

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
FOR DIVISION One

Frank Nelson,
Petitioner,

vs.

State of Washington,
Respondent

Case No.: 68150-8-1

STATEMENT OF ADDITIONAL
GROUNDS, PURSUANT TO
RAP 10.10

COPIES OF THIS DOCUMENT
FILED IN THE COURT OF APPEALS
STATE OF WASHINGTON
JAN 13 2010
E

I, Frank Nelson, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in the brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

Error in Jury instructions 23.

please see attached
affidavit —

SEE! Attached Document.

Statement of Additional Grounds

NO. 1.

Jury instruction 23, (wpic 155.03), instructed the jury they will need to rely on their notes and memories to the testimony given in this Court as it is rarely, if ever repeated during deliberations. And:

("You will be given the exhibits admitted in evidence, these instructions and a verdict form to record your verdict."

"Some exhibits and visual aids may have been used in Court but will not go with you into the Jury room."

"The exhibits that have been admitted into evidence will be available to you in the jury room."), instruction 23.

This trial was new about whether or not Nelson deposited 'Bad' checks into his personal checking account. Rather, whether or not Nelson KNEW they were 'Bad' when he deposited them.

To this end the State presented a string of witnesses from the victims, to Bank officials and Detectives, all to give ~~ess~~ essentially the same testimony: Nelson deposited these 'Bad' checks.

The state also admitted into evidence many exhibits it claimed either showed Nelson depositing these checks, (ATM photos), or recorded the transaction, (Bank statements); All of which Nelson concedes is accurate.

But the state only admitted a single exhibit into evidence it claimed showed Nelson knew, or should've known these checks were bad when he deposited them - The exact same piece of evidence Nelson strongly argues shows why he didn't know, and in fact couldn't have known that these checks were 'Bad' at the time of deposit...

... The taped interview between Nelson and the Everett, PD. states exhibit B.

This was the only exhibit admitted into evidence NOT allowed into the Jury room, though clearly it should've been. Technically, the Audio recording was allowed back, But with no electronic means of playing it.

The reason for this action by the Court was because during the 'taped' interview of Nelson by detectives, Det. French made a false statement about a non-existent 'stolen' \$2,500.00 check in connection with an ATM photo: ("Here's one of you depositing a stolen \$2,500.00 check," French.).

Nelson was never charged with, nor investigated for, any crimes involving a \$2,500.00 check.

There was, however, a record of a deposit for \$2,500.00 on Nelson's Bank statement - which the jury had.

But there was nothing indicating criminal activity involved with this deposit except Det. French's false statement during this recorded interview.

Det. French goes on to make a second statement in reference to this 'stolen' \$2,500.00 check in connection with other reported bad checks: ("So, here's you depositing checks for 447..., 1700..., 2500... - 2000," Det. French). This second statement was allowed as at that point there was to be no mention of any 'stolen' \$2,500.00 check. But with this second statement, it was now confirmed: "Nelson also deposited a 'stolen' \$2,500.00 check." This was prejudicial.

Before the 'taped' interview was introduced at trial, it went through an exhaustive review process where much of the information discussed in the interview was removed, (redacted), as the Court determined it was prejudicial and inadmissible.

Both Counsel's caught this false statement by Det. French and agreed to remove it. Although it was removed from the written transcript, in the audio version it was missed. The jury heard this statement.

Furthermore, just before the 'tape' was played, the jury was given the written transcript to read along while the audio was played. At that time the Court gave a limiting instruction to alert the jury; The evidence were the words on the audio recording, not the written transcript. ("To the extent that you hear

-3-

Something on the audio recordings that differed in any respect than what was on the illustrative transcript, you are to consider the words on the audio recordings as the evidence you are to consider, NOT the words on the transcript. The Transcript will NOT be available to you in your deliberations"). Where upon, the tape was played for the jury; and the erroneous statement was on the tape, but NOT in the written transcript.

After the instruction just read to them by the Court, the jury was left with no doubt as to what weight to give the statement they had just heard.

When this error was brought to the Court's attention a very lengthy discussion took place as to how to deal with this serious issue.

The decision of the Court was simple, if incorrect. Simply allow the audio tape to "go back", but with no electronic means to play it. Though the damage was done, this was the Court's decision as the judge opined, ("I don't want them to hear this statement over, and over again"), Nor did Nelson.

However, Nelson argues this remedy was serious error as jury instruction 23 made clear it would be available to them, in the jury room - and therefore must be. But because of this decision by the Court it was not.

Further, although the jury was left to deliberate with ATM photos; Bank statements, and their notes of all the states witnesses, all telling how Nelson was guilty, the one piece of evidence explaining why Nelson was not guilty was denied them during this most important stage of the trial.

Also, as a transcript was given to the jury to read along while listening to the tape being played, no juror was taking any notes of the audio; and as this tape was admitted into evidence as states exhibit 18, the jury would've fully expected it to be available to them in the jury room as per jury instruction 23.

No Curative instruction was given to the jury to address the statement made by Det. French, or to deal with jury instruction 23, and why the evidence was not available to them in the jury room.

Finally, all of the damning exhibits admitted into evidence were allowed to 'go back' to the jury room for deliberations except the one exculpatory exhibit. And because of this error by the state, one the court never addressed, nor corrected through instructions in the presence of the jury, Nelson was deprived of his right for the jury to hear his explanation during deliberations.

In State v. Acosta, NO. 20151-5-III (Wash. App. Div. 3. (11-30-12));

(Acosta appealed his convictions 1st degree child molestation and 1st degree Rape of a child. Acosta asserted he was denied a fair trial because during deliberations the court allowed the jury to view a forensic interview video tape of the child victim. The Apprial Court concluded there was no abuse of discretion because - as the trial court admitted the video tape - it limited its use and strictly controlled its playback to the jury). Clearly the court could have done the same in this case but chose not to. This was an abuse of discretion.

This was unfair, and Nelson argues he was denied a fair trial. Because the court violated its own instructions to the jury, Nelson believes his substantive due process was violated.

x Frank Nelson
Frank Nelson
August 20, 2012

INSTRUCTION NO. 23

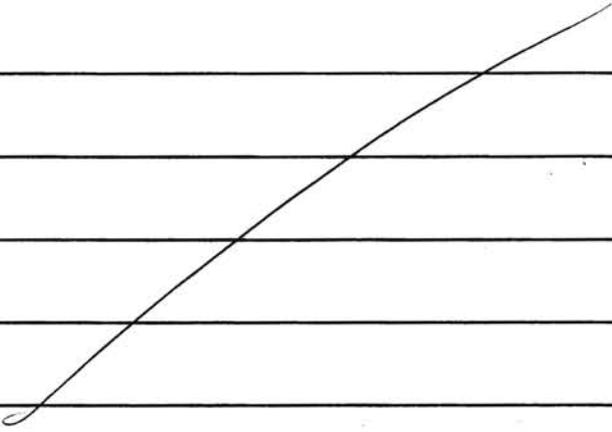
When you begin deliberating, you should first select a presiding juror. The presiding juror's duty is to see that you discuss the issues in this case in an orderly and reasonable manner, that you discuss each issue submitted for your decision fully and fairly, and that each one of you has a chance to be heard on every question before you.

During your deliberations, you may discuss any notes that you have taken during the trial, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory.

You will need to rely on your notes and memory as to the testimony presented in this case. Testimony will rarely, if ever, be repeated for you during your deliberations.

If, after carefully reviewing the evidence and instructions, you feel a need to ask the court a legal or procedural question that you have been unable to answer, write the question out simply and clearly. In your question, do not state how the jury has voted. The presiding juror should sign and date the question and give it to the bailiff. I will confer with the lawyers to determine what response, if any, can be given.

You will be given the exhibits admitted in evidence, these instructions, and a verdict form for recording your verdict. Some exhibits and visual aids may have been used in court but will not go with you to the jury room. The exhibits that have been admitted into evidence will be available to you in the jury room.



Additional Ground 2

Unreasonable delay in judicial determination
of probable cause, please see attached affidavit.

See attached
document.

Additional Ground 3

1. Statement of Additional Grounds. No. 2.

The state violated Nelson's Fourth Amendment rights to the United States Constitution when it failed to obtain a judicial determination of Probable Cause within 48-hours of his warrantless arrest in this case, and that the state delayed this judicial determination simply for "Delay's Sake." Nelson believes Probable Cause improperly determined after this violation are tainted, "as are any evidence or statements obtained." "Fruit of the poisonous tree."

Procedural History: (please see Attached documents).

June 1st, 2011:

Nelson was booked without warrants at 8:30 AM into Snohomish County Jail for Case# (3171 - Forgery / PSP #), The O'Kinsella Check for \$447.97 (Count II)

June 2nd, 2011:

Nelson had a preliminary hearing at 10:30 AM for Case (3171) in Everett-District Court, where Judge Fisher found probable Cause for two counts each: Forgery / PSP #; set bail at \$2,500.00 with a filing date of June 6th, 2011 @ 5: PM. ()

June 3rd, 2011:

Nelson posted an appearance bond for \$2,500.00 and was released from jail. (Alladan Bail Bonds).

June 8th, 2011:

Judge Tam T. Bai, Dismissed all charges and closed Case (3171) in district Court - Everett division as a Complaint was not filed within 72 hours. The \$2,500.00 bail was exonerated. (Count II).

2.
Statement of Additional Circumstances No. 2.

July 8th, 2011:

At 1:33 am, Friday July 8th, 2011, Nelson was booked without warrant into the Snohomish County Jail on two new Cases (11568, and 2192); 2 counts each - Forgery / PSP II / Theft II. (Counts I and III).

July 10th, 2011:

At 4:30 pm, Sunday July 10th, 2011, Nelson had a preliminary hearing for Case (3171), Count II, in Everett District Court where Judge Fisher found probable cause for 3 counts Forgery; 3 counts PSP II; 2 counts Theft II, set bail at \$75,000.00 with a filing date of July 12th, 2011 @ 5:pm.

July 11th, 2011:

At 11:30 am, Monday July 11th, 2011, Nelson had a Second Preliminary Appearance; This time for Cases (11568) and (2192) or Counts I and III. Judge Moon found probable cause this time for 2 counts each - Forgery / PSP II / Theft II, maintaining the \$75,000.00 bail to include Counts I and III, (Replacing Count II), with the filing date remaining July 12th, 2011 @ 5:pm.

July 12th, 2011:

The State filed Complaints in District Court:
Count I: 2nd Degree Identity Theft, for Case # 11-11568.
Count II: Forgery, for Case # 11-3171.

NOTE: (The filed Count III on November 4th, 2011 for Forgery for Case # 11-2192.)

3.

Statement of Additional Grounds. No. 2.

Statement of the Issues:

Point I: Does the 4th Amendment require a reasonable judicial determination of probable cause within 48-hours?

Point II: Did the trial court abuse its discretion in its finding of probable cause after the mandatory 48-hour period?

Point III: Is the statement made to police after the 48-hour violation "Fruit of the poisonous tree"?

Argument

The state failed to obtain a proper judicial determination of probable cause in this case, in violation of the Fourth Amendment to the United States Constitution.

Nelson first argues the state failed to obtain a proper judicial determination in this case within the mandated 48-hours, and that this failure was unreasonable, as violation of the Fourth, and Fourteenth Amendments to the U.S. Constitution.

Nelson was booked without warrants for Counts I and III into the Snohomish County Jail at 1:33 AM Friday morning, July 8th, 2011; And it is primarily for these two cases the state failed to obtain a proper judicial determination of probable cause within 48-hours of arrest.

(The 4th Amendment permits limited restraint on the liberty of an arrestee, and it is well recognized that a police officer may detain an individual without a warrant if the officer has probable cause to believe that the arrestee committed an offense) see: Gerstein v. Pugh, 429 U.S. 123, 112-14 (1975).

(When an arrest is made without a warrant, charges may or may not be filed prior to a preliminary appearance, which must be held by the next judicial day, or within 48-hours) see CrRLJ 3.2.1; County of Riverside v. McLaughlin, 500 U.S. 44, 56-57 (1991).

4. Statement of Additional Grounds, No. 2.

In its essentials, the primary purpose of the preliminary appearance is the judicial determination of probable cause and judicial review of conditions of release. This preliminary appearance must be held "as soon as practicable after the detention is commenced... but in any event before the close of business on the next judicial day". CrR 3.2(b); CrRLJ 3.2.1. This must be accomplished within 48 hours. County of Riverside, Id.

Nelson argues because the bookings for Counts I and III were completed at 1:33 AM, hours before the start of the business day for that Friday, July 8th, 2011. The language in CrR 3.2(b), CrR 3.2.1 and Riverside required the state to provide for a judicial determination of probable cause later that same day; or by close of business Friday, July 8th, 2011.

"Taking into account the competing interests articulated in Gerstein, we believe that a jurisdiction that provides a judicial determination of probable cause within 48-hours of arrest will, as a general matter, comply with the promptness requirements of Gerstein."

"This is not to say that probable cause determination passes constitutional muster simply because it is provided within 48-hours. Such a hearing may violate Gerstein if the arrested individual can prove his, or her probable cause determination was delayed unreasonably). See: Riverside v. McLaughlin, 500 U.S. 44, 37-38 (1991).

Here, The State chose not to interpret the language in Riverside to apply to the Nelson case at hand, opting instead to delay and not provide a hearing that day, Friday July 8th, 2011.

However, Nelson argues that by any interpretation, the next judicial day must then be the following day, Saturday, July 9th, 2011. In fact, the state will have to obtain a determination by close of business this day or risk violating the Riverside 48-hour rule.

-5.
Statement of additional Grounds. No. 2.

"When an arrested individual does NOT receive a probable cause determination within 48-hours, the calculus changes. In such a case the arrested individual does not bear the burden of proving an unreasonable delay, but the burden shifts to the government to demonstrate the existence of a bona fide emergency, or other extraordinary circumstance... 'Nor for that matter do intervening weekends or holidays'. Jurisdictions which chose to offer combined proceedings must do so as soon as is reasonably feasible, but in any event no later than 48-hours after arrest." Riverside v. McLaughlin, 500 U.S. 44, 38 (1991).

But there was no hearing on Saturday July 9th, 2011, for Counts I and III; nor for that matter was there on Sunday, July 10th, 2011.

The state did schedule a preliminary appearance at 4:30 pm on Sunday, July 10th, 2011, for Count II, (Case 3171), a case Nelson was neither charged with, nor held on, making this hearing improper, and invalid.

NOTE: (Had this hearing been for Counts I and III, it would've been 63 hours post booking - well in excess of the 48-hour allowed).

Finally, the following day, Monday July 11th, 2011, at 11:30 AM, (87 hours post booking), the state provided a preliminary appearance for Counts I & III, (Replacing Count II? see attached order).

At that hearing, the prosecutor stated for the record:

"The defendant is not charged with #11-3171, we are only seeking PIC for #2192 & #11548 at this time." Probably Count was found for 2 counts each: Forgery I & II / Theft II. Bail was maintained at \$75,000.00 to include Counts I & III - indicating Nelson had been held illegally under this bail on Count II.

The state failed to ~~obtain~~ obtain a judicial determination of probable cause by close of business the next judicial day simply for delay's sake, and further failed to obtain a determination within the 48-hours mandated under Riverside. The state has not,

4. Statement of Additional Grounds. No. 2.

and cannot demonstrate an emergency or other extraordinary circumstance for this unreasonable delay.

This caused a significant restraint on liberty then that allowed by the 4th Amendment under Gestain/Riverside, because the probable cause and release determinations hearings were not held within 48-hours of detention. Westerman v. Cory, 125 Wn. 2d 277, 294, 335 P. 2d 827 (1994).

Nelson hammers home that CIR 3.2.1 was violated, and thus, the holdings in Gestain and Riverside Controls which mandate an affirmative finding within 48-hours.

Hence Nelson has made a prima facie showing of clear malice on the part of the State, and therefore, this Court should reverse the convictions in this case and remand Counts I and III for dismissal with prejudice, and Count II for further proceedings, (New trial, or re-sentencing).

As to Point III, Nelson's statement to police detectives occurred less than one week following this violation of the fourth Amendment - Nelson participated in this interview after having invoked his Fifth Amendment right earlier. Nelson argues this interview was "Fruit of the poisonous tree" as defined in - Anderson v. Calderon, 232 P. 3d 1053 (9th Cir. 11-17-2000);

"[4.] 'what is the appropriate remedy for a McLaughlin violation?' (123, 124, 125, 126, 127, 128, 129, 130).

'Suppression of the state fruit is the appropriate remedy'.

For these reasons, this Court should remand all counts for a new trial after the suppression of the tainted interview.

X Frank Nelson

Frank Nelson

August 27, 2012

01504

SNOHOMISH COUNTY DISTRICT COURT
EVERETT DIVISION

THE STATE OF WASHINGTON,

EVENT # EVE 11-03171

Plaintiff,

ID #

v.

PROVISIONAL ORDER SETTING
BAIL OR CONDITIONS OF RELEASE

NELSON, FRANK

Defendant.

You are advised that you are under arrest for the crime(s) of FORGERY - PSPS alleged to have been committed by you on the 16 day of JANUARY, 2011.

I. THE COURT FINDS that the prisoner is unavailable for preliminary appearance because of () physical disability; () mental disability, () prisoner's refusal to attend hearing, () unavailability of interpreter, () other: _____ and as such there is good cause to continue the preliminary appearance. Therefore, THE COURT ORDERS that the preliminary appearance shall be continued to the _____ day of _____, _____ at _____ m.

II. THE COURT FINDS that probable cause exists to believe that the accused committed the crime(s) described above based on the facts contained in the booking documents, the facts contained in the affidavit of probable cause, the reports submitted by law enforcement, and/or _____.

III IT IS HEREBY ORDERED

- () 1. That the prisoner shall be released from jail now. Such release shall be unconditional unless conditions of personal recognizance are imposed under paragraph 3.
- 2. That the prisoner shall be released from jail when good and sufficient bond and/or bail is posted with the Court. Bail is set at \$ 2500.
- () 3. That the prisoner shall comply with the following applicable conditions:
 - () Advise Pretrial Services and the Snohomish County Prosecuting Attorney's office, in writing, of any changers of address (PTS phone number (425) 388-3500)
 - () Have no contact with minor children
 - () Have no contact with _____
 - () Shall not possess firearms
 - () Shall not drive a motor vehicle without a valid license and adequate insurance
 - () Other _____

IT IS FURTHER ORDERED that if a Complaint is filed in the District Court-Everett Division by 5:00 p.m. on JUNE 6 2011, the conditions of release including bail shall remain in effect until the Felony Dismissal Date as listed on the Complaint. If a Complaint is not filed by the required date and time then the defendant shall be released from jail, and all conditions of release shall be exonerated and be of no further effect, and any bond and/or bail posted shall be exonerated.

DONE IN OPEN COURT on June 2, 2011.



JUDGE of DISTRICT COURT

DD030I Beginning of Docket

DD1000PI

06/07/12 09:32:41

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: PC11-1504 SNA PC

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH
FORGERY

POSS OF STOLEN PROPERTY

Case: PC11-1504 SNA PC Probable Cause

Closed

S 06 02 2011 Case Filed on 06/02/2011

NMD

ACY-8

06/07/12 09:32:49

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: PC11-1504 SNA PC

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH
FORGERY

POSS OF STOLEN PROPERTY

Case: PC11-1504 SNA PC Probable Cause

Closed

S 06 02 2011 DEF 1 NELSON, FRANK JOSEPH Added as Participant NMD
 • RMF : PC ARREST. DEFENDANT PRESENT. *** PC FOUND *** NMD
 BAIL SET IN THE AMOUNT OF \$2,500 NMD
 S • PRA: Held (~~ALADDIN BAIL BONDS~~) NMD
 S 06 07 2011 11159100469 Appearance Bond Posted for DEF 1 2,500.00 NMD
 S Posted by: ALADDIN BAIL BONDS NMD
 06 08 2011 PROSECUTOR'S COMPLAINT NOT FILED WITHIN REQUIRED 72 HOURS NMD
 PER DISTRICT COURT POLICY CASE DISMISSED NMD
 S Charge 1 Dismissed : Chrg Not Fld Pnd NMD
 S Case Heard Before Judge BUI, TAM T NMD
 S Charge 2 Dismissed : Chrg Not Fld Pnd NMD
 S Case Heard Before Judge BUI, TAM T NMD
 S Appearance Bond 1513375 Exonerated 2,500.00 NMD
 S Case Disposition of CL Entered NMD

01893

2N27B

SNOHOMISH COUNTY DISTRICT COURT
EVERETT DIVISION

EVENT # DD11003171

ID # 535653

PROVISIONAL ORDER SETTING
BAIL OR CONDITIONS OF RELEASE

THE STATE OF WASHINGTON,

Plaintiff,

v.

NELSON, FRANK J

Defendant.

You are advised that you are under arrest for the crime(s) of FORGERY 3 CTS PSP II 3 CTSTHEFT II 2 CTS alleged to have been committed by you on the 17day of JANUARY 2011.

I. THE COURT FINDS that the prisoner is unavailable for preliminary appearance because of () physical disability; () mental disability, () prisoner's refusal to attend hearing, () unavailability of interpreter, () other: _____ and as such there is good cause to continue the preliminary appearance. Therefore, THE COURT ORDERS that the preliminary appearance shall be continued to the _____ day of _____, _____ at _____ m.

II. THE COURT FINDS that probable cause exists to believe that the accused committed the crime(s) described above based on the facts contained in the booking documents, the facts contained in the affidavit of probable cause, the reports submitted by law enforcement, and/or _____.

III IT IS HEREBY ORDERED

() 1. That the prisoner shall be released from jail now. Such release shall be unconditional unless conditions of personal recognizance are imposed under paragraph 3.

2. That the prisoner shall be released from jail when good and sufficient bond and/or bail is posted with the Court. Bail is set at \$ 75,000.

() 3. That the prisoner shall comply with the following applicable conditions:

() Advise Pretrial Services and the Snohomish County Prosecuting Attorney's office, in writing, of any changers of address (PTS phone number (425) 388-3500)

() TASC

() Have no contact with minor children

() Have no contact with _____

Shall not possess firearms

() Shall not drive a motor vehicle without a valid license and adequate insurance

() Other _____

PFm

IT IS FURTHER ORDERED that if a Complaint is filed in the District Court-Everett Division by 5:00 p.m. on 7/12/11 (~~INPUT~~), the conditions of release including bail shall remain in effect until the Felony Dismissal Date as listed on the Complaint. If a Complaint is not filed by the required date and time then the defendant shall be released from jail, and all conditions of release shall be exonerated and be of no further effect, and any bond and/or bail posted shall be exonerated.

DONE IN OPEN COURT on July ¹⁰ 2011.

[Handwritten Signature]

JUDGE of DISTRICT COURT

ORIGINAL

PC11-1893

SNOHOMISH COUNTY DISTRICT COURT
EVERETT DIVISION

THE STATE OF WASHINGTON,

EVENT # EVE 11-02192 & EVE 11-11568
(Replacing 0011003171)

Plaintiff,

ID # 535653

v.

AMENDED
PROVISIONAL ORDER SETTING
BAIL OR CONDITIONS OF RELEASE

NELSON, FRANK J

Defendant.

You are advised that you are under arrest for the crime(s) of FORGERY 2 COUNTS - THEFT 2 2 COUNTS - PSP 2 2 COUNTS alleged to have been committed by you on the 17 day of JANUARY, 2011.

I. THE COURT FINDS that the prisoner is unavailable for preliminary appearance because of () physical disability; () mental disability, () prisoner's refusal to attend hearing, () unavailability of interpreter, () other: _____ and as such there is good cause to continue the preliminary appearance. Therefore, THE COURT ORDERS that the preliminary appearance shall be continued to the _____ day of _____, _____ at _____ m.

II. THE COURT FINDS that probable cause exists to believe that the accused committed the crime(s) described above based on the facts contained in the booking documents, the facts contained in the affidavit of probable cause, the reports submitted by law enforcement, and/or _____.

III IT IS HEREBY ORDERED

- () 1. That the prisoner shall be released from jail now. Such release shall be unconditional unless conditions of personal recognizance are imposed under paragraph 3.
- 2. That the prisoner shall be released from jail when good and sufficient bond and/or bail is posted with the Court. Bail is set at \$ 75,000.
- () 3. That the prisoner shall comply with the following applicable conditions:
 - () Advise Pretrial Services and the Snohomish County Prosecuting Attorney's office, in writing, of any changes of address (PTS phone number (425) 388-3500)
 - () Have no contact with minor children
 - () Have no contact with _____
 - () Shall not possess firearms
 - () Shall not drive a motor vehicle without a valid license and adequate insurance
 - () Other _____

IT IS FURTHER ORDERED that if a Complaint is filed in the District Court-Everett Division by 5:00 p.m. on JULY 12, 2011, the conditions of release including bail shall remain in effect until the Felony Dismissal Date as listed on the Complaint. If a Complaint is not filed by the required date and time then the defendant shall be released from jail, and all conditions of release shall be exonerated and be of no further effect, and any bond and/or bail posted shall be exonerated.

DONE IN OPEN COURT on July 11, 2011.



JUDGE of DISTRICT COURT

D0030I Beginning of Docket

DD1000PI

06/07/12 09:34:22

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: PC11-1893 SNA PC

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH

FORGERY

FORGERY

Case: PC11-1893 SNA PC Probable Cause

Closed

S 07 10 2011 Case Filed on 07/10/2011

NMD

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: PC11-1893 SNA PC

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH
FORGERY

FORGERY

Case: PC11-1893 SNA PC Probable Cause

Closed

07 10 2011, ^{v/mjg} PFM: PC ARREST. DEFENDANT NOT PRESENT.**** PC FOUND**** NMD
 BAIL SET IN THE AMOUNT OF \$75,000 NMD
 HEARING SET OVER TO MONDAY. NMD
 S PRA: Held NMD
 S 07 11 2011 DEF 1 NELSON, FRANK JOSEPH Added as Participant NMD
 S PRA: Held NMD
 Fish →, RMF : PC ARREST. DEFENDANT PRESENT. NMD
 AMENDED PROVISIONAL ORDER ENTERED AS TO FORGERY 2 COUNTS, NMD
 THEFT 2 COUNTS AND PSP 2 COUNTS. NMD
 BAIL MAINTAINED AT \$75,000 NMD
 07 12 2011 FORMAL COMPLAINT FILED 2447A-11F NMD
 S Charge 1 Dismissed : Fild Dir Sup/Dst NMD
 S Case Heard Before Judge FISHER, ROGER M NMD
 S Charge 2 Dismissed : Fild Dir Sup/Dst NMD

D0031I End of Docket

DD1000PI

06/07/12 09:34:28

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: PC11-1893 SNA PC

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH

FORGERY

FORGERY

Case: PC11-1893 SNA PC Probable Cause

Closed

S	07 12 2011	Case Heard Before Judge FISHER, ROGER M	NMD
S		Charge 3 Dismissed : Fild Dir Sup/Dst	NMD
S		Case Heard Before Judge FISHER, ROGER M	NMD
S		Charge 4 Dismissed : Fild Dir Sup/Dst	NMD
S		Case Heard Before Judge FISHER, ROGER M	NMD
S		Charge 5 Dismissed : Fild Dir Sup/Dst	NMD
S		Case Heard Before Judge FISHER, ROGER M	NMD
S		Charge 6 Dismissed : Fild Dir Sup/Dst	NMD
S		Case Heard Before Judge FISHER, ROGER M	NMD
S		Charge 7 Dismissed : Fild Dir Sup/Dst	NMD
S		Case Heard Before Judge FISHER, ROGER M	NMD
S		Charge 8 Dismissed : Fild Dir Sup/Dst	NMD
S		Case Heard Before Judge FISHER, ROGER M	NMD
S		Case Disposition of CL Entered	NMD

D0030I Beginning of Docket

DD1000PI

06/07/12 09:33:39

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: 2447A-11F SNA CF

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH
IDENTITY THEFT-2

FORGERY

Case: 2447A-11F SNA CF Criminal Felony

Closed

S 07 12 2011 Case Filed on 07/12/2011

NMD

S DEF 1 NELSON, FRANK JOSEPH Added as Participant

NMD

06/07/12 09:33:43

DD1001MI Case Docket Inquiry (CDK)

SNO CO-EVERETT DIV

PUB

Case: 2447A-11F SNA CF

StID: _____

Name: _____

NmCd: _____

Name/Title: NELSON, FRANK JOSEPH

IDENTITY THEFT-2

FORGERY

Case: 2447A-11F SNA CF Criminal Felony

Closed

S	07 12 2011	OTH FELDM Set for 07/29/2011 05:30 PM	NMD
S		in Room 1 with Judge RMF	NMD
		PREVIOUSLY FILED AS PC11-1893	NMD
		BAIL MAINTAINED AT \$75,000	NMD
	07 14 2011	NOTICE OF DESIRE NOT TO BE INTERROGATED FILED	NMD
	07 25 2011	REQUEST FOR DISMISSAL FILED- CHARGES ARE BEING FILED INTO	NMD
		SUPERIOR COURT. REFERRED TO THE JUDGE.	NMD
S	07 26 2011	Charge 1 Dismissed : State's Mtn-Othr	NMD
S		Case Heard Before Judge BUI, TAM T	NMD
S		Charge 2 Dismissed : State's Mtn-Othr	NMD
S		Case Heard Before Judge BUI, TAM T	NMD
S		OTH FELDM on 07/29/2011 05:30 PM	NMD
S		in Room 1 with Judge RMF Canceled	NMD
S		Case Disposition of CL Entered	NMD

FILED
JUL 12 2011
SNO. CO. DISTRICT COURT
EVERETT DIVISION

EVERETT DISTRICT COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

NELSON, FRANK JOSEPH.

Defendant.

No. 2447A11F, 2447A11F

CRIMINAL COMPLAINT

FELONY DISMISSAL DATE: JULY 29, 2011

Aliases: JOSEPH J NELSON ,

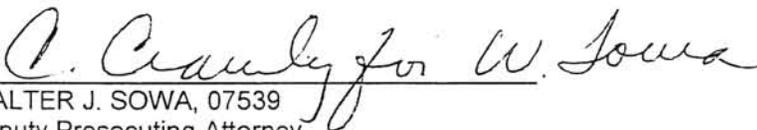
Other Co-defendants in this case:

Comes now Mark K. Roe, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this complaint, in the name and by the authority of the State of Washington, charges and accuses the above-named defendant(s) with the following crime(s) committed in the State of Washington:

Count 1 SECOND DEGREE IDENTITY THEFT, committed as follows: That the defendant, on or about the 23rd day of JANUARY, 2011, did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: DIANE A MCMILLAN'S NAME, BANK ACCOUNT #, AND OTHER PERSONAL INFORMATION, with the intent to commit, aid and abet a crime, to-wit: FORGERY AND THEFT; proscribed by RCW 9.35.020 (1) and (3), a felony.

Count 2 FORGERY, committed as follows: That the defendant, on or about the 16TH day of JANUARY, 2011, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: A CHECK IN THE AMOUNT OF \$447.97 ON THE ACCOUNT OF SHAUN O'KINSELLA; proscribed by RCW 9A.60.020(1)(b), a felony.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.


WALTER J. SOWA, 07539
Deputy Prosecuting Attorney

DATED this 12TH day of JULY 2011, at the Snohomish County Prosecutor's Office.

Address: 1007 130TH ST SW C101 EVERETT WA 98204
HT: 511 DOB: 11/18/1962 SID: WA20563841
WT: 185 SEX: M FBI: 331326DA8
EYES: Hazel RACE: White DOC: 840009
HAIR: Brown DOL: NELSOJ387QQ WA
ORIGINATING AGENCY: EVERETT POLICE DEPARTMENT AGENCY CASE#: 1103171

11-18

FILED

2011 NOV -4 PM 4: 03

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



CL15214519

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

No. 11-1-01601-8

v.

AMENDED INFORMATION

NELSON, FRANK JOSEPH

Defendant.

Aliases: JOSEPH NELSON , JOSEPH J NELSON ,
Other co-defendants in this case:

Comes now MARK K. ROE, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this, his Information, in the name and by the authority of the State of Washington, charges and accuses the above-named defendant(s) with the following crime(s) committed in the State of Washington:

COUNT I: SECOND DEGREE IDENTITY THEFT, committed as follows: That the defendant, on or about the 23rd day of January, 2011, did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Diane A. McMillian, with the intent to commit, aid and abet a crime, to-wit: forgery and theft, proscribed by RCW 9.35.020 (1) and (3), a felony.

COUNT II: FORGERY, committed as follows: That the defendant, on or about the 16th day of January, 2011, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: a check in the amount of \$47.97 on the account of Shaun O'Kinsella; proscribed by RCW 9A.60.020(1)(b), a felony.

COUNT III: FORGERY, committed as follows: That the defendant, on or about the 17th day of January, 2011, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: a check in the amount of \$1744.26 drawn on the account of the Department of Labor and Industries and belonging to Curtis Winterroth; proscribed by RCW 9A.60.020(1)(b), a felony.

MARK K. ROE
PROSECUTING ATTORNEY

JULIE C. WALTERS, 32909
Deputy Prosecuting Attorney

DATED this 3 day of November, 2011 at the Snohomish County Prosecuting Attorney's Office.

Handwritten initials and date: 05-19

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

DATED this 20 day of August, 2012.

Frank Nelson
(Appellant's Signature)

Frank Nelson
(Appellant's Printed Name)

Stafford Creek Correction Center
191 Constantine Way, Unit# 115.480
Aberdeen, Washington 98520