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Court of Appeals  
Division I  
State of Washington

NO. 73822-4-I

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

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STATE OF WASHINGTON,

Respondent,

v.

MONIQUE HOWARD,

Appellant.

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

The Honorable George N. Bowden, Judge

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BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The trial court violated appellant's right to due process when it imposed a harsher sentence because she exercised her constitutional right to a jury trial.

2. The trial court erred in imposing an 18-month community custody term based on appellant's commission of first degree robbery when the crime qualifies as both a violent offense (18-month term) and a crime against a person (12-month term).

Issues Pertaining to Assignments of Error

1. Where the record indicates the trial court imposed a harsher sentence because of appellant's decision to be tried by a jury rather than plead guilty, should the sentence be reversed because it is based on a constitutionally impermissible reason?

2. First degree robbery qualifies as both a "violent offense" under RCW 9.94A.030(55)(a)(i) and a "crime against persons" under RCW 9.94A.411(2). The community custody statute, RCW 9.94A.701, does not specify which community custody term to impose when an offense qualifies as both. Is RCW 9.94A.701 ambiguous and must the lesser community custody term be imposed under the rule of lenity?

B. STATEMENT OF THE CASE

On December 19, 2014, the State charged Monique Howard with first degree robbery. CP 64. The State alleged that on November 28, 2014, Howard and Billy Motshepe, with intent to commit theft, unlawfully took Said Abdi-Dhahar's property by use or threatened use of force and, in committing the crime, they were armed with a deadly weapon. CP 64. The State filed an amended information on March 18, 2015, adding a deadly weapon sentencing enhancement: "at the time of commission of the crime, the defendant or an accomplice was armed with a deadly weapon other than a firearm, to wit: a knife, as provided and defined in RCW 9.94A.533(4) and RCW 9.94A.825." CP 59.

Howard proceeded to a jury trial on July 6, 2015. 2RP.<sup>1</sup> Abdi-Dhahar testified he drove Howard and Motshepe in his taxicab from Seattle to Everett on the night of November 28, 2014. 2RP 20-24. When they arrived in Everett, Howard got out of the cab and Motshepe stayed in the backseat. 2RP 28-29. Abdi-Dhahar testified Motshepe put a knife to his throat and shouted at Howard, "get the money." 2RP 28-30. He claimed Howard then opened the driver's door and took his wallet from inside his pants pocket. 2RP 30-33. Abdi-Dhahar said Howard hit him several times

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<sup>1</sup> This brief refers to the verbatim reports of proceedings as follows: 1RP – April 16, 2015; 2RP – July 6, 2015; 3RP – July 7, 2015; 4RP – July 9, 2015.

with her fists. 2RP 32-33. Abdi-Dhahar testified Howard and Motshepe left with his money, cell phone, wallet, and backpack. 2RP 37.

Like Abdi-Dhahar, Howard testified she got out of the cab when they arrived in Everett. 3RP 46. When she looked back into the cab, she saw Abdi-Dhahar and Motshepe struggling, but never saw a knife in Motshepe's hand. 3RP 46. She explained she had no idea what was going on, but was worried about Motshepe's safety, so she opened the driver's door and tried to pull Abdi-Dhahar away from Motshepe. 3RP 27-28, 46. As Howard and Motshepe left the scene, Motshepe handed her a folding knife, which she put in her pants pocket. 3RP 49. Motshepe did not tell her what had just happened—only later, once she was arrested, did Howard realize Motshepe robbed the cab driver at knifepoint. 3RP 47-52.

The jury found Howard guilty as charged of first degree robbery. CP 18. The jury also returned a special verdict finding Howard “or a person to whom the defendant was an accomplice” was armed with a deadly weapon during the commission of the crime. CP 17.

Howard has no prior criminal history. CP 8, 4RP 2. With an offender score of zero, the standard range sentence was 31 to 41 months. CP 8. With the mandatory 24-month deadly weapon enhancement, though, the standard range came to 55 to 65 months. CP 8.

At sentencing, the State recommended 60 months, the midpoint of the standard range, “[g]iven the defendant’s lack of criminal history.” 4RP 2; CP 8. Defense counsel asked for 55 months, the low end of the standard range. 4RP 3-4. Counsel asked for parity, explaining Motshepe “hasn’t offered to plead to just the robbery charge without the enhancement which is the same offer that Ms. Howard had . . . If the co-defendant elects to plead after the results of this trial are known, then basically he’s not looking at the weapon enhancement.” 4RP 3-4.

The trial court adopted the State’s recommendation of 60 months. 4RP 5-6; CP 8. The court explained:

Well, I won’t belabor things since we were all here during all of the evidence. From my perspective and from what I heard, it simply wasn’t very credible despite your lawyer’s best efforts, and the argument that you didn’t know what was happening and weren’t participating in the crime really found very little traction with me and obviously, it was not believed by the jury.

So I think that the avenue for equity was passed when you declined the offer to simply plead to the underlying robbery without the deadly weapon enhancement. I recognize that that will impose some substantial time because of the jury’s finding with respect to that.

And I suppose even in a light more favorable to you and your story, if you were aware at the time that the co-defendant was simply involved in an assault of the cab driver, with or without a weapon, that’s that time to disengage. That’s not time to join in the fray and help your friend.

So I think for those reasons, the State's recommendation is a reasonable one. It's not to punish you for choosing to go to trial. But it is to recognize that the defense not only failed but wasn't very believable.

And that there was a conscious decision to turn down a more favorable opportunity that would have saved you, perhaps, as much as a couple years in prison. So I will choose to follow the State's recommendation which was my inclination at the beginning for a mid range sentence of 36 months plus the two-year enhancement for the deadly weapon.

4RP 5-6. The court also imposed 18 months of community custody because first degree robbery is a violent offense under RCW 9.94A.030. CP 10.

Howard filed a timely notice of appeal. CP 1.

C. ARGUMENT

1. HOWARD'S SENTENCE SHOULD BE REVERSED BECAUSE THE TRIAL COURT PENALIZED HER FOR EXERCISING HER CONSTITUTIONAL RIGHT TO A JURY TRIAL.

Under the Sentencing Reform Act of 1981 (SRA), a standard range sentence is not appealable. RCW 9.94A.585(1); State v. Mail, 121 Wn.2d 707, 710, 854 P.2d 1042 (1993). However, "constitutional challenges to a standard range sentence are always allowed." Mail, 121 Wn.2d at 712. "The imposition of a penalty for the exercise of a defendant's legal rights violates due process," and is therefore an "error[] of constitutional magnitude" that "necessarily overcome[s] the SRA's statutory prohibition." State v. Sandefer, 79 Wn. App. 178, 181, 184, 900 P.2d 1132 (1995).

The federal and state constitutions guarantee the right to a public trial by an impartial jury. U.S. CONST. amend. VI; WASH. CONST. art. I, §§ 21, 22. Our justice system distinguishes between the permissible practice of plea bargaining and the constitutional prohibition against penalizing a defendant's exercise of her constitutional rights. Sandefur, 79 Wn. App. at 181. Sentence concessions may be granted to defendants who plead guilty. Id. at 182. The imposition of a longer sentence after trial than originally offered in a rejected plea bargain, without more, does not establish an impermissibly penalty. Id.

However, “[t]o punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort.” Bordenkircher v. Hayes, 434 U.S. 357, 363, 98 S. Ct. 663, 54 L. Ed. 2d 604 (1978). Thus, “[i]t is well settled that an accused may not be subjected to more severe punishment simply because he exercised his right to stand trial.” United States v. Medina-Cervantes, 690 F.2d 715, 716 (9th Cir. 1982). “[C]ourts must not use the sentencing power as a carrot and stick to clear congested calendars, and they must not create an appearance of such a practice.” United States v. Stockwell, 472 F.2d 1186, 1187 (9th Cir. 1973)).<sup>2</sup>

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<sup>2</sup> See also United States v. Jackson, 390 U.S. 570, 88 S. Ct. 1209 20 L. Ed. 2d 138 (1968) (holding Federal Kidnapping Act unconstitutional to the extent it allowed for the death penalty after being found guilty by a jury and a maximum of life imprisonment after a guilty plea); State v.

The Ninth Circuit has articulated an appropriate standard to apply in such cases: “the record must affirmatively show that the court sentenced the defendant solely upon the facts of his case and his personal history, and not as punishment for his refusal to plead guilty.” Id. at 1188. “[I]t is sufficient to render a sentence invalid if it reasonably appears from the record that the trial court relied in whole or in part upon such a factor.” Commonwealth v. Bethea, 379 A.2d 102, 107 (Pa. 1977); accord Medina-Cervantes, 690 F.2d at 716; State v. Baldwin, 629 P.2d 222, 225-26 (Mont. 1981). Any doubt as to whether the sentencing court impermissibly considered the choice to stand trial must be resolved in the defendant’s favor. Johnson v. State, 336 A.2d 113, 117 (Md. 1975).

Few Washington courts have considered this issue. In Sandefer, after being convicted of child molestation by a jury, Sandefer contested the State’s recommendation of an exceptional sentence. 79 Wn. App. at 179-80. Sandefer asked for a standard range sentence, noting he rejected two earlier plea offers. Id. at 180. The sentencing court responded that it often gave defendants in such cases more lenient sentences when they pleaded guilty because it saved the victims from having to testify. Id. The court continued:

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Frampton, 95 Wn.2d 469, 483, 627 P.2d 922 (1981) (“A statute which exacts a penalty for demanding a jury trial is unconstitutional.”).

Mr. Sandefer, if you entered a plea of guilty, I very possibly would have given you a more lenient sentence towards the lower end of the range, because of saving the victim being victimized by going through this court process. You didn't, and I'm not going to give you that break.

Id. The court rejected the State's recommendation, but sentenced Sandefer to the maximum standard range sentence. Id.

This Court concluded the sentencing court's remarks did not indicate improper consideration of Sandefer's right to stand trial:

Instead, we read the court's remarks as nothing more than a fair response to Sandefer's objection to the State's recommendation. Apart from correctly explaining why Sandefer could no longer demand the benefit of a plea offer he earlier rejected, nothing in the court's remarks affirmatively indicates that the court improperly considered Sandefer's decision to stand trial.

Id. at 184. The key point in Sandefer was the court acknowledged it routinely *decreased* sentences for individuals pleaded guilty to child molestation. By contrast, in State v. Richardson, the court *increased* the penalty for going to trial by imposing costs it would not have imposed had Richardson pleaded guilty. 105 Wn. App. 19, 22, 19 P.3d 431 (2001). This improperly penalized Richardson's exercise of his jury trial right. Id.

Given the dearth of Washington cases on point, cases from other jurisdictions are useful. For instance, in Bethea, the sentencing court stated: "had you pled guilty it might have shown me the right side of your attitude about this, but you pled not guilty, fought it all the way, and the jury found

you guilty, and I'm going to sentence you at this time.” 379 A.2d at 106. The Pennsylvania Supreme Court vacated the sentence because the court’s remarks suggested it impermissibly considered Bethea’s decision to stand trial. Id. at 107.

In State v. Knaak, 396 N.W.2d 684, 689 (Minn. Ct. App. 1986), the court remarked: “[The sentence] may be a little bit more harsh than if you had entered a plea of guilty to start with but I don’t know as that’s true in as much as I am sentencing in accordance with the standard first-time penalty.” The reviewing court reversed the sentence, finding the record did not affirmatively show the sentencing court considered only proper factors. Id. (applying standard articulated in Stockwell).

Perhaps most analogous is the Maryland case, Johnson. There, the sentencing court remarked that Johnson had not told the truth at trial and would have received a moderate sentence had he pleaded guilty. Johnson, 336 A.2d at 115. Specifically, the court told Johnson, “The jury didn’t believe you about this wild story about a man running out and asking you to hold something; that’s perfectly ridiculous. The jury didn’t accept it and I didn’t accept it. You weren’t telling the truth.” Id. The court continued:

And when you sit up here and lie about it, and you’re not telling the truth. You think you’re trying to get away with it. That attitude is not consistent with any consideration for leniency. If you had come in here after this happened, before the other trouble you got into—if you had come in here with

a plea of guilty and been honest about (it) and said, “Of course I did it,” which you did, you would probably have gotten a modest sentence, concurrent with the one in the District of Columbia, and you would have gotten out of it. But with this attitude that you have you can’t receive that kind of treatment.

Id. The reviewing court concluded these statements demonstrated “an impermissible consideration may well have been employed.” Id. at 117.

The court accordingly reversed and remanded for resentencing. Id. at 118.

The Johnson court quoted United States v. Tateo, 214 F. Supp. 560 (S.D.N.Y. 1963), as “particularly instructive”:

No matter how heinous the offense charged, how overwhelming the proof of guilt may appear, or how hopeless the defense a defendant’s right to continue with his trial may not be violated. His constitutional right to require the Government to proceed to a conclusion of the trial and to establish guilt by independent evidence should not be exercised under the shadow of a penalty—that if he persists in the assertion of his right and is found guilty, he faces, in view of the Trial Court’s announced intention, a maximum sentence, and if he pleads guilty, there is the prospect of a substantially reduced term. To impose upon a defendant such alternative amounts to coercion as a matter of law.

Johnson, 336 A.2d at 117 (quoting Tateo, 214 F. Supp. at 567).

At sentencing, defense counsel asked for the low end of the standard range (55 months), given Howard’s complete lack of criminal history. 4RP 3. Counsel also explained Howard was offered a plea deal without the deadly weapon enhancement. 4RP 3. He pointed out that if Motshepe pleaded guilty after seeing the result of Howard’s trial, he would likely avoid

the 24-month enhancement, despite having been the one wielding the knife. 4RP 3-4. Howard did not demand the benefit of the original plea offer, but simply asked the court to keep in mind that Motshepe might receive a significantly lower sentence than her. This makes Howard's case distinguishable from Sandefur.

However, the court rejected a low-range sentence, instead imposing 60 months incarceration for unconstitutional reasons. The court explained Howard "wasn't very credible" at trial and told her "the argument that you didn't know what was happening . . . found very little traction with me." 4RP 5. The court further rejected a low-range sentence "to recognize that the defense not only failed but wasn't very believable." 4RP 5.

This impermissibly punished Howard for presenting a defense the court ultimately found not credible. This is just like Johnson, where the court penalized the defendant for "not telling the truth" at trial. 336 A.2d at 115. But criminal defendants have a right to trial no matter "how overwhelming the proof of guilty" or "how hopeless the defense." Tateo, 214 F. Supp. at 567. Penalizing Howard simply because her defense failed impinged her absolute right to hold the State to its burden of proving her guilty beyond a reasonable doubt. Id. This is a due process violation "of the most basic sort." Bordenkircher, 434 U.S. at 363.

The court claimed a mid-range sentence was “not to punish [Howard] for choosing to go to trial.” 4RP 5. However, this was immediately belied by the court’s reasoning that a higher sentence was warranted because “there was a conscious decision to turn down a more favorable opportunity that would have saved [Howard], perhaps, as much as a couple of years in prison.” 4RP 5. The court further explained “the avenue for equity was passed” when Howard declined to plead guilty. 4RP 5. Again, this penalized Howard for her “conscious decision” to stand trial instead of plead guilty. The court’s claim to the contrary cannot be sustained on this record. Instead, the court increased Howard’s punishment because of her decision to stand trial, like in Richardson and unlike Sandefur.

The State may argue the trial court also relied on permissible reasons for a mid-range sentence, such as Howard’s conduct during the offense.<sup>3</sup> But this is not an appropriate standard. Instead, “the record must affirmatively show that the court sentenced the defendant solely upon the facts of his case and his personal history, and not as punishment for his refusal to plead guilty.” Stockwell, 472 F.2d at 1187 (emphasis added). The

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<sup>3</sup> AMERICAN BAR ASS’N, Standards for Criminal Justice: Pleas of Guilty, std. 14-1.8(b) (3d. ed. 1999) (“The court should not impose upon a defendant any sentence in excess of that which would be justified by any of the protective, deterrent, or other purposes of the criminal law because the defendant has chosen to require the prosecution to prove guilt at trial rather than to enter a plea of guilty or nolo contendere.”)

trial court's reliance, even in part, on Howard's decision to stand trial "is sufficient to render [the] sentence invalid." Bethea, 379 A.2d at 107; accord State v. Fitzgibbon, 836 P.2d 154, 157 (Or. Ct. App. 1992) ("When, as here, fair inferences of improper coercion compete with fair inferences of efforts to explain proper pleading choices fully, we must rule in favor of defendant.").

The trial court violated Howard's right to due process by penalizing her with a harsher sentence for standing trial instead of pleading guilty. This Court should reverse and remand for resentencing.

2. RCW 9.94A.701 IS AMBIGUOUS AS TO THE COMMUNITY CUSTODY TERM APPLICABLE TO FIRST DEGREE ROBBERY.

First degree robbery is statutorily defined as both a violent offense and a crime against a person. These two types of offenses carry different mandatory community custody terms under RCW 9.94A.701(2) and (3). Because these statutes irreconcilably conflict, they are ambiguous, and the rule of lenity requires them to be interpreted in Howard's favor. The trial court therefore erred in imposing 18 months of community custody rather than 12 months.

Statutory interpretation is an issue of law reviewed de novo. State v. J.P., 149 Wn.2d 444, 449, 69 P.3d 318 (2003). A trial court's authority to impose a community custody condition is also an issue of law reviewed de novo. State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). An illegal or erroneous sentence may be challenged for the first time on appeal. State v. Bahl, 164 Wn.2d 739, 744, 193 P.3d 678 (2008).

The court's primary duty in construing a statute is to determine the legislature's intent. State v. Ervin, 169 Wn.2d 815, 820, 239 P.3d 354 (2010). Statutory interpretation begins with the statute's plain meaning, which is discerned from the ordinary meaning of the language used in the context of the entire statute, related statutory provisions, and the statutory scheme as a whole. Id. If the statute remains susceptible to more than one reasonable interpretation, it is ambiguous, and courts may look to the statute's legislative history and circumstances surrounding its enactment to determine legislative intent. Id.

The trial court sentenced Howard to 18 months of community custody because first degree robbery, a class A felony, is defined as a "violent offense" under RCW 9.94A.030(55)(a)(i). CP 10. This community custody term is consistent with RCW 9.94A.701(2), which specifies a "court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person

to the custody of the department for a violent offense that is not considered a serious violent offense.” (Emphasis added.)

However, RCW 9.94A.411(2) also specifies that first degree robbery is a “crime against persons.” RCW 9.94A.701(3) requires a court to “sentence an offender to community custody for one year when the court sentences the person to the custody of the department for: (a) Any crime against persons under RCW 9.94A.411(2).” (Emphasis added.)

Therefore, first degree robbery is statutorily defined as both a violent offense and a crime against a person. But different community custody terms apply to these two types of offenses. Because the statute does not specify which community custody term applies in these circumstances, it is ambiguous. Under the rule of lenity, ambiguous criminal statutes must be construed in the accused’s favor. State v. Jacobs, 154 Wn.2d 596, 603, 115 P.3d 281 (2005); see also United States v. Lanier, 520 U.S. 259, 266, 117 S. Ct. 1219, 137 L. Ed. 2d 432 (1997) (“[T]he canon of strict construction of criminal statutes, or rule of lenity, ensures fair warning by so resolving ambiguity in a criminal statute as to apply it only to conduct clearly covered.”).

The State may argue the legislature intended for those who commit violent offenses to receive a longer term of community custody than those who commit crimes against persons. Any such argument should be rejected

because it is not clear from the statute. For instance, when an offender is sentenced to less than one year incarceration, the court may impose “up to one year of community custody” for both a violent offense and a crime against a person. RCW 9.94A.702(1). The two offenses are treated no differently. But where the sentence is longer than one year, as here, the statute does not provide a clear community custody term for an offense qualifying as both violent and against a person.

Further, RCW 9.94A.701(1)(b) requires courts to impose three years of community custody for a “serious violent offense.” RCW 9.94A.701(2) requires courts to impose 18 months of community custody “for a violent offense that is not considered a serious violent offense.” (Emphasis added.) This provision expressly distinguishes between a violent and a serious violent offense, making it clear which community custody term should apply.<sup>4</sup> By contrast, RCW 9.94A.701(3)(a) includes no such distinguishing or clarifying language: the trial court must sentence an offender to one year of community custody for “[a]ny crime against persons under RCW 9.94A.411(2).” The legislature did not say “any crime against persons that is not considered a violent offense,” as it did in RCW 9.94A.701(2).

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<sup>4</sup> First degree robbery is not a serious violent offense under RCW 9.94A.030(46).

“Under *expressio unius est exclusio alterius*, a canon of statutory construction, to express one thing in a statute implies the exclusion of the other. Omissions are deemed to be exclusions.” In re Detention of Williams, 147 Wn.2d 476, 491, 55 P.3d 597 (2002) (citations omitted). The legislature included clarifying language in RCW 9.94A.701(2) that it omitted in RCW 9.94A.701(3)(a). Therefore, it is not clear from the statute that the legislature intended first degree robbery to be punished as a violent offense rather than a crime against a person. See State v. Delgado, 148 Wn.2d 723, 728-29, 63 P.3d 792 (2003) (treating two-strike statute differently than three-strike statute based on legislature’s omission of specific language).

The statute remains ambiguous as to whether Howard should receive 18 months of community custody because first degree robbery is a violent offense or 12 months of community custody because it is a crime against a person. The rule of lenity dictates the ambiguous statute be interpreted in Howard’s favor, and so the 12-month term applies. This Court should vacate the community custody term and remand for resentencing. See State v. Boyd, 174 Wn.2d 470, 473, 275 P.3d 321 (2012).

### 3. APPELLATE COSTS SHOULD NOT BE IMPOSED.

The trial court found Howard to be “totally indigent” and entitled to appointment of appellate counsel at public expense. Supp. CP \_\_ (Sub. No. 58, Order of Indigency/Waiver of Filing Fee and Appointment of Appellate

Counsel). If Howard does not prevail on appeal, she asks that no costs of appeal be authorized under title 14 RAP. RCW 10.73.160(1) states the “court of appeals . . . may require an adult . . . to pay appellate costs.” (Emphasis added.) “[T]he word ‘may’ has a permissive or discretionary meaning.” Staats v. Brown, 139 Wn.2d 757, 789, 991 P.2d 615 (2000). Thus, this Court has ample discretion to deny the State’s request for costs.

Trial courts must make individualized findings of current and future ability to pay before they impose legal financial obligations (LFOs). State v. Blazina, 182 Wn.2d 827, 834, 344 P.3d 680 (2015). Only by conducting such a “case-by-case analysis” may courts “arrive at an LFO order appropriate to the individual defendant’s circumstances.” Id. Accordingly, Howard’s ability to pay must be determined before discretionary costs are imposed. However, the trial court made no such finding. Instead, the trial court waived all non-mandatory fees, including court costs and fees for a court-appointed attorney. CP 11.

Without a basis to determine that Howard has a present or future ability to pay, this Court should not assess appellate costs against her in the event she does not substantially prevail on appeal.

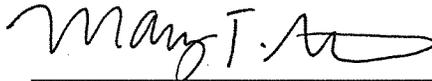
D. CONCLUSION

This Court should reverse Howard's sentence and remand for resentencing because the trial court imposed a harsher sentence based on Howard's decision to stand trial rather than plead guilty. This Court should also reverse Howard's community custody term and remand for resentencing because RCW 9.94A.701 is ambiguous.

DATED this 16<sup>th</sup> day of December, 2015.

Respectfully submitted,

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

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STATE OF WASHINGTON	)	
	)	
Appellant,	)	
	)	
v.	)	COA NO. 73461-0-1
	)	
MONIQUE HOWARD,	)	
	)	
Respondent.	)	

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**DECLARATION OF SERVICE**

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 16<sup>TH</sup> DAY OF DECEMBER, 2015, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X]      MONIQUE HOWARD  
            DOC NO. 384199  
            WASHINGTON CORRECTIONS CENTER FOR WOMEN  
            9601 BUJACHIC ROAD NW  
            GIG HARBOR, WA 9833

**SIGNED** IN SEATTLE WASHINGTON, THIS 16<sup>TH</sup> DAY OF DECEMBER, 2015.

X *Patrick Mayovsky*