

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	DIVISION ONE
Respondent,)	
)	No. 65744-5-I
v.)	
)	UNPUBLISHED OPINION
DANIEL CRANE,)	ON REMAND
)	
Appellant.)	FILED: November 26, 2012
_____)	

Dwyer, J. — The Washington Supreme Court granted the State’s petition for review of our first opinion in this matter and remanded the case to us for reconsideration in light of its decision in State v. Guzman Nuñez, 174 Wn.2d 707, 285 P.3d 21 (2012).

In our first opinion, we followed State v. Bashaw, 169 Wn.2d 133, 234 P.3d 195 (2010), and vacated an exceptional sentence imposed following Daniel Crane’s conviction of felony harassment. Because the trial court instructed the jury that it must be unanimous in order to answer “no” on the verdict form for the aggravating factors supporting the exceptional sentence, we determined that this instruction was erroneous under Bashaw.

In Guzman Nuñez, however, the Supreme Court overruled Bashaw, expressly approving the instruction given by the trial court in this case. Thus,

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there was no trial court error.

Affirmed.

Deery, J.

We concur:

Schiveller, J.

Appelwick, J.