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Court of Appeals  
Division III  
State of Washington  
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No. 36467-4-III  
IN THE COURT OF APPEALS  
OF THE  
STATE OF WASHINGTON  
DIVISION THREE

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STATE OF WASHINGTON,  
Respondent,

v.

JASON LEE PLANQUE,  
Appellant.

---

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR OKANOGAN COUNTY  
The Honorable Judge Henry A. Rawson

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BRIEF OF RESPONDENT

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## STATEMENT OF THE CASE

On September 16<sup>th</sup>, 2018 Jason L. Planque completed yard work and began to drink alcohol at noon. (RP 146). Mr. Planque testified to drinking six bottles of Space Dust IPA beer. (RP 146). He continued to drink throughout the day but switched to vodka when he finished the rack of beer. (RP 147). He then went fishing with his friends where he continued to drink. (RP 147). Not only did Mr. Planque testify that he had been drinking, Mr. Planque testified to being "blitzed." (RP 148). Mr. Planque returned home around eleven o'clock from fishing. (RP 147). Mr. Planque returned home angry and yelling. (RP 111-112). Fearing that his behavior was going to wake up his grandmother, his mother, Ms. Thomson threatened to call 911 if he didn't quit. (RP 111-112). Mr. Planque continued to yell and his mother testified that he began to run up and down the stairs in her home. (RP 111). Ms. Thomson called 911 because of Mr. Planque's behavior. (RP 111). During the 911 phone call, Ms. Thomson said that Mr. Planque had shoved her. (RP 112). She also told Deputy Isaiah Holloway that he had shoved her a few times in her living room. (RP 137). Later in her testimony she denied that this happened. (RP 112).

Okanogan County Sheriff's Office Deputy Holloway responded to the 911 call and was forced to detain and arrest Mr. Planque. (RP 128-132). For everyone's safety, Deputy Holloway made his decision to detain Mr. Planque when he arrived. (RP 128). While attempting to detain Mr. Planque, Mr. Planque began to resist arrest. (RP 129). Deputy Holloway testified that Mr. Planque assaulted him by pushing him multiple times. (RP 131). Deputy Holloway also testified that once he was able to get Mr. Planque on to the ground, Mr. Planque tried to pull his arms and hands away to avoid being handcuffed. (RP 132). Mr. Planque continued to yell and used cuss words. (RP 132). Deputy Holloway testified at no point during the detainment and arrest of Mr. Planque did Mr. Planque state that he was being hurt. (RP 132). Deputy Holloway testified that when he approached Mr. Planque, there was an obvious odor of intoxicant. (RP 134).

The State charged Mr. Planque with one count of Third Degree Assault against Deputy Holloway, under RCW 9A.36.031(1)(g), and one count of Resisting Arrest. (CP 16-17). The case proceeded to a jury trial. (RP 32-202).

At trial, Mr. Planque testified in his own defense (RP 145-157). Mr. Planque testified he did not remember Deputy Holloway telling

him he was going to detain him (RP 154-155). Mr. Planque denied pushing Deputy Holloway. He testified that if he tried to push Deputy Holloway, he would have popped his arms out of the socket. (RP 155). Mr. Planque testified he cannot walk very well, due to an injury he sustained to his left leg and foot. (RP 146, 148). Mr. Planque testified he is able to limp up and down the stairs in his residence. (RP 156). He also testified he has other physical limitations due to injuries such as he can't pull his arms above his arm, his elbows are both snapped off, and his sternum crushed. (RP 150). During closing arguments made by the defense, Mr. Planque's council also argued that because of these foregoing medical conditions, Mr. Planque was not capable of resisting arrest. (RP 189-191).

In response, in its rebuttal closing argument the State stressed the fact that there had been no corroborating evidence presented other than Mr. Planque's statements that he has these medical issues. (RP 193-195). Defense counsel did not object to this argument. (RP 193-195). The jury found Mr. Planque guilty on both counts. (CP 164; RP 199).

At sentencing, Mr. Planque requested the trial court impose a residential drug offender sentencing alternative (DOSA) sentence. (RP 211-212). The State opposed the DOSA sentence request. (RP

213). Because of Mr. Planque's history with the law, the court used its discretion to decline the DOSA. (RP 215- 217). Mr. Planque Appealed. (CP 202-213).

#### ARGUMENTS

1. SINCE THE STATE RESPONDED TO AN UNCORROBORATED EXCULPATORY DEFENSE BROUGHT BY MR. PLANQUE, AND THE STATEMENTS WERE NOT SO FLAGRANT AND ILL INTENTIONED THAT THEY WERE INHERENTLY PREJUDICIAL, THE STATE DID NOT COMMIT MISCONDUCT IN ITS REBUTTAL CLOSING ARGUMENT.

Failure to object to an improper remark of the prosecutor constitutes a waiver of error unless the remark is so flagrant and ill-intentioned that it causes an enduring and resulting prejudice that could not have been neutralized by an admonition to the jury. *State v. Russell*, 125 Wash. 2d 24 at 85, 882 P.2d 747 at 785 (1994). In other words, a conviction must be reversed only if there is a substantial likelihood that the alleged prosecutorial misconduct affected the verdict. *Id.* at 784. Improper arguments should be reviewed in the context of the total argument, the issues in the case, the evidence addressed in the argument, and the instructions given. *Id.* at 785. Remarks of the prosecutor, even if they are improper, are

not grounds for reversal if they were invited or provoked by defense counsel and are in reply to his or her acts and statements, unless the remarks are not a pertinent reply or are so prejudicial that a curative instruction would be ineffective. *Id.*

The State is generally afforded wide latitude in making arguments to the jury, and prosecutors are allowed to draw reasonable inferences from the evidence. *State v. Gregory*, 158 Wn.2d 759, 860, 147 P.3d 1201 at 1253 (2006) (citing *State v. Gentry*, 125 Wn.2d 570, 641, 888 P.2d 1105 (1995)). Prosecutors are entitled to respond to defense counsel's arguments. *Russell*, 882 P.2d 747 at 786 (1994). A prosecutor can certainly "argue that the evidence does not support the defense theory." *Id.* at 786. Moreover, the prosecutor, as an advocate, is entitled to make a fair response to the arguments of defense counsel. *Id.* The State is entitled to comment upon the quality and quantity of evidence the defense presents. *Gregory*, 158 Wn.2d at 860. Such argument does not necessarily suggest that the burden of proof rests with the defense.

When a defendant advances a theory exculpating him, the theory is not immunized from attack. *State v. Barrow*, 60 Wn. App. 869 at 872, 809 P.2d 209 at 211. On the contrary, the evidence supporting a defendant's theory of the case is subject to the same

searching examination as the State's evidence. *Id.* at 872. A prosecutor can question a defendant's failure to provide corroborative evidence if the defendant testified about an exculpatory theory that could have been corroborated by an available witness. *Id.*

In *Russell*, the defendant complained of three statements made during closing argument he claimed were based on facts not in evidence; a statement that a witness said his brother was a hit man, a statement that Russell owned a Seattle Police cap with a patch on it, and a statement that additional incriminating evidence could have been developed. *Russell*, 882 P.2d 747 at 785 (1994). The defense objected to none of these statements when made. *Id.* at 785. The court concluded that the State responded accurately that the hit man and police cap statements were drawn directly from the testimony of two witnesses. *Id.* The statement regarding additional incriminating evidence was made in response to Russell's theory that the police did an inadequate job of investigating the murders and that they did not test every conceivable item of evidence. *Id.* The court found that the cited statement was aimed more at responding to defense criticisms than at finding additional reasons to convict Russell. *Id.* at 786. The inadequacy of the police

investigation was a constant defense theme, and the prosecutor's statement constituted a fair response to that theory. *Id.*

Following *Russell*, *State v. Thorgerson* ruled on the issue of prosecutorial misconduct. *State v. Thorgerson*, 172 Wash. 2d 438 at 454, 258 P.3d 43 at 51 (2011). In *Thorgerson*, the defendant was convicted of molesting his young daughter and his exculpatory theory involved the victim's veracity. *Id.* at 453. The issue of whether she consistently told the same story to numerous persons was thoroughly explored at trial by the defense. *Id.* The defense expended considerable effort in attempting to establish inconsistencies in the victim's story as told to other individuals. *Id.* In closing argument, the prosecuting attorney referred to hearsay statements that were not introduced into the record because of the hearsay rules, and noted that the defense elicited some of the evidence that the prosecutor could not introduce, and then added:

"if they thought there was a contradiction in D.T.'s story told to various individuals, they were allowed to ask about that. So out of all these versions, all these people she's talked to over a year, how many times did the defense grind out a contradiction? None. How does somebody do that? How does this bad liar tell it 10 or more times over a year with a conspiracy involving three other young people and nothing breaks down? You know how that works? It's the truth." *Id.*

The court concluded that it was the defense that introduced this issue into this case and opened the door to the prosecutor's argument by trying to obtain contradictory testimony from witnesses. *Id.* at 454. Under these circumstances, the court concluded that the prosecutor did not imply that the defense had the burden of producing evidence of inconsistencies. *Id.* at 453. In fact, the court concluded, that since the defense having attempted to do exactly this, the prosecutor's comment was a permissible argument based on the evidence. *Id.* at 454.

Lastly, *State v. Boyd*, also ruled on prosecutorial misconduct. *State v. Boyd*, 1 Wash. App. 2d 501 at 519, 408 P.3d 362 at 372 (2017). The defendant Boyd was convicted of failure to register as a sex offender. *Id.* at 505. One of the main issues on appeal was whether the state conducted prosecutorial misconduct during their closing arguments. *Id.* at 517. During closing arguments, Boyd's attorney painted Boyd as unable to deal with the registration requirements and court dates: "Members of the jury, Jayson Boyd was given responsibilities. And these responsibilities might seem straightforward to you or to me, but for someone with the barriers that Mr. Boyd has, they were too much." *Id.* at 518. Boyd's attorney emphasized the "chaos" and "barriers" present in Boyd's life

throughout her argument. *Id.* During rebuttal, the prosecutor responded: "I'd like to remind you of the reasonable doubt instruction which tells you that a reasonable doubt arises from the evidence. Not speculation, not, oh, Mr. Boyd might have barriers, Mr. Boyd might have problems meeting his obligations, Mr. Boyd's life might have chaos. Here's the thing. There's no evidence of any of this." *Id.* Boyd did not object. *Id.* The court held the prosecutor's references to Boyd's "barriers" and chaotic life are not improper remarks about his homelessness, poverty, or mental illness because they rebut the very defense advanced by Boyd's counsel—that complying with the law was "too much" for him because of his "barriers." *Id.* at 520.

The instant case can be compared to the facts and outcomes of *Russell, Thorgerson, and Boyd*. Mr. Planque did not object to any of the statements made in the prosecuting attorney's closing argument that are now challenged by him. (RP 193-195). Therefore, in order to require reversal, Mr. Planque must demonstrate that any improper remark was so flagrant and ill-intentioned that it was inherently prejudicial, and further that the prejudice caused by the remark could not have been neutralized by a jury instruction. *Russell*, 882 P.2d 747 at 786 (1994). As in the precedent discussed above, the State merely responded to the exculpatory defense offered by

the Defendant and argued that the evidence does not support the theory offered by the defense. The State neither shifted the burden to the defendant nor committed prosecutorial misconduct.

For instance, during direct examination of Mr. Planque, he stated that he cannot walk very well. (RP 146). He then testified that he can't be physical, given his conditions. (RP 150). Mr. Planque was asked about his condition, and he stated there are many. *Id.* He testified that he was run over in 2007, he can't pull his arms up above his arm, his elbows are both "snapped off," his sternum crushed, and he can hardly even swing a hammer. *Id.* During cross examination conducted by counsel for the State, Mr. Planque was asked if he recalled Deputy Holloway attempting to detain him and if he remembered if he pushed Deputy Holloway. (RP 155). Mr. Planque responded that it would be impossible for him to push Deputy Holloway because if he were to try and push him, his arm would pop out of its socket. *Id.* At this point, the exculpatory defense of Mr. Planque was that his actions of pushing Deputy Holloway were "impossible" because of his physical condition. *Id.* This defense became more apparent when the court moved into closing arguments. (RP 188-191).

During closing for defense counsel, Mr. Planque's attorney stated that one of the jobs of the jury is to decide whether the resisting arrest charge actually occurred. (RP 190). While arguing that Mr. Planque did not commit the crime, and that he could not have possessed the intent to commit the crime, defense counsel stressed Mr. Planque's inability to resist arrest from a seasoned law enforcement officer due to the fact that Mr. Planque suffered past injuries such as a broken ankle, broken shoulders, and broken elbows. (RP 190). Defense counsel continued on to state that because of Mr. Planque's physical condition, namely that he has bad shoulders and bad elbows, Mr. Planque was not capable of resisting arrest from Deputy Holloway. (RP 191). Mr. Planque put forth an exculpatory defense that he could not have committed the resisting arrest charge because of his many physical conditions. This invited as well as provoked the counsel for the State to respond, and the State responded properly. Therefore, the remarks and fair response that the evidence did not support Mr. Planque's defense, concerning Mr. Planque's medical issues, was not so flagrant and ill-intentioned that it could have caused an enduring and resulting prejudice that could not have been neutralized by an admonition to the jury, or a prejudice that had a substantial likelihood of affecting the jury verdict.

Defense counsel in their appellate brief cite two cases, *Fleming* and *French*. Both of these cases involved a prosecutor's misconduct where they stated that the jury should make their conclusion based off of the lack of evidence. However, in this case, during the state's closing arguments, the lack of evidence of medical history was not stated as the basis for the jury to make a conclusion on the conviction, but simply a response to Mr. Planque's persistent exculpatory defense that he was not capable of committing the resisting arrest charge due to his physical capabilities and potential limitations. Further, the state's response regarding evidence can be seen as only one of the factors that lead the jury to convict Mr. Planque. Based off of three specific incidents, which includes Mr. Planque's own testimony, the jury was more than capable to conclude that Mr. Planque was guilty of the crime charged.

First was the contradictory statement made by Mr. Planque which can be corroborated by his mother's phone call to the police. (RP 146). Mr. Planque stated that he could not walk very well. (RP 146, 148, 155) During his mother's testimony, she stated that he was running and up and down the stairs at her house prior to Deputy Holloway's arrival. (RP 111, 146, 156) This testimony is contradictory. Second was Mr. Planque's drinking pattern on the day

he committed the crime. Not only did Mr. Planque testify that he had been drinking essentially all day, Mr. Planque testified to being “blitzed” because he had begun to drink that day at noon. (RP 146). He testified to drinking six bottles of Space Dust IPA beers during the course of the afternoon. One beer of this kind contains an alcohol by volume of 8.2 percent. *Id.* (See also: Elysian Brewing, <https://www.elysianbrewing.com/beer/year-round/spacedust>). For comparison, a single beer of Coors Light contains an alcohol by volume of 4.2 percent. (Coors Light, <https://www.coorslight.com/our-beer>). Not only did Mr. Planque testify to drinking all day, but he then testified to drinking vodka into the night. (RP 147). For illustration, Mr. Planque testified specifically: “I drank a lot of vodka. A lot of vodka. And that progressed through the course of the whole evening.” *Id.* This drinking continued until he went home at 11:00 at night. *Id.* Mr. Planque’s drinking tendencies on the day of the crime shows that any reasonable juror could have found Deputy Holloway’s story and testimony far more credible than Mr. Planque’s, which led to a conviction of Mr. Planque beyond a reasonable doubt. Third, we must ask the question: why did Deputy Holloway testify that Mr. Planque said nothing about his supposed medical conditions to him while he was detaining Mr. Planque? (RP 157).

The prosecution simply responded to the lack of corroboration in the defense counsel's offered exculpatory defense regarding Mr. Planque's physical capabilities, which he testified did not allow him to commit the crime. The prosecution did not argue for the jury to make a conclusion based solely off of the lack of evidence showing Mr. Planque's physical capabilities, but rather the totality of the circumstances and evidence presented at trial. There were multiple different basis for the jury to conclude that Mr. Planque was guilty of the crime charged, other than the statement on evidence made by prosecution. Clearly, the prosecution's response did not result in prejudice and could not have improperly shifted the burden or commented improperly during its rebuttal closing arguments. Additionally, it is clear that there was not a substantial likelihood that the prosecutor's response affected the verdict, because the jury would have reached the same verdict regardless. Therefore, based on the foregoing, the court should uphold Mr. Planque's conviction.

2. THE COURT DID NOT ABUSE ITS CONSIDERABLE DISCRETION UNDER A DRUG OFFENDER SENTENCING ALTERNATIVE (DOSAs) WHEN DENYING MR. PLANQUE'S REQUEST FOR A RESIDENTIAL DRUG OFFENDER

SENTENCING ALTERNATIVE SENTENCE BECAUSE OF MR.  
PLANQUE'S HISTORY.

Generally, a court's decision to grant a sentencing alternative is unreviewable. *State v. Grayson*, 154 Wash. 2d 333 at 342, 111 P.3d 1183 at 1187 (2005). Nevertheless, a defendant can always seek review of the trial court's procedure in implementing the sentence. *Id.* at 338. With regard to a DOSA, a court abuses its discretion if it refuses to consider the alternative or refuses to consider the option for a certain class of offenders. *Id.* at 342. The legislature entrusted sentencing courts with considerable discretion under the Sentencing Reform Act of 1981 (SRA 1981), including the discretion to determine if the offender is eligible for an alternative sentence and, significantly, whether the alternative is appropriate. *State v. Hender*, 180 Wash. App. 895 at 901, 324 P.3d 780 at 783 (2014).

RCW 9.94A.660 states: a trial court need not order or consider any report in deciding whether an offender is an appropriate candidate for an alternative sentence. *State v. Bribiesca Guerrero*, 163 Wash. App. 773 at 778, 261 P.3d 197 at 199 (2011). Even if a defendant is eligible for DOSA, the decision to impose a DOSA rests in the sentencing court's discretion. *State v. Smith*, 142 Wash. App.

122 at 129, 173 P.3d 973 at 976 (2007). Eligibility does not automatically lead to a DOSA sentence. *Hender* 180 Wash. App. 895 at 901. Instead, under RCW 9.94A.660(3), the sentencing court must still determine that “the alternative sentence is appropriate.” *Id.* at 900. The purpose of DOSA is to provide meaningful treatment and rehabilitation incentives for those convicted of drug crimes when the trial judge concludes it would be in the best interests of the individual and the community. *Id.*

In *State v. Hender*, the trial court denied the defendant the ability to participate in DOSA. *Id.* at 901. The appellate court stated that the trial court exercised its discretion and stated reasons on the record for denying a DOSA sentence. *Id.* at 902. The trial court emphasized Hender's lack of accountability and refusal to be responsible for his conduct. *Id.*

Another case which denied the defendant the ability to participate in DOSA is *State v. Jones*, 171 Wash. App. 52 at 55, 286 P.3d 83 at 85 (2012). Contrary to Jones' contention, the appellate court stated that the trial court did not categorically refuse to consider Jones for a prison-based DOSA. *Id.* at 55. On the contrary, the appellate court concluded that the record had shown that the trial court considered several factors in deciding whether to grant Jones'

request for a DOSA: Jones's criminal history, whether he would benefit from treatment, and whether a DOSA would serve him or the community. *Id.* Ultimately, the trial court declined to impose a prison-based DOSA because Jones was awaiting trial on another charge, stating that it did not “think it would be appropriate at [that] time.” *Id.* at 56. The appellate court held the trial court did not refuse to consider him for a prison-based DOSA, so it did not abuse its discretion. *Id.*

Speaking to policy matters regarding DOSA exists *State v. Smith*, 118 Wash. App. 288 at 293. The court stated: We live in an age of scarce public resources, and although drug addicts often fail to rehabilitate themselves at the first opportunity, only to succeed at some later time--perhaps after a period of incarceration or some other life-altering event--courts are not required to consider granting community-based treatment alternatives indefinitely. *Id.* at 293.

The instant case can be compared to each of the three precedents discussed above. During Mr. Planque’s allocution he testified that he had received seven Driving Under the Influence (DUI) charges which was confirmed by the court through a print out of Mr. Planque’s criminal history. (RP 214-216). The court noted that in none of Mr. Planque’s DUIs did he ever seek a DOSA. (RP 215).

The court further stated that Mr. Planque had many felonies on his record including bail jumping, harassment, and burglary. *Id.* The court then went on to state:

“From my perspective I’m not really one to give up on anybody, but I also think that there’s a point where it has to come from you and the way I see here is that you’ve had numerous encounters with the courts over the years that all relate to alcohol and I guess I really want to know from you, why today? Why today are you asking for help? Why or what did you tell the judges in those other seven DUIs when you were charged and either found guilty or plead guilty to alcohol related offenses? Why, when you appeared before the judges and were found guilty on harassment, domestic violence, why didn’t you ask the judge at that time for help?” (RP 216-217).

The court then went on to state:

“There’s programs out there that you can voluntarily enter, and you’re asking the court to order you to do certain things and these are things that I feel have to come from you. You have to dig deep. If you really want it, you can do it.” (RP 217).

The court then declined the DOSA and stated that Mr. Planque must get help voluntarily. (RP 217-218).

It is clear that in the instant case, the court considered a DOSA for Mr. Planque but decided, based off of the sum of his prior history, Mr. Planque was not eligible for an alternative sentence. Further, it is clear that the court wants Mr. Planque to complete treatment voluntarily, so a DOSA was not appropriate for him. Additionally, the court definitely could have reasoned after looking at the sum of Mr. Planque’s history with the legal system that a DOSA

was essentially useless to him. This is why the court stated Mr. Planque must “dig deep” to complete treatment by stating treatment such as this must come from Mr. Planque himself, voluntarily. Therefore, this court should uphold the decision to deny Mr. Planque a DOSA, or alternative sentence.

3. THE ERROR IN THE JUDGMENT AND SENTENCE LISTING THE WRONG RCW FOR MR. PLANQUE'S THIRD DEGREE ASSAULT CONVICTION WAS HARMLESS.

The defense is essentially demanding that this judgement and sentence be remanded for a simple clerical error. Specifically, the defense wants a single number in an RCW to be changed. They state they want 9A.36.030(1)(g) changed to 9A.36.031(1)(g). This error can be seen as completely harmless for various reasons.

First, the jury instructions read by the court at trial laid out RCW 9A.36.031(1)(g) exactly how it is stated in the statute which Mr. Planque is being charged under. This shows that even though there was a simple clerical error regarding a number change in an RCW, there is no possible way that a jury could have been misled or confused to what Mr. Planque was actually being charged under. This shows that the clerical mistake is a harmless error. Second, 9A.36.030 was repealed in 1986. One who searches for the repealed

statute and finds it is directed specifically to the new RCW 9A.36.031. This shows that one with common sense will be able to find the correct RCW, and in the end the error was harmless. Third, the only clerical error was the change of 1 to a 0. The crime stated on the Felony Judgment and Sentence in the Clerk Papers is "Assault in the Third Degree-Law Enforcement Officer." (CP 189). This also shows that a reading of the Conviction listed in the Felony Judgment and Sentence would lead a person to the correct RCW, especially after finding a road map to RCW 9A.36.031 after visiting RCW 9A.36.030 and finding that it had been repealed. Therefore, the case should not be remanded for such a simple clerical error that did not affect Mr. Planque's rights in anyway, and can be fixed without his presence in any proceeding.

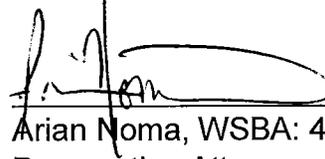
#### CONCLUSION

Based on the foregoing, the court should not reverse Mr. Planque's conviction because there was claimed to be prosecutorial misconduct, the court should not remand for consideration of a

DOSA because the court used its considerable discretion reasonably, and the court should not remand for a simple fix of a clerical error which affected nothing.

Dated this 17<sup>th</sup> day of June, 2019.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Arian Noma', is written over a horizontal line.

Arian Noma, WSBA: 47546  
Prosecuting Attorney  
Okanogan County, Washington

COURT OF APPEALS  
DIVISION III  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON	)	COA No. 364674
	)	
Plaintiff/Respondent	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
Jason Lee Planque	)	
	)	
Defendant/Appellant.	)	
_____	)	

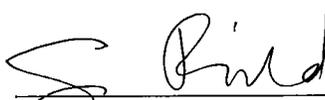
I, Shauna Field, do hereby certify under penalty of perjury that on the 17th day of June, 2019, I caused the original Brief of Respondent to be filed in the Court of Appeals Division III and a true copy of the same to be served on the following in the manner indicated below:

**E-mail:** jill@ewalaw.com

Jill Shumaker Reuter  
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- U.S. Mail
- Hand Delivery
- E-Service via Portal

Signed in Okanogan, Washington this 17th day of June, 2019.



Shauna Field, Office Administrator

**OKANOGAN COUNTY PROSECUTING ATTORNEY'S OFFICE**

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