

ORIGINAL

Ground 1

Illegal Seizure, Violation of Washington Constitution Art. 1 Sec. 7 and Constitutional violation of the Fourth Amendment

When Washington State Patrol Trooper Morgan handcuffed me she illegally seized me and my identity for her own purposes not related to the traffic stop. The trooper did not have an objectively reasonable belief that Brooks was armed, dangerous, or involved in any type of criminal activity and did nothing more than get stopped for allegedly having a broken headlight. So the seizure can't be justifiable in any other way than pretextual. Art. 1 Sec. 7 forbids use of pretext as a justification for a warrantless search or seizure. There wasn't even enough time between when I gave her my ID, registration and insurance and when she illegally seized me to run my name for a wants & warrant check and get confirmation. It was a traffic stop used as a pretext to conduct a criminal investigation. Is this procedure for a routine traffic stop for a minor traffic offense?

"Police officers may not make custodial arrest for minor traffic offense". State v. Reding (1992) 119 Wash 2d 685, 835 P.2d 109

"As a general rule warrantless searches & seizures are per se unreasonable."

State v. Hendrickson (1996) 129 Wn. 2d 61, 70 917 024 513

(quoting *State v. Hauser*, (1980) 95, Wn.2d 143; 149, 622 P.2d 1218.)

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Even though there are a couple of exceptions to this "general rule" none apply to my case. Our state constitutional provision is designed to guard against "unreasonable search and seizure, made without probable cause." *State v. Fields* (1975) Wn.2d 126, 130, 530 P.2d 284. This was a traffic stop. What was the probable cause to seize me beyond to enforce a traffic code? Trooper Morgan seized me for her own pretexted reason.

Pretext is result without reason

A strict no-pretext rule was adopted in *State v. Michaels*, 60 Wn.2d 638, 374 P.2d 989 (1962) holding, "An arrest may not be used as a pretext to search for evidence." *Id.* citing *United States v. Leftkowitz*, 285 U.S. 425, 52 S. Ct. 420, 76 L. Ed. 877, 82 A.L.R. 775 (1932) and *Taglavore v. United States*, 291 F.2d 262 (9th Cir. 1961).

All the cases above help support that trooper Morgan did not follow procedure when she illegally seized me by abusing her authority to conduct a warrantless seizure at the time to which she had no "authority of law".

Ground 2

Insufficient information, malicious prosecution, violation of Washington State Constitution Art. 1 sec. 22 and constitutional due process violation.

The prosecutor knowingly made false statements and presented false charges against the defendant on his presentation to the judge for probable cause to which the defendant was kept in-custody. The original charging document failed to allege that I had escaped from custody. Instead it read as follows:

In that the defendant, NATHAN ALLEN BROOKS, STATE OF WASHINGTON, on or about October 25, 2008, while being pursuant to a felony conviction knowingly escaped from a detention facility, to wit, Thurston County Jail.

The trial started on February 11, 2009. On the first day of trial, before the jury was empanelled, the state amended the information to escape from custody, rather than escape from a detention facility, to wit; Thurston County Jail.

The trial court abused its authority when it allowed the state to reopen its case and amend the information. Under *State v. Quismundo*, NO 80195-5 (2008) and *State v. Vangerpen*, 125 Wn. 2d 782, 888 P.2d 1175 (1995) this was an improper remedy for an insufficient charging document, and the trial court

Should have dismissed the case without prejudice.

Ground 3

Constitutional violation of the sixth Amendment and State of Washington Constitution Art. 1 sec. 22, of the confrontation clause right to effective cross-examination and due process

During defendants trial state's witness Trooper Morgan testified, stating she had ran defendants name thru dispatch, upon finding out that he had a DOC warrent she proceeded to arrest him.

Defendant stated that he had not heard or seen Morgan make any attempt to contact dispatch, only that she immediately opened his door and handcuffed him after recieving the documents and Id she requested. Not only was this unlawful, but it was unnecessary procedure for a broken head light which is a minor traffic offense.

"Police officers may not make a custodial arrests for minor traffic offense." State v. Hedging (1992) 119 Wash. 2d 685, 835 P. 2d 1019.

Despite defendants request to show the on board camera video from trooper Morgan's vehicle. The trial court denied and suppressed the video at trial. Through due diligence the defendant has obtained evidence that Morgan didn't do a wants and warrent check that she said she did or at the time she said she did on that night.

in question. SEE EXHIBIT 1 & 2

The denial to present the video evidence at trial denied the defendant to effectively cross-examine the state's witness on the facts and actions that took place that night. This was a violation of the defendant's right under the Sixth Amendment to confront the state's witness against him and his fundamental to effectively cross-examine the state's witness against him at trial.

"Impeachment evidence as well as exculpatory evidence, falls within the Brady rule. See *Giglio v. United States*, 405 US 150, 154 (1972) Such evidence "evidence favorable to accused," *Brady*, 373 US., at 87, so that, if disclosed and use effectively, it may make the difference between conviction and acquittal. Cf. *Napue v. Illinois*, 360 US. 264, 269 (1959) ("The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend"), (citing 87/02/85 *United States v. BAGLEY*)

Mooney v. Holohan, 294 US. 103, the undisclosed evidence demonstrates that prosecution's case includes perjured testimony and that the prosecution knew, or should have known, of the perjury.

EXHIBIT 1

THURSTON COUNTY CORRECTION FACILITY

PRE-BOOKING FORM (BLUE SHEET)

PLEASE PRINT

AGENCY'S CASE # 08-015223

PRISONER'S NAME BROOKS NATHAN AULEN DOB 11 / 17 / 81
Last First Middle

AKA'S _____

DATE/TIME OF ARREST 10-25-08 / 0109 ORIGINAL PLACE OF ARREST WARVIN & MARTIN

IS THE PRISONER: ESCAPE RISK MENTAL _____ ASSAULTIVE _____ SUICIDAL _____

REASON FOR ARREST HAD A DOC FELONY, FOOT PURSUIT, TCSO LOCATED AND ARRESTED EARLY 10-26-08

REQUEST TO JUDGE FOR NO-CONTACT ORDER? (check one)	Yes	No
IF YES, WHAT IS JUSTIFICATION?		
DOMESTIC VIOLENCE VICTIM'S: Name		DOB
Address		State / Zip
City		

CASINO RELATED INCIDENT _____

RIGHTS: YES _____ NO INVOKED _____ WAIVED _____ CONFESSED _____ ATTORNEY _____

CHARGE (INCLUDE DEGREE)	MISD. M. OR FEDERAL	FELONY - F	PROB CAUSE (P/C) OR WARRANT #	COURT OF JURISDICTION	COURT DATE (IF KNOWN)	BAIL
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- ESCAPE 1ST DEGREE (F) TCSC NO BAIL
- THEFT 3RD DEGREE (M) TCDC
- POSSESSION OF MARIJUANA (UNDER 4oz) (GM) TCDC
- _____

ARRESTING OFFICER'S NAME TRU W. MORGAN - 1124 AGENCY WSP

TO YOUR KNOWLEDGE HAS THE PRISONER BEEN INJURED? YES _____ NO

WERE THEY TREATED? YES _____ NO BY WHO? _____

CIRCUMSTANCES: _____

THE FOLLOWING PROPERTY HAS BEEN SEIZED: TWO CELL PHONES,

VEHICLE IMPOUNDED BY: JERRY'S TOWING (NOT R/O)

PCN #s:

Charge 1	Charge 2	Charge 3	Charge 4

WARRANTS CHECKS: NCIC _____ WACIC _____ LOCAL _____

DISTRIBUTION: BOOKING FILE

J.P. Morgan
 ARRESTING OFFICER'S SIGNATURE

EXHIBIT 2

CAPCOM



POLICE • FIRE • MEDICAL

Your Emergency — Our Priority

THURSTON COUNTY DEPARTMENT OF COMMUNICATIONS

2703 Pacific Avenue SE, Suite A
Olympia, WA 98501
Bus (360) 704-2730
Fax (360) 704/2723

Mr. Nathan Brooks
P.O. Box 900
Shelton, WA 98584

April 2, 2009

Dear Mr. Brooks,

I received your Request for Public Disclosure Records on March 30, 2009. Your request asked for the dates and times your name was run through dispatch for a wants and warrant check from July 2008 to November 2008.

To clarify, my response includes only wants and warrant checks run by the Thurston County Department of Communications that serves Thurston County.

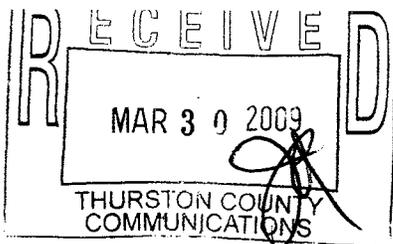
As a point of clarification, this department is located at 2703 Pacific Ave SE, Olympia, WA 98501. I offer that clarification since your Certificate of Service by Mail was addressed to the correct department, but was addressed to the wrong address. While the address used is correct for Thurston County general government (2000 Lakeridge Dr, Olympia, WA 98502), it was forwarded to me for processing.

A search for the requested information, during the requested timeframe has been completed. We have confirmed that your name has not been run for wants and warrants by this department during requested timeframe.

This response satisfies your request for public disclosure of records.

Sincerely,

James C. Quackenbush, Director



REQUEST FOR PUBLIC DISCLOSURE RECORDS

TO:

Thurston County dispatch/communications
2000 Lakeridge dr. Olympia WA 98502

ATTN: PUBLIC DISCLOSURE OFFICER

REQUESTER: Nathan A. Brooks

Nathan Brooks

Ten day legal notice given on this 25th day of March, 2009

DESCRIPTION OF RECORDS REQUESTED AND AUTHORITY

I, Nathan Brooks am requesting disclosure pursuant to RCW 42.56 et.seq. on the following listed documents.

The dates and times my name was ran thru dispatch for a wants and warrant check from July 2008 to November 2008

All copying (for Fees) is to be done only upon written request and from an itemized list prepared AFTER REVIEW OF RECORDS AND DOCUMENTS. No payments/ duty will be owed for any copies produced not so authorized by me after review of requested records is completed.

Fees for photocopying is set under RCW 42.56, maximum rate of 20 cents per copy with no other fees or charges permitted by law.

Failure to respond or, properly comply with disclosure is set out in RCW 42.56, and may result in penalties between five dollars, and one hundred per day. Legal costs, and attorney fees are also authorized pursuant to RCW 42.56 by State Legislature.

Your cooperation and expedient compliance with this request is greatly appreciated.

PLEASE TAKE NOTE THIS IS MY 1st REQUEST FOR THESE RECORDS.

BE AWARE THERE IS A LEGAL TIME LIMIT OF TEN DAY'S TO CONSIDER.

Ten- day legal notice given this 25th day of March, 2009

(Ten days after second notice legal action will be taken)

AFFIDAVIT OF SERVICE AND CERTIFICATE

I, _____, do hereby certify under penalty of perjury under the laws of the State of Washington that I caused a copy of these documents to which this affidavit of service certificate is affixed to be delivered to the party by addressing then surrendering the same for delivery.

To: _____

AT: _____

Dated this _____ day of _____,

Signed by: _____

FILED
COURT OF APPEALS
DIVISION II

09 AUG 31 AM 9:27

STATE OF WASHINGTON

BY c
DEPUTY

CERTIFICATE OF SERVICE BY MAIL

This is to certify and state under the penalty of perjury under the laws of the State of Washington that I have mailed a true and correct copy of the following document(s):

Request for public Disclosure records

By depositing in the United States mail, marked *Legal Mail*, postage prepaid, on this 25th
day of March, 2009 to the following: Thurston

County dispatch / Communications,
2000 Lakemidge dr. Olympia, WA 98502

Respectfully Submitted

Nathan Brooks

Signature

Nathan Brooks #850177

Printed/Typed Name

P.O. Box 900

Address

Shelton WA 98584

City

State

ZIP

Court of Appeals

8-27-09

I'm submitting my additional grounds to meet my deadline. Although I have requested my transcripts I have not received them so I can't fully address the issues I wish to raise.

Respectfully,
Nathan Brooks
Nathan Brooks

RECEIVED

AUG 31 2009

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON