

No. 34579-3-III

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

STATE OF WASHINGTON,

Respondent,

v.

RAFAELITO AGUSTIN,

Appellant.

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

The Honorable Steve Dixon

APPELLANT'S REPLY BRIEF

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A. INTRODUCTION

Rafaelito Agustin accepts this opportunity to reply to the State's response brief. For issues not addressed herein, Appellant respectfully requests that the Court refer to his opening brief.

B. ARGUMENT IN REPLY

1. The State's concession that it failed to prove jurisdiction is dispositive to the outcome of this appeal.

The State concedes no evidence was provided at the fact finding to prove Mr. Agustin committed a crime in the State of Washington. State's Brief at 5, 10-11. The State also requests reversal of Mr. Agustin's case on the grounds of insufficient evidence of jurisdiction. State's Brief at 14.

Because the State's concession is dispositive, Mr. Agustin requests reversal on the grounds of insufficient evidence of jurisdiction. *State v. Smith*, 155 Wn.2d 496, 505, 120 P.3d 559 (2005) (remedy for insufficient evidence to prove a crime is reversal, and retrial is prohibited).

C. CONCLUSION

Insufficient evidence exists to prove jurisdiction in this case and the issue is dispositive. Mr. Agustin's conviction should be reversed.

Respectfully submitted this 16th day of May, 2017.

/s/ Laura M. Chuang
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/s/ Kristina M. Nichols
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COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON)
Plaintiff/Respondent) COA No. 34579-3-III
vs.)
)
)
RAFAELITO AGUSTIN)
) PROOF OF SERVICE
Defendant/Appellant)
_____)

I, Kristina M. Nichols, of Nichols Law Firm, PLLC, assigned counsel for the Appellant herein, do hereby certify under penalty of perjury that on May 16th, 2017, I deposited for first-class mailing with the U.S. Postal Service, postage prepaid, a true and correct copy of the Appellant’s opening brief to:

Rafaelito Agustin
305 S 2nd Ave
Othello, WA 99344

Having obtained prior permission from the Adams County Prosecutor’s Office, I also served the Respondent State of Washington at **padocs@co.adams.wa.us** using Division III’s e-service feature.

Dated this 16th day of May, 2017.

/s/ Kristina M. Nichols
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