SUPREME COURT NO. 98748-3

NO. 79266-1-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

JEREMY STACK,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

The Honorable Richard T. Okrent, David A. Kurtz, Marybeth Dingledy, Judges

---

PETITION FOR REVIEW

DAVID B. KOCH
Attorney for Petitioner

NIELSEN KOCH, PLLC
1908 East Madison
Seattle, WA 98122
(206) 623-2373

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

WASHINGTON CASES

TABLE OF AUTHORITIES (CONT'D)

A. IDENTITY OF PETITIONER

Jeremy Stack, the appellant below, asks this Court to review the Court of Appeals opinion referred to in section B.

B. COURT OF APPEALS DECISION

Stack requests review of the Court of Appeals decision in State v. Stack, COA No. 79266-1-I, filed May 11, 2020 (appendix A). A motion for reconsideration was denied on June 9, 2020 (appendix B).

C. ISSUES PRESENTED FOR REVIEW

1. Is review appropriate under RAP 13.4(b)(1) where the Court of Appeals decision on a first aggressor instruction conflicts with State v. Grott, 195 Wn.2d 256, 458 P.3d 750 (2020)?

2. Is review appropriate under RAP 13.4(b)(1) and (b)(3) where the Court of Appeals declined to address an issue of prosecutorial misconduct – fully and properly addressed on appeal – in violation of the right to appeal under Washington Const. art. 1, § 22 and contrary to State v. Rolax, 104 Wn.2d 129, 702 P.2d 1185 (1985)?

3. Is review also appropriate under RAP 13.4(b) of the Court of Appeals decisions concerning the trial court's refusal to remove an unfit juror, judicial comments on the evidence, and a police officer's improper opinion on the use of deadly force?

D. STATEMENT OF THE CASE

1. Evidence At Trial

The charges against Jeremy Stack – a cab driver with no prior criminal history – arose from events on January 6, 2017 and involved four passengers in his taxi van: Ashley Seabolt, Amanda Albrightson, and two of Albrightson's children (a four year old daughter and one year old son). CP 324-327.

The Snohomish County Prosecutor's Office initially charged Stack with two counts of Assault in the Second Degree, alleging that he attacked Seabolt and Albrightson with a collapsible baton following a dispute regarding their ability or willingness to pay Stack for the ride. CP 324-329. Prosecutors later added a deadly weapon sentencing enhancement on count 1 and – in counts 3 and 4 – two counts of Reckless Endangerment under the theory Stack had endangered the children by forcing all four passengers to exit the cab in the middle of a city street. CP 320-321, 324-325.

Stack pleaded not guilty. RP 44. Ultimately, resolution of these charges would require three trials.

a. Trial One

The first trial began in August of 2017 before the Honorable Richard Okrent. 1RP[1] 1.

Evidence at trial established that, on the afternoon of January 6, 2017, Seabolt, Albrightson, and Albrightson's children – McKenna (4½) and Mason (16 months) – shopped for groceries at an Everett Wal-Mart. 1RP 218-222, 468-471. When finished, Albrightson called the Everett Cab Company to drive the group back to her apartment on 7th Ave. S.E. 1RP 217, 222-223, 472.

Stack responded to the call and pulled up in front of the Wal-Mart in his blue taxi van at about 1:00 p.m. 1RP 223, 473, 588; exhibit 103. According to both women, Stack started the fare meter before they had completed loading the groceries and a stroller into the back of the van, which caused them to hurry, aggravated Seabolt, and made Albrightson wonder if the fare was going to exceed her limited budget for the ride. 1RP 223-224, 473-474.

The cab was equipped with a mounted traffic camera, which recorded video through the front windshield and was running during the ride. 1RP

[1] This petition refers to the verbatim report of proceedings as follows: "1RP" refers to the volumes for trial one beginning August 18, 2017 and ending September 5, 2017; "2RP" refers to the volumes for trial two beginning March 29, 2018 and ending July 5, 2018; "3RP" refers to the volumes for trial three beginning September 24, 2018 and ending November 15, 2018.

614-615. Although the camera did not record images of what occurred inside the van, it recorded Albrightson, Seabolt, and the two children approaching Stack's taxi when he arrived at Wal-Mart. 1RP 225-226; exhibit 85 (file 339).

There was some uncertainty concerning where passengers had been seated in the van, but both Stack and Seabolt recalled that Albrightson and McKenna occupied two captain's chairs in a middle row located directly behind Stack, and Seabolt sat with Mason in a third row bench located in the back of the van. 1RP 232-233, 483-484, 586, 592-593.

For the next several minutes, Stack's camera recorded audio of the women providing Albrightson's address and then persistently complaining about the cost of the ride: indicating their belief the meter had been started prematurely, asking if Stack could attempt to shorten the route because some drivers will cut through a parking lot rather than use public roads, discussing how other cab drivers did not charge fees for extra passengers, inquiring whether $8 was going to be sufficient and indicating that was all they had, and asking if Stack would stop the meter the moment they arrived at the apartment. 1RP 226-230, 234, 475-476, 480-486; exhibit 85 (files 339-340).

Stack had not, in fact, started the meter early and he was not charging the women for extra passengers. 1RP 591-592. Moreover, traffic was light and cutting through the parking lot was against the law. 1RP 594-595. Stack

has experience with customers not paying the fare and discussions about limited funds are a red flag. 1RP 587, 593-594. Stack felt that he was being accused of dishonesty and that the women were badgering him. 1RP 595. At 1:05 p.m., as Stack stopped at a traffic signal on Everett Mall Way and waited to turn left on 7th Ave. SE (Albrightson's street), he sent a text message to dispatch that reads, "Bad run no $." 1RP 595-597; exhibit 53.

The taxi was now 1/6 of a mile from Albrightson's apartment complex. 1RP 597. The final straw for Stack occurred after he turned left onto 7th Ave. S.E. Beyond what audio the camera was able to record inside the van, according to Stack, Seabolt whispered to Albrightson, "I'm not going to pay him." 1RP 596-597. At that point, Stack had heard enough, decided to terminate their ride, and pulled into a middle turn lane on 7th Ave. S.E. 1RP 596; exhibit 85 (file 340). The speed limit is 25 m.p.h. on this road and there were sidewalks nearby. 1RP 600-601. Stack demanded that everyone "get the fuck out" and threatened to call police. 1RP 235, 486-488, 599-600; exhibit 85 (file 340).

Albrightson and Seabolt argued with Stack, yelling and swearing at him. 1RP 234-235, 487-488, 600-601; exhibit 85 (file 340). At some point, McKenna got up from her seat, ran into the street, and was almost struck by a bus before quickly getting back inside the van. 1RP 237-238, 244, 490.

Stack was already on the phone with a 911 operator reporting two

irate customers he wanted out of his cab. 1RP 496, 602-603; exhibits 85 (file 340), 104 (track 2).

While still sitting in the driver's seat of his van, Stack was physically struck from behind, breaking his glasses and causing a laceration near his right eye. Exhibits 44-46, 85 (file 340), 86, 88, 104 (track 2). A small toy that had been purchased for McKenna ended up on the front floorboard near Stack's broken glasses. 1RP 255, 470-471; exhibits 87, 130.

According to Stack, Albrightson had the toy in her fist and began punching him from behind in the head and face. 1RP 605. Before he could unbuckle his seatbelt, Seabolt then also threw an elbow into his face prior to exiting the van and then returned to hit him some more. 1RP 606.

At trial, Albrightson and Seabolt denied any knowledge of who was responsible for assaulting Stack. According to Albrightson, she had already exited the van and was gathering things in the back hatch when McKenna was almost hit by the bus. 1RP 235-237, 244. She denied hitting Stack and claimed not to have seen any physical altercation inside the van, but added that she had not been paying attention. 1RP 246, 257, 272. Similarly, Seabolt denied assaulting Stack or seeing him assaulted, although she did eventually concede that her arm made contact with some part of him as she exited the van. 1RP 496-497, 533-534, 543-546.

Given the dangers associated with driving a cab, Stack kept a collapsible baton within arm's reach for protection. 1RP 579-580. According to Stack, in response to the flurry of punches and elbow he received from the women, he grabbed the baton and walked around the back of his van intending to make sure everyone and their possessions were out of the taxi. 1RP 603, 606, 609-610. Albrightson did not appear to be a threat at that moment, and Stack walked past her near the back of the van. 1RP 610. Stack approached Seabolt on the passenger side and told her to take her hand out of her purse because he feared she might have a weapon. According to Stack, as he momentarily turned his attention back to Albrightson, Seabolt balled up her fist to hit him again. 1RP 611. Stack used force to push Seabolt away from him, but he denied striking her with the baton. 1RP 611, 651-652.

What happened next occurred near the front of his van and was caught by his traffic camera. 1RP 612. Albrightson slammed into Stack from behind, Stack struck her with the baton, and Albrightson retreated from view. 1RP 612-613; exhibit 85 (file 340). Stack returned to the driver's door of his van, spoke to the 911 operator again, reported that he had been assaulted, and waited for police to arrive. 1RP 613; exhibits 85 (file 340), 104 (track 2). Stack maintained that he had acted in lawful self-defense against both women. 1RP 626.

Seabolt and Albrightson provided a different version of events surrounding Stack's use of the baton. Seabolt testified that she was in the process of exiting the van, with Mason in her arms, when Stack exited the driver's door, ran past Albrightson at the rear of the van, approached her on the passenger side of the vehicle, and struck her with the baton at least three times. 1RP 490-494. Albrightson then grabbed Stack, who repeatedly struck her on the head. 1RP 495.

Albrightson testified that Stack exited the van, passed by her with the baton in hand, and struck Seabolt at least twice while she was holding Mason. Albrightson responded by grabbing Stack by the back of his shirt and then pushing Stack, who then struck her twice – once in the lip and once above her hairline. 1RP 246-252.

Other witnesses saw some portion of the fray.

Teddy Leavitt was driving the bus that almost hit McKenna when she darted from the van. 1RP 353-357. Leavitt testified that he saw Stack repeatedly hit Seabolt and then Albrightson. 1RP 359-363. He did not think, however, that Seabolt was holding a child at the time she was struck. 1RP 361. He continued to watch as Stack returned to the driver's seat of his van and waited there until police arrived. 1RP 364. Although Leavitt claimed that Stack hit Albrightson countless times (perhaps more than 6 times) and continued to repeatedly strike her in the head after she had gone to the

ground, even Albrightson denied this was the case. Compare 1RP 363, 371 with 1RP 251-252 (two strikes while standing).

Kristin Fowler is a hair stylist who works at a salon with a view of 7th Ave. S.E. 1RP 331-332. She was first alerted that something was happening by the sounds of a woman yelling. 1RP 334. She looked to see Stack's van in the center lane and Seabolt exiting the passenger door and retrieving something from inside the van. 1RP 335-337. She then saw two women and heard "lots of yelling." 1RP 337. She watched as Stack got out of the van, approached the passenger side (she recalled Stack walking around the front of the van), and struck one or both women three times with his baton. 1RP 337-338. Fowler believed she would recall if Seabolt had been holding a child when struck, and she did not see a child from her vantage. 1RP 346. After Fowler walked over to help, Seabolt told her that Stack was "crazy" and had been hitting himself inside the van. 1RP 342-343, 347-348.

Harold Hobbs was driving his white pickup on 7th Ave. S.E. when he came upon the aftermath of the fray. 1RP 318-319, 323. Albrightson was lying in the street and bleeding, and Stack was standing in front of his van holding the baton. 1RP 320-323. To ensure the two children were out of the street and the cold, he allowed them to sit inside his pickup while the matter was sorted out. 1RP 322.

Stack was not the only one injured. Seabolt had bruises on her left shoulder, arm, and side**.** 1RP 510-513; exhibits 3-5. Albrightson had abrasions/bruising on her lower lip and an approximately two inch gash on her scalp. 1RP 259-261, 295-297; exhibits 26, 34.

Albrightson is a light-skinned African American. 1RP 443. Unfortunately, both she and Seabolt – initially unaware of the audio recording from inside Stack's van – made several false claims portraying Stack as a racist. Albrightson told police and medical personnel that Stack called her a "nigger." 1RP 262-264, 268-271, 301-302. By the time of trial, however, Albrightson conceded that audio from the event did not support this claim. 1RP 262. Seabolt maintained that Stack had used the label "stupid dumb niggers" as they were turning onto 7th Ave. S.E. and later – referring to Mason – said "get that little nigger out." 1RP 508, 528-532, 536. Eventually, however, even she was forced to concede she could be wrong in light of the recordings. 1RP 540-542. Both women contacted attorneys concerning a civil suit against Stack and the cab company. 1RP 538-539.

Consistent with Stack's claims at the scene and his trial testimony, defense counsel argued that Stack acted in lawful self defense when, in response to being attacked, he used reasonable force to fend off Seabolt and Albrightson. 1RP 703-727, 730. As to the children, the defense argued that any danger they faced was a direct result of Albrightson and Seabolt's failure

to properly supervise and attend to them as they vacated the taxi. 1RP 727-728.

In an attempt to undermine Stack's self-defense claim, the State requested a first aggressor instruction, which Judge Okrent denied. 1RP 673-679. Jurors hung on the Assault charges in counts 1 and 2, convicted Stack of Reckless Endangerment in count 3 (McKenna), and acquitted him of Reckless Endangerment in count 4 (Mason). CP 257-260; 1RP 751.

b. Trial Two

Retrial on counts 1 and 2 began on July 2, 2018 before the Honorable David A. Kurtz. 2RP 15. While testifying, Ashley Seabolt suffered a seizure, resulting in a mistrial. 2RP 486-503.

c. Trial Three

Trial three began on September 24, 2018 before the Honorable Marybeth Dingledy. 3RP 1.

Amanda Albrightson once again explained how she, Ashley Seabolt, and the two children went shopping at Wal-Mart before calling a cab for a ride back to her apartment. 3RP 314-327. She again described events and escalating tensions during the ride in Stack's cab. 3RP 327-347. She again denied that she or anyone else assaulted Stack while inside the van. 3RP 353. And she again described events outside the van – seeing Stack go after Seabolt, physically pulling and pushing Stack away from Seabolt, being

struck with the baton, pushing Stack again, and being struck a second time. 3RP 357-361, 396. She testified that the video captured only the second time she was hit with the baton. 3RP 360.

Ashley Seabolt also again denied assaulting Stack inside the van but allowed for the fact her arm may have contacted him as she exited the van. 3RP 457, 473-476, 521-522. She again described being hit with the baton outside the van and Stack's struggle with Albrightson. 3RP 476-483. By this third trial, she had finally and fully retreated from her earlier assertions that Stack had used racist language at any point. 3RP 497-498.

Law enforcement officers testified again. 3RP 535-545, 560-575, 622-646, 651-664, 683-702. Leavitt (the bus driver) and Fowler (the hair stylist) testified again. 3RP 576-622. But Hobbs (driver of the white pickup) was unavailable, so his prior testimony was read to the jury. 3RP 704-711.

The State also read an edited version of Stack's testimony from the first trial. 3RP 783-849. Thus, this jury (like the first) heard Stack's version of events and his assertion of self-defense. Because Stack's version of events was presented in this fashion, the defense rested without having Stack take the stand again. 3RP 851-852.

Similar to the first trial, defense counsel argued that Stack acted in lawful self-defense when, in response to being attacked, he used reasonable force to fend off Seabolt and Albrightson. 3RP 966-980. Unlike the first

trial, however, the State was able to convince the trial judge to give a first aggressor instruction. 3RP 887-892, 899-901; CP 213.

Jurors convicted Stack on both counts of Assault and, by special verdict, found that he was armed with a deadly weapon on count 1. CP 188-190; 3RP 1019-1020. The defense filed a motion for new trial based, in part, on the giving of the first aggressor instruction and prosecutorial misconduct during closing arguments. CP 180-187. The motion was denied. 3RP 1052.

Judge Dingledy imposed a total of 24 months and a day for the two Assault convictions, a concurrent 364 days on the Reckless Endangerment conviction, and 18 months' community custody. CP 32, 41-42; 3RP 1067.

2. Court of Appeals

On appeal, regarding the first trial, Stack argued the trial judge erred when denying a defense motion to remove an unfit juror and that judicial comments on the evidence denied him a fair trial. See BOA, at 17-18.

Regarding the third trial, Stack argued the trial judge erred in giving a first aggressor instruction, a law enforcement officer was permitted to give an improper opinion on Stack's use force, and prosecutorial misconduct in closing argument denied him a fair trial. See BOA, 29-43.

On February 20, 2020, shortly before oral argument in Stack's case, this Court issued its decision in State v. Grott, clarifying and modifying a number of principles concerning first aggressor instructions. That same day,

Stack submitted Grott as additional authority. On May 11, 2020, the Court of Appeals filed an opinion affirming Stack's convictions.

On June 1, Stack filed a Motion for Reconsideration, pointing out that, although Grott had been a major topic of conversation at oral argument (Stack had argued Grott demonstrated the first aggressor instruction in his case should not have been given), the Court of Appeals' opinion had barely mentioned Grott. He asked the Court to reconsider and expressly address Grott's impact. Motion, at 2-4. He also took issue with the Court's failure to address his prosecutorial misconduct claim. Although the claim was comprehensively briefed with 7 pages of citations and discussion, the Court concluded that "Stack provides no authority or explanation." Slip Op., at 11. Stack argued the Court's failure to address an issue properly before it violated his constitutional right to appeal under Wash. Const. art. 1, § 22. Motion, at 4-6. The Motion for Reconsideration was denied.

E. ARGUMENT

1. THE COURT OF APPEALS' DECISION CONFLICTS WITH GROTT

On appeal, Stack argued the trial evidence did not support the giving of a first aggressor instruction for the two counts of Assault in the Second Degree. See AOB, at 29-32; Reply, at 7-9.

The primary focus at oral argument was this first aggressor issue, and a major part of that discussion was the impact of Grott. Grott clarified a number of points regarding the first aggressor doctrine, and Stack relied on one portion of Grott in particular as supportive of his position: “”[T]he reason one generally cannot claim self-defense when one is the aggressor is because ‘the aggressor’s victim, defending himself against the aggressor, is using lawful, not unlawful force; and the force defended against must be unlawful force, for self-defense.’” Grott, 195 Wn.2d at 266 (quoting State v. Riley, 137 Wn.2d 904, 909, 976 P.2d 624 (1999) (quoting 1 WAYNE R. LAFAVE & AUSTIN W. SCOTT, JR., SUBSTANTIVE CRIMINAL LAW § 5.7(e), at 657-58 (1986)).

The evidence at trial established that, in response to Stack’s act of stopping his cab in the road and ordering the passengers out, he was physically attacked as he sat in the driver’s seat of his van, resulting in an injury near his eye and broken glasses. RP 605-606; exhibits 44-46, 85 (file 340), 86, 88, 104 (track 2); see also Slip Op., at 2 (“Seabolt hit Stack in the face.”).

Under Grott, there could be no showing that such a violent and physical reaction constituted reasonable, lawful force in response to Stack’s act of stopping the cab and demanding everyone exit, particularly where the adult women had other lawful options (such as simply waiting

for police to arrive, since Stack himself had already called police and remained seated in the front of the van). See 3RP 810-815; RCW 9A.16.020(1)(3) (use of force lawful when a party is about to be injured and where "force is not more than is necessary"). Because Stack then reacted to this *unlawful* physical force with physical force of his own, a first aggressor instruction was not properly given. See Grott, 195 Wn.2d at 266 (a first aggressor cannot claim self-defense when he is reacting to *lawful* force).

Despite the discussion of Grott at oral argument, the Court of Appeals' decision in Stack's case did not include consideration of whether the first aggressor instruction was improperly given at Stack's third trial because Stack himself was responding to *unlawful* force. The Court of Appeals' resolution of the issue conflicts with Grott, and review is appropriate under RAP 13.4(b)(1).

2. THE COURT OF APPEALS' FAILURE TO ADDRESS STACK'S PROSECUTORIAL MISCONDUCT CLAIM CONFLICTS WITH PRECEDENT AND VIOLATES HIS CONSTITUTIONAL RIGHT TO APPEAL.

The right to appeal is guaranteed under the Washington Constitution: "In criminal prosecutions the accused shall have . . . the right to appeal in all cases[.]" Wash. Const. art. I, § 22 (emphasis added). Included in the right to appeal is the right to have the appellate court

consider the merits of the issues raised on appeal. State v. Rolax, 104 Wn.2d 129, 134-35, 702 P.2d 1185 (1985).

It is misconduct to misstate the evidence or argue facts unsupported by the record. State v. Reeder, 46 Wn.2d 888, 892, 285 P.2d 884 (1955); State v. Guizzotti, 116 Wn.2d 1026, 812 P.2d 102 (1991). Stack devoted 5 pages of his opening brief and 2 additional pages of his reply brief to the violation of this prohibition occurring during the State's closing argument at his third trial. See BOA, at 38-43; Reply Brief, at 11-13.

As discussed there, Teddy Leavitt's recollection of what he claimed to see on the day of the fray, although conflicting with other prosecution witnesses on a number of points, remained consistent over time. Compare 1RP 360, 363 with 3RP 608, 610, 612; see also 1RP 365-371 (Leavitt testifying at first trial from memory and with assistance of written statement he provided one day after event). Yet, contrary to that fact, at the third trial, the prosecutor sought to explain away and excuse the differences between his testimony and that of the other witnesses by blaming it on the passage of time. See 3RP 984 ("If Teddy Leavitt is wrong, how did he get it wrong? Which way did his mind's eye turn this situation in the nearly two years since it happened and he's thought about it from time to time?").

The prosecutor's claim that Leavitt's clearly incorrect testimony was simply the product of someone whose memory had changed over the course

of two years was false and misleading. His version of events had *never* been credible. By misstating the facts, the prosecutor was able to offer a reasonable (but incorrect) explanation for that testimony, thereby explaining away significant weaknesses in his version of events and leaving his credibility generally intact. This improperly rehabilitated and bolstered his testimony – testimony that aligned with the State's theory of events.

Despite the briefing on this issue, the Court of Appeals summarily rejected the claim, writing, "But, Stack provides no authority or explanation aside from stating that the prosecutor's statements regarding the passage of time is 'improper.' He does not show that any prosecutorial misconduct occurred." Slip. Op., at 11 (citing RAP 10.3(a)(6); Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992)). It is impossible to reconcile this statement with the briefing submitted, which fully explains why the prosecutor's argument was improper under precedent prohibiting false claims during closing argument.

Stack has a constitutional right to appeal, including a decision on the merits. WASH. CONST. art. I, § 22; Rolax, 104 Wn.2d 134-135. That right is violated when an appellate court simply chooses not to decide an issue properly before it. Review is appropriate under RAP 13.4(b)(1) and (b)(3).

3. REVIEW OF THE REMAINING ISSUES IS ALSO WARRANTED.

a. Refusal To Remove Unfit Juror

The federal and state constitutions guarantee every criminal defendant the right to a fair and impartial jury. Taylor v. Louisiana, 419 U.S. 522, 526, 95 S. Ct. 692, 42 L. Ed. 2d 690 (1975); State v. Brett, 126 Wn.2d 136, 157, 892 P.2d 29 (1995), cert. denied, 516 U.S. 1121, 116 S. Ct. 931, 133 L. Ed. 2d 858 (1996); State v. Gonzales, 111 Wn. App. 276, 277, 45 P.3d 205 (2002), review denied, 148 Wn.2d 1012, 62 P.3d 890 (2003). "'The right to trial by jury means trial by an unbiased and unprejudiced jury, free of disqualifying juror misconduct.'" Robinson v. Safeway Stores, Inc., 113 Wn.2d 154, 159, 776 P.2d 676 (1989) (quoting Smith v. Kent, 11 Wn. App. 439, 441, 523 P.2d 446 (1974)).

At Stack's first trial, juror 9 feared that Stack might be using his cell phone to take photos of jurors during trial. See 1RP 280-286. On appeal, Stack argued that juror 9 should have been removed for misconduct because his fear demonstrated an inability to follow the court's instructions, presume Stack innocent, keep an open mind, or put his prejudices aside. See BOA, at 17-25; Reply, at 1-4.

The Court of Appeals' decision that the trial judge properly denied defense motions to strike juror 9 cannot be reconciled with the facts or

prior decisions on the right to an unbiased jury. Review is appropriate under RAP 13.4(b)(1) and (b)(2).

b. Comment On The Evidence

Article 4, § 16 of the Washington Constitution provides, "Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law." The purpose of this constitutional prohibition "is to prevent the jury from being influenced by knowledge conveyed to it by the court as to the court's opinion of the evidence submitted." State v. Lampshire, 74 Wn.2d 888, 892, 447 P.2d 727 (1968). The prohibition is strictly applied. Seattle v. Arensmeyer, 6 Wn. App. 116, 120, 491 P.2d 1305 (1971). The court's opinion need not be express to violate the prohibition; it can simply be implied. State v. Levy, 156 Wn.2d 709, 721, 132 P.3d 1076 (2006). A comment in violation of article 4, § 16 is presumed prejudicial and the State bears the burden to show that no prejudice resulted. Levy, 156 Wn.2d at 723-25.

By pleading not guilty to the charges against him, Stack contested the State's accusations and "put[] in issue every element of the crime charged." CP 266. His pleas also triggered the presumption of innocence, which continued unless "overcome by the evidence beyond a reasonable doubt." CP 266. The defense worked hard to convince jurors that, despite the four charges against Stack, no crime had been committed.

Unfortunately, at the first trial, shortly after Stack's jury had been chosen and sworn to hear the case, 1RP 177, Judge Okrent indicated to jurors that a crime had in fact been committed. Specifically, he indicated:

> As a juror, do not seek out evidence on your own. Do not inspect the scene of an event involved in the case as conditions may not be the same. You're jurors, not detectives. Don't go to the scene of the crime, as they say. Just don't do it.

1RP 181 (emphasis added). This was an unfortunate deviation from the standard pattern instruction, which reads, "Do not inspect the scene of any event involved in this case." 11 Wash. Prac., Pattern Jury Instruction Criminal, WPIC 1.01, Advance Oral Instruction, Beginning of Proceedings (Part 2—Following Jury Selection) (4th ed. 2018).

Judge Okrent repeated the mistake the following day just before recessing trial for the day. While emphasizing the need to focus on the evidence presented, Judge Okrent said,

> Other than that, you've heard a lot of testimony. So please don't go looking around, poking around 7th Avenue and Wal-Mart. Don't go to the scene of the crime. Don't be checking your internet or cellphones or tablets or anything like that. Don't be reading the newspapers about this case or anything online about this case. It's very important since we've heard a lot of testimony that you adhere to these rulings.

1RP 329 (emphasis added).

The Court of Appeals' decision that this was harmless beyond a reasonable doubt cannot be reconciled with the trial record or the standards set forth in Lampshire and Levy. Review of this issue also is warranted under RAP 13.4(b)(1).

c. Improper Opinion On Use of Force

Title VII of the Rules of Evidence addresses expert opinions and testimony. ER 702 provides:

> If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Admission under the rule requires that the opinion be both relevant and helpful to the jury. State v. Cheatam, 150 Wn.2d 626, 81 P.3d 830 (2003).

At Stack's third trial, jurors were instructed that, to convict Stack of Assault in the Second Degree, the State had to prove Stack used a "deadly weapon," a term defined for them. See CP 202-203, 206. Jurors also were instructed on the definition of "deadly weapon" for purposes of a sentencing enhancement. See CP 218.

Over defense objections, 3RP 679-681, and despite the fact this testimony had been excluded at Stack's second trial, 2RP 351, Everett Police Sergeant Jeff Pountain testified that police are trained to use batons

similar to the one Stack used, police are trained not to strike a person's head, and that use of a baton to the head is considered "level three force," which means "potentially deadly," since it can fracture a skull and cause death. See 3RP 693-696. On appeal, Stack argued that police standards for deadly force were irrelevant, the sergeant should not have been permitted to testify on the subject, and his testimony could not be deemed harmless in its impact on the State's proof of deadly force. See BOA, at 35-37; Reply, at 9-11.

The Court of Appeals finding that Sergeant Pountain's testimony on police standards of deadly force was properly admitted and considered is inconsistent with the standards set forth in Cheatam. Review is appropriate under RAP 13.4(b)(1).

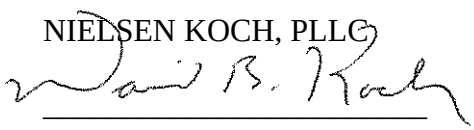
F. CONCLUSION

Jeremy Stack respectfully asks this Court to grant his petition and reverse the Court of Appeals.

DATED this 9th day of July, 2020.

Respectfully submitted,

NIELSEN KOCH, PLLC



DAVID B. KOCH, WSBA No. 23789
Office ID No. 91051
Attorneys for Petitioner

APPENDIX A

FILED
5/11/2020
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. JEREMY STACK, Appellant.	No. 79266-1-I DIVISION ONE UNPUBLISHED OPINION

LEACH, J. — Jeremy Stack appeals his conviction for one count of assault in the second degree, one count of assault in the second degree with a deadly weapon, and one count of reckless endangerment. He claims the trial court should have removed one juror for bias, and that it improperly commented on the evidence by referring to the event giving rise to his charges as "the scene of the crime". He also claims the evidence did not support giving a first aggressor instruction. Finally, he claims the trial court should not have allowed expert testimony about batons, and that the prosecutor made improper comments during closing statements.

The trial court did not err in failing to remove a juror or by giving the first aggressor instruction. Assuming, without deciding, that the judge's comments were error, any error was harmless. Finally, the trial court did not abuse its discretion by allowing expert testimony about batons. And, Stack fails to show that the prosecutor made any improper comments. We affirm.

FACTS

Jeremy Stack, a taxi driver for the Everett Cab Company, arrived at Walmart to drive home Ashley Seabolt, Amanda Albrightson, and Albrightson's two children M.X.A. and M.M.A. M.X.A. was 16-months-old and M.M.A. was four-years-old. Stack began the fare meter as the passengers were putting their groceries and a stroller into the back of the taxi before they fully got into the vehicle. This concerned them. Albrightson asked Stack if $8 would be enough for the ride and Stack responded, "we'll see." Albrightson then asked Stack if he could take a shortcut behind a shopping mall to bypass traffic, which he refused.

Stack then pulled into a center turn lane and yelled at the passengers to "get the fuck out." At some point, while Albrightson got out and walked to the back of the van to get her things, Seabolt hit Stack in the face. His glasses broke during the altercation. He also had a small abrasion next to his right eye, which the on-scene officer noticed on arrival.

M.M.A. ran out of the van and into the street. Albrightson heard a vehicle brake, and saw M.M.A. five feet in front of a braking school bus in the middle of the road. She then saw Stack get out of the car with a metal baton and approach Seabolt as she was getting out of the van while holding M.X.A. Stack had to walk around Albrightson to reach Seabolt. Stack began hitting Seabolt while she was covering M.X.A.'s head. Albrightson ran toward them and pulled Stack off of Seabolt by grabbing and pushing him away. Stack then began hitting Albrightson with the baton on her head and face.

The State charged Stack with two counts of assault in the second degree with a

deadly weapon. At trial, Stack testified that Seabolt punched him with a toy in his eye and on the back of his head, face, and forehead. He stated that she hit him in the face, left the van, got back into the van, and then continued to hit him. At that point, he grabbed his baton and got out of the van to see where the kids were so he could leave. He could not see clearly because Seabolt knocked his glasses off in the van. Seabolt balled up her fist to hit him, so he used force to push her away from him. Albrightson then slammed into him from behind and he struck her with the baton.

Stack's first trial resulted in a hung jury on the assault counts, but the jury convicted Stack of reckless endangerment of M.M.A and found him not guilty of reckless endangerment of M.X.A. The second trial resulted in a mistrial due to a witness medical emergency during testimony. After the third trial, the jury found Stack guilty of second degree assault against Seabolt, and second degree assault with a deadly weapon against Albrightson. Stack appeals.

ANALYSIS

Juror Misconduct

Stack claims that the trial court should have removed a juror because the juror expressed bias and failed to follow the court's instructions.

An appellate court reviews a trial court decision about dismissing a juror for abuse of discretion.[1] A court abuses its discretion when its decision is "'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'"[2] In assessing alleged

---

[1] State v. Depaz, 165 Wn.2d 842, 858, 204 P.3d 217 (2009).
[2] Breckenridge v. Valley Gen. Hosp., 150 Wn.2d 197, 203-04, 75 P.3d 944 (2003) (quoting State ex rel. Carroll v. Junker, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

juror misconduct, the trial judge necessarily acts as "both an observer and decision maker."[3] Because such "'fact-finding discretion' " allows the judge to weigh the credibility of jurors, we accord the trial court's decision with substantial deference.[4]

During the first trial, Juror 9 expressed concern that Stack was using his cell phone and could take his picture. He stated he did not think Stack was doing anything wrong but just wanted to know if the court permitted Stack's cell phone use. The trial court denied Stack's request to strike Juror 9. Stack claims Juror 9's conduct shows that Juror 9 could not presume him innocent and inferred Juror 9's bias against him.

Stack also claims the trial court erred in denying his motion to strike Juror 9 a second time, because Juror 9 asked the law clerk if the jury would receive a transcript of the trial testimony instead of writing and submitting the question to the presiding juror as instructed. Stack claims this shows Juror 9 could not follow the court's instructions including an inability to presume Stack innocent.

When the court questioned Juror 9 about his concerns involving Stack's cell phone use, Juror 9 indicated that he presumed Stack innocent and did not think Stack was doing anything wrong, and he just wanted to know if he was allowed to use the cell phone. None of the concerns or answers show an inability to presume Stack innocent.

Also, Juror 9 followed all the proper court directions, and his question about the transcripts does not show that he was unfit to serve in the case. Juror 9's question was for clarification purposes, it did not show the juror was unable to follow court procedures,

---

[3] State v. Jorden, 103 Wn. App. 221, 229, 11 P.3d 866 (2000).
[4] Jorden, 103 Wn. App. at 229 (quoting Ottis v. Stevenson–Carson Sch. Dist. No. 303, 61 Wn. App. 747, 753, 812 P.2d 133 (1991)).

and it had no effect on the trial. The trial court did not abuse its discretion by refusing to remove Juror 9.

Improper Comment on Evidence

Stack claims the trial court improperly commented on evidence by telling the jury twice that they could not go to the scene of the crime during trial.

Article IV, section 16 of the Washington State Constitution provides, "Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law." This prohibits a judge from "conveying to the jury his or her personal attitudes toward the merits of the case."[5]

During the first trial, the judge instructed the jurors:

> As a Juror, do not seek out evidence on your own. Do not inspect the scene of an event involved in the case as conditions may not be the same. You're Jurors, not detectives. Don't go to the scene of the crime, as they say. Just don't do it.

The court again instructed the jury after the first day of testimony:

> Other than that, you've heard a lot of testimony. So please don't go looking around, poking around 7th Avenue and Wal-Mart. Don't go to the scene of the crime. Don't be checking your internet or cellphones or tablets or anything like that. Don't be reading the newspapers about this case or anything online about this case. It's very important since we've heard a lot of testimony that you adhere to those things.

Stack claims these comments were improper because they indicate that Stack committed a crime, and whether a crime had occurred was a disputed issue.

Assuming, without deciding, that the judge's instructions commented on evidence, any error was harmless.

---

[5] State v. Becker, 132 Wn.2d 54, 64, 935 P.2d 1321 (1997).

A constitutional error is harmless if we are convinced beyond a reasonable doubt that any reasonable jury would have reached the same result without the error.[6] If the evidence untainted by the error is so overwhelming that it necessarily leads to a finding of guilt, an appellate court will affirm the conviction.[7]

Having reviewed the record, we are convinced beyond a reasonable doubt that the judge's challenged instructions could not have changed the jury's verdict. The statement "the scene of the crime" occurred during the first trial, which resulted in a hung jury on the assault charges and a conviction for reckless endangerment. So, we need to consider only whether the comments affected his reckless endangerment conviction.

To convict Stack of reckless endangerment, the State had to prove that "Mr. Stack knew of and disregarded a considerable risk—not a certainty—of death or serious physical pain or injury to M.M.A. and M.X.A. and that his behavior constituted a gross deviation from how a reasonable person would have acted based on the known facts."

Here, despite the availability of nearby parking lots, Stack stopped his van in the middle of a busy street and instructed all the passengers, including 16-month-old M.X.A. and four-year-old M.M.A., to "get the fuck out." Stack knew the passengers had possessions in the back of the vehicle including a stroller. After Stack pulled over and instructed the passengers to get out, M.M.A. ran into the street and a bus almost hit her. Any reasonable person would know that ordering young children and adults to get out in

---

[6] State v. Guloy, 104 Wn.2d 412, 425, 705 P.2d 1182 (1985).
[7] Guloy, 104 Wn.2d at 425.

the middle of a busy street would create a considerable risk of death or serious physical injury.

The overwhelming evidence, without the judge's comments, necessarily leads to a finding beyond a reasonable doubt that Stack knew of and disregarded a considerable risk that his actions could have seriously injured or killed M.M.A. Any error was harmless.

First Aggressor Instruction

Stack next challenges the trial court's decision to give a first aggressor instruction. Stack claims the record includes no evidence of an intentional act by him reasonably likely to provoke a belligerent response and create the necessity to act in self-defense.

We review de novo whether sufficient evidence supports a trial court's decision to give a first aggressor instruction.[8]

The first aggressor instruction reflects the general principal that a defendant may not invoke the right to defend himself when he provoked the altercation.[9] It is appropriate where a defendant invokes the right to self-defense and there is credible evidence from which a jury can reasonably determine that the defendant created the need to defend himself.[10] The party requesting the instruction, here the State, must produce credible evidence to warrant it.[11] On appellate review, this court considers the evidence in the light most favorable to the requesting party.[12] Most cases involve complicated facts making the use of bright line rules inappropriate.[13]

---

[8] State v. Bea, 162 Wn. App. 570, 577, 254 P.3d 948 (2011).
[9] State v. Riley, 137 Wn.2d 904, 912, 976 P.2d 624 (1999).
[10] Riley, 137 Wn.2d at 909-10.
[11] State v. Richmond, 3 Wn. App. 2d 423, 432-33, 415 P.3d 1208 (2018).
[12] Bea, 162 Wn. App. at 577.
[13] State v. Grott, 458 P.3d 750, 758 (2020).

A court properly instructs the jury about a first aggressor where "'(1) the jury can reasonably determine from the evidence that the defendant provoked the fight, (2) the evidence conflicts as to whether the defendant's conduct provoked the fight, or (3) the evidence shows that the defendant made the first move by drawing a weapon.'"[14] The provoking act, because words alone will not suffice, must be both predicate and related to the charged crime.[15] Also, the provoking act must be intentional and one that a "jury could reasonably assume would provoke a belligerent response by the victim."[16] The unlawful act creating the provocation need not be the actual striking of a first blow.[17] (W)here there is evidence that the defendant engaged in a course of aggressive conduct, rather than a single aggressive act, "the provoking act *can* be part of a 'single course of conduct.'"[18]

Courts should be careful about giving a first aggressor instruction.[19] But, courts do not err in giving the instruction when there is credible evidence warranting it.[20]

Here, the first aggressor instruction read:

> No person may, by any intentional act reasonably likely to provoke a belligerent response, create a necessity for acting in self-defense and

---

[14] Richmond, 3 Wn. App. 2d at 432 (quoting State v. Anderson, 144 Wn. App. 85, 89, 180 P.3d 885 (2008)), review denied, 191 Wn.2d 1009, 424 P.3d 1223 (2018).
[15] State v. Sullivan, 196 Wn. App. 277, 383 P.3d 574 (2016) (quoting State v. Wasson, 54 Wn. App. 156, 159, 772 P.2d 1039 (1989).
[16] State v. Wasson, 54 Wn. App. 156, 159, 772 P.2d 1039 (1989) (quoting State v. Arthur, 42 Wn. App. 120, 124, 708 P.2d 1230 (1985), review denied, 113 Wn.2d 1014, 779 P.2d 731 (1989).
[17] State v. Hawkins, 89 Wash. 449, 154 P. 827 (1916).
[18] State v. Grott, 458 P.3d at 758 (quoting State v. Sullivan, 196 Wn. App. 277, 383 P.3d 574 (2016)).
[19] Riley, 137 Wn.2d at 910.
[20] State v. Hughes, 106 Wn.2d 176, 192, 721 P.2d 902 (1986); State v. Heath, 35 Wn. App. 269, 271-72, 666 P.2d 922, review denied, 100 Wn.2d 1031 (1983).

> thereupon use, offer, or attempt to use force upon or toward another person. Therefore, if you find beyond a reasonable doubt that the defendant was the aggressor, and that defendant's acts and conduct provoked or commenced the fight, then self-defense is not available as a defense. Words alone are not sufficient to qualify one as an aggressor.

Stack claims that it is not reasonably likely that "cutting a cab ride short and demanding customers vacate the cab would lead to assaultive conduct by those customers and thereby create the necessity to act in self-defense."

He explains how it was the assault on Stack, "rather than anything preceding it, that triggered the necessity of Stack's use of defensive force." But, the record contains sufficient evidence to allow a juror to find an aggressive course of conduct by Stack reasonably likely to provoke a belligerent response from the mothers of the young children riding in his taxi. Stack suddenly and unnecessarily demanded that these children leave the taxi in the middle of a busy street, exposing them to serious risk of harm. The trial court did not abuse its discretion by giving the first aggressor instruction.

Witness Testimony

Stack claims the trial court should not have allowed Everett Police Sergeant Jeff Pountain to testify about batons as a deadly weapon, because it was not relevant evidence.

We review a trial court's evidentiary ruling for abuse of discretion.[21] A court abuses its discretion "only if no reasonable person would have decided the matter as the trial court did."[22]

---

[21] State v. Darden, 145 Wn.2d 612, 619, 41 P.3d 1189 (2002).
[22] State v. O'Connor, 155 Wn.2d 335, 351, 119 P.3d 806 (2005); Darden, 145 Wn.2d at 619 (quoting State v. Powell, 126 Wn.2d 244, 258, 893 P.2d 615 (1995)).

The threshold to admit relevant evidence is very low.[23] Evidence is relevant if it has "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."[24]

At the third trial, Pountain testified that Stack's collapsible metal baton was similar to batons issued to police officers. He told jurors that a strike to the head with a baton can cause significant bodily injury, fracture a skull, and it can cause death. Stack claims this testimony had no tendency to make the existence of any fact of consequence more or less probable, making it not relevant. But, the jury had to decide, as a matter of fact, whether the baton was a deadly weapon. So, Pountain's testimony regarding the baton's ability to be used as a deadly weapon, depending on where it is used on the body, was relevant to whether Stack used the baton as a deadly weapon. The trial court did not abuse its discretion in admitting the evidence.

Prosecutorial Misconduct

Stack next claims the prosecutor engaged in prosecutorial misconduct when he suggested that one of the witness's mistaken recollection of events could have resulted from the passage of time between the event and his testimony.

During closing arguments, the prosecutor made the following statement:

> But think about this. If Teddy Leavitt is wrong, how did he get it wrong? Which way did his mind's eye turn this situation in the nearly two years since it happened and he's thought about it from time to time? It turns it in the direction of starting with the truth of what he actually observed, a severe and a forceful and an unrebutted physical attack with a metal baton

[23] Darden, 145 Wn.2d at 621.
[24] ER 401.

> on two women. And it was the force and the severity of what he did see that has him stating now all this time later that in his mind's eye it was more times than he could count. That's how those types of mistakes happen.

But, Stack provides no authority or explanation aside from stating that the prosecutor's statements regarding the passage of time is "improper."[25] He does not show that any prosecutorial misconduct occurred.

Statement of Additional Grounds

Stack claims a series of errors in his statement of additional grounds. He first claims an ethics violation and prosecutorial misconduct. He states, "a state prosecutor used witnesses, that he/she knew would lie on the stand and pergur [sic] themselves". He also claims the prosecutor misquoted the bible to strike any juror who "understood said scripture of the Jews," and because he is Jewish, he did not receive a fair trial. Stack further claims the prosecutor withheld evidence because there was missing glass and "the prosecutor knew Albrightson used a glass jar to cut herself."

Stack does not point to any evidence in the record supporting any of these claims. We will not consider these unsupported claims.[26]

He also states that prosecutorial misconduct occurred because a newspaper publicized this case. Stack does not provide any evidence that the prosecutor in this case had anything to do with the case appearing in the news.

---

[25] RAP 10.3(a)(6); Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).
[26] RAP 10.3(a)(6); Cowiche Canyon Conservancy, 118 Wn.2d at 809.

Stack next claims RCW 9A.16.020 allows any carrier of passengers to use force to expel passengers who refuse to obey a reasonable regulation for passenger conduct. This statute does not authorize criminal conduct.[27]

Stack next claims he should have been able to show that Albrightson and Seabolt were involved in a crime at the time of the event, because they were banned for life from Walmart yet shopped there that day. At trial, the judge ruled the trespass evidence irrelevant.

A trial court's ruling on the admissibility of evidence is reviewed for abuse of discretion.[28] Discretion is abused "only if no reasonable person would have decided the matter as the trial court did."[29]

Evidence is relevant if it has "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."[30]

Here, the trespass evidence was not relevant. Any evidence that Seabolt or Albrightson trespassed earlier that day to purchase groceries has no tendency to make the existence of any fact that is of consequence in this case more or less probable. So, the court did not abuse its discretion in denying the evidence.

---

[27] "We will not consider an inadequately briefed argument." Norcon Builders, LLC v. GMP Homes VG, LLC, 161 Wn. App. 474, 486, 254 P.3d 835 (2011).
[28] Darden, 145 Wn.2d at 619.
[29] O'Connor, 155 Wn.2d at 351; Darden, 145 Wn.2d at 619 ("Abuse exists when the trial court's exercise of discretion is 'manifestly unreasonable or based upon untenable grounds or reasons.'" (quoting Powell, 126 Wn.2d at 258).
[30] ER 401.

Stack next claims a juror in the first trial was alone with the prosecutor during lunch. But, he provides no citation to the record nor points to any evidence of this.[31]

Stack also claims judicial misconduct occurred at the second trial. Because that trial ended in a mistrial, this claim is moot.

Stack also claims the judge colluded with the prosecutor because the judge and prosecutor changed his testimony from the first trial to "suit these needs to convict with misquotes and lies". But, Stack fails to cite to any evidence showing either the judge or prosecutor changed his testimony.[32]

Stack claims the jury was manipulated because Stack lost a nurse who had knowledge of bruising. He fails to cite to the record for this or further explain or assign any error here.

Finally, Stack claims the prosecutor led the witnesses to elude to things that did not happen and that did not match evidence. But, he fails to explain what the prosecutor eluded to.

CONCLUSION

We affirm. The trial court did not abuse its discretion in refusing to remove a juror. If the trial court erred in instructing the jury not to visit the scene of the crime, the error is harmless because even without the judge's comments, the jury would have still convicted

---

[31] RAP 10.3(a)(6).
[32] RAP 10.3(a)(6).

Stack of reckless endangerment. Finally, Pountain's testimony about the use of batons was relevant and no prosecutorial misconduct occurred.

Leach, J.

WE CONCUR:

Brennan, J.

Verellen, J.

APPENDIX B

FILED
6/9/2020
Court of Appeals
Division I
State of Washington

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

STATE OF WASHINGTON, Respondent, v. JEREMY STACK, Appellant.	No. 79266-1-I ORDER DENYING MOTION FOR RECONSIDERATION

The appellant, Jeremy Stack, having filed a motion for reconsideration herein, and a majority of the panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration be, and the same is, hereby denied.

FOR THE COURT:

Leach, J.

NIELSEN KOCH P.L.L.C.

July 09, 2020 - 2:20 PM

Transmittal Information

Filed with Court:	Court of Appeals Division I
Appellate Court Case Number:	79266-1
Appellate Court Case Title:	State of Washington, Respondent v. Jeremy Dennis Stack, Appellant
Superior Court Case Number:	17-1-00193-1

The following documents have been uploaded:

- 792661_Motion_20200709140404D1189303_5534.pdf
  This File Contains:
  Motion 1 - Waive - Page Limitation
  The Original File Name was MTWL 79266-1-I.pdf
- 792661_Petition_for_Review_20200709140404D1189303_9138.pdf
  This File Contains:
  Petition for Review
  The Original File Name was PFR 79266-1-I.pdf

A copy of the uploaded files will be sent to:

- Diane.Kremenich@co.snohomish.wa.us
- diane.kremenich@snoco.org
- kwebber@co.snohomish.wa.us

Comments:

Copy mailed to: Jeremy Stack, 412410 Washington Corrections Center Evergeen B12- PO Box 900 Shelton, WA 98584-

---

Sender Name: John Sloane - Email: Sloanej@nwattorney.net
Filing on Behalf of: David Bruce Koch - Email: kochd@nwattorney.net (Alternate Email:)

Address:
1908 E. Madison Street
Seattle, WA, 98122
Phone: (206) 623-2373

Note: The Filing Id is 20200709140404D1189303