

NO. 40162-2-II

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

STATE OF WASHINGTON, Appellant

v.

EDUARDO QUEZADAS-GOMEZ, Respondent

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE BARBARA D. JOHNSON
CLARK COUNTY SUPERIOR COURT CAUSE NO.09-1-01536-8

BRIEF OF APPELLANT

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FILED
COURT OF APPEALS
DIVISION II
10/17/19 AM 10:07
STATE OF WASHINGTON
BY [Signature]

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I. INTRODUCTION

The State of Washington appeals from an order of the trial court granting Defendant's motion to suppress evidence, and dismissing the charges against Defendant. The suppressed evidence was obtained during a search of Defendant's residence pursuant to a search warrant.

The Defendant challenged the search warrant on the ground that the police had illegally obtained his name and address by means of an unlawful "pretext stop", and that the warrant for Defendant's residence was based entirely on information obtained by exploiting the illegally obtained information. The trial court ruled that the information which established probable cause for the warrant to search Defendant's residence stemmed from information that the police obtained during an illegal "pretext" stop of the Defendant's vehicle, and that the warrant was therefore invalid. Because the charges in the Information were based entirely on evidence obtained in the search of Defendant's residence pursuant to the warrant, the trial court dismissed the Information.

II. ASSIGNMENTS OF ERROR

1. The trial Court erred in entering Conclusion of Law No. 2 (CP 62), wherein the Court concluded that Officer Demmon's stop of the defendant for the sole purpose of obtaining his identification and residence was a pretext

stop, and that defendant's identification and address constituted "[i]nformation gained through illegal conduct".

2. The trial Court committed error in holding that the officer's stop of Defendant's vehicle for the purpose of obtaining Defendant's identity and address in furtherance of an investigation into ongoing felony crimes by Defendant was an unlawful "pretext stop" under State v. Ladson, 138 Wn.3d 343, 979 P.2d 833 (1999), where the officer had probable cause at the time of the stop to arrest the Defendant for one of the felony crimes under investigation.
3. The trial Court erred in entering Finding of Fact No. 4. (CP 61) wherein the Court found "There is no information defendant was . . . committing a crime at that time. . .".
4. The trial Court erred in entering Conclusion of Law No. 2 (CP 62), wherein the Court concluded in part "[t]here was no reason to believe that the defendant at the time of the stop was committing a crime or had evidence of a crime to fit within the exception of search warrant requirement authorized by Terry v. Ohio, App. 2d 122 9 [sic] 214 N.WE. 2d 114 (1966), or in State v. Markham, 40 Wn. App 75 (April 2009)."
5. The trial Court erred in entering Conclusion of Law No. 2 (CP 62), wherein the Court concluded in part ". . .there is no reason to believe the suspect is currently committing or recently committing an illegal act where evidence would be found on his person or in the car."
6. The trial Court committed error in holding that where an officer has probable cause to arrest a suspect for delivery of a controlled substance and has reason to believe that the suspect is planning to commit or is conspiring to commit additional crimes of delivery of a controlled substance, and where the officer stops the suspect's vehicle to obtain

additional information to further the investigation, that the stop is not lawful as an investigative stop under Terry v. Ohio, 392 U.S. 1, 20 L.Ed. 2d 889, 88 S.Ct 1868 (1968).

III. ISSUES PRESENTED

1. Where an officer has probable cause to arrest a person for a felony crime, and has reason to believe that the person is continuing to engage in additional felony crimes or conspiracy to commit additional felony crimes, can the officer stop a vehicle driven by that person under the guise of a traffic stop, for the sole purpose of obtaining additional evidence in the investigation of the felony offense, without taking the individual into custody for the felony, and without disclosing to the suspect the true reason for the stop?
2. Is the stop lawful as an investigative detention under Terry v. Ohio, 392 U.S. 1, 20 L.Ed. 2d 889, 88 S.Ct 1868 (1968)?
3. Does the holding in State v. Ladson, *supra*, apply to such a stop and if so, is the stop an unlawful “pretext stop” under Ladson?

IV. STATEMENT OF THE CASE

Prior to July 22, 2009, Vancouver Police Officer Ryan Demmon met a confidential informant (CI) who told Demmon that an individual known by the street name “El Gordo” was distributing methamphetamine and cocaine in Vancouver. The CI indicated that “El Gordo” had been distributing heroin and cocaine from a Mexican restaurant named El

Korita, and that "El Gordo" was currently frequenting another Mexican restaurant known as El Delfin. The CI provided a cell phone number for "El Gordo" and indicated that the CI could arrange to purchase drugs from him. (CP 16-17)

Between July 22 and 25, 2010, Officer Demmon met with the CI. At the direction of Officer Demmon, the CI contacted "El Gordo" at the phone number given, and arranged to purchase a quantity of cocaine at a specific location. Officer Demmon then searched the CI to be sure the CI had no money or drugs in his possession and gave the CI an amount of "buy money". Officer Demmon then drove the CI to the predetermined location, where the CI went inside. As Officer Demmon watched, a Hispanic male arrived in a silver Nissan Sentra with Oregon license 902DQU. An undercover officer inside the building observed the male subject arrive in the Nissan, enter the building and make contact with the CI. A few minutes later the CI came out of the building and returned to Officer Demmon's car. They drove to another location and the CI gave Officer Demmon a white powder substance wrapped tightly in thin plastic which was wound and melted at the top to seal it. A field test of the substance was positive for cocaine. (CP 17)

The CI told Officer Demmon that the CI had met with "El Gordo" and handed "El Gordo" the money. The CI also said that "El Gordo"

pulled the substance wrapped in plastic out of his pocket and handed it to the CI. The CI said that “El Gordo” told the CI that he could supply the CI with whatever the CI wanted and made it clear that more drugs were available. The CI said that when “El Gordo” pulled the substance out of his pocket, the CI was able to observe similarly wrapped items in “El Gordo’s” pocket. The CI told Officer Demmon that “El Gordo” arrived in a silver Nissan, and described “El Gordo’s” clothing. The CI’s description of “El Gordo” and his clothing matched the person Officer Demmon had seen arriving in the Nissan with the above noted Oregon plates. At that point, Officer Demmon did not know the real identity of “El Gordo”. (CP 17).

On August 4, 2009 Officer Demmon was on uniformed patrol at approximately 12:30 p.m. in Vancouver. At that time, Demmon saw “El Gordo” driving the same Nissan Sentra that Officer Demmon had seen him driving at the time of the drug transaction with the CI approximately 10 days earlier. Using his patrol car’s lights, Officer Demmon stopped the vehicle. He contacted the driver, “El Gordo”, and asked for his identification. Officer Demmon’s purpose in stopping the vehicle was to obtain information to enable him to identify “El Gordo” and find out where he lived. (CP 18).

The driver, "El Gordo", produced a Washington ID card which identified him as Eduardo Quezadas-Gomez, Defendant herein. Officer Demmon asked Defendant where he lived. Quezadas-Gomez told Demmon he lived at 3412 Northeast 66th Avenue, Apt. #C29, in Vancouver. He told Demmon that he had lived at that address for approximately two years. (CP18).

Officer Demmon also asked Defendant who owned the Nissan Sentra that Defendant was driving. Defendant said his friend "Puerco" had given him the vehicle, and that he had had it for approximately two weeks. Officer Demmon then concluded his contact with Defendant and allowed Defendant to leave. Officer Demmon issued no citation to Defendant, and did not tell Defendant that he was investigating Defendant's involvement in the delivery of cocaine or other crimes involving distribution of controlled substances. (CP 18).

Using the identification and residence information obtained from Defendant, Officer Demmon obtained a Washington Department of Licensing photograph of Defendant. Approximately two days after he had stopped Defendant, Officer Demmon contacted the CI and made arrangements through the CI to purchase methamphetamine from "El Gordo". Officer Demmon met with the CI and showed the CI the DOL

photograph of Defendant. The CI identified Defendant's photo as the person the CI knew as "El Gordo". (CP 18).

Officer Demmon also arranged to have detectives from the Clark-Skamania Drug Task Force set up surveillance on the address which Defendant had given Demmon as his residence address, gave them a copy of the Defendant's photograph and also gave them the description and license plate number of the Nissan Sentra. (CP 18).

Prior to the scheduled drug transaction, Officer Demmon again searched the CI to be sure he had no contraband or money, and gave the CI "buy money" with which to purchase the methamphetamine. Officer Demmon drove the CI to the pre-arranged meeting location, and watched the CI enter the building. From inside, the CI called Officer Demmon and told him that "El Gordo" was not present, but that the CI would call "El Gordo". A few moments later the CI called Demmon again and told him that "El Gordo" was on his way. Officer Demmon communicated this information to the Task Force detectives who were watching Defendant's residence. (CP 18).

A Task Force detective then informed Demmon over the radio that a silver Nissan Altima with an Oregon license, 730 EGC, had left the parking lot of Defendant's apartment complex driven by a Hispanic male driver, but because the vehicle was not the same one Demmon had seen

Quezadas-Gomez driving previously, the detectives did not attempt to follow the Nissan Altima. (CP 18).

Approximately ten minutes later, Demmon saw the Nissan Altima, which he recognized by the same Oregon license plate, 730 EGC, arriving at the location of the pre-arranged drug transaction. When the driver got out, Demmon recognized him as Defendant, Quezadas-Gomez. Defendant was the only occupant of the vehicle. Defendant entered the location where the CI was waiting. A few minutes later, the CI came out of the building and met with Demmon. He gave Demmon a crystalline substance wrapped in thin plastic which was wound and melted on top to secure it closed. The CI told Demmon that when Defendant entered the location the CI gave Defendant the money. The CI said that Defendant then told the CI that Defendant would leave the substance at a specified place on the premises. The CI said that Defendant disappeared for a few minutes, and when he returned, the CI went to the specified location on the premises and found the methamphetamine where Defendant had indicated he would leave it. (CP 18-19).

Approximately two days later, Officer Demmon again arranged through the CI to purchase cocaine from Defendant. Again Demmon arranged for other officers to watch Defendant's residence prior to and during the transaction. Again Demmon searched the CI, gave the CI some

“buy money” and drove the CI to the location where the transaction was to occur. The CI called Defendant from that location, and Defendant agreed to deliver a quantity of cocaine to the CI at that location. (CP 19).

A few minutes after the CI called Defendant, an officer watching the Defendant’s residence observed Defendant come out of the apartment, get in the Nissan Sentra, Oregon License 902 DQU, the same vehicle Defendant was driving when Demmon stopped him on August 4, 2009. Another officer followed the vehicle to the location where the CI was waiting. Officers saw Defendant meet with the CI, and a few minutes later, leave the location in the Nissan Sentra. Officers followed the Defendant but discontinued the surveillance when Defendant did not return immediately to his residence. (CP 19).

After meeting with Defendant, the CI returned to Officer Demmon and handed over a quantity of rock cocaine. The CI told Demmon that the CI had handed Defendant the “buy money” and Defendant had handed him the cocaine in exchange. A field test of the substance was positive for the presence of cocaine. (CP 19).

After obtaining the Defendant’s identification and residence information during the contact with Defendant on August 4, 2009, Officer Demmon used the information to obtain Washington DOL records which confirmed that the Defendant’s listed address was 3412 NE 66th Avenue,

#C29, Vancouver. Officer Demmon was able to confirm through local utility records that Defendant was the listed recipient of utility service at that address. (CP 19).

However, Officer Demmon had checked Oregon motor vehicle licensing records on the two vehicles Defendant had been driving and found that neither of them was registered to Defendant. (CP 19).

Officer Demmon prepared an affidavit describing the three occasions on which the CI purchased drugs from Defendant, the stop and identification of Defendant on August 4, 2009, and the surveillance of Defendant and his residence during the ensuing drug transactions. Based on the affidavit, Officer Demmon obtained a search warrant for Defendant's residence, which was served on September 11, 2009. During the search of Defendant's residence officers found cocaine, scales, financial transaction and drug transaction records, forged social security cards with Defendant's name on them, titles to the two vehicles, and Defendant's Washington ID. Defendant was located and arrested at the apartment at the time of the search, and was subsequently charged with Possession of a Controlled Substance, Cocaine, with Intent to Deliver. (CP 4-31).

Prior to trial, Defendant moved to suppress the evidence obtained pursuant to the search warrant. Defendant challenged the warrant in part

on the ground that Officer Demmon's stop of Defendant's vehicle on August 4, 2009 was an unlawful "pretext stop" under State v. Ladson, 138 Wn.3d 343, 979 P.2d 833 (1999), and that the information about the Defendant's identity and residence which Demmon obtained during the stop was therefore unlawfully obtained. Defendant argued that the warrant for the residence was therefore invalid because the probable cause supporting it was obtained entirely by exploitation of the illegally gained knowledge of Defendant's identity and address. (CP 10-11).

The trial court granted Defendant's motion solely on the ground that Demmon's stop of Defendant on August 4, 2009 was illegal. The trial court indicated that the other grounds upon which the warrant was challenged did not merit suppression. (RP 22) The trial court held that even though Demmon had probable cause to arrest Defendant at the time of the stop for delivery of a controlled substance, the stop by Demmon was not a valid investigative stop under Terry v. Ohio, 392 U.S. 1, 20 L.Ed. 2d 889, 88 S.Ct 1868 (1968) because the officer did not articulate facts to support a belief that the Defendant at the time of the stop was about to commit a crime or engaged in committing a crime. The court held that absent a valid basis for an investigative stop under Terry, the holding in State v. Ladson, *supra*, required the court to find that the stop was illegal as a "pretext stop". (RP 25-26) Finding that the suppression

of evidence obtained pursuant to the search warrant left the State with insufficient evidence to prosecute the Defendant for the charged crimes, the Court entered an Order of Dismissal. The State appeals from the trial Court's order granting the Defendant's Motion to Suppress.

V. AUTHORITIES AND ARGUMENT

A. **Argument in Support of Assignments of Error Nos. 1 and 2**

At the time he stopped Defendant's vehicle on August 4, 2009, Officer Demmon had probable cause to arrest Defendant for the Class B felony crime of delivery of a controlled substance. (RCW 69.50.401(1)(2)(a)). Probable cause to arrest exists when the facts and circumstances which are within a police officer's personal knowledge and of which he has reasonably trustworthy information are sufficient to justify the belief of a person of reasonable caution that a crime has been committed. State v. Terravona, 105 Wn.2d 632; 716 P.2d 295; (1986); State v. Bellows, 72 Wn.2d 264, 266, 432 P.2d 654 (1967).

While Defendant here suggested that Officer Demmon lacked probable cause to arrest him at the time of the stop, the trial court clearly rejected the contention. The trial court did not consider the existence of probable cause to be significant in the analysis of whether State v. Ladson, *supra*, prohibited this stop, and therefore did not enter a specific written

finding that probable cause existed. It is clear that the trial court felt that at the time of the stop Demmon did have probable cause to arrest Defendant for the prior delivery of drugs, not only because the trial court struck the Defendant's proposed finding that Demmon lacked probable cause, but in addition, the trial court orally stated in its ruling that "there was probable cause". CP 62, RP 26

A brief review of the facts clearly shows that Demmon had probable cause to arrest. He searched the CI before taking him to the place of the delivery, he gave the CI buy money, he watched the CI enter the building. Demmon then saw Defendant in the Nissan Sentra arrive and enter the building. An undercover officer inside the building saw the CI and Defendant meet, and the CI, after returning to Demmon's car and giving Demmon a package of cocaine, told Officer Demmon that he had met Defendant (whom he knew at that time as "El Gordo") that "El Gordo" had arrived in a silver Nissan and that he had given the money to "El Gordo" in exchange for the package of cocaine. CP 18 (Affidavit for Search Warrant p. 3)

In State v. Ladson, *supra*, the Washington Supreme Court held that "pretext stops" violated the Washington Constitution, Article I, Section 7. In Ladson, two police officers followed the vehicle in which the defendant was a passenger, waiting for the driver to commit a traffic infraction to

give them a pretext, or excuse to stop the car. It was undisputed that their sole purpose was not to enforce the traffic code but to gain an opportunity to question the occupants, gain intelligence and investigate their suspicions that the occupants might be involved in illegal drug activity. The officers in Ladson clearly had neither probable cause nor even articulable facts sufficient to support reasonable belief that the occupants of the car were engaged in any criminal activity.

In Ladson the Supreme Court stated:

We conclude the citizens of Washington have held, and are entitled to hold, a constitutionally protected interest against warrantless traffic stops or seizures on a mere pretext to dispense with the warrant *when the true reason for the seizure is not exempt from the warrant requirement.*”
[Emphasis added]

-(Ladson, *supra*, 138 Wn.2d at p. 358)

Although the majority opinion’s logic in Ladson is a little difficult to separate from the advocacy, it seems axiomatic that one of the elements of the definition of the “pretext stop” which Ladson condemns is the requirement that the “real reason” for the stop is “unreasonable”, i.e. “. . . a pretextual traffic stop . . . is a search or seizure which cannot be constitutionally justified for its true reason (*i.e., speculative criminal investigation*). . .” The corollary would seem to be that if the stop is

justified by a warrant, or other adequate “authority of law” under the Washington Constitution, then the stop cannot be considered a “pretext stop” within the meaning of Ladson.

A traffic stop is a seizure, and must be justified by “authority of law”, that is, either a warrant, or one of a few jealously and carefully drawn exceptions which provide for those cases where the societal costs of obtaining a warrant outweigh the reasons for prior recourse to a neutral magistrate. Ladson, *supra*, at p. 349. Those exceptions include several broad categories: consent, exigent circumstances, searches incident to a valid arrest, inventory searches, plain view, and Terry investigative stops. Ladson, *supra*, at p. 349.

The trial Court’s error in the present case was its failure to recognize that the purpose of the stop in this case, the “real reason” was completely justified and supported by “authority of law” in that the officer had probable cause to arrest the Defendant for a felony offense at the time of the stop, there was ample reason for the officer to believe the Defendant was engaged in ongoing criminal conduct, and the scope of the stop was limited to fulfilling the permissible purpose of the seizure.

RCW 10.31.100 states:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant.

Officer Demmon could have taken the Defendant into custody on August 4, 2009 at the time of the stop, and could have initiated that custodial arrest by activating the emergency lights on his patrol car to stop the Defendant's vehicle, just as he did in this case. Therefore the seizure effected by Officer Demmon's stop in this case was supported by probable cause, and no warrant was required.

Identification of the perpetrator is a key element and legitimate goal of a criminal investigation into a felony offense. Defendant in this case did not argue otherwise.

An officer's decision to effect a full custodial arrest and booking under RCW 10.31.100, absent one of the mandatory arrest provisions, is discretionary, even where the crime of arrest is a felony. Officer Demmon was not required to make a custodial arrest or take the Defendant to jail once he had stopped the Defendant, and the failure to do so did not eliminate or diminish the legitimacy of the stop or initial seizure. Defendant likewise did not present any authority to the contrary in attempting to carry his burden of proving the invalidity of the search warrant.

The only thing which distinguishes the present case from any other case where an officer stops a vehicle, arrests the occupant for a previously

committed felony, identifies the subject and then releases the subject while referring the case to the prosecutor, is that in this case the officer did not tell the Defendant the real reason for the stop and detention. That difference is constitutionally insignificant, and neither the trial court nor Defendant presented any authority to the contrary. More importantly, the fact that Officer Demmon effected the stop under “authority of law”, i.e., the authority to arrest for a felony offense without a warrant, distinguishes this case from the facts in Ladson, and makes the rule announced in Ladson completely inapplicable to the present case.

B. Argument in Support of Assignments of Error Nos. 3, 4, 5 and 6

The Defendant argued, and the trial Court concluded, that at the time Officer Demmon stopped the Defendant’s vehicle for the purpose of identifying him, the officer did not have sufficient legal justification to conduct a Terry investigative stop. Terry v. Ohio, *supra*. The trial Court’s conclusion to this effect ignored several undisputed facts set forth in the record, in Officer Demmon’s affidavit in support of the search warrant.

The confidential informant (CI) had told Demmon that the suspect known as “El Gordo” had been selling methamphetamine and cocaine for some period of time in and around Vancouver, Washington. The CI also

told Demmon that “El Gordo” was selling methamphetamine from two Mexican restaurants, and that the CI had previously purchased drugs from “El Gordo” and had been told by others that they also had done so. The CI then made a “controlled buy” of cocaine from “El Gordo”. After the “buy” the CI told Officer Demmon that “El Gordo” had additional packages of drugs in his pocket at the time of the delivery, and that “El Gordo” told the CI he could supply the CI with whatever type of drugs the CI wanted and that more drugs were available. The observations of Officer Demmon and the reports of the CI established that “El Gordo” was apparently driving himself and the drugs to the location of the drug transaction in the silver Nissan Sentra. All of this information was known to Officer Demmon prior to the stop of Defendant’s vehicle on August 4, 2009. (CP 16-17).

Defendant in the Motion to Suppress did not challenge or dispute this evidence or the fact that Demmon had this information prior to the August 4 stop. The evidence clearly establishes that on August 4, 2009 Officer Demmon had reliable information which strongly indicated that Defendant had been engaged in distribution of illicit drugs for some time, and was engaged in the ongoing possession and distribution of drugs and was undoubtedly conspiring with unknown other persons in the commission of those crimes. Therefore the trial Court clearly erred to the

extent that it found Demmon did not have reasonable suspicion to believe that Defendant was committing or had recently committed or was about to commit a crime or crimes when he stopped Defendant on August 4, 2009. All of the evidence pointed to the fact that the delivery to the CI on or about July 25, 2009 was not an isolated crime, but was part of an ongoing pattern and conspiracy to distribute illegal drugs.

For the same reasons, the trial Court's conclusion that Demmon's stop of Defendant on August 4, 2009 could not be justified as a valid investigative stop under Terry v. Ohio, was also error.

To justify an investigative detention, or seizure as a Terry stop under the Fourth Amendment to the U.S. Constitution, and Article I, Section 7 of the Washington Constitution, an officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion. Terry v. Ohio, supra; State v. Armenta, 134 Wn2d 1, 948 P.2d 1280 (1997). The level of articulable suspicion necessary to support an investigative detention is "a substantial possibility that criminal conduct has occurred or is about to occur." State v. Kennedy, 107 Wn.2d 1, 726 P.2d 445 (1986).

In United States v. Hensley, 469 U.S. 221, 105 S.Ct. 675, 83 L.Ed. 2d 604 (1985) the U.S. Supreme Court considered whether a Terry stop of

a vehicle to investigate whether a person was involved in or was wanted for a previously completed felony crime. The felony was completed approximately a week earlier, and the police were acting on a flyer from another jurisdiction reporting that the defendant was wanted in connection with the offense. The Court held that the fact that the crime was completed days earlier and was not ongoing did not make the detention unlawful, provided it was based on sufficient information and limited in scope to the purpose justifying the stop.

The holding in Hensley means that the delay between the controlled buy on July 25, 2009, and the August 4, 2009 stop of the Defendant by Officer Demmon to investigate Defendant's identity is constitutionally insignificant in determining whether the stop was valid as an investigative Terry stop. In other words, if the stop would have been a valid Terry stop had Demmon conducted it immediately after the controlled buy on July 25, 2009, then it should still be considered a valid Terry stop on August 4, 2009. U.S. v. Hensley, supra, holds that the delay between July 25 and August 4 does not render the stop on the latter date invalid as a Terry investigative stop because the reasons justifying the stop on August 4, 2009 are just as valid as they were on July 25, 2009.

The difficulty in obtaining a warrant for the Defendant which would enable the police to achieve their legitimate goals of investigating

Defendant's ongoing criminal activity is obvious from the facts of the current case. Prior to the stop, Officer Demmon did not know the Defendant's true name or address, and had no way to contact him except through an informant, which did not permit the officer to learn the Defendant's true name or where he might be operating his criminal enterprise. An arrest warrant would have been difficult to obtain under those circumstances and it would not necessarily have enabled the officer to pursue additional investigation.

VI. CONCLUSION

The stop of Defendant's vehicle by Officer Demmon to learn the identity and address of the Defenant was a constitutionally permissible and lawful seizure based on probable cause. In addition the stop was justified as a valid Terry stop for investigation based on sufficient articulable facts to support the conclusion that Defendant was engaged in ongoing felony crimes involving the delivery and conspiracy to distribute illegal controlled substances. Thus, the stop to investigate his identity and the possible location of evidence of the crimes was a valid stop based on constitutionally sufficient grounds.

The trial Court therefore erred in holding that the stop was unlawful as a "pretext stop" under State v. Ladson, *supra*. By definition, a

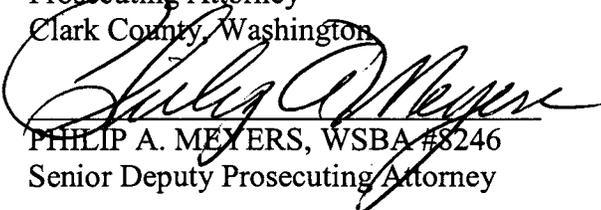
stop is a prohibited “pretext stop” only when the true purpose of the stop is without “authority of law”. Here, the officer’s true purpose in investigating the Defendant’s identity was based on probable cause to believe that the Defendant had committed and was committing felony crimes, and was therefore based on “authority of law”. The trial court erred in holding that the stop was invalid as a “pretext stop.”

DATED this 15 day of April, 2010.

Respectfully submitted:

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Clark County, Washington

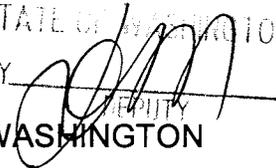
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Senior Deputy Prosecuting Attorney

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STATE OF WASHINGTON

BY 
DEPUTY

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

STATE OF WASHINGTON,
Appellant,

v.

EDUARDO QUEZADAS-GOMEZ,
Respondent.

No. 40162-2-II

Clark Co. No. 09-1-01536-8

DECLARATION OF
TRANSMISSION BY MAILING

STATE OF WASHINGTON)

: ss

COUNTY OF CLARK)

On April 15, 2010, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the below-named individuals, containing a copy of the document to which this Declaration is attached.

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EDUARDO QUEZADAS-GOMEZ
c/o Appellate Attorney

DOCUMENTS: Brief of Appellant

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.


Date: April 15, 2010
Place: Vancouver, Washington.