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October 5, 2016
Court of Appeals
Division I
State of Washington

NO. 74441-1-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL CLARK,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE ANDREA DARVAS

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Whether sufficient evidence supports Clark's conviction for unlawful possession of a firearm?
2. Whether this Court should preemptively deny appellate costs in the absence of evidence of Clark's inability to pay?

B. STATEMENT OF THE CASE¹

On May 19, 2011, Brittany Codomo ended a three-year relationship with Michael Clark. CP 100. As Codomo's friends and father helped her move things from the shared apartment, Clark threatened them with a large knife, prompting Codomo to seek an order for protection. CP 100. Codomo said Clark threatened to kill her and sent her messages with staged photos made to appear that he had carved Codomo's name into his chest and slit his own throat. CP 98.

Clark and Codomo apparently reconciled, because on June 22, 2015, Codomo petitioned the court for a domestic violence order to protect her and her three-year-old son from Clark. CP 94-06, 146. In the petition, Codomo stated that Clark had been

¹ Because this was a bench trial on stipulated facts, the State relies primarily on the trial court's unchallenged findings of fact for its statement of the case. See CP 146-49.

sending harassing text messages, threatening to take the child out of the state and to get Codomo fired from her job. CP 98. Codomo indicated that Clark had left photos and displays of guns for her, which she interpreted as a threat. CP 98-99. Codomo also stated that Clark had threatened suicide if anyone tried to take his guns and had threatened to shoot Codomo's friend and then himself in reaction to text messages that Clark found on Codomo's phone. CP 99. The court issued a Temporary Order for Protection and a Temporary Order to Surrender Weapons without Notice. CP 108-14. The surrender order specifically directed that Clark immediately surrender any firearms and other dangerous weapons. CP 113. Later that day, Clark was served with the temporary orders and notice of the next hearing. CP 116, 147.

On July 6, 2015, Clark appeared in court. CP 147. The court issued a permanent Order for Protection and Order to Surrender Weapons. CP 147, CP 119-27. Clark signed the orders, acknowledging receipt. CP 147, 127, 124. Clark also signed a Declaration of Non-Surrender, swearing under penalty of perjury that he had no firearms to surrender. CP 129, 147. The declaration presented a boldface warning that failure to comply with

the order to surrender weapons could result in being charged with a felony under RCW 9A.040(2). CP 129.

On September 3, 2015, Detective Wheeler of the King County Sheriff's Office spoke with Codomo, who reported that Clark had taken two handguns and four rifles when he moved out of their home on June 22, 2015. CP 147. She also found one of Clark's shotguns, which she turned over to the Bellevue Police Department. CP 147. Codomo told Detective Wheeler that Clark's father had reported that Clark had made suicidal statements as recently as August 31, 2015. CP 147. Codomo advised that Clark's father told her that Clark had one handgun with him, but the rest of his firearms were locked in a storage unit that he could not access until he paid back rent on the unit. CP 147.

Detective Wheeler obtained a warrant to search the storage unit and found three pistols, two shotguns, and two rifles. CP 148. He test-fired two of the pistols, showing them to be fully functional. CP 148.

The State charged Clark with two counts of unlawful possession of a firearm, alleging that he possessed or controlled firearms while subject to a court order issued under RCW 26.50.

CP 1-2, 148. In an amended information, the State specified the gun involved in each count. CP 148-49.

Clark moved to vacate the protection order and dismiss the charges on grounds that his Fifth and Sixth Amendment rights had been violated when he was forced to either surrender his guns or declare that he had none. CP 10-41. The court rejected the argument and denied the motion. RP 23-24.

Clark waived his right to a jury trial and the parties submitted the case on stipulated facts. CP 47-49. The trial court found Clark guilty of two counts of unlawful possession of a firearm in the second degree. CP 149. Among other things, the trial court found that the protection order “explicitly prohibited the use, attempted use, or threatened use of physical force against the intimate partner that would reasonably be expected to cause bodily injury.” CP 149-50. The court imposed a standard range sentence of 90 days, with credit for 90 days served. RP 61-62; CP 159. Clark was released on the day of sentencing. RP 159.

C. ARGUMENT

1. SUFFICIENT EVIDENCE SUPPORTS CLARK'S CONVICTION.

Clark contends there is insufficient evidence to support his conviction because RCW 9.41.040(2)(a)(ii) requires the underlying protection order to contain statutory language verbatim. This Court should reject the argument, which puts form over substance and defeats the obvious purpose of the statute.

A challenge to the sufficiency of the evidence admits the truth of the State's evidence and all inferences that can reasonably be drawn therefrom. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). Evidence is sufficient to support a finding of guilt if, after viewing the evidence in the light most favorable to the State, a rational trier of fact could find the essential elements of the crime beyond a reasonable doubt. State v. Rose, 175 Wn.2d 10, 15, 282 P.3d 1087 (2012).

The State alleged that Clark violated the law by possessing firearms while under a court order. RCW 9.41.040 provides that a person commits second degree unlawful possession of a firearm when he or she owns, possesses, or controls any firearm when subject to court orders issued under any of several statutes.

RCW 9.41.040(2)(a)(ii).² To satisfy the statute, the State must show that the relevant court order meets certain requirements:

- (A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;
- (B) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- (C)(I) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and
(II) *By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury ...*

RCW 9.41.040(2)(a)(ii) (emphasis added).

Clark contends that the State failed to prove that either of the 2015 permanent orders “explicitly prohibits the use of, attempted use, or threatened use of physical force ... that would reasonably be expected to cause bodily injury.” Although Clark admits that the protection order restrains him from “causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking” Codomo and her young child, he argues that his conviction should be reversed because neither

² The complete text of RCW 9.41.040 is attached as an appendix to this brief.

order “explicitly” mentions “physical force” or “attempted use of physical force.”

Clark offers no authority for the proposition that a protection order must use the precise terms of the statute in order to make his possession of firearms unlawful. He simply posits that, because the statute requires the order to “explicitly” prohibit “physical force,” only those exact words will suffice. While this is apparently an issue of first impression in Washington, federal authority interpreting the nearly identical provision of federal law is instructive.

Section 922(g) of Title 18 of the United States Code – part of the Gun Control Act of 1968 -- makes it unlawful for one to possess a firearm while subject to a court order that:

- (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
- (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
- (ii) *by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such*

intimate partner or child that would reasonably be expected to cause bodily injury ...

18 U.S.C. § 922(g)(8) (emphasis added). The language in 18 U.S.C. § 922(g)(8)(C)(ii) is identical to the language in RCW 9.41.040(2)(a)(ii)(C)(II).

Federal defendants have raised the argument that Clark raises here: that a court order without the statute's precise language does not satisfy the requirement that the order "explicitly" prohibit the threatened, attempted, or actual use of force. *Every federal circuit court to address the issue has rejected that argument.* United States v. Sanchez, 639 F.3d 1201, 1204 (9th Cir. 2011); United States v. DuBose, 598 F.3d 726, 730-31 (11th Cir. 2010); United States v. Coccia, 446 F.3d 233, 242 (1st Cir. 2006); United States v. Bostic, 168 F.3d 718, 722 (4th Cir. 1999).

In Bostic, the Fourth Circuit held that an order that did not contain the precise statutory language, but directed an individual to "refrain from abusing" his wife, "unambiguously satisfies" the requirement that the court order explicitly prohibit the use, attempted use, or threatened use of "physical force." 168 F.3d at 721-22. Likewise, in Coccia, the First Circuit held that a protective order that directed "the defendant to 'refrain from abusing' his wife"

was sufficient to satisfy the statute's provisions. 446 F.3d at 242. The Coccia court noted that the "definition of 'abuse' as a verb includes 'to injure (a person) physically or mentally'" and that "[a]buse' as a noun includes 'physical or mental maltreatment, often resulting in mental, emotional, sexual, or physical injury.'" Id. Thus, the court concluded that the "commonly understood definition of 'abuse' includes violent acts involving physical force within the definition," and that a commonsense reading of the statute belied Coccia's narrower interpretation. Id.

The Eleventh Circuit followed the same analysis in DuBose. There, the protection order at issue restrained the defendant from "intimidating, threatening, hurting [or] harassing" his wife or her daughters. 598 F.3d at 730 (alteration in original). The DuBose court noted that courts must rely on the "ordinary, contemporary, common meaning of words" when interpreting a statute. Id. at 731 (quoting Perrin v. United States, 444 U.S. 37, 42, 100 S. Ct. 311, 62 L. Ed. 2d 199 (1979)). "Moreover, we are not required to interpret a statute 'in such a narrow fashion as to defeat what we conceive to be its obvious and dominating general purpose.'" Id. (quoting Miller v. Amusement Enterprises, Inc., 394 F.2d 342, 350 (5th Cir. 1968)). Since the definition of "hurt" as a verb includes "to

inflict with physical pain,” the Eleventh Circuit concluded that language restraining DuBose from “hurting” his wife or her daughters satisfied subsection (C)(ii)’s requirement that the order “explicitly” prohibit the attempted, threatened, or actual use of force that would reasonably be expected to cause bodily injury. Id. at 731. “A narrower interpretation would defeat what we conceive to be the obvious general purpose of the statute.” Id.

The Ninth Circuit adhered to its sister circuits’ analysis in Sanchez, although the court there concluded that the language of the pertinent order did not satisfy the statute. Sanchez was subject to a city court order directing him to “violate no laws” and “have no contact with” his former girlfriend and her family. 639 F.3d at 1203. The Ninth Circuit held that while the statute did not require an order to use the exact terms of the statute, this language was inadequate to make Sanchez’s possession of firearms unlawful. Id. at 1205. The court succinctly and persuasively explained its reasoning:

We hold that a conviction under 18 U.S.C. §922(g)(8) does not require the precise language of (8)(C)(ii) to be contained in a court order. However, a court order must contain explicit terms substantially similar in meaning to the language of (8)(C)(ii). Accordingly, the district court erred in denying Sanchez’s motion for acquittal, because a no-contact order that lacks explicit prohibitions on the use, attempted use, or threatened use of physical force

against an intimate partner or child that would reasonably expected to cause bodily injury cannot satisfy (8)(C)(ii).

Our reading is consistent with the plain meaning of the word “explicit.” “Explicit” means “not obscure or ambiguous, having no disguised meaning or reservation.” Black’s Law Dictionary 579 (rev. 6th ed. 1990). Lay dictionaries offer similar definitions. *E.g.* Merriam-Webster Collegiate Dictionary 441 (11th ed. 2003) (“fully revealed or expressed without vagueness, implication, or ambiguity; leaving no question as to meaning or intent.”), Oxford American Dictionary 337 (1999) (“expressly stated, leaving nothing merely implied; stated in detail”), 5 Oxford English Dictionary 572 (2d ed. 1989) (“of knowledge, a notion, etc.; developed in detail: hence, clear, definite.”).

Under any of these definitions, for a court order to “by its terms explicitly” prohibit the use, threatened use, or attempted use of physical force, it must include terms that clearly—without implication, vagueness, or ambiguity—prohibit the use, threatened use, or attempted use of physical force. While this does not require the court order to track the language of (8)(C)(ii), it must include specific terms that clearly—and without implication—prohibit such activity. A court order that merely requires “no contact” does not explicitly prohibit such activity.

639 F.3d at 1205. Thus, the Ninth Circuit held that while a conviction under the federal statute does not require that the precise statutory language be contained in a court order, “a court order must contain explicit terms substantially similar in meaning to the language” in the statute. *Id.* at 1206.

This Court should adopt the federal circuit courts' analysis with respect to the nearly identical provision in the Washington statute. The protection order here restrained Clark from "causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking" Codomo and her young child. CP 120. These explicit terms are substantially similar in meaning to the "use, attempted use, or threatened use of physical force ... that would reasonably be expected to cause physical injury." RCW 9.41.040(2)(a)(ii)(C)(II). To conclude otherwise puts form over substance and undermines the obvious purpose of the statute: to prevent domestic violence homicides.³

³ One scholar recently summarized the need for such provisions:

According to federal records, nearly half of the women killed each year die in intimate partner homicides, and more than half of these women are killed with a gun. For women in domestic violence situations, the risk of homicide increases by 800 percent where the abuser has a gun. According to Mayors Against Illegal Guns, a national coalition of over 1,000 mayors from 46 states, over the past 25 years, more domestic violence homicides in the United States have been committed with guns than with all other weapons combined. ...

In Washington State, since 1997, abusers used firearms in 55 percent of all domestic violence homicides. At least 26 state-level domestic violence fatality reviews have been conducted since the late nineties. After over 20 years of data collection, domestic violence fatality rates remain constant and an overwhelming majority of these deaths involve guns.

Claire McNamara, Finally, Actually Saying "No": A Call for Reform of Gun Rights Legislation and Policies to Protect Domestic Violence Survivors, 13 Seattle J. for Soc. Just. 649, 655-56 (2014) (footnotes omitted). See also Sara Jean Green, Accused Killer Had Just Been Freed, Without Bail, In Auburn Domestic-Violence Case, Seattle Times, September 29, 2016, <http://www.seattletimes.com/seattle->

Because Clark's narrow interpretation of the statute would lead to absurd and unintended results, this Court should reject his claim.

2. THIS COURT SHOULD NOT PREEMPTIVELY DENY APPELLATE COSTS.

Clark 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 because the record contains no information from which this Court could reasonably conclude that Clark has no ability to pay.

As in most cases, Clark'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 almost no information about Clark's financial status or employment prospects, and the State did not have the right to obtain information about his financial situation.

Clark obtained an ex-parte Order Authorizing Appeal In Forma Pauperis after presumably presenting an affidavit regarding his current financial circumstances. CP 153-55. The affidavit, if any, is not in the record. The trial court made no findings regarding Clark's likely future ability to pay financial obligations.

news/crime/accused-killer-had-just-been-freed-without-bail-in-auburn-domestic-violence-case/.

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

The record in this case is devoid of any information that would support a finding that there is “no realistic possibility” that Clark will be able to pay appellate costs. In such circumstances, appellate costs should be awarded. State v. Caver, No. 73761-9-1, slip op. at 10-14 (filed Sept. 6, 2016).

Clark is only 34 years old, and received a time-served sentence. CP 7, 159. He has the majority of his working years ahead of him and no confinement constrains his ability to work. At sentencing, Clark represented that he had been employed “for the past eight years with the Teamsters Union and I’m pretty confident ... that the Teamsters Union will help me find another job as soon as I get out of here.” RP 60. He is thus employable, if not

presently employed. Because the record in this case contains no evidence from which this Court could reasonably conclude that the defendant has no ability to pay appellate costs, any exercise of discretion by this Court to prohibit an award of appellate costs in this case would be unwarranted.

Alternatively, this Court could require Clark to meet the requirements of Division Three's recently published general order, which would provide some additional factual basis on which to decide his ability to pay costs. See http://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumber=021&div=III.

D. CONCLUSION

This Court should affirm Clark's conviction.

DATED this 5th day of October, 2016.

Respectfully submitted,

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Appendix

RCW 9.41.040

Unlawful possession of firearms—Ownership, possession by certain persons—Restoration of right to possess—Penalties.

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

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, 26.26, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(II) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury;

(iii) After having previously been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iv) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(v) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to

sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(a) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(i) Under RCW 9.41.047; and/or

(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection (4) only at:

(i) The court of record that ordered the petitioner's prohibition on possession of a firearm;

or

(ii) The superior court in the county in which the petitioner resides.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful

possession of a firearm offense, or an offense in violation of chapter **66.44**, **69.52**, **69.41**, or **69.50** RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) For purposes of this section, "intimate partner" includes: A spouse, a domestic partner, a former spouse, a former domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.

[2016 c 136 § 7; 2014 c 111 § 1; 2011 c 193 § 1; 2009 c 293 § 1; 2005 c 453 § 1; 2003 c 53 § 26; 1997 c 338 § 47; 1996 c 295 § 2. Prior: 1995 c 129 § 16 (Initiative Measure No. 159); 1994 sp.s. c 7 § 402; prior: 1992 c 205 § 118; 1992 c 168 § 2; 1983 c 232 § 2; 1961 c 124 § 3; 1935 c 172 § 4; RRS § 2516-4.]

NOTES:

Severability—2005 c 453: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 453 § 7.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Severability—Effective dates—1997 c 338: See notes following RCW 5.60.060.

Findings and intent—Short title—Severability—Captions not law—1995 c 129: See notes following RCW 9.94A.510.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

Severability—1992 c 168: See note following RCW 9.41.070.

Severability—1983 c 232: See note following RCW 9.41.010.

Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Jennifer Sweigert, the attorney for the appellant, at Sweigertj@nwattorney.net, containing a copy of the Brief of Respondent, in State v. Michael Allen Clark, Cause No. 74441-1, 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 5th day of October, 2016.

U Brame

Name:

Done in Seattle, Washington