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NO. 72628-5-1

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

STATE OF WASHINGTON,

Respondent,

v.

EURAN J. WOODS,

Appellant.

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

The Honorable T. Bradshaw, Presiding at the Trial Court

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BRIEF OF APPELLANT

Office address:
10900 NE 8TH STREET, STE 1115
Bellevue, WA 98004

ATTORNEY FOR APPELLANT:
Gene E. Piculell
WSBA 20020

TABLE OF CONTENTS

	<u>Page</u>
A. SUMMARY	1
B. ASSIGNMENT OF ERRORS	
1. Trial court did not commit any potentially reversible evidentiary or procedural errors and did not abuse its discretion in allowing examination of State's primary evidence.	1
C. ISSUING PERTAINING TO ASSIGNMENT OF ERRORS	1
D. STATEMENT OF THE CASE	1
E. CONCLUSION	8

TABLE OF AUTHORITIES

Page

Federal Const.

Federal Cases

Anders v. California, 386 U.S. 738 (1967)..... 1

Washington Cases

Carroll v. Junker, 79 Wn.2d 12 (1971)
.....

In Re Marriage of Littlefield, 133 Wn.2d 39 (1977)
.....

State v. Blight, 89 Wn.2d 38 (1977)
.....

State v. Fiser, 99 Wn.App. 714 (2000)
.....

State v. Jones, 168 Wn.2d 713 (2010)
.....

State v. Lubers, 81 Wn.App. 614 (1996)
.....

State v. Mee Hui Kim, 134 Wn.App 27 (2006)
.....

State v. Robbins, 35 Wn.2d 389 (1950)

.....

State v. Robinson, 61 Wn.2d 107 (1962)

.....

State v. Salinas, 119 Wn.2d 192 (1992)

.....

State v. Walton, 64 Wn. App. 410 (1992)

.....

Statutes

RCW 9A.36.021 (1)(g)

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SUMMARY

This brief is submitted pursuant to *Anders v. California*, 386 U.S. 738 (1967). After careful review of material record, having been retained trial counsel below, and having assessed relevant applicable law, it is concluded such appeal herein does not present other than legally frivolous issues.

A. ASSIGNMENT OF ERRORS

1. The trial court did not commit any potentially reversible evidentiary or procedural errors and did not abuse its discretion in allowing examination of the State's primary evidence.
2. The jury verdict is supported by substantial evidence.

B. ISSUES PERTAINING TO ASSIGNMENT OF ERRORS

Counsel review of material record reveals no issues which could be advanced in good faith. Any potential argument that could arise would concern sufficiency of the evidence to support the jury verdict and material record of testimony unequivocally supports verdict by overwhelming evidence by standard of review

C. STATEMENT OF THE CASE

Euran Woods (herein "Woods") was charged with two counts of Assault Second Degree-Domestic Violence contrary to RCW

9A.36.021(1)(g). On the morning of jury trial, one count of Assault Second Degree-Domestic Violence was dismissed pursuant to defense motion due to improper venue/charging/jurisdictional issues. Consequently, a single count of Assault Second Degree-Domestic Violence was heard before the Court and the State primarily presented the testimonial evidence of Brittany Englund, the alleged victim therein alleging such felony assault on or about September 1, 2011 through September 12, 2011. The defense was general denial.

Brittany Englund testified that she was in a dating relationship with the defendant during the period of the alleged assault, residing in King County, Washington where events transpired. RP at 11. In material part, Brittany Englund testified that after confronting him about a picture image on his mobile phone with another female that he grabbed her and threw her out of a bedroom into the hallway, then picked her up and wrapped his hands around her throat and that he held her against the wall strangling her about the throat. RP at 24. She also testified that as he was strangling her around and about her throat that she at some point lost consciousness. RP at 25. She indicated that the strangulation had the effect of causing immediate hearing problems and some eyesight problems, or tunnel vision. RP at 25. She also testified that her throat and neck hurt a lot from

these actions. RP at 26. The next day she noticed bruising around her neck. RP at 26 Testimony was presented such bruise was noticed at a party for her step-father shortly thereafter. RP 28. She testified that he also dropped her to floor, kicked her in the side of the arm and stomped on her foot with his heel. RP at 27 . He also grabbed her leg and pulled it forward. RP at 24.

The trial court permitted extensive examination challenging the alleged victims credibility and other collateral matters. RP at 52. In particular, the trial court permitted extensive examination concerning her drug use, and drug addiction, during the time period of the alleged assault. RP at 54. Upon cross examination there was extensive examination that significant portion of the alleged victim's in court testimony was not contained in any statement provided to law enforcement during the investigation of the allegation. RP at 52-67. The trial court permitted examination into her alleged prosecution activities, drug use, drug addiction during the period of the alleged assault, and the trial court permitted examination concerning her non-custody of a minor child during the period of the alleged assault. RP at 52-66.

Based upon such testimony the jury returned a verdict of guilty to the allegation of Assault Second Degree-Domestic Violence contrary to RCW 9A.36.021(1)(g).

D. ARGUMENT

1. Right to fully confront and challenge the credibility of State's witnesses.

It is axiomatic that access to evidence is central to fundamental due process. *State v. Boyd*, 160 Wn.2d 424, 434 (2007). A defendant has a right to effectively cross-examine the State's witnesses. *State v. Robbins*, 35 Wn.2d 389 (1950). A criminal defendant's right to be heard and examine the witnesses are essential to fundamental justice. See *State v. Jones*, 168 Wn.2d 713, 720 (2010). Article I, section 22 of the Washington Constitution guarantees that "[i]n all criminal prosecutions the accused shall have the right ... to meet the witnesses against him face to face, [and] to have compulsory process to compel the attendance of witnesses in his own behalf."

Trial court evidentiary decisions are evaluated under an 'abuse of discretion' standard. See, *State v. Blight* 89 Wn.2d 38, 41 (1977); see also, *Carroll v. Junker*, 79 Wn.2d 12, 26 (1971), see also, *In re Marriage of Littlefield*, 133 Wn.2d 39 (1997) see also, *State v. Mee Hui Kim*, 134 Wn. App. 27 (2006) holding trial court evidentiary decisions are evaluated on review against the independent standards of "untenable" grounds or

"unreasonable" exercise of discretion. The trial court's decision regarding the admission or exclusion of evidence will not be reversed absent an abuse of discretion. *State v. Mee Hui Kim*, supra. A decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard. See, *In Re Marriage of Littlefield*, supra. A decision is based on untenable grounds if the factual findings are unsupported by the record. See, *In Re: Marriage of Littlefield*. A decision is based on untenable reasons if it is based on an incorrect standard or if the facts do not meet the requirements of the correct standard. Id.

Clearly, Woods was provided fundamental due process to challenge the credibility of the alleged victim in a plenary manner because, in general, he had the full opportunity to question the State's witness, Britany Englund, on the material allegations themselves, as well as collateral matters concerning alleged drug use during the period of the alleged event, use of cocaine derivative 'crack,' heroin, and drug addiction during this period, as well as alleged prostitution activities during this period, as well as impeach the witness on the non-inclusion of her testimonial evidence in her previous statements to law enforcement during the investigatory stage.

Because of such plenary examination of this witness by the trial courts allowance to examine the witness about such collateral matters, there was

fundamental and expansive due process in presenting his claim of general denial of the allegation of Assault Second Degree.

Further, it is clear that the trial court discretion was exercised manifestly broadly in the defense interest in allowing such broad inquiry or evidentiary examination of the witness who provided evidence on behalf of the State, and the challenges of which concerning drug use, drug addiction, possible other reasons for such alleged injury through prostitution activities, and impeachment of alleged victim on inconsistency of statements, all of which was admitted and considered by the jury in its adverse verdict.

Therefore, Woods had a full, complete unhindered ability to establish his claim of general denial or refute the evidence presented by the State. State v. Robbins, 35 Wn.2d 389 (1950); See also, State v. Robinson, 61 Wn.2d 107 (1962) (scope of examination within trial court sound discretion) A criminal defendant's right to be heard and examine the witnesses is essential to fundamental justice and was unrestricted herein and there was no abuse of discretion. See State v. Jones, supra; see also, Carroll v. Junker, supra. The trial court herein did not curtail the scope of examination of the alleged victim in any manner.

2. Sufficiency of Evidence

The standard of review for sufficiency of the evidence is by viewing the evidence in the light most favorable to the State whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2nd, 192 (1992). The appellate standard is not whether the appellate court is convinced beyond a reasonable doubt only that substantial evidence supports the State's case. *State v. Fiser*, 99 Wn.App. 714 (2004); see also, *State v. Lumbers*, 81 Wn.App. 614 (holding that circumstantial evidence is no less reliable than direct evidence). Further, the appellate court will defer to conflicts in testimony concerning witness credibility and persuasive of evidence. *State v. Walton*, 64 Wn.App. 410 (1992).

Instantly, the testimony of the alleged victim, although subject to extensive cross examination on bias, credibility, impeachment, was that she was strangled by the defendant, causing loss of consciousness, difficulty with hearing and eyesight thereafter, and bruising thereafter, while residing and in a dating relationship with him in King County, WA. RP at .

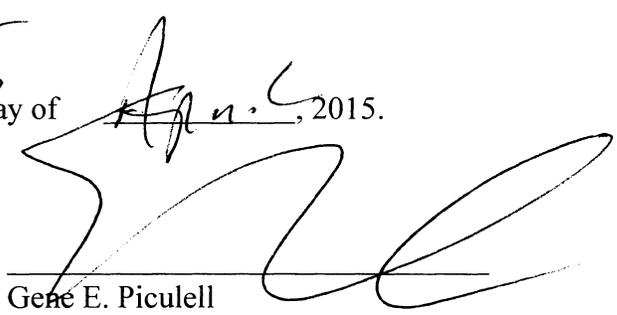
Therefore there existed more than substantial evidence viewing the evidence in light most favorable to the state that Woods committed the

offense of Assault Second Degree-Domestic Violence, contrary to RCW
9A.36.021(1)(g).

D. CONCLUSION

Based upon the evidence a rational trier of fact could have found from
the evidence that Woods committed the offense of Assault Second Degree-
Domestic Violence. Consequently, no cognizable appealable issues exist
in this case.

DATED this 30th day of April, 2015.


Gene E. Piculell
WSBA 20020
COUNSEL FOR APPELLANT