FILED

JAN 19, 2012

Court of Appeals
Division III
State of Washington

No. 30069-2-III

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

State of Washington, Respondent

v.

Tracey Ocampo, Appellant

BRIEF OF RESPONDENT

GRANT COUNTY PROSECUTOR'S OFFICE
P.O. BOX 37
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(509) 754-2011

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I. STATEMENT OF THE ISSUES

A. Did the State have sufficient evidence to convict the Defendant of Assault in the Third Degree when (1) three witnesses observed the Defendant jump on Officer Ingersoll and start hitting him, during which time (2) Officer Ingersoll was a law enforcement officer performing his official duties?

II. STATEMENT OF THE CASE

Procedural History

On September 7, 2010, the State charged the Defendant with Assault in the Third Degree. CP 1. On June 30, 2011, the Defendant was convicted of Assault in the Third Degree after a two day jury trial. CP 47. The Defendant now appeals this conviction.

Statement of Facts

On the evening of September 3, 2010, Officers Anthony Valdivia and John Ingersoll of the Mattawa Police Department were on duty at the Wahluke High School football game. RP 81. The Defendant was on school grounds with her brother and two other teens. RP 114, 117. Due to one of the teens possibly being trespassed from school grounds, the group was asked to leave. RP 38-40. The Defendant and her three companions made their way towards the perimeter of the property but stopped short of leaving the school grounds. RP 30. Officer Ingersoll approached the

group and informed the Defendant (along with her brother) that they needed to leave. RP 87-88.

Officer Ingersoll informed one of the teens that he was not free to leave. RP 88. In response to this, the Defendant grabbed Officer Ingersoll's arm. RP 88. Officer Ingersoll found the grabbing offensive. RP 90. At this point, another one of the teens charged Officer Ingersoll and tackled him to the ground. RP 95-96. While Officer Ingersoll was dealing with this teen, the Defendant jumped on Officer Ingersoll's back and started hitting him. RP 100. The Defendant's actions injured Officer Ingersoll by causing a number of scratches and bruises. RP 93.

Two other school employees also witnessed the Defendant assault Officer Ingersoll. First, Luis Medrano of the Wahluke School District observed the Defendant jump on Officer Ingersoll and start swinging at him. RP 43-44. And second, Jody Roberts of the Wahluke School District also observed the Defendant jump on Officer Ingersoll's back and start "slugging him." RP 56.

III. ARGUMENT

A. <u>There was sufficient evidence for the Defendant's conviction.</u>

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. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970, 996 (2004) *citing to 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 inferences that reasonably can be drawn therefrom . . . Credibility determinations are for the trier of fact and are not subject to review. [The appellate] court must defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence.

Thomas at 874-75.

For the crime of Assault in the Third Degree, the State must prove three elements: (1) that the Defendant assaulted Officer Ingersoll, (2) that Officer Ingersoll was a law enforcement officer performing his official duties at the time of the assault, and (3) that these acts occurred in the State of Washington. RCW 9A.36.031(1)(g).

There is sufficient evidence to support the Defendant's conviction for the crime of Assault in the Third Degree. First, there is sufficient evidence that these acts occurred in the State of Washington. RP 25. Second, there is sufficient evidence that Officer Ingersoll was a law enforcement officer performing his official duties at the time of the assault. RP 80-81.

Finally, there is sufficient evidence that it was the Defendant who assaulted Officer Ingersoll. No less than three witnesses testified that the

Defendant assaulted Officer Ingersoll. Officer Ingersoll testified that he saw the Defendant grab him at the inception of the assault and found this to be offensive. RP 88-90. Later, Officer Ingersoll felt the Defendant jump on his back and start punching him; Officer Ingersoll knew it was the Defendant because he "could hear her yelling in [his] ear." RP 100. Both of the school employees on scene, Luis Medrano and Jody Roberts, also observed the Defendant jump on Officer Ingersoll and start hitting him. RP 43-44, 56.

Overall, the evidence at trial far exceeds the minimal amount required under a test for sufficiency.

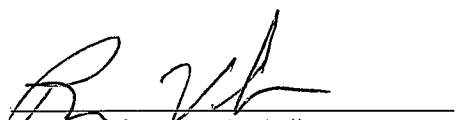
IV. CONCLUSION

For the reasons set out above, the State respectfully requests that the Court affirm the trial court's conviction.

DATED: January 18, 2012

Respectfully submitted:

D. ANGUS LEE,
Prosecuting Attorney



Ryan Valaas, WSBA # 40695
Deputy Prosecuting Attorney

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON, Respondent, vs. TRACEY OCAMPO, Appellant.	)	No. 30069-2-III DECLARATION OF SERVICE

Under penalty of perjury of the laws of the State of Washington, the undersigned declares:

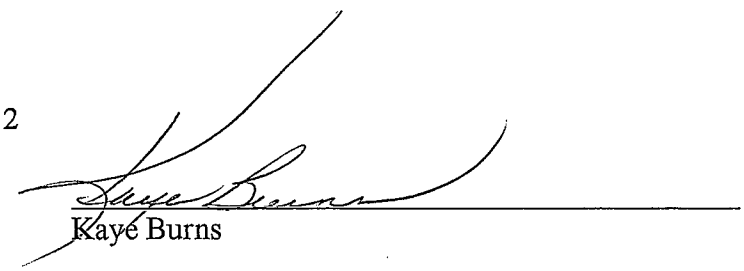
That on this day I served a copy of the Brief of Respondent in this matter by e-mail on the following party, receipt confirmed, pursuant to the parties' agreement:

Marie J. Trombley
marietrombley@comcast.net

That on this day I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to Appellant containing a copy of the Brief of Respondent in the above-entitled matter.

Tracey Ocampo
29750 Rd R SW
Mattawa WA 99349

Dated: January 19, 2012



Kaye Burns