

NO. 49306-3-II

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

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STATE OF WASHINGTON,

Respondent,

v.

BERNARD LEE YONKER,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR THURSTON COUNTY

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APPELLANT'S OPENING BRIEF

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## A. SUMMARY OF ARGUMENT

Even though Bernard Yonker is under community supervision, he, like other citizens, enjoys an expectation of privacy. Community custody officers (CCOs) violated that expectation when they unlawfully searched his house without reasonable cause. When the CCOs found an empty bullet casing outside Mr. Yonker's house, they had no reason to believe a condition of supervision had been violated or the casing belonged to Mr. Yonker. Therefore, the CCOs' extensive search of his house and grounds was not supported by reasonable cause. Further, there was no nexus between the alleged violation and the far reaches of Mr. Yonker's bedroom. Because the search was unlawful, this Court should reverse Mr. Yonker's conviction and remand his case with instructions to suppress the evidence uncovered during the unlawful search.

## B. ASSIGNMENTS OF ERROR

1. The trial court erred when it found Mr. Yonker guilty of the crime of unlawful possession of a controlled substance—methamphetamine because it should have suppressed the evidence found during an unconstitutional search (Conclusion of Law 3).

2. The trial court erred in entering Conclusion of Law 2, to the extent it incorporates Finding of Fact 4 as a Conclusion of Law.

3. The trial court erred in entering Finding of Fact 4, to the degree it presumes Mr. Yonker was under a community custody condition prohibiting him from possessing firearms or ammunition. CP 41.

4. The trial court erred in entering Conclusion of Law 4 that “RCW 9.41.045 prohibits offenders under the supervision of DOC to own, use, or possess firearms and/or ammunition,” when Mr. Yonker’s judgment and sentence does not cite that statute in defining his community custody conditions. CP 42.

5. The trial court erred in entering Conclusion of Law 5, “CCO Frank found a spent shell casing near the front door of defendant’s residence, a single-family dwelling, CCO Frank had reasonable cause to believe defendant may be in violation of the terms and conditions of defendant’s sentence.” CP 42.

6. The trial court erred in entering Conclusion of Law 6, holding the CCOs’ search of Mr. Yonker’s residence was lawful. CP 42.

7. The trial court erred in entering Conclusion of Law 7, denying Mr. Yonker's CrR 3.6 Motion to Suppress the evidence found during an unconstitutional search. CP 42.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. CCOs may compel a probationer to submit to a warrantless search of his or her property only if they have reasonable cause to believe the probationer has violated one or more of his or her community custody conditions. A probationer's judgment and sentence controls the conditions to which he or she is subject. Did the CCOs lack reasonable cause to conduct a warrantless search where Mr. Yonker was not subject to the condition the CCOs claimed to serve as the basis for the search?

2. The State must show CCOs had reasonable cause to suspect a probationer was in violation of his or her probation to justify a warrantless search of a probationer's property. Did the trial court err in finding the CCOs had reasonable cause to suspect Mr. Yonker was in violation of his community custody conditions when (1) they were relying solely on an empty casing lying on the ground outside Mr. Yonker's house, (2) there were regularly multiple people at the house,

including at the time of the search, and (3) the CCOs never saw Mr. Yonker interact with the empty casing?

3. If a CCO has reasonable cause to suspect a violation, there must be a nexus between the suspected violation and the property searched. Did the trial court err when it failed to consider whether there was a nexus between the CCOs' suspicion that Mr. Yonker had violated his probation by possessing a firearm or ammunition and the extensive search of Mr. Yonker's entire property, including outbuildings and vehicles?

#### D. STATEMENT OF THE CASE

On September 4, 2015, two CCOs, Matthew Frank and Natalie Carrigan, went to Mr. Bernard Yonker's home for a routine field visit. CP 25. Mr. Yonker had been under the Department of Corrections' (DOC) supervision for three months; CCO Frank was his supervising officer. 2/1/2016 RP 11; CP 25. Mr. Yonker's community custody terms did not prohibit him from owning or using a firearm. Ex. 5, at 5-6.<sup>1</sup>

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<sup>1</sup> Documents referenced by exhibit or subfolder number have been designated as supplemental clerk's papers, but they are not yet available.

When CCO Frank approached Mr. Yonker's house, he saw an empty 9mm bullet casing lying outside, a few feet from the front door. 2/1/2016 RP 12, 14. At the time, there were several people inside the house, and CCO Frank knew that there were often several people in the house. CP 25, 29. Without further investigation, CCO Frank contacted his supervisor, Kevin Jones, and asked for permission to search Mr. Yonker's house. 2/1/2016 RP 13.

From that single, empty casing, CCO Frank suspected that Mr. Yonker was in violation of a community condition prohibiting probationers from possessing firearms or ammunition. 2/1/2016 RP 12. However, that community custody condition is not included among Mr. Yonker's probation conditions. Ex. 5, at 5-6.

Nonetheless, permission to search was granted and CCO Frank assembled a team of CCOs and officers from the Lacey Police Department. 2/1/2016 RP 13. The search team went to Mr. Yonker's house and handcuffed him before going through his entire house, including out-buildings and cars. CP 29; 2/1/2016 RP 14. The alleged objective of the search was to look for ammunition, and possibly firearms. 2/1/2016 RP 18, 22.

Two CCOs, Gregory Tuitele and Mike Foster, searched Mr. Yonker's bedroom. CP 22; 2/1/2016 RP 22. Mr. Yonker's bed was in the middle of the room covered with numerous blankets, pillows, and other items. CP 22. CCO Tuitele removed all the blankets from Mr. Yonker's bed, under which there was a box about the size of "something you might put a ring in." 2/1/2016 RP 22. CCO Tuitele opened the box and found a little plastic bag containing a crystallized substance later confirmed to be methamphetamine. CP 22. CCO Frank did not create a report of these events. 2/1/2016 RP 18.

Mr. Yonker was charged with one count of unlawful possession of a controlled substance with aggravating circumstances. CP 6 (RCW 69.50.4013(1); RCW 9.94A.535(3)(t); RCW 9.94A.537).

Mr. Yonker moved to suppress the methamphetamine, arguing that the search was unlawful because the CCOs did not have reasonable cause to suspect he was in violation of his probation conditions. CP 7-19. The trial court found that the existence of an empty casing outside of a "single family dwelling" established a basis to conduct a broad search and denied the CrR 3.6 motion. CP 42; 2/1/2016 RP 35-36, 38-39.

Mr. Yonker was convicted of unlawful possession of a controlled substance after a stipulated-facts bench trial. CP 5, 48-50.

E. ARGUMENT

**The State violated Mr. Yonker’s right to privacy by searching his home, nearby buildings, and cars based on the ambiguous presence of a single shell casing outside a home frequented by many people.**

Warrantless searches are presumed unreasonable unless the State can show the search fits into a “jealously and carefully drawn” exception. *State v. Winterstein*, 167 Wn.2d 620, 628, 220 P.3d 1226 (2009) (quoting *State v. Hendrickson*, 129 Wn.2d 61, 70, 917 P.2d 563 (1996)). A citizen’s house is entitled to higher constitutional protection: “In no area is a citizen more entitled to privacy than his or her home.” *State v. Young*, 123 Wn.2d 173, 185, 867 P.2d 593 (1994). In addition, Article 1, section 7 of the Washington constitution is even more protective of privacy rights than the Fourth Amendment. *State v. O’Neill*, 148 Wn.2d 564, 584, 62 P.3d 489 (2003).

Under RCW 9.94A.631 (“authorization statute”), a CCO may require a probationer to submit to a warrantless search only if the CCO has reasonable cause to suspect the probationer has violated a condition of his or her community custody. Although probationers have a diminished expectation of privacy, their privacy is still protected by the

requirement of reasonable cause to search. *U.S. v. Conway*, 122 F.3d 841, 842 (9th Cir. 1997). Washington courts have analogized this reasonable cause standard to the reasonable suspicion standard required for an officer to conduct a *Terry* stop. *State v. Jardinez*, 184 Wn. App. 518, 524, 338 P.3d 292 (2014); *State v. Parris*, 163 Wn. App. 110, 119, 259 P.3d 331 (2011); see *U.S. v. Most*, 789 F.2d 1411, 1415 (9th Cir. 1986) (equating “reasonable cause” with “reasonable suspicion” in cases where law enforcement is permitted to make “a limited intrusion on less than probable cause”).

Consistent with *Terry* stop case law, reasonable cause under the authorization statute requires a CCO’s suspicion to be based on “specific and articulable facts and rational inferences.” *Parris*, 163 Wn. App. at 119. A CCO must have a “well-founded suspicion that a violation has occurred.” *Jardinez*, 184 Wn. App. at 524; *State v. Patterson*, 51 Wn. App. 202, 204-05, 752 P.2d 945 (1988).

Here, the CCOs’ search was unlawful for three reasons. First, Mr. Yonker’s judgment and sentence does not include a community custody condition prohibiting him from owning or using firearms or ammunition and does not authorize monitoring for general law violations. In the absence of such a condition, the CCOs lacked the

authority to search Mr. Yonker's property under the exceptionally low reasonable cause standard provided for in the authorization statute.

Second, even if Mr. Yonker was prohibited from possessing firearms or ammunition under his community custody conditions, the CCOs did not have reasonable cause to suspect he had violated that condition. An empty bullet casing found lying outside a probationer's house, without more, is insufficient to support a finding of reasonable cause.

Third, even if such scant evidence established reasonable cause, there was no nexus between the suspected violation and the broad scope of the CCOs' search.

- 1. The record does not show that Mr. Yonker's probation conditions prohibited him from possessing ammunition, so the CCOs were not authorized to search his home.**

Under the authorization statute, CCOs may conduct a search only if they have reasonable cause to believe a probationer has violated a community custody condition. RCW 9.94A.631. In Mr. Yonker's case, the CCOs suspected he had violated a condition prohibiting him from possessing firearms or ammunition. 2/1/2016 RP 12. However, the record shows he was not under such a condition. The judgment and sentence controlling at the time does not mention any prohibition on

firearms or ammunition under his community custody conditions. Ex. 5, at 5-6. Mr. Yonker cannot be searched for a suspected violation of a community custody condition that was not imposed and of which he was not notified.

Below, the State relied on RCW 9.41.045, which prohibits probationers from using or possessing firearms or ammunition. CP \_\_\_\_ (sub. no. 23 (Response in Opposition)). However, this statute is not mentioned anywhere in the judgment and sentence establishing Mr. Yonker's community custody terms. Ex. 5, pp. 5-6. The judgment also does not authorize Mr. Yonker to be monitored more broadly.

The judgment and sentence boilerplate language apparently has since been changed to include monitoring for possession of firearms or ammunition as a community custody condition. Mr. Yonker's most recent judgment and sentence (for possession of methamphetamine) contains this new form language. CP 58-59. This change in the form's language demonstrates the firearm prohibition must be explicitly imposed in the terms of community custody. Because that language is absent in the community custody terms at issue here, the community custody conditions did not prohibit Mr. Yonker from possessing firearms or ammunition.

Although Mr. Yonker's May 2015 original judgment and sentence has a separate section prohibiting convicted felons from possessing or using firearms, that prohibition is irrelevant to whether Mr. Yonker was in violation of his community custody. CP \_\_\_\_ (State's Exh. 5, p.7). The statute prohibiting felons from possessing firearms is distinct from a community custody condition prohibiting Mr. Yonker from possessing firearms, and is not a condition DOC was authorized to monitor here. *See* RCW 9.41.040; Ex. 5, at 5-6.

The State justified its search under the reasonable cause standard set out in the authorization statute. *See* RCW 9.94A.631. To access the statute's lower standard, a CCO must show reasonable cause to believe a probationer violated a community custody condition. RCW 9.94A.631. Based on the record before this Court, Mr. Yonker was not subject to community custody monitoring for owning or using firearms or ammunition. Therefore, the CCOs could not search him for violating such a condition. Without suspicion of a violation, CCO officers could not search his property based on the reasonable cause standard permitted under the authorization statute.

CCOs do not have general law enforcement authority; they are permitted to search a probationer only under the circumstances

contemplated by the authorization statute. The reasonable cause standard provides a limited exception to the general warrant requirements. Here, the CCOs were not acting under the authorization statute, so they had no authority to search Mr. Yonker's house. Additionally, law enforcement officers would have needed a warrant supported by probable cause to search Mr. Yonker's house— a higher standard than the reasonable cause required under the authorization statute. *Young*, 123 Wn.2d at 181; *State v. Fisher*, 145 Wn.2d 209, 227, 35 P.3d 366 (2001). No exception to the warrant requirement applied.

The CCOs were acting outside their authority as DOC employees when they unlawfully searched Mr. Yonker's house, and the participating law enforcement officers did not have a search warrant. The proper remedy is to reverse his conviction and remand with instructions to suppress the evidence found during the CCOs' unlawful search. *State v. Ibarra-Cisneros*, 172 Wn.2d 880, 886, 263 P.3d 591 (2011).

**2. Even if Mr. Yonker's conditions prohibited him from possessing ammunition, the CCOs did not have reasonable cause to suspect he had violated that condition.**

Even if this Court were to find that Mr. Yonker's community custody conditions somehow authorized a warrantless search for

firearms or ammunition, the CCOs did not have reasonable cause to suspect he had violated that condition. An empty casing found on the ground outside Mr. Yonker's house is insufficient to generate reasonable cause, considering there were numerous people in the house when the CCOs conducted the search.

There was no evidence that Mr. Yonker was involved with, or even knew about, the empty casing. Furthermore, because the casing itself was not a violation, the CCOs had to extrapolate to connect the empty casing to a suspicion that Mr. Yonker was in violation of his probation. These inferences were not substantiated by "specific, articulable facts" as required under the reasonable cause standard. Without more evidence to support the CCOs' chain of inferences, a single empty casing was insufficient to generate reasonable cause; thus, the CCOs' search of Mr. Yonker's house was unlawful.

First, there were multiple people in the house when the CCOs conducted the search; this invalidates the CCOs' assumption that the casing reasonably belonged to Mr. Yonker. CP 25. Additionally, the CCOs knew from past visits that there were often several people in the house; the casing could have belonged to any of those visitors. CP 29.

In denying Mr. Yonker's CrR 3.6 motion, the trial court explained the fact that the casing was found on a single-family residence lot made it more probable that the casing belonged to Mr. Yonker than if the CCOs had found it in the parking lot of an apartment complex. 2/1/2016 RP 35-36, 38-39. The trial court said it likely would not have found reasonable cause if the casing were found in an apartment complex parking lot because it would have been impossible to tell who was the owner of the casing. 2/1/2016 RP 35-36.

However, the trial court did not consider that there were multiple people in the house at the time of the search and the CCOs knew from past visits that there were often multiple people there. As with the parking lot hypothetical posed by the trial court, the casing could have belonged to any of those people. The CCOs' assumption that the casing belonged to Mr. Yonker was unreasonable considering their knowledge that there were many other potential owners of the casing in the vicinity.

Second, because the casing could have belonged to any of the multiple people at Mr. Yonker's house, a previous visitor to the house, or even someone discarding it from afar, the CCOs needed to investigate further to link the casing to Mr. Yonker to establish

reasonable cause. They did not do so. At the hearing, the CCOs admitted they did not test the casing for fingerprints, nor could they recall if they had taken pictures of it for evidence. 2/1/2016 RP 15. CCO Frank also admitted that he did not know whether the casing was garbage. 2/1/2016 RP 16. Also, Mr. Yonker never admitted the casing was his. 2/1/2016 RP 27 (defense's closing argument). The CCOs could not establish the casing belonged to Mr. Yonker.

Instead, they assumed both that the casing was Mr. Yonker's and that he therefore possessed live ammunition or a firearm. But assumptions, unsupported by articulable facts, are not enough to generate reasonable cause. For example, in *State v. Doughty*, an officer saw the defendant approach a suspected drug house at 3:20 am, stay for two minutes, and leave. 170 Wn.2d 57, 59, 239 P.3d 573 (2010). Based on those facts alone, the officer stopped him for "suspicion of drug activity." *Id.* The officer did not see any of the defendant's actions at the house or whether he interacted with anyone in the house. *Id.* The Supreme Court held the investigative detention was unlawful because the officer's suspicion was based on nothing more than his "incomplete observations" of the defendant. *Id.* at 64. Because the officer had not personally observed the defendant's conduct at the house, the officer

“had no idea what, if anything, [the defendant] did at the house,” and so the officer did not have reasonable suspicion to justify his intrusion into the defendant’s private affairs. *Id.*

Similarly, here, the CCOs never observed Mr. Yonker interact with the casing in any way, nor did Mr. Yonker ever admit to having done so. The CCOs also had no way of knowing how long the casing had been on the property before they found it that day. The only fact the CCO cited to link the casing to Mr. Yonker specifically was that he had found it on Mr. Yonker’s land. 2/1/2016 RP 16. That fact alone is insufficient.

Like in *Doughty*, the CCOs “had no idea what, if anything,” Mr. Yonker had to do with the empty casing. Relying solely on an empty bullet casing, which, in itself, is not a violation, is precisely the type of “incomplete observations” that the Supreme Court has made clear are not enough to establish reasonable cause. The reasonable cause requirement exists to prevent officers from acting on hunches or unsupported assumptions, thus safeguarding citizens’ constitutional rights under the Fourth Amendment. *Terry v. Ohio*, 392 U.S. 1, 22, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968). Without some evidence to

connect the casing to Mr. Yonker, the CCOs were acting solely on a hunch, which is insufficient to establish reasonable cause.

Third, the CCOs had no interaction with Mr. Yonker to further develop any suspicion they had before searching his house. They also never saw Mr. Yonker interact with the casing outside of his house. Courts have found an officer had reasonable cause when an officer relied on his or her own observations of the probationer. *See State v. Lampman*, 45 Wn. App. 228, 234-35, 724 P.2d 1092 (1986) (finding reasonable cause after an officer's probationer fled when she saw him, coupled with his knowledge of her history and the conditions of her probation); *State v. Lucas*, 56 Wn. App. 236, 244-45, 783 P.2d 121 (1989) (finding reasonable cause when officers saw a bag of marijuana inside the probationer's house and then noticed the probationer was particularly nervous when he answered the door, asking the officers if they had a warrant even though the officers had not asked to search the house).

Here, the CCOs did not see Mr. Yonker interact with the casing, nor did they observe Mr. Yonker behave in any way to suggest anything suspicious. Furthermore, the State presented no evidence to

suggest that Mr. Yonker even knew that there was a casing on the ground outside of his house.

In sum, the CCOs' search was not supported by reasonable cause. They did not investigate once they saw an empty casing outside of Mr. Yonker's house, and without further investigation, they had no way of knowing how long the casing had been on the property or to whom it belonged. There were multiple people in the house at the time of the search, and the CCOs knew that the house often had multiple visitors. The casing could have belonged to any of those people. The casing could also just as easily have been garbage, belonging to no one. Furthermore, the CCOs never saw Mr. Yonker interact with the casing or behave in any way to suggest the casing was his. Without reasonable cause, the CCOs were not entitled to search Mr. Yonker's property. As such, the search was unlawful. This Court should reverse Mr. Yonker's conviction and remand with instructions to suppress any evidence found during the search.

**3. Even if the CCOs had reasonable cause, there was no nexus between the suspected violation and the CCOs' extensive search of Mr. Yonker's entire house.**

When a CCO has reasonable cause to believe a probationer has violated a condition of his or her probation, there must be a nexus

between the search conducted and the suspected violation. *Jardinez*, 184 Wn. App. at 529; *State v. Livingston*, \_\_\_ P.3d \_\_\_, 2017 WL 193292 (Jan. 18, 2017). A CCO’s suspicion that a probationer has violated a condition of his or her probation does not subject the probationer to a warrantless search of everything he or she owns.

This nexus requirement is consistent with Fourth Amendment and Washington law that limits the scope of a search to correspond to the initial suspicion that instigated it. *Jardinez*, 184 Wn. App. at 525; *State v. Thien*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999) (requiring a nexus between the suspected criminal activity and the evidence to be seized); *State v. B.A.S.*, 103 Wn. App. 549, 553, 13 P.3d 244 (2000) (requiring a search be “reasonably related in scope to the circumstances that justified the interference”); *Arizona v. Gant*, 556 U.S. 332, 351, 129 S. Ct. 1710, 173 L. Ed. 2d 485 (2009).

For example, in *Jardinez*, the court held that a probation officer’s search of a probationer’s iPod was unlawful because the officer did not expect the search to yield evidence related to the specific alleged probation violations. 184 Wn. App. at 523, 528, 529.

In that case, the probationer had missed a probation meeting and then, when he eventually met with his probation officer, admitted that a

urinalysis test would test positive for marijuana. *Id.* at 521. Therefore, the two probation violations were failure to appear and drug use, both of which the probation officer knew had actually happened. *Id.* The officer directed the probationer to empty his pockets. *Id.* When the probationer handed over an iPod, the officer searched the iPod solely because the probationer appeared to be nervous. *Id.* The iPod contained a video of the probationer pumping a shotgun, another violation of his probation terms. *Id.* The trial court granted the probationer’s motion to suppress the evidence found on the iPod, explicitly ruling there must be a “reasonable nexus between the suspected criminal activity and the search.” *Id.* at 522. This Court affirmed, holding there was no nexus between the alleged violations, failure to appear and marijuana use, and the property searched. *Id.* at 529.<sup>2</sup>

Similarly, here, even if the CCOs had reasonable cause to search, there was no nexus between the suspected violation of firearm possession and the extensive search the CCOs conducted. A probationer’s limited expectation of privacy does not extend to those non-probationers around him. *State v. Rooney*, 190 Wn. App. 653, 661,

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<sup>2</sup> When discussing the lack of a nexus, the court noted the probation officer “had no reason to believe [the defendant] possessed a firearm before [the officer] opened the iPod.” *Id.* at 528.

360 P.3d 913 (2015). The CCOs searched the entire house, as well as outbuildings and cars on the property, which could have belonged to visitors present in the house at the time, or to people who had been at or near the house any time prior to the search.

Also, the CCOs found the casing outside the house, which should have confined the parameters of the search to outside the house. There was no nexus between the alleged violation and the extensive search the CCOs conducted inside the house.

Even if they were permitted to search inside the house, the nexus requirement restricted the CCOs to searching only for evidence related to the alleged violation of possessing firearms or ammunition. Ammunition is, by definition, plural, defined as “the various projectiles together with their fuzes, propelling charges, and primers that are fired from guns.” *See Webster’s Third New International Dictionary* 71 (1993). These “projectiles” are typically stored together as ammunition, not separately as independent bullets. According to the CCOs’ stated objective, “we were looking for ammunition,” their search was restricted only to places where ammunition could have reasonably been kept. CP 18.

However, the CCOs' search was overbroad, even including removing all the coverings from Mr. Yonker's bed. CP 22. The State presented no evidence showing that probationers tend to keep firearms or ammunition under their blankets. The CCOs' intrusion into Mr. Yonker's bed was outside the scope of the search for firearms or ammunition.

But the CCOs did not stop there. Upon removing the blankets, the CCOs found a small wooden box, the size of "what most people would put a ring of some sort in." CP 22. At that point, the CCOs should have ended the search and left the box undisturbed. The small ring box could not have contained either a firearm or multiple bullets, and would not be a reasonable place to expect ammunition, so opening the ring box impermissibly extended the scope of the warrantless search allowed by the authorization statute.

The CCOs' actions show that they were actually searching for anything that could be a violation, not merely evidence of the suspected violation of firearm possession. This limitless search is exactly the kind of intrusion the nexus requirement is meant to guard against. *State v. Simms*, 10 Wn. App. 75, 84, 516 P.2d 1088 (1973) ("Considering the interest of the parolee in his liberty and privacy...to subject the parolee

to arbitrary and capricious searches at the whim of his parole officer would be constitutionally impermissible.”).

Although a probationer’s expectation of privacy is diminished, such a deprivation of that expectation is constitutional “only to the extent necessitated by the legitimate demands of the operation of the parole process.” *Jardinez*, 184 Wn. App. at 523. The CCOs’ search exceeded the “legitimate demands” of probation officers investigating a specific suspected probation violation. There was no nexus between the suspected violation and the CCOs’ extensive search of Mr. Yonker’s house. The search was unreasonable and the evidence it produced should have been suppressed.

#### F. CONCLUSION

This Court should reverse Mr. Yonker’s conviction for three independent reasons. First, Mr. Yonker was not under community custody monitoring for firearms and ammunition, so the CCOs were not entitled to search his house under the authorization statute. Second, even if Mr. Yonker was under such a condition, the CCOs did not have reasonable cause to suspect he was violating that condition. Third, even if the CCOs did have reasonable cause to search, there was no nexus between the suspected violation and the CCOs’ extensive search of the

entirety of Mr. Yonker's house. For each of these reasons, this Court should reverse Mr. Yonker's conviction and remand with instructions to suppress any evidence found during the CCOs' unlawful search.

DATED this 8th day of March, 2017.

Respectfully submitted,

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

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STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	NO. 49306-3-II
v.	)	
	)	
BERNARD YONKER,	)	
	)	
Appellant.	)	

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**SIGNED** IN SEATTLE, WASHINGTON THIS 9<sup>TH</sup> DAY OF MARCH, 2017.



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Court of Appeals Case Number: 49306-3

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