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Court of Appeals
Division III
State of Washington
7/16/2019 9:32 AM

No. 36458-5-III

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON

Chelan County Superior Court
Cause No. 17-1-00445-7

STATE OF WASHINGTON,
Plaintiff/Respondent,

v.

DEVIN ADAM WOOD,
Defendant/Appellant.

BRIEF OF RESPONDENT

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Chief Deputy Prosecuting Attorney

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I. STATEMENT OF THE CASE

This matter proceeded to trial with the defendant being charged with delivery of methamphetamine on March 3, 2017, delivery of methamphetamine on March 7, 2017, deliver of heroin on March 7, 2017, delivery of heron on March 16, 2017, maintaining a drug property on or between March 3, 2017 and March 24, 2017, and possession of heron on March 24, 2017. (CP 4-7). The delivery charges were based on three controlled buy operations by the Columbia River Drug Task Force where an informant contacted the defendant to purchase methamphetamine at a shed on the property where the defendant resided. (RP 74-88).

Following the three controlled buy operations, on March 24, 2017, law enforcement officers served a search warrant on the shed. (RP 91-98, 239-243). The defendant was in the shed at the time, along with his girlfriend. (RP 92). During a search of the shed, a baggie and scale were found, each with heroin residue. (RP 242-243). A methamphetamine pipe with methamphetamine residue was also found. (RP 117, 242).

According to the officers involved, the defendant was advised of his Miranda rights and agreed to speak with the officers, telling them that he sold drugs and naming some of his suppliers and customers. (RP 93-97, 244-245). Officer Orrell testified at trial that the defendant “said that Lucy, his girlfriend, was a meth addict and he provides her with her meth and that she had been living in the shed with him for a while.” (RP 95).

The jury was unable to reach a verdict on the delivery counts, but convicted the defendant of maintaining a drug property and possession of heroin. (RP 368, 372; CP 60-61). The delivery counts were subsequently dismissed at sentencing. (CP 65).

The defendant has appealed claiming there was insufficient evidence to support his conviction of maintaining a drug property, and that the \$200.00 in court costs and the \$450.00 attorney fee recoupment was improperly imposed by the trial court.

II. ARGUMENT

A. There Was Sufficient Evidence to Support the Conviction for Maintaining a Drug Property.

The defendant contends that there was insufficient evidence to support his conviction for maintaining a drug property, claiming that “the evidence fails to establish that any person other than Wood used drugs on the premises.” (Appellant’s Brief at 6). The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. Id. The elements of a crime may be established by the direct or circumstantial evidence, and one type of evidence is no more valuable than the other. State v. Wilson, 141 Wn. App. 597, 608, 171 P .3d 501 (2007). On review, the court defers to the jury on credibility determinations, assessing discrepancies in the trial testimony, and weighing the evidence. *See, Id.*

In the instant case, Officer Jordan Orrell testified that the defendant “said that Lucy, his girlfriend, was a meth addict and he provides her with her meth and that she had been living in the shed with him for a while.” (RP 95, ln. 19-22). In addition, this evidence is corroborated by the evidence of a methamphetamine pipe with methamphetamine residue found in the shed, and found in the shed when the girlfriend was present on March 24, 2017. (RP 117, 242). Furthermore, the defendant told the officers that he no longer used methamphetamine because of past heart attacks. (RP 94).

Therefore, there is substantial evidence from which a rational trier of fact could find that someone other than the defendant was using the shed to use controlled substances. Consequently, there was sufficient evidence of the alternative means of committing the offense of maintaining a drug property.

B. This Matter Should be Remanded to the Trial Court to Conduct an Individualized Inquiry Into the Defendant’s Ability to Pay Legal Financial Obligations.

The State submits this matter should be remanded to the trial court to conduct an individualized inquiry into the defendant’s ability

to pay pursuant to State v. Blazina, 182 Wn.2d 827, 838, 344 P.3d 680 (2015), and State v. Ramirez, 191 Wn.2d 732, 429 P.3d 714 (2018).

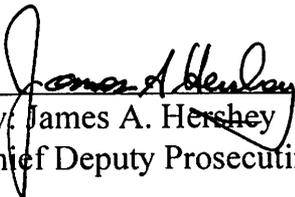
III. CONCLUSION

For the reasons set forth above, the defendant's conviction for maintaining a drug property should be affirmed. Further, the State submits that this matter should be remanded to the trial court to address the financial obligations to be imposed.

DATED this 15th day of July, 2019.

Respectfully submitted,

Douglas J. Shae
Chelan County Prosecuting Attorney


By: James A. Hershey WSBA #16531
Chief Deputy Prosecuting Attorney

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

STATE OF WASHINGTON,)	No. 36458-5-III
Plaintiff/Respondent,)	Chelan Co. Superior Court No. 17-1-00445-7
vs.)	DECLARATION OF SERVICE
DEVIN ADAM WOOD,)	
Defendant/Appellant.)	

I, Cindy Dietz, under penalty of perjury under the laws of the State of Washington, declare that on the 16th day of July, 2019, I caused the original BRIEF OF RESPONDENT to be filed via electronic transmission with the Court of Appeals, Division III, and a true and correct copy of the same to be served on the following in the manner indicated below:

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Signed at Wenatchee, Washington, this 16th day of July, 2019.

Cindy Dietz

Cindy Dietz
Legal Administrative Supervisor
Chelan County Prosecuting Attorney's Office

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CHELAN COUNTY PROSECUTING ATTORNEY

July 16, 2019 - 9:32 AM

Transmittal Information

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Appellate Court Case Number: 36458-5
Appellate Court Case Title: State of Washington v. Devin Adam Wood
Superior Court Case Number: 17-1-00445-7

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