

Who Am I?

By: Brett A. Purtzer; Oct 2005

As we all know, a defendant's identity is an issue that exists in every case, but rarely one that draws much attention during trial unless an alibi defense is raised. However, in State v. Huber (31086-4-II 2005), the Court of Appeals Division II reaffirmed the significance of establishing a person's identity as an element of a charged offense. It unabashedly held that the state bears the burden of establishing, beyond a reasonable doubt, that the person who is seated at defense counsel table is, in fact, the same individual against whom the charge has been filed.

Huber involved a bail jump count that was severed from the substantive offense from which the bail jump arose. The state, in its case-in-chief, introduced certified copies of various documents. These documents included the charge that "Huber" violated a protection order and tampered with a witness, a written order requiring Huber to appear in court, a clerk's minute indicating Huber did not appear in court, and a bench warrant for his arrest. The state did not call any witnesses or otherwise attempt to show that the exhibits related to the same Wayne Huber who was purportedly present in court. After the state's closing, the court denied the defense motion to dismiss for the state's failure to prove identity, and the jury convicted Huber of the bail jump.

The Court of Appeals, in a unanimous decision, reversed the jury's verdict and remanded the case with directions to dismiss with prejudice. The court's decision reviewed the various ways the state could establish identity, but noted in this case the state failed to satisfy its burden to establish that the documents it introduced were related to the same person who appeared at trial. The only "evidence" the state pointed to was defense counsel's introduction of his client before jury selection started. Rightfully, the court held that counsel's introduction was not sufficient because such remarks are not evidence. Concluding the evidence before the jury was insufficient to establish identity, the court reversed the conviction and remanded with directions to dismiss.

Clearly, this case highlights the state's requirements to prove each and every element beyond a reasonable doubt, and, fortunately, "identity" is not one the state can overlook.

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