

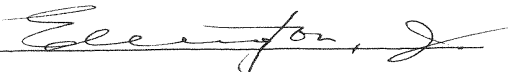
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

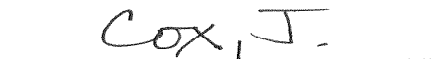
STATE OF WASHINGTON,)	
)	
Respondent,)	No. 65243-5-I
)	
v.)	DIVISION ONE
)	
PENNY L. GREEN,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: September 24, 2012

PER CURIAM. Penny Green appeals her conviction and sentence for attempted robbery in the first degree while armed with a firearm. Citing State v. Bashaw, 169 Wn.2d 133, 234 P.3d 195 (2010), she contends the trial court improperly instructed the jury that they had to be unanimous to answer “was not” on the special verdict form regarding whether Green or an accomplice was armed with a firearm during the robbery. After completion of the briefing in this case, our Supreme Court overruled the pertinent portion of Bashaw in State v. Nuñez, Nos. 85768-0, 85947-7, 2012 WL 2044377 (Wash. Jun. 7, 2012). Under Nuñez, the challenged instruction was proper.

Affirmed.

For the court:





Appelwick J