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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

No. 36804-1-III

STATE OF WASHINGTON, Respondent,

v.

CHERYL LYNN SUTTON, Appellant.

APPELLANT'S BRIEF

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I. INTRODUCTION

The State charged Cheryl Sutton with leading organized crime, requiring it to prove that she directed three named individuals to promote a drug trafficking enterprise. During deliberations, the jury inquired whether it had to find that she directed the three individuals specifically named in the “to convict” instruction, or could convict if she directed any three individuals as suggested in the definitional instruction. Although the parties agreed that the correct answer to the question was that the jury must find the elements as charged in the “to convict” instruction, the trial court denied a defense request for such an instruction and told the jury only to refer back to its instructions.

The trial court abused its discretion in declining the proposed defense instruction that accurately stated the law and dispelled manifest juror confusion about the essential elements of the charge. Because the trial court is responsible for helping the jury understand the law, and because the defense instruction would have ensured that the instructions as a whole accurately communicated the essential elements of the charge and allowed the defense to argue its theory, there was no reason not to give it. Accordingly, this court should reverse Sutton’s conviction for leading organized crime and remand her case for retrial or resentencing.

II. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR NO. 1: The trial court erred in denying a supplemental defense instruction to directly answer a jury question about the essential elements of the charge.

ASSIGNMENT OF ERROR NO. 2: The jury instructions as a whole were misleading and failed to allow the defense to argue its theory.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

ISSUE NO. 1: Whether the trial court abused its discretion by refusing an accurate instruction of law necessary to dispel jury confusion about the essential elements of the charge.

ISSUE NO. 2: Whether the instructions, together with the court's response, were confusing about what the State had to prove to convict Sutton for leading organized crime.

IV. STATEMENT OF THE CASE

Cheryl Sutton was charged with leading organized crime under RCW 9A.82.060(1)(a), which required proof that she intentionally organized, managed, directed, supervised, or financed three or more persons. The information and the "to convict" instruction (number 25)

specifically named Ken Stone, Alvaro Guajardo, and Colby Vodder as the persons she directed. CP 98, 170.

The charges arose from the disappearance of Brad Snow in late 2015. I RP 164-68, 171-72. The last person who saw him reported dropping him off at a home on Starr Road in early December. I RP 177-78. After missing a phone call from Snow early the following morning, the friend never saw him again. I RP 179.

An investigation in the months before Snow disappeared led law enforcement to connect the Starr Road house with drug trafficking. I RP 185-86. While executing a search warrant targeting an unrelated person, law enforcement learned that Cheryl Sutton, Ken Stone, Alvaro Guajardo, Russell Joyce, and Colby Vodder were present in a shop area on the property. I RP 188, 204. After Snow disappeared, police reviewed his phone records and confirmed that his final cell phone activity was handled by towers that covered the Starr Road house. I RP 240-41.

During an initial visit to the Starr Road property, law enforcement learned that the tenants who lived there at the time Snow disappeared had been evicted a couple of weeks later and the house was under renovation. I RP 209-10. Investigators returned with a cadaver dog trained to locate human remains. I RP 249, II RP 256-57. The dog alerted to a shelving

unit inside the garage shop. II RP 261-62. After police removed the shelving, they observed spattered blood and hair along with water staining that appeared to indicate cleanup activities. II RP 264, 335-41. Later evaluation matched samples of the blood stains to Snow's DNA to a probability of 1 in 19 quintillion. III RP 561-64.

Eventually, police obtained statements from several individuals who associated with the Starr Road house around the time of Snow's disappearance. Russell Joyce, the owner of the property, testified that he rented the house to Sutton and Stone while he lived in an apartment above the shop and Guajardo stayed downstairs in the shop. II RP 274-77. According to Joyce, Sutton and Stone made their living selling drugs and Guajardo assisted with distribution. II RP 278-79. They gave him drugs in lieu of paying rent. II RP 278. He observed people come by the house every day and Sutton appeared to be in charge. II RP 282. Joyce also saw Vodder out at the house where he sold heroin. II RP 282-83.

Joyce had met Sutton and Stone through Snow. II RP 277. He reported one occasion when Sutton was angry with Snow after he stole her van. II RP 283-84. The last time he saw Snow, Snow had been upstairs with him in his apartment when Sutton and Snow came upstairs. II RP 285-86. Sutton had a metal bar in her hand and ordered Snow to get on

the ground, where Stone tied him up. II RP 286. Sutton was yelling about disrespect so Joyce assumed they would beat Snow up a little, but he would be ok. II RP 286-87. Later, Guajardo came upstairs and took Snow out of the apartment, and Joyce never saw Snow again. II RP 287-88.

Joyce said he did not hear anything downstairs at the time, but about a week later he heard metallic noises and went downstairs. II RP 289. Guajardo and Vodder were inside and refused to open the door, saying they had poached a deer. II RP 290. Later, Guajardo took Joyce for a ride in Vodder's pickup and threatened him with a gun. II RP 290-91. Although he initially denied knowledge to police and gave them different accounts of what happened, Joyce ultimately received immunity in exchange for his testimony at trial. II RP 291-92, 295, 309, 310-11, 322.

Other associates talked about the drug trafficking activities out of Starr Road. Russell Green met Sutton through Snow, who also sold drugs. II RP 396-97. Green said he saw Sutton deal drugs at the Starr Road house. II RP 398, 407. He described an occasion after Snow disappeared when he woke up to find Sutton in his house with Guajardo and a guy from Montana with a gun. II RP 398-400. Sutton directed the men as

they confronted a man named Dillon Tower, who Joyce said occasionally drove for them, saying that he had stolen from them. II RP 399-401, 403.

Green's wife Theresa Green also described seeing and using drugs with Snow shortly before he disappeared. II RP 408-10. Snow was planning to go to Sutton's house but she did not see him afterward. II RP 410. She tried to call Snow three times shortly after he left her house and spoke to Sutton each time. II RP 410-11. Sutton first told her Snow was sleeping and then told her he was taking a shower, but she did not believe the explanations because she knew Snow had just used methamphetamines and would not be sleeping. II RP 410-11.

Another man named Christopher Schoonover claimed that he dealt drugs he obtained from Sutton and Snow at the Starr Road house. II RP 415-16. Schoonover said he saw other people, including Vodder, purchasing drugs there and that Snow was dealing drugs he got from Sutton. II RP 418-19. He described an arrangement made with a drug supplier where Stone and Sutton would deal methamphetamines and Schoonover would deal heroin. II RP 431-32.

Later, Schoonover claimed Sutton told him that Snow was dead. II RP 427. According to Schoonover, Sutton said there had been a struggle in the shop and Vodder had struck him with a lawnmower blade. II RP

427-28. Sutton told him she and Vodder had been in the garage with Snow at the time while Guajardo and Stone were in the main house, but later they all participated in dismembering Snow and disposing of his body. II RP 427-28. Although he did not originally tell any of this to police, Schoonover also eventually made a deal with the State in exchange for testifying against Sutton at trial. II RP 429-30, 458, 461.

Other witnesses against Sutton included Nicole Price, who described herself as Sutton's best friend and her former driver. II RP 475, 477. She described sometimes driving Sutton when she sold drugs to people. II RP 182. Jenny Dodd was a childhood friend of Snow's who used drugs with him and spent time at the Starr Road house. II RP 489-90. Dodd said that she and Snow both got drugs from Sutton and Snow also sold drugs for Vodder. II RP 491, 495. Both Sutton and Vodder became angry at Snow over him losing Sutton's money and Vodder's drugs. II RP 491-92, 495-96.

In the fall of 2016, federal law enforcement officers arrested Sutton and charged her with possession with intent to distribute methamphetamine. I RP 188, II RP 466-69. During the arrest, police seized several items in her possession. II RP 468. In a purse, they found 4 digital SIM cards from cell phones. I RP 192, 195. They later traced one

of the SIM cards to Snow's cell phone. III RP 506-07. After reviewing Snow's phone records, police found that Sutton never attempted to contact Snow after his disappearance although she had sent hundreds of text messages and made dozens of calls to him in the two months before. I RP 247-48. Snow's family also found Snow's dog at the home of Sutton's mother. I RP 173-74. Snow remains unfound. IV RP 879.

The State charged Sutton with first degree murder in the course of kidnapping and leading organized crime.¹ CP 98. With respect to the organized crime charge, the State alleged that Sutton

did intentionally organize, manage, and direct three or more persons to wit: Ken Stone, Alvaro Guajardo, and Colby Vodder, with the intent to engage in a pattern of criminal profiteering activity, to-wit [sic]: Delivery of a Controlled Substance, as defined in RCW 69.50.

CP 98. The trial court gave two jury instructions concerning the charge.

The first, instruction number 24, set forth the definition of the crime as follows:

A person commits the crime of Leading Organized Crime when her or she intentionally organizes, manages, directs, supervises, or finances any three or more persons with the intent to engage in a pattern of criminal profiteering activity.

¹ An additional kidnapping charge was dismissed at trial before the State rested. CP 99, III RP 590-91.

CP 169. The “to convict” instruction, number 25, stated:

To convict the defendant of the crime of leading organized crime as charged in Count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the period between June 1, 2015 and March 1, 2016, the defendant intentionally organized, managed, directed, supervised or financed three or more persons, [sic] Ken Stone, Alvaro Guajardo, and Colby Vodder;
- (2) That the defendant acted with the intent to engage in a pattern of criminal profiteering activity, delivery of a controlled substance; and
- (3) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

CP 170.

During its closing argument, in addressing the leading organized crime charge and the element of organizing, managing, directing, or supervising others, the State argued that the evidence showed that Price was one of her employees. IV RP 807. The State also argued that Stone, Guajardo, and Vodder provided muscle for Sutton’s drug-dealing enterprise. IV RP 807-08. The defense argued the evidence was

insufficient to establish that Vodder worked for Sutton because it showed that they engaged in independent operations supplied by the same person, Vodder dealing in heroin and Sutton dealing in methamphetamine. IV RP 817-18.

After beginning deliberations, the jury asked whether it had to find Sutton had directed the three individuals specifically named in the “to convict” instruction. CP 189. Defense counsel requested that the court directly answer the jury’s question affirmatively or at least draw its attention to the essential elements in the “to convict” instruction. IV RP 848-49, 851-52. The State agreed that the correct answer was “yes” but requested that the court simply refer the jury back to the instructions already given. IV RP 847. The trial court elected to “take the conservative route” and instructed the jury to refer back to its instructions. IV RP 854; CP 189.

The jury then convicted Sutton of first degree murder and leading organized crime. IV RP 854-55; CP 176-77. The trial court imposed a high end sentence of 374 months based on an offender score of 4. CP 261, 262. Sutton now appeals and has been found indigent for that purpose. CP 280, 300.

V. ARGUMENT

Under the law of the case,² the State was required to prove beyond a reasonable doubt that Sutton organized, managed, directed, supervised or financed Stone, Guajardo, and Vodder. When the jury inquired whether it was required to convict on the basis of the individuals named in the “to convict” instruction, the correct legal answer is “yes.” This court should hold that the trial court abused its discretion in refusing a supplemental defense instruction answering the question, when the answer would clarify the law and dispel the jury’s confusion. Because there is a substantial likelihood that the error deprived Sutton of a unanimous verdict on all of the essential elements, the conviction for leading organized crime should be reversed.

Defendants are guaranteed a fair trial under the Sixth Amendment, which requires jury instructions that accurately inform the jury of the relevant law and permit both parties to argue their theories of the case. *State v. Henderson*, 192 Wn.2d 508, 512, 430 P.3d 637 (2018). Jury instructions must be considered as a whole and must correctly state the law, not mislead the jury, and permit defense counsel to argue the theory

² This doctrine provides that the State assumes the burden to prove the elements set forth in the “to convict” instruction, regardless of whether the elements are otherwise necessary to establish the offense. *State v. Johnson*, 188 Wn.2d 742, 756, 399 P.3d 507 (2017).

of the case. *State v. Teaford*, 31 Wn. App. 496, 500, 644 P.2d 136, *review denied*, 97 Wn.2d 1026 (1982). When the jury instructions relieve the State of its burden to prove each of the essential elements of the crime beyond a reasonable doubt, the error is reversible. *State v. Kindell*, 181 Wn. App. 844, 850, 326 P.3d 876 (2014).

The trial court may provide the jury with “additional instruction upon any point of law” in writing after deliberations have commenced. CrR 6.15(f)(1); *State v. Becklin*, 163 Wn.2d 519, 529, 182 P.3d 944 (2008). Whether to give additional instructions is within the trial court’s discretion. *Becklin*, 163 Wn.2d at 529. Accordingly, the trial court’s response to a jury question is generally reviewed for abuse of its discretion. *See State v. Ng*, 110 Wn.2d 32, 44, 750 P.2d 632 (1988). A trial court abuses its discretion when its decision is based on untenable grounds or reasons. *State v. Lord*, 161 Wn.2d 276, 283-84, 165 P.3d 1251 (2007). However, this court reviews the legal accuracy of jury instructions *de novo*. *Kindell*, 181 Wn. App. at 850.

In this appeal, Sutton asks this court to apply its reasoning in *State v. Backemeyer*, 5 Wn. App. 2d 841, 428 P.3d 366 (2018), *review denied*, 192 Wn.2d 1025 (2019) to a circumstance when a jury asks a legal question with a direct answer, and the trial court refuses a defense request

to correctly answer the question. No authoritative Washington case has held that a trial court abuses its discretion by refusing to issue a supplemental instruction answering a jury question about the law when the defendant requests an accurate response.³ However, respect for the proper functioning of the jury and the role of the court in ensuring a fair trial compels that conclusion, and this court should so hold.

In *Backemeyer*, this court considered a pair of jury inquiries that made apparent its confusion about the law of self-defense and held that defense counsel performed ineffectively by failing to ask for a direct answer to the jury's question and agreeing to refer the jury back to the prior instructions. 5 Wn. App. 2d at 849. In determining that there was no strategic reason not to request a direct answer to the jury's question, the *Backemeyer* court concluded that there was no reason why the trial court would refuse the request, observing that a refusal would run afoul of the trial court's responsibility to ensure that the jury understood the law. *Id.* at 849-50 (citing *Bollenbach v. U.S.*, 326 U.S. 607, 612-13, 66 S. Ct. 402, 90

³ Division I of the Court of Appeals held in *State v. Campbell*, 163 Wn. App. 394, 400-02, 260 P.3d 235 (2011), *reversed after reconsideration*, 172 Wn. App. 1009, __ P.3d __ (2012) that it was error to refuse a defense request to directly answer a jury question when the instructions as a whole were misleading, concluding that "where a jury's question to the court indicates an erroneous understanding of the applicable law, it is incumbent upon the trial court to issue a corrective instruction." However, a subsequent decision from the Washington Supreme Court changed the unanimity requirement for a jury to reject a special verdict, and the *Campbell* court subsequently reversed itself, concluding the instructions were not misleading after all.

L. Ed. 350 (1946) and *U.S. v. Hayes*, 794 F.2d 1348, 1352 (9th Cir. 1986)).

Backemeyer's brief acknowledgment of the trial court's affirmative responsibility to ensure the jury understands the law of the case puts that aspect of its reasoning in apparent conflict with *State v. Langdon*, 42 Wn. App. 715, 713 P.2d 120, *review denied*, 105 Wn.2d 1013 (1986), decided by Division I. However, because the *Langdon* court's comments on the trial court's duty are dicta and *Langdon* did not involve any proffered response by the defense, it is distinguishable.

In *Langdon*, the trial court considered a jury question and returned a response referring the jury to its original instructions without including the attorneys in the communication. 42 Wn. App. at 717. The *Langdon* court acknowledged that the trial judge erred but held that the error was harmless because the response was neutral and there was no indication the prior instructions were inadequate. *Id.* at 718. In passing rebuttal to a defense argument, the court noted that because the giving of supplemental instructions is within the trial court's discretion, it did not have a duty to answer the jury's question. *Id.*

This court need not dispute *Langdon*'s holding or reasoning to conclude that the trial court here abused its discretion in refusing Sutton's

request to directly answer the jury's question. In context, where the *Langdon* court considered a trial court's *sua sponte* response to a jury question, the *Langdon* court was correct that the trial court had no duty to answer the jury question *sua sponte*. See generally *State v. Russell*, 171 Wn.2d 118, 123-24, 249 P.3d 604 (2011) (reviewing cases holding court has no duty to give limiting instruction in absence of a request); *State v. Lucero*, 152 Wn. App. 287, 292, 217 P.3d 369 (2009), *reversed on other grounds*, 168 Wn.2d 785 (2010). Thus, read in light of its facts, *Langdon* simply reaffirms the general rule that a trial court may not be faulted for not giving an instruction that was not requested.

Here, however, where a clarifying instruction *was* requested, the trial court's duty to educate the jury on the law should limit its discretion to refuse an accurate and direct answer to the jury's question requested by the defendant. In general, a criminal defendant is entitled to have the jury fully instructed on the defense theory of the case. *Henderson*, 192 Wn.2d at 512. And it can be reversible error to refuse a proposed instruction that accurately states the law and is supported by the evidence. *State v. Green*, 182 Wn. App. 133, 152, 328 P.3d 988, *review denied*, 181 Wn.2d 1019 (2014).

These principles support the conclusion that the trial court had no good reason not to respond to the jury as Sutton requested. The jury was plainly confused by the interplay between instructions 24 and 25, the definitional instruction and the “to convict” instruction, respectively, and the confusion was likely heightened by the State’s argument in closing that Price was managed by Sutton. Sutton requested that the trial court either affirmatively answer the jury’s question yes, that it had to find each of the three named individuals were directed by Sutton beyond a reasonable doubt, or refer the jury to the “to convict” instruction that named Stone, Guajardo, and Vodder as the men she directed. The State did not disagree that “yes” was the correct answer to the jury’s question but urged the court to tell the jury to refer back to its instructions “to prevent any claim of error.” IV RP 847-48. Similarly, the trial court did not disagree with the parties’ legal analysis but only expressed concern that to answer the question directly would be “saying so much.” IV RP 850. Ultimately, while concluding that the instructions gave the jury the information it needed to correctly decide the case, the only reason the trial court articulated for not answering the question as Sutton proposed was that it did not want to. IV RP 853-54 (“I could write the answer’s there in 24 and 25, but I don’t want to do that. I mean, it’s right there, and they’re reading them.”).

In dismissing the proffered direct response to the question, the trial court acted unreasonably by failing to show due concern to alleviate the jury's confusion about the law. First, by dismissing the jury's confusion, the trial court overlooked that the "to convict" instruction contained incorrect punctuation that undermined its clarity. It stated,

That on or about the period between June 1, 2015 and March 1, 2016, the defendant intentionally organized, managed, directed, supervised or financed three or more persons, [sic] Ken Stone, Alvaro Guajardo, and Colby Vodder.

CP 170. The instruction thus qualifies the element of "three or more persons" by identifying the specific persons charged in the information.

CP 98. But the use of a comma preceding the list of names is not consistent with the structure of the sentence establishing a restrictive condition to the preceding phrase, "three or more persons"; a colon is the correct punctuation for that usage. *See Dept. of Labor and Industries v. Slauch*, 177 Wn. App. 439, 448-49, 312 P.3d 676 (2013), *review denied*, 180 Wn.2d 1007 (2014) (describing correct uses of a colon to include summing up, enumerating, introducing restrictive explanations of the preceding phrase, and stating a proviso, i.e. a condition). Although the incorrect punctuation did not necessarily render the instruction facially defective, it did permit the jury to reasonably question whether the three

individuals named comprised an exhaustive list or merely an illustrative one.

Second, the trial court should take the jury's confusion at face value even if it believes the confusion is unwarranted. The trial court's job is to assist the jury in applying the facts of the case to the law, and the jury relies on the trial court to help it reach a just verdict. Aspects of the process that may be apparent to the trial court or other educated legal professionals – such as the fact that the “to convict” instruction, not the definitional instruction, sets forth the essential elements of the charge – may not be clear to lay jurors. When there is no serious dispute as to the correct legal answer to the question, or when directing the jury's attention to a particular instruction would help it resolve the question, the trial court should not hesitate to provide an accurate clarifying response solely out of fear that the reviewing court will criticize the answer.⁴ Simply telling the jury to refer back to the instructions it has already indicated it does not understand dismisses legitimate jury concerns, signals that the court does not intend help the jury diligently carry out its constitutional duty, and

⁴ Responding to a jury question in the manner proposed by the defendant would not support a claim of error on appeal anyway, since the error would be invited. *See State v. Mercado*, 181 Wn. App. 624, 629-30, 326 P.3d 154 (2014).

fails to appreciate the gap in legal expertise between an ordinary juror and the trained legal professionals who write and deliver the instructions.

Lastly, the trial court's response undermined the defense case. Sutton did not dispute that she sold drugs, but rather relied on the State's burden to prove that she supervised the three named persons. Her argument that the jury should acquit because the State did not prove Vodder worked for her could not be fairly considered so long as the jury believed it could convict if any three individuals worked for her, regardless of whether they were named in the "to convict" instruction.

Here, the trial court's response failed to resolve the ambiguity the jury perceived in the instructions concerning the essential elements it needed to find to convict. Under the circumstances, there was no good reason to reject the defense suggestion to either answer the question directly or refer the jury specifically to instruction 25, the "to convict" instruction. Accordingly, this court should hold the trial court abused its discretion in responding to the jury question with only a general direction to review the prior instructions.

Moreover, the response failed to ensure that the jury convicted Sutton only on proof beyond a reasonable doubt that she supervised Stone, Guajardo, and Vodder. When the instructions relieve the State of its

burden of proof of an essential element, the error is of constitutional magnitude and the State must prove the error was harmless beyond a reasonable doubt. *Kindell*, 181 Wn. App. at 853-54. But even if the error is nonconstitutional, under the facts of this case, there is a reasonable probability that the error materially affected the outcome of the trial. *See id.* at 854.

The jury heard extensive evidence throughout the case alleging that other individuals participated in Sutton's drug-trafficking enterprise in various ways, including Snow delivering drugs for her, Price driving her to make drug deals, the man from Montana helping her shake down Dillon Tower at Green's house, Tower himself allegedly driving for her, and Schoonover dealing drugs for her. Indeed, the State argued in closing that Price driving for Sutton satisfied the element of managing another, even though she was not one of the "three or more persons" named. These factors introduced a substantial risk that the jury would convict Sutton based on her directing somebody other than the three persons named in the "to convict" instruction.

Furthermore, the evidence tending to show that Vodder was part of Sutton's enterprise and subject to her direction was slight. To satisfy the requirements of the statute, the State was required to prove that the group

constituting the criminal enterprise comprised a hierarchy in which the defendant was at the apex and Vodder was below. *See State v. Hayes*, 164 Wn. App. 459, 470, 262 P.3d 538 (2011), *abrogated on other grounds as recognized in State v. Tyler*, 195 Wn. App. 385, 382 P.3d 699 (2016). The only evidence tending to show Vodder's potential involvement in the drug trafficking enterprise was Schoonover's testimony that he saw Vodder buy drugs from Sutton and Joyce's testimony that he saw Vodder sell heroin at the Starr Road house. However, the evidence also indicated that Vodder operated independently from Sutton, selling heroin while she sold methamphetamine, and that Vodder also used Snow to distribute his drugs and had his own financial dispute with Snow around the time of his disappearance. Thus, the jury could have reasonably doubted whether the State met its burden of proof that Vodder was part of Sutton's criminal enterprise, rather than an independent dealer who moved in similar circles and sold different drugs for the same supplier.

Under the facts of this case, considering the instructions as a whole together with the jury's question and the trial court's response to it, there is a substantial likelihood that the jury did not agree unanimously that Sutton directed Vodder and instead convicted her based on the involvement of other individuals in the enterprise. This deprived Sutton of

a fair trial, and the conviction for leading organized crime should be reversed.

VI. CONCLUSION

For the foregoing reasons, Sutton respectfully requests that the court REVERSE the conviction for leading organized crime and REMAND the case for retrial or for resentencing on the murder conviction alone.

RESPECTFULLY SUBMITTED this 31 day of October, 2019.

TWO ARROWS, PLLC

A handwritten signature in black ink, appearing to read "Andrea Burkhart", written over a horizontal line.

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CERTIFICATE OF SERVICE

I, the undersigned, hereby declare that on this date, I caused to be served a true and correct copy of the foregoing Appellant's Brief upon the following parties in interest by depositing it in the U.S. Mail, first-class, postage pre-paid, addressed as follows:

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And, pursuant to prior agreement of the parties, by e-mail through the Court of Appeals' electronic filing portal to the following:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed and sworn this 31 day of October, 2019 in Kennewick, Washington.



Andrea Burkhart

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October 31, 2019 - 11:13 AM

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