

NO. 38515-5

COURT OF APPEALS  
DIVISION II  
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STATE OF WASHINGTON  
BY:  DEPUTY

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**COURT OF APPEALS, DIVISION II  
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

CURTIS MULDROW, APPELLANT

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Appeal from the Superior Court of Pierce County  
The Honorable Kitty-Ann van Doorninck

No. 03-1-01140-3

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**BRIEF OF RESPONDENT**

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MARK LINDQUIST  
Prosecuting Attorney

By  
THOMAS C. ROBERTS  
Deputy Prosecuting Attorney  
WSB # 17442

930 Tacoma Avenue South  
Room 946  
Tacoma, WA 98402  
PH: (253) 798-7400

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Was the trial court within its discretion in revoking defendant's special sex offender sentencing alternative, when it based the revocation on reliable evidence in the form of police reports, witness transcripts, and live testimony by defendant's community corrections officer, which proved multiple violations by defendant? (Appellant's Assignments of Error 1 and 2).

2. Did defendant's community corrections officer lawfully search defendant's backpack and telephone, when defendant was under the supervision of the Department of Corrections, and when the community corrections officer had reason to believe defendant had violated multiple conditions of his suspended sentence? (Appellant's Assignment of Error 3).

B. STATEMENT OF THE CASE.<sup>1</sup>

On April 8, 2003, Curtis M. Muldrow, hereinafter "defendant," pleaded guilty to two counts of rape of a child in the first degree. RP (4/8/2003) 3-8. On May 8, 2003, the court sentenced defendant to 131 months on each count, to run concurrently, with 6 months in jail, and the

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<sup>1</sup> The State combined the procedural and the substantive facts of the case in one section as they are inextricably related.

remaining 125 months suspended on the conditions of the special sex offender sentencing alternative (SSOSA) treatment program. RP (5/8/2003) 17; CP 22-32, 39-40.

During sentencing, the court repeated the terms of the suspended sentence to defendant, specifically pointing out that defendant was prohibited from any contact or communication with anyone under the age of 16, and that he was not permitted to socialize and date any women who had minor children in their custody or care. RP (5/8/2003) 18, 19.

On November 14, 2003, defendant appeared before the court for a hearing to determine noncompliance. RP (11/14/2003) 3. Defendant had started dating a 17-year-old girl without informing his community corrections officer (CCO). *Id.* at 4, 5. During the hearing, defendant was again reminded that he could not visit residences with children. *Id.* at 11.

Subsequently, defendant regularly appeared before the court for review hearings to determine his compliance with SSOSA, and was found to be compliant. RP (5/7/2004); RP (11/10/2004); RP (4/8/2005); RP (10/4/2005); RP (9/1/2006); RP (5/25/2007).

On November 2, 2007, defendant appeared in court for a SSOSA revocation hearing. RP (11/2/2007) 3. The State alleged four violations: contact with minors; failure to notify the Department of Corrections (DOC) of his living locations; failure to pay legal financial obligations since October of 2003; and conviction for failure to register as a sex offender. *Id.* at 3; CP 111-120. On November 15, 2007, Judge Nelson

having unauthorized possession of pictures of minor children on a cell phone. *Id.* at 10-11.

According to Bohon, on September 12, 2008, she received a phone call from Thurston County Detective Leischner, who informed her that defendant had been staying in Thurston County with his girlfriend, Ms. Staap, who had a two-year old son. RP (10/10/2008) 12-13. Ms. Staap's sister resided in the same household with her two sons, ages four and five. *Id.* at 13.

Detective Leischner provided Bohon with Staap's address and the dates when defendant had stayed at the Staap household. *Id.* Apparently, Detective Leischner had received the initial information about defendant from the manager of the apartment where Staap was residing. *Id.*; CP 139-161 (Court-Notice of Violation, p. 3; Transcript of Interview with Staap, p. 5).

On the same day, Bohon got permission from her supervisor to arrest defendant. RP (10/10/2008) 14. She verified that defendant was due to register on that day, and learned that Staap had put defendant on a one p.m. bus from Thurston County to Tacoma. *Id.* She arrested defendant later that day when he came to the County-City Building to register. *Id.* at 15.

After the arrest, Bohon immediately took defendant into the jail. *Id.* at 18. The jail did not accept defendant's backpack; so, Bohon took the backpack and searched it to inventory its content. *Id.* at 18-19. One of

recused herself due to a potential conflict of interest. RP (11/15/2007).

The case was transferred to Judge van Doorninck. RP (6/18/2008) 13.

On July 9, 2008, the SSOSA revocation hearing resumed in front of Judge van Doorninck. RP (7/9/2008) 4. Ms. Jeanglee Tracer, defendant's SSOSA psychotherapist, acknowledged that it appeared defendant had violated multiple SSOSA conditions, but claimed that he was one of the few successful adults in the program and was not a risk. *Id.* at 6-19. The court found that defendant violated multiple SSOSA conditions, but did not revoke SSOSA. *Id.* at 37; RP (7/18/2008) 4, 6.

On September 19 and October 10, 2008, defendant was back in court for another revocation hearing. CP 135-138; RP (9/19/2008); RP (10/10/2008) 4-5. During the hearing, defense counsel objected to the Court accepting hearsay testimony by the community corrections officer. *Id.* at 7-8, 12, 13, 15, 16, 32-33. The court ruled that hearsay was admissible. *Id.* at 8.

Pamela Bohon, defendant's CCO, testified at the hearing. RP (10/10/2008) 9. Bohon authenticated her report, dated September 17, 2008, in which she had documented five different SSOSA violations by defendant: (1) having multiple unauthorized contacts with minors since September 5, 2008; (2) being in a position of trust or authority over a minor child since September 5, 2008; (3) having an unauthorized romantic relationship with Erin Staap, who had a minor child, since or before September 5, 2008; (4) going out of county without permission; and (5)

the items Bohon found in defendant's backpack was a cellular phone. *Id.* at 20. Because sex offenders often have unauthorized photographs on their phones, Bohon checked the phone and found a few photographs of minors. *Id.* at 20, 22.

At the hearing, the telephone was introduced into evidence over defense counsel's objection. RP (10/10/2008) 24. During her testimony, Bohon looked through the telephone and described the pictures on the record. RP (10/10/2008) 24-32.

Some time after defendant's arrest, Bohon spoke to Staap, who was very upset because she had not known defendant was a sex offender, and had let him spend a few nights at her residence while all three minors were there, and had once left him alone with her child for five hours. CP 139-161 (Transcript of Interview with Staap, p. 2, 4); RP (10/10/2008) 15-16. Staap was also upset over losing her housing because of defendant's presence in her residence.<sup>2</sup> *Id.* at 15-16.

At the hearing, Bohon confirmed that she had subsequently received Detective Leischner's report with transcripts of the interviews with Staap and her sister.<sup>3</sup> *Id.* at 32; *see* CP 139-161. The transcripts were

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<sup>2</sup> Staap did not testify at the hearing; but it appears that at the time she spoke with Bohon, she was prepared to give telephonic testimony if the court had questions for her. RP (10/10/2008) 15. It is not clear from the record whether Staap's sister and Staap's apartment manager were available to testify.

<sup>3</sup> Detective Leischner was not available to testify at the hearing on September 19, 2008, but it is unclear if he was available on October 10, 2008. CP 139-161 (Court-Notice of Violation, p. 3).

“very similar” to the conversation Bohon herself had with Staap. RP (10/10/2008) 33. The transcripts were admitted into evidence over defense counsel’s objection. *Id.* at 33-34, 34-35.

Finally, Bohon testified that she had never given permission to defendant to have unsupervised contact with minors, or travel outside Pierce County, or spend the night at Staap’s residence, or approved defendant’s romantic relationship with Staap. RP (10/10/2008) 17-18. She also stated that possessing depictions of a minor was considered contact with a minor. *Id.* at 12. Defendant did not testify at the hearing. *Id.* at 36.

The court found Bohon to be a credible witness. *Id.* at 39. The court also found all five violations by a preponderance of the evidence and revoked defendant’s SSOSA. *Id.* at 39-40, 43; CP 162-163, 164-166.

Defendant filed a timely motion of appeal. CP 170-173.

C. ARGUMENT.

1. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN IT REVOKED DEFENDANT’S SSOSA.

Under the special sex offender sentencing alternative (SSOSA), RCW 9.94A.670, a sentencing court may suspend the sentence of a first time sexual offender provided the offender is shown to be amenable to treatment. *State v. Dahl*, 139 Wn.2d 678, 682, 990 P.2d 396 (1999). A

court may revoke an offender's SSOSA at any time if it is "reasonably satisfied that an offender has violated a condition of his suspended sentence or failed to make satisfactory progress in treatment." *Dahl*, 139 Wn.2d 678, 683 (internal citations omitted).

This Court reviews revocation of a SSOSA for an abuse of discretion. *State v. Ramirez*, 140 Wn. App. 278, 290, 165 P.3d. 61 (2007). A trial court abuses its discretion when its decision is manifestly unreasonable or is based on untenable grounds. *State v. Rohrich*, 149 Wn.2d 647, 654, 71 P.3d 638 (2003). "The State need not prove that defendant violated his SSOSA conditions beyond a reasonable doubt but only must reasonably satisfy the court the breach of condition occurred." *Ramirez*, 140 Wn. App. 278, 290 (internal citation and quotation marks omitted).

The Washington Supreme Court has held that the revocation of a SSOSA is not a criminal proceeding, and therefore, an offender facing such revocation has only "minimal due process rights" akin those afforded during the revocation of probation or parole. *Dahl*, 139 Wn.2d at 683 (internal citations omitted). Such minimal due process entails:

(a) written notice of the claimed violations; (b) disclosure to the [offender] of the evidence against him; (c) the opportunity to be heard; (d) the right to confront and cross-examine witnesses (unless there is a good cause for not

allowing confrontation); (e) a neutral and detached hearing body; and (f) a statement by the court as to the evidence relied upon and the reasons for the revocation.

*Id.* at 683 (internal citation omitted).

Defendant argues that the hearing court violated his minimal due process right to confront and cross-examine witnesses. *See* Appellant's Opening Brief, p. 1. This Court reviews alleged due process violations *de novo*. *State v. Warner*, 125 Wn.2d 876, 882, 883, 889 P.2d 479 (1995).

- a. The trial court properly considered hearsay evidence in the form of transcripts, reports and CCO's testimony relaying out-of-court statements because that evidence was demonstrably reliable.

Generally, the rules of evidence do not apply to proceedings involving revocation of a suspended sentence. ER 1101(c)(3); *State v. Anderson*, 33 Wn. App. 517, 519-20, 655 P.2d 1196 (1982). While the minimal due process gives an offender a right to confront and cross-examine witnesses, such right is not absolute: in revocation proceedings, the courts allow live testimony to be substituted by reports, affidavits and documentary evidence. *Dahl*, 139 Wn.2d at 686 (internal citations omitted); *see also State v. Nelson*, 103 Wn.2d 760, 763, 697 P.2d 579 (1985) (with regard to the right of the defendant to confront and cross examine adverse witnesses, the hearing process must be flexible enough for the trial court to consider evidence that would not meet the usual evidentiary requirements that apply to criminal trials).

Hearsay evidence can be considered in a revocation hearing when there is good cause to forgo live testimony. *Dahl*, 139 Wn.2d at 686. “Good cause is defined in terms of difficulty and expense of procuring witnesses in combination with demonstrably reliable or clearly reliable evidence.” *Id.* (internal citation and quotation marks are omitted).

While in this case there is no record of the court’s consideration of the difficulty and expense in procuring the witnesses in relation to the reliability of the hearsay, the trial court *had* good cause to forgo additional live testimony because of demonstrable reliability of the hearsay evidence.

Courts have held that “hearsay evidence from state probation reports is sufficiently reliable under this test.” *State v. Badger*, 64 Wn. App. 904, 908, 827 P.2d 318 (1992) (citing *United States v. Miller*, 514 F.2d 41, 42 (9th Cir.1975)); *see also State v. Nelson*, 103 Wn.2d 760, 764, 697 P.2d 579 (1985) (“Since the [good cause] test is a balancing one, *there can be no fixed rules on what would constitute good cause in every case*”) (emphasis added).

For example, in *Nelson*, the Supreme Court analyzed the flexible nature of the “good cause” test, noting that many courts have focused on “indicia of reliability” element of it, and excused the showing of good cause or held that good cause had been shown whenever the proffered

hearsay evidence bore substantial indicia of reliability<sup>4</sup>. 103 Wn.2d 760, 764. The *Nelson* court also found that official reports, including reports from caseworkers and probation officers, as well as detailed statement by a victim, had been held to have the necessary indicia of reliability to constitute good cause. *Id.* at 764-765.

In this case, the hearing court had good cause to admit the hearsay evidence because it was demonstrably reliable. The court then properly revoked defendant's SSOSA based on that evidence. Thus, during the hearing, CCO Bohon testified at length about Officer Leischner's phone call and the information he had shared with her. RP (10/10/2008) 12-14. Officer Leischner's information had a level of detail that had the indicia of reliability: he knew when defendant stayed at Staap's residence, the address of the residence, and who lived in that household. *Id.* Officer Leischner collected the information from three different sources: defendant's girlfriend, her sister, and apartment manager. *Id.*; CP 139-161 (Court-Notice of Violation; Transcripts of Interviews).

The information Officer Leischner shared with CCO Bohon over the phone was subsequently corroborated by the officer's report and the transcripts of his interviews with Staap and her sister. CP 139-161. CCO Bohon, however, did not just rely on the officer's report – she spoke with

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<sup>4</sup> Courts use various, but synonymous, terms to describe the necessary standard of reliability: "trustworthy and reliable," "demonstrably reliable," "reliable and obviously sufficient," and "clearly reliable." *See Nelson*, 103 Wn.2d at 764-76.

Staap directly. RP (10/10/2008) 15-16. CCO Bohon personally confirmed that Staap had three minors in her household; that defendant had stayed overnight at her residence on multiple occasions while the minors were there; and that defendant had been left alone with Staap's two-year-old son for five hours. *Id.*

Staap's veracity and knowledge of defendant's whereabouts were bolstered by the fact that Staap informed Officer Leischner that she had put defendant on an Olympia-Tacoma bus at one p.m. earlier that day. RP (10/10/2008) 14. Defendant, indeed, showed up at the County-City Building about two hours later. *Id.* at 14-15.

In sum, because the aforementioned evidence was demonstrably reliable, the hearing court had good cause to forego additional live testimony. The admitted evidence then became a proper basis for the court's decision to revoke defendant's SSOSA. Defendant's minimal due process rights were not violated, and the court acted within its discretion.

Defendant heavily relies on *State v. Dahl*, in which the Supreme Court concluded that the revocation of Dahl's SSOSA was invalid, if it was based on the alleged incident of his exposure to two girls, because that incident was based on an *unreliable* hearsay evidence. 139 Wn.2d at 686 (emphasis added). But the *Dahl* case is distinguishable from the case at bar.

*Dahl*, indeed, involved an unreliable, attenuated, and unsupported hearsay: two girls reported to the police that a man fitting Dahl's

description had exposed himself to them; the police officer informed Dahl's CCO, who told Dahl's treatment provider, who included the incident in a treatment report, upon which the hearing judge subsequently relied. *Dahl*, 139 Wn.2d at 681, 687. Although afterward the girls identified Dahl from a photo montage, Dahl passed the polygraph examination and denied exposing himself. *Id.*

In finding the evidence presented at the revocation hearing unreliable, the Supreme Court was not troubled that the evidence was hearsay, but rather that the hearing court had only been given fourth-hand information, and the State made no effort to show that the identification was reliable by offering the montage or the police reports as exhibits. *Id.* at 687.

Unlike the evidence presented in *Dahl* that had a lost-in-translation issue in addition to the issue of identification reliability, here the evidence of defendant's violations came from multiple sources, was corroborated, and had the indicia of reliability. Both Officer Leischner and CCO Bohon – two detached professionals experienced in the matters before the court – talked to Staap directly. RP (10/10/2008) 15-16; CP 139-161 (Court-Notice of Violation; Transcript of Interview with Staap). Officer Leischner also interviewed Staap's sister and talked to Staap's apartment manager. CP 139-161 (Court-Notice of Violation, p. 2, 3; Offense Report, p. 1; Transcript of Interview with Ginther). The report and the transcripts

“Violations of a defendant’s minimal due process right to confrontation are subject to harmless error analysis.” *Dahl*, 139 Wn.2d 678, 688 (internal citations omitted). “In revocation cases, the harm in erroneously admitting hearsay evidence and thus denying the right to confront witnesses is the possibility that the trial court will rely on unverified evidence in revoking a suspended sentence.” *Id.* (internal citation omitted). Thus, the error will be harmless when it can be shown that the court based its decision to revoke SSOSA on “verified facts.” *See id.*

Here, the court did not weigh on the record the difficulty and expense in procuring witnesses against the reliability of the hearsay evidence. *See* RP (9/19/2008); RP (10/10/2008). However, the CCO’s testimony, her report, the transcripts of the witnesses’ interviews, and the police report were so demonstrably reliable that they amounted to “verified facts” of defendant’s multiple SSOSA violations. *See subpart A supra.* The court’s error, if any, was harmless.

Additionally, even if the evidence of violations one through four was found to be unreliable, the hearing court’s error in relying on that evidence was harmless because it could revoke and would have revoked defendant’s SSOSA based solely on the fifth violation – the photographs of minors in defendant’s possession. *See* RCW 9.94A.670. That evidence

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was not hearsay, and the descriptions of the photographs as well as the telephone itself were introduced into evidence. RP (10/10/2009) 24-32 (Exhibit 1).

The hearing court would have revoked based on the fifth violation because it had run out of patience with defendant. Defendant had had a prior revocation hearing shortly before the hearing in question, and the court warned defendant that it was giving him “a very short opportunity” and a chance to earn the court’s trust. RP (7/18/2008) 3-5. During the October 10th revocation hearing, the court’s disappointment with defendant’s conduct and the unwavering decision to revoke were evident. RP (10/10/2008) 42-43. Among other things, Judge van Doorninck said, “It’s appalling to me that you didn’t go three days without violating my order. It’s appalling. You don’t get another chance. Not from me.” *Id.* at 42. Thus, the record shows that the court would have revoked defendant’s SSOSA for any subsequent violation.

Finally, should this Court hold that the hearing court committed a due process error that was not harmless, it should remand for a new hearing. *See Dahl*, 139 Wn.2d at 689, 690.

In sum, defendant has failed to show that the hearing court abused its discretion in revoking his SSOSA, or that defendant’s minimal due process rights were violated. Minimal due process was provided when the

State presented the demonstrably reliable CCO's testimony, police report, interview transcripts, and when the court orally analyzed the evidence used and the rationale for its decision.

2. DEFENDANT'S CCO LAWFULLY CHECKED THE CONTENT OF DEFENDANT'S BACKPACK AND CELLULAR PHONE.

CCO Bohon lawfully checked the content of defendant's cell phone because she had a reason to believe defendant had violated his SSOSA conditions and thus could search his belongings pursuant to the state law. Because the search was lawful, the hearing court properly admitted defendant's phone and the photographs on it into evidence.

The admission or exclusion of evidence lies within the sound discretion of the trial court; and its ruling should be reversed only for manifest abuse of discretion. *State v. Clark*, 78 Wn. App. 471, 477, 898 P.2d 854 (1995). A trial court does not abuse its discretion unless no reasonable person would have taken its position. *State v. Stenson*, 132 Wn.2d 668, 701, 756, 940 P.2d 1239 (1997).

Although warrantless searches are generally unreasonable *per se*, the courts and legislature have crafted a few exceptions to the general rule. See *State v. Day*, 161 Wn.2d 889, 893-894, 168 P.3d 1265 (2007); *State v. Lucas*, 56 Wn. App. 236, 239, 783 P.2d 121 (1989). "A probation search is permissible if conducted pursuant to a state law that satisfies the Fourth Amendment's reasonableness standard." *U.S. v. Conway*, 122 F.3d 841,

842 (9th Cir. 1997) (internal citations omitted). “The Fourth Amendment’s reasonableness standard balances the special law enforcement needs supporting the state law scheme against the probationer’s privacy interests.” *Conway*, 122 F.3d 841, 842.

Under both, the Fourth Amendment and Article 1 Section 7 of Washington Constitution, “probationers and parolees have a diminished right to privacy...”. *Lucas*, 56 Wn. App. 236, 240, 244.

RCW 9.94A.631 in effect at the time of the search in question<sup>5</sup> stated that:

If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court. *If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, an offender may be required to submit to a search and seizure of the offender's person, residence, automobile, or other personal property.* (Emphasis added).

In addition to the Washington Legislature, Washington courts also have recognized an exception to the search warrant requirement that allows community corrections officers and probation officers to search parolees or probationers, their homes, or effects when the officer has a well-founded suspicion that a violation has occurred - making such warrantless search constitutionally reasonable and therefore lawful. *See State v. Campbell*, 103 Wn.2d 1, 22, 691 P.2d 929 (1984); *State v.*

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<sup>5</sup> RCW 9.94A.631 (formerly RCW 9.94A.195) has since been amended.

*Massey*, 81 Wn. App. 198, 200, 913 P.2d 424 (1996); *State v. Lucas*, 56 Wn. App. 236, 244, 783 P.2d 121 (1989); *State v. Lampman*, 45 Wn. App. 228, 235, 724 P.2d 1092 (1986).

For example, in *Lucas*, defendant was released “on condition of probation supervision by a community corrections officer and subject to the rules promulgated by the Department of Corrections.” 56 Wn. App. 236, 237. Some time after his release, Lucas’s former and new CCOs went to his home to conduct a transfer interview with Lucas and noticed marijuana and rolling paper in plain view, through sliding glass doors (Lucas was not at home at the time). *Lucas*, 56 Wn. App. at 238. The CCOs returned a few days later, entered Lucas’s residence without a warrant, and observed Lucas dispose of what looked like LSD and try to dispose of cocaine. *Lucas*, 56 Wn. App. at 238, 239.

Lucas subsequently challenged the warrantless search as unconstitutional and conducted without authority of law. *Id.* at 239. But the court disagreed with him on both grounds. *Id.* at 241, 243.

In holding that the search was constitutional, the *Lucas* court emphasized that:

[A] person judicially sentenced to confinement but released on parole remains in custodia legis until expiration of the maximum term of his sentence, i.e., he is simply serving his time outside the prison walls. ...

[He] has a diminished right to privacy because the State has a continuing interest in the defendant and its supervision of him *as a probationer* such that the defendant can expect state officers and agents to scrutinize him closely.

*Id.* at 240, 241, 243 (internal quotation marks and citations omitted).

In holding that the search was conducted under authority of law, the court reaffirmed that the term “authority of law” included “authority granted by valid statutes, the common law, and rules promulgated by the supreme court”, and that case law and court rules established an exception to the warrant requirement for searches of parolees and probationers. *Id.* at 243 (internal citations omitted).

Finally, the *Lucas* court also held that the CCOs had reasonable suspicion to conduct the search when they had recently seen marijuana in plain view and noted Lucas's nervousness. *Id.* at 244-245.

Like in *Lucas*, here the State had a continuing interest in defendant as a sex offender on a special sex offender sentencing alternative and subject to multiple conditions of that program. Like Lucas, defendant had a limited expectation of privacy and should have expected close scrutiny by the State. The search by CCO Bohon was constitutional.

The search was also conducted under authority of law. Under RCW 9.94A.631 and the applicable case law, CCO Bohon could search defendant’s home, person, or belongings, including his backpack and his cellular phone, as soon as she had reasonable cause to believe (or a well-

founded suspicion) that defendant violated conditions of his suspended sentence. *See Lucas*, 56 Wn. App. at 243.

Here, CCO Bohon had reasonable cause to believe that defendant violated multiple conditions of his SSOSA. Her belief was well founded on Officer Leischner's telephone call, in which he described defendant's violations and whereabouts with great specificity. RP (10/10/2008) 12-14.

Learning from Officer Leischner that defendant had crossed the county lines, was in an unapproved relationship, stayed in a household with three children, and knowing from her work experience that sex offenders often possess forbidden imagery, gave CCO Bohon authority of law to search defendant's backpack and cell phone. *Id.* at 20, 22. In fact, under those circumstances, Bohon, a CCO charged with monitoring defendant's compliance with his SSOSA conditions, did not just have the right but the duty to complete the investigation and check defendant's backpack and cellular phone.

Finally, it is worth noting that CCO Bohon arrested defendant under authority of the same statute that gave her authority to search defendant's belongings. *See RCW 9.94A.631 supra*. However, defendant did not challenge the validity of his arrest on appeal. *See Appellant's Opening Brief*.

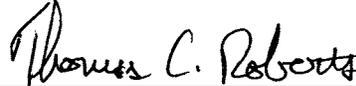
In sum, the search of defendant's backpack and cellular phone was constitutional and under authority of law.

D. CONCLUSION.

For the foregoing reasons, the State respectfully requests that this Court affirm the revocation of defendant's SSOSA.

DATED: October 13, 2009

MARK LINDQUIST  
Pierce County  
Prosecuting Attorney



TOM ROBERTS  
Deputy Prosecuting Attorney  
WSB # 17442



Aryna Anderson  
Rule 9 Intern

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

10-13-09 thereak  
Date Signature

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