

NO. 35039-8-III
COURT OF APPEALS
STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Plaintiff/Respondent,

V.

JONATHAN MARK NORRIS,

Defendant/Appellant.

REPLY BRIEF

Dennis W. Morgan WSBA #5286
Attorney for Appellant
P.O. Box 1019
Republic, Washington 99166
(509) 775-0777

ARGUMENT

Mr. Norris asserts that the State misses the crux of the issue he is raising. He is not contesting the definition of assault. The common-law definition of assault is well recognized. It includes three different subcategories: (1) battery; (2) attempted battery; and (3) creation of fear of bodily harm.

When an actual battery occurs the crime of assault is complete.

When an individual creates the apprehension of fear of bodily harm in another the crime is completed.

When a person attempts to assault another person the crime is incomplete. An attempt is an attempt; just as “a rose is a rose is a rose.” Gertrude Stein.

What Mr. Norris raises is a sentencing issue. If the State had included all three definitions of assault in its jury instruction then there would be no argument.

If the State had included just two of the assault alternatives there would be no argument.

However, the State rested its case entirely on an attempted battery. Attempt crimes are inchoate crimes should be sentenced accordingly. In Mr.

Norris's case he was sentenced for a completed crime. He asserts that this is the error.

Mr. Norris otherwise relies upon the authorities set forth in his original brief.

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DATED this 26th day of July, 2017.

Respectfully submitted,

s/ Dennis W. Morgan

DENNIS W. MORGAN WSBA #5286

Attorney for Defendant/Appellant.

P.O. Box 1019

Republic, WA 99166

(509) 775-0777

(509) 775-0776

nodbispk@rcabletv.com

NO. 35039-8-III

COURT OF APPEALS

DIVISION III

STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	SPOKANE COUNTY
Plaintiff,)	NO. 16 1 04145 1
Respondent,)	
)	
v.)	CERTIFICATE OF SERVICE
)	
JONATHAN MARK NORRIS,)	
)	
Defendant,)	
Appellant.)	
_____)	

I certify under penalty of perjury under the laws of the State of Washington that on this 26th day of July, 2017, I caused a true and correct copy of the *REPLY BRIEF* to be served on:

COURT OF APPEALS, DIVISION III
Attn: Renee Townsley, Clerk
500 N Cedar St
Spokane, WA 99201

E-FILE

CERTIFICATE OF SERVICE

SPOKANE COUNTY PROSECUTOR'S OFFICE

Attn: Brian O'Brian

SCPAAppeals@spokanecounty.org

E-FILE

JONATHAN MARK NORRIS #337631

Airway Heights Corrections Center

PO Box 2049

Airway Heights, WA 99001-2049

U.S. MAIL

s/ Dennis W. Morgan

DENNIS W. MORGAN WSBA #5286

Attorney for Defendant/Appellant.

P.O. Box 1019

Republic, WA 99169

Phone: (509) 775-0777

Fax: (509) 775-0776

nodblspk@rcabletv.com

CERTIFICATE OF SERVICE

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Transmittal Information

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