NO 33598-4-III

COURT OF APPEALS

OF THE STATE OF WASHINGTON

DIVISION III

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STATE OF WASHINGTON, RESPONDENT

v.

BRYAN BEWICK, APPELLANT

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APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

---

# BRIEF OF RESPONDENT

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## INDEX

## TABLE OF AUTHORITIES

### WASHINGTON CASES

**FEDERAL COURT CASES**



**STATUTES**



**RULES**

## I. SUMMARY OF ARGUMENT

Often, an examination of the reasonableness of a *Terry* stop is fluid; as the circumstances surrounding the initial stop change, and as the justifications for the stop change, the analysis develops.

Here, it was initially reasonable for law enforcement officers to attempt to stop and talk to Mr. Bewick, as they had a reasonable suspicion that he was the person they were seeking on an arrest warrant. As the officers attempted to talk to Mr. Bewick regarding this warrant, but before they could confirm or dispel his identity, Mr. Bewick saw the officers, recognized them as police and began a headlong flight from the scene. His headlong flight from law enforcement properly increased their suspicions. Upon stopping Mr. Bewick, they saw him accessing or attempting to access his right front pocket which gave rise to a further reasonable suspicion that he was attempting to discard or conceal contraband. He was asked if the officers' suspicion of illegal drug possession was correct - he confirmed that it was. This confirmation provided further reason, probable cause, to detain him and arrest him on the drug charges and an extant arrest warrant.

## II. APPELLANT'S ASSIGNMENTS OF ERROR

1. The trial court erred in concluding law enforcement had sufficient basis to seize Mr. Bewick. (Conclusion of Law 1, 2, 4)

2. The trial court erred in concluding law enforcement properly searched Mr. Bewick's pocket for contraband when the limited basis for the initial detention had been achieved. (Conclusion of Law 3, 4)

3. The trial court erred in denying Mr. Bewick's motion to suppress. (Conclusion of Law 5).

4. The court improperly imposed legal financial obligations where Mr. Bewick lacks the ability to pay.

5. The boilerplate "finding" that Mr. Bewick has the ability to pay legal financial obligations is without support in the record.

## III. ISSUES PRESENTED

1. Did existing and evolving circumstances surrounding the initial *Terry* stop legally support the detention and subsequent arrest in this case?

2. Has the defendant preserved any appellate argument relating to his the mandatory court costs imposed by the trial court?

## IV. STATEMENT OF THE CASE

On February 19, 2015, the U.S. Marshals' Violent Offender's Task Force was searching for a wanted person in the area of 12114 E. Cataldo Avenue, in Spokane County, Washington. CP 57 (Finding of Fact 1). The subject being sought was a white male known as

Brent Graham, known to be staying in apartment 17 of the apartment complex at the above address. CP 58 (Finding of Fact 2). The defendant was observed walking down a stairway from the general area of apartment 17, wearing a hoodie covering his head and sunglasses. Nothing could be discerned visually other than the defendant's physical stature and ethnicity. CP 58 (Finding of Fact 3).

The police officers at that point believed that this individual might well be Mr. Graham. RP 10:8-10 (May 14, 2015 Oral Decision Motion to Dismiss). The Task Force officers, who were wearing protective body armor with the word POLICE on the front, approached the defendant, and identified themselves to the defendant who was, at that time, getting into a vehicle with a white female. CP 58 (Finding of Fact 4); RP 10:14-18. Upon seeing the officers, who were immediately recognizable as law enforcement, the defendant began running from the scene. CP 58 (Finding of Fact 5); RP 10.

The defendant was stopped by the officers after a short foot pursuit. CP 58 (Finding of Fact 6); RP 10. "Upon being detained, Defendant Mr. Bewick was, in the officers' opinion, being fidgety, displaying furtive movements, and reaching around in the front left pocket of his jeans." CP 58 (Finding of Fact 7), RP 10-11. The officers reasonably believed, based on their training and experience, that

Mr. Bewick might be attempting to hide, discard or destroy contraband or evidence in those motions and movements, in reference to the left front pocket of his jeans. RP 11; CP 58 (Finding of Fact 7), 59 (Conclusion of Law 3). "It was reasonable on the part of the officers to interpret these movements as furtive gestures, again according to their experience and training." RP 11; CP 58 (Finding of Fact 7), 59 (Conclusion of Law 3). "And at a point right after that, Mr. Bewick did indicate upon being asked the question that he did have contraband, *i.e*., unlawful drugs in his pocket." RP 11.

The officers then retrieved a baggie containing a white crystalline substance appearing to be methamphetamine, and a vial containing what appeared to be black tar heroin. CP 58 (Finding of Fact 8). Thereafter, the officers did an identification check "and learned that Mr. Bewick had a warrant for his arrest, that in fact he was not Mr. Graham, and he was arrested." RP 11; CP 58 (Finding of Fact 10). A field test administered by Detective Dean Meyer of the Spokane County Sheriff's Department confirmed the referenced substances to be methamphetamine and heroin, respectively. CP 58 (Finding of Facts 9, 10). The trial court determined that "[t]he totality of the circumstances, the officer's observations and reasonable conclusions, render the stop and subsequent discovery of the

contraband, and service of the outstanding warrant, lawful." CP 59 (Conclusion of Law 4).

## V. ARGUMENT

### A. THE EXISTING AND EVOLVING CIRCUMSTANCES SURROUNDING THE INITIAL *TERRY* STOP LEGALLY SUPPORTED THE DETENTION AND SUBSEQUENT ARREST OF THE DEFENDANT.

**Standard of Review**

An appellate court reviews a trial court's findings of fact for substantial evidence, while the constitutionality of a warrantless stop is a question of law subject to de novo review. *State v. Gatewood*, 163 Wn.2d 534, 539, 182 P.3d 426 (2008).

A valid *Terry* stop requires that the officer have reasonable suspicion of criminal activity based on specific and articulable facts known to the officer at the inception of the stop. *State v. Fuentes*, 183 Wn.2d 149, 158, 352 P.3d 152 (2015), citing *State v. Gatewood*, 163 Wn.2d 534, 539–40, 182 P.3d 426 (2008). In evaluating the reasonableness of the officer's suspicion, the reviewing court looks at the totality of the circumstances known to the officer. *State v. Glover*, 116 Wn.2d 509, 514, 806 P.2d 760 (1991). The totality of circumstances includes the officer's training and experience, the location of the stop, the conduct of the person detained, the purpose of the stop, and the amount

of physical intrusion on the suspect's liberty. *State v. Acrey,* 148 Wn.2d 738, 746–47, 64 P.3d 594 (2003).

Appellate courts may resort to the trial court's oral decision to ascertain the legal and factual basis upon which the trial court predicated its finding, or to interpret written findings of fact and conclusions of law to the extent the oral decision does not contradict the written findings. *State v. Moon*, 48 Wn. App. 647, 653, 739 P.2d 1157, *review denied*, 108 Wn.2d 1029 (1987); *State v. Eppens,* 30 Wn. App. 119, 633 P.2d 92 (1981).

**Argument**

Here, it was initially reasonable for law enforcement officers to approach Mr. Bewick when he was observed coming down a stairway from apartment 17, the apartment known to be occupied by the person being sought by these officers on an arrest warrant. In fact, Mr. Bewick matched the description of that person. CP 58 (Finding of Fact 1, 2); CP 20 (officer's affidavit).[1] However no *Terry* stop transpired at that

[1] The defendant was observed coming down a stairway from the general area of apartment 17, wearing a hoodie covering his head and sunglasses. Nothing could be discerned visually other than the defendant's physical stature and ethnicity. CP 58 (Finding of Fact 3).

time - before the officers could talk to Mr. Bewick,[2] he saw the officers approaching, immediately recognized them as law enforcement, and began his headlong flight from the scene. A brief foot pursuit followed, and Mr. Bewick was detained.

This initial *Terry* stop was justified as the officers had reasonable grounds to believe that Mr. Bewick was the person sought on the arrest warrant, and, moreover, the reasonableness of that belief was enhanced by the defendant's hasty flight from the officers, as such headlong flight is the "consummate act of evasion." *Illinois v. Wardlow*, 528 U.S. 119, 124, 120 S. Ct. 673, 145 L.Ed.2d 570 (2000).

In *Wardlow*, the Supreme Court found the defendant's unprovoked flight upon noticing the police as the "consummate act of evasion," and found when that action occurs in a high crime area, it gives sufficient reason to suspect the defendant was involved in criminal activity warranting a *Terry* stop for further investigation. *Wardlow*, 528 U.S. at 124-25. The Court noted that its prior jurisprudence "recognized that nervous, evasive behavior is a pertinent factor in

[2] "It is settled that law enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street or in another public place, by asking him if he is willing to answer some questions, by putting questions to him if the person is willing to listen, or by offering in evidence in a criminal prosecution his voluntary answers to such questions." *Florida v. Royer,* 460 U.S. 491, 498, 103 S.Ct. 1319, 1324, 75 L.Ed.2d 229 (1983).

determining reasonable suspicion." *Wardlow*, 528 U.S. at 124. Washington State courts follow this reasoning. "Furtive gestures, evasive behavior, and flight from the police are circumstantial evidence of guilt. *State v. Baxter*, 68 Wn.2d 416, 421–22, 413 P.2d 638 (1966) (flight is an element of probable cause); *State v. Huff*, 64 Wn. App. 641, 647, 826 P.2d 698, *review denied* 119 Wn.2d 1007 (1992) (furtive movements are facts supportive of probable cause)." *State v. Graham*, 130 Wn.2d 711, 725-26, 927 P.2d 227 (1996). Indeed, if a person runs from officers and refuses to stop when requested to do so, the person is committing the offense of obstructing a public servant. *See State v. Little*, 116 Wn.2d 488, 498, 806 P.2d 749 (1991).

Here, the officers had sufficient reasonable suspicion to stop Mr. Bewick where they had reason to believe he was the subject sought in the warrant, and he immediately engaged in an unprovoked headlong flight from the officers upon recognizing them as such. It was reasonable for the officers to consider this unprovoked headlong flight as further reason to believe that the fleeing subject was "wanted." "[T]he determination of reasonable suspicion must be based on commonsense judgments and inferences about human behavior." *Wardlow*, 528 U.S. at

125.[3] Additionally, "[a] determination that reasonable suspicion exists, however, need not rule out the possibility of innocent conduct." *United States v. Arvizu*, 534 U.S. 266, 274, 122 S.Ct. 744, 151 L.Ed.2d 740 (2002). *See also State v. Kennedy*, 107 Wn.2d 1, 6, 726 P.2d 445 (1986).

Mr. Bewick's headlong flight from the officers properly raised their suspicions, and, moreover, as they ran and then stopped him, they saw him accessing or attempting to access his front pocket which gave rise to a further reasonable suspicion that he was attempting to discard or conceal contraband. Based upon this suspicion, they asked him if he had drugs and he confirmed that he had illegal drugs in his pocket. This confirmation provided further reason to detain him and arrest him on the drug charges and an extant arrest warrant.

Appellant attempts to factually recast this portion of the stop and the timeline in the case. He attempts to claim that the officers had stopped him, had identified him as not being the subject wanted or sought by the Agents, but yet continued to detain him (for no cause) at which time he became fidgety and attempted to discard or hide the drugs in his pocket.

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[3] Compare *State v. Gatewood*, 163 Wn.2d 534, 540, 182 P.3d 426, (2008) (court notes that flight from police officers may be considered along with other factors in determining whether officers had a reasonable suspicion of criminal activity, citing *State v. Little*, 116 Wn.2d 488, 496, 806 P.2d 749 (1991), but noted that Mr. Gatewood did not flee from the police).

RP 14-16.[4] However, this claim as to how the sequence of events transpired is refuted by the trial court's oral ruling on the subject:

> Upon identifying themselves and attempting to contact Mr. Bewick, Mr. Bewick ran. There was a short foot pursuit. Mr. Bewick was detained at the point of the end of that short foot pursuit. Upon being detained, Defendant Mr. Bewick was, in the officers' opinion, being fidgety, displaying furtive movements, reaching around in the front left pocket of his jeans. The officer, based on training and experience, indicated in the report that his view was that Mr. Bewick might be attempting to hide, discard or destroy contraband or evidence in those motions and movements, in reference to the jeans pocket. It was reasonable on the part of the officers to interpret these movements as furtive gestures, again according to their experience and training. And at a point right after that, Mr. Bewick did indicate upon being asked the question that he did have contraband, i.e., unlawful drugs in his pocket. **The officers then did an identification check, apparently, and learned that**

[4] Defendant cites to an officer's report (CP 28) for the non-judicial "finding" that the officers knew the defendant was not the subject, Mr. Graham, they were seeking, as soon as they stopped him. That report first notes that: "3. Mr. Graham was reportedly staying in an upstairs apartment, number 17. We were positioned in our vehicle watching the stairway that came down from that apartment. 4. Mr. Graham was a white male of which we had only a *general* description of his physical stature." CP 27 (emphasis added). "A white male, accompanied by a female, came down the stairway leading to apartment 17…."

Additionally, the booking photo of Mr. Graham that appellant *suggests* shows the officers knew that Mr. Bewick was not the Mr. Graham (Appellant's Br., p. 5) who was wanted on the federal warrant *was not taken until 5 days after Mr. Bewick's arrest* on February 19 (CP 58, Finding of Fact 1). *See* CP 16 (photo of Mr. Graham taken on 02/25/2015).

> **Mr. Bewick had a warrant for his arrest, that in fact he was not Mr. Graham, and he was arrested.**

RP 10-11 (emphasis added).

This oral ruling does not conflict with the trial court's written findings. An appellate court may consider a trial court's oral decision if it clarifies the written order, but not when it contradicts the written order. *State v. Kull*, 155 Wn.2d 80, 88, 118 P.3d 307 (2005), citing *State v. Bryant*, 78 Wn. App. 805, 812–13, 901 P.2d 1046 (1995); *and see State v. McReynolds*, 142 Wn. App. 941, 949, 176 P.3d 616 (2008). In the instant case, it was only after the fidgeting and admission that he had drugs that the officers learned that "in fact, he was not Mr. Graham, and he was arrested." RP 11, CP 58 (Finding of Fact 10). Defendant does not argue on appeal that this fidgeting and admission of having illegal drugs did not establish continuing probable cause or reasonable suspicion for the detention. No objection has been taken to factual findings 7 or 8. CP 58 (Finding of Facts 7, 8).

This factual situation is very similar to that in *Graham*, where our Supreme Court affirmed the conclusion that the officer's had probable cause to arrest Mr. Graham:

> In the present case, the officers involved both had extensive experience and training in dealing with narcotics. Officer Bogucki testified that she had been involved in more than 1,000 narcotics arrests during a 5–year period.

> Officer Hackett testified that she had made well over 1,200 felony drug arrests, with all but about 10 dealing specifically with rock cocaine. Both officers testified that they saw the defendant carrying a large amount of cash and a small packet containing what looked like rock cocaine.
>
> The defendant's reaction when he saw the officers was to quickly conceal the contents of his hands and to hide it in his front pants pockets. He then ignored the officers' request to stop. He looked very nervous and was sweating profusely even though the temperature was cold to the officers. Furtive gestures, evasive behavior, and flight from the police are circumstantial evidence of guilt. *State v. Baxter*, 68 Wn.2d 416, 421–22, 413 P.2d 638 (1966) (flight is an element of probable cause); *Huff*, 64 Wn. App. at 647, 826 P.2d 698 (furtive movements are facts supportive of probable cause).
>
> The facts and circumstances within the officers' knowledge were sufficient to cause a person of reasonable caution to believe the defendant possessed an illegal drug. They therefore had probable cause to arrest the defendant and were acting lawfully when they detained him.

*Graham*, 130 Wn.2d at 725-26.

Like in *Graham*, here, the officers had reasonable grounds to detain the defendant because he matched the limited description of the person they were seeking, and had come down the stairway that led to apartment 17. However, before detention could occur, and as they he approached him, he began his headlong flight away from them, adding to the existing basis for the stop. After he was apprehended, he was immediately observed to be acting furtively and in a manner consistent with one hiding illegal drugs - which he immediately admitted to. The

trial court properly refused to suppress the evidence under these circumstances.

B. THE DEFENDANT'S DETENTION WAS LAWFUL WHERE THERE WERE ADDITIONAL REASONS SUPPORTING HIS ARREST FOR OBSTRUCTING A PUBLIC SERVANT.

The defendant confesses and concedes that he ran away from the U.S. Marshals when Agent Eric Carlson yelled "stop, police." Appellant's Br., p. 12. ("Mr. Bewick began to run away from the Marshals when Agent Eric Carlson effectuated a seizure by yelling, 'stop, police.'"). Additionally, the trial court made the factual finding that the defendant, Mr. Bewick, fled from the officers *knowing* they were police. CP 58 (Finding of Fact 5); RP 10. Under these facts, the officers had additional probable cause to arrest Mr. Bewick for obstructing a public servant.

A person is guilty of obstructing if he willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties. RCW 9A.76.020. Official duties encompass all aspects of a law enforcement officer's good faith performance of job-related duties, excluding conduct occurring when the officer is on a frolic of his or her own. *State v. Mierz*, 127 Wn.2d 460, 479, 901 P.2d 286 (1995). The *Mierz* Court further explained that *Mierz's* reliance on an obstruction case, *State v. Little*, 116 Wn.2d 488, 806 P.2d 749 (1991),

was misplaced, because that case held that defendants' flight from the officers and refusal to stop when ordered to do so constituted an obstruction of a public servant:

> *Little*, in fact, supports the view that if officers stop a person for investigative purposes, that person's flight from the officer may be punished as the obstruction of a public servant in the performance of duties under RCW 9A.76.020. *Little*, at 496-97, 806 P.2d 749.

*Mierz*, 127 Wn.2d at 479.

In *State v. Hudson*, 56 Wn. App. 490, 784 P.2d 533, *review denied*, 114 Wn.2d 1016 (1990), Division One held that "[t]he established rule is that flight constitutes obstructing, hindering, or delaying within the meaning of statutes comparable to RCW 9A.76.020(3)." *Id*. at 497. In reaching this conclusion, the court examined both cases from our state and elsewhere:

> We conclude the officers were performing official duties because there is no evidence they were acting in bad faith. "An agent, even if effecting an arrest without probable cause, is still engaged in the performance of his official duties, provided he is not on a 'frolic of his own'." *United States v. Martinez*, 465 F.2d 79, 82 (2d Cir.1972); *see People v. Carroll*, 133 Ill.App.2d 78, 272 N.E.2d 822 (1971).

*Hudson*, 56 Wn. App. at 496-96.

In *City of Spokane v. Hays*, 99 Wn. App. 653, 995 P.2d 88 (2000), this Court examined an obstruction case where the defendant was a

passenger in a vehicle that was stopped for an infraction. He refused an officer's request to roll down the window, telling the officer that he had read in the paper that as a passenger he was not required to comply with law enforcement at a traffic stop. *Id*. at 656. Mr. Hays also alleged there was no lawful basis in the municipal code for stopping the car in the first place. *Id*. at 660. Addressing these arguments, the court affirmed the conviction, holding:

> Mr. Hays' interpretation of the code has merit. (Footnote omitted). But the offense here was obstructing a police officer. It does not then make any difference that the original traffic stop was unjustified.
>
> A citizen must not willfully hinder, delay, or obstruct a law enforcement officer discharging his "official powers or duties." RCW 9A.76.020; SMC 10.07.032. Officers are performing official duties even during an arrest that later turns out to be without probable cause, provided they were not acting in bad faith or engaged in a "frolic" of their own. *State v. Hudson*, 56 Wn. App. 490, 496-97, 784 P.2d 533 (1990). Even if the officer is acting unlawfully, the citizen must still comply, and rely on legal recourse. *State v. Barnes*, 96 Wn. App. 217, 224-25, 978 P.2d 1131 (1999) (citing *State v. Valentine*, 132 Wn.2d 1, 19, 935 P.2d 1294 (1997)).
>
> …
>
> Even if Mr. Hays' interpretation of the code is correct, the only effect would be that Ms. Stewart, the driver, would prevail if she were to challenge the ticket. She would not be relieved from her duty to stop and cooperate. Similarly, just because the passenger is not seized when the car he is riding in is lawfully stopped for a traffic infraction does not mean that he is not required to comply with the instructions of the officers controlling the

> scene. Mr. Hays was required to cooperate, whether the traffic citation issued to the driver was valid or not.
>
> The alleged traffic infraction here may be debatable. But this does not excuse Mr. Hays' failure to cooperate with officers at the scene.

*Hays*, 99 Wn. App. at 660-61.

Presently, the appellant does not argue that the officers involved in this case were engaged in some frolic or were acting in bad faith, nor could he. Therefore, a sufficient additional ground exists for the arrest and detention of Mr. Bewick. *See Nast v. Michels*, 107 Wn.2d 300, 308, 730 P.2d 54 (1986) ("[A]n appellate court may sustain a trial court on any correct ground, even though that ground was not considered by the trial court"); *and see State v. Gibson*, 152 Wn. App. 945, 958, 219 P.3d 964, (2009) (applying the above rule to a trial court's order denying the suppression of evidence). Additionally, RAP 2.5(a) provides, "A party may present a ground for affirming a trial court decision which was not presented to the trial court if the record has been sufficiently developed to fairly consider the ground." The appellate court may affirm the trial court on an alternative theory, even if not relied on below, if it is established by the pleadings and supported by proof. *State v. Lakotiy*, 151 Wn. App. 699, 707, 214 P.3d 181, (2009), *State v. Flowers*, 57 Wn. App. 636, 640-41, 789 P.2d 333 (1990) (probable cause to arrest plus exigent

circumstances supported warrantless entry); *State v. Sondergaard*, 86 Wn. App. 656, 657-58, 938 P.2d 351 (1997) ("we may affirm a trial court's decision on a different ground if the record is sufficiently developed to consider the ground fairly"). Here, the issue was fairly raised below. CP 25-26 (State's Response), 30-32 (Defendant's Reply). The facts were agreed to for the most part and the defendant concedes that he ran away from the Marshals when Agent Eric Carlson yelled "stop, police." Appellant's Br., p. 12. Therefore, this is an additional basis for arresting the defendant.

C. THE TRIAL COURT PROPERLY ORDERED THE $800 IN MANDATORY FINANCIAL OBLIGATIONS, AND ANY ISSUE REGARDING THAT PORTION OF THE SENTENCE WAS WAIVED BY THE DEFENDANT'S FAILURE TO RAISE THE CLAIM TO THE TRIAL COURT.

The trial court ordered $800 in financial obligations. CP 36. This included the $500 crime victim assessment, $100 DNA (deoxyribonucleic acid) collection fee, and $200 criminal filing fee. *Id.* These are mandatory legal financial obligations, each required irrespective of the defendant's ability to pay. *State v. Lundy*, 176 Wn. App. 96, 102, 308 P.3d 755 (2013). The $500 victim assessment is mandated by RCW 7.68.035, the $100 DNA collection fee is mandated by RCW 43.43.7541, and the $200 criminal filing fee is mandated by RCW 36.18.020(2)(h). CP 36, 43-44. These statutes do not require the

trial court to consider the offender's past, present, or future ability to pay. *Lundy, supra*. To the extent that the trial court imposed mandatory legal financial obligations (LFOs), there is no error in the defendant's sentence.

Furthermore, the defendant failed to raise any claim regarding financial obligations in the lower court, and has therefore waived the right to raise them here. RAP 2.5(a) formalizes a fundamental principle of appellate review. No procedural principle is more familiar than that a constitutional right, or a right of any other sort, may be forfeited in criminal cases by the failure to make timely assertion of the right before a tribunal having jurisdiction to determine it. *United States v. Olano*, 507 U.S. 725, 731, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993); *Yakus v. United States*, 321 U.S. 414, 444, 64 S.Ct. 660, 88 L.Ed. 834 (1944); *State v. Dyson*, 189 Wn. App. 215, 360 P.3d 25 (2015).

Good sense lies behind the requirement that arguments be first asserted in the lower court. This prerequisite affords the trial court an opportunity to rule correctly on a matter before it can be presented on appeal. *State v. Strine*, 176 Wn.2d 742, 749, 293 P.3d 1177 (2013). There is great potential for abuse when a party does not raise an issue below. RAP 2.5 serves the goal of judicial economy by enabling trial courts to correct mistakes and thereby obviate the needless expense of appellate review and further trials, facilitates appellate review by ensuring that a

complete record of the issues will be available, and prevents adversarial unfairness by ensuring that the prevailing party is not deprived of victory by claimed errors that he had no opportunity to address. *Strine*, 176 Wn.2d at 749–50 (2013); *State v. Scott*, 110 Wn.2d 682, 685, 757 P.2d 492 (1988). The inclusion of the $800 costs was proper.

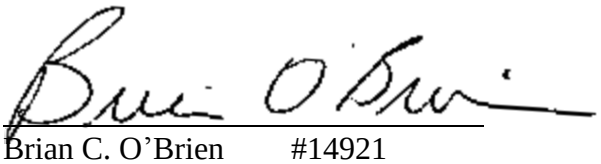
## VI. CONCLUSION

Here, it was initially reasonable for law enforcement officers to attempt to stop Mr. Bewick, as they had a reasonable suspicion that he was the person they were seeking on an arrest warrant. As the officers attempted to talk to and approach Mr. Bewick regarding this warrant, but before they could confirm or dispel his identity, Mr. Bewick saw the Agents and, immediately recognizing them as law enforcement, bolted from the scene. This headlong flight properly increased the officer's suspicions. Upon stopping Mr. Bewick, they saw him accessing or attempting to access his right front pocket which gave rise to a further reasonable suspicion that he was attempting to discard or conceal contraband. Based upon this suspicion, officers asked him if was trying to hide illegal drugs in this pocket. He confirmed that he was. This confirmation provided further reason to detain him and arrest Mr. Bewick on the drug charges and an extant arrest warrant. For the reasons stated above the trial court's order denying defendant's motion for suppression

should be affirmed, as should the trial court's imposition of the mandatory financial obligations of $800 at sentencing.

Dated this 5 day of February, 2016.

LAWRENCE H. HASKELL
Prosecuting Attorney



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

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| STATE OF WASHINGTON,<br><br>Respondent,<br>v.<br><br>BRYAN BEWICK,<br><br>Appellant, | NO. 33598-4-III<br><br>CERTIFICATE OF MAILING |

I certify under penalty of perjury under the laws of the State of Washington, that on February 5, 2016, I e-mailed a copy of the Brief of Respondent in this matter, pursuant to the parties' agreement, to:

Marla Leslie Zink
wapofficemail@washapp.org

| 2/5/2016 | Spokane, WA | Kim Cornelius |
|---|---|---|
| **(Date)** | **(Place)** | **(Signature)** |