

Consol. Nos. 49490-6-II  
49500-7-II

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

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STATE OF WASHINGTON,

Petitioner,

v.

TINA BERVEN and WILLIAM WITKOWSKI,

Respondents.

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ON DISCRETIONARY REVIEW FROM THE SUPERIOR COURT  
OF THE STATE OF WASHINGTON FOR PIERCE COUNTY

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BRIEF OF RESPONDENT (TINA BERVEN)

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## **A. INTRODUCTION**

Law enforcement executed a search warrant at Tina Berven's home, looking for a stolen power meter. Inside, they saw evidence indicating other crimes may have been committed, including the crime of unlawful possession of a firearm. A deputy obtained an addendum expanding the scope of the warrant. Despite seeing two "gun safes" in the home, the deputy did not ask for authority to search these safes. Rather, he asked for and obtained authority to search containers for surveillance systems. Because the safes were not within the scope of the warrant, the trial court properly suppressed the evidence from the safes. This Court should affirm.

## **B. ISSUES**

1. Warrants must particularly describe the things to be searched or seized. The description must be as specific as reasonably possible. Law enforcement was aware of the gun safes, but did not ask for express authority to search the safes. Instead, express authority was sought and obtained to search containers for surveillance systems. Did the scope of the warrant not include the safes when law enforcement was aware of the safes, the warrant did not expressly include safes, and the safes were excluded by negative implication?

2. The general rule under the Fourth Amendment is that a search warrant for a home impliedly authorizes the opening of any container that might reasonably contain the evidence authorized to be seized. Article I, section 7 is more protective than the Fourth Amendment. For example, this provision demands a more stringent test before a warrant can be lawfully issued. Additionally, under this provision, consent to search a vehicle does not impliedly authorize the opening of locked containers inside. Does article I, section 7 require that police obtain express authorization in a warrant to open locked containers inside a home?

### **C. STATEMENT OF THE CASE**

On October 26, 2015, Deputy Martin Zurfluh, accompanied by two other officers and an agent of a utility company, went to Tina Berven's and William Witkowski's property. CP 152 (undisputed facts #1, 3, 7). Their purported purpose was to speak with the two residents about allegations they were stealing electricity and about a stolen power meter. CP 152 (undisputed fact #7). When the four men approached the property, however, they discovered a locked gate barred their entry. CP 152 (undisputed fact #10). Ms. Berven saw the men from inside her house and approached the gate. CP 153 (undisputed fact #10). According to Ms. Berven, Deputy Zurfluh demanded she open the gate or else she would go to jail. CP 156 (disputed fact #4). Deputy Zurfluh, however, did not

recall making any threat and represented that Ms. Berven had voluntarily opened the gate, allowing them onto the property. CP 155 (disputed fact #2). The court later found Deputy Zurfluh's testimony more credible. CP 157 (finding as to disputed facts #1-5). The officers did not find a stolen power meter on the property.<sup>1</sup> CP 154 (undisputed fact #15); RP 31.

The next day, Deputy Zurfluh obtained a warrant to search the property, including the residence, for the stolen power meter. Ex. 4. He returned and executed this warrant two days later on October 29, 2016. RP 103. Inside the residence, law enforcement saw drug paraphernalia, ammunition, documents and equipment indicative of identity theft or fraud, and two gun safes. RP 34, 70-71; CP 158 (reason #8 for inadmissibility of the evidence) (unchallenged). Officer Zurfluh then obtained an addendum to the warrant telephonically. RP 74-75.

In the addendum, Deputy Zurfluh averred that he believed the crimes of "Unlawful Possession of a Firearm," "Identity Theft," "Unlawful Possession of a Controlled Substance," and "Unlawful Use of Drug Paraphernalia" had been committed.<sup>2</sup> Ex. 5. He recounted there were two "large gun safe[s]" in the home. Ex. 5 p. 5-6. Still, he did not

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<sup>1</sup> The legality of the officers' actions in entering and searching the property on October 26, 2015 is not at issue in this discretionary review.

<sup>2</sup> Deputy Zurfluh was aware that Ms. Berven and Mr. Witkowski could not lawfully possess firearms. RP 105.

ask for specific authority to seize and search the gun safes or other possible containers for firearms. RP 76-77, 120 (“I did not put safes on that warrant.”); CP 158 (reason #12 for inadmissibility of evidence). Rather, he provided the following list, which included containers for surveillance systems:

1. Firearms, firearms parts, and accessories, including but not limited to rifles, shotguns, handguns, ammunition, scopes, cases, cleaning kits, and holsters
2. Printers, computers, scanners, cameras, laminators, card cutters, card stock, paper, and or any other item used or intended to be used for the purpose of generating fraudulent documents including but not limited to ID cards, Credit Cards, Vehicle Titles, Registrations, Trip Permits, and prescriptions.
3. File systems including thumb drives, hard drives, papers, or any other means used to store or intended to be used to store personal information of potential identity theft victims.
4. Surveillance Systems used or intended to be used in the furtherance of any of the above listed crimes.
5. Methamphetamines and or any other controlled substances[.]
6. Any item used as a container for item 4.
7. Drug paraphernalia including but not limited to; scales, foil, pipes, straws, bongs, and syringes.
8. Indicia of occupancy or residency of the location listed in this warrant.

Ex. 5 (emphasis added). As the trial court later determined, “The search warrant identified the evidence to be search[ed] for including firearms and firearm accessories, controlled substances, items used as containers for surveillance equipment, drug paraphernalia and indicia of dominion and control.”). CP 158 (unchallenged reason #11 for inadmissibility of evidence) (emphasis added).

After obtaining the addendum to the warrant, law enforcement continued their search of the home, including opening the safes. RP 118, 134-35. The locked safe contained firearms. RP 135. Based on this evidence, Ms. Berven was charged with four counts of unlawful possession of a firearm. CP 117-18.

The trial court determined that the warrant did not include the gun safes or containers for firearms. CP 158 (reason #12 for inadmissibility of evidence); RP 87. Accordingly, the court ruled the safes did not fall within the scope of the warrant and suppressed the evidence found inside. CP 159 (reasons #12-13 for inadmissibility of evidence); RP 88. The court denied the State’s motion for reconsideration. CP 140. A commissioner of this Court granted the State’s motion for discretionary review.

## D. ARGUMENT

**The trial court correctly determined the warrant did not authorize law enforcement to search the safes inside Ms. Berven's home. Because there was no authority of law authorizing the search, the evidence was properly suppressed.**

**1. Article I, section 7 provides greater protection than the Fourth Amendment. State intrusions into private affairs are unlawful unless there is authority of law.**

The Washington Constitution commands that, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." Const. art. I, § 7. In contrast, the Fourth Amendment provides

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. Amend. IV.

When state and federal constitutional provisions are at issue, it is generally appropriate to address the state constitutional provision first. State v. Young, 123 Wn.2d 173, 178, 867 P.2d 593 (1994); State v. Coe, 101 Wn.2d 364, 373, 679 P.2d 353 (1984). Analysis under the federal provision may inform the state constitutional analysis so it is not inappropriate to examine the federal provision first or in tandem. State v. Reece, 110 Wn.2d 766, 770, 757 P.2d 947 (1988).

“The privacy protections of article I, section 7 are more extensive than those provided under the Fourth Amendment.” State v. Valdez, 167 Wn.2d 761, 772, 224 P.3d 751 (2009). Unlike the Fourth Amendment, “article I, section 7 is not grounded in notions of reasonableness.” State v. Snapp, 174 Wn.2d 177, 194, 275 P.3d 289 (2012). Rather, the inquiry is (1) “whether the state action constitutes a disturbance of one’s private affairs,” and if so, (2) “whether authority of law justifies the intrusion.” Valdez, 167 Wn.2d at 772.

## **2. Warrants must particularly describe the things to be seized or searched.**

In general, a warrant provides “authority of law.” Id. When the State exceeds the scope of an otherwise valid search warrant, the State has acted without authority of law. See State v. Martines, 184 Wn.2d 83, 94, 355 P.3d 1111 (2015) (testing of extracted blood was lawful under scope of warrant).

Warrants are reviewed “in a common sense” and “practical manner” as opposed to “a hypertechnical sense.” State v. Perrone, 119 Wn.2d 538, 549, 834 P.2d 611 (1992). On appellate review, a trial court’s findings are reviewed for substantial evidence. State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). “Substantial evidence exists where there is a sufficient quantity of evidence in the record to persuade a fair-minded,

rational person of the truth of the finding.” Id. Conclusions of law are reviewed de novo. State v. Winterstein, 167 Wn.2d 620, 628, 220 P.3d 1226 (2009).

Warrants must describe “with particularity the things to be seized.” Martines, 184 Wn.2d at 92-93 (quoting State v. Riley, 121 Wn.2d 22, 28, 846 P.2d 1365 (1993)); Perrone, 119 Wn.2d at 545. This limits the discretion of the officer executing the warrant and informs the person subject to the search what may be seized. Riley, 121 Wn.2d at 29. In other words, the particularity requirement protects against exploratory searches and helps prevent the mistaken seizure of objects not included in the warrant. Martines, 184 Wn.2d at 93.

What is required under the particularity requirement depends on the circumstances. More leeway exists when a more precise description is impractical. See Riley, 121 Wn.2d at 28 (“When the nature of the underlying offense precludes a descriptive itemization, generic classifications such as lists are acceptable.”). In contrast, the particularity requirement is more stringent when a more precise description is practical. See Perrone, 119 Wn.2d at 547 (“the use of a generic term or general description is constitutionally acceptable only when a more particular description of the items to be seized is not available at the time the warrant issues.”); State v. Stenson, 132 Wn.2d 668, 693, 940 P.2d 1239 (1997)

(“where the precise identity of items sought cannot be determined when the warrant is issued, a generic or general description of items will be sufficient if probable cause is shown and a more specific description is impossible.”) State v. Jackson, 150 Wn.2d 251, 268, 76 P.3d 217 (2003) (“a description of the place to be searched and items to be seized is valid if it is as specific as the nature of the activity under investigation permits.”).

The “police ‘must execute a search warrant strictly within the bounds set by the warrant.’” Martines, 184 Wn.2d at 94 (quoting State v. Kelley, 52 Wn. App. 581, 585, 762 P.2d 20 (1988)). Police “oversight, mistake or carelessness” in obtaining a less than ideal warrant matters not when evaluating what may be searched and seized under the warrant. State v. Eisele, 9 Wn. App. 174, 175-76, 511 P.2d 1368 (1973).

**3. Because the affiant was aware of the safes and the warrant he obtained explicitly authorized the search of other containers, the warrant did not authorize the search of the safes.**

It is undisputed that when Deputy Zurfluh sought an addendum to the original warrant, he was aware of the two safes in the residence. Still, as Deputy Zurfluh testified, he did not ask for authority to seize and search the safes. RP 76-77, 120 (“I did not put safes on that warrant.”). Unsurprisingly, based on Deputy Zurfluh’s testimony and the plain language of the warrant, the trial court found that “[t]he warrant did not

include the gun safes or containers for firearms.” CP 158 (reason #12).

This finding is supported by substantial evidence. Therefore, this Court should affirm.

These facts materially distinguish this case from the many cases cited by the State, which involved a *single* premises search warrant. Br. of App. at 13.<sup>3</sup> In those kinds of cases, the general Fourth Amendment rule is that “[u]nder a search warrant for a premise, the personal effects of the owner may be searched provided they are plausible repositories for the objects named in the warrant.” Hill, 123 Wn.2d at 643.<sup>4</sup> For example, in

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<sup>3</sup> One of the inapposite cases cited by the State is this Court’s partially unpublished opinion in State v. Walker, 178 Wn. App. 478, 315 P.3d 562 (2013), reversed on other grounds, 182 Wn.2d 463, 314 P.3d 976 (2015). The State fails to disclose that the relevant portion was unpublished. While recent unpublished decisions may be cited to under GR 14.1, the State has failed to disclose its status or that unpublished opinions are nonprecedential. Accordingly, it should be disregarded. Crosswhite v. Washington State Dep’t of Soc. & Health Servs., 197 Wn. App. 539, 544, 389 P.3d 731 (2017) (“The party must point out that the decision has no precedential value, is not binding on any court, and is cited only for such persuasive value as the court deems appropriate. The party should also cite GR 14.1.”).

Moreover, Walker is not persuasive because the opinion’s analysis is cursory. The analysis also addresses a defendant’s pro se statement of additional grounds, not the learned arguments of counsel.

<sup>4</sup> In setting out the recitation of this rule by the United States Supreme Court in United States v. Ross, 456 U.S. 798, 820-22, 192 S. Ct. 2157, 72 L. Ed. 2d 572 (1982), the State mistakenly represents this was the court’s holding. Br. of App. at 8-9. Ross, however, involved the warrantless search of an automobile, not the execution of a warrant, so this language is nonbinding dicta. United States v. Johnson, 709 F.2d 515, 516 (8th Cir. 1983). Moreover, Ross involved the automobile exception to the warrant requirement, which Washington does not follow under article I, section 7. Snapp, 174 Wn.2d at 192.

Morris, the federal Court of Appeals for the Fifth Circuit rejected an argument that a search warrant for a residence did not authorize the opening of a locked jewelry box. United States v. Morris, 647 F.2d 568, 572-73 (5th Cir. 1981). The court reasoned that to conclude otherwise would unreasonably require officers to obtain additional warrants or require in the first instance that “the agent seeking the warrant possess extrasensory perception so that he could describe, prior to entering the house, the specific boxes, suitcases, sofas, closets, etc. that he anticipated searching.” Id. at 573. Here, however, this was not true because Deputy Zurfluh was aware of the safes and he was seeking a warrant for permission to expand the scope of the search of the home. Thus, under the specific facts of this case, the general Fourth Amendment rule does not apply.

Additionally, the search warrant specifically identified containers for surveillance equipment. CP 158 (unchallenged reason #11); Ex. 5, p. 1. Thus, the common sense and practical reading of the warrant is that containers for firearms, including gun safes, were excluded by negative implication. See A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 107 (2012) (discussing the communicative device of negative implication and providing the example that “[w]hen a car dealer promises a low financing rate to ‘purchasers with good credit,’ it is

entirely clear that the rate is not available to purchasers with spotty credit.”). Further, a contrary conclusion would render the language authorizing the search of containers for surveillance equipment superfluous because the warrant had separately authorized the search of surveillance systems. See id. at 174 (“If possible, every word and every provision is to be given effect . . . . None should be ignored. None should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.”).

The State ignores these common sense interpretative principles. The State has provided no explanation as to why the warrant specifically authorized the search of containers for surveillance systems, but need not have been specific as to locked containers for firearms. The State has provided no explanation for why the trial court should have discredited or disregarded Deputy Zurfluh’s candid admission that “I did not put safes on that warrant.” RP 120. Instead, the State invites this Court to disregard the fundamental rule that warrants be particular and specific when possible. Br. of App. at 13-14. The Court should reject the State’s invitation.

The State places great emphasis on this Court’s decision in State v. Llamas-Villa, 67 Wn. App. 448, 836 P.2d 239 (1992), a case involving a locked container. Br. of App. at 10-12. There, as part of the execution of

a search warrant authorizing the seizure of drugs and currency at an apartment, the police opened a storage locker next to the defendant's apartment. Llamas-Villa, 67 Wn. App. at 450-51. The defendant argued this exceeded the scope of the warrant because this storage area was not listed in the warrant. Id. at 452. This Court upheld the search, reasoning that the storage locker was not a separate place from the defendant's apartment. Id. at 453. The Court also explained that it did not matter that the police had potentially used an unlawfully seized key to open the locker because the police were authorized break open the locker under the authority of the warrant. Id. at 454.

Llamas-Villa does not help the State. It involved a single premises search warrant. This case involves a second warrant where law enforcement was aware of the safes. Cf. id. at 452-53 (reasoning "there was no indication that the storage locker would not have been included in the warrant had the police known the layout of the apartment building."). And the main argument by the defendant in Llamas-Villa was that the locker was not in the *place* authorized to be searched under the warrant. The argument in this case is different. It concerns the scope of the warrant as to what *things* police were authorized to seize and search.

Accordingly, because the scope of the warrant did not include the gun safes, law enforcement acted without authority of law in seizing and

searching the safes. The trial court's ruling should be affirmed. If the Court agrees, the following argument need not be reached.

**4. Unlike the Fourth Amendment, article I, section 7 demands that warrants explicitly authorize the search of locked containers. For this separate reason, the warrant did not include the locked safe.**

The general rule relied on by the State is that a warrant to search a home impliedly authorizes the opening of every container in the home so long as it could contain the evidence stated in the warrant. This rule has its origins in the Fourth Amendment, not article I, section 7. See Ross, 456 U.S. 820-21 & n.27 (setting out rule); 4 Wayne R. LaFave, SEARCH AND SEIZURE, Search Warrants § 4.10(b) (same). Because this rule is incompatible with article I, section 7, the Court should not apply it. Instead, the Court should hold that before locked containers inside a home may be opened, article I, section 7 requires that the warrant provide explicit authorization to open the locked containers.<sup>5</sup>

In Hill, a case discussing only the Fourth Amendment and not article I, section 7, our Supreme Court set out this rule. Hill, 123 Wn.2d at 643 (“Under a search warrant for a premise, the personal effects of the

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<sup>5</sup> This issue was not litigated below. This Court, however, may affirm the trial court's ruling on any grounds adequately supported by the record. State v. Costich, 152 Wn.2d 463, 477, 98 P.3d 795 (2004). Here, the record is adequately developed to consider the issue. See RAP 2.5(a)(3) (manifest constitutional error may be raised for first time on appeal as a matter of right).

owner may be searched provided they are plausible repositories for the objects named in the warrant.”) (citing State v. Worth, 37 Wn. App. 889, 892, 683 P.2d 622 (1984)). The case cited in support, Worth, cites to State v. White, 13 Wn. App. 949, 950, 538 P.2d 860 (1975) and Professor LaFave’s treatise on the Fourth Amendment. Worth, 37 Wn. App. at 892. In White, this Court upheld the search of a purse inside a home pursuant to a premises warrant for the home, reasoning cursorily “that it was merely another household item subject to the lawful execution of the search warrant which the police officers held and were enforcing.” White, 13 Wn. App. at 950. In support, White cited to federal cases interpreting the Fourth Amendment. Id. (citing United States v. Micheli, 487 F.2d 429 (1st Cir. 1973); United States v. Johnson, 154 U.S. App. D.C. 393, 475 F.2d 977 (1973); Walker v. United States, 117 App. D.C. 151, 327 F.2d 597 (1963)).

This is not a sound foundation for determining what is required under article I, section 7. See State v. Ringer, 100 Wn.2d 686, 699, 674 P.2d 1240 (1983) (noting that Washington Supreme Court had for many years neglected article I, section 7, focusing instead on the Fourth Amendment).<sup>6</sup> An independent state constitutional analysis indicates that

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<sup>6</sup> Ringer was overruled, but it is now good law again. Snapp, 174 Wn.2d at 194.

a more protective rule is required under article I, section 7. See State v. Gunwall, 106 Wn.2d 54, 59-61, 720 P.2d 808 (1986) (state constitutional provisions may be more protective than their federal constitutional analogs).<sup>7</sup>

The focus under article I, section 7 is “those privacy interests which citizens of this state have held, and should be entitled to hold, safe from governmental trespass absent a warrant.” State v. Myrick, 102 Wn.2d 506, 511, 688 P.2d 151 (1984). The issue is how explicit or precise a warrant must be for locked containers to be subject to a premises search warrant. This appears to be an issue of first impression.

Much of the caselaw on article I, section 7 deals with warrantless intrusions. It is well established, however, that article I, section 7 requires a stricter test than the Fourth Amendment in analyzing whether there is probable cause to issue a warrant. State v. Jackson, 102 Wn.2d 432, 443, 688 P.2d 136 (1984). In Jackson, our Supreme Court refused to abandon the stricter Aguilar-Spinelli<sup>8</sup> test, which requires that the affidavit in support of the warrant establish both the basis of the information and

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<sup>7</sup> No Gunwall analysis is necessary because “it is now settled that a Gunwall analysis is unnecessary under article I, section 7 to determine whether it should be given independent effect.” Snapp, 174 Wn.2d 177, 194 n.9.

<sup>8</sup> Spinelli v. United States, 393 U.S. 410, 89 S. Ct. 584, 21 L. Ed. 2d 637 (1969); Aguilar v. Texas, 378 U.S. 108, 84 S. Ct. 1509, 12 L. Ed. 2d 723 (1964).

credibility of the informant. Id. at 137-38. Interpreting the Fourth Amendment, the United States Supreme Court had abandoned this test in favor of a totality of the circumstances test. Illinois v. Gates, 462 U.S. 213, 103 S. Ct. 2317, 76 L.Ed.2d 527 (1983). Our Supreme Court declined to follow, reasoning that our citizens' constitutional privacy rights under article I, section 7 would not be protected under such an approach. Jackson, 102 Wn.2d at 443.

Similarly, the only way to protect our citizen's privacy rights in their locked containers within the home is to require law enforcement to obtain explicit authorization to search the locked containers inside the home. This would not require foresight as to what kinds of locked containers are in the home. The affiant could simply ask for authority to open all locked containers capable of holding the objects sought. The magistrate could then determine if this intrusion is justified.

While involving a warrantless search of an automobile, this Court's decision in State v. Monaghan, 165 Wn. App. 782, 266 P.3d 222 (2012) is enlightening. In Monaghan, the driver of a car consented to an officer's request to search the trunk of the car. Monaghan, 165 Wn. App. at 785-86. The officer found a locked safe, which he opened with a key he had seized from the car. Id. at 786. This Court held this violated article I, section 7. Id. at 795. The defendant had a separate privacy expectation in

the locked container. Id. at 791. The Court rejected the argument that because the defendant had consented to the search of the trunk, he had impliedly consented to the search of the safe inside. Id. at 793-95.

Analogously, a magistrate explicitly authorized the search of Ms. Berven's home. The magistrate, however, did not explicitly authorize the search or seizure of locked containers in the home. Just as the officer in Monaghan exceeded the scope of lawful consent when he opened the locked safe in the car, here law enforcement exceeded the scope of the warrant when they opened the locked safe in Ms. Berven's home. Cf. State v. Schenck, 74633-2-I, 2017 WL 679992, at \*4 (Wash. Ct. App. Feb. 21, 2017) (unpublished) (reasoning that opening of locked cabinet in home was authorized by warrant because it not only authorized the search of the home, but specifically "authorized the seizure of locked containers located within the residence.") (emphasis added).<sup>9</sup> Further, protections of privacy are strongest in the home so explicit authority to open locked containers in the home should be necessary. Young, 123 Wn.2d at 185 ("the home receives heightened constitutional protection").

Article I, section 7 protects the privacy interest of citizens in their locked containers within the home. The robust protections of article I,

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<sup>9</sup> Schenck is not precedential, is nonbinding, and is cited only for persuasive authority as this Court deems appropriate. GR 14.1.

section 7 demand that before a locked container is opened pursuant to a warrant, the warrant must expressly provide the authority of law to do so. Because the warrant authorizing the search of Ms. Berven's home did not expressly authorize the search of locked containers, the search of the locked safe was unlawful under article I, section 7. For this independent state constitutional ground, the trial court's suppression order should be affirmed.

#### **E. CONCLUSION**

The warrant did not impliedly authorize law enforcement to seize and search the safes in Ms. Berven's home. And the Washington Constitution demands that warrants explicitly authorize the opening of locked containers within the home. The trial court's decision should be affirmed.

Respectfully submitted this 20th day of April, 2017,

/s Richard W. Lechich  
Richard W. Lechich – WSBA #43296  
Washington Appellate Project  
Attorney for Respondent

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

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STATE OF WASHINGTON,	)	
	)	
Appellant,	)	
	)	
v.	)	NO. 49490-6-II
	)	
TINA BERVEN,	)	
	)	
Respondent.	)	

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**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ARRANZA RILEY, STATE THAT ON THE 20<sup>TH</sup> DAY OF APRIL, 2017, I CAUSED THE ORIGINAL **BRIEF OF RESPONDENT** TO BE FILED IN THE **COURT OF APPEALS - DIVISION TWO** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] MICHELLE HYER, DPA [PCpatcecf@co.pierce.wa.us] PIERCE COUNTY PROSECUTOR'S OFFICE 930 TACOMA AVENUE S, ROOM 946 TACOMA, WA 98402-2171	( ) ( ) (X)	U.S. MAIL HAND DELIVERY E-SERVICE VIA COA PORTAL
[X] LISA TABBUT [ltabbutlaw@gmail.com] PO BOX 1319 WINTHROP, WA 98862-3004	( ) ( ) (X)	U.S. MAIL HAND DELIVERY E-SERVICE VIA COA PORTAL
[X] TINA BERVEN 26006 MOUNTAIN HWY SPANAWAY, WA 98387	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

**SIGNED** IN SEATTLE, WASHINGTON THIS 20<sup>TH</sup> DAY OF APRIL, 2017.



X \_\_\_\_\_

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**WASHINGTON APPELLATE PROJECT**  
**April 20, 2017 - 4:24 PM**  
**Transmittal Letter**

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Case Name: STATE V. TINA BERVEN

Court of Appeals Case Number: 49490-6

Is this a Personal Restraint Petition?    Yes     No

**The document being Filed is:**

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Statement of Arrangements

Motion: \_\_\_\_

Answer/Reply to Motion: \_\_\_\_

Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Sender Name: Maria A Riley - Email: [maria@washapp.org](mailto:maria@washapp.org)

A copy of this document has been emailed to the following addresses:

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