

# Supreme Court overturns 2010 kidnap, assault convictions

**By Russell Hixson | Posted: Friday, February 14, 2014 6:00 am**

MOUNT VERNON — The Washington State Supreme Court has overturned a Skagit County man's conviction in a 2009 kidnapping, assault and trespass case.

At his trial June 10, 2010, Phillip Garcia Jr. was convicted of first-degree kidnapping, second-degree assault and first-degree criminal trespass. The court overturned the first two convictions and maintained the third.

“We reverse Garcia's convictions for kidnapping in the first degree because there is insufficient evidence to support each of the alternative means of kidnapping presented to the jury,” the justices wrote. “We reverse his conviction for burglary in the second degree because of prejudicial trial error.”

Following the jury trial, Garcia was sentenced to more than 14 years in prison and the convictions were upheld by the Court of Appeals before going to the state's Supreme Court. Garcia had been incarcerated for four years.

In the early morning of Dec. 24, 2009, Garcia said he was cut off by three cars while driving near Sedro-Woolley. He said he heard two gunshots coming from the cars.

Believing that the people in the cars were chasing him, he tried to escape. In the process, he hit a railway track, and the car got stuck. Garcia abandoned the car and a passenger on the tracks and ran. Eventually, he made it to a nearby Valero gas station.

He testified that he thought the gas station would be open and that he could ask for help. However, the gas station's doors were locked.

Garcia picked up a cinder block and broke the glass door. Surveillance cameras showed him entering the store, turning around and walking out, without going near the cash register or causing other property damage inside.

Garcia testified that he walked out of the gas station after hearing an alarm because he had outstanding warrants and did not want to go to jail.

After unsuccessfully asking several people for help, he walked into a mobile home and woke up one of the residents. He explained his situation and asked for a ride, grabbing a knife for protection. The resident testified Garcia was extremely agitated, and she was terrified she might be killed.

Attempts to question the resident about statements made by Garcia were constantly challenged by prosecutors during trial, making insight into his intent difficult, the Supreme Court ruled. This also hampered the ability to find sufficient evidence to support first-degree kidnapping, which hinges on intent.

The prosecution also used a co-conspirator statement in police records outside the court record to try and prove Garcia had a history of burglary and dishonesty. The Appeals Court held this to be an error but concluded it was harmless.

Finally, the defense took issue with prosecutors incorrectly describing burglary during closing arguments, omitting the requirement that the state must prove intent to commit a crime inside a building.

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