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SUPREME COURT
STATE OF WASHINGTON

2006 SEP 13 A 10: 56

BY C.J. HERRITT

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

CLERK re

Bradley R. Marshall,
Lawyer (Bar No. 15830).

Supreme Court No. 200,302-8

ASSOCIATION'S
STATEMENT OF ADDITIONAL
AUTHORITIES

The Washington State Bar Association submits the following additional authorities under Rule 10.8 of the Rules of Appellate Procedure (RAP):

In re Pers. Restraint of Davis, 152 Wn.2d 647, 680, 101 P.3d 1 (2004) (trial court's credibility determinations cannot be reviewed on appeal, even to the extent there may be other reasonable interpretations of the evidence).

Morse v. Antonellis, 149 Wn.2d 572, 574, 70 P.3d 125 (2003) (credibility determinations are solely for the trier of fact and cannot be reviewed on appeal).

State v. Bencivenga, 137 Wn.2d 703, 709, 974 P.2d 832 (1999) (finder of fact is the sole and exclusive judge of the evidence, the weight to be given thereto, and the credibility of witnesses).

State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990) (credibility determinations are for the trier of fact and cannot be reviewed

on appeal).

State v. Bailey, 79 Wn.2d 477, 478-79, 487 P.2d 204 (1971) (it is not the function of the Supreme Court to reevaluate the credibility of witnesses).

Rule 201 of the Washington Rules of Evidence (ER) (judicially noticed fact must be one that is “not subject to reasonable dispute”).

King County v. Central Puget Sound Growth Management Hearings Bd., 142 Wn.2d 543, 549 n.6, 14 P.3d 133 (2000) (even though certain facts may be judicially noticed at any stage of a proceeding, RAP 9.11 restricts appellate consideration of additional evidence on review).

RAP 9.11 (appellate court may direct that additional evidence be taken only if, among other enumerated factors, “it is equitable to excuse a party's failure to present the evidence to the trial court”).

DATED THIS 13th day of September, 2006.

Respectfully submitted,

WASHINGTON STATE BAR ASSOCIATION

FILED AS ATTACHMENT
TO E-MAIL

Scott G. Busby, Bar No. 17522
Disciplinary Counsel
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

BRADLEY R. MARSHALL,
Lawyer (Bar No. 15830).

Supreme Court No. 200,302-8

DISCIPLINARY COUNSEL'S
DECLARATION OF SERVICE

The undersigned Disciplinary Counsel of the Washington State Bar Association declares that he caused copies of (1) the Association's Second Statement of Additional Authorities and (2) this Declaration of Service to be mailed by regular first class mail with postage prepaid and sent via facsimile on September 13, 2006 to:

Philip A. Talmadge
Attorney at Law
18010 Southcenter Parkway
Tukwila, WA 98188-4630
Fax: (206) 575-1397

The undersigned declares under penalty of perjury under the laws of the State of Washington that the foregoing declaration is true and correct.

Date and Place

Scott G. Busby, Bar No. 17522
Disciplinary Counsel
2101 Fourth Avenue – Suite 400
Seattle, WA 98121-2330
(206) 733-5998

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