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RECEIVED AND FILED
IN OPEN COURT
FEB 26 2016
DAVID W. PETERSON
KITSAP COUNTY CLERK


IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,)	
)	No. 15-1-00972-7
Plaintiff,)	
)	STATE'S MOTION TO DENY DEFENSE
v.)	REQUEST FOR FRYE HEARING AND
)	CERTIFICATE IN SUPPORT THEREOF
GERALDO CASTRO DEJESUS,)	
Age: 31; DOB: 09/26/1984,)	
)	
Defendant.)	

COMES NOW the Plaintiff, STATE OF WASHINGTON, by and through its attorney of record below-named, and hereby moves the Court for an order denying the defendant's request for an evidentiary hearing pursuant to *Frye* to determine the admissibility of firearm toolmark evidence.

This Motion is based upon the files and records herein, and the following certificate of counsel.

DATED this 23rd day of February, 2016.

STATE OF WASHINGTON

 BARBARA O. DENNIS, WSBA No. 34590
 Deputy Prosecuting Attorney

Certificate of Counsel

I, BARBARA O. DENNIS, am a duly qualified, appointed and acting Deputy Prosecuting Attorney for the above-named Plaintiff.

The defendant has filed a lengthy motion to suppress any testimony regarding



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1 toolmark/ballistics identification pursuant to *Frye*. It is anticipated that the defense wants the
2 court to hold a “*Frye* hearing” before ruling on the motion. The defendant is not entitled to a
3 hearing on the matter as appellate courts have already determined that *Frye* hearings are
4 unnecessary for ballistics. The field of firearms and toolmark identification has been accepted by
5 the relevant scientific community for nearly a century. Defendant’s arguments therefore fail
6 under the principles governing admissibility of scientific evidence under *Frye v. United States*, 54
7 App. D.C. 46, 293 F. 1013 (1923). His arguments go to weight and not admissibility of the
8 evidence. Therefore, the defendant is not entitled to a hearing and his motion should be denied.

9 I certify (or declare) under penalty of perjury under the laws of the State of Washington
10 that the foregoing is true and correct to the best of my knowledge, information and belief.

11 DATED: February 23, 2016
12 PLACE: Port Orchard, WA

13 
14 BARBARA O. DENNIS

15 Prosecutor’s File Number–15-143920-5

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