

FILED  
Court of Appeals  
Division III  
State of Washington  
5/31/2018 2:21 PM

No. 35775-9-III

IN THE COURT OF THE APPEALS  
OF THE STATE OF WASHINGTON

DIVISION III

---

THE STATE OF WASHINGTON, Respondent

v.

JUSTIN C. LEWIS, Appellant.

---

**BRIEF OF RESPONDENT**

---

CURT L. LIEDKIE  
Asotin County Chief Deputy  
Prosecuting Attorney  
WSBA #30371

P. O. Box 220  
Asotin, Washington 99402  
(509) 243-2061

**TABLE OF CONTENTS**

	Page
<b>TABLE OF AUTHORITIES</b> .....	ii
<b>I. SUMMARY OF ISSUES</b> .....	1
<b>II. SUMMARY OF ARGUMENT</b> .....	1
<b>III. STATEMENT OF THE CASE</b> .....	2
<b>IV. DISCUSSION</b> .....	6
<b>A. <u>THE EVIDENCE PRODUCED AT TRIAL WAS SUFFICIENT TO SUPPORT THE JURY'S GUILTY VERDICT ON THE CHARGE OF ASSAULT IN THE FIRST DEGREE.</u></b> .....	7
<b>B. <u>THE ISSUES RAISED IN THE STATEMENT OF ADDITIONAL GROUNDS ARE INSUFFICIENT TO MERIT RELIEF.</u></b> .....	15
<b>V. CONCLUSION</b> .....	18

## TABLE OF AUTHORITIES

### State Supreme Court Cases

<u>State v. Allen</u> , 182 Wn.2d 364, 341 P.3d 268 (2015) . . . . .	12
<u>State v. Finch</u> , 137 Wn.2d 792, 975 P.2d 967 (1999) . . . . .	16
<u>State v. Gordon</u> , 172 Wn.2d 671, 260 P.3d 884 (2011) . . . . .	16
<u>State v. Louthier</u> , 22 Wn.2d 497, 156 P.2d 672 (1945) . . . . .	15
<u>State v. O'Hara</u> , 167 Wn.2d 91, 217 P.3d 756 (2009) . . . . .	16
<u>State v. Roberts</u> , 142 Wn. 2d 471, 14 P.3d 713 (2000) . . . . .	9, 11
<u>State v. Salinas</u> , 119 Wn. 2d 192, 829 P.2d 1068 (1992) . . . . .	7
<u>State v. Wilson</u> , 75 Wn.2d 329, 450 P.2d 971 (1969) . . . . .	17

### State Court of Appeals Cases

<u>State v. Dreewes</u> , 2 Wn.App.2d 297, 409 P.3d 1170 (Div. I, 2018) . . . . .	9-11
<u>State v. Hopkins</u> , 156 Wn. App. 468, 232 P.3d 597 (Div. II, 2010) . . . . .	17
<u>State v. Mullin-Coston</u> , 115 Wn. App. 679, 64 P.3d 40 (Div. I, 2003) . . . . .	17
<u>Sarausad v. State</u> , 109 Wn.App. 824, 39 P.3d 308 (Div. I, 2001) . . . . .	11-12

**Statutes**

RCW 9A.08.020 ..... 8-9

RCW 9A.36.011 ..... 8, 15

**Court Rules**

RAP 2.5 ..... 16

**I. SUMMARY OF ISSUES**

1. WAS THE EVIDENCE PRODUCED AT TRIAL SUFFICIENT TO SUPPORT THE JURY'S GUILTY VERDICT ON THE CHARGE OF ASSAULT IN THE FIRST DEGREE?
2. DO THE ISSUES RAISED IN THE APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS MERIT REVIEW?

**II. SUMMARY OF ARGUMENT**

1. THE EVIDENCE PRODUCED AT TRIAL WAS SUFFICIENT TO SUPPORT THE JURY'S GUILTY VERDICT ON THE CHARGE OF ASSAULT IN THE FIRST DEGREE.
2. THE ISSUES RAISED IN THE STATEMENT OF ADDITIONAL GROUNDS ARE INSUFFICIENT TO MERIT REVIEW.

### **III. STATEMENT OF THE CASE**

On April 3, 2017, Michael Evans was in the Spokane, Washington/Couer d' Alene, Idaho area. Report of Proceedings (hereinafter RP) 178. Mr. Evans had just lost his job at a hotel in Couer d' Alene and lacked a place to stay or a ride back down to the Lewiston/Clarkston valley to his home there. RP 178. Mr. Evans called a friend, Codi French who told him she had a friend who had a place he could stay in Spokane and offered to come get him early the next morning. RP 178-9. French and Michelle Currin picked Mr. Evans up at approximately 4:00 a.m. the next morning. RP 161. Michelle Currin was at that time romantically involved with the Appellant, Justin C. Lewis. RP 161-2. Ms Currin was aware that Mr. Evans had recently purchased some heroin. RP 164-5, 170.

Later that morning, the trio traveled back to Clarkston in Ms French's white chevy pickup and Mr. Evans was dropped off near the Walla Walla Community College campus. RP 162.

Later that day, Mr. Evans was contacted by the Appellant, through use of Codi French's phone, and the Appellant requested to purchase hydrocodone pills from Mr. Evans. RP 163, 182. The Appellant arranged to meet Mr. Evans at the Albertsons Grocery store in Clarkston. RP 163. When he arrived, the Appellant was driving Ms French's white pickup. RP 163.

Mr. Evans got into the truck and advised the Appellant that he

needed to go to a location in nearby Lewiston, Idaho to obtain the pills. RP 164. The Appellant stated he thought Mr. Evans had the pills with him and then stated that, prior to going to Lewiston, the Appellant needed to stop at his residence. RP 164. The Appellant then drove to the apartment complex at 16<sup>th</sup> and Chestnut Streets in Clarkston. RP 165.

Upon arrival, the Appellant exited the pickup and went inside one of the apartments while Mr. Evans waited in the truck. RP 165. While he was waiting, the Appellant's cousin, David Rickman, walked up to the truck and began talking to Mr. Evans. RP 99-100, 165-6. Mr. Rickman asked Mr. Evans for a roll of electrical tape and Mr. Evans obliged. RP 166. Mr. Rickman then walked away from Mr. Evans and began speaking to the Appellant at the back of the pickup. RP 166.

The Appellant approached Mr. Evans at the passenger door and began making accusations that Mr. Evans had answered Ms French's phone during the drive from Spokane. RP 166-7. The Appellant claimed that Mr. Evans had answered and stated "No, there's no Michelle here" and made other statements of that nature. RP 166-7. Mr. Evans was confused and protested, stating he had no idea what the Appellant was talking about. RP 167. While confronting Mr. Evans, the Appellant displayed a BB gun that looked very much like a real pistol. RP 167. While this was occurring, Mr. Rickman

opened the driver's door and began striking Mr. Evans in the back of the head with a club. RP 167, 175. The club was a table leg that had been modified to increase its lethality, having a very large hex nut screwed onto the end of the leg that was further secured with electrical tape. RP 175, Plaintiff's Exhibits 21, 22. After Mr. Rickman struck Mr. Evans several times with the club, the Appellant grabbed Mr. Evans and threw him to the ground. RP 168. The Appellant then began demanding, "Give us your stuff." Mr. Evans was in possession of a brown backpack which contained clothing, some drug paraphernalia, a set of scales, baggies, and his wallet which contained one hundred-fifty to two hundred dollars (\$150.00 to \$200.00) inside. RP 169-70. Mr. Evans also had a cell phone which was in the truck. RP 169.

Mr. Evans was kicked on the ground and beaten by the Appellant and Mr. Rickman. RP 170. Mr. Evans then heard Ms Currin, say "Hey, that's enough." Mr. Evans had previously been unaware that she was present. RP 170. Ms Currin then made a statement that sounded to Mr. Evans as if she was accusing him of hitting her. RP 170-1. At that point, Mr. Evans fled from his attackers. RP 171. He first sought aid from a nearby mobile home but was refused help. RP 171. The Appellant gave chase in the white pickup and Mr. Evans fled into a nearby field. RP 171. Mr. Evans laid down in the field, and once he felt it was safe, ran to a residence and

sought help from a retired couple who let him in and who called the police. RP 171-2. Post attack, the Appellant maintained possession of Mr. Evan's backpack, cell phone, and wallet. RP 173.

Law enforcement responded and investigated shortly after. RP 173. Initially, Mr. Evans told the officers he had been walking and was jumped by assailants who were driving a white pickup. RP 174. Mr. Evans was reluctant to admit that he had been involved with illegal narcotics and feared retaliation from his attackers. RP 174. He gave a description of his attackers and the vehicle but didn't reveal that he knew them prior to the incident. RP 13-14, 16. Deputies were able to locate the Appellant, still driving the white pickup, and stopped the vehicle. RP 18. The Appellant denied being involved in any kind of altercation and told officers the backpack was his.<sup>1</sup> RP 63-66, 226. Deputies recovered Mr. Evan's backpack, cell phone, and wallet from the pickup. RP 22, 27, 38, 54, 55. Deputies seized the modified table leg used by Mr. Rickman. RP 28. The Appellant's shirt had Mr. Evan's blood on it. RP 26, 121. Upon arrest, the Appellant was searched and found in possession of a small amount of heroin, needles, and other drug use paraphernalia. RP 25.

The Appellant was charged with Assault in the First Degree and Robbery in the First Degree, both with a Deadly Weapon

---

<sup>1</sup>The Appellant later testified to the contrary, admitting that the backpack belonged to Mr. Evans. RP 246, 252.

Enhancement, Possession of a Controlled Substance (Heroin), and Possession of Drug Paraphernalia. Clerks Paper (hereinafter CP) 1-4. The matter was tried to a jury, and the Appellant testified, explaining that his cousin spontaneously attacked the victim and denied any plot to rob Mr. Evans. RP 243-4. The Appellant explained that the victim's blood got onto his shirt when he was helping Mr. Evans off of the ground. RP 244-5. The jury returned guilty verdicts as to all four charges and answered "yes" as to the special verdicts relating to the Deadly Weapon Enhancements. CP 44 - 45.

The Appellant now challenges the sufficiency of the evidence produced at trial to support his conviction for Assault in the First Degree. Because the evidence produced at trial adequately supports the jury's verdict on that charge, this appeal should be denied.

#### **IV. DISCUSSION**

The Appellant's sole challenge in this appeal relates to the sufficiency of the evidence to support his conviction of Assault in the First Degree. Initially, the Appellant asserts that the State produced insufficient evidence to support conviction for that crime as a "principal" to that charge. This argument demonstrates a misunderstanding of the State's theory relating to the Appellant's culpability on that charge. The State did not premise the charge of Assault in the First Degree on any particular blow struck by the Appellant but, rather, the concerted action of both the Appellant and

Mr. Rickman, and more specifically, because the charge was predicated upon the use of a deadly weapon, the use of the modified table leg club by Mr. Rickman. To the extent that this makes the Appellant an accomplice to Mr. Rickman's use of a weapon in his part of the attack on the victim, then so be it. There was, in any event sufficient evidence to allow the jury to find the necessary elements of Assault in the First Degree.

1. THE EVIDENCE PRODUCED AT TRIAL WAS SUFFICIENT TO SUPPORT THE JURY'S GUILTY VERDICT ON THE CHARGE OF ASSAULT IN THE FIRST DEGREE.

The test for determining the sufficiency of the 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. See State v. Salinas, 119 Wn. 2d 192, 201, 829 P.2d 1068 (1992). When the sufficiency of the evidence is challenged, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. See *id.* A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. See *id.*

To establish the Appellant's guilt, based upon the charged alternative of Assault in the First Degree, the State was required to prove:

- 1) That the Defendant or an accomplice assaulted Michael Evans;

- (2) That the assault was committed with a deadly weapon or by a force or means likely to produce great bodily harm or death;
- (3) That the Defendant or the accomplice acted with intent to inflict great bodily harm; and
- (4) That the acts occurred in Asotin County, the State of Washington.

See RCW 9A.36.011(1)(a), CP 27.

The Appellant does not contend that he and Mr. Rickman did not commit an assault. Further, as it relates to the second element, the Appellant does not seriously contend that the table leg, as modified with the steel hex nut, was not a deadly weapon, or that the use thereof to strike someone in the head would not constitute deadly force. The jury, having the benefit of the actual item and being able to heft the makeshift mace, was clearly correct in determining that it was a deadly weapon.

The primary contention of the Appellant is with regard to evidence that the Appellant acted with the intent to inflict great bodily harm. Because the Appellant's claim misstates the law on accomplice liability, his argument fails.

Under RCW 9A.08.020(1), "A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable." That statute further provides that a person is legally accountable when "[h]e or she is an accomplice of such other

person in the commission of the crime.” *Id.* at (1)(c). Finally, the statute provides:

A person is an accomplice in the commission of a crime if [w]ith knowledge that it will promote or facilitate the commission of the crime, he or she (i) Solicits, commands, encourages, or requests such other person to commit it; or (ii) Aids or agrees to aid such other person in planning or committing it.

RCW 9A.08.020(3)(c). To be found guilty of a crime as an accomplice to the commission of a crime, the defendant must have acted with knowledge that such action would promote *the* crime, rather than *any* crime. See State v. Roberts, 142 Wn. 2d 471, 510, 14 P.3d 713, 735 (2000)(*emphasis added*).

The Appellant claims that he cannot be convicted as an accomplice because he didn't have actual knowledge that Mr. Rickman intended to cause great bodily harm. In support of his argument, the Appellant relies almost entirely upon State v. Dreewes, 2 Wn.App.2d 297, 409 P.3d 1170 (Div. I, 2018). His reliance thereon is misplaced.

In Dreewes, the defendant solicited two other persons to conduct a home invasion burglary to recover some items of stolen property and to exact a measure of revenge. *Id.* at 301-306. When these two men went to the residence, they encountered resistance and in the ensuing melee, one of the perpetrators, not the defendant, attempted to shoot one of the residents. *Id.* However, the gun failed

to fire. *Id.* The State charged the defendant with Burglary in the First Degree and Assault in the Second Degree predicated upon accomplice liability. *Id.* The defendant was found guilty of both offenses and appealed. *Id.* On appeal, the Court affirmed her conviction for Burglary in the First Degree but reversed as to the charge of Assault in the Second Degree. *Id.* at 321, 324. Contrary to the Appellant's claims, the Court did not reverse the assault conviction based upon insufficient evidence of complicity. Rather, the Court reversed based upon application of the doctrine of "law of the case." *Id.* at 324. Under that doctrine, "the State assumes the burden of proving beyond a reasonable doubt otherwise unnecessary elements that are included without objection in the to-convict instruction. Dreewes, at 323-4. There, the instruction included the requirement that the State prove the defendant's knowledge of the identity of the victim, which would otherwise not have been required. *Id.* at 324. Contrary to the Appellant's characterization of the decision therein, the Dreewes court specifically stated:

There is overwhelming evidence that Dreewes was guilty as an accomplice of assault in the second degree with a deadly weapon of another.

*Id.* The Court only reversed that conviction because the State had failed to prove, as required by the instruction, that the defendant knew that she was facilitating an assault on that specific named victim. *Id.*

The Appellant cites Dreewes for the proposition that the “State must prove [that] the defendant acted with actual knowledge that [he] was promoting or facilitating first degree assault[.]” Brief of Appellant, p. 12. This is again a misstatement of the law as stated in Dreewes. Nowhere therein does the Court require that the defendant have knowledge of the specific degree of the crime. This would be contrary to the established law and Washington Supreme Court precedent, which has expressly rejected the Appellant’s arguments on this point.

The State is not required to prove that the Appellant acted with the same specific intent or with perfect knowledge of the intentions of Mr. Rickman. See State v. Roberts, 142 Wn.2d at 513. As stated in Roberts, “[A]n accomplice need not have knowledge of each element of the principal’s crime in order to be convicted under RCW 9A.08.020. General knowledge of ‘the crime’ is sufficient.” *Id.*

In fact, it is not necessary that the State prove that the Appellant acted with intent to facilitate a specific degree of the crime, in this case assault. See Sarausad v. State, 109 Wn.App. 824, 39 P.3d 308 (Div. I, 2001). In Sarausad, the Court stated:

The Roberts court explained that the language in Davis, 101 Wn.2d at 658, 682 P.2d 883, stating that an accomplice, having agreed to participate in a crime, runs the risk that the principal actor will exceed the scope of the pre-planned illegality, was not intended to impose strict liability on putative accomplices for any and all crimes but rather was intended to reaffirm the longstanding rule that an accomplice need not have

specific knowledge of every element of the crime committed by the principal, provided that he, the accomplice, has general knowledge of that specific crime. Roberts, 142 Wash.2d at 511–12, 14 P.3d 713.

Sarausad, at 834–35. The Court then went on to conclude:

From this, we conclude that the law of accomplice liability in Washington requires the State to prove that an accused who is charged as an accomplice with murder in the first degree, second degree or manslaughter knew generally that he was facilitating a homicide, but need not have known that the principal had the kind of culpability required for any particular degree of murder. ***Likewise, an accused who is charged with assault in the first or second degree as an accomplice must have known generally that he was facilitating an assault, even if only a simple, misdemeanor-level assault, and need not have known that the principal was going to use deadly force or that the principal was armed.***

*Id.* at 836 (*Emphasis added*). Therefore and contrary to the Appellant's claims, the State did not have to prove that Mr. Lewis acted with knowledge that Mr. Rickman intended to commit Assault in the First Degree. Rather, the State only had to prove that Mr. Rickman acted with intent to cause great bodily harm, and that the Appellant knew that Mr. Rickman intended to assault the victim.

While the State must prove actual knowledge of the crime in order to establish accomplice liability, "it may do so through circumstantial evidence." See State v. Allen, 182 Wn.2d 364, 374, 341 P.3d 268 (2015). Here, the Appellant brought Mr. Evans to the location where the crime was to occur under the auspices of

purchasing hydrocodone pills. The evidence suggests that the Appellant believed that Mr. Evans was in possession of heroin at that time. After the Appellant went inside the apartment, Mr. Rickman, the Appellant's cousin, coincidentally emerged and engaged in a non-confrontational exchange with Mr. Evans. There was no provocation by Mr. Evans nor any indication that Mr. Rickman was about to assault him. The Appellant returned and consulted with Mr. Rickman briefly at the back of the pickup. Immediately thereafter, the Appellant confronted Mr. Evans with bizarre accusations, that appeared to be made up on the spot. These accusations were nothing more than a distraction, because, at the same time, Mr. Rickman opened the driver's door and began striking the victim in the head with the modified club.<sup>2</sup> The Appellant then grabbed Mr. Evans, threw him to the ground, and began kicking him. This attack only ceased when Ms Currin said to stop.<sup>3</sup> Further, after rummaging the backpack and learning that it didn't contain the heroin, the Appellant chased the victim. Finally, when arrested, the Appellant didn't have any cash on

---

<sup>2</sup>The Appellant's claim that Mr. Rickman simply grabbed what was available is not supported by the evidence or testimony. This claim also, violates the requirement that the evidence be viewed in a light most favorable to the State.

<sup>3</sup>The Appellant again views the evidence in the incorrect light, claiming it was him that told Mr. Rickman to stop. Brief of Appellant, at p. 15. Mr. Evans testified it was Ms Currin who told Mr. Rickman and the Appellant to stop. RP 170. Only the Appellant testified that he said anything. RP 245.

his person, despite the stated intent to purchase the pills.

The Appellant's trial testimony that he was trying to help the victim was undercut by his claim of ownership of the backpack and his lie to the police that he didn't have any involvement in the assault. Despite Mr. Rickman being the assailant, the weapon was in possession of the Appellant after the attack which suggests that it was the Appellant, not Mr. Rickman, who brought the weapon to the scene. This further suggests that the Appellant not only knew that Mr. Rickman was going to assault the victim, he was going to use a deadly weapon to accomplish it.

There was ample evidence that the Appellant had solicited his cousin's assistance to facilitate the robbery and that he knew his cousin was going to assault Mr. Evans in the process. According to the Appellant's claims, he was surprised by his cousin's actions. So surprised that he responded by beating Mr. Evans and kicking him on the ground. It was no coincidence that, immediately after Mr. Rickman struck the victim, the Appellant joined in the attack and demanded Mr. Evans surrender his belongings. Viewed in a light most favorable to the State, there is substantial evidence that the Appellant was an accomplice to the assault. Unmodified, the table leg would likely be capable of causing death or serious injury. As modified, it was re-purposed to cause death or grievous bodily harm.

Further, Mr. Rickman's act of repeatedly striking Mr. Evans in the head from behind with this mace-like club, properly allowed the jury to infer his intent to cause great bodily harm. See State v. Louthier, 22 Wn.2d 497, 502, 156 P.2d 672 (1945) (*Intent can be inferred as a logical probability from all the facts and circumstances*). Finally, the Appellant claims that the victim's injuries were relatively minor. This fact is of no consequence. The State was not required to prove that the victim suffered great bodily injury, but rather, only that Mr. Rickman's intent was to cause great bodily injury. See RCW 9A.36.011(1)(a). Viewed in a light most favorable to the State, there was sufficient evidence to convict the Appellant of Assault in the First Degree. This Court should affirm the Appellant's conviction as to that charge.

2. THE ISSUES RAISED IN THE STATEMENT OF ADDITIONAL GROUNDS ARE INSUFFICIENT TO MERIT REVIEW.

In his statement of additional grounds, the Appellant makes claims that were not raised below, nor are they supported by the record. First, the Appellant claims that he was "forced" to wear an orange jail shirt at trial. Second, the Appellant claims that his attorney allowed a juror to serve who had knowledge that the Appellant had been incarcerated. Because neither of these claims was raised below, and further, because they are not supported by the record, this Court should decline to consider them.

The appellate courts ordinarily will not review a claim of error raised for the first time on review unless one of three exceptions exist. See RAP 2.5(a). One exception is if the claim is for a manifest error affecting a constitutional right. See RAP 2.5(a)(3). The Appellant must demonstrate both that the claimed error is of constitutional magnitude and that the error is "manifest." See State v. Gordon, 172 Wn.2d 671, 676, 260 P.3d 884 (2011). A "manifest" error is one that is "so obvious on the record that the error warrants appellate review." See State v. O'Hara, 167 Wn.2d 91, 100, 217 P.3d 756 (2009). While arguably constitutional,<sup>4</sup> any claimed error is hardly manifest. There is nothing in the record that supports his claims that he was compelled to wear jail clothing. The Appellant did not raise the issue below. The State does not concede that the Appellant was compelled to wear any jail attire and the record not only doesn't support his claims, it refutes it. The record shows that the Appellant had on green long sleeve shirt over the top of an orange shirt.<sup>5</sup> RP 23. The record does not establish that the Appellant's trial attire was so identifiable as a jail uniform that it constituted compulsory appearance in restraint.

Likewise, the Appellant's claim concerning counsel's failure to

---

<sup>4</sup>The State appreciates that an accused has a constitutional right to appear at trial before the jury, unshackled and free from restraints. See State v. Finch, 137 Wn.2d 792, 842-43, 975 P.2d 967 (1999).

<sup>5</sup>The Asotin County Jail uniforms consist of traditional black and white stripes.

strike a jury member is likewise not manifest. There is nothing in the record to support the Appellant's claim that a jury had prior knowledge of his previous incarceration. Whether true or not, the claimed error is not manifest because there is nothing in the record to support his claim, because the Appellant did not object or bring any such issue to the court's attention. Further, whether this claim would constitute constitutional error is questionable. See State v. Mullin-Coston, 115 Wn. App. 679, 693, 64 P.3d 40, 48 (Div. I, 2003), *aff'd*, 152 Wn.2d 107, 95 P.3d 321 (2004)(*Jury knowledge of the defendant's incarceration status does not implicate the defendant's right to appear free from restraints*).

More significantly, because the Appellant's claims requires examining matters outside the record, this court cannot address it on direct appeal. See State v. Hopkins, 156 Wn. App. 468, 477, 232 P.3d 597, 601 (Div. II, 2010). As has been long recognized to be the rule:

Our requirement that cases on appeal will be decided only from the record still persists. If the evidence is not in the record it will not be considered.

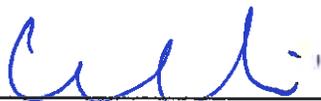
State v. Wilson, 75 Wn.2d 329, 332, 450 P.2d 971 (1969). Here, the Appellant's claims concerning his trial attire and jury selection are matters unsupported by the record and should not be considered.

## V. CONCLUSION

The Appellant's claims are not well taken. They are largely based upon misrepresentations and misstatements of law. Further, the Appellant's arguments cast the facts in a light most favorable to himself. When viewed as required, the facts fully support the Appellant's conviction for Assault in the First Degree, whether as principal acting in concert with Mr. Rickman or as his accomplice. Finally, the claims set forth in the Appellant's statement of additional grounds lack support in the record and, in any event cannot be raised and reviewed for the first time on appeal. For the reasons stated above, the State respectfully requests this Court enter a decision affirming the Appellant's convictions.

Dated this 31<sup>st</sup> day of May, 2018.

Respectfully submitted,



---

CURT L. LIEDKIE, WSBA #30371  
Attorney for Respondent  
Chief Deputy Prosecuting Attorney  
for Asotin County  
P.O. Box 220  
Asotin, Washington 99402  
(509) 243-2061

**COURT OF APPEALS OF THE STATE OF  
WASHINGTON - DIVISION III**

THE STATE OF WASHINGTON,

Respondent,

v.

JUSTIN C. LEWIS,

Appellant.

Court of Appeals No: 357759

**DECLARATION OF SERVICE**

**DECLARATION**

On May 31, 2018 I electronically mailed, through the portal, a copy of the BRIEF OF RESPONDENT in this matter to:

LISA ELLNER  
liseellnerlaw@comcast.net

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

Signed at Asotin, Washington on May 31, 2018.

  
\_\_\_\_\_  
LISA M. WEBBER  
Office Manager

**ASOTIN COUNTY PROSECUTOR'S OFFICE**

**May 31, 2018 - 2:21 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 35775-9  
**Appellate Court Case Title:** State of Washington v. Justin Carl Lewis  
**Superior Court Case Number:** 17-1-00053-3

**The following documents have been uploaded:**

- 357759\_Briefs\_Plus\_20180531142114D3021283\_2878.pdf  
This File Contains:  
Affidavit/Declaration - Service  
Briefs - Respondents  
*The Original File Name was Brief of Respondent.pdf*

**A copy of the uploaded files will be sent to:**

- Liseellnerlaw@comcast.net
- bnichols@co.asotin.wa.us
- valerie.liseellner@gmail.com

**Comments:**

---

Sender Name: Lisa Webber - Email: lwebber@co.asotin.wa.us

**Filing on Behalf of:** Curtis Lane Liedkie - Email: cliedkie@co.asotin.wa.us (Alternate Email: )

Address:  
135 2nd Street  
P.O. Box 220  
Asotin, WA, 99402  
Phone: (509) 243-2061

**Note: The Filing Id is 20180531142114D3021283**