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COURT OF APPEALS  
STATE OF WASHINGTON  
2010 MAY 21 02:53 PM

NO. 62971-9-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

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STATE OF WASHINGTON,

Respondent,

v.

NICOLAI L. GOLODIUC,

Appellant.

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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JUDGE CHERYL CAREY

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**SUPPLEMENTAL BRIEF OF RESPONDENT**  
**RE: STATE V. HALL**

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State v. Hall, \_\_\_\_ P.3d. \_\_\_\_,  
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**A. ISSUE PRESENTED**

This Court has requested supplemental briefing addressing the impact of the Washington Supreme Court's decision in State v. Hall, \_\_\_ P.3d \_\_\_, 2010 WL 1610966 (Apr. 22, 2010).

**B. ARGUMENT**

In Hall, the defendant made repeated phone calls from jail to a single witness and attempted to tamper with that witness regarding his upcoming trial. A jury convicted Hall of three counts of tampering with a witness. Hall argued that the unit of prosecution for witness tampering was per witness, per proceeding, regardless of the number of attempts to tamper. The Supreme Court held that all of Hall's similar attempts to tamper with a single witness constituted only one unit of prosecution.

The Court suggested, too, that there may be a new unit of prosecution if a perpetrator "changed his strategy by, for example, sending letters in addition to phone calls or sending intermediaries, or if he had been stopped by the State briefly and found a way to resume his witness tampering campaign". . . "or other facts that may demonstrate a different course of conduct." Hall, 2010 WL 1610966 at 6.

Hall is controlling. Golodiuic was convicted of sending four letters attempting to tamper with a single witness regarding a single proceeding. His methods did not vary. Thus, he can be sentenced on only one count of witness tampering.

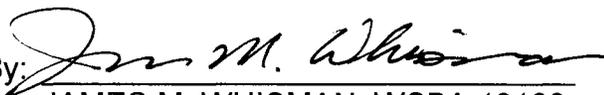
**C. CONCLUSION**

Under Hall, this Court should find that the defendant's multiple attempts to tamper with a witness constitute only one unit of prosecution. Resentencing is required.

DATED this 24<sup>th</sup> day of May, 2010.

RESPECTFULLY submitted,

DANIEL T. SATTERBERG  
Prosecuting Attorney

By: 

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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 Harlan Dorfman, 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 Supplemental Brief of Respondent Re: State v. Hall, in STATE V. NICOLAI L. GOLODIUC, Cause No. 62971-9 -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.

U Brame

Name

Done in Seattle, Washington

5/24/10

Date 5/24/10