

No. 34724-5-II *cont* to 33697-9

COURT of Appeals of The State of Washington  
Division II

Personal Restraint Petition of,  
Ashley Wade Siclovan, PRO SE,  
Petitioner,

VS.

State of Washington,  
Respondent.

FILED  
COURT OF APPEALS  
DIVISION II  
06 AUG 15 PM 12:20  
STATE OF WASHINGTON  
BY *[Signature]*  
DEPUTY

Reply Brief

**CERTIFICATE OF SERVICE**

I certify that I mailed

1 copies of *Petitioner's reply brief*  
to R. Jabbut  
& Michael Kinross  
Date 8/16/06 Signed [Signature]

Ashley Wade Siclovan  
Appellant PRO SE  
1830 Eagle Crest Way  
Clallam Bay, WA 98326

1  
2 Identity  
3

4 d, Ashley Wade Siclovon, prose, am The  
5  
6 Petitioner in this petition.  
7

8 Authority  
9

10 This Petitioner now submits This Reply B.P. et  
11  
12 in accordance to RAP 16.10 (2). And does so  
13  
14 in a Timely manner.  
15

16 The Respondant has failed to include two  
17  
18 portions of what is required in RAP 16.9.  
19

20 1) "The Response must state the authority for  
21 Restraint of Petitioner by Respondent."  
22

23 2) "Respondent should also identify in the  
24 Response all material disputed questions of  
25 fact." RAP 16.9  
26

1  
2 The State failed to state authority and  
3  
4 Responded to no material facts at all.

5  
6 The main scope of this petition was the  
7  
8 statements in the search warrant affidavit  
9  
10 that the informant declares, by affidavit, that  
11  
12 he did not make. Without these statements no  
13  
14 probable cause would be within the affidavit,  
15  
16 NOR would a place to be searched be listed  
17  
18 in the affidavit. This information was explained  
19  
20 in detail in the petition, pages 27 thru 29 or 38.

21  
22 The State did not and can not explain the  
23  
24 affidavit submitted by the informant, Calvin Brown  
25  
26 (Appendix S)

1  
2 This Affidavit contradicts The information in  
3  
4 The search warrant affidavit. (Appendix A, page 5).

5  
6 No explanation is given by the State.

7  
8 This petitioner requests The Court to give  
9  
10 greater consideration to The needs of Petitioners  
11  
12 Relief Requested in The petition page 2 of 38.

13  
14 With The most concern for:

15  
16 B) Conduct a Franks / Evidentiary hearing.

17  
18 C) Exclude misstatements from The search  
19 warrant affidavit

20  
21 D) ... With misstatements excluded determine  
22 if search warrant affidavit contains  
23 Probable Cause.

24  
25 e) ... Reconsider Staleness ~~issue~~ as to The information  
26 provided to obtain The search warrant.

1  
2 Also, Take notice that he state did not  
3  
4 Respond To The issues listed on page 5, 6, 7  
5  
6 and 8 of 38. c/n The most part issues  
7  
8 # 142.

9  
10 What this P.R.P. contends is not  
11  
12 That The informant lied To The police.

13  
14 IT is that the officer himself is lying.

15  
16 OR That The officer did not Recieve  
17  
18 The information from Calvin Brown. Officer

19  
20 Martin Testified To This at Trial:

21 " I had Received information from  
22 a variety of sources. I felt  
23 I had Probable Cause."

24 Appendix B, page 308  
25 Volume XIV, ~~Page~~ 308, line 15  
26

1  
2 Meaning the credibility of all or both informants  
3  
4 should of been included in the affidavit for  
5  
6 The magistrate to determine independently. All  
7  
8 "sources" should of been included.  
9

10 Officer Martin states he has information  
11  
12 from a 'variety' of sources, and 'he' felt  
13  
14 he has probable cause. The Magistrate is  
15  
16 The one to determine probable cause and All  
17  
18 sources of the information within the  
19  
20 affidavit should be listed and how that  
21  
22 information was obtained.

23  
24 The one source of information that  
25  
26 was revealed to the court was not the

1  
2 One that said he seen the materials being  
3  
4 placed in the unit on more than one  
5  
6 occasion. See the informant's declaration  
7  
8 Appendix S.

9  
10 One of the informants, Calvin Brown, is not  
11  
12 The one that seen this accuse, His declaration  
13  
14 is not a recantation. He has never seen  
15  
16 Siclovian place materials in the unit NOR  
17  
18 has he told any police agency that he has.  
19  
20 As you can see from his affidavit he is  
21  
22 not that literal or understanding as to  
23  
24 The format of declaration and does not get  
25  
26 all the facts or points across.

1  
2 See Attachment for affidavit by this  
3  
4 petitioner. The meaning of the informant's  
5  
6 declaration is that he never told MARTIN  
7  
8 that he seen the materials placed in the  
9  
10 unit. If the declaration, Appendix S, is  
11  
12 taken or seen as a recantation it goes  
13  
14 to show that a reference hearing is needed  
15  
16 to get clearer testimony or further affidavits  
17  
18 from the one informant that the STATE  
19  
20 has ~~retained~~ disclosed.

21 "The retention or reference decision depends  
22 upon the presence or absence of factual  
23 issues which are not already of record or  
24 which cannot be judicially noticed." RUP 16.11(b)  
25 WRIGHT v. MORRIS, 85 Wash 2d 899, 540 P. 2d 893  
26 (1975)

1  
2 for the reasons stated a Reference hearing  
3  
4 is needed to guarantee a complete  
5  
6 administration of justice.

7  
8 This petitioner has expressed due diligence  
9  
10 in obtaining further affidavits from the  
11  
12 informant. The one informant that was listed  
13  
14 in the search warrant affidavit and disclosed  
15  
16 is currently incarcerated. Numerous attempts  
17  
18 have been made to get clearer affidavits but  
19  
20 prison rules prohibit inmate to inmate contact.

21  
22 The direct appeal attorney has stated she  
23  
24 does not deal with P.R.P. issues.

25  
26 This petitioner has also asked another

1  
2 law firm to help obtain affidavits from Brown.

3  
4 Douglas R. Brown of Jean Schiedler-Brown

5  
6 and associates, P.S. C-2 Seattle, WA. being the

7  
8 contract attorneys have retired to assist also.

9  
10 More of a reason this issue needs to be

11  
12 referred back to the trial court for further

13  
14 testimony where court orders can be given and

15  
16 this course appellant can present his case with

17  
18 all the facts.

19  
20 Please take note that the state did not

21  
22 object to a reference hearing or a

23  
24 Franks hearing in his response.

1  
2 Also did the state mention any doubt in the  
3  
4 authenticity of the informants Affidavit.  
5

6 Although, The state did say on the record  
7

8 he was expecting Affidavits FROM Calvin Brown.  
9

10 See Petitions Appendix C, page 1538, 1539.  
11

12 With all included in petition and this Reply I  
13

14 Respectfully Request This issue be considered to  
15

16 have Merit and a Reference hearing be granted  
17

18 with additional ~~discovery~~ discovery according  
19

20 To RAP 16-12.  
21

22 Respectfully submitted This 12<sup>th</sup> day of August,  
23 2006.

24 Ashley W. Sul  
25 Ashley Wade Sichelovans  
26

# ATTACHMENT

## AFFIDAVIT

(Pursuant to 28 U.S.C. § 1746 No Notary Required)

AFTER The State finally admitted That  
Calvin Brown Did infact have involvement  
with Storage Unit # 49, I spoke with  
him on The Phone. AFTER I spoke with  
Brown he submitted the declaration found in  
Appendix 'S'. When I spoke with him he  
indicated some of the information in the  
Search Warrant Affidavit did NOT come from  
him. He said he did not ~~at~~ Tell Officer  
Martin that he seen me place materials in

The STORAGE unit. The Affidavit Bredem submitted  
is not a Recantation. It is meant to say he  
did not ever tell Martin he seen me place  
materials in the unit.

Also, George W. Brintnall the Standby Counsel  
can confirm and add additional affidavits to  
the fact.

The Affidavit in Appendix 5 is not a  
Recantation.

I, Ashley Wade Siclovam, am over the age of majority and am also a U.S.  
citizen competent to testify and herein attest under penalty of perjury that all statements  
contained herein is the absolute truth. Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON  
V. WAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has  
full force of and does not have to be verified by notary public.

Respectfully submitted on this 12 day of August, 2006.

Ashley Wade Siclovam  
(Signature)

Ashley Wade Siclovam  
(Print or Type Name)

Callam Bay Correction Center  
1830 Eagle Crest Way  
Clallam Bay, WA 98326

(Address)

# APPENDIX

## D

( CP 24 ) DEF. MOTION TO SUPPRESS  
SEARCH WARRANT AFFIDAVIT IS  
ATTACHED.

IN THE DISTRICT COURT OF CLARK COUNTY  
STATE OF WASHINGTON

STATE OF WASHINGTON,  
Plaintiff,

AFFIDAVIT FOR  
SEARCH WARRANT

vs

ASHLEY WADE SICLOVAN, DOB: 07/27/1974  
SANDRA JANE GRAY, DOB: 02/06/1968  
Defendant(s)

**COPY**

STATE OF WASHINGTON )

ss

COUNTY OF CLARK )

I, Officer Neil T. Martin, being first duly sworn upon oath, hereby depose and say that I have good and sufficient reason to believe that the following goods, to wit:

- 1) Methamphetamine a substance controlled by the Uniform Controlled Substance Act and RCW 69.50.401.
- 2) Methamphetamine manufacturing equipment, including but not limited to chemical and other glassware, heating mantles, reaction flasks, precursor chemicals (as defined by the Revised Codes of Washington), solvents, acids and any other items used in the manufacture of methamphetamine.
- 3) Methamphetamine processing and distribution equipment including but not limited to scales, plastic baggies, aluminum foil, paper wrappers, cellophane packaging material and other packaging material.
- 4) Paraphernalia used in the ingestion of controlled substances consisting of but not limited to pipes, syringes and foil
- 5) Photographs, including still photos, negatives, video tapes, films, undeveloped film and the contents therein, and slides, in particular, photographs of co-conspirators, of assets, and/or controlled substances, in particular marijuana.
- 6) Photographs of the crimes scene and recovered evidence and to develop any photographs taken of the crime scene, including still photos, video cassette recordings and to develop any undeveloped film located
- 7) Personal property, including but not limited to mail, in order to establish dominion and control of the storage unit, as well as to confirm the identity of the defendant(s)

- 8) Financial records listing income and expenses related to the manufacture and distribution of controlled substances, customer lists, and address books, telephone books and lists, cash transaction records, maps, and notes with telephone numbers and customer names
- 9) Proceeds from narcotics trafficking including but not limited to Cash, U S currency, wire transfer records, money orders, cashiers checks, jewelry, precious metals, bank records, check books, brokerage account information, safety deposit box keys and records, deed and titles to vehicles and real property, as well as other indications of wealth accumulated as a result of criminal activity
- 10) Firearms and other dangerous weapons
- 11) Stolen property.
- 12) Latent (Finger) Prints

The above item(s) are on this date, February 19, 2004, in the unlawful possession of the above named defendant(s) in the following storage unit The real property known as 5820 NE 8<sup>th</sup> Court, Building #A, Storage Unit #49 (also known as the National Storage Centers), Vancouver, Clark County, State of Washington I have personally observed this storage facility and know it to be fenced. The fence has barbwire attached to the top of it, in an effort to keep unauthorized persons out of the storage facility The entrance to the storage unit is controlled by a gate on the northeast corner of the property. The property is composed of several large storage buildings (all of which are alphabetically numbered) Building A is located in the northeast corner of the property Building #A is the first storage building on the left (east) as you enter the complex through the above mentioned gate A large numeral "A" is located on the north side of the building. Building #A is painted tan in color with white in color trim the exterior doors are painted green in color. From the north side of Building #A, one would walk south to the fifth (5<sup>th</sup>) green in color exterior door. This green in color exterior door faces west. Above this green in color exterior door is an attached white in color plate with the black in color numerals 49-60 inscribed in it Upon entering the storage facility through this green in color door, Storage Unit #49 is the first door on the left (northwest) corner of the interior hallway. The door is white in color and faces to the south. A white in color plate is attached to the front of the door with the numeral 49 (black numbers) inscribed on it

AND

Also to be searched are all other parts therein, and to search any trash containers, safes and storage containers found within the storage unit

I am informed and aware of this based upon the following.

I am employed as a sworn police officer for the City of Vancouver assigned to the Patrol Division I have over nine (9) years experience as a law enforcement officer, including over three years of law enforcement experience in the United States Air Force, four years of experience with the Oregon State Police and two years of experience with the Vancouver Police Department During my tenure with the Oregon State Police I spent two years assigned to the Tillamook County Drug Task Force I am a police officer eligible to make a request for a search warrant and I am trained in crime investigation, preservation

of evidence, search and seizure (as well as other police operations.) I have received formal training in the identification of controlled substances such as marijuana, cocaine, methamphetamine, and heroin, as well as the means, methods, and manners of drug distribution by narcotics dealers. I have participated in numerous narcotics investigations and have been involved in the execution of numerous search warrants. I have personally been involved in the arrest and interview of several persons for controlled substances crimes

I have received formal training pertinent to narcotics investigations through both the Oregon Department of Police Standards Safety and Training (DPSST) and the Washington State Criminal Justice Training Commission. I have also attended and completed the Basic Drug Enforcement Administration Methamphetamine Laboratory Site Safety School and am certified as a Clandestine Lab Site Safety Officer in the States of Oregon and Washington. In my capacity as a Methamphetamine Laboratory Site Safety Officer, I attend yearly re-certification training. I have also attended and successfully completed an Advanced Methamphetamine Lab Site Safety School in the State of Washington. I have been involved with the processing (clean up) of at least ten (10) methamphetamine laboratories in the State of Oregon, and I have assisted with at least six (6) criminal investigations (including four search warrants) involving the processing of methamphetamine laboratories in the Vancouver/Clark County area

Further, over the past five-(5) years, I have personally been involved in several interviews of individuals who were involved in the manufacture, sale and use of controlled substances. Through these interviews as well as the training I have received, I am aware of drug dealers/users habits, traits, and their various methods of operation

I know from training and experience that narcotics dealers will accept stolen property as well as money, jewelry, and precious metals in trade for controlled substances as well as cash and other items of value. I am also aware that narcotics users will commit other crimes to obtain either money or property of value to be exchanged for narcotics. It has been my personal experience to recover quantities of stolen property from the residences of narcotics traffickers. Also used in this criminal enterprise are items commonly referred to as drug notes. These notes are kept on pieces of paper, phone books, computer disks, computer hard drives, note pads, and other items used for storing written information. Your affiant has located narcotics information on computer drives as well as small scraps of paper, notebooks, telephone books, and other items

Based on my training and experience, as well as the combined knowledge and experience of other police officers known to me, I know it is a common practice for narcotics dealers/users to maintain an inventory of controlled substances in their residences, vehicles, outbuildings, storage units and other locations which may be away from their immediate control (commonly know as "stash houses") "Stash Houses" are used in an effort to conceal/hide controlled substances from Law Enforcement and other drug dealers/users. Drug dealers/users will commonly maintain records relating to their trafficking of controlled substances in their residences, outbuildings, storage units or vehicles.

During the execution of narcotics related search warrants in which I have been involved, firearms have been located. Narcotic traffickers/users maintain firearms to protect themselves and their drugs and money from theft and from seizure by the law enforcement community

I know based upon my training and experience that human fingerprints may be left on objects and that these latent fingerprints have unique characteristics to each person and that these characteristics (prints) can be analyzed for the purpose of identification

Based upon my training and experience, I know that common items used in the manufacture and sale of controlled substances (to include but not limited to scales, packaging materials, and drug records) are commonly kept items (even after the drugs have been sold, stored at another location, or destroyed) These items are commonly kept due to their cost and the fact that written records (which can be stored on computer databases) are needed in order to run the drug business in an efficient, orderly, cost effective manner

I also know based upon my training and experience that glassware (especially chemical glassware) is a commonly kept item and I have found both chemicals and glassware at clandestine methamphetamine laboratories even when methamphetamine is not being "cooked" These items are commonly kept so the manufacturers of the methamphetamine can have the items (cooking utensils) they need to make the methamphetamine at a later date

That based upon my training and experience as well as interviews with manufacturers of methamphetamine that the chemicals such as, Pseudo/Ephedrine, Iodine, Iodine Crystals, Red Phosphorous, Solvents, and alcohol (such as methanol and ethanol) are commonly kept chemicals due to the increasing difficulty of obtaining them. I also know that person(s) involved in the manufacture of methamphetamine are likely to "stockpile" chemicals so they have the "ingredients" needed to cook the methamphetamine I have personally been involved in warrants where the "stockpiling" of chemicals was found.

And my knowledge from professional experience that after a person "cooks" methamphetamine there will often times be a residual amount of the item cooked, or of some of the ingredients (precursors and other chemicals/solvents used in the manufacture of methamphetamine) left inside the glassware. I know this residue (found in/on the glassware and other manufacturing equipment to include hoses) can be tested by Washington State Patrol Crime Laboratory personnel to confirm the presence of the controlled substance methamphetamine as well as precursor and other chemicals used to manufacture methamphetamine

These same individuals also use pipes, straws, and hypodermic needles and as ways to ingest cocaine, methamphetamine and other controlled substances. I also know these individuals will store and/or distribute the illegal narcotics through the use of small plastic baggies, plastic containers, and other devices designed for that purpose or not, and will use scales and other weighing devices to measure amounts of narcotics for sale. Your affiant while executing search warrants has located the above items

It is known to your affiant from training and experience that individuals involved in this type of criminal activity will hide illegal narcotics in various places. Your affiant has located narcotics hidden in rafters, crawl spaces, safes, attics, closets, in out buildings, under beds, between bed mattresses, in cars, under drawers, behind dresser drawers, inside shoes, in appliances, on tables, under furniture and in small containers including but not limited to film canisters, eye glass cases, cigarette boxes as well as on persons.

Your affiant is aware through training and actual experience that individuals involved in the consumption/ingestion of illegal narcotics will sometimes photograph themselves and others taking part in the consumption. Your affiant has located still photographs as well as video tapes of individuals consuming these illegal narcotics.

Your affiant also knows that photographing the crime scene as well as the evidence recovered is critical to showing the court the items location at the time of recovery

In this official capacity, your affiant has learned that the equipment and chemicals used to manufacture methamphetamine are being stored within the above described storage unit in the County of Clark, based upon the following

Within the last month, I have been in contact with a Confidential Reliable Informant, hereinafter referred to as a CRI. The CRI wishes to remain confidential for fear of retaliation from other controlled substance users and for the purpose of continuing other on going investigations in which this person is providing information upon which would be jeopardized if his/her identity were to become known. Checking CRI'S criminal history revealed he/she has been arrested for and convicted of various controlled substance offenses. He/She has also been arrested for and convicted of crimes of dishonesty including Theft and Burglary and he/she is a convicted felon. The CRI has agreed to provide information about and purchase controlled substances from area dealers because he/she wants consideration reference a pending Felony controlled substance violation.

During my conversations with the CRI he/she has demonstrated that he/she is familiar with the manufacture, appearance, odor, use, effects, packaging, price, and sale of methamphetamine. The CRI told me he/she has seen methamphetamine manufactured on numerous occasions. In my conversations with the CRI, I have found him/her to be knowledgeable in the type and quantity of chemical ingredients used in the manufacture of methamphetamine. He/she is also familiar with the lab equipment needed in order to successfully make methamphetamine. In addition, The CRI has provided information on numerous criminal investigations in which a quantity of controlled substances (including methamphetamine) were found.

Between the dates of January 13, 2004 and January 15, 2004, I made contact with the CRI for the purpose of obtaining information on a person known to the CRI as Ashley Wade Siclovan, DOB 07/27/1974. The CRI told me he/she has known Siclovan for several months and knows him (Siclovan) to be a "meth cook" (manufacturer of methamphetamine). The CRI stated he/she has observed Siclovan cook methamphetamine on at least three (3) occasions in the last thirty days (encompassing the months of December 2003 and January 2004). He/She advised the "cook" (production of methamphetamine) took place within Clark County at an undisclosed location. On two of the three occasions, the CRI said Siclovan successfully produced methamphetamine. The CRI estimated one of the batches of methamphetamine to weigh about three ounces. The CRI stated Siclovan was in possession of Iodine that looked like "BB's" for an air gun. I have seized this type of commercial grade Iodine during a previous (unrelated) search warrant and know it to exist in this form. The CRI also stated he/she knows Siclovan to get Pseudo/Ephedrine from various sources, the majority of which are persons who steal it from local stores in exchange for the finished product (methamphetamine). The CRI was not sure where Siclovan gets his Red Phosphorous but thought he (Siclovan) may get it from an unidentified source in the Portland, Oregon area.

In addition, the CRI knows Siclovan to be on probation and said he (Siclovan) hides his manufacturing equipment as well as surplus chemicals at a storage unit (#49) in Hazel Dell. The CRI identified this storage facility as the National Storage Centers Complex. He/she said the storage facility is located behind the Les Schwab Tire store off of Hwy 99. The CRI has seen Siclovan store chemicals and manufacturing equipment (to include reaction flasks) at the storage facility (#49) on at least two occasions.

in the past thirty days (from the date of my interview with the CRI). The CRI stated he/she believes Siclovan travels to the storage facility daily to retrieve the items he (Siclovan) needs to manufacture methamphetamine. After "cooking" the methamphetamine, Siclovan returns the unused items and equipment to the storage unit (#49). The CRI told me Siclovan has two storage units at this location. One of the units is rented under his name and the other (#49) is rented under the name of Sandra J. Gray. The CRI knows Siclovan to store the manufacturing equipment and chemicals in #49 (Sandra Gray's storage unit), in an effort to hide them from his (Siclovan's) probation officer and law enforcement.

The CRI knows Siclovan to trade the methamphetamine he makes for money and property and has been present when this type of transaction (cash and/or property for drugs) takes place. The CRI also knows Ashley Siclovan to use the controlled substance methamphetamine and has seen him (Siclovan) smoke/ingest it with a glass pipe.

I have contacted Washington State Department of Corrections Officer Rees Campbell reference this investigation. DOC Officer Campbell told me he contacted the manager of the storage facility and identified her as Beve Bates. Bates told Officer Campbell that both Ashley Siclovan and Sandra Gray rent storage units from National Storage Centers. She (Bates) identified Unit #49 as being rented to Sandra J. Gray.

On February 15, 2004, your affiant, DOC Officer Rees Campbell and Clark County Sheriff's Office Deputy Alan Earhart as well as his canine partner "Akbar" traveled to the National Storage Centers located at the above address. At this location, DOC Officer Campbell conducted a probation check of Siclovan's storage locker. A syringe was located during the probationary search of this (Siclovan's) storage locker.

On this same date (2/15/04), Deputy Earhart and I entered building #A, in an effort to find storage Unit #49 (Sandra Gray's storage unit and the same unit identified by the CRI as containing the laboratory equipment and chemicals). Upon locating the storage unit, and after advising Deputy Earhart of the information I had received from the CRI, he retrieved his patrol/narcotics detection dog "Akbar." Deputy Earhart deployed his canine on the far east side of the hallway (the furthest point from Unit #49) and gave him a search command. The dog sniffed storage units on both the north and south sides of the interior hallway prior to coming to Unit #49. Upon reaching Storage Unit #49, I watched the dog sniff the area of the door and then watched him (the dog) paw at the ground. Deputy Earhart told me "Akbar" alerted on Unit #49 which indicated the presence of controlled substances in the storage unit.

After the dog "alerted" on storage unit #49, Deputy Earhart conducted another exercise with "Akbar," then put the dog away in the patrol car. Deputy Earhart then provided me with the following information:

Deputy Earhart is a commissioned Law Enforcement Officer employed by the Clark County Sheriff's Office, Clark County, Washington as a Deputy Sheriff. He has worked for the Clark County Sheriff's Department since 1994. Prior to working for the Clark County Sheriff's Office, he worked for the Snohomish County Sheriffs Office from 1989-1994. He also served five (5) years in the United States Air Force (1984-1989) as a K-9 handler. His current assignment with the Sheriff's Office is as a K-9 handler partnered with "Akbar." Earhart has been a K-9 handler for the last two (2) years. Both Deputy Earhart and "Akbar" were certified per WAC (Washington Administrative Codes) in Patrol and Narcotics Detection in November 2003. Deputy Earhart said his dog is currently certified for narcotics detection and that this certification process includes both basic (180hrs) as well as monthly re-certification training. Deputy Earhart told me, "Akbar" is

trained in the detection of marijuana, methamphetamines, cocaine, and heroin. In addition, "Akbar" has met Clark County Sheriff's Office standards by trainer Deputy Ed Bylsma

The lock was cut off of Unit #49 and a new lock to which your affiant has the keys was placed on the storage unit door securing it. Evidence Tape was then placed over the door in two locations to ensure that no one entered, placed or removed items from within the storage room. This tape was initialed and dated by your affiant. The manager (Beve Bates, DOB 10/27/52) then placed an additional lock on the outside exterior (green in color) door preventing any one from entering the interior hallway to the storage units. Bates stated she would be changing Siclovan's entrance/security code so he could not enter the facility without her permission. DOC Officer Campbell requested Bates contact 911 if Siclovan showed up at the storage facility due to the fact Officer Campbell was going to violate Siclovan for a probation violation.

On February 18, 2004, your affiant learned that Ashley Wade Siclovan was arrested in Clark County for outstanding Superior Court Warrants (in Washington and Oregon). He is currently incarcerated at the Clark County Jail.

On February 19, 2004, I contacted Beve Bates (the storage unit manager) by telephone and she confirmed that no one (including Siclovan or Gray) has been inside Unit #49 or the interior hallway (units #49-60) since we (the police) secured it on Sunday, February 15, 2004.

Your affiant has conducted a criminal history check under the name Ashley Wade Siclovan, DOB 7/27/74. Your affiant learned Ashley Wade Siclovan has been arrested and convicted in the past for violations of the Uniformed Controlled Substance Act involving the Manufacture/Delivery and/or Possession with Intent for the controlled substances of marijuana and methamphetamine. Further, your affiant learned Siclovan is on active probation in the State of Washington and he is listed as a convicted felon.

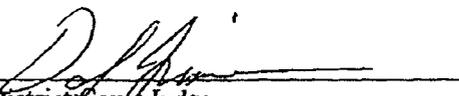
Your affiant also conducted a criminal history check on Sandra Jane Gray, DOB 02/06/1968. Your affiant learned Sandra Gray has been arrested and convicted in the past for violations of the Uniformed Controlled Substance Act involving the Possession of a controlled substance in Schedule I or II (i.e. Heroin, Cocaine, Methamphetamine). Further, your affiant learned that Gray is also a convicted felon.

Based upon my training, knowledge and experience, and investigation of this case, the property to be seized if any is described as: any controlled substances, equipment and chemicals used in the manufacture of methamphetamine, any money or accounts, and/or other items of value including, but not limited to real property, which constitutes profits and/or proceeds which were used or intended to be used to facilitate prohibited conduct; any equipment including, but not limited to conveyances and weapons which constitutes proceeds and/or profits which were used or intended to be used or available to be used to facilitate prohibited conduct, any records and/or proceeds of the above constitutes profits, proceeds or instrumentality of the possession, manufacture and/or delivery of the controlled substance Methamphetamine and is subject to civil forfeiture.

Based on the foregoing, I believe there is probable cause and I pray the court for issuance of a Search Warrant authorizing the search of the afore described storage unit for the above-described items and if any are found authorizing the seizure of the same as it appears that the above listed storage unit is involved in ongoing criminal enterprise involving the manufacture, delivery and/or possession of the controlled substance Methamphetamine

  
\_\_\_\_\_  
Officer  
Vancouver Police Department

Subscribed and Sworn to before me this 19<sup>th</sup> day of February, 2004

  
\_\_\_\_\_  
District Court Judge  
Clark County  
State of Washington

# APPENDIX

## O

6-22-05 IN-CAMERA REVIEW

REGARDING RELEVANCE OF CALVIN BROWN'S  
INVOLVEMENT IN STORAGE UNIT # 49.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	Superior Court
	)	No. 04-1-01856-1
v.	)	
	)	
ASHLEY WADE SICLOVAN,	)	Court of Appeals
	)	No. 33697-9-II
Defendant.	)	

VERBATIM REPORT OF PROCEEDINGS

Volume XXIV - ADDENDUM

(In-camera proceeding)



June 22, 2005

BEFORE: THE HONORABLE ROGER A. BENNETT, Judge

APPEARANCES: Mr. Quinn Posner, Deputy Prosecuting  
Attorney, on behalf of the State of  
Washington.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	Superior Court
	)	No. 04-1-01856-1
v.	)	
	)	
ASHLEY WADE SICLOVAN,	)	Court of Appeals
	)	No. 33697-9-II
Defendant.	)	

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled cause came on regularly for hearing in the Superior Court of the State of Washington for the County of Clark, Vancouver, Washington, June 22, 2005, before the HONORABLE ROGER A. BENNETT, Judge.

APPEARANCES: Mr. Quinn Posner, Deputy Prosecuting Attorney, on behalf of the State of Washington

NC.

S • STATIONERY  
• MAPS  
PRINTS  
LIVERY  
(360) 423-6991

P R O C E E D I N G S :

(The following proceedings took place 06/22/05:)

1 THE COURT: This is **State of Washington v. Ashley**  
2 **Wade Siclovan**, -- this is 04-1-1856-1. This is an  
3 in-camera hearing, and all of the persons  
4 present -- besides the prosecutor and myself, all  
5 persons here are enjoined and restrained from  
6 disclosing the conversation that we have here on  
7 the record. The record will be sealed and held by  
8 myself and only released upon a determination that  
9 there's a need to do so.  
10

11  
12 The defendant, Mr. Siclovan, has revealed  
13 some theories he has about a person named Calvin  
14 Brown. Calvin Brown was -- name came up, at least  
15 the name Calvin, and was later referred to as  
16 Calvin Brown, in the trial that we've already had,  
17 and in effect, Mr. Siclovan and his witness, Ms.  
18 Gray, were pointing the finger at Mr. Brown,  
19 suggesting that he, in fact, was the person who was  
20 operating the -- the meth lab out of the storage  
21 unit, that's storage unit No. 49; correct?

22 MR. POSNER: Yes, Your Honor.

23 THE COURT: And the testimony was that Calvin  
24 Brown had purchased the access code and a key, I  
25 believe, to get into No. 49 during a time when the

1 defendant, Mr. Siclovan, was in jail, and therefore  
2 the theory being that it was Mr. Brown's lab rather  
3 than Mr. Siclovan's.

4 And --

5 MR. POSNER: Correction -- I -- I'm sorry, Your  
6 Honor, I don't -- I don't think Mr. -- or that Mr.  
7 Siclovan was in custody in early February. He had  
8 moved everything out of the storage unit, per the  
9 testimony at trial, but I don't believe he was  
10 actually --

11 THE COURT: Well, there was --

12 MR. POSNER: -- in custody.

13 THE COURT: -- some point where he was in  
14 custody; right?

15 MR. POSNER: He mentioned about being in custody,  
16 but I think that was some time before --

17 THE COURT: Okay. Well, in any event, his theory  
18 was it was Brown's --

19 MR. POSNER: Yes.

20 THE COURT: -- but not his own.

21 The prosecutor, Mr. Posner, provided me with  
22 information that Calvin Brown in fact was the  
23 informant who provided information that led to the  
24 issuance of the search warrant.

25 MR. POSNER: Correct.

1 THE COURT: Mr. Siclovan has posited that in his  
2 document here, and he also goes on and on about  
3 some bank records of Calvin Brown that were in No.  
4 49 that were not recovered, apparently, or if they  
5 were recovered, were destroyed by police.

6 So if his theory is that Calvin Brown had  
7 access to this storage unit, the fact that Calvin  
8 Brown provided information to the police about the  
9 contents thereof would seem to be corroborative of  
10 that.

11 Do you -- what's your position on that?

12 MR. POSNER: Well, Your Honor, my position at  
13 this point is we are post-trial, that Mr.  
14 Siclovan's been convicted. He procedurally has not  
15 met his burden in order to reveal a confidential --  
16 reveal the confidential informant, and I believe --  
17 I'm sorry, I'm at -- I'm at a loss for the court  
18 rule at this point, but I believe under court rule  
19 these are all pretrial motions. He waived any  
20 motion by not filing this pretrial, it's now, after  
21 trial, where he doesn't like the results, that he  
22 begins -- he begins to explore these other avenues  
23 and wants to find out more information about Calvin  
24 Brown.

25 He simply never asked to have the

1 confidential informant revealed and has -- as the  
2 Court's aware, the Defense has to -- has a very  
3 heavy burden to establish pretrial in order to even  
4 have an in-camera review. And that is --

5 THE COURT: Now, he'll say that he did ask for  
6 this pretrial.

7 MR. POSNER: He didn't -- he was asking for --

8 THE COURT: He asked to know what Calvin Brown or  
9 any other person's involvement was pretrial.

10 MR. POSNER: Yes, and I -- and the reason why I  
11 brought this to the Court's attention and submitted  
12 that declaration is when I -- the question was  
13 asked to me from the Court or -- to go speak with  
14 the officers. It was -- I believed it was any  
15 criminal involvement.

16 I couldn't at that time reveal the CI as it  
17 hadn't been requested. When the Court asked me the  
18 question, not on Monday, but the prior hearing, it  
19 was, Did Calvin Brown have any involvement?

20 At that point, I -- I felt like the  
21 question's been asked differently than it was  
22 asked, I believe it was last January, which is why  
23 I wanted to submit this with the Court, because  
24 clearly I want to be completely truthful and honest  
25 with the -- with the Court.

1           But at this point, it seems to me that Mr.  
2 Siclovan -- the whole process following trial has  
3 just been throw out everything I possibly can and  
4 see what I can get back. He simply hasn't --  
5 procedurally has not done anything properly when it  
6 comes to revealing the identity of the CI, and has  
7 made absolutely no showing whatsoever how, based  
8 off of the case law in regards to whether or not a  
9 CI should be revealed.

10           And at that point if he did establish it,  
11 that's when the in-camera would become -- would be  
12 necessary at that point for the Court to make this  
13 determination.

14           But Mr. Siclovan has simply just had a  
15 shotgun approach at everything here. There was  
16 testimony from the State's own witness that they  
17 had not seen Mr. Siclovan for a number of weeks  
18 prior to the warrant being served, which supported  
19 his theory of the case.

20           At this point I don't think it's necessary  
21 to reveal the identity of the confidential  
22 informant. Quite simply, Mr. Siclovan is trying to  
23 just, as I stated, a shotgun approach and hope that  
24 something lands for him.

25           And I -- I don't think procedurally

1 anything's been done properly. These were motions  
2 that were proper pretrial, not after conviction,  
3 once he's decided he doesn't like the result.

4 So it -- it's my position that the identity  
5 of the CI should not be revealed --

6 THE COURT: Well, if you characterize this as  
7 **Brady** type evidence -- and I think he is. He's  
8 saying you should have revealed that Calvin Brown  
9 was the informant because that corroborates his  
10 defense. That could be brought post-trial,  
11 couldn't it?

12 MR. POSNER: I think if there were evidence  
13 that -- or the officers had evidence, known  
14 evidence, of Calvin Brown being involved  
15 criminally, if he were responsible for the lab that  
16 was -- that was in the storage unit --.

17 I believe as the Court may recall from the  
18 3.6 hearing we had last December, the information  
19 that was gleaned from Calvin Brown occurred in  
20 early January, I believe, well before any  
21 testimony -- or, well before the Defense's own  
22 testimony stated that Calvin Brown had left the  
23 storage unit.

24 Calvin Brown stated it was -- or, Calvin  
25 Brown. Mr. Siclovan's defense stated that it was

1 towards the end of January when they moved  
2 everything out of storage unit 49, and under the  
3 search warrant affidavit and from what we heard  
4 during the 3.6 hearing, I believe that information  
5 from Calvin Brown was provided to the officers in  
6 early or mid-January, well before the time that Mr.  
7 Siclovan claims to have moved out of the storage  
8 unit.

9 So at the time that information was  
10 provided, Mr. Siclovan was still in that storage  
11 unit. So it -- I --

12 THE COURT: And --

13 MR. POSNER: As far as that's concerned, I don't  
14 think it's **Brady** material.

15 THE COURT: Anything else you want to say?

16 MR. POSNER: No, Your Honor.

17 THE COURT: Okay. Would you ask them to come  
18 back in and --

19 THE CLERK: (To the Court:) We're going to go off  
20 record and go (inaudible) --

21 THE COURT: No, switch tapes, switch CD's,  
22 please.

23 *(Proceedings concluded this 22nd day of June, 2005.)*  
24  
25

I, LINDA WILLIAMS, hereby certify that this is a true and correct transcription of the within videotaped proceedings, to the best of my ability. I do further declare and certify that I am in no way related to or employed by any party in this matter, nor to any counsel, nor do I have any interest in this matter.

I make this declaration under penalty of perjury.

DATED this 22<sup>nd</sup> day of February, 2006.

  
\_\_\_\_\_  
Linda Williams  
Certified Court Transcriber

# APPENDIX

## S

( CP 106 ) STATEMENT FROM CALVIN BROWN  
8-01-05

64-1-6 56-1

07-11-2005

04-1-01856-1

TO WHOM IT MAY CONCERN:

**SCANNED**

This statement was written and prepared by calvin j brown on his own free will. I CALVIN J BROWN HAVE NEVER SEEN ASHLEY WADE SICLOVAN ENTER OR STORE CHEMICALS OR PRODUCTS USED IN THE MANUFACTURE OF METHAMPHETAMINE, IN A STORAGE UNIT KNOWN AS NATIONAL STORAGE UNIT LOCATED AT 5820 ne 8th ct vancouver wa 98665. this statement is true and correct to the best knowledge. sincererly , CALVIN J BROWN 731947



Notary Public  
State of Washington  
KYLE R. SHAWHAN  
My Appointment Expires Oct 29, 2007

*Kyle R. Shawhan*  
AUBURN, WA.  
KING COUNTY

**FILED**  
AUG 01 2005  
JoAnne McBride, Clerk, Clark Co.

106  
w  
289

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
AT DIVISION 2

*Personal Restraint Petition  
of Ashley Wade Siclovan*

*COA # 34724-5-II*

PROOF OF SERVICE

BY \_\_\_\_\_  
DEPUTY

STATE OF WASHINGTON

06 AUG 15 PM 12:20

FILED  
COURT OF APPEALS

I, *Ashley Siclovan*, pro se, do declare that on  
the      day of *August*, 2006. I have served the  
enclosed \_\_\_\_\_

*Reply Brief*

on ever other person required to be served, by presenting an envelope to  
state prison officials at the Clallam Bay Corrections Center, containing the  
above documents for U.S. mailing properly addressed to each of them  
and with first-class postage prepaid.

The names and addresses of those served are as follows:

*Court of Appeals Div II*

*950 Broadway*

*Tacoma, WA 98402*

I declare under penalty of perjury under the laws of the State of  
Washington, pursuant to RCW 9A.72.085, and the laws of the United  
States, pursuant to Title 28 U.S.C. § 1746, that the forgoing is true and  
correct.

Executed on this      day of *August*, 2006.

*Ashley W. Siclovan*

, Pro se

Clallam Bay Corrections Center  
1830 Eagle Crest Way  
Clallam Bay, WA 98326-9723