DERRICK RUNBELWUST

SAWC
125 N 8TH W
ST. ANTHONY, ID 83445

WASHINGTON STATE
COURT OF APPEALS DIVISION I

DERRICK UNBELWUST VS. STATE OF WASHINGTON	CASE NO. 76795-0-I ~~MOTION~~ PETITION FOR REVIEW (SUPREME COURT)

COMES NOW, DERRICK UNBELWUST, PLANTIFF IN THE ABOVE ENTITLED

THE FINDINGS AND OPINIONS IN THE REVIEW ARE INCORRECT, SO THIS PETITION IS TO CLARIFY THE FACTS FOR THE SUPREME COURT

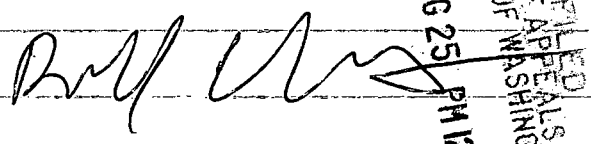
IN MAY 2014 I TOOK A PLEA BARGAIN FOR 36 MONTHS (AN EXCEPTIONAL SENTENCE) ON CRIMES THAT HELD A SENTENCING RANGE OF 14-17 MONTHS. AT THE TIME I WAS DUMB, NIEVE, AND UNEDUCATED IN LAW, AFTER I GOT TO PRISON I EXPLAINED

MY CASE TO SOME PEERS WHO WERE SLIGHTLY EDUCATED IN LAW, I WAS UNDER THE IMPRESSION THAT IF I DID NOT TAKE THE PLEA BARGAIN OF 36 MONTHS THAT I WAS GOING TO GET 2-3 CHARGES RAN CONSECUTIVE AND END UP DOING ATLEAST 10 YEARS SO I DID TAKE THE DEAL HOWEVER COERCED IS MORE LIKE IT NOT VOLUNTARILY THESE WERE ALL CLASS C FELONIES WITH ALOT OF SAME CRIMINAL CONDUCT NOW I REALIZE 10 YEARS IS COMICAL I HAD NO OFFENDER POINTS BUT AT THE TIME I WAS FORCED TO TAKE THE PLEA BARGAIN NOT PHYSICALLY BUT MENTALLY, BRUCE HANIFY INFORMED ME TRIAL WAS A BAD IDEA "THEY WOULD NOT LIKE ME" THOSE ARE HIS WORDS NEVER ONCE DID HE INFORM ME THAT ALL I NEEDED WAS 1 JUROR OR IF I WAS FOUND GUILTY MY APPEAL OPTIONS MR HANIFY AND MR BIGELOW TEAMED UP AND COERCED IN TO 36 MONTHS. IN 2015 I WAS INTRODUCED TO THE LAW LIBRARY AND FOUND 7.8 MOTION A COLLOTARAL ATTACK ON MY PLEA BARGAIN I FILED IT AND THE STATE DISMISSED IT LEADING TO THIS APPEAL. THE STATE DISMISSED MY APPEAL BASED ON THE ORGINAL GUILTY PLEA AT THAT TIME I WAIVED MY RIGHTS TO A DIRECT APPEAL, ONCE AGAIN

MY APPEAL IS DIRECTED FROM THE 7.8 MOTION WHICH OFFERED APPEAL OPPURTUNITYS; THE PLEA BARGAIN STATED I PLEAD TO 6 COUNTS AND 4 WILL BE DISMISSED THEY ARE USING 10 OF THE SAME CHECKS THAT WERE FOUND IN MY PASSENGERS PURSE WICH GOT SUPPRESSED CLEARLY SAME CRIMINAL CONAUCT. THERE WAS NOT ONE SINGLE REASON FOR AN EXCEPTIONAL SENTENCE NONE WHATS SO EVER EXCEPT FOR I CALLED MR BIGLOW CRAZY ON RECORDING AND HE GOT OFFENDED I HAVE OR HAD 0 POINTS FOR AND OFFENDER SCORE, NO MITIGATING FACTORS, OR AGAVATORS SO THE ONLY REASON WOULD BE RETALIATION THE SENTENCEING RANGE WAS 14-17 MONTHS SO MY PLEA BARGAIN WAS DOUBLE THE SENTENING RANGE. THE STATE DISMISSED MY APPEAL CAUSE I PLEAD GUILTY VOLUTARILY STATE V SMITH, 134 WN 2d 849 852, 953, P2d 810 (1998) HOWEVER MY APPEAL COMES FROM A 7.8 MOTION BECAUSE I WAS COERCED NOT VOLUNTERING, THE COURT FOUND THE EXCEPTIONAL SENTENCE ON "1 THE OFFENSE INVOLVED MULTIPLE VICTIMS," 2 THE OFFENSE INVOLVED MULTIPLE VICTIMS AND MULTIPLE INCEDENTS. NONE OF THAT IS CORRECT. I WAS CHARGED WITH CHECKS THAT WERE IN MY WALLET DURING A ROUTINE TRAFFIC STOP, NO VICTIMS, NO INCIDENTS, AND CLEARLY NO HIGH DEGREE OF SAFISTICATION. SO I ASK THE

COURT WITH RESPECT TO JUST LOOK AT THIS CASE I AM NOT THE MOST EDUCATED IN LAW BUT I HAVE A STRONG CASE HERE THE OFFICERS LACKED PROBABLE CAUSE FOR THE SEARCH WARRENT AFTER THE TRAFFIC STOP WAS COMPLETE. I SHOULD HAVE BEEN RELEASED I MEAN I BLEW A 0.0 I JUST COULD NOT BREANCE AND EVEN IF THE WARRANT WAS FOR DRUGS SPECIFICALLY CAN STATES THE WARRENTS MUST BE SPECFIC THERE IS NO EXPLORATORY SEARCHES. I HAVE RESEARCHED ALL THIS THE BEST I COULD WITH WHAT I GOT I AM STILL INCARCERATED IN ANOTHER STATE ITS NOT EASY

RESPECTFULLY SUBMITTED THIS 21 DAY OF AUGUST 2017



CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT ON THE 21 DAY OF AUGUST, 2017, I MAILED A TRUE AND CORRECT COPY OF THE, MOTION FOR ADDITIONAL INFORMATION VIA PRISON MAIL SYSTEM FOR PROCESSING TO THE U.S. MAIL SYSTEM TO:

WASHINGTON STATE COURT OF APPEALS DIVISION I
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SCANNED

NO. 48340-8-II

IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON
RESPONDENT

V.

DERRICK UNBEWUST
APPELLANT

ON APPEAL FROM THE
SUPERIOR COURT OF WAHKIAKUM COUNTY

BEFORE
THE HONORABLE, FABION, JUDGE

OPENING BRIEF OF APPELLANT

DERRICK UNBEWUST #113556
ISC I
PO BOX 14
BOISE, ID 83707

DERRICK UNBEWUST
PROSE, APPELLANT

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ASSIGNMENTS OF ERROR

① THE STATE FAILED TO SHOW REASONABLE CAUSE FOR WARRENT/SEIZURE

② SEARCH WARRENT WAS FOR METHAMPHETIMINE ONLY/SPECIFICALY NOT CHECKS, PRINTERS, OR IDENTIFICATION CARDS.

③ THE STATE FAILED TO SHOW REASONING FOR A EXCEPTIONAL SENTENCE

ISSUE'S PERTAINING TO ASSIGNMENTS OF ERROR

① I WAS PULLED OVER FOR DEFECTIVE HEADLIGHT THAT I AM 100% SURE WAS WORKING JUST FINE, THERE WAS NO CRIMINAL ACTIVITY PRESENTLY BEING COMMITED OR ABOUT TO BE COMMITED

② THEY GOT A WARRENT FOR METHAMPHETIMINE UNDER ILLEGAL PRETENSES, AND SEIZED CHECKS, PRINTERS, AND OTHER

ALLEGED IDENTITY THEFT MATERIAL

③ DID STATE SHOW VALID REASONING, AGAVATORS OR MITIGATING FACTORS TO IMPOSE A EXCEPTIONAL SENTENCE

STATEMENT OF THE CASE

ON NOVEMBER 26, 2013, IN WAHKIAKUM COUNTY, AT APPROXIMATELY 11:3(
PM ON SR4, WASHINGTON STATE TROOPER MACOMBER STOPPED THE VEHICLE MR. UNBEWUST WAS DRIVING FOR A DEFECTIVE HEADLIGHT. NO OTHER SUSPICIOUS ACTIVITY SUPPORTED THE STOP OF SAID VEHICLE.

AS THE SEIZURE PROGRESSED, TROOPER MACOMBER REPORTED THAT, AMONG THINGS, HE BECAME SUSPICIOUS THAT MR. UNBEWUST WAS DRIVING IMPAIRED. MR UNBEWUST AGREED TO PERFORM STANDARDIZED FIELD SOBRIETY TESTS. HE SHOWED NO SIGNS OF NYSTAGMUS, BUT DID SHOW SOME SIGNS OF NOT BEING ABLE TO BALANCE DURING OTHER TESTS. HE PROVIDED A P.B.T SAMPLE OF .00 HE APPERENTLY STATED TO ONE OF

THE TROOPERS THAT HE HAD CONSUMED MARIJUANA 4-5 HOURS BEFORE.

TROOPER MACOMBER PLACED MR UNBEWUST, WHO HAD IDENTIFIED HIMSELF AS STEVE HACKETT, UNDER ARREST FOR D.U.I. WHEN MR UNBEWUST WAS SEARCHED, A PACKAGE WITH A SMALL AMOUNT OF WHAT APPEARED TO BE METHAMPHETIMINE WAS LOCATED ON HIS PERSON, AS WELL AS A CHECK ISSUED TO ANOTHER PERSON.

JUDGE FAUBION ISSUED A WARRENT PERMITING WITHDRAWL OF BLOOD, AS WELL ASS A SEARCH OF VEHICLE

ADDITIONAL CONTRABAND WAS DISCOVERED IN THE VEHICLE WICH LED TO NUMEROUS CHARGES. IT IS THE UNDERSIGNED'S BELIEF THAT THE FACTS OF THIS CASE PRESENT A VALID ISSUE CONCERNING THE VALIDITY OF MR UNBEWUST'S ARREST

AND THE SEARCH OF H.S VEHICLE.

ARGUMENT

AS A GENRAL RULE, WARRENTLESS SEARCHES AND SEIZURES ARE PER SE UNREASONABLE. STATE V ROSS, 4P.3d 130, 141 WN.2d 304 (2000). THE STATE CARRIES THE BURDED OF SHOWING THAT THE PARTICULAR SEARCH OR SEIZURE IN QUESTION FALLS WITHIN AN EXCEPTION TO THE WARRENT REQUIREMENT. TO JUSTIFY AN INVESTIGATORY STOP, THE OFFICER MUST HAVE A REASONABLE ARTICULABLE SUSPICION, BASED ON OBJECTIVE FACTS, THAT THE PERSON SEIZED HAS COMMITED OR IS ABOUT TO COMMIT A CRIME. U.S.C.A CONST. AMEND. 4; RCWA CONST ART 1 SEC 7.

WHEN AN UNCONSTITUTIONAL SEARCH OR SEIZURE OCCURS, ALL SUBSEQUENTLY UNCOVERED EVIDENCE BECOMES FRUIT OF THE POISONESS TREE AND MUST BE SUPPRESSED. STATE V LADSON, 138 WASH. 2d 343, 359, 979 P.2D 833 (1999). THE REASONABLENESS

OF SUCH A DETENTION DEPENDS "ON A BALANCE BETWEEN THE PUBLIC INTEREST AND THE INDIVIDUAL'S RIGHT TO PERSONAL SECURITY FREE FROM ARBITRARY INTERFERENCE BY LAW OFFICERS." UNITED STATES V BRIGNONI-PONCE, 422 U.S. 873, 878, 95 S.Ct. 2574, 2578, 45 L.Ed.2d 607 (1975) (CITATIONS OMITTED); ACCORD BROWN V TEXAS, 443 U.S. 47, 99 S.Ct. 2637, 61 L.Ed.2D 357 (1979). A SEIZURE IS REASONABLE IF THE STATE CAN POINT TO "SPECIFIC AND ARTICULABLE FACTS GIVING RISE TO A REASONABLE SUSPICION THAT THE PERSON STOPPED IS, OR IS ABOUT TO BE, ENGAGED IN CRIMINAL ACTIVITY." STATE V GLEASON, 70 WASH. APP. 13, 17, 851 P.2d 731 (1993) (CITING TERRY, 392 U.S AT 21-22, 88 S.Ct. AT 1879-1881); ACCORD UNITED STATES V CORTEZ, 449 U.S. 411, 417, 101 S.Ct. 690, 694, 66 L.Ed.2D 621 (1981); STATE V GARCIA, 125 WASH 2D 239, 242, 883 P.2d 1369 (1994). GENRALLY, UNDER THE 4TH

AMENDMENT, A POLICE OFFICER'S SEIZURE OF EITHER EVIDENCE OF A CRIME IN A CONSTITUTIONALLY PROTECTED AREA OR SEIZURE OF A CRIME SUSPECT MUST BE SUPPORTED BY A JUDICIAL WARRAN BASED ON PROBABLE CAUSE. A WARRANTLESS SEIZURE IS THEREFORE PRESUMED UNREASONABLE UNDER THE 4TH AMENDMENT. NEVERTHELE IT IS ALSO WELL-SETTLED THAT THIS PRESUMPTION OF UNREASONAB-LENESS MAY BE REBUTTED BY A SHOWING THAT A SPECIFIC EXCEPTION TO THE WARRANT REQUIREMENT APPLIES IN THE CASE UNDER CONSIDERATION. THE STATE BEARS THE BURDEN OF SHOWING A SEIZURE WITHOUT A WARRENT FALLS WITHIN ON OF THESE EXCEPTIONS. STATE V. ALREY, 148 WN.2d 738, 745-746, 63 P.3d 594(2003). FOR A PERMISSIBLE INESTIGATORY DETENTION, THE OFFICER MUST HAVE A REASONABLE AND ARTICULABLE SUSPICION OF A "SUBSTANTIAL POSSIBILITY" THAT A CRIME HAS OCCURED OR IS ABOU

TO OCCUR. U.S.C.A CONST. AMEND. 4; RCWA CONST. ART 1 SEC. 7; STATE V. DUNCAN, 146 WASH. 2d 166, 179, 43 P. 3d 513 (2002

THERE IS NO REASON TO BELIEVE THAT THE OCCUPANTS OF THIS VEHICLE WERE INVOLVED IN ANY CRIMINAL ACTIVITY. THE ONLY REASON THE OFFICER STOPPED THE VEHICLE WAS DUE TO ITS HEADLIGHT ALLEGEDLY BEING DEFECTIVE. I REFUTE THIS AND AM 100% SURE BOTH LIGHTS WERE PERFECTLY FINE. IN THIS CASE THE CRUCIAL INQUIRY IS WHETHER, AT THE TIME OF THE STOP, THE OFFICER EITHER SAW AN INFRACTION COMMITED OR HAD A REASONABLE SUSPICION THAT A CRIME WAS COMMITED OR WAS ABOUT TO BE COMMITED. UNITED STATES V. BRIGNONI-PONCE, 422 U.S. 873, 880, 95 S.Ct 2574, 45 L. Ed. 2d 607 (1975). A LAW ENFORCMENT OFFICER IS ENTITLED TO STOP A VEHICLE WITHOUT A WARRENT WHEN

THE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A TRAFFIC INFRACTION HAS BEEN COMMITTED IN HIS PRESENCE. SEE RCW 46.64.030; RCW 10.31.100; STATE V. LADSON, 138 WN.2d 343, 361, 979 P.2d 833 (1999). STATE V. MONTGOMERY, 31 WN APP. 745, 752, 644 P.2d 747 (1982). STATE V. UNGA, 165 WN 2d 95 101, 196, P 3d 645 (2008). IF POLICE TACTICS MANIPULATED OR PREVENTED A DEFENDANT FROM MAKING A RATIONAL, INDEPENDANT DECISION ABOUT GIVING A STATMENT, THE STATEMENT IS INADMISSIBLE. UNGA, 165 WN. 2d AT 102.

AS FAR AS THE WARRENT IS CONCERNED IT WAS CLEARLY AND SPECIFICALLY STATED THE WARRENT WAS FOR METHAMPHETIMINE ONLY NOT CHECKS, PRINTERS, AND IDENTIFICATION CARDS. THE PARTICULARITY OF THE 4TH AMENDMENT

HAS AS ONE OF ITS PURPOSES THE AVOIDANCE OF WARRENTS ISSUED ON LOOSE, VAGUE, OR DOUBTFUL BASIS OF FACTS STATE V. RIVERA, 76 APP 519 (1995).

I HAVE NO CASE LAWS ON MY ARGUMENT FOR THE EXCEPTIONAL SENTENCE, HOWEVER THEY BASED IT ON SOPHISTICATION AND MULTIPLE VICTIMS BOTH ARE CLEARLY FALSE. THERE WAS NO AGGAR-VATORS OR MITIGATING FACTORS THAT WOULD ALLOW AN EXCEPTIONAL SENTENCE. I HAVE A "0" FOR A OFFENDER SCORE AND AGAIN NO MITIGATING FACTORS.

CONCLUSION

THERE FOR EVERYTHING PURSUANT TO DETENTION OF THE OCUPANTS OF THE VEHICLE

SHOULD BE DISMISSED AS EVIDENCE.

I AM ASKING FOR TIME BACK AND REVERSE OF ALL CHARGES ASSOCIATED WITH CASE # 13-1-00033, OR IN THE ALTERNATIVE RESENTENCE ME IN THE STANDARD SENTENCING RANGE WICH WAS 14-17 MONTHS

DATED: OCTOBER, 13 2016

RESPECTFULLY SUBMITTED
DERRICK R UNBEHAUST

PRO SE, APPELENT

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. DERRICK RAY UNBEWUST, Appellant.	No. 76795-0-I DIVISION ONE UNPUBLISHED OPINION FILED: July 24, 2017

BECKER, J. — The appellant voluntarily pleaded guilty and stipulated to an exceptional sentence. He thereby waived his right to appeal.

In appellant Derrick Unbewust's car, police officers found methamphetamine and evidence of numerous crimes of identity theft, leading to a variety of charges. The court denied Unbewust's motion to suppress.

Unbewust pleaded guilty to one count of unlawful possession of instruments of financial fraud and five counts of unlawful possession of payment instruments in exchange for dismissal of four other counts. He and the State stipulated to a 36-month sentence. In accordance with the plea agreement, the court imposed an exceptional sentence of 36 months.

Unbewust appeals. He argues that the officers lacked probable cause for the search warrant and there was no basis for the exceptional sentence.

Generally, a voluntary guilty plea acts as a waiver of the right to appeal. State v. Smith, 134 Wn.2d 849, 852, 953 P.2d 810 (1998). When a defendant completes a plea statement and admits to reading, understanding, and signing it, this creates a strong presumption that the plea is voluntary. Smith, 134 Wn.2d at 852. The record provides every reason to believe that Unbewust's plea was voluntary. Indeed, Unbewust does not challenge the validity of his guilty plea nor does he seek to withdraw it. Rather, he seeks to relitigate the motion to suppress. When he pleaded guilty, he waived his right to appeal the denial of the motion to suppress.

Unbewust argues that there are no aggravating factors that would allow for an exceptional sentence. Unbewust stipulated to the aggravating factors found by the court: the offenses involved multiple victims and multiple incidents per victim, RCW 9.94A.535(d)(i), and they involved a high degree of sophistication and planning, RCW 9.94A.535(d)(iii).

Because Unbewust voluntarily pleaded guilty and stipulated to an exceptional sentence, he waived his right to appeal the judgment and sentence.

Appeal dismissed.

Becker, J.

WE CONCUR:

Leach, J.

Schindler, J.