IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	NO. 63023-7-I
Respondent,	)	DIVISION ONE
v.	)	
CLYDE JOHNSON,	)	UNPUBLISHED OPINION
Appellant.	)	FILED: April 19, 2010

Lau, J. — A jury convicted Clyde Johnson of one count of second degree assault, two counts of felony harassment, one count of felony violation of a court order, four counts of misdemeanor violation of a court order, and seven counts of witness tampering. Johnson appeals, arguing that his witness tampering convictions violated double jeopardy and insufficient evidence supports a misdemeanor violation of a court order count. We affirm.

FACTS

At trial, witnesses testified to the following events: On July 5, 2008, Clyde Johnson grabbed his former girl friend, Marsette Prentiss, by the neck. He then shoved

her, chased her in a car, and threatened to kill her and her friend, JohnRegis Francis, while brandishing a baseball bat. After this incident, a judge issued a July 5, 2008 order prohibiting Johnson from contacting Prentiss "until fourteen days from the date of this order or further order of this court." Ex. 20.

On July 6, Johnson confronted Prentiss and Francis as they were walking to a restaurant. Johnson and Prentiss began arguing. He pushed her, grabbed her hair, and kicked her in the face after she fell. Prentiss, however, denied that Johnson grabbed or kicked her, even though she admitted she told the police he did. Police arrested Johnson two days later, and a judge issued another order prohibiting contact with Prentiss "until three (3) years from the date of this order or further order of this court." Ex. 21.

While awaiting trial, Johnson made repeated telephone calls to Prentiss from jail. On some of the calls, Johnson told Prentiss not to talk to the prosecutor or go into detail and to say the fight was mutual, that nothing happened, and that she overreacted. Based on those calls, the State charged Johnson with seven counts of witness tampering.

A jury convicted Johnson of one count of second degree assault, two counts of felony harassment (of Prentiss and Francis), one count of felony violation of a court order, four counts of misdemeanor violation of a court order, and seven counts of witness tampering. This appeal followed.

ANALYSIS

Johnson first contends his seven convictions for witness tampering under

RCW 9A.72.120 violate double jeopardy principles because the underlying conduct constitutes only one, not seven, units of prosecution. We rejected an identical argument in State v. Hall, 147 Wn. App. 485, 196 P.3d 151 (2008), review granted, 166 Wn.2d 1005 (2009). There, we concluded that the witness tampering statute unambiguously creates a unit of prosecution for "any one instance of attempting to induce a witness or a person to do any of the actions set forth in RCW 9A.72.120." Hall, 147 Wn. App. at 490. Under Hall, Johnson's conduct encompassed seven units of prosecution. His convictions therefore do not violate double jeopardy. And Johnson offers no persuasive basis to depart from our decision in Hall.

Johnson next argues that insufficient evidence supports his conviction for misdemeanor violation of a court order (count 6). Specifically, he argues that the order prohibiting contact with Prentiss had lapsed before the date of his violation. "In reviewing the sufficiency of the evidence in a criminal case, the question is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." State v. Hagler, 74 Wn. App. 232, 234–35, 872 P.2d 85 (1994). We interpret all reasonable inferences from the evidence in favor of the State. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). And circumstantial evidence is as probative as direct evidence. State v. Moles, 130 Wn. App. 461, 465, 123 P.3d 132 (2005).

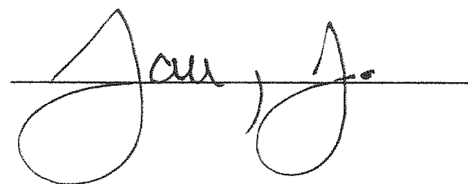
Under CrR 8.1, "[t]ime shall be computed and enlarged in accordance with CR 6." CR 6(a) provides,

> Computation. In computing any period of time prescribed or allowed by these rules, by the local rules of any superior court, by order of court, or by any

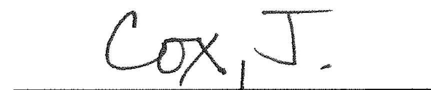
> applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday.

Here, the court order was issued on July 5, 2008, and prohibited contact with Prentiss "until fourteen days from the date of this order or further order of this court." Johnson called Prentiss on July 19, 2008.[1] Under CrR 8.1 and CR 6(a), July 6 is counted as the first day and July 19 is the fourteenth day from July 6. But because the order continued "until fourteen days from the date of this order . . .," it did not expire until the end of the fourteenth day—July 19. Accordingly, the order was still in effect on July 19 when the violation occurred. Sufficient evidence supports Johnson's conviction for misdemeanor violation of a court order because "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Hagler, 74 Wn. App. at 234–35.

We affirm.



WE CONCUR:



[1] The State's amended information alleged that the violation occurred at "a time intervening between July 19, 2008 and July 21, 2008." The "to convict" instruction stated, "That on or about 19th day of July, 2008 the defendant willfully had contact with Marsette Prentiss."

Appelwick, J.