

Which puts the standard range to 20+ to 60 months.

Additional Ground 2 Enhancements

The Judgment and Sentence shows a base sentence of 80 months for counts I and II (JS pg 63). 24 months was added to counts I and II for VUCSA enhancement (JS pg 63). The base sentence for count I and II were ran concurrently and the enhancements were ran consecutively to each otehr (JS pg 63). Making it a total of 48 months for the enhancements. Since the base sentence was ran concurrently the enhancements should be ran concurrently: See In re Personal Restraint of Charles, 135 Wn.2d 239, 955 P.2d 798 (1998); State v. Price, 103 Wn.App. 845, 14 P.3d 841 (2001), review denied, 143 Wn.2d 1014, 22 P.3d 803 (2001).

The sentencing court imposed 80 months on counts I and II plus the 24 months VUCSA enhancement on each, 24 months on count III, ran concurrently (RP pg 545). Nowhere does it state the enhancements are to be ran consecutive to each other. Nor did the prosecutor asked for clarification that the enhancements are to be ran consecutive to each other. After the sentence was pronounced, it states concurrent (RP pg 545). So the logical conclusion is the enhancements were meant to be ran concurrently.

Based on the facts presented the enhancements should be ran concurrently.

Additional Ground 3 Judgment and Sentence is Invalid

The Judgment and Sentence for count IV UPCS forty grams or less of marihuana states this matter in open court on the 19th of November, 2010 (JS pg 64). This matter was done in open court on the 3rd of December, 2010 (JS pg 65 & RP pg 536). The J & S states this is a plea of guilty then states following a verdict of guilty by jury (JS pg 64). Well, which one is it? The Judgment and Sentence was written on the Conditions on Suspended Sentence form, not a Judgment and Sentence form. The J & S states a sentence to serve a term of 90 days in confinement (JS pg 64). The sentencing court sentenced 90 days, not suspended (RP pg 545).

Based on these errors and CrR 7.8(b)(4) the Judgment and Sentence for count IV is void.

Addition Ground 4 Legal Financial Obligations

A. The sentencing court ordered \$100 DNA database fee (RP pg 545). The Judgment and Sentence shows the \$100 DNA fee in the itemized list (JS pg 61). The J & S shows an order for DNA testing which is authorized by RCW 43.43.754 (JS pg 62). The collection of the DNA fee is authorized by RCW 43.43.7541.

The appellant stated in open court that his DNA is on file (RP pg 545). Since the DNA is filed and recorded previously, the Department of Corrections did not collect the DNA sample as ordered (JS pg 62). Since no sample was taken the appellant should not be forced to pay the fee.

Based on these facts the DNA fee should be remitted and reset to zero dollars.

B. The sentencing court ordered \$1500 for DAC recoupment (RP pg 545). The Judgment and Sentence shows the \$1500 DAC fee in its itemized list (JS pg 61). Defense counsel Burgess stated that he is a court appointed attorney (RP pg 540).

Defense counsel Burgess does not work for DAC. Even though he is court appointed, he was working pro-bono. Steven Burgess is a private attorney who does not get a paycheck from DAC. Under these circumstances \$1500 for the recoupment fee is extreme. If Mr. Burgess was working pro-bono, why does DAC need such a high amount for the fee?

Based on these facts the DAC fee should be remitted and reset to zero dollars.

C. The Department of Corrections is taking mandatory victim penalty assessment fee on top of his LFO's (Ev pg 71). The court ordered the appellant to pay \$500 for crime victim penalty assessment (RP pg 545). The Judgment and Sentence shows the \$500 crime victim penalty assessment in the itemized list (JS pg 61). So as of now the appellant is paying the crime victim assessment fee twice.

Based on these facts the crime victims assessment fee should be remitted and reset to zero dollars.

D. The record shows that the appellant is indigent (RP pg 545). The sentencing court ordered a total of \$2300 in Legal Financial Obligations (JS pg 62). Pursuant to RCW 9.94A.753 the court did not consider the defendant's past, present, and future ability to pay LFO's before ordering to pay \$2300. See State v. Curry, 118 Wn.2d 911 (1992).

Pursuant to RCW 10.01.160(3) the court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount the financial resources of the defendant must be considered. Repayment will not be imposed if it is apparent that the defendant will never be able to repay. The defendant must be given the opportunity to seek remission of all or part of the amount owed. See State v. Curry, 118 Wn.2d 911 (1992).

However, the superior court has jurisdiction and authority to waive fines, penalties, and restitution, other than the mandatory victim penalty assessment, when the defendant has shown good cause to justify such a waiver. See State v. Ziegenfuss, 118 Wn.App. 110, 112-13. The appellant stated on the record that he has a unique situation (RP pg 543). The appellant is not able to legally hold employment without a social security card, and cannot get one issued for years to come.

The reason being is that the Social Security department recognizes the appellant as an immigrant. The Immigration department recognizes the appellant as an US citizen. The Department of Corrections recognizes the appellant as both. So there is confusion as to the status of the appellant. To get this issue clarified, it would cost the appellant a

minimum of \$480 and a process that takes one to five years. Thus, it is apparent that the appellant will not be able to pay the LFO's anytime in the near future.

The Legal Financial Obligations Withdrawal Acknowledgement shows that the appellant is in and has been in contumacious default (Ev pg 70). If the appellant was able to pay his LFO's, it would have been paid. This is further evidence of the past, present, and future likelihood of not being able to pay LFO's. It is apparent that the appellant will not be able to pay the LFO's in his near future.

The Department of Corrections has started collecting mandatory deductions of LFO's (Ev pg 70, 71). This collection has put a manifest hardship on the appellant. Due to the unforeseeable costs of this appeal i.e. postage, photocopies, and records requests. The appellant cannot afford basic hygiene products and has created a hygiene debt. The debt is shown as HYGA Inmate Store Debt 02072011 of \$31.55 on the Inmate Account Statement (Ev pg 71). This paying of mandatory deductions to pay LFO's is creating another debt that the appellant cannot pay.

Based on these facts the LFO's should be remitted and waived, resetting the balance on this case to zero dollars.

Additional Ground 5 Release Address

On 12/3/10 the appellant was sentenced to 12 months community custody following his release (RP pg 545). The Department of Corrections has placed an approved release address as a condition for early release. This places a manifest hardship on the appellant. The appellant stated that he was homeless for at least six months on his prior release into the community. (RP pg 543). As of now the appellant is homeless again and have no resources to get an approved address. He is faced with the same problem as he was the last incarceration.

Because of appellant's unique circumstances, he is not eligible for work release. The Inmate Account Statement shows a work release debito of \$13.50 WRBD WR Room and Board Debt 10082003 (Ev pg 71). On 10/8/03 appellant was at work release for one day. The very next day he was sent back to total confinement. The reason being, the appellant could not legally work and therefore could not seek employment. This proves the appellant's assertions of his unique circumstances of not able to get legal employment. Thus, making him ineligible for work release where he could get the resources needed to seek a preapproved residence address. For additional information, see Additional Ground 4 subsection D.

In 1992 the legislature amended RCW 9.94A.120 by making preapproval of residence location and living arrangement a standard condition of community placement unless expressly waived by the sentencing court. Any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court. Senate Bill 6274 states under current law, all conditions of supervision must be imposed

at the time of sentencing by the court and may not be altered later except to make them less restrictive. See *In re Personal Restraint of Capello*, 106 Wn.App. 576, 24 P.3d 1074 (2001).

As in this case the condition of needing a preapproved release address is very restrictive to the appellant. The only means the appellant has is to seek the court to remove this restriction to make it less restrictive.

Based on these facts the condition of needing an preapproved release address in lieu of early release should be removed.

Additional Ground 6 School Bus Route Stop

Deputy Bryon Brockway with Deputy Kory Shaffer measured the distance from the school bus stop to the edge of the private property (RP pg 76). The actual distance from the school bus stop to the edge of the property is 881 ft (RP pg 75, 263). But what is the actual distance to the actual site of the committed crime? Neither deputies could testify to this (RP pg 154, 155).

To get an accurate distance, the measurement cannot stop at the edge of the property. It has to be measured to the actual terminal point. The actual terminal point is the actual site of the committed crime, otherwise the provision of within 1000 ft cannot be accurately measured pursuant to RCW 69.50 435. See *State v. Clayton*, 84 Wn.App. 318, 927 P.2d 258 (1996).

Based on these facts the distance of being within 1000 ft pursuant to RCW 69.50.435 is an estimate and cannot accurately portray this as fact. Thus, the enhancements should be dismissed.

Additional Ground 7 CI's Identification/Reliability

On January 19, 2010 Williams was doing the first reliability buy as an informant (RP pg 42, 138 & AF pg 33-36). Neither Shaffer and Shaviri had worked with Williams before. They testified to the fact that Williams needed to be verified as a reliable informant, thus the reason for the reliability buys (RP pg 47, 48, 138). Yet when neither anything of what happened inside when Williams claimed he bought the drugs from a man officers thought was Tony White (RP 42, 43, 133, 155, 215-218), they believed him. Shaffer testified that he did a complete investigation (RP pg 72). Yet he never verified the actual person who Williams bought the drugs from. He just took Williams claims as fact.

Williams testified that he never seen the man he thought was Tony before the day of the buy (RP pg 229, 242). Williams even declared he never seen and never knew Tony before the buy (RP pg 229, 242). This contradicts Shaviri's testimony about needing informants having a history of contact (RP pg 22). Williams wants the jury to believe that a man named Tony an alleged drug dealer is going to sell drugs to an unknown person, in this case to Williams. This never happens.

Shaviri testified that informants are valuable because they are known in the drug scene, had contact with the target, and had a history of contact (RP pg 22). If Williams had no contact with the target named Tony, how can Williams be a valuable informant?

Shaffer testified that he interviewed Williams (RP pg 54). The day of the interview, various targets was named (RP pg 54, 55). One of the targets named was Tony (RP pg 55). How can Williams state Tony as a target on the day of the interview (RP pg 54, 55) if he did not know the person existed (RP pg 229, 242)?

Williams testified that he gave a description of Tony (RP pg 232, 233, 234, 242). Williams testified that he gave that description of Tony before the buy occurred (RP pg 241). Williams testified that he never met Tony before the buy (RP pg 242). So how can Williams describe a person well enough for Shaffer to bring a photo of the suspect (RP pg 233, 234).

When Burgess Confronted Williams to give what kinds of descriptions he gave Shaffer, he could not provide one solid detail (RP pg 233). Shaffer testified to the description of the suspect (RP pg 147, 148, 149), but there was no report of this to substantiate the claims (RP 277). Williams stated that Shaffer showed him a photo and said: "Is this him?" (RP pg 234).

Shaviri testified that he drove Williams to the residence (RP pg 26). Shaffer verified this (RP pg 60). Shaviri stated that the only vehicle he saw parked in front of the residence was a van (RP pg 43). Shaviri never did a records check to see who is the registered owner of the van (RP pg 43). Shaviri could not verify Williams claims of who he bought the drugs from or even who was inside the residence (RP pg 42, 43, 44, 45). Shaviri did not see a green GMC Suburban or a brown 1980 Ford F-150 which both belong to the appellant.

On February 17, 2010 both of the vehicles mentioned above was present during the execution of the search warrant. The appellant was found at the residence during the execution of the warrant. This is further proof that the vehicles belong to me. Shaviri's statement of seeing a van (RP pg 43), the fact the vehicles were present during the execution of the search warrant, and the State's evidence of appellant's GEICO insurance cards (RP ph 329, 423 & Ev pg 50), this is proof that my vehicles was not at the scene of the crime on January 19, 2010.

In the affidavit for probable cause for search warrant (AF pg 33-36), it states that the buy in January took place with a white female named Misty (AF pg 36). This is the first of two reliability buys (AF pg 36). The second buy occurred in February (AF pg 36). Nowhere does it state that there was a reliability buy done with a suspect named Tony (AF pg 33-36).

Williams testified that he saw a tin container (RP pg 221). When asked if he knew for sure, Williams stated: "I am positive it was tin." (RP pg 221). The State did not produce any evidence of that tin container. The State presented a red plastic container as evidence (RP pg 114, 121, 122, 168, 250, 251, 256, 318, 351, 352, 390). The prosecutor stated that the container being a red plastic compared to a tin is a red herring (RP pg 515). This is very significant. The fact that the police did not find a tin container is very significant too.

The affidavit states that Tony Kim White is a suspect because that was an address used by Tony per PCSD computer systems, that I am a convicted

felon, have a criminal history, and prior convictions of drugs (AF pg 36). Because of my criminal history, I was made a suspect for my known assoc associations with Misty. I was prejudiced by this fact. There was no other evidence in the affidavit that I was involved in any way (AF pg 33-36). If I did sell drugs to Williams as everybody claims, then where is the proof in the affidavit? This is a case against Tony White. So where is the proof that Tony has sold the drugs to validate the search warrant? Which evidence are we to believe? Williams conflicting testimony or an affidavit from Deputy Mark Fry of the Pierce County Sherriff's Department?

I submit that on January 19, 2010 Williams did a controlled buy with Misty. As Williams testified to (RP pg 215, 219, 222, 230, 242, 243). When Williams claimed he met Tony (RP pg 220, 221, 242), it was actually Misty. Which is supported by the affidavit (AF pg 36). During Williams' encounter with Misty, he suggested that Tony was not present which is supported by the fact that he stated he never met me (RP pg 229, 242). Williams stated he learned of Tony through his meeting with Misty (RP pg 230, 242, 243). This suggests that Tony was not present during the meeting.

Since the evidence shows that there was only one controlled buy done in January (AF pg 36), with a white female named Misty, the appellant was not present at the scene of the crime. My claims of being somewhere else is substantiated by the facts declared herein (RP pg 429, 430, 440, 441).

I submit the following reason for the importance of the tin container. The reason why the police did not find the tin container is that it belongs to someone else. There is one suspect that was not present at the time of the warrants in February 17, 2010. Williams' testimony of seeing Tony pull out a tin container out of his pocket is false (RP pg 221). With the affidavit of Mark Fry (AF pg 33-36), it supports my claims that the delivery on January 19, 2010 was not done by me.

Based on the facts and circumstances, the tin container could only belong to one person. That person was Misty. See affidavit for additional information (AF pg 28). If the appellant was not the one that sold the drugs, then his claims that the drugs that was found in the residence on February 17, 2010 is also true (RP pg 428, 429). If the appellant was not the one that sold the drugs, then the conviction of County Delivery of a Controlled Substance on January 19, 2010 should be dismissed. If there is no delivery then there is no possession with intent.

Additional Ground 8 Identification Procedure

Shaffer testified that he provided Williams with a DOL photo of Mr. White (RP pg 149). Shaffer stated: "It's not a common practice to do a montage on a CI ID." (RP pg 149). Shaffer admitted it was a common practice to say: "Is this the guy?" (RP pg 149, 150).

Williams testified that he was shown one photo of Tony (RP pg 233, 234). When Williams was asked if he was shown a montage, he stated: "No, never, never." (RP pg 236). Williams testified that he was shown one photo by Shaffer and was asked: "Is this him?" (RP pg 234).

Based on the suggestive identification procedure, it violated my due process rights. See State v. Wheeler, 22 Wn.App. 792, 593 P.2d 550 (1979); State v. Lane, 4 Wn.App. 745, 484 P.2d 432 (1971); State v. Scott, 93 Wn.2d 8 (1980); State v. Poulos, 31 Wn.App. 241, 640 P.2d 735 (1982). The procedures used fell far short of models of good police investigation.

The identification of a suspect during trial depends upon a showing of reliability under the totality of the circumstances. Among the factors considered are the witness' opportunity to view the suspect and his attentive attentiveness at the time of the crime, the accuracy of his prior descriptions, his degree of certainty when making the identification, and the corrupting effect of any suggestive identification procedures. See State v. Abernathy, 31 Wn.App. 635, 644 P.2d 691 (1982); State v. Poulos, 31 Wn.App. 241, 640 P.2d 735 (1982).

Since Williams never met the appellant, how can he identify him as the suspect? Williams testified in court that one of the targets named Tony was present in court and then identified him (RP pg 214, 215). The court must find that the identification was suggestive and conducive to misidentification as to amount to a denial of due process. Where (1) the identification of defendant is the principal issue at trial, (2) defendant presented an alibi, and (3) there was little or no evidence linking the defendant to the crime: Which demand the suppression of Williams' in-court identification. See State v. Scott, 93 Wn.2d 8 (1980).

Shaffer claimed Williams had given a more detailed description of a man named Tony. Yet he did not document it. Shaffer stated: "At that point I didn't need to document it." (RP pg 277). Why didn't Shaffer document such crucial information? This does not sound like good police investigation.

I wrote a letter requesting documents under the Public Disclosure Act. In this letter, I requested the photo and the report pertaining to the photo (Ev pg 67). I did not receive these items. Since I did not receive these items, I have to assume that the items does not exist. That Shaffer's testimony of showing the photo (RP pg 149) and Williams' testimony of seeing a photo (RP pg 233, 234). may be false.

I submit the reason that the documentation does not exist because Misty was the original target. That on January 19, 2010 the controlled buy was done with Misty as shown in the affidavit (AF pg 36). All the evidence supports the facts that I was not a target and Misty is the primary suspect. For support see additional ground 7.

Based on these facts the in-court identification by Williams should be suppressed.

Additional Ground 9 Hearsay Evidence

Williams testified that he learned of a man named Tony from Misty. Williams stated: "She informed me that 's' what a head did" (RP pg 243). Williams never witnessed any dealings or actions of what Tony does. Williams had no actual knowledge of what Tony did. Misty was not available to testify to what she knows and said to Williams.

Everything he heard and testified about a man named Tony is hearsay.

(ER 801(c) & RP pg 215, 230, 242, 243). Without any facts, evidence, and verification of this testimony, it is hearsay, irrelevant, and inadmissible (ER 802).

Based on the facts presented on this issue, the testimony of Williams stating that Tony was selling drugs should be suppressed.

Additional Ground 10 Miranda Warnings

During the 3.5 Hearing, Shaffer testified that he read the appellant his Miranda rights (RP pg 81, 86). Shaffer stated he read my rights from a card (RP 81, 86). Shaffer stated that the appellant did not appear to be under the influence of any drugs or alcohol at the time (RP pg 82, 86). Shaffer stated that he did not have the appellant sign a written waiver of those rights (RP pg 86). He also stated that it is not a common practice to have a suspect sign a written waiver (RP pg 86).

During the interrogation on February 17, 2010 the appellant stated that he had prescription cold medication that he was currently taking on his person (RP pg 84). Shaffer stated the appellant answered some questions just in conversation (RP pg 84). The appellant testified that he was not aware of a search warrant being served (RP pg 88). The appellant testified that he don't recall having his rights read (RP pg 89). The appellant testified that he was not free to walk away (RP pg 90). The appellant have been asked if he had been advised of his rights on at least ten occasions before and answered yes (RP pg 90).

The appellant was never given his Miranda warnings. In support of his claims, see affidavits of Williams and Marlowe (AF pg 30, 32). Also see affidavit of White (AF pg 2, 3). The prosecutor made insinuations that with the appellant's past experience with law enforcement authorities, he should have known what his rights were. (RP pg 90). What the appellant didn't get to say is that out of all the experiences with law enforcement, he only got read his rights once. And out of all the arrests, the appellant never once was read his rights. It is not a common practice of law enforcement authorities, being Tacoma PD, Pierce County Sheriff, Lakewood PD, University Place PD, Fircrest PD, Fife PD, Milton PD, Pullayup PD, Spanaway PD, Parkland PD, Gig Harbor PD, or Federal Way PD, they do not commonly read a suspect their rights at the time of arrest. And the only reason the appellant know what his rights were is because of tv shows like CSI, NCIS, Law & Order, Cops, etc.

At the time of the interrogation, I was under the influence of the cold medication and in shock of the breach. Without knowing the appellant, Shaffer testified that I was not under the influence (RP pg 82, 86) when I actually was. The medication put me in a different state of mind than normal. I am also suffering from PTSD, anxiety, and depression, which the appellant is taking medication for. The sudden breach with treat of violence put the appellant in shock. So I was not in any condition to make a clear, rational, logical, or informed decision to waive my rights.

Shaffer testified that during the interrogation we were having a conversation of what was going on (RP pg 84). Just a normal conversation not an interrogation (RP pg 84). This is not true. Not once did we have

just a normal conversation as Shaffer stated (RP pg 84). Our conversation was an in-custody interrogation. The exact interrogation is portrayed as the appellant remembers it in an affidavit (AF pg 23, 24).

As a constitutional prerequisite to any questioning, the appellant must be warned, in clear and unequivocal terms, that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. This was not done, nobody asked the appellant if he wanted an attorney, or to waive his right to an attorney. The only thing that was asked was the appellant willing to talk.

The Constitution of the United States Fifth Amendment states that no person shall be compelled in any criminal case to be a witness against himself. The Sixth Amendment guarantees a defendant the right to have effective assistance of counsel in all criminal proceedings. The Washington State Constitution Article I Section 9 states no person shall be compelled in any criminal case to give evidence against himself.

The prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. A defendant may waive effectuation of his rights to remain silent and the waiver must be made voluntarily, knowingly, and intelligently. Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from a person held for interrogation by a law enforcement officer can truly be the product of his free choice.

The American accusatory system of criminal justice demands that the government seeking to punish an individual to produce the evidence against him by its own independent labors, rather than by the expedient of compelling it from his own mouth. A defendant's constitutional rights are violated if his conviction, in a court, is based, in whole or in part, on an involuntary confession, regardless of its truth or falsity; this is so even if there is ample evidence aside from the confession to support the conviction. The constitutional requirement that, as a prerequisite to any questioning, an individual held for interrogation by a law enforcement officer has the right to remain silent does not depend upon whether he is aware of his rights without a warning being given. Failure to ask for a lawyer during interrogation does not constitute a waiver. The absolute requirement of informing a person held for interrogation by a law enforcement officer of his right to consult with a lawyer and to have the lawyer with him during interrogation cannot be met by any amount of circumstantial evidence that he may have been aware of this right. There must be an allegation and evidence which show that an accused was offered counsel, but intelligently and understandingly rejected the offer. See *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed.2d 694, 86 S.Ct. 1602 (1966).

Based on these facts the statements used against the appellant should be suppressed.

Additional Ground 11 Illegal Search and Seizure

The affidavit of probable cause states Williams did two buys from

a white female named Misty (AF pg 36). Deputy Mark Fry states there are two suspects based on PCSD computer systems and background checks (AF pg 36). The search warrant was issued on 2/11/10 (SW pg 38). Deputy Mark Fry states that a buy was done within the last 72 hours of 2/11/10 (AF pg 36 & SW pg 37). Yet the warrant was not executed till 2/17/10. How fresh and accurate was the information that was used to grant the warrant?

The appellant have not lived at the residence in question since the beginning of the year. In support of this, see State's evidence of documents exhibited as evidence. The exhibits Ex 54D, a letter from CEC Solution dated 11/18/09 (RP pg 330, 331 & Ex pg 49); Ex 54C, a \$20 receipt dated 12/9/09 (RP pg 330 & Ex pg 48); and Ex 54B, GEICO car insurance cards dated 10/15/09 (RP pg 329 & Ex pg 50) were outdated. These items prove that the appellant was getting mail at the residence before January 1, 2010. There was no documents found that proves the appellant was receiving mail at that residence after January 1, 2010. This supports the appellant's claims that he no longer lived there. For further support see affidavit of Tony Turner (AF pg 29).

On 2/12/10 a day after the warrant was issued, Misty moved out and have not been back since. The appellant have testified to this fact (RP pg 84, 434, 435). The appellant have provided affidavits to this fact (AF pg 2, 23). If the police executed the warrant in a timely manner, they would have gotten Misty instead of the appellant.

If Shaffer did a complete investigation as he stated (RP pg 72) he would have known this. Since the warrant was issued based on information that was outdated even though it was a day old, the warrant is invalid. See State v. Hett, 31 Wn.App. 849, 644 P.2d 1187 (1982). Information was not too stale to support issuance of a search warrant involves not only duration, but the probability that the drugs in question would be retained. See State v. Young, 62 Wn.App. 895, 802 P.2d (1991). A drug buy took place at a house sometime in the past does not mean that more drugs are necessarily present again. See State v. Sanchez, 74 Wn.App. 763, 875 P.2d 712 (1994). Some never means more. The appellant questions the validity of the search warrant based on insufficiency and staleness of the facts.

On 2/17/10 law enforcement officers executed a search warrant at 5422 South Alder Street: There was no knock and announce as required by RCW 10.31.040 (AF pg 1-4). Deputy Mark Fry states in a report that Deputy Brockway performed the "knock and announce," and a patrol deputy in uniform/ marked car also announced over the PA system (PR pg 47). Deputy Bryon Brockway testified to announcing their presence (RP pg 246). Brockway stated he shouted: "Police. Search warrant. Open the door." (RP pg 247). He stated that they waited 10 to 15 seconds, when there was no answer, they breached the door (RP pg 247).

The appellant claims that this did not happen (AF pg 1-4). To support his claims, he submits the affidavits of two other persons that were present that day (RP pg 176, 182, 183, 349). See affidavits of Charles Williams and James Marlowe (AF pg 30, 31). These witness who were present at the time do not support the officers' claims.

The Evidence Inventory Report shows the following items taken as

evidence: 1) Surveillance Monitor (item # 2); 2) Surveillance Camera above front door (item # 3); and 3) Surveillance Camera on top of stairs (item # 16) (IR pg 40). Where is the digital recorder? There was a four terabyte digital recorder hooked up to the surveillance equipment. The search warrant included the following items to be seized: 4. video/audio tapes and 10. computers and equipment (SW pg 37-38). The surveillance equipment would be included in the categories listed, especially the digital recorder.

The surveillance camera above the front door has a built-in microphone. If the officers did announce themselves as they claimed, the digital recorder would have recorded the event. So why is the digital recorder not included with the other surveillance equipment? It could have been used to corroborate one's claims about the events of the day.

When law enforcement officials do a raid, they usually park down the street or as far as blocks away from the target residence. They do not want the suspects to see a task force approaching before they are ready. So Deputy Mark Fry's report about the PA announcement does not seem logical (PR pg 47). It is inconsistent with police procedures. Once they spotted the surveillance camera, it surprised them. They were not expecting it to be there. Maybe to the point for them to change their plans.

The burden is on the State to establish compliance with the rules or exigent circumstances negating the duty of compliance of the knock and announce rule. See *State v. Ellis*, 21 Wn.App. 123, 584 P.2d 428 (1978); *State v. Talley*, 14 Wn.App. 484, 543 P.2d 348 (1975). The presence of the surveillance camera cannot be used as an exigent circumstance for negating the rule. There is sufficient evidence to put enough reasonable doubt that the State cannot overcome this burden. The appellant was prejudiced by this deliberate disregard of the rule.

During the execution of the search warrant, not once was the appellant shown a copy of the warrant or an inventory of the items seized. (AF pg 1-4, 30, 31, 32). The appellant testified to the fact that he did not know that on February 17, 2010 the police were executing a search warrant (RP pg 88). The appellant provided affidavits to that effect (AF pg 1-4, 30, 31, 32). The Return of Officer states the appellant as owner of the property seized (RO pg 39). It states that they served a true and complete copy of the search warrant to the appellant. But it was posted on the kitchen counter (RO pg 39).

Well, which is it? Did the appellant get served the warrant or was it posted on the kitchen counter? I submit that the warrant was never shown to the appellant and was posted on the kitchen counter as stated (RO pg 39). The appellant did not see a copy of the warrant until it was requested through the Public Disclosure Act (RCW 42.56), which is over a year later.

CrR 2.3(d) states: The peace officer taking property under the search warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken. If no such person is present, the officer may post a copy of the search warrant and receipt.

Fed.R.Crim.P. 41(f)(3) states: The officer executing the warrant must: (A) give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken; or (B) leave a copy of the warrant and receipt at the place where the officer took the property.

The prior 2000 Fed.R.Crim.P. 41(d) states: The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken.

If leaving the warrant behind after the search always suffices, there is no need for either Rules to include the more demanding requirement of service on the occupant of the searched premises. See *State v. Aase*, 121 Wn.App. 558 (2004); *US v. Gantt*, 194 F.3d 987 (9th Cir. 1999). The obvious Legislative intent is apparent that the warrant is meant to be served to the property owner if he was present, not to have it posted somewhere. ~~The Fourth Amendment of the US Constitution states the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.~~ The Washington State Constitution article I, section 7 states no person shall be distrubed in his private affairs, or his home invaded, without authority of law.

One purpose of the warrant is to inform the person subject to the search what items the officers can seize. A warrant served after the search is completed, in this case never, cannot timely provide the property owner with sufficient information to reassure him of the entry's legality. The appellant suffered an invasion without a service of a warrant and doubted it legality. He must wonder if our Constitutional system has ensured that the objective mind of a neutral magistrate has weighed the need to invade that privacy in order to enforce the law. The appellant was clueless as to the reason for the invasion of his privacy. He was prejudiced by not being shown the search warrant.

Citizens deserve the opportunity to calmly argue that agents are overstepping their authority. If the subject is nonviolent, then the inventory shall be made in the presence of the person from whose possession or premises the property was taken. The inventory is presumably made as items are identified and seized, not after the items have been taken away. Since the appellant was not able to observe the actions of the officers, he did not know what items were being seized.

In the affidavit of James Marlowe, an officer authorized the taking of appellant's vehicle without his permission (AF pg 32). So the appellant has to wonder what other items were illegally authorized to be taken. Receipt of an inventory would have removed some of the doubt. The appellant was prejudiced by the officers denying him to be present during the inventory taking, never receiving the search warrant, and never receiving an inventory. The appellant was prejudiced by the blatant disregard to the proper procedures and rules of CrR 2.3(d) and Fed.R.Crim.P. 41(f)(3). The appellant was also prejudiced by the unauthorized giving away of his personal property by the law enforcement officers.

During the search of the residence, an officer searched appellant's 1980 Ford F-150 and 1996 GMC Suburban. See affidavits for support (AF pg 1-4, 30, 32). Nowhere did it state that certain vehicles could be searched (SW pg 37-38). The Fourth Amendment and Washington Constitution article I, § 7 guarantees a person's right to be secure in their personal effects against unreasonable searched. The officer who searched the two vehicles did not have the authority of law to do so. The appellant's rights were violated by the actions of the officer.

Due to the technical violation and a deliberate disregard of the rule, all evidence from the fruits of the search should be suppressed.

Additional Ground 12 Notice of Forfeiture

On February 17, 2010 the law enforcement agency seized the following items: Ex 29 \$289.00 US currency, Ex 30 wallet and WA ID in appellant's name, and Ex 31 Blackberry cellphone (ER pg 42). These items are personal property belonging to the appellant. Pursuant to RCW 69.50.505(3) the law enforcement authority had to give notice of forfeiture within 15 days following the seizure.

RCW 69.50.505(3) states in pertaining part: "The law enforcement authority agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized."

Nowhere in the transcripts does it state during the sentencing that the appellant is to forfeit the items listed above (RP pg 536-547). Not once did the judge sentence the appellant to forfeit the items listed above (RP pg 536-547). Yet the State did not return the listed items to the appellant.

Additional Ground 13 Sufficiency of Information

Darien Williams testified to buying cocaine from Tony on January 19, 2010 (RP pg 221, 242). Shaviri drove Williams to the house (RP pg 26). Shaviri saw a van parked out front but did not do a records check (RP pg 43). Shaviri could not confirm identity of suspect (RP pg 43). Shaviri did not know who is inside and who Williams met (RP pg 43-45). This was a reliability buy to establish Williams' reliability (RP 47, 48).

There was not one independent corroborating evidence to support Williams' claims. No other eyewitness testimony, just Williams claims that he bought drugs from two suspects. A transaction that took place inside a residence where no one can verify his claims by observations (RP pg 215, 220, 221, 222).

When Williams first agreed to become a CI in favor of a lighter sentence, Shaffer interviewed him (RP pg 54). At the interview Tony was named as a target (RP pg 55). Shaffer testified that Tony was the main target (RP 102). Shaffer stated that Tony was a target before January 19, 2010 (RP pg 147). Yet Williams stated he never knew Tony before January 19, 2010 (RP pg 229, 242). Williams stated he never seen Tony before January 19, 2010 (RP pg 229, 242). Shaffer's statements contradicts Williams statements.

Williams stated he learned who Tony was and what he did by his contact with Misty (RP pg 215, 222, 229, 230, 242, 243). Williams stated he gave descriptions of all the individuals inside the residence (RP pg 232). Shaffer stated he investigated all individuals inside the residence (RP pg 165). Deputy Mark Fry states there are two suspects based on PCSD computer systems and background checks (AF pg 36).

Where is the corroborating evidence to support his assertions that there are two suspects. There was no wiretaps to record phone conversations, no video recordings of the buys, no eyewitness corroboration, or any other kinds of evidence of who actually did the delivery. Nowhere in the affidavit does it state any kind of involvement that the suspect Tony White played (AF pg 33-36).

Shaffer testified that he does a complete investigation (RP pg 72). What kind of investigation does he do? Does he just believe the statements of a person who is trying to avoid a prison sentence by any means necessary and not corroborate his information? Does background checks on two suspects provide enough evidence to prosecute the individuals? If this was the case then any person with a criminal history is guilty of committing a crime. Shaffer's failure to do a proper investigation prejudiced the appellant by making him a suspect based on his criminal history alone.

There were at least seven other people with criminal history related to the residence. Most of whom have a history of drugs. The following people have lived there: Sheila McCully, Tina Guarrsa, Tiffany Wagner, and Christain. The following people have been found living there and arrested at the residence: Aaron Baker, Randall Baker, James Marlowe, Danielle Sears, Sean Larson, Steve, Roni, and Jennifer. Why were none of these people considered suspects? They were arrested multiple times at the residence in question. If Shaffer did a complete investigation of all individuals as he stated (RP pg 72, 165), then he would have found out this information. Thus, the suspect list would have been increased. The affidavit has insufficient amount of suspects (AF pg 33-36).

Williams stated he walk to the meeting spot on 56 street (RP pg 240). Where was he before the meeting? Nobody asked this. It is apparent that Williams did not live nearby, otherwise he would have ran into Tony before January 19, 2010. So the question is where was he prior to walking to meet the officers (RP pg 240). It is apparent that he was somewhere in the vicinity.

When Shaviri saw the van parked out front, he should have done a records check. Since the van belonged to nobody the appellant knew, the next logical assumption is it belonged to Williams. Thus, Williams was visiting Misty prior to the meeting.

Misty is a known prostitute, dealer, and drug user. She is known to do anything to get her drugs. With these facts, the appellant submits the following for consideration. Williams came to visit Misty for some unknown reason. Since Misty is the only person who Williams knew at that residence (RP pg 215, 229, 242, 243), he was not there to see anyone else.

Williams could have learned about Tony during this unofficial meeting. This meeting took place prior to the controlled buy, so it would corroborate everyone's testimony about learning about Tony before the buy. It would also support

It would also support the affidavit of only being one buy in January (AF pg 36). If a proper investigation was done, all of this would have been found out. Instead the warrant was issued based on a criminal history and an unreliable informant's statement with no independent corroborating evidence.

Based on the facts there is enough circumstantial evidence to support Misty as being a suspect. There is not enough evidence to support Tony as being a suspect nor enough evidence to support the allegations in the information.

Insufficient evidence is grounds for dismissal. The appellant was prejudiced by being convicted of charges that is insufficient.

Additional Ground 14 Insufficiency of Evidence

Circumstantial evidence and direct evidence are equally reliable. See *State v. Delmarter*, 94 Wn.2d 634, 638 618 P.2d 99 (1980). Jury Instruction # 5 states this. The court states this as jury instruction # 6 (RP pg 454). The prosecutor states this in closing arguments (RP pg 475, 476). The appellant disagree with this fact. Too many innocent people, like the appellant, have been arrested and convicted based on circumstantial evidence. Circumstantial evidence is called that for a reason. Circumstances point to a conclusion because of limited knowledge and evidence.

Now if it is the correct conclusion nobody really can tell, not without the complete facts and evidence. Mr. Lane talked about circumstances tell you that someone walked across your lawn the night before (RP pg 476). But that is all that it tells you. It does not tell you who, male or female, adult or child. It does not tell you one or many. It does not tell you about what time. There are too many questions that is not answered.

Lets say in the morning you found a pair of boots with snow encrusted on the bottom and sides. Do you assume that the owner of the boots walked across your lawn just because there is snow on them? What if the owner was shoveling snow from the door to the sidewalk. That would be the reason for the snow being on the boots. But it still does not prove that the owner of the boots walked across the lawn.

Just like in the case of the appellant's allegation of UPCSUID. Circumstances showed that there were four people present on 2/17/10. Circumstances showed that other people occupied the room that the State claims was solely the appellant's. Circumstances showed that documents were found in the room. Some belonging to the appellant, some belonging to others. Circumstances showed that the appellant was found in the vicinity of the room. But none of this proves that the room was solely the appellant's. None of this proves that the drugs that was found in the room belonged to the appellant. None of this proves that the appellant knew the drugs were in the room.

Mere proximity is insufficient to establish constructive possession. Jury Instruction # 19 states this. See *State v. Hagen*, 55 Wn.App. 494 (1989); *State v. Spruell*, 57 Wn.App. 383 (1990). Mr. Lane stated in

closing arguments that the appellant was found in the vicinity of the room where the drugs were found (RP pg 471). This inference prejudiced the appellant by declaring that being near the drugs is enough for constructive possession.

Jury Instruction # 19 states the defendant had dominion and control over a substance if the defendant had the ability to take actual possession of the substance, exclude others from possession, and whether the defendant had dominion and control over the premises. Mr. Lane explains dominion and control by stating he is in near proximity of the object (RP pg 473). He states that being in proximity of the object is constructive possession (RP pg 473). This prejudiced the appellant by defining dominion and control by merely as the ability to reduce the object to actual possession. See State v. Hagen, 55 Wn.App. 494 (1989); State v. Olivarez, 63 Wn.App. 484 (1991). This also implies that the appellant being in mere proximity of the drugs is sufficient.

The appellant testified that he was in front of the doorway to the room behind the tv (RP pg 426, 427). This is supported by the affidavits of James Marlowe and Charles Williams (AF pg 30, 31).

Evidence is sufficient to support a conviction if, viewed in light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. See State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). The appellant disagree with this inference. Viewed in light most favorable to the State conflicts with innocent until proven guilty. It is like saying guilty until proven innocent. This violates a person's Constitutional right to due process and a fair/just trial. It puts the burden of proof on the defendant.

As Mr. Lane states the burden of proof is on the State (RP pg 469-481). Jury Instruction # 2 states the defendant is innocent until it is overcome by reasonable doubt. but the inference viewed in light most favorable to the State shifts the burden to the appellant.

In order to prove unlawful possession of a controlled substance with intent to deliver, the State must show that the appellant (1) unlawfully possessed (2) with intent to manufacture or deliver (3) a controlled substance. Element (3) is given, a controlled substance was found on 2/17/10. Element (1) is not, the State could not prove possession, so the State tried to prove constructive possession.

As the record shows there were other people found in the residence (RP pg 176, 182, 183, 219, 349). There is also evidence of other people occupying the room (RP pg 159, 268, 282, 293, 310, 339, 342). The appellant testified to the fact that others were living there (RP pg 421, 444). With all of these facts, element (1) cannot be proven beyond reasonable doubt.

So the State tried to prove dominion and control. The State introduced the lease agreement with the appellant's name as proof of dominion and control (RP pg 281, 282, 283, 286, 292, 328). The State introduced Dolores Levet and had her testify that the appellant paid the rent (RP pg 298). Mr. Lane tried to infer that the appellant was the only person responsible or the only person to have authority over the residence (RP pg 443, 444).

He tried to use all of this to prove dominion and control.

The appellant testified that he was not the only one responsible (RP pg 444). In fact the appellant had no control over the premises. The evidence and testimony shows that others have resided there. What was not shown was that the appellant had no say so in who came over and stayed. There were times when the appellant came home from work and found someone sleeping in his bed. Thus the testimony of others sleeping in both rooms (RP pg 421). See addition ground 15 for further arguments. There is not enough evidence to prove beyond a reasonable doubt.

Element (2) with intent to manufacture or deliver. The manufacture does not apply to this case. While the quantity of drugs alone may not be sufficient to establish intent to distribute, thus, the central question is whether corroborating evidence is present to support a conviction. First six packets of cocaine and a separate baggie of cocaine was found (RP pg 259, 310, 311, 312, 393, 394, 395). There was evidence of baggies and containers found (RP pg 250, 256, 310, 311, 333, 390). The exhibit record shows the following Ex 22, Ex 25, Ex 32, Ex 34, Ex 35, Ex 36, Ex 37, Ex 38, Ex 39 (ER pg 42, 43).

There was testimony about packaging material (RP pg 311, 467, 479). The exhibit record shows Ex 38 as a box of sandwich baggies found in the livingroom (ER pg 43). The exhibit records shows photos of the box of baggies (Ex 13, ex 14 (ER pg 42)).

There was no scale found which would be a nexus between baggies and drugs. The common practice to package large chunks of drugs is to weigh them before packaging. Since no scale was found there is absolutely no nexus between the box of sandwich baggies to packaging materials for drugs as Deputy Robert Tjossem testified to (RP pg 311) or Deputy Kristian Nordstrom (RP pg 333). Their testimony was based on assumptions of common practices of drug dealers. But there is no physical evidence of this.

The appellant testified that he was moving (RP pg 425). There was testimony that moving boxes were found (RP pg 318, 323, 466). The exhibit record shows pictures of the livingroom Ex 13, Ex 14 (ER pg 42). In both pictures it depicts the coffee table where you can see a box of sandwich baggies (Ex pg 51, 52). What is also depicted is a plastic grocery bag (Ex pg 51, 52). Inside the bag was sandwich baggies full of small computer parts, electronic parts, connectors, screws, nails, etc.; It was there for everybody to see. This is a nexus for packaging material but not for drugs as the State claims. The appellant is a certified autobody man, as such, it is common practice of mechanics to use baggies to hold small parts. Since there is a nexus between baggies and parts and no nexus between baggies and drugs, the State has not proven its case. At least not beyond a reasonable doubt.

Evidence shows that the appellant had \$289 (RP pg 107, 309, 466, 479). The exhibit record shows this as Ex 29 (ER pg 42). There was statements of large sums of money (RP pg 466, 479). There was testimony from Dolores Levett of having a bankroll (RP pg 298, 466). There are problems with her testimony, see affidavit (AF pg 27). Deputy Shaffer

testified to the value of the drugs found to be \$4000 to \$5000 (RP pg 127). Compared to the amount of drugs found to be worth, \$289 seem to be chump change.

I ask since when is it against the law to carry cash? How much money does an average person carry? Is \$289 considered more than average? Would you carry extra cash if you knew you were going to need it? Would you carry extra cash to go shopping? No do by asked why the appellant had \$289 in his possession. The reason was the appellant needed \$100 for deposit and \$40 a month storage fee for the first two months up front. See affidavit of Tony Turner for support (AF pg 29). The appellant also needed gas money for the two trucks that was there to move the items to the storage unit. With this being said, is the cash a nexus for drugs? With no corroborating evidence it comes down to one's intent.

The phrase "with intent to," or its equivalents, may mean any one of at least four different things: (1) That the intent referred to must be the sole or exclusive intent; (2) that it is sufficient if it is one of several concurrent intents; (3) that it must be the chief or dominant intent, any others being subordinate or incidental; (4) that it must be a determining intent, that is to say, an intent in the absence of which the act would not have been done, the remaining purposes being insufficient motives by themselves. It is a question of construction which of those meanings is the true one in the particular case. John Salmond, Jurisprudence 383-84.

How can you determine the intent of one person's mind. We can argue that a person intended to do this or intended to do that. Yet how often are we correct on the assumption. An assumption is similar to circumstances. Just because circumstances point in one direction does not make it true. We are human and sometimes we perceive the wrong things. Just like in the movie Vantage Point, without all the facts, you do not have the whole story. Everybody have things that they intended to do, but did not for one reason or another. So just because a person intended to do something but did not, does that make it wrong? Since when did we arrest people for thinking of doing unlawful acts?

The court finds the appellant to have a chemical dependency problem (JS pg 60). Now everybody knows that using drugs is the main intent of an addict. Mr. Lane implied the appellant's intent was to sell it (RP pg 479). Deputy Shaffer implied the appellant's intent was to make money (RP pg 127-130). But look at the evidence. First the value of the drugs found is estimated to be \$4000 to \$5000 (RP pg 127). When explained how it is broken down to sell, a dealer can make \$4300 (RP pg 128). So where is the money that a dealer makes? It is obvious that there is no profit in this by the evidence. So making money cannot be the intent. Now an addicts' concern is about consumption. So by the definition of intent stated above, the State did not prove this element.

Mr. Lane implied that a delivery on 1/19/10 proves intent (RP pg 470). There is a problem with this. He has to prove all the elements of the crime. There is one element in conflict. Even Mr. Lane admits this (RP pg 471), the identity of the person who sold the drugs.

Williams testified that he bought drugs from Tony (RP pg 220, 221, 242, 243). There are a lot of problems with his testimony. See additional ground 7 for additional argument. There was evidence of Misty selling drugs (RP pg 179, 181, 215, 216, 229, 230, 242, 243). The affidavit of probable cause supports Misty as the seller (AF pg 36). The affidavit of probable cause does not support Williams' claims of buying drugs from Tony. Not only this, there is some confusion of how the deals were set up.

First Williams stated he called Tony before coming over (RP pg 220). Then Williams states he called Misty (RP pg 243). Well which is it? After Williams states he called Misty, he said he met with Tony to buy the drugs (RP pg 243). Now there is a conflict, one drug dealer is not going to let another sell their client any drugs.

Selling drugs is a business, an illegal one, but still a business dealing in sales. Where the salesman or drug dealer works on commission. If a salesman has a product they want to sell, they need a customer. If that salesman has a friend that wants to buy that product, the salesman is not going to send his friend to a competitor to give up a guaranteed sale. It does not happen in the business world, it never happens in the drug world. Yet Williams wants to convince us that this did happen.

The State has the burden to prove all the elements of each crime beyond a reasonable doubt (RP pg 470). There are too many issues and not all the elements have been proven. The charges of count I UDCS and count II UPCSVID must be dismissed.

Additional Ground 15 Dominion and Control

The State produced various documents as evidence that the appellant had dominion and control over the premises. One of the documents was a lease agreement (ER pg 44 & RP pg 328). Mr. Lane insinuated that the appellant has sole responsibility (RP pg 443, 444). The State needed to prove dominion and control to substantiate their allegations of counts II and III.

Mr. Lane explained dominion and control (RP 473). He stated that an object near his vicinity is within his dominion and control (RP pg 473). He stated that if it's within his dominion and control, he is in possession of that object (RP pg 473). This makes the conclusion that mere proximity is enough. See *State v. Hagen*, 55 Wn.App. 494 (1989).

Here is another problem, it does not prove who that object belongs to. Just because a person is near an object does not mean it belongs to that person. For instance, you are going to school. You are in a classroom sitting behind a desk. That desk is yours to sit in for the duration of the course. You are in possession of that desk as long as you are in class. Does that mean that desk belongs to you? Do you own it? You are not the rightful owner. Since you are not the rightful owner, you cannot do what you want with it. You cannot take it with you. You cannot sell it. You are only allowed to use it. This proves that you do not have dominion and control over an object just because you are near it.

All this talk about dominion and control but nothing about what was going on inside the residence. There was mention of Misty and that

she was kicked out of the residence (RP pg 84, 434, 435). See affidavits for support (AF pg 2, 23). James Marlowe also can support this (AF pg 31). Nobody asked why. The reason is because she was selling drugs and everybody who was living there wanted her out.

The appellant stated he was moving out (RP pg 425). There is evidence of this (RP pg 323, 466 & ER pg 42 & Ex pg 51, 52). Yet again nobody asked why. There was testimony of others living there (RP pg 421). The appellant had no say so of who came over to visit or stayed. The appellant was also in fear of his life. See affidavit for support (AF pg 20). This affidavit supports a defense of count III pursuant to RCW 69.53.010(2). The appellant in good faith, who was under the threat of death, sought out help but never got it. This disproves Mr. Lane's statement about being aware of people selling drugs and doing nothing about it (RP pg 448, 450).

This was the reason the appellant was forced to leave the residence leaving most of his personal belongings behind. See affidavit of Tony Turner for support (AF pg 29). This proves that it was chaos in that residence and the appellant never had dominion and control. Based on these facts counts II and III should be dismissed.

Additional Ground 16 Relevance

A) The State called Kimberly Howard as a witness for the State. Her occupation is a forensic technician with the Pierce County Sherriff's Department (RP pg 194). She testified about latent fingerprints (RP pg 194-208). The results of her findings was "Did not find any fingerprints." (RP pg 202).

Since no fingerprints were found, what was the relevance of this testimony? Did the State produce this witness to waste the court's time? All it di was introduce evidence that was not relevant to anything. One has to conclude it was done deliberately to confuse the jury. It was ineffective assistance of counsel for not objecting. Without any relevance to the case, this testimony should have been suppressed.

B) The State introduced as evidence surveillance equipment (RP pg 119, 252, 253, 306, 308, 311, 355). There was testimony of the surveillance equipment (SV pg 6 & RP pg 115, 116, 119, 251, 252, 253, 256, 257, 306, 307, 308, 311, 335). Mr. Burgess objected to the relevance of this (RP pg 116, 119). The evidence was admitted and allowed to be testified about.

But not once had the State shown the relevance of the surveillance equipment. If they had provided the digital recorder to portray how the events of 2/17/10 occurred, it would have shown relevance. The State introducing this evidence is implying that only drug dealers have surveillance equipment. This is prejudicial to the appellant, by making it seem more likely than not that the appellant is a drug dealer. Since the State did not show the relevance of the surveillance equipment, all evidence and testimony should be suppressed.

Additional Ground 17 Jury Instructions

Jury Instruction # 7 and the second element of Jury Instruction # 8 states that the defendant had knowledge that the substance delivered was a controlled substance. Guilty knowledge is not an element of the crime. See *State v. Bailey*, 41 Wn.App. 724 (1985); *State v. Sims*, 119 Wn.2d 138 (1992). This is reinforced in jury instruction # 21, then the last sentence contradicts the instructions that it is an element of the crime by stating that the element is established if the person acts intentionally.

In *State v. Carter*, 127 Wn.App. 713 (2005) it states that the trial court instructs that the state must prove knowledge and gives defense proposed instruction on unwitting possession. Just as it is in the appellant's case. The decision was held because the jury was misled to believe defendant had the burden so the defendant was prejudiced by ineffective assistance of counsel. This applies the the appellant's case.

The jury was never instructed about corroborating evidence to support a conviction of possession with intent to deliver. While the quantity of drugs alone may not be sufficient to establish intent to distribute, thus, the central question is whether corroborating evidence is present to support a conviction. See *State v. Hutchins*, 73 Wn.App. 211, 214-5 (1994); *State v. Wade*, 98 Wn.App. 328, 338-42 (1999); *State v. Campos*, 100 Wn.App. 218 (2000); *State v. Huynh*, 107 Wn.App. 68, 76-78 (2001).

Additional Ground 18 Speedy Trial

A) On May 6, 2010 the appellant was surprised by the appointment of new counsel (Ev.pg.57). No reason was given or known to the appellant. On May 10, 2010 a hearing for the disqualification of counsel took place without the appellant being present. Under the Confrontational Clause of the 6th USCA and the Due Process Clause of the Fourteenth Amendment, a criminal defendant has a constitutional right to be present during all critical stages of the criminal proceedings if his presence would contribute to the fairness of the procedure. See *State v. Rooks*, 130 Wn.App. 787, 125 P.3d 192 (2005).

The appellant was denied his right to hear the issues and voice his opinion. The appellant was denied his right to choose which counsel he wants to defend him. The appellant was denied his right to waive his speedy trial by not having the option to choose an attorney to defend him. A fair and just hearing was thwarted by the appellant's absence causing a restart of his speedy trial rights.

B) On April 21, 2010 during the Omnibus hearing, the prosecutor informed the defense that they intended to rearraign the appellant on additional charges (Ev pg 55). This was scheduled for May 3, 2010 (Evpg 56). On May 3, 2010 the rearraignment was cancelled for no apparent reason. On May 6, 2010 the appellant was assigned new counsel causing a delay to his speedy trial (Ev pg 55). The rearraignment was scheduled for July 6, 2010 instead of an earlier date. On July 22, 2010 defense had insufficient

time to adequately prepare for material in part of his defense. The appellant was faced with going to trial unprepared or ask for continuance to delay his right to speedy trial (Ev pg 58).

Since the appointment of new counsel, it was clear that the appellant was going to trial. What is not clear is why the prosecutor delayed in adding new charges when it had all the evidence necessary to file those charges months earlier, and forced the appellant to waive his speedy trial to answer to the new charges. See *State v. Michielli*, 132 Wn.2d 299, 239-46 (1997). As early as April 21, 2010 or maybe as early as February 17, 2010. Since the added charges arose from the same criminal episode. From the date the charge was filed, the amended information, the crime based on the same conduct or arising from the same criminal episode, the time for trial should commence running from the date of the defendant's original information. See *State v. Ralph Vernon G.*, 90 Wn.App 16 (1998). So when the State delinquentlly amends an information to allege new charges, and the defendant requests a continuance to prepare a defense to the new charges, the continuance does not act as a waiver of the defendant's right to a speedy trial. See *State v. Earl*, 97 Wn.App. 408, 984 P.2d 427 (1999).

The question is why didn't the prosecutor amend the information at the beginning of new counsel's appointment. Or even at the scheduled arraignment date of May 3, 2010 (Ev pg 56). So when new counsel took over, he would be faced with all the allegations to prepare for defense. There appears to be no other reasonable explanation for why the prosecutor waited so long to add the new charges. The long delay, without any justifiable explanation, suggests less than honorable motives. These facts strongly suggest that the prosecutor's delay in adding the extra charges was done to harrass the appellant. Even though the resulting prejudice to appellant's speedy trial right may not have been extreme, the State's dealing with the appellant would appear unfair to any reasonable person. See *State v. Michielli*, 132 Wn.2d 299, 239-46 (1997).

C) On October 7, 2010 the day of appellant's trial, he was forced to choose between the right to have counsel proceed to trial adequately prepared and the right to speedy trial. The prosecutor provided additional discovery information the day before trial (Ev pg 59). So on the day of trial the defense was forced to ask for a continuance. The State has a duty to timely disclose any discovery material relevant to the case. See *State v. Price*, 94 Wn.2d 810 (1980). The State did not act with due diligence which prejudiced the appellant.

The trial courts have the ultimate responsibility for ensuring that trials are held within the time periods established by CrR 3.3. See *State v. Teems*, 89 Wn.App. 385 (1997). Strict compliance with the CrR 3.3 time for trial rule is required; a violation of the rule is per se prejudicial. The prosecutor's arbitrary action and the State's simple mismanagement of a prosecution is sufficient to establish governmental misconduct for purposes of CrR 8.3(b). The appellant's right to speedy trial guaranteed by the state and federal constitutions, US Const. Amend

6 and Const. art. I, § 22 (amend. 10), was violated. See State v. Fladebo, 113 Wn.2d 388, 392, 779 P.2d 707 (1989). The appellant requests this court to dismiss all charges with prejudice.

Additional Ground 19 False Allegations

Detective Ray Shaviri testified that on January 19, 2010 they were doing the first reliability buy (RP pg 37). Deputy Kory Shaffer testified that on January 19, 2010 they were doing the first reliability buy (RP pg 142). Darien Williams implied that this was the first buy by stating he never met Tony until that day (RP pg 242). But Shaffer's report states it was the second buy with Tony (RP pg 145). How can this be?

Shaviri testified the need for informants. He stated that informants had to have contact with a target before and had a history of contact (RP pg 22). Shaffer testified that he interviewed Williams to be a possible informant. Shaffer stated during the interview they talked about various targets (RP pg 55). Shaffer stated during the interview one of the targets named was Tony (RP pg 55). Darien Williams testified that during the interview Tony was named as a target (RP pg 214). Shaffer testified to the numerous contact with Tony prior to 1/19/10 (RP pg 55, 56, 57). Williams stated he named Tony before 1/19/10 (RP pg 241). Yet Williams also testified that he never knew Tony, never seen Tony before the buy on 1/19/10 (RP pg 215, 229, 242). So how can Williams name Tony as a target during the interview? If Williams never had any contact with Tony, how can Williams be a reliable informant?

Shaffer testified there were two targets related to the residence. One was Misty (RP pg 181) and the other being Tony (RP pg 147). Shaffer stated Williams was in phone contact with Tony and that Tony invited Williams to the house to buy drugs (RP pg 57). Williams stated he called Tony on the phone before coming over (RP pg 220). After being frustrated Williams declared he called Misty before coming over (RP pg 243). Well who did Williams actually called that day?

Shaffer testified that Williams gave a description of Tony (RP pg 148, 149, 181, 276, 277). Williams testified he gave a description of all individuals inside (RP pg 232). Williams stated he gave a detailed description of Tony (RP pg 233, 234). Shaffer testified he wrote the report after the buy on 1/19/10 (RP pg 149). This report does not have a description of Tony (RP pg 148, 181, 276, 277). Then Shaffer declares that there was no need to document such crucial information (RP pg 277). Shaffer states a description of Tony was given prior to the buy (RP pg 276, 277). Williams stated he never saw Tony before 1/19/10 (RP pg 215, 229, 242). So how can Williams describe a person he never seen?

Williams testified to knowing Misty (RP pg 215, 229, 242, 243). Williams admitted to buying drugs from Misty (RP pg 215, 222). Shaffer states Misty is a target that Williams has done a buy with her (RP pg 179). Shaffer stated he investigated all individuals inside the residence (RP pg 165). Shaffer declared he does a complete investigation (RP pg 72). Williams states he met with Tony (RP pg 220, 221, 243). Shaffer stated he documented the event (RP pg 144, 145, 149, 177, 181).

Nobody verified Williams claims. Shaviri testified he did not know who was inside the residence (RP pg 42, 43, 44, 45). So if Shaffer did a complete investigation, where is the independent corroborating evidence to support Williams claims?

Both Shaviri and Shaffer stated they did not want their informant to sell them their own drugs if they had them (RP pg 28, 59). The appellant made claims that it was possible Williams was at the residence before the meet (AG 13). If this is true then it is possible that Williams brought out his own drugs. How is this a controlled situation as Shaffer claimed (RP pg 145)? They cannot observe who Williams was meeting. This brings too much doubt.

Shaffer doing a complete investigation and documenting everything, why did he not document an accurate description of Tony (RP pg 277)? In fact Shaffer had done such a complete investigation that he concluded that there were only two suspects/targets in the residence. Yet there was evidence of four more people at the residence (RP pg 159, 182, 183). All of whom had criminal histories dealing in drugs.

Shaffer had documented everything that when it came down to getting a search warrant, there was no mention of Tony selling any drugs (AF pg 36). Shaffer claims that Tony was the main target (RP pg 102). Yet the affidavit of probable cause states Misty as the main target (AF pg 36). Shaffer declares "I believe everything inside the residence was associated with Mr. White." (RP pg 158). Even after evidence shows that it does not (RP pg 159, 176, 182, 183, 282, 292).

On February 18, 2010 the information only had an allegation of UPCSUID. There was no allegation of a delivery. On July 6, 2010 the appellant was rearraigned to include a delivery charge. Why did the State wait so long to charge a delivery. If a delivery existed and the State knew about it, the State would have automatically charged it at the time of arraignment, not later.

I submit the affidavit of probable cause as proof of all my allegations and claims of innocence (AF pg 33-36). Even the court seem to believe the appellant's claims were true. The Judge state: "There is some information the police was looking for Misty at some point in question, certainly there is no information that she was involved in the apartment on the January date when the one delivery occurred, nor that she was involved at the later date when the subsequent delivery occurred. She's the only one that there has been any direct tie to dealing drugs." (RP pg 451). At that time the affidavit was not available to the appellant. If it was, it would have been the missing evidence the Judge stated that was missing. See Brady v. Maryland, 373 U.S. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194 (1963). Yet the record shows the inference to the search warrant (RP pg 178). Why didn't the State produce the affidavit at this time to support the warrant? See US v. Price, 566 F.3d 900 (9th Cir. 2009).

The Judge's statement support the appellant's affidavit (AF pg 23). Which all of it is supported by the affidavit of probable cause (AF pg 36). Thus, this leads to one conclusion. That everything that the State

claimed the appellant did was a fabrication. This is the reason for so many discrepancies in all the testimony. This is the reason for withholding exculpatory evidence (AF pg 33-36 & Ex pg 54). The only thing that they could not change is the affidavit of probable cause because it was filed with the court. Otherwise everything was manufactured to fit this case against the appellant.

Under RAP 9.11 this court has the authority to admit additional evidence for review. The appellant fears that he will not get a fair and just second trial based on what happened in his first trial. In the furtherance of justice, the appellant requests this court to accept all the evidence he has provided to review on his appeal.

Based on all the information provided the court should grant a dismissal with prejudice pursuant to CrR 8.3(b).

Additional Ground 20 Prosecutorial Misconduct

This indictment is based on the fact the appellant refused to testify against Misty. See affidavit (AF pg 14-19). There can be no other reason for the false allegation (AG 19). To harrass the appellant the State rearraigned the appellant on 7/6/10. State v. Michielli, 132 Wn.2d 229, 239-46 (1997). Based on the affidavit of probable cause, two buys was done with Misty (AF pg 36). The State knowingly and intentionally, with reckless disregard for the truth, prosecuted the appellant (RPC 3.8(a)). See Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 267, 57 L.Ed.2d 677 (1978).

When all the witnesses testified and their statements were inconsistent, one has to being to wonder about the truthfulness of their testimony. When a prosecutor suspects perjury, the prosecutor must at least investigate further, consistant with his duty to correct what he knows or suspects to be false and elicit the truth. US v. Price, 566 F.3d 900 (9th Cir. 2009). A procecutor has a Constitutional DUT"Y to alert the defense when one of his witnesses gives FALSE testimony. See Moovey v. Holohan, 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed.2d 791 (1935). The court broadened this principle to include a prosecutor's active solicitation of FALSE testimony and his failure to CORRECT false testimony.

The prosecutor thought the appellant was under supervision (RP pg 538). So why didn't the prosecutoer attempted to contact the appellant's community corrections officer? As the appellant's affidavit states (AF pg 20), he would have supported my alibi. When exculpatory or mitigating evidence is readily accessible, the prosecutor is obligated to investigate further. To expand the scope of their investigations. To discourage any temptations by the State to structure their inquiry or their staffing in such a way as to remain ignorant of material exculpatory or mitigating evidence. A criminal trial should be the search for the truth. Not to change the rules of the game to turn into a mere poker game to be won by the most skilled tactician. See In re Rice, 118 Wn.2d 876 (1992).

There should be no reason why the prosecutor did not talk to the appellant's CCO. Especially when he was informed to do so (AF pg 14-19). There is only one conclusion the appellant can come up with. The appellant was being tried during election year (Ev pg 69, 70). The

Pierce County Prosecutor's Office was more concerned about conviction numbers than the truth. Even then they did not want to spend the time and money to do a proper investigation. Just as the campaign platform states: "aggressively prosecuting without spending much money." (Ev pg 69). The appellant was prejudiced because of the time period his trial commenced.

During closing arguments the prosecutor explained dominion and control. It is misconduct to imply a person had dominion and control by being in proximity of an object, thus being in possession of that object (RP pg 473). It violates RPC 8.4(d). See *State v. Hagen*, 55 Wn.App. 494 (1989). The prosecutor inferred that the appellant could have had a witness come and testify in my behalf (RP pg 522). The appellant asserts that the prosecutor is wrong. See affidavits for support (AF pg 21, 22).

The prosecutor claims that ID was found in the room belonging to the appellant (RP pg 514). But the prosecutor withheld exculpatory evidence to this fact (Ex pg 54 & RPC 3.8(d)). *Brady v. Maryland*, 373 U.S. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194 (1963). See affidavit for further support (AF pg 26). This is a violation of RPC 3.8 (d).

The prosecutor stated that what lawyers have to say is not evidence (SV pg 3). Yet through his closing statements the prosecutor made inferences as they are facts. Facts that are not supported by the evidence (RP pg 507-524). The prosecutor made all these inferences when the appellant cannot rebut it. It was deliberate and intentional, which is a violation of RPC 8.4. The appellant provided an affidavit to rebut these claims (AF pg 25, 26). There was testimony in support of the mess in the appellant's affidavit (RP pg 352, 353, 354, 358, 359, 360). There was testimony to support the appellant was the last one detained (RP pg 350). All the evidence support the appellant's claims, not the prosecutor's.

During sentencing the prosecutor tried anything and everything to give the appellant a harsher sentence that is beyond standard practices and above the standard guidelines. First the prosecutor gave the appellant a high offender score (AG 1). The prosecutor then stated that the appellant was under supervision at the time the crimes were committed to try to give the appellant an higher offender score (RP pg 538), which is not true (RP pg 543).

The prosecutor asked for the high end of the sentence range (RP pg 537). To show cause for the request, the prosecutor states: "The defendant affirmatively attempted to delude the jury into thinking he somehow had no responsibility for this. That's I think a strong indicator of his lack of contrition, his lack of understanding of that this is a problem, that his drug dealing is a problem. He never taken any responsibility whatsoever." (RP pg 539). This is an outright lie. The facts showed the State withheld exculpatory evidence and knew about it (AF pg 33-36 & Ex pg 54). Facts show that the appellant has taken responsibility (RP pg 540). But not this time, Why? Because the appellant is INNOCENT! As the evidence shows (AF pg 36).

The prosecutor states the appellant has a long criminal history (RP pg 539). Again that is an outright lie. Over a four year period, the appellant got four criminal convictions, two of which are misdemeanors (Ev pg 66). As the record shows, the convictions are dated 12/8/98, 2/24/00, 5/26/00, and 9/28/01 (Ev pg 66). These are four convictions, does not matter on how many counts. The record shows the appellant went to prison for the 9/28/01 conviction and has not gotten another one since (Ev pg 66).

The prosecutor stated the appellant has a misdemeanor conviction of false statement (RP pg 539). This is an outright lie. The misdemeanor conviction from Lewis County cuase no. 981006531 was for unlawful possession of drug paraphanilia (ev pg 66). The appellant got charged with false statement but never got convicted. The prosecutor's blatant accusations tried to make the appellant into a liar and provide evidence to the fact (RP pg 539). The prosecutor's blatant accusations tried to make the appellant into a harden criminal with no morals, scruples, and a long history of dealing drugs (RP 539). When in fact the prosecutor is the one that's lying, as the record shows and proves.

As the facts show, not only has the prosecutor lied, he was vindictive, harrassed the appellant, and showed blatent disregard for the truth. See State v. Martinez, 121 Wn.App. 21, 86 P.3d 1210 (2004). Based on prosecutorial misconduct that violated the appellant's due process rights, right to fair and just trial, and speedy trial right, in the furtherance of justice the court must dismiss all charges with prejudice.

Additional Ground 21 Ineffective Assistance of Counsel

A defendant who has a constitutional right to effective assistance, whether retained or appointed. A defeñse lawyer should take prompt action to protect the accused and inform him of his rights and take all necessary action to vindicate such rights. Counsel should consider all procedural steps which in good faith may be taken, conduct a prompt investigation of circumstances of the case, and explore all avenues leading to the facts relevant to guilt. A criminal defendant is denied effective assistance of counsel where the attorney commits omissions which no reasonably competent counsel would have committed, such as failing to adequately acquaint himself or herself with the facts of the case by interviewing witnesses, failing to subpoena them, and failing to inform the court of the substance of their testimony.

Counsel has a duty to his client not to be a friend of the court. Counsel's interests should be in the defense of his client, not to force his client to take a plea. The appellant's first attorney did nothing but tried to get the appellant to plead guilty.

For support and further information, see affidavit of Tony White (AF pg 5-13). The affidavit supports violations of RPC 1.4, no communication. The affidavit supports violations of RPC 1.3, due diligence. The affidavit supports violations of RPC 1.2, the scope of representation. The affidavit supports violations of RPC 1.1,

competence. The following is an example of ineffective assistance. During the opening statements Mr. Burgess states: "Evidence will also show that Mr.ⁿ White had been evicted from that residence. Evidence will show he was present during the time of the warrant, execution of the warrant, but his landlord had evicted him in writing prior, substantially prior, to the execution of the warrant." (SV pg 9). If Mr. Burgess did his job and investigated then interviewed witnesses, he would have known this was not true (RP pg 286). The following is caselaw pertaining to ineffective assistance: US v. Cronic, 466 U.S. 648, 80 L.Ed.2d 657, 104 S.Ct. 2039 (1984); Strickland v. Washington, 466 U.S. 668, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984); State v. Maurice, 79 Wn.App. 544, 903 P.2d 514 (1995).

Supreme Court holds allegations from a pro se complaint to less stringent standards than formal pleadings drafted by lawyers. See Boag v. MacDowgall, 454 U.S. 364, 70 L.Ed.2d 551, 102 S.Ct. 700 (1982). If this court can understand the appellant's pro se pleadings please put less stringent standars than formal pleadings. If this court agrees with the arguments the appellant pleaded in this statement of additional grounds, please grant the appellant's request of dismissal with prejudice.

DATED this 14th day of October, 2011.

Respectfully Submitted,

Tony White

Appellant, Pro se

CERTIFICATE OF SERVICE BY MAIL

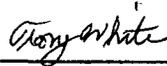
Under penalty of perjury under the laws of the State of Washington, I hereby declare that I sent a true and correct copy of the attached STATEMENT OF ADDITIONAL GROUNDS to opposing counsel and to Court of Appeals, Div. II, by depositing the same in the United States Mail, first class postage prepaid, as follows:

TO: RUSSELL SELK LAW OFFICE
1037 Northeast 65th Street, Box 135
Seattle, WA 98115

and

Court of Appeals, Division II
650 Broadway, Suite 300
Tacoma, WA 98402

DATED this 14th day of October, 2011.



Tony White, DOC # 789827
Pro Se Appellant
Airway Heights Corrections Center
PO Box 2049, LB-5U
Airway Heights, WA 99001-2049

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**AFFIDAVIT OF
SEARCH AND SEIZURE**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 18th day of April 2011, depose and say:

On 2/17/10, I arrived at 5422 S. Alder St. Unit B, approximately 7:20 am. I prepared a moving box for packing. I started packing my power tools first. Then I stuffed in between them misc. nails, screws, bolts, nuts, and wires. I then packed my DVD player and misc, car audio equipment. Next I proceeded into the northeast bedroom and removed the safe, which I placed on top of the TV in the livingroom. The contents of the safe contained two bracelets, two necklaces, and two watches to be estimated a total worth of \$2800.

I went back into the northeast bedroom and grabbed the Dell XPS laptop (worth \$3600) and put it into the moving box. I then squatted down in the doorway of the northeast bedroom and disconnected all the wiring of the computer system (worth \$6200) leading to the tower. A desk sits in front of the entrance just inside the doorway of the northeast bedroom. This is verified by the State's photo exhibit.

After disconnecting the wires, I walked around to the front of the desk. I observed the front porch through the monitor for the surveillance system (worth \$1800). It showed that nobody was there. I look towards the floor where the tower rests and notice some extra USB cords that I did not recognized. So I unclipped my Blackberry from my hip and checked the different fittings of the USB plugs. Once I found the right one, I placed the phone on the floor. I then crawled under the desk to disconnect the leads to the Logi-Tech Surround Sound Speakers from the tower. Getting up, I hand the speakers and wires to Charles Williams to pack them back into its original box.

I bent down and pulled the tower out from under the desk. Getting up, I observed the scene on the surveillance monitor. The front porch was still empty. I proceeded to take the tower into the livingroom and placed it on the corner of the livingroom table. I then turned around and sat down on my knees, in the doorway of the northeast bedroom. I proceeded to disconnect the wires of the computer system to pack them up. From the time I last seen the surveillance monitor to this point, the lapse of time was less than 30 seconds.

The next thing I know, I hear this loud bang. I jerk my head around towards my left and observed the shocked expressions on the faces of the people in the livingroom. I hear the scrambling of feet running up the stairway. I then hear somebody yell "Police, freeze!" I then twisted my body around to fully face the livingroom and raised my hands.

About 10 seconds later, I can see the first person come around the corner with a machine gun aimed. He yelled "I got one," and continued into the livingroom. He yelled "I got another one," as he continued to look around. I hear someone else yell "I got one." I hear someone else yell "Is there any more?" At this time I still have not been spotted.

I started hearing different people calling out clear. Since I have not been spotted yet and I did not want to get shot. I stood up, still with my hands up, I took two steps forward. The person I saw that came around the corner first finally spotted me. He yelled "I got another one."

Mere minutes after the breach, I was put into handcuffs. I was then asked by the arresting officer, if I had any weapons on me. I told him that I had a box knife clipped to my belt. He then removed it and placed it on the kitchen table. The officers then proceeded to remove everybody from the premises. We were separated, I was placed next to the police cruiser parked right beside my Surburban.

I have been diagnosed with PTSD and anxiety. Plus I was heavily medicated cause I was getting over the swine flu. So when the police barged in, I was in shell shock. Plus being medicated did not make the situation any better. I was in no condition to make any sound judgments.

Another officer came and asked me if I had anything in my pockets that he should know about. I told him that I had some Marijuana in my pocket. He then told me that he did not care about that. I stated that I did not know what he was talking about. Then he proceeded to check and empty the contents of my pockets. The officer put everything he found on the hood of the cruiser.

After I was frisked, pockets empty, another officer brought over Charles Williams and put him into the back seat of the police car. He then came over and led me back to the porch. He then proceeded to ask me for my name, occupancy at this residence, who else lived here, my criminal history, and if I was still on DOC. I answered all his questions.

Then he asked me if I knew where Misty was. I told him somewhere over on 96 St. Next he asked if Misty still lived here. I told him she moved out two weeks ago. He then continued to ask several more questions about Misty, which I answered.

He then asked me if I knew why they were here. I replied, "I don't know. From all the questions you are asking about Misty, I have to assume that you're here for her." He told me that he was here for the rock, and I could help myself by being honest with him. I agreed to it. He asked me where the rock was, which I said I did not know. He asked me when was the last time I sold the rock. I told him it has been years. He asked me if I was working. I told him I was not. He asked me how I was making money. I told him that I was selling DVD's. Then he got upset at me and said that he did not care about that. That I was lying to him cause he bought rock from me within 72 hours. And for lying to him, that I was going right back on DOC.

At this time I knew he was lying to me. Why, I couldn't tell you. 72 hours ago, I was incapacitated with the swine flu. I could not get out of bed, not even answer a phone. My illness can be corroborated by the pills found in my pocket. So I was in no condition to have sold any drugs as the officer had mentioned.

He then took me back the the same police car and went through the items found in my possession. He then grabbed my wallet and said that he was taking it. After he finished looking through the items, he put me in the back seat next to Charles Williams. After sitting there for 20 minutes he came back and asked me for the combination to the safe. He told me that if I didn't give it to him that he will break it open. I told him that it would not be necessary. That the safe could be opened by a key that is on my keychain. After I told him which key it was, he left.

After sitting in the police car for about an hour, we were finally taken down to Pierce County Jail and booked in. During the time we were sitting in the police car, we could not see what was going on inside the house. Or even what they were taking out of the house. Since they stragetically parked the car next to my Suburban, it was in the way of seeing what they were doing.

During booking, I noticed a few items were missing from my personal belongings that were not put into my personal property for holding in the jail. One was my wallet which I knew that the officer took. Another was my keys that the officer never returned. And I noticed my two credit cards, \$289 in cash, and a \$200 money order was missing; since all money is posted into my inmate account so I can use it to order inmate store. I had a balance of \$0.00 after I was booked in. So that led me to the conclusion that the police took it for seizure.

After I was booked in, I called a friend of mine (Kelly McCormick) since he had access to a tow truck, to go to the house at 5422 S. Alder. I wanted him to pick up my GMC Suburban, my laptop, my computer system, my phone, my safe, and the recording device for the surveillance system. When I called him back a few hours later, he informed me that he got to the house a little after 11 am. By then the police were gone and that he went through the house. He found the safe, it was left open and empty. The other things where not there also. I asked him about my GMC. He told that it was gone too. So I had to conclude that the police seized those items as well.

The camera for the front porch has both audio and video capabilities. So if the officers knocked and announced themselves, it could be heard through the speakers on the monitor. And the recording device would have recorded the event. Since my interrogation took place on the porch, the whole thing would have been recorded. So when the State introduced the surveillance cameras as evidence and photos of the monitor showing the front porch. Why was the recording device not entered as evidence along with the others? Not once was I told the reason why they were there for. Not once was I shown a search warrant. Not once was I shown an affidavit for search. Not once was I given my Miranda Rights. I was never given a receipt of

inventory under CrR 2.3(d). I was never given a notice of seizure as required under RCW 69.50.505(3). Now I know what items are gone, what items were exhibited as evidence, but it still does not tell me what items the police took, and where my missing belongings went. My natural assumption is the items were seized, but there is no evidence of it for some of the items.

Affidavit pursuant to 28 U.S.C. §1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

Airway Heights Correctional Center

L-Unit B-5-U

P.O. Box 2049

Airway Heights, WA 99001

AFFIDAVIT OF
Ineffective assistance of counsel
Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 19th day of April 2011, depose and say:

After my arraignment on 2/18/10, my first opportunity to speak with counsel was on 3/2/10. John Purves asked me if I was willing to testify against Misty. For my corperation, the State was willing to drop all charges. I told him no and that they did not have sufficient evidence to charge me with UPCSWID. I right then questioned the sufficiency of the charging documents and the sufficiency of evidence.

I also questioned the validity of the search warrant. I told my lawyer that I have issues of illegal search and seizure. I told him I was not informed of the reason why the police was there. I also stated I have never even seen the search warrant. My lawyer said that he would look into it. I then requested a copy of the discovery and the search warrant. He said he could not give me a copy.

I then provided names of material witnesses to substantiate my alibi. One was my community corrections officer Greg Oliver, another was Daniel Sears's (roommate) community corrections officer, and my therapist at Greater Lakes Mental Health. I then provided the names and locations of witnesses who can substantiate my where abouts from the beginning of the year till the time of my arrest. One was my brother-in-law, David Lockridge, another was the place I always hang out at (Ling & Joey Landan), and my current roommate Tony Turner.

I then told my lawyer to locate my GMC Suburban. Since my keys are missing from my property and the vehicle has a key encrypted security system, it will not start without the remote and key. The ignition to the security system cannot be bypassed. So the only way to take the vehicle without the keys and remote is to tow it. I was told by my friend Kelly McCormick and a couple others that my GMC was not at 5422 S. Alder, where I have last seen it.

I told my lawyer he probably could find it in the police werehouse for confiscated vehicles. My vehicle contained material evidence that corroborated my alibi of 5422 S. Alder was no longer my current residence and mailing address. In the glove box, it contained my new insurance cards. It also contained letters that showed my new mailing address of 12th Street. And it also contained in the third row of seats, a sleeping bag and a pillow. The cargo area has my bag of clothes. Which would prove that I would some-times sleep there.

On 3/22/10, I was offered 15 months to plea guilty to UPCSWID. Again I reiterated that the State did not have sufficient evidence to support that charge. At that time, my attorney seemed flustered. He just sat there

staring at me for a moment before he said anything. Then he asked me what I would plead to. I told him I would plea guilty to a conspiracy charge. That we can negotiate on the time to serve. He told me to hold on, he'll be right back after talking with the prosecutor.

When my attorney came back, he told me that the prosecutor has made a counter offer. If I take a 15 month sentence, the State will be willing to convict me of the lesser crime of an attempt to possess. I then told him that the State could not do that. An attempt to possess is a non-ranked felony which ranges from 0 to 12 months. So 15 months would be an exceptional sentence. Besides I will only plea to a conspiracy charge. Now looking even more flustered, my attorney stared at me again for a few moments.

Then he asked me how much time are we talking about. I told him I would like credit for time served. But considering my criminal history, I know I will not get it. So I would like to negotiate for less than a year. Again he told me he would be right back after talking to the prosecutor. When my lawyer came back, he informed me that the State will not negotiate anything less than 15 months. He also stated that they don't care about the charges. I can call it whatever I wanted, they just wanted their 15 months sentence.

I told my lawyer no way. Again looking even more flustered from the last time, he blurted out in an angry tone, why won't you take the deal. What does it matter to you anyway. I told him because I did not commit the crime that they are charging me with. I am not going to plea guilty to something I did not do. At this time I have to wonder why my lawyer was trying to pressure me into taking a plea. My attorney should function as an advocate for the defendant, as opposed to a friend of the court. So why does it seem like he was working against me, or for the State.

Then he backtracked and asked me to explain in my own words the difference to what the State wants and what I wanted. I told him the difference is if I plea guilty to what I wanted, I would be admitting I had knowledge of the crime being committed but not necessary any involvement of the crime. And if I plea guilty to what the State wanted, I would be admitting guilt of doing the crime the State is accusing me of doing. Then he asked me to sign the scheduling order and he will be seeing me at the next court date.

On 3/3/10, I met with my lawyer again. He told me the State is offering 20 months for a guilty plea of UPCSWID. I asked him why they went up on the offer, shouldn't it go down. He told me he didn't know, but would I take the plea. I asked him why are you trying so hard to get me to take a plea. I again reiterated that the State does not have sufficient evidence for my charge. I said "Aren't you doing anything about my case. I am innocent I tell you. Have you even talked to my witnesses."

My attorney then told me that he has hired a private investigator to look into the matter. As for the State employees, he feels that they did not matter since it would prove that I had knowledge of the crime being committed.

I told him that is what I have been saying all this time. Since knowledge is not an element of the crime, I strongly suggested he go talk to these witnesses.

He then told me that he would not do it because it would hurt my case. Being angry with him, I said nothing further. He then said that the investigator would be coming by to interview me. But in the mean time he had to look into a conflict of interest. I asked what he meant. He told me that there was a CI involved, so he had to check for a conflict of interest. Because of this he wanted me to sign a continuance. Against my objections, I felt I had no other choice in this matter, so I did.

On 4/21/10, I had my omnibus hearing. My lawyer met me at the usual inmate/lawyer conference cubicle between the holding tank and the court room. He laid out some court paperwork and started to explain to me what was going on for the omnibus hearing. When my lawyer told me that my defense will be possession of a controlled substance, I told him to hold on a minute. I asked him if he understood that I was never in physical possession of the cocaine. He told me that he did. I asked him if he understood that I had no idea that the cocaine was even there. He again said that he did. So I asked him why was he trying to say I was guilty of possession. For this, my lawyer had no reply. I waited a few moments to see what he would say.

Then I asked about the search warrant. He said what about it. I told him that I had issues about it. I told him that they never announced themselves and their purpose. He told me that the officers were going to testify that they knocked and waited for about a minute. Then they announced their presence and intent through a bullhorn. I told him that was a lie. He said that he understands but that's what they will say. I mentioned the recording device for the surveillance system. It would corroborate my story. I said that the police should have it. At this my lawyer just looked at me dumbfounded.

I then told him that I never seen the search warrant. He then said that they don't have to show it to me. I told him that he was wrong, that the police have to show me the search warrant so I would know what they are looking for and what they could take. He asked me what if I was not there. I told him that they would have to post the search warrant somewhere visible. He told me that I was wrong and I didn't know what I was talking about. I asked him if he was going to look into it. For more details on the search, see affidavit of search and seizure.

He then strongly suggested that I should take the deal. If I don't take the deal then the prosecutor was going to add more charges two weeks before the trial (5/18/10). I told him that they could not do that, they would be violating my rights. From this point on, we got into a heated argument over this issue.

Then to change the subject, I asked about the conflict of interest. My lawyer then told me that the CI was from King County so there would be no conflict of interest. He asked me if I knew who it might be. I told him I did not know anybody from King County so they are lying. He then

asked if I was worried about the CI and the new charges. I told him I was not since I am innocent and the truth will come out.

I then told him that I was worried that it was getting close to trial and the investigator still has not come to interview me. He told me that it was weird and that the investigator should have seen me by now. He said that he will check on it when he gets back to his office. He said that for right now, he wanted me to sign the order on omnibus hearing. Feeling dissatisfied and not knowing what to do, I signed the paperwork. He then got up getting ready to leave, he told me he will see me at the arraignment on 5/3/10.

A few days before my arraignment, John Purves came and visited me at Pierce County Jail through the visiting room. We sat there and talked about what was going to happen at the arraignment. Then we continued to talk about the trial that is supposed to take place on 5/18/10. He again stated that our defense will be unlawful possession of a controlled substance. This time I did not argue with him, but just sat there and listened as he explained everything.

He then asked me about the crib notes. I told him that I did not know what he was talking about. Then he proceeded to show me the photocopy pages of the notebook that belonged to Misty. I told him that does not look like crib notes to me, in fact some of the pages look like score sheets for games. One even looked like a list for music. So how does this suppose to prove anything. Even the handwriting isn't mine. He agreed with me that the handwriting looked like a females. But the State is going to introduce this as evidence. I told him it was not relevant, there is nothing there to show anything that has to do with drugs or sales. There is no crib notes.

He sat there going through the discovery information without saying another word. I then mentioned that the investigator still has not come by to see me. His response to that was, he should have seen me by now. He did not know what is going on. Since it is getting close to the trial date, he would have to tell the investigator to step on it. After talking about a few more things, John Purves told me that he would see me at my arraignment. That is the last time I have seen and spoke to my lawyer.

On 5/6/10, I was assigned to new counsel. During our meeting, Steven Burgess told me that he was just assigned to my case. He is a private attorney working pro bono. Since he does not work for DAC, he informed me that I could not use the DAC lawyer phones to contact him. He also stated that he does not accept collect calls. I said ok, but asked what happened to John Purves. Steven Burgess told me he does not know what happened, he does not know anything about my case, so he can't answer any questions at this time. He also informed me that my case file arrived on his desk sometime last night so he did not see the file until the morning of 5/6/10. He asked me to sign a continuance so he could have time to study and investigate my case. Not knowing what else to do, I signed the continuance.

From that point on, I have met with Steven Burgess five more times. Each

time during our conference I tried to talk and ask about my case. Each time, he listened to what I had to say and made comments or answered my questions. Then quickly made to leave before I took any more of his time. Out of the five meetings, we probably spent an average of five minutes each. The longest being the omnibus hearing which lasted 10 minutes. The shortest being a couple minutes on 9/9/10.

There was barely any communication about my case, we never consulted to accomplish objectives, never discussed possible strategies, and never interviewed me for insight into the case. I also requested a copy of the discovery and any other relevant information, which I never got. I asked about the search warrant. Steven Burgess told me he saw the affidavit and it was valid. I did not ask if he saw it. I wanted to see it myself. He never got a hold of my witnesses or even hired an investigator to look for them.

On 11/3/10 I went to trial, feeling unprepared, not confident of my lawyer, not knowing what is happening, and unsure of my lawyer's performance will be like. I was practically shaken up, my freedom was on the line. Besides the charges, I had no clue what was going to be presented. I even feared that my chances of a fair trial was at a minimal.

During the opening statements, Steven Burgess stated that he was going to show that I have been evicted. Which he never substantiated during trial. Now if he would have interviewed me and the landlord, he would have known that was a dead issue and not a strategy for defense. He would also have known about the landlord testifying about seeing me with large sums of money.

If he would have been prepared, he would have known that the only times the landlord have seen me is to collect the rent. That the large sums of money was the rent money. And after the rent was paid, that I would have no cash left at all. Even that a few times I was short on the rent, that explains the pay or vacate notice.

All through the trial, I had to suggest or point out things that was to be asked or contradicting. For instance, when the State was exhibiting the surveillance cameras, I mentioned that I had problems with gangs and theft. Which can be corroborated with incident reports and theft reports. If my attorney did any investigations, he would have found this out and introduced the evidence and witnesses to support this. Instead, he asked a few questions about crimes in the neighborhood and went nowhere with it.

When the officer testified that he drove the CI to 5422 S. Alder. I told my lawyer to ask him what vehicles he saw parked out front. I then told him that I own a green 1996 GMC Suburban. And if the officer did not see it in front of the house, that means I was not there. My lawyer got the officer to admit that he did not know how many people and whom was present. After he got the officer to state the only vehicle he saw parked in front of the house was a van. My lawyer did nothing with this information. He never tied it together to point out that it was possible that I was never there.

At the 3.5 hearing, an officer testified that he has given me my Miranda Rights. I testified that I don't recall anybody reading me my rights. The prosecutor suggested that I knew better because I was arrested ten times before. Now if my lawyer did his investigation to prepare for this case, he would have been able to dispute this. He would have known that out of all the times I have been arrested, I had never been read my rights. I have never been interrogated by the police before. I have had always been sent straight to jail. And it is common practice of the Pierce County Sheriff and the Tacoma Police Department not reading the Miranda Rights during arrest.

Plus, he should have been able to point out that the police were prepared for the search and seizure. That during all that preparation, if they did actually read me my rights, where is the waiver. If I was to waive my rights, they would have me sign a waiver. But there was no waiver, or anything like one. Even if they did read me my rights, I was in no condition to make an intelligent decision to freely and knowingly waive my rights. If my lawyer did his investigation, he would have known this. See affidavit of search and seizure.

When the State was presenting their evidence, my lawyer failed to point out that the State have not proven the elements of the crime. In order to prove unlawful possession of a controlled substance with intent to deliver, the State must show that the defendant (1) unlawfully possessed (2) with intent to manufacture or deliver (3) a controlled substance. The only thing the State proved is that there was a controlled substance involved, by introducing a baggie of six bundles of cocaine and a separate baggie of cocaine.

The State produced a container that had cocaine residue. But there was no marked money, no scale, and no packing materials. Without a scale, how can the State explain that each package of cocaine weighs the same. I propose that the cocaine was purchased that way. Since the original packager of the cocaine intended to package the cocaine for sale, the purchaser acquired the prepackaged cocaine, having no say so in the matter of the packaging. Does the intent of the original packager gets passed down to the purchaser just because the cocaine was prepackaged and weighed?

The State mentioned that I have been found in possession of a large sum of money (\$289). They had my landlord testify to the witnessing of me having a large sum of money. Yet the State did not show that any of the money they found was marked. The State did not show that any of the money they found was gotten by the sales of a controlled substance. All they stated was I was found with large sums of money. A detective testified that the amount of drugs found could be worth thousands of dollars, around the figure of \$5000. That is a large sum of money compared to what I had.

How much money does an average person carry? Just because I was carrying cash that seems more than the average amount does not prove that I intended to deliver cocaine. Now if my lawyer did his investigation,

he would have known the reason I was carrying all that money. He would also know the reason why I was packing on the morning of 2/17/10. The night before, I received a phone call from Daniel Sears. She wanted me to come and get my things out of the house in 5422 S. Alder. She said that my boxes in the livingroom was causing too much of a clutter, that she wanted them out of the house as soon as possible.

Since I had nowhere else that I could store my belongings, I called around comparing prices on a storage unit. I found one that wanted a \$100 deposit and I had to pay for the first two months up front. The monthly rate was \$40. I called a friend of mine (Charles Williams) and asked him if he would bring his truck and help me take some boxes to a storage unit. He told me that he would help me, but I had to pay for the gas. I told him that was not a problem. At that time I had \$29 in my pocket. I figured if I made a withdrawal of \$260 from the bank, that the amount of cash should cover everything.

Under RCW 69.53.010 (2), it states: It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section, in good faith, notify law enforcement agency of suspected drug activity pursuant to subsection (1) of this section. If my lawyer interviewed my witnesses, he would have known to use this defense against the charge of unlawful use of a building for drug purposes. See affidavit of due process violations. My CCO, Greg Oliver would have testified to the fact I came to him and he tried to help me by setting me up with the Gang Task Force. My CCO would also substantiate that I did not have dominion and control.

The State alleges that I was selling drugs. Since I was on DOC, my roommate was on DOC, we were subject to searches at anytime. What my lawyer failed to bring up because he failed to investigate, is all the different incidents I have had with law enforcement officers and DOC officers. Between the two departments, I had over twenty incidents in the last six months of my supervision. This time period that the State alleges that I was selling drugs. During all those incidents, I made myself available to searched voluntarily. Not once did they find large sums of money or any type of drugs in my possession. This sure does not coincide with the State's theory and allegations of me selling drugs. In fact it supports my statement that I have not sold any drugs in years.

Two officers testified that they were the CI handlers. They stated the reason the officers needs a CI is because no drug dealer is going to sell drugs to anybody that the dealer does not know. Since a CI is already established and known, it is easier for them to infiltrate the drug world more than an undercover police officer. Later the CI testified that he did not know or even met me before. And without even knowing the CI, I allegedly sold some cocaine to the CI. That in itself is a contradiction, which my lawyer failed to point out to the jury.

The CI testified that he went to the premises on 5422 S. Alder to meet with Misty. During the meeting, the CI learned about me, that I am allegedly a drug dealer. From the meeting, the CI stated he obtained my phone number and permission from her to contact me. The CI stated he then proceeded to make contact with me and that I agreed to sell him cocaine. From this

statement arises three contradictions my lawyer failed to point out to the jury.

The first is the reliability of the hearsay testimony. There was testimony from the police officers that they did not know their CI. This would be their first time dealing with him, with no established history of reliability, the officers could not just rely on the word of the CI alone. The officers stated that they were doing reliability buys to support the reliability of the CI's information. The State failed to prove the reliability of the hearsay testimony the CI provided. The State also failed to provide any corroborating evidence to support the hearsay information that alleges that I am a drug dealer. I have to wonder if this hearsay information is even admissible.

The second is the introduction to another drug dealer. The CI never stated that he was introduced to me. He stated that Misty gave him my phone number and he started calling me. That he had kept contact with me until the day of the delivery on 1/19/10. Now if it was that easy to connect with a drug dealer to buy drugs from, law enforcement agencies would not need CIs. No matter how well established a CI is, dealers run their business with a certain circle of people. Other individuals may be known, not known but heard of, or not known about at all. Whatever the circumstances may be, without an introduction, nobody can ever meet a drug dealer. Even with an introduction, no dealer is going to sell drugs to somebody they just met. So the CI's testimony is a contradiction to the police officers' testimony and the facts of real life situations.

The last contradiction is the fact that one drug dealer is going to introduce his customer to another drug dealer so they can buy drugs from the new dealer. Selling drugs is a business, an illegal one, but still a business dealing in sales. Where the drug dealer, just like a salesman, works on commission. Just like in the business world, the competitions is fierce. So when you have an edge, you do not want to lose it. If a salesman have a product that they want to sell, they would need a customer to buy it to make any money. If that salesman has a friend who wants to buy the product, the salesman is not going to send his friend to a competitor to give up a guaranteed sale. It does not happen in the business world, so it would never happen in the drug world. Where everybody wants a piece of the action, or their cut in the deal. Nobody in the drug world does something for nothing. They won't do anything unless there is something in it for them.

The CI testified that he called me, yet he did not provide any proof of that. The State did not provide any corroborating evidence (no phone records, no wire taps, or they never even provided my phone number as proof). The jury just had the word of the CI that he called me. But then he gave some contradictory testimony about that. He insisted that he called and have been calling me several times. During the cross examining, the CI stated that he called me to setup the transaction. He stated that I told him to come over, and I was present to sell him the cocaine. Then a few moments later, he changed his story. He then stated that he called Misty and talked to her, she was the one who told him to come over to meet her. He stated that I was present to sell him the cocaine.

First, the CI never said that Misty told him that I was going to meet him instead of her. He called her to buy drugs. What does this have to do with me. He offered no proof to support his statement that I was present. Next, I say that his last statement that he called Misty is the truth. That the CI called me was the lie, in fact, I say that he never called me at all. That he never even had my phone number.

By the CI's next testimony, it proves that my lawyer never did interview him before the trial. Otherwise he would have known about the use of a photograph to ID me. The CI stated that he was shown one photo after the delivery on 1/19/10, not a montage of photos. The procedure was so suggestive that it should have been challenged during the pre-trial. But if I was not present as I stated, which could be corroborated by the officer's testimony of seeing a van parked out front. How can he ID a person who was not present during the scene of the crime. Furthermore, when he was asked to describe me to the jury, he could not. Why was this? Is it because he never met me? At this the CI got so flustered that he blurted out that he gave a well enough description of me for the officer to bring the photo. He was asked when he met me. He stated that he never met me until the day of the delivery. This brings up another contradiction, how can a person describe another person if they never met him?

My lawyer failed to point out all these contradictions. The CI's testimony is the only thing that ties me to the cocaine. The jury have no idea what really goes on in the real world. As far as they are concerned, since the CI was working for the police, he must be telling the truth. But if my lawyer pointed out all these contradictions, which by themselves seem harmless. Yet put together, it would show that he was lying. That the officer's testimony about not being able to just rely on the CI's word alone is substantiated. The contradictions, when pointed out and shown in view of the total circumstances, not just the State's version or view point. It proves the CI's testimony was unreliable and should not be believed.

The last error I want to point out is probably considered harmless, but it still goes to my showing of ineffective assistance of counsel. When the State introduced testimony on fingerprints, my lawyer made no objections. We sat through all that testimony about fingerprints just to find out there was no fingerprints. What was that about? Where is the relevancy pertaining to my trial? All we did was wasted that time and the jury was subjected to information that was not relevant and possibly used to confuse the issue.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

L-Unit B-5-U

Airway Heights Correctional Center

P.O. Box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
DUE PROCESS VIOLATIONS**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 20th day of April 2011, depose and say:

On 2/18/10, I was taken to a holding cell to await arraignment. I waited to talk to a court appointed attorney before I had to be in front of the judge. I knew I had the right to effective assistance of counsel. A counsel in representing a criminal defendant who owes the client a duty of loyalty, a duty to advocate for the defendant's cause, and commit to the liberty interests of the defendant.

I expected to be able to confer with an attorney and possibly ask for an evidentiary hearing under Franks rule. Instead I went into a court room without a conference. I stood next to an attorney on the defense side. The attorney said that she is from DAC but is not assigned to my case. That she is only here for the arraignment proceedings. An attorney will be assigned to me later to handle my case. I can talk about my case then.

I was told when the hearing starts, not to say anything. The attorney plead "Not Guilty" for me and gave me copies of the court papers. I was then promptly escorted out where I would be sent back to lock up. I went through arraignment so quickly and without counsel from an attorney, that I had to wonder how my due process rights and my Sixth Amendment rights were met.

On 3/2/10, I met with my attorney John Purves for the first time. the first thing I was asked was I willing to testify against misty. I was told that the State was willing to dismiss the charges for my testimony. I told him that there is no way I am going in court and testify against her.

I told him that the State did not have enough evidence for the charge and the case seemed circumstantial. He then asked me if I understood that in Washington State, circumstantial evidence is enough to charge a person. I said yes, but for a conviction, they needed to prove the elements of the crime. I told him that the State had no deliveries to substantiate my charge of intent, otherwise I would have been charged with it already. They had no marked money, no scale, and the cocaine was not found in my possession. He said that the police were going to testify that they saw me coming out of the room to prove that cocaine was mine. I said that was a lie, I was in the doorway. Besides, the mere presence of me in the room where the cocaine was found is insufficient to establish actual possession.

John Purves then said that the officers are going to testify that I told them that I lived at the house on 5422 S. Alder. That the room

the cocaine was found in was the room I admitted to be mine. I told him that was an outright lie. I never admitted that particular room was mine. I also said that they never read me my rights, so whatever I said cannot be used against me. He said that it did not matter because they found some things that would prove the room to be mine. He said that they were going to introduce the lease as evidence. I told him that does not prove a thing, my name is not the only person on the lease and there where other people living there whose name was not on the lease.

He then told me about a letter and copies of my car insurance found in the northeast bedroom which will be used to prove the room was mine. I then explained to him that those items were old and not important to me. I also told him that I have not lived there since the first of the year.. I then included names of witnesses and places where they could be found to verify my story about not living there. I also told him to look for my GMC Suburban for proof of me sleeping in my vehicle and mail located in the glovebox as evidence of my current mailing address. See affidavit of ineffective assistance of counsel. I also told him if he wanted phone numbers, he would have to get my phone from the police. I stated that I did not have any of the phone numbers memorized. He told me that he would look into it.

I then told John Purves that I questioned the validity of the search warrant. I stated that I have never seen the warrant, I was never informed of the reason why the police was there, and I thought they were there to arrest Misty. So I questioned the reason of validity of my arrest. He told me that he would check into it.

I then asked for a copy of the discovery and any relevant material the State has against me, I stated I was especially interest in the search warrant. I wanted to check it out. He told me that he is not authorized to give me a copy, but he can let me see it. I said that I have seen other inmates with their discovery so how come I can't have mine. He told me that he does not know why they have theirs but he can't let me have mine. I told him he has to, because these meetings that we have during the time I am suppose to appear in court is not enough time for me to study the material. He said he does not know what to say to that.

Now everything that I have read about the Discovery, states that the discovery must be made available to the defendant. It does not say the defense or counsel. I have herd some may argue that defendant, defense, or counsel is the same thing. If it was, it would have said that. But it said defendant, since my lawyer is not the defendant, by being denied a copy of the discovery, I was denied my right to due process and a fair trial. I could not see what the State had against me and adequately help my lawyer to prepare for my defense. How can I have a fair trial if we are not properly prepared?

On 3/22/10, I met with John Purves again. He told me that the State is willing to drop the charges on the condition that I pass a polygraph. He stated that even though a polygraph is inadmissible in court, they want a few questions answered. Being curious, I asked what question. He said like if I was selling drugs, if the drugs were mine, and if Misty was working for me. At that I had to laugh. I told him that Misty does not work for anybody. That her nickname is the "Boss Bitch," that she is the one who loves to be in charge and wants everybody to know it. I told him no on the polygraph, that I could not pass one if my life depended on it. I stated that I have a medical condition that causes me to fail the polygraph. He said that without the polygraph. the State is not going to take just my word as being the truth. I told him that they did not have to, all they had to do is talk to my witnesses. Especially Greg Oliver who is my community corrections officer. He told me that he'll be right back, that he is going to talk to the prosecutor.

When he came back, he told me that if I plea guilty to UPCSVID that I will get 15 months. I asked him how did this happen, how did they go from dropping the charges to 15 months. He said that they don't believe me and that they think that I was selling drugs. I told him that they did not have sufficient evidence to charge me. See affidavit of ineffective assistance of counsel.

At this time I had to wonder what was going on. First they wanted me to testify against Misty, then take a polygraph, now 15 months. The State wanting me to take a polygraph leads me to believe that they think there is a possibility that I am telling the truth. So faced with this dilemma, why won't the State do their job and investigate to find the truth.

All they would have to do was get a hold of Greg Oliver. He would tell them that I was having problems with my roommates, dealing with gang members wanting to turn the house into a drug spot. That the gang members were coming by with guns and drugs. That they wanted individuals to sell drugs for them and I was living in fear. That I felt that I could do nothing about it. I told all this to my lawyer and more. Like I have been pulled over and searched on the streets numerous times before and the police never found any drugs on me. I have reported these incidents to my CCO and he told me that there was a few incidents reports on it that came by his desk. But both of my lawyers refused to interview Greg Oliver or even call him as a witness. And my therapist could also substantiate what I told Greg Oliver since I was getting treatment to help deal with my fear.

On 3/31/10, the State upped the ante. My lawyer informed me that if I plea guilty to UPCSVID, I would do 20 months. I told him that that was not a deal. I asked why did they raise the sentence, isn't it suppose to go down. I thought that was how plea negotiations is suppose to work. He told me that he did not know why they increased the time. He said that they wanted me to take the deal. I asked him about my witnesses (CCO & therapist). I told him that they will substantiate

my story. He said that he has not made contact with them yet. But as far as the State is concerned, he told me they think that I am guilty, that I am not telling the truth, and I have no witnesses that I made them up. He stated that if I do not take this plea, the State will add a school zone and charge me with possession of marijuana.

I told him that they could not do that, there is no school within a 1000 feet of where I live. I also told him that they do not have all the elements to support the charge of UPCSVID. So if we challenge the charge, they could not add the school zone. I also stated that the officer told me that they were not interested in the marijuana and was not going to charge me with it. He then told me that the State can do anything it wanted, and if I persist to be stubborn, that they will add a delivery charge. And if I continue to be stubborn, that they will charge me with whatever else that they could find. At this, I was so shocked that I could not think of anything to say.

After a few moments, I then questioned the validity of the search warrant. I also told him that I think that the evidence found was the result of illegal search and seizure, that should make the evidence inadmissible. He told me that did not matter, that the search was valid, and the warrant was valid. He then asked me if I wanted to take the plea, see affidavit of ineffective assistance of counsel.

On 4/21/10, I met my lawyer for an omnibus hearing. He said that I am scheduled for rearraignment on 5/3/10. At this point in time, I felt that there was nothing I could do. I was not in a court room where I could voice my objections in front of a judge. I felt like my lawyer was working for the State. And that the State was strong arming me to take a deal because I was in jail and unable to contact anybody from the outside. It was depressing and frustrating.

I then asked about the search warrant. He said what about it. I told him that i question the validity of the affidavit and the warrant itself. I told him of the knock and announce violations under RCW 10.31.040. I told him about the procedural violation under CrR 2.3 (d). We then got into an argument over the search warrant, see affidavit of ineffective assistance of counsel. I never got to challenge the validity of the affidavit and the warrant itself in court.

One purpose of a warrant is to inform the person subject to the search what items the officers can seize. A warrant served after the search is completed cannot timely provide the property owner with sufficient information to reassure me of the entry's legality. I was never shown the inventory and denied my right to see what property was being taken. Since the inventory is presumably made as the items are identified and seized, not after the items have been taken away, there was no excuse for the law enforcement agency not to give me a receipt of inventory. I had the right to challenge the validity of the search in court, which I was denied.

On 5/3/10, I was told my court date was cancelled. I didn't talk to my lawyer, I was just sent back to jail. I was not given a reason why the court date was cancelled. I was left in the dark. When I was called

to go to court on 5/6/10, I thought I was going to my arraignment. So I was surprised to see a different lawyer in the conference cubicle. Steven Burgess introduced himself as my attorney. When he told me that he does not accept collect calls, my first thought was how are we going to communicate. I guess that I had to wait and see. For our first meeting, he sure didn't give me any confidence in him. After the way John Purves treated me as a client, I was afraid I got another ineffective counsel.

I finally got arraigned on 7/6/10. I have no idea why the State waited so long to amend and add new charges. Since they had over two months from the time I was originally scheduled for arraignment. The school bus route enhancement for UPCSUID, unlawful use of a building for drug purposes, and the possession of marijuana came from the same criminal episode on 2/17/10. There should be no reason the State delinquently filed those charges. Yet they had mismanaged this case and the only conclusion I can come up with is misconduct from the prosecution.

On 7/22/10, I was expecting to go to court for trial. Instead my lawyer informed me that he needed more time to prepare. What else could I say. I wanted to get the trial over with, but I also wanted to be prepared as much as possible. Feeling that I had no option, I signed the continuance.

On 9/9/10, I signed another continuance because my lawyer was sick. He was in no condition to go to trial. On 10/7/10, I thought that I finally get to go to trial. But the prosecutor gave my lawyer some last minute discovery information. Because of this, my lawyer wanted a continuance. It has been eight months since my arraignment. I had to wonder why it took so long for the prosecutor to disclose all of their evidence. Nothing had changed since my arraignment on 7/6/10. No new evidence was discovered, so why was the prosecutor delinquent on the discovery.

What happened to my speedy trial rights under CrR 3.3? From the time of my arraignment to the date of my trial, it took about nine months. So much for having my trial in 60 days. All this time, I had court dates that I never once stepped into the court room. I was denied my right to be present and heard at all court proceedings. Because I was denied this right, I could not voice my objections, make any challenges, and notify the court of any issues I might be having that is relevant to this case.

In the prosecutor's closing arguments, he stated that I was the one who hid the cocaine when the police breached the door. That I am the one who made the mess, and blocked it by tossing the furniture so it would make it difficult to get into the closet and find the drugs. This statement is conclusory with no supporting evidence introduced in the trial. Which is leading, incriminating, and prejudicial. The prosecutor's statement is a material misrepresentation that is not corroborated by any evidence, which is a deliberate falsehood and misconduct that violated the Fundamental-Fairness Doctrine. He deliberately said this statement at a time that it could not be challenged, contested, or be able to bring testimony to contradict it.

I did not do what the prosecutor stated in his closing arguments. If I did, I would have made a lot of noise, which would have alerted the police. Since the officers were not aware of my presence until the end, this proves that I made no noise to raise the police officers' attention.

So I could not have made that mess to hide the cocaine. Furthermore, why did I not get rid of the marijuana at the same time as I allegedly got rid of the cocaine as the prosecutor proposed. With no furtive noise to hide evidence and my possession of marijuana, this proves my statement that I did not know that the cocaine was there.

On 12/3/10, I went to my sentencing hearing. The prosecutor asked for consecutive sentences. His reasoning for this is that I have not admitted my guilt. Since I took my constitutional right to go to trial and lost, the prosecutor thought he could state my intentions without any reasonable substantive facts to support it. I believe that the prosecutor made that statement to be vindictive because I took my case to trial.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

L-Unit B-5-U

Airway Heights Correctional Center

P.O. Box 2049

Airway Heights, WA 99001

AFFIDAVIT

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 21st day of April 2011, depose and say:

During the month of November 2009, I was on community supervision. I reported to my COO Greg Oliver on the first Monday of the month (11/2/09). On Friday of the same week (11/6/09), I received a phone call from Greg Oliver. He told me to show up on Monday because I had a dirty UA. He said that he wanted to talk about what he was going to do about my violation.

On Monday, 11/9/09, I was escorted into the office of Greg Oliver. That's when he wanted to know what was going on. He said that I was doing so well, that my supervision is almost over. He wanted to know why I messed up near the end. He also told me that he knows that there is illegal activity going on at the house, that he had reports of incidents going on there. I began by telling him about Daniel Sears. I told him the reason why she keeps on getting violated is because of her boyfriend Randall Baker. I told him Randy used to work for some gang members selling cocaine.

A couple of months ago, Randy got reacquainted with the gang member. He allows the gang members to come into our home to cook drugs. Soon after, Randy began selling drugs for the gang members. Pretty soon it became an everyday occurrence that the gang members would show up with more drugs and guns. They would hang out for hours drinking. Sometimes Randy would owe them money and had nothing to pay off his debt. So the gang members would take my possessions as payment. They threatened to kill me if I tried to stop them. This whole situation was getting out of control, so I started using drugs again to escape.

After I told all this to my COO, I also stated I was living in fear. He asked me why I didn't move out. I told him that I had nowhere else to go. I was looking for a new place but if I moved out now, I would be homeless. He then asked me if I was willing to talk to somebody if it would help me get out of this situation. After saying yes, he informed me that he has a friend in the Gang Task Force. My COO then called him and left a voicemail, stating my situation and left my phone number for him to get in contact with me. Afterwards, we discussed my sanctions.

For the remainder of my supervision, I called my COO several times wondering why the officer from the Gang Task Force have not called me yet. I emphasized an urgent need to have this resolved because the threat of violence was escalating. Eventually Randy got arrested by a surprise showing of the police. At that time, I was searched for contraband and none was found. A week later, Misty started to sell drugs for the gang members. From that point on, till the time of my arrest, I never received the phone call from the officer of the Gang Task Force. I seeked out help, it was not my fault that there was no follow through.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

L-Unit B-5-U

Airway Heights Correctional Center
P.O. Box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
MISSING WITNESS DOCTRINE
Pursuant to 28 U.S.C. Sec. 1746, No Notary Required**

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 29th day of August 2011, depose and say:

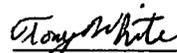
Under the "Missing Witness" doctrine, a party's failure to produce a particular witness who would ordinarily and naturally testify raises an inference that the witness's testimony would have been unfavorable to the party. In this instance, the State inferred that was the case with me. See affidavit of missing witness inference.

I say that it is the other way around. The reason I could not contact some of my witnesses, is that the State had sole knowledge of the whereabouts of the witnesses. In support see affidavits of Tony Turner, Charles Marlowe, and Charles Williams. Each of these individuals was incarcerated in a prison at the time of the affidavit. So it is surmised that the witness were in the custody of the State from the time of my arraignment to the time of my trial. Therefore, I could not contact them, giving the State exclusive access to the witnesses.

My other witnesses that my attorney refused to interview and supeona, works for the State. Greg Oliver was my community corrections officer, my roommate's community corrections officer, Sean Larson's community corrections officer, and my therapist who works for Greater Lakes Mental Health was assigned to my by DSHS. See affidavit of ineffective assistance of counsel for support. All these State employees would have supported a defense against the allegations of illegal use of building for drug purposes.

So I conclude that the State had a superior opportunity for knowledge of the witnesses, that it is reasonably probable the State would not have called these witnesses because their testimony would have been damaging and unfavorable to the State.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.



Signature

Tony White

Airway Heights Correctional Center

P.O. Box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
MISSING WITNESS INFERENCE**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 29th day of August 2011, depose and say:

From the time of my arrest on 2/17/10 I was separated from my cellphone. In this digital age, I relied on my cellphone to keep me in contact with everybody I knew. I have over 200 family members, over 100 employees that I am in charge of, over 20 business contacts, 10 business associates, 1 supervisor, and over 50 friends that I keep in contact with. With this many people to keep in contact with, I cannot remember all the phone numbers and addresses without help.

Like every normal person, I kept a phonebook. It was in my computer and my cellphone. So once I was arrested and separated from these items, I was literally cut off from the rest of the world. I can only give so much information to my attorney to help me locate the witnesses I needed to support my alibi. If my attorney cannot locate and contact them for me, what else can I do. So I could not willfully attempt to conceal or withhold any witnesses that would have been unfavorable to me under the missing witness inference. In fact it was to my benefit to have these witnesses to come forward and testify. I wanted my attorney to contact my witnesses and have them testify in my behalf. Since I was helpless in doing anything else, the failure of my attorney to make contact with witnesses and the refusal to contact certain witnesses caused the missing witness inference.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

Airway Heights Correctional Center

P.O. Box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
DEPUTY KORY SHAFFER'S INTERROGATION**
Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 26th day of September 2011, depose and say:

On February 17, 2010 Deputy Shaffer escorted me from the sidewalk to the front porch at 5422 South Alder Street. At this time I was detained and not allowed to leave. Deputy Shaffer placed me in direct sight of the surveillance camera. Deputy Shaffer sat down on the wicker stool that was present on the corner of the porch. The interrogation proceeded as follows:

Shaffer: Where's Misty? Where's Misty?
Me: I don't know.
Shaffer: What's your name?
Me: Tony White
Shaffer: Who all live at this residence that is present?
Me: Me and Sheila.
Shaffer: What about Misty?
Me: She moved out a couple of weeks ago.
Shaffer: Where is she living now?
Me: Somewhere over on 96 Street.
Shaffer: Do you know why we're here?
Me: From all the questions you are asking about Misty, I have to assume you're here for her.
Shaffer: You know what we're here for.
Me: I don't know what you're talking about.
Shaffer: I'm here looking for the rock.
Me: I don't know what you're talking about.
Shaffer: You can help yourself if you tell me where the rock is hidden.
Me: I DO NOT know what you are talking about!
Shaffer: Are you willing to help me by being honest and answer my questions truthfully?
Me: Sure.
Shaffer: Did you ever see Misty selling any drugs?
Me: Yes.
Shaffer: How much drugs doesMisty buy?
Me: It depends, she would buy anywhere from ten dollars worth to an ounce. Sometimes more.
Shaffer: Did you buy any rocks lately?
Me: No.
Shaffer: Did you ever buy any rocks before?
Me: Yes I have. I've been sent to prison over it.
Shaffer: When did you get released?
Me: December 8, 2008.
Shaffer: Are you still under DOC supervision?
Me: No, I got discharged in December 2009.

Shaffer: Are you working now?
Me: No.
Shaffer: How long has it been?
Me: About four weeks.
Shaffer: So how are you supporting yourself? It's ok, you can tell me. I will understand. Times are tough and you had to do what you had to do. I will understand.
Me: I am selling DVD's on Craig's List. In fact the moving boxes in the house contain the DVD's that I am selling.
Shaffer: (In an angry tone) I do not care about that! I want to know about the rock that you was selling.
Me: I am not selling any drugs. In fact, it has been years since I last sold any drugs.
Shaffer: This is where we have to part ways. I know you are lying. You just sold me some drugs within the last 72 hours. I hope you enjoyed being on supervision because you're going right back.

At this time, Shaffer escorted me back to the police car that I was standing next to earlier. He proceeded to put me in the back seat next to Charles Williams. I knew Shaffer was lying to me because 72 hours ago I was stuck in bed with the swine flu for three days. And I am still suffering from it weeks after my arrest. I even had medication for it when I got arrested. I was even under the influence of the medication when I was being interrogated.

And as further proof, the affidavit for the search warrant was dated February 11, 2010. Six days before the execution of the warrant. The affidavit states a controlled buy with Misty occurred within 72 hours of the issuance of the warrant. Which during the week of 2-11-10, I was visiting family in Yakima County. I left 2-7-10 Sunday afternoon and did not return until 2-12-10 Friday morning.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

Airway Heights Correctional Center

P.O. Box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
PROSECUTION'S ALLEGED SCENERIO**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 26th day of September 2011, depose and say:

During the prosecutor's second closing argument, he made very specific allegations and inferences, persuaded the jury in the State's favor. The result of this prejudiced me and violated my due process rights.

The first inference is that I threw the drugs in the closet and thrown a bunch of stuff in front and on top of the drugs. There was nothing in the evidence or the facts that supports this allegation. The prosecutor stated this at a time when the defense cannot give out any rebuttal. This was on purpose and prosecutorial misconduct.

Let's assume for the moment that the prosecutor was correct. The evidence shows that the closet was a mess and small household items was blocking the way into the closet. When the police allegedly announced themselves, I did start throwing things around to cover up the drugs that I was trying to hide.

Now here is the problem with this scenerio. First of all, the window was open. If the police announce themselves, I would have heard them. See affidavit of search and seizure for further arguments. Then the police would have heard the noise that I would have made. That is inconsistant with the police reports and the testimony of the officers during the trial.

All the facts and evidence showed that I was the last person found and detained at the residence. The police was not aware I was even there. That is because they did not hear any noise that would associate with me trying to hide the drugs. And finally if I was trying to hide the drugs, why did I not hide the marijuana that was in my pocket also. I submit that because I had marijuana in my pocket, that I was the last person found and detained, which is supported by the evidence, I was caught by surprise and did not have the time to hide the marijuana. So as a result I did not hide the cocaine as the prosecutor alleges. The prosecutor was stating an opinion as fact which is prosecutorial misconduct and violated my due process rights.

The next allegation the prosecutor made was that was my room. Since it was my room, I had dominion and control over it. Since I had dominion and control, I had possession of the drugs. The State provided some outdated and incomplete documents to prove that was my room. Anybody could have grabbed those documents and placed them in the room. But where are the personal effects that would prove that was my room. There was no male clothes of any kind found in the room. Yet there was evidence of other people occupying that same room. Since this is the case, it should be considered a common room and the issue of dominion and control mute.

**AFFIDAVIT OF
DOLORES LEVET'S TESTIMONY**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 27th day of September 2011, depose and say:

When the prosecutor asked Ms. Levet if I was the only person on the lease, she lied by saying yes. Since there were two signatures on the lease, it is obvious that I am not the only person that entered into the contract.

Before the lease was signed, we made it clear that I was only going to be living there till the end of the year. Danielle Sears with Randall Baker was to be the leasee and I was asked to sign the lease because I had a job and a bank account. They needed me to pass the rental check. Without me, they would not be able to move into the residence. Danielle was the one who paid the deposit and the rent for the first month.

If Ms. Levet kept proper records, she would have known this. Ms. Levet testified to the fact that as far as she knew I was the only one living in the residence. Yet we made it clear to her before we moved in that the place was to be Danielle's not mine.

Ms. Levet also testified to the fact that everytime that she saw me that I had a bank roll and did not know where I got it from. I first submit that this is not true. Before Ms. Levet allowed us to move into 5422 South Alder, she did a background check. She called my work and talked to my supervisor. She called my bank to verify the status of my account. So I say that she did know where I was getting my money from. As for the statement about having a bank roll, she only can testify to that, only for the times that she met with me.

The only times that Ms. Levet had met with me is to collect the rent. So I submit that the bank roll that she claims to have seen me with is the rent money. What was failed to be mentioned is that everytime I paid the rent, I gave her all the money I had. Somedays I was even short on the rent. Thus, the reason for the three-day pay or vacate notice. If Ms. Levet kept accurate records, it would show that there were numerous three-day notices. In fact there was at least five of them. If I had a bank roll as Ms. Levet claims, then I would never had to worry about being short on the rent.

As Ms. Levet's testimony proves, I did pay the rent. But what it does not prove is if it was my money. The whole time that I lived at the residence, I never paid rent once out of my own pocket. The rent money came from other individuals that lived there.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

Airway Heights Correctional center

PO box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
DARIEN WILLIAMS' TESTIMONY OF A TIN CONTAINER**
Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, Tony White, being first duly sworn an oath, state that I am at least 18 years of age and that on the 30th day of September 2011, depose and say:

During the testimony of Darien Williams, he testified that he saw a tin container. Darien stated that I took a tin container out of my pocket and gave him the cocaine that was stored in it. When asked again what kind of container it was, Darien stated that he was positive that it was a tin container.

During the closing arguments, there was a mention of red herrings. During the second closing argument from the prosecutor, he mentioned that it does not matter if it was a tin or plastic container. All that matters is that a container was found with cocaine residue. The prosecutor mentioned that the plastic container that was found was a red candy container.

I submit that both the prosecutor and Darien Williams was correct. The State proved that a red plastic container was found with cocaine residue. It was a candy container. Darien saw a tin container. I know that this container exists because I have seen it too. It is an Altoids cough drop container.

Now I submit that the reason that container was never found is that it is with its rightful owner. There is only one person who was not present at the time of the execution of the search warrant. Police reports and the affidavit of probable cause states that they had done two controlled buys with a white female named "Misty." So the missing person on the date of 2-17-10 is Misty.

Since the container is missing or not present during the search. And Misty was not present at the search. It is a logical assumption that the container belongs to Misty. This is a fact I know to be true because I have observed Misty with this container.

I submit that the testimony of Darien Williams is correct in one aspect. That he did see a tin container. But he did not see it come from me. That it actually came from Misty. As the affidavit of probable cause for the search warrant states.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.



Signature

Tony White

Airway Heights Correctional Center
P.O. Box 2049

Airway Heights, WA 99001

**AFFIDAVIT OF
WITNESS STATEMENT**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of WallaWalla

I, Tony Turner, being first duly sworn an oath, state that I am at least 18 years of age and that on the 20th day of April 2011, depose and say:

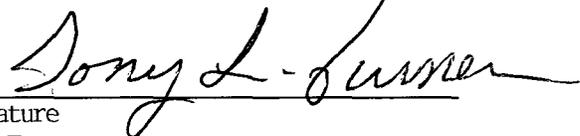
As of 1/1/10, Tony White has been in residence with me up till the time of his arrest on 2/17/10. Our residence was a mobile camper which I own. The camper was parked for the duration of the dates 1/1/10 thru 2/17/10 and has not moved once during that period of time. The camper was parked on S. 54th St. and S. J St.

During this period of time, every Tuesday of the week, Mr. White would leave for work in Everett at 9:20 AM and come back at 11:50 PM. The exception being on Tuesday, 1/12/10, he returned via tow truck. From this time forward, Mr. White did not leave the corner of S. 54th St. & S. J St. unless it is to get a part from Lincoln Auto Parts on S. 56th St. & S. Yakima Ave. Which is two blocks east and one block south from the location of the camper.

On Tuesday, 1/19/10, approximately 10:50 AM, I observed Mr. White working on his GMC Suburban. He did not go to work that day so I asked Mr. White if he needed my assistance. He told me that he did not, that he thinks that he finally figured out what the problem was. Approximately 12:20 PM, Mr. White had the whole top end of the motor apart when he took the time off to eat lunch. I asked him how it was coming along. He told me that he was waiting for a friend of his to bring a part that he needed. That part was located in a parts store in Lakewood. Mr. White said that he could do nothing else until that part arrived. So we spent the rest of the afternoon playing a game of chess. Approximately 5:40 PM, during the time we were eating pizza for dinner, his friend arrived with the part. His friend then left a minute later. Sometime after 6:00 PM, Mr. White having finished eating, returned to work on his GMC Suburban. He completed the repairs approximately 12:40 AM that night. Soon after Mr. White went to sleep. The following morning, Wednesday, Mr. White left approximately 9:20 AM to go to work in Everett.

On Friday, 2/12/10, approximately 8:10 PM, Mr. White fell ill. He was in bed sleeping, unable to get up without help until Monday, 2/15/10. Still not feeling well, Mr. White remained in bed. Sometime after 8:00 PM Tuesday, 2/16/10, Mr. White received a phone call. Afterwards, he informed me that his roommates from 5422 S. Alder wanted him to come over and get his personal belongings out of the premises. He also mentioned that since he had no where else to store his belongings, he would have to rent a storage unit. He left sometime early Wednesday morning 2/17/10.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of law and does not have to be verified by notary public.



Signature
Tony Turner
MSC-Unit 8-8F071U
Washington State Penitentiary
1313 N 13th Ave
WallaWalla, WA 99362

**AFFIDAVIT OF
WITNESS STATEMENT**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Mason

I, Charles Williams, being first duly sworn an oath, state that I am at least 18 years of age and that on the 26th day of May 2011, depose and say:

On 2/17/10, I arrived at 5422 S. Alder St. Unit B, approximately 7:20 am. I was there to help Tony White take some boxes to a storage unit. I was sitting on the couch in the livingroom and Tony White was sitting across from me on the other side of the coffee table when I heard a loud noise downstairs. The next thing I know, I hear the scrambling of feet running up the stairway. I hear somebody yell, "Police, freeze!" a few seconds before I see a person come around the corner with an assault rifle pointed and ready to shoot.

Before the police breached the door, there was no knock-and-announce as required by law. The raid was a total shock and occurred without warning. Once everybody was in custody, the police still did not state their intentions or showed any search warrant.

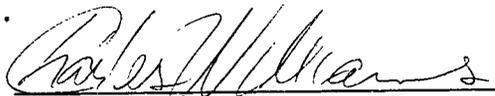
I was asked for my name and the reason why I was present at the premises. Once I answered the officer's questions, he ran my name for any warrants. Minutes later I was informed that I had a warrant for my arrest on a DOC violation. I was then taken outside.

Once outside, I was questioned about "the rock" as the officer put it. He treated me like I was a drug dealer. I never once was given my Miranda rights. After the interrogation, I was put inside the back seat of a police car on the passenger side. Later, Tony White was placed in the seat to my left.

While waiting to be transported to jail, I, Charles Williams, and Tony White observed the officers search a 1980 Ford F150 then proceed to search a 1996 GMC Suburban.

Things happened so fast that I still do not know what happened on that day.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.



Signature

Charles Williams

Washington Corrections Center

P.O. Box 900

Shelton, WA 98584

**AFFIDAVIT OF
WITNESS STATEMENT**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, James Marlowe, being first duly sworn an oath, state that I am at least 18 years of age and that on the 13th day of June 2011, depose and say:

On Friday, January 15, 2010, I arrived at 5422 South Alder Street Unit B. sometime during the afternoon. I was there to visit with Randall Baker and Daniel Sears, who was living at the residence mentioned above. Daniel Sears is a leasee on the lease agreement for the residence. The second leasee, Tony White, was not present when I arrived. Nor did he come by at anytime during the next 10 days that I was there visiting.

On Tuesday, January 19, 2010, I was coming out of the bathroom when I observed a heavy set, black male, with a clean shaved head, enter the northeast bedroom. The only occupant of the northeast bedroom at that time was Misty Navesken. I later learned that the black male's name was Darien. I left the residence on Monday, January 25, 2010.

On Monday, February 15, 2010, I arrived at 5422 South Alder Street sometime in the evening. Tony White was not present at the residence at this time. I learned that Misty Navesken was asked to move out and she never came back after she left on Thursday, February 11, 2010. I also learned that Tony White has been out of contact that weekend due to an illness he contracted.

On Wednesday morning, February 17, 2010, Tony White arrived at the residence at 5422 South Alder Street. I was sitting in the livingroom couch when he and his friend entered the premises. Mr. White began packing his belongings into a box. Ten minutes later Randall Baker and Daniel Sears left the premises. Mr. White was sitting in the doorway of the northeast bedroom when there was a loud noise from downstairs. The next thing I know, I see a bunch of men running out of the stairway pointing assault rifles everywhere. Things were happening so fast that I did not know what was going on. There was no warning at all, it was a total shock. The police never knocked and announced themselves.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.


Signature
James Marlowe
Airway Heights Correctional Center
L-Unit A-6
P.O. Box 2049
Airway Heights, WA 99001

**AFFIDAVIT OF
FOURTH & FIFTH AMENDMENT VIOLATIONS**

Pursuant to 28 U.S.C. Sec. 1746, No Notary Required

State of Washington

County of Spokane

I, James Marlowe, being first duly sworn an oath, state that I am at least 18 years of age and that on the 15th day of June 2011, depose and say:

After being in custody on February 17, 2010, see affidavit of witness statement by James Marlowe, I was asked for my name and the reason why I was present at the premises. After I answered the officer's questions, he ran my name for wants and warrants. Minutes later I was told that I would be taken outside for questioning. At this time I thought that I was under arrest.

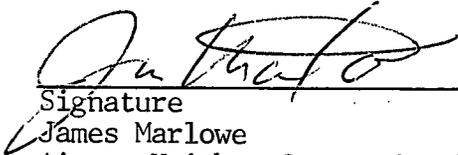
Once outside, I was questioned about "the rock". He treated me like I was a suspect who have committed a crime. Not once was I given my Miranda rights. After the interrogation, I was taken to the Brown Ford F-150. I was held there for the duration of my custody.

I observed Tony White being escorted out of the house to the police car. He was searched and relieved of his possessions. During this time, I never once seen or heard the officer read Mr. White his Miranda rights. A few minutes later, Mr. White was escorted back to the front porch by another officer. I could not hear what was being said, but I could tell that he was being questioned. During the time on the porch, not once did I see the officer pull out a card to read Mr. White his Miranda rights. In fact, during the whole time Mr. White was being questioned, the officer had nothing in his hands. After sometime, Mr. White was escorted back to the police car and was put in it.

A few minutes later, Sheila McCully was escorted out of the house and was allowed to sit on the hood of the police car. I then observed an officer open the door of the Brown Ford F-150 and searched it. I also observed another officer opened the door of the green GMC Suburban and searched it.

After what seemed like an hour, I was released along with Sheila McCully. I was surprised that I was being released, I was sure I was going to jail. I then stuck around to see what was happening. The officer that released me was standing by, so I started a conversation with him. Moments later, the police car with Tony White and Charles Williams left. I asked another officer what was going to happen to his belongings, especially the GMC Suburban. that officer handed me the keys and said "he ain't going to need it any longer, he is going to be locked up for awhile." After all the police left the area, I drove off with the Suburban.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.



Signature

James Marlowe

Airway Heights Correctional Center
L-Unit A-6

P.O. Box 2049

Airway Heights, WA 99001

Affidavit of James Marlowe in support of Fourth & Fifth Amendment violations against
Tony White

9. Firearms, pistols, rifles, and/or any other dangerous weapons including but not limited to as defined in Chapter 9.41 RCW which are possessed, used, or intended for use, in the furtherance of the violations listed above;
10. Computers and equipment including hard drives, floppy disks, monitors, keyboards, printers, software and/or computer manuals used, or intended for use, in the furtherance of the violations listed above;
11. Digital pagers, cellular telephones, answering machine tapes, telephone caller I.D. readouts, and any other communications equipment used, or intended for use, in the furtherance of the violations listed above;
12. Indicia of occupancy, residency and/or ownership of the premise described in this search warrant including, but not limited to, utility bills, telephone bills, cancelled envelopes, registration certificates and keys;
13. Addresses and/or telephone numbers of conspirators, drug associates, or any other people related to the manufacture, distribution, transportation, ordering, or purchasing of cocaine and/or any other controlled substances;

Affiant's Training and Experience

I, Deputy Mark E. Fry, being first sworn on oath depose and say; that I am a duly commissioned Deputy Sheriff for the Pierce County Sheriff's Department. Since 1998, I have been a member of the PCSD's clan lab team, and am currently assigned as a methamphetamine lab/narcotics investigator. I have been a member of the Sheriff's Department since 1993. My training with the Sheriff's department includes attending the Basic Law Enforcement Academy, twelve weeks with the Pierce County Sheriff's Dept. Field training officer program, Clandestine lab investigation (6hrs,) Street drugs & enforcement (8hrs,) Clandestine lab safety and operations (40hrs,) Clandestine lab recognition & resolution (8hrs,) Undercover Operations (80hrs,) Operation Pipeline (8hrs,) Highway interdiction, Narcotics warrant service (24hrs,) Street Crimes and Surveillance Techniques (24hrs,) Methamphetamine and Ecstasy investigation (32hrs,) Interview and interrogation (24hrs,) and DEA Outdoor Marijuana eradication (24hrs.)

Your Affiant is a certified member of the Pierce County Clandestine Laboratory Team has been the case officer, Affiant, and/or assisted in numerous Superior Court narcotics and evidence search warrants for illicit substances, documents, and various forms of evidence. These search warrants have resulted in numerous convictions. In addition to the listed training, I have experience with literally hundreds of drug related investigations. I have initiated, planned, and executed controlled substance search warrants that resulted in the arrest of suspects and the seizure of evidence. I have contacted, interviewed, and arrested subjects for the possession, use, sale, distribution, delivery, and manufacture of controlled substances. I have become educated, trained and experienced with the terms, trends, habits, commonalties, methods, and idiosyncrasies surrounding illicit drug possession, use, distribution, manufacture, business and culture. Based on my training and experience, and upon the training and experience of knowledgeable Law Enforcement Officers, with whom I associate with, I recognize that the listed items are evidence of the above listed violations for the following reasons:

1. In addition to the controlled substances being sought in this search warrant, drug manufacturers, dealers and users often possess more than one controlled substance; for variety in personal use, to diversify and monopolize the illicit drug market, to supply a broader base of clients, and to maximize their potential profits;
2. Drug dealers, manufacturers, and users will have materials, products, and equipment in their possession to further their business or habit. This could include, but is not limited to, precursor chemicals, glassware, tubes, growing apparatus and assorted cookware for

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- manufacture of narcotics; bags, scales, and packaging materials for distribution of narcotics; and pipes, bongs, torches, and assorted drug paraphernalia for usage;
3. Controlled substances are commonly hidden in various types and sizes of containers, which are often disguised to avoid detection;
 4. Information regarding the manufacture, distribution, sale and use of controlled substances are found in books, records, receipts, notes ledgers, research products, papers, microfilms, video/audio tapes, films developed and undeveloped and other assorted media;
 5. Drug manufacturers, dealers and users will trade, exchange, and sell anything for controlled substances including money, food stamps, food, electrical equipment, jewelry, clothing, stolen property, guns/firearms, other drugs, cigarettes and any tangible or intangible property;
 6. Guns, firearms, rifles, pistols, shotguns, and all types of dangerous weapons are utilized by drug manufacturers, dealers, and users to protect themselves from robbery, police intervention, and for self defense; to protect their profits, assets, and narcotics; and to assist in the furtherance of their drug habits;
 7. Computers are used to log delivery records, gain media access to information, communicate with coconspirators, transfer funds, store information, and enhance the efficiency of controlled substance transactions;
 8. Digital pagers, telephones, cellular phones and other communications equipment assist manufactures to negotiate deals, contact coconspirators, conduct business transactions, and communicate with potential customers;
 9. Papers showing ownership, residency, occupancy and other indicia corroborate the length of time narcotics activity has occurred, location of occurrence, coconspirator's involvement, and constructive possession of evidence;
 10. Drug manufacturers, dealers and users commonly keep the names, addresses, and phone numbers of other conspirators, drug associates, and sources for equipment, chemicals or other controlled substances. This information is valuable in the furtherance of other related drug and/or controlled substance investigations;

II. Probable Cause to Search Properties

Your Affiant's belief is based upon the following facts and circumstances: CI #552 is a Confidential Informant (CI) who agreed to work with the Pierce County Sheriff's Department. In order to establish his/her credibility, the CI made two "reliability" buys. In each of these purchases, he/she identified a source of illegal drugs. The CI was searched prior to these buys, and in both cases, he/she had no money or drugs in his/her possession. The CI was then given money for the anticipated buy. In each case, we watched him/her go into and out of the buy location and back to us. He/she then gave us the controlled substances that he/she had purchased. He/she was searched again after each buy and we did not find any drugs or money in his/her possession.

During an interview, the CI identified two individuals living at 5422 S. Alder Apt B, Tacoma, WA as sources of crack cocaine.

Within the past four weeks, the CI has made two purchases of crack cocaine from the suspect(s). The most recent purchase was within the past 72 hours.

The first of these two controlled buys from the location occurred within the last four weeks. Dep. Shaffer and Det. Shaviri met with the CI. The CI was searched, and found to have no money or drugs. The CI was provided with recorded buy money. While under constant surveillance, the CI went to 5422 S. Alder St #B, and was observed going inside by Det. Shaviri.

After a short period of time, the CI came back out, and while under constant surveillance, went to an arranged meeting location where he/she recontacted Dep. Shaffer and Det. Shaviri. The CI turned over crack cocaine to Dep. Shaffer. The CI reported exchanging the buy money with a white female "Misty" for the recovered crack cocaine. The CI was again searched, and found to have no money or drugs. Dep. Shaffer field-tested the recovered crack cocaine, and received a positive result for cocaine.

The most recent of these two buys occurred within the past 72 hours. Dep. Nordstrom and I met with CI #552. The CI had previously been in contact with "Misty," and had arranged to go to the Alder St address to purchase crack cocaine. The CI was searched, and found to have no money or drugs. I provided the suspect with recorded buy money. While I was with the CI he/she spoke to the suspect on the phone confirming that he/she was on the way.

While under constant surveillance, the CI went to 5422 S. Alder St Apt B, Tacoma, WA. Upon arriving, he/she was seen to knock and be let into Apt B. After a short period of time, the CI came back outside, and was kept under constant surveillance as he/she met back up with Dep. Nordstrom and myself at an arranged meeting location.

The CI turned over crack cocaine and unused buy money to us. The CI was again searched, and found to have no money or drugs. The CI reported being let in to the apartment, and contacting the same female as contacted in the previous (above reported) controlled buy. The CI exchanged the buy money for crack cocaine with the female before returning to contact us.

I field-tested the crack cocaine and received a positive result for cocaine.

Pursuant to Authorizations for Evidence Interception, this buy was recorded. The evidence collected corroborated the statement of the CI.

Dep. Shaffer through his investigation has identified the two suspects as;

Misty Ann Navesken, a white female 2-12-75. She is a convicted felon with prior convictions for possession of cocaine, drug paraphernalia, possession of marijuana, and possession of cocaine with intent. This address is an address used by Misty per PCSD computer systems

Tony Kim White, an asian male 7-17-72. He is a convicted felon with prior convictions for possession of cocaine with intent, possession of cocaine, and drug paraphernalia. This address is an address used by Tony per PCSD computer systems.

III. Conclusion

Deputy Mark E. Fry concludes that violations of the Uniformed Controlled Substances Act Chapter 69.50 RCW are occurring, and/or have occurred; at the location and that the items listed in this warrant are evidence necessary for the investigation and prosecution of said offenders.


PR/93-026
Deputy Mark E. Fry
Pierce County Sheriff's Department.
Special Investigations Unit

Subscribed and sworn to before me this 11 day of Feb, 2010


Superior Court Judge.

JA Orlund

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9. Firearms, pistols, rifles, and/or any other dangerous weapons including but not limited to as defined in Chapter 9.41 RCW which are possessed, used, or intended for use, in the furtherance of the violations listed above;
10. Computers and equipment including hard drives, floppy disks, monitors, keyboards, printers, software and/or computer manuals used, or intended for use, in the furtherance of the violations listed above;
11. Digital pagers, cellular telephones, answering machine tapes, telephone caller I.D. readouts, and any other communications equipment used, or intended for use, in the furtherance of the violations listed above;
12. Indicia of occupancy, residency and/or ownership of the premise described in this search warrant including, but not limited to, utility bills, telephone bills, cancelled envelopes, registration certificates and keys;
13. Addresses and/or telephone numbers of conspirators, drug associates, or any other people related to the manufacture, distribution, transportation, ordering, or purchasing of Cocaine and/or any other controlled substances;

THEREFORE, in the name of the State of Washington you are commanded that within ten days from this date, with necessary and proper assistance, you enter into the said premises, and then and there diligently search for said evidence, or any other; and if same, or evidence material to the investigation or prosecution of said felony, or any part thereof be found on such search, bring the same forthwith before me, to be disposed of according to law. A copy of this warrant shall be served upon the person or persons found in or on said premises. If no person is found in or on said premises, and a copy of this warrant and inventory shall be returned to the undersigned judge or his agent promptly after execution. Bail is to be set in open court.

Given under my hand this 11 day of Feb, 2010



Superior Court Judge

J.A. Orlando

Pierce County Sheriff's Department (PCSD)
 Evidence Inventory Report

PRR 73/11-0592:00008
 10-1-50167-5

Subject: Search Warrant - Drugs - Crack

80169

Incident Location: 5422 S. Alder St Apt-B
 Tacoma, WA

100480169

Item #	Property Description	Qty	Serial #	F/O	Disposition	Disp Location
1	Other - Evidence - red plastic container w/ white residue found on printer NE bedroom-k9 alert	1		388	Booked into Property	South Hill Precinct
2	Other - Evidence - surveillance monitor on desk in NE bedroom	1		388	Booked into Property	South Hill Precinct
3	Other - Evidence - surveillance camera mounted above front door, connected to #2	1		388	Booked into Property	South Hill Precinct
4	Other - Evidence - plastic baggy w/ white residue found in desk, NE bedroom - FieldTestedBy:472 - Results:cocaine	1		388	Booked into Property	South Hill Precinct
5	Drugs - Marijuana - two small baggies of marijuana, found on White - FieldTestedBy:472 - Results:marijuana	1		447	Booked into Property	South Hill Precinct
6	Other - Evidence - \$289 in US currency, found on White	1		447	Booked into Property	South Hill Precinct
7	Other - Evidence - wallet and WA ID found on White	1		447	Booked into Property	South Hill Precinct
8	Other - Evidence - 2 cellular phones found on floor NE bedroom	1		357	Booked into Property	South Hill Precinct
9	Other - Evidence - small ziploc baggy found in dresser drawer NE bedroom	1		388	Booked into Property	South Hill Precinct
10	Other - Evidence - ID for Sean Larsen found on shelves dresser in NE bedroom	1		357	Booked into Property	South Hill Precinct
11	Drugs - Cocaine - Crack - bag containing 6 smaller bags of crack cocaine found back corner of NE bedroom closet - FieldTestedBy:472 - Results:cocaine	1.4		357	Booked into Property	South Hill Precinct
12	Other - Evidence - open package of sandwich baggies, found on coffee table, living rom	1		357	Booked into Property	South Hill Precinct
13	Drugs - Cocaine - Crack - sandwich baggy containing crack cocaine, found floor back of closet, NE bedroom - FieldTestedBy:472 - Results:cocaine	6		388	Booked into Property	South Hill Precinct
14	Other - Evidence - 2 crack pipes and small baggie found under small couch, living room	1		357	Booked into Property	South Hill Precinct
15	Other - Evidence - misc. documents including name of Misty Navesken and Aaron R Baker, and Tony White w/crib notes found in NE bedroom	1		357	Booked into Property	South Hill Precinct
16	Other - Evidence - surveillance camera mounted on upper newel post, top of stairs	1		357	Booked into Property	South Hill Precinct
17	Evidence - Photos - Compact Flash XFer - Officer Generated - search warrant photos	1		472	Transferred To Case Images	

Reported By: 93-006 - Fry, Mark Date: 02/17/2010 07:09:50
 Entered By: 93-006 - Fry, Mark Date: 02/17/2010 07:09:50
 Date Printed: 02/17/2010 08:24:27 By: 93-006 - Fry, Mark

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IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff

Cause No. 10-1-00767-1

vs.

EXHIBIT RECORD

WHITE, TONY KIM,
Defendant

P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	1	Photo: title sheet	Yes	No	Admitted	11.09.10	
P	2	Photo: Front of house on So Alder	Yes	No	Admitted Published	11.04.10	
P	3	Photo: front porch w/door off	Yes	No	Admitted Published	11.09.10	
P	4	Photo: Front door broken off	Yes	No	Admitted Published	11.08.10	
P	5	Photo: metal bar	Yes	No	Admitted Published	11.08.10	
P	6	Photo: stairwell w/wirs/lights	Yes	No	Admitted Published	11.09.10	
P	7	Photo: broken front door jam	Yes	No	Admitted Published	11.08.10	
P	8	Photo: stairwell w/camera	Yes	No	Admitted Published	11.09.10	
P	9	Photo: kitchen from outside of kitchen (refrigerator)	Yes	No	Admitted Published	11.09.10	
P	10	Photo: bedroom w/bed/pillows	Yes	No	Admitted Published	11.09.10	
P	11	Photo: room w/ white TV and Blk TV, stuffed animals	Yes	No	Admitted Published	11.09.10	

P D	No.	Description	Off	Obj	Admitted	Agreed	Denied	Date	Rec'd by Clerk's Office
					Illustrative	Published	Redacted		
P	12	Photo: kitchen from inside kitchen (rocking chair w/coat	Yes	No	Admitted	Published		11.09.10	
P	13	Photo: living room, blue couch, coffee table	Yes	No	Admitted	Published		11.09.10	
P	14	Photo: living room, two TVs, coffee table	Yes	No	Admitted	Published		11.09.10	
P	15	Photo: room, back of white monitor/black computer screen	Yes	No	Admitted	Published		11.09.10	
P	16	Photo: room with some sort of fan	Yes	No	Admitted	Published		11.09.10	
P	17	Photo: closet with what appears to be hanging uniform	Yes	No	Admitted	Published		11.09.10	
P	18	Photo: room, front of white monitor/black computer screen	Yes	No	Admitted	Published		11.08.10	
P	19	Photo: Laundry room	Yes	No	Admitted	Published		11.09.10	
P	20	Photo: Bathroom, toilet	Yes	No	Admitted	Published		11.09.10	
P	21	Photo: Bathroom, sink	Yes	No	Admitted	Published		11.09.10	
P	22	Photo: RAG 1 (MC2) red cup with residue, on printer	Yes	No	Admitted	Published		11.09.10	
P	23	Photo: TAG 2 (MC3) White surveillance monitor, on desk	Yes	No	Admitted	Published		11.09.10	
P	24	Photo: TAG 3 (MC4) Camera on wall, connected to TAG 2 (MC3)	Yes	No	Admitted	Published		11.09.10	
P	25	Photo: TAG 4 (MC5) Bag of white residue. (FT Tjossem) in desk	Yes	No	Admitted	Published		11.09.10	
P	26	Photo: mailbox showing "White B"	Yes	No	Admitted	Published		11.09.10	
P	27	Photo: mailbox, close up.	Yes	No	Admitted	Published		11.09.10	
P	28	Photo: TAG 5 (MC6) two baggies of marijuana	Yes	No	Admitted	Published		11.09.10	
P	29	Photo: TAG 6 (MC7) \$289.00 US currency	Yes	No	Admitted	Published		11.09.10	
P	30	Photo: TAG 7 (MC8) wallet and WA ID in Defendant's name	Yes	No	Admitted	Published		11.09.10	
P	31	Photo: TAG 8 (MC9) two cell phone, on floor	Yes	No	Admitted	Published		11.09.10	
P	32	Photo: TAG 9 (MC10) small ziplock baggie of blue _____, in dresser drawer	Yes	No	Admitted	Published		11.09.10	
P	33	Photo: TAG 10 (MC11) driver's license of "Sean Robert Larson", on dresser	Yes	No	Admitted	Published		11.09.10	

P D	No.	Description	Off	Obj	Admitted	Agreed	Denied	Date	Rec'd by Clerk's Office
					Illustrative	Published	Redacted		
P	34	Photo: TAG 11 (MC12) Plastic bag containing 6 smaller bags of crack cocaine (f/t Tjossem), in found location; back corner of closet	Yes	No	Admitted			11.09.10	
P	35	Photo: TAG 11 (MC12) Same as 34, but placed on desk (for better visibility)	Yes	No	Admitted			11.09.10	
P	36	Photo: TAG 11 (MC12) Same as PI Exh 34, Six (6) wrapped chunks of crack cocaine on scale (1.3 oz)	Yes	No	Admitted			11.09.10	
P	37	Photo: TAG 11 (MC12) Same as PI Exh 34, close-up of three (3) of those bags	Yes	No	Admitted			11.09.10	
P	38	Photo: TAG 12 (MC13) Open box of plastic bags, on coffee table	Yes	No	Admitted Published			11.09.10	
P	39	Photo: TAG 13 (MC14) Sandwich bag of crack cocaine (f/t Tjossem), on floor in back of closet.	Yes	No	Admitted			11.09.10	
P	40	Photo: TAG 14 (MC15) Two (2) crack pipes and small baggie, under couch	Yes	No	Admitted Published			11.09.10	
P	41	Photo: TAG 15 (MC16) "Wide Ruled" ledger book, miscellaneous documents including name of Misty Navesken, Aaron R. Baker, D Tony White, with crib notes.	Yes	No	Admitted Published			11.09.10	
P	42	Photo: TAG 16(MC 17) Sureveillance camera	Yes	No	Admitted Published			11.09.10	
P	43	Agreement (contract) with Darien Williams							
P	44	Guilty Pleas of Darien Williams							
P	45	Judgment & Sentence of Darien Williams							
P	46	Manila Evidence Envelope containing (7.0 grams) MC1 (10-10-0489)							
P	46A	Plactic zip lock containing cocaine (from PI Exh 46	Yes	No	Admitted			11.04.10	
P	47	Evidence Envelope containing Red Plastic Container with cocaine residue (MC2) and Plastic baggie w/cocaine residue	Yes	No	Admitted			11.09.10	
P	47A	Ziplock bag containing red plastic container	Yes	No	Admitted			11.08.10	
P	47B	Ziplock bag containing							
P	48	Surveillance Camera (MC4)	Yes	No	Admitted			11.08.10	
P	49	Google map, showing bus stop and 5420 address	Yes	No	Admitted Published			11.08.10	
P	50	Manila Envelope containing two bagies of Marijuana	Yes	No	Admitted			11.09.10	
P	50A	Zip lock containing marijuana from PI Exh 50	Yes	No	Admitted Published			11.08.10	

	P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
1	P	51	Evidence Envelope containing ziplock bag	Yes	No	Admitted Published	11.08.10	
2	P	52	Plastic zip lock containing sandwich baggie (MC14)	Yes	No	Admitted Published	11.08.10	
3	P	53	Plastic zip lock containing two (2) crack pipes and a small baggie (MC14)	Yes	No	Admitted	11.09.10	
4	P	54	Plastic zip lock containing miscellaneous documents and crib notes (MC16)					
5	P	54A	Three (3) day notice to vacate	Yes	No	Admitted	11.09.10	
6	P	54B	Geico ID cards to Tony White	Yes	No	Admitted	11.09.10	
7	P	54C	Pierce County Corrections Receipt Form (Aaron Baker)	Yes	No	Admitted	11.09.10	
8	P	54D	CEC Solutions, LLC letter to Tony White	Yes	No	Admitted	11.09.10	
9	P	54E	Crib Notes on Yellow paper	Yes	No	Admitted	11.09.10	
10	P	54F	Black Notebook	Yes	No	Admitted	11.09.10	
11	P	55	Plastic zip lock containing surveillance camera (MC17)	Yes	Yes	Admitted	11.08.10	
12	P	56A	Evidence envelope containing cocaine in ziplocks marked PI Exh 56 and 57	Yes	No	Admitted	11.09.10	
13	P	56	Ziplock bag containing white rocks (Cocaine) (from 56A)	Yes		Admitted Published	11.08.10	
14	P	57	Ziplock bag containing white rocks (Cocaine) from PI Exh 56A	Yes		Admitted Published	11.08.10	
15	P	58	Pierce Co Sheriff Dept Supplemental Report					
16	P	59	Pierce Co Sheriff Dept Report					
17	P	60	Property Report, items taken from search warrant					
18	D	61	Pierce Co Sheriff Dept Report (reliability buy)					
19	D	62	School Bus Stop document, computer generated (Legend)					
20	D	63	Tacoma School District School Bus Stop document					
21	P	64	Report of finding by Kimberly Howard					
22	P	65	Landlord/Tenant Leasing Agreement between Ms. Levett and Mr. White (from Exhibit 54)	Yes	No	Admitted	11.09.10	
23	P	66	Pierce Co Sheriff Dept Report (Deputy Nordstrom)					
24	P	67	Pierce Co Sheriff Dept Report (Deputy Fry)					

The prosecutor made a comment about leaving behind large quantity of drugs. That the real owners would not do it. How would he know? He do not know what the situation would be or what they were thinking. The prosecutor cannot make assumptions and state them as fact by saying, "It's simply not going to happen." How does he know for sure. Where was the evidence to support this. Again this is prejudicial and prosecutorial misconduct.

Then the prosecutor stated that there was ID found there by implying that the GEICO insurance card with an expiration date of April 15, 2010 is identification. Yet the prosecutor withheld exculpatory evidence to this fact. Which everybody knows is a Brady violation. As the exhibit record shows, #30 is a picture of my wallet and driver's license. Why just a picture? Why not bring the actual wallet?

Let me start by asking where people keep their insurance card. Either in their glovebox, visor, or wallet/purse. Now I will answer the questions placed before you. The prosecutor did not bring my wallet to court because I have an insurance card in there. Now everybody knows when insurance companies send you an insurance card they send you more than one. There was actually three found in the northeast bedroom. I did not need the extra cards. This information would have placed doubt in the jury. So the prosecutor withheld my wallet on purpose and then used the insurance card found in the room against me. Again this is a Brady violation, violation of my due process, prejudicial, and prosecutorial misconduct.

The prosecutor used the three-day notice to pay or vacate dated January 5, 2010 as identification. All that proves that my name was on the lease. It does not prove that that was my room. The prosecutor had the landlord Dolores Levet testify that I paid rent. Still that does not prove that I lived there. It did not prove that was my money that I used to pay rent. I could have gotten that money from anywhere or anybody. For further arguments see affidavit of Dolores Levet's testimony.

All the documents the State provided as evidence that the prosecutor stated as identification, is an assumption. The prosecutor cannot take an assumption and state it as evidence and as fact. Only the jury can decide that. It is not up to the prosecutor to assert his ideas and beliefs as fact. This is misconduct on behalf of the prosecutor and violates my due process rights. All these issues I presented prejudiced me in persuaying the jury into siding with the State.

Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON v. WRAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty has full force of law and does not have to be verified by notary public.

Tony White

Signature

Tony White

Airway Heights Correctional Center

P.O. Box 2049

Airway Heights, WA 99001

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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	68	Crime Laboratory Report					
P	69	Case file print out					

Pierce County Sheriff Department Supplemental Report

Incident No. 100480169.5

PDA: Homeland Security:

Subject: Search Warrant - Drugs - Crack

Incident No. 100480169.5

IBR Disposition: Arrest
Forensics:
Case Report Status: Approved

Case Management Disposition:
Reporting By/Date: 94-006 - Nordstrom, Kristian 2/17/2010 07:00:00
Reviewed By/Date: 87-003 - Mierke, Alvin 2/17/2010 14:11:55

Related Cases: Case Report Number Agency

Non-Electronic Attachments Attachment Type Additional Distribution Count

Location Address: 5422 S Alder St #B
City, State, Zip: Tacoma Wa.
Contact Location:
CB/Grid/RD: 998 - PCSD in Tacoma City Limits - SW
Location Name:
Cross Street:
City, State, Zip:
District/Sector: SO - Sheriff Other
Occurred From: 2/17/2010 07:00:00 Wednesday
Notes:

Pierce County Sheriff Department Supplemental Report

Incident No. 100480169.5

Investigative Information

Means: Vehicle Activity: Motive: Direction Vehicle Traveling:

Synopsis:

Narrative: On February 17, 2010, at about 0700 hours, other members of the Pierce County Sheriff's Department Special Investigations Unit and I served a Superior Court search warrant at 5422 S. Alder St #B.

After the residence and its occupants were secure, I assisted with the search.

In the northeast bedroom, I found 2 cell phones on the floor (Item #8), an ID for Sean Larson on the shelves on the dresser (Item #10), and various documents and crib notes throughout the room (Item #15).

In the living room, I found a box of sandwich baggies on the coffee table (Item #12) and 2 crack pipes and a small baggie under the shorter of the 2 couches (Item #14).

In the stairway, I found a surveillance camera (Item #16), which was mounted to the upper newel post.

After Deputy Fry logged each item, they were turned over to Deputy Shaffer at the scene.

I transferred the photos taken (Item #17) to the LESA Server.

Reviewed By:

Reviewed Date:

Pierce County Sheriff Department Supplemental Report

Incident No. 100480169.6

Page 1 of 2

PDA:	Homeland Security:	Subject:	Search Warrant - Drugs - Crack
IBR Disposition:	Arrest	Case Management Disposition:	
Forensics:		Reporting By/Date:	93-006 - Fry, Mark 2/17/2010 14:50:00
Case Report Status:	Approved	Reviewed By/Date:	87-003 - Mierke, Alvin 2/17/2010 15:18:50

Incident No. 100480169.6

Related Cases: Case Report Number Agency

Non-Electronic Attachments

Attachment Type	Additional Distribution	Count
Location Address: 5422 S Alder St #B City, State, Zip: Tacoma Wa.	Location Name: Cross Street: City, State, Zip:	
Contact Location: CB/Grid/RD: 998 - PCSD in Tacoma City Limits - SW	District/Sector: SO - Sheriff Other	
Occurred From: 2/17/2010 07:00:00 Wednesday Notes:	Occurred To:	

Pierce County Sheriff Department Supplemental Report

Incident No. 100480169.6

Page 2 of 2

Investigative Information

Means:	Motive:
Vehicle Activity:	Direction Vehicle Traveling:

Synopsis:

Narrative: On 2-17-10 I assisted with the service of a search warrant at 5422 S. Alder St Apt-B, Tacoma, WA. I was part of the initial entry team that secured the apartment. Dep. Brockway performed the "knock and announce," and a patrol deputy in uniform/marked car also announced over the PA system. Once inside the apartment, I assisted in securing and removing those people that other entry personnel had detained. Once the residence was secure, I assisted in the warrant service by creating an ECT/property report form to document items found by the searching deputies, using information they provided. See other deputies' reports, the property report, and photos for further details.

Reviewed By:	Reviewed Date:
--------------	----------------

PIERCE COUNTY CORRECTIONS RECEIPT FORM

R

12-09-2009 @ 20:47:29

INMATE ACCOUNT TRANSACTION: OUTSIDE FUNDS RCVD.

NAME: BAKER, AARON RANDAL

BOOKING NUMBER: 2009330004

CELL: 2C43

OFFICER ID: 84-023

TRANSACTION AMOUNT: \$20.00

TERMINAL ID: 18

RECEIPT NUMBER: 2168863

TRANSACTION NOTE:

RECEIVED FROM: WHITE, TONY
ADDRESS: 5422 S. ALDER ST.
TACOMA, WA 98409
PHONE:

Duplicate dup. 53

FUNDS TYPE: Check

CHECK NUMBER: 09163204982

SIGNED _____



8200 Greensboro Drive, Suite 900
McLean, VA 22102

11/18/2009

Tony White
5422 S Alder St, B
Tacoma, WA 98409

Dear Valued Customer:

We'd liked to extend our sincerest appreciation for your valued business. If you are receiving this letter it is because we have recently received your signed paperwork but unfortunately some vital information was missing and or incorrect. We've marked the missing information in [REDACTED] so that you can easily identify the item(s) that require your attention.

We do apologize in advance for any inconvenience this may cause you. As soon as we are able to verify and update your information, we will rush deliver your merchandise.

Once your merchandise is shipped, your account is put into our Credit Enhancement Program, where we can begin to report on your credit. Again, this is contingent upon your continuing to make all scheduled payments. Again, we thank you for your business and we look forward to serving you.

If you need assistance, please call our Customer Care Department. The toll free number is 1-866-747-4119. Customer Care is available to serve you Monday through Friday between the hours of 11am - 7pm EST. Or you can email us at customer care@gcf4all.com

Sincerely,
The CEC Solutions Team!
CEC Solutions, LLC

(52)

(49)

policy satisfies the financial responsibility requirements of the law and must be carried on your person at all times. This card must also be displayed upon demand of a law enforcement official. Failure to carry the required insurance will be considered a traffic infraction and may be punishable by a fine. Any person who provides false evidence of insurance is guilty of a misdemeanor.

Please destroy your old ID cards when the new cards become effective. If your policy is canceled for any reason whatsoever, your ID card becomes invalid. You must notify us within 15 days if you add or change a car and new cards will be sent to you.

Notify us promptly of any change in your address to be sure you receive all important policy documents. Prompt notification will enable us to service you better. Your policy is recorded under the name and policy number shown on the card.

TONY KIM WHITE
5422 S ALDER ST APT B
TACOMA WA 98409-5426

Amplitude / p. 5



ID CARDS

GEICO Phone Number: 1-800-841-3000
geico.com WASHINGTON
Policy Identification Card
Policy Number Effective Date Expiration Date
4177-98-68-76 10-15-09 04-15-10
Year/Make/Model/Vehicle Identification Number
96 GMC SUBRBN1500 3GKFK16R4TG508962
Insured: TONY KIM WHITE
GEICO GENERAL INSURANCE COMPANY
P.O. Box 509090
San Diego, CA 92150-9090

GEICO Phone Number: 1-800-841-3000
geico.com WASHINGTON
Policy Identification Card
Policy Number Effective Date Expiration Date
4177-98-68-76 10-15-09 04-15-10
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Insured: TONY KIM WHITE
GEICO GENERAL INSURANCE COMPANY
P.O. Box 509090
San Diego, CA 92150-9090

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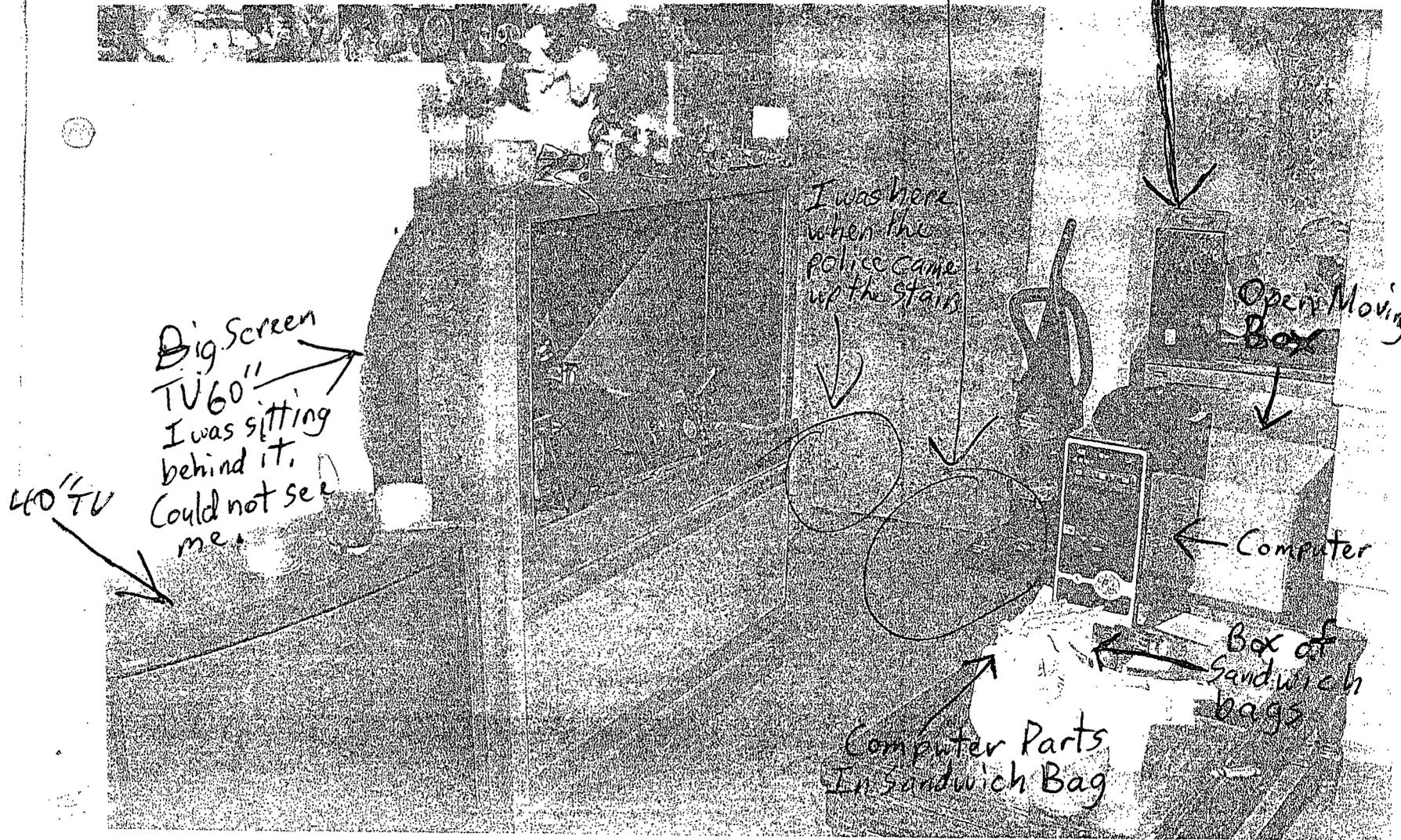
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MRR 730 11-0552: 00062

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Living Room
left side
bedroom door
(N/E bedroom)
#14

Open Moving box was
originally here, must have
been moved when
picture was taken. Safe



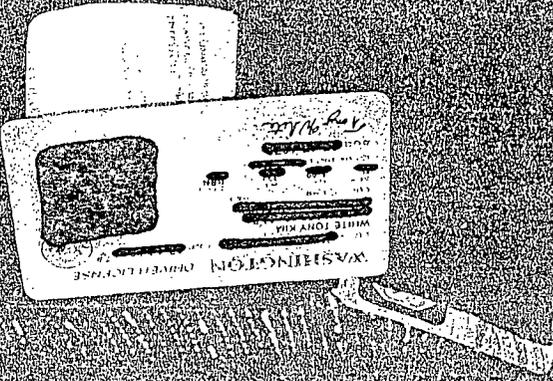
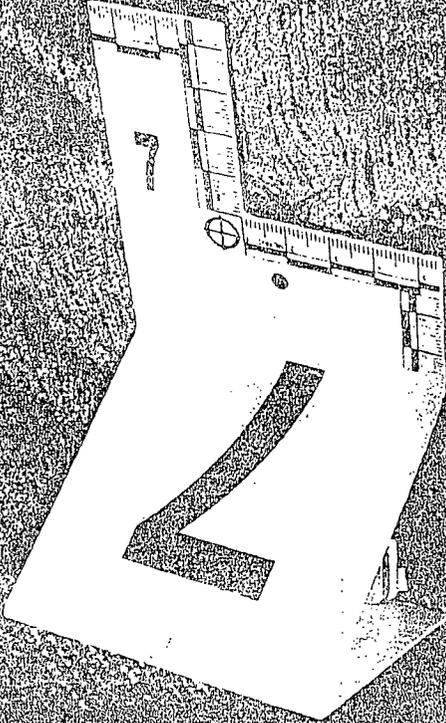
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#31



USB Cords (4 total)



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response shall be filed by 1 week prior to trial. Testimony will/will not be required.

8. Regarding OTHER PRE-TRIAL MOTIONS: No additional motions are anticipated, except:

Briefing schedule: Affidavits and briefs of the moving party must be served and filed by: _____

Responsive Brief must be served and filed by: _____

The hearing will last about _____ (min/hr)

9. Regarding TRIAL

a. The trial will be jury non-jury, and will last about 3-4 days.

b. Is an interpreter needed: No Yes. Language: _____ (If an interpreter is needed, State will call interpreter services at ext. 6091)

10. Regarding WITNESSES:

There will be out-of-state witnesses yes no.

A child competency or child hearsay hearing is needed yes no.

State:

All witnesses have been disclosed.

A Witness List has been filed.

A witness list must be filed by: 2 weeks prior to trial

Defense:

All witnesses have been disclosed.

A Witness List has been filed.

A witness list must be filed by: 2 weeks prior to trial

11. Other

Defendant needs a competency examination.

Defendant is applying for drug court.

Defendant is seeking an evaluation which may necessitate a continuance.

12. The Court sets a Status Conference for _____ (date) for the purpose of: _____

13. Other orders: The state will rearrange the defendant on additional charges. The defendant has been notified.

Dated April 21 2010

[Signature]
Defendant

[Signature]
Defendant's Attorney/Bar #

[Signature]
Judge

[Signature] For
Prosecuting Attorney/Bar # 36015
Terry Lane

IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

vs.

TONY KIM WHITE

Defendant

No 10-1-00767-1

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

Hearing Type	Date & Time	Courtroom
REARRAIGNMENT	Monday, May 3, 2010 9:00 AM	270
JURY TRIAL	Tuesday, May 18, 2010 8:30 AM	260

2. The defendant shall be present at these hearings and report to the courtroom indicated at
930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST

3. DAC; Defendant will be represented by Department of Assigned Counsel.
 Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

DATED: 04/21/10

Copy Received:

Ordered By:

SEE ORIGINAL

TONY KIM WHITE, Defendant

SEE ORIGINAL

JUDGE

SEE ORIGINAL

JOHN CHARLES PURVES
Attorney for Defendant/Bar #35499

SEE ORIGINAL

TERRY LANE
Prosecuting Attorney/Bar #16708

~~3/1/14~~
 3D 74

1/c

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
 Plaintiff)
 vs.)
TONY K. WHITE)
 Defendant)

Cause No. 10-1-00767-1

ORDER CONTINUING TRIAL

Case Age 76 Prior Continuances 1

This motion for continuance is brought by state defendant court.

- upon agreement of the parties pursuant to CrR 3.3(f)(1) or
- is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
- for administrative necessity.

Reasons: DEFENSE ATTORNEY JUST APPOINTED TO CASE. ATTORNEY NEEDS TIME TO REVIEW DISCOVERY & INVESTIGATE MATTER.

RCW 10:46:085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input checked="" type="checkbox"/> OMNIBUS HEARING	5/27/10	8:45	260	
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input checked="" type="checkbox"/> 10-AM	7/16/10	9:00		

THE CURRENT TRIAL DATE OF: 5/18/10 IS CONTINUED TO: 7/22/10 @ 8:30 am Room 260

Expiration date is: 8/24/10 (Defendant's presence not required) TFT days remaining: 30

DONE IN OPEN COURT this 6th day of MAY, 2010.

Tony White
 Defendant
[Signature]
 Attorney for Defendant/Bar # 18275

Vicki L. Hog
 Judge
[Signature]
 Prosecuting Attorney/Bar # 110708

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

 Interpreter/Certified/Qualified Pierce County, Washington Court Reporter

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J.B. 54

I/C

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON)
Plaintiff)

Cause No. 10-1-00767-1

vs.)

ORDER CONTINUING TRIAL

TONY K. WHITE)
Defendant)

Case Age 153 Prior Continuances 2

This motion for continuance is brought by state defendant court.
 upon agreement of the parties pursuant to CrR 3.3(f)(1) or
 is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
 for administrative necessity.

Reasons: INVIS. SATION ON - NO NY - defense

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/>				
THE CURRENT TRIAL DATE OF: <u>7/22/10</u>		IS CONTINUED TO: <u>9/9/10 @ 8:30 am Room</u>		

Expiration date is: _____ (Defendant's presence not required) TFT days remaining: 306 42

DONE IN OPEN COURT this 22ND day of JULY, 2010

Tony White
Defendant
[Signature]
Attorney for Defendant/Bar # 11281

[Signature]
Judge
[Signature]
Prosecuting Attorney/Bar # 10709

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified Pierce County, Washington Court Reporter

2/c

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)
vs.)
TONY K. WHITE)
Defendant)

Cause No. 10-1-00767-1

ORDER CONTINUING TRIAL

Case Age 230 Prior Continuances 4

This motion for continuance is brought by state defendant court.
 upon agreement of the parties pursuant to CrR 3.3(f)(1) or
 is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
 for administrative necessity.

Reasons: STATE IS PROVIDED ADDITIONAL DISCOVERY
what they received yesterday

RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/>				
THE CURRENT TRIAL DATE OF: <u>10/7/10</u> IS CONTINUED TO: <u>11/3/10 @ 8:30 am Room</u>				

Expiration date is: _____ (Defendant's presence not required) TFT days remaining: 30

DONE IN OPEN COURT this 7th day of OCT, 2010

Tony White
Defendant
[Signature]
Attorney for Defendant/Bar # 18275

[Signature]
Judge
Prosecuting Attorney/Bar # 116708

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Pierce County, Washington
Interpreter/Certified/Qualified Court Reporter



- A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) I AND II, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	UPCSWID	05/26/00	PIERCE, WA	04/04/00	A	NV
2	UDCS	UNK	PIERCE, WA	01/04/01	A	NV
3	UPCSWID	UNK	PIERCE, WA	01/04/01	A	NV
4	UPCS	09/28/01	PIERCE, WA	08/07/01	A	NV
5	OTHER CURRENT 10-1-00767-1	CURRENT	PIERCE, WA			
6	OTHER CURRENT 10-1-00767-1	CURRENT	PIERCE, WA			

The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.320:

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	6	II	60+ to 120 MONTHS	DSB 24 MONTHS	84-144 MONTHS	20 YRS
II	6	II	60+ to 120 MONTHS	DSB 24 MONTHS	84-144 MONTHS	20 YRS
III	6		12+ to 24 MONTHS	NONE	12+ to 24 MONTHS	5 YRS

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:

- within below the standard range for Count(s) _____.
- above the standard range for Count(s) _____.
- The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
- Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory.

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Findings of fact and conclusions of law are attached in Appendix 2.4. [] Jury's special interrogatory is attached. The Prosecuting Attorney [] did [] did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS:** The court has considered the total amount owing, the defend' s past, present and future ability to pay legal financial obligations, including the defendant' s financial resources and the likelihood that the defendant' s status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

[] The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows: N/A

III. JUDGMENT

3.1 The defendant is **GUILTY** of the Counts and Charges listed in Paragraph 2.1.

3.2 [] The court **DISMISSES** Counts _____ [] The defendant is found **NOT GUILTY** of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

<i>RTN/RJN</i>	\$ _____	Restitution to: _____
	\$ _____	Restitution to: _____
	(Name and Address--address may be withheld and provided confidentially to Clerk's Office).	
<i>PCV</i>	\$ <u>500.00</u>	Crime Victim assessment
<i>DNA</i>	\$ <u>100.00</u>	DNA Database Fee
<i>PUB</i>	\$ <u>1500</u>	Court-Appointed Attorney Fees and Defense Costs
<i>FRC</i>	\$ <u>200.00</u>	Criminal Filing Fee
<i>FCM</i>	\$ <u>0</u>	Fine
<i>CLF</i>	\$ _____	Crime Lab Fee [] deferred due to indigency
<i>CDF/DFA-DFZ</i>	\$ _____	Drug Investigation Fund for _____ (agency)
<i>WFR</i>	\$ _____	Witness Costs

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____
\$ 2300 TOTAL

[] The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[] shall be set by the prosecutor.

[] is scheduled for _____

[] RESTITUTION. Order Attached

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ _____ per month commencing _____ RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b)

[] COSTS OF INCARCERATION. In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

COLLECTION COSTS The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

INTEREST The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090.

COSTS ON APPEAL An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.160.

4.1b ELECTRONIC MONITORING REIMBURSEMENT. The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____

4.2 [X] DNA TESTING. The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.3 NO CONTACT
The defendant shall not have contact with Impressario, mess, sellers of DARRON WILLIAMS (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 10 years (not to exceed the maximum statutory sentence).

[] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

4.4 OTHER: Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law.

Empty table with 6 rows and 1 column.

4.4a BOND IS HEREBY EXONERATED

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

80 months on Count I 80 months on Count III
80 months on Count II
24 months on Count III

A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

24 months on Count No I 24 months on Count No II

Sentence enhancements in Counts I and II shall run [] concurrent [X] consecutive to each other. Sentence enhancements in Counts I and II shall be served [] flat time [X] subject to earned good time credit

Actual number of months of total confinement ordered is: 80 months + 48 months = 128 months

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

[] The confinement time on Count(s) contain(s) a mandatory minimum term of

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 10-1-00767-1

vs.

TONY KIM WHITE,

Defendant.

JUDGMENT AND SENTENCE

(Misd. and/or Gross Misd.)

Plea of Guilty

Found Guilty by Jury

Found Guilty by Court

SUSPENDED

DOB: 07/17/72

RACE: ASIAN/PACIFIC ISLAND

SEX: MALE

AGENCY: WA02700

INCIDENT #: 100480169

COUNT IV ONLY

This matter coming on regularly for hearing in open court on the 19th day of November, 2010, the defendant TONY KIM WHITE and his attorney STEVEN FRANKLIN BURGESS appearing, and the State of Washington appearing by TERRY LANE Prosecuting Attorney for Pierce County, following a verdict of guilty by jury on the 10th day of November, 2010.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED That said Defendant is guilty of the crime(s) of UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE - FORTY GRAMS OR LESS OF MARIHUANA, Charge Code: (J72), as charged in the Amended Information herein, and that he shall be punished by confinement in the Pierce County Jail for a term of not more than

90 days

Said sentence shall be (suspended) on the attached conditions of (suspended) sentence and that the Defendant pay the prescribed crime victim compensation penalty assessment as per RCW 7.68.035 in the amount of \$ _____

The said Defendant is now hereby committed to the custody of the sheriff of aforesaid county to be detained.

Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason.

Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law.

Bail is hereby exonerated.

Signed this 7 day of Dec 2000, in the presence of said Defendant.

[Signature]
JUDGE

CERTIFICATE

Entered Jour. No. Page No. Department No. this day of

I, County Clerk and Clerk of the Superior Court of the State of Washington, in and for the County of Pierce, do hereby certify that the foregoing is a fully, true and correct copy of the judgment, sentence, and commitment in this cause as the name appears of record in my office.

WITNESS my hand and seal of said Superior Court this day of

County Clerk and Clerk of Superior Court.

By Deputy Clerk.

Presented by:

[Signature]

TERRY LANE
Deputy Prosecuting Attorney
WSB # 16708

Approved as to Form:

[Signature]

STEVEN FRANKLIN BURGESS
Attorney for Defendant
WSB# 18275

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
AIRWAY HEIGHTS CORRECTIONS CENTER
P.O. Box 1899, Airway Heights, WA 99001

9/7/11

TO: WHITE, Tony 789827

RE: (2) kite responses dated 8/31/11

- Appeal information
- ERD Calculated?

I received your kites today dated 8/31/11.

- Your kite requesting Appeal information

Below is the list of the cause number, county, crime, and date of sentence for all the crimes we have listed in OMNI.

<u>Cause</u>	<u>County</u>	<u>Crime</u>	<u>Date of Sentence</u>
AA 981006531	Lewis	Misdemeanor	12/08/98
AB 991046147	Pierce	Misdemeanor	02/24/00
AC 001015427	Pierce	Conspiracy – Drugs- Manufacture, Deliver, Possess w/Intent to Del.	05/26/00
AD001015427	Pierce	Drugs-Manufacture, Deliver, Poss w/Intent to Del. (revoked)	09/28/01
AE 011041608	Pierce	Drug Possess	09/28/01
AF 011012730	Pierce	Drugs-Manufacture, Deliver, Poss w/Intent to Del.	09/28/01
AE 011041608	Pierce	CCJ Sanction 1 time start	03/23/05
--Current--			
AG 101007671	Pierce	Manufacture, Deliver, or Possess with Intent to Deliver Narcotics from in Schedule I or II which is a narcotice drug or flunitrazepam W/ VUCSA Protected zone-enhancement (2 cts)	12/03/10
AH 101007671	Pierce	Unlawful use of Building for Drug purposes W/ VUCSA Protected zone-enhancement	12/03/10

EG

May 23, 2011

Public Disclosure Officer
Civil Division
955 Tacoma Ave South
Suite 301
Tacoma, WA 98402

Re: WHITE, Tony DOC# 789827
Cause No: 10-1-00767-1 12/03/10
RCW 42.56 Public Disclosure Act
Request Information

Dear Public Disclosure Officer:

By this letter I am requesting on the Public Disclosure Act specific information to the above listed criminal cause as follows:

- | | |
|---|---|
| 1) All Arrest Warrants | 10) Copy of Miranda Rights Card Read by Arresting Officer |
| 2) All Search Warrants | 11) Miranda Rights Statement Signed and/or Refused by the Defendant |
| 3) Affidavit of Probable Cause for Search/Arrest Warrants | 12) Inventory List of Seized Items |
| 4) All Police/Incident Reports | 13) Evidence Log |
| 5) All Witness Statements | 14) Exhibit Log |
| 6) Copy of Photo Used To ID Defendant by the CI/ <i>Include Police Report</i> | 15) Photos Used in Trial as Exhibits |
| 7) CSI Fingerprint Report | 16) List of Any Other Evidence/Property Taken |
| 8) WSP Toxicology Lab Report | 17) Copy of CI's Contract |
| 9) WA Official School Zone/School Bus Route Stop Map | 18) Copy of CI's Criminal History |
| | 19) <i>Copy of Letters/Insurance Card Used As Evidence</i> |

I also like to request any information pertaining to the criminal cause listed above, of any police/incident reports at or around the address of 5422 South Alder Street. That includes any DOC supervision incident reports during the time period of July 09 thru February 2010 for the following people:

Tony White	Misty Navesken
Daniel Sears	Charles Marlowe
Randall Baker	Charles Williams
Aaron Baker	Sean Robert Larson

I also like to request all cause numbers and the names of those pertaining to the completion of the CI's contract who is named in the above listed criminal cause.

Please be advised that I am currently an inmate at Airway Heights Correctional Center. And as such, I am declared indigent by Motion for Order of Indigency for my appeal. So I am requesting that the materials I am seeking be sent to me at little or no cost to me. Please advise me of any costs involved. I have included \$5.00 as a down payment to get things started.

I realize that your office is always quite busy and I appreciate your assistance in this matter. I will let your response serve as a receipt of my request.

Sincerely,

Tony White

Tony White 789827
L-Unit B-5
Airway Heights Correctional Center
cc: file

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Mark Lindquist (Prefers Democratic Party)

Elected Experience:

Mark Lindquist was appointed as our Prosecutor by a unanimous, bipartisan vote of the County Council.

Other Professional Experience:

Chief Criminal Deputy, Trial Team
Chief, 15 years in the office. Mark successfully prosecuted the Tacoma Mall shooter and many other cases, including murders, rapes, child molestation, domestic violence, and property crimes. As a team leader, he spearheaded the prosecution of methamphetamine labs.

Education:

University of Washington, University of Southern California, University of Puget Sound School of Law.

Community Service:

Mark is a member of Rotary and serves on the Tacoma Community College Foundation Board. He and his wife Chelsea attend St. Leo's church.

Statement:

I am committed to leading a *professional, non-partisan office* that serves the people of our community well.

Under my leadership we are aggressively prosecuting violent gangs, we are holding accountable all the defendants who assisted cop-killer Maurice Clemmons, and we are reducing the Superior Court backlog to increase access to justice. In addition to our aggressive prosecution of criminals, we are successfully stopping the State from dumping felons from other counties onto our streets. *Our goal is to achieve justice, use limited resources wisely, and make our community safe.*

I'd appreciate your vote, thank you. – Prosecutor Mark Lindquist

Bi-partisan endorsements: Dan Evans, former Governor and U.S. Senator, Booth Gardner, former Governor and County Executive, Sheriff Pastor, former Prosecutors Gerry Horne and John Ladenburg, Pierce County Prosecuting Attorneys' Association, Tacoma Mayor Marilyn Strickland, Lakewood Mayor Doug Richardson, Lakewood Police Independent Guild, Tacoma Police Union, Pierce County Deputy Sheriff's Independent Guild, Lakewood, Tacoma, and Gig Harbor Firefighters, and more.

"Mark is a cop's prosecutor. He's tough, aggressive, and in the trenches with us. That's why law enforcement supports him. Keep our prosecutor!" – Detective Ed Troyer

For More Information:

(253) 273-5208

manager@marklindquist.org

www.marklindquist



< Back to Regular Story Page

Mark Lindquist for Pierce County prosecutor

THE NEWS TRIBUNE

LAST UPDATED: OCTOBER 7TH, 2010 12:21 AM (PDT)

Voters face what could be a tough decision when they pick their prosecutor in November.

The race pits incumbent-by-appointment Mark Lindquist against Bertha Fitzer, who resigned her deputy prosecutor position in August to run against her boss. Both are gifted lawyers who bring very different résumés to the race.

The smart and talented Lindquist knows how to get what he wants, whether that be the office he now holds or the successful literary career he has pursued as a sideline. He's been endorsed by former governors Booth Gardner and Dan Evans; former prosecutors John Ladenburg and Gerry Horne; U.S. Reps. Norm Dicks and Adam Smith – and what seems to be every other luminary in the political firmament.

Lindquist, our choice in the race, is certainly qualified for the job. He's led the prosecutor's drug unit and played a lead role in the county's offensive against meth labs. He's handled major felony trials, and he served as chief criminal deputy before Horne resigned and nominated Lindquist to take his place last year.

The prosecutor holds an elected position, which means he or she must – to some extent – be a political animal. A strong prosecutor not only must win over juries and effectively lead his deputies; he or she must win public support for the criminal justice system and maintain healthy ties with judges, county officials and the legal community.

But we do have questions about Lindquist that lie in the opposite direction; that his instincts may be too political.

County prosecutors in this state exercise immense discretion in their decisions to charge or not charge suspects, to accept plea bargains or torque defendants. Only members of the Washington Supreme Court, perhaps, wield more raw legal power.

That power must be exercised with extreme deference to the impartial demands of justice. We have no fundamental concerns about Lindquist's ethics, or we would not be endorsing him, but we remain curious about how much importance he places on the attention of cameras and adulatory publicity.

There's been more than a bit of showmanship, for example, in his flamboyant pursuit of novel conspiracy charges against the Hilltop Crips. Yes, an elected prosecutor must stay on the public's good side, but we would like to see more evidence that Lindquist is willing to jeopardize votes with hard and unpopular prosecuting decisions. Maybe that comes after the election.

Regardless, Fitzer is not his match in this race. She hasn't been able to garner the political, financial or public support necessary to mount a serious challenge. That doesn't bode well for someone seeking a highly public administrative office in which success depends heavily on people skills.

Fitzer is a formidably intelligent attorney with a Harvard law degree and a stellar list of credentials. But it takes more than brains to be a successful elected prosecutor.

Read earlier endorsement editorials at www.thenewstribune.com/endorsements.

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Department of Corrections

Legal Financial Obligations Withdrawal Acknowledgement

For the period 4/1/2011 through 6/30/2011, Payment Dates: 4/22/2011 and 7/14/2011

Ack#: 1813117 - 1

Facility: AP1

Location: P01LB05U

DOC#: 789827, White, Tony K

<u>County Paid</u>	<u>Cause#</u>	<u>LFO Balance</u>	<u>Withdrawals</u>	<u>Payments</u>	<u>Refunds</u>
Pierce County Clerk	011012730	\$1,749.42			
	011041608	\$1,749.42			
	101007671	\$2,436.13			
<i>Total Paid To: Pierce County Clerk</i>				\$15.56	
Withdrawal Acknowledgement Summary			<u>\$15.56</u>	<u>\$15.56</u>	<u>\$0.00</u>

The County Clerk maintains the official LFO payment record. For proof of receipt of money by the county, send a self addressed stamped envelope to the County Clerk. Some counties may charge copy fees for a payment history.

SKOMBEREC

AIRWAY HTS CORR CNTR/PINE LODGE CCW

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000789827 Name: WHITE, TONY K
LOCATION: P01-207-LB05U

BKG# 125128

Account Balance Today (09/01/2011) Current : 36.21
Hold :
Total : 36.21

Account Balance as of 08/31/2011 36.21
08/01/2011 08/31/2011

SUB ACCOUNT	START BALANCE	END BALANCE
SAVINGS BALANCE	21.50	36.19
SPENDABLE BAL	7.77	0.02

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
COSMD	COS - MISDEMEANANT DEBT (001)	10242001	0.00	620.00	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	10022001	UNLIMITED	0.00	0.00
POSD	POSTAGE DEBT	04212011	0.20	0.00	0.00
POSD	POSTAGE DEBT	12222010	1.44	0.00	0.00
644D	CSRF LOAN DEBT	2303 1008200	0.00	150.00	0.00
TVRTD	TV RENTAL FEE DEBT	04222004	0.02	0.08	0.00
TVRTD	TV RENTAL FEE DEBT	07192005	1.00	0.00	0.00
HYGA	INMATE STORE DEBT	08222005	3.26	0.00	0.00
POSD	POSTAGE DEBT	07022003	0.16	0.00	0.00
HYGA	INMATE STORE DEBT	02072011	31.55	0.00	0.00
TVD	TV CABLE FEE DEBT	11102001	0.00	1.46	0.00
WRBD	WR ROOM AND BOARD DEBT	10082003	0.00	13.50	0.00
TVD	TV CABLE FEE DEBT	02122011	0.00	2.00	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	10062003	UNLIMITED	72.36	0.00
HYGA	INMATE STORE DEBT	07112005	31.37	80.14	0.00
TVD	TV CABLE FEE DEBT	10112003	0.00	1.50	0.00
COSFD	COS - FELONY DEBT (206)	06262010	177.01	42.99	0.00
HYGA	INMATE STORE DEBT	10212005	3.37	0.00	0.00
COI	COST OF INCARCERATION	10022001	UNLIMITED	79.28	0.00
HYGA	INMATE STORE DEBT	10152003	0.00	12.89	0.00
TVD	TV CABLE FEE DEBT	11122005	0.00	0.50	0.00
MEDD	MEDICAL COPAY DEBT	05272004	0.00	2.96	0.00
MEDD	MEDICAL COPAY DEBT	07292002	0.00	9.41	0.00
CVC	CRIME VICTIM COMPENSATION	10022001	UNLIMITED	160.36	0.00
SPHD	STORES PERSONAL HYGIENE DEBT	10252005	0.00	1.68	0.00
COIS	COST OF INCARCERATION /07112000	10022001	UNLIMITED	0.00	0.00

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