

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
 TIMOTHY LUSSIER,)
)
 Appellant.)
 _____)

DIVISION ONE
No. 71197-1-I
UNPUBLISHED OPINION
FILED: DEC 29 2014

2014 DEC 29 AM 9:15
COURT OF APPEALS DIVISION ONE
STATE OF WASHINGTON

PER CURIAM — Timothy Lussier appeals his convictions for first degree robbery and two counts of unlawful imprisonment. He contends the unlawful imprisonment convictions are based on insufficient evidence because the State was required to prove “restraint beyond that which is merely incidental to a simultaneously occurring robbery.” This contention is controlled by the Supreme Court’s recent decision in State v. Berg, ___ Wn.2d ___, 337 P.3d 310, 316-17 (2014) (rejecting argument that evidence of restraint is insufficient to support restraint-based charge where the restraint is incidental to another charged crime, such as robbery).

Lussier’s challenge to the “abiding belief” language in the court’s reasonable doubt instruction is controlled by our decisions in State v. Kinzle, 181 Wn. App. 774, 784, 326 P.3d 870 (2014) and State v. Fedorov, 181 Wn. App. 187, 200, 324 P.3d 784 (2014). We adhere to those decisions.

Affirmed.

Appelwick, J.
Jan, J.
Reach, J.