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

STATE OF WASHINGTON,

Respondent,

v.

JAY MARIA CHRISTENSEN,

Appellant.

Appeal from the Superior Court of Pierce County
The Honorable Kathryn Nelson

No. 16-1-04322-6

BRIEF OF RESPONDENT

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I. INTRODUCTION

In September of 2016, appellant, Jay Maria Christensen, robbed a Shell gas station in Gig Harbor. About a month later, Christensen robbed a Denny's restaurant in Puyallup. During both robberies, Christensen was armed with a short-barreled shot gun. During the Denny's robbery, Christensen also threatened to kill customers, kidnapped and assaulted his getaway driver, eluded police, and obstructed law enforcement.

A jury convicted Christensen of 11 crimes and found true all firearm enhancements and other alleged aggravating factors. The trial court sentenced Christensen to 414 months in prison.

On appeal, Christensen claims that insufficient evidence supported his conviction for first-degree harassment charged in count seven and that the trial court abused its discretion in allowing testimony from Christensen's girlfriend, Sandra Whitehead, regarding Christensen's drug use and discussions of Christensen committing multiple robberies. Christensen further contends that he is entitled to relief under the doctrine of cumulative error.

Christensen's claims should be denied. Sufficient evidence was presented at trial for the jury to find that a customer at Denny's heard Christensen's threat to kill customers and was fearful that he would carry out this threat. In addition, the trial court properly exercised its discretion

in allowing the State to elicit Whitehead's testimony about Christensen's drug use and discussions regarding him committing multiple robberies because evidence of drug use tended to show a motive for Christensen's crimes and Whitehead's credibility was at issue as she had told law enforcement different stories regarding any financial difficulties she and Christensen had due to drug use and regarding whether she and Christensen argued about him committing robberies.

Moreover, even assuming that the trial court abused its discretion by allowing the State to elicit Whitehead's testimony about Christensen's drug use and discussions regarding him committing multiple robberies, any such error was harmless given Christensen's admission that he robbed Denny's and the overwhelming evidence presented at trial that he robbed the Shell station. Christensen has failed to demonstrate that any prejudicial error occurred, much less an accumulation of errors that deprived him of a fair trial.

This Court should deny Christensen's claims and affirm his convictions.

II. RESTATEMENT OF THE ISSUES

- A. Whether sufficient evidence was presented at trial for the jury to find that a customer at Denny's heard Christensen's threat to kill customers and was fearful that he would carry out this threat when the customer heard Christensen say that he would start killing people if he didn't get the money and the customer tried to move away from danger because she was concerned for her safety.
- B. Whether the trial court abused its discretion by allowing the State to elicit a witness's testimony about Christensen's drug use and discussions regarding him committing multiple robberies when evidence of drug use tended to show a motive for Christensen's crimes and where the witness's credibility was at issue as she had told law enforcement different stories regarding any financial difficulties she and Christensen had due to drug use and regarding whether she and Christensen argued about him committing robberies.
- C. Whether even assuming that the trial court abused its discretion in by allowing the State to elicit a witness's testimony about Christensen's drug use and discussions regarding him committing multiple robberies, any such error was harmless given Christensen's admission that he robbed Denny's and the overwhelming evidence presented that he robbed the Shell station.
- D. Whether Christensen's convictions should be reversed under the cumulative error doctrine when he has failed to demonstrate that any prejudicial error occurred, much less an accumulation of errors that deprived him of a fair trial.

III. STATEMENT OF THE CASE

A. SUBSTANTIVE FACTS

During the early morning hours of September 15, 2016, Esther Kani was working as a cashier at the Shell gas station in Gig Harbor. RP 405-4507, 421. While she was at the register, a man walked in holding a short-barreled shotgun. RP 409, 427, 440, 458. He was wearing a sweatshirt with

a hood covering the top of his face and a blue and white bandana covering the lower part of his face. He was also wearing a distinctive type of athletic shoes. RP 408, 458. The man demanded that Kani give him money from the register and told her that if she followed directions she would not get hurt. RP 409. Kani gave the man money from the register and the man left. RP 425-426.

Video surveillance showed that the robber arrived at and left the Shell station in a Toyota Camry with a handicap placard hanging from the rearview mirror and blue tape covering the rear license plate. RP 457, 461-462, 1452-1454. Blue tape was later found in the Shell parking lot. RP 465, 501. A fingerprint on this tape was later found to share several distinctive characteristics with appellant Christensen's fingerprint. RP 1199-1201, 1241.

Christensen lived in a trailer on property in Puyallup and Steven Sommer also lived on that property. RP 1118, 1239. Sommer testified at trial for the prosecution. RP 1268-1271, 1295.

In the early morning of October 19, 2016, a friend called Christensen from the Denny's in Puyallup. This friend encouraged Christensen to come to Denny's because the register was full and the restaurant was not crowded. RP 1617-1618.

Sommer agreed to drive Christensen to the store in his truck to get cigarettes. However, once in the truck, Christensen hit Sommer in the head with a gun and demanded that he drive them to Denny's.¹ RP 1243-1248. When they arrived at Denny's, Christensen took the truck keys and told Sommer that he would kill Sommer and his family if he tried to leave. Christensen then entered Denny's. RP 1248-1249.

Around 2:00 a.m. on October 19, 2016, Sarah-Lynn McCollum was working as a waitress and manager at Denny's restaurant in Puyallup. RP 511-512. At that time, Christensen, carrying a gun, walked into the restaurant. He was wearing a black jacket with a bandana covering the bottom of his face. 511-512, 687. Christensen ordered McCollum to give him money from the register; McCollum tried to comply but she was scared and had difficulties opening the register till. RP 695-696. Christensen told McCollum the if she did not hurry and give him the money, he would kill the customers in the restaurant; he then began counting down from ten. RP 696-697.

After McCollum opened the register, Christensen grabbed the money and exited the restaurant. McCollum saw him get into a waiting truck and watched the truck speed away. RP 702-703, 721-724.

¹ Per the testimony of Sandra Whitehead, Sommer agreed to drive Christensen to Denny's. RP 1620-1621.

Law enforcement officers responding to a dispatch reporting a robbery at Denny's also saw this truck speed away from the parking lot. RP 542-544, 550, 565, 603-606. Officers attempted to conduct a traffic stop but the truck failed to pull over. Several law enforcement units chased the truck as it sped down Highway 512. RP 564-570, 606-607, 613. Christensen told Sommer to keep driving that if the police caught him, he was going to shoot Sommer. RP 1249-1253.

The truck ultimately came to a stop after it ran into a cement pillar on Meridian Avenue. RP614-615, 969. Sommers testified that he followed Christensen's instructions but decided to end the chase by crashing the truck. RP 1252-1254, 1321. As officers surrounded the truck, Sommer attempted to comply with the officers' orders but Christensen grabbed the driver and prevented him from complying. RP 577-578, 618-623, 862, 867-868. 871, 917-918, 969-970, 1025-1026. Sommers testified that Christensen had a shotgun to his head. RP 1260, 1264.

The officers saw Christensen holding a gun and pointing it at the Sommer. RP 868, 919, 1027. One officer then fired his weapon and hit Christensen in the head. RP 632, 920.

Before Christensen was transported to the hospital, officer removed cash from his pockets. They also noted he had a bandana tied around his

neck. RP 587, 876, 1345, 1358, 1738. Officers found a short-barreled shotgun on the front seat of the truck. RP 628, 1147.

During a search of Christensen's trailer, law enforcement officers found blue tape, shotgun shells, blue bandanas, and shoes sharing the unique characteristics as the shoes worn by the Shell robber. RP 1376-1380, 1391-1392, 1428, 1433. Detectives also found a Toyota Camry on the property that had a handicap placard hanging from the rearview mirror and blue tape in the trunk. RP 1123, 1455-1457. The owner of the vehicle was Marcus Thorne who was present on the property but declined to speak to law enforcement. RP 1123, 1466.

Christensen's girlfriend, Sandra Whitehead, lived with Christensen during the robberies. RP 1595-1596. She testified that Christensen used the blue tape and gloves found by the officers to paint a van and that he used bandanas to keep the sweat off of his face. RP 1602-1604, 1610.

B. PROCEDURAL HISTORY

In a Third Amended Information, the State charged Jay Christensen with 12 crimes relating to two robberies that occurred on September 15, 2016, and October 19, 2016: two counts of robbery in the first degree, two counts of unlawful possession of a firearm in the first degree, two counts of possession of a short-barreled shotgun, two counts of first-degree harassment, first-degree kidnapping, attempting to elude a pursuing police

vehicle, assault in the second degree, and obstructing a law enforcement officer. CP 185-192. The State alleged that Christensen was armed with a firearm during all but the firearm possession offenses and also alleged multiple other aggravating factors. CP 185-192.

The jury found Christensen guilty on all counts except the harassment charge alleged in count eight. The jury also found true all of the firearm allegations and the other aggravating factors. RP 1938-1946. The trial court imposed a standard range sentence, plus the firearm enhancements, that totaled 414 months. RP 1962-1963, 1999-2000; CP 390-406.

Christensen filed a timely notice of appeal. CP 409.

IV. ARGUMENT

A. SUFFICIENT EVIDENCE WAS PRESENTED AT TRIAL FOR THE JURY TO FIND THAT CHRISTENSEN WAS GUILTY OF HARASSMENT OF A DENNY'S CUSTOMER

Christensen complains that the State failed to meet its burden of proving that he was guilty of harassment of a Denny's customer. Specifically, Christensen argues that the State failed to prove that any customer overheard his threatening language and was actually fearful that his threat would be carried out. Brief of Appellant at 10-13. This Court should deny Christensen's claim as the State presented sufficient evidence

for the jury to find that one of the Denny's customers, Tiffanie Christensen², heard Christensen's threat to kill customers and was fearful that he would carry out this threat.

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). A claim of insufficiency admits the truth of the State's evidence and all reasonable inferences that a trier of fact can draw from that evidence. *Id.* Circumstantial evidence and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). The trier of fact makes credibility determinations that are not reviewed on appeal. *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

To convict Christensen for first-degree harassment as charged in count seven, the State had to prove beyond a reasonable doubt that Christensen (1) without lawful authority (2) knowingly threatened to kill any person other than waitress Sarah-Lynn McCollum, and (3) Christensen's words or conduct placed that person in reasonable fear that the threat to kill would be carried out. RCW 9A.46.020(1)(a)(i), (2)(b);

² Tiffanie Christensen is not related to appellant. RP 738-739. To avoid confusion, Tiffanie Christensen will be referred to herein by her first name.

State v. Mills, 154 Wn.2d 1, 10–12, 109 P.3d 415 (2005); CP 270. Christensen challenges only the sufficiency of evidence that his words or conduct placed Tiffanie in reasonable fear that his threat to kill would be carried out. Brief of Appellant at 11-12.

Tiffanie testified that she and a co-worker, Heather Moler, were customers at Denny's around 1:00 a.m. on October 19, 2016. RP 740-741. Moler pointed out to Tiffanie that there was a person standing at the register with something covering his face. RP 742-743. When Tiffanie looked, she heard this man in a loud conversation with a Denny's server and heard him say something to the server about opening the register. RP 745-747. Tiffanie then heard the man say he was going to start killing people if he didn't get the money. RP 754.

Both Tiffanie and Moler moved from their booth in order "to get farther away from him, to try not to be in his line of sight." RP 746-747. When a cook came out of the kitchen to see what was going on, Tiffanie told him to call 9-1-1 as she realized the restaurant was being robbed. RP 747. When the robber turned to leave, Tiffanie saw that he had a shotgun "and that's when [she] decided to get out of there." RP 746, 748. She ultimately found a closet to hide in. RP 748-749.

Tiffanie testified that she was "stressed" the moment she realized what was going on. She tried to move away from danger because she had

concern for her safety and, as she had kids, decided it “wasn’t worth [her] life” to just sit still. RP 748-749, 758, 760. Tiffanie further testified that she was afraid to go back to any restaurant. RP 759-760.

Christensen claims that “Tiffanie never testified that she heard the threat and was placed in fear that it would be carried out. It was not until Christensen turned to leave the restaurant that she saw his gun and became fearful.” Brief of Appellant at 13. The record, however, belies this contention.

Although Tiffanie initially testified that she could not remember whether she heard what Christensen said at the register (RP 749) and that she did not hear him make any threats to shoot (RP 752), her memory was refreshed after she read her statement to the police. Tiffanie then recalled that “I heard [the server] tell him to put the gun away, and then the dude started counting down from ten, saying that he was going to start killing people if he didn’t get the money.” RP 754.

Taking the evidence from the record in the light most favorable to the State, the evidence amply supports the jury’s finding that Tiffanie heard Christensen’s threat to kill and that his words or conduct placed her in reasonable fear that his threat to kill would be carried out. She heard Christensen’s threats to kill people and as a result she tried to move to a place of safety as sitting still “wasn’t worth her life.” Considering all of the

reasonable inferences that a trier of fact can draw from the direct and circumstantial evidence presented, sufficient evidence supports the jury's finding of guilt for first -degree harassment as charged in count seven. Christensen's claim to the contrary should be denied.

B. THE TRIAL COURT PROPERLY ALLOWED THE STATE TO ELICIT WHITEHEAD'S TESTIMONY REGARDING CHRISTENSEN'S DRUG USE AND HIS COMMITTING MULTIPLE ROBBERIES BECAUSE EVIDENCE OF DRUG USE TENDED TO PROVIDE A MOTIVE FOR CHRISTENSEN'S CRIMES AND WHITEHEAD'S CREDIBILITY WAS AT ISSUE WHEN SHE TOOK THE STAND TO TESTIFY

Christensen claims that the trial court improperly admitted "highly prejudicial" evidence of Christensen's prior drug use and testimony suggesting that he committed "uncharged" robberies. Specifically, Christensen argues that the admission of this evidence violated ER 404(b) because the relevance of this evidence was minimal while its prejudicial impact denied him a fair trial. Brief of Appellant at 14-20. Not so. As Whitehead's testimony as to Christensen's drug use tended to show a motive for Christensen's crimes and the elicitation of the challenged testimony was a proper examination of Whitehead's credibility, the trial court properly allowed the admission of this evidence and Christensen's claim to the contrary should be denied.

A trial court's decision to admit or exclude evidence is reviewed for abuse of discretion. *State v. DeVincentis*, 150 Wn.2d 11, 17, 74 P.3d 119 (2003). A trial court abuses its discretion if its decision "is manifestly unreasonable or based upon untenable grounds or reasons." *State v. Powell*, 126 Wn.2d 244, 258, 893 P.2d 615 (1995).

1. Whitehead's Testimony Regarding Christensen's Drug Use

Prior to Whitehead's testimony, the trial court entertained argument regarding the admissibility of evidence regarding Christensen's drug use. The prosecutor argued that Christensen's drug use was highly probative as it showed the financial motivations for his robberies, as both he and Whitehead were out of work, and the elicitation of such testimony would allow the prosecutor to examine Whitehead's biases and credibility as she may have felt guilty for introducing Christensen to heroin. RP 1586-1589. The prosecutor also argued that the prejudicial nature of this evidence was minimal given the crimes for which Christensen was charged. RP 1586, 1589.

Defense counsel argued that there was no indication that Christensen's motive for committing robberies was to support his drug habit as both he and Whitehead were not in financial difficulty. RP 1587-1588. Counsel also argued that any remorse Whitehead may have had for introducing Christensen to heroin would not color her testimony. RP 1588.

The trial court ruled that this evidence was admissible:

I believe that I did say that the probative value outweighed the prejudicial effect, and in addition, it was proper for the elicitation of potential bias and other effects on the person who's testifying.

RP 1592-1593.

ER 404(b) provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Under ER 404(b), a defendant's prior misconduct is inadmissible to show the defendant's propensity to commit the charged crime. *State v. Fisher*, 165 Wn.2d 727, 744, 202 P.3d 937 (2009). But ER 404(b) does not prohibit evidence of the defendant's prior misconduct for other purposes, such as demonstrating motive, intent, a common scheme or plan, or lack of mistake or accident. *Fisher*, 165 Wn.2d at 744. ER 404(b) must be read in conjunction with ER 403, which "requires the trial court to exercise its discretion in excluding relevant evidence that would be unfairly prejudicial." *Fisher*, 165 Wn.2d at 745.

Before admitting evidence subject to ER 404(b), the trial court must "(1) find by a preponderance of the evidence the misconduct actually occurred, (2) identify the purpose of admitting the evidence, (3) determine

the relevance of the evidence to prove an element of the crime, and (4) weigh the probative value against the prejudicial effect of the evidence.” *Fisher*, 165 Wn.2d at 745.

Whitehead testified that Christensen was her boyfriend for the last three years and that they had lived together since June 2015. RP 1595-1596. She testified that although she and Christensen had been laid off from work, they were not experiencing financial hardship as they were receiving unemployment benefits. RP 1601, 1613-1614. She had introduced Christensen to heroin right after they got together and they would do heroin together about twice a day; she testified that this did not present a financial hardship to them. RP 1613-1614, 1629-1631, 1636-1637. However, she felt “awful” for introducing Christensen to heroin. RP 1652.

Whitehead further testified that her and Christensen’s drug habit cost them about \$200 per week. In addition, they paid \$300 per month for rent and had food expenses, but were receiving about \$200 per month in food stamps. RP 1637, 1639, 1682-1683. Whitehead testified that she did not recall telling Detective Johnson that she and Christensen were spending all of their money on heroin. RP 1653-1656.

The trial court did not abuse its discretion in admitting this testimony. The rules governing evidence of other crimes, wrongs, or acts is not designed to deprive the State of relevant evidence to establish its case,

but rather to prevent the State from suggesting that a defendant is guilty because he is a criminal-type person who would be likely to commit the crimes charged. *State v. Foxhoven*, 161 Wn.2d 168, 175, 163 P.3d 786 (2007). Here, the State did not elicit testimony regarding Christensen's drug use in order to suggest that a drug user is the type of person who commits crimes. Rather, the State elicited this testimony to show a *motive* for Christensen's crimes – that he needed money to support his \$200 per week drug habit – a permissible purpose under ER 404(b).

However, even if not properly admitted as motive evidence (*see State v. LeFever*, 102 Wn.2d 777, 785, 690 P.2d 574 (1984); Brief of Appellant at 15-16), such evidence was admissible as it impeached Whitehead's credibility.

As with any witness, Whitehead's credibility was at issue when she took the stand to testify. Under our adversary system, witness credibility is tested by cross-examination and is the subject of fair comment in final argument. *State v. Favro*, 5 Wn. App. 311, 313, 487 P.2d 261 (1971). Contrary to Christensen's argument that drug use has little to do with a witness's credibility as it is not probative of truthfulness (Brief of Appellant at 17), the State did not challenge Whitehead's credibility based on her drug use; rather, the prosecutor used Whitehead's *changing story* about Christensen's drug use to challenge Whitehead's credibility. Here,

Whitehead testified that her and Christensen's drug use did not present financial problems as both were receiving unemployment benefits. RP 1613-1614. However, Whitehead told Detective Johnson that all of their money was being spent on heroin, a statement that Whitehead testified she did not recall. RP 1653-1656. Given that Whitehead was a defense witness called in support of Christensen, the discrepancy between what Whitehead told a detective and what she testified to at trial impacted her credibility as a witness and thus was a proper subject of cross-examination. Accordingly, this evidence was properly admitted.

In any event, even if Whitehead's testimony regarding Christensen's drug use was improperly admitted, any such error was harmless. It is well settled that the erroneous admission of evidence in violation of ER 404(b) is analyzed under the lesser standard for nonconstitutional error. *State v. Smith*, 106 Wn.2d 772, 780, 725 P.2d 951 (1986). The question, then, is whether, "within reasonable probabilities, had the error not occurred, the outcome of the trial would have been materially affected." *Id.* (quoting *State v. Cunningham*, 93 Wn.2d 823, 831, 613 P.2d 1139 (1980)).

Here, as Christensen admitted robbing Denny's (*see* RP 1864-1868), any erroneous admission of evidence of financial difficulties due to his drug use could not have been prejudicial to that charge. As to the Shell robbery, the evidence, apart from any evidence as to motive or credibility, showing

that Christensen was the perpetrator was overwhelming: the robber was wearing a blue bandana and a blue bandana was found in Christensen's trailer; Christensen's fingerprints were found on a piece of tape outside the Shell station; the shoes the robber was wearing are the same shoes found at Christensen's residence; Christensen had access to the vehicle used by the robber; the same type of gloves used by the robber were found at Christensen's residence. *See* RP 1909-1915 (summarizing evidence).

In addition, the prosecutor did not mention anything about Christensen's drug use during closing argument. The prosecutor only mentioned this issue briefly during rebuttal (RP 1924-1925) after defense counsel raised the argument during his closing. RP 1874-1876. Finally, the trial court gave the jury a limiting instruction advising the jury on the proper use of such evidence. Accordingly, even if the challenged evidence was improperly admitted, any such error was harmless as the outcome of the trial would not have been affected.

2. Whitehead's Testimony Regarding Christensen's Robberies

During Whitehead's testimony, the prosecutor asked her whether she and Christensen argued about Christensen committing robberies. RP 1656-1657. After Whitehead replied that she did not, the prosecutor asked her whether it was true that she told a detective that they argued about Christensen's robberies. RP 1657. Whitehead stated that she did not recall

telling that to a detective. RP 1657. However, she did testify that she recalled telling law enforcement that she lied to a detective on October 19, 2016, regarding how many robberies Christensen committed. RP 1657-658.

Defense counsel moved for a mistrial arguing that “there is not supposed to be any evidence [that Christensen] was involved in any robberies other than the two robberies with which he is charged.” RP 1658-1659. The prosecutor pointed out that Christensen was “charged with two robberies, which are multiple robberies, and this is appropriate questioning.” RP 1661. The trial court denied the motion as it found that the prosecutor was conducting “appropriate impeachment cross-examination.” RP 1661.

Upon the resumption of cross-examination, Whitehead testified that she told law enforcement the week prior to her testimony that she lied when she told the detectives that she and Christensen did not argue about him committing robberies. RP 1662-1663.

Contrary to Christensen’s claim, this impeachment evidence was not ER 404(b) evidence. The wording used in both the prosecutor’s cross-examination and Whitehead’s testimony was “robberies” – this is entirely appropriate as Christensen was charged with multiple (2) robberies. Christensen’s claim on appeal that these words were in reference to

“uncharged” robberies, and thus subject to analysis under ER 404(b), is simply unsupported by the record.

Again, witness credibility can be tested by cross-examination. *Favro*, 5 Wn. App. at 313. Here, Whitehead initially told a detective one thing and then, before her testimony, told law enforcement that she had lied to that detective. As Whitehead was called by Christensen, the prosecutor certainly was able to impeach her credibility as a witness with evidence of the lies she had told law enforcement. This was not offered or admitted under ER 404(b) – it was pure impeachment and the trial court did not abuse its discretion by ruling that this impeachment evidence was admissible.

In any event, here, too, even if improperly admitted, any improper admission of the term “robberies” was harmless. First, as mentioned above, Christensen admitted robbing Denny’s so any such “improper” reference to robberies could not have been prejudicial to that charge. Second, Christensen was charged with two robberies; therefore, the jury is likely to have understood any reference to robberies to mean the robberies charged in this case. As to the Shell robbery, the evidence showing that Christensen was the perpetrator was overwhelming and has been set forth above. *See* RP 1909-1915 (summarizing evidence). Finally, nothing was mentioned during closing arguments about robberies other than those with which Christensen was charged. Accordingly, even if the challenged evidence was

improperly admitted, any such error was harmless as the outcome of the trial would not have been affected.

3. There was no Prejudicial or Cumulative Error

The doctrine of cumulative error recognizes the reality that sometimes numerous errors, each of which standing alone might have been a harmless error, can combine to deny a defendant not only a perfect trial, but also a fair trial. *In re Personal Restraint of Lord*, 123 Wn.2d 296, 332, 868 P.2d 835 (1994); *State v. Coe*, 101 Wn.2d 772, 789, 681 P.2d 1281 (1984); *see also State v. Johnson*, 90 Wn. App. 54, 74, 950 P.2d 981 (1998) (“although none of the errors discussed above alone mandate reversal...”). The analysis is intertwined with the harmless error doctrine, in that the type of error will affect the court’s weighing those errors. *State v. Russell*, 125 Wn.2d 24, 93-94, 882 P.2d 747 (1994), *cert. denied*, 574 U.S. 1129, 115 S. Ct. 2004, 131 L. Ed. 2d 1005 (1995).

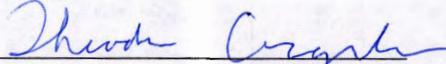
Christensen has failed to show that any error occurred, much less an accumulation of errors which deprived him of a fair trial. He is not entitled to relief under the cumulative error doctrine. Christensen has failed to show that any error, alone or in conjunction with others, impacted the outcome of his trial. This Court should deny this claim.

V. CONCLUSION

For the foregoing reasons, this Court should deny Christensen's claims and affirm his conviction.

RESPECTFULLY SUBMITTED this 17th day of January, 2020.

MARY E. ROBNETT
Pierce County Prosecuting Attorney

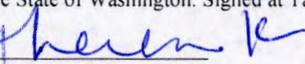

THEODORE CROPLEY WSB# 27453
Deputy Prosecuting Attorney

Certificate of Service:

The undersigned certifies that on this day she delivered by E-file or U.S. mail to the attorney of record for the appellant / petitioner and appellant / petitioner c/o his/her 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.

Date

Signature

1-17-20 

PIERCE COUNTY PROSECUTING ATTORNEY

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