

68807-3

68807-3

NO. 68807-3-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

MARK CURTIS HUDSON,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE LEROY MCCULLOUGH

2013 JUN -4 PM 3:28
COURT OF APPEALS DIV I
STATE OF WASHINGTON

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. The crime of Witness Tampering requires the State to prove that the defendant attempted to induce a witness to absent herself from the proceedings. Here, the jury was instructed that, to convict, it had to find that the State had proved that Hudson had attempted to induce a witness to absent herself from the proceedings “without right to privilege to do so.” Although this instruction was incorrect, the State did not object to it, so assumed the burden of proving the additional element. The State presented no evidence that the witness at issue had been subpoenaed or was otherwise required to attend the trial. Should Hudson’s conviction for Witness Tampering be reversed for insufficient evidence?

2. A witness may not identify another person in a recording available to the jury unless there is reason to believe that the witness is more likely to correctly identify the person than the jury is. Detective Johnson identified Rebecca Hudson’s voice in several recorded phone calls from the jail, which were admitted into evidence and available to the jury. Johnson made his identification based on listening to those recordings and comparing the female voice in them to two telephone calls he had had with Rebecca, a recording of a portion of one of those calls, and a 911 call made by Rebecca. None of those was admitted into

evidence or available to the jury. Did the trial court properly exercise its discretion in admitting Johnson's testimony?

3. A conviction should be reversed if a prosecutor's unobjected-to misconduct was so flagrant and ill-intentioned that any resulting prejudice could not have been cured by an instruction or other action. Whether a prosecutor committed misconduct is judged by looking at the entire argument, the issues in the case, the evidence addressed in the argument, and the court's instructions to the jury. Here, the prosecutor in rebuttal argument mistakenly referred to information that had not been admitted into evidence, although very similar information had been. Hudson did not object. The jury was instructed that the attorneys' arguments are not evidence, and that they must disregard any remark made that is not supported by the evidence. Has Hudson failed to show that the prosecutor's error was flagrant and ill-intentioned misconduct that caused such enduring prejudice that it could not have been cured by an instruction or other action?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

On February 8, 2011, the State of Washington charged the appellant, Mark Curtis Hudson, with one count of Tampering with a Witness—Domestic Violence, and one count of Domestic Violence

Felony Violation of a Court Order. CP 1-2. The State later amended the Information to charge one count of Tampering with a Witness—Domestic Violence, one count of Domestic Violence Misdemeanor Violation of a Court Order, and one count of Assault in the Second Degree—Domestic Violence. CP 19-21. The assault charge arose out of an incident that occurred on September 16, 2010; it had previously been filed and dismissed without prejudice when Rebecca Hudson, the named victim, refused to cooperate with the prosecution. CP 3-7. The tampering and no contact order violation charges arose from Hudson’s conduct in contacting Rebecca while awaiting trial on the assault charges. CP 5-7.

The case proceeded to trial before the Honorable LeRoy McCullough. 1RP 1.¹ The jury convicted Hudson of Witness Tampering and Violation of a Court Order. CP 53-54. It was unable to reach a verdict with respect to the assault charge. CP 55-56; 11RP 4-5, 10-11. The trial court sentenced Hudson to thirty days on each count, to run concurrently with each other. CP 57-65. This appeal timely followed. CP 66.

¹ The Verbatim Report of Proceedings consists of twelve volumes. They are referred to in this brief as follows: 1RP is the volume covering March 28, 2012; 2RP is March 29, 2012; 3RP is April 2, 2012; 4RP is the morning session of April 3, 2012; 5RP is the afternoon session of April 3, 2012; 6RP is April 4, 2012; 7RP is April 5, 2012; 8RP is April 9, 2012; 9RP is April 10, 2012; 10RP is April 11, 2012; 11RP is April 12, 2012; and 12RP is April 27, 2012.

2. SUBSTANTIVE FACTS

On September 16, 2010, King County Sheriff's Office Sergeant Robert Lurry, Deputy Ross Markham, and Deputy Brian Barnes responded to a residence at 7015 South Lakeridge Drive, Seattle. 8RP 145-46; 9RP 16-17. Upon arrival, they met Rebecca Hudson² at the front door. 8RP 146, 149; 9RP 19. She was crying and upset, and had blood dripping from her right thumb. 8RP 146. She told the responding officers that her husband, Mark Hudson, had cut her hand and left shortly thereafter. 8RP 146; 9RP 27. Rebecca provided a written statement to Deputy Markham detailing the incident. 8RP 149-52.

Paramedics also responded to the home to examine Rebecca's injuries. 8RP 133-34. She had a one inch laceration to her thumb. 8RP 135; Ex. 4, 7. Rebecca told the treating paramedic, Brian Levinthal, that her husband had cut her with a switchblade-like knife, and had also choked her. 8RP 137-38.

² To everyone's surprise, Rebecca Hudson appeared for trial and testified. 7RP 39; 8RP 43. She claimed that her name was Rebecca Brooks and that she had never used the name Rebecca Hudson. 8RP 43, 125. The State impeached this testimony—and nearly everything else that Rebecca testified to—through documentary evidence and the testimony of several other witnesses. *E.g.*, 8RP 127 (evidence that Rebecca used the address Rebecca.Ann.Hudson@gmail.com and the signature line "Rebecca Hudson" when communicating with the King County Prosecuting Attorney's Office); 8RP 140 (Rebecca gave her name as "Rebecca Hudson" to paramedic treating her thumb); 8RP 149 (Rebecca gave her name as "Rebecca Hudson" to Deputy Markham). To avoid dwelling on this issue, and to avoid confusing references to her with references to the defendant/appellant, Mark Hudson, this brief will simply refer to her as Rebecca. That is what she told the prosecutor that she wished to be called. 8RP 55.

On September 17, 2010, the case was assigned to King County Sheriff's Office Detective Christopher Johnson for investigation. 9RP 57-60. He called Rebecca that day, spoke to her twice, and took a tape-recorded statement from her. 9RP 60-62, 96; Ex. 14. He referred the case to the King County Prosecuting Attorney's Office, and received notice that charges had been filed against Hudson. 9RP 64. A no contact order was entered in the case, prohibiting Hudson from having contact with his wife. 9RP 64-68; Ex. 33.

Despite the existence of the no contact order, Hudson called Rebecca from the King County Jail. Sergeant Catey Hicks of the jail's Special Investigations Unit testified that she was asked to locate all calls made from the jail to Rebecca's phone number. 8RP 69; 9RP 28-32, 69-72, 74-76; Ex. 35. Those calls were copied onto a disk, Exhibit 13. Sergeant Hicks also provided jail records that showed where Hudson was housed while he was at the jail from September 17, 2010, through December 8, 2010. 9RP 37-39; Ex. 29. Every call made to Rebecca's phone number during that time period was made from the unit at the jail where Hudson was housed. 9RP 44-50.

Hudson tried to reach Rebecca via phone eleven times; he was successful on four occasions. Ex. 13, 17. In those four calls, Hudson and Rebecca discussed the cost of those phone calls, car repairs, bills to be

paid, Hudson's health, and their relationship. Ex. 13; PT Ex. 26, 27, 28, 29.³ Hudson also explained to Rebecca how to use his computer so that they could communicate—presumably using a service like Skype or iChat—while avoiding the recording system at the jail. Ex. 13; PT Ex. 27. In the last call, made on November 2, 2010, Hudson asked Rebecca some questions about whether the prosecutor had contacted her, and told her to say that she had relocated to Texas. Ex. 13; PT Ex. 29. He said, referring to the trial in his case, that “once it goes out I’m thinking I should get out either tomorrow or the, or the day after.” Ex. 13; PT Ex. 29. Hudson also told Rebecca not to answer calls from numbers she did not recognize, and not to reply to any emails. Ex. 13; PT Ex. 29. Rebecca agreed. Ex. 13; PT Ex. 29.

Hudson's trial on the charges arising from the September 16, 2010, incident was scheduled for late November. Ex. 40. It was assigned to Judge Heller. Ex. 40. When trial was to begin on December 8, 2010, the State dismissed the charges, and Hudson was released. Ex. 29, 39; 9RP 39. Once the prosecutor learned about the phone calls Hudson made to Rebecca from the jail, new charges of Witness Tampering and Violation of a Court Order were filed. CP 1-2. The original assault charge that had been dismissed in December 2010 was also reinstated. CP 19-21.

³ Although not admitted at trial, transcripts of the portions of the jail recordings that were played for the jury were designated by Hudson to facilitate this Court's review.

C. **ARGUMENT**

1. **BECAUSE THE EVIDENCE WAS INSUFFICIENT TO SUPPORT HUDSON'S CONVICTION FOR WITNESS TAMPERING, THIS CONVICTION SHOULD BE REVERSED AND DISMISSED.**

Hudson contends that the State's evidence was insufficient to support a guilty verdict for Tampering with a Witness. Specifically, he argues that the evidence was inadequate to show that he attempted to induce Rebecca to absent herself from the proceedings "without right or privilege to do so." Hudson is correct. This conviction should be reversed and dismissed.

Evidence is sufficient if, taken in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Green, 94 Wn.2d 216, 220-22, 616 P.2d 628 (1980) (citing Jackson v. Virginia, 443 U.S. 307, 318, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)), overruled on other grounds by Washington v. Recuenco, 548 U.S. 212, 126 S. Ct. 2546, 165 L. Ed. 2d 466 (2006). A claim of insufficiency of the evidence admits the truth of the State's evidence. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "[A]ll reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant." Id. (citation omitted).

The statute criminalizing Tampering with a Witness requires the State to prove beyond a reasonable doubt that a defendant attempted to induce a witness or a person he believed was about to be called as a witness in any official proceeding to (a) testify falsely, (b) withhold testimony without right or privilege to do so, or (c) absent herself from the proceedings. RCW 9A.72.120. At trial, however, the jury was instructed that, to convict, the State had to prove that Hudson, “attempted to induce a person to, without right or privilege to do so, withhold any testimony or absent himself or herself from any official proceeding.”⁴ CP 34. Although the instruction incorrectly requires the State to prove that Hudson attempted to induce a witness to absent herself without right or privilege to do so, once an extraneous element is included in the “to convict” instruction without objection, the State takes on the burden of proving it. State v. Hickman, 135 Wn.2d 97, 954 P.2d 900 (1998).

Hudson argues that the State failed to prove this additional element that Rebecca had no right or privilege to absent herself from the proceedings. He is correct. No evidence before the jury demonstrated that Rebecca had been served with a subpoena, or that a material witness warrant had been obtained for her arrest. Absent such evidence, there was no proof that Rebecca was required to come to court. Accordingly, the

⁴ The jury was not instructed as to the meaning of “without right or privilege to do so.” CP 22-50.

State failed to prove this extraneous element. There was insufficient evidence to support the conviction for Witness Tampering. This count must be reversed and dismissed. State v. Stanton, 68 Wn. App. 855, 845 P.2d 1365 (1993).

2. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN ADMITTING DETECTIVE JOHNSON'S LAY OPINION THAT THE VOICE ON THE JAIL CALLS WAS REBECCA'S VOICE.

Hudson complains that the trial court erred by allowing Detective Johnson to provide a lay opinion that the voice on the jail phone calls, Exhibit 13, was Rebecca Hudson's. But Detective Johnson based his opinion on materials unavailable to the jury—Rebecca's 911 call on the night of the assault, and two phone conversations that Detective Johnson had with her the following day. The trial court did not abuse its discretion in admitting the testimony.

A trial court's decision to admit or exclude evidence is given considerable deference, so its evidentiary rulings are reviewed for abuse of discretion. State v. Ortiz, 119 Wn.2d 294, 308, 831 P.2d 1060 (1992); State v. George, 150 Wn. App. 110, 117, 206 P.3d 697 (2009). In order to reverse a lower court's ruling, the challenging party must show that the trial court's decision was manifestly unreasonable, or exercised on

untenable grounds or for untenable reasons. State ex rel. Carroll v. Junker, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

A witness's identification of a person based on a photograph or voice recording is a lay opinion, which may only be admitted if it is rationally based on the perception of the witness and is helpful to a clear understanding of the witness's testimony or a fact in issue. ER 701; George, 150 Wn. App. at 117; State v. Hardy, 76 Wn. App. 188, 190, 884 P.2d 8 (1994), aff'd and remanded sub nom. State v. Clark, 129 Wn.2d 211, 916 P.2d 384 (1996). Opinion testimony as to guilt is not admissible, but "testimony is not objectionable simply because it embraces an ultimate issue the trier of fact must decide." George, 150 Wn. App. at 117.

Further, a witness may not identify a defendant in a photograph or recording⁵ available to the jury unless there is reason to believe that the witness is more likely to correctly identify the defendant than the jury is. Hardy, 76 Wn. App. at 190. The same rule would presumably apply to testimony identifying a person other than the defendant, such as a witness. Such testimony is prohibited because it invades the province of the jury, telling the jury something that they can determine for themselves based on the admissible evidence. George, 150 Wn. App. at 118.

⁵ Although the cases cited herein dealt with surveillance photographs and videotape, their logic applies with equal force to voice recordings.

The trial court did not abuse its discretion in admitting Detective Johnson's testimony that the voice on Exhibit 13 was Rebecca's. 9RP 72-74. First, this was proper lay opinion. It was rationally based on Detective Johnson's perceptions. He testified that he concluded it was Rebecca's voice on Exhibit 13 based on a comparison of the voice on the calls therein with the voice recorded on the 911 call Rebecca made on the night of the assault and the voice the detective recorded when he interviewed her the next day. He also based his opinion on the content of all of the calls, and the fact that the phone number that he called to reach Rebecca and the number dialed from the jail were the same. 9RP 69-74. Detective Johnson's opinion was also helpful to the determination of a fact in issue: whether Hudson was speaking to his wife in the calls. As Rebecca had denied receiving any calls from Hudson from the jail, this was a contested issue. 8RP 119.

Second, Detective Johnson's testimony did not invade the province of the jury. When a witness has special knowledge that the jury does not, testimony based on that special knowledge does not impinge on the jury's function. State v. Jamison, 93 Wn.2d 794, 800, 613 P.2d 776 (1980). Here, Detective Johnson had such special knowledge.

Although he had not met Rebecca in person, Detective Johnson had spoken to her twice on the phone and taken a statement from her the

day after the assault. 9RP 60-62, 96. A portion of one of those two telephone conversations was recorded. 9RP 60-62; Ex. 14. Rebecca grudgingly admitted that it was her voice on Exhibit 14. 8RP 101-03. Exhibit 14, however, was not admitted into evidence.⁶ CP 99. Accordingly, it was not available for the jury to listen to in order to compare the voice on it to the voice in Exhibit 13, the jail calls. And, the jury could not assess the content of Exhibit 14 to see if it was consistent with the content of the jail calls.

Similarly, Detective Johnson was able to listen to the 911 recording as a basis for determining that the female voice in the jail calls was Rebecca's. 9RP 69-74. Although Rebecca admitted to calling the police the night of the assault, 8RP 52-53, the 911 recording was not admitted into evidence; it does not appear that it was even marked as an exhibit. CP 99-101. Thus, the jury could not determine if the voice in the 911 recording was the same as the voice in the jail calls. Because Detective Johnson had access to information that was not admissible for the jury to review itself, there was "some basis for concluding that

⁶ It appears that brief portions of Exhibit 14 were played in open court either to have Rebecca identify her voice on it or to impeach her. 8RP 102, 104-05. However, the jury did not hear the entirety of the exhibit and, because it was not admitted, they could not listen to it repeatedly to make a comparison of the voice therein to the voice in Exhibit 13. Similarly, although the jury heard Rebecca testify, they could not replay her testimony to compare her voice to the jail phone calls. Detective Johnson, on the other hand, had full access to the entirety of Exhibit 14, and could listen to it repeatedly and at the same time as Exhibit 13. 9RP 72-74.

[Detective Johnson was] more likely to correctly identify” the witness in the jail phone calls than was the jury. George, 150 Wn. App. at 118 (quoting Hardy, 76 Wn. App. at 190-91). The trial court did not abuse its discretion in admitting this evidence.

3. HUDSON’S CONVICTIONS SHOULD BE AFFIRMED BECAUSE, ALTHOUGH THE PROSECUTOR ERRONEOUSLY REFERRED TO EVIDENCE NOT ADMITTED AT TRIAL, THE REFERENCE WAS NOT FLAGRANT, ILL-INTENTIONED, AND THE CAUSE OF ENDURING PREJUDICE.

Hudson argues that his convictions should be reversed because the prosecutor committed misconduct in rebuttal argument by referring to facts not in evidence.⁷ While the prosecutor improperly referred to the contents of an email that had not been made known to the jury, Hudson failed to object. The argument was not flagrant and ill-intentioned. Further, any possible prejudice could easily have been cured by an appropriate instruction. Hudson’s argument is unavailing.

A conviction should be reversed when a defendant demonstrates both prosecutorial misconduct and resulting prejudice. State v. Russell,

⁷ It is unclear whether Hudson argues that only his conviction for Witness Tampering should be reversed due to prosecutorial misconduct, or whether he contends that his conviction for Violation of a Court Order should be reversed on this basis as well. As discussed in section C.1, supra, the State concedes that Hudson’s conviction for Witness Tampering should be reversed due to insufficient evidence. This section is included only to the extent that Hudson argues that prosecutorial misconduct affected his conviction for Violation of a Court Order, or in the event that this Court does not accept the State’s concession in section C.1.

125 Wn.2d 24, 85, 882 P.2d 747 (1994). To determine whether a prosecutor's argument was improper, a reviewing court must examine the entire argument, the issues in the case, the evidence addressed in the argument, and the court's instructions to the jury. Russell, 125 Wn.2d at 85-86; State v. Graham, 59 Wn. App. 418, 428, 798 P.2d 314 (1990). A defendant is prejudiced if a substantial likelihood exists that the misconduct affected the jury's verdict. State v. Belgarde, 110 Wn.2d 504, 508, 755 P.2d 174 (1988); State v. Neslund, 50 Wn. App. 531, 561-62, 749 P.2d 725 (1988). The defendant bears the burden of demonstrating both that the argument was improper and that he was prejudiced. State v. Stenson, 132 Wn.2d 668, 718, 940 P.2d 1239 (1997).

Even if a defendant was prejudiced by prosecutorial misconduct, however, defense counsel's failure to object constitutes waiver. Russell, 125 Wn.2d at 86. In the absence of an objection, a conviction will not be reversed for prosecutorial misconduct unless the misconduct was so flagrant and ill-intentioned that it evinces an enduring and resulting prejudice that could not have been obviated by a curative instruction or other action. Stenson, 132 Wn.2d at 719; Belgarde, 110 Wn.2d at 507; Russell, 125 Wn.2d at 86. Counsel for the defendant may not remain silent, hoping for a favorable verdict, and then claim misconduct for the first time on appeal. Russell, 125 Wn.2d at 93.

Here, Hudson claims that the prosecutor committed misconduct by referring in rebuttal argument to evidence that was not admitted. Specifically, he complains about the prosecutor's statement, "As [defense counsel] Ms. Pollock said, [Rebecca] did say on the stand, Ms. Pollock asked her, yeah, she sent that E-mail to the prosecutor that she relocated to Texas." 10RP 78. In fact, there was no evidence before the jury that Rebecca had told the prosecutor that she had relocated to Texas.

The email that the prosecutor referred to in this argument was Exhibit 19, which was not admitted into evidence. CP 100. Much of the content of the email was, however, discussed during Rebecca's testimony. Specifically, Rebecca testified on cross-examination that she sent an email to Jennifer Larson, a victim advocate at the King County Prosecutor's Office, in November of 2010. 8RP 121-22. Rebecca testified that, in that email, she told Larson that there was no knife involved in the incident, that Hudson didn't verbally threaten to kill her, and that he did not cause her any bodily harm. 8RP 121. On redirect, Rebecca reluctantly confirmed that she had sent the email, using the email address Rebecca.Ann.Hudson@gmail.com, and signing the email "Rebecca Hudson." 8RP 125-29. She then said that she made up the email address and name, and that those were lies, although the content of the email was

true. 8RP 125-29. However, the portion of the email in which Rebecca told the prosecutor that she had relocated to Texas was not discussed.

Also during cross-examination, Rebecca testified that she was born in Texas, that her family lived there, and that she went there in the fall of 2010 with the intent to relocate there. 8RP 112-13. When she could not find a job there—during the eight day period that she was visiting—she returned to her job at Highline Medical Center. 8RP 112-14.

While it was improper for the prosecutor to refer to contents of an exhibit that were not before the jury, see, e.g., State v. Warren, 165 Wn.2d 17, 29, 195 P.3d 940 (2008), Hudson failed to object. 10RP 78.

Accordingly, reversal is only appropriate if the argument was flagrant and ill-intentioned, and results in an enduring prejudice that could not be corrected by a curative instruction or other action. Hudson is unable to demonstrate that any of these are true.

First, as discussed above, there was quite a bit of testimony about the contents of the email, Exhibit 19, before the jury. The bulk of that testimony had been elicited during cross-examination. Also during cross-examination, Rebecca acknowledged going to Texas around the relevant time period, purportedly in hopes of relocating there. In making her statement in rebuttal about the email, the prosecutor specifically referenced Rebecca's testimony during cross-examination; she did not

pick up and read Exhibit 19 or show it to the jury. Given the amount of evidence in the record about the email and Rebecca's trip to Texas, it is far more likely that the prosecutor made a mistake about exactly what was in evidence and from what source than that she was intentionally discussing facts not in evidence.⁸ Hudson cannot meet her burden to show otherwise.

Second, Hudson has not demonstrated that he was prejudiced in any way by the prosecutor's argument. The improper reference to the contents of the email was made in a single sentence; the prosecutor did not dwell on the issue at length, or suggest to the jury that she was in possession of knowledge that was withheld from them. The statement was not inflammatory; it did not improperly appeal to the jury's biases or prejudices. Rather, it merely referred to Rebecca's testimony during cross-examination, albeit inaccurately.

Further, as discussed above, evidence regarding the timing of the email, the fact that the email contained a recantation, and that Rebecca had in fact gone to Texas were all already before the jury; the statement in rebuttal argument that Rebecca told the prosecutor that she had relocated to Texas added little to this evidence. Moreover, the evidence improperly referred to was relevant only to the Witness Tampering conviction. The State has already conceded that Hudson's Witness Tampering conviction

⁸ The fact that defense counsel failed to object—when she had objected repeatedly throughout the trial and closing argument—suggests she may have made the same error.

must be reversed and dismissed for insufficient evidence. There is no evidence that the erroneous statement by the prosecutor could have affected the conviction for Violation of a No Contact Order, as it is the fact of the contact—not the content of the conversations or Rebecca’s response to them—that is the gravamen of the offense.

Third, a jury instruction could easily have cured any prejudice suffered by Hudson. In fact, the jury had already been instructed that the only evidence it was to consider was the testimony from witnesses and the admitted exhibits, and that the arguments of counsel are not evidence. CP 23, 25. And, it had been told that it “must disregard any remark, statement, or argument that is not supported by the evidence.” CP 25. Had Hudson objected, the court could have reminded the jury of these instructions, which had been read to them a short time earlier. 10RP 40. Juries are presumed to follow the court’s instructions. State v. Southerland, 109 Wn.2d 389, 391, 745 P.2d 33, 34 (1987). There is no reason to think that any prejudice to Hudson could not have been cured by an appropriate instruction or other action.

In short, although the prosecutor erred in referring to evidence outside the record, her argument was not flagrant and ill-intentioned, Hudson was not prejudiced, and any prejudice could have been cured by an appropriate instruction. Reversal is neither necessary nor warranted.

D. CONCLUSION

For all of the foregoing reasons, Hudson's conviction for Tampering with a Witness should be reversed and dismissed, and his conviction for Violation of a Court Order should be affirmed.

DATED this 4th day of June, 2013.

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 Lenell Nussbaum, the attorney for the appellant, at Market Place One, Suite 330, 2003 Western Avenue, Seattle, Washington 98121, containing a copy of the BRIEF OF RESPONDENT, in STATE V. MARK CURTIS HUDSON, Cause No. 68807-3-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.

Dated this 4th day of June, 2013

W Brame

Name

Done in Seattle, Washington

2013 JUN -4 PM 3:28
COURT OF APPEALS DIV I
STATE OF WASHINGTON