

NO. 43762-7-II

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

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STATE OF WASHINGTON,

Respondent,

v.

LA'JUANTA LE'VEAR CONNER,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF  
KITSAP COUNTY, STATE OF WASHINGTON

Superior Court No. 11-1-00435-8

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STATE RESPONSE TO STATEMENT OF ADDITIONAL GROUNDS

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<b>SERVICE</b>	<p><b>Catherine E. Glinski</b> Po Box 761 Manchester, Wa 98353 Email: cathyglinski@wavecable.com <b>La'juanta Le'vear Conner</b> 359680 WA State Penitentiary 1313 North 13th Avenue Walla Walla WA 99362</p>	<p>This brief was served, as stated below, via U.S. Mail or the recognized system of interoffice communications, <i>or, if an email address appears to the left, electronically</i>. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. DATED May 1, 2015, Port Orchard, WA <i>Deborah Evans</i> <b>Original e-filed at the Court of Appeals; Copy to counsel listed at left.</b></p>
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## I. COUNTERSTATEMENT OF THE ISSUE

Whether the evidence was sufficient to support Conner's convictions for possession of a stolen firearm and unlawful possession of a firearm?<sup>1</sup>

## II. STATEMENT OF THE CASE

The State relies on the statement of the case presented in the brief of respondent, as supplemented in the argument portion of this brief.

## III. ARGUMENT

### **THE EVIDENCE WAS SUFFICIENT TO SUPPORT CONNER'S CONVICTIONS FOR POSSESSION OF A STOLEN FIREARM AND UNLAWFUL POSSESSION OF A FIREARM.**

Conner argues that the evidence was insufficient to support his convictions for unlawful possession of a firearm and possession of a stolen firearm based on his possession of the Taurus .44 revolver. This claim is without merit because Conner misperceives the standard of review.

It is a basic principle of law that the finder of fact at trial is the sole and exclusive judge of the evidence, and if the verdict is supported by substantial competent evidence it shall be upheld. *State v. Basford*, 76 Wn.2d 522, 530-31, 457 P.2d 1010 (1969). The appellate court is not free to weigh the evidence and decide whether it preponderates in favor of the

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<sup>1</sup> The Court has not requested a response regarding Conner's other claim, and the State does not address it herein.

verdict, even if the appellate court might have resolved the issues of fact differently. *Basford*, 76 Wn.2d at 530-31.

In reviewing the sufficiency of the evidence, an appellate court examines whether, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could find that the essential elements of the charged crime have been proven beyond a reasonable doubt. *See State v. Green*, 94 Wn.2d 216, 220, 616 P.2d 628 (1980). The truth of the prosecution's evidence is admitted, and all of the evidence must be interpreted most strongly against the defendant. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff'd*, 95 Wn.2d 385 (1980). Further, circumstantial evidence is no less reliable than direct evidence. *State v. Myers*, 133 Wn.2d 26, 38, 941 P.2d 1102 (1997). Finally, the appellate courts must defer to the trier of fact on issues involving "conflicting testimony, credibility of the witnesses, and the persuasiveness of the evidence." *State v. Hernandez*, 85 Wn. App. 672, 675, 935 P.2d 623 (1997).

Here the evidence showed that there was a black American Tourister bag in the bed of the pickup Conner was in when he was arrested. 16RP 447. In it was a chrome Taurus .44 magnum revolver, which was Exhibit 21. 16RP 448, 454; 27RP 1640. A records check based on the Taurus's serial number showed that it had been reported

stolen by Brandon Bird. 16RP 456-57. Later testing showed it was capable of firing. 16RP 457. The Taurus, along with the .40 Hi-Point pistol and some bandanas were found in the main compartment of the bag; nothing else was in that compartment. 18RP 722.

Alexander testified to seeing Conner with the .44 Taurus revolver. 27RP 1686. He saw Conner with it the night that Adams first showed up with it. 27RP 1686. Alexander also Conner holding it in the front seat of Adams's truck. 27RP 1687. He also saw him with it a few other times. *Id.*

Both Alexander and Smith saw the gun in the safe at Summers's apartment. 24RP 1440, 25RP 36-37, 77, 27RP 1687. Summers claimed the safe was Conner's. 30RP 1973. Alexander stated that "That is where Juanee used to kept it at because the kids are around." 27RP 1687. Smith never saw Perez at Summers' apartment. 25RP 37.

Alexander testified that the same safe was later moved to Duckworth's house. 27RP 1692. It had the same items in it as when he saw it at Summers's house. 27RP 1693. A week or two later, Smith saw the safe in Rachel's closet. 25RP 36.

The police recovered the safe, which matched the description of the one taken in the Wedgwood robbery from Duckworth's apartment on November 3. 17RP 586. In the safe were identification cards, social

security cards and birth certificate of Conner, and photos of Smith. There were numerous other items tying it to Conner as well: a note: “Mom, account number, La’Juanta, [routing number, account number]; a Sprint receipt for Conner; torn paper with the name Juanee and a number and a transaction number. 17RP 590. The police recognized “Juanee” as a name that Conner used. 17RP 591. There was a vehicle bill of sale naming Conner as the buyer; another with Conner as the seller. 17RP 591. Two of the CDs from the safe had “Juanee” written on them with a Sharpie pen. 18RP 723. There was also luggage from that bedroom with a tag that had Conner’s name on it. 18RP 739-40; 20RP 973.

The safe was stolen in the Wedgwood robbery, which occurred on November 3. 17RP 555. The gun was seized when Conner was arrested on November 17. 16RP 426, 448. Moreover, Bird testified that the gun was stolen n November 1. 24RP 1403-44. Conner must have therefore possessed the gun within the dates listed in the information and in the to-convict instructions: November 1 through November 17, 2010. CP 211, 264-65.

There was also evidence presented that Conner knew the gun was stolen. Alexander testified to saying that he and Conner were present when Adams said that the revolver was stolen in a burglary. 27RP 1685.

Taken in the light most favorable to upholding the verdict, a jury

could conclude from the foregoing evidence that Conner possessed the Taurus, and knew it was stolen. Conner's argument is based on his assertions that Smith and Alexander lied. SAG, at 9. That, however, is an issue for the jury to decide. The jury decided it against Conner. This Court should not disturb the jury's verdict.

#### IV. CONCLUSION

For the foregoing reasons, and those set forth in the original brief, Conner's conviction and sentence should be affirmed, except as to third-degree theft, as noted at Point E in the response to the PRP, and as to the clerical error noted at Point F in the original brief of respondent.

DATED May 1, 2015.

Respectfully submitted,  
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A handwritten signature in black ink, appearing to be 'TR' followed by a long horizontal line.

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**May 01, 2015 - 8:11 AM**

**Transmittal Letter**

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