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NO. 68735-2-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

REC'D
OCT 23 2012
King County Prosecutor
Appellate Unit

STATE OF WASHINGTON,

Respondent,

v.

SAMSON HAILEMARIAN,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Chris Washington, Judge

10:31 AM OCT 23 2012
JENNIFER J. SWEIGERT
10:31 AM OCT 23 2012

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The court violated appellant's right to present a complete defense.

2. The court erred by excluding evidence of the alleged victim's threat to kill appellant.

Issue Pertaining to Assignments of Error

Appellant testified he did not intend to rob Romulus Saunders but only grabbed at Saunders' phone because, in the middle of a fight, Saunders threatened to call his friends to come take care of him. Shane Robinson would have testified that, a couple of weeks after this incident, Saunders threatened to have his brothers kill appellant. Did the court violate appellant's right to present a defense when it excluded the testimony about Saunders' threat?

B. STATEMENT OF THE CASE

1. Procedural Facts

The King County prosecutor charged appellant Samson Hailemariam with one count of second-degree robbery. CP 1. The jury found him guilty, and the court imposed a standard range sentence. CP 37, 39, 41. Notice of appeal was timely filed. CP 46.

2. Substantive Facts

Samson Hailemariam is a high school senior who lives with his parents. 3RP¹ 49-50. One evening, a friend left him at the Safeway parking lot to wait while the friend dropped off his girlfriend. 3RP 50. When the friend's errand seemed to be taking too long, Hailemariam began to wander toward the nearby Union Gospel Mission Community Center. 3RP 52.

On the way, he and Romulus Saunders bumped into each other. 3RP 54. Feeling disrespected, Hailemariam demanded the Saunders apologize. 3RP 54. As neither wanted to apologize, the interaction escalated into the use of foul language and finally into a physical altercation characterized mostly by pushing and yelling. 3RP 54-55. At some point, Saunders pulled out his phone and said, "I've got some friends coming right now to handle this." 3RP 55. Feeling threatened, Hailemariam tried to stop Saunders from calling his friends by grabbing his phone. 3RP 55-56. The two began wrestling and struggling over the phone. 3RP 56. He testified that, at times, each of them had the upper hand, but agreed that when the police arrived, Saunders was against the wall. 3RP 56.

Hailemariam admitted calling Saunders a bitch, but denied threatening him. 3RP 59. According to Hailemariam, when the police asked

¹ There are five volumes of Verbatim Report of Proceedings referenced as follows: 1RP – Mar. 27, 2012; 2RP – Mar. 28, 2012; 3RP – Mar. 29, 2012; 4RP – Mar. 30, 2012; 5RP – Apr. 2, 2012.

about the phone, he showed them where it was, and an officer picked it up off the ground. 3RP 59-60.

Shane Robinson corroborated Hailemariam's version of events. He testified he saw about 20 seconds of pushing and shoving out in the open parking lot of the Union Gospel Mission. 3RP 40-42. He described it as a roughly equal fight in which first one person and then the other would have the upper hand. 3RP 42, 44. He could not hear what was said, did not notice who was the first to physically contact the other, and did not know how Hailemariam came to have possession of Saunders' phone. 3RP 46. He testified the fight was already beginning to cool down when the police arrived. 3RP 47. He claimed the officers never asked him any questions and never tried to get a statement from him. 3RP 44-45. Since he wanted nothing to do with the situation, as soon as the officers permitted him to leave, he did so. 3RP 45.

On cross-examination, Robinson agreed Hailemariam had asked him to tell defense counsel he had done nothing wrong and even gave him suggestions of what to say. 3RP 47. He testified Hailemariam told him to say there was a good reason why he had Saunders' phone and that he did not rob him. 3RP 48. Robinson explained he did not actually see how the phone changed hands and Hailemariam only wanted him to testify to what he had seen. 3RP 48.

Officer Chapackdee was teaching a community outreach class when he heard a commotion outside the classroom. 3RP 16-18. After the class was over, he continued hearing screaming and called the precinct to send a patrol officer. 3RP 19-20. He and Officer Stone arrived and saw Hailemarian, looking aggressive, screaming and holding Saunders against a wall. 3RP 22; 2RP 7-10.

Officer Stone heard Hailemarian say in a loud, aggressive tone, "Bitch, nigga, I'll fuck you up." 2RP 11. Hailemarian stopped abruptly when Stone called out to him to, "Come kick my ass." 2RP 11. Hailemarian explained to Stone that Saunders had disrespected him, and he was merely standing up for himself. 2RP 13. According to Stone, when Saunders' phone was mentioned, Hailemarian immediately pulled it out of his pocket and handed it to Stone. 2RP 14. After Saunders unlocked the phone with a password, Stone returned it to him. 2RP 14. Overall, Stone described Hailemarian's demeanor as initially aggressive and later as attempting to "sweet talk" the officer. 2RP 15-16. He described Saunders as scared and shaking, a deer in the headlights. 2RP 15.

Stone admitted he only saw the end of the interaction between Saunders and Hailemarian. 2RP 17-18. He had no opportunity to see and no way of knowing whether Saunders had also engaged in threatening conduct. 2RP 18. He could neither confirm nor deny Hailemarian's assertion that

Saunders threatened to use the phone to call his friends to come and beat him up. 2RP 18-19. He admitted Hailemariam also had another phone, presumably his own, on his person. 2RP 20. Stone testified the only other person around was Shane Robinson, who refused to give any sort of statement. 2RP 21-22; 3RP 23.

Saunders testified Hailemariam arrived on a bicycle, got off the bicycle, and approached him. 2RP 26-27. Saunders recognized Hailemariam from the Community Center, but the two are not friends. 2RP 26-27. He testified Saunders first asked him what was up and then asked what he was listening to. 2RP 27. Saunders claimed Hailemariam wanted to see the phone he was using to listen to music, and when he refused to hand it over, Hailemariam grabbed him and pulled him into the darker area beneath the stairwell. 2RP 27-30. It was while Hailemariam was pulling him towards the stairwell that Saunders claimed Hailemariam also grabbed his phone out of his hand. 2RP 32. He also claimed that when his hat fell off during the struggle, Hailemariam told him "I like your hat," and then took it and put it on. 2RP 31. Saunders testified he resisted initially, but ultimately gave up because he feared there was a weapon. 2RP 30, 32-33.

Saunders' testimony on whether there was a weapon was rather confused. He initially claimed Hailemariam threatened him with a knife when he first approached him, saying "Stop right there, I've got a knife."

2RP 27. He later testified he only thought Hailemariam had some sort of weapon because of the way he was holding his hand, and denied mentioning a knife. 2RP 30-31. He testified his suspicions were confirmed when Hailemariam threatened to “blast” him, which Saunders understood to be a threat to shoot him with a gun. 2RP 30-31.

Saunders claimed he never yelled at Hailemariam. 2RP 34. He claimed he never called him any names and did not curse or try to fight back. 2RP 34. He claims he never told Hailemariam he had a weapon. 2RP 34. He denied threatening anyone or reaching into his pocket as if to call someone. 2RP 43. He denied threatening any witnesses and denied threatening to call his friends to take care of Hailemariam. 2RP 44.

The court granted the State’s motion to exclude Robinson’s testimony that a couple of weeks after this incident, Saunders said he was going to get his brother to kill Hailemariam. 3RP 26-31. Defense counsel argued this testimony was essential for two reasons: first, to rebut Saunders’ testimony presenting himself as a passive victim who would not even fight back and second, to impeach Saunders’ claim he never threatened a witness. 3RP 27, 30-31. The court concluded the testimony was not relevant and was not proper impeachment. 3RP 30.

C. ARGUMENT

BY EXCLUDING EVIDENCE THAT SUPPORTED THE DEFENSE THEORY OF THE CASE, THE COURT VIOLATED HAILEMARIAN'S RIGHT TO PRESENT A DEFENSE.

Hailemariam testified he was only trying to prevent Saunders from calling friends to come assault him. 3RP 55. Saunders denied making this or any threat. 2RP 44. He presented himself as an innocent and passive victim who did not even use foul language with Hailemariam. 2RP 47-49. Roughly two weeks later, Saunders told Shane Robinson he was going to have his brother kill Hailemariam. 3RP 26. This evidence was probative of Hailemariam's theory of the case, that Saunders threatened to have his friends come beat him up, would have directly rebutted Saunders' description of himself as a passive victim, and would have impeached Saunders' testimony about whether he made any threats. By excluding this evidence, the court deprived Hailemariam of his right to present a defense.

Criminal defendants have the constitutional right to present a defense and to confront their accusers. Chambers v. Mississippi, 410 U.S. 284, 294, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973); State v. Jones, 168 Wn.2d 713, 720, 230 P.3d 576 (2010); State v. Darden, 145 Wn.2d 612, 620, 41 P.3d 1189 (2002); U.S. Const. amend. V, VI, XIV; Wash. Const. art. 1, § 22. Claimed violations of this right are reviewed de novo. Jones, 168 Wn.2d at 719. While the decision to exclude evidence is generally discretionary, that

standard only applies if the court has correctly interpreted the evidence rules. State v. Foxhoven, 161 Wn.2d 168, 174, 163 P.3d 786 (2007). Moreover, a court necessarily abuses its discretion by denying a criminal defendant's constitutional rights. State v. Iniguez, 167 Wn.2d 273, 280, 217 P.3d 768 (2009) (quoting State v. Perez, 137 Wn. App. 97, 105, 151 P.3d 249 (2007)).

The primary and most important component of confrontation is the right to conduct a meaningful cross-examination of adverse witnesses. State v. Foster, 135 Wn.2d 441, 456, 957 P.2d 712 (1998). This right also includes the right to impeach a prosecution witness with evidence of bias. Davis v. Alaska, 415 U.S. 308, 315-18, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974); State v. Johnson, 90 Wn. App. 54, 69, 950 P.2d 981 (1998). To secure this right, the Court of Appeals has explained, “[i]t is fundamental that a defendant charged with the commission of a crime should be given great latitude in the cross-examination of prosecuting witnesses to show motive or credibility.” State v. Wilder, 4 Wn. App. 850, 854, 486 P.2d 319 (1971).

These important due process protections may not be restricted solely on the basis of procedural and evidentiary rules. State v. Baird, 83 Wn. App. 477, 482, 922 P.2d 157, 160 (1996). If the court believes defense evidence is barred by such rules, “the court must evaluate whether the interests served by the rule justify the limitation.” Id. (citing Rock v. Arkansas, 483 U.S. 44, 56,

107 S. Ct. 2704, 97 L. Ed. 2d 37 (1987)). The restriction on defense evidence must not be arbitrary or disproportionate to its purpose. Baird, 83 Wn. App. at 482. So long as the evidence is relevant, the jury must be permitted to hear it unless the State can show “the evidence is so prejudicial as to disrupt the fairness of the fact-finding process at trial.” Jones, 168 Wn. 2d at 720 (quoting Darden, 145 Wn.2d at 622). Relevant defense evidence is admissible unless the State can show a compelling interest to exclude it. State v. Hudlow, 99 Wn.2d 1, 15-16, 659 P.2d 514 (1983); Darden, 145 Wn.2d at 621.

The court erred in excluding testimony that Saunders threatened to kill Hailemariam. This was relevant to establish the defense theory of the case, to show bias, and to impeach Saunders’ testimony he never threatened anyone. The State has no compelling interest in keeping out this relevant evidence. Reversal is required because the State cannot prove this error did not contribute to the jury’s verdict.

- a. Robinson’s Testimony That Saunders Threatened to Have Hailemariam Killed Was Relevant Because It Tended to Prove the Defense Theory of the Case.

Relevant evidence is “evidence having any tendency to make the existence of any fact that is of consequence . . . more probable or less probable than it would be without the evidence.” ER 401. “Generally, any circumstance is admissible which reasonably tends to establish the theory of

the party offering it, to explain, qualify or disprove the testimony of his adversary.” State v. Young, 48 Wn. App. 406, 410, 739 P.2d 1170, 1173 (1987) (citing Rothman v. North Am. Life & Cas. Co., 7 Wn. App. 453, 500 P.2d 1288 (1972)); see also Lamborn v. Phillips Pac. Chem. Co., 89 Wn.2d 701, 706, 575 P.2d 215 (1978). Saunders’ threat was admissible because it was directly relevant to establishing Hailemarian’s theory of the case and disproving Saunders’ testimony.

Whether Saunders indeed threatened to have his friends come join the fight he was having with Hailemarian is a fact of consequence in this case. Second-degree robbery requires proof of the intent to commit theft. State v. Kjorsvik, 117 Wn.2d 93, 98, 812 P.2d 86, 88 (1991). If indeed Hailemarian was only trying to prevent becoming outnumbered by Saunders’ friends, that element is missing. The fact of Saunders’ threat during the fight is made far more probable by evidence that two weeks after this incident, Saunders made a very similar threat. Thus, Robinson’s testimony of Saunders’ later threat was relevant because it tended to establish Hailemarian’s theory. Lamborn, 89 Wn.2d at 706.

Young illustrates this principle. Young was charged with vehicular homicide after his car went out of control, injuring him and killing his two passengers. Young, 48 Wn. App. at 408. Young testified the accident was provoked when the passenger seated next to him reached over and grabbed

the steering wheel. Id. He sought to present testimony by three witnesses that this passenger had similarly grabbed the steering wheel away from the driver on four occasions in the past year. Id. at 408-09. The trial court excluded the evidence as unfairly prejudicial under ER 403. Id. at 413. On appeal, this Court found the evidence relevant to prove the passenger's interference was the cause of the accident. Id. at 412-13. Given the "highly probative" nature of the testimony, the court held that the trial court abused its discretion in excluding it. "ER 403 does not extend to the exclusion of crucial evidence relevant to the central contention of a valid defense." Id. at 413 (citing 5 K. Tegland, Washington Practice § 105; United States v. Wasman, 641 F.2d 326 (5th Cir. 1981)). Evidence that, on separate occasions, the passenger acted just as Young claimed was "crucial to Mr. Young's theory of the defense" that it was the passenger who caused the accident. Young, 48 Wn. App. at 413.

This case parallels Young. Saunders' threatening behavior was an essential element of the defense theory that this was not a robbery but a fight caused by escalating perceptions of disrespect. Evidence that, on another occasion, Saunders threatened to have someone else kill Hailemariam was "crucial" and "highly probative" of Hailemariam's defense that, on the date in question, Saunders threatened to call his friends to assault him.

With no witnesses to the full scope of the altercation, this became a credibility contest between Hailemariam and Saunders. As a matter of law, when a case is a “swearing match” contest of relative credibility, courts give more latitude in allowing a defendant to introduce evidence relevant to credibility, such as bias. See State v. York, 28 Wn. App. 33, 36, 651 P.2d 784 (1980). Division Two of this Court has declared, “It is reversible error to deny a defendant the right to establish the chief prosecution witness’s bias by an independent witness.” State v. Spencer, 111 Wn. App. 401, 408, 45 P.3d 209, 213 (2002).

Bias may be established by evidence that the State’s witness “may have harbored ill will” toward the defendant. Agushi v. Duerr, 196 F.3d 754, 761 (7th Cir. 1999). In Agushi, the plaintiff in a civil rights suit under 42 U.S.C. § 1983 sought to present evidence that a witness overheard the police officer who searched her home say she was going to “ruin those people.” Id. at 756. On appeal, the circuit court rejected the district court’s reasoning that the evidence was character or propensity evidence inadmissible under ER 404(b) and ER 608. Id. at 761. The court held the evidence was not precluded by either of those rules because it was offered to establish the relevant fact of the officer’s preconceived judgment and ill will toward Agushi. Id. Similarly, Saunders’ threat was relevant and admissible to show his ill will toward Hailemariam.

Saunders threat was relevant both to affirmatively establish Hailemarian's theory of the case and to show bias impacting Saunders' credibility as a witness. Id.; Young, 48 Wn. App. at 413. The court erred in excluding this crucial defense evidence without a showing that exclusion was necessary to protect a compelling state interest. Jones, 168 Wn. 2d at 720.

b. The State Has Shown No Compelling Interest that Would Necessitate Restricting Hailemarian's Right to Present a Defense.

The State cannot show that excluding this defense evidence was necessary to any compelling interest. Jones, 168 Wn.2d at 720; Darden, 145 Wn.2d at 622; Hudlow, 99 Wn.2d at 15-16. Indeed, the court made no attempt to identify any compelling interest that would have warranted excluding the evidence. 3RP 26-31.

The State will likely argue Saunders' threat occurred after the incident at issue and Saunders' apparent desire for revenge is consistent with the State's theory of the case that he was robbed. See 3RP 30. This is certainly an argument that could be made to the jury and explored on cross-examination or rebuttal testimony. It is not a compelling state interest sufficient to justify the drastic remedy of abridging Hailemarian's constitutional right to present a defense.

The State may also argue this evidence was properly excluded under ER 404(b) prohibiting propensity evidence. This argument should be rejected because, as mentioned above, the rules of evidence do not, in and of themselves, justify excluding relevant defense evidence. Baird, 83 Wn. App. at 482. For example, the majority of federal circuit courts have held ER 404's ban on propensity evidence does not even apply when a defendant offers the evidence in support of his defense.² See United States v. Seals, 419 F.3d 600, 606 07 (7th Cir. 2005) (holding courts must balance probative value against prejudice, undue waste of time, and confusion of the issues); United States v. Montelongo, 420 F.3d 1169 (10th Cir. 2005) (same); United States v. Gonzalez-Sanchez, 825 F.2d 572, 583 (1st Cir. 1987) ("Rule 404(b) does not exclude evidence of prior crimes of persons other than the defendant."); Glados, Inc. v. Reliance Ins. Co., 888 F.2d 1309, 1311 (11th Cir. 1987) (same); United States v. Aboumoussallem, 726 F.2d 906, 911 (2d Cir. 1984) ("[T]he standard of admissibility when a criminal defendant offers similar acts evidence as a shield need not be as restrictive as when a prosecutor uses such evidence as a sword."); United States v. Krezdorn, 639 F.2d 1327, 1332-33 (5th Cir. 1981) (concluding 404(b)'s prohibition on

² Because Washington's 404(b) rule is substantially the same as the federal version, interpretation of FRE 404(b) is instructive. Reliance on federal decisions is also appropriate since Hailemariam is raising an issue pertaining to his right to present a defense under both the federal and state constitutions.

propensity evidence does not apply to misconduct that does not impugn the defendant's character).³

These courts find the traditional 404(b) analysis does not apply because the policy reasons behind the rule are considerably weakened when the defense seeks to submit this type of evidence. See, e.g., Aboumoussallem, 726 F.2d at 911 (“[R]isks of prejudice are normally absent when the defendant offers similar acts evidence of a third party to prove some fact pertinent to the defense.”). Consequently, they hold the defendant's right to present a defense trumps the evidence rule. Under the precedents of Baird in this state and the majority of federal circuits, ER 404(b) does not warrant exclusion of the evidence at issue here.

Moreover, even assuming Saunders' threat is excludable as character or propensity evidence, the State opened the door by presenting Saunders as a passive victim. See, e.g., State v. Gefeller, 76 Wn.2d 449, 455, 458 P.2d 17 (1969) (“It would be a curious rule of evidence which allowed one party to bring up a subject, drop it at a point where it might appear advantageous to him, and then bar the other party from all further inquiries about it.”).

³ See also, Wynne v. Renico, 606 F.3d 867, 874 (6th Cir. 2010) (Martin, J. concurring) (departing from the majority on grounds that reverse 404(b) evidence is not subject to 404(b)'s exclusion of propensity evidence); United States v. Lucas, 357 F.3d 599, 605 (6th Cir. 2004) (Rosen, J. concurring) (same). In contrast, a minority of circuits hold FRE 404(b) applies to all parties regardless of whether the evidence is being offered to support an accused's defense. See United States v. Williams, 458 F.3d 312, 315-17 (3d Cir. 2006) (holding FRE 404(b) applies regardless of whether evidence is offered by the government or the defendant); United States v. Lucas, 357 F.3d 599, 605 (6th Cir. 2004) (same); United States v. McCourt, 925 F.2d 1229, 1231-32 (9th Cir. 1991) (same).

Evidence of Saunders' threat is also admissible under the hearsay rules because it was not offered for the truth of the matter asserted, i.e. that Saunders' brother would, in fact, be killing Hailemariam. ER 801 ("Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted."). The threat is admissible because its importance lies in the very fact that the threat was uttered; it shows Saunders' state of mind. See State v. Roberts, 80 Wn. App. 342, 352, 908 P.2d 892 (1996) (content of alleged threat was not hearsay because it was offered not to prove declarant intended to carry out the threat).

Evidence of Saunders' threat was also admissible under ER 403. Evidence may be unfairly prejudicial under ER 403 if it appeals to the jury's sympathies, arouses its sense of horror, provokes its instinct to punish, or "triggers other mainsprings of human action." 1 J. Weinstein & M. Berger, Evidence § 403, at 403-36 (1985). None of the prejudice concerns embodied in ER 403 exist here. As explained above, the probative force of the evidence is substantial, and the defense was not seeking its admission solely for the sake of prejudicing the State. The evidence was not cumulative and would not have caused considerable delay or waste. It was essential to the defense theory of the case and the jury should have been permitted to consider it.

c. The Violation of Hailemariam's Constitutional Right to Present a Defense Requires Reversal.

The denial of the right to present a defense is constitutional error, and thus is presumed prejudicial. Crane v. Kentucky, 476 U.S. 683, 690, 106 S. Ct. 2142, 90 L. Ed. 2d 636 (1986); Jones, 168 Wn.2d at 724. The State bears the burden of proving the error was harmless beyond a reasonable doubt. State v. Miller, 131 Wn.2d 78, 90, 929 P.2d 372 (1997). Constitutional error requires reversal unless this Court is convinced beyond a reasonable doubt any reasonable trier of fact would reach the same result absent the error. State v. Easter, 130 Wn.2d 228, 242, 922 P.2d 1285 (1996). The presumption of prejudice:

may be overcome if and only if the reviewing court is able to express an abiding conviction, based on its independent review of the record, that the error was harmless beyond a reasonable doubt, that is, that it cannot possibly have influenced the jury adversely to the defendant and did not contribute to the verdict obtained.

State v. Ashcraft, 71 Wn. App. 444, 465, 859 P.2d 60 (1993).

The State cannot meet its burden to prove beyond a reasonable doubt that this error "cannot possibly have influenced the jury adversely to the defendant." Id. At trial the police officers freely admitted they saw only the last few seconds of the altercation. 2RP 17-18. Even Robinson admitted he was too far away to be able to say with precision what transpired between Hailemariam and Saunders. 3RP 46. If Hailemariam had been able to present

evidence of Saunders' strikingly similar threat made in relation to the same incident just a couple of weeks later, this would have both undermined Saunders' credibility and corroborated Hailemariam's testimony. Because this was essentially a credibility contest, the State cannot show this error did not contribute to the verdict and the conviction should be reversed. Ashcraft, 71 Wn. App. at 465.

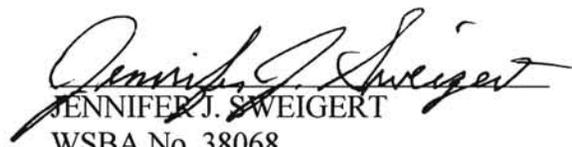
D. CONCLUSION

Hailemariam requests this Court reverse his conviction because, in excluding relevant defense evidence, the Court violated his constitutional right to present a defense.

DATED this 23rd day of October, 2012.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC



JENNIFER J. SWEIGERT
WSBA No. 38068
Office ID No. 91051

Attorney for Appellant

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

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.)	COA NO. 68735-2-1
)	
SAMSON HAILEMARIAN,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 23RD DAY OF OCTOBER 2012, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] SAMSON HAILEMARIAN
9015 CARKEEK DRIVE SOUTH
SEATTLE, WA 98118

SIGNED IN SEATTLE WASHINGTON, THIS 23RD DAY OF OCTOBER 2012.

x *Patrick Mayovsky*