

FILED
Court of Appeals
Division III
State of Washington
1/10/2020 9:57 AM
36704-5-III

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

JONATHAN TOTH, APPELLANT

APPEAL FROM THE SUPERIOR COURT
OF SPOKANE COUNTY

BRIEF OF RESPONDENT

LAWRENCE H. HASKELL
Prosecuting Attorney

Jared T. Cordts
Deputy Prosecuting Attorney
Attorneys for Respondent

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

INDEX

I. APPELLANT’S ASSIGNMENTS OF ERROR 1

II. ISSUES PRESENTED 1

III. STATEMENT OF THE CASE 1

IV. ARGUMENT 5

 A. ADMITTING THE TRUTH OF THE STATE’S EVIDENCE AND DRAWING ALL REASONABLE INFERENCES FROM THAT EVIDENCE, THERE WAS SUFFICIENT EVIDENCE PRESENTED FROM WHICH THE JURY COULD FIND ALL OF THE ESSENTIAL ELEMENTS OF VIOLATION OF A DOMESTIC VIOLENCE NO-CONTACT ORDER BEYOND A REASONABLE DOUBT..... 5

 B. DEFENDANT’S CLAIM IS BARRED UNDER RAP 2.5 BECAUSE DEFENDANT FAILED TO PRESERVE ANY LEGAL FINANCIAL OBLIGATION (LFO) ISSUE FOR APPEAL. 12

 C. IF THIS COURT EXERCISES ITS DISCRETION TO REVIEW THE DEFENDANT’S CLAIM, THE \$200 FILING FEE SHOULD BE STRICKEN. 15

V. CONCLUSION..... 16

TABLE OF AUTHORITIES

Federal Cases

<i>In re Winship</i> , 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970)	7
<i>Tot v. United States</i> , 319 U.S. 463, 63 S.Ct. 1241, 87 L.Ed. 1519 (1943) .	8

Washington Cases

<i>Long v. Brusco Tug & Barge, Inc.</i> , 185 Wn.2d 127, 368 P.3d 478 (2016).....	12
<i>Quinn v. Cherry Lane Auto Plaza, Inc.</i> , 153 Wn. App. 710, 225 P.3d 266 (2009), <i>review denied</i> , 168 Wn.2d 1041 (2010).....	7
<i>State v. Blazina</i> , 182 Wn.2d 827, 344 P.3d 680 (2015).....	15
<i>State v. Brooks</i> , 45 Wn. App. 824, 727 P.2d 988 (1986).....	7
<i>State v. Camarillo</i> , 115 Wn.2d 60, 794 P.2d 850 (1990).....	8
<i>State v. Davis</i> , 182 Wn.2d 222, 340 P.3d 820 (2014).....	6
<i>State v. Delmarter</i> , 94 Wn.2d 634, 618 P.2d 99 (1980)	7
<i>State v. Green</i> , 94 Wn.2d 216, 616 P.2d 628 (1980)	6, 16
<i>State v. Jackson</i> , 112 Wn.2d 867, 774 P.2d 1211 (1989)	8
<i>State v. Ramirez</i> , 191 Wn.2d 732, 426 P.3d 714 (2018).....	15
<i>State v. Ramos</i> , 171 Wn.2d 46, 246 P.3d 811 (2011)	15
<i>State v. Randecker</i> , 79 Wn.2d 512, 487 P.2d 1295 (1971).....	7
<i>State v. Rich</i> , 184 Wn.2d 897, 365 P.3d 746 (2016).....	7
<i>State v. Salinas</i> , 119 Wn.2d 192, 829 P.2d 1068 (1992)	6
<i>State v. Scott</i> , 110 Wn.2d 682, 757 P.2d 492 (1988)	13
<i>State v. Strine</i> , 176 Wn.2d 742, 293 P.3d 1177 (2013).....	13

<i>State v. Thomas</i> , 150 Wn.2d 821, 83 P.3d 970 (2004)	6
<i>State v. Williams</i> , 96 Wn.2d 215, 634 P.2d 868 (1981)	7
<i>State v. Witherspoon</i> , 180 Wn.2d 875, 329 P.3d 888 (2014), <i>as corrected</i> (Aug. 11, 2014)	6

Constitutional Provisions

U.S. Const. amend. XIV	7
Const. art. I, § 3	7

Statutes

Laws of 2018, ch. 269, § 17	12
RCW 9A.36.041	4
RCW 9A.72.090	4
RCW 10.101.010	14
RCW 11.125.050	11
RCW 26.50.110	3, 8
RCW 36.18.020	12

Rules

RAP 2.5	13
---------------	----

I. APPELLANT'S ASSIGNMENTS OF ERROR

1. The trial court erred when it denied the defendant's motion to dismiss due to the insufficiency of the evidence.
2. The trial court abused its discretion when it imposed a criminal filing fee upon the defendant while at the same time finding him indigent.

II. ISSUES PRESENTED

1. Was there sufficient evidence for a rational jury to find the defendant guilty of violation of a domestic violence no-contact order?
2. Did the trial court conduct an individualized inquiry into the defendant's ability to pay legal financial obligations before imposing the criminal filing fee?

III. STATEMENT OF THE CASE

In May 2018, Jonathan Toth, the defendant, was arrested after an altercation with Joenisha Nolan. CP 8; RP 103-04, 240-41. At the time of the incident, Ms. Nolan and Mr. Toth were involved in a dating relationship. CP 8; RP 102-03, 236-37, 240. After his arrest, Mr. Toth was held in custody and a no-contact order was issued. CP 8, 11-12; RP 104, 241-43; Ex. 1.

The no-contact order prohibited any contact, whether directly or indirectly, between Mr. Toth and Ms. Nolan. CP 8, 12; RP 243. The relevant provision (2.B.) reads:

Defendant: do not contact the protected person, directly, indirectly, in person or through others, by phone, mail, or electronic means, except for mailing or service of process of court documents through a third party, or contact by the defendant's lawyers.

Ex. 1. The order also provided for a civil standby, authorizing law enforcement to assist the defendant in obtaining his personal belongings. *Id.* The order was entered in open court on May 16, 2018. *Id.* Mr. Toth signed the order, indicating he received a copy of the order. RP 242. Mr. Toth understood he was not to have contact with Ms. Nolan. RP 243. However, he believed he could contact Ms. Nolan "through defendant's lawyers." *Id.*

While Mr. Toth was in custody, he met a man named Christopher Tidwell. RP 242. Mr. Tidwell and Mr. Toth were assigned to the same cell in the Spokane County Jail. RP 165, 242. At some point during their shared incarceration, Mr. Toth decided to designate Mr. Tidwell as his "power of attorney," to help Mr. Toth deal with his property, particularly his truck and paycheck. RP 242, 246-47. To accomplish this, Mr. Toth sent a "kite" to the county law library, requesting any available resources. RP 166-69, 243-45. The law library responded by sending a variety of documents to Mr. Toth, including a "temporary limited power of attorney." RP 243. Mr. Toth duly

filled out the power of attorney form, seemingly empowering Mr. Tidwell and Danielle Tidwell (Mr. Tidwell's wife) to recover his truck and personal property from Ms. Nolan, and Mr. Toth's paycheck from his employer. RP 246-47. In addition, Mr. Toth wrote two letters addressed to Ms. Nolan, which he gave to Mr. Tidwell to deliver to Ms. Nolan. RP 256-57, 261-62, 272; Ex. 2, 3.

From jail, Mr. Tidwell called Ms. Tidwell and gave her Ms. Nolan's phone number. RP 155. One of Mr. Toth's letters was sent to Ms. Tidwell through the mail. RP 156. Ms. Tidwell asked Ms. Nolan through text messages if Ms. Nolan wanted the letter delivered but Ms. Nolan declined. RP 105, 156, 158; Ex. 6. Mr. Tidwell was released from custody on May 27, 2018. RP 166. Once out, Mr. Tidwell (a/k/a "Pineapple") also exchanged text messages and phone calls with Ms. Nolan. RP 131, 181-96; Ex. 12-13. Ms. Nolan then found the two letters written by Mr. Toth in her mailbox. RP 197.

An information was filed on June 19, 2018, charging Mr. Toth with one count of Violation of a No Contact Order, pursuant to RCW 26.50.110, and further alleging that the offense was committed against a family or

household member as defined by RCW 9A.36.041(4).¹ CP 6.² A jury trial was held before the Honorable Maryann Moreno between March 11 and March 14, 2018. RP 6-346. Mr. Toth was found guilty as charged, with the jury further finding that Mr. Toth and Ms. Nolan were members of the same family or household. CP 136-37; RP 338.

At sentencing on March 20, 2019, Judge Moreno imposed 60 months prison with no community custody. RP 353. The judge also imposed a \$500 victim assessment, a \$200 filing fee, and a \$15 fine for violation of a DV protection order. CP 319; RP 353-54. The \$100 DNA collection fee was waived. RP 353. Before imposing the legal financial obligations (LFOs), Judge Moreno inquired of Mr. Toth's ability to work and pay:

THE COURT: ... Refresh my memory, what were you doing for a living when you were out?

[MR. TOTH]: I'm a sawyer, carpenter. I worked at The Truss Company in the Valley.

¹ RCW 9A.36.041(4), in relevant part, defines family or household members as, "persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, and persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship."

² Mr. Toth was also charged with one count of Bribing a Witness, pursuant to RCW 9A.72.090. CP 6. Mr. Toth was acquitted of that charge after trial. CP 138; RP 338.

THE COURT: And you can – do you think you can be gainfully employed when you're released?

[MR. TOTH]: I will always work for a living, your Honor, yes, ma'am.

RP 353. Shortly after conducting this colloquy, ordering the LFOs, and signing the Judgment and Sentence, Judge Moreno also signed an Order Permitting Appeal at Public Expense. CP 331-32; RP 358. In support of the Order, the defendant submitted a Motion and Declaration for Order Authorizing the Defendant to Seek Review at Public Expense and Providing for Appointment of Attorney on Appeal. CP 326-29; RP 356. Mr. Toth, in the Declaration, claimed to not own any real estate, stocks, bonds, or motor vehicles. CP 327. Mr. Toth further claimed to have no employment, no income, no cash, nothing in savings accounts, and nothing in checking accounts. CP 327-28.

This appeal follows.

IV. ARGUMENT

A. ADMITTING THE TRUTH OF THE STATE'S EVIDENCE AND DRAWING ALL REASONABLE INFERENCES FROM THAT EVIDENCE, THERE WAS SUFFICIENT EVIDENCE PRESENTED FROM WHICH THE JURY COULD FIND ALL OF THE ESSENTIAL ELEMENTS OF VIOLATION OF A DOMESTIC VIOLENCE NO-CONTACT ORDER BEYOND A REASONABLE DOUBT.

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); *State v. Witherspoon*, 180 Wn.2d 875, 883, 329 P.3d 888 (2014), *as corrected* (Aug. 11, 2014). A reviewing court must defer to the trier of fact on issues of conflicting testimony, credibility of witnesses and the persuasiveness of the evidence. *State v. Thomas*, 150 Wn.2d 821, 874-75, 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).

In a sufficiency of the evidence challenge, the court is highly deferential to the decision of the jury. *State v. Davis*, 182 Wn.2d 222, 227, 340 P.3d 820 (2014). In that regard, our Supreme Court has stated:

It is the province of the jury to weigh the evidence, under proper instructions, and determine the facts. It is the province of the jury to believe, or disbelieve, any witness whose testimony it is called upon to consider. If there is substantial evidence (as distinguished from a scintilla) on both sides of an issue, what the trial court believes after hearing the testimony, and what this court believes after reading the record, is immaterial. The finding of the jury,

upon substantial, conflicting evidence properly submitted to it, is final.

State v. Williams, 96 Wn.2d 215, 222, 634 P.2d 868 (1981) (citations omitted). Similarly expressed:

The fact that a trial or appellate court may conclude the evidence is not convincing, or may find the evidence hard to reconcile in some of its aspects, or may think some evidence appears to refute or negative guilt, or to cast doubt thereon, does not justify the court's setting aside the jury's verdict.

State v. Randecker, 79 Wn.2d 512, 517-18, 487 P.2d 1295 (1971).

The State bears the burden of proving all the elements of an offense beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); *State v. Rich*, 184 Wn.2d 897, 903, 365 P.3d 746 (2016); U.S. Const. amend. XIV; Const. art. I, § 3. The State may establish the elements of a crime by either direct or circumstantial evidence. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980); *State v. Brooks*, 45 Wn. App. 824, 826, 727 P.2d 988 (1986). "Appellate courts do not hear or weigh evidence, find facts, or substitute their opinions for those of the trier-of-fact. Instead, they must defer to the factual findings made by the trier-of-fact." *Quinn v. Cherry Lane Auto Plaza, Inc.*, 153 Wn. App. 710, 717, 225 P.3d 266 (2009), *review denied*, 168 Wn.2d 1041 (2010). In like manner, a determination of the credibility of witnesses and the weight of the

evidence is the exclusive function of the trier of fact, and is not subject to review. *See State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

A jury may draw inferences from the evidence so long as those inferences are rationally related to the proven facts. *State v. Jackson*, 112 Wn.2d 867, 875, 774 P.2d 1211 (1989). A rational connection must exist between the initial fact proven and the further fact presumed. *Id.* Moreover, a jury may infer from one fact the existence of another fact essential to guilt, if reason and experience support the inference. *Tot v. United States*, 319 U.S. 463, 467, 63 S.Ct. 1241, 87 L.Ed. 1519 (1943).

Here, Mr. Toth was charged with one count of Violation of a No Contact Order, pursuant to RCW 26.50.110, with a special allegation of domestic violence. CP 6. At trial, Mr. Toth was found guilty by a jury. CP 136; RP 338. Prior to deliberation, the jury was given instructions by the court. CP 117-135; RP 294-304. Instruction No. 8, the “to convict” instruction, read, in relevant part:

To convict the defendant of the crime of violation of a court order, each of the following five elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about May 27, 2018, there existed a no-contact order applicable to the defendant;
- (2) That the defendant knew of the existence of this order;
- (3) That on or about said date, the defendant knowingly violated a provision of this order;

(4) That the defendant has twice been previously convicted of the crime described in RCW 26.50.110; and

(5) That the defendant's acts occurred in the State of Washington.

CP 127. By finding Mr. Toth guilty, the jury necessarily found each element had been proved beyond a reasonable doubt. Mr. Toth claims that the evidence was insufficient to meet only element number (3); namely, that he knowingly violated a provision of the no-contact order. *See* Br. of Appellant at 5.

A separate jury instruction (Instruction No. 9) provided a definition of "knowingly":

A person knows or acts knowingly or with knowledge with respect to a fact, circumstance, or result when he or she is aware of that fact, circumstance, or result. It is not necessary that the person know that the fact, circumstance, or result is defined by law as being unlawful or an element of a crime.

If a person has information that would lead a reasonable person in the same situation to believe that a fact exists, the jury is permitted but not required to find that he or she acted with knowledge of that fact.

When acting knowingly as to a particular fact is required to establish an element of a crime, the element is also established if a person acts intentionally as to that fact.

CP 128.

A definition of “intentionally” was found in Instruction No. 13:

A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result that constitutes a crime.

CP 132.

The evidence against Mr. Toth was more than sufficient for the jury to find he knowingly violated the no-contact order. Mr. Toth took the time to write not one, but two letters to Ms. Nolan, the protected party. RP 256-57, 261-62, 272; Ex. 2, 3. Mr. Toth enlisted his cellmate, Mr. Tidwell, to assist him in delivering the letters to Ms. Nolan. RP 257, 270, 272. Mr. Toth testified that it was “100 percent” his intention that Mr. Tidwell deliver the letters to Ms. Nolan.³ RP 272. Before leaving the letters in Ms. Nolan’s mailbox, both Mr. Tidwell and Ms. Tidwell engaged Ms. Nolan in phone and text conversations about not only the letters, but about Mr. Toth’s situation. RP 105, 131, 156, 158, 181-96; Ex. 6, 12, 13.

It has continually been Mr. Toth’s defense that he believed he could contact Ms. Nolan through Mr. Tidwell, Mr. Toth’s “lawyer” according to a temporary power of attorney, and, as such, did not “knowingly” violate the no-contact order. *See* RP 242-50, 257-62; *see also* Br. of Appellant at 6.

³ Mr. Toth: “He [Mr. Tidwell] was supposed to drop it [one of the letters] off at my address, give Joenisha Nolan my correspondence at my home, ... to give it to her.” RP 257.

The jury, though, had the opportunity to hear testimony from Mr. Toth, and to weigh his credibility while testifying. Mr. Toth testified he needed someone to address his affairs while he was in custody. RP 242. Mr. Toth conducted some research and completed a temporary limited power of attorney.⁴ RP 243-46. This, according to Mr. Toth, would allow his “lawyers” (Mr. and Ms. Tidwell) to contact Ms. Nolan. RP 243-44, 271. Yet the jury may simply have believed Mr. Toth’s intent was not to ensure that his actions were legal, but that he contemplated a loophole for his actions. The jury may not have believed Mr. Toth when he testified:

[Defense counsel:] ... And explain to us how you didn’t think that was violating the no-contact order?

[The State’s objection to Mr. Toth’s first answer was sustained.]

[Mr. Toth:] ... I thought the document [temporary power of attorney] permitted me. I thought the document permitted me legally to do this, *because that’s what any American would think* (indicating).

RP 257-58 (emphasis added). In addition, the evidence presented at trial contradicts Mr. Toth’s rationalization of his contact with Ms. Nolan. Mr. Toth admitted that nowhere in the two letters to Ms. Nolan did he

⁴ Mr. Toth testified that the power of attorney was “legal” and filed with the court. RP 250. While the power of attorney was signed and dated by Mr. Toth, *see* CP 25, it was not notarized by a notary public or witnessed by two or more competent witnesses. RCW 11.125.050(1).

mention that the Tidwells were acting as his attorneys or were acting pursuant to a power of attorney. *See* RP 272-73. Likewise, there is no mention in the text messages between the Tidwells and Ms. Nolan that the Tidwells were acting as Mr. Toth’s attorneys or were acting pursuant to a power of attorney, apart from one reference to Mr. Tidwell having the “court shit” and asking to “pick up that truck” with the help of the sheriff. *See* Ex. 6, 13.

“[J]urors may ‘rely on their personal life experience to evaluate the evidence presented at trial.’” *Long v. Brusco Tug & Barge, Inc.*, 185 Wn.2d 127, 135, 368 P.3d 478, 482 (2016) (*quoting Breckenridge v. Valley Gen. Hosp.*, 150 Wn.2d 197, 199 n. 3, 75 P.3d 944 (2003)). The jury in this case had the opportunity to view all the evidence admitted at trial, and to listen to all the testimony at trial. The jury was justified in concluding that Mr. Toth knowingly violated the no-contact order, and thus there was sufficient evidence to support Mr. Toth’s conviction.

B. DEFENDANT’S CLAIM IS BARRED UNDER RAP 2.5 BECAUSE DEFENDANT FAILED TO PRESERVE ANY LEGAL FINANCIAL OBLIGATION (LFO) ISSUE FOR APPEAL.

RCW 36.18.020 was amended in 2018 to prohibit courts from imposing a \$200 criminal filing fee on indigent defendants. Laws of 2018, ch. 269, § 17. Mr. Toth appeals the imposition of the filing fee as part of his sentence.

It is a fundamental principle of appellate jurisprudence in Washington as well as in the federal system that a party may not assert on appeal a claim that was not first raised at trial. *State v. Strine*, 176 Wn.2d 742, 749, 293 P.3d 1177 (2013). This principle is embodied in Washington under RAP 2.5. The rule is principled as it “affords the trial court an opportunity to rule correctly upon a matter before it can be presented on appeal.” *Strine*, 176 Wn.2d at 749 (*quoting New Meadows Holding Co. v. Wash. Water Power Co.*, 102 Wn.2d 495, 498, 687 P.2d 212 (1984)).

Although RAP 2.5 permits an appellant to raise for the first time on appeal an issue that involves a manifest error affecting a constitutional right, our courts have indicated that “the constitutional error exception is not intended to afford criminal defendants a means for obtaining new trials whenever they can ‘identify a constitutional issue not litigated below.’” *State v. Scott*, 110 Wn.2d 682, 687, 757 P.2d 492 (1988) (*quoting State v. Valladares*, 31 Wn. App. 63, 76, 639 P.2d 813 (1982), *aff’d in part, rev’d in part*, 99 Wn.2d 663 (1983)). The issue raised here is not constitutionally based.

Mr. Toth cannot establish the court committed a manifest constitutional error at the time of sentencing. The court did conduct a brief colloquy to determine if Mr. Toth was indigent as defined by RCW 10.101.010. RP 353. Mr. Toth described himself as someone who “will always work for a living.” *Id.* There is nothing in the record to indicate whether Mr. Toth’s counsel was assigned as a conflict attorney under subsections (a) through (c) of RCW 10.101.010, instead of (d). *See* CP 14. The court was never asked to waive the criminal filing fee, nor was it objected to at sentencing. *See* RP 353-54.

The Declaration filed by Mr. Toth to establish his indigency for his appeal asserts that Mr. Toth has nothing to his name, except outstanding debts. *See* CP 326-29. This runs contrary to Mr. Toth’s testimony, in which he claimed to have purchased a Ford Excursion with cash, and described his specialized job building trusses. RP 237-39. His ability to pay his LFOs will naturally be affected by his prison sentence, but upon release Mr. Toth should not have difficulty finding work given his profession.

Policy and RAP 2.5 do not favor consideration of a belatedly-raised legal financial obligations issue. Nothing presented to the trial court at the time of sentencing indicated that the \$200 filing fee could not be imposed.

C. IF THIS COURT EXERCISES ITS DISCRETION TO REVIEW THE DEFENDANT’S CLAIM, THE \$200 FILING FEE SHOULD BE STRICKEN.

In the present case, the trial court ordered Mr. Toth to pay a total of \$715 in LFOs, but contemporaneously the court also found him indigent for the purposes of appeal. CP 319, 331-32; RP 353-54, 358. It would appear from the record that the trial court’s individualized inquiry into Mr. Toth’s ability to pay his LFOs consisted of a mere two questions. *See* RP 353. It would also appear the trial court took Mr. Toth’s Declaration at face value and did not inquire about its contents in any meaningful way. *See* RP 358. As such, it would seem the court did not conduct an adequate individualized inquiry into Mr. Toth’s ability to pay under both *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015), and *State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018).

Therefore, if this issue is reviewed, despite the lack of objection below, this Court should order that the \$200 criminal filing fee be stricken from the judgment and sentence. 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).

V. CONCLUSION

When viewed in a light most favorable to the State, there is sufficient evidence against Jonathan Toth for a rational trier of fact to have found the essential elements of the crime beyond a reasonable doubt. *See Green*, 94 Wn.2d at 221-22. The jury appropriately did its duty and found Mr. Toth guilty as charged. The jury's verdict should be affirmed. The trial court's imposition of the criminal filing fee, while permissible, is likely not supported by the lack of an individualized inquiry into Mr. Toth's ability to pay, and should be stricken.

Dated this 10 day of January, 2020.

LAWRENCE H. HASKELL
Prosecuting Attorney



Jared T. Cordts WSBA #32130
Deputy Prosecuting Attorney
Attorney for Respondent

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

STATE OF WASHINGTON,

Respondent,

v.

JONATHAN TOTH,

Appellant.

NO. 36704-5-III

CERTIFICATE OF MAILING

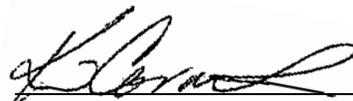
I certify under penalty of perjury under the laws of the State of Washington, that on January 10, 2020, I e-mailed a copy of the Brief of Respondent in this matter, pursuant to the parties' agreement, to:

Lise Ellner
liseellnerlaw@comcast.net

Spencer Babbitt
babbitts@seattleu.edu

1/10/2020
(Date)

Spokane, WA
(Place)



(Signature)

SPOKANE COUNTY PROSECUTOR

January 10, 2020 - 9:57 AM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 36704-5
Appellate Court Case Title: State of Washington v. Jonathan James Toth
Superior Court Case Number: 18-1-02592-4

The following documents have been uploaded:

- 367045_Briefs_20200110095657D3541920_4918.pdf
This File Contains:
Briefs - Respondents
The Original File Name was Toth Jonathan - 367045 - Resp Br - JTC.pdf
- 367045_Designation_of_Clerks_Papers_20200110095657D3541920_5602.pdf
This File Contains:
Designation of Clerks Papers - Modifier: Supplemental
The Original File Name was Desig CP - 2d - Ex - 367045.pdf

A copy of the uploaded files will be sent to:

- Liseellnerlaw@comcast.net
- babbitts@seattleu.edu
- lsteinmetz@spokanecounty.org
- valerie.liseellner@gmail.com

Comments:

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

Filing on Behalf of: Jared Thomas Cordts - Email: jaredcordts@hotmail.com (Alternate Email: scpaappeals@spokanecounty.org)

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

Note: The Filing Id is 20200110095657D3541920