Supreme Court No. _____
Court of Appeals No. 30983-5-III

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

90039-6

STATE OF WASHINGTON,

Respondent,

vs.

MARISA M. FUENTES,

Defendant/Petitioner.

PETITION FOR REVIEW

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I. IDENTITY OF PETITIONER.

Petitioner, Marisa M. Fuentes, asks this Court to accept review of the Court of Appeals decision terminating review, designated in Part II of this petition.

II. COURT OF APPEALS DECISION.

Petitioner seeks review of the Court of Appeals Opinion filed February 11, 2014, affirming her conviction. A copy of the Court's unpublished opinion is attached as Appendix A. This petition for review is timely.

III. ISSUE PRESENTED FOR REVIEW.

Was the officer's stop of Ms. Fuentes' car illegal, where the police did not have a reasonable suspicion of criminal activity arising from specific and articulable facts?

IV. STATEMENT OF THE CASE.

Police paid a visit to an apartment in Kennewick after midnight in hopes of locating a person wanted on an outstanding warrant. RP[1] 4-5. The occupant of the apartment was a known drug dealer and drugs had been found during a search of the apartment 11 months earlier. RP 6, 24. As the police approached the apartment, two people sitting on the steps went inside and shut the door. Police knocked on the door but no one would answer so the police left. RP 8.

[1] "RP" refers to the transcript of the suppression hearing held 2/29/12.

The police returned to the apartment around 10 p.m. that same night and set up surveillance to look for various individuals wanted by law enforcement. Over the next 1 ½ to 2 hours the police observed at least ten different people arrive at the apartment, stay for 5-20 minutes then leave. RP 8. Shortly after midnight a car arrived. Police saw Ms. Fuentes get out of the car and enter the apartment. She returned to her car five minutes later, opened the trunk, took out a plastic grocery bag that appeared to contain something about the size of a Nerf football, and reentered the apartment. She returned to her car a few minutes later with the same plastic bag that now appeared empty. She put the bag in the trunk and drove away. RP 10-14.

The police stopped the car based on what they believed to be a reasonable suspicion of drug activity. RP 17. The detective who stopped the car had Ms. Fuentes get out of the car and sit in the police car to talk with him. He read her Miranda warnings. She was not free to leave. He accused her of taking something into the apartment. She eventually confessed to delivering marijuana. RP 15, 52-59.

The police did not see Ms. Fuentes or her car during their first visit to the apartment. She was not one of the two people observed sitting on the steps to the apartment. RP 18-21. The police did not recognize Ms. Fuentes when she got out

of her car and she was not one of the people with warrants that the police were looking for at the apartment. RP 28-29.

Prior to trial, Ms. Fuentes moved to suppress her confession as fruits of an illegal stop. CP 3-13. The Court denied the motion finding the stop was based on a reasonable suspicion of criminal activity. CP 80-81. Ms. Fuentes was subsequently convicted of delivery of a controlled substance, marijuana, following a stipulated facts trial. CP 103. This appeal followed. CP 114.

The Court of Appeals affirmed the conviction finding this case distinguishable from State v. Doughty and State v. Richardson because (a) Ms. Fuentes showed up with a grocery bag from her trunk and left with the same bag that now appeared lighter, (b) the officers knew that the apartment had been used for drug dealing, and the officers saw Ms. Fuentes enter and exit twice within minutes and (c) officers observed 8 to 10 other people do the same earlier in the night. Slip Op p. 6.

V. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED.

The considerations which govern the decision to grant review are set forth in RAP 13.4(b). Petitioner believes that this court should accept review of these issues 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)), and involves a significant question of law under the Constitution of the United States

and state constitution (RAP 13.4(b)(3)). Specifically, the decision of the Court of Appeals conflicts with the Fourth Amendment and article I, section 7 of the Washington State Constitution, this Court's decision in State v. Doughty, 170 Wash. 2d 57, 239 P.3d 573, 575 (2010), and the Court of Appeals' decision in State v. Richardson, 64 Wn. App. 693, 825 P.2d 754 (1992).

The officer's stop of Ms. Fuentes' car was illegal because the police did not have a reasonable suspicion of criminal activity arising from specific and articulable facts.

Standard of Review. In reviewing a trial court's findings of fact following a suppression hearing, the reviewing court makes an independent review of all the evidence. State v. Apodaca, 67 Wn. App. 736, 739, 839 P.2d 352 (1992), (citing State v. Mennegar, 114 Wn.2d 304, 310, 787 P.2d 1347 (1990)). Findings of fact on a motion to suppress are reviewed under the substantial evidence standard. Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the finding. Conclusions of law in an order pertaining to suppression of evidence are reviewed *de novo*. State v. Mendez, 137 Wn.2d 208, 214, 970 P.2d 722 (1999).

Substantive Argument. The Fourth Amendment, made applicable to the states by way of the Fourteenth Amendment, guarantees the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable

searches and seizures. Mapp v. Ohio, 367 U.S. 643, 647, 81 S.Ct. 1684, 1687, 6 L.Ed.2d 1081, 84 A.L.R.2d 933 (1961). Its "key principle," or "ultimate standard," is one of "reasonableness." Dunaway v. New York, 442 U.S. 200, 219, 99 S.Ct. 2248, 2260, 60 L.Ed.2d 824 (1979) (White, J., concurring). This key principle has many specific applications. Of those involving the detention of persons, undoubtedly the most fundamental is that it is reasonable for an officer to detain a person indefinitely, e.g., for appearance in court or prosecution, only if the officer has probable cause to believe the person has committed a crime. Gerstein v. Pugh, 420 U.S. 103, 114, 95 S.Ct. 854, 863, 43 L.Ed.2d 54 (1975); State v. Broadnax, 98 Wn.2d 289, 293, 654 P.2d 96 (1982).

Another, narrower application is that even in the absence of probable cause, it is reasonable for an officer to detain a person briefly, for investigation, if the officer harbors a reasonable suspicion, arising from specific and articulable facts, that criminal activity is afoot. Terry v. Ohio, 392 U.S. 1, 21, 88 S.Ct. 1868, 1879, 20 L.Ed.2d 889 (1968); State v. Kennedy, 107 Wn.2d 1, 5-6, 726 P.2d 445 (1986). A police officer's act of stopping a vehicle and detaining its occupants constitutes a seizure. State v. Takesgun, 89 Wn. App. 608, 610, 949 P.2d 845 (1998) (*citing* Delaware v. Prouse, 440 U.S. 648, 653, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979)). To be lawful, it must have been justified at its inception and reasonable in scope. State v. Henry, 80 Wn.A pp. 544, 549-50, 910 P.2d 1290

(1995). The State must show by clear and convincing evidence that the Terry stop was justified. State v. Garvin, 166 Wn.2d 242, 250, 207 P.3d 1266 (2009).

A warrantless, investigatory stop must be reasonable under the Fourth Amendment and article I, section 7 of the Washington State Constitution. State v. Duncan, 146 Wn.2d 166, 171, 43 P.3d 513 (2002). The State must prove an investigatory stop's reasonableness. Id. An investigatory stop is reasonable if the arresting officer can attest to specific and objective facts that provide a reasonable suspicion that the person stopped has committed or is about to commit a crime. State v. Armenta, 134 Wn.2d 1, 10, 948 P.2d 1280 (1997). An investigatory stop occurs at the moment when, given the incident's circumstances, a reasonable person would not feel free to leave. Armenta, 134 Wn.2d at 10, 948 P.2d 1280; State v. Williams, 102 Wn.2d 733, 739, 689 P.2d 1065 (1984).

It is generally recognized that crime prevention and crime detection are legitimate purposes for investigative stops or detentions. Kennedy, 107 Wn.2d at 5-6, 726 P.2d 445. However, there must be sufficient articulable facts supporting a reasonable suspicion of criminal activity to justify a temporary investigative stop. *See* State v. Thornton, 41 Wn. App. 506, 705 P.2d 271 (1985); State v. Samsel, 39 Wn. App. 564, 694 P.2d 670 (1985).

"The reasonableness of the officer's suspicion is determined by the totality of the circumstances known to the officer at the inception of the stop." State v.

Lee, 147 Wn. App. 912, 917, 199 P.3d 445 (2008) (citing State v. Rowe, 63 Wn. App. 750, 753, 822 P.2d 290 (1991)); *See* Illinois v. Gates, 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983). "[T]he determination of reasonable suspicion must be based on common sense judgments and inferences about human behavior." Id. (citing Illinois v. Wardlow, 528 U.S. 119, 125, 120 S.Ct. 673, 145 L.Ed.2d 570 (2000)).

Reasonable suspicion, like probable cause, is dependant upon both the content of information possessed by police and its degree of reliability. Id. Both factors--quantity and quality--are considered in the "totality of the circumstances--the whole picture," that must be taken into account when evaluating whether there is reasonable suspicion. Id. (quoting Alabama v. White, 496 U.S. 325, 330, 110 S.Ct. 2412, 110 L.Ed.2d 301 (1990)).

A person's presence in a high crime area does not give rise to a reasonable suspicion to stop him. State v. Richardson, 64 Wn. App. 693, 697, 825 P.2d 754 (1992). Similarly, a person's "mere proximity to others independently suspected of criminal activity does not justify the stop." State v. Thompson, 93 Wn.2d 838, 841, 613 P.2d 525 (1980). In Richardson, the defendant was stopped after being observed walking at 2:30 a.m. in an area known for its high drug activity in the company of a person suspected of drug dealing. Richardson, 64 Wn. App.at 694, 825 P.2d 754. The Court of Appeals held that the stop was improper, noting that

at the time of the stop the officer "knew only that Mr. Richardson was in a high crime area late at night walking near someone the officer suspected of 'running drugs'. He had not heard any conversation between the men and had not seen any suspicious activity between them." Id. at 697, 825 P.2d 754.

In the present case the Court of Appeals likens the facts to those in Kennedy. Slip Op. p. 7. But Kennedy is substantially different. In Kennedy, in addition to observing the defendant leave a known drug house, police had reliable information from an informant that the defendant regularly purchased marijuana from the owner of the drug house and that he only went to that particular house to buy drugs. Kennedy, 107 Wn.2d at 3, 726 P.2d 445. Police also saw the defendant lean forward in his car as if placing something on the front seat. Id. Herein, the police had no knowledge that Ms. Fuentes was involved in any way with drugs.

In State v. Doughty, 170 Wash. 2d 57, 239 P.3d 573, 575 (2010), the police stopped Walter Doughty's car after he briefly visited a suspected drug house at 3:20 a.m. Doughty, 170 Wn.2d at 60, 239 P.3d 573. The information that the house was used to distribute drugs was based on complaints from neighbors and information provided by an informant. Id. The officer arrested Mr. Doughty after a records check revealed that Mr. Doughty's license was suspended. Id. The subsequent search of Mr. Doughty's vehicle revealed a pipe containing

methamphetamine residue. Methamphetamine was found in Mr. Doughty's shoe at booking. Id. The trial court denied Mr. Doughty's motion to suppress, and he was convicted of one count of possession of methamphetamine. Id. at 61, 239 P.3d 573.

The Supreme Court concluded that the officer's actions were based on his own "incomplete observations." Doughty, 170 Wn.2d at 64, 239 P.3d 573. The court determined that Doughty is factually similar to Richardson because the officer did not hear any conversations or observe any suspicious activities other than Mr. Doughty leaving a house in the middle of the night. Id. The court reasoned:

> [P]olice never saw any of Doughty's interactions at the house.... The two-minute length of time Doughty spent at the house—albeit a suspected drug house—and the time of day do not justify the police's intrusion into his private affairs.

Id.

Likewise, the police in the present case never saw any of Ms. Fuentes' interactions inside the apartment, hear any conversations or observe any suspicious activities other than Ms. Fuentes leaving a house in the middle of the night with an empty grocery bag. They had no knowledge of what was in the grocery bag she took into the apartment or what she did with it. Like Doughty, the police had only their own incomplete limited observation of Ms. Fuentes at the apartment.

Unlike Kennedy, the police did not have any reliable information from another source that Ms. Fuentes regularly delivered marijuana to the owner of the drug house. In fact, the police did not recognize Ms. Fuentes as a known drug dealer or other criminal. Moreover, the police had not seen Ms. Fuentes or her car during their first visit to the apartment earlier that same day. She was not one of the two people observed sitting on the steps to the apartment and she was not one of the people with warrants that the police were looking for at the apartment.

In summation, the totality of the circumstances under these facts did not warrant intrusion into Ms. Fuentes' private affairs. The Court of Appeals' basis for finding this case distinguishable from State v. Doughty and State v. Richardson are unconvincing. See Statement of the Case, p. 3; Slip Op p. 6. Despite the surrounding circumstances, Ms. Fuentes' behavior could have easily been innocuous. The same is true of the unknown item in the plastic grocery bag. Therefore, the stop was not based on a reasonable suspicion of criminal activity and Ms. Fuentes' confession should have been suppressed.

VI. CONCLUSION.

For the reasons stated herein, Defendant/Petitioner respectfully asks this Court to grant the petition for review and reverse the decision of the Court of Appeals.

Respectfully submitted March 13, 2014,

s/David N. Gasch
Attorney for Petitioner
WSBA #18270

PROOF OF SERVICE (RAP 18.5(b))

I, David N. Gasch, do hereby certify under penalty of perjury that on March 13, 2014, I mailed to the following by U.S. Postal Service first class mail, postage prepaid, or provided e-mail service by prior agreement (as indicated), a true and correct copy of the petition for review:

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CASE # 309835
State of Washington v. Marisa May Fuentes
BENTON COUNTY SUPERIOR COURT No. 111013611

Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file an original and two copies of the motion. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Renee S. Townsley

Renee S. Townsley
Clerk/Administrator

RST:sh
Attachment
c: **E-mail** Honorable Vic L. VanderSchoor

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FILED
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In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON, Respondent,	)	No. 30983-5-III
v.	)	
MARISA MAY FUENTES, Appellant.	)	UNPUBLISHED OPINION

KORSMO, C.J. — Marisa Fuentes challenges the trial court's suppression rulings arising from an investigative stop. We conclude that the officers had articulable suspicion to justify the stop and affirm.

FACTS

This case has its genesis in a November 2010 investigation by the Kennewick Police Department. Officers performed a series of controlled drug buys at an apartment occupied by Richard Fenton. These dealings led to a search warrant and the recovery of illegal drugs and drug paraphernalia from the apartment. Almost a year later, officers knew that Richard Fenton was still at the apartment and also suspected that other wanted

individuals frequented the apartment. Based on this information, officers set up a stakeout outside.

On the night of the stakeout—October 5-6, 2011—officers first observed two people outside the apartment. When the officers approached the people to ask if any of the wanted individuals were present, the two ran inside and would not answer the door. Later during the stakeout, officers observed 8 to 10 people come and go from the apartment between 10 p.m. and 12 a.m. All of these people stayed between 5 and 20 minutes. It was also a weeknight. In the officers' training and experience, this activity was consistent with illegal drug dealing.

Just after midnight, officers observed a woman, later identified as Marisa Fuentes, arrive at the apartment. Within five minutes of entering the residence, Ms. Fuentes returned to her vehicle. She then retrieved from the trunk of her car a white grocery bag with unidentified contents about the size of a small football. She then took the bag into the apartment and left within another five minutes. When Ms. Fuentes left the apartment, the bag was noticeably emptier. Suspecting that she had just delivered illegal drugs, the stakeout officers radioed for supporting officers to stop Ms. Fuentes on suspicion of delivery of a controlled substance.

Officers stopped the car and advised Ms. Fuentes of her *Miranda*[1] rights. She waived those rights and the officers proceeded to question her. In the course of questioning, Ms. Fuentes admitted that she had just delivered marijuana to Mr. Fenton's apartment. Based on this information, officers were able to obtain a search warrant for both Ms. Fuentes's car and Mr. Fenton's apartment. The search of the apartment yielded methamphetamine, marijuana, and other illicit substances. The vehicle search yielded methamphetamine.

Ms. Fuentes was charged with delivery of marijuana to the apartment; no charges were filed related to the methamphetamine found in the car.[2] Ms. Fuentes moved to suppress the evidence derived from the investigative stop of her vehicle, including her admission to delivering marijuana. The trial court ruled that officers made a valid stop of the vehicle. Ms. Fuentes then was convicted of delivering marijuana at a stipulated facts trial. She timely appealed to this court.

ANALYSIS

The sole issue in this appeal concerns whether officers had reasonable suspicion to stop Ms. Fuentes as she drove away from the apartment. We agree with the trial court that the officers had articulable suspicion justifying the stop.

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[1] *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

[2] The methamphetamine was found in her purse, which was found in the white bag she had placed in the trunk.

A finding of reasonable suspicion presents a question of law that this court reviews de novo. *State v. Johnson*, 128 Wn.2d 431, 443, 909 P.2d 293 (1996). In reviewing the denial of a suppression motion, conclusions of law are reviewed de novo and the findings of fact used to support those conclusions are reviewed for substantial evidence. *State v. Garvin*, 166 Wn.2d 242, 249, 207 P.3d 1266 (2009). Because Ms. Fuentes only challenges whether the uncontested facts were legally sufficient to give rise to reasonable suspicion, our review is de novo.

In the context of a *Terry*[3] stop, "'[t]he reasonableness of the officer's suspicion is determined by the totality of the circumstances known to the officer at the inception of the stop.'" *State v. Lee*, 147 Wn. App. 912, 917, 199 P.3d 445 (2008) (quoting *State v. Rowe*, 63 Wn. App. 750, 753, 822 P.2d 290 (1991)). We have noted that "the suspicion must be individualized." *State v. Richardson*, 64 Wn. App. 693, 697, 825 P.2d 754 (1992). Thus, if officers "have nothing to *independently* connect such person to illegal activity, a search of the person is invalid under article I, section 7 [of the Washington State Constitution]." *State v. Parker*, 139 Wn.2d 486, 498, 987 P.2d 73 (1999). Where a suspect's activity is consistent with both criminal and noncriminal activity, officers may still justify a brief detention under *Terry* without first ruling out all possibilities of

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

innocent behavior. *State v. Kennedy*, 107 Wn.2d 1, 6, 726 P.2d 445 (1986); *State v. Anderson*, 51 Wn. App. 775, 780, 755 P.2d 191 (1988).

In challenging the *Terry* stop, Ms. Fuentes chiefly relies on two cases: *Richardson* and *State v. Doughty*, 170 Wn.2d 57, 239 P.3d 573 (2010).

In *Richardson*, Yakima officers were patrolling an area late at night known for high drug activity. *Richardson*, 64 Wn. App. at 694. Multiple times throughout the course of the night, officers observed a man standing on a corner who would then approach cars and talk to their occupants. The man would then disappear and reappear at the same corner a little bit later. When officers would approach the man, he would walk away, disappear out of view, and later show back up at the corner. Based on their training and experience, the officers believed the man's activity was consistent with drug dealing. *Id.* at 694-95. When the man showed up again later, this time with another person—Richardson—officers stopped the two and detained them on suspicion of drug dealing. A search revealed that they were both in possession of illegal drugs. *Id.* at 695. This court ultimately reversed Richardson's conviction because the officers had no individualized evidence that he was involved in drug-related activity. *Id.* at 697-98. Although Richardson was seen with a person reasonably suspected[4] of drug-related activity, "an individual's mere proximity to others independently suspected of criminal

[4] Although dicta, this court opined that officers had reasonable suspicion to detain the man on the corner. *Richardson*, 64 Wn. App. at 697.

activity justify an investigative stop; the suspicion must be individualized." *Id.* at 697 (citing *State v. Thompson*, 93 Wn.2d 838, 841, 613 P.2d 525 (1980)).

In *Doughty*, the appellant similar to here showed up to a suspected drug house late at night, stood there for two minutes, and then drove away. Officers then seized Mr. Doughty and found methamphetamine in his car. *Doughty*, 170 Wn.2d at 59-60. The Supreme Court reversed the conviction because the officers did not observe Mr. Doughty enter the house or observe anyone come to the door and interact with him. *Id.* at 64. The court also noted that Doughty was not seen carrying any unusual objects or otherwise acting suspiciously. *Id.* at 65.

While some parallels can be drawn from *Richardson* and *Doughty* to this case, the officers in this case had more information on which to base their suspicions than in those cases. In *Richardson* and *Doughty*, officers did not see the defendant actually interact with the other suspected party. Here, Ms. Fuentes showed up with a suspicious package from her trunk and left with the same package noticeably lighter. In *Doughty*, officers only had complaints that the house was a drug house. *Doughty*, 170 Wn.2d at 60. Here, officers knew that the apartment had been and currently appeared to be used for drug dealing. In *Doughty*, officers also did not see Mr. Doughty go inside or see anyone else acting suspiciously. Here, officers saw Ms. Fuentes enter and exit twice within minutes and also observed 8 to 10 other people do the same earlier in the night. In the officers' training and experience, large numbers of people do not show up one at a time late at

night on a weeknight and stay for only minutes unless illegal activity is occurring. While such activity may in some circumstances be consistent with some noncriminal activities, the Constitution does not require officers to rule out all possibility of innocent behavior before making a brief investigatory stop. *Anderson*, 51 Wn. App. at 780; *Kennedy*, 107 Wn.2d at 6.

The more apt analogy is to *Kennedy*. There, officers were investigating a house suspected of being used for drug dealing based on complaints by neighbors that there was heavy traffic in and out of the house by people who stayed only minutes. *Kennedy*, 107 Wn.2d at 3. One of the people that officers observed leave the house was Mr. Kennedy. Officers did not see Kennedy enter or leave with any objects or see him otherwise acting suspiciously, but stopped him anyway after observing him leave the house. *Id.* The one substantial difference between that case and this one is that officers had a tip from an informant that Mr. Kennedy regularly purchased marijuana from the residence he was observed leaving. *Id.*

While an informant's tip is strong evidence supporting reasonable suspicion, nothing in the *Kennedy* opinion states or suggests that an informant's tip is an absolute minimum for establishing reasonable suspicion. Indeed, *Kennedy* noted that no such rule is possible, or even desirable: "'no single rule can be fashioned to meet every conceivable confrontation between the police and citizen. Evaluating the reasonableness of the police action and the extent of the intrusion, each case must be considered in light

of the particular circumstances facing the law enforcement officer.'" *Kennedy*, 107 Wn.2d at 7 (quoting *State v. Lesnick*, 84 Wn.2d 940, 944, 530 P.2d 243 (1975)).

Looking at the facts of this case in light of the particular circumstances facing officers, we find that the additional facts separating this case from *Richardson* and *Doughty* sufficed to give officers individualized suspicion that Ms. Fuentes had just been involved in the drug dealing that was known to take place at Mr. Fenton's apartment. Unlike those cases, she was seen carrying a bag into the apartment and came out carrying something different in the bag. Unlike those cases, here, the officers' suspicion that Mr. Fenton's apartment was a place of drug dealing was especially well founded, based on the search conducted a year earlier. She also went to the apartment after two hours of surveillance revealed that apparent drug activity was taking place there that very evening shortly before her arrival at midnight on a weekday. It was reasonable to infer that she had arrived to help resupply Mr. Fenton and/or would have information about his activities that evening.

There was articulable suspicion as well as individualized suspicion of Ms. Fuentes. The trial court correctly denied the motion to suppress.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, C.J.

WE CONCUR:

Brown, J.

Siddoway, J.