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Court of Appeals
Division III
State of Washington
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NO. 35231-5

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

STATE OF WASHINGTON

PLAINTIFF/RESPONDENT,

V.

BRANDON WILLIAM CATE

DEFENDANT/APPELLANT

AMENDED BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

1. Procedural History

A. Charging

January 31st 2017, the Defendant was booked into the Okanogan County Jail, and held in relation to a number of burglaries. For the case presently at issue, 17-1-00040-8, the State filed an Information on February 1st 2017, charging the Defendant with two counts of Burglary in the Second Degree, one Count of Theft in the Second Degree, one Count of Malicious Mischief in the Third Degree, and one count of Theft in the Third Degree. *Appendix A*; CP 4 and 5.

B. Jury Trial

3.5 Hearing

A CrR 3.5 “confession hearing” was held the day of trial. The Court ruled that the Defendant’s admissions to Officer Bowling were Constitutionally admissible. RP 39 -40. The findings of facts and conclusions were incorporated for all of the Defendant’s cases. RP 32-46, and 48-62.

Summary of Trial Testimony

Omak Officer Shane Schaefer

Officer Schaefer testified that on January 7th 2017 he responded to a burglary complaint at the home of Kevin Bowling. Officer Schaefer investigated the scene of the burglary and took photographs of the surrounding area. Officer Schaefer documented that Kevin Bowling's shop/shed had been broken into. A large quantity of tools were reported missing by Kevin Bowling. The window to the shop was shattered. Officer Schaefer documented the missing tools and received Kevin Bowling's initial rough estimate of \$1,700 for the value of this stolen property. After observing shoe tracks near the shed, Officer Schaefer identified a likely path the suspect would have taken once he or she left the scene of the crime. RP 170-178.

Officer Schaefer described how two days later, he responded to another burglary complaint in Omak. This one occurred at an ATV dealer's business. Officer Schaefer learned from the reporting party, Frank Lay, that someone had hopped over the fenced perimeter, and once inside, this individual siphoned gasoline from some ATV's. Officer Schaefer described how he was eventually able to acquire surveillance

footage of the suspect from Frank Lay. He also documented that gasoline cans were reported missing from the business. RP 170- 188.

Malynda Fry

Malynda Fry testified that she was the Defendant's former girlfriend. She stated that when she was in jail on January 28th 2017, she spoke with Omak Officer Brien Bowling. She told Officer Bowling that several weeks earlier, she saw the Defendant walking around Omak towing a wagon full of tools and a chainsaw. She saw the Defendant in the general area of JC Penney/Safeway in Omak. She said that the Defendant mentioned something to her about getting gasoline. On cross examination she stated that both she and the Defendant were using methamphetamine around the time of this incident. RP 189 – 193.

Kevin Bowling

Kevin Bowling described how he lived in the city of Omak, and worked there as the local fire chief. He described the shed/shop next to his house. He stated that he keeps his tools in this building. Kevin Bowling stated that he kept his tools well organized, and used them on a routine basis and was very familiar with them. Kevin Bowling described how on January 7th 2017, he noticed that the window to his shop was

broken. Below this broken window were coffee cans. The previously locked door was now unlocked. Kevin Bowling noticed that a number of tools were missing from inside the shop. He reported the event to the police, and gave a full account of the event to the investigating Officer, Shane Schaefer.

Kevin Bowling explained that various items had been taken. He detailed that among the stolen items was a Craftsman reciprocating saw, pneumatic nailer, cordless DeWalt drill, Craftsman Hammer Drill, Husky 3-inch cutoff tool, impact tool, dremel cutting tool, corded dremel tool, battery charger, and a stolen Stihl chain saw. He stated that once he identified all of these items, he estimated their values by looking for the cost of replacement tools from online sources such as Home Depot and Sears. He determined the value of the chainsaw from the original receipt, which he kept.

Kevin Bowling stated that the total value of replacing the items was \$1,149.24. He documented this assessment in a "restitution packet" which was authenticated and admitted as *Exhibit 3*. RP 196 – 204. When asked about the condition of his tools, Kevin Bowling noted that most of the stolen tools were newer, and that he takes good care of his tools. He stated that once he used his tools, he would place them back in storage. RP 203-RP 205.

Frank Lay

Witness Frank Lay testified that he is the owner of Omak Marine. Omak Marine is a business that sells ATV's and other motor vehicles. The business is surrounded by fencing, and has video surveillance equipment. Frank Lay testified that on January 9th of 2017, he noticed there were footprints in the snow within the fenced area of his business. He knew that someone had entered his business without permission. He described how he called the police, and how later on he noticed that some of the gas caps were off on his ATV's. He then described the video surveillance footage that he recovered. This footage was then shown to the jury. Frank Lay narrated and described how this footage depicted an unknown individual enter his business at night, and showed this individual siphoning gasoline from ATV's., and depositing the stolen gasoline into two jugs. Frank Lay described how the video footage showed that this individual lost his hat during this process. RP 214-224.

Omak Officer Brien Bowling

Officer Bowling testified that he spoke with Malynda Fry in late January 2017 at the County Jail. Malynda Fry provided him with information regarding a burglary near the bowling alley. Officer Bowling was aware of Officer Shaeffer's investigations, and therefore knew of the

burglary at Kevin Bowling's residence (near the bowling alley), as well as a burglary at Omak Marine.

Officer Bowling described how he and another Officer located the Defendant in Eastern Omak. Near the Defendant's trailer, he noticed empty gasoline jugs. Officer Bowling arrested the Defendant on an unrelated warrant. The two Officer's brought the Defendant to the Omak Police Station and read the Defendant his *Miranda* cautions.

Officer Bowling stated that both he and the other Officer questioned the Defendant about burglaries that they knew he was involved in. Initially the Defendant didn't respond to questions. Eventually, once the other officer left, the Defendant started confessing. The confession was not recorded because Officer Bowling's digital recorder was damaged.

During the confession, the Defendant gave details about how he broke into the shop (Kevin Bowling's). The Defendant explained to Officer Bowling that he went into the neighborhood with hopes of stealing gasoline. The Defendant told the Officers that he saw a lawnmower next to a shop and assumed there was gasoline inside the shop. He noticed that the door was locked, but was able to get the window open by breaking it. He noticed that there were expensive tools, drills and things like that inside. He described to Officer Bowling how he put tools inside of a

bucket, and then put a hose through the bucket handles, and in this manner he was able to carry them off. The Defendant said eventually he got tired, but then discovered a wagon in nearby yard. He put the tools in the wagon and then took everything to Malynda Fry's house. Officer Bowling testified that this was consistent with what Malynda Fry told him earlier.

Officer Bowling stated that the Defendant also acknowledged that it was he (the Defendant) who was the one captured on video siphoning gasoline. He told Officer Bowling that he needed gasoline because he wanted to transport a bathtub to Tonasket (a city in Northern Okanogan County). The Defendant hoped to sell the bathtub in Tonasket. The Defendant said he climbed over the fence, and found some gas cans inside.

Verdict

On April 12th 2017, the jury returned a verdict of guilty as charged. Sentencing was scheduled for April 19th 2017 in front of the Honorable Judge Culp. The date of April 19th 2017 was also the sentencing date (previously scheduled) for one of the Defendant's other burglary cases: 17-1-00039-4.

C. Sentencing Hearing

The Defendant was sentenced on April 19th 2017 for the case of 17-1-00040-8, as well as 17-1-00039-4.

The State's initial sentencing recommendation involved a recommendation of consecutive sentencing for both cause numbers, where each cause number would "score" against each other. In this scenario the Defendant would be "maxed out" in his standard range. RP 294. The State described how both cause numbers were entirely different events. The State then acknowledged the Court's concern that it would probably not be appropriate to consecutively sentence the Defendant for these separate and distinct crimes if they were both to score against each other.

The Defense briefly stated that they preferred concurrent sentences. The Defense then said that if consecutive sentences on each cause number were imposed, that the Court should be careful to not have the cases in both cause number scored against each other.

The Court then sentenced the Defendant within the standard range on each cause number, 17-1-00040-8, and well as 17-1-00039-4. The sentences were consecutive to one another. In calculating the offender score, the points for each cause number were not included in calculating the points for the other. RP 29-311.

ARGUMENT

A. The Language in the Charging Document Properly Advised the Defendant of the Charges and Anticipated Evidence

The Defendant argues on appeal that the State is restricted to proving its case of Theft in the Second Degree by only by referencing items that were specifically mentioned in the filed Information. This is Incorrect: The charging language was appropriate.

The Defendant was charged by Information with Theft in the Second Degree, of an amount greater than \$750 and less than \$5000. The Information noted in Count One that the Defendant was charged with Burglary for entering into a building owned by Kevin Bowling. In Count Two, the Defendant was accurately charged with theft of an amount greater than \$750, but less than \$5000. In addition, the State alleged that specific items such as “Stihl MS 170 Chainsaw, Dremel Max Saw, 12 Amp Skill Saw, Portable Dewalt Drill with charger, Senco Nail gun, Corded Hammer Drill, Drive brand compressed air impact tool” were among items that were stolen. CP 4.

The fact that the State mentioned with great specificity a number of the stolen tools in the Information cannot be interpreted in the present case to mean that if another tool was to have been discovered stolen during the course of investigation, it would be eliminated from the State’s

case. This could be a *conceivable* issue if the Defendant was surprised by the sudden disclosure the day of trial that an additional \$2,000.00 of tools came up as missing. That is not the case here. Trial counsel received the “Restitution Packet” (*Exhibit 3*), a number of weeks prior to trial. This “Restitution Packet” included a full accounting of the items that the Defendant stole. *See Appendix B.*

Charging documents which are not challenged until after the verdict will be more liberally construed in favor of validity than those challenged before or during trial. *Kjorsvik*, 117 Wn.2d at 102. A different standard of review should be applied when no challenge to the charging document has been raised at or before trial because otherwise the defendant has no incentive to timely make such a challenge, since it might only result in an amendment or a dismissal potentially followed by a refile of the charge. *Id.* Applying a more liberal construction on appeal discourages “sandbagging.” *Id.* This is a potential defense practice wherein the defendant recognizes a defect in the charging document but foregoes raising it before trial when a successful objection would usually result only in an amendment of the pleading. *Id.*

Washington has adopted the federal standard of review for challenges to charging documents laid out in *Hagner v. United States*, 285 U.S. 427, 433 (1932) with some additions. *Id.* at 104. The standard of

review set out in *Hagner* was as follows- “Upon a proceeding after verdict at least, no prejudice being shown, it is enough that the necessary facts appear in any form, or by fair construction can be found within the terms of the indictment.” *Id.* at 104 citing *Hagner*, 285 U.S. at 433. *Kjorsvik* also added an essential elements prong and an inquiry into whether there was actual prejudice. *Id.* at 105.

A two-prong test is to be applied when a charging document is challenged for the first time on appeal. *Id.* The first prong- the liberal construction of the charging document language- looks to the face of the document. *Id.* at 106. The construction is often asked as “do the necessary facts appear in any form, or by fair construction can they be found, in the charging document?” *Id.* at 105. The second prong looks beyond the charging document to determine if the accused actually received notice of the charges he or she must have been prepared to defend against. *Id.* Put another way, “can the defendant show that he or she was nonetheless actually prejudiced by the inartful [*sic*] language which caused a lack of notice?” *Id.*

Appellant never challenged the charging document until this appeal. Therefore, Appellant must show that he had no notice of the allegations and could not prepare a defense. The Defense cannot do this. The initial probable cause statement that was filed with the Information

noted all of the items in the Information, as well as “Triangular Shaped Sander, Blue in Color.” CP 4, 5. The “restitution packet” was received and disclosed to the defense on February 9th 2017.

The defendant was on notice as to the charge the State was making: that the Defendant stole a number of Kevin Bowling’s tools, and that the value of these items exceeded \$750.

The State is required to include all essential elements of the charge in the charging document. *Kjorsvik*, 117 Wn.2d at 97. The State did this here when it alleged that the Defendant wrongfully obtained or exerted unauthorized control of another’s property in an amount exceeding \$750. The State included “to wit” language including some of the stolen items so that the Defendant was on notice that he was charged with the Theft Second related to the burglary of Kevin Bowling and various tools.

There is no reason to believe that the Defendant was not appraised with reasonable certainty as to the charges against him. This was satisfied by a charging document in which the charging language was correct, and the crime was defined with reasonable certainty within the statute. *State v. Merrill*, 23 Wn.App. 577, 580, 597 P.2d 446 (Div.3, 1979). Therefore, both “prongs” as described in *Kjorsvik* dictate that there was no error in the charging document.

Even if the State was restricted to only presenting evidence of the precise items mentioned in the Information- there was testimony in the form of Exhibit 3 that this quantity totaled \$783.00 in value. (Chainsaw, Dremel Saw, 12 Amp Saw, Portable Dewalt Drill, Senco Nail Gun, Cordless Hammer Drill, Drive Band Impact Tool). This combined value exceeds the \$750.00 barrier to prove Theft in the Second Degree.

B. There was Sufficient Evidence to Convict the Defendant of Theft in the Second Degree

The standard of review on a challenge to the sufficiency of evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992); *State v. Mines*, 163 Wn.2d 387, 391, 179 P.3d 835 (2008); *State v. McPherson*, 111 Wn.App. 747, 756, 46 P.3d 284 (Div. 3, 2002). When the sufficiency of evidence is challenged on appeal, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. *Salinas*, 119 Wn.2d at 201; *McPherson*, 111 Wn.App. at 756. A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be

drawn therefrom. *Salinas*, 119 Wn.2d at 201; *Mines*, 163 Wn.2d at 391; *McPherson*, 111 Wn.App. at 756.

The evidence in this case was sufficient for a rational trier of fact to find that the Defendant stole a number of items that belonged to Kevin Bowling, and that the combined value exceeded \$750.

The Defense position is essentially that the victim did not adequately describe the condition of his various tools, and that the estimation of the replacement value for the chainsaw was faulty, because the reviewing Court must assume that the true value of the chainsaw was much lower than the replacement value. *Appellate Br. 12 through 19*. The testimony presented in this case regarding the value of the tools, was presented by the individual who was most familiar with them- the owner Kevin Bowling. Kevin Bowling testified that his tools were in good condition, and that they were mostly new. *Cf. State v. Ehrhardt*, 167 Wn. App. 934, 945–46, 276 P.3d 332, 338 (2012).

He testified that after he was through using tools, he would place them back where they belonged in his shop. He provided an original receipt for the price of his stolen Stihl chainsaw. There was no evidence that was presented that would indicate there was any significant diminution of value for these items.

The estimates that were used for replacing these items, was the actual cost of replacing them on the open market. This was calculated by Kevin Bowling by looking on Home Depot and Sears for the exact model numbers that had been stolen. Time dated printouts confirming this research was shown to the jury in the form of Exhibit 3. Sales prices or advertised prices of items are a permissible method of establishing market value. *State v. Kleist*, 126 Wn.2d 432, 440, 895 P.2d 398, 402 (1995).

The Defense argues that the valuation for the stolen chainsaw should not have been at the full retail price, because the item was used and there was no accompanying estimate on its replacement cost. However, the situation is different here, because unlike in the case of *State v. Morely*, the item in question here was not new to being with. According to the receipt in Exhibit 3, it was purchased in an Omak pawn shop in 2011. *Cf. State v. Morley*, 119 Wn. App. 939, 944, 83 P.3d 1023, 1025 (2004)

However, even if the reviewing Court was to assume that the market value for the good condition used chainsaw was an illogical fraction of the stated \$242 value, this would not change the outcome at trial. The total value of the thefts in this case does not hinge on valuation of this one item. If the jury was to consider the chainsaw's value at just

\$24, (10% of its purchased value), the total aggregate of items stolen still exceeds the required minimum of \$750.

No evidence was presented that would indicate that these were unreliable, inflated, or inaccurate estimates. The jury was the trier of fact for this case. It was in the jury's domain to determine whether or not the valuation completed by Kevin Bowling was sufficient. *State v. Longshore*, 141 Wn.2d 414, 430, 5 P.3d 1256, 1264 (2000). The question for the Court on review is whether a rational trier of fact, viewing evidence most favorably for the State, could find that the Defendant stole a combination of items that exceeded \$750 in value. The un rebutted evidence dictates that the answer is yes, and that the Defendant's conviction for Theft in the Second Degree must be affirmed.

C. The Defendant Received Effective Assistance of Counsel.

The Defense on appeal argues that trial counsel, Jason Wargin, was ineffective because he chose not to object to the admission of Exhibit 3. Exhibit 3 is the contents of a "restitution packet" that victim Kevin Bowling created. *See Appendix B*. The contents of the restitution packet were a summary of items that Kevin Bowling identified as stolen, along with estimates of their values. Standing alone, the Exhibit is indeed

hearsay under ER 801. He completed this packet about 10 weeks prior to the trial.

Our courts strongly presume that trial counsel's representation was effective. *State vs. McFarland*, 127 Wn.2d 322, 899 P.2d 1251 (1995). The burden is on the Defendant to overcome the strong presumption of competency and to show deficient representation. *McFarland* at 335. The presumption of effective assistance cannot be rebutted if trial counsel's conduct can be characterized as legitimate trial strategy or tactic. *State v. Mak*, 105 Wn.2d 692, 731, 718 P.2d 407 (1986), cert. denied, 479 U.S. 995, 107 S.Ct. 599, 93 L.Ed.2d 599 (1986); *State v. Lord*, 117 Wn.2d 829, 885, 822 P.2d 177 (1991).

The defendant must show that (1) defense counsel's representation was deficient, i.e., it fell below an objective standard of reasonableness based on consideration of all the circumstances; and (2) defense counsel's deficient representation prejudiced the defendant, i.e., there is a reasonable probability that, but for counsel's errors, the result of the proceedings would have been different." *McFarland*, 127 Wn.2d at 334-35; *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct.2052, 80 L.Ed.2d 674, reh'g denied, 467 U.S. 1267, 104 S.Ct.3562, 82 L.Ed2d 864 (1984).

The first prong requires a showing of errors so serious that counsel was not functioning as "counsel" guaranteed by the Sixth Amendment.

The second prong requires a showing that counsel's errors were so serious as to deprive the defendant of a trial whose result is reliable. *Strickland* at 694.

A defendant is not denied effective assistance of counsel where the record as a whole shows that he or she received effective representation and a fair trial. *State v. Smith*, 104 Wn.2d 497, 511, 707 P.2d 1306 (1985). Rather, the defendant must make "an affirmative showing of actual prejudice" demonstrating a manifest constitutional error. *McFarland* at 334, 338 (n. 2, citing, RAP 2.5(a)(3)).

In determining whether defense counsel was deficient, the court must make every effort to eliminate the distorting effects of hindsight and must strongly presume that counsel's conduct constituted sound trial strategy. *Strickland* 466 U.S. at 689, see also, *State v. Brett*, 126 Wn.2d 136, 198, 892 P.2d 29 (1995).

The State believes that trial counsel made a tactical decision not to object to the admission of Exhibit 3. If defense trial counsel had objected to the admission of this Exhibit, and the objection was sustained- the State would have simply asked Kevin Bowling in line item detail about what was stolen, how much the items cost, and how he determined that amount. If Kevin Bowling could not recollect something, he would refresh his recollection using Exhibit number 3. Kevin Bowling personally

completed this “restitution packet” himself in February of 2017, and there is every reason to believe that the substance of this packet would have been elicited through this witness. That substance would be testimony of the various items that were stolen, along with Kevin Bowling’s research as to their values. He would have explained to the jury that he went online to stores such as Home Depot in January of 2017, and took note of the value of his stolen property. *See Appendix B.* The jury would thus be exposed to the exact same evidence, by the individual (Kevin Bowling), who authenticated exhibit 3. This evidence supported a valuation of stolen property that well-exceeded \$750. The Second “prong” of *Strickland* would not be met because the trial outcome would likely have been identical.

If the reviewing Court views the totality of testimony for this trial, it is apparent that the Defense strategy was not to attack the credibility of the victim, Kevin Bowling. No argument was made as to whether or not Kevin Bowling misreported items, or necessarily miscalculated their values. The Defense strategy for this component of the Theft Second Degree count was to briefly suggest to the jury during Closing Statements that it might be possible that the stolen items could have been purchased for less, if an individual was to shop for the items at sources such as Ebay. *RP 274.*

The Defense strategy was to challenge the integrity of the investigation as a whole, and attack all of the charges. This was done by emphasizing that one of the investigating officer's (Brien) was the victim's (Kevin Bowling's) son. The Defense in turn challenged the veracity of the Defendant's unrecorded confession to Brien Bowling. Attention was then drawn to the fact that one of the State's witnesses, Malynda Fry, was using methamphetamine at the time she reported seeing the Defendant.

The defense strategy was not to focus on attacking the credibility of the victim, Kevin Bowling. If the defense was to object to the admission of Exhibit number 3, the result would be a lengthy questioning of Kevin Bowling, the victim of the crime and the local fire chief. He would recount in detail the items that he lost, and how he searched online to determine their values, and would then state that he reported these values to the police and prosecutor in the form of a restitution packet. This kind of testimony would tend to help the State's case, as it would show that the investigation was properly handled and documented.

In the present case, the Appellant has failed to demonstrate that counsel's representation was deficient in any way. There is no reasonable probability that, but for trial counsel's decision to forgo a questionable objection, the result of the trial would have been different. The Defense

has failed to demonstrate that trial counsel's performance was not based on legitimate strategy or that the allegedly deficient performance prejudiced the Defendant. Both of these two prongs must be met for an ineffective assistance argument to prevail. *See State v. McFarland*, 127 Wn.2d 322, 334-335, 899 P.2d 1251 (1995). Both prongs have not been met.

Because the Defendant cannot demonstrate that trial counsel's actions were not based on legitimate trial strategy, or that any alleged error affected the outcome of the trial, this court should affirm the Appellant's conviction.

D. The Defendant was Sentenced Appropriately

The Defendant was convicted for two unrelated cause numbers, on two different days, by two different juries. In both cases, 17-1-00040-8 and 17-1-00039-4, the presiding Judge was Christopher Culp. For scheduling purposes, it was decided to that 17-1-00040-8 should be heard on the date that was previously scheduled for sentencing, 17-1-00039-4.

RP 289

The Defendant argues that because sentencing for these cause numbers happened to occur at the same time, that it was error for the sentences to not run concurrently. The State would agree that there *would* have been error had these cause numbers been current offenses. In that

case a finding under RCW 9.94A.589 is necessary. However, the offenses here are not current offenses. They different crimes that occurred on separate days. They were charged under separate cause numbers, and ultimately the cases were decided by different juries. This was acknowledged by the sentencing Judge, RP 303 - RP 304.

The Defense relies primarily on *In Re Finstad* to support the argument that both cause numbers are current offenses. *In re Finstad*, 177 Wn.2d 501, 505, 301 P.3d 450, 452 (2013). The distinction is that *Finstad* involved a scenario where there was a plea agreement, and the Defendant plead guilty in four separate cause numbers, and was sentenced on the same day according to a plea agreement.

In the current case, it just happened that for scheduling purposes the two cause numbers were addressed on the same day. That made sense given that trial counsel and the Court were available. Although the cases happened to be addressed on the same day for sentencing, this alone is not sufficient for a reviewing Court to determine that the trial Court erred when the trial court concluded that these events were distinct, and thus should have been sentenced (and scored) separately.

Even if the reviewing Court was to rely on *Finstad* to the extent that it found error to not consider the two cause numbers current offenses, this error would not be a Constitutional error.

In this case, the trial court's failure to make the finding appears to us to be nonconstitutional error. Accordingly, Finstad would be entitled to relief only if he establishes he has suffered from a complete miscarriage of justice. [internal cites omitted]. But even assuming that this error was of constitutional magnitude under Blakely v. Washington, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004), Finstad still must show actual and substantial prejudice flowing from that error...Any error here could have been avoided by simply scheduling the entry of the pleas for two successive days. Actual and substantial prejudice is made of sterner stuff.

In re Finstad, 177 Wn.2d 501, 508–09, 301 P.3d 450, 453–54 (2013)

Like Finstad, if there was an error with the Defendant's two cases, it would have been addressed by simply scheduling sentencing hearings on two different days. (which would have been less convenient for the parties and Defendant). This is not an error (and the State does not concede error) of Constitutional magnitude. Because there is no actual and substantial prejudice from any error, the Court should affirm the Trial Court's sentence.

CONCLUSION

For the aforementioned reasons, the State asks that this Court affirm the Defendant's conviction and sentence.

Dated this 14th day of May, 2018

Respectfully Submitted:



Leif Drangsholt, WSBA #46771
Deputy Prosecuting Attorney
Okanogan County, Washington

Appendix A:

Information and Probable Cause Document:

17-1-00040-8

FILED

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CHARLEEN GARDNER
OKANOGAN COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF OKANOGAN

STATE OF WASHINGTON,

Plaintiff,

vs.

BRANDON WILLIAM CATE,

Defendant

NO. 17-1-00040-8

INFORMATION

KARL F. SLOAN, Prosecuting Attorney in and for the County of Okanogan,
Washington by this INFORMATION, accuses the Defendant above-named of the
crime(s) committed as follows:

COUNT NO. 1

RCW 9A.52.030(1) ~ Burglary in the Second Degree

On or about January 7th 2017, in the County of Okanogan, State of Washington, the
above-named Defendant with intent to commit a crime against a person or property
therein, entered or remained unlawfully in the building of Kevin Bowling, located at 729
E. Dewberry Avenue, Omak; contrary to Revised Code of Washington 9A.52.030(1).

Maximum Penalty -- Ten (10) years imprisonment and/or a \$20,000.00 fine pursuant to
RCW 9A.52.030(2) and RCW 9A.20.021(1)(b), plus restitution and assessments.

INFORMATION-1

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COUNT NO. 2

RCW 9A.56.040(1)(a) and RCW 9A.56.020(1)(a) ~ Theft in the Second Degree -- Other than a Firearm -- Wrongfully Obtain or Exert Unauthorized Control

On or about January 7th 2017, in the County of Okanogan, State of Washington, the above-named Defendant did wrongfully obtain or exert unauthorized control over property, other than a firearm, as defined in RCW 9A.41.010, or services of another, to-wit: Stihl MS170 Chainsaw, Dremel Max Saw, 12 Amp Skill Saw, Portable Dewalt Drill with charger, Senco Nail gun, Craftsman Corded Hammer Drill, Drive brand compressed air impact tool, of a combined value exceeding \$750 but less than \$5,000, with intent to deprive such other of such property or services; contrary to Revised Code of Washington 9A.56.040(1)(a) and 9A.56.020(1)(a).

Maximum Penalty -- Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW 9A.56.040(2) and RCW 9A.20.021(1)(c), plus restitution and assessments.

COUNT NO. 3

RCW 9A.48.090(1)(a) ~ Malicious Mischief in the Third Degree

On or about January 7th 2017, in the County of Okanogan, State of Washington, the above-named Defendant did knowingly and maliciously cause physical damage of \$750 or less to the property of another; contrary to Revised Code of Washington 9A.48.090(1)(a).

Maximum Penalty—Three Hundred Sixty-Four (364) days in jail or \$5,000 fine, or both pursuant to RCW 9A.20.021 (2), plus restitution, assessments and court costs.

COUNT NO. 4

RCW 9A.52.030(1) ~ Burglary in the Second Degree

On or about January 8th 2017, in the County of Okanogan, State of Washington, the above-named Defendant with intent to commit a crime against a person or property therein, entered or remained unlawfully in the building of Frank Lay, located at 127 Benton Street, Omak; contrary to Revised Code of Washington 9A.52.030(1).

Maximum Penalty -- Ten (10) years imprisonment and/or a \$20,000.00 fine pursuant to RCW 9A.52.030(2) and RCW 9A.20.021(1)(b), plus restitution and assessments.

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COUNT NO. 5

RCW 9A.56.050 ~ Theft in the Third Degree

On or about January 8th 2017, in the County of Okanogan, State of Washington, the above-named Defendant did wrongfully obtain or exert unauthorized control over property, other than a firearm, as defined in RCW 9.41.010, or services of another, of a value less than \$750, with intent to deprive such other of such property or services; contrary to Revised Code of Washington 9A.56.040(1)(a) and 9A.56.020(1)(a).

Maximum Penalty – 364 days confinement and/or a \$5,000 fine pursuant to RCW 9A.56.050 and RCW 9A.20.021(2), plus restitution and assessments.

DATED this 31st day of January, 2017

KARL F. SLOAN
Prosecuting Attorney
Okanogan County, Washington

By: 
Leif Drangsholt WSBA# 46771
Criminal Deputy Prosecutor

FILED

2017 FEB -1 AM 8:43

CHARLEEN GILSONES
OKANOGAN COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF OKANOGAN

STATE OF WASHINGTON,

Plaintiff,

vs.

BRANDON WILLIAM CATE

Defendant

NO. 17-1-00040-8

DECLARATION FOR PROBABLE
CAUSE

Under penalty of perjury of the laws of the State of Washington, the undersigned hereby declares:

1. That I am a Criminal Deputy Prosecutor for this County and make this declaration in that capacity;

2. That I am familiar with the police reports and investigation conducted on this case;

3. That the information contained herein was received from Officer Brien R. Bowling of the Omak City Police Department.

4. That probable cause exists that the Defendant committed the crime(s) as set forth in the filed Information, based on the following facts and circumstances: Please see attached report of Officer Bowling.

5. Physical description of Defendant:

DOB: 10/06/1986; White Male: HEIGHT: 5'10"; WEIGHT: 150 lbs.; EYES: Brown; HAIR: Brown.

SID # WA22482533

DOL# CATE8BW140PF

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PCN#

FBI # 523599FC1

JUVIS #

DATED this 31st day of January, 2017

KARL F. SLOAN
Prosecuting Attorney
Okanogan County, Washington

By: 
Leif Drangsholt WSBA# 46771
Criminal Deputy Prosecutor

The above individual was arrested for the listed charges based upon the following facts and circumstances:

Officer Schaefer report

On 1/7/17 at 1000 hrs, I was contacted about a Burglary at 729 E. Dewberry Ave. I contacted victim, Kevin Bowling who stated he was going to one of his garages and noticed items sitting on the back side of the garage north west side of his property. Kevin said he looked and saw the window had been broken. Kevin entered his garage and found several items missing. Here is a list of damaged/stolen items:

Stihl Chainsaw MS170 16" Bar w/case SN 285417630	\$300.00
Dremel Saw Max	\$100.00
Triangular Shaped Sander, Blue in color	\$100.00
12 Amp Skill Saw w/soft case	\$100.00
Senco Nail Gun w/case	\$200.00
1/2 " Dewalt portable Drill w/ case and charger	\$200.00
Craftsman Corded Hammer Drill	\$150.00
3" Cut off tool, air operated w/spare blades	\$150.00
1/2 " Drive, compressed air Impact Tool	\$200.00
Broken vinyl Window	\$150.00

There were shoe prints in the snow, but snow had filled the prints due to wind. There was no shoe prints inside the garage. I followed the outside shoe prints and they stopped on the road by the Elderberry apartments. Over by the the garage on the east side of the property there was a usable partial shoe print. A photograph was taken and added to the case file. It appears as if the suspect jumped the fence on the north east side of the property into a covered area that had sand on the ground. The suspect then walked on a cleared path in the grass to the garage on the west side of the property where the subject broke a window in the garage and entered.

Officer Bowling's probable cause

On January 27, 2017 I received information Brandon Cate was responsible this incident.

With this information in mind I thought of this case. I knew Brandon to have a warrant for his arrest and that he frequently stays at 320 railroad Ave. Brandon was located and placed in custody for the warrant. I transported Brandon to Omak Police Department where I advised Brandon of his Miranda Rights, which he understood and wished to speak to me. I told Brandon I had received information that he was involved with this incident. Brandon told me he was walking near the end of Elderberry Ave. near the North Valley II apartments. Brandon said he was looking for a gas can to steal so he could steal some gas from vehicles parked at the apartments. Brandon said he stepped over a wire fence near the north east corner of a garage at 729 E. Dewberry. Brandon said he saw a lawn mower under a covered area. Brandon said he could not find a gas can and saw that

INCIDENT NUMBER: K17-0074

PAGE 2

a pathway in the snow had been shoveled from the covered area to a small shop. Brandon said walked down the shoveled pathway and looked inside the shop window. Brandon said the door to the shop was locked and he could see a gas can inside. Brandon said he went to the window on the north side of the shop and tried to slide it open. Brandon said he was unable to slide the window open and broke the glass window in the process. Brandon said he entered the shop through the window to get the gas can. Brandon said once he was inside the shop he noticed expensive tools such as drills, air tools and a chain saw. Brandon said he took a few 5 gallon buckets from inside the shop and loaded the drills and other tools in the buckets. Brandon said he placed all the tools and a chain saw out side the window. Brandon said he was unsure how he was going to carry the items so he used a piece of hose to loop through the handles of the buckets and tool cases and pack over his shoulders. Brandon said he packed the items to Oak St. Park where he hid them. Brandon said he then found a wagon in someone's yard and took the wagon. Brandon said he loaded the items in the wagon and took them to a friend's house. Brandon said he was going to sell the tools but they were stolen from his friend's house before he could sell them.

With this information in mind I prepared a probable cause form for Brandon for the crimes of Burglary II for entering the building with the intent to commit theft. Theft II for the theft of the chain saw and tools that valued at about \$1500. Malicious mischief III for breaking the window that was valued at about \$150.

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

DATE/PLACE: 01/29/17 Omak Police Department

SIGNATURE: B. B. P.

INCIDENT NUMBER: K17-0074

PAGE 3

The above individual was arrested for the listed charges based upon the following facts and circumstances:

Officer Schaefer's report of incident

On 1/9/17 at 0830 hrs, I was contacted by Frank Lay DOB 2/19/59 saying his business, Omak Marine; 127 Benton St, had someone climb over the security fence. At this time Lay did not believe anything had been taken.

I arrived on scene and Lay informed me that he had reviewed some of the video surveillance, but does not know how to use the system well. I reviewed part of the video with Lay and it showed a male subject, wearing a white jacket and white face mask jump the security fence. It showed this subject run toward the business empty handed. It showed the subject go to the back of store. It later showed the subject in front of the store with gas cans, siphoning gas from the four wheelers on the lot. At this time we could not get a good view of the subject and Lay said he would attempt to get the video on a disk or thumb drive, so I could review it at a later time.

I went outside and followed the tracks. The subject went to the back of the store and grabbed some old gas cans, dumped out the old gas and then took the gas cans to the front of the building. Many of the quads and off road vehicle's had the gas caps removed. Near one of the quads that had been tampered with had a ball cap on the ground. Lay said that the hat belonged to the suspect because he could see the hat in part of the video. The tracks led back to the back of the building where it appears the subject left the two gas cans with gas in them on the corner of the building. The subject then goes back to the front and jumps the fence on the south east side of the building. It then appears that the subject walked to the open parking lot just to the north of the building and entered a truck. I photographed the partial foot prints and vehicle prints and added them to the case file.

The ball cap was placed into Omak evidence. I am sending the ball cap to the WSP Crime Lab to attempt a DNA match. Lay said the cost of stolen gas is estimated at \$50.00. Lay said the estimated cost to replace several lost gas caps is \$50.00.

Officer Bowling's Probable cause

On January 28, 2017 I received information that Brandon Cate was responsible for multiple recent thefts and Burglaries in the Omak Area. I knew Brandon to have a warrant for his arrest. I knew Brandon to frequent 320 Railroad Ave. and 415 Columbia.

I first when to 415 Columbia and attempted to make contact at the front door of the residence. I contacted a female who advised Brandon had been staying in a camp trailer just to the south of 415 Railroad. I saw a large red gas can and a clear plastic jug. I recognized these items from the video of this incident. The red gas can was like any other red gas can. The clear plastic jug was unique because of its size and shape.

INCIDENT NUMBER: K17-0098

PAGE 2

I contacted a female at the location who pointed to a camp trailer to the south of 415 Columbia and told me Brandon stays in the trailer. I contacted a female at the camp trailer who advised Brandon was not in the trailer and was at 320 Railroad Ave. I was given permission by the female to search the trailer and Brandon was not located. I then was able to locate Brandon at 320 Railroad Ave. the Gas can and clear jug were photographed. Brandon was transported to the Omak Police Department. Brandon was advised of his Miranda Rights, which he understood and wished to speak to me. I told Brandon he was a suspect in this incident. I pointed out to Brandon that the gas can and clear jug were located in front of the trailer he has been staying at. I then showed Brandon the picture of the suspect in the case that Frank had provided Officer Schaefer. Brandon then told me he was the male in the picture. Brandon told me he did climb the fence to the location in search of gas to steal. Brandon said he walked around the back of the building in search of a gas can. Brandon said he located two gas cans. Brandon said he then syphon the gas out of multiple ATVs and left the location.

Brandon told me he was stealing gas because he had an old Bath tub that he was to sell to someone in the Tonasket area. Brandon said he was supposed to get \$2500 for the tub. Brandon said he needed gas to put into a friends vehicle so he could deliver the bathtub.

With this information in mind I prepared a probable cause form for Brandon for the crimes of Burglary II and Theft III Because Brandon did enter or remain on the property by climbing the security fence with the intent to commit the theft of gas.

Due to the fact I was working overtime, Brandon was transported to Okanogan County Jail where he was booked on his warrant. I then delivered the probable cause form to the jail on January 29 and applied the above mentioned charges to Brandon.

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

DATE/PLACE: ^{01/29/17}~~03/16/15~~ Omak Police Department

SIGNATURE: 

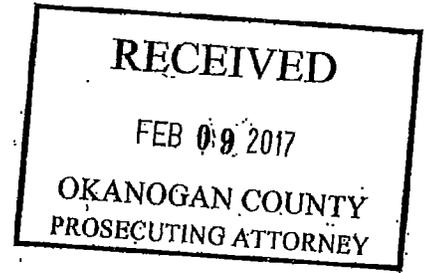
INCIDENT NUMBER: K17-0098

PAGE 3

Appendix B:

Restitution Packet

KARL F. SLOAN
Okanogan County Prosecuting Attorney
P. O. Box 1130/237 N. 4th St.
Okanogan, WA. 98840
(509) 422-7280
TTY/VOICE USE 1 (800) 833-6388



VICTIM'S RESTITUTION ESTIMATE

NAME: Kevin Bowling

PAYABLE TO: Kevin Bowling

ADDRESS: 729 E. Dewberry Omak WA 98841
(Mailing Address)

PHONE: [REDACTED] (509) 826-0760 [REDACTED]
(Home) (Work) (Message) Cell

Redacted

RE: STATE V BRANDON WILLIAM CATE

CAUSE NO.

DATE OF CRIME: On or about 1/30/2017 12:00:00 AM

The Defendant, if found guilty, and/or convicted, may challenge any of your figures. In order for the Prosecutor to clearly present your loss to the Court, PLEASE INCLUDE COPIES OF ANY PURCHASES OR REPAIR RECEIPTS AND VALUE OF DAMAGED OR STOLEN ITEMS, AND MEDICAL OR OTHER BILLS, OR ANY OTHER DOCUMENTATION IN ORDER TO VERIFY YOUR CLAIM FOR RESTITUTION.

PLEASE NOTE: IF THIS IS NOT DONE, WE CANNOT PROCESS YOUR CLAIM.

I declare Under Penalty of Perjury Under the Laws of the State of Washington that the Attached Information is True and Correct:

KB Signature of Victim 2-2-17 Date

PLEASE COMPLETE THE ENCLOSED FORMS AND RETURN THEM TO THIS OFFICE BY February 27, 2017.

PROPERTY LOSS/DAMAGE/ DAÑOS DE PERDIDA A PROPIEDAD

1. PROPERTY LOSS/ PÉRDIDA DE PROPIEDAD

A. List items not recovered and actual cash value: (Please include copies of bills and receipts for basis of determining value).

A. Lista de artículos no recuperados y valor actual (Favor de incluir copias de factura y recibos para determinar el valor).

_____	\$ _____
_____	\$ _____
See attached	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL:	\$ <u>1,149.24</u>

B. List items recovered and/or returned to you, who returned it to you, and the date. Also note any damaged property that was returned to you and the value or repair cost.

B. Incluya artículos recuperados y/o regresados a usted, quien los regresó a usted, y la fecha. Anote cualquier daño a su propiedad que fue regresado a usted, y el valor o costo para repararlo.

NA	

2. PROPERTY DAMAGE/ DAÑOS A PROPIEDAD:

A. List and describe property damage and dollar amount of repair or replacement. (Include copies of repair estimates and actual repair or replacement bills and receipts):

A. Incluya y describa daños a su propiedad y cantidad monetaria para reparar o reemplazar. (Incluya copias del estimado de reparación y la factura o recibo actual de reparación o reemplazo)

Broken Window + Screen	\$ <u>107⁶⁰</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total:	\$ <u>107⁶⁰</u> estimate attached

OTHER MONETARY LOSS/OTRA PERDIDAS MONETARIAS

Itemize and place value on each, i.e. loss of work, personal property damage, etc.

Detalle y coloque valor por cada cosa, por ejemplo, pérdida de trabajo, daños a propiedad privada, etc.

Spec	estimate	\$	2
		\$	00
		\$	
		\$	
	see attached	\$	
TOTAL:		\$	

PLEASE PROVIDE VERIFICATION FOR ALL LOSSES, I.E. COPIES OF BILLS RECEIPTS, ITEMIZED STATEMENTS, ETC. OR WE WILL BE UNABLE TO PROCESS YOUR CLAIM.

POR FAVOR DE PROVEER VERIFICACION PARA CADA PERDIDA, POR EJEMPLO COPIAS DE FACTURA, RECIBOS, DECLARACIONES DETALLADAS, ETC. O NO PODREMOS PROCESAR SU RECLAMO.

PROPERTY INSURANCE/ASEGURANZA DE PROPIEDAD

Do you have insurance for this loss? Yes with \$1,000.00 deductible
Tiene usted aseguranza para esta pérdida Yes/No No/No

*If yes, complete 1 through 7
*Si sí, complete del 1 a 7

Did you report this loss to your insurance company? Yes
Usted reporto esta pérdida a su compañía de aseguranza? Yes/No No/No

If no, why not? But did not file claim because we have \$1,000 deductible
Si no, porque no? and was told by ins co that if we filed we would loose
our "No claim discount"

Name of Insurance Company: State Farm
Nombre de la Compañía de Aseguranza

Address: P.O. Box 1845, Omak WA Phone No.: 509. 826-1860
Dirección: No. de Teléfono

Agent: Brian Evans Policy Number: 47-81-7717-8
Agente: No. de Póliza

Amount Insurance Company has paid or will pay: \$ 0 Amount of insurance deductible you have paid: \$ 0
Cantidad la compañía ha pagado/ pagara Deducible de Aseguranza

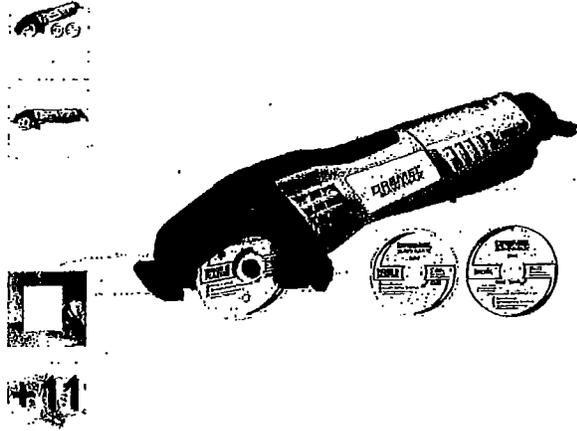
	Item Stolen	Approx Value
1	Craftmans Reciprocating Saw w/ soft carrying case	79.99
2	Senco Pneumatic Brad nailer w/ hard carryng case	99.98
3	Dewalt 20 Volt 1/2" Cordless Drill w/ hard carrying	199.00
4	Craftsman 1/2" Corded hammer drill w/hard carryn	80.00
5	Husky 3" cut off tool air operated	44.98
6	Ingersoll rand 1/2" Impact rool air operated	138.57
7	6/12 Volt battery Charger	85.95
8	Corded Dremel tool	59.00
9	Dremel Cutting tool	79.00
10	MS 170 16" Stihl Chainsaw with case	242.80
11	Sander (mouse style)	39.97
12	APPROX VALUE OF STOLEN ITEMS:	1,149.24
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14	*	

original
receipt

approx value based on advertised
replacement cost except chainsaw

Home / Tools & Hardware / Power Tools / Saws / Circular Saws

Model # SM20-03 Internet # 204331723 Store SKU # 1000014836
Store SO SKU # 1000110437



Dremel Saw-Max 6.0 Amp Corded Tool Kit with 2 Blades for Metal, Wood, and Plastic Cutting

★★★★★ (103) Write a Review Questions & Answers (39)

- 6 Amp motor with worm drive gearing for endurance
- Ideal for cutting through nearly any material including metal
- Includes 1 wood/plastic cutting blade and 1 metal cutting blade

Was \$99.00

\$79.00 /each

Save \$20.00 (20%)

LET'S PROTECT THIS.
Add a 2-year Home Depot Protection Plan for \$12.00
[Learn More](#)

Save to List

Quantity - 1 +

Pick Up In Store Today

We'll Ship It to You

Free store pickup at Omak

10 In stock

Aisle 13, Bay 002 Text to Me

[Change Pickup Store](#)

Free Shipping

Expect it
January 12

[See Shipping Options](#)

Or buy now with

We're unable to ship this item to:
GU,PR,VI

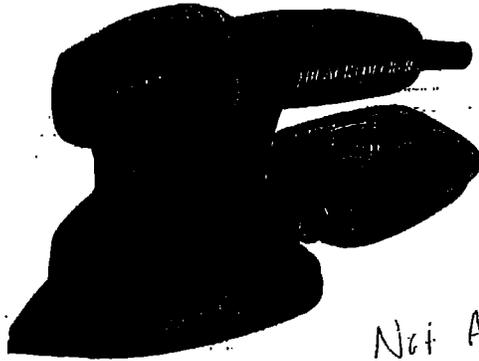
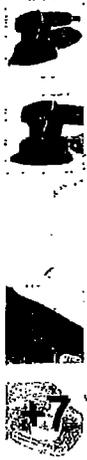
Schedule delivery as soon as
tomorrow

Product Overview



Home / Tools & Hardware / Power Tools / Sanders / Sheet Sanders

Model # BDEMS600 | Internet # 205545909 | Store SKU # 1001100024



BLACK+DECKER

Mouse 1.2 Amp Detail Sander

★★★★☆ (23) [Write a Review](#) [Questions & Answers \(2\)](#)

\$39.97 each

LET'S PROTECT THIS.
Add a 2-year Home Depot Protection Plan for \$7.00
[Learn More](#)

Not A mouse but

Similar Blue Bag

Quantity:

[Save to List](#)

Not In Your Store - We'll Ship It There

We'll Ship It to You

We'll send it to Omak for free pickup

Available for pickup
January 12 - January 17

[Change Pickup Store](#)

Free Shipping on \$45 order

Expect It
January 13

[See Shipping Options](#)

Or buy now with

We're unable to ship this item to:
AK, GU, HI, PR, VI

Schedule delivery as soon as tomorrow

Product Overview

The BLACK+DECKER BDEMS600 Mouse Sander is ideal for general sanding and sanding tight spaces. High performance dust collection with micro-filtration for a clean workspace. This sander is designed with a 3-position grip for control and ease of use in many applications.

- Includes finger attachment and sanding pad
- 14,000 OPM
- 3-position grip
- High performance dust collection
- Compact size to get into tight spots
- 2 year limited warranty
- [Click here for more information on Electronic Recycling Programs](#)

Info & Guides

- [SDS](#)
- [Use and Care Manual](#)
- [Warranty](#)

You will need Adobe® Acrobat® Reader to view PDF documents. [Download a free copy from the Adobe Web site.](#)

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My Local Ace: [Find your local Ace](#)

Search



Cart: 0 Items

[Shop](#) [Tools](#) [Power Tools](#) [Saws](#) [Jig / Reciprocal Saws](#)



Craftsman Orbital Reciprocating Saw 10.0 Amp 800-2700 SPM Variable Speed

Item no: 2285178 | 892042331114

\$79.99

(No reviews)

Be the first to [Write a Review](#)

800 Estimated [ACE Rewards points](#)

1

FREE Store Pickup! [Find my Ace.](#) (details)

[+ ADD TO CART](#)

[TO-DONE LIST](#)

at Your Local Ace

This item can be purchased on-line, however, due to shipping restrictions, ITEM PICKUP IS ONLY AVAILABLE AT YOUR LOCAL ACE STORE.

FREE STORE PICKUP



BUY ONLINE & PICKUP TODAY!

Description

Shipping

Returns

Amperage: 10 amps
Corded or Cordless: Corded
Product Type: Orbital Reciprocating Saw
Color Family: Black
Length of Stroke: 1.125 in.
Variable Speed: Yes
Adjustable Shoe: Yes

Home / Tools & Hardware / Air Compressors, Tools & Accessories / Nail Guns & Pneumatic Staple Guns / Finishing Nailers
Model # 9B0001N Internet # 205816550 Store SKU # 1001098932



Senco FinishPro 18BMg 18-Gauge Pneumatic Brad Nailer

★★★★★ (4) Write a Review Questions & Answers (1)

\$99.98 /each

Save to List

LET'S PROTECT THIS.
Add a 2-year Home Depot Protection Plan for \$12.00
[Learn More](#)

Quantity - 1 +

Not in Your Store - We'll Ship It There

We'll Ship It to You

We'll send it to Omak for free pickup

Available for pickup
January 12 - January 17

[Change Pickup Store](#)

Free Shipping

Expect it
January 12 - January 16

[See Shipping Options](#)

Or buy now with

We're unable to ship this item to:
AK, GU, HI, PR, VI

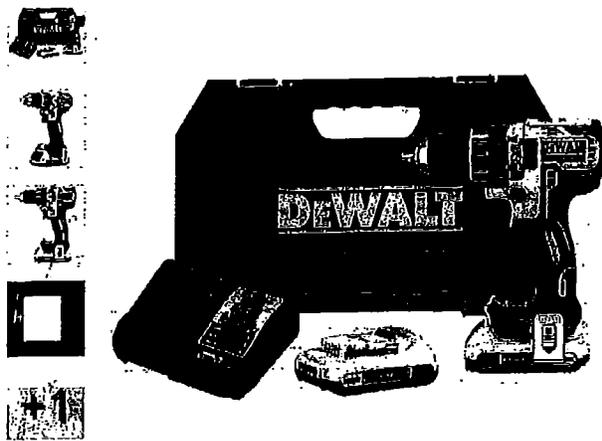
Easy returns in store and online
[Learn about our return policy](#)

Product Overview

Senco's FinishPro 18BMg is a full length 2-1/8 in. 18-Gauge brad nailer. It is designed to be extremely lightweight with a magnesium body, virtually maintenance free with its oil-free operation and is equipped with a nose mounted LED light to help illuminate dark work spaces. Additional features include a rotatable exhaust, rotatable belt hook, tool free depth of drive and a selectable trigger.

- Ultra lightweight-magnesium main body and cap
- Oil-free design eliminates the need for daily oiling
- Nose mounted LED light helps illuminate dark work spaces
- Rotatable belt hook
- Selectable trigger
- Tool free adjustable depth of drive
- Need help? [CLICK HERE](#) to view our Nail Gun Buying Guide

Home / Tools & Hardware / Power Tools / Drills / Drill/Drivers
 Model # DCD791D2 Internet # 206523964 Store SKU # 1001691814



Save to List

Pick Up In Store Today

Free store pickup at Omak

In stock

Aisle 14, Bay 005 Text to Me
 Change Pickup Store

Or buy now with

We're unable to ship this item to:
 AK, GU, HI, PR, VI

We'll Ship It to You

Free Shipping

Expect it
 January 12

See Shipping Options

Schedule delivery as soon as
 tomorrow

DEWALT
 20-Volt Max XR Lithium-Ion
 1/2 in. Cordless Brushless
 Compact Drill/Driver Kit

★★★★ (11) Write a Review Questions & Answers (17)

\$199.00 /each

LET'S PROTECT THIS.
 Add a 2-year Home Depot Protection Plan for \$25.00
 Learn More

Quantity +

Product Overview

The DEWALT DCD791D2 Drill Driver is ideal for most drilling and fastening applications on the jobsite or home. This drill features a DEWALT brushless motor delivers up to 57% more run time over brushed. Includes a kit box, 2 battery packs and a charger.

- XR Lithium-Ion batteries with fuel gauge provide 33% more capacity over standard packs
- Compact (6.9 in. front to back), lightweight (3.4 lb.) design fits into tight areas
- High speed transmission with 2-speed settings (0-550/0-2,000 RPM) delivers up to 30% faster application speeds
- Ergonomic comfort grip handle provides ideal balance and tool control
- Metal 1/2 in. ratcheting chuck for superior bit gripping strength
- 3-mode LED provides lighting in dark or confined spaces up to 20X brighter than previous model

Info & Guides

SDS

Use and Care Manual

Warranty

You will need Adobe® Acrobat® Reader to view PDF documents.
 Download a free copy from the Adobe Web site.

- 1. [Home](#)
- 2. [products](#)
- 3. [Power Tools](#)
- 4. [Corded Handheld Power Tools](#)
- 5. [Drills](#)

Craftsman 1/2 in. Corded Hammer Drill



Seans
\$ 80.00



Item # 00910137000P Model # 10137

Craftsman 1/2 in. Corded Hammer Drill

[Buy on Sears.com](#) [Find a store](#)

This 1/2 Inch Hammer Drill Is a Versatile Sears Exclusive

When the going gets tough, get out this **Craftsman Corded Hammer Drill** and get the job done. The 6.0 amp motor will power through your roughest challenges, in both rotary and rotary hammer modes. You can vary the speeds as you vary your materials, from 0-1000 RPM and 0 to 16,000 BPM. The drill features a single-sleeve keyless chuck for easy tightening and loosening. Use the trigger switch's lock-on button when you're really ready to power through.

The **1/2 inch hammer drill** switches from drill to hammer capabilities to maximize this tool's versatility. The spindle lock makes changing the bit quick and easy. Ball bearings make for smooth precise toolmanship. The grip handle with overmold is designed for comfortable use. An auxiliary handle gives you options for positioning, as does its adjustable depth stop rod. An indicator lights to show the tool is live to prevent accidents.

- This **Craftsman Corded Hammer Drill** has a six-foot cord for easy reach
- The powerful 6.0 amp motor will blast through your toughest jobs in both rotary and rotary hammer modes
- Change the speeds (0 to 1000 RPM; 0 - 16,000 BPM) to fit the materials you're working with
- A single-sleeve keyless chuck and a spindle lock makes changing bits simple and fast
- Ball bearing ensure precise operation
- The auxiliary handle with adjustable depth stop rod provides additional grip options to fit any project
- Lock-on the trigger switch when you're ready to rock this go-to drill

More Information

- [Return Policy](#)

Specifications

Dimensions:

Overall Dimensions 11.5L x 3w x 9h

Dimensions and Weight:

Chuck Size 1/2 in.

Product Overview:

Chuck Key Type Keyless

Number of Handles 1

Reversibility Yes

Hole Depth Control Depth Rod

Individual, Kit or Set Individual

RPM 0-1000

Variable Speed Yes

Hammer Action Yes

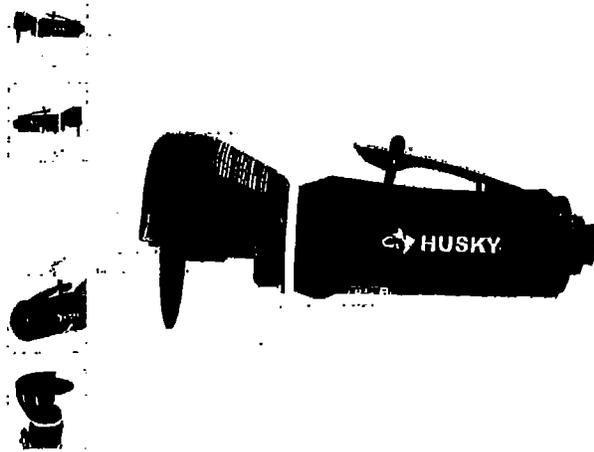
Included with Item:

Case Included Yes

Bits Included No

Cord:

Home / Tools & Hardware / Air Compressors, Tools & Accessories / Air Tools / Air Cut-Off Tools
Model # H4210 Internet # 203462127 Store SKU # 761288



Husky 3 in. Cut-Off Tool

★★★★ (11) Write a Review Questions & Answers (4)

\$44.98 /each

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In stock

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January 17

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Product Overview

The new Husky air tool line is built to industrial standards for the professional user providing more power, less noise and longer life. This new Husky 3 in. Cut-Off Tool features low weight housing with rubberized handle overmold for comfort. Precision bearings reduce vibration and spindle run-out and internal silencing greatly reduces tool noise. The tool operates at 20,000 RPM. Designed for cutting sheet metal, plastics, composites, siding, auto mufflers, bolts, screws and rivets. The large motor design provides ultimate stall resistance.
California residents: see Proposition 65 information

- 20,000 RPM free speed
- Precision bearings reduce vibration and spindle run-out
- Rubberized handle overmold for comfort
- Built-in silencing reduces noise level

Info & Guides

- [Installation Guide](#)
- [Instructions / Assembly](#)
- [Specification](#)
- [Use and Care Manual](#)
- [Warranty](#)

You will need Adobe® Acrobat® Reader to view PDF documents.
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Home / Tools & Hardware / Air Compressors, Tools & Accessories / Air Tools / Air Impact Wrenches

Model # 2100G Internet # 202885429



[Save to List](#)

Ingersoll Rand 1/2 in. Drive Composite Air Impactool

★★★★★ (3) [Write a Review](#) [Questions & Answers \(2\)](#)

\$138.57 /each

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Quantity [+](#) [-](#)

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Easy returns in store and online
[Learn about our return policy](#)

Product Overview

1/2 in. Drive - With a great power-to-weight ratio, the 2100G makes it comfortable to get the job done. Delivering 550 ft. lb. of maximum reverse torque and weighing only 4.3 lbs, this tool has what it takes to get you the results you need.

- Exclusive twin hammer impact mechanism
- Durable composite housing
- Variable speed trigger
- Handle exhaust
- Powerful 6-vane motor
- Forward power regulator
- 360 degree swivel inlet

Info & Guides

[Use and Care Manual](#)

You will need Adobe® Acrobat® Reader to view PDF documents.
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Battery Doc 6/12 Volt, 2/10/55 Ah Battery Charger with Engine Start

Item #: 20093 | In Stock

Be the first to [Write a Review](#)

Today's Price: \$85.95



- ✓ Best Value
- ✓ 100% Compatibility

✓ Brand New

SPECS

Product Specifications for Battery Doc 6/12 Volt, 2/10/55 Ah Battery Charger with Engine Start

SPECIFICATIONS:

BM Part #:	20093
Voltage:	6/12 Volt
Capacity:	2/10/55 Amp
Shipping Weight:	5.00Lbs
Warranty:	45 Day Return

WHAT'S IN THE BOX:

- (1x) Battery Doc charger with industrial grade, copper-plated alligator clamps.
- (1x) Flexible LED light for working in low lit areas.
- (1x) Owner's manual.

FEATURES:

- For use on lead-acid, gel cell, and deep cycle marine/RV batteries.
- **Charging Modes:**
 - Automatic: 12 Volt, 10 Amp
 - Manual: 12 Volt, 55/2 Amp; 6 Volt, 10 Amp
- 55 Amp engine start for emergency starting.
- 10 amp, 6/12 fast charge for everyday charging needs.

Home / Tools & Hardware / Power Tools / Power Multi Tools / Rotary Tools
Model # 3000-1/28H Internet #203040434 Store SKU #393356



Dremel 3000 Series 1.2 Amp 1/8 in. Corded Variable Speed Rotary Tool Kit with 28 Accessories

★★★★☆ (199) Write a Review Questions & Answers (74)

- Can be used with all Dremel rotary tool accessories
- Ideal for cutting, sanding, grinding, polishing, carving and more
- Includes 1 attachment, 25 accessories, tool and accessory cases

Was \$69.00

\$59.00 /each

Save \$10.00 (14%)

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[See Shipping Options](#)

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Product Overview



D & R
GLASSWORKS
HOME & AUTO

WORK ORDER
INVOICE
7411

Tax I.D. No. 20-3780177
Contr. Lic. No. DRGLARG9480G

513 Okoma Drive
Omak, Washington 98841

Office: 509-828-1728

Estimate

Name Kevin Bowling		Date of Order 02-01-2017
Address 729 East Brewberry Omak WA 98841		Res. Phone 509-822-4353
Insurance Co./Agent		Bus. Phone
Address		Policy No.
Delivery Directions		Year/Make/ Model
PO. No.	Delivery Date	Sold By

QTY	DESCRIPTION	AMOUNT
1	repair Vent Section of single pane window 16x33 ss.	14 54
1	16 1/2 x 34 1/2 x 5/16 white Screen bar pulls on short No spring S	20 00

STATEMENT OF AUTHORIZATION AND SATISFACTION
Replacement has been made to my satisfaction and I hereby authorize the above insurance company to pay direct in full to the above listed firm for said installation. If for any reason the insurance company does not pay for these repairs or replacements, the below signed agrees to pay for said repairs or replacement Balance due in 30 days; 1 1/2% interest charged per month on all past due accounts. Minimum interest charge \$5.00 per month.

Signature _____

Received By _____ Date _____

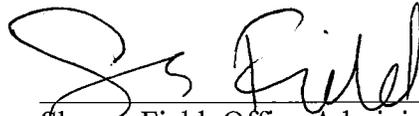
Total Material	
Total Labor	65 00
8.1% Tax	99 54
Sub Total	8 06
<input type="checkbox"/> Deposit <input type="checkbox"/> Deductible	
TOTAL	107 60

PROOF OF SERVICE

I, Shauna Field, do hereby certify under penalty of perjury that on the 14th day of May, 2018, I provided email service to the following by prior agreement (as indicated), a true and correct copy of the Amended Brief of Respondent:

E-mail: Kristina@ewalaw.com
Jill@ewalaw.com
Admin@ewalaw.com

Kristina M. Nichols
Nichols and Reuter, PLLC
PO Box 19203
Spokane, WA 99219

A handwritten signature in cursive script that reads "Shauna Field". The signature is written in black ink and is positioned above a horizontal line.

Shauna Field, Office Administrator

BRANDEN E. PLATTER
Okanogan County Prosecuting Attorney
P. O. Box 1130 • 237 Fourth Avenue N.
Okanogan, WA 98840
(509) 422-7280 FAX: (509) 422-7290

OKANOGAN COUNTY PROSECUTING ATTORNEY'S OFFICE

May 14, 2018 - 4:45 PM

Transmittal Information

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Appellate Court Case Number: 35231-5
Appellate Court Case Title: State of Washington v. Brandon William Cate
Superior Court Case Number: 17-1-00040-8

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