No. 87282-1

THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Respondent,

v.

VIANNEY VASQUEZ,

SUPPLEMENTAL BRIEF BY YAKIMA COUNTY

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A. INTRODUCTION

Mr. Vasquez was charged and convicted of two counts of Forgery and timely appealed. The Court of Appeals Division III upheld those convictions in a published opinion. Mr. Vasquez motion for reconsideration was denied. State v. Vasquez, 166 Wn.App. 50, 269 P.3d 370 (2012). This court has now accepted review.

B. ISSUE PRESENTED BY AMICUS

1. The Court of Appeals decision expands the essential elements of forgery contrary to its statutory definition and its interpretation by other courts.
2. The decision creates a mandatory presumption that violates due process and exceeds the Court's authority under separation of powers.
3. That the "leap of logic underlying the decision" and "the State's argument to the jury are predicated on "inflammatory bias against non-citizens and dilution of the State's burden of proof in a manner that erodes the fairness of the trial."

ANSWER TO ISSUES RAISED

1. The decision does not exceed the essential elements of forgery.
2. The decision does not create a mandatory presumption.
3. The decision was not and is not "biased."

C. STATEMENT OF THE CASE

The very brief facts addressing what occurred in this case are set out in the Court of Appeals decision. The State shall refer to specific sections of the record but shall not set forth a separate specific fact section in this response, pursuant to RAP 10.3

D. ARGUMENT

1). "MERE POSSESSION" - Vasquez claims this decision allowed the State to convict him by merely proving he possessed fake documents. This is not accurate, the Court stated "So the question then becomes whether, as a matter of logical probability, the jury could infer intent to defraud from Mr. Vasquez's **possession** of these cards, his **conduct**, and his **exchanges** with the security officer. Said another way, is the evidence of intent to defraud substantial when we consider the reasonable inferences *available to the jury*." (Emphasis mine.) The Court cited State v. Sweany, 162 Wn.App. 223, 227-8, 256 P.3d 1230 (2011) which reiterates that it's the States burden to prove each and every element beyond a reasonable doubt;

> A defendant's right to require that the State prove each essential element of a crime beyond a reasonable doubt is a due process right guaranteed under the United States Constitution. U.S. CONST. amends. V, XIV; In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); State v. Lively, 130 Wash.2d 1, 11, 921 P.2d 1035 (1996).

This Court upheld State v. Sweany, 86270-2 (WASC):

> When a defendant challenges the sufficiency of the evidence in an alternative means case, appellate review focuses on whether "sufficient evidence supports each alternative means." State v. Kintz, 169 Wn.2d 537, 552, 238 P.3d 470 (2010). Though some cases refer to the required quantum of evidence as "substantial evidence, "the analysis has consistently been conducted according to the sufficiency of the evidence standard. See, e.g., In re Det. of Halgren, 156 Wn.2d 795, 811, 132 P.3d 174 (2006); State v. Lee, 128 Wn.2d 151, 160, 164,

> 904 P.2d 1143 (1995). "The standard of review for a challenge to the sufficiency of the evidence" is whether, viewing the evidence "in a light most favorable to the State, 'any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" State v. Randhawa, 133 Wn.2d 67, 73, 941 P.2d 661 (1997) (citation omitted) (internal quotation marks omitted) (quoting State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980)).

This allegation is in essence a challenge of the sufficiency of the evidence. In a criminal prosecution, this court will review the evidence in the light most favorable to the State and ask whether any rational trier of fact could find each element of the crime beyond a reasonable doubt. State v. Montgomery, 163 Wn.2d 577, 598, 183 P.3d 267 (2008). As stated in this brief a fact finder can infer the intent to commit a crime from the surrounding facts and circumstances if the inference is logically probable. State v. Esquivel, 71 Wn.App. 868, 871, 863 P.3d 113 (1993). The State agrees that while possession of a stolen or forged document is not enough, alone, to prove guilty knowledge, possession together with slight corroborating evidence of knowledge can be sufficient. State v. Scoby, 117 Wn.2d 55, 61-62, 810 P.2d 1358, 815 P.2d 1362 (1991). The giving of a false explanation or one that is improbable or difficult to verify is sufficient corroborating evidence. State v. Ladely, 82 Wn.2d 172, 175, 509 P.2d 658 (1973). Here Vasquez's statements regarding these cards began with they are "me" and valid then changed to they are fake I bought them

in California. This made it almost impossible for the store employee to verify what was actually true, something he had to do to complete his job. The jury believed the testimony of the State's witnesses; credibility determinations are for the trier of fact and cannot be reviewed on appeal. State v. Casbeer, 48 Wn. App. 539, 542, 740 P.2d 335, review denied, 109 Wn.2d 1008 (1987). There was sufficient evidence to prove Vasquez's intent as well as the completed crime.

The allegation that the statement "[a]nd here why else would Mr. Vasquez have them" means the Court of Appeals no longer requires the State to prove intent is meritless. The State would once again note the citation to Sweany by the Court of Appeals. Vasquez has cut this opinion into unintelligible parts and then he has given those parts a meaning. Each and every line of an opinion rendered by a court of appeal is important, the parsing of an opinion, as here, makes the ruling nonsensical. On the same page the court states:

> Here, the cards belonged to Mr. Vasquez and were fakes. The cards had his real name on them but someone else's social security number. Mr. Vasquez reported that he had previously worked in the area. Like the immigration cards in *Esquivel*, **the only value of the cards would be to falsely represent Mr. Vasquez's right to legally be in the country**. *The jury here could reasonably infer intent to defraud from his possession of the fake cards and his admission that he had previously worked in the area.* (Emphasis mine.)

The court categorically stated the State had to and did prove intent and that was done through the facts and, admissions of Vasquez. Vasquez states in his motion "Intent exists only if a known or expected result is also the actor's 'objective or purpose" citing State v. Caliguri, 99 Wn.2d 501, 506, 664 P.2d 466 (1983) that opinion states in the next paragraph;

> Caliguri's recognition that "the janitor's gonna go for sure" is direct evidence of knowledge that a particular individual's death would result. While there is no direct evidence that death was intended, intent may be inferred from circumstantial evidence. State v. Shelton, 71 Wash.2d 838, 839, 431 P.2d 201 (1967). Here, intent may be inferred from Caliguri's knowledge, since **a trier of fact may infer that a defendant intends the natural and probable consequences of his or her acts**. See State v. Caldwell, 94 Wash.2d 614, 617-18, 618 P.2d 508 (1980). (Emphasis mine.)

State v. Butler, 165 Wn.App. 820, 829, 269 P.3d 315 (2012) a recent Division Three case confirms that Court has not abandon the requirement the State prove all elements.

> The State, of course, must produce substantial evidence to support the elements of a crime. Whether the State has met that burden, a burden of production, is a question of law that we review de novo. Id. Whether there is sufficient evidence to support a conviction turns on "'whether, after viewing the evidence most favorable to the State, any rational trier of fact could have found the essential elements of [the crime].' " State v. Vladovic, 99 Wash.2d 413, 424, 662 P.2d 853 (1983) (quoting State v. Green, 94 Wash.2d 216, 221-22, 616 P2d 628 (1980)). (Added emphasis mine.)

Vasquez claims the Court's ruling has negated the requirement that the State prove intent is unfounded in fact or law. The facts presented to the

jury proved intent when considered in totality. All entire record o this trial was before the Court of Appeals. The facts are Vasquez told the store employee initially that the fake cards where his and they were real. They the changed that to they were fake and he purchase them from a friend in California for $50.00 and that he had come up to the area and had been working in the area. (RP 50) Special Agent Rodriquez testified that to gain legal employment in the United States Vasquez needed a valid social security number. (RP 98) Vasquez had in his possession a social security card and a permanent resident card. The store employee was unable to determine who Vasquez actually was, yet another party intentionally defrauded by these fake documents. (RP 41-2, 46-7, 54-55) This does not demonstrate "mere possession" as Vasquez claims. There was sufficient evidence presented to prove beyond a reasonable doubt all of the elements of Forgery. This opinion stated mere possession was not enough "...the jury could infer intent to defraud from Mr. Vasquez's possession of these cards, his conduct, *and* his exchanges with the security officer." Said another way, is the evidence of intent to defraud substantial when we consider the reasonable inferences available to the jury..." Vasquez at 53 (Emphasis mine.)

The Court of Appeals ruling does not criminalize mere possession of fake documents as a felony nor does it allow the State to charge the same fact pattern as either a felony forgery or a misdemeanor. The court stated

"The State had to show the intent to injure or defraud by Mr. Vasquez's possession of these forged cards. Under the statute, "[a] person is guilty of forgery if, with intent to injure or defraud ... [he] *possesses,* ... a written instrument which he knows to be forged." Former RCW 9A.60.020(l)(b) (2003) (emphasis added). *Id* at 53 (Emphasis in original.)

Mr. Vasquez was asked by store security if they were his cards and if he was the person on the cards and if the information contained on them was his and that information was valid. Mr. Vasquez initially tried to convince store security that the fake documents were valid. These questions had to be asked to allow the company to trespass Vasquez from the store and/or request restitution. That could not be done without a positively identifying Vasquez. It was only after Vasquez portrayed the fake documents as true and accurate that Vasquez changed his story and admitted he had purchased them for $50.00 from a friend in California **and** that "he worked in the area." At that juncture there was no way for the store to insure they had a truthful answer regarding who this shoplifter really was. This was one of the means that support the "intent to defraud." The State argued;

> Now, in regards to the loss prevention officer, he had an intent to defraud him when he told the loss prevention officer those are my cards. The loss prevention officer was looking for identification, took his wallet. The defendant himself identified those cards as his cards. That's an intent to defraud. He was misrepresenting himself. He was representing

> those cards as true, putting them off as true with an intent to defraud. (RP 110210 pg 139)

The Court of Appeals opinion looked closely at Vasquez's possession, there was emphasis on the term "possess" in the opinion. The opinion is based on clearly settled case law "[t]he intent to commit the crime of forgery may be inferred from surrounding facts and circumstances if such intent is "'a matter of logical probability.'" State v. Esquivel, 71 Wn. App. 868,871,863 P.2d 113 (1993) (quoting State v. Woods, 63 Wn. App. 588, 591, 821 P.2d 1235 (1991))." State v. Esquivel, supra, has been cited in numerous Washington cases, three Iowa cases and one case each in New Mexico and Colorado.

This court declined to review a similar case. While the Court of Appeals did not cite State v. Tinajero, 154 Wn.App. 745, 228 P.3d 1282 (2009) review denied, 169 Wn.2d 1011, 236 P.3d 895 (2010) Tinajero cited Esquivel extensively. The State cited Tinajero in its brief in the Court of Appeals. Tinajero is similar:

> The primary issue for the trial court was whether Mr. Tinajero intended to defraud Big Cherry Orchards by presenting inauthentic documents. Neither party disputes that the alleged actions of Mr. Tinajero were deceptive. However, the court struggled with whether Big Cherry Orchards had been deprived of something as a result of Mr. Tinajero's actions. The State argued that Big Cherry Orchards was deprived of the knowledge of the true identity of its employee.

> Big Cherry Orchards is legally obligated to ensure that each of its employees has sufficient legal status to obtain employment in the United States. *See 8 U.S.C.A*. § 1324. If, in fact, Mr. Tinajero was not authorized to work in the United States, Big Cherry Orchards could incur potential liability for employing him. To avoid potential liability, Big Cherry Orchards must know the true identity of its employees. Although it is unclear what Mr. Tinajero's legal status was at the time that he was employed, it can be inferred that through his use of forged documents, he intentionally deprived Big Cherry Orchards of information that may have been material to his hiring.

Other States have come to the same or similar conclusion as this State did in Esquivel. At issue here is the element "intent to defraud or injure" of forgery. Because specific intent is seldom capable of direct proof, it may be shown by circumstantial evidence and the reasonable inferences drawn from that evidence. State v. Casady*, 491* N.W.2d *782, 787* (Iowa 1992) (citations omitted) See also State v. Acevedo, 705 N.W.2d 1, 5 (Iowa 2005). Intent to defraud may properly be inferred from circumstances, words, and actions shown in evidence. State v. Mathias, 216 N.W.2d 319, 321 (Iowa 1974); see also People v. Castellanos*,* 110 Cal. App. 4th 1489*,* 2 Cal. Rptr. 3d 544, 547 (Cal. Ct. App. 2003) (defendant's possession of a false legal permanent resident card sufficient to evidence an intent to defraud); People v. Miralda, 981 P.2d 676, 679-80 (Colo. Ct. App. 1999) (defendant's possession of a forged INS card not sufficient to evidence an intent to defraud where the prosecution presented

no proof that the defendant was not a legal resident and where the card contained accurate information respecting the defendant's identity); State v. Escobedo, 404 So.2d 760, 764-65 (Fla. Dist. Ct. App. 1981) (holding intent to defraud could be inferred from creating false birth certificates); State v. Hogshooter, 640 S.W.2d 202, 204 (Mo. Ct. App. 1982) (holding an intent to defraud could be inferred from the act of forgery or transferring the forged instrument); *c*.f. State v. Lores, 512 N.W.2d 618, 621 (Minn. Ct. App. 1994) (where statute requires an intent to utter, possession alone is insufficient).

This opinion did not hold that mere possession of fake identification was a felony nor does it create a presumption of guilt by that possession.

2) "MANDATORY" PRESUMPTION.

Vasquez states the use of the words "why else" by the Court of Appeals controls the entire opinion. Once again this parses the ruling. A person can take any book in a library and by careful selection of text therein come to a conclusion that is the complete opposite of the actual intent and meaning of the book. This ruling was handed down not as a series of individual words but as a working document, meant to analyze the totality of the information presented to the jury. The sentence "[a]nd why else would Mr. Vasquez have them" can not be read as words on

page fifty-three of a four page opinion. It must be read in the context of the entire opinion; it must be read in conjunction with:

> Here, the cards belonged to Mr. Vasquez and were fakes. The cards had his real name on them but someone else's social security number. Mr. Vasquez reported that he had previously worked in the area. Like the immigration cards in *Esquivel,* the only value of the cards would be to falsely represent Mr. Vasquez's right to legally be in the country. The jury here could reasonably infer intent to defraud from his possession of the fake cards and his admission that he had previously worked in the area. (Vasquez at 53)

This paragraph from the opinion refutes Vasquez's allegation that the opinion indicates the possession is "unexplained." There was an explanation presented to the jury: Vasquez stated they were his, they were valid, they were not his, he purchased them from a friend, the numbers on the cards were his, the numbers and information on the cards was not his, he had come to the area and worked, he was who it said he was on the cards, he was not who it said he was on the cards, even though the permanent resident card had Vasquez's picture on it. The evidence includes Special Agent Rodriguez testifying the Social Security card was not "genuine." (RP 110210 pg 84) He also testified you need a valid social security number to gain legal employment in this country

Vasquez claims that because the opinion cites to Esquivel and Esquivel "suggests that the unexplained possession of a forged instrument

makes out a prima facie case of guilt against the possessor" that therefore the Court of Appeals has now changed the body of law to mean that proof of mere possession mandates a jury convict anyone charged with the felony of Forgery. Once again this cuts the opinion into so many words and does not take into account the totality of the ruling nor the facts it was based upon. Reading Cantu in conjunction with the Vasquez opinion it is impossible to see how Vasquez can be interpreted to equire a person found in possession of forged documents to prove that they did not intend to use them. This interpretation would ignore the remainder of the opinion where the court sets forth the facts of the case that support the conviction. Cantu states:

> "The burden of persuasion is deemed to be shifted if the trier of fact is required to draw a certain inference upon the failure of the defendant to prove by some quantum of evidence that the inference should not be drawn." Deal, 128 Wash.2d at 701, 911 P.2d 996 (citing Sandstrom v. Montana, 442 U.S. 510, 517, 99 S.Ct. 2450, 61 L.Ed.2d 39 (1979)). Cantu maintains that the Court of Appeals impermissibly applied a mandatory presumption in this case when it held: "the defense offered no evidence to rebut the statutory inference of [criminal] intent." Cantu, 123 Wash.App. at 410, 98 P.3d 106 (first emphasis added).
> The State may use evidentiary devices, such as presumptions and inferences, to assist it in meeting its burden of proof, though they are not favored in criminal law.
> ... Again, "when permissive inferences are only part of the State's proof supporting an element and not the 'sole and sufficient' proof of such element, due process is not offended if the prosecution shows that the inference more likely than not flows from the proven fact.

This Court stated mandatory presumptions were problematic setting stating;

> We held the inclusion of this language, "essentially requir[ed] the Defendant to either introduce evidence sufficient to rebut the inference that he remained on the premises with intent to commit a crime, or concede that element of the crime." "In other words, a reasonable juror could have concluded that once [the defendant's] presence on the premises was shown, a finding that he intended to commit a crime was compelled, absent a satisfactory explanation by [the defendant] as to why he was on the premises." (Citations omitted.)(Cantu at 826-7)

The State can only repeat over and over that the Court of Appeals did not rule that once possession of forged documents has been proven Vasquez, nor any other defendant, would then have to produce evidence to rebut this fact. The court did not opine that mere possession mandates a jury find a person who possessed fake document guilty Forgery. The opinion states the jury was able, based on the facts – including possession – to find that Vasquez was guilty of forgery.

There is nothing in wording of the Vasquez opinion which could possibly rise to the level of a mandatory presumption. State v. Drum, 168 Wn.2d 23, 36-8, 225 P.3d 237 (2010) restates the test from Cantu as follows:

> Similarly, in State v. Cantu, 156 Wash.2d 819, 826-27, 132 P.3d 725 (2006), we reaffirmed our holding in Deal that an inference becomes an impermissible mandatory presumption when it requires the defendant to submit evidence to rebut the inference of his criminal intent. We concluded that the State

> violated Cantu's due process rights when the prosecutor and judge emphasized on multiple occasions that Cantu failed to provide evidence to rebut the inference of his criminal intent. Id. at 827-28, 132 P.3d 725.
>
> Though RCW 9A.52.040 contains the objectionable "unless" clause, the trial court's use of the statutory inference in this case is similar to the use of the inference in Brunson because there was no mandatory presumption or impermissible burden shifting. Unlike in Deal and Cantu, Drum was not required to present satisfactory evidence explaining his presence in the victim's house. Rather, as invoked by the trial court, the statutory inference operated permissively. (Drum at 37)

The leap from statements in a closing argument to the ruling in the Court of Appeals is illogical. The closing argument did not just include the statements quoted by Vasquez but all or most of the facts testified to by the State's witnesses.

3). INFLAMMATORY BIAS OF THE STATE AND COURT OF APPEALS DIVISION III.

To surmise that this decision is racially motivated and that the State presented the jury with racist tinged facts is not supported by the record. To state that this panel of judges in this Division of the Court of Appeals somehow "inspired a passionate response" that extended the "tenuous" ruling of Esquivel to this set of facts because this panel of judges must have some agenda to cause persons in this country who possess fake documents to be punished with a felony is almost too bizarre to respond to. The statements Vasquez objects to were closing arguments, not facts presented to the jury. The jury was properly

instructed with regard to the argument of the attorneys. (CP 30) There was one objection to statements made by the State nothing more.

The only "passionate response" that can be seen in this case to date is where Vasquez states the hot button phrase "illegal immigrant" when no such phrase exists in the record. The State never once stated that Vasquez was "an illegal immigrant." And yet Petitioner cites to pages 140 and 155 of the verbatim report of proceedings to support this claim. The phrase "illegal immigrant" is not in the record on either of the cited pages. It is highly offense to even suggest that this was the basis for the actions of the State or this panel of jurists. In fact this court can search the record and the only use of the word "illegal" was by counsel for Vasquez prior to trial. (RP 110210 pg 34) and the word "immigrant" is literally not found anywhere in the one hundred forty pages of trial transcript. And yet according to Vasquez that is apparent reason for the Court's decision and the States actions.

The parties representing Mr. Vasquez claim that the basis for this decision by a Court of Appeal in this state is racially motivated. There is no other way to address the quote by Vasquez that "a person's immigration status and ability to work lawfully in the United States "is a politically sensitive issue" and "can inspire passionate responses that carry a significant

danger of interfering with the fact finders duty to engage in reasoned deliberation." (Petition for Review pg 13)

This must mean that the prosecutions argument was apparently a hidden code to the jury. This person had these papers on him so you must believe and understand that he is an illegal and that his intent was to work illegally. Once again those words never crossed the lips of the Deputy Prosecutor who tried this case. Vasquez throws out "the race card" where it was never used.

> MR. CASE: Well, I think that's exactly where we are, your Honor. I know that there was some issues regarding the "A" numbers**. I guess we do have a pretrial ruling that says we're not going to get into legal status or illegal status. As a matter of fact, I don't think we're there**. We might have an ongoing investigation, but it's not an element. We don't have that substantial evidence at this point. There are other ways to get to what the state is alleging. (110211 pg 34)

Vasquez's petition refutes it own claim regarding this type of document. This petition states this "decision holds that a person who is not lawfully within the Untied States, and who possesses false documents that may conceivably aid in that person ability to remain n the United States, necessarily commits the crime of forgery even if he or she does not offer those documents for any purpose." (At page 3) This reasoning defies logic. The reason for possessing the forged documents is to "aid" the person in remaining in the United States. These people must necessarily present those documents at those conceivable occasions that

would "aid their ability to remain." Those documents must be "offered" or "intended to be offered" to someone or some company or presented in some manner, in the quest to stay in this country or to gain "legal" employment, which is the very definition intent to injure or defraud. The holder must present them for their possession to "aid" them in staying in this country, a stay which would be illegal because the documents, by admission of Vasquez are "false." Just exactly how is this person aided by a document that is forged if they never intend to use it? The very statement that it will "conceivably aid" the possessor means that it must or is or will be or they intend to use the document. Thus the intended act of injure or the fraud has to be or is intended to be perpetrated by the possessor at the time it is used to "aid" the possessor. Once again otherwise why would they even have the documents in the first place?

If I am a citizen of the United States and a resident of the State of Washington and my license has been suspended the fact that I have on my person a drives license with my legal name and date of birth but another persons social security number and when legally contacted by law enforcement I am evasive and subsequently I admit that I drive to work in a car, and eventually the Court of Appeals rules that possession was a forgery that decision does not turn that decision into some racially charged event. It is a fact based decision as was the decision of the Court of Appeals herein.

This case arose in Yakima County a location where a significant portion of the population can proudly trace their lineage to Mexico. Mr. Vasquez was not singled out by the store employee, the State or the Court of Appeals because of his status in this county or his nationality.

The Court of Appeals decision does not "lend itself to biased decision-making and encourage anti-immigrant sentiment as a substitute for evidence showing that the accused person intended to commit the charged crime. The insinuation that Chief Judge Kulik and Judges Sweeney and Brown based their opinion on some unstated, unwritten and unsubstantiated racial motivation is repugnant and is not supported by the record in this case nor the lengthy judicial record of these three jurists.

Vasquez compares State v. Cantu, 156 Wn.2d 819, 132 P.3d 725 (2006) to what occurred here. The rationale being this court "construed" the acts of trial court and counsel to mandate the inference of intent because the defendant had not explained why he was in a location that he could not be. That was not occurred in this opinion.

The State would relish the chance to hear Vasquez present this court with a "legal" reason why a person, of any race, creed or color, would have very realistic fake social security card and a resident alien cards, unless that person found them and intended to destroy or turn the in to authorities. Here the testimony was that Vasquez stated they were his, he attempted to support

that claim by reciting the social security number on the card and was unable to, that he paid $50.00 for them through a friend in California, that the thumb print on the one card was not his, his actual picture was on one card, the social security number did not belong to Mr. Vasquez and he stated to the store security officer that he had worked in the area. Include this with the testimony any person would need a social security card to obtain legal employment. The testimony from Special Agent Rodriquez "Q. (By Ms. Ritchie) Mr. Rodriguez, in order to gain legal employment in the United States, do you need a valid social security number? A. Yes, you do." (RP 98), did not somehow raise the specter of racism. No employer can "legally" hire anyone without this proof. See OMB No. 1615-0047 – Form I-9, Employment Eligibility Verification as authorized by The Immigration Reform and Control Act (IRCA) 8 USCA 1324; Pub. L. 99-603, 100 Stat. 359. This act was cited in Tinajero, surpa, 750-1. This act prohibits employers from knowingly hiring unauthorized aliens and hiring individuals without completing the employment eligibility verification process. All employers must use Form I-9 for all employees hired on or after Nov. 6, 1986, who are working in the United States.

It merely states what was stated in Tinajero a case this court refused to review in 2009 just as this court should refuse to review this matter now. The possibility or the probability that more people who are

in this country "illegally" also carry fake documents is not before this court and had no bearing on this decision. This court should not be swayed by the argument that this crime is a crime which by unsupported statement of Vasquez apparently can impact a person a non-citizens ability to stay in the or petition for legal status in this country. This case does nothing to a non-citizen which also will not be done to a citizen. This case does not broaden the law in any manner or means.

E. CONCLUSION

This opinion did not change the method of proof for intent in a Forgery case. This opinion did not mandate a method of proof that shifted or shift that burden to this or any defendant. There are numerous sound-bite statements regarding the State and Court of Appeals, in this document "The leap of logic underlying the Court of Appeals decision...is predicated on inflammatory bias against non-citizens..." and "The Court of Appeals opinion encourages societal bias against immigrants to substitute for evidence of the necessary intent." It is beyond the ability of the State to understand how, from the facts of this case, the law quoted by this Division of the Court of Appeals, anyone could make such statements.

Respectfully submitted this 21st day of September 2012.

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Dated at Spokane, WA this 21st day of September, 2012

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