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No. 97066-1

(Court of Appeals No. 49337-3-II)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint of:
AMANDA CHRISTINE KNIGHT,
Petitioner.

PETITIONER AMANDA KNIGHT'S SUPPLEMENTAL BRIEF

3-4-20:
Respondent's
Supplemental Brief.
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INTRODUCTION AND SUMMARY OF ARGUMENT

This is a double jeopardy case.

In 2010, at age 21, Petitioner Amanda Knight was charged with committing a home invasion robbery during which one of the victims, James Sanders, was murdered by an accomplice. The prosecution divided the charge against her into six counts: the first degree burglary of the Sanders' home; a second degree assault on one of the Sanders' children; the first degree robbery and first degree/robbery murder of Mr. Sanders; and the first degree robbery and second degree assault of his wife, Charlene. Although Ms. Knight never held or used a weapon, each charge included a weapon or firearm allegation.

In the charging documents and the jury instructions, the elements of the four counts involving James and Charlene Sanders overlapped with respect to each victim. Every element of the count charging Ms. Knight with robbing James Sanders was also an element of the count charging her with his robbery/murder. Every element of the count charging Ms. Knight with second degree assault on Charlene Sanders was also an element of the count charging her with the first-degree robbery of Mrs. Sanders.

Under settled double jeopardy law, each of these pairs of charges should have merged, absent a legislative intent to punish both offenses separately, which is not apparent here.

The prosecution argued that, despite this, Ms. Knight could be separately convicted and sentenced on both charges involving each victim, based on different acts that allegedly occurred during the robbery. But it did not attempt to amend the Information or ask for jury instructions to distinguish these allegedly separate acts.

The jury rejected Ms. Knight's duress defense and convicted her on all counts. The trial court sentenced her to 860 months in prison—over 71 years. Its sentence separately and consecutively punished her for both first degree robbery and first-degree robbery/felony murder with respect to James Sanders, and for first degree robbery and second degree assault with respect to Charlene Sanders. The trial court rejected the defense's double jeopardy objections to this by making fact findings based on prosecution arguments which had no basis in the jury verdicts.

This was error. Whether double jeopardy is violated by multiple convictions depends on "the elements of the crimes as charged and proved." Factual elements of an offense that increase maximum punishments must be charged and proved to a jury.

Nothing in the Information, instructions, or verdicts in this case suggests that the jury accepted the prosecution's argument that Mr. Sanders was robbed twice that night, or that Mrs. Sanders was assaulted as well as robbed.

Because it was constitutional error to increase Ms. Knight's punishment based on fact findings made by the courts alone, her convictions and sentences for the first-degree robbery of James Sanders and the second degree assault of Charlene Sanders must be vacated. And even if the Court holds that is not correct, and post-trial judicial fact findings can control this question, these convictions should be vacated because the prosecution and trial court here "arbitrarily divide[d] up an ongoing offense to support separate charges such that [the] defendant [was], for all intents and purposes, punished twice for the same offense."

ASSIGNMENTS OF ERROR

1. The trial court erred by entering judgment and sentencing petitioner to lengthened prison terms based on Count II, the first-degree robbery of James Sanders.

2. The trial court erred by entering judgment and sentencing petitioner to lengthened prison terms based on Count V, the second-degree assault of Charlene Sanders.

ISSUES RELATING TO ASSIGNMENTS OF ERROR

1. Must courts determine if multiple charges arising from criminal conduct directed at a single victim constitute the “same offence” for double jeopardy purposes solely from the definitions of those charges in the Information and the jury instructions and verdicts?
2. Did the legislature intend to separately punish first degree robbery/felony murder and first-degree robbery, when committed against the same victim at the same time?
3. Does a first-degree robbery have a purpose and effect different from a first degree robbery/felony murder committed against the same victim at the same time?
4. As the crimes were charged and defined by the jury instructions in this case, is there any element of second-degree assault that is not an element of first degree robbery?
5. Did the legislature intend to separately punish first degree robbery and second-degree assault, when committed against the same victim at the same time?
6. If prosecution arguments and court findings can determine whether overlapping charges constitute the “same offence”, do the arguments and evidence in this case provide a nonarbitrary basis for determining that Ms. Knight committed separate offenses of robbery murder, first degree robbery and second degree assault against James and Charlene Sanders?

STATEMENT OF THE CASE

A. The Crime.

The prosecution's evidence at Ms. Knight's trial was summarized in the Court of Appeals decision below, as follows:

In April 2010, Knight, Kyoshi Higashi, Joshua Reese, and Clabon Berniard all participated in a home invasion robbery in Lake Stevens. Not long afterwards, Higashi contacted Knight and told her that he wanted to commit another robbery.

After finding a Craigslist advertisement for a wedding ring James [Sanders] had posted, Knight called him from a nontraceable disposable phone and asked if she and her boyfriend could see the ring. Wanting to arrive after dark, Knight arranged to meet James at the Sanders' house that evening.

Knight drove Higashi, Berniard, and Reese to the Sanders' house and parked so they could make a quick getaway. Higashi possessed Knight's firearm; Reese and Berniard also possessed firearms. They had zip ties and masks with them. Reese and Berniard remained in the car. Knight put on a pair of gloves. Higashi handed her several zip ties.

Knight and Higashi met James outside the house and then walked into the Sanders' kitchen. Once inside, James [Sanders] handed an old wedding ring to Knight and Higashi. James then called upstairs to his wife to come downstairs and help him answer Knight's and Higashi's questions about the ring. The Sanders' two sons remained upstairs.

Knight told James that she was interested in buying the ring. Higashi revealed a large amount of cash, but also displayed a gun and threatened James and Charlene. The Sanders told Higashi and Knight to take whatever they wanted and leave.

Knight zip-tied Charlene's hands behind her back and Higashi did the same to James. Knight then removed Charlene's wedding ring from her finger and either Knight or Higashi removed James's wedding ring from his finger. Knight and Higashi ordered James and Charlene to lie face down on the floor.

Using a Bluetooth device, Knight signaled Reese and Bernard to enter the home. Knight knew that Reese and Bernard possessed loaded guns and that using these guns was part of the group's plan to carry out the Sanders' home invasion robbery.

Once inside the house, Reese and Bernard went upstairs, and at gunpoint, they forced the Sanders' two sons to come downstairs and lie face down near the kitchen entryway. Charlene and one son watched as Knight and Higashi gathered items from the house. Knight also ransacked the main upstairs bedroom as she looked for expensive items to steal.

While Knight was upstairs, Bernard held a gun to Charlene's head, cocked the hammer, began counting down, and asked, "Where is your safe?" ... When Charlene responded that they did not own a safe, Bernard kicked her in the head and threatened to kill her and her children. Believing she was going to die, Charlene eventually admitted that they had a safe in the garage.

Bernard forced James into the garage. James broke free of his restraints and attacked Bernard. Bernard shot James in the ear, knocking him unconscious. One of the sons then jumped on Bernard who threw him off and hit him with the butt of his firearm.

Reese then dragged James's body through the kitchen and into the adjacent living room, where they were out of sight. Either Reese or Bernard shot James multiple times, causing fatal internal bleeding.

Immediately following the gunshots, the four intruders fled. *In re Knight*, 2019 WL 1231402 at *1–3 (Wn. App. Mar. 14, 2019) (Pet. MDR App. A at 2-3). Ms. Knight was arrested shortly thereafter and confessed, but claimed she acted under duress.

B. Procedural History

The State charged Ms. Knight with felony murder in the first degree, two counts of robbery in the first degree, two counts of assault in the second degree, and one count of burglary in the first degree. CP 304-08.¹ Each count alleged accomplice liability, aggravating factors, and that one of the participants in the crime was armed with a weapon or firearm. *Id.* The robbery and murder charges alleged that Ms. Knight or her accomplices used force and weapons to take “personal property” from the person or in the presence of James and Charlene Sanders. CP 304-306 (Counts I, II and IV). The assault charge involving Mrs. Sanders alleged that they “did intentionally assault Charlene Sanders with a deadly weapon, to-wit: a handgun” CP 307 (Count V).

The trial court’s jury instructions tracked these charges. Regarding James Sanders, they told the jury (in relevant part):

¹ The Clerk’s Papers and Report of Proceedings from Ms. Knight’s direct appeal were made part of the record of this case by Order of February 11, 2020.

To convict ... of **Murder in the First Degree as charged in Count I** ... the following elements ... must be proved...

- (1) That on or about April 28, 2010, **the defendant or an accomplice committed Robbery in the First Degree;**
- (2) That the defendant or an accomplice caused the death of James Sanders, Sr. in the course of or in furtherance of such crime ...

CP 336 (Instruction 9) (emphasis added).

A person commits the crime of Robbery when **she or an accomplice** unlawfully and with intent to commit theft ... **takes personal property** from the person or in the presence of another against that person's will by the use or threatened use of immediate force, violence, or fear of injury to that person or ... anyone....

CP 338 (Instruction 11) (emphasis added).

To convict ... of **Robbery in the First Degree as charged in Count II**, ... the following ... must be proved ... :

- (1) That on or about the 28th day of April, 2010 the defendant or an accomplice unlawfully took **personal property** from the person or in the presence of another (James Sanders);
- (2) That the defendant intended to commit theft of **the property;**
- (3) That the taking was against the person's will by the defendant's or an accomplice's use or threatened use of immediate force, violence or fear of injury to that person or to the person or property of another,
- (4) That the force or fear was used by the defendant or an accomplice to obtain or retain possession of **the property** or to prevent or overcome resistance to the taking; [and]
- (5) (a) That in the commission of these acts the defendant or an accomplice was armed with a deadly weapon; or (b) That in the commission of these acts the defendant or an accomplice inflicted bodily injury

CP 340 (Instruction 13) (emphasis added). Property was defined as “anything of value.” CP 343 (Instruction 15).

Regarding Charlene Sanders, the jury was instructed:

To convict ... of ... **Robbery in the First Degree ... in Count IV**, ... the following ... must be proved ...

(1) That on or about the 28th day of April, 2010 the defendant or an accomplice unlawfully **took personal property** from the person or in the presence of another (Charlene Sanders) ...

(3) That the taking was against the person's will by the ... use or threatened **use of immediate force, violence or fear of injury to that person** or ... another;

(4) That the force or fear was used by the defendant or an accomplice to obtain or retain possession of **the property** or to prevent or overcome resistance ... ; [and]

(5) (a) That in the commission of these acts the **defendant or an accomplice was armed with a deadly weapon**; or (b) That in the commission of these acts the defendant or an accomplice **inflicted bodily injury**

CP 354 (Instruction 26) (emphasis added).

To convict ... of **Assault in the Second Degree ... in Count V**, ... the following elements ... must be proved ...

(1) That on or about April 28, 2010, **the defendant or an accomplice**:

(a) intentionally assaulted Charlene Sanders and thereby recklessly inflicted substantial bodily harm: **or**

(b) **assaulted Charlene Sanders with a deadly weapon**

CP 353 (Instruction 25) (emphasis added).

An assault is an intentional touching or striking of another person ... that is harmful or offensive.

An assault is also **an act done with the intent to create in another apprehension and fear of bodily injury, and which ... in fact creates ... fear of bodily injury**

CP 346 (Instruction 18).

The jury found Ms. Knight guilty on all counts, but rejected the alleged aggravating factors of deliberate cruelty and unusual sophistication. CP 376-93.

C. Post-Trial Motions and Appeal.

Based on the five contemporaneous felony convictions and six firearm and weapon enhancements, Ms. Knight was sentenced to 860 months—over 71 years—in prison. CP 502-16.

On appeal, Ms. Knight argued the overlapping convictions for the crimes against Charlene Sanders and James Sanders constituted double jeopardy. See MDR App. F. The State responded that there was no double jeopardy because the robberies of both Mr. and Mrs. Sanders were “complete” when rings were taken from them, so that the allegedly later-occurring assault and murder were separate crimes. MDR App. G at 30-32, 35, 37.

The Court of Appeals accepted the State’s version of the facts—and added to it a critical mischaracterization of what the charging documents alleged about the robbery of Mrs. Sanders:

The information elevated this robbery to the first degree by alleging that Knight, or her accomplice, was “armed with a deadly weapon” **while taking Charlene’s wedding ring**.

State v. Knight, 176 Wn. App at 953-54 (emphasis added). As we have shown, the charges and jury instructions said nothing about Mrs. Sanders’ wedding ring: as to both Mr. and Mrs. Sanders, they alleged only that “personal property” was taken from their person or presence. CP 304-06; 336, 338, 340-43, 354. But with this misconception, the Court of Appeals rejected the double jeopardy claims, based on its own assessment of “the crimes as charged and instructed to the jury, *the evidence in the case, and the closing arguments.*” 176 Wn. App. at 956 (emphasis added).

In February 2016, *State v. Whittaker*, 192 Wn. App. 395, 367 P.3d 1092 (2016) held that trial evidence and argument cannot “cure the problem of the ambiguous verdict” which does not “exclude the possibility that the jury convicted on [a] basis” that violates double jeopardy. *Id.* at 416. Ms. Knight promptly filed the Petition below, challenging her convictions of the robbery of James Sanders and the assault on Charlene Sanders on this basis.

The Court of Appeals panel below initially rejected the double jeopardy arguments as to both convictions; but on reconsideration based on *State v. Farnworth*, 192 Wn.2d 468, 430 P.3d 1127 (2018), a new opinion was issued in which the majority found a double jeopardy violation in the convictions of robbery and felony murder of James Sanders, but not in the convictions of

robbery and assault on Charlene Sanders. Pet. MDR App. A at 14. In doing so, it rejected Ms. Knight’s argument that after *Whittaker* “the merger doctrine must be analyzed based on the jury instructions and the jury verdicts alone.” *Id.* at A 15.

Both Ms. Knight and the State then filed motions for discretionary review in this court pursuant to RAP 16.14(c). On December 4, 2019 both motions were granted.

ARGUMENT

I. DOUBLE JEOPARDY IS VIOLATED UNLESS THE LANGUAGE OF THE CHARGING DOCUMENTS AND THE JURY INSTRUCTIONS OR VERDICTS EXCLUDE THE POSSIBILITY THE DEFENDANT HAS BEEN PUNISHED TWICE FOR “THE SAME OFFENSE.”

It is now settled that “[o]ther than ... a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt,” and “the ‘statutory maximum’ for *Apprendi* purposes is the maximum sentence a judge may impose *solely on the basis of the facts reflected in the jury verdict or admitted by the defendant.*” *In re Eastmond*, 173 Wn.2d 632, 636, 272 P.3d 188 (2012) (original emphasis) (quoting *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000) and *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L.

Ed. 2d 403 (2004)). In *Sattazahn v. Pennsylvania*, 537 U.S. 101, 123 S. Ct. 732, 154 L. Ed. 2d 588 (2003), the Supreme Court said

We can think of no principled reason to distinguish, in this context, between what constitutes an offense for purposes of the Sixth Amendment's jury-trial guarantee and what constitutes an 'offence' for purposes of the Fifth Amendment's Double Jeopardy Clause.

537 U.S. at 111.

State v. Whittaker applied that same principle through the rule of lenity. In *Whittaker*, the jury's verdicts were not adequately specific to determine whether separate crimes were found or not:

While it is true there were multiple violations ... we cannot be certain which served as the basis for the jury to convict Whittaker The possibility that the jury could have convicted Whittaker on a basis that does not offend the double jeopardy protections to which he is entitled is simply not enough to cure the problem. The verdict is ambiguous. The rule of lenity applies. In this case, the conviction ... must merge

Whittaker, 192 Wn. App. at 417. *Whittaker* cited *State v. Kier*, 164 Wn.2d 798, 194 P.3d 212 (2008), as authority for applying the rule of lenity in this context. *Kier* held a charge of first-degree robbery and second-degree assault merged because "it is unclear from the jury's verdict whether the assault was used to elevate the robbery to first degree." *Id.* at 813. It so held although there were two victims and the prosecution argued that the two charges applied to

different victims. *Id.* It said prosecutors' arguments cannot change what "the evidence and instructions allowed." *Id.* at 814.

In *State v. Freeman*, assessing a double jeopardy challenge to convictions of first-degree robbery and first-degree assault, this Court applied the same principle: double jeopardy issues turn on how a crime is "charged and proved." 153 Wn.2d 765, 776, 108 P.3d 753 (2005). *Freeman* rejected an argument for a merger exception based on an alleged fact that "was not found by the jury." *Id.* at 779. In a companion case, the Court sustained the reversal of convictions of first degree robbery and second degree assault (*id.*) which had been held to merge because, *in the bench trial* below, "the court found evidence of but a single assault" *State v. Zumwalt*, 119 Wn. App. 126, 132, 82 P.3d 672 (2003).

The Court recently reiterated this principle: Only "[i]f each offense, *as charged*, includes elements not included in the other, the offenses are different and multiple convictions can stand." *State v. Muhammad*, 194 Wn.2d 577, 451 P.3d 1060, 1077 (2019) (lead opinion) (emphasis added); *accord, id.* at 1086 (opinion of Justice Gordon McCloud, et al.: "charged and proved"); *id.* at 1092 (opinion of Justice Madsen, et al.: "[a]s charged").

This rule does not preclude multiple punishments for crimes that are truly separate, and it imposes no real burden on prosecutors in such cases. All it requires is that the Information allege, and the jury instructions describe, offenses with different objects or elements. It is implicit in the constitutional requirement that charges be specific enough to protect against double jeopardy. *See Russell v. United States*, 369 U.S. 749, 763-64, 82 S. Ct. 1038, 8 L. Ed. 2d 240 (1962). Specific charges also permit trial courts to determine whether the prosecution has improperly “divide[d] up [one offense] to support separate charges.” *Farnworth*, 430 P.3d at 475. And verdicts based on specific jury instructions ensure that criminal punishments are based on facts actually found by a jury, not just asserted by the State or inferred by a reviewing court.

II. THE LANGUAGE OF THE CHARGING DOCUMENTS AND JURY INSTRUCTIONS IN THIS CASE SHOW THAT PETITIONER WAS PLACED TWICE IN JEOPARDY FOR A SINGLE OFFENSE WITH RESPECT TO BOTH JAMES SANDERS AND CHARLENE SANDERS.

A. The Robbery and Robbery-Murder Charges Involving James Sanders.

This Court’s recent decision in *State v. Muhammad* confirms the judgment of the Court of Appeals majority below regarding the charges involving James Sanders: that because

“Knight’s sole homicide conviction was felony murder predicated on robbery ... the felony murder and the robbery merge.” *In re Knight*, Pet. MDR App. A at 10. *Muhammad* held that double jeopardy law required merger of charges of first-degree rape and first-degree rape/murder. 451 P.3d at 1066. There is no difference between rape and robbery that calls for a different rule.

“[T]he felony murder statute explicitly cross-references the rape statutes.” *Id.* at 1086. It also cross-references the robbery statutes, in the same code section, RCW 9A.32.030(1)(c). Like rape, robbery is a crime of violence. *State v. Vermillion*, 112 Wn. App. 844, 864, 51 P.3d 188 (2002). So, of course, is robbery murder. Statutes prohibiting robbery and robbery murder have the same purpose: punishment of the use of violence to take property from the person of others. Thus, to paraphrase:

First degree [robbery] is unquestionably a lesser included offense of felony murder based on first degree [robbery]. First degree [robbery] is composed of some, but not all, of the elements of felony murder—in fact, the felony murder statute incorporates the elements of first degree [robbery] by reference. RCW 9A.32.030(1)(c)... Thus, the two offenses are the same offense under *Blockburger*, and they must merge to avoid ... double jeopardy

Muhammad, 451 P.3d at 1085 (opinion of Justice Gordon-McCloud, et al.) (substituting “robbery” for “rape”).

There is no reason to believe the legislature intended persons convicted of robbery murder to be separately punished for

the robbery of the same victim at the same time. To the contrary, as with rape, the legislature separately prescribed a severe additional penalty for homicide if a robbery is involved. Again:

[T]he degree of killing was raised to first degree murder by conduct separately criminalized by the legislature: [robbery]. Thus, the legislature presumably intended to treat the underlying felony as an element that elevated the killing to first degree murder, and the two offenses must merge....

Id. at 1089-90 (substituting “robbery” for “rape”). See also *id.* at 1093 (opinion of Justice Madsen, et al.).

Nothing in the Amended Information or the jury instructions or the verdicts supports the State’s contention “that James Sanders was robbed of two different types of his property at two different times.” State’s MDR at 18. As Judge Bjorgen, concurring below, commented, a “straightforward” application of double jeopardy law made it clear that the robbery and robbery murder of James Sanders should merge. Pet. MDR App. A at 17.

B. The Robbery and Assault Charges Involving Charlene Sanders.

“[S]ince 1975, courts have generally held that convictions for assault and robbery stemming from a single violent act are the same for double jeopardy purposes and that the conviction for assault must be vacated at sentencing.” *State v. Freeman*, 153 Wn.2d 765, 774, 108 P.3d 753 (2005).

The charging documents and the jury instructions defining the assault and robbery charges involving Charlene Sanders nowhere said or suggested they were based on different events. The jury was told to convict of first degree robbery if it found that property was taken from Mrs. Sanders “by the ... use or threatened use of immediate force, violence or fear of injury” and “the defendant or an accomplice was armed with a deadly weapon” *or* “inflicted bodily injury”. CP 354. It was told to convict of assault if it found “the defendant or an accomplice ... assaulted Charlene Sanders and thereby recklessly inflicted substantial bodily harm,” *or* “assaulted Charlene Sanders with a deadly weapon” CP 353. As in *Kier*, the jury was told an assault is “an act done with the intent to create in another apprehension and fear of bodily injury” CP 346. Thus, there was no element of the assault charge that was not also an element of the first-degree robbery charge. Once the jury found Ms. Knight guilty of first-degree robbery of Mrs. Sanders, it had no need to find any other fact or element in order to convict of second degree assault.

Nothing in the criminal code suggests that the Legislature meant to separately punish first degree robbery and an assault that occurs in its course. Instead, it made second degree assault a threat with a weapon or infliction of bodily injury—the same element that elevates robbery to first degree. *Cf. Muhammad*, 451 P.3d at 1085. Robbery and assault are both violent crimes against persons.

See RCW 9A.56.200, 210. *Compare State v. Arndt*, 194 Wn.2d 784, 453 P.3d 696 (2019) (no double jeopardy for arson and arson-murder because arson is a crime against property).

The likelihood that the jury convicted Ms. Knight of second-degree assault and first-degree robbery of Mrs. Sanders based on the same facts and elements means her convictions and sentence for both those crimes constitute double jeopardy.

III. EVEN IF TRIAL EVIDENCE AND ARGUMENT COULD ESTABLISH THAT TWO OVERLAPPING CHARGES INVOLVED DIFFERENT OFFENSES, THAT DOES NOT ALLOW THE PROSECUTION TO ARBITRARILY DIVIDE UP A SINGLE OFFENSE INTO SEPARATE CHARGES, AS IT DID HERE.

Established double jeopardy law also holds that “an ongoing offense may not be arbitrarily divided up to support separate charges such that a defendant is, for all intents and purposes, punished twice for the same offense.” *Farnworth*, 430 P.3d at 475. Where “a person has been tried and convicted for a crime which has various incidents included in it, he cannot be a second time tried for one of those incidents without being twice put in jeopardy for the same offense.” *Ex parte Nielsen*, 131 U.S. 176, 188, 9 S. Ct. 672, 33 L. Ed. 118 (1889). *See Brown v. Ohio*, 432 U.S. 161, 169, 97 S.Ct. 2221, 53 L.Ed.2d 187 (1977):

The Double Jeopardy Clause is not such a fragile guarantee that prosecutors can avoid its limitations by the simple expedient of dividing a single crime into a series of temporal or spatial units.

This is not a case like *Farnworth* where the charged “offenses occurred during two time periods, without any overlap, with an ... intervening period” in which the defendant was not committing a crime. *Farnworth*, 430 P.3d at 476. In this case armed force and the threat of force was continuously used to threaten the victims and take property from them, from the moment Higashi pulled a gun until the perpetrators left the scene. This is an even more obvious double jeopardy violation than the one *Brown*, in which the defendant stole the victims’ car and then drove it over and over again for more than a week, or the one in *Neilsen*, where the crimes were repeated over a period of months.

This is even more clearly so because Ms. Knight was charged as an accomplice to these crimes. Ms. Knight was held criminally responsible for the crimes against the Sanders family because she participated in a robbery in which she knew her co-perpetrators were armed with firearms. She therefore can be fairly convicted and punished for the serious offenses her codefendants committed in the course of that robbery, including murder—but she can be punished only once for each offense, not twice.

CONCLUSION

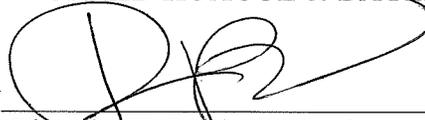
The Court should affirm the Court of Appeals insofar as vacated Ms. Knight’s conviction of first-degree robbery of James Sanders, and reverse the Court of Appeals decision insofar as it let stand her conviction of second degree assault on Charlene Sanders.

DATED this 4th day of March 2020.

Respectfully submitted,

MacDONALD HOAGUE & BAYLESS

By

A handwritten signature in black ink, appearing to read 'T. Ford', written over a horizontal line.

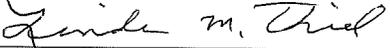
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on this 4th day of March, 2020, I filed the foregoing PETITIONER AMANDA KNIGHT'S SUPPLEMENTAL BRIEF using the Washington Appellate Portal which will serve a copy on the following:

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