

FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2013 JAN 16 PM 2:22

NO. 68675-5-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

---

STATE OF WASHINGTON,

Respondent,

v.

EBRIMA SUSOHOR,

Appellant.

---

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE ANDREA DARVAS

---

**BRIEF OF RESPONDENT**

---

DANIEL T. SATTERBERG  
King County Prosecuting Attorney

LINDSEY M. GRIEVE  
Deputy Prosecuting Attorney  
Attorneys for Respondent

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

TABLE OF CONTENTS

	Page
A. <u>ISSUE PRESENTED</u> .....	1
B. <u>STATEMENT OF THE CASE</u> .....	1
1. PROCEDURAL FACTS.....	1
2. SUBSTANTIVE FACTS.....	2
C. <u>ARGUMENT</u> .....	6
1. THE TRIAL COURT DID NOT COMMENT ON THE EVIDENCE AND CORRECTLY INSTRUCTED THE JURY.....	6
a. Relevant Facts.....	7
b. The Jury Instructions Were Not A Comment On The Evidence.....	8
c. Any Error Was Harmless.....	14
D. <u>CONCLUSION</u> .....	19

TABLE OF AUTHORITIES

Page

Table of Cases

Washington State:

<u>Brown v. Spokane County Fire Protection Dist. No. 1,</u> 100 Wn.2d 188, 668 P.2d 571 (1983).....	13
<u>Egede-Nissen v. Crystal Mountain, Inc.,</u> 93 Wn.2d 127, 606 P.2d 1214 (1980).....	10
<u>State v. Alger,</u> 31 Wn. App. 244, 640 P.2d 44 (1982).....	14
<u>State v. Becker,</u> 132 Wn.2d 54, 935 P.2d 1321 (1997).....	8
<u>State v. Boss,</u> 144 Wn. App. 878, 184 P.3d 1264 (2008).....	15
<u>State v. Costello,</u> 59 Wn.2d 325, 367 P.2d 816 (1962).....	17
<u>State v. DeVincentis,</u> 150 Wn.2d 11, 74 P.3d 119 (2003).....	11
<u>State v. Dewey,</u> 93 Wn. App. 50, 966 P.2d 414 (1998).....	11
<u>State v. Eisner,</u> 95 Wn.2d 458, 626 P.2d 10 (1981).....	9, 10, 18
<u>State v. Jackman,</u> 156 Wn.2d 736, 132 P.3d 136 (2006).....	8, 10, 15
<u>State v. Jacobsen,</u> 78 Wn.2d 491, 477 P.2d 1 (1970).....	9
<u>State v. Lane,</u> 125 Wn.2d 825, 889 P.2d 929 (1995).....	9, 15

<u>State v. Levy</u> , 156 Wn.2d 709, 132 P.3d 1076 (2006).....	9, 15
<u>State v. Meneses</u> , 169 Wn.2d 586, 238 P.3d 495 (2010).....	12
<u>State v. Moultrie</u> , 143 Wn. App. 387, 177 P.3d 776, <u>review denied</u> , 164 Wn.2d 1035 (2008).....	12, 13
<u>State v. Sivins</u> , 138 Wn. App. 52, 155 P.3d 982 (2007).....	16

Other Jurisdictions:

<u>Lister v. State</u> , 226 So.2d 238 (Fla. DCA 1969) .....	14
---	----

Constitutional Provisions

Washington State:

Const. art. IV, § 16 .....	1, 8, 10, 15, 16
----------------------------	------------------

Rules and Regulations

Washington State:

RAP 2.5.....	15
--------------	----

Other Authorities

WPIC 36.51.....	12
-----------------	----

**A. ISSUE PRESENTED**

1. Article IV, Section 16 of the Washington State Constitution prohibits judges from conveying their personal opinions about the merits of a case or instructing a jury that matters of fact have been established as matters of law. In Jury Instructions 17 and 18, the trial court described the Sexual Assault Protection Order, charged in Count III- Misdemeanor Violation of a Court Order, as an order issued "for the protection of a sexual assault victim." Has Susohor failed to show that the trial court's description of the court order constituted a comment on the evidence?

**B. STATEMENT OF THE CASE**

1. PROCEDURAL FACTS.

Ebrima Susohor was charged by amended information with two counts of Rape of a Child in the Second Degree (Counts I and II) and Misdemeanor Violation of a Court Order (Count III). Counts I and II included special allegations that the victim was particularly vulnerable and that the victim's vulnerability contributed to the commission of the crime. The named victim on all counts was A.R.C. The time period stretched from July 15 to December 9, 2009. CP 9-10.

Susohor challenged his competency to stand trial. He was evaluated at Western State Hospital and found competent.

CP 35-46.

A jury trial found Susohor guilty as charged on all counts and found the special allegations for Counts I and II. CP 99-103. The trial court sentenced Susohor to an exceptional sentence of 160 months. CP 207-23.

## 2. SUBSTANTIVE FACTS.

In 2009, A.R.C. was 12 years old. 4RP<sup>1</sup> 170-71. She was diagnosed with Autism, Pervasive Developmental Disorder (PDD), and Mild Mental Retardation (MMR), and was enrolled in special education classes. 5RP 233-39; 9RP 752-55. Susohor had married her mother three years earlier. 9RP 768. After becoming A.R.C.'s stepfather, Susohor moved in with A.R.C. and her mother. 9RP 767-69.

Initially, the family relationships were positive and A.R.C. began to call Susohor "daddy." 9RP 767-68, 785. A.R.C.'s mother

---

<sup>1</sup> There are 12 volumes of verbatim report of proceedings. They will be referred to as follows: 1RP (Jan. 4-5, 2012); 2RP (Jan. 11, 2012); 3RP (Jan. 12, 2012); 4RP (Jan. 17, 2012); 5RP (Jan. 11, 24, 2012); 6RP (Jan. 25, 2012); 7RP (Jan. 31, 2012); 8RP (Feb. 1, 2012); 9RP (Feb. 2, 6, 2012); 10RP (Feb. 7, 2012); 11RP (Feb. 8, 2012); and 12RP (Mar. 30, 2012).

had a full-time job and was the family's primary income earner. 9RP 770-73. Susohor worked at several jobs but was often unemployed. Id. After observing Susohor hugging and cuddling with A.R.C., the child's mother was concerned that Susohor was too physically affectionate with her daughter, and she spoke to each of them individually about her concerns. 9RP 787-90. Eventually, Susohor's relationship with A.R.C.'s mother deteriorated. 9RP 772-85. The two separated in December of 2008 and Susohor moved out of their home. 9RP 784.

After learning that A.R.C. was not reporting negative events that happened to her at school, A.R.C.'s mother encouraged her to report events more quickly so the situation could be addressed sooner. 9RP 758, 762-66. After that conversation, A.R.C. improved at reporting school events to her mother. 9RP 762-66. A.R.C.'s mother also discussed appropriate and inappropriate touching with her daughter and told A.R.C. that, if someone touched her inappropriately, the rule was to tell a safe adult and her mother about what had happened. 9RP 810-11.

Two months after Susohor and A.R.C.'s mother separated, A.R.C.'s mother learned she was pregnant with Susohor's child, and he returned to live with them. 9RP 784, 790. Susohor was not

supportive or involved with the pregnancy. 9RP 780-81, 790. Susohor told A.R.C.'s mother that he was no longer receiving unemployment checks. 9RP 780-81. That was not true. Id. A.R.C.'s mother later learned that Susohor had continued to receive unemployment checks throughout her pregnancy. Id. Due to complications with her pregnancy, A.R.C.'s mother was ordered to check herself into the hospital for the four days leading up to the birth of her child. 9RP 801-03.

While A.R.C.'s mother was in the hospital, Susohor raped A.R.C. "more than one time, on more than one night" by putting his private parts where her "pee comes out." 4RP 190-91, 216; 7RP 559-61, 571-73. Susohor told A.R.C. not to tell anyone what had happened, to "keep it a secret." 7RP 574. The rapes took place in the bedroom that Susohor and A.R.C.'s mother shared. 7RP 563-64.

When visiting A.R.C.'s mother in the hospital, A.R.C. refused to sit near Susohor and her mother noticed she was acting strangely. 9RP 805-07. A.R.C.'s mother took A.R.C. into the bathroom with her, where A.R.C. disclosed that Susohor had raped her. 9RP 808. A.R.C.'s mother sent Susohor on a false errand back to their home and called the police. 9RP 808-09. During a

sexual assault exam that evening, A.R.C. described to the doctor that “saliva came from [Susohor’s] penis yesterday morning, it was long and stringy and inside me.” 4RP 193-94.

DNA analysis linked Susohor to sperm from A.R.C.’s underwear. 5RP 277-78. The probability of selecting an unrelated individual with a matching profile at random from the population of the United States is 1 in 180 billion. 5RP 277-78. The underwear was recovered from the floor of the bedroom shared by Susohor and A.R.C.’s mother. 6RP 376.

Susohor was arrested the same day that A.R.C. disclosed the rapes; he was interviewed by law enforcement that day and the following morning. 5RP 416-27; 7RP 452. Susohor denied raping A.R.C. Id. He admitted that A.R.C. had slept in his bed for two nights, and that they had cuddled, hugged, and touched. 5RP 424-27; 7RP 466-67. Susohor said that A.R.C. made up a “story” because “she’s jealous of me.” 7RP 468-69. Susohor said that “it wouldn’t surprise me if they found my semen in [A.R.C.’s] vagina.” Id. Susohor went on to explain that A.R.C. may have manually stimulated him until he ejaculated, then put his semen in her vagina. 7RP 473-75. Alternatively, Susohor explained that A.R.C. might have had intercourse with him while he was sleeping.

Id. Susohor claimed that he and A.R.C.'s mother often had intercourse while the other person was asleep. Id. A.R.C.'s mother refuted this claim. 9RP 854-58.

Within weeks of Susohor's arrest, a pretrial Sexual Assault Protection Order was entered prohibiting Susohor from contacting A.R.C directly, indirectly, or through a third party. 9RP 816; Ex. 39 (Sexual Assault Protection Order).<sup>2</sup> Several months later, Susohor mailed a letter to A.R.C.'s mother. 9RP 817-18. The letter contained a message, signed by Susohor, addressed to A.R.C. Id.

Susohor did not testify at trial.

### **C. ARGUMENT**

1. THE TRIAL COURT DID NOT COMMENT ON THE EVIDENCE AND CORRECTLY INSTRUCTED THE JURY.

Susohor claims that the trial court required the jury to find him guilty on two counts of Rape of a Child in the Second Degree due to the trial court's use of the words "sexual assault victim" in jury instructions pertaining to Count III- Misdemeanor Violation of a Court Order. Susohor's strained reading of the jury instructions should be rejected. The trial court gave a correct statement of the

---

<sup>2</sup> The State filed a Supplemental Designation of Clerk's Papers to include this exhibit as part of the appellate record.

law in the jury instructions. Additionally, looking at the entirety of the jury instructions and the trial, the trial court did not comment on the evidence. In any event, any error by the trial court was harmless beyond a reasonable doubt.

a. Relevant Facts.

During a recess in the State's case, the parties discussed the proposed jury instructions that had previously been provided by the State. Defense counsel did not take exception to the proposed instructions and did not propose any additional instructions.

9RP 838-39. On a later day, after being provided with the trial court's final set of jury instructions, Susohor's defense counsel again had no exceptions or objections to the jury instructions.

9RP 858.

The trial court instructed the jury, in Instruction 17 defining Count III- Violation of a Court Order, as follows:

A person commits the crime of violation of a court order when he or she knows of the existence of an order issued for the protection of a sexual assault victim, and knowingly violates: restraint provisions of the order prohibiting contact with a protected party or a provision of the order excluding the person from a residence or school or a provision of the order prohibiting the person from knowingly coming within or remaining within a specific distance of a location.

CP 92. The trial court also instructed the jury, in Instruction 18 listing the elements of Count III- Violation of a Court Order, as follows:

To convict the defendant of the crime of violation of a court order as charged in Count III, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about a time intervening between December 2, 2009 and December 9, 2009, there existed an order for the protection of a victim of sexual assault applicable to the defendant;

CP 93.

- b. The Jury Instructions Were Not A Comment On The Evidence.

Article IV, section 16 of the Washington State Constitution prohibits a judge from conveying to the jury his or her personal opinion about the evidence in a case or instructing a jury that "matters of fact have been established as a matter of law." State v. Jackman, 156 Wn.2d 736, 743-44, 132 P.3d 136 (2006) (quoting State v. Becker, 132 Wn.2d 54, 64, 935 P.2d 1321 (1997)). The provision, in its entirety, states that "Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law." Const. art. IV, § 16.

This prohibition exists to prevent juries from being unduly influenced by the judge's assessment of the credibility, weight, or sufficiency of the evidence. State v. Eisner, 95 Wn.2d 458, 462, 626 P.2d 10 (1981). A court's statement constitutes a comment on the evidence "if the court's attitude toward the merits of the case or the court's evaluation relative to the disputed issue is inferable from the statement." State v. Lane, 125 Wn.2d 825, 838, 889 P.2d 929 (1995). A judge need not expressly convey his or her personal feelings, it is sufficient if they are merely implied. State v. Levy, 156 Wn.2d 709, 721, 132 P.3d 1076 (2006). In determining whether a trial judge's conduct or remarks amount to a comment on the evidence, reviewing courts evaluate the facts and circumstances of the case. State v. Jacobsen, 78 Wn.2d 491, 495, 477 P.2d 1 (1970).

When evaluating whether the trial court commented on the evidence, reviewing courts consider whether the trial court's remarks were isolated or cumulative. Eisner, 95 Wn.2d at 462-63. Isolated remarks by the trial court may not constitute a comment and any potential error caused by isolated remarks may be cured by an instruction:

A trial judge should not enter into the “fray of combat” nor assume the role of counsel.... An isolated instance of such conduct may be deemed harmless error, however, if it cannot be said to violate constitutional bounds of judicial comment.... In such instances, potential error may be cured by an instruction, if requested.... On the other hand, the cumulative effect of repeated interjections by the court may constitute reversible error.

Eisner, 95 Wn.2d at 462-63 (citation omitted) (quoting Egede-Nissen v. Crystal Mountain, Inc., 93 Wn.2d 127, 141, 606 P.2d 1214 (1980)).

Washington courts have found article IV, § 16 violations where the trial judge has remarked on a witness's credibility or given a jury instruction that resolved a contested fact. E.g., Eisner, 95 Wn.2d at 462-63 (reversible error for judge to extensively question the victim in a manner that bolstered, rather than clarified, the witness's testimony); Jackman, 156 Wn.2d at 744 (article IV, § 16 violation where the “to convict” instructions referenced the victims' birth dates, a critical element of the crime). Here, the trial court did not expressly comment on a witness's credibility, give a jury instruction that resolved a question of fact, or make any remarks that conveyed the judge's opinion of the evidence.

Contrary to Susohor's claims, Jury Instructions 17 and 18, pertaining to Count III- Misdemeanor Violation of a Court Order, did

not require the jury to find that Susohor committed Counts I and II, two counts of Rape of a Child in the Second Degree. The Sexual Assault Protection Order, which was admitted into evidence, twice noted that the order was issued “pretrial,” is dated approximately two weeks after the rapes occurred, and states that “the defendant has been charged with, arrested for, or convicted of a sex offense[.]” Ex. 39. Indeed, Susohor’s counsel stressed in closing argument that the jurors were the sole deciders of whether Susohor committed two counts of Rape of a Child: “the fact that a charge has been filed does not mean that Mr. Susohor is guilty... [o]bviously the police think he did it... [o]bviously the prosecutors think he did it... [b]ut it is you who has to decide whether he did it.” 9RP 881-82.

Susohor’s attempt to liken this case to a case where a trial court explicitly removed an issue of fact from the jury’s consideration is misplaced. In State v. Dewey, the trial court improperly commented on the testimony concerning prior bad acts evidence, testified to by a previous victim, as “evidence of a rape.” 93 Wn. App. 50, 58-59, 966 P.2d 414 (1998) (abrogated on other grounds by State v. DeVincentis, 150 Wn.2d 11, 74 P.3d 119 (2003)). Here, under the facts and circumstances of this case, the

trial court did not comment on the evidence. The judge did not resolve a disputed issue of fact nor did she convey her personal feelings about the case. Rather, the trial court provided the jury with an accurate statement of the law identifying who was protected under the Court Order, thus allowing the jury to determine whether Susohor violated a Sexual Assault Protection Order. CP 92-93; WPIC 36.51. In giving the challenged instructions, the court did not remove an issue of fact from the jury's consideration, but merely defined the elements of Count III.

According to Susohor, the use of the words "sexual assault victim" constituted a comment on the evidence, resolving the issue for the jury of whether a sexual assault occurred. Using this strained logic, the title itself, "Sexual Assault Protection Order," would similarly constitute an impermissible comment on the evidence, resolving whether a sexual assault occurred. This reading of the jury instructions must be rejected.

Jurors are presumed to take a normal, common-sense approach to reading jury instructions and to give words their ordinary meaning. See, e.g., State v. Meneses, 169 Wn.2d 586, 592, 238 P.3d 495 (2010) (average juror interprets jury instructions according to their ordinary meaning); State v. Moultrie, 143

Wn. App. 387, 394, 177 P.3d 776 (2008) (an ordinary juror gives jury instructions their ordinary meaning, rather than a “strained reading”), review denied, 164 Wn.2d 1035 (2008). Susohor’s suggested reading of Instructions 17 and 18 does not make sense in light of a common-sense reading of the language used in the instructions and the evidence presented at trial.

Jury instructions must be considered in their entirety. Brown v. Spokane County Fire Protection Dist. No. 1, 100 Wn.2d 188, 668 P.2d 571 (1983). Here, Jury Instructions 17 and 18 do not constitute a comment on the evidence within the context of the jury instructions as a whole. The trial court specifically instructed the jurors that they were the sole deciders of any issue of fact: “It is your duty to decide the facts in this case based upon the evidence presented to you during this trial.” CP 73. Further, the trial court informed the jury that it would not intentionally comment on the evidence and directly admonished the jury to disregard any comment made by the court. CP 75.

Additionally, the use of the phrase “sexual assault victim” was isolated and not cumulative. Here, the trial court never used the term “victim” during trial and never referred specifically to A.R.C as a “victim” or “sexual assault victim.” The term “sexual assault

victim” appeared only in Jury Instructions 17 and 18, instructions for Count III- Violation of a Court Order. CP 92-93. The term was not used in instructions pertaining to the two counts of Rape of a Child in the Second Degree, or in any other jury instructions. CP 72-96.

Similar to the facts of this case, in State v. Alger, the court found that an isolated reference to a prosecuting witness as “the victim” by the trial court judge was not an impermissible comment on the evidence. 31 Wn. App. 244, 640 P.2d 44 (1982). In a criminal case, while the use of the term “victim” by a trial court is disfavored, “it has ordinarily been held not to convey to the jury the court’s personal opinion of the case.” Id. (citing Lister v. State, 226 So.2d 238, 239 (Fla. DCA 1969)).

Here, the isolated use of the words “sexual assault victim” in Jury Instructions 17 and 18 was a correct statement of the law. Contrary to Susohor’s claim, it did not require the jury to find him guilty of other counts, nor, in the context of the trial as a whole, did it constitute a comment on the evidence.

c. Any Error Was Harmless.

Once it has been established that a trial judge’s remarks constitute a comment on the evidence, the reviewing court

presumes that they were prejudicial: “[T]he burden is on the State to show that the defendant was not prejudiced, unless the record affirmatively shows that no prejudice could have resulted.”

Jackman, 156 Wn.2d at 743. Because a judicial comment on the evidence is an error of constitutional magnitude, such claims may be raised for the first time on appeal. Levy, 156 Wn.2d at 719-20; RAP 2.5.

Article IV, section 16 violations will be deemed harmless when the untainted evidence overwhelmingly shows beyond a reasonable doubt that the defendant was not prejudiced by the violation. See, e.g., Levy, 156 Wn.2d at 726 (article IV, section 16 violation was harmless error where the judge’s instruction used the word “building,” which improperly suggested to the jury that the apartment was a building as a matter of law, because that fact was never challenged in any way by the defendant at trial); Lane, 125 Wn.2d at 839-40 (article IV, section 16 violation where trial judge communicated to the jury his opinion of a witness’ testimony was harmless beyond a reasonable doubt due to overwhelming untainted evidence supporting conviction); State v. Boss, 144 Wn. App. 878, 889-90, 184 P.3d 1264 (2008) (article IV, section 16 violation directing a verdict on an element of the offense was

harmless when defendant offered no evidence to rebut that element); State v. Sivins, 138 Wn. App. 52, 60-61, 155 P.3d 982 (2007) (article IV, section 16 violation found to be harmless error when court disclosed suppressed evidence to jury that defendant brought condoms, lubricant, alcohol, and other items to a motel room in prosecution for Attempted Rape of a Child in the Second Degree, because additional evidence overwhelmingly established the defendant's guilt and the trial court instructed the jury to disregard any inadvertent judicial comment).

Here, any potential prejudice is limited to Count III. Potential prejudice does not extend to Counts I and II because the challenged jury instructions relate only to Count III. Further, potential prejudice does not extend to Counts I and II because the jury instructions specifically instruct jurors that each count must be determined individually: "A separate crime is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count." CP 81, 92-93. Because the jury is presumed to follow the instructions of the court, it follows that the jurors considered each count separately and the instructions for Count III did not affect the jury's resolution

of Counts I and II. State v. Costello, 59 Wn.2d 325, 332, 367 P.2d 816 (1962).

Here, Susohor did not offer any evidence to rebut the State's evidence for Count III, and the record overwhelmingly supports conviction for Misdemeanor Violation of a Court Order. The evidence shows that a Pretrial Sexual Assault Protection Order was in effect prohibiting Susohor from "having any contact" with A.R.C. "directly, indirectly, or through third parties." Ex. 39. Susohor then sent a letter while the protection order was in effect with a message addressed to A.R.C. individually. 9RP 816-18. Susohor did not rebut any of this evidence during the trial. Additionally, Susohor's counsel did not mention any of the evidence regarding Count III during closing argument. 9RP 878-94.

At trial, Susohor did not take exception to the jury instructions nor did he submit his own instructions. 8RP 738-39; 9RP 858. Susohor's failure to object at trial indicates that the use of the term in the two instructions was insignificant. This is especially true here because the potentially prejudicial effect of the use of the term "victim" was previously addressed by Susohor in motions in limine. 1RP 178-82. Despite Susohor's objection to the use of the term "victim" in other circumstances during trial, Susohor

did not take exception to the use of the words “sexual assault victim” in the trial court’s jury instructions. Id.; 8RP 738-39; 9RP 858.

Furthermore, any potential error was cured by the jury instructions. See Eisner, 95 Wn.2d at 463 (an isolated judicial comment may be cured by an instruction). Here, the court twice instructed the jury to disregard any inadvertent judicial comments on the evidence. 4RP 130-31; CP 75. Even though none of the issues of fact relating to Count III was challenged at trial, if this Court finds that the State has failed to meet its burden of showing that Susohor was not prejudiced by the trial court’s comment, the proper remedy for any error would be dismissal of Count III only.

Even, if this Court finds that the trial court’s use of the words “sexual assault victim” constitute a comment on the evidence that taints Counts I and II, any error was harmless for Susohor’s two convictions for Rape of a Child in the Second Degree, given the overwhelming evidence. Susohor’s DNA matched the sperm fluid found on A.R.C.’s underwear recovered from the floor of Susohor’s bedroom. 5RP 277; 6RP 376; 9RP 818. A.R.C. testified that Susohor’s private parts went inside of her where her “pee comes out” on more than one occasion, and that Susohor told her to “keep

it a secret.” 7RP 559-61, 574. During a sexual assault examination immediately after the rapes were reported, A.R.C. described that “saliva came from [Susohor’s] penis yesterday morning; it was long and stringy and inside of me.” 4RP 193.

Given the overwhelming evidence at trial of Susohor’s guilt on all three counts, any error resulting from the trial court’s use of the words “sexual assault victim” in two jury instructions was harmless beyond a reasonable doubt.

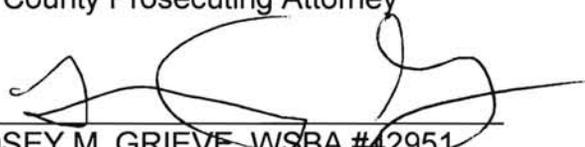
**D. CONCLUSION**

For all of the foregoing reasons, the State respectfully asks this Court to affirm Susohor’s convictions for two counts of Rape of a Child in the Second Degree and one count of Misdemeanor Violation of a Court Order.

DATED this 9 day of January, 2013.

Respectfully submitted,

DANIEL T. SATTERBERG  
King County Prosecuting Attorney

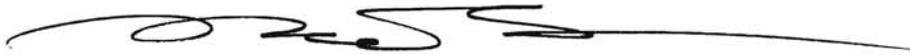
By:   
LINDSEY M. GRIEVE, WSBA #42951  
Deputy Prosecuting Attorney  
Attorneys for Respondent  
Office WSBA #91002

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 Jennifer J. Sweigert, 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 BRIEF OF RESPONDENT, in STATE V. EBRIMA SUSOHOR, Cause No. 68675-5 -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.

Dated this 10 day of January, 2013

A handwritten signature in black ink, appearing to be "J. Sweigert", written over a horizontal line.

Name  
Done in Seattle, Washington