

67260-6

67260-6

NO. 67260-6-1

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

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STATE OF WASHINGTON,

Respondent,

v.

ARTHUR FORREST SHAW,

Appellant.

---

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

---

APPELLANT'S OPENING BRIEF

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**A. ASSIGNMENTS OF ERROR**

1. In the absence of proof beyond a reasonable doubt of each element of the offense, Arthur Forrest Shaw's conviction for possession of a stolen vehicle violates his constitutional right to due process.

2. The trial court erred in finding Mr. Shaw used a motor vehicle in the commission of possession of a stolen vehicle.

**B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. The United States and Washington Constitutions require the State prove all essential elements of a charged offense beyond a reasonable doubt. To convict Mr. Shaw of possession of a stolen motor vehicle, the State was required to prove Mr. Shaw knew the vehicle was stolen. Must the conviction be reversed and dismissed because the State provided insufficient evidence to show Mr. Shaw knew the vehicle was stolen?

2. RCW 46.20.285(4) authorizes the Department of Licensing (DOL) to revoke a person's driver's license for one year if the person "uses" a motor vehicle in the commission of a felony. The statute applies only if the offender uses a vehicle to facilitate commission of the crime; it does not apply if the vehicle is only the *object* of the crime. Did the trial court err in finding Mr. Shaw "used"

a motor vehicle to commit the crime of possession of a stolen vehicle, where the car was merely the object of the crime?

C. STATEMENT OF THE CASE

Arthur Forrest Shaw was stopped by police while driving a 1994 Honda Accord with a good friend, Nancy Lundquist, on December 19, 2009 in Edmonds, Washington. 9/20/10RP 19-20.<sup>1</sup> Officer Nathaniel Rossi noticed the vehicle's front license plate was missing and a check of the rear license plate number reported the vehicle as stolen. 9/20/10RP 20. Mr. Shaw pulled over as soon as Officer Rossi activated the emergency lights and sirens. 9/20/10RP 21, 32. Mr. Shaw and Ms. Lundquist opened their doors. Officer Rossi drew his service pistol and ordered them back in the vehicle. 9/20/10RP 21. Officer Rossi then ordered Mr. Shaw to turn off the engine and drop the keys. 9/20/10RP 22. Mr. Shaw complied and threw the key onto the hood of the vehicle. 9/20/10RP 22.

Officer Rossi arrested Mr. Shaw and began questioning him. 9/20/10RP 23. Another police officer arrived on the scene and questioned Ms. Lundquist. 9/20/10RP 22. Mr. Shaw told Officer

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<sup>1</sup> The verbatim reports of proceeding are referenced herein according to the date of the hearing transcribed. The consolidated transcript from September 20 and 21, 2010 is referred to as "9/20/10RP." The consolidated sentencing transcript from October 26, 2010 and May 25, 2011 is referred to as "10/26/10RP."

Rossi that he borrowed the vehicle from his friend Marty around eight o'clock that morning. 9/20/10RP 24, 34-35. Mr. Shaw did not know the vehicle was stolen. 9/20/10RP 23, 34-35. After borrowing the vehicle, Mr. Shaw drove to Edmonds to meet Ms. Lundquist, who had called him upset over a domestic violence incident. 9/20/10RP 24-25.

Officer Rossi questioned Mr. Shaw again after receiving information from Ms. Lundquist. 9/20/10RP 26. Mr. Shaw then "started changing his story several times." 9/20/10RP 26.

Officer Rossi recovered the key from the hood of the vehicle; it was a "shaved" key. 9/20/10RP 26.<sup>2</sup> The ignition sensor was making a dinging sound. 9/20/10RP 28. Officer Rossi also noticed the radio was missing, garbage was strewn around, what appeared to be a GPS box on the back passenger floorboard, damage to the front bumper and door, and the vehicle did not have a front license plate. 9/20/10RP 28. Mr. Shaw was charged with possession of a stolen vehicle. CP 45.

The registered owner of the vehicle testified at trial that his vehicle was taken from his house around midnight on the evening of December 18, 2009. 9/20/10RP 7-9. At the time it was taken,

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<sup>2</sup> The evidence at trial did not elaborate upon the nature of the "shaved" key.

his vehicle was in “good condition,” had a GPS system inside, and the ignition was in “perfect condition.” 9/20/10RP 9-10. He does not know Mr. Shaw, did not give anyone permission to drive the vehicle, and had the only set of keys in his possession on the evening of the 18<sup>th</sup>. 9/20/10RP 10. When he picked up his vehicle from the police the next day, there were items missing inside, pieces of the vehicle in the trunk, garbage inside, the radio and GPS were missing, the ignition made a beeping sound, and the key caused trouble at first though he was eventually able to start the vehicle. 9/20/10RP 11-12.

Rickey McKim testified that he saw Mr. Shaw on the morning of December 19<sup>th</sup>. 9/20/10RP 48. Mr. Shaw asked if Mr. McKim could give him a ride to Snohomish County. 9/20/10RP 49. Mr. McKim declined because he was in the process of fixing the only vehicle immediately available to him. 9/20/10RP 49. Another vehicle pulled up to the house they were standing in front of and Mr. McKim suggested Mr. Shaw ask the driver of that car for a ride. 9/20/10RP 49. Mr. Shaw complied and then returned to ask Mr. McKim if he could help restart the newly-arrived vehicle (which had apparently stopped running). 9/20/10RP 49-50. Mr. McKim wiggled a few battery cables and the car started. 9/20/10RP 50.

Although Mr. McKim did not see anything that indicated the vehicle might have been stolen, Mr. Shaw asked the driver if it was stolen. The driver replied it was his vehicle. 9/20/10RP 50, 52.

Mr. Shaw's testimony at trial corroborated Mr. McKim's testimony as well as Mr. Shaw's response to initial police questioning. Mr. Shaw testified he received calls from Ms. Lundquist in the early morning of December 19<sup>th</sup> while he was staying at a friend's home in Tukwila. 9/20/10RP 54-55, 76-77. Ms. Lundquist was "crying hysterically" about a domestic violence incident and requested Mr. Shaw come immediately. 9/20/10RP 55. It was very important to Mr. Shaw to go to his friend. 9/20/10RP 61. Because he did not have a car with him, Mr. Shaw went to an acquaintance's home nearby to ask for a ride. 9/20/10RP 55-56.

Mr. Shaw encountered Mr. McKim in front of the friend's house and asked him for a ride. 9/20/10RP 56-57. Mr. McKim and Mr. Shaw's friend each could not provide a ride but another acquaintance, Marty, pulled up to the home. 9/20/10RP 57. Mr. Shaw had met Marty once before. 9/20/10RP 57. The friend re-introduced them and Mr. Shaw asked Marty for a ride. 9/20/10RP 57-58. Marty said Mr. Shaw could borrow the car and return it with

a full tank. 9/20/10RP 58. Marty placed the ignition key into the ignition but the car did not start. 9/20/10RP 58. Mr. McKim was able to get the car started. 9/20/10RP 58, 60.

Mr. Shaw testified that he did not know the vehicle was stolen prior to being stopped by the police. 9/20/10RP 64. Mr. Shaw asked Marty whether the car was "legitimate" because he had encountered previous trouble with motor vehicles and the law. 9/20/10RP 59. Marty told him the car was legitimate but it had no front license plate and he did not have insurance papers. 9/20/10RP 61. There was stereo wire but no stereo in the vehicle. 9/20/10RP 63. The vehicle was dirty and there was no GPS inside. 9/20/10RP 63. Marty told Mr. Shaw he had repossessed the vehicle from someone who had not been making his or her payments. 9/20/10RP 83.

The jury convicted Mr. Shaw of one count of possession of a stolen vehicle, RCW 9A.56.068. CP 3, 34. The court imposed a special finding requiring DOL to revoke Mr. Shaw's driver's license for one year. CP 4.

#### D. ARGUMENT

1. THE STATE DID NOT PRESENT SUFFICIENT EVIDENCE TO PROVE EACH ELEMENT OF THE OFFENSE BEYOND A REASONABLE DOUBT.

a. Due process requires the State to prove each element of the offense beyond a reasonable doubt.

A criminal defendant has the right to a jury trial and may only be convicted if the State proves every element of the crime beyond a reasonable doubt. Blakely v. Washington, 542 U.S. 296, 300-01, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004); Apprendi v. New Jersey, 530 U.S. 466, 490, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000); In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970). On a challenge to the sufficiency of the evidence, this Court must reverse a conviction when, after viewing the evidence in the light most favorable to the prosecution, no rational trier of fact could have found all the essential elements of the offense beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); State v. Drum, 168 Wn.2d 23, 34-35, 225 P.3d 237 (2010).

b. The State did not prove beyond a reasonable doubt Mr. Shaw knew the vehicle was stolen.

To convict Mr. Shaw of possession of a stolen vehicle, the State was required to prove beyond a reasonable doubt that Mr.

Shaw had knowledge of the fact that the vehicle was unlawfully taken. RCW 9A.56.068; State v. Couet, 71 Wn.2d 773, 775, 430 P.2d 974 (1967); CP 27 (“to convict” jury instruction). Mere possession of stolen property is not sufficient to infer knowledge, but possession in connection with other evidence tending to show guilt is sufficient. Couet, 71 Wn.2d at 775. Evidence tending to show guilt includes providing an unlikely story or providing a story that the police cannot check or rebut. Id. at 776 (citing State v. Portee, 25 Wn.2d 246, 253, 254, 170 P.2d 326 (1946)).

In Couet a new car was stolen from a car dealership lot. 71 Wn.2d at 773-74. After the police saw Mr. Couet driving the car, he told police that his friend lent it to him and that he did not know it was stolen. Id. at 774-75. In affirming the conviction, the Supreme Court held that sufficient evidence supported the finding that Mr. Couet knew the car was stolen because he possessed a recently stolen car and gave an improbable story that the police could not check or rebut. Id. at 776. In State v. Hudson, this Court held that the use of a recently stolen vehicle supported an inference of guilty knowledge when combined with the defendant’s flight from the police. 56 Wn. App. 490, 495, 784 P.2d 533 (1990).

Here, Mr. Shaw did not flee from police like the defendant in Hudson. Instead, Mr. Shaw pulled over immediately and cooperated with the police investigation. 9/20/10RP 21, 32. Mr. Shaw told the police he had borrowed the vehicle that morning from an acquaintance named Marty. 9/20/10RP 24, 34-35. His story was neither improbable nor incapable of being checked. See Couet, 71 Wn.2d at 776. At trial, Mr. Shaw testified that he could have taken the police to Marty's house, but the police did not request that. 9/20/10RP 66. He also testified that though the radio was missing from the vehicle and the car was dirty, he understood that Marty had recently repossessed the vehicle from an individual who was not making payments. 9/20/10RP 83. Mr. Shaw further testified that he did not know the vehicle was stolen prior to being arrested. 9/20/10RP 64; see 9/20/10RP 23 (Mr. Shaw told Officer Rossi the same upon arrest).

c. The Court must reverse and dismiss Mr. Shaw's conviction.

The absence of proof beyond a reasonable doubt of an element requires dismissal of the conviction and charge. Jackson, 443 U.S. at 319; State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980). The Double Jeopardy Clause of the Fifth Amendment bars

retrial of a case dismissed for insufficient evidence. North Carolina v. Pearce, 395 U.S. 711, 717, 89 S. Ct. 2072, 23 L. Ed. 2d 656 (1969), reversed on other grounds by Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201, 104 L. Ed. 2d 865 (1989). Because the State failed to prove Mr. Shaw knew the vehicle was stolen, the Court must reverse his conviction and dismiss the charge with prejudice.

2. WHERE THE CAR WAS MERELY THE OBJECT OF THE CRIME, THE TRIAL COURT ERRED IN FINDING MR. SHAW 'USED' A MOTOR VEHICLE TO COMMIT POSSESSION OF A STOLEN VEHICLE.

If Mr. Shaw's convictions are upheld, the court's special finding that his possession of a motor vehicle was a felony in the commission of which a motor vehicle was used must be reversed. See CP 4 (Judgment and Sentence).

- a. RCW 46.20.285(4) requires DOL revoke a convicted felon's driver's license if a motor vehicle was used to facilitate commission of the crime, but not if the car was merely the object of the crime.

RCW 46.20.285(4) mandates that the Department of Licensing revoke a driver's license for one year where the driver has a final conviction for "[a]ny felony in the commission of which a motor vehicle is used."<sup>3</sup> The application of this statute to a given

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<sup>3</sup> The statute provides in full:

set of facts is a matter of law reviewed de novo. State v. B.E.K.,  
141 Wn. App. 742, 745, 172 P.3d 365 (2007).

RCW 46.20.285(4) does not define "use." In State v. Batten,  
the Washington Supreme Court held there must be a sufficient  
nexus between the crime and the offender's use of a motor vehicle  
to justify revocation of his license under the statute. State v.  
Batten, 140 Wn.2d 362, 365-66, 997 P.2d 350 (2000). The court  
determined the term "used" in the statute means "employed in

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The department shall revoke the license of any driver for  
the period of one calendar year unless otherwise provided in this  
section, upon receiving a record of the driver's conviction of any  
of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall  
be two years. The revocation period shall be tolled during any  
period of total confinement for the offense;

(2) Vehicular assault. The revocation period shall be  
tolled during any period of total confinement for the offense;

(3) Driving a motor vehicle while under the influence of  
intoxicating liquor or a narcotic drug, or under the influence of  
any other drug to a degree which renders the driver incapable of  
safely driving a motor vehicle, for the period prescribed in RCW  
46.61.5055;

(4) Any felony in the commission of which a motor  
vehicle is used;

(5) Failure to stop and give information or render aid as  
required under the laws of this state in the event of a motor  
vehicle accident resulting in the death or personal injury of  
another or resulting in damage to a vehicle that is driven or  
attended by another;

(6) Perjury or the making of a false affidavit or statement  
under oath to the department under Title 46 RCW or under any  
other law relating to the ownership or operation of motor  
vehicles;

(7) Reckless driving upon a showing by the department's  
records that the conviction is the third such conviction for the  
driver within a period of two years.

RCW 46.20.285.

accomplishing something.” Id. at 365 (quoting State v. Batten, 95 Wn. App. 127, 131, 974 P.2d 879 (1999), aff'd, 140 Wn.2d 362, 997 P.2d 350 (2000) (quoting Webster's Third New International Dictionary 2524 (3d ed. 1966)). Thus, “the use of the motor vehicle must contribute in some reasonable degree to the commission of the felony.” Id. at 365 (quoting Batten, 95 Wn. App. at 131). In Batten, a sufficient nexus existed between Batten’s use of a car and the crimes of unlawful possession of a controlled substance and unlawful possession of a firearm, where Batten used the car as a place to store, conceal, and transport the contraband over a period of time. Id. at 365-66. Because Batten’s use of the car contributed to the accomplishment of the crime, and was not merely incidental to the crime, DOL was authorized to revoke Batten’s driver’s license. Id.

Courts do not apply RCW 46.20.285(4) where the vehicle was not “an instrumentality of the crime, such that the offender use[d] it in some fashion to carry out the crime.” B.E.K., 141 Wn. App. at 748. A car is merely incidental to a crime, and not “used” to commit the crime, if it is used simply as a means of transportation. See, e.g., State v. Wayne, 134 Wn. App. 873, 875-76, 142 P.3d 1125 (2006) (insufficient nexus existed between use of car and

crime of possession of cocaine, where Wayne merely drove car while possessing cocaine on his person); State v. Hearn, 131 Wn. App. 601, 610-11, 128 P.3d 139 (2006) (insufficient nexus existed between use of car and crime of possession of methamphetamine, where drugs were merely found inside car); State v. Griffin, 126 Wn. App. 700, 708, 109 P.3d 870 (2005), review denied, 156 Wn.2d 1004, 128 P.3d 1239 (2006) (sufficient nexus existed between use of car and crime of possession of cocaine, where Griffin obtained the cocaine in exchange for giving someone a ride in his car).

In accordance with the reasoning of Batten and the other cases cited above, courts also hold that, if a car is merely the *object* of the crime and not used independently as an instrument to facilitate commission of the crime, the statute does not apply. B.E.K., 141 Wn. App. 742; State v. Dykstra, 127 Wn. App. 1, 110 P.3d 758 (2005), review denied, 156 Wn.2d 1004, 128 P.3d 1239 (2006). In B.E.K., the juvenile offender was adjudicated guilty of second degree malicious mischief for spray painting a police patrol car. Id. at 744. In determining whether the car was “used” to commit the felony, the Court acknowledged the car was a necessary ingredient of the crime. Id. at 747. Second degree

malicious mischief, as charged, required proof that the offender perpetrated the mischief on an emergency vehicle.<sup>4</sup> Thus, there was a “clear relationship” between the vehicle and the crime. *Id.* “But a relationship in any form between the vehicle and the crime is not sufficient.” *Id.* Instead, “the vehicle must be an instrumentality of the crime, such that the offender uses it in some fashion to carry out the crime.” *Id.* at 747–48. Because “B.E.K. did not employ the patrol car in any manner to commit his act of mischief but simply made the patrol car the *object* of the crime,” there was not a sufficient nexus between the crime and B.E.K.'s use of the car to justify suspending his driver's license under RCW 46.20.285(4). *Id.* at 748 (emphasis added).

In *State v. Dykstra*, by contrast, a car was “used” to commit the crime of car theft, but only because the car was *both* the object *and* an instrumentality of the crime. 127 Wn. App. at 12. *Dykstra* was charged and convicted of five counts of first degree theft for his role in an auto theft ring. *Id.* at 6. Thus, cars were the object of the crimes. *Id.* at 12. But they were also “used” to facilitate commission of the crimes, where: *Dykstra* and his cohorts used

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<sup>4</sup> Under RCW 9A.48.080(1)(b), a person is guilty of the felony of second degree malicious mischief if he knowingly and maliciously “[c]reates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle.”

cars to drive around looking for other cars to steal; they took possession of the stolen cars by driving them away from the scene; they sat in cars while acting as lookouts; and, after dismantling the engines, they used cars to carry the unwanted parts away for disposal. Id.

California courts similarly hold that, in order for a car to be “used” to commit a crime, it must be more than merely the object of the crime or a means of transportation.<sup>5</sup> See People v. Gimenez, 36 Cal. App. 4th 1233, 42 Cal. Rptr. 2d 681 (1995) (sufficient nexus existed between use of car and crime of vehicle burglary, where defendant used car to carry burglary tools and intended to use car to carry away stolen car radio); In re Gaspar D., 22 Cal. App. 4th 166, 27 Cal. Rptr. 2d 152 (1994) (sufficient nexus existed between use of car and crime of vehicle burglary, where juvenile offender used car to carry and conceal stolen car stereo and burglary tools); People v. Paulsen, 217 Cal. App. 3d 1420, 267 Cal. Rptr. 122 (1989) (sufficient nexus existed between use of car and crime of

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<sup>5</sup> California's statute, California Vehicle Code section 13350(2), requires the Department of Motor Vehicles to revoke the driver's license of an offender who is convicted of “[a]ny felony in the commission of which a motor vehicle is used.” Thus, the statute is almost identical to RCW 46.20.285 (4). Batten, 140 Wn.2d at 366. As such, California cases interpreting the California statute are persuasive authority for Washington courts interpreting RCW 46.20.285(4). Id.; Batten, 95 Wn. App. at 130.

fraud, where defendant used truck to carry and conceal stolen merchandise); People v. Poindexter, 210 Cal. App. 3d 803, 258 Cal. Rptr. 680 (1989) (insufficient nexus existed between use of car and crime of theft, where defendant used car merely as a means of transporting himself to the scene, and as a means of transporting himself and stolen property away from the scene).

- b. The trial court erred in finding Mr. Shaw 'used' a car to commit possession of a stolen vehicle where the car was merely the object of the crime.

In this case, the stolen vehicle was merely the object of the possession of a stolen vehicle crime. The car was a necessary ingredient of the crime and there was a "clear relationship" between the vehicle and the crime. B.E.K., 141 Wn. App. at 747. "But a relationship in any form between the vehicle and the crime is not sufficient." Id. If the vehicle is merely the *object* of the crime, it is not "used" to commit the crime for purposes of RCW 46.20.285(4). Id. at 748. With regard to the possession of a stolen vehicle count, the car was merely an object of the crime. Indeed, *it was the crime*. Under the above cited authorities, because the vehicle was merely the object of the crime and was not otherwise "used" in commission of the crime, a car was not "used" to commit the crime for purposes of RCW 46.20.285(4).

In State v. Contreras, Division Three of this Court recently held that a car was “used” to commit the crime of possession of a stolen vehicle because the defendant tried to assert ownership of the car by relicensing it. State v. Contreras, 162 Wn. App. 540, 547, 254 P.3d 214 (2011), review denied \_\_\_ Wn.2d \_\_\_ (Nov. 2, 2011). In that case, the defendant also possessed the car for over three years. Id. Contreras is thus distinguishable from this case because Mr. Shaw did not assert ownership of the car or otherwise “use” it in the commission of the crime of possession of a stolen vehicle. In the alternative, Contreras was wrongly decided in contravention of the above cited authorities.

In sum, the trial court erred in finding Mr. Shaw “used a motor vehicle in the commission of the offense” of possession of a stolen vehicle. CP 4. At the least, the statute is ambiguous when applied to these facts and, under the rule of lenity, this Court must construe the statute in favor of Mr. Shaw.<sup>6</sup> B.E.K., 141 Wn. App. at 745.

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<sup>6</sup> If the statute's meaning is plain on its face, the Court follows that plain meaning without resorting to statutory construction. B.E.K., 141 Wn. App. at 745 (citing State v. Delgado, 148 Wn.2d 723, 63 P.3d 792 (2003)). A statute is ambiguous if it can reasonably be interpreted in more than one way. B.E.K., 141 Wn. App. at 745 (citing Vashon Island Comm. for Self-Gov't v. Wash. State Boundary Review Bd., 127 Wn.2d 759, 771, 903 P.2d 953 (1995)). Under the rule of lenity, if two possible statutory constructions are permissible, the Court construes the statute strictly against the State in favor of a criminal defendant.

- c. The finding that Mr. Shaw 'used' a motor vehicle in the commission of the crime must be reversed and vacated.

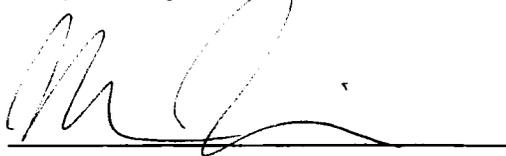
When a trial court erroneously finds an offender "used" a motor vehicle in the commission of a felony, the order that DOL be notified of the offender's conviction must be reversed and vacated. B.E.K., 141 Wn. App. at 748. Here, the trial court erroneously found Mr. Shaw "used" a motor vehicle to commit the crime of possession of a stolen vehicle. CP 4. Thus, that portion of the court's order should be reversed and vacated. See B.E.K., 141 Wn. App. at 748.

E. CONCLUSION

Mr. Shaw's conviction should be reversed because the evidence was insufficient to prove the knowledge element beyond a reasonable doubt. In the alternative, the special finding should be reversed and vacated because a vehicle was not used in commission of the crime.

DATED this 16th day of November, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'M. Q.', written over a horizontal line.

---

B.E.K., 141 Wn. App. at 745 (citing State v. Gore, 101 Wn.2d 481, 485-86, 681 P.2d 227 (1984)).

Marla L. Zink – WSBA 39042  
Washington Appellate Project  
Attorney for Appellant

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE**

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	NO. 67260-6-I
	)	
ARTHUR SHAW,	)	
	)	
Appellant.	)	

**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ARRANZA RILEY, STATE THAT ON THE 16<sup>TH</sup> DAY OF NOVEMBER, 2011, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] SETH FINE, DPA  
SNOHOMISH COUNTY PROSECUTOR'S OFFICE  
3000 ROCKEFELLER  
EVERETT, WA 98201

(X) U.S. MAIL  
( ) HAND DELIVERY  
( ) \_\_\_\_\_

[X] ARTHUR SHAW  
631965  
MONROE CORRECTIONAL COMPLEX-WSR  
PO BOX 777  
MONROE, WA 98272-0777

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RILEY

**SIGNED** IN SEATTLE, WASHINGTON, THIS 16<sup>TH</sup> DAY OF NOVEMBER, 2011.

X \_\_\_\_\_  
*[Signature]*