

FILED
Court of Appeals
Division III
State of Washington
5/1/2020 3:27 PM

NO. 37186-7-III

THE COURT OF APPEALS OF THE STATE OF
WASHINGTON
DIVISION THREE

STATE OF WASHINGTON,

Respondent

v.

GERALD MOCCARDINE,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KITTITAS COUNTY

REPLY

CHRISTOPHER PETRONI
Attorney for Appellant

WASHINGTON APPELLATE PROJECT
1511 Third Avenue, Suite 610
Seattle, WA 98101
(206) 587-2711

TABLE OF CONTENTS

TABLE OF CONTENTSi

A. ARGUMENT IN REPLY 1

 1. **This Court should accept the State’s concession that the information omitted the essential element of knowledge.**1

 2. **This Court need not reach whether the trial court improperly imposed interest on nonrestitution legal financial obligations.**..... 1

B. CONCLUSION2

A. ARGUMENT IN REPLY

- 1. This Court should accept the State's concession that the information omitted the essential element of knowledge.**

Mr. Moccardine requests that the Court accept the State's concession that the information omitted the essential element of knowledge of the protection order. Brief of Respondent at 1. If this Court accepts the State's concession, Mr. Moccardine will withdraw his argument that the information omitted the statutory basis of the current and prior protection orders. *See* Brief of Appellant at 9–13. Mr. Moccardine agrees that this Court should reverse and remand for dismissal without prejudice to the State filing an amended information. Brief of Respondent at 1–2.

- 2. This Court need not reach whether the trial court improperly imposed interest on nonrestitution legal financial obligations.**

Should this Court accept the State's concession and remand, it need not address the trial court's erroneous imposition of interest on nonrestitution financial obligations. Mr. Moccardine agrees with the State that imposing

nonrestitution interest following any future guilty plea or finding of guilt would be erroneous. Brief of Respondent at 1.

B. CONCLUSION

Mr. Moccardine respectfully requests that this Court accept the State's concession of error and reverse and remand for dismissal without prejudice to the State filing an amended information.

DATED this 1st day of May, 2020.



Christopher Petroni, WSBA #46966
Washington Appellate Project - 91052
Email: wapofficemail@washapp.org
chris@washapp.org

Attorney for Gerald Moccardine

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE**

STATE OF WASHINGTON,)	
)	
RESPONDENT,)	
)	
v.)	NO. 37186-7-III
)	
GERALD MOCCARDINE,)	
)	
APPELLANT.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 1ST DAY OF MAY, 2020, I CAUSED THE ORIGINAL **REPLY BRIEF OF APPELLANT** TO BE FILED IN THE COURT OF APPEALS – **DIVISION THREE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

- | | | |
|---|-----|----------------------|
| <input checked="" type="checkbox"/> GREGORY ZEMPEL | () | U.S. MAIL |
| [prosecutor@co.kittitas.wa.us] | () | HAND DELIVERY |
| [greg.zempel@co.kittitas.wa.us] | (X) | E-SERVICE VIA PORTAL |
| KITTITAS COUNTY PROSECUTOR'S OFFICE | | |
| 205 W 5 TH AVE STE 213 | | |
| ELLENSBURG, WA 98926 | | |
| | | |
| <input checked="" type="checkbox"/> GERALD MOCCARDINE | (X) | U.S. MAIL |
| 701 INDUSTRIAL WAY | () | HAND DELIVERY |
| ELLENSBURG, WA 98926 | () | _____ |

SIGNED IN SEATTLE, WASHINGTON THIS 1ST DAY OF MAY, 2020.



X _____

Washington Appellate Project
1511 Third Avenue, Suite 610
Seattle, Washington 98101
Phone (206) 587-2711
Fax (206) 587-2710

WASHINGTON APPELLATE PROJECT

May 01, 2020 - 3:27 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 37186-7
Appellate Court Case Title: State of Washington v. Gerald Keith Moccardine
Superior Court Case Number: 19-1-00019-7

The following documents have been uploaded:

- 371867_Briefs_20200501152631D3281177_5916.pdf
This File Contains:
Briefs - Appellants Reply
The Original File Name was washapp.050120-05.pdf

A copy of the uploaded files will be sent to:

- Carole.highland@co.kittitas.wa.us
- greg.zempel@co.kittitas.wa.us
- greg@washapp.org
- prosecutor@co.kittitas.wa.us
- wapofficemail@washapp.org

Comments:

Sender Name: MARIA RILEY - Email: maria@washapp.org

Filing on Behalf of: Christopher Mark Petroni - Email: chris@washapp.org (Alternate Email: wapofficemail@washapp.org)

Address:
1511 3RD AVE STE 610
SEATTLE, WA, 98101
Phone: (206) 587-2711

Note: The Filing Id is 20200501152631D3281177