72799-1

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STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
Yussuf Hussein Abdulle) No. 72799-1-I
(your name))
) STATEMENT OF ADDITIONAL
Appellant.) GROUNDS FOR REVIEW

I, Yussuf H. Abdulle, 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.

Additional Ground 1

Additional Ground 2

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

Date: _____ Signature: _____

RULE OF APPELLAGE PROCEDURE 10.10
STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

(a) Statement Permitted. A defendant/appellant in a review of a criminal case may file a pro se statement of additional grounds for review to identify and discuss those matters which the defendant/appellant believes have not been adequately addressed by the brief filed by the defendant/appellant's counsel.

(b) Length and Legibility. The statement, which shall be limited to no more than 50 pages, may be submitted in handwriting so long as it is legible and can be reproduced by the clerk.

(c) Citations; Identification of Errors. Reference to the record and citation to authorities are not necessary or required, but the appellate court will not consider a defendant/appellant's statement of additional grounds for review if it does not inform the court of the nature and occurrence of alleged errors. Except as required in cases in which counsel files a motion to withdraw as set forth in RAP 18.3(a)(2), the appellate court is not obligated to search the record in support of claims made in a defendant/appellant's statement of additional grounds for review.

(d) Time for Filing. The statement of additional grounds for review should be filed within 30 days after service upon the defendant/appellant of the brief prepared by defendant/appellant's counsel and the mailing of a notice from the clerk of the appellate court advising the defendant/appellant of the substance of this rule. The clerk will advise all parties if the defendant/appellant files a statement of additional grounds for review.

(e) Report of Proceedings. If within 30 days after service of the brief prepared by defendant/appellant's counsel, defendant/appellant requests a copy of the verbatim report of proceedings from defendant/appellant's counsel, counsel should promptly serve a copy of the verbatim report of proceedings on the defendant/appellant and should file in the appellate court proof of such service. The pro se statement of additional grounds for review should then be filed within 30 days after service of the verbatim report of proceedings. The cost for producing and mailing the verbatim report of proceedings for an indigent defendant/appellant will be reimbursed to counsel from the Office of Public Defense in accordance with Title 15 of these rules.

(f) Additional Briefing. The appellate court may, in the exercise of its discretion, request additional briefing from counsel to address issues raised in the defendant/appellant's pro se statement.

[December 5, 2002]

Identity Of Appellant(s) ——

Mr. Yussuf Hussein Abdulle (Appellant(s)) is the actual party in interest and named herein to respectfully ask this Court of Appeals to appear in behalf of the same and to put before this tribunal certain supplemental pleadings and similar papers before it in lieu of the first Direct Appeal filed herein.

Decision Appealed from ——

Appellant(s) do take this appeal as of right from the Judgment And Sentence (J&S) had in the Superior Court in and for King County, Washington State, under criminal case No. 13-1-07114-8 (State v. Abdulle);

We are of the belief and opinion that the Brady violations that the trial judge, the Honorable Theresa B. Doyle - J., entered into the record as against the Prosecuting Attorney (State), and those functioning upon that authority and or in its behalf, may not be carried by, or explained by, nor mitigated by any jury instruction and or that the errors which are properly preserved at the trial court level, and

raised to this Court of Appeals thereby, in good faith, warrant a new trial, an Order to void the J&S with or without prejudice, or an Order vacating the J&S on the grounds that the warrants were procured by a culpable withholding of relevant material facts.

Issues Presented—

1) Because the pre-warrant statements of Ms. Maria del S. Hedger (Ms. Hedger), Ms. Amelia H. Pryor (Informant-1), and Ms. Brenda J. Ingalls (Informant-2), were not full or competent testimonial statements such statements do not constitute reasonable suspicion or probable cause upon which to base an arrest, search or seizure of a person or property;

2) Because the post-arrest statements of Ms. Hedger, Informant-1, and Informant-2, were not full or competent testimonial evidence the trial court committed a fatal error admitting the same to the jury;

3) The trial court committed a fatal error when it did deny the Defendant's/Appellant(s) Motion for A Bill Of Particulars thereby denying Appellant(s) [redacted] their right to notice and hearing adequently

sufficient to apprise Appellant(s) of the charges against Appellant(s) interests or defenses what may be raised thereagainst ;

4) Are the Brady violations in evidence here, and properly preserved at the trial court, sufficiently debilitating to the truth finding mission, or defense counsel's duty under the United States Constitution and of the Constitution of the State of Washington, to warrant vacation of the J&S ?...

These issues are raised by the facts what are clearly established within the Record In Review, and of the Clerk's Papers, as recited herein and properly objected too at the tribunal of first instance. Said errors are presumed to be prejudicial and are of a nature that they must be rebutted by this Court of Appeals as they may only be overcome by an affirmative defense or the overwhelming untainted

evidence standard.

Statement of the Case ——

It comes to this Court of Appeals-Division One, for the State of Washington, that on about January-March, 2012, certain Police Officers (John Doe-officers) did make actual-direct contact and inquiries to one Maria del Sol Hedger (Ms. Hedger) regarding certain allegedly criminal activity possibly involving one Ms. Amelia H. Pryor (Informant-1), who is also the biological daughter of Ms. Hedger. See Verbatim Report of Proceedings (Transcripts) at 280-81.

On about March 26, 2013, Ms. Hedger did initiate contact with local law enforcement officials under the

guise of following-up on information Mo. Hedger originally obtained from said John Doe-officers who had visited Mo. Hedger in 2012. Id. Transcripts at 280-84.

From such information a short, negligent investigation ensued what is believed to be the cause in fact of the warrantless arrest of the Appellant(s); the issuing of a search warrant for the Appellant(s) abode; and a slipshod trial run with a reckless and wild abandon as relating to the truth finding mission. Said trial suffered from numerous unexplained delays caused by the intentional and flaggrant withholding of relevant material evidence and information by the Lead

Investigating Police Officer (Det. Washington), Ms. Hedger, Informant-1, and [redacted] Informant-2. Id. Transcripts at 885; Transcripts at 306 (5-11); and Transcripts at 328 (1-12).

Said withholding of such relevant, material information and evidence did force Appellant(s) to choose between effective assistance of counsel and [redacted] Appellant(s) right to a speedy trial. Furthermore, these delays injured Appellant(s) in their ability to present a unitary and consistant defense theory to the jury in that said suprises always appeared aimed at Appellant(s) presumption of innocense.

Appellant(s) state here that such refusal to submit full and fair testimonials caused harm to a degree

that the State, former defense counsel—Carlos A. Gonzales WSBA# 35794, nor trial counsel—Mr. Walter D. Peale WSBA# 7889 (hereinafter jointly known as "Counsel"), are able to articulate a single specific act and or occurrance, within the charging period, by which the Appellant(s) did obtain some exclusive enrichment or benefit from the prior and ongoing criminal enterprises being pursued by Informants-1 and Informants-2 sua sponte. See State's Trial Memorandum (State's-papers), at 11.

Indeed, the State, even in it's Trial Memo, State's-papers, does not go so far as to allege that the "$80.00 for gas money" is the product of the

criminal enterprises engaged in sua sponte by said Informant-1 and Informant-2. Id. State's-Papers, at 5.

Furthermore, the State did not allege that Informant-2(s) "cell phone" was acquired by means of criminal activity, nor does the State allege that the "sale of a cell phone" somehow relates back to some criminal conduct. Id. State's-Papers, at 5 (lines 3-14).

On about May 6, 2013, a Detective Washington (Policeman-1) did engage a warrantless arrest procedure against Appellant(s) founded upon the incomplete and intentionally deceptive statements of Informant-1 and Informant-2. Id. See Certificate for Determination Of Probable Cause (Clerk's-Papers), at 1.

After the successful completion of said warrantless arrest, which did occur without incident, an actual arrest warrant was sought and obtained for the search and seizure of an apartment building only recently identified as the abode of Appellant(s). See Clerk's-Papers, at 7.

Upon the above presented facts, and evidence obtained in lieu thereof, the King County (County) Prosecuting Attorney (State) did institute and maintain a criminal prosecution at the superior court in and for King County, Washington. See No. 13-1-09714-8 (State v. Yusuf).

Of the charges filed against Appellant(s)

only two survived jury deliberations. Appellant(s) are of the belief and opinion that the acquittals had here are a clear proof that the jury was very sympathetic and inclined to reject the intentionally deceptive presentation of the State(s) theory of the case without full knowledge of what was occurring behind the scenes. Thus, We are of the belief and opinion that a Bill Of Particulars would have unequivically altered the course of testimony and thereby may be said to undermine confidence in the outcome of the proceedings too the exact degree that the verdict must be overthrown. Id. Transcripts at 123-24 (25-15).

Law And Arguments ——

Warrantless Arrests & Informants

Probable cause for an arrest only exists where (A) the facts and circumstances within the arresting officer's Knowledge and or (B) of which he has reasonably trustworthy information, are sufficient in themselves to warrant a man or woman of reasonable caution in a belief that an offense has been, is about to be, or is occurring. See State v. Duhaime, 29 Wn. App. 847, 850, 631 P.2d 964 (1981) (Duhaime) (relying on State v. Fricks, 91 Wn.2d 391, 398, 588 P.2d 1328 (1979)).

In the Duhaime Court's interpretation of Aguilar v.

Texas, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964)(Aguilar), Division One of this state's Court of Appeals identified "a two-pronged test to determine whether an informant's tip could establish probable cause" for a warrantless arrest and or the issuing of an actual warrant. Id.

Dohaime, supra at 850 (citing McCray v. Illinois, 386 U.S. 300, 87 S.Ct. 1056, 18 L.Ed.2d 62 (1967); State v. Lueller, 17 Wn.App. 91, 93, 562 P.2d 253 (1977)).

Division Three of this state's Court of Appeals has, with approval of the state Supreme Court, recognized and admitted that under the reasoning of "Spinelli v. United States, 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969)" and "Aguilar"

(Aguilar-Spinelli) that "if the informant's tip fails under either or both of the prongs, probable cause" must not be found. State v. Franklin, 49 Wn. App. 106, 107-08, 741 P.2d 83 (1987) (relying on State v. Jackson, 102 Wn.2d 432, 433, 688 P.2d 136 (1984) ("The two prongs of the Aguilar-Spinelli test have an independent status and both are required to establish probable cause. Jackson, 102 Wn.2d at 437.")) (Franklin).

Investigative Detentions & Searches

In State v. Sieler, 95 Wn.2d 43, 47, 621 P.2d 1272 (1980), Division Two of this state's Court of Appeals has rightfully acknowledged that it is

proper for an "informant's tip" to establish the basis upon which a police officer may claim "a reasonable suspicion to make an investigatory stop." See State v. Hopkins, 128 Wn.App. 855, 862-63, 117 P.3d 377 (2005) (Hopkins) (relying on Sieler, 95 Wn.2d at 47).

Yet the Hopkins court also acknowledges the strength of the Aguilar-Spinelli test in that it demands that the State establish both "a tip's reliability" by establishing "(1) the informant is reliable and (2) the informant's tip contains enough objective facts to justify the pursuit and detention of the suspect or the noninnocuous details of the tip have been corroborated by the police thus sugges-

ting that the information was obtained in a reliable fashion." Id. Hopkins, 128 Wn. App. at 862-63.

"The right to be free from searches by government agents is deeply rooted into our nation's history and law, and it is enshrined in our state and national constitutions. The United States Constitution prohibits unreasonable searches and seizures; our state constitution goes further and requires actual authority of law before the State may disturb the individual's private affairs." See State v. Day, 161 Wn.2d 889, 168 P.3d 1265 (2007) (Day), at 893.

"Generally, officers of the state must

obtain a warrant before intruding into the private affairs of others, and we presume that warrantless searches violate both constitutions. That presumption can be rebutted if the State shows a search fell within certain "narrowly and jealously drawn exceptions to the warrant requirement." Id.

Day, 161 Wn.2d at 893-94 (relying on State v. Stroud, 106 Wn.2d 144, 147, 720 P.2d 436 (1986); see also State v. Duncan, 146 Wn.2d 166, 71-72, 43 P.3d 513 (2002) (citing State v. Williams, 102 Wn.2d 733, 736, 689 P.2d 1065 (1984))).

Appellant(s) are of the belief and opinion that neither "reasonable suspicion" or "probable cause" are of record in this case. Id.

Franklin, 49 Wn.App. at 108; Accord State v. L.U.E.,

178 Wn. App. 769, 778-79, 315 P.3d 1158 (2014).

Appellant(s) argue here that Policeman-1(s) Certification for Determination of Probable Cause (Clerk's-papers) is vacant of some indicia of reliability because both Informant-1 and Informant-2 made it clear to the State, and to Policeman-1, that there are facts that overlap with their ongoing criminal enterprise that they did not and could not reveal — as such revelations would likely bring about the instant termination of such avenues of revenue. Clerk's-papers at 5.

Furthermore, Policeman-1 makes it clear that he will not and did not force Informant-1

or Informant-2 to be explicitly candid and forthcoming about said overlapping criminal enterprises and the scope or nature thereof. Clerk's-papers at 5; Transcripts at 311 (19-25), 323-24 (13-25/1-24), 325 (11-16), 328-334, 338-39, 190, 884-85. See State v. Davila, 183 Wn. App. 54, 169-70, 333 P.3d 459 (2014) (Davila).

In the Clerk's-papers at 5 of 8, Policeman-1 clearly chooses keeping himself "in ignorance ... about different aspects of a case" when Informant-2 simply provides "(no further information)" on this point. Id. Davila, supra at 169-70 (relying on Cartiger v. Stewart, 132 F.3d 463, 480 (9th Cir. 1997)).

The consequence of that comes up October 9, mid-trial, with Informant-1 divulging new information that

is clearly relevant and material to the defense. See Transcripts at 322-23.

On October 15, 2014, again — in the midst of the jury hearing trial testimony — even the Judge has to admit to the jury:

"The trial is going to last a little longer than the attorneys has expected, and that's because of some unanticipated new evidence and investigation that needed to be done." Id.

Transcripts, at 190 (5-6).

Again, at the October 15, 2014, trial on the matter, Policeman-1(s) prejudice and petulance toward the court's orders and the defense rises to the surface:

"I didn't tell you all my notes didn't exist." Id.

Transcripts, at 885 (6-7); Accord "Order On Criminal Motion-Oct.15" (Discovery-1).

Appellant(s) respectfully request this Court of Appeals take judicial notice of the defense's "Notice Of Appearance And Discovery Demand Pursuant T.C.R.4.1-May.10,2013" (Discovery-2).

Appellant(s) argue that Discovery-2 was properly filed and served more than 11 months prior to Discovery-1. Furthermore, Appellant(s) argue that Discovery-2 is more comprehensive than Discovery-1, in it's depth and breath. Id.

Discovery-2, at 2.

Although the trial court Judge refused to

find a discovery violation under Brady, as of the October 15, 2014, trial date — Appellant(s) argue that these events clearly establish, notwithstanding the judge's reasoning, that no "competent" evidence or information what could establish reasonable suspicion or probable cause had been submitted to Policeman-1. Id. Dunaine, 29 Wn. App. at 850.

("Under the first or 'basis of knowledge' prong, facts must be revealed which permit the [redacted] judicial officer to determine whether the informant had a basis for his allegation that a certain person committed a crime.") See Brady v. Maryland, 373 U.S. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194 (1963).

Appellant(s) argue that from the pre-arrest reports it is clear that these informants had a solid basis upon which to set criminal allegations, as both were of

the extremely well seasoned and sofisticated working-girl Kind. See "Brief Of Appellant" (BOA) at 3.

Notwithstanding the catagories defined by the courts what have drawn down distinctions between the "informant" classes, the record on review makes it clear that neither Informant-1 nor Informant-2 ever properly identified Michael Vincent Galloway (Boyfriend) as an adult with a confirmed birthday "of 03/02/1993"; whom a jury may have found guilty of the unlawfull [redacted] seduction of a minor. See Seattle Police Department Case Investigation Report (SPD-CiR) at 9 of 26.

Furthermore, upon Policeman-1 (s) initial contact with the Boyfriend, Policeman-1 does not document any

effort to investigate whether or not said Boyfriend is profitting from Informant-1(s) criminal enterprise. Again, said Boyfriend is not "the minor or the customer" of Informant-1 and may clearly be said to be providing "aid, cause, assist[ance], or facili-ty" for said "enterprise" as defined by the plain language of that group of statutes. See State v. Johnson, 173 Wn.2d 895, 899-900, 270 P.3d 591 (2012). (citing RCW 9.68A.101(3)(a)).

Appellant(s) argue that it was not proper police practice or procedure to remain wilfully blind to some criminal enterprise while claiming to be in hot-pursuit of clearly overlaping criminal conduct. See

State v. Lively, 130 Wn.2d 1, 21-22, 921 P.2d 1035 (1996) (Lively); Also see State v. Davila, 183 Wn.App. 154, 169-170, 333 P.3d 459 (2014) ("The State cannot avoid Brady 'by keeping itself in ignorance, or compartmentalizing information about different aspects of a case.' Carey v. Duckworth, 738 F.2d 875, 878 (7th Cir. 1984); Accord Carriger v. Stewart, 132 F.3d 463, 480 (9th Cir. 1997). ("Davila" and "Carriger" respectively)

Appellant(s) argue that Policeman-1(s) actual and intentional withholding of relevant material evidence and information establishes not only a biased investigative technique, but it also voids that information relied upon by the warrant issuing judge. "If the initial stop is not lawful or if the search exceeds its proper bounds or if the officer's protected

belief that the suspect was dangerous was not objectively believable, then the fruits of the search may not be admitted in court." Id. Day, 161 Wn.2d at 895. Also see Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978) (Franks).

In Turngren v. King County, 104 Wn.2d 293, 308, 705 P.2d 258 (1985), the state Supreme Court addressed a similar circumstance:

"The affidavit gives the impression that the informant voluntarily came forward to assist the police with information concerning criminal activity. In actuality, the informant's statements, given in response to police questioning about his own criminal activity, could be construed as an effort to exculpate himself and turn police interest away from his own crimes." Id. Turngren, 104 Wn.2d at 308.

Appellant(s) argue that a most stinging example of Policeman-1(s) probable corruption occurs for the record, in the presence of the jury. Transcripts at 848-49.

Policeman-1(s) quilocy with the State while on direct, establishes at the very least one clear act of perjury, to wit: 848 (17-25)

Q:

"And the two individuals that you saw walk to the silver vehicle, do you recall -- well, could you describe for us their appearance?

A:

I saw two black males going over to the -- those vehicles. One was kind of slender, and kind of short curly hair. The other individual was kind of a medium to large build, kind of, I'm not going to say -- he didn't have an athletic build ... and kind of shorter."

[849 (14-25) - 850 (1-2)]:

Q:

"Now the slender individual that you described first, the short curly hair, do you recall at all approximately how tall he was?

A:

I was seated, they were standing so it's really hard to gauge that, so maybe between 5 foot 8 and 6 feet.

But again, that would be guessing.

Q:

Okay. What about the gentleman who was of medium non-athletic build. How tall do you think he was?

A:

I believe that person was at least 6 feet tall.

Q:

So was the second individual taller than the first?

A:

The person with the limp --

Q: Yeah.

A:

-- was taller than the skinnier male." Id.

Transcripts, at 848 (17-25) - 850.

(26)

Appellant(s) argue that Policeman-1(s) clear representation is that "the skinnier male" is the taller of the two individuals under observation. Id. Transcripts at 848.

Appellant(s) argue that mere ambiguity does not assist the Court of Appeals resolve what specific representations of Policeman-1(s) may be true other than to presume that Policeman-1 is willing to say what the occassion calls for. Appellant(s) argue that at a minimum a Franks hearing would generally be warranted to determine whether Policeman-1 is being truthfull. See Franks, supra.

However, more germain to the possition taken by

Appellant(s) is the fact that this " is not a case where full disclosure of all of the known facts was made to the magistrate at the time that the application for the issuance of the search warrant was made." See Ladd v. Miles, 171 Wash. 44, 52, 17 P.2d 875 (1932).

Appellant(s) argue that neither Informant-1 nor Informant-2, Ms. Hedges, or the Boyfriend was known to Policeman-1. Id.

Duhaime, 29 Wn. App. at 851.

In the present case the magistrate was provided with no evidence of [redacted] the informant's "trustworthiness, such as (1) that [they] had

provided reliable information in the past, ... or (2) that [the] Officer ... was familiar with the informant's background, reputation or other facts vouching for [their] present credibility, United States v. Harris, 403 U.S. 573, 91 S.Ct. 2075, 29 L.Ed.2d 723 (1971); or (3) that [their] information had been independently corroborated." See State v. Northness, 20 Wn. App. 551, 556, 582 P.2d 546 (1978) (Northness).

Appellant(s) further argue that these individual circumstances are in sharp "contrast ... with those situations where an informant's statement is ambiguous or made under circumstances not necessarily indicating the potential for self-incrimination or criminal prosecu-

tion." See State v. O'Connor, 39 Wn. App. 113, 123, 692 P.2d 208 (1984). (O'Connor)

Appellant(s) argue that because Policeman-1 can only be said to have confirmed the "Innocuous details" provided to Policeman-1 by Informant-1, Informant-2, and Ms. Hedger; and because Policeman-1, Ms. Hedger, Informant-1, and Informant-2 were not and did not provide full and fair representations of all the relevant material [redacted] facts known to them, that both reasonable suspicion and or probable cause cannot be said to exist. And furthermore, that the warrantless arrest of the Appellant(s), and the subsequent search warrant and search must be found void.

Brady v. Maryland

"Petitioner's papers are inexpertly drawn, but they do set forth allegations that his imprisonment resulted from perjured testimony, knowingly used by the State authorities to obtain his conviction, and from the deliberate suppression by those same authorities of evidence favorable to him. These allegations sufficiently charge a deprivation of rights guaranteed by the federal Constitution, and, if proven, would entitle petitioner to release from his present custody." Id.

Brady v. Maryland, 373 U.S. 83, at 86 (citing Pyle v. Kansas, 317 U.S. 213, 215-16, 63 S.-Ct. 177, 87 L. Ed. [redacted] 214( ); and

Mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct. 340, 342, 79 L.Ed. 791 ( ).

Appellant(s) argue that the trial court did commit fundamentally unfair and fatal errors in relation to the numerous discovery violations which do appear upon the plain face of the Record On Review. Said errors are under challenge on appeal and are of constitutional magnitude. Id. Transcripts, at 884-886; Transcripts, at 905 and 906.

Appellant(s) argue that the trial court's reliance on "the best evidence" rule and the absence of "bad faith" constitutes plain error and was prejudicially unfair to the defense. See State v.

Greene, 49 Wn. App. 49, 56-57, 742 P.2d 152 (1987) (Greene).

As to the trial judge's reasoning, the Honorable Theresa B. Doyle (Judge Doyle), states:

"OKay. All right. And with respect to the best Evidence Rule, Tegland, discusses images on computer monitors in the best Evidence Rule and the -- he concludes that the courts are regarding that as a writing requiring some [redacted] sort of printout, but of course there's an exception, the best Evidence Rule including an exception where the -- a copy or a summary or something close to the original isn't available, if it's been lost or destroyed without bad faith. I don't find any bad faith in this case." Transcripts, at 885-86.

Appellant(s) argue that because [redacted] "the prosecution is in a unique position to obtain informa-

tion known to other investigating agents of the government, it may not be excused from disclosing what it does not know, but could have learned." Id. Davila, 183 Wn.App. at 169 (relying on Kyles v. Whitley, 514 U.S. 419, 438-440, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); and Carriger v. Stewart, 132 F.3d 463, 480 (9th Cir. 1997)).

Appellant(s) further argue that the State(s) reply and apology to the court is neither reasonable, relevant, or even cogent to the issues such a blatant CrR 4.7 violation raises, to wit:

"If the State, inexcusably fails to act with due diligence, and material facts are, thereby not disclosed to defendant until shortly before a crucial stage in the litigation process, it is possible either a defendant's right to a

speedy trial, or his right to be represented by counsel who has had sufficient opportunity to adequately prepare a material part of his defense, may be impermissibly prejudiced. Such unexcused conduct by the State cannot force a defendant to choose between these rights." Id.

Greene, 49 Wn.App. at 56-57 (citing State v. Price, 94 Wn.2d 810, 814, 620 P.2d 994 (1980)).

Appellant(s) argue that the State overlooks the above cited issues when representing to the trial court the following:

"I'm going to say on the record as well, I myself, for the State was not in possession, a copy of the Detective's notes and of course had the State had possession we would have provided a copy to Mr. Peale."

Transcripts, at 886 (15-19).

Appellant(s) argue that the "Detective's

notes" were of alledged "actual text messages" sent to Informant-1 and Informant-2 by Appellant(s) what allegedly show Appellant(s) requesting, demanding, or otherwise promoting that said Informant-1 and or Informant-2 engage in prostitution. Transcripts, at 886.

Appellant(s) argue that the State(s) reliance on said "Detective's notes" was to establish evidence in the record what purports the alledged truth on the case in the main. Transcripts, at 883-84.

Appellant(s) argue that the State did not establish in the record that Policeman-1 either independently investigated or confirmed any acts of prostitution engaged in by Informant-1 or Informant-2.

Appellant(s) argue that if the trial court "had applied the Aguilar-Spinelli test, the seizure at issue [herein] would not have been upheld because the officer did not have any information about the basis of the informant(s) knowledge. Adams, 407 U.S. at 148." Id. Z.U.E., 178 Wn.App. at 920 (reading Adams v. Williams, 407 U.S. 143, 148, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972)); Also see 2 Wayne R. Lafave, Search And Seizure: A Treatise On The Fourth Amendment § 3.4(a), at 723 (3d ed. 1996).

Appellant(s) argue specifically this, because Informant-2 and Informant-1 are "criminal associate[s]" one to another, Policeman-1 was obligated to investigate and verify — if at all possible —

said informant's ties to that specific "criminal subculture". Id.

Z.U.E., 178 Wn.App. at 919 (citing Lafave, supra, at 204)

Appellant(s) argue that because the "disclosure obligation exists ... not to police the good faith of prosecutors, but to ensure the accuracy and fairness of trial by requiring the adversarial testing of all available evidence bearing on guilt or innocence", such suprises in the middle of a jury taking testimony must be presumed to be fundamentally unfair. Id.

Carriger, 132 F.3d at 480; Accord Davila, 183 Wn. App. at 169.

Appellant(s) argue that because Policeman-1 refused to independently and objectively investigate and or confirm said informant's own criminal conduct, for the specific purpose of varifying their veracity, Policeman-1(s) "notes" had to be submitted to the State and defense-counsel on or before the Omnibus Hearing. CrR 4.7(a)(1); CrR 4.7(h); CR 37.

"Constitutional error is presumed to be prejudicial and the State bears the burden of proving the error was harmless. State v. Stephens, 93 Wn.2d 186, 190-91, [redacted] 607 P.2d 304 (1980)." See State v. Guloy, 104 Wn.2d 412, 425, 705 P.2d 1182 (1985). (Guloy)

Appellant(s) argue that because the defense theory of the case resided in misidentification and another probable suspect, and because the State did have actual Knowledge and "constructive possession" of Policeman-1(s) "notes", this discovery violation did deprive Appellant(s) of a meaningful opportunity to develop a [redacted] material portion of the defense. Id. Davila, 183 Wn.App. at 169 (relying on Cottriger, 132 F.3d at 480). Also see State v. Maupin, 128 Wn.2d 918, 927-928, 913 P.2d 808 (1996). (Maupin)

Appellant(s) argue that the trial judge did commit the same plain error in relation to the "UFED" (Device) Device and the other cell phones. Transcripts, at 905, 906.

Judge Doyle states, in her decisions on the most important discovery violations in this case:

"I don't find any bad faith in this case." Id. Transcripts, at 886 (7-8);

"I don't find any bad faith in the fact that the officer gave the phone back to Amelia." Id.

Transcripts, at 905 (21-23);

"I don't find that there was any bad faith destruction such that there should be dismissal or some other sanction with respect to the Detective returning Amelia's phone to her." Id.

Transcripts, at 906 (4-7)

"Both the Sixth Amendment of the Federal Constitution and Article I, § 22 (amend. 10), of the Washington Constitution guarantee an accu-

sed the right to compulsory process to compel the attendance of witnesses. State v. Hudlow, 99 Wn.2d 1, 14-15, 659 P.2d 514 (1983). See also RCW 10.52.040; CrR 6.12. The right guaranteed by the Sixth Amendment was recognized and applied to the states in Washington v. Texas, 388 U.S. 14, 87 S.Ct. 1920, 18 L.Ed.2d 1019 (1967)." Id. Maupin, 128 Wn.2d at 924.

Appellant(s) [redacted] respectfully request that this Court of Appeals take judicial notice of the fact that the State does not forth in the record any evidence what establishes that said "Universal Forensic Extraction Device" (UFED) is certified by

the "Washington State Patrol's Electronic Crimes Laboratory" (WSP-ECL), "National Research Consil- National Academy Of Sciences; Director of the Division Of Forensic Sciences" (NRC-NAOS), nor does the State move to establish that the software employed in the UFED is recognized or certified by industry technicians who specialize in this field of unique electronics surveillance. And, most notable is that the State did not call to testify "FBI SA Vinnew" (FBI-Agent), SPD-CiR at 21 of 26, regarding the U.S. Justice Department's posture as it relates to the UFED or said device's software. See State v. Ford, 110 Wn.2d 827, 832, 755 P.2d 806 (1988) (Ford).

Appellant(s) argue that under these individual circumstances, a "purely subjective standard has been rejected, for it would encourage ignorance of the law. Glasson v. Louisville, 423 U.S. 930, 46 L.Ed.2d 258, 96 S.Ct. 280 (1975)." See Hocker v. Woody, 95 Wn.2d 822, 825, 631 P.2d 372 (1981).

Appellant(s) argue that Policeman-1 did have actual knowledge that said cell phones possessed an obvious and inherent evidentiary value. Appellant(s) argue that Policeman-1 did enjoy every means available to all similarly situated, diligent, police-officers exercising reasonable care in the public trust vested therein, to formally

memorialize this kind of evidence. Appellant(s) argue that the State submitted no facts what could constitute some exigent circumstance that can be said to fall within the "jealously drawn exceptions to the warrant requirement" nor does the State establish reasonable suspicion under the prevailing landscape because Policeman-1 v. Informant-1, Informant-2, and Ms. Hedger were consistently engaged in a pattern of fraud aimed at self-dealing. Id.

Day, 161 Wn.2d at 894-96 (citing Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)); Accord L.U.E., 178 Wn.App. at 779.

Appellant(s) argue that the above cited pattern of conduct warrants vacation of the verdict.

Perjury At Trail

Appellant(s) argue that the Record On Review establishes clear acts of perjury, under the Brady line of cases, as engaged in by Policeman-1, Ms. Hedger, Informant-1 and Informant-2.

In the matter of State v. Lewis, 85 Wn.2d 769, 771, 539 P.2d 677 (1975) (Lewis), the state Supreme Court writes:

"However, the legislature has declared that irregularity in administering or taking an oath is no defense to a prosecution for perjury. RCW 9.72.050 provides:

It shall be no defense to a prosecution for perjury that [redacted] an oath was administered or taken in an irregular manner... It shall be sufficient that he actually gave such testimony or made such [redacted] deposition, certificate or affidavit." Id. Lewis, supra at 771.

Appellant(s) respectfully posit the following question with this Court of Appeals:

"Objectively situated, Policeman-1 had actual Knowledge that Informant-1 nor Informant-2, as minors, are authorized by law to consent to sexual acts, invasive or superficial medical procedures, or invasive government searches of another's person or property!"

Appellant(s) argue that if the above statement proves true, this Court of Appeals must take issue with the fact that any written consent signed by Informant-1, what allegedly authorizes Policeman-1, to search the content of Ms. Hedges(s) cell phone is void ab initio. Id. Hopkins, 128 Wn.App. at 864

("But we also review whether the informant's tip included objective facts justifying the officers' investigative stop of Hopkins").

Appellant(s) argue that Policeman-1 made no effort to investigate and objectively confirm, for a fact, who said cell phones belonged to. Policeman-1 did not state for the record what corporation provides said cell phones with service, nor does Policeman-1 investigate or confirm, for the record, who holds the contract for such services. See Petco v. State, 121 Wn.App. 36, 56, 86 P.3d 1234 (2004) ("A claim for negligent investigation is available ... when the State conducts a biased or incomplete investigation that results in ... a harmful decision.") (Petco). Also see Transcripts, at 116-77 (22-1).

Counsel argued the veracity of "the witnesses" at trial and for the record:

"The contrast is so significant and the circumstances it describes as being available make each of the witnesses either complete liars or complete -- they're living in an alternate universe." Id. Transcripts, at 324 (6-9).

Appellant(s) argue that even the State is caught off-guard by Ms. Hedger(s) new revelations, mid-trial:

"And the reason for that is that the information that Ms. Hedger provided to us notice [in the] hallway when the Court allowed us the earlier recess in the middle of her testimony, she disclosed to us -- disclosed to me new information about details of what came forth in a second interview that we did with the defense investigator. That was all new information too me that she had not previously disclosed." Id. Transcripts, at 328 (3-10).

"Article I, section 7, forbids use of pretext as a justification for a warrantless search or seizure because our constitution requires we look beyond the formal justification for the stop to the actual one." See State v. Ladson, 138 Wn.2d 343, 353, 979 P.2d 833 (1999) (Ladson).

Appellant(s) argue that the deceptions in this trial are so numerous, intertwined, and convoluted that, virtually, the only time they come to the surface is when the jury is not present:

"Okay. Why don't the two of you go out and talk to the witness. We do need to take our recess. And we'll revisit this at the end of the recess. There's also the issue of the admissibility of Exhibit 1. We have to deal with that sometime, where that's being offered.

Thank you.

Please rise.

(Recess.)

Please be seated. OKay. And what did you find out from the witness.

Well, Your Honor, I found out quite a few interesting things. And as a result of what I found out I'm going to have several requests of the Court.

OKay.

But, I will give a first a synopsis so that it gives context to where we are. After we spoke for a few minutes I suggested that what happened in 2012 was the of discussion and a point reference of March 2012, because I was told it was in the spring. Two detectives came to the house asking if Amelia was there, asked to go into Amelia's room to check on her status. There was discussion that she may have been a runaway, and may

have been involved in prostitution.

Uh-huh.

Two to three weeks later the same detectives who had come in March of 2012, were contacted by or came into contact with Ms. Pryor, and there was conversation then about what Amelia had said after the first visit in 2012, and then the call two or three weeks later. And for purposes of this motion, the salient facts are that she said she'd been bothered by a person named Derick, and we now have the suggestion that she was prostituting, but she denied it. Now, then.

She denied it to the detectives?

Denied it to her mother. I don't believe she talked to the detectives. The mother did not do anything between roughly April of 2012 until contacting Amelia in the place that she testified in 2013.

Okay.

After making contact with Detective Washington, in 2013, she says the 2012 contact of the detectives and the conversation with Amelia and then the conversation with the detectives subsequently was made known to Detective Washington and perhaps Stephanie Hanley, who is a victim advocate, and possibly a third person who may have been a detective or may have been a victim advocate. Detective Washington was always with two people and he doesn't know who (unintelligible) on each case. (Unintelligible) there were two meetings where the [redacted] events of 2012 were part of the conversation."

Transcripts, at 302-[redacted]03.

Appellant(s) argue that from this trial quilocy it is clear that Policeman-1 does not enjoy a competent memory yet, Policeman-1 was permitted to testify about the specific content of a text message of 9 months prior thereto. Furthermore, the

Appellant(s) argue that the above noted hearings clearly establishes a distinctive difference, a conflict in Ms. Hedger(s) testimony, to wit:

"Because I remember what the detectives asked me and what they said to me. And that was right up here. And so I just went with my motherly instinct and I said if I don't do this now, something might happen worse so I just felt that I needed to do it right then and there." Id.

Transcripts, at 283-84.

Appellant(s) argue that Ms. Heder had actual notice of [redacted] the shooting of Informant-1 as early as 2012. Yet Ms. Hedger(s) "motherly instinct" did not care to bear until about a year later. Id. Hopkins, 128 Wn. App. at 865 (Before approaching Hopkins, the officers' suspicion was based solely

on the informant(s) tip that described Hopkins' appearance and age [redacted] inaccurately, but accurately described his location, clothing, and backpack(s only.). Id.

Hopkins, supra ; Accord Franklin, 49 Wn. App. at 107-08.

Conclusion(s)

Appellant(s) conclude that this Court of Appeals should vacate the Judgment and Sentence had herein.

Respectfully submitted

10/10/2015

(Appellant(s)- Signature)

Declaration of Mail

I, Yussuf H. Abdulle, do declare that on October 13, 2015, I did deposit the foregoing:

"Statement Of Additional Grounds For Review" (1-57);

"Cover Letter" (1);

"Declaration of Mail" (56-57):

or a copy
thereof in the internal-outgoing legal mail system of Coyote Ridge Correctional Center (CRCC-MSC), and made arrangements for first-class, United States Postal Service, postage-prepaid and addressed to:

Clerk-Court of Appeals Division One
600 University St
Seattle, Wa 98101;

Eric J. Nielsen-Attorney
1908 E. Madison St.
Seattle, Wa 98122;

Daniel T. Satterberg-Prosecuting Attorney

(56)

W554 King County Courthouse
516 Third Ave.
Seattle, Wa 98104.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated at Covell, Washington, in Franklin County, on the 13 day of October, 2015.

10/10/2015

(Appellant(s)-Signature)

DECLARATION OF MAILING

GR 3.1

I, Yussuf Abdulle on the below date, placed in the U.S. Mail, postage prepaid, 3 envelope(s) addressed to the below listed individual(s):

court of Appeals Div I
600 University street
one square Seattle
WA 98101-1176

King county courthouse
Prosecuting attorney's
office Room W554
516 Third Ave Seattle, WA
98104

Nielsen, Broman, a Koch
P.L.L.C Attorneys
at law 1908 East
Madison street, Seattle
WA 98122

I am a prisoner confined in the Washington Department of Corrections ("DOC"), housed at the Coyote Ridge Correctional Complex ("CRCC"), 1301 N. Ephrata Avenue, Post Office Box 769, Connell, WA 99326-0769, where I mailed said envelope(s) in accordance with DOC and CRCC Policies 450.100 and 590.500. The said mailing was witnessed by one or more staff and contained the below-listed documents.

1. declaration of mail
2. Additional ground of brief
3.
4.
5.
6.

I hereby invoke the "Mail Box Rule" set forth in General Rule ("GR") 3.1, and hereby declare under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED this october day of 13, 2015, at Connell WA.

Signature _____

To: Clerk-Court of Appeals Div. One

From: Yussuf H. Abdulle
Unit # [redacted] 331649
CRCC-MSC
1301 N. Ephrata
Connell, Wa 99362

Re: COA No. 72799-1-I

Dear Clerk,

under cover of this letter please find:

Statement Of Additional Grounds for Review.

Appellant(s) respectfully requests that your office transmit these papers to the justices without delay.

Respectfully submitted.

10/10/2015

(Appellant(s)-Signature)