

62761-9

62761-9

NO. 62761-9-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL HARRIS,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE KIMBERLY PROCHNAU

BRIEF OF RESPONDENT

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FILED
COURT OF APPEALS DIV #1
STATE OF WASHINGTON
2009 OCT 16 PM 2:58

TABLE OF CONTENTS

	Page
A. <u>ISSUES PRESENTED</u>	1
B. <u>STATEMENT OF THE CASE</u>	2
1. SUBSTANTIVE FACTS	2
2. PROCEDURAL FACTS	5
C. <u>STANDARD OF REVIEW</u>	6
D. <u>ARGUMENT</u>	7
1. THE DEFENDANT RECEIVED ADEQUATE DUE PROCESS BECAUSE THE REVOCATION WAS A MANDATORY CONSEQUENCE OF HIS MOST RECENT CRIMINAL CONVICTIONS.....	7
2. THE DEPARTMENT'S NOTIFICATION TO HARRIS COMPLIED WITH THE REQUIREMENTS OF PROCEDURAL DUE PROCESS	11
3. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN IT DENIED THE DEFENDANT'S MOTION FOR A NEW TRIAL BASED ON A CLAIM OF INEFFECTIVE ASSISTNACE OF COUNSEL.....	17
E. <u>CONCLUSION</u>	24

TABLE OF AUTHORITIES

Page

Table of Cases

Federal:

Jones v. Flowers, 547 U.S. 220,
126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006) 14-16

Strickland v. Washington, 466 U.S. 668,
104 S. Ct. 3562, 82 L. Ed. 2d 864 (1984) 18

Washington State:

City of Redmond v. Arroyo-Murillo, 149 Wn.2d 607,
70 P.3d 947 (2003) 12

City of Redmond v. Bagby, 155 Wn.2d 59,
117 P.3d 1126 (2005) 7-9

City of Redmond v. Moore, 151 Wn.2d 664,
91 P.3d 875 (2004) 6

State v. Baker, 49 Wn. App. 778,
745 P.2d 1335 (1987) 12

State v. Burke, 163 Wn.2d 204,
181 P.3d 1 (2008) 6, 7

State v. Dolson, 138 Wn.2d 773,
982 P.2d 100 (1999) 7

State v. McFarland, 127 Wn.2d 322,
899 P.2d 1251 (1995) 18, 19

State v. McKenzie, 157 Wn.2d 44,
134 P.3d 221 (2006) 6

State v. Nelson, 158 Wn.2d 699,
147 P.3d 553 (2006) 7, 8, 10, 13-16

<u>State v. Perry</u> , 96 Wn. App. 1, 975 P.2d 6 (1999).....	8
<u>State v. Smith</u> , 144 Wn.2d 665, 30 P.3d 1245 (2001).....	12
<u>State v. Storhoff</u> , 133 Wn.2d 523, 946 P.2d 783 (1997).....	12
<u>State v. Tarcia</u> , 59 Wn. App. 368, 798 P.2d 296 (1990).....	19
<u>State v. Vahl</u> , 56 Wn. App. 603, 784 P.2d 1280 (1990).....	8
<u>State v. West</u> , 139 Wn.2d 37, 42, 983 P.2d 617 (1999).....	6, 17

Constitutional Provisions

Federal:

U.S. Const., amend. VI	17
------------------------------	----

Statutes

Washington State:

RCW 46.20.205.....	8
RCW 46.20.270.....	9, 10
RCW 46.20.285.....	9, 10
RCW 46.20.311.....	11
RCW 46.65.020.....	9, 12

RCW 46.65.065.....	9, 12
RCW 84.64.050.....	16

A. ISSUES PRESENTED

1. The defendant was convicted of three felony traffic offenses within five years. The revocation of his driver's license was mandatory. Did the defendant receive adequate procedural due process through his criminal convictions?

2. On March 25, 2005, the defendant changed his address of record with the Department of Licensing. On April 14, 2006, the Department sent a notice of revocation to the defendant at that address of record. On May 2, 2006, after the deadline for the defendant to request a hearing with the Department, the notice was returned as "unclaimed." Under these circumstances, did the defendant receive adequate procedural due process?

3. The contested issue presented to the jury was whether the defendant drove the vehicle in a reckless manner. Defense counsel did not mention a bumper sticker on the vehicle during the trial. Defense counsel did not attempt to admit evidence regarding the identity of the registered owner of the vehicle. Did the trial court rule within its discretion when it found the alleged deficiencies collateral to the other overwhelming evidence of guilt?

B. STATEMENT OF THE CASE

1. SUBSTANTIVE FACTS

On June 28, 2002, the court imposed sentence on the defendant for one count of attempting to elude a pursuing police vehicle under King County Superior Court cause number 02-1-02765-9. Supp CP ___, sub 39, pages 16, 24, and 34. On March 25, 2005, the defendant obtained an identification card from the Department of Licensing. Supp CP ___, sub 39, page 21. He changed his address of record to 3501 Auburn Way S, Apt. 6, Auburn, WA 98092. Id. On March 17, 2006, he was sentenced on two additional counts of attempting to elude a pursuing police vehicle under cause number 05-1-11087-9. There were no other traffic infractions or criminal convictions during that time period which would have triggered a license suspension or revocation or caused a change to his address of record. See Supp CP ___, sub 39, pages 24-35.

On April 14, 2006, the Department of Licensing sent a driver's license revocation notification via certified mail to the defendant at 3501 Auburn Way S, Apt. 6, Auburn, WA 98092. Supp CP ___, sub 39, page 14. The notice provided that his driver's license would be revoked for seven years on May 14, 2006. Id. It

permitted the defendant to request a hearing to contest the revocation if the hearing request form was postmarked no later than April 29, 2006. Supp CP ___, sub 39, page 15. The mail carrier attempted delivery on April 15th and April 22nd. Supp CP ___, sub 39, page 17. The notice was marked "unclaimed" and returned to the Department on May 2, 2006. Supp CP ___, sub 39, pages 17-18.

On April 28, 2008, Trooper Grant Sligh saw the defendant driving a distinctive pick-up truck with multiple equipment violations. RP (10/1/08) 38, 41-42. Trooper Sligh turned to stop the defendant, and he began to follow him with his emergency lights activated. Id. at 45-46. As they approached an intersection with 23rd St., the defendant was immediately behind another vehicle and Tr. Sligh was immediately behind the defendant with his lights activated. Id.

As the three vehicles made the turn, the defendant passed the vehicle he was behind using the gravel shoulder of the single-lane road and began to speed away from Tr. Sligh. Id. The roadway of 23rd St. was rough with potholes and an approximate speed limit of 25 miles per hour, and the defendant sped away at 40 miles per hour. Id. 23rd St. ended in a T, and the defendant

turned the corner onto B St., a one lane residential road. Id. at 48-49. The defendant continued to drive in excess of the speed limit through narrow residential streets while Tr. Slis followed. Id. at 51-54. The defendant's driving was fast and erratic. Id. As he made turns, he only slowed down enough to make the turn, and he was "right back on the gas." Id. at 54.

The defendant drove through a stop sign at 23rd St. and F St at approximately 15-20 miles per hour without stopping. Id. at 56. He then increased his speed to about 40 miles per hour, which appeared to be the fastest his vehicle could go. Id. at 58. The truck appeared to have mechanical problems, possibly due to the gas leak. Id. at 58, 87-88. The defendant drove straight through the intersection at F St. and 25th St. at 40 miles per hour, without stopping or even slowing down. Id. at 61. At that intersection, it was impossible to see if any vehicles were approaching from the right. Id. at 60-61.

When the defendant reached the next intersection at 27th St., he turned left cutting in front of an oncoming vehicle without stopping or even slowing down at the stop sign. Id. at 61-62. The pursuit continued until the defendant stopped his truck at a gravel driveway off of H St. Id. at 69. As soon as his vehicle stopped, the

defendant got out, turned and looked at Tr. Slish, and ran; Tr. Slish followed. Id. at 69-70; RP (10/2/08) 50.

During the foot pursuit, the defendant lost both of his shoes. Id. at 74. Tr. Slish approached a residence and saw the defendant lying face down on the front porch. Id. at 75. When Tr. Slish yelled at him to stop, the defendant jumped up and ran into the residence. Id. Tr. Slish breached the door and chased the defendant into a nearby bedroom. Id. at 78. Tr. Slish and the defendant struggled at the bedroom door until Tr. Slish finally was able to enter and subdue the defendant with his taser. Id. at 81-86. The defendant was placed under arrest. Id. at 87. At the time, his driver's license was suspended in the first degree. The defendant did not testify at trial. See RP (10/1/08 and 10/2/08).

2. PROCEDURAL FACTS

The jury found the defendant guilty of attempting to elude a pursuing police vehicle and driving while license revoked in the first degree. CP 85-86. The defendant made a motion for a new trial alleging ineffective assistance of counsel, and the court denied that motion. RP (11/14/08) 3-8; CP 120. The court found that "even if the defense counsel's performance was deficient, the deficiency

was harmless because the alleged deficiencies related to collateral matters and the other evidence [of guilt] was overwhelming.” CP 120. The defendant timely filed a notice of appeal. CP 132.

C. STANDARD OF REVIEW

As to the procedural due process issue, which is a constitutional challenge, the standard of review is de novo. City of Redmond v. Moore, 151 Wn.2d 664, 668, 91 P.3d 875 (2004).

As to the ineffective assistance of counsel issue, which is actually a review of an order denying a motion for a new trial, the standard of review is abuse of discretion. State v. West, 139 Wn.2d 37, 42, 983 P.2d 617 (1999). See also State v. Burke, 163 Wn.2d 204, 210, 181 P.3d 1 (2008) (“We traditionally review denials of a motion for a new trial for abuse of discretion.”); State v. McKenzie, 157 Wn.2d 44, 51-52, 134 P.3d 221 (2006).

The Washington Supreme Court has repeatedly held that “the granting or denial of a new trial is a matter primarily within the discretion of the trial court and that the reviewing court will not disturb its ruling unless there is a clear abuse of discretion.”

McKenzie, 157 Wn.2d at 51-52. This rule also applies to claims of ineffective assistance of counsel. West, 139 Wn.2d at 42. (“The

decision to grant or deny a new trial based on a claim of ineffective assistance of counsel will not be disturbed absent a manifest abuse of discretion.”). Because the trial court denied the defendant’s motion for a new trial on a claim of ineffective assistance of counsel, the standard of review is abuse of discretion. Discretion is abused when a trial court’s decision is based on untenable grounds or for untenable reasons. Burke 163 Wn.2d at 210.

D. ARGUMENT

1. THE DEFENDANT RECEIVED ADEQUATE DUE PROCESS BECAUSE THE REVOCATION WAS A MANDATORY CONSEQUENCE OF HIS MOST RECENT CRIMINAL CONVICTIONS

Whether a driver’s license is a right or a privilege, it is well settled that a driver’s license cannot be revoked without due process of law. State v. Nelson, 158 Wn.2d 699, 702, 147 P.3d 553 (2006) (citing State v. Dolson, 138 Wash.2d 773, 982 P.2d 100 (1999) (citations omitted); Redmond v. Bagby, 155 Wn.2d 59, 62, 117 P.3d 1126 (2005). Due process requires that the licensee be given notice and an opportunity to be heard prior to the suspension. Nelson, 158 Wn.2d at 702-03. “The notice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an

opportunity to present their objections.” Id. at 703. The means of providing notice must be one that is reasonably adopted as desirous of actually informing the absentee. Id. However, actual notice is not required. RCW 46.20.205(1)(b); State v. Vahl, 56 Wash. App. 603, 784 P.2d 1280 (1990); State v. Perry, 96 Wash. App. 1, 975 P.2d 6 (1999). See e.g., Nelson, 158 Wn.2d 699. The State bears the burden of proving that the revocation complied with due process. Nelson, 158 Wn.2d at 703.

The defendant argues that his procedural due process rights were violated because the notice the Department of Licensing mailed to his address of record was returned. The defendant is wrong. The defendant was convicted of three felony traffic offenses within five years, the revocation was mandatory, and an administrative hearing was not constitutionally required.

When a person is convicted of a crime where a license suspension or revocation is mandatory, the requirements of procedural due process are met without the right to an additional hearing before the Department of Licensing. Bagby, 155 Wn.2d at 66. Criminal defendants receive adequate due process from the criminal proceeding and no further process is due before the State may revoke the offender’s privilege to drive. Id. at 62-66. Unlike a

purely administrative revocation, criminal defendants are required to appear in court. Id. at 64. Additionally, the convicted defendant is required to forfeit his license to the court at the time of conviction. Id.; RCW 46.20.270(1).

In Bagby, the court held that the defendant's right to procedural due process was not violated when their licenses were suspended pursuant to criminal convictions even though they were never offered written notice from the Department or an opportunity to be heard before the Department. 155 Wn.2d at 62-66. The Washington Supreme Court in Bagby based its holding on the minimal risk of error in the criminal courts and the heightened government interest in keeping those convicted of crimes off the road. See id. at 63 and 66.

In this case, the defendant was convicted of three separate charges of attempting to elude a pursuing police vehicle within five years. Not only was the court required to revoke his license at sentencing, but the Department was required to classify him as a habitual traffic offender and revoke his license for seven years. RCW 46.20.285; RCW 46.65.020; and RCW 46.65.065. Because the defendant received the due process protections of the criminal

court system, he cannot claim that actions of the Department denied him due process.

In State v. Nelson, the Department suspended his license because he refused to take a breath test following an arrest for DUI. Nelson, 158 Wn.2d at 702. Because of this distinction, Nelson is not binding in this case. Where the suspension is purely administrative, the due process analysis is quite different. Here, the same requirements do not apply because the defendant received due process directly from the courts when he was convicted.

As a practical matter, even personal service would not have made a difference in this case. The defendant has not presented any evidence that he did not have notice. In fact, the evidence suggests he did. Mr. Harris has been convicted of driving on a suspended license twelve times between 1994 and the revocation at issue here. See Supp CP ___, sub 39, pages 24-26. Five of those were convictions for driving with a suspended license in the first degree. See id. Between 1995 and the revocation at issue here, he has been convicted of at least eight felony offenses where a license suspension was required. See id. See also RCW 46.20.285(4). Six of those were convictions for attempting to elude

a pursuing police vehicle. See Supp CP ___, sub 39, pages 24-26. Mr. Harris received actual notice at each of these convictions that he did not have the privilege to drive. See RCW 46.20.270. In 2005, when he obtained an identification card from the Department instead of a driver's license, he knew he did not have the privilege to drive. Anyone with twenty recent convictions, each of which requires an additional license suspension, is at least on constructive notice that he does not have the privilege to drive. Indeed, any reinstatement of a driver's license following suspension or revocation requires affirmative actions by the offender. See RCW 46.20.311. Even if the Department had employed the most rigorous forms of notice imaginable, it would not have stopped Mr. Harris from driving. Because the defendant had actual notice in addition to the procedural due process afforded him through the criminal courts, his conviction should be affirmed.

**2. THE DEPARTMENT'S NOTIFICATION TO HARRIS
COMPLIED WITH THE REQUIREMENTS OF
PROCEDURAL DUE PROCESS**

Even if the Court finds that the defendant was constitutionally entitled to procedural due process in addition to that

already provided to him by the criminal courts, the Department of Licensing provided him with adequate due process.

To establish a violation of due process, the defendant must at least allege DOL failed to comply with the statute and this failure deprived the defendant of notice or the opportunity to be heard.” Id. at 703-04 (citing State v. Storhoff, 133 Wash.2d 523, 527-28, 946 P.2d 783 (1997)); City of Redmond v. Arroyo-Murillo, 149 Wash.2d 607, 617, 70 P.3d 947, 951 (2003) (citing State v. Smith, 144 Wash.2d 665, 677, 30 P.3d 1245 (2001)). Washington’s Habitual Traffic Offender’s Act specifically directs DOL to, “notify the person in writing by certified mail at his or her address of record as maintained by the department,” whenever their driving record “brings him or her within the definition of an habitual traffic offender, as defined in RCW 46.65.020.” RCW 46.65.065(1). Here, DOL did comply with the statutory requirements of due process. Harris does not dispute that. He makes an as applied challenge.

Harris argues that the State should have taken additional steps of sending another letter via regular mail as opposed to certified mail. The defendant is wrong. Washington courts have never held that the Department is constitutionally required to send two notices. See Arroyo-Murillo, 149 Wn.2d at 618. (citing State v.

Baker, 49 Wn. App. 778, 782, 745 P.2d 1335 (1987)). In Arroyo-Murillo, the court reasoned “although the inconvenience of sending multiple notices to one license holder may be minimal, the cumulative effect of requiring the DOL to do so for all revocation notices would be onerous.” Id. Even if the Department had sent notice via regular mail, there is no mechanism to know if the defendant received it. Also, there is nothing in the record to suggest that a letter sent regular mail would have been forwarded, but not the notice card left by the mail carrier or the certified letter itself.

In State v. Nelson, the Washington Supreme Court held that a notice mailed to the defendant at his address of record via certified mail met the requirements of procedural due process. 158 Wn.2d at 705. In Nelson, the defendant had mailed a letter to DOL two months prior to DOL sending the revocation notice. Id. at 702. In that letter, the defendant requested that information be sent to him at the North Rehabilitation Facility (NRF), which was not his address of record. Id. at 708. The notice DOL sent to the defendant was returned three days after the revocation became effective, and presumably, several days after the deadline for Nelson to request a hearing. Id. at 701-02. Despite the fact that

Nelson was still at NRF when the Department sent the notice and likely still there when delivery at his address of record was attempted, the court found that delivery by certified mail was sufficient in that case to meet the requirements of procedural due process. Id. at 705.

The court in Nelson discussed US Supreme Court precedent and when the State is required to take additional practical steps at providing notice. See id. at 704-05 (citing Jones v. Flowers, 547 U.S. 220, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006)). Nelson considers that the Jones decision directs the courts to “consider unique information about an intended recipient.” Id. at 704. In Jones, the Court held when “mailed notice of a tax sale is returned unclaimed, the State must take additional steps to attempt to provide notice to the property owner before selling his property.” 547 U.S. at 225. In Jones, the State of Arkansas sold Jones’ property and the only notice provided was a certified letter that was returned. Id. at 224. Two years earlier, the Commissioner sent a notice of delinquency to Jones via certified letter, which was also returned. Id. at 223. The commissioner took no additional steps to provide notice to the homeowner of the imminent loss of his home. Id. The Court held that under these circumstances, the State of

Arkansas violated his due process rights by failing to take additional steps to provide notice because it was practical to do so and because the loss of a house is irreversible. Id. at 225 and 230. The Court held that reasonable measures to protect a homeowner's constitutional rights before losing his home were to mail the notice via regular mail or post the notice on the property itself. Id. at 234-35. The Court held that searching for updated addresses was too great a burden on the Commissioner. Id. at 235-36. The Washington Supreme Court in Nelson distinguished Jones because in Nelson, the Department did not learn that the notice was ineffective until after the revocation became effective.

In this case, like in Nelson, the Department's failure to take additional measures was reasonable. While the Department did learn that the notice was ineffective prior to the revocation becoming effective, it did not know it was ineffective until after the deadline for Harris to request a hearing. Additionally, like in Nelson, the Department here did not have any information about Harris' whereabouts when they learned the notice was ineffective. Failing to make further attempts at notice was reasonable.

Additionally, Jones is distinguishable for two important reasons. First, Jones relates to the government tax sale of real

property to a third party. Such a sale, as the Supreme Court recognized is “irreversible.” See Jones, 547 U.S. at 230. This is simply not the case with the loss of a privilege to drive, which does not, through the actions of the State, become the property of a third party. Indeed, the Washington legislature and the courts have recognized an increased procedural due process requirement when the government sells a person’s real property at auction. See RCW 84.64.050 (requiring either (a) personal service or (b) publication in a newspaper and certified mail or personal service on the occupant of the property if a mailing address is unavailable).

Second, this case is unlike Jones, because in Jones, the State did not employ the most practical and commonly employed means of providing notice of a real property sale: posting notice on the property itself. 547 U.S. at 235. Here, the Department does not have this alternative. The only reliable alternative for the Department to provide notice in addition to certified mail is personal service, which would require an open-ended search. Courts have routinely held an open-ended search imposes too great a burden on the State. See Nelson, 158 Wn.2d at 705 (“DOL was not required to track down Nelson once he was released from the NRF.

“Such an open ended search for a new address imposes too great a burden on DOL.”); See also Jones, 547 U.S. at 235-36 (holding that the Commissioner was not required to search for a new address before the tax sale of real property).

Under the circumstances in this case, there were no alternatives required to meet the demands of procedural due process. As a result, this Court should affirm the defendant’s conviction.

3. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN IT DENIED THE DEFENDANT’S MOTION FOR A NEW TRIAL BASED ON A CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL

The defendant argues that he was denied effective assistance of counsel. Because the trial court denied a defense motion for a new trial on these grounds, the inquiry before this Court is whether the trial court abused its discretion when it found the defendant had not met his burden to show that his 6th Amendment right to counsel was violated. See State v. West, 139 Wn.2d 37, 42, 983 P.2d 617 (1999).

Every accused person enjoys the right to assistance of counsel for his defense. U.S. Const. amend. VI. The right to

assistance of counsel includes the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 3562, 82 L.Ed.2d 864 (1984).

The benchmark for judging any claim of ineffective assistance of counsel “must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Id. A convicted defendant’s claim that counsel’s assistance was ineffective has two components:

First, the defendant must show that counsel’s performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction . . . resulted from a breakdown in the adversary process that renders the result unreliable.

Id. at 687. State v. McFarland, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). The defendant has the burden of proof as to both components of the Strickland test. Id. There is no requirement that a court address the components in any particular order or even to

address both components if the defendant makes an insufficient showing on one of them. Id. at 697.

The performance inquiry is whether counsel's performance was reasonable considering all the circumstances. Id. at 688. Apart from a conflict of interest, the courts have declined to define whether specific actions meet this standard. See McFarland, 127 Wn.2d at 336, (overruling State v. Tarcia, 59 Wn. App. 368, 798 P.2d 296 (1990)). Accordingly, each case must be evaluated on a case by case basis.

Judicial scrutiny of defense counsel's performance must be highly deferential: "a fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." Id. at 689. As a result, the courts "must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." Id. at 689. McFarland, 127 Wn.2d at 335 and 337. Thus, defendant must overcome the strong presumption that, under the circumstances of the case, counsel's actions "might be considered sound trial strategy." Id. Thus, if the actions of counsel "might be considered

sound trial strategy” or fall within the “wide range of reasonable professional assistance”, then the defendant has not met his burden. Id.

Even if a defendant shows that particular conduct by counsel was unreasonable, he must show that it actually had an adverse effect on the verdict to meet his burden. Id. at 693. It is insufficient to show that the error has some conceivable effect on the outcome. Id. The defendant must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the verdict would have been different. Id. at 694. Indeed, some errors may have a perverse effect on the inferences to be drawn from the evidence and some may have an isolated, trivial effect. Id. at 695-96. Logically, a verdict that is only weakly supported by the evidence is more likely to be affected by an error, while a verdict supported by overwhelming evidence is less likely to be affected by errors. See id. at 696.

The trial court declined to decide the issue of whether the performance was deficient. CP 120. Because the trial court denied the motion for a new trial based on a lack of prejudice, the issue before this Court is whether that decision was an abuse of discretion. See id.

The defendant argues that his representation was ineffective because his counsel failed to address prejudicial evidence. The evidence at issue is the language in the bumper sticker on the vehicle, the gas leaking from the vehicle, and the ownership of the vehicle. The evidence on these matters was collateral to the issue before the jury, and the evidence of guilt was overwhelming. As a result, this Court should find that the trial court did not abuse its discretion.

The evidence of the bumper sticker, the gas leak, and ownership of the vehicle was only tangentially relevant to this case. The facts in this case were not disputed. The primary issue for the jury was whether the defendant's driving was reckless. The appearance of the vehicle had little to do with that issue, and it was mentioned by the State primarily to argue that the defendant's actions were intentional and not accidental. The evidence of the gas leak was offered as a likely explanation as to why the defendant's vehicle could not travel faster than 40 miles per hour.

There was nothing unfairly prejudicial on the bumper sticker. The sticker reads, "are you going to cowboy up or lay there and bleed." RP (10/2/08) 111. This sticker is nothing more than a motivational sticker asking "are you going to get back up when

you're knocked down?" There is nothing unfairly prejudicial in the language and no reason for it to be excluded as evidence.

The admission of the evidence of the bumper sticker was collateral to the issue before the jury, and counsel's failure to notice it did not make the jury's verdict unreliable. More importantly, the trial courts decision that it was collateral and overwhelmed by other evidence of guilt was not an abuse of discretion.

The fact that the defendant failed to offer evidence that the defendant was not the registered owner of the vehicle was inconsequential and irrelevant to the issue of whether the defendant was driving in a reckless manner. The evidence was irrelevant because there was no dispute that the defendant was driving. When the issue before the trier of fact is whether the defendant's driving was in a reckless manner, evidence regarding the ownership of the vehicle is not material. As discussed above, the defendant's knowledge and responsibility regarding the appearance and condition of the vehicle was collateral.

Not only did the defendant fail to establish that the evidence would have been admissible, he failed to identify any prejudice in the failure to admit it. As a practical matter, if there had been evidence that the vehicle belonged to someone other than the

defendant, his driving was then arguably more reckless. Typically, a reasonable person who drives a borrowed vehicle will drive with extra care and caution to protect the property of their friend. A reasonable person does not drive through stop signs at blind intersections in a residential neighborhood at 40 mph while being chased by the police, and a reasonable person is even less likely to drive in that manner in a friend's car. There is no prejudice to counsel's failure to attempt to admit evidence as to the identity of the registered owner. In fact, it would likely have been more prejudicial to admit the evidence, and not offering is likely "sound trial strategy."

None of the shortcomings argued by the defendant resulted in prejudice such that the jury's verdict is unreliable. The deficiencies relate to collateral matters. Other evidence of guilt was overwhelming. The defendant did not meet his burden to show that the assistance of counsel was ineffective. As a result, the trial court's decision to deny the motion for a new trial was not an abuse of discretion.

E. CONCLUSION

For the reasons stated above, the State respectfully requests that this Court affirm the defendant's conviction.

DATED this 16th day of October, 2009.

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 Brian Carmichael, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Notice of Appearance, Brief of Respondent, and Supplemental Designation of Clerk's Papers, in STATE V. HARRIS, Cause No. 62761-9-I, in the Court of Appeals, Division I, for 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.

Janice Schwarz
Name

Done in Kent, Washington

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