

NO. 31381-6-III  
IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION III

FILED  
APR 10, 2014  
Court of Appeals  
Division III  
State of Washington

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In Re the APPELLANT BRIEF of  
LYNN ARNHOLD,

Petitioner,

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STATE'S RESPONSIVE BRIEF

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## **I. STATEMENT OF THE CASE**

On August 16, 2013, Lynn Arnhold was arrested and subsequently charged with one count of Assault in the third degree, one count of Criminal Trespass in the second degree, and one count of Resisting Arrest. (CP 186).

At trial, Janice Timbers, the co-owner of the Horseshoe Trailer Park in Twisp, Washington, testified she was informed by a neighbor that Ms. Arnhold, a former tenant, was in the park. (12/13/12 RP 199). Ms. Timbers called officers as she was aware that a warrant had been issued for Ms. Arnhold's arrest. (*Id.* at 200).

Officer Michael Hartnett responded to the call, as did another officer, Ty Sheehan. Officer Hartnett arrived first and observed Ms. Arnhold entering Ms. Timbers' house. (12/13/12 RP 187). He exited his patrol car and went to the door, arriving just as it was being shut. (*Id.*). He testified that he could hear voices behind the door but could not identify who was speaking. (*Id.*) He called in to Ms. Timbers to ascertain if she was ok, and she replied that she was. (*Id.*). Officer Hartnett noticed that someone was attempting to manipulate the deadbolt and announced to Ms. Timbers that he was coming in. (*Id.* at 188; at 204). He pushed his way into the home at the same time that Ms. Timbers was opening the door. (*Id.*). Inside, he found Ms.

Arnhold behind the door. (*Id.* at 188). He immediately informed her she was under arrest and attempted to take control of her. (*Id.*). He got her moved outside, but could not handcuff her because she was moving around and wouldn't comply with his directions. (*Id.* at 188; at 205).

Officer Sheehan arrived on scene, and saw Officer Hartnett struggling with Ms. Arnhold on the porch. (12/13/12 RP 189; 206; 214). According to Officer Sheehan's testimony, she was "struggling, resisting, basically trying to pull away from Officer Hartnett." (*Id.* at 214). Officer Sheehan drew his taser, activated the light, rushed up the stairs and placed the taser in contact with Ms. Arnhold's upper shoulder. (*Id.*) Ms. Arnhold immediately stopped resisting and was handcuffed by Officer Hartnett. (*Id.* at 215).

The officers then attempted to move Ms. Arnhold off the porch and down the stairs to the vehicles. (12/13/12 RP 215). She began resisting again. (*Id.* at 190; at 206; at 215). The officers had to place themselves one on each side and physically move her down the stairs. (*Id.* at 190; at 215). After a couple of steps down, Ms. Arnold lunged to the right, away from Officer Hartnett and toward Officer Sheehan, and bit Officer Sheehan on his bicep. (*Id.* at 190; at 216). Officer Hartnett testified that he heard Officer Sheehan say

“she bit me”. (*Id.* at 190). Officer Sheehan testified that he saw her lunge at him, felt her teeth make contact with his arm, and felt pressure as she bit down. (*Id.* at 216). The officers immediately took her to the ground to get control of her, and when she had settled down, they placed her in the back of Officer Hartnett’s patrol vehicle. (*Id.* at 219).

Both officers described a semi-circular, bruised area on Officer Sheehan’s arm. (12/13/12 RP 190 - 91; 216 - 17). Officer Haretnett testified that, in his experience, he had seen many bite marks and he positively identified this mark as a bite mark. (*Id.* at 191). Officer Hartnett took pictures of the bitten area (*Id.* at 190 – 91). Three of the pictures were admitted into evidence on behalf of the State without objection. (*Id.* at 192).

Testifying on her own behalf, Ms. Arnhold denied resisting arrest (12/13/12 RP 232 – 234). She further denied biting Officer Sheehan. (*Id.* at 234). After her testimony, the defense rested. (*Id.* at 238). Jury instructions were given without exception. (*Id.* at 241).

Ms. Arnhold was convicted by the jury of the assault and resisting charges, and acquitted of the criminal trespass charge. (12/13/12 RP 265; CP 7, 21) This appeal followed.

## II. ARGUMENT

**The State presented sufficient evidence to support the inference of intent for both assault in the third degree and resisting arrest.**

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 Wash. 2d 192, 201, 829 P.2d 1068 (1992)(citing State v. Green, 94 Wash. 2d 216, 220-222, 616 P.2d 628 (1980)). 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. State v. Salinas, 119 Wash. 2d 192, 201, 829 P.2d 1068, 1074 (1992). A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. State v. Salinas, 119 Wash. 2d 192, 201, 829 P.2d 1068 (1992). Circumstantial evidence is considered to be as reliable as direct evidence. State v. Myers, 133 Wash. 2d 26, 38, 941 P.2d 1102 (1997). The credibility of witnesses is for the trier of fact to determine and cannot be reviewed on appeal. State v. Camarillo, 115 Wash. 2d 60, 71, 794 P.2d 850 (1990). In order to commit assault, a person must have specific intent to cause bodily harm or

to create an apprehension of bodily harm. State v. Byrd, 125 Wash. 2d 707, 713, 887 P.2d 396 (1995).

In the present case, both officers testified that Ms. Arnhold moved or leaned toward Officer Sheehan. Officer Sheehan testified as to feeling her mouth close on his arm and press down on his bicep. He only avoided further injury by dropping his arm out of the way of her mouth. Both officers testified as to the semi-circular bruising present on Officer Sheehan's arm. Ms. Arnhold offered only a denial that she had bitten Officer Sheehan.

Ms Arnhold made a definite and specific move toward Officer Sheehan. This supports intent to do bodily harm or to create an apprehension of bodily harm, especially when considering the resulting bite and bruising. Further, the jury observed the witnesses in this matter and made that inference. There was enough evidence presented for the jury to find that Ms. Arnhold intended to assault Officer Sheehan. The appellants' argument that the State failed to prove intent to assault fails.

With regard to the intent to resist arrest, Ms. Timbers, Officer Hartnett, and Officer Sheehan all described Ms. Arnhold as struggling, trying to pull away, not complying with directions, and moving around when Officer Hartnett was attempting to handcuff

her. Enough evidence in the form of testimony by officers and a third party witness was presented so that the jury could reasonably infer her intent to resist arrest. Defendant's argument again fails.

### **III. CONCLUSION**

Based upon all of the exhibits and testimony admitted in this case, there was more than sufficient evidence for a rational trier of fact to find the defendant intended to assault Officer Sheehan and intended to prevent her lawful arrest. The State respectfully urges this Court to uphold the convictions entered in this matter.

Respectfully submitted this 10<sup>th</sup> day of April, 2014.

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COURT OF APPEALS  
DIVISION III  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON	)	COA No. 313808
Plaintiff/Respondent	)	
vs.	)	
	)	
Lynn Marie Arnhold	)	PROOF OF SERVICE
Defendant/Appellant	)	
_____	)	

I, Joseph M. Caldwell, do hereby certify under penalty of perjury that on the 10th day of April, 2014, I hand delivered a true and correct copy of the Respondent's brief to:

Lynn Marie Arnhold  
Okanogan County Corrections

Having obtained prior permission, I also served Kenneth H. Kato at khkato@comcast.net by email using Division III's e-service feature.

Dated this 10th day of April, 2014.



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