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Court of Appeals
Division III
State of Washington

**No. 35917-4-III** consolidated with No. 359212

COURT OF APPEALS DIVISION III
OF THE STATE OF WASHINGTON

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**State of Washington,**
***Respondent***

**v.**

**Reed Alefteras,**
***Appellant***

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Appeal from the Superior Court of Spokane County
The Honorable Raymond F. Clary, Judge

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*BRIEF OF APPELLANT*

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Attorney for Appellant Reed Alefteras:

Douglas D. Phelps, WSBA #22620
Phelps & Associates
2903 North Stout Rd.
Spokane, WA 99206
Phone: (509) 892-0467

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## I. INTRODUCTION

The State of Washington charged Reed Alefteras with Count I: First Degree Robbery, Count II: First Degree Robbery, and Count III: First Degree Robbery at arraignment on December 27, 2016. (RP 12/27/2016 p. 3-5) The charges were amended on 7/27/2017, to Count I: First Degree Robbery, Count II: First Degree Robbery, and Count III: Fourth Degree Assault. (RP 7/27/2017), p. 22-24) The court accepted pleas of not guilty on all three counts. (RP 7/27/2017 p. 22-24) The jury returned a verdict of guilty on Count I: First Degree Robbery, not guilty on Count II: First Degree Robbery, and guilty on Count III: Fourth Degree Assault. (RP 01/25/2018 p. 433-434) The court entered a Judgment and Sentence on the Count I: First Degree Robbery and Count III: Fourth Degree Assault (3/01/2018 RP p. 471to 472: CP 153-167) A timely appeal was filed on March 12, 2018. (CP153-167)

## II. ASSIGNMENTS OF ERROR

1. **Did the Court err when it denied the Defendant's motion to dismiss for lack of evidence as to First Degree Robbery and thereafter commit reversible error when it's instructions to the jury were misleading?**

2. **Did the Court err when it denied the Defendant's motion to dismiss for lack of evidence as to Fourth Degree Assault?**

3. **Did the Court err when it imposed a filing fee upon an indigent criminal defendant requiring the court vacate the order requiring payment of a $200.00 criminal filing fee?**

4. **Did the Court err when it imposed fees upon the defendant who has been found to be indigent for fees for victim compensation and other fees without adequate inquiry as to the defendant's ability to pay?**

## III. STATEMENT OF THE CASE

On January 22, 2018, Reed J. Alefteras' jury trial began with co-defendant Antonio Jose Torres before the Honorable Raymond F. Clary in Spokane County

Superior Court. Mr. Terrence Ryan represented Mr. Reed J. Alefteras and advised the court that there may be *Bruton* issues should the state seek to admit certain statements of Mr. Antonio Jose Torres. (RP 01/22/2018 p. 7-8) Jury selection began for both defendants (RP 01/22/2018 p. 12) The court advised the jury as to the charges. Count I, First Degree Robbery was on July 10, 2016 personal property was taken from Sean P. Dempsey. Count II was First Degree Robbery from Ms. Holland. (RP 01/22/2018 p. 15) Count III was Fourth Degree Assault of Alex Lacefield occurring on July 10, 2016. (RP 01/22/2018 p. 15) A jury panel was selected and sworn in. (RP 01/22/2018 p. 90)

A 3.5 hearing was held with testimony from Detective Greg Thieschafer. (RP 01/22/2018 p. 99) He contacted Antonio Jose Torres on July 22, 2016 about a robbery. (RP 01/22/2018 p. 101) The detective testified he read Mr. Torres his rights before questioning. (RP 01/22/2018 p. 104-105) Mr. Torres never asserted his rights during his questioning. (RP 01/22/2018 p. 105) The court determines the statements are admissible. (RP 01/22/2018 p. 111)

Opening statements were given on January 23, 2018, by prosecutor Sharon Hedlund. (RP 01/23/2018 p. 117) The prosecution advises the jury that the defendants are charged as actors and accomplices with Mr. Caleb Townsend. (RP 01/23/2018 p. 121) Mr. Ryan advises the jury that Reed Alefteras hit a Mr. Lacefield after Mr. Lacefield pushed Mr. Alefteras. (RP 01/23/2018 p. 122-123) The state called Mr. Alex Lacefield as the first witness. (RP 01/23/2018 p. 126) Mr. Lacefield testifies he works construction. (RP 01/23/2018 p. 126) He has a girlfriend named Sharayah, who goes by Shay. Sean Dempsey is a friend of his, and they are all mutual friends. (RP 01/23/2018 p. 127) He picked up his friends Shay and Sean Dempsey, who were intoxicated. He then drove to the Third and Division area of Spokane, which has multiple bars. (RP 01/23/2018 p. 138) They then proceed to go to multiple bars in the area where they drank. (RP 01/23/2018 p. 129) Exhibit 5 was a google map with an overview of the downtown area. (RP

01/23/2018 p. 131) The exhibit was admitted into evidence. (RP 01/23/2018 p. 131) Shay and Mr. Alex Lacefield started fighting a "little bit, a small altercation." (RP 01/23/2018 p. 132) Then Shay began walking home and Mr. Lacefield and Mr. Dempsey followed her as she walked home intoxicated. (RP 01/23/2018 p. 132-133) He believed Shay was a 6 out of 10 and Mr. Dempsey was an 8 or 9 out of a 10 in level of intoxication. (RP 01/23/2018 p. 133) They were not able to calm Ms. Shay down and she continued her walk home. (RP 01/23/2018 p. 134)

The witness testifies that aerial photograph Exhibit 6 best depicts the area where the incident occurred. (RP 01/23/2018 p. 136) The court admits Exhibit 6 into evidence. (RP 01/23/2018 p. 136) Shay went over a fence into an area behind a building. (RP 01/23/2018 p. 137)

As Shay went over a fence, she fell and a number of items fell onto the ground, which Mr. Lacefield helped her pickup. (RP 01/23/2018 p. 138) Shay then continued to walk and then he heard yelling from someone saying. "Hey, come here." Three people approached. (RP 01/23/2018 p. 139)

The three people hopped over the fence. At one point, all three were standing together. One of them had a taser that he was using to make a zapping noise. Mr. Lacefield told the three people he wanted no problems and he walked away with Shay. (RP 01/23/2018 p. 140) The three people just stood there arms crossed looking at them. (RP 01/23/2018 p. 140) The guy that had the taser kept zapping it with a bright light. (RP 01/23/2018 p. 141) The guy with the taser was about 5'4" to 5'6" and had brown hair. (RP 01/23/2018 p. 141) The other guy was about his height, 6'1" and a little stockier with a little goatee. (RP 01/23/2018 p. 141) The guy that was about Mr. Lacefield's size head butted him. The medium-sized guy could have stayed on the other side of the fence. Using exhibit 10 and 11, he believed his group was closer to the end of the building. (RP 01/23/2018 p. 142) He did not see what happened with the two other guys

that never came over the fence. (RP 01/23/2018 p. 143) He cannot describe the other two men at all. (RP 01/23/2018 p. 143-144)

Mr. Lacefield and Shay turned to leave, but then Mr. Lacefield returned to look for Sean. (RP 01/23/2018 p. 143-144) As he returned, the guy with the taser and the taller guy, who later head-butted him were fighting with Sean. At that point, he just turned and left the area. As he moved away, he was head-butted by the taller guy. (RP 01/23/2018 p. 145) After that, the two guys left the area running away. (RP 01/23/2018 p. 145)

Sean got up, dusted himself off, and the three of them walked out of the area. The bigger guy and the guy with the taser were on the same side of the fence as he and Shay. (RP 01/23/2018 p. 146) He was unable to see clothing or give a description of the men. (RP 01/23/2018 p. 147) Shay had her purse but her phone was missing. (RP 01/23/2018 p. 147)

When Sean was being attacked, he was on the ground and the men were kicking him. (RP 01/23/2018 p. 148) Exhibit 15 and 16 shows people in a gas station and the guy in the blue looks like the guy that head-butted him. (RP 01/23/2018 p. 148) The guy talking to the clerk looks like the guy with the taser. (RP 01/23/2018 p. 149) He felt 70% sure the man with the white shirt and blue jeans looks very familiar. (RP 01/23/2018 p. 149) He believes the guy in the blue shirt was the guy that head-butted him based on exhibit 17. (RP 01/23/2018 p. 149) The guy in the white shirt and blue pants was the guy with the taser. (RP 01/23/2018 p. 149) State moves to admit Exhibit 17, which the court admits. (RP 01/23/2018 p. 150) There was a third person in the photos wearing camouflaged shorts. (RP 01/23/2018 p. 151) The guy in the camouflaged shorts does not look familiar at all. (RP 01/23/2018 p. 151) He has previously identified the guy that head-butted him in Exhibit 17. (RP 01/23/2018 p. 151) He was 98-99% sure that he was the guy that head-butted him. (RP 01/23/2018 p. 151-152) He was given exhibit 37 and he says the guy in picture #5 was the guy that head-butted him.

(RP 01/23/2018 p. 152) Exhibit 37 is admitted and published. (RP 01/23/2018 p. 152-153) Mr. Alex Lacefield had a bloody lip after he was hit.. (RP 01/23/2018 p. 153) Shay, Alex and Mr. Dempsey walked until they found help at Freya and Alki at a gas station. (RP 01/23/2018 p. 154) He saw the same guy hitting the fence. (RP 01/23/2018 p. 155) Exhibit 33 was admitted and published. (RP 01/23/2018 p. 156)

On cross-examination, Mr. Lacefield stated that the five men were on the other side of the fence. (RP 01/23/2018 p. 157) Mr. Lacefield had a mild buzz and had started drinking water. He had been at the Monterey bar and took a Lyft ride to the Star restaurant downtown. (RP 01/23/2018 p. 158) He and Shay were arguing and she was upset and yelling at him. She wanted to walk alone and wanted him to leave her alone. (RP 01/23/2018 p. 159) Mr. Sean Dempsey walked behind Mr. Lacefield and Shay, but stayed behind them because he was intoxicated. (RP 01/23/2018 p. 159)

Shay went over a fence that was about eight feet tall. As she went over the fence, she lost some contents from her purse. (RP 01/23/2018 p. 160) The fence then separated them from another group of people. (RP 01/23/2018 p. 160) Two of the other group stayed on the other side of the fence. (RP 01/23/2018 p. 161) He remembers zipping Shay's purse closed for her. (RP 01/23/2018 p. 161 One of the other guys jumped over the fence and held a flashing taser. (RP 01/23/2018 p. 161) Another man wear a blue shirt jumped over the fence and head-butted him. (RP 01/23/2018 p. 161) He testified that one of the men at the gas station he did not really recognize. He did not see that person's face. (RP 01/23/2018 p. 162) He said that the man in the blue shirt at the Mobil gas station head-butted him. (RP 01/23/2018 p. 162) The man in the blue shirt that head-butted him also kicked him while he was down. (RP 01/23/2018 p. 162) He had no other altercations with anyone else. (RP 01/23/2018 p. 162, lines 22-25)

He told the five people that were approaching that he "needed help calming Shay down" because he was concerned that they might think he was attacking her. That she was freaking out and he wanted them to know he was not attacking her. (RP 01/23/2018 p. 163) The other group was yelling at him "hey, get over here." (RP 01/23/2018 p. 163) Sean was out of his view at the time they knew he was behind them. (RP 01/23/2018 p. 164) They eventually walked to Trent Avenue.

After he was head-butted, the two guys men left the area. He and Shay went the other direction walking. (RP 01/23/2018 p. 164) He did not see anybody take anything from Shay's purse. (RP 01/23/2018 p. 164) He never saw anybody take anything from Mr. Dempsey. (RP 01/23/2018 p. 165) The man that had the white shirt and jeans was the man that had the taser. (RP 01/23/2018 p. 165) He states that the person at the Mobil gas station in the camouflaged shorts he did not recognize. (RP 01/23/2018 p. 165) He is certain the man with the blue shirt on head-butted him. (RP 01/23/2018 p. 166)

He and Shay were arguing over little things as she was drinking and putting things out of proportion. (RP 1/23/16 p. 166) She was upset about some friends that had died. (RP 1/23/2018 P. 168) She was emotional and they were about eight feet apart but still bickering. (RP 1/23/2018 p. 168) The lighting was not good. (RP 1/23/2018 p. 168) The lighting was poor and they could see a touch more than silhouettes. (RP 1/23/2018 p. 169) He could not tell what the guy in blue was wearing from a distance. (RP 1/23/2018 p. 169) The guys that were banging on the fence were trying to get their attention. (RP 1/23/2018 p. 170) They walked away but then went back towards the other group to look for Sean Dempsey. (RP 1/23/2018 p. 171) They saw Sean getting beat up by the other guys. (RP 1/23/2018 p. 171) They then left the area but he was head butted by the other guy. (RP 1/23/2018 p. 172) The guy that head butted him kicked him when he fell to the ground. (RP 1/23/2018 p. 175) After the kick occurred,

the man took off away from him. (RP 1/23/2018 p. 175) He then gets off the ground looking for Shay. (RP 1/23/2018 p. 175)

In a photo montage he picked someone out that was not involved in the case. (RP 1/23/2018 p. 177, lines 18-25) He had never seen the photos of the men in the gas station until today. (RP 1/23/2018 p. 178) He had, prior to today, only been able to identify the man in the blue shirt. (RP 1/23/2018 p. 178) He was able to get a vague look at their faces. (RP 1/23/2018 p. 178, lines 24-25) He only could pick out the color of the shirt after seeing the photos at trial. (RP 1/23/2018 p. 179) He previously had picked another person from a photo montage with law enforcement. (RP 1/23/2018 pp. 180-181) He was not able to see everything that went on that night because of being hit and head butted. (RP 1/23/2018 p. 187)

Sean Dempsey is called to testify for the State. (RP 1/23/2018 p. 188) Mr. Dempsey has lived in Spokane about 20 years. (RP 1/23/2018 p. 188) He was out in Spokane July 9 to 10 of 2016 with Shay and Alex who he has known for a number of years and they are friends he sees on a regular basis. (RP 1/23/2018 p. 190) He had been at a wedding downtown from 5:00 p.m. to 8:00 p.m. where he drank at the wedding with friends before meeting up with Shay and Alex. (RP 1/23/2018 p. 191) He does not remember much of the night probably due to alcohol and getting hit in the head. (RP 1/23/2018 p. 191) He believes he had a "good buzz" going and was "pretty drunk." He does not remember anything from being in the bar that night. (RP 1/23/2018 p. 192, lines 1-15)

He does typically carry a wallet in his front pants pocket. (RP 1/23/2018 p. 192) He remembers being down by a large round building and then walking down Trent. (RP 1/23/2018 p. 193, lines 1-12) He was pretty drunk as he walked down Trent with blood coming down his face with a torn shirt. (RP 1/23/2018 p. 193) He does not know how he became bloody with a torn shirt. (RP 1/23/2018 p. 193-194) At some point as he walked down Trent he became aware his wallet

was missing along with his keys. (RP 1/23/2018 p. 194, lines 1-12) He never found his wallet, his keys or the estimate $40-50 in the wallet. (RP 1/23/2018 p. 194)

The next day he went to the Spokane Teachers Credit Union to report the bank card missing. They told him there had been two charges on the card that night. (RP 1/23/2018 p. 195, lines 1-11) Exhibit 22 is presented to Mr. Dempsey as a document he filled out with his bank. (RP 1/23/2018 p. 195) Exhibit 20 and 21 are charges that went on his card from that night. (RP 1/23/2018 p. 195-196) He last knew that card was in his wallet. (RP 1/23/2018 p. 196) Exhibit P-22 was admitted. (RP 1/23/2018 p. 197) He went to the courthouse and police took photos of his injuries in photos as exhibits 23-32. (RP 1/23/2018 p. 198) The photos accurately depict his injuries from that night. (RP 1/23/2018 p. 198-199) He recalls a "little bit" following Shay and Alex that night. (RP 1/23/2018 p. 201) He was staying back from them because they were having a discussion. (RP 1/23/2018 p. 202) Prosecutor hands Exhibit 15, 16, 17 and 18 to witness who states he remembers no one. (RP 1/23/2018 p. 202-203) The first he remembered was being near the No-Li Brewery past Mission on Trent. (RP 1/23/2018 p. 208) At that point he realized that he had lost his wallet and his phone. (RP 1/23/2018 p. 208) The card was both a debit and credit card. (RP 1/23/2018 p. 210) His phone was left in a friend's car near the Star Restaurant downtown. (RP 1/23/2018 p. 210-211)

The State calls Michael Corrow to testify. (RP 1/23/2018 p. 212) He was the manager of the Mobile gas station at Hamilton and Sharp in July of 2016. (RP 1/23/2018 p.213) The store had surveillance cameras and kept receipts from the cash register . (RP 1/23/2018 p.214) They were able to find the video for the time when a purchase was made with the debit card. (RP 1/23/2018 p.215-216) Exhibit 14 is a video from the camera at the Mobil gas station. (RP 1/23/2018 p.216) Exhibit 14 was admitted without objection. (RP 1/23/2018 p.216) There

were still photos made from the video cameras in store as Exhibits 15, 16 and 18 identified and admitted as photos from the store cameras. (RP 1/23/2018 p.222-223) Exhibits 15, 16 and 18 are identified as copies of receipts from the store. (RP 1/23/2018 p.223) Plaintiff's exhibit P-19 is a receipt for monster energy drinks purchased with a debit card. (RP 1/23/2018 p.224) The receipt was signed for purchase of cigarettes was attributed to the man in the blue shirt. (RP 1/23/2018 p. 225) The purchase of the two energy drinks was made on a different debit card not by the man in the blue shirt. (RP 1/23/2018 p. 225-226) The two monster drink receipts were provided because the man that made the purchase was with the man in the blue shirt. (RP 1/23/2018 p. 227) The purchase of the cigarettes was on debit card ending in 9551 while the energy drinks was on cards ending in 5103. (RP 1/23/2018 p. 228)

The state calls Sharayah Holland to testify. (RP 1/23/2018 p. 229) Ms. Holland testifies her nickname is Shay. (RP 1/23/2018 p. 230) Alex Lacefield is her boyfriend and Sean Dempsey is a close friend. (RP 1/23/2018 p. 231) She was out with the men late on July 9 into the early morning of July 10. (RP 1/23/2018 p. 231) Sean had been to a wedding when they picked him up. (RP 1/23/2018 p. 231) They then went to a bar downtown called the Red Room. (RP 1/23/2018 p. 233) The went to a few bars in the downtown area before taking a cab from the Monterey over to the Star Bar, which is located in the Gonzaga district. (RP 1/23/2018 p. 233) She believes that occurred around one a.m. (RP 1/23/2018 p. 233)

As they were leaving the Star Bar, she could not find her phone, which was found later in her purse with a dead battery. (RP 1/23/2018 p. 234) They then began to argue about how they were going to get home. (RP 1/23/2018 p. 234) She had been going through a bad time and probably should not have been drinking. As they discussed how to get home, she became angry and walked out. (RP 1/23/2018 p. 235) Alex and Sean followed her as she walked. (RP

1/23/2018 p. 235) She "sort of" remembers walking down toward Mission Park (RP 1/23/2018 p. 235) Uncertain where they were, but she was telling Alex to "leave me alone." She jumped a fence to get away and heard a man's voice say. "Hey is everything okay?" "What are you doing?" (RP 1/23/2018 p. 236)

She is a black belt in jujitsu, and she went over easily but fell due to her intoxication. (RP 1/23/2018 p. 236) She does not believe that she had anything fall from her purse, but she was "fairly intoxicated." (RP 1/23/2018 p. 237) She does not know how she responded to the voices. (RP 1/23/2018 p. 237) She is 75 percent sure that she said something like "I'm fine." (RP 1/23/2018 p. 238) When they heard the men, they instantly quit fighting. (RP 1/23/2018 p. 238) She believes there were five men there on the other side of the fence. (RP 1/23/2018 p. 238 The five men were on the other side of the fence. (RP 1/23/2018 p. 238) Exhibits 10-11 show areas that she believes look familiar to her. (RP 1/23/2018 p. 239) She remembers a fence, tall grass, and a brick building. (RP 1/23/2018 p. 239) State's Exhibits 10 and 11 are admitted. (RP 1/23/2018 p. 240) The witness remembers the area in Exhibits 8, 9, and 12, which are admitted. (RP 1/23/2018 p. 229) A few of the five men jumped the fence and words were exchanges, but she is unsure of what was said. (RP 1/23/2018 p. 241) One of the men had a taser that kept making a zapping noise. (RP 1/23/2018 p. 241) They started to walk away and then turned back going to find Sean. (RP 1/23/2018 p. 241, lines 9-17) A man stepped into her path and all she remembers is that he had on a white shirt and a taser. (RP 1/23/2018 p. 241).

The description that she made of the man with the taser was 5'6" or 5'7" wearing a white shirt and jeans or black pants. (RP 1/23/2018 p. 242) She is not sure what she said his eye color was; either brown or blue. (RP 1/23/2018 p. 242, lines 9-15) There was very little light and she was intoxicated at a level of 8.1. (RP 1/23/2018 p. 242) She describes the other men as very tall with red hair and a beard. (RP 1/23/2018 p. 243) The third guy she did not get a very good look at

him. (RP 1/23/2018 p. 243, lines 9-12) She did not get a good look at the other guys and could only describe them as white males. (RP 1/23/2018 p. 243) She asked the guy with the taser where Alex went and he laughed and tasered her on the leg. (RP 1/23/2018 p. 243) She had three marks on her leg from the taser. (RP 1/23/2018 p. 244, lines 1-4) Exhibits 34, 35 and 36 are photos of the marks on her legs. The exhibits are admitted into evidence. (RP 1/23/2018 p. 245, lines 17-25)

Her phone was no longer in her purse and the phone had one hundred dollars in it. (RP 1/23/2018 p. 247) Along with the phone she was missing a large bottle of perfume from Victoria Secret. She is unsure how these items were removed or by whom. (RP 1/23/2018 p. 247, lines 9-25) She dropped her purse when she was tased and noticed things missing later. (RP 1/23/2018 p. 249, lines 3-21) She did not see anything happen to Alex. (RP 1/23/2018 p. 249) When she saw Sean she screamed because he was covered in blood. (RP 1/23/2018 p. 249) Near Sean was a tall kid with red hair on the side of the fence with Alex. (RP 1/23/2018 p. 249) She did notice injuries on Alex, who was bleeding from the mouth. (RP 1/23/2018 p.249) He was covered in blood. (RP 1/23/2018 p. 249, lines 21-24)

The witness is shown exhibits 15, 16, 17 and 18 and she was unable to identify anyone when shown the pictures by police. (RP 1/23/2018 p. 250, lines 22-25 to p. 251, line 1) In exhibit 15 the guy in the blue shirt looked familiar. (RP 1/23/2018 p. 257, lines 5-8) Exhibit 16 she states the man in the white shirt was the one with the taser. (RP 1/23/2018 p. 251, lines 8-11) She believes in Exhibit 17, the one in the blue shirt looks familiar as he showed up when Alex showed up. (RP 1/23/2018 p. 251) The man in Exhibit 18 in camo she is not positive about him. (RP 1/23/2018 p. 251, lines 21-25) On the date of the defense interview she could not remember the clothes the men were wearing. (RP 1/23/2018 p. 253, lines 1-18) She had stated the man had blue eyes. (RP

1/23/2018 p. 253) She had prior to today never gave a description of the clothing the man that assaulted her had on. (RP 1/23/2018 p. 254, lines 7-10) She never remembered the clothing the guy had on until she saw the photo today and it all came back when she saw the picture. (RP 1/23/2018 p. 255) She only remembers what the person was wearing because she looked at the picture. (RP 1/23/2018 p. 257, lines 10-16) The three of them were on Trent when Mr. Dempsey realized he lost his phone. (RP 1/23/2018 p. 257) She had told Alex to "leave me alone." (RP 1/23/2018 p. 258) She heard someone on the other side of the fence say "hey, is everything okay?" (RP 1/23/2018 p. 258, lines 13-25) The people on the other side of the fence were asking if everything was okay. (RP 1/23/2018 p. 259, line 1-3)

Her testimony was that the person that tasered her had on a white shirt. (RP 1/23/2018 p. 260, line 1-5) She did not say the man in the blue shirt hit her friend Alex, only that he came back with Alex. (RP 1/23/2018 p.260, line 6-11) She said her purse was zipped up until she was leaving, when she found it unzipped. (RP 1/23/2018 p. 260, lines 14-18) She observed the photos from the Mobil gas station. (RP 1/23/2018 p. 260, lines 23-25) There were three men there, one with a blue shirt, one with a very dark shirt and one with a white shirt. (RP 1/23/2018 p. 261, lines 1-14) The person in the black shirt she could not identify. (RP 1/23/2018 p. 261, lines 1-22) The man in the black she did not believe he was on the side of the fence she was on. (RP 1/23/2018 p. 262, line 11-19) The men on the other side of the fence asked if she was okay and were talking amongst themselves. (RP 1/23/2018 p. 263, line 6-15) The three that came over the fence were aggressive or cocky. (RP 1/23/2018 p. 263, line 21-25) Prior to jumping the fence the men asked "hey is everything okay?" She believes they were trying to communicate with them because… "I was talking aggressively with Alex and I hopped the fence and made noise…I don't

know…they weren't being nice" (RP 1/23/2018 p. 264, lines 15-22) They did see Alex and her having a verbal argument. (RP 1/23/2018 p. 264, lines 23-25)

The State next calls Dakota Fuchs. (RP 1/23/2018 p. 265) Ms. Fuchs states that she knows Reed Alefteras who is wearing a gray suit. (RP 1/23/2018 p.267, line 11-21) The witness also knows Antonio Torres. (RP 1/23/2018 p. 267, lines 21-25) She met them through her ex-boyfriend and Mr. Torres lived at a house she lived in. (RP 1/23/2018 p. 268, lines 1-13) Later, Anthony Torres and his ex-girlfriend lived with her and her boyfriend. (RP 1/23/2018 p. 269, lines 1-17) She later moved in with Mr. Torres and his girlfriend. (RP 1/23/2018 p. 269, lines 18-23) She knew Reed Alefteras because he was best friends with her boyfriend at that time. (RP 1/23/2018 p. 269, lines 22-25) She knew Mr. Alefteras was a bounty hunter. (RP 1/23/2018 p. 270, line 1-6) She did become involved in a romantic relationship with Mr. Torres. (RP 1/23/2018 p. 270, line 7-11)

One night in July, she remembers Reed Alefteras and Anthony Torres and maybe Caleb Townsend went out together drinking. (RP 1/23/2018 p. 270, lines 17-25) They went out in Reed's car that was a Crown Victoria which was black in color. (RP 1/23/2018 p. 271) That night when they came home they were loud and excited. (RP 1/23/2018 p. 272, lines 11-17)

She was asking about the incident because she was hearing about a park and that Caleb had taken somebody's credit card. (RP 1/23/2018 p. 276, line 1-8) Caleb had heard someone screaming and it was a female voice and they went to see what was wrong. (RP 1/23/2018 p. 276, lines 8-16) Mr. Torres and Mr. Alefteras were trying to get the other two men away from the woman because she was screaming, yelling at them to go away and leave her alone. Then there was a fight and after that they left. They met at a gas station when Caleb came they realized that Caleb had taken a credit card. (RP 1/23/2018 p. 276, line 16-25) Alefteras and Torres stayed at Noah Stiles house for several days after the

incident when the police were looking for them. (RP 1/23/2018 p. 277, lines 18-25) A detective had come by her house looking for Anthony Torres and she had told him that the detective was also looking for him. (RP 1/23/2018 p. 278. Line 14-25) The men were trying to figure out if they were going to turn themselves in or wait for the detective to return. (RP 1/23/2018 p. 279, line 1-19)

Ms. Fuchs was handed Exhibits 15, 16 and 18. Mr. Torres is identified, Mr. Townsend is identified and a man with a hat as possibly Reed Alefteras. (RP 1/23/2018 p. 281, line 1-13) The man in the camo type shorts and white hat is identified as Reed Alefteras. (RP 1/23/2018 p. 282, line 1-5) She knows Mr. Torres has a knuckle taser. (RP 1/23/2018 p. 282, line 18-25) The taser was found at her and Anthony Torres' house and was a brass knuckle with a taser on it. (RP 1/23/2018 p. 283, line 1-18) During the time that Torres and Alefteras were staying with Stiles, they talked about calling the people to see what they remember. (RP 1/23/2018 p. 284, line 19-25) It was her self-initiated decision to contact the witnesses and she is charged with tampering with witnesses. The charges were dismissed for her cooperation in this case. (RP 1/23/2018 p. 285, line 10-25) She contacted the witnesses and the conversation did not go well and the men decided to turn themselves in to the police. (RP 1/23/2018 p. 286) She talked with the female over the phone to see what she remembered. She did talk to Mr. Alefteras about the prosecutor contacting her on Facebook. (RP 1/23/2018 p. 288, line 9-20) She heard that Caleb took the credit card and they ditched him when they found out. (RP 1/23/2018 p. 289) She heard that they were trying to protect the girl and Caleb went crazy on the guy until they pulled him off the guy. (RP 1/23/2018 p. 289, line 9-15) The names of the people involved did not come from Mr. Alefteras or Mr. Torres. (RP 1/23/2018 p. 290) She decided to contact the witnesses on her own and was told that was a bad idea. (RP 1/23/2018 p. 291, line 1-20) She wanted to see what they remembered and if they would drop the charges. (RP 1/23/2018 p. 292, lines 1-10) Reed and Anthony had pulled Caleb

off of them and they were trying to protect the girl. (RP 1/23/2018 p. 292, line 10-25)

The State calls Noah Alexander-Tindle Stiles to testify. (RP 1/23/2018 p. 297) He knows Reed Alefteras and Atonio Torres through a mutual friend. Mr. Alefteras is wearing a gray suit and Mr. Torres is wearing a blue suit. (RP 1/23/2018 p. 298, line 1-16). In July of 2016 he was at the Star Bar with Caleb Townsend, Antonio Torres and Reed Alefteras. Later they were at a location near Mission Park. (RP 1/23/2018 p. 299, line 1-20) He observed Caleb hitting someone at the Mission Park. (RP 1/23/2018 p. 299, lines 21-25) A man with a beard pushed Reed Alefteras and Reed pushed him back. (RP 1/23/2018 p. 300, line 1-10) Mr. Alefteras pushed the man with the beard back after the man with the beard pushed Mr. Alefteras. (RP 1/23/2018 p. 301) The person that Reed Alefteras pushed back was not the person that Caleb hit. (RP 1/23/2018 p. 301, line 11-25) There were two guys and a girl that were there besides the witnesses, Reed Alefteras, Anthony Torres, Caleb Townsend.

The State calls Detective Greg Thieschafer to the stand. (RP 1/23/2018 p. 302) He has been with Spokane Police Department for 16 years and four years with the Los Angeles Police Department. (RP 1/23/2018 p. 303) He was assigned the case to investigate by his sergeant. (RP 1/23/2018 p. 305) He went to the Mobil gas station where the credit card had been used to see what evidence was there. (RP 1/23/2018 p. 306) He contacted the station manager, Mr. Carrow, who provided him with card receipts and the video of the card being used. (RP 1/23/2018 p. 306) Exhibits 19, 20 and 21 are the receipts that he was provided at that time. (RP 1/23/2018 p. 306) He viewed the video of the man using the credit card. Then he was able to get still photographs from the video. (RP 1/23/2018 p. 307) He interviewed Sharayah Holland in a lengthy phone conversation. (RP 1/23/2018 p. 308) Ms. Holland said general build 5'5", 5'6", thin build, white

and another gentleman larger with red facial hair possibly a beard. She provided eye and hair colors. (RP 1/23/2018 p. 309)

Detective Thieschafer interviewed Alex Lacefield and he showed him a photo montage with 6 people. Mr. Lacefield stopped or paused at Number 3, saying "this could be him." He at the end said at Number 5 "I think that is him." He interviewed Caleb Townsend related to the case with his attorney. (RP 1/23/2018 p. 312) Mr. Townsend identified Anthony Torres and Reed Alefteras. (RP 1/23/2018 p. 313) Anthony Torres was interviewed and he said that he was out with Caleb Townsend. (RP 1/23/2018 p. 314) Mr. Torres said he had a lot to drink and was with Caleb Townsend. (RP 1/23/2018 p. 314) Mr. Torres said after leaving the bars they walked down toward Mission Park. (RP 1/23/2018 p. 315) They were playing Pokémon Go and they got involved in an altercation. (RP 1/23/2018 p. 316) As they walked they heard a woman screaming words similar to "let me go; leave me alone!" They moved towards the sound and they saw a man and a woman. (RP 1/23/2018 p. 316)

The man and woman said they were just arguing and they were married. (RP 1/23/2018 p. 316, lines 15-19) The couple then walked off and Caleb became upset with another man that was walking and started punching the man. (RP 1/23/2018 p. 316, line 22-25 to p. 317, line 1-4) Anthony Torres went over and checked on the guy who was on the ground after Caleb struck him. (RP 1/23/2018 p. 317, line 5-15) Anthony Torres said they walked around until they went to the gas station. They went to the gas station around 3:00 to 3:30. (RP 1/23/2018 p. 318, line 16-25) When questioned about the taser, Mr. Torres said "I didn't tase anybody and I've never owned one." (RP 1/23/2018 p. 324, line 14-18) Mr. Torres said "Taser thing I don't know about. I have no idea." (RP 1/23/2018 p. 325, line 1-8)

There were three receipts for items purchased and two receipts were for cigarettes on one card. (RP 1/23/2018 p. 329) The value of the cigarettes was

$70.00 and that was on the stolen card. (RP 1/24/2018 p. 330) The other card was used by Mr. Alefteras who bought two energy drinks on a card not reported as stolen. (RP 1/24/2018 p. 330) There was no transaction at the gas station involving Mr. Torres. (RP 1/24/2018 p. 331) There was no indication that the card used by Mr. Alefteras was stolen and it was used to purchase two energy drinks. (RP 1/24/2018 p. 331)

Ms. Hedlund questioned the detective to interpret his perception of the interaction of the three men outside the gas station. (RP 1/24/2018 p. 333) Both defense counsel Mr. Ryan and Mr. Whitaker object one on relevance. Ultimately, the prosecutor withdrew the question. (RP 1/24/2018 p. 334) The state then rested and Mr. Ryan on behalf of Mr. Alefteras makes a motion for acquittal in the case. (RP 1/24/2018 p. 335) Mr. Ryan cites to State v. McReynolds, 142 Wn.App. 941 (2008), Division III, which tells the court whether there was sufficient evidence to go forward with the case. (RP 1/24/2018 p. 335-336)

Mr. Ryan states he will address each count as to Mr. Reed Alefteras. (RP 1/24/2018 p. 336) In summarizing the testimony, Mr. Alex Lacefield says "A man in a blue shirt hopped the fence and head butted him." (RP 1/24/2018 p. 337) The man with the taser was the man in the white shirt based on the video. The man with the taser and the big guy in the blue shirt ran away. (RP 1/24/2018 p. 338) The person wearing camouflage shorts, Mr. Alefteras, did not look even familiar. (RP 1/24/2018 p. 338, line 5-14) Mr. Lacefield was not hit by Reed Alefteras and he cannot confirm he was present. (RP 1/24/2018 p. 338, line 7-16)

Sean Dempsey was unable to identify anybody. The manager of the gas station brought in the video. (RP 1/24/2018 p. 338, line 17-24) Then Ms. Shay Holland testified they were there bickering about a ride home and her level of intoxication was 7 out of 10. (RP 1/24/2018 p. 339, line 1-4) She was yelling for her friends to leave her alone. There were five guys on the other side of the fence asking "hey is everything okay?" (RP 1/24/2018 p. 339, line 5-10) One of the

guys who jumped over the fence had a taser and the person with the taser had a white shirt and approximately 5'6" wearing maybe jeans. (RP 1/24/2018 p. 339, lines 10-16) The second man had red hair and a beard. She could not describe the third man. (RP 1/24/2018 p. 339, line 16-19)

She was tasered by the man in the white shirt who was in her face and reached his hands down her pants. Some things were taken from her purse and she could not figure out how that happened. (RP 1/24/2018 p. 339) She observed two other men around Sean who she could not identify. (RP 1/24/2018 p. 339)

Dakota Fuchs said that Reed Alefteras and Anthony Torres talked about the case and there was a taser in Anthony's room. (RP 1/24/2018 p. 340)

Detective Thieschafer testified that Reed Alefteras used his own credit card to purchase two energy drinks at the gas station. (RP 1/24/2018 p. 340, line 7-10)

Mr. Ryan asked the court to find him not guilty on the two counts of robbery that he is charged with. (RP 1/24/2018 p. 340, line 11-19) The prosecution argues that this is an accomplice case. (RP 1/24/2018 p. 341, lines 3-11) Noah Stiles was there as one of the five and he saw Reed Alefteras push a man who had pushed Reed Alefteras first. (RP 1/24/2018 p. 342) There were three guys who jumped the fence, a big guy as Caleb Townsend, a medium guy, and a smaller guy with a taser, Mr. Torres. (RP 1/24/2018 p. 342) They never positively identify Mr. Alefteras as one of the guys that jump the fence. Mr. Stiles identifies him as a man interacting with Mr. Lacefield. Ms. Hedlund states that jury instruction WPIC 10.51 requires more than mere presence. The state recognizes that you need to have more than just being there and being knowledgeable. (RP 1/24/2018 p. 343, line 11-25) Mr. Townsend had the wallet at the gas station and Mr. Alefteras gives him an energy drink. (RP 1/24/2018 p. 346, line 17-25)

Mr. Ryan argues that mere presence is not enough in the State of Washington for accomplice liability. (RP 1/24/2018 p. 348, line 21-25) Mr. Alefteras merely being present at the gas station near the wallet is not enough. He uses his own card for his purchase. (RP 1/24/2018 p. 349) Noah Stiles says that Mr. Alefteras pushed someone after that person pushed Mr. Alefteras. The man that uses the stolen credit card was the man in the blue shirt who purchased cigarettes. (RP 1/24/2018 p. 350, lines 1-10) The court then cites to State v. Salinas, State v. McReynolds, WPIC 10.51, WPIC 1.02, WPIC 37.50, WPIC 37.01 and the to convict instruction. (RP 1/24/2018 p. 351, line 1-16)

The sufficiency of evidence test, State v. Salinas 119 Wn.2d 192 P.201 "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." Then, "All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. (RP 1/24/2018 p. 351) The court then relies on "the word aid means all assistance given by support or presence." (RP 1/24/2018 p. 352) The court noted, "A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. (RP 1/24/2018 p. 351, line5-19) The court notes, "However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice." (RP 1/24/2018 p. 352, line 12-19)

The court continues to interpret the accomplice liability instruction as the accomplice "doesn't have to do anything." (RP 1/24/2018 p. 354, line 1-2) The court then denies the defense motion to dismiss the robbery counts as to Mr. Alefteras. (RP 1/24/2018 p. 355, line 1-8) Mr. Ryan then rested as to the defendants case. Mr. Whitaker rested on behalf of Mr. Torres. (RP 1/24/2018 p. 355)

The court questioned whether any party had any issues with the court's proposed jury instructions. (RP 1/24/2018 p. 357) After the jury returned both defendants rested their case. (RP 1/24/2018 p. 359) The court read the instructions to the jury. (RP 1/24/2018 p. 359 to 374) Instruction No. 22 reads in part:

> The word "aid" means all assistance, whether given by words, acts, encouragements or presence, a person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of criminal activity of another must be shown to establish that a person is an accomplice.

(RP 1/24/2018 p. 374, line 9-15) The prosecutor began the closing statements by telling the jury that they have two groups, one with Alex Lacefield, Shay and Sean Dempsey. The three people were in varying levels of intoxication. (RP 1/24/2018 p. 381, line 11-22) There was an argument where Shay told Alex to leave her alone and go away. (RP 1/24/2018 p. 381, line 23-25) Then there was voices of people asking "what's going on?" They responded to the screaming woman. (RP 1/24/2018 p. 382) Three of the five people jump over the fence onto the side where Alex, Shay and Sean were. (RP 1/24/2018 p. 382) At that point one of the men has a taser that he is zapping with his arms crossed. (RP 1/24/2018 p. 383) Alex positively identified Caleb Townsend as the one who jumped the fence. Anthony Torres was identified from the stand for the first time as one of the men. (RP 1/24/2018 p. 383) The prosecutor vouches for the witness who said Caleb and Antonio Torres were involved. (RP 1/24/2018 p. 384, line 5-10) The prosecutor even advises the jury that they should disregard her vouching for the witnesses. (RP 1/24/2018 p. 384, lines 5-12) The witnesses also said that Reed Alefteras was not familiar to them. (RP 1/24/2018 p. 384, lines 13-17) The witnesses did not recognize the clothing he had on as what anyone had on involved in the case. (RP 1/24/2018 p. 384, line 13-18) Noah Stiles testified Mr.

Alefteras was on the side of the fence and that Mr. Alefteras was pushed and he pushed back at the guy who pushed him first. (RP 1/24/2018 p. 3385) The unknown males left the area. (RP 1/24/2018 p. 386, lines 1-3)

At the gas station, you see Caleb Townsend take the wallet out of his pocket and the other two men are there. The jury can view the video to see what the men are doing at the gas station. (RP 1/24/2018 p. 386, lines 16-22) The card was not used by the other two men there was no benefit. (RP 1/24/2018 p. 386, lines 23-25) The prosecutor argues that "a person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime." The jury must find that their presence is aiding in the commission of the crime. (RP 1/24/2018 p. 388, lines 10-21)

The robbery occurred when the persons acting as accomplices took the personal items from the person who were beaten. (RP 1/24/2018 p. 390, lines 21-25) The prosecution seeks a guilty verdict because the defendant did it or is legally accountable for the acts of the person or persons who did it. (RP 1/24/2018 p. 394, line 1-7)

Mr. Ryan argues closing argument for Mr. Alefteras. (RP 1/24/2018 p. 395) Mr. Stiles testified that Reed Alefteras was pushed and he pushed that person back. (RP 1/24/2018 p. 395, lines 5-11) Alex Lacefield testified that he was very intoxicated and it was dark outside but he recalled one of the men was wearing a blue shirt. (RP 1/24/2018 p. 395, lines 14-21) The man in the blue shirt was identified as Caleb Townsend. Alex said the man in the blue shirt head butted him. (RP 1/24/2018 p. 395, line 22-25) Mr. Lacefield testified the man in the blue shirt headbutted him. (RP 1/24/2018 p. 396) Reed Alefteras never headbutted anyone and he did not taser anyone. (RP 1/24/2018 p. 396, lines 8-11)

Mr. Sean Dempsey testified he did not recall anyone. (RP 1/24/2018 p. 396) He lost his wallet but he did not know how. (RP 1/24/2018 p. 396, lines 12-15)

Michael Corrow testified to the receipts and to the video made from the video recorder at the gas station. (RP 1/24/2018 p. 396, line 16-20) Shay testified she was a 7 out of 10 on the level of intoxication. (RP 1/24/2018 p. 396) She was telling her boyfriend to leave her alone and she remember the man with the taser was the one in the white shirt. (RP 1/24/2018 p. 397)

Dakota Fuchs testified that Mr. Anthony Torres had a knuckle taser. (RP 1/24/2018 p. 398) Noah Stiles testified that Caleb Townsend hit someone and he saw someone push Reed Alefteras and Reed pushed that person back. (RP 1/24/2018 p. 398, lines 6-8)

Detective Thieschafer testified about the videos and the merchandise purchased. (RP 1/24/2018 p. 398) The prosecution argues that Mr. Reed Alefteras who hit nobody or discussed robbery with anybody but he should convicted of two counts of robbery. What is the evidence of a joint effort with Caleb Townsend. Where is the evidence of a common effort to taser Sharayah Holland or beat up Mr. Lacefield. (RP 1/24/2018 p. 398, lines 14-25)

Mr. Reed Alefteras did not help, encourage or counsel to commit robbery. (RP 1/24/2018 p. 400, line 1-9) The video here shows Reed Alefteras in a dark shirt, hat on backwards, wearing a camo shorts. Mr. Alefteras is purchasing two cans of energy drink with his own credit card. He never uses the stolen card to purchase his goods. (RP 1/24/2018 p. 400, lines 10-25) The court then allows the video to be admitted by stipulation as P-39. (RP 1/24/2018 p. 401, line 13-25)

Mr. Whitaker argues on behalf of Mr. Torres. Mr. Caleb Townsend was the person who acted here. Caleb is a large man with a blue shirt who has the wallet at the gas station. He uses the credit card to purchase cigarettes. (RP 1/24/2018 p. 405, lines 4-25) The fact that these men were at the gas station when the card was used does not demonstrate that they had a common scheme or plan to commit robbery in Mission Park earlier. (RP 1/24/2018 p. 406, lines 1-13) The witnesses were unable to identify the persons in the photo montage. (RP

1/24/2018 p. 408, lines 14-25) The witness only addresses the man as the one in the white shirt. (RP 1/24/2018 p. 409, lines 14-25) There was no identification by the witnesses of the men in the courtroom of the accused. (RP 1/24/2018 p. 410) They did not describe the people to the police when they made the report to the police. (RP 1/24/2018 p. 413)

Ms. Fuchs' testimony that Mr. Torres had a taser in their home. The taser was found after the crime and after he moved out of the house. (RP 1/24/2018 p. 414) She is testifying because she has an agreement to avoid criminal charges. (RP 1/24/2018 p. 415) Shay merely has items missing there is no evidence that anyone took her belongings. (RP 1/24/2018 p. 416) The prosecutor in rebuttal argues that these two are with Caleb Townsend. They hang with him and the whole night they are with Caleb Townsend. (RP 1/24/2018 p. 422) The fact that they didn't call for assistance can be considered. (RP 1/24/2018 p. 422, lines 1-9) The prosecutor plays Exhibit 14 for the jury. (RP 1/24/2018 p. 423) She argues the men were together from the beginning to the end. (RP 1/24/2018 p. 425, lines 20-25)

During deliberations the jury submitted a question: "We are at an impasse regarding specific count for Mr. Torres and Mr. Alefteras. What does the court suggest? That's Number 1, Number 2: Can we have clarity on Instruction No. 22? Number 3: Do all counts need a verdict to end the deliberation process? Number 4: What day of the week was July 9 and 10, 2016? It is dated today's date and signed by presiding juror." (RP 1/24/2018 p. 430, line 13-25)

An agreed response was given: "You must rely upon the evidence admitted at trial and the juror instructions you have been provided in making your decisions." (RP 1/24/2018 p. 431, lines 7-10) The jury later returns with a verdict. (RP 1/24/2018 p. 432, line 19-25. The court reads the verdict finding Reed Alefteras guilty of Count I robbery, not guilty on Count II robbery and guilty of Fourth degree assault in Count III. (RP 1/24/2018 p. 433, line 1-17)

The jury found Antonio Torres guilty of Count I robbery, not guilty of Count II robbery and guilty on Count III Fourth degree assault. (RP 1/24/2018 p. 434)

On March 1, 2018, the defense brought a motion for a new trial. (RP 1/24/2018 p. 449-50) Mr. Ryan argues for a new trial arrest of judgment. The brief was filed with the Court. (CP 95-98) The defense argues that there was a lack of evidence for the jury to find that Mr. Alefteras committed the First Degree Robbery or the Fourth Degree Assault beyond a reasonable doubt. (RP 3/1/2018 p. 451, lines 1-8) Mr. Whitaker argued that the mere presence was not enough evidence as to his client Mr. Torres. (RP 3/1/2018 p. 451)

The court rules that in looking at the motion the court defers to the jury's verdict. (RP 3/1/2018 p. 422) The evidence was very largely circumstantial evidence. (RP 3/1/2018 p. 422, lines 20-25) The court states "a person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. (RP 3/1/2018 p. 453) The court therefore denies the motion to upset the juries verdict. (RP 3/1/2018 p. 453, lines 1-9)

The court sentenced Mr. Alefteras to low end of the standard range of 31 months with a finding of chemical dependency and 18 months of community custody. (RP 3/1/2018 p. 471, lines 4-19) Court imposes fines and costs of $500 victim compensation fee, $200 filing fee and $100 DNA fee for a total of $800 with restitution left open for 180 days. (RP 3/1/2018 p. 471, lines 19-25) As to the Fourth Degree Assault, the court sentences Mr. Alefteras to the full 364 days but that is to run concurrent to the robbery sentence. (RP 3/1/2018 p. 472, line 1-11) A judgment and sentence was entered by the Court. (CP 129-142)

## IV. ARGUMENT

1. **The Court committed error when it allowed the matter to proceed to the jury where the facts were insufficient to find the defendant committed First Degree Robbery and thereafter the Court's instructions to the jury were misleading and amount to reversible error.**

Mr. Alefteras was charged by Amended Information filed on July 27, 2017, with first degree robbery as to Mr. Dempsey (Count I), first degree robbery as to Ms. Holland (Count II) and fourth degree assault as to Mr. Lacefield (Count III). Although not required, the charging document did not distinguish Mr. Alefteras' criminal culpability as that of an accomplice and charged all three codefendants as principle actors while prosecutor Sharon Hedlund stated during the trial that the case was being charged as an accomplice case. (RP 1/24/2018 p. 341, lines 3-11)

After the State rested its case, counsel for Mr. Alefteras made a motion to dismiss the counts charged, contending that even viewing the evidence in the light most favorable to the State, there was insufficient evidence to convict Mr. Alefteras of Counts I, II and III. The trial court denied the motion, ruling there was sufficient evidence for the charges to proceed to the jury. See, RP at 336-355.

The charging document for Count I, first degree robbery, as plead in the Amended Information filed on July 27, 2017, read as follows:

> COUNT I: FIRST DEGREE ROBBERY, committed as follows: That the defendants, ANTONIO JOSE TORRES, CALEB G. TOWNSEND and REED J. ALEFTERAS, in the State of Washington, on or about July 20, 2016, with the intent to commit theft, did unlawfully take and retain personal property, that the person from whom the property was taken had an ownership, representative, or possessory interest in, and that the defendant did not own, from the person and in the presence of SEAN P. DEMPSEY, against such person's will, by use or threatened use of immediate force, violence or fear of injury to said person or the property of said person or the person or property of another, and in the commission of and immediate flight therefrom, the defendants inflicted bodily injury upon SEAN P. DEMPSEY.

(CP 46).

The trial court's to-convict instruction to the jury read as follows:

> To convict the defendant, Reed J. Alefteras, of the crime of robbery in the first degree as charged in Count I, each of the following seven elements of the crime must be proved beyond a reasonable doubt:
>
> (1) That on or about July 10, 2016, the defendant unlawfully took personal property from the person or in the presence of another, Sean P. Dempsey;
> (2) That the person owned or was in possession of the property taken;
> (3) That the defendant intended to commit theft of the property;
> (4) That the taking was against the person's will by the defendant's use or threatened use of immediate force, violence, or fear of injury to that person or to that person's property or to the person or property of another;
> (5) That force or fear was used by the defendant to obtain or retain possession of the property or to prevent or overcome resistance to the taking or to prevent knowledge of the taking;
> (6) That in the commission of these acts or in the immediate flight therefrom the defendant inflicted bodily injury; and
> (7) That any of these acts occurred in the State of Washington.
>
> If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.
>
> On the other hand, if, after weighing all the evidence, you have reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

(CP 181).

**a. Insufficient Evidence Existed to Present the Case to the Jury**

When a defendant challenges the sufficiency of the evidence underlying his conviction, a reviewing court views the evidence in the light most favorable to the State and asks whether any rational trier of fact could find the essential

elements of the crime beyond a reasonable doubt. *State v. Green*, 94 Wn.2d 216, 220-21, 616 P.2d 628 (1980).

First Degree Robbery is defined in RCW 9A.56.190 as follows:

> A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear.

The reviewing court considers circumstantial evidence equally reliable as direct evidence. *State v. Myers*, 133 Wn.2d 26, 38, 941 P.2d 1102 (1997); *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). Sufficient evidence supports a conviction it any rational trier of tact, when viewing the evidence in the light most favorable to the State, could have found the essential elements of the charged crime proved beyond a reasonable doubt. *State v. Owens*, 180 Wn.2d 90, 99, 323 P.3d 1030 (2014). A claim of insufficiency admits the truth of the State's evidence. *State v. Brown*, 162 Wn.2d 422, 428, 173 P.3d 245 (2007). A criminal defendant's claim of insufficient evidence admits the truth of the State's evidence and "'all inferences that reasonably can be drawn [from it].'" *State v. Condon*, 182 Wn.2d 307, 314, 343 P.3d 357 (2015) (alteration in original) (quoting *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992)).

The testimony of the victim of the robbery charged in Count I, Mr. Sean Dempsey, provided no evidence against Mr. Alefteras—as a principal or accomplice—to the theft of Mr. Dempsey's bank card or the force used against Mr. Dempsey to obtain the bank card. Testimony of Mr. Lacefield, the victim of the crime charged in Count III, specifically excluded Mr. Alefteras as a suspect.

Mr. Lacefield testified he was headbutted and kicked in the face by Mr. Townsend (who was wearing the blue shirt) and that Mr. Torres (who was wearing a white shirt) was wielding a Taser during the assault, but that Mr. Alefteras (who was wearing camouflage shorts) was not familiar to him at all. In fact, when presented with a photo montage containing a photograph of Mr. Alefteras, Mr. Lacefield was unable to identify Mr. Alefteras and instead he identified as a suspect an individual who was not involved in the case.

Mr. Corrow, who was the gas station manager on the night of the robbery, testified as to the surveillance images admitted into evidence. Mr. Corrow's testimony reflected the use of Mr. Dempsey's bank card to purchase cigarettes by Mr. Townsend (who was wearing a blue shirt). Mr. Corrow's testified Mr. Alefteras's receipts for the purchase of energy drinks were provided to police only because he was in the store with Mr. Townsend and Mr. Torres and that the purchase by Mr. Alefteras was made with a separate bank card (ending in 5103). The evidence reflected Mr. Alefteras did stand near Mr. Townsend when the stolen card was used to purchase cigarettes, but there was absolutely zero evidence, neither direct nor circumstantial, which supported the position that Mr. Alefteras encouraged Mr. Townsend to commit a first degree robbery. Mr. Alefteras did not use the stolen bank card at the gas station, nor was there evidence that Mr. Alefteras even knew a stolen bank card was being used at the time he was in the gas station.

There was no evidence Mr. Alefteras unlawfully took personal property from Mr. Dempsey, nor was there evidence Mr. Alefteras solicited or aided in the unlawful taking or was present and willing to aid should a coparticipant request his aid. In fact, the evidence even viewed favorably toward the state cannot and does not prove Mr. Alefteras had any knowledge a robbery even occurred.

There was no evidence Mr. Alefteras used force to unlawfully take personal property from Mr. Dempsey, nor was there evidence Mr. Alefteras

solicited or aided in force used against Mr. Dempsey during the course of the robbery.

There was no evidence Mr. Alefteras had specific or general knowledge of the crime of first-degree robbery as to Mr. Dempsey, nor was there evidence he solicited, aided or agreed with the codefendants. *State v. Gladstone*, 78 Wn.2d 306, 474 P.2d 274, (1970) succinctly summarized how a bystander becomes an accomplice:

> Thus, even without prior agreement, arrangement or understanding, a bystander to a robbery could be guilty of aiding and abetting its commission if he came to the aid of a robber and knowingly assisted him in perpetrating the crime. But regardless of the modus operandi and with or without a conspiracy or agreement to commit the crime and whether present or away from the scene of it, there is no aiding and abetting unless one "in some sort associate himself with the venture, that he participate in it as in something that he wishes to bring about, that he seek by his action to make it succeed."

(quoting *Nye & Nissen v. United States*, 336 U.S. 613, 619, 69 S.Ct. 766, 769, 93 L.Ed. 919 (1949))(emphasis added).

In other words, in order to be liable as an accomplice, "a defendant must not merely aid in any crime, but must knowingly aid in the commission of the specific crime charged." *State v. Brown*, 147 Wn.2d 330, 338, 58 P.3d 889 (2002); see also *State v. Trout*, 125 Wn. App. 403, 410,105 P.3d 69 (2005) (stating that "it is also clear now that the culpability of an accomplice cannot extend beyond the crimes of which the accomplice actually has knowledge"); *State v. Cronin*, 142 Wn.2d 568, 578, 14 P.3d 752 (2000); *State v. Roberts*, 142 Wn.2d 471, 510-513, 14 P.3d 713 (2000).

So, *arguendo*, even if Mr. Alefteras knew Mr. Townsend was going to use a stolen bank card to make a purchase of cigarettes at the gas station and encouraged or requested the purchase to be made, his conduct might only expose

him to criminal liability of the theft of the funds from the card, not the robbery which brought the card into his presence. *State v. Grendahl*, 110 Wash.App. 905, 43 P.3d 76 (2002). Here, Mr. Alefteras was merely present when the stolen card was used at the gas station, and there was no evidence which established he knew, or was ready to assist, in the use of the stolen card. *State v. Roberts*, 142 Wn.2d 471, 512-13, 14 P.3d 713 (2000), and *State v. Cronin*, 142 Wn.2d 568, 579, 14 P.3d 752 (2000), can be helpful in this analysis. In both, the reviewing court emphasized that for a defendant to be guilty as an accomplice, the state must show he possessed general knowledge he aided the commission of the crime, not just any crime. *Roberts*, 142 Wn.2d at 512-13; *Cronin*, 142 Wn.2d at 579.

At trial there was no evidence at all to prove beyond a reasonable doubt that Mr. Alefteras was present when the robbery of Mr. Dempsey occurred or that he even knew a robbery had occurred; rather, the evidence presented through Mr. Lacefield's testimony established Mr. Alefteras was not present at the robbery and assault. The evidence only established Mr. Alefteras's was present at the gas station when Mr. Townsend used the stolen bank card. Mere presence at the gas station with knowledge a crime is occurring still is not enough to convict under accomplice theory. *State v. Rotunno*, 95 Wn.2d 931 (1981) *c.f.: State v. Knight,* 176 Wn.App. 936 (2013); jury must be instructed that one is "ready to assist" in the commission of the crime. *In re Wilson,* 91 Wn.2d 487 (1979), *State v. Asaeli,* 150 Wn.App. 543, 568-70 (2009); '*State v. Landon*, 69 Wn.App. 83, 848 P.2d 724 (1993); *In re Wilson*, 91 Wn.2d 487, 491–92, 588 P.2d 1161 (1979); *State v. McDaniel*, 155 Wn.App. 829, 863, 230 P.3d 245 (2010)(mere presence combined with assent not sufficient to convict); *State v. Truong,* 168 Wn.App. 529, 539–40, 277 P. 3d 74 (2012)(mere presence combined with knowledge not sufficient for conviction).

As to the sufficiency of the evidence relating to identity, Mr. Alefteras submits there was insufficient evidence identifying him as a perpetrator of the

crime charged in Count I and no rational trier of fact could have found him guilty of the elements of the crime beyond a reasonable doubt. The lack of victim identification of Mr. Alefteras as a suspect (both during the police investigation and during the in-court trial), supports his position there was insufficient evidence.

Division I, in *State v. Hendrix*, 151 Wn.2d 1037, 95 P.3d 351 (2004), expressed agreement with two federal cases that overturned a defendant's conviction based on the victim/witness failure to identify the defendant as the suspect and no corroborating facts or circumstances linked the defendant to the crime, United States v. Musquiz, 445 F.2d 963, 965 (5th Cir.1971) and United States v. Johnson, 427 F.2d 957, 961 (5th Cir.1970). In *Johnson* the sole witness was unable to positively identify the defendant as the robber in either a photo montage, a line-up, or in court. *Johnson*, at 958. In *Musquiz*, there was no pretrial identification issue but at trial the witness gave only equivocal testimony and another could not positively identify the defendant. *Musquiz*, at 965-66.

Here, there is not a single individual who can place Mr. Alefteras at the scene of the robbery and assaults nor was there any evidence of identification of Mr. Alefteras as an accomplice to the crimes. Mr. Dempsey could not recall who assaulted him. Mr. Lacefield recalled the clothing of the assailants but specifically did not recall observing Mr. Alefteras at the scene, wearing camouflage shorts. Mr. Carrow only provided surveillance footage of Mr. Alefteras to police because he entered and exited the store with the individuals who used the stolen bank card. There was not only insufficient evidence on identification as to Mr. Alefteras, there was zero evidence on identification.

Further, both the charging document and the court's "to convict" instruction failed to adequately apprise Mr. Alefteras of the venue of the crime alleged. The Washington State Constitution, article 1, section 22, grants the right of "a speedy public trial by an impartial jury of the county in which the offense is

charged to have been committed" to a defendant in a criminal proceeding. (emphasis added). While venue is not an element of the crime of first degree robbery, if venue is included in the court's "to convict" instruction to the jury and it is not objected to by the State, then it becomes an element of the crime and the defendant may challenge the sufficiency of the added element on appeal under "law of the case" doctrine. *State v. Hickman*, 135 Wn.2d 97 (1998).

The doctrine holds that instructions not objected to become the law of the case. *State v. Hames*, 74 Wash.2d 721, 725, 446 P.2d 344 (1968) ("'The foregoing instructions were not excepted to and therefore, became the law of the case.'")(quoting *State v. Leohner*, 69 Wash.2d 131, 134, 417 P.2d 368 (1966)) ; *State v. Salas*, 127 Wash.2d 173, 182, 897 P.2d 1246 (1995) ("[I]f no exception is taken to jury instructions, those instructions become the law of the case."). Mr. Alefteras was not obligated to submit a proposed instruction on venue in the proper county, as venue in the proper county is a constitutional right granted to him by article 1, section 22. *State v. Dent*, 123 Wn.2d 467, 479-82 (1994).

Once the court instructed the jury in the "to convict" instruction and included venue as an element, and absent objection by the State, venue became an added element of the crime and at that point must be proved beyond a reasonable doubt. *Hickman, supra*, at 105. Unlike the string of cases pre-*Hickman*, which indicated venue could be proven by reference to street names, buildings and landmarks the jury probably knows of, *Hickman* at 106 set the standard much higher once venue becomes an added element and requires the State to prove the element beyond a reasonable doubt—judicial notice of street names apparently fail to meet the required burden. Because Mr. Alefteras has a constitutional right to be tried in the county where the crime allegedly occurred, and because the State's charging document failed to specify the county when it stated the venue as "the State of Washington", and because the court's instruction to the jury included venue as an added element of first degree robbery, there was insufficient evidence

to find Mr. Alefteras committed first degree robbery, as a principle or accomplice, within the proper venue.

Additionally, a defendant may raise a challenge to the sufficiency of the charging document at any time. Challenges brought after a verdict are tested under the "fair construction" rule. *State v. Tunney*, 129 Wn.2d 336, 339-40, 917 P.2d 95 (1996). The fair construction rule analysis requires the court to determine whether the information is sufficient by asking: (1) do the necessary elements appear in any form, or by fair construction can they be found, in the information; and, if so, (2) can the defendant show he or she was nonetheless actually prejudiced by the inartful language which caused a lack of notice. *State v. Kjorsvik*, 812 P.2d 86, 117 Wash. 2d 93, 105-06 (1991). The first prong requires at least some language in the information giving notice of the missing element. *Kjorsvik*, 117 Wn.2d at 106. The failure to specify the county under venue in the charging document is prejudicial error and requires reversal of Mr. Alefteras's guilty verdict as to Count I.

**b. The cumulative effect of the vaguely worded charging document which did not differentiate between principal and accomplice, the Court's instructions to the jury Nos. 12, 20 and 22, and the jury's confusion on the Court's instruction to the jury No. 22 is reversible error.**

"The rule requiring that all elements of a crime be listed in a single instruction is not violated when accomplice liability is described in a separate instruction. Here, the Court of Appeals correctly determined that jury instructions are sufficient when, read as a whole, they accurately state the law, do not mislead the jury, and permit each party to argue its theory of the case." *State v. Teal*, 152 Wn.2d 333, 339, 96 P.3d 974 (2004). Here, the jury was clearly mislead as to the

law on accomplice liability and it was mislead because of the court's instructions on the law. Instruction No. 22, the accomplice liability instruction, read as follows:

> 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. A person is legally accountable for the conduct of another person when he or she is an accomplice of such other person in the commission of the crime.
>
> A person is an accomplice in the commission of a crime if, with knowledge that it will promote or facilitate the commission of the crime, he or she either:
>
> (1) solicits, commands, encourages, or requests another person to commit the crime; or
> (2) aids or agrees to aid another person in planning or committing the crime.
>
> The word "aid" means all assistance whether given by words, acts, encouragement, support, or presence. A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice.

(CP 191) During deliberations, the jury submitted an inquiry to the Court. The inquiry and court's response, dated and signed by the presiding juror and superior court judge respectively, read as follows:

> Jury inquiry: We're at an impasse regarding a specific county for both Mr. Torres and Mr. Alefteras. What does the court suggest? Can we have clarity on Instruction 22? Do all counts need a verdict to end the deliberation process? What day of the week was July 9 and 10, 2016.

> Court's response…: You must rely on the evidence admitted at trial and the jury instructions that have been given to you in making your decision.

(CP 199) The State and counsel for defendants conferred and stipulated to the verbatim response, which the court provided to the jury. (RP 1/24/18, p. 432, lines 3-12)

In Washington state, the status of accomplice liability in criminal cases is that the charging document does not need to distinguish whether a defendant is being charged as a principle or an accomplice. However, *Teal* is helpful on how the court can instruct the jury when there is a question as to principle versus accomplice liability. There, the appellate court "agreed with the trial court's jury instruction that it need not reach unanimity on whether a defendant acted as a principal or an accomplice in the crime for which the defendant was charged, so long as 'it was convinced that the alleged crimes were committed and that the [defendant] participated in each of them.'" *State v. Teal*, 152 Wn.2d 333, 96 P.3d 974, (2004)(citing *Carothers*, 84 Wash.2d at 261, 525 P.2d 731)).

Here, the court's failure to provide an instructive response to the jury's inquiry caused the jury to be mislead related to Instruction 22, which is the theory of liability under that which Mr. Alefteras was convicted.

As a result of the above issues, there was not sufficient evidence for the case to be put before the jury, no rational trier of fact could have found Mr. Alefteras committed the elements of the crime beyond a reasonable doubt, and Mr. Alefteras's motion to dismiss after the State rested it case should have been granted.

**2. The Court committed error when it allowed the matter to proceed to the jury where the facts were insufficient to find the defendant committed Fourth Degree Assault?**

Again, the same issues apply to the insufficiency as to Fourth Degree Assault. As discussed at length in the factual section of this brief, the alleged victim, Mr. Lacefield, not only testified he had no recollection of Mr. Alefteras being at the scene of the assault but he specifically testified that another person assaulted him. There was no evidence to support an accomplice liability against Mr. Alefteras.

**3. The Court committed error when it imposed a filing fee upon an indigent criminal defendant requiring the court vacate the order requiring payment of a $200.00 criminal filing fee?**

On September 20, 2018, the Washington Supreme Court decided in *State v. Ramirez*, __ Wn.2d at __, 426 P.3d 714 (September 20, 2018), that the amendments to the Legal Financial Obligations (LFO) statutes passed as HB 1783 applies prospectively to all cases pending on direct appeal. *Ramirez*, __ Wn.2d at __, 426 P.2d at 722. Pursuant to those amendments, a trial court may no longer impose discretionary LFOs upon indigent persons. RCW 10.01.160(3). Likewise, a sentencing court may no longer order an indigent person to pay the $200 criminal filing fee. Laws of 2018, ch. 269, § 17; *Ramirez*, , __ Wn.2d at __, 426 P.2d at 722. Because he is indigent, the sentencing court is prohibited from ordering Mr. Alefteras to pay the $200 criminal filing fee under HB 1783. *Id.* CP 129-142.

**4. The Court committed error when it imposed fees upon the defendant who has been found to be indigent for fees for victim compensation and other fees without adequate inquiry as to the defendant's ability to pay?**

*State v. Blazina*, 182 Wash.2d 827, 344 P.3d 680 (2015) mandates an inquiry by a sentencing judge to determine a defendant's ability to pay and failure to make the requisite inquiry is erroneous requiring a new sentencing hearing. RCW 10.01.160(3) requires the record to reflect that the sentencing judge made an individualized inquiry into the defendant's current and future ability to pay

before the court imposes LFOs. To enter a finding regarding the defendant's ability to pay LFOs and restitution, a sentencing court must consider the individual defendant's financial resources and the burden of imposing such obligations on him. RCW 9.94A.753; RCW 10.01.160; State v. Bertrand, 165 Wn.App. 393, 403 -04, 267 P.3d 511 ( 2011) (citing State v. Baldwin, 63 Wn.App. 303, 312, 818 P.2d 1116, 837 P.2d 646 (1991).

Appellate courts review the trial court's decision on ability to pay under the clearly erroneous standard. *Bertrand* 165 Wn.App. at 403-04 (citing *Baldwin* 63 Wn.App. at 312). While formal findings are not required, to survive appellate scrutiny the record must establish the sentencing judge at least considered the defendant's financial resources and the nature of the burden imposed by requiring payment. *Id*; see *State v. Grayson*, 154 Wn.2d 333, 342, 111 P.3d 1183 (2005)(court's failure to exercise discretion in sentencing is reversible error). Such error may be raised for the first time on appeal. See Bertrand 165 Wn. App. at 395, 405 (explicitly noting issue was not raised at sentencing hearing, but nonetheless striking sentencing court's unsupported finding); see also State v. Ford 137 Wn.2d 472, 477, 973 P.2d 452 (1999)(unlawful sentence may be challenged for the first time on appeal).

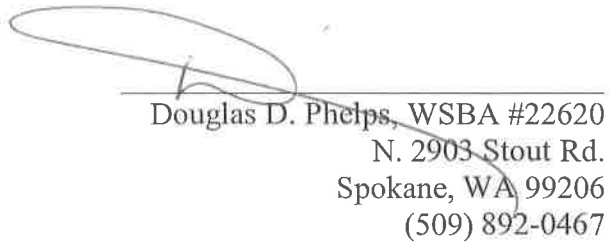
Here, the Court made no individualized inquiry into Mr. Alefteras's ability to pay LFOs even though Mr. Alefteras had already been deemed indigent by Order of the trial court on March 12, 2018. (CP 150-152) Because the sentencing judge did not make the *Blazina* inquiry into the defendant's ability to pay, the case should be remanded to the trial court for a new sentencing hearing.

## V. CONCLUSION

The conviction as to Count I, first degree robbery, and Count III, fourth degree assault, should be reversed as there was insufficient evidence to prove the elements of the crime beyond a reasonable doubt. Additionally, because a

*Blazina* inquiry never occurred at sentencing, this court should remand the case to the sentencing judge so that a proper inquiry into the defendant's ability to pay can occur.

Respectfully submitted this 8th day of April, 2019.



Douglas D. Phelps, WSBA #22620
N. 2903 Stout Rd.
Spokane, WA 99206
(509) 892-0467

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

| | |
|---|---|
| STATE OF WASHINGTON,<br><br>Plaintiff/Respondent,<br><br>v.<br><br>REED ALEFTERAS,<br><br>Defendant/Appellant. | Case No.: 359212<br>Superior Cause No. 16-1-04537-6<br><br>**DECLARATION OF SERVICE** |

I, Douglas D. Phelps, declare as follows: That I am over the age of eighteen (18) years, not a party to this action, and competent to be a witness herein. That I, as attorney of record for the Defendant/Appellant, served in the manner indicated below, an original of the Appellant's Brief and Appellant's Opening Brief, on April 9, 2019, to the following in the manner indicated:

COURT OF APPEALS DIV. III
500 North Cedar
Spokane, WA 99201

X Appellate Portal

I further declare that I served in the manner indicated below, a copy of the Appellant's Brief and Appellant's Opening Brief, on April 9, 2019, to the following in the manner indicated:

SPOKANE COUNTY PROSECUTOR
1100 W. MALLON AVENUE
SPOKANE, WA 99260

X Appellate Portal

LISA E. TABBUT
P.O. BOX 1319
WINTROP, WA 98862
ltabbutlaw@gmail.com

X Appellate Portal

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

Signed at Spokane, Washington, this 9th day of April, 2019

DOUGLAS D. PHELPS, WSBA #22620
Attorney for Defendant/Appellant

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

| | |
|---|---|
| STATE OF WASHINGTON,<br><br>Plaintiff/Respondent,<br><br>v.<br><br>REED ALEFTERAS,<br><br>Defendant/Appellant. | Case No.: 359212<br>Superior Cause No. 16-1-04537-6<br><br>**DECLARATION OF SERVICE** |

I, Douglas D. Phelps, declare as follows: That I am over the age of eighteen (18) years, not a party to this action, and competent to be a witness herein. That I, as attorney of record for the Defendant/Appellant, served in the manner indicated below, an original of the Appellant's Brief, on April 9, 2019, to the following in the manner indicated:

COURT OF APPEALS DIV. III
500 North Cedar
Spokane, WA 99201

X Appellate Portal

I further declare that I served in the manner indicated below, a copy of the Appellant's Brief on April 9, 2019, to the following in the manner indicated:

SPOKANE COUNTY PROSECUTOR
1100 W. MALLON AVENUE
SPOKANE, WA 99260

X Appellate Portal

LISA E. TABBUT
P.O. BOX 1319
WINTROP, WA 98862
ltabbutlaw@gmail.com

X Appellate Portal

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

Signed at Spokane, Washington, this 9th day of April, 2019

DOUGLAS D. PHELPS, WSBA #22620
Attorney for Defendant/Appellant

## PHELPS & ASSOCIATES, P.S.

## April 09, 2019 - 3:40 PM

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| **Filed with Court:** | Court of Appeals Division III |
| **Appellate Court Case Number:** | 35921-2 |
| **Appellate Court Case Title:** | State of Washington v. Reed J. Alefteras |
| **Superior Court Case Number:** | 16-1-04537-6 |

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