IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. KAI TREMAINE PIERCE, Appellant.	No. 39348-4-II UNPUBLISHED OPINION

Hunt, J. – Kai Tremaine Pierce appeals his jury trial convictions—attempted second degree murder and unlawful possession of a firearm. He argues that (1) the trial court erred when it admitted evidence of gang culture and gang affiliation, (2) defense counsel provided ineffective assistance in failing to request a limiting instruction for this evidence, and (3) the prosecutor committed misconduct by improperly injecting racial prejudice into trial. We affirm.

FACTS

I. Attempted Murder and Unlawful Firearm Possession

A half hour before midnight on November 25, 2006, Shawn Tracy Garrett and some family members went to drink and to shoot pool at The Factory in South Tacoma. Around closing time, some witnesses heard Garrett yell that he was an "OG" ("original gangster"),[1]

[1] *See* 4 VTP at 164, 195; 5 VTP at 14, 17, 19, 21-23; 6 VTP at 142, 153.

sometime after which he got into a fight with a stranger, Vernon Lewis Curry, near the front entrance. Several people eventually joined the fight and 10 to 15 more gathered around to watch; more than 100 others were in the immediate area.

Tacoma Police Officer David Fischer, one of two off-duty Tacoma officers providing extra uniformed security at the club, was nearby helping a young woman who had been injured in a fight inside the club. He used "pepper spray" to break up the fight and to disperse the gathering crowd. 6 Verbatim Transcript of Proceedings (VTP) at 38. Fischer and other club security personnel, including Gary Nathaniel Gatewood, Jr., eventually broke up the fight. Curry walked away.

Fischer, Gatewood, and other club security personnel escorted Garrett and his family, who were still hostile and uncooperative, across the street to the bank parking lot where they had parked their car. Fischer did not question them about the fight and returned to the injured woman he had been helping earlier. A few minutes later, Fischer heard a gunshot from the bank parking lot, drove his patrol car to the lot, and saw Garrett on the ground surrounded by 10 to 20 people who were "yelling and screaming and cussing." 6 VTP at 48. Garrett had been shot in the right eye.[2]

Fischer radioed for medical and police assistance, approached Garrett, and helped Gatewood, who was assisting Garrett, restrain Garrett's arms so he could not touch his injured eye. Fischer asked the people around him if they had seen anything, but no one provided any

[2] The nearly fatal gunshot wound to Garrett's face destroyed his right eye; shattered his right eye socket; and fractured his maxilla, jawbone, and first and second vertebra.

information. Within minutes, Tacoma Police Officer Jared Williams, the other off-duty officer working at The Factory, and several more officers arrived. They found Garrett and those assisting him surrounded by a large crowd of yelling and screaming people, who appeared "very angry and hostile" and were breaking into small fights. 4 VTP at 9. Someone "yelled that the suspect vehicle was an unknown colored Chevy Blazer," and someone called 911 to report the license plate number of a vehicle that had "fled northbound through the alley behind the bank." 6 VTP at 85.

It took about nine minutes for the fire department to arrive; they would not enter the scene until the crowd was under control. After the officers pushed back the crowd and put up crime scene tape, the fire department responders began to treat Garrett, and the crowd dispersed quickly. The officers attempted to gather information from the remaining people, including Garrett's relatives; but no one cooperated. The only information the officers obtained was a partial license plate number for the vehicle involved. Taking Fischer aside after the crowd dispersed, Gatewood told him that he knew the person involved in the fight as "C.C." and believed that CC might also have been involved in the shooting, even though he (Gatewood) claimed to have left the bank parking lot before the shooting. 5 VTP at 82. Williams later identified CC as Curry.

II. Investigation

A couple of months later, Garrett located several photographs showing Curry and the man whom he (Garrett) believed had shot him. Garrett provided Fischer with information that led to identifying the other man involved in the fight as Kai Tremaine Pierce. Fischer first contacted

Pierce entering a white Camero and shared this information with Tacoma Police Detective Gary Hill. The police obtained an arrest warrant for Pierce and, after Fischer noticed the same white Camero in the parking lot of McCabe's, another local bar, they arrested him. After waiving his *Miranda*[3] rights, Pierce admitted that (1) he had been at The Factory on the night of the shooting; (2) he had seen his step-brother[4] fighting with Garrett in the bank parking lot; (3) because Garrett was large, he (Pierce) had "inserted himself to act as a peacemaker" and ended up fighting with Garrett; and (4) after the fight ended, he (Pierce) was walking to his car when he heard a gunshot.

Several months later, on November 13, 2007, Hill and Tacoma Police "gang expert" Detective John Ringer contacted Curry at the Kitsap County Jail. 6 VTP at 139. Ringer was "very familiar" with Curry. 6 VTP at 139. When the detectives told Curry that they were investigating The Factory shooting, Curry knew immediately what they meant. Curry told the detectives that (1) "he didn't really know why [he and Garrett had] fought"; (2) Garrett had been yelling that he (Garrett) was an "OG from the Hilltop," which Hill believed "probably sparked [Curry's] interest," 6 VTP at 142; (3) he (Curry) had fairly quickly broken off the fight and had run off in his black Mercedes with a friend because there were police officers present; and (4) he did not witness the shooting or see Garrett again. After the detectives told Curry that Pierce had been identified as the shooter, Curry "repeatedly said that [Pierce] didn't do the shooting," 6 VTP at 143, and, because Pierce's family thought that he (Curry) had "snitched" on Pierce, "he [Curry]

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

[4] Hill later learned that Pierce's "step-brother" was Aaron Dukes, Pierce's adopted brother. 7 VTP at 10.

wanted to make sure that in any police report that he wants to make it perfectly clear that he says Kai Pierce didn't shoot [Garrett]." 6 VTP at 144-45.

During the follow-up investigation, Gatewood gave several additional statements,[5] but he refused to allow them to be tape-recorded. Gatewood explained that Pierce's family had contacted him "on more than one occasion," that one of Pierce's family members had walked by him and said, "[Y]ou are starting to [snitch] now," 6 VTP at 151-52; and that there were other times when he thought Pierce's family members were threatening him. He told the detectives that he would not come to court; would not provide names of the people he alleged had threatened him; and would not respond to a subpoena because "he's on scene at these nightclubs and he didn't want to be a victim himself." 6 VTP at 161.

III. Procedure

The State charged Pierce with first degree unlawful possession of a firearm and attempted first degree premeditated murder while armed with a firearm.

[5] In his January 2, 2008 statement to Hill and Ringer, Gatewood stated that (1) Curry "and his people" had been thrown out of The Factory around closing time, but he did not know if it was because there had been "a problem inside"; (2) once Curry and his group were outside, Garrett "began yelling out to whoever would listen that he's OG from the Hilltop, meaning that he's a longtime gang member from the Hilltop"; (3) he believed Garrett's comments "sparked [Curry's] interest" and started the fight; (4) as he accompanied Garrett to the parking lot, Garrett continued to "yell[] that he [(Garrett)] was an OG from the Hilltop"; (5) while in the parking lot, "a white Firebird or Camero" pulled up about 10 feet away from him and Garrett, with Curry driving and Pierce in the passenger's seat; (6) Curry "lean[ed] across and sa[id] something to the victim"; and (7) Gatewood then saw "two muzzle flashes come from the passenger's seat." 6 VTP at 153-158.

A. State's Pretrial Motion to Admit Gang Evidence

The State moved in limine to admit evidence of Pierce's gang affiliations and expert testimony about gang culture, to establish motive and "to provide the jury with the necessary and relevant res gestae of the crime." Clerk's Papers (CP) at 79. More specifically, the State asserted that this evidence would (1) show that Pierce was motivated by his "anger at Garrett's" assertion that Garrett "was an O.G."; (2) address "how 'disrespect' affects gang members" and show how gang members "often react violently" if any gang member is "disrespected" in any way; (3) tie Pierce to Curry and show that fellow gang members will assist when another gang member is "reacting to" perceived disrespect; (4) "explain why no one would cooperate with law enforcement"; and (5) give the jury relevant information to assist in assessing witness credibility, possibly showing, for example, that some witnesses might not be entirely candid because they fear "retaliation" or because of "their loyalty to the defendant or [to] the 'street code' of no snitching." CP at 81-82.

Pierce objected to the gang evidence and Ringer's expert testimony, arguing that it was not relevant, unfairly prejudicial, and inadmissible as res gestae. He also argued that Ringer's expert testimony was not admissible under ER 702 and 703 because (1) motive was not an element of the offense, (2) some of Ringer's testimony comprised impermissible comments on witness credibility, and (3) much of Ringer's testimony did not relate to matters beyond a layperson's common understanding.

At the motion in limine hearing, Ringer testified about his extensive history with gang-related crime; his work with gang units in Tacoma and Pierce County, 2 VTP at 76-78; and the

prevalence of gang activity in Tacoma in 2006, which "centered around" The Factory and McCabe's. 2 VTP at 78. Ringer also testified that (1) gangs associate with specific colors and "hand signs" and may display, "flash[]," or "throw" colors or hand signs to show gang affiliation; (2) throwing a gang sign at a rival gang, or other disrespectful behavior, "demands a response," often violent; (3) the term "OG" means "Original Gangster," one of the original founders of the gang, which entitles that person to great respect; (4) law enforcement uses the term "associate" to indicate someone who is closely associated with the gang though not a gang member; (5) gang associates are often involved in the gang's criminal activities; (6) loyalty to the gang is an important aspect of gang culture and, once someone is a member of a gang, he is required to protect his fellow gang members; (7) gang members often intimidate, pressure, and tamper with potential witnesses; (8) people in the gangs' communities are aware that "there's a price to pay if you step forward and are willing to testify or tell the truth about what happened"; and (9) it is "the exception" when someone does come forward with any information. 2 VTP at 81-83, 85-88.

Ringer further testified that the "Young Gangster Crips" were among the active Crips gangs in Tacoma in 2006. 2 VTP at 82. The Young Gangster Crips had been involved in "a series of events," including the homicide of one of their members at a bowling alley and retaliatory acts related to that killing. 2 VTP at 82. Ringer was familiar with the Young Gangster Crips members and their associates: Pierce, for example, was (1) a member of the "Nutty Blocc Crips" gang in 1999; (2) convicted of and sentenced to prison for a gang-related shooting; (3) pulled over by police in 2007, shortly after he got out of prison, with a blue bandana tied around his car's steering wheel; and (4) in several photographs taken close to the time of the shooting

depicting known Young Gangster Crips members throwing the gang's hand sign.

Pierce argued against admitting the gang evidence and Ringer's expert testimony as irrelevant, unfairly prejudicial, inadmissible as res gestae, and inadmissible as expert testimony under ER 702 and 703. The trial court ruled that Ringer qualified as an expert, and that the State could present (1) "general[]" gang evidence; (2) gang evidence potentially relevant to witnesses' reluctance to participate in investigations, background information about the meaning and significance of the term an "OG," and background information on the gang activity at The Factory; and (3) evidence of Pierce's "associati[ons]" with known gang members (which the court ruled was admissible to show motive); 2 VTP at 158, 3 VTP at 110, 121.

The trial court also ruled, however, that the State could not present (1) specific testimony that Garrett's "OG" comments or false claims of being an "OG" were acts of disrespect that would prompt retaliation, 3 VTP at 130; (2) testimony about Pierce's 1999 conviction or related previous gang associations; or (3) testimony that Pierce was currently a gang member. Nevertheless, the trial court indicated that its rulings could change depending on the evidence the parties presented at trial.

B. Trial Testimony

1. State's case in chief

a. Garrett

At trial, Garrett testified that Curry had attacked him inside The Factory for no apparent reason and had called out to his friends, "[H]ey Cuz, hey Cuz, I can't handle him, Cuz," at which point six or seven men joined in the fight. 7 VTP at 161. Unsure how the fight ended, Garrett

eventually found himself outside, where Curry attacked him again. Garrett chased Curry into the bank parking lot, where several men "swarmed" him. 7 VTP at 176. Garrett fell to the ground, and, when he managed to get to one knee, he looked up to see Pierce less than five feet away, pointing a gun at his (Garrett's) face. Garrett looked right into Pierce's face, everything went "white," 7 VTP at 177, and his next memory was waking up in the hospital about three weeks later. According to Garrett, he was "heavily medicated" when he talked to Hill and he was not sure he had made any sense. 7 VTP at 179.

Garrett denied having been a gang member but said he knew about gangs because it was "part of [his] culture growing up" in Louisiana and in Tacoma. 7 VTP at 167. At the time of the shooting, he knew that "OG" meant "an original gangster or old gangster," and he was aware that gangs used this term to describe "older gang members." 7 VTP at 166. But he did not recall saying or implying that night that he was an "OG." 7 VTP at 168. He also testified that "Cuz" is a term used "exclusively" by Crips. 7 VTP at 168.

b. Williams

Over Pierce's renewed objection, Officer Williams testified that (1) he was aware that The Factory was having "issues" with gang affiliates who frequented the club, 4 VTP at 10; and (2) the gang presence had made him concerned for his and Garrett's safety following the shooting.

c. Gatewood

Gatewood testified that (1) gang members frequented The Factory and gang problems had occurred there; (2) during the course of his work as a security guard at various clubs, he had seen at least 15 shootings; and (3) although he had been with Garrett when Garrett was shot and had

seen a white Camero he thought was Curry's, he did not see whether there was more than one person in the car and he did not think the shot came from that vehicle. Gatewood denied making some of the statements the detectives attributed to him, asserted that he did not see Pierce in the car with Curry or see a muzzle flash coming from the car, and denied having any personal knowledge of whether gang members are loyal to each other.[6] But he did acknowledge that he had given the police varying descriptions of the events on the night of the shooting.

At the time, however, Gatewood thought that the shooting "was some type of retaliation." 5 VTP at 32. Despite denying having refused to cooperate fully with the investigation out of fear and denying having been threatened, Gatewood further testified that much of what he had told the police about the events on the night of the shooting was untrue[7] because he was concerned for his and his family's safety.[8] He claimed, however, that his hesitance was not necessarily related to any "gang issue," although he agreed that "there were gang members involved" in the shooting, 5 VTP at 39, and he knew that "Mr. Curry and his buddies" were involved in gang activity with the Young Gangster Crips. 5 VTP at 40. Gatewood acknowledged that no one in the crowd that night was cooperative. But he asserted that this lack of cooperation was not because the incident

[6] Gatewood also denied that an orange rag tied in his car was gang related, claiming that it concerned the "little league" football team that he coached. 5 VTP at 123-24. He did acknowledge, however, that members of the "Hoover Crips," a Southern California gang that has a presence in the northwest region, wear orange bandanas. 5 VTP at 134.

[7] For example, Gatewood denied having made some statements the detectives attributed to him and asserted that he did not see Pierce in the car with Curry or see a muzzle flash coming from the car.

[8] More specifically, Gatewood testified, "I mean, pretty much everybody knows that if you go out of your element to be a part of something that happened and start to speak on things that yeah, maybe [sic] retaliation." 5 VTP at 39.

was gang-related, but rather because (1) the African-American community generally does not cooperate with the police, in part for fear of retaliation; (2) the people in the crowd "just didn't want to be involved," 5 VTP at 104; and (3) a person can be killed if he talks. Even though he denied being a gang member, Gatewood knew that gangs handle things "on the streets" and do not involve the police. 5 VTP at 134. He also testified that the term "Cuz" is associated with the Crips. 5 VTP at 139.

When the State asked Gatewood about the term "OG," the following dialogue ensued:

> Q. So, if a person—in the same line of understanding in this culture, if a person is claiming to be an OG from the Hilltop and they're actually not, the only people that would get upset about that would be other gang members that know that, correct?
>
> [DEFENSE COUNSEL]: Object.
>
> [STATE]: I think I laid enough foundation as to this basis.
>
> THE COURT: You can answer the question.
>
> [GATEWOOD]: Are the people who he's standing next to yelling in their face about it?
>
> Q [State]. But it is the specific thing that was said that is offensive, correct?
>
> A. Sure.
>
> Q. That would cause a reaction from those associated or involved or members of the Crips?
>
> A. It might be questioned, yeah.
>
> . . .
>
> Q. It is disrespect, right?
>
> A. Yeah.
>
> Q. That is what was happening in this case, right?
>
> A. I think the disrespect was more of him yelling and causing the scene that he was causing, not the words that he was using.

5 VTP at 139-40.

d. Curry

Curry testified that he had known Pierce for 12 or 13 years, that he saw Pierce only

occasionally at local bars, and that he considered Pierce an "associate." 4 VTP at 95-96. When the State asked several times whether this meant that Pierce was his friend or an acquaintance, Curry repeatedly responded, "I consider him an associate." 4 VTP at 95. When the State told Curry that it was "just trying to understand," Curry responded, "You understand the word associate. I consider him an associate. I mean, I can't explain it no more further than that." 4 VTP at 96.

The State demonstrated a hand sign that resembled the "[s]hape of a Y," which Curry testified meant "[h]ang loose," 4 VTP at 114, a hand sign associated with Young Gangster Entertainment but not with the Young Gangster Crips. Curry denied being involved in Young Gangster Entertainment, being a Young Gangster Crips member, or ever having been a gang member. But he could not explain why several photographs showed him flashing the "hang loose" sign if he was not associated with Young Gangster Entertainment. 4 VTP at 116.

The trial court admitted several photographs of Curry with other people, including Pierce, in which Curry is holding large amounts of cash, displaying his jewelry, or giving hand signs, including the "hang loose" sign, which several other people are also displaying. *See* Ex. 22, 23, 24, 25. Across the top of one photograph, are the words "Young Gang Ent" displayed in large print. Ex. 22. Although Curry denied seeing Pierce anywhere but at clubs, one of the photographs shows Curry with Pierce at a gas station, which Curry explained was a chance encounter.

Curry testified about the fight the night of the shooting as follows: As he was leaving The Factory, a large man, whom he had never seen before and would not recognize again, "bumped"

him from behind. 4 VTP at 157. Curry turned to the man, "asked him" to say, "[E]xcuse me," and told him that it was "kind of rude, you just bump into somebody." 4 VTP at 157. The man then "turned into the Incredible Hulk" and started to "rambl[e] on about where he was from and what high school he went to and some weird stuff," which led to the "physical altercation" between the two men. 4 VTP at 158-59. When the fight ended, Curry ran; the other man was not able to catch him. Curry got into his car with his "friend" and went home. 4 VTP at 169. Curry denied having seen Pierce at the club that night or having fought with Garrett inside; Curry did not, however, deny having fought with Garrett outside the club.

The State questioned Curry about a November 13, 2007 police interview in which he had described this fight. After refreshing his recollection, Curry testified that, although the report said he had told the detectives that the man with whom he had fought had said that "he was an OG from the Hilltop," the man never made such a statement. 4 VTP at 163. Curry at first denied knowing what an "OG" was. 4 VTP at 163. Curry then admitted that (1) the man "might have said I'm an OG," rather than "an OG from the Hilltop," but he (Curry) did not recall exactly what the man said because the man "was babbling on," 4 VTP at 164; and (2) he (Curry) had "heard" the term "OG" and knew it meant "[O]riginal [G]angster," but he did not "know the origins of it." 4 VTP at 165. But Curry denied being aware that the term meant "someone who has been a gangster from the beginning, and that person has a higher level of street credibility[.]" 4 VTP at 166.

Over Pierce's lack-of-foundation and relevancy objections, the State again asked Curry, "Isn't it true that, in fact, you are a Young Gangster Crip, that on this particular evening [the man

you fought with] was claiming to be an OG from the Hilltop and you took considerable offense to that?" 4 VTP at 166. Although admitting that he knew "gangsters," Curry again denied being a Young Gangster Crip, having heard the man say that he was "an OG from the Hilltop," or that there would be "consequence[s]" if someone asserts to gang members that he is a gang member when he is not. 4 VTP at 167.

The State also questioned Curry about why he had insisted that the detectives note in their report that Pierce "didn't do it." 4 VTP at 170. Curry responded that this was because he knew that Ringer "has a way of twisting people's words and making it seem as if a person is working for him," 4 VTP at 170; and he wanted to ensure the report stated that he (Curry) had said that Pierce did not shoot Garrett. Curry denied that anyone in Pierce's family had been threatening him. Although Curry later testified again that Pierce "didn't do it," he (Curry) eventually testified that because he had not been present when the shooting happened, he merely did not "think that [Pierce] did it." 4 VTP at 208-09.

e. Ringer's expert gang testimony

After Ringer described his background and experience with gangs, Ringer defined a "criminal gang":

> Talking about a street gang, and you're talking primarily a black street gang in this situation here, it is—there's no hierarchical layout to a gang like a mafia where you have a series of leaders all the way down to foot soldiers. It is more of an even distribution of power. You have individuals who have a little bit more power because they're OGs, or original gangsters, the ones who form the gang who have been around for a long time. They're respected, and respect is a big part of gang culture. But generally you won't have one individual who directs everybody.
> . . .
> A gang is a collection of individuals with a common purpose, common

> criminal activity, banded together for power, for protection, for purposes of [non-legitimate] financial gain.

9 VTP at 18-19. Ringer also testified that an "OG" is entitled to respect and that gangs have no tolerance for snitches. 9 VTP at 89.

Ringer estimated that there are 50 to 60 "identifiable gangs" of varying size and power in Tacoma, noting that the gangs and gang "vernacular" are constantly changing.[9] 9 VTP at 24. Ringer then testified that (1) law enforcement does not label a person a gang member without a justifying reason, such as admissions, tattoos, or hand signs; (2) law enforcement considers an "associate" to be someone who associates with a gang, but is not quite a member or about whom law enforcement has some doubt as to whether the person is a member; (3) gang members do not use the term "associate" the same way; (4) if associates want to become gang members, they often "do things" for the gang, like engaging in drug sales or drive-by shootings to promote themselves; (5) a "wannabe" is someone who wants to be a gang member but is not a gang member, which term has "negative connotation[s]; (6) a person who "associate[s] with a gang closely" is "bound to run into some criminal activity because it just follows the nature of gang"; (7) that a non-gang member is with gang members, however, does not necessarily mean that the non-gang member is or wants to be a gang member; and (8) cooperating with the police, or "snitching," is not tolerated by gangs and may result in violent retaliation. 9 VTP at 27-29, 89. Over Pierce's objection, Ringer testified that witnesses often do not cooperate when the police

[9] At this point, Pierce reminded the trial court that he had a standing relevance objection to this kind of testimony. The trial court reiterated that it had overruled this objection and noted the ongoing objection.

are investigating gang-related shootings at nightclubs.[10] Stating that he is capable of identifying many, but not all, gang signs, Ringer identified the gang signs displayed in photographic exhibits 34 and 41.[11] He acknowledged that the "hang loose" sign may have several meanings but that "locally [it] is used to refer to the Young Gangster Crips." 9 VTP at 34. Over Pierce's renewed objections, Ringer testified that (1) The Factory is a "Crip hangout," although not everyone who goes there is in a gang; (2) at the time of the shooting, the Young Gangster Crips' presence was very strong at The Factory, where they were "involved in a lot of the incidents"; and (3) the police "were watching it" because of "a whole series of violent assaults, shootings, drug activity." 9 VTP at 40.

Ringer further testified that Young Gangster Entertainment is associated with the Young Gangster Crips and that he believed the former was "just a front" for the latter, noting that the Young Gangster Entertainment logo appeared to be the same "hang loose" sign that the Young Gangster Crips used. 9 VTP at 55. In the photographs, Ringer identified several known gang members, including many Young Gangster Crips members, a number of whom were displaying

[10] Ringer also acknowledged, however, that a person's hesitation to cooperate with law enforcement can arise from many sources, including general distrust of law enforcement and personal feelings towards particular officers. Ringer further testified that, during his interview of Curry, Curry had said he was being blamed for Pierce's arrest and implied that Pierce's "family" had suggested they thought Curry had talked to the police; so Curry wanted the police report to say that Pierce "didn't do it." 9 VTP at 71. Ringer noted that Curry was not cooperative when he gave this statement and that he was "very careful," and "very evasive with his words." 9 VTP at 72-73.

[11] The trial court advised the jury that it was admitting exhibits 34 and 41 "for the limited purpose of illustrating examples of gang signs and for no other purpose." 9 VTP at 33; *see also* 9 VTP at 37.

gang sings, including the "hang loose" sign.[12] Pierce was in several of these photographs, displaying the "hang loose" sign in one.[13]

f. Michael Batts

Michael Batts, one of Pierce's friends, testified for the State. Batts stated that he had gone to the Factory with Pierce on the night of the shooting and that he saw Aaron Dukes inside the club that night. Around closing time, after he had lost track of Pierce, Dukes had tried to get him outside at last call, but Batts stayed inside to have one last drink. Batts assumed that Dukes had wanted him to leave the club because there was "something . . . going on outside"; he (Batts) was aware of "a hostile situation" at the front doors. 10 VTP at 150-51. That was the last time Batts saw Dukes that night.

After Batts finished his drink, he left the club alone and walked back towards Pierce's car. As he left the club, he noticed "[t]here was something going on [at the front door], but [he] wasn't concerned about it." 10 VTP at 131-32. After reaching Pierce's car, Batts noticed Garrett on the ground in the parking lot, holding his face.[14]

Batts then walked away and got in a car with a friend's ex-girlfriend, Christiany, who told him that she had heard someone had been shot. They left the area to look for Pierce. Using

[12] Ringer acknowledged that non-gang members may make signs for fun, but they do not realize how dangerous this can be on gang turf.

[13] Ringer also testified that (1) few gang members have jobs unless they have just been released prison and a job is required as a condition of their release; (2) many gang members attend church; and (3) it is unlikely that a gang member will be a "family man, staying home at night, taking care of the kids, getting to bed early, getting up," unless the person is "on parole." 9 VTP at 172-74.

[14] Batts denied having heard any gunfire that night.

Christiany's cellular telephone, Batts called his girlfriend to locate Pierce. He asked his girlfriend to check their "caller ID" to see if anyone had called; his girlfriend told him that Dukes had called. 10 VTP at 134. At Batts' request, Batts' girlfriend called Dukes, who told her that "it went down or it had went down, it is out of my hands, something in that nature" and to tell Batts to go home. 10 VTP at 143. Batts did not see Pierce again that night. A short time later, upset about several recent shootings, Batts broke down crying in a nearby gas station and was eventually arrested by a State Trooper on an outstanding warrant.

Batts admitted that before the trial, he had told the prosecutor that "the word on the street is Aaron Dukes did this." 10 VTP at 148. Batts testified that some of Pierce's family and friends told him that Dukes was involved, but Batts admitted that he had not seen the shooting.

g. Detectives

Pierce does not challenge the trial court's admitting his statements to Hill. Hill's testimony established several inconsistencies between the information Garrett had provided him in an interview conducted in the hospital and Garrett's testimony at trial. The trial court instructed the jury that it could consider Gatewood's out-of-court statements to Hill only for impeachment.

2. Pierce's case

a. Other eyewitnesses, "other suspect," and "good character" testimony

Pierce called witnesses who presented differing eyewitness accounts of the shooting, none of which directly implicated him. Nevertheless, some testified that Pierce was among those who had assaulted Garrett in the bank parking lot. None of these witnesses admitted to being gang members, although several admitted that they had grown up with gang members, had maintained

close relationships with them, or were "affiliated" with gangs, including the Young Gangster Crips. 11 VTP at 95, 103. Several witnesses claimed either that they had seen Pierce's adopted brother, Aaron Dukes, shoot Garrett or that an eyewitness had told them that Dukes, who did not share the same circle of friends as Pierce, was the shooter. But none of these witnesses had come forward with this information early in the investigation, for which they offered a variety of non-gang related reasons,[15] including that Dukes had threatened them.

The defense also called Dukes. Although Dukes testified that he had heard gunfire on the night of the shooting, he denied having shot Garrett, having been in a fight in the parking lot where Garrett was shot, or telling Duke's girlfriend that he had shot someone in the face at The Factory. Dukes also testified that he knew Pierce's "family" was telling people that he had shot Garrett. 10 VTP at 182.

Pierce also presented testimony suggesting that, after his release from prison, he did not associate with gangs, and that he did not fit Ringer's "profile" of a gang member. Several of his witnesses, however, were not aware that Pierce had any past or present gang associations. Pierce's daughter's maternal grandmother, Terri Denise Hunter, testified that, after Pierce was released from prison in September 2006, he spent a lot of time with his daughter at her (Hunter's) home, worked regularly, and often met them at their church. Although Hunter lived in an area where there was gang activity, since Pierce's release from prison, she had not seen him with people involved in gangs or seen him engaging in any gang-related activity.

[15] For example, one defense witness, Bobby Joe Ezra Plain, who had been shot several times in the past, testified that he was "scared to go to the police because people were being shot and all of that" and he did not "want to be shot." 11 VTP at 226.

On cross-examination, Hunter testified that, although she had known Pierce before he went to prison, she did not know if he had any previous gang history. When the State asked if she had heard that Pierce was a Nutty Blocc Crip, Pierce objected. After the trial court overruled the objection, Hunter responded that she had not previously known of any gang association and that this information surprised her.

b. Motion for mistrial

Pierce moved for a mistrial, arguing that the State had violated the trial court's order in limine by "bringing up this Salty [sic] Block [sic] Crip thing," to which he had not opened the door. 10 VTP at 164. The State responded that Pierce had opened the door by asking Hunter about Pierce's activities after his release from prison and asking whether she was aware of Pierce's involvement with any gang members. Pierce argued that his current associations and activities did not have anything to do with whether he was a gang member before he went to prison. The trial court stated that it had overruled the objection and that it was now denying the motion for mistrial because Pierce had opened the door.

c. More character witnesses

Pierce's girlfriend at the time of the shooting, Keidra Lewis, testified that, although she and Pierce went out to clubs and bars together about twice a week and Pierce would sometimes go out to clubs on his own, he was frequently home in the evenings. Keidra Lewis's mother, Sharon Lewis, testified that (1) Pierce lived with her and her daughter after his release from prison; (2) she (Sharon Lewis) did not allow any gang activity near her home; and (3) she had no knowledge of Pierce or two of her nephews, who knew Pierce, being involved in gang activity.[16]

Pierce's supervisor from The Dollar Store, Jodi Christiana, testified that Pierce had worked for her from October 2006 until the following February or March, 25 to 30 hours a week, and that he was a dependable employee, who dressed appropriately, never wore gang attire, and was good with customers. Christiana was aware that Pierce was on community custody status following his release from prison when he worked for her, but she did not know whether his community custody required him to work. She had no knowledge of Pierce's activities outside of work.

3. State's rebuttal

The trial court allowed the State to recall Ringer as a rebuttal witness to address the "character information that defense has put out there." 12 VTP at 132. Over Pierce's objections, the trial court ruled that Ringer could testify about Pierce's prior gang association and the fact that his former gang had dissolved while Pierce was in prison, reasoning that Pierce had opened the door to this evidence. Ringer then testified on rebuttal that, before Pierce went to prison, he had been a member of the Nutty Blocc Crips, which gang had dissolved before Pierce's release from prison in September 2006.[17]

C. Jury Instructions

[16] These nephews were Jacque Banks and Michael Batts. During the State's case in chief, Ringer testified that Banks was a Young Gangster Crips member. Testifying for the defense, Banks later denied being a gang member but admitted that he was "affiliated" with Young Gangster Crips members. 11 VTP at 95. Batts, who had earlier testified for the State, denied being a gang member.

[17] At the time of the 2006 shooting at issue here, most law enforcement personnel would not have known of Pierce's pre-prison gang involvement.

Pierce neither offered nor requested an instruction limiting use of the gang evidence to motive, res gestae, or witness credibility issues.[18] Instead, he argued that because the State had presented evidence suggesting his "bad character," he was entitled to the following proposed instruction, 12 VTP at 156, based on WPIC 6.12[19]:

> Any evidence that bears upon good character and good reputation of the defendant should be considered by you, along with all other evidence, in determining your verdict. However, even if you find that the defendant is a person of good character or reputation, you should not acquit if you are convinced beyond a reasonable doubt of the defendant's guilt.

CP at 154. The trial court rejected this proposed instruction.

D. Closing Arguments and Verdict

Throughout its closing argument, the State emphasized: the witnesses' reluctance to come forward to provide information about the shooting; the defense's late disclosure of Dukes as an alternative suspect; and witness credibility issues, which, it argued, were strongly influenced by gang loyalty and fear of gang reprisals. The State also discussed (1) how gang associations and gang cultures' emphasis on extreme loyalty and extreme consequences for perceived disrespect, provided motive for the shooting; and (2) how Pierce's former gang membership, the fact his former gang no longer existed when he was released from prison, and the photographs of him with known Young Gangster Crips gang members (particularly the photograph of him displaying the Young Gangster Crips' hand sign) demonstrated that Pierce had aligned himself with the

[18] Nor had he requested any such limiting instructions during the course of the trial.

[19] 11 Washington Practice: Washington Pattern Jury Instructions: Criminal 6.12, at 188 (3d ed. 2008) (WPIC).

Young Gangster Crips and explained why he would come to Curry's aid and shoot Garrett in retaliation for his perceived disrespect. The State also argued that evidence of Pierce's gang associations was relevant because Pierce had put his character at issue by presenting evidence of his non-gang related activities since his release from prison. The State further noted, however, that "criminal trials aren't about character," but rather about whether the defendant committed the crime, regardless of his character. VRP (Apr. 13, 2009) at 103. The State urged the jury to "[u]se the gang evidence the way it was meant, which is to establish relevant facts regarding motive, loyalty, et cetera, and opportunity and rationale for him being the shooter in this case and everything else that comes afterwards." VRP (Apr. 13, 2009) at 103-04.

In his closing argument, Pierce (1) asserted that the gang evidence was intended to focus the jury's attention on his bad character and to distract the jury from the State's burden of proof; (2) emphasized that, since his release from prison, he had been a good employee and father, had regularly attended church, and, thus, did not fit Ringer's "profile of what a gang member is"; (3) asserted that any hesitance or reluctance by the victims to participate in the investigation was not gang related; and (4) noted that the "gang issues . . . cut both ways" because the witnesses who implicated Pierce during the investigation would not have done so if they had feared gang reprisals, noting, for example, Garrett, who had denied saying that he (Garrett) was an "OG." VRP (Apr. 13, 2009) at 51, 57, 68.

The jury found Pierce guilty of attempted second degree murder, with a firearm, and first degree unlawful possession of a firearm. Pierce appeals.

ANALYSIS

I. Gang Evidence

Pierce first argues that the trial court erred in admitting specific evidence of his gang associations and Ringer's expert general gang evidence because (1) this evidence was prejudicial; (2) no evidence established that he was a gang member at the time of the shooting; (3) Ringer's testimony did not establish the required nexus between gang activity and the crime; and (4) Ringer did not qualify as an expert because his testimony was not helpful to the jury. We disagree.

We review the trial court's admission of evidence for abuse of discretion.[20] An abuse of discretion occurs "if the trial court relies on unsupported facts, takes a view that no reasonable person would take, applies the wrong legal standard, or bases its ruling on an erroneous view of the law."[21] We consider "[f]ailure to adhere to the requirements of an evidentiary rule [to be] an abuse of discretion."[22] We find no such abuse of discretion here.

A. ER 404(b)

As our Washington Supreme Court has noted,

> ER 404(b) prohibits a court from admitting "[e]vidence of other crimes, wrongs, or acts . . . to prove the character of a person in order to show action in conformity therewith." This prohibition encompasses not only prior bad acts and unpopular behavior but any evidence offered to "show the character of a person to prove the person acted in conformity" with that character at the time of a crime.

State v. Foxhoven, 161 Wn.2d 168, 174-75, 163 P.3d 786 (2007) (alterations in original,

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[20] *State v. Thang*, 145 Wn.2d 630, 642, 41 P.3d 1159 (2002).

[21] *State v. Lord*, 161 Wn.2d 276, 284, 165 P.3d 1251 (2007).

[22] *State v. Foxhoven*, 161 Wn.2d 168, 174, 163 P.3d 786 (2007) (citing *State v. Neal*, 144 Wn.2d 600, 609, 30 P.3d 1255 (2001)).

emphasis omitted) (quoting *State v. Everybodytalksabout*, 145 Wn.2d 456, 466, 39 P.3d 294 (2002)).

Nevertheless, a trial court may admit such evidence for other purposes, "such as proof of motive, plan, or identity." *Foxhoven*, 161 Wn.2d at 175. ER 404(b) is intended to "prevent the State from suggesting that a defendant is guilty because he or she is a criminal-type person who would be likely to commit the crime charged"; but it is not intended to prevent the State from offering relevant evidence "necessary to establish an essential element of its case." *Foxhoven*, 161 Wn.2d at 175 (citing *State v. Lough*, 125 Wn.2d 847, 859, 889 P.2d 487 (1995)). Before admitting evidence under an ER 404(b) exception,

> "the trial court must (1) find by a preponderance of the evidence that the misconduct occurred, (2) identify the purpose for which the evidence is sought to be introduced, (3) determine whether the evidence is relevant to prove an element of the crime charged, and (4) weigh the probative value of the evidence against its prejudicial effect." *State v. Pirtle*, 127 Wn.2d 628, 648-49, 904 P.2d 245 (1995). "Preponderance of the evidence means that considering all the evidence, the proposition asserted must be more probably true than not." *State v. Ginn*, 128 Wn. App. 872, 878, 117 P.3d 1155 (2005)[, *review denied*, 157 Wn.2d 1010 (2006)].

State v. Asaeli, 150 Wn. App. 543, 576-577, 208 P.3d 1136 (footnotes omitted), *review denied*, 167 Wn.2d 1001 (2009).

Evidence of a defendant's gang membership may be relevant to show motive to commit the crime if the trial court finds a sufficient nexus between gang affiliation and motive for committing the crime. *State v. Boot*, 89 Wn. App. 780, 789, 950 P.2d 964, *review denied*, 135 Wn.2d 1015 (1998). Such evidence has probative value when it tends to prove such mental states as intent, motive, or a witness's bias. *United States v. Abel*, 469 U.S. 45, 48, 54, 105 S. Ct. 465,

83 L. Ed. 2d 450 (1984) (bias and motive of witness); *State v. Johnson*, 124 Wn.2d 57, 69, 873 P.2d 514 (1994) (motive), *superceded by statute on other grounds*, Laws of 2005, ch. 68, §3.

1. Not unfairly prejudicial

Pierce acknowledges that the gang evidence was admissible to establish motive and res gestae to address why some witnesses were uncooperative and to provide context for the jury's credibility determinations. Nevertheless, he argues that, because motive and res gestae were not material elements of the charged offenses, the unfairly prejudicial nature of the gang evidence outweighed its minor relevance. We disagree.

The State's trial theory was that Pierce shot Garrett because Garrett had "disrespected" the Young Gangster Crips by falsely claiming to be an "OG" or because Pierce was supporting Curry and other gang associates in their fight with Garrett. Despite not being direct evidence of an element of the charged crimes, that gang members and associates are known to react violently and to aid one another in these circumstances was highly relevant to Pierce's motive and the context of the fight and shooting because these general gang behaviors provided an explanation

for why Pierce might have shot Garrett.[23] *State v. Scott*, 151 Wn. App. 520, 527-28, 213 P.3d 71, *review denied*, 168 Wn.2d 1004 (2009); *Boot*, 89 Wn. App. at 790.

The gang association and the gang culture evidence explained why some witnesses may have been reluctant to come forward or to testify, explained the motivation for some witnesses' offering confusing or nonsensical testimony, and allowed the jury to evaluate each witness's testimony in the context of the gang dynamics in which this shooting occurred. *See Scott*, 151 Wn. App. at 528 (gang evidence admissible to explain threats to a victim/witness and refusal to identify her assailants). Despite evidence that some witnesses' reluctance was culturally based, we cannot say that the gang evidence was unfairly prejudicial and that the trial court abused its discretion in allowing the jury to consider this evidence.

2. Pierce's gang affiliation

Although Pierce is correct that there was no direct evidence that he was a Young Gangster Crips *member* at the time of the shooting, the record shows that he closely associated with Young Gangster Crips members and was involved in gang culture at the time. In addition to having been a known gang member before going to prison, after he was released from prison, Pierce began to associate with known gang members immediately upon his release from custody, even though he was on community custody and the gang to which he had previously belonged had

[23] Furthermore, in light of the contradictory testimony about the shooting, evidence of motive and context was arguably more highly relevant to the State's than it might otherwise have been. Throughout the trial, (1) the witnesses' testimonies were frequently vague, contradictory, and confusing, often demonstrating blatant attempts to obfuscate the facts or to avoid answering questions; (2) many of the witnesses changed their stories repeatedly over time, failed to come forward early in the case, and were obviously upset at being required to participate in the trial; and (3) some of the witnesses expressed concern about retaliation.

disbanded while he was incarcerated. In addition, around the time of the shooting, Pierce was photographed with known gang members numerous times and photographed giving the gang hand symbol for the Young Gangster Crips. Thus, this argument fails.

3. Nexus

Ringer did not explicitly testify in front of the jury about the nexus between gang members' violent reactions to false claims of gang membership or to perceived disrespect from a non-gang member or that gang members and associates are expected to aid other gang members in a fight. But he did testify about these matters in the State's offer of proof, on which the trial court relied in balancing the ER 404(b) factors and allowing the gang evidence. Furthermore, Ringer's trial testimony before the jury implied these points when he discussed the importance of respect and loyalty and gangs' general lack of tolerance for disrespectful behavior. And, although Ringer may have not testified in detail about these matters before the jury, Gatewood did when the State questioned him about the term "OG" and he responded that inappropriate use of this term would be offensive to gang members and might cause gang members or associates to react violently. Accordingly, this also argument fails.

B. ER 702

The key prerequisites for admission of expert testimony under ER 702 are a qualified witness and helpful testimony for the trier of fact.[24] Pierce fails to direct us to anything in the record showing that Ringer's expert gang information is common knowledge among the general

[24] *State v. Cauthron*, 120 Wn.2d 879, 890, 846 P.2d 502 (1993), *overruled in part on other grounds by State v. Buckner*, 133 Wn.2d 63, 65-67, 941 P.2d 667 (1997).

public. In essence, Pierce is arguing that evidence of close family ties and other justifications for individuals not wanting to cooperate with the police could have substituted for the gang evidence in explaining motivation and the witnesses' actions, including their reluctance to come forward and to testify. This argument, however, relates more to relevancy and prejudice than it does to whether Ringer's testimony could have been helpful to the jury, which was composed of members of the general public at large, despite Pierce's acquaintances' having some grasp of gang-related terminology and gang attributes. Thus, this argument also fails.

II. Effective Assistance of Counsel

Pierce next argues that defense counsel provided ineffective assistance in failing to ask the trial court to instruct the jury that it could consider the gang evidence only for the limited purposes of determining motive and res gestae and to explain why the witnesses were uncooperative. Again, we disagree.

To establish ineffective assistance of counsel, Pierce must show that counsel's performance was deficient and that this deficient performance was prejudicial.[25] Pierce must overcome "a strong presumption that counsel's performance was reasonable." *State v. Kyllo,* 166 Wn.2d 856, 862, 215 P.3d 177 (2009). "When counsel's conduct can be characterized as legitimate trial strategy or tactics, performance is not deficient." *Kyllo*, 166 Wn.2d at 863; *see also State v. Grier,* 171 Wn.2d 17, 33, 246 P.3d 1260 (2011). Failure to request a limiting instruction can be a legitimate tactic to avoid reemphasizing damaging evidence.[26] Thus, Pierce

[25] *State v. Thomas,* 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987) (quoting *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)).

[26] *State v. Yarbrough*, 151 Wn. App. 66, 90, 210 P.3d 1029 (2009) (citing *State v. Price*, 126 Wn.

must rebut this strong presumption of reasonable performance by demonstrating that counsel's tactical choice would have been unreasonable given the circumstances here. *See Grier*, 171 Wn.2d at 34 (citing *Roe v. Flores-Ortega*, 528 U.S. 470, 481, 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000)). This he fails to do.

Pierce argues that, although defense counsel vigorously opposed admission of gang evidence, counsel's later failure to request a limiting instruction to "ensure that jurors would only consider the evidence for the narrow purpose for which it was admitted . . . was not the result of legitimate tactics; it was the result of inattention and was therefore ineffective." Br. of Appellant at 34. But Pierce points to nothing in the record indicating that his counsel did not consider and reject a limiting instruction request as a matter of trial strategy. On the contrary, Pierce contends only that the evidence was highly prejudicial, potential propensity evidence. He does not acknowledge that forgoing a limiting instruction could have been a tactical decision to avoid drawing attention to evidence of his own gang affiliations, to which he opened the door when he questioned multiple witnesses about their knowledge of gangs. As our Supreme Court recently noted in *Grier*, the threshold for establishing deficient performance is high, with great deference given to trial counsel's decisions during the course of representation. 171 Wn.2d at 33-34. We hold that Pierce fails to overcome the strong presumption that defense counsel's performance was adequate and, therefore, his ineffective assistance of counsel argument fails.

III. No Prosecutorial Misconduct

Finally, Pierce argues that the prosecutor committed misconduct by improperly injecting

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App. 617, 649, 109 P.3d 27, *review denied*, 155 Wn.2d 1018 (2005)).

racial prejudice into the trial.[27] He asserts that the cumulative effect of the State's focus on gangs, the lack of witness cooperation during the investigation and trial, and the "no snitch" rule was tantamount to commenting on racial stereotypes, which was improper and prejudicial under the new Washington State Supreme Court decision *State v. Monday*, 171 Wn.2d 667, 257 P.3d 551 (2011). We disagree.

> To prevail on a claim of prosecutorial misconduct, the defendant must establish "'that the prosecutor's conduct was both improper and prejudicial in the context of the entire record and the circumstances at trial.'" *State v. Magers*, 164 Wn.2d 174, 191, 189 P.3d 126 (2008) (quoting *State v. Hughes*, 118 Wn. App. 713, 727, 77 P.3d 681 (2003) (citing *State v. Stenson*, 132 Wn.2d 668, 727, 940 P.2d 1239 (1997))); *accord State v. Ish*, 170 Wn.2d 189, 195, 241 P.3d 389 (2010); *State v. Dhaliwal*, 150 Wn.2d 559, 578, 79 P.3d 432 (2003). The burden to establish prejudice requires the defendant to prove that "there is a substantial likelihood [that] the instances of misconduct affected the jury's verdict." *Magers*, 164 Wn.2d at 191 (alteration in original); *accord Dhaliwal*, 150 Wn.2d at 578; [*State v.*] *Russell*, 125 Wn.2d [24,] 85, 882 P.2d 747 [(1994)]; *see, e.g.*, *State v. Weber*, 159 Wn.2d 252, 276, 149 P.3d 646 (2006) (defendant failed to prove that prosecutor's misconduct in eliciting testimony barred by pretrial ruling, to which he did not object, caused prejudice affecting the outcome of the trial). The "failure to object to an improper remark constitutes a waiver of error unless the remark is so flagrant and ill[-]intentioned that it causes an enduring and resulting prejudice that could not have been neutralized by an admonition to the jury." [*Russell*, 125 Wn.2d at 86]; *accord* [*State v.*] *Fisher*, 165 Wn.2d [727,] 747, 202 P.3d 937 [(2009)]. When reviewing a claim that prosecutorial misconduct requires reversal, the court should review the statements in the context of the entire case. *Russell*, 125 Wn.2d at [85-]86.

State v. Thorgerson, ___ Wn.2d ___, 258 P.3d 43, 46-47 (2011). We hold that Pierce has failed to show that the State engaged in improper conduct.

In *Monday*, our Supreme Court held that the prosecutor had improperly injected racial

[27] Pierce raised this issue in a supplemental filing that we accepted after the Washington State Supreme Court issued *State v. Monday*, 171 Wn.2d 667, 257 P.3d 551 (2011). We then ordered and received supplemental briefing on this issue from Pierce's counsel and from the State.

prejudice into the trial by repeatedly (1) referring to an African-American "anti[-]snitch code" to discredit witnesses when there was nothing in the record that attributed this code exclusively to African-Americans; (2) using the term "'po-leese'" to refer to police during direct examination of African-American witnesses; and (3) making "other" comments throughout the trial that were intended to "subtly, and likely deliberately, call to the jury's attention that the witness[es were] African[-]American." *Monday*, 171 Wn.2d at 678-79. The Court further held that this improper prosecutorial conduct was flagrant or ill-intentioned and that no curative instruction could have cured the resulting prejudice. *Monday*, 171 Wn.2d at 679-80.

Here, in contrast, although the State argued that the equivalent of a "no-snitch rule" may have affected the investigation and testimony, the State tied this rule to gang activity and the community as a whole; the State did not assert that this rule was a racial phenomenon. The record supports this assertion. Furthermore, there were no overt comments, such as the "'pol-leese'" references in *Monday*, that appeared intended to focus the jury on race. Accordingly, we

hold that Pierce fails to establish prosecutorial misconduct.

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:

Penoyar, C.J.

Worswick, J.