70702-7

70702-7

NO. 70702-7-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

MALCOLM FRASER,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JAY WHITE
THE HONORABLE BETH ANDRUS
AND
THE HONORABLE LORI SMITH

BRIEF OF RESPONDENT

DANIEL T. SATTERBERG
King County Prosecuting Attorney

DAVID SEAVER
Senior Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W554 King County Courthouse
516 3rd Avenue
Seattle, Washington 98104
(206) 296-9650

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Table of Cases

Constitutional Provisions

Statutes

Washington State:

Rules and Regulations

Washington State:

A. ISSUES PRESENTED

1) In order to obtain *in camera* review of privileged therapist-patient records, a defendant must make a particularized factual showing that information useful to the defense is likely to be found in the records. Here, in his effort to seek judicial review of the victim's report to her counselor of her victimization by the defendant, the defendant justified his request only by noting that he had been charged with sexual crimes against a child and that it was possible that her report to her counselor may have been different than her disclosures to police and family members. Given that the defendant failed to meet the particularity or likelihood requirements established by case law to warrant *in camera* review, did the superior court properly deny his request?

2) The trial court is generally the proper court to weigh the relevance of evidence, and its decisions in that regard are reviewed for abuse of discretion. Here, the defendant sought to introduce into evidence several pre-trial rulings made by the court regarding its judgment of the investigating detective's conduct, testimony regarding a child witness's failure to appear for defense interviews as evidence of non-specific "bias," and

testimony regarding the defendant's reputation in his community for "sexual morality." Given that the court's pre-trial rulings were irrelevant to the questions before the jury and amounted to judicial commentary on the weight that the jury should give to the detective's testimony at trial, that it was undisputed that the child witness's nonappearance was involuntary on her part, and that this Court has properly recognized that a person's reputation for "sexual morality" is of no utility to the jury in cases involving child sex crimes, did the trial court properly exercise its discretion in denying the defendant's efforts to introduce this information into evidence?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

The appellant, Malcolm Fraser, was charged by amended information with two counts of first-degree rape of a child and two counts of child molestation in the first degree. CP 187-89. Fraser was alleged to have committed these offenses against the same victim, M.C., during a period of time intervening between January 1, 2005, and May 31, 2006. CP 187-89.

By jury verdict rendered on May 29, 2013, Fraser was found guilty as charged on all counts. CP 260-63.

2. SUBSTANTIVE FACTS

Greg Gambill joined Sound Doctrine Church, a small, very close-knit religious community in Enumclaw, along with his wife, Jessica, in 2001. 4RP 559-60.[1] To be physically closer to their church, the Gambills moved from Federal Way to Enumclaw, bringing along their young children: M.C. (Greg's stepdaughter and Jessica's biological child) and M.C.'s younger half-sisters, K.G. and S.G. 4RP 559-60.

After joining Sound Doctrine Church, Greg quit his job at his father's business, because he felt that his father was not sufficiently devout, and began working for a church-owned publishing business. 4RP 563-64. Greg and Jessica intentionally alienated themselves from their extended families for years following their entry into Sound Doctrine, in the belief that this was required by their new church's practices, and socialized almost entirely only with other Sound Doctrine members. 4RP 564; 9RP 53-54.

On occasion, new members of Sound Doctrine would be invited to reside in the homes of established congregants while they

[1] The verbatim report of proceedings consists of twenty volumes, referred to in this brief as follows: 1RP (8/24/12, 12/7/12, 1/11/2013); 2RP (1/18/13, 4/3/13); 3RP (4/9/13, 4/10/13, 4/11/13, 4/15/13, 4/16/13, 4/17/13); 4RP (4/18/13); 5RP (4/22/13); 6RP (4/23/13); 7RP (4/24/13); 8RP (4/25/13, 7/23/13); 9RP (5/6/13); 10RP (5/7/13); 11RP (5/8/13); 12RP (5/9/13); 13RP (5/14/13); 14RP (5/15/13); 15RP (5/16/13); 16RP (5/20/13); 17RP (5/21/13); 18RP (5/22/13); 19RP (5/23/13, 5/28/13, 5/29/13); and 20RP (7/26/13).

settled into Enumclaw. 4RP 572. The Gambills testified that in late 2005, Fraser, who had recently joined the church to serve in its leadership as an assistant pastor, moved into the Gambills' home with his wife. 4RP 575, 580-81.

As the assistant pastor, Fraser served as the leadership's chief disciplinarian, tasked with ensuring that members remained obedient to the church's brand of theology. 4RP 580-81. While he lived with the Gambills, Fraser was firmly in charge of the household, routinely administering "rebukes," or verbal admonitions, to all of the members of the family. 9RP 77. Fraser often warned Jessica that she was at risk of eternal damnation if she did not conform more strictly to church policies, as he defined them. 9RP 77-78.

At the time that Fraser moved into the Gambills' home, M.C. was between the ages of 10 and 11 years old. 11RP 95. M.C. and her sisters were homeschooled by their mother, and their only classmates and playmates were the children of other Sound Doctrine members. 11RP 103, 105. M.C. was herself often the target of rebukes from Fraser while he lived in her home. 11RP 129.

M.C. had her own bedroom in her family's home, located in the attic, on the floor above where her parents and Fraser and his wife slept. 11RP 136-37. M.C.'s bedtime was typically at 8:30 p.m. 11RP 146.

One evening, M.C. awoke at night to find Fraser in her room. 11RP 150. Fraser put his hand over M.C.'s mouth and told her to be quiet. 11RP 150. He then put his hand under her t-shirt and began to touch her chest. 11RP 150. He then reached inside her pajama pants and rubbed her crotch area. 11RP 150. M.C. tried to kick Fraser away from her and yell for help, but Fraser warned her that he would hurt her or her mother if she continued. 11RP 150-51.

Fraser eventually departed, after again telling M.C. that he would hurt her or Jessica, and that no one would believe her regardless. 11RP 154. He also said that if she told anyone what he had done, he would have her family expelled from Sound Doctrine Church, and that they would go to hell as a result. 11RP 154. M.C. knew that Fraser was a church leader, and, as a result, believed that he was telling the truth when he told her that he could ensure that she would spend eternity in damnation. 11RP 155. As a result, she did not report what had occurred. 11RP 157.

Fraser would thereafter return to M.C.'s bedroom two or more nights a week in the ensuing weeks. 11RP 162. M.C. would attempt to resist, without success, and Fraser would engage in sexual conduct ranging from touching M.C.'s chest and genital area, to digitally penetrating her anus, placing her hands on his erect penis, and forcing his penis into M.C.'s mouth. 11RP 162-64; 12RP 8-14. M.C. was scared of Fraser and ashamed, and was too afraid of what would happen to her and her mother to tell anyone what Fraser was regularly doing to her in her bedroom. 12RP 18-19.

The Gambills voluntarily left Sound Doctrine in 2006, though not because of any disclosures that M.C. made to them. Rather, they made the decision to leave after Fraser told Greg that he and his wife were "spiritually unfit" to raise M.C., and that she would be better off living with other church members. 4RP 608. By that point, the Gambills were sufficiently frustrated with church leadership and the control it exercised over them that they elected to relinquish their membership. 4RP 608.

After leaving the church, M.C. chose to remain silent about the abuse she had suffered, because she was still frightened of Fraser, who lived in the same small Enumclaw neighborhood as

her, and because she simply wanted to try to forget about it and move on with her life. 12RP 39. However, she was unable to entirely put her experience out of her mind, and eventually spoke, on separate occasions, to a half-sister, K.C., who lived with M.C.'s biological father, and a stepsister, J.G., who lived with Greg's ex-wife. 12RP 44-45.

M.C. asked K.C. to keep her victimization a secret. 12RP 45. However, after talking to J.G. about the abuse, M.C. decided, a week later, to disclose to her counselor, Kathleen Moore. 12RP 47. Moore, a mandatory reporter, contacted Child Protective Services immediately after meeting with M.C., on March 7, 2012. 14RP 13.

After making her disclosure to Moore, M.C. went home and immediately told her mother what had happened to her when Fraser lived in the family home years earlier. 12RP 50.

CPS alerted Enumclaw Police Department detective Grant McCall of the report; Det. McCall then contacted M.C.'s mother, Jessica Gambill, and interviewed M.C. shortly thereafter. 7RP 93-54, 963-67.

Fraser did not testify in his defense case-in-chief. He called a number of witnesses, all current members of Sound Doctrine Church, who differed from M.C. and her family as to the dates

during which Fraser lived with the Gambills and the length of his residency with them. 15RP 32, 46, 84; 16RP 26-27, 127; 17RP 29, 49, 68-69, 143-44; 18RP 104. Several of these defense witnesses also stated that they never observed M.C. to appear to be uncomfortable around Fraser, and testified that Jessica was a bad parent. 16RP 48, 128 ; 17RP 126, 130; 18RP 114-15.

Fraser also called an obstetrician-gynecologist to testify that he had been retained by defense counsel to examine Fraser's uncircumcised penis, and that Fraser had a condition known as phimosis, which can cause pain when the foreskin is retracted over the head of the penis. 15RP 146, 158, 163-64. The obstetrician acknowledged that he relied on Fraser's self-reporting of pain for his diagnosis, and that his specialization was in the area of female reproductive anatomy, as opposed to male genitalia. 15RP 175, 210.

Finally, Fraser presented testimony of church members suggesting that M.C.'s mother was involved with a group of other former congregants who were dedicated to destroying Sound Doctrine. 16RP 111-13; 17RP 130-33; 18RP 63-64.

C. ARGUMENT

1. THE TRIAL COURT PROPERLY DENIED FRASER'S REQUEST FOR *IN CAMERA* REVIEW OF M.C.'S COUNSELING RECORDS.

Fraser contends that the superior court which presided over the initial pretrial hearings in this matter erred when it refused his request to review, *in camera*, records prepared by M.C.'s private counselor, Kathleen Moore, relating to M.C.'s disclosures of abuse to her. Fraser asserts that he made a sufficient showing of materiality to justify judicial intrusion into these protected patient-therapist records. His claim is without merit.

The general rule with regard to whether a trial court will conduct an *in camera* review to determine the scope of discovery of privileged records is that the court's decision is reviewed for abuse of discretion. State v. Diemel, 81 Wn. App. 464, 467, 914 P.2d 779 (1996). A trial court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds or untenable reasons. State v. Swan, 114 Wn.2d 613, 658, 790 P.2d 610 (1990).

Records prepared by a counselor in connection with her treatment of a patient and which contain information acquired from that patient are privileged pursuant to RCW 5.60.060(9). Fraser

contends that this prohibition notwithstanding, he was entitled to *in camera* review of Ms. Moore's records because they may have contained evidence of M.C.'s bias against him or because M.C. may have described Fraser's abuse of her differently than she did to others, including police.

However, in order to make an adequate threshold showing to justify an *in camera* inspection and thereby chip away at the overwhelming presumption of confidentiality between a patient and her counselor, a defendant must make a particularized factual showing that information useful to the defense is likely to be found in the records. State v. Kalakosky, 121 Wn.2d 525, 550, 852 P.2d 1064 (1993). Here, the trial court properly concluded that Fraser had failed to make such a demonstration, and that his factual showing was far too general to warrant intrusion into a protected patient-therapist relationship. 1RP 34-36.

The affidavit that Fraser presented in support of his request for *in camera* review is highly generalized, and contains virtually no factual assertions that would support the conclusion that Moore's records would prove specifically useful to the defense. Rather, Fraser merely asserts that (a) he had been charged with sexually abusing M.C., (b) there were no witnesses to his alleged abuse of

M.C. or corroborating physical evidence, and (c) the alleged victim and her family strongly disliked him. CP 313-14. As the Kalakosky court noted when rejecting a challenge to a lower court's denial of request for *in camera* review based on a similarly vague affidavit, "If we concluded that such a statement was sufficient to constitute a threshold showing, then such records would always be subject to *in camera* review." Kalakosky, 121 Wn.2d at 549.

Indeed, had the legislature intended that its protection of patient-therapist communications be forfeited if those communications concerned abuse that resulted in criminal charges, the legislature certainly could have included that circumstance in its list of exceptions to the presumption of confidentiality. See RCW 5.60.060(a)-(e). The legislature did not. And Washington's courts recognize the significance of this privilege, requiring a far greater showing of materiality in order to overcome that privilege than Fraser presented here.

Finally, Fraser's reliance on State v. Gregory, 158 Wn.2d 759, 147 P.3d 1201 (2006), is misplaced. First, Gregory involved a request for *in camera* review of court records – the dependency files of the complainant's children – rather than the private records of a therapist caring for a patient. Gregory, 158 Wn.2d at 793.

That is, the privacy interest under threat in Gregory belonged to the complainant's children rather than herself. Second, Gregory's defense to the charge of rape was that the complainant was a drug-addicted prostitute with whom he engaged in intercourse in exchange for payment, and that their encounter took place while the dependency actions were active; Gregory plausibly asserted that the dependency records would have contained information regarding the complainant's drug activity and other illegal conduct, thereby corroborating his theory of the case. Id. at 793. The state supreme court held that Gregory had made sufficiently particularized showings as to both his need for specific information potentially within the dependency files, and to the special relevance of such information to his chosen defense theory. Id. at 794-95.

Here, in contrast, Fraser offered what amounts to a boilerplate request for intrusion into a private therapist's case file, on the ground that he had been criminally charged and that the complainant discussed the abuse with her therapist. His contention that the pretrial court's denial of his motion substantially deprived him of the ability to pursue his defense strategy of attacking M.C.'s account as the product of bias and poor police investigation is belied by the fact that his cross-examination of the State's

witnesses and his lengthy defense case-in-chief abundantly pursued both of those points. It is dubious to assert that the trial court acted manifestly unreasonably in concluding that Fraser's pretrial effort was little more than a proverbial "fishing expedition" into highly protected waters, and that it undermined his ability to defend himself to the extent that he was denied a fair trial.

2. THE TRIAL COURT PROPERLY EXCLUDED A PRIOR COURT'S LEGAL FINDINGS FROM EVIDENCE.

Next, Fraser asserts that he was deprived of his right to a fair trial because the trial court refused to allow him to introduce into evidence certain findings made by a different judge who ruled against Fraser in his pretrial motion to dismiss this case pursuant to CrR 8.3. This argument should also be rejected.

Pretrial, Fraser sought to have the case against him dismissed on the ground that the investigating detective failed to preserve and thereafter produce for the defense team e-mails that he had exchanged with Fraser's mother, with M.C.'s mother and stepfather, and with Athena Dean. CP 19-37. Fraser asserted that these communications could have been exculpatory, and that the detective's failure to save them and later turn them over to the defense team amounted to a violation of the rule announced in

Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d. 215 (1963). Fraser further contended that the detective's impermissible actions and inactions were the product of his bias against Fraser's church. CP 35.

The pretrial court denied Fraser's motion, holding that although the detective should have decided against deleting these e-mails, he did so not out of malevolence toward Fraser and his church, but because he believed – incorrectly, in the court's judgment – that the e-mails were irrelevant to his investigation. 1RP 142-43; CP 170. The pretrial court concluded that dismissal was inappropriate due to Fraser's inability to prove incurable prejudice, given that it might be possible to recover the deleted e-mails either through computer forensics or by contacting the recipients of the detective's correspondence. 1RP 143-44; CP 168, 171-72.[2]

Fraser now contends that the trial court subsequently erred by refusing to allow him to introduce somehow the pretrial judge's "findings" that the detective had committed Brady violations and that the detective's judgment was affected by his animosity toward

---

[2] The court directed the State to undertake those efforts, and it appears that the court's directive was executed. 3RP 416; CP 172.

Fraser's church. His claim is meritless. The trial court's findings were irrelevant to the issues before the jury, and their introduction would have amounted to impermissible judicial comments on the evidence.

Relevant evidence is evidence having any tendency to "make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." ER 401. At the outset, it must be noted that the trial court's finding that the detective's antipathy to the theology of Fraser's church "may have affected his judgment in the investigation" of Fraser, is not really a finding at all. CP 167. It merely presents an unanswered question in the form of a sentence. This "finding" provides nothing of use to the trier of fact at Fraser's trial. It is irrelevant under ER 401.

In addition, the pretrial court's holding that the detective's failure to preserve certain e-mails amounted to a Brady violation is also immaterial to the jury's task. This is not to say that the jury should have been or was prevented from learning of the detective's deletion of some e-mails. The trial court in no way limited Fraser's ability to cross-examine the case detective regarding the manner and scope of his investigation and his preservation or deletion of e-

mails. 3RP 422.[3] Rather, it is simply irrelevant to the jury's decision-making to learn that an earlier judge had concluded that the detective's actions failed to comply with a particular rule of discovery. The trial court only excluded the presentation of an irrelevant yet potentially misunderstood fact, i.e., that an earlier court concluded that the detective should not have mistakenly assumed that the e-mails he had deleted were of no import.

Furthermore, even assuming, *arguendo*, that the pretrial court's findings were somehow germane to the issues to be decided by the jury at Fraser's trial, they would be relevant only insofar as they would touch on the case detective's credibility as a fact witness. As such, these findings would constitute judicial comments on the evidence, prohibited by Art. IV, section 16, of the state constitution. An impermissible comment on the evidence is one that conveys to the jury the court's attitude toward the merits of the particular case. State v. Lane, 125 Wn.2d 825, 838, 889 P.2d 929 (1995). Because the jury is the sole judge of the weight of the

[3] Fraser engaged in extensive questioning of Det. McCall regarding his treatment of e-mails from various parties. 7RP 1015-34. Nor did the trial court prohibit Fraser from cross-examining the case detective regarding his feelings toward Fraser's church – a task that defense counsel undertook with relish. 7RP 1005-15.

testimony, a trial court violates Art. IV, sec. 16, when it suggests to the jury what weight should be given to certain evidence. Id.

Here, Fraser asserts, in essence, that the jury should have learned of the pretrial court's findings because they would then conclude that the pretrial court found the case detective to be incompetent or corrupt in his actions in this case. In other words, Fraser believes the jury was entitled to learn not only what the detective did in his investigation of M.C.'s complaint, but also a judge's opinion of what he did in that investigation. Fraser cites to no relevant authority for this suspect proposition, which directly contravenes Art. IV, sec. 16. The trial court cannot reasonably be said to have abused its discretion in excluding this irrelevant and potentially unfairly prejudicial information from this trial.

3. EVIDENCE OF K.C.'S NON-APPEARANCE AT DEFENSE INTERVIEWS WAS IRRELEVANT.

Fraser also argues that the trial court erred when it sustained the State's objection, on the ground of relevance, when defense counsel asked M.C.'s minor sister, K.C., whether she had failed to appear as scheduled for two pretrial interviews at the office of the prosecuting attorney. Before ruling on the State's objection, the trial court asked Fraser's attorney for an offer of proof in response,

outside the presence of the jury. 13RP 158. Defense counsel stated that K.C. did not show up for either of two prearranged meetings at the prosecutor's office, though she later sat for a telephonic interview. 13RP 159. Fraser's attorney asserted that K.C.'s nonappearance at the first two interviews demonstrated a lack of cooperation that could cast doubt on her credibility. 13RP 159-60. In response, the State indicated that, as a minor, K.C. was dependent on her father for transportation, and that it was her father, and not K.C., who had been "recalcitrant." 13RP 160. The State further noted that there had never been any indication that K.C. was personally unwilling to participate in this prosecution. 13RP 160. The trial court, finding no basis to believe that K.C.'s nonappearances were of her own volition, sustained the State's objection as to relevancy. 13RP 161.

On appeal, Fraser asserts that the trial court's decision prevented him from exploring the extent of K.C.'s bias and jeopardized his constitutional right to a fair trial. His claim should be denied.

The trial court is generally the proper court to weigh the relevance of evidence, and its decisions in that regard are reviewed for a determination of abuse of discretion. State v. Foxhoven, 161

Wn.2d 168, 176, 163 P.3d 786 (2007). Here, the trial court was presented with a contention that a minor's failure to initially appear for two interviews was indicative of "bias." When given the opportunity to elaborate, defense counsel made no effort to elaborate on the nature of this generalized "bias" and against whom or what it was predisposed. Defense counsel did not attempt to explain why K.C.'s nonappearance was reflective of such bias, particularly when K.C. ultimately sat for an interview, at which she, presumably, could have been asked about the earlier no-shows. In addition, the only factual narrative before the trial court was the deputy prosecutor's explanation that it was K.C.'s father who had been responsible for her failure to arrive as scheduled, and that the prosecutor had never encountered any reluctance or hesitation on K.C.'s part.

Under these circumstances, the trial court properly exercised its discretion in sustaining the State's objection.[4]

---

[4] Fraser also asserts that the trial court's decision here is subject to constitutional harmless error analysis, despite the well-established doctrine that errors resulting from violation of evidentiary rules are subject to nonconstitutional harmless error examination. See, e.g., State v. Thomas, 150 Wn.2d 821, 871, 83 P.3d 970 (2004). Regardless, it would be a purely academic exercise to undertake any harmless error analysis, given that Fraser has entirely failed to articulate the probative value of K.C.'s nonappearance at the first two of three scheduled interviews. That is, without any explanation from Fraser of what K.C.'s non-appearance could have meant, it is impossible to know how the introduction of that fact could have affected the outcome of Fraser's trial.

4. THE TRIAL COURT PROPERLY EXCLUDED EVIDENCE OF FRASER'S REPUTATION FOR "SEXUAL MORALITY."

Finally, Fraser argues that the trial court erred when it prohibited him from presenting evidence, through the testimony of members of his church, of his reputation for sexual morality. The trial court, relying on the reasoning in this Court's decision in State v. Jackson, 46 Wn. App. 460, 730 P.2d 1361 (1986), held that the value of such a reputation in the community is insufficiently probative in a case of child sex abuse to warrant admission. Fraser contends that the trial court's decision is wrong on both precedential and logical grounds.

First, Fraser asserts that this Court's holding in Jackson was abrogated by the state supreme court's decision in State v. Thomas, 110 Wn.2d 859, 757 P.2d 512 (1988). Fraser's understanding of Thomas is overbroad. The Thomas court was presented only with the question of whether the trial court improperly refused to provide an instruction sought by the defendant when he had already been permitted to present evidence during his case-in-chief of his reputation for sexual morality. See Thomas, 110 Wn.2d at 860. The supreme court was not asked to determine whether such reputation evidence should have been

deemed admissible in the first place, and did not reach that question. Thomas does not nullify the holding in Jackson, and is thus largely irrelevant to the matter at issue here.

As a matter of common sense, the reasoning underlying the Jackson decision is powerful. As this Court observed, a person's actual sexual activity is seldom common knowledge among the members of his peer group. Jackson, 46 Wn. App. at 365. Thus, one's reputation for morality in this regard may have no correlation with his real behavior. Id. (noting that "[s]imply put, one's reputation for moral decency is not pertinent to whether one has committed indecent liberties or incest."). It takes only passing familiarity with recent news of sexual abuse by leaders of established religious institutions; schools; and athletic, scouting, and other extracurricular child-oriented organizations to know that child sex crimes can be and are committed, with chilling frequency, by individuals who are held in high regard and placed in positions of fiduciary responsibility, often precisely because of their (distressingly mistaken) reputations in their communities for morality.

The State recognizes that this Court's holding in Jackson is at odds with opinions issued by Division Three of the state court of

appeals. See, e.g., State v. Griswold, 98 Wn. App. 817, 991 P.2d 657 (2000). The State respectfully submits that this Court has the better of this debate.

In any event, given that this case was before a superior court directly answerable to this Court, and considering that this Court's holding in Jackson remains valid law (and the product of convincing common sense), the trial court here cannot be said to have acted in a manifestly unreasonable manner on untenable grounds. Fraser's claim should be rejected.

D. CONCLUSION

The superior court properly denied Fraser's motion for an *in camera* review of the privileged records of the victim's mental health counselor, and appropriately prohibited Fraser from offering a variety of irrelevant evidence at his trial. His conviction should be affirmed.

DATED this 15th day of August, 2014.

RESPECTFULLY submitted,

DANIEL T. SATTERBERG
Prosecuting Attorney

By: _____
DAVID SEAVER, WSBA# 30390

Senior Deputy Prosecuting Attorney
Attorneys for the Respondent
WSBA Office #91002

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Jennifer Winkler, the attorney for the appellant, at Nielsen Broman & Koch, P.L.L.C., 1908 E. Madison Street, Seattle, WA 98122, containing a copy of the BRIEF OF RESPONDENT, in STATE V. MALCOLM FRASER, Cause No. 70702-7 -I, in the Court of Appeals, Division I, for the State of Washington.

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

Dated this 13th day of June, 2014

LeBrame

Name
Done in Seattle, Washington