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Division III  
State of Washington  
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

No. 35587-0-III

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STATE OF WASHINGTON, Respondent,

v.

KYLE LIGHT, Appellant.

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**APPELLANT'S BRIEF**

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## **I. INTRODUCTION**

The State charged Kyle Light with burglarizing his brother's home and stealing a firearm from his bedroom. At trial, Light attempted to testify to an alibi defense but because his defense lawyer had not disclosed an alibi defense prior to trial, the court sustained the State's objection to the testimony and the alibi defense was disallowed. The State also introduced a number of hearsay statements made by Light's brother. Although the statements could have been admissible for impeachment purposes, Light's attorney did not object to the statements and did not request a limiting instruction that the statements not be admissible as substantive evidence. Following his convictions, the trial court imposed \$3,043 in legal financial obligations ("LFOs") before inquiring solely into whether Light was able-bodied, with no objection from Light's attorney. These deficiencies amounted to ineffective assistance of counsel that prejudiced Light's right to a fair trial and sentencing.

## **II. ASSIGNMENTS OF ERROR**

**ASSIGNMENT OF ERROR NO. 1:** Light received ineffective assistance of counsel when his attorney failed to investigate and disclose his alibi defense prior to trial.

ASSIGNMENT OF ERROR NO. 2: Light received ineffective assistance of counsel when his attorney failed to object to the use of hearsay as substantive evidence of the crime and did not request a limiting instruction that the evidence could only be used for impeachment purposes.

ASSIGNMETN OF ERROR NO. 3: Light received ineffective assistance of counsel when his attorney failed to object to the imposition of substantial discretionary legal financial obligations without an adequate *Blazina* inquiry.

### **III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

ISSUE NO. 1: Does the defense attorney's obligation to conduct a reasonable investigation include the obligation to disclose the nature of the defense to the State in a timely fashion?

ISSUE NO. 2: Can the defense attorney make a strategic decision to forego a defense that the defendant chooses to raise and supports with his testimony?

ISSUE NO. 3: Is there a strategic reason to fail to object and/or limit hearsay testimony that is inadmissible as substantive evidence of guilt?

ISSUE NO. 4: When the defendant cannot mathematically satisfy the LFO obligation imposed by the court, is it unreasonable to fail to object?

#### **IV. STATEMENT OF THE CASE**

In the spring of 2016, Ryan Light was living in an apartment in Asotin with a roommate. RP 20. His brother Kyle<sup>1</sup> had been staying with him off and on, as Kyle was on parole and Ryan's house had been approved by his parole officer. RP 24, 43-44, 70. But Kyle did not have a key to the house to come and go independently; he would wait for Ryan to return home to let him in, or Ryan would pick him up and bring him home. RP 43-44.

One evening that spring, Kyle came home from work and noticed glass on the ground as he went to do laundry. RP 20. Looking around, he found a brick on the ground and saw a partial footprint. RP 21. The door was still shut and the deadbolt was locked. RP 20. Ryan discovered a gun case containing his pistol was missing from his bedroom. RP 23. Nothing else had been stolen. RP 25.

Ryan's roommate called police and both men spoke to them. RP 25. Ryan told police he only suspected his brother Kyle, because Kyle was one of the few people who knew Ryan had a firearm. RP 21, 24. He gave police a written statement that day. RP 28. Afterward, Ryan tried to

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<sup>1</sup> Because Ryan Light and Kyle Light share a last name, both shall be referred to by their first names in this statement of facts for clarity. Thereafter, any references to "Light" shall denote Kyle Light. No disrespect is intended.

get a hold of Kyle on several occasions, leaving messages and sending texts, but he did not receive a call back. RP 29-30. At some point, however, Ryan received a text message from an unknown number saying that Kyle had taken the gun, and later Kyle called him and asked why he had reported the gun stolen and why he believed Kyle had taken it. RP 30-31, 46-47, 48.

About two weeks after the break-in, Kyle returned home from work and found a plastic grocery bag hanging on the screen door handle with his pistol inside. RP 34-36. Kyle called police again and wrote a note about what had happened. RP 33, 36.

The State charged Kyle with first degree burglary, including a firearm enhancement, theft of a firearm, and unlawful possession of a firearm in the second degree. CP 1-3. The case was tried to a jury, and Ryan testified for the State. RP 19. In his testimony, he acknowledged that he had suspected his brother and reported those suspicions to the police, but he also testified that the text message he received stating that Kyle had taken the gun could have come from anybody. RP 24, 25, 31, 46, 47, 49. Without objection from the defense, the State introduced into evidence Ryan's two written statements to police, even though Ryan did

not express any inability to recall the events in question during his testimony. RP 28-29, 33-34.

Following Ryan's testimony, the State called Officer Donna Manchester, who responded to the initial call and followed up with Ryan as the events unfolded. RP 53, 54, 57. During her testimony, Manchester testified to several statements Ryan made to her during the investigation that were somewhat inconsistent with Ryan's trial testimony. A few days after the initial report, Manchester testified that Ryan told her Kyle had called him and told him he only wanted to borrow the gun and would return it. RP 57. Ryan reported he was confident that Kyle had taken the gun because Kyle had taken things from him before. RP 59. According to Manchester, this suspicion was confirmed after the gun was returned because Ryan had talked to Kyle a few days before and Kyle had mentioned returning it. RP 59. The defense did not object to any of this testimony or request a limiting instruction that the statements could only be used for impeachment purposes, and not for substantive evidence of guilt.

Kyle testified at trial as well. RP 69. Before he took the stand, the State objected to any testimony that he was somewhere else when the burglary was reported because no alibi defense was disclosed in response

to the omnibus application. RP 66. The defense responded that it had a problem with the alibi defense because “there’s a long gap on the day, so I – I don’t know how we could have put together an alibi defense because I can’t say where he was at the time the gun was stolen because I don’t know when the gun was stolen.” RP 66. But when Kyle testified, he stated, “I was in Yakima and there’s actual proof about this.” The State’s objection to Kyle’s testimony was sustained and the statement was stricken. RP 75.

Kyle further testified that he learned about the break-in when he saw a Facebook post his brother made, in which his name was mentioned. He then called Ryan to ask why he had reported the gun stolen. RP 71. In rebuttal, Ryan confirmed that he had made a Facebook post about the break-in and commented that it might be his brother. RP 90. The State also recalled Manchester, who reported a number of additional statements Ryan made to her, again without any hearsay objection. Those statements included reporting that Ryan told her Kyle texted him the day of the break-in from 1:30 p.m. until about 6:00 p.m., and that Ryan told her Kyle said he took the gun for protection and would get it back to him. RP 85-86.

The jury convicted Kyle on all three charges and returned an affirmative special verdict on the firearm enhancement. RP 132-33; CP 43-44. At sentencing, the trial court imposed a mid-range sentence of 102 months. RP 150. The State requested a total of \$3,043 in discretionary and mandatory legal financial obligations (“LFOs”), which the trial court imposed without conducting an inquiry into Kyle’s ability to pay them and without any objection or argument by defense counsel. RP 150-51; CP 61. After imposing the LFOs, the State reminded the court to engage in an inquiry. RP 151. The trial court thereafter merely inquired whether Kyle was able-bodied, and Kyle responded that he was able to work. RP 151. The court made no inquiry into Kyle’s debts or assets, and the record reflects no consideration of the effect of interest accumulation during an eight and a half year sentence.

Kyle Light now appeals, and has been found indigent for that purpose. CP 72, 83, 85.

## **V. ARGUMENT**

On appeal, Light contends that his trial attorney’s performance was prejudicially deficient in numerous respects. First, his attorney did not adequately investigate Light’s defense prior to trial. Consequently, trial counsel was apparently unaware that Light would testify that he was in

Yakima the day of the break-in. Consequently, he did not disclose that Light would assert an alibi defense, and Light's testimony was disallowed and stricken. Second, trial counsel failed to object to repeated elicitation of hearsay statements made by Ryan Light and reported at trial by Manchester. Ryan had not failed to remember the events related in the out-of-court statements, nor did the State use them to impeach his testimony by confronting him with them. Moreover, even if the statements would have been admissible for impeachment purposes, trial counsel failed to request a limiting instruction that Ryan's out-of-court statements were only admissible for impeachment purposes, not for substantive evidence of guilt. Lastly, trial counsel took no action to protect Light from oppressive discretionary LFOs consistent with *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015). These errors prejudiced Light's defense and warrant reversal and remand for retrial.

Both the Sixth Amendment to the United States Constitution and Article I, Section 22 of the Washington State Constitution guarantee every criminal defendant the right to effective assistance of counsel in criminal proceedings. *Strickland v. Washington*, 466 U.S. 668, 684-86, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); *State v. Hendrickson*, 129 Wn.2d 61, 77, 917 P.2d 563 (1996). Counsel for a defendant is ineffective when his or her performance falls below an objective standard of reasonableness, and

when counsel's poor work prejudices the Defendant. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). There is a strong presumption that counsel was effective at the trial level, but this can be overcome by showing that trial counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed by the Sixth Amendment and Article I, Section 22. *State v. Howland*, 66 Wn. App. 586, 594, 832 P.2d 1339 (1992).

1. Trial counsel failed to conduct an adequate investigation when he did not disclose, prior to trial, that Light would rely upon an alibi defense.

The inquiry in determining whether counsel's performance was constitutionally deficient is whether counsel's assistance was reasonable considering all of the circumstances. *Strickland*, 466 U.S. at 689-90, 104 S.Ct. 2025. Actions by trial counsel which constitute "legitimate trial strategy or tactics" cannot serve as a basis for a claim of ineffective assistance. *State v. Goldberg*, 123 Wn. App. 848, 852, 99 P.3d 924 (2004). However, deference owed to those strategic trial judgments is centered on the adequacy of the investigation supporting those judgments:

[S]trategic choices made after less than complete investigations are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation. In other words, counsel has a duty to

make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.

*Wiggins v. Smith*, 539 U.S. 510, 123 S. Ct. 2527, 156 L. Ed. 2d 471 (2003) (quoting *Strickland*, 466 U.S. at 690-91).

To provide adequate assistance of counsel, counsel must “at minimum conduct a reasonable investigation enabling [counsel] to make informed decisions about how to best represent [the] client.” *In re Brett*, 142 Wn.2d 868, 873, 16 P.3d 601 (2001) (quoting *Hendrickson*, 129 Wn.2d at 78); see also *State v. Visitacion*, 55 Wn. App. 166, 776 P.2d 986 (1989) (trial counsel’s decision not to interview witnesses based upon their police statements fell below prevailing professional norms); *State v. Jury*, 19 Wn. App. 256, 576 P.2d 1302, review denied, 90 Wn.2d 1006 (1978) (counsel’s failure to acquaint himself with the facts of the case by interviewing witnesses was an omission which no reasonably competent attorney would have committed).

In *State v. A.N.J.*, 168 Wn.2d 91, 110, 225 P.3d 956 (2010), the Washington State Supreme Court held that courts may look to the standards set by professional regulatory organizations within the Bar to adjudge the effectiveness of counsel. There, the Supreme Court used the Washington Defender’s Association Standards for Public Defense Services to aid them in their analysis of an attorney’s representation of a

juvenile client and emphasized the importance of pretrial investigation to a prepared defense. *Id.* at 109-11. This is because a defense attorney cannot properly evaluate the merits of a case and any plea offers without fully evaluating the State's evidence. *Id.* at 111; *State v. Bao Sheng Zhao*, 157 Wn.2d 188, 205, 137 P.3d 835 (2006) (Sanders, J. concurring).

Here, when the subject of Light's decision to testify was raised after the State rested, the State indicated it would object to his testimony if he attempted to say he was somewhere else during the burglary because no alibi defense was disclosed in response to the State's omnibus application, and trial counsel had only indicated a general denial to the charge. RP 66. In response, trial counsel stated that he couldn't say where Light was when the gun was stolen because he didn't know when in the day the gun was stolen. RP 66. But when he testified, Light stated, "I was in Yakima and there's actual proof about this." RP 75. Thus, Light's own testimony was sufficient to establish an alibi defense, had it been timely disclosed to the State. But instead, for no apparent strategic reason, trial counsel simply did not know that Light claimed to have been in Yakima on the day of the break-in, or that there might be corroborating evidence that he could not have committed the crime.

Even if the failure to disclose that Light would testify to an alibi defense could be characterized as strategic, such a decision would interfere with the defendant's "constitutional right to at least broadly control his own defense." *State v. Jones*, 99 Wn.2d 735, 740, 664 P.2d 1216 (1983). This control encompasses the right to choose whether to present an affirmative defense. *State v. Coristine*, 177 Wn.2d 370, 376, 300 P.3d 400 (2013). Additionally, the right to choose whether to testify is solely the defendant's, although counsel may advise and inform the defendant regarding the decision. *State v. Robinson*, 138 Wn.2d 753, 763-64, 982 P.2d 590 (1999). Here, trial counsel's decision, either informed or not, not to disclose the nature of Light's defense served to deprive Light of his constitutional rights to direct his defense and to testify on his own behalf at trial.

2. Trial counsel's performance was deficient when he did not object to the use of hearsay statements introduced to impeach Light's brother's testimony as substantive evidence of the crime.

Hearsay is a statement, other than one made by the declarant while testifying, offered in evidence to prove the truth of the matter asserted.

ER 801(c). As a general rule, hearsay is not admissible. ER 802.

Because Ryan Light's statements to police were hearsay, an objection to their admission should have been sustained.

Certainly, exceptions exist to the hearsay rule that may permit its introduction with an appropriate foundation. For example, ER 803(a)(5) permits the introduction of a recorded recollection, even when the witness is available and testifies at trial, as follows:

A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

Here, Ryan's prior statements were not admissible under ER 803(a)(5) because Ryan did not express any inability to recall the subjects of his testimony when the prior statements were introduced. RP 27-28, 32-34; *see also State v. Mathes*, 47 Wn. App. 863, 867-68, 737 P.2d 700 (1987). As such, the contents of the statements were not matters about which Ryan once had knowledge, but was presently unable to recall sufficient to testify fully and accurately. When a witness recalls the subjects of the testimony, ER 803(a)(5) does not apply. *See State v. Floreck*, 111 Wn. App. 135, 139, 43 P.3d 1264 (2002).

To the extent they differed from his trial testimony, Ryan's prior statements could also potentially be introduced to impeach him. ER 613. However, extrinsic evidence of the inconsistent statements may not be admitted without confronting the witness with the inconsistency and giving him an opportunity to explain or deny the prior statement. ER 613(b). This did not occur here. Furthermore, when prior inconsistent statements are admitted to impeach a witness under ER 613, they are not admitted as substantive evidence of the matters asserted. *Floreck*, 111 Wn. App. at 139; *State v. Garland*, 169 Wn. App. 869, 885, 282 P.3d 1137 (2012) (quoting *State v. Burke*, 163 Wn.2d 204, 219, 181 P.3d 1 (2008)).

When evidence is admitted for a limited purpose, upon request, the trial court "shall restrict the evidence to its proper scope and instruct the jury accordingly." ER 105. The Washington State Supreme Court Committee on Jury Instructions has adopted a form instruction for this purpose. WPIC 5.30. Because impeachment evidence is not proof of substantive facts, "[w]here such evidence is admitted, an instruction cautioning the jury to limit its consideration of the statement to its intended purposes is both proper and necessary." *State v. Johnson*, 40 Wn. App. 371, 377, 699 P.2d 221 (1985) (citing *State v. Pitts*, 62 Wn.2d 294, 297, 382 P.2d 508 (1963)).

Here, no conceivable strategic reason exists to fail to (1) object to the admission of Ryan's out-of-court statements without a foundation establishing their admissibility under the evidence rules, and (2) request a limiting instruction to the extent that the statements were proffered to show inconsistency with Ryan's trial testimony. As a result, evidence that was inadmissible to prove Light's guilt was allowed to be introduced without limitation. Trial counsel's failure to object therefore constituted an unreasonably deficient performance. While failures to object that consist of strategy or trial tactics do not constitute deficient performance, when the court cannot discern a legitimate reason not to object to damaging and prejudicial evidence, deficient performance is shown.

*Hendrickson*, 129 Wn.2d at 77-78.

3. Trial counsel failed to protect Light from an oppressive LFO burden when he did not object to the imposition of \$2,243 in discretionary LFOs or the trial court's inadequate *Blazina* inquiry.

In *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015), the Washington Supreme Court held that to comply with RCW 10.01.160, trial courts must conduct an individualized inquiry into the defendant's ability to pay legal financial obligations (LFOs) before imposing them. Under *Blazina*, signing a judgment containing boilerplate language is

insufficient; the record must demonstrate that the court considered “the financial resources of the defendant and the nature of the burden that payment of costs will impose,” including the defendant’s incarceration and other debts. *Id.* at 838. The *Blazina* Court further recognized that if a defendant meets the GR 34 standard for indigency, “courts should seriously question that person’s ability to pay LFOs.” *Id.* at 839.

In the present case, the nominal inquiry conducted by the trial court fails to satisfy the requirements of *Blazina* because it inquired only into whether Light was able to work, without considering his living expenses, whether he supports dependents, the effect of his incarceration on his debt burden, the outstanding legal financial obligations already existing at the time of sentencing, the impact of accruing interest on the rate of repayment, or any factor whatsoever related to Light’s debts and liabilities. The inquiry failed to address the factors specifically identified by the *Blazina* Court as mandatory, namely, the effect of incarceration and the defendant’s other debts. *Blazina*, 182 Wn.2d at 838. As such, the inquiry is inadequate to satisfy the minimum requirements identified by the *Blazina* Court.

The *Blazina* Court itself, notably, acknowledged that under RCW 10.01.160(3), the obligation to conduct an individualized inquiry rests

with the trial court. 182 Wn.2d at 839. This structure suggests that to the extent the State wishes the court to impose discretionary legal financial obligations, the State carries the burden of production to demonstrate to the court that the defendant will be able to pay them. In an analogous setting, the imposition of sentence, the trial court is required to impose a sentence within the standard range established for the offense. RCW 9.94A.505. There, the Washington Supreme Court has held that the burden of proving prior criminal history necessary to calculate the offender score rests with the State and cannot be shifted to the defendant without violating his right to due process. *State v. Hunley*, 175 Wn.2d 901, 907, 287 P.3d 584 (2012).

Where the State fails to meet its evidentiary burden, no strategic reason exists to justify the failure to object. *See, e.g., State v. Lopez*, 107 Wn. App. 270, 27 P.3d 237 (2001). Under these circumstances, counsel's failure to object cannot be attributed to legitimate trial strategy because no possible advantage inures to the defendant. *Id.* at 277. Here, where the inquiry is nominal, untimely, and ultimately disregarded the obligatory factors recognized in *Blazina*, failing to hold the State and the trial court to their obligations provides no conceivable benefit to Light. The court should hold that failing to object to an inadequate and untimely *Blazina* inquiry constitutes deficient performance.

4. The errors in counsel's performance were prejudicial.

In order to establish prejudice, a defendant must show that, but for the errors of counsel, the result would have been different. *State v. McNeal*, 145 Wn.2d 352, 362, 37 P.3d 280 (2002). Because it is likely that a jury would have credited Light's alibi defense, because Ryan's trial testimony did not plainly implicate Light, and because a reasonable inquiry into Light's financial circumstances likely would have resulted in a conclusion that he was unlikely to be able to pay discretionary LFOs, prejudice is demonstrated.

With respect to the alibi defense, Light was entirely unable to assert that despite his brother's suspicions, he could not have committed the crime. Ryan's testimony was somewhat vague about what text messages and phone calls he received, and what Light told him over the phone versus what information he received by text message, which could have been from anybody. Because the case against Light was circumstantial, the prosecutor could make a suggestive argument that the suspicions were not coincidental. But had the jury heard and been allowed to consider Light's testimony that he was not in the area the day of the burglary, the circumstances would have looked significantly different. In effect, Light was deprived of the opportunity to present a defense at all. It

is reasonably likely that had he been able to argue his defense, the jury would at least have regarded it as reasonable doubt of his guilt.

Similarly, as to Ryan's out-of-court statements, had the jury not been allowed to consider them for any purpose, the State's case would have rested on his in-court testimony, which was far from overwhelming. In trial, he did not testify that Light made any admissions to him about taking the gun, and he explained the context of Light's statements to him about reporting the theft to police by acknowledging his Facebook post. Thus, absent the prior statements, there was no substantive evidence that Light admitted to any involvement. Had the jury been unable to consider those statements as proof that Light admitted to any involvement, then the substantive case would have consisted only of Ryan's original suspicions that Light was involved, and the ambiguous testimony about the texts and phone calls he received later before the gun was returned.

Lastly, with respect to the LFOs, a reasonable inquiry would have revealed that Light owns no assets, works only in unskilled labor, and struggles with addiction. RP 149; *Report as to Continued Indigency*. Moreover, the court sentenced Light to a confinement term of 8.5 years, during which time interest would accrue on the LFO obligation. A reasonable effort to calculate the effect of incarceration on the LFO

balance would show that at the end of the prison term, the LFO balance would balloon to \$7,993.61. Even if Light were released as early as 5 years after being sentenced, the balance would still grow to \$5,362.81. At the rate of \$50 per month, the principal is mathematically beyond repayment and will never be retired, even after an early release. Thus, a timely objection to the discretionary LFOs would have demonstrated that the obligation imposed by the trial court is mathematically unable to be satisfied.

5. Appellate costs should not be imposed if Light does not prevail on appeal.

Pursuant to the General Court Order dated June 10, 2016 and Title 17 of the Rules on Appeal, Light respectfully requests that due to his continued indigency, the court should decline to impose appellate costs in the event he does not prevail. His report as to continued indigency is filed contemporaneously with this brief and shows that he lacks assets and income, does not know the current amount of his debts, possesses only a GED, and works in low-wage construction jobs for short periods at a time.

Light was found indigent for purposes of appeal. CP 83. The presumption of indigence continues throughout review. RAP 15.2(f). The Court of Appeals has recognized that in the absence of information from

the State showing a change in the appellant's financial circumstances, an award of appellate costs on an indigent appellant may not be appropriate. *State v. Sinclair*, 192 Wn. App. 380, 393, 367 P.3d 612, *review denied*, 185 Wn.2d 1034 (2016). The Supreme Court has additionally recognized that application of RAP 14.2 should "allocate appellate costs in a fair and equitable manner depending on the realities of the case." *State v. Stump*, 185 Wn.2d 454, 461, 374 P.3d 89 (2016).

Finally, in recognition of the hardships imposed by large appellate cost awards, the Supreme Court has revised RAP 14.2 to provide that unless the Commissioner receives evidence of a substantial change in the appellant's financial circumstances, the original determination that the appellant lacks the ability to pay should control and costs should not be imposed on indigent appellants. Light will be incarcerated during the pendency of this appeal, and there has been no evidence of any change in his financial situation.

Under these circumstances, this court should exercise its discretion under RAP 14.2 to decline to impose appellate costs. Under the *Sinclair* standard as well as revised RAP 14.2 and this court's general order, an appellate cost award is inappropriate in this case.

**VI. CONCLUSION**

For the foregoing reasons, Light respectfully request that the court REVERSE his convictions and/or the assessment of discretionary LFOs and REMAND his case for a new trial.

RESPECTFULLY SUBMITTED this 29 day of January, 2018.



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ANDREA BURKHART, WSBA #38519  
Attorney for Appellant

**DECLARATION OF SERVICE**

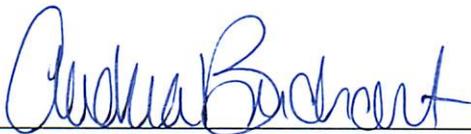
I, the undersigned, hereby declare that on this date, I caused to be served a true and correct copy of Appellant's Brief upon the following parties in interest by depositing them in the U.S. Mail, first-class, postage pre-paid, addressed as follows:

Kyle Light, Offender No. 95820  
ISCC  
PO Box 70010  
Boise, ID 83707

Benjamin Curler Nichols  
Asotin County Prosecutors Office  
PO Box 220  
Asotin, WA 99402

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

Signed this 29 day of January, 2018 in Walla Walla, Washington.

  
\_\_\_\_\_  
Andrea Burkhardt

**BURKHART & BURKHART, PLLC**

**January 29, 2018 - 10:42 AM**

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