any statements that were made without the advisement of Miranda.” RP 4/17 at 111.

The trial court again asked the State: “there are no statements that you wish the Court to suppress under CrR 3.5?” RP 4/17 at 111. The State responded “Not at this time, no.” RP 4/17 at 111.

On April 19, 2018, the jury heard opening statements and witnesses began testifying.

On April 23, 2018, the jury heard Jeffries testify that she could identify Celaya’s voice on a recording of a call. RP 4/23 at 9. She was never asked to authenticate the Celaya’s voice on the call to Pace, and was never asked if Pace conveyed any threat to her from Celaya.

On April 23, 2018, the State called Brien Pace. CP 352. Pace was the witness the State relied on to justify amending the complaint on the day of trial on February 8, 2018. RP 2/18 at 24-7.

Regarding the alleged incident of Celaya assaulting Jeffries, Pace testified as follows:

Q. Did you tell them [the police who came to the house] whether or not you had seen anything regarding the incident?

A. No. I told them I didn’t see anything, because I didn’t.

RP 4/23 at 153.

Regarding the witness tampering charge, Pace testified that “I just told [Jeffries] that I wanted to know if he could get the charges dropped and get out of there. That was it. You guys got it on tape.” 4/23 at 153.

On April 24, 2018, the State called Torvald Pearson. CP 353. Pearson testified how jail calls were recorded and that Celaya had an individual PIN assigned to him that allowed the jail to track which calls he made. RP 4/24 at 126-27. He testified that on August 11, 2017, he made what would become Exhibit 14 at trial, a CD of the phone call containing the alleged witness tampering. RP 4/24 at 132. In ruling on the admissibility of the exhibit, the trial court noted that not only did the call come from Celaya’s pin, but that Celaya identified himself on the call. RP 4/24 at 142. Pearson also testified that if an inmate tried to swap a PIN and another inmate tried to use the PIN from outside his unit, it would not work. RP 4/24 at 147.

On April 25, 2018, the parties closed. CP 354.

On April 26, 2018, the jury began deliberations and reached a verdict. CP 354-55. The jury found Celaya not guilty of Assault in the Second Degree, CP 340, guilty of felony harassment, guilty of two counts of Assault 4, guilty of a violating a no contact order, guilty of tampering

with a witness, and found by special verdict that Celaya and Jeffries were members of the same household for each count. CP 333-346.

Where the State had estimated a 3-4 trial prior to amending the charges, the trial proceedings took seven court days, plus sentencing.

Sentencing

Sentencing occurred on June 19, 2018. CP 408. Celaya received an exceptional sentence, with an upward departure for the Witness Tampering charge resulting in an additional 24 months in prison.

The standard range for the two felony convictions, counts II and V, was 51-60 months.

The Court found that the two felony counts were aggravated because Celaya committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished. RP 6/19 at 20-21.

The Court imposed an exceptional sentence. The Court sentenced Celaya to consecutive sentences: 60 months for Counts I-IV, running concurrently, and "I am going to add another two years for witness tampering." RP 6/19 at 29.

An order of indigency was entered on June 19, 2018. CP 414-15.

A notice of appeal was timely filed on June 19, 2018. CP 410.

Findings of Fact and Conclusions of Law regarding the exceptional sentence were filed on August 7, 2018. Supplemental CP (requested January 14, 2019).

Argument

The State failed to make witnesses available and provide discovery, requiring a continuance in November. In December, the State asked to continue the trial date, over Celaya's objection, because it needed a witness for a 3.5 hearing. After further delays, the State then sought to amend in February, explaining that it had to delay filing the charges because it first needed to contact a witness, Pace. That State claimed Pace was necessary because it had to prove Celaya's alleged threat had been conveyed.

In the end, there was no 3.5 hearing. In February, the State moved to exclude Celaya's statements as self-serving hearsay; after further continuances, in April, the State recognized that there were no statements subject to CrR 3.5.

In closing, the State told the jury—correctly—that Pace's testimony was unnecessary to convict on the witness tampering charge.

The State's actions amount to government misconduct.

Government misconduct need not be intentional wrongdoing.

Mismanagement—not knowing what evidence exists and the elements of charges—is sufficient to show government misconduct. Celaya's trial was delayed over his objection and amended charges were permitted over his objection, and the need to prepare a defense to the late-amended charges necessitated further delays of trial. Because the State's reasons for the delays here do not withstand scrutiny, the convictions must be reversed and the charges against Celaya must be dismissed.

A. The facts critical to showing government misconduct

The State asked to continue the trial date on December 1, 2017, telling the trial court it needed Officer Bradley for a 3.5 hearing. CP 27. Celaya objected. CP 27. In February, the State changed course and sought to exclude Celaya's statements. CP 53. Then, in April, the State admitted that there were no 3.5 issues. RP 4/17 at 111.

In January, the State indicated it would add a misdemeanor charge of Assault 4, and Celaya did not object. CP 28.

After a further delay of the January trial date, the State sought to amend on the new day of trial, February 8. RP 2/8 at 4. The State justified

the delay in amending the charges, stating that it had needed to contact a witness, Pace. RP 2/8 at 24-5.

Specifically, the State told the trial court that “I’m not going to be able to prove that witness tampering without Brian Pace and without— because he is the one that conveys the message from that call to the alleged victim.” RP 2/8 at 23. And “The reason why the State couldn’t add charges before is we didn’t know whether or not we could secure the cooperation of Mr. Pace, and that is an essential element to the Witness Tampering to know whether or not it was actually conveyed to Ms. Jeffries.” RP 2/8 at 11.

Pace’s testimony, however, was not necessary. It is not necessary for a threat to actually be communicated to the victim. Comment to WPIC 115.81 Tampering with a Witness, Elements (11A Wash. Prac., Pattern Jury Instr. Crim. WPIC 115.81 (4th Ed)); *State v. Haggin*, 195 Wn. App. 315, 324, 381 P.3d 137 (2016).

Indeed, we know that Pace’s testimony was not necessary because the State told the jury this in closing: “I’ll point out that we don’t even have to show that Mr. Pace relayed that message.” RP 4/25 at 248. And the State knew in August 2017 that Torvald Pearson would be the witness

to get into evidence the recording of the call with the alleged witness tampering. CP 8-9 (State's August 18, 2017 witness list for trial).

The State made no attempt to explain its late amendment of the VNCO charge.

Not only was Pace unnecessary to the case, the State even attacked Pace's credibility. RP 4/25 at 243. The State argued that it was Pace, not Celaya, who suggested Pace talk to Jeffries. RP 4/25 at 244 ("actually the first person that suggests that Mr. Pace talk to Ms. Jeffries is Mr. Pace himself"). Thus the State told the jury it must decide "what sort of credibility" Pace's testimony should be given, since he was friends with Celaya, had a personal interest in the outcome, and disliked Jeffries. RP 4/25 at 243-44.

The trial court had minimized the importance of amending the charges, calling Assault 2 the "main charge." RP 2/8 at 32-3. But Pace was found not guilty of this "main charge." CP 340. He received 24 months for Tampering with a Witness, to be served consecutive to his imprisonment on the felony harassment charge. CP 405.

B. Celaya's right to a speedy trial was violated.

The right to a speedy trial is protected by the United States constitution and the Washington constitution, as well as Criminal Rule 3.3. After about sixth months of waiting and continuances, Celaya began objecting to continuances in November 2017. He was incarcerated the entire time he waited for trial. And the additional continuances from November forward allowed the State to add additional charges—charges that the State could have brought in August, when it prepared the call that was the basis for the Witness Tampering charge as an exhibit. RP 4/24 at 132. This Witness Tampering charged resulted in additional time in prison. RP 6/19 at 29 (court specifying an additional 24 months imprisonment for the Witness Tampering charge). By amending on the day of trial, the State forced Celaya to choose between a speedy trial and the right to prepare a defense. The amended charges made the case more complicated to defend: from an estimated 3-4 trial days prior to amendment, CP 30, to 7 days of trial after amendment. Celaya's trial was illegally delayed and that delay prejudiced him.

This Court will review de novo whether the trial court violated Celaya's right to a speedy trial. *State v. Carlyle*, 84 Wn. App. 33, 35–36,

925 P.2d 635 (1996). A court necessarily abuses its discretion when it denies a criminal defendant's constitutional rights. *State v. Perez*, 137 Wn. App. 97, 105, 151 P.3d 249 (2007). The "decision to grant or deny a motion to continue rests within the trial court's sound discretion. However, this court must disturb the trial court's decision if there is a clear showing the decision is manifestly unreasonable, or exercised on untenable grounds, or for some untenable reasons." *State v. Flinn*, 154 Wn.2d 193, 199, 110 P.3d 748 (2005) (internal citation and punctuation omitted).

The right to a speedy trial "is as fundamental as any of the rights secured by the Sixth Amendment." *Barker v. Wingo*, 407 U.S. 514 (1972) at 515 n. 2 (quoting *Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967)). If a defendant's constitutional right to a speedy trial is violated, the remedy is dismissal of the charges with prejudice. *Id.* at 522. Unless "a strict rule is applied, the right to a speedy trial as well as the integrity of the judicial process, cannot be effectively preserved." *State v. Kenyon*, 167 Wn.2d 130, 136, quoting *State v. Striker*, 87 Wn.2d 870, 877, 557 P.2d 847 (1976).

The constitutional analysis under article I, section 22 is substantially the same as under the federal Sixth Amendment. *State v. Iniguez*, 167 Wn.2d 273, 290, 217 P.3d 768, 776 (2009).

Celaya's right to a speedy trial was violated as a result of governmental misconduct. The government's misconduct need not be evil or dishonest. Simple mismanagement is sufficient. *State v. Blackwell*, 120 Wn.2d 822, 831, 845 P.2d 1017 (1993).

After several prior delays, a December 12 trial date was continued based on the State's representation about the need for officers to testify at the 3.5 hearing. The defendant objected to the continuance. CP 27.

On January 24, the State moved to continue the trial. CP 35. A new trial date of February 8 was assigned.

On the trial date, February 8, 2018, the State presented an amended information. The defense objected to amending information on day of trial. RP 2/8 at 4.

Whereas, in December, the State insisted it needed a continuance so that an officer would be available for a 3.5 hearing, and in January the State said that it would amend to add a misdemeanor assault charge, in February, the State added three charges and asked to exclude, not admit, Celaya's pretrial statements—statements which were not subject to a 3.5

analysis because they were made after his received his *Miranda* warnings. RP at 4/17 111 (State admitting that, “I don’t believe that there is any statements that were made without the advisement of Miranda.”).

The government engaged in misconduct because there was no reason that the charges could not have been added earlier. As early as September “the State had said that they were waiting a report on a jail call and potential—waiting report on jail call and NCO violation, if any.” RP 2/8 at 6. The State had the recording of the call burned onto a CD that was used at trial in August 2017. RP 4/24 at 132. It is reasonable to assume that the State had listened to the recording prior to asking to have it made into an exhibit. Before February 8, the State had served Pace with a subpoena to testify at trial at least five times, including as early as August. Appendix (Supp. CP). Trial was scheduled for December, and the only reason the State proffered to continue the case in December was a 3.5 scheduling conflict, and made no mention of amending charges.

The newly added charges, including a felony charge, forced Celaya into a position where he had to choose between exercising his speedy trial rights and his right to have a prepared defense.

Even assuming that the date to consider is January 30, when the State represented it sent a version of the amended complaint to Celaya’s

counsel, RP 2/8 at 11, that still gave Celaya a Hobson's choice. The State doubled the complexity of the trial, from a "3-4" day trial to a 7-day trial. After the trial court allowed the amendment, defense counsel asked for over two weeks to prepare to defend the new charges. RP 2/8 at 39. Given the difficulty the State claimed it had contacting Pace for an interview, it was reasonable for the defense to anticipate needing significant time to interview the witness and do other trial preparation. The time defense counsel needed was significantly longer than the 6 business days prior to trial that the State sent a draft amended complaint. In the end, defense counsel only saw the amended complaint, at the earliest, on Sunday February 4. RP 2/8 at 7. Defense counsel stated he first reviewed the amended charges on Monday, February 5. RP 2/8 at 8.

And even assuming a January 30 date, there is no valid explanation for the delay in amending the charges. Even January 30 would have been beyond the January 11 expiration of speedy trial from the continuance in November, the last continuance that was made without Celaya's objection and the last made without a misrepresentation by the State as to the reasons needed to continue the trial date. CP 24. January 30 was also almost two weeks later than the January 17 trial date anticipated in December. CP 27. The reasons the State proffered to obtain the delays—

the 3.5 hearing and the need to have Pace testify that he communicated Celaya's message—did not justify the continuances in December and do not justify the failure to amend the complaint far earlier than even January 30. In the end, the actual amendment happened on the scheduled day of trial, February 8, the third business day after defense counsel received the proposed draft amendment.

Defense counsel “strenuously object[ed] to the amending of the Information” because the allegations “substantially change[d]” the case and would “bring great difficulty in the defense that we had anticipated putting forth.” RP 2/8 at 8. The State conceded that defense counsel made “a fairly thorough record that he is not going to be able to proceed effectively on the new charges.” RP 2/8 at 39. The actual trial was twice as long as the pre-amendment estimate.

The State defended its actions, telling the trial court that “I’m not going to be able to prove that witness tampering without Brian Pace and without—because he is the one that conveys the message from that call to the alleged victim.” RP 2/8 at 23. But the To Convict Instruction properly stated the law, and did not require that any message be conveyed. CP 326 Instruction 31.

And in closing, the State told the jury that Jeffries' and Torvald's testimony was sufficient to convict:

So now let's talk about the second set of crimes: Violation of a No-Contact Order and Tampering. We know that these happened because of Ms. Jeffries' testimony and because of call logs that you heard.

RP 4/25 at 244.

The State further told the jury in closing that the threat did not need to be communicated to Jeffries:

He just has to attempt. . . . I'll point out that we don't even have to show that Mr. Pace relayed that message . . .

RP 4/25 at 248.

The government mismanaged this case. Although it did not amend the charges until the day of trial in February, it had prepared the exhibit of the call containing the alleged witness tampering in August. Although there were no 3.5 statements, the State asked for a hearing on the issue, then asked to exclude Pace's statements, and then finally recognized there no 3.5 statements.

The State knew that it could bring the Witness Tampering charge in August, because it was then that Pearson prepared his exhibit. The State should have known in August that it did not need Pace to testify.

The State here failed to learn the nature of the evidence and examine the elements of the charges, and asked for continuances and late amendments to charges based on that ignorance. That is mismanagement that amounts to misconduct, the misconduct violated Celaya's speedy trial rights, and the charges must be dismissed.

C. Celaya was prejudiced by the delay and by the late amendment

The case law explains that Celaya "was prejudiced in that he was forced to waive his speedy trial right and ask for a continuance to prepare for the surprise charges brought three business days [here, on the day of] the scheduled trial." *State v. Michielli*, 132 Wn.2d 229, 244, 937 P.2d 587 (1997). Because the record is clear that the State knew the basis of the charges well ahead of time and that Celaya was forced to continue the trial date to prepare a proper defense, *Michielli* requires reversal and dismissal with prejudice.

Michielli is squarely on point. There, the State knew all the facts underlying the late amendment well before trial. 132 Wn.2d at 243. Here, the State prepared the exhibit of the call in August, and had Pace served with a subpoena in August; the State simply chose not to file amended charges until the day of trial, February 8, seven months later. Defense

counsel learned of the amendment at the earliest on Sunday, February 4, three business days prior to the scheduled trial date. RP 2/8 at 7-8.

Just as in *Michielli*, the “State’s delay in amending the charges, coupled with the fact that the delay forced Defendant to waive his speedy trial right in order to prepare a defense, can reasonably be considered mismanagement and prejudice sufficient to satisfy CrR 8.3(b).” 132 Wn.2d at 145.

The case law on forcing Celaya to choose between waiving speedy trial and properly preparing a defense, where the State knew the basis for the charges long before seeking amendment, mean that this Court should reverse and dismiss the charges, based on the line of cases including *Michielli*, *Vernon G.*, and *Earl*.

A defendant being “forced to waive his speedy trial right is not a trivial event.” *Michielli*, 132 Wn.2d at 245. The court may only allow an amendment of the information if the court finds that “substantial rights of the defendant are not prejudiced.” CrR 2.1(d). “An amendment to an information at trial may prejudice a defendant by leaving him without adequate time to prepare a defense to a new charge.” *State v. Purdom*, 106 Wn.2d 745, 749, 725 P.2d 622, 624 (1986), quoting *State v. Jones*, 26 Wn. App. 1, 6, 612 P.2d 404 (1980).

The “State may not, without excuse, compel defendants to choose between their right to assistance by an attorney who has had an opportunity to adequately prepare for trial, and their right to a speedy trial.” *State v. Ralph Vernon G.*, 90 Wn. App. 16, 21, 950 P.2d 971 (1998). *Id.* It is unfair for the State to wait until days before trial to file an amended information based on information that the State has been aware of. *Michielli*, 132 Wn.2d at 246.

In *Vernon G.*, the record showed that the “State was aware of the factual basis for the charges for nearly a month,” and the court held that delaying in bringing the charges until shortly before trial violated the defendants speedy trial rights and reversed. 90 Wn. App. at 18.

In *Earl*, the State waited nine months to amend, which it did on the day of trial. *State v. Earl*, 97 Wn. App. 408, 410, 984 P.2d 427 (1999). The *Earl* court reversed on all charges, both the original count and the amended count. *Id.* at 415-17.

Here, there can be no doubt that the State was aware of the information it needed to amend the complaint well before February 8. Pace’s testimony was unnecessary to bring or prove the Witness Tampering charge, because the phone call showing Celaya’s attempt

would be sufficient to convict—which is precisely what the State argued to the jury. RP 4/25 at 248.

The State made no attempt to justify its late amendment to add a violation of a no contact order, which allegedly occurred in June 2017, eight months prior to the February amendment. CP320 (Instruction 27) (giving date of alleged VNCO).

If the Court assumes what the record shows, that the charges were amended on the day of trial, then Celaya plainly wins.

There are two other dates that the Court may consider here. The first, is February 4/5, when defense counsel stated he first heard of the amended charges. RP 2/8 at 7 (describing failure of prosecutor to orally tell counsel of changes). Counsel had pinkeye and then his son had surgery, keeping him out of the office Tuesday-Friday, January 30 to February 2, and got back to the office on February 5; RP 2/8 at 7-8. This would leave the case firmly under *Michielli*, where amendment three days prior to trial was found to violate the defendant's speedy trial rights. *Michielli*, 132 Wn.2d at 244.

While the State may argue that counsel's illness was not foreseeable, exigencies like illness are precisely why it is important not to

wait until the last minute to amend. The State may not use counsel's illness to excuse months of case mismanagement.

Celaya also wins if the Court considers January 30, the date the State claims to have sent a draft amendment by email, as the relevant date of amendment. Just as in *Vernon G.*, *Michielli*, and *Earl*, the State here knew everything it needed to know months prior to amendment. There was no excuse for the late amendment; or, rather, the excuse the State provided—a misunderstanding of the elements of the Witness Tampering charge—cannot excuse late amendment. The State mismanaged this case to the detriment of the Celaya, and whether that delay was zero days or three business days or six business days (a time during which defense was ill and his child had surgery), that mismanagement, that misconduct, prejudiced Celaya. January 30 is past the speedy trial expiration from November and after two “firm” trial dates, December 12 and January 24. The State had no excuse to amend so late, so it made one up: the need to contact Pace.

The case law compels dismissal of all charges, not just the Witness Tampering charge. *Earl*, 97 Wn. App. at 415-17. This rule makes sense: while the late-amended charges clearly created the conflict between the right to a speedy trial and the right to prepare a defense, all the charges

were ultimately tried far beyond the proper expiration of the speedy trial deadline. Dismissal is the only appropriate remedy—further delay in the form of a new trial exacerbates, rather than alleviates, the harm caused by a speedy trial violation. All the charges must therefore be dismissed with prejudice.

As the *Vernon G.* court explained, when a defendant is forced to request a continuance to prepare to address an untimely amended information, the court looks at the time for trial without any exception for the time of the continuance, and if the time for trial has expired, the remedy is dismissal. *Ralph Vernon G.*, 90 Wn. App. 22. Here, the speedy trial time expired well before the trial started on April 17. Celaya’s speedy trial time was continued in December and January over his objection. CP 27, 33.

Celaya also suffered the classic prejudice of delay in trial: fading witness memories. *Barker*, 407 U.S. at 521. Jeffries testified “I have no reason to remember this event [that led to the charges]. I do not want to remember this event, so putting it out of my head has been all I’ve been doing. Forgetting is the goal.” RP 4/18 at 103. She testified that she is “very willing to forget any and all things that are unpleasant . . .” RP 4/18 at 104. She said: “I forget a lot of things . . . Purposely.” RP 4/18 at 107.

After the alleged attack, she “went and got high. You better believe I did.” RP 4/18 at 109. She had to have her memory refreshed. RP 4/19 at 111.

Pace testified similarly that his memory was impaired by the passage of time. “I mean I don’t remember exactly. I mean, it was awhile ago.” RP 4/23 at 142. As to whether Celaya and Jeffries were arguing on the morning of the incident, Pace didn’t “really remember if there were arguing in the morning time. I really don’t.” RP 4/23 at 146; RP 149 “It might have. I mean, it’s been awhile.” ‘I really don’t remember if it happened that day or not.’).

If the trial had happened in the fall, all the witnesses’ memories would have been fresher by six months, and thus the delay caused by mismanagement prejudiced Celaya by allowing witnesses memories to fade—in the case the alleged victim, because she was intentionally forgetting.

Celaya was also incarcerated during the entire pretrial period, another form of prejudice recognized by the Supreme Court. *Barker*, 407 U.S. at 520.

This Court should reverse and remand with instructions to reverse all charges.

D. Celaya’s claims are properly preserved by his objections.

First, Celaya properly objected to continuances and to the late amendment. CP 27; CP 33; RP 2/8 at 4.

Even if that were not true, this Court has the power to review all of Celaya’s claims because they are a “manifest error affecting a constitutional right.” RAP 2.5(a). To meet RAP 2.5(a) and raise an error for the first time on appeal, an appellant must demonstrate (1) the error is manifest, and (2) the error is truly of constitutional dimension. *State v. O’Hara*, 167 Wn.2d 91, 98, 217 P.3d 756, 760 (2009), *as corrected* (Jan. 21, 2010). That is, Celaya must identify a constitutional error and show how the alleged error actually affected his rights at trial. *Id.* Here, the Constitutional rights—the right to a speedy trial and the right to know the charges against him—are identifiable and were raised below by trial counsel.

After determining the error is of constitutional magnitude, this court must determine whether the error was manifest. “‘Manifest’ in RAP 2.5(a)(3) requires a showing of actual prejudice.” *O’Hara*, 167 Wn.2d at 99. To demonstrate actual prejudice, there must be a plausible showing by the [appellant] that the asserted error had practical and identifiable

consequences in the trial of the case. *Id.* In determining whether the error was identifiable, the trial record must be sufficient to determine the merits of the claim. *Id.* Here, since the State's misrepresentations are clear, this claim is reviewable, and the prejudice is plain from cases such as *Michielli*, *Vernon G.*, and *Earl*.

E. There should be no costs assessed against Celaya.

JanThe trail court found Celaya indigent. CP 414. He is therefore presumed indigent throughout the appeal. RAP 14.2; RAP 15.2. He requests that the Court not assess costs against him.

CONCLUSION

This Court should reverse the jury verdict and remand with instructions to dismiss all charges with prejudice.

RESPECTFULLY SUBMITTED January 16, 2019.

LAW OFFICE OF HARRY WILLIAMS

By s/ Harry Williams IV
Harry Williams IV, WSBA #41020
harry@harrywilliamslaw.com.
707 East Harrison
Seattle, WA 98102
206.451.7195
Attorney for Fernando Celaya

DECLARATION OF SERVICE

I declare that on January 16, 2019, I filed Appellant's open brief with the Court of Appeals for Division II via Electronic Filing for the Court of Appeals (Division II), which served counsel for Clark County.

I further declare that on January 16, 2019, I served by U.S. mail a copy of the brief on Fernando Celaya at:

Fernando Celaya DOC # 325580
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

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

Dated January 16, 2019, in Seattle, Washington

s/ Harry Williams IV

Harry Williams IV, WSBA # 41020

Appendix of Subpoenas to Brien
Pace from Supplement Clerk's
Papers

0406
1808
8/24/2017



FILED
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A.M. **AUG 24 2017** P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff,
vs.
FERNANDO ANDRES CELAYA
Defendant.

Cause Number 17-1-02378-9
SUBPOENA FOR JURY TRIAL
Subpoena ID# 943901
INCIDENT #:TACPD / 1717102092
INCIDENT DATE : 06/20/2017

Greetings to: BRIEN ARLIEGH PACE

YOU ARE HEREBY COMMANDED to appear in Pierce County Superior Court, County City Building, 930 Tacoma Avenue South, Room 260, Tacoma, Washington on 10/02/17, at 09:00 am , to give evidence on behalf of the Plaintiff, State of Washington.

Your contact person for this subpoena is Stacey Lawrence, at (253) 798-7591. YOU MUST CALL THIS PERSON UPON RECEIPT OF YOUR SUBPOENA AND PROVIDE A CURRENT PHONE NUMBER AND ADDRESS.

You are not expected to be present during the entire trial. We will advise you of the day and approximate time your testimony will be needed. Due to court congestion and other reasons, it is possible that the trial will not commence on the date stated. If we have a current phone number for you, we will attempt to advise you of any scheduling changes. This subpoena, however, remains in effect and imposes a continuing duty to appear until you are discharged. You may submit a claim form for your attendance and mileage; if your travel to court will exceed 150 miles each way, notify your contact person to make travel arrangements. Should you neglect to complete the form, no fees will be disbursed to you.

DATED: 08/17/2017

Declaration of Service:

The undersigned declares under penalty of perjury:

That I served mailed faxed the within subpoena upon Brien Arliegh Pace by handing him/her a copy of the same on this date.

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

Dated: 8/21/17
Place: Tacoma, Washington

T. Symsel
Signature

S/ ZACHARY DILLON

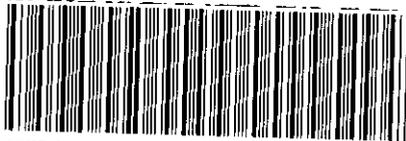
ZACHARY DILLON
Deputy Prosecuting Attorney, WSBA NO. 45593

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AUG 21 2017

SUBPOENA FOR JURY TRIAL

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office: (253) 798-7400



17-1-02378-9 50077015 RTSB 10-11-17

FILED
IN COUNTY CLERK'S OFFICE

A.M. OCT 10 2017 P.M.

PIERCE COUNTY WASHINGTON
KEVIN STOCK County Clerk
BY *[Signature]* DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff,
vs.
FERNANDO ANDRES CELAYA
Defendant.

Cause Number 17-1-02378-9
SUBPOENA FOR JURY TRIAL
Subpoena ID# 947069
INCIDENT #:TACPD / 1717102092
INCIDENT DATE : 06/20/2017

Greetings to: BRIEN ARLIEGH PACE

YOU ARE HEREBY COMMANDED to appear in Pierce County Superior Court, County City Building, 930 Tacoma Avenue South, Room 260, Tacoma, Washington on 11/14/17, at 09:00 am , to give evidence on behalf of the Plaintiff, State of Washington.

Your contact person for this subpoena is Stacey Lawrence, at (253) 798-7591. YOU MUST CALL THIS PERSON UPON RECEIPT OF YOUR SUBPOENA AND PROVIDE A CURRENT PHONE NUMBER AND ADDRESS.

You are not expected to be present during the entire trial. We will advise you of the day and approximate time your testimony will be needed. Due to court congestion and other reasons, it is possible that the trial will not commence on the date stated. If we have a current phone number for you, we will attempt to advise you of any scheduling changes. This subpoena, however, remains in effect and imposes a continuing duty to appear until you are discharged. You may submit a claim form for your attendance and mileage; if your travel to court will exceed 150 miles each way, notify your contact person to make travel arrangements. Should you neglect to complete the form, no fees will be disbursed to you.

DATED: 09/20/2017

Declaration of Service:

The undersigned declares under penalty of perjury:

That I served/mailed/faxed the within subpoena upon Brien Arliegh Pace by handing him/her a copy of the same on this date.

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

Dated: 9/21/17

Place: Tacoma, Washington

T. Syndel

Signature

S/ ZACHARY DILLON

ZACHARY DILLON

Deputy Prosecuting Attorney, WSBA NO. 45593

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SEP 21 2017

SUBPOENA FOR JURY TRIAL

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office: (253) 798-7400

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12/1/2017

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff,
vs.
FERNANDO ANDRES CELAYA
Defendant.

Cause Number 17-1-02378-9
SUBPOENA FOR JURY TRIAL
Subpoena ID# 951973
INCIDENT #:TACPD / 1717102092
INCIDENT DATE : 06/20/2017

Greetings to: BRIEN ARLIEGH PACE

YOU ARE HEREBY COMMANDED to appear in Pierce County Superior Court, County City Building, 930 Tacoma Avenue South, Room 260, Tacoma, Washington on 12/12/17, at 09:00 am , to give evidence on behalf of the Plaintiff, State of Washington.

Your contact person for this subpoena is Stacey Lawrence, at (253) 798-7591. YOU MUST CALL THIS PERSON UPON RECEIPT OF YOUR SUBPOENA AND PROVIDE A CURRENT PHONE NUMBER AND ADDRESS.

You are not expected to be present during the entire trial. We will advise you of the day and approximate time your testimony will be needed. Due to court congestion and other reasons, it is possible that the trial will not commence on the date stated. If we have a current phone number for you, we will attempt to advise you of any scheduling changes. This subpoena, however, remains in effect and imposes a continuing duty to appear until you are discharged. You may submit a claim form for your attendance and mileage; if your travel to court will exceed 150 miles each way, notify your contact person to make travel arrangements. Should you neglect to complete the form, no fees will be disbursed to you.

DATED: 11/14/2017

Declaration of Service:

The undersigned declares under penalty of perjury:

That I served/mailed/daxed the within subpoena upon Brien Arliegh Pace by handing him/her a copy of the same on this date.

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

Dated: 11.15.17

Place: Tacoma, Washington

S/ ZACHARY DILLON

ZACHARY DILLON
Deputy Prosecuting Attorney, WSBA NO. 45593

Signature M. Reber

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NOV 15 2017

SUBPOENA FOR JURY TRIAL

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office: (253) 798-7400

0045
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12/13/2017

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff,
vs.
FERNANDO ANDRES CELAYA
Defendant.

Cause Number 17-1-02378-9
SUBPOENA FOR JURY TRIAL
Subpoena ID# 953564
INCIDENT #: TACPD / 1717102092
INCIDENT DATE : 06/20/2017

Greetings to: BRIEN ARLIEGH PACE

YOU ARE HEREBY COMMANDED to appear in Pierce County Superior Court, County City Building, 930 Tacoma Avenue South, Room 260, Tacoma, Washington on 01/17/18, at 09:00 am , to give evidence on behalf of the Plaintiff, State of Washington.

Your contact person for this subpoena is Stacey Lawrence, at (253) 798-7591. YOU MUST CALL THIS PERSON UPON RECEIPT OF YOUR SUBPOENA AND PROVIDE A CURRENT PHONE NUMBER AND ADDRESS.

You are not expected to be present during the entire trial. We will advise you of the day and approximate time your testimony will be needed. Due to court congestion and other reasons, it is possible that the trial will not commence on the date stated. If we have a current phone number for you, we will attempt to advise you of any scheduling changes. This subpoena, however, remains in effect and imposes a continuing duty to appear until you are discharged. You may submit a claim form for your attendance and mileage; if your travel to court will exceed 150 miles each way, notify your contact person to make travel arrangements. Should you neglect to complete the form, no fees will be disbursed to you.

DATED: 12/05/2017

Declaration of Service:

The undersigned declares under penalty of perjury:

That I served/mailed/delivered the within subpoena upon Brien Arliegh Pace by handing him/her a copy of the same on this date.

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

Dated: 12/16/17

Place: Tacoma, Washington

T. Symon

Signature

S/ ZACHARY DILLON

ZACHARY DILLON
Deputy Prosecuting Attorney, WSBA NO. 45593

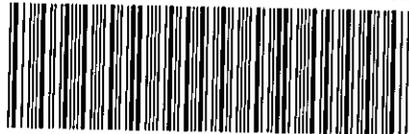
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DEC 06 2017

SUBPOENA FOR JURY TRIAL

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office: (253) 798-7400

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1/31/2018



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A.M. JAN 30 2018 P.M.
PIERCE COUNTY WASHINGTON
KEVIN STOCK County Clerk
BY [Signature] DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff,
vs.
FERNANDO ANDRES CELAYA
Defendant.

Cause Number 17-1-02378-9
SUBPOENA FOR JURY TRIAL
Subpoena ID# 957686
INCIDENT #: TACPD / 1717102092
INCIDENT DATE : 06/20/2017

Greetings to: BRIEN ARLIEGH PACE

YOU ARE HEREBY COMMANDED to appear in Pierce County Superior Court, County City Building, 930 Tacoma Avenue South, Room 260, Tacoma, Washington on 02/08/18, at 09:00 am , to give evidence on behalf of the Plaintiff, State of Washington.

Your contact person for this subpoena is Stacey Lawrence, at (253) 798-7591. YOU MUST CALL THIS PERSON UPON RECEIPT OF YOUR SUBPOENA AND PROVIDE A CURRENT PHONE NUMBER AND ADDRESS.

You are not expected to be present during the entire trial. We will advise you of the day and approximate time your testimony will be needed. Due to court congestion and other reasons, it is possible that the trial will not commence on the date stated. If we have a current phone number for you, we will attempt to advise you of any scheduling changes. This subpoena, however, remains in effect and imposes a continuing duty to appear until you are discharged. You may submit a claim form for your attendance and mileage; if your travel to court will exceed 150 miles each way, notify your contact person to make travel arrangements. Should you neglect to complete the form, no fees will be disbursed to you.

DATED: 01/24/2018

Declaration of Service:

The undersigned declares under penalty of perjury:

That I served mailed/faxed the within subpoena upon Brien Arliegh Pace by handing him/her a copy of the same on this date.

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

Dated: 1/24/18

Place: Tacoma, Washington

T. Synder

S/ Zachary Wiley Dillon

Zachary Wiley Dillon
Deputy Prosecuting Attorney, WSBA NO. 45593

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JAN 24 2018

Signature

SUBPOENA FOR JURY TRIAL

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office: (253) 798-7400

LAW OFFICE OF HARRY WILLIAMS LLC

January 16, 2019 - 3:28 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 52063-0
Appellate Court Case Title: State of Washington, Respondent v. Fernando A. Celaya, Appellant
Superior Court Case Number: 17-1-02378-9

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