

Judging Judge Threats

By: Lance M. Hester; May 2007

Division II of the Court of Appeals demonstrates its objectivity in State v. Brown, Docket No. 33633-2 filed on March 20, 2007. Brown was convicted by a jury of “intimidating a judge.” RCW 9A.72.160. The statute states in part:

(1) A person is guilty of intimidating a judge if a person directs a threat to a judge because of a ruling or decision of the judge in any official proceeding, or if by use of a threat directed to a judge, a person attempts to influence a ruling or decision of the judge in any official proceedings.

(2) “Threat” as used in this section means:

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110[(26)].

Brown had previously been sentenced by a municipal court judge for a DUI. He didn’t pay fines associated with that conviction, resulting in his license being suspended. In an attempt to obtain a license, he spoke with a clerk working for a collection company which apparently had been assigned the account receivable comprised of the fine. He told the collections officer that “he could see the sentencing judge from his front porch and that he had also seen the judge’s wife and kids and he had thought about shooting them before.” The collections officer testified accordingly at his trial.

The Court of Appeals, in responding to the defendant’s claim that the evidence was insufficient to establish the charge against him, agreed. The court stated, “the relevant constitutional question is whether there is sufficient evidence that a reasonable person in (the defendant’s) position would foresee that his comments would be interpreted as a serious statement of intent to inflict serious bodily injury or death.” The court also concluded that his expressions did not indicate a thought or a plan of doing harm to the judge or his family in the future, nor would he foresee his thought to be so interpreted. The court stated that “an opposite finding would ostensibly criminalize his previous thoughts, which we will not do.”

The conviction was reversed and the case remanded to be dismissed.

This result seems so logical that one wonders where reason was when the charging decision was made.