

NO. 77472-2

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

BRIAN KEITH LORD,

Petitioner.

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E
k/h

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

The Honorable M. Karlynn Haberly, Judge

SUPPLEMENTAL BRIEF OF PETITIONER

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A. ISSUES PRESENTED IN SUPPLEMENTAL BRIEF

1. When Petitioner's trial started, a majority of the spectators in the courtroom wore large buttons depicting a photograph of the victim. Several witness also donned the buttons when they joined the spectators following their testimony. Defense counsel moved to exclude the buttons as soon as they appeared, but the court denied the motion. Not until the jury had been exposed to the buttons through three days of testimony did the court grant counsel's renewed motion. Where the buttons conveyed the message, which the defense had no opportunity to confront, that the spectators believed Petitioner was guilty, was the presence of the buttons inherently prejudicial to Petitioner's right to a fair trial?

2. Shortly after the victim disappeared in 1986, her family hired a dog handler to search for her. The defense offered evidence of the track, which controverted the state's theory as to the victim's disappearance. The trial court excluded the testimony, concluding that it was irrelevant because the tracker could not specify when the trail he followed had been laid. From the tracker's testimony, as well as other undisputed evidence, however, the defense could have shown that the trail was laid at the time of or shortly after the victim's disappearance. Where the qualifications of the tracker and his dog were established through testimony regarding their training and experience, and where the offered

testimony was relevant to establish that Petitioner could not have committed the crime as the state alleged, did the court's improper exclusion of that evidence deny Petitioner his right to present a defense?

B. STATEMENT OF THE CASE¹

Petitioner Brian Keith Lord was charged with aggravated first degree murder in the 1986 death of Tracy Parker. CP 1227. He was convicted after a jury trial, but both his sentence and conviction were overturned. See Lord v. Wood, 184 F.3d 1083 (9th Cir. 1999). Lord was tried again in 2003, in a jury trial before the Honorable M. Karlynn Haberly. The jury entered a guilty verdict, and the Court of Appeals affirmed Lord's conviction in a part-published opinion. CP 1193; State v. Lord, 128 Wn. App. 216, 114 P.3d 1241 (2005); 2005 Wash. App. LEXIS 1533.

¹ A complete statement of the case, with citations to the lengthy record, is contained in the Brief of Appellant (Revised) at 4-37. Because that brief is part of the record before this Court, to avoid repetition, petitioner incorporates that statement by reference. Facts necessary to place the issues into context are discussed within the argument.

C. SUPPLEMENTAL ARGUMENT

1. THE TRIAL COURT ALLOWED SPECTATORS TO WEAR BUTTONS BEARING A PHOTOGRAPH OF TRACY PARKER, CONVEYING THE MESSAGE THAT THEY BELIEVED LORD WAS GUILTY OF HER MURDER. THIS PRACTICE WAS INHERENTLY PREJUDICIAL, AND LORD IS ENTITLED TO A NEW TRIAL.

"Due process requires that the accused receive a fair trial by an impartial jury free from outside influences." Sheppard v. Maxwell, 384 U.S. 333, 362, 16 L. Ed. 2d 600, 86 S. Ct. 1507 (1966). Accordingly, courts must safeguard against intrusion into the trial process of factors which subvert its purpose. Estes v. Texas, 381 U.S. 532, 552, 85 S. Ct. 1628, 1637, 14 L. Ed. 2d 543 (1965) (Warren, C.J., concurring). A defendant is denied due process when factors which affect the trial are actually or inherently prejudicial. Holbrook v. Flynn, 475 U.S. 560, 106 S. Ct. 1340, 89 L. Ed. 2d 525 (1986). The test for inherent prejudice is whether there is an unacceptable risk of impermissible factors coming into play. Holbrook, 475 U.S. at 570; Musladin v. Lamarque, 427 F.3d 653, 656-57 (9th Cir. 2005), cert. granted, Carey v. Musladin, 126 S. Ct. 1769, 164 L. Ed. 2d 515, (2006). The appellate court reviews a claim that inherent prejudice denied the defendant a fair trial *de novo*. Norris v. Risley, 918 F.2d 828, 830 (9th Cir.1990).

The United States Supreme Court has recognized that certain practices in the conduct of a jury trial can create such an unacceptable risk of impermissible factors coming into play that those practices are inherently prejudicial. Holbrook, 475 U.S. at 569 (noting that some courtroom practices are inherently prejudicial but holding that level of courtroom security in that case was not); Estelle v. Williams, 425 U.S. 501, 503-06, 48 L. Ed. 2d 126, 96 S. Ct. 1691 (1976) (compelling defendant to wear prison garb during trial impaired presumption of innocence). In Musladin v. Lamarque, the Ninth Circuit Court of Appeals held that permitting spectators at a murder trial to wear buttons depicting the deceased was an inherently prejudicial practice. 427 F.3d at 654.

This is the first Washington case to consider the prejudicial impact of spectator buttons depicting the deceased on the defendant's right to a fair trial. See State v. Lord, 128 Wn. App. 216, 220, 114 P.3d 1241 (2005). As the facts of this case are remarkably similar to Musladin, that case provides a useful comparison.

There, Musladin was charged with murder and presented a theory of perfect and imperfect self defense. Musladin, 427 F.3d at 654-55. During each day of trial at least three members of the deceased's family sat in the front row of the gallery wearing buttons bearing the deceased's photograph. These buttons were several inches in diameter and very

noticeable, and the spectators wearing them sat in clear view of the jury. The trial court denied defense counsel's request to prohibit the spectators from wearing the buttons, and Musladin was convicted. Id. at 655.

On habeas corpus appeal, the Ninth Circuit court compared Musladin's case to Norris v. Risley, 918 F.2d 828 (9th Cir. 1990), where that court held that spectators wearing "Women Against Rape" buttons at a rape trial was an inherently prejudicial practice. Musladin, 427 F.3d at 657-58 (citing Norris, 918 F.2d at 833). The Musladin Court held that Norris could not reasonably be distinguished. The message conveyed by the buttons depicting the deceased was substantially more direct and clear than the anti-rape buttons in Norris. The buttons worn in Norris expressed the wearers' position against rape in general, while the buttons worn at Musladin's trial actually depicted the person the defendant was charged with murdering. There was a clear and unmistakable link between the buttons, the spectators wearing them, the defendant, and the crime. The buttons essentially argued that the defendant was guilty and initiated the attack, rather than the deceased as the defense claimed. 427 F.3d at 660. Thus, "a reasonable jurist would be compelled to conclude that the buttons worn by [the deceased's] family members conveyed the message that the defendant was guilty, just as the buttons worn by spectators in Norris did in that case." Id. at 661.

As in Musladin, the jurors in this case witnessed several spectators wearing buttons depicting the deceased. On the first day of testimony, defense counsel noted for the record that 13 of the 31 spectators in the courtroom were wearing large lapel buttons, approximately two and one-half inches in diameter, bearing a photograph of Tracy Parker. 7RP² 692-95; 10RP 1194. The court denied defense counsel's motion to prohibit the spectators from wearing the buttons in the jury's presence, and for the next three days, a majority of the people in the courtroom, including witnesses for the state after they testified, wore the buttons. 7RP 694-95; 9RP 970, 1146.

Also as in Musladin, there is no doubt that the jury noticed the buttons. The court specifically stated, "This is the third day of testimony and the jury has seen these buttons." 10RP 1194. The court further explained:

This courtroom is not so big that jurors cannot see the people/spectators here. The jurors have to pass by to get to the jury room, pass by people seated here in the courtroom. The

² The Verbatim Report of Proceedings is contained in 38 volumes, designated as follows: **1RP**—1/29/01, 4/20/01, 6/15/01, 10/12/0110/30/01; **2RP**—8/19/02, 9/6/02; **3RP**—10/2/02; **4RP**—1/24/03, 1/31/03; **5RP**—2/3/03, 2/4/03, 2/11/03, 2/18/03; **6RP**—2/20/03, 2/24/03, 2/25/03; **7RP**—2/26/03; **8RP**—2/27/03; **9RP**—3/3/03; **10RP**—3/4/03; **11RP**—3/5/03; **12RP**—3/10/03; **13RP**—3/11/03; **14RP**—3/12/03; **15RP**—3/13/03; **16RP**—3/17/03; **17RP**—3/18/03; **18RP**—3/19/03; **19RP**—3/20/03; **20RP**—3/24/03; **21RP**—3/25/03; **22RP**—3/26/03; **23RP**—3/27/03; **24RP**—3/31/03; **25RP**—4/1/03; **26RP**—4/2/03; **27RP**—4/7/03; **28RP**—4/10/03; **29RP**—4/14/03; **30RP**—4/15/03; **31RP**—4/16/03; **32RP**—4/17/03; **33RP**—4/21/03; **34RP**—4/22/03; **35RP**—4/23/03; **36RP**—4/24/03; **37RP**—4/28/03; **38RP**—4/29/03.

logistics of this courtroom – and also the jurors come in and out through the hallway, which is shared by other people in the courtroom, including the spectators in this trial.

10RP 1196. Finally acknowledging the risk that the message being expressed through the buttons would unfairly prejudice the defense case, the court prohibited further display of the buttons in the courtroom. 10RP 1195-97.

Like the buttons showing the deceased in Musladin, the buttons worn in this case conveyed the message that Lord was guilty of murdering Tracy Parker. While this message was perhaps subtle, the link between the buttons, the spectators, Lord, and the crime was unmistakable. See State v. Franklin, 174 W. Va. 469, 475, 327 S.E.2d 449 (1985) (Spectators wearing “MADD” buttons constituted formidable, albeit passive, influence on the jury). Moreover, the defense was unable to challenge that message through confrontation and cross examination. While the state’s direct evidence could be refuted and was ultimately judged on the basis of witness credibility, “the [spectators’] accusation stood unchallenged, lending credibility and weight to the state’s case without being subject to the constitutional protections to which such evidence is ordinarily subjected.” Norris, 918 F.2d at 833.

Musladin was decided after the Court of Appeals’ decision in this case, and that court did not have the benefit of the Ninth Circuit Court’s

analysis. In its decision, the Court of Appeals discussed the facts of Norris but then stated that it found more analogous other cases in which the courts found the spectators' buttons had caused no prejudice. Lord, 128 Wn. App. at 220-21 (citing Johnson v. Commonwealth, 259 Va. 654, 529 S.E.2d 769, cert. denied, 531 U.S. 981 (2000); Nguyen v. Texas, 977 S.W.2d 450 (Tex. App 1998); State v. Braxton, 344 N.C. 702, 710, 477 S.E.2d 172, 177 (1996)).

Each of the cases relied on by the Court of Appeals is distinguishable in a significant respect from this case. In those cases, the courts held that no prejudice had been established because the record failed to show the buttons had impacted the jury. See Johnson, 529 S.E.2d at 781-82 (court prohibited spectators from wearing buttons in presence of jurors); Nguyen v. Texas, 977 S.W.2d at 457 (record insufficient to determine where button-wearers were sitting, if jurors saw buttons, or effect of buttons on jurors); Braxton, 477 S.E.2d at 177 (record silent regarding number of people wearing buttons, identity of person depicted on buttons, or whether jury noticed them); see also State v. Speed, 265 Kan. 26, 961 P.2d 13 (1998) (prejudice not established where no evidence regarding number of spectators wearing buttons and no evidence jurors were affected by buttons). Here, defense counsel made a careful record regarding the nature of the buttons, the number of spectators wearing

them, and their likely effect on the jury. 7RP 692-95; 9RP 970, 1146. Moreover, the court recognized that the jury could not help but notice the buttons. 10RP 1194-97. Unlike the cases relied on by the Court of Appeals, the record here clearly shows the prejudicial impact of the buttons.

The passionate message conveyed by the button-wearers to the jury in this case was an impermissible factor which had no place in the jury's deliberations. By permitting the spectators to communicate this message to the jury through three days of testimony, the court created an unacceptable risk that this impermissible factor would affect the verdict. Once a trial practice is found to create a risk of impermissible factors coming into play, no further showing of prejudice is necessary because the practice is deemed inherently prejudicial. Musladin, 427 F.3d at 658-59 (citing Holbrook v. Flynn, supra). The buttons worn in this case were inherently prejudicial, and Lord was denied a fair trial. See Musladin, 427 F.3d at 658-59.

2. EXCLUSION OF RELEVANT DOG TRACKING EVIDENCE VIOLATED LORD'S CONSTITUTIONAL RIGHT TO PRESENT A DEFENSE.

Both the state and federal constitutions guarantee a criminal defendant the right to present evidence in his own defense. U.S. Const. Amend. VI, XIV; Const. art. I, § 22. This right to present a defense

guarantees the defendant the opportunity to put his version of the facts as well as the state's before the jury, so that the jury may determine the truth. State v. Maupin, 128 Wn.2d 918, 924, 913 P.2d 808 (1996) (citing Washington v. Texas, 388 U.S. 14, 19, 87 S. Ct. 1920, 18 L. Ed. 2d 1019 (1967)).

Relevant, admissible evidence offered by the defense may be excluded only if the prosecution demonstrates a compelling state interest in doing so. State v. Hudlow, 99 Wn.2d 1, 15-16, 659 P.2d 514 (1983). Although a trial court has discretion to determine whether evidence is admissible, a decision which is manifestly unreasonable or based on untenable grounds must be reversed on appeal. See State v. Crowder, 103 Wn. App. 20, 25-26, 11 P.3d 828 (2000), review denied, 142 Wn.2d 1024, (2001).

Prior to trial, the defense offered evidence that Harry Anderson, a dog handler contacted by the Parker family, had worked with his bloodhound to track Parker's scent from the Frye stable through the woods to a road, where she had gotten into a vehicle. 6RP 579-83, 587. Evidence that the last time Parker was at the Frye stable, she left on foot through the woods, directly controverts the state's theory that Lord abducted Parker from the Frye residence on September 16, 1986. This

evidence was relevant to the defense, and Lord was therefore entitled to present it to the jury if it met the requirements for admissibility.

In State v. Loucks, 98 Wn.2d 563, 656 P.2d 480 (1983), this Court held that dog tracking evidence is admissible if the proper foundation is made showing the qualifications of the dog and the handler. 98 Wn.2d at 566. The party offering such evidence must show:

(1) the handler was qualified by training and experience to use the dog, (2) the dog was adequately trained in tracking humans, (3) the dog has, in actual cases, been found by experience to be reliable in pursuing human track, (4) the dog was placed on track where circumstances indicated the guilty party to have been, and (5) the trail had not become so stale or contaminated as to be beyond the dog's competency to follow.

Id. Where the evidence is offered to support a conviction, there must be corroborating evidence identifying the accused as the perpetrator of the crime. Id. at 567.

The necessary foundation was laid in this case. Anderson testified that he worked with bloodhounds and labs for 15 years beginning in the late 1970s. In his formal training with Northwest Bloodhounds, he would start with dogs at the puppy stage and work up to the point where the group judged the dog and handler to be qualified to search. He became certified to run trails for Northwest Bloodhounds around 1980. 6RP 572-73. Anderson was instrumental in establishing a search and rescue operation using bloodhounds. 6RP 575. He had run trails for various law

enforcement agencies, and he and his dogs received many letters of commendation for their successes. 6RP 575-77. The leading text book on bloodhound searches refers to Anderson's efforts on behalf of law enforcement. 6RP 589. Anderson testified that he had never been unsuccessful in running a trail with bloodhounds. 6RP 597.

Anderson testified that Abigail, the dog he used to track Parker, was certified to run trails. She was the best dog he had worked with and had even run a successful trail that was 17 days old. 6RP 574. Anderson testified that Abigail was skilled at accepting scent articles from him. Parker's family provided a scent article from Parker's home, and Anderson scented the dog at the Frye stable where Parker was last known to be. 6RP 579. Abigail clued in on the scent, picked up a trail, and followed it with ease. 6RP 570-80. From the dog's behavior, Anderson concluded that she was following the scent picked up from the scent article. 6RP 580-81.

Anderson testified that, while Parker may have made other trails in the area, he knew from experience and training that the dog would only follow the freshest trail. 6RP 592-94, 599, 608-09. Moreover, although he could not explain why, Anderson knew from training and experience that a bloodhound will never run a trail backwards. He could thus

conclude that Abigail followed Parker's trail from the stable in the direction Parker headed the last time she left the area. 6RP 606.

From the stable, Anderson and Abigail followed the trail through the woods to an intersection. Anderson testified he could tell from the dog's behavior that the trail changed at that point. Abigail slowed down as the trail became harder to follow. In the past, Abigail had successfully tracked someone who had gotten into a car, and Anderson concluded from Abigail's response that Parker had gotten into a vehicle at the point where the trail changed. 6RP 581-84.

Even though Anderson's testimony established that he and Abigail were qualified through training and experience, as required by Loucks, the trial court excluded all evidence of the dog track. The court reasoned that because Anderson could not say with particularity how old the scent was when he tracked it, and because Anderson's dog was capable of tracking a scent that was over two weeks old, the trail Anderson tracked may have been laid before September 16, 1986. Since Parker's movements prior to the time she disappeared were not relevant to the issues at trial, the court excluded Anderson's testimony. 6RP 634.

While Anderson testified that his dog was capable of tracking a scent that was 17 days old, he also testified that he could tell from the dog's behavior that the trail he followed was not that old. Moreover, he

made it quite clear that the dog always follows the freshest scent. 6RP 608-09. Thus, since it was undisputed that Parker was at the Frye stable the day she disappeared, the jury could find from Anderson's testimony that the trail his dog followed had been laid no earlier than that date.

Although the trial court stated it was excluding Anderson's testimony as irrelevant, its reasoning actually reflects a concern with the credibility of Anderson's testimony. The proper weight to give the evidence was for the jury to decide, however. State v. Ortiz, 119 Wn.2d 294, 311, 831 P.2d 1060 (1992) (Jurors could form own opinions as to reliability of tracking expert's conclusions. It was for jury, not court, to decide what weight to give expert's testimony). Since Anderson's testimony satisfied the foundational requirements for dog tracking evidence, the defense was entitled to present this relevant evidence to the jury. See Maupin, 128 Wn.2d at 930; Commonwealth v. Patterson, 392 Pa. Super. 331, 342, 572 A.2d 1258 (1990) (Where evidence established qualification of dog and handler, foundation for admission sufficient despite claims that certain conditions could invalidate track. Credibility and reliability of testimony concerning track properly left to jury to decide.).

In the unpublished portion of its decision, the Court of Appeals agreed with the trial court that the dog tracking evidence was irrelevant

because Anderson could not testify as to the exact date he followed the trail or pinpoint the age of the trail at the time he followed it. State v. Lord, 2005 Wash. App. LEXIS 1533 at 43. The court stated that Anderson “opined, without legal foundation, that Parker's scent was likely fresher than 17 days old because the dog picked up the scent easily.” Id. The court suggested that the trial court properly disregarded Anderson’s testimony that bloodhounds always follow the freshest scent, dismissing Anderson’s conclusions drawn from training and experience as “speculation.” Id. at 44, n.17. Like the trial court’s ruling, the Court of Appeals’ decision shows a misunderstanding of the foundational requirements for dog tracking evidence.

The Court of Appeals’ decision suggests that the defense was required to establish the “scientific reliability and acceptance” of Anderson’s conclusions for the dog tracking evidence to be admissible. Id. at 43. But Loucks does not require a scientific foundation. Rather, it holds that the reliability of dog tracking evidence is established through the experience of the handler and the dog. Loucks, 98 Wn.2d at 566. The foundational requirements are met by testimony from the handler establishing that he was qualified to work with the dog and to interpret its responses and that the dog was a sufficiently trained and proven tracker of human scent. Id. Anderson’s testimony established this foundation.

Washington courts have long recognized that not all expert testimony relies on scientific knowledge. Where expert testimony does not concern sophisticated or technical matters, it does not need to be supported by a scientific theory or principle; practical experience is sufficient. Ortiz, 119 Wn.2d at 310-11. Thus, the opinion of an expert is admissible where experience and observation in a certain area give the expert knowledge beyond the common understanding. ER 702³; Ortiz, 119 Wn.2d at 310-11 (Where expert had extensive training and experience as tracker, conclusions drawn from conditions of trail were admissible); State v. Smails, 63 Wash. 172, 178-79, 115 P. 82 (1911) (expert qualified by knowledge gained through experience and observation); State v. Sanders, 66 Wn. App. 380, 385-86, 832 P.2d 1326 (1992) (narcotics officer was qualified by experience and training to testify as to the significance of the absence of drug paraphernalia in the home).

Contrary to the Court of Appeals' suggestion, there was no need to present a scientific theory to support the admission of Anderson's testimony. His conclusions regarding the age of the trail and his dog's behavior were not mere speculation as stated by the court. It did not matter if Anderson knew why his bloodhound always followed the

³ "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise." ER 702.

freshest scent and never followed a trail backwards. He testified that he had gained this specialized information through extensive experience and training with bloodhounds. As can be seen from the foundational requirements adopted in Loucks, it is experience and training, not scientific theory, which make dog tracking evidence admissible. Loucks, 98 Wn.2d at 481-82; see also Pelletier v. Commonwealth, 42 Va. App. 406, 420, 592 S.E.2d 382 (2004) (Scientific foundation not required for dog tracking evidence. Foundation met by testimony regarding qualifications of dog and handler.); Brooks v. People, 975 P.2d 1105, 81 A.L.R.5th 779, (Colo. 1999) (Dog tracking evidence does not involve seemingly infallible scientific devices, processes, or theories, the manipulation of physical evidence with scientific instruments, or obscure technical or scientific jargon. It is experience-based specialized knowledge, which is not dependent on scientific explanation.); U.S. v. Lavado, 750 F.2d 1527 (11th Cir. 1985) (Where dog handler testified to training and experience of himself and dog, jury was entitled to accept handler's testimony that dog's sniffing of suspects was her way of identifying subjects of a track.), cert. denied, 474 U.S. 1054 (1986).

As a qualified dog handler, Anderson possessed experience-based specialized knowledge, not dependent on scientific explanation. His testimony met the foundational requirements for admission. Any doubts

as to the credibility and reliability of his testimony should have been resolved by jury, not the trial court or Court of Appeals.

The trial court's erroneous evidentiary ruling violated Lord's constitutional right to present a defense. This constitutional error is presumed prejudicial unless the state proves beyond a reasonable doubt that the error was harmless. Maupin, 128 Wn.2d at 928-29. The state cannot meet its burden here.

Anderson's testimony about the track would have struck a serious blow to the state's case. The state's case depended on the jury believing that Lord abducted Parker from the Frye residence and drove her to his brother's workshop where he killed her, all within a very short window of time. The state presented no evidence that Lord could have committed the crime in any other manner or at any other time. Thus, if the jury had accepted Anderson's testimony that Parker left the Frye property through the woods and got into a car when she reached the road, it could not have believed that the crime occurred as the state alleged.

The court's error in excluding this crucial testimony was all the more harmful in light of the weaknesses in the state's case. No one saw Lord and Parker together on the day the state claimed she was killed. There was no trace evidence from Lord on Parker's body or clothing, and no blood or hair from Parker was found in either of the vehicles to which

Lord had access. See references to record in Br. of App. (Revised) at 19-21. Items of evidence were mishandled, and cross contamination was likely. 27RP 3658; 34RP 4642, 4759, 4773. In addition, the defense presented a significant amount of evidence that Parker was still alive on September 16th and actually died several days later. 30RP 4227, 4232, 4239, 4242; 31RP 4374-79; 33RP 4556, 4576.

Under the circumstances, it cannot be said that the court's exclusion of the dog tracking evidence was harmless beyond a reasonable doubt. Anderson's testimony was crucial to the defense, and its exclusion requires reversal.

D. CONCLUSION

The presence of spectators in the courtroom wearing buttons which conveyed the message they believed Lord was guilty was inherently prejudicial and denied Lord a fair trial. Moreover, the exclusion of relevant, admissible, and crucial dog tracking evidence denied Lord the right to present a defense. This Court should reverse Lord's conviction and remand for a new, fair trial.

DATED this 27th day of June, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Catherine E. Glinski', with a long horizontal flourish extending to the right.

CATHERINE E. GLINSKI

WSBA No. 20260

Attorney for Petitioner

Certification of Service

Today I deposited in the mails of the United States of America, postage prepaid, properly stamped and addressed envelopes containing copies of the Supplemental Brief of Petitioner in State v. Brian Keith Lord, Supreme Court No. 77472-2, directed to:

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



Catherine E. Glinski
Done in Port Orchard, WA
June 27, 2006

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