

Supreme Court No. 98639-8

Court Of Appeals No. 91036-7-I

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Washington State
Supreme Court

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Respondent,

V.

STEVEN PAUL THORNTON,
Petitioner.

Appeal From The Pierce County Superior Court

Petition For Discretionary Review

Steven Paul Thornton
D.O.C No. 310168
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, Wa 98520

TABLE OF CONTENTS

	Page
A. Identity Of Petitioner _ _ _ _ _	1
B. Review Sought _ _ _ _ _	1
C. Issues Presented For Review	
1. Detective Barry's initial entry into the storage locker under the pretext of a protective sweep was unjustified because Petitioner and all other suspects had been detained and secured in the patrol car, therefore, officer safety was not in question._ _ _ _ _	5-17
2. The Court Of Appeals denied Petitioner his constitutional right to appellate review by failing to adequately address the merits of two key issues in his statement of additional grounds._ _ _ _ _	17-23
3. The Court Of Appeals failed to adequately address Petitioners argument that trial counsel was ineffective for failing to bring a plausible motion to suppress evidence at the request of the Court._ _ _ _ _	23-27
D. Statement Of Facts _ _ _ _ _	2-4
E. Standard Of Review _ _ _ _ _	5
F. Issues _ _ _ _ _	5-27
G. Conclusion _ _ _ _ _	27

AUTHORITIES

Federal Cases

	Pg.
Dunaway v. New York, 442 U.S. 200, 214 (1979) _____	5-13
United States v. Harris, 642 Fed.App. (CA.9 Cal)(2016) _____	6, 8, 12
Maryland v. Buie, 494 U.S. 325, 334, 110 S.Ct. 1093, 108 L.Ed.2d 276 (1990) _____	6, 8, 10, 12
Arizona v. Gant, 556 U.S. 332 (2009) _____	6, 8
Franks v. Delaware, 438 U.S. 154 (1978) _____	8, 10, 11, 15, 17
United States v. Canieso, 470 F.2d 1224, 1231 (2nd C.R. 1972) _____	14
Marron v. United States, 275 U.S. 344 51 S.Ct. 153, 75 L.Ed (1931) _____	16
In Re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970) _____	19
Leavell v. Commonwealth, 737 S.W. 2d 695, 679 (KY 1987) _____	21
Strickland v. Washington, 466 U.S. 668, 686, 104 S.Ct 2052, 80 L.Ed.2d 674 (1984) _____	24
Kimmelman v. Morrison, 477 U.S. 365, 385 (1986) _____	26

State Cases

State v. Valdez, 167 Wn.2d 761, 224 P.3d 751 (2009) _____	5, 16, 13
State v. Robinson, 171 Wn.2d 292, 253 P.3d 84 (2011) _____	6, 8, 12
State v. Cole, 128 Wn.2d _____	8
State v. Dalton, 73 Wn.App. 132, 136, 868. P.2d 873 (1994) _____	8, 9
State v. Goble, 88 Wn.App. 503 (1997) _____	8
State v. Cord, 103 Wn.2d 361, 367, 393, P.2d 81 (1983) _____	11
State v. Maddox, 116 Wash. App. 796 (2003) _____	16
State v. Lyons, 174 Wn.2d 354, 360-61, 275 P.3d 314 (2012) _____	16
State v. Rolax, 104 Wn.2d 129, 134-35, 702 P.2d 1158 (1985) _____	18
State v. Alvarado, 164 Wn.2d 556, 569, 192 P.3d 345 (2009) _____	18
State v. Baeza, 100 Wn.2d 487, 488, 670 P.2d 648 (1983) _____	19
State v. Callihan, 77 Wn.2d 27, 459 P.2d 400 (1969) _____	21
State v. Staley, 123 Wn.2d 794, 801, 872 P.2d 502 (1994) _____	21
State v. Bowen, 157 Wn.App. 821, 828, 239 P.3d 1114 (2010) _____	21
State v. Chouinard, 169 Wn.App 895, 282 P.3d 117 (2012) _____	22
State v. Benitez, 175 Wn.App 116, 121-22, 302 P.2d 877 (2013) _____	23
State v. Lorenz, 152 Wn.2d 22, 30, 93 P.3d 133 (2004) _____	23
State v. Mierz, 17 Wn.2d 460, 471, 901 P.2d 286 (1995) _____	24
State v. Jefferies, 105 Wn.2d 398, 717 P.2d 722 Cert denied 1179 U.S. 922 (1968) _____	24
State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2004) _____	24
State v. Meckelson, 133 Wn.App 431, 436, 135 P.3d 991 (2006) _____	24
State v. Klinger, 96 Wn.App 619, 989 P.2d 282 (1999) _____	26

Other Authorities

Wayne Lafave Search and Seizure § 3.7 (d)	
§ 4.2 (a) (1987) _____	9, 16

U.S. Const'

4th Amend.	5
6th Amend.	17, 24
10th Amend.	24
14th Amend.	19

Wash Const'

Art.1 §3	19
Art.1 §7	6
Art.1 §22	17, 24

CrR

CrR 3.6	6, 10, 14, 26
---------	---------------

R.A.P

R.A.P 10.10(a)	18
R.A.P 13.4 (b)(3)&(4)	5, 17, 23, 27

Statutes RCW

9.94A.631	13
9.41.040 (1)(2)	21, 22
9A.56.310 (1)	21

A. Identity Of Petitioner

Petitioner, Steven P. Thornton, requests this Court to accept review of the Court Of Appeals decision terminating review designated in Part B of this petition.

B. Review Sought

Petitioner seeks review of the Court Of Appeals decision in State v. Thornton, (8-1036-7-1), entered on April 20, 2020, and the order denying appellants motion for reconsideration entered on May 11, 2020, without argument. Both are attached hereto as appendix "A" and "B" respectively.

C. Issues Presented For Review

- (1). Was Detective Barry's initial entry into the storage locker under the pretext of a protective sweep justified when Petitioner and all other suspects had been detained and secured in the patrol car, thus, eliminating the question of officer safety?
- (2). Did the Court Of Appeals deny Petitioner his constitutional right to appellate review by failing to adequately address the merits of two issues raised in his statements of additional grounds?
- (3). Did the Court Of Appeals fail to adequately address Petitioners argument that trial counsel was ineffective for failing to bring a plausible motion to suppress evidence at the request of the Court?

D. Statement Of Facts

On July 7, 2016, Detective Eric Barry of the Puyallup Police Dept. received information from an "unnamed source", that Petitioner was "supposedly" in possession of stolen guns and motorcycles. See appendix "C".

As Det. Barry and Det. Massey surveilled the storage facility they observed Petitioner arrive on a motorcycle at 4:00 pm. R.P. 495.

People were already there two hours prior to Petitioners arrival. R.P. 496. Kassandra Wells, who Det.'s noted had arrived at 1:00 PM was parked outside the storage locker in the red pick-up. R.P. 496-97; 521.

While surveilling the locker Det. Barry, and Det. Massey.. "Never observed Mr.Thornton inside the pick-up truck". R.P. 458. "Ms.Wells was sitting in the drivers seat where the 40 cal.handgun was located" R.P. 458. "I watched the defendant working on motorcycles and arrested the defendant on a D.O.C warrant". R.P. 313-14. Defendant was in the trailer at the time of his arrest. R.P. 315. Det. Massey.."Observed defendant for thirty minutes and seen a lot of back and forth activity between the trailer and the storage". R.P. 522. While police had Ms.Wells detained in front of the pick-up police began looking in the windows of the pick-up and "seen a pistol in a holster underneath the seat". R.P. 325. At 16:48 Det. Barry entered the storage locker and began to run VIN No. and plate No. on various motorcycles, to which none returned as stolen. See appendix "D".

At 9:00 PM. Det, Barry applied for and received authorization for a search warrant.

In his affidavit, Det. Barry referenced having received information from a source who said there was supposedly stolen property and firearms inside the storage unit. See appendix "C"; See also CP 341, However, the affidavit Barry submitted did not include sufficient language as to the veracity of the unnamed source. C.P. 341-43.

In Det. Barry's affidavit he requested authorization to search the pick-up truck, trailer, and storage CP 341. He also sought to seize a variety of things, including, safes, and boxes / areas where stolen property and firearms could be kept. CP 340. At 9:17 PM. The judge issued the warrant but did not include language authorizing the search or seizure of the safes. CP 350-51.

Officers executed the search warrant at 9:17pm finding no stolen motorcycles, however, they did discover numerous firearms in cases in the back. R.P. 378-411. Police also discovered two locked safes in the unit R.P. 339 where numerous guns were also discovered. CP 374-407.

Petitioner was charged with nine counts of possession of a stolen firearm, and one count of possession of a stolen vehicle. CP 24-37. As well, 24 counts first degree firearm.

Prior to trial, Petitioner moved to suppress all the evidence as fruits of the unlawful search. CP 38-54. He argued that

looking at the four corners of the affidavit, the facts asserted did not meet the Aguilar, Spinelli Standard for establishing the informants reliability and, thus, the State failed to establish probable cause to support the search. R.P. 20-25. The Trial Court denied the motion to suppress finding that any Aguilar-Spinelli defects in the affidavit was cured by the warrant affiants "own observations". CP 267. Thus, the warrant was supported by probable cause. CP 267. At this hearing there was also a lengthy discussion with regard to the judge interlineation of information he submitted to the application for search warrant R.P. 7-60. See also appendix "C" The motion to suppress was ultimately denied.

On March 6, 2018, defense counsel moved the Court for another CrR 3.6 hearing in order to preserve, for the record several discrepancies in the computer aided dispatch (Cad Logs) with regard to the time line of the search of the storage locker because these CAD Logs established that Det. Barry had entered the storage locker and had began to run plate numbers on motorcycles at 16:48. Just eight minutes after Petitioner had been secured in the patrol car, and roughly five hours prior to the issuance of the search warrant. The Court instructed counsel to..."spell it out in a brief for me" R.P. 688. Counsel failed to pursue this plausible motion to suppress. Ultimately a jury found Petitioner guilty on all counts CP 182-225. The Court Of Appeals affirmed see appendix "A". Petitioner now files a timely Petition for Discretionary Review.

E. Standard Of Review RAP 13.4(b)(1)(2)(3)(4)

A Petition For Discretionary Review will be accepted by the Supreme Court only:

- (1). If the decision of the Court Of Appeals is in conflict with a decision of the Supreme Court, or
- (2). If the decision of the Court Of Appeals is in conflict with another decision of the Court Of Appeals; or
- (3). If a significant question of law under the constitution of the the State Of Washington, or the United States constitution is involved; or
- (4). If the Petition involves an issue of substantial public interest that should be determined by the Supreme Court.

F. Issues

1. Detective Barry's initial entry into the storage locker under the pretext of a protective sweep was unjustified because Petitioner and all other suspects had been detained and secured in the patrol car, therefore officer safety was not in question.

Legal Authority

The fourth amendment to the United States constitution protects the right of the people to be secure in their houses, and possessions against unreasonable searches and seizures.

Dunaway v. New York, 442 U.S. 200, 214 (1979); State v. Valdez, 167 Wn.2d 761, 224 P.2d 751 (2009).

Article 1 §7 , of the Washington State constitution provides "[N]o person shall be disturbed in his private affairs or his home invaded without authority of law". The privacy protections under Art 1 §7 are more heightened than those provided by the fourth amend. and bar warrantless searches with very limited exceptions. Valdez, 167 Wn.2d at 722.

Similarly, a "protective sweep must be supported by specific and articulable facts supporting the belief that other dangerous persons may be in the building or elsewhere on the premises". United Staes v. Harris, 642 Fed.App (CA.9 Cal)(2016) 713. In Maryland v. Buie, 494 U.S. 325, 334, 110 S.Ct 1093, 108 L.Ed.2d 276 (1990), The court held . "A protective sweep is defined as a quick and limited search of a premis, incident to arrest and conducted to protect the safety of police officers and others". Id at 327. However, where all suspects have been "immediately handcuffed and searched" there is no justification for a protective sweep because all individuals at the scene have been accounted for. United States v. Harris, 642 Fed.App. 713 at 1299. See also Arizona v. Gant, 556 U.S. 332, (2009) (internal citations omitted); State v. Robinson, 171 Wn.2d 292, 253 P.3d 84 (2011).

Facts

On July 7, 2016, at approximately 16:00 hrs. Det. Barry was conducting surveillance of the store-eze self storage, because of an investigation that was generated pursuant to information

that was relayed to him by an "unnamed source" that stolen motorcycles and guns "supposedly" would be located at this locker. The Petitioner also had a D.O.C warrant. See appendix "C".

At 16:48 Petitioner and Ms.Wells were placed in handcuffs and secured in the patrol car. See appendix "D".

At 16:56, the following license numbers of the motorcycles were run against the database.

License No's:

*3E9032
*425497A
*525915A
*535097A
*6604QK
*ACH2237
*C99731F

It is noteworthy that the only motorcycle to return as stolen was the motorcycle in the back of the trailer, No.6604QK. See appendix "D".

At approximately 9:00 PM that same evening, Det. Barry applied for and received a search warrant to seize. "Safes and boxes / areas where stolen property and firearms could be kept." See CP 340.

Trial Courts CrR 3.6 Suppression Hearing Findings

On Feb 22, 2018, the CrR 3.6 suppression hearing was conducted. After a lengthy discussion as to the probable cause for search warrant application, as well as, the "protective

sweep" that was conducted by Det. Barry. The Court ultimately concluded... "I do believe that even without the informants information, there was probable cause to search the unit for stolen property"... "I also reflect or do cite to Maryland v. Buie, 494 U.S. 325, as to whether a protective sweep would have identified some of these firearms was available to the officers even in the absence of a warrant" R.P. 32¹. Ultimately, the Court ruled there was no need for a Franks hearing.

Court Of Appeals Analysis

In the C.O.A's opinion the Court asserts that (1) "Officers do not need to witness criminal activity in order to establish probable cause per se". "Officers merely need an affidavit in support of the warrant that sets out facts and circumstances sufficient to establish a reasonable inference that the defendant is probably involved with criminal activity and that evidence of the crime can be found at the place to be searched." Relying on State v. Cole, 128 Wn.2d, State v. Dalton, 73 Wn.App 132, 136, 868 P.2d 873 (1994). This opinion is not only inconsistent with the facts of this case, it is also in conflict with the Courts prior opinion in Dalton, 73 Wn.App.Id.

First, there are no substantive articulable facts set out

1. The Courts ruling is in direct conflict with Buie, which held that (1). A protective sweep is "quick and limited". To protect officer safety, not to search, and (2). Once all suspects have been "handcuffed" and searched there is no justification for a protective sweep. See Harris, 642 Fed.App 713 at 1299; Gant, 556 U.S. 332; Robinson, 171 Wn.2d 292 Id.

in the affidavit that an actual crime had been committed. In fact, the opposite is the case as both Det. Barry and Det. Massey testified that neither one witnessed any criminal activity while surveilling the Petitioner at the locker. See R.P. 313-14.

Second, the Court in Dalton, 73 Wn.App. held that..."Even if there is a reasonable probability that a person has committed a crime in one location, this does not necessarily give rise to probable cause to search a different property". Id.

Moreover, there is nothing in the record before the Court to suggest that a crime had been committed such as a 911 call or an eye-witness account of thefts of motorcycles or guns, that had recently been committed, thus, there was no nexus from any recent crime that would draw law enforcement to the storage locker. See State v. Goble, 88 Wn.App 503 (1997) Citing, Wayne Lafave Search and Seizure §3,7(d) at 372 (3d 1996). The only reason law enforcement was investigating the storage locker was pursuant to the uncorroborated information relayed to Det. Barry by an "unnamed source". The Courts reliance on the unnamed source corroborated by Det. Barry's "own observations" compels us to review the facts before us, or lack thereof, supporting either the information provided by the unnamed source, or Det. Barry's own observations.

The Aguilar-Spinelli test requires the State must establish (1) The basis of the informants information, And (2) The informants credibility or the reliability of the informants

information.

A review of the warrant application fails the Aguilar-Spinelli test because there is no indicia of information set forth in the application as to (1) The basis of the informants knowledge of how he/she obtained this information. And (2) The reliability and veracity of the "unnamed source". The only indicia of evidence submitted in the affidavit was interlinedated by the issuing Magistrate who had no first hand knowledge of the information relayed to Det. Barry by the unnamed source. Nor did this Judge have any first hand knowledge of the reliability or veracity of the source. However, this could have been developed for the record in a Franks² hearing, or at the previous CrR 3.6 hearing, but the Court declined to probe this issue based on its false conclusion that Buie allowed the search for evidence during a protective sweep after the Petitioner had been detained and secured.

The only thing the Judge had to rely on was what was contained in the four corners of the affidavit which was silent of the Aguilar-Spinelli test. Thus, the Judges interlineation of facts he had no knowledge of, was not only judicial misconduct, but it also violated Franks v. Delaware, 438 U.S. 154 Id. Which renders the search and seizure warrant constitutionally invalid.

In Franks v. Delaware, Id, the Supreme Court articulated a test by which erroneous material statements in the warrant

Franks v. Delaware, 438 U.S. 154 (1978)(Internal Citations Omitted).

affidavit, made either intentionally, or with reckless regard as to their truth should be excluded from the affidavit when determining the existence of probable cause. The Franks test for material misrepresentations applies to allegations of material omissions. State v. Cord, 103 Wn.2d 361, 367, 393 P.2d 81 (1983).

Here, if we exclude the interlineation submitted by the judge, the warrant affidavit contains nothing to satisfy the Aguilar-Spinelli test. Next we must review what the Court relied on to substantiate Det. Barry's "own observations".

In it's opinion the Court stated ..."On July 7, 2016, the Store-eze facilities manager informed Barry that Thornton was there. Barry and his partner, Det. Greg Massey arrived and conducted surveillance on The unit for half an hour to 45 minutes. Barry noticed Thornton working on motorcycles and going in and out of the storage unit" Slip op at 2. The question before this Court is (1) Does the warrant application submitted to the judge, absent the inserted false facts by the Judge satisfy probable cause? Based on the Courts own set of facts, the answer is no.

However, even if what the Appellate Court relied on was enough to satisfy the Aguilar-Spinelli test, which it does not, that is not what is entirely at issue here. What is at issue here is (1) Did the "protective sweep" exceed the scope of the D.O.C warrant? (2) Did running the VIN and plate numbers on the motorcycles exceed the scope of the protective sweep?

In the C.O.A's opinion it declared that..."officers then arrested Thornton based on an outstanding D.O.C warrant". Slip op at 2. This declaration by the Court compels us to review the law and what law enforcement is precluded from conducting once a criminal suspect is placed under arrest, handcuffed and secured in the patrol car.

In Maryland v. Buie, 495 U.S. 325 Id, The Court held..." A protective sweep is defined as a 'quick and limited' search of a premis, incident to arrest and conducted to protect the safety of police officers and other"³. Id at 327. However,.... "Where all suspects have been immediately handcuffed and searched there is no justification for a protective sweep". See also United States v. Harris, 642 Fed.App. 713 at 1299 Id; State v. Robinson, 171 Wn.2d 292, 253 P.3d 84 (2011). Although the C.O.A maintained that no protective sweep occurred, or that they..."Are not aware of any authority prohibiting running motorcycle VIN numbers during a protective sweep". Slip op at 11. This opinion by the C.O.A is in conflict with the above cited authority because (1) A protective sweep incident to arrest is a "quick and limited" search conducted for the safety of officers and others. However, once all suspects have been detained..."There is no justification for a protective sweep". (2) When a suspect is arrested for a D.O.C warrant any protective

3. It is important to note that the record contains no evidence that officers believed there may be other suspects hiding in the locker. To the contrary, Det. Barry surveilled the premises for almost an hour.

sweep is precluded. Absent any other evidence of criminal activity. Here, the record simply does not meet that standard. Petitioner was arrested on a D.O.C warrant, handcuffed and secured in the back of the patrol car. Therefore, anything other than transporting Petitioner to jail was not justified. See RCW 9.94A.631. Petitioner is willing to concede for the sake of the argument that running VIN numbers on vehicles may be quite routine for law enforcement. However, running VIN numbers on vehicles in a building you didn't have a valid warrant to be in runs afoul of both the United States Constitution, as well as the Washington State Constitution. See Dunaway v. New York, 442 U.S. 200 Id; State v. Valdez, 167 Wn.2d 761, 224 P.3d 751 (2009).

Further, the Court Of Appeals also asserted that officers logged the first "gun" which was found outside the safe at 10:14 PM. The Court also maintained that the record contains no evidence showing the officers searched any areas listed in the search warrant before the Judge signed it at 9:17. This contention not only misapprehends the facts before the Court, it also establishes that the Court, itself reviewed the CAD logs to make these conclusions, while falsely claiming that the record contains no evidence to support that the officers went in the locker before the judge signed the warrant.

A review of the CAD logs firmly establishes that the VIN and plate numbers were run at 16:56 just eight minutes after Petitioner was secured in the patrol car. Moreover, the verbatim
Discretionary Review - 13

report of the proceedings also firmly establishes that on March 6, 2018, trial counsel had this discussion with the Court at the CrR 3.6 hearing. See R.P. 469; R.P. 687.

Additionally, the C.O.A, in its opinion held that..."Even if the informants information fails both prongs, and independent police investigation corroborating the informants tip can sufficiently cure deficiency. The independent police investigation should point to suspicious activity.."probative indications of criminal activity along the lines suggested by the informant". Relying on United States v. Canieso, 470 F.2d 1224, 1231 (2nd Cir 1972). Here the record before the Court firmly establishes that prior to taking Petitioner into custody for a D.O.C warrant, during their surveillance / investigation, they witnessed Petitioner "working on motorcycles and saw alot of back and forth activity between the trailer and the storage locker". R.P. 522. In fact, the only evidence in the record that any criminal activity was afoot was discovered after Petitioner was taken into custody for the D.O.C warrant, which they were precluded from doing under the existing precedent law cited above. Furthermore, the Court misrepresented the fact before us by proffering that..."The informant told officers that Thornton rented a storage locker in another persons name⁴... The informant directly observed numerous bikes, motorcycles,

4. This is a disputed fact.

and tools that Thornton told the informant were stolen, and observed firearms that Thornton told the informant were stolen during burglaries". Slip op at 16. A review of appendix "C" establishes that the informant only relayed to Det. Barry that... "A source had informed Detectives that the storage locker "supposedly" stored within it numerous dirt bikes / motorcycles, tools, and also "supposedly" numerous stolen firearms." See appendix "C".

The only "direct observations" was what was interlineated in the affidavit by the issuing Judge. Thus, there is no evidence in the record before the Court of direct observations by anyone, except what was observed illegally after Petitioner has already been arrested on the D.O.C warrant and secured in the patrol car. Second, once the police had entered the storage locker based on the informants statement that there "supposedly" was stolen motorcycles and guns in the locker. Police discovered the the motorcycles which were checked against the data base first, returned as not stolen. This presented the police with "dissapating circumstances" that (1) should have compelled them to question the reliability and veracity of the information relayed to them by the informant. And (2) this exculpatory information should have been included in the affidavit. The omission of this key fact further violated Franks v. Delaware, 438 U.S. 154, Id.."New events known to police may dissapate the recent probable cause showing to the Magistrate".

State v. Maddox, 116 Wash. App. 796 (2003); 67 P.3d 1135, Quoting 4.2 W. Lafave Search and Seizure § 4.2 (2) 2d (1987)...

"Prevention of a search warrant based on loose, vague or doubtful basis of fact": See also Marron v. United States, 275 U.S. 344, 51 S.Ct. 153, 75 L.Ed 374 (1931). Additionally, even if the Court OF Appeals wants to rely on the statements made by Petitioner to police after his arrest, these statements contain no inculpatory evidence to support that he had any knowledge consistent with what the informant relayed to the police that the locker contained anything mentioned at that time. Even the statement made by the Petitioner, which the C.O.A relied on, that..."Thornton told him he had "seen" guns in the storage unit before" Slip op at 6 coupled with the informants statement that the locker "supposedly" contained stolen items, presented police with "stale" information with which to rely on because police failed to observe any criminal activity during their investigation, and never established a date when either the informant or Petitioner saw guns in the locker in the past. In fact, Thornton told police there were no guns in the unit at that time. CP 342. In its opinion the Court Of Appeals found that police independently corroborated the informants tip, however, in so holding, it pointed to information that was stale to support entry into the storage unit.

In State v. Lyons, 174 Wn. 2d 354, 360-61, 275 P.3d 314 (2012) This Court recognized the Magistrate must decide whether the

passage of time is so prolonged that it is no longer probable that a search will reveal criminal activity or evidence, I.E. that the information was stale. First, the officers entry into the locker based on these stale set if innocuous facts was unconstitutional. Second, the Magistrate was deprived of the ability to make a determination of staleness because the police failed to inform him of these current facts in the warrant affidavit that was presented to the judge hours after they entered the locker further rendering the warrant itself constitutionally invalid by the omission of relevant key facts. See Franks v. Delaware, 438 U.S. 154 Id.

Based on the above facts and authority this Court should accept review pursuant to RAP 13.4 because the Court Of Appeals opinion is in conflict with previous decision of both the United States Supreme Court and the Court Of Appeals. These conflicts are not only of constitutional import, but also involve issues of substantial interest that should be determined by this Court.

2. The Court Of Appeals denied Petitioner his constitutional right to appellate review by failing to address the merits of two issues in his statement of additional grounds.

Legal Authority

The sixth amendment to the U.S. constitution, and Art.1 §22

of the Washington State Constitution guaranteed the right to appeal. Included in the right to appeal is the right to have the Appellate Court consider the merits of the issues presented for review. State v. Rolax, 104 Wn.2d, 134-25, 702 P.2d 1158 (1985).

RAP 10.10 (a) Permits a defendant / appellant to file a pro-se statement of additional grounds to identify and discuss those matters which he believes have not been adequately addressed in the brief filed by counsel.

Issues raised in a SAG merit appellate review if they adequately inform the reviewing court of the nature and occurrence of the alleged errors and involve facts in the record that merit review. State v. Alvarado, 164 Wn.2d 556, 569, 192 P.3d (2008).

Here, Petitioner met all the criteria, submitting facts in the record, appendixes attached and other evidence in his SAG, to which the Appellate Court failed to adequately respond, by citing their own facts in the record, and/or submitting their own documents refuting Petitioner claimed errors.

On appeal the Petitioner raised two sufficiency challenges. One in his counsels opening brief, and one in his pro-se SAG. These challenges differed both in scope and content. In his SAG, Petitioner challenged the sufficiency of the evidence as it pertained to all gun possession convictions. SAG at 9. Specifically, Petitioner argued that the State failed to provide

sufficient evidence establishing he "actually" or "constructively" possessed stolen firearms, "or any firearms for that matter".⁵
SAG at 7.

This challenge focused on the possession element, which requires the State to prove each and every element of the crime charged. See Art.1 §3 of the Washington State constitution and the 14th amendment of the U.S. constitution. In Re Winship, 397 U.S. 358, 90 S.Ct 1068, 25 L.Ed.2d 368 (1970); State v. Baeza, 100 Wn.2d 487, 488, 670 P.2d 648 (1983). By contrast, in his counsels opening brief, counsels sufficiency challenge pertained only to Petitioners conviction for possession of stolen guns. BOA 21-24; BOA 10-13.

Moreover, counsels sufficiency argument focused on the knowledge element...(I.E. whether Petitioner knew the guns were stolen rather than the possession element. Id. In its decision, the COA failed to distinguish between the two sufficiency arguments put forth by Petitioner and his counsel.

It is important to note that Petitioner has objected, on the record, to his counsels assertions in her brief that Petitioner.."had no knowledge the guns "he" possessed were stolen". [emphasis mine]. Petitioner has maintained that he possessed no guns at all since the genesis of this prosecution.

5. Although the argument heading indicates Petitioner was challenging the convictions for possession of stolen firearms, the content of his argument establishes he was challenging convictions on all gun possession convictions.

See opening brief / see also motions to replace appellate counsel. This is important when we consider the distinction between counsel's knowledge argument, and Petitioners dominion and control argument, along with the C.O.A's opinion.

In its opinion, the COA asserted that..."Thornton notes that these actions are just as consistent with the facts that, as a convicted felon, it was illegal for Thornton to possess any guns at all, as they are with him knowing the guns were stolen. He further notes that except for Thorntons exculpatory testimony about motorcycles, the record contains no evidence for the manner to which Thornton gained possession of the stolen guns, or stolen vehicles, or any characteristic about the guns. But Thorntons argument only shows that the evidence presented by the State permits two competing inferences. The jury could reasonably draw either one".

This conclusion by the court establishes the egregious nature of his counsels argument because the general perception put forth by the Court Of Appeals was that either way Petitioner was in possession of the guns. This allows the Court Of Appeals to avoid Petitioners dominion and control argument. However, irrespective of the holdings above, Petitioner put forth meritorious arguments in his SAG that adequately informed the reviewing Court of the nature and occurrence of the alleged error that were not repetitive of his counsels arguments, that involved facts in the record that warranted review, to which the COA failed to adequately address.

Here, the State charged Petitioner with RCW 9A.56.310(1) which reads as follows:

A person is guilty of possessing a stolen firearm if he/she possess, carries, delivers, sells or is control of a stolen firearm.

Petitioner was also charged with violating RCW 9.41.040(1)(2) which provides that a person is guilty of unlawful possession of a firearm if he unlawfully, feloniously and knowingly owns, was in his possession or under his control a firearm.

Possession of property may be either actual or constructive. State v. Callihan, 77 Wn.2d 27, 459 P.2d 400 (1969). A person actually possess an item when it is in his physical custody, and constructively possess something that is not in his physical custody but still in his dominion and control. In either case, the State must prove more than a mere passing control over an item. State v. Staley, 123 Wn.2d 794, 801, 872 P.2d 502 (1991).

In Leavell v. Commonwealth, 737 S.W. 2d 695, 679 (KY 1987) The Court held.. "The person who owns or exercises dominion and control over a motor vehicle in which contraband is concealed, is deemed to possess the contraband". Similarly, in State v. Bowen, 157 Wn.App. 821, 828, 239 P.3d 1114 (2010), The Court OF Appeals adopted the same standard when it held.. "Courts have found sufficient evidence of constructive possession and dominion and control, in cases which the defendant was either the owner of the premissis, or the driver owner of the car where contraband

Discretionary Review - 21

was found. In State v. Chouinard, 169 Wn.App. 895, 282 P.3d 117 (2012) The Court Of Appeals continued these same holdings when it dismissed with prejudice because the State presented insufficient evidence to convict the defendant of unlawful possession of a firearm under RCW 9A.04.040, because it showed merely his proximity to the weapon and knowledge of its presence in the vehicle. This evidence alone did not prove his constructive possession of the firearm.

Here, in the COA's opinion it asserted..So viewing the evidence in a light most favorable to the State, a rational trier of fact could find beyond a reasonable doubt that Thornton knew the firearms and motor vehicles were stolen". Slip op at 10. The Court of Appeals based this conclusion on (1) counsels improper argument that Petitioner.."Didn't know the guns "He" possessed were stolen". And (2) the States assertion that "Thornton's rental of the storage unit in someone elses name, and the denial of having guns in the unit, provided sufficient evidence to support the conviction of possession of the guns and a stolen motor vehicle'. Id at 10. First, counsel's proffered argument is inconsistent with the facts of the case under the dominion and control standard, because there is nothing in the record that Petitioner had dominion and control over any firearms. Second, on what planet does denying having guns in someone else's storage locker prove that a defendant did in fact, possess those guns? Third, the Court OF Appeals not only

misapprehend the facts by continuing the narrative that Petitioner was in possession of the guns, but it's opinion is in direct conflict with its prior opinions in the above cited cases. And the Courts failure to challenge the factual evidence, complete with testimony, or documentary evidence that Petitioner was, in fact, the owner of the locker, or the truck, or the operator of either simply fails to meet the standards set forth by the Court OF Appeals, as well as the Supreme Court under its well established precedent. Furthermore, the Courts failure to adequately challenge the evidence put forth by Petitioner in his statement if additional grounds, should prove Petitioners facts as true under State v. Benitez, 175 Wn.App 116, 121-22, 302 P.2d 877 (2013)(citing State v. Lorenz, 152 Wn.2d 22. 30, 93 P.3d 133 (2004)). Therefore, the Court Of Appeals failure to meet its obligation to consider the arguments properly before it under the constitution, and court rules is not only of constitutional import, it also involves an issue of substantial public interest that should be determined by this Court. As such, review is appropriate under RAP 13.4(b)(3) and (4).

3. The Court of Appeals failed to adequately address Petitioners argument that trial counsel was ineffective for failing to bring a plausible motion to suppress evidence at the request of the Court.

Effective assistance of counsel is guaranteed by both U.S. Const. Amend VI; and Washington const. Art 1§22 (Amend.10). State v. Mierz, 17 Wn.2d 460, 471, 901 P.2d 286 (1995). The Court has established a two prong test for ineffective asst. of counsel. Strickland v. Washington, 466 U.S. 668, 686. 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). The two pronged Strickland test requires proof that the attorney acted deficiently, and that deficient performance prejudiced the defendant. State v. Jefferies, 105 Wn.2d 398, 717 P.2d 722, cert. Denied 1179 U.S. 922 (1968), at 418.

The Appellate Court presumes a defendant was properly represented, but this presumption can be overcome when there is no conceivable legitimate tactic or strategy explaining counsel performance. State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2009). To establish prejudice, the defendant must also show counsels errors were so serious as to deprive him of a fair trial, whose result is unreliable. Strickland, 466 U.S. at 687. What is necessary is a probability sufficient to undermine the confidence in the outcome of the trial. Such a reasonable probability need not show that the deficient conduct more likely than not altered the outcome. Strickland, 466 U.S. at 693-94.

The failure to bring a plausible motion to suppress is deemed ineffective if it appears the motion would likely have been successful. State v. Meckelson, 133 Wn.App. 431, 436, 135 P.3d

991 (2006).

In its opinion, the Court Of Appeals denied this claim holding that.

"The record contains no evidence showing the officers searched areas listed in the search warrant before the judge signed it at 9:17. During trial, Thornton's attorney cross examined Barry and obtained information that it took Barry about one hour after the judge signed the warrant to return to the storage unit facility where officers then began the search. The officers logged the first "gun" which was outside of the safe at 10:14 PM. Thornton fails to show that a motion to suppress based on this information would likely have succeeded" Slip op at 13. Although, the above testimony may have been elicited at trial, this fails to address the factual argument put forth by Petitioner in his SAG. In Petitioner SAG, he submitted procedural facts that establish that during cross examination of Det. Barry trial counsel became aware that the CAD logs revealed that the Det. had run the motorcycle VIN and plate numbers on the motorcycles at 16:48. And while it may be true that the first gun was logged at 10:45 PM, it is also true, as evidenced by the same CAD logs before the Court, that the first Motorcycle was logged at 16:48, just eight minutes after Petitioner was secured in the patrol car, and about five hours before the warrant was issued. See appendix "C"; and "D", also in Petitioners procedural fact he submitted, for the record citings

that establish that the judge at the CrR 3.6 hearing instructed counsel to .."spell that out in a brief for me" to be considered at a 3.6 hearing. R.P. 688. Counsel replied.."not a problem your honor". R.P. 688

In the precedent case of Kimmelman v. Morrison, 477 U.S. 365, 385 (1986)(internal citations omitted). The Court held.. "Defense counsels decision not to challenge a search warrant on constitutional grounds by pretrial motion to suppress, is not automatically assumed to be deficient performance, failure to present a valid pretrial motion to suppress however, can rarely be determined to be a legitimate tactical decision". The Court Of Appeals in State v. Klinger, 96 Wn.App. 619, 988 P.2d 282 (1999) continued these same holdings.

Here, when considering the plausibility of the prospective motion trial counsel should have pursued, as well as its likelihood of success we need only to rely on the record before the Court to establish the likelihood of both requisite conditions. First, it cannot be argued that the CAD logs firmly establish that the first motorcycle was logged at 16:48. Therefore, it was plausible that this motion would have succeeded. Second, the Court instructed counsel to "spell it out in a brief for me", thus, and again satisfying the plausible nature of the motion, and its potential success because officers not only mislead the Court by omitting the fact that they had entered the locker prior to the issuance of the search warrant,

but the evidentiary record establishes this fact. third, failure to present a valid pretrial motion to suppress can rarely be a legitimate tactical decision. ~~Foster~~, the COA, in its decision misapprehended the facts in order to avoid determining the potential strategy or tactic inherent in trial counsel's failure to bring this motion that he requested the Court allow him to bring, and the Court instructed him to do. Thus, prejudice is established because counsel's failure to bring this plausible motion, that was supported by factual evidence in the record, allowed suppressable evidence to be presented to the jury. Therefore, the COA's misapprehension of the facts, along with its conflicts of prior opinions of both the U.S Supreme Court as well as the Court Of Appeals. Along with its failure to meet its obligations to properly address factual meritorious issues before it warrants review under RAP 13.4. Because it presents this Court with important constitutional questions that are of substantial public interest that should be determined by this Court.

G. Conclusion

Should this Court grant review consistent with RAP 13.4 this Court should remand this matter back to the Trial Court for a new trial suppressing all the evidence used in the State's prosecution for the violations of precedent search and seizure law afforded by the fourth amendment of the U.S. constitution, and all the legal authority cited above.

Respectfully Submitted this 28th day of June, 2020

Steven P. Thornton #310168
Stafford Creek Correctional Center
191 Constantine Way
Aberdeen Wa, 98520

Certificate of mailing

I, Steven P. Thornton, do hereby attest that this Discretionary Review was deposited in the Legal Mail system here at SCCC, on June 28th, 2020



Steven P. Thornton

Appendix A

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

STEVEN PAUL THORNTON,

Appellant.

No. 81036-7-I

DIVISION ONE

UNPUBLISHED OPINION

LEACH, J. — Steven Thornton appeals his convictions for possession of stolen firearms, unlawful possession of firearms, and unlawful possession of a stolen motor vehicle. We affirm his convictions but remand to strike the filing fee and DNA collection fee.

BACKGROUND

Steven Thornton asked a friend, Steven Sands, to rent a storage unit for Thornton's use. Thornton accessed the unit 40 or 50 times between May 14, 2016, and July 7, 2016. Thornton was the only person to store belongings in the unit.

Detective Eric Barry of the Puyallup Police Department received information from a confidential informant that Thornton had bragged about storing stolen dirt bikes and guns in a particular storage unit. Thornton's criminal history made it illegal for him to possess guns.

On July 7, 2016, Stor-Eze storage facility's manager informed Barry that Thornton was there. Barry and his partner, Detective Greg Massey, arrived and

combination that Thornton provided. Thornton then told Barry to "type it in and it should beep twice, and then you can open it." Officers eventually opened one safe with a key found on a key ring in the ignition of the pick-up truck. They forced the other safe open with a pry bar.

Officers found a holstered .40 caliber pistol, with the grip protruding, and ammunition in the pick-up truck underneath the seat. They also found 26 other firearms inside the storage unit some of which were locked inside the two gun safes. Seven of the firearms were stolen.

The State charged Thornton with nine counts possession of a stolen firearm, twenty-four counts of unlawful possession of a firearm, and one count of unlawful possession of a stolen vehicle.

Before trial, Thornton asked the court to suppress evidence seized claiming insufficient probable cause supported the search warrant. The trial court denied the request finding that any Aguilar-Spinelli defects in the affidavit were cured by the officers' own observations therefore the warrant was supported by probable cause.

The jury found Thornton guilty as charged. The trial court sentenced Thornton to 212 months in custody, and imposed a \$100 DNA collection fee and a \$200 criminal filing fee. Thornton appeals.

Aguilar-Spinelli Requirements

Thornton claims that the State did not prove the necessary Aguilar-Spinelli requirements because the informant's information was not established as reliable, and without the informant's information, the State failed to establish a nexus between the items to be seized (firearms and stolen property) and the storage unit.

We apply the test announced in Aguilar v. Texas⁸ and Spinelli v. United States⁹ to determine if an informant's tip can establish probable cause to arrest.¹⁰ This test requires the State must establish (1) the basis of the informant's information and (2) the informant's credibility or the reliability of the informant's information.¹¹ Courts label these two prongs the knowledge prong and the veracity prong.¹² Courts use the "veracity" prong to evaluate the informant's "track record" (i.e., has he provided accurate information to the police a number of times in the past?).¹³ Courts use the "basis of knowledge" prong to evaluate the reliability of the informant's asserted knowledge.¹⁴

Even if the informant's information fails both prongs, an independent police investigation corroborating the informant's tip can sufficiently cure a deficiency.

⁸ 378 U.S. 108, 84 S. Ct. 1509, 12 L. Ed. 2d 723 (1964).

⁹ 393 U.S. 410, 89 S. Ct. 584, 21 L. Ed. 2d 637 (1969).

¹⁰ State v. Gaddy, 152 Wn.2d 64, 71, 93 P.3d 872 (2004). Although the United States Supreme Court rejected the Aguilar-Spinelli test for the "totality-of-the-circumstances" test in Illinois v. Gates, 462 U.S. 213, 230, 103 S. Ct. 2317, 76 L. Ed. 2d 527 (1983), we still adhere to the Aguilar-Spinelli informant test. State v. Jackson, 102 Wn.2d 432, 443, 688 P.2d 136 (1984).

¹¹ Gaddy, 152 Wn.2d at 71-72 (citing State v. Cole, 128 Wn.2d 262, 287, 906 P.2d 925 (1995)).

¹² State v. Jackson, 102 Wn.2d 432, 437, 688 P.2d 136 (1984).

¹³ Jackson, 102 Wn.2d at 437.

¹⁴ Jackson, 102 Wn.2d at 437.

Based on the fact that Thornton is a convicted felon, admitted there was at least one more gun inside the storage unit, in addition to the gun Barry saw in the truck, and because he was "on top of a stolen motorcycle," officers requested the search warrant. The officers here made an independent investigation that corroborated the information Barry received from the informant. This investigation cured any deficiency in either prong of the Aguilar-Spinelli test.

Nexus

Thornton next claims that without the informant's statements, the search warrant did not establish the necessary nexus between the items seized and the storage unit. Because the officer's independent investigation corroborated the informant's information, which created the basis for the search warrant, Thornton's nexus claim fails.

Scope of Warrant

For the first time on appeal, Thornton claims the officers were not authorized to search the gun safes because the search warrant was silent as to the safes.

Generally, an appellate court will not review issues raised for the first time on appeal. A recognized exception to this rule allows review if a party shows a "manifest error affecting a constitutional right."¹⁶ This exception to the general rule exists because constitutional errors "often result in injustice to the accused and

¹⁶ RAP 2.5(a)(3).

favorable to the State to determine whether any rational juror could find the essential elements of the crime beyond a reasonable doubt.²²

The trial court instructed the jury that to convict Thornton of possessing a stolen firearm, it had to find, beyond a reasonable doubt:

- (1) That on or about the 7th day of July, 2016 the defendant possessed or was in control of a stolen firearm;
- (2) That the defendant acted with knowledge that the firearm had been stolen;
- (3) That the defendant withheld or appropriated the firearm to the use of someone other than the true owner or person entitled thereto; and
- (4) That any of these acts occurred in the State of Washington.

The trial court also instructed the jury that to convict Thornton of possessing a stolen motor vehicle, it had to find, beyond a reasonable doubt:

Possessing a stolen motor vehicle means knowingly to receive, retain, possess, conceal, or dispose of a stolen motor vehicle knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

The trial court instructed the jury that:

A person knows or acts knowingly or with knowledge with respect to a fact, circumstance, or result when he or she is aware of that fact, circumstance, or result. It is not necessary that the person know that the fact, circumstance, or result is defined by law as being unlawful or an element of a crime.

If a person has information that would lead a reasonable person in the same situation to believe that a fact exists, the jury is permitted but not required to find that he or she acted with knowledge of that fact.

When acting knowingly as to a particular fact is required to establish an element of a crime, the element is also established if a person acts intentionally as to that fact.

²² State v. Salinas, 119 Wn.2d. 192, 201, 829 P.2d 1068 (1992).

v. Ramirez²³ requires this relief because the State previously collected his DNA and because he is indigent. We accept the concession of error and remand to the trial court for a ministerial order striking the DNA fee and the filling fee from the judgment and sentence.²⁴

Statement of Additional Grounds

Thornton raises several issues in his pro se statement of additional grounds under RAP 10.10. Thornton's counsel addressed some of his assertions in his opening brief,²⁵ so we rely on the above analysis to resolve these claims.

Thornton claims "running the motorcycle's [v]in [n]umbers, exceeded the scope of any protective sweep." We are not aware of any authority prohibiting this action.

He also claims the officers used the outstanding warrant as a pretext to establish probable cause to secure a warrant, and that "there has never been any mention of the officer's witnessing any criminal activity at the storage locker." But, Barry stated, based on a tip received from an informant, and the knowledge that Thornton was a felon, the officers did not need to "witness" criminal activity per say, they just needed to establish probable cause in order to establish Thornton

²³ 191 Wn.2d 732, 746-50, 426 P.3d 714 (2018).

²⁴ State v. Ramos, 171 Wn.2d 46, 48, 246 P.3d 811 (2011) (noting "when a hearing on remand involves only a ministerial correction and no exercise of discretion, the defendant has no constitutional right to be present").

²⁵ He first claims Barry "relied on his source to establish that the locker may contain stolen property," but "an anonymous tip standing alone cannot give rise to probable cause." We addressed this claim above. He also claims there was insufficient evidence proving his conviction to the possession of stolen firearms. Because we reverse and remand on this issue, we need not again address it here.

performance prejudiced him or that there is a reasonable possibility that but for counsel's deficient performance, the outcome of his trial would have been different.³⁰ Our scrutiny of defense counsel's performance is highly deferential, and we employ a strong presumption of reasonableness.³¹ "To rebut this presumption, the defendant bears the burden of establishing the absence of any 'conceivable legitimate tactic explaining counsel's performance.'"³² Failure to satisfy either prong of the test defeats an ineffective assistance of counsel claim.³³

Here, the record contains no evidence showing the officers searched any areas listed in the search warrant before the judge signed it at 9:17. During trial, Thornton's attorney cross-examined Barry and obtained information that it took Barry about one hour after the judge signed the warrant to return to the storage unit facility where officers then began the search. The officers logged the first gun which was found outside of the safe at 10:14 pm. Thornton fails to show that a motion to suppress based on this information would likely have succeeded. This argument fails.

CONCLUSION

We affirm in part and reverse and remand in part. First, because Barry's independent investigation corroborated the informant's information, sufficient information for probable cause supported the search warrant. Because the search

³⁰ State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2004) (citing State v. Thomas, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987)).

³¹ Strickland v. Washington, 466 U.S. 668, 689, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); McFarland, 127 Wn.2d at 335-36.

³² State v. Grier, 171 Wn.2d 17, 42, 246 P.3d 1260 (2011) (quoting Reichenbach, 153 Wn.2d at 130).

³³ Strickland, 466 U.S. at 697.

Appendix **B**

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	
Respondent,)	NO. 81036-7-1
)	
vs.)	MOTION TO
)	RECONSIDER
STEVEN PAUL THORNTON,)	
Petitioner)	
)	
)	
)	
)	

I. IDENTITY OF MOVING PARTIES

Appellant Steven Paul Thornton moves for the relief stated in section II.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 12.4, Thornton requests this Court reconsider its opinion filed April 20, 2020. He relies on the Brief of Appellant (BOA); Reply Brief of Appellant (RBOA); the Statement of Additional Grounds (SAG); and this Court's opinion (which is attached as Appendix A).

A. THE COURT'S RULING MISAPPLIES STATE V. WITKOWSKI AND IN SO DOING FAILS TO ADDRESS THE MERITS OF THORNTON'S CHALLENGE TO THE SCOPE OF THE SEARCH WARRANT.

Thornton challenged the trial court's failure to suppress evidence found in the locked gun safes on the basis that officers exceeded the scope of the warrant. Specifically, he asserted the safes were excluded by negative implication from the places and things to be search.² BOA at 18-21; RBOA at 6-9.

Surprisingly, this Court's opinion does not mention the exclusion by negative implication doctrine. Appendix A at 9-10. This Court's analysis is as follows:

Because this court has already held that a premises search warrant to search for firearms authorizes entry into a locked safe [State v. Witkowski, 3 Wn.App.2d 318, 326-28, 415 P.3d 639 (2018)], Thornton fails to establish that his claimed error is manifest.

Appendix A at 8. This analysis reveals a misapprehension and misapplication of Witkowski analysis as to the scope of a premises search warrant given the facts of this case.

² The search warrant included a specific request to search "safes." CP 340. However, the warrant did not specifically authorize the search of safes. CP 350-51.

B. THIS COURT'S DECISION REJECTING THORNTON'S SUFFICIENCY CHALLENGE AS RAISED IN HIS SAG INDICATES IT FAILED TO GIVE DUE CONSIDERATION TO THE ISSUE PRESENTED.

Thornton has raised two sufficiency challenges – one in his opening brief and one in his SAG. The sufficiency challenges raised differ both in scope and content. However, the decision here fails to note the distinctions.

In his SAG, Thornton challenged the sufficiency of the evidence as it pertained to all gun possession convictions. SAG 6-9. Specifically, he argued the State failed to provide sufficient evidence establishing he “actually or constructively possessed stolen firearms, or any firearm for that matter.”³ SAG 7 (emphasis added). This challenge focused on the possession element.

By contrast, in the opening brief, counsel's sufficiency challenge pertained only to Thornton's convictions for possession of stolen guns. BOA 21-24; RBOA 10-13. Moreover, counsel's sufficiency argument focused on the knowledge element (i.e. whether Thornton knew the guns were stolen) rather than the possession element. Id.

³ Although the argument heading indicates Thornton was challenging the convictions for possession of stolen guns, the content of his argument establishes he was challenging convictions on all gun possession charges.

Appendix C

In the Superior Court of the State of Washington
In and for the County of Pierce
Search Warrant

FILED
IN COUNTY CLERK'S OFFICE

JUL 08 2016

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

State of Washington)

)SS:

No. 16 1 51257 9

County of Pierce)

The State of Washington to the Sheriff or any peace officer of said County:

WHEREAS, Detective E. Barry 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 7th day of July, 2016 in the State of Washington, County of Pierce, felonies and misdemeanor/s to-wit;

Unlawful Possession Of A Firearm


RCW 9.41.040

Possession Of A Stolen Vehicle

RCW 9A.56.068

I. Items sought in the execution of search warrant

And, that these felonies and misdemeanor/s were committed by the act, procurement or omission of another, and that the following evidence is material to the investigation, to-wit:

1. Conveyances, including vehicles which are used or intended for use, in any manner to facilitate the sale, delivery, or receipt of property;
2. Books, records, receipts, notes, ledgers, research products and materials, papers, and photographs developed and undeveloped which are used or intended for use in the furtherance of the violations listed above;
3. Moneys, Negotiable instruments, securities, stolen property, or other tangible and/or intangible property of value which is furnished, or intended to be furnished, by any person in exchange for ~~illegal narcotics~~ ^{579/87 579/87} 
4. Tangible and intangible personal property, stolen property, proceeds or assets.
5. Moneys, negotiable instruments, and securities used, or intended for use to facilitate the furtherance of the violations listed above;
6. Firearms, pistols, rifles, and/or any other dangerous weapons defined in Chapter 9.41 RCW which are possessed, used, or intended for use, in the furtherance of the violations listed above;

7. Computer equipment including hard drives, floppy disks, compact discs, monitors, keyboards, printers, and/or computer manuals used, or intended for use, in the furtherance of the violations listed above;
8. Digital pagers, cellular telephone, telephone caller I.D. readouts, and any communication equipment used, or intended for use, in the furtherance of the violations listed above;
9. Indicia of occupancy and/or ownership if the vehicle described in this search warrant including, but not limited to, registration, title/s, cancelled envelopes, registration certificates and keys;
10. Addresses and/or telephone numbers of conspirators, ~~drug associates~~^{SIP}, or any other people related to the violations listed above or any other items identifiable as stolen.

II. Person place or thing to be searched

Furthermore, Detective E. Barry verily believes that the above listed items of evidence are concealed in or about a particular vehicle, and/or thing, to wit;

A Storage Unit (unit#3) located at 6601 114th Ave Ct E and a Chevrolet K2 Pickup (WA-License-#C99731F towing trailer WA-License#6604QK.

The Storage unit is located at 6601 114th Ave Ct E and the Chevrolet K2 Pickup is parked in front of the storage unit. The storage unit and vehicle are currently being observed by Puyallup Police Officers.

THEREFORE, in the name of the State of Washington you are commanded that within ten days from this date, with necessary and proper assistance, you enter into the said premises, and then and there diligently search for said evidence, or any other; and if same, or evidence material to the investigation or prosecution of said felony, or any part thereof be found on such search, bring the same forthwith before me, to be disposed of according to law. A copy of this warrant shall be served upon the person or persons found in or on said premises. If no person is found in or on said premises, a copy of this warrant shall be posted upon any conspicuous place in or on said premises, and a copy of this warrant and inventory shall be returned to the undersigned judge or his agent promptly after execution. BAIL IS TO BE SET IN OPEN COURT.

Given under my hand this 7th day of July, 2016. *cy:cc PM*



Superior Court Judge.

**In the Superior Court of the State of Washington
In and for the County of Pierce
Complaint for Search Warrant
(Evidence)**

STATE OF WASHINGTON)
)
 Plaintiff,)
)
VS)
)
)
 Defendant.)
_____)

STATE OF WASHINGTON)
COUNTY OF PIERCE)

16 1 51257 9

FILED
IN COUNTY CLERK'S OFFICE
JUL 08 2016
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

SS:

COMES NOW Detective Eric Barry of the Puyallup Police Department, who being first duly sworn on oath complains, deposes and says:

That he has probable cause to believe, and in fact does believe, that on July 7th, 2016, in the state of Washington, County of Pierce, Felonies and misdemeanors to wit;

- *Unlawful Possession Of A Firearm*
RCW 9A.10.040
- *Possession Of A Stolen Vehicle*
RCW 9A.56.068

I. Items Sought in the execution of search warrant

And, that these felonies and misdemeanors were committed by the act, procurement, or omission of another, and that the following evidence is material to the investigation:

1. Stolen property to include but not limited to; tools and electronics
2. Property used, or intended for use, as a container for property described in items 1 above;
3. Moneys, Negotiable instruments, securities, stolen property, or other tangible and/or intangible property of value which is furnished, or intended to be furnished, by any person in exchange for controlled substances;
4. Firearms
5. Safes and Boxes/areas where Stolen Property/^{SIP}~~illegal narcotics~~ and firearms could be kept.

Tangible and intangible personal property, stolen property, proceeds or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges for controlled substances

II. Person place or thing to be searched

Furthermore, Detective Eric Barry verily believes that the above listed items of evidence are concealed in or about a particular person, place, residence, vehicle, and/or thing, to wit;

A Storage Unit (unit#3) located at 6601 114th Ave Ct E Puyallup WA and a red Chevrolet K2 Pickup (WA-License-#C99731F towing trailer WA-License#6604QK.

The vehicle is currently located parked in front of the storage unit and both the storage unit and vehicle are being observed by Puyallup Police Officers.

III. Detective Eric Barry's Training and experience

Detective Eric Barry, being first sworn on oath deposes and says; that Detective Barry is a duly commissioned Police Detective for the Puyallup Police Department. Detective Barry has been a commissioned Police Officer in the State of Washington since 2007.

Detective Barry graduated from the Washington State Criminal Justice Training Commission's 720-hour Basic Law Enforcement Academy, and has conducted hundreds of criminal investigations in his eight (9) years as a commissioned Police Officer.

IV. Detective Eric Barry's probable cause to search

It is my, Detective Eric Barry's, belief that the violations listed above are occurring at the listed location(s) is based on the following probable cause:

On 07-07-16, Detective Massey and I conducted surveillance on the STOR-EZE storage facility located at 6601 114th Ave Ct E Puyallup WA. The reason Detective Massey and I were conducting surveillance at this storage facility was because a known subject (Steven Thornton) had an active felony warrant issued for his arrest (for escaping community custody issued out of the department of corrections) and was supposed to have a storage unit at this storage business registered in another's name to avoid scrutiny from the department of corrections (a source had informed detectives of this activity and had mentioned that the particular storage unit was located inside the first storage building inside the storage business. Per this source the storage unit was supposed to have stored within it numerous dirt bikes/motorcycles/tools that were supposed to be stolen and was also supposed to contain numerous firearms stolen during burglaries. *identity is known to you I find out not disclosed to protect identity* *SJR*

I received a phone call from the storage business informing me that a red pickup had arrived towing a trailer which contained several dirt bikes/motorcycles/go cart (the trailer is not covered and all that is being towed on the trailer is visible outside the trailer.) There was also a street motorcycle which was parked outside of the storage unit which Steve Thornton said belonged to him and which Steve Thornton said he had driven to the storage unit. *SJR*

Detective Massey and I responded to the storage business and conducted surveillance on it and observed the known subject (Steven Thornton) walking in and out of the unit (the storage unit door was wide open when we were conducting surveillance and when Steve Thornton's arrest was affected.) and also working on the dirt bikes/motorcycles. As Detective Massey and I knew who Steve Thornton was (due to his numerous booking photos) and the fact that Steve Thornton had a felony warrant (issued as a cautionary felony warrant due to violent tendencies) issued for his arrest we decided to make contact and arrest him. PPOS Waller and Temple agreed to assist in taking Steve Thornton in custody (Steve Thornton was also in the company of his live in girlfriend Cassandra Wells, Cassandra's mother and Cassandra's daughter (juvenile daughter).

Dugan mem. 7/10/07

Detective Massey, PPO Waller, PPO Temple and I then entered the storage facility. When I turned towards his storage unit I observed Steve Thornton on top of the trailer (which had two dirt bikes and a go cart on it.) I observed the storage unit door was still open and there were two more dirt bikes and numerous boxes/shelves contained inside of it. PPO Waller, PPO Temple and I then contacted Steven Thornton, Cassandra wells and Cassandra's mother/daughter. Steve Thornton was taken into custody ^{on the way out} using properly spaced/double locked hand restraints. While the arrest of Steven Thornton was taking place Cassandra Wells began yelling curse words at us and screaming for her mother to close the door to the storage unit. Cassandra Wells started walking towards officers Temple and Waller who were taking Steve Thornton into custody and I told her several times to get on the ground and stop moving towards the officers but all she did was cuss me and refused to comply so I had to detain her using properly spaced/double locked hand restraints.

Once Steve Thornton had been arrested and Cassandra Wells had been detained I started speaking with Cassandra (who was still cussing me.) I read Cassandra her Miranda rights verbatim from a pre-printed Miranda rights form/card. When I asked Cassandra if she understood her rights she answered "yeah." Detective Massey asked me if he could speak with Steve Thornton and I replied in the affirmative and I observed Detective Massey advise Steve Thornton of his Miranda rights and I observed Steve Thornton nod his head up and down and replied "yes" when Detective Massey asked him if he understood his Miranda rights.

I asked Cassandra about the storage unit and she claimed that a friend of theirs (named Steven) was renting the storage unit and that the items inside of the storage unit did not belong to Steve Thornton or her. I asked Cassandra about the dirt bikes/go cart on the trailer and she told me that only one of them belonged to Steve Thornton (the motorcycles ORV tags/plates/vins were ran via radio and radio confirmed that one of the dirt bikes was a confirmed stolen out of Tacoma (WA-License-#42597A.) Radio further confirmed that the trailer the go cart and dirt bikes were towed on was registered to Steven Thornton (WA-License-#6604QK.)

I looked at the Chevrolet K2 pickup (WA-License-#C99731F) and visible from outside of the vehicle, partially underneath the driver's seat (with the grip and holster protruding from under the seat) was a black pistol. I then observed the storage unit ^{through the open driver side} I observed numerous power tools and hand tools which were visible inside the storage unit. I further observed two dirt bikes parked inside of the storage unit. I observed shelving and boxes/cases inside of the storage unit.

I then started speaking with Steve Thornton regarding the storage unit and the dirt bikes. Steve Thornton advised me that the white dirt bike (which was on the driver's side of the trailer) belonged to him and so did the blue colored dirt bike (inside the storage unit.) I asked Steve Thornton about the stolen dirt bike and he denied knowing it was stolen. Steve Thornton told me that he was towing this dirt bike for a friend named "Steve" who resides "somewhere" in Tacoma and that he did not know it was stolen. Steve Thornton also said he did not know if anything else inside the storage unit was stolen. Steve did tell me that nearly all the items inside the storage unit belonged to a "Calvin" but that "Steve" is the one who rents the unit (the storage business owner later told detectives that a Steven James did rent the unit and pay for it but that he gave Steve Thornton the code for the gate to enter the storage business and the key to the storage unit.)

I started speaking with Steve Thornton about guns. Steve Thornton claimed there were no firearms inside the pickup or inside the storage unit. I spoke with Steve Thornton further about firearms inside of the storage unit and Steve Thornton told me that he has "seen" guns in the storage unit before (I asked him if they were assault rifles and he denied saying the gun he saw was "like a thirty odd six." Steve Thornton also told me that he had seen "six" rifle cases inside of the storage unit and Steve Thornton also said that "Calvin" was the one who put those items inside the storage unit and who had the hunting rifle. I asked Steve Thornton how many guns he had seen inside of the storage unit and Steve Thornton said he wasn't sure but that it was more than one. Steve Thornton admitted to being inside of the storage unit on numerous occasions and also admitted to storing items inside of the storage unit. Steve Thornton said that he had not checked in with DOC because DOC had shot at his dog on a prior occasion and that is why he had been on the run. When I asked Steve Thornton if commits burglaries he said he does not because that's not "his thing." I asked Steve Thornton why he was under DOC supervision and he told me it was for drug possession (Steve Thornton is also on DOC supervision for possession of a stolen motor vehicle which he neglected to tell me.)

Kassandra was speaking with other officers and detectives on-scene and she also said that Steve Thornton had driven his street motorcycle to the storage unit and she had driven the red Chevrolet pickup to the storage unit.

Based on the fact that Steve Thornton is a convicted felon and admitted to me that there is at least one more gun inside the storage unit, the fact that Steve Thornton was on top of a stolen motorcycle towed on his trailer when he was contacted/arrested and the potential for the other dirt bikes being stolen, and the fact that there is a firearm inside of the Chevrolet this search warrant is being requested.

Eric Barry 315 2117 HCS

Detective Eric Barry
Puyallup Police Department

Subscribed and Sworn to before me this 7th day of July 2016.

[Signature]
Superior Court Judge

Appendix D

Cad Incident Inquiry

Complaint: **1618901449**

Disp: R Case No: 16005064

Call Received: 20160707 1647

Call Cleared: 20160708 0200

End Priority: 4

<u>Incident Type</u>	<u>Location</u>
Starting: WAR - WARRANT SERVICE/SUBJ WITH WARR	=@EZ STORAGE (U LOCK IT SELF STORAGE)
Ending: WAR - WARRANT SERVICE/SUBJ WITH WARR	6601 114TH AVCT E (U LOCK IT SELF STORAGE)

Location Information
Starting:
Ending:

<u>Agency</u>	<u>Geographic Zone</u>	<u>Dispatch Group</u>	<u>CB</u>	<u>District</u>
Starting: PPD	PP	PP	-1	PUYC
Ending: PPD	PP	PP	712	PUYC

<u>Date/Time</u>	<u>Unit</u>	<u>ID</u>	<u>Station</u>
Dispatch: 20160707 1647	PY319	Dispatcher: PYC12038	py04
Arrival: 20160707 1647	PY319	Com Officer: PYC12038	py04
Clear: 20160708 0200	PY315	Primary Unit: PY315	
Close: 20160708 0200	PY315		

Cross Referenced Events

1610200956
1610301318
1610600928
1610801296
1610801478
1610900131
1610900463
1610901010
1611000291
1611100240
1613001155
1613300269
1618901439
1618901451
1619000444
1619000451
1619000955
1619500602
1620000425
1621501282
1622900907
1623800733
1623900734
1627400866

Name DOB Phone Location Call Source Contact
OFFICER

Include State Messages (WACIC/DOL/DOC/NCIC/NLETS)

System Date	System Time	Com	Station	Off	Text
20160412	16:14:21	Cross Reference	py02	PYC11023	Cross Referenced to Event 1610301318
20160417	19:58:28	Cross Reference	py03	SS0213	Cross Referenced to Event 1610801296
20160417	19:58:28	Cross Reference	py03	SS0213	Cross Referenced to Event 1610801478
20160417	22:11:36	Cross Reference	py04	PYC21078	Cross Referenced to Event 1610600928
20160418	02:46:36	Cross Reference	py04	PYC21078	Cross Referenced to Event 1610900131
20160418	08:48:56	Cross Reference	py02	PYC12022	Cross Referenced to Event 1610900463
20160418	14:08:43	Cross Reference	py03	SS0214	Cross Referenced to Event 1610901010
20160419	06:33:26	Cross Reference	py020	PYC11023	Cross Referenced to Event 1611000291
20160420	05:07:41	Cross Reference	py04	PYC21078	Cross Referenced to Event 1611100240
20160509	15:54:20	Cross Reference	py04	PYC12099	Cross Referenced to Event 1613001155
20160512	06:18:23	Cross Reference	py04	PYC12038	Cross Referenced to Event 1613300269
20160707	16:47:49	Event Updated	py04	PYC12038	Location: =@EZ STORAGE, Event Type: WAR, Priority: 4, Dispatch Group: PP
20160707	16:47:49	Dispatched	py04	PYC12038	PY319 (PPD07144) Waller, Jon
20160707	16:47:49	Event Remark	py04	PYC12038	Field Event
20160707	16:47:49	Initial Call	py04	PYC12038	OFFICER -
20160707	16:47:50	Arrive	py04	PYC12038	PY319 (PPD07144) Waller, Jon
20160707	16:48:07	Dispatched	py04	PYC12038	PY315 (PPD07140) Barry, Eric
20160707	16:48:07	Dispatched	py04	PYC12038	PY264 (PPD07089) Temple, Dave
20160707	16:48:07	Dispatched	py04	PYC12038	PY288 (PPD07113) Massey, Greg
20160707	16:48:07	Event Remark	py04	PYC12038	PY315 -- PY315 PY264 PY288 ASSISTING PY319
20160707	16:48:10	Available	py04	PYC12038	PY319 (PPD07144) Waller, Jon
20160707	16:48:10	Event Remark	py04	PYC12038	Preempt:CAD AUTOMATIC PREEMPT Unit PY319
20160707	16:48:23	Add Supplemental	py04	PYC12038	THORNTON, STEVEN P - 19790816
20160707	16:48:23	Event Remark	py04	PYC12038	Unit [PY264] Inf Issue Qry 0:LESP0 WACIC.DW.WA027X23N.NAM/THORNTON, STEVEN P.DOB/19790816
20160707	16:48:46	Event Remark	py04	PYC12038	PY264 -- THORNTON IS I/C
20160707	16:56:13	Dispatched	py04	PYC12038	PY319 (PPD07144) Waller, Jon
20160707	16:56:14	Arrive	py04	PYC12038	PY319 (PPD07144) Waller, Jon
20160707	16:56:14	Add Supplemental	py04	PYC12038	license 3E9032
20160707	16:56:14	Add Supplemental	py04	PYC12038	license 425497A
20160707	16:56:14	Add Supplemental	py04	PYC12038	license 525915A
20160707	16:56:14	Add Supplemental	py04	PYC12038	license 535097A
20160707	16:56:14	Add Supplemental	py04	PYC12038	license 6604QK
20160707	16:56:14	Add Supplemental	py04	PYC12038	license ACH2237
20160707	16:56:14	Add Supplemental	py04	PYC12038	license C99731F
20160707	16:56:14	Event Remark	py04	PYC12038	Duplicate Event:, Type = WAR WARRANT SERVICE/SUBJ WITH WARR, Call Source = OFFICER, Alarm Level = 1
20160707	16:56:14	Event Remark	py04	PYC12038	End of Duplicate Event data

Field Event | Unit [PY319] Inf Issue Qry 0:LESP0

20160707	16:56:14	Event Remark	py04	PYC12038	WACIC.RV.WA027X23N.LIC/535097A Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/C99731F Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/425497A Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/525915A Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/ACH2237 Unit- [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/3E9032 PY319 -- 425497A, PD TACOMA STOLEN Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/6604QK PY319 -- CONFIRMED STOLEN CONTACT, LEWIS ESTRODA 253-330-3681 Preempt:CAD AUTOMATIC PREEMPT Unit PY319 ** Event held for 60 minutes and unit PY319
20160707	16:57:20	Arrive	py04	PYC12038	PY264 (PPD07089) Temple, Dave
20160707	16:57:20	Arrive	py04	PYC12038	PY288 (PPD07113) Massey, Greg
20160707	16:57:20	Arrive	py04	PYC12038	PY315 (PPD07140) Barry, Eric
20160707	17:04:55	Event Remark	py04	PYC12038	Duplicate Event:Location = 6601 114TH AVCT E PCO : @U LOCK IT SELF STORAGE, Cross Street 1 = 65TH STCT E, Cross Street 2 = BENSTON DR E, Type = WARCC WARRANT HANDLED BY COMM CENTER, Caller Name = PY288, Alarm Level = 1 98372
20160707	17:04:55	Event Remark	py04	PYC12038	End of Duplicate Event data
20160707	17:04:55	Event Remark	py04	PYC12038	FOR 315 STORE EZ STORAGE THORTON, STEVEN WILL BE ON TAC 1 / NSN Preempt Unit PY315 Preempt:CAD AUTOMATIC PREEMPT Unit PY288 ** Event held for 60 minutes and unit PY288
20160707	17:06:54	Event Remark	py04	PYC12038	Alarm Timer Extended: 0
20160707	17:25:27	Dispatched	\$PY289	PPD07114	PY289 (PPD07114) Ketter, Mark
20160707	17:25:36	Arrive	\$PY289	PPD07114	PY289 (PPD07114) Ketter, Mark
20160707	17:26:08	Transport	\$PY289	PPD07114	PY289 (PPD07114) Ketter, Mark
20160707	17:26:08	Event Remark	\$PY289	PPD07114	Transporting 1 Male(s) and 1 Female(s)
20160707	17:28:35	Event Updated	py04	PYC12038	Location: 6601 114TH AVCT E PCO
20160707	17:39:23	Case Number	py04	PYC12038	P16005064
20160707	17:39:23	Disposition	py04	PYC12038	ASSNCASE
20160707	17:39:54	Add Supplemental	py04	PYC12038	license 535097A
20160707	17:39:54	Event Remark	py04	PYC12038	Unit [PY288] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/535097A
20160707	17:40:03	TransportArrive	\$PY289	PPD07114	PY289 (PPD07114) Ketter, Mark
20160707	17:40:26	Add Supplemental	py04	PYC12038	license 535097A
20160707	17:40:26	Event Remark	py04	PYC12038	Unit [PY288] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/535097A
20160707	17:40:43	Event Remark	\$PY288	PPD07113	Unit [PY288] Inf Issue Qry 0:4007113 DOLPHOTO: .OLN/THORNSP212NW)
20160707	17:40:43	Event Remark	\$PY288	PPD07113	Unit [PY288] Inf Issue Qry 0:PY1J0 DOL.D.WA02701J0.OLN/THORNSP212NW
20160707	17:40:43	Event Remark	\$PY288	PPD07113	Unit [PY288] Inf Issue Qry 0:PY1J0 NLETS.DQ.WA02701J0.*TRID000000.OLN/THORNSP212NW
20160707	17:40:46	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:4007140 DOLPHOTO: .OLN/THORNSP212NW
20160707	17:40:46	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 DOL.D.WA02701K8.OLN/THORNSP212NW
20160707	17:40:46	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 NLETS.DQ.WA02701K8.*TRID000000.OLN/THORNSP212NW
20160707	17:41:02	Event Remark	\$PY288	PPD07113	Unit [PY288] Inf Issue Qry 0:4007113 DOLPHOTO: .OLN/THORNSP212NW
20160707	17:41:02	Event Remark	\$PY288	PPD07113	Unit [PY288] Inf Issue Qry 0:PY1J0 DOL.D.WA02701J0.OLN/THORNSP212NW
20160707	17:41:02	Event Remark	\$PY288	PPD07113	Unit [PY288] Inf Issue Qry 0:PY1J0 NLETS.DQ.WA02701J0.*TRID000000.OLN/THORNSP212NW
20160707	17:41:05	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:4007140

DOLPHOTO: .OLN/THORNSP212NW					
20160707	17:41:05	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 DOL.D.WA02701K8.OLN/THORNSP212NW
20160707	17:41:05	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 NLETS.DQ.WA02701K8.*TRID000000.OLN/ THORNSP212NW
20160707	17:44:32	Available	py02	SS0224	PY319 (PPD07144) Waller, Jon
20160707	17:54:05	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 WACIC.RV.WA02701K8.LIC/C99731F
20160707	18:10:15	Event Remark	py04	PYC12083	PY288 -- CHECK A GO CART FOR STOLEN
20160707	18:18:40	Available	py04	PYC12083	PY264 (PPD07089) Temple, Dave
20160707	18:18:40	Dispatched	py04	PYC12083	PY264 (PPD07089) Temple, Dave
20160707	18:18:40	Event Remark	py04	PYC12083	Preempt:CAD AUTOMATIC PREEMPT Unit PY264
20160707	18:18:40	Event Remark	py04	PYC12083	PY264 -- PY264 ASSISTING PY288
20160707	18:18:41	Arrive	py04	PYC12083	PY264 (PPD07089) Temple, Dave
20160707	18:18:44	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:4007089 DOLPHOTO: .OLN/THORNSP212NW
20160707	18:18:44	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 DOL.D.WA02701H7.OLN/THORNSP212NW
20160707	18:18:44	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 NLETS.DQ.WA02701H7.*TRID000000.OLN/ THORNSP212NW
20160707	18:18:45	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:4007089 DOLPHOTO: .OLN/THORNSP212NW
20160707	18:18:45	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 DOL.D.WA02701H7.OLN/THORNSP212NW
20160707	18:18:45	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 NLETS.DQ.WA02701H7.*TRID000000.OLN/ THORNSP212NW
20160707	18:21:35	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 WACIC.RV.WA02701H7.LIC/3E9032
20160707	18:21:39	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:4007089 DOLPHOTO: .OLN/WELLSKA139B7
20160707	18:21:39	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 DOL.D.WA02701H7.OLN/WELLSKA139B7
20160707	18:21:39	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 NLETS.DQ.WA02701H7.*TRID000000.OLN/ WELLSKA139B7
20160707	18:23:33	Available	\$PY289	PPD07114	PY289 (PPD07114) Ketter, Mark
20160707	18:29:45	Event Remark	py04	PYC12083	Alarm Timer Extended: 0
20160707	18:29:52	Event Remark	py04	PYC12083	Alarm Timer Extended: 0
20160707	18:33:51	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 WACIC.RV.WA02701K8.LIC/C99731F
20160707	18:37:22	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 WACIC.RV.WA02701K8.LIC/6604QK
20160707	18:37:43	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:4007140 DOLPHOTO: .OLN/THORNSP212NW
20160707	18:37:43	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 DOL.D.WA02701K8.OLN/THORNSP212NW
20160707	18:37:43	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 NLETS.DQ.WA02701K8.*TRID000000.OLN/ THORNSP212NW
20160707	19:08:34	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 WACIC.RV.WA02701K8.LIC/425497A
20160707	19:08:48	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:4007140 DOLPHOTO: .OLN/FEEK*BJ304N5
20160707	19:08:48	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 DOL.D.WA02701K8.OLN/FEEK*BJ304N5
20160707	19:08:48	Event Remark	\$PY315	PPD07140	Unit [PY315] Inf Issue Qry 0:PY1K8 NLETS.DQ.WA02701K8.*TRID000000.OLN/ FEEK*BJ304N5
20160707	19:49:21	Add Supplemental	py04	PYC12083	license AUY1239
20160707	19:49:22	Event Remark	py04	PYC12083	Unit [PY264] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/AUY1239
20160707	19:51:26	Add Supplemental	py04	PYC12083	ROBERTS, MARLENA B - 19890823
20160707	19:51:26	Event Remark	py04	PYC12083	Unit [PY264] Inf Issue Qry 0:LESP0 WACIC.DW.WA027X23N.NAM/ROBERTS, MARLENA B.DOB/19890823

20160707	20:01:53	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 WACIC.DW.WA02701H7.NAM/armstrong, chad e.DOB/19880922
20160707	20:01:58	Event Remark	\$PY264	PPD07089	Unit [PY264] Inf Issue Qry 0:PY1H7 WACIC.DW.WA02701H7.NAM/armstrong, chad e.DOB/19880922
20160707	22:14:38	Event Remark	\$PY264	PPD07089	Ruger .308 serial #694-18003, SKS serial#23110698K, Universal .223 serial# 159918, Winchester Model 1906 serial # 382507, remington 870 pump shot gun serial#355537V, Wards Western .22 cal serial# 04M491A, Winchester .22 cal serial#B1763774, Marlin .22 cal serial#19784349 (all found in storage unit #3)
20160707	22:16:02	Event Remark	\$PY264	PPD07089	Springfield Armory XD .40 cal semi auto serial #US353797 (found in red chevy pickup driver floor board)
20160707	22:17:11	Event Remark	\$PY264	PPD07089	The Springfield Armory XD 40 cal was loaded with magazine and one in chamber
20160707	22:24:11	Event Remark	\$PY264	PPD07089	possible VIN for motorcycle #29U03228CM
20160707	22:26:03	Event Remark	\$PY264	PPD07089	possible VIN 1C68010..(motor cycle)
20160707	22:37:48	Event Remark	py04	PYC12083	PY264 -- CONFIRM ON THE COUNTY ONES
20160707	22:42:22	Cross Reference	py04	PYC12083	Cross Referenced to Event 1610200956
20160707	22:42:22	Cross Reference	py04	PYC12083	Cross Referenced to Event 1618901439
20160707	22:42:22	Cross Reference	py04	PYC12083	Cross Referenced to Event 1618901451
20160707	22:43:06	Event Remark	py04	PYC12083	PUYA CASE NUMBER 16002792 FOR SER/ 69418003
20160707	22:45:02	Event Remark	py04	PYC12083	PCSO ADV CONFIRMED ON SER/B1763774 AND US353797
20160707	23:02:41	Event Remark	py04	PYC12083	PY264 -- ULSTER TOWN NEW YORK SHOULD BE CALLING BACK WITH MORE INFO ON THE HIT ON SER/04M491A, CAL 22, MAK/WAR
20160707	23:38:32	Event Remark	py04	PYC12083	PY264 -- REQ A TOW FOR A MC
20160707	23:39:55	Event Updated	py04	PYC12083	Location: 311 W PIONEER PUY: @PD PUYALLUP
20160707	23:40:34	Event Remark	py04	PYC12083	** TOW REQUEST #1647 initiated at 7/7/2016 11:40:34 PM from py04 for X1618901449
20160707	23:42:52	Add Supplemental	py04	PYC12083	
20160707	23:42:52	Event Remark	py04	PYC12083	** Tow Request Rotational Service requested for HERBS_TOWING CLASS_C -- code is ACCEPT
20160707	23:43:32	Event Updated	py04	PYC12083	Location: 6601 114TH AVCT E PCO: @U LOCK IT SELF STORAGE
20160707	23:44:07	Event Remark	py04	PYC12083	HERBS TOW TRUCK 7 DRIVER DJ
20160707	23:45:31	Event Remark	py019	PYC21078	** TOW REQUEST #1647 has been closed : >>>> by: 9821078 at 7/7/2016 11:45:31 PM on terminal: py019
20160708	00:52:22	Available	py04	PYC12083	PY264 (PPD07089) Temple, Dave
20160708	01:40:59	Available	py04	PYC12083	PY288 (PPD07113) Massey, Greg
20160708	01:41:20	Event Remark	py04	PYC12083	PER PY11 ALL THE STUFF WAS TAKING TO THE PROPERTY ROOM, WILL VERIFY THE INFO ON THE GUNS TOMORROW, THE STOLEN MC WAS IMPOUNDED TO THE PD YARD
20160708	01:41:37	Event Remark	py04	PYC12083	PY11 ADV CAN LOCATE AND SENT TELETYPE ON THE STOLEN MC
20160708	01:41:42	Available	py04	PYC12083	PY315 (PPD07140) Barry, Eric
20160708	01:41:42	Event Remark	py04	PYC12083	** Event held for 60 minutes and unit PY315
20160708	01:41:42	Event Remark	py04	PYC12083	Preempt:CAD AUTOMATIC PREEMPT Unit PY315
20160708	01:52:27	Event Remark	py04	PYC12083	TELETYPES SENT REGARDING THE PCSO STOLEN GUNS AND THE TACOMA PD STOLEN MC
20160708	01:58:57	Event Remark	py03	PYC12071	MC 425497A IMPOUND CHECKED
20160708	02:00:42	Dispatched	py04	PYC12083	PY315 (PPD07140) Barry, Eric
20160708	02:00:49	Disposition	py04	PYC12083	R
20160708	02:00:50	Available	py04	PYC12083	PY315 (PPD07140) Barry, Eric
20160708	02:00:50	Event Updated	py04	PYC12083	Closing Time: 2016-07-08 02:00:50
20160708	09:02:18	Cross Reference	py02	PYC12041	Cross Referenced to Event 1619000444

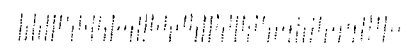
Cross

Steven Thornton 310168 H-1-72-u
Stafford Creek Corrections
191 Constantine Way
Aberdeen, WA 98520

NOV 19 1972
U.S. MAIL
OLYMPIA, WA 98504

The Supreme Court of Washington St.
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Legal Mail



Handwritten signature

6-28-2020