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COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON

BY:   
DEPUTY

NO. 45232-4  
COURT OF APPEALS  
DIVISION II

OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON, RESPONDENT

v.  
FRANK S. BELLUE, PETITIONER

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PERSONAL RESTRAINT PETITION

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PETITIONERS REPLY BRIEF TO  
STATES RESPONSES TO PERSONAL  
RESTRAINT PETITION.

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FRANK S. BELLUE  
# 293538  
MCC - WSRU - 210  
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MORRIS, WA. 98272

# ARGUMENTS

I. THE STATES ARGUMENT IS THAT THE PETITIONER DIDNT HAVE REASONABLE EXPECTATION OF PRIVACY IN THE ROOM. IF WE LOOK AT EXHIBIT # 1 FROM THE P.R.P. THE POLICE REPORT FROM OFFICER WURGES, THE OFFICER ASKED BELLUE, SR AND CARLSOUL WHY THEY WERE AT ROOM #1, BOTH HAD SIMILAR STORIES THAT THEY WERE HANGING OUT IN THE ROOM AND "KIARRA" WHO RENTED THE ROOM TOLD THEM THEY COULD STAY UNTIL CHECKOUT,

II. OFFICER SAMUEL LOPEZ TESTIFIED AT TRIAL THAT HE SEEN RIPPED UP CHECKS ON THE NIGHT STAND, IN THE GARBAGE CAN AND ON THE FLOOR, AND HE STATED THAT HE SEEN DRUG PARAPHERNALIA FROM AN "OPEN VIEW." IT WAS IMPOSSIBLE FOR HIM TO SEE THIS, BECAUSE IN EXHIBIT # 2 OF THE P.R.P. OFFICER BOYD/BROWN ILLEGAL SEARCHES THE ROOM AND FINDS THE CHECKS IN THE GARBAGE CAN AND BRINGS HER FINDINGS OUT TO OFFICER LOPEZ, WHO IS IN ~~THE~~ HIS POLICE CAR, OFFICER BOYD/BROWN GIVES OFFICER LOPEZ THE RIPPED UP CHECKS. THOSE RIPPED UP CHECKS WERE THE ONLY RIPPED UP CHECKS IN THE ROOM, EVEN WHEN THEY SEARCHED THE ROOM THEY NEVER FOUND ANYMORE RIPPED UP CHECKS. SO DID OFFICER LOPEZ LIE ABOUT WHAT HE SEEN "YES" HE DID. OFFICER BOYD/BROWN BROUGHT THE RIPPED UP CHECKS OUT TO OFFICER LOPEZ

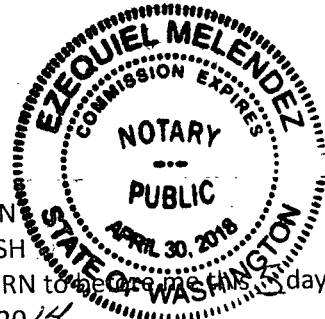
POLICE CAR, SO HE COULDN'T OF SEEN THEM IN THE ROOM. EXHIBIT # 3 IS OFFICER LOPEZ'S POLICE REPORT. HE STATED IN "OPEN VIEW" HE SEEN DRUG PARAPHERNALIA, THAT WAS ALSO IMPOSSIBLE FOR HIM TO SEE, BECAUSE WHEN OFFICER CAUTION DID THE SEARCH OF THE ROOM HE FOUND TWO GLASS PIPE IN THE NIGHT STAND DRAWER EXHIBIT #104, THEY WERE NOT IN "OPEN VIEW" THEY TOOK PICTURES OF THE ROOM BEFORE THE SEARCH AND THERE WAS NO OTHER DRUG PARAPHERNALIA IN THE MOTEL ROOM, SO THE ONLY WAY OFFICER LOPEZ SEES THE DRUG PARAPHERNALIA IS A ILLEGAL SEARCH. THERES JUST NO WAY HE COULD OR KNOWN THERE WAS DRUG PARAPHERNALIA IN THE ROOM. AND THERES NO RIPPED UP CHECKS DEPICTED IN ANY EXHIBIT PICTURE OF THE SEARCH OF THE ROOM. THERE WAS NOTHING IN "OPEN VIEW". THE ONLY RIPPED UP CHECKS FOUND ANYWHERE, WERE FOUND BY OFFICER BOYD/BROWN IN THE ILLEGAL SEARCH OF THE GARBAGE<sup>ON</sup>. SO I BELIEVE HE DID LIE? ALOT.

III. IN ARGUMENT I, II THEY SHOW THAT TRIAL COUNSEL WAS INEFFECTIVE ASSISTANCE OR COUNSEL, HIS PERFORMANCE WAS DEFICIENT, TRIAL COUNSEL SHOULD OF TRIED TO GET A SUPPRESSING HEARING, BECAUSE OF ILLEGAL SEARCH. BOTH OFFICERS SEARCHED THE ROOM WITH-OUT A SEARCH WARRANT. PER THERE OWN

POLICE REPORTS, THATS OFFICER BOYD / BROWN  
EXHIBIT # 2 PER PRP AND OFFICER LOPEZ  
EXHIBIT # 3 IN THE PRP.

CONCLUSION:

BASED ON THE FOREGOING FACTS PETITIONER  
RESPECTFULLY ASKS THIS COURT TO REVERSE HIS  
CONVICTIONS AND DISMISS WITH PREJUDICE.  
IN THE ALTERNATIVE, PETITIONER REQUESTS A  
NEW TRIAL WHERE THE EVIDENCE IS PROPERLY  
SUPPRESSED BASED ON A VIOLATION OF HIS  
CONSTITUTIONAL RIGHTS



STATE OF WASHINGTON  
COUNTY OF SNOHOMISH  
SUBSCRIBED AND SWORN to before me this 5th day of  
November, 2014  
EZEQUIEL MELENDEZ - NOTARY PUBLIC  
My commission expires: 4/30/2018

A handwritten signature in cursive script, appearing to read "Ezequiel Melendez".

Respectfully submitted this  
5th day of Nov. 2014  
F. Bellue

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