

NO. 32827-9-III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON,

Respondent,

v.

D.W.,

Appellant.

FILED
April 17, 2015
Court of Appeals
Division III
State of Washington

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR BENTON COUNTY, JUVENILE
DIVISION

The Honorable Carrie Runge, Judge
The Honorable Cameron Mitchell, Judge

BRIEF OF APPELLANT

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A. INTRODUCTION

D.W., a juvenile, was subjected to more than four hours of interrogation in the middle of the night. D.W.'s youth, the manner and length of interrogation, and D.W.'s exhausted condition at the time the interrogation commenced overbore D.W.'s will to resist. Detective Robert Benson also coerced D.W.'s confession by threatening removal of his child from his or his girlfriend's custody unless and until someone confessed. D.W.'s confession was therefore not a product of his free will. D.W. accordingly asks that this court reverse his convictions, suppress his confession, and dismiss this prosecution.

B. ASSIGNMENTS OF ERROR

1. The trial court erred in entering finding of fact 3¹ that D.W. "clearly waived his rights and was willing to speak to Detective Benson." CP 81.

2. The trial court erred in entering finding of fact 5 that D.W. was "living an adult life style." CP 81.

3. The trial court erred in entering finding of fact 8 that Benson did nothing to coerce D.W. CP 82.

¹ The findings of fact and conclusions of law entered by the trial court are split into sections based on to whom D.W. made statements, and therefore there are three sets of findings of fact and conclusions of law that are assigned the same numbers. CP 81-83. The findings of fact and conclusions of law referenced in the assignments of error correspond only to statements made to Detective Benson.

4. The trial court erred in entering finding of fact 11 that Benson made no threats to D.W. that caused D.W. to make the statements. CP 82.

5. The trial court erred in entering finding of fact 13 that D.W. hearing his girlfriend cry at some point during the interview had no impact on the statements D.W. made. CP 82.

6. The trial court erred in entering conclusion of law 2 that D.W. understood and freely and voluntarily waived his Miranda² rights and agreed to speak with Benson. CP 83.

7. The trial court erred in entering conclusion of law 3 that the length of the interrogation did not overbear D.W.'s will to resist. CP 83.

8. The trial court erred in entering conclusion of law 4 that D.W. was not coerced during the interrogation. CP 83.

9. The trial court erred in entering conclusion of law 5 that the statements D.W. made to Benson were admissible at trial. CP 83.

Issues Pertaining to Assignments of Error

1. D.W. was visibly tired after having worked earlier in the day. Police asked D.W. to come to the station between 9:00 and 9:30 p.m. and then began questioning of D.W. after 10:30 p.m. The questioning lasted until 2:40 a.m. the next morning. Given D.W.'s youth, fatigue, the

² Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

length of questioning, and the time of day did D.W. knowingly, intelligently, and voluntarily waive his Miranda rights?

2. Where the evidence showed that D.W. was entirely dependent on various adults, including his parents and his girlfriend's parents, that D.W. had a ninth grade education, and that D.W. had only been working at the first job in his life for two weeks prior to arrest, was there no substantial evidence presented that D.W. was living an adult lifestyle?

3. Where Benson explicitly stated "it's either you or" your girlfriend who did this and then confirms he needs a confession to figure out who caused the injuries, where D.W. is aware his girlfriend is also being interrogated as the subject of a police investigation, and where Benson states the child cannot go back to either parent until a confession is obtained, was D.W.'s confession coerced?

4. Given the circumstances identified in the immediately preceding issue statement, was D.W.'s confession based on threats?

5. Where D.W. knew his girlfriend was being interrogated and heard her during some point in the interrogation, did this contribute to the coercion of D.W.'s statements?

6. Given D.W.'s youth, inexperience, fatigue, the time of day, and the duration of questioning, did D.W. knowingly, intelligently, and voluntarily waive his Miranda rights?

7. Did the extraordinary length of the interrogation process—more than five hours through the middle of the night—overbear D.W.'s will to resist?

8. Where Benson stated the child could not be returned to either parent's custody until someone confessed and where D.W. knew his girlfriend was also the subject of police investigation, was D.W.'s confession coerced?

9. Given that D.W. could not have knowingly, voluntarily, or intelligently have waived his Miranda rights, that late-night interrogation lasted several hours, that he was coerced and threatened with the removal of his child from his and his girlfriend's custody, was D.W.'s confession the product of coercive police questioning rather than his free will such that his confession was not admissible at trial?

C. STATEMENT OF THE CASE

On June 5, 2014, the State charged D.W. with two counts of assault in the second degree for injuries sustained by his son, P.L. CP 2-3. One count pertained to P.L.'s fractured skull and subdural hematomas and the other count pertained to P.L.'s fractured femur. CP 2-3. The State amended

the information in advance of trial, but only to indicate the skull fracture caused the subdural hematomas. CP 69-70; RP 166.

D.W. is the father and J.L. is the mother of P.L., who was born March 29, 2014. CP 2; Ex. C at 1; RP 185-86. After having lived with D.W.'s parents and J.L.'s mother and mother's boyfriend, D.W. and J.L. moved in with J.L.'s father in Richland and lived there when P.L. was born. Ex. C at 4-6; RP 184-85, 228.

In the late evening of May 31 or early morning of June 1, 2014, police were dispatched because P.L. had reportedly suffered a seizure. RP 18, 20, 199, 244.

Physicians ordered an MRI and electroencephalogram, which showed evidence of seizure and multiple areas of intracranial bleeding. RP 245, 247, 261-63. They also ordered a skeletal bone survey, which revealed fractures in P.L.'s skull and legs. RP 245, 247-48, 252-53, 266-67, 271-73. The physicians believed the injuries were nonaccidental. RP 267-69, 280, 283.

On June 2, 2014, D.W. worked during the day at Subway, a job he had held for two weeks prior to P.L.'s hospitalization. RP 112, 305; Ex. C at 2, 12. After work ended at 9:00 p.m., D.W. returned to the hospital where a police officer was present. RP 112; Ex. C at 2. This officer spoke to him for

10 minutes at the hospital and then asked D.W. if he would come to the police station. RP 22-23, 113. D.W. complied. RP 23, 112.

Detective Robert Benson was called in on June 2, 2014 to interrogate D.W. RP 28. The interview started at 10:37 p.m. Ex. C at 1; RP 33 (noting waiver form indicated time of 10:43 p.m.). Benson explained to D.W. that he was not under arrest. Ex. C at 2; RP 26. Benson read D.W. his Miranda and juvenile rights, which D.W. stated he understood; D.W. agreed to speak with Benson. Ex. C at 2; RP 307.

D.W. said he was tired, given that he had worked at Subway that day and was still in the process of adjusting to having a job, which was a new experience for him. Ex. C at 3, 12; RP 339. When D.W. was left alone after an hour of interrogation by Benson, he appeared to fall asleep and was so still that the lights in the interrogation room automatically shut off. Ex. 18 at 1:35:35–1:42:15.³ Despite his visible fatigue, D.W. was kept in the interrogation room for more than four hours, until 2:40 a.m. on June 3, 2014. Ex. C at 31.

At some point during the interrogation, D.W. could hear his girlfriend, J.L., crying. RP 37-38, 49, 112, 114, 126. J.L. was moved to a

³ Exhibit 18 is the videotape of the interrogation that spans almost four hours and four minutes. This brief will reference the video by referring to the hour, minute, and second count of the recording.

different interrogation room on the other side of the police station so that D.W. could not hear her. RP 37, 112, 126.

After leaving D.W. in the interrogation room alone for more than an hour, Benson returned for additional questioning. Ex. C at 17-18. Eventually, Benson made clear that his dilemma was like that of King Solomon: “I mean it’s either you, [J.L.] . . . [o]r her dad right? Ex. C at 25; RP 403. Benson also asked, “So if you’re in my shoes and I know the baby’s being abused and it’s being abused by one maybe both of you, right?” Ex. C at 25; RP 404. When D.W. was asked, “How do you think we’re gonna[] find out for sure what caused those injuries,” D.W. replied, “Probably either if one of us did, one of us confesses or I don’t know.” Ex. C at 25, RP 404-05. To this, Benson stated, “Ya I would agree. We know this for a fact that those five injuries are non-accidental.” Ex. C at 25; RP 405.

After being told that (1) it was either him or his girlfriend who did it and (2) the only way to find out who did it was through a confession, D.W. stated he caused the injuries to P.L. Ex. 26-27; RP 408. However, D.W. retracted his confession at his next opportunity, telling juvenile probation counselor Amy Ayres that he did not cause the injuries. RP 102, 132-33, 456-57.

Following a pretrial CrR 3.5 hearing, the trial court admitted D.W.'s confession. Specifically, the trial court concluded D.W. was properly advised of his constitutional rights and decided to waive them. CP 81; RP 147-48. The trial court expressed some concern regarding the length of the interview as well as D.W. being left alone for lengthy periods of time during the interrogation, but ultimately concluded that D.W. was not coerced into confessing. CP 82; RP 152. The trial court also indicated D.W. was not a sophisticated 17-year-old but believed D.W. was living an "adult life style," which, in its view, meant D.W. had not been coerced. CP 81; RP 149.

Following a trial at which D.W.'s confession was the only evidence directly linking D.W. to P.L.'s injuries, the trial court determined D.W. was guilty of both counts of second degree assault against P.L. CP 96, 98; RP 546. At disposition, the trial court determined that P.L. was a particularly vulnerable victim and his injuries were inflicted in a particularly heinous, cruel, and depraved manner. RP 560. Thus, the trial court imposed a manifest injustice disposition upward to incarcerate D.W. until age 21. CP 100; RP 560. D.W. timely appeals. CP 79-80, 85-86.

D. ARGUMENT

D.W.'S CONFESSION WAS THE PRODUCT OF POLICE COERCION, NOT FREE WILL, AND MUST ACCORDINGLY BE SUPPRESSED

The Due Process Clause of Fourteenth Amendment requires that confessions be voluntary and free of police coercion. Colorado v. Connelly, 479 U.S. 157, 167, 107 S. Ct. 515, 93 L. Ed. 2d 473 (1986); State v. Reuben, 62 Wn. App. 620, 624, 814 P.2d 1177 (1991). The conduct of law enforcement cannot overbear a defendant's will to resist and force a confession. Reuben, 62 Wn. App. at 624. To be voluntary, a confession "must be the product of a rational intellect and a free will." State v. Rupe, 101 Wn.2d 664, 679, 683 P.2d 571 (1984). The voluntariness of a confession depends on "whether it was extracted by any sort of threats, violence, or direct or implied promises, however slight. A confession that is the product of coercion, physical or psychological, is involuntary and not admissible." State v. Cushing, 68 Wn. App. 388, 392, 842 P.2d 1035 (1993) (quoting State v. Riley, 17 Wn. App. 732, 735, 565 P.2d 105 (1977)).

On review, courts consider the totality of circumstances in deciding the admissibility of a juvenile's confession. State v. Unga, 165 Wn.2d 95, 103, 196 P.3d 645 (2008) (citing Fare v. Michael C., 442 U.S. 707, 725, 99 S. Ct. 2560, 61 L. Ed. 2d 197 (1979)). "Included in the circumstances to be considered are the individual's age, experience, intelligence, education,

background, and whether he or she has the capacity to understand any warnings given, his or her Fifth Amendment rights, and the consequences of waiving these rights.” Id. “State courts have a responsibility to examine confessions of a juvenile with special care.” Id. (citing In re Application of Gault, 387 U.S. 1, 45, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967); Haley v. Ohio, 332 U.S. 596, 599, 68 S. Ct. 302, 92 L. Ed. 2d 224 (1948)).

Considering all the circumstances in this case, D.W.’s confession was not voluntary. The trial court erred in admitting the confession at trial.

1. Juveniles should be treated differently than adults when considering the voluntariness of their confessions

Unremarkably, juveniles are different than adults. Unfortunately though, Washington courts and law enforcement personnel have treated adults and juveniles identically when it comes to police interrogation. This repugnant practice must end.

Over the last decade, the United States Supreme Court has repeatedly recognized that youth should be treated differently in the criminal justice system in part because of the significant, scientifically proven neurological differences that affect juveniles’ ability to make rational decisions. E.g., Miller v. Alabama, ___ U.S. ___, 132 S. Ct. 2455, 2464-65, 183 L. Ed. 2d 407 (2012); Graham v. Florida, 560 U.S. 48, 68-69, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010); Roper v. Simmons, 543 U.S. 551, 569, 125 S. Ct. 1183,

161 L. Ed. 2d 1 (2005). As the Court has acknowledged, this comes as no real surprise, given the “limitation on [juveniles’] ability to alienate property, enter a binding contract enforceable against them, and marry without parental consent,” J.D.B. v. North Carolina, ___ U.S. ___, 131 S. Ct. 2394, 2403, 180 L. Ed. 2d 310 (2011), let alone juveniles’ inability to vote against the very judges and prosecutors who treat them as miniature adults in the criminal justice system. As a basic matter of common sense, the various types of legal limitations placed on minors “exhibit the settled understanding that the differentiating characteristics of youth are universal.” Id. at 2403-04.

Indeed, children are less mature and responsible than adults and they “often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them.” Id. at 2403 (quoting Bellotti v. Baird, 443 U.S. 622, 635, 99 S. Ct. 3035, 61 L. Ed. 2d 797 (1979) (plurality opinion)). Juveniles are “more susceptible to . . . outside pressures’ than adults.” Id. (quoting Roper v. Simmons, 543 U.S. at 569).⁴

⁴ Outside of the United States Supreme Court’s words on the subject, the United States Congress has also recognized that juveniles differ from adults by flatly barring police interrogation of juveniles without notifying their parents or guardians:

Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensive to a juvenile, and shall immediately notify the Attorney General and the juvenile’s parents, guardian, or custodian of such custody. The arresting officer shall also notify

In light of this recognition that juveniles do not have the experience, judgment, or assertiveness to protect their own rights, it would be logically incongruous to sanction police questioning of a juvenile for hours upon hours in the middle of the night, such as occurred here.

The fact that D.W. was informed of his Miranda rights and agreed to waive them is not dispositive. As discussed, juveniles cannot necessarily appreciate the gravity of their legal rights or the consequences of waiving them.⁵ D.W. had been at work prior to arriving at the hospital around 9:00 p.m. before police asked him to accompany them to the station. RP 22-23, 112-13; Ex. C at 2. He waited at the police station, only minutes away from the hospital, for more than an hour before the interrogation started at 10:37 p.m. RP 33; Ex. C at 1. He stated he was tired at the outset of questioning.

the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

The juvenile shall be taken before a magistrate judge forthwith. In no event shall the juvenile be detained for longer than a reasonable period of time before being brought before a magistrate judge.

18 U.S.C. § 5033 (1990).

⁵ The State repeatedly highlighted below that D.W. was informed of his “juvenile rights.” RP 134, 138. The trial court also noted that police informed D.W. of his “juvenile rights.” CP 81, 83; RP 147. Courts should take little comfort in the reading of juvenile rights, however. The recitation of these rights apparently consists solely of informing juveniles that their statements may be used against them in a juvenile court as opposed to any and all courts of law. Ex. C at 2-3. The reading of these so-called “juvenile rights” adds nothing of value to juveniles or to the waiver analysis.

Ex. C at 3; RP 57. He appeared to fall asleep in the interrogation room when Benson left him alone—the motion-sensor lights turned off due to D.W.’s lack of movement. Ex. 18 at 1:41:58. Given that juveniles are less able to exercise their rights and understand the consequences of forgoing them, it is much less likely that already exhausted juveniles are able to do so, especially when their interrogations begin after 10:30 p.m.

The trial court also determined D.W. was living an “adult lifestyle” to support its conclusion D.W. was not coerced. RP 149. This finding is not supported by substantial evidence, however. Substantial evidence exists where there is a sufficient quantity of evidence in the record to persuade a fair minded, rational person of the truth of the finding. State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994).

D.W. has a ninth grade education. RP 105. He had just gotten the first job in his life two weeks before this interrogation, working four hours per day at Subway four to five days per week. RP 105-06; Ex. C at 12. During the interrogation, D.W. described that having a job was a new and overwhelming experience for him. Ex. C at 12. He had lived only with his parents, with his girlfriend J.L.’s mother and stepfather, and with J.L.’s father. Ex. C at 4-6; RP 184-85, 228. D.W. depended entirely on these adults for food and housing until obtaining a Subway job two weeks before

his arrest. D.W. could not, under any stretch of the imagination, qualify as living an adult lifestyle.

The trial court acknowledged D.W. was not “particularly sophisticated for a 17-year-old.” RP 149. However, the State asserted the fact that D.W. had a “young son” and was living with the child’s mother, his teenage girlfriend, qualified as a “very adult life style.” RP 144. But impregnating his girlfriend, a fellow teenager, and then living with her at one of her parents’ homes did not somehow transform D.W. from an unsophisticated teenager into a mature adult. The trial court’s finding that D.W. was living an adult lifestyle is baseless. This finding was not supported by substantial evidence and this court should not sustain it.

The United States Supreme Court’s and the United States Congress’s recognition that juveniles are different and should be treated differently in the criminal justice system cannot be squared with treating interrogated juveniles identically to their adult counterparts in Washington. This court has a considerable and important responsibility to scrutinize police interrogations and the consequent confessions of juveniles. Unga, 165 Wn.2d at 103. The exercise of this court’s duty compels the conclusion that D.W.’s confession was not a product of his free will but of several hours of late-night interrogation that no juvenile should constitutionally have to endure.

2. Detective Benson questioned D.W. for hours through the middle of the night and employed threats, thereby unlawfully coercing D.W.'s confession

With D.W.'s youthfulness in mind, the methods Benson employed during his interrogation were designed to coerce D.W.'s confession. These coercive tactics rendered D.W.'s confession unconstitutionally obtained and therefore inadmissible.

This interrogation, in the words of the trial court, was "very lengthy." RP 152. Indeed, the taped portion of the interrogation lasts more than four hours. See Ex. 18 (tape lasts four hours, three minutes, and 48 seconds). Of course, this timeframe does not account for the period during which D.W. was transported from the hospital to the police station and sat at the police station awaiting his interview, which took over an hour more. RP 23-24, 112-13. Thus, the entire process of interrogating D.W. well exceeded five hours. As discussed above, D.W. was very tired from the outset of the interrogation and fell asleep when he was left alone in the interrogation room for significant periods of time. Exhibit 18 at 1:35:35–1:42:15 (asleep), 1:01:30–1:07:10 (left alone), 1:07:15–1:42:15 (same), 1:42:27–1:52:47 (same), 1:53:05–2:12:04 (same). This all occurred between the hours of 9:00 p.m. and 2:40 a.m. the next morning. RP 112-13; Ex. C at 1, 31. As the trial court significantly understated, "I don't think this is necessarily the best practice." RP 152. Far from whatever the "best practice" might be, the

length of the interrogation, the time of day, and the periods of isolation D.W. experienced during the interrogation, combined with D.W.'s visibly fatigued condition, rendered this juvenile interrogation inherently and exceedingly coercive. This court should not sustain such law enforcement practices.

Moreover, Benson's questioning expressly conveyed to D.W. that unless and until he confessed, his child could not be returned to his custody or the custody of his girlfriend:

[Benson]: So if you're in my shoes and I know the baby's being abused and it's being abused by one maybe both of you, right?

[D.W.]: Mhmm.

[Benson]: Um would you allow [P.L.] to go back into that environment?

[D.W.]: That's a tough question. Um if there was a very – if there was a high chance that I knew that either one of them or both of them were abusing him then I would say no I don't think he should go back but if I don't know exactly um who is . . . I wouldn't let him go back until I knew exactly when or exactly what was going on until . . . I knew what exactly what was going on and who was abusing him or if they weren't abusing him that's when I would give him back if I knew for sure.

[Benson]: Right. How do you think we're gonna[] find out for sure what caused those injuries?

[D.W.]: I don't know. Probably either if one of us did, one of us confesses or I don't know.

[Benson]: Ya I would agree. We know this for a fact that those five injuries are non-accidental.

Ex. C at 25. This exchange occurred just after Benson's invocation of the story of King Solomon, which Benson analogized to his having to "deal with a dilemma like that at once. I mean it's either you, [J.L.] . . . or her dad right?"^{6,7} Ex. C at 25.

Well into the interrogation, Benson's questions made clear to D.W. that the injuries to his son were nonaccidental and that Benson knew that either D.W. or J.L. had caused them. Benson further suggested P.L. could not go back to the custody of either parent unless Benson found out who caused the injuries. D.W. plainly took this to mean that Benson expected a confession, and Benson immediately confirmed that, indeed, that was exactly what he expected.

This exchange demonstrates D.W.'s confession was coerced. Benson said P.L. would have no further contact with either of his parents unless D.W. or J.L. confessed to injuring him. As D.W. testified at the CrR 3.5 hearing, he believed that until either he or J.L. confessed, "neither of us or one of us was going to get him -- or not get him." RP 116-17. Benson explicitly threatened to withhold custody of P.L. until he secured a

⁶ Benson discounted the possibility that J.L.'s father had injured P.L.: "I'm thinkin' it's probably not the dad 'cause dad doesn't have a lot of contact with the baby right?" D.W. responded, "Ya." Ex. C at 25.

⁷ Tellingly, Benson, when faced with his coercive statement, testified he thought the transcript was incorrect. RP 74. But see Ex. 18 at 2:41:26–2:41:34 (confirming statement correctly transcribed). This amounts to a virtual concession from Benson that he thought his statement was unduly coercive.

confession. Because Benson chose to extract D.W.'s confession through this threat, D.W.'s confession was the product of coercion, not free will.

Furthermore, D.W. felt especially coerced given his knowledge that J.L. was also being interrogated by the police and his desire to protect her. Although the parties disputed whether D.W. heard J.L. crying shortly before D.W. confessed, compare RP 37-38, 49 with RP 114, there was no dispute that officers had moved D.W. and J.L. away from one another because D.W. could hear portions of the interrogation of J.L. RP 37, 112, 126. D.W. felt especially coerced to confess out of concern that his child would be taken not only from him, but also from J.L., whom D.W. knew was also the subject of police investigation.

In this respect, this case is analogous to Rogers v. Richmond, 365 U.S. 534, 81 S. Ct. 735, 5 L. Ed. 2d 760 (1961). There, police pretended to phone additional officers with instructions to take Rogers's wife into custody while in earshot of Rogers. Id. at 535. Out of concern for his wife and her arthritic condition, Rogers "confessed to spare her being transported to the scene of the interrogation." Id. at 536. The Court reversed, holding that the Connecticut Supreme Court had employed the incorrect standard by requiring Rogers to prove his confession was untrue. Id. at 543-44. In other words, because the focus should have been "on the question whether the behavior of the State's law enforcement officials was such as to overbear

petitioner's will to resist and bring about confessions not freely self-determined," the court reversed. Id. at 544.

The same reasoning applies here. D.W. wished to spare J.L. from the deprivation of custody of her child. In light of Benson's statement, "it's either you or [J.L.]," D.W., like Rogers felt he had no choice but to confess to protect J.L. As such, D.W.'s confession was not freely self-determined, but a result of undue law enforcement duress. This court must reverse.

3. Without the confession the State cannot prove every element of second degree assault

Without the unconstitutionally obtained confession, the State cannot prove D.W. assaulted P.L. The confession was the only evidence at trial that showed D.W. committed any crime. In such circumstances, this court must reverse D.W.'s conviction and remand for dismissal of the charges with prejudice. State v. Armenta, 134 Wn.2d 1, 17-18, 948 P.2d 1280 (1997) (concluding dismissal appropriate remedy where unlawfully obtained evidence forms basis for charge).

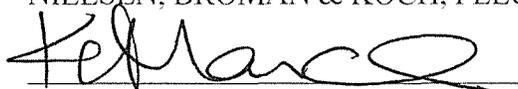
E. CONCLUSION

D.W.'s confession was not voluntarily given. D.W. asks that this court reverse his conviction, suppress his unlawfully obtained confession, and dismiss this prosecution.

DATED this 17th day of April, 2015.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Kevin A. March", written over a horizontal line.

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State v. D.W.

No. 32827-9-III

Certificate of Service

I Patrick Mayovsky, declare under penalty of perjury under the laws of the state of Washington that the following is true and correct:

That on the 17th day of April, 2015, I caused a true and correct copy of the **Brief of Appellant** to be served on the party / parties designated below by email per agreement of the parties pursuant to GR30(b)(4) and/or by depositing said document in the United States mail.

Benton County Prosecuting Attorney
prosecuting@co.benton.wa.us

D.W.
Green Hill School
375 SW 11th Street
Chehalis, WA 98532

Signed in Seattle, Washington this 17th day of April, 2015.

X  _____