

WASHINGTON STATE COURT OF APPEALS

DIVISION II

NO. 35523-0-II

STATE OF WASHINGTON,

RESPONDENT,

Vs.

REX E. WHIPPLE,

APPELLANT

07 JUN -4 PM 6:55
STATE OF WASHINGTON
BY DEPUTY
COURT OF APPEALS
DIVISION II

BRIEF OF APPELLANT

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ORIGINAL

Brief of Appellant Whipple

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A. TABLE OF AUTHORITIES

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B. ASSIGNMENTS OF ERROR

1. The court erred in finding Mr. Rex Whipple guilty of Possessing Depictions of a Minor Engaged in Sexually Explicit Conduct as there was insufficient evidence to support the convictions upon any and all of the counts Mr. Whipple was convicted upon; those counts being 2, 3, 4, 5, 6, 8, 9, 10, & 11. Verbatim Report of Proceedings (Hereinafter RP) at V-59 to V-62; Clerk's Papers hereinafter CP at 3-6.

C. QUESTIONS PRESENTED

1. Whether when the evidence is that nothing was done by the parent or any other party to induce the child's conduct, and the child was not aware she was being observed or photographed regardless of whether the parent/other party photographs or observes child's behavior, is the possessor of photographs of said female child showing breasts, buttocks, and pubic area criminally liable for Possessing Depictions of a Minor Engaged in Sexually Explicit Conduct.

D. STATEMENT OF THE CASE

Mr. Whipple while visiting his son in Arizona, left a laptop computer lying out in his son's residence. RP at I-27-28. Ms. Shaun Whipple, daughter-in-law to Mr. Rex Whipple, accessed the aforesaid computer on 10 March 2006, while Mr. Rex Whipple was out of the

residence going to a movie with his son. RP at I-27-28, & 118. The testimony established that a minor ultimately identified as Elizabeth Jane Ellis (Lizzie and LE elsewhere within the RP and identified as E.J.E. (d.o.b. 7-13-1990) in CP 11-12, and step daughter to Mr. Rex Whipple and from this point forward as E.J.E. in this Brief) was photographed taking off her shirt, bra, and underwear. RP at I-30 & 38; RP at I-100 & III-108. E.J.E., did not appear to be aware she was being photographed. RP at I-30. There were pictures of E.J.E., fully naked. RP at I-38. The state provided four DVDs with pictures and videos of LE. Identified in Appellant's Amended Designation of Clerks Papers and Exhibits Supplemental item 5, and was designated Exhibit 6 a through d at trial (hereinafter Ex 6).

Suzanne Duscha, E.J.E.'s., mother (who was at the time of alleged videos was the wife of Mr. Rex Whipple (RP at I-100)), had a conversation with Shaun Whipple, who had found the pictures and videos at issue. RP at I-101. She subsequently spoke over the telephone with Mr. Rex Whipple. RP at I-102 & III-118. Ms. Duscha informed Mr. Rex Whipple of the content of the videos, which were on laptop he had from the school. RP at I-102 & 104. In a subsequent call, Mr. Rex Whipple confirmed that he had then searched the laptop and found the videos. RP I-106; III-118; & IV-129. Mr. Rex Whipple confirmed that the videos contained full frontal nudity of the minor at issue. RP at I-106; Ex 6.

Ms. Duscha also testified that in the fall and winter of 2005 Mr. Rex Whipple was going out for walks in the early morning. RP at I-107. She testified that Mr. Rex Whipple would return right after E.J.E., would cross over to the bathroom. RP at I-107-08. Mr. Rex Whipple would dress very warmly on these mornings when walking and would appear cold upon his return. RP at I-107.

Mr. Rex Whipple's lap top from the school could edit and play videos. RP at I-117. Exhibit 6 has a video on disk "b" clip "7" that shows what Mr. Chris Martin described as a video with a letter box format. RP at II-62. In this format there are black bars across the top and bottom of the viewing screen. RP at II-62 & 95. Additionally, there was an opening and closing of the screen, which Mr. Martin described as a barn door transition. RP at II-62. Mr. Martin also noticed that there were video clips of the victim with the same letter box feature and barn door transitions. RP at II-63. There is an editing option on the computer, possessed by Mr. Whipple to allow the imposition of the letter box format. RP at 96.

Mr. Martin also testified that in Exhibit 6(b), a person could see what appeared to be a photograph also seen in trial exhibit 12a. RP at II-63 & 66. Mr. Rex Whipple testified that these same photographs appeared to ones he took during his and Ms. Duscha's honeymoon in Hawaii. RP at IV-108. Additionally, Mr. Rex Whipple admitted you could see what

appeared to be a portion of a "Powerbook G4" like he had from the school in one of the clips. RP at IV-109.

Mr. Rex Whipple lost the laptop computer returning from Arizona. RP at I-79; III-122. The laptop was not found. RP at III-124.

The Defendant did not initiate, contribute to, take any affirmative act to cause, or otherwise influence E.J.E. (d.o.b. 7-13-1990) to engage in the conduct at issue in this case including her dressing and undressing, which was recorded on video and pictures during the periods of time charged in the amended information filed in this case. CP at 11-12; CP at 3-6.

E.J.E. (d.o.b. 7-13-1990) did not know any camera was present, when the complained of video and pictures were taken of her during the periods of time charged in the amended information filed in this case and she acted just as she would have, had the camera not been present. CP at 11-12; CP at 3-6.

E.J.E. (d.o.b. 7-13-1990) did not know any person(s) was present observing while she was dressing and undressing, which was recorded on the video and pictures taken of her during the periods of time charged in the amended information filed in this case and she acted just as she would have, had said person(s) not been present. CP at 11-12; CP at 3-6.

No other person initiated, contributed to, or otherwise influenced E.J.E.'s (d.o.b. 7-13-1990) conduct, which was recorded on video or

pictures during the periods of time charged in the amended information filed in this case. CP at 11-12; CP at 3-6.

D. ARGUMENT

The State failed to produce sufficient evidence on the charges of Possessing Depictions of a Minor Engaged in Sexually Explicit Conduct to prove the element of sexual explicit conduct and so failed to prove their case.

The defense would argue that at best the State provided evidence at trial that showed with all of the reasonable inferences given, the following:

(1) Mr. Rex Whipple photographed his step daughter over a period of months in the early morning while she was dressing through her bedroom window;

(2) Mr. Rex Whipple ultimately stored these images on a laptop computer he had possession of from the school; the schools system created a backup of the laptop and Exhibit 6 is a collection of four DVDs designated exhibit 6 a, b, c, and d, at trial, that show the minor E.J.E., in various states of undress, but prominently featuring her breasts, pubic area, and buttocks;

(3) Mr. Whipple added letter box and barn door formatting to some of the videos at issue.

(4) E.J.E. (d.o.b. 7-13-1990) did not know any camera was present, when the complained of video and pictures were taken of her during the periods of time charged in the amended information filed in this case and she acted just as she would have, had the camera not been present. CP at 11-12.

(5) E.J.E. (d.o.b. 7-13-1990) did not know any person(s) was present observing while she was dressing and undressing, which was recorded on the video and pictures taken of her during the periods of time charged in the amended information filed in this case and she acted just as she would have, had said person(s) not been present. CP at 11-12.

(6) No other person initiated, contributed to, or otherwise influenced E.J.E.'s (d.o.b. 7-13-1990) conduct, which was recorded on video or pictures during the periods of time charged in the amended information filed in this case. CP at 11-12.

The standard of review in determining if there is sufficient evidence to support a conviction is stated in *State v. Chester*, 82 Wn.App. 422, 425, 918 P.2d 514 (1996) as follows:

In determining whether sufficient evidence supports a conviction, "[t]he standard of review is 'whether, after viewing the evidence in the light most favorable to the prosecution, *any rational trier of fact* could have found the essential elements of the crime *beyond a reasonable doubt*.' " *State v. Olson*, 73 Wn.App. 348, 357-58, 869 P.2d 110, *review denied*, 124 Wash.2d 1029, 883 P.2d 327 (1994)

(quoting *State v. Green*, 94 Wn.2d 216, 221, 616 P.2d 628 (1980)).

RCW 9.68A.070¹ (in effect at the time of the alleged crime) provides the basis for all counts Mr. Whipple was convicted upon. See CP at 1-2. It states: "A person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a class C felony." RCW 9.68A.070.

Mr. Whipple argues that the definition of sexually explicit conduct at issue in this case is found at RCW 9.68A.011 and the relevant portion of that definition states:

....
(3) "Sexually explicit conduct" means actual or simulated:

....
(e) Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer....

Judge Morgan in *State v. Gannis*, 84 Wn.App. 546, 548-552, 930 P.2d 327 (1997) *review denied by* 133 Wn.2d 1018 948 P.2d (1997), went through a detailed analysis of what is required to prove Possessing Depictions of a Minor Engaged in Sexually Explicit Conduct. It should be noted that State again as it is here alleged that the perpetrator

¹ Laws 2006, ch. 139, § 3 changed the offense from a Class C felony to a Class B felony; however the charges against Mr. Whipple were as class C felonies. CP at 3-6.

surreptitiously viewed and photographed the children at issue and that the perpetrator specifically in a bath scene filmed through the wall and focused on the female child's breasts and pubic area. *Gannis*, 84 Wn.App. 547. Further, the court noted "**As far as the record shows, no adult initiated, contributed to, or otherwise influenced the girl's conduct while bathing.**" *Gannis*, 84 Wn.App. at 547 (emphasis added). Judge Morgan's analysis is as follows:

As can be seen, RCW 9.68A.070 provides that one of the dividing lines between a picture that is criminal to possess, and a picture that is not criminal to possess, is whether the picture "depict[s] a minor engaged in sexually *549 explicit conduct." Unless a picture depicts such conduct, it is not criminal to possess. [FN2]

FN2. We think it apparent that it is not usually a crime to possess pictures of a child playing on a playground, or of a child taking a bath. If it were, most parents and grandparents would be subject to jail.

The Legislature has defined "sexually explicit conduct" as actual or simulated:

- (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;
- (b) Penetration of the vagina or rectum by any object;
- (c) Masturbation;
- (d) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer;
- (e) Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;**
- (f) Defecation or urination for the purpose of sexual

stimulation of the viewer; and
(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer. [FN3]
FN3. RCW 9.68A.011(3).

Only paragraph (e) might apply here. For present purposes, then, the meaning of "sexually explicit conduct" turns on what constitutes an "[e]xhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer."

[2] By itself, an exhibition is inanimate and without any purpose of its own. [FN4] Necessarily, **330 then, its purpose is the purpose of the person or persons who initiate, contribute *550 to, or otherwise influence its occurrence. [FN5] The initiator or contributor need not be the accused [FN6] or the minor whose conduct is at issue. [FN7] Whoever the initiator or contributor is, however, his or her purpose must be to sexually stimulate a viewer. [FN8] If his or her purpose is different, the conduct will not be sexually explicit by virtue of RCW 9.68A.011(3)(e).

FN4. *State v. Chester*, 82 Wash.App. 422, 431, 918 P.2d 514 (1996) (opinion of Morgan, J.), *review granted*, 130 Wash.2d 1016, 928 P.2d 412 (1996).

FN5. *Chester*, 82 Wash.App. at 431, 918 P.2d 514 (opinion of Morgan, J.).

FN6. *Chester*, 82 Wash.App. at 428, 918 P.2d 514 (opinion of Bridgewater, J.), 432 (opinion of Morgan, J.). Judge Bridgewater said that "there must be evidence that someone other than the minor induced the minor's behavior." Judge Morgan said that the initiator of an exhibition "can be the defendant, a third person, or even the minor."

FN7. *Chester*, 82 Wash.App. at 428, 918 P.2d 514 (opinion of Bridgewater, J.), 432 (opinion of Morgan, J.), 434 (opinion of Turner, J.). Judge Bridgewater said that "there must be evidence that someone other than the minor induced the minor's behavior." Judge Morgan said that the initiator of an exhibition "can be the defendant, a third

person, or even the minor." Judge Turner said that "sexual purpose on the part of the victim is not required."
FN8. RCW 9.68A.011(3)(e); *Chester*, 82 Wash.App. at 432, 918 P.2d 514 (opinion of Morgan, J.).

We applied these principles in *State v. Chester* [FN9] and *State v. Myers*. [FN10] In *Chester*, the defendant surreptitiously photographed a minor female's nude body as she exited the shower and dressed herself. She did not know she was being filmed, and he did not influence, alter or affect her conduct in any way. The State charged him with sexually exploiting a minor in violation of RCW 9.68A.040. That statute, like RCW 9.68A.070, requires proof that a minor engaged in sexually explicit conduct. [FN11] The jury convicted, and the defendant appealed on grounds the evidence was *551 insufficient to support the conviction. Although Judge Bridgewater and Judge Morgan reasoned somewhat differently, and Judge Turner dissented, **an essential conclusion was that a minor does not "engage in sexually explicit conduct" merely by exiting a shower and getting dressed.** Thus, the conviction was not supported by sufficient evidence.

FN9. 82 Wash.App. at 422, 918 P.2d 514.

FN10. 82 Wash.App. 435, 918 P.2d 183 (1996), *review granted*, 130 Wash.2d 1016, 928 P.2d 413 (1996).

FN11. RCW 9.68A.040 states in pertinent part:

- (1) A person is guilty of sexual exploitation of a minor if the person:
 - (a) Compels a minor by threat or force to engage in sexually explicit conduct ...;
 - (b) Aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct ...; or
 - (c) Being a parent ... of a minor, permits the minor to engage in sexually explicit conduct

In *Myers*, the defendant told a minor female to take a bath. As she did so, he coaxed her into positions from which he could view and photograph her genitals. As in *Chester*, the State charged him with sexually exploiting a minor in violation of RCW 9.68A.040, which requires proof that a minor engaged in sexually explicit conduct.

The jury convicted, and the defendant appealed. At least in part, we held that the minor had engaged in an "[e]xhibition of the genitals ... for the purpose of sexual stimulation of the viewer," **because the defendant had initiated or contributed to the exhibition of her genitals with the purpose of sexually stimulating a viewer** (i.e., himself). Thus, the minor had engaged in "sexually explicit conduct," and we affirmed the conviction.

[3][4] Here, Count I is based on photographs showing the conduct of minor girls on a playground, and the **conduct of one minor girl taking a bath. It is obvious and undisputed that none of the girls had a purpose of sexually stimulating a viewer, and there is no evidence that Grannis initiated, contributed to, or in any way influenced the girls' conduct. Thus, the evidence does not show an exhibition of the genitals or breasts for the purpose of sexually stimulating a viewer, or that the girls engaged in "sexually explicit conduct" within the meaning of RCW 9.68A.011(3). As in *Chester*, where an essential conclusion was that a minor does not "engage in sexually explicit conduct" merely **331 by exiting a shower and starting to get dressed, we hold here that a minor does not "engage in sexually explicit conduct" merely by playing on a playground, or merely by taking a bath.**

Nothing said herein means that the Legislature could *552 or could not criminalize conduct of the sort at issue in this case. We hold only that it did not do so when, in 1988 and 1989, it enacted and amended **RCW 9.68A.070 and RCW 9.68A.011(3)(e). Those statutes require proof that a minor engaged in sexually explicit conduct, and that requirement is not satisfied by evidence showing only that a minor played on a playground or took a bath.** The evidence is insufficient to support the conviction on Count I.

Gannis, 84 Wn.App. at 548-551 (emphasis added).

It is obvious and undisputed that E.J.E. (d.o.b. 7-13-1990) did not

have a purpose of sexually stimulating a viewer because she did not know she was being photographed. CP 11-12; RP at I-30. Further, there is no evidence that Mr. Whipple initiated, contributed to, or in any way influenced the E.J.E.'s (d.o.b. 7-13-1990) conduct. CP 11-12. Lastly, there is no evidence that any other person initiated, contributed to, or in any way influenced the E.J.E.'s (d.o.b. 7-13-1990) conduct. CP 11-12.

Gannis supra, is directly on point. *Gannis* describes in detail a defendant who photographs a minor female through a hole in the wall in her bath². *Gannis*, at 547. He focuses on her breasts and pubic areas, just as was done in this case. *Gannis*, at 547. The defendant in *Gannis* was in possession of pictures that match pictures at issue before this court today.

Gannis held that under these same facts that there was insufficient evidence to convict a defendant under RCW 9.68A.070 because under RCW 9.68A.011(3)(e) there was no sexually explicit conduct in the videos and pictures. A requirement the court found was that someone, the victim, the defendant, or some other party induced or contributed to the sexually explicit conduct. *Gannis*, 84 Wn.App. at 549-50.

² *Gannis*, 84 Wn.App. at 547 stated:

The second scene shows a minor girl taking a bath. It is taken from a vantage point located outside the bathroom, through "what appears to be a crack in the wall." [FN1] At one point, the girl looks around and the camera moves away. The camera then returns to **329 focus on the girl, showing her unclothed breasts and pubic area. As far

The *Gannis* court was clear that by itself, an exhibition is inanimate and without any purpose of its own. *Gannis*, 84 Wn.App. at 549. Therefore the state needs to prove that the **purpose of the person or persons who initiate, contribute to, or otherwise influence the exhibitions occurrence is to sexually stimulate a viewer.** *Gannis*, 84 Wn.App. at 549-50. However, in this case the evidence is absolutely clear, that neither Mr. Whipple, nor any other person(s) initiated, contributed, or otherwise influenced E.J.E.'s, actions depicted in the videos at issue. See CP 11-12. E.J.E., did not know she was being observed as was just getting dressed and undressed again without any purpose to sexually stimulate a viewer, as she didn't know there was a viewer. See CP 11-12.

Therefore, Mr. Whipple is not guilty of the charges at issues because there is insufficient evidence of sexually explicit conduct and he must be found not guilty on all counts.

The State may argue that the under *State v. Griffith*, 129 Wn.App. 482, 120 P.3d 610 (2005) that the definition of "sexually explicit conduct" has been enlarged. Reliance on *Griffith supra*, for such a proposition would be in error. *Griffith supra*, is a probable cause case focused on the issue of was there probable cause to support the warrant and not whether

as the record shows, no adult initiated, contributed to, or otherwise influenced the girl's conduct while bathing.

there was sufficient evidence to support a conviction for sexual exploitation or possessing pictures depicting a minor engaged in sexually explicit conduct. The key factual and analytical portions of *Griffith supra*, on the above points are quoted below:

3 C.R. drank several beers at the party. **She offered to pose for Mr. Griffith so he could use his new digital camera. She then started to take off her clothes and posed for what some described as seductive pictures.** Several people were present at this time. After taking the pictures, Mr. Griffith showed them to others using the viewing window on his camera as well as his computer.

...

Mr. Griffith contends the warrant was invalid because the affidavit did not indicate "sexually explicit" photographs of a minor would be found and, consequently, the affidavit did not suggest any criminal activity was occurring. *488 The affidavit for the warrant indicates that C.R., a minor, posed naked for Mr. Griffith. It states he took pictures and then hooked the camera up to his computer.

[9][10] ¶ 14 We affirm the court's order denying the motion to suppress because the affidavit contains sufficient facts to allege Mr. Griffith committed a crime. Not all possession of nude pictures of minors is illegal. *See State v. Grannis*, 84 Wash.App. 546, 548-49, 930 P.2d 327 (1997); *State v. Huckins*, 66 Wash.App. 213, 219, 836 P.2d 230 (1992). But a nude picture of a minor is illegal if it depicts the minor engaged in sexually explicit conduct. **614 *Grannis*, 84 Wash.App. at 548-49, 930 P.2d 327. If a minor is unclothed and the picture is for the sexual stimulation of the viewer, then it meets the definition of sexually explicit conduct. *Id.* at 549, 930 P.2d 327 (quoting RCW 9.68A.011(3)(e)). The purpose for which the picture of a nude minor is taken determines whether probable cause may be found. *Id.* at 550, 930 P.2d 327. C.R. said the pictures were taken as a birthday present for Mr. Griffith. **The affidavit also noted that others were helping her pose for the pictures.** **Given our deferential**

standard of review, the affidavit contains facts sufficient to suggest a crime was committed. The warrant was thus supported by probable cause.

Griffith, 129 Wn.App. 485, 487-488 (emphasis added).

It is clear from the above that the court discussing a different standard of review than is before this court today: (1) Probable cause, which is “facts sufficient to suggest a crime was committed” versus; (2) Insufficient evidence to support his conviction, which is “whether, after viewing the evidence in the light most favorable to the prosecution, *any rational trier of fact* could have found the essential elements of the crime *beyond a reasonable doubt.*” See *Griffith*, 129 Wn.App. at 488 (for probable cause standard); See *Chester*, 82 Wn.App. at 425 (for sufficient facts to support a conviction standard). It is also clear that the facts in *Griffith* specifically note a child posing with people helping pose her for what was described as “**seductive pictures**”. *Griffith*, 129 Wn.App. at 485. The evidence, again shows the need for some affirmative act by the perpetrator, a third party, or the victim showing a **sexually explicit purpose** to the pictures is key, just as it was in *Gannis supra*, which *Griffith*, cites and relies upon. *Griffith* at 488.

The state may also argue that they is support for their position that mere photographs taken of an unsuspecting child are enough to satisfy the definition of “Sexually explicit conduct” under RCW 9.68A.011, under

State v. Bohannon, 62 Wn.App. 462, 472, 814 P.2d 694 (1991) and *State v. Farmer*, 116 Wn.2d 414, 421, 805 P.2d 200, *modified*, 812 P.2d 858 (1991). However this precise argument was addressed by Judge Brdgewater in *Chester supra* which held:

This holding is not inconsistent with *Bohannon* or *Farmer*. We noted in *Bohannon* that a person could be guilty of sexual exploitation of a child if that "individual [took] sexually explicit photographs of a child at a time when the child was unaware that the pictures were being taken." *Bohannon*, 62 Wash.App. at 472, 814 P.2d 694. In *Farmer*, the court described the criminal act of the defendant to include taking "nude photographs ... in a variety of sexually suggestive poses," and "a number of suggestive and sexually explicit photographs." *Farmer*, 116 Wash.2d at 418, 805 P.2d 200. **It is clear from the opinions that both Bohannon and Farmer influenced the behavior of their minor subjects.** In both *Bohannon* and *Farmer*, although not expressly addressed, we observe the State was required to demonstrate with sufficient evidence that the photographer "posed" the minor in order to show a criminal act was committed. "Posed" is not satisfied by showing a strategic placement of the camera, **because the phrase "engage in" refers to the conduct of the child, not the photographer.**

Chester, 82 Wn.App. at 429 (emphasis added). *Chester supra*, dealt specifically with sexual exploitation of a minor in violation of RCW 9.68A.040 and the case analysis dealt extensively with the language of statute at issue; however, the state in that case was also making an argument that sexually explicit conduct could be met with mere photographs of a nude child. *See Chester*, 82 Wn.App. at 428-9. The court specifically pointed that both Bohannon and Farmer influenced the

behavior of their minor subjects and so were criminally liable. *Chester*, 82 Wn.App. at 429. Mr. Whipple's case is clearly distinguishable as the state stipulated he did not influence E.J.E. There is insufficient evidence to support the convictions under the law.

E. CONCLUSION

Based upon the foregoing analysis and facts, Mr. Rex Whipple respectfully requests this court to find that there was insufficient evidence to uphold his convictions in this matter and to find him not guilty on all charges.

Respectfully submitted this 31st day of May, 2007.


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WASHINGTON STATE COURT OF APPEALS

DIVISION II

NO. 35523-0-II

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REX E. WHIPPLE,

APPELLANT

15th JUDICIAL DISTRICT
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TO: CLERK OF COURT

On June 1, 2007, I placed the foregoing pleading(s):

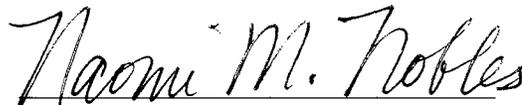
- 1) **AMENDED DESIGNATION OF CLERKS PAPERS & EXHIBITS SUPPLEMENTAL**
- 2) **BRIEF OF APPELLANT**
- 3) **VERBATIM REPORT OF PROCEEDINGS – Volumes I - V**

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Juelanne Dalzell
PROSECUTING ATTORNEY
FOR JEFFERSON COUNTY
PO Box 1220
Port Townsend, WA 98368

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Bainbridge Island, Washington on June 1, 2007.



Naomi M. Nobles
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