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DIVISION ONE

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No. 42498-3-II

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON
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STATE OF WASHINGTON

V.

CHRISTOPHER ZUMWALT

BRIEF OF APPELLANT

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 MAR 12 PM 4:24

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ORIGINAL

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A. ASSIGNMENTS OF ERROR

Assignments of Error

1. The trial court erred by denying Mr. Zumwalt's motion for a deposition after the investigating detective refused to be interviewed while the defense investigator was in the room.

2. The trial court erred by ordering "periodic polygraph testing at the request of the Community Corrections Officer or treatment provider."

3. The trial court erred by prohibiting Mr. Zumwalt from entering "shopping malls" because the term is unconstitutionally vague.

4. The Court erroneously ordered Mr. Zumwalt not to possess sexually explicit material.

Issues Pertaining to Assignments of Error

1. Did the trial court err by denying Mr. Zumwalt's motion for a deposition after the investigating detective refused to be interviewed while the defense investigator was in the room?

2. Did the trial court err by ordering periodic "polygraph testing at the request of the Community Corrections Officer or treatment provider."

3. Did the trial court err by prohibiting Mr. Zumwalt from entering "shopping malls" because the term is unconstitutionally vague?

4. Did the trial court error by ordering Mr. Zumwalt not to possess sexually explicit material?

B. STATEMENT OF THE CASE

Christopher Zumwalt was charged by second amended information with first degree child molestation, alleged to have occurred on BJS between January 1, 1997 and December 15, 2002. CP, 32. According to the State's offer of proof, its best estimate of when the charged allegation occurred was in 2000. CP, 35.

BJS' birthday is December 15, 1993 and was 17 years old at the time of her trial testimony. RP, 55.¹ Mr. Zumwalt was born on April 26, 1982. RP, 110. She identified Mr. Zumwalt as her grandpa's ex-wife's son. RP, 56. She has known Mr. Zumwalt her entire life and for a period of her life would "hang out" nearly every day. RP, 57.

At sentencing, the State noted that the incident occurred before September 1, 2001 and, therefore, former RCW 9.94A.712 did not apply. RP, 3 (August 19, 2011). The State requested periodic polygraph and plethysmograph examinations. RP, 4 (August 19, 2011). The Court imposed 60 months in prison. RP, 12 (August 19, 2011). The Court imposed all the community custody conditions requested by DOC, as set

¹ RP refers to the two volume trial transcript of July 5-7, 2011. All other reports of proceedings are referred to by date.

out in Appendix F of the Judgment and Sentence. CP, 80; RP, 11 (August 19, 2011).

Three Allegations of Sexual Assault

The State identified three separate incidents of alleged sexual assault between Mr. Zumwalt and BJS. When Mr. Zumwalt was 14 years old and BJS was two years old, her “father walked in and saw a situation.” RP, 21 (June 20, 2011). (Given BJS’ birthday, this incident would have occurred in 1996.) Mr. Zumwalt was charged as a juvenile with indecent liberties. RP, 20 (June 20, 2011). He was found incompetent to stand trial and the charge was dismissed. RP, 20 (June 20, 2011). This incident will be referred to as the “1996 incident.” The 1996 incident was never mentioned to the jury.

The second incident of sexual assault occurred around 1999 or 2000, when BJS was five or six years old and living in a trailer with her parents on her grandfather’s property in Port Orchard. RP, 57-58. According to BJS’ testimony, Mr. Zumwalt told his cousins to leave the room and he locked them out. RP, 58. Mr. Zumwalt licked his fingers, touched BJS’ vagina, and licked his fingers again. RP, 58-59. She could not remember if she was clothed or not. RP, 85. She could not provide

any additional detail. This second incident, which constitutes the actual crime charged, will be referred to as the “2000 incident.”

The third occasion occurred in 2006 when Mr. Zumwalt engaged BJS in a conversation about Britney Spears. CP, 35; RP, 21 (June 20, 2011). During the conversation, Mr. Zumwalt invited BJS to have sexual contact with him in exchange for a poster of the pop star. RP, 21 (June 20, 2011). BJS turned him down and left the room. RP, 22 (June 20, 2011). This incident will be referred to as the “Britney Spears poster incident.”

The State sought to admit the Britney Spears poster incident as evidence of “lustful disposition.” RP, 21 (June 20, 2011). Mr. Zumwalt objected because it was not relevant pursuant to ER 404(b) and was more prejudicial than probative pursuant to ER 403. RP, 22-23 (June 20, 2011).

The Court found that the Britney Spears poster incident occurred by a preponderance of the evidence. RP, 25 (June 20, 2011). The Court found that the incident was evidence of Mr. Zumwalt’s lustful disposition to have sexual contact with BJS and probative under ER 404(b). RP, 25 (June 20, 2011). The Court concluded the relevance outweighed the prejudice and admitted the Britney Spears poster incident. RP, 26 (June 20, 2011). Although the Court invited a limiting instruction, none was requested by defense counsel. RP, 26 (June 20, 2011).

Detective Stroble's Involvement

On March 23, 2009, Mason County Detective Luther Pittman received a referral of a possible sexual assault. RP, 97. A couple of weeks later, on April 13, 2009, BJS was interviewed in Montesano by a forensic child interviewer. RP, 97-98. During the interview, it became clear that the sexual assault occurred in Kitsap County and the case was transferred to the Kitsap County Sheriff's Office for follow up. RP, 98. The case was then assigned to Kitsap Detective Raymond Stroble. RP, 108.

On April 29, 2009, Detective Stroble went to Shelton and contacted Mr. Zumwalt. RP, 108. Mr. Zumwalt appeared to have a significant mental disability. RP, 123. Detective Stroble spent less than ten minutes with Mr. Zumwalt, during which time he was very cooperative. RP, 123, 132. During that time, the detective did nothing to clarify the nature of Mr. Zumwalt's disability or determine if he understood what was going on. RP, 124-25.

Detective Stroble "explained the allegation" that BJS had made and Mr. Zumwalt responded, "I did that. I'd admit to that."² RP, 109.

² The defense theory before the judge was that Mr. Zumwalt was admitting to the 1996 allegation and not the 2000 incident. RP, 21-22. Given Mr. Zumwalt's "significant mental impairment," the ambiguous nature of Detective Stroble's questioning, and Mr. Zumwalt's ambiguous response, it is impossible to say what Mr. Zumwalt was admitting to. Unfortunately, without opening the door to the 1996 allegation, the defense was stymied in its ability to raise that theory with the jury and the 1996 incident was never mentioned to the jury.

Detective Stroble told him the allegation occurred “more than seven years ago.” RP, 129. When Detective Stroble attempted to get additional information, Mr. Zumwalt was unable to provide any more details. RP, 132. At trial, when defense counsel tried to clarify what details Mr. Zumwalt was told about the “allegation,” Detective Stroble was unable to provide clarification. RP, 136-37. Detective Stroble left without making an arrest. RP, 133.

The next day Detective Stroble wrote a report that is about half a page long. RP, 126, 138. At the time of trial, Detective Stroble had almost no independent recollection of his meeting with Mr. Zumwalt beyond the fact that they did meet. RP, 117-18.

Eventually, Mr. Zumwalt was arrested, charged, and appointed counsel. Defense counsel retained investigator Jim Harris. CP, 14. Defense counsel explained her decision to retain Mr. Harris because he was the investigator she had “worked with primarily” as an attorney and stated he was uniquely positioned to do the interview because “the interview was going to be [on] police procedures as a detective, which my investigator has the knowledge on that.” RP, 3 (May 17, 2011).

As part of her trial preparation, defense counsel requested an interview with Detective Stroble. CP, 14. Detective Stroble refused to be interviewed as long as Mr. Harris was present. CP, 14. (Although not

explicit in the record, it is clear all the parties knew Mr. Harris well and were aware that he was a prior detective in the Kitsap County Sheriff's Office.)

Mr. Zumwalt filed a motion to depose Detective Raymond Stroble. CP, 13. Defense counsel argued the witness does not have the right to choose who conducts the defense interview and refusal to allow Mr. Harris to participate constituted a refusal to be interviewed. CP, 13.

In response to the motion, the State submitted affidavits from Detectives Raymond Stroble and Ron Trogdon. Detective Stroble indicated he was willing to "discuss the case with" defense counsel, but was not willing "to have Jim Harris present for the interview." CP, 20. He stated the reason was his prior investigation into "alleged criminal activity involving Jim Harris." CP, 21. According to Detective Stroble, it was made clear to Mr. Harris by Chief Gary Simpson that he would be terminated from the Kitsap County Sheriff's Office if he did not resign. CP, 22. He was also aware Jim Harris had been disciplined "for his mistreatment of staff members." CP, 22. Detective Trogdon described a conversation he had with Mr. Harris at a bank in early 2010 where Mr. Harris allegedly told him, "You and Ray [Stroble] really fucked me over." CP, 19.

The Court denied the motion for deposition. RP, 4 (May 17, 2011). Mr. Zumwalt filed a motion for reconsideration. CP, 26. The Court never ruled on the motion for reconsideration, though the exact reasons are unclear from the record. RP, 6-7 (June 20, 2011). Apparently, the Court never received a bench copy. RP, 6. Mr. Zumwalt assumed that the motion for reconsideration was denied because it was not noted for a hearing. RP, 7 (June 20, 2011).

At trial, the State brought a motion to exclude witnesses from the courtroom with the exception of lead investigator Ray Stroble of the Kitsap County Sheriff's Office. CP, 42. The Court granted the motion. RP, 16 (June 28, 2011).

C. Argument

1. The trial court erred by denying Mr. Zumwalt's motion for a deposition after the investigating detective refused to be interviewed while the defense investigator was in the room.

The record in this case establishes the State's lead investigator, Sheriff's Detective Raymond Stroble, does not like the defense's lead investigator, former Sheriff's Detective Jim Harris. When defense counsel, accompanied by Mr. Harris, requested an interview with Detective Stroble, the detective responded that he was willing to be

interviewed, but not as long as Mr. Harris was in the room. The trial court sustained this arrangement on the ground that the witness has the right to control the circumstances of the interview. State v. Mankin, 158 Wn. App. 111, 241 P.3d 421 (2010). In so ruling, the trial court interfered with the Sixth Amendment right of the defendant to choose counsel of his own choice, the Due Process right of the defense to control its own case preparation, and the Sixth Amendment right to control witnesses and compel process.

Mr. Zumwalt argued in the trial court that Detective Stroble's refusal to be interviewed with Mr. Harris in the room was the legal equivalent to a refusal to be interviewed within the meaning of CrR 4.6. CrR 4.6(a) authorizes a court to order a deposition "[u]pon a showing that a prospective witness may be unable to attend or prevented from attending a trial or hearing or if a witness refuses to discuss the case with either counsel and that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice." The question is whether the refusal to discuss the case with Mr. Harris in the room falls within the meaning of the rule's requirement that the witness refuse to discuss the case with either counsel.

The issue in this case starts with Mankin, which is this Court's latest discussion about the scope of defense interviews. In Mankin, the

police officers agreed to be interviewed, but refused to be recorded during the interview. The trial court treated the refusal to be tape recorded as a refusal to be interviewed and ordered depositions pursuant to CrR 4.6. This Court reversed saying, in part, that because a witness may refuse to be interviewed entirely, the witness may logically limit the circumstances of the interview. Mankin at 124, citing State v. Hofstetter, 75 Wn.App. 390, 878 P.2d 474, review denied, 125 Wn.2d 1012 (1994).

The time has come to reanalyze the doctrine of the “right” of witnesses to refuse to be interviewed. There is no legal justification for the doctrine and it interferes with the right of the defendant to prepare his or her case. In fact, this Court in Mankin noted the underlying tension between the right of a witness to refuse to be interviewed and the right to depose a witness who does so. See Mankin, footnote 10.

The underlying premise of the holding of Mankin is that witnesses have the right to refuse to be interviewed. But this rule, which is cited by a variety of state and federal cases, appears to have no legal foundation. Nowhere does Mankin, or any other case, cite the legal rationale for the rule.

In a different context recently, this Court held that witnesses do not have the right to refuse to answer certain questions. State v. Steen, 164 Wn. App. 789, ___ P.3d ___ (2011). In Steen, during a community

caretaking contact for possible domestic violence, the occupant of a home refused to answer questions posed to him by the police officers as to his name and date of birth, choosing instead to literally remain silent. He was charged and convicted of Obstructing a Public Servant. This Court analyzed the question from a variety of perspectives, including the First Amendment right not to speak and the Fifth Amendment right to remain silent. The Court rejected each of these arguments. Nowhere in the Court's analysis did it consider the right of the occupant to refuse to be interviewed.

Witnesses have always been treated differently than suspects. Witnesses are subject to the court's subpoena power and may be compelled to testify, under threat of contempt. There is no logical rationale for differentiating between witnesses' duty to respond to questions in open court and witnesses' duty to respond to questions prior to trial. Yet the law makes such a distinction without any effort to justify it.

Although modern cases, such as Mankin and Hofstetter, cite to a right to refuse to be interviewed, it is unclear from where this right derives. Hofstetter quoted the Tenth Circuit as saying, "We have recognized the principle that witnesses in a criminal prosecution belong to no one, and that, *subject to the witness' right to refuse to be interviewed,*

both sides have the right to interview witnesses before trial.” United States v. Carrigan, 804 F.2d 599 (10th Cir. 1986). In United States v. Scott, 518 F.2d 261 (6th Cir. 1975) the Court held that both sides were entitled to equal access to the witnesses, although such access may not actually result in an interview.

But the earliest cases citing the right to refuse interviews are all more equivocal than more recent cases would suggest. For instance, Brynes v. United States, 327 F.2d 825 (9th Cir. 1964), says, “It is true that any defendant has the right to attempt to interview any witnesses he desires. It is also true that any witness has the right to refuse to be interviewed, if he so desires (*and is not under or subject to legal process*).” (Emphasis added.) Similarly, United States v. Matlock, 491 F.2d 504 (6th Cir. 1974) says, “Instructions to a witness not to cooperate with the other side or to talk to lawyers for the other side would not be proper, but a witness is free to talk or not *unless compelled by order of the court*.” (Emphasis added.) As these early cases suggest, the proper remedy for a recalcitrant witness is to seek a court order, not to excuse the witness entirely. And Mr. Zumwalt attempted to secure just such a court order.

The failure of the Courts to identify the source of this right is troublesome and conflicts with many constitutional guarantees, including

the right to counsel, the right to compel witnesses, the right to confront witnesses, and the due process right to exculpatory evidence as recognized by Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Absent a claim of privilege, a witness does not have the right to refuse to testify in open court. This State has long recognized the Sixth Amendment rights of compulsory process, confrontation of witnesses, and preparation for trial. The Washington Supreme Court has said, quoting the Rhode Island Supreme Court:

The attorney for the defendant not only had the right, but it was his plain duty towards his client, to fully investigate the case and to interview and examine as many as possible of the eye-witnesses to the assault in question, together with any other persons who might be able to assist him in ascertaining the truth concerning the event in controversy. . . . The defendant . . . has the constitutional right to have compulsory process for obtaining witnesses to testify in his behalf, he has also the right either personally or by attorney to ascertain what their testimony will be.

State v. Birra, 87 Wn.2d 175; 550 P.2d 507 (1976), quoting State v. Papa, 32 R.I. 453, 80 A. 12 (1911). In Bobo v. Commonwealth, 187 Va. 774, 778, 48 S.E.2d 213 (1948) the court said, “There seems to be no valid reason for granting the attorney for the Commonwealth a higher right than is granted the attorney for the accused to interview a witness who has been summoned by both sides.”

Should this Court decline to reanalyze this doctrine, reversal of Mr. Zumwalt’s case is still required. Mr. Zumwalt has the right to counsel of

his own choosing. United States v. Gonzalez-Lopez, 548 U.S. 140; 126 S. Ct. 2557; 165 L. Ed. 2d 409 (2006). The defense has the right to assistance of expert witnesses. State v. Pusalen, 156 Wn.2d 875, 133 P.3d 934 (2006).

It is not proper for the State or the State's witnesses to dictate who the defense uses as its expert witnesses, any more than it would be proper for the defense to dictate the State's witnesses. It is worth noting that the State was allowed to choose who sat at the prosecution's table during the trial. See ER 615 (allowing a party to choose its representative to remain in court). Imagine a scenario where the defense refused to participate in the trial as long as the prosecution was represented by an attorney/police officer/expert witness that defense counsel did not like. No trial court would tolerate such pettiness.

In Mr. Zumwalt's case, his defense counsel chose a defense investigator who had particular expertise in police investigations. It was improper for Detective Stroble to be the one to dictate who interviewed him. Forcing defense counsel to interview the detective without the assistance of its chosen expert witness was error. Just as a violation of the right to use counsel of choice are structural error and not susceptible to a harmless error analysis, Gonzalez-Lopez at 150-51, this error should also be deemed structural. Reversal is required.

2. The trial court erred by ordering periodic polygraph testing at the request of the Community Corrections Officer or treatment provider.

Mr. Zumwalt objects to polygraph testing as ordered in paragraph (14) of the Appendix F of the Judgment and Sentence. In monitoring sex offenders, polygraphs have become an increasingly common tool for two purposes: establishing a sexual history and monitoring compliance with community custody conditions. In State v. Riles, 135 Wn.2d 326, 957 P.2d 655 (1998), overruled in part, State v. Sanchez-Valencia, 169 Wn.2d 782, 239 P.3d 1059 (2010) the Washington Supreme Court reviewed the legality of polygraphs in the latter context. After interpreting the language of former RCW 9.94A.120 (now RCW 9.94A.703(3)(f)) the Court concluded that the statutory language permitting the court to order “crime-related prohibitions” permitted polygraphs for the purpose of monitoring compliance. The Riles Court did not address the issue of sexual history polygraphs.

On September 9, 2010, the Washington Supreme Court decided two cases that have a direct bearing on the use of polygraphs. In re Hawkins, 169 Wn.2d 796, 238 P.3d 1175 (2010); State v. Sanchez-Valencia, 169 Wn.2d 782, 239 P.3d 1059 (2010). Based upon these two

cases, it appears that Riles is no longer good law and that court-ordered polygraphs are unlawful.

In the first of the two cases the Washington Supreme Court addressed the use of sexual history polygraphs in the context of Chapter 71.09 RCW, Sexually Violent Predators. In re Hawkins, 169 Wn.2d 796, 238 P.3d 1175 (2010). In Hawkins, the State was seeking a sexual history polygraph as part of a statutorily permitted psycho-sexual evaluation. The Court started by setting out the inherent lack of reliability of polygraphs, saying, “[T]he courts have consistently recognized as unreliable and, unless stipulated to by all parties, inadmissible.” Compare Riles at 342 (noting the validity of polygraphs as an investigative tool). The Court then stated that “polygraph examinations are also invasive, both physically and of one’s private affairs,” emphasizing that “the inquiry is into his sexual history, one of the most private affairs of a person.” The Court concluded, “Because the legislature is undoubtedly aware of the inherent problems with polygraph examinations, it is fair to infer that the legislature intends to prohibit compulsory polygraph examinations unless it expressly allows for their use.” The Court struck the requirement for a sexual history polygraph.

The Court in Hawkins emphasized that the legislature is aware of the inherent unreliability of polygraphs and is perfectly capable of

authorizing them when it deems appropriate. In fact, the legislature did just that in 2010 when it authorized Courts to consider polygraphs as part of its consideration of a petition to be relieved of sex offender registration. See RCW 9A.44.142(4)(b)(xi). It is important to note, however, that while RCW 9A.44.142 authorizes a Court to consider polygraphs if one is presented, it does not make them compulsory.

As noted above, the Supreme Court decided two cases on the same day in 2010 relevant to the issue of polygraph testing. Ironically, the Hawkins case does not mention Riles at all. But the second case, Sanchez-Valencia, discusses Riles at length. And the Supreme Court overruled the legal analysis of Riles, saying, “While Riles indicated a presumption in favor of the constitutionality of a community custody condition, this was error.” The Sanchez-Valencia cites the Riles case five separate times, always to disavow or overrule its analysis.

Reading the Riles and Sanchez-Valencia cases together, four conclusions about polygraphs can be reached. First, the Court was in error in Riles to presume a community custody condition is permissible. Second, the Court in Riles was in error when it concluded polygraphs are reliable investigative tools. Third, polygraphs are very invasive of a person’s personal, physical, and sexual privacy. Finally, and most

important, the mandatory use of polygraphs is only permitted when explicitly authorized by the legislature.

The legislature has never explicitly authorized the use of polygraphs as a condition of community custody. Paragraph (14) of Appendix F of the Judgment and Sentence is unlawful and should be stricken.

3. The trial court erred by prohibiting Mr. Zumwalt from entering “shopping malls” because the term is unconstitutionally vague.

In paragraph (12) of the Appendix F of the Judgment and Sentence the Court ordered Mr. Zumwalt not to “loiter or frequent places where children congregate, including but not limited to shopping malls, schools, playground[s] or video arcades.” This provision is unconstitutionally vague.

In Sanchez-Valencia, the issue before the Court was the constitutionality of the prohibition on possessing “any paraphernalia that can be used for the ingestion or processing of controlled substances” The Court said:

[The community custody condition] proscribes possession or use of the much broader category “any paraphernalia.” “Paraphernalia” is defined to include the “property of a married woman that she can dispose of by will,” or “personal belongings,” or “articles of equipment,” or “APPURTENANCES.” WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1638 (2002). Although the word “paraphernalia” in the popular

vernacular is often linked to drug use, there is nothing in the condition as written that limits petitioners to refraining from contact with drug paraphernalia. The Court of Appeals also erroneously read into the condition an intent element. Intent is not part of the condition as written. The condition is no more acceptable from a vagueness standpoint than the conditions we found vague in Bahl. As in Bahl, the vague scope of proscribed conduct fails to provide the petitioners with fair notice of what they can and cannot do.

Sanchez-Valencia at 794, citing State v. Bahl, 164 Wn.2d 739, 193 P.3d 678 (2008).

One web site defines “shopping mall” as a “large retail complex containing a variety of stores and often restaurants and other business establishments housed in a series of connected or adjacent buildings or in a single large building.” See www.Dictionary.com. The problem with the phrase “shopping mall” is that almost all day-to-day commerce today is conducted in large retail complexes housed in connected or adjacent buildings. Shopping malls are an important spot for purchasing life’s necessities. Does the phrase “shopping mall” include strip malls? Is the Silverdale Safeway store, which has a Hallmark store connected to it, a shopping mall? What about the Poulsbo Walmart, which has a Starbuck’s coffee stand adjacent to it? The phrase “shopping mall” is even more ambiguous than “paraphernalia” and is unconstitutionally vague.

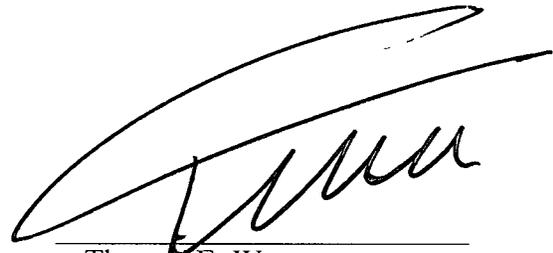
4. The Court erroneously ordered Mr. Zumwalt not to possess sexually explicit material.

The trial court ordered Mr. Zumwalt not to possess sexually explicit material. This prohibition was found unconstitutional in State v. Bahl, 164 Wn.2d 739, 193 P.3d 678 (2008).

D. CONCLUSION

This Court should reverse Mr. Zumwalt's conviction and remand for a new trial. In the alternative, the Court should strike several community custody conditions as unlawful.

Dated this 12th day of March, 2012.

A handwritten signature in black ink, appearing to read 'T. Weaver', written over a horizontal line.

Thomas E. Weaver
WSBA #22488
Attorney for Defendant

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MFD 11 11

12 MAR 15 PM 12:20

STATE OF WASHINGTON
BY _____
DEPUTY

COURT OF APPEAL OF THE STATE OF WASHINGTON
DIVISION I

11	STATE OF WASHINGTON,)	Case No: 42498-3-II
12	Plaintiff,)	AFFIDAVIT OF SERVICE
13	vs.)	
14	CHRISTOPHER ZUMWALT,)	
15	Defendant)	

17 STATE OF WASHINGTON)
 18 COUNTY OF KITSAP)

19 THOMAS E. WEAVER, Being a resident of Kitsap County, am of legal age, not a party
20 to the above-entitled action, and competent to be a witness.

21 On March 12, 2012, I hand delivered original, of the BRIEF OF APPELLANT to the
22 Court of Appeals of the State of Washington, Division I, 600 University St One Union Square
23 Seattle, WA 98101-1176

24 I sent a copy, via interoffice mail, of the to the Kitsap County Prosecutor's Office, MS
25 35, 614 Division Street, Port Orchard, WA 98366.

1 I sent a copy, via postage prepaid, of the BRIEF OF APPELLANT, to Christopher
2 Zumwalt, in Monroe Corrections Center DOC# 350649, 16550 177th Avenue SE, PO Box 777,
3 Monroe, WA 98272 .
4
5
6

7 Dated this 12th day of March, 2012.
8



9
10 THOMAS E. WEAVER
Attorney for Appellant

11
12 SUBSCRIBED AND SWORN to before me this 12th day of March, 2012.



13
14 Daphne L. Weaver
15 NOTARY PUBLIC in and for
the State of Washington.
16 My commission expires: 03/21/2013
17

