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10-27-15
Court of Appeals
Division I
State of Washington

NO. 73122-0-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

CHRISTINA ALEXANDRESS,

Appellant.

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

BRIEF OF APPELLANT

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A. ASSIGNMENT OF ERROR

In the absence of sufficient evidence, Christina Alexandress's conviction violates the Fourteenth Amendment's Due Process Clause.

B. ISSUE PERTAINING TO ASSIGNMENT OF ERROR

The Due Process Clause of the Fourteenth Amendment to the United States Constitution requires the government prove a defendant committed the charged offense beyond a reasonable doubt. Where the evidence in the light most favorable to the State establishes that a crime was committed but creates, and leaves unresolved, substantial doubt the Ms. Alexandress was the person who committed the crime, does Ms. Alexandress's conviction deprive her of due process?

C. STATEMENT OF THE CASE

In September 2011, Stephanie Romack's Lake Stevens home was burglarized and several pieces of jewelry were missing. 9/30/15 RP 57.

Surveillance cameras on a neighboring house captured images of a car park in front of the Romack home and two women get out. 9/29/14 RP 127. One of the women is seen standing by the car while the other goes off frame walking towards the Romack home. *Id.* at 128. Eventually the second woman is seen returning to the car and the car

drives off. *Id.* The car appears to be an early '90's Subaru with a missing hubcap and missing piece of trim.

A few days later, Lake Stevens police officers stopped a car resembling the one seen in the video. 9/29/14 RP 134. Sherryl Brongil, the registered owner, was driving and Ms. Alexandress was a passenger. 9/30/14 RP 43-44. Officers noted the women physically resembled one another and resembled the women seen in the video. *Id.* at 48.

Officers discovered Ms. Brongil had conducted several pawn transactions at several Seattle pawn shops. 9/30/14 RP 18. A person using Mr. Alexandress's identity conducted a pawn transaction involving some of Ms. Romack's jewelry several weeks after the burglary. *Id.* at 10-13.

The State charged Ms. Alexandress with a single count of first degree trafficking stolen property. CP 1-2.

A jury convicted Ms. Alexandress as charged. CP 55.

D. ARGUMENT

The State failed to offer proof beyond a reasonable doubt that Ms. Alexandress committed the crime charged.

1. *Due process requires the State prove each element of the offense beyond a reasonable doubt.*

In a criminal prosecution, the Fourteenth Amendment Due Process Clause requires the State prove each essential element of the crime charged beyond a reasonable doubt. *Apprendi v. New Jersey*, 530 U.S. 466, 490, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000); *In re Winship*, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970). Evidence is sufficient only if, in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979).

2. *The State did not prove beyond a reasonable doubt that Ms. Alexandress was the individual who pawned the jewelry.*

A conviction for first degree trafficking stolen property requires the State prove beyond a reasonable doubt the person knowingly sold, transferred distributed, dispensed, or disposed of stolen property RCW 9A.82.010(19); RCW 9A.82.050(1). It is “is axiomatic in criminal trials that the prosecution bears the burden of establishing beyond a

reasonable doubt the identity of the accused as the person who committed the offense.” *State v. Hill*, 83 Wn.2d 558, 560, 520 P.2d 618 (1974).

To sustain this burden when criminal liability depends on the accused’s being the person to whom a document pertains . . . the State must do more than authenticate and admit the document; it also must show beyond a reasonable doubt that the person named therein is the same person on trial.

State v. Huber, 129 Wn. App. 499, 502, 119 P.3d 388 (2005) (internal quotations and citations omitted).

Here, the State’s case depended entirely on Ms. Alexandress being the person who pawned the jewelry, proved entirely by the pawn slip which named her and listed the information from her driver’s license. Chelsea Matthai, the pawn shop clerk, had no independent recollection of the person who pawned the jewelry. The shop’s surveillance video no longer existed. 9/29/14 RP 147.

Ms. Matthai testified that she completes the pawn slip from information on an official identification such as a driver’s license. 9/30/14 RP 12-13. Ms. Matthai explained she ensures the person looks like the picture on the presented identification. *Id.* at 10. Ms. Alexandress and Ms. Brongil resemble one another. *Id.* at 48. Ms. Brongil had conducted a pawn transaction a few weeks prior to that

transaction in question but Ms. Matthai had no recollection of Ms. Brongil or that transaction. *Id.* at 18

In the light most favorable to the State, the evidence established that someone using Ms. Alexandress's identification and who "looks like" the picture pawned the jewelry. The State did not prove beyond a reasonable doubt that that person was Ms. Alexandress.

3. *The court must reverse Ms. Alexandress's conviction.*

The Fifth Amendment's Double Jeopardy Clause bars retrial of a case where the State fails to prove the crime charged. *Jackson*, 443 U.S. at 319; *State v. Green*, 94 Wn.2d 216, 221, 616 P.2d 628 (1980). Because the State failed to prove she was the individual who pawned the jewelry, the Court must reverse Ms. Alexandress's conviction and dismiss the charge.

E. CONCLUSION

For the reasons above, this Court should reverse Ms. Alexandress's conviction.

Respectfully submitted this 26th day of October, 2015.

s/ Gregory C. Link

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

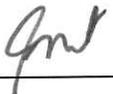
STATE OF WASHINGTON,)	
)	
Respondent,)	
)	NO. 73122-0-I
v.)	
)	
CHRISTINA ALEXANDRESS,)	
)	
Appellant.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 27TH DAY OF OCTOBER, 2015, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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