Original

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS

06 OCT 23 AM 10:55

STATE OF WASHINGTON

BY

STATE OF WASHINGTON	)	
	)	
Respondent,	)	No. 34445-9-II
	)	No. 04-1-04088-6
v.	)	
HENDRICKSON, KEVIN	)	STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
(your name)	)	
	)	
Appellant.	)	RAP 10.10

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

Additional Ground 1

PLEASE SEE ATTACHED

Additional Ground 2

PLEASE SEE ATTACHED

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

Date: 10-19-2006

Signature: K L Hendrickson

Form 23

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COURT OF APPEALS OF THE STATE OF WASHINGTON

COURT OF APPEALS DIV.II NO. 34445-9-II

PIERCE COUNTY COURT NO.04-1-04088-6

ADDITIONAL GROUNDS FOR OPENING BRIEF OF APPEAL

FILED
COURT OF APPEALS
06 OCT 17 PM 12:45
STATE OF WASHINGTON

#1 Was there sufficient probable cause for a search warrant to issue for the trailer ? Did the application for warrant contain false information ?

Unlawful complaint for search warrant on page 27 of the opening breif due to FALSE INFORMATION.

On page 27 of the opening breif we find the underlying facts that detective YGLESIAS cited to establish probable cause to authorize the search of the trailer.

In this request for authority to search, it states"it was later revealed at jail that HENDRICKSON'S true name is ROBERT CHRISTENSEN. CHRISTENSEN had a warrant for two counts of possession of stolen property. The affiant checked the criminal history on ROBERT CHRISTENSEN and found 5 arrests for possession of stolen property in addition to arrests for theft,forgery[sic] taking a motor vehicle, and trafficking in stolen property".

THIS WAS ALL FALSE INFORMATION !! I am not ROBERT CHRISTENSEN and that was not my criminal history ! The detective used false information to apply for a search warrant. My personal restraint petition goes into further detail of this issue.I was arrested at the bodyshop for a Thurston County warrant.

OFFICER BUDINICH DECIDED ON HIS OWN THAT I WAS ROBERT CHRISTENSEN AND DID AN ILLEGAL ARREST. AFTER BEING ARRESTED ON AUG. 23,2004 FOR THAT CRIME I WAS HELD FOR 12 DAYS IN PIERCE COUNTY JAIL BEFORE BEING MOVED TO THURSTON COUNTY. UPON MY ARRIVAL IT WAS DISCOVERED THAT CHRITENSEN HAD SIMPLY USED MY NAME AND THE CRIMES HAD NOTHING TO DO WITH ME. I AM ENCLOSING A COPY OF THIS ONGOING CASE THAT IS IN THE UNITED STATES DISTRICT COURT AT THIS TIME. EXHIBIT A ROBERT CHRISTENSEN WAS ONE OF THE PERSONS RESPONSIBLE FOR BRINGING THE CARGO TRAILER TO MR.PICKENS PROPERTY AND ONE OF THE PERSONS THAT DID HAVE KEYS TO ACCESS THE DOOR.

[IT IS MY OPINION THAT THIS DIRECT APPEAL IS SIMPLY A FORMALITY THAT THE FEDERAL COURT HAS FORCED ME TO GO THROUGH SINCE THIS CASE WEAS DISMISSED IN ITS ENTIRE ON MARCH 13,2006. SEE EXHIBIT B,THE MOTION AND ORDER TO DISMISS,AND EXHIBIT C, A STATEMENT OF FACT SENT TO THE SUPRMEME COURT IN SUPPORT OF THE EMERGENCY MOTION FOR RELEASE.]

GROUNDS FOR RELIEF

#2 VIOLATION OF ART.I,sec22 OF THE CONSTITUTION OF THIS STATE OF WASHINGTON.

CONVICTION CANNOT STAND. THE ENTIRE CASE WAS BASED ON THE DEFENDANTS POSSESSION OF STOLEN PROPERTY. TO WIT: THE DOUBLE AXLE CARGO TRAILER.

ONCE THE JURY DID NOT FIND THE DEFENDANT GUILTY OF POSSESSION OF STOLEN PROPERTY,THE CARGO TRAILER,IT CHANGED THE PROSECUTION OF THE ENTIRE CASE. THERE WAS NO LONGER A PRESUMPTION THAT THE DEFENDANT HAD DOMINION AND CONTROL OR POSSESSION OF THE STOLEN CARGO TRAILER. HE HAD NO CONTROL OVER WHAT WENT INTO OR OUT OF THE TRAILER. HE HAD NO CONTROL OVER WHAT WAS DONE WITH THE ITEMS OR GARBAGE INSIDE OF IT. THE ONLY CONTROL HE DID HAVE OVER THE TRAILER WAS TO UNCHAIN THE WHEELS SO IT COULD BE MOVED A FEW FEET IN CASE OF FIRE OR EMERGENCY ASTO TO REQUEST OF MR. PICKENS.(SINCE HIS LAST BUILDING THERE HAD BURNED DOWN)

"...[T]he STATE IS BOUND BY THE CHAGE AS MADE,AND MUST PROVE THE OFFENSE TO HAVE BEEN COMMITTED AS THERE ALLEGED,IN ORDER TO SUSTAINA CONVICTION. 1 WARTON,CRIMINAL EVIDENCE,sec 92; 13 ENCY.EVIDENCE,640; STATE V. GIFFORD,19 Wash.464,P.709; STATE V. MORGAN,~~19~~ 21 Wash.355,58P.215".

#3

ADDITIONAL GROUNDS FOR RELIEF

MISLEADING TESTIMONY BY OFFICER BUDINICH TRIAL TRANSCRIPT PAGE 133 LINES 3-7

Q. WHAT WAS THE STATUS OF THE DEFENDANTS VEHICLE?

A. I DIDNT KNOW HE HAD A VEHICLE THERE.

Q. YOU DIDNT CALL FOR A TOW OR AN IMPOUND OF HIS VEHICLE?

A. I DIDNT KNOW HE HAD ONE,SO I APPARENTLY WOULDNT HAVE CALLED FOR ONE.

TRIAL TRANSCRIPT PAGE 65 LINES 17-18 MR. BRUTSCHE TESTIFIED THAT HE OBSERVED THE OFFICER SEARCH HENDRICKSONS TRUCK,TRAILER AND THE CAR ON THE TRAILER.

DETECTIVE BOB CROW OF TACOMA WAS ALSO ABLE TO FOLLOW THE PAPER TRAIL ON THE ILLEGAL SEIZURE OF HENDRICKSONS TOW TRUCK, TRAILER AND THE CAR ON OT. OFFICER BUDINICH HAD THEM ALL IMPOUNDED BY GENES TOWING AND HENDRICKSON NEVER SAW THEM AGAIN. THIS WAS NOTHING SHORT OF THEFT!

ALSO AT THE 3.5-3.6 HEARING PAGE 44 LINES 19-22 TESTIMONY OF L. BRUTSCHE. "SHORTLY AFTER I PULLED UP,THE DEFENDANT HAD COME,DROVE UP IN A PICKUP WITH A CAR ON THE BACK OF IT,OVER THE FENCE FROM THE BACK OF THAT PARTICULAR COMPOUND." PAGE 24 LINE 24 "I SEEN WHERE HE CAME FROM A PICKUP WITH A TRAILER ON THE BACK OF IT AND A CAR." PAGE 46 "I ASKED LEE,THAT WAS WITH US,THE YOUNGER KID,TO GET THE LICENSE NUMBER FROM IT (at line 8) SO IN CASE HE GOT BACK INTO THAT CAR WE COULD TRACE IT. APPERENTLY LEE WENT AND GOT THE LICENSE PLATE OFF THE TRUCK. I THINK HE GAVE THAT TO THE POLICE DEPARTMENT. AT LEAST THATS WHAT I TOLD HIM TO DO."

ANY PERSON OF REASONABLE THINKING WOULD CONCLUDE THAT ONE OF THE FIRST THINGS THAT THE BRUTSCHE'S WOULD HAVE TOLD THE POLICE, EVERYTHING THEY OBSERVED WHILE AWAITING THE POLICE TO ARRIVE. WHEN I GOT TO WORK. WHAT I DROVE. WHERE I PARKED. THAT I CAME THROUGH THE BACK GATE AND CUT ACROSS MR. PICKENS PROPERTY. THAT I LOOKED FOR BOBBY AND TONY TO RETURN THEIR TOOLS. THAT I PLACED THEIR BOX OF TOOLS BY THE DOOR OF THEIR TRAILER. THAT I LATER WENT OUT TO MY TOW TRUCK TO GET SOME TOOLS I NEEDED FOR MY JOB OVER AT THE BODY SHOP. THAT I WENT OVER TO MR. PICKENS LOT AND DID AN INVENTORY OF GOOD PARTS ON AN OLD MUSTANG. THAT I ASK THEM IF THEY WERE WAITING FOR SOMEONE TO SHOW THEM A CAR THAT WAS OUT FRONT FOR SALE.

FOR THE OFFICER TO SAY HE DID NOT SEARCH MY VEHICLES, DID NOT IMPOUND THEM, AND DID NOT EVEN KNOW HOW I GOT TO WORK IS NOTHING BUT FALSE TESTIMONY. PERIOD.

#4 ADDITIONAL GROUNDS FOR RELIEF

DOMINION AND CONTROL ISSUE/VARIATION

OF TESTIMONY

I COVER THIS SUBJECT IN LENGTH IN MY PRP,BUT WE SHALL COVER IT BRIEFLY HERE AS WELL.

PROCEEDING....3.5 HEARING.....JUDGE STEINER

STATEMENT OF PROSECUTOR: PAGE 8 LINES 1-9.

"OFFICER BUDINICH COULD NOT FIND KEYS FROM THE DEFENDANTS KEY RING THAT FIT THE TRAILER. IT IS MY UNDERSTANDING THAT OFFICER BUDINICH RECALLS HE TOOK HIS KNIFE AND USED HIS KNIFE TO OPEN LOCKS ON THE TRAILER."

PAGE 27 LINES 2-7 TESTIMONY OF OFFICER BUDINICH: "I USED ALL THE REST OF THE KEYS. I COULDNT FIND A KEY THAT WOULD OPEN THE SIDE DOOR LOCK. I TOOK MY SWISS ARMY KNIFE OUT AND USED THE SCISSOR FEATURE,JIGGLED AROUND THE LOCK AND WAS ABLE TO UNLOCK THE SIDE DOOR."

PAGE 30 LINES 17-18 OFFICER BUDINICH. "I CAN ONLY ESTIMATE FROM MEMORY. I'M NOT SURE THATS TOO GOOD".

3.5-3.6 HEARING PAGE 58 TESTIMONY OF M. BRUTSCHE LINES 17-20 "THEY TRIED ALL THE KEYSI IN THE BOX. NONE OF THEM WOULD WORK ON THE DOOR. THEN I'M NOT SURE HOW,BUT THEY GOT INTO THE BACK OF THE TRAILER". PAGE 59 LINES 19-21. Q. DO YOU KNOW HOW THEY GOT THE TRAILER OPEN USING KEYS OR ANYTHING LIKE THAT ?

A. "I COULDNT TELL YOU FOR SURE."

NOW THE TRIAL TESTIMONY OF M. BRUTSCHE.PAGE 93 LINES 8-9

Q. DID ANYONE OPEN THE SIDE DOOR ?

A. "NO".

ADDITIONAL GROUNDS FOR RELIEF

#4 CONTINUED

3.5-3.6 HEARING TESTIMONY OF LEO BRUTSCHE PAGE 50 LINES 4-6 Q. DO YOU KNOW FOR SURE WHERE HE GOT THE KEYS FROM ? A. "I CAN'T SAY POSITIVELY WHERE HE GOT THE KEYS FROM. I KNOW ALL THE KEYS WERE IN THE TOP OF THAT BOX FOR THE PADLOCKS".

TESTIMONY OF LEO BRUTSCHE IN TRIAL. PAGE 59 LINES 11-18

Q. CAN YOU PLEASE TELL THE COURT AND TELL THE JURORS WHAT HAPPENED THEN WHEN THE OFFICER TRIED TO OPEN THE TRAILER ?. A. "WELL,THE BOX THAT WAS SET DOWN BY THE BACK OF THE TRAILER HAD KEYS IN IT,AND SO THE OFFICER TOOK THE KEYS,LOOKED AT THEM TO SEE IF THEY FIT THE BACK...THE ONES IN THE BACK OF THE TRAILER,AND THEY DID. THEY OPENED IT UP."

NOW THEN,WE SHALL PAUSE FOR A MOMENT AND EXAMINE THIS STATEMENT. THE POLICE WERE ALREADY ON PRIVATE PROPERTY BELONGING TO MR. PICKENS WITH NO WARRANT. THEN,THEY TAKE KEYS OUT OF A BOX SITTING ON MR.PICKENS PROPERTY WITH NO WARRANT. THIS MAKES TWO VIOLATIONS OF THE LAW BESIDES THE UNLAWFUL ARREST OF HENDRICKSON.!!

WE WILL NOW EXAMINE FURTHER TESTIMONY.

ADDITIONAL GROUNDS FOR RELIEF

#4 CONTINUED

TRIAL TESTIMONY BY OFFICER BUDINICH PAGE 120 LINES 8-13

Q. OKAY. AND WERE YOU ABLE TO RECOVER THE KEYS FROM THE WOODEN BOX THAT WAS PLACED ON THE GROUND NEAR THE TRAILER IN AN ATTEMPT TO OPEN THE TRAILER WITH ANY OF THOSE ?

A."YES,I TRIED THOSE. NONE OF THOSE WOULD FIT THE VEHICLE."

PAGE 122 LINE 14-23 Q. OKAY. WHAT DID YOU DO THEN ?

A."WELL,THE REMAINDER OF THE KEYS HE HAD ON HIM,THAT WOULDNT OPEN THE DOOR EITHER,SO THERES AN INSTALLED LOCK THAT PROBABLY CAME FROM THE FACTORY THATS RECESSED RIGHT INTO THE DOOR HANDLE,AND I HAVE A SWISS ARMY KNIFE,AND I USED THE BLADE AND FIDDLED AROUND WITH THE LOCK AND WAS ABLE TO UNLOCK IT".

Q. OKAY. AND YOU ARE REFERRING TO THE SIDE DOOR THAT HAS GREEN WRITING ON IT ? A."YES".

FACT: I HAD NO KEYS ON MY PERSON THAT WOULD GAIN A PERSON ACCESS TO THE INSIDE OF THE TRAILER IN QUESTION. ALSO, THERE WERE NO KEYS,CHAINS,LOCKS OR LOCKING DEVISES ENTERED AS EXHIBITS AT TRIAL. THERE WAS NO EVIDENCE PRESENTED TO SUPPORT ANY VERSION OF THE WHOLE KEY AND LOCK ISSUE.

WE DO HAVE PLENTY OF CONFLICTING HEARSAY THOUGH !

ADDITIONAL GROUNDS FOR RELIEF

#5 MALICIOUS PROSECUTION

ORIGINALLY THE STATE FILED A SINGLE CHARGE OF PSP AND OFFERED ME 60 DAYS IN JAIL. I REFUSED THIS OFFER SIMPLY BECAUSE I HAD BROKEN NO LAWS. I HAD BEEN ARRESTED FOR TWO DIFFERENT CRIMES FROM TWO DIFFERENT COUNTYS AND WAS GUILTY OF NONE. I HAD LOST MY JOB,TOW TRUCK,AND HOME BECAUSE OF THIS ILLEGAL ACTION AND LOSS OF LIBERTY. I WAS NOT ABOUT TO PLEAD GUILTY FOR SOMETHING I DID NOT DO. SO THE STATE WAITS A YEAR,THEY SWITCH PROSECUTORS AND ADD 15 MORE COUNTS TO THE INFORMATION. 15 COUNTS OF ID THEFT THAT NEVER HAPPENED. BUT THE STATE KNOWS IF YOU CAN CONFUSE A JURY WITH ENOUGH 'CRAP' AND ENOUGH 'HEARSAY' TESTIMONY,YOU MAKE THE JURY FEEL THAT THERE MUST BE SOME KIND OF CRIMINAL ACTION GOING ON AND GET AT LEAST ONE FINDING OF GUILT WHETHER REAL OR NOT. AND,IT WORKED TO A DEGREE,FOR A WHILE. YES,I'M IN PRISON FOR A CRIME THAT NEVER HAPPENED AND MY LIFE IS RUINED. YEA,ONE FOR THE BAD GUYS ! BUT,I DON'T LAY DOWN FOR ILLEGAL GOVERNMENT ACTIONS,AND I WILL TAKE THIS CASE ALL THE WAY TO THE U.S. SUPREME COURT IF NEEDED TO SEE THAT JUSTICE IS SERVED IN THE MANNER AND TO WHOM DESERVES IT.

#6 WRONGFUL CHARGE/WRONGFUL CONVICTION

Did the wrongful conviction stem from (A) improper jury instructions,or (B) a law that was unconstitutionally void for vagueness?

A. Was the jury aware of what possession meant? How could the jury NOT find the defendant guilty of possession of stolen property,to wit; the double axle cargo trailer,yet find him guilty of identity theft?

How could the jury find Hendrickson guilty of something he did NOT have possession of,such as the two social security cards and the disguarded note book?

Did any persom testify that they had observed Hendrickson with any of these items in his possession? NO

Did any person testify that they had knowledge of Hendricksons intent to commit a crime involving any evidence presented at trial? NO

Did any person give testimony that would show Hendrickson was a-part-of or aware-of any plan or intent to commit a crime with any evidence presented at trial? NO

Did any person testify that Hendrickson was seen placing or removing items in or from the cargo trailer?NO

Was there testimony in trial that Hendricksons finger prints were found on anything inside the trailer or the trailer itself? NO

In this case,'NO ALTERNATIVE MEANS" apply.
Hendrickson was not found to be in possession of the locked cargo trailer.

The identity theft charges rely on two things; (a) possession of someone elses personal financial information (b) with the intent to do a criminal act,or,doing a criminal act.

FIRST,Hendrickson had no constructive possession of any of the items in question,and,SECOND,no crime or intent to do crime was testified to at trial.

UNCONSTITUTIONALLY VOID FOR VAGUENESS;

(as applied to this case or 'hypothetical conduct')
THE jury was not briefed properly to understatnd you would have to be in POSSESSION of another persons personal information WITH THE INTENT to do a crime or be doing a crime.
See; PARKER V. LEVY ,417 U.S. 733,756 41L.Ed 2d 439,94 S.Ct 2547 (1974) STATE V. HEGGE,89 Wash.2d.584
It was easy for the prosecution to make statements in closing and in the jury instructions that would purposefully mislead the jury as-to the true meaning of the RCW code pertaining to identity theft.

IN WASHINGTON,a defendant maybe convicted only when a unanimous jury concludes that the criminal act charged in the information has been committed. STATE V. PETRICH ,101 Wn.2d 566 569,683 P.2d 173 (1984) "When the prosecutor presents evidence of several acts that could form the basis of one count charged, either the STATE must tell the jury which act to rely on in its deliberations or the court must instruct the jury to agree on a spacified criminal act." STATE V. KITCHEN ,,110 Wn.2d 403 409,756 P.2d 105 (1988) "(I)n multiple act cases,when the state fails to elect which incident it relies upon for the conviction or the trial court fails to instruct the jury that all jurors must agree that the same underlying criminal act has been proved beyond a reasonable doubt,the error will be deemed harmless only if no rational trier of fact could have entetained a reasonable doubt thate each incident established the crime beyond a reasonable doubt". Id at 405-06. Since the claimed error is of constitutional magnitude,it may be raised for the first time on appeal. STATE V. CRANE ,116 Wn. 2d 315,325 804 P.2d 10 U.S. 1237 (1991)

FAILURE TO PROPERLY INSTRUCT JURY?

LET US ONCE AGAIN LOOK AT RCW 9.35.020 IDENTITY THEFT The court must show findings in support of a conclusion there was(a) 'POSSESSION OF ANOTHER PERSONS PERSONAL INFORMATION' (b) "WITH THE INTENT TO COMMIT,OR TO AID OR ABET,ANY CRIME".

Count 1 of the information in this case was possession of stolen property,to wit; a locked double axle cargo trailer parked on Mr.Pickens property in Tacoma Washington. Count 2 to 17 were all Identity Therft charges stemming from garbage found inside of that locked cargo trailer. By the time the case goes out with the jury to deliberate on,there is only 3 counts of the Identity Theft charges still standing,along with the possession of stolen property charge(count 1).

THE JURY COMES BACK HUNG ON COUNT 1. No conviction of possession of the locked cargo trailer. Hendrickson had no dominion and control over the trailer,or any key to gain entry to said trailer. There simply was no evidence presented at trial to convict Hendrickson of possession. The problem is that one crime relies on the other! If there was not enough evidence to get a conviction of PSP on the locked trailer,there was not enough evidence to convict for any crime that would stem from the contents of the trailer!

As in STATE OF WASHINGTON V. CORPENING,(Div.II NO. 32477-6-II 2005) ,the trial courts findings of fact cannot support its conclusion of law. THE CHARGE WAS IDENTITY THEFT.

at 21. "WE review a conclusion of law to determine whether a trial courts findings are supported by substancial evidence, and,if so,whether those findings support the conclusion of law."

See; STATE V. GRAFFIUS,74 Wn.App.23,29,871 P.2d 1115 (1994)

See; STATE V. S.E.,90 Wn.App.886,887,954 P.2d 1338 (1998)

at 24. "court must show findings in support of a conclusion there was (a) POSSESSION OF ANOTHERS PERSONAL INFORMATION (b) WITH THE INTENT TO COMMIT,OR TO AID OR ABET,ANY CRIME."

(As found in RCW 9.35.020)

at 25. "Since there is no finding indicating LAVONE' CORPENING'S intent to commit a crime,the state failed to prove an element of identity theft. The conviction cannot stand."

at 26."Reversed and remanded for entry of an order to vacate and dismiss."

IN HENDRICKSON'S case,like CORPENING,there were no direct pertinent findings. The trial courts finding of fact do not support its conclusion of law. This case fails to show or prove ANY element of identity theft. No POSSESSION, No INTENT,No VICTIMS,.....NO CRIME!!

Was the jury confused as-to the findings expected for a conviction of identity theft ? We feel the answer is YES. A statute is void for vagueness if it does not define the criminal offense with sufficient definiteness so that an ordinary person understands what conduct is prohibited,or if it fails to provide ascertainable standards of guilt to provide and protect against arbitrary enforcement.

The jury instructions did not make it clear to the jury what elements of guilt it takes to be guilty of identity theft, and expecting the jury to read and understand the RCW concerning said crime without proper explanation was error of constitutional magnitude. The defendant was denied a fair trial. We are talking about as applied to this case only. a statute can be 'void for vagueness' as applied to one case,yet clearly defined in another,as this court knows.

If the identity theft RCW was to be interpreted as the prosecution has presented in this case,millions of people would be,or could be,jailed for identity theft. The prosecutor would have you think that just HAVING someone's personal information e.g.....drivers license number,credit card number,bank account number,birth date,passport information, checking information,stocks and bonds information,a traffic ticket,social security number,etc.,is enough foundation to find a person guilty of violating the RCW pertaining to identity theft.

This asumption is simply.....INSANE !! And false. They would be free to prosecute any person that retrieves personal property from a jail or prison,any person that comes into possession of anothers personal information due to the impound of a vehicle to a tow yard,the sale of vehicles at auctions, the sale of the contents at storage units,esate sales,persons doing business in sales,leasing,renting,purchases on credit, etc....etc...insurance billing,medical,realestate,etc..!

A person,to be found guilty of this RCW,must have POSSESSION of anothers personal,private,financial information,with the INTENT to do a criminal action with that information,or be DOING a crminal act at the time of arrest.

The courts are suppose to uphold the constitution and the constitutional rights of U.S. citizens. So I ask this court,why have mine been ignored in this case ??

It is my feeling that my rights have been violated.

ERROR BY TRIAL COURT AND LIABILITY OF DEFENDANT

#7 MALICIOUS PROSECUTION

During the trial the prosecutor would question state witnesses by stating that HENDRICKSON had POSSESSION of PERSONAL INFORMATION belonging to the witness,or personal property.

Now then,ALL of the items and/or information that the prosecutor referred to,was found INSIDE of the locked cargo trailer.

HENDRICKSON was NOT found by the jury to be in POSSESSION of the locked cargo trailer.

The identity theft charges in this case DEPEND 100% on the possession of the locked cargo trailer by HENDRICKSON.

Without a conviction of possession of stolen property, to wit,the locked cargo trailer,the defendant could not be in possession of any other persons information/property.

As soon as it was known that the jury did not find HENDRICKSON guilty of PSP,the court should have dismissed all charges instantly. Not doing so was error by the trial court. There was and is no liability of ANY crime reflected upon the defendant.

#8

MALICIOUS PROSECUTION PROSECUTORIAL MISCONDUCT

INEFFECTIVE ASSISTANCE OF COUNSEL DENIAL OF FAIR TRIAL

All of these errors come into play in the way the prosecutor questiond state witnesses.

The prosecutor kept telling each and every witness that HENDRICKSON HAD possession of something belonging to them. Some type of personal information. A social security card,a drivers license,a traffic ticket,etc.,when,in fact,HENDRICKSON had possession of NONE of these items!

And to make these lies even worse,the defense atty. Mr. Shoenberger and the Judge,Cuthbertson,both sat there through trial and allowed the jury to hear these lies and unfounded acusations.

I ask my atty. how the prosecutor could say such things BEFORE establishing that I had possession of the cargo trailer and he simly replied "don't worry about it".

I believe he should have worried about it,since I am now in prison for a crime that never even happened.

RULE 103. RULINS ON EVIDENCE

103(c) HEARING OF JURY. In jury cases,proceedings shall be conducted,to the extent pracicable,so as to prevent inadmissible evidence from being suggested to the jury by any means,such as making statements or offers of proof or asking questions in the hearing of the jury.

#9 VINDICTIVE PROSECUTORIAL ACTION

In this PIerce County case I was originally charged with 1 count of POSSESSION OF STOLEN PROPERTY for a cargo trailer that had nothing to do with me.

The prosecutors office offered me 60 days in jail to plead guilty to a felony that I did not do. I refused their offer of course. I was not responsible for the trailer,or any criminal action conected to it. It was not on my property and I had no key to enter it. After one year of badgering by the state to plead guilty,the state adds over a dozen charges of identity theft. These charges stem from garbage found inside of this cargo trailer. This was garbage that was not HENDRICKSON'S and had nothing to do with him.

The prosecutor acted vindictively in adding these charges one year after the original incident and arrest. This type of vindictive action was clearly shown in STATE V. KORUM No.27482-5-II Wn.App.Div.II (2004) Where the action was dealt with by DIVISION II by order of "DISMISSAL OF ADDED CHARGES".

#10 FRUIT OF THE POISONOUS TREE DOCTRINE

There was a jury trial in this case. Count 1 was the locked cargo trailer. I was charged with possession of stolen property. Counts 2-17 were all identity theft. Charges for garbage found INSIDE of the locked cargo trailer. At the end of the trial, the jury did NOT find that HENDRICKSON was guilty of possession of stolen property. The cargo trailer itself. They did however, find him guilty of 3 counts of identity theft. These convictions stemming from garbage inside the locked cargo trailer.

Under the FRUIT OF THE POISONOUS TREE DOCTRINE,such a finding is prohibited. Once HENDRICKSON was cleared of a finding of guilt concerning the cargo trailer,it barrs the admission of the contents. The upper courts have clearly ruled on this issue in the past.

See; STATE V. KINZY, 141 Wn.2d 373,393 5 P.3d 668 (2000)

See; STATE V. LADSON,138 Wn.2d 343,359,979 P.2d (1998)

#11 RULES OF EVIDENCE

As the trial progressed in this case,the court and the state dismissed count after count of identity theft until the total counts had been reduced from 15 to 3.

Under ER 404(b) evidence of acts other than the CRIME CHARGED is admissible only for certain purposes.
In the case at hand,the jury was allowed to deliberate with evidence pertaining to charges that had been dismissed,and were allowed to do so with no special instructions pertaining to the dismisseed charges.
this court error greatly prejudiced the defendant.
See;STATE V. LIERA-SILVA,No. 38755-3-II Wash.App. (1997) at 53 exhibit related to 'dismissed charge' required 'limiting instruction'.

at 68 LIERA-SILVA further argues that the trial court errored by concluding that exhibit 9 was admissable on the issue of identity. We agree.

RULES ON APPEAL

RULE 16.9

PERSONAL RESTRAINT PETITION---RESPONSE TO PETITION

The respondent must serve and file a response within 30 days after the petition is served,unless the time is extended by the commissioner or clerk for good cause shown,or unless the court can determine without requiring a response that the petition should be dismissed under RCW 10.73.140. THE RESPONSE MUST ANSWER THE ALLEGATIONS IN THE PETITION. The response must state the authority for the restraint of petitioner by respondent and,if the authority is in writing,include a conformed copy of the writing. If an allegation in the petition can be answered by reference to a record of another proceeding,THE RESPONSE SHOULD SO INDICATE AND INCLUDE A COPY OF THOSE PARTS OF THE RECORD WHICH ARE RELEVANT. Respondent should also identify in the response all material disputed questions of fact.

ADDITIONAL GROUNDS FOR RELIEF EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN L. HENDRICKSON, Plaintiff, v. THURSTON COUNTY SHERIFF'S OFFICE, and TACOMA POLICE DEPARTMENT, Defendants.	Case No. C06-5374RBL ORDER DIRECTING SERVICE BY UNITED STATES MARSHAL AND PROCEDURES **AFTER PLAINTIFF HAS PROVIDED THE CLERK WITH THE APPROPRIATE DOCUMENTATION**

Plaintiff has been granted leave to proceed *in forma pauperis*, and after reviewing Plaintiff's Amended Complaint, filed August 11, 2006, the court finds it is appropriate for the U.S. Marshal to conduct service in this matter.

Plaintiff has named Officer Budinich of the Tacoma Police Department as an individual who personally participated in the alleged harm. In order for the Marshal to conduct service in this matter plaintiff is required to submit the appropriate Marshal's forms and summonses for each of the named defendants. Plaintiff shall provide the required documentation **by not later than October 4, 2006,** otherwise this matter may be dismissed as frivolous and for failure to prosecute. If plaintiff provides the required documentation within the above time limit, the clerk is directed to effect service as provided below.

ADDITIONAL GROUNDS FOR RELIEF EXHIBIT B

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON, Plaintiff, vs. KEVIN LAWRENCE HENDRICKSON, Defendant DOB: 02/21/55 SID #: WA10188398	CAUSE NO. 04-1-04088-5 MOTION AND ORDER FOR DISMISSAL WITHOUT PREJUDICE

MOTION

Comes now the plaintiff, herein, by its attorney, GERALD A. HORNE, Prosecuting Attorney for Pierce County, and moves the court for an order dismissing without prejudice the above entitled action, on the grounds and for the reason that the State is currently evaluating the feasibility of retrying this case at this time.

DATED: this 13th day of March, 2006

GERALD A. HORNE
Pierce County Prosecuting Attorney
by: [signature]
KAREN D. PLATT
Deputy Prosecuting Attorney
WSB#: 17290

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

ORDER

The above entitled matter having come on regularly for hearing on motion of GERALD A. HORNE, Prosecuting Attorney, and the Court being fully advised in the premises, it is hereby;

ORDERED that the above entitled action be and same is hereby dismissed without prejudice, bail is hereby exonerated.

DATED the 13th day of March, 2006.

JUDGE

kdp

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-217
Telephone: (253) 798-7400

GROUNDS FOR ADDITIONAL RELIEF EXHIBIT C

IN THE SUPREME COUT OF WASHINGTON STATE

Hendrickson, Kevin L.	Declaration of Gerald L. Torrey Sr.
Vs.	In support of Kevin Hendrickson Emergency Motion for
State of Washington	Release From Illegal Incarceration
Supreme Court #: 78619-4-PRP	

#: 78619-4-PRP

I, (Gerald L. Torrey Sr.,) Declare as follows:

#1.) I am over 18 years of age and have personal knowledge of the matters herein.

#2.) I personally and physically went to the **Pierce County Clerks Office** and on or about (**04-17-06**), at about **13:30 hrs**, and was supplied a certified copy from the clerk of the Motion and Order for Dismissal without Prejudice Cause NO: (**04-1-04088-6**), Dated March **13th, 2006.**

OATH

I swear under the Laws of Perjury that this is to be true and accurate to the best of my Knowledge.

Gerald L. Torrey Sr.	**05-31-06**
Name	Date