SUPREME COURT NO. 93104-2

NO. 73222-6-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

MARK SCHILLING,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

The Honorable Ellen J. Fair, Judge
The Honorable George N. Bowden, Judge

PETITION FOR REVIEW

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

WASHINGTON CASES

TABLE OF AUTHORITIES (CONT'D)

Page

FEDERAL CASES

TABLE OF AUTHORITIES (CONT'D)

Page

RULES, STATUTES AND OTHER AUTHORITIES

A. IDENTITY OF PETITIONER

Mark Schilling, the appellant below, asks this Court to review the Court of Appeals opinion referred to in section B.

B. COURT OF APPEALS DECISION

Schilling requests review of the Court of Appeals decision in State v. Schilling, COA No. 73222-6-I, filed March 7, 2016. A copy of the decision is attached to this petition as an appendix.

C. ISSUES PRESENTED FOR REVIEW

1. Police seized the truck petitioner was driving without a warrant based on probable cause to believe the truck contained illegal drugs and paraphernalia. State v. Huff[1] permits such a warrantless seizure for a period "reasonably necessary" to obtain a warrant. No Washington court has addressed when a delay exceeds this period and violates the property owner's constitutional rights. In petitioner's case, however, the record established – and the trial court found – that an officer could have applied for a warrant within the first or second day after the warrantless seizure. Instead, the officer waited 5½ days before obtaining a warrant. Did this violate petitioner's rights under the Fourth Amendment and article 1, § 7 of the Washington Constitution?

2. Is review appropriate under RAP 13.4(b)(3) because this case involves a significant question of constitutional law, i.e. the meaning of "reasonably necessary" delay, that has never been adequately addressed by any Washington appellate court?

3. Is review also appropriate under RAP 13.4(b)(2) because Division One's decision in petitioner's case conflicts with Division Two's decision in State v. Huff?

D. STATEMENT OF THE CASE

1. Trial Proceedings

The Snohomish County Prosecutor's Office charged Mark Schilling with Possession of a Controlled Substance based on heroin found pursuant to a warrant authorizing the search of a truck Schilling was driving when pulled over in January 2015. CP 67-68.

Schilling filed a CrR 3.6 motion seeking suppression of the drug evidence, arguing police had waited too long between impound of the vehicle and application for the warrant, resulting in an unreasonable warrantless seizure and a violation of his state and federal constitutional rights. CP 55-62. The State opposed the motion. CP 71-76.

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[1] State v. Huff, 64 Wn. App. 641, 826 P.2d 698, review denied, 119 Wn.2d 1007, 833 P.2d 387 (1992).

One witness – Arlington Police Officer Rory Bolter – testified at the hearing on the motion. 1RP[2] 3. On the afternoon of Wednesday, January 7, 2015, Officer Bolter and his partner located Schilling driving a vehicle on Smokey Point Boulevard and initiated a traffic stop based on an outstanding warrant and other suspected prior criminal activity. 1RP 6-8, 14, 19. Schilling continued to drive until he reached his residence and pulled into the driveway, where he was arrested at about 8:00 p.m. 1RP 8-10, 14.

From outside the vehicle, Officer Bolter looked inside and saw "a pen tube with a melted tip" on the vehicle's center console and concluded it was a device used to smoke heroin. 1RP 9. Based on this evidence of drug paraphernalia, Schilling's past drug-related police contacts, and information Schilling bought and sold drugs from his home, Officer Bolter decided to seal the vehicle with evidence tape, have it impounded, and seek a search warrant to gain access inside. 1RP 10, 13. The vehicle was then towed to the Arlington Police Department impound lot, where it was placed inside a secure building. 1RP 10.

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[2] This petition refers to the verbatim report of proceedings as follows: 1RP – March 5, 2015; 2RP – March 11, 2015.

Officer Bolter believed he already had sufficient evidence to obtain a warrant. 1RP 20. Nonetheless, the following day – Thursday, January 8 at about 4:00 or 5:00 p.m. in the evening – he had a K-9 officer visit the impound lot and "apply his K-9 to the vehicle." 1RP 11, 19. The dog signaled the presence of drugs inside. 1RP 11. Bolter testified that, although use of the K-9 was unnecessary to obtain a warrant, it added to the probable cause and provided training work for the dog. 1RP 20.

Officer Bolter did not seek a warrant at any time on January 8. Nor did he seek a warrant on Friday, January 9, although he was on duty both days from 1:00 p.m. to 11:00 p.m. He then had three days off (January 10 – 12). 1RP 11-12, 14-15, 23. Finally, on Tuesday, January 13, Officer Bolter applied for and received a search warrant authorizing both a seizure and a search of the truck. 1RP 11, 23; CP 43-48.

Officer Bolter testified that he did not apply for a warrant on January 7 (the day of the impound) because it was 9:30 or 10:00 p.m. by the time the car arrived at the lot and he did not want to disturb a judge at that hour. 1RP 17-18. Bolter conceded judges are available for a warrant at all hours, but prosecutors had

indicated that a warrant can wait until business hours the day following impound. 1RP 17-18.

Bolter did not explain why, however, a warrant was not sought the following business day, which was Thursday, January 8. 1RP 12. He also conceded he could have obtained a warrant on Friday, January 9, a day he recalled as possibly being for "self-initiated stuff," but added that, depending on calls he possibly could have received that day, "that day might not have been the best day." 1RP 12. And, although Officer Bolter explained that other work sometimes takes priority over obtaining search warrants for impounded vehicles, he did not provide any specific information regarding such work the week of January 7. 1RP 12-13.

Officer Bolter testified that it took him 30 minutes or less to fill out the warrant application in Schilling's case. 1RP 22. Obtaining a judge's signature on a warrant can sometimes require up to an additional hour to hour and half wait at district court. 1RP 22-23. But Bolter could not recall a wait in Schilling's case. 1RP 23.

Relying largely on State v. Huff, which permits the warrantless seizure of a vehicle for a period reasonably necessary to obtain a warrant, Schilling argued that Officer Bolter waited an

unreasonably long time to obtain a warrant following seizure of the truck, rendering the seizure unconstitutional and requiring suppression of the fruits of the subsequent search. 1RP 25-28; CP 56-57, 60. The State agreed that Huff controlled, but argued the delay was reasonable under the circumstances. 1RP 26-27.

In her oral ruling, the Honorable Ellen Fair found that the delay in this case occupied "a gray area" in terms of reasonableness. 1RP 31. Judge Fair denied the motion to suppress, but added, "I certainly think this is probably dangerously close to exceeding what the courts might find to be reasonable." 1RP 31-32. Judge Fair then entered written findings of fact and conclusions of law. CP 1-4. The written findings include a finding that Officer Bolter was on duty and could have applied for a warrant on January 8th or January 9th. CP 2 (finding 12).[3] Ultimately, however, Judge Fair concluded that 5½ days from impound to warrant – even where the warrant could have been obtained days earlier – was reasonable. CP 3 (conclusions 3 and 6).

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[3] Judge Fair's finding below, unchallenged by the State on appeal, indicates: "Officer Bolter was on duty and could have applied for a search warrant on January 8th or 9th, 2015. Officer Bolter does not recall what other assignments he had on January 8th and 9th that he did not apply for the warrant."

Schilling waived his right to trial by jury and proceeded by way of a bench trial based on stipulated evidence. 2RP 2-3; CP 20-54. The Honorable George Bowden reviewed the evidence and found Schilling guilty. 2RP 4. Judge Bowden imposed a standard range 60-day sentence. CP 9. Schilling timely filed his Notice of Appeal. CP 5.

2. Court of Appeals

On appeal, Schilling argued the State had failed to satisfy its burden to establish by clear and convincing evidence that the warrantless seizure of his truck fell within one of the narrow exceptions to the warrant requirement. Specifically, under Huff, the State had failed to establish Schilling's truck had been held "for the time reasonably necessary to obtain a warrant." This was particularly true because, as Judge Fair found, Officer Bolter could have obtained a warrant within 24 hours of the seizure and, if not within that period, certainly within 48 hours. Instead, however, he waited 5 ½ days despite the absence of any unusual or challenging circumstances warranting such a delay. See Brief of Appellant, at 6-12.

The Court of Appeals affirmed. The Court agreed with Judge Fair's observation that neither Huff, nor any Washington case since, addresses when a warrantless seizure becomes longer than reasonably necessary. Slip op., at 4. The Court also agreed that Officer Bolter did not identify with any specificity necessary tasks that stood in the way of obtaining a warrant on January 8th or January 9th. Id. at 5. Nonetheless, the Court found the 5½-day delay reasonably necessary in light of testimony from Officer Bolter regarding what he and other officers *typically do* at the office. Id. at 5-6.

The Court of Appeals also relied on the fact that, had Officer Bolter secured a warrant on the date of Schilling's arrest, he would have had 10 days to execute the warrant under criminal procedural rules. According to the Court, that Bolter ultimately obtained and executed the warrant to search Schilling's truck within a 10-day period supported a conclusion that the warrantless seizure had been reasonable. Slip op., at 6-7. Thus, it appears from the Court of Appeals decision that so long as police obtain and execute a warrant anytime within 10 days of a warrantless vehicle seizure, there can be no constitutional violation.

Schilling now seeks this Court's review.

E. ARGUMENT

REVIEW IS APPROPRIATE BECAUSE SCHILLING'S CASE PRESENTS A SIGNIFICANT CONSTITUTIONAL QUESTION AND DIVISION ONE'S ANALYSIS CONFLICTS WITH DIVISION TWO'S OPINION IN HUFF.

Under the Fourth Amendment to the United States Constitution and article 1, § 7 of the Washington Constitution, a warrantless search or seizure is per se unreasonable unless the State demonstrates by clear and convincing evidence the search or seizure falls within one of the "jealously and carefully drawn exceptions" to the warrant requirement. State v. Afana, 169 Wn.2d 169, 176-177, 233 P.3d 879 (2010); State v. Garvin, 166 Wn.2d 242, 250, 207 P.3d 1266 (2009); State v. Hendrickson, 129 Wn.2d 61, 70, 917 P.2d 563 (1996).

"An impoundment, because it involves the government taking of a vehicle into exclusive custody, is a 'seizure' in the literal sense of that term." State v. Reynoso, 41 Wn. App. 113, 116, 702 P.2d 1222 (1985) (citing State v. Davis, 29 Wn. App. 691, 697, 630 P.2d 938, review denied, 96 Wn.2d 1013 (1981)). Police are authorized to seize an automobile if they have probable cause to believe it was used in commission of a felony or contains contraband. State v. Houser, 95 Wn.2d 143, 149, 622 P.2d 1218 (1980); Huff, 64 Wn.

App. at 650.

No warrant is required for this initial seizure because: (1) the "mobility of vehicles makes rigorous enforcement of the warrant requirement impracticable" and (2) individuals have a lesser expectation of privacy in their vehicles as compared to their homes or offices. Houser, 95 Wn.2d at 149 (citing Arkansas v. Sanders, 442 U.S. 753, 99 S. Ct. 2586, 61 L. Ed. 2d 235 (1979); South Dakota v. Opperman, 428 U.S. 364, 96 S. Ct. 3092, 49 L. Ed. 2d 1000 (1976); Cardwell v. Lewis, 417 U.S. 583, 94 S. Ct. 2464, 41 L. Ed. 2d 325 (1974); Carroll v. United States, 267 U.S. 132, 45 S. Ct. 280, 69 L. Ed. 2d 543 (1925)).

The authority to impound a vehicle without a search warrant should not, however, be confused with the authority to hold that vehicle for a prolonged period of time without obtaining a warrant. In the absence of a search warrant, the seizure eventually ripens into an unconstitutional interference with the defendant's possessory rights. Huff, 64 Wn. App. at 648, 650-653.

As Division Two of the Court of Appeals recognized in Huff:

> The United States Supreme Court has upheld the warrantless seizure of various kinds of property for the time reasonably necessary to obtain a warrant, provided that the police have probable cause to search. Arkansas v. Sanders, 442 U.S. 753, 99 S.Ct.

> 2586, 61 L.Ed.2d 235 (1975)(luggage); United States v. Leeuwen, 397 U.S. 249, 90 S.Ct. 1029, 25 L.Ed.2d 282 (1970)(packages in the mail); Segura v. United States, 468 U.S. 796, 104 S.Ct. 3380, 82 L.Ed.2d 599 (1984)(plurality opinion)(an apartment may be secured from the inside even absent exigent circumstances) . . .
>
> .

Huff, 64 Wn. App. at 649-650; see also Illinois v. McArthur, 531 U.S. 326, 332, 121 S. Ct. 946, 148 L. Ed. 2d 838 (2001) (warrantless two-hour seizure of premises upheld where "no longer than reasonably necessary for the police, acting with due diligence, to obtain the warrant").

The United States Supreme Court also has addressed the seizure of cars:

> With specific regard to cars, it has held that when an officer develops probable cause to believe that a car which he or she has lawfully stopped contains contraband, it is reasonable under the Fourth Amendment to seize and hold the car for "whatever period is necessary" in order to obtain a search warrant. *Chambers v. Maroney*, 399 U.S. [42, 53, 90 S.Ct. 1975, 26 L.Ed.2d 419 (1970); *Texas v. White*, 423 U.S. 1081, 96 S.Ct. 869, 47 L.Ed.2d 91 (1976) (per curiam); *Michigan v. Thomas*, 458 U.S. 259, 102 S.Ct. 3079, 73 L.Ed.2d 750 (1982); *United States v. Kimberlin*, 805 F.2d 210 (7th Cir. 1986), *cert. denied*, 483 U.S. 1023, 107 S.Ct. 3270, 97 L.Ed.2d 768 (1987); *see also Cardwell v. Lewis*, 417 U.S. 583, 94 S.Ct. 2464, 41 L.Ed.2d 325 (1974).

Huff, 64 Wn. App. at 650.

Based on this precedent, and consistent Washington cases

involving warrantless seizures, the court in Huff held that:

> when an officer has probable cause to believe that a car contains contraband or evidence of a crime, he or she may seize and hold the car for the time *reasonably needed* to obtain a search warrant and conduct the subsequent search. . . .

Id. at 653 (emphases added).

Notably, the Huff Court anticipated "only a slightly longer infringement on possessory rights" compared to a warrantless vehicle search at the scene. Id. at 651; see also id. at 653 (Court indicates that where time is "reasonably needed" to obtain a warrant, "[i]t makes no constitutional difference whether this is done by placing a guard on the car at the scene or by towing it to the police station or an impound yard."). It is impossible to reconcile these statements from Huff, which assume a very brief delay, with Division One's approval of the 5½-day delay between impound and warrant in Schilling's case. See also State v. Flores-Moreno, 72 Wn. App. 733, 737, 741, 866 P.2d 648 (45 minutes between vehicle seizure and issuance of warrant reasonable), review denied, 124 Wn.2d 1009, 879 P.2d 292 (2004).

In Schilling's case, Division One dispensed with the requirement that the State demonstrate "reasonable necessity" for the delay with any specificity. Despite an unchallenged finding that

Officer Bolter could have applied for a warrant on January 8th or January 9th and that he did not recall what assignments he might have had that interfered with obtaining a warrant those days, CP 2 (finding 12), Division One resorted to reliance on the *general duties* of Officer Bolter and other Arlington Police Department officers to conclude what he "likely" did on the days in question that could have reasonably delayed him. Slip op., at 5-6.

Division One also resorted to reliance on CrR 2.3(c), which allows 10 days from issuance of a warrant to date of search, finding it noteworthy that Officer Bolter executed the warrant on Schilling's truck within 10 days of impound. Slip op., at 6-7. But this confuses the issue of when a warrant must be obtained following a warrantless seizure with the issue of when a warrant must be executed once obtained. Moreover, it strongly implies that there will be no constitutional violation associated with the warrantless seizure of a vehicle so long as a warrant is obtained and executed within 10 days.

Division One's approach is inconsistent with the rule that warrantless seizures are per se unreasonable, inconsistent with the State's obligation to demonstrate by clear and convincing evidence that such a seizure falls within one of the "jealously and carefully

drawn exceptions" to the warrant requirement, and contrary to the requirement – recognized in Huff and the decisions cited in that opinion – that any delay in obtaining a warrant following impound must be necessary and brief.

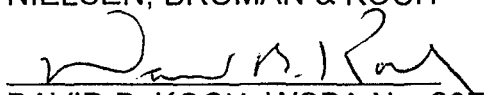
F. CONCLUSION

Neither this Court nor the Court of Appeals has provided much guidance on when the period of time between a warrantless seizure and obtaining a search warrant will be deemed "reasonably necessary." This case presents an opportunity to do so on this significant constitutional question. RAP 13.4(b)(3). Moreover, Division One's approach in Schilling's case conflicts with Division Two's decision in Huff. RAP 13.4(b)(2). Schilling respectfully asks this Court to grant review and reverse the Court of Appeals.

DATED this 5th day of April, 2016.

Respectfully submitted,

NIELSEN, BROMAN & KOCH



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APPENDIX

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. MARK DANIEL SCHILLING, Appellant.	)	No. 73222-6-I DIVISION ONE UNPUBLISHED OPINION FILED: March 7, 2016

APPELWICK, J. — Schilling appeals his conviction for possession of heroin, challenging the denial of his motion to suppress. Because the delay of five and a half days between his arrest and the search of his impounded vehicle was not unreasonable under the circumstances, we affirm.

FACTS

On Wednesday January 7, 2015, City of Arlington Police Officer Rory Bolter was working his usual shift, from 1:00 pm to 11:00 pm. At about 8:00 p.m., Officer Bolter and his partner initiated a traffic stop to arrest Mark Schilling based on outstanding warrants. Officer Bolter activated the emergency lights on the patrol car so that Schilling, who was driving a truck, would pull over. Schilling continued to drive for approximately a mile and finally pulled into the driveway of his residence. When Schilling stopped, the officers promptly arrested him.

After Schilling was in custody, Officer Bolter observed from outside the truck a pen tube with a melted tip in the center console. The officer recognized this as a device used to smoke heroin. Based on this observation and Schilling's admission that he was a heroin user, Officer Bolter sealed the vehicle and arranged for it to be transported to the police station impound lot until he could secure a search warrant.

The next day, on Thursday January 8, Officer Bolter arranged for a Marysville police officer to apply his canine partner to Schilling's truck. The search occurred at approximately 4:00 or 5:00 p.m. The dog alerted, indicating the presence of drugs.

Officer Bolter did not apply for a search warrant on January 8 or on Friday, January 9. He was then off duty for three days, Saturday through Monday. On his next work day, Tuesday, January 13, 2015, he secured and executed the search warrant. Upon searching Schilling's truck, Officer Bolter found 4.8 grams of methamphetamine and 50 grams of heroin.

The State charged Schilling with possession of heroin. He moved to suppress the evidence, arguing, in part, that the delay of five and a half days between seizing the vehicle and obtaining the warrant was an unreasonable delay. The court denied the motion, concluding that the duration of the seizure was reasonable in this case. The court observed that there was "no real guidance as to what is and what is not a reasonable amount of time" in this context. The court determined that while a ten day delay might be unreasonable,

the court was unaware of any requirement for police officers to "immediately put aside other work to apply for a search warrant of an impounded vehicle."

On a stipulated record, the court then found Schilling guilty as charged. He appeals the denial of his suppression motion.

DISCUSSION

In State v. Terrovona, 105 Wn.2d 632, 645-46, 716 P.2d 295 (1986), the Washington Supreme Court held that, if police officers have probable cause to search, they may seize a residence for the time reasonably needed to obtain a search warrant. This court has since extended this rule to automobiles and other personal property. State v. Huff, 64 Wn. App. 641, 650, 826 P.2d 698 (1992); State v. Lund, 70 Wn. App. 437, 448-49, 853 P.2d 1379 (1993). Schilling does not challenge the authority of the police to seize his vehicle based upon probable cause to believe that it contained contraband. He does, however, challenge the length of the seizure, pointing out that the authority to seize articulated in this line of cases does not allow the police to hold a vehicle "indefinitely." He contends that the five and a half day delay in this case was unreasonable and amounted to an unconstitutional infringement on his possessory rights.

The facts are not in dispute. We review de novo the trial court's legal conclusions in ruling on a motion to suppress. State v. Carneh, 153 Wn.2d 274, 281, 103 P.3d 743 (2004).

The parties agree that Huff sets forth the applicable standard. In Huff, after arresting the driver and passenger of a vehicle, police officers arranged for the vehicle to be towed to the police station based upon probable cause to

believe there was methamphetamine inside. 64 Wn. App. at 644. The police held the vehicle at the police station until they obtained and executed a search warrant. Id. It is not clear how much time elapsed between the impoundment and execution of the warrant. See id. On appeal, Huff argued, among other things, that the police violated his constitutional rights by seizing and holding his vehicle for the purpose of obtaining the warrant. Id. at 648. The appellate court recognized that the police did not violate Huff's privacy rights, but rather infringed upon his possessory interest in the property for a longer period of time than would have been required had the police merely searched the vehicle at the scene of arrest. Id. at 649, 650-51. Nevertheless, the court observed that the officer pursued "a course of action that the law prefers" by seeking a warrant to search. Id. at 649. And, moreover, if the police lacked authority to seize and hold vehicles, it would "discourage and perhaps eliminate" the use of warrants in these circumstances. Id. at 651. Following the authority of the United States Supreme Court, this court held that "when an officer develops probable cause to believe that a car which he or she has lawfully stopped contains contraband, it is reasonable under the Fourth Amendment to seize and hold the car for 'whatever period is necessary' in order to obtain a search warrant." Id. at 650 (quoting Chambers v. Maroney, 399 U.S. 42, 51, 90 S. Ct. 1975, 26 L.Ed.2d 419 (1970)).

As the trial court observed, neither Huff nor subsequent cases, address the issue of when a seizure, justified at its inception, is longer than reasonably necessary such that it infringes upon constitutional rights. See id. at 649; see also State v. Flores-Moreno, 72 Wn. App. 733, 740-41, 866 P.2d 648 (1994).

Huff makes clear, however, that the constitutionality of a seizure depends on its reasonableness, which is a "distinctly fact-based inquiry." Huff, 64 Wn. App. at 652. According to the testimony at the suppression hearing, Officer Bolter did not attempt to secure a warrant on the date of arrest because of the late hour. He explained that he had been advised by local prosecutors to wait until business hours to apply for a warrant, barring emergent circumstances. Schilling argues that even if it was reasonable to hold the impounded vehicle overnight until January 8, it was not reasonable to wait until January 13 to obtain a warrant. He points out that Officer Bolter was on duty on January 8 and 9 and did not identify any specific work assignments that prevented him from obtaining a warrant on those days. Schilling also emphasizes Officer Bolter's testimony that the canine search merely added "extra" probable cause, but he did not consider it strictly necessary to establish probable cause. Schilling maintains that the delay was unreasonable because the officer's testimony about work duties that theoretically might have prevented him from obtaining a warrant failed to establish a "work-related barrier to obtaining a warrant on January 8th or January 9th."

It is true that, apart from arranging a canine search of the vehicle on January 8, Officer Bolter did not identify the tasks he performed during the two days after Schilling's arrest. Nevertheless, Officer Bolter testified in detail about what he typically does and what he was likely doing before he obtained a warrant on January 13, his third day of work following the arrest.

Officer Bolter testified that there are generally three to four officers on patrol in the City of Arlington at a time. The patrol officers are responsible for responding to 911 calls, patrolling high crime areas, and responding to citizen concerns and tips. In addition, patrol officers handle some "higher priority" cases typically assigned to detectives. Officer Bolter testified that his ability to obtain a warrant on a given day depends on the volume of 911 calls and the work required on other priority cases. Officer Bolter said that his typical practice is to secure a warrant for an impounded vehicle within three to four work days. In this case, he obtained and served the warrant within that timeframe.

Officer Bolter said that preparation of the warrant documents in this case took him, at most, a half hour. He also said that once warrant documents are prepared, a warrant generally requires an hour to an hour and a half wait at the courthouse. Officer Bolter explained that he and his partner share a patrol car, so obtaining a warrant temporarily renders both officers unavailable to respond to 911 calls. Officer Bolter's testimony about his responsibilities as a patrol officer and his explanation about how obtaining a search warrant affects the work of that department as a whole established that three to four work days is a reasonable timeframe for obtaining a warrant.

Moreover, as the State points out, a search warrant has a 10 day expiration period. See CrR 2.3 (c). If Officer Bolter had secured the warrant on the date of arrest, he would have had until January 17 to execute it. Officer Bolter served and executed the warrant well within 10 days of the arrest. As the court's findings implicitly recognize, the seizure was for a shorter duration than

would have been authorized by a warrant issued at the earliest opportunity. This also supports the court's determination that the seizure was reasonable.

The trial court did not err in concluding, under the particular facts of this case, that the length of the seizure was reasonable. We affirm.

WE CONCUR:

IN THE SUPREME COURT THE STATE OF WASHINGTON

STATE OF WASHINGTON/DSHS Respondent, v. MARK SCHILLING, Petitioner.	)	SUPREME COURT NO. _____ COA NO. 73222-6-I

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 5TH DAY OF APRIL, 2016 I CAUSED A TRUE AND CORRECT COPY OF THE **PETITION FOR REVIEW** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] MARK SCHILLING
4531 195 TH STREET NE
ARLINGTON, WA 98223

SIGNED IN SEATTLE WASHINGTON, THIS 5TH DAY OF APRIL, 2016.

X Patrick Mayovsky