FILED
June 10, 2013
Court of Appeals
Division III
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

No. 31458-8-III

STATE OF WASHINGTON, Respondent,

v.

JOHAN MARTIN FILLA, Appellant.

APPELLANT'S BRIEF

Andrea Burkhart, WSBA #38519
Burkhart & Burkhart, PLLC
6 ½ N. 2nd Avenue, Suite 200
PO Box 946
Walla Walla, WA 99362
Tel: (509) 529-0630
Fax: (509) 525-0630
Attorney for Appellant

TABLE OF CONTENTS

AUTHORITIES CITED.....ii

I. INTRODUCTION.....1

II. ASSIGNMENTS OF ERROR.....2

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR 2

IV. STATEMENT OF THE CASE.....2

V. ARGUMENT.....7

A. RCW 9.41.270 is unconstitutionally vague as applied to the facts of Filla's case.....8

B. The unconstitutionality of RCW 9.41.270 is a manifest constitutional error affecting Filla's constitutional rights that can be raised for the first time on appeal.....16

VI. CONCLUSION.....18

CERTIFICATE OF SERVICE 19

AUTHORITIES CITED

Federal Cases

Aptheker v. Secretary of State, 378 U.S. 500, 84 S. Ct. 1659, 12 L. Ed. 2d 992 (1964).....10

Connally v. General Construction Co., 269 U.S. 385, 46 S. Ct. 126, 70 L. Ed. 322 (1926).....8

Dist. of Columbia v. Heller, 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008)...11, 14, 17

Grayned v. City of Rockford, 408 U.S. 104, 92 S. Ct. 2294, 33 L. Ed. 2d 222 (1972).....10

Kent v. Dulles, 357 U.S. 116, 78 S. Ct. 1113, 2 L. Ed. 2d 1204 (1958).....10

Kolender v. Lawson, 461 U.S. 352, 103 S. Ct. 1855, 75 L. Ed. 2d 903 (1983).....8, 9

Lanzetta v. New Jersey, 306 U.S. 451, 59 S. Ct. 618, 83 L. Ed. 888 (1939).....8, 16

Shuttlesworth v. City of Birmingham, 382 U.S. 87, 86 S. Ct. 211, 15 L. Ed. 2d 176 (1965).....10

Smith v. Goguen, 415 U.S. 566, 94 S. Ct. 1242, 39 L. Ed.2d 605 (1974).....9, 10

State Cases

City of Spokane v. Douglass, 115 Wn.2d 171, 795 P.2d 693 (1990).....12

State v. Kirkman, 159 Wn.2d 918, 155 P.3d 125 (2007).....16

State v. Maciolek, 101 Wn.2d 259, 676 P.2d 996 (1984).....12

State v. O'Hara, 167 Wn.2d 91, 217 P.3d 756 (2009).....16

State v. Spencer, 75 Wn. App. 118, 876 P.2d 939 (1994).....12

Statutes

RCW 9.41.070.....14

RCW 9.41.270.....7, 11, 12, 13, 15, 16, 17

Court Rules

RAP 2.5(a).....16

I. INTRODUCTION

Johan Michael Filla was convicted of unlawful display of a firearm, contrary to RCW 9.41.270. At trial, various different versions of events were presented to the jury. One witness claimed that Filla pointed a firearm directly at her face. A second witness claimed that Filla was waving a firearm in the air without pointing it at anybody. And the defense testified that Filla was carrying a firearm in his waistband when his shirt flew open, revealing it.

The Second Amendment to the U.S. Constitution affords individuals the right to carry firearms for self-defense. Mere carrying of a firearm pursuant to a lawful concealed pistol license cannot, accordingly, establish grounds to convict a person of a crime. Consequently, RCW 9.41.270 is unconstitutionally void for vagueness as applied to the facts of this case, because it cannot be determined whether the jury convicted Filla for merely exercising his Second Amendment right to carry a firearm. The conviction should be reversed on the grounds that in the present case, RCW 9.41.270 fails to provide a sufficiently clear and ascertainable standard to distinguish between the lawful exercise of a constitutional right and unprotected activity that implicates public safety.

II. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR 1: RCW 9.41.270 is unconstitutionally void for vagueness under the facts of this case because it fails to provide adequate standards to distinguish between Filla's lawful exercise of Second Amendment rights from proscribed behavior.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

ISSUE 1: Does RCW 9.41.270 provide sufficiently ascertainable standards to evaluate Filla's conduct in light of his right to carry a firearm for self-protection under the Second Amendment to the U.S. Constitution? NO.

ISSUE 2: Is the vagueness of RCW 9.41.270 an error of constitutional magnitude that can be raised for the first time on appeal? YES.

IV. STATEMENT OF THE CASE

The State charged Johan Filla with second degree assault and unlawful display of a firearm arising out of an incident that occurred in Columbia County. CP 10-11. At trial, several different accounts of the incident were presented. Naomi Rutherford testified that on the day in question, she was doing laundry when she heard banging on her front door. RP (1/22/13) at 25-26. She answered the door and saw Filla

standing there with a friend named Dee Ann. RP (1/22/13) at 26-28. Rutherford testified that Filla was ranting and raving loudly and refused to leave when asked. RP (1/22/13) at 28. At that point, Rutherford stated that Filla reached behind and pulled out a weapon and pointed it at her, holding it close to her face. RP (1/22/13) at 28. She described Filla cocking the gun by making a sliding motion. RP (1/22/13) at 50. Rutherford stepped back out of the doorway to the phone and called 911. RP (1/22/13) at 28-29. While Rutherford was on the telephone, Filla and Dee Ann left in their vehicle. RP (1/22/13) at 33-34.

Rutherford's boyfriend, Juan Martinez, also testified about the incident. RP (1/22/13) at 57-58. He stated that on the day in question, Filla and Dee Ann had shown up at Rutherford's house with a gun. RP (1/22/13) at 58. He heard pounding on the door as he was getting ready for bed, but he ignored it. RP (1/22/13) at 59. The pounding moved to his son's window and at that point, he got out of bed and Rutherford was already at the front door. RP (1/22/13) at 59-60. Rutherford and Filla were arguing loudly. RP (1/22/13) at 60. Rutherford then ran past him saying "He's got a gun," and Martinez went to the door and saw Filla waving a gun around. RP (1/22/13) at 60. At one point, Martinez saw Filla pull back the slide. RP (1/22/13) at 61. Dee Ann jumped in front of Martinez and then Dee Ann and Filla left. RP (1/22/13) at 61.

Columbia County Sheriff's Deputy Jeff Jenkins responded to the 911 call and spoke with Rutherford and Martinez. RP (1/22/13) at 76-77. Jenkins went to Filla's residence to look for him, but he was not there. RP (1/22/13) at 79-80. Jenkins made contact with Filla about three days later at the station, and Filla told him that he had gone to Rutherford's house to confront her about a loan that Dee Ann had made to Rutherford that had not been paid back. RP (1/22/13) at 82-83. Filla admitted that he was angry and that he was knocking on the door and the window. RP (1/22/13) at 84. When they finally answered the door, Rutherford was on the phone and Filla was telling them they needed to talk to Dee Ann about the loan. RP (1/22/13) at 84. Martinez then came up and pushed him off the porch, at which point Filla pushed Martinez back. RP (1/22/13) at 84. Filla admitted that he had a firearm with him in his waistband in the night in question, but denied that he ever took it out of his waistband. RP (1/22/13) at 85. Filla said that when Martinez pushed him off the porch, he waent backwards and raised his hands up, which opened up his jacket and displayed the gun in his waistband. RP (1/22/13) at 86.

For the defense, Dee Ann Culbertson-Tucker testified that she had loaned Rutherford money that was supposed to be paid back on the day in question. RP (1/22/13) at 97, 100. She tried to call Rutherford but Rutherford did not answer the phone. Eventually Martinez answered, and

Filla had words with Martinez and Martinez hung up the phone. RP (1/22/13) at 100. Filla said, "We're going to go over there." RP (1/22/13) at 103.

When they arrived at Rutherford's house, Filla pounded on the door and the lights went out, so he started pounding on the window. RP (1/22/13) at 104. Rutherford answered the door and Filla told her that he wanted Culbertson-Tucker's money. RP (1/22/13) at 104. Martinez came out and got into a shoving match with Filla. Filla's coat flipped open and Rutherford saw the gun in his belt. RP (1/22/13) at 104. Culbertson-Tucker testified that Filla never took the gun out of his waistband. RP (1/22/13) at 105. She stated that Filla had a concealed pistol license and took his gun everywhere with him, usually keeping it in his belt or his coat pocket. RP (1/22/13) at 106.

Filla also testified on his own behalf that he had obtained a concealed pistol license just over a year before and owned two firearms. RP (1/22/13) at 117. He carried a firearm with him every day when he left the house. RP (1/22/13) at 118-19. Filla testified that he became angry when he found out that Rutherford and Martinez were not going to pay back Culbertson-Tucker the money they had borrowed from her. RP (1/22/13) at 121. He went to Rutherford's house with Culbertson-Tucker

and banged on the door and the side windows. RP (1/22/13) at 122-23. Rutherford answered the door and they argued; Martinez then came out and got into a shoving match with Filla. RP (1/22/13) at 123-24. When Martinez pushed Filla, Filla's jacket came open and revealed the gun in his waistband. RP (1/22/13) at 124. Rutherford went into the house and called the police, so Filla and Culbertson-Tucker left. RP (1/22/13) at 125-26. He denied ever taking the gun out of his pants, pointing it at anybody, or threatening to shoot anybody. RP (1/22/13) at 127.

On the charge of unlawful display, the trial court instructed the jury as follows:

> A person commits the crime of unlawful displaying a weapon when he or she carries, exhibits, displays, or draws a firearm in a manner under circumstances and at a time and place that manifests in [sic] intent to intimidate another or that warrants alarm for the safety of other persons.
>
> To convict the defendant of unlawfully displaying a weapon, each of the following elements must be proved beyond a reasonable doubt. One: that on or about May 27, 2012, the defendant carried, exhibited, displayed, or drew a firearm. And two: that the defendant carried, exhibited, displayed, or drew the weapon in a manner under circumstances and at a time and place that manifested in [sic] intent to intimidate another or warranted alarm for the safety of another person. And three: that this act occurred in the State of Washington.

RP (1/23/13) at 152-53.

The jury acquitted Filla of the second degree assault charge and convicted him of the unlawful display charge. RP (1/23/13) at 179. At sentencing, the trial court acknowledged Filla's Second Amendment right to carry a firearm but questioned whether it would be appropriate to carry a gun to church, to an AA meeting, or to a county fair. RP (2/7/13) at 194-95. Stating that there are times when it is not appropriate to exercise some rights, the trial court stated that Filla should have questioned as odd, unusual, or dangerous, the decision to carry a gun when going over to Rutherford's house to collect a debt. RP (2/7/13) at 195-96. The trial court sentenced Filla to thirty days' imprisonment. RP (2/7/13) at 196. Filla timely appeals. CP 40.

V. ARGUMENT

The "unlawful display" statute, RCW 9.41.270, is void for vagueness as applied to the facts of this case because it failed to provide an ascertainable standard for the jury to apply in determining whether Filla's conduct fit within the statute, and invited the jury to exercise its subjective after-the-fact judgment as to when and where it is appropriate to carry a firearm. Because the unconstitutionality of RCW 9.41.270 in the present case is a manifest error affecting Filla's constitutional rights, it can be raised for the first time on appeal. Accordingly, Filla's conviction should be reversed under the void-for-vagueness doctrine because the lack

of ascertainable standards to apply to his conduct deprived him of fair notice of the law's proscriptions, contrary to basic due process principles.

A. RCW 9.41.270 is unconstitutionally vague as applied to the facts of Filla's case.

Under the void-for-vagueness doctrine, a criminal statute must define the criminal offense "with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Kolender v. Lawson*, 461 U.S. 352, 357, 103 S. Ct. 1855, 75 L. Ed. 2d 903 (1983). Due process principles command that adequate notice be afforded to the public of what conduct is permitted and what is proscribed. *Lanzetta v. New Jersey*, 306 U.S. 451, 453, 59 S. Ct. 618, 83 L. Ed. 888 (1939). Thus, a statute that is so unclear in its terms that "men of common intelligence must necessarily guess at its meaning and differ as to its application" violates the notice requirement of due process. *Connally v. General Construction Co.*, 269 U.S. 385, 391, 46 S. Ct. 126, 70 L. Ed. 322 (1926).

In *Kolender*, of particular concern to the U.S. Supreme Court was the possibility for the challenged statute, which required individuals to provide "credible and reliable" identification to police upon request, to potentially suppress First Amendment activity and the constitutional right

to freedom of movement. 461 U.S. at 358. As written, the statute "vests virtually complete discretion in the hands of the police" to determine whether the statute has been broken. *Id.* As a result of this near-absolute discretion afforded to law enforcement, the statute necessarily placed the responding officer in the position of making law in the course of his patrol. *Id.* at 360. Consequently, the U.S. Supreme Court held that the statute was unconstitutionally void for vagueness on its face "because it encourages arbitrary enforcement by failing to describe with sufficient particularity what a suspect must do in order to satisfy the statute." *Id.* at 361.

Similarly, in *Smith v. Goguen*, 415 U.S. 566, 94 S. Ct. 1242, 39 L. Ed.2d 605 (1974), the U.S. Supreme Court invalidated as unconstitutionally vague a statute that prohibited publicly treating the flag of the United States contemptuously. The *Goguen* Court observed that the prohibition against "contemptuous" treatment was sufficiently broad as to potentially include any public deviation from formal flag etiquette, without any narrowing interpretation that limited its scope. *Id.* at 575. Thus, two people performing the same conduct – using the flag to protect oneself from a rainstorm – could be subject to selective enforcement of the law, depending on whether officials perceived the individual to be acting contemptuously or regretfully. *Id.* at 575-76. Consequently, the statute

permitted police, prosecutors and juries to use the law to pursue their personal predilections rather than enforcing clear standards of criminal law established by a legislature. *Id.* at 575.

Moreover, it is long established that statutes that have the potential to encroach upon protected First Amendment activity must be drafted with greater specificity to avoid constitutional infirmity than other statutes. *Goguen*, 415 U.S. at 574; *see also Grayned v. City of Rockford*, 408 U.S. 104, 109, 92 S. Ct. 2294, 33 L. Ed. 2d 222 (1972) ("[W]here a vague statute 'abut(s) upon sensitive areas of basic First Amendment freedoms,' it 'operates to inhibit the exercise of (those) freedoms.") (internal citations omitted); *Shuttlesworth v. City of Birmingham*, 382 U.S. 87, 90-91, 86 S. Ct. 211, 15 L. Ed. 2d 176 (1965) ("Instinct with its ever-present potential for arbitrarily suppressing First Amendment liberties, that kind of law bears the hallmark of a police state."). Similarly, statutes that encroach upon the fundamental liberty to travel guaranteed by the Fifth Amendment have been invalidated or narrowed to avoid infringing upon a freedom that "is basic in our scheme of values." *Kent v. Dulles*, 357 U.S. 116, 126, 78 S. Ct. 1113, 2 L. Ed. 2d 1204 (1958); *see also Aptheker v. Secretary of State*, 378 U.S. 500, 514, 84 S. Ct. 1659, 12 L. Ed. 2d 992 (1964) (stating, in holding the statute unconstitutional on its face, "The section, judged by its plain import and by the substantive evil which Congress sought to

control, sweeps too widely and too indiscriminately across the liberty guaranteed in the Fifth Amendment."). Thus, it is evident that statutes implicating the lawful exercise of constitutionally protected rights must be precisely defined and their limits circumscribed.

No less worthy of protection are the rights protected under the Second Amendment to the U.S. Constitution. In *District of Columbia v. Heller*, 554 U.S. 570, 592, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008), the U.S. Supreme Court interpreted the Second Amendment and held, historically, that the Second Amendment confers "the individual right to possess and carry firearms in case of confrontation." While the right is not unlimited, *id.* at 626, as with other constitutional rights, the void-for-vagueness doctrine requires that limitations be clearly, unambiguously, and specifically set forth by the legislature.

In the present case, the unlawful display statute provides:

> It shall be unlawful for any person to carry, exhibit, display or draw any firearm, dagger, sword, knife, or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

RCW 9.41.270(1). The jury in the present case was instructed accordingly.

The Washington Supreme Court has previously upheld RCW 9.41.270 against a challenge that the statute is unconstitutionally vague on its face. *State v. Maciolek*, 101 Wn.2d 259, 676 P.2d 996 (1984). But a statute that is not vague on its face may nevertheless be unconstitutionally vague as applied to conduct that falls outside the statute's "constitutional core." *State v. Spencer*, 75 Wn. App. 118, 124, 876 P.2d 939 (1994). The question in an as-applied challenge is, then, whether the statute provides clear and ascertainable standards in evaluating the actual conduct of the challenger. *See City of Spokane v. Douglass*, 115 Wn.2d 171, 182-83, 795 P.2d 693 (1990).

In the present case, the facts were disputed as to whether Filla actually removed the handgun from his waistband at any point in time. Indeed, in rejecting the second degree assault charge, the jury verdict indicates that the jury did not believe Filla sought to intentionally threaten or scare Rutherford or Martinez with the firearm. This conclusion strongly suggests that the jury did not believe Filla removed the gun from his waistband, but convicted him of unlawful display based upon his admission that he carried a firearm in his waistband to Rutherford's home when he intended to confront her about the loan, even though Filla did not display the weapon intentionally. Thus, the vagueness question is whether

this conduct falls within the core of behavior proscribed by RCW 9.41.270.

Plainly, carrying a weapon lawfully in public and accidentally revealing it is not the type of conduct intended to be prohibited by the statute. In evaluating Filla's actions, first, one has to consider that a firearm *always* has potential to make people nervous or uncomfortable. It is, after all, a deadly weapon. But if merely carrying a firearm were a sufficient basis to "warrant alarm" as proscribed by the statute, the individual right to carry a firearm to defend oneself as recognized in *Heller* would be eviscerated. Thus, the legislature clearly intended to prohibit something more than merely carrying a firearm with the knowledge of others.

One might suggest that the statute's proscription is circumstantial, such that carrying a gun at one time and place is protected while carrying it at another is not. Indeed, the trial court, at sentencing, set forth such a series of suggestions to Filla as to where it might be appropriate to carry a gun and where it might not. RP (1/23/13) at 194-95. But such evaluations themselves undermine the argument that RCW 9.41.270 provides clear and ascertainable standards of conduct such that the public has reasonable notice of what is prohibited. Reasonable people can certainly disagree as

to whether it is appropriate to carry a firearm in a church, at a fair, or in other public places. And whether it is appropriate to carry a firearm at all may depend on the nature of the threat the carrier encounters. Threats to one's physical safety can arise at unexpected times and from unexpected sources. The problem with such "objective" judgments is that they are most likely to arise *post hoc* – a person who carries a firearm to a church and successfully stops an armed attacker may be commended for her foresight and preparedness, where a person who carries a gun to church an never has cause to use it might be condemned as paranoid. Such judgments after the fact do little to provide notice to citizens of whether their conduct will be deemed alarming or heroic.

In the present case, Filla had been a victim of several crimes and carried his firearm as a matter of habit. RP (1/22/13) at 118. He had concerns that Rutherford and Martinez were using the money Culbertson-Tucker had loaned them to buy drugs. RP (2/7/13) at 191. He had a right to defend himself against a violent crime, RCW 9A.16.110(1), and to carry a weapon for that purpose, *Heller*, 554 U.S. at 592, RCW 9.41.070. It was not unreasonable for him to anticipate that Rutherford and Martinez would respond violently to his demand for payment. Indeed, but for Filla's coat coming open to reveal the firearm to Rutherford and Martinez,

no harm of any kind would have resulted from Filla's exercise of his Second Amendment right on the night in question.

Accordingly, the issue is whether RCW 9.41.270 provided adequate notice to Filla that he should have either declined to exercise his Second Amendment right in spite of the potential risk of violence, or known that the presence of the firearm would be revealed when Martinez pushed him and caused his coat to fly open. It did not. Filla took reasonable steps to conceal the firearm that he carried for protection, and its exposure to Rutherford and Martinez was accidental. The statute does not clearly proscribe inadvertent and unintentional display of a weapon that is otherwise concealed from view and lawfully carried.

Considered in the context of the facts of the case and the jury's verdict, RCW 9.41.270 did not provide adequate notice to Filla that he could be convicted of a crime for carrying a gun in his waistband for self-protection if his coat accidentally came open and revealed the gun. It did not provide adequate notice that carrying a weapon for self-protection when anticipating a confrontation that has the potential to result in violence against himself or Culbertson-Tucker could be considered an inappropriate time or place. To the contrary, the statute provided little advance notice at all and simply invited the jury to evaluate Filla's

decision to carry a weapon on the night in question with the benefit of hindsight that Filla did not have at the time. This is precisely the kind of *post hoc* setting of standards that the void-for-vagueness doctrine prohibits.

B. The unconstitutionality of RCW 9.41.270 is a manifest constitutional error affecting Filla's constitutional rights that can be raised for the first time on appeal.

Filla did not challenge the constitutionality of RCW 9.41.270 before the trial court. Ordinarily, errors not raised below cannot be raised for the first time on appeal. *See* RAP 2.5(a); *State v. O'Hara*, 167 Wn.2d 91, 97-98, 217 P.3d 756 (2009). However, an exception exists for manifest errors affecting a constitutional right. RAP 2.5(a). To establish a manifest error affecting a constitutional right, an appellant must demonstrate that the error is of constitutional magnitude, and actually affected the appellant's rights at trial. *O'Hara*, 167 Wn.2d at 98 (citing *State v. Kirkman*, 159 Wn.2d 918, 926-27, 155 P.3d 125 (2007)).

In the present case, the alleged error is of constitutional magnitude because it implicates Filla's right to prior notice of the standards to be applied to his decision to carry a firearm. *See Lanzetta*, 306 U.S. at 453. Furthermore, the error implicated Filla's Second Amendment right to

carry a firearm for personal protection. *Heller*, 554 U.S. at 592. Thus, the conviction in this case presents a question of constitutional magnitude because it squarely addresses whether due process of law permits Filla to be criminally punished for Second Amendment activity based upon the standards set forth in RCW 9.41.270.

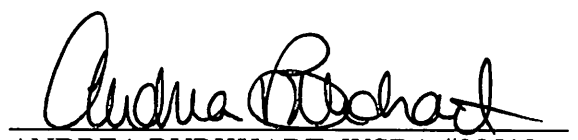
Second, there can be little question that if RCW 9.41.270 is unconstitutionally vague under the circumstances of this case, that it affected the outcome of Filla's trial. The jury was instructed according to the language of the statute with no clarifying or limiting instructions. RP (1/23/13) at 152-53. The jury was, thus, provided with no clear standard for evaluating Filla's conduct in light of his Second Amendment right. Instead, the jury was left to apply its subjective judgment of Filla's decision to carry a gun on the day in question in light of the events that transpired afterward. Accordingly, the jury convicted him, when Filla could not have known at the time that the presence of his gun would be inadvertently revealed.

The error is both of constitutional significance and had a real and identifiable outcome on Filla's trial. Consequently, Filla's failure to raise the issue to the trial court does not preclude him from raising it initially on this appeal.

VI. CONCLUSION

Under the facts of this case, RCW 9.41.270 failed to provide a sufficiently clear and ascertainable standard to Filla that would have allowed him to have prior notice that his decision to carry a firearm, notwithstanding that he did not intentionally use it, would be considered illegal if it were inadvertently revealed to Rutherford and Martinez. Because he could not have known at the time where the line is drawn between protected Second Amendment activity and illegal carrying of a firearm warranting alarm for others, his conviction does not comport with due process. This error is both plainly of constitutional magnitude and had clear consequences in the trial, because it did not permit the jury any standard beyond its subjective *post hoc* judgment to evaluate Filla's conduct in light of his Second Amendment right. Accordingly, the conviction should be reversed.

RESPECTFULLY SUBMITTED this 10th day of June, 2013.



ANDREA BURKHART, WSBA #38519
Attorney for Appellant

DECLARATION OF SERVICE

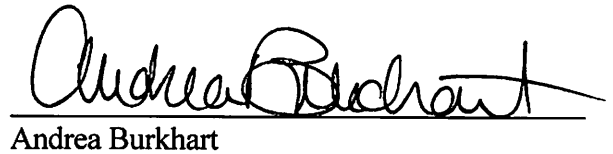
I, the undersigned, hereby declare that on this date, I caused to be served a true and correct copy of Appellant's Brief upon the following parties in interest by depositing them in the U.S. Mail, first-class, postage pre-paid, addressed as follows:

Rea Lynn Culwell
Columbia County Prosecutors Office
116 N. 3rd St.
Dayton, WA 99328

Johan Martin Filla
300 E. Richmond Ave.
Dayton, WA 99328

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 10th day of June, 2013 in Walla Walla, Washington.



Andrea Burkhart