

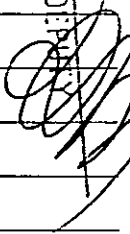
No. 46919-7-II

IN THE Court OF Appeals
OF THE State OF WASHINGTON
Division TWO

State OF Washington
Respondent,

v.

Akeem Henderson
Appellant.

STATE OF WASHINGTON
BY  DEPUTY

2015 JUL 10 PM 1:47

COURT OF APPEALS
DIVISION II

On Appeal From The Superior Court OF The
state OF Washington For Pierce County
Cause No. 14-1-00930-7

Supplement To The Statement OF Additional Grounds
For Review Pursuant To Rap 10.10

Akeem Henderson
DOC# 854980; G-A-22
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326-0769

Supplement To The Statement OF Additional Grounds Ground 4

Henderson was charged and convicted of unlawful possession of a firearm in the first degree and three possessions of a controlled substance. The trial court erred and abused its discretion by not holding an evidentiary hearing on Henderson's filed motions for a "evidentiary hearing and a" return of property under CrR 2.3 (e), when Henderson challenged the validity of the search warrant. VRP 11-12 11/3/14 (see attached search warrants)

Henderson filed these motions October 22, 2014 after going pro-se October 6, 2014. When Henderson received the discovery from the prosecutor October 24, 2014. VRP 21-22 11/3/14

Henderson noticed that the search warrant filed into the county clerks which he was being held on even though he made bail on this cause number March 10, 2014, (see attached bail bond receipt) had no Judges signature which makes it void, and its inventory receipt was alot different from the inventory receipt he had along with the search warrant Tera Hill had sent him while in Pierce County Jail. VRP 17-27 11/3/14
see also VRP 280-281 11/4/14

According to CrR 2.3 (e), citing State v. Brandt 172 WN. App. 463, 290 P.3d 1029 (2012) [172 WN. APP. 466] ¶ 7 CrR 2.3 (e) provides:

"A person aggrieved by an unlawful search and seizure may move the court for the return of the property on the ground that the person is lawfully entitled to possession thereof. If a motion for return of property is made or comes on for hearing after an indictment or information is filed in the court in which the motion is pending, it shall be treated as a Motion To Suppress.

[2][3] ¶ 8 At an evidentiary hearing addressing a CrR 2.3(c) motion, the state bears the initial burden to show its right to possess the seized property. State v. Marks, 114 Wash. 2d 724, 735, 790 P.2d 138 (1990) In State v. Card, 48 Wash. App. 781, 791, 741 P.2d 65 (1987), If the state meets this burden, then the claimant "must come forward with sufficient facts to convince the court of his right to possession.

Since Henderson was forced to go pro-se to receive his full discovery October 24, 2014 because he believed the prosecutor was hiding some important exculpatory evidence showing Henderson's innocence, Henderson received pictures of a signed search warrant from the scene 811. South Cushman ave Tacoma, WA, which was identical to the one Tera Hill the owner of the residence had received from the officers and sent copies of to Henderson in Jail. VRP 21 11/3/14

Initially on March 13, 2014 when Henderson addressed his concerns to the court the Judge and prosecutor discussed the issues as if this was regular procedure for an officer to do when returning a search warrant VRP 24-27 11/3/14

During Officer Boyd's offer of proof by prosecutor Terry Lane he even admitted to retyping the inventory page receipt and changing the list. VRP 280-281 11/4/14

But on Officer Boyd's cross examination 11/4/14 prosecutor lane all of a sudden mentioned that he "had a problem introducing the pages that were used as discovery that is not signed by the judge". He also states: "Certainly, the ~~more~~ relevant warrant, if it's relevant at all, is the signed one by Judge Castello that's contained in the stack of photographs." VRP 270-271 11/4/14

The real question that should be addressed according to Henderson's right to due process and the proper action the trial judge should have taken according to CrR 2.3 (C) is: "There is a recording or a duplicate of the recording in the courts records and shall be transcribed if requested by a party if there is a challenge to the validity of the search warrant or if ordered by the court." Is it if Officer Boyd applied for a search warrant March 12, 2014 and received one that day, then why would Officer Boyd have to clearly forge the search warrant filed March 13, 2014? VRP 279-281 11/4/14 The court record from March 12, 2014 would have shown that Judge Costello approved the search of 811 South Cushman Ave since that's the day he had supposedly signed the warrant left at 811 South Cushman Ave Tacoma, WA.

In State v. Thomas, 65 WN APP. 347, 827 P.2d 1394 (1992) (CrR 2.3 (d) provides that a search warrant must be executed within 10 days, while RCWA 69.50.509 sets a 3-day limit for return of the warrant. The officer Joshua Boyd never returned the signed copy of the search warrant that he left at 811 South Cushman Ave, he retyped and forged an unsigned search warrant and filed it March 13, 2014. Then in his Tacoma Police Department Supplemental report Incident No. 140670921.5 Page 3 of 3 he states that "this search warrant filed March 13, 2014 is the search warrant obtained for this case," which is clearly not true. (See attached Report)

In State v. Marks, 114 WN. 2d 724, 790 P.2d 138 (1990) The officers during the course of the search, failed to read the search warrant, and there was strong evidence in the record indicating that the police began searching the defendants homes before the warrants were issued. memorandum opinion, at 7. [114 WN. 2d 732] Any possible prejudice resulting from the improper search and seizure procedure had been handled by the suppression of the evidence seized in the search.

The trial judge abused her discretion and allowed Henderson's right to due process to be violated when she did not address any of the motions that Henderson filed October 22, 2014.

The Officers of the Tacoma Police Department and the Prosecutor for Pierce County all committed "egregious" and "governmental misconduct" in an vindictive and successful attempt to convict Henderson of a 139 month conviction and sentence. § 2115 Dismissal in Furtherance of Justice prosecutorial misconduct states: The actions of the police during investigation which result in the criminal charge against the defendant should be examined for possible misconduct. If misconduct is found, it may constitute sufficient grounds for dismissal of the charges in the furtherance of justice.

Black's Law 10th Ed. on Forgery states: "The act of fraudulently making a false document or a altering of a real one to be used as if genuine. Though forgery was a misdemeanor at common law modern statutes make it a felony." So the forged warrants show how the Tacoma Police officers went clearly beyond there scope of duties to the extent of committing a felony and showing extreme malice toward Akeem Henderson. Violating his 14,4, 8th amendment rights.

The prosecutor Terry Lane shown extreme prosecutorial misconduct, and malicious prosecution, when instead of bringing the matters of misconduct by the officers forward he decided to with hold the evidence, until Henderson went pro-se 7 months; later and to add 9 new charges July 3rd, 2014 and switching one charge of possession of xanax to a possession of heroin July 14th 2014. The prosecutor allowed Henderson's 4,14, and 8th amendment rights to be violated even though he knew of the police misconduct. Henderson addressed his right to due process and to discovery information and the fact that he had not seen his discovery at his pre-trial hearing to go pro-se. CP 11-14 10/6/14 (see attached)

According to the Rules of Professional Conduct, RPC 3.8 Rules 3.8 Special responsibility of a prosecutor states: "The prosecutor has the responsibility of a minister of justice and not simply that of an advocate. The responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence."

In City of Seattle v. Holifield 170 Wn.2d 230 P.3d 1162 (2010) citing City of Seattle v. Kennedy No. 496912 (Seattle Mun. Ct. 2008)

The Kennedy matter concerned Gordon's misconduct. The Kennedy court found Gordon signed alcohol solution certifications "even though she did not test each of those solutions." CPat 18, ¶ 36. The court also found widespread "governmental misconduct and an attempt to cover up this governmental misconduct." Id. At 21, ¶ 81. The court held the misconduct "egregious" and "the worst kind of governmental misconduct imaginable." Id at 23, ¶ 15.

It found Kennedy suffered "actual prejudice" as a result of the misconduct. Id at 23, ¶ 18. Instead of dismissing the prosecution pursuant to CrRLJ 8.3 (b), the court suppressed the breath test evidence. Id at 23-24, ¶ 10-15. It stated, "CrRLJ 8.3 (b) allows the court to dismiss under these circumstances...."

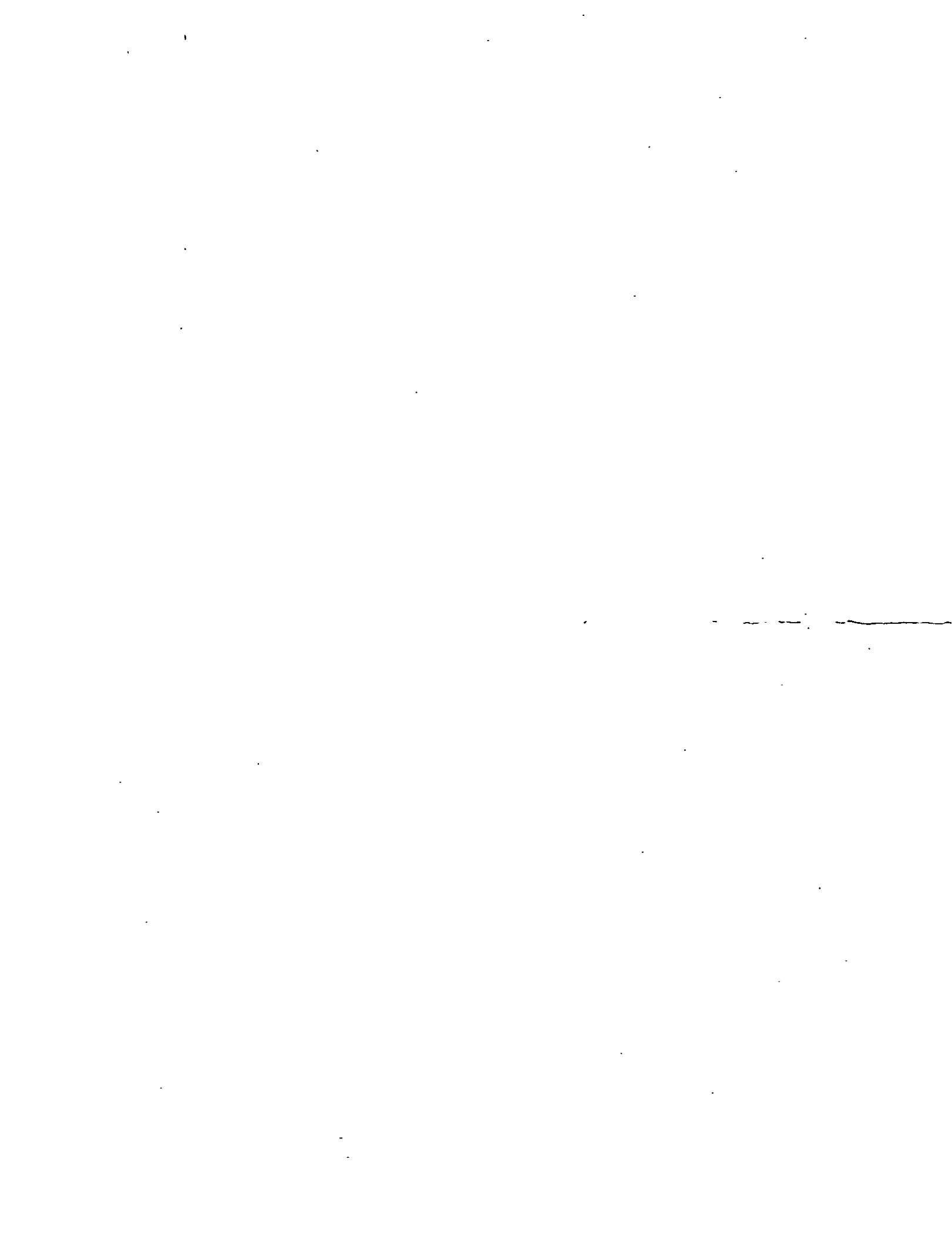
The prosecutor knew from the beginning that the search warrant filed was forged March 13, 2014 because (1) It had no Judges signature (2) He had the pictures from the scene at 811 South Cushman ave. of the search warrant used which was signed by Judge Jerry Costello, which is likely to be forged also because they never show records of March 12, 2014 application for the warrant that the judge ever signed the warrant. But in an attempt to get a conviction by any means the prosecutor Terry Lane exhibited "egregious" and "the worst kind of governmental misconduct imaginable" in withholding this evidence and allowing the case to proceed to trial.

Conclusion

From the officers blatant misconduct, malicious and false arrest, forgery, and tampering with evidence, And the prosecutors withholding of the evidence and extreme malice in continuing the case, and the pre-trial judge cuthbertson and trial judge Arend clear abuse of discretion, and duty, Henderson requests from the evidence presented in this (SAG): . . . that this case be dismissed on "cumulative errors", "Furtherance of Justice", and on the evidence showing "actual prejudice" and "misconduct" under Rules of Superior Court 8.3 (b). And that an evidentiary hearing be held over some of the evidence that was illegally taken: mail documents, other misc. documents belonging to Akeem Henderson going along with the motion Henderson filed October 22, 2014 of a return of property under CrR 2.3 (e).

Dated this 17 day of June, 2015 at Connell, WA

~~Akeem Henderson~~
Akeem Henderson 854980 G-A-22
Coyte Ridge Correction Center
P.O. Box 769
Connell, WA 99326



State vs. Henderson - November 3, 2014

1 don't have anything in writing from Mr. Henderson.

2 Did you file something?

3 MR. HENDERSON: I filed an evidentiary
4 hearing, but, no, I don't have anything in writing at
5 this time.

6 THE COURT: Okay. I would refer you to
7 specifically Criminal Rule 3.6. "Motions to suppress
8 physical, oral or identification evidence, other than a
9 motion pursuant to Rule 3.5, shall be in writing
10 supported by an affidavit or documents setting forth
11 the facts the moving party anticipates will be elicited
12 at a hearing and a memorandum of authorities in support
13 of the motion. Opposing counsel may be ordered to
14 serve and file a memorandum of authorities in
15 opposition to the motion. The Court shall determine
16 whether an evidentiary hearing is required based upon
17 the moving papers. If the Court determines that no
18 evidentiary hearing is required, the Court shall enter
19 a written order setting forth its reasons. If an
20 evidentiary hearing is conducted, at its conclusion the
21 Court shall enter written Findings of Fact and
22 Conclusions of Law."

23 In the absence of a written motion and affidavit
24 with supporting memorandum, the Court will not
25 entertain a 3.6 motion.

State vs. Henderson - November 3, 2014

1 MR. HENDERSON: On October 15th I filed an
2 evidentiary hearing motion and the Motion 2.3 on the
3 search and seizure, return of property under
4 suppression of property, and the clerk sent me back the
5 filing papers showing that they filed them, the county
6 clerk. I don't have --

7 THE COURT: I don't know what 2.3 is. We
8 were talking about a 3.6 motion.

9 MR. HENDERSON: Yes.

10 THE COURT: Dan, can you please look up in
11 the court file to see if he filed something on
12 October -- I don't know what day he said, October 15th.

13 THE CLERK: I have nothing filed on
14 October 15th in this matter. However, I do have four
15 letters from Defendant in LINX from October 22nd.

16 THE COURT: Are you sure they're letters and
17 they're not just -- don't look at what the clerk calls
18 them.

19 THE CLERK: I'm pulling them up right now.

20 THE COURT: Do you have a copy for the Court?

21 MR. HENDERSON: I didn't bring anything with
22 me, Your Honor.

23 THE CLERK: It looks like they're actually
24 motions. I can print them off if you would like.

25 THE COURT: Are any of them called a 3.6

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR
PIERCE COUNTY
SEARCH WARRANT
(Evidence)

FILED
IN COUNTY CLERK'S OFFICE

A.M. MAR 13 2014 P.

PIERCE COUNTY WASHINGTON
KEVIN STOCK, County Clerk
DEPT 72373 DEPU

14 1 50

No. _____

STATE OF WASHINGTON }
County of Pierce } ss.

THE STATE OF WASHINGTON TO THE SHERIFF OR ANY PEACE OFFICE OF SAID COUNTY:

WHEREAS, Tacoma Police Officer J. Boyd #034 has this day made complaint on oath to the undersigned one of the judges of the above entitled court in and for said county that on or about the 12th day of March, 2014, in Pierce County, Washington, a crime, to-wit: Unlawful possession of firearm in the first degree RCW 9A.01.040, and a violation of Title 69; the Uniform Controlled Substances Act RCW 69.50, Unlawful Possession of a Controlled Substance RCW 69.50.401, or Conspiracy RCW 69.50.407, was committed by the act, procurement or omission of another, and the following evidence, to-wit:

1. Controlled substances - heroin, and/or cocaine
2. Computers, books, records, receipts, notes, ledgers, and other documents relating to the transportation, ordering, purchase, and/or manufacture of controlled substances.
3. Address and/or telephone books and papers reflecting names, addresses, and/or telephone numbers of co-conspirators in the possession and/or delivery of controlled substances.
4. Computers, books, records, receipts, bank statements and records, money drafts, letters of credit, money order and cashiers check receipts, passbooks, bank checks and other items evidencing the obtaining, secreting, transfer, and/or concealment of assets and the obtaining, secreting, transfer, concealment, and/or expenditure of money.
5. Narcotics paraphernalia, including materials for using, packaging, cutting, weighing and distributing controlled substances, including but not limited to pipes, scales, baggies and heat sealers.
6. United States currency and coin.
7. Safes, lock boxes and other security containers used to conceal and/or protect Controlled Substances, documents and/or proceeds from the sale of Controlled Substances.
8. Firearms, and any ammunition.

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FILED
MAR 13 2014
PIERCE COUNTY

The above listed items are material to the investigation or prosecution of the above described crimes and that said Officer J. Boyd #034 verily believes said evidence is concealed in or about a particular house or place to-wit:

1. The residence 811 So. Cushman Ave, Apt. "B" (upper), Tacoma, WA 98405. The residence is a two story wood frame construction duplex family residence that is brown in color with white trim. The address numbers 811 are clearly posted on the west side of the home, above the main entrance, in gold lettering. The search is to include any outbuilding and storage areas. The search is also to include any persons found on or associated with said property are to be detained, searched and identified.

THEREFORE, in the name of the State of Washington, you are commanded that within ten days from March 12th 2014, with necessary and proper assistance you enter into and/or search said residence:

1. The residence 811 So. Cushman Ave, Apt. "B" (upper), Tacoma, WA 98405. The residence is a two story wood frame construction duplex family residence that is brown in color with white trim. The address numbers 811 are clearly posted on the west side of the home, above the main entrance, in gold lettering. The search is to include any outbuilding and storage areas. The search is also to include any persons found on or associated with said property are to be detained, searched and identified.

And then and there diligently search for said evidence, and any other. And if same, or evidence material to the investigation or prosecution of said crime or any part thereof, be found on such search, bring the same forthwith before me, to be disposed of according to the law.

A Copy of this warrant shall be served upon the person or persons found in or on said vehicle or place and if no person is found in or on said vehicle or place, a copy of this warrant shall be posted upon any conspicuous place in or on said vehicle, place, or thing, and a copy of this warrant and inventory shall be returned to the undersigned judge or his/her agent promptly after execution.

GIVEN UNDER MY HAND this 12th day of March, 2014.

Judge

44

0011
405
3/17/2014

RETURN OF OFFICER

A.M. MAR 13 2014 P.M.
PIERCE COUNTY WASHINGTON
KEVIN STOCK, County Clerk
BY [Signature] NO. SECURITY
14 1 50472 3

STATE OF WASHINGTON

COUNTY OF PIERCE

} SS:

THIS IS TO CERTIFY that I received the within Search Warrant on the 12th day of March, 2014, and that pursuant to the command contained therein, I made due and diligent search of the property described therein and found the following:

- 1) 1 Sig-Sauer .40 caliber handgun. Model P-250/ Serial #
- 2) Misc. Prescription pills, found in coat pocket. Master bedroom closet
- 3) 1 photo ID badge belonging to Akeem Henderson
- 4) 4 pieces of mail made out to Akeem Henderson, Master bedroom closet
- 5) Folder containing misc. documents for Akeem Henderson, Master bedroom

Names of persons found in possession of property:
Akeem Henderson

Names of persons served with true and complete copy of Search Warrant:
Akeem Henderson and Tera Hill

Description of door or conspicuous place where copy of Search Warrant posted:
On top of coffee table in living room

Place where property is now kept:
Tacoma Police/Pierce County property room

DATED this 12th day of March, 2014.

Witnesses:

[Signature] #034
[Signature] #272

45

3/17/2014 405 0011

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR
PIERCE COUNTY
SEARCH WARRANT
(Evidence)

STATE OF WASHINGTON }
County of Pierce }

ss.

No. _____

THE STATE OF WASHINGTON TO THE SHERIFF OR ANY PEACE OFFICE OF
SAID COUNTY:

WHEREAS, Tacoma Police Officer J. Boyd #034 has this day made complaint on oath to the undersigned one of the judges of the above entitled court in and for said county that on or about the 12th day of March, 2014, in Pierce County, Washington, a crime, to-wit: Unlawful possession of firearm in the first degree RCW 9.41.040, and a violation of Title 69 the Uniform Controlled Substances Act RCW 69.50, Unlawful Possession of a Controlled Substance RCW 69.50.401, or Conspiracy RCW 69.50.407, was committed by the act, procurement or omission of another, and the following evidence, to-wit:

1. Controlled substances – heroin, and/or cocaine
2. Computers, books, records, receipts, notes, ledgers, and other documents relating to the transportation, ordering, purchase, and/or manufacture of controlled substances.
3. Address and/or telephone books and papers reflecting names, addresses, and/or telephone numbers of co-conspirators in the possession and/or delivery of controlled substances.
4. Computers, books, records, receipts, bank statements and records, money drafts, letters of credit, money order and cashiers check receipts, passbooks, bank checks and other items evidencing the obtaining, secreting, transfer, and/or concealment of assets and the obtaining, secreting, transfer, concealment, and/or expenditure of money.
5. Narcotics paraphernalia, including materials for using, packaging, cutting, weighing and distributing controlled substances, including but not limited to pipes, scales, baggies and heat sealers.
6. United States currency and coin.
7. Safes, lock boxes and other security containers used to conceal and/or protect Controlled Substances, documents and/or proceeds from the sale of Controlled Substances.
8. Firearms, and any ammunition.

RETURN OF OFFICER

STATE OF WASHINGTON

NO. _____

COUNTY OF PIERCE

} ss:

THIS IS TO CERTIFY that I received the within Search Warrant on the 12th day of March, 2014, and that pursuant to the command contained therein, I made due and diligent search of the property described therein and found the following:

- 1 - Sig Sauer .40 cal semi-auto handgun
- 2 - Assorted prescription pills
- 3 - Akeem Hendersons ID Badge
- 4 - Assorted mail for Akeem Henderson

Names of persons found in possession of property:

Akeem Henderson

Names of persons served with true and complete copy of Search Warrant:

Akeem Henderson, Teza Hill

Description of door or conspicuous place where copy of Search Warrant posted:

Coffee table in living room

Place where property is now kept:

Tacoma Police Dept.

DATED this 12th day of March, 2014.

Witnesses:

[Signature] #034
[Signature] #292

The above listed items are material to the investigation or prosecution of the above described crimes and that said Officer J. Boyd #034 verily believes said evidence is concealed in or about a particular house or place to-wit:

1. The residence 811 So. Cushman Ave, Apt. "B" (upper), Tacoma, WA 98405. The residence is a two story wood frame construction duplex family residence that is brown in color with white trim. The address numbers 811 are clearly posted on the west side of the home, above the main entrance, in gold lettering. The search is to include any outbuilding and storage areas. The search is also to include any persons found on or associated with said property are to be detained, searched and identified.

THEREFORE, in the name of the State of Washington, you are commanded that within ten days from March 12th 2014, with necessary and proper assistance you enter into and/or search said residence:

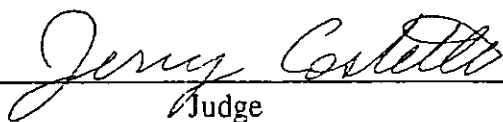
1. The residence 811 So. Cushman Ave, Apt. "B" (upper), Tacoma, WA 98405. The residence is a two story wood frame construction duplex family residence that is brown in color with white trim. The address numbers 811 are clearly posted on the west side of the home, above the main entrance, in gold lettering. The search is to include any outbuilding and storage areas. The search is also to include any persons found on or associated with said property are to be detained, searched and identified.

And then and there diligently search for said evidence, and any other. And if same, or evidence material to the investigation or prosecution of said crime or any part thereof, be found on such search, bring the same forthwith before me, to be disposed of according to the law.

A Copy of this warrant shall be served upon the person or persons found in or on said vehicle or place and if no person is found in or on said vehicle or place, a copy of this warrant shall be posted upon any conspicuous place in or on said vehicle, place, or thing, and a copy of this warrant and inventory shall be returned to the undersigned judge or his/her agent promptly after execution.

GIVEN UNDER MY HAND this 12th day of March, 2014.

3:34 P.M.


Judge

State vs. Henderson - November 3, 2014

1 THE COURT: I don't know what an inventory
2 page means.

3 MR. HENDERSON: The inventory receipt is what
4 they have taken from the house when they had --

5 THE COURT: Oh, okay.

6 MR. HENDERSON: I haven't received a copy of
7 that at all to see what they had taken from the house
8 at all.

9 THE COURT: Okay. Do you know what he's
10 talking about, Mr. Lane?

11 MR. LANE: Yes, Your Honor.

12 THE COURT: Do you have that or do you know
13 if that was provided to the defense?

14 MR. LANE: Defendant should look to Discovery
15 Page 45 which was the inventory or also known as the
16 return of the officer --

17 MR. HENDERSON: Yes, Your Honor. I have a
18 picture of this. This is from the -- this is from
19 the -- this is the inventory page from this, and this
20 is under the best evidence rules, this copy of the
21 search warrant is not signed, so it cannot be a copy of
22 the search warrant. If this is the same search
23 warrant --

24 THE COURT: Are you talking about the
25 inventory or the search warrant?

1 MR. HENDERSON: The search warrant and the
2 inventory page that I have right here isn't from the
3 picture. How would they have the inventory page? This
4 is from the crime scene. I do not have a picture of
5 the search warrant. I have the first page and the
6 second page and the last page but not the inventory
7 page.

8 THE COURT: But he said inventory is Page 45,
9 and I thought you said that you have Page 45.

10 MR. HENDERSON: Yes, Your Honor. So how do I
11 have -- how do I have Page 45 if there's no picture of
12 it from the crime scene?

13 THE COURT: I'm not tracking. I'm so sorry.
14 I don't have any of the documents you're referring to.

15 So you have Page 45?

16 MR. HENDERSON: Yes, Your Honor.

17 THE COURT: And Mr. Lane says Page 45 is the
18 inventory.

19 MR. HENDERSON: Yes.

20 THE COURT: And you said what you were
21 missing was the inventory.

22 MR. HENDERSON: Yes. So what I'm saying,
23 from the crime scene they took pictures of everything.
24 They had taken a picture of the search warrant but not
25 of the inventory page, but I have the other two pages

1 of the search warrant copy, but that page, but --

2 THE COURT: So you're saying that you need a
3 photograph of the inventory page even though you have
4 the inventory page?

5 MR. HENDERSON: Yes, I need a photograph,
6 Your Honor.

7 THE COURT: Was a photograph taken of the
8 inventory page?

9 MR. LANE: Not that I'm aware of. I provided
10 the defense with copies of all the photographs that I
11 have.

12 MR. HENDERSON: They took a picture of the
13 warrant but no picture of the inventory page, so I have
14 no clue of what they had taken from the scene.

15 THE COURT: I thought the inventory page is
16 what they took from the scene.

17 MR. HENDERSON: The inventory page, there
18 should have been a picture of it with the rest of the
19 search warrant.

20 THE COURT: Well...

21 MR. HENDERSON: Your Honor, under best
22 evidence rules, if you make a duplicate of something
23 you have to have --

24 THE COURT: Mr. Lane is not aware of there
25 being a picture of the inventory page and, certainly,

1 that would be an area that you could examine the
2 officer about, I guess, who either prepared the
3 inventory or who took the pictures or both, but we
4 can't require the State to produce something that
5 doesn't exist.

6 MR. HENDERSON: That's what I'm saying.
7 There's something very interesting about the search
8 warrant that I have right here.

9 THE COURT: What is that?

10 MR. HENDERSON: I believe this is not the
11 original. This is a forged copy of a search warrant.
12 The signatures do not match, the signatures of the
13 officers that have been turned over to me by the State.

14 THE COURT: That is an area of cross
15 examination, but I don't know how that's a Brady
16 motion.

17 MR. HENDERSON: The thing is if I had the
18 picture of the inventory page from the crime scene,
19 then I would know, and I don't have it.

20 THE COURT: But to our knowledge, based on
21 what Mr. Lane has represented, there is no picture of
22 the inventory page, but you have the actual inventory
23 page.

24 MR. HENDERSON: Your Honor, what I'm saying
25 is this isn't the actual inventory page.

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1 THE COURT: So what is Page 45, Mr. Lane, if
2 it's not the inventory?

3 MR. LANE: It's the return of the officer.
4 It's signed by the officers.

5 MR. HENDERSON: Your Honor --

6 THE COURT: Yes?

7 MR. HENDERSON: I have a copy of the original
8 search warrant, Your Honor, and this is not the same
9 page at all.

10 THE COURT: Okay.

11 MR. HENDERSON: It's totally forged.

12 THE COURT: Okay. I don't have any of it, so
13 I have no idea what you're talking about,
14 Mr. Henderson. You have to provide the Court with
15 this.

16 MR. HENDERSON: I'm providing it right now.

17 THE COURT: I don't have it. Do you have
18 copies for me?

19 MR. HENDERSON: I have copies right here.

20 THE COURT: Okay. You need to give them to
21 the Court.

22 MR. HENDERSON: Your Honor, I just
23 received -- I just received my full -- all my copies I
24 just received October 24th. October 24th. I had no
25 time to prepare at all. If the Court followed the

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1 Rules of Superior Court 4.5 and turned over all the
2 evidence by the omnibus hearing, I would have had this,
3 but I was forced to go pro se to get this information,
4 and I've been stacked trying to figure this out last
5 minute, but I know right now --

6 THE COURT: Did you ask Judge Cuthbertson for
7 a continuance?

8 MR. HENDERSON: He said -- Yes, Your Honor.

9 THE COURT: When did you ask for a
10 continuance?

11 MR. HENDERSON: I asked for a continuance the
12 last court date, and he gave me a continuance to now.

13 I need a further continuance. I'm missing pictures
14 from the -- I'm missing another photo.

15 THE COURT: Mr. Lane says he's given you
16 Pages 53 through 77. Those are all photographs. You
17 don't have them?

18 MR. HENDERSON: Your Honor --

19 THE COURT: He had to give them to the
20 defense, so if he gave them to your counsel before you
21 were self represented, you would have to get them from
22 your counsel. He doesn't have to reproduce them and
23 give them to you once you're self --

24 MR. HENDERSON: I received these when I went
25 pro se, and I'm missing -- I'm missing.

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1 THE COURT: You're missing what?

2 MR. HENDERSON: I'm missing a picture.

3 THE COURT: What page?

4 MR. HENDERSON: I don't know what page this
5 is because this is the picture of a search warrant,
6 Your Honor. I'm not receiving the inventory. I have
7 to have the inventory. That is a very, very important
8 piece of this because I have --

9 THE COURT: I'm sorry, Mr. Henderson, but I
10 do not understand what you're saying. You have said to
11 me several things that seems inconsistent with each
12 other. You are telling me that you have a document
13 that indicates that it has been forged. You have told
14 me that you have the inventory, and then you're telling
15 me that you don't have the inventory. You're telling
16 me that you don't have all the photographs, but you
17 have Pages 53 through 77 which Mr. Lane says are all
18 the photographs. So I don't know what it is you have
19 or do not have.

20 MR. HENDERSON: Let me explain to you a
21 little better. I have a search warrant here, a picture
22 of a search warrant from the crime scene. There's
23 three pages to the search warrant. I only have one --
24 there's one page missing from it, but I received a
25 picture -- I have copies of the search warrant, but,

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1 Your Honor this cannot be -- this can't -- how can this
2 be when this is not from the same search warrant from
3 the crime scene?

4 THE COURT: I don't know. Were there
5 multiple search warrants on the case?

6 MR. HENDERSON: There was one search warrant
7 on the case. I have a copy of the search warrant.

8 THE COURT: Do you want to hand them to the
9 Court so I have some indication of what you're talking
10 about.

11 MR. HENDERSON: Your Honor, under the best
12 evidence rule, if it's a duplicate, it has to come from
13 the original. I have the -- I have -- right here under
14 best evidence rules, Your Honor.

15 THE COURT: Okay. Best evidence rules have
16 nothing do with whether or not you've been given
17 something.

18 MR. HENDERSON: What I'm saying, this is what
19 I haven't been given. If you look at the pictures,
20 Your Honor, what I've been given does not -- is not
21 going along with what I have already at all.

22 * MR. LANE: Your Honor, I think the
23 confusion -- well, I'm looking at Discovery Pages 40,
24 41 and 42, and those are -- that's the declaration in
25 support of the search warrant, and then we have Pages

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1 43 and 44 which are the actual -- which is a photocopy
2 of the search warrant used in this case except that
3 particular copy that was provided as discovery is not
4 signed by Judge Costello. This is a copy that was --
5 that had not yet been signed. The photograph that the
6 defendant has in discovery, Page 77, is a photograph of
7 the signed search warrant by Judge Costello.

8 THE COURT: That's the only thing that I can
9 see that's different besides the fact that what
10 Mr. Henderson handed up has what I assume is his
11 handwriting in pencil all over these documents.

12 MR. HENDERSON: Your Honor, if you look at
13 the inventory page from both of those two pages,
14 they're not the same. One is 1 through 5 and one is 1
15 through 4. The signatures at the bottom do not match
16 at all, Your Honor. If you look at both the inventory
17 pages --

18 MR. LANE: I would ask the defendant what
19 pages of discovery he's referring to.

20 MR. HENDERSON: The inventory receipt of the
21 search warrant.

22 THE COURT: He's marked Page 45 at the bottom
23 of the Return of Officer.

24 MR. HENDERSON: If you look at that page and
25 you look at the other page --

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1 ★ THE COURT: The other one has a lot of
2 handwriting on it. I don't know whose handwriting it
3 is. It does appear to be different in that Page 45 is
4 typed, has typed information on it and this unmarked
5 Return of Officer page has not exactly the same thing'
6 but similar things in handwriting.

7 MR. LANE: Actually, Your Honor the Court may
8 be referring to a document that I've never seen.

9 THE COURT: I don't know who did it, who
10 prepared it. There's no page number at the bottom of
11 it.

12 So all of that would be appropriate for cross
13 examination. It goes to issues of credibility. You
14 can inquire of those officers regarding all of those
15 things. None of that indicates to me that you have not
16 received a copy or a photograph of the signed search
17 warrant. So all he needs is the actual --

18 MR. HENDERSON: Signed.

19 THE COURT: I'm sorry?

20 MR. HENDERSON: I need the signed copy of the
21 search warrant?

22 THE COURT: You have a photograph of the
23 signed search warrant.

24 MR. HENDERSON: Your Honor, and if that's a
25 photograph of it, how can I receive this?

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1 ✱ THE COURT: I don't know how you received it.

2 MR. HENDERSON: This isn't a duplicate of the
3 signed original copy.

4 MR. LANE: Your Honor, I would ask to be
5 provided with whatever defense -- the defendant is
6 referring to.

7 THE COURT: You need to provide this all to
8 Mr. Lane and then to the Court and you can renew your
9 motion after you provide everybody with a copy, but at
10 this point in time, there isn't really anything that I
11 can order Mr. Lane to produce. He has indicated to the
12 Court that he has produced all pages 53 through 77,
13 which he says are the photographs. He's provided you
14 with a copy of a search warrant or a photograph of a
15 signed search warrant and a Return of Officer. So
16 he -- which I understand the return is marked as Page
17 45, which you have. So I'm not hearing anything that
18 he has in his possession or control that he has not
19 produced to the defense.

20 MR. HENDERSON: Okay. Well...

21 THE COURT: We have two other motions, and we
22 have our jurors lined up and ready to go. If we're
23 going to do a 3.5 this afternoon, I would like to get
24 the jurors up here as quickly as possible.

25 MR. HENDERSON: I have one more concern, Your

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1 that was left at the scene.

2 Q Okay.

3 A And then when placing the items in property, they were
4 made to be more specific.

5 Q Okay. Thank you.

6 MR. LANE: I have no further questions, Your
7 Honor.

8 THE COURT: Okay. So is the distinction
9 between the two inventory pages relevant to the case?

10 MR. HENDERSON: Yes, Your Honor.

11 THE COURT: Okay. So it's the -- it's the
12 difference in the inventory not the signature.

13 MR. HENDERSON: The signatures also.

14 THE COURT: How is the signature relevant to
15 the case?

16 MR. HENDERSON: The inventory signature on
17 Exhibit 13 and inventory signature on Exhibit 2 are
18 totally different signatures, Your Honor. If it was a
19 duplicate, then wouldn't it be the same signature?

20 THE COURT: No. It's not a duplicate. He
21 said -- he just testified he fills one out by hand at
22 the scene at the time he's collecting the evidence. He
23 leaves it -- he signs it; he leaves it at the scene. I
24 assume that he didn't photocopy it. He then takes the
25 evidence to the property room, hands in the evidence,

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1 types up a Return of Service that then goes to the
2 clerk's office.

3 MR. LANE: Your Honor, I have no objection to
4 the two separate returns being admitted as exhibits. I
5 simply would ask that the unsigned copy of the warrant
6 not be admitted as an exhibit.

7 MR. HENDERSON: Your Honor, it says here "a
8 copy reproduced by manually in new handwriting or
9 retyping is not a duplicate under best evidence rules."

10 THE COURT: Okay.

11 MR. HENDERSON: I don't understand how he
12 could come back and retype a new one when it says that
13 that's not a duplicate. So it shouldn't be allowed
14 into evidence or that it shouldn't be -- I don't
15 understand.

16 THE COURT: Okay. And as I indicated before,
17 usually you don't offer something into evidence and
18 then object to it on the basis that it violates some
19 evidentiary rule such as the best evidence rule. You
20 are either offering it or you're not offering it. So
21 Mr. Lane has agreed that the two inventories can be
22 admitted since they are part of a larger document, and
23 I can't see the numbers from here. I'm going to ask
24 Karen to hand them to me so I can make a good record as
25 to which document we're talking about.

1 received isn't signed at all by the judge.

2 THE COURT: Okay. And how does that go to
3 prove or disprove any element of any crime or any
4 affirmative defense?

5 MR. HENDERSON: Well, Your Honor, I believe
6 under the best evidence rule, if something is going to
7 be allowed to be admitted into trial, it should be a
8 duplicate, and if it's a duplicate, it has to come from
9 the original, and if it comes from the original, it
10 should have all the same markings on it. So if it came
11 from the original, it should have the judge's signature
12 on it.

13 MR. LANE: Your Honor, I don't have a problem
14 with the defendant offering -- although it has been
15 admitted already, but the last page of the colored
16 photographs which has already been admitted is the most
17 accurate document we have of the search warrant itself,
18 and I have no problem with the defendant cross
19 examining the witness based on that document.

20 I have a major problem introducing the pages that
21 were used as discovery that is not signed by the judge.
22 It was a copy of the warrant before the judge's
23 signature was placed on the warrant. Certainly, the
24 more relevant warrant, if it's relevant at all, is the
25 signed one by Judge Costello that's contained in the

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1 stack of photographs.

2 MR. HENDERSON: Yes, Your Honor. And in the
3 stack of photos, the inventory receipt is not there.
4 There's only two pages of a three-page search warrant.

5 THE COURT: Okay. I'm sorry. Maybe
6 Mr. Austin can help. I'm not tracking.

7 MR. AUSTIN: Your Honor, the one that's been
8 introduced into evidence right now through Plaintiff's

9 Exhibit 11, Bates Stamp 77, is two pages of the
10 warrant. It is not a complete representation of the
11 warrant, I think is what Mr. Henderson is talking
12 about.

13 THE COURT: Okay. Because it doesn't have
14 the return of the inventory?

15 MR. AUSTIN: Right. It only has two of the
16 three pages.

17 MR. LANE: The return is not part of the
18 warrant. The Return of Service is separate from the
19 warrant.

20 THE COURT: Right.

21 MR. HENDERSON: It says that on the warrant;
22 that the undersigned warrant shall be returned to the
23 undersigned judge, and if I'm correct, Your Honor, the
24 inventory --

25 THE COURT: The judge? The warrant never

Action:		Gauge:	
Manufacturer:		Length:	
Make:		Finish:	
Importer:		Grips:	
Model:		Stock:	
Weapon Notes:			

Weapon 2: Semi-Automatic Pistol

Offense:	5212 - Weapon - Unlawful Possession of Weapon / Felon in Possession, etc	Serial No:	EAK059217
Offender:	A1 - Henderson, Akeem Nuruddin	OAN:	
Weapon:	Semi-Automatic Pistol	Automatic:	
Other Weapon:		Caliber:	.40 S&W
Action:	Semi-Automatic action (autoloading)	Gauge:	
Manufacturer:	Sig/ Sauer, J.P./Sau & Sons(Sohn)/S & S/Swiss Ind'	Length:	
Make:		Finish:	Black
Importer:		Grips:	
Model:	P250	Stock:	
Weapon Notes:			

Investigative Information

Means:		Motive:	
Vehicle Activity:		Direction Vehicle Traveling:	
Synopsis:			
Narrative:	<p>The purpose of this supplemental report is to document the filing of the search warrant. The search warrant obtained for this case was filed with the Pierce County Superior Court clerks office under #14 1 50472 3.</p> <p>Nothing further</p>		
Reviewed By:		Reviewed Date:	

1 confounded those or confused those with the criminal rules.

2 And so at this time I'm going to encourage you --
3 well, I'm just going to tell you, point blank, I'd advise
4 you not to represent yourself. You have too much at stake,
5 and you lessen your chance for relief on appeal, I think.

6 THE DEFENDANT: Your Honor, how is it that
7 I'm supposed to get the motions put in, like a bill of
8 particulars, to understand my case a lot better, because the
9 information that I have doesn't match the elements of my
10 crimes in any way, shape, or fashion. And so the probable
11 cause paper that I have, the determination of probable cause
12 discovery isn't nowhere near the elements that I'm charged
13 for.

14 And there's just a lot of questions that I need to
15 address the Courts with about situations on July 14th Terry
16 Lane brought a matter about he recharged me for heroin and
17 that they had found pills, Alprazolam pills, six of them
18 that were in a baggie. But in my discovery it says they
19 were in a bottle with a person's name on it. So how is it
20 that I got recharged for pills that are in a baggie when
21 they were in a bottle originally?

22 I need to put in a motion to preserve evidence. I
23 need to see these things, lab tests, search warrants,
24 affidavits, certain things I feel like I have a right to
25 see, and that's my due process of law. 14th Amendment says

1 you have a due process of law, and I haven't had any due
2 process of law at all. It's been violated totally.
3 Totally.

4 THE COURT: Have you seen any of your
5 discovery in your case?

6 THE DEFENDANT: I seen discovery, but I been
7 recharged twice since then, July 3rd and July 14th, with new
8 charges, nine new charges on my case, weapon enhancements,
9 everything since I first came in. I found case law saying
10 additional charges shouldn't be added on to the indictment.
11 I don't understand. I have three different cases all on one
12 case now from three different dates that have nothing to do
13 with each other. I bailed out March 11th. Other case
14 happened March 12th. I was out for about 16 hours.

15 March 8th case and March 12th are not the same
16 case. They are not, Your Honor. Nor is February 23rd case.

17 The same case all into one case. I don't
18 understand that.

19 MR. AUSTIN: Your Honor, Mr. Reich and I --
20 Mr. Reich is also on this case. We've been up with our
21 investigator to see Mr. Henderson on multiple occasions.
22 We've brought him discovery and we've supplemented the
23 discovery that he'd seen with any new discovery we got, and
24 we've spoken to him at length about this case, and
25 Mr. Henderson has steadfastly indicated that he wants to

1 While I understand the concerns about the personal
2 property that might not be related to the trial, which may
3 be important, the critical issue here is with -- how old are
4 you now?

5 THE DEFENDANT: 30.

6 THE COURT: Is whether you're going to be
7 40-something when you get out of prison. Okay? So I would
8 understand why Mr. Reich and Mr. Austin are worried about
9 how to keep you out of prison, and not so much about the
10 property right now.

11 THE DEFENDANT: I'm getting threatened,
12 Your Honor, about that property. I'm hearing that because
13 of that property, I'm going to lose that trial. But I'm
14 looking in the procedures of court saying under 2.3, any
15 require -- things that are irrelevant to the case shouldn't
16 be brought up. So if I'm hearing I'm going to lose because
17 of that, that's not supposed to be brought up. How am I
18 supposed to feel?

19 THE COURT: Well, then maybe what you said at
20 first isn't what you meant. Maybe you just feel it's not
21 relevant and other people feel it's relevant. Okay?

22 So is this a voluntary decision on your part, or
23 is this based on what the attorneys have said or what
24 somebody's telling you in jail, or your family or --

25 THE DEFENDANT: Your Honor, it's from reading.

Court OF Appeals, Division II
OF The State OF Washington

RECEIVED
JUL 10 2015

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

State OF Washington,
Plaintiff,

vs.

Akeem N. Henderson,
Defendant.

Court of Appeals
No. 46919-7-II

Pierce County Superior Court cause
No. 14-1-00930-7

Certificate of Authenticity
OF Documents

(Clerk's Action Required)

I, Akeem N. Henderson, the affiant herein,
certify that the Attachments submitted with my (SAG) are
true and correct copies of the transcript of proceedings and
the 2 search warrants from the Clerk's Papers, in the case file
of State v. Henderson cause #14-1-00930-7 Pierce County Superior
Court of Washington.

Appeal no. 46919-7-II
state v. Henderson cause no. 14-1-00930-7
Certificate of Authenticity-1

I, Akeem N. Henderson, certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Dated this 19 day of June, 2015

Akeem N. Henderson

Akeem N. Henderson 854980 G-A-22

Affiant

Coyote Ridge Correction Center

P.O. Box 769

Connell, WA 99326

Subscribed and sworn to before me this 19 day of
June, 2015

State v. Henderson ^{Appeal no. 46919-7-II}
_{cause no. 14-1-00930-7}

Certificate of Authenticity - 2