

FILED
Court of Appeals
Division II
State of Washington
7/10/2020 10:29 AM

No. 54103-3-II

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

STATE OF WASHINGTON,
Respondent,

v.

DAN YU, et al.,
Appellants.

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

Cause Nos. 18-1-01011-1 and 18-1-01012-0

The Honorable Kitty-Ann van Doorninck

OPENING BRIEF OF APPELLANT

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I. ASSIGNMENTS OF ERROR

1. The trial court erred by failing to dismiss the charges because the State charged appellant under the general statute RCW 18.130.190, when the more specific RCW 18.108.035 was applicable to the State's allegations.

2. The trial court erred when it concluded conflict existed between RCW 18.108.035 and RCW 18.130.190, but failed to give deference to the legislature's intent when RCW 18.108.035 was the more recently enacted statute.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. When a defendant is alleged to have committed a crime for which a specific statute and penalty applies, is it appropriate for the State to charge the defendant under a more general statute, with a more serious penalty provision?

2. Did the trial court err when it interpreted a conflict between statutes, and failed to give preference to the more specific and more recently enacted statute?

III. STATEMENT OF THE CASE

A. Procedural History

On March 14, 2018 Mr. Guang Zheng and his wife Ms. Dan Yu were charged in Pierce County Superior Court as co-defendants. CP 1-7. Each was charged with seven counts of Unlawful Practice of a Profession/Operation of a Business as a second or subsequent offense pursuant to RCW 18.130.190 (counts I-VII), and seven counts Unlawful Practice of a Profession/Operation of a Business as a first offense pursuant to RCW 18.130.190 (counts VIII- XIV). Id. The couple was accused of running a business in which they employed people who provided massages to customers and these employees did not have Washington State massage licenses. CP 9.

The cases were continued several times on agreement of the parties. CP 10,14,15. On January 11, 2019 the court heard the parties' argument regarding the defendants' Motion to Dismiss Charges Under Penalty Provision of RCW 18.130.190(7). CP 28-43, 118. The motion argued that the felony penalty provisions of RCW 18.130.190(7) did not apply to appellants' cases because massage therapy businesses were specifically subject to RCW 18.108.035, and therefore the gross misdemeanor penalty provisions of RCW 18.108.035 were applicable. The court denied the defendants' motion. CP 118-22.

The trial was continued several more times and a stipulated facts bench trial was conducted on December 2, 2019. CP 49, 51, 55, 56, 61-70, RP 12/2/19 pp. 1-37. Prior to the stipulated facts bench trial the State filed an Amended Information charging the appellants with four counts of Unlawful Practice of a Profession/Operation of a Business as a second or subsequent offense (felonies pursuant to RCW 18.130.190) and four counts of Unlawful Practice of a Profession/Operation of a Business (gross misdemeanors pursuant to RCW 18.130.190). CP 57-60. The Honorable Kitty-Ann van Doorninck found both appellants guilty as charged. RP 12/2/19 33.

On December 3, 2019, the court followed the agreed recommendation of the parties and sentenced both appellants pursuant to RCW 9.94A.030 (First Time Offender Waiver) on the felonies and imposed suspended sentences on the misdemeanors. CP 72-81, 84-88. A timely Notice of Appeal was filed December 13, 2019. CP 89-105.

B. Facts of the Case

From October of 2015 through March 2018 the Lakewood Police Department conducted an undercover investigation of Treat Your Feet (TYF), a massage business in Lakewood, Washington. RP 65. During this two and one-half-year investigation, TYF was

owned by the two appellants. Id. The officers repeatedly went to TYF and received massages from several women. RP 65-66. Typically, the officer would go to the front desk and speak with one of the appellants and ask for a full body massage. The person with whom they spoke would take the officer to the massage room, and the officer would get undressed. RP 66.

A masseuse would enter the room and provide the officer with a massage. Id. After the massage was completed the officer then returned to the front counter, paid for the massage, and tipped the masseuse. During this period, Ms. Yu was told by an officer that she was required to post the massage license for any licensed employee who was performing body massages. Id.

On February 2, 2018 Officer Sean Conlon went to TYF and was greeted by appellant Zheng. Mr. Zheng walked Officer Conlon to a massage room and “Lucy” gave Officer Conlon a one-hour massage. When it was over, Officer Conlon paid appellant Zheng \$65 for the massage and a \$20 tip for Lucy. RP 67. On March 6, 2018 Officer Conlon received another body massage from “Lucy” after being walked to the massage room by appellant Zheng. Officer Conlon paid appellant Zheng \$50 for the massage and tipped Lucy \$20. RP 68.

On March 13th “Lucy” was arrested and identified as Huaqing Chen. Ms. Chen learned of the job at TYF through an

employment agency In Los Angeles. She came to Washington for that job in June 2017. Miss Chan said she was only a cashier at TYF but she would occasionally provide massages and the boss knew she did not have a massage license. Ms. Chen did not have a massage practitioner's license in Washington and was never asked by her employer to provide one. Id.

On March 2nd, 2018 Detective Barnard entered TYF . He was greeted at the counter by appellant Yu and asked for a body massage. Appellant Yu took Detective Barnard to a room and left him there. A few minutes later “Anju” entered the room and gave Detective Barnard a massage for an hour. On March 7th, 2018 Detective Barnard returned to TYF and was greeted at the counter again by appellant Yu. Detective Barnard told Yu he wanted a massage from the same person from whom he got his previous massage. Yu took Detective Barnard to a massage room and told him to get undressed and lay on the table. Detective Barnard did that. A few minutes later, Yu re-entered the room and told Detective Barnard that “Anju” would be available in about five minutes. “Anju” entered the room a short time later. “Anju” gave Detective Barnard an hour-long massage. After the massage, Detective Barnard returned to the lobby, where he paid \$65 to appellant Zheng and gave a \$35 tip to “Anju.” CP 68.

On March 13, 2018, “Anju” was arrested and positively identified as Lianhua Wang. Ms. Wang began working at TYF in June 2017. She was hired by the “lady boss,” who she knew as “Helen,” and was never asked to provide her employers with a valid massage license. In March of 2018, Ms. Wang did not have a valid massage practitioner’s license issued by the State of Washington. Id.

On March 9, 2018, Detective Larson went to TYF and entered the business and was greeted at the front counter by Ms. Yu. Detective Larson told Ms. Yu that he wanted a massage from the woman in the pink jacket. Ms. Yu took Detective Larson to a massage room and told him to undress. A few moments later, a woman in the pink jacket came into the room and gave Detective Larson an hour massage. When it was over, Detective Larson dressed and went back to the front, where Yu and the woman who had given him the massage were waiting for him. Detective Larson asked Yu for the name of the woman who massaged him, and Yu told him “Amy.” Detective Larson thanked “Amy” and gave Yu \$60. CP 68.

On March 12, 2018, Detective Larson went back to Treat Your Feet Massage. He was greeted at the counter by “Lucy,” who took him to a massage room. “Amy” gave Detective Larson a half-

hour massage, after which Detective Larson went to the front where “Lucy” and “Amy” were waiting. He paid them \$55. Id.

On March 13, 2018, “Amy” was arrested and positively identified as Fang Yang. Ms. Yang said the owners knew she did not have a valid massage practitioner’s license in Washington. Id.

On February 28, 2018, Officer Conlon went back to TYF. He was greeted at the counter by Ms. Yu. Officer Conlon asked if “Lucy” was available, and Ms. Yu told him no, but took his hand and walked him back to a massage room telling him she would get him a “good massage.” Ms. Yu told Officer Conlon to undress and lay on the table. A young Asian female who identified herself as “Mei” gave Officer Conlon an hour-long massage, after which Officer Conlon paid Yu \$60 at the front counter and a \$20 tip for “Mei.” Id.

On March 2, 2018, Officer Conlon went back to TYF. He was again greeted by Ms. Yu at the counter. Officer Conlon asked for “Mei,” and Yu said “Mei” was available and took Officer Conlon to a massage room and told him to undress and lay on the table. A short time later, “Mei” entered the room and appeared to recognize Officer Conlon from the prior visit, calling him “Shane,” which was the name he had used for the prior massage. “Mei” gave Officer Conlon an hour-long massage, after which Officer Conlon paid Yu \$50 and a \$20 tip for “Mei.” Id.

On March 13, 2018, “Mei” was arrested and identified as Yanmei Zhang. Ms. Yanmei Zhang had answered an ad seeking people to perform massages. Ms. Zhang called and talked to someone who told her if she did not know how to give massage, she would be trained to do it. In August of 2016, Ms. Zhang came to Washington from California and went to Treat Your Feet Massage parlor. Ms. Zhang was hired right away and never had to provide TYF with proof of a massage license. CP 69.

IV. ARGUMENT AND AUTHORITIES

A. THE TRIAL COURT ERRED BY FAILING TO DISMISS THE CHARGES AGAINST THE APPELLANTS BECAUSE THE STATE CHARGED THE APPELLANTS UNDER THE GENERAL STATUTE RCW 18.130.190, WHEN THE MORE SPECIFIC RCW 18.108.035 WAS APPLICABLE TO THE STATE’S ALLEGATIONS.

1. Where there is a specific and a general statute that prohibit the same conduct, only the specific statute may be charged.

Under Washington law, the special statute prevails over the general where the two statutes are concurrent. *In re Personal Restraint of Taylor*, 105 Wash.2d 67, 70, 711 P.2d 345 (1985); *State v. Shriner*, 101 Wash.2d 576, 580, 681 P.2d 237 (1984). To determine whether two statutes are concurrent, the reviewing court must look at the elements of both statutes and ask whether a person can violate the special statute without necessarily violating the

general. *State v. Karp*, 69 Wash.App. 369, 372, 848 P.2d 1304 (1993). If the court concludes the general statute can be violated any time the specific statute is violated, the statutes are concurrent, and the special statute supersedes the general. *Karp*, 69 Wash.App. at 371-72, citing *Shriner*, 101 Wash.2d at 580 (criminal statutes are concurrent when a general statute is violated in each instance the special statute is violated).

If a general and a special statute are concurrent, the special statute applies, and a defendant can be charged only under the special statute. *Shriner*, 101 Wash.2d at 580; *State v. Jendrey*, 46 Wash.App. 379, 387, 730 P.2d 1374 (1986), *review denied*, 108 Wash.2d 1007 (1987).

This rule of statutory construction is designed to promote equal protection of the laws by subjecting persons committing the same misconduct to the same potential punishment. *State v. Cann*, 92 Wash.2d 193, 196, 595 P.2d 912 (1979). *See also 2A C. Sands, Sutherland's Statutory Construction* § 51.05. (4th ed. 1973). This rule protects the defendant's constitutional right to equal protection under the law by preventing the prosecution from obtaining varying degrees of punishment while proving identical criminal elements. *See also State v. Hupe*, 50 Wash.App. 277, 280, 748 P.2d 263, *review denied*, 110 Wash.2d 1019 (1988) (*overruled on*

other grounds by State v. Smith, 159 Wash.2d 778,786, 154 P.3d 873 (2007)).

When making a charging decision, if the State could select between two concurrent statutes that proscribe the same conduct, it could control the degree of punishment for identical criminal elements. *Cann*, 92 Wash.2d at 196.

In addition, this rule is necessary to give effect to the specific statute. Specific statutes, which include all the elements of the general statute, are more specific crimes with additional elements or with higher mental intent elements. If a general statute could be charged instead of a special statute, the prosecutor would presumably elect to prosecute under the general statute because it would be easier to prove. Consequently, if special statutes did not supersede general statutes, the result of allowing prosecution under a general statute would be an effective repeal of the special statute. *State v. Danforth*, 97 Wash.2d 255, 259, 643 P.2d 882 (1982). This result would be an impermissible potential usurpation of the legislative function by prosecutors. *Id.* "(S)ound principles of statutory interpretation and respect for legislative enactments require that the special statute prevails to the exclusion of the general" *Shriner*, 101 Wash.2d at 583; *see also Danforth*, 97 Wash.2d at 259.

If a person can violate the specific statute without violating the general statute, the statutes are

not concurrent. *State v. Heffner*, 126 Wash.App. 803, 808, 110 P.3d 219 (2005). Statutes are concurrent only when every violation of the specific statute would result in a violation of the general statute. [*State v.*] *Chase*, 134 Wash.App. [792] at 800, 142 P.3d 630. As explained in *State v. Crider*, 72 Wash.App. 815, 818, 866 P.2d 75 (1994),

The determinative factor is whether it is possible to commit the specific crime without also committing the general crime; not whether in a given instance both crimes are committed by the defendant's particular conduct.

In determining whether two statutes are concurrent, we examine the elements of each of the statutes to ascertain whether a person can violate the specific statute without necessarily violating the general statute. *Heffner*, 126 Wash.App. at 808, 110 P.3d 219. Statutes are concurrent if all of the elements to convict under the general statute are also elements that must be proved for conviction under the specific statute. [*State v.*] *Presba*, 131 Wash.App. [47] at 52, 126 P.3d 1280. Whether statutes are concurrent involves examination of the elements of the statutes, not the facts of the particular case. *Chase*, 134 Wash.App. at 802–03, 142 P.3d 630.

State v. Ou, 156 Wash.App. 899, 902–03, 234 P.3d 1186, 1188 (2010).

The general-specific rule of statutory interpretation stands for the proposition that a specific statute prevails over a general statute. Stated another way, when a general statute, standing alone, includes the same subject as the special statute and then conflicts with it, the court deems the special statute to be an exception to, or

qualification of, the general statute. *State v. Flores*, 194 Wash.App. 29, 36–37, 374 P.3d 222, 226 (2016).

This rule provides that “ ‘where a special statute punishes the same conduct which is [also] punished under a general statute, the special statute applies and the accused can be charged only under that statute.’ ” This rule applies only where two statutes are “concurrent”—that is, where “the general statute will be violated in each instance where the special statute has been violated.” The purpose of the general-specific rule is to preserve the legislature's intent to penalize specific conduct in a particular, less onerous way and hence to minimize sentence disparities resulting from unfettered prosecutorial discretion.

State v. Albarran, 187 Wash.2d 15, 20, 383 P.3d 1037, 1039 (2016) (citations omitted).

Finally, this rule also ensures that courts do not interpret statutes in such a way as to impliedly repeal existing legislation. *Shriner*, 101 Wash.2d at 582-83; *State v. Shelby*, 61 Wash.App. 214, 219, 811 P.2d 682 (1991).

2. RCW 18.108.035 is a specific statute that is concurrent with the general statute of RCW 18.130.190(7).

RCW 18.108.035 states:

The following penalties must be imposed upon an owner of a massage business or reflexology business where the unlicensed practice of massage therapy or reflexology has been committed:

- (1) Any person who with knowledge or criminal negligence allows or permits the unlicensed practice of massage therapy or reflexology to be committed within his or her massage business or reflexology

business by another is guilty of a misdemeanor for a single violation.

(2) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a gross misdemeanor punishable according to chapter 9A.20 RCW.

The elements of the offense are that (1) the defendant must be an owner of the business, (2) unlicensed practice of massage therapy or reflexology has been committed (3) the defendant acted with knowledge or criminal negligence. A first offense is a misdemeanor, and any subsequent offense is a gross misdemeanor.

RCW 18.130.190(7) states:

(7)(a) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor for a single violation.

(b) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

Therefore, the elements of the offense are that (1) the defendant was either a practitioner or operated a business for which a license was required, and (2) did not have a valid license to do so. A first offense is a gross misdemeanor and any subsequent offense is a class C felony.

The more specific statute cannot be violated without violating the more general statute. The more specific statute RCW 18.108.035 actually has two elements the more general statute does

not have. It specifically goes after business owners, and secondly requires the mens rea of knowledge or criminal negligence.

The general statute, RCW 18.130.190(7), is a strict liability statute. This is not surprising when reviewing what it designed to stop. RCW 18.130 applies to a broad range of professions including doctors, pharmacists, nurses, dentists, emergency medical technicians, opticians, midwives, ocularists, mental health counselors, substance use disorder professionals, sex offender treatment providers to name a few. RCW 18.130.040, 18.64, 18.71, 18.73, 18.79.

While appellants could not find a legislative history explanation for RCW 18.130.190(7) detailing the legislative intent to make it a strict liability offense, strict liability can be inferred in that the legislature enacted RCW 18.108.035 in 2015 (decades after massage therapists were added to RCW 18.130 in 1984) with the mens rea of knowingly or with criminal negligence. If the legislature intended a mens rea for RCW 18.130.190(7) it could have done so when it initially wrote the law thirty-six years ago, or at any point since then.

As the Court of Appeals noted in *Yishmael*, when it concluded that practicing law without a license was a strict liability crime, “ ‘[w]hen drafting a statute, if the Legislature uses specific language in one instance and dissimilar language in another, a

difference in legislative intent may be inferred.’ Had the legislature intended to limit punishment to nonlawyers who knowingly practice law, the legislature clearly would have done so.” *State v. Yishmael*, 6 Wash.App.2d 203, 220, 430 P.3d 279, 288 (*quoting Matter of Sietz*, 124 Wash.2d 645, 651, 880 P.2d 34 (1994)), *review granted*, 193 Wash.2d 1002, 438 P.3d 114 (2019), and *aff’d*, 195 Wash.2d 155, 456 P.3d 1172 (2020).

The trial court erred when it concluded it was mandated to interpret the two statutes in a manner so as to not render any part of either statute a nullity. Instead it was required to do an analysis to determine if the specific statute can be violated without violating the general statute. If the court had done so, it would have concluded that regardless of whether the prosecutor wanted to proceed with the felony charges, the specific statute applied and the State was limited to the misdemeanor/gross misdemeanor offenses. Every time a defendant violates RCW 18.108.035, the defendant violates RCW 18.130.190.

The convictions must be reversed because the State charged appellants under the general statute, RCW 18.130.190 when the more specific statute, RCW 18.108.035, was applicable to the State’s allegations.

B. THE TRIAL COURT ERRED WHEN IT CONCLUDED RCW 18.130.190 WAS THE APPROPRIATE STATUTE UNDER WHICH TO CHARGE APPELLANTS.

Even if the specific statute is not concurrent with the general statute, the trial court's conclusion that the State applied the appropriate statute was misplaced. As noted above, RCW 18.130.190 applies to numerous professions. When the legislature carved out a specific subsection for owners of a massage business, it made a determination that massage therapy would be treated differently than other health professionals.

To resolve apparent conflicts between statutes, courts generally give preference to the more specific and more recently enacted statute. *Tunstall v. Bergeson*, 141 Wash.2d 201, 211, 5 P.3d 691, 697 (2000) *cert. denied*, 532 U.S. 920, 121 S.Ct. 1356, 149 L.Ed.2d 286 (2001). “[W]hen a general statute, standing alone, includes the same subject as the special statute and then conflicts with it, the court deems the special statute to be an exception to, or qualification of, the general statute”. *State v. Flores*, 194 Wash.App. 29, 37, 374 P.3d 222, 226 (2016) (citing *State v. Reeder*, 181 Wash.App. 897, 922–23, 330 P.3d 786 (2014), *aff'd*, 184 Wash.2d 805, 365 P.3d 1243 (2015)).

Title 18 provides rules and regulations regarding the practice of a business and professions in the state. Chapter 18.130

governs the regulation of health professionals and Section 18.130.190 covers unlicensed practice of those professions.

Chapter 18.108 specifically regulates massage therapists and businesses. In other words, while RCW 18.130 regulates the practice of health professionals in general, RCW 18.108 specifically regulates the practice of massage therapy. Most provisions of RCW 18.130.190 apply to massage therapists because of language in 18.130.190(1), which provides, “[t]he secretary shall investigate complaints concerning the practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040.”

RCW 18.130.040 provides, “(2)(a) The secretary has authority under this chapter [18.130] in relation to the following professions: . . . (iv) Massage therapists and businesses licensed under chapter 18.108 RCW.”

Accordingly, the secretary has the authority to investigate claims that massage therapists are practicing without a license or businesses are employing unlicensed massage therapists. The authority and duties of the secretary regarding investigation of unlicensed practice are set out in subsections (1)-(5) of RCW 18.130.190.

Subsection (6) allows the "attorney general, county prosecuting attorney, the secretary, a board or any person" to

enjoin a person or business from "engaging in such practice or business until the required license is secured." Subsection (7), at issue here, then provides for criminal punishment, making it a gross misdemeanor for a single violation and a class C felony for a subsequent violation.

Subsection (7) directly contradicts the punishment section of 18.108.035 governing massage therapy, where the legislature has provided:

The following penalties must be imposed upon an owner of a massage business or reflexology business where the unlicensed practice of massage therapy or reflexology has been committed:

(1) Any person who with knowledge or criminal negligence allows or permits the unlicensed practice of massage therapy or reflexology to be committed within his or her massage business or reflexology business by another is guilty of a misdemeanor for a single violation.

(2) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a gross misdemeanor punishable according to RCW 9A.20.

It is undisputed that both appellants were owners of a massage business, at which the State alleged the unlicensed practice of massage therapy was committed.

As noted above, the specific provisions of RCW 18.108.035 are relatively recent. Signed by the Governor on April 17, 2015 and effective July 24, 2015. Substitute House Bill 1252.

The bill was not enacted to give prosecutors a choice of punishments. Instead, the bill reflects a policy decision that

massage without a license is not as inherently dangerous as the unlicensed practice of other healthcare professions. This is not shocking in that the practice of massage without a license is not nearly as dangerous as the practice of medicine without a license.

Any conflict can be resolved by the fact that the legislature enacted the lesser penalties in subsection RCW 18.108.035 long after the initial enactment of subsection RCW 18.130.190. The punishment section of RCW 108.035 does not repeal RCW 130.190 by implication, but simply provides specific penalties for owners of massage businesses. This obvious policy decision is highlighted by the mandatory language in RCW 108.035: "The following penalties must be imposed upon an owner of a massage business . . ." Accordingly, the 2015 Act governs as later in time and by the express language of the Bill: "AN ACT Relating to penalties for allowing or permitting unlicensed practice of massage therapy."

The legislature is presumed to know the contents of Title 18 and made a policy decision to provide for lesser penalties for a specific class of criminal defendants covered by Title 18.108. Additionally, the conflict can be resolved by application of the long-established rule of statutory construction that specific provisions targeting a particular issue apply, instead of provisions more generally covering the issue. *State v. Flores*, supra.

In the context of a landlord-tenant case, the Washington Supreme Court relied on the same rules of statutory construction found in state law precedent. “Principles of statutory interpretation also support the conclusion that we apply the MHLTA statute of frauds to the MHLTA, instead of the earlier enacted and more general tenancy statute of frauds. A general statutory provision normally yields to a more specific statutory provision.” *Waste Mgmt. of Seattle, Inc. v. Utils. & Transp. Comm’n*, 123 Wash.2d 621, 629-30, 869 P.2d 1034 (1994). “To resolve apparent conflicts between statutes, courts generally give preference to the more specific and more recently enacted statute.” *Tunstall v. Bergeson*, 141 Wash.2d 201, 211, 5 P.3d 691 (2000).

Finally, the rule of lenity requires that ambiguous criminal statutes be construed in favor of the defendant, absent a legislative intent to the contrary. *City of Seattle v. Winebrenner*, 167 Wash.2d 451, 462, 219 P.3d 686 (2009) ; *State v. Jacobs*, 154 Wash.2d 596, 601, 115 P.3d 281 (2005). The rule of lenity applies to sentencing statutes. *In re Pers. Restraint of Sietz*, 124 Wash.2d 645, 652, 880 P.2d 34 (1994) ; *State v. Breaux*, 167 Wash.App. 166, 176, 273 P.3d 447 (2012). Under the rule of lenity, an ambiguous criminal statute cannot be interpreted to increase a penalty. *Winebrenner*, 167 Wash.2d at 462, 219 P.3d 686 ; *State v. Workman*, 90 Wash.2d 443, 454, 584 P.2d 382 (1978).

When the legislature has made it clear that the owners of a massage business are to be punished under a misdemeanor statute, the rule of lenity prevents the State from charging owners under the more general statute, and subjecting them to felony convictions.

When considering that the general statute had been on the books for several decades before the specific statute was passed, the legislature did not intend to make felons out of owners of massage businesses. The statute that authorized a felony conviction existed, and the legislature proactively decided to make this a misdemeanor offense.

V. CONCLUSION

For the reasons stated above, appellants request this court reverse the convictions and remand this case to the trial court for a new, fair trial, under the appropriate statute.

Dated: July 10, 2020

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CERTIFICATE OF MAILING

I certify that on 7/10/2020, I caused to be placed in the mails of the United States, first class postage pre-paid, a copy of this document addressed to: Dan Yu
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July 10, 2020 - 10:29 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54103-3
Appellate Court Case Title: State of Washington, Respondent v. Guang Zheng, et al., Appellants
Superior Court Case Number: 18-1-01011-1

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