

COA NO. 41458-9-II

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

---

---

STATE OF WASHINGTON,

Respondent,

v.

PAUL DANIELS,

Appellant.

---

---

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

The Honorable Thomas McPhee, Judge

---

---

OPENING BRIEF OF APPELLANT

---

---

CASEY GRANNIS  
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC  
1908 East Madison  
Seattle, WA 98122  
(206) 623-2373

**TABLE OF CONTENTS**

	Page
A. <u>ASSIGNMENTS OF ERROR</u> .....	1
<u>Issues Pertaining to Assignments of Error</u> .....	1
B. <u>STATEMENT OF THE CASE</u> .....	1
1. <u>Procedural Facts</u> .....	1
2. <u>Trial</u> .....	2
C. <u>ARGUMENT</u> .....	4
1. VIOLATION OF THE RIGHT TO AN EXPRESSLY UNANIMOUS VERDICT REQUIRES REVERSAL OF THE CONVICTION.....	4
2. THE COURT LACKED STATUTORY AUTHORITY TO IMPOSE JURY COSTS. ....	9
D. <u>CONCLUSION</u> .....	15

## TABLE OF AUTHORITIES

Page

### WASHINGTON CASES

<u>City of Wenatchee v. Owens,</u> 145 Wn. App. 196, 185 P.3d 1218 (2008).....	12
<u>In re Detention of Halgren,</u> 156 Wn.2d 795, 132 P.3d 714 (2006).....	7
<u>In re Pers. Restraint of Carle,</u> 93 Wn.2d 31, 604 P.2d 1293 (1980).....	14
<u>Pierce County v. Magnuson,</u> 70 Wn. 639, 127 P. 302 (1912).....	10, 13
<u>Jepson v. Dep't of Labor &amp; Indus.,</u> 89 Wn.2d 394, 573 P.2d 10 (1977).....	13
<u>State v. Bahl,</u> 164 Wn.2d 739, 193 P.3d 678 (2008) .....	14
<u>State v. Crane,</u> 116 Wn.2d 315, 804 P.2d 10, <u>cert. denied,</u> 501 U.S. 1237, 111 S. Ct. 2867, 115 L. Ed. 2d 1033 (1991).....	5
<u>State v. Delgado,</u> 148 Wn.2d 723, 63 P.3d 792 (2003).....	11
<u>State v. Earls,</u> 51 Wn. App. 192, 752 P.2d 402, 405 (1988), <u>overruled on other grounds,</u> <u>State v. Curry,</u> 118 Wn.2d 911, 829 P.2d 166 (1992) .....	12
<u>State v. Eilts,</u> 94 Wn.2d 489, 617 P.2d 993 (1980), <u>overruled by statute on other grounds,</u> <u>State v. Barr,</u> 99 Wn.2d 75, 658 P.2d 1247 (1983).....	14

**TABLE OF AUTHORITIES (CONT'D)**

Page

WASHINGTON CASES (CONT'D)

<u>State v. Hursh</u> , 77 Wn. App. 242, 890 P.2d 1066 (1995), <u>abrogated on other grounds</u> , <u>State v. Roggenkamp</u> , 153 Wn.2d 614, 106 P.3d 196 (2005) .....	5
<u>State v. Kinchen</u> , 92 Wn. App. 442, 963 P.2d 928 (1998).....	8, 9
<u>State v. Kintz</u> , 169 Wn.2d 537, 238 P.3d 470 (2010).....	5, 9
<u>State v. Kitchen</u> , 110 Wn.2d 403, 756 P.2d 105 (1988).....	7
<u>State v. Linehan</u> , 147 Wn.2d 638, 56 P.3d 542 (2002).....	6
<u>State v. Murray</u> , 118 Wn. App. 518, 77 P.3d 1188 (2003).....	10, 14
<u>State v. Nolan</u> , 98 Wn. App. 75, 988 P.2d 473 (1999).....	10
<u>State v. Ortega-Martinez</u> , 124 Wn.2d 702, 881 P.2d 231 (1994).....	5, 7, 9
<u>State v. Paulson</u> , 131 Wn. App. 579, 128 P.3d 133 (2006).....	10
<u>State v. Phelps</u> , 113 Wn. App. 347, 57 P.3d 624 (2002).....	14
<u>State v. Pringle</u> , 83 Wn.2d 188, 517 P.2d 192 (1973).....	10

**TABLE OF AUTHORITIES (CONT'D)**

Page

WASHINGTON CASES (CONT'D)

<u>State v. Roche,</u> 75 Wn. App. 500, 878 P.2d 497 (1994).....	6
<u>State v. Schelin,</u> 147 Wn.2d 562, 55 P.3d 632 (2002).....	13
<u>State v. Smith,</u> 65 Wn. App. 887, 830 P.2d 379 (1992).....	12
<u>State v. Smith,</u> 159 Wn.2d 778, 154 P.3d 873 (2007).....	5
<u>State v. Sommerville,</u> 111 Wn.2d 524, 760 P.2d 932 (1988).....	13
<u>State v. Theroff,</u> 33 Wn. App. 741, 657 P.2d 800 (1983).....	14
<u>State v. Tresenriter,</u> 101 Wn. App. 486, 4 P.3d 145 (2000).....	6, 8
<u>Washington State Republican Party v. Washington State Public Disclosure Comm'n,</u> 141 Wn.2d 245, 4 P.3d 808 (2000).....	13

RULES, STATUTES AND OTHER AUTHORITIES

RAP 2.5(a)(3).....	5
RCW 9A.46.110(1)(a) .....	5
RCW 9A.52.030(1).....	6

**TABLE OF AUTHORITIES (CONT'D)**

Page

**RULES, STATUTES AND OTHER AUTHORITIES (CONT'D)**

RCW 9A.56.020(1)(a) .....	6
RCW 9A.56.190 .....	6
RCW 10.01.160(1).....	10
RCW 10.01.160(2).....	11, 12
RCW 10.46.190 .....	11, 12
RCW 36.18.016(3).....	12
RCW 36.18.016(3)(a) .....	11
RCW 36.18.016(3)(b).....	11
RCW 36.18.016(3).....	12
U.S. Const. Amend. VI.....	5
Wash. Const. Art. I, § 22 .....	5

A. ASSIGNMENTS OF ERROR

1. Appellant was denied his constitutional right to jury unanimity.
2. The court erroneously imposed jury-related costs as part of the judgment and sentence.

Issues Pertaining to Assignments of Error

1. Was appellant's right to jury unanimity violated where there was insufficient evidence to prove an alternative means of committing second degree burglary?
2. Did the court exceed its statutory authority when it ordered appellant to pay jury costs that are unauthorized by statute?

B. STATEMENT OF THE CASE

1. Procedural Facts

The State charged Paul Daniels with second degree burglary, alleging he "on or about April 14, 2010, with intent to commit a crime against a person or property therein, did enter or remain unlawfully in a building."<sup>1</sup> CP 3. A jury returned a general verdict of guilty "as charged in the information." CP 43. The court imposed 52 months of confinement

---

<sup>1</sup> A second charged count was later dismissed without prejudice. CP 9.

and various costs, including jury fees related to empanelment and use of a bailiff. CP 133-35; 11RP<sup>2</sup> 11. This appeal follows. CP 117-28.

2. Trial

Hertz Equipment Rental, a business establishment that rents small and heavy equipment, sits on a two acre property surrounded by a chain link fence. 9RP 52-53, 92. The main building is up front while the trucks are parked toward the back of the property. 9RP 54. The business opens at 7 in the morning and closes at 5 p.m. 9RP 67. The property is secured at the close of day. 9RP 53.

Beyond the back fence is a parking lot for a movie theater. 9RP 56. Matt Hebert lived in this area and could see the Hertz establishment from the back window of his residence. 9RP 69. At around 2 or 3 o'clock in the morning of April 14, Hebert saw three or four people standing next to a light colored, older Toyota 4x4 pickup truck with a black canopy. 9RP 70, 103-04. Hebert left his observation point at the window but shortly returned to see the truck still there but the people gone. 9RP 70. Hebert did not call police because kids were often in the parking lot goofing around. 9RP 104.

---

<sup>2</sup> The verbatim report of proceedings is referenced as follows: 1RP 5/4/10; 2RP - 6/14/10; 3RP - 7/19/10; 4RP - 8/12/10; 5RP - 9/29/10; 6RP - 10/4/10; 7RP - 10/6/10; 8RP - 11/3/10; 9RP - 11/9/10 and 11/10/10; 10RP - 11/10/10; 11RP - 11/16/10.

The adjacent theater has a surveillance camera pointing in the area where the truck was located. 9RP 71. Surveillance video from the morning of April 14 showed a parked truck for an approximate five minute period shortly after 1 o'clock. 9RP 74, 81-83. The surveillance camera did not capture the fenced area. 9RP 131. The footage did not show anyone getting out of truck and it could not be determined how many people were inside. 9RP 83-85. There was no video of the truck leaving. 9RP 130.

On April 14, 2010 at around 6:30 in the morning, Hertz employees noticed a truck door and its storage cabinets had been pried open with a crowbar or screwdriver. 9RP 53-55, 57, 59, 65-66. Various items including tools were missing from the truck. 9RP 60, 93. The back fence had been pulled up and there were signs on the ground that someone had gone underneath it. 9RP 56, 60-61.

A Hertz employee called police. 9RP 61. Police were not able to obtain fingerprints from the pried truck. 9RP 98, 119. The responding officer did not measure or take a cast of the footprint left in the area where the fence had been pulled up. 9RP 99, 119.

Officer Moody passed along a description of the truck contained in the surveillance video to Officer Erikson. 9RP 88, 108. Erikson knew of a similar vehicle from an earlier encounter. 9RP 88-89. Erikson obtained

the license plate and associated address for that vehicle. 9RP 89. The address for the vehicle was the residence of Paul Daniels' mother. 9RP 109-10.

Moody went to the Daniels residence on April 16, noted the truck outside had the same features as the truck in the surveillance video, and concluded they matched. 9RP 110-11, 116-18. Moody interrogated Daniels about the incident, telling him Hertz wanted to get their tools back. 9RP 111-13. At that point, Daniels hesitated and said "I didn't break in and steal any tools. I just took gas. I don't know anything about the truck." 9RP 113. There were tools in Daniels' truck but none could be identified as belonging to Hertz. 9RP 126. Police did not search Daniels' home. 9RP 126-27.

C. ARGUMENT

1. VIOLATION OF THE RIGHT TO AN EXPRESSLY UNANIMOUS VERDICT REQUIRES REVERSAL OF THE CONVICTION.

Burglary may be committed by the alternative means of entering unlawfully with the intent to commit a crime against "property" or entering unlawfully with the intent to commit a crime against "a person." There was insufficient evidence to support a finding of intent to commit a crime against a person as an alternative means of committing the offense. As a result, the trial court needed to either instruct the jury that it must

reach unanimous agreement as to the means or issue a special verdict form specifying the means relied upon. Reversal of the conviction is required because in the absence of these measures, there was no particularized expression of jury unanimity on each of the alternative means of proving the offense.

In criminal prosecutions, the accused has a constitutional right to a unanimous jury verdict. U.S. Const., amend. VI; Wash. Const., art. 1, § 22. "This right includes the right to an expressly unanimous *verdict*." State v. Ortega-Martinez, 124 Wn.2d 702, 707, 717, 881 P.2d 231 (1994). It is well established a unanimity error amounts to manifest constitutional error under RAP 2.5(a)(3) that may be raised for the first time on appeal. State v. Crane, 116 Wn.2d 315, 325, 804 P.2d 10, cert. denied, 501 U.S. 1237, 111 S. Ct. 2867, 115 L. Ed. 2d 1033 (1991); State v. Hursh, 77 Wn. App. 242, 248, 890 P.2d 1066 (1995), abrogated on other grounds, State v. Roggenkamp, 153 Wn.2d 614, 106 P.3d 196 (2005).

"Alternative means crimes are ones that provide that the proscribed criminal conduct may be proved in a variety of ways. As a general rule, such crimes are set forth in a statute stating a single offense, under which are set forth more than one means by which the offense may be committed." State v. Smith, 159 Wn.2d 778, 784, 154 P.3d 873 (2007); see, e.g., State v. Kintz, 169 Wn.2d 537, 551, 238 P.3d 470 (2010) ("RCW

9A.46.110(1)(a) provides alternative means of committing the crime of stalking: intentionally and repeatedly harassing or repeatedly following another person."); State v. Linehan, 147 Wn.2d 638, 647-48, 56 P.3d 542 (2002) (theft is an alternative means crime: RCW 9A.56.020(1)(a) defines the crime of theft in terms of alternative means — "wrongfully obtain or exert unauthorized control"); State v. Roche, 75 Wn. App. 500, 511, 878 P.2d 497 (1994) (robbery is an alternative means crime under RCW 9A.56.190: taking property "from the person of another" or "in his presence.").

The crime of burglary may be committed by two alternative means: entering unlawfully with the intent to commit a crime against (1) "property" or (2) "a person."<sup>3</sup> State v. Tresenriter, 101 Wn. App. 486, 490-92, 4 P.3d 145 (2000) (reversal required where the information charged only one means of committing the crime of burglary, i.e., with intent to commit a crime against a person, but failed to set forth the alternative means on which the jury was instructed, i.e., with intent to commit a crime against property).

---

<sup>3</sup> RCW 9A.52.030(1) provides "A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a building other than a vehicle or a dwelling."

The right to a unanimous jury verdict includes the right to express jury unanimity on the means by which the defendant committed the crime when alternative means are alleged. Ortega-Martinez, 124 Wn.2d at 707. "If the evidence is *sufficient* to support each of the alternative means submitted to the jury, a particularized expression of unanimity as to the means by which the defendant committed the crime is unnecessary to affirm a conviction because we infer that the jury rested its decision on a unanimous finding as to the means." Id. at 707–08. "[I]f the evidence is *insufficient* to present a jury question as to whether the defendant committed the crime by any one of the means submitted to the jury, the conviction will not be affirmed." Id. at 708.

The sufficient (substantial) evidence test<sup>4</sup> is satisfied only if the reviewing court is convinced "a rational trier of fact could have found each means of committing the crime proved beyond a reasonable doubt." In re Detention of Halgren, 156 Wn.2d 795, 811, 132 P.3d 714 (2006) (quoting State v. Kitchen, 110 Wn.2d 403, 411, 756 P.2d 105 (1988)).

Here, the "to convict" instruction for burglary included the element "That the entering or remaining was with the intent to commit a crime

---

<sup>4</sup> In conducting alternative means analyses, the terms "substantial evidence" and "sufficient evidence" are used interchangeably. See Ortega-Martinez, 124 Wn.2d at 708 (sufficient evidence). Whatever the label, the test is the same.

against a person or property therein[.]" CP 41 (Instruction 12). The "to convict" instruction thus presented the jury with the option of convicting on two alternative means: crime against a person and crime against property. Tresenriter, 101 Wn. App. at 490-92.

There was sufficient evidence to support a finding of guilt on the alternative means that Daniels entered or remained with the intent to commit a crime against "property." There was, however, insufficient evidence to support a finding of guilt on the alternative means that Daniels entered or remained with the intent to commit a crime against "a person."

A person "acts with intent or intentionally when acting with the objective or purpose to accomplish a result that constitutes a crime." CP 40 (Instruction 10). The entry took place in the middle of the night at a time when the business was closed and no one would be expected to be on the premises. 9RP 67, 70, 74, 81-83, 104. There was no evidence that the perpetrators tried to access the office area of the establishment. Rather, the evidence only showed property was taken from a truck near the back of a two acre lot. 9RP 53-60, 65-66, 92. Under these circumstances, no rational trier of fact could find beyond a reasonable doubt that Daniels entered the fenced area with the intent to commit a crime against a person.

Again, "[t]he test is whether sufficient evidence exists to support each of the alternative means presented to the jury." State v. Kinchen, 92

Wn. App. 442, 451, 963 P.2d 928 (1998). "If the evidence is insufficient to support any one of the means submitted to the jury, the conviction will be reversed." Kinchen, 92 Wn. App. at 451 (reversing convictions for unlawful imprisonment because there was insufficient evidence to support a conviction by a second means).

There is insufficient evidence to conclude Daniels committed the crime of burglary based on the alternative means of entering with the intent to commit a crime against a person. There was no jury unanimity instruction on alternative means or a special verdict specifying which of the alternative means the jury found. "A general verdict of guilty on a single count charging the commission of a crime by alternative means will be upheld only if sufficient evidence supports each alternative means." Kintz, 169 Wn.2d at 552 (citing Ortega-Martinez, 124 Wn.2d at 708). The conviction must be reversed.

2. THE COURT LACKED STATUTORY AUTHORITY TO IMPOSE JURY COSTS.

As part of the judgment and sentence, the court ordered Daniels to pay \$1035.50 as "a cost of impaneling the jury" and additional "jury costs" of \$147.50 related to the bailiff.<sup>5</sup> CP 133; 11RP 11. The line for a "jury demand fee" in the judgment and sentence was left blank. CP 133.

---

<sup>5</sup> The court earlier told jurors the bailiff's "responsibility is to attend to the

The jury costs related to empanelling and the bailiff are not authorized by statute and should be stricken from the judgment and sentence. The court exceeded its statutory authority in imposing these costs.

A court may impose only a sentence that is authorized by statute. State v. Paulson, 131 Wn. App. 579, 588, 128 P.3d 133 (2006). Whether a trial court exceeded its statutory authority is an issue of law reviewed de novo. State v. Murray, 118 Wn. App. 518, 521, 77 P.3d 1188 (2003).

It has long been held "costs are the creature of statute" and that "there is no inherent power in the courts to award costs, and that they can be granted in any case or proceeding solely by virtue of express statutory authority." Pierce County v. Magnuson, 70 Wn. 639, 641, 127 P. 302 (1912); accord State v. Nolan, 98 Wn. App. 75, 78-79, 988 P.2d 473 (1999). Sentencing provisions outside the authority of the trial court are illegal. State v. Pringle, 83 Wn.2d 188, 193-94, 517 P.2d 192 (1973). "If the trial court exceeds its sentencing authority, its actions are void." Paulson, 131 Wn. App. at 588.

The trial court may require a convicted defendant to pay costs. RCW 10.01.160(1). But no statute allows imposition of the type of jury costs imposed here.

---

needs of jurors." 9RP 8.

Costs specially incurred by the State in prosecuting the defendant "cannot include expenses inherent in providing a constitutionally guaranteed jury trial." RCW 10.01.160(2). One exception is that "jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay." RCW 10.01.160(2).

RCW 10.46.190 allows a superior court to impose a "jury fee" on convicted defendants using the same rules covering civil jury fees: "Every person convicted of a crime . . . shall be liable to all the costs of the proceedings against him or her, including . . . a jury fee as provided for in civil actions for which judgment shall be rendered and collected."

RCW 36.18.016(3)(a) provides "The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars." RCW 36.18.016(3)(b) likewise provides "Upon conviction in criminal cases *a jury demand charge* of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190." (emphasis added).

When the meaning of a statute is clear on its face, the appellate court assumes the legislature means exactly what it says, giving criminal statutes literal and strict interpretation. State v. Delgado, 148 Wn.2d 723,

727-28, 63 P.3d 792 (2003). In addition, statutes are construed as a whole. State v. Smith, 65 Wn. App. 887, 891, 830 P.2d 379 (1992). "By reading the statute as a whole, and harmonizing statutory provisions to the extent possible, the court ensures proper construction of every provision and a unified statutory scheme." City of Wenatchee v. Owens, 145 Wn. App. 196, 205, 185 P.3d 1218 (2008).

The plain language of RCW 10.01.160(2), RCW 10.46.190 and RCW 36.18.016(3), when read as a whole, shows the only type of jury-related cost allowed is the "jury demand" fee specified in RCW 36.18.016(3). In this case, the imposed jury costs do not encompass a "jury demand" fee. They are something different. In fact, the line for a "jury demand" fee was left blank in the judgment and sentence.

Aside from the "jury demand" fee, costs specially incurred by the State in prosecuting the defendant "cannot include expenses inherent in providing a constitutionally guaranteed jury trial." RCW 10.01.160(2). The bailiff's costs and those related to empanelling the jury are expenses inherent in providing a constitutionally guaranteed jury trial. But even if they are not, one thing remains clear: they are statutorily unauthorized costs because the statutes only allow one form of jury costs to be imposed: "jury demand" fees.

Costs in a criminal case may be granted "solely by virtue of express statutory authority." Magnuson, 70 Wn. at 641. Anything other than a "jury demand" fee of \$250 is unauthorized by statute. See, e.g., State v. Earls, 51 Wn. App. 192, 197–98, 752 P.2d 402, 405 (1988) (beyond the statutory jury fee, the compensation paid to jurors cannot be recouped), overruled on other grounds, State v. Curry, 118 Wn.2d 911, 829 P.2d 166 (1992).

Moreover, "[w]here a statute specifically lists the things upon which it operates, there is a presumption that the legislating body intended all omissions, i.e., the rule of *expressio unius est exclusio alterius* applies." Washington State Republican Party v. Washington State Public Disclosure Comm'n, 141 Wn.2d 245, 280, 4 P.3d 808 (2000). Specifically, "[w]here a statute provides for a stated exception, no other exceptions will be assumed by implication." Jepson v. Dep't of Labor & Indus., 89 Wn.2d 394, 404, 573 P.2d 10 (1977). The statutory scheme lists one exception to the general rule that costs cannot include expenses inherent in providing a constitutionally guaranteed jury trial. That exception is the jury demand fee. The inclusion of language spelling out an exception to a general rule demonstrates there is no basis to infer any other exception. State v. Sommerville, 111 Wn.2d 524, 535, 760 P.2d 932 (1988); State v. Schelin, 147 Wn.2d 562, 589, 55 P.3d 632 (2002).

"A trial court's sentencing authority is limited to that expressly found in the statutes. If the statutory provisions are not followed, the action of the court is *void*." State v. Phelps, 113 Wn. App. 347, 354-55, 57 P.3d 624 (2002) (quoting State v. Theroff, 33 Wn. App. 741, 744, 657 P.2d 800 (1983)).

Erroneous sentences may be challenged for the first time on appeal. State v. Bahl, 164 Wn.2d 739, 744, 193 P.3d 678 (2008). When a sentence has been imposed for which there is no authority in law, appellate courts have the power and the duty to correct the erroneous sentence upon its discovery. In re Pers. Restraint of Carle, 93 Wn.2d 31, 33-34, 604 P.2d 1293 (1980). "When a trial court exceeds its sentencing authority under the SRA, it commits reversible error." Murray, 118 Wn. App. at 522. The appropriate remedy is reversal of the erroneous, void portion of the sentence. State v. Eilts, 94 Wn.2d 489, 496, 617 P.2d 993 (1980), overruled by statute on other grounds, State v. Barr, 99 Wn.2d 75, 658 P.2d 1247 (1983). This Court should strike the illegal imposition of jury costs in the judgment and sentence.

D. CONCLUSION

The conviction should be reversed. In the event this Court declines to reverse the conviction, the challenged jury costs should be struck from the judgment and sentence.

DATED this 24<sup>th</sup> day of June 2011

Respectfully Submitted,

NIELSEN, BROMAN & KOCH, PLLC.

  
\_\_\_\_\_  
CASEY GRANNIS  
WSBA No. 37301  
Office ID No. 91051  
Attorneys for Appellant

ERIC J. NIELSEN  
ERIC BROMAN  
DAVID B. KOCH  
CHRISTOPHER H. GIBSON

OFFICE MANAGER  
JOHN SLOANE

LAW OFFICES OF  
**NIELSEN, BROMAN & KOCH, P.L.L.C.**

1908 E MADISON ST.  
SEATTLE, WASHINGTON 98122  
Voice (206) 623-2373 · Fax (206) 623-2488

WWW.NWATTORNEY.NET

LEGAL ASSISTANT  
JAMILAH BAKER

DANA M. LIND  
JENNIFER M. WINKLER  
ANDREW P. ZINNER  
CASEY GRANNIS  
JENNIFER J. SWEIGERT  
OF COUNSEL  
K. CAROLYN RAMAMURTI  
JARED B. STEED

State V. Paul Daniels

No. 41458-9-II

Certificate of Service by Mail

On June 24, 2011, I deposited in the mails of the United States of America,  
A properly stamped and addressed envelope directed to:

John C Skinder  
Thurston County Prosecutors Office  
2000 Lakeridge Dr SW Bldg 2  
Olympia WA 98502-6090

Paul Daniels, 731409  
Cedar Creek Corrections Center  
PO Box 37  
Littlerock, WA 98556

Containing a copy of the opening brief, re Paul Daniels  
Cause No. 41458-9-II, in the Court of Appeals, Division II, for the state of Washington.

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



John Sloane  
Office Manager  
Nielsen, Broman & Koch

6-24-11  
Date  
Done in Seattle, Washington