

NO. 73922-1-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

D'ANDRE J. CORBIN,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE MARIANE C. SPEARMAN

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Where the defendant has failed to establish that defense counsel misadvised the trial court of its discretion at resentencing and where there is no reasonable probability that the court would have imposed a different sentence had the alleged deficiency not occurred, has the defendant failed to establish that he received constitutionally ineffective assistance of counsel?

2. Where there is no basis in the record to conclude that the defendant lacks any future ability to pay financial obligations, should this Court reject the defendant's request to preemptively prohibit the award of appellate costs to the State?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS.

The State charged the defendant, D'Andre J. Corbin, with attempted assault in the first degree and two counts of felony cyberstalking, with a special allegation that the offenses were crimes of domestic violence.¹ CP 10-12. A jury found Corbin guilty as charged on all counts and found the domestic violence allegation proven. CP 13-14.

¹ The State also alleged for purposes of sentencing that, because of Corbin's high offender score, the imposition of standard range sentences would result in some of the current offenses going unpunished. CP 10-12.

At Corbin's original sentencing, the trial court calculated Corbin's offender score as 12 on all counts, and imposed concurrent standard range sentences of 120 months on the attempted assault charge and 60 months on the cyberstalking charges.² Corbin appealed, and this Court held that two errors had occurred at sentencing: the trial court had improperly imposed a period of community custody in addition to the statutory maximum 120 months of confinement, and Corbin's counsel had been constitutionally ineffective in failing to argue that the two current cyberstalking convictions were "same criminal conduct" for scoring purposes. State v. Corbin, No. 71309-4-I, 2015 WL 1467822 at *2-3 (Wash. Ct. App. March 30, 2015). This Court remanded the case for resentencing to allow Corbin to argue that his cyberstalking offenses constituted the same criminal conduct and to ensure that the total sentence did not exceed the statutory maximum. Id. at *4.

At resentencing, the State agreed that the current cyberstalking offenses should be considered the same criminal

² Because the statutory maximum on the attempted assault charge was lower than the bottom of the standard range established by the Sentencing Reform Act's sentencing grid, the presumptive sentence was the statutory maximum of 120 months. CP 14; RCW 9.94A.510, 9.94A.533(4)(g).

conduct for scoring purposes and that the community custody term should be stricken. 1RP³ 1-2; CP 39-40. The trial court entered an order modifying the original judgment and sentence accordingly. CP 39-40. Because Corbin's offender score remained a ten or higher on each count, his standard ranges were not affected, and the trial court did not modify the sentence imposed. CP 40. Corbin timely appealed. CP 41.

2. SUBSTANTIVE FACTS.

a. Facts Of The Underlying Crimes.

In December 2012, Corbin's wife, Denise Corbin,⁴ was working at the Hyatt Place Hotel in Seattle, Washington, with co-worker Wendy Bi. 2RP 205. During the evening shift one day, Denise began receiving text messages from Corbin. 2RP 205. Bi noticed that Denise was being distracted away from work and appeared to be in an argument with Corbin. 2RP 205. Bi took Denise's cell phone away from her and read some of the

³ The original verbatim report of proceedings in this appeal consists of a single volume from July 24, 2015, and will be referred to as "1RP." The verbatim report of proceedings in Corbin's original direct appeal, case no. 71309-4, has been transferred into this appeal at Corbin's request. It consists of 12 volumes, six of which (April 17, 22, 23, 24, and 29, 2013, and May 2, 2013) are consecutively paginated and will be collectively referred to as "2RP." The remaining six volumes from case no. 71309-4 are separately paginated and will be referred to by date (e.g. "12/6/13 RP").

⁴ Because Denise Corbin shares the defendant's last name, this brief will refer to her as "Denise" to avoid confusion. No disrespect is intended.

messages. 2RP 205. Bi noticed that Denise not only became distracted, but aggravated, annoyed and provoked into responding to the defendant's messages. 2RP 207. Denise testified that she and Corbin had a mutual argument through text messages, during which the defendant told her to "kill herself" and that he said he was going to kill her. However, Denise testified that she did not take the threats seriously. 2RP 130, 136-37.

Texts later obtained from Corbin's phone confirmed that after he and Denise exchanged a series of acrimonious but non-threatening messages, Corbin began threatening to come to Denise's workplace that evening and physically harm or kill her, frequently warning Denise to have the police waiting. Ex. 14 (attached as Appendix A). Denise occasionally responded with sarcastic or mildly insulting comments, and by telling Corbin that she didn't love him and wanted a divorce or that he would go to jail. Ex. 14. However, she never responded in kind to his physical threats. Ex. 14. Below are some of the threats Corbin texted in the course of the conversation:

Corbin: Yep" merry Xmas! I'm bout to beat u ass at work pink! See you soon

Corbin: I know I'm going to jail? Lol.I'm bout to make it count

Corbin: I'm beating ur ass! Promise Tramp.have them waitin

Corbin: Bitch ihate u! We are dead! Ill be still here at 11

Corbin: Ima kill ur punk ass before I go! Promise! U pissy Bitch!"

Corbin: Dead! Both of us!

Corbin: Tramp! Got it! ill be therewaiting at1030 bring them Nigga too bitch! Um knocking you out tonight

Corbin: Ihate u now!and I'm bout to kill us!

Corbin: I'm punching ur bitch ass for everything tonight! Ur not here u punk!

Corbin: I'm beating ur ass bitch!

Corbin: Got a few [friends]! But u!!!? Dead. Promise

Corbin: Front care no more\$ I'm punching ur punk ass just because

Corbin: Don't care bitch. Ur Dead! See you soon. Lom

Corbin: 11! Right!? Ill be here!

Corbin: Promise!

Corbin: Ur dead

Corbin: Denise I'm join to try and kill u tonight! Promise! Lol. Have ur new dude there please so call all everybodie! Bring the nigga with u! 11 ill still be here to kill u!

Corbin: Been knew that! that's why these bitches been filling in but u!? I love that I hate you! I will die to kill u! Lets go! I'm here waiting sweets!

Corbin: Oh and my new bitches is bout to see ur face ass I beat ur pissy ass! So if ur still alive they got u! Lol

Corbin: Well u will really die on camera tonight

Corbin: Promise Denise Jenkins. On site ima kill u! I'm done with ur bitch ass! I will be there to beat ur ass! So.... see you soon bitch.

Corbin: If u knew me Denise.... please believe me. I'm here waiting!!!!!! Ur goin to have to call them!!! I'm really beating ur ass soon as possible! We are dead! Fuck are kids! Ur dead! I wont be cool tell I try to kill u. come babe...lets get this done with! Lol. Uggh I love that I hate u!!!!!!

Ex. 14.

Eventually, Corbin showed up at Denise's workplace looking angry. 2RP 155. Denise ran away from him and went to the hotel's kitchen area. 2RP 156-58. Corbin instructed Bi to get Denise. 2RP 214. When Bi could not find her, Corbin pushed Bi in the chest and proceeded to the employees-only area of the hotel. 2RP 215.

As Corbin searched for her, Denise called 911. 2RP 161-62. While Denise was on the phone with the 911 operator, Corbin

found her. 2RP 165-66. Denise then fled outside through the hotel lobby. 2RP 166-67. Corbin caught up to Denise when she tripped just outside the hotel's door. 2RP 168. The 911 recording captured the sounds of Denise screaming and Corbin yelling. 2RP 169-70. Throughout her testimony, Denise minimized Corbin's culpability, and testified that Corbin was trying to pick her up from where she had fallen when three bystanders intervened and one carried her toward a nearby mini-mart. 2RP 170-71. She denied that Corbin struck her at that point. 2RP 171.

However, a man who happened to be driving by testified that Denise was lying on her back on the ground with Corbin on top of her and punching her repeatedly in the face and chest with both hands when a group of men separated them and pulled Denise toward the mini-mart. 2RP 249-53, 261-62. He testified that Denise was not responding physically to Corbin's attack. 2RP 262-63.

Denise testified that after bystanders carried her away and gave her a cup of something to drink, Corbin began walking away while yelling and swearing at her. 2RP 172. She testified that she was angry that Corbin had caused her so much trouble and that he was leaving just as police were arriving, so she ran after him and

threw her cup at him from across the street. 2RP 172-73. Denise testified that Corbin then walked over to where she was as she backed away and sat down on the ground of her own accord, and the next thing she remembered was being picked up by an officer and placed in his patrol car. 2RP 173.

However, other witnesses gave a very different account. A witness who watched part of the altercation from a nearby window testified that Denise began following Corbin as he walked away, and that Corbin then turned around, ran up to her, and punched her in the face, knocking her to the ground. 2RP 190-92. The witness did not see Denise throw anything at Corbin. 2RP 190-92, 200-01.

A woman who happened to be driving by testified that she saw Corbin and Denise arguing on the sidewalk. 2RP 271. The witness watched as Denise ran away from Corbin, who chased her down, tackled her in the street, pinned her down on her back, and started repeatedly punching her in the face. 1RP 271, 279. Denise attempted to cover her face, and did not strike back at Corbin. 2RP 281.

As this was occurring, Seattle Police Lieutenant Eric Greening arrived and captured the end of the assault on his dash-cam video. 2RP 322-29. Denise was lying on her side in the

roadway and the defendant was straddling her, holding her hair and punching the side of her head repeatedly. 2RP 324. Greening promptly arrested Corbin. 2RP 326.

b. Resentencing.

Prior to the resentencing hearing, Corbin drafted a pro se motion asking the trial court to address several issues at resentencing. CP 26-36. Many of the issues he raised were complaints about alleged errors during Corbin's trial, but the motion included a request for an exceptional sentence below the standard range based on the statutory mitigating factor that "[t]o a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident." CP 33-36; RCW 9.94A.535(1)(a). Corbin cited State v. Barberio in several places, in which our Supreme Court held that a trial court at resentencing has the discretion to consider, or to decline to consider, issues that were not raised on direct appeal. 121 Wn.2d 48, 51, 846 P.2d 519 (1993); CP 26, 31. The propriety of an exceptional sentence below the standard range had not been raised in Corbin's appeal. Corbin, 2015 WL 1467822 at *1-4.

At the resentencing hearing, the prosecutor laid out the procedural posture of the case and the parties' agreement as to the two issues that had been the basis of this Court's remand order. 1RP 1-2. Defense counsel agreed with the prosecutor's summation, and reminded the trial court of Corbin's request for an exceptional sentence below the standard range:

DEFENSE COUNSEL: I should say, Your Honor, that's all accurate. There had been a request by Mr. Corbin to address mitigating circumstances at the sentencing. However, it was indicated that these were the two issues that the appellate court had sent down, and these two issues have been resolved in agreement, which is to say no community custody and same criminal conduct. My client wants to submit a motion if he may, I think with regard to the mitigation issue.

THE COURT: Well, counsel already brought that up and I already explained⁵ that there's two issues we're gonna address today and two issues only. I'm not gonna revisit the sentence except for what the Court of Appeals directed us to. And that's all we're talking about today.

DEFENSE COUNSEL: Understood.

⁵ The trial court's comment appears to reference a prior communication between the court and the parties during which the trial court decided not to consider Corbin's request for an exceptional sentence. However, that communication is not part of the record on appeal.

1RP 2-3. The trial court signed the parties' proposed order amending the judgment and sentence, and the hearing ended without any further substantive discussion. CP 40; 1RP 3.

C. ARGUMENT

1. CORBIN HAS FAILED TO ESTABLISH THAT HE RECEIVED CONSTITUTIONALLY INEFFECTIVE ASSISTANCE OF COUNSEL.

Corbin contends that his trial counsel was constitutionally ineffective in erroneously advising the trial court that it had no discretion to consider Corbin's request for an exceptional sentence at resentencing. This claim should be rejected. The record shows that defense counsel never advised the trial court that it lacked discretion, that the court was aware of its discretion, and that Corbin would have received the same sentence had the alleged error by counsel not occurred. Corbin has thus failed to establish that his counsel's performance was deficient and prejudicial.

A defendant in a criminal case has a constitutional right to the effective assistance of counsel. U.S. CONST. amend. VI; WASH. CONST. art. I, § 22; State v. Grier, 171 Wn.2d 17, 32, 246 P.3d 1260 (2011). In order to prevail on a claim of ineffective assistance of counsel, a defendant bears the burden to show that (1) defense counsel's performance was deficient and (2) the deficient

performance prejudiced the defendant. State v. Cienfuegos, 144 Wn.2d 222, 226-27, 25 P.3d 1011 (2001); Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). If either prong is not met, a claim of ineffective assistance of counsel fails. Strickland, 466 U.S. at 673.

a. Corbin Has Failed To Establish That His Counsel's Performance Was Deficient.

In order to show that defense counsel's representation was deficient, a defendant must show that "it fell below an objective standard of reasonableness based on consideration of all the circumstances." State v. McFarland, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). "If trial counsel's conduct can be characterized as legitimate trial strategy or tactics, it cannot serve as a basis for a claim that the defendant received ineffective assistance of counsel." State v. McNeal, 145 Wn.2d 352, 362, 37 P.3d 280 (2002). Courts must engage in a strong presumption that counsel's representation was effective. Grier, 171 Wn.2d at 35.

Corbin contends that his trial counsel erroneously informed the trial court at resentencing that it had no discretion to consider Corbin's request for an exceptional sentence below the standard range. Br. of Appellant at 1, 10. Had counsel so advised the trial

court, that would indeed have constituted deficient performance, as caselaw is clear that a resentencing court has discretion to consider or decline to consider issues that were not raised on appeal.⁶

Barberio, 121 Wn.2d at 51.

However, the record establishes that defense counsel said nothing suggesting that the trial court lacked discretion to consider Corbin's request for an exceptional sentence. Defense counsel merely referenced Corbin's request that the trial court consider mitigating circumstances in resentencing him, noted that this was not one of the issues on which remand had been ordered, and repeated his client's desire that the court consider his request. 1RP 2. Counsel's statements were entirely consistent with the trial court's discretion to consider or refuse to consider Corbin's request.

Moreover, the trial court's response indicated that the court was aware of Corbin's request prior to the beginning of the resentencing hearing, was aware of its discretion, and had previously informed the parties that the court was exercising its

⁶ However, in that case Corbin's ineffective assistance claim would still fail due to the lack of prejudice, as explained in section C.1.b. below.

discretion to not consider Corbin's request. Further advisement by defense counsel at the resentencing hearing was unnecessary.⁷

Corbin has thus failed to overcome, on the record before this Court, the strong presumption that his trial counsel's performance at resentencing was objectively reasonable based on consideration of all the circumstances.

b. Corbin Has Failed To Establish That His Counsel's Allegedly Deficient Performance Prejudiced Him.

In order to show that he was prejudiced by his counsel's deficient performance, a defendant must show that defense counsel's errors were "so serious as to deprive him of a fair trial." Cienfuegos, 144 Wn.2d at 230. This requires "the existence of a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 229.

Here, there is no reasonable probability that Corbin would have received a lower sentence even if the alleged error by counsel had not occurred. Corbin's written motion cited Barberio, bringing the relevant caselaw to the trial court's attention if it was not already

⁷ The trial court's reference to prior events that do not appear in the record on appeal underscores the importance of the presumption of competence and the placement of the burden of proof as to counsel's incompetence on the defendant. The State is aware of prior communications between the parties that make clear that defense counsel knew the trial court had the discretion to consider or decline to consider an exceptional sentence, yet Corbin's claim must of course be judged on the appellate record alone.

aware of it. CP 26, 31. Furthermore, as noted previously, the record indicates that the trial court had already decided prior to defense counsel's statements at resentencing that it would exercise its discretion to refuse to revisit the appropriateness of the presumptive sentence. 1RP 2-3. Thus, even if defense counsel had explicitly reminded the trial court that it had the discretion to consider whether an exceptional sentence was warranted, there is no reasonable probability that the trial court would have chosen to do so.

Furthermore, even if the trial court had chosen to reach the merits of Corbin's request for an exceptional sentence, there is no reasonable probability that the court would have granted it. Corbin's argument for a sentence below the standard range was based entirely on the statutory mitigating factor that, "[t]o a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident." RCW 9.94A.535(1)(a); CP 33-36. However, his argument largely focused on text messages that the victim sent him during the exchange that led to the felony cyberstalking convictions. Because the attempted first degree assault charge carried a far longer sentence than the cyberstalking charges, the trial court would have had to find that the

victim had initiated or provoked *the assault* to a significant degree in order for Corbin's ultimate sentence to be reduced. The record did not support such a finding.

The evidence at trial established that the assault was entirely initiated by Corbin. Although some of Denise's text messages were insulting, those messages were in response to Corbin's threats of physical harm and death. Moreover, given the independent steps taken by Corbin to go to Denise's workplace and initiate a physical confrontation, no reasonable judge could have found that Denise's far milder messages provoked the assault "to a significant degree."

Denise also did nothing after Corbin showed up at her workplace to initiate or provoke the assault. Corbin's text messages showed that he had already decided to assault Denise before he arrived. Denise fled as soon as she saw Corbin, and Corbin began assaulting her the instant he caught up to her outside the hotel. Although the evidence suggested that Denise walked after Corbin as he attempted to leave the scene after the initial phase of the assault, the testimony of independent witnesses established that Denise did not actually throw anything at Corbin and that she had not fully caught up to him when he decided to turn back, tackle her to the ground, and resume punching her in the

face. As a result, there was no reasonable basis for a judge to find that Denise had done anything to initiate or provoke the assault “to a significant degree.”

Contrary to Corbin’s contention, this case is quite different than State v. Whitfield.⁸ In that case, the intoxicated victim fought with multiple people throughout the evening-long family gathering, and repeatedly confronted Whitfield’s fiancée with accusations that Whitfield was seeing other women. State v. Whitfield, 99 Wn. App. 331, 332, 994 P.2d 222 (1999). After numerous unsuccessful attempts to extract themselves from the conversations, Whitfield and his fiancée began to leave. Id. The victim followed them to their car and continued to confront the fiancée, at which point Whitfield assaulted the victim. Id. Although the trial court did not find that the victim hit Whitfield in the face just prior to the assault, as Whitfield claimed, it found that the victim nevertheless provoked the incident and that a sentence below the standard range was justified. Id. at 333.

In upholding the trial court’s finding that Whitfield’s victim provoked the incident, this Court emphasized the trial court’s unchallenged findings of fact regarding the “extent and persistence”

⁸ State v. Whitfield, 99 Wn. App. 331, 994 P.2d 222 (1999).

of the victim's pursuit of a "controversial, confrontational, and accusatory conversation" with Whitfield's fiancée, and the fact that Whitfield and his fiancée had tried to extract themselves from the confrontation several times without success. Id. at 333-34.

Whereas Whitfield and his fiancée had done nothing to prompt his victim's unrelenting verbal attack, Corbin was the primary instigator and escalator of the verbal altercation with Denise via text message, and was the sole initiator of the in-person confrontation. Although it could be said that Denise re-initiated contact by following Corbin when he attempted to leave the scene in the middle of the assault, Corbin's crime was arguably complete at that point. Even if it was not yet complete, Corbin's pre-existing intent to assault Denise and his actions up to that point prevent a reasonable finding that Denise initiated or provoked the assault "to a significant degree."

Because there was no factual basis for the trial court to find that, "[t]o a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident," the statutory mitigating factor on which Corbin's request for an exceptional sentence relied did not apply. RCW 9.94A.535(1)(a). Thus, even if the trial court had reached the merits of Corbin's request at

resentencing, there is no reasonable probability that Corbin would have received a lower sentence.

Corbin has failed to establish that his counsel's performance at resentencing was deficient and prejudiced him. His ineffective assistance of counsel claim therefore fails, and his sentence should be affirmed.

2. APPELLATE COSTS SHOULD NOT BE FORECLOSED.

Corbin asks this Court to rule that, should the State prevail on appeal, he should not be required to repay appellate costs on the grounds that he is currently indigent. This claim should be rejected. Not only is there no evidence in the record to support a finding that Corbin is currently indigent, but it is a defendant's future ability to pay costs, rather than his present ability, that is most relevant in determining whether it would be unconstitutional to require him to pay appellate costs. Because the record contains no information from which this Court could reasonably conclude that Corbin has no likely future ability to pay, and because the trial court's finding that Corbin is indigent is unsupported by any evidence in the record, this Court should not forbid the imposition of appellate costs.

As in most cases, Corbin's ability to pay was not litigated in the trial court because it was not relevant to the issues at trial. As such, the record contains little information about Corbin's financial status or employment prospects, and the State did not have the right to obtain information about his financial situation.

Months after sentencing, Corbin obtained an ex-parte Order Authorizing Appeal in Forma Pauperis by presenting, off the record, a proposed order containing findings that "the defendant is unable by reason of poverty to pay for any of the expenses of appellate review" and "the defendant cannot contribute anything toward the costs of appellate review." CP 42-44. Although the order references the existence of an affidavit in support of Corbin's motion, no such affidavit or documentation regarding Corbin's then-current financial circumstances appears in the record.⁹

A trial court's factual findings are erroneous if they are not supported by "substantial evidence" in the record. In re Pers. Restraint of Davis, 152 Wn.2d 647, 679, 101 P.3d 1 (2004). "Substantial evidence" exists "where there is a sufficient quantity of

⁹ It is not just the appellate record that lacks the necessary supporting documentation. Undersigned counsel combed through the superior court's electronic court records and found no evidence that any documentation regarding Corbin's finances was provided to the trial court to support the request for a finding of indigency on appeal.

evidence in the record to persuade a fair-minded, rational person of the truth of the finding.” Id. (internal quotation marks omitted).

Here, there is no evidence in the record indicating that Corbin was constitutionally or statutorily indigent at the time the Order Authorizing Appeal in Forma Pauperis was signed. As such, the trial court’s finding of indigency was made in error, and cannot support a finding on appeal that Corbin has no current ability to contribute toward the cost of his appeal.

Even if the trial court’s finding of then-current indigency had been supported by sufficient evidence, the trial court made no findings regarding Corbin’s future ability to pay financial obligations. CP 42-44. It is a defendant’s future ability to pay, rather than simply his current ability, that is most relevant in determining whether the imposition of financial obligations is appropriate. See State v. Blank, 131 Wn.2d 230, 241, 930 P.2d 1213 (1997) (indigence is a constitutional bar to the collection of monetary assessments only if the defendant is unable to pay at the time the government seeks to enforce collection of the assessments).

In State v. Sinclair, 192 Wn. App. 380, 393, 367 P.3d 612, review denied, 185 Wn.2d 1034 (2016), this Court held that costs should not be awarded because the defendant was 66 years-old

and was facing a 24-year sentence, meaning there was “no realistic possibility” that he could pay appellate costs in the future. This Court also recognized, however, that “[t]o decide that appellate costs should never be imposed as a matter of policy no more comports with a responsible exercise of discretion than to decide that they should always be imposed as a matter of policy.” Sinclair, 192 Wn. App. at 391.

The record is devoid in this case of any information that would support a finding that there is “no realistic possibility” Corbin will be able in the future to pay appellate costs. In such circumstances, appellate costs should be awarded. State v. Caver, No. 73761-9-I, ___ P.3d ___, 2016 WL 4626243 at *5 (Wash. Ct. App. Sept. 6, 2016). Corbin was only 32 years old at his original sentencing, and will be at most 42 years old upon his release from prison. CP 16-17. He thus has a significant portion of his working years ahead of him. Because the record in this case contains no evidence from which this Court could reasonably conclude that the defendant has no future ability to pay appellate costs, any exercise of discretion by this Court to prohibit an award of appellate costs in this case would be unreasonable and arbitrary.

D. CONCLUSION

For all of the foregoing reasons, the State respectfully asks this Court to affirm Corbin's sentence.

DATED this 28th day of October, 2016.

Respectfully submitted,

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Appendix A

Trial Exhibit 14

State's Exhibit 14

Emergency Calls Only



4:48 PM

denisecordin@ymail.com - Sent: Dec 14, 2012

denisecordin@ymail.com: ?

For what?

Received: Dec 14, 2012

Me: What?

Sent: Dec 14, 2012

Me: Texted that days ago
denise

Sent: Dec 14, 2012

denisecordin@ymail.com:

Um whatever

Received: Dec 14, 2012

Me: What? Lol. Sure Denise.

Hi!

Sent: Dec 14, 2012

Type to compose a text message

Send

Emergency Calls Only   4:48 PM

denisecorbin@ymail.com Sent: Dec 14, 2012 4:48 PM

Me: What? Lol. Sure Denise.
Hi!

Sent: Dec 14, 2012

Me: Glad u got ur phone
Sent: Dec 14, 2012

denisecorbin@ymail.com:
Yeah now you can harass
directly ummm....

Received: Dec 14, 2012

Me: Not with ur whatever's
bool U got it! I don't want it,
I'm not going to stress u!

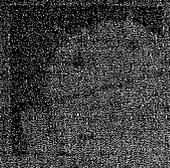
Happy for u tho! 

Sent: Dec 14, 2012

Type to compose

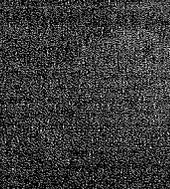
Send

denise.corbin@ymail.com
I'm not going to stress, b
Happy for u tho!
Sent: Dec 14, 2012

 denise.corbin@ymail.com:
Sure
Received: Dec 14, 2012

 Me: 
Sent: Dec 14, 2012

 denise.corbin@ymail.com:
Whats the kiss for? Lol mr.
Bipolar lol
Received: Dec 14, 2012

 Me:
Me and the boys are
spending the night

Emergency Calls Only



4:49

denise@...@ymail.com <1-206-753-9442>

Me and the boys are
spending the night
downtown tonight

Received: Dec 14, 2012

Me: U don't really know me....
! Lol.

Sent: Dec 14, 2012

denise@...@ymail.com: I
see that now.... scary

Received: Dec 14, 2012

Me: Yeah.... where? I'm there
tonight! Where?

Sent: Dec 14, 2012

denise@...@ymail.com

Emergency Calls Only



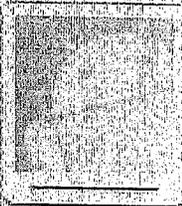
4:49 PM

denisecorbin@ymail.com <+1-206-753-9442>



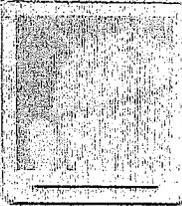
denisecorbin@ymail.com:
Lol yeah right... lol at our
new place

Received: Dec 14, 2012



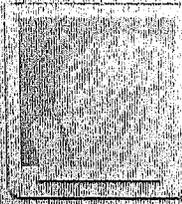
Me: Yep! By my self. Now
boo! 🐼 I gave up! 🐼

Sent: Dec 14, 2012



Me: Qndurgettin it all on urs
right! 🐼

Sent: Dec 14, 2012



denisecorbin@ymail.com:

Bye

Received: Dec 14, 2012



denisecorbin@ymail.com:

Glad you're happy though

Emergency Calls Only



4:49 PM

denise.corbin@gmail.com <+1-206-753-9442>

Glad your happy though

Received: Dec 14, 2012

Me: And u R getting it 

Sent: Dec 14, 2012

denise.corbin@gmail.com:

Have a great weekend

Received: Dec 14, 2012

Me: Bye! Forever!

Sent: Dec 14, 2012

Me: Have a great life! 

Sent: Dec 14, 2012

Me: Real shit!

Emergency Calls Only



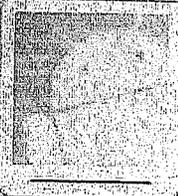
4:49 PM

denisecorbin@gmail.com <+1-206-753-9047>



Me: Real shit!

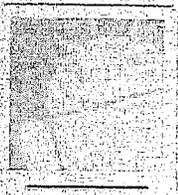
Sent: Dec 14, 2012



denisecorbin@gmail.com:

Whats your issue? Your really special

Received: Dec 14, 2012



Me: Ian! U forgot

Sent: Dec 14, 2012



denisecorbin@gmail.com:

Then dont ask where were going weirdo

Received: Dec 14, 2012



denisecorbin@gmail.com:

Stop texting me the I love

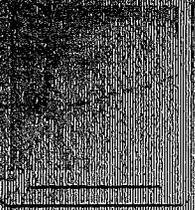
Tap here to compose

Emergency Calls Only



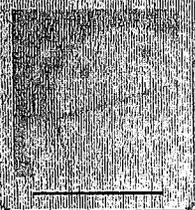
4:49

denise.corbin@gmail.com <+1-206-753-9442>



Stop texting me the I love
shit cause you dont... bye
forever? I wish

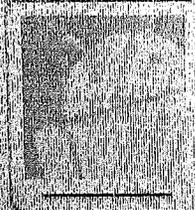
Received: Dec 14, 2012



denise.corbin@gmail.com:

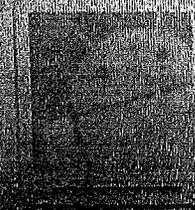
Its cool D I'm not bitter this is
whats best I can start 2013
off better and you can as well

Received: Dec 14, 2012



Me: Yep! Thank u! 

Sent: Dec 14, 2012



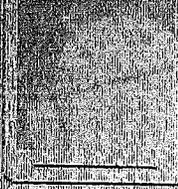
Me: Call me! And ill tell u
everything Denise! I'm on
u! 

Emergency Calls Only



4:49

denisecorbin@gmail.com <+1-206-753-9442>



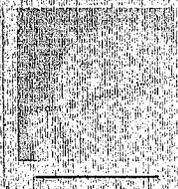
Me: Call me! And ill tell u everything Denise! I'm on u! 🐱

Sent: Dec 14, 2012



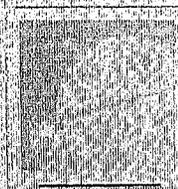
Me: That's all u got!?? 🐱 . Cool 🐱

Sent: Dec 14, 2012



Me: Yep! 🐱 done!

Sent: Dec 14, 2012



Me: What???? No answer!?????? Lol! Got u! Ur not nothing to me then! U

won!

Sent: Dec 14, 2012



Me: illc urel Everything! Urel



Emergency Calls Only



4:49 PM

denise60bin@yahoo.com: 1-206-753-9442

Sent: Dec 14, 2012

Me: Urs urs! Everything! Urs! .
.... lol. Thanks! We free!

Sent: Dec 14, 2012

Me: Do not never hit me!
Promise!

Sent: Dec 14, 2012

Me: I promise on our kids...
I'm cool with this.is sorry!
But u got it today! 😊 I got u!

Lol.

Sent: Dec 14, 2012

denise60bin@yahoo.com:

Lol im at work

Received: Dec 14, 2012

THANK YOU

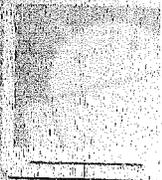
Emergency Calls Only



4:49 PM

denisecorbin@gmail.com <+1-206-753-9442>

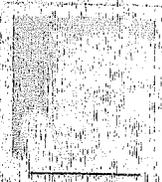
Sent: Dec 14, 2012



denisecorbin@gmail.com :

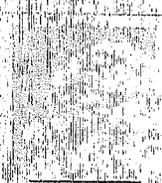
Lol im at work

Received: Dec 14, 2012



Me: Thxs 🙏

Sent: Dec 14, 2012



Me: I don't care 🙏 that's
how u feel? Great! 🙏
promise! 🙏

Sent: Dec 14, 2012



denisecorbin@gmail.com :

Um k *shrugs*

Received: Dec 14, 2012

Me: 🙏. Thank u bm!

Dec 14, 2012

Type to compose

Send

Emergency Calls Only

2



4:49 PM

denise.corbin@gmail.com <+1-206-753-9442>

Received: Dec 14, 2012

Me: Thank u bm!

Sent: Dec 14, 2012

denise.corbin@gmail.com:

Loi bawahahaha we have no connection i don't care what happens to you don't call me and vice versa including my kids your unstable im done talking to an maniac

Received: Dec 14, 2012

denise.corbin@gmail.com:

Happy Christmas

Received: Dec 14, 2012

Me: Ill be there @ 8. Have the

Type to compose

Send

Emergency Calls Only



VERIZON WIRELESS | 903-206-7535

Happy Christmas

Received: Dec 14, 2012

Me: Ill be there @ 8. Have the police there! 🤖. Its over! Before I go! I'm going to touch u! Lol!

Sent: Dec 14, 2012

Me: Yep" merry Xmas! I'm bout to beat u ass at work pink! See u soon 🤖

Sent: Dec 14, 2012

ben@corbin@gmail.com:

You always said you don't want me to hate you but I official do now congrats leave me

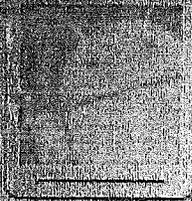
Emergency Calls Only

2



4:50 PM

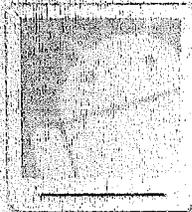
denisecorbin@ymail.com <+1-206-753-9442>



denisecorbin@ymail.com:

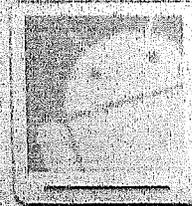
You always said you don't want me to hate you but I official do now congrats leave me and my family alone go do your friends which you choose over us anyways

Received: Dec 14, 2012



Me: I know I'm going to jail! Lol.I'm bout to make it count

Sent: Dec 14, 2012



denisecorbin@ymail.com:

Ohhhhh now you want to go to jail over me? Your stupid walk away loser

Received: Dec 14, 2012

Emergency Calls Only



4:50 PM

deniseborlin@gmail.com <+1-206-753-9442>

Ohhhhh now you want to go
to jail over me? Your stupid
walk away loser

Received: Dec 14, 2012

Me: Good . U ready pissy
ass tramp!?

Sent: Dec 14, 2012

deniseborlin@gmail.com:
You've always been a hater
smdh

Received: Dec 14, 2012

Me: I'm beating ur ass!
Promise tramp.have them
waitin

Sent: Dec 14, 2012

Message input field with a large 'X' mark.

Sent button

Emergency Calls Only



denise@...@... 41-206-753-940

Me: I'm beating ur ass!
Promise tramp.have them
waitin

Sent: Dec 14, 2012

Me: Yep! Ur not here!

Sent: Dec 14, 2012

Me: Bitch ihate u! We are
dead! Ill be still here at 11 

Sent: Dec 14, 2012

Me: Ima kill ur punk ass
before I go! Promise! U pissy
bitch!

Sent: Dec 14, 2012

Me: Dead! Both of us!

Emergency Calls Only



4:50

denisebrunneymail.com <1-206-753-9442>

Sent: Dec 14, 2012

Me: Dead! Both of us!

Sent: Dec 14, 2012

Me: Thank u!

Sent: Dec 14, 2012

denisebrunneymail.com:

Bawhahahaha your a loser
im giving theses text to the
police

Received: Dec 14, 2012

**Me: Thank u! Make sure
there?with u!**

Sent: Dec 14, 2012

denisebrunneymail.com:

to compose

Emergency Calls Only



4:50 PM

deansecorbin@gmail.com <HI-206-753-9442>
Sent: Dec 14, 2012

Your a weindo

Received: Dec 14, 2012

Just leave me alone

Received: Dec 14, 2012

Me: Tramp! Got it! ill be
therewaiting at 1030 bring
them Nigga too bitch! Um
knocking u out tonight

Sent: Dec 14, 2012

deansecorbin@gmail.com: I
don't want to be with you any
more you said you feel the
same just grow up leave me alone

Type to compose

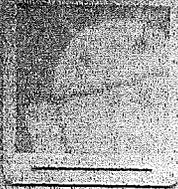
Send

Emergency Calls Only



4:50 PM

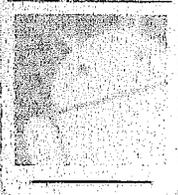
denisecorbin@gmail.com <+1-206-755-9042>



denisecorbin@gmail.com :

don't want to be with you any more you said you feel the same just grow up leave me alone weirdo stalker

Received: Dec 14, 2012



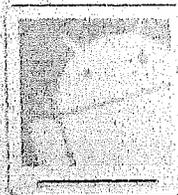
Me: I hate u now! and I'm bout to kill us!

Sent: Dec 14, 2012



Me: Yep! Punk!

Sent: Dec 14, 2012



denisecorbin@gmail.com:

Hate yourself

Received: Dec 14, 2012



Me: The only bitch that's

Compose

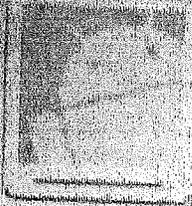
Send

Emergency Calls Only



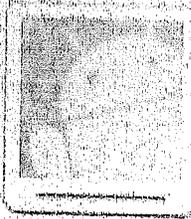
4:50

denisecorbin@ymail.com <1-206-752-9105>



Hate yourself

Received: Dec 14, 2012



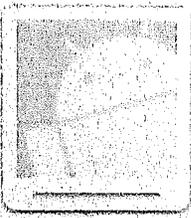
Me: The only bitch that's getting it!

Sent: Dec 14, 2012



Me: I'm punching ur bitch ass for everything tonight! Ur not here u punk!

Sent: Dec 14, 2012



denisecorbin@ymail.com:

Go get a new girlfriend just forget about me move on

Received: Dec 14, 2012



Me: I'm beating ur ass bitch!

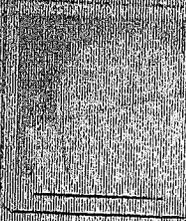


Emergency Calls Only



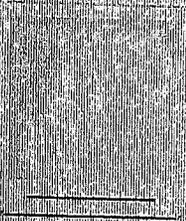
4:50

denise@corbin@gmail.com <+1-206-753-9271>



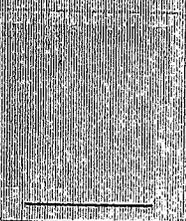
Go get a new girlfriend just forget about me move on

Received: Dec 14, 2012



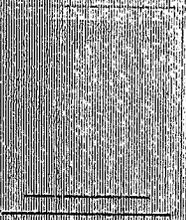
Me: I'm beating ur ass bitch!

Sent: Dec 14, 2012



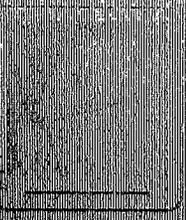
Me: On site! Come on!

Sent: Dec 14, 2012



Me: I'm waiting.

Sent: Dec 14, 2012



denise@corbin@gmail.com:

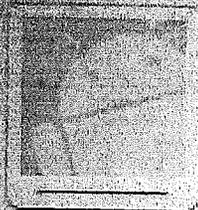
No Im not lol im out with a friend

Emergency Calls Only



4:51 PM

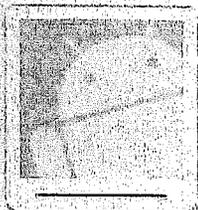
denisecorbin@ymail.com <+1-206-753-9442>



denisecorbin@ymail.com:

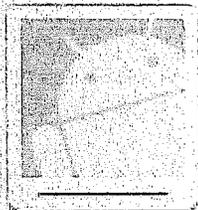
No Im not lol im out with a friend

Received: Dec 14, 2012



Me: Got a few! 🐼 but u!!!? Dead! Promise

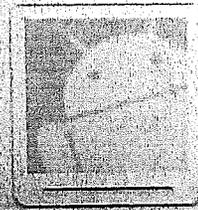
Sent: Dec 14, 2012



denisecorbin@ymail.com:

lol seeeeeee!!!! So leave me alone bawahaha

Received: Dec 14, 2012



Me: Front care no more\$ I'm punching ur punk ass just because

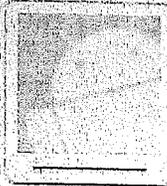
Sent: Dec 14, 2012

Emergency Calls Only



4:51 PM

denisecorbin@ymail.com <+1-206-753-9442>



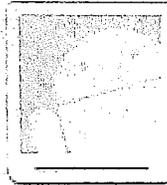
Me: Front care no more\$ I'm punching ur punk ass just because

Sent: Dec 14, 2012



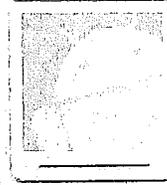
denisecorbin@ymail.com:
Trust me ive. Moved on

Received: Dec 14, 2012



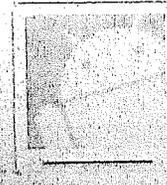
Me: Laugh if u want dumbin

Sent: Dec 14, 2012



Me: I'm coin to hurt u promime

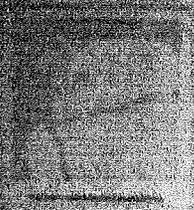
Sent: Dec 14, 2012



denisecorbin@ymail.com: I laugh at jail bound losers

Type to compose

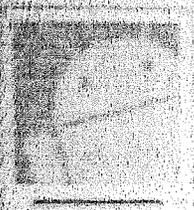
Send



me@newmail.com : 1

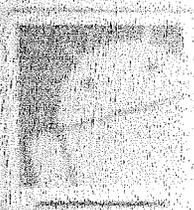
laugh at jail bound losers

Received: Dec 14, 2012



Me: Bitch have everyone there when u get here!

Sent: Dec 14, 2012



Me: Don't care bitch . Ur dead! See u soon! Lom

Sent: Dec 14, 2012



Me: 11! Right!? Ill be here! 🐱

Sent: Dec 14, 2012



Me: Promise!

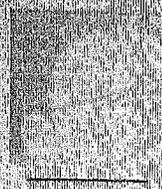
Sent: Dec 14, 2012

Emergency Calls Only



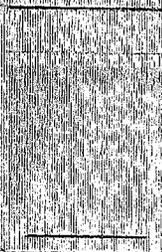
4:51 PM

denise@corbin@ymail.com <+1-206-753-9442>



Me: Promise!

Sent: Dec 14, 2012



denise@corbin@ymail.com:

That's enough im changing my number thanks bye

Received: Dec 14, 2012



denise@corbin@ymail.com:

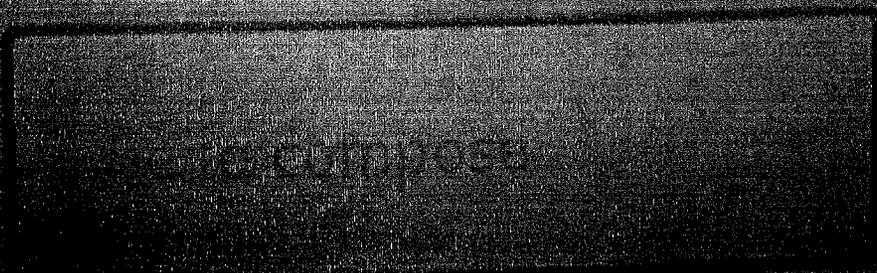
This helps for custody our divorce everything thank you
crazy

Received: Dec 14, 2012



Me: Lets go! 🐼 bring the Nigga! He's dying too! Fuck u bitch! U will call them on me!

Sent: Dec 14, 2012

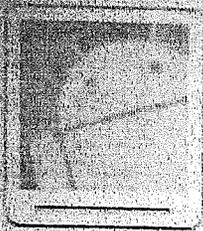


Emergency Calls Only



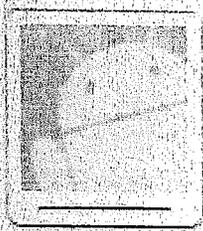
4:51 PM

denisecorbin@gmail.com <+1-206-753-9447>
Received: Dec 14, 2012



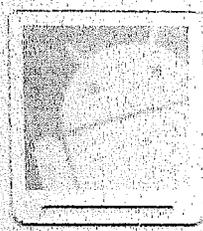
Me: Lets go! 🐼 bring the Nigga! He's dying too! Fuck u bitch! U will call them on me!

Sent: Dec 14, 2012



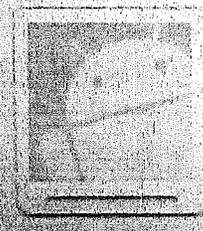
Me: Keep them tramps

Sent: Dec 14, 2012



Me: Ur dead

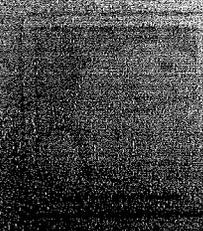
Sent: Dec 14, 2012



denisecorbin@gmail.com:

Yep

Received: Dec 14, 2012



denisecorbin@gmail.com:

Yep

Sent: Dec 14, 2012

Emergency Calls Only



4:51 PM

carlisa@comcast.net <+1-206-753-9442>

Received: Dec 14, 2012

carlisa@comcast.net:

Yep

Received: Dec 14, 2012

carlisa@comcast.net:

Yep

Received: Dec 14, 2012

carlisa@comcast.net:

Get off my phone and get a job

Received: Dec 14, 2012

carlisa@comcast.net: ...

.....

Received: Dec 14, 2012

carlisa@comcast.net: T

Type to choose

Send

Emergency Calls Only



4:51 PM

RECEIVED FROM: [REDACTED] 406-758-9442

Received: Dec 14, 2012

[REDACTED]@gmail.com: I swear I cant wait to.... lol

Received: Dec 14, 2012

[REDACTED]@gmail.com:

Yep

Received: Dec 14, 2012

[REDACTED]@gmail.com:

Nice try calling my sister boys just left loser

Received: Dec 14, 2012

Me: See u soon boo!

Whenever! Tonight

tomorrow! !!! I don't care! Ur bitch ass didn't call the police on the

Emergency Calls Only

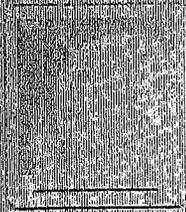
2



4:51 PM

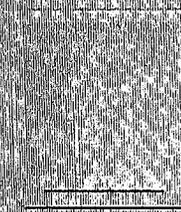
denisecorbin@gmail.com <+1-206-753-9442>

Received: Dec 14, 2012



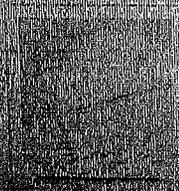
Me: See u soon boo!
Whenever! Tonight
tomorrow! !!! I don't care! Ur
bitch ass didn't call the police on the
Nigga! U with him now! Ur bitch ass
ain't at here!

Sent: Dec 14, 2012



denisecorbin@gmail.com:
Yeah believe what you want
your not my man I don't have
to explain my where abouts to you

Received: Dec 14, 2012



Me: Denise I'm join to try to
kill u tonight! Promise! Lol.
Have ur new dude there
please so call all everybodie! Bring



Send Message to Denise Williams (1-206-753-9442)

Me: Denise I'm join to try to kill u tonight! Promise! Lol. Have ur new dude there please so call all everybodie! Bring the Nigga u with! I ill still be here to kill u! 😏

Sent: Dec 14, 2012

Me: Been knew that! 😏 that's why these bitches been filling in 😏 but u!? I love that I hate u! I will die to kill u! Lets go! I'm here waiting sweets 😏

Sent: Dec 14, 2012

Me: I love ur bitch ass!

Sent: Dec 14, 2012

Me: I love ur bitch ass!

Sent: Dec 14, 2012

Me: Have I punched u yet!??

Sent: Dec 14, 2012

Me: Shall I bring them! Pissy
ass bitch!

Sent: Dec 14, 2012

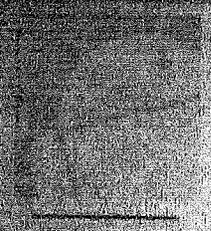
Me: Oh and my new bitches
is bout to see ur face ass I
beat ur pissy ass! So if ur still
alive they got u! Lol

Sent: Dec 14, 2012

Me: Waiting punk ass bitch!
Ooh! I never! My best friend

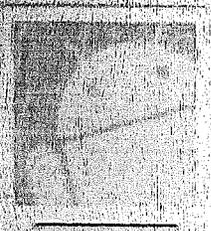
scorbin@ymail.com

+1-206-785-1070



Me: Waiting punk ass bitch!
Ooh! I never! My best hoe! 10
yrs our ur bitch ass!

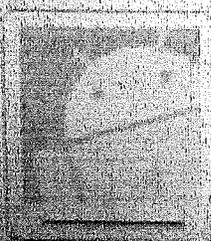
Sent: Dec 14, 2012



scorbin@ymail.com:

Its cool marry them bitches
im divorcing you I cant say I
love you no more you need to grow
up no doubt you'll ever will though

Received: Dec 14, 2012



scorbin@ymail.com: I
hate you

Received: Dec 14, 2012

Me: I'm waiting! Ask ur cute
lil Asian worker. Right here



Secor, Brent (mailto:brsecor@att.net) <1-206-753-9442>

Secor, Brent (mailto:brsecor@att.net): I
hate you

Received: Dec 14, 2012

Me: I'm waiting! Ask ur cute
lil Asian worker. Right here
boo ☹ ur dead! U and

everybody

Sent: Dec 14, 2012

Me: I swear I hate u!

Sent: Dec 14, 2012

Secor, Brent (mailto:brsecor@att.net): I
will never love you or care
what happens to you ever

Dec 14, 2012



Text Message from [Name] (206-758-9142)

[Name]@ymail.com: I will never love you or care what happens to you ever

Received: Dec 14, 2012

[Name]@ymail.com: I hate you too

Received: Dec 14, 2012

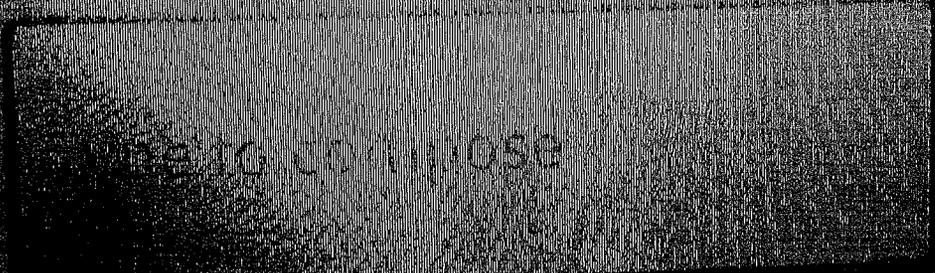
Me: And I promise u will see how I treat bitches

Sent: Dec 14, 2012

[Name]@ymail.com: no I wont

Received: Dec 14, 2012

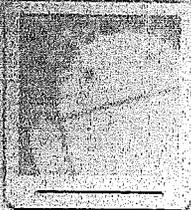
[Name]@ymail.com: I can



denisecorbin@ymail.com <+1-206-753-9442>

no I work

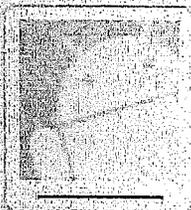
Received: Dec 14, 2012



denisecorbin@ymail.com:

Loser

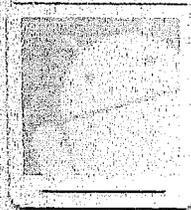
Received: Dec 14, 2012



denisecorbin@ymail.com:

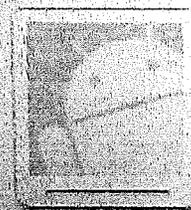
You little dick loser

Received: Dec 14, 2012



Me: Well u will really die on camera tonight

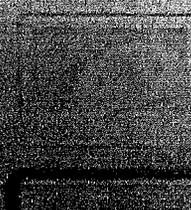
Sent: Dec 14, 2012



denisecorbin@ymail.com: I

hate you

Received: Dec 14, 2012



denisecorbin@ymail.com:



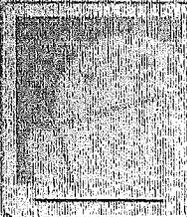
Emergency Calls Only



4:52 PM

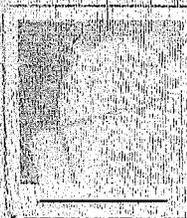
denisecorbin@gmail.com <+1-206-753-9402>

Received: Dec 14, 2012



denisecorbin@gmail.com:
You insecure loser

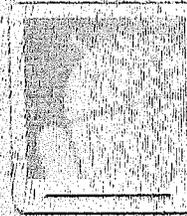
Received: Dec 14, 2012



denisecorbin@gmail.com:

Lol

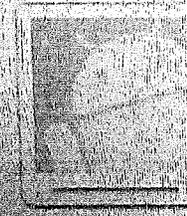
Received: Dec 14, 2012



Me: Lose pissy pussy bitch!

 see u soon!

Sent: Dec 14, 2012



denisecorbin@gmail.com:

Im not scared off you yeah
watch me work while your
just a loser

Received: Dec 14, 2012

Emergency Calls Only



4:52 PM

Text Message from [Name] (206-753-0402)

[Name]
Im not scared off you yeah
watch me work while your
just a loser

Received: Dec 14, 2012

Text Message from [Name] (604-251-1100)

Lol

Received: Dec 14, 2012

Text Message from [Name] (bin@ymail.com)

Cornball

Received: Dec 14, 2012

Me: Promise Denise Jenkins.
On site ima kill u! I'm done
with ur bitch ass! I will be
there to beat ur ass! So.... see u
soon bitch.

Tap to compose

Send

Emergency Calls Only



4:52 PM

denise@juno.com (mailto:denise@juno.com) 206-758-0442

Received: Dec 14, 2012

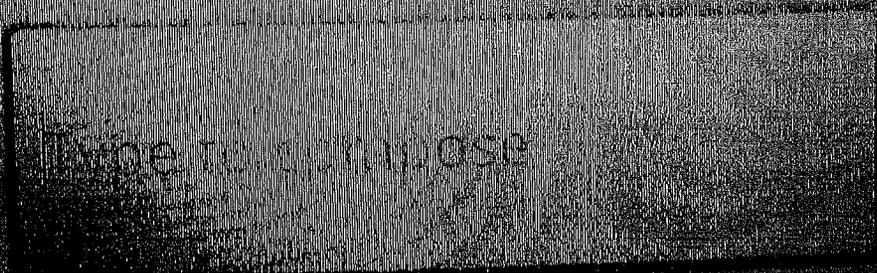
Me: Promise Denise Jenkins.
On site ima kill u! I'm done
with ur bitch ass! I will be
there to beat ur ass! So.... see u
soon bitch.

Sent: Dec 14, 2012

Me: Yep. Corny. Please bring
the Nigga u Latin with!

Sent: Dec 14, 2012

Me: If u knew me Denise.....
please believe me. I'm here
waiting!!!!!! Ur goin to have to
call them!!! I'm really beating ur ass
soon as possible! We are dead!
Fuck are kids! Ur dead! I wont be

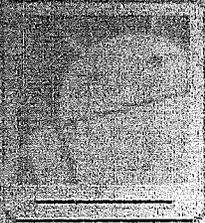


Emergency Calls Only



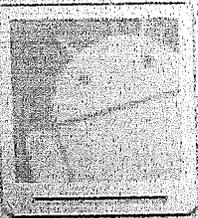
4:52 PM

denise.corbin@gmail.com <+1-206-753-9442>



Me: If u knew me Denise.....
please believe me. I'm here
waiting!!!!!! Ur goin to have to
call them!!! I'm really beating ur ass
soon as possible! We are dead!
Fuck are kids! Ur dead! I wont be
cool tell I try to kill u. Come babe..
  .lets get this done with! Lol.
Uggh I love that I hate u!!!!!!

Sent: Dec 14, 2012



Me: . U having him bring u
early or u goin to be by ur
self boo!?? Cuz I'm waiting!!!



Sent: Dec 14, 2012

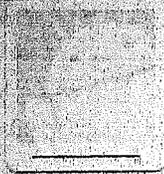
Me: Yes! Ur our are getting it

Emergency Calls Only



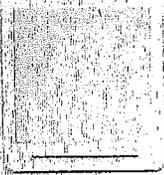
4:53 PM

denise.corbin@gmail.com <+1-206-753-9442>



Me: Yes! Ur our are getting it all. Before I go! 🤪 . I want u to know all of the nothing ass Nigga u married before I go back ! Lol"

Sent: Dec 14, 2012



Me: Yep! I'm ur stalker u pissy ass bitch! U are my end! Promise.

Sent: Dec 14, 2012



Me: See u soon pissy bitch! U and ur beard! I'm bout to pluck it for u! Lol

Sent: Dec 14, 2012



Me: Pissy stinky pussy ass bitch! Fuck!!!! Whvrdid I give

Type to compose

Send

Emergency Calls Only



4:53 PM

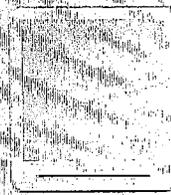
demiseorbin@gmail.com <+1-206-753-9442>

Sent: Dec 14, 2012



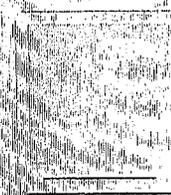
Me: Pissy stinky pussy ass
bitch! Fuck!!!! Whydid I give
ur lose stinky ass pussy my
kids

Sent: Dec 14, 2012



Me: Come on d! Lets get this
out the way! 📱. Smh. U been
asking for this a min..... lets
go lol

Sent: Dec 14, 2012



Me: Promise on Dre!

Sent: Dec 14, 2012



Me: Pleasee

Sent: Dec 14, 2012

Type to compose

Send

Emergency Calls Only



4:53 PM

delisea0101@gmail.com +1-206-758-9442

go lol

Me: Come on d! Lets get this out the way! Smh. U been asking for this a min..... lets

Sent: Dec 14, 2012

Me: Promise on Dre!

Sent: Dec 14, 2012

Me: Pleasse

Sent: Dec 14, 2012

Me: Bring him! U guys is...

Sent: Dec 14, 2012

Me: Call them! Yep

Sent: Dec 14, 2012

Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Dana Nelson, the attorney for the appellant, at Nelsond@nwattorney.net, containing a copy of the BRIEF OF RESPONDENT, in State v. D'Andre J. Corbin, Cause No. 73922-1, 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 28 day of October, 2016.


Name:
Done in Seattle, Washington