

FILED
COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
BY  DEPUTY

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

CLIFFORD MELVIN PORTER, JR.,

Appellant.

No. 45796-2-II

UNPUBLISHED OPINION

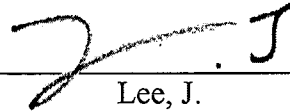
LEE, J. — Clifford Porter Jr. appeals from his conviction for unlawful possession of a stolen motor vehicle based on a defective information. We agree, reverse Porter’s conviction and remand.

Porter argues that because his information alleged only that he “did unlawfully and feloniously knowingly possess a stolen motor vehicle, knowing that it had been stolen,” Clerk’s Papers (CP) 1, and did not allege that he “with[e]ld or appropriate[d] the same to the use of any person other than the true owner or person entitled thereto,” his information failed to allege an essential element of the crime of unlawful possession of a stolen motor vehicle. *State v. Satterthwaite*, 186 Wn. App. 359, 344 P.3d 738, 741 (2015) (quoting RCW 9A.56.140(1)).

The State acknowledges *Satterthwaite* but disagrees with its reasoning and asks us not to follow it. But it shows no basis for us to not follow *Satterthwaite*. The State also suggests that because Porter’s information alleged that his acts were “contrary to RCW 9A.56.068 and 9A.56.140,” CP 1, and because RCW 9A.56.140 contains the essential element of withholding or appropriating the stolen property, Porter’s information is distinguishable from that in


Satterthwaite, which did not contain the statutory reference. But merely citing to the statute is insufficient to apprise a defendant of the essential elements of the crime with which he is charged. *State v. Vangerpen*, 125 Wn.2d 782, 787, 888 P.2d 1177 (1995). *Satterthwaite* is controlling, and accordingly, we reverse Porter's conviction and remand for further proceedings.¹

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.



Lee, J.

We concur:



Johanson, C.J.



Maxa, J.

¹ Because we reverse on the grounds of an insufficient information, we decline to address Porter's other assignment of error that he received ineffective assistance of counsel when his trial counsel failed to object to evidence that he possessed other stolen property and had engaged in burglary, theft and other crimes.