

03161-6

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NO. 63161-6-I

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION I

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STATE OF WASHINGTON,

Respondent,

v.

ERIC R. ANICHINI,

Appellant.

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BRIEF OF RESPONDENT

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JANICE E. ELLIS  
Prosecuting Attorney

SETH A. FINE  
Deputy Prosecuting Attorney  
Attorney for Respondent

Snohomish County Prosecutor's Office  
3000 Rockefeller Avenue, M/S #504  
Everett, Washington 98201  
Telephone: (425) 388-3333

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## **I. ISSUES**

Under RCW 46.61.021(3), a person who is being investigated for a traffic infraction must “identify himself” at the request of a police officer. Does a person fulfill that duty by providing a name but refusing to give any further information?

## **II. STATEMENT OF THE CASE**

ON the night of November 15, 2008, Snohomish County Sheriff’s Deputy Stephen Gordon observed a van with a cracked windshield that obscured the driver’s vision. The defendant (appellant), Eric Anichini, was a passenger in this van. Dep. Gordon stopped the van. When he contacted the driver, he observed that the defendant was not wearing a seatbelt. 3.6 hg. RP 4-6; 1 CP 40.

After talking to the driver, Dep. Gordon asked the defendant for his name. The defendant said that his name was Bill R. Moore. When he said this, he appeared “kind of hesitant” and was “not really looking at [the officer].” Dep. Gordon asked for his date of birth. The defendant “started to become more agitated and told [the officer] he hasn’t done anything wrong.” The defendant did not provide his date of birth. 3.6 hg. RP 7; 1 CP 41.

Dep. Gordon called for backup. The backup officer arrested him for “failing to cooperate or refusing to identify himself.” 3.6 hg. RP 23. In a search incident to the arrest, the officer found a wallet containing documents identifying the defendant. The officer also found plastic baggies that appeared to contain methamphetamine and heroin. 3.6 hg. RP 24-25; 1 CP 41.

The defendant was charged with possession of methamphetamine. 1 CP 82. He moved to suppress the drugs as the product of an unlawful search. 1 CP 77-81. After a factual hearing, the court denied the motion. 1 CP 40-42. At a jury trial, the defendant was found guilty as charged. 1 CP 48.

### **III. ARGUMENT**

#### **A NAME IS NOT SUFFICIENT TO “IDENTIFY” A PERSON.**

The defendant claims that his arrest was not supported by probable cause. He was arrested for violation of RCW 46.61.020:

(1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself and give his or her current address.

Failing to comply with RCW 46.61.021(3) is a misdemeanor. RCW 46.61.022.

Here, the investigating officer asked the defendant to provide his name and date of birth. The defendant provided a name but no date of birth. 3.6 hg. RP 6-7; 1 CP 41. On appeal, he argues that providing a name was sufficient to satisfy the statutory requirement to “identify himself.” This is not a proper interpretation of the statute.

“[I]n interpreting a statute, the fundamental duty of the court is to ascertain and carry out the intent of the Legislature.” State v. Chester, 133 Wn.2d 15, 21, 940 P.2d 1374 (1997). Absent a specific statutory definition, non-technical words in a statute may be given their dictionary definition. Id. at 22. According to Webster’s Dictionary, “identify” means “to show to be a certain or thing; to fix the identity of; to show to be the same as something or someone assumed, described, or claimed.” Webster’s New International Dictionary 902 (Unabridged 2<sup>nd</sup> edition 1977). An on-line dictionary provides a similar definition: “To recognize or establish as being a

particular person or thing; verify the identity of.” <http://dictionary.reference.com/browse/identify> (as visited 11/12/2009). Under these definitions, a person “identifies himself” by providing sufficient information to distinguish himself from all other persons. A name does not satisfy this requirement, because too many names are duplicated.

This conclusion is reinforced by considering the purpose of the identification requirement. When a person is detained for investigation of a traffic infraction, the officer is entitled to check for outstanding warrants and issue a notice of traffic infraction. RCW 46.61.021(2). To check a police database for information about a person, a name alone does not suffice – a birthdate is also required. See 3.6 hg. RP 19. To issue a notice of infraction, the officer must likewise have the suspect’s birthdate. IRLJ 2.1(b). Construing these provisions together, the “identification” required by subsection (3) should be sufficient to accomplish the purposes set out in subsection (2) – which means that it must include name and date of birth.

Any other construction would render the identification requirement useless. If only a name is necessary, any male could identify himself as “John Smith.” Unless the officer had other

information about the suspect's name, there would not be probable cause to arrest the suspect for providing a false name. The officer could not check for warrants on "John Smith." He could not obtain a physical description of "John Smith," to determine whether the suspect matched that description. Nor could he issue a citation to "John Smith" without running the risk of harming numerous innocent people of that name. The officer would have no option but to release the suspect with no real knowledge of who he was.

The defendant cites State v. Cole, 73 Wn. App. 844, 871 P.2d 656, review denied, 125 Wn.2d 1003 (1994), and State v. Moore, 161 Wn.2d 880, 169 P.2d 469 (2007). Neither of these cases support his position. In Cole, the court held it improper to arrest a passenger for failing to produce an identification document. Cole 73 Wn. App. at 849. The passenger had identified himself by name *and birthdate*. Id. at 846. In Moore, the court held that a person could not be required to identify himself unless the request was pursuant to an investigation for an infraction. Moore, 161 Wn.2d at 886. In the present case, in contrast, the officer's sole reason for asking the defendant's identity was to investigate the seatbelt infraction. 3.6 hg. RP 7. Neither Cole nor Moore contains

any suggestion that a person who is under investigation for an infraction can validly "identify himself" by name alone.

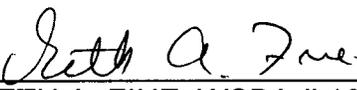
RCW 46.61.021(3) requires a person to "identify himself." That means that he must provide sufficient information to distinguish himself from all other people. A name by itself does not provide that information. The defendant in this case refused to provide anything else. As a result, there was probable cause to arrest him for violating that statute. The drugs were found in a proper search incident to that arrest.

#### **IV. CONCLUSION**

The judgment and sentence should be affirmed.

Respectfully submitted on November <sup>16</sup>~~17~~, 2009.

JANICE E. ELLIS  
Snohomish County Prosecuting Attorney

By:   
SETH A. FINE, WSBA # 10937  
Deputy Prosecuting Attorney  
Attorney for Respondent