

66022-5

66022-5

NO. 66022-5-I

THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

WILLIAM BROWN,

Appellant.

2011 NOV 29 PM 4:36
COURT OF APPEALS
DIVISION ONE

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

BRIEF OF APPELLANT

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Rules

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A. ASSIGNMENTS OF ERROR

1. The trial court violated Mr. Brown's right to confront the witnesses against him, contrary to the Sixth Amendment and Article I, section 22 of the Washington Constitution.

2. The trial court erred when it admitted hearsay testimony concerning prior bad acts of Mr. Brown to impeach his credibility under ER 404(b).

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. A co-defendant's statement implicating the accused creates inherent prejudice. In the instant case, the State elicited statements that Mr. Brown's co-defendant made to a witness that inculpated Mr. Brown, despite the fact that this accusing witness did not testify at trial. Was Mr. Brown denied his bedrock right to confront the witnesses against him, and did this error contribute to the jury's consideration of the case?

2. Before prior bad acts of an accused may be introduced against him at trial pursuant to ER 404(b), the court must conduct a full evidentiary hearing on the record and must make a determination that the evidence is relevant and more probative than prejudicial. Here, where the trial court admitted prior bad acts which did not

satisfy the criteria of ER 404(b), and in the absence of such determinations, was Mr. Brown deprived of his right to a fair trial?

C. STATEMENT OF THE CASE

During the summer of 2009, William Brown and his companion Christina Lux shared an apartment in a large complex in the Richmond Beach area of Shoreline. 8/12/10 RP 53-54.¹ Their leaseholder in this unofficial arrangement was Frank Harris, a crack cocaine and marijuana user, who allowed several individuals to stay in his government subsidized housing unit. Id. at 68-70.²

In early June 2009, a friend of this group, Barbara Lee Brittain, decided to move into this group apartment, due to her romantic involvement with Mr. Harris. 8/12/10 RP 89-90. Ms. Brittain stated that she suffers from a substance abuse problem that has led her to such illegal behaviors as falsely reporting a burglary, so that she could get refills of pain medications. Id. at 95-96. She also reported leaving her purse on a bus shortly before trial, requiring her

¹ The verbatim report of proceedings consists of ___ volumes of transcripts from April 26, 2010, through September 10, 2010. The proceedings will be referred to herein by the date of proceeding followed by the page number, e.g. "4/26/10 RP ___."

² Police reports indicated that Frank Harris was also "dealing crack" out of his home, but pre-trial rulings limited testimony concerning Mr. Harris to his personal "habitual" marijuana use, as well as permitting reference to the apartment as a "crack house." 4/26/10 RP 46-48.

to return to the emergency room in order to get refills for all of her prescriptions. Id. Ms. Brittain testified that in the month her purse disappeared, she filled prescriptions for 95 Hydrocodone pills, and admitted an addiction to prescription medications. 8/16/10 RP 159-61. She also stated that she was a regular crack cocaine and marijuana user (“more crack than marijuana”), and that she only intermittently took the medications prescribed for her bipolar disorder. Id. at 166-68. Ms. Brittain admitted that she was forgetful and had previously lost both her purse (on a bus) and her last set of dentures. Id. at 161-62, 176. She stated that one of her medications had side effects including forgetfulness, as well as disorientation and a loss of reality. Id. at 168.

On June 20, 2009, at approximately 3:00 or 4:00 a.m., Ms. Brittain decided to move her remaining belongings into the “crack house” apartment. 8/12/10 RP 89-91. When she left her purse unattended near the elevator of the public housing building for approximately five minutes, it disappeared. Id. She became very upset, as the purse contained her dentures. Id. Ms. Brittain became hysterical, retracing her steps and returning to the grocery store where she had just purchased some items, believing she had left it there. 8/12/10 RP 92-93. She also posted fliers and searched

dumpsters for the next few days, but the purse and dentures were never recovered. Id. at 98.

A few days later, Ms. Lux, Mr. Harris, and Ms. Brittain were gathered in the apartment living room watching television. 8/12/10 RP 63-64, 97. Ms. Lux announced that she had just overdosed on 150 pills, and began “talking gibberish,” vomiting, turning on all of the stove’s heating elements, and saying that she and Mr. Brown had been involved in taking Ms. Brittain’s purse earlier that week. 8/12/10 RP 63-64, 76-77, 97. The other individuals called 911 and Ms. Lux was taken to the emergency room. 8/12/10 RP 64, 98. The following day, Ms. Brittain filed a police report naming Ms. Lux and Mr. Brown in the theft of her purse. 8/12/10 RP 99.

Mr. Brown was charged with possession of stolen property in the second degree; RCW 9A.56.160(1)(c), 9A.56.140(1), 9A.56.010(1); and possession of stolen property in the first degree; RCW 9A.56.150, 9A.56.140(1). CP 18-19; 4/26/10 RP 37-38.

The jury acquitted Mr. Brown of possession of stolen property in the second degree and found Mr. Brown guilty of the lesser included crime of possession of stolen property in the third degree. 8/18/10 RP 334-35; CP 54. Mr. Brown appeals. CP 66-67.

D. ARGUMENT

1. THE TRIAL COURT INTRODUCED MR. BROWN'S CO-DEFENDANT'S UNCONFRONTED STATEMENT AGAINST HIM, IN VIOLATION OF THE SIXTH AMENDMENT, AND ARTICLE I SECTION 22.

a. The confrontation clause prohibits the State from using accusatory statements made by an absent declarant against a defendant at trial. The Sixth Amendment affirmatively grants and strictly protects certain procedural rights accorded a person accused of a crime, including the right to an attorney, the right to a trial by jury, and the right to confront one's accusers. Crawford v. Washington, 541 U.S. 36, 60-61, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004); Duncan v. Louisiana, 391 U.S. 145, 153, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968); State v. Mason, 160 Wn.2d 910, 920, 162 P.3d 396 (2007); U.S. Const. amend. 6 (guaranteeing a defendant the right, "to be confronted with witnesses against him."); Wash. Const. art. I, § 22 (guaranteeing the accused the right "to meet the witnesses against him face to face.").

The Confrontation Clause "commands, not that evidence be reliable, but that reliability be assessed in a particular manner: by testing in the crucible of cross-examination." Crawford, 541 U.S. at 68; accord United States v. Gonzalez-Lopez,

548 U.S.140, 126 S.Ct. 2557, 2563, 165 L.Ed.2d 409 (2006) (Sixth Amendment requires “a particular guarantee of fairness”).

b. Co-defendant statements are not exempt from the confrontation clause. Clearly, a co-defendant’s statements to the police in the course of a criminal investigation are inadmissible at trial, absent an opportunity for cross-examination. See Davis v. Washington, 547 U.S. 813, 829, 126 S.Ct. 2266, 165 L.Ed.2d 224 (2006) (statements resulting from police “interrogation [that] was part of an investigation into possibly criminal past conduct” easily qualify as testimonial) see also Lilly v. Virginia, 527 U.S. 116, 140, 119 S.Ct. 1887, 144 L.Ed.2d 117 (1999) (noting the need for cross-examination of co-defendant’s statements due to a suspect’s “natural motive to attempt to exculpate himself as much as possible”).

In Bruton v. United States, 391 U.S. 123, 129, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968), the Supreme Court recognized the inherent prejudice attached when introducing a co-defendant’s statement implicating the accused, even when the jury is instructed multiple times not only to disregard that statement, but also to “leave it out of consideration entirely” when assessing the defendant’s guilt. Id. at 126. In Bruton, the court found it

unreasonable to expect the jury to abide by the numerous limiting instructions and disregard the co-defendant's statement implicating the accused. Id. at 129.³

Even a redacted confession will violate the Sixth Amendment if it implicitly implicates a defendant, or if the statements are so incriminating that there is substantial doubt as to whether the jury could abide by a limiting instruction. Bruton, 391 U.S. at 135-37; Gray v. Maryland, 523 U.S. 185, 192, 118 S.Ct. 1151, 140 L.Ed.2d 294 (1998).

The "testimonial" requirement of Crawford, 541 U.S. 36, does not apply where a Bruton violation is raised. 391 U.S. at 126. The co-defendant's statement "implicated" Mr. Brown, and its admission therefore violated Bruton's particular confrontation clause analysis that applies where the out of court declarant is a co-defendant. Bruton's dictates have never required that the co-defendant's out of court statement must be "testimonial" before it will violate the Sixth Amendment, likely in part because the declarant's state of mind as to whether the statement could be

³ Since Bruton, courts have found no violation of the right to confrontation when a non-testifying co-defendant's statement contains no references to the defendant's existence and a limiting instruction directs the jury not to use the co-defendant's confession against the defendant. Richardson v. Marsh, 481 U.S. 200, 107 S.Ct. 1702, 95 L.Ed.2d 176 (1987).

used in court does not diminish the incurable prejudice caused to the now-implicated defendant, sitting at trial.

Thus, the fact that Ms. Lux's statement was not made to police does not disqualify it under Bruton. The issue is rather whether the statement was incriminating, and whether it came from a non-confrontable co-defendant. United States v. Hoac, 990 F.2d 1099, 1105 (9th Cir. 1993), cert. denied, 510 U.S. 1120, 114 S.Ct. 1075, 127 L.Ed.2d 392 (1994); United States v. Wright, 742 F.2d 1215, 1223 (9th Cir. 1984) (finding co-defendant's letter implicating defendant violated Bruton). In a recent case in the Eastern District of Virginia, the District Court found a Bruton violation in a case involving co-defendants' "non-testimonial" statements to non-police bystanders. United States v. Williams, 2010 WL 3909480 (E.D. Va., Sep. 23, 2010). In suppressing the statements under Bruton, the court found "it highly unlikely that Crawford (a case that expanded the confrontation Clause's application) would have eviscerated Bruton (a Confrontation Clause case that Crawford cited) so casually." Williams, at *4 (emphasis original).

In Bruton, the Supreme Court recognized that a non-testifying co-defendant's admission of guilt that also implicates the defendant is such convincing evidence for a jury, and thus so

unfairly damaging because of its legal inadmissibility, that even instructing the jury to use the admission only against the uttering co-defendant is insufficient to cure the danger of an outcome unconstitutionally obtained. Bruton v. United States, 391 U.S. at 126. As the Bruton Court stated:

[T]here are some contexts in which the risk that the jury will not, or cannot, follow instructions is so great, and the consequences of failure so vital to the defendant, that the practical and human limitations of the jury system cannot be ignored. . . . Such a context is presented here, where the powerfully incriminating extrajudicial statements of a co-defendant, who stands accused side-by-side with the defendant, are deliberately spread before the jury in a joint trial.

Bruton, 391 U.S. at 135-36.

c. The State elicited co-defendant Christina Lux's statement as testimonial evidence against Mr. Brown. The State conceded during pre-trial motions in limine that Ms. Lux's statements implicating Mr. Brown raised a Bruton issue. 8/10/10 RP 115-16; 8/11/10 RP 133-34. Despite the State's concession, the deputy prosecutor elicited a statement made by Ms. Lux, implicating her co-defendant, Mr. Brown, during the testimony of Mr. Harris. 8/12/10 RP 63. This violation of Mr. Brown's Sixth Amendment right to confrontation, as expressed in Bruton, requires reversal.

This issue was anticipated and preserved by Mr. Brown's trial counsel, who moved in limine for severance or preclusion of this statement under Bruton. 8/10/10 RP 114. At the motion hearing, the State responded, "there's clearly Bruton issues. And I would certainly admit that." 8/10/10 RP 116. Since the State indicated its intention to proceed to trial without severance, the trial court ruled that the defense "wins the battle" concerning Bruton, and that "it sounds like he's [the deputy prosecutor] conceded defeat on that one, to some extent." Id. at 116-17. The only other reference to the trial court's Bruton ruling is the State's request for permission to lead his two witnesses, Ms. Brittain and Mr. Harris, so that they are less likely to violate the pre-trial ruling. 8/11/10 RP 133-34. The court granted permission to lead. Id.

Yet despite this permission to lead the State's witnesses, the deputy prosecutor asked Mr. Harris a completely open-ended question on direct examination concerning the alleged confession that Christina Lux made on the night of her overdose, which resulted in the following exchange at trial:

Q: And describe to the jury what happened that night?

A: Well, we were out in the living room, like I said. I can't remember if we were watching

TV. We were talking anyway, and Christina looked at Barbara and says, I have a confession to make. And she said, Barbara [sic] said, what she says, I – I took your purse that night, and I gave it to William and he threw it.

Q: And just –

(Defense objection)

8/12/10 RP 63.

Although defense counsel's prompt objection was sustained on the grounds that this testimony was in violation of the trial court's ruling on the motion in limine, no curative instruction was given. 8/12/10 RP 63. An immediate limiting instruction or redaction clearly explaining that Ms. Lux's allegation could not be considered as evidence against Mr. Brown might have helped to alleviate the prejudice created by this statement elicited by the State.

d. The denial of Mr. Brown's Sixth Amendment right to confrontation requires reversal. Admission of evidence in violation of the "bedrock" right of confrontation requires reversal unless the State proves beyond a reasonable doubt the unconflicted evidence did not affect the outcome of the case. Chapman v. California, 386 U.S. 18, 24, 87 S.Ct. 824, 17 L.Ed.2d

705 (1967); see also Delaware v. Van Arsdall, 475 U.S. 673, 684, 106 S.Ct. 1431, 89 L.Ed.2d 674 (1986) (“The correct inquiry is whether, assuming that the damaging potential of the cross-examination were fully realized, a reviewing court might nonetheless say that the error was harmless beyond a reasonable doubt”); United States v. Alvarado-Valdez, 521 F.3d 337, 342 (5th Cir. 2008) (harmless error analysis following confrontation violation requires court to assess whether jury relied on testimonial statement when reaching verdict).

Here, the State’s introduction of the co-defendant’s statement merely attempted to bolster an extremely weak case against Mr. Brown. Clearly, without Ms. Lux’s statement against Mr. Brown, drug-addled as it was, the jury would have had significantly less credible evidence connecting Mr. Brown to the misplaced handbag.⁴ Because this unfronted evidence was presented to the jury in order to meet the State’s burden, the error was not harmless. See, e.g., Chapman, 386 U.S. at 24.

The harmless error standard is not met by speculating that a hypothetical reasonable juror relying on the properly admitted

evidence could have reached the same verdict, but rather requires the State prove this specific jury would have reached the same verdict. State v. Anderson, 112 Wn. App. 828, 827, 51 P.3d 179 (2002), review denied, 149 Wn.2d 1022 (2003). Because of the prejudice flowing from the statement elicited by the State, particularly here where the record reflects that this specific jury struggled to reach a verdict at all, the State cannot establish that this jury would have reached the same result had it not heard the statement. Thus, reversal is required.

2. THE TRIAL COURT ABUSED ITS DISCRETION
IN ADMITTING 404(b) EVIDENCE.

a. Evidence Rule 404(b) prohibits the admission of propensity evidence. Prior acts are generally inadmissible at trial, due to the great risk of prejudice to the accused:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

ER 404(b). The reason for the exclusion of prior bad acts is clear – such evidence is inherently and substantially prejudicial. State v.

⁴ Ms. Brittain never saw Mr. Brown with her handbag; the only witness who claimed to see Mr. Brown with it, Frank Harris, was an admitted crack user and dealer who described a different purse from the one lost by Ms. Brittain.

Carleton, 82 Wn. App. 680, 686, 919 P.2d 128 (1996) (citing State v. Lough, 125 Wn.2d 847, 863, 889 P.2d 487 (1995)).

Where the only relevance of the other acts is to show a propensity to commit similar acts, the erroneous admission of prior bad acts may result in reversal. State v. Freeburg, 105 Wn. App. 492, 497, 20 P.3d 984 (2001); State v. Pogue, 104 Wn. App. 981, 985, 17 P.3d 1272 (2001).

Before admitting such evidence, a trial court is obligated to: (1) identify the purpose for introducing such evidence; (2) determine whether the evidence is relevant to an element of the current charge; and (3) find that the probative value of the evidence outweighs its inherently prejudicial value. State v. Saltarelli, 98 Wn.2d 358, 362, 655 P.2d 697 (1982); State v. Brown, 132 Wn.2d 529, 571, 940 P.2d 546 (1997). If prior bad acts are presented for admission, the evidence must not only fit a specific exception to ER 404(b), but must also be "relevant and necessary to prove an essential ingredient of the crime charged." State v. Tharp, 96 Wn.2d 591, 596, 637 P.2d 961 (1981). In doubtful cases, such evidence should be excluded. State v. Thang, 145 Wn.2d 630,

642, 41 P.3d 1159 (2002). The admissibility of ER 404(b) evidence is reviewed for an abuse of discretion. Id.

Here, the trial court erroneously admitted evidence of Mr. Brown's alleged prior bad acts as a drug seller and hearsay evidence of his reputation for violence and intimidation, which was irrelevant and highly prejudicial. 8/16/09 RP 185.

b. The trial court erred by finding that the prior conduct was relevant to the offense charged. In the context of ER 404(b),

[t]he trial court must first consider the relevance of prior bad acts by deciding whether the evidence makes the existence of any fact that is of consequence to the determination of the action more or less probable.

State v. Schaffer, 63 Wn. App. 761, 768, 822 P.2d 292 (1991), aff'd 120 Wn.2d 616 (1993) (citing ER 402); ER 401. Even where the evidence is relevant, the court must balance the probative value against the prejudicial effect of the evidence before admitting it. Schaffer, 63 Wn. App. at 768 (citing ER 403). To be admissible, evidence must be logically relevant, that is, necessary to prove an essential element of the crime charged. State v. Hernandez, 99 Wn. App. 312, 322, 997 P.2d 923 (1999), rev. denied, 140 Wn.2d 1015 (2000) (citing State v. Robtoy, 98 Wn.2d 30, 42, 653 P.2d 284 (1982)).

Here, the trial court admitted testimony concerning Mr. Brown's alleged prior drug sales, as well as hearsay related to his interactions with people who owed him money, over defense objection. 8/16/10 RP 185-87. During the complaining witness's testimony, she blurted out that a month before her purse disappeared, Mr. Brown had "shorted" her when she purchased crack from him. 8/16/10 RP 185-87. Ms. Brittain also stated that she was afraid to confront him about this "shortage," because he was intimidating and she knew what he did to people who didn't pay him. Id.⁵ Despite the court's ruling, the prior alleged acts had no plausible connection to the possession of stolen property charge – dentures and a debit card – pending before the jury.

In admitting the testimony, the court violated its own pre-trial ruling, which had excluded all ER 404(b) evidence as to Mr. Brown. 4/26/10 RP 46-51; 8/11/10 RP 138-40. On two separate dates, the trial court clearly and emphatically ruled that unless Mr. Brown took the stand and somehow actively opened the door to his own drug use or drug sale activities, no ER 404(b) evidence against him

⁵ The court also permitted testimony in which Ms. Brittain described an incident where Mr. Brown allegedly threatened to beat up a woman who owed him money and said he would "kick her in the crotch." 8/16/10 RP 185-87.

would be admissible. 4/26/10 RP 46-51; 8/11/10 RP 138-40.⁶

After Judge Ramsdell took over the matter for Judge Shaffer, he clarified that the ER 404(b) ruling would stand, noting that the basis of the trial court's ER 404(b) ruling as to eye-witness Frank Harris's drug sales was in reference to the traffic coming in and out of the location, and that no door would be opened as to Mr. Brown, should he choose not to take the stand. 8/11/10 RP 138-40.

Despite these carefully formulated pre-trial rulings, however, and despite the fact that the State had received permission to lead its volatile complaining witness, 4/26/10 RP 54, the highly prejudicial ER 404(b) testimony was elicited by the State. 8/16/10 RP 185-87. When this occurred, the court failed to carefully consider the relevance of the prior acts to the issue of Mr. Brown's credibility, instead overruling all but one of the defense objections.

The trial court's failure to exclude the prior alleged bad acts, despite finding that the evidence would so taint the jury that it should be excluded, was a clear indication that the prior conviction was improperly introduced and was unduly prejudicial.

⁶ In the trial court's 404(b) ruling, Judge Shaffer implored the deputy prosecutor to admonish the complaining witness not to blurt out "bad things" about Mr. Brown in front of the jury in order to avoid a mistrial, noting that Ms. Brittain seemed unable to "shut up." 4/26/10 RP 53-54.

Under ER 404(b), the trial court must consider the introduction of prior bad acts, weighing probative value against prejudicial effect, balancing these concerns on the record. State v. Smith, 106 Wn.2d 772, 776, 725 P.2d 951 (1986); see also State v. Wade, 138 Wn.2d 460, 463, 979 P.2d 850 (1999). Without a thorough analysis on the record, an appellate court is unable to determine whether the trial court's ruling was based on a "careful and thoughtful consideration" of the issues. Saltarelli, 98 Wn.2d at 362. Where a trial court fails to conduct such a balancing test on the record, ER 404(b) "evidence is not properly admitted." Tharp, 96 Wn.2d at 597.

Here, the trial court made no effort to balance the probative value against the prejudicial effect of the prior alleged bad acts on the record, as required by ER 404(b). After overruling the defense objections and permitting the complainant to testify in open court about Mr. Brown's alleged prior drug sales and his threats to beat up women, the court failed to perform an ER 404(b) balancing test of prejudicial and probative value on the record, and simply indicated the evidence could be introduced. The court's explanation of its own ruling was simply that once Ms. Brittain testified that her relationship with Mr. Brown was tense, "stuff

happens in trial that sort of throws the whole thing out the window.”

8/16/10 RP 193.

Such actions are not the “careful and thoughtful” balancing test envisioned by ER 404(b) and Saltarelli, 98 Wn.2d at 362. By failing to perform such a balancing test, the court abused its discretion in admitting the evidence.⁷

c. Erroneous admission of the 404(b) evidence affected the outcome of the trial, requiring reversal. An appellate court must reverse on ER 404(b) grounds if it determines within reasonable probabilities that the outcome of the trial would have been different had the error not occurred. State v. Jackson, 102 Wn.2d 689, 695, 689 P.2d 76 (1984); State v. Tharp, 96 Wn.2d at 599.

Here, the introduction of the alleged prior bad acts undoubtedly had an impact on the verdict. Prior to the admission of the ER 404(b) testimony, Mr. Brown had exercised his constitutional right to remain silent and the jury had not heard anything about his background.

⁷ Following the introduction of Ms. Brittain's testimony, the court put its sidebar on the record, which indicated that defense counsel had timely objected to this testimony on the grounds that it was previously deemed inadmissible under 404(b), that the testimony was undisclosed, that it was irrelevant, and that it was prejudicial. 8/16/10 RP 194-96.

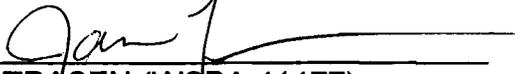
The admission of these alleged bad acts was irrelevant and highly prejudicial, and inevitably affected the verdict; thus, Mr. Brown's conviction must be reversed and remanded. Freeburg, 105 Wn. App. at 501, 507.

E. CONCLUSION.

For the foregoing reasons, Mr. Brown respectfully requests this Court reverse his conviction and remand the case for further proceedings.

DATED this 29th day of April, 2011.

Respectfully submitted,



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

STATE OF WASHINGTON,)	
)	
Respondent,)	
)	NO. 66022-5
v.)	
)	
WILLIAM BROWN,)	
)	
Appellant.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, ANN JOYCE, STATE THAT ON THE 29TH DAY OF APRIL, 2011, I CAUSED THE ORIGINAL **OPENING 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:

<input checked="" type="checkbox"/> KING COUNTY PROSECUTING ATTORNEY APPELLATE UNIT KING COUNTY COURTHOUSE 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) () ()	U.S. MAIL HAND DELIVERY _____
<input checked="" type="checkbox"/> WILLIAM BROWN 304 15 TH STREET S.E., #9 AUBURN, WA 98002	(X) () ()	U.S. MAIL HAND DELIVERY _____

SIGNED IN SEATTLE, WASHINGTON THIS 29TH DAY OF APRIL, 2011.

x *Ann Joyce*

2011 APR 29 PM 4:37
ORIGINAL FILED 2011/04/29

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