

NO. 87929-0

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

TIMOTHY DYE,

Petitioner.

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STATE OF WASHINGTON
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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JOAN DUBUQUE

SUPPLEMENTAL BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Whether the trial court exercised sound discretion in allowing a developmentally disabled witness to have a well-trained facility dog present with him in the courtroom to help alleviate his anxiety about testifying at trial.

2. Whether any possible error is harmless because the evidence of guilt is overwhelming and the jury did not find that the disabled witness was a "particularly vulnerable victim."

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

The defendant, Timothy Dye, was charged with residential burglary for entering Douglas Lare's apartment and stealing Lare's belongings on or about January 24, 2008. The State also alleged an aggravating circumstance that Lare was a particularly vulnerable victim due to his developmental and physical disabilities. CP 1-12.

A jury trial was held in late 2010 before the Honorable Joan DuBuque. Before the trial began, the deputy prosecutor informed the trial court that Douglas Lare wanted the King County Prosecutor's Office's trained facility dog,¹ Ellie, to be present with

¹ Although the terms "service dog," "comfort dog," and "therapy dog" have been used at different points in this case, the proper terminology is "facility dog." For an overview of the qualifications, training, and duties performed by courthouse facility dogs, see http://en.wikipedia.org/wiki/Courthouse_dog (last visited 4/8/13).

him in the courtroom to help alleviate his "significant anxiety" about testifying. CP 104. The prosecutor explained that Ellie had been present with Lare during his pretrial defense interview, and that he found her presence "to be very comforting." CP 104. Dye's trial counsel responded that she would not object to the presence of the dog if the court also allowed Dye "to hold his baby while he is testifying. How is that any different?" RP (11/18/10) 28. Defense counsel also objected on grounds that Dye was allergic to dogs, and argued that the dog would be distracting to the jury. RP (11/18/10) 29-30.

The trial court granted the State's request on Douglas Lare's behalf to have the dog present during Lare's testimony due to his disabilities and his "significant emotional trauma." RP (11/18/10) 28-29. The trial court stated:

If I understand correctly, this service dog is very unobtrusive, will just simply be next to the individual, not be laying in his lap, and if we can accommodate somebody who has a developmental disability when they're testifying in the courtroom, I think it's appropriate to do so.

In contrast, to the best of my knowledge, [Dye] is under no disability whatsoever. If he were, I would consider the same accommodations.

RP (11/18/10) 29. The trial court also offered to make accommodations for Dye's allergies, but none were requested. RP (11/18/10) 30-33. There is no indication in the record that Douglas Lare's testimony or Dye's lengthy cross-examination of Lare was in any way affected or curtailed by the presence of the dog. See RP (12/1/10) 9-127. Further, in order to eliminate any possibility of prejudice, the trial court specifically instructed the jury not to consider the dog's presence.² CP 53.

The jury convicted Dye of residential burglary as charged; however, the jury answered "no" to the special verdict regarding the allegation that Douglas Lare was a particularly vulnerable victim. CP 68-69.

2. SUBSTANTIVE FACTS

Douglas Lare is an adult man with both developmental and physical disabilities; Lare has an IQ of approximately 65, he has a degenerative condition in his joints, and he suffers from cerebral palsy. RP (11/30/10) 16-17; CP 92. According to his sister, Lare is very trusting and "has no common sense whatsoever."

RP (11/30/10) 17. Lare's reading and writing skills are poor, and

² The instruction stated: "One of the witnesses in this trial may be accompanied by a service dog. Do not make any assumptions or draw any conclusions based on the presence of the service dog." CP 53.

his abstract thinking skills are almost nonexistent. RP (11/30/10)

18. In short, Lare functions at the level of a child.³

Despite his mental and physical challenges, Douglas Lare has had his own apartment since his mother died, and he has worked nights at the VA Hospital for 25 years. RP (12/1/10) 10-11. He cooks for himself by using a microwave (which he called "Mr. Microwave"). RP (11/30/10) 19; RP (12/1/10) 37. However, Lare is unable to keep track of his finances or pay his own bills, so his sister hired a payee service to do this for him. RP (11/30/10) 19; RP (12/1/10) 12.

Douglas Lare met Alesha Lair when they were living in the same apartment complex. Eventually, Alesha Lair convinced Douglas Lare that she was his "girlfriend." RP (12/1/10) 14. Lair was already in a long-term relationship with Dye, but she told Lare that she and Dye were just friends. RP (12/1/10) 47.

In the spring of 2007, Lair, her mother, and her mother's boyfriend moved into Douglas Lare's apartment. Dye lived there briefly as well. RP (12/1/10) 19-20. Lair and the others took

³ Defense counsel asserted in her trial brief that Lare functions like a 2½ to 8-year-old child, and suggested that Lare was not competent to testify. CP 15, 17-18; *see also* RP (11/18/10) 44-51 (defense counsel argues that Lare is incompetent). According to the State's trial brief, Lare functions "at a mental age ranging from six to twelve years old." CP 92.

advantage of Lare financially. With Lare's money, Lair bought clothing, computers, a DVD player, DVDs, a PlayStation, and a car. She bought cell phones for everyone. She opened several credit accounts in Lare's name and charged the cards to their limits. She also convinced Lare to take cash out of his VA retirement account. RP (12/1/10) 21-27. By the time Lare's sister found out what was happening, approximately \$59,000 had been withdrawn from Lare's retirement account and his credit card debt was approximately \$42,000.⁴ RP (11/30/10) 29-30. When asked if he bought anything for himself, Lare replied that he bought a coat "when [he] was cold." RP (12/1/10) 27.

Lair's mother and her mother's boyfriend moved out in the fall of 2007, after Lare argued with them about driving the car without a valid license and Lair's mother's boyfriend assaulted Lare and broke his glasses. RP (12/1/10) 29-30. Soon thereafter, Lair moved into her own apartment, and she spent more of Lare's money to furnish it. RP (12/1/10) 30-31. Dye then moved in with Lair. Ex. 27.

⁴ Before Dye went to trial, Alesha Lair pled guilty to theft in the first degree with the aggravating circumstance that Douglas Lare was a particularly vulnerable victim. RP (12/6/10) 12.

Douglas Lare's apartment was burglarized three times after Alesha Lair moved out.⁵ On the first occasion, on January 19, 2008, Lare called 911 to report that a DVD player and a DVD were missing from his bedroom. RP (12/2/10) 25-29. On January 24, 2008, Lare awoke to find that Dye was rummaging around inside his apartment. RP (12/1/10) 38-39; RP (12/2/10) 46-48. Dye asked Lare if he could take the DVD player and VCR; Lare refused. Dye then took some DVDs and a shelving unit, and left. RP (12/1/10) 38-40; RP (12/2/10) 49-50. Lare reported the incident to the police, and went to work. RP (12/1/10) 40; RP (12/2/10) 46-49. When Lare returned from work the next morning, he found that the front door of his apartment had been propped open. RP (12/1/10) 40. Lare's television, VCR, DVD player, microwave, and a collectible "bulldog" knife had been stolen. RP (12/1/10) 40. Lare again called the police. The responding officer could see the cleared spaces in Lare's otherwise cluttered apartment where the television and the microwave used to be. RP (12/1/10) 75.

Douglas Lare became very fearful as a result of the burglaries. When Lare's sister and brother-in-law came over to help him install a deadbolt lock, Lare "greeted" them at the door

⁵ Lair had a key to Lare's apartment. RP (12/2/10) 33.

holding a cast-iron frying pan as a weapon. RP (11/30/10) 34.

Lare now has three locks on his front door, and he sleeps with mace, a frying pan, and two knives in his bedroom for protection.

RP (12/1/10) 41.

During her follow-up investigation in this case, Detective Elizabeth Litalien took a recorded statement from Dye over the telephone. Ex. 27. Dye denied that he had stolen anything from Lare, and claimed that Lare had given him a "couple things" to pawn. Ex. 27. After Litalien turned off the tape recorder, Dye told her that "there was no way to pin [the crime] on him" because "his name wasn't on any of the pawn slips[.]" RP (12/2/10) 6.

C. ARGUMENT

1. THE TRIAL COURT EXERCISED SOUND DISCRETION BY ALLOWING A FACILITY DOG TO BE PRESENT WITH A DISABLED WITNESS TO HELP ALLEVIATE HIS ANXIETY ABOUT TESTIFYING.

Dye argues that the mere presence of Ellie, an extensively-trained facility dog, during Douglas Lare's testimony violated Dye's right to due process and a fair trial. This claim should be rejected. The trial court exercised sound discretion in allowing the dog to be present, the dog's presence did not prejudice Dye or affect his ability to present a defense, and the trial court gave a cautionary

instruction, which the jury is presumed to have followed absent evidence in the record to the contrary. No such evidence exists. Accordingly, this Court should affirm.

Furthermore, as a matter of policy, the use of dogs like Ellie has a significant positive impact on the criminal justice system. More specifically, Ellie and other well-trained facility dogs like her assist victims and witnesses with particular needs to participate in pretrial interviews and to testify at trial. Thus, far from depriving a defendant of a fair trial, dogs like Ellie assist in the discovery process and further the truth-seeking function of the trial. This Court should approve of the use of facility dogs like Ellie in appropriate circumstances in the sound discretion of the trial courts.

A trial court has broad discretion to control the manner in which a trial is conducted. State v. Hakimj, 124 Wn. App. 15, 19, 98 P.3d 809 (2004), rev. denied, 154 Wn.2d 1004 (2005). A trial court abuses its discretion only if its actions are manifestly unreasonable or are based on untenable grounds. State ex rel. Carroll v. Junker, 79 Wn.2d 12, 26, 482 P.3d 626 (1971). An abuse of discretion occurs only if no reasonable person would have done what the trial judge did. State v. Atsbeha, 142 Wn.2d 904, 914, 16 P.3d 626 (2001). Thus, the relevant question here is whether no

reasonable person would have allowed a facility dog like Ellie to be present with Douglas Lare when he testified.

The trial court's authority to control the manner in which a trial is conducted is codified in ER 611:

The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment and undue embarrassment.

ER 611(a). Prior to this case, the Court of Appeals has interpreted this rule as giving trial courts the discretion to allow child witnesses to hold a doll or a stuffed toy when it will help make them more comfortable and less anxious while they testify. Hakimi, 124 Wn. App. at 18-22. Other courts have reached the same conclusion on the same grounds. See, e.g., State v. Dickson, 337 S.W.3d 733, 742-44 (Mo. Ct. App. 2011); State v. Powell, 318 S.W.3d 297, 302-04 (Mo. Ct. App. 2010); State v. McPhee, 58 Conn. App. 501, 506-08, 755 A.2d 893 (2000); State v. Marquez, 124 N.M. 409, 411-13, 951 P.2d 1070 (N.M. Ct. App. 1997); Sperling v. State, 924 S.W.2d 722, 725-26 (Tex. Ct. App. 1996); State v. Cliff, 116 Idaho 921, 924, 782 P.2d 44 (Idaho Ct. App. 1989).

The Court of Appeals applied the reasoning of Hakimi and the above-cited cases from other jurisdictions to the trial court's decision to allow Ellie to be present with Douglas Lare. In accordance with these authorities, the court concluded that the trial court's decision is supported by "abundant authority that a court may allow a child witness to hold a comfort item during testimony where the witness's need for emotional support outweighs the possibility of prejudice." State v. Dye, 170 Wn. App. 340, 347, 283 P.3d 1130 (2012), rev. granted, 170 Wn.2d 1011 (2013). As the court noted, both parties agreed that Douglas Lare functions on the level of a child, and the State had requested Ellie's presence on his behalf specifically to help alleviate his "significant anxiety regarding his upcoming testimony." Id. at 344 (citing CP 104). The court held that the dog did not interfere with Dye's rights to present a defense and receive a fair trial, and that the trial court appropriately balanced the needs of the witness against the relatively minimal potential for prejudice. Id. at 345-48. In sum, the Court of Appeals correctly held that allowing Ellie to be present with Lare during his testimony was a proper exercise of the trial court's discretion in accordance with ER 611. This Court should affirm.

Nonetheless, Dye contends that the trial court erred on the following grounds: 1) that the trial court's "decision to allow a dog to appear on the witness stand impermissibly burdened Mr. Dye's right to due process"; 2) that there was insufficient foundation establishing that Douglas Lare needed a "service dog" due to his disabilities; and 3) that Dye's right to confrontation and cross-examination was "foiled" by the dog's presence. Petition for Review, at 4-14. These arguments will be addressed in turn.

First, Dye cites no authority for the proposition that Ellie "appear[ed] on the witness stand." See Petition for Review, at 5. To the extent that Dye suggests by this language that Ellie was the equivalent of a witness for the State, it should go without saying that dogs are not witnesses. See People v. Spence, 212 Cal. App. 4th 478, 517, 151 Cal. Rptr. 3d 374, 405 (2012) (rejecting defendant's challenge to use of a facility dog during child victim's testimony, noting *inter alia* that a dog is not a witness). Rather, dogs like Ellie merely provide "unobtrusive"⁶ support to victims and witnesses who need it in accordance with their training.

Second, in arguing that there was insufficient foundation to establish that Lare needed a "service dog," Dye seems to suggest

⁶ RP (11/18/10) 29.

that a facility dog's presence in court may be allowed only if a witness needs the assistance of a service dog in daily life. See Petition for Review, at 6. Again, Dye cites no authority for this proposition, and further, Ellie is not a true service dog because she is not assigned to assist a specific person with a disability.⁷ In any event, there is ample information in the record providing a foundation for the trial court's decision.

Both parties agreed that Douglas Lare functions at the level of a child. In fact, the defense asserted that Lare's mental capabilities were more impaired than the State represented, and further suggested that Lare was not even competent to testify as a witness.⁸ CP 14-15, 17-18; RP (11/18/10) 44-51. The deputy prosecutor explained to the trial court that Ellie was present for Lare's pretrial defense interview – which lasted *three hours* – and that the dog's presence provided “tremendous comfort” to Lare during the interview. CP 104; RP (11/18/10) 28, 45. The prosecutor further explained that Lare was “experiencing significant anxiety about testifying,” and that he was “fearful of the

⁷ See WAC 388-473-0040(1) (defining a “service animal” as “an animal that is trained for the purpose of assisting or accommodating a person with a disability's sensory, mental, or physical disability”).

⁸ Moreover, although such things are often difficult to discern from a cold record on appeal, Lare's cognitive and developmental impairments are apparent from the transcript. See RP (12/1/10) 9-127.

defendant[.]” CP 104. Lastly, the trial court instructed the jury to disregard the dog.⁹ CP 53. Based on this record, Dye cannot show that the trial court abused its discretion due to a lack of foundational support. Rather, the record shows that the trial court properly considered the needs of the witness in light of the potential for prejudice and acted accordingly.

Third, the record belies Dye's claim that his right to confront and cross-examine Douglas Lare was “foiled” by the dog. See Petition for Review, at 9. Defense counsel cross-examined Lare extensively, and she highlighted Lare's memory problems and elicited a number of inconsistent statements.¹⁰ RP (12/1/10) 42-120. Dye identifies no questions that could not be asked or answered on cross-examination due to the dog's presence, and, other than conclusory statements and platitudes, he makes no attempt to explain what possible effect the dog could have had on his ability to present a defense. Dye's claim is meritless.

⁹ Jurors are presumed to follow the trial court's instructions absent evidence to the contrary. State v. Kirkman, 159 Wn.2d 918, 928, 155 P.3d 125 (2007).

¹⁰ An Idaho appellate court has rejected an argument very similar to Dye's, *i.e.*, that allowing a child witness to hold a doll “hampered” the defendant's right to cross-examine the witness. Cliff, 116 Idaho at 923-24. The court held that the Confrontation Clause is satisfied “if defense counsel receives wide latitude at trial to question witnesses.” Id. at 923 (quoting Pennsylvania v. Ritchie, 490 U.S. 39, 53, 107 S. Ct. 989, 94 L. Ed. 2d 40 (1987)). That is certainly the case here.

Nonetheless, Dye cites Coy v. Iowa, 487 U.S. 1012, 108 S. Ct. 2798, 101 L. Ed. 2d 857 (1998), wherein the United States Supreme Court held that placing a physical barrier between the defendant and the testifying child witnesses in order to screen the defendant from their view violated the defendant's right of confrontation, and he suggests that Ellie served a similar purpose here. Petition for Review, at 7. Coy is wholly inapposite; Ellie did not block Lare from Dye's view or vice-versa, and in no way interfered with Dye's ability to confront and cross-examine Lare.¹¹

Dye also cites three cases in which courts have found error in allowing a child witness to have a toy on the witness stand. See Petition for Review, at 9-10 (citing State v. Palabay, 9 Haw. App. 414, 844 P.2d 1 (1992), State v. Aponte, 249 Conn. 735, 738 A.2d 117 (1999), and State v. Geverez, 61 Ariz. 296, 148 P.2d 829 (1994)). These cases are also inapposite.

In Palabay, the intermediate appellate court of Hawaii found that it was error to allow a child witness to hold a teddy bear absent a finding of "compelling necessity" by the trial court. Palabay, 9

¹¹ Dye also cites Estelle v. Williams, 425 U.S. 501, 96 S. Ct. 1691, 48 L. Ed. 2d 126 (1976), a case in which the Court held that compelling the defendant to appear before the jury at trial while wearing obvious prison garb undermined his right to a fair trial. Petition for Review, at 7, 9. This case is also inapplicable.

Haw. App. at 424. But as the Wyoming Supreme Court later observed, the Palabay court relied on other authorities in an “ill-considered and ill-advised” way by citing them for a “clear and unequivocal rule of law” that did not, in fact, exist. Smith v. State, 119 P.3d 411, 419 (Wyo. 2005). In other words, Palabay is an outlier, and its “compelling necessity” test does not appear to be the rule in any other jurisdiction. Rather, in other jurisdictions, including Washington, such matters are addressed to the sound discretion of the trial court.

In Aponte, the issue was not whether the trial court abused its discretion in allowing a child witness to hold a toy for comfort. Rather, the issue was whether the prosecutor had committed misconduct by giving the child a gift – a stuffed dinosaur – to hold while she testified. The court concluded that giving the child such a gift was improper, as it may have influenced the child in favor of the prosecution. Aponte, 249 Conn. at 751-52. Moreover, the problem was compounded when the trial court curtailed the defendant’s cross-examination of the child regarding her contact with the

prosecutor. Id. at 752-53. Thus, the issues in Aponte in no way resemble what occurred in this case.¹²

In Geverez, a child witness was allowed to hold her deceased mother's doll while she testified about her mother's murder. Moreover, during the child's testimony, the murder victim's mother sat "within close proximity of the jury," "wept bitterly," and was consoled by the bailiff. Geverez, 61 Ariz. at 305-06. The court found that the combination of these events deprived the defendant of a fair trial. Id. But nothing of that sort occurred in this case, and thus, Geverez is also not on point.

Lastly, Dye argues that dogs like Ellie undermine the right of confrontation, because "a certain level of emotional tension and stress is integral to the process of confrontation." Petition for Review, at 8. He also asserts that a "therapy dog"¹³ "nudges" and otherwise responds to the testifying witness, and that "the jury is left to interpret the dog's signals as testimony from an unsworn witness

¹² As the Court of Appeals observed, "the prosecutor did not give Lare a gift and there is no allegation of misconduct. Further, even if Ellie's temporary companionship were sufficient to create bias or suggestibility, Dye does not allege any restriction on his ability to expose the same during cross-examination. Aponte is inapposite." Dye, 170 Wn. App. at 347.

¹³ "Therapy dogs" are pet dogs that have passed a basic behavior test in order to visit health care facilities, senior centers, etc., while on a leash in full control of their owners. See, e.g., <http://www.therapydogs.com/About.aspx> (last visited 4/8/13). Ellie is not a therapy dog.

that the victim is upset because he or she is telling the truth.”
Petition for Review, at 8-9. But there is no evidence in the record that any “nudging” occurred in this case, or that there were any “signals” of any kind from the dog. Furthermore, Dye cites no authority for the proposition that a defendant’s right of confrontation includes the right to make a child or a disabled person any more upset and uncomfortable than is already inherent in testifying and being cross-examined in a room full of strangers. To the contrary, ER 611 vests trial courts with broad discretion to “make the interrogation and presentation effective for the ascertainment of the truth,” and to “protect witnesses from harassment or undue embarrassment.”¹⁴

Far from thwarting Dye’s ability to present a defense, Ellie helped Douglas Lare cope with a three-hour pretrial interview and a lengthy, detailed cross-examination. Well-trained facility dogs like Ellie further the truth-seeking function of criminal trials when they are used appropriately with witnesses who need them.

This Court should hold that it is within the sound discretion of a trial court to allow a facility dog to accompany a witness with

¹⁴ The Washington Constitution also grants rights to crime victims “[t]o ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect.” Const. art. 1, § 35.

particular needs when the dog's presence will help the witness to cope with the stress inherent in testifying in court. This Court should allow trial courts to properly balance the needs of the witness and the defendant's right to a fair trial, and should encourage trial courts to give appropriate cautionary instructions in order to minimize any potential for prejudice. The trial court in this case exercised its discretion properly in all these regards; accordingly, this Court should affirm.

**2. ANY CONCEIVABLE ERROR IS HARMLESS
BECAUSE THE DOG'S PRESENCE HAD NO
EFFECT ON THE JURY'S VERDICT.**

This Court should approve the use of dogs like Ellie to assist victims and witnesses with particular needs to participate in the criminal justice system when such assistance will help to further the truth-seeking function of the trial. But in any event, there is certainly no basis to reverse Dye's conviction in this case because any conceivable error was harmless.¹⁵

Dye's primary argument is that he was deprived of the right to a fair trial because he claims that the dog's presence made Lare

¹⁵ Dye asserts that allowing Ellie to be present is a constitutional error, and therefore, it is "presumed prejudicial." Petition for Review, at 13. As a preliminary matter, Dye must show an abuse of discretion before any question of harmless error is considered. As argued above, Dye has not done so. Moreover, Dye cites no relevant authority for the proposition that an abuse of discretion under ER 611 is subject to the constitutional harmless error standard on appeal. But under any standard, any possible error is harmless.

appear unduly sympathetic and vulnerable to the jury. *See, e.g.*, Petition for Review, at 12 (arguing that Ellie's presence "could be interpreted as comforting a witness made to feel vulnerable"), and at 13 (arguing that Ellie's presence "presupposed the victimhood" of Douglas Lare). But the record shows that the jury followed the trial court's instruction not to consider the dog's presence, and that her presence had no effect on the jury's verdict.

During deliberations, the jurors asked questions regarding the meaning of the "vulnerable victim" aggravating factor. CP 66-67. Ultimately, the jury answered "no" to the special verdict regarding this aggravating factor. CP 69. If the jurors had been improperly influenced by the dog, they would not have rejected the aggravating factor. Put another way, if Ellie's presence had made Douglas Lare appear unduly vulnerable in the eyes of the jurors, they would have found that Lare was a "vulnerable victim." And although the jurors convicted Dye of burglary, they did not reach this verdict because of the dog. Rather, they reached this verdict because the evidence of Dye's guilt was overwhelming.¹⁶

¹⁶ During one of the three incidents, Douglas Lare awoke to find Dye inside his apartment, rummaging through his belongings. RP (12/1/10) 38-40; RP (12/2/10) 46-49. Dye claimed, incredibly, that Lare had given Dye some of his belongings so that Dye could pawn them. Ex. 27. Dye later told Detective Litalien that "there was no way to pin [the crime] on him" because "his name wasn't on any of

In sum, Dye cannot show that the dog had any effect on the outcome of the trial; rather, the record plainly demonstrates to the contrary. Therefore, there is no basis to reverse Dye's conviction because any conceivable error is harmless.

D. CONCLUSION

This Court should hold that the use of a well-trained facility dog is within a trial court's discretion in appropriate circumstances. The proper use of dogs like Ellie enhances rather than hinders the truth-seeking function of the trial. Dye's conviction is based on the overwhelming evidence of his guilt, not on the presence of a dog in the courtroom, and that conviction should be affirmed.

DATED this 8th day of April, 2013.

Respectfully submitted,

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the pawn slips[.]” RP (12/2/10) 6. This latter statement is, at the very least, highly inconsistent with Innocence.

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Jan Trasen, the attorney for the petitioner, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Supplemental Brief of Respondent, in STATE V. TIMOTHY DYE, Cause No. 87929-0, in the Supreme Court, for the State of Washington.

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

U Brame

Name

Done in Seattle, Washington

4/8/13
Date

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To: Vitalich, Andrea
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Subject: RE: State v. Dye, No. 87929-0, Supplemental Brief of Respondent

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From: Vitalich, Andrea [<mailto:Andrea.Vitalich@kingcounty.gov>]
Sent: Monday, April 08, 2013 4:30 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Jan Trasen (jan@washapp.org)
Subject: State v. Dye, No. 87929-0, Supplemental Brief of Respondent

Dear Supreme Court Clerk,

Attached please find for filing via email the Supplemental Brief of Respondent (with certificate of service) for State v. Timothy Dye, No. 87929-0.

Thank you,

Andrea Vitalich, WSBA #25535

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(206) 296-9655