

The Court of Appeals

Division 2

State of Washington }

Respondent }

V. }

Appellant }

Derrick Thomas

FILED

OCT 13 2013

WALLA WALLA COUNTY

Case # 44523-9-II

Coversheet

I DERRICK THOMAS comes now as pro se
appellant I submit my additional grounds
for review, with a brief.

On this Date OCTOBER 8, 2013

DERRICK THOMAS

CASE # 44523-9-II

D.O.C # 317612

Wa State Penitentiary

1313 N. 13th Ave.

Walla Walla, Wa 99362

Table of Authorities

Washington Cases

- 1.1 STATE V. Ferrer, 136 Wn. 2d 103, 960 P.2d 927 (1998)
- 1.2 STATE V. McKague, 143 Wn App 531, 178 P.3d 1035 (2008)
- 1.3 STATE V. Walker, 136 Wn. 2d 678, 682 (1998)
- 1.4 STATE V. Chrisman, 100 Wn. 2d 814, 818 (1984)
- 1.5 STATE V. Leach, 113 Wn 2d 735, 744 (1989)
- 1.6 STATE V. Williams, 102 Wn. 2d 733, 736 (1984)
- 1.7 STATE V. Parker, 139 Wn. 2d 486, 496 (1999)
- 1.8 STATE V. Winterstein, 167 Wn. 2d 620, 220 P.3d 1226 (2009)

Table of Authorities

Federal Cases

- 2.1 U.S. v. Flowers, 336 F.3d 1222 (10th Cir.)
- 2.2 U.S. v. Twilley, 222 F.3d 1092 (9th Cir.) (2000)
- 2.3 Huffman v. United States (1969 Dist. Col. App.) 256 A2d 342, Aff'd 470 F.2d 386, 152 U.S. App. D.C. 238, on reh' 502 F.2d 419, 163 U.S. App. D.C. 417
- 2.4 United States v. Custer (2003, D. Neb.) 281 Supp. 2d 1003
- 2.5 United States v. Impink, 728 F.2d 1228, 1231 (9th Cir. 1984)
- 2.6 U.S. v. Vasey, 834 F.2d 782, 785 (9th Cir.) 1987
- 2.7 U.S. v. Jeffers, 342 U.S. 48 (1951)
- 2.8 Wong Sun v. United States, 371 U.S. 471, 83 S. Ct. 407 (1963)

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON)

Respondent,)

v.)

Derrick Lamont Thomas
(your name))

Appellant.)

No. 12-1-02671-0

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Derrick Lamont Thomas, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

STATEMENT OF THE CASE Additional Ground 1

The residence the D.O.C officer and Tacoma police and pierce county Sheriff officer searched was an illegal search and seizure. Be cause I did not live there. The address searched was not my listed address for that residence which made it an illegal search and seizure. The D.O.C officer did not ask or clarify what property was mine. Nor did they have consent to search (1) State v. Ferrer, 136 Wn 2d 103, 960 P 2d 927 (1998) (2) state v McKague, 143 Wn App 531,

Additional Ground 2

178 P.35 1035 (2008) (3) State v. Walker, 136 Wn 2d 678, 682 (1998) (4) State v. Chrisman, 100 Wn. 2d 814, 818 (1984) (5) State v. Leach, 113 Wn 2d 735, 744 (1989) (6) State v. Williams, 102 Wn 2d 733, 736 (1984) (7) State v. Parker 139 Wn 2d 486, 496 (1999) (8) State v. Winterstein 167 Wn 2d 620, 220 P. 3d 1226 (2009)

If there are additional grounds, a brief summary is attached to this statement.

Date: October 8, 2013

Signature: Derrick Lamont Thomas

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A. ASSIGNMENT OF ERROR

The trial courts violated my constitutional rights by not suppressing the evidence that was obtained illegally. Due to an illegal search and seizure.

B. STATEMENT OF THE CASE

The residence the D.O.C officer, Tacoma Police department and Pierce county Sheriff's officer searched was an illegal search and seizure. Because I did not live there. The address searched was not my listed address for that residence which made it an illegal search and seizure. The D.O.C officer did not ask or clarify what property was mine. Nor did they have consent to search.

- 1.1 State V. Ferrer, 136 Wn. 2d 103, 960 P. 2d 927 (1998)
- 1.2 State V. McKague, 143 Wn. App 531, 178 P. 35 1035 (2008)
- 1.3 State V. Walker, 136 Wn. 2d 678, 682 (1998)
- 1.4 State V. Chrisman, 100 Wn. 2d 814, 818 (1984)
- 1.5 State V. Leach, 113 Wn 2d 735, 744 (1989)
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- 1.7 State V. Parker, 139 Wn 2d 486, 496 (1999)
- 1.8 State V. Winterstein, 167 Wn. 2d 620, 220 P. 35 1226 (2009)

C. CONCLUSION

The trial courts violated my constitutional rights by not suppressing the evidence due to illegal search and seizure. We ask this court to reverse and vacate my judgement and sentence.

WASHINGTON CASES

STATEMENT OF THE CASE

Police officers conduct a "knock and talk" for the purpose of obtaining consent to search a home and thereby avoid the necessity of obtaining a warrant, must, prior to entering the home, inform the person whom consent is sought that he or she may lawfully refuse consent to search. That he or she can revoke, at any time, the consent that he or she gives, that he may limit the scope of the consent to certain areas of the home; failure to provide these warnings, prior to entering the home, vitiates any consent given. State v. Ferrer

- 1.1 136 Wn. 2d 103, 960 P.2d 927 (1998).
- 1.2 State v. McKeague, 143 Wn. App. 531, 178 P.3d 1035 (2008)
(Probation searches of a third party's specific private area's was unlawful.)
- 1.3 State v. Walker, 136 Wn. 2d 678, 682 (1998); Warrantless searches and seizures are "per se" unreasonable under both state and federal constitutional law.
- 1.4 State v. Chrisman, 100 Wn. 2d 814, 818 (1984) (Coolidge v. New Hampshire, 403 U.S. 443 (1971)). The Washington Supreme court has warned that "Even where police have ample opportunity to obtain a warrant, we do not look kindly on their failure to do so."
- 1.5 State v. Leach, 113 Wn. 2d 735, 744 (1987)
- 1.6 State v. Williams, 102 Wn. 2d 486, 496 (1999)
- 1.7 State v. Parker, 107 Wn. 2d 620, 220 P.3d 1226 (2009)

WASHINGTON CASES (CONT'D)

STATEMENT OF THE CASE

- 18 Because defendant was under Community Supervision he had a lesser expectation of privacy and could be searched on the basis of a well-founded or reasonable suspicion of a probation violation; However; even with this lesser expectation of privacy, the probation officer's authority to search a residence extends only to the Probationer's residence. State v. Winterstein, 167 Wn 2d 620, 220 P.3d 1226 (2009).

FEDERAL CASES

STATEMENT OF THE CASE

- 2.1 U.S. V. Flowers, 336 F.3d 1222 (10th Cir.)
The police are not free to create exigencies to justify warrantless intrusions into homes.
- 2.2 U.S. V. Twilley, 222 F.3d 1092 (9th Cir.) (2000)
- 2.3 Huffman V. United States, (1969 Dist Col App) 256 A2d 342,
AFF'D 470 F2d 386, 152 US App DC 238, on reh 502 F2d
419, 163 US App 417 (Probationer could not be made to
consent to future searches of property owned by
others)
- 2.4 United States V. Custer (2003, D Neb) 281 Supp 2d 1003
(Protective sweep not justified when all person's
accounted for outside: gun inside suppressed)
- 2.5 United States V. Impink, 728 F.2d 1228 (9th Cir. 1984)
- 2.6 U.S. V. Vasey, 834 F2d 782, 785 (9th Cir.) 1987
- 2.7 U.S. V. Jeffers, 342 U.S. 48 (1951)

FEDERAL CASES (CONT'D)

2.8

Wong Sun v. United States, 371 U.S. 471, 85 S. Ct. 407 (1963)
All evidence obtained directly or indirectly through the exploitation of an illegal search, including a suspect's post-arrest statements, must be suppressed

Conclusion

The courts violated my constitutional rights by not suppressing the evidence due to illegal search and seizure. We ask this court to reverse and vacate my judgement and sentence.

DERRICK THOMAS
CASE # 44523-9-II
D.O.C # 317612
WA STATE PENITENTIARY
1313 N. 13TH AVE
WALLA WALLA, WA 99362

Certification of mail
The Court of appeals
Division 2

I Derrick Lambert Thomas come as pro se appellant
case # 44523-9-II is submitting my notice of additional
grounds for review to all parties on a brief.

On this Date OCTOBER 8, 2013

Signed under penalty to perjury that law of united
States that I am making a certification of mail to
all parties

Jennifer J. Sweigert
Nielson, Broman & Koch, PLLC
1908 East Madison
Seattle, WA 98122

Derrick L. Thomas
Case # 44523-9-II
D.O.C # 317612
WA state penitentiary
1313 N 13th Ave.
Walla Walla, WA 99362

NO. 44523-9-II

COURT OF APPEALS OF THE STATE OF
WASHINGTON

DIVISION II

STATE OF WASHINGTON

RESPONDENT

V.

DERRICK L. THOMAS

APPELLANT

APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR PIERCE COUNTY
THE HONORABLE KATHRYN J. NELSON, JUDGE

APPELLANTS STATEMENT OF ADDITIONAL GROUNDS

DERRICK L. THOMAS
1313 N. 13TH AVENUE
WALLA WALLA, WA 99362

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NIELSEN, BROMAN & KOCH, PLLC

October 15, 2013 - 1:12 PM

Transmittal Letter

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Case Name: Derrick Thomas

Court of Appeals Case Number: 44523-9

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Statement of Additional Authorities

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Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

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Other: Statement of Additional Grounds for Review

Comments:

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Sender Name: Patrick P Mayavsky - Email: mayovskyp@nwattorney.net

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NO. 44523-9-II

COURT OF APPEALS OF THE STATE OF
WASHINGTON

DIVISION II

STATE OF WASHINGTON

RESPONDENT

V.

DERRICK L. THOMAS

APPELLANT

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COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
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APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR PIERCE COUNTY
THE HONORABLE KATHRYN J. NELSON, JUDGE

THE COURT OF APPEALS DIVISION 2

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OFFICE OF PROSECUTING ATTORNEY "JAMES CURTIS"

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