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

STATE OF WASHINGTON,	
Respondent,	NO. 32086-3-III
vs.	MOTION ON THE MERITS
JESSE LEE CASTILLO,	
Appellant.	

I. IDENTITY OF MOVING PARTY.

The respondent, State of Washington, asks for the relief designated in Paragraph II.

II. STATEMENT OF RELIEF SOUGHT.

The respondent requests that the Court of Appeals, Division III, grant the respondent's request as set forth in this Motion on the Merits affirming the actions of the Superior Court of the State of Washington in and for the County of Yakima pursuant to RAP 18.14(e)(1) and dismiss this appeal "The appellate court may, on its own motion or on motion of a party, affirm or

reverse a decision or any part thereof on the merits in accordance with the procedures defined in this rule..." RAP 18.14 states:

> (e) Considerations Governing Decision on Motion.
> (1) Motion To Affirm. A motion on the merits to affirm will be granted in whole or in part if the appeal or any part thereof is determined to be clearly without merit. In making these determinations, the judge or commissioner will consider all relevant factors **including** whether the issues on review (a) are clearly controlled by settled law, (b) are factual and supported by the evidence, or (c) are matters of judicial discretion and the decision was clearly within the discretion of the trial court or administrative agency. (Emphasis mine.)

Further, this Motion on the Merits meets the requirement of this court's general rule regarding the use and filing of motions of this type. The verbatim report of proceedings and the clerk's papers in this case are less than five hundred pages. The State shall address all allegations raised by Appellant in this motion.

III. FACTS RELEVANT TO THE MOTION.

The facts set forth by appellant give this court a general outline of the case. The State shall set forth specific portions of the record as needed. Therefore, pursuant to RAP 10.3(b); the State shall not set forth additional facts section in this motion.

IV. ARGUMENT.

Assignments of Error

1. The trial court incorrectly determined that the State pled and proved that the offense was a domestic violence offense.

Response to Assignment of Errors.

1. The court properly determined that Appellant's offense fell within the statutory definition of domestic violence.

The actions of the trial court were controlled by clearly settled case law, were of a factual nature and were supported by the evidence and/or were a matter of judicial discretion. This case is one for which RAP 18.14 is applicable and this motion fits within the existing guidelines for Motions on the Merit.

RESPONSE TO ALLEGATION ONE

Appellant was charge with one count of Felon Violation of a Protection Order. The Information reads as follows:

> **Count 1 -FELONY VIOLATION OF A PROTECTION ORDER-DOMESTIC VIOLENCE**
> **RCW 26.50.11 0(5) and 10.99.020**
> CLASS C FELONY- The maximum penalty is 5 years imprisonment and/or a $10,000.00 fine.
> On or about August 15, 2013, in the State of Washington, with knowledge that the Yakima County District Court had previously issued a protection order, restraining order, or no contact order pursuant to Chapter 7.90, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW in State of Washington vs. Jesse Lee Castillo, Cause No. 39393, which protects Helen Marie Miller, you violated the order while the order was in effect by knowingly violating the restraint provisions therein, and/or by knowingly violating a provision excluding you from a residence, a workplace, a school or a daycare, and/or by knowingly coming within, or knowingly remaining within, a specified distance of a location, and you have at least two previous convictions, Yakima County District Court Cause Number 39393 and Sunnyside Municipal Court Cause Number 62033, for violating a provision of a court order issued under Chapter 7.90, 10.99, 26.09, 26.10, 26:26, 26.50, or 74.34 RCW, or any valid foreign protection order as defined in RCW 26.52.020.

Furthermore, you committed this crime against a family or household member. (RCW 10.99.020.)

Appellant plead guilty to this count reserving the right to appeal the domestic violation designation in the original count. There is little in the record for the trial court or for this court to review to determine just exactly what was being challenged by Castillo in the trial court. The following is the basis argued to the trial court:

> The destic -- domestic violence enhancement doesn't belong in this case. The definition of 26.50.010 having to do with any risk of harm just simply isn't present. This case should never be considered as a double point counter in a future hearing, nor should any -- any of the other -- any other aspect of domestic violence be involved.
>
> This is a strictly a violation of a no-contact order case. The enhancement does not apply. It shouldn't be there.
>
> I'm going to ask the Court to strike the pled and proven language. The State has not alleged that there was domestic violence involved. We're also going to ask the Court to strike the domestic violence enhancement. That doesn't mean that the sentencing ranges are different; this is a domest -- this is a no-contact order violation and it is to be punished. The twenty-four months is the appropriate punishment because those other risks were not present.
>
> So we're going to ask the Court to make those two modifications. We believe that the rest of the settlement is appropriate. Jesse understands that until he gets the prior orders released he is to have no contact with her. He's going to be in custody the next sixteen months.

This is the totality of the State's analysis regarding this issue:

> Judge I would urge the Court to follow the recommendation. You are privy to some of the -- the arguments between defense and the State regarding what's considered domestic violence, under what circumstances or whatnot. I'd -- given that you've seen some of the briefing and made rulings on it I would urge the Court to remain in the finding that this is domestic violence pled and

proven, given that it is a violation of a domestic violence no-contact order.

What Appellant is asking this court to do is to find that this conviction must meet the definitions of domestic violence in both RCW 10.99.020 and RCW 26.50.010

The basic rules of statutory construction

The first and greatest principle of statutory construction is that the legislature means what it says. In other words, this court shall look to the plain language of the statute before going to other statutory construction principles. "If the statute is clear on its face, its meaning will be procured from the plain language of the statute." State v. Beaver, 148 Wn.2d 338, 344-45, 60 P.3d 586 (2002). The Court in State v. Roggenkamp, 153 Wn.2d 614, 621, 106 P.3d 196 (2005) explained, "Statutory construction begins by reading the text of the statute or statutes involved. If the language is unambiguous, a reviewing court is to rely solely on the statutory language . . . Legislative history, principles of statutory construction, and relevant case law may provide guidance in construing the meaning of an ambiguous statute."

A Court interpreting a statute is "not obliged to discern any ambiguity by imagining a variety of alternative interpretations." In re Washington, 125 Wn. App. 506, 509, 106 P.3d 763 (2004). If a penal statute is ambiguous, it must be interpreted strictly against the state and liberally in favor of the accused. Strict construction requires that doubts in construction of a penal statute must be resolved against

including borderline conduct. Seattle v. Green, 51 Wash.2d 871, 322 P.2d 842 (1958); State v. Boyer, 4 Wash.App. 73, 480 P.2d 257 (1971).

Under the rules of construction, "statutes should not be interpreted so as to render any portion meaningless, superfluous or questionable." Wright v. Engum, 124 Wn.2d 343, 352, 878 P.2d 1198 (1994); Addleman v. Bd. of Prison Terms & Paroles, 107 Wn.2d 503, 510, 730 P.2d 1327 (1986).

The theory of statutory construction called *Noscitur a scoiis* provides that a word should not be read in isolation but in context with those it is associated with. Under rules of statutory construction, provisions of a statute should be read together with other provisions in order to determine the legislative intent underlying the statutory scheme. This is also known as *in pari material,* State v. Chapman, 140 Wn.2d 436, 448, 998 P.2d 282 (2000). (Footnotes omitted.)

> Under rules of statutory construction each provision of a statute should be read together (*in pari materia)* with other provisions in order to determine the legislative intent underlying the entire statutory scheme. The purpose of interpreting statutory provisions together with related provisions is to achieve a harmonious and unified statutory scheme that maintains the integrity of the respective statutes. Statutes relating to the same subject will be read as complementary, instead of in conflict with each other.

"If alternative interpretations are possible, the one that best advances the overall legislative purpose should be adopted..." Roy v. City of Everett, 118 Wn.2d 352, 357, 823 P.2d 1084 (1992). Appellant in effect argues that the theory of *in pari materia* should lead the Court to conclude that the definition of domestic violence contained in RCW 26.50.010 should be adopted to RCW 10.99.020. The definition

for domestic violence that is contained in RCW 26 is not applicable to RCW 10.99 because RCW 10.99 already contains a definition for domestic violence. This definition is decidedly different than the definition in RCW 26. RCW 26.50.010 makes clear that the definition of domestic violence applies only to Chapter 26. There is no method under the rules of statutory construction to purport to interchange the two definitions.

The meaning of "and"

What Appellant is actually asking from this court is for a ruling regarding the meaning of the word "and. RCW 9.94A.030(20) provides that "(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 **and** 26.50.010." (Emphasis mine.) Castillo argues that this statute refers to two different statutory definitions and that in order to qualify as "domestic violence" an act must meet some hybrid definition created by combining the two definitions found in these statutes. Appellant's reading of the statute, however, is premised on an overly narrow understanding of the term "and."

A plain reading of the statutory language is that RCW 9.94A.030 means simply that "domestic violence," for pleading and proving purposes, is defined in the same way that it is in RCW 10.99.020. Furthermore, the definition found in RCW 26.50.110 is also sufficient to comply with the new statute.

Appellant argues that RCW 9.94A.030(20)'s use of the word "and" must require that the State meet both definitions of domestic violence in 10.99.020 AND

26.50.010. The flaw in this argument is that Washington Courts have routinely recognized that the word "and" is not limited to the narrow definition proposed by Appellant. Adopting Appellant's argument would lead to a litany of absurdities and is inconsistent with recent cases from the Washington Supreme Court and the Court of Appeals. For instance, in Mount Spokane Skiing Corp. v. Spokane County, 86 Wash.App. 165, 936 P.2d 1148 (1997) the Court addressed a statute that said a government entity was authorized to:

(4) Create public corporations, commissions, and authorities to: Administer and execute federal grants or programs; receive and administer private funds, goods or services for any lawful public purpose; AND perform any lawful public purpose or public function. *Id.* at 172-73 (emphasis added).

The plaintiff in Mount Spokane argued that a public authority was improperly created because if failed to meet all requirements of RCW 35.21.730(4). Specifically, the plaintiff argued that because the word "and" connects the three listed functions of a public corporation, all three functions must be undertaken by the municipal corporation.

The Court of Appeals rejected this argument, holding that "The disjunctive "or" and conjunctive "and" may be interpreted as substitutes." *Id.* at 174, *citing* State v. Tiffany, 44 Wash. 602, 604, 87 P. 932 (1906).

The court went on to note that:

> "It is clear from a plain reading of the statute that the powers listed in paragraph (4) are the possible functions a public corporation may undertake. **Nowhere does it appear from the statutory language that the corporation must undertake each and every function in order to be valid and legal. Nor does such an interpretation comport with common sense.** Based upon the plain language and intent of the statute, a public corporation may undertake one or more of the functions listed in paragraph (4)." *Id.* at 174 (emphasis added).

The Washington Supreme Court reached the same result in a similar case, CLEAN v. City of Spokane. 133 Wn.2d 455, P.2d 1169 (1997). In *CLEAN*, the Court looked at RCW 35.21.730, which allows cities to create public corporations "to improve the administration of authorized federal grants or programs, to improve governmental efficiency and services, or to improve the general living conditions in the urban areas..." *Id at 473.* The Appellants argued that a Public Development Authority violated RCW 35.21.730(4), which sets forth three potential functions for a PDA: to administer federal grants, receive private assistance, AND perform any lawful public purpose. *Id.* at 473. Appellants argued that the Spokane PDA was violating this portion of the law because, worded conjunctively, the statute required a PDA to perform **all three of these functions**. The Supreme Court, however, held that "[t]his argument is meritless. The plain language of the statute states that a city 'may' create a public corporation for these varied purposes. Although it is true the word "and" appears in the statute, all three statutory elements need not be present for a PDA to be acting lawfully." *Id.* at 473-74.

In addition, in Bullseye Distributing LLC v. State Gambling Com'n, 127 Wn.App. 231, 110 P.3d 1162 (2005). Division II of the Court of Appeals examined RCW 9.46.0241, which defined a "gambling device" as:

> (1) Any device or mechanism the operation of which a right to money, credits, deposits, or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance, including, but not limited to slot machines, video pull-tabs, video poker, and other electronic games of chance;
>
> (2) Any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof;
>
> (3) Any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; AND
>
> (4) Any subassembly or essentially part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation.

In Bullseye, the Appellant argued that RCW 9.46.0241 contains four elements that must all be met for a machine to qualify as a gambling device. Division Two, however, disagreed and held that "Although the statute is not written in the disjunctive, we hold that it contains four separate definitions of 'gambling device.'" *Id.* at 238-39. In addition, the Court stated "We find RCW 9.46.0241 unambiguous in defining four separate devices, any one of which is a gambling device." *Id.* at 240. The Court clearly relied on the plain language of the statute as the basis of its ruling. Because the language was clear and unambiguous, the conjunctive statute there could

be read in the disjunctive. These are not exceptional circumstances, but simply a Court applying the principles of statutory construction to reach its conclusion.

The Washington Supreme Court's analysis in CLEAN clearly applies to the present case. Appellant's argument is that the word "and" in RCW 9.94A.030(20) requires that a crime must meet both definitions of domestic violence in RCW 10.99.020 and 26.50.010. As the Supreme Court found in CLEAN, this argument is meritless. Rather, as in CLEAN and Mount Spokane, the legislature's use of the word "and" simply means that in order to qualify, the crime must meet either the definition in 10.99.020 or the definition in 26.50.010. Either is sufficient.

This analysis is squarely on point with the State's proposed interpretation in the present case. In short the plain language of RCW 9.94A.030(20) simply means that the phrase domestic violence has the same meaning that it has in 10.99.020. In addition, it can also mean the same thing as in 26.50.010. Both definitions are independently sufficient, and a crime that qualifies under either is to be considered a crime of domestic violence under RCW 9.94A.030(20).

RCW 9.94A.030(20) simply means that if a crime meets the definition of domestic violence found in 10.99.020 then it is a crime under 9.94A.030(20). 3Similarly, a crime that meets the definition of domestic violence found in 26.50.010, then it is also a crime of domestic violence under 9.94A.030(20). As in the *Bullseye* case, this Court should find RCW 9.94A.030(20) unambiguous in defining two

separate definitions of domestic violence, any of which is sufficient to qualify as domestic violence under 9.94A.030(20).

This court should note that under the new laws, RCW 9.94A.030(41) includes the phrase "repetitive domestic violence offense," which is defined as:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26 ,or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this statue would be classified as a repetitive domestic violence offense under (a) of this subsection.

If this Court were to adopt Appellant's argument several sections of this statute would be rendered absurd and meaningless.

For instance, under this statute the phrase "repetitive domestic violence offense," includes, pursuant to (a)(ii) any "**Domestic violence** violation of a no-contact order under chapter 10.99 RCW **that is not a felony** offense." Under the Defense reading of "domestic violence", this would mean that the offense would have to be a violation of a no-contact order that was both NOT a felony yet still meet the

definition of domestic violence found in 26.50.010. That would mean that a crime would have to NOT be a felony yet still be a crime that included "physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault" or "sexual assault."

Any violation of court order that includes assault or harm, etc, is by definition a felony because any violation of a no contact order that includes an "assault" is *by definition* a felony. Furthermore, the term "assault" includes "harmful" contact or any act which creates imminent "fear of bodily injury." In short, it strains credibility to believe that it is even possible to have a violation of a no contact order that is both **not** a felony yet **includes an assault**, since by definition any violation that includes an assault is a felony. Thus using Appellant's interpretation RCW 9.94A.030(41)(a)(ii) would for all intent be meaningless.

Similarly, RCW 9.94A.030(41)(a)(iii) would also be rendered meaningless under the interpretation since by definition, any violation of a protection order under chapter 26.09, 26.10, 26.26 or 26.50 that includes an assault (that is, includes touching, harm, or the fear of bodily injury) is *by definition* a felony. Thus, it is absurd to think that there can be an assaultive violation of a protection order that is not a felony since by definition an assaultive definition of a protection order is a felony.

Under the State's reading of "domestic violence", however, the above statute retains its logical meaning any violation of a no-contact order or protection order

committed against a family or household member could qualify as a non-felony as long as there was no assault involved.

Clearly the legislative intent in creating RCW 9.94A.030(20) was to not to hold only "violent" perpetrators accountable nor did the legislature intend that the only way commit a domestic violence crime or prove a domestic violence crime as been committed would be for the Court to find that the definitions in both RCW 10.99.020 and 26.50.010 are met. The definition of "domestic violence" has evolved. Today, domestic violence is no longer understood as encompassing merely physical acts of violence. Common law allowed husbands to physically discipline their wives without worry of repercussions from the courts. Patricia Sully. *Taking it Seriously: Repairing Domestic Violence Sentencing in Washington State*, Seattle University Law Review, vol. 34, no. 3, pp. 963-992, 968-69 (2011).While this idea was essentially abandoned in the late 1800s, it was not until the 1960s when states saw legislation that focused on protecting abused wives. *Id.* at 970. The concept of "domestic violence" was recognized in Washington State law in 1979 with the enactment of the Domestic Violence Act (DVA), a law that essentially "required law enforcement, prosecutors, and the courts to respond to domestic violence." *Id.* at 972 The main purpose of the act was to ensure that a crime between family members was treated the same as similar crimes between strangers. *Id.*

In 1981, Washington's Sentencing Reform Act (SRA) changed the way felony crimes were sentenced. No longer did judges have the discretion to implement the

sentence they say fit; the SRA required them to follow a standardized sentencing grid that mandated time based on the seriousness level of the crime and a defendant's criminal history. *Id.* at 973; RCW 9.94A (2011). Courts lost their discretion to enhance sentences based on aggravating circumstances after the U.S. Supreme Court decided Blakely v. Washington. 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004) As a result, Washington State requires a jury for all contested facts for an aggravated sentence above the standard sentencing range. *Taking it Seriously* at 974. Until RCW 9.94A.525(21), there were no enhanced penalties for domestic violence crimes.

RCW 9.94A.525(21) was specifically designed to address repetitive domestic violence offenders. The law was based on a 2009 proposal by Rob McKenna, which was intended to address what he perceived to be a weakness in sentencing for repeat domestic violence offenders.[1] As he noted, "[*r*]*epeat* domestic violence offenders often being their criminal behavior as misdemeanor domestic violence offenders, yet current law does not allow for the scoring of these offenses when sentencing the worse offenders—those convicted of felony domestic violence."[2] *Id.(emphasis added)* McKenna stated that "[w]eakness in current law results in mild sentencing for repeat offenders."[3] *Id.* He intended for the changes to, among other things, "amend 9.94A.030 (Sentencing Reform Act definitions) to add "domestic violence",

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[1] http://atg.wa.gov/uploadedFiles/Home/Office_Initiatives/Legislative_Agenda/2009/DV_Sanctions%20(2-sided).pdf

[2] *Id.(emphasis added)*

[3] *Id.*

defined as a criminal offense committed between a defendant and a victim having a relationship as defined in RCW 10.99.020 *or* 26.50.110."[4] *Id.* (emphasis added)

As domestic violence law has evolved, so has the definition. According to the Washington State Coalition Against Domestic Violence (WSCADV), domestic violence is "*any behavior* the purpose of which is to gain power and control over a spouse, partner, girl/boyfriend or intimate family member." In fact, several of the most common ways abusers control victims include, in addition to physical and sexual assault, isolation, emotional abuse, and dominating finances and family resources. Therefore, while the general rule is that, "[a]bsent a statutory definition, [a] term is generally accorded its plain and ordinary meaning unless a contrary legislative intent appears," today, the dictionary definition of violence is no longer applicable to term domestic violence, which is now understood to encompass more acts than simply physical violence.

The State's interpretation of RCW 9.94A.030(20) recognizes today's definition of "domestic violence." RCW 10.99.020 is applicable to the family/relationship aspect of the definition (and is often where power and control may come into play while 26.50.010 recognizes the physical aspect of the definition. If one were to accept Appellant's interpretation of RCW 9.94A.030(20), then situations where, for example, an elderly victim is being exploited by a family member would be ignored simply because there was no physical violence. Appellant's definition

[4] *Id.* (emphasis added)

would severely restrict those acts that would meet this very narrow definition of domestic violence. There is nothing to suggest that the legislative intent of this statute was to ignore cases such as presented by the facts of this case.

If this court were to follow the argument set forth by Appellant each and every statute in this state that refers to a definition in another statute would have to be addressed in the same fashion.

In this instance the legislature took a course that was less confusing than what is often done which is to attempt to set forth a "new" definitional section for the new statute. This methodology allowed the section in RCW 9.94A.030(20) to be set forth and not add yet another definitional section to the RCW's which in and of itself becomes problematic just by its very existence. If this court were to take the Appellant's interpretation of this statute to its "logical" conclusion the State would have to prove each and every part of both statutes in order to meet the definition he proposes. Appellant has emphasized sections of the two statutes to support his claim that his actions do not meet the definition. One must presume that the next offender will then argue that the State must prove not just that the section emphasized by Appellant must be proven but all other sections. After all RCW 10.99.020 has twenty-three subsection, "a-w" and within those subsections there are thirty-four additional reference to additional RCW's.

The interpretation proffered by Appellant is wrong. The Washington State Supreme Court recently addressed an analogous in State v. Sweat, 88663-6 (WASC)

180 Wn.2d 156, _ P.3d _, LEXIS 245, (2014);

> Questions of statutory interpretation are reviewed de novo. State v. Alvarado, 164 Wn.2d 556, 561, 192 P.3d 345 (2008) (citing Tingey v. Haisch, 159 Wn.2d 652, 657, 152 P.3d 1020 (2007)). The purpose of statutory interpretation is to determine and carry out the intent of the legislature. Id. at 561-62 (citing City of Spokane v. Spokane County, 158 Wn.2d 661, 673, 146 P.3d 893 (2006)). If the words of a statute are clear, we end our inquiry. State v. Gonzalez, 168 Wn.2d 256, 263, 226 P.3d 131 (2010). "In discerning the plain meaning of a provision, we consider the entire statute in which the provision is found, as well as related statutes or other provisions in the same act that disclose legislative intent." Alvarado, 164 Wn.2d at 562 (citing City of Spokane, 158 Wn.2d at 673; Skamania County v. Columbia River Gorge Comm 'n, 144 Wn.2d 30, 45, 26 P.3d 241 (2001)). However, "[i]f a statute is susceptible to more than one reasonable interpretation, it is ambiguous and, absent legislative intent to the contrary, the rule of lenity requires us to interpret the statute in favor of the defendant." State v. Coucil, 170 Wn.2d 704, 706-07, 245 P.3d 222 (2010) (citing State v. Jacobs, 154 Wn.2d 596, 600-01, 115 P.3d 281 (2005)).

V. CONCLUSION

RCW 9.94A.030(20) states that domestic violence has the same meaning as it is defined in RCW 10.99.020 and 26.50.010. Those statutes provide two different definitions of "domestic violence"—10.99.020 focuses on the relationship between the individuals while 26.50.010 is a narrower definition that focuses on physical violence in a relationship. Appellant would like to the

Court to take a narrow view of the word "and", requiring a finder of fact to meet both of these definitions. Castillo's very narrow reading of the word "and" would lead to inconsistent results and fails to recognize that "domestic violence" now encompasses more than physical contact—it also recognizes that power and control that can be present in a relationship absent any physical actions. This is an overly restrictive view of the word "and" and clearly does not comport with the legislative intent behind RCW 9.94A.030(20). A plain reading of the statute, as well as case law, supports that State's interpretation of the statute—that the State can meet either the definition in 10.99.020 **OR** the definition of 26.50.110 for the Court to find that the crime constituted domestic violence.

For the reasons set forth above this court should deny allegation. The actions of the trial court should be upheld, the State's Motion on the Merits should be granted, and this appeal should be dismissed.

Respectfully submitted this 22nd day of November 2011,

s/ David B. Trefry
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DECLARATION OF SERVICE

I, David B. Trefry state that on June 10, 2014, emailed a copy, by agreement of the parties, of the Motion on the Merits, to Dennis Morgan nodblspk@rcabletv.com and deposited in the United States mail on this date to;

JESSE LEE CASTILLO #724385
Airway Heights Correction Center
PO Box 1899
Airway Heights, Washington 99001-1899

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 22nd day of June, 2014 at Spokane, Washington,

s/David B. Trefry
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