

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

No. 34806-7-III

STATE OF WASHINGTON, Respondent,

v.

PHILIP NOLAN LESTER, Appellant.

APPELLANT'S BRIEF

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I. INTRODUCTION

At Philip Lester's trial on charges of first degree child rape and first degree child molestation, the court found the five year old child incompetent to testify. However, over Lester's objection, the court allowed the State to introduce the child's videotaped forensic interview, conducted by CPS with a detective and the prosecuting attorney present. Because introducing the video violated Lester's confrontation rights and was not harmless, the convictions must be reversed.

Even considered in the light most favorable to the State, the evidence presented was insufficient to support the verdicts because it failed to establish that the alleged events occurred in the specific time period between December 1, 2014 and January 1, 2015. This failure of proof requires that the charges be dismissed with prejudice.

Lastly, the court imposed an overly broad condition of Lester's sentence that facially prohibits him from having contact with his own minor children, who were not involved in the allegations. Additional conditions prohibited Lester from purchasing or possessing alcohol, and from entering places whose primary business is the sale of liquor, when there is no evidence that alcohol contributed to the offense. In the event the convictions are allowed to stand, these conditions should be stricken.

II. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR 1: The trial court erred in admitting testimonial child hearsay statements when the child was found incompetent to testify, and was therefore not available for cross-examination.

ASSIGNMENT OF ERROR 2: The State failed to present sufficient evidence that the conduct at issue occurred on or between December 1, 2014 and January 1, 2015.

ASSIGNMENT OF ERROR 3: The trial court erred in imposing a condition of community custody requiring that Lester “[h]ave no contact with minors under the age of 18, nor be in the presence of any minors under the age of 18, without an adult present who has been approved by the Community Corrections Officer and Sex Offender Treatment Provider.”

ASSIGNMENT OF ERROR 4: The trial court erred in imposing non-crime-related conditions of community custody prohibiting the purchase and possession of alcohol, and prohibiting him from entering places whose primary business is the sale of liquor.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

ISSUE 1: Does the Confrontation Clause of the U.S. Constitution prohibit the introduction of child hearsay statements when the child is found to be incompetent and cannot be cross-examined at trial?

ISSUE 2: Is a forensic interview that is taken in response to a police report alleging sexual abuse and conducted by a CPS investigator, a police detective, and a prosecuting attorney, “testimonial” within the meaning of *Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354, 158 L.Ed.2d 177 (2004)?

ISSUE 3: Did admitting the forensic interview affect the outcome of the trial when there was no independent corroboration of any abuse?

ISSUE 4: When the State presents evidence that the defendant had access to the child for a period of several months, and the child is unable to describe consistently or specifically when the alleged events took place, is there sufficient evidence upon which a jury could conclude that the acts occurred during the particular one-month period charged?

ISSUE 5: Does a condition of community custody prohibiting contact with all minors under age 18 unreasonably interfere with Lester’s right to parent his own minor child?

ISSUE 6: Does the court have authority to impose conditions of community custody prohibiting the possession or purchase of alcohol, and entry onto premises whose primary business is the sale of liquor, when nothing in the record suggests alcohol contributed to the offense?

IV. STATEMENT OF THE CASE

Philip Lester and Miranda Bishop were neighbors and acquaintances. I RP 124, II RP 261. Lester lived with his girlfriend, Ashley Lamote, and their infant son. I RP 125, II RP 207, 260-61. Bishop lived with her daughter A.B., who turned four years old during this time. I RP 64, 124.

Occasionally, over a period from August to about mid-December, Bishop would ask Lamote to babysit A.B. while Bishop went to work. I RP 126, 130, 205. When Lamote was babysitting, Bishop would take A.B. to Lamote's house early in the morning, around 5:00. I RP 127, II RP 210. Lester was working for a logging contractor during this time period, and was usually already gone when Bishop arrived at his house with A.B. I RP 128, II RP 208-09, 210, 236-37, 262. Bishop later reported that beginning around September, A.B. began to have nightmares and potty accidents, as well as a long period of diarrhea during which she complained it hurt. I RP 137-38.

On Christmas, Bishop and A.B. went to Lester's house to eat and celebrate. I RP 130, II RP 212, 246, 266-67. An argument between Bishop and Lester ensued when Lester was playing a video game and refused to put in a movie instead, and Bishop and A.B. left. I RP 130-31, II RP 212-13, 246-47, 266-67. They had no further contact with Lester until early January. I RP 131. Five days after the disagreement, Bishop called police and reported that her daughter A.B. was playing with play-doh when she said it looked like "Uncle Junior's pee-pee." I RP 64. Bishop asked what she meant, and reported that A.B. said he put it in her mouth, and indicated her crotch and bottom areas when Bishop asked her where else. I RP 65.

Detective Debra Behymer received the report and arranged a forensic interview with A.B. on January 3. I RP 117, 120-21. The interview occurred in an interview room at the Sheriff's Office, where it was audio and video recorded. I RP 121. A Child Protective Services ("CPS") caseworker was also present, as well as the prosecuting attorney, Karl Sloan, who frequently asked questions throughout the interview. I RP 36-48, 121. Behymer and the CPS worker both acknowledged that the interview was to investigate and gather evidence. I RP 182, 192.

During the interview, A.B. told them she knew what she was there to talk about and described “Uncle Junior” putting his pee-pee in her mouth and rubbing it on her, before Behymer had finished explaining the ground rules for the interview. I RP 36-37, 51. As the interview proceeded, A.B. also said that “Uncle Junior” licked her butt and touched her foot, belly and boobs, hands, knees, and arms, and touched her with his butt. I RP 41-43. She said Uncle Junior gave her “owies” on her butt. I RP 45. “Uncle Junior” had a girlfriend named Ashley and a little boy with the same name as Lester’s son. I RP 39. A.B. was unclear about when and where the events occurred, first indicating it occurred at her mom’s house, but later saying it happened at her uncle’s house sometime after Christmas. I RP 37, 46, 193. She was apparently unable to distinguish between one and more than one incident. I RP 194. At the end of the interview, when asked if anybody told her what to say, A.B. said, “My mom – (inaudible).” I RP 47.

Behymer interviewed Lester, who described the fight that had happened with Bishop on Christmas. Initially Lester denied that Lamote babysat A.B., but he later admitted she did, saying he was gone at work at the time. I RP 186-89. The State charged Lester with rape of a child in the first degree and child molestation in the first degree, alleging that both crimes occurred “[o]n or between December 1, 2014 and January 1,

2015.” CP 179-80. Lester denied molesting A.B., and in his defense presented evidence that he was never alone with A.B. and was working nearly all of the time when Lamote was babysitting her. II RP 210-11, 225-29, 262-65, 270.

Before trial, the court held a child hearsay hearing pursuant to RCW 9A.44.120 to determine whether A.B. was competent to testify and whether her recorded statement was admissible. I RP 8, 12. A.B., Bishop, Behymer, and the CPS caseworker all testified at the hearing. I RP 15, 48, 55, 63. At the conclusion of the hearing, the trial court found that A.B. was not competent to testify and granted Lester’s motion to exclude her as a witness at trial. I RP 77-79, CP 55. However, it concluded that A.B.’s recorded interview was not testimonial and its introduction therefore did not offend the Confrontation Clause. I RP 84-86, CP 55. Accordingly, it allowed the recorded interview to be played to the jury at trial. CP 56; I RP 175.

The jury convicted Lester on both counts. II RP 317, CP 58. The trial court sentenced him to 200 months to life. CP 8. It entered conditions of community custody as well, including a term that prohibited Lester from having any contact with persons under age 18, and terms that prohibited him from purchasing or possessing alcohol and from entering

bars, taverns, lounges, or any other place that primarily sells liquor. CP 23-24. Lester now appeals, and has been found indigent for that purpose. CP 1, 20.

V. ARGUMENT

Two errors require reversal and dismissal of the convictions. First, the forensic interview of A.B. taken in the Sheriff's office by law enforcement officials for investigative and evidence-gathering purposes was plainly testimonial under *Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354, 158 L.Ed.2d 177 (2004). Because A.B. was unavailable to be cross-examined about the statement, its introduction in Lester's trial violated his right to confront the witnesses against him. However, even considering all of the evidence admitted in the light most favorable to the State, it is insufficient to prove that the alleged events occurred on or between December 1, 2014 and January 1, 2015, as the State charged. Accordingly, the convictions must be reversed and dismissed.

Even if the convictions were allowed to stand, the community custody condition prohibiting Lester from having contact with anybody under age 18 unreasonably interferes with his right to parent his own child. Further, the conditions prohibiting the purchase or possession of alcohol and the entry into areas where alcohol sales are the primary

business are not crime-related, and therefore exceed the trial court's jurisdiction. The community custody conditions should therefore be stricken.

Lester has been found indigent for appeal. If he does not prevail, appellate costs should not be imposed.

- A. Introducing the forensic interview of A.B. taken by law enforcement for investigative and evidence-gathering purposes when A.B. was incompetent to testify violated Lester's Sixth Amendment confrontation rights.

The Confrontation Clause bars the "admission of testimonial statements of a witness who did not appear at trial unless he was unavailable to testify, and the defendant had a prior opportunity for cross-examination." *Crawford*, 541 U.S. at 68. Washington has, by statute, adopted exceptions to the ordinary hearsay rules for statements made by children under ten years of age describing sexual contact or physical abuse. RCW 9A.44.120. Nevertheless, statements proffered under RCW 9A.44.120 must still satisfy the minimum constitutional requirements set forth in *Crawford*. See generally *State v. Shafer*, 156 Wn.2d 381, 128 P.3d 87 (2006) (applying *Crawford* analysis to child hearsay and concluding statements were non-testimonial and therefore admissible).

Statements that are testimonial include police interrogations, which generally refers in this context to structured questioning by police. *Crawford*, 541 U.S. at 53, n. 4; 67. Additionally, when the circumstances objectively indicate that there is no ongoing emergency and the primary purpose of the interrogation is to prove past events, which may later be used in a criminal prosecution, the statements are testimonial. *Davis v. Washington*, 547 U.S. 813, 822, 126 S. Ct. 2266, 165 L. Ed. 2d 224 (2006). Courts may also consider the formality or informality of the questioning, with more formal “station-house” interrogation more likely to be testimonial in nature. *See Michigan v. Bryant*, 562 U.S. 344, 357, 377, 131 S. Ct. 1143, 179 L. Ed. 2d 93 (2011) (considering formality of questioning as part of the total circumstances).

Washington courts have concluded that a “common thread” in identifying testimonial statements is “some degree of involvement by a government official, whether that person was acting as a police officer, a justice of the peace, or as an instrument of the court.” *State v. Hopkins*, 137 Wn. App. 441, 457, 154 P.3d 250 (2007) (*quoting Shafer*, 156 Wn.2d at 389). In *Hopkins*, the Court of Appeals evaluated interviews conducted by a CPS social worker and concluded that while the first interview was primarily a welfare check, the second was investigative and was documented for the purpose of turning over the disclosure to law

enforcement. *Id.* at 456-57. Accordingly, the *Hopkins* court concluded the statements made in the second interview were testimonial. *Id.* at 458.

The present case falls squarely and unquestionably within the circumstances that Washington and federal courts have recognized as testimonial. A.B.'s interview was arranged by law enforcement in response to a police report of alleged sexual abuse and conducted in an interview room at the Sheriff's office with a CPS caseworker, a police detective, and a prosecuting attorney present and participating. A.B. was separated from her mother to minimize outside influence. I RP 173. The CPS caseworker and the detective both acknowledged the interview was done to investigate events that had already occurred and to gather evidence, not to respond to any ongoing emergency. I RP 182, 192. The formality of the circumstances, the location of the interview, the roles of the individuals who conducted it, and the content of the conversation flatly preclude any credible argument that the interview did not have the investigation and potential prosecution of criminal activity as its primary purpose.

In arguing that the statements were not testimonial, the State appeared to contend that the witness's subjective expectation of how the statements would be used determines the nature of the statements as

testimonial or not. Under the State’s argument, because A.B. was too young to understand the significance of her statements, she would not have anticipated that they would be used for prosecuting Lester and are therefore not testimonial. I RP 85-86. But this argument overlooks the plain language of *Davis* that statements are testimonial “when the circumstances **objectively** indicate that there is no . . . ongoing emergency, and that **the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.**” 547 U.S. at 822 (emphasis added). Indeed, the primary harm at which the Confrontation is directed is the use of *ex parte* evidence against the accused by the State. *Crawford*, 541 U.S. at 50. Thus, the confrontation right is primarily concerned with “the involvement of government officers in the production of testimonial evidence,” which it acquires and then uses to prosecute the defendant. *Id.* at 53. These harms are not dependent on the subjective beliefs of the interrogated witnesses, who may be actually unaware of the potential for prosecution for a variety of reasons – mental incapacity, naivete, or simple ignorance.

Moreover, the Court of Appeals did not apply the State’s proposed subjective standard in *Hopkins* when it held the child’s statements to a CPS investigator in a second interview were testimonial. *Hopkins* is similar to the present case in that the child witness was quite young – two

and one-half years old at the time of the events and three and one-half years old at the time of trial – whom the parties agreed was incompetent to testify. 137 Wn. App. at 445-46. In evaluating the admissibility of the child’s statements, the *Hopkins* court did not consider the child’s expectation but rather the motivation and purpose of the State’s agent, the CPS worker. *Id.* at 456-48. Because she was acting in her government capacity and considered her purpose to be investigatory, with the intent to document evidence for use by law enforcement, the *Hopkins* court concluded the statements were testimonial. *Id.* at 457-58.

If *Hopkins* presented a close question, the present case does not. The interview was initiated by law enforcement, for law enforcement purposes, at the law enforcement station, conducted by those government officials whose primary job is the investigation and prosecution of criminal offenses. It is precisely the kind of police interrogation that “falls squarely within that class” of testimonial hearsay that the Sixth Amendment has as “its primary object.” *Crawford*, 541 U.S. at 54. Its admission was plainly error.

Nor was the error harmless. Constitutional error is harmless only if there is no reasonable probability that the outcome of the trial would have been different. *State v. Powell*, 126 Wn.2d 244, 267, 893 P.2d 615

(1995). The State bears the burden of proving harmlessness beyond a reasonable doubt. *Id.* The error can be harmless if the untainted evidence overwhelmingly points to guilt. *State v. Mason*, 160 Wn.2d 910, 927, 162 P.3d 396 (2007).

Absent the recorded interview, the sole evidence of abuse consisted of Bishop's testimony about the statements A.B. made to her on New Year's Eve. I RP 138-39. Bishop had been convicted of five crimes of dishonesty and had gotten in a verbal altercation with Lester just a few days before. I RP 155-56, 130-31, 150, 160, 187-88, II RP 212-13, 222, 246-47, 266-67. There was no DNA or medical evidence, or any other corroboration of the allegations. II RP 301. While Bishop suggested that A.B. had demonstrated behavioral changes during this time period, those changes were not linked to a likelihood of victimization, and Bishop at no time indicated that A.B.'s behavior toward Lester changed, or that she expressed any fear or reluctance to continue going to the house to be babysat; rather, the behaviors were generalized. I RP 137-38. The strongest evidence the State presented was the child's own words and voice describing the incidents, which undoubtedly would have had a powerful impact on the jury. Absent her interview, there is a substantial likelihood that the outcome of the trial would have been different.

Consequently, the erroneous admission of the recorded interview had a harmful effect on the trial outcome.

Ordinarily, the remedy for a confrontation violation is to remand the case for retrial. *State v. Jasper*, 174 Wn.2d 96, 120, 271 P.3d 876 (2012). However, because the evidence was insufficient to prove the charges in this case even considering the erroneously admitted evidence, as discussed below in Section B, double jeopardy prohibits a retrial. *State v. Wright*, 165 Wn.2d 783, 792, 203 P.3d 1027.

B. The evidence is insufficient to establish that the alleged events occurred on or between December 1, 2014 and January 1, 2015.

In its charging document and instructions to the jury, the State contended that Lester committed abusive sexual acts against A.B. on or between December 1, 2014 and January 1, 2015. CP 65, 67, 179-81. The jury instructions were not objected to; accordingly, the dates of commission are elements of the crime the State was required to prove beyond a reasonable doubt. *State v. Hickman*, 135 Wn.2d 97, 102, 954 P.2d 900 (1998). Here, the State utterly failed to meet its burden of proof that the alleged conduct occurred during the month of December 2014. Accordingly, the charges must be dismissed. *Id.* at 103 (*quoting State v. Hardesty*, 129 Wn.2d 303, 309, 915 P.2d 1080 (1996)).

In reviewing the sufficiency of the evidence, the reviewing court considers the evidence in the light most favorable to the State and asks whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Hickman*, 135 Wn.2d at 103. In challenging the sufficiency of the evidence, the appellant admits the truth of the State's evidence and all inferences that can reasonably be drawn from it, giving equal weight to circumstantial and direct evidence. *State v. McNeal*, 145 Wn.2d 352, 360, 37 P.3d 280 (2002); *State v. Varga*, 151 Wn.2d 179, 201, 86 P.3d 139 (2004). The State bears the burden of proving all the elements of the crime charged beyond a reasonable doubt. *State v. Teal*, 152 Wn.2d 333, 337, 96 P.3d 974 (2004); *State v. McCullum*, 98 Wn.2d 484, 489, 656 P.2d 1064 (1983). Speculation cannot substitute for an absence of evidence. *See State v. Brockrob*, 159 Wn.2d 311, 338, 150 P.3d 59 (2006) (finding evidence insufficient to convict when only unsupported speculation sustained essential element).

The evidence presented in this case fails to present a non-speculative basis for concluding that the alleged events occurred in December 2014, when they could have happened anytime between August and Christmas. The period of time in which Lamote babysat A.B. was between August and mid-December. I RP 130, 144. Bishop claimed that A.B. began to show behavioral changes and experienced nightmares

beginning in September; if those behavioral changes had a relationship with the abuse, as the State intimated, that would suggest the events A.B. described would have occurred before the charged period. I RP 137. A.B. herself was unable to identify when the alleged abuse occurred other than “after Christmas.” I RP 46. But it was undisputed that following the Christmas day argument with Lester, Bishop and A.B. left, and Lester had no further contact with A.B. I RP 131, 151, II RP 248, 267. No other evidence supports a non-speculative inference as to when the reported incidents occurred. Nor did the State argue any particular theory of its evidence that would establish why it believed the incident happened during the specific time period alleged.

It is, frankly, less than evident why the State chose to allege that the criminal incidents occurred only in the month of December 2014, rather than over the broader period of August-December 2014 when the babysitting occurred. But having done so, the State undertook to prove beyond a reasonable doubt that the crimes occurred at that specific time. It failed to do so. Because no reasonable trier of fact could have found beyond a reasonable doubt from the State’s evidence that the incidents A.B. reported took place in December 2014, rather than at any other time during the approximately five months in which Lamote babysat A.B., the convictions must be reversed and the charges dismissed.

C. Three of the community custody conditions exceed the trial court's sentencing authority because they impose restrictions that are not crime-related.

Courts have authority to impose crime-related prohibitions under the Sentencing Reform Act. RCW 9.94A.505(9); RCW 9.94A.703(3)(f). Such conditions may include a prohibition on the use or consumption of alcohol and controlled substances when the court finds the defendant has an alcohol or chemical dependency. RCW 9.94A.505(9). Crime-related prohibitions are an abuse of discretion when there is no evidence in the record "that the circumstances of the crime related to the community custody condition." *State v. Irwin*, 191 Wn. App. 644, 656-57, 364 P.3d 830 (2015) (citing *State v. Zimmer*, 146 Wn. App. 405, 413, 190 P.3d 121 (2008); *State v. O'Cain*, 144 Wn. App. 772, 775, 184 P.3d 1262 (2008); *State v. Johnson*, 180 Wn. App. 318, 330-31, 327 P.3d 704 (2014)).

Additionally, crime-related prohibitions are viewed with skepticism when they affect a fundamental right, such as the right to parent one's children. *State v. Warren*, 165 Wn.2d 17, 32, 195 P.3d 940 (2008); *State v. Ancira*, 107 Wn. App. 650, 653-54, 27 P.3d 1246 (2001). To support such a condition, evidence in the record must show that prohibiting Lester from contacting his son is reasonably necessary for his

son's safety. *Ancira*, 107 Wn. App. at 654; *State v. Letourneau*, 100 Wn. App. 424, 439, 997 P.2d 436 (2000).

Lester challenges three of the community custody conditions as inconsistent with these principles:

1. Prohibiting Lester from possessing or consuming alcohol, or from entering premises where primarily alcohol is sold, is not crime-related and is not authorized under the SRA when the trial court did not find Lester had a chemical dependency.

Two of the conditions entered by the trial court read:

1. The defendant shall not purchase, possess or consume any mind or mood altering substances, to include alcohol and marijuana, or any controlled substances, except pursuant to lawfully issued prescriptions;
2. The defendant shall not go into bars, taverns, lounges, or other places whose primary business is the sale of liquor.

CP 23. These conditions are not crime-related, as the record is devoid of any evidence that Lester even consumes alcohol or mood altering substances, let alone that such activity was involved in the offenses. The trial court also did not find that Lester had any alcohol or chemical dependency that contributed to the offense. CP 5. Consequently, entering these conditions was an abuse of the sentencing court's discretion.

2. Prohibiting Lester from contact with any minors is overbroad when it contains no exception for his son, and there is no evidence the restriction is necessary for his son's safety.

Another condition of community custody provides:

21. Have no contact with minors under the age of 18, nor be in the presence of any minors under the age of 18, without an adult present that has been approved by the Community Corrections Officer and Sex Offender Treatment Provider.

CP 24. This condition contains no exception for Lester's own minor son, and thus facially applies to prohibit unsupervised contact with his biological child.

The record does not establish that the restriction is reasonably necessary for his son's safety. No evidence suggests that there is a risk Lester will molest or rape his son. *See Letourneau*, 100 Wn. App. at 442 (“There must be an affirmative showing that the offender is a pedophile or that the offender otherwise poses the danger of sexual molestation of his or her own biological children to justify such State intervention.”) The condition imposed is overbroad and should be stricken, or modified to clearly provide an exception for Lester's own minor children.

D. Appellate costs should be denied.

Lester's Report as to Continued Indigency is attached hereto. Consistent with this Court's General Order dated June 10, 2016 and RAP 14.2, Lester requests that the court decline to impose appellate costs in this case.

VI. CONCLUSION

For the foregoing reasons, Lester respectfully requests that the court REVERSE his convictions and DISMISS the charges against him with prejudice; or, in the alternative, STRIKE the community custody conditions prohibiting contact with any minors under age 18, possession or purchase of alcohol, or entry into premises that primarily sell alcohol, and REMAND for modification of the terms; and DENY appellate costs.

RESPECTFULLY SUBMITTED this 5 day of June, 2017.



ANDREA BURKHART, WSBA #38519
Attorney for Appellant

DECLARATION OF SERVICE

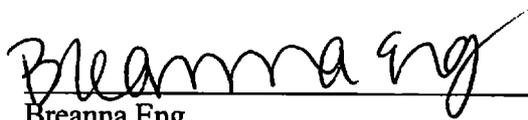
I, the undersigned, hereby declare that on this date, I caused to be served a true and correct copy of Appellant's Brief upon the following parties in interest by depositing them in the U.S. Mail, first-class, postage pre-paid, addressed as follows:

Karl F. Sloan
Okanogan County Prosecutor's Office
PO Box 1130
Okanogan, WA 98840

Philip N. Lester, DOC # 830473
Coyote Ridge Corrections Center
PO Box 769
Connell, WA 99326

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

Signed this 5 day of June, 2017 in Walla Walla, Washington.


Breanna Eng

APPENDIX

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, Philip N Lester JR certify as follows:

1. That I own:

- 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:

- 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 \$ 750.00 per month from the following public benefits:

- 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: SSA

4. That I have:

- a. The following debts outstanding:

Approximate amount owed:

Credit cards, personal loans, or other installment debt:	\$ _____
Legal financial obligations (LFOs):	\$ _____
Medical care debt:	\$ _____
Child support arrears:	\$ <u>50.00</u> month
Other debt:	\$ _____

Approximate total monthly debt payments:

\$ a lot

() 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:

\$ _____.

7. That I am 35 years of age at the time of this declaration.

8. That the highest level of education I have completed is: 12th grade.

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
Gold digger's	8 to 10 hr's day	9. ⁰⁰ something	Cherry season for one year

10. That I have received the following job training over the past three years: I had a lot of training but not worked very long.

11. That I have the following mental or physical disabilities that may interfere with my ability to secure future employment: _____

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

I have a three year old two raised and spouse and parents who look for and help

I, Philip W Lester JR, certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

11-4-16
Date and Place

Philip W Lester JR
Signature of (Defendant) (Respondent) (Petitioner)

BURKHART & BURKHART, PLLC

June 05, 2017 - 10:55 AM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 34806-7
Appellate Court Case Title: State of Washington v. Philip Nolan Lester
Superior Court Case Number: 15-1-00009-6

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