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No. 73949-2-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

BRIAN T DECKER, Appellant

V.

STATE OF WASHINGTON, Respondent/Cross-Appellant

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

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STATE OF WASHINGTON)
)
 Respondent,)
)
 V.)
)
 BRIAN THOMAS DECKER)
)
 Appellant,)

No. 73949-2-I

**STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW**

I, Brian Thomas Decker, have received and reviewed the opening Appellate Brief No. 73949-2-I prepared by my attorney Andrew Magee. I have written this statement of Additional Grounds for Review to supplement that brief and respectfully request responses to the issues raised herein. I understand the Court will review this statement of Additional Grounds for Review when my appeal is considered on its merits.

Respectfully,

Brian Decker 7.22.16

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1. INTRODUCTION

I, Brian Thomas Decker, respectfully submit to the Court of Appeals Division I, a Statement of Additional Grounds for Review in accordance to the rule RAP 10.10. This document supplements the Appellant Brief case No. 73949-2-I, prepared and conveyed by Defense Attorney Andrew Magee on my behalf. That Appellant Brief thoroughly covers many of the judicial errors committed during my trial, but was limited in scope by the 50 page limit. This Statement of Additional Grounds for Review will further explore how Judge Samuel S. Chung's rulings resulted in a kangaroo court¹ and the inevitable, rigged verdict of *guilty* for the 2nd of 2 counts Assault in the 3rd charged.

On July 22nd, 2015 the Jury unanimously affirmed there was a preponderance of evidence showing the use of force (**pepper spray**) was lawful on the 1st of 2 Assault in the 3rd charges (**RP 1120 #14-18**)². In response to Deputy Prosecuting Attorney Tina Marie Master's untruthful question, "*An objectively reasonable person*, would they believe that he was placed in danger by someone who did not threaten

¹ **Kangaroo Court:** a court that uses unfair methods in which the principles of law and justice are disregarded or perverted.

² (**RP 1120 #14-18**): Reporting Papers (Trial Transcript), page 1120, line 14 through 18

him, verbally, someone who did not have any weapons, someone who did not assault him. Did they place him in objectively reasonable fear?" (RP 1118 #14-18) the jury unequivocally answered *yes*. Drawing from this judgement, would *an objectively reasonable person* conclude that I, not the trespassers Camryne O' Brien and Theodore Chandler, was the victim of assault that fateful night on December 20th, 2014? To the chagrin of the Mercer Island Police Department, King County Prosecuting Attorney's Office and Judge Samuel S. Chung, the answer to that question is *yes*.

Upon submitting this statement, I, Brian Thomas Decker, declare that I am an *innocent victim* of the aforementioned institutions after being railroaded at trial and wrongfully convicted of a crime that by applicable law³, I did not commit. During my trial those parties colluded, intentionally or not, to: strip me of my constitutional rights, doctor the self-defense jury instruction, suppress all of the state's own evidence damaging to the prosecution's *baseless vigilante narrative* and with a cherry on top, sugarcoat the flagrant abuse of power by Prosecuting Attorney Michelle Larson upon her own admission to tampering with a witness! Those judicial errors are brought to light in

³ WPIC Malicious Trespass Self Defense Jury Instruction

Appellant Brief No. 73949-2-I. This Statement of Additional Grounds for Review will further examine how Judge Samuel S. Chung's rulings further emboldened the police and prosecution to obscure the truth from the Triers of Fact and obtain a conviction at the expense of justice.

2. THE NEW NARRATIVE

On June 4, 2015, a pretrial motion for dismissal was held before Judge Ronald Kessler to expose the "State's own evidence establishes that they cannot meet their burden of proof requiring dismissal pursuant to State v, Knapstad [CP 31 #4-12]⁴." To shore up the State's counter-argument, Prosecuting Attorney Ian Ith called up Sergeant Kramp to write a new "narrative...not been submitted with the original discovery [RP 44 #9-16]." Upon introducing this police report created out of thin air 6 months after my arrest (APPENDIX C 9 #13)⁵ Mr. Ith happily proclaimed Defense Attorney Andrew Magee's "statement of facts (Knapstadt motion) is *absolutely contradicted* by the report of Officer Kramp [RP 64 #15-18]." Inadvertently, PA⁶ Ian Ith acknowledged Officer Kramp's police report *absolutely contradicted* the evidence

⁴ [CP 31 #4]: Clerks Papers page 31, line 4 through 12

⁵ (APPENDIX C 9 #13): See APPENDIX C, page 9 of the APPENDICES, Line 13

⁶ PA: Prosecuting Attorney

Mr. Magee based his Knapstadt motion upon, the Certification for Determination of Probable Cause! Yes, that very same Probable Cause statement authored by my unchallenged accuser, Officer Magnan (APPELLANT BRIEF 15-19)

As DA⁷ Andrew Magee began to question the veracity of this new information, Judge Kessler abruptly uttered what everyone suspected. “All right. But let's say you have all the evidence in the world that shows he's *lying* [Officer Kramp]. What relevance does that have to a Knapstad Motion [RP 41 #7-9]?” The judge then added encouragingly, “It’s got lots of relevance to your trial [RP 41 #11].” Judge Kessler ruled, “I will reserve this motion to the trial court to be heard prior to the selection of the jury in which the Court will have the advantage of all of the evidence [RP 48 #15-19].”

2.1 A *BRADY* VIOLATION

At Trial, DA Andrew Magee brought forth a *Brady* motion arguing against the admissibility of Officer Kramp’s police report and testimony. He explained, “the framework of a *Brady* motion is whether evidence in possession and control of the State has been

⁷ DA: Defense Attorney

suppressed and whether that evidence is either real or to include *potentially* exculpatory material. The standard here is not that we have to show that this is, in fact, exculpatory material [RP 515 #8-13].” PA Michelle Larson added, “for the court to find a Brady violation are the evidence at issue is favorable to the accused either as exculpatory, impeaching, the State suppressed the evidence either willfully or inadvertently, and accuses prejudice by the suppression [RP 521 #21-25].”

Mr. Magee questioned whether the State had suppressed this new information for 6 months or fabricated it to tie up loose ends for the prosecution. He then pointed out “in the discovery there is an indication that Officer Kramp was at the scene. But...*he’s not listed as a witness* and any report that he made or may have had or existed at the time was never turned over to us [APPENDIX E 30 & RP 516 #2-7].” He goes on to say, “it was not considered by...Detective Sergeant Magnan making his Certification for Determination of Probable Cause [RP 516 #6-13].” “So, on one hand there’s no evidence whatsoever that it existed. But now the State’s saying it did, six months ago [RP 517 #7-8].” “Now they come up six months later with this magic – magic statement that happens to be responsive to our motion [RP 520 #2-3].” “They have a duty to discover that which is in the possession and

control of the police. They failed and breeched that duty and broke it at Mr. Decker's expense [RP 519 #8-10].”⁸

Andrew Magee followed with, “Do we have to prove it is...exculpatory? No. All we have to do is show it's potentially exculpatory. And what it does, *at the very least*, is that it's a statement that contradicts what Officer Herzog says. He says he placed Mr. Decker under arrest. Now, this statement says that Mr. Decker was told by Officer Kramp that he was under arrest [RP 520 #18-25].” “Now, if the State's going to respond by saying, ‘Well, that's been cleared up.’ Your Honor, that's potentially exculpatory. A jury can infer things from that as to whether or not one or the other is telling the truth [RP 521 #2-8].” “They're in breach of *Brady*...the remedy for *Brady* is dismissal...Short of that? This witness [Officer Kramp] cannot testify [RP 521 #14-6].”

After Michelle Larson's rebuttal, Judge Chung didn't “see the evidence as being exculpatory in favor of the defendant, Mr. Decker. I don't see evidence that the prosecutor's office was hiding the ball here. So, *Brady* motion is denied [RP 523 #4-9].”

⁸ 165 days after my arrest and 3 hearings later, whereby the State forced me to waive my right to a speedy trial to preserve my right to discovery (See Appellant Brief case No. 73949-2-1 p.40), Officer Kramp's opportune police report was submitted as evidence. How on earth this cannot be considered prejudicial is beyond me.

Please read DA Andrew Magee and PA Michelle Larson's arguments in their entirety from [RP 515-523] and respond to Judge Chung's ruling. Was this decision fair or not? How would the Judges from the Appellate Court rule this matter?

Comically, Prosecuting Attorney Ian Ith's statements at Judge Kessler's pretrial Knapstad hearing proves Officer Kramp's police report was impeachable or impeached by, whichever way you want to look at it, Officer Magnan's Certification for Determination of Probable Cause. As shown previously, Mr. Ith declared Kramp's new narrative *absolutely contradicted* Andrew Magee's statement of facts. Where did DA Andrew Magee get those facts from? The Certification for Determination of Probable Cause, authored by my unchallenged accuser Officer Magnan [RP 516 #6-9 & RP 64 #15-18]. That means Officer Kramp's police report is impeachable and therefore *Brady* material and inadmissible. Does the Appellate Court concur? If not, please explain how my reasoning is in error.

3. ROUND HOLES & A SQUARE PEG

Additionally, there were 3 gaping holes in the prosecution's case that Officer Kramp's fabricated police report attempted to plug:

1. The original police reports authored by Officers Derr and Herzog were ambiguous as to when and by whom I was arrested and read my Miranda Rights. To fill this hole, PA Michelle Larson unearthed a sinkhole that should have sunk the case!
2. The trespassers Theodore Chandler and Camryne O' Brien were not terribly sympathetic nor credible "victims." Subsequently the prosecution attributed made-up statements to a 3rd party witness to suppress a 911 phone call as self-serving hearsay and to back up their story.
3. The facts presented in Officer Magnan's Certification for Determination of Probable Cause statement needed to be scrapped and replaced because it contradicted the prosecution's ridiculous, vigilante narrative.

3.1 THE 3.5 HEARING

Without going into too much detail, please review the 3.5 arguments presented by PA Michelle Larson and DA Andrew Magee from reporting papers (RP) page 507 to 514. Judge Chung ruled, "the undisputed fact is after the questioning of Mr. Decker as to what happened, then the officers placed Mr. Decker formerly under arrest and took him away...I'm going to allow the statements that Mr.

Decker made [RP 514 #10-15].” Please comment on the merits of each argument and let me know how the Appellate Court judges would rule in this matter.

From my perspective, I was under arrest after I was proned to the ground at gunpoint, handcuffed, searched and interrogated! The police and prosecution claim I made statements freely under no duress or threats and never asked to speak with a lawyer [CP 127 #6-11 & RP 303 #14-25, 304 #1-5]! During direct examination I testified, “when Herzog came down, that's when everything...came into sharp clarity...these guys were out to get me [RP 972 #18-25 & 973 #1-18]⁹.” When Officer Herzog lost his temper, accused me of a crime and threatened me with punishment, I requested to speak to a lawyer.

Distorting my arrest and interrogation as merely a detainment for officer safety and an investigative part of the process belies what Officer Kramp and Herzog were really after. They were hoping I would give them enough rope to hang myself with at trial before reading the Miranda Rights. By their own admission, the MIPD were dispatched to Shorewood Heights to investigate the questionable activity of Camryne O’ Brien and Theodore Chandler (APPENDIX B & D)

⁹ Please read the reference in its entirety.

and elected not to upon being upgraded to an assault with pepper spray (RP 331 #12-15, 334 #21-22). Officer Kramp and Herzog were going to arrest me no matter what (RP 335, #4-16), “Assault was a worse crime than trespassing [RP 730 #20].” They were biased.

Prior to this experience, I operated under the assumption that police officers strove to uphold and enforce the law impartially. Was it wrong for the MIPD not to investigate these two men for *anything*? By arresting me and not them for their *per se* trespassing, is that making them a deal so they can testify against me? Was it unethical in that they only arrested me that night? If not, why?

3.2 MIRANDA RIGHTS NOT READ

“The primary question at a 3.5 hearing...is to determine when someone was under arrest [RP 508 #22-24].” To Officer Derr’s knowledge, “*Q.* Mr. Decker was never read his rights? *A.* Correct [RP 286 #5-10].” Officer Herzog’s report states, “Based off of all the evidence and statements made on scene, Decker was placed under arrest for Assault [APPENDIX E 36],” but does not identify himself as the arresting officer. Officer Kramp’s tale bolsters Officer Herzog’s

account (APPENDIX C 9 #3-6), but *again* never identifies who or when I, Brian Thomas Decker, was arrested and read my rights.

To establish that indeed my Miranda Rights were read, PA Michelle Larson asked Officer Herzog, “*Q.* Did you read him his Miranda Rights? *A.* I did... *Q.* Do you have a card that you read from?...*A.* I do...It is what is on our Miranda warning cards...that we read to people that we arrest...*Q.* Can you please read the warnings as you read to Mr. Decker that night? *A.* Yes.” Officer Herzog then held the card out in front of him at arm’s length and read the warning. “*Q.* And is that how you read them to him that night? *A.* Yes it is [RP 304-305].”

The reason the police reports were vague about who read me my Miranda Rights is because they were not read, ever. Officer Herzog and Kramp committed perjury on the stand, under oath, at the 3.5 hearing for two reasons: (1) to cover up their incompetence and (2) to make certain the fake, self-incriminating statements I allegedly made to Officer Kramp, noted in his fabricated police report and nowhere else in discovery, were admissible. A special thanks goes out to Prosecuting Attorney Michelle Larson for nailing down the

details of my arrest during direct examination of Officer Herzog!

Without her help, I would never have been able to prove my Miranda Rights were never read!

How did I do it? Simple. I edited together the MIPD's Police DashCam videos to show the entire duration of Officer Herzog's interaction with me, from two separate angles, into a single movie.¹⁰ From the time Herzog entered the first frame of footage and left at the last, he *never* took out a Miranda Rights warning card, held it out at arm's length, read it to me or waited for a verbal response. What he did do is get "pissed off at me." You could tell he was just in a real *crappy* mood and...he hauled me off [without reading me my Miranda Rights] and threw me in back of police car [RP 973 #13-16]" after I requested to speak with a lawyer.

The following day DA Andrew Magee sought to show the MIPD's in-car camera footage "provided for us on discovery, so they [the jury] have had the opportunity to see it. And the purpose of showing it is to show that nowhere in the video do we see Corporal do what he said that he did, which was to remove the card from his

¹⁰ For your viewing pleasure the short film "Miranda Rights Not Read" is available as an electronic attachment via the provided USB thumb drive accompanying this document.

pocket and read Mr. Decker his rights [RP 693 #4-7].” He “proclaimed to be the arresting officer...And to impeach his credibility, his truthfulness, notwithstanding the fact that it surrounds Miranda at a 3.5. We're not bringing it up to question Miranda. What we're bringing it up for is that he has told a lie on the stand [RP 693 #19-25].”

Now that Judge Chung had irrefutable evidence showing Officer Herzog and Kramp lied under oath during their 3.5 testimony, I thought the case was over. Miranda rights were not read! All statements and evidence gathered at the time of the arrest were out! Two police officers committed perjury under oath! Their credibility was in ruins! How could the prosecution proceed!? “I’m not going to allow you to cross-examination someone about what happened at a 3.5 hearing [RP 694 #7-9].”

Please review the arguments from reporting page 690 line 10 to page 694 line 8 and respond to the following: Are Police Officers held to a higher standard of accountability or not? Does the Appellate Court believe Judge Chung was acting impartially when making this ruling? Why is the defense not allowed to impeach Officer Kramp and Herzog’s testimony with the State’s own evidence? How is this

not prejudicial and unfair against the defense? Why wasn't the case dismissed right then and there? Why weren't the police and prosecution penalized for committing the crime of perjury? Why were they rewarded instead?

3.3 THE 3rd PARTY WITNESS, KIT RADOSEVICH

RULE ER 803
HEARSAY EXCEPTIONS; AVAILABILITY OF DECLARANT
IMMATERIAL

(1) Present Sense Impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited Utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(8) Public Records and Reports. (Reserved. See RCW 5.44.040.)

RCW 5.44.040

Certified copies of public records as evidence.

Copies of all records and documents on record or on file in the offices of the various departments of the United States and of this state or any other state or territory of the United States, when duly certified by the respective officers having by law the custody thereof, under their respective seals where such officers have official seals, shall be admitted in evidence in the courts of this state.

The first time I was confronted by the angry and upset (RP 822 #5-7 & RP 819 #5-7) trespasser (APPENDIX A¹¹ 1 & RP 730 #14-17) Camryne O'Brien, he ran up to me (RP 839 #25 – 840 #1-3 & RP 942 #18-22) yelling and

¹¹ APPENDIX A: No Trespassing Signs

screaming (RP 836 #6-13) profanities at me (RP 835 #8-13 & RP 836 #4-5). “Who the fuck are you? Get the fuck out of here! Don’t shine your fucking flashlight at us! We’ve got every right to be here! We’ve done nothing wrong [RP 944 #14-17]!” I, Brian Thomas Decker, retreated without saying or doing anything to him (RP 944 #19-21 & RP 819 #8-11).

As I walked away Kit Radosevich, a fellow neighbor at Shorewood Heights, pulled her vehicle into the private parking lot behind my apartment building and parked (RP 947 #2-7, APPENDIX B¹² 3 #14-16 & RP 819 #10-11). I told her, “Kit, call the cops and get out of here [RP 947 #9]!” She and I then both exited the parking lot going our separate ways home.

At 11:55 PM, within minutes of the first confrontation by Camryne O’Brien and when the alleged assault is to have taken place, Kit Radosevich called 911 to request “a police officer out there to just uh check things out [APPENDIX B 2 #7-9].” She was asked, “Are you hearing or seeing anything right now [APP B 2 #10]? What is going on tonight [APP B 3 #14]?” To which Ms. Radosevich described seeing *with a present sense impression*, “a pick-up truck and a bunch of people kinda like partying out of the back of it [APP B 2 #14-16]...smoking and

¹² APPENDIX B: 911 Phone Call, Kit Radosevich, Page 3, Lines 14-16

perhaps drinking [APP B 3 #1-2]... at the far end of the parking lot behind the Shorewood Height's leasing office (APP B 4 #6-10)." Kit then noted *her own prior experiences* in that parking lot, "Yeah, and I've had the police down there before and they said if you see anything just give us a call. They're usually like teenagers, smoking and drinking. And they are underage, generally [APP B 4 #1-4]...And we've had people like set stuff on fire down there [APP B 2 #15-16]." Ms. Radosevich elaborated, "We've had some problems with some oh like vandalism to cars and *suspicious activity* going on, and *it's happening again this evening* [APP B 2 #4-7]." Police were then dispatched to the area (APP B 4 #15-16).

In summary, Kit Radosevich called 911 to report suspicious activity going on because she had witnessed it before and saw it was happening again. Did I tell her to call 911 and get out of there because I believed it wasn't safe? Yes. Did I tell her what to say or what I personally saw that evening? No. Kit Radosevich described with a present sense impression suspicious activity after I, Brian Thomas Decker, brought it to her attention. To reiterate, I told Kit, "to get away and call the police [APP B 3 #1-3 & RP 947 #9]" and *nothing else*. The remainder of the 911 recording details Kit's apprehensive

state of mind as she “tried to get out of there as fast as I [she] could [AP B 3 #2-3]” and shows with a present sense impression what she personally witnessed and experienced.

On the second day of trial, PA Michelle Larson moved to exclude Kit Radosevich’s 911 phone call as inadmissible, self-serving hearsay claiming “she [Kit] was told to call 911 [by Mr. Decker], *so she did not actually witness anything* [RP 430 #1-2 & RP 428 #19-22].” This non sequitur conclusion is not supported by the recording of Ms. Radosevich. Mrs. Larson deliberately mischaracterized the evidence created, possessed, and reviewed by the state (911 call/pre-trial discovery) to substantiate that patently false claim! From this unfounded assertion, the State requested “an order prohibiting the defendant from offering his own out-of-court statements [CP 134 #23 to CP 135 #1-7].” Please review Kit Radosevich’s 911 phone call (See Appendix B) and explain why it was self-serving hearsay as PA Michelle Larson describes.

Continuing with the fallacy, PA Michelle Larson argued Ms. Radosevich’s statements were brought in by the defense from outside of the court similar to the scenario of State v. Stubjeon (CP 135 #23 to CP

135 #8-21). Her deduction ignored the fact that 911 phone calls are public record provided to the defense by the State as evidence during discovery. State v. Stubjeon does not apply. Does the Appellate Court concur?

DA Andrew Magee disputed Mrs. Larson's claim, declaring the 911 call was not self-serving hearsay and was clearly admissible under the RCW Hearsay Exceptions Rule #1 and #2 (RP 430 #7 - 433 #6). Furthermore the dispute about admissibility is made moot, given the evidence is a matter of public record, falling squarely under RCW Hearsay Exception rule #8. If rule #8 does not apply to Ms. Radosevich's 911 phone call because it is not considered to be public record, then it follows that all of the 911 phone calls from that evening are inadmissible. Is that reasoning correct? If not, why?

Judge Chung tipped his hand as to how he was going to rule when he asked, "Well, isn't the issue not so much that she called, but that she called at the behest of Mr. Decker [RP 432 #7-8]?" I was shocked but not surprised upon hearing, "No. 7, motion to preclude self-serving hearsay including 911 call of Kit Radosevich. I am granting the motion because the statement with respect to what Mr.

Decker made – allegedly made to Ms. Rad – I can’t pronounce her name – Radosevich is hearsay, and if you’re going to present that would be inadmissible [RP 688 #10-16].” Is Judge Chung’s ruling in error upon reviewing the contents of Kit Radosevich’s 911 call?

Moreover, here is a hypothetical question to bring this issue into focus; if the roles were reversed and Camryne O’ Brien and Theodore Chandler were charged with trespassing (APPENDIX A), minor in possession & driving under the influence (APP E 4, & APP B 3 #1-2), assault (RP 645 #5-7 & RP 658 #2-6), destruction of private property and hit and run unattended (APP E 41 & APP D 3 #17-19) , do you believe Kit Radosevich’s 911 phone call would have been suppressed in favor of the defense? I sincerely doubt it. Judge Chung’s ruling was highly prejudicial against the defense and here is why:

3.4 CONSPICUOUS BY ITS ABSENCE

One hurdle the prosecution had to overcome to get their conviction was convincing the Triers of Fact that I, Brian Thomas Decker, was a vigilante hell bent on meting out justice with my own two hands. Unfortunately, the plausibility of their narrative hinged on the testimony of two *per se* trespassers, the State’s star witnesses,

Camryne O' Brien and Theodore Chandler. Realizing this conundrum, PA Ian Ith and Officer Kramp hatched a plot to attribute new, alleged statements from a credible 3rd party witness to paint me as some strange (APPENDIX C 2 #42-45), creepy (RP 533 #20 & RP 534 #3), suspicious guy blocking the exit (APP C 2 #42-45 & RP 688 #4). Guess who they found? The unavailable 911 caller, Kit Radosevich.

Purportedly, Officer Kramp called up Ms. Radosevich to ask her what had happened (APP C 2 #40) when writing his fabricated police report. He professed she said to him the following: "She went to walk back to her apartment and saw Decker standing in the middle of the exit from the parking lot. Radosevich said Decker looked "strange" and she asked him what was wrong [APP C 2 #42-45]."

Now there are two conflicting accounts from the same person describing the same incident! On one hand, Kit Radosevich said "*my neighbor walked over to me* [APP B 2-5 #14-15]" and told her "to get away and call the police [APP B 3 #1-3]." Whereupon she described with a present sense impression suspicious activity and requested police to check things out [APP B 3 #2-5]. She then "tried to get out of there as fast as I (she) could [APP B 3 #2-3]!" On the other hand, Officer Kramp's tall

tale begins with *Kit Radosevich initiating conversation with her neighbor*, Mr. Decker, who was acting strange. She asked him what was wrong [APP C 2 #42-45] and conveniently noted for the prosecution that Mr. Decker was standing in the middle of the exit, a.k.a. blocking the road (APP C 2 #42-45 & RP 688 #4)!

If Kit Radosevich saw me standing in the exit blocking the road, then she must have seen the two vehicles I was allegedly blocking drive up to within feet behind me and stop. If she saw that, why didn't she stick around to witness two people exiting their vehicles, slamming their car doors, rushing up on her neighbor and screaming profanity laced threats at him? Why didn't she report seeing any of that in her 911 phone call? She didn't. Officer Kramp made it all up to benefit the prosecution.

How can the *actual recorded words* from Kit Radosevich be inadmissible and deemed self-serving hearsay for the defense when the obviously self-serving hearsay for the prosecution attributing new alleged statements to an unavailable witness is allowed in via Kramp's police report and testimony? Why can't the defense use Ms. Radosevich's call to impeach Officer Kramp!? How is that not highly

prejudicial against the defense and a severe oversight by Judge Chung?

On a final note, when PA Michelle Larson stated “she [Kit] was told to call 911 [by Mr. Decker], *so she did not actually witness anything* [RP 430 #1-2 & RP 428 #19-22],” she knew this contradicted Officer Kramp’s testimony about Kit seeing me standing in the road. To close this loophole she asked Officer Kramp, “*Q. Okay. Is there any indication that -- that this Kit Radosovich personally witnessed anything? A. Just the statements that she told me from when she had come home, that she had seen Mr. Decker standing in the entrance to the back parking lot and she said he looked as if things weren't right* [RP 585 #10-15].”

Did PA Michelle Larson coach Kramp to say that, knowing full well that Kit had witnessed and reported a very different version of events in her 911 phone call? Does Officer Kramp’s statement stand up now that Kit’s phone call has been brought to light? I believe Prosecuting Attorney Michelle Larson coached Officer Kramp and Herzog about what to say and not say during their testimony just like she did with Camryne O’ Brien. We know she interviewed these

witnesses and did not disclose/summarize that to the defense as was admitted under oath and acknowledged by Ms. Larson at trial.

3.5 WORDS HAVE MEANINGS

Confront: *verb*, to meet (someone) face to face with hostile or argumentative intent. *Synonyms:* challenge, face (up to), come face to face with, accost.

From a layman's perspective, the reason my accuser Officer Magnan was never called as a witness by the prosecution was because his Certification for Determination of Probable Cause established that I was confronted not once but twice by Camryne O' Brien and Theodore Chandler. Again the State's own evidence was problematic for the prosecution and needed to be suppressed and replaced.

Defense Attorney Andrew Magee had quite a bit to say about the matter. Please read reporting papers 134 to 143 and respond to his argument concerning dismissal of the case and what occurred that evening. Then please read my testimony in its entirety from page 938 to 976 to find that I did not confront Camryne O'Brien or Theodore Chandler. Now read Officer Kramp's police report APPENDIX C

and note the contradiction. He says I told him, "Decker said he went outside to "confront" the subjects."

I never said that. Why would I say that? I can't even see the end of the parking lot from my living room window on the opposite side of the building facing away from the parking lot. How would I know they were there to go out to confront them? I went out to smoke a cigarette behind my building next to the parking lot like I always do. I saw a red light go off and shined a flashlight towards it. That's when I was confronted by Camryne O' Brien and Theodore Chandler.

Officer Magnan's statement contradicts Officer Kramps. Kramps police report is fabricated and never should have been admitted. I never got to challenge my accuser Officer Magnan nor impeach Officer Kramp. How is this fair?

4. 911 CALLER STACEY ANG

After Theodore Chandler hit me in the face, jumped into his vehicle and sped off, I heard a car crash. Unbeknownst to me, Theodore Chandler then fled the scene of the accident and ran back to his partner in crime. Meanwhile, Camryne O' Brien attempted to escape by off-roading his pickup truck onto the lawn behind my

apartment only to spin out in the mud. Theodore Chandler yelled at him, “I just hit a guy! I just hit a car! We need to get out of here [APPENDIX D 2 #17-19]!” To which Camryne replied, “Push the car, bro [RP 829 #5].”

Stacey Ang, a tenant of Shorewood Heights, described this to 911 dispatch as it was happening from her 2nd story unit. “Yeah, I’m calling from Shorewood Apartments on Mercer Island. There is a white pickup truck like...stuck on lawn...and I see all these (inaudible) like yelling and talking...It just sounds like chaos out here... He’s stuck! Right now! If you can come now. He’s stuck on the lawn! Like he can’t get his car out!...I saw a kid running to the pickup screaming, “I just hit a guy! I just hit a car! We need to get out of here!”...This just happened. But the kid who hit the car ran off, and said I gotta get in my car [SEE APPENDIX D]!”

Once again a 911 phone call was problematic for the prosecution. To paint me as the villain, the MIPD and KCPAO concocted a story that these two men were fleeing in terror after being pepper sprayed. Stacey Ang’s 911 call shows this is not true.

Camryne O' Brien and Theodore Chandler were trying to escape from the repercussions of their own crimes.

Furthermore, Ms. Ang's 911 call raised questions about police and prosecutorial bias. Why weren't Camryne O' Brien and Theodore Chandler investigated and at the very least, arrested for the *per se* violation of trespassing after three Shorewood Heights residents (Kit Radosevich, Stacey Ang & Brian Decker) reported their suspicious behavior? Why weren't they charged with destruction of private property and hit and run unattended? How can two men trespass on private property, harass, intimidate, threaten and hit a tenant in the face, and not suffer any consequences? Why was I, Brian Thomas Decker, required to pay for the damages they caused? Why am I being held responsible for their crimes?!

On the topic of shifting blame and taking no responsibility, how could PA Michelle Larson wiggle her way out of the predicament Stacey Ang's 911 phone call created? Simple. She professed ignorance of the State's own evidence! "There's no indication that there's any recording of any of Mr. Chandler's statements at the scene that night. I don't know who he's talking about [RP 664 #19-23]."

Adding insult to injury, Judge Chung then excoriated DA Andrew Magee for springing “up a new exhibit, apparently no one knows about [RP 665 #9-10].” My lawyer fired back, “They’ve known about it since before me, before the case was filed [RP 665 #18-21]!” He then reasoned it was admissible under “rules of evidence with regard to hearsay exceptions and present sense impression [RP 666 #6-8].” Judge Chung cut him off, “I see a double hearsay issue here. I’m not going to allow it [RP 666 #9-10].”

Please read the argument (RP 662 #23 – 666 #16), review Stacey Ang’s 911 phone call [SEE APPENDIX D] and explain why it was not admissible under Hearsay Exceptions Rules #1, 2 & 8. Was Judge Chung’s decision in error and, if not, why? Moreover, how is it possible a prosecutor has no knowledge of the State’s own evidence? Is PA Michelle Larson a liar, incompetent or both? Either way, why was the defense punished for her transgressions? Is that fair?

Finally, Theodore Chandler lied on the stand under oath during cross examination and Stacey Ang’s 911 phone call proves it. Mr. Chandler’s fantastical recollection of events, portrays himself as a gallant knight in shining armor who rushed off to save his friend from

the dangerous, pepper-spraying vigilante Mr. Decker; “I did not have time to leave information [identifying himself] as my friend was being attacked, so I ran down to his safety [RP 661 #24 to 662 #1-4].” Andrew Magee asked him, “At the time, when you left the scene of where you crashed into a car, without immediately thereby leaving any information to the person whose car you hit about yourself, and ran back to where you say Cam was, a separate area, *did you say at any time say out loud or with a high volume words to the affect, I’ve just hit a car, I’ve just hit a guy in the face, we’ve got to get out of here?*” Without pausing, Theodore deceitfully replied, “*No* [RP 662 #23 – 663 #1-5].”

5. WITNESS DEPOSITIONS

Shorthand: In his deposition, Cam said he got out of the car to hit me. Listen to it. Why wasn’t the case dropped right then and there? The State had in its possession evidence showing I acted in Self-Defense (and at this time, I was still charged with only one-count of assault.) Was this about Justice or getting a conviction at all costs?

How was the prosecution able to suppress the Deposition? We could have used it to impeach Camryne if he decided to lie on the stand?

At this point in the game, why didn't the prosecution drop it, given that I acted well within the Self-Defense laws and Cam already said he got out to hit me and had evidence of self-defense.

Why was this unfair?

6. IAN ITH

Shorthand: Why was Ian Ith at my Citizen's complaint hearing on Mercer Island? Is this improper? Why was he requesting a Mercer Island Judge to suppress evidence of the per se violation of trespassing? What was he doing there? Listen to the full recording attached.

Why was this unethical and unfair?

Why did Ian Ith offer me a Misdemeanor if I accepted a Plea Deal and then divided the Assault Charge into 2 the day of trial? Was I being punished for exercising my Constitutional Right declaring my innocence and asking for a trial? Was this about getting a conviction at all costs instead of pursuing justice?

7. CONCLUSION

Shorthand: I did not have a fair trial. Please end this Kafkaesque nightmare by reversing this conviction and striking it from the record.

Please forgive any typos, grammatical errors, and the abrupt ending. I ran out of time and this is an extremely difficult subject to write about. I would like to thank the Court and the rules for the opportunity to submit this brief.

Thank you for your time.

~Appellant, /s/*Brian Decker*

RULE OF APPELLAGE PROCEDURE
STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

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

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

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

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

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

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

CERTIFICATE OF ELECTRONIC SERVICE

I, Brian T. Decker, Defendant/Appellant, hereby submit this Statement of Grounds for Additional Review pursuant to RAP 10.10 electronically to Ian Ith, Esq., attorney for the Plaintiff/Respondent, *et al.*, King County/State of Washington on June 22, 2016 at the following address:

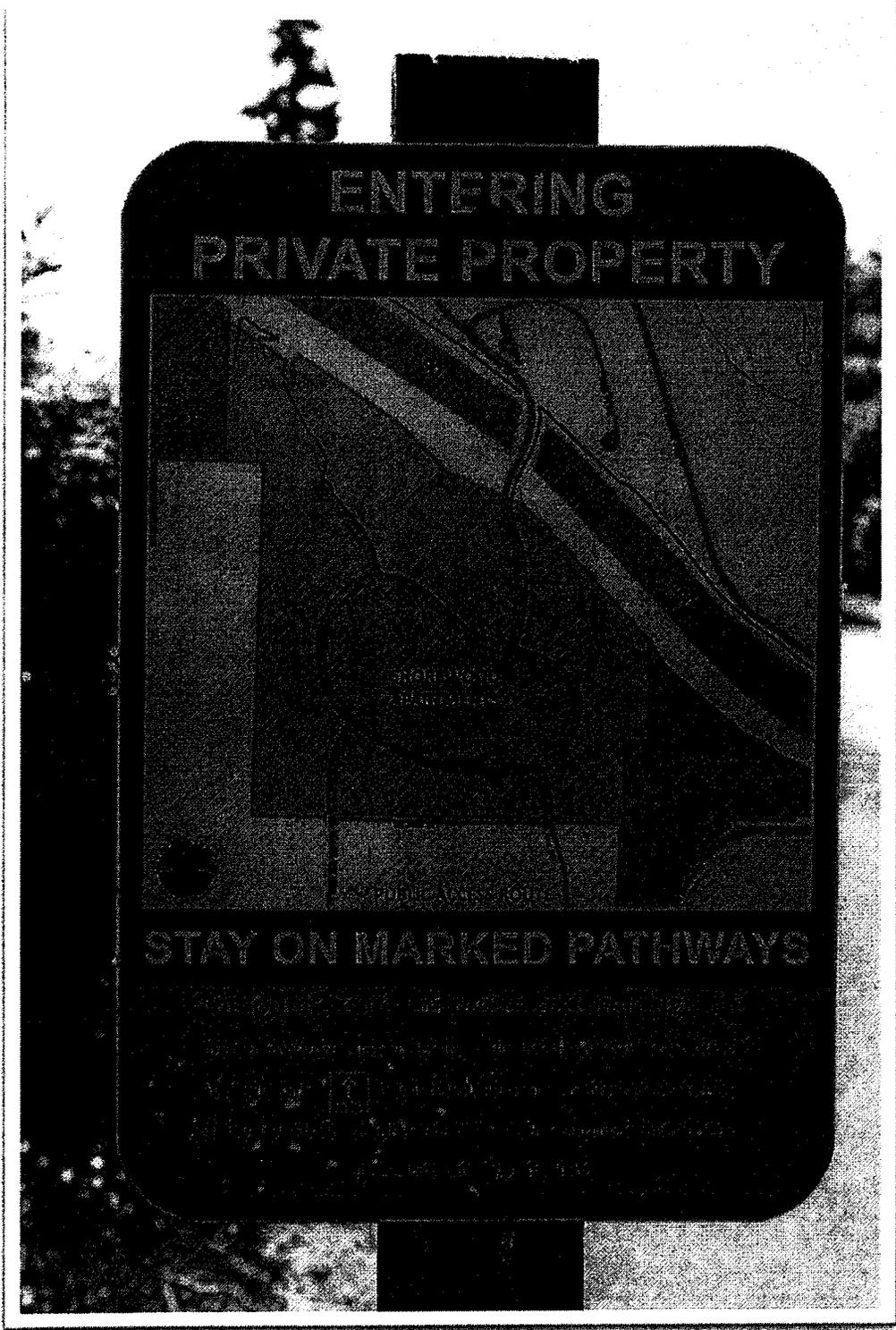
Ian David Ith, Esq.
King County Prosecutors Office
516 Third Avenue
Seattle, Washington 98104-2385
ian.ith@kingcounty.gov

Prosecuting Atty King County
King Co Pros/App Unit Supervisor
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
paoappellateunitmail@kingcounty.gov

Ecce Signum: /s/ Brian Thomas Decker
Brian Decker
9004 W. Shorewood Drive
#517
Mercer Island, WA 98040
(510) 306-1789
Mister-Decker@hotmail.com

Brian Decker 07/22/2016

APPENDIX A: No Trespassing Signs



1
2 APPENDIX B: 911 Call, Kit Radosevich

3
4 No. 73949-2-I

5
6 COURT OF APPEALS, DIVISION I

7 WASHINGTON STATE

8
9 BRIAN T DECKER, Appellant

10 V.

11 STATE OF WASHINGTON, Respondent/Cross-Appellant

12
13 VERBATIM REPORT OF KIT RADOSEVICH'S 911 PHONE CALL

14 RECORDED 12/20/2014 AT APPROXIMATELY 23:55:01

15
16
17
18
19 Transcribed by Brian Thomas Decker

1 911 Dispatch: 911 Emergency! Stay with the transfer for 9009 W. Shorewood
2 Drive, ok caller go ahead.

3 911 Dispatch: Caller is that a house?

4 Kit Radosevich: Hi! Um, yeah we, uh it's an apartment building. There is a big
5 parking lot below my building. And we've had some problems
6 with some oh like vandalism to cars and suspicious activity
7 going on, and it's happening again this evening. So it would be
8 great if I could get a police officer out there to just uh check
9 things out.

10 911 Dispatch: Oh ok, umm are you hearing or seeing anything right now?

11 Kit Radosevich: Um, well one of my neighbors reported it and asked me to call
12 the police for them.

13 911 Dispatch: Ok, reporting what? What is going on tonight?

14 Kit Radosevich: Um, there's uh like a pick-up truck and a bunch of people kinda
15 like partying out of the back of it. And we've had people like
16 set stuff on fire down there.

17 911 Dispatch: And any description on the pick-up truck? How many people?
18
19
20

1 Kit Radosevich: Um, I saw two. It looks like they're smoking and perhaps
2 drinking. And um, I dunno. I just tried to get out of there as
3 fast as I could, cuz he told me to get away and call the police.

4 911 Dispatch: Ok. And what color is the pick-up?

5 Kit Radosevich: Um, it's like blue and white. It's a real old, small pick-up.

6 911 Dispatch: Ok. Did you a make or any part of a license plate?

7 Kit Radosevich: It's one of those...um I think it's like a little Chevy S-10.

8 911 Dispatch: Ok. And the people in it, uh were they Male? Female? White?
9 Black? Asian?

10 Kit Radosevich: Um, I couldn't really tell. All I could see is that they were
11 smoking. I could see the little lights from there cigarettes,
12 wandering and bobbing around. But it's really dark out there
13 and so it's really hard to see.

14 Kit Radosevich: I just basically drove in. And my neighbor walked over to me
15 and said, "Please call the police, these guys are doing things
16 they shouldn't be doing."

17 911 Dispatch: Ok.

18

19

1 Kit Radosevich: Yeah, and I've had the police down there before and they said if
2 you see anything just give us a call. They're usually like
3 teenagers, smoking and drinking. And they are underage,
4 generally.

5 911 Dispatch: And where exactly in the parking lot did you see them?

6 Kit Radosevich: Um, so they are by the tennis courts. So when you drive up the
7 hill to Shorewood. You'll see there is a leasing office. Big
8 parking lot behind the leasing office, and they are at the very
9 back of the parking lot. On the uh, like the, towards the tennis
10 courts.

11 911 Dispatch: Ok. And what is your name ma'am?

12 Kit Radosevich: Uh, Kit, K-I-T, Radosevich, R-A-D-O-S-E-V-I-C-H.

13 911 Dispatch: Ok. And a good call back number for you?

14 Kit Radosevich: Uh, 425-299-6611.

15 911 Dispatch: All right, we will alert officers and have someone there as very
16 soon as possible. Did you need a follow up at all Kit?

17 Kit Radosevich: Um, no that's fine.

18 911 Dispatch: All right, thank you so much.

19 Kit Radosevich: Perfect. Thank you!

1 911 Dispatch: Thanks.

2 Kit Radosevich: Good bye.

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1 APPENDIX C: Officer Kramp's Police Report

2 CONTINUATION/FOLLOW-UP

3 Mercer Island Police Department

4 **Case Number:** 2014-15807
5 **Type of Incident:** Assault
6 **Suspect:** Decker, Brian T 03/11/1977
7 **Reporting Officer:** R Kramp #ISI

8 **Investigation**

9
10 On 12/21/2014, I, Cpl Kramp # 151, was dispatched to an assault complaint with other MIPD
11 officers. The incident was alleged to have taken place in the Shorewood Apartment complex,
12 in the parking lot area behind the leasing office. Cpl Herzog and I had just cleared a large
13 MIP party complaint on the south end of the island. Officer Derr, who was working a DUI
14 emphasis at the time this call came out, was much closer to the call location and was first to
15 arrive on scene.

16
17 There were multiple calls to this location. The first call came out as a QA with reports of
18 recent vandalism in the area. The caller (Radosevich, Kit Kismet 12/11/1986 phone #425-299-
19 6611) reported that there was a pickup truck in the parking lot with at least two subjects inside
20 who were smoking and drinking. Radosevich reported ongoing issues with teens partying and
21 causing problems in the parking lot. Radosevich reported that the subjects were located in the
22 large parking lot behind the leasing office.

23
24 As Cpl Herzog and I headed towards the call, NORCOM dispatch upgraded us to a priority
25 response and stated there was now a call coming in from another RP, in the same area,
26 reporting a "Macing." I arrived on scene backing up Officer Derr who had just arrived. Officer
27 Derr and I located one of the involved subjects. The subject we confronted matched the
28 description (possibly Hispanic male, 30s-40s, 6 feet, wearing black sweatshirt and tan pants) of
29 the described subject who had "maced" at least one person. Due to this subject possibly still
30 being armed with mace, Officer Derr and I proned the subject out with our firearms drawn at
31 low ready. I placed the subject in handcuffs for officer safety reasons and told him verbally
32 that at this point he wasn't under arrest and that we needed to figure out what exactly
33 happened.
34

1 CONTINUATION/FOLLOW-UP
2 Mercer Island Police Department

3
4 The subject was identified via his WA driver's license (Decker, Brian T 03/11/1977) which
5 was recovered from his person. I asked Decker what had happened and he provided the
6 following verbal statements:

7 Decker said he had seen the two involved subjects in the back parking lot by both of their
8 vehicles. Decker was concerned about the recent criminal activity in the area, most
9 notably vehicles being vandalized and teens smoking marijuana in the parking lot.
10 Decker said he went outside to "confront" the subjects. Decker said he was standing in
11 the middle of the one lane roadway to prevent the subjects from leaving. Decker stated
12 that Radosevich came home from work and parked her vehicle before asking Decker
13 what was wrong. Decker told Radosevich it wasn't safe for her there and to go up to her
14 apartment and call the police. Decker stated that the two subjects got into their vehicles
15 and attempted to leave the parking lot. Both vehicles came to a stop and the subject in
16 the front vehicle got out of his car and began walking up towards Decker. Decker
17 commented, "I fucked up!" and went on to repeat this phrase several more times. As the
18 subject walked up towards Decker, asking him to move out of the road, Decker said he
19 got alarmed and grabbed his can of pepper spray and sprayed the subject. Decker said
20 he wasn't aware that he had sprayed the second subject. Decker admitted that he had
21 too much to drink during the evening.

22
23 Corporal Herzog obtained statements from the other two involved parties. The first subject
24 (Obrien, Camryne J 03/31/1995) said he got out of his vehicle to ask Decker to move out of
25 the road. Obrien stated that out of nowhere, Decker grabbed his pepper spray and sprayed
26 Obrien across the front of his face. Obrien immediately got into his truck and tried driving up
27 onto the grass to flee from Decker. Due to the extensive rain leading up to this event, Obrien
28 got his vehicle stuck in the grass and he ran up behind one of the apartments to get away from
29 Decker while he called 911. The second subject (Chandler, Theodore F 07/25/1996) stated that
30 he was still seated in his vehicle when Decker approached him. Unsolicited, Decker reached
31 inside Chandler's open driver's window and sprayed Chandler and the interior of the vehicle
32 with his can of pepper spray. Chandler opened the door to his vehicle and swung wildly at
33 Decker to push Decker back before Chandler hopped back into his vehicle and attempted to
34 flee the area in his vehicle. Due to being exposed to the pepper spray, Chandler couldn't see
35 well and crashed into a parked vehicle around the corner while attempting to flee. I viewed
36 both Chandler and Obrien and both subjects had obvious signs of being pepper sprayed as the
37 area in and around their eyes were very red and their eyes were extremely watery. Both
38 Chandler and Obrien received treatment by MIFD on scene.

39
40 I contacted Radosevich by phone and asked her what had happened. At first, Radosevich was
41 unsure why I was calling her. I told her Brian said he had asked her to call 911. Radosevich
42 asked, "Who?" Radosevich then said, "Oh you mean my neighbor." Radosevich said as she
43 parked her vehicle, she went to walk back to her apartment and saw Decker standing in the
44 middle of the exit from the parking lot. Radosevich said Decker looked "strange" and she
45 asked him what was wrong. Radosevich said Decker told her it wasn't safe for her there and

1 told her to go back up to her apartment and call 911 which she did.

2

3 Based on the statements from all the parties and the evidence on scene, Decker was told that
4 he was under arrest for Assault. Cpl Herzog handled the remainder of the investigation and
5 Ofc Jira who had arrived on scene handled the accident report. This ended my involvement in
6 the case.

7

8 I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
9 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT (RCW
10 9A.72.085)

11

Officer: R Kramp # 151
Place Signed: Mercer Island, WA
Date: 06/03/2015

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APPENDIX D: 911 Call, Stacey Ang

No. 73949-2-I

COURT OF APPEALS, DIVISION I

WASHINGTON STATE

BRIAN T DECKER, Appellant

V.

STATE OF WASHINGTON, Respondent/Cross-Appellant

VERBATIM REPORT OF STACEY ANG'S 911 PHONE CALL

RECORDED 12/20/2014 AT APPROXIMATELY 23:55:01

Transcribed by Brian Thomas Decker

1 911 Dispatch: 911 Emergency.

2 Stacey Ang: Yeah, I'm calling from Shorewood Apartments on Mercer
3 Island. There is a white pickup truck like, stuck behind my building.

4 911 Dispatch: K, what's the address there?

5 Stacey Ang: ...I heard em... 9006 W. Shorewood Drive. That's my
6 building.

7 911 Dispatch: Ok.

8 Stacey Ang: They are right behind my building near the parking lot.

9 911 Dispatch: What building number is that?

10 Stacey Ang: 3.

11 911 Dispatch: 3?

12 Stacey Ang: But there is a big parking lot, behind me. And I see a truck
13 stuck on lawn. I heard another guy running to the car saying he
14 hit another car. It just sounds like chaos out here. So if you
15 could have someone come out here to check this out that would
16 be great.

17 911 Dispatch: Ok. Do you see anybody? Do you see anybody around the
18 truck?

19

1 Stacey Ang: Yeah, I still see the white truck right there...and I see all these
2 (inaudible) like yelling and talking...

3 911 Dispatch: K, do you know what kind of a truck it is? It's a white truck. I
4 don't know they turned their lights off. Looks like it is beat up
5 on the right fender. I can't see the license plate. I saw this kid
6 run, run out saying he hit a car.

7 Stacey Ang: This is the parking lot behind the leasing office. It looks like...

8 911 Dispatch: What did the male look like?

9 Stacey Ang: I can't tell. It's dark. I don't really want to go out there.

10 911 Dispatch: Do you know what race he was or what kind of of clothing he
11 had on?

12 Stacey Ang: It's all dark. I mean he's stuck! Right now! If you can come
13 now. He's stuck on the lawn! Like he can't get his car out!

14 911 Dispatch: Ok, yeah we've got some other calls (inaudible) .. got some
15 other calls on this. Can you see if anyone is injured at all from
16 the traffic accident that occurred?

17 Stacey Ang: No, I just saw this kid. I saw a kid running to the pickup
18 screaming, "I just hit a guy! I just hit a car! We need to get out
19 of here!"

1 911 Dispatch: Ok, and how long ago was that?

2 Stacey Ang: This just happened. But the kid who hit the car ran off, and
3 said I gotta get in my car!

4 911 Dispatch: K so it was all a couple minutes ago?

5 Stacey Ang: Yeah. It looks like he might be back. I see two, two guys now.

6 911 Dispatch: Ok, we might have some officers there as well...

7 Stacey Ang: Oh...I just saw a cop, he drove by. He just drove by.

8 911 Dispatch: Ok, so what's your name?

9 Stacey Ang: Stacey Ang. Oh! He can move em! Shoot! He can turn his
10 Lights on...

11 911 Dispatch: And what is your phone number Stacey?

12 Stacey Ang: (206) 853-6629.

13 911 Dispatch: Ok, and what unit do you live in?

14 Stacey Ang: 3.

15 911 Dispatch: Just unit number 3?

16 Stacey Ang: You better hurry! Yeah, some...better hurry!

17 911 Dispatch: And did you want to speak with an officer after today, after this
18 this handled?

19 Stacey Ang: Well I could probably watch it...It's outside my window.

1 911 Dispatch: You don't need a phone call or anything later on?

2 Stacey Ang: Umm. It's probably not necessary. Just want to make sure
3 these guys get taken care of.

4 911 Dispatch: Ok we've got...I'll, I'll keep you on the line so lets me know
5 what's happening. Is the white truck still there? Stuck?

6 Stacey Ang: Looks like they're still stuck. Yeah..

7 911 Dispatch: (Background Dispatcher) Is there something you're not telling
8 me?

9 911 Dispatch: K. Do you know what direction they, he would've run off of?

10 Stacey Ang: Well he came from. Umm I don't know my directions. He
11 Came. He came from one side and then ran up the stairs on the
12 other side of my building. So...I kinda want to go out there to
13 make sure it wasn't my car that he hit. Hah!

14 911 Dispatch: Ok.

15 Stacey Ang: Looks like there is a bystander. Kinda standing outside
16 watching it all. So I wonder, he might of like...he might've
17 called too.

18

19 911 Dispatch: Ok. Yeah we've gotten a few calls on this and it sounds they're

1 already out with uh somebody whose involved. So I'll let you

2 911 Dispatch: go. If anything changes, you see anything else call us back

3 Right away ok?

4 Stacey Ang: Ok thank you.

5 911 Dispatch: All right thank you. Bye.

6 Stacey Ang: Bye.

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Case Report Detail

Print Date/Time: 02/19/2015 10:37
Login ID: kdonnell

Mercer Island Police Department
ORI Number: WA0170900

Case Details:

Case Number:	2014-00015807	Incident Type:	Assault
Location:	3205 SHOREWOOD DR MERCER ISLAND, WA 98040	Occured From:	12/20/2014 23:55
		Occured Thru:	12/21/2014 23:55
		Reported Date:	12/20/2014 23:55 Saturday

Reporting Officer ID: 143-Herzog Status: Referred (see Status Date: 12/21/2014

APPENDIX E: Case Reports and Probable Cause

Disposition: Case filed Disposition Date: 12/21/2014

Case Assignments:

Assigned Officer	Assignment Date/Time	Assignment Type	Assigned By Officer	Due Date/Time
140-Magnan	12/22/2014 00:00	Investigations	140-Magnan	

<u>Associated Cases</u>	<u>Status</u>	<u>Assisting ORIs</u>	<u>Role</u>
<u>Modus Operandi</u>		<u>Solvability Factors</u>	<u>Weight</u>
		Suspect arrested (felony only)	13.000
			Total: 13.000

Offenses

No.	Group/ORI	Crime Code	Statute	Description	Counts
1	State	13A	9A.36.031[1315]	ASSAULT 3RD DEGREE [AGGR ASSAULT-WEAPON]	1
2	State	100	9A.40.040[1006]	UNLAWFUL IMPRISONMENT [KIDNAP-ADULT]	1

Case Report Detail

Print Date/Time: 02/19/2015 10:37
Login ID: kdonnell

ORI Number: Mercer Island Police Department
WA0170900

Case Report

Detail

Print Date/Time: 02/19/2015 10:37
 Login ID: kdonnell

Mercer Island Police Department
 ORI Number: WA0170900

Offense # 1

Group/ORI: State Crime Code: 13A Statute: 9A.36.031 [1315] Counts: 1 Attempt/ Commit Code: Commit

Description: ASSAULT 3RD DEGREE [AGGR ASSAULT-WEAPON] Offense Date: 12/20/2014

NCIC Code: 1315 Scene Code: Street-highway-road-alley Bias/Motivation: None

Domestic Code: No

Gang Related: No

IBR Seq. No: 1

Offender Suspected of Using

Alcohol: Yes
 Drugs: Unknown
 Computer: No

Victim Suspected of Using

Alcohol: No
 Drugs: No
 Computer: No

Aggravated Assault/ Homicide Other felony involved
 Circumstances #1:

Evidence Collected

Criminal Activity

Tools Used

Security Systems

None-unknown

Weapon Code : Personal weapon

Offense # 2

Group/ORI: State Crime Code: 100 Statute: 9A.40.040 [1006] Counts: 1 Attempt/ Commit Code: Commit

Description: UNLAWFUL IMPRISONMENT [KIDNAP-ADULT] Offense Date: 12/20/2014

NCIC Code: 1006 Scene Code: Street-highway-road-alley Bias/Motivation: Unknown

Offense Status: Open Status Date: 12/20/2014

Domestic Code: No Child Abuse: No

Gang Related: Unknown

IBR Seq. No: 2

Case Report

Detail

Print Date/Time: 02/19/2015 10:37

Login ID: kdonnell

ORI Number:

Mercer Island Police Department
WA0170900

Offender Suspected of Using

Alcohol: No

Drugs: No

Computer: No

Aggravated Assault/ Homicide Argument
Circumstances #1:

Victim Suspected of Using

Alcohol: Yes

Drugs: Unknown

Computer: No

Evidence Collected

Tools Used

Security Systems

Weapon Code : Personal weapon

Feature: Not applicable

Subjects

Case Report

Detail

Print Date/Time: 02/19/2015 10:37
 Login ID: kdonnell

Mercer Island Police Department
 ORI Number: WA0170900

Type	No.	Name	Address	Phone	Race	Sex	DOB/Age
Suspect	1	Decker, Brian T	9051 E SHOREWOOD DR 652 MERCER ISLAND, WA 98040	(425)802-6001	White	Male	■■■ 1977 37
Victim	1	O'Brien, Camryne Jon	3402 72ND PL SE MERCER ISLAND, WA 98040	(206)931-4404	White	Male	■■■ 1995 19
Victim	2	Chandler, Theodore F	3217 90TH PL SE MERCER ISLAND, WA 98040	(630)414-7683	White	Male	■■■ 1996 18

2014-00015807

Case Report

Detail

Print Date/Time:	02/18/2015 13:52	Mercer Island Police Department
Login ID:	kdonnell	ORI Number: WA0170900
Case Number:	2014-00015807	

Case Details:

Case Number:	2014-00015807		
Location:	3205 SHOREWOOD DR MERCER ISLAND, WA 98040	Incident Type:	Assault
		Occured From:	12/20/2014 23:55
		Occured Thru:	12/21/2014 23:55
		Reported Date:	12/20/2014 23:55 Saturday
Reporting Officer ID:	143-Herzog	Status:	Referred (see narrative) Case
		Disposition:	filed
		Status Date:	12/21/2014
		Disposition Date:	12/22/2014

Case Assignments:

Assigned Officer	Assignment Date/Time	Assignment Type	Assigned By Officer	Due Date/Time
140-Magnan	12/22/2014 00:00	Investigations	140-Magnan	

<u>Associated Cases</u>	<u>Status</u>	<u>Assisting ORIs</u>	<u>Role</u>
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<u>Modus Operandi</u>	<u>Solvability Factors</u>	<u>Weight</u>
	Suspect arrested (felony only)	13.000
		Total: 13.000

Offenses

No.	Group/ORI	Crime Code	Statute	Description	Counts
1	State	13A	9A.36.031[1315]	ASSAULT 3RD DEGREE [AGGR ASSAULT- WEAPON]	1
2	State	100	9A.40.040[1006]	UNLAWFUL IMPRISONMENT [KIDNAP- ADULT]	1

Case Report

Detail

Print Date/Time: 02/18/2015 13:52
Login ID: kdonnell

Mercer Island Police Department
ORI Number: WA0170900

Offense # 1
Group/ORI: State **Crime Code:** 13A **Statute:** 9A.36.031 [1315] **Counts:** 1 **Attempt/ Commit Code:** Commit

Description: ASSAULT 3RD DEGREE [AGGR ASSAULT-WEAPON] **Offense Date:** 12/20/2014

NCIC Code: 1315 **Scene Code:** Street-highway-road-alley **Bias/Motivation:** None

Offense Status: **Status Date:** **Occupancy Code:**

Arson Code: **Domestic Code:** No **Child Abuse: Sub-Code:**

Gang Related: No **Aiding/Abetting:** **IBR Seq. No:** 1

of Adults: **# of Juveniles:**

Property Damage Amt.: **Abandoned Structure:** **Household Status:**

Domestic Circumstance: **Carjacking:** **Premise Code: Prior Inv - Victim: Cargo Theft:**

Accounting Situation: **Hate Bias Indicator: Order of Protection:** **Anti-reproductive rights crime: Precipitating Event:**

Offender Suspected of Using

Alcohol: Yes
Drugs: Unknown
Computer: No

Victim Suspected of Using

Alcohol: No
Drugs: No
Computer: No

Aggravated Assault/ Homicide Circumstances #1: Other felony involved

Aggravated Assault/ Homicide Circumstances #2:

Aggravated Assault/ Homicide Remarks #1:

Aggravated Assault/ Homicide Remarks #2:

Justifiable Homicide Circumstances :

Method of Entry Type: Point of Entry: Method of Exit Type: Point of Exit: Direction of Travel: Counterfeit Type:

Case Report Detail

Print Date/Time: 02/18/2015 13:52
Login ID: kdonnell

Mercer Island Police Department
ORI Number: WA0170900

Offense # 2
Group/ORI: State **Crime Code:** 100 **Statute:** 9A.40.040 [1006] **Counts:** 1 **Attempt/ Commit Code:** Commit

Description: UNLAWFUL IMPRISONMENT [KIDNAP-ADULT] **Offense Date:** 12/20/2014

NCIC Code: 1006 **Scene Code:** Street-highway-road-alley **Bias/Motivation:** Unknown

Offense Status: Open **Status Date:** 12/20/2014 **Occupancy Code:** Child
Arson Code: **Domestic Code:** **Abuse:** No
Gang Related: Unknown **Aiding/Abetting:** No **Sub-Code:**

of Adults: **# of Juveniles:** Abandoned **IBR Seq. No:** 2
 Structure: Carjacking

Property Damage Amt.: **Hate Bias Indicator:** Order of Protection: **Household Status:**
Domestic Circumstance: **of Protection:** **Premise Code:** Prior
Accosting Situation: **Anti-reproductive rights crime:** **Inv - Victim:** Cargo
Gambling Motivated: **Precipitating Event:** **Theft:**
Prior Inv - Offender:
Special Circumstances:

Offender Suspected of Using

Victim Suspected of Using

Alcohol: No	Alcohol: Yes
Drugs: No	Drugs: Unknown
Computer: No	Computer: No

Aggravated Assault/ Homicide Circumstances #1: Argument

Aggravated Assault/ Homicide Circumstances #2:

Aggravated Assault/ Homicide Remarks #1:

Aggravated Assault/ Homicide Remarks #2:

Justifiable Homicide Circumstances :

Method of Entry Type: Point of Entry: Method of Exit Type: Point of Exit: Direction of Travel: Counterfeit Type:

Case Report Detail

Print Date/Time: 02/18/2015 13:52
Login ID: kdonnell

ORI Number: Mercer Island Police Department
 WA0170900

Type	No.	Name	Address	Phone	Race	Sex	DOB/Age
Suspect	1	Decker, Brian T	9051 E SHOREWOOD DR 652 MERCER ISLAND, WA 98040	(425)802-6001	White	Male	1977 37
Victim	1	Obrien, Camryne Jon	3402 72ND PL SE MERCER ISLAND, WA 98040	(206)931-4404	White	Male	1995 19
Victim	2	Chandler, Theodore F	3217 90TH PL SE MERCER ISLAND, WA 98040	(630)414-7683	White	Male	1996 18

Subject # 1-Suspect

Primary: No
Name: Decker, Brian T
Address: 9051 E SHOREWOOD DR 652
 MERCER ISLAND WA 98040

Suspect Type: Arrestee
Race: White
Sex: Male
Height: 5ft 10 in
Weight: 190.0 lbs.
Eyes: Brown
Hair:

Primary Phone: (425)802-6001

SSN: [REDACTED] **DVL #:** Male **DOB:** [REDACTED]/1977

Resident Type:
Disposition:

Resident Status: Full-time resident

Build: 37
Age:

Date: [REDACTED]

Statement Type: Verbal [REDACTED]

Related Offenses

Group/ORI	Crime Code	Statute	Description
State	100	9A.40.040[1006]	UNLAWFUL IMPRISONMENT [KIDNAP-ADULT]
State	13A	9A.36.031[1315]	ASSAULT 3RD DEGREE [AGGR ASSAULT-WEAPON]

Related Weapons

Victim/Offender Relationship

No.	Type	Name	Relationship
1	Suspect	Decker, Brian T	Stranger
1	Suspect	Decker, Brian T	Stranger

Transported By: Domestic Violence: Condition

Case Report Detail

Print Date/Time: 02/18/2015 13:52
Login ID: kdonnell

ORI Number: Mercer Island Police Department
WA0170900

Subject # 1-Victim
Primary: No

Victim Type: Individual

Name: Obrien, Camryne Jon
3402 72ND PL SE
Primary Phone: (206)931-4404

Race: White **Sex:** Male **DOB:** [REDACTED]/1995
Height: 6ft 0 in **Weight:** 185.0 lbs. **Build:** 19
Eyes: [REDACTED] **Hair:** Brown **Age:** 19

Resident Type:

Resident Status: Full-time resident

Statement Type: Written

Disposition:

<u>Related Offenses</u>	Crime Code	Statute	Description
State	13A	9A.36.031[1315]	UNLAWFUL IMPRISONMENT [KIDNAP-ADULT]

Related Weapons

Victim/Offender Relationship

Transported By:
Domestic Violence:
Condition:

Extent of Injury:
Domestic Violence Referrals:
Medical Treatment:

Hospital:
Federal Agencies Involved:

Injury Types

Modus Operandi

Missing Person Information

Case Report Detail

Print Date/Time: 02/18/2015 13:52

Login ID:

kdonnell

ORI Number:

Mercer Island Police Department
WA0170900

Subject #

1-Victim

Case Report

Detail

Print Date/Time: 02/18/2015 13:52
2843A Decker, Brian F

Login ID:
kdonnell

3205 SHOREWOOD DR
MERCER ISLAND, WA 98040

ORI Number: 12/21/2014 00:20
Mercer Island Police Department
Taken into custody 57
WA0170900

Subject # 2-Victim

Case Report Detail

Print Date/Time: 02/18/2015 13:52
Login ID: kdonnell

ORI Number: Mercer Island Police Department
 WA0170900

Arrest # 2843 A
Name: Decker, Brian T **Date/Time:** 12/21/2014 00:20 **Type:** Taken into custody **Status:** [REDACTED]
Address: 9051 E SHOREWOOD DR **Race:** White **Sex:** Male **DOB:** [REDACTED] 1977
 652 **Height:** 5ft 10 in **Weight:** 190.0 lbs. **Build:** [REDACTED]
 MERCER ISLAND, WA 98040 **Eyes:** Brown **Hair:** Brown **Marital:** [REDACTED]
Phone: (425)802-6001 **SSN:** [REDACTED] **DVL#:** [REDACTED] **State:** WA
Location: 3205 SHOREWOOD DR

ID Procedure: [REDACTED] **Miranda ID:** 143-Herzog **Miranda Date/Time:** 12/21/2014 00:21
Age at Arrest: 37 **Resident Type:** [REDACTED] **Resident Status:** Full-time resident

Basis For Caution: [REDACTED] **Arrest Result Of:** [REDACTED] **Clears Case:** [REDACTED]
Alcohol Influence: Yes **Drug Influence:** Unknown **Resisted Arrest:** No
Statement Type: Verbal **Statement ID:** 143-Herzog

Arresting Officers	Bureau	School Resource Officer	Weapon Codes	Feature
143-Herzog		No	Other	Not applicable

Condition: [REDACTED] **Medical Treatment:** [REDACTED]
Transported By: [REDACTED] **Extent of Injury:** [REDACTED] **Hospital:** [REDACTED]

Associated Numbers
Warrant ORI: [REDACTED] **Warrant Number:** [REDACTED]
Booking ORI: Court **Booking Number: Court** **Case Number:** [REDACTED]
ORI: [REDACTED]

Arrest Charges

No.	Group/ORI	Crime Code	Statute	Description
1	State	13A	9A.36.031[1315]	ASSAULT 3RD DEGREE [AGGR ASSAULT-WEAPON]

Counts: 1 **Charge Date/Time:** [REDACTED] **Larceny:** [REDACTED] **Attempt/Commit:** Commit
Domestic: [REDACTED] **Plea:** [REDACTED]

Case Report Detail

Print Date/Time: 02/18/2015 13:52
Login ID: kdonnell

Mercer Island Police Department
ORI Number: WA0170900

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
12/20/2014	Evidence	Recordings audio-video			DVD/R of in-car camera video - Corporal Herzog #143	2014-15807-E-5	1
12/20/2014	Evidence	Recordings audio-video			DVD/R of in-car video - Officer Kramp #151	2014-18507-E-4	1
12/21/2014	Evidence	Photographs			CD containing pictures of both victims along with pictures of all vehicles involved	2014-15807-E-1	1
12/21/2014	Evidence	General			Flashlight used to shine into window of victims	2014-15807-E-3	1
12/21/2014	Evidence	Weapons Other			Pepper spray used against both victims.	2014-15807-E-2	1
12/21/2014	Victim vehicle	Automobile	Subaru	Impreza	Parked vehicle crashed into by suburban trying to flee		
12/21/2014	Victim vehicle	Automobile	Chevrolet	Suburban	Driver of vehicle crashed into a parked vehicle		
12/21/2014	Victim vehicle	Automobile	Ford	Ranger (pickup)	vehicle stuck in lawn/mud trying to flee from suspect		

Seq # 8

Tag Number: 2014-15807-E-5 **Item Number:** 1

Property Codes: **Property Type:** Recordings audio-video **Property Class:** **Date Received:** 12/20/2014

Evidence **UCR Value:** **Initial Value:** **Stolen Location:**

Quantity: 2.000 **Unit of Measure:** *Each **Measurement Source:** **Description:** DVD/R of in-car camera video - Corporal Herzog #143

**Mercer Island Police Department
Felony Face Sheet**

<u>Incident:</u> Assault	<u>Date:</u> 12/21/2014	<u>Case No:</u> 2014-15807	
<u>Name of Business and/or Victim</u>	<u>Date of Crime</u>	<u>Name of Defendant</u>	<u>Charge</u>
Obrien, Camryne J. Chandler, Theodore F.	12/21/2014	Decker, Brian Thomas	RCW 9A.36.031 Assault 3 rd RCW 9A.40.040 Unlawful Imprisonment

Name of Witnesses and Addresses:

Corporal David Herzog (#143) 9611 SE 36th Street, Mercer Island WA 98040 (206) 275-7909

david.herzog@mercergov.org

Officer Tim Derr (#155) 9611 SE 36th Street, Mercer Island WA 98040 (206) 275-7907

tim.derr@mercergov.org

Det. Sergeant Jeff Mangan (#140) 9611 SE 36th Street, Mercer Island WA 98040 (206) 275-7917

jeff.mangan@mercergov.org

Evidence Consists of:

Initial Case Report and Collision Report
Written Statements of Victims

Follow-up Reports

Evidence – E-1 Photographs, E-2 Pepper Spray Can and E-3 Flashlight

Summary of Facts:

See attached

2014-15807 PC Statement

Certification for Determination of Probable Cause Cause

No.:

That J. Magnan is a Detective Sergeant with the Mercer Island Police Department and has reviewed the investigation conducted in Mercer Island Police Department Case Number 2014-15807:

There is probable cause to believe that Decker, Brian Thomas DOB: [REDACTED]/1977, committed the crime(s) of: Assault 3rd degree RCW 9A.36.031 and Unlawful Imprisonment RCW 9A.40.040.

This belief is predicated on the following facts and circumstances:

On December 22, 2014 I reviewed this case consisting of a police report written by Corporal Herzog (#143), written statements by both victims (O'Brien and Chandler), follow-up statement by Officer Derr (#155), Washington State Collision Report by Officer Jira (#148), photos of collision and injuries to both victims (E-1) and the can of Mace brand Defense Spray (E-2).

On December 20, 2014, at approximately 2355 hours, Brian T. Decker, born [REDACTED] 1977, reported seeing a vehicle parked behind the leasing office of the Shorewood Heights Apartments 3205 Shorewood Drive, City of Mercer Island, County of King and State of Washington.

Decker called 911 to report the suspicious activity due to recent property damage and juveniles doing drugs in that area. In Decker's verbal statement to officers, he reported a friend's vehicle that was parked in the same area as these kids (victims O'Brien and Chandler) and was damaged.

Tonight, Decker observed Chandler and O'Brien in a vehicle and he suspected them of drinking and smoking pot. Although 911 was called and officers were dispatched, Decker did not want them (Chandler and O'Brien) to get away.

While officers were enroute, they received information from the dispatch center of a 911 call, from the same area of the suspicious activity, from O'Brien who reported being sprayed with Mace. Officers arrived and made contact with O'Brien and Chandler who showed obvious signs of having been sprayed with a chemical irritant.

Chandler reported he and O'Brien had been in the parking lot smoking cigarettes when a male, later identified as Decker, pointed a flashlight at them for an extended period of time. O'Brien confronted, verbally asking what his problem was. The male subject who refused to answer and kept shining the flashlight at them. Chandler and O'Brien decided to just leave.

As Chandler attempted to drive away from the parking lot, Decker approached them while walking down the center of the roadway preventing him and O'Brien, who was in his own vehicle, from driving out of the area. Decker refused to move out of the way and O'Brien who was behind Chandler in his vehicle, exited and confronted Decker. O'Brien stated Decker

refused to move and demanded to know why they were there. The dispute escalated verbally and Decker sprayed O'Brien in the face with pepper spray causing pain to his face and eyes.

O'Brien retreated towards his car telling Chandler to "get out of here". Decker approached Chandler, who was still sitting in his car, and without notice sprayed Chandler in the face with the same pepper spray causing pain to his face and eyes. Chandler struggled to get out of his car with Decker continuing to spray him. Once he did exit, he punched Decker in the face out of "self-defense". Chandler returned to his vehicle to flee the area and got about a block away and due to the burning from the pepper spray could not see. He attempted to park his vehicle and struck a parked car that he did not see due to the blurry vision. At this point Chandler waited for officers to arrive.

While Chandler was being sprayed and attempting to flee the area, O'Brien drove his vehicle over a curb and onto some grass in his attempt to get away from Decker. His vehicle got stuck in the grass and he called 911 to report the incident and stayed in his car with Decker standing outside.

Corporal Herzog, Officers Derr and Jira and Acting Sergeant Kramp arrived on scene and received verbal statements from each subject. Chandler and O'Brien positively identified Decker, to Officer Derr, as the suspect that had sprayed them in the face with pepper spray.

Decker admitted to Herzog he sprayed O'Brien but it was to protect himself because he felt threatened. Decker did not remember spraying Chandler in his car but did state he made a stupid mistake and should have just let them drive away. Herzog reported Decker was extremely intoxicated during his contact.

The above facts, review of the supporting case report and written statements appear to support the crime of Assault in the 3rd degree (RCW 9A.36.031) and Unlawful Imprisonment (RCW 9A.40.040).

Under penalty of perjury under the law of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 22 day of December, 2014, at Mercer Island Police Department, City of Mercer Island, County of King and State of Washington.

Detective Sergeant J. Magnan #140

2014-15807 Detective Follow-up



DETECTIVE CONTINUATION/FOLLOW-UP

Mercer Island Police Department

Case Number: 2014-15807

Type of Incident: Assault/Unlawful Imprisonment

VICTIM/Suspect: O'BRIEN, Camryne J.

CHANLDER, Theodore F.

Decker, Brian T.

Reporting Officer: Detective Sergeant J. Magnan

Approved by:

Tied-in Reports:

On December 22, 2014 I reviewed this case for investigative follow-up and felony investigative 'rush file'. I examined each evidence item statements associated with the case.

I requested from NORCOM a copy of the 911 calls and CAD information associated with this case.

I completed the filing documents to refer this case to the King County Prosecutors Office.

OfficerID: dherzog, Case Summary

Victims were confronted by the suspect because he suspected them to be drinking and smoking pot. Suspect shined his flashlight at the victims and as they tried to leave he blocked the exit with his body, standing in the center of the roadway. Victim 1 exited his vehicle and a verbal dispute started. Suspect then pulled out pepper spray and sprayed victim 1. Suspect approached the victim 2, who was still seated in his vehicle, and began spraying him. Victim 2 sped off to get away from suspect, but due to lack of vision he crashed into a parked vehicle.

OfficerID: dherzog, Case Report- Cpl Herzog

CONTINUATION/FOLLOW-UP

Mercer Island Police Department

Case Number: 2014-15807

Type of Incident: Assault 3rd degree

Victim(s) V-1 Obrien, Camryne J. DOB: [REDACTED] 95 V-2 Chandler, Theodore F. DOB: [REDACTED] 96

Suspect: Decker, Brian T. DOB: [REDACTED]/77

Reporting Officer: D.L. Herzog#143

Additional Vehicles:

B21232U 1998 Ford PU. Vehicle stuck in the grass while Obrien was trying to flee after getting pepper sprayed by Decker.

AFU9706 2003 Chevy Suburban. Vehicle struck a parked Subaru while fleeing from Decker after Chandler, (driver) was pepper sprayed.

AQL7017 2013 Subaru Impresa. Vehicle struck by Chandler due to lack of vision caused by being pepper sprayed by Decker

Property Damage:

Grass area behind 9004 W. Shorewood Dr. Grass/lawn had ruts caused by Obrien's vehicle tires, when he was attempting to flee from Decker after getting pepper sprayed

Evidence:

E-1 Photographs of all 3 vehicles involved along with pictures of both victim's faces after being pepper sprayed

E-2 Can of pepper spray used to assault both victims

E-3 Flashlight used to shine at both victims

Statements:

Victim Theodore F. Chandler verbal/written statement.

Chandler stated that he and his friend Obrien were parked in the parking lot behind the main Shorewood office smoking cigarettes when an unknown male subject, later identified as (Decker, Brian T.) flashed a flashlight at his vehicle for an extended amount of time. Chandler then attempted to drive away when Decker approached him while walking down the center of the roadway, preventing Chandler or Obrien from being able to leave. Decker continued to refuse to move out of the roadway, so Obrien, who was stopped in his vehicle behind Chandler's, exited his vehicle and confronted Decker about blocking the roadway and he was told to move. A verbal dispute between Obrien and Decker escalated and Decker removed a can of Pepper Spray and sprayed Obrien in the face. Obrien then fled back to his vehicle to escape. Decker then approached Chandler who was sitting in the driver's side of his vehicle. Decker began to spray Chandler in the face with the same pepper spray. Chandler exited his vehicle in self-defense and he took a swing at Decker hitting him on the cheek with his hand. Chandler quickly got back into his vehicle and sped off in an attempt to get away. Due to just getting pepper sprayed, Chandler's vision was extremely blurred and when Chandler attempted to park his vehicle, approximately a block later, he collided with a parked Subaru. Chandler then ran back to where Obrien's vehicle was stuck in the grass/yard when he observed an officer already on scene.

SEE ATTACHED WRITTEN STATEMENT BY CHANDLER

Victim Camryne J. Obrien verbal/written statement.

Obrien stated that he and Chandler were in the vehicle smoking when they both observed Decker shining a bright flashlight at them while they were seated in their vehicle. Obrien asked Decker what his problem was and he requested Decker to stop shining the light at them. During this exchange Decker just stood staring at them not saying anything or moving. While this was going on a Ford Mustang arrived, which distracted Decker and he spoke with the driver for a few minutes. At this time Obrien told Chandler that they should just leave, so Obrien exited Chandler's vehicle and he got into his vehicle. Chandler and Obrien proceeded to drive away when all of a sudden Chandler stopped his vehicle in the middle of the roadway. Obrien was behind Chandler and after being stopped for a while, Obrien exited his vehicle to confront Decker. Obrien stated that Decker wanted to know what they were doing and he refused to move until he found out. Obrien informed Decker that it was none of his business and at this time Decker pulled out a can of pepper spray and sprayed him across the face. Obrien ran away and back to his vehicle. In an attempt to get away from Decker, Obrien drove up over the curb and onto the grass/yard because Chandler's vehicle still in front of his, preventing him from being able to drive out on the roadway. While attempting to drive across the yard, Obrien's vehicle became stuck in the soft grass and he wasn't able to get free. Obrien then called 911 for help while Decker stood there continuing to monitor him.

SEE ATTACHED WRITTEN STATEMENT BY OBRIEN

Suspect Decker, Brian T. verbal statement.

Decker stated that there has been a long history of kids parking, behind the main office building, doing drugs and committing other crimes. Decker pointed out that just last week one of his friend's vehicles had been scratched and another friend's vehicle had been dented. Decker observed Chandler and Obrien in a vehicle and he suspected them of drinking and smoking pot. Decker stated that police were called but he didn't want them to get away prior to police arrival. Decker stated that he didn't remember pepper spraying Chandler, but he did pepper spray Obrien because he felt threatened by him. Decker stated that he made a stupid mistake and he should have just let them drive away. During my entire contact with Decker it was extremely obvious that he had consumed a lot of alcohol based off his slurred speech and repetitive statements.

Several times it was also impossible to understand what Decker was even saying.

Investigation:

On 12/20/14 at approximately 2350 hours I, Cpl Herzog along with aSgt Kramp where dispatched to a suspicious persons call in Shorewood apartments regarding two people in a vehicle, believed to be smoking pot and drinking beer. While enroute to this call additional information was provided to us by dispatch and we were notified that this call has now been upgraded to an assault with pepper spray. Ofc. Derr #155, who was working a DUI enforcement arrived quickly on scene and waited for other officers to arrive. While enroute Chandler observed Ofc. Derr and requested help and informed him that he had been in a traffic collision trying to flee from Decker, who had sprayed him in the face with pepper spray.

When I arrived I immediately contacted both victims who gave the above verbal statements. It was obvious that both Chandler and Obrien had been exposed to an eye irritant and they confirmed that Decker had pepper sprayed them both. Aid was requested to help relieve the pain in their eyes caused by the pepper spray.

I contacted Decker and asked what had happened. Decker informed me that he was tired of people committing crimes in the parking lot so he called police to contact both Chandler and smoking pot and drinking alcohol.

Decker admitted to pepper spraying only Obrien and he stated that he did it to protect himself because he felt threatened. Decker continued to deny he sprayed anyone else other than Obrien.

Obrien's vehicle was located stuck in the yard after traveling approximately 15 feet before sinking and getting stuck in the ruts. Obrien's vehicle got stuck when he tried driving around Chandler's vehicle to escape from Decker after being pepper sprayed. I could also smell the odor of pepper spray in his vehicle when I stuck my head through the open driver's side window.

Chandler's vehicle was located approximately a block further away on W. Shorewood drive. Chandler's vehicle was parked in a parking stall but in the process of parking, Chandler struck a parked Subaru as he pulled into the stall. Chandler stated after he drove away in an attempt to flee from Decker, he realized he couldn't see very well, due to blurred vision, so he attempted to park until it was safe for him to continue driving and in the process he collided with the parked Subaru.

Based off of all the evidence and statements made on scene, Decker was placed under arrest for Assault. Decker was placed in handcuffs, which were checked for proper fit. Decker was transported back to MIPD where I did standard processing. Decker wanted to speak to an attorney so Public Defender Matthew Honeywell was contacted for Decker to speak with. After processing Decker was transported to King County Jail for Assault 3rd degree.

The traffic collision is being completed by Ofc. Jira #148

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT (RCW 9A.72.08)

 D.L. Herzog #143
Officer:

 Mercer Island/ 12/21/14

Location /Date

Statements

STATEMENT

MERCER ISLAND POLICE DEPARTMENT

CASE NUMBER: 2014-15807

My full name is Theodore F. Chandler, I am 18 years of age, my date of birth is [redacted] 1996. I live at 3217 90th Pl SE, Mercer Island, WA 98040 (mailing address if different _____), my home phone number is N/A, my work phone number is 630-414-7683.

My friend Cameron and I were sitting in my vehicle minding our own business when a man 20ft out shined a flash light into the car. After a minute of standing there he approached the car still bearing the flashlight. My friend stepped out of the car, asked him what his business was, then asked him to leave us alone. He blankly stares at us without any verbal response, then walks away. My friend Cameron and I then left the parking lot, me driving in front of him. I then see the man standing in the middle of the road, blocking the outlet to the road. I pulled up in front of him, asked him to move, and he then continued to shine his light at me, while all while I was sitting in the car. Cameron pulls up behind me, sees the man blocking the road, and asks him his business and to move off the road. The man then produced a can of mace pepper spray and attacked my friend and I, spraying Cameron first. He then approached my driver side window and while I was in the car, he then sprayed my face constantly while I struggled to open my door to exit the vehicle. He then stopped spraying me, I exited my vehicle and out of self defense struck the man in the face, he then hit me in the face, and I returned to my car. Cameron as an attempt to escape, drives up into the grass, I exit the outlet, turning right onto the road then right again. Realizing I was too blind to drive I attempted to park the car, swiping the left side of another persons car. I then exited the vehicle and ran back to my friend, then soon found an officer.

I CERTIFY (DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW 9A.72.085)

Signature of person giving statement [Signature]

Location: Mercer Island, WA Date: 12/21/14

Witness Cameron O'Brien Witness _____

Page 1 of 1

STATEMENT

MERCER ISLAND POLICE DEPARTMENT

CASE NUMBER: 2014-15807

My full name is Carmyne J O'Brien, I am 19 years of age, my date of birth is 1-95 I live at 4004 89th ave SE (mailing address if different same), my home phone number is →, my work phone number is 206-271-7000

I was smoking a cigar in ted's car when i saw a bright flash light shimmering in the window at us. I get out of the car and asked what the problem is he stayed quiet and stand there as i asked "hello" "can you help me" "what's your problem", no response. he walked away and started talking to a lady in a blue mustang when she just parked. then both went separate ways. we decided to leave. ted left first, as i was getting ready to leave I noticed ted stopped in middle of road. I drove up and saw the same flash light in ted's face. I got out and kept talking to him and ask what the hell does he want. he asked what i was doing down there and i asked "why does it matter to you, what does anything ~~in the world~~ I saw matter to you?" "how does my life consist to yours. he sighed and took out a can of pepper spray and sprayed me. I told ted to get out of here and walked back to my car. I wiped the extra spray out of my eyes and backed up my truck trying to get out of there and saw there was no other way of getting out of there besides going on the grass and going around the way and I immediately got stuck and called for police. he stood there as i was on the phone with dispatch. OS: thank you ~~so much~~ Ted much.

I CERTIFY (DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW 9A.72.085)

Signature of person giving statement [Signature]

Location: 3200 black shorwood ave Date: 12/31/14

Witness Ted Chandler Witness _____

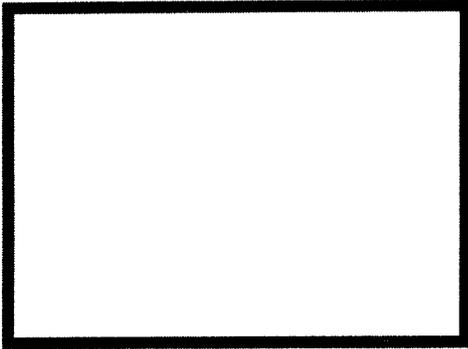
Page _____ of _____

155's Statement

CONTINUATION/FOLLOW-UP

Mercer Island Police Department

Case Number: 2014-15807



Type of Incident: Assault
Victim: Chandler, Theodore F.
O'Brien, Camryne J.
Suspect: Decker, Brian Thomas
Reporting Officer: T. Derr, #155

DOB: [REDACTED]/1996
DOB: [REDACTED]/1995
DOB: [REDACTED]/1977

Narrative or Investigation:

On 12/20/14, at appx. 2355 hrs, I, Ofc. Derr, 155 was dispatched to 3205 Shorewood Drive for a disturbance involving pepper spray. Upon arrival to 3205 W Shorewood Drive I was flagged down by a male subject, later identified to be Chandler, Theodore F., the victim that had been pepper sprayed. Chandler stated that he had been "mased" and his eyes were burning and pointed me in the direction of the Shorewood Apts Office building where I was contacted by a second male, later identified as O'Brien, Camryne J., who stated that he had also been "mased." Both subjects pointed to a male subject standing on the lawn at the address talking on a phone as the person who had sprayed them with mase. Chandler stated that he was sorry and had crashed into somebody else's car trying to get away from the man with mase but couldn't see.

I identified myself as Police and instructed the subject, later identified as Decker, Brian T., to place his hands above his head. The male subject followed the verbal commands given. I covered Sgt. Kramp as he handcuffed Decker.

I later transported Decker to KCJ to be booked for Assault 3rd.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT (RCW 9A.72.085)

Ofc. T. I [REDACTED] 12/21/2014

Location: Mercer Island P.D.

LIST OF DIGITAL ATTACHMENTS

1. 6.16.15 3:30 PM Theodore Chandler Interview
2. 6.17.15 4:30 PM Camryne O' Brien Interview
3. 7.05.15 12:00 PM Citizen's Complaint
4. 12.20.14 911 Stacey Ang
5. 12.20.14 911 Kit Radosevich
6. 12.20.14 911 Camryne O' Brien
7. 12.20.14 911 Brian Decker
8. Miranda Rights Not Read