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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

CESAR TROCHEZ-JIMENEZ,

Petitioner.

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**STATE'S SUPPLEMENTAL BRIEF**

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ORIGINAL

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**A. ISSUE PRESENTED**

Whether this Court should extend the rule of Edwards v. Arizona<sup>1</sup> and Arizona v. Roberson<sup>2</sup>, and suppress a statement that Trochez-Jimenez made to King County detectives after valid waiver of his Miranda<sup>3</sup> rights in this murder investigation, based solely on an earlier request for counsel that he made to a Canadian police officer, pursuant to the Canadian Charter of Rights and Freedoms, upon his arrest for a Canadian immigration violation?

**B. RELEVANT FACTS**

After shooting and killing his girlfriend's lover in King County, Washington on July 7, 2008, Cesar Trochez-Jimenez fled to Canada.<sup>4</sup> Ex. 43 at 14-16, 23-29; 8RP 20-24, 68-76; 9RP 57-71.<sup>5</sup> He was contacted by a Canadian police officer in Vancouver, B.C. on the afternoon of July 9, 2008, and placed under arrest for illegal

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<sup>1</sup> 451 U.S. 477, 101 S. Ct. 1880, 68 L. Ed.2d 378 (1981).

<sup>2</sup> 486 U.S. 675, 108 S. Ct. 2093, 100 L. Ed.2d 704 (1988).

<sup>3</sup> Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed.2d 694 (1966).

<sup>4</sup> Details of the relevant relationships and of the murder are fully set out in the Brief of Respondent filed in the Court of Appeals, at 3-11.

<sup>5</sup> The verbatim report of proceedings will be referred to in this brief as follows: 1RP (8/10/2010); 2RP (8/11,12,13,16/2010 & 10/1/2010); 3RP (8/30/2010); 4RP (10/18/2010); 5RP (10/19/2010); 6RP (1/3/2011); 7RP (1/4/2011); 8RP (1/5/2011); 9RP (1/6/2011); 10RP (1/10/2011); 11RP (1/11/2011); 12RP (1/12/2011); 13RP (1/13/2011); 14RP (1/18/2011); 15RP (1/19/2011); 16RP (1/20/2011); 17RP (1/24/2011); 18RP (1/25/2011); 19RP (4/29/2011).

entry into Canada.<sup>6</sup> 2RP 54-55. The arresting officer informed Trochez-Jimenez of his right under the Canadian Charter of Rights and Freedoms to "retain and instruct counsel in private, without delay," and that he could be given the telephone number of the legal aid duty lawyer who would advise him without charge.<sup>7</sup> Ex. 5; 2RP 56-57. Trochez-Jimenez said that he wanted to contact a lawyer. 2RP 57-58.

Trochez-Jimenez was taken to the Vancouver jail, and Canadian immigration authorities were notified of the arrest.<sup>8</sup> 2RP 58-59. Canadian police ultimately discovered that Trochez-Jimenez was a suspect in a homicide in Washington, and the King County Sheriff's Office was notified of his whereabouts. 1RP 89; 2RP 29-30. Two King County Sheriff's detectives traveled to Vancouver to speak with Trochez-Jimenez. 1RP 89; 2RP 30. Arriving late in the evening, they were informed that he was being interviewed by a Canadian immigration officer. 1RP 90; 2RP 31.

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<sup>6</sup> Trochez-Jimenez, who is from Honduras, was illegally in the United States as well. 14RP 16-17; 15RP 34-35; 18RP 11-12; CP 135.

<sup>7</sup> The Canadian arresting officer also informed Trochez-Jimenez that he had a right to remain silent ("You are not obliged to say anything, but anything you do say may be given in evidence."). 2RP 56; Ex. 5.

<sup>8</sup> The arresting officer did not know whether Trochez-Jimenez was given access to a lawyer once he arrived at the Vancouver jail. 2RP 71-72.

Once Trochez-Jimenez was made available to them, the King County detectives conducted a tape-recorded custodial interview at the Vancouver jail. 1RP 91; Ex. 43. They began by informing Trochez-Jimenez of his Miranda rights, with the help of a Spanish-speaking Canadian police officer and a form printed in Spanish. 1RP 94-95; 2RP 11-19, 33-34; Ex. 3; Ex. 43 at 2-4. Trochez-Jimenez appeared to understand his rights and he signed the form acknowledging this, as well as the waiver portion. 1RP 95-97; 2RP 16, 35-36; Ex. 3; Ex. 43 at 4-5. He never asked the detectives for a lawyer, and he never asserted his right to remain silent. 1RP 97; 2RP 17, 36.

In his statement to the detectives, Trochez-Jimenez admitted shooting his girlfriend's lover, Mario Batiz-Castillo. Ex. 43 at 12-15; CP 1. He said that, when he grabbed his gun and went outside to confront Batiz-Castillo, he was furious.<sup>9</sup> Ex. 43 at 29.

Trochez-Jimenez challenged the admissibility of his statement at his trial. He claimed that he did not understand his Miranda rights, and that he had asked the King County detectives

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<sup>9</sup> In his testimony at trial, Trochez-Jimenez claimed that the gun just happened to be in the pocket of the pants that he put on to go outside, and that he was actually trying to leave the area to avoid a confrontation; he claimed that he acted in self-defense in shooting Batiz-Castillo. 14RP 47-50; CP 97.

for a lawyer. 2RP 86-93. The trial court rejected these claims, finding that Trochez-Jimenez was not credible. 5RP 93 ("He lied to the police right up front in Vancouver and I think he felt very comfortable lying to me on the witness stand."); CP 82 ("The defendant lied during his testimony.").

As to the significance of his earlier request for counsel to the Canadian officer, the trial court noted that Trochez-Jimenez had been told specifically that he was under arrest for immigration violations, and it was "with regard to those issues that he was advised of his Charter rights and asserted his right to counsel." 5RP 96-97. The court found that the earlier assertion of the right to counsel in the Canadian investigation was not an assertion of the right to counsel under Miranda: "Nothing about the Miranda decision or its progeny requires suppression, because the defendant asserted a different right under a different document to an officer of a different jurisdiction than the United States." 5RP 97.

In finding Trochez-Jimenez's tape-recorded statement to the King County detectives admissible, the court concluded that he "did not invoke his right to counsel under the United States Constitution when, after being arrested in Canada by a Canadian law enforcement officer for a violation of Canadian immigration laws,

and after being advised of his Canadian 'Charter Rights', defendant answered yes when asked if he wanted to call a lawyer." CP 83.

Trochez-Jimenez's statement to the King County detectives was admitted at his trial. Ex. 43. The jury found him guilty of Murder in the Second Degree while armed with a firearm.<sup>10</sup> CP 133-34. Finding that Trochez-Jimenez had lied in support of his self-defense claim, and that he had killed Batiz-Castillo out of rage and jealousy and exhibited no remorse, the trial court imposed the high end of the standard range, 294 months. 19RP 29-33; CP 141, 143.

**C. SUMMARY OF ARGUMENT**

Under the rule announced in Edwards v. Arizona and Arizona v. Roberson, once a suspect has asked for an attorney, he may not be interrogated further until an attorney has been provided or the suspect himself initiates further contact with the police. The rule applies even if further interrogation is conducted by a different officer who knows nothing of the earlier invocation, and relates to a wholly separate criminal investigation.

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<sup>10</sup> He was also found guilty at a stipulated bench trial of Alien in Possession of a Firearm Without a License. 18RP 2-6, 10-13; CP 124-26, 135-37.

The premise of Trochez-Jimenez's argument is that his request for an attorney to Canadian authorities under the Canadian Charter, for purposes of the Canadian immigration violation, triggered the Fifth Amendment Edwards/Roberson rule as to the interrogation by King County detectives in the homicide investigation. He argues that statements to those detectives, given after full Miranda advisement and waiver, must be suppressed.

The fundamental problem with this argument is that Trochez-Jimenez *had* no Fifth Amendment right at the time of his request to Canadian police for an attorney. Thus, there was no "trigger," and subsequent interrogation after full Miranda advisement and waiver was not precluded by Edwards and Roberson.

Trochez-Jimenez has cited no case that supports extension of the Edwards/Roberson rule to an assertion of a right to counsel in a foreign jurisdiction, under a foreign document, in a foreign investigation. Federal and state courts that have addressed this issue have held that the rule does *not* apply in such situations.

Nor do policy considerations support Trochez-Jimenez's position. The Edwards/Roberson rule assumes the assertion of a common right under commonly-accepted rules and procedures, even where different United States jurisdictions are involved. The

logic of the rule does not apply to foreign jurisdictions, where the right to counsel may vary widely from the right under the Fifth Amendment, and where legal, cultural and language barriers may prevent the relatively seamless communication among police agencies that Roberson assumed.

**D. ARGUMENT**

1. THE TRIAL COURT PROPERLY ADMITTED TROCHEZ-JIMENEZ'S STATEMENT AT HIS TRIAL BECAUSE BEFORE GIVING THAT STATEMENT TO KING COUNTY DETECTIVES HE WAIVED HIS RIGHT TO COUNSEL UNDER THE FIFTH AMENDMENT.

Trochez-Jimenez challenges the trial court's legal conclusion that his request for a lawyer to Canadian police under the Canadian Charter in his immigration matter was not an invocation of his Fifth Amendment right to counsel in the King County murder investigation. Review of this conclusion of law is *de novo*.

See State v. Carneh, 153 Wn.2d 274, 281, 103 P.3d 743 (2004).

The right to be free from compelled self-incrimination is protected under both the United States Constitution and the Washington Constitution. U.S. Const. amend. V; Const. art. I, § 9. This Court interprets the two provisions equivalently. State v. Easter, 130 Wn.2d 228, 235, 922 P.2d 1285 (1996).

Prior to custodial interrogation, an accused must be informed of the right to remain silent and the right to counsel. Miranda v. Arizona, 384 U.S. 436, 478-79, 86 S. Ct. 1602, 16 L. Ed.2d 694 (1966). If the accused indicates that he wishes to remain silent, the interrogation must cease; if he requests counsel, the interrogation must cease until counsel is provided. Id. at 473-74. Unless the prosecution can demonstrate that these rights were safeguarded, no evidence obtained as a result of a custodial interrogation may be used against a defendant in a criminal trial. Id. at 479.

The Supreme Court further delineated the scope of Miranda rights in subsequent cases. Once an accused has invoked the right to have counsel present during custodial interrogation, valid waiver cannot be established by showing only that he responded to further police-initiated custodial interrogation, even if accompanied by repeated advisement of rights. Edwards v. Arizona, 451 U.S. 477, 484, 101 S. Ct. 1880, 68 L. Ed.2d 378 (1981). Once an accused has expressed a desire to deal with the police only through counsel, he is not subject to further police interrogation until counsel has been made available, or until he himself initiates further communication with the police. Id. at 484-85.

The rule announced in Edwards applies even if further interrogation occurs in the context of a separate investigation.<sup>11</sup> Arizona v. Roberson, 486 U.S. 675, 677-78, 683, 108 S. Ct. 2093, 100 L. Ed.2d 704 (1988). Nor does it matter that the second interrogation is conducted by a different officer who is unaware of the request for counsel; the rule will still apply. Id. at 687.

Some lower federal courts have held that statements obtained from foreign nationals during custodial interrogation in another country by United States law enforcement officers must be taken in conformance with Miranda before those statements may be used at a trial in the United States. United States v. Bin Laden, 132 F. Supp. 2d 168, 187 (S.D.N.Y. 2001); In re Terrorist Bombings of U.S. Embassies in E. Africa, 552 F.3d 177, 201 (2d Cir. 2008). See also United States v. Rommy, 506 F.3d 108, 131 (2d Cir. 2007) (observing that the parties did not dispute that Fifth Amendment protections apply to custodial interrogation of a foreign national outside the United States by agents of this country engaged in a criminal investigation), cert. denied, 552 U.S. 1260

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<sup>11</sup> By contrast, where a suspect, after advisement of rights, invokes the right to *remain silent*, subsequent interrogation as to a different crime, given after full advisement of rights and a suitable interval, is not precluded under Miranda. Michigan v. Mosley, 423 U.S. 96, 96 S. Ct. 321, 46 L. Ed.2d 313 (1975).

(2008); United States v. Hasan, 747 F. Supp. 2d 642, 657 (E.D. Va. 2010) (same). The United States Supreme Court has not yet ruled definitively on this specific issue. Id. at 657.

Assuming, for the sake of argument, that all the protections of Miranda applied to the interrogation of Trochez-Jimenez, a foreign national, by King County detectives in Vancouver, B.C.,<sup>12</sup> there was no violation here. The King County detectives read the Miranda warnings to Trochez-Jimenez, and he knowingly, voluntarily and intelligently waived his rights and answered the questions posed to him. CP 81, 83.

- a. Neither Federal Nor State Cases Support Extension Of The Edwards/Roberson Rule To This Context.

Trochez-Jimenez has not cited a single case that supports his argument that his invocation of the right to counsel under the Canadian Charter of Rights and Freedoms, to a Canadian police officer, in connection with an immigration violation in Canada, must be treated as an invocation of the Fifth Amendment right to counsel for purposes of a later interrogation by King County detectives in connection with a murder committed in the United States. In fact, there is authority to the contrary from both state and federal courts.

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<sup>12</sup> The Court of Appeals proceeded on this assumption. State v. Trochez-Jimenez, 173 Wn. App. 423, 429-30, 294 P.3d 783 (2013).

In a case with facts remarkably similar to this case, a suspect in a Florida homicide was arrested in Canada by a Canadian police officer for possession of a stolen credit card. Holland v. Florida, 813 So.2d 1007, 1008 (Fla. Dist. Ct. App.), review denied, 835 So.2d 266 (Fla. 2002). Holland was read his rights under the Canadian Charter. Id. He spoke briefly with an attorney, and subsequently told Canadian police that he had been advised not to speak to any law enforcement agents. Id. at 1009. The Canadian police accordingly did not interrogate him. Id.

The following day, two detectives from Florida arrived in Canada to question Holland. Id. Canadian police advised the detectives that they had read Holland his rights under the Canadian Charter, and that he had spoken with a Canadian attorney. Id. The Florida detectives introduced themselves to Holland, and read him his Miranda rights. Id. He agreed to answer their questions without an attorney present. Id. He confessed to the homicide, and was ultimately convicted of first-degree murder. Id.

Holland argued that his confession should be suppressed because he had previously invoked his right to counsel under the Canadian Charter. Id. He contended that by doing so he had invoked his Fifth Amendment right to counsel. Id. The Florida court disagreed, noting that, when Holland spoke with the Canadian attorney, he was being held only on the Canadian charge, and Canadian law enforcement agents had not interrogated him. Id. The court held that Holland could not have invoked Miranda rights prior to meeting with the Florida detectives, because custodial interrogation had not been imminent until that point. Id. at 1010.

The Florida court explicitly rejected the argument that an invocation of rights under the Canadian Charter was the equivalent of an invocation of Fifth Amendment rights:

We note Holland had been apprised of his rights under the Canadian Charter upon his arrest by the Canadian police. We reject Holland's argument that his Fifth Amendment right to counsel under the U.S. Constitution was invoked *qua* Canadian [sic] Charter, *i.e.*, that Holland's request to speak with an attorney after being apprised of his rights under the Canadian Charter constituted an invocation of the Fifth Amendment right to counsel. Canadian Charter warnings are given upon custody, whether or not interrogation is to ensue; whereas *Miranda* warnings

are triggered only by the imminence of custodial interrogation.

Id. at 1010 n.2.<sup>13</sup>

Situations analogous to Trochez-Jimenez's arise more commonly in the military courts.<sup>14</sup> In United States v. Coleman, 25 M.J. 679 (A.C.M.R. 1987), aff'd, 26 M.J. 451 (C.M.A. 1988), cert. denied, 488 U.S. 1035 (1989), a child's death in civilian housing in Germany was investigated by both the German police and the United States Army Criminal Investigation Command ("CID"). Id. at 682. After making an oral admission to German police, Coleman invoked his rights under German law to an attorney and to remain silent. Id. The German interrogation was terminated at that point. Id. at 683. Subsequently, the CID, with full knowledge of the

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<sup>13</sup> Trochez-Jimenez seizes on the difference noted in Holland – that the Canadian Charter rights are read upon arrest, whereas Miranda warnings are ordinarily read prior to custodial interrogation – as a *factual* difference that somehow makes Holland inapposite. Reply Brief of Appellant at 2-3. He argues that custodial interrogation was not *imminent* in Holland, but that he himself was interrogated by the Canadian police. But this factual distinction is questionable. It is likely that Holland's interrogation was imminent until he consulted with a lawyer and was advised not to speak with police. And it is far from clear that Trochez-Jimenez's interrogation was *imminent* when he was read his Charter rights upon arrest. See 2RP 52 (Canadian police contacted Trochez-Jimenez at 5:00 p.m.); 1RP 90 (Trochez-Jimenez was being interviewed by Canadian officials at about 10:00 – 10:30 p.m.). The difference in timing of the attachment of the rights illustrates a *legal* difference in the rights under the different documents, and supports the conclusion that invocation under one is not the equivalent of invocation under the other.

<sup>14</sup> The Edwards/Roberson rule applies in the military justice system. United States v. Coleman, 26 M.J. 451, 452, 453 (1988).

request for an attorney, secured a waiver of rights and obtained a written statement. Id. at 682.

Like Trochez-Jimenez, Coleman argued that interrogation by the CID was barred by Edwards v. Arizona. Id. The appellate court rejected Coleman's argument, concluding that "[a]s our law did not apply to the German action, the rule of *Edwards* had no trigger and could not attach to appellant's request for counsel made to the German police." Id. at 687. The court held that "the *Edwards* rule is not triggered by an invocation of the right to counsel before foreign officials in a foreign investigation."<sup>15</sup> Id.

In United States v. Vidal, 23 M.J. 319 (C.M.A.), cert. denied, 481 U.S. 1052 (1987), German police initiated a rape investigation that focused on two American soldiers. The two were transferred to a German police station, where Vidal was informed of his rights under German law to remain silent and to have the assistance of counsel. Id. at 321. Vidal asserted both rights. Id.

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<sup>15</sup> The lower court's decision in Coleman, issued on November 30, 1987, preceded the United States Supreme Court's decision in Roberson (June 15, 1988). However, the decision affirming the lower court was issued on September 26, 1988 and explicitly addressed Roberson, concluding that "we do not believe that *Edwards* or *Roberson* requires that a request for counsel made to foreign authorities applies to the initial interrogation by American authorities after such a request." Coleman, 26 M.J. at 453. Because U.S. military authorities are typically investigating the same crime as the foreign authorities, the specific rule announced in Roberson, which applies to a separate investigation, is not generally implicated.

When an American CID agent arrived at the German police station, he was not told that Vidal had asserted his right to counsel. Id. The CID agent advised Vidal of his right to remain silent and his right to counsel; Vidal waived these rights and made admissions. Id. at 321-22. The appellate court held that the requirements of Edwards v. Arizona are not triggered by a request for counsel made to a foreign official. Id. at 323.

A different court reached the same result in a case where American CID agents were actually present in the room (although not participating in the investigation) when a murder suspect declined to talk to German police after being advised of his rights under German law, and actually told the German police that he wanted a "stateside lawyer." United States v. Dock, 40 M.J. 112, 117-18 (C.M.A. 1994). When the German police subsequently allowed the CID agents to interview Dock, the CID agents advised him of his right to remain silent and his right to an attorney. Id. at 118. Dock waived his rights and confessed to the crime. Id.

Rejecting Dock's argument that his statement was taken in violation of Edwards, the appellate court explained:

[A]fter having clearly been turned over by the German authorities to the American authorities; having been apprised of his rights anew under American military

law; having been offered the right of counsel, *inter alia*; and having declined counsel and agreeing to talk with the American investigators, appellant cannot now disavow his waiver of his Fifth Amendment right to the presence of counsel.

Id. at 119.

Other courts have similarly declined to apply Edwards and Roberson to interrogations by foreign authorities. See United States v. Hinojosa, 33 M.J. 353 (C.M.A. 1991); United States v. Henderson, 52 M.J. 14 (C.A.A.F. 1999), cert. denied, 528 U.S. 1159 (2000).

The Second Circuit addressed an analogous argument in the context of the Sixth Amendment right to counsel. In United States v. Yousef, 327 F.3d 56, 139-41 (2d Cir.), cert. denied, 540 U.S. 933 (2003), the defendant contended that any Miranda waiver that he gave to United States officials was invalid because he had previously invoked his right to counsel during an extradition proceeding before Pakistani officials, which took place after he was indicted in the United States for the 1993 World Trade Center bombing. Rejecting this argument, the court explained:

Yousef does not allege that he ever asked United States officials for an attorney either before he provided a written waiver of his *Miranda* rights on board the plane that took him to the United States, or

at any time during his statement to FBI agents following that waiver.

We conclude that Yousef did not invoke his right to counsel before any United States official and, therefore, that the admission of his post-arrest statements, which were provided after he had been given full *Miranda* warnings and had signed a written waiver of his rights, did not violate his Sixth Amendment right to counsel.

Id. at 142. See United States v. Marzook, 435 F. Supp.2d 708, 759 (N.D. Ill. 2006) (agreeing with Yousef).

Thus, the weight of existing authority supports the State's position in this case, that Trochez-Jimenez's request for counsel to the Canadian police under the Canadian Charter in a Canadian immigration investigation did not "trigger" his Fifth Amendment right as to interrogation by King County detectives in this murder investigation. Both state and federal courts have declined to extend the rule of Edwards and Roberson to this situation. This Court should similarly decline to do so.

- b. Extension Of The Edwards/Roberson Rule To This Context Is Supported By Neither Logic Nor Sound Public Policy.

The fundamental problem with Trochez-Jimenez's argument is that, when he was questioned in Canada by Canadian authorities about a Canadian immigration violation, his Fifth Amendment right

to counsel simply did not apply. See United States v. Covington, 783 F.2d 1052, 1056 (9<sup>th</sup> Cir. 1985), cert. denied, 479 U.S. 831 (1986) (Miranda and Edwards do not apply where statements are obtained by foreign officers in a foreign country). None of the cases that he cites holds that invocation in a foreign investigation to a foreign police officer of the right to counsel under a foreign constitutional document triggers the Edwards/Roberson rule, such that a subsequent statement made to U. S. authorities after an otherwise valid waiver of the right to counsel must be suppressed.

Nor would such a result make sense. If the Fifth Amendment does not apply to questioning by Canadian authorities under the Charter of Rights and Freedoms, how can a request for counsel under the Charter be an invocation of the right to counsel under the Fifth Amendment?

Moreover, the “bright-line” Edwards/Roberson rule is based at least in part on the assumption that all of the police agencies are operating under the same rules – thus, an invocation of the right to counsel in one investigation is an invocation of that right for all investigations. Where, as in this case, that assumption does not hold, the “bright-line” rule does not further the underlying policy.

The right to counsel under the Canadian Charter is a case in point. At first glance, the right appears very similar to the Fifth Amendment right, but closer scrutiny reveals a critical difference. The Charter provides a right to “retain and instruct counsel in private, without delay.” Ex. 5. This right parallels the right under the Fifth Amendment to “speak to a lawyer before answering any question.” Ex. 43 at 3. The Fifth Amendment right to counsel, however, is more expansive than the Charter right, in that the Fifth Amendment right includes the right “to have a lawyer present during the questioning.” *Id.* The Charter says nothing about the latter right. Thus, how could invocation of the narrower right under the Charter trigger the broader Fifth Amendment right?

And what about the situation where the right to counsel under a foreign document is even *less* similar to the Fifth Amendment right? For example, what if the foreign jurisdiction provides a right to counsel solely for trial? Would a suspect’s stated desire to be represented at trial by counsel necessarily be presumed to be an invocation of a right to have counsel present during pretrial questioning? At what point should a court conclude that the right to counsel under the foreign document is so dissimilar to the Fifth Amendment right to counsel that it does *not* trigger the

Edwards/Roberson rule? This is surely beyond the area where a "bright-line rule" can rationally or effectively apply.

This Court should reject the invitation to extend the Edwards/Roberson rule to this case. Such an extension would be unprecedented. The trial court properly concluded that Trochez-Jimenez made a knowing, voluntary and intelligent waiver of his Fifth Amendment right to counsel when he spoke with King County detectives. His statement was properly admitted.

**E. CONCLUSION**

For all of the foregoing reasons, this Court should affirm the Court of Appeals' decision affirming Trochez-Jimenez's conviction for Murder in the Second Degree while armed with a firearm.

DATED this 18<sup>th</sup> day of September, 2013.

Respectfully submitted,

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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 **Jennifer J. Sweigert**, the attorney for the appellant, at **Nielsen, Broman & Koch, PLLC**, 1908 East Madison, Seattle, WA 98122, containing a copy of the **State's Supplemental Brief in STATE v. CESAR TROCHEZ-JIMENEZ**, Cause No. **88577-0**, in the Supreme Court of 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.



\_\_\_\_\_  
Name  
Done in Seattle, Washington

09-18-13  
Date

## OFFICE RECEPTIONIST, CLERK

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**To:** Ly, Bora  
**Cc:** Dwyer, Deborah; 'SweigertJ@nwattorney.net'; 'Patrick Mayovsky'  
**Subject:** RE: Cesar E. Trochez-Jimenez/ 88577-0

Rec'd 9-18-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

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**From:** Ly, Bora [<mailto:Bora.Ly@kingcounty.gov>]  
**Sent:** Wednesday, September 18, 2013 2:30 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** Dwyer, Deborah; 'SweigertJ@nwattorney.net'; 'Patrick Mayovsky'  
**Subject:** Cesar E. Trochez-Jimenez/ 88577-0

Dear Supreme Court Clerk:

Please find the attached State's Supplemental Brief, to be filed in the above-subject case.

Please let me know if you have problems opening the attachment.

Thank you,

Bora Ly  
Paralegal  
Criminal Division, Appellate Unit  
King County Prosecutor's Office  
W554 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104  
Phone: 206-296-9489  
Fax: 206-205-0924  
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For

Debbie Dwyer  
Senior Deputy Prosecuting Attorney  
Attorney for Respondent