

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
 MICHAEL MARKNSEN,)
)
 Appellant.)
 _____)

DIVISION ONE
No. 73762-7-1
UNPUBLISHED OPINION
FILED: December 19, 2016

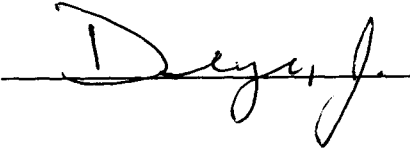
2016 DEC 19 PM 12:46

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON

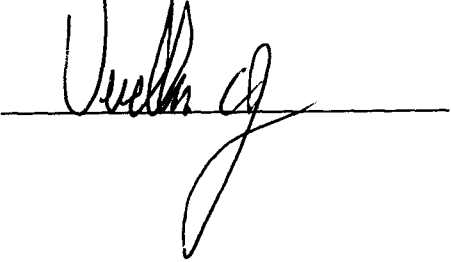
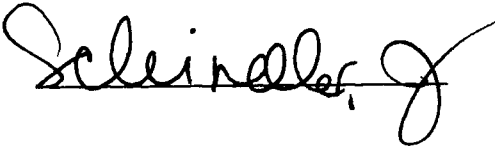
DWYER, J. — As the parties predicted, the Supreme Court’s opinion in State v. Case, No. 92293-4 (Wash. Dec. 8, 2016), <http://www.courts.wa.gov/opinions/pdf/922934.pdf>, is dispositive of the claim of error raised in this appeal. The Case decision mandates affirmance of the trial court’s judgment. We so order.

The sole remaining question regards costs on appeal. This question was fully briefed by the parties (it was raised in the brief of appellant, addressed in the brief of respondent, and discussed in appellant’s reply brief) and we granted oral argument on the issue. After full consideration of the question, “we now choose to exercise our discretion and direct the clerk of the court not to award appellate costs even though the State has substantially prevailed.” In re Pers. Restraint of Flippo, No. 92616-6 (Wash. Dec. 8, 2016), at 8, <http://www.courts.wa.gov/opinions/pdf/926166.pdf>.

Affirmed.

A handwritten signature in cursive script, appearing to read "Deyou J.", written over a horizontal line.

We concur:

A handwritten signature in cursive script, appearing to read "Uvelin J.", written over a horizontal line.A handwritten signature in cursive script, appearing to read "Schindler J.", written over a horizontal line.