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NO. 66016-1-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

CHARLES KEENEY,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JEFFREY RAMSDELL

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Whether defendant Charles Keeney's prosecutorial misconduct claim, raised for the first time on appeal, is waived because the argument at issue was proper and any possible prejudice could have been avoided by a proper objection and a curative instruction.

2. Whether Keeney has failed to establish that he received ineffective assistance of counsel based upon his attorney's failure to object during the prosecutor's closing argument.

3. Whether the Court should remand for re-sentencing due to an error in calculating the offender score.

B. STATEMENT OF THE CASE

1. SUBSTANTIVE FACTS

Brian Branch suffers from manic depression and is a self-described loner. 3RP 28-30.¹ He lives in a house in Seattle and manages several apartments. 3RP 25-27.

In 2009, Branch befriended a woman named Christy, who worked as a prostitute. 3RP 31-32; 4RP 28. On several occasions,

¹ The State adopts the abbreviations for the report of proceedings used by Keeney.

Branch provided her with money or a ride. 3RP 32-33; 4RP 28. In December of 2009, Christy called Branch and stated that she had a friend who needed help. 3RP 31-33. A short time later, Branch met Christy and defendant Charles Keeney at a fast food restaurant. 3RP 34. Christy explained that Keeney was down on his luck and asked Branch to help him out. 3RP 34. Branch gave Keeney five dollars. 3RP 34-35.

Approximately one month later, on the night of January 8, 2010, Keeney entered Branch's home through an open door, grabbed a kitchen knife, placed it against Branch's stomach and told him to empty his pockets. 3RP 36-37; 5RP 188.² Branch withdrew approximately \$120 from his pockets, and Keeney took the money. 3RP 38-41. After Keeney demanded more money, Branch gave him a credit card. 3RP 41-42. Before leaving, Keeney threatened to kill Branch if he called the police or cancelled his credit card. 3RP 43. Despite this warning, a short time later, Branch cancelled his credit card. 3RP 52.

Branch then asked his friend Lea Gruver to come over and spend the night. 3RP 53; 4RP 192-93. After she arrived, Gruver

² At trial, during cross-examination, Branch also stated, for the first time, that Keeney had robbed him earlier in a similar manner. 4RP 35-43.

noticed that Branch was stressed; he told her that he had a really long hard day. 4RP 194. Branch did not tell Gruver about Keeney because he was afraid that she would leave. 3RP 52-53.

The next morning at approximately 5:30 a.m., someone rang Branch's doorbell and began pounding on his door. 3RP 54; 4RP 195. Branch looked out his peephole and saw a woman, who said, "Help me." 3RP 55-57. When Branch opened the door, Keeney appeared, forced the door open, and punched Branch in the face. 3RP 55-57.

While she was in the bedroom, Gruver heard Keeney state, "You cancelled the cards. You shouldn't have done that. I'll kill you right now." 4RP 196. Keeney walked around the house, saw Gruver and asked her who she was. 4RP 198. Keeney then grabbed a knife, and demanded more money from Branch. 3RP 57; 4RP 198. At Keeney's direction, Branch wrote out a check to Keeney for one thousand dollars. 3RP 58-59; 4RP 198. Keeney threatened to kill Branch if he contacted the police and told Branch that, if contacted, he should verify that the check was valid. 4RP 199-201. Keeney left, taking Branch's cell phone and car keys. 3RP 60.

Branch began to cry and told Gruver how Keeney had come by earlier that night. 4RP 203.

A short time later, an employee from Money Tree called Branch about the check. 3RP 61. Branch confirmed that he had written the check. 4RP 67-68, 205. Over the telephone, Branch then spoke to Keeney, stating, "You got your money. Please give me my car back." 5RP 31-32.

Frightened to remain in the house, Branch and Gruver moved out of his home and into a vacant apartment. 3RP 62; 4RP 206.

A few days later, a woman called Branch about his car. 4RP 72-74; 5RP 35-36. Branch handed the phone over to Gruver and asked her to handle it. 5RP 41. The woman told Gruver that Branch had to pay \$500 to get his car back. 4RP 206; 5RP 36. After Branch gave her \$150 in cash and a check for \$350, Gruver met with a woman and exchanged the money for the car. 4RP 11, 20-21, 74-75, 208-09. Branch later cancelled the check. 4RP 75.

Branch discovered that his car had been trashed inside and had damage on the outside. 4RP 12, 83-87. Numerous items inside the car were gone. 4RP 12, 87.

On January 11, 2010, Branch and Gruver contacted a police officer, and Branch reported how Keeney had robbed him. 4RP 14, 69, 115-24; 5RP 6. When talking to the officer, Branch could not stop crying and explained that he feared for his life. 4RP 116-24. On

January 14, 2010, both Branch and Gruver picked Keeney out of a photo montage prepared by a police detective. 4RP 143-48; 5RP 6-7.

A police detective subsequently went to Branch's house and collected several knives that Keeney had reportedly handled. 4RP 148-51. A latent print examiner was unable to find any fingerprints on them. 4RP 97-99.

A few days later, the police arrested Keeney. 4RP 134-37. While detained in the King County Jail, Keeney made several telephone calls to Christy in which he discussed the criminal charges. 5RP 52-58; Ex. 11. In one call, Keeney complained that Branch was "saying I robbed him" and added, "He owed money, so I'm saying I went and collected it." Ex. 11 and 22. In another call, Christy stated that she would say that she was a prostitute, that Branch refused to pay her and that Keeney had come to collect the money. Ex. 11 and 23. When Keeney said, "That's what happened," Christy responded, "No, that's not what happened." Id. Keeney then told her, "You've got to be careful what you say on these phones." Id.

2. PROCEDURAL FACTS

The State charged Keeney with two counts of first-degree robbery, one count of first-degree burglary and one count of theft of a motor vehicle. CP 7-9. The State alleged a special deadly weapon allegation on the robbery counts. CP 7-8.

During opening statement, defense counsel admitted that Keeney had taken Branch's car and money. Counsel told the jury that "Mr. Keeney did take advantage of Brian Branch, but it didn't happen the way that Mr. Branch is saying it happened." 3RP 21. Defense counsel explained that because Branch was "a reclusive guy," Keeney would get drugs and prostitutes for Branch. 3RP 22. According to defense counsel, on the night of January 8, 2010, Branch gave Keeney the \$1,000 check and the car so that Keeney could buy drugs for Branch. 3RP 22. Counsel acknowledged that Keeney did not return and never brought back any drugs or the car. 3RP 22. Defense counsel stated that Branch was pushed into contacting the police when he was forced to pay money to get his car back. 3RP 22.

At trial, Keeney did not testify or call any witnesses.

A jury found Keeney guilty of second-degree robbery (the second count of robbery occurring on January 9, 2010) and theft of

a motor vehicle. CP 66-73. The jury acquitted him of the other counts. This appeal follows.

C. ARGUMENT

**1. KEENEY IS NOT ENTITLED TO A NEW TRIAL
BASED UPON ALLEGED PROSECUTORIAL
MISCONDUCT DURING CLOSING ARGUMENT.**

Keeney argues that a few brief remarks made during the prosecutor's rebuttal argument were improper. He claims that the prosecutor improperly disparaged defense counsel and asked the jury to draw an adverse inference from his right to confrontation. Keeney has not shown that the prosecutor's argument was improper. Moreover, because there was no objection to this argument at trial, Keeney's challenge on appeal is waived because any possible prejudice could have been avoided by a proper objection and a curative instruction.

a. Relevant Facts.

During Branch's cross-examination, defense counsel questioned him about prior statements that he gave to the police. 4RP 31-35. Branch stated, for the first time, that Keeney had robbed him three times. 4RP 35-43. At some point during

cross-examination, Branch became obviously distraught. He requested a break, which the trial court granted. 4RP 56. During the break, the trial court commented:

I want to put this on the record because the record really won't reflect what was going on completely. I think it's fair to say Mr. Branch was getting a little rattled perhaps. Maybe a little confused. I'm not really sure. But he was getting distraught. And at one point in time, I was wondering whether the Court should intervene and ask whether he wanted to take a break. I deliberately didn't do that, although I did ponder the notion.

4RP 57. When the court invited additional comments, defense counsel stated that he had nothing to add. 4RP 58.

During closing argument, defense counsel argued at length that Branch was not credible, noting, among other things, that he had claimed for the first time during cross-examination that there had been three robberies. 5RP 99-109. Defense counsel also discussed the jail recordings of Keeney and Christy and offered some theories as to what had actually happened:

Maybe Mr. Keeney did take the money to buy drugs on [Branch's] behalf. That would be something that he wouldn't want to tell anyone over the phone when it's being recorded. Maybe he did use the money to arrange for women to be with [Branch], and that's something that, again, you wouldn't want recorded.

5RP 107. Counsel further speculated that Gruver might be lying because Branch was providing drugs to her. 5RP 109. Defense counsel acknowledged the \$1,000 check to Keeney and stated "clearly something happened here." 5RP 110. He then suggested that Keeney took money that was meant to buy drugs and never returned with it. 5RP 110. "[T]hat could possibly be considered a theft in the first degree." Id.

During rebuttal argument, the prosecutor responded to the issue of the third robbery:

And defense counsel's exactly right that when [Branch] first started talking about this third incident, about this third robbery, was not during direct examination, was not with the police officers or with the detective that he talked to, it's when he started having to answer a bunch of questions from defense counsel that came in in a confusing way. That came in in a way that definitely -- you saw Mr. Branch get flustered. Get emotional. Get confused. And you can take that for what it is, as for whether or not there was another robbery or whether it was an attempt to really get Mr. Branch confused and you confused.

But what it really showed was an exact example of how easily manipulated Mr. Branch is. How easily bullied he can be as he was sitting there trying to answer questions and trying to remain calm as he was talking about what happened to him.

5RP 112.

The prosecutor also responded to the various theories offered by defense counsel:

[T]here were a number of speculations and different ideas that were posed to you by defense and gave you some things saying -- that maybe the defendant bought women for Mr. Branch. Maybe he bought drugs for Mr. Branch. Maybe Mr. Branch buys drugs for Ms. Gruver.

That's why you get your instructions that say that the arguments of counsel are not evidence because there is zero evidence of those speculations or theories or ideas. And to -- to pose them or to suggest them, and to suggest that you should somehow base your verdict on those kind of theories, of which there is no evidence at all, is simply inappropriate and wrong. You have no evidence of those things and that is simply an attempt to confuse you, just like Mr. Branch was confused.

5RP 116.

b. Keeney Has Waived His Claim That The Prosecutor Committed Misconduct During Closing Argument.

The law governing Keeney's claim is well-settled. When a defendant claims prosecutorial misconduct, he bears the burden of establishing that the prosecuting attorney's comments were both improper and prejudicial. State v. Warren, 165 Wn.2d 17, 26, 195 P.3d 940 (2008). To establish prejudice, the defendant must show a substantial likelihood that the instances of misconduct

affected the jury's verdict. State v. Stenson, 132 Wn.2d 668, 718-19, 940 P.2d 1239 (1997). "The prejudicial effect of a prosecutor's improper comments is not determined by looking at the comments in isolation but by placing the remarks 'in the context of the total argument, the issues in the case, the evidence addressed in the argument, and the instructions given to the jury.'" State v. McKenzie, 157 Wn.2d 44, 52, 134 P.3d 221 (2006) (quoting State v. Brown, 132 Wn.2d 529, 561, 940 P.2d 546 (1997)).

"Where the defense fails to object to an improper comment, the error is considered waived 'unless the comment is so flagrant and ill-intentioned that it causes an enduring and resulting prejudice that could not have been neutralized by a curative instruction to the jury.'" McKenzie, 157 Wn.2d at 52 (quoting Brown, 132 Wn.2d at 561). Defense counsel's failure to object to the remarks at the time that they were made strongly suggests to a court that the argument in question did not appear critically prejudicial to the defendant in the context of the trial. 157 Wn.2d at 53 n.2.

In this case, Keeney claims that, in the portions of the rebuttal argument quoted above, the prosecutor improperly disparaged defense counsel and asked the jury to draw an adverse

inference from his cross-examination. Keeney overstates the nature of the prosecutor's remarks and takes them out of context. They were not improper.

A prosecutor should not disparage or misstate the role of defense counsel.³ However, here, the prosecutor's argument did not malign the role of defense counsel in general or disparage defense counsel personally. Instead, the prosecutor's challenged comments were made in direct response to defense counsel's closing argument. Defense counsel spent the bulk of his closing argument attacking Branch's credibility, discussing at length his testimony during cross-examination. The prosecutor was entitled to respond to this argument by arguing that defense counsel's questions during cross-examination had confused Branch.⁴ The focus of the prosecutor's remarks was on the fact that Branch was

³ See Warren, 165 Wn.2d at 29-30, 195 P.3d 940 (prosecutor improperly argued that all defense attorneys mischaracterize evidence and twist the facts); State v. Gonzales, 111 Wn. App. 276, 283-84, 45 P.3d 205 (2002) (improper for prosecutor to remark that, unlike defense lawyers, prosecutors take an oath "to see that justice is served"); State v. Negrete, 72 Wn. App. 62, 66-67, 863 P.2d 137 (1993) (improper for prosecutor to argue that defense counsel is being paid to twist the words of a witness).

⁴ See State v. Russell, 125 Wn.2d 24, 87, 882 P.2d 747 (1994) (a prosecutor is allowed to respond to the arguments of defense counsel and argue that the evidence does not support a defense theory); State v. Hoffman, 116 Wn.2d 51, 94-95, 804 P.2d 577 (1991) (during closing argument, the prosecutor has wide latitude to draw reasonable inferences from the evidence admitted and to express such inferences to the jury).

easily confused, manipulated and bullied. Indeed, the record indicates that during cross-examination, Branch had become so obviously confused and distraught that the trial court pondered calling a recess. 4RP 56-57.

The prosecutor was also entitled to respond to defense counsel's various theories offered during opening statement and closing argument. Though no evidence supported the claims, defense counsel asked the jury to speculate that Branch was supplying Gruver with drugs, and that Branch obtained drugs and prostitutes from Keeney. It was not improper for the prosecutor to aggressively challenge these assertions. See Brown, 132 Wn.2d at 566 (rejecting claim that it was misconduct for prosecutor to describe defense theory as "ludicrous").

Moreover, even if the prosecutor's comments could be construed as improper, the fact that defense counsel did not object strongly suggests that the challenged comments did not appear prejudicial at trial. Certainly, any potential prejudice could have been neutralized by a curative instruction. For example, in Warren, the prosecutor repeatedly argued that the defendant was not entitled to "the benefit of the doubt," defense counsel objected, and the trial court gave the jury a lengthy curative instruction and

directed the jury to review the written instructions. 165 Wn.2d at 24–25. The Supreme Court held that although “the prosecutor's argument was improper because it undermined the presumption of innocence,” the trial court's “appropriate and effective curative instruction” cured any error. Id. at 26, 28. Here, an objection and an instruction to disregard the prosecutor's comments would have cured any possible prejudice. Because Keeney failed to object, he has waived his claim of prosecutorial misconduct.

c. Keeney Has Failed To Establish That He Received Ineffective Assistance Of Counsel.

Keeney presents his prosecutorial misconduct claim as an ineffective assistance of counsel claim because his attorney did not object to the prosecutor's rebuttal argument. This claim also fails.

To prevail on a claim of ineffective assistance of counsel, Keeney must show that “(1) defense counsel's representation was deficient, i.e., it fell below an objective standard of reasonableness based on consideration of all the circumstances, and (2) defense counsel's deficient representation prejudiced the defendant, i.e., there is a reasonable probability that, except for counsel's unprofessional errors, the result of the proceeding would have been

different." State v. McFarland, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995); Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). If either element of the test is not satisfied, the inquiry ends. State v. Kyllö, 166 Wn.2d 856, 862, 215 P.3d 177 (2009).

The appellate court engages in a strong presumption that counsel's representation was effective. McFarland, 127 Wn.2d at 335. "Competency of counsel is determined based upon the entire record below." Id. The United States Supreme Court has recently emphasized that "The standard for judging counsel's representation is a most deferential one.... The question is whether an attorney's representation amounted to incompetence under 'prevailing professional norms,' not whether it deviated from best practices or most common custom." Harrington v. Richter, ___ U.S. ___, 131 S. Ct. 770, 788, 178 L. Ed. 2d 624 (2011).

Here, as discussed in the preceding section, Keeney has not shown that prosecutor's comments were improper. Therefore, he has not shown deficient performance and his ineffective assistance should fail.

However, even assuming the prosecutor's comments were somehow improper, Keeney has not shown a reasonable

probability that, but for counsel's failure to object, the results of the trial would have been different. The comments at issue were very brief, and, at best, a rather indirect criticism of defense counsel. The jury was instructed that the attorneys' arguments were not evidence and to disregard any argument that was not supported by the evidence or the law as stated by the court. CP 30. The jury was also instructed to base its decision on the facts proven and not on sympathy or prejudice. CP 31. The jurors are presumed to follow these instructions, and Keeney offers no reason to believe that they did not follow them. State v. Swan, 114 Wn.2d 613, 661-62, 790 P.2d 610 (1990).

With little explanation, Keeney speculates that he would have been acquitted on all counts but for the prosecutor's challenged remarks. Brief of Appellant at 15, 19. However, the challenged argument related to Branch's testimony, and the State's case did not depend solely upon Branch's testimony.⁵ The jury heard testimony from Lea Gruver. She was present during the second robbery, arranged to get Branch's car back and identified Keeney out of a photo montage. 4RP 192-209; 5RP 6-7. The

⁵ In fact, given the verdicts, the jurors did not entirely credit Branch's testimony because they acquitted Keeney of the first-degree burglary charge and one of the first-degree robbery counts.

\$1000 check given to Keeney during this second robbery was admitted into evidence. 4RP 18-20. Furthermore, the jury heard jail recordings between Keeney and Christy where they schemed about a fictional defense. Ex. 11 and 23. Perhaps due to this evidence, in both opening statement and closing argument, defense counsel virtually admitted that Keeney had stolen the \$1,000 check and the car. 3RP 21-22; 5RP 110. It is not reasonably probable that the jury would have acquitted Keeney on all counts had defense counsel objected and the prosecutor's brief comments been stricken.

2. THE COURT SHOULD REMAND FOR RE-SENTENCING.

For the first time on appeal, Keeney challenges the prior convictions used to calculate his offender score. The State concedes that remand for re-sentencing is required because of a miscalculation of Keeney's offender score.

Prior to sentencing, the State filed a presentence statement that listed Keeney's criminal history. CP 95-96. The State identified 12 prior felonies as follows:

<u>CRIME</u>	<u>OFFENSE DATE</u>	<u>SENTENCING DATE</u>
Att. 2 nd Degree Burglary	6/24/1981	3/22/1982
2 nd Degree Burglary	12/14/1981	3/22/1982
2 nd Degree Burglary	11/14/1982	3/22/1982
Bank Robbery		7/22/1999
Possess Controlled Substances	4/20/2004	8/5/2004
Possess Controlled Substances	4/26/2005	6/16/2005
Possess Controlled Substances	10/24/2006	3/31/2008
Possess Controlled Substances	11/8/2006	4/1/2008
Possess Controlled Substances	1/8/2007	2/29/2008
Possess Controlled Substances	3/1/2007	2/29/2008
Attempt to Elude	5/29/2007	2/29/2008
Possess Controlled Substances	11/5/2007	2/29/2008

The State's offender scoring sheets were not completely filled out; they simply listed Keeney's offender score as a "9+." CP 93-94. Keeney's standard range on the second-degree robbery count was 63 to 84 months and his standard range on the theft of a motor vehicle was 43 to 57 months. Id. Keeney apparently did not file any presentence report.

At the sentencing hearing, there was no discussion of Keeney's criminal history. The prosecutor stated that Keeney's offender score was over 9 and requested that the court impose the high end of the standard range. 6RP 8. Keeney requested a sentence at the low end of the standard range. 6RP 10. The trial court imposed the high end of the standard range, explaining "in

light of the fact that your standard range is predicated on an offender score of nine, and you actually have a higher offender score than that, I am going to accede to the request of the top end of the standard range." 6RP 13.

The judgment and sentence listed Keeney's offender score as "9+." CP 77. Appendix B to the judgment and sentence indicated that all of Keeney's twelve listed felonies were used to calculate his offender score. CP 82. Based upon this criminal history and his other current offense, Keeney's offender score on each count would have been 13.

On appeal, Keeney challenges his offender score on several grounds. He asserts that the trial court should have scored his three prior burglary convictions as one offense because he was sentenced on the same day for those offenses. Brief of Appellant at 26. He is correct. Under RCW 9.94A.525(5)(a)(ii), multiple prior convictions for offenses committed before July 1, 1986, are counted as one offense if they were served concurrently. According to the State's presentence report, Keeney was sentenced on the same day for all three offenses, and, the sentences on those convictions ran concurrently. CP 95. Though those offenses should have been scored as one offense; the section in Appendix B where the court

indicates that multiple offenses are scored as one offense was left blank. CP 82.

Keeney further argues that his three 1982 burglary convictions were improperly included in his offender score because the State failed to establish that they did not wash out. Although the State's presentence report suggests that Keeney may have had a crime-free period between 1987 and 1999, and that his burglary convictions may wash out, this Court cannot reach that conclusion on this record. Because Keeney did not object to the inclusion of the burglary convictions in his offender score, there was no need to critically examine whether Keeney spent a sufficient number of consecutive years without committing additional crimes.⁶ In addition, the record contains no information regarding Keeney's dates of release from confinement. The Court cannot assume that, had Keeney objected, the State could not have presented evidence that the convictions did not wash out.

⁶ Second-degree burglary is a class B felony, and attempted second-degree burglary is a class C felony. RCW 9A.28.020(3)(c); RCW 9A.52.030(2). The second-degree burglary convictions would not count in his offender score if Keeney spent 10 consecutive years in the community before committing his next crime. RCW 9.94A.525(2)(b). Similarly, the attempted second-degree burglary conviction would not count in his offender score if Keeney spent 5 consecutive years in the community before committing his next crime. RCW 9.94A.525(2)(c).

Remand for resentencing is required unless the record clearly shows that the trial court would have imposed the same sentence regardless of the error. State v. Tili, 148 Wn.2d 350, 358, 60 P.3d 1192 (2003). Here, the trial court expressly stated that it was imposing the high end of the standard range because Keeney had a higher offender score than 9. 6RP 13. It is unclear whether the trial court would have imposed the same sentence had it been aware that Keeney's three prior burglaries scored as only one offense, thereby reducing Keeney's offender score by two points. Accordingly, the State concedes that remand for re-sentencing is necessary. Given this concession, Keeney's other challenges to his offender score are moot.⁷

The Court should reject Keeney's claim that at the re-sentencing hearing the State should be barred from proving that his burglary convictions do not wash out. Because Keeney did not object to the inclusion of these felonies in his offender score, the State may present additional evidence establishing that they did not wash out. As the Washington Supreme Court has explained:

⁷ Keeney's claim that his federal robbery conviction should not score unless it is comparable to the Washington crime of robbery is incorrect. Under RCW 9.94A.525(3), a federal conviction is still scored as a Class C felony if it is not comparable to a Washington crime.

When a defendant raises a specific objection at sentencing and the State fails to respond with evidence of the defendant's prior convictions, then the State is held to the record as it existed at the sentencing hearing. But where, as here, there is no objection at sentencing and the State consequently has not had an opportunity to put on its evidence, it is appropriate to allow additional evidence at sentencing. In these cases, there were no specific objections and the sentencing court never had an opportunity to correct any errors. Thus, we remand with a full opportunity for the State to prove the defendants' criminal histories at resentencing.

State v. Mendoza, 165 Wn.2d 913, 930, 205 P.3d 113 (2009)

(internal citations omitted).

D. CONCLUSION

For the reasons cited above, this Court should affirm Keeney's convictions and remand for re-sentencing.

DATED this 2nd day of July, 2011.

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 Susan Wilk, 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. CHARLES KEENEY, Cause No. 66016-1-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.



Name
Done in Seattle, Washington

07-29-11
Date