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COA NO. 648144

COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON

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DIVISION I  
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JASON BRIDGES, Appellant,

v.

STATE OF WASHINGTON, Respondent,

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REPLY BRIEF OF APPELLANT

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I. REPLY ARGUMENT

**A. After applying the *Ryan* factors, C.H.B.'s hearsay statements were not reliable.**

Courts will consider nine factors to determine the reliability of hearsay statements by children under the child victim hearsay statute. Those factors, also called the *Ryan* factors are as follows: (1) whether the child had an apparent motive to lie, (2) the child's general character, (3) whether more than one person heard the statements, (4) the spontaneity of the statements, (5) whether trustworthiness was suggested by the timing of the statement and the relationship between the child and the witness, (6) whether the statements contained express assertions of past fact, (7) whether the child's lack of knowledge could be established through cross-examination, (8) the remoteness of the possibility of the child's recollection being faulty, and (9) whether the surrounding circumstances suggested the child misrepresented the defendant's involvement. *State v. Woods*, 154 Wn. 2d 613, 114 P.3d 1174 (2005) (citing *State v. Ryan*, 103 Wn. 2d 165, 175-176 (1984)).

Here, a combination of these factors indicate that C.H.B.'s hearsay statements were not reliable and that the trial court erred by admitting them.

First, the State contends that several people heard C.H.B.'s statements, Jessica Bridges, Eva Jo Woodm Dr. Patricia Lenehan, and Detective Teri Gardner. However, the hearsay statements that each witness heard varied in detail and essential facts—i.e. a “touch” versus a “suck.” In fact, none of the states four witnesses at the hearsay hearing testified that others were present when C.H.B. made these statements. Thus, unlike the State contends, the statements were “not made to four different people” because they differed in fact and legal significance. *See* State’s Response at 12.

Third, in most instances, C.H.B.’s statements were not spontaneous so as to indicate that they were reliable. Specifically, the statements to Det. Gardner and Dr. Lenehan were made during “professional interviews”—as noted by the State. These types of statements can hardly be called spontaneous, as the purpose of those professional encounters is to elicit that very type of response, i.e. obtain potentially incriminating statements against a suspect.

Fourth, the surrounding circumstances she tells different versions of the same story to different people, as C.H.B. did here. Finally, the possibility of C.H.B.’s recollection of the events being faulty is notably increased when alleged rape in this case occurred when C.H.B. was barley

six years old. C.H.B. initially told her mother that this was just a “touch,” but eventually, the events transformed into a “suck.”

II. CONCLUSION

Accordingly, applying the *Ryan* factors as laid out above, the trial court erred by finding that C.H.B.’s hearsay statements were reliable, and should have excluded them.

DATED this 3rd day of February, 2011.



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**PROOF OF SERVICE**

On February 4, 2011, I filed with the Court of Appeals, Division I, at 600 University St, One Union Square, Seattle, WA 98101 the original and one copy of our Appellant's Reply Brief via ABC legal courier service. On this same date, a copy of this Brief and proof of service was also sent via the United States Postal Service to the King County Prosecutor's Office, Appellate Unit, 516 Third Avenue W 554, Seattle, WA 98104-2312. A copy of this document was also mailed on today's date to Jason Bridges, Jason Bridges, DOC# 336061, Coyote Ridge Corrections Center, 1301 N Ephrata Ave, PO Box 769, Connell, WA 99326.



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