

No. 29474-9-III

Brown, J. (dissenting) — I concur with the majority except for its holding that the facts do not support the conviction of intimidating a public servant. I believe the State produced sufficient factual evidence to permit the jury to decide whether Linda Kay Toscano's conduct constituted intent to influence Deputy Tyson Voss' official action by threat. Ms. Toscano twice threateningly drove at Deputy Voss to get him to quit pursuing her nephew. While Ms. Toscano's conduct was non-verbal, her actions, when viewed most favorably for the State, can reasonably be found threatening. Thus, I believe the question was properly left for the jury to decide. In sum, the trial court did not err in allowing the jury to decide whether Ms. Toscano's non-verbal conduct was intended as threatening communication to Deputy Voss.

Accordingly, I respectfully dissent to reversing Ms. Toscano's intimidation conviction.

Brown, J.