

h/L

NO. 91577-6

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

DAVID EARL WOODLYN,

Appellant.

SUPPLEMENTAL BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. David Woodlyn deceived 76-year-old Dora Kjellerson into parting with blank checks, promising to mow her lawn for \$60. Instead, he cashed five checks in much greater amounts, totaling \$1745. He wrote the checks as payable to himself, he filled in the amounts, and he cashed them at two different banks over the course of just nine days. Was the evidence sufficient for a rational juror to conclude that Woodlyn committed theft by wrongfully obtaining the property of another?

2. When there is no evidence or argument as to an alternative means presented to the jury, should this Court conclude that reversal is unwarranted because a rational juror could not have relied on the unsupported alternative while rejecting a supported alternative?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

The State charged Woodlyn with second-degree theft with a vulnerable victim aggravating factor, alleging that he committed theft of money by three alternative means: wrongfully obtaining, exerting unauthorized control, and by color and aid of deception. CP 1. At trial, the jury was instructed on theft by two of the means: wrongfully obtaining and color and aid of deception. CP 72-73. The jury was instructed that it did not need to be unanimous as to whether Woodlyn

wrongfully obtained the property or whether he committed theft by deception. Id. The jury convicted Woodlyn as charged. CP 87-88.

On appeal, Woodlyn conceded that the evidence was sufficient to prove theft by deception. However, he alleged that there was insufficient evidence that he wrongfully obtained Kjellerson's property because the State did not prove that she had not consented to the taking of her property. Woodlyn argued that taking Kjellerson's money with consent but "under false pretenses" is not the legal equivalent to taking the money without consent. He argued that reversal was required because the reviewing court could not determine that the verdict was based solely on the theft by deception alternative. The State incorrectly conceded that the evidence was insufficient to prove theft by wrongfully obtaining, and argued that reversal was unwarranted because the evidence and argument was limited to the alternative means of theft by deception. The Court of Appeals accepted the State's concession, but concluded that reversal was unwarranted because it could be assured that the verdict was not based on the unsupported alternative means.

In his petition for review, Woodlyn argued that reversal is automatically required whenever there is insufficient evidence to support one or more of the alternative means presented to a jury. The State withdrew its concession that the evidence was insufficient to support a

conviction for theft by wrongfully obtaining. See State's Motion to Dismiss Review.

2. SUBSTANTIVE FACTS

In the summer of 2011, Kjellerson's family and friends had begun to notice that her mental state was declining. RP 479-80. Kjellerson's sister, Margaret Fennell, observed that Kjellerson forgot Fennell's name and did not know that she was her sister. Id. She also testified that Kjellerson would get lost during walks and could not remember where she lived. Id. Kjellerson's niece, Darice Pacholl, testified that her aunt became disoriented and did not remember how she ended up places, would forget the date, and would forget that certain people had passed away. RP 597-98. Another niece, Teresa Jones, lived with Kjellerson on and off that summer and noticed that Kjellerson was very confused, would do things like put a lit cigarette in the trash can, and forget the dinner on the hot stove. RP 499. Both nieces testified that Kjellerson became confused about the time of day and could not discern the day, month, or year. RP 499, 598.

On one occasion that summer, Jones saw Woodlyn walking down the street with Kjellerson. RP 500, 502. Woodlyn told Jones that he did yard work, and Jones offered him \$100 to mow the lawn and trim the trees at Kjellerson's house. RP 501. Jones was wholly dissatisfied with the "very

minimal” job Woodlyn did, and she neither saw him at the house nor asked him to do yard work at Kjellerson’s home again. RP 501-02, 511.

The rest of that summer, Jones observed that Kjellerson’s yard was “overgrown” and not maintained, with uncut grass and dandelions 6-7 inches high throughout the front and back yard. RP 504-06. Fennell never saw Woodlyn doing any yard work at the house that summer. RP 481-82. Kjellerson’s other niece, Pacholl, testified that although Kjellerson’s yard used to be beautifully maintained, that summer the grass was about 10-12 inches high and needed to be cut. RP 600.

Kjellerson banked at the Bank of America branch in White Center, which was located near her home. RP 605-06. She was a long-time client of the bank’s assistant manager, Cindy Cleary, who had worked at the White Center branch since 1998. RP 605-06. Kjellerson had come in to the bank regularly for the past thirteen years. RP 647. Cleary came to know Kjellerson’s handwriting well. RP 610, 648.

At the beginning of 2011, Cleary began having concerns about Kjellerson’s state of mind, and by the summer, it was clear that Kjellerson’s mental health was rapidly declining. RP 612, 634. Cleary testified that it was “very obvious over the past several months that it was getting difficult for [Kjellerson] to remember things.” RP 612. Kjellerson had always been “on top” of her banking, knew exactly how much money she had, and lived

very frugally. However, in the summer of 2011, she became confused and neither knew how much money she had nor why her balance was going down; she was unable to maintain her checkbook the way she had in the past. RP 613, 648.

Cleary testified that in either July or August of 2011, Woodlyn presented a check to her at the bank, drawn on Kjellerson's account, and made payable to himself in an amount less than \$100. RP 609-10. Cleary became concerned because Kjellerson's signature looked a bit "off," and she called Kjellerson. After speaking to Kjellerson, Cleary cashed the check and gave Woodlyn the money. RP 610-12.

Later, on August 27, 2011, Woodlyn came into the bank with Kjellerson, asking to withdraw money from Kjellerson's account. RP 612-13. Cleary noticed that Woodlyn "was doing the talking" for Kjellerson, so she asked him how much money they needed. RP 613. Woodlyn responded by asking how much money Kjellerson had. RP 614. Alarmed, Cleary informed Woodlyn that she was not going to give him Kjellerson's balance. RP 614. Woodlyn became agitated and moved as if to grab Kjellerson by the elbow and leave. Cleary took Kjellerson to a manager's office. RP 614-15. Woodlyn fled the bank. RP 617-19. When Cleary asked Kjellerson why she needed money that day, Kjellerson told her

that Woodlyn needed money to cut the grass. Kjellerson could not tell Cleary how much she had previously paid Woodlyn. RP 616.

King County Sheriff's Deputy McDonald responded and asked Kjellerson why she was at the bank that day. RP 686. She told him that Woodlyn needed money for mowing the grass. RP 687. When asked if she knew how much money she had given to Woodlyn during the month of August, Kjellerson said it was about \$60. RP 687, 695. McDonald took Kjellerson home, and noticed that the grass on the front, side, and back yard was "pretty high, about a foot, and it was just kind of overgrown" to the point where the grass had started to lay over. RP 688-90.

Within a few weeks, Kjellerson was evaluated by a trained geriatric mental health specialist, who concluded that Kjellerson was suffering from moderate to severe dementia, likely Alzheimer's disease. RP 524, 538, 541. According to the specialist, "[P]robably by about the second or third sentence [Kjellerson spoke], somebody would know something was wrong." RP 543.

Bank of America investigated Kjellerson's accounts and discovered that Woodlyn had cashed seven checks from Kjellerson's account between July 25, 2011, and August 12, 2011. RP 451-54, 465-66. All of the checks were made payable to Woodlyn. RP 465-66, 746-51.

The first check was dated July 22, 2011, but Woodlyn actually cashed it on July 25, 2011, at the White Center branch of Bank of America, for the amount of \$60. RP 453, 680, 746. Given that this was the only check for less than \$100 that Woodlyn cashed at the White Center bank, this was likely the occasion where Cleary called Kjellerson to confirm. RP 609-12. The very next day – July 26, 2011, Woodlyn wrote himself another \$60 check from Kjellerson’s account, but this time, he went to a Wells Fargo Bank to cash it. RP 681, 747-48. Woodlyn cashed the other five checks in rapid succession on August 3, 2011 (\$260), August 4, 2011 (\$260), August 8, 2011 (\$360), August 11, 2011 (\$440), and August 12, 2011 (\$425), at either the White Center or Westwood branches of Bank of America. RP 453-56, 681-83, 748-51.

Woodlyn testified at trial that he had mowed Kjellerson’s yard three or four times, “maybe even five.” RP 722. He said that he charged her \$60 to mow the lawn. RP 736. He insisted that she always paid him in cash. RP 720, 737, 739-40. He admitted to cashing all seven of the checks, but claimed he had done it as a “favor” for Kjellerson, returning to her home each time and giving her the cash. RP 746-51, 752-54. Woodlyn stated that Kjellerson had signed her name on the checks, but that he had filled in his name and the amounts payable on each of them. RP 746-51, 780. Woodlyn denied asking bank manager Cleary how much money Kjellerson had in her

account, but admitted leaving the bank because Cleary thought he was “doing something wrong.” RP 724, 758. Woodlyn also admitted that he never went back to Kjellerson’s house after that. RP 724.

C. ARGUMENT

1. SUFFICIENT EVIDENCE SUPPORTED BOTH ALTERNATIVE MEANS OF THEFT PRESENTED TO THE JURY.

In Washington, criminal defendants have the right to a unanimous jury verdict. WASH. CONST. art. I, § 21; State v. Stephens, 93 Wn.2d 186, 190, 607 P.2d 304 (1980). Where a single offense is committed in more than one way, jury unanimity as to the means relied on for conviction is unnecessary. If sufficient evidence supports each of the alternative means presented to the jury, the conviction will be affirmed. If there is not sufficient evidence of one or more alternatives, reversal may be required. State v. Arndt, 87 Wn.2d 374, 376, 553 P.2d 1328 (1976). Over the years, this Court has held steadfast to this conclusion. State v. Franco, 96 Wn.2d 816, 823, 639 P.2d 1320 (1982); State v. Whitney, 108 Wn.2d 506, 511, 739 P.2d 1150 (1987); State v. Kitchen, 110 Wn.2d 403, 410, 756 P.2d 105 (1988); In re Pers. Restraint of Jeffries, 110 Wn.2d 326, 338, 752 P.2d 1338 (1988); State v. Smith, 159 Wn.2d 778, 154 P.3d 873 (2007); State v. Peterson, 168 Wn.2d 763, 769, 230 P.3d 588 (2010); State v. Owens,

180 Wn.2d 90, 95, 323 P.3d 1030 (2014); State v. Sandholm, 184 Wn.2d 726, 732, 364 P.3d 87 (2015).

Woodlyn alleges that reversal is required because the State produced insufficient evidence of theft by wrongfully obtaining. Woodlyn is wrong. A rational juror could find that Woodlyn both used deception and wrongfully obtained more than \$750 from Kjellerson. Because sufficient evidence supported both means presented to the jury, no error occurred.

A person commits theft by “wrongfully obtaining” when he takes the property of another with the intent to deprive. RCW 9A.56.010(22)(a); CP 72-75. The simplest example of this would be if Defendant picked up Victim’s iPhone from the table next to her and walked away with it, not intending to return. However, theft by wrongfully obtaining would also occur if Defendant asked Victim to use her iPhone to make a call, and after Victim agreed, Defendant walked away with it instead. See State v. Clark, 96 Wn.2d 686, 687-91, 638 P.2d 572 (1982) (exceeding the scope of permission given to use an item can constitute theft). In this scenario, Defendant wrongfully obtained Victim’s iPhone even though she handed it to him. See State v. Smith, 115 Wn.2d 434, 441, 798 P.2d 1146 (1990) (a defendant may “wrongfully obtain” property that is voluntarily given to him).

However, Defendant might *also* be guilty of theft by deception, if he obtained the phone through a pretense of making a call.¹ “By color or aid of deception means that the deception operated to bring about the obtaining of the property or services. It is not necessary that deception be the sole means of obtaining the property or services.” RCW 9A.56.010(4).

Woodlyn agrees with this analysis. He describes non-consent (and thus theft by taking) as occurring when the accused “wrongfully assumes ownership” of the property. But if Victim owes Defendant \$60, gives him a blank check and tells him to fill it in for \$60 in satisfaction of her obligation, but instead Defendant writes and cashes the check for \$500, Defendant has wrongfully obtained \$440 from Victim. At the point in time that Defendant wrote and cashed the check, or “assumed ownership” of Victim’s \$440, he did not have her consent to take that amount, and his

¹ This Court has often cited State v. Linehan, 147 Wn.2d 638, 56 P.3d 542 (2002), for the conclusion that theft by wrongfully obtaining and theft by deception are alternative means. See e.g., Peterson, 168 Wn.2d at 769. However, Linehan did not specifically address that question, and more recently, in Owens, 180 Wn.2d at 97, and Sandholm, 184 Wn.2d at 734, this Court has clarified that an alternative means analysis focuses on the criminal conduct involved, and the underlying acts must vary significantly to comprise alternative means. There is often significant overlap between conduct constituting theft by wrongfully obtaining and conduct constituting theft by deception. What if, in the above hypothetical, Defendant intended to only borrow the phone when he asked Victim to use it, but after she gave it to him he formulated the intent to deprive and walked off with it? Because he originally intended to simply borrow the phone, he did not use deception to obtain it. However, he has obviously taken it with the intent to deprive. Thus, what differentiates a theft by wrongfully obtaining and a theft by deception may often be the precise timing of the defendant’s formation of intent, which the State would be unable to prove.

intent was to deprive her of the money; thus he committed theft by wrongfully obtaining.

Woodlyn wrongfully obtained more than \$750 of Kjellerson's money when he wrote and cashed checks for amounts she did not authorize. Kjellerson herself was not required to testify² because other evidence established that Woodlyn did not have her consent to fill out and cash the checks for the amounts that he did. See State v. Wong Quong, 27 Wash. 93, 94, 67 P. 355 (1901) (owner's testimony is not required to establish non-consent; circumstances of the case may be sufficient).

The evidence presented to the jury was that Woodlyn charged Kjellerson \$60 to mow her lawn. RP 736, 758. Bank manager Cleary allowed Woodlyn to cash a \$60 check on July 25, 2011, after talking to Kjellerson on the phone. RP 453, 609-12, 680-81, 746-47. Kjellerson thought she had given Woodlyn \$60 in August for mowing her lawn. RP 687, 695. There is no evidence that Kjellerson agreed to give Woodlyn \$260, \$260, \$360, \$440, and \$425 (the amount of the last five checks) between August 3 and 12, 2011, for lawn care or for anything else. In fact, Woodlyn himself dispelled any such notion at trial. He denied that the checks were payment for anything, claimed that he did not keep any of

² Kjellerson was not called to testify due to her mental incompetency at the time of trial. RP 365-366, 523-24, 538, 541.

the money from the checks, and asserted that he merely cashed them as a favor for Kjellerson, returning the money directly to her. RP 746-52.

The jury rejected Woodlyn's version of events for good reason. Woodlyn claimed that Kjellerson asked him to cash the checks for her on five separate occasions over a period of only nine days – August 3, 4, 8, 11, and 12. However, he had no reasonable explanation for why he went to a virtual stranger's house on five out of nine days for no apparent reason other than to do her a favor. He offered no explanation for why her yard would require such frequent attention. It is not plausible that an elderly woman who lived a frugal lifestyle would need that much cash over such a short period of time. And despite supposedly bringing the cash to her, Woodlyn contradictorily stated that Kjellerson sometimes had no money to pay him to mow the lawn. RP 752-55, 760-61. He denied Cleary's testimony that he asked how much money Kjellerson had in her account, but he admitted that he left the bank because Cleary suspected him of stealing from Kjellerson. RP 724, 758.

This Court does not weigh evidence. State v. Bauman, 77 Wn.2d 938, 942, 468 P.2d 684 (1970). "Circumstantial evidence and direct evidence are equally reliable" in determining the sufficiency of the evidence. State v. Kintz, 169 Wn.2d 537, 551, 238 P.3d 470 (2010) (quoting State v. Thomas, 150 Wn.2d 821, 874, 83 P.3d 970 (2004)). The

jury was free to reject Woodlyn's version of events and conclude that he preyed on an elderly woman who was significantly mentally incapacitated, and that he wrongfully took more than \$750 from her without her consent. Bauman, 77 Wn.2d at 941-42.

Woodlyn's argument – that if Kjellerson voluntarily gave him the checks, she necessarily gave him whatever amount of money he ultimately cashed them for – is unreasonable. And even if the jury *could* interpret the evidence in such a manner, it was not required to. There was evidence by which a rational juror could infer beyond a reasonable doubt that Woodlyn wrongfully obtained Kjellerson's money by writing and cashing checks in unauthorized amounts. "When the sufficiency of the evidence is challenged in a criminal case, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant." Kintz, 169 Wn.2d at 551 (quoting State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992)).

Although Woodlyn argues that theft by deception and theft by wrongfully obtaining require such distinct acts (non-consent versus consent via fraud) that a defendant's conduct in a single count of theft can never constitute both, he is wrong. While there are certainly factual scenarios where a defendant's charged conduct will not meet both theft alternatives, there are numerous factual situations where it will.

For example, in Smith, this Court held that the State sufficiently proved the non-consent element of theft by “wrongfully obtaining” despite the software company’s act of voluntarily delivering the property to Smith. 115 Wn.2d at 441. However, the court also found sufficient evidence that Smith committed theft by deception when he convinced the company to send him the software “cash on delivery,” by misrepresenting himself to be a college professor, and “paying” for the software with a check that he later stopped payment on. Id. at 435-36, 441. Smith tricked the company into mailing him software with his promise to pay, did not pay for it, copied it, and then mailed it back. Noting that the State prosecuted Smith for theft based on the manner in which he obtained the software (not the fact that he copied it), the court determined that his acts constituted both theft by deception and theft by wrongfully obtaining. Id. at 440-41.

Likewise, in this case, a rational juror could easily conclude that Woodlyn committed either or both alternative means of theft when he deceived Kjellerson into thinking he would mow her lawn for \$60, accepted her checks, but then filled them in and cashed them for unauthorized amounts greater than \$60. Even if Kjellerson gave Woodlyn the signed checks believing that he would mow her lawn for \$60, a rational juror could easily conclude that Kjellerson did not consent to

Woodlyn's writing and cashing the checks for the amounts that he did.

Sufficient evidence supported both alternative means of theft and

Woodlyn's conviction must be affirmed.

2. WHERE THERE IS INSUFFICIENT EVIDENCE OF ONE OR MORE ALTERNATIVE MEANS, REVERSAL IS UNNECESSARY WHEN THERE IS NO PLAUSIBLE BASIS FOR A RATIONAL JUROR TO HAVE ACCEPTED A WHOLLY UNSUPPORTED MEANS WHILE REJECTING ALL SUPPORTED MEANS.

Here, the evidence was sufficient as to both means presented to the jury. However, because the State erroneously conceded insufficient evidence in the Court of Appeals, it is likely that this Court accepted review to determine whether and under what circumstances reversal is required in the absence of sufficient evidence of one or more alternative means. This Court should take the opportunity to clarify the standard for reversal when the evidentiary basis for one or more alternatives is lacking.

Woodlyn argues that a defendant has a constitutional right to unanimity as to the alternative means relied on for conviction. He asserts that the failure to instruct the jury on the requirement of unanimity as to means (or to require express unanimity as to means) necessitates reversal unless there is sufficient evidence to support each alternative presented to the jury. This Court's precedent cannot be read in such a manner. If

unanimity as to means is required, but the jury is not so instructed and does not so expressly state, the presence of sufficient evidence of each means would not cure the “error.” In other words, there is no logical basis upon which to infer that the jury was unanimous as to means simply because sufficient evidence supports each alternative.

Rather, forty years of precedent from this Court dictates that the right to unanimity extends to the charged offense, not the individual means of committing the single offense. *E.g.*, Arndt, 87 Wn.2d at 376-78; Franco, 96 Wn.2d at 823; Whitney, 108 Wn.2d at 510; Kitchen, 110 Wn.2d at 410; Smith, 159 Wn.2d at 778, 783; Peterson, 168 Wn.2d at 769. As such, Washington juries have long been properly instructed that they need not be unanimous as to means and no such expression of unanimity is required. *See* WPIC 70.06; CP 72-73.

However, if one or more of the alternative means submitted to the jury is not supported by sufficient evidence, a potential problem arises. If there is the possibility that one or more of the jurors based their verdict on an unsupported and thereby invalid means, the court cannot be certain that the jury unanimously based the conviction on sufficient evidence.³ *See* Smith, 159 Wn.2d at 783 (no right to a unanimous jury determination as to the alleged means used to carry out the charged crime, but in order to

³ Because one or more jurors may have relied on an unsupported means, the error could also be framed as one of insufficient evidence.

protect the right to a unanimous verdict on the charged crime, substantial evidence of each alternative must be presented). But when the reviewing court can be sure that the verdict was unanimously based on a properly-supported means, the absence of sufficient evidence for another presented alternative does not warrant reversal.

In State v. Ortega-Martinez, 124 Wn.2d 702, 706-08, 881 P.2d 231 (1994), this Court followed the rule set forth in Arndt and affirmed the defendant's conviction, finding that sufficient evidence supported both alternative means presented to the jury. However, the court misstated the rule in a manner that has caused confusion and led Woodlyn and others to erroneously argue that unanimity as to means is always required: "If the evidence is sufficient to support each of the alternative means submitted to the jury, a particularized expression of unanimity as to the means by which the defendant committed the crime is unnecessary to affirm a conviction *because we infer that the jury rested its decision on a unanimous finding as to the means.*" 124 Wn.2d at 707-08 (emphasis added).

For the reasons outlined above, no such inference can logically be drawn, and this language in Ortega-Martinez is incorrect. Unanimity as to means is not constitutionally required, and so long as each means is factually supported, there is no error. If one of the means is not factually

supported, then reversal is required if it is possible that one or more jurors based its verdict on an insufficiently-supported means. Thus, the language in Ortega-Martinez that implies unanimity as to alternative means is required and that such unanimity can be inferred when there is sufficient evidence of each alternative should be disavowed.

This Court should reject Woodlyn's claim that reversal is automatically required when one or more alternative means is not supported by sufficient evidence.⁴ Rather, this Court should conclude that reversal is unnecessary *if there is no plausible basis for a rational juror to have accepted the unsupported means while rejecting all properly supported means.* See State v. Bonds, 98 Wn.2d 1, 17-18, 653 P.2d 1024 (1982) (constitutionally deficient instruction that allowed jury to rely on unsupported alternative means harmless when appellate court could "conclude confidently that the erroneous instruction in no way affected the outcome of the case."); State v. Wright, 165 Wn.2d 783, 802 n.12, 203 P.3d 1027 (2009) (reversal required if it is "impossible to rule out the possibility the jury relied on a charge unsupported by sufficient evidence." (emphasis in original)).

⁴ The court should not submit an alternative theory of guilt to the jury that is not supported by sufficient evidence. See Note on Use to WPIC 70.06 ("Care must be taken to limit the alternatives to those that were included in the charging document and are supported by sufficient evidence.") However, there are undoubtedly occasions when such an instruction is mistakenly provided to the jury.

Where there is absolutely no evidence or argument presented of an alternative, there is no reason to believe that any rational juror relied on that means of committing the offense while rejecting the properly supported means. See State v. Jones, 96 Hawai'i 161, 181, 29 P.3d 351 (2001) (reversal unnecessary where there is no reasonable possibility that the jury convicted based on an unsupported alternative means; for example, when "there is overwhelming evidence of one theory and absolutely no argument or evidence presented on another[.]"). Reversing for errors that do not call into question the fundamental fairness of the trial or affect the outcome in any manner causes unnecessary retrials along with their associated costs, encourages abuse of the judicial process, and subjects the system to ridicule. State v. Coristine, 177 Wn.2d 370, 388, 300 P.3d 400 (2013) (Gonzalez, J., dissenting) (citing Delaware v. Van Arsdall, 475 U.S. 673, 681, 106 S. Ct. 1431, 89 L. Ed. 2d 674 (1986)).

In sum, this Court should articulate that in cases where an alternative means presented to the jury is not only insufficient, but wholly unsupported and not argued, reversal is unnecessary because there is no plausible basis for a rational juror to have accepted the wholly unsupported means while rejecting all properly supported means.

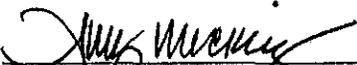
D. CONCLUSION

Sufficient evidence was presented from which the jury could logically and reasonably conclude that Woodlyn wrongfully took more than \$750 from Kjellerson. The evidence properly supported both alternative means presented, and Woodlyn's conviction should be affirmed.

DATED this 30th day of September, 2016.

Respectfully submitted,

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Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to the attorney for the appellant, Maureen Cyr, at maureen@washapp.org containing a copy of the State's SUPPLEMENTAL BRIEF OF RESPONDENT in STATE v. DAVID EARL WOODLYN, Cause No. 91577-6, 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

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