NO. 46119-6-II

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

STATE OF WASHINGTON,

Respondent,

v.

CHARLES GOTCHER,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR GRAYS HARBOR

The Honorable Gordon L. Godfrey, Judge

BRIEF OF APPELLANT

LISA E. TABBUT
Attorney for Appellant
P. O. Box 1396
Longview, WA 98632
(360) 425-8155
ltabbutlaw@gmail.com

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Cases

Statutes

Other Authorities

A. ASSIGNMENTS OF ERROR

1. The trial court denied Charles Gotcher's right to a public trial when outside of the courtroom and not in the presence of Gotcher or the public, the court and counsel, even before the jury venire was questioned, chose the two jurors who would serve as alternates.

2. The trial court abused its discretion when it refused to consider sentencing Charles Gotcher to an exceptional sentence downward because Gotcher had exercised his right to trial and maintained his innocence.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Whether the trial court denied Charles Gotcher his right to a public trial when, outside of the courtroom and not in the presence of Gotcher or the public, the court chose the two jurors who would serve as alternate jurors?

2. Whether the trial court abused its discretion when it refused to consider sentencing Gotcher to an exceptional sentence downward because Gotcher had exercised his right to trial and maintained his innocence?

C. STATEMENT OF THE CASE

1. Procedural History

The Grays Harbor County prosecutor charged Charles Gotcher by Second Amended Information with one count of Child Molestation in the

Third Degree[1] and two counts of Rape of a Child in the Third Degree.[2] CP 1-2. The Information listed A.E. as the victim of each count. After a multiple day trial, a jury found Gotcher guilty of all three charges.

2. Selection of alternate jurors

On January 7, 2014, the first day of trial, prior to greeting the jury and commencing the process of jury selection, the court met with the prosecutor and defense counsel. Their conversation was not on the record in open court. At the off-the-record meeting, the court and counsel selected which jurors of the 14 selected for trial would serve as the two alternate jurors. The trial clerk's minutes documented the meeting:

> 8:45 a.m. Let the Record show Prior to Court starting both the State and Defense Counsel chose Blind[3] Jurors; Mr. Strophy picked #10 and Ms. Svoboda #8 in that order.

Supplemental Designation of Clerk's Papers, Clerk's Minutes for Jury Trial (sub. nom. 82). Mr. Strophy is defense counsel and Ms. Svoboda is the prosecutor.

The trial minutes reflect the court greeted the jury and commenced the remainder of jury selection on the record starting at 9:10 a.m. Supplemental Designation of Clerk's Papers, Clerk's Minutes for Jury Trial (sub. nom. 82). The parties chose 12 jurors plus two alternate jurors.

---

[1] RCW 9A.44.089
[2] RCW 9A.44.079
[3] Explanation of "blind" follows.

RP Voir Dire 46-47. The court explained the meaning of "blind" jurors to the jury panel.

> Now, to clear up your confusion, there are 14 of you and I know I didn't make a mistake because there's always 12 on a jury. However, during the course of the proceedings we will utilize a process called "blind alternates." Two of you will be alternates. That does not mean because you're 13 and 14 you're the alternates. We will select two of you blindly. Those two will be excused when we go into the deliberation phase. So, therefore, you don't know who the alternates are at this time. It's very simple, 13 and 14 will not fall asleep. They will be awake.

RP Voir Dire 47.

The trial minutes also reflect that after the State finished its rebuttal closing argument on January 9, the "Court inform[ed] the Jury as to the 2 alternates that were picked earlier, and dismisses the Jury for deliberation."

The trial transcript provided detail.

> THE COURT: We will be retiring to deliberate. And if you recall there are 14 of you and only 12 of you will be making the decisions.
>
> During the course of these proceedings we randomly selected two of you. And I use the term "random." We didn't pick you out because we don't like you. You were randomly selected.
>
> With that in mind, I'm going to be excusing two of you, and the two of you, I would ask that you pay very close attention.
>
> ...
>
> The alternates that were picked all randomly, Juror No. 8, Ms. Johnson, and Juror No. 10, Mr. Wells [.]

RP3[4] 73-74.

3. Trial testimony

A.E. and Gotcher both attended church at the Waters of Life Church in Oakville. RP1 14. They met in 2006 or 2008 at a baptism at A.E.'s home. RP1 109; RP2 109. A.E.'s date of birth is July 26, 1995. RP1 14. Gotcher's date of birth is September 3, 1980. RP2 108. A.E.'s mother, Mrs. Beth Ann Eaton, could tell right away that Gotcher really liked A.E. RP1 109-10. She thought he paid too much attention to A.E. RP1 110.

Over a matter of months, Gotcher and the Eatons developed a close family-like relationship. RP1 73; RP2 10. Mr. and Mrs. Eaton invited Gotcher to move into the apartment over their garage. RP1 108-09. Gotcher and A.E. spent a lot of time together. Gotcher took on a role in the church as a youth leader. RP1 26, 114. Both he and A.E. were on the church's worship team. RP2 31. A.E. played the guitar. A.E. was teaching Gotcher how to pay the guitar. RP1 17, 90.

Gotcher lived in the garage apartment for several months before moving to a rental house Mr. and Mrs. Eaton owned in Elma. RP2 10. Gotcher moved into the house with A.E.'s sister and her sister's husband,

[4] Separate volumes of verbatim for each day of trial were prepared for this appeal. The verbatim is herein referred to as follows: "RP1" for January 7, 2014; "RP2" for January 28, 2014; and "RP3" for January 9, 2014.

Brooklee and Will Hansen. RP2 10. Gotcher and the Eatons continued in their very close relationship. RP2 10, 32. Will Hansen and Gotcher spent a lot of time together, second only to the amount of time Gotcher spent with A.E. RP2 33. Will Hansen described A.E. and Gotcher as "inseparable." RP2 32.

A.E. claimed Gotcher kissed her at a church sleep-over held the evening before a fundraising garage sale. RP1 21, 25-28. She thought he was 28 at the time. RP1 27. A few weeks later they were at a summer church camp together. Gotcher brought her an Italian soda and said sharing a straw with her was as close as he could get to kissing her. RP1 28.

Gotcher worked at a seasonal corn maze in Tumwater for several years. When A.E. was 14, she visited the maze with Gotcher and ended up volunteering there on weekends. RP1 30. The next year, Gotcher helped A.E. get a paying job at the corn maze. RP1 29. They worked as "haunters." They dressed in dark clothing and painted their faces. RP1 29, 34. When guests would come through the maze, A.E., Gotcher, and other "haunters" would scare the guests by jumping out of the corn randomly. RP1 29. A.E.'s parents had made it clear to both A.E. and Gotcher that they were not to be alone in the car when Gotcher drove them to and from

the corn maze. RP1 111. Sometimes they did drive alone. RP1 30. Other times, friends of A.E. would be in the car with them. RP1 80.

A.E. claimed she and Gotcher engaged in other physical encounters. For example, during the first year at the corn maze, she was resting in the corn away from the maze pathway. Gotcher joined her and put his hand down her pants and into her vagina. RP1 31-32. Three such encounters formed the basis for the three charges at trial.

As to Count 1, charging Child Molestation in the Third Degree, A.E. claimed Gotcher was driving her home after an evening at the corn maze. RP1 34. They were alone in his car. He drove past her parents' home and pulled off the road at a dark remote area. RP1 35-36. He put his hands down her pants and his fingers in her vagina. RP1 35-36. He had given her two Vicodin and she drank a "Red Lyon" energy drink earlier that evening. RP1 36.

As to Count 2, Rape of a Child in the Third Degree, Gotcher was visiting with her parents at the family home. Gotcher came back into her bedroom, gave A.E. a back rub, put his hands down her pants and into her vagina. A.E. told him to leave and he did so. RP1 37-38.

As to Count 3, Rape of a Child in the Third Degree, A.E. and Gotcher were at the home Gotcher shared with Brooklee and Will Hansen. RP1 42. A.E. was frequently babysitting for Brooklee and Will and

frequently spent the night at their home. RP 1 42; RP2 14. The Hansens, Gotcher, and A.E. were enjoying a backyard bonfire. RP 42-44. A.E. had been drinking alcohol given to her by Gotcher. RP1 44. She felt intoxicated. RP1 44. She and Gotcher stayed at the bonfire after the Hansens' retired for the evening. RP1 44. At Gotcher's suggestion, they went behind a nearby shed and engaged in penile-vaginal intercourse. RP1 44-45. A.E. and Gotcher talked about it later. He said he was sorry and that she "needed to take it to the grave and not ever tell anyone." RP1 46. This happened the summer before she turned 16. RP1 42.

Gotcher and A.E. continued to spend a lot of time together. Gotcher helped A.E. get a job at the same Christian bookstore he worked at in Olympia. RP1 48. Gotcher handled employee scheduling. He scheduled A.E. to work some of the same shifts as he did. He drove her to and from work and her home. RP1 49, 145-46. A.E. was primarily living at the Hansen home in Elma by then. RP1 42-43.

Gotcher provided A.E. with cell phones. RP1 50. A.E.'s parents had not given A.E. permission to have a cell phone. RP1 50. A.E. and Gotcher used the cell phone to text back and forth and stay in contact. RP1 50. Gotcher acquired an iPod Touch from one of A.E.'s sisters. RP1 51; RP2 142. There was a time when A.E. and Gotcher shared the iPod. RP2 142. They both put music on it and listened to it when travelling back and

forth from work. Gotcher wrote poetry and liked to share his poetry. He put many of his poems on the iPod. RP2 142-43.

Gotcher was working at the bookstore one day when he got a text from Brooklee Hansen telling him he had 30 days to get his property and move out of the house. RP2 18, 148. He was surprised and hurt. RP2 148. Gotcher drove A.E. home from the bookstore after work. He confronted her about what she had been saying about their relationship. RP2 146-48. He moved out of the house that same night. RP2 18.

A.E. made a report to the Grays Harbor Sheriff's Department. RP 2 42-43. As part of their investigation, a detective recorded a "confrontation call" between A.E. and Gotcher. RP2 43-45. A.E. called Gotcher in the presence of the detective. The detective provided her with ideas for things to say. The call lasted for over an hour. Gotcher neither admitted nor denied A.E.'s allegations of sexual contact during the call. RP1 103. He was very hurt she would make such allegations against him. RP2 45.

At trial, Gotcher explained that he thought of A.E. as a sister and her family as his spiritual parents. RP2 112, 158. He adamantly denied ever kissing or engaging in sexual activity with A.E. or providing her with liquor or prescription drugs. RP2 160.

4. Sentencing

At sentencing, Gotcher, who had no been counting criminal history, asked the court for an exceptional sentence downward. RP March 10, 2014, 3. The court refused because Gotcher maintained his innocence. RP March 10, 2014, 9. Instead, the court sentenced Gotcher to a standard range sentence of 46 concurrent months in prison on each count plus 14 months concurrent of community custody[5] to be served on his release. RP March 10, 2014 10; CP 9.

Gotcher appeals all portions of his judgment and sentence. CP 15.

D. ARGUMENT

1. THE OFF-THE-RECORD PRIVATE SELECTION OF ALTERNATE JURORS DENIED GOTCHER A PUBLIC TRIAL.

The trial court deciding off the record and out of the public's purview who would sit as alternate jurors denied Gotcher his constitutional right to a public trial. His convictions should be reversed and remanded for retrial.

Public criminal trials are a hallmark of the Anglo-American justice system. *Globe Newspapers Co. v. Superior Court*, 457 U.S.. 596, 605, 102 S.Ct. 2613, 73 L.Ed.2d 248 (1982); *Richmond Newspapers, Inc. v.*

[5] The nature of the conviction calls for 36 months of community custody. However, the statutory maximum for each offense could not exceed a combined total of incarceration plus community custody greater than the 60 month statutory maximum.

Virginia, 448 U.S. 555, 564-73, 100 S.Ct. 2814, 65 L.Ed.2d 973 (1980) (plurality) (outlining history of public trial from before Roman Conquest to England through Colonial times). "A trial is a public event. What transpires in the court room is public property." *State v. Coe*, 101 Wn.2d 364, 380. 679 P.2d 353 (1984), *quoting Craig v. Harney*, 331 U.S. 367, 374, 67 S.Ct. 1249, 91 L.Ed.2d 1546 (1947).

Both the federal and state constitutions guarantee the accused the right to a public trial. U.S. Const. Amend VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial..."); Const. Article I, Section 22 ("In criminal prosecutions the accused shall have the right to ... have a speedy public trial by an impartial jury...").

In addition, the public also has a vital interest in access to the criminal justice system. U.S. Const. Amend. I (the First Amendment's guarantees of free speech and a free press also protect the right of the public to attend a trial): Const. Art. 1, Section 10: ("Justice in all cases shall be administered openly, and without unnecessary delay."). These provisions provide the public and the press a right to open and accessible court proceedings. *State v. Easterling*, 157 Wn.2d 167, 174, 137 P.3d 825 (2006). "The public has a right to be present whether or not any party has asserted the right." *Pressley v. Georgia*, 558 U.S. 209, 130 S.Ct. 721, 724-

25, 175 L.Ed.3d 675 (2010); *State v.* Wise, 176 Wn.2d 1, 9, 288 P.3d 1113 (2012). " 'Whether a criminal accused's constitutional public trial right has been violated is a question of law, subject to de novo review on direct appeal.' " *Wise*, 176 Wn.2d at 9 (*quoting State v. Easterling*, 157 Wash.2d 167, 173–74, 137 P.3d 825 (2006)).

In *State v. Jones*, 175 Wn. App. 87, 303 P.3d 1084 (2013), this Court considered a similar issue where the public was not present during selection of alternate jurors. There, the court, at the conclusion of evidence, indicated the court clerk could randomly draw the names of four members of the jury venire from a rotating cylinder in the courtroom to determine which jurors would be alternates. During the defense closing argument, the court took a recess and the clerk randomly pulled four names from the cylinder. The court announced the names of the four alternates following closing argument and excluded the jurors. Jones did not object to any aspect of the alternative drawings. *Id.* at 95.

Thereafter, the jury convicted Jones of attempted first degree murder. Post-trial, Jones moved for a new trial arguing the random drawing of alternate jurors violated his right to a public trial. The trial court denied the motion and Jones appealed. *Jones*, 175 Wn. App. at 95.

The court applied the experience and logic test adopted by the Supreme Court and asked, under considerations of experience and logic

whether "the core values of the public trial right [were] implicated" by the clerk choosing the alternate jurors randomly off the record during a recess. *Jones*, 175 Wn. App. 95-102; *State v. Sublett*, 176 Wn.2d 58, 73, 292 P.3d 715 (2012) (lead opinion).

In making its experience test assessment, the court reviewed the history of the state and local court criminal and civil court rules regarding the selection and use of alternate jurors. It then concluded based on historical and current practices, alternate juror selection is "largely performed at the same time and in the same way as voir dire, and thus occurs on the record in a courtroom that is open to the public." *Jones*, 175 Wn. App. 97.

In making its experience test assessment, the court focused on the purposes of the public trial right and the constitutional assurance of an open court. *Id.* at 101. The court noted that two of the purposes of the public trial right were implicated by Jones's case: basic fairness for the defendant and reminding the trial court of the importance of its functions. *Id.* at 101-02. It concluded the drawing of the alternates off the record and outside the trial proceeding violated both of these purposes served by the public trial right:

> Although we do not suggest that the alternate juror drawing in this case was anything but random—and Jones does not appear to argue otherwise—there is simply no way to tell how the drawing

> was performed. The issue is not that the drawing in this case was a result of manipulation or chicanery on the part of the court staff member who performed the task, but that the drawing could have been. Where such a drawing occurs during a court recess off the record, the defendant and the public lack the assurance of a truly random drawing that they would have if the drawing were performed in open court on the record. This lack of assurance raises serious questions regarding the overall fairness of the trial, and indicates that court personnel should be reminded of the importance of their duties. Accordingly, we conclude that considerations of logic "implicate the core values the public trial right serves." *Sublett*, 176 Wash.2d at 72, 292 P.3d 715.

Jones, 175 Wn. App. at 102.

As in *Jones*, application of the experience and logic test to Gotcher's case indicated the public trial right applied to the selection of the two alternate jurors. The alternates were chosen off the record. After that was done, the court caused an explanation to be put on the record. The defense attorney called for seated juror number 8 to be excused as an alternate and the prosecutor called for seated juror number 10 to be excused as an alternate. Other than this being a "blind" selection, no details were provided about the process. The court only caused a record to be made that there was a process and that process occurred off the record.

At the conclusion of the case, when the court dismissed the two pre-selected alternates, less information was given about the selection process although the explanation was at least given in an open court room. The court told the jury that two of them were "randomly selected to be the

alternates" and it was not because "we don't like you." RP3 73. Who "we" were and how the selection was done was not made available mentioned in the courtroom and thus was not available to the public.

When there is a closure, such closure will only pass constitutional muster if the court first properly conducted a *Bone-Club*[6] analysis before closing the courtroom. *State v. Paumier*, 176 Wn.2d 29, 35, 288 P.3d 1126 (2012); *State v. Wise*, 176 Wn.2d 1, 288 P.3d 1113 (2012). Under *Bone–Club,* trial courts must consider five factors prior to closing the proceedings:

> 1. The proponent of closure or sealing must make some showing [of a compelling interest], and where that need is based on a right other than an accused's right to a fair trial, the proponent must show a "serious and imminent threat" to that right.
> 2. Anyone present when the closure motion is made must be given an opportunity to object to the closure.
> 3. The proposed method for curtailing open access must be the least restrictive means available for protecting the threatened interests.
> 4. The court must weigh the competing interests of the proponent of closure and the public.
> 5. The order must be no broader in its application than necessary to serve its purpose.

Bone-Club, 128 Wn.2d at 258–59. No *Bone-Club* analysis was done in Gotcher's case before closing the courtroom during selection of the alternate jurors. Without the *Bone-Club* analysis, a "per se prejudicial"

[6] *State v. Bone-Club*, 128 Wn.2d 254, 906 P.2d 325 (1995)

public trial violation...occurred "even where the defendant failed to object at trial." *Wise*, 176 Wn.2d at 18. The remedy is a new trial. *Wise*, 176 Wn.2d at 19, 288 P.3d 1113.

A defendant does not waive his public trial right by failing to object to a closure during trial. *State v.* Wise, 176 Wash.2d 1, 9, 288 P.3d 1113 (2012). " 'Whether a criminal accused's constitutional public trial right has been violated is a question of law, subject to de novo review on direct appeal.' " *Wise*, 176 Wn.2d at 9, 288 P.3d 1113 (quoting *State v. Easterling*, 157 Wn.2d 167, 173–74, 137 P.3d 825 (2006)). *State v. Jones*, 175 Wn. App. 87, 95, 303 P.3d 1084, 1089 (2013)

2. THE TRIAL COURT ABUSED IT DISCRETION WHEN IT REFUSED TO USE ITS DISCRETION TO CONSIDER GOTCHER'S REQUEST FOR AN EXCEPTIONAL SENTENCE DOWNWARD.

The trial court abused its discretion when it refused to consider giving Gotcher an exceptional sentence downward. The basis for the refusal, Gotcher's persistent claim of innocence, is a misapplication of the court's discretion. Gotcher's sentence should be reversed and his case remanded for resentencing.

a. A defendant is entitled to appeal a trial court's refusal to give him an exceptional sentence downward when the court relies on an improper basis in refusing to impose the sentence.

A defendant generally cannot appeal a standard range sentence such as the sentence imposed on Gotcher. RCW 9.94A.585(1); *State v. Williams*, 149 Wn.2d 143, 146, 65 P.3d 1214 (2003). However, a defendant can appeal a failure by the sentencing court "to comply with procedural requirements of the [Sentencing Reform Act[7] of 1981, chapter 9.94A RCW,] or constitutional requirements." *State v. Osman*, 157 Wn.2d 474, 481–82, 139 P.3d 334 (2006), RCW 9.94A.585(2).

Where a defendant appeals a sentencing court's denial of his request for an exceptional sentence below the standard range, "review is limited to circumstances where the court has refused to exercise discretion at all or has relied on an impermissible basis for refusing to impose an exceptional sentence below the standard range." *State v. Garcia–Martinez*, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997). "A court refuses to exercise its discretion if it refuses categorically to impose an exceptional sentence below the standard range under any circumstances; i.e., it takes the position that it will never impose a sentence below the standard range." *Id.* While no defendant is entitled to an exceptional

[7] SRA

sentence below the standard range, every defendant is entitled to ask the trial court to consider such a sentence and to have the alternative actually considered. *State v. Garcia–Martinez*, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997). "The failure to consider an exceptional sentence is reversible error." *State v. Grayson*, 154 Wn.2d 333, 342, 111 P.3d 1183 (2005).

b. Gotcher is entitled to resentencing because the trial court did not use any meaningful discretion before refusing Gotcher's request for an exceptional sentence downward.

A trial court may impose a sentence outside the standard range if it finds, considering the purposes of the SRA,[8] that there are substantial and compelling reasons justifying an exceptional sentence. RCW 9.94A.101, *State v. Graham*, 337 P.3d 319, 321 (2014). RCW 9.94A.535(1) provides a non-exclusive, "illustrative only" list of mitigating circumstances the court may rely on to impose an exceptional sentence below the standard range.

---

[8](1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;
(2) Promote respect for the law by providing punishment which is just;
(3) Be commensurate with the punishment imposed on others committing similar offenses;
(4) Protect the public;
(5) Offer the offender an opportunity to improve himself or herself;
(6) Make frugal use of the state's and local governments' resources; and
(7) Reduce the risk of reoffending by offenders in the community.
RCW 9.94A.101

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or

> provide medical assistance for someone who is experiencing a drug-related overdose.
>
> (j) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

RCW 9.94A.535(1). The trial court need only find mitigating circumstances establish a basis for an exceptional sentence by a preponderance of the evidence. RCW 9.94A.535(1).

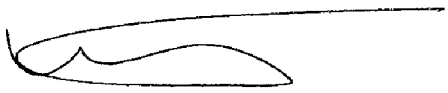
Here the court categorically denied to even consider an exceptional sentence downward because Gotcher denied guilt and put the prosecutor to the test to prove the charges against him. But as the above mitigating factors demonstrate, a defendant does not need to admit guilt to be eligible for an exceptional sentence downward. That criteria does not appear anywhere in RCW 9.94A.535. The trial court abused its discretion when it made admission of guilt a criteria of an exceptional sentence downward.

Gotcher's sentence should be reversed and remanded for a resentencing hearing with the court using its discretion to consider an exceptional sentence downward.

E. CONCLUSION

Because the court closed jury selection and denied Gotcher an open and public trial, Gotcher's convictions must be reversed and remanded for retrial. Alternatively, Gotcher's sentence should be reversed and remanded to the trial court.

Respectfully submitted this 28th day of January 2014.



LISA E. TABBUT, WSBA #21344
Attorney for Charles R. Gotcher

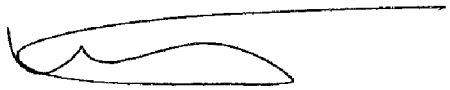
CERTIFICATE OF SERVICE

Lisa E. Tabbut declares as follows:

On today's date, I efiled Appellant's Brief to (1) Gerald Fuller, Grays Harbor Prosecutor's Office, at gfuller@co.grays-harbor.wa.us; (2) the Court of Appeals, Division II; and (3) I mailed it to Charles Gotcher at Charles Gotcher/DOC# 371646, Airway Heights Corrections Center, P.O. Box 1899, Airway Heights, WA 99001.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed January 28, 2015 in Mazama, Washington.



Lisa E. Tabbut, WSBA No. 21344
Attorney for Charles R. Gotcher, Appellant

COWLITZ COUNTY ASSIGNED COUNSEL

January 28, 2015 - 4:49 PM

Transmittal Letter

Document Uploaded: 5-461196-Appellant's Brief.pdf

Case Name: State v. Charles Gotcher
Court of Appeals Case Number: 46119-6

Is this a Personal Restraint Petition? Yes ■ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

■ Brief: Appellant's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Lisa E Tabbut - Email: ltabbutlaw@gmail.com

A copy of this document has been emailed to the following addresses:

gfuller@co.grays-harbor.wa.us