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COURT OF APPEALS
THE STATE OF WASHINGTON
DIVISION I

SOLOMON MCLEMORE,

Petitioner,

v.

CITY OF SHORELINE

Respondent.

RESPONDENT'S MOTION FOR DENIAL OF
DISCRETIONARY REVIEW

1 **I. STATEMENT OF THE CASE**

2 **A. Statement of Facts**

3 On March 1, 2016, at approximately 2 AM, Deputy Boyer, Deputy
4 Dallon, and Deputy Emmons all responded to a disturbance at 17721 15th
5 Ave NE, in Shoreline, Washington. (RP 32-33, 56-57, 94). When they
6 arrived on scene, the reporting party approached them and advised them
7 that he had heard a loud verbal argument coming from just south of the
8 Deputies' location. *Id.* He further advised that he had called 911 to report
9 a bunch of screaming and directed the Deputies to the area it was coming
10 from. (RP 33)

13 Deputy Boyer located the source of the shouting at the second story
14 balcony on the west side of the building. (RP 35, 36, 96). The Deputy
15 could hear a woman screaming and sounding as if she was under duress.
16 (RP 33) He heard her yelling things such as, "you can't leave me out
17 here," "I'm going to call the police," and "let me go." *Id.* Deputy Boyer
18 also heard her say something along the lines of "I'm reconsidering our
19 relationship." (RP 33, 59, 96). Deputy Emmons also heard her yelling and
20 say that "she wanted to leave." (RP 96) While the Deputies could hear the
21 screams, they could not visually see up onto the second floor balcony
22 where they were coming from. (RP 36)

1 The Deputies immediately began knocking on the door, ringing the
2 doorbell, and announcing their presence. (RP 38, 39, 60, 63, 97). The
3 argument quickly ceased and no one responded. *Id.* Deputies became
4 concerned that the female may be hurt. (RP 38) After eight minutes of
5 repeated knocking on the door, ringing the doorbell, and announcing,
6 Deputy Emmons aimed the patrol vehicle's spotlight at the balcony in an
7 attempt to make contact. (RP 98-100). Deputy Emmons announced his
8 presence as Shoreline Police for approximately eight minutes using the
9 vehicle's public address system. *Id.* Deputy Emmons advised through the
10 PA system that they needed to speak with the occupants to make sure
11 everything was okay. *Id.* There was still no response. *Id.* The Deputies
12 attempted to run the license plate of a vehicle parked outside the
13 residence, but dispatch was unable to locate a phone number. (RP 100).

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17 Shortly thereafter, the Deputies heard the distinct sound of glass
18 breaking from the area of the balcony. (RP 41, 42, 101). About forty
19 seconds later, the Deputies heard glass shatter again. *Id.* Concerned for the
20 safety and wellbeing of the female and any other occupants of the
21 residence, the Deputies called the Shoreline Fire Department to request
22 tools to breach the door. (RP 44, 49, 107, 116).

23
24 As the Deputies began their efforts to make entry, Mr. McLemore
25 finally established contact and began speaking to the Deputies through the

1 door; however, he still refused to open the door and allow officers to
2 visually confirm the female's safety. (RP 66-68, 105, 149). Deputy
3 Emmons then heard the Appellant instruct the female to tell the police that
4 she was okay. (RP 106-107). The female followed the Appellant's
5 command and stated that she was okay, but the Appellant would not allow
6 visual confirmation. *Id.* She also informed them that she had a baby in
7 her arms. *Id.* Despite their pleas and efforts to determine the actual safety
8 of the female, the Appellant continued to be uncooperative and walked
9 away from the door. *Id.*

12 After entry was made, the Appellant was immediately arrested for
13 obstructing law enforcement. *Id.* Deputy Boyer then spoke with the female
14 occupant, Lisa Janson, to confirm her safety and wellbeing. (RP 44, 49,
15 107-108, 116). Ms. Janson informed the Deputy that the Appellant broke
16 the glass out of anger. *Id.* Officer Boyer noted that the suspect appeared
17 angry, irrational, upset, crying, hysterical, and under the influence of
18 alcohol. (RP 108-109).

20 During the investigation, it was discovered that the Appellant had
21 video recorded the incident and his interaction with police. (RP 172, 181-
22 182). During the trial, the jury heard audio recordings from this video. (RP
23 171, 174). On the recording, the Appellant admitted to hearing the police
24 asking him to open the door so that they could verify that the occupants
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1 were all OK. (RP 164-165). However, Mr. McLemore continued to deny
2 the officer's clear and audible requests to open the door. (RP 179).

3 **B. Procedural History**

4 On March 1, 2016, the City of Shoreline charged the Appellant,
5 Solomon McLemore, with one count of Obstructing a Law Enforcement
6 Officer. (See Appendix A, Docket). At his arraignment, on March 14,
7 2016, the Appellant entered a plea of not guilty. (See Docket.) Defense
8 filed a motion to dismiss on July 28, 2016. (See Docket.) City filed its
9 response on May 31, 2016. (See Docket). The Court heard oral arguments
10 without testimony on August 11, 2016. (RP 2-10.) The Court denied the
11 motion and based its decision on *State v. Steen*, 164 Wn.App. 789 (2011).
12 (See Appendix B – Court's ruling).

13 On September 27, 2016, the matter proceeded to trial. (See Docket.)
14 During motions in limine, the City moved the court to exclude any
15 reference by Mr. McLemore of the absence of a search warrant by the
16 arresting officers. (See Docket.) Upon hearing the arguments of both
17 parties, the Court granted the motion. *Id.* Additionally, the City moved the
18 Defense to disclose any affirmative defenses. *Id.* The Defense informed
19 the court that their defense was general denial. *Id.* On September 29,
20 2016, at the conclusion of the trial, the jury returned a verdict of guilty. *Id.*
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1 McLemore timely filed his RALJ appeal with the Superior Court and
2 arguments were held before Judge Rosen. Judge Rosen upheld the rulings
3 of the Trial Court and affirmed McLemore's conviction. (See Appendix C
4 – Decision on RALJ Appeal. Mr. McLemore now seeks discretionary
5 review from this court.
6

7 **II. ARGUMENT**

8 **A. THE COURT OF APPEALS SHOULD DENY THE** 9 **APPELLANT'S MOTION FOR DISCRETIONARY** 10 **REVIEW AS IT DOES NOT MEET THE** 11 **REQUIREMENTS OF RAP 2.3.**

12 RAP 2.3(b) sets forth the circumstances in which a Superior Court
13 decisions may be accepted for discretionary review. Specifically, the
14 Appellant must show that the Superior court committed an obvious error,
15 probable error, departed so far from the accepted and usual course of
16 judicial proceedings, or a question of law in which there is a substantial
17 ground for difference of opinion and immediate review may materially
18 advance the ultimate termination of litigation.

19 When reviewing a superior court decision on review of decisions
20 by Courts of Limited Jurisdiction, the requirements that must be
21 established before discretionary review may be granted are more specific.
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- 23 (1) The decision of the superior court is in conflict with a
24 decision of the Court of Appeals or the Supreme Court;
25 (2) There is a significant question of law under the

- 1 Constitution of the State of Washington or of the
2 United States;
3 (3) The decision involves an issue of public interest which
4 should be determined by an appellate court; or
5 (4) If the superior court has so far departed from the
6 accepted and usual course of judicial proceedings, or so
7 far sanctioned such a departure by the court of limited
8 jurisdiction, as to call for review by the appellate court.

9 The Superior Court in this matter has held that there was
10 sufficient evidence to both overcome the *Knapstad* challenge as well as to
11 support a finding of guilt beyond a reasonable doubt that McLemore
12 committed the crime of Obstructing. While the Appellant may disagree
13 with the Superior Court's holdings, he fails to establish that these holdings
14 were in direct conflict with the current state of the law in Washington, the
15 State or Federal Constitutions, or that this is an unsettled matter of public
16 interest. And finally, there has been no such showing that the Superior
17 Court's ruling was a far departure from the accepted and usual course of
18 judicial proceedings.

19 The Appellant further challenges the Superior Court's holding
20 that the Trial Court did not abuse its discretion regarding the admissibility
21 of challenged evidence at trial. However, he fails to meet his burden of
22 showing that this ruling is in conflict of law, both State and Constitutional.
23 The Superior Court could not find that the Trial Court's decisions were
24 based upon untenable grounds or for untenable reasons. Thus, the Trial
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1 Court did not abuse its discretion. Because the Appellant has not
2 established any of the criteria in RAP 2.3, the issue may not be granted
3 discretionary review.

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5 **B. THE SUPERIOR COURT FINDING THAT THE**
6 **TRIAL COURT DID NOT ERR IN DENYING THE**
7 **MOTION TO DISMISS PURSUANT TO STATE V.**
8 **KNAPSTAD IS IN LINE WITH THE CURRENT**
9 **STATE OF LAW IN WASHINGTON, AS WELL AS**
10 **BOTH FEDERAL AND STATE CONSITUTIONS.**

11 When reviewing a trial court's ruling on a motion to dismiss
12 pursuant to *State v. Knapstad*, 107 Wn.2d 346, 349, 729 P.2d 48 (1986),
13 the standard of review is de novo. *State v. Newcomb*, 160 Wn.App. 184,
14 246 P.3d 1286 (Div. 2 2011); *State v. Knapstad*, 107 Wn.2d at 357. In
15 *Knapstad*, the Supreme Court held that a trial court has inherent power to
16 dismiss a criminal prosecution for insufficiency of the charge. *Id.* In
17 recognition of that power, the *Knapstad* court held that a trial court may
18 entertain a pretrial motion to dismiss if there are no material disputed facts
19 and the undisputed facts do not establish a prima facie case of guilt. *Id.*
20 Furthermore, when making these determinations the trial court must draw
21 all reasonable inferences from the undisputed facts in favor of the City. *Id.*
22 at 357.

23 The Appellant was charged with one count of Obstructing a Law
24 Enforcement Officer pursuant to RCW 9A.76.020. For purposes of a
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1 *Knapstad* motion, the City had to establish a prima facie case that (1) the
2 defendant willfully hindered, delayed, or obstructed a law enforcement
3 officer in the discharge of the law enforcement officer's official powers or
4 duties; (2) that the defendant knew that the law enforcement officer was
5 discharging official duties at the time; and (3) that the acts occurred in the
6 City of Shoreline, Washington. RCW 9A.76.020; WPIC 120.02.

8 In the case at hand, the trial court correctly determined that the
9 undisputed facts established a prima facie case of guilt. Deputies
10 responded to a 911 emergency call where the reporting party reported a
11 disturbance and that he could hear shouting. As the Deputies approached
12 the building they heard a woman's voice, seemingly under duress,
13 shouting statements such as "you can't leave me out here," "I'm going to
14 call the police," "I'm reconsidering our relationship." Deputy Emmons
15 furthermore heard the female voice say that she "wanted to leave."
16 Deputies were concerned for the wellbeing and safety of the female and
17 attempted to make contact with the occupants of the residence. However,
18 they did not receive a response even after repeated knocks on the door,
19 announcing themselves as police officers, and using the PA system to ask
20 the occupants to come out and speak with them in effort to make sure they
21 were alright. Shortly thereafter, the officers heard the sound of breaking
22 glass. Although the defendant eventually did begin to speak to Deputies
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1 through the door, they were not able to establish visual contact of the
2 female. While trying to convince the Appellant to peaceably open the
3 door to allow them to determine the wellbeing of the occupants, Deputies
4 heard the defendant command the female to tell the police that everything
5 was okay. A female voice then followed that command and also informed
6 the Deputies that she had her baby in her arms. The defendant would not
7 allow her to open the door or be presented visually to police in order to
8 confirm or dispel their concerns. He repeatedly told the officers to leave
9 and refused to open the door. Based on these circumstances, the Deputies
10 feared for the safety of the female as well as the child and that exigent
11 circumstances warranted entry into the residence to fulfill their official
12 duty of community caretaking. The Trial Court agreed that exigent
13 circumstances existed and no warrant was required to enter the residence.
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17 When reviewing this case, the Court should consider that it is
18 critical to establish actual contact with the victim when responding to a
19 domestic violence incident. It is necessary to establish that the victim is
20 safe, to discharge the officer's statutory obligations, and to obtain a
21 complete report. See, e.g., *State v. Raines*, 55 Wn. App. 459, 778 P.2d
22 538 (1989), review denied, 113 Wn.2d 1036 ("police officers responding
23 to a domestic violence report have a duty to ensure the present and
24 continued safety and well-being of the occupants" of a home). *Id.*
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1 The Washington Supreme Court considered the legality of a
2 warrantless emergency entry in a domestic violence incident in *State v.*
3 *Schultz*, 170 Wn.2d 746, 248 P.3d 484 (2011). The Court “recognize[d]
4 that domestic violence presents unique challenges to law enforcement and
5 courts,” and stated “that the likelihood of domestic violence may be
6 considered by courts when evaluating whether the requirements of the
7 emergency aid exception to the warrant requirement have been satisfied.”
8 *Schultz*, 170 Wn.2d at 750. See also *State v. Jacobs*, 101 Wn. App. 80, 2
9 P.3d 974 (2000).

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12 In *State v. Lynd*, 54 Wn. App. 18, 771 P.2d 770 (1989), an officer
13 responded to a 911 hang-up call at the defendant’s residence. *Id.* The line
14 was busy when the officer returned the call. *Id.* Upon arriving at the
15 residence, defendant was loading things into a car and the officer noticed a
16 cut on his face. *Id.* Defendant said he had pushed and slapped his wife
17 who went to her mother’s home down the street. *Id.* The officer requested
18 permission to enter, but the defendant refused. *Id.* Officer entered without
19 consent and noticed evidence of a struggle. *Id.* Officer did not locate
20 victim. *Id.* The officer testified that she was concerned about the victim’s
21 safety based upon defendant’s injuries, statement and his reluctance to
22 allow entry. *Id.* The Court held that entry was permitted under the
23 emergency exception to the warrant requirement. *Id.* The Court rejected
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1 the argument that the officer should have pursued other less intrusive
2 means to check on the victim's safety such as calling to her from the door,
3 looking in the windows or checking the victim's mother's residence. *Id.*

4 In *State v. Menz*, 75 Wn. App. 351, 353, 880 P.2d 48 (1994),
5 review denied, 125 Wn.2d 1021 (1995), an anonymous caller reported
6 domestic violence at a specific address. The caller said that he thought the
7 participants were Debbie and Dale and that a ten-year-old also resided in
8 the house. *Id.* The caller was unsure about the presence of weapons. *Id.*
9 Upon arrival at the residence, the officers noticed that the front door was
10 open, the TV and lights were on, however there were no cars in the
11 driveway. *Id.* There was no response when the officers knocked and
12 announced their presence three times so the officers entered out of concern
13 for the occupants. *Id.* The Court held that entry was permitted under the
14 emergency exception. *Id.*

15 In *State v. Johnson*, 104 Wn. App. 409, 16 P.3d 680 (2001),
16 officers responded to a DV call. The call came from a relative outside the
17 house who reported that the victim had locked herself in the bathroom. *Id.*
18 As the first officer approached the house, a man stepped outside. *Id.* This
19 man was extremely slow to respond to an inquiry of whether anyone was
20 in the house. *Id.* Eventually the man, who had a bloody cut on his wrist,
21 smelled of marijuana, and appeared to be under the influence of marijuana
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1 indicated that his girlfriend was in the bathroom. *Id.* In the meantime,
2 another officer's knock on the door was answered by a woman who was
3 shaking and had blood on her lip. *Id.* The woman started to exit the house,
4 but the officer told her to stay and he walked inside. *Id.* The officer was
5 found to have entered the house to protect the woman and other potential
6 victims, to keep the man and woman separate for safety, and to ensure an
7 orderly investigation. *Id.* The Court indicated that an officer does not have
8 to question the one known victim before entering to search for other
9 victims. *Id.*

12 In *United States v. Black*, 482 F.3d 1035 (9th Cir.), cert. denied,
13 128 S. Ct. 612 (2007), the police were dispatched to the defendant's
14 apartment after they received a 911 call from the defendant's girlfriend
15 who reported the defendant had beaten her up that morning in the
16 apartment and had a gun. Toward the end of her 911 call, the defendant's
17 girlfriend told the dispatcher that she intended to return to the apartment
18 with her mother so that she could retrieve her clothing. *Id.* She told
19 dispatch that they would wait outside the apartment, in a white Ford
20 pickup truck, for police to arrive. *Id.* When the first officer arrived at the
21 apartment a few minutes later there were no signs of the defendant's
22 girlfriend, her mother, or the truck. *Id.* When the second officer arrived,
23 they knocked on the front door but received no response. *Id.* The officers'

1 discover an individual who matched the defendant's physical description
2 in the backyard. *Id.* The individual identified himself and admitted that he
3 knew the police were investigating a domestic violence call. *Id.* He denied
4 knowing the whereabouts of his girlfriend and denied that he lived in the
5 apartment. *Id.* When the defendant became agitated, one of the police
6 officers patted him down for weapons and searched his pockets with the
7 defendant's consent, which yielded the key to the apartment. *Id.* Using the
8 key, the officer entered and made a quick sweep of the apartment to see if
9 anyone was there. *Id.* No one was present, but the officer noticed a gun on
10 the bed. *Id.* The court found that the entry into the apartment was justified
11 because the officers feared that the defendant's girlfriend could have been
12 inside the apartment, badly injured and in need of medical attention. *Id.*
13 This was a lawful "welfare search" where rescue was the objective, rather
14 than a search for a crime. *Id.*

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18 In *State v. Steen*, 164 Wn.App. 789, 800-802, 265 P.3d 901, 908
19 (2011), officers responded to a disturbance allegedly involving three
20 people. Upon arrival, officers observed a woman who was visibly upset
21 and had mascara running down her cheeks. *Id.* The officers began looking
22 around the property for other two individuals and saw the defendant's
23 trailer. *Id.* Officers began knocking very loudly on the trailer's door and
24 announced that they were the from the Pierce County Sheriff's
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1 department. *Id.* The Officers entered the trailer through a window, and
2 upon entry found the defendant who claimed that he was “just sleeping.”
3 *Id.* The State charged Steen with obstructing a law enforcement officer. *Id.*
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5 A jury convicted, and the defendant appealed. *Id.*

6 On appeal, The Court of Appeals held that a jury could have
7 reasonably inferred from the facts, viewed in the light most favorable to
8 the State, that Steen knew the officers were discharging their official
9 duties. In making this determination, the court relied on the inference that
10 Steen had heard the officers’ identification and commands but decided not
11 to comply, and knew that the officers wanted to look inside the trailer to
12 investigate a recent disturbance involving a woman. *Id.* Secondly, the
13 Court found that Steen’s action of not opening the door, not just his
14 silence, provided sufficient evidence that he willfully hindered, delayed, or
15 obstructed the officers in their discharge of official duties. *Id.* The court
16 explained that “any rational fact finder could have reasonably inferred that
17 Steen ignored the officers’ commands.” *Id.* The court noted that the
18 legislature’s intent in the plain language of RCW 9A.76.020 was to
19 criminalize an individual’s willful failure to obey a lawful police order
20 where the failure to obey willfully hinders, delays, or obstructs the officer
21 in the discharge of his or her community caretaking functions. *Id.*
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1 Our case is similar to *Steen* because both cases involves reports of
2 a disturbance involving more than one person, officers repeatedly knocked
3 and announced themselves as law enforcement, and the defendant did not
4 open the door despite multiple requests. *Id.* Our case is perhaps even more
5 persuasive than *Steen*, as the defendant did not remain silent but verbally
6 refused to comply with the police and commanded the woman to tell
7 police that she was alright.

9 When employing a de novo standard of review, this Court must
10 recognize and further find that the officers had a duty to ensure the safety
11 of the occupants of the residence. This Court must also find that the
12 defendant's action of refusing to open the door and commanding the
13 victim to say she was ok impeded the Deputies' ability to ensure the
14 female and infant child's safety. Given what the Deputies observed and
15 heard, when viewed in a light most favorable to the City, the evidence
16 more than establishes a prima facie case for Obstructing a Law
17 Enforcement Officer. Therefore, the Trial Court's decision to deny the
18 Defense's motion to dismiss pursuant to *Knapstad* must be upheld.

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22 **C. THE SUPERIOR COURT'S FINDING THAT THE**
23 **CONVICTION WAS SUPPORTED BY SUFFICIENT**
24 **EVIDENCE MUST NOT BE DISTURBED ON APPEAL**
25 **AS IT DOES NOT CONFLICT WITH THE CURRENT**
 STATE OF THE LAW IN WASHINGTON, THE
 STATE OR FEDERAL CONSTITUTIONS, AND DOES

1 **NOT DEPART FROM THE ACCEPTED AND USUAL**
2 **COURSE OF PROCEEDINGS.**

3 There was sufficient evidence to support a finding of guilt for the
4 same reasons articulated above. When reviewing a sufficiency of the
5 evidence challenge, the Court must view the evidence in the light most
6 favorable to the State in order to determine whether any rational trier of
7 fact could have found the essential elements of the crime beyond a
8 reasonable doubt. *State v. Hosier*, 157 Wn.2d 1, 8, 133 P.3d 936 (2006).
9 Thereby, this Court must interpret all reasonable inferences in the [City's]
10 favor. *Hosier*, 157 Wn.2d at 8, 133 P.3d 936.

11 In *State v. Steen*, as described above, the issue before the court was
12 whether the State presented sufficient evidence to support a conviction of
13 Obstructing a Law Enforcement Officer. *State v. Steen*, 164 Wn.App. 789,
14 800-802, 265 P.3d 901, 908 (2011). The *Steen* Court ultimately found that
15 the evidence, when viewed in a light most favorable to the State, was
16 sufficient to support a conviction. *Id.* The Court relied on the following
17 facts to determine that the defendant knew that the deputies were
18 discharging their official duties: (1) the officers arrived in patrol cars and
19 uniforms, (2) the officers knocked "very loudly" on the trailer's door and
20 yelled "Sheriff's department" and asked any occupant to exit the trailer;
21 (3) the trailer was small and had open windows making it easier to hear
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1 the officers' commands, (4) a woman had recently exited the trailer and
2 was visibly upset. *Id.* Based on these facts the *Steen* Court found that a
3 jury could reasonably infer that Steen heard the officers' identification and
4 commands yet decided not to comply, and knew they were trying to
5 investigate a disturbance involving a woman. *Id.*

7 Our case is similar to *Steen* because both cases involved domestic
8 disturbances; both involve a distressed female; both had law enforcement
9 arrive in patrol cars and uniforms; both include deputies knocking very
10 loudly and identifying themselves; and both have defendants that did not
11 open the door. However, the facts here are perhaps even more persuasive
12 than *Steen* in terms of proving that the defendant knew that the deputies
13 were discharging their official duties and his willful impediment of their
14 duties. Not only did the deputies in our case identify themselves
15 repeatedly, use the public address system and spotlight, knock and rang
16 the doorbell multiple times, and actually speak to the defendant as why
17 they needed to contact all the parties, the fact that the defendant directed
18 the victim as to what to say to police, and how to say it, and not allow her
19 to open the door, makes it clear that there is sufficient evidence to show
20 his actions in addition to his words thwarted the officer's duties.

21 Furthermore, the sounds of a woman under duress upon arrival; the
22 defendant commanded the woman to tell law enforcement that she was
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1 okay; glass within the home broken twice, and the presence of an infant
2 child in the home all increase the need to ensure the wellbeing and safety
3 of all the occupants.

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5 The Defense references Supreme Court Case *State v. Williams*
6 which held that “some conduct in addition to making false statements is
7 required to support an obstruction conviction.” *State v. Williams*, 171
8 Wn.2d 474, 485, 251 P.3d 877 (2011). The Court of Appeals in *Steen*
9 directly acknowledged the Supreme Court’s decision in *Williams*, but held
10 that Steen’s conduct met *William’s* requirements, as Steen’s refusal to
11 open the trailer door and exit the trailer with his hands up amounted to
12 “conduct” that was punishable under the obstruction statute. *State v. Steen*,
13 164 Wn.App. 789, 800-802, 265 P.3d 901, 908 (2011). Similarly, in our
14 case, the Appellant verbally and physically refused to open the door, did
15 not exit the apartment when asked to do so, and commanded the female
16 occupant to tell the officers that she was alright.

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18 The Appellant has failed to establish his burden of showing that
19 the Superior Court’s ruling was in conflict with the current state of the law
20 or Constitutions. Therefore, the appeal must be denied.

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23 **D. THE SUPERIOR COURTS RULING THAT THE**
24 **TRIAL COURT DID NOT ABUSE ITS DISCRETION**
25 **IN ITS RULINGS ON THE ADMISSIBILITY OF**
EVIDENCE MUST BE AFFIRMED BECAUSE IT IS
NOT IN CONFLICT WITH STATE LAW.

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2 Evidentiary rulings will not be disturbed on appeal absent an abuse
3 of discretion. *State v. Bourgeois*, 133 Wn.2d 389, 399, 945 P.2d 1120
4 (1997); *State v. Brett*, 126 Wn.2d 136, 174, 892 P.2d 29 (1995). In order
5 to find an abuse of discretion by the Trial Court, it must be shown "that
6 the Trial Court's ruling is based on untenable grounds or was made for
7 untenable reasons." *State v. Cronin* 142 Wn.2d 568, 585, 14 P.3d 752
8 (2000). When reviewing under the abuse of discretion standard, the Court
9 must give deference to the Trial Court and will not disturb the Trial
10 Court's ruling absent a determination that no rational trier of fact could
11 have reached the same conclusion. *State v. Luvene*, 127 Wn.2d 690, 701,
12 903 P.2d 960 (1995). Unchallenged findings of fact are verities on
13 appeal. *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313(1994).
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17 The legislature has condemned searches of a dwelling without a
18 warrant as unlawful. RCW 10.79.040. Exceptions to the warrant
19 requirement are narrowly tailored. *State v. Ladson*, 138 Wash.2d 343, 356,
20 979 P.2d 833 (1999). At issue here is the "community caretaking
21 function" exception the U.S. Supreme Court first announced in *Cady v.*
22 *Dombrowski*, 413 U.S. 433, 93 S.Ct. 2523, 37 L.Ed.2d 706 (1973). *Cady*
23 involved a vehicle accident investigation where the officers searched the
24 car trunk after the vehicle was towed to a garage. *Cady*, 93 S.Ct. at 2526.
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1 Washington Courts have also recognized and applied the community
2 caretaking exception to search and seizure of automobiles, emergency aid
3 situations, and routine checks on health and safety. *State v. Kinzy*, 141
4 Wash.2d 373, 386, 5 P.3d 668 (2000), *cert. denied*, 531 U.S. 1104, 121
5 S.Ct. 843, 148 L.Ed.2d 723 (2001).

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8 The emergency aid exception recognizes the community caretaking
9 function of the police to "assist citizens and protect property." *State v.*
10 *Johnson*, 104 Wash.App. 409, 414, 16 P.3d 680 (2001). This exception
11 applies when

13 "(1) the officer subjectively believed that someone
14 likely needed assistance for health or safety reasons;
15 (2) a reasonable person in the same situation would
16 similarly believe that there was a need for
17 assistance; and (3) there was a reasonable basis to
18 associate the need for assistance with the place
19 searched." *Kinzy*, 141 Wash.2d at 386-87, 5 P.3d
20 668 (quoting *State v. Menz*, 75 Wash.App. 351, 354,
21 880 P.2d 48 (1994), *review denied*, 125 Wash.2d
22 1021, 890 P.2d 463 (1995)).

20 The emergency aid exception applies in this case for reasons
21 articulated above. The Washington Supreme Court considered the legality
22 of a warrantless emergency entry in a domestic violence incident in *State*
23 *v. Schultz*, 170 Wn.2d 746, 248 P.3d 484 (2011). The Court "recognize[d]
24 that domestic violence presents unique challenges to law enforcement and
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1 courts,” and stated “that the likelihood of domestic violence may be
2 considered by courts when evaluating whether the requirements of the
3 emergency aid exception to the warrant requirement have been satisfied.”
4 *Schultz*, 170 Wn.2d at 750. The emergency aid exception applied in this
5 case because of statements heard by law enforcement, concerns by a 911
6 phone caller, the defendant’s refusal to open the door, the sound of
7 breaking glass, hearing the defendant command the female occupant what
8 to say to the police, and discovering that there was an infant in the home.
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11 Furthermore, the Appellant argues that the Trial Court’s
12 suppression of this testimony constituted a violation of his absolute right
13 to present his defense. However, this argument fails. “The fundamental
14 due process right to present a defense is the right to offer testimony and
15 compel the attendance of a witness.” *State v. Lizarraga*, 191 Wn.App.
16 530, 551-52, 364 P.3d 810, (2015) Even though this can be a fundamental
17 right, it is not absolute. “[T]here is a significant difference between the
18 compulsory process clause and most rights protected by the Sixth
19 Amendment. The right to compulsory process is not absolute. ” [M]ore
20 than the mere absence of testimony is necessary to establish a violation of
21 the right.” *Id* at 553. (Citing *United States v. Valenzuela-Bernal*, 458 U.S.
22 858, 867, 102 S.Ct. 3440, 73 L.Ed.2d 1193 (1982).
23
24
25

1 Washington Courts have long held that the defendant's right to
2 present testimony is also not absolute. "The accused does not have an
3 unfettered right to offer [evidence] that is incompetent, privileged, or
4 otherwise inadmissible under standard rules of evidence." *State*
5 *v. Lizarraga*, 191 Wn.App at 553. (Citing *State v. Taylor*, 484 U.S. at 410)
6 The defendant's right to present a defense is subject to "established rules
7 of procedure and evidence designed to assure both fairness and reliability
8 in the ascertainment of guilt and innocence." *Chambers v. Mississippi*, 410
9 U.S. 284, 302, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973). "[S]tate and federal
10 rulemakers have broad latitude under the Constitution to establish rules
11 excluding evidence from criminal trials." *United States v. Scheffer*, 523
12 U.S. 303, 308, 118 S.Ct. 1261, 140 L.Ed.2d 413 (1998). Further,
13 "Evidentiary rules do not abridge an accused's right to present a defense so
14 long as they are not 'arbitrary' or 'disproportionate to the purposes they are
15 designed to serve.'" *State v. Lizarraga* at 553. (Citing *Scheffer*, 523 U.S. at
16 308 (quoting *Rock v. Arkansas*, 483 U.S. 44, 56, 107 S.Ct. 2704, 97
17 L.Ed.2d 37 (1987))). Accordingly, a defendant's interest in presenting
18 relevant evidence may "bow to accommodate other legitimate interests in
19 the criminal trial process." *Lizarraga* at 553. (Citing *Scheffer*, 523 U.S. at
20 308[9].
21
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1 The Appellant argues error solely because knowledge is an
2 essential element in the charge of Obstructing. While this is true, it is
3 knowledge that the officers were discharging their official duties at the
4 time. Whether or not the Appellant agreed with the manner in which they
5 were discharging those duties is not an issue at trial, and therefore,
6 becomes irrelevant. Just as the RALJ court held in its ruling upholding the
7 conviction. (See Appendix D)
8

9 Therefore, this Court must not disturb the Trial Court's decision
10 absent an abuse of discretion. The Appellant has not and cannot establish
11 that the Trial Court acted on untenable grounds or for untenable reasons
12 when it found that the emergency aid exception to the warrant requirement
13 applied here. And because such exception applied, it was not error for the
14 Trial Court to exclude any argument to the contrary by the defense. The
15 Appellant therefore cannot argue that no rational trier of fact could have
16 reached the same conclusion and thus, no abuse of discretion has been or
17 can be established. Further, the Appellant has failed to establish that this
18 ruling departs from or conflicts with the current state of the law in
19 Washington. Therefore, the motion for discretionary review must be
20 denied.
21

22
23
24 **III. CONCLUSION**
25

APPENDIX A

DD7020SX LMT
08/23/2017 7:35 AM

KING COUNTY DISTRICT COURT
D O C K E T

PAGE: 1

DEFENDANT
MCLEMORE, SOLOMON DION
PO BOX 55073
SHORELINE WA 98155

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

Home Phone: 2066731031

AKA true name MC LEMORE, SOLOMON DION

Certification - State of Washington/County of King
County undersigned, duly authorized Clerk of the King County
District Court, Washington, hereby certifies that the document
on which this stamp is imprinted is a true and correct copy of
the original filed in this court.
Signed this 23 day of August 2017
Court Clerk

OFFICER
97048 SHO BOYER, ANDREW S

CHARGES

Violation Date: 03/01/2016 DV Plea Finding
1 9A.76.020 OBSTRUCT LAW ENFORCEMENT N Not Guilty Guilty
OFFICER

TEXT

S 03/01/2016 Case Filed on 03/01/2016 RYC
DEF 1 MCLEMORE, SOLOMON DION Added as Participant
OFF 1 BOYER, ANDREW S Added as Participant
U CASE FILED IN SHORELINE
S OTH JAI Set for 03/01/2016 03:00 PM
U in Room SHV with Judge DJS
SH1 3:33 VIDEO VIA SCORE JAIL CXD
BEFORE JUDGE PRO TEM ERIC NEWMAN (DJS)
DEFT APPEARS INCUSTODY W/ATTY THERESA GRIFFIN
DEF DEFERS REGARDING FINDING OF PROBABLE CAUSE
COURT MAKES FINDING OF PROBABLE CAUSE
DEFENSE MOVES FOR PR RELEASE
COURT DENIES PR AND SETS BAIL AT \$7500
CONDITIONS OF RELEASE:
NO LAW VIOLS
NO CONTACT WITH LISA JANSON
APPEAR ALL HEARINGS
REPORT CHANGE OF ADDRESS W/IN 1 DAY
S ARR JAIL Set for 03/08/2016 09:15 AM
in Room SH1 with Judge DJS
OTH JAI: Held
U COMPLAINT/PROBABLE CAUSE MATERIALS FILED (DCORAUTO) ECR
CRIMINAL WITNESS LIST FILED (DCORAUTO)
03/02/2016 PER SCORE JAIL, DEFT BAILED OUT OF CUSTODY NTF
S 03/03/2016 ARR JAIL on 03/08/2016 09:15 AM
in Room SH1 with Judge DJS Canceled
ARR Set for 03/14/2016 08:45 AM
in Room SH2 with Judge MXA
03/04/2016 Notice Issued for ARR on 03/14/2016 08:45 AM LJS
03/14/2016 PTR N Set for 04/12/2016 10:15 AM CXD
in Room SH1 with Judge DJS
ARR: Held
U SH2 9:37
BEFORE JUDGE MARCINE ANDERSON
DEFT APPEARS W/ATTY MOI MASANIAI AS FRIEND OF COURT
STMT OF DEFTS RIGHTS SIGNED/FILED

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 03/14/2016 DEFT SERVED WITH COPY OF COMPLAINT CXD
COURT MAKES FINDING OF PROBABLE CAUSE
S Defendant Arraigned on Charge 1
Plea/Response of Not Guilty Entered on Charge 1
U CONDITIONS OF RELEASE SIGNED BY COURT:
APPEAR ALL HEARINGS
RPT CHANGE OF ADDRESS W/IN 1 DAY
NO LAW VIOLS
COURT STRIKES CONDITION OF RELEASE TO HAVE NO CONTACT
WITH LISA JANSON FROM 03/01/16.
CONT'D FOR PRETRIAL
DEFT REFERRED TO PUBLIC DEFENDER SCREENER
03/18/2016 FILED: NOTICE OF APPEARANCE/DEMAND FOR DISCOVERY ET AL. SJJ
S 03/21/2016 ATY 1 MASANIAI, FAAMOMOI P JR Added as Participant
03/23/2016 PYR 1 JANSON, LISA Y Added as Participant HMM
16083103346 Appearance Bail Posted for DEF 1 7,500.00
Posted by: JANSON, LISA Y
U 03/25/2016 2016 NTF
03/30/2016 PLAINTIFF RESPONSE TO REQUEST FOR DISCOVERY AND PLAINTIFF'S ECR
REQUEST FOR DISCOVERY FILED (DCORAUTO)
04/11/2016 DEF CALLING TO FIND OUT ATTY INFORMATION; ATTY INFORMATION GRG
PROVIDED, DEF ASKED ABOUT HEARING DATE, HEARING DATE, TIME,
LOCATION PROVIDED.
S 04/12/2016 PTR N Set for 05/12/2016 08:45 AM HMM
in Room SH1 with Judge DJS
U 1120 SH1
JUDGE STEPHEN ROCHON FOR DJS
CARMEN MCDONALD, DPA CITY SHORELINE
DEFENDANT PRESENT W/ATY MASANIAI
MOTION TO CONTINUE
STW FILED - EXP 7/10/2016
COURT RULES: PTR 30
S STE : Speedy Trial Expiration
STE Review Set for 07/10/2016
PTR N: Not Held, Hearing Canceled
MTN N: Held
05/12/2016 MTY Set for 06/02/2016 02:30 PM
in Room SH2 with Judge MXA
CTS Set for 06/22/2016 01:30 PM
in Room SH1 with Judge DJS
U 1112 SH2
MARCINE ANDERSON, JUDGE
SARAH ROBERTS, DPA CITY SHORELINE
DEFENDANT PRESENT W/ATY KUTZNER
PTR ORDER SUBMITTED TO COURT
SPEEDY NOTED AS 7/10/2016
COURT RULES: PTR ORDER SIGNED. JUNE TERM. MOTION PRIOR.
S PTR N: Held
05/13/2016 Notice Issued for MTY on 06/02/2016 02:30 PM LJS

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

S 05/13/2016 Notice Issued for CTS on 06/22/2016 01:30 PM LJS
U SUBPOENA NOTICE ISSUED TO OFFICERS FOR MOTION HEARING 6/02/16 AGF
PLACED IN SHORELINE PD IN BOX
MOTION HEARING NOTICE FOR 6/02/16 MAILED TO DEF
SUBPOENA LOG FILED (DCORAUTO) ECR
05/19/2016 FILED: DEFENSE MOTION TO DISMISS PURSUANT TO STAVE VS HMM
KNAPSTAD
05/31/2016 FILED: CITY'S MEMORANDUM IN RESPONSE TO DEFENDANT'S KNAPSTAD AGF
MOTION
06/01/2016 SUBPOENA NOTICE ISSUED TO OFFICERS FOR JURY TRIAL PLACED IN
SHORELINE PD IN BOX
SUBPOENA NOTICE ISSUED TO WITNESS FOR JURY TRIAL
SUBPOENA LOG FILED (DCORAUTO) ECR
S 06/02/2016 Payable Amount Changed 4,000.00 HMM
U MTY: Held
317 SH2
MARCINE ANDERSON, JUDGE
CARMEN MCDONALD, DPA CITY SHORELINE
DEFENDANT PRESENT W/ATY KUTZNER
KNAPSTAD MOTION NOTED
320 DEFENSE LEGAL BASIS FOR MOTION
PASS CASE
345 RESUME
DEFENSE STRIKES MOTION AND ASKS CASE BE LEFT ON FOR JURY
CALL
COURT RULES: GRANTED
DEFENSE MOTION TO RELEASE BAIL
COURT RULES: BAIL REDUCED TO \$3500, \$4000 IS RELEASED BACK
TO PAYOR.
S 06/07/2016 Court Chk Ref 26916 for Bail Refund 4,000.00 RZC
to Payee: JANSON, LISA Y
06/17/2016 CTS on 06/22/2016 01:30 PM NTF
Changed to Room SH1 with Judge GXH
06/22/2016 CTS: Held CXD
U SH2 4:48
BEFORE JUDGE MARCINE ANDERSON
CITY REPRESENTED BY CARMEN MCDONALD
DEFT APPEARS W/ATTY JEFF MACNICHOLS
BOTH PARTIES CONFIRM CASE FOR TRIAL
SPEEDY TRIAL NOTED TO EXPIRE 07/10/16
COURT SCHEDULES JURY TRIAL FOR TUES 06/28/16
S 06/23/2016 JTR N Set for 06/28/2016 09:00 AM
in Room SH1 with Judge GXH
06/28/2016 MTY Set for 08/11/2016 02:30 PM HMM
in Room SH1 with Judge MXA
CTS Set for 08/17/2016 01:30 PM
in Room SH1 with Judge DJS
U 909 SH1
GREGG HIRAKAWA, JUDGE

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 06/28/2016 CARMEN MCDONALD, DPA CITY SHORELINE HMM
DEFENDANT PRESENT W/ATY IANNOTTI
COURT RULES: PARTIES TO REPORT BACK AT 12:30
232 RESUME
MOTION TO CONTINUE
STW FILED - EXP 9/28/2016
NEW PTR ORDER SUBMITTED TO COURT
COURT RULES: PTR ORDER SIGNED. AUGUST TERM. MOTION PRIOR.
S JTR N: Not Held, Hearing Canceled
MTN N: Held
06/29/2016 Notice Issued for MTY on 08/11/2016 02:30 PM LJS
Notice Issued for CTS on 08/17/2016 01:30 PM
U 07/07/2016 SUBPOENA NOTICE ISSUED TO OFFICERS FOR MTY HEARING 8/11/16 AGF
PLACED IN SHORELINE PD IN BOX
SUBPOENA NOTICE ISSUED TO WITNESS FOR MTY HEARING 8/11/16
MTY NOTICE OF HEARING FOR 8/11/16 MAILED TO DEF
SUBPOENA LOG FILED (DCORAUTO) ECR
07/22/2016 SUBPOENA NOTICE ISSUED TO OFFICERS FOR JURY TRIAL PLACED IN AGF
SHORELINE PD IN BOX
SUBPOENA NOTICE ISSUED TO WITNESS FOR JURY TRIAL
SUBPOENA LOG FILED (DCORAUTO) ECR
07/28/2016 FILED: DEFENSE MOTION AGF
S 08/11/2016 MTY: Held CXD
U SH1 2:39
BEFORE JUDGE DOUGLAS SMITH
CITY REPRESENTED BY SARAH ROBERTS AND JULIE LEE
DEFT APPEARS W/ATY KAITLIN PIMENTEL
KNAPSTAD MOTION HEARING:
COURT HAS REVIEWED THE BRIEFS FILED BY PARTIES.
CITY PROVIDES FURTHER CASELAW ON ST V STEEN FOR COURTS
REVIEW.
02:44 DEFENSE ORAL ARGUMENT
02:47 CITYS ORAL ARGUMENT
02:53 COURT TAKES MATTER UNDER ADVISEMENT AND WILL RULE
BY JURY CALL ON 08/17/16.
PARTIES HAVE UNTIL 4:30 MONDAY 08/15 TO SUBMIT ANY
ADD'L BRIEFING.
**CLERK NOTES CITYS BRIEF FILED 05/31/17 WAS NOT SCANNED
SCANNED INTO ELECTRONIC RECORDS DUE TO CLERICAL ERROR.
DEFENSE PROVIDED COURT WITH THEIR COPY OF CITYS BRIEF.**
CITY'S MEMORANDUM IN RESPONSE TO DEFENDANTS KNAPSTAD MOTION ECR
FILED (DCORAUTO)
S 08/17/2016 CTS: Held CXD
U COURTS RULING FROM 08/11/16 MOTION HEARING:
DEFENSE KNAPSTAD MOTION TO DISMISS IS DENIED. ORDER
SIGNED BY JUDGE SMITH.
SH2 4:00
BEFORE JUDGE MARCINE ANDERSON
CITY REPRESENTED BY CARMEN MCDONALD

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 08/17/2016 DEFT APPEARS W/ATTY MICHAEL KUTZNER CXD
BOTH PARTIES CONFIRM CASE FOR TRIAL.
SPEEDY TRIAL NOTED TO EXPIRE 09/28/16.
COURT SCHEDULES JURY TRIAL FOR THURS 08/25/16.
COURT AMENDS PRETRIAL ORDER.

S 08/18/2016 JTR N Set for 08/25/2016 09:00 AM
in Room SH1 with Judge DJS
08/25/2016 CTS Set for 09/21/2016 01:30 PM NTF
in Room SH2 with Judge MXA

U SH1 9:21 NTF
S. ROCHON, JUDGE (FOR DJS)
C. MCDONALD, DPA CITY SHORELINE
DEFENDANT PRESENT WITH ATY KUTZNER
DEFENSE MOTION TO CONTINUE TO SEPT TERM DUE TO NEW EVIDENCE
COURT RULES: CONTINUE TO SEPT TERM.
SPEEDY NOTED AS 9/28/16. EXCLUDED PERIOD FOUND.

S JTR N: Not Held, Hearing Canceled
MTN N: Held
08/26/2016 Notice Issued for CTS on 09/21/2016 01:30 PM LJS

U 08/31/2016 SUBPOENA LOG FILED (DCORAUTO) ECR
.09/01/2016 SUBPOENA NOTICE ISSUED TO OFFICERS FOR JURY TRIAL PLACED IN AGF
SHORELINE PD IN BOX
SUBPOENA NOTICE ISSUED TO WITNESS FOR JURY TRIAL

S 09/21/2016 CTS: Held CXD

U 09/22/2016 SH2 3:05
BEFORE JUDGE MARCINE ANDERSON
CITY REPRESENTED BY CARMEN MCDONALD AND SAM LE
DEFT APPEARS W/ATTY KAITLIN PIMENTEL
BOTH PARTIES CONFIRM CASE FOR TRIAL.
SPEEDY TRIAL NOTED TO EXPIRE 9/28/16.
COURT SCHEDULES JURY TRIAL FOR MONDAY 09/26/16.

S JTR N Set for 09/26/2016 09:00 AM
in Room SH2 with Judge MXA

U 09/26/2016 935 SH2 HMM
MARCINE ANDERSON, JUDGE
CARMEN MCDONALD, DPA CITY SHORELINE
DEFENDANT PRESENT W/ATY KUTZNER
PARTIES ARE READY TO PROCEED TO TRIAL
953 READDRESS
COURT RULES: DEFENDANT TO REPORT BACK AT 9:00 ON 9/27/16
FOR TRIAL

S JTR N Set for 09/27/2016 09:00 AM
in Room SH2 with Judge MXA
JTR N: Not Held, Hearing Canceled
MTN N: Held

U 09/27/2016 SH2 8:59 CXD
BEFORE JUDGE MARCINE ANDERSON
CITY REPRESENTED BY CARMEN MCDONALD
DEFT APPEARS W/ATTY MICHAEL KUTZNER

DD7020SX LMT
08/23/2017 7:35 AM

KING COUNTY DISTRICT COURT
D O C K E T

PAGE: 6

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 09/27/2016

BOTH PARTIES INDICATE READY FOR JURY TRIAL
RECESS FOR JURORS TO ARRIVE
PLA EXHIBITS #1-5 PREMARKED
CITYS UPDATED TRIAL MEMORANDUM FILED
DEFENDANTS PROPOSED JURY INSTRUCTIONS FILED
CITYS PROPOSED JURY INSTRUCTIONS FILED VIA EMAIL
CITYS MOTIONS IN LIMINE:
DISCLOSURE OF GENERAL NATURE OF DEFENSE, GRANTED
DISCLOSURE OF DEF WITNESS, GRANTED. DISCLOSED 9/27/16.
PRODUCTION OF EVIDENCE. DEF HAS PROVIDED ALL INFO.
MOTION TO PROHIBIT DEF COUNSEL FROM ASKING JURY TO PLACE
THEMSELVES IN DEFTS POSITION DENIED.
MOTION TO EXCLUDE WITNESSES GRANTED.
MOTION TO EXCLUDE EVID OR ARGUMENT RE PENALTY DEFT IS
SUBJECT TO IF CONVICTED GRANTED.
LACK OF SEARCH WARRANT OBTAINED, GRANTED AS PER 8/17/16
RULING BY JUDGE SMITH
VOIR DIRE DISCUSSED
JURY POOL IN -
VOIR DIRE
11:55 JURORS #19 & 20 EXCUSED FOR CAUSE BY AGREEMENT OF
PARTIES.
CITY HAS NO OBJECTION TO EXCUSING JUROR # 21 FOR MED APPT.
COURT FURTHER EXCUSES JUROR #21.
12:04 JURY IMPANELED
12:06 LUNCH RECESS / RETURN 1:15
01:13 RECONVENE
01:17 JURY IN -
TRIAL PROCEDURES AND ROLE AS JURORS EXPLAINED TO JURY
NOTE-TAKING INSTRUCTION EXPLAINED
01:31 CITYS OPENING STATEMENT
135 DEFENSE OPENING
139 CITY CALLS DEPUTY ANDREW BOYER - SWORN & TESTIFIES
144 PLA EXHIBIT # 6 MARKED AND IDENTIFIED
148 PLA EXHIBIT # 4 MARKED, ADMITTED AND OFFERED TO JURORS
201 PLA EXHIBIT # 1 MARKED, ADMITTED AND OFFERED TO JURORS
203 PLA EXHIBIT # 2 & 3 MARKED, ADMITTED AND OFFERED TO
JURORS
206 DEFENSE CROSS OF DEPUTY BOYER
RECESS - JURY PANEL OUT
227 RESUME
229 JURY PANEL IN
230 CITY CALLS DEPUTY DALLON - SWORN & TESTIFES
236 CITY EXHIBIT # 7 MARKED - ALLOWED FOR ILLUSTRATIVE
PURPOSES
255 DEFENSE CROSS OF DEPUTY DALLON
301 REDIRECT
304 JURY PANEL OUT - LEGAL ARGUMENTS RE: CAD REPORT
308 COURT IN RECESS UNTIL 3:15 PM

CXD

HMM

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 09/27/2016 319 RESUME HMM
321 JURY PANEL IN
324 RECROSS OF DEPUTY DALLON
325 REDIRECT
326 RECROSS
327 REDIRECT
328 DEPUTY DALLON EXCUSED
329 CITY CALLS DEPUTY EMMONS - SWORN & TESTIFIES
359 CROSS
404 DEPUTY EMMONS EXCUSED
405 CITY RESTS
JURY PANEL OUT
411 JURY PANEL IN
COURT RECESSES FOR EVENING - JURORS TO REPORT BACK ON
9/28/16 @ 1:30 PM - PARTIES TO REPORT BACK AT 1:00 PM
FOR JURY INSTRUCTIONS
CITY'S PROPOSED INSTRUCTIONS TO THE JURY (W/O CITATIONS) FILED (DCORAUTO) ECR
CITYS PROPOSED INSTRUCTIONS TO THE JURY (W/CITATIONS) FILED (DCORAUTO)
DEFENDANTS REQUESTED JURY INSTRUCTIONS (W/O CITATIONS) FILED (DCORAUTO)
DEFENDANTS REQUESTED JURY INSTRUCTIONS (W/CITATIONS) FILED (DCORAUTO)
S 09/28/2016 JT2: Held CXD
U BEFORE JUDGE MARCINE ANDERSON
BOTH PARTIES PRESENT
01:02 RECONVENE
EXCEPTIONS/OBJECTIONS TO JURY INSTRUCTIONS
01:21 RECESS
01:34 RESUME
01:35 JURY IN -
01:36 DEFENSE CALLS DEFT-
SOLOMON D MCLEMORE - SWORN/TESTIFIES
02:01 CITYS CROSS
02:15 JURY OUT -
PLA EXHIBIT #8 MARKED/IDENTIFIED (VIDEO-USB DRIVE) -
REVIEWED BY COURT/PARTIES
02:29 FINAL JURY INSTRUCTIONS REVIEWED
02:32 JURY IN -
CITY RESUMES CROSS OF DEFT
02:33 PLA EXHIBIT #8 OFFERED AND ADMITTED - PUBLISHED TO
JURY
02:52 DEFENSE REDIRECT
02:59 DEFENSE CALLS WITNESS -
LISA JANSON - SWORN/TESTIFIES
03:08 CITYS CROSS
03:16 WITNESS EXCUSED
DEFENSE RESTS

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 09/28/2016 03:17 JURY INSTRUCTIONS READ TO THE JURY CXD
RECESS - JURY OUT
03:53 JURY IN -
CITYS CLOSING ARGUMENTS
03:53 DEFENSE CLOSING ARGUMENTS
04:04 CITYS REBUTTAL CLOSING
04:12 COURT'S FINAL INSTRUCTION REGARDING DELIBERATIONS
04:14 ALTERNATE JUROR #10 (SEAT 7) EXCUSED
04:15 JURY RETIRES TO JURY ROOM TO SELECT PRESIDING JUROR
AND TO DECIDE ON TIME TO RETURN TOMORROW.
JURY DECIDES TO RETURN AT 9:00 AM TOMORROW
04:20 CLERK EXCUSES JURY FOR EVENING
EXHIBIT SCANNING SHEET - LIST OF EXHIBITS (DCORAUTO) ECR
JURY INSTRUCTIONS (DCORAUTO)
09/29/2016 09:00 JURY RETIRES TO DELIBERATE CXD
09:40 JURY SUBMITS WRITTEN QUESTION
BEFORE JUDGE MARCINE ANDERSON
BOTH COUNSEL PRESENT
JURY QUESTION DISCUSSED
WRITTEN ANSWER PROVIDED
10:03 JURY NOTIFIES CLERK THAT THEY HAVE REACHED A VERDICT
S Finding/Judgment of Guilty for Charge 1
U *****SH3*****
BEFORE JUDGE MARCINE ANDERSON
BOTH PARTIES PRESENT
10:28 JURY IN -
DECLARES VERDICT
FINDING/JUDGMENT OF GUILTY FOR CHARGE 1
JURY POLLED AND EXCUSED
COURT WILL PROCEED TO SENTENCING TODAY
RECESS
S Appearance Bail Marked Payable 3,500.00 HMM
JT3: Held CXD
U 1236 SH2 HMM
SENTENCE IMOSD
S Judge ANDERSON, MARCINE Imposed Sentence
Court Imposes Jail Time of 364 Days on Charge 1
with 344 Days Suspended, and
1 Days Credit for time served
U TO BE SERVED AS ELECTRONIC HOME MONITORING
S Total Imposed on Charge 1: 5,000.00
with 4,700.00 Suspended
And 0.00 Other Amount Ordered
No Criminal Violations : 12 M
Monitored Unsupervised Probat. : 12 M
MON Review Set for 12/29/2016
Final Review-Monitored Probat : 12 M
FNL Review Set for 06/29/2017
No Alcohol/Drug Related Vios : 12 M

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

TEXT - Continued

U 09/29/2016 HOME DETENTION ORDER SIGNED (DCORAUTO) ECR
VERDICT FORM FILED (DCORAUTO)

S 10/03/2016 Accounts Receivable Created 658.00 HMM
U FAX CONFIRMATION FILED (DCORAUTO) ECR

S 10/04/2016 Court Chk Ref 28148 for Bail Refund 3,500.00 DWB
to Payee: JANSON, LISA Y

U 10/14/2016 FILED: NOTICE OF APPEAL, CASE INFORMATION COVER SHEET AGF
REQUEST FOR RECORDINGS; DESIGNATION OF RECORD ON
APPEAL; MOTION TO WAIVE APPEAL COSTS
NOTICE OF APPEAL MAILED TO SUPERIOR COURT
MOTION AND ORDER TO WAIVE FEES FILED (DCORAUTO) ECR
CASE INFORMATION COVER SHEET FILED (DCORAUTO)
MOTION AND ORDER TO WAIVE FEES FILED (DCORAUTO)
CASE INFORMATION COVER SHEET FILED (DCORAUTO)
DESIGNATION OF RECORD FILED (DCORAUTO)
NOTICE OF APPEAL FILED (DCORAUTO)
DESIGNATION OF RECORD FILED (DCORAUTO)
NOTICE OF APPEAL FILED (DCORAUTO)

10/19/2016 MOTION TO WAIVE APPEAL COSTS FORWARDED TO JUDGE ANDERSON AGF
S REV ADMN Set for 10/19/2016 08:00 AM
in Room SHC with Judge MXA
U MOTION TO WAIVE APPEAL COSTS - GRANTED PER JUDGE ANDERSON
S REV ADMN: Held

U 10/28/2016 FILED: ORDER SETTING RALJ CRIMINAL APPEAL CASE SCHEDULE
SUPERIOR CASE CASE #16-1-07811-3 SEA
S Case Set on Appeal Tracking
U NOTICE OF APPEAL FILED (DCORAUTO) ECR

10/31/2016 NOTIFICATION FROM STAY HOME MONITORING FILED: DEFT STARTED NTF
EHM ON 10/28/16. ESTIMATED DATE OF COMPLETION IS 11/15/16

11/08/2016 NOTICE OF FILING TRANSCRIPT FILED (DCORAUTO) ECR
DOCUMENTS FOR APPEAL PREPARED AND FORWARDED TO THE FOLLOWING AGF
PARTIES: SUPERIOR COURT, DEFENDANTS ATTY, SHO PROSECUTOR

11/15/2016 NOTIFICATION FROM STAY HOME MONITORING FILED: AS OF 11/15/16 NTF
DEFT HAS COMPLETED 19 DAYS OF EHM

S 11/16/2016 Charge 1: Def. complied with Jail Sentence

U 01/06/2017 SENTENCE COMPLIANCE REVIEW - NO NEW LAW VIOLATIONS - CASE IS AXS
ON APPEAL
S Defendant Complied with Monitored Unsupervised Probat.

U 03/14/2017 CD REQUEST COMPLETED - PLACED IN PUBLIC DEFENDER COURT MMS
IN-BOX

07/20/2017 SENTENCE COMPLIANCE REVIEW - NO NEW LAW VIOLATIONS - CASE IS AXS
ON APPEAL
***** SUSPENDED SENTENCE - LAST MON REVIEW *****
S Defendant Complied with Final Review-Monitored Probat

ACCOUNTING SUMMARY

	Total Due	Paid	Credit	Balance
Timepay: N	658.00			658.00

Docket continued on next page

DD7020SX LMT
08/23/2017 7:35 AM

KING COUNTY DISTRICT COURT
D O C K E T

PAGE: 10

DEFENDANT
MCLEMORE, SOLOMON DION

CASE: 616010940 SHO
Criminal Non-Traffic
Agency No. SHO

ADDITIONAL CASE DATA - Continued
Case Disposition
Disposition: OPEN

Parties

Attorney MASANIAI, FAAMOMOI P JR
Payor JANSON, LISA Y

Personal Description

Sex: M Race: W DOB: 12/08/1982
Dr.Lic.No.: State: Expires:
Employer:
Height: 5 11 Weight: 180 Eyes: BRO Hair: BRO

Hearing Summary

Held	OTH JAIL INCUSTODY	ON	03/01/2016	AT	03:00	PM	IN	ROOM	SHV	WITH	DJS
Held	ARRAIGNMENT	ON	03/14/2016	AT	08:45	AM	IN	ROOM	SH2	WITH	MXA
Held		ON	04/12/2016	AT	10:15	AM	IN	ROOM	SH1	WITH	DJS
Held	PRETRIAL HEARING	ON	05/12/2016	AT	08:45	AM	IN	ROOM	SH1	WITH	DJS
Held	MOT-TESTIMONY CN-CT	ON	06/02/2016	AT	02:30	PM	IN	ROOM	SH2	WITH	MXA
Held	TRIAL STATUS CN-CT	ON	06/22/2016	AT	01:30	PM	IN	ROOM	SH1	WITH	GXH
Held		ON	06/28/2016	AT	09:00	AM	IN	ROOM	SH1	WITH	GXH
Held	MOT-TESTIMONY CN-CT	ON	08/11/2016	AT	02:30	PM	IN	ROOM	SH1	WITH	MXA
Held	TRIAL STATUS CN-CT	ON	08/17/2016	AT	01:30	PM	IN	ROOM	SH1	WITH	DJS
Held		ON	08/25/2016	AT	09:00	AM	IN	ROOM	SH1	WITH	DJS
Held	TRIAL STATUS CN-CT	ON	09/21/2016	AT	01:30	PM	IN	ROOM	SH2	WITH	MXA
Held		ON	09/26/2016	AT	09:00	AM	IN	ROOM	SH2	WITH	MXA
Schedule	JURY TRIAL	ON	09/27/2016	AT	09:00	AM	IN	ROOM	SH2	WITH	MXA
Held	JURY TRIAL-2 CN-CT	ON	09/28/2016	AT	01:00	PM	IN	ROOM	SH2	WITH	MXA
Held	JURY TRIAL-3 CN-CT	ON	09/29/2016	AT	09:00	AM	IN	ROOM	SH2	WITH	MXA
Held	ADMIN REVIEW	ON	10/19/2016	AT	08:00	AM	IN	ROOM	SHC	WITH	MXA

Case Review Status
(ON APPEAL)

Review Date
10/28/2016

Complied

End of docket report for this case

APPENDIX B

CITY vs McLEMORE

CASE #
616010940

CT FINDS BASED ON UNDISPUTED FACTS AND CASE

OF ST v STEEN 164 WU App 789 THAT THE

KNAPSTAD MOTION IS HEREBY DENIED

FACTS CONSIDERED MOST FAVORABLY TO THE NON-
MOVING PARTY INCLUDED:

FILED
AUG 17 2018
KCDC - West Division
Shoreline Courthouse

RESIDENTIAL NATURE OF CALL

TIME (2AM) " "

" (30/1/16) " YEAR ie. COLD

WOMAN YELLING SHE IS LOCKED OUT
'AND WILL "CALL THE POLICE"'

OFFICERS HEARING ARGUING, GLASS
BREAKING (2X'S) +

DELAY NEEDED TO CALL SHORELINE FIRE
FOR TOOLS TO BREAK IN THE RESIDENCE ALL MAKE
THE COMMUNITY CARETAKING FUNCTION AN EXCEP-
TION TO 4th AMENDMENT PRIVATE CONSIDERATIONS

SMITH

DOUGLAS J. SMITH
JUDGE

APPENDIX C

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON

vs.

Appellant,

NO. 16-1-07891-3 SEA
DECISION ON RALJ APPEAL

Solomon McLemore

Respondent

CLERK'S ACTION REQUIRED

This appeal came on regularly for oral argument on June 2, 2017 pursuant to RALJ 8.3, before the undersigned Judge of the above entitled court and after reviewing the record on appeal and considering the written and oral argument of the parties, the court holds the following:

Reasoning Regarding Assignment of Error: 1) Defendant has not established that the court erred in denying the Krapstad motion. The evidence was sufficient to support a prima facie showing that the Defendant committed the crime of obstructing pursuant to State v. Steen- 149 Wn App 789 (2011) 2) Further the evidence was sufficient to find beyond a reasonable doubt the Defendant's guilt. 3) The trial court did not abuse its discretion in suppressing evidence of the Defendant's belief he was exercising a constitutional right as it was irrelevant evidence and not impactful in the elements of the crime.

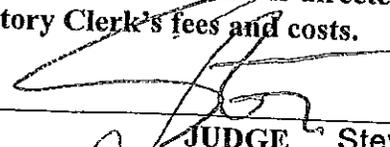
IT IS HEREBY ORDERED that the above cause is:

AFFIRMED; REVERSED; MODIFIED;

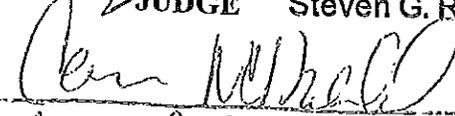
COSTS Waived

REMANDED to King County District Court for further proceedings, in accordance with the above decision and that the Superior Court Clerk is directed to release any bonds to the Lower Court after assessing statutory Clerk's fees and costs.

DATED: 6/2/17


JUDGE Steven G. Rosen

Counsel for Appellant


Counsel for Respondent


Appellant's Counsel
37572

SHORELINE PROSECUTOR'S OFFICE

September 12, 2017 - 9:58 AM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 77094-2
Appellate Court Case Title: City of Shoreline, Respondent v. Solomon McLemore, Petitioner
Superior Court Case Number: 16-1-07811-3

The following documents have been uploaded:

- 770942_Affidavit_Declaration_20170912095543D1404129_7931.pdf
This File Contains:
Affidavit/Declaration - Service
The Original File Name was Affidavit of Mailing.pdf
- 770942_Answer_Reply_to_Motion_20170912095543D1404129_7186.pdf
This File Contains:
Answer/Reply to Motion - Response
The Original File Name was Respondent Reply to Motion for Discretionary Review.pdf

A copy of the uploaded files will be sent to:

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