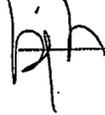


RECEIVED
SUPREME COURT
STATE OF WASHINGTON
IN THE SUPREME COURT OF THE STATE OF WASHINGTON
2008 MAY 20 P. 2: 40

BY RONALD R. CARPENTER



STATE OF WASHINGTON,
CLERK Respondent,

v.

ALI ELMI,
Petitioner.

No. 80380-3

STATEMENT OF
ADDITIONAL
AUTHORITIES
(RAP 10.8)

Pursuant to RAP 10.8, appellant submits the following statement of additional authorities for the consideration of the Court prior to oral argument scheduled for May 22, 2008: Citing from the following treatise, petitioner Elmi cites the following language:

If, without justification, excuse or mitigation, D with intent to kill A fires a shot which misses A but unexpectedly causes the death of B, D is guilty of murder. To speak of transferring the malice from A to B is merely to offer an unsound explanation (carried over from the law of torts) to support a very sound conclusion. The proper explanation is that D is guilty of murder in such a case because all elements of the offense are present, with mention if it seems necessary of the fact that as a crime the wrong was committed against the state

[However], if, without justification, excuse or mitigation D with intent to kill A fires a shot which misses A but unexpectedly inflicts a non-fatal injury upon B, D is guilty of an attempt to commit murder, -- but the attempt was to murder A whom D was trying to

Statement of Additional
Authorities

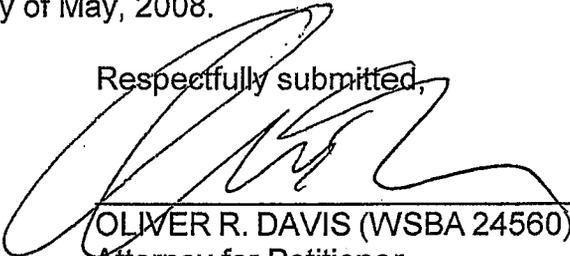
Washington Appellate Project
1511 Third Ave., Suite 701
Seattle, WA 98101
(206) 587-2711

kill and not B who was hit quite accidentally. And so far as the criminal law is concerned there is no transfer of this intent from one to the other so as to make D guilty of an attempt to murder B. [Footnote omitted.] Hence an indictment or information charging an attempt to murder B, or (under statute) an assault with intent to murder B, will not support a conviction if the evidence shows that the injury to B was accidental and the only intent was to murder A.

R. Perkins & R. Boyce, Criminal Law, ch. 7, Section 8(C) (3d ed. 1982), at 924-25

DATED this 20th day of May, 2008.

Respectfully submitted,



OLIVER R. DAVIS (WSBA 24560)
Attorney for Petitioner

**FILED AS ATTACHMENT
TO EMAIL**

Statement of Additional
Authorities

Washington Appellate Project
1511 Third Ave., Suite 701
Seattle, WA 98101
(206) 587-2711