

ORIGINAL

NO. 88921-0

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE PERSONAL RESTRAINT PETITION OF
GREGORY O. THOMAS,
Petitioner.

REPLY BRIEF OF PETITIONER

Gregory O. Thomas, Pro Se

Stafford Creek Correction Center
191 Constantine Way
Aberdeen, Wa. 98520

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
13 AUG 30 AM 8:26
BY RONALD R. CARPENTER
RRC
FDR

I. INTRODUCTION.

The first issue before this Court is whether the Constitutional rights of a mentally-impaired and mentally-ill fifteen year old were violated when the trial *Judge* sentenced Thomas to (83.4) years in prison. The earliest Thomas could be considered for release is after serving 70 years and 4 months. Because Thomas would have to live to be 87 years old to be eligible for early *release* his chance for parole or early release is zero. In his opening brief at 17-23, Mr. Thomas' has demonstrated that his Constitutional rights were violated and relief is not precluded by RAP 16.4. Respondent's brief however, avoids any meaningful discussion of whether Article 1, section 14 of The Washington Constitution and Graham and Miller apply to Thomas's de facto life without parole sentence. Instead, respondent offers general discussion of RCW 10.73.090(1) and principles applicable to one year time limit, without, any analysis of the law pertaining specifically to Juveniles younger than 16 being sentence to de facto LWOP. Respondent's brief at 4-6.

Respondent's brief focuses on the procedural issues of whether the appeal is untimely, *id.* at 4, and whether this Court may consider his Personal Restraint Petition.

The Second issue before this Court is whether there was insufficient evidence of predicate first and second degree rape offenses. In Thomas' opening brief at 23-32, Mr. Thomas has demonstrated that his Constitutional rights were violated and that relief is not precluded by RAP 16.4. Respondent's brief avoids any meaningful discussion of whether there is any actual physical evidence of "sexual intercourse." Respondent's brief at 9. Respondent fails to mention any (t)race evidence of "sperm or sperm related material, pubic hairs, fibers, etc." Respondent's brief at 9. Petitioner's motion to Enlarge Record Exhibit B. Respondent (f)ails to mention the trial testimony of States forensic experts and their Autopsy report. Last, Respondent states, "Thomas cannot show actual and substantial preJudice from any deficiency in the evidence supporting the predicate rape offenses." Respondent's brief at 10.

Mr. Thomas reasserts and incorporates here the arguments he raised in his opening brief, in this reply brief, Thomas first discusses the violation of his Constitutional rights under Miller and the reasoning in Graham. Second, Mr. Thomas addresses why this Court should review his claim. Third Thomas sets forth actual and substantial preJudice. finally, Thomas explains why there is insufficient evidence of first and second rape.

II. MR. THOMAS IS ENTITLED TO RELIEF UNDER MILLER

The *majority* opinion in Miller, principally relied upon the Supreme Court's prior holdings in Reper v. Simmons, 543 U.S. 551 (2005), and Graham v. Florida, 560 U.S. ___, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010), Juvenile offenders are less culpable and thus, less deserving of the harshest punishments than adult offenders.

Graham makes plain these mandatory schemes' defect in another way: by likening life-without-parole itself imposed on Juveniles to the death penalty. Life without parole terms, the Court wrote, "share some characteristics with death sentences that are shared by no other sentences." Imprisoning an offender until he dies alters the remainder of his life "by a forfeiture that is irrevocable." And this lengthiest possible incarceration is an "especially harsh punishment for a Juvenile, "because he will almost inevitably serve "more years and a greater percentage of his life in prison than an adult offender." The penalty imposed on a teenager, as compared with an older person, is therefore "the same... in name only." All of that suggested a distinctive set of legal rules: In part because we viewed this ultimate penalty for Juveniles as akin to the death penalty, we treated it similarly to most severe punishment.

Miller, 132 S. Ct. at 2466 (emphasis added).

In State v. Furman, 122 Wn.2d 440, 456, 858 P.2d (1993).

This Court considered the effect of Supreme Court precedent on RCW 10.95 . Thompson v. Oklahoma, 487 U.S. 815, 101 L.Ed. 2d 702, 108 S. Ct. 2687 (1988), held the death penalty could not be imposed against defendants age fifteen or younger when the crime occurred; yet Standford v. Kentucky, 492 U.S. 361, 106 L. Ed. 2d 306, 109 S. Ct. 2969 (1989), upheld the death penalty for defendants who were 16 or 17 at the time of the crime. Micheal Furman was 17 years old and 10 months when he raped, murdered and robbed an elderly woman in 1989. Thus, the Constitution permitted his death sentence.

This Court observed that RCW 13.40.110 authorized juveniles to be tried as adults, but did not mention the death penalty. RCW 10.95 authorized the death penalty, but did not refer to crimes committed by juveniles. Neither Statute set a minimum age for imposition of the death penalty.

"whenever possible, it is the duty of this Court to construe a statute so as to uphold its constitutionality." We cannot rewrite the Juvenile court statutes or the death penalty statute to expressly preclude imposition of the death penalty for crimes committed by persons who are under 16 and thus exempt from the death penalty under Thompson. Nor is there any provision in either statute that could be severed in order to achieve that result. The statutes therefore cannot be construed to authorize imposition of the death penalty for crimes committed by juveniles. Absent such authorization, appellant's death sentence cannot stand.

Furman, 122 Wn. 2d at 458.

This same observation applies when considering the sentence of defacto life without parole on a juvenile under the age 16. The legislature did not consider how the sentence of defacto life-without-parole should apply to juveniles under age 16, tried as adults.

This Court is charged with the final interpretation and application of Washington's Constitution and laws. As in Furman it cannot rewrite RCW 10.95 to permit life without PAROLE for juveniles if the court also considers a lesser sentence and the defendant's age, as Miller requires. It cannot sever a portion of the statute to make it comply with Miller. It cannot construe this statute constitutionally to apply to juveniles.

Thus, even if Miller permits the small possibility of a life-without-parole sentence on a few juveniles there is no substantive law in Washington that this Court can construe to comply with Miller. As in Furman, this sentence of life without parole cannot stand.

III. AN ILLEGAL SENTENCE CAN BE CORRECTED AT ANY TIME.

Exercising its sovereign jurisdiction recognized in Danforth v. Minnesota, 552 U.S. 264, 128 S. Ct. 1029, L.

Ed.2d 859 (2008), this Court regularly has agreed to correct an illegal sentence based on subsequent changes of law.

When a sentence has been imposed for which there is no authority in law, the trial court has the power and duty to correct the erroneous sentence, when the error is discovered.

In re PRP of Carle, 93 Wn.2d 31, 33, 604 P.2d 1293 (1980) (Court's emphasis). Thus, this Court has rejected the state's argument that subsequent case law precludes "retroactive" application to earlier sentences, and indeed held it requires application:

When this Court construes a statute, its original meaning is clarified. Our ruling is thus automatically "retroactive."

In re PRP of Greening, 141 Wn.2d 687, 683 N. 7, 9 P.3d 206 (2000)(Court's emphasis). This Court vacated a sentence because of a later case reinterpreting the SRA. Accord: See In re PRP of Moore, 116 Wn.2d 30, 37, 803 P.2d 300 (1991); State v. Darden, 99 Wn.2d 675, 679, 663 P.2d 1352 (1983); Carle, Supra, (firearm enhancement not applicable to robbery one); State v. Moon, 129 Wn.2d 535, 538, 919 P.2d 69 (1996)

In re PRP of Goodwin, 146 Wn.2d 861, 50 P.3d 618 (2002) (PRP granted because intervening SRA interpretation made offender score invalid); In re PRP of Smith, 117 Wn. App. 846, 73 P.3d 386 (2003) (intervening case law changing required instruction on accomplice liability applied retroactively on collateral review).

Other States that permit challenges to illegal sentences at any time apply new decisions, including Miller, retroactively. SEE State v. Lockheart, 820 N.W. 2d 769 (Iowa App. 2012) (1985 sentence); State v. Bennett, 820 N.W. 2d 769 (Iowa App. 2012) (1998 sentence). This Court should do the same.

VI. IF MILLER IS NOT APPLIED RETROACTIVELY, THIS STATE CONTINUES TO HOLD PEOPLE IN UNCONSTITUTIONAL PUNISHMENT.

Miller held that the Eighth Amendment's prohibition of Cruel and Ususual Punishment "guarantees individuals the right not to be sentenced or subjected to excessive sanctions. Washington's Constitution prohibits a "cruel" punishment regardless whether it is unusual. Const., Art. I § 14. The change of this bedrock principle is seen in our own

State's Jurisprudence. In State v. Massey, 60 Wn. App. 131, 145-46, 803 P.2d 340, review denied, 115 Wn.2d 1021 (1990), cert. denied, 499 U.S. 960 (1991). The Court held:

The test for cruel and unusual punishment "does not embody an element or consideration of the defendants age, only a balance between the crime and the sentence imposed."

Miller clearly overrules this very foundational concept of Massey and Ritchie. Thus it alters a bedrock procedural element essential to the fairness of sentencing a Juvenile tried as a adult.

Failing to apply Miller retroactively means this State will continue imprisoning 100 individuals in "cruel and unusual punishment. Until they die, these young people will remain imprisoned without any court ever having had the ability to consider their youth and its attendant effects to determine the appropriate sentence. SEE Chambers v. State, 831 N.W. 2d 311 (Minn. 3/31/2013) Supra at 77-82 (Anderson, Paul H., J., dissenting)(would held Courts "Supervisory power to insure the fair administration of Justice warrants retroactive application of Miller under State law to avoid leaving petitioner serving cruel and unusual punishment for rest of his life). Given their youth at the time of the offense, most of these sentences are in fact longer than those imposed on adults. Miller, at 2466.

V. THE ERROR HAS WORKED TO PETITIONER'S ACTUAL AND SUBSTANTIAL PREJUDICE.

"(s)ome errors which result in Per Se prejudice on direct review will also be prejudicial on collateral attack.." In re PRP of St. Pierre, 118 Wn.2d 312, 329, 823 P.2d 492 (1992).

As stated earlier Miller recalled Graham (Fn.3), holding LIFE WITHOUT PAROLE FOR Juvenile nonhomicide offenders is unconstitutional under Miller, 132 S. Ct. 2455, 2463 (2012).

Contrary to Respondent's brief at 5, Graham's focus was not on the label of a "life sentence" -but rather on the difference between life in prison with, or without, possibility of parole. The Supreme Court explained that in the past, it had distinguished between a life sentence where a defendant "could hardly ignore the possibility that he will not actually be imprisoned for the rest of this life" and a life sentence that "did not give the defendant the possibility of parole." Graham, 130 S. Ct. at 2027-28 (internal quotation marks and citations omitted).

FOOTNOTE: (Fn.3) Graham involved a de facto life sentence without parole. Graham received a sentence of "life imprisonment." Id. at 2020. Because Florida had eliminated its parole system by statute, this amounted to a de-facto-life sentence without parole. Id.

Recently, in Moore v. Biter, No.11-56846 (9th Cir. 2013), the defendant was sentenced to 254 years and four months for crimes he committed when he was 16 years old. The earliest Moore could be considered for parole is after serving 127 years and two months. Because Moore would have to live to be 144 years old to be eligible for parole, his chance for parole is zero.

In reversing Moore's sentence the Court noted his sentence of 254 years is materially indistinguishable from a "life sentence without parole" because moore will not be eligible for parole within his lifetime. Thus, his sentence results in the same consequences as graham's sentence. While, Graham and Moore both involved nonhomicide crimes. Given graham's reasoning the kinds of homicide that can subject a Juvenile to life without parole must (e)xclude instances where the Juvenile himself neither kills nor intends to kill the victim. 560 U.S. ___, ___(2010)(Slip Op., at 18).

The felony-Murder doctrine traditionally attributes death caused in the course of a felony to all participants who intended to commit felony, regardless of whether they killed or intended to kill. SEE 2 W. LaFave, Substantive Criminal (sec. 14.5)(a)(c)(2ed.2003). This rule has been based on the idea of "transferred intent"; the defendant's intent to commit the felony satisfies the intent to kill required for murder. S. Kadish, S.

Schulhofer, and C. Straker, Criminal Law and Its Processes 439 (8th ed. 2007); 2c. Torcia, Wharton's Criminal Law (sec. 147)(15th ed. 1994).

In deciding Miller, JUSTICE BREYER, with whom JUSTICE SOTOMAYOR joins, concurring said:

"This type of transferred intent is not sufficient to satisfy the intent to murder that could subject a Juvenile to a sentence of life-without parole." This Court has made it clear that this artificially constructed kind of intent does not count as intent for purposes of the Eighth Amendment. We do not rely on transferred intent in determining if an adult may receive the death penalty. Thus, the Constitution.... forbids imposing...capital punishment upon an Aider and Abettor in a robbery, where that individual did not intend to kill and simply was "in the car by the side of the road...waiting to help the robbers escape."

Graham, 560 U.S., at ___ (Slip Op., at 18)(citing Kennedy v. Louisiana, 554 U.S. 407, 434-435 (2008); Emund v. Florida, 485 U.S. 782 (1982); Tison v. Arizona, 481 U.S. at 157-158 (1987). Graham dictates a clear rule: the only Juveniles who may Constitutionally be sentenced to life without parole are those convicted of homicide offenses who, "intend to kill." 560 U.S. at ___ (Slip Op., at 18). In Jackson v. State, 359 ARK. 87, 91, 194 S.W.3d 757, 760 (2004), the Jury found Jackson guilty of first degree murder under a statute that permitted them to convict if, Jackson "attempted to commit or committed an aggravated robbery,

and in the course of that offense, he, or an accomplice, caused
_(the)(clerk's) death under circumstance manifesting extreme in-
difference to the value of human life." See ARK. Code, Ann.
(sec. 5-10-101 (9)(1) (1997)); ante, at 15. Thus, to be found
guilty, Jackson did not need to kill the clerk, nor did he
need to have intent to kill or even "extreme indifference."
Under these circumstances, the Eighth Amendment simply forbids
imposition of a life term without the possibility of parole.

Likewise, the *Jury* found Thomas guilty of first degree felony
murder under a statute that permitted them to convict if, Thomas
"committed or attempted to commit a burglary in the first degree
and rape in the first degree and rape in the second degree, and
in the Course of, in furtherance of or flight from caused (Ms.
Lamere's) death. " See RCW 9A.32.030(1)(c). Thus, to be found
guilty, Thomas did not need to kill Ms. Lamere, nor did he need
to have (intent) to kill. Under, the reasoning in Graham the
Eighth Amendment forbids imposition of a life without possibility
of parole sentence for Thomas.

Miller did not require Jackson to prove prejudice; nor did
the Arkansas Court on remand. See Jackson v. Norris, 2013 ARK.
173, ___ S.W.3d ___ (4/25/13).

Defendant can show prejudice if the Supreme Court's decision in Miller applies retroactively to his case. Williams, 982 N.E.2d at 196. As this Court said:

Imposition of an unlawful sentence is a fundamental defect... and we have little trouble concluding that to allow carrier to remain wrongly subject to a "life sentence would constitute a complete miscarriage of Justice.

In rePRB of Carrier, 173 Wn.2d 791, 818, 272 P.3d 209 (2012).

VI. MR. THOMAS' IS ENTITLED TO RELIEF BECAUSE THERE WAS INSUFFICIENT EVIDENCE OF PREDICATE FIRST AND SECOND RAPE OFFENSES TO SUPPORT CONVICTION OF FIRST DEGREE FELONY MURDER.

Due Process requires that the state prove beyond a reasonable doubt every fact necessary to constitute the crime charged, Mullaney v. Wilbur, 421 U.S. 684, 685, 95 S. Ct. 1881, 1883, 44 L. Ed. 2d 508 (1975); In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 1072, 25 L. Ed. 2d 368 (1970); State v. Roberts, 88 Wash.2d 337,340, 562 P.2d 1259 (1977). In order to determine which facts the Prosecutor must prove beyond a reasonable doubt each essential element of the particular crime must be analyzed, State v. McCullum, 98 Wash. 2d 484, 489, (38 Wn. App. 412 636 P.2d 1064 (1983).

This dispositive issue is whether there was insufficient evidence of First degree and Second degree rape to support the felony murder conviction on that basis.

Evidence is sufficient to support conviction only, if when viewed in the light most favorable to the State, any rational trier of fact could have found the (essential) elements of the crime beyond a reasonable doubt. See State v. Green, 94 Wash. 2d 216, 221-22, 616 P.2d 628 (1980). A felony murder conviction must be supported by sufficient evidence of each element of predicate felony. Green, 94 Wash.2d at 224, 616 P.2d 628.

The JURY was instructed that to convict Mr. Thomas of the first degree murder, it must unanimously find him guilty of murder committed in the course of, in furtherance of or flight from the commission or attempted commission of burglary or rape in first and second degree. The JURY was also instructed on the elements of first and second degree rape based on RCW 9A.44.040 and RCW 9A.44.050.

As noted in Respondent's brief at page 8, the JURY found Thomas guilty of first degree felony murder based upon the completed felonies of Burglary in the first degree, Rape in the first degree and Rape in the second degree. State's Appendix D; RCW 9A.32.030(1)(c).

Rape in the first degree under the circumstances of this case requires proof of sexual intercourse by forcible compulsion where the perpetrator used a deadly weapon or inflicted serious physical INJURY on the victim or feloniously entered the building where the victim was situated. RCW 9A.44.040.

Rape in the second degree requires proof of sexual intercourse by reason of being physically helpless or mentally incapacitated. RCW

9A.44.050.

Respondent's brief at 9 says, "there was abundant evidence of rape or attempted rape." Based upon the following evidence: (1) Victim's state of undress; (2) there was "a cut or a laceration" on her left breast; (3) There were areas around her genitalia and anus where skin had been rubbed off, and there were discolorations in those areas that were consistent with injury; (4) There was a slimy or greasy type of substance found on her genital area; (5) A condom was found near Ms. Lamere's body."

For six reasons, respondent's reliance on these findings is misplaced. First, "the cut or a laceration on Ms. Lamere's left breast occurred after her death." State's Appendix I at 112-13; Second, "while her bra was pushed up, "her long sleeved pullover turtleneck shirt was in appropriate position." Id. at 113 lines 10-20; Third, "the medical examiner found erosions in the genital area, indicating that the top layer of skin was removed, but these markings were (superficial), very indistinct and again he was not able to make any conclusions." Id. at 108 lines 4-10 and RF 11/1/95 at 95-96; Fourth, "there was some kind of greasy type of substances found on her genital area, "but state's medical examiner was not able to make any conclusion of what it was." Id. at 107 lines 21-24; Fifth, a condom was found near Ms. Lamere's body, but..."no (sperm)...or (sperm related) material was found inside or outside of condom." See Motion to Enlarge Record Exhibit B at 21 lines 6-24; Sixth, and most importantly, There was no evidence in the record of sexual intercourse. Based upon the testimony of State's expert forensic medical examiner, Dr. Richard C,

Harruff. See state's Appendix I at 106 (Dr. Harruff states, "I cannot prove rape." "and, uh, I have no way of proving attempted of rape, either.") (Dr. Harruff said, "he avoided the term rape.") See Id. at 107 lines 17-18; 108 lines 16-18.

The facts in Thomas's case are substantially similar to all the key facts in State v. Maupin, 63 Wash. App. 877, 822 P.2d 335 (1992). While there are some differences between the facts in Thomas' case and the facts discussed by the Court in reference to the holding in Maupin. The differences are not with any of the key facts for that holding. In effect, the differences are irrelevant.

Maupin was convicted of first degree felony murder based on predicate offenses of second degree kidnapping, first degree rape and attempted rape. The evidence of the underlying rape offense in Maupin consisted of: (1) "victims state of undress (2) panties missing from the body; (3) a tear in the child's nightgown.

Also, in Maupin, the state expert forensic examiners were unable to produce (any) physical evidence (sperm, or sperm-related material, foreign human hair or fibers, etc.) showing that the defendant committed or attempted to commit rape.

Maupin, 63 Wash. App. at ___.

On appeal, the Court Of Appeals held there was (no) evidence of sexual intercourse. Thus, the Court reversed, finding that at most this evidence only suggested the possibility of some unspecified sex offense. Maupin, 63 Wash. App. at 893-94.

Likewise, both State expert forensic examiners found (no) evidence of sexual intercourse in Thomas's case, or any physical evidence of ("sperm, or sperm-related material, foreign human hair, pubic hair or fibers, etc.") showing that Thomas committed or attempted to commit rape.

A. ALTERNATIVE MEANS PRINCIPLE.

As stated in petitioner's opening brief at 27-30. If, one of the alternative means upon which a charge is based fails, the verdict must be set aside unless the Court can ascertain that it was based on remaining grounds for which sufficient evidence was presented. Green, 94 Wash. 2d at 230, 616 P.2d at 628; State v. Gillespie, 41 Wash. App. 640, 645, 705 P.2d 808 (1985), review denied, 106 Wash.2d 1006 (1986). Here, the trial Court declined to prove the *JURY* with a special verdict form which would have shown which of the underlying felonies the *JURY* relied upon in reaching it's verdict. There is no way for this Court to know whether the *JURY* based its verdict on a unanimous determination Mr. Thomas committed first degree burglary. Green, 94 Wash. 2d at 234, 616 P.2d at 628.

B. THE ERROR HAS WORKED TO PETITIONER'S ACTUAL AND
SUBSTANTIAL PREJUDICE.

The respondent argued in its response at 10, "that Thomas cannot demonstrate he was actually and substantially *prejudiced* from any (d)eficiency in the evidence supporting the predicate felony of rape." The United States Supreme Court has held that it is a fundamental due process violation to convict and incarcerate a person for a crime without proof of all elements of the crime which he is charged. In re Winship, 397 U.S. at 362; Fiere v. White, 531 U.S. 225, 228-29, 212 S. Ct. 712, 148 L. Ed. 629 (2001). The Court held that due process was violated by the failure to prove all of the elements of the crime. Id. at 228-29.

Thomas has established actual and substantial *prejudice* resulting from Constitutional error. See petitioner's opening brief at 30-32. Moreover, in finding Thomas guilty of Count II, first degree felony murder based on burglary in the first degree and rape in the first degree and second degree rape, State's Appendix D. In the special verdict form, the Jury was not asked whether it found there was a sexual motivation under all three means of committing the offense, State's Appendix D-2. The Jury could have found sexual motivation based upon the violation of the RCW 9A.44, but no sexual motivation as to the burglary means of committing the offense. Without a special verdict form

identifying which means of committing the offense involved the sexual motivation, Thomas should also be entitled to relief. See State v. Arndt, 87 Wn.2d 374, 553 P.2d 1328 (1976) (because there is no special verdict form, one cannot ascertain upon which alternative the JURY based its verdict). This Court has recognized that:

Generally, remand is necessary when the trial court places significant weight on an inappropriate factor, or where some factors are inappropriate and the exceptional sentence significantly deviates from the standard range.

State v. Pryor, 115 Wn.2d 445, 456, 799 P.2d 244 (1990); In re PRP of Carrier, 173 Wn.2d 791, 818, 272 P.3d 209 (2012).

Here, it is clear that the trial court relied heavily upon this aggravating factor. See SENRP 30 (the trial court explained that "the acting out of that sexual motivation was so awful in this case that I'm going to follow the prosecutor's recommendation.") Thomas was sentenced to (83.4) years in prison, he was only 15 years old. A sentence a Jury of his peers refused to give him life in prison without possibility of parole.

C. CONCLUSION

Thomas was found not guilty of Aggravated first degree murder. Instead the JURY convicted him of first degree felony murder. The JUDGE sentenced him to 999 months in prison. He will have to live to be 87-99 years old to

be released from prison. Thus, his sentence is the same as life without possibility of parole. Before condemning a Juvenile to a sentence he can complete only upon his death, our criminal Justice system has a compelling interest in ensuring an accurate and reliable sentencing process that gives substance to the Eighth Amendment's concept of proportionate punishment. By applying such a rule to all Juveniles defendants, including those whose conviction and sentence are already final, we surely enhance society's confidence in a system that is not merely efficient or uniform but also fair, accurate and reliable.

This Court should (1), vacate Gregory Thomas's sentence and remand for resentencing. (2), vacate Gregory Thomas's conviction for count II and remand for new trial.

DATED this 29th day of August, 2013



Gregory O. Thomas, Pro Se

DECLARATION OF SERVICE BY MAIL

GR 3.1

I, Gregory Thomas, declare and say:

That on the 28th day of August, 2013, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. 88921-0:

A original Reply Brief to Deputy Supreme Court Clerk;
ONE COPY OF Reply Brief to Deborah A. Dwyer, Respondent;

addressed to the following:

Susan L. Carlson
Supreme Court Deputy Clerk
Washington State Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA, 98504-0929

Deborah A. Dwyer
Senior Deputy Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, WA, 98104

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

DATED THIS 28th day of August, 2013, in the City of
Aberdeen, County of Grays Harbor, State of Washington.

Gregory Thomas
Signature

Gregory Thomas
Print Name

DOC 743752 UNIT GA-302
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
ABERDEEN WA 98520

13 AUG 30 AM 8:26
BY RONALD R. CARPENTER
CLERK
RECEIVED
SUPREME COURT
STATE OF WASHINGTON