

FILED
Court of Appeals
Division III
State of Washington
6/6/2019 1:23 PM
35917-4-III

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

ANTONIO TORRES, APPELLANT

Consolidated with 35921-2-III

STATE OF WASHINGTON, RESPONDENT

v.

REED ALEFTERAS, APPELLANT

APPEAL FROM THE SUPERIOR COURT
OF SPOKANE COUNTY

BRIEF OF RESPONDENT

LAWRENCE H. HASKELL
Prosecuting Attorney

Larry Steinmetz
Deputy Prosecuting Attorney
Attorneys for Respondent

County-City Public Safety Building
West 1100 Mallon
Spokane, Washington 99260
(509) 477-3662

INDEX

I. RESPONDENT’S ISSUES PRESENTED 1

II. STATEMENT OF THE CASE 2

 Substantive facts. 2

III. ARGUMENT 9

 A. SUFFICIENT EVIDENCE EXISTED FOR THE TRIAL COURT TO DENY ALEFTERAS’ MOTION TO DISMISS THE CHARGES AT THE END OF THE STATE’S CASE AND FOR A RATIONAL JURY TO FIND ALEFTERAS GUILTY, AS AN ACCOMPLICE, OF FIRST-DEGREE ROBBERY OF DEMPSEY AND AS THE PRINCIPLE OF THE FOURTH-DEGREE ASSAULT OF LACEFIELD..... 9

 Standard of review. 10

 Accomplice liability..... 12

 Identity. 14

 B. NEITHER THE CHARGING DOCUMENT NOR THE “TO-CONVICT” INSTRUCTION INCLUDED VENUE (E.G. “SPOKANE COUNTY”) AS AN ELEMENT THE STATE HAD TO PROVE..... 20

 C. THERE IS NO EVIDENCE THAT INSTRUCTION NUMBER 22 (ACCOMPLICE LIABILITY) WAS IMPROPER OR THAT THE COURT’S RESPONSE TO THE JURY INQUIRY MISLEAD THE JURY. THIS COURT SHOULD DECLINE TO REVIEW THE INSTRUCTION FOR THE FIRST TIME ON APPEAL..... 22

 Charging document. 23

 Accomplice liability instruction..... 23

 Standard of review. 25

Jury inquiry	26
D. IF THIS COURT EXERCISES ITS DISCRETION TO REVIEW ALEFTERAS AND TORRES CLAIMS REGARDING THE LEGAL FINANCIAL OBLIGATIONS, THE COURT SHOULD REMAND FOR THE TRIAL COURT TO STRIKE THE \$200 COURT COSTS FOR BOTH ALEFTERAS AND TORRES AND TO DETERMINE WHETHER ALEFTERAS' DNA WAS PREVIOUSLY COLLECTED. THE MANDATORY VICTIM PENALTY ASSESSMENT WAS PROPERLY ASSESSED AGAINST ALEFTERAS.....	30
Court costs (Alefteras and Torres).....	30
DNA collection (Alefteras).....	31
Victim assessment (Alefteras).	32
IV. CONCLUSION	32

TABLE OF AUTHORITIES

Washington Cases

<i>In re Coggin</i> , 182 Wn.2d 115, 340 P.3d 810 (2014)	29
<i>In re Domingo</i> , 155 Wn.2d 356, 119 P.3d 816 (2005)	13
<i>State v. Alger</i> , 31 Wn. App. 244, 640 P.2d 44 (1982)	29
<i>State v. Bockman</i> , 37 Wn. App. 474, 682 P.2d 925 (1984), <i>review denied</i> , 102 Wn.2d 1002 (1984).....	28
<i>State v. Bridge</i> , 91 Wn. App. 98, 955 P.2d 418 (1998)	19
<i>State v. Camarillo</i> , 115 Wn.2d 60, 794 P.2d 850 (1990).....	11
<i>State v. Cardenas-Flores</i> , 189 Wn.2d 243, 401 P.3d 19 (2017).....	11
<i>State v. Catling</i> , 438 P.3d 1174 (Wash. Apr. 18, 2019).....	32
<i>State v. Cleman</i> , 18 Wn. App. 495, 568 P.2d 832 (1977).....	16
<i>State v. Davis</i> , 101 Wn.2d 654, 682 P.2d 883 (1984).....	25
<i>State v. Demery</i> , 144 Wn.2d 753, 30 P.3d 1278 (2001)	26
<i>State v. Dent</i> , 123 Wn.2d 467, 869 P.2d 392 (1994)	21
<i>State v. Everybodytalksabout</i> , 145 Wn.2d 456, 39 P.3d 294 (2002).....	13
<i>State v. Green</i> , 94 Wn.2d 216, 616 P.2d 628 (1980)	11
<i>State v. Hickman</i> , 135 Wn.2d 97, 954 P.2d 900 (1998).....	21
<i>State v. Hill</i> , 83 Wn.2d 558, 520 P.2d 618 (1974).....	14, 15
<i>State v. Hoffman</i> , 116 Wn.2d 51, 804 P.2d 577 (1991)	13, 25
<i>State v. Hunter</i> , 3 Wn. App. 552, 475 P.2d 892 (1970).....	10

<i>State v. Jackson</i> , 82 Wn. App. 594, 918 P.2d 945 (1996), review denied, 131 Wn.2d 1006 (1997).....	10
<i>State v. James</i> , 165 Wash. 120, 4 P.2d 879 (1931).....	16
<i>State v. Jasper</i> , 158 Wn. App. 518, 245 P.3d 228 (2010), as amended on denial of reconsideration (Dec. 1, 2010), aff'd, 174 Wn.2d 96 (2012).....	28
<i>State v. Johnson</i> , 12 Wn. App. 40, 527 P.2d 1324 (1974), review denied, 85 Wn.2d 1001 (1975).....	15, 16
<i>State v. Langdon</i> , 42 Wn. App. 715, 713 P.2d 120 (1986), review denied, 105 Wn.2d 1013 (1986).....	26, 28
<i>State v. Lundy</i> , 176 Wn. App. 96, 308 P.3d 755 (2013)	32
<i>State v. Marks</i> , 90 Wn. App. 980, 955 P.2d 406, review denied, 136 Wn.2d 1024 (1998).....	29
<i>State v. Mathers</i> , 193 Wn. App. 913, 376 P.3d 1163, review denied, 186 Wn.2d 1015 (2016).....	32
<i>State v. McReynolds</i> , 142 Wn. App. 941, 176 P.3d 616 (2008).....	10
<i>State v. Moran</i> , 119 Wn. App. 197, 81 P.3d 122 (2003)	24
<i>State v. Ng</i> , 110 Wn.2d 32, 750 P.2d 632 (1988)	27, 28
<i>State v. Quaale</i> , 182 Wn.2d 191, 340 P.3d 213 (2014)	26
<i>State v. Ramirez</i> , 191 Wn.2d 732, 426 P.3d 714 (2018).....	31
<i>State v. Ramos</i> , 171 Wn.2d 46, 246 P.3d 811 (2011)	31
<i>State v. Recuenco</i> , 154 Wn.2d 156, 110 P.3d 188 (2005), rev'd and remanded , 548 U.S. 212 (2006), and aff'd, 163 Wn.2d 428 (2008).....	29
<i>State v. Rich</i> , 184 Wn.2d 897, 365 P.3d 746 (2016).....	10

<i>State v. Roberts</i> , 142 Wn.2d 471, 14 P.3d 713 (2000), <i>as amended on denial of reconsideration</i> (Mar. 2, 2001).....	13, 25
<i>State v. Rodriguez</i> , 78 Wn. App. 769, 898 P.2d 871 (1995), <i>review denied</i> , 128 Wn.2d 1015 (1996).....	23
<i>State v. Roggenkamp</i> , 153 Wn.2d 614, 106 P.3d 196 (2005)	23, 24
<i>State v. Salinas</i> , 119 Wn.2d 192, 829 P.2d 1068 (1992)	11
<i>State v. Seward</i> , 196 Wn. App. 579, 384 P.3d 620 (2016), <i>review denied</i> , 188 Wn.2d 1015 (2017).....	32
<i>State v. Teal</i> , 117 Wn. App. 831, 73 P.3d 402 (2003), <i>aff'd</i> , 152 Wn.2d 333 (2004).....	23, 24
<i>State v. Thomas</i> , 150 Wn.2d 821, 83 P.3d 970 (2004)	11
<i>State v. Tili</i> , 139 Wn.2d 107, 985 P.2d 365 (1999).....	25
<i>State v. Tocki</i> , 32 Wn. App. 457, 648 P.2d 99, <i>review denied</i> , 98 Wn.2d 1004 (1982).....	11
<i>State v. Williams</i> , 28 Wn. App. 209, 622 P.2d 885 (1981).....	25
<i>State v. Willis</i> , 153 Wn.2d 366, 103 P.3d 1213 (2005).....	25

Constitutional Provisions

Const. art. 1, § 22.....	20
--------------------------	----

Statutes

Laws of 2018, ch. 269, § 18.....	31
RCW 9A.04.030.....	21
RCW 9A.08.020.....	13, 25
RCW 9A.36.041.....	12
RCW 9A.56.190.....	12
RCW 9A.56.200.....	12

RCW 10.01.160	30
RCW 43.43.754	31
RCW 43.43.7541	32

Rules

CrR 6.15.....	27
---------------	----

Other Authorities

WPIC 10.51.....	25
-----------------	----

I. RESPONDENT'S ISSUES PRESENTED

1. Was there sufficient evidence from which a rational jury could find defendant Alefteras guilty, as an accomplice, of first-degree robbery (victim Dempsey) and as the principal of the fourth-degree assault (victim Lacefield) beyond a reasonable doubt?

2. Did the State assume the burden of proving venue at the time of trial if neither the charging document nor the "to-convict" instructions included venue as an element of the charged offenses?

3. Was the trial court's instruction number 22, defining accomplice liability, a proper statement of the law?

4. Did the trial court abuse its discretion when responding to a to a jury inquiry during deliberations if it adopted the parties' suggested and agreed upon response to instruct the jury to reread the instructions in relation to the evidence presented?

5. Should this Court remand to the trial court to strike the imposition of the \$200 court costs imposed at sentencing for Alefteras and Torres?

6. Did the trial court err when imposing the \$100 DNA collection fee and the \$500 victim assessment regarding defendant Alefteras?

II. STATEMENT OF THE CASE

Co-defendants Reed Alefteras and Antonio Torres¹ were jointly charged by amended information in the Spokane Superior Court with two counts of first-degree robbery and one count of fourth-degree assault. CP 52-53. A jury convicted both defendants of one count of first-degree robbery (victim Dempsey) and fourth-degree assault (victim Lacefield), and acquitted both defendants of the additional count of first-degree robbery (alleged victim Holland). CP 91-93. This Court joined both defendants' direct appeals.

Substantive facts.

On July 10, 2016, Sean Dempsey, Sharayah Holland, and Alex Lacefield met in downtown Spokane in the early evening hours. RP 126-29. The group attended several bars and eventually went to the Star Bar located at Hamilton and Mission. RP 130. There, an argument ensued between Lacefield and Holland; Holland² left the bar on foot ahead of Dempsey and Lacefield, who both followed her. RP 131-32.

¹ A third co-defendant, Caleb Townsend, was charged with the same offenses in addition to second degree identity theft; however, his charges were resolved by a plea bargain.

² Dempsey, Holland, and Lacefield all had varying degrees of intoxication at this point, with Dempsey having the highest intoxication level. RP 133, 158.

Near Mission Avenue and the Centennial Trail, Dempsey was approximately 20 yards behind Lacefield and Holland. RP 163. At that location, a nearby group of five males were yelling, “Hey, come here,” while slapping and hitting an adjacent fence. RP 139, 156-58, 160, 167, 241. Three individuals, from the group of five, jumped over a short fence³ and approached Lacefield and Holland, who were now walking together. RP 140, 143, 160. The three males appeared aggressive, cocky, and “mean mugged” Lacefield and Holland; one of the three had a Taser in his hand, which he was “zapping.” RP 140-41, 144, 161, 169, 241. The group of three males appeared as if they were trying to pick a fight. RP 263.

The person with the Taser was described as approximately five-feet, six inches tall wearing white shirt and dark pants. RP 242, 251. Another participant was described as very tall with a red beard. RP 243. At one point, Holland asked the man with the Taser regarding the whereabouts of Lacefield; the man laughed, and tased Holland’s leg several times. RP 243. Holland sustained several burn marks from the Taser. RP 244; Ex. 26, 34, 35.

Contemporaneously, the two remaining males, who did not cross the small fence, began beating Dempsey. RP 161, 170, 173. Dempsey was

³ The fence was described as between one foot and one and one-half feet high. RP 260.

prone on the ground, as the males kicked him in the face and about his body. RP 148, 162. Lacefield was concerned for Dempsey and moved toward him; the stockier male of the three on Lacefield's side of the fence, then headbutted Lacefield. RP 142, 144, 171-73 Lacefield dropped to the ground and was kicked by the same individual. RP 162. Lacefield stood back up and observed the male with the Taser and the person who headbutted him running from the scene. RP 145-46, 164, 175. Holland was in tears. RP 164. Thereafter, the two individuals beating Dempsey also ran from the scene. RP 177. Holland's cell phone was missing after the attack. RP 147. Lacefield and Dempsey did not have their cell phones at the time of the attack. RP 154.

Afterward, Dempsey had blood on his face and shirt, which was also torn. RP 193, 238, 249. Dempsey suffered a fractured nose, and a swollen lip, his right eye required stitches, and he had scrapes and bruises on his forehead. RP 199-200. Although Lacefield did not seek medical attention, his lip was injured during the altercation and his body was sore for approximately two weeks. RP 153, 156.

Prior to the attack, Dempsey had his wallet in his pants pocket and his car keys in his front pants pocket. RP 192, 197. Dempsey's wallet and keys were missing after the attack. Dempsey had \$40 to \$50 and a Spokane Teachers Credit Union debit card in his wallet at the time. RP 194-95.

Within hours after the attack, there were two unauthorized charges on Dempsey's debit card, totaling approximately \$35.⁴ RP 195-96. Receipts from those two transactions were admitted at trial. RP 196-97. One purchase on Dempsey's card was for several Monster Energy Drinks. RP 224.

Michael Corrow managed the Mobile gas station⁵ on the night of the incident, which is located at Hamilton and Sharp. RP 213. Corrow reviewed the store's surveillance video and observed the men rifling through a wallet outside the door of the business, before entering the business. RP 215; Ex. 14. Still images of the suspects from the surveillance video were admitted at trial. RP 221; Ex. 15, 16, 18. One of the suspects was identified in a still image, with the Monster Energy Drinks located on the store counter. RP 224. The second purchase captured on the surveillance video, by a different person in a blue shirt, was for cigarettes. RP 224.

At trial, Lacefield looked at a surveillance photo taken at a gas station and stated the person in the blue shirt "looks like the one who headbutted me." RP 148, 162; Ex. 15, 17. He also stated that the person with the "white shirt, blue pants" "looks like the one with the [T]aser." RP 149,

⁴ Dempsey canceled his card with the credit union the following morning. RP 195.

⁵ The business was described as a convenience store. RP 213-14.

165-66; Ex. 18. Lacefield “felt pretty comfortable” with his identifications and had previously seen the gas station photographs. RP 150. Lacefield did not recognize the individual wearing camouflage in the photograph.

During the investigation, Lacefield observed a photo montage and identified the person in that montage as the person who assaulted him. RP 151-52; Ex. 37 (photo montage). Holland identified the person wearing the white shirt in the store surveillance photograph as the person who tased her. RP 251.

Dakota Fuchs was dating Torres and knew Alefteras at the time of the incident. RP 267. On the night of the incident, Alefteras and Torres went out for the evening and used Alefteras’ car. RP 270-71. The pair did not arrive back home until early the next morning. RP 272. Torres and Alefteras told Fuchs that they were trying to give aid to Holland because she was screaming and asking to be left alone. RP 276. Fuchs alleged that Torres and Alefteras did not know the credit card used at the gas station was stolen until the group, including Townsend, exited the gas station. RP 276-77. Fuchs stated after the incident, Torres and Alefteras stayed at a friend’s house for several days to determine “what they were going to do, if they were going to turn themselves in or if they were going to wait until someone came after them.” RP 278. Fuchs identified Townsend, Torres and Alefteras (who was wearing camouflage shorts) as the individuals in still photographs

made from the store surveillance tape.⁶ RP 281-82. Fuchs recognized the articles of clothing worn by Townsend, Torres and Alefteras inside the store. RP 282. Shortly after the incident, Fuchs had observed a “knuckle [T]aser” in a bedroom dresser in Torres’s house. RP 282-83. Fuchs had not previously seen a Taser in that residence. RP 295.

Prior to the defendants’ arrests, Fuchs made a telephone call to the victims after obtaining their identity through Facebook. RP 275, 286. Torres and Alefteras were present during this phone call. RP 286. Torres and Alefteras wanted to learn what the victims remembered about the incident.⁷ RP 288, 291, 296. Torres and Alefteras also wanted to know if the victims could drop the charges. RP 291-92. Torres and Alefteras also wanted to meet the victims in person, as recalled by Fuchs:

Mr. Torres and Alefteras asked me to see [what the victims] would be willing to do because they wanted to meet in person and talk with them and see if they could come to some form of agreement. I don’t know what that agreement would have been, but if they would drop the charges.⁸

RP 292.

⁶ Ex. 15, 16, 18.

⁷ Fuchs remarked: “I can’t remember who brought up like maybe we could see what they know, see if they’ll tell you if they remember what happened or what happened and stuff.” RP 275.

⁸ Fuchs claimed Torres and Alefteras wanted a face-to-face meeting with the victims to find out what happened because Torres and Alefteras had nothing to do with Townsend beating Dempsey. RP 292.

Noah Alexander-Tindle Stiles joined Torres, Alefteras, and Townsend at the Star Bar on the night of the incident. RP 299. Stiles also accompanied the defendants, including Alefteras, to the area near Mission Park, where he observed Townsend strike someone. RP 299. Stiles asserted that he watched someone push Alefteras and Alefteras responded by pushing him back. RP 300. The individual pushed by Alefteras was different than the person assaulted by Townsend. RP 301.

Spokane Police Detective Greg Thieschafer conducted the investigation of the incident. RP 305. He interviewed Holland and Lacefield and reviewed the Mobile gas station surveillance video. 309-10. Holland's description of one of the suspects was consistent with an individual observed on the tape. RP 308-09.

The detective recognized co-defendant Townsend, amongst the other suspects, on the store tape. 306-10. Townsend was subsequently interviewed by the detective. RP 312-13. Torres was developed as a suspect from that interview. RP 313. The detective then interviewed Torres by phone. RP 313. Torres admitted he was with Townsend the night of the incident. RP 314. He denied anyone else had been present with them. RP 314. Torres stated he was quite intoxicated the night of the incident. RP 314-15. Torres stated that he and Townsend left a bar around 2:00 a.m., and walked south toward Centennial Trail. RP 316. He heard a woman

screaming and moved toward that direction. RP 316. He claimed he inquired whether the man and woman were alright; the couple stated they were just arguing, and then the man and woman continued walking. RP 316. The group saw a man (Dempsey) walking a short distance away; Townsend became upset and started punching the man while the man was on the ground. RP 316-17. Torres alleged that he told Townsend to stop and checked on Dempsey's well-being. RP 317. He and Townsend then went to a gas station between 3:00 a.m. and 3:30 a.m.⁹ Torres appeared surprised when asked about the Taser used during the incident, and denied anyone had a Taser the night of the incident. RP 320, 324-25. Neither Alefteras or Torres presented a case-in-chief.

III. ARGUMENT

A. SUFFICIENT EVIDENCE EXISTED FOR THE TRIAL COURT TO DENY ALEFTERAS' MOTION TO DISMISS THE CHARGES AT THE END OF THE STATE'S CASE AND FOR A RATIONAL JURY TO FIND ALEFTERAS GUILTY, AS AN ACCOMPLICE, OF FIRST-DEGREE ROBBERY OF DEMPSEY AND AS THE PRINCIPLE OF THE FOURTH-DEGREE ASSAULT OF LACEFIELD.

Alefteras¹⁰ asserts the trial court erred when it denied his motion to dismiss the charges at the close of the State's case and that there was

⁹ This time frame corresponded to the hour registered on gas station still photographs taken from the Mobile gas station video. RP 318.

¹⁰ Torres only assigns error to the \$200 criminal filing fee imposed at sentencing. That claim will be addressed near the conclusion of Respondent's brief.

insufficient evidence for the jury to convict him of the first-degree robbery of Dempsey and the fourth-degree assault of Lacefield.

Standard of review.

An appellate court reviews the sufficiency of the evidence de novo. *State v. Rich*, 184 Wn.2d 897, 903, 365 P.3d 746 (2016).

At the end of the State’s case-in-chief, a reviewing court examines the sufficiency of the evidence admitted up to that point in trial. *State v. Jackson*, 82 Wn. App. 594, 608-09, 918 P.2d 945 (1996), *review denied*, 131 Wn.2d 1006 (1997). A challenge to the sufficiency of the evidence at the end of the State’s case is a question of law to be resolved by the trial judge, with no discretion involved. *State v. Hunter*, 3 Wn. App. 552, 475 P.2d 892 (1970). “Where there is any evidence, however slight, and the evidence is conflicting or is such that reasonable minds may draw different conclusions therefrom, the question is for the jury.” *Id.* at 554.

At either stage of the proceeding, whether at the end of the State’s case-in-chief or after conviction, the reviewing court considers the evidence and all reasonable inferences in the light most favorable to the State. *State v. McReynolds*, 142 Wn. App. 941, 947, 176 P.3d 616 (2008). Since the standard of review for Alefteras’ claims regarding the sufficiency of the evidence for the first-degree robbery conviction and the fourth-degree assault involve the same evidence presented by the State, the State’s

argument pertains to both Alefteras' claims of error regarding the first-degree robbery and fourth-degree assault.

In reviewing a challenge to the sufficiency of the evidence, the test is whether, after viewing the evidence in a light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *State v. Green*, 94 Wn.2d 216, 221-22, 616 P.2d 628 (1980). A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

Circumstantial and direct evidence are equally reliable. *State v. Cardenas-Flores*, 189 Wn.2d 243, 265-66, 401 P.3d 19 (2017). Credibility determinations are for the trier of fact and are not subject to review. *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990). Furthermore, an appellate court defers to the jury on questions regarding conflicting evidence and the persuasiveness of evidence. *State v. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970 (2004), *abrogated in part on other grounds by Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004). The trier of fact is free to reject even uncontested testimony as not credible if it does not do so arbitrarily. *State v. Tocki*, 32 Wn. App. 457, 462, 648 P.2d 99, *review denied*, 98 Wn.2d 1004 (1982).

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.

RCW 9A.56.190; *see* CP 181 (elements instruction). Under RCW 9A.56.200(1)(a)(iii), a person is guilty of first-degree robbery if he or she inflicts bodily injury.

A person commits fourth-degree assault when he or she assaults another. RCW 9A.36.041(1); CP 83; RP 372-73. Here, the jury was instructed that an assault is an intentional touching or striking of another person, with unlawful force, that is harmful or offensive regardless of whether any physical injury is done to the person. CP 82; RP 372.

Accomplice liability.

In the present case, the State relied on a theory of accomplice liability for the first-degree robbery involving victim Dempsey. *See* CP 86; RP 373-74; RP 387-88, 393 (State's closing argument). A person may be guilty of the crime as an accomplice if he "[s]olicits, commands,

encourages, or requests” another person to commit a crime or “[a]ids or agrees to aid such other person in planning or committing it” with knowledge that he is promoting or facilitating the commission of the crime. RCW 9A.08.020(2)(a)(i), (ii). “General knowledge of ‘the crime’ is sufficient.” *State v. Roberts*, 142 Wn.2d 471, 513, 14 P.3d 713 (2000), *as amended on denial of reconsideration* (Mar. 2, 2001). Stated differently, an accomplice is not required to “have specific knowledge of every element of the crime committed by the principal, provided he has general knowledge of that specific crime.” *In re Domingo*, 155 Wn.2d 356, 365, 119 P.3d 816 (2005).

To establish that a person is an accomplice, the State must prove more than mere presence and knowledge of the criminal activity of another. *State v. Everybodytalksabout*, 145 Wn.2d 456, 472, 39 P.3d 294 (2002). But the State does not need to prove “that the principal and accomplice share the same mental state.” *State v. Hoffman*, 116 Wn.2d 51, 104, 804 P.2d 577 (1991).

Here, the trial court instructed the jury on accomplice liability under the court’s instruction number 22:

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. The 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, 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 present is an accomplice.

CP 86; RP 373-74.

Alefteras mainly asserts that the State did not provide sufficient evidence that he was at the scene and committed the charged crimes.

Identity.

It is the State's burden to establish the "identity of the accused as the person who committed the offense." *State v. Hill*, 83 Wn.2d 558, 560, 520 P.2d 618 (1974). "Identity involves a question o[f] fact for the jury and any relevant fact, either direct or circumstantial, which would convince or tend to convince a person of ordinary judgment, in carrying on his everyday affairs, of the identity of a person should be received and evaluated." *Id.*

In *Hill*, the defendant was present in the courtroom during trial, and there were numerous references in the testimony to “the defendant” and to “Jimmy Hill.” Although there was no in-court identification, the Supreme Court was satisfied that the evidence was adequate to establish Hill’s identity in connection with the offense charged. *Id.*

Similarly, in *State v. Johnson*, 12 Wn. App. 40, 44-45, 527 P.2d 1324 (1974), *review denied*, 85 Wn.2d 1001 (1975), the defendant argued that there was insufficient evidence of his identity for the trier of fact to conclude that he was the robber. The defendant claimed that the victim could not make a positive identification 23 days after the robbery when the victim had spent only 25 minutes with the robber, had faced him for not more than 5 minutes, and the lighting was poor at the time. The court observed:

The evaluation of this evidence is for the trier of the fact and evidence of identity should not be weighed again on appeal to determine if the state has proven beyond a reasonable doubt that the defendant was the person who committed the offense. The judge or jury see and hear the witnesses and are in the best position to determine credibility and the ability of each witness to observe and recall. The trier of the fact must decide if the victim could see the assailant under the prevailing conditions and whether the stress of the situation blurred the victim’s faculties or imprinted sights and faces clearly and indelibly on the victim’s mind. The eye witness identification of one person by another may give rise to many possibilities for human mistake ... and if confusion or misidentification exists, its exposure is a function of the defense. The testing of the identification of another by face,

voice, stature, clothing or other things peculiar to the person's appearance must be by examination and cross-examination in the forum of the trial court.

Johnson, 12 Wn. App. at 44-45 (citations omitted).

Furthermore, in *State v. James*, our Supreme Court held that it is generally for the jury – and not the judge – to determine the weight of identification testimony. As the court explained:

The jury heard the testimony as to the positive identification, and heard the witnesses say that, on the two prior occasions, they had not been positive, and it was for them to determine whether they would accept the positive identification testimony or disregard it. This court cannot weigh the testimony and hold that the jury has no right to believe and accept the evidence of positive identification.

165 Wash. 120, 122, 4 P.2d 879 (1931).

Accordingly, “[t]he function of an appellate court is only to assess that there was substantial evidence from which the trier of fact could infer that the burden of proof had been met and that the defendant was the one who perpetrated the crime.” *Johnson*, 12 Wn. App. at 44-45. Substantial evidence is that quantum of evidence necessary to establish circumstances from which the jury could reasonably infer the fact to be proved. *Id.*; *State v. Cleman*, 18 Wn. App. 495, 498, 568 P.2d 832 (1977).

Here, there was sufficient evidence for the trial court to deny the defendant's motion after the State rested and for the jury to find beyond a reasonable doubt that Alefteras aided Townsend's commission of the first-

degree robbery involving Dempsey and the fourth-degree assault against Lacefield, as discussed below. The identity of Alefteras and his actions show far more than he suggests and the State produced sufficient evidence to convince a rational trier of fact that Alefteras, as an accomplice, committed the first-degree robbery against Dempsey and that he assaulted Lacefield.

Alefteras, Torres and Townsend were together at the same bar as the victims on the night of the incident. Lacefield and Holland were confronted around 2:00 a.m., by a group of five males, including Alefteras, who were yelling “come here,” while slapping or hitting a fence, presumably to intimidate Lacefield and Holland. Within a short time, Alefteras, Torres and another separated from the group of five males. Their arms were crossed and they were “mean mugging” Lacefield and Holland, while one of the individuals activated a Taser; the two remaining males (one of which was Townsend) confronted Dempsey, who had lagged behind Lacefield and Holland.

Lacefield turned and saw Dempsey being kicked while he was on the ground. As Lacefield moved to aid Dempsey, he was headbutted, fell to the ground, and was subsequently kicked. The suspect who headbutted Lacefield was different than the individual who beat up Dempsey. Stiles, an eyewitness to the event, identified Alefteras as being in a confrontation with

Lacefield. Another person, in that group of three males, contemporaneously tased Holland. The jury could have inferred that because Lacefield was moving toward Dempsey, who was being beaten, Alefteras' act of headbutting and kicking Lacefield prevented Lacefield from assisting Dempsey; this act by Alefteras aided Townsend's beating of Dempsey and the eventual theft of Dempsey's wallet. Furthermore, the jury could have easily discounted Lacefield's identification¹¹ of Townsend as the person who assaulted him, due to Lacefield's intoxication level and Stiles' positive identification of Alefteras as the one who confronted Lacefield at the scene.¹²

Furthermore, Alefteras, Torres and Townsend were together at the convenience store shortly after the robbery and assault, looking through Dempsey's wallet outside the convenience store. Alefteras' proactive and assaultive actions prevented Lacefield from helping Dempsey during the robbery. His subsequent curiosity and actions outside the convenience store when the group collectively looked through Dempsey's wallet certainly supports the reasonable inference that Alefteras had the general knowledge that Townsend was going to commit a robbery against Dempsey. Once

¹¹ The jury was instructed on factors it could consider when assessing the weight of any eyewitness identification testimony. CP 73; RP 365.

¹² The jury could have reasonably inferred that Stiles downplayed Alefteras' role and actions, as he was a friend of Alefteras at the time of the incident.

inside the store, Dempsey's debit card was unlawfully used for several purchases. It is unknown how the \$40 or \$50 in Dempsey's wallet was divided, if at all.

Finally, both Aleferas and Torres were concerned with what the victims remembered about the incident and if the victims would "drop" the charges. To that end, Fuchs called the victims while Aleferas and Torres were present. Additionally, during this period, Aleferas was hiding from the police. The jury could have reasonably inferred that if Aleferas was not involved in the robbery and assault, he would not have fled the crime scene, secreted himself from the authorities after the incident, participated in a fact gathering of victims' knowledge of the robbery and assault, and he would not have attempted to facilitate a meeting with the victims to determine if they could "drop" the charges, which, presumably, the defendant had general knowledge of, even though he was not formally charged until November 23, 2016. CP 42-43.

The State need not disprove all conceivable hypotheses consistent with innocence, so long as the record contains sufficient probative facts from which the jury could reasonably find guilt beyond a reasonable doubt. *State v. Bridge*, 91 Wn. App. 98, 100, 955 P.2d 418 (1998). In that regard, identity was a factual question for the jury to resolve, and the jury here expressly found that the defendant committed the first-degree robbery of

Dempsey, as an accomplice, and the fourth-degree assault of Lacefield, as a principal. Substantial evidence supports the jury's determination of Alefteras' role in the charged crimes and their conviction of him. His claim fails.

B. NEITHER THE CHARGING DOCUMENT NOR THE “TO-CONVICT” INSTRUCTION INCLUDED VENUE (E.G. “SPOKANE COUNTY”) AS AN ELEMENT THE STATE HAD TO PROVE.

Alefteras claims “both the charging document and the court’s ‘to-convict’ instruction failed to adequately apprise Mr. Alefteras of the venue of the crime.” Appellant’s Br. at 31. Alefteras asserts the State assumed the burden of establishing venue due to a jury inquiry during deliberations, which stated:

We’re at an impasse regarding a specific *count* 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 9-10, 2016.

CP 199 (emphasis added).

Article 1, section 22, of the Washington State Constitution, provides that the defendant has a right “to have a speedy public trial by an impartial jury of the county in which the offense is charged to have been committed.”

However, venue¹³ is not an element of a crime and need not be proved beyond a reasonable doubt; it is waived if not challenged during trial. *State v. Dent*, 123 Wn.2d 467, 481, 869 P.2d 392 (1994).

However, if the State agrees to a “to-convict” jury instruction that includes “venue” as a necessary element, even though venue is not a required element, the instruction becomes the “law of the case,” and the State assumes the burden of proving it beyond a reasonable doubt. *State v. Hickman*, 135 Wn.2d 97, 105, 954 P.2d 900 (1998). In *Hickman*, the State did not object to an element in the to-convict instruction that the crime occurred in “Snohomish County.” Consequently, the Supreme Court held that the State was required to prove the added element, i.e., that the crime occurred in “Snohomish County,” based on the law of the case doctrine. *Id.* at 102. *Hickman* could assign error on appeal, arguing that the new element was unsupported by substantial evidence in the record. *Id.* Because the State had presented no evidence at trial that the acts had occurred in “Snohomish County,” the Court reversed the conviction. *Id.*

¹³ As opposed to jurisdiction, which the State is required to establish as an element of the crime – that the acts occurred in the state of Washington. RCW 9A.04.030(1). The trial court instructed the jury that to convict Aleferas of first-degree robbery and fourth-degree assault, it must find, beyond a reasonable doubt, that the “acts occurred in the State of Washington.” CP 76, 84.

Unlike the facts in *Hickman*, there was no added element in the “to-convict instruction” concerning venue in the present case. Neither the amended information nor the “to-convict” instructions specified “Spokane County” as an element of the crime that the State had to prove beyond a reasonable doubt. As important, Alefteras did not raise venue at any point during trial. Undeniably, sufficient evidence existed that all charged crimes occurred in the State of Washington.

Although the defendant’s legal basis and argument are unclear, it appears appellate counsel misread the jury’s inquiry submitted to the trial court during deliberations. In doing so, appellate counsel transposed “*county*” for the actual word used – “*count*” – in that inquiry, as the basis for his argument. It is obvious from the jury’s question it was not unanimous as to one of the charged *counts* involving both defendants. Even if this Court considers the merits of the defendant’s argument, he waived the issue of venue by not objecting at trial, notwithstanding that the trial court properly instructed the jury. This claim fails.

C. THERE IS NO EVIDENCE THAT INSTRUCTION NUMBER 22 (ACCOMPLICE LIABILITY) WAS IMPROPER OR THAT THE COURT’S RESPONSE TO THE JURY INQUIRY MISLEAD THE JURY. THIS COURT SHOULD DECLINE TO REVIEW THE INSTRUCTION FOR THE FIRST TIME ON APPEAL.

For the first time on appeal, Alefteras claims that the trial court’s instruction number 22 improperly conveyed the law of accomplice liability

to the jury. Appellant's Br. at 33. He further alleges the trial court's response to a jury inquiry, which included instruction number 22, was an abuse of discretion.

Charging document.

Accomplice liability is neither an element of the crime charged nor an alternative means of committing the crime. *State v. Teal*, 152 Wn.2d 333, 338 (2004). Consequently, the information "need not allege accomplice liability in order to state the nature of the charge; charging the accused as a principal is adequate notice of the potential for accomplice liability." *State v. Teal*, 117 Wn. App. 831, 838, 73 P.3d 402 (2003), *aff'd*, 152 Wn.2d 333 (2004); *see also State v. Rodriguez*, 78 Wn. App. 769, 774, 898 P.2d 871 (1995), *review denied*, 128 Wn.2d 1015 (1996).

Accomplice liability instruction.

Because the defendant did not raise the adequacy of the accomplice liability instruction in the trial court, he is precluded from raising the issue for the first time on appeal.

A trial court's failure to properly instruct the jury on an element of the charged offense is an error of constitutional magnitude that may be raised for the first time on appeal. *State v. Roggenkamp*, 153 Wn.2d 614, 620, 106 P.3d 196 (2005). However, as stated above, accomplice liability is not an element of, or an alternative means of committing an offense. *Teal*,

152 Wn.2d at 338. The elements of a crime are considered the same for a principal and an accomplice, and 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. *Id.*; *but see State v. Moran*, 119 Wn. App. 197, 129-30, 81 P.3d 122 (2003) (court of appeals allowed the defendant to argue error regarding the accomplice instruction for the first time on appeal because it was clearly erroneous – it was different from the statute in that it used the phrase “a crime” rather than “the crime”).

Here, the trial court provided first-degree robbery instructions in addition to the accomplice instruction. Thus, even if the accomplice instruction was improper in this case, the trial court did not fail to instruct the jury on each element of first-degree robbery and because it does not rise to constitutional magnitude as an element of the crime charged, it cannot be raised for the first time on appeal. *See Roggenkamp*, 153 Wn.2d at 620. The defendant offers no authority or argument as to how the accomplice liability instruction was erroneous other than complaining about a jury inquiry, which is discussed below, which does not rise to the level of manifest constitutional error. This Court should decline review of this issue raised for the first time on review. Even if Alefteras’ challenge to the accomplice liability instruction can be raised for the first time on review, it lacks merit as discussed below.

Standard of review.

Where a defendant alleges an error of law in a jury instruction, an appellate court reviews the instruction de novo. *State v. Willis*, 153 Wn.2d 366, 370, 103 P.3d 1213 (2005). Jury instructions are sufficient when, taken as a whole, they properly inform the jury of the applicable law, are not misleading, and permit the parties to argue their theory of the case. *State v. Tili*, 139 Wn.2d 107, 126, 985 P.2d 365 (1999).

If this Court considers the alleged error concerning the accomplice liability jury instruction, the trial court used the pattern jury instruction, WPIC 10.51, which defines accomplice liability. The court's instruction number 22 was outlined above. That instruction contained the precise language which has been approved by our high court. *See Roberts*, 142 Wn.2d 471 (approving of an accomplice liability instruction that mirrored the language of the accomplice liability statute, RCW 9A.08.020); *Hoffman*, 116 Wn.2d at 102-03 (same); *State v. Davis*, 101 Wn.2d 654, 682 P.2d 883 (1984) (same). Likewise, the definition of "aid," as contained within that instruction has been similarly approved. *State v. Williams*, 28 Wn. App. 209, 211, 622 P.2d 885 (1981). Here, the defendant fails to identify or establish any error with respect to instruction number 22, and his claim fails.

Jury inquiry.

The content of a trial court's response to a jury inquiry is a matter within the court's discretion. *State v. Langdon*, 42 Wn. App. 715, 718, 713 P.2d 120 (1986), *review denied*, 105 Wn.2d 1013 (1986). A trial court abuses its discretion when its decision is manifestly unreasonable or exercised on untenable grounds. *State v. Quaale*, 182 Wn.2d 191, 196-97, 340 P.3d 213 (2014). Stated otherwise, "[w]here reasonable persons could take differing views regarding the propriety of the trial court's actions, the trial court has not abused its discretion." *State v. Demery*, 144 Wn.2d 753, 758, 30 P.3d 1278 (2001).

Alefteras contends that "the court's failure to provide an instructive response to the jury's inquiry caused the jury to be mislead [sic], which is the theory of liability under that which Mr. Alefteras was convicted." Appellant's Br. at 35. During deliberations, the jury made one inquiry as discussed above. The court discussed with counsel an appropriate response. RP 430. The lawyers consulted and jointly agreed on a proposal for the

court's response to the jury. RP 431-32. The trial court adopted verbatim counsels' suggestion and informed the jury in writing:

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; RP 432.

CrR 6.15(f)(1) provides, in pertinent part:

The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to comment upon an appropriate response. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record. The court shall respond to all questions from a deliberating jury in open court or in writing.

The trial court has discretion whether to give further instructions to a jury after it has begun deliberations. *State v. Ng*, 110 Wn.2d 32, 42, 750 P.2d 632 (1988). In *Ng*, the defendant argued that the trial court's robbery instructions were ambiguous as evidenced by the jury's inquiry during deliberations. *Id.* The Supreme Court rejected this argument, stating:

The individual or collective thought processes leading to a verdict "inhere in the verdict" and cannot be used to impeach a jury verdict. Here, the jury's question does not create an inference that the entire jury was confused, or that any confusion was not clarified before a final verdict was reached. "[Q]uestions from the jury are not final determinations, and the decision of the jury is contained exclusively in the verdict." ... The jury's verdict was clear and complete. *Ng* has shown no abuse of discretion in the

court's decision to refer the jurors to the instructions as given.

Id. at 43-44 (first alteration in original) (internal citations omitted)

For example, in *State v. Bockman*, 37 Wn. App. 474, 493, 682 P.2d 925 (1984), *review denied*, 102 Wn.2d 1002 (1984), the jury asked, "If the defendants leave the scene of a second degree burglary, then an assault occurred by a third party, are those two then guilty by association of first-degree burglary?" *Id.* Much like this case, the trial court in *Bockman* told the jury, "You have received all of the Courts instructions." *Id.* The *Bockman* court held that questions from the jury are not final determinations, and the decision of the jury is contained exclusively in the verdict. *Id.*

Similarly, in *Langdon*, the trial court instructed the jury on the elements of first and second-degree robbery, accomplice liability, and theft. 42 Wn. App. at 717. During deliberations, the jury sent a note to the judge reading, "Does 'committing' mean aid in escaping?" *Id.* The judge, without consulting with counsel, responded, "You are bound by those instructions already given to you." *Id.* Ultimately, the court found that the judge's response was not error because it was "neutral, simply referring the jury back to the previous instructions." *Id.* at 717-18; *see also State v. Jasper*, 158 Wn. App. 518, 541, 245 P.3d 228 (2010), *as amended on denial of*

reconsideration (Dec. 1, 2010), *aff'd*, 174 Wn.2d 96 (2012) (holding that trial court's response to a jury question, without advising counsel, was not prejudicial because the court merely advised jury to re-read its instructions).

Here, the defendant points to nothing, other than conjecture, that the jury was misled by the court's response. Indeed, the trial court's response merely directed the jurors to refer to the evidence and instructions before them. The trial court's response was neutral in nature like that in *Bockman* and *Langdon*, and no prejudice resulted.

Finally, if there was error, it was invited, which precludes Aleferas from arguing that the trial court's response to the jury was misleading. In determining whether the invited error doctrine applies, an appellate court considers whether the defendant "affirmatively assented to the error, materially contributed to it, or benefited from it." *In re Coggin*, 182 Wn.2d 115, 119, 340 P.3d 810 (2014). The invited error doctrine is strictly enforced to prevent "parties from benefiting from an error they caused at trial regardless of whether it was done intentionally or unintentionally." *State v. Recuenco*, 154 Wn.2d 156, 163, 110 P.3d 188 (2005), *reversed and remanded on other grounds*, 548 U.S. 212 (2006), and *affirmed*, 163 Wn.2d 428 (2008). Even where constitutional rights are implicated, the invited error doctrine "precludes appellate review." *State v. Alger*, 31 Wn. App. 244, 249, 640 P.2d 44 (1982); *see also State v. Marks*,

90 Wn. App. 980, 987, 955 P.2d 406, *review denied*, 136 Wn.2d 1024 (1998). As discussed above, Alefteras' trial counsel assented to and materially contributed to the court's wording in its response to the jury. If error, it was invited and the defendant has no claim.

D. IF THIS COURT EXERCISES ITS DISCRETION TO REVIEW ALEFTERAS AND TORRES CLAIMS REGARDING THE LEGAL FINANCIAL OBLIGATIONS, THE COURT SHOULD REMAND FOR THE TRIAL COURT TO STRIKE THE \$200 COURT COSTS FOR BOTH ALEFTERAS AND TORRES AND TO DETERMINE WHETHER ALEFTERAS' DNA WAS PREVIOUSLY COLLECTED. THE MANDATORY VICTIM PENALTY ASSESSMENT WAS PROPERLY ASSESSED AGAINST ALEFTERAS.

The court imposed the \$200 criminal filing fee, \$100 DNA collection fee, and \$500 victim assessment against both Alefteras and Torres. CP 16 (Torres), 136 (Alefteras). Alefteras argues this Court should order the trial court to strike the imposition of the \$200 filing fee, the \$100 DNA fee¹⁴ and the \$500 victim assessment imposed at sentencing. Torres argues this Court should strike the \$200 filing fee

Court costs (Alefteras and Torres).

As of June 7, 2018, trial courts are prohibited from imposing the \$200 criminal filing fee on defendants who are indigent at the time of sentencing. RCW 10.01.160(a) through (c). Both Alefteras and Torres were

¹⁴ It is unclear whether the defendant challenges the imposition of the \$100 DNA fee so argument has been included.

found indigent at the time of sentencing. CP 40-41 (Torres), 150-52 (Alefteras).

In *State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018), our high court addressed the 2018 amendments to RCW 43.43.754 and held that the amendment is applicable to cases pending on direct review and not final when the amendment was enacted. *Id.* at 747. In the present case, the defendant was sentenced on May 11, 2018, and was pending direct review at the time of the legislative amendments. Thus, this Court should order that the \$200 court cost be stricken from judgment and sentence of both Alefteras and Torres; this may be done without a resentencing. *See State v. Ramos*, 171 Wn.2d 46, 48, 246 P.3d 811 (2011) (a ministerial correction does not require a defendant's presence).

DNA collection (Alefteras).

Regarding the collection of Alefteras' DNA, it does not appear he has any previous felony convictions where his DNA would have been drawn. CP 124-25 (Appendix of Criminal History).

RCW 43.43.754¹⁵ establishes that the DNA database fee is mandatory only if the offender's DNA has not been previously collected

¹⁵ "Every sentence imposed for a crime specified in RCW 43.43.754 [i.e., any felony] must include a fee of one hundred dollars unless the state has previously collected the offender's DNA as a result of a prior conviction." Laws of 2018, ch. 269, § 18.

because of a prior conviction. Alefteras provides no evidence that his DNA was previously collected. Consequently, Alefteras has not shown that, under RCW 43.43.7541, the trial court erred in imposing the DNA collection fee.

Victim assessment (Alefteras).

The trial court is not required to make an individualized inquiry to impose mandatory LFOs, including the \$500 victim penalty assessment. *See State v. Catling*, 438 P.3d 1174, 1177-78 (Wash. Apr. 18, 2019); *State v. Lundy*, 176 Wn. App. 96, 103, 308 P.3d 755 (2013); *State v. Mathers*, 193 Wn. App. 913, 918-24, 376 P.3d 1163, *review denied*, 186 Wn.2d 1015 (2016); *State v. Seward*, 196 Wn. App. 579, 585-86, 384 P.3d 620 (2016), *review denied*, 188 Wn.2d 1015 (2017). The \$500 victim assessment fee is mandatory under HB 1783. *Catling*, 438 P.3d at 1177-78. Here, the trial court did not err when it imposed the \$500 victim penalty assessment.

IV. CONCLUSION

For the reasons stated herein, the State requests this Court affirm Alefteras' convictions for first-degree robbery and fourth-degree assault. This Court should enter an order striking the \$200 criminal filing fee from the judgment and sentence for both defendants, but otherwise affirm the

legal financial obligations (DNA fee and victim penalty assessment)
imposed by the trial court against Aleferas.

Respectfully submitted this 6 day of June, 2019.

LAWRENCE H. HASKELL
Prosecuting Attorney



Larry Steinmetz #20635
Deputy Prosecuting Attorney
Attorney for Respondent

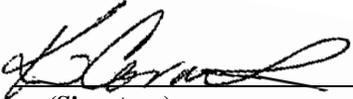
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON, Respondent, v. ANTONIO TORRES, Appellant,	NO. 35917-7-III
STATE OF WASHINGTON, Respondent, v. REED ALEFTERAS, Appellant.	Consolidated w/35921-2-III CERTIFICATE OF MAILING

I certify under penalty of perjury under the laws of the State of Washington, that on June 6, 2019, I e-mailed a copy of the Brief of Respondent in this matter, pursuant to the parties' agreement, to:

Lisa Tabbut
ltabbutlaw@gmail.com

Douglas D. Phelps
phelps@phelpslaw1.com; psnyder@phelpslaw1.com

6/6/2019 Spokane, WA 
(Date) (Place) (Signature)

SPOKANE COUNTY PROSECUTOR

June 06, 2019 - 1:23 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 35917-4
Appellate Court Case Title: State of Washington v. Antonio Jose Torres
Superior Court Case Number: 16-1-04536-8

The following documents have been uploaded:

- 359174_Briefs_20190606132229D3972969_9450.pdf
This File Contains:
Briefs - Respondents
The Original File Name was Torres Antonio - 359174 - Alefteras Reed - 359212 - Resp Br - LDS.pdf

A copy of the uploaded files will be sent to:

- bobrien@spokanecounty.org
- ltabbutlaw@gmail.com
- phelps@phelpslaw1.com
- valerie.lisatabbut@gmail.com

Comments:

Sender Name: Kim Cornelius - Email: kcornelius@spokanecounty.org

Filing on Behalf of: Larry D. Steinmetz - Email: lsteinmetz@spokanecounty.org (Alternate Email: scpaappeals@spokanecounty.org)

Address:
1100 W Mallon Ave
Spokane, WA, 99260-0270
Phone: (509) 477-2873

Note: The Filing Id is 20190606132229D3972969