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COURT OF APPEALS
DIVISION II

NO. 40255-6-II

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STATE OF WASHINGTON

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

BY  DEPUTY

STATE OF WASHINGTON, RESPONDENT

v.

MICHAEL DUANE JOHNSON, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Frederick W. Fleming, Judge

No. 09-1-00055-9

BRIEF OF RESPONDENT

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Did the trial court properly deny defendant's motion to suppress evidence?
2. Did the trial court properly admit the blood evidence?

B. STATEMENT OF THE CASE.

1. Procedure

On January 2, 2009, the State charged defendant with count I, felony driving under the influence of intoxicants, and count II, driving while license suspended or revoked the first degree. CP 1-2.

On December 14, 2009, defendant pleaded guilty to count II. CP 43-47. The court delayed sentencing until the trial for count I ended. RP 20-21.

As to count I, defendant moved on November 5, 2009 to suppress evidence, the test results on a blood sample that indicated the presence of drugs. CP 5-42. The court held a suppression hearing on December 14, 2009. RP 28-169. The court denied the motion to suppress the test results as evidence. RP 167-169.

On December 22, 2009, a jury found defendant guilty of felony driving under the influence of intoxicants – four or more prior offenses within ten years. RP 422; CP 85. The court sentenced defendant to 60

months confinement for count I, concurrent to 365 days for count II. SRP¹
22; CP 90; CP 100-104.

Defendant filed a timely appeal on January 22, 2010. CP 105.

2. Facts

a. Facts from 3.6 Suppression Hearing

The court entered the following findings and conclusions after the suppression hearing. *See* CP 132-141. Defendant challenges the Findings as to Disputed Facts 1, 2, and 5. App. Br. at 1.

THE UNDISPUTED FACTS

1. On September 23, 2007, at approximately 12:00 a.m., Washington State Patrol Trooper Gerald Ames was on routine patrol when he was advised of a one car collision on southbound Interstate 5 at mile post 135.
2. Upon arrival at the scene, Trooper Ames observed a Jeep Wrangler tangled in the cable guard rail.
3. Trooper Ames also observed a male, later identified as the defendant, MICHAEL DUANE JOHNSON, standing in front of the Jeep.
4. Trooper Ames did not observe any other vehicles or individuals in the area surrounding the disabled Jeep.
5. Trooper Ames contacted the defendant and asked him if he was injured. The defendant replied “no.” Trooper Ames asked the defendant what happened. The defendant stated that he was run off the road by another vehicle, but was unable to provide an exact description of the vehicle. The defendant did state that the other vehicle was red.

¹ Consistent with defendant’s brief, SRP denotes the single volume containing the transcribed sentencing hearing on January 22, 2010.

6. Trooper Ames asked the defendant if the other vehicle hit his vehicle. After a pause, the defendant replied "no."
7. Trooper Ames noted that the defendant was lethargic, disoriented, walked with a stagger, and was unsteady on his feet.
8. Trooper Ames conducted a Department of Licensing records check and determined that the defendant's driving status was revoked in the first degree.
9. During that records check, the defendant got into the vehicle and attempted to free the Jeep from the cable barrier. Despite numerous attempts, the defendant was not able to move his vehicle.
10. At approximately 12:10 pm, Trooper Ames arrested the defendant for DWLS 1st.
11. The trooper testified that he did not observe any odor of intoxicants coming from the defendant's person, but that he was concerned about the defendant's lethargic manner.
12. The defendant was handcuffed and placed in the back of the patrol vehicle. The defendant continued to appear very drowsy. While in the back of the patrol vehicle, he leaned his head against the security screen and started snoring.
13. Trooper Ames continued to observe evidence of impairment, and suspected that the defendant was under the influence of drugs.
14. At approximately 12:20 pm, Trooper Ames advised the defendant of his Miranda rights.
15. After being advised of his rights, the defendant fell asleep. The trooper noted that the defendant's eyes were very heavy and only the bottom whites of his eyes were visible.
16. Trooper Ames also notified the defendant he was under arrest for driving under the influence of drugs.
17. The defendant was transported to St. Joseph's Hospital for a blood draw. At approximately 12:50 pm, they arrived at the hospital.
18. At approximately 1:06 pm, Trooper Ames re-advised the defendant of his Miranda Warnings.
19. Trooper Ames also advised the defendant of his Implied Consent Warnings for blood. The defendant agreed to provide a blood sample.
20. Trooper Ames then requested a blood technician to draw the defendant's blood.
21. Trooper Ames obtained two grey topped vials from his vehicle, and observed a white powder in each tube.

22. St. Joseph's Health Care Assistant/Phlebotomist Alicia Kester was the hospital employee assigned to draw the defendant's blood.
23. Trooper Ames provided Ms. Kester with the two blood vials to collect the defendant's blood.
24. Ms. Kester informed Trooper Ames that the vials had an expiration date of May 2007.
25. Trooper Ames instructed Ms. Kester to go ahead with the blood draw despite the tubes being expired.
26. After the samples were collected, Ms. Kester handed them to the trooper. The vials were clean and contained the defendant's blood.
27. Trooper Ames labeled the blood vials with the defendant's identifying information (name and date of birth). Trooper Ames also placed evidence tape over the tops of the vials. Trooper Ames did not open the vials at any time and did not add anything to the vials.
28. After obtaining the vials, the trooper placed the vials into evidence to be tested by the Washington State Toxicologist.
29. On September 26, 2007, Washington State Patrol Forensic Toxicologist Estuardo Miranda received the defendant's blood samples. He later tested the defendant's blood, from Tube A, for alcohol and drugs.
30. While this case was pending, Mr. Miranda relocated to Arizona.
31. Washington State Forensic Toxicologist Dr. Nahiza Nuwayhid retested the defendant's blood sample from Tube A. The results of the retest were 0.16 mg/L oxycodone, 0.07 mg/L, and 0.17 mg/L 7-aminoclonazepam. Dr. Nuwayhid testified that since the contents of Tube A had been tested by another forensic toxicologist, the evidence seal had been broken.
32. Dr. Nuwayhid then tested the defendant's blood from Tube B. Dr. Nuwayhid testified that Tube B still had the evidence tape over the top of the blood tube and had never been tested by another toxicologist. Dr. Nuwayhid removed the evidence tape in order to test the blood from Tube B.
33. Dr. Nuwayhid testified that the blood from Tube B was thickened, but still liquid, and had not coagulated.
34. The results from Tube B were 0.19 mg/L oxycodone, 0.06 mg/L, and 0.19 mg/L 7-aminoclonazepam.
35. Dr. Nuwayhid testified that she has knowledge that the white powder substance in the Washington State Patrol gray capped vials was Sodium Chloride and Potassium Oxalate (anti-coagulant and enzyme poison).

36. Dr. Nuwayhid testified that she was qualified to test the defendant's blood sample and had a valid Washington State blood analyst permit/certificate. Her permit was signed by the former State Toxicologist Barry Logan and is effective until revocation by the State Toxicologist. Dr. Nuwayhid's permit has never been revoked by any State Toxicologist
37. Dr. Nuwayhid testified that she analyzed the defendant's blood using procedures and methods approved by the state toxicologist.
38. Dr. Nuwayhid testified that the procedure/method she utilized was precise and accurate, capable of reproducibility, specific, and was free from interferences native to the blood sample.
39. Dr. Nuwayhid testified that during each test, control samples and blank tests were utilized.
40. Dr. Nuwayhid testified that the defendant's blood samples had been labeled with a unique number, ST 0707579.
41. Dr. Nuwayhid testified that access to the defendant's blood sample was secure and limited to authorized employees at the Washington State Toxicology Lab.
42. Dr. Nuwayhid testified that she never added anything to either Tube A or B prior to and after analysis.
43. Ms. Lorinda Cox testified that she was the supervisor of Ms. Alecia Kester, the phlebotomist who drew the defendant's blood. Ms. Cox had personal knowledge that Ms. Kester was qualified to draw blood and was a Health Care Assistant on September 23, 2007. Ms Kester's qualification as a Health Care Assistant was current on September 23, 2007.
44. The incident described by Trooper Ames occurred in Pierce County, Washington.
45. Trooper Ames identified the defendant in open court as the person he arrested for DUI on September 23, 2007.

THE DISPUTED FACTS

1. Whether or not the use of expired tubes would compromise the validity of the blood test results.
2. Whether or not a sufficient amount of blood was drawn for analysis to have a proper mix of Sodium Chloride and Potassium Oxalate.
3. Whether or not Trooper Ames personally observed Ms. Kester draw the defendant's blood from his arm.
4. Whether or not Ms. Kester wiped the defendant's arm with providone iodine and used a new, clean needle for the blood draw.

5. Whether or not Ms. Kester mixed the blood samples with the additives by inverting the samples several time before handing them to the trooper.
6. Whether or not the vials had a white powder substance in each vial, were clean, dry, and intact, and the tops of the vials were gray. The vials had an inert leak proof top and were vacuumed sealed. There was an area on the vials for labeling name and date of birth.
7. Whether or not Dr. Nuwayhid possessed a permit to analyze blood.

FINDINGS AS TO DISPUTED FACTS

1. The use of expired tubes did not compromise the validity of the blood test results.
2. There amount of blood collected in this case was sufficient for analysis and mixture of the Sodium Chloride and Potassium Oxalate.
3. Trooper Ames personally observed Ms. Kester draw blood from the defendant's arm.
4. Trooper Ames personally observed Ms. Kester wipe the defendant's arm with providone iodine and used a clean needle.
5. The blood samples were sufficiently mixed with the anti-coagulant and enzyme poison.
6. The vials used in this case had a white powder (Sodium Chloride and Potassium Oxalate), were clean, dry, intact, and the tops of the vials were gray. The vials used in this case had an inert leak proof top and were vacuumed sealed. There was an area on the vials for labeling the name and date of birth.
7. Dr. Nuwayhid was qualified and possessed a valid permit to analyze the defendant's blood sample.

c. Facts from trial

The facts as presented at trial are substantially similar to those from the suppression hearing.

C. ARGUMENT.

1. THE TRIAL COURT PROPERLY DENIED THE SUPPRESSION MOTION.

Unchallenged findings of fact are verities on appeal; challenged findings will be upheld so long as they are supported by substantial evidence. *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). “Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the finding.” *State v. Mendez*, 137 Wn.2d 208, 214, 970 P.2d 722 (1999)(citing *Hill*, 123 Wn.2d at 644). The trier of fact decides issues of credibility; appellate courts do not review such determinations. *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990)(citing *State v. Casbeer*, 48 Wn. App. 539, 542, 740 P.2d 335 (1987)).

“A trial court’s conclusions of law on a motion to suppress evidence are reviewed de novo.” *State v. Valdez*, 167 Wn.2d 761, 767, 224 P.3d 751 (2009)(citing *State v. Carneh*, 153 Wn.2d 274, 281, 193 P.3d 743 (2004)).

If a trial court erroneously denotes a finding of fact as a conclusion of law, the appellate court shall treat it as a finding of fact. *Rickert v. Pub.Disclosure Comm’n*, 161 Wn.2d 843, 847, 168 P.3d 826 (2007) (citing *State v. Luther*, 157 Wn.2d 63, 78, 134 P.3d 205 (2006)). See *Hoke v. Stevens-Norton, Inc*, 60 Wn.2d 775, 778, 375 P.2d 743 (1962); See also *City of Tacoma v. Williams Rogers Company, Inc.*, 148 Wn.2d

169, 181, 60 P.3d 79 (2002)(stating that where conclusions of law are incorrectly denominated as findings of fact, the court still treats them as conclusions of law).

- a. Substantial evidence supported the court's finding that the expiration of the tubes did not compromise the validity of the blood sample.

The court found that: "The use of expired tubes did not compromise the validity of the blood test results." CP 136 (Finding of Disputed Fact 1). Defendant challenges the finding, arguing that the expiration of the tube resulted in adulteration of the contents, a condition that defendant claims should have resulted in suppression of the sample analysis. App. Br. 8-9. However, the finding was supported by substantial evidence.

At trial, Trooper Ames testified that while at the hospital with defendant, Ms. Kester, the phlebotomist who drew the blood, informed him that "[t]he expiration date for the vacuum was expired" on the sample tube that he provided. RP 139. Dr. Nuwayhid, a toxicologist, stated that the expiration date on tubes can depend on either the vacuum within the tube or the chemical stability of the additives. RP 94-5. She also testified that sodium fluoride and potassium oxalate, the chemical additives in question, "are stable components" but "you lose a little bit of vacuum with time." RP 95. Dr. Nuwayhid said that a tube with compromised vacuum would generally not draw out any blood. RP 96. Defendant presented no

evidence or testimony contrary to Dr. Nuwayhid's assertion of the stability of the two chemicals.

Ms. Cox, the phlebotomist supervisor, testified that since the sample tube requires vacuum to draw blood from the suspect, flow of blood into the tube indicates sufficient vacuum. RP 51. Furthermore, any problems filling the tubes to the maximum capacity indicate issues, such as patient characteristics or environmental factors, which are unrelated to the state of vacuum in the sample tube. RP 51.

The court had substantial evidence to conclude that "[t]he use of expired tubes did not compromise the validity of the blood test results." CP 136. Because substantial evidence supports the finding, it is a verity on appeal. *Hill*, 123 Wn.2d at 644.

- b. Sufficient evidence supported the court's findings that chemical additives correctly mixed with sufficient blood in the sample tubes.

On considering the amount of blood drawn, the court found that: "There [sic] amount of blood collected in this case was sufficient for analysis and mixture of the Sodium Chloride and Potassium Oxalate." CP 137 (Finding of Disputed Fact 2). The court also found that: "The blood samples were sufficiently mixed with the anti-coagulant and enzyme poison." CP 137 (Finding of Disputed Fact 5). Defendant challenges these findings, arguing that an insufficient amount of blood had been drawn from defendant and that the required chemicals had not been

properly mixed by the attending phlebotomist. App. Br. at 8. At the hearing, the State provided substantial evidence supporting the court's findings.

Trooper Ames testified that when Ms. Kester drew blood from defendant, she had some difficulty and only acquired 15 milliliters of blood. RP 146. Defendant argues that this calls the validity of the sample into question. App. Br. at 8.

Phlebotomy supervisor Lorinda Cox testified to the standard procedure used at St. Joseph Hospital. After filling sample tubes with blood, the person obtaining the sample "invert[s] it the required times, eight to ten times," the normal method to properly mix the chemical additives with the blood. RP 45. Ms. Kester, the attending phlebotomist, had the appropriate license and credentials to draw blood. RP 39-40. However, even without proper handling of the sample tubes, Ms. Cox explained that due to blood pressure, the flow of blood into the tube would itself cause mixing of anticoagulant into the blood. RP 312.

Ms. Cox testified that a reduced draw of blood could be caused by an improperly positioned needle, a collapsed vein, or other factors not associated with the sample tube. RP 51-52. Furthermore, Dr. Nuwayhid testified that having less than the full amount of blood in the tube would make the chemicals more effective for forensic purposes. RP 98.

Dr. Nuwayhid testified that if the anti-coagulant had not mixed properly with the blood, "there would be some clots in it," noting that

“[t]here were not clots.” RP 106. Furthermore, “since powder in the tube is both enzyme poison and anticoagulant and they are mixed together, so if one mixes well with the blood, then you can directly conclude that both are mixed well together.” RP 122. When specifically asked as to whether, based on her experience, the chemicals appeared mixed, Dr. Nuwayhid replied affirmatively. RP 107.

The presence of less than the full amount of blood did not have an adverse affect on the analysis. Given testimony regarding standard phlebotomist practices at St. Joseph Hospital, the fact that Ms. Kester held proper certification to do so, and the observations of toxicologist Dr. Nuwayhid, substantial evidence supported the court’s findings of fact 2 and 5. Accordingly, these findings are verities on appeal. *Hill*, 123 Wn.2d at 644.

Given that the phlebotomist had a proper license and knew of the standard procedures used at St. Joseph Hospital, the court could infer that she followed the correct procedure to mix the contents of the tube. However, even assuming that Ms. Kester had failed to follow procedure, the evidence was that flow of blood into the tube itself would provide sufficient mixing with the chemicals in the tube. Moreover, the blood appeared to be properly mixed. The court had sufficient evidence to conclude that the chemicals in the tube properly mixed with the blood.

- c. The trial court correctly concluded that the blood sample had not been adulterated.

When considering blood tests for *alcohol*, the Court of Appeals requires that “the State must present *prima facie* proof that the test chemicals and the blood sample are free from any adulteration which could conceivably introduce error to the test results.” *State v. Bosio*, 107 Wn. App. 462, 466, 27 P.3d 636 (2001)(internal quotation and citation omitted). The court concluded that “the State has presented *prima facie* proof that the test chemicals and the blood sample are free from any adulteration which could conceivably introduce errors to the test results.” CP 140 (Conclusion of Law 9).

Defendant alleges error with the court’s conclusion that the State showed such *prima facie* proof, arguing that “it is impossible for the State to show, and for the court to find, *prima facie* evidence that the blood drawn from [defendant] was free from any ‘adulteration that could conceivably introduce error’ into the test results.” App. Br. at 9. When a court reviews the conclusions of law of a lower court, it does such review *de novo*. *Valdez*, 167 Wn.2d at 767 (citation removed).

Regarding the possibility of malicious adulteration, both Trooper Ames and Dr. Nuwayhid testified that they did not add anything to the blood samples. RP 141; RP 109. The court found as an undisputed fact that neither Trooper Ames nor Dr. Nuwayhid added or adulterated the blood samples. CP 134-5 (Undisputed Fact 27, 42). The court found that

when Ms. Kester handed the tubes to Trooper Ames, they contained defendant's blood. CP 134 (Undisputed Fact 26). Trooper Ames also testified that Ms. Kester did not open the tubes nor add anything to them. RP 141. Since defendant did not challenge these findings of fact nor did he question Trooper Ames' testimony regarding Ms. Kester's handling of the tubes, the findings of fact are verities on appeal.

Defendant argues that "there was no way to be sure that the test results accurately measured the amount of chemicals in the blood at the time the blood was drawn." App. Br. at 9. When comparing the blood tests, Dr. Nuwayhid testified that time could affect the analysis since some types of drugs could degrade over time. RP 83. However, she emphasized that Clonazepam, one of the substances found in defendant's blood sample, undergoes chemical degradation that results in a reduction in drug concentration. RP 119.

When Dr. Nuwayhid in 2009 tested defendant's blood sample from 2007, it contained significant levels of Clonazepam and Oxycodone. RP 82, 87. Dr. Nuwayhid specified that any degradation of Clonazepam in the sample would result in a lower value at testing time, indicating that any drug analysis performed at the time of the incident would have resulted in higher values. RP 119. Defendant presented no expert evidence contradicting Dr. Nuwayhid's testimony. Based on her testimony, chemical degradation of the blood sample could have occurred but it would have resulted in a reduction in the levels of drugs from when

they were at the time of the incident and thus would have worked in the defendant's favor. Since the purportedly degraded sample indicated levels sufficient to impair driving, the levels at the time of arrest, which only could have been at least as high or higher, would also have impaired defendant in his ability to drive.

Defendant presented no evidence suggesting that anybody adulterated the sample or that the sample taken did not provide an effective assessment of the level of drugs in his body. The blood sample provided sufficient indication of the defendant's impaired condition at the time of arrest. The trial court did not err in its consideration of this fact at the suppression hearing.

d. The trial court properly denied defendant's suppression motion.

For admission of blood test results for substances other than alcohol, the only requirements are: “[a]nalysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose.” RCW 46.61.506(3). Although the statutes and the Washington Administrative Code go on to specify additional requirements for breath testing and blood tests *for alcohol*, they indicate little more regarding drug testing. RCW 46.61.506(4)(a)-(c); WAC 448-14-020. Here, the trial court concluded

that: “the State has satisfied all the foundational requirements and the defendant’s blood sample from Tube B is admissible.” CP 141. The trial court did not err when it denied the motion to suppress defendant’s blood sample.

Further, while RCW 46.61.506(3) requires that the state toxicologist approve methods, the Washington Supreme Court has held that, with respect to breath testing, the statute “does not direct that approval of procedures ... occur through formal administrative rule making.” *State v. Straka*, 116 Wn.2d 859, 867, 810 P.2d 888 (1991). Thus, blood analysis for drug testing relies on analytical methods that the state toxicologist has approved and does require administrative formalization. RCW 46.61.506(3); *Straka*, 116 Wn.2d at 867.

Here, the court found that Dr. Nuwayhid had the appropriate qualifications and certification to conduct the blood analysis. CP 138 (Finding of Disputed Fact 7). The court also found that Dr. Nuwayhid testified to the testing procedures used, stating that she followed the appropriate standards set forth by the State Toxicologist. CP 136 (Undisputed Fact 37). Based on the limited requirements of RCW 46.61.506(3), the State presented substantial evidence for the court to deny the motion to suppress.

2. THE COURT PROPERLY ADMITTED THE BLOOD EVIDENCE.

The admission or exclusion of relevant evidence is within the discretion of the trial court. *State v. Thomas*, 150 Wn.2d 821, 856, 83 P.3d 970 (2004), *State v. Swan*, 114 Wn.2d 613, 658, 700 P.2d 610 (1990). A party objecting to the admission of evidence must make a timely and specific objection in the trial court. ER 103; *State v. Guloy*, 104 Wn.2d 412, 421, 705 P.2d 1182 (1985). Proper objection must be made at trial to perceived errors in admitting or excluding evidence and failure to do so precludes raising the issue on appeal. *Thomas*, 150 Wn.2d at 856; *Guloy*, 104 Wn.2d at 421. Here, defendant did not object during trial to the introduction of the blood analysis evidence. RP 348.

When reviewing decisions of admissibility of evidence, the court looks for abuse of discretion by the trial court. *City of Auburn v. Hedlund*, 165 Wn.2d 645, 654, 201 P.3d 315 (2009). “Abuse of discretion exists when a trial court’s exercise of its discretion is manifestly unreasonable or based upon untenable grounds or reasons.” *State v. Magers*, 164 Wn.2d 174, 181, 189 P.3d 126 (2008)(quoting *State v. Powell*, 126 Wn.2d 244, 258, 893 P.2d 615 (1995), internal quotation omitted). The trial court’s decision will not be reversed on appeal absent an abuse of discretion, which exists only when no reasonable person

would have taken the position adopted by the trial court. *State v. Castellanos*, 132 Wn.2d 94, 97, 935 P.2d 1353 (1997).

Defendant argues that the court should not have admitted the blood into evidence since the sample tubes had expired, had not been filled to their maximum capacity, were not immediately refrigerated, and were not tested until two years after the sample was taken. App. Br. at 9. The court addressed all of these issues during the suppression hearing, concluding that: “the State has satisfied all the foundational requirements and the defendant’s blood sample from Tube B is admissible.” CP 141.

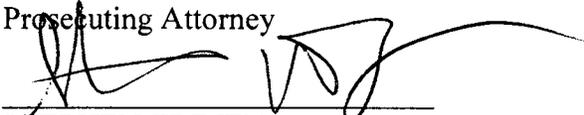
The court determined at the suppression hearing that the expiration date and the level of fill did not affect the overall efficacy of the blood samples. CP 236-37 (Finding of Fact 1, 2, 5). Dr. Nuwayhid testified at trial that although refrigeration helps mitigate sample degradation, it does not affect the accuracy of the test analysis. RP 370. Any degradation that could have occurred would only reduce the indicated drug levels in defendant’s favor. RP 374. The court admitted the blood sample as evidence with no objection by the defense at trial. RP 348. Given the court’s conclusion from the suppression hearing and the testimony provided at trial, the trial court did not abuse its discretion in admitting it sample into evidence.

D. CONCLUSION.

The evidence presented during the CrR 3.6 hearing justified the court's denial of the motion to suppress the blood analysis evidence. When considering the testimony provided regarding the acquisition, handling, and analyses of defendant's blood sample, the court did not abuse its discretion in admitting the results of the sample into evidence. For the reasons argued, the State respectfully requests that defendant's judgment be affirmed.

DATED: SEPTEMBER 7, 2010

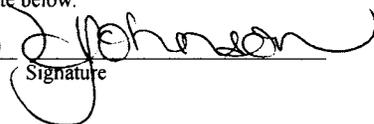
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WSB # 30925


Andrew Asplund
Appellate Intern

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BY _____ DEPUTY

Certificate of Service:
The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

9/11/10 
Date Signature