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THE SUPREME COURT  
STATE OF WASHINGTON

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STATE OF WASHINGTON, RESPONDENT

v.

CHARLES VERDEL FARNSWORTH, JR., APPELLANT

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Appeal from the Superior Court of Pierce County  
The Honorable Garold Johnson

No. 09-1-04643-5

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SUPPLEMENTAL BRIEF OF PETITIONER

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ORIGINAL

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A. ISSUES PERTAINING TO PETITIONS FOR REVIEW.

1. Where the defendant helped his accomplice put on a bizarre disguise, and where he armed his accomplice with a demand note, and where he knew from prior experience that their actions would force the bank to capitulate to an implied threat of force, violence or fear, was sufficient evidence introduced from which any rational trier of fact could have found the force or fear element of first degree robbery beyond a reasonable doubt?

2. Where the defendant had extensive discussions and personally participated in planning and carrying out the note robbery of the bank by helping his accomplice to put on the bizarre disguise and positioning the getaway vehicle for a quick escape, was sufficient evidence introduced from which any rational trier of fact could have found the knowledge of the crime element of accomplice liability beyond a reasonable doubt?

B. STATEMENT OF THE CASE.

The defendant was charged with first degree robbery from an incident that took place on October 19, 2009, at a South Tacoma branch of Harborstone Bank. CP 823. The case proceeded to trial on September 20, 2011. The State called 20 witnesses and offered 90 exhibits. CP 824-29. The witnesses consisted of the victim teller, Sarah Van Zuyt [9 RP 474-78], a number of other Harborstone personnel, police officers and

detectives and co-defendant James McFarland. 13 RP 1190. McFarland was the one who entered the bank; the defendant was the get-away driver.

Van Zuyt testified in detail about McFarland having come into the bank in disguise and the effect that his appearance and actions had on her. She testified that he was acting fidgety [9 RP 477-78], that he followed her to her teller station and leaned into her personal space [9 RP 480], that he pushed across a demand note for money [9 RP 481], and that as soon as she saw that it was a demand, “that just looking at it I knew I was getting robbed.” 9 RP 482. Another teller noticed that McFarland did not just follow Van Zuyt to her station, he began the confrontation by pushing open the doors of the teller counter. 11 RP 873.

McFarland testified directly that he and the defendant had committed the robbery. In response to the prosecution’s fifth question on direct he testified;

Q. And what is it that led you -- what was the reason for your arrest?

A. We robbed the bank.  
13 RP 1190.

McFarland’s testimony continued through three volumes of the verbatim reports. He gave details of how the robbery was planned and carried out. He testified that he and the defendant (1) started the day trying to steal (“boost”) in order to get money to feed their drug habit [13 RP 1205], (2) tried to steal a car to substitute for their distinctive truck as

the get-away vehicle [13 RP 1219-21], (3) tried using a bicycle as the get-away vehicle [13 RP 1225], (4) put together a disguise, including a wig, dark glasses and a form of face paint intended to look like a “ninja” or something [14 RP 1250, 15 RP 1438-39], (5) wrote a note that “we both had – know exactly what you’re supposed to say when you go in and do this thing. We had experience.” [14 RP 1253], and (6) planned to take advantage of the bank’s fear of violence “because whenever -- whenever you're robbing a bank, bank tellers are supposed to do exactly what you told them. Because they want to get somebody out of there. They figure the danger or potential danger to the place. And if there was shooting or something started, bullets ricocheting around with people in there, you know.” [14 RP 1254]

At the conclusion of the trial, the court instructed the jury on the elements of first degree robbery, accomplice liability, and the lesser included offense of first degree theft. CP 639-660. No challenge has been made to the instructions in this appeal. The defendant was found guilty of first degree robbery. CP 661. No verdict was returned on the theft charge. On February 4, 2012, the defendant was sentenced to life in prison without possibility of parole as a persistent offender. CP 683-694.

In the published portion of its opinion, the court below vacated the defendant’s first degree robbery conviction for insufficient evidence and remanded for sentencing on the first degree theft charge. Slip Opinion,

p.1. In the unpublished portion of the opinion, the court rejected the defendant's trial and sentencing assignments of error.

The foregoing is a summary of the more important facts and procedure related to the petition for review. A more complete description of the facts is included in the State's petition for review, and in its motion to reconsider and response brief below. The alleged trial and sentencing error issues raised by the defendant in his answer and cross petition are likewise addressed in the State's response brief below.

C. ARGUMENT.

1. SUFFICIENT EVIDENCE WAS INTRODUCED AT TRIAL ON THE FORCE ELEMENT OF ROBBERY BUT THE COURT OF APPEALS FAILED TO DRAW ALL REASONABLE INFERENCES IN FAVOR OF THE STATE AND OVERLOOKED SUBSTANTIAL EVIDENCE OF FORCE, VIOLENCE OR FEAR.

The well-established sufficiency of the evidence standard strikes an appropriate balance between the jury's right to determine the facts and appellate review of the defendant's constitutional rights. In a sufficiency case, the inquiry on review "must be not simply to determine whether the jury was properly instructed, but to determine whether the record evidence could reasonably support a finding of guilt beyond a reasonable doubt."

*Jackson v. Virginia*, 443 U.S. 307, 318-19, 99 S. Ct. 2781, 2788-89, 61 L. Ed. 2d 560 (1979). *State v. Green*, 94 Wn.2d 216, 219, 616 P.2d 628, 631 (1980). "This inquiry does not require the reviewing court to determine

whether it believes the evidence at trial established guilt beyond a reasonable doubt. ‘Instead the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ “*State v. Green*, 94 Wn.2d 216, 220-22, 616 P.2d 628, 631 (1980), quoting *Jackson v. Virginia*, 443 U.S. at 318.

In this case, the court below cited but did not follow one of the most important safeguards of appropriate appellate review in a sufficiency case, namely that “[a]ll reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant.” *State v. Hosier*, 157 Wn.2d 1, 8, 133 P.3d 936 (2006)(sufficient evidence of communication for immoral purposes). The court below cited this principle but did not apply it.

A prime example is the Court’s response to the fact that multiple witnesses, including the two defendants, referred to the crime as a bank robbery. Without citing to any evidence in the record, the court below dispensed with all such evidence by calling it a “colloquialism” that did not necessarily mean that the defendants or witnesses thought they committed a robbery. Slip Opinion, p. 5, Note 5.

Had the Court of Appeals applied the all reasonable inferences standard correctly, it would have acknowledged that the two defendants

referred to their plans at the bank as a “bank robbery” and meant what they said. McFarland’s testimony from start to finish referred to what he and the defendant did at the bank as a robbery. *See* 14 RP 1253-55. The defendant’s own statement to the police likewise admitted that the crime had been a robbery, although he thought it was a second degree rather than a first degree robbery. 15 RP 1483-84. As was pointed out in the State’s petition the evidence actually showed that the defendants’ distinguished between theft and robbery and used different terms to refer to each type of crime. This alone should have led to an inference in the State’s favor that they considered what they did at the bank to be a robbery.

Even if the Court of Appeals was correct and the term bank robbery can be used to refer to bank theft, it surely must also be acknowledged that the term robbery can refer to robbery. Where the court below was required to draw “[a]ll reasonable inferences from the evidence . . . in favor of the State and interpreted most strongly against the defendant” it cannot be said that the sufficiency standard was properly applied. *State v. Hosier*, 157 Wn.2d at 8, citing *State v. Myles*, 127 Wn.2d 807, 816, 903 P.2d 979 (1995), *State v. Joy*, 121 Wn.2d 333, 338, 851 P.2d 654 (1993), and *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

A number of other safeguards ensure deference to the jury's fact finding function in a sufficiency challenge. First, the defendant "admits the truth of the State's evidence" and all reasonable inferences that can be drawn from it. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). Second, "In determining the sufficiency of the evidence, circumstantial evidence is not to be considered any less reliable than direct evidence." *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). Finally, the court defers "to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence." *State v. Thomas*, 150 Wn.2d 821, 874–75, 83 P.3d 970, *abrogated in part on other grounds by Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004).

In a variety of cases, this Court has drawn reasonable inferences in favor of the State even where a benign inference might also be drawn. *State v. Homan*, 181 Wn.2d 102, 330 P.3d 182 (2012). *Homan* was a sufficiency challenge in a luring case. The evidence showed that the defendant was on a bicycle when he approached a nine year old boy who was walking to a store on an errand from his mother. The defendant asked, "Do you want some candy? I've got some at my house." *Id.* at 104-05. The boy did not stop and neither did the defendant. The Court of Appeals in *Homan*, interpreted the defendant's statement as nothing more

sinister than an offer of candy and a statement of where the candy was located. *Id.* at 107. This may have been literally true. But this court held that the statement conveyed much more than its literal meaning and “considering Homan's statements in context, a rational trier of fact could find beyond a reasonable doubt that Homan invited C.C.N. to his house to receive the offered candy.” *Id.* at 107.

In this case the words used by the defendants in context carried every bit as much meaning as did the words used in *Homan*. So too did the words used by the other witnesses. Most, if not all of the witnesses who testified referred to what happened in the bank as a robbery. The victim teller testified:

Q. What was of significance in that note?

A. Just the fact that it was a demand, I guess. The significance that just looking at it I knew I was getting robbed.

9 RP 482.

In case there was any misunderstanding, she also described the effect of the note insofar as force or fear were concerned:

A. No. I didn't -- I couldn't say anything. There was, like a million things going through my mind that I wanted to say to him, and I couldn't even get a word out.

Q. And why was that?

A. I was just scared, and I was in shock.

9 RP 484.

There can be no question that the defendant's and McFarland's actions were what caused the teller to be scared and to go into shock. If that were not enough, another example of the witnesses calling this a robbery, is from the testimony of the police officers. The officer who collected surveillance video footage testified that he responded to an armed bank robbery [10 RP 724] and that, "I contacted both of them in the security office. And I advised them that we had a bank robbery at the Harborstone Credit Union and told them -- I gave them a brief description of the vehicle that we'd been looking for. I told them that we were trying to find a white flatbed truck with wooded paneling, and they immediately told me they recognized what I was talking about." 9 RP 727. This testimony indirectly showed that the reportees at the bank, the police dispatcher and the officers at the scene all believed that a robbery had occurred. There was no reference to a theft or a forgery or any other form of non-violence crime.

*Homan* involved reasonable inferences of the defendant's motive from the circumstances of the crime. Similar reasonable inferences can be drawn concerning a defendant's culpable mental state. In *State v. Condon*, 182 Wn.2d 307, 343 P.3d 357 (2015), this Court reviewed a first degree murder arising out of a home invasion robbery. The defendant's argument was that the circumstances showed he entered the home

intending to use a threat of force but not actual force to injure or kill. This was a challenge to premeditation. This Court responded, “Given that Condon entered the house with a loaded handgun, intending to rob a drug dealer, a rational jury could have found premeditation under our analysis in *Miller* and *Luvene*.” *Id.* at 315,

The *Miller* case, cited in *Condon*, likewise involved a sufficiency challenge concerning premeditation. *State v. Miller*, 164 Wash. 441, 2 P.2d 738(1931). *Miller* arose from an armed robbery of a railroad office. In response to an argument that was similar to the argument in *Condon*, this Court held that the defendant “may have very hastily concluded that it was advisable to dispose of [a second witness in the office] so he would have but one man to contend with.” *Id.* at 447.

The same reasoning was applied to a liquor store robbery in *State v. Luvene*, 127 Wn.2d 690, 903 P.2d 960(1995). In *Luvene* the defendant entered the store, placed an order, waited for customers to leave, and then shot the two owners before “he proceeded to rob the store”. *Id.* at 712-13. In *Luvene*, as in *Condon* and *Miller*, it was possible to view the evidence as supporting a robbery but not a premeditated killing. But it was also possible to view the evidence as supporting the prosecution’s theory. For this reason, there was sufficient evidence from which the “jury could reasonably infer from this evidence that the assailant intended to kill the

store clerks before committing the robbery.” *Id.* at 712-13, quoting *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979).

Sufficiency cases stemming from weapons possession offer further support for reversing the Court of Appeals in this case. In *State v. Thomas*, 150 Wn.2d 821, 83 P.3d 970(2004), this court upheld a conviction of a firearm possession charge where the evidence of possession was the murder in which the gun had been used. This court held that there was sufficient evidence from the defendant’s use of the gun and having been seen in possession of it prior to the murder to uphold the possessory crime. *Id.* at 875.

The Court of Appeals applied the sufficiency standard correctly in a rape case that turned on whether the defendant was armed with a gun. *State v. Lubers*, 81 Wn. App. 614, 620, 915 P.2d 1157(1996). In *Lubers*, the defendant claimed (and the victim’s testimony concurred) that he had disarmed himself before the rape. The court rejected the sufficiency challenge because the victim “had submitted to the rape because she remembered the gun and was afraid of being shot.” *Id.* at 620. Under a correct application of the sufficiency standard, the court sustained the jury’s finding that the gun had been used during the course of the rape.

In this case, the Court of Appeals did not apply the same reasoning that it had applied in *Lubers*. The facts in this case proved that the defendants used force, violence or fear to their advantage. Banks deal in cash and naturally design their operations to thwart theft. Apart from automatic teller machines, a bank completes cash transactions face to face and person to person. Those who wish to steal cash from a bank must interact with a human being and use either trickery (forgery, misdirection or sleight of hand) or a threat. If a threat is used, it must be sufficient to cause the bank to hand over cash against its will. The threat may be either express or implied, but it must communicate that harm of some kind will befall someone if the demand for cash is not complied with. For obvious reasons, when confronted with a threat a bank takes no chances with the safety of its personnel and customers.

In this case, there was no trickery, misdirection or sleight of hand. McFarland did not present a withdrawal slip, forged check, ATM card or any other instrument for obtaining the cash peacefully. He did not attempt to distract the teller and reach into her cash drawer while she wasn't looking. Instead he presented an unequivocal, immediate demand for cash that was written by the defendant. 14 RP 1250-54. Through references to security measures, the note expressly communicated the seriousness of the demand. The seriousness was underscored by McFarland's bizarre getup

that included a disguise in the form of face paint applied by the defendant with a marking pen, a wig and dark glasses. 14 RP 1308. McFarland and the defendant used their experience and knowledge of the bank's take-no-chances-policy toward robbery. This was a show of force, not an attempt to trick the bank out of its money.

In a note robbery, particularly a note robbery involving a disguise, fear of the unknown works in the robber's favor. Fear is sufficient for robbery. RCW 9A.44.190. The robbery in this case can be compared to any robbery involving a goofy getup. A Donald Duck mask is non-threatening at Disneyland. That doesn't make it non-threatening under all circumstances. In a bank, a mask has a very different effect. There may be circumstances in which McFarland's disheveled appearance, wig, dark glasses and "ninja" face markings would be non-threatening. But when he entered the bank wearing the disguise, it created the desired effect; fear of violence or injury. A Donald Duck mask would have had the same effect. The defendant and McFarland worked together to create a situation in which they could profit from the bank's fear of the unknown.

A jury's application of the facts to the elements of the crime or crimes should be invalidated "only where no rational trier of fact could find that all elements of the crime were proved beyond a reasonable doubt." *State v. Smith*, 155 Wn.2d 496, 501, 120 P.3d 559 (2005). It

does not help the defendant's cause to say that he may have intended only theft. As long as there was a reasonable inference that the defendant and McFarland were using force or fear or fear of the unknown, the jury's determination should have been upheld.

In this case, there has been no complaint from the defendant that the jury was improperly instructed or that it engaged in misconduct. The first sentence of the first paragraph of the first jury instruction conveyed to the jury their role as the finders of fact under the Washington Constitution. CP 640, Instruction No. 1. Washington Constitution, Article 1§21. *State v. Furth*, 5 Wn.2d. 1, 104 P.2d 925, 933-34(1940). In this case, as in all criminal cases, "the jury is consigned under the constitution 'the ultimate power to weigh the evidence and determine the facts.'" *State v. Montgomery*, 163 Wn.2d 577, 590, 183 P.3d 267(2008). There has been no showing that the twelve jurors who deliberated in this case failed in any way to carry out that duty. The court below did not correctly apply the sufficiency standard, and thus its reversal of the defendant's robbery conviction should itself be reversed.

2. SUFFICIENT EVIDENCE WAS INTRODUCED AT TRIAL TO PROVE THE KNOWLEDGE ELEMENT OF ACCOMPLICE LIABILITY WHERE THE DEFENDANT PERSONALLY PARTICIPATED IN THE PREPARATION OF THE DISGUISE, WROTE THE NOTE AND STOOD BY WITH THE GETAWAY VEHICLE WHILE HIS ACCOMPLICE ENTERED THE BANK.

The court below viewed the defendant's status as an accomplice as an additional reason to reverse the jury's verdict. Under Washington's complicity statute one may be "legally accountable for the conduct of another person" when one "is an accomplice of such other person in the commission of the crime." RCW 9A.08.020(2)(c). Furthermore, the mental state of an accomplice requires that the accomplice act "with knowledge that [enumerated actions] will promote or facilitate the commission of the crime. . . ." RCW 9A.08.020(3)(a). Thus an accomplice is exposed to "criminal liability . . . only so long as that individual has general knowledge of 'the crime' for which he or she was eventually charged." *State v. Cronin*, 142 Wn.2d 568, 578-79, 14 P.3d 752 (2000), quoting *State v. Roberts*, 142 Wn.2d 471, 14 P.3d 713, 736 (2000).

The knowledge requirement in an accomplice case does not mean that an accomplice must have knowledge of every element of the crime for

which he is charged. *State v. Davis*, 101 Wn.2d 654, 682 P.2d 883 (1984). *Davis* was a first degree armed robbery of a pharmacy. The defendant in *Davis* served as a lookout. He challenged his first degree robbery conviction claiming that he did not know his companion was armed with a gun. He claimed that he fled in fear when his companion unexpectedly produced the gun and demanded money. This court framed the issue in an accomplice armed robbery case as “whether the accomplice liability statute predicates criminal liability on general knowledge of a crime or specific knowledge of the elements of the participant’s crime, i.e., possession of a gun.” *Id.* at 657.

The question thus posed was answered. “[A]n accomplice, having agreed to participate in a criminal act, runs the risk of having the primary actor exceed the scope of the preplanned illegality.” *Id.* at 659. In spite of the *Davis*’ claimed lack of knowledge, his first degree robbery conviction was affirmed because he was complicit in the crime of robbery and need not have known that his companion was armed and intended to use the gun in the robbery. *Id.* at 658-59. See also *In re Pers. Restraint of Domingo*, 155 Wn.2d 356, 364, 119 P.3d 816 (2005)(“*Davis* was validly convicted as an accomplice to first degree robbery even if he did not know the principal was armed because the State proved he had general

knowledge that he was aiding in the crime of robbery”.) *State v. Silva-Baltazar*, 125 Wn.2d 472, 482, 886 P.2d 138 (1994).

This case is very much like *Davis*. The facts indisputably show that the defendant knew and intended that McFarland would enter the bank and demand money face to face and person to person from a teller. He thus knew that there would be a use of force, fear and coercion inside the bank. He knew this to be robbery even if he did not know exactly how McFarland would accomplish it.

The facts do not support an inference of a peaceable taking of property as would be required for a theft. For example, if this had been a theft, there would have been no reason for the bizarre and obvious disguise. McFarland would have presumably taken the money by peaceful means and made good his escape before the bank knew the money was missing. He would have had no reason to call attention to himself by dressing up in so strange a fashion. There would have been a reliance on subterfuge to get away with the money. But there is no evidence of subterfuge. This robbery was accomplished by a show of force and it was the defendant's role to stand by as the get-away driver. 13 RP 1239-41. 14 RP 1299-1300. McFarland was taking the money with the full knowledge of the bank but in such a way that the bank could not stop him. He needed a driver to wait outside to make good his escape.

The defendant's own actions make him an accomplice to this robbery. This robbery was accomplished face to face by a show of force. As was discussed earlier, there was no evidence that the two men planned to trick the bank out of its money. The defendant wrote out a demand note, not a withdrawal slip. The defendants opted for coercion because experience told them it would be effective. 14 RP 1253. McFarland summed it up quite nicely:

A. Well, because whenever -- whenever you're robbing a bank, bank tellers are supposed to do exactly what you told them. Because they want to get somebody out of there. They figure the danger or potential danger to the place. And if there was shooting or something started, bullets ricocheting around with people in there, you know.

So they -- they're told to do exactly what they're told. If you don't tell them to do something, then they don't have to do it. They can put die packs in or they can put tracing devices. So you tell them -- you say these things to make sure that they understand and you understand each other back and forth. And that they know that you know -- they didn't know that you know the rules that they're to follow. And they do follow the rules right to the tee.

14 RP 1254

Together the two defendants made up McFarland to have a bizarre, ninja-like, threatening appearance. 15 RP 1437-38. The defendant armed McFarland with an unequivocal demand for money, the seriousness of which was underscored by references to security features. 14 RP 1253-57. They discussed over an extended period that they were going to commit a

bank robbery. 13 RP 1207, 1220, 1229, 1237. It is a reasonable inference that Farnsworth knew that McFarland would supplement the show of force represented by the disguise with whatever other action might be needed to overcome the bank's resistance. There was no requirement that Farnsworth share McFarland's exact mental state. He could be convicted upon deciding to commit a crime involving coercive, threatening conduct intended to cause the bank to take no chances and part with its money.

This case is similar to assault cases involving accomplices. Accomplice assault cases, like accomplice robbery cases, at times involve conduct exceeding the scope of pre-planned illegality. In an assault case, "an accused who is charged with assault in the first or second degree as an accomplice must have known generally that he was facilitating an assault, even if only a simple, misdemeanor level assault, and need not have known that the principal was going to use deadly force or that the principal was armed." *In re Pers. Restraint of Sarausad*, 109 Wn. App. 824, 836, 39 P.3d 308 (2001), *State v. McChristian*, 158 Wn. App. 392, 400-01, 241 P.3d 468 (2010). See also *Washington v. Sarausad*, 555 U.S. 179, 190-91, 129 S. Ct. 823, 172 L. Ed. 2d 532(2009). "Where criminal liability is predicated on accomplice liability, the State must prove only that the accomplice had general knowledge of his coparticipant's substantive crime, not that the accomplice had specific knowledge of the

elements of the coparticipant's crime." *State v. Truong*, 168 Wn. App. 529, 540, 277 P.3d 74, 79 (2012), citing *State v. Rice*, 102 Wn.2d 120, 125, 683 P.2d 199 (1984). "While an accomplice may be convicted of a higher degree of the general crime he sought to facilitate, he may not be convicted of a separate crime absent specific knowledge of that general crime." *State v. Trout*, 125 Wn. App. 403, 410, 105 P.3d 69 (2005), quoting *State v. King*, 113 Wn. App. 243, 288, 54 P.3d 1218 (2002).

The court below viewed the evidence as supporting the defendant's guilt as an accomplice to theft but not robbery. Slip Opinion, p.8. There was certainly sufficient evidence of theft. After all the taking or retaining of property is an element of robbery. RCW 9A.56.190. "[T]he primary difference between the crimes of first degree theft and robbery is the use or threatened use of force. . . ." *State v. Shcherenkov*, 146 Wn. App. 619, 630, 191 P.3d 99, 104 (2008). However there was also sufficient evidence of force or fear to support robbery. Nowhere is this born out more than in the jury's verdicts. The trial court's instructions presented the elements of first degree robbery and first degree theft to the jury. CP 639-660. The jury returned a guilty verdict for robbery but did not complete the verdict form for theft. While the concluding instruction directed the jury to deliberate on the charged offense first, the jury had before it instructions for both offenses. The jury in this case, a jury that

was properly instructed, that committed no misconduct, that viewed all of the evidence, and that had the elements of both crimes, found that the facts supported robbery not just theft.

It is indisputable under the evidence in this case that the two robbers planned and carried out a crime involving the taking of money in a face to face confrontation with a bank teller. Since there was no evidence of trickery, subterfuge or misdirection, the only other rational view of the evidence was that they stole the money by the use of force, violence or fear. Although the defendant did not arm McFarland with a gun or other deadly weapon, he took steps to make sure the demand for money would be complied with, and that McFarland would not be stopped from stealing the money. The court below should have affirmed the robbery conviction and this Court should reverse its decision not to.

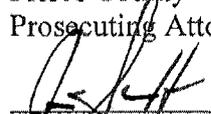
D. CONCLUSION.

The court below incorrectly applied the sufficiency of the evidence standard to both the force element of first degree robbery and the

knowledge element of accomplice liability. This Court should reverse the Court of Appeals determination that there was insufficient evidence of first degree robbery.

DATED: Friday, July 24, 2015

MARK LINDQUIST  
Pierce County  
Prosecuting Attorney

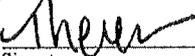


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JAMES SCHACHT  
Deputy Prosecuting Attorney  
WSB # 17298

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

7.24.15   
Date Signature

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**From:** Heather Johnson [mailto:hjohns2@co.pierce.wa.us]  
**Sent:** Friday, July 31, 2015 10:05 AM  
**To:** OFFICE RECEPTIONIST, CLERK; PCpatcecf  
**Subject:** RE: 91297-1 State v. Farnsworth

I have attached a copy of our Supplemental Brief. Sorry for the inconvenience. We were experiencing computer problems on the day that this was sent out. My co-worker Therese Nicholson-Kahn contacted the court and spoke with Wendy who said that you had received a copy. Again, my apologies for the inconvenience.

Heather Johnson

**From:** OFFICE RECEPTIONIST, CLERK [mailto:SUPREME@COURTS.WA.GOV]  
**Sent:** Thursday, July 30, 2015 5:00 PM  
**To:** PCpatcecf  
**Subject:** 91297-1 State v. Farnsworth  
**Importance:** High

Hi.

The Court never received the supplemental brief filed on June 24. I've e-mailed Mr. Schacht about getting a copy but I'm not receiving any kind of response from him. (might be on vacation?). Could you please e-mail the supplemental brief to the Court? Thanks so much!!

Supreme Court Clerk's Office

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