

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

NO. 44085-7-II

FROM CLALLAM COUNTY SUPERIOR COURT

NO. 11-1-00034-5

STATE OF WASHINGTON,

Respondent,

vs.

WILLIAM HARSH,

Appellant.

BRIEF OF RESPONDENT

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COUNTERSTATEMENT OF THE ISSUES

ISSUE ONE

When the defendant admits to committing a string of burglaries, and provides details about the burglaries he committed so that the jury could match the descriptions to the evidence presented by the victims, has the State presented sufficient evidence that a reasonable trier of fact can review to determine the defendant is guilty of six burglaries and theft of a firearm?

ISSUE TWO

When the defendant admits he and an accomplice committed a string of burglaries with theft as the primary motive, is a charge related to one of the stolen items sufficiently identified in the jury instructions to permit the trier of fact to find a violation of law beyond a reasonable doubt?

STATEMENT OF THE CASE

A series of burglaries occurred in Clallam County in December of 2007 through May of 2008 (RP 235). On May 20, 2008, a Clallam County deputy contacted Mr. Harsh and Joseph Demmon parked in the area where many of the burglaries had occurred (RP 198). Sufficient information developed from the contact that Mr. Harsh became a suspect in the burglaries (RP 221).

Detectives Lyman and Sampson, Clallam County, interviewed Mr. Harsh on March 13, 2009 (RP 221). Mr. Harsh told him he had participated in 15 to 20 burglaries in Clallam County (RP 236). His statement was recorded (RP 223, Ex. 1, admitted) and transcribed for the jury (RP 225, Ex. 2, attached as Appendix A).

The State originally charged Mr. Harsh with eight burglaries and a series of theft or drug charges, for a total of eighteen counts (CP 83). By trial, however, the State pared the charges down to seven burglaries and one theft of a firearm

totaling eight counts (CP 67). At trial, the State tied six burglaries to information learned in Mr. Harsh's confession (RP 305-310). For instance, prior to playing the taped confession, the State asked Detective Lyman whether any of the confessed burglary locations had a balcony on the back side (RP 226). Detective Lyman responded that the Bishop home at 152 Lost Mountain Road had such a balcony (RP 226).

William Davis, formerly a resident of Sequim who lived at 21 Olson Road (RP 86), testified his house was burglarized. His back door had been kicked in and the burglars stole a flat screen television (RP 87). At the time of the burglary, he had a 1997 green Ford Explorer parked in a carport next to his home (RP 88). Ex. 3, admitted, is a picture of his former home. It shows his home, his carport, his green Explorer and further shows the Y created by the intersection of Taylor Cutoff Road and Olson Road.

Mr. Harsh described the burglary of a greenish blue colored home with a Ford Explorer parked in the driveway for

sale. Entry was made through the back door. The home was located at a Y in the roadway (Ex. 2, page 15). They stole a television (Ex. 2, page 14).

Mr. Harsh was asked whether any other items were stolen at Mr. Davis' house (Ex. 2, page 14). He replied that there could have been because he caught Demmon concealing items from him before (Ex. 2, page 15). It had to be a small item he could conceal on his person, "[l]ike a gun or something, you know, you could just put that in your waistband..."

James Bishop, a resident living at 152 Lost Mountain Road, Sequim (RP 98), was informed on May 8, 2008 that his home had been burglarized (RP 100). Exhibit 8, admitted, showed the front of his home. His home is across the street from Cheryl Wolover's home (RP 108). The back door had been forced, the locks ruined and the jam shattered (RP 100). A medicine bottle containing two pills and a .45 caliber pistol were stolen (RP 101).

Mr. Harsh explained that they burglarized a home “right up the street” from the house on Olson Road (Ex. 2, page 16). The house was “kind of a brown two-story house” with a big balcony that overlooked the valley (Ex. 2, page 16). Entry was made through the back door (Ex. 2, page 16). “I don’t think there was really anything taken out of that house.” (Ex. 2, page 17).

Walter Stapish, a resident at 2181 Lost Mountain Road, saw a bunch of sparkles right by Lost Mountain Road (RP 161). He and an officer picked up the sparkly things—jewelry, rings and stuff like that -- and put them in a pillow slip (RP 161-2). He also located a pill bottle for Oxycotin that had a name scratched off (RP 162).

Burl King, a resident living at 4091 Blue Mountain Road, Port Angeles, testified his house was burglarized the day after his birthday in May 2008 (RP 114). His door was open; when he entered he saw a flat screen television was missing and he could not find his Dell laptop computer (RP 114-116). Some

jewelry and a Ruger P90 .45 automatic were also missing (RP 116). Mr. King testified a photograph depicted the color of his home as it had been in 2008 (RP 118). He also testified his home had a deck on the back side of his home that wraps around half the house (RP 118; Ex 14).

Mr. Harsh admitted that he and Demmon had burglarized at least one home on Blue Mountain Road but he did not remember many details (Ex. 2, page 33). He remembered they had stolen a laptop and some jewelry at the burglary on Blue Mountain Road (Ex. 2, page 33).

Dale Freelund, also a resident on Blue Mountain Road, however, observed a dark colored car parked in Mr. King's driveway on the day Mr. King's home was burglarized (RP 156). His impression was that the vehicle was a black, smaller sized sedan (RP 156). As he walked away from Mr. King's home, he heard a house door shut (RP 157). Mr. Harsh admitted that he and Demmon committed most of the burglaries in a black Honda Civic (Ex. 2, page 13, 22, 33).

Marilyn McNamara testified that her home at 1193 Atterberry Road, Sequim, was burglarized on May 20, 2008 (RP 127). Her front door had been forced open (RP 127). Her entire computer setup had been taken, along with a large jar of coins, a small safe, a briefcase with wedding music, and some jewelry, too (RP 128-9). A docking device for a Kodak camera had also been taken (RP 128). She testified that she lives in a double wide home with an attached garage that has white doors (RP 130). Exhibit 17, admitted, shows a white or cream colored home.

Mr. Harsh stated he and Demmon burglarized a home on Atterberry Road with an attached garage with white doors (Ex. 2, page 29, 32). They had entered by kicking in the front door or back door (Ex. 2, page 33). They stole a desk top computer and printer, a camera, a change jar and some jewelry (Ex. 2, page 29). They entered through the front door (Ex. 2, page 29).

Megan Waldron testified that her home at 43 East Street, Sequim, was burglarized on May 20, 2008 (RP 138). Ms.

Waldron testified she lives on a cul-de-sac, with only two other houses (RP 140). She testified that her home is 1040 square feet, with one bath and one bedroom (RP 138). Exhibit 27, admitted, showed the front of the house with the door smashed in. A hot tub sat behind her residence (RP 139; Exhibit 27). Lots of jewelry, a sound system, money, DVD players and videos, video games, a flat screen television, purses, wallets and other items were taken (RP 139). The loss was approximately \$24,000 (RP 140).

Mr. Harsh described a burglary of a home closer into town at which they stole a big change jar, a surround sound system in a home entertainment center, a television, jewelry, and a camera (Ex. 2, page 25). The house had a hot tub in the back yard (Ex. 2, page 25).

Joseph Sauve testified he resided at 385 Humble Hill Road, Sequim (RP 166). While he was away in May 2008, someone broke into his home and stole an Apple workbook laptop and a printer (RP 167). The burglar entered by prying

open a back door (RP 175). Mr. Sauve reviewed a series of photographs of his one-story house, pointing out an apartment located over the garage (RP 169). Half his floors are covered in white oak flooring (RP 170). He also testified the gutters had been replaced by Cole's gutters the past winter (RP 172).

Mr. Harsh described the burglary of a home back in the woods, a one story home with a shingled, natural wood kind of color (Ex. 2, page 20, 22). He said the home was nice, with hardwood floors. He entered the home through the opened front door (Ex. 2, page 21). They stole a Dell computer, a camcorder and some jewelry (Ex. 2, page 21). Mr. Harsh remembered the house because Demmon had replaced the gutters there while working for Cole's Gutters (Ex. 2, page 22).

Mark Millet, a deputy sheriff with Clallam County (RP 177), responded to a report of a burglary at 385 Humble Hill Road on May 6, 2008 (RP 177). Entry had been made by forcing open a door on the back side of the residence (RP 178). On May 22, 2008, he was dispatched to contact Mr. Stapish

(RP 178). Deputy Millet testified the items included mostly jewelry and a pill bottle with James Bishop's name on it (RP 179, 181). The pill bottle label indicated the bottle had contained Oxycodone (RP 183). The items also included a purse, a pill cutter, some pillow cases and a small pocket knife (RP 180, 181). No useable fingerprints were found on any of the items (RP 186).

Andrew Wagner, a deputy with Clallam County (RP 191), testified he responded to a report of burglary at Sheryl Wolover's home on Lost Mountain Road (RP 192). He showed Ms. Wolover photographs of jewelry and the pillow cases (RP 193). Ms. Wolover went into her home and returned with a pillow case that matched the pillow cases in evidence (RP 193). After meeting with Ms. Wolover on May 20, 2008, Deputy Wagner responded to Mr. Bishop's home at 152 Lost Mountain Road (RP 196). He observed that the back door had been forcefully entered (RP 195).

A day earlier, May 19, 2008, Deputy Wagner and another deputy made contact with two individuals near a black Honda Civic on Taylor Cutoff Road near Wildwood Lane (RP 197). Taylor Cutoff Road is “about a mile” from Lost Mountain Road (RP 197). The two were William Harsh and Joseph Demmon (RP 198). They indicated they were going fishing but the vehicle had no fishing gear (RP 198, 204). He was given permission to search the trunk and located a Sony remote and a pry bar, but no spare tire (RP 204). Mr. Harsh told the deputy he worked for a construction company in the Everett area (RP 205). Mr. Demmon told the deputy he worked for “Cole’s Cutters (sic)” RP 205). Six hours after contacting the two, the deputy responded to a burglary report at Wolover’s residence (RP 206).

At the close of the State’s case, Mr. Harsh moved to dismiss for lack of sufficient evidence to convict (RP 298). He also asked the trial court to dismiss count eight, theft of a firearm, because he disavowed any knowledge or complicity in

the firearm theft (RP 301). The State responded that the category of crimes Mr. Harsh was involved in was theft, and Mr. Harsh knew the purpose of the burglary was to commit crimes of theft, so he had “accomplice knowledge that he was ...intending to facilitate and promote thefts in general.” (RP 303). Further, the State argued that, if the crime of theft had to be a specific theft of a firearm, Mr. Harsh was aware that his accomplice, Mr. Demmon was interested in firearms and that Mr. Demmon was pocketing items and not sharing them with him (RP 303).

The State opposed dismissal of the burglary charges because “Mr. Harsh’s confession clearly matches up with a number of the burglaries” (RP 304). The State recounted Mr. Harsh’s confession and showed how each portion of the confession, except for Ms. Wolover’s home, contained sufficient facts to show which home was being burglarized.

The Trial Court denied the motion to dismiss count eight, theft of a firearm, ruling that Mr. Harsh committed the

burglaries with the intent to commit thefts, and theft of a firearm was no different from any other theft taken in the burglaries (RP 316). Further, the Trial Court ruled that Mr. Harsh was aware of Mr. Demmon's propensity to steal firearms, he knew that Mr. Demmon did not always share all he had taken, and that there was a possibility the homes they entered contained firearms (RP 316).

The Trial Court then denied the motion to dismiss six of the seven burglaries but did dismiss the count related to the burglary of Ms. Wolover's home (RP 316).

Mr. Harsh testified in his behalf. After his testimony, the jury was provided a verdict form that listed six burglaries counts and one count of theft of a firearm. Mr. Harsh was found guilty of all seven counts (CP 32-34). After sentencing, this appeal followed.

ARGUMENT

ISSUE ONE

When the defendant admits to committing a string of burglaries,

and provides details about the burglaries he committed so that the jury could match the descriptions to the evidence presented by the victims, has the State presented sufficient evidence that a reasonable trier of fact can review to determine the defendant is guilty of six burglaries and theft of a firearm?

RESPONSE

I. Standard of Review: Evidence is sufficient to support a conviction if, “after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

II. Analysis: A recent United States Supreme Court case reaffirmed that appellate review is limited to determining whether no rational trier of fact could have agreed with the jury’s decision. *Coleman v. Johnson*, 132 S.Ct. 2060, 182 L.Ed.2d 978 (2012). In response to a post-trial motion arguing the evidence of accomplice participation in a murder, the U.S. Supreme Court restated the test at page 4-6:

Under *Jackson*,¹ evidence is sufficient to support a conviction if, 'after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' 443 U.S., at 319. (emphasis in original).

The Court went on to explain:

Under the deferential federal standard, the approach taken by the Court of Appeals was flawed because it unduly impinged on the jury's role as factfinder. *Jackson* leaves juries broad discretion in deciding what inferences to draw from the evidence presented at trial, requiring only that jurors "draw reasonable inferences from basic facts to ultimate facts." *Id.*, at 319. This deferential standard does not permit the type of fine-grained factual parsing in which the Court of Appeals engaged.

The Supreme Court went on to review the evidence, taken in the light most favorable to the prosecution, and concluded the evidence was not nearly sparse enough to sustain a due process challenge under *Jackson v. Virginia*, *supra*. *Jackson* stated at 443 U.S. 318-9, 99 S.Ct. 2788-9:

After *Winship*² the critical inquiry on review of the sufficiency of the evidence to support a criminal

¹ *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). *Jackson v. Virginia* was adopted in Washington State in *State v. Green*, 94 Wn.2d 216, 616 P.2d 628 (1980) (*Green II*).

² 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970).

conviction must be not simply to determine whether the jury was properly instructed, but to determine whether the record evidence could reasonably support a finding of guilt beyond a reasonable doubt. But this inquiry does not require a court to "ask itself whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt." *Woodby v. INS*, 385 U.S. [276], at 282, 87 S.Ct. [483], at 486 [(1966)] (emphasis added). Instead, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. (footnote omitted).

In this case, the facts are all there for a jury to determine that Mr. Harsh was guilty of six burglaries and one theft of a firearm. A rational trier of fact could look at evidence and be persuaded beyond a reasonable doubt that Mr. Harsh acted in concert with Mr. Demmon during the burglaries with which the State charged him.

Each of the six burglaries were matched up closely to Mr. Harsh's confession. Exhibit 38, admitted, shows the general area of Clallam County in which Marsh and Demmon operated. It shows, for instance, that Taylor Cutoff Road eventually comes to a Y with Olson Road and then proceeds on as Lost

Mountain Road. Mr. Davis lived at the Y. His house was easily identifiable because he had a green Ford Explorer for sale. The back door was kicked in, which is the way most entries were made. A television was stolen, which was a favorite item to steal. Mr. Harsh explained that Demmon needed him for the burglaries because Demmon could not carry the televisions by himself (Ex. 2, page 14).

Mr. Harsh also admitted burglarizing a home just up the hill in which nothing of any value was stolen (Ex.2, page 16-17; “[R]ight up the street from that house on the left side there was another one. It was kind of a brown two-story house...[with] a big balcony that overlooked the whole valley type thing...I don’t think there was really anything taken from that house.”) That would be Mr. Bishop’s home. 152 Lost Mountain Road would be very near Mr. Davis’ home on Olson Road.

Walter Stapish lived significantly higher on Lost Mountain Road. The prescription bottle from Mr. Bishop’s home was found there, along with pillow cases from Ms.

Wolover's home. These two items alone connected Mr. Harsh with the burglaries of Mr. Bishop's and Ms. Wolover's home.

Mr. King's burglarized home was tied together by the testimony of Mr. Freeland, Mr. Harsh's admission that most of the burglaries were committed while in his black Honda Civic, the timing of the burglary, an item stolen, and the way entry was made into the home. Mr. Freeland saw a black or dark covered small sedan at Mr. King's home. Entry was made while the resident was away. The crime occurred near the same time as the other burglaries. Blue Mountain runs north from Highway 101 and is the fourth access road to the homes north of Highway 101 west from Sequim (Taylor Cutoff; Hooker Road to Atterberry Road and Humble Hill Road; Sherbourne Road; then Blue Mountain Road).

Mr. Harsh described the burglary of Ms. McNamara's home almost perfectly. The only fact he missed was that a Kodak camera docking device was stolen, not a camera. The rest of his description provides both almost perfect knowledge

of what was taken and the method used by him and Demmon. Entry was made by kicking in a door, objects with value were stolen, and the act occurred on or near the same date as a series of burglaries in the area.

Ms. Waldron's home in Sequim is the one Mr. Harsh described as being closer to Sequim. It is actually in Sequim. In addition, he described the items stolen almost exactly as Ms. Waldon testified. That her house also had a hot tub in the back yard is important, along with the timing of the burglary and the method of entry.

Mr. Sauve's home was also described almost perfectly by Mr. Harsh. The home had beautiful hardwood floors and the gutters had recently been replaced by Cole's Gutters. Mr. Sauve testified his Apple computer was stolen; Mr. Harsh testified they stole a Dell computer. As in some other crimes, entry was made by prying open a door. Deputy Wagner found a pry bar in Mr. Harsh's black Honda Civic. Mr. Harsh had stated that Demmon used the pry bar to enter many homes (Ex.

2, page 16).

Pursuant to the *Jackson* test, there is evidence to support each element of the burglaries and the theft of a firearm. Viewed in a light most favorable to the State, a rational factfinder can find sufficient evidence to determine beyond a reasonable doubt that Mr. Harsh participated in at least six burglaries.

ISSUE TWO

When the defendant admits he and an accomplice committed a string of burglaries with theft as the primary motive, is a charge related to one of the stolen items sufficiently identified in the jury instructions to permit the trier of fact to find a violation of law beyond a reasonable doubt?

RESPONSE

I. Standard of Review: A jury must be instructed that it can find accomplice liability for a specific crime only if it is instructed that the accomplice acted with knowledge that it will promote or facilitate the commission of *the crime*. *State v. Davis*, 101 Wn.2d 654, 656, 682 P.2d 883(1984). It is

reversible error to instruct the jury that the accomplice acted with knowledge that it will promote or facilitate the commission of *a crime*. *State v. Cronin*, 142 Wn.2d 568, 578, 14 P.3d 752 (2000).

II. Analysis: *State v. Roberts*, 142 Wn.2d 471, 509-513, 14 P.3d 713 (2000) discussed the legislative history, the underlying legal concept and the requirement that the jury be instructed that accomplice liability may be found only when the defendant has general knowledge of *the* crime committed by the other defendant. In summary, the decision held “an accomplice need not have knowledge of each element of the principal’s crime in order to be convicted under RCW 9A.08.020. General knowledge of ‘the crime’ is sufficient.” *Id.*, page 513.

State v. Davis, supra, clarified it is unacceptable to employ a strict liability standard to convict a person as an accomplice for anything done by the principal. Rather, the rule is and has been that the State is required to prove only that the accomplice has general knowledge of the principal’s

substantive crime. Specific knowledge of all the elements of the principal's crime need not be proved to convict one as an accomplice. *State v. Rice*, 102 Wn.2d 120, 125, 683 P.2d 199 (1984).

The jury in this case was instructed properly regarding accomplice liability ("he aids or agrees to aid another person in planning or committing *the crime*"). Instruction 8, CP 46. The jury was also instructed that residential burglary is committed when a person enters or remains unlawfully in a dwelling with intent to commit a crime against a person or property of another. Instructions 9-15, CP 47-55. The State proved that Mr. Harsh and Mr. Demmon intended to commit the general crime of burglary for theft of items in the residences. Theft of an object inside the dwelling included anything that was stolen as part of the burglary. The State was required to prove intent to commit a crime and that the crime the principal intended to prove was burglary for the purpose of theft. The jury was told that accomplice liability could only attach if Mr. March knew

the general purpose of the burglaries was to commit theft, and then was instructed on the elements of theft of a firearm. Instruction 20 and 21, CP 60, 61. The jury was properly instructed and the evidence shows a firearm was stolen in the string of charged burglaries. There is no error.

The answer would be different if Demmon had assaulted or killed a homeowner during the course of a burglary. Such an act would have been contrary to their general practice. Mr. Harsh explained that their *modus operandi* was to enter unoccupied residences (Ex. pages 2, 10, 22, 25: “Usually if somebody was home, we, we just left it alone”). The goal was to find items that could be sold in Everett for drug money (Ex. 2, page 15). Had Demmon assaulted or killed another person, the action would not have fit into the general crime of burglary to commit theft. Under that scenario, a realistic argument could be made that Mr. Harsh was not an accomplice. When the facts show the gun was taken in the course of a burglary, however, accomplice liability attached.

The trial court also pointed out that Mr. Harsh had specific knowledge that Demmon liked to steal firearms (RP 316-17). The trial court's ruling addressed the underlying concept behind the language of the accomplice liability instruction: knowledge. The accomplice liability law only requires that Mr. Harsh have general knowledge that the burglaries were committed to steal items to trade or sell for drugs. *See, e.g., State v. Roberts, supra*, page 510 (accomplice must have knowledge of the crime and cannot be convicted on a strict liability basis for the actions of the principal). With his specific knowledge that Demmon like to steal firearms and further that Demmon did not always share all the loot, the jury had sufficient evidence from which to rationally conclude that Mr. Harsh was an accomplice to the theft of the firearm.

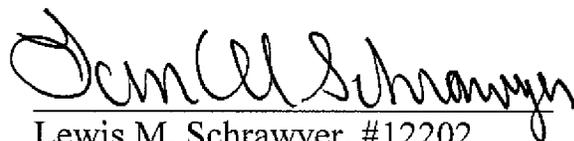
CONCLUSION

Mr. Harsh was convicted by a jury of his peers based on evidence any rational trier of fact would find sufficient, when viewed in a light most favorable to the State. The confession he

made provided sufficient evidence from which a rational trier of fact could find he was guilty beyond a reasonable doubt. In addition, the jury was properly instructed it could find accomplice liability for the theft of a firearm charge if it found the theft arose from the general crime of burglary. Mr. Harsh was properly tried and convicted. This court should affirm his conviction.

Respectfully submitted this 13th day of June, 2013.

DEBORAH KELLY, Prosecutor

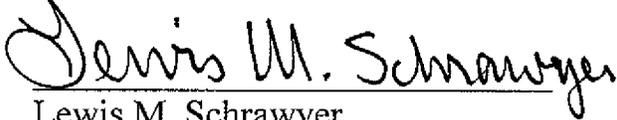
A handwritten signature in black ink, appearing to read "Lewis M. Schrawyer". The signature is written in a cursive style with a large initial "L" and "S".

Lewis M. Schrawyer, #12202
Deputy Prosecuting Attorney
Clallam County

CERTIFICATE OF DELIVERY

Lewis M. Schrawyer, under penalty of perjury under the laws of the State of Washington, does hereby swear or affirm that a copy of this document was forwarded electronically or mailed to liseellnerlaw@comcast.net on June 13, 2013.

DEBORAH KELLY, Prosecutor


Lewis M. Schrawyer

APPENDIX A

CASE #: 2008-00004648
CD OF INTERVIEWS: BRYCE TAKAMC
LOC/BIN: 2091/ ENV
Date Received: 03/17/2009



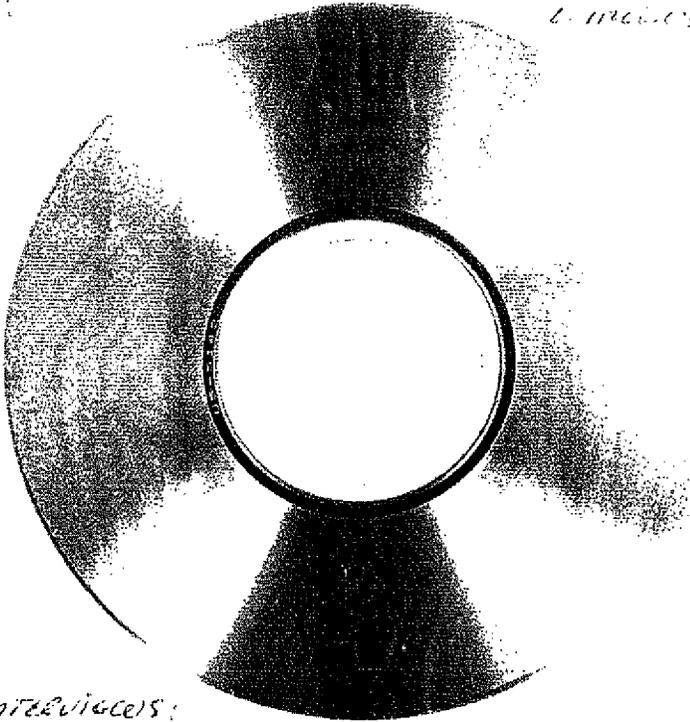
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CLALLAM COUNTY SHERIFF'S DEPARTMENT
EVIDENCE TAG

CLALLAM COUNTY SUPERIOR COURT CLERK
TITLE: STANDEYS MARSH
CASE: TELLENOVA ST
EXHIBIT NO: 1
Date of Court Ruling: 4/19/12
ADMITTED REUSED
WITHDRAWN NOT OFFERED

Ref: 100

July 16 1988
5:13 PM
L. M. M. M.



Interviewees:
Bryce Takamori
William Harsh

GLENN COUNTY SUPERIOR COURT CLERK
TITLE STATE VS HANSE
NAME M. HOSKINS
PLA DEFENDENT NO. 2
DATE OF COURT HEARING 9-13-12
A. DEPOSITED
B. WITHDRAWN
C. NOT DEPOSITED

00003

ORIGINAL

CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

3/25/09 7:06 AM
PAGE NUMBER: 1
#2008-4648

Case Number: 2008-4648

INTERVIEW WITH WILLIAM HARSH BY DET. SGT. LYMAN MOORES

LM: Det. Sgt. Lyman Moores
SS: Det. Stacy Sampson
WH: William Harsh

LM: This is uh Det. Sgt. Lyman Moores with the Clallam County Sheriff's Department. Today's date is March 13, the year 2009, the time is 2:15 p.m. or 1415 hours. And this is reference to case number 2008-4648. The location is Monroe State Prison um, and with me is William Harsh, who is an inmate here at Monroe, and Det. Stacy Sampson. And Williams, you're aware our conversation is being recorded?

WH: Yes.

LM: And I'm doing so with your permission?

WH: Yes.

LM: Okay. Um, when we first came in and met you, we advised you that we're investigators from Clallam County Sheriff's Department investigating um a series of burglaries that happened um last year in Clallam County and you told me that uh you were aware of that and that you have changed your life around and wanted to cooperate with us, is that?

WH: Yes, it is correct.

LM: Okay. Um, prior to asking any questions about the burglaries, what I'm gonna do is I'm gonna read you your rights and um after each of the rights that I read you, you know, would you answer yes that you do understand them, or no you don't. And then I'll read you the waiver of rights. So uh you do have the right to remain silent. Do you understand that?

WH: Yes.

LM: Anything you say can be used against you in a court of law. Do you understand that?

WH: Yes.

LM: You have a right at this time to talk to a lawyer and have him present with you while you're being questioned. Do you understand that?

WH: Yes.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: Lyman Moores

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

3/25/09 7:06 AM

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LM: If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish. Do you understand that?

WH: Yes.

LM: Uh, you can decide at any time to exercise these rights, and not answer any questions or make any statements. Do you understand that?

WH: Yes.

LM: And I will read you the waiver of rights. It says I have read or have read to me the above explanation of my constitutional rights. I understand what my rights are. I am willing to make a statement and answer any questions. I do not want a lawyer at this time. I know and understand what I am doing. No promises or threats have been made to me, and no pressure or coercion of any kind has been used against me. Do you understand the waiver of rights?

WH: Yes.

LM: And having that in mind, you're willing to talk to us?

WH: Yes.

LM: Okay. What I'm gonna have you do, and this is on rights form #015, if you would uh just sign your name here, um uh that I read you your right and down here that you waive your rights. And uh what's, what's the time now, Det. Sampson?

SS: The time is 1422.

LM: I'll write that, hours. And I'll have you just sign right there as a witness. Okay, William what I want to do is first go over your relationship with Joey Demmon and how do you know Joey?

WH: Um, through mutual friends. I've known him for a lot of years. Approximately eight years, nine years probably.

LM: You've known him for eight or nine years? Okay. And uh, how'd you meet him?

WH: I actually met him through him his baby's mother, Jessica.

LM: And how do you know her?

WH: I've known Jessica since I was about two years old, through her parents and my parents. And just living in the same vicinity around Everett.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: Jim [Signature]

Date: 3/25/09

CLALLAM COUNTY SHERIFF'S DEPARTMENT
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LM: Okay. And your relationship with Joey, has it been steady throughout the last eight or nine years?

WH: Yes, it was um all the way up until uh last year, we were best friends, you know.

LM: You see him on a regular basis?

WH: Yeah, when he wasn't, when he wasn't over there working or in prison, yeah.

LM: Mmhuh. And you said up until last year. What happened last year?

WH: He actually came into my house and took, stole a bunch of money from me. And just was, said he was gonna beat up Jessica for not leaving and just a bunch of stuff. We just had a falling out over drugs and money that he had brought in my house and stole from me.

LM: How much money did he steal?

WH: About \$3000.

LM: Wow. And you said the fight was because Jessica wouldn't leave? Was she staying with you?

WH: They both were gonna stay with me that night. Um, they both were gonna stay with me and then all of a sudden they wanted to leave, and around the same time they wanted to leave is when I noticed the money was missing. And I went out to their, or his car and I started searching his car cuz I believed he had my money. And I found his money, or found my money. And along with a bunch of heroin and syringes and spoons and a bunch of stuff.

LM: Did you take your money back?

WH: Yeah I did.

LM: Okay.

WH: And I told him to leave, never to talk to me again.

LM: And why did he take the money?

WH: Just, I'm believing because he was strung out.

LM: What was he strung out on?

WH: Heroin.

I certify under penalty of perjury that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: _____

Date: 3/30/09

Garr Brown

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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LM: Okay. So, did you know he was using heroin up to that point?

WH: No I didn't. No I did not. Not until I found it in his car.

LM: Okay. So, regarding the burglaries that we're investigating in the Sequim area. How many burglaries do you think Joey was involved in?

WH: Probably all of them. 15, 20 of them probably.

LM: Okay. And I know you, on some of them you were there, you witnessed this?

WH: Yes.

LM: Okay. So, was Joey the main person involved in these burglaries?

WH: Yes.

LM: And why do you say that?

WH: He was the one who orchestrated them, um, seen them, planned them out, watched the house, make sure nobody was home. Um, kicked in the door. Um, everything, you know, pretty much. You know, I mean I had my part, my small part but.

LM: Okay, so he's the main, he was the main force behind all these burglaries?

WH: Yeah.

LM: And why was he doing all these burglaries?

WH: I believe now, to support his drug habit, heroin habit.

LM: Okay, and you're spending time in Monroe right now.

WH: Yes.

LM: And you're here for what reason?

WH: For possession of stolen property and possession of controlled substance.

LM: Okay. So what were you in possession of stolen?

WH: A stolen street bike and uh oxycontin.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: *Gym Burns*

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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LM: Okay. And were those stolen at a burglary?

WH: No.

LM: Okay, where were those stolen from?

WH: Uh, it was actually stolen from the Evergreen State Fair Grounds, out in Monroe.

LM: The bike, the motorcycle?

WH: Yes.

LM: What about the oxycontin?

WH: They were purchased from an individual in Everett.

LM: Okay, so you weren't in possession of stolen oxycontin?

WH: No.

LM: Oh, okay. I misunderstood you. And you decided, at this point that you want to turn your life around?

WH: Yeah.

LM: And that's the reason you want to come clean with all this stuff, to turn your life around?

WH: Yes. That's true.

LM: Um, well and I don't want to put words in your mouth as far as the burglaries. Can you tell me, let's just start with one burglary at a time. And can you tell me one burglary that you can remember specifically that uh, that you helped Joey do and give me some of the details involved in that burglary?

WH: Um, I'm not really familiar with the areas over there, so I'm not familiar with names and stuff, but um I'm trying to remember the name of the road. I don't remember no names, but like I mean I can visualize the house, but I don't know how to explain it to you.

LM: Well describe the house to me.

WH: It was a white house.

LM: Mmhuh.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: Tom Moore

Date: _____
Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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WH: It had a, it was a new house. There was a newer wooden fence around it, I remember that. Um, we did, he did that one. Uh, we got a plasma TV out of it. Uh, jewelry box, I remember. Um, I believe a laptop. Uh, that's really it I think that I can remember off the top of my head about that one. Um, I remember doing a big green house.

LM: Let's go back to the white house.

WH: Okay.

LM: Now, do you remember where Joey lived in town? At the time, where was Joey living?

WH: Um, by the Walmart. I remember that's where I used to get off the freeway to go meet him. I'd meet him at the Walmart.

LM: Okay.

WH: He lived back behind there.

LM: So how far away from the Walmart store was that?

WH: Um, probably two miles, probably.

LM: Do you remember which way?

WH: Um, we went down the, if you're facing the front of the store, it was on the right hand side of the street, that goes down, there's a little dip in the road and then we followed it off to the right.

LM: Yeah.

WH: And then we took a left.

LM: Okay.

WH: Took a left on the, like a sort of main street kind of thing. Well I guess it was more main street than the side street.

LM: Yeah.

WH: And then um, this house on the right hand side.

LM: Okay, so Joey at the time was living on Old Olympic Highway. That's.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: *Tom Brown*

Date: _____
Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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WH: Yeah.

LM: He was living. Okay. From Joey's house, where was this white house?

WH: Um, we would go back up, I believe we went back up the, by the Walmart.

LM: Yeah.

WH: And over the freeway.

LM: Yeah.

WH: To the, to that side of the freeway, to the side furthest away from Walmart.

LM: Okay. So was, you're heading south out of, away from town. That's south, towards the mountains.

WH: Yeah, we would just go over the freeway. We wouldn't get back on the freeway.

LM: Right, go over the freeway and, and.

WH: Go up over there somewhere.

LM: It was in that area?

WH: Yeah.

LM: Okay. How did he make entry, into the white house?

WH: Usually, or that house he kicked the door. I remember that.

LM: How did he know nobody was home?

WH: I don't know. He'd, I mean he would knock on the door, knock a few times, and then, you know, look and usually at the window beside the door or something.

LM: So which door at that house did he kick in?

WH: I believe it was the front door?

LM: It was the front door?

WH: Yes.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: Elynn Brown

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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LM: And, can you describe this house? A one, two-story house?

WH: It was a one-story house. A newer house.

LM: Mmhuh.

WH: Um, it was actually a new house. A brand new house. And uh, it was a pretty nice house. I remember it had nice furniture and stuff but. I can't um, trying to think the color of the trim. I think it was like, like a cream or a white. Cream kind of trim. Or maybe the house was cream with white trim. I remember it was a real light house.

LM: Okay. And, where, where was the plasma TV?

WH: Uh, in the living room.

LM: Okay, and the, where was the jewelry?

WH: Uh, the bedroom.

LM: And what kind of jewelry was there?

WH: Um, I don't, I don't really remember it in particular, but I remember there was a lot of uh costume jewelry.

LM: Mmhuh.

WH: Not really a lot of expensive stuff.

LM: Where, was it in a box?

WH: Yeah. In a little jewelry box.

LM: You know, can you describe the box?

WH: No, it was probably just a foot by foot, with a hinged top.

LM: Mmhuh.

WH: Like a wood-colored box, you know.

LM: And where was that in the bedroom?

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: *Byron Brown*

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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WH: I'm not sure. Joey just came out with that.

LM: Oh okay. And where was the laptop?

WH: Uh, on the dining room table I believe.

LM: Okay. And do you remember what kind it was?

WH: No, I don't.

LM: And do you know what happened to any of this property?

WH: Um, most of it got sold to drug dealers, for drugs.

LM: And where are those drug dealers?

WH: Out of Everett.

LM: Any of it pawned?

WH: I don't believe so.

LM: And whose, who, what were, what was it sold for?

WH: Oxycontin.

LM: Just straight across trade for oxycontin?

WH: Yeah. And a little bit of cash. You know.

LM: How much money did you get?

WH: Uh, I don't remember.

LM: Okay. And did you guys just divide up the proceeds?

WH: Yeah. Just split it.

LM: 50-50?

WH: 50-50.

LM: And uh was anybody with you at that time?

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: *Gym Hunt*

Date: *3/30/09*

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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WH: When we got, came back over here?

LM: No, when you broke into that house?

WH: No, it was just me and him.

LM: Um, and whose vehicle was there?

WH: It was my vehicle.

LM: What were you driving at that time?

WH: Black Honda Civic.

LM: Was that in your name?

WH: No it wasn't. It was in my mom's name.

SS: Was that the primer colored?

WH: Huh?

SS: Primer colored, not shiny?

WH: It's black. It's just.

SS: Grayish black?

LM: What was your mom's name?

WH: Kaycee Reeves.

LM: Kaycee?

WH: K-A-Y-C-E-E Reeves.

LM: R-E-E-V-E-S?

WH: Yes.

LM: Okay. And uh, what about another burglary that you can remember?

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: *Tom Harv*

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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SS: Do you know if there was any, you had computers, jewelry, TV, do you know if there was telescopes or guns or anything else taken?

WH: I don't believe so.

SS: That maybe you didn't take but Joey could have.

WH: There could've been. Cuz I caught him a couple times doing that too. You know, with extra jewelry in his pocket or you know, and I'd catch him but I, I don't know. I can't remember right off hand. I don't believe there was a telescope, cuz that's something big you can't just put that in your pocket. Like a gun or something, you know, you could just put that in your waistband or jewelry, put it in your pocket, or cash, put it in your pocket. Pills, pocket. You know. So. I don't know.

LM: Okay. Um, what about another burglary you can.

WH: Um, I remember kind of over by the same, kind of over by the same place, there was a, it was a greenish colored house, greenish blue. Um, I remember there was a, a Ford Explorer parked in the driveway for sale. That was another one he had been looking at for awhile. Um, he had uh needed my help because of the TV, wanted me to help him with the TV.

LM: Joey did?

WH: Yeah. That's part of the reason why he always wanted me to help him cuz he couldn't carry the TV's.

LM: What kind of TV was it?

WH: Um, I don't remember the name brand, but it was another plasma TV.

LM: And uh, how did you get into that house?

WH: Uh, through the front door again. Oh no, no through the backdoor. Through the backdoor. He used a screwdriver or something to pry it open.

LM: What was stolen in that house?

WH: Um, I believe just the TV is the only thing we took. There was no jewelry or no, there was no jewelry or nothing really of value besides the TV.

LM: Mmhuh. Was it a single-story house, a two-story house?

WH: Just a single-story house.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: *Gym Brown*

Date: _____
Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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LM: Was it right off the road?

WH: Yeah. There was like, it was right at the corner of a Y. There was like a Y in the road. I remember the one road went up behind the house and it went up a hill. And the other road, just Y, the left side of the Y went up the hill, and it was right there in the corner.

LM: Oh okay. Okay. And what did he do with the TV?

WH: Uh, we loaded it in the back of my car and we left.

LM: Did you sell it?

WH: Yeah.

LM: Where'd you sell it?

WH: Over here in Everett for drugs again. Most of the stuff got sold through me over here. As a matter of fact, 90% of it did.

LM: 90% of it you sold?

WH: Yeah.

LM: And uh, who'd you sell the TV to?

WH: Uh, a guy named Justin. And, actually two brothers, Justin and Jeremy Weese.

LM: Justin and Jeremy.

WH: Weese.

LM: Spell that.

WH: Um, W-E-I-S-S, I believe.

LM: And is that where you sold the other stuff, from the white house?

WH: Yes, yes. For the most part, most of everything went to them. Usually jewelry and um plasma TV.

LM: Do you know their address in Everett?

WH: No I do not.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: *[Signature]*Date: _____
Date: 8/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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LM: Okay. And uh, anything else you can remember about that house?

WH: Um, no not offhand. It was an old house.

LM: It was an older house?

WH: Yeah, old. That's, I remember uh right there, right like, I don't know, right up the street from that house on the left hand side there was another one. It was kind of a brown two-story house. I remember there was a big balcony that overlooked the whole valley type thing.

LM: So that's the third, another house you guys burglarized?

WH: Yeah.

LM: So, it was a brown two-story house?

WH: Yeah. I remember there was a big shop right in the front. Kind of a big front yard, surrounded by trees.

LM: How did you get into that house?

WH: Um, kicked in the backdoor.

LM: Who did that?

WH: Joey did again. Or no, he pried it open with a crowbar. That's right. It was a crowbar that he pried the backdoor open with.

LM: The backdoor?

WH: Yeah.

LM: Where did he get the crowbar, pry bar?

WH: I believe he found it, earlier in that day, he had it from somewhere. And I remember him just grabbing it out of the back of the car.

LM: Was that your car?

WH: Yes.

LM: And what was taken out of that house?

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: Tom Brown

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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WH: Um, not really too, I think some jewelry. Um, maybe a computer. I don't believe there was a TV. I don't think there was really anything taken out of that house. There wasn't really nothing good. Some jewelry. I think maybe a camera, digital camera. Uh. That's really all I can remember off the top of my head. I remember there wasn't nothing in there. Nothing of value really.

LM: And where did you sell that stuff?

WH: Um, same place. The majority of it went to the same place.

LM: Justin and Jeremy?

WH: Yeah.

LM: What would they do with all this stuff?

WH: Um, I don't know. Sell it, keep it. I know they had plasma's in every room of their house. Um, drugs, trade it for my drugs to somebody else. I'm not sure exactly what they would do with it.

LM: Okay. Are you, are you familiar with the Dungeness River?

WH: Dungeness River. No.

LM: Okay, you know where Walmart is. This is Walmart.

WH: Yeah.

LM: And then you get on the highway, you go up from Walmart a little bit and then you get on the highway and you can head toward Port Angeles.

WH: Yeah.

LM: And then you cross the river right there, you're going this way.

WH: I think I do remember, where, yeah. There's a little gas station up there on your right hand side?

LM: Yeah.

WH: Is there a gas, like a 76, or it's on your left hand side maybe.

LM: Yeah.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: *Gym Snow*

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
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WH: 76 station or something.

LM: There's a 76 station right over here.

WH: Yeah.

LM: Is this the road you're talking about, you drive way up and then it curves up the hill and there's a Y in the road, and it goes up the hill.

WH: We went up there too but no, no there was a, it was up in this area though. Maybe it.

SS: Was there like a barn or anything out there, where that Y, did it split off, did you see any other buildings?

WH: I don't remember. There might've been a barn.

LM: If I took you to the area, you could point these places out?

WH: Yes.

LM: Okay. And I think that's probably what we're gonna end up having to do, is.

WH: Yeah, like I said, I'm not familiar with the area.

SS: Do you remember a couple of Deputies talking to you and Joey.

WH: Yes, I remember that.

SS: Did that, were these around the same time frame as that?

WH: Yes.

SS: Was it the same day?

WH: Um, I'm not sure for that particular house, but it could've been.

SS: Okay. Was that before or after those Deputies talked to you?

WH: Um, after. After.

SS: How many were committed after the Deputies talked to you?

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: Tom Smith

Date: _____

Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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WH: Um, I believe at least one, maybe two. No, one. One. I really have to use the restroom, can I use the bathroom real quick?

LM: Yeah, uh we have to stop the recorder. What time is it, Stace?

SS: The time is 1443 hours.

LM: Uh okay, I'm gonna.

End of recording.

(T-3/24/09, so)

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: *[Signature]*

Date: _____
Date: *3-3-09*

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

3/25/09 6:59 AM
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#2008-4648

Case Number: 2008-4648

INTERVIEW WITH WILLIAM HARSH BY DET. SGT. LYMAN MOORES

LM: Det. Sgt. Lyman Moores
SS: Det. Stacy Sampson
WH: William Harsh

LM: This is Det. Sgt. Lyman Moores of the Clallam County Sheriff's Department. Today's date is March 13, the year 2009. The time is.

SS: 1446.

LM: And with me is uh William Harsh and Det. Stacy Sampson, and the location is Monroe Prison. And William, you're aware our conversation is um being recorded?

SS: Yes.

LM: And I'm doing so with your permission?

WH: Yes.

LM: And I, I just stopped the tape at 1443 hours. Unfortunately, I didn't pause it, it went back so we're starting the tape literally another segment of the tape again. Prior to that, I read you your rights, and you're aware of your rights?

WH: Yes.

LM: And um, with your rights in mind, you're still willing to give a statement?

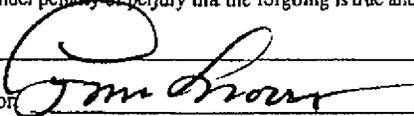
WH: Yes.

LM: Okay. And uh, so I'm not gonna read them again, it's on that first part of the tape, which I read just uh at 1415 hours. Okay so we just stopped the, so you could use the restroom, men's room there for a second, and we were talking about the houses that you assisted Joey Demmon in burglarizing. Um, and we talked about three houses. Do you remember any other houses?

WH: Um, not offhand that I can remember. Let me think for a second um. I remember there was another one that was way out in the woods. Um, really nice house. A lot of glass in the back. I remember, a lot of the, back of the house was glass. It had a lot of big windows. Um, it was like a shingled kind of color. You know, like uh, like uh natural wood kind of color.

LM: Okay. Mmhuh.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: 
Supervisor: _____

Date: _____
Date: 3/30/09

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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WH: Um, I remember that one. We went in through the uh, through a side door or window. Joey went in through. I remember, I don't, I'm not sure exactly. I remember he went around back cuz he came and opened the front door for me.

LM: Mmhuh.

WH: Um. There wasn't nothing really in the house. Uh, I think we got a couple tools. Maybe uh, uh I remember there was a camcorder.

LM: Mmhuh.

WH: A camcorder and a laptop. I remember it was a Dell laptop, it was in a Dell bag. Um. There wasn't much in that house. Nothing.

LM: So a camcorder, a laptop. Uh where was the, where was the camcorder found?

WH: Um, in the hall closet.

LM: Mmhuh.

WH: In the hall closet. Um, I remember I grabbed the camcorder. Cuz I remember looking through the hall closet and I grabbed that.

LM: And where was the laptop?

WH: Uh, in the bedroom I believe, cuz Joey came out with it.

LM: And what else did you get?

WH: Um, I can't remember in particular. Maybe some jewelry. I think there was a little bit of jewelry. Nothing big.

LM: Where was that?

WH: In the bedroom, cuz Joey came out with it.

SS: Did anybody empty stuff out on the bed?

WH: It could've been. I wasn't in the bedroom. I was looking through the living room.

LM: Um, you described this house as a nice house. Was it one-story or two-story?

WH: It was a one-story.

I certify under penalty of perjury that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: JTM

Date: _____

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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#2008-4648

LM: And you said it had a lot of glass in it, a lot of glass.

WH: In the back, back of the house. Yeah. I think there was a hot tub on the back deck.

LM: Okay.

WH: I believe there was, if I'm correct. I'm not sure, that was kind of a while ago. I remember it was real nice, it had hardwood floors I remember that.

LM: And how did you know nobody was home?

WH: Again, Joey. Actually Joey said that he knew who lived there. Because he had done their gutters before.

LM: Oh, okay.

WH: And um, again we just pulled up. He would knock, you know he pretty much knew who had went to work and who didn't. You know. Before, before he even called me to ask me to come help him he pretty much knew who was home or who wasn't. You know.

LM: He already had places scouted out?

WH: Yeah.

LM: And he'd call you on your cell phone?

WH: Yeah.

LM: What was your cell phone number?

WH: Um, at the time?

LM: Yeah.

WH: 737-6950.

LM: Okay. And, what were you guys driving the day you went to that house?

WH: Black Honda Civic.

LM: And that was yours?

WH: Yes.

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: LTM

Date: _____
Date: _____

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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LM: Okay. You know the night that the police officers stopped you, the Deputies. What did they say to you, what did they do?

WH: Um. They were, Joey and them were actually talking about fishing.

LM: Mmhuh.

WH: Um. They said that we were speeding or something.

LM: Mmhuh.

WH: Um. They weren't really, cuz Joey had his license so. He was driving.

LM: Mmhuh.

WH: And uh, anyways, they were just basically talking to us about um speeders up and down that road.

LM: Mmhuh.

WH: I don't remember them saying anything about any burglaries. I'm pretty sure that's why they stopped us.

LM: Did they search your car or anything?

WH: I let them, yeah. I let them. There was nothing in the car.

LM: Oh, okay. Okay. All right, so.

SS: Did you have a pry bar in there maybe?

WH: I believe it was. Actually it was down in my spare tire holder, I think.

LM: And is that the same pry bar that you used getting into this one house?

WH: That Joey used, yes.

SS: How many houses did you guys do that same night?

WH: I'm not sure. One or two, I think.

SS: Side-by-side neighboring? Or did you have to go to another road?

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WH: Um.

SS: Did you guys drive around?

WH: Not really, we did a couple side-by-side. But um, I think we drove around a little bit, that time.

LM: Okay. And where did you sell that stuff?

WH: Again um, it went, around that time everything was going to Justin and Jeremy.

LM: And was that for cash or?

WH: Drugs.

LM: Drugs?

WH: Yes.

LM: And what were you doing with the drugs?

WH: Um, smoking them.

LM: Were you selling any?

WH: No.

LM: You were just smoking them?

WH: Yeah. Just smoking them at that time.

LM: What else can you remember as far as houses?

WH: Um. I remember down I believe kind of by the Wal Mart, kind of by Joey's house there's a real dense wooded part, wooded part um like, there's like a housing development. It's right in the middle of the looks like forest. You know, like real dense part of the woods.

LM: Mmhuh.

WH: And um, it's kind of by Wal Mart. Little bit. Closer to town than we usually were. Um, there's a housing not development, but like, like a little neighborhood. Down in there. Real windy roads.

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LM: Mmhuh.

WH: And I remember there was one up in a cul-de-sac.

LM: Mmhuh.

WH: A nicer house. Small house, though. One-story house. It was just like a living room and a bedroom.

LM: Mmhuh.

WH: Um. I remember there was a hot tub too, out back behind the shop. Um, we got jewelry. There was a bunch of jewelry. Um, bunch of DVD's. I remember a surround sound. I think a home entertainment center.

LM: Mmhuh.

WH: Um, what else. I think there was a big change jar. Bunch of DVD's, surround sound.

SS: Cameras?

WH: Huh, camera, camcorder, and a camera I think or a camera. I'm not sure about a camcorder.

LM: Mmhuh.

WH: There was a TV, a plasma. Smaller one in the bedroom.

SS: Did Joey say he knew those people?

WH: No. No. That was kind of a random thing. He had just seen it when we were coming back from the store or something, and he was like stop. I think that was about it. There.

SS: Do you remember going to a house where Joey knocking on the door and having a woman answer it?

WH: Yeah.

SS: Did you guys burglarize that one that day, or did you come back another day?

WH: I, a woman answered the door? I don't think we did that one. Usually if somebody was home we, we just left it alone.

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SS: What did you tell them?

WH: Just tell them that we were looking for somebody else. Or he would say another name. Or is Justin home? Oh Justin don't live here. So. He'd be like, oh okay. We never went back to another house if somebody happened to be home. That I remember, or we'd, that I remember. I'm not sure, we might have. But I know it was never that same day.

SS: Okay. Do you remember anybody named Kaylee?

WH: No.

SS: Do you remember Joey ever mentioning anybody named Kaylee?

WH: Not off the top of my head, no I don't remember that.

LM: How about this. Do you remember burglarizing a house and taking a small safe?

WH: Small safe. We found a couple safes. Um. I found a couple safes before, I don't know. Like what kind of safe?

LM: Well one of the houses was a girl named Kaylee Wood. And you know Kris Boynton?

WH: Yeah.

LM: Okay.

WH: Kaylee Wood, that does sound. I know, remember Kris.

LM: You know Kris? It was his girlfriend. Kris is the one that ended up going to prison with, with Joey, who ended up getting convicted with Joey. And Joey was mad at him.

WH: He talked about wanting to do her house. He talked about that. I don't believe, I could've went with him but I don't believe I ever did.

LM: Well supposedly we have a witness that said you went to the door the day earlier and had knocked at the door.

WH: That could be. That could be.

LM: She came to the door.

WH: I'm not saying that that's, I'm not denying it. But I don't remember it off the top of my head, I don't.

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LM: It was on Port Williams Road, is where she lived. And Port Williams Road, actually if you followed it out, um it would go down to a boat ramp right there.

WH: I don't, I'm not, I'm not sure. I'm not saying that that, that didn't, or I wasn't there.

LM: You know Joey's house is here, and the road came around and then there was a 4-way stop here and then you drove down and then there was a circular thing right around here. There's a store here. Well if you went around it and you went out here on this road, this, that was Port Williams Road.

WH: And there's a QFC or something out there, isn't there?

SS: Not that far, but if you go to the QFC, that's closer to Sequim and then you go down to Washington Harbor Road. There was like a brown.

LM: Yeah, you're right. QFC was down to that area, it wasn't a whole lot farther, yeah. That, that was the trailer.

SS: The trailer.

LM: That was uh.

SS: Off of um.

LM: Rose. Wasn't it Rose?

SS: Rose.

LM: Yeah. You remember, remember going into a trailer?

WH: A trailer.

SS: Cats.

WH: Trailer. No. I remember that girl, was her house like out in the middle of uh, like a field basically? There was like a house way out in the middle of a field, all the way around it?

LM: Mmhuh.

WH: I went there. I did knock on the door. Joey went back the next day and did that. I remember that because there was supposed to be, whoever lived there, I didn't know who lived there. But I, I do remember knocking on the door; she came out and talked to me.

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SS: Okay.

WH: And then I left. Whoever lived there, was supposed to be selling coke. Or something. So if they weren't gonna be home, there was supposed to be a safe in there that, I was, you know, there was supposed to be money and stuff in there. Joey went back without me. I remember that now because I was mad about it. Because I was like, well what the hell did you get out of the house? You know. And he was like oh I didn't get nothing. Supposedly there was nothing taken. You know. Or just the safe but nothing, there wasn't a lot of drugs or a lot of money, is what I'm, you know.

SS: Okay.

WH: I think he said, I forget what he said. I know he said he got the safe and some jewelry or something.

SS: Now a couple days later there was another, there was a trailer that was right in that same neighborhood. Do you remember going back with Joey around that same time frame?

WH: No. I don't remember going down there and doing one. We stuck mostly was over like more.

SS: The west side of.

WH: Yeah.

LM: But we've got, the neighbors said they saw your black Honda at this trailer. And what was taken in that trailer?

SS: Um.

WH: I'm saying I'm not denying it. I'm just, I don't remember off the top of my head.

SS: That was jewelry, TV, computer. Um. I don't know if you remember, there were bird feeders out in the yard, cats in the house.

WH: I think I do remember, down there. It was a blue. Was it blue?

SS: I don't recall the color of the trailer, but it was uh.

WH: Kind of like a double-wide?

SS: Yes.

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WH: I do remember. It was real nasty in there. Kind of, is there uh, uh, like a garage, kind of. Not really attached to it, but like right beside it?

SS: Yeah, I believe there was.

WH: Like a two-car garage?

SS: Yup.

WH: With white doors I think.

SS: What did you guys get out of that one?

WH: Um, I can't remember. I just remember the house, now that you said something. Um, I remember getting the computer. It wasn't a laptop, it was a desk top. Um, I think a printer. Um, I think a camera, a change jar, some jewelry.

SS: Any medications or anything?

WH: Not that I remember. But then again, Joey, like I said I'd caught him before, you know, trying to pocket stuff worth money, and not trying, you know.

SS: And not sharing it?

WH: Yeah.

LM: How did you get into it?

WH: Through the front door, I believe.

LM: Okay, well that, wasn't this uh, there was a gun stolen too.

WH: I don't remember a gun.

LM: Was there just one, wasn't it.

WH: I remember Joey was trying to grab, I don't think it was this house, Joey was trying to grab rifles one day and I told him no, that I didn't want them in the car. So I don't believe he would, I mean he, I believe he would've took it but he wouldn't have told me about it if there was a gun.

LM: Well. Okay. Well he had to sold the stuff.

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WH: He had somebody over there that he sold, like the guns and stuff too. Like the plasmas, and like uh camcorders and stuff like that.

LM: Mmhuh.

WH: Pretty much I'd get rid of to one person, to Justin. And he would trade, we'd just trade them for oxy's. He knew, he knew a couple over there that he got rid of shit through, you know to, but the majority of it went through me. Where he would come down here and sell it. But he knew a couple people over here too that he could sell stuff too.

LM: So he sold the guns to people in the Sequim area?

WH: A couple of them, yeah. He had a couple people that he said would buy guns. And I told him, he was trying to grab some shotguns or something and I told him no. I was like, I don't want no fucking guns in there.

LM: So you never took any guns in any of the burglaries?

WH: Not that I recall, no. There wasn't none that I seen.

SS: What time frame are we talking about? How many, you guys, these burglaries, was this from like January to December or? We talking one month or.

WH: Probably like a month, probably. Month and a half maybe.

SS: Okay.

LM: So you don't ever remember stealing any guns?

WH: No. I didn't, I never took no guns out of the house. I never have. I never did. If he took some it was without my knowledge.

SS: Do you know a guy named Bryce Takamori?

WH: Bryce. No. Bryce sounds familiar though. He might've mentioned his name.

SS: Did he mention going and taking anything from Bryce?

WH: Bryce. I don't remember right off, that was a year, you know. With me being screwed up too.

LM: Um. What was the house on Atterberry Road, what was taken there?

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SS: Atterberry Road was computer, money, jewelry. I think that was more like a hippie person's _____ house. _____ like a map or something like that was thrown out the window because we recovered a map on the roadway or something.

LM: Uh.

SS: There was something thrown out the window I remember.

WH: Atterberry. That road sounds familiar. I don't know...

LM: Okay. Well there is a, the Dungeness River is down here. You're going toward Port Angeles this way here.

WH: Okay.

LM: And there's a big intersection and there's a Shell gas station here. There's a, used to be a Chevron gas station here. There's a school over here. This is the Carls-, Carlsborg area.

WH: Yeah, I remember that.

SS: There's an old Costco building.

LM: Yeah, big old Costco building here. It's a big.

WH: That's right down the street from the, from where that, where the 76 Station is.

LM: Yes.

WH: Or Texaco or whatever that was.

LM: And Atterberry Road is if you turn here and you go up the hill, it goes up the hill but Atterberry Road cuts across this way here. And it runs parallel with 101. There was a house that got burglarized down here.

WH: I know we were in that vicinity. I, I know that we did something down there.

LM: The front door was kicked in, it was single-story house, it was right off the road. You kinda drive down the driveway, it kinda drops down and the house is right there. It's a single-story. Kicked the front door open, uh there was, what was it, was it laptop stolen? I want to say, she was a music teacher. There was some other, I want to say a briefcase with a bunch of music in it too.

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WH: I vaguely remember something like that. Vaguely. I don't know if there was any more done in this area, right here, but I vaguely remember something like that.

LM: Okay. So you, okay.

WH: But we got a lot of laptops and a lot of TV's. And a lot of jewelry.

SS: Okay. Do you know where Blue Mountain Road is?

WH: No, not offhand.

SS: Not offhand?

WH: Yeah.

SS: Um. Well it's farther down the highway. We're looking miles down the highway. We're clear over here, clear up in the mountains, heading up toward the mountains. Like almost five miles up.

LM: There's a little grocery store here, it's called R Corner Grocery. You go across, and the road goes way up the hill up here.

WH: There's a house right here on the corner too.

LM: Yeah.

WH: _____ hill.

LM: Yeah.

SS: Yeah.

WH: That used to be Anita's house. The old lady, I don't know if you know, she died from cancer. _____ That's when I first ever came over to Sequim, when Joey first moved over there. Or when I'd first went over there, when Joey's mom lived over there. Joey, I met him over here but we used to go there all the time. I do know where that place is. Way up the road um, I think one of Joey's friends got in a car wreck on that road. I think him telling me about, in a stolen car, flipped it. I think he went to jail for it or something. I think Joey, I remember Joey telling me about that.

LM: Yeah. Did uh, so you remember doing a burglary up there?

WH: Yeah.

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LM: Can you describe the house to me?

WH: I, I don't know. But I remember being in that vicinity and we came back down to that store. The one that's straight across the street.

LM: The R Corner Grocery?

WH: Yeah. The little like ma and pops kind of grocery store.

LM: Yeah.

WH: Yeah.

LM: So what do you remember taking from the house up there?

WH: I remember there was a computer, I can't remember really if it was a laptop. Um, Joey had a bag of jewelry. Um. I can't remember in, you know, in particular things.

LM: Do you remember how you got into the house?

WH: I'm assuming the same way. Kicked the front door in or the backdoor.

SS: What vehicle were you guys using?

WH: My, the Civic.

SS: Now you were up there two days in a row?

WH: Could've been. We were all over. Like when he called me to come over, he'd, we'd go all over. I didn't know where I was going cuz I'm not from there. You know.

SS: Mmhuh.

WH: So he would, basically, he would drive because he had a license. And then he would just go wherever. You know. I was just kind of basically along for the ride.

LM: Okay.

SS: Did you ever go to a place up in this area and not take anything? Stop off and not take anything, even though the person wasn't home?

WH: Yeah. I mean, a couple times. You know, if we seen neighbors hang out in the, out in the yard or if we know somebody seen us. You know or, basically like if we seen neighbors that

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were out there that could see him get in through the front door or if he knows like somebody seen us, you know, then he would just, he wouldn't do it.

SS: Okay.

LM: Can you think of any other houses that you burglarized?

WH: Not offhand but I'm sure there was more, you know.

LM: Do you ever remember any really unique things that you guys stole?

WH: Not really.

LM: That really stood out in your mind.

WH: We basically just took things that were easy to get rid of, that would be easy to sell. You know, for easy cash. Fast cash.

LM: What about instruments? You know, trumpets, guitars, any. Drum sets.

WH: I think there was a couple houses, or a house we got a guitar out of. I think. Think Joey wanted it. I remember um him grabbing a bunch of real nice fishing poles. Um, uh.

SS: During this time frame, or are we talking the year before or?

WH: This time frame.

SS: This time frame.

WH: Yeah. I remember him grabbing a couple nice fishing poles. Um. But for uniqueness, I really.

LM: Okay. Did Jessica ever go with you guys?

WH: No. No. Not while I was there, no. I wouldn't let her. She usually just was at home.

LM: Okay. Now, I've got information that on one of the, one of the burglaries uh they thought it was Joey's Suburban there.

WH: That, we drove his a couple times, or one time I know. But I know he used to go when I wasn't there or I wouldn't come over, he would go out in his car.

LM: Okay, so have you gone in Joey's Suburban and burglarized houses?

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WH: Not, or there was one I think I went with him over there in his car.

LM: Do you remember where it was?

WH: I don't remember.

LM: Do you remember what you took?

WH: No. But I remember it was something big because there was, we took his because the TV wouldn't fit in my car or something. He said it wouldn't fit in my car so he took his, we took his truck. But he didn't want to do it over there cuz he lived there. Cuz I asked him all the time, I was like, dude, let's take your car. No, no I live over here.

LM: Okay, I took a statement from somebody that said well they, Joey, there was one time that they thought it was Joey's Suburban, but it wasn't, it was one that you had stolen from over here and brought it over and when the neighbor saw the Suburban it wasn't Joey's Suburban it was actually one that you had brought over from this side. Um.

WH: I didn't have no Suburban.

LM: You never drove a Suburban over here?

WH: No.

LM: Over there?

WH: No. Swear to God.

LM: Okay.

WH: Joey had a Tahoe but, I mean it looks the same thing. Maroon Tahoe, or whatever.

LM: Joey had a Tahoe?

WH: Yeah.

SS: Now was Joey living in the Spanish duplexes at the time this was going on, or was he living, what was his.

WH: The duplexes.

SS: The duplexes?

WH: Where the, yeah I believe his landlord lived right next door.

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SS: Okay. Now did Jeremiah, his friend Jeremiah live a couple doors down.

WH: I don't remember where he lived.

SS: Do you ever remember going over to one of those duplexes and taking a TV out of there, or?

WH: No.

SS: Did Joey ever tell you he went and took one?

WH: He didn't, I don't remember him telling me. No. I'm not saying that he couldn't have. Because I know, I mean he didn't tell me everything he did.

SS: Okay.

WH: Or ask me to help him with everything he did.

LM: Okay. Is there anything on there that's unique?

SS: Anything unique? Um, no. There's the chainsaw and movies, but that was done in March, and he was there in May.

WH: I remember Joey telling me something about he did a house with a bunch of chainsaws in it. Or he got a real nice chainsaw or something.

LM: Joey told you that?

WH: I remember him mentioning something about that. I don't remember where it was, I just remember him saying something, cuz he sold it to Cole, I think.

LM: Oh really?

WH: Yeah. I remember him saying he sold Cole a chainsaw when he was working with Cole.

LM: Okay.

WH: Now whether Cole knows it's stolen or, you know, where it came from, I don't know. Joey could've lied to him or something.

SS: ... where the movies and the X-box 360 and the TV came out of. _____ alcohol.

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WH: I don't drink, so I never took no alcohol. I really don't.

SS: Medication was taken in a few of them.

LM: Did Joey ever mention the police were on to him, or did you ever talk to him about that?

WH: I know he told me a few times, quite a few times that he wanted to come over here. He actually came over here for awhile and was staying in motel rooms because um the police kept asking about him and they wanted to talk to him about it, about some burglaries. Um, I believe they pulled him over. He told me that they pulled him over and took pictures of his truck and the tires I think.

LM: Mmhuh.

WH: Um.

LM: What, what's your relationship with Joey right now? have you talked to him at all since you?

WH: I haven't talked to him since I've been down, no. I've talked to him um, three months before I got locked up. Two months.

LM: What would he do if you called him on the phone?

WH: What would he do?

LM: Yeah.

WH: Probably nothing. I mean, he would talk to me.

LM: Would he talk open to you about these burglaries and things?

WH: He could. Yeah, he probably would. If I, mean I couldn't just call him and just start asking him crazy questions, but.

LM: Right but I mean, your relationship with him isn't so um severed to the fact that if you called him up or wanted to get back to him he, he wouldn't say.

WH: No, the reason why we quit talking is nothing that I did. It's something that he did. You know, and I'm the one who chose not to talk to him.

LM: Have you talked to Jessica since then?

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WH: Yeah, I have. I haven't talked to Jessica since I've been incarcerated, and I haven't. I talked to her, I don't know, probably a couple weeks before I got locked up.

LM: Okay. I know she was worried that every time we were coming around and uh, about the police and stuff. You know, we questioned her a couple of times and she, she got pretty emotional on that.

WH: Yeah.

LM: But I think at the time she was pretty strung out on drugs too. And I don't think she knew if she was coming or going, to be honest with you. She was.

WH: Probably not. I think we all were pretty strung out.

LM: Her mom, I actually talked to her one day. Her mom was sober, appeared to be sober, and you know, she was trying to calm her down but I mean she just immediately emotionally just started kinda wiggling out on us.

WH: Yeah.

LM: Okay. Uh.

SS: What kind of items did Joey take to his mom's house?

WH: I don't know. I think there was some, a bunch of jewelry. Um, jewelry and I think a couple laptops. Maybe a small TV.

LM: Does she, did he, when you say took to her house, his mom knew that the stuff was stolen?

WH: Yeah. How else was he supposed to get all this stuff? You know. Huh. She says she didn't, but it's a lie.

LM: Did she receive any stolen property?

WH: Um, I'm not sure if he sold her anything or gave her anything. I don't know. He might've behind my back. If he gave her anything, then he would've owed me half of it or you know, whatever.

LM: Okay.

SS: And when you guys went out and did the burglaries, it was just the two of you, you didn't have a third person or?

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WH: No. Usually when he called me, he had it already lined up that he just want me to come help him carry stuff cuz he couldn't, or he wanted to use my car or something.

SS: Okay. Did you ever bring anything other than your little black Civic?

WH: No.

SS: And did he mention committing any of the other burglaries with anybody else?

WH: Um. I can't remember no names really off the top of my head, but I know he had to go do them with somebody.

SS: Okay.

WH: You know.

LM: Okay. Um, all right. So at this point um, you can't remember any other burglaries you did.

WH: Not off the top of my head.

LM: But you're willing to come over to Clallam County and drive around with us and probably point out some of these burglaries, some of the places where you burglarized houses?

WH: Yeah. I want to help you out.

LM: Okay. And uh, do you have anything you want to say?

WH: Not in particular, no.

LM: Okay. Det. Sampson, do you have anything to say?

SS: No.

LM: Okay.

SS: Has everything you told us been the truth?

WH: Yes. It has.

SS: Is there any details that you want to add or change?

WH: No, not that I remember at this point, no.

I certify under penalty of perjury that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: _____

Date: _____

Supervisor: LTM

Date: _____

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CLALLAM COUNTY SHERIFF'S DEPARTMENT
CASE REPORT NARRATIVE

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LM: Okay. And nobody's forcing you to give a statement?

WH: No.

LM: And it's all done freely and voluntarily?

WH: Yeah.

LM: Okay. Then I will end the tape. It's.

SS: 1521 hours.

LM: Stop it at 1521.

End of recording.

(T-3/19/09, so)

I certify under penalty of perjury that the forgoing is true and correct. Written and signed in Clallam County.

Deputy: _____
Supervisor: Tom Lewis

Date: _____
Date: 3/30/09

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CLALLAM COUNTY PROSECUTOR

June 13, 2013 - 12:15 PM

Transmittal Letter

Document Uploaded: 440857-Respondent's Brief.pdf

Case Name: State v. Harsh

Court of Appeals Case Number: 44085-7

Is this a Personal Restraint Petition? Yes No

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Answer/Reply to Motion: ____

Brief: Respondent's

Statement of Additional Authorities

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Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____

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Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

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Petition for Review (PRV)

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Comments:

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