

**FILED**

SEPTEMBER 7, 2011

No. 29362-9-III

Court of Appeals  
Division III  
State of Washington

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
Plaintiff/Respondent,

v.

OSCAR ALVAREZ DEL CASTILLO,  
Defendant/Appellant.

---

BRIEF OF RESPONDENT

---

Gary A. Riesen  
Chelan County Prosecuting Attorney

James A. Hershey WSBA #16531  
Deputy Prosecuting Attorney

Chelan County Prosecuting Attorney's Office  
P.O. Box 2596  
Wenatchee, Washington 98807-2596  
(509) 667-6204

## I. STATEMENT OF THE CASE

The facts involved in this case are sufficiently set forth in the appellant's brief.

## II. ARGUMENT

The defendant contends the trial court erred in imposing a community custody condition requiring the defendant to obtain an alcohol abuse evaluation. Paragraph number 5 of the community custody conditions appendix of the judgment and sentence ordered that:

The defendant shall obtain an alcohol/  
substance abuse evaluation within 60 days of  
release and shall successfully complete any  
recommended treatment/counseling program.

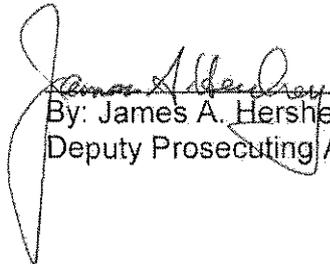
(CP 153). Alcohol was not related to the crimes that the defendant was convicted of in this matter, as the defendant claims. However, substance abuse, i.e. drug abuse, was. Consequently, the court ordered that the defendant undergo an evaluation and complete any treatment program recommended by the evaluation of the treatment professional. The word "alcohol" should have been

stricken from paragraph 5. In fact, the lack of any alcohol involvement is the reason why the court did not order the defendant to refrain from consuming or possessing alcohol in the community custody conditions. (CP 151, paragraph 4). As a result, the State submits that this matter should be remanded to the trial court for an order striking the word "alcohol" from paragraph 5 of the community custody conditions appendix in the judgment and sentence.

DATED this 6th day of September, 2011.

Respectfully submitted,

Gary A. Riesen  
Chelan County Prosecuting Attorney

  
By: James A. Hershey WSBA #16531  
Deputy Prosecuting Attorney

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

STATE OF WASHINGTON, )  
 )  
Plaintiff/Respondent, )  
 )  
vs. )  
 )  
OSCAR ALVAREZ DEL CASTILLO, )  
 )  
Defendant/Appellant. )  
\_\_\_\_\_ )

No. 29362-9-III

DECLARATION OF ELECTRONIC  
TRANSMITTAL AND MAILING

I, Cindy Dietz, under penalty of perjury under the laws of the State of Washington, declare that on the 6th day of September, 2011, I electronically transmitted to:

Renee S. Townsley  
Clerk/Administrator  
Court of Appeals, Div. III  
500 N. Cedar Street  
Spokane, WA 99201

AND deposited in the United States Mail properly stamped and addressed envelopes directed to:

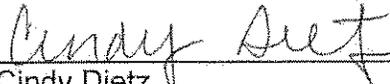
David N. Gasch  
Gasch Law Office  
P.O. Box 30339  
Spokane, WA 99223-3005

Oscar Alvarez Del Castillo  
#343436  
P.O. Box 769  
Connell, WA 99326

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

said electronic transmission and envelopes containing true and correct copies of Brief of Respondent.

Signed at Wenatchee, Washington, this 6th day of September, 2011.

  
\_\_\_\_\_  
Cindy Dietz  
Legal Administrative Supervisor  
Chelan County Prosecuting Attorney's Office