

FILED
COURT OF APPEALS

05 APR -3 PM 12:26

STATE OF WASHINGTON

BY  _____
COUNSEL

NO. 34042-9-II

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

STATE OF WASHINGTON,

Respondent,

v.

STEFFAN F.E. SCHIERSCH,

Appellant.

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

REPLY OF APPELLANT

MICHAEL DANKO
Attorney for Petitioner
600 First Avenue, Suite 205
Seattle, Washington 98104
(206) 623-4644

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A. REPLY1

The State does note, however, that the trial court appears to have entered a judgment and sentenced Schiersch on both counts. On remand the judgment and sentence should be amended to strike the conviction and sentence for false reporting.

Respondent's brief at 10. The State ignores appellant's argument entirely, and then, without any authority or explanation, tells the court the misdemeanor charge needs to be stricken upon remand without citing any authority.

The State does not address the issue raised in this appeal. It does not address the legality or propriety of the agreement entered into by the parties in this case. Respondent cites the standard authority for ineffective assistance of counsel, simply recites the evidence, and suggests that its offer to recommend a First Time Waiver provided a basis for the stipulated trial. However, the stipulated trial is not at issue.

The substantive issues raised in this appeal focuses on the agreement between the parties to have appellant found guilty of both the felony and the misdemeanor, and the subsequent ineffective assistance of counsel which arose from that agreement. This is the substantive issue presented, and which is fully set out in appellant's brief.

Appellant has nothing to add to its argument. Respondent's failure to address the issue should be interpreted as a concession. In all due

respect, appellant's case should be remanded and the judgments and sentences imposed vacated.

Dated this 2nd day of August, 2006.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael Danko", is written over a horizontal line.

Michael Danko # 14312
Attorney for Appellant
600 First Ave., STE 205
Seattle, WA 98104
(206) 623-4644

FILED
COURT OF APPEALS
DIVISION TWO

06 AUG -3 PM 12:26

STATE OF WASHINGTON

BY _____
DEPUTY

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

STATE OF WASHINGTON,

NO. 34042-9-II

Respondent,

CERTIFICATE OF SERVICE

v.

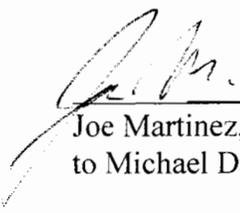
STEFFAN F.E. SCHIERSCH,

Appellant.

Joe Martinez, Legal Assistant to Michael Danko, hereby certifies that defendant's copy of the Reply of Appellant in this case was sent to him by U.S. Mail on August 2, 2006, to his residence at 11788 N.E. Ohio Ave, Kingston, Washington 984346.

Under penalty of perjury under the laws of the State of Washington, I declare that the foregoing is true and correct. Dated this 2nd day of

August, 2006 at Seattle, Washington.



Joe Martinez, Legal Assistant
to Michael Danko