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FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2012 MAR 30 PM 4:49

No. 67947-3-1

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

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STATE OF WASHINGTON,

Respondent,

v.

JOSEPH VAUX,

Appellant.

---

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

The Honorable Richard D. Eadie

---

BRIEF OF APPELLANT

---

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A. ASSIGNMENTS OF ERROR

1. In violation of Vaux's Sixth Amendment and article I, section 22 rights to present a defense, the trial court erred in refusing the defense proposed jury instructions regarding Vaux's affirmative defense to the charge of unlawful possession of a firearm in the first degree.

2. Contrary to the Fourteenth Amendment and article I, section 3 guarantee of due process, the State presented insufficient evidence to prove that Vaux received notice of the loss of his right to possess a firearm.

3. Contrary to the Fourteenth Amendment and article I, section 3 guarantee of due process, the State presented insufficient evidence to prove that Vaux had dominion and control over a firearm.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. According to statute, when a person is convicted of an offense that renders the person ineligible to possess a firearm, the convicting court must notify the person orally and in writing of the loss of that right. The Supreme Court has held that (a) the failure to provide such notice renders a

subsequent conviction for unlawful possession of a firearm invalid and (b) the defendant may plead the failure to receive the requisite notice as an affirmative defense. The State failed to present notice that Joseph Vaux was advised orally and in writing of the loss of his right to possess a firearm when he was convicted in 2000 of a drug-related felony, and Vaux himself testified he did not recall the court so advising him. Did the trial court's refusal to instruct the jury on Vaux's affirmative defense deny Vaux his Sixth Amendment and article I, section 22 right to a defense? Did the State present insufficient evidence to prove that Vaux received the requisite notice? (Assignments of Error 1 and 2)

2. To prove the essential element of possession in a prosecution for any possessory offense, the State must prove that defendant had dominion and control over the item. Mere passing or momentary control will be insufficient to prove possession absent other indicia tending to support a finding of dominion and control. Where Vaux only briefly handled a gun that belonged to a shooting range, and at no times left the premises with the weapon, did the State fail to

prove the essential element of possession? (Assignment of Error 2)

C. STATEMENT OF THE CASE

1. The charged incident.

On February 26, 2010, Joseph Vaux and his friend Michael Weimer went to Wade's Eastside Guns in Bellevue ("Wade's"), a gun shop and shooting range. 3RP 85.<sup>1</sup> Weimer had been to the shooting range several times before. 4RP 66. Weimer had suffered a conviction as a juvenile for taking a motor vehicle without permission and believed that since he had passed his eighteenth birthday, it was not illegal for him to go to the shooting range. 4RP 96.

Vaux had only handled a gun once before in his life. 4RP 64. He was not certain whether he was permitted to do so because of a 2000 conviction for possession of ephedrine with intent to manufacture methamphetamine, but Weimer told him not to worry. 4RP 62-64, 87-88. Weimer explained

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<sup>1</sup> Five volumes of transcripts are cited herein as follows:

January 18, 2011	-	1RP:
January 24-27, 2011	-	2RP
January 31, 2011	-	3RP
February 1-2, 2011	-	4RP
November 16, 2011	-	5RP

that they were not violating any law because they were only renting guns, not buying them, and were not removing them from the premises. 4RP 87-88.

Vaux and Weimer arrived at Wade's shortly before it was to close, and Weimer rented a .45 subcompact automatic handgun for both of them to use. 3RP 89, 107. In order to rent a gun, both of them had to fill out a form and submit their driver's licenses. 3RP 42, 88; 4RP 88. However, Wade's did not run a background check on them, apparently because the bureau of Alcohol, Tobacco and Firearms does not require one. 3RP 136.

When Vaux pulled his wallet out of his pocket to retrieve his driver's license, a baggie of methamphetamine that was also in his pocket fell to the floor. 3RP 58; 118. A client of Wade's saw the baggie on the floor and notified a staff person, who alerted the manager. 3RP 43, 57-58. The manager retrieved the baggie and brought it to the back office, where he reviewed the security video from the establishment to determine who had dropped it. 3RP 60; 118-20. He then telephoned 9-1-1. 3RP 107.

Meanwhile, Vaux and Weimer had proceeded to the shooting range. Weimer shot the gun first, then he assisted Vaux to load it, and Vaux shot the gun. 3RP 120. After he was done shooting, Vaux gave the gun back to Weimer, who returned it to the check-out desk. 3RP 103, 121, 130.

Vaux and Weimer were both arrested and based upon these events Vaux was charged by amended information with unlawful possession of a firearm in the first degree and possession of methamphetamine. CP 11-12. Vaux proceeded to a jury trial before the Honorable Richard Eadie.

2. Insufficient notice at prior proceeding of loss of right to bear arms.

At trial, the State introduced records of Vaux's prior 2000 conviction, which was from Pierce County, however the State did not present any evidence that Vaux was advised of the loss of his right to possess a firearm when he was sentenced on that offense. 3RP 183-84; Ex. 1, 11. His statement of defendant on plea of guilty contained a

reference to the loss of the right, however it was not clear that he had been properly advised.<sup>2</sup>

Vaux's counsel proposed three jury instructions regarding Pierce County's failure to provide notice of the loss of Vaux's right to bear arms. The first instruction read:

Where a convicting court has failed to give the statutorily required notice of firearm possession prohibition and there is no evidence that the defendant has otherwise acquired actual knowledge of the firearm possession prohibition that statute is designed to impart, the defendant cannot be convicted of this offense.

Supp. CP \_\_ (Sub No. \_\_) (Attached as Appendix A).<sup>3</sup>

The second proposed instruction read:

At the time a person is convicted of an offense making the person ineligible to possess a firearm, the convicting court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

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<sup>2</sup> Paragraph 11 of the plea form stated, "I understand that I may not possess, own, or have under my control any firearm." 3RP 187. However there was an advisement in the plea form that paragraphs not applicable to the defendant should be stricken and initialed by the defendant and the judge. Although Paragraph 11 was not stricken, Vaux had affixed his initials beside it. 3RP 189.

<sup>3</sup> According to defense counsel, the instructions were submitted to the clerk in open court, but for whatever reason they did not make it into the court file. Vaux is seeking this Court's permission to supplement the record with the instructions.

Supp. CP \_\_ (Sub No. \_\_) (Attached as Appendix B).

The third proposed instruction read:

A Court affirmatively misleads a defendant when the written order of the Court does not give notice of the prohibition against firearms possession and when the record is silent as to oral notification. If you find that the Pierce County Court affirmatively misled the defendant, the defendant cannot be convicted of this offense

Supp. CP \_\_ (Sub No. \_\_) (Attached as Appendix C.)

The State initially contended that if the instructions were to be used, they should be phrased in the form of an affirmative defense. 4RP 42. Defense counsel agreed and offered to redraft the instructions. 4RP 43. At that point, the State shifted its argument, and contended that Vaux had not met his burden of proof to obtain the instructions and would need to testify. Id.

Although the court agreed that (1) Vaux's proposed instructions correctly stated the law and (2) whether Vaux received notice of the loss of his right to bear arms was a factual question, the court ruled that Vaux was not entitled to any such instructions because there was "some evidence

that the defendant has knowledge . . . [that] he's lost the right to possess a firearm." 4RP 45-46. The court concluded that the evidence tending to refute the inference that Vaux did not receive notice was not relevant, even though the State failed to present any evidence that the loss of Vaux's right to bear arms was communicated to him when he was sentenced. 4RP 46-48. The court acknowledged that the law on the point was not clear. 4RP 48. In response to the court's ruling, defense counsel said, "[T]he court just gutted our defense." 4RP 49.

Vaux testified. He acknowledged that in 2000 he pled guilty to possession of pseudoephedrine with intent to manufacture methamphetamine. 4RP 52. He stated that between then and the instant offense he had not had any involvement with the criminal justice system. 4RP 55. Vaux testified that when he pled guilty he remembered initialing several paragraphs but did not remember being explicitly advised of the loss of his right to possess a firearm. 4RP 59. He did not remember much from the sentencing hearing

because he was mainly concerned about what his sentence would be. 4RP 57.

Although Vaux understood generally that felons may be prohibited from possessing firearms, he stated he was not sure of the current status of the law when he went with Weimer to Wade's. 4RP 60, 69. Weimer also was a convicted felon and Weimer advised Vaux that it was not a problem for them to go to Wade's, and Vaux relied on Weimer's advice. 4RP 62-63, 87.

At the conclusion of Vaux's testimony defense counsel reiterated the need for his proposed instructions regarding whether Vaux had received the requisite notice. 4RP 79. The court did not give the instructions, and in closing argument, the prosecutor argued that all the State was obligated to prove was that Vaux knowingly possessed a firearm and that he was a convicted felon. 4RP 102-03. The prosecutor characterized Vaux's testimony that he did not know he was not supposed to possess a gun as a "smokescreen" and told the jury that Vaux was "playing on

[their] sympathy.” 4RP 104. The court overruled defense counsel’s objection to this argument. Id.

Vaux was convicted of both counts as charged. CP 57-58. Vaux appeals. CP 69-79.

D. ARGUMENT

1. **The trial court’s refusal of Vaux’s proposed jury instructions regarding the failure to advise him of the loss of his right to possess a firearm denied him his constitutional right to a defense.**

a. An accused person has the constitutional right to a defense.

An accused person has a due process right to have the jury accurately instructed on his theory of defense, provided the instruction is supported by substantial evidence and accurately states the law. U.S. Const. amends. VI, XIV; Const. art. I, §§ 3, 22; California v. Trombetta, 467 U.S. 479, 485, 104 S.Ct. 2528, 81 L.Ed.2d 413 (1984), In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970). If these prerequisites are met, it is reversible error to refuse to give a defense-proposed instruction. State v. Ager, 128 Wn.2d 85, 93, 904 P.2d 715 (1995).

- b. Lack of notice of the loss of the right to possess a firearm is an affirmative defense on which Vaux was entitled to have the jury instructed.

According to RCW 9.41.047,

At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm . . . the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

RCW 9.41.047(1)(a).

Considering the interplay of this statute with RCW 9.41.040, prohibiting the possession of firearms by certain persons,<sup>4</sup> the Washington Supreme Court has concluded that although knowledge of the prohibition is not a statutory element of the crime, failure to receive the requisite notice is an affirmative defense at trial. State v. Breitung, 173 Wn.2d

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<sup>4</sup> RCW 9.41.040 provides:

A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

RCW 9.41.040(1)(a).

393, 403, 267 P.3d 1012 (2011). The Court had previously held in State v. Minor, 162 Wn.2d 796, 174 P.3d 1162 (2008), that a trial court's failure to advise the accused at the time of conviction of the loss of his right to bear arms amounts to an affirmative misadvisement. 162 Wn.2d at 804. The Court reached this conclusion based, in part, upon its consideration of the legislative history of RCW 9.41.047. Id. at 803-04. The Court noted that in requiring both oral and written notice of the loss of the right to possess a firearm, the Legislature sought to balance "the concern with escalating violence, which some commentators blamed on the 'ready availability of firearms,' with the concern that restricting firearm availability will infringe upon the right of a law-abiding citizen to keep and bear arms." Id. at 803 (citation omitted).

Analyzing this decision, in Breitung the Court proclaimed that the "failure to provide a remedy for what is a clear statutory violation of RCW 9.41.047(1) ignores the statute's mandate and deprives the statute of any real bite." Breitung, 173 Wn.2d at 402. "Relief consistent with the

purpose of the statutory requirement must be available where the statute has been violated.” Id. at 403 (quoting Minor, 162 Wn.2d at 803-04 (emphasis in Breitung)).

Below, the State cited State v. Semakula, 88 Wn. App. 719, 946 P.2d 795 (1997), in support of its claim that Vaux was not entitled to have the jury instructed on his affirmative defense. 4RP 61. Semakula pre-dates Minor and Breitung, however, so to the extent that Semakula purports to bar any claim that the defendant did not know he was prohibited from possessing a firearm, Semakula is no longer good law.

As Minor and Breitung establish, a defendant who was not advised orally and in writing of the loss of his right to bear arms may claim an affirmative defense to a charge of unlawful possession of a firearm. Vaux was entitled to have the jury instructed on his defense.

- c. The trial court’s refusal to instruct the jury on Vaux’s defense was based upon its application of an erroneous legal standard.

Although it agreed that (1) the question of whether Vaux received adequate notice of the loss of his right to bear

arms was a question of fact and (2) Vaux's proposed instructions correctly reflected the law as stated in Breitung and Minor, the trial court refused to issue the instructions to the jury. 4RP 46, 48-49. The court's ruling appears to have been based upon a misunderstanding of those decisions.

The court ruled that because there was some evidence that Vaux had received notice of the loss of the right to possess a gun, even though this evidence was equivocal, the case should go to the jury without the defense-proposed instructions. 4RP 44. Vaux's counsel directly asked the court whether "defendants who are charged with the crime of unlawful possession of a firearm and who are asserting they did not get the [statutorily] required notice aren't allowed to argue to the jury that they didn't get the statutorily required notice?" 4RP at 46. The court responded that the argument would not be "relevant" under Breitung. 4RP 46-48.

What the court apparently failed to recognize was that both Minor and Breitung considered the question from the standpoint of an appellate challenge to the sufficiency of the evidence. Thus, Breitung's pronouncement that the failure

to give the required notice renders a conviction invalid, 173 Wn.2d at 402, should not be construed as foreclosing the affirmative defense in all cases where the evidence of whether notice was given is equivocal. To the contrary: a trial court considering whether a defendant will be entitled to a jury instruction necessary to argue his defense must view the evidence in the light most favorable to the defendant. State v. Fernandez-Medina, 141 Wn.2d 448, 455-56, 6 P.3d 1150 (2000).

The onerous standard imposed by the trial court upon Vaux was the same standard that is applied (a) on appellate review of the sufficiency of the evidence; and (b) at a motion to dismiss at the conclusion of the State's case or pretrial pursuant to State v. Knapstad, 107 Wn.2d 346, 729 P.2d 48 (1986). Had the court applied the proper standard for determining whether the defense is entitled to a jury instruction, it would have been compelled to find that Vaux was entitled to have the jury consider his affirmative defense. Fernandez-Medina, 141 Wn.2d at 455-56. Specifically, the court would have been obligated to construe the State's sole

evidence of notice – the paragraph in the plea form – in the light most favorable to Vaux. The fact that this paragraph bore his initials would have to be given the inference that Vaux understood its provisions did not apply to him. Likewise, the court would have been required to construe against the State its failure to present evidence that Vaux was advised of the loss of his right to bear arms when he was sentenced.

- d. Vaux's conviction for unlawful possession of a firearm in the first degree must be reversed.

The failure to give a defense-proposed instruction that is necessary to argue the theory of the case and supported by the evidence is reversible error. Ager, 128 Wn.2d at 93. Here, based upon the evidence presented by the State and Vaux's testimony, the jury could have found by a preponderance of the evidence that Vaux had not received written and oral notice of the loss of his right to bear arms when he was convicted of possession of ephedrine with intent to manufacture methamphetamine in 2000.

But because the court did not issue the instruction, the jury was prevented from considering whether the State proved that Vaux had received notice of the loss of his right to bear a firearm, or whether Vaux had established by a preponderance of the evidence that he did not have such notice. Indeed, the State objected to Vaux's efforts to make this argument and explicitly told the jury they should not consider this aspect of his testimony. 4RP 102-04, 109. In short, Vaux was denied his right to present a defense by the court's ruling. Vaux's conviction must be reversed.

**2. The evidence was insufficient to support a finding that Vaux was advised orally and in writing at the time of conviction that he had lost his right to bear arms.**

a. The State bears the burden of proving the essential elements of a criminal offense.

The State bears the burden of proving the essential elements of a criminal charge beyond a reasonable doubt. Winship, 397 U.S. at 364; State v. Byrd, 125 Wn.2d 707, 713, 887 P.2d 796 (1995); U.S. Const. amend. XIV; Const. art. I § 3. A challenge to the sufficiency of the evidence requires the appellate court to view the evidence in the light

most favorable to the prosecution and decide whether any rational trier of fact could have found the elements of the crime beyond a reasonable doubt. State v Green, 94 Wn.2d 216, 220-22, 616 P.2d 628 (1980). A claim of insufficiency admits the truth of the State's evidence and all inferences that can reasonably be drawn therefrom. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

- b. The State presented insufficient evidence to prove that Vaux was advised orally and in writing of the loss of his right to possess a firearm.

RCW 9.41.047 stipulates that at the time of conviction, the convicting court

shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

RCW 9.41.047(1)(a).

The Supreme Court has held that “the word ‘shall’ in a statute is presumptively imperative and operates to create a duty.... The word ‘shall’ in a statute thus imposes a mandatory requirement unless a contrary legislative intent is apparent.” State v. Krall, 125 Wn.2d 146, 148, 881 P.2d

1040 (1994) (quoting Erection Co. v. Dep't of Labor and Indus., 121 Wn.2d 513, 518, 852 P.2d 288 (1993)).

Indeed, construing RCW 9.41.047, the Supreme Court has said the statute is “unequivocal in its mandate.” Minor, 162 Wn.2d at 803. Further, failure to provide a remedy for a clear statutory violation of RCW 9.41.047 “ignores the statute's mandate and deprives the statute of any real bite.” State v. Breitung, 173 Wn.2d at 402.

Here, the State’s sole evidence of notice is paragraph 11 in the plea form. The State presented no evidence that Vaux was advised by the court that he could not possess a firearm until his right to so was restored by a court of record. The judgment and sentence from Vaux’s Pierce County conviction contained no reference to the loss of his right to bear arms. The State offered no other documentation that Vaux received this notification. The State did not provide the record of the sentencing hearing or call any witnesses to establish that the loss of Vaux’s right to bear arms was communicated to him. This Court should

conclude that the State adduced insufficient evidence to prove Vaux received the statutorily required notice.

**3. The State presented insufficient evidence to prove that Vaux had more than fleeting control over the firearm.**

- a. To convict a person of a possessory offense, the State must prove dominion and control over the item.

When prosecuting a possessory offense, the State may prove the essential element of possession by establishing actual or constructive possession. State v. Staley, 123 Wn.2d 794, 798, 872 P.2d 502 (1994). “Actual possession means that the goods are in the personal custody of the person charged with possession; whereas, constructive possession means that the goods are not in actual, physical possession, but that the person charged with possession has dominion and control over the goods.” Id. (quoting State v. Callahan, 77 Wn.2d 27, 29, 459 P.2d 400 (1969)). Possession, moreover, requires “actual control, not a passing control which is only a momentary handling.” Callahan, 77 Wn.2d at 29.

Momentary handling, without more, is insufficient to prove possession. But evidence of

momentary handling, when combined with other evidence, such as dominion and control of the premises, or a motive to hide the item from police, is sufficient to prove possession.

State v. Summers, 107 Wn. App. 373, 386-87, 28 P.3d 780 (2001).

- b. The evidence was insufficient to prove more than fleeting control or momentary handling of the gun.

In this case, this Court should conclude that the State did not present evidence of more than fleeting control or momentary handling of the gun by Vaux. First, the gun and the premises were owned and controlled by Wade's. 3RP 99. Second, a customer who rents a gun for use at the shooting range only has the gun for a limited period of time. 3RP 130. Third, Vaux himself exercised only minimal control over the gun. Weimer shot the gun more frequently, assisted Vaux when he fired the weapon, and retook possession of it before ultimately surrendering it to the range officer at Wade's. 3RP 103, 120-21.

Thus, Vaux neither exercised control over the premises nor more than fleeting control over the gun itself. This Court should conclude that the State did not present sufficient

evidence to prove the element of possession beyond a reasonable doubt.

- c. Vaux's conviction for unlawful possession of a firearm in the first degree must be reversed and dismissed.

Where the evidence is insufficient to support a jury verdict, the appellate court must reverse and dismiss the conviction. State v. Stanton, 68 Wn. App. 855, 866-67, 845 P.2d 1365 (1993). "Retrial following reversal for insufficient evidence is 'unequivocally prohibited' and dismissal is the remedy." State v. Hickman, 135 Wn.2d 97, 103, 954 P.2d 900 (1998) (citing State v. Hardesty, 129 Wn.2d 303, 309, 915 P.2d 1080 (1996)). Because the evidence was insufficient to support a finding that (a) Vaux received the notice required by RCW 9.41.047 or (b) he exercised more than momentary or passing control over a firearm, Vaux's conviction for unlawful possession of a firearm in the first degree should be reversed and dismissed.

D. CONCLUSION

This Court should conclude the evidence was insufficient to prove the essential elements of unlawful possession of a firearm and reverse and dismiss Vaux's conviction. In the alternative, this Court should hold that the trial court denied Vaux his Sixth Amendment and article I, section 22 right to a defense when it refused to instruct the jury on Vaux's affirmative defense that he did not receive the statutorily-required notice he was prohibited from possessing a firearm. Vaux is entitled to a new trial at which the jury will be properly instructed.

DATED this 30<sup>th</sup> day of March, 2012.

Respectfully submitted:

  
for SUSAN F. WILK (WSBA 28250)  
Washington Appellate Project (91052)  
Attorneys for Appellant

INSTRUCTION NO \_\_\_\_

Where a convicting court has failed to give the statutorily required notice of firearm possession prohibition and there is no evidence that the defendant has otherwise acquired actual knowledge of the firearm possession prohibition that statute is designed to impart, the defendant cannot be convicted of this offense.

RCW 9.41.047

State v. Breitung, 155 Wash. App. 606 (2010)

INSTRUCTION NO \_\_\_\_

At the time a person is convicted of an offense making the person ineligible to possess a firearm, the convicting court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

RCW 9.41.047

INSTRUCTION NO. \_\_\_\_

A Court affirmatively misleads a defendant when the written order of the Court does not give notice of the prohibition against firearms possession and when the record is silent as to oral notification. If you find that the Pierce County Court affirmatively misled the defendant, the defendant cannot be convicted of this offense.

RCW 9A.04.047

State v. Minor, 162 Wash. 2d. 796 (2008)

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

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STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	NO. 67947-3-I
v.	)	
	)	
JOSEPH VAUX,	)	
	)	
Appellant.	)	

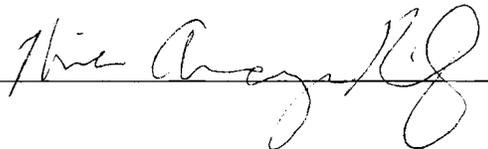
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**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, NINA ARRANZA RILEY, STATE THAT ON THE 30<sup>TH</sup> DAY OF MARCH, 2012, 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:

- |  |                   |                                     |
|--|-------------------|-------------------------------------|
| <input checked="" type="checkbox"/> KING COUNTY PROSECUTING ATTORNEY<br>APPELLATE UNIT<br>KING COUNTY COURTHOUSE<br>516 THIRD AVENUE, W-554<br>SEATTLE, WA 98104 | (X)<br>( )<br>( ) | U.S. MAIL<br>HAND DELIVERY<br>_____ |
| <input checked="" type="checkbox"/> JOSEPH VAUX<br>401 FOURTH AVE<br>BOX 5128<br>SEATTLE, WA 98104   | (X)<br>( )<br>( ) | U.S. MAIL<br>HAND DELIVERY<br>_____ |

**SIGNED** IN SEATTLE, WASHINGTON THIS 30<sup>TH</sup> DAY OF MARCH, 2012.

x 

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