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COURT OF APPEALS DIV I  
STATE OF WASHINGTON

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NO. 67149-9-I

COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION I

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STATE OF WASHINGTON,  
Respondent,

v.

REAVY WASHINGTON,  
Appellant.

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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY  
THE HONORABLE CATHERINE SHAFFER, JUDGE

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**BRIEF OF RESPONDENT**

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**A. ISSUES PRESENTED**

Evidence is sufficient to support a conviction if, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt. The crime of attempted robbery in the first degree requires that the defendant intended to take property by force and took a substantial step toward that end. Here, the evidence established that the defendant asked for money, and, when refused, responded, "how about if I do this?" The defendant proceeded to beat the victim about the head and body, causing lasting injuries. Was the evidence sufficient to prove attempted robbery in the first degree?

**B. STATEMENT OF THE CASE**

**1. PROCEDURAL FACTS**

Reavy Washington was charged by amended information with one count of attempted robbery in the first degree. CP 6. By jury verdict rendered on December 8, 2010, Washington was convicted as charged. CP 49. Washington was sentenced on May

2, 2011 to a term of 87 months in the Department of Corrections.  
CP 80.

## **2. SUBSTANTIVE FACTS**

Julie Nairn worked for Seasons Nursery, located in Seattle Washington, for two years. 12/2/10RP 50. Ms. Nairn typically was the only person working at the store, which was a retail plant store selling organic vegetables. 12/2/10RP 50. In addition to plants, retail products and gifts are sold in a small house. 12/2/10RP 52. The cash register is located in the small house. 12/6/10 RP 36.

On May 25, 2011, Ms. Nairn was working alone at the computer, which was located next to the cash register in the small house 12/2/10RP 54, 56. It was a slow day, with approximately one to two customers entering the business each hour. 12/2/10RP 55. Appellant Reavy Washington entered the small house where Ms. Nairn was working and asked for money. 12/2/10RP 55. Ms. Nairn told him that she did not have any money, and Washington looked past her to the cash register and asked, "are you sure about that?" 12/2/10RP 55-56. Ms. Nairn said, "yes," refusing to give him any. Washington came around the counter toward Ms. Nairn. 12/2/10RP 56. Ms. Nairn attempted to block his path. 12/2/10RP

56. Washington knocked Ms. Nairn against the register and began punching her in the head, causing her to fall to the floor. 12/2/10RP 56. He then struck Ms. Nairn with on her right side with a chair. 12/6/10RP 23. Ms. Nairn suffered bruising to her back, legs, and arms. 12/6/10 RP 23. She took off a week from work to recover. 12/6/10 RP 31. Within approximately thirty minutes, Ms. Nairn identified Washington. 12/6/10RP 43. Washington testified and stated that he "snapped" after Ms. Nairn denied him money, because he was embarrassed to ask for it and believed she was aggressive. 12/6/10RP 149. Prior to the defendant striking Ms. Nairn, there were no discussions between the two of them that did not involve money. 12/6/10 RP 65. Ms. Nairn was confident that the defendant was looking at the cash register. 12/6/10 RP 14. There was nothing in the area of the cash register other than a window. 12/6/10 RP 13.

**C. ARGUMENT**

1. EVIDENCE THAT THE APPELLANT'S ASSAULT ON THE VICTIM WAS IMMEDIATELY PRECEDED BY A REQUEST FOR MONEY AND A VERBAL THREAT IS SUFFICIENT TO SUPPORT A CONVICTION FOR ATTEMPTED ROBBERY IN THE FIRST DEGREE.

Evidence is sufficient to support a conviction if, after viewing the evidence in the light most favorable to the State, any rational

trier of fact could have found the essential elements proved beyond a reasonable doubt. State v. Hendrickson, 129 Wn.2d 61, 81, 917 P.2d 563 (1996). A challenge to the sufficiency of the evidence admits the truth of the State's evidence. State v. Finch, 137 Wn.2d 792, 831, 975 P.2d 967 (1999). All reasonable inferences from the evidence are drawn in favor of the State and against the defendant. Finch, 137 Wn.2d at 831. Credibility determinations are for the trier of fact and are not the subject of later review. State v. Camarillo, 115 Wash. 2d 60, 71, 794 P.2d 850 (1990).

A person committed attempted robbery in the first degree if he attempted to unlawfully take the property of another, by the use of force, and in the commission of the robbery or flight therefrom, inflicted bodily injury. RCW 9A.56.200(1)(a)(iii), RCW 9A.28.020, State v. Tanberg, 121 Wash. App. 134, 138, 87 P.3d 788 (2004). Reasonable inferences can be drawn from evidence and may be relied upon to prove the crime. Circumstantial evidence is considered as reliable as direct evidence, and "criminal intent may be inferred where the defendant's conduct plainly indicates the requisite intent as a matter of logical probability." State v. Stearns, 61 Wn. App. 224, 228, 810 P.2d 41 (1991). State v. White, 4 Wn. App. 668, 669, 483 P.2d 867 (1971). In White, White and his

brother entered a market, purchased a box of potato chips and paid for it, and left without taking the merchandise. When the cashier called out that they had left without their chips, White pulled a gun and pointed it at the cashier's neck. Id. Although no demand for money was made, the timing of the struggle, the presence of the weapon, and the presence of a getaway car were factors amounting to substantial evidence supporting the conviction for robbery. Id.

Here, Washington initially requested money. When rebuffed, he responded, "what if I do this?" and violently attacked the victim.

The timing of Washington's verbal and physical responses relates directly to the victim's refusal to give him money. There is substantial evidence that he intended to take money by force.

**D. CONCLUSION**

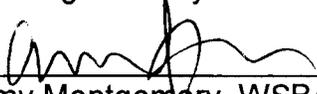
Evidence sufficiently established that Washington intended to take money and took a substantial step toward committing the crime.

The evidence established that Washington committed attempted robbery in the first degree. The State respectfully requests that this Court affirm the judgment and sentence in this case.

DATED this 27<sup>th</sup> day of January , 2012.

RESPECTFULLY submitted,

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