

NO. 43511-0-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

DOUGLAS BAUER,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF
KITSAP COUNTY, STATE OF WASHINGTON
Superior Court No. 12-1-00290-6

BRIEF OF RESPONDENT

RUSSELL D. HAUGE
Prosecuting Attorney

JEREMY A. MORRIS
Deputy Prosecuting Attorney

614 Division Street
Port Orchard, WA 98366
(360) 337-7174

SERVICE

Wayne Fricke
Ste. 302, 1008 S Yakima Ave.
Tacoma, WA 98405
wayne@hesterlawgroup.com

This brief was served, as stated below, via U.S. Mail, the recognized system of interoffice communications, *or, if an email address appears to the right, electronically*. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED September 12, 2012, Port Orchard, WA

Original e-filed at the Court of Appeals; Copy to counsel listed at left.

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

I. COUNTERSTATEMENT OF THE ISSUES.....1

II. STATEMENT OF THE CASE.....1

III. ARGUMENT.....5

 A. THE TRIAL COURT DID NOT ERR IN DENYING
 BAUER’S KNAPSTAD MOTION BECAUSE,
 VIEWING THE EVIDENCE IN A LIGHT MOST
 FAVORABLE TO THE STATE, A REASONABLE
 JURY COULD FIND ALL THE ELEMENTS OF
 THE CHARGED OFFENSE BEYOND A
 REASONABLE DOUBT.5

 B. THE TRIAL COURT DID NOT ERR IN DENYING
 BAUER’S VAGUENESS CLAIM BECAUSE THE
 WORD “CAUSE” USED IN THE ASSAULT
 STATUTE HAS A WELL-SETTLED COMMON
 LAW MEANING AND THE STATUTE THUS
 DEFINES THE OFFENSE WITH SUFFICIENT
 DEFINITENESS SO THAT ORDINARY PEOPLE
 CAN UNDERSTAND WHAT CONDUCT IS
 PROHIBITED. THE TRIAL COURT, THEREFORE,
 PROPERLY CONCLUDED THAT BAUER HAD
 FAILED TO MEET HIS HEAVY BURDEN OF
 PROVING THAT THE ASSAULT STATUTE IS
 UNCONSTITUTIONAL BEYOND A
 REASONABLE DOUBT.25

IV. CONCLUSION.....29

TABLE OF AUTHORITIES

CASES

<i>Beauharnais v. Illinois</i> , 343 U.S. 250, 72 S. Ct. 725, 96 L. Ed. 919 (1952).....	26
<i>Adamson v. Traylor</i> , 60 Wn. 2d 332, 373 P.2d 961 (1962).....	15
<i>Bracy v. Lund</i> , 197 Wash. 188, 84 P.2d 670 (1938).....	15
<i>City of Seattle v. Eze</i> , 111 Wn. 2d 22, 759 P.2d 366 (1988).....	27
<i>City of Spokane v. Douglass</i> , 115 Wn. 2d 171, 795 P.2d 693 (1990).....	26
<i>Cook v. Seidenverg</i> , 36 Wn. 2d 256, 217 P.2d 799 (1950).....	15
<i>Cramer v. Department of Highways</i> , 73 Wn. App. 516, 870 P.2d 999 (1994).....	15
<i>Gies v. Consolidated Freightways</i> , 40 Wn. 2d 488, 244 P.2d 248 (1952).....	15
<i>Hartley v. State</i> , 103 Wn. 2d 768, 698 P.2d 77 (1985).....	9, 10, 17
<i>Hertog v. City of Seattle</i> , 138 Wn. 2d 265, 979 P.2d 400 (1999).....	9, 21
<i>Estate of Keck By and Through Cabe v. Blair</i> , 71 Wn. App. 105, 856 P.2d 740 (1993).....	15
<i>Kennett v. Yates</i> , 41 Wn. 2d 558, 250 P.2d 962 (1952).....	15
<i>Maltman v. Sauer</i> , 84 Wn. 2d 975, 530 P.2d 254 (1975).....	15

<i>Micro Enhancement International v. Coopers & Lybrand, LLP</i> , 110 Wn. App. 412, 40 P.3d 1206 (2002).....	14
<i>Parrilla v. King County</i> , 138 Wn. App. 427, 157 P.3d 879 (2007).....	22-23
<i>Qualls v. Golden Arrow Farms</i> , 47 Wn. 2d 599, 288 P.2d 1090 (1955).....	15
<i>State v. Allenbach</i> , 136 Wn. App. 95, 147 P.3d 644 (2006).....	26, 27, 29
<i>State v. Berube</i> , 150 Wash. 2d 498, 79 P.3d 1144 (2003).....	9
<i>State v. Chavez</i> , 134 Wash.App. 657, 668, 142 P.3d 1110 (2006).....	15
<i>State v. Chester</i> , 133 Wn. 2d 15, 940 P.2d 1374 (1997).....	18-20
<i>State v Christman</i> , 160 Wn. App. 741, 249 P.3d 680 (2011).....	8, 9, 14, 21, 26, 29
<i>State v Decker</i> , 127 Wn. App. 427, 111 P.3d 286 (2005).....	15
<i>State v. Dennison</i> , 115 Wn. 2d 609, 801 P.2d 193 (1990).....	9, 10, 17
<i>State v. Engstrom</i> , 79 Wash. 2d 469, 487 P.2d 205 (1971).....	12
<i>State v. Evans</i> , 164 Wn. App. 629, 265 P.3d 179 (2011).....	26-29
<i>State v. Fateley</i> , 18 Wash. App. 99, 566 P.2d 959 (1977).....	12

<i>State v Giedd,</i> 43 Wn. App. 787, 719 P.2d 946 (1986).....	12
<i>State v. Harris,</i> 164 Wn. App. 377, 263 P.3d 1276 (2011).....	6, 11
<i>State v Knapstad,</i> 107 Wn. 2d 347, 729 P.2d 48 (1986).....	1, 5, 6
<i>State v. Leech,</i> 114 Wn. 2d 700, 790 P.2d 160 (1990).....	12, 24
<i>State v. Little,</i> 57 Wash. 2d 516, 358 P.2d 120 (1961).....	9
<i>State v McDonald,</i> 90 Wn. App. 604, 953 P.2d 470 (1998).....	9, 21
<i>State v McDonald,</i> 138 Wn. 2d 680, 981 P.2d 443 (1999).....	13, 21
<i>State v. Neher,</i> 52 Wn. App. 298, 759 P.2d 475 (1988).....	24
<i>State v Perez-Cervantes,</i> 141 Wn. 2d 468, 6 P.3d 1160 (2000).....	13, 16, 21
<i>State v. Peters,</i> 163 Wn. App. 836, 261 P.3d 199 (2011).....	6, 11
<i>State v. Ramser,</i> 17 Wash. 2d 581, 136 P.2d 1013 (1943).....	9
<i>State v Rivas,</i> 126 Wn. 2d 443, 896 P.2d 57 (1995).....	14
<i>State v Roggenkamp,</i> 115 Wn. App. 927, 64 P.3d 92 (2003).....	14
<i>Taggart v. State,</i> 118 Wash. 2d 195, 822 P.2d 243 (1992).....	9

STATUTES

RCW 9A.04.060	8
RCW 9A.04.090	22
RCW 9A.04.110	7
RCW 9A.08.010(d).....	7
RCW 9A.32.030	7, 8
RCW 9A.32.050	7
RCW 9A.32.055(1).....	9
RCW 9A.32.060	7, 9
RCW 9A.32.070	7
RCW 9A.36.031(1).....	6, 21
RCW 46.61.522	7

I. COUNTERSTATEMENT OF THE ISSUES

1. Whether the trial court erred in denying Bauer's *Knapstad* motion when, viewing the evidence in a light most favorable to the State, a reasonable jury could find all the elements of the charged offense beyond a reasonable doubt?

2. Whether the trial court erred in Denying Bauer's vagueness claim when the word "cause" used in the assault statute has a well-settled common law meaning and the statute thus defines the offense with sufficient definiteness so that ordinary people can understand what conduct is prohibited, and when Bauer therefore had failed to meet his heavy burden of proving that the assault statute is unconstitutional beyond a reasonable doubt?

II. STATEMENT OF THE CASE

A. PROCEDURAL HISTORY

Douglas Bauer was charged by information filed in Kitsap County Superior Court with assault in the third degree and, unlawful possession of a firearm. CP 1. Bauer then filed a motion to dismiss pursuant to *State v Knapstad*¹ and a motion to dismiss based on a vagueness claim. CP 29, 38. The trial court ultimately denied the Defendant's motion to dismiss the

¹ *State v Knapstad*, 107 Wn.2d 347, 729 P.2d 48 (1986).

assault charge.² The Defendant then filed a motion for discretionary review, which this Court granted.

B. FACTS

In response to the *Knapstad* motion below, the State filed numerous police reports and interview summaries which were incorporated into the State's response. See CP 50, 70-133. Generally speaking those materials outlined the basic facts of the case as follows.

On February 22, 2012, nine year-old T.G.J.C. took a .45 caliber H&K semi-automatic handgun to Armin Jahr Elementary School in Bremerton. CP 70. Near the end of the school day, T.G.J.C. reached into his backpack where the gun was located and the weapon fired, striking a fellow student named A.K-B. The child was critically injured and suffered life threatening injuries. CP 70, 73.

The investigation revealed that the weekend prior to the shooting T.G.J.C. and one of his sisters had stayed at the home of Doug Bauer and Jamie Chaffin (aka Jamie Passmore). CP 70, 76. Ms. Chaffin is the biologic mother of T.G.J.C. and his two sisters, although Ms. Chaffin does not have custody of any of the children. Mr. Bauer is Ms. Chaffin's boyfriend.

² The trial court granted Bauer's motion to dismiss the firearm charge. CP 139.

T.G.J.C. obtained the firearm used in the school shooting from the home of Bauer and Chaffin. CP 71.

T.G.J.C., his sisters, and other witnesses were interviewed and described that there were numerous unsecured firearms in various locations in Mr. Bauer's home. The children described that in the downstairs bedroom there are several handguns and a shotgun, and another handgun was kept next to a computer in the downstairs living room. CP 71, 108, 112, 115. Yet another firearm was kept in the glove box of Mr. Bauer's car. CP 71, 108, 112, 115. The children all described that Mr. Bauer and Ms. Chaffin had told them that all of the weapons were loaded. CP 71, 108, 112, 115.

Although there is a bedroom on the top floor that is available to T.G.J.C. and his sisters when they visit, the children all described that when they visit the home they sleep downstairs, either in the bedroom or in the downstairs living room. CP 127. On the weekend preceding the shooting, T.G.J.C. and his sister P.E.C. stayed at the Bauer residence. CP 126. During this visit the children slept downstairs in the bedroom and in the family room. CP 125-26, 128. As usual, the firearms were left out during their visit. CP 126, 130. The children also described that they have free access to the

downstairs portion of the residence when they visit and that there are no rules regarding their ability to go downstairs. CP 71, 109, 111, 115.³

With respect to the firearm used in the shooting at Armin Jahr Elementary, T.G.J.C. described that the weapon was sitting on top of a dresser in the downstairs bedroom and that he put the firearm into his backpack as he was preparing to leave the Bauer residence and return to the home of his uncle (who has custody of the children) on Monday. CP 71, 116.

After the shooting law enforcement went to the Bauer residence and located a loaded 9mm firearm next to the computer in the downstairs family room. CP 71. A loaded shotgun was also found in the downstairs bedroom. CP 71. Ammunition was also recovered from the downstairs bedroom. An unloaded 9mm firearm was also found in the glove box of Mr. Bauer's car. CP 71. The Detectives spoke to Bauer who said he was unaware that the T.G.J.C. had taken the firearm. CP 90. Bauer acknowledged that he was aware that during the weekend in question T.G.J.C. had gone into the Honda and taken money from the glove box without permission. CP 90. Bauer acknowledged that he was informed of this on Sunday (well before T.G.J.C. left the home on Monday with the firearm). CP 90.

³ T.G.J.C. and his sisters have all been interviewed by the child interviewers at the Kitsap County Prosecuting Attorney's Office Special Assault Unit, and video recordings of those interviews have been provided to the defense. Summaries of those interviews were attached to State's response to the *Knapstad* Motion. CP 108-113, 123-25, 130-33.

III. ARGUMENT

A. THE TRIAL COURT DID NOT ERR IN DENYING BAUER’S KNAPSTAD MOTION BECAUSE, VIEWING THE EVIDENCE IN A LIGHT MOST FAVORABLE TO THE STATE, A REASONABLE JURY COULD FIND ALL THE ELEMENTS OF THE CHARGED OFFENSE BEYOND A REASONABLE DOUBT.

Bauer argues that the trial court erred in denying his *Knapstad* motion regarding the charge of assault in the third degree. App.’s Br. at 8. This claim is without merit because the evidence was sufficient to constitute a prima facie showing that Bauer negligently caused bodily harm to another by means of weapon. As this is all that is required, the trial court properly denied the *Knapstad* motion.

1. *The trial court’s denial of Bauer’s Knapstad motion was consistent with well-settled Washington law.*

To promote fairness and judicial efficiency, our Supreme Court in *Knapstad* set out the procedure for the defense to challenge the sufficiency of the prosecution’s proof prior to trial when all the material facts are not genuinely in issue and could not legally support a judgment of guilt. *State v. Knapstad*, 107 Wn.2d 346, 349, 729 P.2d 48 (1986). Since 2008 the *Knapstad* summary judgment process has been codified in CrR 8.3(c). The rule authorizes the defense, prior to trial, to move to dismiss a criminal charge “due to insufficient evidence establishing a prima facie case of the

crime charged.” CrR 8.3(c). A trial court may dismiss the charge if there are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt. The rule and the caselaw clearly provide that in addressing the motion the trial court: (1) shall view all evidence and the reasonable inferences drawn therefrom in the light most favorable to the prosecution; (2) may not weigh conflicting statements; and (3) may not base its decision on witness credibility. CrR 8.3(c)(3); *Knapstad*, 107 Wn.2d at 353. Finally, “Since the court is not to rule on factual questions, no findings of fact should be entered” in the trial court's order. *Knapstad*, 107 Wn.2d at 357.

In the present case the charge of assault in the third degree requires the State to prove that the Defendant, “with criminal negligence, caused bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm.” RCW 9A.36.031(1)(d).

A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act (in this case, bodily harm to another person by means of a weapon)⁴ may occur

⁴ WPIC 10.04 further provide that when the charged offense requires a showing that there is a risk that a particular type of “wrongful act” may occur, then WPIC 10.04 should be modified to specify that particular type of “wrongful act.” *See, e.g., State v. Peters*, 163 Wn.App. 836 (2011); *See also State v. Harris*, 164 Wn.App. 377, 386-88 (2011) (where court held that the “wrongful act” required “depends on the specific crime charged” and that a proper instruction “must account for the specific risk contemplated under the statute, here great bodily harm and not some unspecified wrongful act.”). Thus, in the present case WPIC 10.04 must be modified and the court must substitute the phrase “bodily harm to another person by means of a weapon” for the phrase “a wrongful act.”

and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation. *See* RCW 9A.08.010(d); WPIC 10.04. “Bodily harm” means physical pain or injury, illness, or an impairment of physical condition. RCW 9A.04.110.

Although “criminal negligence” and “bodily harm” are statutorily defined, the word “cause” is not statutorily defined. The word “cause,” however, is routinely used in criminal statutes. For instance, the crime of manslaughter in the second degree exactly parallels the crime of assault in the third degree with the sole exception being that manslaughter requires “death” as opposed to “bodily harm by means of a weapon.” Specifically, a person is guilty of manslaughter in the second degree when, “with criminal negligence, he causes the death of another person.” RCW 9A.32.070. Numerous other criminal statutes, mostly relating to forms of homicide, also use the word “cause.”⁵

Furthermore, it is well settled under Washington law that when a statute uses the word “cause” the applicable meaning is “proximate cause.”

⁵ *See, e.g.*, Murder in the first degree RCW 9A.32.030 (“With premeditated intent to cause the death of another person, he or she causes the death of such person or a third person”); Murder in the second degree RCW 9A.32.050 (“With intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person”); Manslaughter in the first degree RCW 9A.32.060 (He or she “recklessly causes the death of another person”); Vehicular assault RCW 46.61.522 (He or she operates or drives any vehicle “in a reckless manner and causes substantial bodily harm to another”).

For instance, in a recent case the Court summarized the analysis in this area and began by looking at “the basic tenets of our own criminal law and to the provisions of the Washington criminal code.” *State v Christman*, 160 Wn.App. 741, 752 (2011). The Court then stated:

The legislature provided in 1975 that “[t]he provisions of the common law relating to the commission of crime and the punishment thereof, insofar as not inconsistent with the constitution and statutes of this state, shall supplement all penal statutes of this state.” LAWS OF 1975, 1st Ex. Sess., ch. 260, § 9A.04.060, codified at RCW 9A.04.060. In so providing, the legislature both ratified the judicial practice of supplying common law definitions to statutes and affirmatively defined the elements of criminal statutes as containing common law definitions.

...

The criminal law, both common law and statutory, has long imposed criminal liability for conduct that causes a particular result. When crimes are defined to require both conduct and a specified result of that conduct, the defendant's conduct generally must be the “legal” or “proximate” cause of the result.

Christman, 160 Wn. App. at 752-53 (emphasis added) citing 1 Wayne R. Lafave, *Substantive Criminal Law* § 6.4, at 464 (2d ed. 2003). The Court of Appeals in *Christman* then went on to explain that numerous statutes that have “cause” as an element have been interpreted to actually require a showing of “proximate cause:”

Consistent with this general tenet, murder punishable under the Washington criminal code requires that a defendant's or felony participant's conduct “cause the death” of a person, RCW 9A.32.030(1)(a), .050(1)(a), an element that requires

proof of proximate cause. *See, e.g., State v. Little*, 57 Wash.2d 516, 521, 358 P.2d 120 (1961) (causal connection between death and criminal conduct of the accused is one element of the corpus delicti). Homicide by abuse requires proof that a defendant's conduct “caused the death” of a person in a class protected by the statute, RCW 9A.32.055(1), and likewise requires proof of proximate cause. *State v. Berube*, 150 Wash.2d 498, 510, 79 P.3d 1144 (2003). Manslaughter includes conduct recklessly or negligently “causing the death” of a person, RCW 9A.32.060(1)(a), .070(1). It, too, requires proof of proximate cause. *State v. Ramser*, 17 Wash.2d 581, 586, 136 P.2d 1013 (1943).

Christman, 160 Wn. App. at 752-54.

In addressing the term “cause” in criminal cases, the Washington courts have explained there are two parts to the analysis. The first issue is whether there has been “cause in fact.” *See, e.g., State v. Dennison*, 115 Wn.2d 609, 624, 801 P.2d 193 (1990); *Hartley v. State*, 103 Wn.2d 768, 778, 698 P.2d 77 (1985). “As to cause in fact, tort and criminal situations are exactly alike.” *State v. Dennison*, 115 Wn.2d at 624 n. 15; *State v. McDonald*, 90 Wn.App. 604, 612, 953 P.2d 470 (1998). Cause in fact thus concerns “but for” causation, “events the act produced in a direct unbroken sequence which would not have resulted had the act not occurred.” *Hertog v. City of Seattle*, 138 Wn.2d 265, 282-83, 979 P.2d 400 (1999); *Taggart v. State*, 118 Wash.2d 195, 226, 822 P.2d 243 (1992); *Hartley*, 103 Wn.2d at 778; *Dennison*, 115 Wn.2d at 624.

In addition, the “but for” test has been expressly incorporated into the Washington Pattern Jury Instructions. WPIC 25.02, for instance, explains that the State must show that the defendant was a cause “without which the [harm] would not have happened.” Simply put, in order to show that a defendant “caused” a particular result the State must first show that “but for” the defendant’s acts or omission, the harm would not have occurred.

Most importantly (with respect to the *Knapstad* motion), the Supreme Court has consistently held that “cause in fact is generally left to the jury.” *Dennison*, 115 Wn.2d at 624; *Hartley*, 103 Wn.2d at 778.

In addition to establishing that the Defendant was a “cause in fact,” the State must also prove that there has been no intervening or superseding act which would act to terminate the Defendant’s liability. This part of the analysis is often reference as the “legal cause” or “proximate cause” portion of the analysis, although the courts have often differed in how they name or denote the various portions of the analysis. The actual tests imposed, however, have remained constant. The Washington Pattern instructions, for instance, explain the analysis as follows:

WPIC 25.02 Homicide—Proximate Cause—Definition

To constitute [murder][manslaughter][homicide by abuse][or][controlled substance homicide], there must be a causal connection between the criminal conduct of a defendant and the death of a human being such that the defendant's [act][or][omission] was a proximate cause of the

resulting death.

The term “proximate cause” means a cause which, in a direct sequence, unbroken by any new independent cause, produces the death, and without which the death would not have happened.

[There may be more than one proximate cause of a death].

WPIC 25.03 Conduct of Another

If you are satisfied beyond a reasonable doubt that the [acts][or][omissions] of the defendant were a proximate cause of the death, it is not a defense that the conduct of [the deceased][or][another] may also have been a proximate cause of the death.

[However, if a proximate cause of the death was a new independent intervening act of [the deceased][or][another] which the defendant, in the exercise of ordinary care, should not reasonably have anticipated as likely to happen, the defendant's acts are superseded by the intervening cause and are not a proximate cause of the death. An intervening cause is an action that actively operates to produce harm to another after the defendant's [acts][or][omissions] have been committed [or begun].]

[However, if in the exercise of ordinary care, the defendant should reasonably have anticipated the intervening cause, that cause does not supersede defendant's original acts and defendant's acts are a proximate cause. It is not necessary that the sequence of events or the particular injury be foreseeable. It is only necessary that the death fall within the general field of danger which the defendant should have reasonably anticipated.]⁶

⁶ WPIC 25.02 and 25.03 contain language regarding “death” which obviously will need to be modified in the present case. Washington courts, of course, have explained that in cases involving criminal negligence that a causes a particular type result or “wrongful act,” the pattern instructions will often need to be modified to address the specific type of injury or result required in the statute. *See, e.g., State v. Peters*, 163 Wn.App. 836 (2011); *See also State v. Harris*, 164 Wn.App. 377, 386-88 (2011) (where court held that the “wrongful act” required “depends on the specific crime charged” and that a proper instruction “must account for the specific risk contemplated under the statute, here great bodily harm and not some unspecified wrongful act.”). Thus, in the present case WPIC 25.02 and 25.03, when

These instructions, and the concepts included within them, have been used and approved by Washington courts in a variety of contexts. For example, in *State v. Leech*, 114 Wn.2d 700, 790 P.2d 160 (1990), a prosecution for first degree felony murder, the Supreme Court held that WPIC 25.02 “properly stated the law and was not unconstitutional.” The Court of Appeals has also specifically approved of WPIC 25.02 and noted that a separate instruction on intervening or superseding causes may be necessary if supported by the evidence. *See, State v Giedd*, 43 Wn.App. 787, 792-3 (1986). The *Giedd* court also noted that with respect to WPIC 25.02,

The Washington Supreme Court approved of a substantially similar instruction in *State v. Engstrom*, 79 Wash.2d 469, 487 P.2d 205 (1971), holding that it properly required a causal connection between the act complained of and the death. *Engstrom*, at 473–74, 487 P.2d 205. An identical instruction to that at issue was upheld in *State v. Fateley*, 18 Wash.App. 99, 104–05, 566 P.2d 959 (1977).

Giedd, 43 Wn.App. at 792.

modified to require *bodily harm* instead of *death*, would state, for example that:

“To constitute assault in the third degree, there must be a causal connection between the criminal conduct of a defendant and the *bodily harm to another person by means of a weapon* such that the defendant's act or omission was a proximate cause of the resulting *bodily harm by means of a weapon*.”

“If you are satisfied beyond a reasonable doubt that the acts or omission of the defendant were a proximate cause of the *bodily harm by means of a weapon*, it is not a defense that the conduct of another may also have been a proximate cause of the *bodily harm by means of a weapon*.”

Similarly, in *State v Perez-Cervantes*, 141 Wn.2d 468, 6 P.3d 1160 (2000), the defendant was charged with murder in the second degree and the trial court instructed the jury regarding proximate cause and intervening cause using WPIC 25.03 as follows:

If you are satisfied beyond a reasonable doubt that the acts of the defendant were a proximate cause of the death of the deceased, it is not a defense that the conduct of the deceased or another may also have been a proximate cause of the death.

If a proximate cause of the death was a later independent intervening act of the deceased or another that the defendant, in the exercise of ordinary care, could not reasonably have anticipated as likely to happen, the defendant's acts are superseded by the intervening cause and are not a proximate cause of the death.

However, if in the exercise of ordinary care, the defendant should reasonably have anticipated the intervening cause, that cause does not supersede defendant's original acts and defendant's acts are a proximate cause. It is not necessary that the sequence of events or the particular injury be fore-seeable. It is only necessary that the death fall within the general field of danger which the defendant should have reasonably anticipated.

Perez-Cervantes, 141 Wn.2d at 473. The Supreme Court affirmed, and noted that the instruction “was a standard jury instruction.” *Perez-Cervantes*, 141 Wn.2d at 476 n. 1. The Court also went through several earlier cases regarding proximate cause and mentioned no discrepancies or inconsistencies between those cases and the instruction. *Perez-Cervantes*, 141 Wn.2d at 476-78; *See also, State v McDonald*, 138 Wn.2d 680, 686 (1999) (where the trial

court instructed the jury on proximate cause using WPIC 25.02 and 25.03 and the Supreme Court affirmed).

Other cases demonstrate that these concepts are well established under Washington law. For instance, the courts have explained that although contributory negligence does not negate a defendant's criminal negligence, a defendant may avoid responsibility if the result was caused by a superseding intervening event. *State v Roggenkamp*, 115 Wn.App. 927, 945 (2003); *State v Rivas*, 126 Wn.2d 443, 453 (1995). "To be a superseding cause sufficient to relieve a defendant from liability, an intervening act must be one that is not reasonably foreseeable." *Roggenkamp*, 115 Wn.App at 945, citing *Crowe v. Gaston*, 134 Wash.2d 509, 519, 951 P.2d 1118 (1998); *Micro Enhancement International v. Coopers & Lybrand, LLP*, 110 Wn.App. 412, 431, 40 P.3d 1206 (2002).

Washington courts have also held that even when a statute does not use the actual word "cause" but instead uses a word similar to "cause," the relevant inquiry is nevertheless whether the defendant was the proximate cause of the result required by statute. For instance, in *State v. Christman* the Court found that the crime of Controlled Substances Homicide (which requires that a defendant deliver a controlled substance that is subsequently used by another "resulting in the death of the user") means that the State must show that the drug was a proximate cause of the death. *See Christman*, 160

Wn.App at 754. Similarly the courts have held that the robbery in the first degree, which requires that a defendant “*inflict*” bodily injury, requires the State to show that the defendant was the “proximate cause” of the result. *See, State v Decker*, 127 Wn.App. 427, 430-432, 111 P.3d 286 (2005), *quoting State v. Rivas*, 126 Wn.2d 443, 453, 896 P.2d 57 (1995) (“In crimes which are defined to require specific conduct resulting in a specified result, the defendant’s conduct must be the ‘legal’ or ‘proximate’ cause of the result”).⁷

In short, Washington law is clear that when a statute requires a defendant to cause some particular result, the relevant inquiry is whether the defendant is a proximate cause of the required result. WPIC’s 25.02 and

⁷ As explained previously, the Washington courts and the legislature have ratified the process of supplying common law definitions to statutes and have affirmatively defined the elements of criminal statutes as containing common law definitions. *Chavez*, 134 Wn.App. at 668. Washington common law on the term “cause” and proximate cause is well settled. If the original negligence of a defendant is followed by an unforeseeable independent intervening cause, force, or act of a third person (not a party to the case) which is the proximate cause of an injury or event, the chain of proximate causation is broken. *Qualls v. Golden Arrow Farms*, 47 Wn.2d 599, 288 P.2d 1090 (1955); *Bracy v. Lund*, 197 Wash. 188, 84 P.2d 670 (1938). If the independent intervening cause, force or act is not reasonably foreseeable, it is deemed to supersede the defendant’s original negligence and the defendant’s original negligence ceases to be the proximate cause. *Maltman v. Sauer*, 84 Wn.2d 975, 530 P.2d 254 (1975); *Cook v. Seidenverg*, 36 Wn.2d 256, 217 P.2d 799 (1950); *Estate of Keck By and Through Cabe v. Blair*, 71 Wn.App. 105, 856 P.2d 740 (1993). On the other hand, the chain of proximate causation is not broken when the defendant, in the exercise of ordinary care, should reasonably have anticipated that the independent intervening cause, force, or act was likely to happen. *Adamson v. Traylor*, 60 Wn.2d 332, 373 P.2d 961 (1962); *Qualls v. Golden Arrow Farms*, *supra*; *McLeod v. Grant County School Dist. No. 128*, 42 Wn.2d 316, 255 P.2d 360 (1953); *Gies v. Consolidated Freightways*, 40 Wn.2d 488, 244 P.2d 248 (1952).. If there are varying inferences to be derived from the evidence, the range of reasonable anticipation of foreseeability is a question for the jury. *Kennett v. Yates*, 41 Wn.2d 558, 250 P.2d 962 (1952). In short, “If the acts are ... within the ambit of the hazards covered by the duty imposed upon the defendant, they are foreseeable and do not supersede the defendant’s negligence.” *Cramer v. Department of Highways*, 73 Wn.App. 516, 870 P.2d 999 (1994).

25.03 accurately outline the law in this regard.

Given the law and the jury instructions that would apply to the present case, the State will need to prove that the Defendant was criminally negligent and that he caused bodily harm to another person by means of a weapon. Thus, in the present case the State will first need to show the following:

- (1) That the Defendant failed to be aware of a substantial risk that bodily harm to another person by means of a weapon may occur and this failure constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation; and
- (2) That “but for” the Defendant’s act or omission the bodily harm would not have occurred.

The next issue will be whether the acts of T.G.J.C. worked to “supersede” the defendant’s liability. Thus the relevant inquiry will be whether, in the exercise of ordinary care, the Defendant should reasonably have anticipated the intervening act. Under the law it is not necessary that the sequence of events or the particular injury be foreseeable; rather, it is only necessary that the bodily harm by means of a weapon fall within the “general field of danger” which the defendant should have reasonably anticipated. WPIC 25.03; *Perez-Cervantes*, 141 Wn.2d at 476 n.1.

Given the law in this regard, the State maintains that the “general field of danger” in the present case was T.G.J.C. “accessing a firearm and harming either himself or someone else.” If the Defendant should have reasonably

anticipated that this could happen, then the acts of T.G.J.C. do not “supersede” the Defendant’s acts and his liability is not terminated.

Viewing the evidence in a light most favorable to the State, the evidence shows that by placing multiple firearms, ammunition, and an unsupervised 9 year-old child in close proximity the Defendant failed to be aware of a substantial risk that bodily harm to another person by means of a weapon may occur and this failure constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

Furthermore, “but for” the Defendant placing the multiple firearms, ammunition, and a 9 year-old child in close proximity, the shooting of A.K-B. would not have occurred. As this issue of “cause in fact is generally left to the jury,”⁸ the trial court did not err in the present case.

Finally, viewing the evidence in a light most favorable to the State, the evidence shows that the harm that ultimately occurred was well within the “general field of danger” (namely, that T.G.J.C. could access a weapon and harm either himself or another) that the Defendant should have reasonably anticipated. Thus the act of T.G.J.C. cannot work to “supersede” the Defendant’s liability.

⁸ *Dennison*, 115 Wn.2d at 624; *Hartley*, 103 Wn.2d at 778.

Although Bauer argues that shooting at school was “not part of the natural and continuous sequence of events which flowed from Bauer’s act in leaving the firearms in his residence” and that the shooting wasn’t foreseeable,⁹ the resolution of these critical questions must be left to the jury to decide.

In sum, the trial court did not err in denying Bauer’s Knapstad motion because a reasonable jury could conclude that: (1) but for Bauer’s conduct in putting a child and firearms together, the shooting would not have occurred; and (2) that the harm that ultimately occurred was well within the “general field of danger” that the Defendant should have reasonably anticipated.

Given all of these facts, this Court should affirm the trial court’s ruling and allow a jury to decide whether Bauer was negligent and whether he was a cause-in-fact and a proximate cause of the victim’s injuries in the present case.

2. *Bauer’s claims regarding the definition of the term “cause” are without merit and were properly rejected by the trial court.*

In the present appeal Bauer argues that the term “cause” was somehow limited or defined by the brief mention of that term in *State v. Chester*, 133 Wn.2d. 15, 940 P.2d 1374 (1997). App.’s Br. at 20-21. Bauer’s

⁹ App.’s Br. at 14.

arguments, however, are without merit as a fair reading of *Chester* simply does not lead to the conclusion that *Chester* in any way represents a reworking of the well-settled Washington law regarding causation.

In *Chester* the defendant (the victim's stepfather) was convicted of sexual exploitation of a minor after he placed a camera in his stepdaughter's bedroom while the child was in the shower and thereby later tapped her in various states of undress without her knowledge. *Chester*, 133 Wn.2d at 17-18. On appeal, the Supreme Court explained that the issue was whether the statute prohibited the filming of a child that is unaware that she is being filmed. *Chester*, 133 Wn.2d at 18. The Court noted that the statute required a defendant to either "force or compel" the victim to engage in sexually explicit conduct knowing that it will be photographed or that the defendant "aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing that such conduct will be photographed." *Chester*, 133 Wn.2d at 19.

The Court then stated that the exact question was whether the statute prohibits a person from filming a nude child, "without the child's knowledge and where the exhibition of nudity is accomplished *without the involvement of the defendant.*" *Chester*, 133 Wn.2d at 21 (emphasis added). The facts, however, demonstrated no such involvement of the defendant in the victim's decision to undress. Specifically, the Court noted that there was no evidence

that the Defendant “caused (brought about, induced, or compelled) his stepdaughter to engage in sexually explicit conduct.” *Chester*, 133 Wn.2d at 23. Rather, the child simply dressed in her bedroom after a shower as any normal child would do.

The Court’s conclusion in *Chester*, therefore, is not surprising. It is important to note, however, that there is nothing in *Chester*’s brief mention of the word “cause” that in any way suggests that Court was overruling the well-settled definition of “cause.” Rather, the Court simply did not go into any detailed analysis of the word “cause.” Furthermore, although the Court did mention that the term “cause” means “brought about,” this statement was entirely consistent with the traditional “but for” test for showing cause-in-fact. Specifically, given the facts in *Chester*, the State simply could not show that “but for” the defendant’s actions the victim would not have undressed in her bedroom. To the contrary, the victim obviously in a state of undress without any impetus from the defendant. Thus the Court’s ultimate holding was entirely consistent with traditional causation analysis since the Defendant did not *cause* the victim to undress. In short, while the defendant caused the *filming* he did not cause the child to *undress* as required by the statute.

In the present case, however, “cause” is demonstrated by the fact that but for the Defendant’s acts T.G.J.C. would not have accessed a gun. Thus by putting a nine year old child in close proximity to firearms and

ammunition, the Defendant was a “cause” under Washington law, and *Chester* does not hold to the contrary. Finally, the fact that *Chester* did not represent a sea-change in causation analysis is, of course, further demonstrated by the numerous “cause” cases cited above that post-date *Chester*¹⁰ and by the fact that no Washington case has ever cited to *Chester* as representing an overruling or modification of the well-settled law regarding “cause.”

In the present appeal Bauer also repeatedly claims that the evidence shows no “affirmative act,” or that there is no evidence that he “affirmatively caused” the ultimate injury. App.’s Br. at 8-18. This argument, however, is without merit as the evidence is sufficient to show that Bauer “caused” the injury under Washington law.

As outlined above, Washington law regarding causation is well-settled. The term “affirmative act” is not found in the assault statute nor has Bauer cited any case that utilizes that term. Rather, Washington law requires a showing that Bauer negligently caused bodily harm by means of a weapon. RCW 9A.36.031(1)(d). In determining whether Bauer “caused” the bodily harm, the appropriate analysis is simply: (1) whether Bauer was a “cause in fact” (under the traditional “but-for” causation analysis); and (2) whether

¹⁰ See, e.g., *Perez-Cervantes*, 141 Wn.2d at 473-78; *McDonald*, 90 Wn.App. at 612; *Hertog*, 138 Wn.2d at 282-83; *Christman*, 160 Wn.App. at 752-54.

there were any intervening or superseding events which acted to terminate Bauer's criminal liability. Nothing more. Nothing less.¹¹

Furthermore, Bauer's claim that the evidence shows no "affirmative act" on his part is simply not true. The act of repeatedly leaving multiple firearms, ammunition, and an unsupervised young child together in close proximity is most certainly an affirmative act.

In *Parrilla v. King County*, 138 Wn.App 427, 157 P.3d 879 (2007) the Court of Appeals rejected an "affirmative act" argument similar to the one raised by Bauer in the present case. In *Parrilla*, a King County Bus driver parked the bus he was driving and exited the bus, leaving the engine running while a visibly erratic passenger was still on board the bus. *Parrilla*, 138 Wn. App. at 430. The passenger then got in the driver's seat and drove the away, crashing into several vehicles including the Parrillas' car. *Id.* at 431. The Parrillas sued, claiming that "the bus driver should have known that his affirmative act of exiting the bus while the engine was running, leaving the visibly erratic [passenger] was on board, exposed the Parrillas to a recognizable high degree of harm from misconduct by [the passenger] which a reasonable person would have taken into account." *Id.* at 433.

¹¹ Furthermore, the Defendant has cited no authority holding that under the clearly defined definitions of "cause" outlined in the cases and instructions mentioned above that a "passive act" or an omission is insufficient to show "cause," even if one could fairly characterize the Defendant's acts in the present case as "passive." See e.g., RCW 9A.04.090 (stating that the

In addressing these facts, the Court of Appeals held that the facts did not involve a failure to act, but rather demonstrated an affirmative act on the part of the bus driver. *Parrilla*, 138 Wn. App. at 438. Specifically, the Court held that,

In the present case, it is an affirmative act, rather than a failure to act, that is at issue. The bus driver affirmatively acted by leaving [the passenger] alone on board the bus with its engine running.

Parrilla, 138 Wn. App. at 438. The Court also noted that a city bus was a dangerous instrumentality and that the Court thus held that the evidence was sufficient to sustain a negligence claim, stating:

In sum, pursuant to the facts alleged by the Parrillas, an instrumentality uniquely capable of causing severe injuries was left idling and unguarded within easy reach of a severely impaired individual. The bus driver was aware of these circumstances. Assuming the truth of these averments, the bus driver's affirmative act created a high degree risk of harm through [the passenger's] misconduct, which a reasonable person would have taken into account.

Parrilla, 138 Wn. App. at 440-41.¹²

As in *Parrilla*, the present case does not involve a failure to act. Rather it is Bauer's affirmative acts that are at issue, as the evidence shows that Bauer left several firearms (which are certainly all instrumentalities that

word "acted" includes, where relevant, "omitted to act."); WPIC 25.02, 25.03.

¹² Bauer cites *Parrilla* for its later discussion of negligent entrustment. App.'s Br. at 15. Bauer, however, notably fails to mention the *Parrilla* Court's holding that the bus driver's act was an "affirmative act."

are capable of causing severe injuries) unguarded and within easy reach of a nine year old child.¹³ Thus, pursuant to *Parrilla*, Bauer's claim that the evidence demonstrates no "affirmative act" is without merit and should be rejected.¹⁴

In conclusion, Bauer has failed to show that the trial court erred in denying the *Knapstad* motion. Rather, the trial court's ruling was consistent with well settled Washington law since, viewing the evidence in a light most

¹³ Furthermore, Bauer admitted that he was aware that T.G.J.C. had taken money from the glove box of his car without permission that same weekend and that he had learned of this fact on Sunday, well before T.G.J.C. left the home with the firearm on Monday.

¹⁴ In addition to the fact that Bauer's conduct is properly characterized as an "affirmative act," his claims that the relevant inquiry should somehow focus on the fact that T.G.J.C. caused the shooting and that Bauer "never had contact with the victim" and was "miles away from the school" is without merit. First, "[I]t is not necessary that defendant's act should have been the sole cause of the harm[;] ... a contributory cause is sufficient." *State v. Neher*, 52 Wn.App. 298, 301, 759 P.2d 475 (1988) (quoting R. Perkins, Criminal Law, ch. 6, § 9, at 608-09 (1957)), aff'd, 112 Wash.2d 347, 771 P.2d 330 (1989). Furthermore, the facts of the present case are similar to *State v. Leech*, 114 Wn.2d 700, 790 P.2d 160 (1990) where the court found that the defendant who had set a fire was the proximate cause of the death of responding fireman. In *Leech*, the defendant argued that he was not the proximate cause of the fire and that negligence on the part of the responding fireman was the actual proximate cause of the fireman's death. *Leech*, 112 Wn.2d at 702-03. Both the Court of Appeals and the Supreme Court, however, rejected this argument. The Supreme Court, for instance, specifically held that,

We also agree with the Court of Appeals conclusion that the arson fire proximately caused Earhart's death. We find it sufficient to simply note here that the fire fighter's alleged negligence in using his breathing apparatus was not the sole cause of his death. Since his failure to use the apparatus would not have killed him had the defendant not set the arson fire, the defendant's conduct in setting the fire was a proximate cause of Earhart's death.

Leech, 112 Wn.2d at 705, citing *State v. Leech*, 54 Wn.App. 597, 601, 775 P.2d 463 (1989). As in *Leech*, the Defendant in the present case created an extremely dangerous condition and is thus responsible for the harm that resulted. While there may also be other causes of that ultimate harm, that fact does not eliminate or negate the Defendant's culpability.

favorable to the State, the evidence was sufficient to show that Bauer negligently caused bodily harm to another by means of a firearm.

B. THE TRIAL COURT DID NOT ERR IN DENYING BAUER’S VAGUENESS CLAIM BECAUSE THE WORD “CAUSE” USED IN THE ASSAULT STATUTE HAS A WELL-SETTLED COMMON LAW MEANING AND THE STATUTE THUS DEFINES THE OFFENSE WITH SUFFICIENT DEFINITENESS SO THAT ORDINARY PEOPLE CAN UNDERSTAND WHAT CONDUCT IS PROHIBITED. THE TRIAL COURT, THEREFORE, PROPERLY CONCLUDED THAT BAUER HAD FAILED TO MEET HIS HEAVY BURDEN OF PROVING THAT THE ASSAULT STATUTE IS UNCONSTITUTIONAL BEYOND A REASONABLE DOUBT.

Bauer next claims that the assault statute is unconstitutionally vague. App.’s Br. at 18. This claim is without merit because the trial court properly denied Bauer’s motion to dismiss based on vagueness because the statute at issue employed words with well-settled common law meanings and otherwise defined the offense with sufficient definiteness so that ordinary people can understand what conduct is prohibited. Given this fact, Bauer failed to meet his heavy burden of proving that the statute is unconstitutional beyond a reasonable doubt.

Washington courts have clearly explained that a criminal prohibition is void for vagueness under the due process clause if it “fails either (1) to

define the offense with sufficient definiteness so that ordinary people can understand what conduct is prohibited or (2) to provide ascertainable standards of guilt to protect against arbitrary enforcement.” *State v. Evans*, 164 Wn.App. 629, 637, 265 P.3d 179 (Div. II, 2011), *citing State v. Allenbach*, 136 Wn.App. 95, 100–01, 147 P.3d 644 (2006); *City of Spokane v. Douglass*, 115 Wn.2d 171, 178, 795 P.2d 693 (1990).

In addition, a statute “employing words with a well-settled common law meaning, generally will be sustained against a charge of vagueness.” *State v. Christman*, 160 Wn.App. 741, 758, 249 P.3d 680 (2011). Thus, “Where a statute is specifically directed at a manifest evil and couched in language drawn from history and practice, courts should not parse the statute as grammarians or treat it as an abstract exercise in lexicography.” *City of Spokane v. Douglass*, 115 Wn.2d 171, 180, 795 P.2d 693 (1990), *quoting State v. Dixon*, 78 Wn.2d 796, 805, 479 P.2d 931 (1971) (*quoting Beauharnais v. Illinois*, 343 U.S. 250, 253, 72 S.Ct. 725, 729, 96 L.Ed. 919 (1952)”). The fact that some terms in an enactment are undefined does not automatically mean that the enactment is unconstitutionally vague. For clarification, citizens may resort to the statements of law contained in both statutes and in court rulings which are “presumptively available to all citizens.” *Douglass*, 115 Wn.2d at 180, *quoting State v. Smith*, 111 Wn.2d 1, 7, 759 P.2d 372 (1988).

The courts are to presume that a statute is constitutional, and “the party asserting a vagueness challenge bears the heavy burden of proving the statute's unconstitutionality beyond a reasonable doubt.” *Evans*, 136 Wn.App. at 638, *citing Allenbach*, 136 Wn.App. at 100. Moreover, “impossible standards of specificity are not required.” *City of Seattle v. Eze*, 111 Wn.2d 22, 26, 759 P.2d 366 (1988). As the Washington Supreme Court has held:

A statute is not unconstitutionally vague merely because a person cannot predict with complete certainty the exact point at which his actions would be classified as prohibited conduct. As the Washington Supreme Court has previously stated, “If men of ordinary intelligence can understand a penal statute, notwithstanding some possible areas of disagreement, it is not wanting in certainty.”

Evans, 136 Wn.App. at 638, *quoting Eze*, 111 Wn.2d at 27. Thus, “the presumption in favor of a law's constitutionality should be overcome only in exceptional cases.” *Evans*, 136 Wn.App. at 638, *quoting Eze*, 111 Wn.2d at 28.

Finally, a court does not “look at the language of a challenged statute in a vacuum; rather, we consider its entire context.” *Evans*, 136 Wn.App. at 638, *quoting Allenbach*, 136 Wn.App. at 101. “A statute is not rendered unconstitutional if the general area of conduct against which it is directed is made plain.” *Evans*, 136 Wn.App. at 638, *quoting Maciolek*, 101 Wn.2d at 266. Rather, all that is necessary is that the statutes in question “are directed at identifiable articulable conduct, have a reasonably definite focus, and do

not encourage arbitrary enforcement.” *Evans*, 136 Wn.App. at 638, quoting *Maciolek*, 101 Wn.2d at 269.

As outlined above, Washington Courts have repeatedly explained that when a criminal statute utilizes the word “cause” or words with similar meanings, the relevant inquiry is the well-defined legal concept of proximate cause. As these rulings are “presumptively available to all citizens,” citizens may resort to these statements of law for any clarification that could conceivably be needed regarding the use of the word “cause” in the statute at issue. Furthermore, as the assault statute at issue uses the term “cause” that has a “well-settled common law meaning,” the statute should be sustained against a charge of vagueness.” *Christman*, 160 Wn.App. at 758.

In the present case Bauer failed to show that a person of common intelligence could not understand what conduct is prohibited. The negligent causing of bodily injury by means of a weapon is the focus and gravamen of the charged offense. The fact that an injury can have more than one cause, and the concepts embodied in the well established Washington law regarding proximate cause, demonstrate that the statute in question is “directed at identifiable articulable conduct, has a reasonably definite focus, and does not encourage arbitrary enforcement.” Nothing more is required.

In short, given the “well-settled common law meaning” of the word “cause,” the statute in the present case must “be sustained against a charge of vagueness.” *Christman*, 160 Wn.App. at 758. Bauer thus failed to overcome the presumption that the statute at issue is constitutional and failed to meet his “heavy burden of proving the statute's unconstitutionality beyond a reasonable doubt.” *Evans*, 136 Wn.App. at 638; *Allenbach*, 136 Wn.App. at 100. The trial court, therefore, did not err in rejecting Bauer’s vagueness claim.

IV. CONCLUSION

For the foregoing reasons, this Court should affirm the trial court’s denial of Bauer’s motions to dismiss.

DATED September 12, 2012.

Respectfully submitted,

RUSSELL D. HAUGE
Prosecuting Attorney

JEREMY A. MORRIS
WSBA No. 28722
Deputy Prosecuting Attorney

DOCUMENT1

KITSAP COUNTY PROSECUTOR
September 12, 2012 - 12:24 PM

Transmittal Letter

Document Uploaded: 435110-Respondent's Brief.pdf

Case Name: State v. Douglas Bauer

Court of Appeals Case Number: 43511-0

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

- Designation of Clerk's Papers Supplemental Designation of Clerk's Papers
- Statement of Arrangements
- Motion: _____
- Answer/Reply to Motion: _____
- Brief: Respondent's
- Statement of Additional Authorities
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Copy of Verbatim Report of Proceedings - No. of Volumes: _____
Hearing Date(s): _____
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Other: _____

Comments:

No Comments were entered.

Sender Name: Jeremy A Morris - Email: jmorris@co.kitsap.wa.us

A copy of this document has been emailed to the following addresses:
wayne@hesterlawgroup.com