69913-0

69913-0

NO. 69913-0-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

STEVEN SANDOZ,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE BETH ANDRUS

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Under article I, section 7 of Washington's constitution, a person is seized only when, by means of physical force or a show of authority, his freedom of movement is restrained and a reasonable person would not have believed that he is free to leave or to decline the officer's request and terminate the encounter. Alone, on foot, and without using coercive language or touching his weapon, Deputy Przygocki asked Sandoz if he would mind stepping out of the passenger seat of a parked car to talk away from the car's other occupants, and Sandoz agreed. Did the trial court err in concluding that Przygocki seized Sandoz?

2. Police officers may conduct an investigatory stop if they have a reasonable and articulable suspicion that an individual is involved in criminal activity; i.e., there is a substantial possibility that criminal conduct has occurred or is about to occur. Shortly before midnight, Deputy Przygocki observed Sandoz emerge from the apartment of a known drug dealer in an area of extremely high drug activity and get into a Jeep that had been illegally parked by a driver who slouched out of sight when the deputy drove past. Sandoz was surprised, visibly shaking, and pale when the deputy made contact with him. Sandoz and the driver gave contradictory

statements about why they were there. The Jeep was parked within an apartment complex over which the deputy had express authority from the owner to trespass non-occupants, and the deputy knew that the Jeep did not belong to any of the complex's occupants. Did the trial court correctly conclude that Deputy Przygocki had reasonable suspicion that Sandoz was engaged in illegal drug activity?

3. Possession of drug paraphernalia is a misdemeanor in SeaTac. During the encounter with Deputy Przygocki in SeaTac, Sandoz volunteered that he had a crack pipe in his pocket and allowed the deputy to retrieve it. Did the trial court correctly conclude that Deputy Przygocki had probable cause to arrest Sandoz for possession of drug paraphernalia?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

Steven Sandoz was charged with Violation of the Uniform Controlled Substances Act (VUCSA) for possession of cocaine. Clerk's Papers (CP) 1-4. Sandoz moved to suppress his incriminating statements and the cocaine discovered on his person during a search incident to arrest, arguing that his initial detention

was illegal. CP 6-15. King County Sheriff's Office Deputy Chris Przygocki testified at the combined CrR 3.5 and 3.6 suppression hearing before the Honorable Beth Andrus. 1RP 7-61.[1] After the trial court denied his motion, Sandoz elected to proceed to a stipulated facts bench trial. CP 26-28. He was convicted and sentenced to a residential treatment-based drug offender sentencing alternative. CP 29-40, 41-43.

2. SUBSTANTIVE FACTS

Deputy Przygocki is a patrol officer in SeaTac under a contract between that city and King County. 1RP 9. His duties include responding to 911 calls, making traffic stops, investigating suspicious person reports, and having contact with the community. Id. Additionally, Przygocki works on SeaTac's "problem solver projects" to address specific crime in specific areas. 1RP 14-15.

From January through May 2012, Przygocki had been working on a problem solver project at an apartment complex that had been a hub of criminal activity since the 1990s. 1RP 15-16. The complex generated an "unbelievable" number of service calls,

[1] The verbatim record of proceedings consists of three volumes, cited as follows: 1RP = 1/3/13; 2RP = 1/7/13; 3RP = 2/1/13. This citation convention corresponds to citations in the Brief of Appellant.

with hundreds of documented criminal incidents occurring there. 1RP 15-16. Through his work, Przygocki knew all five occupants of the apartment building by name and what vehicles they drove. 1RP 16. He also knew that four of the five occupants have convictions for narcotics-related activity. 1RP 17. One of those four, Jennifer Meadows, had a history of convictions for possession of controlled substances with intent to distribute. 1RP 17. "In the Washington Problem Solving Project at this point in time, [Przygocki] had seen ... upwards of 60 different people coming and going from ... her particular apartment, not to mention the vehicles that would come and go." 1RP 17.

At about 11:30 p.m. on May 23, 2012, Przygocki noticed a Jeep in front of the complex in a "no-parking, fire, handicapped area." 1RP 18. Przygocki had never seen the Jeep or its occupants before. Id. As he drove by the Jeep, he noticed the driver "slump[] down in the driver's seat of the vehicle almost to hide himself from [the deputy's] presence." Id. Przygocki parked at the end of a cul-de-sac and watched the Jeep for 10 to 15 minutes before deciding to contact its occupants. 1RP 19.

Przygocki asked the driver what he was doing and why he slumped down when he saw the patrol car. 1RP 20. The driver explained that he was there to pick up Sandoz, who had called the driver for a ride, but did not explain why he slumped down. 1RP 20, 38. As Przygocki was speaking with the Jeep's passengers, he saw Sandoz emerge from Meadows's apartment and walk toward the Jeep. 1RP 20. When Sandoz saw the deputy, "his eyes got big," and he got into the rear passenger seat of the Jeep. 1RP 20-21.

Przygocki asked Sandoz what was going on. 1RP 21. Sandoz claimed that the driver had given him a ride to the complex to collect a $20 debt from Meadows, "which was contradicting what his friend had told me." 1RP 21. Przygocki pointed out that the driver's story differed. Id. Sandoz started looking around, "shaking visibly," and his face was pale and thin. Id. Przygocki asked Sandoz if he would mind "stepping outside the car and just talking with me." 1RP 21-22.

Once outside, Sandoz contradicted himself about why he was visiting Meadows.[2] Sandoz admitted that he had a drug problem and that he was carrying a crack pipe. 1RP 23-24. Sandoz agreed to give the pipe to Przygocki, who retrieved it from his pocket. 1RP 23. The deputy then arrested Sandoz for possession of drug paraphernalia under the SeaTac Municipal Code. 1RP 23-24; STMC 8.05.380(B).

Przygocki conducted a pat-down search for officer safety. 1RP 24. During the search, Przygocki felt some objects in Sandoz's "groin area." 1RP 24. Sandoz immediately dropped his head to his chest, and Przygocki advised him of his rights. 1RP 24-25. Sandoz said he understood his rights and told the deputy that the objects in his underwear contained cocaine. 1RP 25, 27.

The deputy waited for another officer to arrive before removing the cocaine from Sandoz's underwear, then placed the drugs in his patrol car trunk and put Sandoz in the backseat.

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[2] Deputy Przygocki testified that Sandoz explained that he was there to collect $20 from Meadows while he was in the car, and that once Sandoz exited the car, he said that "he was actually there to collect $20 from Meadows, which was a contradiction to what he told me prior." 1RP 21, 23. It appears that Przygocki partially misspoke. His incident report states that Sandoz first said he was collecting a debt and later said he was paying one. Pretrial Ex. 1 at 4. This report, which was marked but not admitted, explains why Przygocki testified that Sandoz's second explanation "was a contradiction to what he told me prior." 1RP at 23.

1RP 26. Sandoz admitted he had a drug problem, asked for help, and advised that he would be coming off narcotics. 1RP 28-29.

C. ARGUMENT

1. THE TRIAL COURT PROPERLY ADMITTED EVIDENCE DISCOVERED DURING THE DEPUTY'S LAWFUL ENCOUNTER WITH SANDOZ.

Sandoz challenges the trial court's conclusion that Deputy Przygocki had reasonable suspicion to support an investigatory stop when he asked Sandoz to step outside to speak privately, and argues that the drugs subsequently discovered on Sandoz's person should have been suppressed. Because this interaction was not a "seizure" under article I, section 7 of Washington's constitution, the evidence discovered during the conversation was properly admitted. Further, even if the encounter rose to the level of an investigatory detention, the totality of the circumstances furnished reasonable suspicion to support the stop. In either case, Sandoz's argument fails.

In reviewing the denial of a motion to suppress, the appellate court determines whether substantial evidence supports the trial court's factual findings, and whether those findings support its

conclusions of law. State v. Ross, 106 Wn. App. 876, 880, 26 P.3d 298 (2001). Unchallenged findings are verities on appeal. Id. Conclusions of law are reviewed de novo. Id.

a. Sandoz Was Not Seized Until He Admitted His Possession Of The Pipe.

The trial court concluded that Sandoz was seized as soon as Deputy Przygocki asked to speak with him privately. CP 52-53 (CL (b)). The court reasoned, "Since the deputy testified that he would have arrested the defendant for Drug Traffic Loitering if the defendant had refused to speak to him at this point, a reasonable person would have felt compelled to comply with the officer[']s request to talk to the defendant in private outside of the vehicle." CP 52-53. This conclusion of law reflects an erroneous legal standard and should be rejected.[3] This Court should instead conclude that Sandoz was not seized until after he admitted he possessed a crack pipe.

Whether police have seized a person is a mixed question of law and fact. State v. Armenta, 134 Wn.2d 1, 9, 948 P.2d 1280 (1997). The trial court's factual findings concerning the

[3] The State is entitled to argue any grounds to affirm the trial court's decision that are supported by the record without filing a cross-appeal. State v. Sims, 171 Wn.2d 436, 442-43, 256 P.3d 285 (2011).

circumstances of the encounter are entitled to great deference, but "the ultimate determination of whether those facts constitute a seizure is one of law and is reviewed de novo." Id. Not every encounter between an officer and an individual amounts to a seizure. Under Washington's constitution, a seizure occurs only when "considering all the circumstances, an individual's freedom of movement is restrained and the individual would not believe he or she is free to leave or decline a request due to an officer's use of force or display of authority." State v. Rankin, 151 Wn.2d 689, 695, 92 P.3d 202 (2004) (citing State v. O'Neill, 148 Wn.2d 564, 574, 62 P.3d 489 (2003)). The standard is "a purely objective one, looking to the actions of the law enforcement officer." State v. Young, 135 Wn.2d 498, 512, 957 P.2d 681 (1998). The relevant question is whether a reasonable person in the defendant's position would feel that he or she was being detained. O'Neill, 148 Wn.2d at 581. An encounter between a citizen and the police is consensual if a reasonable person under the circumstances would feel free to walk away. United States v. Mendenhall, 446 U.S. 544, 554, 100 S. Ct. 1870, 64 L. Ed. 2d 497 (1980). The defendant bears the burden of proving that an unlawful seizure occurred. Young, 135 Wn.2d at 512.

Indicators of seizure include "the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled." Young, 135 Wn.2d at 512 (quoting Mendenhall, 446 U.S. at 554-55). "In the absence of some such evidence, otherwise inoffensive contact between a member of the public and the police cannot, as a matter of law, amount to a seizure of that person." Id.

Here, the record establishes that Deputy Przygocki was already speaking with the occupants of a previously-parked car when Sandoz joined the group. Deputy Przygocki testified that he asked Sandoz, "Would you like to voluntarily come outside and speak with me?" 1RP 42. Sandoz voluntarily exited the vehicle, and the two walked only a few feet away from the passenger door. 1RP 22. The unchallenged findings establish that "[t]he deputy did not order the defendant out of the vehicle or attempt to touch his weapon," that "[t]he deputy was the only law enforcement officer present," that the deputy's demeanor during the encounter was "calm and even toned," and that the deputy believed the contact was voluntary. CP 50-51 (FF 12, 13). The deputy was alone, on

foot, and did not use any lights or sirens to stop Sandoz. He did not order Sandoz from the car, never blocked his movement, and did not touch Sandoz until after Sandoz admitted having a crack pipe in his pocket and agreed to surrender the paraphernalia. Przygocki did not brandish his weapon or use threatening or coercive language in his communications with Sandoz. The record thus demonstrates that Przygocki used no force or display of authority in asking Sandoz to speak privately.

State v. Bailey, 154 Wn. App. 295, 224 P.3d 352 (2010), is instructive. There, a Yakima police officer contacted Bailey, a pedestrian on a public street, and asked to speak with him. 154 Wn. App. at 298. Bailey agreed, and the officer questioned him about where he was going and what he was up to. Id. The officer then asked for identification, and Bailey supplied it, accurately advising the officer that he likely had an outstanding warrant. Id. Division Three of this Court held that the encounter did not amount to a seizure, noting that the officer "did not illuminate spotlight, emergency lights, or siren; asked Mr. Bailey whether he had a minute ..., and then asked only where Mr. Bailey was going and if he had identification." Id. at 302. Like Bailey, in this case, Sandoz was asked if he would mind talking to the deputy in private,

voluntarily did so, and soon thereafter offered up information justifying arrest on probable cause. Like Bailey, these circumstances do not amount to an unconstitutional seizure.

Noting that the seizure question was a "close call factually," the court in this case explained that its conclusion that Sandoz was seized was compelled by "the deputy's testimony that he would have arrested the defendant if the defendant had refused to talk." 1RP 101; CP 52-53. But "[w]hether a seizure occurs does not turn upon the officer's suspicions. Whether a person has been restrained by a police officer must be determined based upon the interaction between the person and the officer." O'Neill, 148 Wn.2d at 575 (emphasis in original); see also State v. Knox, 86 Wn. App. 831, 839, 939 P.2d 710 (1997) (subjective intent of police is irrelevant to the question whether a seizure occurred unless it is conveyed to the defendant). The officer's suspicions become relevant only "once a seizure occurs, and relate to the question whether the seizure is valid under article I, section 7." O'Neill, 148 Wn.2d at 576 (emphasis in original). Thus, the trial court's conclusion that Sandoz was seized because the deputy believed that he had probable cause to arrest Sandoz was erroneous and should be rejected.

b. Deputy Przygocki Had Reasonable Suspicion To Justify A Terry Stop.

Even if Przygocki seized Sandoz by asking him to speak outside the Jeep, the trial court correctly concluded that an investigatory stop was justified under the totality of the circumstances. The drugs discovered during the encounter were therefore admissible and this Court should affirm.

Brief investigatory "Terry" stops are well-established exceptions to the general rule that warrantless seizures are unconstitutional. Terry v. Ohio, 392 U.S. 1, 30-31, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968); State v. Acrey, 148 Wn.2d 738, 746-47, 64 P.3d 594 (2003). A Terry stop is justified when an officer has specific and articulable facts that give rise to a reasonable suspicion that the person stopped has been, or is about to be, involved in a crime. Acrey, 148 Wn.2d at 747. A reasonable suspicion is the "substantial possibility that criminal conduct has occurred or is about to occur." State v. Kennedy, 107 Wn.2d 1, 6, 726 P.2d 445 (1986). "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. Rowe, 63 Wn. App. 750, 753, 822 P.2d 290 (1991), overruled in part on other grounds by State v. Bailey, 109 Wn. App. 1, 3, 34 P.3d 239 (2000). The totality of the circumstances includes factors such as the officer's training and experience, the location of the stop, the conduct of the person detained, the purpose of the stop, the amount of physical intrusion upon the suspect's liberty, and the length of time the suspect is detained. Acrey, 148 Wn.2d at 747.

Sandoz contends that Deputy Przygocki lacked reasonable suspicion to conduct a Terry stop by asking him to speak outside of the vehicle. He points to several of the circumstances leading to the stop and evaluates them independently to argue that none of them gave rise to a reasonable suspicion. See Brief of Appellant at 9-12. But the question is not whether any of the circumstances independently justified an investigative stop, but whether the combination of all of these factors gave Deputy Przygocki reasonable and articulable suspicion that Sandoz was involved in criminal activity. Rowe, 63 Wn. App. at 753.

Deputy Przygocki testified that he suspected Sandoz and the other Jeep occupants of drug-related loitering. 1RP 46, 58-60. The SeaTac Municipal Code prohibits loitering "under circumstances

manifesting the intent to engage in drug-related activity[.]" STMC 8.05.930(C)(1). Circumstances that manifest such an intent include that a "person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity," "[t]he area involved is by public repute known to be an area of unlawful drug use and trafficking," and "[t]he premises involved are known to have been reported to law enforcement as a place of suspected drug activity." STMC 8.05.930(C)(2)(c), (h), (i).

Przygocki encountered Sandoz in an area of frequent, documented illegal activity, in which "the sale and possession of narcotics, stolen vehicles, warrant arrests, and vehicle prowls have all been prevalent[.]" 1RP 15. This particular complex had been designated a "problem solving project" because of an "unbelievable" number of calls for service and "hundreds of documented criminal incidents that occurred there." Id. Neighbors had reported "heavy foot and vehicle traffic coming from certain apartments," and deputies had confirmed the reports through observation. Id. As a result of the rampant criminal activity, the complex's owner had given deputies express authority to trespass any non-occupants loitering on the premises. 1RP 42-43, 51.

When Przygocki drove by the illegally parked Jeep in his marked patrol car, the driver slouched down to avoid being seen. The Jeep and its occupants remained in the no-parking fire zone for 10 to 15 minutes with no apparent purpose before Przygocki approached. The Jeep's driver did not explain why he tried to slump out of view, but said that he was waiting to pick Sandoz up from the complex. Przygocki then saw Sandoz emerge from Meadows's apartment. Meadows was a known drug dealer with a history of convictions for possession with intent to distribute, and Przygocki had personally observed "upwards of 60 different people coming and going" from her apartment. 1RP 15. Sandoz was startled to see the deputy; his eyes widened and he was visibly shaking and pale. He then explained that the driver had given him a ride to the complex. Przygocki testified that Sandoz's explanation contradicted the driver's story. 1RP 21.

Together, these circumstances gave rise to a reasonable suspicion that Sandoz was engaged in drug-related activity and thus justified a Terry stop to investigate a violation of the STMC. They also distinguish this case from State v. Doughty, 170 Wn.2d 57, 239 P.3d 572 (2010), on which Sandoz primarily relies.

In Doughty, our supreme court held that a person's late-night, short-stay visit to a suspected drug house did not justify a traffic stop. 170 Wn.2d at 64. But there, the police based their suspicions about the house on nothing but neighbor complaints; there was no "actual evidence of drugs, controlled buys, reports of known drug users or dealers frequenting the house, and so forth." Id. at 60. In contrast, the complex at issue here – and Meadows's apartment in particular – was the scene of numerous documented criminal incidents including drug sales, and Meadows was a known drug dealer with a history of VUCSA convictions. As Justice Chambers pointed out in his concurrence, had such evidence existed in Doughty, it would likely have changed the court's analysis. Id. at 65 (Chambers, J., concurring).

Sandoz also relies on State v. Gleason, 70 Wn. App. 13, 18, 851 P.2d 731 (1993), in which Division Three of this Court held it improper to seize a person merely for exiting an apartment complex that had a history of drug trafficking. But in Gleason, the "officers' suspicion of criminal activity was based solely on [the Caucasian] Mr. Gleason's presence at an apartment complex where the tenants were primarily Hispanic." 70 Wn. App. at 18. The officers did not see Gleason engage in any drug transaction, did not

observe him acting suspiciously, and had no basis to arrest him for loitering. Id. at 18.

This case is nothing like Gleason. First, Przygocki did not rely on racial incongruity to justify a seizure. Second, unlike Gleason, Przygocki did not merely see Sandoz "leaving an apartment complex where narcotics had been sold in the past," 70 Wn. App. at 18. Rather, he saw Sandoz leaving the apartment of a known drug dealer in a complex where narcotics trafficking and other crime were so rampant that the complex was singled out as a "problem solving project" and the complex owner authorized police to trespass any non-occupants loitering on the premises. Although Przygocki did not see Sandoz engage in any drug transaction, Sandoz's reaction to seeing the officer, and his and the driver's contradictory explanations for his presence, were suspicious. Moreover, the Jeep's loitering occupants were waiting there at Sandoz's request, and the driver himself behaved suspiciously upon seeing the officer. These facts provide the reasonable and articulable suspicion found lacking in Gleason.

Sandoz contends there is no basis in the record for the trial court's finding that he and the driver provided inconsistent explanations for their presence. Brief of Appellant at 11. He is

mistaken. Deputy Przygocki testified that Sandoz's explanation "that his friend had given him a car ride to collect $20 from Ms. Meadows ... was contradicting what his friend had told me." 1RP 21. Although Przygocki did not fully articulate the inconsistency,[4] the deputy's testimony that he understood the two explanations as contradictory supports the trial court's finding. Together with Przygocki's observations of Sandoz's startled reaction to seeing the officer and Sandoz's late-night visit to a known drug dealer's apartment while his friends loitered in a no-parking zone, the finding that Sandoz provided a different explanation than the driver gave Przygocki reasonable suspicion to justify an investigatory stop.

Sandoz also argues that Przygocki lacked reasonable suspicion to investigate him for drug-related loitering because he was visiting Meadows, not loitering. But when Sandoz left Meadows's apartment, he entered the Jeep, the occupants of which were observed "remain[ing] in or near a place in an idle or apparently idle manner" – the dictionary definition of "loiter" that

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[4] The contradiction is better described in Przygocki's written report. Przygocki testified that the driver explained that "Mr. Sandoz called him for a ride." 1RP 20. In his written report, Przygocki gives additional details: "[The driver] stated that he received a call from ... Sandoz to pick him up from the apartment complex and was just waiting for him." Pretrial Ex. 1 at 4 (emphasis added). This exhibit was marked for identification but not admitted during the pretrial hearing.

Sandoz adopts.[5] Brief of Appellant at 14. The Jeep's occupants were clearly loitering,[6] and were reportedly doing so at Sandoz's request. This fact contributed to Przygocki's reasonable suspicion that Sandoz was also involved in unlawful activity.

Given the totality of the circumstances, the trial court correctly concluded that Deputy Przygocki had reasonable suspicion that Sandoz was engaging in illegal drug activities, which justified an investigative stop. This Court should affirm.

2. DEPUTY PRZYGOCKI HAD PROBABLE CAUSE TO ARREST SANDOZ FOR POSSESSION OF DRUG PARAPHERNALIA UNDER THE SEATAC MUNICIPAL CODE.

Sandoz contends that the deputy lacked probable cause to arrest him for possession of drug paraphernalia because possession of drug paraphernalia is not a crime. Brief of Appellant at 15. He is mistaken, but as he failed to preserve the claim, this Court need not address the issue.

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[5] As Sandoz points out, neither the Revised Code of Washington nor the STMC defines "loitering."

[6] Indeed, Przygocki testified that he suspected all of the Jeep's occupants of drug loitering, and he issued trespass warnings to all of them. 1RP 58-60.

Sandoz did not raise this claim below.[7] Sandoz argued that the Terry stop that preceded the arrest was unlawful, but not that his arrest for possession of drug paraphernalia was unsupported by probable cause. CP 6-15; 1RP 71-82. He therefore waived any claim with respect to probable cause for the arrest, and this Court should decline to address it. RAP 2.5(a); State v. McFarland, 127 Wn.2d 322, 333-34, 899 P.2d 1251 (1995); State v. Trujillo, 153 Wn. App. 454, 458-59, 222 P.3d 129 (2009).

In any event, under the SeaTac Municipal Code, "[i]t is unlawful for any person to use, or possess with intent to use, drug paraphernalia to ... inhale or otherwise introduce into the human body a controlled substance." STMC 8.05.380(B). "Probable cause exists when the arresting officer is aware of facts or circumstances, based upon reasonably trustworthy information, sufficient to cause a reasonable officer to believe a crime has been committed." State v. Gaddy, 152 Wn.2d 64, 70, 93 P.3d 872 (2004). Once Sandoz admitted that he had a crack pipe in his

[7] Had Sandoz challenged Przygocki's basis to arrest him, the State would have presented evidence that the deputy observed "one end of the pipe to be burnt and observed a dark substance inside the pipe." Pretrial Ex. 1 at 4. As Sandoz correctly points out, that evidence would have furnished probable cause to arrest Sandoz for drug possession. See State v. Rose, 175 Wn.2d 10, 22, 282 P.3d 1087 (2012).

pocket, Deputy Przygocki had probable cause to arrest him for possession of paraphernalia under the SeaTac code.[8]

D. CONCLUSION

For all of the foregoing reasons, the State respectfully asks this Court to affirm Sandoz's conviction for Violation of the Uniform Controlled Substances Act (VUCSA) – possession of cocaine.

DATED this 16th day of October, 2013.

Respectfully submitted,

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[8] Although Deputy Przygocki neglected to cite the code provision in his report or testimony, he brought a copy of the STMC, which the trial court asked to keep and found helpful in making the suppression ruling. 1RP 93-94. And since mere possession of drug paraphernalia is not a crime under the Revised Code of Washington, Rose, 175 Wn.2d at 19, the trial court's conclusion that the deputy had probable cause to arrest Sandoz for "Use/Possession of Drug Paraphernalia" once Sandoz admitted possession of a crack pipe must have been based upon the STMC provision. CP 54 (CL (d)).

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Andrew P. Zinner, the attorney for the appellant, at Nielsen Broman & Koch, P.L.L.C., 1908 E. Madison Street, Seattle, WA 98122, containing a copy of the BRIEF OF RESPONDENT, in STATE V. SANDOZ, Cause No. 69913-0 -I, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Dated this 16th day of October, 2013

LBrame

Name
Done in Seattle, Washington