

FILED
Mar 25, 2013
Court of Appeals
Division III
State of Washington No. 30572-4-III

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent

v.

JAMIE JEROME MARSH, Appellant

APPEAL FROM THE SUPERIOR COURT
OF GRANT COUNTY

REPLY BRIEF

Marie J. Trombley, WSBA 41410
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I. FACTS IN REPLY

Mr. Marsh stands on the facts cited in appellant's opening brief and incorporates them by reference. He adds the following correction.

In its response brief, the State wrote: "The defendant testified he had just smoked cocaine that morning and was now on his way to purchase more cocaine to sell. (RP 233-234, 164)." (Response brief at 4).

The record does not support the State's assertion. There is no testimony from Mr. Marsh on RP 164. The record, at RP 234, shows the following exchange between Mr. Marsh and the State's attorney during his cross-examination:

"Q: Now, you were going to reorder that day, weren't you?

A: No.

Q: You were going to cook it.

A: No.

Q. And then resell it.

A.: No."

II. ARGUMENT

Mr. Marsh stands on the authorities and argument cited in his opening brief, which is incorporated by reference.

III. CONCLUSION

Mr. Marsh respectfully requests this Court to reverse and dismiss his conviction for insufficiency of the evidence. He also asks this Court to strike the finding that he has the likely ability to pay the imposed Legal Financial Obligations.

Dated this 25th day of March 2013.

Respectfully submitted,

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APPENDIX A

1 A. No, sir.

2 Q. No? You told him it was Chewy that day, didn't you?

3 A. No, sir.

4 MR. PERRY: Objection, your Honor, assumes facts
5 not in evidence.

6 THE COURT: That objection is overruled. It is
7 cross.

8 BY MR. OWENS:

9 Q. In fact, detectives did show you a picture of Chewy,
10 and you told them that that was your supplier,
11 correct?

12 A. No, sir.

13 Q. And you were being honest with them, right?

14 A. Yes.

15 Q. Yeah. Now, you also told them that you re-upped every
16 day, didn't you?

17 A. No, sir.

18 Q. And you told them that you spent about 500 to \$550
19 every day to get your cocaine?

20 A. No, sir.

21 Q. No? And you told them that you bought from Chewy
22 every day?

23 A. No, sir, I did not make that statement.

24 Q. Now, you told them you didn't have a scale, right?

25 A. They had -- they asked me did I have a scale, have

1 scales in my house or any drug paraphernalia, I told
2 them I don't have that in my house.

3 Q. So you told them you didn't have a scale. The answer
4 is yes or no.

5 A. I told them I didn't have a scale. My answer is yes.

6 Q. And you told them that you cooked up your own crack,
7 right?

8 A. No.

9 Q. In fact, you told them that you re-upped every day,
10 didn't you?

11 MR. PERRY: Objection, your Honor, that's been
12 asked and answered.

13 THE COURT: Sustained.

14 BY MR. OWENS:

15 Q. Now, you were going to reorder that day, weren't you?

16 A. No.

17 Q. You were going to cook it.

18 A. No.

19 Q. And then resell it.

20 A. No.

21 Q. No? That's what you do for a living, correct?

22 A. No. I play poker for a living.

23 Q. Now, you told them that you had -- that day you told
24 them that you'd enter a contract with them to get out
25 of trouble that day, right?

CERTIFICATE OF SERVICE

I, Marie Trombley, attorney for appellant Jamie Marsh, do hereby certify under penalty of perjury under the laws of the United States and the State of Washington, that a true and correct copy of the Reply Brief of Appellant was sent by first class mail, postage prepaid on March 25, 2013, to Jamie Marsh, DOC # 801812, Airway Heights Correction Center, SMU A27 , PO Box 2049, Airway Heights, WA 99001; and by email per agreement between the parties to D. Angus Lee/ Edward Asa Owens, Grant County Prosecuting Attorney, at kburns@co.grant.wa.us.

Dated this 25th day of March 2013, Graham, WA.

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