

Original

NO. 35868-9-II

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

STATE OF WASHINGTON, Respondent

v.

MARGERUTE ETHEL HALL, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN P. WULLE
CLARK COUNTY SUPERIOR COURT CAUSE NO. 06-1-00653-4

BRIEF OF RESPONDENT

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I. STATEMENT OF FACTS

The State accepts, for the most part, the statement of facts set forth by the appellant. Because of the nature of the claims on appeal, further information will be supported and supplied in the argument section of the brief.

II. RESPONSE TO ASSIGNMENT OF ERROR NO. 1

The first assignment of error raised by the defendant is a claim that the search warrant did not establish probable cause. A copy of the Search Warrant (Exhibit 3.6 Hearing – No. 2) is attached hereto and by this reference incorporated herein. At the conclusion of the 3.6 matter, the court entered Findings of Fact and Conclusions of Law on CrR 3.6 Hearing. A copy of those Findings of Fact and Conclusions of Law (CP 71) is attached hereto and by this reference incorporated herein.

The claim in the defendant's appellate brief appears to be that within the four corners of the affidavit for the search warrant there was no probable cause to believe that evidence of criminal activity would be found in any location other than the two stories of the house specified in the affidavit, on the person of Jerry Hall, Jr. or vehicles located at the residence associated with Jerry Hall, Jr. For example, the claim is that there were no indications of the basement portion of the house being used

for illegal purposes. However, in reviewing the search warrant (Exhibit No. 2), it does indicate on the first page of the actual search warrant itself and on page 2 of the Affidavit for Search Warrant:

Also to be search are all rooms, and all other parts therein, and to search any storage rooms, safes, trash containers, storage containers, and surrounding grounds located on the premises, and all vehicles parked in the driveway, in front of the premises, or nearby or adjacent to the location provided that these vehicles can be connected to the defendant.

This is consistent with information in the affidavit for the search contained on page 5 which indicates as follows:

This CRI (Confidential Reliable Informant) has been present inside this residence when Jerry (Hall, Jr.) has concealed methamphetamine on his person. The CRI stated that Jerry will conceal methamphetamine in varying locations within the residence. The CRI also stated Jerry will conceal methamphetamine in difference vehicles to include his dad's green Ford truck.

A search warrant may issue for probable cause when a magistrate can reasonably infer from the facts and circumstances that criminal activity is occurring or contraband exists at a certain location. In Re Personal Restraint of Yim, 139 Wn.2d 581, 594, 989 P.2d 512 (1999). Probable cause is governed by the probability of criminal activity. State v. Seagull, 95 Wn.2d 898, 907, 632 P.2d 44 (1981). The determination by a magistrate that probable cause exists is given great deference, and the decision to issue a warrant is reviewed for abuse of discretion. Any

doubts relating to the existence of probable cause will be resolved in favor of the warrant. Yim, 139 Wn.2d at 595.

The appellate court has held in State v. Alexander, 41 Wn. App. 152, 704 P.2d 618 (1985) that separate search warrants are not needed to search a residence where a community living unit exists. A community living unit exists where several persons or families occupy a residence in common rather than individually. Alexander, 41 Wn. App. at 154-155. That a certain bedroom in a community living unit ordinarily is used by only one of the tenants does not defeat application of the community living unit where that bedroom is not kept locked but is accessible to all of the tenants. Alexander, 41 Wn. App. at 155.

In our situation, the defendant was found in the basement, next to a glass methamphetamine pipe containing residue, in plain view. She was arrested and searched, and a glass pipe was found in her pocket. The glass pipe that was found in her pocket was tested and lab tests confirmed methamphetamine. A total of fourteen people were found in the residence. (RP 33). At least three other adults besides the defendant were located in the basement. The basement area occupied by the defendant was not "a room" behind a locked door. In fact it had no walls or door at all. And is at best an area behind a curtain. The only "room" in the basement appeared to be an area behind a make shift door under the stairs,

occupied not by the defendant but by two other adults. (RP 35-39). As indicated in the testimony, there were no indications that this was a multi-unit residence. (RP 29-30). In fact, it was referred to more as “basically a flop house.” (RP 30, L.8).

The State submits that probable cause has been demonstrated within the four corners of the affidavit for search warrant. The warrant was not necessarily directed towards her but she merely appears to be an individual in the wrong place at the wrong time.

III. RESPONSE TO ASSIGNMENT OF ERROR NO. 2

The second assignment of error appears to be an argument concerning a State v. Petrich, 101 Wn.2d 566, 683 P.2d 173 (1984) violation. The argument appears to be that the prosecution identified two different items that could have contained a controlled substance but only one of them was tested and the State did not elect and therefore there was insufficient evidence to support the verdict.

The Amended Information filed in this case (CP 34) charged the defendant with Possession of a Controlled Substance, Methamphetamine in Count 1 and Bail Jumping on a Class B or C Felony in Count 2. There is no dispute about the Bail Jump conviction.

To establish the elements of the crime of possession of a controlled substance – methamphetamine, the State called Officer Neil Martin from

the Vancouver Police Department. The Officer indicated that on the date in question he came in contact with the defendant who he identified in court. (RP 13-14). He testified that he came in contact with her in the basement area of the residence being searched and that he noted that there was a glass drug pipe out in the open in plain view. (RP 16). He further noted that this was marked as Exhibit No. 1 and admitted into evidence. (RP 17). Later he was provided with a second drug pipe that had been taken from the person of the defendant. (RP 19). This was marked as State's Exhibit No. 2 and was field tested with a positive result for methamphetamine. (RP 20-21). Exhibit No. 2, the pipe that was taken off of the person of the defendant was admitted into evidence. (RP 22).

Officer Blaise Geddry from the Vancouver Police Department testified that he was also at the residence and he recovered Exhibit No. 2 (the glass drug pipe) from the person of the defendant. (RP 32-33). Specifically, he told the jury that "glass pipe with white substance inside found on the person of Margeruite Hall, front left pants pocket by Officer Geddry." (RP 33, L.7-9). He then indicated that he recovered that pipe from the defendant and took it up to Officer Martin.

Cathryn Dunn from the Washington State Patrol Crime Laboratory testified concerning Exhibit No. 2. She is a forensic scientist and after establishing her credentials, she indicated that she ran tests on the pipe.

(Exhibit No. 2) (RP 53-54). Her opinion was that the pipe (Exhibit No. 2) contained methamphetamine. (RP 60).

In closing argument, the prosecution made it quite clear to the jury that the drug conviction would be based on the drugs found on her person.

(Deputy Prosecutor) Going back to Possession of Methamphetamine. The Defense argument, and you have it in a jury instruction on this, is that her possession was unwitting, that she didn't know about it. Well, I don't think I'm going to say much about that because the testimony is that that pipe, the one that was tested with the conclusion being methamphetamine, was in her left front pocket of her pants.

(RP 90, L.17-24).

This is even acknowledged by the defense attorney in his closing argument when he refers to the same object.

(Defense Attorney) Blue evidence tape means this was tested in a lab. That test confirmed police suspicion that there is methamphetamine in this pipe. This pipe came from the left pants pocket of Ms. Hall.

(RP 92, L.13-16).

It is also interesting to note that at the close of all of the evidence, the defense made a motion for a directed verdict with regard to the possession of controlled substance. There did not appear from the discussion by the defense attorney that there was any misunderstanding as to which of the pipes was being referred to. The defense attorney made it

quite clear that it was the one dealing with the “testimony of the crime lab.” (RP 82, L.14).

There were no exceptions taken to the jury instructions. (RP 83-84). There does not appear to be any misunderstandings at the time of jury instructions. This was not a situation dealing with multiple possessions of controlled substance. All indications from testimony and argument was that the drugs that were the target of the underlying criminal activity were the drugs found in her pocket. This is the item that was tested and found to contain the controlled substance.

A multiple acts case is one where the State alleges several acts, any one of which could constitute the crime charged. State v. Kitchen, 110 Wn.2d 403, 411, 756 P.2 105 (1988). In that situation, the jury must be unanimous on which act or incident constituted the crime. In our situation, we do not have multiple acts that have been charged, argued, or presented to the jury.

The State submits that there has been no showing that any of the rights of the defendant have been violated or jeopardized. The contents of the pipe found in her position was scientifically tested and found to contain methamphetamine. The officers testified that they directly took the pipe from her person. No one argued that the other pipe which was in a close proximity to her could be the basis of a conviction. It was not

argued by the State and it is obvious from the comments, that it was never considered by the defense at trial as being an issue. There is simply no basis for this issue to be raised in the appellate court.

IV. CONCLUSION

The trial court should be affirmed in all respects.

DATED this 1 day of October, 2007.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By: 
MICHAEL C. KINNIE, WSBA#7869
Senior Deputy Prosecuting Attorney

APPENDIX "A"

SEARCH WARRANT

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Vol 6-6332
CB-1-633-1/38

PA
COPY

**District Court of Clark County
State of Washington**

**State of Washington
Plaintiff,**

VS

SEARCH WARRANT

**Hall, Jerry Lee dob 5-26-62
Defendant,**

State of Washington,
Clark County,

SEARCH WARRANT
FILED IN CLERK'S OFFICE
CLARK COUNTY WASHINGTON
JAN 1 10 19 1962

The people of the State of Washington, to any Sheriff, Police Officer, or Peace Officer in Clark County: Proof by written affidavit, under oath, made in conformity with the State of Washington Criminal Rules for Justice Court, rule 2.3, having been made to me this day by OFC Spencer Harris of the Vancouver Police Dept, that there is probable cause for the issuance of a search warrant on the grounds set forth in the State of Washington Criminal Rules for Justice Court, rule 2.3, Section (c).

You are therefore commanded, with the necessary and proper assistance, to make a diligent search, good cause having been shown therefore, of the following described property, within 10 days of the issuance of this warrant as a two story residence with a composite roof, residence being wood constructed and brown in color, with a brown in color front door which faces South, with the numbers 900 affixed to the west of the front door in white lettering, having the specific address of 900 W 16th Street, City of Vancouver, Clark County, State of Washington, including the curtilage thereto.

Also to be searched are all rooms, and all other parts therein, and to search any storage rooms, safes, trash containers, storage containers, and surrounding grounds located on the premises, and all vehicles parked in the driveway, in front of the premises, or nearby or adjacent to the location provided that these vehicles can be connected to the defendant.

For the following items to wit:

1. Methamphetamine, a substance controlled by the Uniformed Controlled Substance Act RCW 69.50.401.
2. Evidence of the crime of Possession of a Controlled Substance with the Intent to Deliver (Methamphetamine) RCW 69.50.401. Consisting of, in part but not limited to, containers of various types commonly associated with the storage and distribution of methamphetamine, United States Currency, buyers lists, sellers lists, and records of sales, personal telephone books, address books, telephone bills, papers and documents containing lists of names, pagers, and cellular telephones.

CM 4/12/06

3. Narcotic Paraphernalia consisting of, but not limited to: pipes, bonges, and baggies.
4. 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 methamphetamine.
5. United States Currency and financial instruments for the purpose of tracking proceeds and/or profits.
6. Address and/or telephone books, telephone bills and papers reflecting names, addresses, telephone numbers, pager numbers, fax numbers or sources of supply, customers, financial institutions.
7. Correspondence, papers, records, and any other items showing employment or lack of employment of the defendant's income or expenses.
8. Paraphernalia for packaging, weighing, and distributing methamphetamine including but not limited to baggies, scales, and other items including firearms.
9. Personal property to establish dominion and control of the residence.
10. Personal property to establish and confirm the identity of the defendant.
11. Photographs of the crime scene and recovered evidence and to develop photographs taken of the crime scene, including still photos, video cassette recordings and to develop any undeveloped film located.

and if you find same, or any part thereof, then bring same and items of identification to identify the residents and residence thereof before the Honorable District Court Judge D. Zimmerman to be disposed of according to law.

This Search Warrant was issued on 3/21/06 at 8:14 ^{PM} hrs.

by the Honorable Judge *David J. [Signature]*

Date and time of execution: _____.

By _____.

**District Court of Clark County
State of Washington**

COPY

**State of Washington
Plaintiff,**

VS

Affidavit for Search Warrant

**Hall, Jerry Lee dob 5-26-62
Defendant,**

I, Spencer Harris, 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 Uniformed Controlled Substance Act RCW 69.50.401.
2. Evidence of the crime of Possession of a Controlled Substance with the Intent to Deliver (Methamphetamine) RCW 69.50.401. Consisting of, in part but not limited to, containers of various types commonly associated with the storage and distribution of methamphetamine, United States Currency, buyers lists, sellers lists, and records of sales, personal telephone books, address books, telephone bills, papers and documents containing lists of names, pagers, and cellular telephones.
3. Narcotic Paraphernalia consisting of, but not limited to: pipes, bonges, and baggies.
4. 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 methamphetamine.
5. United States Currency and financial instruments for the purpose of tracking proceeds and/or profits.
6. Address and/or telephone books, telephone bills and papers reflecting names, addresses, telephone numbers, pager numbers, fax numbers or sources of supply, customers, financial institutions.
7. Correspondence, papers, records, and any other items showing employment or lack of employment of the defendant's income or expenses.
8. Paraphernalia for packaging, weighing, and distributing methamphetamine including but not limited to baggies, scales, and other items including firearms.
9. Personal property to establish dominion and control of the residence.

10. Personal property to establish and confirm the identity of the defendant.
11. Photographs of the crime scene and recovered evidence and to develop photographs taken of the crime scene, including still photos, video cassette recordings and to develop any undeveloped film located.

The above items are on this date, March 21, 2006 in the unlawful possession of the above named defendant in the following residence described as a two story residence with a composite roof, residence being wood constructed and brown in color, with a brown in color front door which faces South, with the numbers 900 affixed to the west of the front door in white lettering, having the specific address of 900 W 16th Street, City of Vancouver, Clark County, State of Washington, including the curtilage thereto.

Also to be searched are all rooms, and all other parts therein, and to search any storage rooms, safes, trash containers, storage containers, and surrounding grounds located on the premises, and all vehicles parked in the driveway, in front of the premises, or nearby or adjacent to the location provided that these vehicles can be connected to the defendant.

Your affiant is informed and aware of this based on the following: Your affiant is an Officer with the City of Vancouver Police Department and has been employed as such for the past six years. Previous to that I was employed as a Custody Officer with the Cowlitz County Corrections for two years. I am currently assigned to the Patrol Division Neighborhood Response Team. During my employment as a police officer, I have had over one hundred hours of training in criminal investigation and other law enforcement topics to include but not limited to narcotic identification and investigation of delivery of controlled substances. I have attended a 40 hour street crimes class offered by Reid and Associates training in but not limited to narcotic investigations. I have also had over 720 hours of training as part of the State of Washington Basic Law Enforcement Academy. I have arrested numerous subjects for possession of a controlled substance and have seized quantities of methamphetamine, marijuana, heroin, and cocaine, as well as drug paraphernalia. In addition, I have successfully written 43 search warrants and been involved in the execution of over 100 search warrants.

In this official capacity, your affiant during the past 72 hours (March 18 – March 21) has learned that methamphetamine was being sold and consumed from within the described residence in the City of Vancouver.

This information was provided by a confidential reliable informant (hereafter referred to as CRI). This CRI is providing this information in exchange for monetary reimbursement.

I am aware that this CRI has a criminal history which includes felony possession of stolen property, forgery, felony property crimes, felony person crimes, misdemeanor assaults, misdemeanor driving offenses, making false or misleading statements to a public servants, and misdemeanor theft. I am aware that the CRI has a conviction for making false or misleading statement to a public servant, however this conviction was prior to the year 2000. Your affiant has researched this conviction and learned that this conviction was from when

the CRI gave law enforcement a false name in order to avoid arrest on a warrant.

Your affiant is aware that this CRI has an extensive knowledge of methamphetamine and used methamphetamine in the past. This CRI is familiar with how methamphetamine is packaged for sale and how it is consumed. This CRI has also identified methamphetamine, marijuana and cocaine to your affiant. This same CRI has provided information which has led to the recovery of drug paraphernalia, drugs, stolen property, and two stolen vehicles. This CRI has successfully completed one controlled buy for a controlled substance. This CRI has provided information which has led to the execution of three search warrants. During these warrants, methamphetamine, cocaine, and marijuana were recovered. This CRI has given information which has led to the arrest of 12 people.

In this official capacity, in the seventy-two hours prior to presentation of this affidavit, your affiant was contacted by the same CRI who related that he/she was familiar with a subject known as Jerry Hall who is selling methamphetamine from within the described residence.

This CRI stated that within the past seventy-two hours while inside the aforescribed residence they observed Jerry Hall in possession of methamphetamine. The CRI further stated they observed Jerry in possession of prepackaged baggies containing methamphetamine which were offered for sale. The CRI stated that this methamphetamine was contained inside a plastic baggie along with additional amounts of methamphetamine. The CRI also stated that while inside the aforescribed residence they observed items of drug paraphernalia to include plastic baggies, scales, and glass pipes.

This CRI informed me that he/she has known Jerry Hall in excess of one year. This CRI also said that he/she knows Jerry to have been residing at this address for at least one year. In this time the CRI has been inside this residence in excess of twenty times. In each of these instances the CRI has observed Jerry in possession of methamphetamine. Additionally, while inside this residence the CRI has observed Jerry engaged in distributing methamphetamine inside the residence. The CRI has observed Jerry exchange methamphetamine for United States Currency. This CRI has also observed Jerry exchange methamphetamine for electronics, jewelry, tools, and various other types of property.

This CRI has been present inside this residence when Jerry has concealed methamphetamine on his person. The CRI stated that Jerry will conceal methamphetamine in varying locations within the residence. The CRI also stated Jerry will conceal methamphetamine in different vehicles to include his dad's green Ford truck.

I showed the CRI a booking photo of Jerry Lee Hall date of birth May 26, 1962 and the CRI stated this was the person they know as Jerry Hall and who lives at 900 W 16th Street.

The CRI further directed me to the aforescribed residence and pointed this residence out as the residence of Jerry Hall dob 5-26-62 and where Jerry conducts his illegal distributing of methamphetamine.

I contacted the Clark County Sheriff's Office Records Division and they advised Jerry Lee Hall has established electrical service to 900 W 16th Street.

The CRI stated that the CRI lives with his father, Jerry Lee Hall Sr and the defendant's son, Jerry Lee Hall III as well as additional family members.

I checked the Vancouver Police Electronic Report writing system and learned that on February 9, 2006 Jerry Hall gave the Vancouver Police his address of 900 W 16th Street when he was contacted at his residence by Officer Adam Millard under Vancouver case #V06-2887. In this report Officer Millard went to the residence to locate a possible runaway. During this contact Officer Millard was invited upstairs where he contacted Jerry Hall and his son Jerry Hall III. During this contact Officer Millard confiscated suspected methamphetamine, suspected marijuana, and drug paraphernalia which Jerry Hall stated the drug paraphernalia belonged to him.

I checked Jerry Hall dob 5-26-62 through NCIC/WASIS and learned that he has given the Washington State Department of Licensing the listed address of 900 W 16th Street.

I conducted a criminal history check on Jerry Lee Hall date of birth May 26, 1962 and learned that he has a felony conviction for VUSCA possession, two gross misdemeanor convictions for Assault IV, and one misdemeanor conviction for driving while license suspended revoked. Hall was arrested on July 17, 2003 for VUSCA- possession with intent to manufacture methamphetamine.

Based on my training and actual experience, I know that people who are involved in this type of criminal activity use United States Currency as a method of payment for illegal narcotics. They also use 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. I have located narcotics information on small scraps of paper, notebooks and telephone books.

These individuals also use pipes, straws, syringes, and bongs as ways to ingest methamphetamine. These same 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. While executing previous search warrants I have located the above items.

I also know from my training and experience that people involved in this type of criminal activity will hide illegal narcotics in various places. I have located narcotics hidden in bags, pill bottles, eye glass cases, purses, under drawers, on tables, under furniture, in tool boxes and on persons.

I am aware that people involved in this type of criminal activity will use firearms as a method of protecting their illegal business. These individuals will conceal weapons on their person and throughout the residence for quick access.

From my training and experience I am aware that individuals involved in the consumption/ingestion of illegal narcotics will sometimes photograph themselves and others taking part.

I am further aware that people involved in this type of criminal activity keep money and notes on their person. They also transport items on their person.

I also know that photographing the crime scene as well as the recovered evidence is critical to showing the court the location of an item at the time of recovery.

Based on the foregoing facts, I ask the court for the issuance of a search warrant for the above described place for the items listed.



Officer Spencer Harris
Vancouver Police Department

SUBSCRIBED AND SWORN TO BEFORE ME ON

March 21, 2006



Judge of the District Court
Clark County
State of Washington

APPENDIX "B"

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON CrR 3.6 HEARING**

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FILED

JAN 29 2007

Sherry W. Parker, Clerk, Clark Co.

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

STATE OF WASHINGTON,

Plaintiff,

v.

MARGERUITE ETHEL HALL,

Defendant.

No. 06-1-00653-4

FINDINGS OF FACT AND
CONCLUSIONS OF LAW ON
CrR 3.6 Hearing

THIS MATTER having come duly and regularly before the Court on the 13th day of October, 2006 for hearing pursuant to CrR 3.6 on Defendant's Motion to Suppress, Plaintiff State of Washington appearing by and through Bernard F. Veljacic, Deputy Prosecuting Attorney for Clark County, State of Washington, Defendant appearing in person and with her attorney Todd Pascoe, and the Court having heard and considered the testimony of witnesses, evidence presented, and the statements and arguments of counsel, makes the following:

FINDINGS OF FACT

1. On March 30, 2006 at approximately 11:05 p.m. officers of the Vancouver Police Department arrived at 900 W. 16th, Vancouver, Clark County, Washington to execute a

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1 search warrant. The search warrant authorized a search of the residence at that
2 address for drugs.

3 2. The search warrant was granted based upon an Affidavit executed by Officer
4 Spencer Harris. The Affidavit recited that Officer Harris had received information from a
5 confidential informant indicating that a subject named Jerry Lee Hall lived at the
6 residence and was in possession of methamphetamine and was distributing
7 methamphetamine from the residence. The informant also indicated that Jerry Lee Hall
8 concealed methamphetamine on his person, at various locations within the residence,
9 and in vehicles, including a truck belonging to his father, who also resided at the
10 residence. The Affidavit indicated that Hall lived at the residence with his father, Jerry
11 Lee Hall, Sr., and his son, Jerry Lee Hall III, and with other family members, who were
12 not named in the affidavit. The Affidavit and the Warrant described the place to be
13 searched as "a two story residence with a composite roof, residence being wood
14 constructed and brown in color, with a brown in color front door which faces South, with
15 the numbers 900 affixed to the west of the front door in white lettering, having the
16 specific address of 900 W 16th Street, City of Vancouver. . ." The warrant authorized
17 the police to search the entire residence for evidence of the crimes of possession and
18 distribution of drugs. The affidavit for the search warrant also recited that on the
19 occasion of a previous complaint on February 9, 2006 the suspect, Jerry Hall, was
20 contacted at the residence by another Vancouver Police officer, who at that time was
21 "invited upstairs where he contacted Jerry Hall and his son Jerry Hall III."
22

23 3. Prior to obtaining the search warrant Officer Harris had driven by the address to
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1 confirm the street address and other details of the description provided by the informant.
2 At that time he observed that the residence appeared to be a single family residence
3 similar to other houses in the neighborhood. He did not observe any outward indication
4 that the residence was a multi-unit dwelling.

5 4. In the search of the residence the police discovered that there were three levels.
6 On the main level there were at least two bedrooms, the only bathroom in the house, a
7 kitchen and living room. In the basement there were two makeshift bedrooms and a
8 large open area with a bed in the southwest corner. There were no bathroom or kitchen
9 facilities in the basement.
10

11 5. The interior doors in the residence were not locked and the various rooms in the
12 house could be accessed by any of the occupants. There were ^{insufficient} no indications within
13 that the house had been divided into separate living units, such as numbers on doors.
14 The occupants on all levels shared the bathroom and kitchen facilities on the main floor.
15

16 6. When Officer Harris knocked on the front door, it was opened by a Maria
17 Duncan. There were two other people in the living room. There were a number of other
18 people on the main level, including the parents of Jerry Hall and an older person who
19 was on oxygen support. The target of the investigation, Jerry Hall, and his son Jerry
20 Hall, Jr. were found in the attic level. On entering the basement, officers encountered
21 an adult male subject, Ladd Kramer, coming up the stairs from the basement. In the
22 makeshift bedroom at the bottom of the stairs officers found two adults, a man and
23 woman. Defendant was found standing in the open area of the basement with another
24 adult female. A glass methamphetamine pipe was next to them. Defendant Hall was
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1 arrested and Officer Geddry found another glass methamphetamine pipe containing
2 methamphetamine in her pocket. A total of about 14 people were found in the house.
3 Police arrested approximately eight of them for drug violations or outstanding warrants.

4 7. Consistent with Officer Harris' description the house was being used by a
5 number of transitory individuals all of whom moved rather freely throughout the house,
6 as indicated by the various people present in the basement, coming out of the
7 basement, and on the other levels in the house when police entered.

8 8. Defendant Hall had submitted a document to DSHS in November 2005 ^{demonstrating} declaring
9 that she was renting a residence in the basement at this address, 900 W. 16th Street.
10

11 DISPUTED FACTS

12 1. There are no disputed facts.

13 Based upon the foregoing Findings of Fact, the Court enters the following:
14

15 CONCLUSIONS OF LAW

16 1. The Court has jurisdiction of the Defendant and the subject matter.

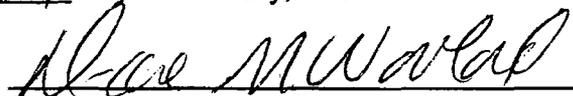
17 2. The residence which was the subject of the search warrant is properly
18 characterized as a "community living unit". In the house, several persons or families
19 occupied the premises in common rather than individually, as indicated by the fact that
20 they shared common living quarters but had separate bedrooms or sleeping areas, and
21 by the fact that all areas of the residence were generally freely accessible to all
22 occupants of the residence.

23 3. There were ^{insufficient} ~~no~~ indications within or outside of the residence that the house was
24 a multi unit dwelling. Thus the warrant was valid and provided authority to search the
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1 entire residence under State v. Alexander, 41 Wn.App. 152, 704 P.2d 618 (1985), and
2 the police were not required to secure separate warrants for the different levels or areas
3 in the house.

4 4. The document filed by Defendant with DSHS does not change the result or
5 create an obligation on the part of the police to obtain a separate warrant for
6 Defendant's area in the house. The evidence establishes that the police had no
7 knowledge of the document or its contents at any time prior to filing of the defendant's
8 motion herein, and in fact police access to such a document might very well be
9 prevented by DSHS confidentiality restrictions. Furthermore, the document does not
10 change the fact that for purposes of evaluating whether the search warrant validly
11 authorizes a search of the entire premises, the nature of the residence was a
12 community living unit based upon the shared community living areas and largely
13 unrestricted access to occupants throughout the residence. Therefore, based upon
14 State v. Alexander, supra, the motion to suppress is denied.
15
16
17

18 DONE in open Court this 29 day of January, 2007.

19 
20 _____
21 DIANE M. WOOLARD
22 JUDGE OF THE SUPERIOR COURT

23 Presented by:

24 
25 _____ #35235
26 Philip A. Meyers, WSBA #8246
27 Deputy Prosecuting Attorney

28 Copy received, approved for entry
29 this ___ day of January, 2007.

30 
31 _____
32 Todd Pascoe, WSBA#
33 Attorney for Defendant

34 FINDINGS OF FACT, CONCLUSIONS OF LAW
35 ON CrR 3.6 HEARING - Page 5 of 5

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