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DIVISION II

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STATE OF WASHINGTON

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DEPUTY

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II
NO. 3324-0
3324-0-II

STATE OF WASHINGTON,

Respondent,

vs.

A.C.,

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR CLALLAM COUNTY
CAUSE NO. 04-8-333-9

BRIEF OF RESPONDENT

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I. STATEMENT OF FACTS AND PRIOR PROCEEDINGS

We are satisfied with the statement of the case as provided by A.C. with the following additions and exceptions.

The court found A.C. guilty on all counts of the information at a hearing on March 21, 2005. The court gave a very reasoned verdict as to the substantial step that A.C. took in relation to the attempted murder charges. (CP 22). A.C. was sentenced on April 15, 2005, not June 15, 2005 as indicated by A.C. statement of facts. At the sentencing hearing on April 15, 2005 defense counsel and state both agreed that the standard range of sentence was 309 weeks to 387 weeks with additional 12 months consecutive to the 309 weeks to 387 weeks for the firearm enhancements. (RP 4-15-05) pp. 3-4.

II. RESPONSE TO ASSIGNMENTS OF ERROR

1. The Sixth Amendment to the federal constitution is not violated by RCW 13.40.021(2).

RCW 13.04.21(2), which provides that cases in juvenile court are tried without a jury, does not violate the jury trial right guaranteed by the sixth amendment and Washington State Constitutional article 1 § 21 and 22 or the right to equal protection of the laws guaranteed by the Fourteenth Amendment. State v. Schaaf, 109 Wn.2d 1, 743 P.2d 240

(1987). Sixth amendment to the United States Constitution provides that “in all *criminal prosecutions*, the accused shall enjoy the right to a speedy and public trial, by an impartial jury...”_ Schaaf at 5. Juvenile proceedings are not equated with criminal prosecutions, therefore the Sixth amendment does not apply to juvenile proceedings. State v. Lawley, 91 Wn.2d 654, 658, 591 P.2d 772 (1979).

Rational basis standard applies to a juvenile's challenge to denial of a jury trial. Schaaf at 21. The Supreme Court found that the statutory denial of jury trials to juvenile justice proceedings is rationally related to the State's desire to maintain the unique nature of the juvenile justice system. Schaaf at 29.

A.C. suggests that Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004), and Blakely v. Washington, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004), requires the court to revisit the idea that juvenile respondents are not entitled to a trial by jury. Crawford and Blakely do not discuss the subject of a juvenile's right to a jury trial.

Crawford examines in great detail the historical foundation of a constitutional provision at issue in order to determine its meaning. Historically juvenile adjudicatory proceedings have never been equated with a "criminal prosecution" for purposes of the sixth amendment.

McKeiver v. Pennsylvania, 403 US 528, 541, 91 S.Ct. 1976, 29 L.Ed.2d 647 (1971). Notwithstanding the adoption in 1997 of amendments to the juvenile justice code that tended to make it more punitive, it is recognized that the juvenile justice proceedings are uniquely geared toward rehabilitation. Even with the 1997 amendment to juvenile justice act the Court has found “the juvenile justice provisions as amended still retain significant differences from the adult criminal system and still afford juveniles special protections not offered to adults”. State v. J.H., 96 Wn.App. 167, 978 P.2d 1121 (1999).

As juveniles have no right to a jury trial in proceedings under the JJA, Blakely's rule designed to protect the sixth amendment jury trial right does not apply. The Blakely Court showed no intention, to overrule its well-established holding that the right to a jury does not attach to the traditional juvenile justice system. State v. Meade, 129 Wn.App. 918, 120 P.3d 975 (2005), (citing) McKeiver v. Pa., 403 U.S. 528, 543, 91 S.Ct. 1976, 29 L.Ed.2d 647 (1971). Blakely did not alter long standing rules regarding when the right of a jury attaches; it merely broadened and delineated the scope of that right once it does attach. Meade at 926, (citing) United States v. Mora, 293 F.3d 1213, 1219 (10th Cir.), cert. denied, 537 U.S.961, 154 L.Ed.2d 315, 123 S.Ct. 388 (2002). Because

the right to a jury trial does not attach to juvenile proceedings then Blakely, clearing does not apply.

The Sixth Amendment to the federal constitution is not violated by RCW 13.40.021(2). There has consistently been a long line of cases that have found juveniles are not entitled to a jury, including cases that have been decided post Crawford and Blakely. In re the Dependency of: A.K., 130 Wn.App. 862, 884, 125 P.3d 220 (2005), State v. Meade, 129 Wn.App. 918; State v. Tai N., 127 Wn.App. 733, 113 P.3d 19 (2005), State v. J.H., 96 Wn.App. 167; State v. Schaaf, 109 Wn.2d 1; State v. Lawley, 91 Wn.2d 654; McKeiver v. Pennsylvania, 403 US 528, 541.

A.C. was not denied a right to a jury trial because such a right does not exist for juvenile proceedings, therefore A.C. conviction must be affirmed.

2. **Washington State Constitution is not violated by RCW 13.40.021(2).**

Washington Constitution Article I

Section 21 Trial by Jury.

The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil

cases where the consent of the parties interested is given thereto.

Section 22 Rights of the Accused

In criminal prosecutions the accused shall have the right to appear and defend in person, or by appellant, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is charged to have been committed and the right to appeal in all cases: Provided, The route traversed by any railway coach, train or public conveyance, and the water traversed by any boat shall be criminal districts; and the jurisdiction of all public offenses committed on any such railway car, coach, train, boat or other public conveyance, or at any station or depot upon such route, shall be in any county through which the said car, coach, train, boat or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate. In no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed. [AMENDMENT 10, 1921 p 79 Section 1. Approved November, 1922.]

The sixth amendment to the United States Constitution provides that “in all *criminal prosecutions*, the accused shall enjoy the right to a speedy and public trial, by an impartial jury...”_ Schaaf at 5. Juvenile proceedings are not equated with criminal prosecutions; therefore the Sixth amendment does not apply to juvenile proceedings. Lawley, 91

Wn.2d 654. In Lawley, the Court found that McKeiver was controlling as to the federal constitution and decline to adopt a more stringent rule under the Washington State Constitution. Lawley, at 659. The reason for the declination was the provisions of both the Federal and State constitutions provide a right to a trial by jury for criminal prosecutions. According to Lawley, philosophy and methodology of addressing the personal and societal problems of juvenile offenders has changed but not converted the procedure into a criminal offense atmosphere comparable with adult criminal offenses. Lawley at 659. Juvenile offenses are not akin to criminal prosecutions therefore, Washington State Constitution is not violated by RCW 13.40.021(2).

A.C. argues that absent controlling precedent, a party asserting that the State Constitution provides more protection than Federal Constitution must analyze the issue under Gunwall. State v. Gunwall, 106 Wn.2d 54, 720 P.2d 808 (1986). Schaaf is controlling precedent,

After full consideration of all aspects of the matter, new, and previously raised, we conclude that we should remain with the majority of the states which deny jury trials in juvenile cases. Our examination of the Gunwall factors leaves us convinced that juvenile offenders are not entitled to jury trials under our state constitution. This particularly true with respect to preexisting state law factor, and the statutory insistence of long standing that there be a unique juvenile justice system in this state.

Weighed with our consideration of this long-standing precedent is our previous discussion of the current state of the law governing juvenile offenders, under which juvenile proceedings are still distinguishable from adult criminal prosecution, both in terms of procedure and result. We conclude that jury trials are not necessary to fully protect a juvenile offender's rights.

Schaaf at 16.

Our Supreme Court in Schaaf, has previously made a Gunwall analysis of this issue and set binding precedent that jury trials are not necessary to fully protect juvenile offender's rights.

In J.H., notwithstanding the adoption in 1997 of amendments to the juvenile justice code tending to make it more punitive, we recognized the "unique rehabilitative nature of juvenile proceedings" as a continuing rationale for having judges, not juries, decide cases involving juvenile offenders. We conclude that "the juvenile justice provisions as amended still retain significant differences from the adult criminal justice system and still afford juveniles special protections not offered adults." State v. J.H. at 186-87. "In short, recent decisions do not compel a change to well-established precedent holding that non-jury trials of juvenile offenders are constitutionally sound." State v. Tai N. at 740.

There is controlling precedent in Schaaf that has been affirmed time and time again, including recent decisions which discuss and reject

the changes in the treatment of juveniles and the argument that those changes now make the juvenile system akin to the adult system. In re the Dependency of: A.K., 130 Wn.App. 862, 884; State v. Meade, 129 Wn.App. 918; State v. Tai N., 127 Wn.App. 733; State v. J.H., 96 Wn.App. At 186-87. The Washington State Constitution is not violated by RCW 13.04.021(2).

A.C. was not denied a right to a jury trial because such a right does not exist for juvenile proceedings, therefore A.C. conviction must be affirmed.

3. **Penalties and procedures in the juvenile justice system remain significantly different from those under the adult criminal system, regardless of the level of the crime committed, and focus to a great degree on the needs of the offender and on the goal of rehabilitation, rather than on punishment.**

The continued existence of difference in the juvenile justice system versus the adult criminal system compels a conclusion that a jury trial does not apply to juvenile proceedings, regardless of the seriousness of the offense. State v. J.H., 96 Wn.App. at 167. Appellant argues that there should be differentiation between serious offenses and non serious offenses. Serious offenses requiring a jury trial because the appellant is not entitled to all the special rehabilitative programs available under the

juvenile justice system. Appellant may not have been eligible for the alternative dispositions offered by the juvenile justice act but that does mean appellant is not offered rehabilitation programs while incarcerated.

A.C. is held at a Juvenile Rehabilitation Administration (JRA) agency, geared towards rehabilitating A.C. The programs available in JRA offer the best mental health services, sex offender treatment services, physician services, victimization services, behavioral services, chemical dependency services, educational services, vocation training, life skills training and more. Because the services offered come from JRA and not the local community does not lessen the degree of rehabilitation offered to A.C. through the juvenile justice system.

The Legislature when setting a standard range for a sentence, do so with the purpose as set forth by RCW 13.40.010(2), "It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders...". A.C. was convicted of serious crimes and serious violent crimes and sentenced to the standard range. The Legislature set the standard range with the understanding the time frame would address the needs of youthful offenders and that rehabilitation take place in JRA.

The seriousness of the offenses has been taken into account by the Legislature when setting sentencing ranges with the purpose behind it

to respond the needs of the youthful offenders. The courts in a long line of case have found that because juvenile proceedings are uniquely rehabilitative in nature juveniles are not entitled to jury trials. In re the Dependency of: A.K., 130 Wn.App. 862; State v. Meade, 129 Wn.App. 918; State v. Tai N., 127 Wn.App. 733; State v. J.H., 96 Wn.App. 167; State v. Schaaf, 109 Wn.2d 1; State v. Lawley, 91 Wn.2d 654; McKeiver v. Pennsylvania, 403 US 528, 541. The level of seriousness of the offense does not change the purpose of the juvenile justice act.

The seriousness of the offense does not change that the purpose of the juvenile justice is rehabilitative in nature. A.C.'s level of the offense does not mandate a change in legal precedent, juveniles are not entitled to a trial by jury. Therefore, A.C.'s conviction must be affirmed.

4. **The Judicial definition of assault does not violate separation of powers because the Legislature has historically left it to the Courts to define assault with common law principles.**

The division of our state government into three separate but coequal branches has been "presumed throughout our state's history to give rise to a vital separation of powers doctrine. Carrick v. Locke, 125 Wn.2d 129, 135, 882 P.2d 173 (1994). Our state constitution contains

separate provisions establishing the Legislative (Article II), the Executive (Article III), and the Judiciary (Article IV) and, as such, provides for separation of functions. ." Spokane County v. State of Washington, et al, 136 Wn.2d 663, 667, 966 P.2d 314 (1998). The doctrine acknowledges three separate branches of government, each of which has individual integrity so as to guarantee the totality of the governing power is not concentrated in singular hands. Carrick at 134-35.

While the primary purposes behind the separation of powers doctrine is to ensure that the fundamental functions of each branch remain inviolate, the doctrine does not require the three branches to be "hermetically sealed off from one another." Spokane County at 667, (quoting Carrick v. Locke, 125 Wn.2d 129, 135, 882 P.2d 173 (1994)).

In cases where a separation of powers violation is alleged, the question to be asked is not whether two branches of government engage in coinciding activities, but rather whether the activity of one branch threatens the independence or integrity or invades the prerogatives of another. Spokane County at 668. However the separation of powers doctrine allows for some interplay between the branches of government. Spokane County at 672.

A.C. argues that the separation of powers has been violated but that is incorrect. The Legislature historically has left it up to the courts to define assault in accordance with common law principles. See, e.g. State v. Carlson, 65 Wn.App. 153, 828 P.2d 30 (1992) (noting that the courts must rely upon common law definitions because the criminal code does not define assault). State v. Brown, 94 Wn.App. 327, 972 P.2d 112 (1999).

Because interplay is allowed by the agencies it cannot be argued that there is a violation when the Legislative branch has not defined assault and purposefully invites the Judiciary branch to provide the definition.

The separation of powers doctrine has not been violated. Therefore, A.C.'s conviction for Assault in the Second Degree should be affirmed.

5. **The totality of the circumstances show by a preponderance of the evidence that A.C.'s statements were knowing and voluntary.**

The state has the burden of establishing the admissibility of a statement made while in custody. Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602 (1966); State v. Bradford, 95 Wn.App. 935, 978 P.2d 534

(1999), *reviewed denied*, 139 Wn.2d 1022 (2000); State v. Nogueira, 32 Wn.App. 954, 650 P.2d 1145 (1982). Admissibility need only be proved by a preponderance of the evidence. Colorado v. Connelly, 479 U.S. 157, 107 S.Ct. 515 (1986); State v. Wolfer, 39 Wn.App. 287, 693 P.2d 154 (1984); State v. Gross, 23 Wn.App. 319, 597 P.2d 897 (1979), *review denied*, 92 Wn.2d 1033 (1979). The totality of circumstances surrounding the statements will be examined to determine if statements are admissible. State v. Rupe, 101 Wn.2d 664, 679, 683 P.2d 571 (1988, *cert. denied*, 486 U.S. 1061 (1988)); State v. Bradford, 95 Wn.App. 954; State v. Cushing, 68 Wn.App. 388, 842 P.2d 1035 (1993), *review denied*, 121 Wn.2d 1021.

Thus, the determination whether statements obtained during custodial interrogation are admissible against the accused is to be made upon an inquiry into the totality of the circumstances surrounding the interrogation, to ascertain whether the accused in fact knowingly and voluntarily decided to forgo his rights to remain silent and to have the assistance of appellant. Fare v. Michael C., 442 U.S. 707, 725, 99 S.Ct. 2560, 61 L.Ed.2d 197(1979). Under Miranda a totality-of-the-circumstances approach is adequate to determine whether there has been a waiver even where interrogation of juveniles is involved. Fare v. Michael C., 442 U.S. at 725. The totality of circumstances approach

permits, indeed, it mandates, inquiry into all the circumstances surrounding the interrogation. This includes evaluation of the juvenile's age, experience, education, background, and intelligence, and into whether he has the capacity to understand the warnings given him, the nature of his Fifth Amendment rights, and the consequences of waiving those rights. Fare v. Michael C., 442 U.S. at 725.

When addressing the totality of circumstances Fare directs us to different circumstances to evaluate a juvenile's waiver of his right to remain silent. Looking at the list provided by Fare helps direct the trial court on its determination. The trial court did in fact find and provide by a preponderance of the evidence that A.C. was read his rights, A.C. understood those rights, A.C. did not ask questions, A.C. did not express confusion, A.C.'s demeanor was noted by law enforcement, law enforcement did not observe confusion, A.C. was 14 years of age, A.C. understood and spoke only English, A.C. was not under the influence, A.C. was oriented, A.C.'s responses tracked with the questions by law enforcement. The trial court ruled that A.C.'s statements were knowingly and voluntarily made to law enforcement. RP (2-22-05) 5-22; RP (3-9-05) 61-73. The trial court's ruling shows the information utilized by the court to find by a preponderance of the evidence the statements were admissible.

Appellant argues that almost nothing was presented to provide the information to the court to make an informed decision. The court heard from three officers with years of experience, the court listened to the questions asked, the responses received, and the observations of the officers. The evidence accumulated by the interviews provided the Court information on age, education, experience, intelligence, and capacity to understand.

The trial court did evaluate the information provided and made an informed ruling. A.C.'s statements were properly admitted because after being informed of his rights he knowingly and voluntarily waived those rights.

6. **Foundation requirements under 803(a)(5) were met and the trial court did not abuse its discretion by admitting the 911 tape into evidence.**

Under Rule 803(a)(5), the proponent of the writing or (tape recorded statement, State v. Alvarado, 89 Wn.App. 543, 949 P.2d 831 (1998)) must make a foundation showing that:

- a. The record pertains to a matter about which the witness once had personal knowledge,
- b. The witness now has an insufficient recollection about the matter to testify fully and accurately,

- c. The record was made or adopted by the witness when the matter was fresh in the witness's memory, and
- d. The record reflects the witness's prior knowledge accurately. State v. Mathes, 47 Wn.App. 863, 727 P.2d 700 (1987).

Courtroom Handbook on Washington Evidence 2005, ER 803(a)(5), p. 398.

The foundation requirements were made and the court permitted the recording of the 911 call made by Joan Chavez to be admitted into evidence.

Joan Chavez did have insufficient recollection in reference to what A.C. had said to her.

"I don't remember telling him what he said," RP (3-7-05) p. 64, line 9.

Joan Chavez admittedly told 911 dispatcher that A.C. had left in her van, what A.C. were wearing and the license plate of vehicle that had been taken but could not remember telling the 911 dispatcher what A.C. had said to her. RP (3-7-05) p. 64. Joan Chavez did testify that when she called 911 the facts were fresh in her mind at the time and she was trying to provide the 911 dispatcher with a full and complete picture of what was happening. RP (3-7-05) p. 64-65. The foundational requirements for introduction of the 911 tape were laid and the admission of the 911 tape was proper.

The admission of evidence is reviewed for abuse of discretion. The foundational requirements were met and the trial court did not abuse its discretion in admitting the 911 tape. The 911 recording was properly admitted into evidence.

7. Trial court found beyond a reasonable doubt that A.C. committed three crimes of Attempted Murder in the first degree (Review requested by A.C. after the filing of the opening brief).

The trial court was presented with evidence from the State and A.C., upon conclusion of the fact finding the trial court returned a guilty verdict on all counts. The court found beyond a reasonable doubt that A.C. had committed the offenses alleged by the state. CP 22. The information A.C. requests this Court to consider was presented, argued and denied by the trial court. The guilty finding of the trial court must be affirmed.

8. **The trial court heard A.C.'s request for a manifestation downward and the mitigating factors that could reduce the standard range sentence and found no merit to those arguments and imposed the standard range disposition. (Review requested by A.C. after the filing of the opening brief).**

If the trial court is going to deviate from the standard range disposition the court must find by clear and convincing evidence that mitigating factors exist and justify a manifest injustice downward, see RCW 13.40.160(2). "... for the purposes of RCW 13.40.160(2), "clear and convincing evidence" is equivalent to "evidence beyond a reasonable doubt." State v. Gutierrez, 37 Wn.App. 910, 684 P.2d 87 (1984).

A.C. at sentencing requested the court consider three mitigating factors prior to imposition of disposition. RCW 13.40.150, provides the mitigating factors to be considered on a manifest injustice. The mitigating factors requested for consideration were as follows:

1. A.C.'s conduct did not cause bodily harm, (The actual mitigating factor to consider in mitigation is that the conduct neither caused nor threatened bodily harm).
2. A.C. suffered from a mental or physical condition that significantly reduced his culpability for the offense, but failing to establish a defense.

3. There has been at least one year between A.C's current offense and prior offense. RP (4-15-05) 4-8.

The court did not find that these mitigating factors existed to justify a manifest injustice down. RP (4-15-05) 25.

Pursuant to RCW 13.40.160(2), a disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

No mitigating factors existed to justify a manifest injustice downward and the trial court sentenced A.C. to the standard range sentence which is not appealable. A.C. sentence must be affirmed.

III. CONCLUSION

Response to Assignment of Errors 1-3 Conclusion

Juvenile proceedings have consistently not required jury trials for juveniles because the purpose of the juvenile justice act is to focus on the needs of the offender. Juveniles are treated differently than adult defendants because the opportunity is found more with youthful offenders than adult defendants for rehabilitation. In addition to rehabilitation being a high priority with juvenile offenders it is also important to be able to address the needs of the offender according RCW

13.40.010(2). These needs may address issues of the juveniles own victimization, home life problems, education problems, addiction problems of which many of these needs are not addressed in the adult system. The adult system is truly geared towards punishment.

Our state believes as does the federal level that juveniles need preferential treatment to rehabilitate them, not criminalize them. Because of this, jury trials are not mandated or required by the state or federal constitution. It should remain that way so we may put the time, effort and finances into guiding juveniles back to the correct path.

Response to Assignment of Error 4 Conclusion

When one branch of government requests the assistance of another, there is no violation of the separation of the powers doctrine. Separation of powers doctrine means to keep each branch from stepping into each others purview. Historically the branches have looked to each other for assistance, interplay is allowed, this does not violate the separation of powers doctrine.

Response to Assignment of Error 5 Conclusion

The trial court made an informed ruling after hearing from the officer's testimony. The court's determination that A.C. statements were knowingly and voluntarily made should be affirmed.

Response to Assignment of Error 6 Conclusion

The trial court did not abuse its discretion by allowing the 911 recording to be entered into evidence. The admission of the 911 recording should be affirmed.

Response to Assignment of Error 7 Conclusion

The trial court made a finding that A.C. was guilty beyond a reasonable doubt of three counts of attempted murder in the first degree. Defense counsel argued to the trial court the issue of insufficient evidence to proceed on the attempted murder charges. The trial court heard the argument and took it under advisement. After hearing all the evidence presented to the court, the trial court found that there was sufficient evidence to proceed on the attempted murder charges and denied defense counsel's request for dismissal. On March 21, 2005, the trial court rendered its verdict of guilty on all counts and Findings of Facts and Conclusions of Law were entered. (CP 22). The guilty finding of the court should not be disturbed on appeal.

Response to Assignment of Error 8 Conclusion

A.C. was sentenced under the standard range and the sentence is not appealable. RCW 13.40.230.

Conclusion Summary

The errors brought before this court by A.C. hold no merit and the appeal should be denied.

DATED this 13th day of February, 2006.

DEBORAH S. KELLY, Prosecuting Attorney

Tracey L. Lassus

Tracey L. Lassus

WBA #31315

Deputy Prosecuting Attorney

Attorney for Respondent _____

IN THE COURT OF APPEALS OF
THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,
Respondent,

vs.

A.C., Appellant

NO. 33240-0-II

AFFIDAVIT OF SERVICE BY MAIL

○

STATE OF WASHINGTON)
: ss.
County of Clallam)

The undersigned, being first duly sworn, on oath deposes and says:

That the affiant is a citizen of the United States and over the age of eighteen years; that on the 13th day of February, 2006, affiant deposited in the mail of the United States of America a properly stamped and addressed envelope containing a copy of the Brief of Respondent , addressed as follows:

Azel Chavez
Echo Glenn
33010 SE 99th Street
Snoqualmie, WA 98065

Backlund & Mistry
203 E. 4th Ave, Suite 217
Olympia, WA 98501

Tracey L Lassus
Tracey L. Lassus

SUBSCRIBED AND SWORN TO before me this 13th day of February, 2006.

Teresa Martin
Teresa Martin
NOTARY PUBLIC in and for the State of Washington
Residing at Port Angeles, Washington
My commission expires: 10-1-08

FILED
COURT OF APPEALS
DIVISION II
06 FEB 13 AM 11:08
STATE OF WASHINGTON
BY [Signature]
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