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CAPITAL CASE

No. 88410-2
(Consolidated with 88411-1)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

v.

JOSEPH T. McENROE, and
MICHELE K. ANDERSON

Respondents

DISCRETIONARY REVIEW FROM THE SUPERIOR COURT FOR
KING COUNTY, THE HONORABLE JEFFREY RAMSDELL

DEFENDANTS/RESPONDENTS' JOINT RESPONSE TO BRIEF OF
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 ORIGINAL

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WAPA'S OBJECTIVES

WAPA seeks to have this Court do what the legislature did not, explicitly grant prosecuting attorneys unfettered and unreviewable discretion to seek the death penalty in any case charged as aggravated murder. As a corollary to the Court granting prosecutors unfettered discretion to seek the death penalty, WAPA asks this Court to adopt its characterization of defense challenges to whether a prosecuting attorney has properly filed a notice of intention under RCW 10.95.040(1) as “trespasses upon the executive branch’s charging decision...”¹ WAPA hopes this Court will bar defendants from ever raising such “improper inquiries” in the future, by now issuing a “strongly worded condemnation...”² to defense counsel.

SUMMARY OF WAPA'S ARGUMENT

WAPA’s argument reduces to two assertions:

First, WAPA claims: “A prosecuting attorney’s decision to file a notice of special sentencing proceeding is part of the “accusatorial phase

¹ WAPA brief, p. 2.

² WAPA brief, p. 18

of criminal matters,”³ and, therefore, unassailable. WAPA says,

The accusatory phase involves the prosecuting authority, exercising executive functions, to determine whom to charge with a public offense and what charges to bring.⁴

Second, WAPA claims that in filing a charge of aggravated murder under RCW 10.95.020, a prosecutor alerts a defendant “to the possibility of a death sentence”⁵ and,

Probable cause for [a notice of intent] is satisfied by probable cause to proceed on a count of premeditated first degree murder with one or more aggravating circumstances...⁶

In other words, according to WAPA, when a prosecutor files an information charging first degree murder with statutory aggravating factors under RCW 10.95.020, the filing of a notice of special sentencing proceeding under RCW 10.95.040(1) is a mere formality to be observed if the prosecutor decides to seek the death penalty.

WAPA MISUNDERSTANDS WASHINGTON’S DEATH PENALTY SCHEME AND CONFUSES RCW 10.95 WITH ITS PREDECESSOR, RCW 10.94, AND WITH DEATH PENALTY SCHEMES OF OTHER JURISDICTIONS

The history of Washington’s post-Furman death penalty laws is set

³ WAPA brief, p. 1

⁴ WAPA brief, p. 2, emphasis added.

⁵ WAPA brief, p. 3, fn 1.

⁶ WAPA brief, p. 11. The State vigorously argued the same thing in the trial court. CP 1257-59, 5-30-2012 RP 33 and 37-40.

forth in Respondents' Brief, pp. 15-24. Our current statute, RCW 10.95, replaced RCW 10.94 which premised seeking the death penalty on the existence of statutory aggravating factors. Under the old statute the notice of intention was a charging document because it was filed,

When the prosecution has reason to believe that one or more aggravating circumstances ... was present and the prosecution intends to prove the presence of such circumstances in a special sentencing proceeding under RCW 10.94.020

...

The notice shall specify the aggravating circumstances or circumstances upon which the prosecuting attorney bases the request for the death penalty ...

RCW 10.94.010. Under 10.94, a prosecutor's request for the death penalty was based on aggravating factors which were specified in the notice. The notice was a charging document because it actually charged a defendant with criminal conduct which elevated the gravity of the offense. For instance, an information may have charged a defendant with premeditated murder of John Doe, but a subsequent notice of intent under RCW 10.94 might have alleged the additional factor that John Doe was a police officer killed in the course of his duties, making the crime aggravated murder and simultaneously giving notice that a penalty phase would follow conviction of premeditated murder. Unless a notice of intention to prove aggravating factors was filed, the crime was first degree

premeditated murder under RCW 9A.32.030(1), punishable by life in prison with possibility of parole.

Under the former statute, WAPA would be correct that probable cause to charge aggravated murder was probable cause to file the notice of intent because the two were synonymous. Under RCW 10.94 the same document rendered a crime eligible for a sentence of death and selected the defendant to face a capital sentencing proceeding following conviction of premeditated murder. Mitigating factors were not part of the statutory calculus for prosecutors deciding whether to file a notice of intention to seek the death penalty.

The Federal Death Penalty Act is very similar to Washington's prior death penalty statute, RCW 10.94. Federal prosecutors file a notice of intent to seek the death penalty when they believe they can prove statutory aggravating factors and the notice advises defendants which aggravating factors the government alleges and intends to prove in the penalty phase. The federal statute says nothing about mitigating factors in relation to filing a notice of intention to seek the death penalty. See: 18 U.S.C. § 3593(a). The federal statute has no penalty clause similar to RCW 10.95.040(3).⁷

⁷ See Respondent's Brief, pp. 44-47, for full discussion of inapplicability of federal death penalty act to procedures in Washington.

If RCW 10.94 were still in effect, WAPA's citation to federal cases interpreting the federal death penalty notice provisions might be instructive.⁸ But RCW 10.94 is long gone and RCW 10.95 is very different from the federal statute and from the statutes of every other state.

RCW 10.95.020 defines the crime of aggravated murder as premeditated murder under RCW 9A.32.030(1)(a) when and only when one of the fourteen listed aggravating circumstances exist. Aggravating factors are alleged in the information charging premeditated murder and must be proven beyond a reasonable doubt in the guilt trial.

Unlike the federal death penalty statute and other state statutes, under RCW 10.95, the charging document alleging statutory aggravating factors is not notice of intent to seek the death penalty. Charging aggravating factors makes a murder charge eligible for consideration of seeking the death penalty but the charge does not mean the state will seek the death penalty.

RCW 10.95.030(1) provides that "any person convicted of the crime of aggravated murder shall be sentenced to life imprisonment without the possibility of release or parole." The possibility of a death sentence is expressly designated as an exception to the general rule of part

⁸ The State also mistakenly analogizes RCW 10.95 to the federal statute with no recognition of the great differences in Washington's current scheme. Opening Brief of Petitioner, p. 17.

(1). Contrary to WAPA’s seeming contention that aggravated murder cases are presumed to be death penalty cases unless a prosecuting attorney “affirmatively announces that a notice of special sentencing proceeding will not be filed”⁹ the presumption is the opposite. If a prosecutor does nothing, the maximum sentence for aggravated murder is life without release. There is no provision in the entirety of RCW 10.95 for a prosecutor to “affirmatively announce” that a notice will not be filed.

To seek the death penalty a prosecuting attorney must file a notice of special sentencing proceeding and such a notice requires there be “reason to believe that there are not sufficient mitigating circumstances to merit leniency.” RCW 10.95.040(1). This means that after a murder is deemed eligible for a death sentence with the charging of aggravating factors, a prosecutor must focus on the individual defendant to determine whether there are or are not sufficient mitigating factors to merit leniency. No criminal charge is being considered at this point. The only thing a prosecutor is allowed to consider in seeking a death sentence is whether the defendant has sufficient mitigating circumstances to merit leniency.

As the trial court cogently recognized,

A defendant may be one of the worst criminals by virtue of the crime he committed, but because of personal mitigating factors he may not be among those most deserving of death

⁹ WAPA brief, p. 3, fn. 1.

for whom the State's penalty of death is reserved.¹⁰

...

Requiring a rational "reason to believe" [there are insufficient mitigating circumstances] existing apart from the strength of the evidence of a case is the only way to ensure a prosecutor's constitutional administration of the death penalty.¹¹

It is most telling that WAPA never mentions in its brief the critical selection language of RCW 10.95.040(1), which is not in any other statute, that a death notice only lies "when there is reason to believe that there are not sufficient mitigating circumstances to merit leniency." Given the importance of this unique provision in the trial court's order dismissing the notice of intent and in Respondents' arguments, WAPA's failure to address it at all may be considered an admission by omission.¹²

¹⁰ Order Denying Motion to Stay, p. 7 (CP 658).

¹¹ Order Denying Motion to Stay, p. 8 (CP 659).

¹² WAPA also fails to acknowledge that this Court has interpreted Washington's constitution to provide more protections to defendants than the federal constitution, which limits the applicability of federal court decisions:

We note that our interpretation of the due process and cruel punishment clauses of our state constitution is not constrained to the Supreme Court's interpretation of the Eighth and Fourteenth Amendments. We have, in the past, interpreted [Washington] Const. Art. 1 § 14 to provide broader protection than in the Supreme Court's interpretation of the Eighth Amendment ... Additionally, in interpreting the due process clause of the state constitution, we have repeatedly noted that the Supreme Court's interpretation of the Fourteenth Amendment does not control our interpretation of the state constitution's due process clause.

WAPA’S POSITION THAT A PROSECUTOR MAY SEEK THE DEATH PENALTY IN ANY CASE OF AGGAVATED MURDER IS WRONG UNDER THIS COURT’S HOLDINGS THAT UNFETTERED PROSECUTORIAL DISCRETION TO SEEK THE DEATH PENALTY OR LIFE IN PRISON WITHOUT RELEASE FOR AGGRAVATED MURDER VIOLATES EQUAL PROTECTION

This Court has long held that equal protection of the laws is denied when a prosecutor is permitted to seek varying degrees of punishment when proving identical criminal elements. State v. Zornes, 78 Wn.2d 9 (1970). Defendants claim RCW 10.95 violates equal protection because it allows prosecutors unfettered discretion to seek either life in prison without release or the death penalty have been repeatedly denied by this Court because,

Before the prosecutor may seek the death penalty, he must have “reason to believe that there are not sufficient mitigating circumstances to merit leniency.” RCW 10.95.040(1) ... There is no equal protection violation here, because a sentence of death requires consideration of an additional factor beyond that for a sentence of life imprisonment – namely, an absence of mitigating circumstances.

State v. Campbell, 103 Wn.2d 1, 25 (1984); State v. Dictado, 102 Wn.2d 277, 297 (1984). WAPA does not address Campbell’s holding that requiring there is “reason to believe that there are not sufficient mitigating

State v. Bartholomew, 101 Wn.2d 631, 639 (1984)(internal citations omitted).

circumstances” to file a notice of intent is necessary to the constitutionality of RCW 10.95.

WAPA may be confused because, as seen above, it has not distinguished Washington’s unique statute from the federal death penalty act and other states’ schemes. In most jurisdictions a prosecutor does not choose whether to seek the death penalty or life in prison after he has charged aggravated murder. Filing a notice of intention to charge aggravated murder is the choice to seek the death penalty. In Washington, as the trial court has noted, there is an “intermediate step” between the charge of aggravated murder and proceeding toward a capital trial, the determination of whether mitigating circumstances exist. This intermediate step is when the decision to seek or not seek the death penalty is made. This unique feature of RCW 10.95 may be confusing if one is relying on cases and articles dealing with different statutes, which WAPA does to a great extent.

WAPA CONCEDES A DEFENDANT MAY CHALLENGE A NOTICE OF INTENTION TO SEEK THE DEATH PENALTY ON GROUNDS HE WAS SELECTED BASED ON AN UNJUSTIFIABLE STANDARD, SUCH AS RACE, RELIGION OR OTHER ARBITRARY CLASSIFICATION, BUT WITH A CATCH-22 THAT THERE IS NO WAY A DEFENDANT CAN SHOW AN IMPROPER PROSECUTORIAL STANDARD¹³

WAPA relies on United States v. Armstrong, 517 U.S. 456 (1998), for the proposition,

A defendant ... must satisfy an extremely high threshold to obtain discovery or a hearing on such a [racial bias] claim.

However, Armstrong contains no such language. In Armstrong, the Supreme Court interpreted a federal discovery rule, FRCP 16(a)(1)(c), narrowly so as not to automatically allow a defendant charged with possession of crack cocaine to discover the United States Attorney's policies which might reveal racial discrimination in drug law enforcement. Armstrong proved that government had charged only African Americans with possession of crack cocaine. The Supreme Court did not impose an "extremely high" burden on defendants alleging improper motivation in charging. The Court pragmatically ruled that Armstrong's showing was deficient because he had not shown that the government failed to prosecute non-Black defendants for possession of crack-cocaine when the government had a factual basis to do so. Armstrong, id.

¹³ WAPA brief, p. 10.

To establish a discriminatory effect in a race case, the claimant must show that similarly situated individuals of a different race were not prosecuted.

Id. at 465.

The vast majority of the Courts of Appeals require the defendant to produce some evidence that similarly situated defendants of other races could have been prosecuted but were not, and this requirement is consistent with our equal protection case law.

Id. at 469.

In the present case, if the claim of selective prosecution were well founded, it should not have been an insuperable task to prove that persons of other races were being treated differently ...

Id. at 470.

The trial court's order dismissing the notice of intention did not restrict prosecuting crimes, only notices of intention to seek the death penalty. Nonetheless, McEnroe and Anderson met the threshold requirement for showing discriminatory effect in prosecutorial selection for capital sentencing. Respondents showed that King County Prosecutor Satterberg has filed notices exclusively against defendants charged with killing white victims. Respondents further showed that Satterberg could have but did not file notices against three other aggravated murder defendants who allegedly killed victims who were either non-white or gay. Respondents' brief at 12. The threshold showing for racial discrimination is not "extremely high" and Respondents met it.

**WAPA’S POSITION THAT DEFENDANTS SHOULD BE
PRECLUDED FROM CHALLENGING THE PROCESS
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PROCEEDING BEING FILED, COMBINED WITH ITS CLAIM
THAT THE THRESHOLD FOR BRINGING A BIAS CLAIM IS
“EXTREMELY HIGH,” WOULD EFFECTIVELY SHIELD
PROSECUTORS FROM DISCOVERY OF RACIAL AND OTHER
DISCRIMINATORY PRACTICES IN SEEKING THE DEATH
PENALTY**

Like the State, WAPA asserts that the fact that the King County Prosecuting Attorney has filed notices of intent to seek the death penalty only against defendants charged with killing white mainstream victims while foregoing notices for the killers of gay, mixed race, or Asian victims is insignificant.¹⁴ As stated above, McEnroe did make a sufficient showing to support further inquiry into the practices of the King County Prosecutor. McEnroe (joined by Anderson) made multiple motions to obtain disclosure of the factual basis for the Prosecutor filing notices against him and not against other defendants charged with aggravated murder¹⁵. The State vigorously opposed disclosing any information regarding the process for selecting defendants for capital prosecution and the defendants received only a little of the information they sought. WAPA condemns the defense motions and wants the message sent that notice challenges will not be tolerated. If WAPA’s wish comes true,

¹⁴ WAPA brief, p. 14.

¹⁵ Respondent’s brief, pp. 8-10.

defendants will never be able to uncover improper prosecutorial motive in filing or not filing notices because courts will not entertain any motions relating to the alleged “accusatorial” decision to file the notice.

This Court has recently condemned racial bias in the King County Prosecuting Attorney’s office. In State v. Monday, 171 Wn.2d 667, 257 P.3d 551 (2011), a homicide trial, a senior deputy prosecutor mocked the pronouncement of an African American witness and in his closing argument said there was a code among the African American community that “black folk don’t testify against black folk.” The majority opinion held,

Because appeals by a prosecutor to racial bias necessarily seek to single out one racial minority for different treatment, it fundamentally undermines the principle of equal justice and is so repugnant to the concept of an impartial trial its very existence demands that appellate courts set appropriate standards to deter such conduct.

Id. at 680. The concurring opinion went a step further,

Regardless of evidence of this defendant’s guilt, the injection of insidious discrimination into this case is so repugnant to the core principles of integrity and justness upon which a fundamentally fair criminal justice system must rest that only a new trial will remove its taint.

Id. at 682, (Madsen, CJ, concurring).

Insidious discrimination in the Monday case was known to this Court only because it happened in open court and an honest court reporter recorded not just the words spoken but also the manner in which they had

been spoken. Is discrimination in selecting defendants for prospective execution less repugnant because it is out of sight?

What is more pertinent here is under WAPA's proposed suppression of defense motions regarding notices of intent, racial bias in seeking the death penalty *cannot be discovered unless the prosecutor publicly confesses*. However, the Prosecuting Attorney has shown either an indifference to racial bias or an inability to recognize it. In the Monday case the King County Prosecuting Attorney denied the trial prosecutor's behavior was misconduct or biased.¹⁶

The prosecutor's comment in the final argument that "black folk" don't testify against "black folk" was nothing more than a summary of the evidence in the case, consistent with the realities of the lack of cooperation and the hostility of most of the transactional witnesses who testified. This was not prosecutorial misconduct, nor was it evidence of a racial bias by the prosecution.

...

Monday then makes further claims that the prosecutor was racially biased because the court reporter typed the word "poleeze" several times when he questioned [a witness]. While it is unclear why the court reporter used a phonetic spelling for the word police, the assertion by Monday on appeal that the prosecutor did so out of racial animus is

¹⁶ The trial prosecutor in Monday's case, James Konat, continued not only to be employed by, but to receive high profile assignments for years after the Monday trial, after the prosecutor's office had the trial transcripts, after the Court of Appeals decision was issued. In fact, Mr. Konat remained the lead prosecutor on the McEnroe and Anderson cases until he withdrew in July 2011, after coming under outside pressure to step down. See Seattle Times, July 1, 2011, *NAACP: Fire Deputy Prosecutor For "Racist Arguments."*

completely unfounded.¹⁷

When African Americans have by far the highest rates of being homicide victims¹⁸ and yet no killers of African Americans are the subjects of notices of intent to seek the death penalty in King County or the State, no killers of African Americans are on death row now and no killers of African Americans have been executed in Washington since at least the 1970s, it seems that Washington's prosecutors are more affected by white homicide victims than by the deaths of other victims. But if filing a notice of special sentencing proceeding is treated as a sacrosanct "charging decision," discrimination in death sentencing is sure to continue.

¹⁷ State v. Monday, Supreme Court No. 82736-2, BRIEF OF RESPONDENT (STATE) in Court of Appeals, p. 34.

¹⁸ The Washington State Department of Health, *The Health of Washington State*, 2007 (available at: <http://www.doh.wa.gov/DataandStatisticalReports/HealthofWashingtonStateReport/MostRecentReport.aspx>), reported that Black residents of Washington had a 13 in 100,000 risk of being homicide victims while white residents had only less than a 3 in 100,000 of being homicide victims.

PROSECUTORS' BELIEF IN THEIR OWN UNREVIEWABLE DISCRETION, ENCOURAGED BY WAPA, IS THE PRIMARY CAUSE OF ARBITRARY APPLICATION OF THE DEATH PENALTY IN WASHINGTON, WHICH HAS BEEN FOUND UNCONSTITUTIONAL BY MOST OF THE SITTING JUSTICES OF THIS COURT.¹⁹

Six justices currently serving on this Court have found the administration of the death penalty in Washington to be broken, resulting in an unconstitutionally arbitrary and capricious pattern of death sentences. These justices, who combined are a majority of today's Court, rightly noted in one or the other of two cases the Court's history of laxity in performing the proportionality review under RCW 10.95.130. These dissenting justices have expressed frustration with the Court's several opinions refusing to compare a particular case before it with other seemingly similar or worse murders not resulting in death sentences. Justice Charles Johnson in State v. Cross, 156 Wn.2d 580 (2006), catalogued the varied definitions of proportionality review offered in the many cases in which a majority of the Court seemed determined to uphold death sentences despite an abundance of comparable or worse cases in which death was not imposed and concluded, "No rational explanation exists to explain why some individuals escape the penalty of death and

¹⁹ WAPA says it is appearing here to avoid "any action that seeks to diminish [prosecutor's] independence." WAPA p. 1.

others do not.”²⁰ Id. at 652 (Justice C. Johnson, dissenting).

In State v. Davis, 175 Wn.2d 287 (2012), Justice Fairhurst addressed the Court’s avoidance of meaningful proportionality review,

It is not an answer to pretend that the unique factors of each case tie our hands, making us impotent to perform our statutory duty because no truly “similar” cases exist ... The fact that each aggravated murder case is not identical need not reduce our statutory inquiry to a meaningful exercise. We can, and must, evaluate the system as a whole.

...

One could better predict whether the death penalty will be imposed on Washington’s most brutal murderers by flipping a coin than by evaluating the crime and the defendant.

Our system of imposing the death penalty defies rationality, and our proportionality review has become an “empty ritual.”

Id. at 388 (Justice Fairhurst, dissenting).²¹

Thus, a majority of justices have agreed, as Justice C. Johnson put it, “the death penalty [in Washington] is like lightening, randomly striking some defendants and not others,” invoking the famous condemnation of the nation’s death penalty schemes by the Supreme Court in Furman v. Georgia, 408 U.S. 238, 309, 92 S.Ct. 2726, 33 L.Ed.2d (1972) (Stewart, J. concurring). Nothing has transformed application of Washington’s death

²⁰ Justice Charles Johnson authored the Cross dissent and was joined by Justices Madsen and Owens (and former Justice Sanders).

²¹ Justice Fairhurst authored the Davis dissent in which Justices Stephens and Wiggins concurred. Justice Wiggins also wrote separately to express his concern that African American defendants appear to be disproportionately sentenced to death.

penalty from being random and irrational since Cross and Davis were decided.

The Court in the past has grappled with unpredictability of death sentences within the context of its statutory proportionality review. Certainly, proportionality review is a safety net and six justices have recognized the Court is not using the net as directed by the legislature. Failure of the net does result in an arbitrary assortment of convicted murderers languishing on death row, a few to be eventually executed, while their equals in crime live out their days in DOC's most secure prisons.

However, safety nets are for system failures. The primary failure of Washington's death penalty system is in the randomness of selection of defendants to face capital trials. The failure is that prosecuting attorneys believe, as set forth by WAPA, that they have unfettered discretion to seek or not seek the death penalty whenever a defendant is charged with aggravated murder.

In the instant case, probable cause exists for the filing of the notice of special sentencing proceeding. Probable cause for such a notice is satisfied by probable cause to proceed on a count of premeditated first degree murder with one or more aggravating circumstances...²²

²² WAPA p. 11. WAPA argues that the only exceptions to a prosecuting attorney having discretion to file a death notice in any case of aggravated murder are when a defendant is under age eighteen at the time of the crime or is mentally retarded.

The fact that prosecutors believe that once aggravated murder is charged there are no restraints on them as to when they may file notices of intention to seek death fully explains the randomness of death sentences decried by dissenting justices in Cross and Davis. Like the King County prosecuting attorney, each prosecutor makes a “subjective determination ... based on value judgments”²³ so the filing of death notices is as variable as the feelings of each prosecuting attorney on any given day. That surely explains why lightening strikes are easier to predict than death sentences in Washington.

CONCLUSION

This Court can and should affirm the trial court's Order Striking The Notice Of Intent To Seek The Death Penalty because the trial court recognized that the King County Prosecuting Attorney did not follow RCW 10.95.040(1) when he decided to file a notice in large part because of the strength of the State's evidence that these defendants are guilty of aggravated murder. How easy it will be for a prosecutor to prove a guilt case has nothing to do with the moral culpability of a defendant; the strength of the evidence is neither an aggravating nor a mitigating factor. Weak cases should be winnowed out when a prosecutor decides whether or not to allege aggravating factors. The trial court is right that strong or

²³ Oral argument of Deputy Prosecutor Scott O’Toole, 5-30-2012 RP 37-40.

weak evidence of guilt is an arbitrary and improper consideration in filing a notice of intent.

WAPA, representative of all Washington prosecutors, lays bare insurmountable problems with administration of Washington's death penalty scheme over the last thirty years. Prosecuting Attorneys have filed or not filed death penalty notices at their own subjective discretion with little or no heed to the legislative mandate to do so when and only when there is reason to believe there are not sufficient mitigating circumstances to merit leniency. This is why there is no rhyme or reason to which defendants are sentenced to death compared to defendants sentenced to life without release.

WAPA presents the Court with the question of whether the Court should continue to tinker with the machinery of death in Washington or

recognize that the machine is not working properly and should be dismantled.

DATED: _____

Respectfully submitted:

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State of Washington (Petitioner)

v.

**Joseph T. McEnroe and Michele K. Anderson (Respondents)
(consolidated under WA Supreme Ct. No. 88410-2)**

On April 29, 2013, I served the below listed document(s) by placing a copy in the U.S. Mail (for Ms. Loginsky), postage pre-paid, and by Inter-Office Mail (for all other recipients). On the same date, I delivered the below-listed document to the below-listed attorneys via electronic mail.

Document served:

1. Defendants/Respondents Joint Response to Brief of Amicus Curiae Washington Association of Prosecuting Attorneys

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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.

/S/ William Prestia

April 29, 2013, Seattle, WA

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OFFICE RECEPTIONIST, CLERK

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Subject: RE: Case No. 88410-2

Rec'd 4-29-13

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Subject: Case No. 88410-2

Please accept the attached document for filing in the case of State v. McEnroe and Anderson, S.Ct. No. 88410-2:

Joint Response to Amicus WAPA

Please feel free to contact me with questions.

Thank you,

--

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