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SUPREME COURT No. 97150-1
COA No. 50299-2-II
Cowlitz Co. Superior Court No. 16-1-00217-7

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

KENNETH CHANCE BROOKS

Petitioner.

SUPPLEMENTAL RESPONSE TO PETITION FOR REVIEW

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I. ISSUES PRESENTED

1. **Did the trial court abuse its discretion by permitting the date range in the information to be amended after Brooks testified that he molested C.H. in May rather than January of 2014?**

2. **Was the claimed error harmless when the original date included the phrase "on or about," the date was not a material element of the crime, and Brooks admitted to committing the crime alleged during direct examination?**

II. STATEMENT OF THE CASE

C.H. was born on November 4, 1998. RP1 47.[1] In 2014, C.H. was 15-years-old until her birthday in November, when she turned 16. RP1 48. In 2014, C.H. lived with her mother and her sister in an apartment on 42nd Avenue in Longview. RP1 49-50. C.H.'s brother was six years older than her. RP1 50. Although C.H.'s brother did not live with her, he would come over to the apartment frequently. RP1 50.

C.H.'s brother's best friend was Kenneth Brooks. RP1 51. Brooks was eight years older than C.H. RP1 52. In 2014, when C.H. was 15, Brooks was 23. RP1 52. C.H. had known Brooks since she was 9. RP1 51. C.H. considered Brooks to be like a brother to her. RP1 53.

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[1] The verbatim report of proceedings provided by Brooks contained two volumes. The first volume includes the first day of trial, February 22, 2017. The second volume includes the second day of trial, February 23, 2017. The first volume will be referred to as "RP1," and the second volume will be referred to as "RP2."

In January of 2014, Brooks was living in California, but came to visit both C.H.'s family and his own. RP1 53. Sometimes Brooks would stay at C.H.'s apartment. RP1 53. During this time, Brooks and C.H. would watch Netflix alone together in the living room. RP1 54. While watching Netflix with C.H., Brooks would cuddle with her. RP1 55.

One evening, Brooks and C.H. watched Netflix while lying on the couch together. RP1 55. Both were laying on their sides, with C.H. laying in front of Brooks. RP1 55. While they were laying together, Brooks reached into C.H.'s shirt and touched her breast. RP1 56. After touching C.H., Brooks began to rub her breast. RP1 56. C.H. became frightened and stiffened up. RP1 56. Brooks continued to rub C.H.'s breast for about five minutes. RP1 56. C.H. did not reciprocate. RP1 56. Eventually, Brooks stopped. RP1 57.

C.H. was upset. RP1 57. Brooks told C.H. it would never happen again, and that he did not want her to tell her mother. RP1 57. Two days later, C.H. told her mother what had happened. RP1 57. However, C.H.'s mother did not contact the police. RP1 57. Brooks returned to California. RP1 57.

In the summer of 2014, Brooks returned to visit with his girlfriend from California, and they stayed with C.H.'s family. RP1 58. Brooks and his girlfriend slept in C.H.'s room on her bed, and C.H. slept on the

couch in the living room. RP1 59. Eventually, Brooks' girlfriend left and Brooks continued to stay at C.H.'s apartment. RP1 60. After Brooks' girlfriend left, he began sleeping on the living room couch, and C.H. returned to sleeping in her bed. RP1 60.

On the evening of August 16, 2014, C.H, her sister, and Brooks were at home, downstairs. RP1 61. C.H.'s mother was upstairs. RP1 61. C.H., her sister, and Brooks played Monopoly while drinking beer and vodka. RP1 62. After Monopoly, they played another "drinking game" with cards. RP1 62. They played games and drank for four to six hours. RP1 63. They continued drinking until after midnight, into the morning of August 17, 2014. RP1 63. C.H., who was 5'1½" and weighed around 80 pounds, was intoxicated. RP1 64. C.H. remembered sitting in the kitchen, then "everything went black." RP1 65.

C.H. woke up gasping and naked in the shower. RP1 65. C.H. was in a fetal position in the bathtub with water running on her from the showerhead above. RP1 65-66. C.H. was cold and shaking. RP1 66. Brooks turned the water off and carried C.H. from the bathtub. RP1 66. Brooks placed C.H. on her bed. RP1 67. The bedding to C.H.'s bed had been removed, and a sleeping bag was placed on it. RP1 67. Brooks told C.H. she had "puked up all over" her bed and herself. RP1 67. Brooks took C.H.'s boxer shorts and a tie-dye shirt from her pajama drawer and

dressed her in them. RP1 67. C.H. had worn these boxers since the second grade. RP1 68.

C.H. could not move and was going black. RP1 68. Brooks told C.H. he had "fingered" her and that she was "wet" and "moaning loudly." RP1 68-69. Brooks removed C.H.'s boxers and shirt. RP1 69. Brooks licked C.H.'s vagina. RP1 69. Brooks obtained a condom, then inserted his penis into C.H.'s vagina and had sex with her. RP1 69. Brooks ejaculated into C.H. RP1 70. C.H. fell asleep. RP1 70.

C.H. woke and noticed her clothes were gone. RP1 70. Brooks told C.H. she had a "tight pussy." RP1 70. C.H. fell back to sleep. RP1 70. When she woke again Brooks was gone. RP1 71. C.H. was still intoxicated and vomited until 2:00 that afternoon. RP1 71-72. C.H. told her sister what had happened. RP1 72. The police were notified. RP1 72. The police came, and C.H. provided them with the boxers, tie-dye shirt, and sleeping bag. RP1 72.

C.H.'s brother confronted Brooks on August 17, 2014. RP1 102-03. Brooks told C.H.'s brother he had touched C.H. outside of her pants. RP1 103. C.H.'s brother then "beat him up." RP1 103. On August 17, 2014, Brooks called C.H.'s mother and left a voicemail stating he would tell her what happened, and he would apologize. RP1 114-15. Brooks returned to California. RP2 74.

The right hem in the crotch region of the boxers was tested at the Washington State Crime Laboratory and found to contain both semen and human amylase—which is usually associated with saliva. RP 2 33. In the location where these human fluids were found was a mixture of DNA matching Brooks and C.H. RP2 39. Brooks was charged with rape of a child in the third degree for raping C.H. on or about August 17, 2014, and child molestation in the third degree for molesting C.H. at a time on or about or between January 1, 2014 and January 31, 2014. CP 1. On February 22, 2017, the case proceeded to trial. RP1 4.

At trial, after the State rested, Brooks testified. RP2 51. Brooks testified that on occasions in 2014, when he would visit from San Francisco, he would stay at C.H.'s apartment on 42nd avenue. RP2 54. Brooks said that he could not say whether he was in Washington in January of 2014, but knew he was in Washington in May of 2014. RP2 54. Brooks testified that while he and C.H. were at her apartment on 42nd Avenue watching a movie, he touched C.H.'s breasts inappropriately with his hand. RP2 54, 56. Brooks said this was the first and only time that he touched C.H. inappropriately. RP2 57. Brooks believed he touched C.H. in May because he claimed this was when he had sent a text message apologizing to C.H. RP2 56-57.

Brooks also testified that he drank with C.H. and her sister on the night of August 16, 2014, after playing board games. RP2 58-59. Brooks testified that C.H. was intoxicated. RP2 59. Brooks said that C.H. was kind of passing out, so he took her upstairs to her room so she could go to bed. RP2 60. Brooks said C.H. became ill in her bed, and because he "didn't want her sleeping in puke," he took her to the bathroom. RP2 60. Brooks testified that he carried C.H. to the bathroom, and then removed her clothes and put her in the shower. RP2 61. Brooks testified that he removed the bedding from C.H.'s bed, laid a sleeping bag on it, and then got C.H. a tie-dye shirt and traditional women's underwear out of her drawer. RP2 63-64. Brooks testified that he helped C.H. out of the shower and helped her get dressed. RP2 63-64. Brooks said he then took C.H. to her room and laid her down. RP2 64. Brooks denied having sex with C.H. RP2 68.

Although the boxers were obviously too small for him to wear, Brooks claimed they were his. RP2 65, 81-82. Brooks claimed he had gained 60 pounds since August of 2014, and that even at the time the boxers had been tight on him, causing him to have to pull them down to avoid cutting off his circulation. RP2 65-66.

After Brooks testified, the defense rested. RP2 83. Prior to instructing the jury, the State moved to amend the information, expanding

the date range on the child molestation in the third degree charge. RP2 84-85. Brooks objected, but provided no basis for his objection. RP2 88. The court granted the motion to amend the information. RP2 88. The amended information provided a date range of on or about or between January 1, 2014 and May 31, 2014. CP 8; RP2 85.

In closing argument, Brooks' attorney agreed that the State had proved beyond a reasonable doubt that Brooks was guilty of child molestation in the third degree. RP2 123-24. Brooks' attorney argued that Brooks had admitted to this crime and apologized for it. RP2 123-24. Brooks' attorney contrasted his admission to molesting C.H. with his denial of sexual intercourse to support his argument that the State had not proved the rape beyond a reasonable doubt. RP2 132. The jury found Brooks guilty of both rape of a child in the third degree and child molestation in the third degree. RP2 144-45.

Brooks appealed, arguing the trial court abused its discretion by allowing the amendment. Brooks claimed the amendment caused him to lose the opportunity to adjust his defense strategy, claiming if he had known the State would amended the date range he might have decided not to testify. Opening Br. of Appellant at 7-8. Brooks argued the cases the trial court relied on were distinguishable because they did not involve a claim of alibi, using bold type to emphasize his point. Opening Br. of

Appellant at 8-13. Brooks expressly argued: "This case is very different from *Goss*, Here, Brooks **did** assert an alibi[.]" Opening Br. of Appellant at 9 (bold emphasis in original). Brooks also argued: "Most significantly, Brooks **did** present an alibi and testified that the incident did not occur during the original charging period." Opening Br. of Appellant at 11 (bold emphasis in original).

The State responded by pointing out that Brooks had not asserted an alibi when he admitted to molesting C.H. Respondent's Br. at 14-20. Despite having claimed the most significant fact distinguishing his case was asserting an alibi defense, in his reply brief Brooks backed off his earlier claim stating, "[a]libi is not the issue[,]" and labeled the State's argument regarding his lack of having actually asserted an alibi a "straw man." Reply Br. of Appellant at 7.

The Court of Appeals affirmed Brooks' conviction, finding that the trial court did not abuse its discretion in allowing the amendment to the date range. Slip Opinion at 11.

III. ARGUMENT

A. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY PERMITTING THE INFORMATION TO BE AMENDED AFTER BROOKS ADMITTED TO MOLESTING C.H.

After Brooks testified that he molested C.H. as she had described, but suggested it occurred at a later date than she testified, the court did not abuse its discretion in permitting the information to be amended. "[A]n amendment of the date is a matter of form rather than substance, and should be allowed absent an alibi defense or a showing of other substantial prejudice to the defendant." *State v. DeBolt*, 61 Wn. App. 58, 62, 808 P.2d 794 (1991) (motion to amend permitted after the defendant had testified). Brooks maintains that he suffered substantial prejudice because, had he known that the date range would be expanded, he might have chosen not to testify that he had molested C.H. Brooks' claim rests on the assumption that admitting to a crime while maintaining it occurred on a different date amounts to a defense to that crime. It does not. Because the date was not a material element of the crime, Brooks' decision to admit to committing the crime on a different date was not a defense. Because his admission to molesting C.H. was not a defense to that crime, the amendment did not cause him any prejudice.

CrR 2.1(d) states: "The court may permit any information or bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced." A trial court's decision regarding a motion to amend an information is reviewed for abuse of discretion. *State v. Brett*, 126 Wn.2d 136, 155, 892 P.2d 29

(1995). "A defendant cannot claim error from the amendment of an information unless he can show he was prejudiced thereby." *State v. Brown*, 74 Wn.2d 799, 801, 447 P.2d 82 (1968). "The defendant has the burden of showing prejudice." *State v. Statler*, 160 Wn. App. 622, 640, 248 P.3d 165 (2011) (citing *Brown*, 74 Wn.2d at 801).

"Cases involving the amendment of the charging date in an information have held that the date is usually not a material element of the crime." *DeBolt*, 61 Wn.App. at 61-62. When an amendment of a date is not a material part of the criminal charge, then the rule from *State v. Pelkey*, 109 Wn.2d, 484, 491, 745 P.2d 854 (1987), requiring that an information not be amended after the State has rested, does not apply. *See DeBolt*, 61 Wn. App. at 62 ("Since the date here was not a material part of the 'criminal charge', this case falls outside the ambit of *Pelkey*."). "[T]he allegation of time in an indictment or information is immaterial other than it must be shown . . . that the right to prosecute for the crime charged is not barred by the statute of limitations." *State v. Osborne*, 39 Wash. 548, 551, 81 P. 1096 (1905). "[W]here the information alleges that an offense occurred 'on or about' a certain date, the defendant is deemed to be on notice that the charge is not limited to a specific date." *Statler*, 160 Wn. App at 640-41 (quoting *State v. Bergin*, 214 Conn. 657, 574 A.2d 164, 173 (1990).

With regard to crimes involving the sexual abuse of children, the precise date is not a material part of a criminal charge because "[c]hildren often cannot remember the exact date of an event, and in the cases of sexual abuse, they may repress memory of that date." *DeBolt*, 61 Wn. App. at 62. If no alibi is claimed, a change to an information is immaterial when the elements remain the same before and after amendment, and only the date has changed.[2] *State v. Allyn*, 40 Wn. App. 27, 35, 696 P.2d 45 (1985). Further, "[t]ime is not the essence of sexual assault charges, and it does not become an element of an offense merely because the defendant pleads an alibi defense." *State v. Hayes*, 81 Wn. App. 425, 441, 914 P.2d 788 (1996).

"An alibi defense denies that the defendant committed the crime." *State v. Riker*, 123 Wn.2d 351, 367, 869 P.2d 43 (1994).[3] It follows that unless one is claiming both to have not been present and to have not committed the crime, one is not asserting an alibi defense.[4] An alibi defense has two components: (1) that the defendant was not present at the scene of the crime, and (2) that the defendant did not commit the charged crime. *See Duckett v. Godinez*, 67 F.3d 734, 743 (9th Cir. 1995)

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[2] *See also*, *State v. Goss*, 189 Wn. App. 571, 576, 358 P.3d 436 (2015); *Debolt*, 61 Wn. App. at 62; *State v. Forler*, 38 Wn.2d 39, 42, 227 P.2d 727 (1951).

[3] The *Riker* Court was concerned with contrasting the defenses of alibi and duress; while an alibi denies the defendant committed the crime, duress admits the defendant committed the unlawful act but pleads an excuse for doing so. *Id.* at 367-68.

[4] Alibi is Latin for "elsewhere." BLACK'S LAW DICTIONARY 72 (7th ed. 1990).

(reasoning that Duckett's alibi defense was designed to rebut the prosecution's argument "that Duckett was present at the scene of the crime and committed the charged acts"); *see also State v. Johnson*, 19 Wn. App. 200, 205, 574 P.2d 741 (1978) ("[B]y asserting that he was at another place at the time when the alleged crime was committed, the defendant is denying by necessary implication, if not expressly, the allegations set forth in the charge.").

Here, the Court of Appeals correctly found the trial court did not abuse its discretion in granting the motion to amend the information because Brooks did not suffer any prejudice. Prior to Brooks deciding to testify, C.H. had testified that Brooks had molested her in January and raped her in August of 2014. The jury did not hear any contrary evidence to C.H.'s testimony regarding the molestation. The jury had also heard that her underwear contained semen and a substance consistent with saliva. The presence of these substances was consistent with her testimony as to the sexual acts Brooks had done to her. The semen and human amylase also contained a DNA mixture matching C.H. and Brooks. C.H.'s underwear were obviously too small to be worn by Brooks. Thus, overwhelming evidence had been presented against Brooks prior to his decision to testify. Because of the strength of the evidence against him,

were he to have chosen not to testify, it was a near certainty that he would have been convicted of both charges.

Brooks elected to testify. He admitted to molesting C.H. as she described. He also indicated he was referencing the same incident saying, "May was the first and only time." RP2 57. He did not claim to have direct memory of when he molested C.H. Rather, he believed it occurred in May, because this was when he claimed he had sent a text message apologizing. RP2 56-57. Brooks said he would occasionally visit from California and stay at C.H.'s residence. RP2 54. He could not say whether he had been there in January or not. RP2 54. This was not an alibi, nor was it an attempt to avoid conviction on the molestation charge. Rather, he sought to establish credibility with the jury by admitting to the earlier crime.

Brooks freely made the decision to admit the crime. At the time he did so, the charging language of the original information included "on or about" language that permitted the jury to find he had committed the crime at a time outside the January date range. Thus, when Brooks made the admission to molesting C.H., he—as anyone else would have been—was aware that it was extremely unlikely this would result in an acquittal on that charge. As further evidence that it was not his subjective intent to

state a different date as a defense, his attorney made no such argument when the motion to amend the information was made. RP2 88.

However, even if Brooks had intended the "defense" he claimed for the first time on appeal, objectively it was not a defense. Where, as here, no alibi was claimed, the change to the date was not a material element of the crime. Especially in the realm of child sex offenses, memory of dates is often inexact. It is highly unusual for a criminal defendant to admit to molesting a child on direct examination. Thus, as the Court of Appeals noted, this was a unique circumstance. Slip Opinion at 1. When Brooks admitted during direct examination to having committed the crime alleged in the exact manner alleged, but simply disagreed as to the date, this was not a defense.[5]

Brooks' reliance on *Pelkey* is misplaced. The *Pelkey* rule does not apply when, as here, the date is not a material element of the charge. *See Debolt*, 61 Wn. App. at 62. The unpublished opinion in *State v. Dewey*, 7 Wn. App. 2d 1024 (2019), is also easily distinguished. *Dewey* involved an admission to an uncharged alternative means of committing the crime. Here, the only change was to the date range of the crime Brooks admitted to committing. Because Brooks' testimony that he molested C.H. within

[5] This point may be better illustrated by a crime like murder that can only be committed against a specific victim once. It would not be a defense to murder to admit to the murder but claim it happened on a different date than that alleged.

the statute of limitations was not a defense to that crime, the amendment to the information did not substantially prejudice his rights.

B. BECAUSE THE ORIGINAL INFORMATION PERMITTED THE JURY TO FIND BROOKS GUILTY "ON OR ABOUT" THE DATE RANGE LISTED, EVEN IF THE INFORMATION HAD NOT BEEN AMENDED, BROOKS WOULD STILL HAVE BEEN CONVICTED, THEREFORE ANY ERROR WAS HARMLESS.

Even if the date range had not been amended, there is not a reasonable probability that the outcome of the trial would have been different. "An evidentiary error which is not of constitutional magnitude requires reversal only if the error, within reasonable probability, materially affected the outcome of the trial." *State v. Halstein*, 122 Wn.2d 109, 127, 857 P.2d 270 (1993). If the trial court had not allowed the amendment, there was overwhelming evidence against Brooks, and there is not a reasonable probability that the outcome of the trial would have been any different.

Even if a trial court errs in exercising its discretion, such error may be deemed harmless. "[E]rror is not prejudicial unless within reasonable probabilities, the outcome of the trial would have been materially affected had the error not occurred." *State v. Tharp*, 96 Wn.2d 591, 599, 637 P.2d 961 (1981) (citing *State v. Cunningham*, 93 Wn.2d 823, 613 P.2d 1139 (1980)). Analysis of this issue depends on the nature of the error.

Constitutional error is harmless when the conviction is supported by overwhelming evidence. *State v. Whelchel*, 115 Wn.2d 708, 728, 801 P.2d 948 (1990); *State v. Guloy*, 104 Wn.2d 412, 425, 705 P.2d 1182 (1985), *cert. denied*, 475 U.S. 1020 (1986). Under this test, constitutional error requires reversal unless the reviewing court is convinced beyond a reasonable doubt that any reasonable jury would have reached the same result in absence of the error. *Guloy*, 104 Wn.2d at 425. Non-constitutional error requires reversal only if, within reasonable probabilities, it materially affected the outcome of the trial. *State v. Halstien*, 122 Wn.2d 109, 127, 857 P.2d 270 (1993); *State v. Tharp*, 96 Wn.2d 591, 599, 637 P.2d 961 (1981); *State v. Russell*, 125 Wn.2d 24, 93-94, 882 P.2d 747 (1994), *U. S. cert. den.* 115 S.Ct. 2004, 131 L. Ed. 2d 1005.

On multiple occasions Washington courts have found there is no constitutional right to charging a date range in a sex case that allows for an alibi defense. "A defendant has no due process right to a reasonable opportunity to raise an alibi defense in single or multiple act sexual assault charges." *Hayes*, 81 Wn. App. at 441. "Whether single or multiple incidents of sexual contact are charged, a defendant has no due process right to a reasonable opportunity to raise an alibi defense." *State v. Cozza*, 71 Wn. App. 252, 259, 858 P.2d 270 (1993) (finding no due process

violation where the State's information alleged a three-year date range, and the defendant argued this precluded him from raising a meaningful alibi defense).

A defendant claiming alibi "should not escape his transgressions merely because the time of commission of the crime cannot be fixed in precise terms." *State v. Pitts*, 62 Wn.2d 294, 299, 382 P.2d 508 (1933). "On or about" language has been found to provide sufficient notice for sex offenses occurring outside the date range specified. *See Hayes*, 81 Wn. App. at 430, n.12 (citing *State v. Osborne*, 39 Wn. 548, 81 P. 1096 (1905)) (rape evidence at trial established the rape occurred a week or two weeks prior to the date alleged in the information); *State v. Oberg*, 187 Wash. 429, 432, 60 P.2d 66 (1936) (prosecution for sodomy where the State alleged the act occurred 'on or about April 3' but the victim testified that the act occurred over two months later on June 20).

Here, even if the court had erred in permitting the amendment, any error was harmless because, due to the overwhelming evidence of guilt, even without the amended date range Brooks would still have been convicted. After C.H. testified that Brooks had rubbed her breast in January of 2014, Brooks confirmed that this crime had occurred when he testified. Brooks' admission to molesting C.H., combined with her testimony, provided overwhelming evidence of his guilt. Because the

original information permitted the jury to find the crime occurred "on or about" the date range, Brooks' admission to committing the crime at a later date near in time would not have caused the jury to reach a different outcome.

Further, Brooks was equivocal regarding the date and was deemed less credible by the jury than C.H., thus it is most likely the jury would have been convinced the molestation happened in January, just as C.H. had testified. Brooks testified that he did not know whether or not he had been in the Washington in January and only believed the event happened in May because of a text message he claimed to have sent in May. Despite supposedly having reviewed these text messages to develop this knowledge, he never sought to admit any text messages into evidence to corroborate his claim.

Further, the jury found C.H. to be more credible than Brooks. This was not surprising. C.H. testified to Brooks licking her vagina and then having sexual intercourse with her. Her underwear contained semen and a substance consistent with saliva. These substances were tested and found to contain a mixture of DNA matching C.H. and Brooks. The underwear were far too small for Brooks to wear, while they fit C.H., who only weighed 80 pounds. Brooks claimed the underwear were his and that they did not fit due to claimed dramatic weight gain. His claim to not having

raped C.H. was even more questionable after he admitted to removing her clothes and later placing her on the bed. By finding Brooks guilty of the rape, the jury found C.H. to be the more credible witness. Thus, there is a strong probability the jury would have found C.H. more credible as to when the molestation occurred.

Of course, the jury did not need to debate whether or not Brooks molested C.H. After he admitted to molesting C.H., Brooks' attorney even told the jury they should find him guilty of the child molestation. RP2 122-24. Having made no argument at trial that the date was material to his defense, it is disingenuous for Brooks to now claim on appeal his real plan was to admit to molesting C.H. at a time just outside of the original date range as a defense.[6] Had he attempted to do so, any reasonable jury would likely have seen this for what it was — an immaterial technicality.

Further, the jury would have been aware that the "on or about" language allowed for it to find Brooks guilty of the crime he admitted to even if it was outside the date range. Brooks' admission to molesting C.H. makes his case highly unusual. No reasonable jury would have found him not guilty under these circumstances. In light of the overwhelming

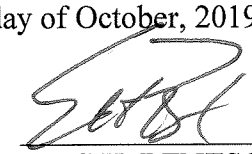
[6] The State argued in its response to Brooks' appeal that he failed to preserve the issue when he did not state any grounds for his objection at trial. The Court of Appeals held the issue was preserved. Slip Opinion at 5.

evidence against Brooks, even if the court had erred in granting the amended information, any error was harmless.

IV. CONCLUSION

For the above stated reasons, Brooks' conviction should be affirmed.

Respectfully submitted this 5th day of October, 2019.



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CERTIFICATE OF SERVICE

I, Julie Dalton, certify that the SUPPLEMENTAL RESPONSE TO PETITION FOR REVIEW was served electronically via Supreme Court e-filing portal to the following:

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and to:

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I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Kelso, Washington on October 7, 2019.

Julie Dalton

COWLITZ COUNTY PROSECUTING ATTORNEY'S OFFICE

October 07, 2019 - 9:33 AM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	97150-1
Appellate Court Case Title:	State of Washington v. Kenneth Chance Brooks
Superior Court Case Number:	16-1-00217-7

The following documents have been uploaded:

- 971501_Other_20191007092941SC428073_8357.pdf
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