FILED

NOV 21, 2016

Court of Appeals
Division III
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

No. 34109-7-III

STATE OF WASHINGTON, Respondent,

v.

JOHN MARK HAMILTON, Appellant.

APPELLANT'S BRIEF

Andrea Burkhart, WSBA #38519
Burkhart & Burkhart, PLLC
6 ½ N. 2nd Avenue, Suite 200
PO Box 946
Walla Walla, WA 99362
Tel: (509) 529-0630
Fax: (509) 525-0630
Attorney for Appellant

TABLE OF CONTENTS

AUTHORITIES CITED.....ii

I. INTRODUCTION.....1

II. ASSIGNMENTS OF ERROR.....2

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR.....2

IV. STATEMENT OF THE CASE.....3

V. ARGUMENT.....9

A. By evaluating Kaur's subjective fear rather than Hamilton's objective actions, the trial court applied an incorrect legal standard in determining whether the State proved the crime of attempted robbery in the second degree and relieved the State of its burden of proof of an essential element of the charge 9

B. The trial court erred in permitting the State to present testimony from Detective Keyser that opined on Hamilton's guilt and credibility 13

C. This court should decline to impose appellate costs if Hamilton does not prevail on appeal..16

VI. CONCLUSION.....18

CERTIFICATE OF SERVICE 19

AUTHORITIES CITED

State Cases

State v. Barr, 123 Wn. App. 373, 98 P.3d 518 (2004).....15

State v. Black, 109 Wn.2d 336, 745 P.2d 12 (1987).....14

State v. Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015).....17

State v. Byrd, 125 Wn.2d 707, 887 P.2d 396 (1995).....12

State v. Clark, 190 Wn. App. 736, 361 P.3d 168 (2015).....11

State v. Collinsworth, 90 Wn. App. 546, 966 P.2d 905 (1997).....11

State v. Deal, 128 Wn.2d 693, 911 P.2d 966 (1996).....12

State v. DeLeon, 185 Wn.2d 478, 374 P.3d 95 (2016).....15

State v. Demery, 144 Wn.2d 753, 30 P.3d 1278 (2001).....15

State v. Farnsworth, 185 Wn.2d 768, 374 P.3d 1152 (2016).....11

State v. Florczak, 76 Wn. App. 55, 882 P.2d 199 (1994).....14

State v. Garrison, 71 Wn.2d 312, 427 P.2d 1012 (1967).....14

State v. Haga, 8 Wn. App. 481, 507 P.2d 159 (1973).....14

State v. Hayward, 152 Wn. App. 632, 217 P.3d 354 (2009).....12

State v. Hovig, 149 Wn. App. 1, 202 P.3d 318 (2009).....9

State v. Johnson, 152 Wn. App. 924, 219 P.3d 958 (2009).....14

State v. Jones, 71 Wn. App. 798, 863 P.2d 85 (1993).....14

State v. Parra, 96 Wn. App. 95, 977 P.2d 1272 (1999).....11

State v. Read, 147 Wn.2d 238, 53 P.3d 26 (2002).....9

State v. Shcherenkov, 146 Wn. App. 619, 191 P.3d 99 (2008).....10

State v. Sinclair, 192 Wn. App. 380, 367 P.3d 612 (2016).....17

State v. Stump, 185 Wn.2d 454, 374 P.3d 89 (2016).....17

State v. Tvedt, 153 Wn.2d 705, 107 P.3d 728 (2005).....10

State v. Witherspoon, 180 Wn.2d 875, 329 P.3d 888 (2014).....10

Statutes

RCW 9A.56.190.....9

Court Rules

RAP 14.2.....17

RAP 15.2(f).....16

I. INTRODUCTION

The State charged John Hamilton with attempted first degree robbery arising from an altercation in a Food Mart store. Following a bench trial, the court found that Hamilton did not use a deadly weapon but held that because the clerk, who had significant language barriers with multiple trial participants, was afraid during the interaction, the element was satisfied. Due to this subjective interpretation of the force element, the trial court found Hamilton guilty of the lesser degree offense of attempted second degree robbery.

Several trial errors contributed to the erroneous verdict. First, the trial court improperly admitted substantial testimony comprising an opinion on Hamilton's guilt by permitting a detective to testify at length about how people who commit theft crimes behave, and by relying upon that testimony in rendering its verdict. Second, the trial court improperly admitted evidence of Hamilton's prior felony conviction that was more than ten years old under ER 609. Under the circumstances of this case, the errors were not harmless.

These errors require remand for retrial.

II. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR 1: The trial court applied an erroneous legal standard in evaluating whether Hamilton used force or the threat of force in attempting to take property from the Food Mart that lowered the State's burden of proof on an essential element of the charge.

ASSIGNMENT OF ERROR 2: The trial court improperly permitted testimony that opined on the guilt of the defendant.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

ISSUE 1: Did the trial court apply an erroneous legal standard when it considered the store clerk's subjective fear as the determining factor in whether Hamilton used a threat of force, rather than an objective standard that inquires whether a reasonable person would be induced to part with their property under the circumstances?

ISSUE 2: When a detective expressly volunteers his belief that the defendant either lied or was hiding information during a post-arrest interview, and testifies about things that prospective thieves do to avoid detection in order to opine that the defendant's similar conduct evinced his

guilt, has the detective evaded the province of the fact-finder and deprived the defendant of his right to a fair and impartial trial?

ISSUE 3: Is an express and uninvited opinion on the defendant's veracity a manifest error of constitutional magnitude that can be raised for the first time on appeal?

ISSUE 4: Where resolution of the factual disputes necessarily revolves around evaluating the credibility of the defendant, are these errors harmless?

IV. STATEMENT OF THE CASE

The State charged John Hamilton with attempted robbery in the first degree and Hamilton was tried by the court after a voluntary waiver of his right to a jury trial. CP 9, 51, I RP 56-58. Evidence introduced at trial was somewhat conflicting. Surveillance video from the incident was introduced by the State and showed Hamilton engaged in an extended conversation with the store clerk. Exhibit 10. The video shows Hamilton standing at the side of the counter while another customer completes a purchase. Ex. 10 at 0:00 – 0:06. The video then skips forward and shows Hamilton standing at the counter in front of the clerk, speaking to her while leaning forward and gesturing, before walking back to the side of the counter still speaking as another customer approaches. Ex. 10 at 0:06

– 0:24. Hamilton waits while that transaction is completed. Ex. 10 at 0:24 – 0:52.

As the customer in front is receiving his change, Hamilton turns toward the counter and picks up a wine bottle by the neck, turning it upside down momentarily before walking back to the counter and placing the wine bottle on the counter in the correct position. Ex. 10 at 0:52 – 0:59. The other customer leaves the store, and Hamilton picks the wine bottle back up off the counter before apparently setting it down again seconds later. Ex. 10 at 0:59 – 1:08. He continues to speak to the clerk across the counter for some time. Ex. 10 at 1:08 – 2:35. At one point he again briefly picks up the bottle and places it back down while continuing the conversation. Ex. 10 at 1:36 – 1:41.

Eventually, the clerk steps away from the counter waving her hands and Hamilton also backs away from the counter, continuing to talk and point at her. Ex. 10 at 2:25 – 2:35. The clerk eventually backs away from the counter and lies down on the ground, where she stays for nearly a minute while Hamilton looks on, appearing to continue speaking to her. Ex. 10 at 2:35 – 3:29. Eventually Hamilton begins to walk around the counter toward the clerk's side and she begins to get up before the video

skips and shows Hamilton standing behind the counter pointing out, with the clerk no longer present. Ex. 10 at 3:30.

Hamilton can then be seen pulling several handfuls of lottery tickets out of rolls behind the counter and carrying them back toward the front of the store. Ex. 10 at 3:40 – 4:12. As he approaches the front window, he appears to point and yell at two people outside walking toward the door. Ex. 10 at 4:12 – 4:19. He then drops the lottery tickets and exits the store. Ex. 10 at 4:23 – 4:27. Once outside, he points and shouts at the two people on the sidewalk before walking away out of the view of the camera. Ex. 10 at 4:27 – 4:47.

Trial testimony was often inconsistent with the video as well as previous accounts of the incident. The store clerk, Kuljeet Kaur, testifying with the assistance of a non-certified Punjabi interpreter, denied knowing the defendant or recognizing him as a customer. I RP 73-74, 80-82, 87. She described the incident as involving a man with a bottle who came to do a robbery while she was working at the counter. I RP 82. According to Kaur, the man said he was there to do a robbery and she became afraid. I RP 83. He had a bottle in his hand and lifted it up, and she fell to the ground to save herself as he was going to hit her. I RP 84. This testimony was not supported by the video evidence, and she did not explain the

lengthy conversation that was shown on the video. Kaur did not recall being shown a photo lineup or choosing one of the photos. I RP 103-04.

Despite denying seeing Hamilton before, Kaur told Deputy Chan Erdman that she had seen the man in the store several times before and he lived nearby. II RP 236, 248. Kaur told Erdman that the suspect asked for her rings and she took them off and thought one was missing. II RP 245-46. She believed he had taken cigarettes, alcohol, and lottery tickets. II RP 246. Detective Kirk Keyser also spoke with Kaur, who demonstrated a bottle being held upside down and her protecting her head. I RP 186. Both Erdman and Keyser reported difficulties communicating with Kaur due to a language barrier. I RP 186, II RP 242, 288.

A neighbor to the Food Mart, Nick Damascus, described accompanying Kaur back to the Food Mart on the day in question when she pounded on his door asking for help, appearing hysterical. I RP 128-29, 131-33. He saw somebody inside the store rummaging through something in an erratic manner before getting on a bike and riding away. I RP134, 137. Both Damascus and Kaur subsequently identified Hamilton in a photographic line up. I RP 203, 205.

Hamilton gave police a post-arrest interview about the incident and also testified at trial on his own behalf. I RP 25, 27-28, 36-42, II RP 314.

In both statements, Hamilton acknowledged being a regular customer of the Food Mart and described an arrangement with Kaur where he would hock costume jewelry in exchange for merchandise, returning later to pay for the items and retrieve the jewelry. II RP 318, 321-23. About a month and a half before the incident, he had purchased gas and incidentals by hocking a gold ring with diamonds, and when he returned to pay for the items, Kaur would not return the ring despite taking his money. II RP 326–28, 331.

On the day in question, Hamilton told Kaur he wanted to talk to her about the ring and asked her to return it, but she refused. II RP 332, 338-39. He became more adamant, and she lied down on the floor. II RP 339-40. When he started to go around the counter, she got up and ran out of the store. II RP 341. Acknowledging that he was angry, Hamilton started to grab the lottery tickets but realized it was stupid and did not take them. II RP 348, 350.

Over defense objection, Keyser also testified about behaviors a person who is about to commit a theft will engage in. I RP 179-80. The trial court overruled Hamilton's objection, holding that the testimony was relevant to Keyser's observations but not as propensity. I RP 182. Keyser later tied this testimony to Hamilton by describing how he waited for everybody to leave the store before approaching Kaur and looked behind several times during the interaction. II RP 280. Keyser also described Hamilton's demeanor during a post-arrest interview as indicating he was lying or hiding something. II RP 286. The State later relied on Keyser's statements in its closing argument to support its version of events. II RP 399.

The trial court found the evidence insufficient to establish that Hamilton used a deadly weapon or that he took property from Kaur's person or in her presence. CP 84-85. However, the court believed there was sufficient evidence of attempted theft due to Hamilton's taking the lottery tickets and then dropping them. III RP 428. Thus, the dispositive question in determining whether attempted robbery had occurred was whether Hamilton acted with force or threat of force to accomplish his goals. III RP 431. The trial court observed that Kaur "felt" as though Hamilton had raised his hand to strike her, which caused her to be fearful. III RP 431. Accordingly, because it believed Hamilton had engaged in

"reasonably aggressive behavior" during the confrontation with Kaur that caused her to leave the store, the trial court held the force element was satisfied and convicted Hamilton of attempted second degree robbery. III RP 432, 435.

The court sentenced Hamilton to 55.5 months' incarceration. CP 69. Hamilton now appeals and has been found indigent for that purpose. CP 91, 92.

V. ARGUMENT

A. By evaluating Kaur's subjective fear rather than Hamilton's objective actions, the trial court applied an incorrect legal standard in determining whether the State proved the crime of attempted robbery in the second degree and relieved the State of its burden of proof of an essential element of the charge.

Review of a verdict following a bench trial considers whether the trial court's findings are supported by substantial evidence and whether the unchallenged findings support its conclusions of law. *State v. Hovig*, 149 Wn. App. 1, 8, 202 P.3d 318, *review denied*, 166 Wn.2d 1020, 217 P.3d 335 (2009). Questions of law are reviewed *de novo*. *State v. Read*, 147 Wn.2d 238, 243, 53 P.3d 26 (2002).

Under RCW 9A.56.190, a person commits a robbery "when he unlawfully takes personal property from the person of another or in his presence against his will by the use or threatened use of immediate force,

violence, or fear of injury to that person or his property or the person or property of anyone." In simple terms, a robbery consists of a taking of property that is forcible and against the will of the person from whom it is taken. *State v. Tvedt*, 153 Wn.2d 705, 711, 107 P.3d 728 (2005). The use of force or the presence of fear are instrumental, not incidental, in the commission of the crime: "'Robbery encompasses any taking of ... property [that is] attended with such circumstances of terror, or such threatening by menace, word or gesture as in common experience is likely to create an apprehension of danger and induce a man to part with property for the safety of his person.'" *State v. Witherspoon*, 180 Wn.2d 875, 884, 329 P.3d 888 (2014) (*quoting State v. Shcherenkov*, 146 Wn. App. 619, 624–25, 191 P.3d 99 (2008), *review denied,* 165 Wn.2d 1037, 205 P.3d 131 (2009)).

Whether "the defendant used intimidation" and "an ordinary person in the victim's position could reasonably infer a threat of bodily harm from the defendant's acts" are determined under an objective, not a subjective, standard. *Witherspoon*, 180 Wn.2d at 884. A threat need not be communicated directly, however, and may be implied. *Shcherenkov*, 146 Wn. App. at 624. Failing to display a weapon or make an overt threat may not be dispositive; for example, where a defendant makes an unequivocal demand for a bank's money unsupported by any claim of

entitlement to the funds, the context "is fraught with the implicit threat to use force." *State v. Collinsworth*, 90 Wn. App. 546, 553, 966 P.2d 905 (1997), *review denied,* 135 Wn.2d 1002, 959 P.2d 127 (1998); *see also State v. Farnsworth*, 185 Wn.2d 768, 778-79, 374 P.3d 1152 (2016), *State v. Parra*, 96 Wn. App. 95, 101-02, 977 P.2d 1272, *review denied,* 139 Wn.2d 1010, 994 P.2d 849 (1999). In evaluating whether a robbery has been committed, the trier of fact must determine whether, under the circumstances of the case, a reasonable person would have felt sufficiently threatened to accede to the demand to turn over the money. *State v. Clark*, 190 Wn. App. 736, 756, 361 P.3d 168 (2015), *review denied*, 186 Wn.2d 1009, 380 P.3d 502 (2016).

The facts of the present case are markedly unlike *Collinsworth*, *Farnsworth,* and *Parra*, where a threat of force could be implied from the nature of the demand and the circumstances under which it was made. Tellingly, the trial court did not make any findings that Hamilton demanded any property from Kaur or issued any threat to her. CP 82-83. Instead, the trial court apparently regarded Kaur's subjective sense of fear as the dispositive fact supporting its verdict:

> Ms. Kaur testified that she felt that the defendant raised his hand as if he was going to hit her. She was afraid of him. She was afraid of his potential actions. She expressed her

> fear. And the degree of force, however slight, was sufficient in order to have that apprehension.

III RP 431. Again, however, the trial court did not find that Hamilton raised his hand or the bottle as if to hit her, and the objective video surveillance of the incident does not support that version of events.

By converting the objective standard of whether a reasonable person in Kaur's position would have felt sufficiently threatened accede to a demand for her property into a subjective standard that merely considered whether Kaur felt fear because Hamilton was confronting her angrily, the trial court lowered the State's burden of proof on the essential elements of the charge. The State must prove every essential element of the charge beyond a reasonable doubt as a matter of due process. *State v. Byrd*, 125 Wn.2d 707, 713, 887 P.2d 396 (1995); *State v. Deal*, 128 Wn.2d 693, 698, 911 P.2d 966 (1996). The trial court's application of an erroneous legal standard when standing as the finder of fact is equivalent to a jury applying an erroneous instruction on the law that relieves the State of its burden of proof. Such errors are reversible unless shown to be harmless beyond a reasonable doubt. *State v. Hayward*, 152 Wn. App. 632, 646, 217 P.3d 354 (2009). Errors affecting the burden of proof as to essential elements are harmless if uncontroverted evidence supports a finding that the element has been proven. *Id.* at 646-47.

Here, the error is not harmless because the State did not present uncontroverted evidence that Hamilton issued a threat, implicitly or explicitly, to Kaur. Indeed, Kaur's testimony was controverted by the video evidence as well as Hamilton's testimonial account of the confrontation. Had the trial court properly focused its inquiry on Hamilton's conduct rather than Kaur's subjective response, the dearth of evidence that Hamilton sought to place Kaur in fear in order to obtain her property would have required a different verdict. Accordingly, reversal and remand for a new trial is required.

B. The trial court erred in permitting the State to present testimony from Detective Keyser that opined on Hamilton's guilt and credibility.

Over defense objection, the trial court permitted the State to present generalized testimony about the kinds of things that people attempting to commit a theft crime will do, in order to argue that Hamilton's conduct inside the Food Mart showed his intent to commit a theft crime. Likewise, on cross-examination, Keyser volunteered an unresponsive opinion that Hamilton was either lying or hiding something during his post-arrest interview. This testimony improperly invaded the province of the fact-finder by expressing Keyser's opinion on Hamilton's guilt and veracity. Under the circumstances of this case, where

Hamilton's credibility was critical in evaluating the competing versions of events presented at trial, the error was not harmless.

"No witness, lay or expert, may testify to his opinion as to the guilt of a defendant, whether by direct statement or inference." *State v. Black*, 109 Wn.2d 336, 348, 745 P.2d 12 (1987) (*citing State v. Garrison*, 71 Wn.2d 312, 315, 427 P.2d 1012 (1967); *State v. Haga*, 8 Wn. App. 481, 492, 507 P.2d 159, *review denied*, 82 Wn.2d 1006 (1973)). Statements that indicate the witness's opinion that a crime has occurred are error and should not be admitted. *State v. Jones*, 71 Wn. App. 798, 813, 863 P.2d 85 (1993), *review denied,* 124 Wn.2d 1018, 881 P.2d 254 (1994). Opinions that invade the province of the fact-finder are of constitutional magnitude, having practical and identifiable consequences in the trial, and are therefore only harmless if the untainted evidence of guilt is so overwhelming that it necessarily supports a jury verdict. *See State v. Florczak*, 76 Wn. App. 55, 74-75, 882 P.2d 199 (1994), *review denied*, 126 Wn.2d 1010, 892 P.2d 1089 (1995); *State v. Johnson*, 152 Wn. App. 924, 934, 219 P.3d 958 (2009).

Testimony is not an improper comment on an ultimate issue if it is helpful to the jury, does not expressly comment on guilt or veracity, and is based on reasonable inferences from the evidence. *Johnson*, 152 Wn.

App. at 930-31. However, generalized testimony about characteristics of groups of offenders is generally irrelevant, unhelpful, and not admissible to show action in conformity with the group characteristic. *See State v. DeLeon*, 185 Wn.2d 478, 490, 374 P.3d 95 (2016). "Whether testimony constitutes an impermissible opinion about the defendant's guilt depends on the circumstances of the case, including (1) the type of witness involved, (2) the specific nature of the testimony, (3) the nature of the charges, (4) the type of defense, and (5) the other evidence before the trier of fact." *State v. Demery*, 144 Wn.2d 753, 759, 30 P.3d 1278 (2001).

Applying this standard to the present case, Keyser's testimony invaded Hamilton's right to an impartial fact-finder by (1) directly expressing Keyser's opinion that Hamilton was being deceptive in a post-arrest interview, and (2) implicitly expressing Keyser's opinion that Hamilton was guilty because his actions in the store were similar to actions of individuals intending to commit a theft crime. As to the first instance, Keyser's testimony is nearly identical to the testimony found to be reversible error in *State v. Barr*, 123 Wn. App. 373, 98 P.3d 518 (2004), *review denied*, 154 Wn.2d 1009, 114 P.3d 1198 (2005). As to the second, the *Demery* factors support a conclusion that the testimony was improper because testimony about how shoplifters typically behave was not helpful to the trial of fact except to the extent it suggested the improper

inference that because Hamilton acted similarly, he was probably guilty. Considering that the nature of the case was a decision between two competing versions of what happened inside the Food Mart when Hamilton confronted Kaur, the evidence served to place a thumb on the scale in favor of the State by expressing Keyser's opinion that Hamilton was probably guilty because he acted like shoplifters act.

The untainted evidence of guilt is not so overwhelming here as to excuse the error. Hamilton's account of what transpired was consistent with the video evidence, while Kaur's was not. Resolution of the factual dispute by evaluating which version of events was more credible was essential to determine Hamilton's guilt or innocence. The State's evidence interfered with the impartial performance of this duty. Remand is therefore required.

C. This court should decline to impose appellate costs if Hamilton does not prevail on appeal.

Hamilton was found to lack sufficient funds to prosecute an appeal and was found indigent for that purpose by the trial court. CP 92-93. The presumption of indigence continues throughout review. RAP 15.2(f).

In addition to the Supreme Court's observation that courts should seriously question imposing LFOs on defendants who meet the GR 34

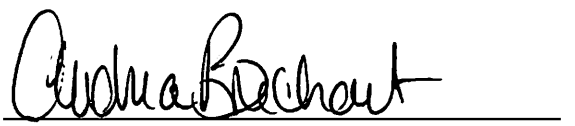
indigency standard in *State v. Blazina*, 182 Wn.2d 827, 839, 344 P.3d 680 (2015), the Court of Appeals recently recognized that in the absence of information from the State showing a change in the appellant's financial circumstances, an award of appellate costs on an indigent appellant may not be appropriate. *State v. Sinclair*, 192 Wn. App. 380, 393, 367 P.3d 612 (2016). The Supreme Court has additionally recognized that application of RAP 14.2 should "allocate appellate costs in a fair and equitable manner depending on the realities of the case." *State v. Stump*, 185 Wn.2d 454, 461, 374 P.3d 89 (2016).

Here, Hamilton was found to be indigent for appeal purposes. His completed Report as to Continued Indigency, attached hereto, shows that he has no assets, receives food stamps, owes substantial legal financial obligations and back child support, and is physically and mentally disabled. His appeal is prosecuted in good faith, and he has complied with the requirements of this court's General Order issued on June 10, 2016. Under these circumstances, this court should exercise its discretion under RAP 14.2 to decline to impose appellate costs.

VI. CONCLUSION

For the foregoing reasons, Hamilton respectfully requests that the court REVERSE his conviction for attempted second degree burglary and REMAND the case for a new trial.

RESPECTFULLY SUBMITTED this 21 day of November, 2016.



ANDREA BURKHART, WSBA #38519
Attorney for Appellant

DECLARATION OF SERVICE

I, the undersigned, hereby declare that on this date, I caused to be served a true and correct copy of Appellant's Brief upon the following parties in interest by depositing them in the U.S. Mail, first-class, postage pre-paid, addressed as follows:

John Mark Hamilton
406 S Van Marter Rd
Spokane Valley, WA 99206

And, pursuant to prior agreement of the parties, by e-mail to the following:

Brian O'Brien
Deputy Prosecuting Attorney
SCPAAppeals@spokanecounty.org

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 21 day of November, 2016 in Walla Walla, Washington.

Andrea Burkhart

REPORT AS TO CONTINUED INDIGENCY

(in support of motion or request that the court exercise discretion not to award costs on appeal)

Please fill out this report to the best of your ability. While you are not required to answer all of the questions, complete information will help the court determine whether to deny costs on appeal to the State, should it prevail.

I, John Mark Hamilton certify as follows:

1. That I own:
   - (X) a. No real property
   - ( ) b. Real property valued at $_____.
   - ( ) c. Real property valued at $_____, on which I am making monthly payments of $_____ for the next _____ months/years (circle one).

2. That I own:
   - (X) a. No personal property other than my personal effects
   - ( ) b. Personal property (automobile, money, inmate account, motors, tools, etc.) valued at $_____.
   - ( ) c. Personal property valued at $_____, on which I am making monthly payments of $_____ for the next _____ months/years (circle one).

3. That I have the following income:
   - ( ) a. No income from any source.
   - ( ) b. Income from employment: $_____ per month.
   - ( ) b. Income of $ 193.00 per month from the following public benefits:

(X) Basic Food (SNAP) ☐ SSI ☐ Medicaid ☐ Pregnant Women Assistance Benefits

☐ Poverty-Related Veterans' Benefits ☐ Temporary Assistance for Needy Families

☐ Refugee Settlement Benefits ☐ Aged, Blind or Disabled Assistance Program

☐ Other: _____

4. That I have:
   - ( ) a. The following debts outstanding:

	Approximate amount owed:
Credit cards, personal loans, or other installment debt:	$ 0
Legal financial obligations (LFOs):	$ App 40,000
Medical care debt:	$ x
Child support arrears:	$ App 25,000
Other debt:	$ x

Approximate total monthly debt payments: $ Ø

( ) b. No debts.

5. That I am without other means to pay costs if the State prevails on appeal and desire that the court exercise discretion to deny costs.

6. That I can pay the following amount toward costs if awarded to the State: $ Ø.

7. That I am 54 years of age at the time of this declaration.

8. That the highest level of education I have completed is: 1yr College.

9. That I have held the following jobs over the past 3 years:

Employer/job title	Hours per week	Pay per week	Months at job
Ø			

10. That I have received the following job training over the past three years: Ø

11. That I have the following mental or physical disabilities that may interfere with my ability to secure future employment: Blocked Artery / chronic Back Pain / Bi Polar Disorder.

12. That I am financially responsible for the following dependents (children, spouse, parent, etc.):

I, [signature], certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

6-21-2016 Spokane

Date and Place

[signature]

Signature of (Defendant) (Respondent) (Petitioner)