IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. WAYNE ANTHONY MURPHY, Appellant.	No. 38690-9-II UNPUBLISHED OPINION

Hunt, J. — Wayne Anthony Murphy appeals his conviction for first degree arson under RCW 9A.48.020(1)(b) and (c). He argues that the evidence is insufficient to support the second alternative means of committing this offense under subsection (c). In his Statement of Additional Grounds (SAG) and Amended SAG,[1] he argues that (1) in failing to move for a mistrial, his trial counsel rendered ineffective assistance and prejudiced the outcome of his case; and (2) law enforcement's failure to include *Miranda*[2] advisements on his recorded statement violated the

[1] The jury also found Murphy guilty of harassment under RCW 9A.46.020(1). Although Murphy's appellate counsel's brief challenges only the first degree arson conviction, Murphy's Amended SAG appears to challenge both convictions by asserting that the "charges," plural, "should be reversed and remanded." Amended SAG at 4.

[2] *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

Privacy Act.[3] We affirm.

FACTS

I. Arson

In July 2007, Rebecca Seabert helped her friend and downstairs neighbor Clainea Williams move out of the apartment she had been sharing with roommate Wayne Anthony Murphy.[4] Rebecca lived in the apartment directly above Williams and Murphy and had several family members staying with her, including her two- and three-year-old grandchildren and her adult daughter, Angelica Seabert.[5] The grandchildren knew Murphy well because he and Williams had babysat them; they called him "Uncle Tony." X Verbatim Report of Proceedings (VRP) at 550.

After Williams moved, Murphy began leaving threatening voice messages on her cell phone, demanding that she pay him $300, apparently as a reimbursement for their apartment unit's light bill. On August 11, Murphy left Williams a voice message, saying, "I want my money, and if I don't get my money I'm gonna act real stupid, and about you." Ex. 3 at 2.[6]

On August 12 at approximately 2:00 am, Murphy walked into Rebecca's apartment and asked where to find Williams. Rebecca told him that she had driven Williams to Williams' sister's

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[3] RCW 9.73.090(1)(b).

[4] The record also refers to Murphy by his nickname, "Tony." X Verbatim Report of Proceedings (VRP) at 547.

[5] Because Rebecca Seabert and Angelica Seabert share the same last name, we refer to them by their first names for clarity. We intend no disrespect.

[6] We are quoting from verbatim transcripts and will not attempt to correct misspellings or grammatical errors.

apartment earlier that day and did not know where she might have gone after that. Insisting that Rebecca was hiding something from him, Murphy yelled that he was going to burn down the apartment building. Rebecca asked Murphy to leave and told him that her grandchildren were sleeping in the apartment. He responded that he did not care and that "he was going . . . to show them." X VRP at 551. From inside the back bedroom, Angelica heard Murphy yelling that he "was going to burn th[e] place down," X VRP at 551, 646; she walked into the main room and asked him to repeat what he had said. Murphy repeated that he was going to burn down the building and then left the apartment.

A. Two Fires

Approximately five minutes later, Rebecca "noticed a red glow" outside her living room window, X VRP at 553, went to the window to investigate, saw a fire burning the building's exterior wall below her window, saw Murphy walking away from the building fire through a nearby alleyway, and roused her daughter and grandchildren. Neighbors began knocking on the door to warn her about the fire. Rebecca and her family left the apartment safely, and she called 911 on her cell phone. The fire continued up the side of the building bordering Rebecca's living room window and melting her interior vinyl blinds. The flames reached the roof, burning part of the building's roof and damaging the particleboard sheathing beneath it.

At 2:06 am, around the time when Rebecca noticed the fire, Williams received the following voice message from Murphy:

> (Unintelligible). . . . so I have been the Fire Marshall Bill or a (unintelligible), which one. I'll be back. You never know what's going to happen, (unintelligible). I'll see yeah, Clainea, you been lying. Give me my 300 dollars bitch. I love you but, no, right now, hunh-uh, it ain't gonna happen. I am telling you the truth, you gonna hurt a lot of people

> and you don't know it. . . .Clainea, come on now, don't play with me. I will burn that bitch up, and you'll be on top. So what's the bottom line. Okay. [I]t's a misconception. I'll be back tonight, (unintelligible). Have a good, good holiday. I'm gonna have an arsenal. I don't know how I'm gonna do it, but I'm gonna do it.

Ex. 3 at 3. At 2:10 am, Williams received another voice message from Murphy, saying, "I will kill everything around your family, nigger, I will do you. Have a nice day, but, you can keep this as a recording, (unintelligible) police, stupid, whatever. I don't care." Ex. 3 at 3. Then at 2:11 am, Williams received the following voice message from Murphy:

> Hey. Take this down. I'm killin' everything around you . . . I ain't playin'. Becky already told me. So in other words, bring me my money and I'll leave you alone. But if you keep playing with me, a lot of people and kids will get hurt. So therefore, bring my shit. Don't play with me bitch.

Ex. 3 at 3.

During this time, the fire department arrived and extinguished the fire. City of Tacoma Fire Prevention Bureau Lieutenant Michael N. Curley investigated the fire damage to the building and determined that someone had set the fire intentionally. Although he noted, "[N]o fire in the interior of the structure," XI VRP at 726, he reported that the fire had caused "some minor damage to the sheathing that's underneath the roofing material." XI VRP at 726.

At 3:08 am, Williams received still another voice message from Murphy:

> There's a lot of kids in danger right now. I tried to tell you. They lookin' for me, but I ain't ever with you. In other words, they gonna[sic] find you and everybody else, so John John[7], he's the next victim. Becky, oh, she was the first one 'cause she opened her mouth.

Ex. 3 at 3.

Several hours later, Angelica awoke at approximately 5:30 am to another fire burning

[7] "John John" refers to John Wormack, Williams' boyfriend. XI VRP at 783.

several feet from her bed in a tree adjacent to her bedroom window. She used a nearby fire extinguisher to subdue the fire from the window and called 911 on her cell phone. The fire caused additional damage to the blinds on the living room window, which had been cracked open; and it caused some smoke to come into the apartment. Unlike the first fire, however, the second fire did not burn the building's exterior.

City of Tacoma Fire Department Lieutenant Susan Janette Boczar arrived at the scene and noted that Angelica had extinguished the fire. After investigating the area, Boczar determined that someone had set the fire intentionally.

B. More Threats

Several hours after this second fire, at 8:42 am, Williams received the following voice message from Murphy:

> I got one more thing to say to you, I want my money. If I don't get it everybody else gonna get burned up. Question one, don't play with me. Question two, give me my money. Question three, you don't want to see me again, or you don't nobody get hurt, give me my money, bitch.

Ex. 3 at 4.

Williams reported the harassing phone calls to the police, and Deputy Douglas John Shook met with her to investigate. Williams told Shook that she recognized Murphy's voice on the 22 voice messages he had left on her cell phone and that they made her fearful. She told Shook that (1) she had recently moved in with her sister to avoid contact with Murphy, whom she believed could harm her or others; (2) she and Murphy had shared an apartment for approximately three months, but that they "were not in a dating relationship," Clerk's Papers (CP) at 4; and (3)

Murphy was demanding that she pay him $300 to reimburse him for their shared apartment's light bill, which she could not afford to pay him as a lump sum. Shook recorded Williams' cell phone voice messages and played them for Rebecca, who also recognized Murphy's voice.

C. Murphy's Arrest

The Pierce County Sheriff's Department received information that Murphy was staying at a South Tacoma residence. Detective Curt Seevers went to the address and spoke to a resident who said that Murphy had just left on foot. Several minutes later, another police officer identified Murphy at a nearby intersection and arrested him for felony harassment. Seevers arrived, handcuffed Murphy, searched him for weapons, found two cell phones in his pockets, put Murphy in the back of a patrol car, and read him his *Miranda* rights from a prepared card. Seevers seized the cell phones as evidence.

II. Procedure

The State charged Murphy with first degree arson under RCW 9A.48.020(1) for causing "a fire or explosion which damaged a dwelling," RCW 9A.48.020(1)(b); or, in the alternative, for causing "a fire or explosion in a building . . . in which there was at that time a human being who was not a participant in the crime," RCW 9A.48.020(1)(c), Count I. The State also charged him with harassment, elevated to felony harassment under RCW 9A.46.020(1)(a)(i)(b) and (2)(b), Count II. CP at 19-20.

A. First Jury Trial—Mistrial

At Murphy's September 18 CrR 3.5 hearing, he moved to suppress his recorded statement to law enforcement because it did not contain an advisement of rights. He also moved to suppress

Seevers' arrest reports containing his (Murphy's) statements, asserting that law enforcement failed to advise him of his rights before obtaining these statements. The trial court denied these motions and concluded that Murphy's recorded statement and statements to Seevers were admissible at trial because law enforcement had advised him of his rights before obtaining them.

Murphy's first jury trial began on September 23. The trial court heard testimony from several of the State's witnesses including Detective Todd Wimmer. Wimmer testified about Murphy's recorded statement. Although the recording itself included no advisement of rights, Wimmer testified that he had advised Murphy of these rights and obtained a signed waiver. The State played Murphy's recorded statement to the jury, in which statement Murphy admitted making the threatening phone calls.

The next day, on September 24, the State provided the trial court and defense counsel with case law[8] demonstrating that the Privacy Act, RCW 9.73.090(1)(b), requires law enforcement to comply strictly with the requirement to advise a defendant of his rights on the recording itself in order for such a recorded statement to be admissible. In response, Murphy's defense counsel moved to dismiss the charges for government misconduct under CrR 8.3(b), based on Wimmer's CR 3.5 hearing testimony; and, in the alternative, for a mistrial, based on the Privacy Act; RCW 9.73.090(1)(b). The State countered that dismissal was not the proper remedy, but it agreed with Murphy's alternative argument that a mistrial was the appropriate remedy for failing to comply with the Privacy Act's requirements. The trial court declared a

[8] The State explained that it provided the new case law, *State v. Courtney*, 137 Wn. App. 376, 153 P.3d 238, *review denied*, 163 Wn.2d 1010 (2008), "pursuant to [its] obligation of candor to the tribunal." VI VRP at 480.

mistrial, rejected Murphy's motion to dismiss, and reset the trial date.

B. Second Jury Trial

Before Murphy's second jury trial began on October 1, the trial court announced:

> [U]nless there's some new evidence or testimony or things of that nature, I would obviously reaffirm my prior pretrial rulings and motions in limine except for the issue regarding the recorded statement that was transcribed, the Court having made a ruling on the admissibility of that in the last trial.

IX VRP at 524-525. Murphy's defense counsel made no new pretrial motions, but noted, however, that if the State decided to call Wimmer to testify in any capacity, Murphy would request a new CrR 3.5 hearing. The State replied that it did "not intend to introduce anything relat[ed] to Wimmer unless the defense [brought] that up." IX VRP at 525.

1. Trial testimony

The State's witnesses included Rebecca, Angelica, Curt Seevers, Michael Curley, Douglas Shook, Susan Boczar, Clainea Williams, and Williams' boyfriend John Wormack. Rebecca testified that (1) when Murphy walked into her apartment in the early hours of August 12, "[h]e just kept getting louder and angrier," X VRP at 550, and he accused her of hiding information from him; (2) "at that time [Williams and Murphy] had already broken up, but he just wasn't accepting the fact that they were broken up" because "he kept saying that they were still together," X VRP at 549; (3) she had heard Murphy's threatening voice messages to Williams and had recognized Murphy's voice; (4) when Murphy "threatened to burn [down] the building," she did not take him seriously because she assumed that he was "just blowing off steam," X VRP at 551; (5) when she told Murphy about the grandchildren in the apartment, he said that "he didn't

care" and that "he was going to show us or show them something," X VRP at 551; (6) approximately five minutes after Murphy left the apartment, she noticed a "red glow" outside her living room window, X VRP at 553; and (7) when she approached the window, she saw Murphy walking down the back alley and a fire rising up around the building and window area.

In describing the fire's damage to the interior of her apartment, Rebecca testified, "The blinds were melted on the inside," X VRP at 556, and:

> A. Did I see fire come in? No, I was trying to get out before that happened.
> Q. Right. So you got out and, to your knowledge, there was no fire inside your apartment?
> A. No. But it was—I could see because the glow, the flames were high. I could see that it was like crumpling the blinds. I was trying to get out before it crumpled anything else.
> Q. You think you saw some evidence of heat coming into the building but not necessarily fire?
> A. Correct.

X VRP at 591.

Angelica also testified that she saw the fire:

> The back left corner of the apartments were on fire from the bushes down below all the way to the gutters, the full corner of the apartment. And I smelled it and heard it before I saw it. And there was like a whole bunch of smoke and stuff. And then it was extremely hot because it was fire, of course, but the—we had our window open because it was summer, and in the dining room the—the curtains kind of melted.

X VRP at 647. She further testified that (1) several hours later, she awoke to the second fire burning the tree outside her apartment window, noting that its "flames almost hit [her] in the face when [she] opened the window," X VRP at 649; (2) in response to whether she had observed any signs of the fire inside the apartment that day, "[b]esides the curtains, the blind things in the dining room, no," X VRP at 648; (3) when she was leaving the apartment, "the curtains [were] melted;

that's weird," X VRP at 655; (4) she had observed a "little bit" of smoke in the apartment "because the windows were open," X VRP at 648; and (5) that the fire did not burn the apartment's interior.

City of Tacoma Fire Department investigator Michael Curley testified that fire is a process of combustion: "[T]he uninhibited chain reaction is that the fire which is putting off heat preheats the materials around it, thus generating gases which are what actually burns in a fire." X VRP at 665-66. When asked if the first fire had "died naturally," Curley said, "No. They actually had to put it out." XI VRP at 699. He had determined that there was no fire in the interior of the structure, but, "[T]here was some minor damage to the [plywood and particle board] sheathing . . . underneath the roofing material." XI VRP at 733. Based on his investigation, he concluded that someone had set the fire intentionally.

Deputy Douglas Shook testified that when he met with Williams to investigate Murphy's threatening voice messages on her cell phone, she told him that she feared Murphy "could cause harm to her or anyone else that got between" them. XI VRP at 757. Shook reviewed the recorded voice messages and the written transcript of these messages, and he determined that the same person had left all the messages. Seevers testified that he investigated the voice messages on Williams' cell phone and the associated phone numbers, which numbers Murphy had told him post-*Miranda* belonged to his cell phones. Williams also testified that the voice on the messages was Murphy's. The trial court admitted the tape recording of Murphy's voice messages on Williams' cell phone and published the transcript of the recording for the jury to read while they listened to the recording. Defense counsel did not object.

Murphy's nephew and niece, Eric Webb and Cynthia Nieves, testified on his behalf, that in August 2007, Murphy was living with them in a South Tacoma home. Nieves testified that on August 11, 2007, when she returned home from work, Murphy was at home and that, to her knowledge, he had remained at home until 9:30am on August 12, when she left for work. Webb similarly testified that he was at home with Murphy during the last few hours of August 11 and the early hours of August 12 and that Murphy did not leave the residence during that time.

2. Jury instructions and verdict

The trial court's jury instructions included the following "to convict" instruction:

> To convict the defendant of the crime of arson in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:
> (1) That on or about the 12th day of August 2007, the defendant caused a fire or explosion:
> (2)(a) That the fire or explosion damaged a dwelling
> OR
> *(b) was in a building in which there was at the time another human being who was not a participant in the crime;*
> (3) That the defendant acted knowingly and maliciously; and
> (4) That the acts occurred in the State of Washington.

CP at 76 (instruction no. 12) (emphasis added). Murphy did not object to this instruction; nor did he propose an alternative instruction.

The jury found Murphy guilty on both counts. On the special verdict form for the harassment count, the jury wrote, "No," in response to the question about whether Murphy's "threat to cause bodily harm consist[ed] of a threat to kill the person threatened or another person[.]" CP at 90.

Murphy appeals.

ANALYSIS

I. Sufficiency of Evidence

Murphy argues that the record "does not contain sufficient evidence to prove the 'in [any] building' alternative means of arson" under RCW 9A.48.020(1)(c), and, therefore, we should reverse his first degree arson conviction, Count I. Br. of Appellant at 8. More specifically, he contends that the "State's evidence failed to establish that the fire occurred '*in* a building,' " as set forth under RCW 9A.48.020(1)(c) because the fire "originated *outside* the building" and "burned only the *exterior* corner, roof and gutters of the apartment building," Br. of Appellant at 8 (emphases added); and "[t]he damage to the interior of the apartment was limited to the melting of the window covers caused by the heat, not by the flames." Br. of Appellant at 8. This argument fails.

As the State notes in its Brief of Respondent, Murphy provides "[no] citation to legal authority or discussion of the applicable statute" to support his argument on this point. Br. of Resp't at 14. Thus, we need not address this argument under RAP 10.3(a)(6). Nevertheless, his brief develops this argument sufficiently for us to understand the substance of his contention.

In analyzing the sufficiency of the evidence, we view the facts and inferences drawn therefrom in the light most favorable to the State and find evidence sufficient to support a conviction when it permits a rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. O'Neal*, 126 Wn. App. 395, 424, 109 P.3d 429 (2005), *aff'd*, 159 Wn.2d 500 (2007). To affirm a defendant's conviction, we need not be convinced of his guilt beyond a reasonable doubt; instead, we must be satisfied only that substantial evidence supports

the conviction. *State v. Vickers*, 148 Wn.2d 91, 116, 59 P.3d 58 (2002). "Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the finding." *Vickers*, 148 Wn.2d at 116 (quoting *Nordstrom Credit, Inc. v. Dep't of Revenue*, 120 Wn.2d 935, 939-40, 845 P.2d 1331 (1993)). We defer to the fact finder's resolution of such issues as conflicting testimony, witness credibility, and persuasiveness of the evidence. *O'Neal*, 126 Wn. App. at 424 (credibility determinations are not subject to appellate review).

RCW 9A.48.020 defines "[a]rson in the first degree" as follows:

> (1) A person is guilty of arson in the first degree if he or she knowingly and maliciously:
> (a) Causes a fire or explosion which is manifestly dangerous to any human life, including firefighters; or
> *(b) Causes a fire or explosion which damages a dwelling; or*
> *(c) Causes a fire or explosion in any building in which there shall be at the time a human being who is not a participant in the crime; or*
> (d) Causes a fire or explosion on property valued at ten thousand dollars or more with intent to collect insurance proceeds.
> (2) Arson in the first degree is a class A felony.

RCW 9A.48.020 (emphasis added).

Although the arson statute does not define "fire," Webster's Dictionary defines this term as "the phenomenon of combustion as manifested in light, flame, and heat in heating, destroying, and altering effects." Webster's II New College Dictionary 854 (1999); *see State v. Sullivan*, 143 Wn.2d 162, 175, 19 P.3d 1012 (2001) ("In the absence of a statutory definition, we will give the term its plain and ordinary meaning ascertained from a standard dictionary"). This dictionary definition is consistent with the fire department investigator's trial testimony here describing fire as a combustion process that creates and emits heat, "preheat[ing] the materials around it, thus generating gases which are what actually burns in a fire." X VRP at 665-66. Thus, contrary to

Murphy's limited definition of "fire" as "flames," Br. of Appellant at 8, "fire" is a process that generates heat and gases and can cause something to burn without the appearance of flames.

Sufficient evidence supports Murphy's first degree arson conviction under the statute's "in any building" alternative means of committing the offense. RCW 9A.48.020(1)(c). The record demonstrates that the fire within the building's walls and the fire in the tree adjacent to the building generated enough heat inside Rebecca's apartment to damage physically the blinds and curtains in the open window areas, "melt[ing]" the vinyl blinds, and causing smoke to enter the apartment. X VRP at 556, 647. The record also demonstrates that the fire on the roof burned into the roof's interior, causing damage to the sheathing beneath it. Thus, viewing the facts and reasonable inferences drawn from them in the light most favorable to the State, we hold that sufficient evidence supports the "in any building" alternative means of committing first degree arson under RCW 9A.48.020(1)(c) because the fire-damaged sheathing, blinds, and curtains were all "in [the] building."

II. SAG Arguments

A. Ineffective Assistance of Counsel

Murphy argues in his SAG that his defense counsel provided ineffective assistance at trial in failing to move for a mistrial when he (defense counsel) recognized that (1) Wimmer made "falsified statements" at trial, (2) Angelica "g[ave] inconsistent statements under oath" and "in two different court proceedings," and (3) law enforcement "conducted an illegal search and seizure" without a warrant. SAG at 1, 2. These arguments also fail.

Under the Sixth Amendment to the United States Constitution and article I, section 22 of

the Washington State Constitution, a defendant is guaranteed the right to effective assistance of counsel in criminal proceedings. *Strickland v. Wash.*, 466 U.S. 668, 684-86, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); Wash. Const. art. I, § 22. To prove effective assistance of counsel, Murphy must satisfy a two-part test, *In re Pers. Restraint of Davis*, 152 Wn.2d 647, 672-73, 101 P.3d 1 (2004): He must show that (1) his trial "counsel's representation was deficient, i.e., it fell below an objective standard of reasonableness based on consideration of all the circumstances"; and (2) his trial "counsel's deficient representation prejudiced [his case], i.e., there is a reasonable probability that, except for counsel's unprofessional errors, the result of the proceeding would have been different." *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). A "reasonable probability" is that "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. Murphy's failure to establish either element of this test defeats his ineffective assistance of counsel claim. *Strickland*, 466 U.S. at 700.

We address in turn each of the three deficiencies that Murphy attributes to his trial counsel. First, Murphy's claim about Wimmer's trial testimony fails because Wimmer did not testify at the second jury trial—the proceeding from which Murphy now appeals.[9] Second, Murphy's argument that trial counsel provided ineffective assistance in failing to move for a mistrial based on Angelica's "giving inconsistent statements under oath," SAG at 2, fails to identify any of the statements to which it refers; and the transcript of her trial testimony sheds no light on this contention. Thus, we are unable to address this argument. RAP 10.10(c).

[9] Murphy's trial counsel brought about this second trial when in the first trial he moved for and obtained a mistrial based on law enforcement's failure to comply with the Privacy Act's requirements.

Third, Murphy argues that his trial counsel provided ineffective assistance in failing to move for a mistrial based on law enforcement's unlawful and warrantless search and seizure of his cell phones. Contrary to Murphy's contention, the record shows that law enforcement conducted the search of Murphy's person incident to his arrest for making harassing phone calls to Williams. Thus, Murphy fails to show that defense counsel rendered deficient performance at trial in failing to object to a lawful search incident to arrest. Because Murphy fails to show deficient performance, we need not address the prejudice prong of the ineffective assistance of counsel test. *State v. Garcia*, 57 Wn. App. 927, 932, 791 P.2d 244, *review denied*, 115 Wn.2d 1010 (1990) ("We need not address both prongs of the [*Strickland*] test if the defendant makes an insufficient showing on one.").

B. Recorded Statement Not Admitted at Trial

Lastly, Murphy argues in his Amended SAG that he "was n[ot] fully informed of his rights" until after the police had finished recording his statement, and the police's failure to advise him of his rights and to obtain his waiver of these rights before recording his statement violates the "Privacy Act," RCW 9.73.090(1)(b).[10] Amended SAG at 1. But this argument also fails

[10] "The 'Privacy Act,' RCW 9.73.090, governs the recording of custodial interrogations." *State v. Mazzante*, 86 Wn. App. 425, 427, 936 P.2d 1206 (1997). It provides that video and/or sound recordings "may be made of arrested persons by police officers" before the arrested person makes his or her first appearance in court. RCW 9.73.090(1)(b).

It also provides:

> Such video and/or sound recordings shall conform strictly to the following:
> (i) The arrested person shall be informed that such recording is being made and the statement so informing him shall be included in the recording;
> (ii) The recording shall commence with an indication of the time of the beginning thereof and terminate with an indication of the time thereof;
> iii) *At the commencement of the recording the arrested person shall be fully informed of his constitutional rights, and such statements informing him shall be included in the*

because, contrary to its implication, the trial court did not admit Murphy's recorded statement in evidence at his second jury trial.

Accordingly, we affirm.

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.

Hunt, J.

We concur:

Armstrong, P.J.

Quinn-Brintnall, J.

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recording;
(iv) The recordings shall only be used for valid police or court activities.
RCW 9.73.090(1)(b) (emphasis added).