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Court of Appeals  
Division II  
State of Washington

COA NO. 49910-0-II  
(cons. w/ 49914-2-II)

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

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STATE OF WASHINGTON,

Respondent,

v.

CARL E. HOGAN,

Appellant.

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

The Honorable Bryan E. Chushcoff, Judge

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PRO SE STATEMENT OF ADDITIONAL GROUNDS  
(SUPPLEMENTAL ARGUMENT)

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CARL E. HOGAN  
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RAP 10.10(a) permits an appellant in the review of a criminal case to file a pro se statement of additional grounds for review to identify and discuss those matters which the appellant believes have not been adequately addressed in the brief filed by the appellant's counsel. I have received and reviewed the brief submitted on my behalf by my appellate attorney, Mr. Casey Grannis, and have concluded that there remain additional grounds upon which review by the appellate courts is necessary. Arguments supporting such claims are noted in the following.

The appellant has previously filed a pro se Statement of Additional Grounds, and this is a supplement to that filing.

#### ADDITIONAL GROUNDS FOR REVIEW

With respect to Cause Number 15-1-05148-4 Count 1 Unlawful Possession of a Stolen Vehicle

On December 22, 2015, Pierce County Sheriff's Department Deputy Theron Hardesty, made contact with Carl Hogan shortly after 11:22 pm. 5RP 45 There purpose of the contact was to investigate the operation of a vehicle that was seen by the deputy having been previously reported stolen. During the investigation, Carl Hogan asked deputy Hardesty to look into the glove box of the vehicle. 7RP Findings of Fact, (X) at 3 Deputy hardest stated in his testimony that he could not look into the glove box as he did not have search warrant. 5RP 59 In his testimony

immediately following, deputy Hardesty stated that he then arrested Mr. Hogan. 5RP 59 Mr. Hogan's trial counsel here provided less than sufficient assistance by not moving to examine the contradiction in the officers testimony and by not procuring the arrest inventory of the vehicle. Had these issues been properly addressed, the court would have likely found Mr. Hogan not guilty of the offense. It is also of substance to note that had the duties of deputy Hardesty been exercised according to law. Deputy Hardesty breached his duty as a law enforcement officer by refusing to conduct his inventory search relevant to an impoundment following an arrest for possession of a stolen vehicle. RCW 46.55.075 reads as follows:

**Law enforcement impound-Required form, procedures.**

(1) The Washington state patrol shall provide by rule for a uniform impound authorization and inventory form. All law enforcement agencies must use this form for all vehicle impounds after June 30, 2001.

(2) By January 1, 2003, the Washington state patrol shall develop uniform impound procedures, which must include but are not limited to defining an impound and a visual inspection. Local law enforcement agencies shall adopt the procedures by July 1, 2003.

Inventory searches have long been recognized as a practical necessity. *State v. Gluck*, 83 Wn.2d 424, 428, 518 P.2d 703 (1974) (citing

State v. Montague, 73 Wn.2d 381, 438 P.2d 571 (1968); State v. Olsen, 43 Wn.2d 726, 263 P.2d 824 (1953)). A non-investigatory inventory search of a vehicle may be conducted in good faith after it is lawfully impounded. Houser, 95 Wn.2d at 154. The requirement that an inventory search be conducted in good faith is a limitation that precludes an inventory search as a pretext for an investigatory search. Id. at 155; Montague, 73 Wn.2d at 385 (“this court” would not “have any hesitancy in suppressing evidence of crime found during the taking of the inventory, if we found that ... impoundment of the vehicle was resorted to as a device and pretext for making a general exploratory search of the car without a search warrant”).

Had deputy Hardesty truly believed that he was acting within the confines of the law by not conducting a search without a warrant, our laws clearly state that he was within his legal right to make that search without a warrant in any event.

Warrantless inventory searches are permissible because they (1) protect the vehicle owner's (or occupants') property, (2) protect law enforcement agencies/officers and temporary storage bailees from false claims of theft, and (3) protect police officers and the public from potential danger. State v. White, 135 Wn.2d 761, 769-70, 958 P.2d 982 (1998); Houser, 95 Wn.2d at 154; Gluck, 83 Wn.2d at 428. An inventory

search must be restricted to the areas necessary to fulfill the purpose of the search. Houser, 95 Wn.2d at 154. For example, to protect against the risk of loss or damage to property in the vehicle, the search “should be limited to protecting against substantial risks to property in the vehicle and not enlarged on the basis of remote risks.” Id. at 155.

These combined issues show that Mr. Hogan was not afforded his rights, that he was prejudiced by the lack of legal application of his rights, and that he likely would have been found not guilty of the crime of unlawful possession of a stolen vehicle had the trial court properly been presented the true evidence, ruled accurately on that evidence.

Respectfully submitted this 9<sup>th</sup> day of October, 2017.



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# CARL HOGAN - FILING PRO SE

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## Transmittal Information

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 49910-0  
**Appellate Court Case Title:** State of Washington, Respondent v. Carl E. Hogan, Appellant  
**Superior Court Case Number:** 15-1-05148-4

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### Comments:

supplement

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