

FILED  
Court of Appeals  
Division III  
State of Washington  
2/13/2020 8:00 AM  
No. 36765-7-III

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

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STATE OF WASHINGTON,

Respondent,

vs.

TREVOR J. HAUGEN,

Appellant.

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APPELLANT'S REPLY BRIEF

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## I. ARGUMENT

### A. APPELLANT'S REPLY TO STATE'S CHALLENGE TO ASSIGNMENT OF ERROR

The State's argument against Appellant's assignment of error is misplaced. Appellant properly assigned error in his opening brief, stating "The trial court erred by finding that sufficient evidence exists in the record to support Mr. Haugen's convictions for unlawful possession of a firearm and possession of an unlawful firearm based on shoe prints in the snow and his statements." *See Amended Appellant Opening Brief, page 1.* The issue of *Corpus Delicti* is directly related to Appellant's assignment of error.

The State argues the Appellant is forestalled from challenging the findings that correlate to the assignment of error regarding insufficiency of evidence. *Response Brief* at 7. The State is correct in pointing out that generally, unchallenged findings are viewed as verities, provided there is substantial evidence to support the findings. *See State v. Halstien*, 122 Wn.2d 109, 128, 857 P.2d 270 (1993). The remainder of the State's argument, however, is directly contradicted by the plain language of Rules of Appellate Procedure. "These rules will be liberally interpreted to promote

justice and facilitate the decision of cases on the merits. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands, subject to the restrictions in rule 18.8(b).” RAP 1.2(a)

The language of RAP 1.2(a) along with the holding of the Washington State Supreme Court make clear that an appellate court may exercise its discretion to consider cases and issues on their merits. *See State v. Olson*, 126 Wn.2d 315, 323, 893 P.2d 629 (1995). In its ruling, the Washington Supreme Court further held:

“This is true despite one or more technical flaws in an appellant's compliance with the Rules of Appellate Procedure. This discretion, moreover, should normally be exercised unless there are compelling reasons not to do so. In a case where the nature of the appeal is clear and the relevant issues are argued in the body of the brief and citations are supplied so that the court is not greatly inconvenienced and the respondent is not prejudiced, there is no compelling reason for the appellate court not to exercise its discretion to consider the merits of the case or issue.” *State v. Olson* at 323.

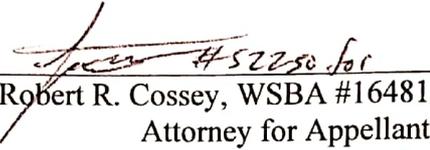
Here, the Appellant has challenged the trial court's finding of guilt based in part on a lack of evidence supporting “actual control” of the firearm, and a lack of evidence showing the firearm was within Appellant's dominion of control. *See Appellant Brief*,

page 8, See also *State v. Staley*, 123 Wn.2d 794, 801, 872 P.2d 502 (1994). The officer's testimony of Mr. Haugen's confession is supported only by a backwards tracing of a shoe print in the snowfall. RP at 260. The State suggests the black bag containing the firearm, the "illegal firearm itself", and testimony about snowfall constitutes additional evidence to support conviction without the confession. *Response Brief* at 10. However, the existence of those circumstances do not support a logical and reasonable inference of the facts sought to be proven, namely that Mr. Haugen himself possessed the firearm in question.

#### **CONCLUSION**

As previously stated in Appellant's opening brief, the record lacks sufficient evidence to support the trial court's findings related to the weapons charges. Mr. Haugen's convictions for unlawful possession of a firearm and possession of an unlawful firearm must both be reversed based on the state failing to meet their burden of proof in showing actual possession beyond a reasonable doubt.

Respectfully submitted this 12<sup>th</sup> day of February, 2020.

  
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**AFFIDAVIT OF SERVICE**

I, AARON JONES, upon penalty of perjury under the laws of the State of Washington, declare that on the 12<sup>nd</sup> of February, 2020, I served by email a copy of the Appellant's Reply Brief to the following person at the addresses below:

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I also declare that on the 12<sup>nd</sup> of February, 2020, I served by USPS mail a copy of the Appellant's Reply Brief to the following person at the address below:

Inmate – Trevor J. Haugen  
Department of Corrections Inmate  
#Q359242 IMUD109  
P.O. Box 900  
Shelton, WA 98584

DATED this 12<sup>th</sup> day of February, 2020.



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AARON JONES  
Declarant

**ROBERT COSSEY & ASSOCIATES**

**February 12, 2020 - 5:13 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 36765-7  
**Appellate Court Case Title:** State of Washington v. Trevor Jaymes Haugen  
**Superior Court Case Number:** 18-1-05591-2

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