

No. 34329-4-III
Consolidated with 34502-5-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Respondent

v.

JESSE WALDVOGEL,

Appellant

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

NO. 15-1-00792-4

BRIEF OF RESPONDENT

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I. RESPONSE TO ASSIGNMENTS OF ERROR ON APPEAL

- A. All required elements of Unlawful Possession of a Firearm in the First Degree were included in the jury instructions.
- B. Listing a specific firearm in each of the two verdict forms assured the defendant of a unanimous verdict because it was clear which verdict form pertained to which firearm.
- C. The State is not seeking costs in this appeal.

II. STATEMENT OF FACTS

On May 31, 2015, at approximately 11 p.m., Karina Al-Zayadi and her family were asleep in their ground-floor residence at the Phoenix Manor Apartments in Kennewick, Washington. Report of Proceedings (RP)¹ at 53-54, 57. Their apartment windows were slightly opened, with some windows looking out over the parking lot. RP at 54-55, 57. Ms. Al-Zayadi was awakened by the sound of a male and a female arguing, as well as tires screeching to the extent that the smell of burnt rubber was coming into her apartment. RP at 57.

The sound of the screeching tires continued, so Ms. Al-Zayadi called law enforcement to report the disturbance. RP at 57-58. Concerned about the proximity of the screeching car to her children's bedroom, Ms.

¹ Unless otherwise indicated, RP refers to the verbatim report of proceedings volumes I and II transcribed by Renee Munoz dated as follows: January 4, 2016; February 11, 2016; March 28, 2016; March 29, 2016; and April 1, 2016.

Al-Zayadi looked out their window to see a four-door car parked within two vehicle-lengths of her front door. RP at 58-59, 65. A male was inside the car sitting in the driver's seat and the tires were spinning. RP at 59, 62. The male began pacing to and from the car and appeared very agitated. RP at 58. Ms. Al-Zayadi did not see the female she had heard earlier. RP at 61. She called back law enforcement to provide additional information, as she was concerned how agitated the male was. RP at 58.

Ms. Al-Zayadi described the male as wearing dark, baggy high-water pants or long shorts, no shirt, and having his hair down and loose. RP at 58-59, 77. She recognized this male from having seen him previously at the apartment complex swimming pool and later identified him as the defendant in both a photomontage and at trial. RP at 59-60, 67-68, 75. Ms. Al-Zayadi heard the sound of dragging metal and observed the defendant dragging a large rolling car jack across the parking lot to the same car he had previously been sitting in. RP at 61. He jacked up the car and began changing the tire. *Id.*

Ms. Al-Zayadi observed a second male begin talking with the defendant; he was wearing a sports jersey, basketball-style shorts, and a baseball cap. RP at 60, 76. The defendant seemed very upset. RP at 62. The second male told the defendant to forget it and that he was going to go. *Id.* The defendant yelled at the second male to come back and the

second male responded he wasn't coming back. RP at 63. The defendant responded that he was going to get his gun and fuck the second male up. *Id.* The defendant lifted the trunk of the car, pulled out what Ms. Al-Zayadi described as a big rifle, and moved his hands in a manner she associated with moving the slide, which made a "chick chick" sound. RP at 63-64. Ms. Al-Zayadi then lost sight of the defendant as he walked out of the parking lot toward the street with the gun in his hands. RP at 66. The car was still up on the jack with the tire off. RP at 63.

Ms. Al-Zayadi went into the living room of her apartment, where the parking lot is not visible, in an attempt to calm herself down. RP at 66. She made herself a snack, checked on her children, and went back to bed. *Id.* She did not see whether police ever arrived at her apartment complex. *Id.*

Ms. Al-Zayadi spoke with Kennewick Police Detective Rick Runge by phone and then in person on June 2, 2015. RP at 67, 110-13. She looked at a photomontage he provided and selected the defendant as the person who had pulled the gun out of the trunk of the car on May 31, 2015. RP at 68, 75.

At trial, Ms. Al-Zayadi testified that she was not familiar with firearms but had heard the sound the defendant's gun made that night in movies. RP at 64. In describing the firearm as a rifle, she indicated that

she meant it was giant, not a pistol or a handgun, and like something someone would hunt with. *Id.*

Regarding her ability to accurately observe the defendant, Ms. Al-Zayadi testified regarding the lighting conditions in the parking lot that night, including lighting coming from covered tenant parking and flood lighting on a nearby building. RP at 71. A streetlight also illuminated the area near where the defendant's car was parked. RP at 106. Ms. Al-Zayadi indicated that she was wore glasses to see long distances away, such as when driving. RP at 77-78. She did not have her glasses on that night, as she typically did not wear them in her day-to-day life or even when leaving the house for activities such as grocery shopping. *Id.* Ms. Al-Zayadi permitted Det. Runge to look out the window of her children's bedroom and he confirmed there were no obstructions blocking her view of where the defendant's car had been parked. RP at 111-12.

Kennewick Police Officer Brian Zinsli was on duty on May 31, 2015, when he was dispatched to the Phoenix Manor Apartments based on Ms. Al-Zayadi's noise complaint at 11:02 p.m. RP at 80-82. His response was delayed by other higher priority calls and he did not arrive until 11:55 p.m. RP at 81-82. He was not aware the call involved any weapons and understood it to be a noise complaint. *Id.* Officer Zinsli drove around the apartment complex; the only person he saw outside was the defendant,

who was wearing cut-off shorts with his wallet visible in the back pocket, no shirt, and was changing the rear passenger tire on a four-door car. RP at 83-84, 87. The defendant had already taken the tire off the car and was in the process of putting on a smaller, emergency-type tire. RP at 91. Officer Zinsli observed the defendant put the damaged tire in the backseat of the car and close the car door. *Id.*

Officer Zinsli stopped his patrol vehicle about a car length away from the defendant's car and approached the defendant. RP at 86. After talking with the defendant, Officer Zinsli asked him for his identification. RP at 87. The defendant responded that his identification was inside his apartment and gestured toward one of the buildings in the complex. *Id.* Officer Zinsli asked the defendant wouldn't his identification be in his wallet? *Id.* The defendant said "oh," then retrieved his Washington State photo identification from his wallet and handed it to Officer Zinsli. *Id.* The photo identification belonged to the defendant; Officer Zinsli compared the photo with the male he was speaking with and believed them to be the same person. RP at 88. He then contacted dispatch for a records check of the defendant's name. RP at 90. During the course of their conversation, Officer Zinsli saw the defendant in possession of a set of keys. RP at 93.

Officer Zinsli stated that up until the point he ran the defendant's name that his conversation with the defendant had been cordial. RP at 91.

After giving dispatch the defendant's name, however, the defendant became agitated. RP at 90-91. The defendant asked Officer Zinsli why he would run his name and accused Officer Zinsli of harassing him. *Id.* The defendant said, "This is bullshit. I'm gonna sue the police department." RP at 92. He then started to walk away on foot. *Id.* Officer Zinsli still had the defendant's identification, so he asked if the defendant wanted it back. *Id.* The defendant said no and continued walking away; at that time, Officer Zinsli had not received any information back from dispatch regarding a records check of the defendant's name. RP at 92-93. A few minutes later, dispatch confirmed the defendant had warrant for his arrest. RP at 93.

After learning the defendant had a warrant, Officer Zinsli walked closer to the car where the defendant had been changing the tire and peered inside it. RP at 93-94. He observed a loaded shotgun in the front passenger seat pointing towards the floorboard. *Id.* Along with other officers, Officer Zinsli unsuccessfully attempted to locate the defendant. RP at 100. He determined Stacy Waldvogel, the defendant's wife, was the registered owner of the car. RP at 102, 145. Her address was listed as an apartment in the same complex where the car was located. RP at 100. Officers knocked on that apartment door multiple times but there was no answer. RP at 102. They also located a phone number for the defendant, but multiple calls to it went unanswered. *Id.*

Officer Zinsli photographed the exterior of the car and also documented what he believed to be acceleration marks in the parking lot near the car. RP at 95, 98. Det. Runge was able to see those same acceleration marks when he visited Ms. Al-Zayadi on June 2, 2015. RP at 111. Officer Zinsli secured the car and it was impounded. RP at 102.

Det. Runge later executed a search warrant for the car, a Nissan Maxima. RP at 115. He located a 12 gauge Western Field shotgun in the front seat of the vehicle. RP at 116. It was loaded with four rounds in the tube and one round in the chamber. *Id.* In the trunk of the car, Det. Runge located a gun case containing an unloaded Remington .30-06 rifle. RP at 122, 126-27, 129. While no ammunition was located in the car for the rifle, Det. Runge located a shotgun shell box on the passenger floorboard, which contained 19 of the 25 shells the box held. RP at 129. He also located one loose shotgun shell in the passenger-side door pocket. *Id.* Dominion for both Jesse Waldvogel and Stacey Waldvogel was located in the vehicle. RP at 130-31.

At trial, both Officer Zinsli and Det. Runge testified about the difference between a shotgun and a rifle. RP at 100, 117, 121. Officer Zinsli explained to the jury that a pump-action shotgun requires the operator to pull back the slide to put a round in the chamber so the gun is ready to fire, whereas that action is not needed to shoot a rifle. RP at 100.

Det. Runge testified that the shotgun in this case has a slide and he was permitted by the court to rack the unloaded shotgun so the jury could hear the sound it made when that movement occurred. RP at 121, 123-24.

At trial, the defendant called one witness: his cousin, David Rae. RP at 141. Mr. Rae testified that the previous year, he resided at his uncle's residence in Phoenix Manor Apartments, along with the defendant and the defendant's wife. RP at 142. At some point during the time they lived together, the defendant and Mr. Rae got into an argument in the parking lot of the complex around 9 or 10 p.m. RP at 142-43. The defendant was not in possession of any firearms during the argument. RP at 144. After the argument, Mr. Rae returned to the apartment and went to sleep. RP at 145.

Mr. Rae was unable to recall the day or even the month when he believed this argument occurred. RP at 142. He did not testify to any dates or periods of time as to when he and the defendant both resided at the apartment together. Mr. Rae was "pretty sure" that the defendant was wearing a shirt during the argument. RP at 147. Mr. Rae indicated that he had been in the Nissan that the defendant shared with his wife the day of their argument and had not seen any firearms in it. RP at 145-46. The Nissan was the only vehicle that the couple had at the apartment complex. RP at 146.

The defendant stipulated at trial that he had previously been convicted or adjudicated guilty as a juvenile in the State of Washington of a serious offense as defined in RCW 9.41.010. CP 48. That stipulation was also included in the jury instructions. CP 107.

Prior to closing, the parties discussed the jury instructions. RP at 148-54. The State substituted revised verdict forms for the forms earlier submitted and made the following record:

The first thing I would ask, and I've already given [defense counsel] a copy, is that we substitute Verdict Form A and B out with the ones I've just prepared which simply add shotgun to one and rifle to the other so that it's clear which count --- which firearm goes with which count. That way, if we had a situation where you had a verdict of not guilty on one count and a guilty verdict on another we can be sure it's unanimous as to which firearm we're talking about.

RP at 148-49. The defendant had no objection to the revised verdict forms.

RP at 149-50. The defendant suggested and the State agreed to instructing the jury on WPIC 3.01, stating, "A separate crime is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count." CP 89; RP at 153.

This was later numbered as Instruction 8. CP 104. One "to-convict" instruction containing the elements of Unlawful Possession of a Firearm in the First Degree was included in the jury instructions. CP 106. The instruction did not specify the types of firearms the defendant was alleged

to have possessed. *Id.* At the conclusion of their discussion regarding jury instructions, neither party registered any objections. RP at 149-50, 154.

During closing argument, the State stated, “So, in this case we’re dealing with two different firearms.” RP at 173. The State also specified that Verdict Form A was for the shotgun found in the car and that Verdict Form B was for the rifle found in the trunk. RP at 175.

After being found guilty of both counts of Unlawful Possession of a Firearm in the First Degree (CP 115-16), the defendant indicated that he wanted to proceed to sentencing immediately. RP at 192. The defendant also indicated, however, that the two juvenile firearm adjudications from Clark County that the State was including in the defendant’s criminal history should actually only be one offense. RP at 192. The State responded that it would obtain copies of the judgment and sentence from Clark County to resolve the dispute. RP at 192-93.

The defendant was sentenced on April 1, 2016. RP at 201-09. The State indicated that it was able to get a copy of documents from Clark County and both parties stated they were in agreement the defendant’s offender score was seven. RP at 201-02. A signed copy of the defendant’s criminal history was presented to the court, with the Clark County juvenile matters listed as two separate offenses: Unlawful Possession of a Firearm and Possession of a Stolen Firearm, both with the same offense date. CP

125. The defendant indicated that he had signed the summary of his felony criminal history and that it was correct and complete. RP at 201. The defendant was sentenced to a standard range sentence of 75 months in prison. CP 121; RP at 206.

III. APPEAL ARGUMENT

A. All of the essential elements were included in the “to-convict” instruction for Unlawful Possession of a Firearm in the First Degree.

WPIC 133.02 lists the elements of Unlawful Possession of a Firearm in the First Degree and reads as follows:

WPIC 133.02 Unlawful Possession of Firearm—First Degree—Elements

To convict the defendant of the crime of unlawful possession of a firearm in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about (date), the defendant [knowingly owned a firearm] [or] [knowingly had a firearm in [his] [her] possession or control];
- (2) That the defendant had previously been [convicted] [adjudicated guilty as a juvenile] [or] [found not guilty by reason of insanity] of [(name of serious offense)] [a serious offense]; and
- (3) That the [ownership] [or] [possession or control] of the firearm occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

In the instant case, the jury instruction regarding the elements of Unlawful Possession of a Firearm in the First Degree was identical to WPIC 133.02, with the exception of the date of the crime being added, the name of the serious crime being excluded due to the defendant's stipulation to that element, and irrelevant bracketed language being excluded. CP 106. That instruction read as follows:

Instruction No. 10

To convict the defendant of the crime of unlawful possession of a firearm in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about May 31, 2015, the defendant knowingly had a firearm in his possession or control;
- (2) That the defendant had previously been convicted or adjudicated guilty as a juvenile of a serious offense; and
- (3) That the possession or control of the firearm occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

CP 106.

The defendant argues that the to-convict instruction is deficient because it is missing a specific description of the firearm the defendant possessed. Br. of Appellant at 11. The defendant includes no citation to case law indicating that a description of the firearm is an essential element of Unlawful Possession of a Firearm in the First Degree. To the contrary, the make, model, and serial number of a gun are not elements of unlawful possession of a firearm under RCW 9.41.040. *State v. Jussila*, 197 Wn. App. 908, 921, 392 P.3d 1108 (2017). Including identifying information regarding the firearm in the to-convict instruction imposes an additional burden on the State to prove that information beyond a reasonable doubt under the law of the case doctrine. *Id.*

In the instant case, the defendant was charged with two counts of Unlawful Possession of a Firearm in the First Degree. CP 40-41. Instead of adding descriptive language to the to-convict instruction that would have become the law of the case, the State included a description regarding the firearms in the verdict forms so there would be no confusion as to which verdict forms corresponded to which firearms. Not specifying which firearm the verdict form pertained to could have potentially been a problem, as the State mentioned at trial, had the jury found the defendant not guilty of one offense and guilty of the other. In that situation, it would

have then been impossible to determine which firearm the jury was finding the defendant guilty of possessing and therefore potentially not a unanimous verdict.

That the defendant was charged with more than one count of Unlawful Possession of a Firearm in the First Degree does not result in an additional element for the State to prove regarding a description of the firearms. That the unit of prosecution for this offense is each separate firearm in no way relates to what essential elements must be contained in the to-convict instruction.

B. Even if the Court finds that a description of each firearm should have been included in the to-convict instruction, the error was harmless.

A jury instruction that omits an element of the offense is subject to a harmless error analysis. *State v. Brown*, 147 Wn.2d 330, 340, 58 P.3d 889 (2002). The test to determine whether an error is harmless is “[W]hether it appears ‘beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.’” *Id.* at 341 (quoting *Neder v. United States*, 527 U.S. 1, 15, 119 S. Ct. 1827, 144 L. Ed. 2d 35 (1999)).

In the instant case, including descriptions of the firearms in the verdict forms rather than the to-convict instruction did not in any way contribute to the jury’s verdicts of guilty. There were only two firearms

discussed in the entire trial: a Western Field 12 gauge shotgun and a Remington .30-06 rifle. Contrary to the defendant's claims of conflicting evidence and jury confusion leading to lack of unanimity, the evidence in the case was very straightforward. A resident in the apartment complex where the defendant also lived saw him remove a long gun from the trunk of a vehicle he shared with his wife and heard a sound consistent with a shotgun slide being racked. The tenant identified the defendant in a photo montage and at trial. A police officer arrived soon after the tenant saw the defendant with the firearm and found the defendant changing the tire on the same car. The defendant accessed the passenger compartment of the car in front of the officer and had a set of keys in his possession. The defendant became agitated when the officer relayed the defendant's name to dispatch and walked away on foot, leaving behind his photo identification. The officer observed a loaded shotgun in the front seat of the car after the defendant walked away. A second firearm, a rifle, was found in the trunk of the vehicle. Additional ammunition for the shotgun was found in the passenger compartment of the car along with dominion for the defendant.

To believe that inclusion of the type of firearm in the verdict form but not the to-convict instruction led to the jury's guilty verdict, the jury would have had to disregard Instruction 8, that each count was a separate

crime and must be decided separately. Courts generally presume a jury follows its instructions. *State v. Foster*, 135 Wn.2d 441, 472, 957 P.2d 712 (1998).

Nothing in the record suggests that the to-convict instruction and the verdict forms somehow resulted in verdicts that were not unanimous. Quite the opposite, the inclusion of the specific firearm in each verdict form assured the court that the jury was unanimously deliberating regarding the same firearm. This argument is further undercut by the jury convicting the defendant of both counts of Unlawful Possession of a Firearm, not just one. For the court to believe the verdicts were not unanimous, the court would have to believe a juror ignored the description of the firearm on the verdict form and voted to convict the defendant of possession of the same firearm twice.

C. The State is not seeking costs in this appeal.

The State is not seeking costs in this appeal.

IV. PERSONAL RESTRAINT PETITION ARGUMENT

A. The defendant is not entitled to challenge his offender score for the first time on appeal.

The defendant alleges several errors in his offender score for the first time on appeal. At sentencing, the court asked both parties if they were in agreement regarding the defendant's offender score; the

defendant's attorney responded that the parties were in agreement. RP at 201. Additionally, the defendant affirmatively waived any objection to his offender score in the following colloquy:

THE COURT: Okay. It looks like the State is indicating that you have an offender score of seven.

Do you take any issue with that?

THE DEFENDANT: No, sir.

RP at 201-02.

In this instance, the defendant should not be permitted to dispute his offender score for the first time on appeal when he acknowledged it at sentencing. Only an illegal or erroneous sentence is reviewable for the first time on appeal. *State v. Nitsch*, 100 Wn. App. 512, 523, 997 P.2d 1000 (2000) (citing *State v. Ford*, 137 Wn.2d 472, 477, 973 P.2d 452 (1999)). Reviewing an initial claim of same course of criminal conduct for the first time on appeal is problematic because such review involves "both factual determinations and the exercise of discretion. It is not merely a calculation problem, or a question of whether the record contains sufficient evidence to support the inclusion of out-of-state convictions in the offender score." *Nitsch*, 100 Wn. App. at 523. Because the defendant did not request the court conduct any inquiry as to same criminal conduct at sentencing and affirmatively acknowledged his offender score, the court should decline to evaluate this issue on appeal.

B. The defendant's offender score of seven was correctly calculated for each offense.

1. The defendant's convictions for Unlawful Possession of a Firearm and Possession of a Stolen Firearm do not encompass the same criminal conduct.

The defendant argues that his 2004 Clark County juvenile convictions for Unlawful Possession of a Firearm and Possession of a Stolen Firearm constitute the same criminal conduct and should therefore only be scored as half a point total. Same criminal conduct is defined as two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. RCW 9.94A.589(1)(a). Unlawfully possessing a firearm and possessing a stolen firearm have already been held not to encompass the same criminal conduct because the respective victim of each crime differs. *State v. Haddock*, 141 Wn.2d 103, 110, 3 P.3d 733 (2000). The victim of Unlawful Possession of a Firearm is the general public, while the victim of Possession of a Stolen Firearm is the true owner of the firearm. *Id.* at 111. The offenses are therefore scored separately pursuant to RCW 9.94A.525(5)(a) and were correctly calculated in the defendant's offender score as half a point each.

2. The defendant's 2009 convictions for Possession of Stolen Property in the Second Degree and Theft of a Motor Vehicle do not constitute the same criminal conduct.

Next, the defendant argues that his convictions for Possession of Stolen Property in the Second Degree and Theft of a Motor Vehicle, which occurred in different counties on the same date, constitutes same criminal conduct and should therefore only be scored as one point total. CP 125. Both offenses occurred on July 25, 2008. *Id.* The defendant was convicted of Possession of Stolen Property in the Second Degree on March 17, 2009. *Id.* The defendant was convicted of Theft of a Motor Vehicle on May 1, 2009. *Id.* Because the crimes occurred in different counties, they therefore were committed in different places and do not meet the definition of same criminal conduct as outlined in RCW 9.94A.589(1)(a).

Additionally, there is no indication beyond the defendant's bare assertion that the stolen property that formed the basis for the charge of Possession of Stolen Property in the Second Degree was the same vehicle as in his conviction for Theft of a Motor Vehicle. RCW 9A.56.160 specifically excludes a motor vehicle from the elements of Possession of a Stolen Property in the Second Degree. "Where the record does not provide any facts or evidence on which to decide the issue and the petition instead

relies solely on conclusory allegations, a court should decline to determine the validity of a personal restraint petition.” *Matter of Cook*, 114 Wn.2d 802, 813-14, 792 P.2d 506 (1990) (citing *In re Williams*, 111 Wn.2d 353, 365, 759 P.2d 436 (1988)).

3. The unit of prosecution for Unlawful Possession of a Firearm in the First Degree is each firearm possessed.

The defendant alleges that because both firearms in the instant case were found in the same vehicle, he should have only been charged with one crime, not two. He states that his offender score is therefore incorrect because both firearms should have resulted in a total of one point. He is incorrect because each firearm unlawfully possessed constitutes a separate offense. RCW 9.41.040(7).

C. The State did not engage in misconduct in adding a second charge of Unlawful Possession of a Firearm when the case proceeded to trial.

The defendant appears to be alleging prosecutorial misconduct when stating that the State coerced him by filing a second count of Unlawful Possession of a Firearm in the First Degree when the matter proceeded to trial. As the defendant indicates, the State made a record at prior hearings that an additional charge would be added if the matter proceeded to trial. The defendant cites to no authority as to why this

amounts to prosecutorial misconduct, and even if it did, he fails to show how he suffered any prejudice from it.

V. CONCLUSION

The defendant's two convictions for Unlawful Possession of a Firearm in the First Degree should be affirmed. The jury instructions contained the required elements of the crime. Even if an element of the crime was missing from the jury instructions, the error was harmless. Regarding the defendant's personal restraint petition, the defendant cannot challenge his offender score based on claims of same criminal conduct for the first time on appeal. Even if the Court is inclined to engage in such review, the defendant's crimes do not encompass the same criminal conduct and his offender score was therefore correctly calculated. The State did not engage in any misconduct in notifying the defendant that a second firearm charge would be added if the case proceeded to trial.

RESPECTFULLY SUBMITTED this 25 day of July, 2017.

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

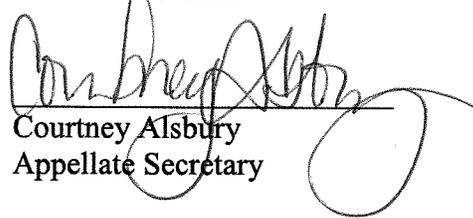
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