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6 COURT OF APPEALS  
7 OF THE STATE OF WASHINGTON  
8 DIVISION II

9 IN RE THE PERSONAL RESTRAINT  
10 PETITION OF:

11 FRANK SHANNON BELLUE

12 Petitioner.

NO. 45232-4-II

STATE'S RESPONSE TO PERSONAL  
RESTRAINT PETITION

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14 A. ISSUES PERTAINING TO PERSONAL RESTRAINT PETITION:

- 15 1. Whether the present petition should be denied where there was no violation  
16 of Petitioner's 4<sup>th</sup> amendment or Article I, section 7 rights because  
17 Petitioner did not have a reasonable expectation of privacy in the room  
18 searched and discovery of the evidence in question was made in open view  
19 and its subsequent seizure justified by a search warrant.  
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21 2. Whether the present petition should be denied where Petitioner has failed to  
22 show ineffective assistance of counsel by failing to show that his trial  
23 counsel's performance was deficient or, if deficient, prejudicial.  
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1 B. STATUS OF PETITIONER:

2 On June 7, 2012, the State charged Frank Shannon Bellue, hereinafter referred to as  
3 “Petitioner,” by information filed in Pierce County cause number 12-1-02120-3 with  
4 second degree identity theft in count I, forgery in count II, and unlawful possession of a  
5 personal identification device in count III. CP 1-2.

6 On December 21, 2012, the State charged Petitioner by information filed in Pierce  
7 County cause number 12-1-04772-5 with 18 counts of second degree identity theft, one  
8 count of forgery, and one count of unlawful possession of payment instruments. CP 496-  
9 506. The State alleged in each count that the crime was aggravated by the fact that “the  
10 defendant’s high offender score” would “result in some of the current offenses going  
11 unpunished” pursuant to RCW 9.94A.535(2)(c). CP 496-506.

12 On February 21, 2012, the State filed amended informations in both cause numbers.  
13 CP 23-27, 513-25. In cause number 12-1-02120-3, the amended information added four  
14 counts of second degree identity theft, one count of unlawful possession of payment  
15 instruments, one count of second degree possessing stolen property, and one count of  
16 leading organized crime. CP 23-27. In cause number 12-1-04771-7, the amended  
17 information added count XXII, a charge of leading organized crime. CP 513-25.

18 On March 28, 2013, the State filed a second amended information, in cause number  
19 12-1-02120-3, which added count XI, tampering with a witness. CP 44-48.

20 Finally, on June 25, 2013, the State filed a third amended information in cause  
21 number 12-1-02120-3 and a second amended information in cause number 12-1-04771-7.  
22 CP 54-61, 542-57. *See* RP 502, 515-16.  
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1 In cause number 12-1-02120-3, the third amended information added two  
2 sentencing enhancements to counts I through X: (1) that “the defendant’s high offender  
3 score” would “result in some of the current offenses going unpunished” pursuant to RCW  
4 9.94A.535(2)(c), and (2) that the current offense was a major economic offense or series of  
5 offenses pursuant to RCW 9.94A.535(3)(d). CP 54-61. It also added the allegation that  
6 current offenses would go unpunished to count XI. CP 54-61.

7 In cause number 12-1-04771-7, the second amended information added an  
8 additional aggravating circumstance to each count, which alleged that the current offense  
9 was a major economic offense or series of offenses. CP 542-57.

10 On March 8, 2013, the court heard the State’s motion to consolidate cause numbers  
11 12-1-02120-3 and 12-1-04771-7 for trial. 03/08/13 RP 4-18. *See* CP 20-22, 32-38, 510-12,  
12 530-36. It granted that motion over defense objection. 03/08/13 RP 17-18; CP 40-43, 538-  
13 41.

14 The case was called for trial on June 12, 2013, RP 3-4, and on July 2, 2013, the jury  
15 returned verdicts finding Petitioner guilty as charged and special verdicts finding each of  
16 the aggravating circumstances. CP 124-44, 630-73; RP 597-611.

17 On August 16, 2013, the court sentenced Petitioner in cause number 12-1-02120-3  
18 to an exceptional sentence of 225 months in total confinement on count X, and to  
19 concurrent, standard-range sentences of 60 months on count XI, 57 months on counts I, IV,  
20 V, VII, and IX, and 29 months on counts II, III, VI, and VIII. CP 451-67; RP 637-38. In  
21 cause number 12-1-04771-7, it vacated count XXII, leading organized crime and sentenced  
22 him to concurrent standard-range sentences of 57 months on counts I, III through VIII, X  
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1 through XIV, XVI through XVIII, and XIX, and XXI, and to 29 months on counts II, IX,  
2 and XV. CP 863-82.

3 On August 22, 2013, Petitioner filed timely notice of appeal in each cause. CP 473-  
4 90. 890-908. *See* RP 640.

5 In his direct appeal, he argued (1) that that the search of a motel room was  
6 unlawful, (2) that his detention was unlawful, (3) that the major economic offense sentence  
7 enhancements should be vacated, (4) that there was insufficient evidence to support his  
8 convictions, (5) that the trial court erred by not entering written findings of fact and  
9 conclusions of law regarding the imposition of an exceptional sentence, and (6) that he  
10 received ineffective assistance of counsel because his trial counsel failed to move to  
11 suppress evidence. BOA, p.1-38.

12 He subsequently filed the present personal restraint petition, in which he, *pro se*,  
13 again asserts arguments (1) and (6) above. PRP.

14 On July 31, 2014, this Court consolidated the personal restraint petition to his direct  
15 appeal.  
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1 C. ARGUMENT

- 2 1. THE PRESENT PETITION SHOULD BE DENIED BECAUSE  
3 THERE WAS NO VIOLATION OF PETITIONER'S FOURTH  
4 AMENDMENT OR ARTICLE I, SECTION 7 RIGHTS WHERE  
5 PETITIONER DID NOT HAVE A REASONABLE  
6 EXPECTATION OF PRIVACY IN THE ROOM SEARCHED  
7 AND DISCOVERY OF THE EVIDENCE IN QUESTION WAS  
8 MADE IN OPEN VIEW AND ITS SUBSEQUENT SEIZURE  
9 JUSTIFIED BY A SEARCH WARRANT.

10 The Fourth Amendment to the United States Constitution provides that "[t]he right  
11 of the people to be secure in their persons, houses, papers, and effects, against  
12 unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but  
13 upon probable cause."

14 Article I, section 7 of the Washington State Constitution mandates that "[n]o person  
15 shall be disturbed in his private affairs, or his home invaded, without authority of law."

16 Evidence obtained in violation of these provisions is not admissible in court. *Mapp*  
17 *v. Ohio*, 367 U.S. 643, 82 S. Ct. 23, 7 L. Ed. 72 (1961); *State v. Afana*, 169 Wn.2d 169,  
18 180, 233 P.3d 879 (2010).

19 However, "[a]s a prerequisite to claiming an unconstitutional search, a defendant  
20 must demonstrate that he or she had a reasonable expectation of privacy in the item  
21 searched." *State v. Hamilton*, 179 Wn. App. 870, 882, 320 P.3d 142 (2014).

22 "Generally, a motel guest has the same expectation of privacy *during his tenancy*  
23 as the owner or renter of a private residence." *State v. Davis*, 86 Wn. App. 414, 937 P.2d  
24 1110 (1997) (citing *Stoner v. California*, 376 U.S. 483, 486, 84 S.Ct. 889, 891, 11 L. Ed.  
25 2d 856 (1964); *State v. York*, 11 Wn. App. 137, 141, 521 P.2d 950 (1974)) (emphasis  
added). See *State v. Ramirez*, 49 Wn. App. 814, 817, 746 P.2d 344 (1987).

1           However, a motel room guest’s expectation of privacy in the motel room “does not  
2 survive the expiration of the tenancy, unless the motel has accepted late payment and/or  
3 tolerated overtime stays in the past.” *Davis*, 86 Wn. App. at 419. After the expiration of a  
4 guest’s tenancy, “the innkeeper acquires the right to control the premises... and can  
5 consent to a warrantless search by law enforcement.” *Id.*

6           Otherwise, “a warrantless search is per se unreasonable, unless it falls within one of  
7 the carefully drawn exceptions to the warrant requirement.” *State v. Patton*, 167 Wn.2d  
8 379, 386, 219 P.3d 651 (2009). Similarly, “[t]he ‘authority of law’ requirement of article I,  
9 section 7 is satisfied by a valid warrant, subject to a few jealously guarded exceptions.”  
10 *State v. Afana*, 169 Wn.2d 169, 176-77, 233 P.3d 879 (2010).

11           One such exception is open view: “[w]hen a law enforcement officer observes  
12 something in open view from a lawful vantage point, the observation is not a ‘search’  
13 triggering the protections of article I, section 7.” *State v. Swetz*, 160 Wn. App. 122, 134,  
14 247 P.3d 802 (2011) (citing *State v. Kennedy*, 107 Wn.2d 1, 10, 726 P.2d 445 (1986) and  
15 *State v. Seagull*, 95 Wn.2d 898, 901, 632 P.2d 44 (1981)). Accord *State v. Cardenas*, 146  
16 Wn.2d 400, 308, 4 P.3d 127 (2002). Similarly, “[e]vidence discovered in ‘open view’ is  
17 not the product of a “search” within the meaning of the Fourth Amendment.” *State v.*  
18 *Louthan*, 158 Wn. App. 732, 746, 242 P.3d 954 (2010) (citing *State v. Perez*, 41 Wn. App.  
19 481, 483, 704 P.2d 625 (1985) (citing *State v. Seagull*, 95 Wn.2d 898, 901-02, 632 P.2d 44  
20 (1981))).  
21

22           Indeed,

23                     [u]nder the “open view” doctrine, there is no search because a  
24 government agent’s ““observation takes place from a non-intrusive vantage  
25 point. The governmental agent is either on the outside looking outside or on

1 the outside looking inside to that which is knowingly exposed to the  
2 public.” *Seagull*, 95 Wash.2d at 902, 632 P.2d 44 (quoting *State v.*  
3 *Kaaheena*, 59 Haw. 23, 28-29, 575 P.2d 462 (1978)). Accordingly, the  
4 object under observation is not subject to any reasonable expectation of  
5 privacy and the observation is not within the scope of the constitution. *State*  
6 *v. Kennedy*, 107 Wash.2d 1, 10, 726 P.2d 445 (1986).

7 *State v. Louthan*, 158 Wn. App. 732, 746, 242 P.3d 954 (2010).

8 Even though otherwise waived on direct appeal, see *State v. Lee*, 162 Wn. App.  
9 852, 857, 259 P.3d 294 (2011), review denied by, 173 Wn.2d 1017, 272 P.3d 247 (2012),  
10 brief of respondent, § C(1), a personal restraint “petitioner can raise an article I, section 7  
11 claim for the first time in a PRP, [i.e., a personal restraint petition].” *In re Personal*  
12 *Restraint of Nichols*, 171 Wn.2d 370, 375, 256 P.3d 1131 (2011).

13 In the present case, Petitioner was not a registered guest of the motel and did not  
14 seem to have any possessory interest in the motel room at the time of the search.

15 The evidence showed that the room had been rented by Konstance Kendrick, not  
16 Petitioner. RP 95-96, 222. The room itself was rented for only two days and Kendrick was  
17 scheduled to check out of that room on June 6, 2012, RP 95-96, 485, the day police served  
18 a search warrant upon it.

19 According to Yolanda Carlson, who was present with Kendrick when she rented  
20 the room, Kendrick left the room at or prior to the petitioner’s arrival and did not return.  
21 RP 484-85. It was then Carlson, who had not rented the room and was apparently not a  
22 registered guest, who invited the petitioner into that room. RP 486.

23 Moreover, when police responded to the motel in the late morning of June 6, the  
24 date Kendrick’s tenancy expired, the motel manager told Officer Henley that the petitioner  
25 and his group were no longer welcome on the property. RP 81, 97-98. Hensley

1 communicated this to Petitioner, stating that should Petitioner or his group return, they  
2 would be arrested for trespassing. RP 97-98.

3 While “a motel guest has the same expectation of privacy during his tenancy as the  
4 owner or renter of a private residence.” *Davis*, 86 Wn. App. 414, given that Petitioner did  
5 not rent the room, was apparently not a registered guest, and was only invited to stay in the  
6 room by a non-registered guest, he was never a legitimate guest of the Morgan Motel. As a  
7 result, he never had any expectation of privacy in that room, and his 4<sup>th</sup> amendment and  
8 Article I, section 7 rights could not have been violated by a search of that room.

9 Even assuming *arguendo* that he was a guest of the motel and had, at some prior  
10 point, a reasonable expectation of privacy in the room, his tenancy, and that expectation,  
11 expired before the search at issue occurred. If it hadn’t ended by virtue of the original  
12 leasehold agreement requiring Kendrick to vacate the room on the day the police arrived,  
13 RP 95-96, 485, it ended when the motel manager informed Petitioner, via police, that he  
14 was no longer welcome on the property, and that he would be arrested for trespassing if he  
15 returned. RP 81, 97-98. Because service of the search warrant occurred after this, *see* RP  
16 95-99, the petitioner could not have had a reasonable expectation of privacy in the room  
17 when it was searched. *See Davis*, 86 Wn. App. at 419. Therefore, his 4<sup>th</sup> amendment and  
18 Article I, section 7 rights could not have been violated by a search of that room.  
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20 However, assuming *arguendo* that Petitioner had a reasonable expectation of  
21 privacy in that room, neither of these rights were violated because the discovery of the  
22 evidence in question was made in open view, and its subsequent seizure justified by a  
23 search warrant.  
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1 Officer Lopez testified that he responded to the area to investigate a report of two  
2 suspects trying to “use a check that was determined to be stolen” at the Rite Aid store next  
3 to the Morgan Motel. RP 19-20. He then saw two people who matched the suspect  
4 descriptions provided by Rite Aid personnel standing outside of the motel room in which  
5 Petitioner was located. RP 19-21. When he pulled up and told them to stop, both ran, and  
6 one ran into the room in which Petitioner was sitting. RP 19-21. Officer Cockcroft, who  
7 came to assist, then approached the room. RP 24-26, 29-30, 82-83, 89. As he did so, the  
8 door opened, and the male suspect walked out. RP 24-26, 29-30, 82-83, 89. Cockcroft  
9 arrested the man and searched him incident to that arrest. RP 24-25, 40, 82-84.

10 Given that this took place next to the open motel room door, and that the motel  
11 itself had been the scene of many crimes, including homicides, Officer Lopez was  
12 concerned for the officer’s safety, and stood next to that door while the man was being  
13 arrested. *See* RP 23-24, 43, 45.

14 According to his testimony, it was from this position, outside the motel room, that  
15 Lopez observed “things out in the open [in the motel room] that [were] significant to the  
16 case [police] w[ere] investigating,” including “lots” of “ripped up checks,” drug  
17 paraphernalia, and syringes. RP 24-25, -40. Officer Lopez saw a couple different names on  
18 these torn-up checks. RP 26.

19 Because Officer Lopez made this observation “in open view from a lawful vantage  
20 point, the observation is not a ‘search’ triggering the protections of article I, section 7.”  
21 *Swetz*, 160 Wn. App. at 134, or the Fourth Amendment. *Louthan*, 158 Wn. App. at 746.  
22 Therefore, neither provision could have been violated by this observation.  
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1 Although Petitioner asks rhetorically how Lopez could “ever see torn checks on the  
2 nightstand or on the floor,” PRP, p.6, his implications as to the officer’s credibility are  
3 irrelevant. There is nothing in the record to suggest that the officer was lying. There was  
4 nothing in the record to suggest that Lopez could not see the names on the checks. Lopez  
5 was standing just outside the motel room door at the time, and at least some of the checks  
6 were apparently “in a garbage can that was right inside the room.” RP 40, 43. Thus, the  
7 circumstances described by the officer tend to corroborate his statement.

8 The police reports that Petitioner attaches to his petition were not part of the record,  
9 and therefore, not before the court for purposes of ruling on the admissibility of any  
10 evidence. *See* Appendix A (exhibit record from cause number 12-1-02120-3); Appendix B  
11 (exhibit record from cause number 12-1-04771-7). Moreover, Lopez’s report, upon which  
12 Petitioner relies, also indicates that officers “observed drug paraphernalia and numerous  
13 ripped up personal checks in plain view” inside the room prior to their entry into the room.  
14 PRP Appendix (report 121580419.1. p. 24).

15 It was this observation that provided probable cause for issuance of the subsequent  
16 search warrant.

17 Probable cause exists where the “facts and circumstances [are] sufficient to  
18 establish a reasonable inference that the defendant is probably involved in criminal activity  
19 and that evidence of the crime may be found at the place to be searched.” *State v. Thein*,  
20 138 Wn.2d 133, 140, 977 P.2d 582 (1999).

21 Here, Lopez observed a man who had just tried to use a stolen check run into  
22 Petitioner’s motel room. He saw “lots” of “ripped up checks” in different people’s names,  
23 drug paraphernalia, and syringes sitting in that room along with Petitioner. RP 24-26, 40.  
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1 One could reasonably infer from the facts that (1) the man who ran into the room had just  
2 tried to use a stolen check and (2) there were “lots” of checks in different people’s names  
3 inside that room, that this man and Petitioner were “probably involved in criminal activity  
4 and that evidence of the crime may be found [in the motel room].” *Thein*, 138 Wn.2d at  
5 140. Moreover, one could reasonably infer from the presence of the drug paraphernalia that  
6 they were using stolen or fraudulent checks to gain money for illicit drug purchases and  
7 use. *See* RP 405-06, 471.

8 Thus, the observations provided probable cause for the search warrant for the room,  
9 which was actually obtained by Detective Hayes. RP 177-81, 186.

10 Although officers prevented others from entering the room after Carlson and the  
11 petitioner left it, *see, e.g.*, RP 98-99, 186-87, where probable cause exists, officers may  
12 lawfully seize and secure premises in order to preserve the status quo while others, in good  
13 faith, are in the process of obtaining a search warrant. *State v. Solberg*, 66 Wn. App. 66,  
14 77-78, 831 P.2d 754 (1992), *rev’d on other grounds*, 122 Wn.2d 688, 861 P.2d 460 (1993)  
15 (*citing Segura v. U.S.*, 468 U.S. 796, 104 S. Ct. 3380, 82 L. Ed. 2d 599 (1984) *and State v.*  
16 *Ng*, 104 Wn.2d 763, 713 P.3d 63 (1985)). *See Illinois v. McArthur*, 531 U.S. 326, 121  
17 S.Ct. 946, 148 L. Ed. 2d 838 (2001).

18 Thus, even assuming Petitioner had a reasonable expectation of privacy in the  
19 motel room, the discovery of the evidence in question was made in open view, the room  
20 itself lawfully secured pursuant to probable cause pending the issuance of a valid search  
21 warrant, and the evidence then lawfully seized pursuant to that warrant.  
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1 Because that warrant was based on probable cause gathered through a lawful open  
2 view, neither the Petitioner's Fourth Amendment nor Article I, Section 7 rights were  
3 violated.

4 Therefore, his petition should be denied.

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6 2. THE PRESENT PETITION SHOULD BE DENIED BECAUSE  
7 PETITIONER HAS FAILED TO SHOW INEFFECTIVE  
8 ASSISTANCE OF COUNSEL WHERE HE HAS FAILED TO  
9 SHOW THAT HIS TRIAL COUNSEL'S PERFORMANCE WAS  
10 DEFICIENT, OR, IF DEFICIENT, PREJUDICIAL.

11 "Effective assistance of counsel is guaranteed by both the United States  
12 Constitution amendment VI and Washington Constitution article I, section 22 (amendment  
13 X)." *State v. Yarbrough*, 151 Wn. App. 66, 89, 210 P.3d 1029, 1040-41 (2009); *State v.*  
14 *Johnston*, 143 Wn. App. 1, 177 P.3d 1127 (2007). A claim of ineffective assistance of  
15 counsel is reviewed *de novo*. *Yarbrough*, 151 Wn. App. at 89.

16 "Washington has adopted the *Strickland* test to determine whether a defendant had  
17 constitutionally sufficient representation." *State v. Cienfuegos*, 144 Wn.2d 222, 25 P.3d  
18 1011 (2001) (citing *State v. Bowerman*, 115 Wn.2d 794, 808, 802 P.2d 116 (1990)); *State*  
19 *v. Thomas*, 109 Wn.2d 222, 743 P.2d 816 (1987). That test requires that the defendant  
20 meet both prongs of a two-prong test. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.  
21 Ct. 2052, 80 L. Ed. 2d 674 (1984). See also *State v. McFarland*, 127 Wn.2d 322, 334-35,  
22 899 P.2d 1251 (1995). "First, the defendant must show that counsel's performance was  
23 deficient" and "[s]econd, the defendant must show that the deficient performance  
24 prejudiced the defense." *Strickland*, 466 U.S. at 687; *Cienfuegos*, 144 Wn.2d at 226-27.  
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1 A reviewing court is not required to address both prongs of the test if the defendant  
2 makes an insufficient showing on either prong. *State v. Hendrickson*, 129 Wn.2d 61, 78,  
3 917 P.2d 563, 571 (1996); *In Re Personal Restraint of Rice*, 118 Wn.2d 876, 889, 828  
4 P.2d 1086 (1992); *State v. Thomas*, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987). “A  
5 failure to establish either element of the test defeats an ineffective assistance of counsel  
6 claim.” *Riofta v. State*, 134 Wn. App. 669, 693, 142 P.3d 193 (2006).

7 The first prong “requires showing that counsel made errors so serious that counsel  
8 was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.”  
9 *Strickland*, 466 U.S. at 687. Specifically, “[t]o establish deficient performance, the  
10 defendant must show that trial counsel’s performance fell below an objective standard of  
11 reasonableness.” *Johnston*, 143 Wn. App. at 16. The reasonableness of trial counsel’s  
12 performance is reviewed in light of all the circumstances of the case at the time of  
13 counsel’s conduct.” *Id.*; *State v. Garrett*, 124 Wn.2d 504, 518, 881 P.2d 185 (1994).  
14 “Competency of counsel is determined based upon the entire record below.” *State v.*  
15 *Townsend*, 142 Wn.2d 838, 843, 15 P.3d 145 (2001) (quoting *State v. McFarland*, 127  
16 Wn.2d 322, 335, 899 P.2d 1251 (1995). See *State v. Gilmore*, 76 Wn.2d 293, 297, 456  
17 P.2d 344 (1969).

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19 With respect to the second prong, a “defendant must affirmatively prove prejudice,  
20 not simply show that “the errors had some conceivable effect on the outcome.” *State v.*  
21 *Crawford*, 159 Wn.2d 147, 99, 147 P.3d 1288 (2006). “In doing so, “[t]he defendant must  
22 show that there is a reasonable probability that, but for counsel's unprofessional errors, the  
23 result of the proceeding would have been different.” *Crawford*, 159 Wn.2d at 99-100  
24 (quoting *Stickland*, 466 U.S. at 694). “A reasonable probability is a probability sufficient  
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1 to undermine confidence in the outcome.” *Id.* (quoting *Stickland*, 466 U.S. at 694);  
2 *Cienfuegos*, 144 Wn.2d at 229.

3 In the present case, Petitioner argues that his trial counsel’s performance was  
4 deficient for two reasons. PRP, p.8-10.

5 First, he contends that his attorney’s performance was deficient for failing to “make  
6 any motion to suppress evidence,” which he argues “was unlawfully seized” from the  
7 motel room. PRP, p. 8-10.

8 To prevail on a claim of ineffective assistance of counsel based on a failure to  
9 object to or otherwise “challenge the admission of evidence, the defendant must show (1)  
10 “the absence of legitimate strategic or tactical reasons supporting the challenged conduct,”  
11 (2) “*that an objection to the evidence would likely have been sustained*, and (3) that the  
12 result of the trial would have been different had the evidence not been admitted.” *State v.*  
13 *Saunders*, 91 Wn. App. 575, 578, 958 P.2d 364 (1998) (emphasis added). *Accord State v.*  
14 *Contreras*, 92 Wn. App. 307, 312, 966 P.2d 915 (1998). *See State v. Madison*, 53 Wn.  
15 App. 754, 763, 770 P.2d 662 (1989). Thus, when the alleged deficiency is a failure to  
16 move to suppress, the defendant “must show that the trial court likely would have granted  
17 a motion to suppress the seized evidence based on an unlawful warrantless search.” *State v.*  
18 *Hamilton*, 179 Wn. App. 870, 882, 320 P.3d 142 (2014).

19 Here, as demonstrated above, because neither the Petitioner’s Fourth Amendment  
20 nor Article I, section 7 rights were violated, the trial court could not have granted a motion  
21 to suppress the seized evidence.  
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1 Because Petitioner cannot “show that the trial court likely would have granted a  
2 motion to suppress the seized evidence based on an unlawful warrantless search,”

3 *Hamilton*, 179 Wn. App. at 882, he cannot show ineffective assistance of counsel.

4 Second, Petitioner argues that his trial counsel’s performance was deficient because  
5 he alleges that his attorney did not show him surveillance video from the motel. PRP, p.  
6 10. However, there is no evidence to support this allegation, and even assuming its  
7 veracity, no prejudice is shown to have resulted.

8 “A personal restraint petitioner has the burden of proving constitutional error that  
9 results in actual prejudice or nonconstitutional error that results in a miscarriage of justice.”

10 *In Re Personal Restraint Petition of Waggy*, 111 Wn. App. 511, 518, 45 P.3d 1103 (2002)  
11 (citing *In re Personal Restraint of Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990)); *In*  
12 *Re Personal Restraint Petition of Brett*, 142 Wn.2d 868, 874, 16 P.3d 601 (2001) (citing  
13 *In re Personal Restraint of Benn*, 134 Wn.2d 868, 884-85, 952 P.2d 116 (1998), *rev’d sub*  
14 *nom. on other grounds by Benn v. Wood*, No. C98-5131RDB, 2000 WL 1031361  
15 (W.D.Wash. June 30, 2000)).

16  
17 “If a petition is based on matters outside the appellate record, a petitioner must  
18 show that he has ‘competent, admissible evidence’ to support his arguments.” *Waggy*, 111  
19 Wn. App. at 518 (quoting *In re Personal Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d  
20 1086, *cert. denied*, 506 U.S. 958, 113 S. Ct. 421, 121 L. Ed. 2d 344 (1992)).

21 “[A] petitioner must show that more likely than not he was prejudiced by the error.”  
22 *Waggy*, 111 Wn. App. at 518.

23 ““Bare allegations unsupported by citation of authority, references to the record, or  
24 persuasive reasoning cannot sustain this burden of proof.”” *Waggy*, 111 Wn. App. at 518-  
25

1 19 (quoting *State v. Brune*, 45 Wn. App. 354, 363, 725 P.2d 454 (1986), review denied,  
2 110 Wn.2d 1002 (1988)). “A petition that fails to meet this basic level of proof and  
3 argument may be dismissed summarily.” *Waggy*, 111 Wn. App. at 519.

4 In the present case, although Petitioner claims that his trial counsel “wouldn’t show  
5 him the [surveillance] tapes,” PRP, p.10, he presents no evidence whatsoever to support  
6 this allegation. See PRP, p. 1-17. Because “[b]are allegations unsupported by citation of  
7 authority, references to the record, or persuasive reasoning cannot sustain [a personal  
8 restraint petitioner’s] burden of proof,” and “[a] petition that fails to meet this basic level  
9 of proof and argument may be dismissed summarily,” *Waggy*, 111 Wn. App. at 518-19, the  
10 present petition should be dismissed.

11 However, even were it assumed that Petitioner’s trial counsel refused to let him  
12 review the surveillance video recording, Petitioner cannot show prejudice. Assuming, as  
13 Petitioner claims, that the video would “show officers going in the motel room without a  
14 warrant,” PRP, p. 10, that video would still not have established a violation of Petitioner’s  
15 fourth amendment or Article I, section 7 rights. As explained above, see § C(1), because  
16 Petitioner did not have a reasonable expectation of privacy in the room when it was  
17 searched, his 4<sup>th</sup> amendment and Article I, section 7 rights could not have been violated by  
18 that search. A video of officers entering the room would have done nothing to alter this  
19 result. Even had he brought a motion to suppress based on that video, the motion would  
20 have been properly denied. See § C(1),  
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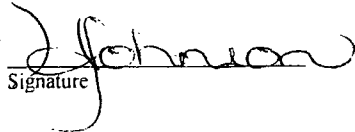




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Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the petitioner true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

10/28/14   
Date Signature

## APPENDIX "A"

*Exhibit Record, 12-1-02120-3*

Case Number: 12-1-02120-3 Date: October 28, 2014  
SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC  
Certified By: Kevin Stock Pierce County Clerk, Washington



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,  
Plaintff

Cause No 12-1-02120-3

vs

EXHIBIT RECORD

BELLUE, FRANK SHANNON,  
Defendant

*[Handwritten Signature]* 7/3/13  
ALL HERE

P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	1	WA State Driver License – Amanda Shepler	Yes	No	Admitted	6/19/13	
P	2	WA State Drivers License – Taylor Prichard	Yes	Yes	Admitted	6/20/13	
P	3	WA State Drivers License – Kristin O'Neil	Yes	No	Admitted	6/20/13	
P	4	Oregon Drivers License – Megan Casey	Yes	No	Admitted	6/19/13	
P	5	WA State Drivers License – Navarre Dixon					
P	6	WA State Drivers License – Steven Daffer					
P	7	Military ID Card – Kimberly Pannek					
P	8	SSN Card – Taylor Barnes	Yes	Yes	Admitted	6/20/13	
P	9	SSN Card – John Robert	Yes	Yes	Admitted	6/20/13	
P	10	SSN Card – Joma Robert	Yes	Yes	Admitted	6/20/13	
P	11	SSN Card – Burton Cook					
P	12	SSN Card – Althea Robert	Yes	Yes	Admitted	6/20/13	

Case Number: 12-1-02120-3 Date: October 28, 2014

SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC

Certified By: Kevin Stock Pierce County Clerk, Washington

P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	13	SSN Card - Joma Robert	Yes	Yes	Admitted	6/20/13	
P	14	SSN Card - Gavin Barnes	Yes	No	Admitted	6/20/13	
P	15	SSN Card - Joma Robert	Yes	Yes	Admitted	6/20/13	
P	16	SSN Card - Teresa Congemi	Yes	No	Admitted	6/19/13	
P	17	SSN Card - AJ John	Yes	Yes	Admitted	6/20/13	
P	18	Visa Gift Card \$25 00					
P	19	State of AZ Dept of Public Safety Card - Karlina Yoshitaro					
P	20	USAA Member Card - Nickolas Frazier	Yes	No	Admitted	6/20/13	
P	21	USAA Member Card - Stephanie Frazier	Yes	No	Admitted	6/20/13	
P	22	Personal Check Endorsed - MC#22 Evidence Envelope					
P	23	Personal Check Unendorsed - MC#23 Evidence Envelope	Yes	No	Admitted	6/20/13	
P	24	Personal Check Pad Unendorsed - MC#24	Yes	Yes	Admitted	6/20/13	
P	25	Personal Endorsed Check #718 - Bank of America - Jessica Dill/Stephanie Frazier/Craig Wollmershauserl	Yes	Yes	Admitted	6/20/13	
P	26	HP Pnnter	Yes	No	Admitted	6/20/13	
P	27	Personal Checks Unendorsed - Timberland Bank/Kaitlin Chaput/Susan Lewis	Yes	Yes	Admitted	6/20/13	
P	28	Personal Checks Endorsed - US Bank - Teresa Congemi/Samuel & Kendra Barnes	Yes	No	Admitted	6/19/13	
P	29	Personal Check Pad Unendorsed - US Bank - John & Lisa Johnson	Yes	Yes	Admitted	6/20/13	
P	30	Personal Check Pad Unendorsed - Wells Fargo					
P	31	Personal Checks Unendorsed - US Bank - John & Lisa Johnson	Yes	Yes	Admitted	6/20/13	
P	32	Medical Document MC#32	Yes	Yes	Admitted	6/20/13	
P	33	Personal Check Unendorsed MC#33 Evidence Envelope	Yes	Yes	Admitted	6/20/13	
P	34	Letter /MC#34 Evidence Envelope					
P	35	Software/MC#35 Evidence Envelope	Yes	Yes	Admitted	6/20/13	
P	36	Scissors/MC#36 Evidence Envelope					

Case Number: 12-1-02120-3 Date: October 28, 2014

SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC

Certified By: Kevin Stock Pierce County Clerk, Washington

	P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
1	P	37	Storage Container/MC#37 Evidence Envelope					
2	P	38	Pen/Pencil Set/MC#38 Evidence Envelope					
3	P	39	Inkjet Printer/MC#39 Evidence Envelope					
4	P	40	NOT USED					
5	P	41	Computer/MC#41 Evidence Envelope					
6	P	42	Power Supply Power Board/MC#42 Evidence Envelope					
7	P	43	Cigarettes/MC#45 Evidence Envelope					
8	P	44	Drug Scale/MC#46 Evidence Envelope					
9	P	45	Pipe/MC#47 Evidence Envelope					
10	P	46	Personal Check Pad Unendorsed MC#48 - Timberland Bank - Susan Lewis	Yes	No	Admitted	6/20/13	
11	P	47	Wallet/MC#49 Evidence Envelope					
12	P	48	SSN Card/MC#50 - Kendra Barnes	Yes	No	Admitted	6/20/13	
13	P	49	Personal Checks Endorsed/MC#51					
14	P	50	Financial /MC#53 Evidence Envelope					
15	P	51	Financial/MC#54 Evidence Envelope					
16	P	52	Receipt/MC#55 Evidence Envelope					
17	P	53	US Bank Blue Merchant Deposit Bag/MC#57					
18	P	54	Business Card/MC#58 Evidence Envelope					
19	P	55	Identification/MC#59 Evidence Envelope					
20	P	56	Identification/MC#60 Evidence Envelope	Yes	No	Admitted	6/20/13	
21	P	57	Identification/MC#61 Evidence Envelope					
22	P	58	Personal Check Endorsed - US Bank #7041 - Teresa Congemi/John & Lisa Johnson/MC#1	Yes	No	Admitted	6/20/13	
23	P	59	Evidence Envelope/MC#5, 6, 7 Recorded Video Tapes (2) & DVD Discs (2)					
24	P	59A	CarQuest CD 5/25/12	Yes	No	Admitted	6/20/13	
25	P	59B	Carquest CD 5/24/12 - 5/25/12					
	P	59C	Tape Recording 5/24 - 5/25/12					

Case Number: 12-1-02120-3 Date: October 28, 2014  
 SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC  
 Certified By: Kevin Stock Pierce County Clerk, Washington

P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	59D	Tape Recording 5/25/12					
P	60	Military ID/MC#3 - Brandy Brandenburg	Yes	No	Admitted	6/19/13	
P	61	SSN Card/MC#11- Karlina Yoshitaro	Yes	No	Admitted	6/19/13	
P	62	Personal Tom Check/MC1 - Lauren Carlson/Silvestre Cervantes	Yes	No	Admitted	6/19/13	
P	63	Temporary WDL (MC2) - Lauren Carlson	Yes	No	Admitted	6/19/13	
P	64	Personal Check Endorsed #308 (MC#14) - Loretta Sutter/Lindsey Jensen -	Yes	No	Admitted	6/19/13	
P	65	RiteAid Reipt (MC#19) - Lauren Carlson	Yes	No	Admitted	6/19/13	
P	66	Personal Check Endorsed #309 (MC#16) - Brandy Brandenburg/Lindsey Jensen	Yes	No	Admitted	6/19/13	
P	67	Personal Checks Inendorsed (MC#15) - Lorette Sutter/Lindsey Jensen	Yes	No	Admitted	6/19/13	
P	68	Military ID (MC#100 - KarlinaRobert	Yes	No	Admitted	6/19/13	
P	69	Personal Check Tom (MC#17) - Lindsey Jensen	Yes	No	Admitted	6/19/13	
P	70	Rebar International Pay stub (MC#18) - Teresa Congemi	Yes	No	Admitted	6/19/13	
P	71	WDL (MC#9) - Loretta Sutter	Yes	No	Admitted	6/19/13	
P	72	AZ Driver's License (MC#12) - Karlina Yoshitaro	Yes	No	Admitted	6/19/13	
P	73	Plastic Zip Lock Bag (MC#29) Evidence Bag containing several items (Wallets, Personal check pads, Target receipts, check register), various card in Frank Bellue name, various individuals ID cards, various individuals debit/check cards, various transactions receipts	Yes	No	Admitted	6/19/13	
P	73A	Target Visa Gift Card	Yes	No	Admitted	6/19/13	
P	73B	Target Visa Gift Card	Yes	No	Admitted	6/19/13	
P	74	Plastic Zip Lock Bag (MC# ) - Evidence Bag containing several items	Yes	No	Admitted Published	6/18/13	
P	75	Bank of America Personal Check Unendorsed #1017 (MC#13) - Silvestre Cervantes	Yes	Yes	Admitted	6/19/13	
P	76	Identification Cards (MC7) Evidence Envelope	Yes	No	Admitted	6/19/13	
P	77	Account now & Visa Debit cards (MC#6) - Frank Bellue	Yes	No	Admitted	6/19/13	
P	78	TurboTax Visa Card (MC#8) - Angela Patterson	Yes	No	Admitted	6/19/13	

Case Number: 12-1-02120-3 Date: October 28, 2014  
 SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC  
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P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	79	3 Bankcards (MC#5) – Frank Bellue	Yes	No	Admitted	6/19/13	
P	80	Knife (MC#23) – found in Exhibit 82/Backback					
P	81	Bankcard (MC#250 – Tia Santzler	Yes	No	Admitted	6/19/13	
P	82	Netspend Bankcard (MC#21) – Frank Bellue	Yes	Yes	Admitted	6/18/13	
P	83	Gray/Green Backpack (MC#22) containing black notebook/portfolio & other items inside (card signed by Yolanda Fay Carlson, traffic tickets, Yolanda Carlson bond agreement, checks, letters to dad, blank envelopes, bus schedule, Greater Lakes document under Yolanda Carlson, Ashford University with Yolanda Fay's name, hand written notes, several letters - Yolanda as sender, documents from Assigned Counsel, bus ticket, DOL driving status –Yolanda Carlson, Vehicle impound, Aladdin Bail bonds documents under Yolanda Carlson, Superior Thurston County Court notices/documents for Yolanda Carlson, Valentine Day's card, T-Mobile documents, picture of 2 boys, pictures of men, notes to mama, black wallet	Yes	Yes	Admitted	6/18/13	
P	84	Note Book Documents (MC28) Evidence bag					
P	85	Document (MC#30) Evidence Envelope					
P	86	Surveillance Tapes (MC#31) Evidence Envelope					
P	87	Recorded CD (MC32) Evidence Envelope					
P	88	Maxwell DVD Disc (MC#33) Evidence Envelope					
P	89	Surveillance Tape (MC#35) & Receipt (MC#36) Evidence Envelope			Published	6/13/13	
P	89A	Target Security CD	Yes	Yes	Admitted Published	6/19/13	
P	89B	Target Statements/transaction Logs	Yes	No	Admitted	6/13/13	
P	89C	Visa redemption transaction Log					
P	90	Currency Bills (counterfeit \$20) & Evidence Envelope	Yes	No	Admitted	6/13/13	



Case Number: 12-1-02120-3 Date: October 28, 2014

SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC

Certified By: Kevin Stock Pierce County Clerk, Washington

P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	91	Cloth Purse/handbag (MC#24) containing several items (wallets, sunglasses, makeup items, LG cell phone, various checks, checkbook cover, various card & ID in Yolanda Carlson name, micro STD card	Yes Yes	Yes Yes	Denied Admitted	6/18/13 6/19/13	
P	91A	Target Gift Card	Yes	No	Admitted	6/19/13	
P	91B	WDL - Amber Nicolette Craig	Yes	No	Admitted	6/19/13	
P	91C	Personal Check 1264 Endorsed - Amber Craig	Yes	No	Admitted	6/19/13	
P	92	Brown Bag/Items found on bed (MC#20) Evidence Bag containing Riteaid Receipt, cartridge, cell phone & charger					
P	93	Black Computer Bag (MC56)					
P	94	Laptop & Evidence Envelope(MC#43)	Yes	No	Admitted	6/20/13	
P	95	Laptop & Evidence Envelope(MC#44)	Yes	No	Admitted	6/20/13	
P	96	TPD Incident Report #121580419 2					
P	97	CD - Donald Sphar					
P	98	CD - Defendant's calls in jail 6/12/12 - 6/14/12					
P	99	Photograph - syringes & checkbook pad under mattress	Yes	No	Admitted Published	6/19/13	
P	100	Photograph - chair, red garbage can surrounded by garbage items	Yes	No	Admitted Published	6/19/13	
P	101	Photograph - several identification cards, checkbook pad,	Yes	No	Admitted Published	6/19/13	
P	102	Photograph - hotel room, backpack, black suitcase, red suitcase	Yes	No	Admitted Published	6/19/13	
P	103	Photograph - black notebook containing several documents, check book pad	Yes	No	Admitted Published	6/19/13	
P	104	Photograph - white towels, bankcard, pack of gum & drug paraphernalia in drawer	Yes	No	Admitted Published	6/19/13	
P	105	Photograph - night stand containing items from exhibit 104	Yes	No	Admitted Published	6/19/13	
P	106	Tacoma Police Department Supplemental Report #121580419 10					
P	107	TPD Photo Slate Case #121580419	Yes	No	Admitted Published	6/19/13	
P	108	Photograph - Exterior of Morgan Motel with Police Car	Yes	No	Admitted Published	6/19/13	
P	109	Photograph - Front door entry of motel room	Yes	No	Admitted Published	6/19/13	

Case Number: 12-1-02120-3 Date: October 28, 2014

SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC

Certified By: Kevin Stock Pierce County Clerk, Washington

P D	No	Description	Off	Obj	Admitted	Agreed	Denied	Date	Rec'd by Clerk's Office
					Illustrative	Published	Redacted		
P	110	Photograph – Interior of hotel room of bed & night stand	Yes	No	Admitted	Published		6/19/13	
P	111	Photograph – Interior of motel room bottom half of bed with various items	Yes	No	Admitted	Published		6/19/13	
P	112	TPD Property Report 221352							
P	113	TPD Evidence Log 2605							
P	114	TPD Supplemental Report #121580419 8							
P	115	TPD Supplemental Report #121580419 15							
P	116	Search Warrant #12-1-50869-2							
P	117	TPD Supplemental Report #121980183 2							
D	118	TPD Supplemental Report #121580419 11							
P	119	Handwritten Police Statement Form – Rochelle Moore							
P	120	CarQuest Receipt/Order From #193442 – Teresa Congemi ( pg 1)	Yes	No	Admitted			6/20/13	
P	121	CarQuest Receipt/Order From #193442 – Teresa Congemi ( pg 2)	Yes	No	Admitted			6/20/13	
P	122	CD Disc (jail recordings from Exhibit 97 & 98)	Yes	Yes	Admitted	Published		6/25/13	
	123	NOT USED							
P	124	Order Establishing Conditions of Release Pending Pursuant to CRR 3.2 #12-1-04771-7							

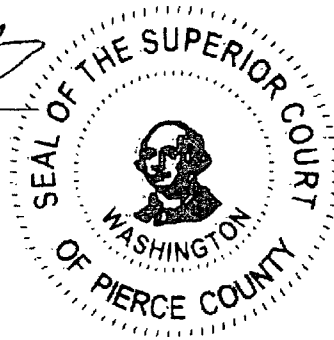
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the  
aforementioned court do hereby certify that this foregoing instrument is  
a true and correct copy of the original now on file in my office.  
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said  
Court this 28 day of October, 2014



Kevin Stock, Pierce County Clerk

By /s/Kayley Pitzele, Deputy.

Dated: Oct 28, 2014 10:11 AM



**Instructions to recipient:** If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,  
enter: **SerialID: 57BD8D5F-110A-9BE2-A944156C597A7DEC**.

This document contains 7 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

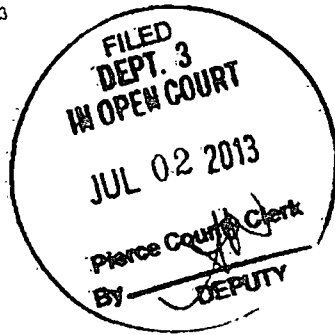
## **APPENDIX "B"**

*Exhibit Record, 12-1-04771-7*

Case Number: 12-1-04771-7 Date: October 28, 2014  
SerialID: 57BE4BED-F20F-6452-DF6060E798BECC7B  
Certified By: Kevin Stock Pierce County Clerk, Washington



12-1-04771-7 40807186 EXRV 07-03-13



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,  
Plaintiff

*12-1-04771-7*  
Cause No ~~12-1-02120-3~~

vs

EXHIBIT RECORD

BELLUE, FRANK SHANNON,  
Defendant

P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	1	WA State Driver License - Amanda Sheppler	Yes	No	Admitted	6/19/13	
P	2	WA State Drivers License - Taylor Prichard	Yes	Yes	Admitted	6/20/13	
P	3	WA State Drivers License - Kristin O'Neil	Yes	No	Admitted	6/20/13	
P	4	Oregon Drivers License - Megan Casey	Yes	No	Admitted	6/19/13	
P	5	WA State Drivers License - Navarre Dixon					
P	6	WA State Drivers License - Steven Daffer					
P	7	Military ID Card - Kimberly Pannek					
P	8	SSN Card - Taylor Barnes	Yes	Yes	Admitted	6/20/13	
P	9	SSN Card - John Robert	Yes	Yes	Admitted	6/20/13	
P	10	SSN Card - Joma Robert	Yes	Yes	Admitted	6/20/13	
P	11	SSN Card - Burton Cook					
P	12	SSN Card - Althea Robert	Yes	Yes	Admitted	6/20/13	

Case Number: 12-1-04771-7 Date: October 28, 2014

SerialID: 57BE4BED-F20F-6452-DF6060E798BECC7B

Certified By: Kevin Stock Pierce County Clerk, Washington

	P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
1	P	13	SSN Card – Joma Robert	Yes	Yes	Admitted	6/20/13	
2	P	14	SSN Card – Gavin Barnes	Yes	No	Admitted	6/20/13	
3	P	15	SSN Card – Joma Robert	Yes	Yes	Admitted	6/20/13	
4	P	16	SSN Card – Teresa Congemı	Yes	No	Admitted	6/19/13	
5	P	17	SSN Card – AJ John	Yes	Yes	Admitted	6/20/13	
6	P	18	Visa Gift Card \$25.00					
7	P	19	State of AZ Dept of Public Safety Card – Karlna Yoshitaro					
8	P	20	USAA Member Card – Nickolas Frazier	Yes	No	Admitted	6/20/13	
9	P	21	USAA Member Card – Stephanie Frazier	Yes	No	Admitted	6/20/13	
10	P	22	Personal Check Endorsed – MC#22 Evidence Envelope					
11	P	23	Personal Check Unendorsed – MC#23 Evidence Envelope	Yes	No	Admitted	6/20/13	
12	P	24	Personal Check Pad Unendorsed – MC#24	Yes	Yes	Admitted	6/20/13	
13	P	25	Personal Endorsed Check #718 – Bank of America - Jessica Dill/Stephanie Frazier/Craig Wollmershauserl	Yes	Yes	Admitted	6/20/13	
14	P	26	HP Printer	Yes	No	Admitted	6/20/13	
15	P	27	Personal Checks Unendorsed – Timberland Bank/Kaitlin Chaput/Susan Lewis	Yes	Yes	Admitted	6/20/13	
16	P	28	Personal Checks Endorsed – US Bank – Teresa Congemı/Samuel & Kendra Barnes	Yes	No	Admitted	6/19/13	
17	P	29	Personal Check Pad Unendorsed – US Bank – John & Lisa Johnson	Yes	Yes	Admitted	6/20/13	
18	P	30	Personal Check Pad Unendorsed - Wells Fargo					
19	P	31	Personal Checks Unendorsed – US Bank – John & Lisa Johnson	Yes	Yes	Admitted	6/20/13	
20	P	32	Medical Document MC#32	Yes	Yes	Admitted	6/20/13	
21	P	33	Personal Check Unendorsed MC#33 Evidence Envelope	Yes	Yes	Admitted	6/20/13	
22	P	34	Letter /MC#34 Evidence Envelope					
23	P	35	Software/MC#35 Evidence Envelope	Yes	Yes	Admitted	6/20/13	
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P	43	Cigarettes/MC#45 Evidence Envelope					
P	44	Drug Scale/MC#46 Evidence Envelope					
P	45	Pipe/MC#47 Evidence Envelope					
P	46	Personal Check Pad Unendorsed MC#48 - Timberland Bank - Susan Lewis	Yes	No	Admitted	6/20/13	
P	47	Wallet/MC#49 Evidence Envelope					
P	48	SSN Card/MC#50 - Kendra Barnes	Yes	No	Admitted	6/20/13	
P	49	Personal Checks Endorsed/MC#51					
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P	51	Financial/MC#54 Evidence Envelope					
P	52	Receipt/MC#55 Evidence Envelope					
P	53	US Bank Blue Merchant Deposit Bag/MC#57					
P	54	Business Card/MC#58 Evidence Envelope					
P	55	Identification/MC#59 Evidence Envelope					
P	56	Identification/MC#60 Evidence Envelope	Yes	No	Admitted	6/20/13	
P	57	Identification/MC#61 Evidence Envelope					
P	58	Personal Check Endorsed - US Bank #7041 - Teresa Congemi/John & Lisa Johnson/MC#1	Yes	No	Admitted	6/20/13	
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P	59C	Tape Recording 5/24 - 5/25/12					

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P	61	SSN Card/MC#11- Karlina Yoshitaro	Yes	No	Admitted	6/19/13	
P	62	Personal Torn Check/MC1 – Lauren Carlson/Silvestre Cervantes	Yes	No	Admitted	6/19/13	
P	63	Temporary WDL (MC2) – Lauren Carlson	Yes	No	Admitted	6/19/13	
P	64	Personal Check Endorsed #308 (MC#14) – Loretta Sutter/Lindsey Jensen -	Yes	No	Admitted	6/19/13	
P	65	RiteAid Reipt (MC#19) – Lauren Carlson	Yes	No	Admitted	6/19/13	
P	66	Personal Check Endorsed #309 (MC#16) – Brandy Brandenburg/Lindsey Jensen	Yes	No	Admitted	6/19/13	
P	67	Personal Checks Inendorsed (MC#15) – Loretta Sutter/Lindsey Jensen	Yes	No	Admitted	6/19/13	
P	68	Military ID (MC#100 - KarlinaRobert	Yes	No	Admitted	6/19/13	
P	69	Personal Check Torn (MC#17) – Lindsey Jensen	Yes	No	Admitted	6/19/13	
P	70	Rebar International Pay stub (MC#18) – Teresa Congem	Yes	No	Admitted	6/19/13	
P	71	WDL (MC#9) – Loretta Sutter	Yes	No	Admitted	6/19/13	
P	72	AZ Driver's License (MC#12) – Karlina Yoshitaro	Yes	No	Admitted	6/19/13	
P	73	Plastic Zip Lock Bag (MC#29) Evidence Bag containing several items (Wallets, Personal check pads, Target receipts, check register), various card in Frank Bellue name, various individuals ID cards, various individuals debit/check cards, various transactions receipts	Yes	No	Admitted	6/19/13	
P	73A	Target Visa Gift Card	Yes	No	Admitted	6/19/13	
P	73B	Target Visa Gift Card	Yes	No	Admitted	6/19/13	
P	74	Plastic Zip Lock Bag (MC# ) – Evidence Bag containing several items	Yes	No	Admitted Published	6/18/13	
P	75	Bank of America Personal Check Unendorsed #1017 (MC#13) - Silvestre Cervantes	Yes	Yes	Admitted	6/19/13	
P	76	Identification Cards (MC7) Evidence Envelope	Yes	No	Admitted	6/19/13	
P	77	Account now & Visa Debit cards (MC#6) – Frank Bellue	Yes	No	Admitted	6/19/13	
P	78	TurboTax Visa Card (MC#8) – Angela Patterson	Yes	No	Admitted	6/19/13	



Case Number: 12-1-04771-7 Date: October 28, 2014

SerialID: 57BE4BED-F20F-6452-DF6060E798BECC7B

Certified By: Kevin Stock Pierce County Clerk, Washington

P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	79	3 Bankcards (MC#5) – Frank Bellue	Yes	No	Admitted	6/19/13	
P	80	Knife (MC#23) – found in Exhibit 82/Backback					
P	81	Bankcard (MC#250 – Tia Santzler	Yes	No	Admitted	6/19/13	
P	82	Netspend Bankcard (MC#21) – Frank Bellue	Yes	Yes	Admitted	6/18/13	
p	83	Gray/Green Backpack (MC#22) containing black notebook/portfolio & other item's inside (card signed by Yolanda Fay Carlson , traffic tickets, Yolanda Carlson bond agreement, checks, letters to dad, blank envelopes, bus schedule, Greater Lakes document under Yolanda Carlson, Ashford University with Yolanda Fay's name, hand written notes, several letters - Yolanda as sender, documents from Assigned Counsel, bus ticket, DOL driving status –Yolanda Carlson, Vehicle impound , Aladdin Bail bonds documents under Yolanda Carlson, Superior Thurston County Court notices/documents for Yolanda Carlson, Valentine Day's card, T-Mobile documents, picture of 2 boys, pictures of men, notes to mama, black wallet	Yes	Yes	Admitted	6/18/13	
P	84	Note Book Documents (MC28) Evidence bag					
P	85	Document (MC#30) Evidence Envelope					
P	86	Surveillance Tapes (MC#31) Evidence Envelope					
P	87	Recorded CD (MC32) Evidence Envelope					
P	88	Maxwell DVD Disc (MC#33) Evidence Envelope					
P	89	Surveillance Tape (MC#35) & Receipt (MC#36) Evidence Envelope			Published	6/13/13	
P	89A	Target Security CD	Yes	Yes	Admitted Published	6/19/13	
P	89B	Target Statements/transaction Logs	Yes	No	Admitted	6/13/13	
P	89C	Visa redemption transaction Log					
P	90	Currency Bills (counterfeit \$20) & Evidence Envelope	Yes	No	Admitted	6/13/13	

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P D	No	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	91	Cloth Purse/handbag (MC#24) containing several items (wallets, sunglasses, makeup items, LG cell phone, various checks, checkbook cover, various card & ID in Yolanda Carlson name, micro STD card	Yes Yes	Yes Yes	Denied Admitted	6/18/13 6/19/13	
P	91A	Target Gift Card	Yes	No	Admitted	6/19/13	
P	91B	WDL - Amber Nicolette Craig	Yes	No	Admitted	6/19/13	
P	91C	Personal Check 1264 Endorsed - Amber Craig	Yes	No	Admitted	6/19/13	
P	92	Brown Bag/Items found on bed (MC#20) Evidence Bag containing Riteaid Receipt, cartndge, cell phone & charger					
P	93	Black Computer Bag (MC56)					
P	94	Laptop & Evidence Envelope(MC#43)	Yes	No	Admitted	6/20/13	
p	95	Laptop & Evidence Envelope(MC#44)	Yes	No	Admitted	6/20/13	
P	96	TPD Incident Report #121580419 2					
P	97	CD - Donald Sphar					
P	98	CD - Defendant's calls in jail 6/12/12 - 6/14/12					
P	99	Photograph - syringes & checkbook pad under mattress	Yes	No	Admitted Published	6/19/13	
P	100	Photograph - chair, red garbage can surrounded by garbage items	Yes	No	Admitted Published	6/19/13	
P	101	Photograph - several identification cards, checkbook pad,	Yes	No	Admitted Published	6/19/13	
P	102	Photograph - hotel room, backpack, black suitcase, red suitcase	Yes	No	Admitted Published	6/19/13	
P	103	Photograph - black notebook containing several documents, check book pad	Yes	No	Admitted Published	6/19/13	
P	104	Photograph - white towels, bankcard, pack of gum & drug paraphernalia in drawer	Yes	No	Admitted Published	6/19/13	
P	105	Photograph - night stand containing items from exhibit 104	Yes	No	Admitted Published	6/19/13	
P	106	Tacoma Police Department Supplemental Report #121580419 10					
P	107	TPD Photo Slate Case #121580419	Yes	No	Admitted Published	6/19/13	
P	108	Photograph - Exterior of Morgan Motel with Police Car	Yes	No	Admitted Published	6/19/13	
P	109	Photograph - Front door entry of motel room	Yes	No	Admitted Published	6/19/13	

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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	110	Photograph – Interior of hotel room of bed & night stand	Yes	No	Admitted Published	6/19/13	
P	111	Photograph – Interior of motel room bottom half of bed with various items	Yes	No	Admitted Published	6/19/13	
P	112	TPD Property Report 221352					
P	113	TPD Evidence Log 2605					
P	114	TPD Supplemental Report #121580419 8					
P	115	TPD Supplemental Report #121580419 15					
P	116	Search Warrant #12-1-50869-2					
P	117	TPD Supplemental Report #121980183 2					
D	118	TPD Supplemental Report #121580419 11					
P	119	Handwritten Police Statement Form – Rochelle Moore					
P	120	CarQuest Receipt/Order From #193442 – Teresa Congemi (pg 1)	Yes	No	Admitted	6/20/13	
P	121	CarQuest Receipt/Order From #193442 – Teresa Congemi (pg 2)	Yes	No	Admitted	6/20/13	
P	122	CD Disc (jail recordings from Exhibit 97 & 98)	Yes	Yes	Admitted Published	6/25/13	
	123	NOT USED					
P	124	Order Establishing Conditions of Release Pending Pursuant to CRR 3 2 #12-1-04771-7					

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the  
aforementioned court do hereby certify that this foregoing instrument is  
a true and correct copy of the original now on file in my office.  
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said  
Court this 28 day of October, 2014



Kevin Stock, Pierce County Clerk

By /s/Kayley Pitzele, Deputy.

Dated: Oct 28, 2014 10:11 AM



**Instructions to recipient:** If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,  
enter SerialID: 57BE4BED-F20F-6452-DF6060E798BECC7B.

This document contains 7 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

**PIERCE COUNTY PROSECUTOR**

**October 28, 2014 - 11:34 AM**

**Transmittal Letter**

Document Uploaded: prp2-452324-Response.pdf

Case Name: IN RE THE PRP OF: FRANK BELLUE

Court of Appeals Case Number: 45232-4

**Is this a Personal Restraint Petition?**  Yes  No

**The document being Filed is:**

Designation of Clerk's Papers                      Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: \_\_\_\_\_

Brief: \_\_\_\_\_

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Sender Name: Heather M Johnson - Email: [hjohns2@co.pierce.wa.us](mailto:hjohns2@co.pierce.wa.us)