

NO. 291855-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

FILED

MAR 01 2011

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

THE STATE OF WASHINGTON, Respondent

v.

RONALD STEVEN LAW, Appellant

APPEAL FROM THE SUPERIOR COURT
FOR BENTON COUNTY

NO. 10-1-00222-1

BRIEF OF RESPONDENT

ANDY MILLER
Prosecuting Attorney
for Benton County

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1. Considering the evidence in the light most favorable to the State, could a reasonable jury have found that the defendant violated the domestic violence No-Contact Order entered on March 4, 2010?

STATEMENT OF FACTS

After the defendant's arrest for burglary of Susie Weymouth's residence, a domestic No-Contact Order was entered by the criminal court in Benton County on March 4, 2010, Cause NO. 10-1-00222-1. (RP¹ 114; Ex. 3). The No-Contact Order prohibited the defendant from phoning, writing, or indirectly contacting Susie Weymouth. (RP 114; Ex. 3). However, Ms. Weymouth loved the defendant. (RP 54). She described her relationship with the defendant as a series of final, absolute and complete breakups, followed by their reuniting, followed by another final, absolute and complete breakup. (RP 72).

¹ All citations are to the transcripts of June 14-16, 2010-one volume.

As if to prove the fluctuations in the relationship, Ms. Weymouth gave a declaration, dated April 6, 2010, to the defendant's attorney, stating that the defendant had permission to be at her residence, and jointly owned the stolen property. (RP 65, Ex. 2). She then told the defendant's investigator on April 14, 2010, that she was no longer going to lie for the defendant, that she was forced and intimidated into making the declaration, that the declaration was not true, and that the defendant had sent a third person who was released from the jail to go to her residence and give her letters from the defendant. (RP 106-109). At trial, Ms. Weymouth had again reversed her stance by now stating that the declaration was true, that she had no recollection of the defendant telephoning her, and lost the ability to recognize the defendant's voice in jailhouse recordings of their conversations. (RP 61-62, 104).

Ms. Weymouth testified about her motives. "I don't want to make a statement." (RP 59). "I don't want to sound like I'm lying, but I don't remember." (RP 62). "I'd give anything for this to go away." (RP 65).

Nevertheless, Ms. Weymouth did confirm that a person came to her residence and hand delivered letters she assumed were from the defendant. (RP 68-69). At least, the letters were about Ms. Weymouth's relationship with the defendant and related past events in their lives. (RP 69). Ms. Weymouth confirmed that she was intimidated into going to the defendant's attorney's office and making a declaration. (RP 67). Ms. Weymouth acknowledged that the only person she knew who was in jail was the defendant. (RP 102). Ms. Weymouth received jailhouse calls on a pay-as-you-go cell phone, which she had for only a few months. (RP 60). Ms. Weymouth further acknowledged that the jailhouse caller talked about the defendant. (RP 61).

Jail records show there were twenty-five (25) telephone calls from the jail to Ms. Weymouth's cell phone. (RP 80). Twenty-two (22) calls were made from the jail to Ms. Weymouth's cell phone from March 8, 2010 to April 8, 2010, of a duration up to nine minutes and 41 seconds. (RP 81). Those calls originated from the defendant's pod in the jail. (RP 83).

The defendant was found guilty of two counts of Violation of a No-Contact Order. (CP 31-32). This appeal follows. (CP 38-39).

ARGUMENT

- 1. Based on the reasonable inferences from the evidence and the direct testimony of Ms. Weymouth, the jury could easily conclude that the defendant telephoned Ms. Weymouth, wrote her, and sent a third person to contact her at her residence.**

Telephone contact

- Ms. Weymouth did not know anyone in the jail, other than the defendant.

- The frequency of the phone calls shows that Ms. Weymouth had an ongoing relationship with the caller.
- Ms. Weymouth had her "pay-as-you-go" cell phone for a short time. Only a person who had a relationship with Ms. Weymouth, like the defendant, would have that number. Certainly there is no evidence that any other inmate had that phone number.
- The calls originated from the defendant's jail pod.
- Ms. Weymouth testified that she was intimidated into making the April 14, 2010 declaration. (RP 108). It is reasonable that the defendant intimidated her. Who else had a motive to force Ms. Weymouth to give a statement which assisted the defendant?

Letters from defendant

- Ms. Weymouth received from a third person letters she assumed were written by the defendant.
- The telephone calls from the jail to Ms. Weymouth ended on April 8, 2010, two days after she signed the declaration at the defendant's attorney's office. Ms. Weymouth testified that she regretted signing the declaration. (After signing it she thought, "Ooh, I shouldn't have did that.") (RP 67). The defendant had no way to contact her other than via a letter.
- There is no other person known to be unable to telephone or personally visit Ms. Weymouth other than the defendant.
- The letters were about events that happened between the defendant and Ms. Weymouth. Ms. Weymouth did not report any inaccuracies in those events. A reasonable inference is that

only the defendant would have the knowledge to write those letters.

Third person contact

- Ms. Weymouth testified that a person who had been in jail came to her door and handed her the letters. (RP 107).
- A reasonable inference is that the defendant sent a cellmate to Ms. Weymouth's residence to communicate with her, because she was no longer taking his jailhouse phone calls and the jail would monitor his outgoing mail.
- The nature of the letters, a fond remembrance of past events, is a classic manipulation ploy. Humphrey Bogart initially talked with Ingrid Bergman about their romance in Paris to rekindle their relationship, not end it. (If anyone does not know the movie reference, the State requests that you quit reading this brief immediately.) The letters worked: Ms.

Weymouth went from telling the defendant's investigator everything to telling the jury almost nothing.

CONCLUSION

The conviction should be affirmed.

RESPECTFULLY SUBMITTED this 28th day of
February 2011.

ANDY MILLER

Prosecutor



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