

No. 48409-9-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

Rory Mickens,

Appellant.

Cowlitz County Superior Court Cause No. 15-1-00851-7

The Honorable Judge *Pro Tempore* James Stonier

Appellant's Opening Brief

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ISSUES AND ASSIGNMENTS OF ERROR

1. The trial court lacked jurisdiction because the record does not reflect that Judge *pro tempore* James Stonier was specifically appointed to try Mr. Mickens's case.
2. The trial court lacked jurisdiction because the record does not reflect that Judge *pro tempore* James Stonier executed an oath to fairly try this particular case.
3. Mr. Mickens's convictions were entered in violation of his rights under Wash. Const. art. IV, §7.

ISSUE 1: A judge *pro tempore* lacks jurisdiction to try a superior court case unless the superior court appoints the judge *pro tem* specifically to try the particular case at hand. Did the trial court lack jurisdiction, given the absence of an order appointing Judge *Pro Tempore* James Stonier to try Mr. Mickens's case?

ISSUE 2: A judge *pro tempore* lacks jurisdiction to try a superior court case unless the judge *pro tem* executes an oath to fairly try that particular case. Did the trial court lack jurisdiction, given Judge *Pro Tempore* James Stonier's failure to execute an oath to fairly try Mr. Mickens's case?

4. Prosecutorial misconduct deprived Mr. Mickens of his Fourteenth Amendment right to a fair trial.
5. The prosecutor committed flagrant, ill-intentioned, prejudicial misconduct by improperly bolstering the informant's testimony.
6. The prosecutor committed flagrant and ill-intentioned misconduct by improperly vouching for the confidential informant who testified against Mr. Mickens.

ISSUE 3: A prosecutor may not directly or indirectly vouch for a witness who testifies against the accused. Did the prosecutor commit reversible misconduct by improperly vouching for the informant who testified against Mr. Mickens?

7. Mr. Mickens was denied his Sixth and Fourteenth Amendment right to the effective assistance of counsel.

8. Mr. Mickens's attorney provided ineffective assistance of counsel by failing to object to inadmissible evidence.
9. Mr. Mickens's attorney provided ineffective assistance of counsel by failing to object to evidence that his client may have armed himself with a crowbar when police came to the house.
10. Defense counsel provided ineffective assistance by failing to object to prosecutorial misconduct that prejudiced the defense and increased the likelihood of conviction.

ISSUE 4: Defense counsel provides ineffective assistance by failing to object to inadmissible and prejudicial evidence absent a valid strategic reason. Did defense counsel provide ineffective assistance by failing to object to inadmissible testimony that prejudiced Mr. Mickens?

ISSUE 5: Generally, defense counsel's failure to object to prosecutorial misconduct during closing falls below an objective standard of reasonableness. Did defense counsel provide ineffective assistance by failing to object to prosecutorial misconduct?

11. The trial court erred by giving Instruction No. 3.
12. The trial court's reasonable doubt instruction violated Mr. Mickens's right to due process under the Fourteenth Amendment and Wash. Const. art. I, § 3.
13. The trial court's reasonable doubt instruction violated Mr. Mickens's right to a jury trial under the Sixth and Fourteenth Amendments and Wash. Const. art. I, §§21 and 22.
14. The trial court's reasonable doubt instruction unconstitutionally shifted the burden of proof and undermined the presumption of innocence.
15. The trial court's instruction improperly focused jurors on "the truth of the charge" rather than the reasonableness of their doubts.

ISSUE 6: A criminal trial is not a search for the truth. By equating proof beyond a reasonable doubt with "an abiding belief in the truth of the charge," did the trial court undermine the presumption of innocence, impermissibly shift the burden of proof, and violate Mr. Mickens's constitutional right to a jury trial?

16. The Court of Appeals should decline to impose appellate costs, should Respondent substantially prevail and request such costs.

ISSUE 7: If the state substantially prevails on appeal and makes a proper request for costs, should the Court of Appeals decline to impose appellate costs because Rory Mickens is indigent, as noted in the Order of Indigency?

STATEMENT OF FACTS AND PRIOR PROCEEDINGS

Anthony Campbell has a heroin addiction. RP (11/12/15) 219-220. While often homeless, he also gets cash by buying heroin or methamphetamine for police. RP (11/12/15) 220-221. Police pay him \$50 to \$100 per buy, which he has done off and on for many years. RP (11/12/15) 220-221.

Campbell found himself in jail in July of 2015 and wanted out. RP (11/12/15) 223, 231. He contacted police and offered to set up drug buys for money and his release from jail. RP (11/12/15) 223; RP (11/13/15) 150. He offered to set up Rory Mickens. RP (11/12/15) 223. He was released from jail. RP (11/12/15) 223.

Mr. Mickens would be easy to set up, because Campbell stayed several nights a week at the house where Mr. Mickens lived. RP (11/12/15) 232. In fact, after his release from jail, Campbell slept at that house at least two nights per week in July. RP (11/12/15) 232. Several other people also stayed at that house at the time. RP (11/12/15) 233.

Campbell met with police and went to the house. He did not wear a wire or any type of recording device, and he went alone. RP (11/12/15) 238-239; RP (11/13/15) 71-77. On both occasions, he was inside the house for at least ten minutes. RP (11/12/156) 226, 243.

Both times, he told police that he purchased methamphetamine from Mr. Mickens. RP (11/12/15) 225, 229. The claimed buys took place July 14 and 21, 2015. RP (11/12/15) 224, 227.

Based on this information, police obtained a warrant. RP (11/13/15) 24. They found ten people in the house. RP (11/13/15) 30-31. In the room attributed to Mr. Mickens, they found drug paraphernalia and residue from both heroin and methamphetamine. RP (11/13/15) 35-37.

The state charged Mr. Mickens with two counts of delivery of a controlled substance and two counts of possession of a controlled substance. CP 1-3.

Campbell disappeared. RP (11/12/15) 6. Right before trial, after telling the defense they would dismiss the counts related to Campbell, he showed up. RP (11/12/15) 6-15, 26. The state went forward on all of the charges.

The trial was held before a judge *pro tem*. RP (11/12/15) 3. The court file does not contain any proof that the temporary judge took an oath to fairly perform the duties of a judge in this particular case.

During his opening statement, the prosecutor told the jury that Mr. Mickens raised a crow bar when faced with police in his home. RP (Opening Statement) 5-7. The defense did not object.

Campbell admitted at trial that he stayed at the house where he performed the alleged drug deals. RP (11/12/15) 232. Jail inmate Dustin Bailey told the jury that Campbell had bragged to him about setting Mr. Mickens up and staging fake buys with pre-planted drugs. RP (11/13/15) 149-152.

The lead officer in the case told the jury that he didn't know that Campbell was staying in the house. RP (11/13/15) 80-82. Officer Brown said that if he knew a person lived at the house of the target, he would not have done buys as they were done in this case. RP (11/13/15) 80.

That officer was asked, during cross examination, if he wrote anything about a crow bar in his report. Officer Brown said that he wrote that another officer told him that an occupant of the house named Jesse Wilson had approached police during the search with a raised crowbar. RP (11/13/15) 89. During rebuttal, the prosecutor asked if that was an error, and the officer agreed that it was. He then claimed that he was told that Mr. Mickens was the person with the crowbar. RP (11/13/15) 90. Over defense objection, Detective Moore told the jury that he saw Mr. Mickens with a crowbar. RP (11/13/15) 135-138, 143-144.

The court gave the jury an instruction regarding reasonable doubt that included the following: "If, after such consideration, you have an

abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.” CP 17.

During closing argument, the state emphasized the allegation that Mr. Mickens raised a crowbar to police. RP (11/13/15) 178-180. In his rebuttal, the prosecutor said that police “never testified they didn’t trust Mr. Campbell. And to the contrary, if he worked as a confidential informant for the police for thirteen years, he must’ve been pretty reliable.” RP (11/13/15) 217.

The jury convicted Mr. Mickens as charged. He timely appealed. CP 58.

ARGUMENT

I. THE TRIAL COURT LACKED JURISDICTION TO TRY MR. MICKENS’S CASE.

A. Standard of Review

Constitutional violations are reviewed *de novo*. *State v. Budd*, 91529-6, 2016 WL 2910207, at *2 (Wash. May 19, 2016). Questions of jurisdiction may be raised at any time, including on appeal. *Matheson v. City of Hoquiam*, 170 Wn.App. 811, 819, 287 P.3d 619 (2012); RAP 2.5(a)(1).

- B. The record does not establish that Judge *Pro Tempore* James Stonier executed an oath to fairly try Mr. Mickens’s case after proper appointment.

Washington's constitution guarantees litigants in superior court the right to have their cases decided by an elected judge. Wash. Const. art. IV, §7. With the consent of the parties, a judge *pro tempore* may be “approved by the court and sworn to try the case.” Wash. Const. art. IV, §7.

A judge *pro tempore* must be specifically appointed to try “one particular case.” *Nat'l Bank of Washington, Coffman-Dobson Branch v. McCrillis*, 15 Wn.2d 345, 357, 130 P.2d 901 (1942). She or he must be “sworn to try the case”—that is, s/he must “take and subscribe” an oath pledging to uphold the state and federal constitutions and to faithfully execute her or his duties in the case at hand. RCW 2.08.180; Wash. Const. art. IV, §7.

Absent an order of appointment and execution of the oath, a judge *pro tempore* lacks jurisdiction to try a case. *McCrillis*, at 354-364; *State v. McNairy*, 20 Wn.App. 438, 440, 580 P.2d 650 (1978). Any decision by a judge *pro tem* lacking proper authority under art. IV, §7 is “absolutely void for lack of jurisdiction.” *McCrillis*, at 363; *see also Matheson*, 170 Wn.App. at 818; *Mitchell v. Kitsap County*, 59 Wn.App. 177, 181, 797 P.2d 516 (1990).

In this case, there is no indication that the superior court specifically appointed Judge *Pro Tempore* Stonier to try this case. Nor does the record show that Judge *Pro Tem* Stonier executed the required oath. Thus, there is no indication in the record that he was “approved by the court and sworn to try the case” as required under Wash. Const. art. IV, §7.

The trial court lacked jurisdiction to hear and decide the case. *McNairy, supra*. Because of this, Mr. Mickens’s convictions are “absolutely void.” *McCrillis, at* 363. The convictions must be vacated and the case remanded for a new trial. *Id.*

II. THE PROSECUTOR COMMITTED MISCONDUCT THAT PREJUDICED MR. MICKENS.

Prosecutorial misconduct can deprive the accused of a fair trial. *In re Glasmann*, 175 Wn.2d 696, 703-704, 286 P.3d 673 (2012); U.S. Const. Amends. VI, XIV, Wash. Const. art. I, § 22. A conviction must be reversed where the misconduct prejudices the accused. *Id.* Even absent objection, reversal is required when misconduct is “so flagrant and ill-intentioned that an instruction would not have cured the prejudice.” *Glasmann*, 175 Wn.2d at 704.¹

¹ Prosecutorial misconduct is flagrant and ill-intentioned when it violates professional standards and case law that were available to the prosecutor at the time. *Glasmann*, 175 Wn.2d at 707.

Reviewing courts examine the cumulative effect of improper conduct. *Glasmann*, 175 Wn.2d at 707-12. Prosecutorial misconduct may require reversal even where ample evidence supports the jury's verdict. *Glasmann*, 175 Wn.2d at 711-12. The focus of the reviewing court's inquiry "must be on the misconduct and its impact, not on the evidence that was properly admitted." *Glasmann*, 175 Wn.2d at 711.

Prosecutorial misconduct during argument can be particularly prejudicial. There is a risk that jurors will lend it special weight because of the prestige associated with the prosecutor's office, and also because jurors presume that the state has superior fact-finding capabilities. *Glasmann*, 175 Wn.2d at 706.

A prosecutor must "seek conviction based only on probative evidence and sound reason." *Glasmann*, 175 Wn.2d at 704. It is improper for the state's attorney to convey a personal opinion. *Id.* at 706-07.

Similarly, a prosecutor "cannot indirectly vouch for a witness by eliciting testimony from a police officer as to the credibility of a key witness." *State v. Korum*, 157 Wn.2d 614, 651, 141 P.3d 13, 32 (2006). Nor may a prosecutor vouch for the credibility of a witness based on facts that are not in evidence. *See State v. Jones*, 144 Wn.App. 284, 295-297, 183 P.3d 307, 314 (2008).

Here, the prosecutor improperly vouched for the informant by insinuating that the police vouched for him. According to the prosecutor, Campbell “must’ve been pretty reliable;” otherwise, the police would not have relied on him for years. RP (11/13/15) 217.

This argument was misconduct. It conveyed the prosecutor’s personal opinion and accomplished the indirect form of vouching prohibited by *Korum*, based on “facts” not admitted into evidence. *Korum*, 157 Wn.2d at 651. The police would not have been permitted to testify that Campbell was honest; the prosecutor was prohibited from arguing that they trusted him. *Id.*

A prosecutor’s improper statements prejudice the accused if they create a substantial likelihood that the verdict was affected. *Glasmann*, 175 Wn.2d at 704. The inquiry must look to the misconduct and its impact, not the evidence that was properly admitted. *Id.* at 711.

Prosecutorial misconduct requires reversal, even absent an objection below, if it is so flagrant and ill-intentioned that an instruction could not have cured the resulting prejudice. *State v. Pierce*, 169 Wn.App. 533, 552, 280 P.3d 1158 (2012). Misconduct is flagrant and ill-intentioned when it violates professional standards and case law that were available to the prosecutor at the time of the improper statement. *Glasmann*, 175 Wn.2d at 707.

Here, Mr. Mickens was prejudiced by the prosecutor's improper argument. By expressing a personal opinion and improperly vouching for Campbell, the prosecutor tipped the balance in favor of conviction. There is a substantial likelihood that the misconduct affected the verdicts. *Id.*, at 704.

The prosecutor committed flagrant, ill-intentioned, prejudicial misconduct. *Glasmann*, 175 Wn.2d at 704-711. Mr. Mickens's convictions must be reversed. *Id.*

III. MR. MICKENS WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL.

The right to counsel includes the right to the effective assistance of counsel. U.S. Const. Amends. VI, XIV; *Strickland v. Washington*, 466 U.S. 668, 685, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Counsel's performance is deficient if it falls below an objective standard of reasonableness. U.S. Const. Amends. VI, XIV; *State v. Kylo*, 166 Wn.2d 856, 862, 215 P.3d 177 (2009). Deficient performance prejudices the accused when there is a reasonable probability that it affected the outcome of the proceeding. *Id.*

Ineffective assistance of counsel is an issue of constitutional magnitude that can be raised for the first time on appeal. *Id.*; RAP 2.5(a).

A. Defense counsel unreasonably failed to move *in limine* to exclude testimony painting Mr. Mickens as a violent man.

Defense counsel provides ineffective assistance by failing to object to inadmissible evidence absent a valid strategic reason. *State v. Saunders*, 91 Wn.App. 575, 578, 958 P.2d 364 (1998) (citing *State v. McFarland*, 127 Wn.2d 322, 336, 899 P.2d 1251 (1995)). Reversal is required if an objection would likely have been sustained and there is a reasonable probability that the result of the trial would have been different without the inadmissible evidence. *Id.*

Irrelevant evidence is not admissible. ER 402. Evidence is not relevant unless it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” ER 401. In addition, evidence must also be excluded if “its probative value is substantially outweighed by the danger of unfair prejudice.” ER 403.

Here, defense counsel unreasonably failed to seek exclusion of testimony suggesting that Mr. Mickens armed himself with a crowbar when police came to the house. RP (11/12/15) 3-27; RP (Opening Statement) 5-9. The evidence was not relevant to any element of the charged crimes. Defense counsel should have sought exclusion under ER 402.

Furthermore, the evidence suggested that Mr. Mickens was a violent person. This created a significant danger of unfair prejudice. Counsel should have moved to exclude the evidence under ER 403.

Had counsel sought to exclude the evidence, the motion would likely have been granted. ER 402; ER 403. Furthermore, there is a reasonable probability that the result of trial would have differed. *Saunders*, 91 Wn.App. at 578.

The prosecuting attorney mentioned the crowbar in opening statements and again during closing arguments. RP (11/13/15) 178-180. The state's decision to highlight the evidence shows its importance.

Mr. Mickens was prejudiced by his attorney's failure to move *in limine* to exclude evidence that he'd armed himself with a crowbar. By failing to object to inadmissible evidence, defense counsel allowed the prosecutor to paint Mr. Mickens as a dangerous person.

The convictions must be reversed for ineffective assistance. *Kylo*, 166 Wn.2d at 862.

B. Defense counsel unreasonably failed to object to the prosecutor's misconduct in closing.

Failure to object to prosecutorial misconduct is objectively unreasonable under most circumstances: "At a minimum, an attorney... should request a bench conference... where he or she can lodge an

appropriate objection.” *Hodge v. Hurley*, 426 F.3d 368, 386 (6th Cir., 2005). Here, defense counsel did not even take this “minimum” step.

Counsel should have objected when the state improperly told jurors that the informant “must’ve been pretty reliable.” RP (11/13/15) 217. At a minimum, defense counsel should have asked for a sidebar, objected, and sought a mistrial outside the presence of the jury. The prosecutor violated well-established rules that should have been obvious to defense counsel. Counsel’s failure to protect his client’s interest through a proper objection deprived Mr. Mickens of the effective assistance of counsel.

There is a reasonable possibility that some jurors were influenced by the prosecutor’s misconduct. *Kylo*, 166 Wn.2d at 862. Accordingly, Mr. Mickens’s convictions must be reversed and the case remanded for a new trial. *Id.*

IV. THE COURT’S “REASONABLE DOUBT” INSTRUCTION IMPROPERLY FOCUSED THE JURY ON A SEARCH FOR “THE TRUTH” IN VIOLATION OF MR. MICKINS’S RIGHT TO DUE PROCESS AND TO A JURY TRIAL.

A jury’s role is not to search for the truth. *State v. Emery*, 174 Wn.2d 741, 760, 278 P.3d 653 (2012); *State v. Berube*, 171 Wn.App. 103, 286 P.3d 402 (2012). Rather than determining the truth, a jury’s task “is to

determine whether the State has proved the charged offenses beyond a reasonable doubt.” *Emery*, 174 Wn.2d at 760.

Here, the court undermined its otherwise clear reasonable doubt instruction by directing jurors to consider “the truth of the charge.” CP 17.

A jury instruction misstating the reasonable doubt standard “is subject to automatic reversal without any showing of prejudice.” *Id.* at 757 (citing *Sullivan v. Louisiana*, 508 U.S. 275, 281–82, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993)). By equating proof beyond a reasonable doubt with a “belief in the truth of the charge,” the court confused the critical role of the jury. CP 17. This violated Mr. Mickens constitutional right to a jury trial. U.S. Const. Amend. VI, XIV; Wash. Const. art. I, §§21 and 22. It also violated his right to due process. U.S. Const. Amend. XIV; Wash. Const. art. I, §3.

The court’s instruction impermissibly encouraged the jury to undertake a search for the truth, inviting the error identified in *Emery*. The problem here is greater than that presented in *Emery*. In that case, the error stemmed from a prosecutor’s misconduct. Here, the prohibited language reached the jury in the form of an instruction from the court. CP 17. Jurors were obligated to follow the instruction.

Without analysis, Division I has twice rejected a challenge to this language. *State v. Kinzle*, 181 Wn.App. 774, 784, 326 P.3d 870 *review*

denied, 181 Wn.2d 1019, 337 P.3d 325 (2014); *State v. Fedorov*, 181 Wn.App. 187, 200, 324 P.3d 784 *review denied*, 181 Wn.2d 1009, 335 P.3d 941 (2014). This court should not follow Division I.

Both *Kinzle* and *Fedorov* erroneously rely on *State v. Bennett*, 161 Wn.2d 303, 315-16, 165 P.3d 1241 (2007). The *Bennett* decision does not support Division I's position.

In *Bennett*, the appellant argued *in favor of* WPIC 4.01 (the pattern instruction at issue here), and asked the court to invalidate the so-called *Castle* instruction. *Bennett*, 161 Wn.2d at 308-309. The *Bennett* court was not asked to address any flaws in WPIC 4.01.² *Id.*

The *Fedorov* court also relied on *State v. Pirtle*, 127 Wn.2d 628, 904 P.2d 245 (1995). In *Pirtle*, as in *Bennett*, the defendant favored the “truth of the charge” language. *Id.*, at 656 n. 3. The appellant challenged a different sentence (added by the trial judge) which inverted the language found in the pattern instruction. *Id.*, at 656.³ The *Pirtle* court was not asked to rule on the constitutionality of the “truth of the charge” provision.

² The *Bennett* court upheld the *Castle* instruction, but exercised its supervisory authority to instruct courts not to use it, and to use WPIC 4.01 instead. *Id.*, at 318.

³ The challenged language in *Pirtle* read as follows: “If, after such consideration[,] you do not have an abiding belief in the truth of the charge, you are not satisfied beyond a reasonable doubt.” *Pirtle*, 127 Wn.2d at 656. The appellant argued that the instruction “invite[d] the jury to convict under a preponderance test because it told the jury it had to have an abiding faith in the falsity of the charge to acquit.” *Id.*, at 656.

Neither *Bennett* nor *Pirtle* should control this case. Division II should not follow Division I's decisions in *Kinzle* and *Fedorov*.

The presumption of innocence can be “diluted and even washed away” by confusing jury instructions. *Bennett*, 161 Wn.2d at 315-16. Courts must vigilantly protect the presumption of innocence by ensuring that the appropriate standard is clearly articulated. *Id.*

Improper instruction on the reasonable doubt standard is structural error.⁴ *Sullivan*, 508 U.S. at 281-82. By equating reasonable doubt with “belief in the truth of the charge” the court misstated the prosecution’s burden of proof, confused the jury’s role, and denied Mr. Mickens his constitutional right to a jury trial.

Mr. Mickens’s conviction must be reversed. The case must be remanded for a new trial with proper instructions. *Id.*

V. IF THE STATE SUBSTANTIALLY PREVAILS, THE COURT OF APPEALS SHOULD DECLINE TO AWARD ANY APPELLATE COSTS REQUESTED.

At this point in the appellate process, the Court of Appeals has yet to issue a decision terminating review. Neither the state nor the appellant

⁴ RAP 2.5(a)(3) always allows review of structural error. This is so because structural error is “a special category of manifest error affecting a constitutional right.” *State v. Paumier*, 176 Wn.2d 29, 36, 288 P.3d 1126 (2012) (internal quotation marks and citations omitted); *see also Paumier*, 176 Wn.2d at 54 (Wiggins, J., dissenting) (“If an error is labeled structural and presumed prejudicial, like in these cases, it will always be a ‘manifest error affecting a constitutional right.’”)

can be characterized as the substantially prevailing party. Nonetheless, the Court of Appeals has indicated that indigent appellants must object in advance to any cost bill that might eventually be filed by the state, should it substantially prevail. *State v. Sinclair*, 192 Wn.App. 380, 385-394, 367 P.3d 612 (2016).⁵

Appellate costs are “indisputably” discretionary in nature. *Id.*, at 388. The concerns identified by the Supreme Court in *Blazina* apply with equal force to this court’s discretionary decisions on appellate costs. *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015).

The trial court found Mr. Mickens indigent. CP 59-61. There is no reason to believe that status will change, given his felony history and the imposition of a lengthy prison term. CP 45-57. The *Blazina* court indicated that courts should “seriously question” the ability of a person who meets the GR 34 standard for indigency to pay discretionary legal financial obligations. *Id.* at 839

If the state substantially prevails on this appeal, this court should exercise its discretion to deny any appellate costs requested.

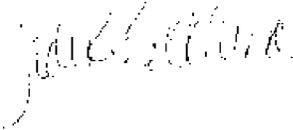
⁵ Division II’s commissioner has indicated that Division II will follow *Sinclair*.

CONCLUSION

For the foregoing reasons, Mr. Mickens's convictions must be reversed. If the state substantially prevails on review, the court should not impose appellate costs.

Respectfully submitted on June 1, 2016,

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CERTIFICATE OF SERVICE

I certify that on today's date:

I mailed a copy of Appellant's Opening Brief, postage prepaid, to:

Rory Mickens, DOC #927518
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

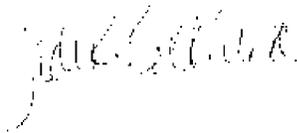
With the permission of the recipient(s), I delivered an electronic version of the brief, using the Court's filing portal, to:

Cowlitz County Prosecuting Attorney
appeals@co.cowlitz.wa.us

I filed the Appellant's Opening Brief electronically with the Court of Appeals, Division II, through the Court's online filing system.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Olympia, Washington on June 1, 2016.



Jodi R. Backlund, WSBA No. 22917
Attorney for the Appellant

BACKLUND & MISTRY

June 01, 2016 - 12:21 PM

Transmittal Letter

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Case Name: State v. Rory Mickens

Court of Appeals Case Number: 48409-9

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