

FILED
Jan 15, 2013
Court of Appeals
Division III
State of Washington

NO. 269183-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent

v.

IGOR VASILYEVICH SAMOLYUK, Appellant

APPEAL FROM THE SUPERIOR COURT
FOR BENTON COUNTY

NO. 06-1-00861-1

SUPPLEMENTAL BRIEF OF RESPONDENT REGARDING THE
APPLICABILITY OF *STATE V. WISE*

ANDY MILLER
Prosecuting Attorney
for Benton County
BAR NO.10817
OFFICE ID 91004

7122 West Okanogan Place
Bldg. A
Kennewick WA 99336
(509) 735-3591

This is in response to the order to file a supplemental brief regarding the applicability of *State v. Wise*, ___ Wn.2d ___, 288 P.3d 1113 (Nov. 21, 2012).

State v. Wise is not applicable to the present case because there was no courtroom closure as claimed by the defendant.

In the defendant's original brief, he cited no specific facts to support his speculation that the courtroom was closed during questioning of jurors about reading a newspaper article.

In its response brief, the State showed that the questioning was done in open court. The defendant did not file a reply brief.

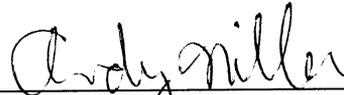
Later, the defendant filed supplemental briefing regarding the applicability of *Momah* and *Strode*. In that brief the defendant wrote:

The court did not state on the record the reasons for closing the courtroom while questioning the jurors. In fact, the court did not even announce on the record that it was closing the courtroom, but a close reading of the record reveals that this questioning took place in a jury room.

Appellant's. Suppl Brief at 1.

However, the defendant does not describe or discuss the contents of the record that lead to such an unsupported conclusion.

RESPECTFULLY SUBMITTED this 14th day of January 2013.



ANDY MILLER

Prosecutor for Benton County

Bar No. 10817

OFC ID NO. 91004

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

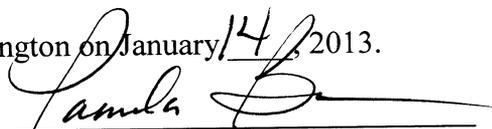
Janet G. Gemberling
Janet Gemberling PS
P.O. Box 9166
Spokane, WA 99209-9166

E-mail service by agreement
was made to the following
parties:
admin@gemberlaw.com

Igor Vasilyevich Samolyuk
#316021
1313 N. 13th Ave.
Walla Walla WA 99362

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Signed at Kennewick, Washington on January 14, 2013.



Pamela Bradshaw

Legal Assistant