

FILED

MAY 21, 2015

**In the Office of the Clerk of Court
WA State Court of Appeals, Division III**

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE**

| | | |
|----------------------|---|---------------------|
| STATE OF WASHINGTON, |) | |
| |) | |
| Respondent, |) | No. 32621-7-III |
| |) | |
| v. |) | |
| |) | |
| SEAN MICHAEL WRIGHT, |) | UNPUBLISHED OPINION |
| |) | |
| Appellant. |) | |

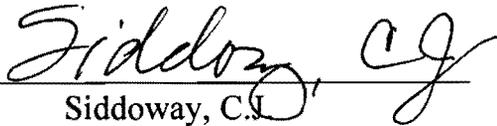
SIDDOWAY, C.J. — Sean M. Wright appeals his Spokane County conviction of attempt to elude a police vehicle. RCW 46.61.024. He contends the evidence was insufficient to support the conviction because the State failed to prove the essential element that the officer was in uniform at the time of the pursuit. The State concedes the error. We reverse Mr. Wright’s conviction and dismiss the case.

The attempt to elude charge against Mr. Wright stemmed from a March 6, 2013 police pursuit of a vehicle registered to him. The State presented evidence that Spokane Police Officer Sean Wheeler activated his patrol vehicle’s emergency lights and siren during the pursuit. But there was no evidence produced at trial that Officer Wheeler was in uniform at the time of the pursuit. Mr. Wright therefore contends the evidence was insufficient to support the conviction.

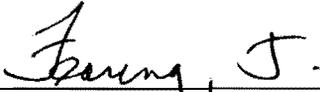
The test for determining the sufficiency of the evidence is whether, viewing the evidence and all reasonable inferences from that evidence in the light most favorable to the State, any rational trier of fact could have found the crime's essential elements beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). The requirement that the police officer be in uniform is an express element of attempt to elude a police vehicle. RCW 46.61.024; *State v. Fussell*, 84 Wn. App. 126, 128, 925 P.2d 642 (1996). The State concedes there was no such proof here, and that the evidence is therefore insufficient to support Mr. Wright's conviction. We agree and accept the State's concession.

Reversed and dismissed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.


Siddoway, C.J.

WE CONCUR:


Fearing, J.


Lawrence-Berrey, J.