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Court of Appeals
Division III
State of Washington

NO. 32355-2-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

RESPONDENT,

v.

MARTIN JUAREZ JR.,

APPELLANT.

RESPONDENT'S BRIEF

D. ANGUS LEE
PROSECUTING ATTORNEY

By: Carole L. Highland, WSBA #20504
Deputy Prosecuting Attorney
Attorney for Respondent

PO BOX 37
EPHRATA WA 98823
(509)754-2011

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I. IDENTITY OF RESPONDENT

The State of Washington, represented by the Grant County Prosecuting Attorney's Office, is the Respondent herein.

II. RELIEF REQUESTED

Reversal is not warranted and Appellant's conviction must be affirmed.

III. ISSUE

Whether the State presented sufficient evidence to show that the Grant County Jail was a detention facility.

IV. STATEMENT OF THE CASE

The State would adopt the Appellant's Statement of the Case with the following additional facts.[1] It was the testimony of Grant County Corrections Officer (GCCO) Brian Kisler that people in the jail are usually charged with crimes. 1RP 33. GCCO Greg Knutson testified that the Grant County Jail is the "primary adult detention facility for the County. Anyone getting arrested on any charges or warrant will go there." 1RP 63. Officer Knutson also testified that the appellant was confined in the jail on November 13, 2010, having been arrested on November 11, 2010. 1RP 64-66.

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[1] Respondent's brief adopts the reference format of Appellant, *i.e.*, 1RP – February 26, 2014, 2RP – February 27, 2014.

Officer Kisler testified that he had called for "Mr. Juarez" because he had just bailed out. 1RP 39. Officer Knutson, in response to defense counsel's questions, agreed that inmates usually knew that they were bonding out by the time that they got to the booking desk to be processed. 1RP 88. He also agreed with counsel's representation that the bail would be higher depending upon the severity of the crime that an individual was being held for. *Id.*

V. ARGUMENT

A. JUAREZ'S CLAIM THAT THERE WAS INSUFFICIENT EVIDENCE PRESENTED TO SHOW THAT HE ESCAPED FROM A "DETENTION FACILITY" LACKS MERIT WHEN THE EVIDENCE PRESENTED AS A WHOLE IS CONSIDERED.

Escape, as the court noted, is not defined by statute, but rather by case law which describes it as "actions which would result in leaving confinement without authorization." It was incumbent for the State to show that the appellant escaped from a detention facility which was defined in Jury Instruction Number 5 as "any place used for, charged with, or convicted of an offense, or otherwise confined pursuant to an order of a court." 2RP 9.

RCW 70.48, the City and County Jails Act governs the administration, rules and regulations concerning city and county jails. RCW 70.48.020(9) defines "Jail" to "mean any holding,

detention, special detention, or correctional facility as used in this section."

A question of statutory interpretation is to be reviewed *de novo*. *State v. Ammons,* 136 Wn.2d 453, 456, 963 P.2d 812 (1998). The purpose of such review is to ascertain and give effect to the legislature's intent, giving terms their plain and ordinary meaning. *State v. Bright,* 129 Wn.2d 257, 265, 916 P.2d 922 (1996). In doing so, the court is to avoid interpretations that are forced, unlikely or strained. *State v. Hendrix,* 109 Wn.App. 508, 512, 35 P.3d 1189 (2001) (citing *State v. Elgin,* 118 Wn.2d 551, 555, 825 P.2d 314 (1992)).

In *State v. Hendrix*, the case cited by appellant, the Court found that "no charges had been filed against the defendant," and that the State had failed to show that the defendant was "either arrested for, charged with, or convicted of an offense." In *Hendrix*, the defendant had accompanied police to the station to provide a written statement about her friend. While there, she confessed her true name and informed the officer that she had warrants out for her. Those warrants later turned out to be for the status offense of "at risk youth," as well as for being a runaway. While waiting in a family visiting area, which was being utilized as a "juvenile holding

cell area" at the station, Hendrix left without permission and ran out of the building. *Hendrix,* 109 Wn.App. at 510. In the instant case, there was specific testimony that Mr. Juarez had been arrested, booked, and was being held in an actual jail. The classic definition of arrest consists of "'...the apprehending or restraining of one's person, in order to be forthcoming to answer an alleged or suspected crime.'" E. Fisher, *Arrest* 7 (1967) (quoting W. Blackstone, *Commentaries* *288, *289). In *Terry v. Ohio,* 392 U.S. 1, 26, 20 L.Ed.2d 889, 88 S.Ct. 1868 (1968), the Court stated:

> An arrest is the initial stage of a criminal prosecution. It is intended to vindicate society's interest in having its laws obeyed, and it is inevitably accompanied by future interference with the individual's freedom of movement, whether or not trial or conviction ultimately follows.

The State can conceive of no situation for which an adult individual would be arrested other than for a crime, or in the alternative, a material witness warrant, both of which were covered within Jury Instruction Number 5.

Contrary to appellant's argument, it is irrelevant as to what offense Juarez was arrested for, as *Hendrix* notes that "arrested for" does not mean "probable cause to arrest for." *Hendrix* 109 Wn.App. at 515.

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt from the evidence. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). By claiming insufficiency, a defendant admits the truth of the State's evidence and all reasonable inferences that can be drawn from it. *Salinas,* 119 Wn.2d at 201. Circumstantial evidence and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). The totality of the evidence presented in Mr. Juarez's trial showed beyond a reasonable doubt that Mr. Juarez escaped from a "detention facility" within the definition of the term as provided in the jury instructions.

VI. CONCLUSION

Given that Mr. Juarez had been arrested on November 11, 2010, and had been in confinement in the Grant County Jail until his inadvertent release on November 13, 2010 when he nefariously seized the opportunity provided by Mr. Juarez Rivera's family when they came forward with bail for their family member, the State would respectfully request that this Court deny Juarez's appeal and affirm his conviction.

DATED THIS 24th day of October, 2014.

Respectfully submitted:

D. Angus Lee, WSBA 36473
Grant County Prosecuting Attorney

Carole L. Highland

Carole L. Highland, WSBA #20504
Deputy Prosecuting Attorney