

FILED

FILED

APR 18 2016

WASHINGTON STATE
SUPREME COURT

FILED
Mar 28, 2016
Court of Appeals
Division I
State of Washington

Supreme Court No. 93017-1
Court of Appeals No. 73035-5-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

ALLEN BUMANGLAG,

Appellant.

PETITION FOR REVIEW

RICHARD W. LECHICH
Attorney for Petitioner

WASHINGTON APPELLATE PROJECT
1511 Third Avenue, Suite 701
Seattle, Washington 98101
(206) 587-2711

TABLE OF CONTENTS

A. IDENTITY OF PETITIONER..... 1

B. COURT OF APPEALS DECISION 1

C. ISSUE PRESENTED FOR REVIEW..... 1

D. STATEMENT OF THE CASE..... 2

E. ARGUMENT 5

Through his counsel’s failure to bring a meritorious motion to suppress, Mr. Bumanglag was deprived of his constitutional right to effective assistance of counsel..... 5

F. CONCLUSION..... 11

TABLE OF AUTHORITIES

United States Supreme Court Cases

Chimel v. California, 395 U.S. 752, 89 S. Ct. 2034, 23 L. Ed. 2d 685 (1969)..... 6

Zurcher v. Stanford Daily, 436 U.S. 547, 98 S. Ct. 1970, 56 L. Ed. 2d 525 (1978)..... 6

Washington Supreme Court Cases

State v. Neth, 165 Wn.2d 177, 196 P.3d 658 (2008)..... 6, 10

State v. Reichenbach, 153 Wn.2d 126, 101 P.3d 80 (2004) 5, 10

State v. Thein, 138 Wn.2d 133, 977 P.2d 582 (1999)..... 5, 6, 9, 11

Washington Court of Appeals Cases

State v. Dunn, 186 Wn. App. 889, 348 P.3d 791 (2015)..... 8

State v. G.M.V., 135 Wn. App. 366, 144 P.3d 358 (2006)..... 8

State v. Hamilton, 179 Wn. App. 870, 320 P.3d 142 (2014)..... 5, 10

State v. Klinger, 96 Wn. App. 619, 980 P.2d 282 (1999)..... 5, 10

State v. Nordlund, 113 Wn. App. 171, 53 P.3d 520 (2002)..... 10

United States Court of Appeals Cases

United States v. Anderson, 851 F.2d 727 (4th Cir. 1988) 8

United States v. Hython, 443 F.3d 480 (6th Cir. 2006)..... 7

United States v. Rodgers, 656 F.3d 1023 (9th Cir. 2011)..... 7

United States v. Savoca, 761 F.2d 292 (6th Cir. 1985) 7

Constitutional Provisions

Const. art. I, § 22..... 5

Const. art. I, § 7.....	5
U.S. Const. amend. IV.....	5
U.S. Const. amend. VI.....	5

Rules

RAP 13.4(b)(1).....	10
RAP 13.4(b)(2).....	10
RAP 13.4(b)(3).....	10
RAP 13.4(b)(4).....	10

A. IDENTITY OF PETITIONER

Alan Bumanglag, the appellant below, asks this Court to accept review of the Court of Appeals decision terminating review designated in Part B of this petition.

B. COURT OF APPEALS DECISION

Evidence of identity theft was discovered inside a residence. Over a year later, police discovered evidence of identity theft on two people shortly after they left this residence. Based essentially on these bare facts, the Court of Appeals determined there was probable cause to search the residence for evidence of identity theft and rejected Mr. Bumanglag's claim that his trial counsel was constitutionally ineffective for not moving to suppress the fruits of the search. This Court should grant review of this erroneous decision because it is contrary to precedent, involves an important constitutional issue, and presents an issue of substantial public importance. RAP 13.4(b). The unpublished decision was issued on February 29, 2016. A copy is attached in Appendix A.

C. ISSUE PRESENTED FOR REVIEW

After executing a search warrant on a residence, key evidence implicating Mr. Bumanglag in identity theft was found in a room where he appeared to be living. The affidavit in support of the warrant did not provide probable cause to believe that evidence of identity theft would be

found at the residence. It was premised on evidence being discovered at the residence over a year earlier and on evidence discovered on individuals who had recently left the residence. Failing to establish a sufficient nexus, the affidavit did not assert that these individuals lived at or frequented the residence. Was Mr. Bumanglag deprived of his right to effective assistance of counsel when his attorney failed to make a meritorious motion to suppress that would have resulted in exclusion of key evidence?

D. STATEMENT OF THE CASE

On March 18, 2014, Detective Jeffrey Christiansen obtained a warrant to search the premises of 7319 16th Avenue SW for evidence of identity theft. Ex. 3; 1RP 147-48. In the affidavit,¹ Detective Christiansen began by stating that he had searched the premises over a year before in February 2013 pursuant to a warrant and recovered evidence indicative of identity theft. Ex. 3 at 3. This led to charges against L. John Dacome and Jason Felipe, who were found inside the home at that time. Ex. 3 at 3.

Detective Christiansen then recounted the surveillance of the premises earlier that afternoon on March 18, 2014. Ex. 3 at 3. Police were seeking to arrest Mr. Dacome and Mr. Felipe on outstanding

¹ A copy of the affidavit along with the warrant is attached in Appendix B.

warrants and thought they might locate them at 7319 16th Avenue SW. Ex. 3 at 3. Police saw Mr. Felipe and an unknown male, later identified as Allen Bumanglag, leave the residence in a Honda. Ex. 3 at 3. Police learned the Honda was reported stolen. Ex. 3 at 3. Mr. Felipe, the driver, attempted to elude police when signaled to stop. Ex. 3 at 3. Police later found the vehicle abandoned and Mr. Bumanglag at a nearby gas station. Ex. 3 at 4. Mr. Bumanglag's wallet, searched incident to his arrest, contained his Social Security card with the last four digits scratched out, a bank deposit slip bearing the name of Larina Cooper, and a piece of paper with a handwritten nine digit number. Ex. 3 at 4. Detective Christiansen learned through dispatch that the handwritten number corresponded to Labinot Hasani's Social Security number and that Mr. Hasani's information had been fraudulently used in January 2014 at a Best Buy. Ex. 3. at 4. He was unable to contact Ms. Cooper. Ex. 3 at 4.

Detective Christiansen stated that about an hour after Mr. Bumanglag's arrest, another officer saw Mr. Dacome and a woman named Dia Tacardon leave the residence and walk to a nearby 7-Eleven. Ex. 3 at 4. Ms. Tacardon also had a warrant out for her arrest. Ex. 3 at 3. Police arrested both Mr. Dacome and Ms. Tacardon inside the 7-Eleven and searched them. Ex. 3 at 4. Police found a partial piece of a Discover Card financial document inside Ms. Tacardon's pocket bearing the name of

Angelina Iley. Ex. 3 at 4. Detective Christiansen was unable to contact Ms. Iley. Ex. 3 at 4.

Based on these facts, and his “training and experience” that personal and financial information are used to commit identity theft by opening up accounts in person and online, Detective Christiansen conclusorily stated, “there is sufficient evidence that the crimes of Identity theft 2nd degree have occurred and that evidence of the crimes are currently located inside the premises.” Ex. 3 at 5. A judge granted the request for the search warrant, authorizing police to seize all items bearing personal and financial information. Ex. 3 at 6-7.

During the execution of the warrant on the residence the same day, Detective Christensen found evidence of identity theft in a room where Mr. Bumanglag appeared to be living. 1RP 10-11, 152, 162; Ex. 5. Mr. Bumanglag was charged with six counts of identity theft in the second degree and one count of taking a motor vehicle without permission in the second degree. CP 11-13. Mr. Bumanglag’s attorney did not move to suppress evidence from the unlawful search. Mr. Bumanglag sought to discharge counsel, but the court denied his requests. CP 14-16; 1RP 11, 15. A jury convicted Mr. Bumanglag as charged. CP 70-77. The Court of Appeals rejected Mr. Bumanglag’s claim of ineffective assistance of counsel, concluding that a motion to suppress would have failed.

E. ARGUMENT

Through his counsel's failure to bring a meritorious motion to suppress, Mr. Bumanglag was deprived of his constitutional right to effective assistance of counsel.

In violation of the state and federal constitutions, Allen Bumanglag was deprived of his right to effective assistance of counsel. U.S. Const. amend. VI; Const. art. I, § 22. Despite a meritorious argument that the warrant used to search the house lacked probable cause, Mr. Bumanglag's counsel did not file a motion to suppress. This resulted in the admission of key evidence and the jury finding Mr. Bumanglag guilty of the charges.

To prove ineffective assistance of counsel, the defendant must establish both deficient performance and resulting prejudice. State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2004). Failing to move to suppress can constitute ineffective assistance of counsel. Id. at 137; State v. Klinger, 96 Wn. App. 619, 621, 980 P.2d 282 (1999) (because warrant was issued improperly, counsel provided ineffective assistance by not filing suppression motion); State v. Hamilton, 179 Wn. App. 870, 888, 320 P.3d 142 (2014).

The state and federal constitutions protect against unlawful searches and seizures. Const. art. I, § 7; U.S. Const. amend. IV. Warrants must be supported by probable cause. State v. Thein, 138 Wn.2d 133, 140, 977 P.2d 582 (1999). Review of whether the search warrant was

properly issued is limited to the four corners of the affidavit offered to establish probable cause. State v. Neth, 165 Wn.2d 177, 182, 196 P.3d 658 (2008).

Probable cause to believe that a person has committed a crime does not necessarily supply probable cause to search the person's home. Thein, 138 Wn.2d at 148; see, e.g., Chimel v. California, 395 U.S. 752, 753, 89 S. Ct. 2034, 23 L. Ed. 2d 685 (1969) (arresting defendant in home did not authorize search of home). "Probable cause exists if the affidavit in support of the warrant sets forth facts and circumstances sufficient to establish a reasonable inference . . . that evidence of the crime can be found at the place to be searched." Thein, 138 Wn.2d at 140. There must be a nexus between the item to be seized and the place to be searched. Id. "The critical element in a reasonable search is not that the owner of the property is suspected of crime but that there is reasonable cause to believe that the specific 'things' to be searched for and seized are located on the property to which entry is sought." Zurcher v. Stanford Daily, 436 U.S. 547, 556, 98 S. Ct. 1970, 56 L. Ed. 2d 525 (1978).

The affidavit did not supply probable cause. Concerning the fact that evidence of identity theft was found at the residence previously, this was over a year earlier, not "relatively recent[ly]." Op. at 9 n.16. There was no basis to believe that further evidence of identity theft would be

discovered there. See United States v. Hython, 443 F.3d 480, 486 (6th Cir. 2006) (“Even had the affidavit stated that from time out of mind [the location under investigation] had been a notorious drug den, some recent information would be necessary to eliminate the possibility that a transfer in ownership or a cessation of illegal activity had not taken place.”). Moreover, contrary to the Court of Appeals characterization, the affidavit did not speak of an “identity theft operation” at the residence in 2013. Op. at 8-9 & n. 16. Rather, the affidavit states that “items of evidence associated with Identity theft” were recovered during the search of the residence on February 27, 2013. Ex. 3 at 3.

“[A] suspect’s mere presence or arrest at a residence is too insignificant a connection with that residence to establish that relationship’ necessary to a finding of probable cause.” United States v. Savoca, 761 F.2d 292, 297 (6th Cir. 1985) (quoting United States v. Flores, 679 F.2d 173, 175 (9th Cir. 1982)); see United States v. Rodgers, 656 F.3d 1023, 1028-29 (9th Cir. 2011) (probable cause to arrest passenger does not necessarily supply probable cause to search vehicle). Thus, that Mr. Bumanglag and Ms. Tacardon had evidence of possible identity theft on them did not justify searching the last place they walked out of, i.e., the residence.

Had the affidavit established that Mr. Bumanglag or Ms. Tacardon lived at the residence, this fact would have tended to support a determination of probable cause. See United States v. Anderson, 851 F.2d 727, 729 (4th Cir. 1988) (“the nexus between the place to be searched and the items to be seized may be established by the nature of the item and the normal inferences of where one would likely keep such evidence.”); State v. Dunn, 186 Wn. App. 889, 899, 348 P.3d 791 (2015) (adequate nexus to search defendant’s home because it was reasonable to believe stolen items would be at the defendant’s home). But the affidavit did not state who lived at the residence. Ex. 3. Neither could it be inferred that Mr. Bumanglag, Ms. Tacardon, Mr. Dacome, or Mr. Felipe lived at the residence or frequented it because surveillance began the same afternoon as when the warrant was obtained. Ex. 3 at 3.

Hence, the Court of Appeals erred in reasoning that there was probable cause because Mr. Bumanglag and Ms. Tacardon possessed evidence implicating them in identity theft. Op. at 8. If the police had observed Mr. Bumanglag (or someone else) leave the residence, conduct a fraudulent transaction, and return to the residence, it might have been reasonable to conclude that evidence of identity theft would be found there. Cf. State v. G.M.V., 135 Wn. App. 366, 372, 144 P.3d 358 (2006) (“The warrant was to search the place [the suspect] left from *and* returned

to before *and* after he sold drugs. This was a nexus that established probable cause that [the suspect] had drugs in the house.”) (emphasis added). But this did not happen. Ex. 3.

The Court of Appeals also erroneously reasoned that police only needed to establish probable cause to believe that evidence of *criminal activity* would be found at the residence. Op. at 8. This is incorrect. The police needed probable cause to believe evidence of *identity theft* was currently located inside the residence. Thein, 138 Wn.2d at 140 (“Probable cause exists if the affidavit in support of the warrant sets forth facts and circumstances sufficient to establish a reasonable inference . . . that evidence of the crime can be found at the place to be searched.”); Ex. 3 at 5 (affiant asserted that he believed evidence of identity theft was located inside residence).

The Court of Appeals also highlighted that the car Mr. Bumanglag rode in, driven by Mr. Dacome, was stolen. Op. at 8 & n. 16. This does not tend to show that evidence of identity theft (or any other crime for that matter) would be found at the residence. This flawed analysis indicates that the Court of Appeals misunderstood the inquiry that the law demands.

Accordingly, the affidavit’s assertions that evidence of identity theft would be found inside the residence was speculative and insufficient to establish probable cause. Thein, 138 Wn.2d 133 at 147 (“Absent a

sufficient basis in fact from which to conclude evidence of illegal activity will likely be found at the place to be searched, a reasonable nexus is not established as a matter of law.”); see, e.g., Neth, 165 Wn.2d at 184 (probable cause did not exist to search car because inadequate nexus connected defendant’s criminal activity to his car); State v. Nordlund, 113 Wn. App. 171, 183-84, 53 P.3d 520 (2002) (affiant’s generalized assertion that sex offenders keep records of their crimes on their computers insufficient to establish probable cause to search the defendant’s computer).

The Court of Appeals’ contrary conclusion is in conflict with precedent and thus merits review. RAP 13.4(b)(1), (2). Consistent with caselaw, the Court of Appeals should have held that Mr. Bumanglag was deprived of ineffective assistance of counsel because his attorney did not bring a meritorious motion to suppress key evidence. Reichenbach, 153 Wn.2d at 137; Klinger, 96 Wn. App. at 621; Hamilton, 179 Wn. App. at 888.

This case also involves a significant question of law under the state and federal constitutions. RAP 13.4(b)(3). What evidence police need to obtain a warrant to search a home for evidence of a crime is also an issue of substantial public interest. RAP 13.4(b)(4). These factors also weigh in favor of review. Granting review will also allow this Court to expound

further on what constitutes an adequate nexus to search a home in accordance with its decision in Theyin.

F. CONCLUSION

Contrary to precedent, the Court of Appeals misapplied the law in rejecting Mr. Bumanglag's claim of ineffective assistance of counsel. A motion to suppress, had one been brought by his attorney, would have been meritorious. Mr. Bumanglag respectfully asks that this Court grant his petition for review.

DATED this 28th day of March, 2016.

Respectfully submitted,



Richard W. Lechich – WSBA #43296
Washington Appellate Project
Attorney for Appellant

Appendix A

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

STATE OF WASHINGTON,)	No. 73035-5-I
)	
Respondent,)	
)	
v.)	
)	
ALLEN BUMANGLAG,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: February 29, 2016
_____)	

2016 FEB 29 AM 10:13
COURT OF APPEALS
STATE OF WASHINGTON

VERELLEN, A.C.J. — Based in part on evidence recovered during a search of a residence, a jury convicted Allen Bumanglag of six counts of second degree identity theft and taking a motor vehicle without permission. On appeal, Bumanglag contends his counsel was ineffective for failing to move to suppress the evidence recovered in the search. He also contends one of his six identity theft convictions and his conviction for taking a motor vehicle without permission are not supported by sufficient evidence. We affirm.

FACTS

On March 18, 2014, a Bellevue Police Department special enforcement team staked out a residence at 7319 16th Avenue S.W. in Seattle. Their objective was to locate Eljohn Dacome and Jason Felipe and arrest them on outstanding warrants for theft and identity theft. The warrants stemmed from a 2013 search of the same residence that uncovered a large identity theft operation.

Based on events occurring during the stakeout, Bellevue Police Detective Jeffrey Christiansen applied for a warrant to search the 7319 residence. His supporting affidavit provided the following pertinent information:

On 02-27-2013 I assisted with a search warrant at . . . 7319 16th Avenue S.W. in the City of Seattle. . . . I recovered more than one hundred items of evidence associated with [i]dentity theft, including dozens of stolen and/or fraudulently obtained credit cards, driver's licenses, [S]ocial [S]ecurity cards, and checks. . . . [T]he King County Prosecutor's Office filed criminal charges against multiple suspects located inside the residence during the time of the search warrant. Two of the suspects were Eljohn Dacome and Jason Felipe. Dacome and Felipe failed to appear in court and felony warrants were subsequently issued

On the afternoon of 3-18-2014 I verified that Felipe and Dacome still had felony warrants out for their arrest. Bellevue police officers . . . and I responded to the area of 7319 16th Ave. S.W. to conduct surveillance [and] locate Felipe and Dacome. . . . Officer Olliden saw Dacome exit the front door of the home and walk out of his view toward the back yard where a small living structure is located. . . . I saw Dia Tacardon . . . exit the front door of the home and also walk out of my view toward the back yard. . . .

. . . Officer Grannis saw Felipe and an unknown male exit the front door of the residence. Felipe was carrying a camera in his left hand and was carrying a black-colored satchel over his right shoulder. The unknown male was carrying an orange-colored backpack Officer Grannis observed Felipe and the unknown male enter the driver and front passenger door . . . of a beige-colored Honda Accord, WA#AGT5853. The Honda was reported stolen to Seattle P.D. on 03-16-2014 Felipe and his passenger, later positively identified as Allen Bumanglag, began traveling in a southeast direction in the stolen Honda. . . . Officer Schafer activated his vehicle's emergency lights and siren to attempt to conduct a traffic stop on Felipe and Bumanglag in the stolen vehicle, however[,] Felipe refused to pull over [and] quickly accelerated to an estimated 60 miles per hour in a marked 35 mile per hour zone. . . .

A civilian flagged down Officers Schafer and Olliden The civilian pointed out the stolen Honda and told Officer Schafer he saw two males run southwest after they abandoned the stolen vehicle. . . . [A]dditional civilians pointed out Bumanglag and said he had just run into the Shell station parking lot with another male. Officer Schafer recognized Bumanglag as the passenger of the stolen vehicle Officer Schafer placed Bumanglag under arrest for [p]ossession of a

stolen motor vehicle and [o]bstructing. Officer Schafer searched Bumanglag [and] removed a wallet from [his] pants pocket. The wallet contained Bumanglag's [S]ocial [S]ecurity card with . . . the last four digits scratched out. Bumanglag's wallet also contained a piece of paper with a handwritten [S]ocial [S]ecurity number . . . as well as a Chase deposit ticket bearing the name and address of Larina Cooper Bellevue [d]ispatch personnel ran the [S]ocial [S]ecurity number . . . and determined [it] belongs to Labinot Hasani. . . . I discovered that Hasani's wife [had] reported that unknown suspect(s) used Labinot Hasani's personal information to fraudulently open an account at Verizon Wireless . . . on 01-07-2014. The suspect(s) purchased two Apple brand iPhones and opened two lines of cell service. . . .

. . . .

. . . Officer Grannis observed Tacardon and Dacome exit the front door of the residence [Officers] placed both of them under arrest for their felony warrants. . . . Officer Grannis recovered a partial piece of a DiscoverCard financial document inside Tacardon's pants pocket. The document bore the name Angelina Iley. . . .

I know from my training and experience . . . that suspects possess personal and financial information such as other persons names, [S]ocial [S]ecurity numbers, and bank account information, for the purpose of committing identity theft by fraudulently opening accounts in other persons names both in person and online.

. . . I believe there is sufficient evidence that the crimes of Identity theft 2nd degree have occurred and that evidence of the crimes are currently located inside the premises at 7319 16th Avenue S.W. . . . and the Honda Accord . . . currently stored at the Bellevue police department.⁽¹⁾

The superior court issued a search warrant for the entire property, including an outbuilding, and the stolen Honda. About six people left the residence before police executed the warrant. No one was on the premises at the time of the search.

Police searching the residence entered a locked bedroom in the outbuilding. The room was relatively neat and orderly. A red backpack hanging on a hook contained documents such as wage reports addressed to Bumanglag. It also contained dozens of financial instruments and documents belonging to other people. These included driver's

¹ Ex. 3 at 3-5.

No. 73035-5-1/4

licenses, credit cards, checks, a Social Security card, bank statements, income tax documents bearing Social Security numbers, insurance forms bearing Social Security numbers of adults and children, a woman's place of birth, date of admission to the United States, and alien registration number, and handwritten notes listing people's names, addresses, phone numbers, dates of birth and Social Security numbers.

Elsewhere in the bedroom, the police found school documents, tax documents, and medical documents bearing Bumanglag's name. A piece of mail bearing Bumanglag's name was dated the day before the search. Police did not find any items belonging to other suspects in the bedroom, nor did they find any items belonging to Bumanglag outside the bedroom. Police did find evidence that Dacome and Tacardon shared a different room in the outbuilding.

Police searching the Honda found a shaved Chevrolet key in the ignition. They also found the orange backpack that Officer Grannis saw Bumanglag carry to the car. A black satchel inside the backpack contained gloves, a screwdriver, and two pocketknives. The backpack also contained the registration for the stolen Honda. The vehicle's description and the owner's name were scratched off the registration.

The State charged Bumanglag with six counts of second degree identity theft and one count of second degree taking a motor vehicle without permission. Bumanglag's counsel did not move to suppress any evidence found during the searches of the house and car.

At trial, Detective Christiansen testified that he worked on the special enforcement team and had handled dozens of identity theft cases. He testified that a common method of identity theft involves groups in which individuals steal mail and

No. 73035-5-1/5

pass it along to more experienced accomplices. The accomplices then build "profiles" of their victims using Social Security numbers, dates of birth, bank account numbers, and any other personal data that might help open lines of credit or create access to bank accounts. Detective Christiansen testified that identity thieves often write profiles in notebooks or on pieces of paper which they take to stores and use to open up fraudulent accounts. Detective Christiansen also testified to his training and experience with methods of auto theft. Common methods include using shaved "jiggler" keys, screwdrivers, and other tools, including gloves.

The detective also recounted the execution of the search warrant, generally reiterating the facts he alleged in the search warrant affidavit.

Labinot Hasani, the man whose Social Security number was found in Bumanglag's wallet, testified that in early 2014, someone wrote checks and opened cell phone accounts using his name. Several other individuals testified that mail found at the 7319 residence was stolen from them. All of these victims lived or worked in the general vicinity of the 7319 residence. One victim, Ronald Svik, testified that his February bank statement never arrived and that someone subsequently made unauthorized purchases in his name for cellular phone service.

The State also presented testimony from the owner of the stolen Honda, the officers who surveilled and pursued it, the officer who arrested Bumanglag, a civilian witness to Bumanglag's flight from the Honda, and officers who participated in the search of the residence.

In closing argument, the prosecutor argued that the jury could infer that Bumanglag knew the handwritten Social Security number in his wallet belonged to a

real person. She maintained that documents found in Bumanglag's bedroom indicated he was engaged in collecting profiles of people he knew were real, and that the profiles and Social Security numbers would be useless in an identity theft operation if "they were for fictional people."² She also argued that the jury could infer that Bumanglag knew the Honda was stolen because the backpack he carried into the car contained the Honda's registration, and the registration had been altered in a manner similar to Bumanglag's own Social Security card. In addition, the prosecutor noted that Bumanglag's flight from police and his spontaneous statement that he didn't know the car was stolen also supported an inference of knowledge that the car was stolen.

The jury convicted Bumanglag as charged. He appeals

DECISION

Bumanglag contends his counsel was ineffective for failing to move to suppress the evidence found in the residence on the ground that it was the product of an unlawful search. To establish ineffective assistance of counsel, a defendant must show both deficient performance and prejudice to the defendant's case.³ Deficient performance is shown if counsel's conduct fell below an objective standard of reasonableness.⁴ We strongly presume that counsel provided effective assistance and will not find deficient performance if counsel's conduct can fairly be characterized as legitimate trial strategy or tactics.⁵ Prejudice is established if there is a reasonable probability that, but for

² Report of Proceedings (RP) (Dec. 10, 2014) at 115.

³ Strickland v. Washington, 466 U.S. 668, 694, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).

⁴ State v. McFarland, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995).

⁵ Id. at 336; see also State v. Grier, 171 Wn.2d 17, 33, 246 P.3d 1260 (2011) (quoting Strickland, 466 U.S. at 687).

counsel's omissions, the result of the proceeding would have been different.⁶ When, as here, an ineffective assistance claim is based on counsel's failure to move to suppress evidence, the defendant must show both the absence of any strategic basis for counsel's omission and the likelihood that the court would have granted the motion had it been made.⁷ Bumanglag has not met this burden.

Bumanglag contends his counsel should have moved to suppress the evidence found in the residence on the ground that the search warrant was not supported by probable cause. A search warrant may be issued only upon a magistrate's determination of probable cause.⁸ "Probable cause exists if the affidavit in support of the warrant sets forth facts and circumstances sufficient to establish a reasonable inference that the defendant is probably involved in criminal activity and that evidence of the crime can be found at the place to be searched."⁹ Probable cause requires a nexus between criminal activity and the item to be seized and a nexus between the item to be seized and the place to be searched.¹⁰ The warrant affidavit "must be tested in a commonsense manner rather than hypertechnically," and any doubts are resolved in favor of the warrant.¹¹ Although we defer to the magistrate's decision, the superior court's probable cause determination is a legal question we review de novo.¹² Evidence

⁶ McFarland, 127 Wn.2d at 334-35.

⁷ Id. at 334-36.

⁸ State v. VanNess, 186 Wn. App. 148, 165, 344 P.3d 713 (2015).

⁹ Id. (quoting State v. Thein, 138 Wn.2d 133, 140, 977 P.2d 582 (1999)).

¹⁰ Thein, 138 Wn.2d at 140.

¹¹ State v. Partin, 88 Wn.2d 899, 904, 567 P.2d 1136 (1977).

¹² State v. Neth, 165 Wn.2d 177, 182, 196 P.3d 658 (2008).

obtained from a warrant issued without probable cause must be suppressed under the fruit of the poisonous tree doctrine.¹³

Bumanglag claims the search warrant affidavit “did not establish that [he] lived at the premises or that it was probable that evidence of identity theft would be found there.”¹⁴ But police did not have to establish that Bumanglag lived at the residence; rather, they only needed to establish probable cause to believe that evidence of criminal activity would be found at the residence. The affidavit satisfied this requirement. It indicated that the residence had housed a large identity theft operation within the last year. More recently, two known participants in that operation were seen leaving the residence with Bumanglag and Tacardon. Shortly after leaving the residence, Bumanglag and Tacardon possessed items like those found inside the residence during the prior identity theft operation. Bumanglag possessed the Social Security number of a recent identity theft victim, a woman's bank slip, and his own altered Social Security number. Tacardon possessed part of a DiscoverCard financial document bearing the name Angelina Iley.

The affiant stated that, in his experience, people “possess personal and financial information such as other persons names, [S]ocial [S]ecurity numbers, and bank account information, for the purpose of committing identity theft by fraudulently opening accounts in other persons names both in person and online.”¹⁵ Finally, Bumanglag and Felipe left the residence in a stolen car and fled when police attempted a traffic stop.

¹³ State v. Eisfeldt, 163 Wn.2d 628, 640, 185 P.3d 580 (2008).

¹⁴ Appellant's Br. at 2.

¹⁵ Ex. 3 at 5.

Viewing these allegations in a commonsense manner and resolving all doubts in favor of the warrant, we conclude that a motion to suppress for lack of probable cause would likely have failed and that Bumanglag therefore cannot establish either deficient performance or prejudice.¹⁶

Bumanglag also contends the evidence was insufficient to support the identity theft conviction based on his possession of a handwritten Social Security number. He argues that the evidence was insufficient to prove beyond a reasonable doubt that he knowingly possessed a means of identification belonging to another person. We disagree.

"The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt."¹⁷ Circumstantial and direct evidence are deemed equally reliable,¹⁸ and "reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant."¹⁹ Here, circumstantial evidence, including the items found in the outbuilding and the backpack Bumanglag carried to the car, strongly indicated that Bumanglag was involved in an identity theft operation. The Social Security number Bumanglag possessed had

¹⁶ State v. Thein, 138 Wn.2d 133, 977 P.2d 582 (1999), cited by Bumanglag, is distinguishable. Unlike the residence searched in Thein, the residence in this case had been the site of a relatively recent identity theft operation. Two members of that prior operation were seen leaving the residence in the company of persons possessing items associated with identity theft. One of the members was driving a stolen car. These facts provided probable cause to believe that evidence of identity theft would be found inside the residence.

¹⁷ State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

¹⁸ State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

¹⁹ Salinas, 119 Wn.2d at 201.

recently been used to open unauthorized accounts. Viewed in context and in a light most favorable to the State, this evidence supported a reasonable inference that Bumanglag knew the Social Security number belonged to another person.

We also reject Bumanglag's contention that the evidence was insufficient to support his conviction for taking a motor vehicle without permission. Bumanglag argues that there was insufficient evidence to support an inference that he rode in the Honda knowing it was stolen. But as the State correctly points out, "[o]nce it is established that a person rode in a vehicle that was taken without the owner's permission, slight corroborative evidence is all that is necessary to establish guilty knowledge."²⁰ Corroborative evidence includes fleeing when stopped or the absence of a plausible explanation for legitimate possession.²¹ In this case, Bumanglag not only fled from the stolen vehicle after police attempted to stop it, he entered the car with a backpack containing the true owner's vehicle registration and told police he did not know the car was stolen before anyone told him why he was under arrest. This corroborative evidence amply supports an inference that Bumanglag knew the car was stolen when he entered it.

In his statement of additional grounds for review, Bumanglag contends the trial court never ruled on his written motions to discharge his appointed counsel. Bumanglag filed two similar motions to discharge counsel before and during trial. The motions alleged that defense counsel missed most of his court dates, met with him only

²⁰ State v. Womble, 93 Wn. App. 599, 604, 969 P.2d 1097 (1999) (internal quotation marks omitted).

²¹ Id.

once,²² never discussed the case, refused to let him see discovery, and wanted him to plead guilty to offenses he did not commit. On the second day of trial, Bumanglag orally requested the same relief. The following colloquy ensued:

DEFENDANT: Can I say something? I want to change my lawyer because he doesn't give me my discovery, the police reports, I don't get everything. I don't know what's going on right now for me.

COURT: Okay. Well, first of all, if you want to change your lawyer, I'm going to send you back upstairs. You can do the motion in front of the presiding judge. [Room] 1201 is who handles those motions. So, sir, if you want -- Mr. [Defense Counsel], *has that kind of motion been heard before?*

[COUNSEL]: *It has, Your Honor, and it was denied.*

COURT: I assume, since you're still here.

[COUNSEL]: Right.

COURT: When did that occur?

[COUNSEL]: That occurred -- I don't have the exact date with me because I don't have the red file that I typically write those notes in.

COURT: Okay.

[COUNSEL]: They're in that file. I have my trial notebook here, but that motion was made some time ago.

COURT: Okay.

[COUNSEL]: And there was a motion to provide him redacted discovery, but that was not granted either because that was left to the attorney in order to provide -- he's had the opportunity to review the information that I have with him while we were in custody, review all of the information that I had by reading it to him. He understood all of that, and so that's where we are at this point.

²² We note that during a discussion regarding interpreters, defense counsel told the court he had seen Bumanglag "numerous times" in the jail. RP (Dec. 4, 2014) at 5. Also, Bumanglag stated in his statement of additional grounds that his counsel threatened him "during at least three of the few visits counsel made prior to trial." SAG at 7 ¶ 4.8.

....

COURT: So, sir, *it sounds like the presiding judge has already heard this motion. I'm not going to hear it again, so we're going to continue and we're going to proceed.*

[PROSECUTOR]: Your Honor, . . . [w]ould the court also be finding at this time that this would be an untimely motion as we've been assigned out for trial?

COURT: Yes, it's untimely, . . . [a]nd these are handled on the 12th floor. Once they're assigned to me for trial, I presume -- *and since Mr. [Defense Counsel] has represented that this has been heard, I'm not going to hear it again.*

[PROSECUTOR]: Thank you, Your Honor.^[23]

Bumanglag did not dispute his counsel's representation that his motion to discharge counsel and provide discovery were previously denied, nor did he dispute counsel's statement that he had reviewed all the discovery with Bumanglag and that Bumanglag understood it. Bumanglag argues for the first time on appeal that his counsel lied when he made these representations to the court. This claim involves matters outside the record and is therefore beyond the scope of our review.²⁴

Affirmed.

WE CONCUR:

²³ Id. at 11-16 (emphasis added).

²⁴ McFarland, 127 Wn.2d at 335.

Appendix B

Affidavit for Search Warrant (Continuation)

to a single story stand-alone, multi-color structure with a gray-colored composite roof that is visible in the back yard from 16th Avenue S.W.

Vehicle:

1. Beige-colored 1993 Honda Accord coupe, V.I.N. 1HGCB7271PA022427

The vehicle currently bears Washington license AGT5853. Washington Department of Licensing records show the vehicle was stolen in Seattle on 3-16-2014. The victim and registered owner of the vehicle is Nathan Riss of Seattle at 6511 48th Avenue N.E.

The search of the vehicle includes all locked and unlocked containers inside and on the vehicle.

My belief is based on the following facts and circumstances:

Your affiant states:

My name is Jeffrey K. Christiansen. I am a Detective for the City of Bellevue Police Department. I have been a police officer for over fifteen years. I have been assigned to the Special Enforcement Team for nine years. The Special Enforcement Team focuses on reducing high impact community crimes, including auto theft, burglary, identity theft, and narcotics-related offenses. I have completed 440 hours of basic law enforcement training at the Washington State Criminal Justice Training Center (W.S.C.J.T.C.) I have completed additional specialized training including, but not limited to, interview and interrogation, investigations, narcotics, auto theft and auto-related crimes, undercover operations, and Special Weapons And Tactics.

I have been involved in more than 300 criminal investigations, including cases involving theft of stolen vehicles, possession of stolen vehicles, trafficking in stolen property, possession of stolen property, vehicle prowling, and other crimes frequently associated with auto-related crimes, including possession, manufacture, and distribution of methamphetamine, firearms violations, identity theft, and fraud. I have conducted investigations where I prepared and participated in the service of search warrants for the above-listed crimes. I have arrested hundreds of suspects involved in these crimes.

Investigation:

Affidavit for Search Warrant

Page 2 of 5

ROUTING: WHITE -Court File, YELLOW - Police File, PINK-Judge's Copy

Affidavit for Search Warrant (Continuation)

On 02-27-2013 I assisted with a search warrant at the above-listed address of 7319 16th Avenue S.W. in the City of Seattle. During the search of the residence, I recovered more than one hundred items of evidence associated with Identity theft, including dozens of stolen and/or fraudulently obtained credit cards, driver's licenses, social security cards, and checks. Based on the evidence I recovered, the King County Prosecutors Office filed criminal charges against multiple suspects located inside the residence during the time of the search warrant. Two of the suspects were Eljohn Dacome and Jason Felipe. Dacome and Felipe failed to appear in court and felony warrants were subsequently issued and entered into W.A.C.I.C./N.C.I.C. Felipe had a felony warrant with \$10,000 bail, warrant number 131019571, entered on 09-17-2013 for three counts of Identity theft 2nd degree by the King County Sheriff's Office. Dacome had a felony warrant with \$5095 bail, warrant number 13C019589, entered on 07-23-2013 for Theft 2nd degree by the King County Sheriff's Office.

On the afternoon of 3-18-2014 I verified that Felipe and Dacome still had felony warrants out for their arrest. Bellevue police officers G. Oliden, G. Grannis, B. Schafer, and I responded to the area of 7319 16th Avenue S.W. to conduct surveillance to see if we could locate Felipe and Dacome. At approximately 1450 hours Officer Oliden saw Dacome exit the front door of the home and walk out of his view toward the back yard, where a small living structure is located. At 1500 hours, I saw Dia Tacardon, who I have arrested on multiple prior occasions, exit the front door of the home and also walk out of my view toward the back yard. I ran Tacardon through W.A.C.I.C./N.C.I.C. and discovered she had a felony warrant with no bail, warrant number 13W0098584, entered on 06-08-2013 for Escape community custody stemming from two counts of V.U.C.S.A. entered on 06-08-2013.

At approximately 1615 hours Officer Grannis saw Felipe and an unknown male exit the front door of the residence. Felipe was carrying a camera in his left hand and was carrying a black-colored satchel over his right shoulder. The unknown male was carrying an orange-colored backpack over his right shoulder. They both walked northbound on 16th Avenue S.W. then eastbound on Othello. Officer Grannis observed Felipe and the unknown male enter the driver and front passenger door, respectively, of a beige-colored Honda Accord, WA#AGT5853. The Honda was reported stolen to Seattle P.D. on 03-16-2014 (Seattle P.D. case 14-81896). Felipe and his passenger, later positively identified as Allen Bumanglag, began traveling in a southeast direction in the stolen Honda. Officer Oliden followed them in an unmarked vehicle until Officer Schafer, who was driving a fully marked police vehicle equipped with emergency lights and a siren, pulled directly behind the vehicle in the 700 block of Highland Parkway S.W. Officer Schafer activated his vehicle's emergency lights and siren to attempt to conduct a traffic stop on Felipe and Bumanglag in the stolen vehicle, however Felipe refused to pull over. Felipe turned onto southbound 2nd Avenue and quickly accelerated to an estimated 60 miles per hour in a marked 35 mile per hour zone. Due to Felipe's failure to yield and reckless driving Officer Schafer turned off his emergency equipment. Approximately one second later Officer Schafer observed Felipe drive through a red light at high speed at the intersection of 2nd Avenue S.W. and West Marginal Way S.W.

Affidavit for Search Warrant

Page 3 of 5

ROUTING: WHITE -Court File, YELLOW - Police File, PINK-Judge's Copy

Affidavit for Search Warrant (Continuation)

A civilian flagged down Officers Schafer and Oliden near 7739 1st Avenue S.W. The civilian pointed out the stolen Honda and told Officer Schafer he saw two males run southwest after they abandoned the stolen vehicle. Officers Schafer and Oliden traveled southwest and reached a Shell station approximately 100 yards away, where additional civilians pointed out Bumanglag and said he had just run into the Shell station parking lot with another male. Officer Schafer recognized Bumanglag as the passenger of the stolen vehicle due to his physical characteristics and clothing. Officer Schafer placed Bumanglag under arrest for Possession of a stolen motor vehicle and Obstructing. Officer Schafer searched Bumanglag incident to arrest. He removed a wallet from Bumanglag's pants pocket. The wallet contained Bumanglag's social security card with the number 575-94 with the last four digits scratched out. Bumanglag's wallet also contained a piece of paper with a handwritten social security number of 533-43-1607 as well as a Chase Bank deposit ticket bearing the name and address of Larina Cooper at 400 Wall Street #314 in Seattle. Bellevue Dispatch personnel ran the social security number through D.A.P.S., the Washington Driver And Plate Search, and determined the social security number belongs to Labinot * Hasani, date of birth 02-06-1984. I discovered that Hasani's wife, Qendresa Hasani, contacted Bellevue P.D. on 01-17-2014 and reported that unknown suspect(s) used Labinot Hasani's personal information to fraudulently open an account at Verizon Wireless inside the Best Buy store in Bellevue on 01-07-2014. The suspect(s) purchased two Apple brand iPhones and opened two lines of cell service. Qendresa stated she did not know how the suspect(s) obtained her husband's personal information other than the fact that she and her husband put their discarded mail into their Bellevue home's recycle and garbage bins. Qendresa stated neither she nor her husband gave any persons permission to fraudulently use Labinot Hasani's personal information to commit identity theft. (Bellevue P.D. case 14-2813).

At the time of this search warrant preparation I have been unable to contact Larina Cooper.

At approximately 1715 hours Officer Grannis observed Tacardon and Dacome exit the front door of the residence and walked southbound on 16th Avenue S.W. Officer Grannis followed them and saw them enter the 7 Eleven at 1600 S.W. Holden Street. Officers Grannis and Oliden, wearing police markings, contacted Tacardon and Dacome inside the 7 Eleven. They placed both of them under arrest for their felony warrants. Officer Oliden confirmed the warrants. Officers Oliden and Grannis then searched Dacome and Tacardon, respectively, incident to arrest. Officer Grannis recovered a partial piece of a DiscoverCard financial document inside Tacardon's pants pocket. The document bore the name Angelina Iley. Bellevue Dispatch personnel ran the name through D.A.P.S. and determined she is Angelina * Iley, date of birth 08-08-1965. At the time of this search warrant preparation I have been unable to contact Iley.

I know from my training and experience, which includes the service of dozens of criminal investigations and search warrants involving identity theft, that suspects possess personal and financial information such as other persons names, social security numbers,

Affidavit for Search Warrant


Page 4 of 5

ROUTING: WHITE -Court File, YELLOW - Police File, PINK-Judge's Copy

Affidavit for Search Warrant (Continuation)

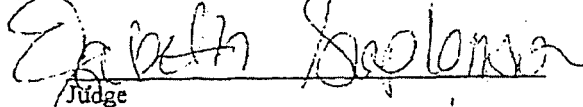
and bank account information, for the purpose of committing identity theft by fraudulently opening accounts in other persons names both in person and online.

Based on the above-listed facts I believe there is sufficient evidence that the crimes of Identity theft 2nd degree have occurred and that evidence of the crimes are currently located inside the premises at 7319 16th Avenue S.W. in the City of Seattle, County of King, State of Washington and the 1993 Honda Accord, WA#AGT5853, currently stored at the Bellevue police department.


Affiant #337

RELEVUE PD. DETECTIVE #337
Agency, Title and Personnel Number

Subscribed and sworn to before me this 15TH day of MARCH, 2014


Judge

Application for Search Warrant Approved:
DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: DARREN THOMPSON, WSBA# 42940
Deputy Prosecuting Attorney

Vehicle:

1. Beige-colored 1993 Honda Accord coupe, V.I.N. 1HGCB7271PA022427

The vehicle currently bears Washington license AGT5853. Washington Department of Licensing records show the vehicle was stolen in Seattle on 3-16-2014. The victim and registered owner of the vehicle is Nathan Riss of Seattle at 6511 48th Avenue N.E.

The search of the vehicle includes all locked and unlocked containers inside and on the vehicle.

The vehicle is currently stored at the Bellevue police department secure facility.

2. Seize, if located, the following property or person(s):

Property from 7319 16th Avenue S.W.:

- A. All computers and computer accessories, including laptop computers, desktop computers and monitors, electronic storage devices including portable storage devices, and magnetic and electronic data storage media, digital cameras, and digital images.
- B. All computer software, blank check stock, and magnetic ink.
- C. scanners, printers, laminators, laminate stock, paper card stock, laminate sleeves, laminate sheets, paint, trimmers, whiteout, scissors, paper cutters, and shredders.
- D. All items, documents, or property bearing persons' handwritten or printed names and/or personal and/or financial information.
- E. All fraudulent materials and items used to create fraudulent materials.
- F. All U.S. currency deemed proceeds from identity theft.
- G. Documents of dominion and control.

Property from beige-colored 1993 Honda Accord, WA#AGT5853:

- A. Black-colored satchel and camera carried into vehicle by Felipe and orange-colored satchel carried into vehicle by Bumanglag
- B. Documents of dominion and control.

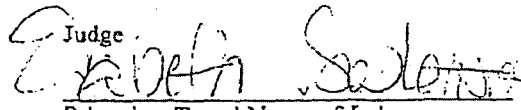
3. Promptly return this warrant to me or the clerk of this court; the return must include an inventory of all property seized.

A copy of the warrant and a receipt for the property taken shall be given to the person from who or from whose premises property is taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found.

Date/Time

3/18/14
7:41 PM

Judge


Printed or Typed Name of Judge

Search Warrant
Page 3 of 3

ROUTING: WHITE - Court File, YELLOW - Police File, PINK - Judge's Copy



BELLEVUE DISTRICT COURT FOR KING COUNTY

STATE OF WASHINGTON) NO. W-BE P 00003168
)
COUNTY OF KING) INVENTORY AND RETURN OF SEARCH WARRANT

1. I received a search warrant for the premises, vehicle or person specifically described as follows:
7319 16 AVE SW.
SEATTLE WA

2. On the 18 day of MARCH, 2014, I made a diligent search of the above-described premises, vehicle or person and found and seized the items listed below in Item 7.

3. Name(s) of person(s) present when the property was seized:
DET. J. CHRISTIANSEN, OFC. G. WIDEN, OFC. R. SMITH,
OFC. B. GRANMIS

4. The inventory was made in the presence of:
 The person(s) named in (3) from whose possession the property was taken.
 Others: ON-DUTY OFFICERS

5. Name of person served with a copy or description of place where copy is posted:
DINING ROOM TABLE

6. Place where property is now stored: BPD EVIDENCE

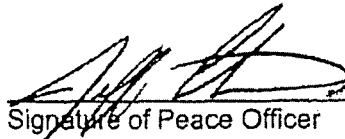
(Continued on next page)

Inventory and Return of Search Warrant (continued)

7. Property and person(s) seized: (Indicate location of property when seized):

SEE ATTACHED

Dated: 3-18-14

 #337
Signature of Peace Officer

BELLEVUE PD #337
Agency and Personnel Number

DET. JEFF CHRISTENSEN #337
Printed or Typed Name

If you have questions or concerns about this warrant or property seized, call (425) 452-6917 and ask to speak to the supervisor of the Peace Officer that signed this document.

To contest the seizure or retention of the above property, you may file a written **Motion for Return of Property** with the Court that issued the search warrant and serve a copy of your Motion on the Bellevue Police Department, Office of the Chief of Police. Please attach a copy of this **Inventory and Return of Search Warrant** to your written Motion for Return of Property to help the Court locate the proper file. Your Motion for Return of Property will be heard by the Court at a date and time set by the court clerk. See Washington Court Rules CrRLJ 2.3(e)(1) through (3) and CrR 2.3(e).



CITY OF BELLEVUE
Police Department

SEARCH WARRANT
EVIDENCE RECORD AND WORKSHEET

Date 3-10-14 Offense IS 4113 Search Warrant # W-BE00003168 Case # 14-12099

Location of Premises Searched 7319 16 AVE SW SEATTLE

Item No.	Object	Location	Gathered By	Time
JKC 1	RED BACKPACK CONTAINING ALAN BUMANGLAG'S DISCS AS WELL AS FINANCIAL DISCS, D.C.S., C.C.S., AND HAND- WRITTEN PERSONAL INFO OF MULTIPLE PERSONS	-FOUND IN EAST BEDROOM OF OUTBUILDING	337	2245
JKC 2	MULTIPLE ITEMS OF DBC BELONGING TO ALAN BUMANGLAG	-FOUND THROUGHOUT EAST BEDROOM OF OUTBUILDING	337	2245
JKC 3	MULTIPLE ITEMS OF DBC BELONGING TO EIJUN DACUME	-FOUND THROUGHOUT CENTRAL BEDROOM OF OUTBUILDING	337	2245
JKC 4	MULTIPLE FINANCIAL DISCS OF MULTIPLE PERSONS	-FOUND UNDER BED IN CENTRAL BEDROOM OF OUTBUILDING	337	2245
JKC 5	LAPTOP BAG WITH 2 LAPTOPS	-FOUND UNDER DRESSER IN CENTRAL BEDROOM OF OUTBUILDING	337	2245
JKC 6	DISCS OF EIJUN DACUME AND C.C. APPLICATION FOR TRAVIS J. PETER'S	-FOUND IN GARBAGE BAG IN CENTRAL BEDROOM OF OUTBUILDING	337	2245

JKC 7 IPAD
1581L

IN WEST BEDROOM OF
OUTBUILDING

337

2245

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Petition for Review to the Supreme Court** to which this declaration is affixed/attached, was filed in the **Court of Appeals** under **Case No. 73035-5-I**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

respondent Ian Ith, DPA
[PAOAppellateUnitMail@kingcounty.gov]
[ian.ith@kingcounty.gov]
King County Prosecutor's Office-Appellate Unit

petitioner

Attorney for other party



MARIA ANA ARRANZA RILEY, Legal Assistant
Washington Appellate Project

Date: March 28, 2016