IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. WILLIAM DAVID MORRIS, Appellant.	No. 39259-3-II UNPUBLISHED OPINION

Houghton, P.J. — William Morris appeals his conviction for assault in violation of a no-contact order. He argues that his trial counsel was ineffective for not moving to dismiss at the end of the State's case. We affirm.[1]

FACTS

On December 23, 2008, the Thurston County District Court issued a domestic violence no-contact order prohibiting Morris from contacting Marie Perry for five years. On January 15, 2009, Perry called the police because Morris was at her door. She told the police that Morris had assaulted her earlier that day.

The State charged Morris with assault in violation of a no-contact order and harassment. Morris denied having assaulted Perry. The jury found him guilty of assault but not guilty of harassment. Morris appeals.

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[1] A commissioner of this court initially considered Morris's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

ANALYSIS

Morris argues that his trial counsel provided ineffective assistance by failing to move to dismiss the assault charge at the end of the State's case. He contends that the State produced no evidence that he was the William Morris who was the subject of the no-contact order, so had his counsel moved to dismiss, the trial court would have granted the motion.

To establish ineffective assistance of counsel, Morris must demonstrate that his counsel's performance fell below an objective standard of reasonableness and that as a result of that deficient performance, the result of his trial probably would have been different. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); *State v. McFarland*, 127 Wn.2d 322, 335-36, 899 P.2d 1251 (1995). And to show that the result of his trial probably would have differed, he must show that the trial court would have granted a motion to dismiss at the end of the State's case.

Morris urges that the State presented no evidence that he was the William Morris who was the subject of the no-contact order. Thus, he asserts the State did not present sufficient evidence of his identity. *State v. Huber*, 129 Wn. App. 499, 502, 119 P.3d 388 (2005). We disagree.

When reviewing sufficiency issues, we view the evidence in the light most favorable to the State to determine whether "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *State v. Joy*, 121 Wn.2d 333, 338, 851 P.2d 654 (1993). "A claim of sufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "In

determining the sufficiency of the evidence, circumstantial evidence is not to be considered any less reliable than direct evidence." *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

Perry identified Morris in court as her former boyfriend, who was the subject of a no-contact order. Taken in the light most favorable to the State, the no-contact order prohibiting Morris from contacting Perry, plus Perry's identification of Morris in court, provide sufficient evidence for a rational trier of fact to find beyond a reasonable doubt that the William Morris being tried was the William Morris who was prohibited from contacting Perry. Because the evidence of identity was sufficient, Morris does not demonstrate ineffective assistance of counsel.

Affirmed.

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 pursuant to RCW 2.06.040, it is so ordered.

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Houghton, P.J.

We concur:

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Armstrong, J.

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Quinn-Brintnall, J.