

No. 29952-0

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

FILED
May 2, 2012
Court of Appeals
Division III
State of Washington

STATE OF WASHINGTON, Respondent

v.

PEDRO AROUSA, Appellant

APPEAL FROM THE SUPERIOR COURT
OF GRANT COUNTY

REPLY BRIEF

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TABLE OF CONTENTS

A. Statement of Facts.....	1
B. Argument.....	2
C. Conclusion	2

A. STATEMENT OF FACTS

Appellant incorporates by reference the statement of facts from appellant's opening brief with the following notations.

On the morning of April 27, 2011, the date scheduled for the 3.6 hearing, the court clerk informed counsel the hearing would not occur because of the unavailability of a judge. Although a court had unexpectedly become available, both counsel had already released their witnesses based on the information they had regarding court congestion. (RP 12). The court rescheduled the hearing at counsel's request because there were no witnesses. Then, sua sponte, the court set a new outside trial date of June 2, 2011. The court later summarized its reasoning:

“So it appears what the court did was, at the parties' request, to continue the 3.5/3.6 hearing one week, --**recognized the 3.5/3.6 hearing has to come before trial, case law does state that it's contemplated that the hearing will actually be on a different date**, so that you don't have people not knowing at the time of trial what will be heard, that **the court was actually required to continue the trial date to that date**.” (RP 143).

B. ARGUMENT

Appellant incorporates by reference all arguments presented in appellant's opening brief.

C. CONCLUSION

Based on the facts and authorities cited in both appellant's opening and reply brief, Mr. Arousa respectfully requests this Court to reverse and dismiss his conviction with prejudice.

Submitted this 2nd day of May, 2012.

s/ Marie Trombley

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CERTIFICATE OF SERVICE

I, Marie J. Trombley, attorney for Appellant Pedro Arousa, do hereby certify under penalty of perjury under the laws of the United States and the State of Washington, that a true and correct copy of the Brief of Appellant was sent by first class mail, postage prepaid on May 2, 2012, to Pedro Arousa, PO Box 776, Warden, WA 98857, and by email per agreement between the parties to D. Angus Lee, Grant County Prosecutor, at kburns@co.grant.wa.us.

S/ Marie Trombley

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