Supreme Court No. 101492-9
Court of Appeals No. 56129-8-II

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

DAVID WAYNE TURNER,

Petitioner.

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Petitioner, David Turner, the Respondent below, asks this Court to accept review of the Court of Appeals' decision terminating review that is designated in part B of this petition.

B. DECISION OF THE COURT OF APPEALS

Turner seeks review of the unpublished opinion of the Court of Appeals in cause number 56129-8-II, 2022 WL 14389446 (Slip op. October 25, 2022). A copy of the decision is attached as Appendix A at pages A-1 through A-17.

C. ISSUE PRESENTED FOR REVIEW

1. A community corrections officer may conduct a warrantless search of a probationer's vehicle only if a nexus exists between the vehicle and the suspected community custody violation. Here, at the time of the warrantless search of the car, the Community Corrections Specialist knew only that Turner was on probation, had an active warrant for his arrest for failing to report to his CCS. Turner continued to drive for about twenty seconds and appeared to CCS

Curtright to be moving around in the car trying to conceal something. The CCO was aware of no actual, articulable facts to suggest Turner had prohibited items in the car, or that any drugs would be found in the car. Should this Court grant review where the State failed to establish a nexus between the car and the community custody violation?

D. STATEMENT OF THE CASE

1. Procedural history and facts elicited during the suppression hearing

David Turner, Jr. had a Department of Corrections warrant for failure to report to his Community Corrections Officer as required by the terms of his judgment and sentence. Report of Proceedings (RP) at 20, 22.

Community Corrections Specialist (CCS) Brett Curtright was looking for a fugitive from Las Vegas called "Kermit," who was believed to be in contact with Sarah Emery. RP at 14, 15. While investigating "Kermit," CCS Curtright learned from neighbors that there was activity in and out of Ms. Emery's house, which he believed was indicative of drug trafficking. RP at 23.

While looking for Ms. Emery at her house on March 29, 2021, CCS Curtright and Thurston County Detective Shekel saw Ms. Emery sitting in a maroon sedan with Mr. Turner. RP at 14, 15, 20. CCS Curtright was familiar with Mr. Turner and had arrested him three times between September 2020 and June 2020. RP at 16-19. Each time CCS Curtright arrested Mr. Turner, the arrest involved drugs. RP at 20.

Although he was looking for "Kermit," CCS Curtright decided to arrest Mr. Turner on the DOC warrant if he left Ms. Emery's house. RP at 20. CCS Curtright stopped his vehicle in a nearby cul-de-sac and saw a silver BMW driven by Ms. Emery go past his position, followed by the maroon sedan driven by Mr. Turner. RP at 20-21. CCS Curtright pulled in behind the sedan and after the car entered a main arterial road, CCS Curtright activated emergency lights on his unmarked F-150 Ford pickup truck. RP at 23-24. CCS Curtright testified that he saw Mr. Turner "in the cab moving around like he was moving something or making some type of moves like he was trying to conceal something from being seen." RP at 25-26. After traveling

approximately twenty seconds Mr. Turner pulled into a parking lot and stopped the car. RP at 26, 45. Ms. Emery also pulled into the parking lot. RP at 27. Detective Shekel searched Mr. Turner and he was put in handcuffs. RP at 27.

CCS Curtright searched the maroon sedan and found plastic baggies in backpack behind the center console. CCS Curtright searched the trunk and found a handgun in a black bag and a small amount of suspected methamphetamine. RP at 30. CCS Curtright testified that he searched the car because Mr. Turner failed to immediately stop after he activated the emergency lights on the F-150. RP at 30-31.

The State charged Mr. Turner in Thurston County Superior Court with three counts of unlawful possession of a controlled substance with intent to deliver and unlawful possession of a firearm. Clerk's Papers (CP) at 4-5. Mr. Turner was also charged by special allegation that he was armed with a firearm in the three controlled substance counts. CP at 4-5.

Defense counsel moved to suppress the evidence discovered during the vehicle search that resulted from the traffic

stop and arrest on the DOC warrant. CP at 6-64. The trial court heard the CrR 3.6 motion to suppress evidence found as a result of the search on June 28, 2021. RP at 4-90. The trial court ruled that the search of the passenger area of the car was lawful, but that the search of the trunk was not lawful because the officers did not have a reasonable articulable suspicion of criminal activity that would allow a warrantless search of the trunk. RP (July 16, 2021) at 8.

The court entered findings and conclusions on August 5, 2021, and the State filed a notice of appeal on August 13, 2021. CP at 86-90, 91-98. The court granted a defense motion to dismiss without prejudice under CrR 8.3 on August 20, 2021. RP at 114; CP at 99-100, 105.

Division Two reversed the trial court's order suppression the evidence and order dismissing the charges and remanded to the trial court for further proceedings. ***Turner***, 2022 WL 14389446, at *17.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

The considerations that govern the decision to grant review are set forth in RAP 13.4(b). Petitioner believes that this court should accept review of this issue because the decision of the Court of Appeals is in conflict with other decisions of this Court and the Court of Appeals (RAP 13.4(b)(1) and (2)).

1. RESPECTFULLY, THIS COURT SHOULD GRANT REVIEW WHERE THE TRIAL COURT CORRECTLY ORDERED SUPPRESSION OF EVIDENCE SEIZED DURING A WARRANTLESS SEARCH OF A CAR DRIVEN BY A PERSON ON PROBATION

Both article I, section 7 of the Washington Constitution and the Fourth Amendment to the United States Constitution prohibit warrantless searches unless an exception exists. ***State v. Rooney***, 190 Wn.App. 653, 658, 360 P.3d 913 (2015). Washington law recognizes, however, that probationers and parolees have a diminished right of privacy that permits warrantless searches based on reasonable cause to believe that a violation of probation has occurred. ***State v. Winterstein***, 167 Wn.2d 620, 628, 220 P.3d 1226

(2009); ***State v. Jardinez***, 184 Wn. App. 518, 338 P.3d 292 (2014); ***Griffin v. Wisconsin***, 483 U.S. 868, 873, 107 S. Ct. 3164, 97 L. Ed. 2d. 709 (1987); U.S. Const. amend. IV; Const. art. I, § 7.

b. The State did not establish a nexus between the search and the suspected probation violation because CCS Curtright had no factual basis to conclude that a weapon or illegal substances would be found in the car

Under RCW 9.94A.631,[1] a CCO may conduct a search if the CCO has reasonable cause to suspect the probationer has violated a condition of his or her community custody. The State bears the burden to prove a warrantless search falls under one of the "few jealously and carefully drawn exceptions" to the warrant requirement. ***State v. Cornwell***, 190 Wn.2d 296, 301, 412 P.3d 1265 (2018) (internal quotation marks and citations omitted).

The State may closely supervise probationers in order to fulfill and enforce the goals of probation; to encourage rehabilitation and

[1]RCW 9.94A.631(1) provides: If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a [CCO] may require an offender to submit to a search and seizure of the offender's person, residence, automobile, or other personal property.

to also protect public safety. Nevertheless, a probation officer's authority is limited. ***Cornwell***, 190 Wn.2d at 303-04. Probationers' privacy interests may be reduced "only to the extent necessitated by the legitimate demands of the operation of the community supervision process." *Id.* (internal quotation marks, alterations, and citations omitted). In order to safeguard a probationer's privacy interest, a probation officer must first have "reasonable cause to believe" a probation violation has occurred before he or she may conduct a warrantless search of the probationer's property. *Id.* at 304.

Washington courts have analogized this reasonable cause standard to the reasonable suspicion standard required for an officer to conduct a ***Terry***[2] stop. ***State v. Jardinez***, 184 Wn. App. at 524; see ***U.S. v. Most***, 789 F.2d 1411, 1415 (9th Cir. 1986) (equating "reasonable cause" with "reasonable suspicion" in cases where law enforcement is permitted to make "a limited intrusion on less than probable cause"). A CCO must have a "well-found suspicion that a violation has occurred." ***Jardinez***, 184 Wn. App. at 524; ***State v.***

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[2] ***Terry v. Ohio***, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

Patterson, 51 Wn. App. 202, 204-05, 752 P.2d 945 (1988).

In this case, even if CCS Curtright had reasonable cause, there was no nexus between the suspected violation and the CCS's extensive search of the car and trunk. When a CCO has reasonable cause to believe a probationer has violated a condition of his or her probation, there must be a nexus between the search conducted and the suspected violation. *Jardinez*, 184 Wn. App. at 529; ***State v. Livingston***, 197 Wn.App. 590, 389 P.3d 753 (2017). A CCO's suspicion that a probationer has violated a condition of his or her probation does not subject the probationer to a warrantless search of everything he or she owns. The requisite nexus between the suspected probation violation and the place to be searched must be based on more than a probation officer's personal beliefs, suspicions, or generalizations about the behavior of criminals. ***State v. Thein,*** 138 Wn.2d 133, 147-49, 977 P.2d 582 (1999) (requiring a nexus between the suspected criminal activity and the evidence to be seized). An officer may not simply rely upon reasonable inferences based upon his or her training and experience. *Id.* The officer's inferences must be based on actual facts known to the officer and

specific to the case. *Id.* The nexus requirement is consistent with Fourth Amendment and Washington law that limits the scope of a search to correspond to the initial suspicion that instigated it. ***Jardinez,*** 184 Wn. App. at 525; Thien, 138 Wn.2d at 140, ***State v. B.A.S.***, 103 Wn. App. 549, 553, 13 P.3d 244 (2000) (requiring a search be "reasonably related in scope to the circumstances that justified the interference"); ***Arizona v. Gant***, 556 U.S. 332, 351, 129 S. Ct. 1710, 173 L. Ed. 2d 485 (2009).

In ***State v. Graham***, 130 Wn.2d 711, 725, 927 P.2d 227 (1996) (cited in ***Thein***, 138 Wn.2d at 148), a sufficient nexus existed to justify a search of Graham for evidence of drug possession after officers personally observed him carrying a large amount of cash and a small packet containing what looked like rock cocaine. In ***State v. Stone***, 56 Wn. App. 153, 158-59, 782 P.2d 1093 (1989), a sufficient nexus existed to justify a search of Stone's car for evidence of burglary where witnesses saw the car parked by the burgled house at the time of the crime and officers observed women's jewelry inside the car. In contrast, in ***Cornwell***, 190 Wn.2d 296, 301, 412 P.3d 1265 (2018), a sufficient nexus did not exist to justify a search of

Cornwell's car where the only suspected probation violation supported by the record was Cornwell's failure to report to his probation officer. ***Cornwell***, 190 Wn.2d at 306. As a matter of law, "there is no nexus between property and the crime of failure to report." *Id.*

Likewise, in ***Jardinez***, a sufficient nexus did not exist to justify a search of Jardinez's iPod where the only suspected probation violations were his failure to report and his admitted marijuana use, and no particular facts suggested the officer would find evidence of those violations on the iPod. ***Jardinez***, 184 Wn. App. at 521.

Here, as in ***Cornwell*** and ***Jardinez***, a sufficient nexus did not exist to justify a warrantless search of the car. The only suspected probation violations supported by the record were Turner's failure to report to his probation officer. First, as a matter of law, "there is no nexus between property and the crime of failure to report." ***Cornwell***, 190 Wn.2d at 306. Second, CCS Cutright was aware of no specific facts to suggest he would likely find evidence of drug use or other probation violations in the car; he could only cite to the twenty second delay in pulling over and the furtive movements he described.

CCS Curtright was aware of Turner and had arrested Turner in the past for drug possession.

The CCS was not personally aware of any "specific and articulable facts" to suggest he would likely find evidence of drugs in the car. ***Jardinez***, 184 Wn. App. at 524. Instead, he was operating on a mere hunch, based on personal beliefs and generalizations, that he might find such evidence. To condone and support the warrantless search of the car under these circumstances would be to conclude that, once a probationer admits to having used drugs at some time in the unspecified past, none of his property is free from search. This type of search is contrary to the constitutional mandate that a probationer's property "which has no nexus to the suspected violation, remains free from search." ***Cornwell***, 190 Wn.2d at 304.

Because the State cannot establish a nexus between the car and the suspected probation violation, the warrantless search was unlawful. RCW 9.94A.631(1); ***Cornwell***, 190 Wn.2d at 304.

RCW 9.94A.631 does not strip probationers of *all* of their Fourth Amendment privacy rights, and does not authorize CCS Curtright's warrantless search of the car and contents of the car and

trunk. The trial court correctly interpreted and applied the statute when it granted the defense motion to suppress. Accordingly, Division Two's unpublished opinion reversing the trial court's order granting the CrR 3.6 motion to suppress must be reversed and the evidence collected as a result of the search must be suppressed.

This Court should accept review and reverse Division Two's unpublished opinion and affirm the trial court's order suppressing the evidence.

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F. CONCLUSION

For the foregoing reasons, this Court should grant review to correct the above-referenced error in the unpublished opinion of the Court below that conflict with prior decisions of this Court and the courts of appeals.

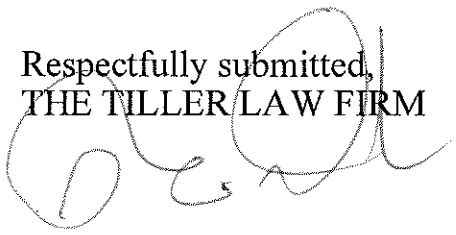
DATED: November 23, 2022.

Certification of Compliance with RAP 18.17:

This petition contains 2326 words, excluding the parts of the petition exempted from the word count by RAP 18.17.

DATED: November 23, 2022.

Respectfully submitted,
THE TILLER LAW FIRM



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CERTIFICATE OF SERVICE

The undersigned certifies that on November 23, 2022, that this Petition for review was sent by the JIS link to Mr. Derek M. Byrne, Clerk of the Court, Court of Appeals, Division II, 909 A Street, Ste. 200, Tacoma, WA 98402, a copy was emailed to Joseph J.A. Jackson, Thurston County Prosecuting Attorney and a copy was mailed by U.S. mail, postage prepaid, to the appellant at the following address:

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This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on November 23, 2022.

PETER B. TILLER

APPENDIX A

Filed
Washington State
Court of Appeals
Division Two

October 25, 2022

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Appellant, v. DAVID WAYNE TURNER, Respondent.	No. 56129-8-II UNPUBLISHED OPINION

GLASGOW, C.J.—Officers pulled over David Wayne Turner because he was on probation and had an active warrant for failing to report to his community corrections officer. Turner continued to drive for approximately 20 seconds before stopping the car, bypassing areas where he could safely pull over. During that time, he appeared to be moving around and trying to conceal something. A community corrections officer searched the area of the car that was within Turner's reach and found plastic baggies in a backpack behind the center console. The officer then expanded his search and found various controlled substances and a firearm in the trunk.

Turner moved to suppress the evidence seized from the trunk, arguing his only known probation violation was for failing to report and the officer did not have reasonable cause to believe Turner committed any additional violations that would justify a warrantless search of his entire car. The trial court granted Turner's motion, suppressed the evidence found in the trunk, and dismissed the case without prejudice.

On appeal, the State argues the trial court erred when it granted Turner's motion to suppress because a community corrections officer can require an offender to submit to a search if the officer

The officers decided they would arrest Turner on the warrant after he left the house. Curtright confirmed that the warrant was active but did not review the basis for it.

Turner began to drive and turned right onto Old Highway 99, a two-lane highway. The officers initiated a traffic stop once they turned onto Old Highway 99 behind Turner. According to Curtright, this portion of the highway had "a really large shoulder" where Turner could have pulled over safely, followed by some gravel parking lots for businesses on the right-hand side of the road. Verbatim Report of Proceedings (VRP) (June 28, 2021) at 25. But rather than stop at these places, Turner "continued roughly a quarter of a mile" before turning left into the parking lot of the Great Wolf Lodge. CP at 87. He stopped "approximately twenty seconds" after the officers initiated the stop. *Id.* According to a Google Maps printout that Turner submitted, he drove a total of 0.6 miles and 2 minutes from the residence before stopping at Great Wolf Lodge. The officers then detained Turner "without incident," and a search of his person did not reveal anything of evidentiary value. CP at 88. He was handcuffed and moved away from the car.

Before Turner stopped the car, he was "moving around in the vehicle" in a way that made Curtright suspect "Turner might be trying to conceal something." CP at 87. Shenkel did not document any furtive movements in his report.

"[B]ecause Mr. Turner did not immediately stop his vehicle along the highway, but rather waited until he got to a parking lot," Curtright requested approval from a supervisor to search Turner's car. CP at 88. He also suggested that Turner's "movements in the car" provided a nexus to support the search. VRP (June 28, 2021) at 73. A supervisor approved Curtright to search the "'[l]unge area'" of the car, meaning "the immediate area where [Turner] can reach from the driver's seat." *Id.* at 28. Directly behind the center console, Curtright found a backpack with plastic

Turner's failure to promptly yield, furtive movements inside the car, and the nature of his prior contacts with Curtright.

Curtright testified at the hearing consistent with the facts stated above. When describing the initial search of the passenger compartment, he testified, "[A]ll I was really looking at was the lunge area because that's where his movements were while I was . . . attempting to stop him." *Id.* at 28. "I continued my search based on the fact of the baggies that were . . . right around where he was reaching." *Id.* at 29. Curtright explained that if he had not found anything of possible evidentiary value when searching the lunge area, he would not have expanded his search to the rest of the car. And if Turner had pulled over more promptly, he would not have had a basis to search the car at all.

After the evidentiary hearing, the trial court put its ruling on the record. The trial court concluded that the search of the passenger area was appropriate to ensure officer safety but the search of the trunk was conducted without lawful authority. In explaining its decision, the trial court commented that typically officers who wish to "proceed further in their searches" will call the court and seek a warrant in order to "request access to the trunk." VRP (July 16, 2021) at 7. The trial court concluded the search of the car's trunk was unlawful because the officers failed to express "a reasonable articulable suspicion of criminal activity that would allow them to get into the trunk." *Id.* at 8.

In its written findings of fact and conclusions of law, the trial court noted that Curtright "was familiar with Mr. Turner from three previous work-related contacts" in May, June, and September 2020. CP at 87. "In each [of] those prior contacts, . . . [Curtright] believed Mr. Turner was in possession of a controlled substance." *Id.*

Id. The trial court did not include a finding explaining that Curtright expanded his search to the trunk because he found plastic baggies when searching the lunge area.

The trial court concluded Curtright "did not have reliable information to provide an articulable suspicion that Mr. Turner was engaged in any particular criminal activity . . . [or] violating any particular condition of probation, other than the existence of the arrest warrant." CP at 89. It concluded that neither Turner's failure to report, nor his furtive movements as alleged by Curtright, nor his failure to yield, alone, gave rise to a reasonable articulable suspicion that would have supported a search of the vehicle. Additionally, Curtright's knowledge from his prior contacts with Turner was "stale," and "a warrantless search based on knowledge that Mr. Turner had, in the past, been involved in criminal activity was not justified under these circumstances." CP at 90.

Ultimately, the trial court concluded Curtright's "search of the lunge area and passenger compartment was lawful for officer safety reasons," but the warrantless search of the trunk was unlawful. CP at 89. After concluding that the warrantless search of the trunk was conducted without authority of law, in violation of article I, section 7 of the Washington Constitution, the trial court ordered all evidence seized from the trunk of the car must be suppressed, including the controlled substances and firearm. "Based on the State's admission that all evidence of the charged criminal activity was in the trunk of the vehicle," the trial court dismissed the charges against Turner without prejudice. CP at 90.

The State appeals the trial court's order suppressing the evidence and its order dismissing the charges against Turner.

When reviewing a trial court's decision on a motion to suppress, we consider whether the court's findings are supported by substantial evidence and whether those findings support the court's conclusions. *State v. Rooney*, 190 Wn. App. 653, 658, 360 P.3d 913 (2015). "Unchallenged findings of fact are verities on appeal." *Id.* We review the trial court's conclusions of law de novo. *Id.*

Article I, section 7 states, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." This constitutional provision provides "a robust privacy right" and generally prohibits warrantless searches. *Cornwell*, 190 Wn.2d at 301. "However, individuals on probation are not entitled to the full protection of article I, section 7." *Id.* "[T]he State may supervise and scrutinize a probationer or parolee closely" because they have been sentenced to confinement but "are serving their time outside the prison walls." *State v. Jardinez*, 184 Wn. App. 518, 523, 338 P.3d 292 (2014).

A. Reasonable Cause Requirement

Because they are still in the State's custody, a person under Department of Corrections supervision "may be searched on the basis of a well-founded or reasonable suspicion of a probation violation," instead of a warrant supported by probable cause. *State v. Winterstein*, 167 Wn.2d 620, 628, 220 P.3d 1226 (2009); *see also* RCW 9.94A.631(1) ("If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a community corrections officer may require an offender to submit to a search and seizure of the offender's person, residence, automobile, or other personal property."). This standard is comparable to the *Terry*[2]

[2] *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

conditions. Within the prior year, Curtright had encountered Turner three times, and each time, Turner had possessed controlled substances.

After the officers activated their emergency lights, Turner continued for approximately a quarter of a mile and took at least 20 seconds to pull over, even though there were areas where Turner could have stopped on the right-hand side of the road. Additionally, Turner appeared to be "trying to conceal something" during this time. CP at 87. While the fact that Turner continued for approximately 20 seconds would not establish a well-founded and reasonable suspicion of a probation violation on its own, it was reasonable for Curtright to suspect that Turner was attempting to hide contraband when considering all of these facts together. Curtright had "reasonable cause to believe" Turner was violating a condition of his community custody, so the warrantless search of the lunge area was lawful under RCW 9.94A.631(1).[3]

Curtright originally limited his search to the area of the car that Turner could reach because he was searching for whatever Turner might have been trying to hide before stopping the car. In the area where Turner had been reaching, Curtright found empty Ziploc baggies, which he recognized as "items that are used for trafficking narcotics." VRP (June 28, 2021) at 29. This

[3] Although it was not challenged by either party, we note that the trial court erred when it concluded the "search of the lunge area and passenger compartment was lawful for officer safety reasons." CP at 89. Once the person who has been arrested is detained and distanced from the car, so that they can no longer access any contraband or weapons within the car, officer safety concerns cannot justify a search of the car. *See State v. Patton*, 167 Wn.2d 379, 384, 395, 219 P.3d 651 (2009). Here, the trial court found that "[w]hen the vehicle was searched, Mr. Turner had been removed from the vehicle and was detained in handcuff[]s away from the vehicle." CP at 88. This finding was not challenged and is therefore a verity on appeal. *Rooney*, 190 Wn. App. at 658. The trial court's conclusion that the "search of the lunge area and passenger compartment was lawful for officer safety reasons" was incorrect. CP at 89; *see Rooney*, 190 Wn. App. at 658.

The Supreme Court has evaluated the reasonableness of a search of a probationer's property in light of the "facts and knowledge available to the officer at the time of the search." *Winterstein*, 167 Wn.2d at 630; *cf. Terry*, 392 U.S. at 21-22 ("[W]ould the facts available to the officer at the moment of the seizure or the search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate?" (quoting *Carroll v. United States*, 267 U.S. 132, 162, 45 S. Ct. 280, 69 L. Ed. 543 (1925))). Because of his prior contacts with Turner, Curtright had relevant knowledge of Turner's conditions of community custody, as well as Turner's violations of those conditions involving controlled substances within the prior year. Prior community custody violations alone would not support a search, but they are facts that can be considered when evaluating the totality of the circumstances. The trial court erred when it concluded that Curtright's knowledge from prior contacts with Turner was "stale" and could not justify a search, to the extent it was concluding that Curtright's knowledge could not be considered alongside other specific and articulable facts. CP at 97.

The trial court also erred when it concluded that Curtright "did not have reliable information to provide an articulable suspicion that Mr. Turner was violating any particular condition of probation, other than the existence of the arrest warrant." CP at 89. Turner had been found in possession of controlled substances in violation of his community custody conditions on three occasions within the past year, and Turner had moved around within his car and delayed stopping for approximately 20 seconds after the officers activated their emergency lights, despite having opportunities to safely pull over. Considering the totality of the circumstances, it was reasonable for Curtright to suspect that Turner possessed controlled substances in violation of his

there's no further violations of his probation.'" *Id.* The officer did not offer any other suspicion of a probation violation to justify the search, saying he "searched the vehicle *only* because Cornwell 'ha[d] a felony warrant for his arrest . . . in violation of his probation [and] [h]e's driving the vehicle.'" *Id.* at 306 (emphasis added) (alterations in original). The Supreme Court concluded that although the community corrections officer "may have suspected Cornwell violated other probation conditions, the only probation violation supported by the record" was his failure to report. *Id.* "[T]here is no nexus between property and the crime of failure to report," so the search was unlawful. *Id.*

Like the defendant in *Cornwell*, officers decided to pull Turner over because he had an active warrant for failing to report to his community corrections officer. But unlike in *Cornwell*, by the time Turner stopped his car, Curtright had a reasonable suspicion that Turner was violating an *additional* condition of his probation prohibiting him from possessing controlled substances. Because a specific additional probation violation was reasonably suspected, *Cornwell* does not determine the outcome here. *Cf. State v. Arreola*, 176 Wn.2d 284, 299, 290 P.3d 983 (2012) ("[A] police officer cannot and should not be expected to simply ignore the fact that an appropriate and reasonably necessary traffic stop might also advance a related and more important police investigation.").

The language of RCW 9.94A.631(1) broadly permits a search of "the offender's . . . automobile" upon reasonable cause to believe the offender has violated a condition of community custody. But the scope of this search must also be limited to the property that has a nexus with, or relation to, the suspected violation. *Cornwell*, 190 Wn.2d at 306. In other words, like with searches supported by probable cause, the nature of the suspected violation informs the appropriate scope

CONCLUSION

We reverse the trial court's order suppressing the evidence and its order dismissing the charges against Turner and remand for further proceedings consistent with this opinion.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Glasgow, C.J.

We concur:

Worswick, J.

Maxa, J.

THE TILLER LAW FIRM

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