

62062-2

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No. 62062-2

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

STATE OF WASHINGTON,

Respondent,

v.

DENNIS BLOWERS,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR KING COUNTY

REPLY BRIEF OF APPELLANT

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A ARGUMENT

THE STATE DID NOT PROVE BEYOND A
REASONABLE DOUBT THAT MR. BLOWERS
OBSTRUCTED A LAW ENFORCEMENT OFFICER

A person is guilty of obstructing a law enforcement officer if the person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties.

RCW 9A.76.020.

Here the State contended Mr. Blowers obstructed police because he refused to leave his home to allow the waiting officers to arrest him. 5/29/08 RP 63-65. Mr. Blowers was not fleeing from police, he did not prevent the officers from entering. In fact, according to the State's evidence he slept for several hours and awoke to discover the police outside his home. 5/28/08 RP 95. 182.

The State agrees the police could not enter Mr. Blowers's home without a warrant. Brief of Respondent at 4. However, the State contends there is no constitutional problem where, despite the absence of a warrant or any other lawful basis to demand he do so, Mr. Blowers is held criminally liable for failing to comply with police requests that he exit his home. Id. at 4-5. On appeal, the State does not identify what authority the officers had to demand

Mr. Blowers leave his home. But more importantly, the State did not identify that basis of authority to the jury, and thus the State did not prove to the jury that Mr. Blower's obstructed the officers exercise of their "official powers or duties."

The sum of the State's evidence and its argument at trial was that, but for Mr. Blowers's failure to exit his house earlier, police officer's could have been doing something else. See e.g. 5/28/08 165-66. To sustain a conviction for obstructing, it cannot be enough that the State prove that because an officer is busy with one task he could not perform another. By merely proving that officers would have been doing something else had they not been attempting to arrest Mr. Blowers, the State failed to prove Mr. Blowers obstructed law enforcement officers.

Because the State failed to prove Mr. Blowers obstructed a law enforcement officer the Court must reverse his conviction and dismiss the charge.

B. CONCLUSION

For the reasons above, this Court must reverse Mr.
Blowers's conviction of obstructing a law enforcement officer.

Respectfully submitted this 16th day of September, 2009.



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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON,)
)
 Respondent,)
) NO. 62062-2-I
 v.)
)
 DENNIS BLOWERS,)
)
 Appellant.)

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 18TH DAY OF SEPTEMBER, 2009, I CAUSED THE ORIGINAL **REPLY BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS - DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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SEATTLE, WA 98104	

SIGNED IN SEATTLE, WASHINGTON THIS 18TH DAY OF SEPTEMBER, 2009.

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