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08167-2

NO. 68167-2-1

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

GEORGE STEPHEN McGOWAN,

Appellant.

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DIVISION I
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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JUDGE SPECTOR

BRIEF OF RESPONDENT

DANIEL T. SATTERBERG
King County Prosecuting Attorney

TOMÁS A. GAHAN
Senior Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W554 King County Courthouse
516 3rd Avenue
Seattle, Washington 98104
(206) 296-9650

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A. ISSUE PRESENTED

If defense counsel fails to object to the prosecutor's statements at trial, reversal is warranted only where the misconduct was so flagrant and ill-intentioned that no instruction could have cured the resulting prejudice. Here, the prosecutor told the jury in his closing that they "have to be able to articulate and identify a reason" for a reasonable doubt, and immediately addressed the evidence. McGowan never objected to the argument and the trial court appropriately instructed the jury regarding the burden of proof, the presumption of innocence, and the weight given to the lawyers' arguments. The evidence of McGowan's guilt at trial was extensive and included uncontroverted computer forensic evidence. Has McGowan failed to show the prosecutor's comments, in context, were so flagrant and ill-intentioned that they created enduring prejudice that could not have been cured by an instruction?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

The State charged George McGowan with one count of Possessing Depictions of Minors Engaged in Sexually Explicit

Conduct. CP 16. A jury found McGowan guilty as charged and he was sentenced to 41 months, the high end of his range. CP 118.

2. SUBSTANTIVE FACTS

During the summer of 2008, McGowan lived with his elderly uncle, John McGowan, at the Vincent House, a 60-unit independent living facility in downtown Seattle. RP 323.¹ McGowan and his uncle had an agreement – McGowan could stay at the residence, and in exchange he would cook meals, clean the room, and help his increasingly feeble uncle get around; this was a welcome help for the caretakers at Vincent House who, prior to McGowan's arrival, had to assist John 3 or 4 nights per week because of his pervasive panic attacks and health issues. RP 158, 327. The Vincent House allowed McGowan to remain at the residence with his uncle and to use the various amenities, including the community room, a public room with available computers. RP 348.

Despite having open access to the community room and its computers, McGowan repeatedly asked his uncle to rent a laptop for McGowan's personal use. Short on money as he was, and

¹ This brief will refer to the Verbatim Report of Proceedings as follows: RP (November 8-9, 14-16, and 22, 2011).

reluctant to pay nearly \$200 per month for his nephew's computer, John initially refused. RP 160. After McGowan "kept asking," John eventually acquiesced and agreed to provide the monthly money for a laptop. RP 161.

On June 4, 2008, McGowan and John visited a Rent-a-Center shop in Southwest Seattle where McGowan filled out an application to rent a laptop computer, using John's income. RP 86, 94, 98. McGowan's application was approved on June 12, 2008, and he took the laptop home. RP 98. The on-duty manager, Chad Criss, testified that he recalled speaking with McGowan about the computer and having him fill out the paperwork while his uncle John sat in the waiting area. RP 126. While John co-signed on the rental agreement, it was McGowan who did all the talking and arranged for the rental. RP 122. McGowan was the primary signer on the rental, providing his information for the background check, including personal references. RP 95-103.

Jennifer Bachhuber, Housing Director at the Vincent House, testified about seeing McGowan on the laptop in the community room over the course of the summer, sitting with his back to a wall or a window. RP 330. Bachhuber was never able to see what was on McGowan's laptop screen, but she testified that she would walk

in and see John playing solitaire or reading the paper on the public computer, and that John and McGowan would sit in the community room for four or five hours each day. RP 331, 334. John would sit at the public computer, and McGowan would sit in a chair, with the laptop propped on his lap and the screen facing him. RP 334.

After his initial rental of the computer, McGowan returned to the Rent-a-Center on numerous occasions, complaining that he thought the computer was infested with viruses that slowed down its speed and made internet surfing difficult. RP 104. Criss and other Rent-a-Center employees would restore the laptop to its out-of-the-box condition, wiping clean the searches, downloads, internet history, and hopefully any viruses, before returning it to McGowan. RP 104.

Criss was suspicious of McGowan's computer usage, given the number of viruses the laptop was contracting, and suspected that it had accessed pornographic sites. RP 110. In order to determine whether the viruses were an issue with the computer or with its usage, Criss finally provided McGowan with a brand new laptop that had never been used before, and was therefore clean of any potential virus history. RP 106.

Robert Fontes, another Rent-a-Center employee who testified at trial, said that he had seen McGowan between four and eight times complaining about viruses on his computer. RP 136. On some of his visits to fix his laptop, McGowan made unsolicited comments regarding his frustration with its performance, telling employees that there was "no porn on there." RP 139. On a later visit, McGowan spontaneously said that he had not been downloading child pornography. RP 139, 141. At trial, McGowan testified that he had told the Rent-a-Center employees that he suspected that the viruses were acquired from his viewing of "adult web sites." RP 371.

On October 16, 2008, McGowan once again visited the Rent-a-Center with the same complaint: computer viruses were slowing down his internet surfing. RP 109-10, 119. Criss took the laptop and opened the most recent photographs saved onto the computer. RP 110. The folder opened to reveal images of very young children in sexually compromised positions. RP 111. Criss shut the laptop, calmly telling McGowan that he would need some time to acquire a loaner and reassuring McGowan that he would receive a phone call when it was ready. RP 111. McGowan and John left the Rent-a-Center and Criss called the police. RP 112.

After speaking with the police, Criss arranged for McGowan to return to pick up his laptop with plain-clothes police officers waiting in the parking lot. RP 112. When McGowan returned, he was arrested. RP 112. A search incident to arrest revealed a hand-written note in the inside pocket of McGowan's vest. RP 226. It read, "child porn videos." RP 30, 226.

The computer was seized by police, and Forensic Computer Expert Melissa Rogers conducted a forensic examination of the computer and its contents. RP 261. After a thorough examination of the computer files, Rogers testified that the defendant's login names, *georgemcgowan71@yahoo.com*, and *irishrover104@hotmail.com*, were associated with virtually every internet search, every page, video and picture viewed and downloaded, including all of the pornography that involved photographs and images of children being sexually exploited. RP 267-311. These included stories about the rape of a 4-5-year-old girl, search terms for "kiddieporn," and myriad other child porn sites containing images and videos, all accessed under McGowan's usernames. *Id.*

Rogers testified that for some of the searches, the email sites that were simultaneously logged into were McGowan's

Hotmail or Yahoo accounts, *georgemcgowan71* and *irishrover104*. RP 296. Among others, *irishrover104* was logged into accounts for websites “pervertsrus” and “youngstufflover.” RP 307. The laptop, according to Rogers, was used almost exclusively for internet searches, including picture and video viewing and downloading. RP 288. While some more innocuous sites were accessed, much of the use was dedicated to pornography in general and child pornography in particular, including explicit searches for “nud [sic] little girls” and “kiddieporn.” RP 297, 301; RP 268-311. Despite searching for it, Rogers found no results for the search term “John.” RP 308.

Rogers’ examination revealed that the laptop was used for viewing and downloading child pornography on many occasions, and she created a spreadsheet capturing the dates and times of each incident and file, all showing McGowan’s access information associated with the dates and times. RP 219, 261. She testified that for some of the files, the viewer would have to have deliberately saved them to the computer. RP 268. Child pornography sites were visited from early October, when McGowan first rented the new computer, through the evening of October 15, 2008, the night before McGowan visited the Rent-a-Center for the

final time. RP 282. The DVD's of the forensic reports, containing photographs and videos, and referencing the searches and websites from early October 2008 until October 15, 2008, were admitted as State's exhibits 13 and 14. RP 289.

McGowan testified on his own behalf. He admitted that both *georgemcgowan71@yahoo.com* and *irishrover104@hotmail.com* were his email accounts, and that he used them as login names and had created the password for each one. RP 352. He testified that he knew the password for each one, adding that many years ago, while living in Wisconsin, he had told his uncle the password and login for his *irishrover104* account. RP 355. He also said that he had only seen John use his computer twice; both times they were together in their bedroom at the Vincent House where there was virtually unusable internet reception. RP 358, 360. McGowan said that he did not spend all of his time with John, because sometimes he would go out for cigarettes. RP 358.

John testified consistently with McGowan, saying he had only used the computer twice. RP 331-33. Bachhuber and John both testified that John had limited computer skills and very poor eyesight. *Id.*

3. CLOSING ARGUMENTS

In his closing argument, the prosecutor addressed the “other suspect” defense by first speaking about the burden of proof:

The burden of proof in this case is beyond a reasonable doubt. And the judge read the instruction about what a reasonable doubt is. I'm going to talk about that for just a second. There's four things that make up a reasonable doubt. The reason must exist. That means you can't throw up your arms and say this is a really tough job. You have to actually, if you are considering whether there's a reasonable doubt, you have to be able to articulate and identify a reason. When you're thinking about what that reason is, if it's a reasonable doubt, it has to be reasonable. It can't be something that doesn't make any sense. Let me give you an example. If you're considering whether or not the argument that John McGowan put the child pornography on the computer is a reasonable doubt, I want you to think about whether or not that's reasonable. Is it reasonable that he, John McGowan, is sophisticated enough to do that? Is it reasonable to think that he's sophisticated enough with computers, with a smaller laptop computer, to go to all these sites and to log in and find these things? It's not reasonable.

The other part of reasonable doubt is that it has to be based on the evidence or the lack of evidence. The only evidence that you have that John McGowan used the laptop was two times in the room, whereas the defendant testified if you're using the computer in their room, you pretty much couldn't get on the Internet. He was only able to do it one time over the past few months because there's just no reception. So again, it's not based on the evidence.

And the last is that it must relate to one of the elements....

RP 386.

Defense counsel never objected to the prosecutor's arguments but, like the prosecutor, focused on potential reasons for doubt, and what is considered a "reasonable" doubt versus a "ridiculous" one:

Counsel for the State keeps giving you an example of what is reasonable and what is not reasonable. The outcome of this case is clearly, in my opinion, a matter of interpretation of all the evidence. You have had evidence that there was a user on that computer who visited pornographic websites. I'm not going to waste your time and the court's time arguing that the photographs are not child pornography. Obviously they are. It's sad they're there. It is sad that someone has interest in watching them. But the question here is was that the defendant?

...

And we'll talk about what is reasonable and what is not reasonable. Here's an example of what is not reasonable. It wouldn't be reasonable for the defense to say that someone broke into George and John McGowan's room, stole the computer, figured out a way to log into George's account, searched the websites and then snuck the computer back. That would be not reasonable doubt.

What's not ridiculous is that John McGowan had enough skills and access, he knew the password, and had an opportunity to use that computer.

RP 402, 406.

Defense counsel revisited the possibility of John as the culprit creating reasonable doubt at the conclusion of her closing argument:

It is the State's job to convince you that it was the defendant and the defendant only who did this. George does not have to present – he is allowed to point a finger at someone else who had access, but he does not have to convince you beyond a reasonable doubt his uncle [sic]. George does not work for the State. It's not his job to prosecute someone who commits a crime. And it is his uncle who had access, motive, and opportunity to view the websites.

And we're respectfully asking...to find that the State did not present enough evidence beyond a reasonable doubt that it was my client who visited those websites.

RP 410.

In his rebuttal, the prosecutor further clarified his previous arguments in response to defense counsel's closing:

There was a lot of argument about how it was the uncle who did all of this and he put all these things on the computer. And I want to just remind you one more time of the instruction that the verdict must be based on the evidence or the lack of evidence. What do we have here? We have absolutely no evidence that anyone other than the defendant was using the computer at a time when child pornography could have been accessed.

The court, in its instructions, clarified the role of the attorneys' arguments:

...The lawyers' remarks, statements, and arguments are intended to help you understand the evidence and apply the law. It is important, however, for you to remember that the lawyers' statements are not evidence. The evidence is the testimony and the exhibits. The law is contained in my instructions to

you. You must disregard any remark, statement, or argument that is not supported by the evidence or the law in my instructions.

CP 19; WPIC 1.02.

The court also instructed the jury on the burden of proof in no uncertain terms:

The defendant has entered a plea of not guilty. That plea puts in issue every element of each crime charged. The State is the plaintiff and has the burden of proving each element of each crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly and carefully considering all of the evidence or lack of evidence.

CP 22; WPIC 4.01.

During deliberations, the jury requested State's Exhibits 13 and 14.² These exhibits were the results of Rogers' forensic examination of the laptop. RP 261, 289. In response, the court addressed the inquiry and ordered the State to provide a paper

² The note read, "We would like to view file folder information (date/times) of State exhibit #13 and 14." CP 57, 58.

printout of the DVD contents for the jury. RP 423-25. The jury returned a guilty verdict about two hours after receiving these exhibits. RP 429.

C. ARGUMENT

THE PROSECUTOR'S ARGUMENT AT TRIAL WAS NOT SO FLAGRANT AND ILL-INTENTIONED THAT IT COULD NOT HAVE BEEN CURED BY AN INSTRUCTION, NOR IS THERE A LIKELIHOOD THAT ANY MISCONDUCT AFFECTED THE VERDICT.

McGowan contends that the prosecutor's isolated comment that the jury had to be able to articulate a reason for a doubt was improper, and so prejudicial as to warrant reversal. McGowan failed to object at trial to the prosecutor's comments and he has failed to show that the prosecutor's misconduct was so flagrant and ill-intentioned that it caused an enduring and lasting prejudice, incurable by jury instruction and creating a substantial likelihood that the verdict was affected. Reversal is not warranted.

Before establishing prejudicial prosecutorial misconduct, a defendant must establish that there is a substantial likelihood that the misconduct affected the jury's verdict. *State v. Jackson*, 150 Wn. App. 877, 883, 209 P.3d 553 (2009). A prosecutor's comments during closing argument are reviewed in the context of

the total argument, the evidence addressed, and the jury instructions. *Id.* Where counsel fails to object, reversal is required only if the misconduct was so flagrant and ill-intentioned that no instruction could have cured the resulting prejudice. *Id.* The Washington Supreme Court recently ruled that reviewing courts should focus less on “whether the prosecutor’s misconduct was flagrant or ill-intentioned and more on whether the resulting prejudice could have been cured.” *State v. Emery*, 174 Wn.2d 741, 762, 278 P.3d 653 (2012).

McGowan attempts to equate the prosecutor’s comment with the “fill in the blank” argument, where a prosecutor told the jury that they have to be able to state precisely what their reasonable doubt is, thereby filling in the “blank,” before acquitting a defendant:

In order for you to find the defendant not guilty, you have to ask yourselves or you’d have to say, quote, I doubt the defendant is guilty, and my reason is blank. A doubt for which a reason exists. If you think that you have a doubt, you must fill in that blank.

Emery, 174 Wn.2d at 750. While the “fill in the blank” argument is not a mirror image of the argument used in the case at hand, the Washington Supreme Court in *Emery* held that where a prosecutor “implies that the jury must be able to articulate its reasonable doubt,” the burden is subtly but improperly shifted. *Id.* at 760. But

even where a statement in a prosecutor's argument appears to shift the burden, absent a trial objection, that argument must still have been so flagrant and ill-intentioned as to create incurable prejudice and create the substantial likelihood that the verdict was affected before warranting reversal. *Id.* at 664.

McGowan contends that the prosecutor here engaged in tactics that the court has "clearly and repeatedly held improper," and that this is sufficient to render the comments flagrant and ill-intentioned. Brief of Appellant at 8. He relies on *State v. Fleming* to argue that because the prosecutor "knew better," given the clarity of case law on the subject, his statement was flagrant and ill-intentioned. *State v. Fleming*, 83 Wn. App. 209, 921 P.2d 1076 (1996); Brief of Appellant at 9. But these facts are easily distinguishable from the facts in *Fleming*, as are the prosecutor's comments in controversy.

Fleming involved the date rape of a severely intoxicated victim and relied exclusively on her testimony. In closing, the prosecutor repeatedly committed misconduct, first by telling the jury the only path to acquittal was to determine the victim was lying or confused, and then by explicitly shifting the burden to the defense, saying that if there had been any evidence of the victim's lack of

credibility, the defense would have presented it. *Id.* at 214. Because the evidence of forcible compulsion was limited and arguably contradictory,³ the Court of Appeals agreed with Fleming's argument that the prosecutor intentionally made the improper arguments to overcome the lack of evidence. *Id.* at 215. The prosecutor in *Fleming* explicitly misstated the law even as it was presented in the jury instructions, did not rely on those instructions for his arguments, and blatantly violated the defendant's constitutional right to silence and the presumption of innocence. *Id.*

The reversal in *Fleming* is consistent with the later prejudice analysis in *Emery* where the Washington Supreme Court noted that a prosecutor's comment should be viewed within its context. *Emery*, 174 Wn.2d at 764 n.14. *Emery* was a rape case with DNA evidence, a consistent victim, strong circumstantial evidence and very little contradictory testimony. *Id.* There, the improper argument came at the conclusion of an eight-day trial and was limited to nine sentences, a context that minimized any likelihood

³ *E.g.*, the victim testified that Fleming stopped during intercourse because she asked for some lubrication, he grabbed some Vaseline from another bathroom, then returned and continued sex. *Fleming*, at 215.

that the argument was ill-intentioned. *Id. Fleming*, on the other hand, involved cumulative, egregious misconduct and scant evidence, making the prosecutor's comments so flagrant and ill-intentioned as to create real and enduring prejudice that could not have been cured. 83 Wn. App. at 216.

The facts here are even more favorable than in *Emery*, both in their brevity and in their rhetorical context. The prosecutor's remark that the jury had to "articulate and identify a reason" was an attempt to counter the "other suspect" evidence, arguing the patent unreasonableness of the contention that John, who, by all accounts had only used the computer twice, in a room with extremely limited internet access, was the one who downloaded file after file and video after video of child pornography. Because the jury instruction states that reasonable doubt is a "doubt for which a reason exists," the prosecutor asked the jury to examine the reason posed by defense using the beyond a reasonable doubt standard. CP 22. The prosecutor immediately followed his statement by asking the jury to consider the specific example of John as culprit to determine if that doubt was indeed *reasonable*.

Even the defense attorney at trial accurately interpreted the flawed statement, not as some general, burden-shifting commentary on reasonable doubt, but rather as an argument specifically related to the other suspect evidence, and responded in turn by suggesting that John had “motive, access and opportunity.” RP 410. After making the remarks in question, the prosecutor moved immediately to an example of an application of the jury instructions, which say a “reasonable doubt is one for which a reason exists,” and asked the jury to examine that particular reason under the scrutiny of the reasonable doubt standard. RP 386.

The prosecutor’s statement telling the jury to articulate a reason is a questionable one in light of precedent, but the context of his actual argument and his reliance on the jury instructions themselves, combined with the lack of any cumulative error in the remainder of the trial, all speak to an absence of bad faith, and sharply distinguish it from the prosecutor’s behavior in *Fleming*.

McGowan claims that this case is also like *Fleming* because the evidence against him was not “overwhelming,” positing that John or even someone else could have used the laptop to view the child pornography while both McGowan and John were out of the

room.⁴ Brief of Appellant at 11. In doing so, McGowan disregards the forensic evidence that tied him to the internet searches and downloads themselves, as well as the testimony regarding McGowan's bizarre spontaneous declaration denying that there was "child porn" on the laptop, and the handwritten note found in his pocket at the time of arrest with the phrase, "child porn videos."

Unlike in *Fleming*, the evidence in this case, viewed as a whole, was compelling: images and videos of little children being sexually exploited were captured on a computer McGowan had rented and possessed. They were found on a computer McGowan admitted using to view pornography, a computer he infected with viruses from pornographic sites. The times and dates of the visited illegal sites and files were consistent with when McGowan rented the computer, including the night before he returned the laptop to the Rent-a-Center, complaining of still more computer viruses that

⁴ The scenario suggested by McGowan as a viable defense was described by his trial attorney as ridiculous in her closing argument:

And we'll talk about what is reasonable and what is not reasonable. Here's an example of what is not reasonable. It wouldn't be reasonable for the defense to say that someone broke into George and John McGowan's room, stole the computer, figured out a way to log into George's account, searched the websites and then snuck the computer back. That would be not reasonable doubt.

RP 402, 406.

frustrated his internet surfing. The forensic report also revealed that at the time that each picture of a little girl was viewed or downloaded and every video of a child being raped was viewed, one of the defendant's two login names, *irishrover104* or *georgemcgowan71*, was used to access the sites, further excluding other suspects. It was about two hours after reviewing the forensic report that the jury rendered its verdict.

The defense here did little to counter the evidence. While it did raise McGowan's uncle as a potential "other suspect," even McGowan's own testimony at trial conceded that he had only seen his uncle use the laptop on two occasions, both times in a room with extremely limited internet access. This was consistent with John's testimony. RP 331-33.

It was more than likely the forensic evidence, in conjunction with the witness testimony, that convinced the jury of the defendant's guilt. The jury's reliance on the evidence rather than the prosecutor's remarks in reaching their verdict is made manifest in the question from the jury room during deliberations, where the jury asked specifically to review the forensic examination of McGowan's rented computer before rendering their verdict. CP 57-58. The strength of the evidence here, as in *Emery*, further

distinguishes McGowan's case from *Fleming* and significantly lessens the probability of any enduring prejudice.

The *Emery* opinion also informs the Court regarding McGowan's failure to object at trial. After the trial prosecutor in *Emery* made the "fill in the blank" argument, the defense made no objection, and the appellate court analyzed the prejudice of the prosecutor's argument accordingly. Had there been an objection at trial, the *Emery* Court ruled, the trial judge could have cured the prejudice right then and there: "If ... Emery.. had objected at trial, the court could have properly explained the jury's role and reiterated that the State bears the burden of proof and the defendant bears no burden." *State v. Emery*, 174 Wn.2d at 760. But because Emery did not object to the "fill in the blank" argument and other improper comments made in closing argument, all of which could have been effectively addressed via a curative instruction, they were deemed waived on appeal:

Counsel may not remain silent, speculating upon a favorable verdict, and then, when it is adverse, use the claimed misconduct as a life preserver on a motion for new trial or on appeal.

Id. at 762 (quoting *Jones v. Hogan*, 56 Wn.2d 23, 27, 351 P.2d 153 (1960)).

Similarly, McGowan never objected to the improper comment, depriving the trial court of the opportunity to cure the comment. Where a curative instruction could have cured any error, McGowan cannot demonstrate flagrant and ill-intentioned conduct resulting in enduring prejudice. *State v. Corbett*, 158 Wn. App. 576, 594, 242 P.3d 52 (2010).

Given that the prosecutor's statement is so limited in its impropriety – one isolated phrase in his entire closing argument, including rebuttal -- the already-submitted jury instructions served as their own cure. *State v. Anderson*, 153 Wn. App. 417, 220 P.3d 1273 (2009), is another case where a prosecutor's "fill in the blank" argument did not provoke an objection.⁵ The court ruled that the jury instructions given by the trial court regarding the presumption of innocence and the definition of reasonable doubt were sufficient to minimize any negative impact on the jury; the pertinent instructions in *Anderson* mirror those submitted in the current case. *Id.* at 431; CP 19, 22. The trial court adequately instructed the jury regarding reasonable doubt, the weight that should be given to counsel's arguments, the presumption of innocence and the burden

⁵ The prosecutor in *Anderson* used the fill in the blank argument and minimized the reasonable doubt standard by comparing it to everyday decisions. 153 Wn. App. at 431.

of proof, all of which served to minimize any prejudice resulting from the prosecutor's remark. Jurors are presumed to follow their instructions. *State v. Smith*, 144 Wn.2d 665, 679, 30 P.3d 1245, 39 P.3d 294 (2001).

Finally, even if the argument was improper, the extensive evidence of guilt in this case not only neutralizes the potential prejudice, it also renders the misconduct harmless. Given the extensive evidence of guilt and the lack of cumulative misconduct, McGowan cannot successfully argue that the single remark at the start of the prosecutor's closing somehow so prejudiced the jury that it affected the verdict.

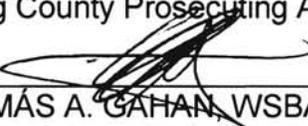
D. CONCLUSION

For the foregoing reasons, the defendant's conviction should be affirmed.

DATED this 27 day of September, 2012.

Respectfully submitted,

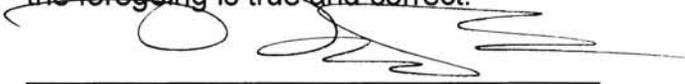
DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
TOMÁS A. GAHAN, WSBA #32779
Senior Deputy Prosecuting Attorney
Attorneys for Respondent
Office WSBA #91002

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 Maureen Cyr, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Brief of Respondent, in STATE V. GEORGE STEPHEN MCGOWAN, Cause No. 68167-2-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.



Name
Done in Seattle, Washington

09-27-12

Date