

No. 45484-0-II

THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II

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**STATE OF WASHINGTON,**

Respondent,

vs.

**JONAH JOHNSON,**

Appellant.

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Appeal from the Superior Court of Washington for Lewis County

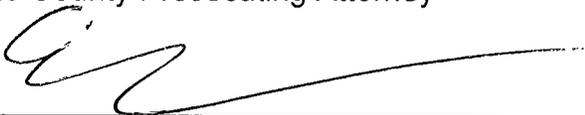
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**Respondent's Brief**

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JONATHAN L. MEYER  
Lewis County Prosecuting Attorney

By:

  
ERIC W. EISENBERG, WSBA No. 42315  
Deputy Prosecuting Attorney

Lewis County Prosecutor's Office  
345 W. Main Street, 2nd Floor  
Chehalis, WA 98532-1900  
(360) 740-1240

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## I. INTRODUCTION

Jonah Johnson appeals his convictions for domestic violence felony harassment, arguing that insufficient evidence supported his conviction. Johnson left voicemail messages for his girlfriend, Heather Luurs, saying that the next time he saw her, he would “blast her fucking face in.” A neighbor later overheard Johnson yell “I’m going to kill you, you fucking bitch” while pounding on Luurs’ door. Luurs was frightened and shaking when the neighbor saw her afterwards, and indicated that she had locked herself inside her apartment for hours as a result of Johnson’s statements. Taken in the light most favorable to the State, this evidence sufficed to prove that Johnson unlawfully threatened to kill Luurs and placed Luurs in reasonable fear that he would carry out the threat. The Court should affirm Johnson’s conviction.

## II. STATEMENT OF THE CASE

On August 17, 2013, Heather Luurs and Jonah Johnson had an argument at Luurs’ apartment in Chehalis, Washington within Lewis County. Verbatim Report of Proceedings at 1, 32-33. Johnson and Luurs (both over 16 years old) had been dating for about three years. *Id.* at 33. At some point Johnson left while Luurs’

remained in the apartment. *Id.* at 34. Johnson called and left voicemail messages on Luurs phone. *Id.* at 35. The messages sounded angry and referred to Luurs as a “stupid fucking cunt” and a “bitch.” Johnson continued, “Next time I see you, it’s on motherfucker; I’m gonna blast your fucking face in.”<sup>1</sup> *See id.* at 35-36 (admitting Exhibit 1, track 2).

After receiving the voicemails, Luurs locked Johnson out of the apartment. *Id.* at 34-35. This was at around 11:00 a.m. *Id.* at 38. Luurs remained locked inside the house for several hours, at which point Johnson came back. *Id.* at 39, 43, 56.

A neighbor overheard Johnson pounding on Luurs’ door and yelling for around 20 minutes. *Id.* at 53, 57. Johnson yelled “I’m going to kill you, you fucking bitch,” sounding angry and upset. *Id.* at 53-54. Johnson did not appear to be joking or scolding; he sounded like he meant what he was saying. *Id.* The neighbor called the police. *Id.* at 54.

Later, after the police left, the neighbor had contact with Luurs. *Id.* at 55. Luurs was physically shaking and seemed scared and frightened. *Id.* She said she was relieved that the neighbor

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<sup>1</sup> These messages were admitted into evidence and played for the jury, but were not transcribed by the court reporter. The transcript reflects only that the “audio recording [was] played.” VRP at 37. The defense designated Exhibit 1 as part of the clerk’s papers, so it is in the record if the Court wishes to listen to it.

called the police because Luurs wasn't sure how she was going to get out of the house otherwise. *Id.* at 56.

The State charged Johnson with Felony Harassment— Domestic Violence. Clerk's Papers at 1-3. At trial, Luurs testified that Johnson had not threatened her and she did not fear that he would kill her or do her any kind of bodily injury. *Id.* at 44. But, in her taped statement to the police at the time of the offense, Luurs said that Johnson threatened to kill her, so she locked herself in the house. *See id.* at 47 (admitting Exhibit 1, track 1).<sup>2</sup> She also indicated he had threatened her in voicemails. *Id.* The officer who took the statement testified that Luurs said she was scared initially, but then said she was not afraid of Johnson during the taped statement. *Id.* at 86.

The jury convicted Johnson as charged. *Id.* at 159-60. Johnson was sentenced to eight months of jail, which was a standard range sentence. *Id.* at 165-69; CP at 39-49 (Judgment and Sentence). Johnson immediately appealed. VRP at 171.

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<sup>2</sup> This half of Exhibit 1 was not transcribed by the court reporter, either. *See id.* at 47. It was admitted as substantive evidence, instead of solely for impeachment, because the defense attorney wished to argue that Luurs did not sound afraid at all in the taped statement. *Id.* at 36, 41-42.

### III. ARGUMENT

#### A. THE EVIDENCE WAS SUFFICIENT TO CONVICT JOHNSON OF DOMESTIC VIOLENCE FELONY HARASSMENT.

When determining the sufficiency of the evidence to convict, the court views the evidence in the light most favorable to the State. *State v. Kintz*, 169 Wn.2d 537, 551, 238 P.3d 470 (2010). Circumstantial and direct evidence receive equal weight; all reasonable inferences from the evidence are interpreted against the defendant. *Id.* The ultimate issue is “whether any rational trier of fact could have found guilt beyond a reasonable doubt.” *Id.*

To convict Johnson of Felony Harassment, the State had to prove that, on or about August 17, 2013 in Lewis County, Washington and without lawful authority, Johnson knowingly threatened to kill Luurs immediately or in the future and by words or conduct placed Luurs in reasonable fear that the threat to kill would be carried out. See CP at 21 (to-convict); RCW 9A.46.020(2)(b)(ii). The State also needed to prove that Johnson and Luurs were family or household members and that the threat was a true threat. See RCW 10.99.020(3); *State v. Schaler*, 169 Wn.2d 274, 236 P.3d 858 (2010). A true threat must be made under circumstances in

which a reasonable speaker would know that the threat will be taken seriously. *Schaler*, 169 Wn.2d at 283.

It was undisputed that Luurs and Johnson were adults who had a dating relationship, VRP at 33, which supports the finding that they were family or household members, RCW 10.99.020(3).

The evidence amply supported the jury's finding that Johnson made unlawful "true threats" to kill Luurs. There was testimony that on August 17, 2013 in Lewis County, Washington, Johnson told Luurs, "next time I see you, it's on motherfucker; I'm gonna blast your fucking face in," and "I'm going to kill you, you fucking bitch." VRP at 35-36 (Exhibit 1); 53-54. Johnson said these things angrily and using profanity. *Id.* He did not appear to be joking and instead seemed to mean what he said. *Id.* at 67-68. The second statement came in the context of Johnson yelling and pounding on Luurs' door for 20 minutes. *Id.* at 53, 57. No claim of authority for the threats was made in any form or fashion. Taking this evidence in the light most favorable to the State, Johnson's statements are both threats to kill and true threats made without lawful authority.

The evidence also supported the jury's finding that Luurs reasonably feared that Johnson would carry out his threat. Both a

police officer and Luurs' neighbor testified that Luurs was frightened and had barricaded herself in her apartment for hours as a result of the threats. *Id.* at 55-56, 81, 86. Luurs was literally trembling with fear when she spoke to the neighbor after the incident. *Id.* Although Luurs recanted at trial, the jury was entitled to disbelieve her recantation. *State v. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970 (2004) ("Credibility determinations are for the trier of fact and are not subject to review."). The Court should affirm Johnson's conviction.

#### IV. CONCLUSION

The evidence amply supported the jury's finding that Johnson threatened to kill his girlfriend and placed her in reasonable fear that he would carry out the threat. The Court should affirm his conviction for domestic violence felony harassment.

RESPECTFULLY submitted this 18 day of August, 2014.

JONATHAN L. MEYER  
Lewis County Prosecuting Attorney

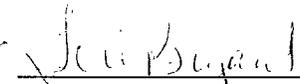
by:   
ERIC W. EISENBERG, WSBA 42315  
Attorney for Plaintiff

**COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II**

STATE OF WASHINGTON,  Respondent,  vs.  JONAH JOHNSON,  Appellant.	No. 45484-0-II  DECLARATION OF SERVICE
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Ms. Teri Bryant, paralegal for Eric W. Eisenberg, Deputy Prosecuting Attorney, declares under penalty of perjury under the laws of the State of Washington that the following is true and correct: On August 18, 2014, the appellant was served with a copy of the **Respondent's Brief** by email via the COA electronic filing portal to Peter Tiller, attorney for appellant, at the following email addresses: [Slong@tillerlaw.com](mailto:Slong@tillerlaw.com).

DATED this 18th day of August, 2014, at Chehalis, Washington.

  
\_\_\_\_\_  
Teri Bryant, Paralegal  
Lewis County Prosecuting Attorney Office

# LEWIS COUNTY PROSECUTOR

**August 18, 2014 - 4:30 PM**

## Transmittal Letter

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Objection to Cost Bill

Affidavit

Letter

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Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

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### Comments:

No Comments were entered.

Sender Name: Teresa L Bryant - Email: [teri.bryant@lewiscountywa.gov](mailto:teri.bryant@lewiscountywa.gov)

A copy of this document has been emailed to the following addresses:

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