

64077-1

64077-1

NO. 64077-1-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

ANATOLIY STRIZHEUS,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JAMES CAYCE

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B

BRIEF OF RESPONDENT

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**A. ISSUES PRESENTED**

1. Whether the trial court properly excluded defendant Anatoliy Strizheus's proffered "other suspect" evidence.

2. Whether Strizheus has failed to show that the trial court violated his constitutional right to present a defense when it excluded inadmissible "other suspect" evidence.

3. Whether any error in excluding "other suspect" evidence was harmless.

**B. STATEMENT OF THE CASE**

Anatoliy and Valentina Strizheus<sup>1</sup> were married in Ukraine and had three children. 6RP 16-17.<sup>2</sup> They divorced, remarried and then moved to the United States in 1997. 6RP 18-20. They repeatedly moved around and, for significant periods of time, Valentina lived separately from Strizheus. 6RP 22-26. In 2005, Valentina moved to Auburn and later began living in an apartment

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<sup>1</sup> Defendant Anatoliy Strizheus is referred to as "Strizheus" in this brief. Valentina Strizheus is referred to as "Valentina." Their children are also referred to by their first names.

<sup>2</sup> The verbatim report of proceedings consists of 13 volumes designated as follows: 1RP: June 25, 2009; 2RP: June 29, 2009; 3RP: June 30, 2009; 4RP: July 6, 2009; 5RP: July 7, 2009; 6RP: July 8, 2009; 7RP: July 9, 2009; 8RP: July 13, 2009; 9RP: July 14, 2009; 10RP: July 15, 2009; 11RP: July 16, 2009; 12RP: July 20, 2009; 13RP: August 27, 2009.

with her son Vladimir. 6RP 27-31. In February of 2007, Strizheus moved in with them and slept on the couch. 6RP 33-34.

At this time, Valentina was in a relationship with another man. 6RP 34-36. On March 10, 2007, Valentina spent the night with this man. 6RP 37-41. The next morning, she went home, saw Strizheus, took a shower and went to bed. 6RP 41. That afternoon she went out shopping and when she returned home, Strizheus confronted her. 6RP 43, 51-52; Ex. 7 at 42; Ex. 118. Valentina tried to leave, but Strizheus grabbed a knife hidden near the couch and approached her. Ex. 7 at 43-48; Ex. 118. When Valentina tried to leave through a door, Strizheus stabbed her multiple times. Ex. 7 at 55-62; Ex. 119. Valentina begged that he not kill her, but Strizheus did not listen and began hitting her in the face. Ex. 7 at 62-63. Fearful for her life, Valentina grabbed the knife, squeezed through the door, jumped from the balcony and ran. Ex. 7 at 63-64; Ex. 119.

Valentina suffered nine wounds to her torso, face, back and hands. 9RP 20-28. Covered in blood, she ran to the residence of Wendy Beres and Corey Stalock. 7RP 88-89, 113-17. Valentina asked Stalock, who was in the driveway, to call 911. 7RP 114. While Stalock called 911, Beres came out and asked Valentina

about her injuries. 7RP 91-92. Valentina explained that her husband had stabbed her with a knife. 7RP 91-92, 113-14. Beres, who had some training as a nurse, got some towels and used them to compress Valentina's wounds and stop the bleeding. 7RP 93-95. Beres estimated that Valentina lost about 2 quarts of blood. 7RP 101.

The first officer to arrive on the scene went to Valentina's residence. 9RP 128-30. In less than a minute, Strizheus came out the front door. 9RP 130-32. The officer ordered Strizheus to the ground, and he sat down. 9RP 131-32. He had blood on his clothing and several stab wounds on the inside of his left forearm and wrist. 5RP 82, 103-04; 8RP 62; 9RP 131. He was agitated and not cooperative. 5RP 82, 104. Strizheus's injuries were not life-threatening; most of the wounds were superficial. 8RP 62-65.

Then police went through Valentina's residence, noted that no one else was present, and observed a knife on the floor. 5RP 105-09; 9RP 137-39. There was evidence of a struggle and blood in the dining room and living room areas. 8RP 101; 9RP 87-88.

Meanwhile, an officer contacted Valentina and asked who hurt her, and Valentina responded, "husband." 8RP 81-86. The

officer asked her if anyone else hurt her, and she again responded, "husband." 8RP 86.

Emergency medical technicians ("EMT") responded and quickly concluded that her injuries were serious. 8RP 8, 19-28. An EMT asked her who had stabbed her, and Valentina again responded, "my husband." 8RP 34-35. After paramedics arrived and took over treating her, Valentina told them her husband had stabbed her. 8RP 35-36, 147. While the paramedics were working on her, an officer asked Valentina who her husband was, and she responded, "Anatoliy." 8RP 87-90.

Valentina was transported to Harborview Medical Center. 9RP 13-16. A stab wound had penetrated her abdomen, and she underwent surgery. 9RP 29-36. The wounds to her face were deep and affected critical areas, requiring a plastic surgeon to repair them. 9RP 39. Without treatment, Valentina would likely have died from the injuries. 9RP 36-37, 56-57.

When the emergency room doctor questioned her about what had happened, Valentina appeared very scared and was not forthcoming. 9RP 47-50. Nonetheless, she confirmed that her husband had stabbed her. 9RP 46-50.

That night, Detective James Hamil interviewed Valentina at

the hospital. 10RP 124-29; 11RP 16-20. She stated that after arguing with her husband about where she had gone, he began to beat her. 11RP 18-19; Ex. 116. Valentina explained that when she tried to leave the residence, Strizheus grabbed a knife and stabbed her. 11RP 19-20; Ex. 116.

A forensic scientist later examined the knife found on the floor of Valentina's residence. 10RP 63-66. A stain on the edge of the knife matched Strizheus's DNA profile. 10RP 65-67. A stain on the side of the knife matched Valentina's DNA profile. 10RP 67-68.

On March 14, 2007, the State charged Strizheus with attempted murder in the second degree and alleged a deadly weapon enhancement. CP 1. Before trial, the State amended the charge to attempted first-degree murder and added a second count charging first-degree assault. CP 7-8. The matter went to trial in June of 2009.

Strizheus attempted to offer evidence suggesting that his son Vladimir committed the crime. The trial court excluded this evidence; the facts surrounding this issue are discussed more fully below.

At trial, Valentina testified that she did not remember how she was stabbed. 6RP 52-54. Her two prior taped statements

taken by the police were admitted. 11RP 18-19, 57-63; Ex. 7, 116, 118, 119. After she testified, Valentina told a victim advocate that neither her husband nor her son stabbed her. 8RP 44-45; CP 49. Instead, she claimed that a stranger stabbed her. 8RP 45; CP 49. After this disclosure, defense counsel interviewed Valentina again, but chose not to re-call her as a witness. 11RP 114-15.

The State called Valentina's son Slavic and his wife Anna as witnesses. Both had visited her in the hospital after the attack and talked with her. 7RP 64-66. Though Slavic initially testified that his mother told him who had injured her, after a break in his testimony, Slavic insisted that his mother had not identified her attacker. 7RP 16, 37-40.

A jury found Strizheus guilty as charged. CP 87-90. At sentencing, the court dismissed the first-degree assault conviction and imposed a standard range sentence on the attempted first-degree murder conviction. CP 94-97.

Additional relevant facts are set forth below.

**C. ARGUMENT**

**1. THE TRIAL COURT PROPERLY EXCLUDED THE PURPORTED "OTHER SUSPECT" EVIDENCE.**

Strizheus's sole claim on appeal is that the trial court erred in excluding evidence of his son Vladimir as an "other suspect." This claim fails, because the excluded evidence was inadmissible under Washington's long-standing rules governing such evidence. The only evidence implicating Vladimir, a "confession" by a drunk Vladimir seven months after the crime and subsequently recanted, did not clearly point out that he had attempted to murder his mother.

**a. Relevant Facts.**

During pretrial hearings, Strizheus indicated that he intended to offer evidence suggesting that his son Vladimir committed the crime. CP 20-24. Vladimir was listed as the sole possible defense witness. CP 14.

As "other suspect" evidence, Strizheus sought to introduce evidence that on October 27, 2007, seven months after the stabbing, Vladimir called 911 and stated that he had done something he felt bad about. 3RP 78; CP 15-16. According to the

defense proffer, after the police arrived and arrested Vladimir on an outstanding warrant, Vladimir stated that he had stabbed his father and mother.<sup>3</sup> 3RP 78-79; CP 23. During this incident, Vladimir assaulted an officer. 3RP 79.

The parties disputed exactly what Vladimir had said during the incident. The prosecutor represented to the court that Vladimir did not say that he had stabbed his mother and father. Instead, the prosecutor indicated that the officers and Vladimir would testify that he stated, "It's my fault. Arrest me. I should be in jail, not my dad. I want to replace him. Take me instead." 5RP 26-28.

Both the prosecutor and defense counsel interviewed Vladimir prior to trial. Vladimir denied that he had stabbed his mother or his father and explained that he was drunk at the time he made the earlier statement. 3RP 76-77, 81.

During the hearing on the admissibility of the "other suspect" evidence, the trial judge noted that the proffered statement by Vladimir was hearsay and inquired how it was admissible. 3RP 80.

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<sup>3</sup> In addition to Vladimir's statement, at trial Strizheus argued that there were additional facts supporting his "other suspect" theory. These included a malicious mischief arrest of Vladimir, a claim that Vladimir was upset with his father for having sex with Vladimir's girlfriend, and a subsequent charge of fourth-degree assault against Vladimir involving Valentina. CP 23-24. At trial, Strizheus failed to establish how much of this information was admissible, and on appeal, he does not discuss these additional facts, let alone argue how any of them would have been admissible.

Defense counsel first argued that it was a statement against penal interest. 3RP 80. However, defense counsel then acknowledged that Vladimir was available as a witness and that he would not claim his privilege against self-incrimination with respect to whether he stabbed his mother or his father. 3RP 80-81. Defense counsel then suggested that the statement qualified as a prior statement by a witness, and the court noted that the statement was not under oath. 3RP 83. The court recessed for the day and invited counsel to provide authority supporting the admissibility of Vladimir's hearsay statement. 3RP 93.

When argument on the issue resumed a few days later, defense counsel still struggled with finding a hearsay exception. 5RP 10-14. He argued that the statement was not hearsay "if the person coming into court is actually making the statement." 5RP 19-20.

The court held that the defense failed to satisfy the standard for "other suspect" evidence. "We just don't have the corroborating evidence in this case... and here the other suspect evidence simply does not tend to clearly point to someone else as the guilty person." 5RP 33.

Near the end of trial, defense counsel raised the issue again, this time arguing that Vladimir's statements were admissible as to his state of mind. 12RP 5. The trial judge declined to change his ruling, noting that "nothing's changed." 12RP 27. "What we have here is no credible evidence of any other suspect." 12RP 27.

**b. The Proffered Evidence Was Not Admissible As "Other Suspect" Evidence.**

This Court reviews a trial court's determination whether to admit "other suspect" evidence for abuse of discretion. State v. Thomas, 150 Wn.2d 821, 856, 83 P.3d 970 (2004). The trial court's decision should be reversed only if no reasonable person would have decided the matter as the court did. Id. Here, the trial court acted within its discretion in excluding the proffered "other suspect" evidence concerning Vladimir.

Although a defendant has a constitutional right to obtain witnesses and present a defense, he has no right to present irrelevant evidence. State v. Hudlow, 99 Wn.2d 1, 15, 659 P.2d 514 (1983). Evidence that a third party committed the charged crime is not admissible unless a sufficient foundation is established. State v. Condon, 72 Wn. App. 638, 647, 865 P.2d 521 (1993).

Before "other suspect" evidence may be admitted, there must be such proof of connection or circumstances that tend to clearly point out someone besides the one charged as the guilty party. State v. Russell, 125 Wn.2d 24, 75, 882 P.2d 747 (1994); State v. Downs, 168 Wash. 664, 13 P.2d 1 (1932). The foundation requires a clear nexus between the other suspect and the crime. Condon, 72 Wn. App. at 647. "Not only must there be a showing that the third party had the ability to place him or herself at the scene of the crime, there also must be some step taken by the third party that indicates an intention to act on that ability." State v. Rehak, 67 Wn. App. 157, 163, 834 P.2d 651 (1992). The defendant has the burden of showing that the "other suspect" evidence is admissible. State v. Mezquia, 129 Wn. App. 118, 124, 118 P.3d 378 (2005).

Here, the only proffered evidence that Vladimir committed the crime was a hearsay statement, made while he was drunk and seven months after the incident, suggesting that he stabbed his mother and father. Vladimir repeatedly recanted this statement, and the defense offered no other evidence that Vladimir had tried to kill his mother. There was no forensic evidence linking him to the crime. He had no apparent motive to murder his mother. While Strizheus complained that Vladimir lacked an alibi, there was no

evidence he was at the scene. Finally, neither of the two individuals known to be present, Strizheus and Valentina, had reported or suggested that Vladimir had stabbed them. Instead, immediately after the crime, Valentina consistently reported to her neighbor, the police, paramedics and her doctor that Strizheus had stabbed her. In turn, when the police talked to Strizheus, he claimed that Valentina had stabbed him.<sup>4</sup> 2RP 13-14. Strizheus's proffered "other suspect" evidence failed to establish a clear nexus between Vladimir and the crime.

The case primarily relied upon by Strizheus, State v. Maupin, 128 Wn.2d 918, 913 P.2d 808 (1996), is easily distinguishable. Maupin sought to introduce testimony from a witness who claimed to have seen the murder victim with a different man on the day after Maupin had allegedly committed the murder. The Washington Supreme Court held this testimony satisfied the "other suspect" test and should have been admitted. "An eyewitness account of the kidnapped girl in the company of someone other than Maupin after

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<sup>4</sup> Though the trial court ruled the State could admit Strizheus's statements to the police that Valentina had stabbed him, CP 102-05, the State ultimately did not elicit that testimony.

the time of the kidnapping certainly does point directly to someone else as the guilty party, as Downs requires." 128 Wn.2d at 928. Unlike Maupin, Strizheus did not offer an eyewitness account putting the victim in the company of the "other suspect" at the time of the crime. Instead, he offered a drunk relative's hearsay statement that was not supported by any other evidence and was subsequently recanted. The trial court did not abuse its discretion in excluding this evidence.

In addition, as the trial court recognized, under the rules of evidence, Vladimir's hearsay statement was not admissible as substantive evidence. At trial, Strizheus could not articulate an applicable hearsay exception. On appeal, he claims that Vladimir's statement might have been admissible as a statement against penal interest if Vladimir had asserted his Fifth Amendment right against self-incrimination and, therefore, was unavailable as a witness. ER 804(b)(3). However, the record is clear that, if called as a witness, Vladimir did not intend to assert his Fifth Amendment privilege against self-incrimination to questioning about the

stabbing of his mother.<sup>5</sup> 5RP 66-67. Vladimir's statement was not admissible as a statement against penal interest.

Strizheus also argues that the trial court should have allowed him to call Vladimir as a witness, ask him whether he stabbed his mother and then, assuming he denied doing so, impeach him with his prior statement. Brief of Appellant at 12. Given that the proffered evidence concerning Vladimir did not satisfy the "other suspect" test, the trial court properly held Strizheus could not attempt to impeach Vladimir on the issue.

This Court confronted this issue in State v. Howard, 127 Wn. App. 862, 113 P.3d 511 (2005). Howard was charged with committing a robbery and burglary with three other men. He sought to call Robert Lyne, one of the other men involved in the crimes, as a witness. Lyne initially testified at a pretrial hearing that another man, not Howard, was involved in the crimes. However, Lyne later

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<sup>5</sup> On appeal, Strizheus claims that it was unclear whether Vladimir would assert his Fifth Amendment right against self-incrimination. Brief of Appellant at 12-13. The record does not support this claim. In the hearing cited in Strizheus's brief, Strizheus's attorney stated that he thought Vladimir would assert the privilege with respect to questioning about his pending fourth degree assault charge. 3RP 81. With respect to the stabbing of his mother, Strizheus's attorney represented to the court that Vladimir "is not going to plead the Fifth." 3RP 81. Indeed, both defense counsel and the prosecutor later confirmed with Vladimir's attorney that Vladimir would not assert his Fifth Amendment privilege. 5RP 66-67.

invoked his Fifth Amendment right against self-incrimination and informed the court that his trial testimony would be materially different from his earlier testimony. The trial court held that the evidence failed to satisfy the standard for "other suspect" evidence and that Howard could not call Lyne as a witness in order to impeach him with his prior testimony.

This Court affirmed, finding that the trial court did not abuse its discretion in excluding the other suspect evidence. The Court also rejected Howard's contention that he should have been allowed to call Lyne in order to impeach him with his prior statement:

In Lavaris<sup>[6]</sup>, the court held that in order to prevent abuse of the rule on impeachment, a party could not call a witness as a mere subterfuge to place before the jury evidence not otherwise admissible.... The purpose of the rule, regardless of the party against whom it is applied, is to avoid the subterfuge of putting before a jury evidence that is otherwise inadmissible....

The trial court did not abuse its discretion in prohibiting Howard from calling Lyne for the sole purpose of placing inadmissible evidence before the jury under the guise of impeachment.

127 Wn. App. at 869-70.

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<sup>6</sup> State v. Lavaris, 106 Wn.2d 340, 721 P.2d 515 (1986).

The trial court acted well within its discretion in finding that the proffered evidence concerning Vladimir failed to satisfy the standard for admitting "other suspect" evidence. Given this ruling, the court properly prohibited Strizheus from questioning Vladimir as to whether he stabbed his mother.

**c. The Exclusion Of Inadmissible "Other Suspect" Evidence Did Not Violate Strizheus's Constitutional Rights.**

Strizheus contends that if his proffered evidence was inadmissible under the "other suspect" rule and hearsay rules, those rules violated his constitutional right to present a defense. Brief of Appellant at 14. This argument is without merit.

A defendant does not have a constitutional right to the admission of irrelevant evidence. Hudlow, 99 Wn.2d at 15. "Defendants have a right to present only relevant evidence, with no constitutional right to present *irrelevant* evidence." State v. Jones, 168 Wn.2d 713, 720, 230 P.3d 576 (2010) (emphasis in original). "In the exercise of this right [to present a defense], the accused, as is required of the State, must comply with established rules of procedure and evidence designed to assure both fairness and reliability in the ascertainment of guilt and innocence." Chambers

v. Mississippi, 410 U.S. 284, 302, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973); see also Taylor v. Illinois, 484 U.S. 400, 410, 108 S. Ct. 646, 98 L. Ed. 2d 798 (1988) (holding that "[t]he accused does not have an unfettered right to offer testimony that is incompetent, privileged, or otherwise inadmissible under standard rules of evidence").

To the extent Strizheus suggests that the "other suspect" rule is unconstitutional, the United States Supreme Court's decision in Holmes v. South Carolina, 547 U.S. 319, 126 S. Ct. 1727, 164 L. Ed. 2d 503 (2006) forecloses that challenge. In Holmes, the Court, while holding that South Carolina's "other suspect" standard was unconstitutional, contrasted it with an acceptable and widely adopted standard for "other suspect" evidence -- the rule applied by Washington and many other states.

At issue in Holmes was South Carolina's newly revised "other suspect" rule, which allowed for exclusion of such evidence if the State's case against the defendant was particularly strong. At the outset, the Supreme Court observed that it was entirely appropriate for states to limit evidence concerning "other suspects":

While the Constitution thus prohibits the exclusion of defense evidence under rules that serve no legitimate purpose or that are disproportionate to the ends that

they are asserted to promote, well-established rules of evidence permit trial judges to exclude evidence if its probative value is outweighed by certain other factors such as unfair prejudice, confusion of the issues, or potential to mislead the jury.

...

A specific application of this principle is found in rules regulating the admission of evidence proffered by criminal defendants to show that someone else committed the crime with which they are charged. [Citations omitted]. Such rules are widely accepted, and neither petitioner nor his *amici* challenge them here.

547 U.S. at 326-27 (footnote omitted).

The Court noted that South Carolina's original standard for "other suspect" evidence, similar to that in Washington, provided that, before "other suspect evidence was admissible, 'there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party.'" Holmes, 547 U.S. at 328 (quoting State v. Gregory, 198 S.C. 98, 104-05, 16 S.E.2d 532, 534-35 (1941) (quoting 16 C.J. Criminal Law § 1085, p. 560 (1918) and 20 Am. Jur. Evidence § 265, p. 254 (1939))). However, the South Carolina Supreme Court had "radically changed" the rule and held that "where there is strong evidence of [a defendant's] guilt, especially where there is strong forensic evidence, the proffered evidence

about a third party's alleged guilt' may (or perhaps must) be excluded." Holmes, 547 U.S. at 328-29 (quoting State v. Holmes, 361 S.C. 333, 343, 605 S.E.2d 19, 24 (2004)).

The Court contrasted this new rule with the more common standard for "other suspect" evidence articulated in the earlier Gregory case and applied in Washington. "[T]he rule applied by the State Supreme Court does not rationally serve the end that the Gregory rule and its analogues in other jurisdictions were designed to promote, *i.e.*, to focus the trial on the central issues by excluding evidence that has only a very weak logical connection to the central issues." Holmes, 547 U.S. at 330.

The Court concluded that South Carolina's new rule, conditioning admission of "other suspect" evidence on the strength of the State's case against the defendant, made little sense. "The point is that, by evaluating the strength of only one party's evidence, no logical conclusion can be reached regarding the strength of contrary evidence offered by the other side to rebut or cast doubt." 547 U.S. at 331. The Court concluded that the new rule violated the defendant's right to present a complete defense.

Given that the Court in Holmes cited Washington's rule on "other suspect" as an appropriate rule governing the admission of

such evidence, there is no basis to find the application of that rule unconstitutional. The trial court did not violate Strizheus's constitutional rights by applying this rule and excluding the proffered "other suspect" evidence.

**d. Any Error Was Harmless.**

Even if the trial court erred by excluding the "other suspect" evidence, Strizheus fails to establish that the error justifies reversal of his conviction. An erroneous ruling concerning the relevancy and the admissibility of evidence requires reversal only if there is a reasonable possibility that the testimony would have changed the outcome of trial. State v. Aguirre, 168 Wn.2d 350, 361, 229 P.3d 669 (2010) (citing State v. Fankhouser, 133 Wn. App. 689, 695, 138 P.3d 140 (2006)). Given the overwhelming evidence of Strizheus's guilt and the fact that the excluded evidence would have been admissible only for impeachment purposes, this Court should have no doubt that any error was harmless.

The "other suspect" test sets the threshold standard for whether the evidence offered is *relevant*. Howard, 127 Wn. App. at 866. Even if relevant, Vladimir's statement was still hearsay. It would have been admissible only in order to impeach Vladimir's trial

testimony and not as substantive proof of the underlying facts. State v. Johnson, 40 Wn. App. 371, 377, 699 P.2d 221 (1985). As Strizheus's trial attorney acknowledged,<sup>7</sup> if Vladimir testified and was impeached on his prior statement, the trial court would have given a limiting instruction, informing the jury that the hearsay statement was not offered as substantive evidence that Vladimir had committed the crime. In summary, the excluded evidence consisted of impeachment evidence, and there was no substantive evidence implicating Vladimir in the attempted murder of his mother.

In contrast, the evidence of Strizheus's guilt was overwhelming. Valentina immediately reported the crime and, while still bleeding from the multiple wounds, told her neighbor, the police, and paramedics that Strizheus had stabbed her. Strizheus was the only other person at the scene of the crime and was seen emerging from the residence. Both his and Valentina's blood was on the knife, and he had an obvious motive for assaulting his wife -- she had spent the previous night with another man. It is not reasonably possible that the results of the trial would have been different had the jury heard that Vladimir, while drunk and seven

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<sup>7</sup> 5RP 68-69; 12RP 16.

months after the fact, appeared to take responsibility for the crime.

Any error in excluding the evidence was harmless.

**D. CONCLUSION**

For the reasons set forth above, the State respectfully requests that this Court affirm Strizheus's conviction and sentence.

DATED this 25<sup>th</sup> day of July, 2010.

Respectfully submitted,

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Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Gregory Link, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Brief of Respondent, in STATE V. ANATOLIY STRIZHEUS, Cause No. 64077-1-I, in the Court of Appeals, Division I, for the State of Washington.

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

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