

67424-2

67424-2

NO. 67424-2-I

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

STATE OF WASHINGTON,

Respondent,

v.

MANUEL VILLAREAL-CRUZ,

Appellant.

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

The Honorable Charles R. Snyder, Judge
The Honorable Steven J. Mura, Judge

BRIEF OF APPELLANT

JARED B. STEED
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC
1908 E Madison Street
Seattle, WA 98122
(206) 623-2373

FILED
APPEALS DIV 1
COURT OF APPEALS
STATE OF WASHINGTON
2012 MAR -7 PM 4:13

TABLE OF CONTENTS

	Page
A. <u>ASSIGNMENT OF ERROR</u>	1
<u>Issue Pertaining to Assignment of Error</u>	1
B. <u>STATEMENT OF THE CASE</u>	1
1. <u>Trial Testimony</u>	1
2. <u>Excited Utterance</u>	8
C. <u>ARGUMENT</u>	9
1. THE TRIAL COURT ERRED BY ADMITTING S.M.’S HEARSAY STATEMENTS TO POLICE AS SUBSTANTIVE EVIDENCE UNDER ER 803(a)(2).	9
a. <u>S.M.’s Statements were not Excited Utterances</u>	9
b. <u>The Trial Court’s Error was Prejudicial</u>	15
D. <u>CONCLUSION</u>	17

TABLE OF AUTHORITIES

	Page
 <u>WASHINGTON CASES</u>	
<u>State v. Bourgeois</u> 133 Wn.2d 389, 945 P.2d 1120 (1997).....	15
<u>State v. Burton</u> 101 Wn.2d 1, 676 P.2d 975 (1984).....	11
<u>State v. Chapin</u> 118 Wn.2d 681, 826 P.2d 194 (1992).....	10, 11, 12, 13, 14
<u>State v. Dixon</u> 37 Wn. App. 867, 684 P.2d 725 (1984).....	12, 13, 14, 15
<u>State v. Flett</u> 40 Wn. App. 277, 699 P.2d 774 (1985).....	11
<u>State v. Ramires</u> 109 Wn. App. 749, 37 P.3d 343 (2002) rev. denied, 146 Wn.2d 1022 (2002).....	11, 12
<u>State v. Ray</u> 116 Wn.2d 531, 806 P.2d 1220 (1991).....	11
<u>State v. Ryan</u> 103 Wn.2d 165, 691 P.2d 197 (1984).....	13
<u>State v. Sellers</u> 39 Wn. App. 799, 695 P.2d 1014 (1985) rev. denied, 103 Wn.2d 1036 (1985).....	11
<u>State v. Slider</u> 38 Wn. App. 689, 688 P.2d 538 (1984) rev. denied, 103 Wn.2d 1013 (1985).....	14
<u>State v. Young</u> 160 Wn.2d 799, 161 P.3d 967 (2007).....	10

TABLE OF AUTHORITIES (CONT'D)

Page

FEDERAL CASES

United States v. Marrowbone
211 F.3d 452 (8th Cir. 2000) 11

RULES, STATUTES AND OTHER AUTHORITIES

6 J. Wigmore
Evidence, § 1747 (1976) 10

ER 104 11

ER 801 9

ER 802 9

ER 803 1, 9, 12

FRE 803 11

A. ASSIGNMENT OF ERROR

The trial court erred in admitting the complainant's hearsay statement to police as an excited utterance.

Issue Pertaining to Assignment of Error

The complainant told a police officer that appellant Manuel Villareal-Cruz raped her nearly six hours after the incident ended. The witness was "quiet, reserved, and withdrawn" when the officer arrived. Only when she began answering the officer's questions about the incident did she begin crying. The trial court admitted the witness' hearsay statement to police as substantive evidence under ER 803(a)(2). At trial, the witness testified she made up the allegations because she was mad at Villareal-Cruz. Did the trial court err in admitting the statement as an excited utterance where the complaining witness was calm and had an opportunity to reflect on the incident that ended nearly six hours earlier?

B. STATEMENT OF THE CASE

1. Trial Testimony

After Villareal-Cruz's 11-year-old daughter, S.M., arrived 20 minutes late at school, office assistant and Spanish translator Debra Wentz saw that S.M. "didn't look right" and was fidgeting and uncomfortable.

3RP¹ 92-96, 111-12. The child was “red in the face and teary-eyed.” Wentz pulled S.M. aside and asked several times if something was wrong. S.M. began crying and shaking. She said “No” several times and told Wentz, “I can’t say anything[.]” S.M. asked to go to class. 3RP 94-96.

S.M. became ill that afternoon. She was crying and still upset. 3RP 99-100. Wentz called S.M.’s mother, Adela Morales. Adela gave permission for S.M. to walk home. 3RP 100-02, 109-10. S.M. spoke with Adela and her uncle, Librado Morales, when she arrived home. S.M. was crying and told Librado “something had happened with her father.” 3RP 116-18. Librado confronted Villareal-Cruz, asking him whether he had intercourse with S.M. Villareal-Cruz answered “yes” and “no.” 3RP 120-21. Shortly thereafter, Librado called 911 and reported that S.M. had been raped. 3RP 124-126.

Villareal-Cruz was “calm” and sitting at a table when police officer Allen Bass arrived. Adela was crying and appeared upset. 3RP 192-95. Bass asked Librado to translate for Adela and Villareal-Cruz. Adela told Bass that Villareal-Cruz had raped S.M. Villareal-Cruz told Bass that

¹ This brief refers to the verbatim report of proceedings as follows: 1RP – February 15, 2011; 2RP – March 28 & 29, 2011, April 25, 2011, and July 6, 2011; 3RP – May 9, 10, 11, 12, 16, 17, 18, 2011; 4RP – July 12, 2011.

S.M. asked him “to do to her what I do to her mom, so I did it[.]” 3RP 195-97, 211.

Detective Gina Crosswhite arrived at Librado’s apartment a bit later. 3RP 495-96. S.M.’s demeanor was “pretty reserved, shy, maybe a little withdrawn.” 3RP 512. She was not crying. 3RP 504. S.M. was “very quiet and didn’t say too much.” She agreed to speak with Crosswhite. 3RP 498, 501.

Crosswhite asked S.M., “Do you know why I’m here today?” 3RP 504. S.M. began crying and continued to do so throughout the interview. 3RP 504, 507, 543. She said Villareal-Cruz drove to a dead-end road on the way to school, got in the backseat and pulled off her clothes, and “put his private part in by her privacy.” Villareal-Cruz kissed S.M.’s “privacy” after the incident and asked whether she “liked it.” S.M. said “yes” because Villareal-Cruz said he would do it again if she did not. S.M. said the incident hurt. She did not complain of any injuries. S.M. promised Villareal-Cruz she would not tell anyone about the incident. 3RP 505-11.

After the interview, Crosswhite drove S.M. to the emergency room. 3RP 511-12. Crosswhite was in the examining room when nurse Julie Gibbons arrived. 3RP 343, 349, 387-88, 512-13, 515. S.M.’s description of the incident to Gibbons was consistent with what she told Crosswhite. 3RP 359-61. Gibbons said S.M. “sort of teared up” when

describing the incident. S.M.'s demeanor was otherwise "pretty flat" and she needed "encouragement." 3RP 361-62, 381-83, 391.

Gibbons collected S.M.'s clothing and anal, vaginal, lip, thigh, and finger buccal swabs. 3RP 363-64, 368-69, 372, 375, 380, 401. A black light revealed residue on S.M.'s abdomen where she reported Villareal-Cruz had ejaculated. 3RP 365, 369, 390. Gibbons detected three lacerations in S.M.'s vaginal tissue area. 3RP 373, 395. She did not say the lacerations were caused by intercourse. S.M. had no other injuries. 3RP 363.

Meanwhile, Villareal-Cruz agreed to speak with Detective Daniel Kelsh when he arrived. Villareal-Cruz told Kelsh had not slept since the previous day and drank and used cocaine. 3RP 23, 31-32. He did not, however, appear to Kelsh to be under the influence. 3RP 37.

Villareal-Cruz told Kelsh he had "bad thoughts" about S.M. while under the influence. 3RP 32. He explained S.M. provoked him by slapping his penis and bottom. 3RP 23-24. He asked S.M. if she wanted to do things with him while he was driving her to school. S.M. laughed and said she would not tell Adela. Villareal-Cruz drove to a secluded street, got in the back seat and helped S.M. remove her clothes, and had sex with her. Villareal-Cruz ejaculated on S.M.'s abdomen. S.M. complained of pain and appeared to regret the incident. He kissed S.M. on

the vagina and drove her to school after the incident. 3RP 25-26, 35-37, 580-626. He denied having intercourse with S.M. previously. 3RP 622. He said S.M. consented to the incident but acknowledged it was "bad." 3RP 615-18.

Forensic scientist Lisa Case tested the DNA samples collected from S.M. and Villareal-Cruz. 3RP 407-08, 412, 417. Initial testing showed no sperm in S.M.'s vaginal and endocervical samples. The perineal vulvar and anal samples, however, did contain sperm. Testing of a second sample showed opposite results. 3RP 421-24. Each sample was positive for protein consistent with semen. 3RP 421-22. S.M.'s underwear showed semen, but no human DNA. 3RP 428.

DNA testing on S.M.'s perineal vulvar sample showed "one minor or trace male contributor" that was inconclusive as to Villareal-Cruz. 3RP 424-25. Case found Villareal-Cruz's DNA on S.M.'s abdominal sample and sperm on the car seat. S.M.'s DNA was found on Villareal-Cruz's boxer shorts. 3RP 431-34, 452.

Adela obtained a no-contact order against Villareal-Cruz three days later. 3RP 55. Six telephone calls were made to Adela's telephone number within the next two weeks. 3RP 58-61. The calls originated from a jail pin number assigned to Villareal-Cruz. 3RP 59-60. None of the

calls contained threats. 3RP 86. Police were not certain Adela answered the calls. 3RP 85.

Based on this evidence, the state charged Manuel Villareal-Cruz with one count of first degree rape of a child, two counts of intimidating a witness, and three counts of violation of a no-contact order. CP 73-76.²

S.M. changed her position at trial and denied she had intercourse with Villareal-Cruz. 3RP 150. S.M. testified “everything I said was a lie,” including what she told officer Crosswhite and nurse Gibbons. 3RP 150-52, 159. S.M. made up the story because she and Adela wanted Villareal-Cruz to stop drinking. 3RP 151, 160, 166-67. S.M. missed the bus for school because Adela and Villareal-Cruz were arguing. That is why Villareal-Cruz drove her to school. She arrived late because Villareal-Cruz took her to McDonalds. 3RP 157, 167.

Adela also denied the incident. 3RP 171-72, 174. She said police were called because she was mad at a drunken Villareal-Cruz. 3RP 174, 183-85, 188. Adela told S.M. to lie to the police. 3RP 188-89. She did not remember telling police about the incident. 3RP 172. Adela gave permission for S.M. to be tested at the hospital but did not understand the

² The counts charging intimidating a witness were later dismissed. 3RP 637-38, 642.

allegations. 3RP 175, 178. She denied Villareal-Cruz had called her from jail. 3RP 178-79.

Villareal-Cruz testified he did not have intercourse with S.M. 3RP 663, 676. After dropping S.M. off at school, Villareal-Cruz went home and slept. He woke up when Adela and her father started arguing. 3RP 652-53, 669. Adela said she was going to call the police and he would go to jail for drinking and using drugs. 3RP 653-54, 671-72.

Villareal-Cruz was affected by drugs and alcohol when he spoke with police. He falsely told police S.M. provoked him and they had intercourse because he knew it would make Adela angry. 3RP 660-62, 672-73, 675-76.

As for the DNA, Villareal-Cruz explained he forgot to throw away a condom after he had intercourse with Adela days earlier. He believed sperm from the condom was smeared on the car upholstery, clothing, and S.M. after Adela overheard his statements to police. 3RP 662-63, 673-74. His underwear was removed from the dirty clothes hamper. 3RP 674. Villareal-Cruz acknowledged he did not know for certain how Adela and S.M. planned the allegations. 3RP 675.

After hearing the above, a Whatcom County jury found Villareal-Cruz guilty of first degree child rape and three counts of violation of a no-contact order. CP 41-42.

The trial court imposed a standard range indeterminate sentence of 123 months to life for the rape and concurrent sentences of 365 days on each violation of a no-contact order. CP 18-36; 4RP 9-13. Villareal-Cruz timely appeals. CP 2-17.

2. Excited Utterance

Following the recantation of S.M. and Adela, the State sought to admit S.M.'s statements to Crosswhite as impeachment and substantive evidence. 3RP 488. The prosecutor argued the statements qualified as excited utterances because S.M. remained upset and "cried essentially throughout the entire interview[.]" The prosecutor maintained the six-hour gap between the alleged incident S.M.'s statements was not a "key factor." 3RP 489-90. Defense counsel objected to admission of the statements as excited utterances, noting they were made six hours after the incident and in response to Crosswhite's questions. 3RP 490-91, 547.

The trial court admitted the statements for impeachment purposes as prior inconsistent statements but reserved ruling on whether the statements would qualify as substantive evidence until after Crosswhite testified. The trial court noted, "I don't think it's an excited utterance..." because "of the time, and because it's after the police have been called." 3RP 492-93.

After hearing Crosswhite's testimony, the trial court switched gears, admitting S.M.'s statements as substantive evidence under the excited utterance exception. 3RP 520-21. The court found S.M. was "seriously upset at school," and still upset when she arrived home. Further, the girl spontaneously cried and told Crosswhite what happened during the interview. The court concluded there was "a long period of time in which she is still continuing to be affected by the stress of the event." 3RP 520-21, 547-49.

C. ARGUMENT

1. THE TRIAL COURT ERRED BY ADMITTING S.M.'S HEARSAY STATEMENTS TO POLICE AS SUBSTANTIVE EVIDENCE UNDER ER 803(a)(2).

a. S.M.'s Statements were not Excited Utterances.

Hearsay is a statement other than one made by a declarant while testifying at trial offered in evidence to prove the truth of the matter asserted. ER 801(c). Hearsay is generally inadmissible unless it falls within an exception to the rule barring hearsay such as the exception for "excited utterances." ER 802; ER 803(a)(2).

An excited utterance is a "statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition." ER 803(a)(2). The underlying rationale is that "under certain external circumstances of physical shock,

a stress of nervous excitement may be produced which stills the reflective faculties and removes their control.” State v. Chapin, 118 Wn.2d 681, 686, 826 P.2d 194 (1992) (quoting 6 J. Wigmore, Evidence, § 1747 at 195 (1976)). The statement of a person in this excited condition is considered “a spontaneous and sincere response to the actual sensations and perceptions already produced by the external shock,’ rather than an expression based on reflection or self-interest.” Chapin, 118 Wn.2d at 686 (quoting Wigmore at 195).

A statement must meet three requirements to qualify for this exception: there must be a startling event or condition; the declarant must make the statement while still under the stress or excitement of the event or condition; and the statement must relate to the event or condition. Chapin, 118 Wn.2d at 686. Although the statement need not be made contemporaneously with or immediately after the event, it must be spontaneous and made under circumstances that negate the concern that it was made by design or after premeditation. Chapin, 118 Wn.2d at 686; see also State v. Young, 160 Wn.2d 799, 813, 161 P.3d 967 (2007) (“The theory of [Federal Rule of Evidence (FRE) 803(2)] is simply that circumstances may produce a condition of excitement which temporarily

stills the capacity of reflection and produces utterances free of conscious fabrication.”) (quoting FRE 803(2) advisory committee's note).³

“The longer the interval between the underlying event and the statement, ‘the greater the need for proof that the declarant did not actually engage in reflective thought.’” Chapin, 118 Wn.2d at 688; see also State v. Sellers, 39 Wn. App. 799, 804, 695 P.2d 1014 (1985) (crucial question is whether declarant was still under the influence of the event to the extent that the statement could not be the result of fabrication, intervening actions, or the exercise of choice or judgment), rev. denied, 103 Wn.2d 1036 (1985); Compare State v. Flett, 40 Wn. App. 277, 287-88, 699 P.2d 774 (1985) (statement made seven hours after a rape held admissible as an excited utterance because the victim was under “continuing stress” throughout that time period).

The State has the burden of demonstrating a hearsay exception applies. United States v. Marrowbone, 211 F.3d 452, 455 (8th Cir. 2000). The trial court must find by a preponderance of the evidence that the declarant remained continuously under the influence of the event at the time the statement was made. ER 104(a); State v. Ramires, 109 Wn. App.

³ Because the Washington rule is identical to FRE 803(a)(2), this Court may look to federal case law for assistance in its interpretation. See, e.g., State v. Burton, 101 Wn.2d 1, 6, 676 P.2d 975 (1984), overruled on other grounds by State v. Ray, 116 Wn.2d 531, 806 P.2d 1220 (1991).

749, 757, 37 P.3d 343 (2002), rev. denied, 146 Wn.2d 1022 (2002). This Court should interpret ER 803(a)(2) in a restrictive manner so as to “not lose sight of the basic elements that distinguish excited utterances from other hearsay statements. This is necessary . . . to preserve the purpose of the exception and prevent its application where the factors guaranteeing trustworthiness are not present.” State v. Dixon, 37 Wn. App. 867, 873, 684 P.2d 725 (1984)

In Chapin, the accused was charged with raping a nursing home patient. Within a day after the alleged rape, the patient became extremely agitated upon seeing the defendant and, when asked why he did not like the defendant, the patient stated, “Raped me.” Chapin, 118 Wn.2d at 684. The patient did not testify at the trial. Chapin, 118 Wn.2d at 685.

The court held that at the time of the statement the patient was no longer in the excited state that would have been caused by the alleged rape. Chapin, 118 Wn.2d at 689. The court specifically noted that the patient had been calm between the time of the alleged rape and the time of the statement, and that this calm increased the danger of fabrication. Chapin, 118 Wn.2d at 689. The court also considered the potential for fabrication whenever a statement occurs as the result of questioning, even if the questions asked are not leading:

The fact that a statement is made in response to a question will not by itself require [that] the statement be excluded, but it is a factor that raises doubts as to whether the statement was truly a spontaneous and trustworthy response to a startling external event.

Chapin, 118 Wn.2d at 690 (citing State v. Ryan, 103 Wn.2d 165, 176, 691 P.2d 197 (1984)). The court found that under the circumstances the statement did not qualify as an excited utterance, and held that it should have been excluded. Chapin, 118 Wn.2d at 689.

Other cases have held that time, while important, is not the only factor to be considered, and that the surrounding circumstances should also be taken into account. In Dixon, the complaining witness ran screaming from her apartment after Dixon attempted to force her to have sexual intercourse. 37 Wn. App. at 869. The neighbors called the police. When the police arrived, the complainant was “quite upset and distraught.” The police described her as “somewhat hysterical, in tears and having a hard time breathing.” The police tried to calm the complainant while they took a written statement from her concerning the event. Dixon, 37 Wn. App. at 869-70.

This Court held the trial court erred in admitting the witness’ statement as an excited utterance, stating:

A reading of [the complainant’s] statement makes it obvious that she had the ability to recall and narrate the details of her experience with Dixon. Other than being

described as 'upset', there is nothing to indicate that her ability to reason, reflect, and recall pertinent details was in any way impeded. The statement gives every indication that, if motivated to do so, [the complainant] could have fabricated some of the details. Under these circumstances, we have no basis for finding a guaranty of trustworthiness, which is the ultimate basic ingredient which must be present in order to qualify a statement as an excited utterance.

Dixon, 37 Wn. App. at 874. See also State v. Slider, 38 Wn. App. 689, 692-93, 688 P.2d 538 (1984) (the passage of time and the leading nature of the mother's questions attenuated the reliability of her daughter's statements such that these did not qualify as excited utterances), rev. denied, 103 Wn.2d 1013 (1985).

While under some circumstances a statement made by a person several hours after an incident might qualify, S.M.'s answers to Crosswhite's questions should not have been admitted as excited utterances. Like the complainants in Chapin and Dixon, S.M. had time to exercise choice and judgment when she answered Crosswhite's questions.

Before Crosswhite arrived, S.M. had been at home with relatives for several hours. Crosswhite described S.M. as quiet, reserved, and withdrawn at the outset of their interview. 3RP 498, 501, 504, 512. It was only when Crosswhite asked if S.M. knew why she was there that the girl began to cry. After that, S.M. described the incident in detail and identified Villareal-Cruz as the alleged rapist. 3RP 504, 507, 543.

S.M.'s calm demeanor and opportunity to reflect on the incident "gives every indication that, if motivated to do so, she could have fabricated some of the details." Dixon, 37 Wn. App. at 874. Because S.M. later testified she lied about the incident, her statements to Crosswhite should not have been admitted as trustworthy excited utterances. Dixon, 37 Wn. App. at 874.

S.M. was not so affected by the incident six hours later that her statements should be deemed trustworthy. The trial court erred in admitting the statements as excited utterances.

b. The Trial Court's Error was Prejudicial.

An evidentiary error is prejudicial and requires reversal if, "within reasonable probabilities, the trial's outcome would have been materially affected had the error not occurred." State v. Bourgeois, 133 Wn.2d 389, 403, 945 P.2d 1120 (1997). Given the importance of S.M.'s statements, the trial court's error was not harmless.

S.M.'s statement to Crosswhite detailed the alleged incident and included her identification of Villareal-Cruz as her assailant. Villareal-Cruz's DNA and statements to police also connected him to the incident. Although Villareal-Cruz initially admitted to Librado and police he raped S.M., he testified his statements were not true and were made while he was angry with Adela and under the effects of drugs and alcohol.

Likewise, Villareal-Cruz explained that Adela overheard portions of his statements to police and had access to a condom used during intercourse days earlier. 3RP 660-63, 672-76. Given Villareal-Cruz's explanations, it was reasonable for the jury to infer his statements and the DNA evidence were unreliable.

A rational juror could reasonably doubt the rest of the state's case. No witnesses observed the alleged incident. S.M. denied anything was wrong despite repeated questioning by school official Wentz minutes after the alleged incident. Librado called 911 and reported what S.M. told him. 3RP 124. But S.M. recanted her accusations at trial, testifying "everything I said was a lie." 3RP 150. Similarly, Adela denied that S.M. told her Villareal-Cruz raped her. 3RP 171, 174. Rather, Adela made up the accusations because she was mad that Villareal-Cruz had been drinking. 3RP 183-85, 188. Although Gibbons testified regarding the information S.M. disclosed at the hospital, S.M. testified those statements were a lie. 3RP 159. Moreover, Gibbons acknowledged S.M. made the statements after some "encouragement" and while Crosswhite was present in the hospital room. 3RP 349, 362, 387-88.

It is reasonably probable the outcome of trial would have been different without S.M.'s out-of-court statements. This Court should therefore reverse Villareal-Cruz's convictions and remand for a new trial.

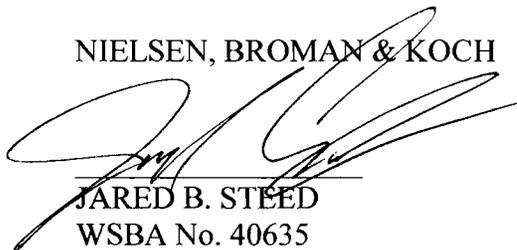
D. CONCLUSION

For the reasons discussed above, this Court should reverse Villareal-Cruz's convictions and remand for a new trial.

DATED this 7th day of March, 2012.

Respectfully submitted,

NIELSEN, BROMAN & KOCH

A handwritten signature in black ink, appearing to read 'Jared B. Steed', is written over a horizontal line. The signature is stylized and cursive.

JARED B. STEED
WSBA No. 40635
Office ID No. 91051
Attorneys for Appellant

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

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.)	COA NO. 67424-2-1
)	
MANUEL VILLAREAL-CRUZ,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 7TH DAY OF MARCH 2012, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

- [X] JEFFREY SAWYER
WHATCOM COUNTY PROSECUTOR'S OFFICE
311 GRAND AVENUE, SUITE 201
BELLINGHAM, WA 98225

- [X] MANUEL VILLAREAL-CRUZ
DOC NO. 349788
COYOTE RIDGE CORRECTIONS CENTER
P.O. BOX 769
CONNELL, WA 99326

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2012 MAR -7 PM 4:13

SIGNED IN SEATTLE WASHINGTON, THIS 7TH DAY OF MARCH 2012.

x Patrick Mayovsky