

FILED

AUG 22 2011

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

No. 29592-3-III

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff/Appellant,

v.

ELISEO CONTRERAS SANCHEZ,
Defendant/Respondent.

REPLY BRIEF OF APPELLANT

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I. RELEVANT FACTS

The relevant facts of this case are set forth in the appellant's brief previously filed with the court.

II. ARGUMENT

A PERSON WHO ENTERS A RESIDENCE IN VIOLATION OF A NO CONTACT ORDER EXPRESSLY PROHIBITING SUCH ENTRY MAY BE PROSECUTED FOR BURGLARY AND VIOLATION OF A NO CONTACT ORDER.

The defendant suggests that different purposes are served by the burglary and domestic violence prevention statutes and states that RCW 26.50.110 reflects the legislature's recognition that burglary laws are not an effective tool for addressing issues peculiar to domestic violence. While perhaps true, the burglary and domestic violence prevention statutes are not mutually exclusive. The statutes can be read in harmony and, used together, can enhance protections of domestic violence victims.

In *State v. Spencer*, 128 Wn. App. 132, 114 P.3d 1222 (2005), the court concluded that a defendant may be charged with, convicted of, and punished for Residential Burglary and Violation of a Domestic Violence No Contact Order based on an unlawful entry with intent to violate a no contact order. *Id.* Notably, the court considered whether intent to violate a no contact order violation should be allowed to serve as the predicate crime for burglary. *Id.* at 140. The defendant argued that doing so would elevate every violation of a no contact order within a dwelling to a felony. *Id.* Rejecting the argument, the court observed that the burglary statutes guarantee that any violation of a no-contact order within a dwelling could be punished as a felony under the burglary statutes. *Id.*

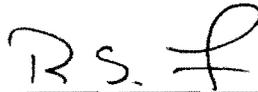
III. CONCLUSION

For the reasons set for in the Brief of Appellant and above, the decision of the Chelan County Superior Court should be reversed and the matter remanded for trial.

DATED this 19th day of August, 2011.

Respectfully submitted,

Gary A. Riesen
Chelan County Prosecuting Attorney

Handwritten signature of Roy S. Fore in black ink, consisting of the initials 'R.S.' followed by a stylized 'F'.

By: Roy S. Fore WSBA #19604
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